

1-1 By: King, Kolkhorst, Schwertner S.B. No. 2014  
 1-2 (In the Senate - Filed March 9, 2023; March 13, 2023, read  
 1-3 first time and referred to Committee on Business & Commerce;  
 1-4 March 31, 2023, reported adversely, with favorable Committee  
 1-5 Substitute by the following vote: Yeas 9, Nays 0; March 31, 2023,  
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8	X			
1-9	X			
1-10			X	
1-11	X			
1-12			X	
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			
1-18	X			
1-19	X			

1-20 COMMITTEE SUBSTITUTE FOR S.B. No. 2014 By: King

1-21 A BILL TO BE ENTITLED  
 1-22 AN ACT

1-23 relating to the legislature's goals for renewable electric  
 1-24 generating capacity.

1-25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-26 SECTION 1. Section 36.053(d), Utilities Code, is amended to  
 1-27 read as follows:

1-28 (d) If the commission issues a certificate of convenience  
 1-29 and necessity or if the commission, acting under the authority  
 1-30 formerly provided by Section 39.203(e), ordered ~~orders~~ an  
 1-31 electric utility or a transmission and distribution utility to  
 1-32 construct or enlarge transmission or transmission-related  
 1-33 facilities to facilitate meeting the goal for generating capacity  
 1-34 from renewable energy technologies under former Section 39.904(a),  
 1-35 the commission shall find that the facilities are used and useful to  
 1-36 the utility in providing service for purposes of this section and  
 1-37 are prudent and includable in the rate base, regardless of the  
 1-38 extent of the utility's actual use of the facilities.

1-39 SECTION 2. Section 37.0541, Utilities Code, is amended to  
 1-40 read as follows:

1-41 Sec. 37.0541. CONSOLIDATION OF CERTAIN PROCEEDINGS. The  
 1-42 commission shall consolidate the proceeding on an application to  
 1-43 obtain or amend a certificate of convenience and necessity for the  
 1-44 construction of a transmission line with the proceeding on another  
 1-45 application to obtain or amend a certificate of convenience and  
 1-46 necessity for the construction of a transmission line if it is  
 1-47 apparent from the applications or a motion to intervene in either  
 1-48 proceeding that the transmission lines that are the subject of the  
 1-49 separate proceedings share a common point of interconnection.  
 1-50 ~~[This section does not apply to a proceeding on an application for a~~  
 1-51 ~~certificate of convenience and necessity for a transmission line to~~  
 1-52 ~~serve a competitive renewable energy zone as part of a plan~~  
 1-53 ~~developed by the commission under Section 39.904(g)(2).]~~

1-54 SECTION 3. Sections 37.056(c) and (d), Utilities Code, are  
 1-55 amended to read as follows:

1-56 (c) The commission shall grant each certificate on a  
 1-57 nondiscriminatory basis after considering:

- 1-58 (1) the adequacy of existing service;
- 1-59 (2) the need for additional service;
- 1-60 (3) the effect of granting the certificate on the

2-1 recipient of the certificate and any electric utility serving the  
 2-2 proximate area; and  
 2-3 (4) other factors, such as:  
 2-4 (A) community values;  
 2-5 (B) recreational and park areas;  
 2-6 (C) historical and aesthetic values;  
 2-7 (D) environmental integrity; and  
 2-8 (E) the probable improvement of service or  
 2-9 lowering of cost to consumers in the area if the certificate is  
 2-10 granted, including any potential economic or reliability benefits  
 2-11 associated with dual fuel and fuel storage capabilities in areas  
 2-12 outside the ERCOT power region~~[, and~~  
 2-13 ~~[(F) to the extent applicable, the effect of~~  
 2-14 ~~granting the certificate on the ability of this state to meet the~~  
 2-15 ~~goal established by Section 39.904(a) of this title].~~

2-16 (d) The commission by rule shall establish criteria, in  
 2-17 addition to the criteria described by Subsection (c), for granting  
 2-18 a certificate for a transmission project that serves the ERCOT  
 2-19 power region and~~[,]~~ that is not necessary to meet state or federal  
 2-20 reliability standards~~[, and that is not included in a plan~~  
 2-21 ~~developed under Section 39.904(g)].~~ The criteria must include a  
 2-22 comparison of the estimated cost of the transmission project for  
 2-23 consumers and the estimated congestion cost savings for consumers  
 2-24 that may result from the transmission project, considering both  
 2-25 current and future expected congestion levels and the transmission  
 2-26 project's ability to reduce those congestion levels. The  
 2-27 commission shall include with its decision on an application for a  
 2-28 certificate to which this subsection applies findings on the  
 2-29 criteria.

