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S.B. No. 2014

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the legislature's goals for renewable electric
3 generating capacity.

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

5 SECTION 1. Section 36.053(d), Utilities Code, is amended to
6 read as follows:

7 (d) If the commission issues a certificate of convenience
8 and necessity or if the commission, acting under the authority
9 formerly provided by Section 39.203(e), ordered [~~orders~~] an
10 electric utility or a transmission and distribution utility to
11 construct or enlarge transmission or transmission-related
12 facilities to facilitate meeting the goal for generating capacity
13 from renewable energy technologies under former Section 39.904(a),
14 the commission shall find that the facilities are used and useful to
15 the utility in providing service for purposes of this section and
16 are prudent and includable in the rate base, regardless of the
17 extent of the utility's actual use of the facilities.

18 SECTION 2. Section 37.0541, Utilities Code, is amended to
19 read as follows:

20 Sec. 37.0541. CONSOLIDATION OF CERTAIN PROCEEDINGS. The
21 commission shall consolidate the proceeding on an application to
22 obtain or amend a certificate of convenience and necessity for the
23 construction of a transmission line with the proceeding on another
24 application to obtain or amend a certificate of convenience and

1 necessity for the construction of a transmission line if it is
2 apparent from the applications or a motion to intervene in either
3 proceeding that the transmission lines that are the subject of the
4 separate proceedings share a common point of interconnection.
5 ~~[This section does not apply to a proceeding on an application for a~~
6 ~~certificate of convenience and necessity for a transmission line to~~
7 ~~serve a competitive renewable energy zone as part of a plan~~
8 ~~developed by the commission under Section 39.904(g)(2).]~~

9 SECTION 3. Sections 37.056(c) and (d), Utilities Code, are
10 amended to read as follows:

11 (c) The commission shall grant each certificate on a
12 nondiscriminatory basis after considering:

- 13 (1) the adequacy of existing service;
- 14 (2) the need for additional service;
- 15 (3) the effect of granting the certificate on the
16 recipient of the certificate and any electric utility serving the
17 proximate area; and
- 18 (4) other factors, such as:
- 19 (A) community values;
- 20 (B) recreational and park areas;
- 21 (C) historical and aesthetic values;
- 22 (D) environmental integrity; and
- 23 (E) the probable improvement of service or
24 lowering of cost to consumers in the area if the certificate is
25 granted, including any potential economic or reliability benefits
26 associated with dual fuel and fuel storage capabilities in areas
27 outside the ERCOT power region~~, and~~

1 ~~[(F) to the extent applicable, the effect of~~
2 ~~granting the certificate on the ability of this state to meet the~~
3 ~~goal established by Section 39.904(a) of this title].~~

4 (d) The commission by rule shall establish criteria, in
5 addition to the criteria described by Subsection (c), for granting
6 a certificate for a transmission project that serves the ERCOT
7 power region and that is not necessary to meet state or federal
8 reliability standards~~[, and that is not included in a plan~~
9 ~~developed under Section 39.904(g)].~~ The criteria must include a
10 comparison of the estimated cost of the transmission project for
11 consumers and the estimated congestion cost savings for consumers
12 that may result from the transmission project, considering both
13 current and future expected congestion levels and the transmission
14 project's ability to reduce those congestion levels. The
15 commission shall include with its decision on an application for a
16 certificate to which this subsection applies findings on the
17 criteria.

18 SECTION 4. Section 39.002, Utilities Code, as amended by
19 Chapters 908 (H.B. 4492) and 950 (S.B. 1580), Acts of the 87th
20 Legislature, Regular Session, 2021, is reenacted and amended to
21 read as follows:

22 Sec. 39.002. APPLICABILITY. This chapter, other than
23 Sections 39.151, 39.1516, 39.155, 39.157(e), 39.159, 39.160,
24 39.203, ~~[39.904,]~~ 39.9051, 39.9052, and 39.914(e), and Subchapters
25 M and N, does not apply to a municipally owned utility or an
26 electric cooperative. Sections 39.157(e) and~~[,]~~ 39.203~~[, and~~
27 ~~39.904, however,]~~ apply only to a municipally owned utility or an

1 electric cooperative that is offering customer choice. If there is
2 a conflict between the specific provisions of this chapter and any
3 other provisions of this title, except for Chapters 40 and 41, the
4 provisions of this chapter control.

