2019S0321-2 03/05/19

By:  Hancock S.B. No. 1938

A BILL TO BE ENTITLED

AN ACT

relating to certificates of convenience and necessity for the construction of transmission facilities.

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

SECTION 1.  Section 37.051(a), Utilities Code, is amended 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.

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

(a)  An electric utility [~~or other person~~] that wants to obtain or amend a certificate must submit an application to the commission.

SECTION 3.  Section 37.055, Utilities Code, is amended to read as follows:

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

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

(c)  The commission shall grant the certificate on presentation of evidence satisfactory to the commission that the electric utility [~~or other person~~] has obtained the franchise or permit.

SECTION 4.  Section 37.056, Utilities Code, is amended by adding Subsection (e) to read as follows:

(e)  A certificate for a new transmission facility that directly interconnects with an existing electric utility facility may only be granted to the owner of that existing facility. If a new transmission facility will directly interconnect with facilities owned by different electric utilities, one or both of those utilities shall be certificated to construct the new facility.

SECTION 5.  Section 37.057, Utilities Code, is amended to read as follows:

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

SECTION 6.  Section 37.151, Utilities Code, is amended to read as follows:

Sec. 37.151.  PROVISION OF SERVICE. Except as provided by this section, Section 37.152, and Section 37.153, a certificate holder[~~, other than one granted a certificate under Section 37.051(d),~~] shall:

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

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

SECTION 7.  Section 37.154(a), Utilities Code, is amended to read as follows:

(a)  An electric utility may sell, assign, or lease a certificate or a right obtained under a certificate if [~~the commission determines that~~] the purchaser, assignee, or lessee was previously certificated by the commission to provide electric service within the same electric power region, coordinating council, independent system operator, or power pool. As part of a transaction subject to Sections 39.262(l)-(o) and 39.915, the commission may approve a sale, assignment, or lease to an entity that has not been previously certificated if the approval will not diminish the retail rate jurisdiction of this state [~~can provide adequate service~~].

SECTION 8.  Sections 37.051(d), (e), and (f), Utilities Code, are repealed.

SECTION 9.  This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2019.