

1-1 By: Hancock S.B. No. 936
 1-2 (In the Senate - Filed February 21, 2019; March 1, 2019,
 1-3 read first time and referred to Committee on Business & Commerce;
 1-4 March 27, 2019, reported favorably by the following vote: Yeas 8,
 1-5 Nays 0; March 27, 2019, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7 Hancock	X			
1-8 Nichols	X			
1-9 Campbell	X			
1-10 Creighton	X			
1-11 Menéndez			X	
1-12 Paxton	X			
1-13 Schwertner	X			
1-14 Whitmire	X			
1-15 Zaffirini	X			

1-17 A BILL TO BE ENTITLED
 1-18 AN ACT

1-19 relating to a cybersecurity monitor for certain electric utilities.

1-20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-21 SECTION 1. Subchapter E, Chapter 36, Utilities Code, is
 1-22 amended by adding Section 36.213 to read as follows:

1-23 Sec. 36.213. ADJUSTMENT FOR CYBERSECURITY MONITOR COSTS FOR
 1-24 CERTAIN UTILITIES. (a) This section does not apply to an electric
 1-25 utility that operates solely outside of ERCOT and has not elected to
 1-26 participate in the cybersecurity monitor program under Section
 1-27 39.1516.

1-28 (b) The commission, on its own motion or on the petition of
 1-29 an electric utility, shall allow the electric utility to recover
 1-30 reasonable and necessary costs incurred in connection with
 1-31 activities under Section 39.1516.

1-32 SECTION 2. Section 39.002, Utilities Code, is amended to
 1-33 read as follows:

1-34 Sec. 39.002. APPLICABILITY. This chapter, other than
 1-35 Sections 39.1516, 39.155, 39.157(e), 39.203, [39.903,] 39.904,
 1-36 39.9051, 39.9052, and 39.914(e), does not apply to a municipally
 1-37 owned utility or an electric cooperative. Sections 39.157(e),
 1-38 39.203, and 39.904, however, apply only to a municipally owned
 1-39 utility or an electric cooperative that is offering customer
 1-40 choice. If there is a conflict between the specific provisions of
 1-41 this chapter and any other provisions of this title, except for
 1-42 Chapters 40 and 41, the provisions of this chapter control.

1-43 SECTION 3. Subchapter D, Chapter 39, Utilities Code, is
 1-44 amended by adding Section 39.1516 to read as follows:

1-45 Sec. 39.1516. CYBERSECURITY MONITOR. (a) In this section,
 1-46 "monitored utility" means:

1-47 (1) a transmission and distribution utility;

1-48 (2) a corporation described in Section 32.053;

1-49 (3) a municipally owned utility or electric
 1-50 cooperative that owns or operates equipment or facilities in the
 1-51 ERCOT power region to transmit electricity at 60 or more kilovolts;
 1-52 or

1-53 (4) an electric utility, municipally owned utility, or
 1-54 electric cooperative that operates solely outside the ERCOT power
 1-55 region that has elected to participate under Subsection (d).

1-56 (b) The commission and the independent organization
 1-57 certified under Section 39.151 shall contract with an entity
 1-58 selected by the commission to act as the commission's cybersecurity
 1-59 monitor to:

1-60 (1) manage a comprehensive cybersecurity outreach
 1-61 program for monitored utilities;

2-1 (2) meet regularly with monitored utilities to discuss
 2-2 emerging threats, best business practices, and training
 2-3 opportunities;

2-4 (3) review self-assessments by monitored utilities of
 2-5 cybersecurity efforts;

2-6 (4) research and develop best business practices
 2-7 regarding cybersecurity; and

2-8 (5) report to the commission on monitored utility
 2-9 cybersecurity preparedness.

2-10 (c) The independent organization certified under Section
 2-11 39.151 shall provide to the cybersecurity monitor any access,
 2-12 information, support, and cooperation that the commission
 2-13 determines is necessary for the monitor to perform the functions
 2-14 described by Subsection (b). The independent organization shall
 2-15 use funds from the fee authorized by Section 39.151(e) to pay for
 2-16 the cybersecurity monitor's activities.

