

By: Phelan

H.B. No. 3995

A BILL TO BE ENTITLED

AN ACT

1
2 relating to certificates of convenience and necessity for the
3 construction of transmission facilities.

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

5 SECTION 1. Section 37.051(a), Utilities Code, is amended to
6 read as follows:

7 (a) An electric utility [~~or other person~~] may not directly
8 or indirectly provide service to the public under a franchise or
9 permit unless the utility [~~or other person~~] first obtains from the
10 commission a certificate that states that the public convenience
11 and necessity requires or will require the installation, operation,
12 or extension of the service.

13 SECTION 2. Section 37.053(a), Utilities Code, is amended to
14 read as follows:

15 (a) An electric utility [~~or other person~~] that wants to
16 obtain or amend a certificate must submit an application to the
17 commission.

18 SECTION 3. Section 37.055, Utilities Code, is amended to
19 read as follows:

20 Sec. 37.055. REQUEST FOR PRELIMINARY ORDER. (a) An
21 electric utility [~~or other person~~] that wants to exercise a right or
22 privilege under a franchise or permit that the utility [~~or other~~
23 ~~person~~] anticipates obtaining but has not been granted may apply to
24 the commission for a preliminary order under this section.

1 (b) The commission may issue a preliminary order declaring
2 that the commission, on application and under commission rules,
3 will grant the requested certificate on terms the commission
4 designates, after the electric utility [~~or other person~~] obtains
5 the franchise or permit.

6 (c) The commission shall grant the certificate on
7 presentation of evidence satisfactory to the commission that the
8 electric utility [~~or other person~~] has obtained the franchise or
9 permit.

10 SECTION 4. Section 37.056, Utilities Code, is amended by
11 adding Subsection (e) to read as follows:

12 (e) A certificate for a new transmission facility that
13 directly interconnects with an existing electric utility facility
14 may only be granted to the owner of that existing facility. If a new
15 transmission facility will directly interconnect with facilities
16 owned by different electric utilities, one or both of those
17 utilities shall be certificated to construct the new facility.

18 SECTION 5. Section 37.057, Utilities Code, is amended to
19 read as follows:

20 Sec. 37.057. DEADLINE FOR APPLICATION FOR NEW TRANSMISSION
21 FACILITY. [~~The commission may grant a certificate for a new~~
22 ~~transmission facility to a qualified applicant that meets the~~
23 ~~requirements of this subchapter.~~] The commission must approve or
24 deny an application for a certificate for a new transmission
25 facility not later than the first anniversary of the date the
26 application is filed. If the commission does not approve or deny
27 the application on or before that date, a party may seek a writ of

1 mandamus in a district court of Travis County to compel the
2 commission to decide on the application.

3 SECTION 6. Section 37.151, Utilities Code, is amended to
4 read as follows:

5 Sec. 37.151. PROVISION OF SERVICE. Except as provided by
6 this section, Section 37.152, and Section 37.153, a certificate
7 holder [~~, other than one granted a certificate under Section~~
8 ~~37.051(d),~~] shall:

9 (1) serve every consumer in the utility's certificated
10 area; and

11 (2) provide continuous and adequate service in that
12 area.

13 SECTION 7. Section 37.154(a), Utilities Code, is amended to
14 read as follows:

15 (a) An electric utility may sell, assign, or lease a
16 certificate or a right obtained under a certificate if [~~the~~
17 ~~commission determines that~~] the purchaser, assignee, or lessee was
18 previously certificated by the commission to provide electric
19 service within the same electric power region, coordinating
20 council, independent system operator, or power pool. As part of a
21 transaction subject to Sections 39.262(1)-(o) and 39.915, the
22 commission may approve a sale, assignment, or lease to an entity
23 that has not been previously certificated if the approval will not
24 diminish the retail rate jurisdiction of this state [~~can provide~~
25 ~~adequate service~~].

26 SECTION 8. Sections 37.051(d), (e), and (f), Utilities
27 Code, are repealed.

1 SECTION 9. This Act takes effect immediately if it receives
2 a vote of two-thirds of all the members elected to each house, as
3 provided by Section 39, Article III, Texas Constitution. If this
4 Act does not receive the vote necessary for immediate effect, this
5 Act takes effect September 1, 2019.