87R26352 JXC-D

By:  Schwertner, et al. S.B. No. 3

(Paddie)

Substitute the following for S.B. No. 3:

By:  Paddie C.S.S.B. No. 3

A BILL TO BE ENTITLED

AN ACT

relating to preparing for, preventing, and responding to weather emergencies and power outages; increasing the amount of administrative and civil penalties.

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

SECTION 1.  Chapter 411, Government Code, is amended by adding Subchapter K-1 to read as follows:

SUBCHAPTER K-1. POWER OUTAGE ALERT

Sec. 411.301.  POWER OUTAGE ALERT. (a) With the cooperation of the Texas Department of Transportation, the Texas Division of Emergency Management, the office of the governor, and the Public Utility Commission of Texas, the department shall develop and implement an alert to be activated when the power supply in this state may be inadequate to meet demand.

(b)  The Public Utility Commission of Texas by rule shall adopt criteria for the content, activation, and termination of the alert described by Subsection (a). The criteria must provide for an alert to be regional or statewide.

Sec. 411.302.  ADMINISTRATION. (a) The director is the statewide coordinator of the power outage alert.

(b)  The director shall adopt rules and issue directives as necessary to ensure proper implementation of the power outage alert. The rules and directives must include the procedures to be used by the Public Utility Commission of Texas and the independent organization certified under Section 39.151, Utilities Code, to communicate with the director about the power outage alert.

Sec. 411.303.  DEPARTMENT TO RECRUIT PARTICIPANTS. The department shall recruit public and commercial television and radio broadcasters, private commercial entities, state or local governmental entities, the public, and other appropriate persons to assist in developing and implementing the power outage alert system.

Sec. 411.304.  STATE AGENCIES. (a) A state agency participating in the power outage alert system shall:

(1)  cooperate with the department and assist in developing and implementing the alert system; and

(2)  establish a plan for providing relevant information to its officers, investigators, or employees, as appropriate, once the power outage alert system has been activated.

(b)  In addition to its duties as a state agency under Subsection (a), the Texas Department of Transportation shall establish a plan for providing relevant information to the public through an existing system of dynamic message signs located across the state.

Sec. 411.305.  ACTIVATION OF POWER OUTAGE ALERT. (a) When the Public Utility Commission of Texas or an independent organization certified under Section 39.151, Utilities Code, notifies the department that the criteria adopted under Section 411.301(b) for the activation of the alert has been met, the department shall confirm the accuracy of the information and, if confirmed, immediately issue a power outage alert under this subchapter in accordance with department rules.

(b)  In issuing the power outage alert, the department shall send the alert to designated media outlets in this state. Following receipt of the alert, participating radio stations and television stations and other participating media outlets may issue the alert at designated intervals.

Sec. 411.306.  CONTENT OF POWER OUTAGE ALERT. The power outage alert must include a statement that electricity customers may experience a power outage.

Sec. 411.307.  TERMINATION OF POWER OUTAGE ALERT. The director shall terminate any activation of the power outage alert as soon as practicable after the Public Utility Commission of Texas or the Electric Reliability Council of Texas notifies the department that the criteria adopted under Section 411.301(b) for the termination of the alert has been met.

Sec. 411.308.  LIMITATION ON PARTICIPATION BY TEXAS DEPARTMENT OF TRANSPORTATION. Notwithstanding Section 411.304(b), the Texas Department of Transportation is not required to use any existing system of dynamic message signs in a statewide alert system created under this subchapter if that department receives notice from the United States Department of Transportation Federal Highway Administration that the use of the signs would result in the loss of federal highway funding or other punitive actions taken against this state due to noncompliance with federal laws, regulations, or policies.

SECTION 2.  Section 418.048, Government Code, is amended to read as follows:

Sec. 418.048.  MONITORING WEATHER. (a) The division shall keep continuously apprised of weather conditions that present danger of climatic activity, such as precipitation, severe enough to constitute a disaster.

(b)  The division shall create a list of suggested actions for state agencies and the public to take to prepare for winter storms, organized by severity of storm based on the National Weather Service Winter Storm Severity Index.

SECTION 3.  Subchapter C, Chapter 81, Natural Resources Code, is amended by adding Section 81.073 to read as follows:

Sec. 81.073.  CRITICAL NATURAL GAS FACILITIES AND ENTITIES DURING AN ENERGY EMERGENCY. (a) The commission shall work with the Public Utility Commission of Texas to designate certain natural gas facilities and entities associated with providing natural gas in this state as critical during an energy emergency.