2-17 (d) An electric utility, municipally owned utility, or
 2-18 electric cooperative that operates solely outside the ERCOT power
 2-19 region may elect to participate in the cybersecurity monitor
 2-20 program or to discontinue participation. The commission shall
 2-21 adopt rules establishing:

2-22 (1) procedures for an electric utility, municipally
 2-23 owned utility, or electric cooperative to notify the commission,
 2-24 the independent organization certified under Section 39.151, and
 2-25 the cybersecurity monitor that the utility or cooperative elects to
 2-26 participate or to discontinue participation; and

2-27 (2) a mechanism to require an electric utility,
 2-28 municipally owned utility, or electric cooperative that elects to
 2-29 participate to contribute to the costs incurred by the independent
 2-30 organization under this section.

2-31 (e) The cybersecurity monitor shall operate under the
 2-32 supervision and oversight of the commission.

2-33 (f) The commission shall adopt rules as necessary to
 2-34 implement this section and may enforce the provisions of this
 2-35 section in the manner provided by this title. This section does not
 2-36 grant enforcement authority to the cybersecurity monitor or
 2-37 authorize the commission to delegate the commission's enforcement
 2-38 authority to the cybersecurity monitor. This section does not
 2-39 grant enforcement authority to the commission beyond authority
 2-40 explicitly provided for in this title.

2-41 (g) The staff of the cybersecurity monitor may communicate
 2-42 with commission staff about any cybersecurity information without
 2-43 restriction. Commission staff shall maintain the confidentiality
 2-44 of the cybersecurity information. Notwithstanding any other law,
 2-45 commission staff may not disclose information obtained under this
 2-46 section in an open meeting or through a response to a public
 2-47 information request.

2-48 (h) Information written, produced, collected, assembled, or
 2-49 maintained under Subsection (b), (c), or (g) is confidential and
 2-50 not subject to disclosure under Chapter 552, Government Code. A
 2-51 governmental body is not required to conduct an open meeting under
 2-52 Chapter 551, Government Code, to deliberate a matter described by
 2-53 Subsection (b), (c), or (g).

2-54 SECTION 4. Section 39.402(a), Utilities Code, is amended to
 2-55 read as follows:

2-56 (a) Until the date on which an electric utility subject to
 2-57 this subchapter is authorized by the commission to implement
 2-58 customer choice, the rates of the utility shall be regulated under
 2-59 traditional cost of service regulation and the utility is subject
 2-60 to all applicable regulatory authority prescribed by this subtitle
 2-61 and Subtitle A, including Chapters 14, 32, 33, 36, and 37. Until
 2-62 the date on which an electric utility subject to this subchapter
 2-63 implements customer choice, the provisions of this chapter, other
 2-64 than this subchapter, Sections 39.1516, 39.904, and 39.905, and the
 2-65 provisions relating to the duty to obtain a permit from the Texas
 2-66 Commission on Environmental Quality for an electric generating
 2-67 facility and to reduce emissions from an electric generating
 2-68 facility, shall not apply to that utility. That portion of any
 2-69 commission order entered before September 1, 2001, to comply with

3-1 this subchapter shall be null and void.

3-2 SECTION 5. Section 39.452(d), Utilities Code, is amended to
3-3 read as follows:

3-4 (d) Until the date on which an electric utility subject to
3-5 this subchapter implements customer choice:

3-6 (1) the provisions of this chapter do not apply to that
3-7 electric utility, other than this subchapter, Sections 39.1516,
3-8 39.904, and 39.905, the provisions relating to the duty to obtain a
3-9 permit from the Texas Commission on Environmental Quality for an
3-10 electric generating facility and to reduce emissions from an
3-11 electric generating facility, and the provisions of Subchapter G
3-12 that pertain to the recovery and securitization of hurricane
3-13 reconstruction costs authorized by Sections 39.458-39.463; and

3-14 (2) the electric utility is not subject to a rate
3-15 freeze and, subject to the limitation provided by Subsection (b),
3-16 may file for rate changes under Chapter 36 and for approval of one
3-17 or more of the rate rider mechanisms authorized by Sections 39.454
3-18 and 39.455.

3-19 SECTION 6. Section 39.502(b), Utilities Code, is amended to
3-20 read as follows:

3-21 (b) Until the date on which an electric utility subject to
3-22 this subchapter implements customer choice, the provisions of this
3-23 chapter, other than this subchapter and Sections 39.1516, 39.904,
3-24 and 39.905, do not apply to that utility.

3-25 SECTION 7. Section 39.552(b), Utilities Code, is amended to
3-26 read as follows:

3-27 (b) Until the date on which an electric utility subject to
3-28 this subchapter implements customer choice, the provisions of this
3-29 chapter, other than this subchapter and Sections 39.1516, 39.904,
3-30 and 39.905, do not apply to that utility.

