

By: Goldman

H.B. No. 4002

A BILL TO BE ENTITLED

AN ACT

relating to water control and improvement district customers of certain electric cooperatives.

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

SECTION 1. It is the intent of the legislature that this Act ensure cost-effective and reliable siting of critical water infrastructure operated by a water control and improvement district.

SECTION 2. Subchapter B, Chapter 37, Utilities Code, is amended by adding Section 37.062 to read as follows:

Sec. 37.062. SERVICE AREA EXCEPTION REQUESTED BY CERTAIN WATER CONTROL AND IMPROVEMENT DISTRICTS. (a) In this section:

(1) "Consenting entity" means an electric utility that consents to providing a district with retail electric service;

(2) "District" means a water control and improvement district;

(3) "District facility" means a power-consuming facility owned by a district that takes retail electric service at transmission voltage;

(4) "ERCOT" has the meaning assigned by Section 31.002;

(5) "Requesting district" means a water control and improvement district that has requested to receive retail electric service provided at transmission voltage from a consenting entity

1 other than the electric cooperative certificated to provide the
2 district with such service.

3 (b) This section applies only to a water control and
4 improvement district that:

5 (1) receives retail electric service in ERCOT from an
6 electric cooperative on the date this Act takes effect;

7 (2) has the authority to impose an ad valorem tax; and

8 (3) only provides wholesale water service.

9 (c) Notwithstanding any other provision of this chapter, on
10 the request of a water control and improvement district described
11 by Subsection (b) of this section, a consenting utility may request
12 a service area exception from the commission to provide retail
13 electric service to the requesting district at:

14 (1) the location of a designated district facility
15 where the requesting district is currently receiving retail
16 electric service from an electric cooperative on the date the
17 request for service area exception is filed with the commission; or

18 (2) the site of a future district facility that will be
19 located in the certificated area of the electric cooperative.

20 (d) A consenting entity may request a service area exception
21 under Subsection (c) of this section if the consenting entity:

22 (1) has an existing certificated area on the date the
23 request is filed that is contiguous to the certificated area of the
24 electric cooperative from which the district facility is receiving
25 service or the site where a future district facility will receive
26 service; and

27 (2) has an existing certificated area within 10 miles

1 or less of the applicable district facility.

2 (e) Section 37.056(c) does not apply to a request filed
3 under Subsection (c) of this section.

4 (f) Notwithstanding any other provision in 16 T.A.C.
5 Chapter 25, an electric cooperative may not contest and need not
6 consent to an application filed under Subsection (c) of this
7 section.

8 (g) The commission shall grant an application received
9 under Subsection (c) of this section within 45 days of the filing of
10 a complete application, and in accordance with the application
11 shall either:

12 (1) amend the consenting entity's certificate to
13 include the locations of each water control and improvement
14 district facility identified in the application; and amend the
15 certificate of the electric cooperative that was previously
16 certificated, on the date the application was filed, to remove the
17 locations of each water control and improvement district facility
18 identified in the application; or

19 (2) notwithstanding Section 37.060 or any other
20 provision of this chapter, amend the consenting entity's
21 certificate to include the locations of each water control and
22 improvement district facility identified in the application.

23 (h) Following approval of an application under this
24 section, a requesting district shall be responsible for paying
25 associated costs as follows:

26 (1) construction costs of any new transmission
27 facilities required to interconnect the district facilities

1 identified in the application to the consenting entity's
2 transmission system, to the extent that such costs are not
3 otherwise recoverable in the consenting utility's wholesale
4 transmission rates;

5 (2) any nonbypassable charges and other amounts that
6 the district is contractually obligated to pay to the electric
7 cooperative that was providing retail transmission service to the
8 requesting district on the date the application was filed; and

9 (3) other than the costs described in Subsection
10 (h)(2) of this section, the requesting district is not required to
11 pay additional stranded costs or penalties to the electric
12 cooperative as a result of the service area exception.

13 (i) The commission may only approve one application per
14 district facility from each water control and improvement district
15 under this section.

16 SECTION 3. This Act takes effect September 1, 2023.