

1 AN ACT

2 relating to preparing for, preventing, and responding to weather
3 emergencies and power outages; increasing the amount of
4 administrative and civil penalties.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Chapter 411, Government Code, is amended by
7 adding Subchapter K-1 to read as follows:

8 SUBCHAPTER K-1. POWER OUTAGE ALERT

9 Sec. 411.301. POWER OUTAGE ALERT. (a) With the cooperation
10 of the Texas Department of Transportation, the Texas Division of
11 Emergency Management, the office of the governor, and the Public
12 Utility Commission of Texas, the department shall develop and
13 implement an alert to be activated when the power supply in this
14 state may be inadequate to meet demand.

15 (b) The Public Utility Commission of Texas by rule shall
16 adopt criteria for the content, activation, and termination of the
17 alert described by Subsection (a). The criteria must provide for an
18 alert to be regional or statewide.

19 Sec. 411.302. ADMINISTRATION. (a) The director is the
20 statewide coordinator of the power outage alert.

21 (b) The director shall adopt rules and issue directives as
22 necessary to ensure proper implementation of the power outage
23 alert. The rules and directives must include the procedures to be
24 used by the Public Utility Commission of Texas and the independent

1 organization certified under Section 39.151, Utilities Code, to
2 communicate with the director about the power outage alert.

3 Sec. 411.303. DEPARTMENT TO RECRUIT PARTICIPANTS. The
4 department shall recruit public and commercial television and radio
5 broadcasters, private commercial entities, state or local
6 governmental entities, the public, and other appropriate persons to
7 assist in developing and implementing the power outage alert
8 system.

9 Sec. 411.304. STATE AGENCIES. (a) A state agency
10 participating in the power outage alert system shall:

11 (1) cooperate with the department and assist in
12 developing and implementing the alert system; and

13 (2) establish a plan for providing relevant
14 information to its officers, investigators, or employees, as
15 appropriate, once the power outage alert system has been activated.

16 (b) In addition to its duties as a state agency under
17 Subsection (a), the Texas Department of Transportation shall
18 establish a plan for providing relevant information to the public
19 through an existing system of dynamic message signs located across
20 the state.

21 Sec. 411.305. ACTIVATION OF POWER OUTAGE ALERT. (a) When
22 the Public Utility Commission of Texas or an independent
23 organization certified under Section 39.151, Utilities Code,
24 notifies the department that the criteria adopted under Section
25 411.301(b) for the activation of the alert has been met, the
26 department shall confirm the accuracy of the information and, if
27 confirmed, immediately issue a power outage alert under this

1 subchapter in accordance with department rules.

2 (b) In issuing the power outage alert, the department shall
3 send the alert to designated media outlets in this state. Following
4 receipt of the alert, participating radio stations and television
5 stations and other participating media outlets may issue the alert
6 at designated intervals.

7 Sec. 411.306. CONTENT OF POWER OUTAGE ALERT. The power
8 outage alert must include a statement that electricity customers
9 may experience a power outage.

10 Sec. 411.307. TERMINATION OF POWER OUTAGE ALERT. The
11 director shall terminate any activation of the power outage alert
12 as soon as practicable after the Public Utility Commission of Texas
13 or the Electric Reliability Council of Texas notifies the
14 department that the criteria adopted under Section 411.301(b) for
15 the termination of the alert has been met.

16 Sec. 411.308. LIMITATION ON PARTICIPATION BY TEXAS
17 DEPARTMENT OF TRANSPORTATION. Notwithstanding Section 411.304(b),
18 the Texas Department of Transportation is not required to use any
19 existing system of dynamic message signs in a statewide alert
20 system created under this subchapter if that department receives
21 notice from the United States Department of Transportation Federal
22 Highway Administration that the use of the signs would result in the
23 loss of federal highway funding or other punitive actions taken
24 against this state due to noncompliance with federal laws,
25 regulations, or policies.

26 SECTION 2. Section [418.048](#), Government Code, is amended to
27 read as follows:

1 Sec. 418.048. MONITORING WEATHER; DISASTER PREPAREDNESS
2 EDUCATION. (a) The division shall keep continuously apprised of
3 weather conditions that present danger of climatic activity, such
4 as precipitation, severe enough to constitute a disaster.

5 (b) The division shall create a list of suggested actions
6 for state agencies and the public to take to prepare for winter
7 storms, organized by severity of storm based on the National
8 Weather Service Winter Storm Severity Index.

9 (c) The division shall develop disaster preparedness
10 educational materials that include instructions for preparing a
11 disaster kit containing supplies most needed in a disaster or
12 emergency, such as water, nonperishable food, medical supplies,
13 flashlights, and other essential items, to assist families and
14 businesses in adequately preparing for winter storms, hurricanes,
15 floods, drought, fires, and other potential disasters.

16 (d) The division shall post on the division's Internet
17 website and distribute to local governments and businesses the
18 educational materials and instructions developed under Subsection
19 (c).

20 SECTION 3. Chapter 418, Government Code, is amended by
21 adding Subchapter J to read as follows:

22 SUBCHAPTER J. TEXAS ENERGY RELIABILITY COUNCIL

23 Sec. 418.301. DEFINITIONS. In this subchapter:

24 (1) "Chief" means the division's chief.

25 (2) "Council" means the Texas Energy Reliability
26 Council.

27 Sec. 418.302. COUNCIL ESTABLISHED. (a) The Texas Energy

1 Reliability Council is established to:

2 (1) ensure that the energy and electric industries in
3 this state meet high priority human needs and address critical
4 infrastructure concerns; and

5 (2) enhance coordination and communication in the
6 energy and electric industries in this state.

7 (b) Chapter 2110 does not apply to the council.

8 Sec. 418.303. MEMBERSHIP. (a) The council is composed of:

9 (1) the chairman of the Railroad Commission of Texas;

10 (2) the presiding officer of the Public Utility
11 Commission of Texas;

12 (3) the chief executive of the Office of Public
13 Utility Counsel;

14 (4) the presiding officer of the Texas Commission on
15 Environmental Quality;

16 (5) the chair of the Texas Transportation Commission;

17 (6) a person to represent the independent organization
18 certified under Section 39.151, Utilities Code, for the ERCOT power
19 region, appointed by the governor;

20 (7) the chief;

21 (8) five persons to represent participants in the
22 natural gas supply chain in this state, appointed by the Railroad
23 Commission of Texas to represent as many types of participants as
24 possible;

25 (9) five persons to represent the electric industry,
26 appointed by the Public Utility Commission of Texas, including:

27 (A) one person to represent entities that provide

1 dispatchable electric energy to the power grid in this state;

2 (B) one person to represent transmission and
3 distribution utilities, as defined by Section 31.002, Utilities
4 Code;

5 (C) one person to represent retail electric
6 providers, as defined by Section 31.002, Utilities Code;

7 (D) one person to represent municipally owned
8 utilities, as defined by Section 11.003, Utilities Code; and

9 (E) one person to represent electric
10 cooperatives;

11 (10) three persons to represent energy sectors not
12 otherwise represented on the council, appointed by the Public
13 Utility Commission of Texas; and

14 (11) five persons to represent industrial concerns,
15 appointed by the governor, including:

16 (A) one person to represent motor fuel producers;
17 and

18 (B) one person to represent chemical
19 manufacturers.

20 (b) A member of the council described by Subsection (a)(1),
21 (2), (3), (4), (5), (6), or (7) may designate a person from the
22 member's agency to represent the member in any meeting.

23 (c) The council may request that a person collaborate with
24 the council to achieve the purposes described by Section 418.302.

25 Sec. 418.304. OFFICERS. (a) The chief shall serve as
26 presiding officer of the council.

27 (b) The council may select an assistant presiding officer

1 and secretary from among its members.

2 Sec. 418.305. COMPENSATION; REIMBURSEMENT. A member of the
3 council is not entitled to compensation or reimbursement of
4 expenses for service on the council.

5 Sec. 418.306. MEETINGS. (a) After its initial meeting, the
6 council shall meet at least twice each year at a time and place
7 determined by the chief.