3-31 SECTION 8. Section 40.001(b), Utilities Code, is amended to
3-32 read as follows:

3-33 (b) Except as specifically provided in this subsection,
3-34 Chapter 39 does not apply to a river authority operating a steam
3-35 generating plant on or before January 1, 1999, or a corporation
3-36 authorized by Chapter 152, Water Code, or Section 32.053. A river
3-37 authority operating a steam generating plant on or before January
3-38 1, 1999, is subject to Sections 39.051(a)-(c), 39.108, 39.1516,
3-39 39.155, 39.157(e), and 39.203.

3-40 SECTION 9. Section 40.004, Utilities Code, is amended to
3-41 read as follows:

3-42 Sec. 40.004. JURISDICTION OF COMMISSION. Except as
3-43 specifically otherwise provided in this chapter, the commission has
3-44 jurisdiction over municipally owned utilities only for the
3-45 following purposes:

3-46 (1) to regulate wholesale transmission rates and
3-47 service, including terms of access, to the extent provided by
3-48 Subchapter A, Chapter 35;

3-49 (2) to regulate certification of retail service areas
3-50 to the extent provided by Chapter 37;

3-51 (3) to regulate rates on appeal under Subchapters D
3-52 and E, Chapter 33, subject to Section 40.051(c);

3-53 (4) to establish a code of conduct as provided by
3-54 Section 39.157(e) applicable to anticompetitive activities and to
3-55 affiliate activities limited to structurally unbundled affiliates
3-56 of municipally owned utilities, subject to Section 40.054;

3-57 (5) to establish terms and conditions for open access
3-58 to transmission and distribution facilities for municipally owned
3-59 utilities providing customer choice, as provided by Section 39.203;

3-60 (6) ~~to require collection of the nonbypassable fee~~
3-61 ~~established under Section 39.903(b) and~~ to administer the
3-62 renewable energy credits program under Section 39.904(b) and the
3-63 natural gas energy credits program under Section 39.9044(b); ~~and~~

3-64 (7) to require reports of municipally owned utility
3-65 operations only to the extent necessary to:

3-66 (A) enable the commission to determine the
3-67 aggregate load and energy requirements of the state and the
3-68 resources available to serve that load; or

3-69 (B) enable the commission to determine

4-1 information relating to market power as provided by Section 39.155;
4-2 and
4-3 (8) to evaluate and monitor the cybersecurity
4-4 preparedness of a municipally owned utility described by Section
4-5 39.1516(a)(3) or (4).

4-6 SECTION 10. Section 41.004, Utilities Code, is amended to
4-7 read as follows:

4-8 Sec. 41.004. JURISDICTION OF COMMISSION. Except as
4-9 specifically provided otherwise in this chapter, the commission has
4-10 jurisdiction over electric cooperatives only as follows:

4-11 (1) to regulate wholesale transmission rates and
4-12 service, including terms of access, to the extent provided in
4-13 Subchapter A, Chapter 35;

4-14 (2) to regulate certification to the extent provided
4-15 in Chapter 37;

4-16 (3) to establish a code of conduct as provided in
4-17 Section 39.157(e) subject to Section 41.054;

4-18 (4) to establish terms and conditions, but not rates,
4-19 for open access to distribution facilities for electric
4-20 cooperatives providing customer choice, as provided in Section
4-21 39.203; ~~and~~

4-22 (5) to require reports of electric cooperative
4-23 operations only to the extent necessary to:

4-24 (A) ensure the public safety;

4-25 (B) enable the commission to satisfy its
4-26 responsibilities relating to electric cooperatives under this
4-27 chapter;

4-28 (C) enable the commission to determine the
4-29 aggregate electric load and energy requirements in the state and
4-30 the resources available to serve that load; or

4-31 (D) enable the commission to determine
4-32 information relating to market power as provided in Section 39.155;
4-33 and

4-34 (6) to evaluate and monitor the cybersecurity
4-35 preparedness of an electric cooperative described by Section
4-36 39.1516(a)(3) or (4).

4-37 SECTION 11. To the extent of any conflict, this Act prevails
4-38 over another Act of the 86th Legislature, Regular Session, 2019,
4-39 relating to nonsubstantive additions to and corrections in enacted
4-40 codes.

4-41 SECTION 12. This Act takes effect September 1, 2019.

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