

By: Hall

S.B. No. 1003

A BILL TO BE ENTITLED

AN ACT

1
2 relating to promoting the resilience of the electric grid and
3 certain municipalities.

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

5 SECTION 1. The legislature finds that:

6 (1) A resilient Texas electric grid that offers
7 businesses continuity of operations in the event of a natural or
8 man-made disaster, including hurricanes, flooding, terrorist
9 attacks, cybersecurity threats, electromagnetic pulse threats, and
10 geomagnetic disturbance threats, will be an unrivaled attraction
11 for businesses to expand or move their operations to this state and
12 for protecting military installations;

13 (2) this state's food and water supplies, fuel supply,
14 communications systems, banking, hospitals and health care
15 facilities, law enforcement, and countless critical functions
16 depend on the electric grid, making the grid's protection vital to
17 our economy and homeland security;

18 (3) the United States Department of Homeland Security
19 has recommended protection against these threats and has published
20 Electromagnetic Pulse (EMP) Protection and Resilience Guidelines
21 for Critical Infrastructure and Equipment, which can be used to
22 mitigate the effects of such a disaster;

23 (4) Texas Governor Greg Abbott has outlined in his
24 most recent state-wide address that he is giving the legislature

1 time during this legislative session "to make Texas more resilient
2 to future disasters" by "making disaster response an emergency
3 item;"

4 (5) public confidence in the resilience of the Texas
5 electric grid is essential to ensuring economic prosperity,
6 domestic tranquility, continuity of government, and
7 life-sustaining systems;

8 (6) protection of the electric grid would assure these
9 businesses and the citizens of this state that the "lights will be
10 back on first in Texas" in the event of a catastrophic failure of
11 the grid;

12 (7) the federal government has failed to protect the
13 citizens of this state by addressing the vulnerability of the
14 electric grid;

15 (8) Texas is uniquely positioned to be the first state
16 to take action to protect its electric grid, because it is the only
17 state with a grid exclusively within its boundaries; and

18 (9) when this state begins implementation of the
19 electric grid resilience plan, short- and long-term economic
20 benefit will far exceed, even the most optimistic estimates of, the
21 conventional economic incentives provided by tax abatements to
22 attract businesses to this state.

23 SECTION 2. Subtitle B, Title 2, Utilities Code, is amended
24 by adding Chapter 44 to read as follows:

25 CHAPTER 44. GRID RESILIENCE

26 Sec. 44.001. DEFINITIONS. In this chapter:

27 (1) "EMP Commission reports" means the July 2017

1 report released by the Commission to Assess the Threat to the United
2 States from Electromagnetic Pulse (EMP) Attack titled "Recommended
3 E3 HEMP Heave Electric Field Waveform for the Critical
4 Infrastructures" and all other reports by the EMP Commission.

5 (2) "Micro-grid" means a group of interconnected loads
6 and distributed energy resources inside clearly defined electrical
7 boundaries that act as a single controllable entity with respect to
8 the grid.

9 (3) "Security commission" means the Texas Grid
10 Security Commission.

11 Sec. 44.002. TEXAS GRID SECURITY COMMISSION. (a) The
12 security commission is composed of the following members:

13 (1) a representative of the Texas Division of
14 Emergency Management appointed by the chief of the division;

15 (2) a representative of the State Office of Risk
16 Management appointed by the risk management board;

17 (3) a representative of the independent organization
18 certified under Section 39.151 for the ERCOT region appointed by
19 the chief executive officer of the organization;

20 (4) a representative of the Texas Military Department
21 appointed by the adjutant general of the department;

22 (5) a representative of the Texas Military
23 Preparedness Commission appointed by the military preparedness
24 commission;

25 (6) a representative of the Office of State-Federal
26 Relations appointed by the director of the office;

27 (7) a representative of the Department of Information

1 Resources appointed by the director of the department.

2 (8) a representative of power generation companies
3 appointed by the chief of the Texas Division of Emergency
4 Management;

5 (9) two representatives of transmission and
6 distribution utilities appointed by the chief of the Texas Division
7 of Emergency Management;

8 (10) one representative appointed by the chief of the
9 Texas Division of Emergency Management from each of the following
10 essential services sectors:

11 (A) law enforcement;

12 (B) emergency services;

13 (C) communications;

14 (D) water and sewer services;

15 (E) health care;

16 (F) financial services; and

17 (G) food and agriculture;

18 (11) an expert in the field of higher education
19 appointed by the chief of the Texas Division of Emergency
20 Management.

