

1-1 By: Fraser S.B. No. 1913
1-2 (In the Senate - Filed March 12, 2009; March 24, 2009, read
1-3 first time and referred to Committee on Business and Commerce;
1-4 April 24, 2009, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 7, Nays 0; April 24, 2009,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1913 By: Fraser

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to certificates of convenience and necessity.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Section 37.051, Utilities Code, is amended by
1-13 amending Subsection (a) and adding Subsections (d), (e), and (f) to
1-14 read as follows:

1-15 (a) An electric utility or other person may not directly or
1-16 indirectly provide service to the public under a franchise or
1-17 permit unless the utility or other person first obtains from the
1-18 commission a certificate that states that the public convenience
1-19 and necessity requires or will require the installation, operation,
1-20 or extension of the service.

1-21 (d) A certificate may be granted to an electric utility or
1-22 other person under this section for a facility used as part of the
1-23 transmission system serving the ERCOT power region solely for the
1-24 transmission of electricity.

1-25 (e) The commission may consider an application filed by a
1-26 person not currently certificated as an electric utility for a
1-27 certificate of convenience and necessity to construct transmission
1-28 capacity that serves the ERCOT power region. Before granting a
1-29 certificate under this section, the commission must find, after
1-30 notice and hearing, that:

1-31 (1) the applicant has the technical ability, financial
1-32 ability, and sufficient resources in this state to own, operate,
1-33 and maintain reliable transmission facilities;

1-34 (2) the applicant has the resources and ability to
1-35 comply with commission rules, requirements of the independent
1-36 organization certified under Section 39.151 for the ERCOT power
1-37 region, and requirements of the National Electric Reliability
1-38 Council applicable to the provisions of transmission service; and

1-39 (3) for an application filed by a person that is not an
1-40 electric utility, granting the application will not adversely
1-41 affect wholesale transmission rates, as compared to the rates
1-42 projected to be charged if an existing electric utility were to
1-43 build the transmission facility.

1-44 (f) The commission shall consider the requirements of
1-45 Subsection (e) to have been met by an electric utility or other
1-46 person that:

1-47 (1) is selected by the commission as a transmission
1-48 provider under a plan adopted by the commission under Section
1-49 39.904 not later than September 1, 2009; and

1-50 (2) before the certificate is issued, provides to the
1-51 commission a detailed plan regarding the offices, personnel, and
1-52 other resources the electric utility or other person will have in
1-53 this state to ensure provision of continuous and adequate
1-54 transmission service.

1-55 SECTION 2. Subsection (a), Section 37.053, Utilities Code,
1-56 is amended to read as follows:

1-57 (a) An electric utility or other person that wants to obtain
1-58 or amend a certificate must submit an application to the
1-59 commission.

1-60 SECTION 3. Sections 37.055, 37.057, and 37.151, Utilities
1-61 Code, are amended to read as follows:

1-62 Sec. 37.055. REQUEST FOR PRELIMINARY ORDER. (a) An
1-63 electric utility or other person that wants to exercise a right or

2-1 privilege under a franchise or permit that the utility or other
2-2 person anticipates obtaining but has not been granted may apply to
2-3 the commission for a preliminary order under this section.

2-4 (b) The commission may issue a preliminary order declaring
2-5 that the commission, on application and under commission rules,
2-6 will grant the requested certificate on terms the commission
2-7 designates, after the electric utility or other person obtains the
2-8 franchise or permit.

2-9 (c) The commission shall grant the certificate on
2-10 presentation of evidence satisfactory to the commission that the
2-11 electric utility or other person has obtained the franchise or
2-12 permit.

2-13 Sec. 37.057. DEADLINE FOR APPLICATION FOR NEW TRANSMISSION
2-14 FACILITY. The commission may grant a certificate for a new
2-15 transmission facility to a qualified applicant that meets the
2-16 requirements of this subchapter. The commission must approve or
2-17 deny an application for a certificate for a new transmission
2-18 facility not later than the first anniversary of the date the
2-19 application is filed. If the commission does not approve or deny
2-20 the application on or before that date, a party may seek a writ of
2-21 mandamus in a district court of Travis County to compel the
2-22 commission to decide on the application.

2-23 Sec. 37.151. PROVISION OF SERVICE. Except as provided by
2-24 this section, Section 37.152, and Section 37.153, a certificate
2-25 holder, other than those granted a certificate under Section
2-26 37.051(d), shall:

- 2-27 (1) serve every consumer in the utility's certificated
2-28 area; and
- 2-29 (2) provide continuous and adequate service in that
2-30 area.

2-31 SECTION 4. This Act takes effect September 1, 2009.

2-32 * * * * *