

1-1 By: Patrick, Nichols S.B. No. 361
1-2 (In the Senate - Filed December 15, 2008; February 17, 2009,
1-3 read first time and referred to Subcommittee on Flooding and
1-4 Evacuations; March 30, 2009, reported adversely, with favorable
1-5 Committee Substitute from Committee on Intergovernmental Relations
1-6 by the following vote: Yeas 4, Nays 0; March 30, 2009, sent to
1-7 printer.)

1-8 COMMITTEE SUBSTITUTE FOR S.B. No. 361 By: Patrick

1-9 A BILL TO BE ENTITLED
1-10 AN ACT

1-11 relating to the requirement that certain water service providers
1-12 ensure emergency operations during an extended power outage.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Subchapter E, Chapter 13, Water Code, is amended
1-15 by adding Sections 13.1395 and 13.1396 to read as follows:

1-16 Sec. 13.1395. STANDARDS OF EMERGENCY OPERATIONS. (a) In
1-17 this section:

1-18 (1) "Affected utility" means a retail public utility,
1-19 exempt utility, or provider or conveyor of potable or raw water
1-20 service that furnishes water service to more than one customer in a
1-21 county with a population of 3.3 million or more.

1-22 (2) "Emergency operations" means the operation of a
1-23 water system during an extended power outage at a minimum water
1-24 pressure of 35 pounds per square inch.

1-25 (3) "Extended power outage" means a power outage
1-26 lasting for more than 24 hours.

1-27 (b) An affected utility shall:

1-28 (1) ensure the emergency operation of its water system
1-29 during an extended power outage as soon as safe and practicable
1-30 following the occurrence of a natural disaster; and

1-31 (2) adopt and submit to the commission for its
1-32 approval an emergency preparedness plan that demonstrates the
1-33 utility's ability to provide emergency operations.

1-34 (c) The commission shall review and approve or disapprove an
1-35 emergency preparedness plan submitted under Subsection (b) and
1-36 issue a notification of approval or a notification of the reasons
1-37 for disapproval of the plan. In accordance with commission rules,
1-38 an emergency preparedness plan shall provide for:

1-39 (1) the maintenance of automatically starting
1-40 auxiliary generators;

1-41 (2) the sharing of auxiliary generator capacity with
1-42 one or more affected utilities;

1-43 (3) the negotiation of leasing and contracting
1-44 agreements, including emergency mutual aid agreements with other
1-45 retail public utilities, exempt utilities, or providers or
1-46 conveyors of potable or raw water service, if the agreements
1-47 provide for coordination with the division of emergency management
1-48 in the governor's office;

1-49 (4) the use of portable generators capable of serving
1-50 multiple facilities equipped with quick-connect systems;

1-51 (5) the use of on-site electrical generation or
1-52 distributed generation facilities;

1-53 (6) hardening the electric transmission and
1-54 distribution system serving the water system; or

1-55 (7) for existing facilities, the maintenance of direct
1-56 engine or right angle drives.

1-57 (d) Not later than June 1, 2011, each affected utility that
1-58 supplies, provides, or conveys surface water shall include in its
1-59 emergency preparedness plan under Subsection (b) provisions for the
1-60 actual installation and maintenance of automatically starting
1-61 auxiliary generators or distributive generation facilities for
1-62 each raw water intake pump station, water treatment plant, pump
1-63 station, and pressure facility necessary to provide water to its

2-1 wholesale customers.

2-2 (e) Each affected utility required to submit an emergency
2-3 preparedness plan under this section shall submit its plan to the
2-4 commission not later than June 1, 2011.

2-5 (f) Not later than March 1, 2010, the commission shall adopt
2-6 rules to implement this section as an alternative to any rule
2-7 requiring elevated storage.

2-8 (g) The commission shall provide an affected utility with
2-9 access to the commission's financial, managerial, and technical
2-10 contractors to assist the utility in complying with the applicable
2-11 emergency preparedness plan submission deadline.

2-12 (h) The commission by rule shall create an emergency
2-13 preparedness plan template for use by an affected utility when
2-14 submitting a plan under this section. The emergency preparedness
2-15 plan template shall contain:

2-16 (1) a list and explanation of the preparations an
2-17 affected utility may make under Subsection (c) for the commission
2-18 to approve the utility's emergency preparedness plan; and

2-19 (2) a list of all commission rules and standards
2-20 pertaining to emergency preparedness plans.

