

By: Hancock

S.B. No. 1938

(Phelan, Raymond, Rodriguez, King of Parker, Frullo, et al.)

A BILL TO BE ENTITLED

AN ACT

1
2 relating to certificates of convenience and necessity for the
3 construction of facilities for the transmission of electricity.

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

5 SECTION 1. Section 37.051(a), Utilities Code, is amended to
6 read as follows:

7 (a) An electric utility [~~or other person~~] may not directly
8 or indirectly provide service to the public under a franchise or
9 permit unless the utility [~~or other person~~] first obtains from the
10 commission a certificate that states that the public convenience
11 and necessity requires or will require the installation, operation,
12 or extension of the service.

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

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

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

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

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

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

10 SECTION 4. Section 37.056, Utilities Code, is amended by
11 adding Subsections (e), (f), (g), (h), and (i) to read as follows:

12 (e) A certificate to build, own, or operate a new
13 transmission facility that directly interconnects with an existing
14 electric utility facility or municipally owned utility facility may
15 be granted only to the owner of that existing facility. If a new
16 transmission facility will directly interconnect with facilities
17 owned by different electric utilities or municipally owned
18 utilities, each entity shall be certificated to build, own, or
19 operate the new facility in separate and discrete equal parts
20 unless they agree otherwise.

21 (f) Notwithstanding Subsection (e), if a new transmission
22 line, whether single or double circuit, will create the first
23 interconnection between a load-serving station and an existing
24 transmission facility, the entity with a load-serving
25 responsibility or an electric cooperative that has a member with a
26 load-serving responsibility at the load-serving station shall be
27 certificated to build, own, or operate the new transmission line

1 and the load-serving station. The owner of the existing
2 transmission facility shall be certificated to build, own, or
3 operate the station or tap at the existing transmission facility to
4 provide the interconnection, unless after a reasonable period of
5 time the owner of the existing transmission facility is unwilling
6 to build, and then the entity with the load-serving responsibility
7 or an electric cooperative that has a member with a load-serving
8 responsibility may be certificated to build the interconnection
9 facility.

10 (g) Notwithstanding any other provision of this section, an
11 electric utility or municipally owned utility that is authorized to
12 build, own, or operate a new transmission facility under Subsection
13 (e) or (f) may designate another electric utility that is currently
14 certificated by the commission within the same electric power
15 region, coordinating council, independent system operator, or
16 power pool or a municipally owned utility to build, own, or operate
17 a portion or all of such new transmission facility, subject to any
18 requirements adopted by the commission by rule.

19 (h) The division of any required certification of
20 facilities described in this section shall apply unless each entity
21 agrees otherwise. Nothing in this section is intended to require a
22 certificate for facilities that the commission has determined by
23 rule do not require certification to build, own, or operate.

24 (i) Notwithstanding any other provision of this section, an
25 electric cooperative may be certificated to build, own, or operate
26 a new facility in place of any other electric cooperative if both
27 cooperatives agree.

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

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

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

15 Sec. 37.151. PROVISION OF SERVICE. Except as provided by
16 Sections [~~this section, Section~~] 37.152[~~7~~] and [~~Section~~] 37.153, a
17 certificate holder[~~, other than one granted a certificate under~~
18 ~~Section 37.051(d),~~] shall:

- 19 (1) serve every consumer in the utility's certificated
20 area; and
21 (2) provide continuous and adequate service in that
22 area.

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

25 (a) An electric utility or municipally owned utility may
26 sell, assign, or lease a certificate or a right obtained under a
27 certificate if [~~the commission determines that~~] the purchaser,

1 assignee, or lessee is already certificated by the commission to
2 provide electric service within the same electric power region,
3 coordinating council, independent system operator, or power pool,
4 or if the purchaser, assignee, or lessee is an electric cooperative
5 or municipally owned utility [~~can provide adequate service~~]. As
6 part of a transaction subject to Sections 39.262(1)-(o) and 39.915,
7 the commission may approve a sale, assignment, or lease to an entity
8 that has not been previously certificated if the approval will not
9 diminish the retail rate jurisdiction of this state. Any purchase,
10 assignment, or lease under this section requires that the
11 commission determine that the purchaser, assignee, or lessee can
12 provide adequate service.

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

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