

Amend CSHB 1500 (senate committee printing) as follows:

(1) In SECTION 17(b) of the bill, in added Section 39.166(b)(2)(B), Utilities Code (page 10, line 30), strike "39.904(k)" and substitute "39.9112".

(2) In SECTION 18(b) of the bill, in added Section 39.166(b)(2)(B), Utilities Code (page 11, line 16), strike "39.904(k)" and substitute "39.9112".

(3) In the recital to SECTION 19 of the bill, amending Section 39.203, Utilities Code (page 11, line 50), strike "Section 39.203(i), Utilities Code, is amended" and substitute "Sections 39.203(e) and (i), Utilities Code, are amended".

(4) In SECTION 19 of the bill, amending Section 39.203, Utilities Code (page 11, between lines 51 and 52), insert the following:

(e) The commission may require an electric utility or a transmission and distribution utility to construct or enlarge facilities to ensure safe and reliable service for the state's electric markets and to reduce transmission constraints within ERCOT in a cost-effective manner where the constraints are such that they are not being resolved through Chapter 37 or the ERCOT transmission planning process. [~~The commission shall require an electric utility or a transmission and distribution utility to construct or enlarge transmission or transmission-related facilities for the purpose of meeting the goal for generating capacity from renewable energy technologies under Section 39.904(a).~~] In any proceeding brought under Chapter 37, an electric utility or transmission and distribution utility ordered to construct or enlarge facilities under this subchapter need not prove that the construction ordered is necessary for the service, accommodation, convenience, or safety of the public and need not address the factors listed in Sections 37.056(c)(1)-(3) and (4)(E). Notwithstanding any other law, including Section 37.057, in any proceeding brought under Chapter 37 by an electric utility or a transmission and distribution utility related to an application for a certificate of public convenience and necessity to construct or enlarge transmission or transmission-related facilities under this subsection, the commission shall issue a final order before the

181st day after the date the application is filed with the commission. If the commission does not issue a final order before that date, the application is approved.

(5) Strike SECTION 24 of the bill, amending Section 39.904(k), Utilities Code (page 12, lines 12 through 21), and renumber subsequent SECTIONS of the bill accordingly.

(6) In SECTION 29(a) of the bill, repealing provisions of law, strike Subdivisions (4) and (5) (page 13, lines 5 and 6), and substitute the following:

(4) Section 39.904, Utilities Code;

(5) Section 39.916(g), Utilities Code; and

(6) Section 52.006, Utilities Code.

(7) Add the following appropriately numbered SECTIONS to the bill and renumber subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 36.053(d), Utilities Code, is amended to read as follows:

(d) If the commission issues a certificate of convenience and necessity or if the commission, acting under the authority formerly provided by Section 39.203(e), ordered [~~orders~~] an electric utility or a transmission and distribution utility to construct or enlarge transmission or transmission-related facilities to facilitate meeting the goal for generating capacity from renewable energy technologies under former Section 39.904(a), the commission shall find that the facilities are used and useful to the utility in providing service for purposes of this section and are prudent and includable in the rate base, regardless of the extent of the utility's actual use of the facilities.

SECTION _____. Section 37.0541, Utilities Code, is amended to read as follows:

Sec. 37.0541. CONSOLIDATION OF CERTAIN PROCEEDINGS. The commission shall consolidate the proceeding on an application to obtain or amend a certificate of convenience and necessity for the construction of a transmission line with the proceeding on another application to obtain or amend a certificate of convenience and necessity for the construction of a transmission line if it is apparent from the applications or a motion to intervene in either proceeding that the transmission lines that are the subject of the

separate proceedings share a common point of interconnection. ~~[This section does not apply to a proceeding on an application for a certificate of convenience and necessity for a transmission line to serve a competitive renewable energy zone as part of a plan developed by the commission under Section 39.904(g)(2).]~~

SECTION _____. Sections 37.056(c) and (d), Utilities Code, are amended to read as follows:

(c) The commission shall grant each certificate on a nondiscriminatory basis after considering:

(1) the adequacy of existing service;

(2) the need for additional service;

(3) the effect of granting the certificate on the recipient of the certificate and any electric utility serving the proximate area; and

(4) other factors, such as:

(A) community values;

(B) recreational and park areas;

(C) historical and aesthetic values;

(D) environmental integrity; and

(E) the probable improvement of service or lowering of cost to consumers in the area if the certificate is granted, including any potential economic or reliability benefits associated with dual fuel and fuel storage capabilities in areas outside the ERCOT power region~~[, and~~

~~[(F) to the extent applicable, the effect of granting the certificate on the ability of this state to meet the goal established by Section 39.904(a) of this title].~~

(d) The commission by rule shall establish criteria, in addition to the criteria described by Subsection (c), for granting a certificate for a transmission project that serves the ERCOT power region and~~[,]~~ that is not necessary to meet state or federal reliability standards~~[, and that is not included in a plan developed under Section 39.904(g)]~~. The criteria must include a comparison of the estimated cost of the transmission project for consumers and the estimated congestion cost savings for consumers that may result from the transmission project, considering both current and future expected congestion levels and the transmission

project's ability to reduce those congestion levels. The commission shall include with its decision on an application for a certificate to which this subsection applies findings on the criteria.