5 SECTION 5. Section 39.203(e), Utilities Code, is amended to
6 read as follows:

7 (e) The commission may require an electric utility or a
8 transmission and distribution utility to construct or enlarge
9 facilities to ensure safe and reliable service for the state's
10 electric markets and to reduce transmission constraints within
11 ERCOT in a cost-effective manner where the constraints are such
12 that they are not being resolved through Chapter 37 or the ERCOT
13 transmission planning process. [~~The commission shall require an
14 electric utility or a transmission and distribution utility to
15 construct or enlarge transmission or transmission-related
16 facilities for the purpose of meeting the goal for generating
17 capacity from renewable energy technologies under Section
18 39.904(a).~~] In any proceeding brought under Chapter 37, an
19 electric utility or transmission and distribution utility ordered
20 to construct or enlarge facilities under this subchapter need not
21 prove that the construction ordered is necessary for the service,
22 accommodation, convenience, or safety of the public and need not
23 address the factors listed in Sections 37.056(c)(1)-(3) and (4)(E).
24 Notwithstanding any other law, including Section 37.057, in any
25 proceeding brought under Chapter 37 by an electric utility or a
26 transmission and distribution utility related to an application for
27 a certificate of public convenience and necessity to construct or

1 enlarge transmission or transmission-related facilities under this
2 subsection, the commission shall issue a final order before the
3 181st day after the date the application is filed with the
4 commission. If the commission does not issue a final order before
5 that date, the application is approved.

6 SECTION 6. Section 39.402(a), Utilities Code, is amended to
7 read as follows:

8 (a) Until the date on which an electric utility subject to
9 this subchapter is authorized by the commission to implement
10 customer choice, the rates of the utility shall be regulated under
11 traditional cost of service regulation and the utility is subject
12 to all applicable regulatory authority prescribed by this subtitle
13 and Subtitle A, including Chapters 14, 32, 33, 36, and 37. Until
14 the date on which an electric utility subject to this subchapter
15 implements customer choice, the provisions of this chapter, other
16 than this subchapter, Sections 39.1516 [~~39.904~~] and 39.905, and
17 the provisions relating to the duty to obtain a permit from the
18 Texas Commission on Environmental Quality for an electric
19 generating facility and to reduce emissions from an electric
20 generating facility, shall not apply to that utility. That portion
21 of any commission order entered before September 1, 2001, to comply
22 with this subchapter shall be null and void.

23 SECTION 7. Section 39.452(d), Utilities Code, is amended to
24 read as follows:

25 (d) Until the date on which an electric utility subject to
26 this subchapter implements customer choice:

27 (1) the provisions of this chapter do not apply to that

1 electric utility, other than this subchapter, Sections 39.1516[
2 ~~39.904~~], and 39.905, the provisions relating to the duty to obtain a
3 permit from the Texas Commission on Environmental Quality for an
4 electric generating facility and to reduce emissions from an
5 electric generating facility, and the provisions of Subchapter G
6 that pertain to the recovery and securitization of hurricane
7 reconstruction costs authorized by Sections 39.458-39.463; and

8 (2) the electric utility is not subject to a rate
9 freeze and, subject to the limitation provided by Subsection (b),
10 may file for rate changes under Chapter 36 and for approval of one
11 or more of the rate rider mechanisms authorized by Sections 39.454
12 and 39.455.

13 SECTION 8. Section 39.502(b), Utilities Code, is amended to
14 read as follows:

15 (b) Until the date on which an electric utility subject to
16 this subchapter implements customer choice, the provisions of this
17 chapter, other than this subchapter and Sections 39.1516[~~39.904~~]
18 and 39.905, do not apply to that utility.

19 SECTION 9. Section 39.552(b), Utilities Code, is amended to
20 read as follows:

21 (b) Until the date on which an electric utility subject to
22 this subchapter implements customer choice, the provisions of this
23 chapter, other than this subchapter and Sections 39.1516[~~39.904~~]
24 and 39.905, do not apply to that utility.

25 SECTION 10. Subchapter 2, Chapter 39, Utilities Code, is
26 amended by adding Sections 39.9111 and 39.9112 to read as follows:

27 Sec. 39.9111. RULES RELATED TO RENEWABLE POWER FACILITIES.

1 The commission may adopt rules requiring renewable power facilities
2 to have reactive power control capabilities or any other feasible
3 technology designed to reduce the facilities' effects on system
4 reliability.