8 (b) The council may meet at other times the council
9 considers appropriate. The presiding officer may call a meeting on
10 the officer's own motion.

11 Sec. 418.307. ADMINISTRATIVE SUPPORT. The division shall
12 provide administrative support to the council.

13 Sec. 418.308. GENERAL DUTIES OF COUNCIL. (a) The council
14 shall foster communication and planning to ensure preparedness for
15 making available and delivering energy and electricity in this
16 state to ensure that high priority human needs are met and critical
17 infrastructure needs are addressed.

18 (b) The council shall foster communication and coordination
19 between the energy and electric industries in this state.

20 Sec. 418.309. INFORMATION. (a) In this section:

21 (1) "Gas provider" means:

22 (A) a natural gas pipeline facility operator;

23 (B) an operator of a natural gas well; or

24 (C) an entity that produces, treats, processes,
25 pressurizes, stores, or transports natural gas in this state or
26 otherwise participates in the natural gas supply chain in this
27 state.

1 (2) "Public utility" means an entity that generates,
2 transmits, or distributes electric energy to the public, including
3 an electric cooperative, an electric utility, a municipally owned
4 utility, or a river authority.

5 (b) A public utility or gas provider shall provide to the
6 council any information related to a disaster requested by the
7 council. Information obtained by the council under this subsection
8 is confidential and not subject to disclosure by the council if the
9 information is critical energy infrastructure information as
10 defined by the independent organization certified under Section
11 39.151, Utilities Code, for the ERCOT power region or federal law.

12 (c) Except as provided by Subsection (d), the meetings of
13 the council and information obtained or created by the council are
14 not subject to the requirements of Chapter 551 or 552.

15 (d) Information written, produced, collected, assembled, or
16 maintained under law or in connection with the transaction of
17 official business by the council or an officer or employee of the
18 council is subject to Section 552.008 in the same manner as public
19 information.

20 Sec. 418.310. REPORT. (a) Not later than November 1 of
21 each even-numbered year, the council shall submit to the
22 legislature a report on the reliability and stability of the
23 electricity supply chain in this state.

24 (b) The report must include recommendations on methods to
25 strengthen the electricity supply chain in this state and to
26 decrease the frequency of extended power outages caused by a
27 disaster in this state.

1 SECTION 4. Subchapter C, Chapter 81, Natural Resources
2 Code, is amended by adding Section 81.073 to read as follows:

3 Sec. 81.073. CRITICAL NATURAL GAS FACILITIES AND ENTITIES.

4 (a) The commission shall collaborate with the Public Utility
5 Commission of Texas to adopt rules to establish a process to
6 designate certain natural gas facilities and entities associated
7 with providing natural gas in this state as critical customers or
8 critical gas suppliers during energy emergencies.

9 (b) The rules must:

10 (1) establish criteria for designating persons who own
11 or operate a facility under the jurisdiction of the commission
12 under Section 81.051(a) or engage in an activity under the
13 jurisdiction of the commission under Section 81.051(a) who must
14 provide critical customer and critical gas supply information, as
15 defined by the commission, to the entities described by Section
16 38.074(b)(1), Utilities Code;

17 (2) consider essential operational elements when
18 defining critical customer designations and critical gas supply
19 information for the purposes of Subdivision (1), including natural
20 gas production, processing, and transportation, related produced
21 water handling and disposal facilities, and the delivery of natural
22 gas to generators of electric energy; and

23 (3) require that only facilities and entities that are
24 prepared to operate during a weather emergency may be designated as
25 a critical customer under this section.

26 SECTION 5. Subchapter C, Chapter 86, Natural Resources
27 Code, is amended by adding Section 86.044 to read as follows:

1 Sec. 86.044. WEATHER EMERGENCY PREPAREDNESS. (a) In this
2 section, "gas supply chain facility" means a facility that is:

3 (1) used for producing, treating, processing,
4 pressurizing, storing, or transporting natural gas;

5 (2) not primarily used to support liquefied natural
6 gas pretreatment, liquefaction, or regasification facilities in
7 the business of exporting or importing liquefied natural gas to or
8 from foreign countries;

9 (3) otherwise regulated by the commission under this
10 subtitle; and

11 (4) not regulated by the commission under Chapter 121,
12 Utilities Code.

13 (b) This section applies only to a gas supply chain facility
14 that is:

15 (1) included on the electricity supply chain map
16 created under Section 38.203, Utilities Code; and

17 (2) designated as critical by the commission in the
18 manner provided by Section 81.073.

19 (c) The commission by rule shall require a gas supply chain
20 facility operator to implement measures to prepare to operate
21 during a weather emergency. In adopting the rules, the commission
22 shall take into consideration weather predictions produced by the
23 office of the state climatologist.

24 (d) The commission shall:

25 (1) inspect gas supply chain facilities for compliance
26 with rules adopted under Subsection (c);

27 (2) provide the owner of a facility described by

1 Subdivision (1) with a reasonable period of time in which to remedy
2 any violation the commission discovers in an inspection; and

3 (3) report to the attorney general any violation that
4 is not remedied in a reasonable period of time.

5 (e) The commission shall prioritize inspections conducted
6 under Subsection (d)(1) based on risk level, as determined by the
7 commission.

8 (f) The commission by rule shall require an operator of a
9 gas supply chain facility that experiences repeated
10 weather-related or major weather-related forced interruptions of
11 production to:

12 (1) contract with a person who is not an employee of
13 the operator to assess the operator's weatherization plans,
14 procedures, and operations; and

15 (2) submit the assessment to the commission.

16 (g) The commission may require an operator of a gas supply
17 chain facility to implement appropriate recommendations included
18 in an assessment submitted to the commission under Subsection (f).

19 (h) If the commission determines that a person has violated
20 a rule adopted under this section, the commission shall notify the
21 attorney general of a violation that is not remedied in a reasonable
22 amount of time. The attorney general shall initiate a suit to
23 recover a penalty for the violation in the manner provided by
24 Subchapter G.

25 SECTION 6. Section 86.222, Natural Resources Code, is
26 amended by adding Subsections (a-1), (c), and (d) to read as
27 follows:

1 (a-1) Notwithstanding Subsection (a), a person who violates
2 a provision of a rule adopted under Section 86.044 is liable for a
3 penalty of not more than \$1,000,000 for each offense.

4 (c) The commission by rule shall establish a classification
5 system to be used by a court under this subchapter for violations of
6 rules adopted under Section 86.044 that includes a range of
7 penalties that may be recovered for each class of violation based
8 on:

9 (1) the seriousness of the violation, including:

10 (A) the nature, circumstances, extent, and
11 gravity of a prohibited act; and

12 (B) the hazard or potential hazard created to the
13 health, safety, or economic welfare of the public;

14 (2) the history of previous violations;

15 (3) the amount necessary to deter future violations;

16 (4) efforts to correct the violation; and

17 (5) any other matter that justice may require.

18 (d) The classification system established under Subsection
19 (c) shall provide that a penalty in an amount that exceeds \$5,000
20 may be recovered only if the violation is included in the highest
21 class of violations in the classification system.

22 SECTION 7. Section 15.023, Utilities Code, is amended by
23 adding Subsection (b-1) to read as follows:

24 (b-1) Notwithstanding Subsection (b), the penalty for a
25 violation of a provision of Section 35.0021 or 38.075 may be in an
26 amount not to exceed \$1,000,000 for a violation. Each day a
27 violation continues or occurs is a separate violation for purposes

1 of imposing a penalty.

2 SECTION 8. Section 17.002, Utilities Code, is amended by
3 adding Subdivisions (3-a) and (3-b) to read as follows:

4 (3-a) "Critical care residential customer" means a
5 residential customer who has a person permanently residing in the
6 customer's home who has been diagnosed by a physician as being
7 dependent upon an electric-powered medical device to sustain life.

8 (3-b) "Critical load industrial customer" means an
9 industrial customer for whom an interruption or suspension of
10 electric service will create a dangerous or life-threatening
11 condition on the customer's premises.

