

# ***A Brief History of “Competitive” Transmission***

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*Katie Coleman, Partner*

*Government and Regulatory Practice Leader*

Thompson & Knight  Impact<sup>®</sup>

ATTORNEYS AND COUNSELORS

# The Beginning...

- **AEP Texas Central Company (TCC) creates a new transmission-only utility “Electric Transmission Texas” (ETT)**
  - › PUCT Docket No. 33734 (filed January 2007)
  - › ETT was created under the “transfer” provision in PURA § 37.154:

*Sec. 37.154. TRANSFER OF CERTIFICATE. (a) An electric utility may sell, assign, or lease a certificate or a right obtained under a certificate if the commission determines that the purchaser, assignee, or lessee can provide adequate service. (b) A sale, assignment, or lease of a certificate or a right is subject to conditions the commission prescribes*

# The Beginning...

- **Consumers appealed ETT's CCN**
  - › District court found that the PUC had exceeded its authority (October 2008). Based in part on lack of a service area.
  - › ETT appealed to Third Court.
- **Meanwhile, other new transmission only-utilities competed for CREZ projects.**
  - › CREZ Selection Case – Docket No. 35665 (filed May 13, 2008).
  - › In addition to ETT, three new entrants sought to build CREZ facilities: Wind Energy Transmission Texas (WETT), Cross Texas Transmission (CTT) and Lone Star Transmission.

# Legislative Intervention

- **81st Legislative Session began in January 2009**
  - › ETT appeal still pending in the Third Court.
  - › CREZ selection docket still underway.
- **House Bill 3406:**
  - › Explicitly authorized transmission-only utilities; did not distinguish between ERCOT and non-ERCOT areas as filed.
  - › Amended in committee to specifically address the ERCOT power region.
  - › Created new requirements for issuing a CCN to a new utility in ERCOT to protect customers (now PURA § 37.051(e)).

# Legislative Intervention

- **House Bill 3309 was amended to include the CCN provisions from HB 3406 and ultimately passed in May 2009.**
- **Language grants CCN authority for transmission-only utilities, but specific to ERCOT:**

“The commission may consider [a CCN] application filed by a person not currently certificated as an electric utility for a certificate of convenience and necessity to construct transmission capacity *that serves the ERCOT power region.*”
- **Exemption from service area requirement is similarly specific to ERCOT utilities (PURA 37.151)**

# Legislative Intervention

- **PUC awards CREZ projects to three new-entrant transmission-only utilities in May 2009.**
- **Third Court decision in *Cities of Harlingen* issued in March 2010 (311 S.W.3d 610).**
  - › Decision was based on the law before the 2009 amendments.
  - › No court has interpreted post-2009 version of the statute.
- **No activity in the non-ERCOT areas until ...**

# Transmission-Only Outside ERCOT

## ETI/ITC Asset Sale – PUCT Docket No. 41223

- In February 2013, ETI sought approval to sell all of its transmission to ITC, putting them under FERC rate jurisdiction.
- ITC sought a new CCN under the transfer provision, PURA 37.154
- Case was withdrawn, but SOAH found the Commission had authority and the Commissioners verbally agreed at an Open Meeting.

# Transmission-Only Outside ERCOT

## SPS and SPP Petition for Declaratory Order

- PUCT Docket No. 46901, filed February 2017
- Southwest Power Pool (SPP) and Southwestern Public Service Company (SPS) sought clarification on who can build transmission in SPS's service area. Line at issue was Potter to Tolk, which was later cancelled.
- PUCT found they had the authority to issue CCNs to transmission-only utilities outside ERCOT. Case is on appeal, oral argument August 13, 2018.
- First “competitive” line will likely be Hartburg to Sabine in the ETI territory.

## NextEra Energy Transmission Purchase of Rayburn Facility

- PUCT Docket No. 48071, filed February 2017.



# Questions?

[katie.coleman@tklaw.com](mailto:katie.coleman@tklaw.com)

**Austin: (512) 404-6705**

**Houston: (713) 653-8647**