

1-1 By: Ogden S.B. No. 681  
1-2 (In the Senate - Filed February 4, 2009; February 23, 2009,  
1-3 read first time and referred to Committee on Business and Commerce;  
1-4 April 24, 2009, reported adversely, with favorable Committee  
1-5 Substitute by the following vote: Yeas 7, Nays 0; April 24, 2009,  
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 681 By: Eltife

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to the ability of electric utilities to provide electric  
1-11 service during a major power outage.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Subchapter D, Chapter 38, Utilities Code, is  
1-14 amended by adding Section 38.073 to read as follows:

1-15 Sec. 38.073. AUTHORITY OF COMMISSION DURING AN EMERGENCY.

1-16 (a) On a declaration of a natural disaster or other emergency by  
1-17 the governor, the commission may require an electric utility,  
1-18 municipally owned utility, electric cooperative, qualifying  
1-19 facility, power generation company, exempt wholesale generator,  
1-20 power marketer, or retail electric provider to sell electricity to  
1-21 an electric utility, municipally owned utility, electric  
1-22 cooperative, or retail electric provider that is unable to supply  
1-23 power to meet customer demand due to the natural disaster or other  
1-24 emergency. Any plant, property, equipment, or other items used to  
1-25 receive or deliver electricity under this subsection are used and  
1-26 useful in delivering service to the public, and the commission  
1-27 shall allow timely recovery for the costs of those items. The  
1-28 commission may order an electric utility, municipally owned  
1-29 utility, or electric cooperative to provide interconnection  
1-30 service to another electric utility, municipally owned utility, or  
1-31 electric cooperative to facilitate a sale of electricity under this  
1-32 section. If the commission does not order the sale of electricity  
1-33 during a declared emergency as described by this subsection, the  
1-34 commission shall promptly submit to the legislature a report  
1-35 describing the reasons why the commission did not make that order.

1-36 (b) If an entity receives electricity under Subsection (a),  
1-37 the receiving entity shall reimburse the supplying entity for the  
1-38 actual cost of providing the electricity. The entity receiving the  
1-39 electricity is responsible for any transmission and distribution  
1-40 service charges specifically incurred in relation to providing the  
1-41 electricity.

1-42 (c) An entity that pays for electricity received under  
1-43 Subsection (b) and that is regulated by the commission may fully  
1-44 recover the cost of the electricity in a timely manner by:

1-45 (1) including the cost in the entity's fuel cost under  
1-46 Section 36.203; or

1-47 (2) notwithstanding Section 36.201, imposing a  
1-48 different surcharge.

1-49 SECTION 2. (a) Not later than November 1, 2009, the Public  
1-50 Utility Commission of Texas shall conduct and complete a study to  
1-51 evaluate:

1-52 (1) the locations in this state that are most likely to  
1-53 experience a natural disaster or other emergency;

1-54 (2) the ability of each entity described by Subsection  
1-55 (a), Section 38.073, Utilities Code, as added by this Act, to comply  
1-56 with that section in the event of a natural disaster or other  
1-57 emergency; and

1-58 (3) any steps an entity described by Subsection (a),  
1-59 Section 38.073, Utilities Code, as added by this Act, should take to  
1-60 prepare to comply with that section.

1-61 (b) An entity described by Subsection (a), Section 38.073,  
1-62 Utilities Code, as added by this Act, shall comply with any order  
1-63 issued by the Public Utility Commission of Texas under that

2-1 subsection while the study required by Subsection (a) of this  
2-2 section is conducted.

2-3 (c) The Public Utility Commission of Texas shall prepare a  
2-4 report based on the study conducted under Subsection (a) of this  
2-5 section. The report must include any recommendations the  
2-6 commission considers advisable in relation to the implementation of  
2-7 and compliance with Section 38.073, Utilities Code, as added by  
2-8 this Act. The commission may include the report in the report  
2-9 required by Section 31.003, Utilities Code.

2-10 SECTION 3. This Act takes effect immediately if it receives  
2-11 a vote of two-thirds of all the members elected to each house, as  
2-12 provided by Section 39, Article III, Texas Constitution. If this  
2-13 Act does not receive the vote necessary for immediate effect, this  
2-14 Act takes effect September 1, 2009.

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