12 SECTION 9. Section 17.003, Utilities Code, is amended by
13 adding Subsection (d-1) to read as follows:

14 (d-1) An electric utility providing electric delivery
15 service for a retail electric provider, as defined by Section
16 31.002, shall provide to the retail electric provider, and the
17 retail electric provider shall periodically provide to the retail
18 electric provider's retail customers together with bills sent to
19 the customers, information about:

20 (1) the electric utility's procedures for implementing
21 involuntary load shedding initiated by the independent
22 organization certified under Section 39.151 for the ERCOT power
23 region;

24 (2) the types of customers who may be considered
25 critical care residential customers, critical load industrial
26 customers, or critical load according to commission rules adopted
27 under Section 38.076;

1 (3) the procedure for a customer to apply to be
2 considered a critical care residential customer, a critical load
3 industrial customer, or critical load according to commission rules
4 adopted under Section 38.076; and

5 (4) reducing electricity use at times when involuntary
6 load shedding events may be implemented.

7 SECTION 10. Section 17.005, Utilities Code, is amended to
8 read as follows:

9 Sec. 17.005. PROTECTIONS FOR CUSTOMERS OF MUNICIPALLY OWNED
10 UTILITIES. (a) A municipally owned utility may not be deemed to be
11 a "service provider" or "billing agent" for purposes of Sections
12 17.156(b) and (e).

13 (b) The governing body of a municipally owned utility shall
14 adopt, implement, and enforce rules that shall have the effect of
15 accomplishing the objectives set out in Sections 17.004(a) and (b)
16 and 17.102, as to the municipally owned utility within its
17 certificated service area.

18 (c) The governing body of a municipally owned utility or its
19 designee shall perform the dispute resolution function provided for
20 by Section 17.157 for disputes arising from services provided by
21 the municipally owned utility to electric customers served within
22 the municipally owned utility's certificated service area.

23 (d) With respect to electric customers served by a
24 municipally owned utility outside its certificated service area or
25 otherwise served through others' distribution facilities, after
26 retail competition begins as authorized by the legislature, the
27 provisions of this chapter as administered by the commission apply.

1 (e) Nothing in this chapter shall be deemed to apply to a
2 wholesale customer of a municipally owned utility.

3 (f) A municipally owned utility shall periodically provide
4 with bills sent to retail customers of the utility information
5 about:

6 (1) the utility's procedure for implementing
7 involuntary load shedding;

8 (2) the types of customers who may be considered
9 critical care residential customers, critical load industrial
10 customers, or critical load according to commission rules adopted
11 under Section 38.076;

12 (3) the procedure for a customer to apply to be
13 considered a critical care residential customer, a critical load
14 industrial customer, or critical load according to commission rules
15 adopted under Section 38.076; and

16 (4) reducing electricity use at times when involuntary
17 load shedding events may be implemented.

18 SECTION 11. Section [17.006](#), Utilities Code, is amended to
19 read as follows:

20 Sec. 17.006. PROTECTIONS FOR CUSTOMERS OF ELECTRIC
21 COOPERATIVES. (a) An electric cooperative shall not be deemed to
22 be a "service provider" or "billing agent" for purposes of Sections
23 [17.156](#)(b) and (e).

24 (b) The electric cooperative shall adopt, implement, and
25 enforce rules that shall have the effect of accomplishing the
26 objectives set out in Sections [17.004](#)(a) and (b) and [17.102](#).

27 (c) The board of directors of the electric cooperative or

1 its designee shall perform the dispute resolution function provided
2 for by Section 17.157 for electric customers served by the electric
3 cooperative within its certificated service area.

4 (d) With respect to electric customers served by an electric
5 cooperative outside its certificated service area or otherwise
6 served through others' distribution facilities, after the
7 legislature authorizes retail competition, the provisions of this
8 chapter as administered by the commission shall apply.

9 (e) Nothing in this chapter shall be deemed to apply to a
10 wholesale customer of an electric cooperative.

11 (f) An electric cooperative shall periodically provide with
12 bills sent to retail customers of the cooperative information
13 about:

14 (1) the cooperative's procedure for implementing
15 involuntary load shedding;

16 (2) the types of customers who may be considered
17 critical care residential customers, critical load industrial
18 customers, or critical load according to commission rules adopted
19 under Section 38.076;

20 (3) the procedure for a customer to apply to be
21 considered a critical care residential customer, a critical load
22 industrial customer, or critical load according to commission rules
23 adopted under Section 38.076; and

24 (4) reducing electricity use at times when involuntary
25 load shedding events may be implemented.

26 SECTION 12. The heading to Chapter 35, Utilities Code, is
27 amended to read as follows:

CHAPTER 35. [~~ALTERNATIVE~~] ENERGY PROVIDERS

SECTION 13. Subchapter A, Chapter 35, Utilities Code, is amended by adding Section 35.0021 to read as follows:

Sec. 35.0021. WEATHER EMERGENCY PREPAREDNESS. (a) This section applies only to a municipally owned utility, electric cooperative, power generation company, or exempt wholesale generator that sells electric energy at wholesale in the ERCOT power region.

(b) The commission by rule shall require each provider of electric generation service described by Subsection (a) to implement measures to prepare the provider's generation assets to provide adequate electric generation service during a weather emergency according to reliability standards adopted by the commission. In adopting the rules, the commission shall take into consideration weather predictions produced by the office of the state climatologist.

(c) The independent organization certified under Section 39.151 for the ERCOT power region shall:

(1) inspect generation assets in the ERCOT power region for compliance with the reliability standards;

(2) provide the owner of a generation asset with a reasonable period of time in which to remedy any violation the independent organization discovers in an inspection; and

(3) report to the commission any violation.

(c-1) The independent organization certified under Section 39.151 for the ERCOT power region shall prioritize inspections conducted under Subsection (c)(1) based on risk level, as

1 determined by the organization.

2 (d) The commission by rule shall require a provider of
3 electric generation service described by Subsection (a) for a
4 generation asset that experiences repeated or major
5 weather-related forced interruptions of service to:

6 (1) contract with a person who is not an employee of
7 the provider to assess the provider's weatherization plans,
8 procedures, and operations for that asset; and

9 (2) submit the assessment to the commission and the
10 independent organization certified under Section 39.151 for the
11 ERCOT power region.

12 (e) The commission may require a provider of electric
13 generation service described by Subsection (a) to implement
14 appropriate recommendations included in an assessment submitted to
15 the commission under Subsection (d).

16 (f) The independent organization certified under Section
17 39.151 for the ERCOT power region shall review, coordinate, and
18 approve or deny requests by providers of electric generation
19 service described by Subsection (a) for a planned power outage
20 during any season and for any period of time.

21 (g) The commission shall impose an administrative penalty
22 on an entity, including a municipally owned utility or an electric
23 cooperative, that violates a rule adopted under this section and
24 does not remedy that violation within a reasonable period of time.

25 SECTION 14. Section 35.004, Utilities Code, is amended by
26 amending Subsection (e) and adding Subsections (f), (g), and (h) to
27 read as follows:

1 (e) In this section, "ancillary services" means services
2 necessary to facilitate the transmission of electric energy
3 including load following, standby power, backup power, reactive
4 power, and any other services as the commission may determine by
5 rule.

6 (f) The commission shall ensure that ancillary services
7 necessary to facilitate the transmission of electric energy are
8 available at reasonable prices with terms and conditions that are
9 not unreasonably preferential, prejudicial, discriminatory,
10 predatory, or anticompetitive. [~~In this subsection, "ancillary~~
11 ~~services" means services necessary to facilitate the transmission~~
12 ~~of electric energy including load following, standby power, backup~~
13 ~~power, reactive power, and any other services as the commission may~~
14 ~~determine by rule.~~] On the introduction of customer choice in the
15 ERCOT power region, acquisition of generation-related ancillary
16 services on a nondiscriminatory basis by the independent
17 organization in ERCOT on behalf of entities selling electricity at
18 retail shall be deemed to meet the requirements of this subsection.