SECTION _____. Section 39.002, Utilities Code, as amended by Chapters 908 (H.B. 4492) and 950 (S.B. 1580), Acts of the 87th Legislature, Regular Session, 2021, is reenacted and amended to read as follows:

Sec. 39.002. APPLICABILITY. This chapter, other than Sections 39.151, 39.1516, 39.155, 39.157(e), 39.159, 39.160, 39.203, [~~39.904,~~] 39.9051, 39.9052, and 39.914(e), and Subchapters M and N, does not apply to a municipally owned utility or an electric cooperative. Sections 39.157(e) and [~~7~~] 39.203[~~7~~ and ~~39.904, however,~~] apply only to a municipally owned utility or an electric cooperative that is offering customer choice. If there is a conflict between the specific provisions of this chapter and any other provisions of this title, except for Chapters 40 and 41, the provisions of this chapter control.

SECTION _____. Section 39.402(a), Utilities Code, is amended to read as follows:

(a) Until the date on which an electric utility subject to this subchapter is authorized by the commission to implement customer choice, the rates of the utility shall be regulated under traditional cost of service regulation and the utility is subject to all applicable regulatory authority prescribed by this subtitle and Subtitle A, including Chapters 14, 32, 33, 36, and 37. Until the date on which an electric utility subject to this subchapter implements customer choice, the provisions of this chapter, other than this subchapter, Sections 39.1516[~~7~~ ~~39.904,~~] and 39.905, and the provisions relating to the duty to obtain a permit from the Texas Commission on Environmental Quality for an electric generating facility and to reduce emissions from an electric generating facility, shall not apply to that utility. That portion of any commission order entered before September 1, 2001, to comply with this subchapter shall be null and void.

SECTION _____. Section 39.452(d), Utilities Code, is amended to read as follows:

(d) Until the date on which an electric utility subject to this subchapter implements customer choice:

(1) the provisions of this chapter do not apply to that electric utility, other than this subchapter, Sections 39.1516[~~7~~, ~~39.904~~] and 39.905, the provisions relating to the duty to obtain a permit from the Texas Commission on Environmental Quality for an electric generating facility and to reduce emissions from an electric generating facility, and the provisions of Subchapter G that pertain to the recovery and securitization of hurricane reconstruction costs authorized by Sections 39.458-39.463; and

(2) the electric utility is not subject to a rate freeze and, subject to the limitation provided by Subsection (b), may file for rate changes under Chapter 36 and for approval of one or more of the rate rider mechanisms authorized by Sections 39.454 and 39.455.

SECTION _____. Section 39.502(b), Utilities Code, is amended to read as follows:

(b) Until the date on which an electric utility subject to this subchapter implements customer choice, the provisions of this chapter, other than this subchapter and Sections 39.1516[~~7~~, ~~39.904~~] and 39.905, do not apply to that utility.

SECTION _____. Section 39.552(b), Utilities Code, is amended to read as follows:

(b) Until the date on which an electric utility subject to this subchapter implements customer choice, the provisions of this chapter, other than this subchapter and Sections 39.1516[~~7~~, ~~39.904~~] and 39.905, do not apply to that utility.

SECTION _____. Subchapter Z, Chapter 39, Utilities Code, is amended by adding Sections 39.9111, 39.9112, and 39.9113 to read as follows:

Sec. 39.9111. RULES RELATED TO RENEWABLE POWER FACILITIES.
The commission may adopt rules requiring renewable power facilities to have reactive power control capabilities or any other feasible technology designed to reduce the facilities' effects on system reliability.

Sec. 39.9112. REPORT ON TRANSMISSION AND GENERATION CAPACITY. The commission and the independent organization

certified under Section 39.151 for the ERCOT power region shall study the need for increased transmission and generation capacity throughout this state and report to the legislature the results of the study and any recommendations for legislation. The report must be filed with the legislature not later than December 31 of each even-numbered year.

