

Background: Beginning in 1999 with Senate Bill 7, the Texas Legislature made a decision to position Texas as a leader in the production of wind energy. The combination of federal tax incentives and state mandates, including the Renewable Portfolio Standard, caused wind energy production to boom in Texas.

In 2006, Texas surpassed California as the nation's top producer of wind-generated electricity. Currently, the state has the ability to produce 8,000 megawatts annually, but the Electrical Reliability Council of Texas' system can only handle 4,500 megawatts. As a result, the wind energy production companies, which include some of the world's largest corporations, are "curtailed," meaning that they cannot introduce all the energy they produce into the system. The wind production companies can only earn federal production tax credits and sell renewable energy credits for electricity that actually enters the system, so there is a very strong incentive for the utility companies to press for additional transmission infrastructure.

The Legislature responded in 2005 by passing SB 20. As a result of that legislation the Public Utility Commission (PUC) designated five areas as Competitive Renewable Energy Zones (CREZ). The zones are part of a statutory plan to build single-circuit and double-circuit 345 kV lines to carry electricity from the Panhandle and west Texas to the metroplex and the I-35 corridor. Under the plan, an additional 2,334 miles of 345 kV transmission lines, capable of handling 18,456 megawatts, will be completed by 2013; with a 200 foot-right-of-way, the projects will impact 56,581 acres of potential wildlife habitat. The PUC has determined a maximum cost for the CREZ projects of \$4.93 billion.

In March 2009, the PUC selected eight transmission service providers to complete projects as part of the overall CREZ initiative. LCRA was selected to construct a 150-mile line that will run from San Angelo to Comfort, cutting through the heart of the Hill Country. It is one of the first two lines to be constructed as part of this effort. The other is being built by Oncor in its traditional service area.

Situation: LCRA has proposed three routes for consideration by the Public Utility Commission (PUC). Before a transmission service provider can begin constructing a transmission line, it must be granted a Certificate of Convenience and Necessity (CCN) by the PUC. The CCN is important, because it brings two things: the power of eminent domain and the power for the transmission service provider to charge back its costs for the project, plus earn a reasonable profit as provided in Section 36.051 of the Texas Utilities Code, part of Senate Bill 20. The LCRA will be presenting its preferred route to the PUC on October 28.

All the routes proposed by LCRA exist in a very narrow study area that cuts through virgin Hill Country. To date, LCRA has refused to expand the study area, which would allow it to include existing utility rights-of-way as well as the I-10 corridor. These requests to expand the study areas have been made by county commissioners from Kimble and Gillespie counties, the cities of _____ and _____ as well as individual citizens.

This refusal comes despite the fact that PUC Chairman Barry T. Smithermann, in an August 4, 2009, letter to Ms. Vivian Saiz, city secretary of Junction, wrote: "You should know that the Commission, in an Open Meeting scheduled on July 30, directed LCRA to consider as many route options as possible. When the case finally comes before the Commission, we will balance the cost of route options which are longer and probably more expensive against those that follow a more direct and less expensive path..."

“Because the cost of transmission is paid for by all ratepayers within the ERCOT grid, the Commission historically has placed a lot of weight on keeping costs low. However, other factors, as required by statute and our rules, are also important and will be considered during our deliberations.

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http://interchange.puc.state.tx.us/WebApp/Interchange/Documents/37049_30_622437.PDF

The Stakes: The Texas Hill Country with its benefits of beautiful open space land, diverse wildlife habitat, and aquifer recharge capabilities is disappearing at an alarming rate. In areas in proximity to Austin and San Antonio, the character has changed from rural landscape to suburban. The last vestiges of the Hill Country lie farther west and now are threatened by the haphazard placement of the high-voltage transmission lines and their clear-cut rights-of-way.

Transmission line construction can:

- Disrupt wildlife habitat, particularly if it is situated in riparian areas. Transmission lines seem to pose a more significant threat to raptors and waterfowl;
- Pose damage to fragile karst limestone structures overlying the Edwards Aquifer in sensitive areas, possibly disrupting spring flow;
- Inadvertently create transmission line corridors, changing the character of the land from rural to industrial;
- Impede views, which are significant in rural counties that rely on outdoor recreation, including hunting, fishing and eco-tourism, as a major income stream.

The Question(s): While rural landowners along the line understand that the wind-generated energy must eventually reach consumers, they are asking: Shouldn't the huge, permanent transmission lines be placed with deliberate care to ensure that they do the least amount of damage possible to the natural and cultural resources of the Texas Hill Country? Why won't LCRA expand its study area to include the least damaging alternatives?

Several grassroots citizens groups have formed throughout the Hill Country to represent the region's best interests. They include: Clear View Alliance (<http://clearviewalliance.org>) ; Save the Lampasas (<http://www.savethelampasas.org>) ; Save Our Scenic Texas Hill Country Organization (<http://www.soshillcountry.org/index.html>), Hill Country Alliance (<http://hillcountryalliance.org/HCA/Home>).

The Process: Traditionally, transmission service providers have built lines in the regions of service as the need arose, making their case for the necessity of the proposed line in front of the PUC. In the current process, the Legislature established the “need” with the passage of SB 20 in 2005. In response to that legislation, the PUC created five CREZ zones and allowed transmission service providers to bid on the chance to construct the various lines.

Under the traditional system, the transmission service providers had one year to complete the requirements for its Certificate of Convenience and Necessity (CCN). A CCN is granted by the PUC, providing the transmission service providers with the power of eminent domain and the authority to

recover its costs. Under the CREZ-driven process, the time frame for obtaining the CCN has been compressed to six months, cutting in half the time for environmental assessment, public input and other activities that help ensure the appropriate placement of the lines.

Traditionally, contested cases before the PUC are heard first before the agency's administrative law judge before being referred to the Commissioners. In the case of the LCRA priority line segments, the commissioners will hear the contested cases themselves. In addition, it is rumored that the Commission will group the "intervenor" together instead of hearing their complaints individually, further reducing the time and opportunities for ensuring appropriate line placement. Finally, the period of intervening after the CCN has been issued has been reduced by 1/3, cut from 45 days to 30 days.

Public Input: The transmission service providers usually hold town hall meetings to discuss the potential routes, but the service providers are only required to directly notify parties who are potentially "affected" by the proposed lines, not those who are just "interested." Town hall meetings, such as those hosted by LCRA as part of the San Angelo to Comfort line, are informal. Unlike a public hearing, none of the comments offered by citizens have to become part of the official public record. This is another disconnect that can seriously compromise the appropriate routing of a line.

In late May when LCRA was holding its open houses, the public utility offered to host one-on-one meetings with every landowner affected by the line to discuss the landowners' individual concerns. By early July, the public utility had withdrawn that option, dissolving another avenue of public input.

Environmental Assessment: If there is no federal nexus, transmission service providers, including LCRA, can conduct environmental assessments, which are much less stringent, than a full environmental impact statement as required by Natl Environmental Protection Act (NEPA). In most cases, the transmission service providers rely on consultants, who because of constraints on time, money and access, select the routes using data bases as opposed to "ground truthing." The review is only as valid as the information contained within the computer program the consultants are using.

Conclusion: While wind energy is a renewable energy source, it does not come without an environmental cost. In an effort to meet arbitrary timelines established by the Legislature, transmission service providers could be jeopardizing other significant natural resources. These high-voltage transmission lines, which stand 18-stories high, will permanently change the landscape of Texas, so it just makes sense that the lines should be sited prudently and deliberately. In the case of LCRA, people should be asking: Why won't LCRA expand its study area to include the least damaging alternatives?