19 (g) The commission shall:

20 (1) review the type, volume, and cost of ancillary
21 services to determine whether those services will continue to meet
22 the needs of the electricity market in the ERCOT power region; and

23 (2) evaluate whether additional services are needed
24 for reliability in the ERCOT power region while providing adequate
25 incentives for dispatchable generation.

26 (h) The commission shall require the independent
27 organization certified under Section [39.151](#) for the ERCOT power

1 region to modify the design, procurement, and cost allocation of
2 ancillary services for the region in a manner consistent with
3 cost-causation principles and on a nondiscriminatory basis.

4 SECTION 15. Subchapter B, Chapter 35, Utilities Code, is
5 amended by adding Section 35.037 to read as follows:

6 Sec. 35.037. FACILITATING CERTAIN INTERCOMPANY LANDFILL
7 GAS-TO-ELECTRICITY USE. (a) This section only applies in a county
8 with a population of more than one million in which a national
9 wildlife refuge is wholly or partly located.

10 (b) Notwithstanding any other provision of this title, and
11 for the purposes of reducing environmental emissions, putting to a
12 beneficial purpose landfill gas as an electric generation fuel that
13 would otherwise be flared, enabling the operation of electric
14 generation to a greater degree, and enhancing the reliability and
15 resilience of electric service in this state, a person who is not an
16 electric utility and who owns and operates equipment or facilities
17 to produce, generate, transmit, distribute, store, sell, or furnish
18 electricity produced by the use of landfill methane gas may:

19 (1) use the equipment or facilities to provide
20 electricity and electric service to the person and to the person's
21 affiliates without being considered to be an electric utility, a
22 public utility, a retail electric provider, a power marketer, or a
23 person providing aggregation;

24 (2) interconnect the equipment or facilities in a
25 timely manner and on reasonable and nondiscriminatory terms and
26 conditions with any electric utility, municipally owned utility, or
27 electric cooperative that has a retail service area for any portion

1 of the equipment or facilities; and

2 (3) receive backup, supplemental, or other electric
3 service for any of the person's or the person's affiliates'
4 facilities that consume electricity from any electric utility,
5 municipally owned utility, or electric cooperative that has a
6 retail service area for any portion of the person's facilities or
7 equipment that are interconnected regardless of whether those
8 facilities are in the same retail service area as the location of
9 the interconnection point.

10 (c) Backup, supplemental, or other electric service
11 provided under this section through an interconnection for a
12 person's electricity-consuming facilities that are connected to
13 the person's interconnected equipment or facilities does not
14 constitute a service area encroachment or other violation of law by
15 the electric utility, municipally owned utility, or electric
16 cooperative supplying the backup, supplemental, or other electric
17 service.

18 SECTION 16. Subchapter D, Chapter 38, Utilities Code, is
19 amended by adding Sections 38.074, 38.075, 38.076, and 38.077 to
20 read as follows:

21 Sec. 38.074. CRITICAL NATURAL GAS FACILITIES AND ENTITIES.

22 (a) The commission shall collaborate with the Railroad Commission
23 of Texas to adopt rules to establish a process to designate certain
24 natural gas facilities and entities associated with providing
25 natural gas in this state as critical during energy emergencies.

26 (b) The rules must:

27 (1) ensure that the independent organization

1 certified under Section 39.151 for the ERCOT power region and each
2 electric utility, municipally owned utility, and electric
3 cooperative providing service in the ERCOT power region is provided
4 with the information required by Section 81.073, Natural Resources
5 Code;

6 (2) provide for prioritizing for load-shed purposes
7 during an energy emergency the facilities and entities designated
8 under Subsection (a); and

9 (3) provide discretion to an electric utility,
10 municipally owned utility, or electric cooperative providing
11 service in the ERCOT power region to prioritize power delivery and
12 power restoration among the facilities and entities designated
13 under Subsection (a) on the utility's or cooperative's systems, as
14 circumstances require.

15 Sec. 38.075. WEATHER EMERGENCY PREPAREDNESS. (a) The
16 commission by rule shall require each electric cooperative,
17 municipally owned utility, and transmission and distribution
18 utility providing transmission service in the ERCOT power region to
19 implement measures to prepare the cooperative's or utility's
20 facilities to maintain service quality and reliability during a
21 weather emergency according to standards adopted by the commission.
22 In adopting the rules, the commission shall take into consideration
23 weather predictions produced by the office of the state
24 climatologist.

25 (b) The independent organization certified under Section
26 39.151 for the ERCOT power region shall:

27 (1) inspect the facilities of each electric

1 cooperative, municipally owned utility, and transmission and
2 distribution utility providing transmission service in the ERCOT
3 power region for compliance with the reliability standards;

4 (2) provide the owner of a facility described by
5 Subdivision (1) with a reasonable period of time in which to remedy
6 any violation the independent organization discovers in an
7 inspection; and

8 (3) report to the commission any violation that is not
9 remedied in a reasonable period of time.

10 (c) The independent organization certified under Section
11 39.151 for the ERCOT power region shall prioritize inspections
12 conducted under Subsection (b)(1) based on risk level, as
13 determined by the organization.

14 (d) The commission shall impose an administrative penalty
15 on an entity, including a municipally owned utility or an electric
16 cooperative, that violates a rule adopted under this section and
17 does not remedy that violation within a reasonable period of time.

18 (e) Notwithstanding any other provision of this subtitle,
19 the commission shall allow a transmission and distribution utility
20 to design and operate a load management program for nonresidential
21 customers to be used where the independent organization certified
22 under Section 39.151 for the ERCOT power region has declared a Level
23 2 Emergency or a higher level of emergency or has otherwise directed
24 the transmission and distribution utility to shed load. A
25 transmission and distribution utility implementing a load
26 management program under this subsection shall be permitted to
27 recover the reasonable and necessary costs of the load management

1 program under Chapter 36. A load management program operated under
2 this subsection is not considered a competitive service.

3 Sec. 38.076. INVOLUNTARY AND VOLUNTARY LOAD SHEDDING. (a)

4 The commission by rule shall adopt a system to allocate load
5 shedding among electric cooperatives, municipally owned utilities,
6 and transmission and distribution utilities providing transmission
7 service in the ERCOT power region during an involuntary load
8 shedding event initiated by the independent organization certified
9 under Section 39.151 for the region during an energy emergency.

10 (b) The system must provide for allocation of the load
11 shedding obligation to each electric cooperative, municipally
12 owned utility, and transmission and distribution utility in
13 different seasons based on historical seasonal peak demand in the
14 service territory of the electric cooperative, municipally owned
15 utility, or transmission and distribution utility.

16 (c) The commission by rule shall:

17 (1) categorize types of critical load that may be
18 given the highest priority for power restoration; and

19 (2) require electric cooperatives, municipally owned
20 utilities, and transmission and distribution utilities providing
21 transmission service in the ERCOT power region to submit to the
22 commission and the independent organization certified under
23 Section 39.151 for the region:

24 (A) customers or circuits the cooperative or
25 utility has designated as critical load; and

26 (B) a plan for participating in load shedding in
27 response to an involuntary load shedding event described by

1 Subsection (a).

2 (d) The commission by rule shall require electric
3 cooperatives and municipally owned utilities providing
4 transmission service in the ERCOT power region to:

5 (1) maintain lists of customers willing to voluntarily
6 participate in voluntary load reduction; and

7 (2) coordinate with municipalities, businesses, and
8 customers that consume large amounts of electricity to encourage
9 voluntary load reduction.

10 (e) This section does not abridge, enlarge, or modify the
11 obligation of an electric cooperative, a municipally owned utility,
12 or a transmission and distribution utility to comply with federal
13 reliability standards.

14 (f) After each load shedding event, the commission may
15 conduct an examination of the implementation of load shedding,
16 including whether each electric cooperative, municipally owned
17 utility, and transmission and distribution utility complied with
18 its plan as filed with the commission under Subsection (c)(2).

19 Sec. 38.077. LOAD SHEDDING EXERCISES. (a) The commission
20 and the independent organization certified for the ERCOT power
21 region shall conduct simulated or tabletop load shedding exercises
22 with providers of electric generation service and transmission and
23 distribution service in the ERCOT power region.