Sec. 39.9113. RENEWABLE ENERGY CREDITS. To facilitate voluntary contractual obligations and verify claims regarding environmental attributes of renewable energy production in this state, the independent organization certified under Section 39.151 for the ERCOT power region shall maintain an accreditation and banking system to award and track voluntary renewable energy credits generated by eligible facilities.

SECTION _____. Section 39.916(a), Utilities Code, is amended by amending Subdivision (1) and adding Subdivision (4) to read as follows:

(1) "Distributed renewable generation" means electric generation with a capacity of not more than 2,000 kilowatts provided by a renewable energy technology [~~as defined by Section 39.904,~~] that is installed on a retail electric customer's side of the meter.

(4) "Renewable energy technology" means any technology that relies exclusively on an energy source that is naturally regenerated over a short time and is derived from the sun directly or indirectly or from moving water or other natural movements or mechanisms of the environment. The term includes a technology that relies on energy derived from the sun directly, on wind, geothermal, hydroelectric, wave, or tidal energy, or on biomass or biomass-based waste products, including landfill gas. The term does not include a technology that relies on an energy resource derived from a fossil fuel, a waste product from a fossil fuel, or a waste product from an inorganic source.

SECTION _____. Section 40.001(a), Utilities Code, is amended to read as follows:

(a) Notwithstanding any other provision of law, except Sections 39.155, 39.157(e), and 39.203, [~~and 39.904,~~] this chapter governs the transition to and the establishment of a fully

competitive electric power industry for municipally owned utilities. With respect to the regulation of municipally owned utilities, this chapter controls over any other provision of this title, except for sections in which the term "municipally owned utility" is specifically used.

SECTION _____. Section 40.004, Utilities Code, is amended to read as follows:

Sec. 40.004. JURISDICTION OF COMMISSION. Except as specifically otherwise provided in this chapter, the commission has jurisdiction over municipally owned utilities only for the following purposes:

(1) to regulate wholesale transmission rates and service, including terms of access, to the extent provided by Subchapter A, Chapter 35;

(2) to regulate certification of retail service areas to the extent provided by Chapter 37;

(3) to regulate rates on appeal under Subchapters D and E, Chapter 33, subject to Section 40.051(c);

(4) to establish a code of conduct as provided by Section 39.157(e) applicable to anticompetitive activities and to affiliate activities limited to structurally unbundled affiliates of municipally owned utilities, subject to Section 40.054;

(5) to establish terms and conditions for open access to transmission and distribution facilities for municipally owned utilities providing customer choice, as provided by Section 39.203;

(6) to administer [~~the renewable energy credits program under Section 39.904(b) and~~] the natural gas energy credits program under Section 39.9044(b);

(7) to require reports of municipally owned utility operations only to the extent necessary to:

(A) enable the commission to determine the aggregate load and energy requirements of the state and the resources available to serve that load; or

(B) enable the commission to determine information relating to market power as provided by Section 39.155; and

(8) to evaluate and monitor the cybersecurity

preparedness of a municipally owned utility described by Section 39.1516(a)(3) or (4).

SECTION _____. Section 41.001, Utilities Code, is amended to read as follows:

Sec. 41.001. APPLICABLE LAW. Notwithstanding any other provision of law, except Sections 39.155, 39.157(e), and 39.203, [~~and 39.904,~~] this chapter governs the transition to and the establishment of a fully competitive electric power industry for electric cooperatives. Regarding the regulation of electric cooperatives, this chapter shall control over any other provision of this title, except for sections in which the term "electric cooperative" is specifically used.

SECTION _____. (a) Except as provided by Subsection (b) of this section, notwithstanding the repeal by this Act of Section 39.904, Utilities Code, the Public Utility Commission of Texas by rule shall adopt a program to apply that section as it existed immediately before the effective date of this Act, and to apply other statutes that referred to that section immediately before the effective date of this Act, as if that section had not been repealed by this Act and the other statutes that referred to that section had not been repealed or amended by this Act.

(b) Under Subsection (a) of this section, the statutes described in that subsection must be applied as if Section 39.904 were applicable only to renewable energy technologies that exclusively rely on an energy source that is naturally regenerated over a short time and derived directly from the sun.

(c) This section expires September 1, 2025, and the Public Utility Commission of Texas shall phase out the program required by Subsection (a) of this section so that it terminates on that date.

SECTION _____. It is the intent of the 88th Legislature, Regular Session, 2023, that the amendments made by this Act be harmonized with another Act of the 88th Legislature, Regular Session, 2023, relating to nonsubstantive additions to and corrections in enacted codes.