

By: Ogden

S.B. No. 681

A BILL TO BE ENTITLED

AN ACT

relating to the ability of electric utilities to provide electric service during a major power outage.

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

SECTION 1. 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

1 commission shall promptly submit to the legislature a report  
2 describing the reasons why the commission did not make that order.

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

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

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

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

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

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

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

25 (3) any steps an entity described by Subsection (a),  
26 Section 38.073, Utilities Code, as added by this Act, should take to  
27 prepare to comply with that section; and

1           (4) the potential for distributed generation,  
2 including renewable power with battery backup and combined heat and  
3 power systems, to strengthen reliability of electric service during  
4 a natural disaster or other emergency.

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

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

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