

By: Kolkhorst

H.B. No. 1464

A BILL TO BE ENTITLED

AN ACT

relating to the right of certain municipalities to offer electric services within the service area of another certificate holder.

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

SECTION 1. Subchapter C, Chapter 37, Utilities Code, is amended by adding Section 37.103 to read as follows:

Sec. 37.103. RIGHT OF CERTAIN MUNICIPALITIES TO OFFER SERVICES IN THE SERVICE AREA OF ANOTHER CERTIFICATE HOLDER. (a)

This section applies only to a municipality that:

(1) is located outside of ERCOT;

(2) has a population of less than 10,000; and

(3) is located in an area that has historically experienced serious and prolonged power outages caused by hurricanes.

(b) Notwithstanding any other law, the governing body of a municipality by ordinance may provide for the municipality to offer retail electric service and related services in the corporate limits and the extraterritorial jurisdiction of the municipality, regardless of whether the corporate limits or extraterritorial jurisdiction is in an existing certificated service area of a holder of a certificate of convenience and necessity issued by the state.

(c) The governing body of a municipality may adopt an ordinance under Subsection (b) only if a majority of the

1 municipality's voters voting at an election held for that purpose  
2 approve a proposition to authorize the governing body to provide  
3 for the municipality to offer the services.

4 (d) On the approval of voters under Subsection (c), the  
5 governing body of a municipality may apply to the commission for a  
6 certificate of convenience and necessity to provide retail electric  
7 service and related services to customers residing in the corporate  
8 limits or extraterritorial jurisdiction of the municipality.  
9 Notwithstanding Section 37.056, after notice and hearing the  
10 commission shall grant the certificate if the municipality  
11 demonstrates a likelihood that:

12 (1) the municipality can provide service at reasonable  
13 prices; and

14 (2) reliability of service and responses to natural  
15 disasters and other emergencies in the corporate limits or  
16 extraterritorial jurisdiction of the municipality will improve if  
17 the certificate is granted.

18 (e) Notwithstanding Section 37.059, on issuing a  
19 certificate to a municipality under this section, the commission  
20 shall revoke a certificate held by an existing certificate holder  
21 to the extent of any overlap with an area included in the  
22 certificate granted under this section.

23 (f) The commission by rule shall provide standards under  
24 which a municipality offering retail electric service and related  
25 services under this section shall compensate the holder of a  
26 certificate if the certificate is revoked under Subsection (e) for  
27 losses that result from the holder forfeiting or selling its

1 facilities.

2 (g) The commission may not require a municipality granted a  
3 certificate of convenience and necessity under this subchapter to  
4 purchase electricity from a retail electric provider, power  
5 generation company, or exempt wholesale generator.

6 SECTION 2. This Act takes effect immediately if it receives  
7 a vote of two-thirds of all the members elected to each house, as  
8 provided by Section 39, Article III, Texas Constitution. If this  
9 Act does not receive the vote necessary for immediate effect, this  
10 Act takes effect September 1, 2009.