2-21 (i) An emergency generator used as part of an approved
2-22 emergency preparedness plan under Subsection (c) must be
2-23 operated and maintained according to the manufacturer's
2-24 specifications.

2-25 (j) An affected utility shall implement its emergency
2-26 preparedness plan as approved by the commission not later than June
2-27 1, 2011. The commission shall inspect each utility to ensure that
2-28 the utility complies with the approved plan.

2-29 (k) The commission may not grant a waiver of the
2-30 requirements of this section to any affected utility.

2-31 (l) An affected utility may adopt and enforce limitations on
2-32 water use while the utility is providing emergency operations.

2-33 (m) Except as specifically required by this section,
2-34 information provided by an affected utility under this section is
2-35 confidential and is not subject to disclosure under Chapter 552,
2-36 Government Code.

2-37 Sec. 13.1396. COORDINATION OF EMERGENCY OPERATIONS. (a) In
2-38 this section:

2-39 (1) "Affected utility" has the meaning assigned by
2-40 Section 13.1395.

2-41 (2) "County judge" means a county judge or the person
2-42 designated by a county judge.

2-43 (3) "Electric utility" means the electric
2-44 transmission and distribution utility providing electric service
2-45 to the water and wastewater facilities of an affected utility.

2-46 (b) An affected utility shall submit to the county judge,
2-47 the office of emergency management of each county in which the
2-48 utility has more than one customer, the Public Utility Commission
2-49 of Texas, and the office of emergency management of the governor, a
2-50 copy of:

2-51 (1) the affected utility's emergency preparedness plan
2-52 approved under Section 13.1395; and

2-53 (2) the commission's notification to the affected
2-54 utility that the plan is approved.

2-55 (c) Not later than December 31, 2009, the affected utility
2-56 shall submit to the county judge and the office of emergency
2-57 management of each county in which the utility has water and
2-58 wastewater facilities that qualify for critical load status under
2-59 rules adopted by the Public Utility Commission of Texas, and to the
2-60 Public Utility Commission of Texas and the division of emergency
2-61 management of the governor:

2-62 (1) information identifying the location and
2-63 providing a general description of all water and wastewater
2-64 facilities that qualify for critical load status; and

2-65 (2) emergency contact information for the affected
2-66 utility, including:

2-67 (A) the person who will serve as a point of
2-68 contact and the person's telephone number;

2-69 (B) the person who will serve as an alternative

3-1 point of contact and the person's telephone number; and

3-2 (C) the affected utility's mailing address.

3-3 (d) An affected utility shall immediately update the
3-4 information provided under Subsection (c) as changes to the
3-5 information occur.

3-6 (e) Not later than March 1 of each year, the county judge of
3-7 each county that receives the information required by Subsections
3-8 (c) and (d) shall:

3-9 (1) submit the information for each affected utility
3-10 to relevant electric utilities; and

3-11 (2) in cooperation with the affected utility, submit
3-12 for each affected utility any forms reasonably required by an
3-13 electric utility for determining critical load status, including a
3-14 critical care eligibility determination form or similar form.

3-15 (f) Not later than June 1 of each year, an electric utility
3-16 that has received information relating to an affected utility under
3-17 Subsection (e) shall determine whether the facilities of the
3-18 affected utility qualify for critical load status under rules
3-19 adopted by the Public Utility Commission of Texas.

3-20 (g) If an electric utility determines that an affected
3-21 utility's facilities do not qualify for critical load status, the
3-22 electric utility, not later than the 30th day after the date the
3-23 electric utility receives the information required by Subsections
3-24 (c) and (d), shall provide a detailed explanation of the electric
3-25 utility's determination to each county judge that submitted the
3-26 information.

3-27 (h) Except as specifically required by this section,
3-28 information received under this section is confidential and is not
3-29 subject to disclosure under Chapter 552, Government Code.

3-30 SECTION 2. Not later than March 1, 2010, the Texas
3-31 Commission on Environmental Quality shall adopt standards as
3-32 required by Section 13.1395, Water Code, as added by this Act.

3-33 SECTION 3. This Act takes effect immediately if it receives
3-34 a vote of two-thirds of all the members elected to each house, as
3-35 provided by Section 39, Article III, Texas Constitution. If this
3-36 Act does not receive the vote necessary for immediate effect, this
3-37 Act takes effect September 1, 2009.

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