24 (b) The commission shall ensure that each year at least one
25 simulated or tabletop exercise is conducted during a summer month
26 and one simulated or tabletop exercise is conducted during a winter
27 month.

1 SECTION 17. Chapter 38, Utilities Code, is amended by
2 adding Subchapter F to read as follows:

3 SUBCHAPTER F. TEXAS ELECTRICITY SUPPLY CHAIN SECURITY AND MAPPING
4 COMMITTEE

5 Sec. 38.201. TEXAS ELECTRICITY SUPPLY CHAIN SECURITY AND
6 MAPPING COMMITTEE. (a) In this subchapter, "electricity supply
7 chain" means:

8 (1) facilities and methods used for producing,
9 treating, processing, pressurizing, storing, or transporting
10 natural gas for delivery to electric generation facilities; and

11 (2) critical infrastructure necessary to maintain
12 electricity service.

13 (b) The Texas Electricity Supply Chain Security and Mapping
14 Committee is established to:

15 (1) map this state's electricity supply chain;

16 (2) identify critical infrastructure sources in the
17 electricity supply chain;

18 (3) establish best practices to prepare facilities
19 that provide electric service and natural gas service in the
20 electricity supply chain to maintain service in an extreme weather
21 event and recommend oversight and compliance standards for those
22 facilities; and

23 (4) designate priority service needs to prepare for,
24 respond to, and recover from an extreme weather event.

25 (c) The committee is composed of:

26 (1) the executive director of the commission;

27 (2) the executive director of the Railroad Commission

1 of Texas;

2 (3) the president and the chief executive officer of
3 the independent organization certified under Section 39.151 for the
4 ERCOT power region; and

5 (4) the chief of the Texas Division of Emergency
6 Management.

7 (d) Each member of the committee may designate a personal
8 representative from the member's organization to represent the
9 member on the committee. A member is responsible for the acts and
10 omissions of the designee related to the designee's representation
11 on the committee.

12 (e) The executive director of the commission serves as the
13 chair of the committee. The executive director of the Railroad
14 Commission of Texas serves as vice chair of the committee.

15 Sec. 38.202. ADMINISTRATION. (a) The committee shall meet
16 at least once each calendar quarter at a time determined by the
17 committee and at the call of the chair.

18 (b) A member who is an ex officio member from a state agency
19 shall be reimbursed for actual and necessary expenses in carrying
20 out committee responsibilities from money appropriated for that
21 purpose in the agency's budget. Other members of the committee may
22 receive reimbursement for actual and necessary expenses in carrying
23 out committee responsibilities from money appropriated for that
24 purpose.

25 (c) The commission, the Railroad Commission of Texas, and
26 the Texas Division of Emergency Management shall provide staff as
27 necessary to assist the committee in carrying out the committee's

1 duties and responsibilities.

2 (d) The independent organization certified under Section
3 39.151 for the ERCOT power region shall provide staff as necessary
4 to assist the committee in carrying out the committee's duties and
5 responsibilities.

6 (e) Except as otherwise provided by this subchapter, the
7 committee is not subject to Chapters 2001, 551, and 552, Government
8 Code.

9 (f) Information written, produced, collected, assembled, or
10 maintained under law or in connection with the transaction of
11 official business by the committee or an officer or employee of the
12 committee is subject to Section 552.008, Government Code. This
13 subsection does not apply to the physical locations of critical
14 facilities, maps created under this subchapter, or proprietary
15 information created or gathered during the mapping process.

16 Sec. 38.203. POWERS AND DUTIES OF COMMITTEE. (a) The
17 committee shall:

18 (1) map the state's electricity supply chain in order
19 to designate priority electricity service needs during extreme
20 weather events;

21 (2) identify and designate the sources in the
22 electricity supply chain necessary to operate critical
23 infrastructure, as defined by Section 421.001, Government Code;

24 (3) develop a communication system between critical
25 infrastructure sources, the commission, and the independent
26 organization certified under Section 39.151 for the ERCOT power
27 region to ensure that electricity and natural gas supplies in the

1 electricity supply chain are prioritized to those sources during an
2 extreme weather event; and

3 (4) establish best practices to prepare facilities
4 that provide electric service and natural gas service in the
5 electricity supply chain to maintain service in an extreme weather
6 event and recommend oversight and compliance standards for those
7 facilities.

8 (b) The committee shall update the electricity supply chain
9 map at least once each year.

10 (c) The commission shall:

11 (1) create and maintain a database identifying
12 critical infrastructure sources with priority electricity needs to
13 be used during an extreme weather event; and

14 (2) update the database at least once each year.

15 (d) The information maintained in the database is
16 confidential under Section 418.181, Government Code, and not
17 subject to disclosure under Chapter 552, Government Code.

18 (e) The committee shall provide the Texas Energy
19 Reliability Council with access to the electricity supply chain
20 map.

21 Sec. 38.204. MAPPING REPORT. (a) Not later than January 1,
22 2022, the committee shall submit a report to the governor, the
23 lieutenant governor, the speaker of the house of representatives,
24 the legislature, and the Texas Energy Reliability Council on the
25 activities and findings of the committee. The report must:

26 (1) provide an overview of the committee's findings
27 regarding mapping the electricity supply chain and identifying

1 sources necessary to operate critical infrastructure;

2 (2) recommend a clear and thorough communication
3 system for the commission, the Railroad Commission of Texas, the
4 Texas Division of Emergency Management, and the independent
5 organization certified under Section 39.151 for the ERCOT power
6 region and critical infrastructure sources in this state to ensure
7 that electricity supply is prioritized to those sources during
8 extreme weather events; and

9 (3) include a list of the established best practices
10 and recommended oversight and compliance standards adopted under
11 Section 38.203(a)(4).

12 (b) The report is public information except for portions
13 considered confidential under Chapter 552, Government Code, or
14 other state or federal law.

15 SECTION 18. Subchapter D, Chapter 39, Utilities Code, is
16 amended by adding Sections 39.159 and 39.160 to read as follows:

17 Sec. 39.159. DISPATCHABLE GENERATION. (a) For the
18 purposes of this section, a generation facility is considered to be
19 non-dispatchable if the facility's output is controlled primarily
20 by forces outside of human control.

21 (b) The commission shall ensure that the independent
22 organization certified under Section 39.151 for the ERCOT power
23 region:

24 (1) establishes requirements to meet the reliability
25 needs of the power region;

26 (2) periodically, but at least annually, determines
27 the quantity and characteristics of ancillary or reliability

1 services necessary to ensure appropriate reliability during
2 extreme heat and extreme cold weather conditions and during times
3 of low non-dispatchable power production in the power region;

4 (3) procures ancillary or reliability services on a
5 competitive basis to ensure appropriate reliability during extreme
6 heat and extreme cold weather conditions and during times of low
7 non-dispatchable power production in the power region;

8 (4) develops appropriate qualification and
9 performance requirements for providing services under Subdivision
10 (3), including appropriate penalties for failure to provide the
11 services; and

12 (5) sizes the services procured under Subdivision (3)
13 to prevent prolonged rotating outages due to net load variability
14 in high demand and low supply scenarios.

15 (c) The commission shall ensure that:

16 (1) resources that provide services under Subsection
17 (b) are dispatchable and able to meet continuous operating
18 requirements for the season in which the service is procured;

19 (2) winter resource capability qualifications for a
20 service described by Subsection (b) include on-site fuel storage,
21 dual fuel capability, or fuel supply arrangements to ensure winter
22 performance for several days; and

23 (3) summer resource capability qualifications for a
24 service described by Subsection (b) include facilities or
25 procedures to ensure operation under drought conditions.

26 Sec. 39.160. WHOLESale PRICING PROCEDURES. (a) The
27 commission by rule shall establish an emergency pricing program for

1 the wholesale electric market.

2 (b) The emergency pricing program must take effect if the
3 high system-wide offer cap has been in effect for 12 hours in a
4 24-hour period after initially reaching the high system-wide offer
5 cap. The commission by rule shall determine the criteria for the
6 emergency pricing program to cease.

