

By: Zwiener

H.B. No. 4382

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the issuance by the Railroad Commission of Texas of a
3 certificate of convenience and necessity for certain common carrier
4 pipelines.

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

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

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

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

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

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

24 (a) The commission is further authorized, empowered, and

1 directed to issue certificates of public convenience and necessity
2 to common carrier pipelines [~~transporting coal in whatever form or~~
3 ~~mixture for hire~~] in Texas if the commission finds that the public
4 convenience and necessity will be served in that existing
5 facilities will not be able to provide the transportation as
6 economically or efficiently as the proposed pipeline.

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

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

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

26 Sec. 111.303. CERTIFICATION PROCEDURE. (a) A person that
27 applies for a certificate of public convenience and necessity for a

1 common carrier [~~The coal~~] pipeline under this subchapter
2 [~~applicant~~] shall publish, in accordance with regulations
3 promulgated by the commission and existing law, a notice that it has
4 filed the [~~an~~] application [~~for a certificate of public convenience~~
5 ~~and necessity under this Act~~] in a newspaper of general circulation
6 in each county in which the project will be located. The notice
7 shall, among other things, specify to the extent practicable the
8 land which would be subject to the power of eminent domain.

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

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

22 (b) Neither the authority conveyed to the commission by this
23 subchapter to issue certificates and to promulgate rules governing
24 common carrier pipelines [~~transporting coal in whatever form~~] nor
25 the powers and duties conveyed on those pipelines by this chapter
26 shall affect, diminish, or otherwise limit the jurisdiction and
27 authority of the Texas Water Development Board and the Texas

1 [~~Natural Resource Conservation~~] Commission on Environmental
2 Quality to regulate by applicable rules the acquisition, use,
3 control, disposition, and discharge of water or water rights in
4 Texas.

5 SECTION 5. Section [111.304](#), Natural Resources Code, is
6 repealed.

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