2-30 SECTION 4. Section 39.002, Utilities Code, as amended by  
 2-31 Chapters 908 (H.B. 4492) and 950 (S.B. 1580), Acts of the 87th  
 2-32 Legislature, Regular Session, 2021, is reenacted and amended to  
 2-33 read as follows:

2-34 Sec. 39.002. APPLICABILITY. This chapter, other than  
 2-35 Sections 39.151, 39.1516, 39.155, 39.157(e), 39.159, 39.160,  
 2-36 39.203, ~~[39.904,]~~ 39.9051, 39.9052, and 39.914(e), and Subchapters  
 2-37 M and N, does not apply to a municipally owned utility or an  
 2-38 electric cooperative. Sections 39.157(e) and~~[,]~~ 39.203~~[, and~~  
 2-39 ~~39.904, however,]~~ apply only to a municipally owned utility or an  
 2-40 electric cooperative that is offering customer choice. If there is  
 2-41 a conflict between the specific provisions of this chapter and any  
 2-42 other provisions of this title, except for Chapters 40 and 41, the  
 2-43 provisions of this chapter control.

2-44 SECTION 5. Section 39.203(e), Utilities Code, is amended to  
 2-45 read as follows:

2-46 (e) The commission may require an electric utility or a  
 2-47 transmission and distribution utility to construct or enlarge  
 2-48 facilities to ensure safe and reliable service for the state's  
 2-49 electric markets and to reduce transmission constraints within  
 2-50 ERCOT in a cost-effective manner where the constraints are such  
 2-51 that they are not being resolved through Chapter 37 or the ERCOT  
 2-52 transmission planning process. ~~[The commission shall require an~~  
 2-53 ~~electric utility or a transmission and distribution utility to~~  
 2-54 ~~construct or enlarge transmission or transmission-related~~  
 2-55 ~~facilities for the purpose of meeting the goal for generating~~  
 2-56 ~~capacity from renewable energy technologies under Section~~  
 2-57 ~~39.904(a).]~~ In any proceeding brought under Chapter 37, an  
 2-58 electric utility or transmission and distribution utility ordered  
 2-59 to construct or enlarge facilities under this subchapter need not  
 2-60 prove that the construction ordered is necessary for the service,  
 2-61 accommodation, convenience, or safety of the public and need not  
 2-62 address the factors listed in Sections 37.056(c)(1)-(3) and (4)(E).  
 2-63 Notwithstanding any other law, including Section 37.057, in any  
 2-64 proceeding brought under Chapter 37 by an electric utility or a  
 2-65 transmission and distribution utility related to an application for  
 2-66 a certificate of public convenience and necessity to construct or  
 2-67 enlarge transmission or transmission-related facilities under this  
 2-68 subsection, the commission shall issue a final order before the  
 2-69 181st day after the date the application is filed with the

3-1 commission. If the commission does not issue a final order before  
3-2 that date, the application is approved.

3-3 SECTION 6. Section 39.402(a), Utilities Code, is amended to  
3-4 read as follows:

3-5 (a) Until the date on which an electric utility subject to  
3-6 this subchapter is authorized by the commission to implement  
3-7 customer choice, the rates of the utility shall be regulated under  
3-8 traditional cost of service regulation and the utility is subject  
3-9 to all applicable regulatory authority prescribed by this subtitle  
3-10 and Subtitle A, including Chapters 14, 32, 33, 36, and 37. Until the  
3-11 date on which an electric utility subject to this subchapter  
3-12 implements customer choice, the provisions of this chapter, other  
3-13 than this subchapter, Sections 39.1516[~~39.904~~] and 39.905, and  
3-14 the provisions relating to the duty to obtain a permit from the  
3-15 Texas Commission on Environmental Quality for an electric  
3-16 generating facility and to reduce emissions from an electric  
3-17 generating facility, shall not apply to that utility. That portion  
3-18 of any commission order entered before September 1, 2001, to comply  
3-19 with this subchapter shall be null and void.

