

By: Fraser

S.B. No. 1913

A BILL TO BE ENTITLED

AN ACT

relating to certificates of convenience and necessity.

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

SECTION 1. Section 37.051, Utilities Code, is amended by amending Subsection (a) and adding Subsections (d), (e), and (f) to read as follows:

(a) An electric utility or other person may not directly or indirectly provide service to the public under a franchise or permit unless the utility or other person first obtains from the commission a certificate that states that the public convenience and necessity requires or will require the installation, operation, or extension of the service.

(d) A certificate may be granted to an electric utility or other person under this section for a facility used as part of the transmission system serving the ERCOT power region solely for the transmission of electricity.

(e) The commission may consider an application filed by a person not currently certificated as an electric utility for a certificate of convenience and necessity to construct transmission capacity that serves the ERCOT power region. Before granting a certificate under this section, the commission must find, after notice and hearing, that:

(1) the applicant has the technical ability, financial ability, and sufficient resources in this state to own, operate,

1 and maintain reliable transmission facilities;

2 (2) the applicant has the resources and ability to
3 comply with commission rules, requirements of the independent
4 organization certified under Section 39.151 for the ERCOT power
5 region, and requirements of the National Electric Reliability
6 Council applicable to the provisions of transmission service; and

7 (3) for an application filed by a person that is not an
8 electric utility, granting the application will not adversely
9 affect wholesale transmission rates, as compared to the rates
10 projected to be charged if an existing electric utility were to
11 build the transmission facility.

12 (f) The commission shall consider the requirements of
13 Subsection (e) to have been met by an electric utility or other
14 person that:

15 (1) is selected by the commission as a transmission
16 provider under a plan adopted by the commission under Section
17 39.904 not later than September 1, 2009; and

18 (2) before the certificate is issued, provides to the
19 commission a detailed plan regarding the offices, personnel, and
20 other resources the electric utility or other person will have in
21 this state to ensure provision of continuous and adequate
22 transmission service.

23 SECTION 2. Subsection (a), Section 37.053, Utilities Code,
24 is amended to read as follows:

25 (a) An electric utility or other person that wants to obtain
26 or amend a certificate must submit an application to the
27 commission.

1 SECTION 3. Sections 37.055, 37.057, and 37.151, Utilities
2 Code, are amended to read as follows:

3 Sec. 37.055. REQUEST FOR PRELIMINARY ORDER. (a) An
4 electric utility or other person that wants to exercise a right or
5 privilege under a franchise or permit that the utility or other
6 person anticipates obtaining but has not been granted may apply to
7 the commission for a preliminary order under this section.

8 (b) The commission may issue a preliminary order declaring
9 that the commission, on application and under commission rules,
10 will grant the requested certificate on terms the commission
11 designates, after the electric utility or other person obtains the
12 franchise or permit.

13 (c) The commission shall grant the certificate on
14 presentation of evidence satisfactory to the commission that the
15 electric utility or other person has obtained the franchise or
16 permit.

17 Sec. 37.057. DEADLINE FOR APPLICATION FOR NEW TRANSMISSION
18 FACILITY. The commission may grant a certificate for a new
19 transmission facility to a qualified applicant that meets the
20 requirements of this subchapter. The commission must approve or
21 deny an application for a certificate for a new transmission
22 facility not later than the first anniversary of the date the
23 application is filed. If the commission does not approve or deny
24 the application on or before that date, a party may seek a writ of
25 mandamus in a district court of Travis County to compel the
26 commission to decide on the application.

27 Sec. 37.151. PROVISION OF SERVICE. Except as provided by

1 this section, Section 37.152, and Section 37.153, a certificate
2 holder, other than those granted a certificate under Section
3 37.051(d), shall:

4 (1) serve every consumer in the utility's certificated
5 area; and

6 (2) provide continuous and adequate service in that
7 area.

8 SECTION 4. This Act takes effect September 1, 2009.