

## **BILL ANALYSIS**

S.B. 1913  
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State Affairs  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Under the current restructured electric utility market, transmission owners must provide wholesale transmission service to eligible power generation companies, other utilities, and power marketers throughout all Electric Reliability Council of Texas (ERCOT) territory, regardless of the end-use customer's geographic location in a retail service area. This allows market-driven expansion of Texas' electric transmission network to meet continued growth in electricity demand, encourage new capital investment in infrastructure, and deliver wind-generated and other renewable power to Texas.

The Public Utility Commission of Texas (PUC) approved a certificate of convenience and necessity (CCN) for a "transmission-only" provider that is not linked to a geographic location. A Travis County district court, however, recently held that the PUC lacks the explicit statutory authority to issue such a CCN.

S.B. 1913 clarifies the PUC's authority to issue CCNs to new owners and operators of certain wholesale electric transmission facilities that do not have traditional utility "service areas."

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

S.B. 1913 amends provisions of the Utilities Code that prohibit an electric utility, the definition of which in the Public Utility Regulatory Act (PURA) means either an electric cooperative or a "person" or river authority that owns or operates for compensation in Texas, equipment or facilities to produce, generate, transmit, distribute, sell, or furnish electricity in Texas, excluding specific entities, from providing electric service to the public under a franchise or permit unless a certificate of convenience and necessity (CCN) has been obtained from the Public Utility Commission of Texas (PUC), to expand the scope of the prohibition. The bill extends the prohibition, and the associated requirement of a CCN, to any other "person," defined in PURA to mean an individual, a partnership of two or more persons having a joint or common interest, a mutual or cooperative association other than an electric cooperative, or a corporation, applying the prohibition without regard to whether the "person" owns or operates such equipment or facilities. The bill makes conforming changes.

S.B. 1913 authorizes a CCN to be granted to an electric utility or other person for a facility used as part of the transmission system serving the Electric Reliability Council of Texas (ERCOT) power region solely for the transmission of electricity. The bill exempts the CCN holder in such cases from requirements to serve every customer in a certificated area and to provide continuous and adequate service in that area.

S.B. 1913 establishes related procedural provisions. The bill authorizes the PUC to consider,

from a person not currently certificated as an electric utility for a CCN, an application to construct transmission capacity that serves the ERCOT power region. The bill requires the PUC, before granting the CCN, to find, after notice and hearing, that the applicant has the technical ability, financial ability, and sufficient resources in Texas to own, operate, and maintain reliable transmission facilities; the applicant has the resources and ability to comply with PUC rules, requirements of the certified independent organization for the ERCOT power region, and requirements of the National Electric Reliability Council applicable to the provisions of transmission service; and, for an application filed by a person that is not an electric utility, granting the application will not adversely affect wholesale transmission rates, as compared to the rates projected to be charged if an existing electric utility were to build the transmission facility. The bill requires the PUC to consider such requirements to have been met by an electric utility or other person that is selected by the PUC as a transportation provider, under a plan for the construction of transmission capacity to deliver electricity from competitive renewable energy zone renewable energy technologies adopted by the PUC not later than September 1, 2009, if the electric utility or other person, before the certificate is issued, provides to the PUC a detailed plan regarding the offices, personnel, and other resources the electric utility or other person will have in Texas to ensure provision of continuous and adequate transmission service.

S.B. 1913 clarifies the PUC's authority to grant a CCN for a new transmission facility to a qualified applicant who meets the requirements of law relating to a CCN.

**EFFECTIVE DATE**

September 1, 2009.