

Amend CSSB 1492 (Senate committee printing) as follows:

(1) In SECTION 2 of the bill, on page 2, line 7, after "Subsection (f)." insert "If after the expiration of four years from the time the commission certifies a power region under Subsection (f), and after notice and a hearing, the commission determines consistent with the study required by Section 38.073 that the electric utility cannot comply with that section, it shall consider approving a plan under Subsection (g)."

(2) Add appropriately numbered SECTIONS to the bill to read as follows and renumber subsequent SECTIONS of the bill appropriately:

SECTION _____. Subchapter D, Chapter 38, Utilities Code, is amended by adding Section 38.073 to read as follows:

Sec. 38.073. AUTHORITY OF COMMISSION DURING AN EMERGENCY.

(a) On a declaration of a natural disaster or other emergency by the governor, the commission may require an electric utility, municipally owned utility, electric cooperative, qualifying facility, power generation company, exempt wholesale generator, or power marketer to sell electricity to an electric utility, municipally owned utility, or electric cooperative that is unable to supply power to meet customer demand due to the natural disaster or other emergency. Any plant, property, equipment, or other items used to receive or deliver electricity under this subsection are used and useful in delivering service to the public, and the commission shall allow timely recovery for the costs of those items. The commission may order an electric utility, municipally owned utility, or electric cooperative to provide interconnection service to another electric utility, municipally owned utility, or electric cooperative to facilitate a sale of electricity under this section. If the commission does not order the sale of electricity during a declared emergency as described by this subsection, the commission shall promptly submit to the legislature a report describing the reasons why the commission did not make that order.

(b) If an entity receives electricity under Subsection (a), the receiving entity shall reimburse the supplying entity for the actual cost of providing the electricity. The entity receiving the electricity is responsible for any transmission and distribution

service charges specifically incurred in relation to providing the electricity.

(c) An entity that pays for electricity received under Subsection (b) and that is regulated by the commission may fully recover the cost of the electricity in a timely manner by:

(1) including the cost in the entity's fuel cost under Section 36.203; or

(2) notwithstanding Section 36.201, imposing a different surcharge.

SECTION _____. (a) Not later than November 1, 2009, the Public Utility Commission of Texas shall conduct and complete a study to evaluate:

(1) the locations in this state that are most likely to experience a natural disaster or other emergency;

(2) the ability of each entity described by Section 38.073(a), Utilities Code, as added by this Act, to comply with that section in the event of a natural disaster or other emergency; and

(3) any steps an entity described by Section 38.073(a), Utilities Code, as added by this Act, should take to prepare to comply with that section.

(b) An entity described by Section 38.073(a), Utilities Code, as added by this Act, shall comply with any order issued by the Public Utility Commission of Texas under that subsection while the study required by Subsection (a) of this section is conducted.

(c) The Public Utility Commission of Texas shall prepare a report based on the study conducted under Subsection (a) of this section. The report must include any recommendations the commission considers advisable in relation to the implementation of and compliance with Section 38.073, Utilities Code, as added by this Act. The commission may include the report in the report required by Section 31.003, Utilities Code.