(b)  At a minimum, the commission's rules must:

(1)  establish eligibility and designation requirements for persons who own or operate a facility under the jurisdiction of the commission under Section 81.051(a) or engage in an activity under the jurisdiction of the commission under Section 81.051(a) who must provide critical customer designation and critical natural gas supply information, as defined by the commission, to the entities described by Section 38.077(c)(1), Utilities Code;

(2)  require that only facilities and entities that are prepared to operate during a weather emergency may be designated as a critical customer under this section; and

(3)  consider essential operational elements when defining critical customer designations and critical natural gas supply information, including natural gas production, processing, and transportation and related produced water handling and disposal facilities and the delivery of natural gas to generators.

SECTION 4.  Subchapter C, Chapter 86, Natural Resources Code, is amended by adding Section 86.044 to read as follows:

Sec. 86.044.  WEATHER EMERGENCY PREPAREDNESS. (a) In this section, "gas supply chain facility" means a facility that is:

(1)  used for producing, treating, processing, pressurizing, storing, or transporting natural gas;

(2)  not primarily used to support liquefied natural gas pretreatment, liquefaction, or regasification facilities in the business of exporting or importing liquefied natural gas to or from foreign countries;

(3)  otherwise regulated by the commission under this subtitle; and

(4)  not regulated by the commission under Chapter 121, Utilities Code.

(b)  This section applies only to a gas supply chain facility included on the electricity supply chain map created under Section 38.203, Utilities Code.

(c)  The commission by rule shall require a gas supply chain facility operator to implement measures to prepare to operate during a weather emergency.

(d)  The commission shall:

(1)  inspect gas supply chain facilities for compliance with rules adopted under Subsection (c);

(2)  provide the owner of a facility described by Subdivision (1) with a reasonable period of time in which to remedy any violation the commission discovers in an inspection; and

(3)  report to the attorney general any violation that is not remedied in a reasonable period of time.

(e)  The commission shall prioritize inspections conducted under Subsection (d)(1) based on risk level, as determined by the commission.

(f)  The commission by rule shall require an operator of a gas supply chain facility that experiences repeated or major weather-related forced interruptions of production to:

(1)  contract with a person who is not an employee of the operator to assess the operator's weatherization plans, procedures, and operations; and

(2)  submit the assessment to the commission.

(g)  The commission may require an operator of a gas supply chain facility to implement appropriate recommendations included in an assessment submitted to the commission under Subsection (f).

(h)  If the commission determines that a person has violated a rule adopted under this section, the commission shall notify the attorney general of a violation that is not remedied in a reasonable amount of time. The attorney general shall initiate a suit to recover a penalty for the violation in the manner provided by Subchapter G.

SECTION 5.  Section 86.222, Natural Resources Code, is amended by adding Subsections (a-1), (c), and (d) to read as follows:

(a-1)  Notwithstanding Subsection (a), a person who violates a provision of a rule adopted under Section 86.044 is liable for a penalty of not more than $1,000,000 for each offense.

(c)  The commission by rule shall establish a classification system to be used by a court under this subchapter for violations of rules adopted under Section 86.044 that includes a range of penalties that may be recovered for each class of violation based on:

(1)  the seriousness of the violation, including:

(A)  the nature, circumstances, extent, and gravity of a prohibited act; and

(B)  the hazard or potential hazard created to the health, safety, or economic welfare of the public;

(2)  the history of previous violations;

(3)  the amount necessary to deter future violations;

(4)  efforts to correct the violation; and

(5)  any other matter that justice may require.

(d)  The classification system established under Subsection (c) shall provide that a penalty in an amount that exceeds $5,000 may be recovered only if the violation is included in the highest class of violations in the classification system.

SECTION 6.  Section 15.023, Utilities Code, is amended by adding Subsection (b-1) to read as follows:

(b-1)  Notwithstanding Subsection (b), the penalty for a violation of a provision of Subtitle B may be in an amount not to exceed $1,000,000 for a violation. Each day a violation continues or occurs is a separate violation for purposes of imposing a penalty.

SECTION 7.  Section 17.002, Utilities Code, is amended by adding Subdivisions (3-a) and (3-b) to read as follows:

(3-a)  "Critical care residential customer" means a residential customer who has a person permanently residing in the customer's home who has been diagnosed by a physician as being dependent upon an electric-powered medical device to sustain life.

(3-b)  "Critical load industrial customer" means an industrial customer for whom an interruption or suspension of electric service will create a dangerous or life-threatening condition on the customer's premises.

