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H.B. No. 1607

A BILL TO BE ENTITLED

AN ACT

relating to certificates of public convenience and necessity for
certain transmission projects.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The legislature finds that:

(1) this state has long been a leader in energy policy
that has delivered economic, electricity, and environmental
benefits to millions of electricity consumers, businesses,
state-owned lands, and landowners;

(2) this state continues to experience population,
business, industrial, and manufacturing growth that increases the
need for reliable, low-cost electricity;

(3) the ERCOT electric power grid is experiencing
congestion, constraint, and curtailment that are economically
undesirable;

(4) the ERCOT electric power grid is experiencing load
growth management challenges;

(5) while this state does not import large amounts of
electricity, working to ensure that this state's electricity needs
are met as fully as possible from in-state resources is of strategic
interest to the legislature;

(6) all of the electric power industry's available
power generation resources, including its wind and solar
generation, natural gas-fired generation, energy storage, and

1 transmission components, can play a substantial role in this
2 state's economic recovery;

3 (7) this state's oil and natural gas industries
4 continue to grow and prosper, and those industries require low-cost
5 electricity and a reliable electric power grid to thrive; and

6 (8) to attract new capital projects to this state,
7 create jobs, promote substantial new economic development, ensure a
8 reliable and stable electric power grid that is powered by in-state
9 resources, and keep this state as a leader on energy policy in the
10 United States, a timely and targeted expansion of this state's
11 electric transmission system is necessary to enhance the
12 reliability of the system.

13 SECTION 2. Section [37.0541](#), Utilities Code, is amended to
14 read as follows:

15 Sec. 37.0541. CONSOLIDATION OF CERTAIN PROCEEDINGS. The
16 commission shall consolidate the proceeding on an application to
17 obtain or amend a certificate of convenience and necessity for the
18 construction of a transmission line with the proceeding on another
19 application to obtain or amend a certificate of convenience and
20 necessity for the construction of a transmission line if it is
21 apparent from the applications or a motion to intervene in either
22 proceeding that the transmission lines that are the subject of the
23 separate proceedings share a common point of interconnection. [~~This
24 section does not apply to a proceeding on an application for a
25 certificate of convenience and necessity for a transmission line to
26 serve a competitive renewable energy zone as part of a plan
27 developed by the commission under Section [39.904\(g\)\(2\)](#).]~~]

1 SECTION 3. Section 37.056, Utilities Code, is amended by
2 adding Subsections (a-1), (d-1), (d-2), and (d-3) and amending
3 Subsection (d) to read as follows:

4 (a-1) In this section:

5 (1) "Interzonal" means involving more than one ERCOT
6 load zone.

7 (2) "Intrazonal" means involving a single ERCOT load
8 zone.

9 (d) The commission by rule shall establish criteria, in
10 addition to the criteria described by Subsection (c), for granting
11 a certificate for a transmission project that serves the ERCOT
12 power region and~~[~~ that is not necessary to meet state or federal
13 reliability standards~~[, and that does not serve a competitive~~
14 ~~renewable energy zone]~~.

15 (d-1) Except as provided by Subsection (d-2), an
16 application for a certificate described by Subsection (d) [The
17 ~~criteria]~~ must include a comparison of the levelized estimated cost
18 of the transmission project and the levelized estimated cost
19 savings and economic benefits that may result from the
20 ~~[transmission]~~ project. The commission shall include with the
21 commission's decision to grant or deny the certificate the
22 commission's findings on the comparison. The comparison must
23 account for:

24 (1) the probable improvement of service and reduction
25 of costs for consumers that may be realized from the project;

26 (2) an estimated value of the reduction in interzonal
27 and intrazonal constraint and congestion costs and interzonal and

1 intrazonal curtailment costs that may be realized from the project;

2 (3) an estimation of reduced transmission losses that
3 may be realized from the project;

4 (4) an assessment of whether the project will provide
5 improved access to ERCOT for new generation facilities and the
6 benefits that improved access could provide to generation
7 facilities, industrial load, and the ERCOT market;

8 (5) an estimation of reduced future transmission
9 investment costs that may be realized from the project;

10 (6) an estimation of costs of projects described by
11 Subsection (d-2) that may be avoided as a result of the project; and

12 (7) an estimation of direct economic benefits that may
13 be realized from the construction of the project [~~The commission~~
14 ~~shall include with its decision on an application for a certificate~~
15 ~~to which this subsection applies findings on the criteria].~~

16 (d-2) If an application does not include a comparison
17 described by Subsection (d-1), the commission may not grant a
18 certificate for a project described by Subsection (d) unless the
19 commission finds that the project is needed to support a reliable
20 and adequate transmission network, to facilitate wholesale
21 competition, or to minimize curtailments due to interzonal
22 constraints and intrazonal congestion.

23 (d-3) Not less than once per year, the independent
24 organization certified under Section 39.151 for the ERCOT power
25 region shall identify transmission projects that will meet
26 commission findings under Subsection (d-2).

