By:  Zwiener H.B. No. 4382

A BILL TO BE ENTITLED

AN ACT

relating to the issuance by the Railroad Commission of Texas of a certificate of convenience and necessity for certain common carrier pipelines.

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

SECTION 1.  The heading to Subchapter I, Chapter 111, Natural Resources Code, is amended to read as follows:

SUBCHAPTER I. CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR CERTAIN COMMON CARRIER [~~COAL~~] PIPELINES

SECTION 2.  Section 111.301, Natural Resources Code, is amended to read as follows:

Sec. 111.301.  CERTIFICATE REQUIRED. A person that is a common carrier under Sections 111.002(1)-(6), or a common carrier of natural gas or other commodities under Section 2.105 of the Texas Business Organizations Code,[~~Subsection (5), Section 111.002 of this code~~] must apply for and be issued a certificate of public convenience and necessity from the commission pursuant to the commission's authority to issue certificates under Section 111.302 [~~of this code~~] if the commission finds after a hearing that the public convenience and necessity will be served by the construction and operation of the pipeline.

SECTION 3.  Sections 111.302(a), (c), and (d), Natural Resources Code, are amended to read as follows:

(a)  The commission is further authorized, empowered, and directed to issue certificates of public convenience and necessity to common carrier pipelines [~~transporting coal in whatever form or mixture for hire~~] in Texas if the commission finds that the public convenience and necessity will be served in that existing facilities will not be able to provide the transportation as economically or efficiently as the proposed pipeline.

(c)  The commission shall not issue a permit, certificate, or any authority to any common carrier [~~applicant~~] whose rates and charges are not regulated by government authority, either state or federal, and that state or federal regulations insure to the public [~~and to the ultimate electric consumer~~] that the contracts, rates, and charges shall be just and reasonable, nondiscriminatory, and offering no preference or advantage to any person, corporation, entity, or group.

(d)  The commission shall not issue a permit, certificate, or any authority for a common carrier pipeline [~~to any applicant whose pipeline transporting coal in whatever form~~] unless the pipeline [~~transporting coal in whatever form~~] is to be buried at least 36 inches below the surface, except in such instances in which the commission specifically exempts the 36-inch depth requirement and unless the pipeline [~~transporting coal in whatever form~~] conforms to all applicable state or federal regulations concerning the operation, maintenance, and construction of that [~~same~~] pipeline.

SECTION 4.  Sections 111.303 and 111.305, Natural Resources Code, are amended to read as follows:

Sec. 111.303.  CERTIFICATION PROCEDURE. (a) A person that applies for a certificate of public convenience and necessity for a common carrier [~~The coal~~] pipeline under this subchapter [~~applicant~~] shall publish, in accordance with regulations promulgated by the commission and existing law, a notice that it has filed the [~~an~~] application [~~for a certificate of public convenience and necessity under this Act~~] in a newspaper of general circulation in each county in which the project will be located. The notice shall, among other things, specify to the extent practicable the land which would be subject to the power of eminent domain.

(b)  The commission shall then conduct public hearings in areas of the state along the prospective pipeline right-of-way as it shall determine shall be necessary to give all property owners identified by the common carrier along the proposed pipeline right-of-way an opportunity to be heard. The commission is vested with authority and discretion to alter the right-of-way to meet with local objections.

Sec. 111.305.  OTHER AGENCIES. (a) The commission shall seek and act on the recommendations of the Texas [~~Natural Resource Conservation~~] Commission on Environmental Quality, the Governor's Energy Advisory Council, or their successors responsible for environmental determinations and shall specify the proper use and disposal of nondischargeable water.

(b)  Neither the authority conveyed to the commission by this subchapter to issue certificates and to promulgate rules governing common carrier pipelines [~~transporting coal in whatever form~~] nor the powers and duties conveyed on those pipelines by this chapter shall affect, diminish, or otherwise limit the jurisdiction and authority of the Texas Water Development Board and the Texas [~~Natural Resource Conservation~~] Commission on Environmental Quality to regulate by applicable rules the acquisition, use, control, disposition, and discharge of water or water rights in Texas.

SECTION 5.  Section 111.304, Natural Resources Code, is repealed.

SECTION 6.  This Act takes effect September 1, 2019.