SECTION 8.  Section 17.003, Utilities Code, is amended by adding Subsection (d-1) to read as follows:

(d-1)  An electric utility providing electric delivery service for a retail electric provider, as defined by Section 31.002, shall provide to the retail electric provider, and the retail electric provider shall periodically provide to the retail electric provider's retail customers together with bills sent to the customers, information about:

(1)  the electric utility's procedures for implementing involuntary load shedding initiated by the independent organization certified under Section 39.151 for the ERCOT power region;

(2)  the types of customers who may be considered critical care residential customers, critical load industrial customers, or critical load according to commission rules adopted under Section 38.075;

(3)  the procedure for a customer to apply to be considered a critical care residential customer, a critical load industrial customer, or critical load according to commission rules adopted under Section 38.075; and

(4)  reducing electricity use at times when involuntary load shedding events may be implemented.

SECTION 9.  Section 17.005, Utilities Code, is amended to read as follows:

Sec. 17.005.  PROTECTIONS FOR CUSTOMERS OF MUNICIPALLY OWNED UTILITIES. (a) A municipally owned utility may not be deemed to be a "service provider" or "billing agent" for purposes of Sections 17.156(b) and (e).

(b)  The governing body of a municipally owned utility shall adopt, implement, and enforce rules that shall have the effect of accomplishing the objectives set out in Sections 17.004(a) and (b) and 17.102, as to the municipally owned utility within its certificated service area.

(c)  The governing body of a municipally owned utility or its designee shall perform the dispute resolution function provided for by Section 17.157 for disputes arising from services provided by the municipally owned utility to electric customers served within the municipally owned utility's certificated service area.

(d)  With respect to electric customers served by a municipally owned utility outside its certificated service area or otherwise served through others' distribution facilities, after retail competition begins as authorized by the legislature, the provisions of this chapter as administered by the commission apply.

(e)  Nothing in this chapter shall be deemed to apply to a wholesale customer of a municipally owned utility.

(f)  A municipally owned utility shall periodically provide with bills sent to retail customers of the utility information about:

(1)  the utility's procedure for implementing involuntary load shedding;

(2)  the types of customers who may be considered critical care residential customers, critical load industrial customers, or critical load according to commission rules adopted under Section 38.075;

(3)  the procedure for a customer to apply to be considered a critical care residential customer, a critical load industrial customer, or critical load according to commission rules adopted under Section 38.075; and

(4)  reducing electricity use at times when involuntary load shedding events may be implemented.

SECTION 10.  Section 17.006, Utilities Code, is amended to read as follows:

Sec. 17.006.  PROTECTIONS FOR CUSTOMERS OF ELECTRIC COOPERATIVES. (a) An electric cooperative shall not be deemed to be a "service provider" or "billing agent" for purposes of Sections 17.156(b) and (e).

(b)  The electric cooperative shall adopt, implement, and enforce rules that shall have the effect of accomplishing the objectives set out in Sections 17.004(a) and (b) and 17.102.

(c)  The board of directors of the electric cooperative or its designee shall perform the dispute resolution function provided for by Section 17.157 for electric customers served by the electric cooperative within its certificated service area.

(d)  With respect to electric customers served by an electric cooperative outside its certificated service area or otherwise served through others' distribution facilities, after the legislature authorizes retail competition, the provisions of this chapter as administered by the commission shall apply.

(e)  Nothing in this chapter shall be deemed to apply to a wholesale customer of an electric cooperative.

(f)  An electric cooperative shall periodically provide with bills sent to retail customers of the cooperative information about:

(1)  the cooperative's procedure for implementing involuntary load shedding;

(2)  the types of customers who may be considered critical care residential customers, critical load industrial customers, or critical load according to commission rules adopted under Section 38.075;

(3)  the procedure for a customer to apply to be considered a critical care residential customer, a critical load industrial customer, or critical load according to commission rules adopted under Section 38.075; and

(4)  reducing electricity use at times when involuntary load shedding events may be implemented.

SECTION 11.  The heading to Chapter 35, Utilities Code, is amended to read as follows:

CHAPTER 35. [~~ALTERNATIVE~~] ENERGY PROVIDERS

SECTION 12.  Subchapter A, Chapter 35, Utilities Code, is amended by adding Section 35.0021 to read as follows:

Sec. 35.0021.  WEATHER EMERGENCY PREPAREDNESS. (a) This section applies only to a municipally owned utility, electric cooperative, power generation company, or exempt wholesale generator that sells electric energy at wholesale in the ERCOT power region.

(b)  The commission by rule shall require each provider of electric generation service described by Subsection (a) to implement measures to prepare the provider's generation assets to provide adequate electric generation service during a weather emergency according to reliability standards adopted by the commission.