5 Sec. 39.9112. REPORT ON TRANSMISSION AND GENERATION
6 CAPACITY. The commission and the independent organization
7 certified under Section 39.151 for the ERCOT power region shall
8 study the need for increased transmission and generation capacity
9 throughout this state and report to the legislature the results of
10 the study and any recommendations for legislation. The report must
11 be filed with the legislature not later than December 31 of each
12 even-numbered year.

13 SECTION 11. Section 39.916(a), Utilities Code, is amended
14 by amending Subdivision (1) and adding Subdivision (4) to read as
15 follows:

16 (1) "Distributed renewable generation" means electric
17 generation with a capacity of not more than 2,000 kilowatts
18 provided by a renewable energy technology[~~, as defined by Section~~
19 ~~39.904,~~] that is installed on a retail electric customer's side of
20 the meter.

21 (4) "Renewable energy technology" means any
22 technology that relies exclusively on an energy source that is
23 naturally regenerated over a short time and is derived from the sun
24 directly or indirectly or from moving water or other natural
25 movements or mechanisms of the environment. The term includes a
26 technology that relies on energy derived from the sun directly; on
27 wind, geothermal, hydroelectric, wave, or tidal energy; or on

1 biomass or biomass-based waste products, including landfill gas.
2 The term does not include a technology that relies on an energy
3 resource derived from a fossil fuel, a waste product from a fossil
4 fuel, or a waste product from an inorganic source.

5 SECTION 12. Section 40.001(a), Utilities Code, is amended
6 to read as follows:

7 (a) Notwithstanding any other provision of law, except
8 Sections 39.155, 39.157(e), and 39.203, [~~and 39.904,~~] this chapter
9 governs the transition to and the establishment of a fully
10 competitive electric power industry for municipally owned
11 utilities. With respect to the regulation of municipally owned
12 utilities, this chapter controls over any other provision of this
13 title, except for sections in which the term "municipally owned
14 utility" is specifically used.

15 SECTION 13. Section 40.004, Utilities Code, is amended to
16 read as follows:

17 Sec. 40.004. JURISDICTION OF COMMISSION. Except as
18 specifically otherwise provided in this chapter, the commission has
19 jurisdiction over municipally owned utilities only for the
20 following purposes:

21 (1) to regulate wholesale transmission rates and
22 service, including terms of access, to the extent provided by
23 Subchapter A, Chapter 35;

24 (2) to regulate certification of retail service areas
25 to the extent provided by Chapter 37;

26 (3) to regulate rates on appeal under Subchapters D
27 and E, Chapter 33, subject to Section 40.051(c);

1 (4) to establish a code of conduct as provided by
2 Section 39.157(e) applicable to anticompetitive activities and to
3 affiliate activities limited to structurally unbundled affiliates
4 of municipally owned utilities, subject to Section 40.054;

5 (5) to establish terms and conditions for open access
6 to transmission and distribution facilities for municipally owned
7 utilities providing customer choice, as provided by Section 39.203;

8 (6) to administer [~~the renewable energy credits~~
9 ~~program under Section 39.904(b) and~~] the natural gas energy credits
10 program under Section 39.9044(b);

11 (7) to require reports of municipally owned utility
12 operations only to the extent necessary to:

13 (A) enable the commission to determine the
14 aggregate load and energy requirements of the state and the
15 resources available to serve that load; or

16 (B) enable the commission to determine
17 information relating to market power as provided by Section 39.155;
18 and

19 (8) to evaluate and monitor the cybersecurity
20 preparedness of a municipally owned utility described by Section
21 39.1516(a)(3) or (4).

22 SECTION 14. Section 41.001, Utilities Code, is amended to
23 read as follows:

24 Sec. 41.001. APPLICABLE LAW. Notwithstanding any other
25 provision of law, except Sections 39.155, 39.157(e), and 39.203,
26 [~~and 39.904,~~] this chapter governs the transition to and the
27 establishment of a fully competitive electric power industry for

1 electric cooperatives. Regarding the regulation of electric
2 cooperatives, this chapter shall control over any other provision
3 of this title, except for sections in which the term "electric
4 cooperative" is specifically used.

5 SECTION 15. Sections 39.904 and 39.916(g), Utilities Code,
6 are repealed.

7 SECTION 16. It is the intent of the 88th Legislature,
8 Regular Session, 2023, that the amendments made by this Act be
9 harmonized with another Act of the 88th Legislature, Regular
10 Session, 2023, relating to nonsubstantive additions to and
11 corrections in enacted codes.

12 SECTION 17. This Act takes effect September 1, 2023.