

SUBJECT: Authority of the PUC to issue CCNs solely for transmission of electricity

COMMITTEE: State Affairs — favorable, without amendment

VOTE: 9 ayes — Solomons, Menendez, Craddick, Farabee, Geren, Hilderbran,
Lucio, Maldonado, Swinford

2 nays — Cook, Harless

1 present not voting — S. Turner

3 absent — Gallego, Jones, Oliveira

SENATE VOTE: On final passage, May 1 — 31-0

WITNESSES: (*On House companion bill, HB 3406:*)

For — James Checkley, Lawrence Willick, Cross Texas Transmission LLC; Calvin J. Crowder, Electric Transmission Texas, LLC; Dennis Donley, WETT, LLC; Chris Reeder, Lone Star Transmission Co., LLC; (*Registered, but did not testify:* Paul Sadler, The Wind Coalition)

Against — Phillip Oldham, Texas Association of Manufacturers; (*Registered, but did not testify:* Dan Hinkle, South Texas Electric Cooperative)

On — Barry Smitherman, Public Utility Commission

BACKGROUND: When the renewable portfolio standard (RPS) was established in 1999 to encourage more access to renewable energy sources, it did not provide for expansion of the transmission system to accommodate the increased installed capacity that the RPS requirements would produce. SB 20 by Fraser in 2005 charged the Public Utility Commission (PUC) with designating competitive renewable energy zones (CREZ) throughout the state in areas with suitable land and sufficient renewable energy potential. The PUC was required to develop a plan to construct transmission capacity necessary to deliver energy from these zones to electric customers, as well as select and issue certificates of convenience and necessity (CCN) to the entities responsible for constructing the necessary

transmission improvements. A CCN is a franchise from the state that delineates a utility's retail service area.

Recently, litigation was filed that challenged the PUC's authority to grant a transmission-only license to electric transmission companies that do not have a service territory in Texas.

DIGEST:

SB 1913 would amend the Utilities Code by authorizing the PUC to grant a certificate of convenience and necessity (CCN) to an electric utility or other person for a facility used as part of the transmission system serving the Electric Reliability Council of Texas (ERCOT) power region solely for the transmission of electricity.

SB 1913 would allow the PUC to consider a CCN application filed by a person not currently certificated as an electric utility in ERCOT. The bill would provide eligibility requirements, including that:

- the applicant had the technical ability, financial ability, and sufficient resources in Texas to own, operate, and maintain reliable transmission facilities;
- the applicant had the resources and ability to comply with PUC rules, the requirements of ERCOT, and the requirements of the National Electric Reliability Council regarding transmission service; and
- granting an application filed by a person that was not an electric utility would not affect adversely wholesale transmission rates as compared to if an existing electric utility were to build the transmission facility.

The PUC would consider these eligibility requirements to have been met by an electric utility or other person that:

- was selected by the PUC as a transmission provider under a plan adopted for the goals for renewable energy no later than September 1, 2009; and
- provided a detailed plan, before the certificate was issued, regarding the offices, personnel, and other resources they would have in Texas to ensure continuous and adequate transmission service.

SB 1913 would exempt these electric utilities from serving every customer in a certified area and from providing continuous and adequate service in that area.

The bill would take effect September 1, 2009.

**SUPPORTERS
SAY:**

SB 1913 would clarify existing PUC authority to issue CCNs to new owners and operators of wholesale electric transmission facilities that do not have traditional utility service areas. The recent challenge to the PUC's authority to issue these CCNs likely will slow the construction of the CREZ lines. SB 1913 would ensure that the CREZ lines would be constructed in a timely manner.

**OPPONENTS
SAY:**

This bill could dilute the current requirements for granting a CCN under the Utilities Code and could create a new class of transmission providers in Texas. During the CREZ process, the PUC selected some out-of-state companies to lay some of the CREZ transmission lines, who did so only because they do not have service areas within ERCOT. There is a risk in involving companies that do not have any ties to the state in long-term projects. There would be nothing to guarantee that they would maintain their service in the years to come. There are several reliable and invested incumbent companies in Texas that would be more appropriate to serve these lines. Incumbent companies always should have the right of first refusal.