3-20 SECTION 7. Section 39.452(d), Utilities Code, is amended to  
3-21 read as follows:

3-22 (d) Until the date on which an electric utility subject to  
3-23 this subchapter implements customer choice:

3-24 (1) the provisions of this chapter do not apply to that  
3-25 electric utility, other than this subchapter, Sections 39.1516[~~39.904~~],  
3-26 and 39.905, the provisions relating to the duty to obtain a  
3-27 permit from the Texas Commission on Environmental Quality for an  
3-28 electric generating facility and to reduce emissions from an  
3-29 electric generating facility, and the provisions of Subchapter G  
3-30 that pertain to the recovery and securitization of hurricane  
3-31 reconstruction costs authorized by Sections 39.458-39.463; and

3-32 (2) the electric utility is not subject to a rate  
3-33 freeze and, subject to the limitation provided by Subsection (b),  
3-34 may file for rate changes under Chapter 36 and for approval of one  
3-35 or more of the rate rider mechanisms authorized by Sections 39.454  
3-36 and 39.455.

3-37 SECTION 8. Section 39.502(b), Utilities Code, is amended to  
3-38 read as follows:

3-39 (b) Until the date on which an electric utility subject to  
3-40 this subchapter implements customer choice, the provisions of this  
3-41 chapter, other than this subchapter and Sections 39.1516[~~39.904~~],  
3-42 and 39.905, do not apply to that utility.

3-43 SECTION 9. Section 39.552(b), Utilities Code, is amended to  
3-44 read as follows:

3-45 (b) Until the date on which an electric utility subject to  
3-46 this subchapter implements customer choice, the provisions of this  
3-47 chapter, other than this subchapter and Sections 39.1516[~~39.904~~],  
3-48 and 39.905, do not apply to that utility.

3-49 SECTION 10. Subchapter 2, Chapter 39, Utilities Code, is  
3-50 amended by adding Sections 39.9111, 39.9112, and 39.9113 to read as  
3-51 follows:

3-52 Sec. 39.9111. RULES RELATED TO RENEWABLE POWER FACILITIES.  
3-53 The commission may adopt rules requiring renewable power facilities  
3-54 to have reactive power control capabilities or any other feasible  
3-55 technology designed to reduce the facilities' effects on system  
3-56 reliability.

3-57 Sec. 39.9112. REPORT ON TRANSMISSION AND GENERATION  
3-58 CAPACITY. The commission and the independent organization  
3-59 certified under Section 39.151 for the ERCOT power region shall  
3-60 study the need for increased transmission and generation capacity  
3-61 throughout this state and report to the legislature the results of  
3-62 the study and any recommendations for legislation. The report must  
3-63 be filed with the legislature not later than December 31 of each  
3-64 even-numbered year.

3-65 Sec. 39.9113. RENEWABLE ENERGY CREDITS. To facilitate  
3-66 voluntary contractual obligations and verify claims regarding  
3-67 environmental attributes of renewable energy production in this  
3-68 state, the independent organization certified under Section 39.151  
3-69 for the ERCOT power region shall maintain an accreditation and

4-1 banking system to award and track voluntary renewable energy  
4-2 credits generated by eligible facilities.

4-3 SECTION 11. Section 39.916(a), Utilities Code, is amended  
4-4 by amending Subdivision (1) and adding Subdivision (4) to read as  
4-5 follows:

4-6 (1) "Distributed renewable generation" means electric  
4-7 generation with a capacity of not more than 2,000 kilowatts  
4-8 provided by a renewable energy technology[, as defined by Section  
4-9 39.904,] that is installed on a retail electric customer's side of  
4-10 the meter.

