

BILL ANALYSIS

C.S.H.B. 5066
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State Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The 2022 ERCOT West Texas Load Study found that the current process for building electric transmission to serve customer growth is not keeping up with the demand, which is particularly a problem in areas of Texas with heavy oil and gas development as well as other areas experiencing rapid growth in the industrial sector. Currently, ERCOT does not count large new loads in their planning process until they have provided financial security, which is usually relatively close to when the customer wants power and does not facilitate long lead-time transmission projects. Furthermore, while ERCOT currently imposes limits on the utilities' load forecasts, many existing loads are electrifying their facilities, which creates a new electrical demand on a short timeline. If a large number of customers want power at once, this could require a new transmission project to come online, potentially taking years and leaving customers waiting for power in the meantime. In short, the ERCOT region currently plans the grid reactively so that transmission improvements typically occur only after customer load exists, which creates a chicken-and-egg problem particularly for larger customers. C.S.H.B. 5066 attempts to spur a bolder, more proactive approach that better syncs the transmission planning and construction process with the dynamic needs of Texas customers by requiring ERCOT, the Public Utility Commission of Texas, and utilities to plan the grid more proactively based on the information utilities have about load growth in their area.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 5066 amends the Utilities Code to require the Public Utility Commission of Texas (PUC), on identifying a region in which transmission capacity is insufficient to meet the region's existing and forecasted electrical load, as reasonably determined by the certificated transmission service provider, to develop and implement a reliability plan to serve existing and forecasted load in the identified region. Such a plan must ensure timely planning, identification, and approval of necessary transmission improvements under existing rules. Moreover, the bill, in a temporary provision set to expire September 1, 2025, requires the PUC to develop a reliability plan for the Permian Basin region not later than January 30, 2024, that does the following:

- addresses extending transmission service to areas where mineral resources have been found;
- addresses increasing available capacity to meet forecasted load for the next decade; and

- provides available infrastructure to reduce interconnection times in areas without access to transmission service.

C.S.H.B. 5066 revises provisions relating to the criteria the PUC must consider in granting or denying a certificate of convenience and necessity for an electric utility as follows:

- replaces the criterion concerning the effect of granting the certificate on the state's ability to meet its goal for renewable energy with a criterion concerning the need for extending transmission service where existing and projected electrical loads will be underserved, including areas where existing transmission service is unreasonably remote, the available capacity is unreasonably limited at transmission or distribution voltage level, or the electrical load cannot be interconnected in a timely manner;
- requires the PUC, in considering that need, to consider the historical load, forecasted load growth, and additional load currently seeking interconnection, including load for which the electric utility has yet to sign an interconnection agreement, as determined by the electric utility with the responsibility for serving the load; and
- specifies that, with respect to the criterion applicable to a reliability transmission project that services the ERCOT power region concerning the need for additional service and the requirement for the PUC to consider additional load currently seeking interconnection, the additional load currently seeking interconnection also includes load for which the electric utility has yet to sign an interconnection agreement, as determined by the electric utility with the responsibility for serving the load.

The bill expedites the processing of applications for certificates of convenience and necessity for new transmission facilities by changing the general deadline for the PUC to approve or deny an application from not later than the first anniversary of the date the application is filed to not later than the 180th day after the filing date.

C.S.H.B. 5066 applies only to a proceeding affecting a certificate of public convenience and necessity that commences on or after the bill's effective date.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2023.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 5066 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

With respect to the provisions in the introduced regarding the requirement for the PUC to develop and implement a reliability plan for a region with rapid electrical load growth, the substitute does the following:

- clarifies that the entity determining a given region's existing and forecasted electrical load is the certified transmission service provider, whereas in the introduced that entity was the certified utility;
- requires such a plan to serve both existing and forecasted electrical load in the identified region, instead of forecasted customer demand as in the introduced; and
- revises the requirement in the introduced for the plan to include considerations to ensure timely planning and approval of necessary transmission improvements by requiring the plan also to ensure timely identification of necessary transmission service improvements and by including a specification that such planning, identification, and approval of the improvements are under existing rules.

The substitute includes requirements for the contents of the reliability plan for the Permian Basin region and an expiration date for the provisions related to that plan, whereas the introduced did not.

The substitute includes a provision that was not in the introduced expediting the processing by the PUC of applications for certificates of convenience and necessity for new transmission facilities. In addition, the substitute includes a procedural provision absent from the introduced specifying that the bill's provisions apply only to a proceeding affecting a certificate of public convenience and necessity that commences on or after the bill's effective date.

The substitute includes a provision absent from the introduced requiring the PUC, in considering the need for extending transmission service where existing and projected electrical loads will be underserved when determining whether to approve or deny an application for a certificate of convenience and necessity, to consider the historical load, forecasted load growth, and additional load currently seeking interconnection, including load for which the electric utility has yet to sign an interconnection agreement, as determined by the electric utility with the responsibility for serving the load.