

By: Kolkhorst, Kleinschmidt

H.B. No. 1463

Substitute the following for H.B. No. 1463:

By: Solomons

C.S.H.B. No. 1463

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the authority of the Public Utility Commission of Texas  
3 to order certain electric providers to provide power to other  
4 electric providers during a natural disaster or declared emergency.

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

6 SECTION 1. Subchapter D, Chapter 38, Utilities Code, is  
7 amended by adding Section 38.073 to read as follows:

8 Sec. 38.073. AUTHORITY OF COMMISSION DURING AN EMERGENCY.

9 (a) On a declaration of a natural disaster or other emergency by  
10 the governor, the commission may require an electric utility,  
11 municipally owned utility, electric cooperative, qualifying  
12 facility, power generation company, exempt wholesale generator,  
13 power marketer, or retail electric provider to sell electricity to  
14 an electric utility, municipally owned utility, electric  
15 cooperative, or retail electric provider that is unable to supply  
16 power to meet customer demand due to the natural disaster or other  
17 emergency. Any plant, property, equipment, or other items used to  
18 receive or deliver electricity under this subsection are used and  
19 useful in delivering service to the public, and the commission  
20 shall allow timely recovery for the costs of those items. The  
21 commission may order an electric utility, municipally owned  
22 utility, or electric cooperative to provide interconnection  
23 service to another electric utility, municipally owned utility, or  
24 electric cooperative to facilitate a sale of electricity under this

1 section. If the commission does not order the sale of electricity  
2 during a declared emergency as described by this subsection, the  
3 commission shall promptly submit to the legislature a report  
4 describing the reasons why the commission did not make that order.

5 (b) If an entity receives electricity under Subsection (a),  
6 the receiving entity shall reimburse the supplying entity for the  
7 actual cost of providing the electricity. The entity receiving the  
8 electricity is responsible for any transmission and distribution  
9 service charges specifically incurred in relation to providing the  
10 electricity.

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

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

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

18 SECTION 2. (a) Not later than November 1, 2009, the Public  
19 Utility Commission of Texas shall conduct and complete a study to  
20 evaluate:

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

23 (2) the ability of each entity described by Section  
24 38.073(a), Utilities Code, as added by this Act, to comply with that  
25 section in the event of a natural disaster or other emergency; and

26 (3) any steps an entity described by Section  
27 38.073(a), Utilities Code, as added by this Act, should take to

1 prepare to comply with that section.

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

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

13 SECTION 3. This Act takes effect immediately if it receives  
14 a vote of two-thirds of all the members elected to each house, as  
15 provided by Section 39, Article III, Texas Constitution. If this  
16 Act does not receive the vote necessary for immediate effect, this  
17 Act takes effect September 1, 2009.