4-11 (4) "Renewable energy technology" means any  
4-12 technology that relies exclusively on an energy source that is  
4-13 naturally regenerated over a short time and is derived from the sun  
4-14 directly or indirectly or from moving water or other natural  
4-15 movements or mechanisms of the environment. The term includes a  
4-16 technology that relies on energy derived from the sun directly, on  
4-17 wind, geothermal, hydroelectric, wave, or tidal energy, or on  
4-18 biomass or biomass-based waste products, including landfill gas.  
4-19 The term does not include a technology that relies on an energy  
4-20 resource derived from a fossil fuel, a waste product from a fossil  
4-21 fuel, or a waste product from an inorganic source.

4-22 SECTION 12. Section 40.001(a), Utilities Code, is amended  
4-23 to read as follows:

4-24 (a) Notwithstanding any other provision of law, except  
4-25 Sections 39.155, 39.157(e), and 39.203, [~~and 39.904,~~] this chapter  
4-26 governs the transition to and the establishment of a fully  
4-27 competitive electric power industry for municipally owned  
4-28 utilities. With respect to the regulation of municipally owned  
4-29 utilities, this chapter controls over any other provision of this  
4-30 title, except for sections in which the term "municipally owned  
4-31 utility" is specifically used.

4-32 SECTION 13. Section 40.004, Utilities Code, is amended to  
4-33 read as follows:

4-34 Sec. 40.004. JURISDICTION OF COMMISSION. Except as  
4-35 specifically otherwise provided in this chapter, the commission has  
4-36 jurisdiction over municipally owned utilities only for the  
4-37 following purposes:

4-38 (1) to regulate wholesale transmission rates and  
4-39 service, including terms of access, to the extent provided by  
4-40 Subchapter A, Chapter 35;

4-41 (2) to regulate certification of retail service areas  
4-42 to the extent provided by Chapter 37;

4-43 (3) to regulate rates on appeal under Subchapters D  
4-44 and E, Chapter 33, subject to Section 40.051(c);

4-45 (4) to establish a code of conduct as provided by  
4-46 Section 39.157(e) applicable to anticompetitive activities and to  
4-47 affiliate activities limited to structurally unbundled affiliates  
4-48 of municipally owned utilities, subject to Section 40.054;

4-49 (5) to establish terms and conditions for open access  
4-50 to transmission and distribution facilities for municipally owned  
4-51 utilities providing customer choice, as provided by Section 39.203;

4-52 (6) to administer [~~the renewable energy credits  
4-53 program under Section 39.904(b) and~~] the natural gas energy credits  
4-54 program under Section 39.9044(b);

4-55 (7) to require reports of municipally owned utility  
4-56 operations only to the extent necessary to:

4-57 (A) enable the commission to determine the  
4-58 aggregate load and energy requirements of the state and the  
4-59 resources available to serve that load; or

4-60 (B) enable the commission to determine  
4-61 information relating to market power as provided by Section 39.155;  
4-62 and

4-63 (8) to evaluate and monitor the cybersecurity  
4-64 preparedness of a municipally owned utility described by Section  
4-65 39.1516(a)(3) or (4).

4-66 SECTION 14. Section 41.001, Utilities Code, is amended to  
4-67 read as follows:

4-68 Sec. 41.001. APPLICABLE LAW. Notwithstanding any other  
4-69 provision of law, except Sections 39.155, 39.157(e), and 39.203,

5-1 [~~and 39.904,~~] this chapter governs the transition to and the  
5-2 establishment of a fully competitive electric power industry for  
5-3 electric cooperatives. Regarding the regulation of electric  
5-4 cooperatives, this chapter shall control over any other provision  
5-5 of this title, except for sections in which the term "electric  
5-6 cooperative" is specifically used.

5-7 SECTION 15. Sections 39.904 and 39.916(g), Utilities Code,  
5-8 are repealed.

5-9 SECTION 16. It is the intent of the 88th Legislature,  
5-10 Regular Session, 2023, that the amendments made by this Act be  
5-11 harmonized with another Act of the 88th Legislature, Regular  
5-12 Session, 2023, relating to nonsubstantive additions to and  
5-13 corrections in enacted codes.

5-14 SECTION 17. This Act takes effect September 1, 2023.

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