7 (c) The emergency pricing program may not allow an emergency
8 pricing program cap to exceed any nonemergency high system-wide
9 offer cap.

10 (d) The commission by rule shall establish an ancillary
11 services cap to be in effect during the period an emergency pricing
12 program is in effect.

13 (e) Any wholesale pricing procedure that has a low
14 system-wide offer cap may not allow the low system-wide offer cap to
15 exceed the high system-wide offer cap.

16 (f) The commission shall review each system-wide offer cap
17 program adopted by the commission, including the emergency pricing
18 program, at least once every five years to determine whether to
19 update aspects of the program.

20 (g) The emergency pricing program must allow generators to
21 be reimbursed for reasonable, verifiable operating costs that
22 exceed the emergency cap.

23 SECTION 19. Subchapter 2, Chapter 39, Utilities Code, is
24 amended by adding Section 39.9165 to read as follows:

25 Sec. 39.9165. DISTRIBUTED GENERATION REPORTING. (a) In
26 this section, "distributed generation" is an electrical generating
27 facility that:

1 (1) may be located at a customer's point of delivery;
2 (2) is connected at a voltage less than 60 kilovolts;
3 and
4 (3) may be connected in parallel operation to the
5 utility system.

6 (b) An independent organization certified under Section
7 39.151 shall require an owner or operator of distributed generation
8 to register with the organization and interconnecting transmission
9 and distribution utility information necessary for the
10 interconnection of the distributed generator.

11 (c) This section does not apply to distributed generation
12 -serving a residential property.

13 SECTION 20. Section 105.023, Utilities Code, is amended by
14 adding Subsections (b-1), (e), and (f) to read as follows:

15 (b-1) Notwithstanding Subsection (b), a civil penalty under
16 this section shall be in an amount of not less than \$1,000 and not
17 more than \$1,000,000 for each violation of Section 104.258(c).

18 (e) The railroad commission by rule shall establish a
19 classification system to be used by a court under this subchapter
20 for violations of Section 104.258(c) that includes a range of
21 penalties that may be recovered for each class of violation based
22 on:

23 (1) the seriousness of the violation, including:
24 (A) the nature, circumstances, extent, and
25 gravity of a prohibited act; and
26 (B) the hazard or potential hazard created to the
27 health, safety, or economic welfare of the public;

- 1 (2) the history of previous violations;
- 2 (3) the amount necessary to deter future violations;
- 3 (4) efforts to correct the violation; and
- 4 (5) any other matter that justice may require.

5 (f) The classification system established under Subsection
6 (e) shall provide that a penalty in an amount that exceeds \$5,000
7 may be recovered only if the violation is included in the highest
8 class of violations in the classification system.

9 SECTION 21. Section 121.2015, Utilities Code, is amended by
10 amending Subsection (a) and adding Subsections (a-1), (c-1), (c-2),
11 (d), (e), and (f) to read as follows:

12 (a) The railroad commission shall adopt rules regarding:

13 (1) public education and awareness relating to gas
14 pipeline facilities; ~~and~~

15 (2) community liaison for responding to an emergency
16 relating to a gas pipeline facility; and

17 (3) measures a gas pipeline facility operator must
18 implement to prepare the gas pipeline facility to maintain service
19 quality and reliability during extreme weather conditions if the
20 gas pipeline facility:

21 (A) directly serves a natural gas electric
22 generation facility operating solely to provide power to the
23 electric grid for the ERCOT power region or for the ERCOT power
24 region and an adjacent power region; and

25 (B) is included on the electricity supply chain
26 map created under Section 38.203.

27 (a-1) In adopting rules under Subsection (a)(3), the

1 railroad commission shall take into consideration weather
2 predictions produced by the office of the state climatologist.

3 (c-1) The railroad commission shall:

4 (1) inspect gas pipeline facilities described by
5 Subsection (a)(3) for compliance with rules adopted under
6 Subsection (a)(3);

7 (2) provide the owner of a facility described by
8 Subsection (a)(3) with a reasonable period of time in which to
9 remedy any violation the railroad commission discovers in an
10 inspection; and

11 (3) report to the attorney general any violation that
12 is not remedied in a reasonable period of time.

13 (c-2) The railroad commission shall prioritize inspections
14 conducted under Subsection (c-1)(1) based on risk level, as
15 determined by the railroad commission.

16 (d) The railroad commission by rule shall require a gas
17 pipeline facility operator described by Subsection (a)(3) that
18 experiences repeated or major weather-related forced interruptions
19 of service to:

20 (1) contract with a person who is not an employee of
21 the operator to assess the operator's weatherization plans,
22 procedures, and operations; and

23 (2) submit the assessment to the commission.

24 (e) The railroad commission may require an operator of a gas
25 pipeline facility described by Subsection (a)(3) to implement
26 appropriate recommendations included in an assessment submitted to
27 the commission under Subsection (d).

1 (f) The railroad commission shall assess an administrative
2 penalty against a person who violates a rule adopted under
3 Subsection (a)(3) if the violation is not remedied in a reasonable
4 period of time in the manner provided by this subchapter.

5 SECTION 22. Section 121.206, Utilities Code, is amended by
6 adding Subsections (b-1) and (e) to read as follows:

7 (b-1) Notwithstanding Subsection (b), the penalty for each
8 violation may not exceed \$1,000,000 for a violation of a rule
9 adopted under Section 121.2015(a)(3). Each day a violation
10 continues may be considered a separate violation for the purpose of
11 penalty assessment.

12 (e) The guidelines must provide that a penalty in an amount
13 that exceeds \$5,000 for a violation of a rule adopted under Section
14 121.2015(a)(3) may be assessed only if circumstances justify the
15 enhancement of the penalty.

16 SECTION 23. The heading to Section 186.007, Utilities Code,
17 is amended to read as follows:

18 Sec. 186.007. PUBLIC UTILITY COMMISSION WEATHER EMERGENCY
19 PREPAREDNESS REPORTS [~~REPORT~~].

20 SECTION 24. Sections 186.007(a-1), (b), (d), (e), and (f),
21 Utilities Code, are amended to read as follows:

22 (a-1) The commission shall analyze emergency operations
23 plans developed by electric utilities as defined by Section 31.002,
24 power generation companies as defined by Section 31.002,
25 municipally owned utilities, and electric cooperatives that
26 operate generation facilities in this state and retail electric
27 providers as defined by Section 31.002 and prepare a weather

1 emergency preparedness report on power [~~generation~~] weatherization
2 preparedness. In preparing the report, the commission shall:

3 (1) review [~~the~~] emergency operations plans
4 [~~currently~~] on file with the commission;

5 (2) analyze and determine the ability of the electric
6 grid to withstand extreme weather events in the upcoming year;

7 (3) consider the anticipated weather patterns for the
8 upcoming year as forecasted by the National Weather Service or any
9 similar state or national agency; and

10 (4) make recommendations on improving emergency
11 operations plans and procedures in order to ensure the continuity
12 of electric service.

13 (b) The commission shall [~~may~~] require an [~~electric~~
14 ~~generation~~] entity subject to this section to file an updated
15 emergency operations plan if it finds that an emergency operations
16 plan on file does not contain adequate information to determine
17 whether the [~~electric generation~~] entity can provide adequate
18 electric [~~generation~~] services.

19 (d) The commission shall submit the report described by
20 Subsection (a-1) to the lieutenant governor, the speaker of the
21 house of representatives, and the members of the legislature not
22 later than September 30 of each even-numbered year [~~7-2012~~].

23 (e) The commission may submit additional [~~subsequent~~]
24 weather emergency preparedness reports if the commission finds that
25 significant changes to weatherization techniques have occurred or
26 are necessary to protect consumers or vital services, or if there
27 have been changes to statutes or rules relating to weatherization

1 requirements. A report under this subsection must be submitted not
2 later than:

3 (1) March 1 for a summer weather emergency
4 preparedness report; and

5 (2) September 1 for a winter weather emergency
6 preparedness report.

