88R13770 TYPED

By:  Goldman H.B. No. 4002

A BILL TO BE ENTITLED

AN ACT

relating to water control and improvement district customers of certain electric cooperatives.

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

SECTION 1.  It is the intent of the legislature that this Act ensure cost-effective and reliable siting of critical water infrastructure operated by a water control and improvement district.

SECTION 2.  Subchapter B, Chapter 37, Utilities Code, is amended by adding Section 37.062 to read as follows:

Sec. 37.062.  SERVICE AREA EXCEPTION REQUESTED BY CERTAIN WATER CONTROL AND IMPROVEMENT DISTRICTS. (a) In this section:

(1)  "Consenting entity" means an electric utility that consents to providing a district with retail electric service;

(2)  "District" means a water control and improvement district;

(3)  "District facility" means a power-consuming facility owned by a district that takes retail electric service at transmission voltage;

(4)  "ERCOT" has the meaning assigned by Section

31.002;

(5)  "Requesting district" means a water control and improvement district that has requested to receive retail electric service provided at transmission voltage from a consenting entity other than the electric cooperative certificated to provide the district with such service.

(b)  This section applies only to a water control and improvement district that:

(1)  receives retail electric service in ERCOT from an electric cooperative on the date this Act takes effect;

(2)  has the authority to impose an ad valorem tax; and

(3)  only provides wholesale water service.

(c)  Notwithstanding any other provision of this chapter, on the request of a water control and improvement district described by Subsection (b) of this section, a consenting utility may request a service area exception from the commission to provide retail electric service to the requesting district at:

(1)  the location of a designated district facility where the requesting district is currently receiving retail electric service from an electric cooperative on the date the request for service area exception is filed with the commission; or

(2)  the site of a future district facility that will be located in the certificated area of the electric cooperative.

(d)  A consenting entity may request a service area exception under Subsection (c) of this section if the consenting entity:

(1)  has an existing certificated area on the date the request is filed that is contiguous to the certificated area of the electric cooperative from which the district facility is receiving service or the site where a future district facility will receive service; and

(2)  has an existing certificated area within 10 miles or less of the applicable district facility.

(e)  Section 37.056(c) does not apply to a request filed under Subsection (c) of this section.

(f)  Notwithstanding any other provision in 16 T.A.C. Chapter 25, an electric cooperative may not contest and need not consent to an application filed under Subsection (c) of this section.

(g)  The commission shall grant an application received under Subsection (c) of this section within 45 days of the filing of a complete application, and in accordance with the application shall either:

(1)  amend the consenting entity's certificate to include the locations of each water control and improvement district facility identified in the application; and amend the certificate of the electric cooperative that was previously certificated, on the date the application was filed, to remove the locations of each water control and improvement district facility identified in the application; or

(2)  notwithstanding Section 37.060 or any other provision of this chapter, amend the consenting entity's certificate to include the locations of each water control and improvement district facility identified in the application.

(h)  Following approval of an application under this section, a requesting district shall be responsible for paying associated costs as follows:

(1)  construction costs of any new transmission facilities required to interconnect the district facilities identified in the application to the consenting entity's transmission system, to the extent that such costs are not otherwise recoverable in the consenting utility's wholesale transmission rates;

(2)  any nonbypassable charges and other amounts that the district is contractually obligated to pay to the electric cooperative that was providing retail transmission service to the requesting district on the date the application was filed; and

(3)  other than the costs described in Subsection (h)(2) of this section, the requesting district is not required to pay additional stranded costs or penalties to the electric cooperative as a result of the service area exception.

(i)  The commission may only approve one application per district facility from each water control and improvement district under this section.

SECTION 3.  This Act takes effect September 1, 2023.