27 SECTION 4. Section 39.904(k), Utilities Code, is amended to

1 read as follows:

2 (k) The commission and the independent organization
3 certified for ERCOT shall study the need for increased transmission
4 and generation capacity throughout this state and report to the
5 legislature the results of the study and any recommendations for
6 legislation. The report must be filed with the legislature not
7 later than December 31 of each even-numbered year [~~and may be filed~~
8 ~~as a part of the report required by Subsection (j)~~].

9 SECTION 5. Subchapter 7, Chapter 39, Utilities Code, is
10 amended by adding Section 39.918 to read as follows:

11 Sec. 39.918. CRITICAL DESIGNATION TRANSMISSION
12 INFRASTRUCTURE PROJECTS. (a) In this section:

13 (1) "Interzonal" means involving more than one ERCOT
14 load zone.

15 (2) "Intrazonal" means involving a single ERCOT load
16 zone.

17 (b) Not later than December 30, 2021, the independent
18 organization certified under Section 39.151 for the ERCOT power
19 region shall:

20 (1) identify, in consultation with the commission,
21 critical designation transmission infrastructure projects and the
22 electric utilities or transmission and distribution utilities that
23 will construct and operate the projects in a manner consistent with
24 Section 37.056; and

25 (2) submit a written description of each project to
26 the commission.

27 (c) Projects identified under Subsection (b) must

1 facilitate a timely and targeted expansion of the electric power
2 grid in ERCOT for the purposes of:

3 (1) resolving existing interzonal and intrazonal
4 transmission constraints, congestion, or curtailments, including
5 generic transmission constraints; and

6 (2) ensuring the future reliability of the ERCOT
7 electric power grid.

8 (d) To the extent practicable, projects identified under
9 Subsection (b) should:

10 (1) be cost-effective and designed to transmit high
11 volumes of electricity in and across ERCOT load zones efficiently;

12 (2) minimize the need for the acquisition of new
13 rights-of-way by replacing aging infrastructure or following
14 routes that align with existing rights-of-way or existing
15 transmission infrastructure;

16 (3) minimize interzonal constraints and intrazonal
17 congestion during construction activities;

18 (4) be designed to accommodate new solutions,
19 including higher voltages, if the independent organization
20 determines that new solutions are required; and

21 (5) be designed to significantly reduce present or
22 expected future interzonal constraints and intrazonal congestion.

23 (e) The independent organization certified under Section
24 39.151 for the ERCOT power region shall identify as a critical
25 designation transmission infrastructure project under Subsection
26 (b) a project addressing an interzonal constraint or intrazonal
27 congestion in an area if:

1 (1) the constraint or congestion has been present for
2 three years or longer; and

3 (2) the area has experienced constraint or congestion
4 costs greater than or equal to \$100 million per year in each of the
5 previous three years.

6 (f) The independent organization certified under Section
7 39.151 for the ERCOT power region may consult with the independent
8 organization's market participant segments and other stakeholders
9 to identify projects under Subsection (b) that could facilitate:

10 (1) the growth of the economy of this state; or

11 (2) oil and gas, commercial, and industrial
12 development that could provide substantial new tax revenue,
13 landowner income, or new jobs in this state.

14 (g) Not later than the 450th day after the date that the
15 independent organization certified under Section 39.151 for the
16 ERCOT power region submits a written description of a project to the
17 commission under Subsection (b), the utility that will construct
18 and operate the project shall submit to the commission an
19 application for a certificate of public convenience and necessity
20 for the project.

21 (h) In considering an application for a certificate of
22 public convenience and necessity for a project identified under
23 Subsection (b), the commission is not required to consider the
24 factors provided by Sections 37.056(c)(1) and (2). The commission
25 shall consider all factors provided by Section 37.056, including
26 Sections 37.056(c)(1) and (2), for a project not identified under
27 Subsection (b).

1 (i) If the commission issues a certificate of public
2 convenience and necessity for a project identified under Subsection
3 (b), the commission shall find that the project is used and useful
4 to the utility in providing service for purposes of this section,
5 prudent, and includable in the rate base, regardless of the extent
6 of the utility's actual use of the project.

7 (j) Transmission service that is facilitated through a
8 project identified under Subsection (b) must be provided in a
9 manner consistent with Subchapter A, Chapter 35.

10 (k) This section expires September 1, 2030.

11 SECTION 6. Sections 39.904(g), (h), (i), and (j), Utilities
12 Code, are repealed.

13 SECTION 7. The changes in law made by this Act apply only to
14 a proceeding affecting a certificate of public convenience and
15 necessity that commences on or after the effective date of this Act.
16 A proceeding affecting a certificate of public convenience and
17 necessity that commenced before the effective date of this Act is
18 governed by the law in effect on the date the proceeding is
19 commenced, and that law is continued in effect for that purpose.

20 SECTION 8. The recovery of a transmission facility
21 investment made by an electric utility to serve a competitive
22 renewable energy zone is governed by the law in effect on the date
23 the facility is placed in service, regardless of whether the
24 facility is completed before, on, or after the effective date of
25 this Act, and that law is continued in effect for that purpose.

26 SECTION 9. This Act takes effect September 1, 2021.