(c)  The independent organization certified under Section 39.151 for the ERCOT power region shall:

(1)  inspect generation assets in the ERCOT power region for compliance with the reliability standards;

(2)  provide the owner of a generation asset with a reasonable period of time in which to remedy any violation the independent organization discovers in an inspection; and

(3)  report to the commission any violation.

(c-1)  The independent organization certified under Section 39.151 for the ERCOT power region shall prioritize inspections conducted under Subsection (c)(1) based on risk level, as determined by the organization.

(d)  The commission by rule shall require a provider of electric generation service described by Subsection (a) for a generation asset that experiences repeated or major weather-related forced interruptions of service to:

(1)  contract with a person who is not an employee of the provider to assess the provider's weatherization plans, procedures, and operations for that asset; and

(2)  submit the assessment to the commission and the independent organization certified under Section 39.151 for the ERCOT power region.

(e)  The commission may require a provider of electric generation service described by Subsection (a) to implement appropriate recommendations included in an assessment submitted to the commission under Subsection (d).

(f)  The independent organization certified under Section 39.151 for the ERCOT power region shall review, coordinate, and approve or deny requests by providers of electric generation service described by Subsection (a) for a planned power outage during any season and for any period of time.

(g)  The commission shall impose an administrative penalty on an entity, including a municipally owned utility or an electric cooperative, that violates a rule adopted under this section and does not remedy that violation within a reasonable period of time.

SECTION 13.  Section 35.004, Utilities Code, is amended by amending Subsection (e) and adding Subsections (f), (g), and (h) to read as follows:

(e)  In this section, "ancillary services" means services necessary to facilitate the transmission of electric energy including load following, standby power, backup power, reactive power, and any other services as the commission may determine by rule.

(f)  The commission shall ensure that ancillary services necessary to facilitate the transmission of electric energy are available at reasonable prices with terms and conditions that are not unreasonably preferential, prejudicial, discriminatory, predatory, or anticompetitive. [~~In this subsection, "ancillary services" means services necessary to facilitate the transmission of electric energy including load following, standby power, backup power, reactive power, and any other services as the commission may determine by rule.~~] On the introduction of customer choice in the ERCOT power region, acquisition of generation-related ancillary services on a nondiscriminatory basis by the independent organization in ERCOT on behalf of entities selling electricity at retail shall be deemed to meet the requirements of this subsection.

(g)  The commission shall:

(1)  review the type, volume, and cost of ancillary services to determine whether those services will continue to meet the needs of the electricity market in the ERCOT power region;

(2)  evaluate whether additional voluntary seasonal, month-ahead, or other forward products would enhance reliability in the ERCOT power region while providing adequate incentives for dispatchable generation; and

(3)  ensure that all generation resources, energy storage resources, and loads in the ERCOT power region are allowed to provide ancillary services on a voluntary basis and that the ancillary services are procured and costs recovered on an equitable and nondiscriminatory basis.

(h)  The commission may require the independent organization certified under Section 39.151 for the ERCOT power region to modify the design, procurement, and cost allocation of ancillary services for the region in a manner consistent with cost-causation principles and on a nondiscriminatory basis.

SECTION 14.  Subchapter D, Chapter 38, Utilities Code, is amended by adding Sections 38.074, 38.075, 38.076, and 38.077 to read as follows:

Sec. 38.074.  WEATHER EMERGENCY PREPAREDNESS. (a) The commission by rule shall require each electric cooperative, municipally owned utility, and transmission and distribution utility providing transmission service in the ERCOT power region to implement measures to prepare the cooperative's or utility's facilities to maintain service quality and reliability during a weather emergency according to standards adopted by the commission.

(b)  The independent organization certified under Section 39.151 for the ERCOT power region shall:

(1)  inspect the facilities of each electric cooperative, municipally owned utility, and transmission and distribution utility providing transmission service in the ERCOT power region for compliance with the reliability standards;

(2)  provide the owner of a facility described by Subdivision (1) with a reasonable period of time in which to remedy any violation the independent organization discovers in an inspection; and

(3)  report to the commission any violation that is not remedied in a reasonable period of time.

(c)  The independent organization certified under Section 39.151 for the ERCOT power region shall prioritize inspections conducted under Subsection (b)(1) based on risk level, as determined by the organization.

(d)  The commission shall impose an administrative penalty on an entity, including a municipally owned utility or an electric cooperative, that violates a rule adopted under this section and does not remedy that violation within a reasonable period of time.

