

## **BILL ANALYSIS**

C.S.H.B. 1607  
By: Darby  
State Affairs  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Transmission grid congestion presents a growing problem for the ERCOT power region. The ERCOT Independent Market Monitor estimates that grid congestion cost Texans roughly \$1.2 billion in 2019, with these costs estimated to track upwards over \$1 billion in 2020 and 2021. There is a need to increase transmission capacity and decrease the congestion seen across the ERCOT power region so that Texans do not forgo billions of dollars in economic, energy, and environmental benefits through an underperforming power grid. C.S.H.B. 1607 seeks to address this issue by revising the criteria used by the ERCOT and PUC in its transmission planning and approval process. C.S.H.B. 1607 seeks to increase emphasis on identifying, evaluating, and expediting early-stage infrastructure projects with the goal of reducing congestion, constraints, and curtailments; improve service and reduce costs for customers and market participants; promote reliability and economic benefits; and accommodate efficient designs.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 1607 amends the Utilities Code to establish provisions relating to projects seeking to upgrade, extend, and ensure the reliability of the state's electric grid.

### **Legislative Findings**

C.S.H.B. 1607 sets out legislative findings relating to the following matters:

- Texas' leadership in energy policy, the state's population growth, and the increasing need for reliable, low-cost electricity;
- the economic impact of constraints on the ERCOT electric power grid;
- the interest of the legislature in ensuring the state's electricity needs are fulfilled as fully as possible from in-state resources;
- the substantial role the electric power industry's available power generation resources can play in the state's economic recovery;
- the electricity needs of the oil and natural gas industries in Texas; and
- the need for targeted expansion of the state's electric transmission system for economic development in the state.

## **Critical Designation Transmission Infrastructure Projects**

C.S.H.B. 1607 requires the independent organization that is certified by the Public Utility Commission of Texas (PUC) to perform certain essential market functions for the ERCOT power region to do the following not later than December 30, 2021:

- in consultation with the PUC, identify critical designation transmission infrastructure projects and the electric utilities or transmission and distribution utilities that will construct and operate the projects in a specified manner; and
- submit a written description of each project to the PUC.

The bill requires each identified project to facilitate a timely and targeted expansion of the ERCOT electric power grid for the purposes of resolving existing interzonal and intrazonal transmission constraints, congestion, or curtailments, including generic transmission constraints, and ensuring the future reliability of the grid.

C.S.H.B. 1607 sets out goals for the projects related to the following:

- cost-effectiveness;
- design for high-volume transmission capacity;
- the efficiency of transmission;
- minimizing the need for the acquisition of new rights-of-way;
- minimizing interzonal constraints and intrazonal congestion during construction activities;
- the accommodation of newer solutions required by the independent organization; and
- the reduction of present or expected future interzonal constraints and intrazonal congestion.

C.S.H.B. 1607 requires the independent organization to identify a project addressing an interzonal constraint or intrazonal congestion in an area as a critical designation transmission infrastructure project if the constraint or congestion has been present for three years or longer and the area has experienced constraint or congestion costs greater than or equal to \$100 million per year in each of the previous three years.

C.S.H.B. 1607 authorizes the independent organization to consult with its market participant segments and other stakeholders to identify the projects that could facilitate the growth of the state economy or oil and gas, commercial, and industrial development that could provide substantial new tax revenue, landowner income, or new jobs in Texas. The bill provides the following:

- not later than the 450th day after the date that the independent organization submits the written description of a project to the PUC, the utility that will construct and operate the project must submit an application to the PUC for a certificate of public convenience and necessity for the project;
- in considering the application, the PUC is not required to consider the adequacy of existing electric service or the need for additional service in order to approve an application and grant a certificate;
- if the PUC issues the certificate, the PUC must find that the project is used and useful to the utility in providing service for applicable purposes, prudent, and includable in the rate base, regardless of the extent of the utility's actual use of the project; and
- the transmission service facilitated through the project must be provided in a manner consistent with state law ensuring competition and transmission access in the wholesale electric market.

C.S.H.B. 1607 sets these provisions related to critical designation transmission infrastructure projects to expire September 1, 2030.

## **Certificates of Public Convenience and Necessity**

C.S.H.B. 1607 requires an application for a certificate to include a comparison of the levelized estimated cost of the transmission project and the levelized estimated cost savings and economic benefits that may result from the project. The bill sets out factors for which the comparison must account related to the following:

- probable improvement of service;
- estimated reduction of consumer costs;
- value estimates for reduced constraint and congestion and curtailments costs;
- estimated reduction in transmission losses;
- assessment of improved access to ERCOT for new generation facilities and corresponding benefits of that access to generation and load;
- estimated reduced future transmission investment costs;
- estimated costs of certain projects that may be avoided as a result of the transmission project for which the comparison is required; and
- estimated direct economic benefits.