21 (b) The chief of the Texas Division of Emergency Management
22 may appoint a member of the United States Air Force's
23 Electromagnetic Defense Task Force to the security commission.

24 (c) The Texas Division of Emergency Management shall
25 designate a member of the security commission to serve as presiding
26 officer.

27 (d) The security commission shall convene at the call of the

1 presiding officer.

2 (e) A vacancy on the security commission is filled by
3 appointment for the unexpired term in the same manner as the
4 original appointment.

5 Sec. 44.003. GRID RESILIENCE INFORMATION. (a) Information
6 used in determining the vulnerabilities of the electric grid or
7 that is related to measures to be taken to protect the grid is
8 confidential and not subject to Chapter 552, Government Code.

9 (b) Information described by Subsection (a) shall be stored
10 and maintained by the independent organization certified under
11 Section 39.151 for the ERCOT region.

12 (c) A member of the security commission may not access
13 confidential information described by Subsection (a) unless the
14 member has a secret security clearance granted by the federal
15 government.

16 (d) The following members of the security commission may
17 apply for a secret security clearance or an interim secret security
18 clearance to be granted by the federal government:

19 (1) the representative of the independent
20 organization certified under Section 39.151 for the ERCOT region;

21 (2) the representative of the Texas Division of
22 Emergency Management; and

23 (3) the representative of the State Office of Risk
24 Management.

25 Sec. 44.004. CRITICAL COMPONENT RESILIENCE. (a) The State
26 Office of Risk Management shall select a contractor to identify
27 critical components of the ERCOT electric grid vulnerable to EMP,

1 GMD, cyber, or physical attack. The contractor must identify the
2 critical components before the expiration of six months after the
3 date the contractor is engaged.

4 (b) Not later than January 1, 2021, an entity that owns or
5 operates a component identified by the contractor under Subsection
6 (a) as critical shall upgrade the component as necessary for the
7 component to meet the applicable standard proposed in the EMP
8 Commission reports.

9 (c) The State Office of Risk Management shall select a
10 contractor to verify whether affected entities have upgraded
11 components as required by Subsection (b).

12 (d) Each contractor selected by the State Office of Risk
13 Management under this section must have experience hardening
14 electrical systems to meet military standards at the federal level.

15 Sec. 44.005. PLAN FOR CONTINUITY OF SERVICES. (a) Not
16 later than January 1, 2020, the security commission shall prepare
17 and deliver to the legislature a plan for continuity of services in
18 the event of a catastrophic loss of power in the state.

19 (b) The plan must include:

20 (1) provisions for installing, replacing, or
21 upgrading extra high-voltage power transformers and supervisory
22 control and data acquisition systems to withstand 100
23 kilovolts/meter E1 electromagnetic pulses and 85 volts/kilometer
24 E3 electromagnetic pulses not later than January 1, 2024;

25 (2) a timeline for upgrading remaining infrastructure
26 to meet recommendations of the EMP Commission reports; and

27 (3) long-term resilience provisions for supporting

1 industries including:

2 (A) nuclear reactors, materials, and waste

3 (B) fuel supply;

4 (C) health care;

5 (D) communications;

6 (E) water and sewer services; and

7 (F) food supply; and

8 (4) any additional provisions deemed necessary by the
9 security commission.

10 (c) The security commission may consult with the Private
11 Sector Advisory Council in developing the plan.

12 (d) The Texas Division of Emergency Management shall
13 incorporate the plan into the state emergency management plan and
14 update the plan as necessary to incorporate the progressive
15 improvement of the system.

16 Sec. 44.006. ALTERNATIVE TIMELINE OR STANDARD. A panel
17 composed of members of the security commission who have obtained a
18 secret security clearance granted by the federal government may
19 approve a resilience standard or implementation timeline for an
20 electric utility or other entity that differs from a resilience
21 standard or implementation timeline adopted under Section 44.005.

22 Sec. 44.007. RESILIENCE COST RECOVERY. A regulatory
23 authority shall include in establishing the rates of an electric
24 utility consideration of the costs incurred to install, replace, or
25 upgrade facilities or equipment to meet a resilience standard
26 established under this chapter. A regulatory authority shall
27 presume that costs incurred to meet a resilience standard under

1 this chapter are reasonable and necessary expenses.

2 Sec. 44.008. MICRO-GRIDS. (a) The security commission
3 shall establish resilience standards for micro-grids and certify a
4 micro-grid that meets the standards.

5 (b) Except as provided by Subsection (c), a municipality or
6 other political subdivision may not enact or enforce an ordinance
7 or other measure that bans, limits, or otherwise regulates inside
8 the boundaries or extraterritorial jurisdiction of the
9 municipality or political subdivision a micro-grid that is
10 certified by the security commission under this section.

11 (c) The owner or operator of a micro-grid certified by the
12 security commission is a power generation company and is required
13 to register under Section 39.351(a). The owner or operator of the
14 micro-grid is entitled to:

15 (1) interconnect the micro-grid;

16 (2) obtain transmission service for the micro-grid;

17 and

18 (3) use the micro-grid to sell electricity and
19 ancillary services at wholesale in a manner consistent with the
20 provisions of this title and commission rules applicable to a power
21 generation company or an exempt wholesale generator.

22 SECTION 3. Chapter 380, Local Government Code, is amended
23 by adding Section 380.004 to read as follows:

24 Sec. 380.004. FIVE STAR GOLD RESILIENT COMMUNITIES.

25 (a) An Energy Resilient Community is one where provisions
26 have been made to ensure that energy, electric power,
27 and fuel supplies are protected and available for

1 recovery in the event of a catastrophic power outage.

2 (b) The Texas Grid Security Commission shall establish
3 resilience standards for municipalities in the following essential
4 service areas:

- 5 (1) emergency services;
- 6 (2) communications systems;
- 7 (3) clean water and sewer services;
- 8 (4) health care systems; and
- 9 (5) financial services.

10 (c) On the application of a municipality for the
11 designation, the Texas Grid Security Commission may designate a
12 municipality that meets the resilience standards in the applicable
13 service area as:

- 14 (1) a Resilient Emergency Services Community;
- 15 (2) a Resilient Communications Systems Community;
- 16 (3) a Resilient Clean Water and Sewer Services
17 Community;
- 18 (4) a Resilient Health Care Systems Community; or
- 19 (5) a Resilient Financial Services Community.

20 (d) The Texas Grid Security Commission may designate a
21 municipality that meets the resilience standards in all five
22 service areas as a Five Star Gold Resilient Community.

23 (d) A municipality may not use a resilient community
24 designation in advertising, marketing, or economic development
25 initiatives unless the Texas Grid Security Commission has awarded
26 the municipality with the designation in the applicable service
27 area or as a Five Star Gold Resilient Community.

1 SECTION 4. Not later than January 1, 2021, the Texas Grid
2 Security Commission shall prepare and deliver a report to the
3 legislature on the progress of implementing resilience standards
4 adopted under Sections 44.004 and 44.005, Utilities Code, as added
5 by this Act.

6 SECTION 5. This Act takes effect immediately if it receives
7 a vote of two-thirds of all the members elected to each house, as
8 provided by Section 39, Article II, Texas Constitution. If this Act
9 does not receive the vote necessary for immediate effect, this Act
10 takes effect September 1, 2019.