

BILL ANALYSIS

Senate Research Center

H.B. 971
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Business & Commerce
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Committee Report (Amended)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, a transmission and distribution company applying to the Public Utility Commission of Texas (PUC) for a certificate of convenience and necessity to build a new transmission line must designate a preferred route from among all of the proposed routes shown in the application. The preferred route designation is based on several criteria used by the PUC to determine the best possible route. The criteria include cost, distance along existing right-of-way, and distance to habitable structures, among others.

When a landowner whose property lies along any of the proposed routes receives notice of the application, the landowner will note whether the property lies on the preferred route. The landowner is given a certain amount of time to file as an intervenor in the case. As an intervenor, the landowner has the opportunity to submit written testimony and testify before an administrative law judge and PUC in opposition to the transmission line. If the landowner does not file as an intervenor, the landowner essentially forfeits the opportunity to be heard during the proceedings regarding the proposal. Often, when a landowner receives the notice and sees that the landowner's property does not lie on the preferred route, the landowner assumes that the property will not be affected for that reason and consequently does not file as an intervenor. If the landowner later finds out that the preferred route was not the route that the PUC chose for the transmission line and instead chose the route crossing the landowner's property, the landowner has no recourse and must accept the fact that a new transmission line built will be built on the property, having had no say in the matter.

H.B. 971 addresses the confusion that sometimes occurs when a landowner receives notice of an application for a certificate of convenience and necessity to build a transmission line by eliminating the requirement that a transmission and distribution company applying for the certificate designate a preferred route in the application.

H.B. 971 amends current law relating to removal of the requirement that an electric utility designate a preferred route for a transmission line in an application for a certificate of convenience and necessity.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Public Utility Commission of Texas in SECTION 2 of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 37.053, Utilities Code, by adding Subsection (c), to prohibit the Public Utility Commission of Texas (PUC) from requiring an applicant to designate a preferred route for a proposed transmission line facility.

SECTION 2. Requires PUC to adopt or revise rules under Section 37.053, Utilities Code, as amended by this Act, before June 1, 2012.

SECTION 3. Makes application of this Act prospective

SECTION 4. Effective date: upon passage or September 1, 2011.

SUMMARY OF COMMITTEE CHANGES

(1) Amends SECTION 1, on page 1, line 7, by inserting "and Subsection (d)" between "(c)" and "to".

(2) Amends SECTION 1, page 1, between lines 10 and 11, in amended Section 37.053, Utilities Code, by inserting the following:

(d) Provides that the rights extended to an electric corporation under Section 181.004 (Condemnation of Property) extend to all public and private land on which PUC has approved the construction of the line for transmission facilities ordered or approved by PUC under Chapters 37 (Certificates of Convenience and Necessity) or 39 (Restructuring of Electric Utility Industry) to mitigate market power in accordance with Section 39.157(a) (relating to PUC authority to address market power), address reliability needs, or to otherwise ensure the competitiveness of electricity markets in this state. Provides that this subsection does not limit a municipality's rights or an electric utility's obligation under Chapter 33 (Jurisdiction and Powers of Municipality).

(3) Amends SECTION 3, page 1, line 14, by striking "This Act" and substituting "The change in law made by this Act to Section 37.053(c), Utilities Code,".