7 (f) The emergency operations plans submitted for a ~~[the]~~
8 report described by Subsection (a-1) and any additional
9 ~~[subsequent]~~ plans submitted under Subsection (e) are public
10 information except for the portions of the plan considered
11 confidential under Chapter 552, Government Code, or other state or
12 federal law. If portions of a plan are designated as confidential,
13 the plan shall be provided to the commission in a redacted form for
14 public inspection with the confidential portions removed. An
15 ~~[electric generation]~~ entity within the ERCOT power region shall
16 provide the entity's plan to ERCOT in its entirety.

17 SECTION 25. Subchapter A, Chapter 186, Utilities Code, is
18 amended by adding Section 186.008 to read as follows:

19 Sec. 186.008. RAILROAD COMMISSION WEATHER EMERGENCY
20 PREPAREDNESS REPORTS. (a) In this section, "commission" means the
21 Railroad Commission of Texas.

22 (b) The commission shall analyze emergency operations plans
23 developed by operators of facilities that produce, treat, process,
24 pressurize, store, or transport natural gas and are included on the
25 electricity supply chain map created under Section 38.203 and
26 prepare a weather emergency preparedness report on weatherization
27 preparedness of those facilities. In preparing the report, the

1 commission shall:

2 (1) review any emergency operations plans on file with
3 the commission;

4 (2) analyze and determine the ability of the
5 electricity supply chain, as mapped under Section 38.203, to
6 withstand extreme weather events in the upcoming year;

7 (3) consider the anticipated weather patterns for the
8 upcoming year as forecasted by the National Weather Service or any
9 similar state or national agency; and

10 (4) make recommendations on improving emergency
11 operations plans and procedures in order to ensure the continuity
12 of natural gas service for the electricity supply chain, as mapped
13 under Section 38.203.

14 (c) The commission shall require an entity subject to this
15 section to file an updated emergency operations plan if it finds
16 that an emergency operations plan on file does not contain adequate
17 information to determine whether the entity can provide adequate
18 natural gas services.

19 (d) The commission may adopt rules relating to the
20 implementation of the report described by Subsection (b).

21 (e) The commission shall submit the report described by
22 Subsection (b) to the lieutenant governor, the speaker of the house
23 of representatives, and the members of the legislature not later
24 than September 30 of each even-numbered year.

25 (f) The commission may submit additional weather emergency
26 preparedness reports if the commission finds that significant
27 changes to weatherization techniques have occurred or are necessary

1 to protect consumers or vital services, or if there have been
2 changes to statutes or rules relating to weatherization
3 requirements. A report under this subsection must be submitted not
4 later than:

5 (1) March 1 for a summer weather emergency
6 preparedness report; and

7 (2) September 1 for a winter weather emergency
8 preparedness report.

9 (g) The emergency operations plans submitted for a report
10 described by Subsection (b) and any additional plans submitted
11 under Subsection (f) are public information except for the portions
12 of the plan considered confidential under Chapter 552, Government
13 Code, or other state or federal law. If portions of a plan are
14 designated as confidential, the plan shall be provided to the
15 commission in a redacted form for public inspection with the
16 confidential portions removed.

17 SECTION 26. Subchapter E, Chapter 13, Water Code, is
18 amended by adding Section 13.1394 to read as follows:

19 Sec. 13.1394. STANDARDS OF EMERGENCY OPERATIONS. (a) In
20 this section:

21 (1) "Affected utility" means a retail public utility,
22 exempt utility, or provider or conveyor of potable or raw water
23 service that:

24 (A) furnishes water service to more than one
25 customer; and

26 (B) is not an affected utility under Section
27 13.1395.

1 (2) "Emergency operations" means the operation of a
2 water system during an extended power outage that impacts the
3 operating affected utility.

4 (3) "Extended power outage" means a power outage
5 lasting for more than 24 hours.

6 (b) An affected utility shall:

7 (1) ensure the emergency operation of its water system
8 during an extended power outage at a minimum water pressure of 20
9 pounds per square inch, or at a water pressure level approved by the
10 commission, as soon as safe and practicable following the
11 occurrence of a natural disaster; and

12 (2) adopt and submit to the commission for its
13 approval:

14 (A) an emergency preparedness plan that
15 demonstrates the utility's ability to provide the emergency
16 operations described by Subdivision (1); and

17 (B) a timeline for implementing the plan
18 described by Paragraph (A).

19 (c) The commission shall review an emergency preparedness
20 plan submitted under Subsection (b). If the commission determines
21 that the plan is not acceptable, the commission shall recommend
22 changes to the plan. The commission must make its recommendations
23 on or before the 90th day after the commission receives the plan.
24 In accordance with commission rules, an emergency preparedness plan
25 for a provider of potable water shall provide for one or more of the
26 following:

27 (1) the maintenance of automatically starting

- 1 auxiliary generators;
2 (2) the sharing of auxiliary generator capacity with
3 one or more affected utilities, including through participation in
4 a statewide mutual aid program;
5 (3) the negotiation of leasing and contracting
6 agreements, including emergency mutual aid agreements with other
7 retail public utilities, exempt utilities, or providers or
8 conveyors of potable or raw water service, if the agreements
9 provide for coordination with the division of emergency management
10 in the governor's office;
11 (4) the use of portable generators capable of serving
12 multiple facilities equipped with quick-connect systems;
13 (5) the use of on-site electrical generation or
14 distributed generation facilities;
15 (6) hardening the electric transmission and
16 distribution system serving the water system;
17 (7) for existing facilities, the maintenance of direct
18 engine or right angle drives;
19 (8) designation of the water system as a critical load
20 facility or redundant, isolated, or dedicated electrical feeds;
21 (9) water storage capabilities;
22 (10) water supplies delivered from outside the service
23 area of the affected utility;
24 (11) the ability to provide water through artesian
25 flows;
26 (12) redundant interconnectivity between pressure
27 zones;

1 (13) emergency water demand rules to maintain
2 emergency operations; or

3 (14) any other alternative determined by the
4 commission to be acceptable.

5 (d) Each affected utility that supplies, provides, or
6 conveys raw surface water shall include in its emergency
7 preparedness plan under Subsection (b) provisions for
8 demonstrating the capability of each raw water intake pump station,
9 pump station, and pressure facility to provide raw water service to
10 its wholesale customers during emergencies. This subsection does
11 not apply to raw water services that are unnecessary or otherwise
12 subject to interruption or curtailment during emergencies under a
13 contract.

14 (e) The commission shall adopt rules to implement this
15 section as an alternative to any rule requiring elevated storage.

16 (f) The commission shall provide an affected utility with
17 access to the commission's financial, managerial, and technical
18 contractors to assist the utility in complying with the applicable
19 emergency preparedness plan submission deadline.

20 (g) The commission by rule shall create an emergency
21 preparedness plan template for use by an affected utility when
22 submitting a plan under this section. The emergency preparedness
23 plan template shall contain:

24 (1) a list and explanation of the preparations an
25 affected utility may make under Subsection (c) for the commission
26 to approve the utility's emergency preparedness plan; and

27 (2) a list of all commission rules and standards

1 pertaining to emergency preparedness plans.

2 (h) An emergency generator used as part of an approved
3 emergency preparedness plan under Subsection (c) must be operated
4 and maintained according to the manufacturer's specifications.

5 (i) The commission shall inspect each utility to ensure that
6 the utility complies with the approved plan.

7 (j) The commission shall consider whether compliance with
8 this section will cause a significant financial burden on customers
9 of an affected utility when making recommended changes under
10 Subsection (c).

11 (k) An affected utility may adopt and enforce limitations on
12 water use while the utility is providing emergency operations.

13 (l) Except as specifically required by this section,
14 information provided by an affected utility under this section is
15 confidential and is not subject to disclosure under Chapter 552,
16 Government Code.

17 (m) The commission shall coordinate with the utility
18 commission in the administration of this section.

