

1-1 By: Hancock S.B. No. 1938
1-2 (In the Senate - Filed March 7, 2019; March 19, 2019, read
1-3 first time and referred to Committee on Business & Commerce;
1-4 April 9, 2019, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 9, Nays 0; April 9, 2019,
1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	Hancock	X		
1-10	Nichols	X		
1-11	Campbell	X		
1-12	Creighton	X		
1-13	Menéndez	X		
1-14	Paxton	X		
1-15	Schwertner	X		
1-16	Whitmire	X		
1-17	Zaffirini	X		

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 1938 By: Hancock

1-19 A BILL TO BE ENTITLED
1-20 AN ACT

1-21 relating to certificates of convenience and necessity for the
1-22 construction of facilities for the transmission of electricity.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Section 37.051(a), Utilities Code, is amended to
1-25 read as follows:

1-26 (a) An electric utility [~~or other person~~] may not directly
1-27 or indirectly provide service to the public under a franchise or
1-28 permit unless the utility [~~or other person~~] first obtains from the
1-29 commission a certificate that states that the public convenience
1-30 and necessity requires or will require the installation, operation,
1-31 or extension of the service.

1-32 SECTION 2. Section 37.053(a), Utilities Code, is amended to
1-33 read as follows:

1-34 (a) An electric utility [~~or other person~~] that wants to
1-35 obtain or amend a certificate must submit an application to the
1-36 commission.

1-37 SECTION 3. Section 37.055, Utilities Code, is amended to
1-38 read as follows:

1-39 Sec. 37.055. REQUEST FOR PRELIMINARY ORDER. (a) An
1-40 electric utility [~~or other person~~] that wants to exercise a right or
1-41 privilege under a franchise or permit that the utility [~~or other~~
1-42 ~~person~~] anticipates obtaining but has not been granted may apply to
1-43 the commission for a preliminary order under this section.

1-44 (b) The commission may issue a preliminary order declaring
1-45 that the commission, on application and under commission rules,
1-46 will grant the requested certificate on terms the commission
1-47 designates, after the electric utility [~~or other person~~] obtains
1-48 the franchise or permit.

1-49 (c) The commission shall grant the certificate on
1-50 presentation of evidence satisfactory to the commission that the
1-51 electric utility [~~or other person~~] has obtained the franchise or
1-52 permit.

1-53 SECTION 4. Section 37.056, Utilities Code, is amended by
1-54 adding Subsections (e), (f), (g), (h), and (i) to read as follows:

1-55 (e) A certificate to build, own, or operate a new
1-56 transmission facility that directly interconnects with an existing
1-57 electric utility facility or municipally owned utility facility may
1-58 be granted only to the owner of that existing facility. If a new
1-59 transmission facility will directly interconnect with facilities
1-60 owned by different electric utilities or municipally owned

2-1 utilities, each entity shall be certificated to build, own, or
 2-2 operate the new facility in separate and discrete equal parts
 2-3 unless they agree otherwise.

2-4 (f) Notwithstanding Subsection (e), if a new transmission
 2-5 line, whether single or double circuit, will create the first
 2-6 interconnection between a load-serving station and an existing
 2-7 transmission facility, the entity with a load-serving
 2-8 responsibility or an electric cooperative that has a member with a
 2-9 load-serving responsibility at the load-serving station shall be
 2-10 certificated to build, own, or operate the new transmission line
 2-11 and the load-serving station. The owner of the existing
 2-12 transmission facility shall be certificated to build, own, or
 2-13 operate the station or tap at the existing transmission facility to
 2-14 provide the interconnection, unless after a reasonable period of
 2-15 time the owner of the existing transmission facility is unwilling
 2-16 to build, and then the entity with the load-serving responsibility
 2-17 or an electric cooperative that has a member with a load-serving
 2-18 responsibility may be certificated to build the interconnection
 2-19 facility.

2-20 (g) Notwithstanding any other provision of this section, an
 2-21 electric utility or municipally owned utility that is authorized to
 2-22 build, own, or operate a new transmission facility under Subsection
 2-23 (e) or (f) may designate another electric utility that is currently
 2-24 certificated by the commission within the same electric power
 2-25 region, coordinating council, independent system operator, or
 2-26 power pool or a municipally owned utility to build, own, or operate
 2-27 a portion or all of such new transmission facility, subject to any
 2-28 requirements adopted by the commission by rule.

2-29 (h) The division of any required certification of
 2-30 facilities described in this section shall apply unless each entity
 2-31 agrees otherwise. Nothing in this section is intended to require a
 2-32 certificate for facilities that the commission has determined by
 2-33 rule do not require certification to build, own, or operate.

2-34 (i) Notwithstanding any other provision of this section, an
 2-35 electric cooperative may be certificated to build, own, or operate
 2-36 a new facility in place of any other electric cooperative if both
 2-37 cooperatives agree, subject to any requirements adopted by the
 2-38 commission by rule.

2-39 SECTION 5. Section 37.057, Utilities Code, is amended to
 2-40 read as follows:

2-41 Sec. 37.057. DEADLINE FOR APPLICATION FOR NEW TRANSMISSION
 2-42 FACILITY. [~~The commission may grant a certificate for a new~~
 2-43 ~~transmission facility to a qualified applicant that meets the~~
 2-44 ~~requirements of this subchapter.] The commission must approve or
 2-45 deny an application for a certificate for a new transmission
 2-46 facility not later than the first anniversary of the date the
 2-47 application is filed. If the commission does not approve or deny
 2-48 the application on or before that date, a party may seek a writ of
 2-49 mandamus in a district court of Travis County to compel the
 2-50 commission to decide on the application.~~

2-51 SECTION 6. Section 37.151, Utilities Code, is amended to
 2-52 read as follows:

2-53 Sec. 37.151. PROVISION OF SERVICE. Except as provided by
 2-54 Sections [~~this section, Section~~] 37.152[~~7~~] and [~~Section~~] 37.153, a
 2-55 certificate holder[~~, other than one granted a certificate under~~
 2-56 ~~Section 37.051(d),~~] shall:

2-57 (1) serve every consumer in the utility's certificated
 2-58 area; and

2-59 (2) provide continuous and adequate service in that
 2-60 area.

2-61 SECTION 7. Section 37.154(a), Utilities Code, is amended to
 2-62 read as follows:

2-63 (a) An electric utility or municipally owned utility may
 2-64 sell, assign, or lease a certificate or a right obtained under a
 2-65 certificate if [~~the commission determines that~~] the purchaser,
 2-66 assignee, or lessee is already certificated by the commission to
 2-67 provide electric service within the same electric power region,
 2-68 coordinating council, independent system operator, or power pool,
 2-69 or if the purchaser, assignee, or lessee is an electric cooperative

3-1 or municipally owned utility [can provide adequate service]. As
3-2 part of a transaction subject to Sections 39.262(1)-(o) and 39.915,
3-3 the commission may approve a sale, assignment, or lease to an entity
3-4 that has not been previously certificated if the approval will not
3-5 diminish the retail rate jurisdiction of this state. Any purchase,
3-6 assignment, or lease under this section requires that the
3-7 commission determine that the purchaser, assignee, or lessee can
3-8 provide adequate service.

3-9 SECTION 8. Sections 37.051(d), (e), and (f), Utilities
3-10 Code, are repealed.

3-11 SECTION 9. This Act takes effect immediately if it receives
3-12 a vote of two-thirds of all the members elected to each house, as
3-13 provided by Section 39, Article III, Texas Constitution. If this
3-14 Act does not receive the vote necessary for immediate effect, this
3-15 Act takes effect September 1, 2019.

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