

By: Darby

H.B. No. 1607

A BILL TO BE ENTITLED

AN ACT

relating to certificates of public convenience and necessity for certain transmission projects.

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

SECTION 1. The legislature finds that:

(1) this state has long been a leader in energy policy that has delivered economic, electricity, and environmental benefits to millions of electricity consumers, businesses, state-owned lands, and landowners;

(2) this state continues to experience population, business, industrial, and manufacturing growth that increases the need for reliable, low-cost electricity;

(3) the ERCOT electric power grid is experiencing increased levels of congestion, constraint, and curtailment that are economically undesirable;

(4) the ERCOT electric power grid is experiencing load growth management challenges;

(5) while this state does not import large amounts of electricity, working to ensure that this state's electricity needs are met as fully as possible from in-state resources is of strategic interest to the legislature;

(6) the electric power industry, including its wind and solar generation, energy storage, and transmission components, can play a substantial role in this state's economic recovery;

1           (7) this state's oil and natural gas industries  
2 continue to grow and prosper, and those industries require low-cost  
3 electricity and a reliable electric power grid to thrive; and

4           (8) to attract new capital projects to this state,  
5 create jobs, promote substantial new economic development, ensure a  
6 reliable and stable electric power grid that is powered by in-state  
7 resources, and keep this state as a leader on energy policy in the  
8 United States, a timely and targeted expansion of this state's  
9 electric transmission system is necessary to enhance the  
10 reliability of the system.

11           SECTION 2. Section [37.0541](#), Utilities Code, is amended to  
12 read as follows:

13           Sec. 37.0541. CONSOLIDATION OF CERTAIN PROCEEDINGS. The  
14 commission shall consolidate the proceeding on an application to  
15 obtain or amend a certificate of convenience and necessity for the  
16 construction of a transmission line with the proceeding on another  
17 application to obtain or amend a certificate of convenience and  
18 necessity for the construction of a transmission line if it is  
19 apparent from the applications or a motion to intervene in either  
20 proceeding that the transmission lines that are the subject of the  
21 separate proceedings share a common point of interconnection. [~~This  
22 section does not apply to a proceeding on an application for a  
23 certificate of convenience and necessity for a transmission line to  
24 serve a competitive renewable energy zone as part of a plan  
25 developed by the commission under Section [39.904\(g\)\(2\)](#).~~]

26           SECTION 3. Section [37.056](#), Utilities Code, is amended by  
27 amending Subsection (d) and adding Subsections (d-1), (d-2), and

1 (d-3) to read as follows:

2 (d) The commission by rule shall establish criteria, in  
3 addition to the criteria described by Subsection (c), for granting  
4 a certificate for a transmission project that serves the ERCOT  
5 power region and~~[,]~~ that is not necessary to meet state or federal  
6 reliability standards~~[, and that does not serve a competitive~~  
7 ~~renewable energy zone]~~.

8 (d-1) Except as provided by Subsection (d-2), an  
9 application for a certificate described by Subsection (d) [The  
10 criteria] must include a comparison of the levelized estimated cost  
11 of the transmission project and the estimated cost savings and  
12 economic benefits that may result from the ~~[transmission]~~ project.  
13 The commission shall include with the commission's decision to  
14 grant or deny the certificate the commission's findings on the  
15 comparison. The comparison must account for:

16 (1) the probable improvement of service or reduction  
17 of costs for consumers that may be realized from the project;

18 (2) an estimated value for reduced congestion and  
19 curtailments that may be realized from the project;

20 (3) an estimation of reduced transmission losses that  
21 may be realized from the project;

22 (4) an assessment of the effect on sufficient access  
23 to the ERCOT power region market by new electric power generation  
24 that may be realized from the project;

25 (5) an estimation of reduced future transmission  
26 investment costs that may be realized from the project;

27 (6) an estimation of costs of projects described by

1 Subsection (d-2) that may be avoided as a result of the project; and  
2 (7) an estimation of direct economic benefits that may  
3 be realized from the construction of the project [~~The commission~~  
4 ~~shall include with its decision on an application for a certificate~~  
5 ~~to which this subsection applies findings on the criteria~~].

6 (d-2) If an application does not include a comparison  
7 described by Subsection (d-1), the commission may not grant a  
8 certificate for a project described by Subsection (d) unless the  
9 commission finds that the project is needed to support a reliable  
10 and adequate transmission network and to facilitate robust  
11 wholesale competition and minimize curtailments due to congestion.

12 (d-3) Not less than once per year, the independent  
13 organization certified under Section 39.151 for the ERCOT power  
14 region shall identify transmission projects that will meet  
15 commission findings under Subsection (d-2).