The bill requires the PUC to include its findings on the comparison with its decision to grant or deny the certificate. If an application does not include a comparison, the PUC may not grant a certificate for the project unless the PUC 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. The bill requires the independent organization certified by the PUC to perform certain essential market functions for the ERCOT power region to identify transmission projects for which the PUC would make such findings not less than once per year.

### **Definitions**

C.S.H.B. 1607 defines "interzonal" as involving more than one ERCOT load zone and "intrazonal" as involving a single ERCOT load zone.

### **Repealers**

C.S.H.B. 1607 repeals the requirements for the PUC to designate competitive renewable energy zones throughout Texas in areas in which renewable energy resources and suitable land areas are sufficient to develop generating capacity from renewable energy technologies and to develop a plan to construct transmission capacity necessary to deliver to electric customers the electric output from renewable energy technologies in these zones.

C.S.H.B. 1607 repeals Sections 39.904(g), (h), (i), and (j), Utilities Code.

### **EFFECTIVE DATE**

September 1, 2021.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 1607 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute specifies that an identified critical designation transmission infrastructure project must serve the purpose of resolving existing interzonal and intrazonal transmission congestion, constraints, or curtailments but no longer requires that the project resolve all three as in the original.

The substitute revises the goals established for identified projects by doing the following:

- replacing the goal for the project to transmit high volumes of electricity across ERCOT regions efficiently with the goal for it to transmit such volumes in and across ERCOT load zones efficiently;
- specifying that the purpose of the goal for the project to replace aging infrastructure or route the projects along existing rights-of-way or transmission infrastructure is to minimize the need for the acquisition of new rights-of-way;
- including as a goal the project minimizing interzonal constraints and intrazonal congestion during construction activities;
- replacing the goal of the project being designed to accommodate circuit voltages of 500 kilovolts or greater with the goal of it being designed to accommodate new solutions, including higher voltages, if the independent organization determines that new solutions are required; and
- replacing the goal for the project to be designed to reduce significantly present or expected future congestion between ERCOT load zones and between ERCOT weather zones with a goal for it to be designed to significantly reduce present or expected future interzonal constraints and intrazonal congestion.

The substitute requires the independent organization to identify as a critical designation transmission infrastructure project a project addressing an interzonal constraint or intrazonal congestion in an area if the constraint or congestion has been present for three years or longer and the area has experienced constraint or congestion costs greater than or equal to \$100 million per year in each of the previous three years.

The substitute makes the following revisions to the bill's requirement that the independent organization consult with certain officials in identifying projects that would facilitate the growth of the state's economy, including oil and gas, commercial, and industrial development that will provide substantial new tax revenue, landowner income, or new jobs in the state:

- such consultation is authorized but not required;
- the consultation is with the independent organization's market participant segments and other stakeholders instead of with a representative of the comptroller of public accounts and a representative of the Texas Economic Development and Tourism Office; and
- the type of projects identified are projects that could facilitate either of the following:
  - the growth of the state's economy; or
  - oil and gas, commercial, and industrial development that could provide substantial new tax revenue, landowner income, or new jobs in the state.

The substitute requires the estimated cost savings against which levelized cost estimates are compared as part of the application materials for a certificate of public convenience and necessity to also be levelized. The substitute revises the factors for which the comparison must account by doing the following:

- replacing the requirement for the comparison to account for an estimated value for reduced congestion and curtailments that may be realized from the project with the requirement for the comparison to account for an estimated value of the reduction in interzonal and intrazonal constraint and congestion costs and interzonal and intrazonal curtailment costs that may be realized from the project; and
- replacing the requirement for the comparison to account for an assessment of the effect on sufficient access to the ERCOT power region market by new electric power generation that may be realized from the project with a requirement for the comparison to account for an assessment of whether the project will provide improved access to ERCOT for new generation facilities and the benefits that improved access could provide to generation facilities, industrial load, and the ERCOT market.

The substitute revises the requisite finding by the PUC to trigger the authorization for the PUC to issue a certificate for a project whose application does not include such a comparison.

The substitute includes definitions for "interzonal" and "intrazonal."

The substitute revises the legislative findings.