

SUBJECT: Authorizing PUC to order construction of new transmission lines

COMMITTEE: Regulated Industries — committee substitute recommended

VOTE: 6 ayes — King, Hunter, Baxter, Crabb, Guillen, Turner

0 nays

1 absent — Wolens

WITNESSES: For — Travis Brown, Public Citizen; Mark Bruce, FPL Energy; Willie Martinez, Upton County; James Scott, Cielo Wind Power; Mike Sloan, Texas Wind Coalition; Bob Turner, Coleman Development Company, Texas Sheep and Goat Raisers Association; *(Registered, but did not testify:)* Peter Altman, Sustainable Energy and Economic Development Coalition; Dwayne Anderson, Clean Water Action; Robert Boyd, GE Wind Energy LLC; Don Graham, Trinity Industries Inc.; Doug May, Fort Stockton Economic Development Corporation; Jerry Patterson, General Land Office; Sherry Phillips, City of McCamey; Russel Smith, Texas Renewable Energy Industries Association; Chip Wolfe

Against — Shawn St. Clair, Texas Electric Cooperatives Inc.; Mark Zion, Texas Public Power Association; *(Registered, but did not testify:)* Kristen Doyle, Cities Aggregation Power Project, South Texas Aggregation Project

On — Terri Eaton, Green Mountain Energy Company; John Fainter, Association of Electric Companies of Texas; Becky Klein, Public Utility Commission; Phillip Oldham, Texas Coalition for Competitive Electricity; *(Registered, but did not testify:)* Adan Martinez, General Land Office; Thomas Noel, Electric Reliability Council of Texas

BACKGROUND: In 1999, the 76th Legislature enacted SB 7 by Sibley, restructuring Texas' retail electricity market. The law required the then-vertically integrated monopoly utilities to separate into a power generation company, a transmission and distribution utility, and a retail electric provider before the introduction of retail competition, which occurred on January 1, 2002. The Public Utility Commission (PUC) continues to regulate the transmission and

distribution of electricity, including approving rates. Utilities Code, sec. 39.203(e) authorizes PUC to require a utility to construct or enlarge electricity transmission facilities to ensure safe and reliable service for the state's electric markets.

SB 7 also established a goal of installing an additional 2,000 megawatts of generation capacity from renewable energy sources by 2009. Renewable energy technologies include wind power, solar energy, hydroelectric, and other sources.

**DIGEST:**

CSHB 2548 would authorize PUC to require a utility to construct or enlarge facilities to reduce electricity transmission constraints. The agency could authorize incentives, or the inclusion of construction work in progress in the rate base, for transmission investment required by the agency.

In addition, the bill would require PUC, in granting a certificate of convenience and necessity, to consider the ability of the electric utility to meet the state's renewable energy goal.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2003.

**SUPPORTERS  
SAY:**

CSHB 2548 would clarify that PUC could order construction of new lines to reduce transmission constraints. Confusion has arisen regarding whether the agency has this authority under current law. This has been a problem in West Texas, where development of new wind generation facilities has been hampered by insufficient transmission lines to carry power to retail electricity markets. Although Texas made great progress initially in developing wind generation capacity, there has been no new wind generation capacity developed here in the past year and a half. Wind power is a renewable and emissions-free source of electricity that is key to meeting the state's renewable energy goal by 2009. By allowing PUC to order construction of new lines to reduce constraints, the bill would encourage much needed new investment in wind generation.

The bill would help resolve the chicken vs. the egg dilemma in West Texas. Power companies are reluctant to invest in new wind generation capacity

because the current transmission and distribution infrastructure is inadequate to carry the added capacity. Utilities are reluctant to invest in new transmission lines, because there is not enough generation capacity in place to justify building a new line. CSHB 2548 would help to break the impasse by allowing PUC to order construction of new lines to reduce constraints.

Rep. Baxter plans to offer a floor amendment that would require PUC to exhaust methods available under current law before ordering the construction of new lines. Utilities Code, ch. 37 establishes an administrative process by which PUC can approve construction of new lines. ERCOT, the state's electric-grid operator, also has a planning process for developing new lines. The amendment would require both these avenues to be exhausted before PUC could order construction of transmission lines to ease constraints. The amendment also would ensure that new lines were constructed in a cost-efficient manner.

Rep. Baxter's amendment would eliminate PUC's authority in the bill to grant incentives for ordered construction, but would permit the agency to allow a utility to include construction work in progress in the base rate for electric service, thus letting the utility immediately recover some of the costs of building a new transmission line. Without this ability, a utility would have to wait until years later when the construction has been completed and PUC has approved its costs to begin to recover its investment.

**OPPONENTS  
SAY:**

While increasing generation from renewable sources like wind power is important, the costs to build additional lines out to west Texas would be borne by all electricity customers under this bill. Constructing the new lines would cost hundreds of millions of dollars, and these costs would be pooled and passed along to electric customers across the state. In effect, electric customers in Texas would be subsidizing costly new construction that would be a boon for wind power generators, but would not necessarily represent the most cost-effective investment in the state's electricity infrastructure.

Authorizing a utility to include construction work in progress in the base rate would reduce the incentive for the utility to complete the transmission project on time. Under current law, a utility cannot begin to recover investment costs until the project is completed and PUC has approved the costs to be recovered, creating an incentive for a utility to complete construction.

**NOTES:** The committee substitute differs from the bill as introduced by authorizing incentives for transmission investment and requiring PUC to consider the ability of a utility to meet the state's renewable energy goal in granting a certificate of convenience and necessity.