

BILL ANALYSIS

C.S.H.B. 3995
By: Phelan
State Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The electric grid is a fundamental driving unit of the state economy, and the ability to have a robust, reliable, and well-regulated electric grid is paramount to the state's future success. It has been asserted that recent dockets before the Public Utility Commission of Texas (PUC) and developments in various non-ERCOT electric planning organizations have identified needed changes to the Public Utility Regulatory Act to preserve PUC jurisdiction and establish in statute the existing processes and procedures for development of transmission facilities. C.S.H.B. 3995 seeks to enact certain of these changes by codifying in statute the practices and procedures that govern transmission development on a statewide basis and to ensure continued PUC rate and regulatory jurisdiction over applicable transactions.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Public Utility Commission of Texas in SECTION 4 of this bill.

ANALYSIS

C.S.H.B. 3995 amends the Utilities Code to remove the prohibition against a person who is not an electric utility directly or indirectly providing service to the public under a franchise or permit without first obtaining a certificate of convenience and necessity. The bill limits the persons to whom the Public Utility Commission of Texas (PUC) may grant a certificate to build, own, or operate a new electric transmission facility that directly interconnects with an existing electric utility facility or municipally owned utility facility to the owner of that existing facility and requires, for a new transmission facility that will directly interconnect with facilities owned by different electric utilities or municipally owned utilities, each entity to be certificated to build, own, or operate the new facility in separate and discrete equal parts unless they agree otherwise.

C.S.H.B. 3995 establishes that if a new transmission line, whether single or double circuit, will create the first interconnection between a load-serving station and an existing transmission facility the entity with a load-serving responsibility or an electric cooperative that has a member with a load-serving responsibility at the load-serving station shall be certificated to build, own, or operate the new transmission line and the load-serving station. The bill establishes that the owner of the existing transmission facility shall be certificated to build, own, or operate the station or tap at the existing transmission facility to provide the interconnection, unless after a reasonable period of time the owner of the existing transmission facility is unwilling to build, and then the entity with the load-serving responsibility or an electric cooperative that has a member with a load-serving responsibility may be certificated to build the interconnection

facility.

C.S.H.B. 3995 authorizes an electric utility or municipally owned utility that is authorized to build, own, or operate a new transmission facility under applicable bill provisions to designate another municipally owned utility or another electric utility that is currently certificated by the PUC within the same electric power region, coordinating council, independent system operator, or power pool to build, own, or operate a portion or all of such new transmission facility, subject to any requirements adopted by the PUC by rule. The bill establishes that the division of any required certification of facilities described by provisions governing the grant or denial of a certificate applies unless each entity agrees otherwise and that nothing in those provisions is intended to require a certificate for facilities that the PUC has determined by rule do not require certification to build, own, or operate. The bill authorizes an electric cooperative to be certificated to build, own, or operate a new facility in place of any other electric cooperative if both cooperatives agree, subject to any requirements adopted by the PUC by rule.

C.S.H.B. 3995 repeals provisions authorizing a certificate to be granted for a facility used as part of the transmission system serving the ERCOT power region solely for the transmission of electricity and setting out required findings for the PUC before granting a certificate to a person not currently certificated as an electric utility to construct transmission capacity that serves the region.

C.S.H.B. 3995 removes the authorization for an electric utility to sell, assign, or lease a certificate or a right obtained under a certificate if the PUC determines that the purchaser, assignee, or lessee can provide adequate service. The bill authorizes such a utility or a municipally owned utility instead to make such a sale, assignment, or lease if the purchaser, assignee, or lessee is:

- already certificated by the PUC to provide electric service within the same electric power region, coordinating council, independent system operator, or power pool; or
- an electric cooperative or municipally owned utility.

The bill authorizes the PUC to approve a sale, assignment, or lease to an entity that has not been previously certificated as part of certain transactions subject to PUC approval if the approval will not diminish the state's retail rate jurisdiction. The bill establishes that any purchase, assignment, or lease under these provisions requires that the PUC determine that the purchaser, assignee, or lessee can provide adequate service.

C.S.H.B. 3995 repeals Sections 37.051(d), (e), and (f), Utilities Code.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2019.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3995 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute revises the provision limiting the persons to whom the PUC may grant a certificate for a new electric transmission facility that directly interconnects with an existing electric utility facility by:

- applying that limitation to a certificate to build, own, or operate the new facility; and
- making that limitation applicable to a new electric transmission facility that interconnects with an existing municipally owned utility facility.

The substitute revises the provision relating to who will be certificated for a new transmission facility that will directly interconnect with facilities owned by different electric utilities.

The substitute includes a provision relating to the entity with load-serving responsibility or an electric cooperative being certificated with respect to a new transmission line that will create the first interconnection between a load-serving station and an existing transmission facility.

The substitute includes a provision authorizing an applicable utility to designate another certificated utility to build, own, or operate a portion or all of the facility. The substitute includes a provision relating to the division of any required certification of facilities.

The substitute includes a provision establishing certain of its provisions are not intended to require a certificate for facilities that PUC has determined do not require certification to build, own, or operate.

The substitute includes a provision authorizing an electric cooperative to be certificated for a new facility in place of any other electric cooperative if both cooperatives agree, subject to certain requirements.

The substitute revises the provision authorizing an electric utility to sell, assign, or lease a certificate or a right obtained under a certificate if the purchaser, assignee, or lessee is certificated by the PUC to provide electric service within certain specified regions by:

- making that authorization applicable with respect to a municipally owned utility; and
- authorizing such utilities to make such a sale, assignment, or lease if the purchaser, assignee, or lessee is an electric cooperative or municipally owned utility.

The substitute includes a provision establishing that that any purchase, assignment, or lease of a certificate or right obtained under a certificate requires that the PUC determine that the purchaser, assignee, or lessee can provide adequate service.