19 SECTION 27. The heading to Section 13.1395, Water Code, is
20 amended to read as follows:

21 Sec. 13.1395. STANDARDS OF EMERGENCY OPERATIONS IN CERTAIN
22 COUNTIES.

23 SECTION 28. Section 13.1395(d), Water Code, is amended to
24 read as follows:

25 (d) This subsection does not apply to raw water services
26 that are unnecessary or otherwise subject to interruption or
27 curtailment during emergencies under a contract. Each affected

1 utility that supplies, provides, or conveys surface water shall
2 include in its emergency preparedness plan under Subsection (b)
3 provisions:

4 (1) for the actual installation and maintenance of
5 automatically starting auxiliary generators or distributive
6 generation facilities for each raw water intake pump station, water
7 treatment plant, pump station, and pressure facility necessary to
8 provide water to its wholesale customers during emergencies; or

9 (2) that demonstrate the capability of each raw water
10 intake pump station, water treatment plant, pump station, and
11 pressure facility to provide water to its wholesale customers
12 during emergencies through alternative means acceptable to the
13 commission.

14 SECTION 29. Section 13.1396, Water Code, is amended by
15 adding Subsection (a-1) to read as follows:

16 (a-1) This section applies only to an affected utility, as
17 defined by Section 13.1394 or 13.1395.

18 SECTION 30. Subchapter E, Chapter 13, Water Code, is
19 amended by adding Section 13.151 to read as follows:

20 Sec. 13.151. BILLING FOR SERVICES PROVIDED DURING EXTREME
21 WEATHER EMERGENCY. (a) In this section, "extreme weather
22 emergency" means a period when the previous day's highest
23 temperature did not exceed 28 degrees Fahrenheit and the
24 temperature is predicted to remain at or below that level for the
25 next 24 hours according to the nearest National Weather Service
26 reports.

27 (b) A retail public utility that is required to possess a

1 certificate of public convenience and necessity or a district or
2 affected county that furnishes retail water or sewer utility
3 service shall not impose late fees or disconnect service for
4 nonpayment of bills that are due during an extreme weather
5 emergency until after the emergency is over and shall work with
6 customers that request to establish a payment schedule for unpaid
7 bills that are due during the extreme weather emergency.

8 SECTION 31. Section 13.414, Water Code, is amended by
9 adding Subsections (a-1), (d), and (e) to read as follows:

10 (a-1) Notwithstanding Subsection (a), a retail public
11 utility or affiliated interest that violates Section 13.151 is
12 subject to a civil penalty of not less than \$100 nor more than
13 \$50,000 for each violation.

14 (d) The utility commission by rule shall establish a
15 classification system to be used by a court under this section for
16 violations of Section 13.151 that includes a range of penalties
17 that may be recovered for each class of violation based on:

18 (1) the seriousness of the violation, including:

19 (A) the nature, circumstances, extent, and
20 gravity of a prohibited act; and

21 (B) the hazard or potential hazard created to the
22 health, safety, or economic welfare of the public;

23 (2) the history of previous violations;

24 (3) the amount necessary to deter future violations;

25 (4) efforts to correct the violation; and

26 (5) any other matter that justice may require.

27 (e) The classification system established under Subsection

1 (d) shall provide that a penalty in an amount that exceeds \$5,000
2 may be recovered only if the violation is included in the highest
3 class of violations in the classification system.

4 SECTION 32. Section 13.1396(a)(1), Water Code, is repealed.

5 SECTION 33. (a) The State Energy Plan Advisory Committee is
6 composed of 12 members. The governor, lieutenant governor, and
7 speaker of the house of representatives each shall appoint four
8 members to the advisory committee.

9 (b) Not later than September 1, 2022, the State Energy Plan
10 Advisory Committee shall prepare a comprehensive state energy plan.
11 The plan must:

12 (1) evaluate barriers in the electricity and natural
13 gas markets that prevent sound economic decisions;

14 (2) evaluate methods to improve the reliability,
15 stability, and affordability of electric service in this state;

16 (3) provide recommendations for removing the barriers
17 described by Subdivision (1) of this subsection and using the
18 methods described by Subdivision (2) of this subsection; and

19 (4) evaluate the electricity market structure and
20 pricing mechanisms used in this state, including the ancillary
21 services market and emergency response services.

22 (c) The state energy plan prepared under this section must
23 be submitted to the legislature not later than September 1, 2022.

24 SECTION 34. The Public Utility Commission of Texas and the
25 independent organization certified under Section 39.151, Utilities
26 Code, shall annually review statutes, rules, protocols, and bylaws
27 that apply to conflicts of interest for commissioners and for

1 members of the governing body of the independent organization and
2 submit to the legislature a report on the effects the statutes,
3 rules, protocols, and bylaws have on the ability of the commission
4 and the independent organization to fulfill their duties.

5 SECTION 35. The Public Utility Commission of Texas shall
6 complete the first review required by Section 39.160(f), Utilities
7 Code, as added by this Act, not later than December 31, 2021.

8 SECTION 36. (a) Not later than November 1, 2021, each
9 affected utility, as defined by Section 13.1394, Water Code, as
10 added by this Act, shall complete the submissions required by
11 Section 13.1396(c), Water Code.

12 (b) Not later than March 1, 2022, each affected utility
13 shall submit to the Texas Commission on Environmental Quality the
14 emergency preparedness plan required by Section 13.1394, Water
15 Code, as added by this Act.

16 (c) Not later than July 1, 2022, or upon final approval by
17 the commission, each affected utility shall implement the emergency
18 preparedness plan approved by the Texas Commission on Environmental
19 Quality under Section 13.1394, Water Code, as added by this Act.

20 (d) An affected utility, as defined by Section 13.1394,
21 Water Code, as added by this Act, may file with the Texas Commission
22 on Environmental Quality a written request for an extension, not to
23 exceed 90 days, of the date by which the affected utility is
24 required under Subsection (b) of this section to submit the
25 affected utility's emergency preparedness plan or of the date by
26 which the affected utility is required under Subsection (c) of this
27 section to implement the affected utility's emergency preparedness

1 plan. The Texas Commission on Environmental Quality shall approve
2 the requested extension for good cause shown.

3 SECTION 37. The Texas Electricity Supply Chain Security and
4 Mapping Committee shall produce the map required under Section
5 38.203, Utilities Code, as added by this Act, not later than
6 September 1, 2022.

7 SECTION 38. Not later than six months after the date the
8 Texas Electricity Supply Chain Security and Mapping Committee
9 produces the map required under Section 38.203, Utilities Code, as
10 added by this Act, the Railroad Commission of Texas shall adopt
11 rules necessary to implement:

12 (1) Section 86.044, Natural Resources Code, as added
13 by this Act; and

14 (2) Section 121.2015, Utilities Code, as amended by
15 this Act.

16 SECTION 39. Not later than six months after the effective
17 date of this Act, the Public Utility Commission of Texas shall adopt
18 rules necessary to implement:

19 (1) Section 35.0021, Utilities Code, as added by this
20 Act; and

21 (2) Section 38.075, Utilities Code, as added by this
22 Act.

23 SECTION 40. It is the intent of the legislature that this
24 Act not restrict or amend the sole jurisdiction of the Railroad
25 Commission of Texas to establish rules or requirements relating to
26 curtailment orders for facilities and entities in the commission's
27 jurisdiction under the Natural Resources Code or the Utilities

1 Code.

2 SECTION 41. This Act takes effect immediately if it
3 receives a vote of two-thirds of all the members elected to each
4 house, as provided by Section 39, Article III, Texas Constitution.
5 If this Act does not receive the vote necessary for immediate
6 effect, this Act takes effect September 1, 2021.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 3 passed the Senate on March 29, 2021, by the following vote: Yeas 31, Nays 0; May 27, 2021, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 28, 2021, House granted request of the Senate; May 30, 2021, Senate adopted Conference Committee Report by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 3 passed the House, with amendments, on May 24, 2021, by the following vote: Yeas 142, Nays 1, one present not voting; May 28, 2021, House granted request of the Senate for appointment of Conference Committee; May 30, 2021, House adopted Conference Committee Report by the following vote: Yeas 142, Nays 0, two present not voting.

Chief Clerk of the House

Approved:

Date

Governor