

Position: NEUTRAL
Date: 3/1/04

**ILLINOIS COMMERCE COMMISSION
93rd GENERAL ASSEMBLY
POSITION PAPER**

BILL NUMBER: HB 3895

HOUSE SPONSOR(S): Chapa LaVia

AMENDMENT:

SENATE SPONSOR(S):

Many of the issues implicated in HB 3895, and addressed in this position paper, are currently pending before the Illinois Commerce Commission in Docket No. 02-0838. As such, the Commission takes no position with respect to the bill. The Commission, without expressing agreement or disagreement with the following, does not object to the circulation by the Commission Staff of this position paper, in which Staff addresses its concerns with HB 3895.

REVIEW SUMMARY:

What does the bill do?

Effective immediately, HB 3895 requires the ICC to take into account the effect on residential property values when it determines whether to allow construction or extension of electric transmission lines. However, the bill does not instruct the ICC in how to consider this issue during its proceedings, nor does it alter existing requirements in Subsection 8-406(d) of the Public Utilities Act that make costs to a utility's customers the ICC's primary decision factor.

How will the bill impact state government?

No significant impact.

How does the bill amend existing law?

Amends the Public Utilities Act by adding Section 4-105, titled, "Construction or extension of electric transmission lines."

Which communities are predominately impacted by the bill?

All areas of the State with residential property.

REASONS FOR SUPPORTING THE BILL:

What are the leading reasons people support the bill, and why? Include statistical information, if available.

Given the sponsor of this bill, Representative Linda Chapa LaVia, and that she represents Kane County, it is most likely that the reason for this bill's existence is Commonwealth Edison Company's ("ComEd") proposal to construct a new 138,000 volt transmission line in Kane County. ComEd made its proposal in a petition to the ICC on December 11, 2002, and the ICC assigned Docket No. 02-0838 to the proceeding. ComEd has experienced very strong resistance from large segments of

the communities in which it proposes to locate its transmission line. The resistance is caused by ComEd's selection of a route for its transmission line that uses a main street through several communities (Randall Road) on which are located many residential areas. ComEd's proposal and the community resistance has drawn the attention and participation of many government officials including Lieutenant Governor Quinn. Local governments who have intervened in the ICC proceeding include the Village of North Aurora, City of Geneva, Village of South Elgin, and the County of Kane.

Resistance to ComEd's proposed transmission line has caused motions for temporary stays of the ICC proceeding, which have been granted repeatedly, while the parties meet to attempt a solution to the routing issue. ComEd's proposal is not the first to draw resistance from citizens, but it may be the first to cause so many communities and citizens to unite in opposition to a utility's transmission line proposal.

REASONS FOR OPPOSING THE BILL:

What are the leading reasons people oppose the bill, and why? Include statistical information, if available.

Electric utilities will experience additional costs in preparing for Certificate of Convenience and Necessity cases under Section 8-406 of the Public Utilities Act before the Commission. It will most likely become necessary for each utility filing a petition for a Certificate to include in its sworn testimony expert opinions on its proposed transmission line's effect on the value of residential properties near the preferred and alternative routes. These additional costs might become significant in cases like ICC Docket No. 02-0838, discussed elsewhere in this paper, where the number of residential properties near the proposed route is large.

This bill carries some potential to reduce negative impacts on the resale value of homes located near proposed new electric transmission lines. However, two factors will limit the bill's effect. First, the ICC already takes the number of homes near proposed transmission line routes into consideration in its Certificate of Convenience and Necessity cases. Second, Subsection 8-406(d) of the Public Utilities Act states that the ICC's primary consideration in Certificate cases shall be the cost or cost savings to the customers of the utility, thereby relegating residential property values and all other issues to secondary consideration status. This bill does nothing to change this secondary status.

PRIOR LEGISLATIVE HISTORY:

None.

AGENCY RECORD:

Has the agency been on record in support for or opposition to the bill or the issues addressed in the bill?

No.

What is the effect of the bill on agency policies and operations?

The ICC will need to take extra care to construct a record in its electric transmission line certification cases that demonstrates its consideration of residential property values. This will take minimal effort on the part of the Administrative Law Judges and the Staff engineering witnesses because the bill does not require a change to existing ICC practices. Fiscal impact should be negligible.

Because of practices long established at the ICC, electric utilities desiring a Certificate of Public Convenience and Necessity under Section 8-406 of the Act have for many years included in their presentations, testimony explaining their transmission line route choices and offering alternative routes for the ICC's consideration. A part of the electric utilities' route selection criteria has been avoidance of residential areas to the extent that other considerations allow. One of those considerations is dictated in Subsection 8-406(d) of the Act, where it states that, "[i]n making its determination, the Commission shall attach primary weight to the cost or cost savings to the customers of the utility. The Commission may consider any or all factors which will or may affect such cost or cost savings."

It has been a long standing practice of the ICC's staff engineers to examine the electric utilities' preferred transmission line routes and the alternative routes identified by the utilities and to verify that other possibly more suitable routes do not exist. Upon completion of their examinations and investigations, Staff engineers enter their findings into the ICC's case record in the form of written testimony subject to oral cross-examination by all parties of record.

AGENCY POSITION COMMENTS:

Why has the agency taken the position indicated above?

The proposed legislation, which requires the ICC to consider a proposed new electric transmission line's effect on residential property values, does not require the ICC to do anything new, but will require the ICC to be more careful in constructing a record of its proceedings that reflects consideration of residential property values. Utilities already provide evidence to the ICC on the number of residences near their proposed transmission line routes, but will need to supplement their presentations and may incur significant extra costs for professional real estate services in some certificate cases where a large number of homes exist near the proposed routes.

Because of the requirements of Subsection 8-406(d) of the Act as quoted elsewhere in this paper, it might be advisable to consider moving the changes proposed in this bill from Section 4-105 to Section 8-406.

TESTIMONY AT COMMITTEE:

Phillip Roy Buxton, 785-5424
Program Manager, Energy Division – Engineering Program
OGC Representative

REVIEW COMPLETED BY/DATE: