By: Darby H.B. No. 1254

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. 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 2. Section 37.056, Utilities Code, is amended by adding Subsections (a-1), (d-1), (d-2), and (d-3) and amending Subsection (d) to read as follows:

(a-1) In this section:

(1) "Interzonal" means involving more than one ERCOT

load zone.

(2) "Intrazonal" means involving a single ERCOT load zone.

(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)~~].

(d-1) Except as provided by Subsection (d-2), an application for a certificate described by Subsection (d) [~~The criteria~~] must include a comparison of the levelized estimated cost of the transmission project [~~for consumers~~] and the levelized estimated [~~congestion~~] cost savings and economic benefits [~~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 the commission's decision to grant or deny the certificate the commission's findings on the comparison. The comparison must account for:

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

(2) an estimated value of the reduction in curtailment costs that may be realized from the project;

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

(4) an assessment of whether the project will provide

improved access to the ERCOT power grid for new generation facilities and the benefits that improved access could provide to generation facilities, industrial load, and the ERCOT market;

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

(6) an estimation of costs of projects described by Subsection (d-2) that may be avoided as a result of the project; and

(7) an estimation of direct economic benefits that may be realized from the construction of the project [~~The commission shall include with its decision on an application for a certificate to which this subsection applies findings on the criteria~~].

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

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

SECTION 3. Section 39.904(k), Utilities Code, is amended to read as follows:

(k) The commission and the independent organization certified for ERCOT 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 [~~and may be filed as a part of the report required by Subsection (j)~~].

SECTION 4. Subchapter Z, Chapter 39, Utilities Code, is amended by adding Section 39.919 to read as follows:

Sec. 39.919. CRITICAL DESIGNATION TRANSMISSION INFRASTRUCTURE PROJECTS. (a) In this section:

(1) "Interzonal" means involving more than one ERCOT load zone.

(2) "Intrazonal" means involving a single ERCOT load zone.

(b) Not later than December 30, 2023, the independent organization certified under Section 39.151 for the ERCOT power region shall:

(1) identify, in consultation with the commission, critical designation transmission infrastructure projects and the transmission and distribution utilities that will construct and operate the projects in a manner consistent with Section 37.056; and

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

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

(1) resolving existing interzonal and intrazonal transmission constraints, congestion, or curtailments, including

generic transmission constraints; and

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

(d) To the extent practicable, projects identified under Subsection (b) should:

(1) be cost-effective and designed to transmit high volumes of electricity in and across ERCOT load zones efficiently;

(2) minimize the need for the acquisition of new rights-of-way by replacing aging infrastructure or following routes that align with existing rights-of-way or existing transmission infrastructure;

(3) minimize interzonal constraints and intrazonal congestion during construction activities;

(4) be designed to accommodate new solutions, including higher voltages, if the independent organization determines that new solutions are required; and

(5) be designed to significantly reduce present or expected future interzonal constraints and intrazonal congestion.

(e) The independent organization certified under Section 39.151 for the ERCOT power region shall identify as a critical designation transmission infrastructure project under Subsection (b) a project addressing an interzonal constraint or intrazonal congestion in an area if:

(1) the constraint or congestion has been present for three years or longer; and

(2) the area has experienced constraint or congestion costs greater than or equal to $100 million per year in each of the

previous three years.

(f) The independent organization certified under Section 39.151 for the ERCOT power region may consult with the independent organization's market participant segments and other stakeholders to identify projects under Subsection (b) that could facilitate:

(1) the growth of the economy of this state; or

(2) oil and gas, commercial, and industrial development that could provide substantial new tax revenue, landowner income, or new jobs in this state.

(g) Not later than the 450th day after the date that the independent organization certified under Section 39.151 for the ERCOT power region submits a written description of a project to the commission under Subsection (b), the utility that will construct and operate the project shall submit to the commission an application for a certificate of public convenience and necessity for the project.

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

(i) If the commission issues a certificate of public convenience and necessity for a project identified under Subsection (b), the commission shall find that the project is used and useful to the utility in providing service for purposes of this section,

prudent, and includable in the rate base, regardless of the extent of the utility's actual use of the project.

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

(k) This section expires September 1, 2032.

SECTION 5. Sections 39.904(g), (h), (i), and (j), Utilities Code, are repealed.

SECTION 6. The changes in law made by this Act apply only to a proceeding affecting a certificate of public convenience and necessity that commences on or after the effective date of this Act. A proceeding affecting a certificate of public convenience and necessity that commenced before the effective date of this Act is governed by the law in effect on the date the proceeding is commenced, and that law is continued in effect for that purpose.

SECTION 7. The recovery of a transmission facility investment made by an electric utility to serve a competitive renewable energy zone is governed by the law in effect on the date the facility is placed in service, regardless of whether the facility is completed before, on, or after the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 8. This Act takes effect September 1, 2023.