16 SECTION 4. Section 39.904(k), Utilities Code, is amended to  
17 read as follows:

18 (k) The commission and the independent organization  
19 certified for ERCOT shall study the need for increased transmission  
20 and generation capacity throughout this state and report to the  
21 legislature the results of the study and any recommendations for  
22 legislation. The report must be filed with the legislature not  
23 later than December 31 of each even-numbered year [~~and may be filed~~  
24 ~~as a part of the report required by Subsection (j)~~].

25 SECTION 5. Subchapter 2, Chapter 39, Utilities Code, is  
26 amended by adding Section 39.918 to read as follows:

27 Sec. 39.918. CRITICAL DESIGNATION TRANSMISSION

1 INFRASTRUCTURE PROJECTS. (a) Not later than December 30, 2021, the  
2 independent organization certified under Section 39.151 for the  
3 ERCOT power region shall:

4 (1) identify, in consultation with the commission,  
5 critical designation transmission infrastructure projects and the  
6 electric utilities or transmission and distribution utilities that  
7 will construct and operate the projects; and

8 (2) submit a written description of each project to  
9 the commission.

10 (b) Projects identified under Subsection (a) must  
11 facilitate a timely and targeted expansion of the electric power  
12 grid in ERCOT for the purposes of:

13 (1) resolving existing transmission congestion,  
14 constraints, and curtailments, including generic transmission  
15 constraints; and

16 (2) ensuring the future reliability of the ERCOT  
17 electric power grid.

18 (c) To the extent practicable, projects identified under  
19 Subsection (a) should:

20 (1) be cost-effective and designed to transmit high  
21 volumes of electricity across ERCOT regions efficiently;

22 (2) replace aging infrastructure or follow routes that  
23 align with existing rights-of-way or existing transmission  
24 infrastructure;

25 (3) be designed to accommodate circuit voltages of 500  
26 kilovolts or greater, including high voltage direct current  
27 circuits; and

1           (4) be designed to reduce significantly present or  
2 expected future congestion between ERCOT load zones and between  
3 ERCOT weather zones, including between:

4           (A) the ERCOT Far West weather zone and the ERCOT  
5 North Central weather zone;

6           (B) the ERCOT West load zone and the ERCOT North  
7 load zone;

8           (C) the ERCOT South weather zone and the ERCOT  
9 North Central weather zone;

10           (D) the ERCOT North load zone and the ERCOT  
11 Houston load zone; and

12           (E) the ERCOT South load zone and the ERCOT  
13 Houston load zone.

14           (d) The independent organization certified under Section  
15 39.151 for the ERCOT power region shall consult with a  
16 representative of the comptroller and a representative of the Texas  
17 Economic Development and Tourism Office to identify projects under  
18 Subsection (a) that would facilitate the growth of the economy of  
19 this state, including oil and gas, commercial, and industrial  
20 development that will provide substantial new tax revenue,  
21 landowner income, or new jobs in this state.

22           (e) Not later than 450 days after the date that the  
23 independent organization certified under Section 39.151 for the  
24 ERCOT power region submits a written description of a project to the  
25 commission under Subsection (a), the utility that will construct  
26 and operate the project shall submit to the commission an  
27 application for a certificate of public convenience and necessity

1 for the project.

2 (f) In considering an application for a certificate of  
3 public convenience and necessity for a project identified under  
4 Subsection (a), the commission is not required to consider the  
5 factors provided by Sections 37.056(c)(1) and (2). The commission  
6 shall consider all factors provided by Section 37.056, including  
7 Sections 37.056(c)(1) and (2), for a project not identified under  
8 Subsection (a).

9 (g) If the commission issues a certificate of public  
10 convenience and necessity for a project identified under Subsection  
11 (a), the commission shall find that the project is used and useful  
12 to the utility in providing service for purposes of this section,  
13 prudent, and includable in the rate base, regardless of the extent  
14 of the utility's actual use of the project.

15 (h) Transmission service that is facilitated through a  
16 project identified under Subsection (a) must be provided in a  
17 manner consistent with Subchapter A, Chapter 35.

18 (i) This section expires September 1, 2030.

19 SECTION 6. Sections 39.904(g), (h), (i), and (j), Utilities  
20 Code, are repealed.

21 SECTION 7. The changes in law made by this Act apply only to  
22 a proceeding affecting a certificate of public convenience and  
23 necessity that commences on or after the effective date of this Act.  
24 A proceeding affecting a certificate of public convenience and  
25 necessity that commenced before the effective date of this Act is  
26 governed by the law in effect on the date the proceeding is  
27 commenced, and that law is continued in effect for that purpose.

1           SECTION 8. The recovery of a transmission facility  
2 investment made by an electric utility to serve a competitive  
3 renewable energy zone is governed by the law in effect on the date  
4 the facility is placed in service, regardless of whether the  
5 facility is completed before, on, or after the effective date of  
6 this Act, and that law is continued in effect for that purpose.

7           SECTION 9. This Act takes effect September 1, 2021.