

By: Kolkhorst, et al.

S.B. No. 819

A BILL TO BE ENTITLED

AN ACT

relating to renewable energy generation facilities; authorizing fees.

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

SECTION 1. Chapter 35, Utilities Code, is amended by adding Subchapter F to read as follows:

SUBCHAPTER F. RENEWABLE ENERGY GENERATION FACILITY APPLICATION FOR DETERMINATION

Sec. 35.201. DEFINITIONS; APPLICABILITY. (a) In this subchapter:

(1) "Person" includes an electric cooperative and a municipally owned utility.

(2) "Renewable energy generation facility" means:

(A) a wind power facility as defined by Section 301.0001; or

(B) a solar power facility as defined by Section 302.0001.

(b) This subchapter applies to a renewable energy generation facility regardless of whether the facility is the subject of a wind power facility agreement or solar power facility agreement entered into under Chapter 301 or 302.

(c) This subchapter does not apply to a solar power facility located in the corporate boundaries of a home-rule municipality.

Sec. 35.202. LEGISLATIVE POLICY AND PURPOSE. The

conservation and development of all the natural resources of this state are declared to be public rights and duties. It is also declared that balancing private property rights, the need to increase electric generation, and the need to mitigate unreasonable impacts of renewable energy generation facilities on wildlife, water, and land in this state is in the public interest.

Sec. 35.203. APPLICATION FOR DETERMINATION. (a) A person may not interconnect a renewable energy generation facility with a capacity of 10 megawatts or more to a transmission facility unless the person files an application for a determination of public interest with the commission.

(b) An application filed under this section must include:

(1) a description of the location of the facility, including a site plan in compliance with Section 35.204;

(2) a description of the type of facility;

(3) a copy of any information filed with the Federal Energy Regulatory Commission in connection with registration with that commission;

(4) any assumed business or professional name of the applicant filed under Chapter 71, Business & Commerce Code;

(5) any wind power facility agreement or solar power facility agreement applicable to the facility entered into under Chapter 301 or 302 by the applicant and evidence that the applicant has complied with the agreement by providing financial assurance in the form of a bond;

(6) a sworn affirmation that the person has provided public notice in compliance with Section 35.205;

1 (7) documentation of support or opposition from the
2 governing body of a political subdivision in the area where the
3 renewable energy generation facility is located;

4 (8) documentation demonstrating that the renewable
5 energy generation facility will not have a negative effect on
6 national security;

7 (9) information related to a permit or other state
8 authorization for the renewable energy generation facility issued
9 by the Texas Commission on Environmental Quality or the Parks and
10 Wildlife Department; and

11 (10) any other information required by commission
12 rule, provided that in requiring that information the commission
13 shall protect the competitive process in a manner that ensures the
14 confidentiality of competitively sensitive information.

15 (c) An application filed under this section may include:

16 (1) an environmental impact analysis for the renewable
17 energy generation facility; or

18 (2) a fire mitigation plan that provides for:

19 (A) emergency vehicle access;

20 (B) fire mitigation procedures; and

21 (C) ingress and egress plans during a fire event.

22 (d) The commission may impose an application fee to cover
23 the costs associated with reviewing an application filed under this
24 section.

25 Sec. 35.204. SITE PLAN. (a) A site plan included with an
26 application under Section 35.203 shall:

27 (1) for a solar power facility, ensure that all

facility equipment is located at least:

(A) 100 feet from any property line, unless the applicant has obtained a written waiver from each owner of property located less than 100 feet from the facility; and

(B) 200 feet from any habitable structure, unless the applicant has obtained a written waiver from each owner of the habitable structure; and

(2) for a wind power facility, ensure that all facility equipment is located at least twice the height of the wind turbine, including the blades, from the property line of each property that borders the property on which the facility is located, unless the applicant has obtained a written waiver from each owner of property located less than twice the height of the turbine, including the blades, from the facility.

(b) The distance from the property line required by Subsection (a)(2) must be measured as a straight line from the vertical centerline of the wind turbine to the nearest point on the property line.

(c) As a condition for approval under Section 35.206, the commission may require an applicant to submit a site plan with property line distances that exceed the distances required by Subsection (a).

Sec. 35.205. PUBLIC NOTICE. The commission by rule shall require an applicant to:

(1) provide notice of the application to the county judge of each county located within 25 miles of the boundary of the renewable energy generation facility; and

1 (2) publish for at least two consecutive publications
2 in a newspaper of general circulation in each county in which the
3 renewable energy generation facility will be or is located a notice
4 that includes a description of the type and location of the
5 facility.

6 Sec. 35.206. DECISION ON APPLICATION. (a) The commission
7 may approve or deny an application filed under Section 35.203 not
8 later than the 180th day after the date the application is filed.
9 If the commission does not approve or deny the application before
10 the 181st day after the date the application is filed, the
11 application is considered to be approved. On request of an
12 applicant, the commission may grant an extension of not more than 30
13 days for the applicant to amend the application to avoid denial by
14 the commission.

15 (b) The commission may deny an application filed under
16 Section 35.203 only if:

17 (1) the commission determines that the potential harm
18 caused by the construction and interconnection of the renewable
19 energy generation facility substantially outweighs the potential
20 benefit to this state; or

21 (2) the application does not meet the requirements of
22 this subchapter.

23 (c) If the commission denies an application filed under
24 Section 35.203, the commission must provide an explanation of the
25 reason for the denial and provide an opportunity for the applicant
26 to file an amended application.

27 (d) The commission shall post the decision made on each

1 application filed under Section 35.203 on the commission's Internet
2 website.

3 Sec. 35.207. POWER TO REGULATE AND SUPERVISE. (a) For
4 purposes of this subchapter, a provision of Subchapter B or E,
5 Chapter 14, that authorizes the commission to regulate a public
6 utility also applies to a person required to apply for a public
7 interest determination under this subchapter, including an
8 electric cooperative and a municipally owned utility.

9 (b) The commission shall adopt and enforce rules reasonably
10 required in the exercise of its powers under this subchapter.

11 Sec. 35.208. ENFORCEMENT AND PENALTIES. For the purposes
12 of enforcing this subchapter, a reference in Chapter 15 to a person
13 includes any person required to apply for a public interest
14 determination under this subchapter, including an electric
15 cooperative and a municipally owned utility.

16 SECTION 2. This Act takes effect September 1, 2025.