(e)  Notwithstanding any other provision of this subtitle, the commission shall allow a transmission and distribution utility to design and operate a load management program for nonresidential customers to be used during extreme weather where the independent organization certified under Section 39.151 for the ERCOT power region has declared an emergency. A transmission and distribution utility implementing a load management program under this subsection shall be permitted to recover the reasonable and necessary costs of the load management program under Chapter 36. A load management program operated under this subsection is not considered a competitive service.

Sec. 38.075.  INVOLUNTARY AND VOLUNTARY LOAD SHEDDING. (a) The commission by rule shall adopt a system to allocate load shedding among electric cooperatives, municipally owned utilities, and transmission and distribution utilities providing transmission service in the ERCOT power region during an involuntary load shedding event initiated by the independent organization certified under Section 39.151 for the region during an energy emergency.

(b)  The system must provide for allocation of the load shedding obligation to each electric cooperative, municipally owned utility, and transmission and distribution utility in different seasons based on historical seasonal peak demand in the service territory of the electric cooperative, municipally owned utility, or transmission and distribution utility.

(c)  The commission by rule shall:

(1)  categorize types of critical load that may be given the highest priority for power restoration; and

(2)  require electric cooperatives, municipally owned utilities, and transmission and distribution utilities providing transmission service in the ERCOT power region to submit to the commission and the independent organization certified under Section 39.151 for the region:

(A)  customers or circuits the cooperative or utility has designated as critical load; and

(B)  a plan for participating in load shedding in response to an involuntary load shedding event described by Subsection (a).

(d)  The commission by rule shall require electric cooperatives and municipally owned utilities providing transmission service in the ERCOT power region to:

(1)  maintain lists of customers willing to voluntarily participate in voluntary load reduction; and

(2)  coordinate with municipalities, businesses, and customers that consume large amounts of electricity to encourage voluntary load reduction.

(e)  This section does not abridge, enlarge, or modify the obligation of an electric cooperative, a municipally owned utility, or a transmission and distribution utility to comply with federal reliability standards.

(f)  After each load shedding event, the commission may conduct an examination of the implementation of load shedding, including whether each electric cooperative, municipally owned utility, and transmission and distribution utility complied with its plan as filed with the commission under Subsection (c)(2).

Sec. 38.076.  LOAD SHEDDING EXERCISES. (a) The commission and the independent organization certified for the ERCOT power region shall conduct simulated or tabletop load shedding exercises with providers of electric generation service and transmission and distribution service in the ERCOT power region.

(b)  The commission shall ensure that each year at least one simulated or tabletop exercise is conducted during a summer month and one simulated or tabletop exercise is conducted during a winter month.

Sec. 38.077.  CRITICAL NATURAL GAS FACILITIES AND ENTITIES DURING AN ENERGY EMERGENCY. (a) The commission shall work with the Railroad Commission of Texas and adopt rules to establish a process to designate certain natural gas facilities and entities associated with providing natural gas in this state as critical during an energy emergency.

(b)  The commission by rule shall require each electric cooperative, municipally owned utility, and transmission and distribution utility to exclude any circuits that provide power to an entity or facility designated under Section 81.073, Natural Resources Code, from participation in the cooperative's or utility's attempt to shed load in response to a rolling blackout initiated by an independent organization certified under Section 39.151 or another reliability council or power pool in which the cooperative or utility operates.

(c)  At a minimum, the commission's rules must:

(1)  ensure that electric cooperatives, municipally owned utilities, transmission and distribution utilities, and the independent organization certified under Section 39.151 for the ERCOT power region are provided with the information required by Section 81.073, Natural Resources Code;

(2)  provide for a prioritization for load-shed purposes of the entities and facilities designated under Subsection (a) during an energy emergency; and

(3)  provide discretion to electric cooperatives, municipally owned utilities, and transmission and distribution utilities to prioritize power delivery and power restoration among the customers on their respective systems, as circumstances require.

SECTION 15.  Chapter 38, Utilities Code, is amended by adding Subchapter F to read as follows:

SUBCHAPTER F. TEXAS ELECTRICITY SUPPLY CHAIN SECURITY AND MAPPING COMMITTEE

Sec. 38.201.  TEXAS ELECTRICITY SUPPLY CHAIN SECURITY AND MAPPING COMMITTEE. (a) In this subchapter, "electricity supply chain" means:

(1)  facilities and methods used for producing, treating, processing, pressurizing, storing, or transporting natural gas for delivery to electric generation facilities; and

(2)  critical infrastructure necessary to maintain electricity service.

(b)  The Texas Electricity Supply Chain Security and Mapping Committee is established to:

(1)  map this state's electricity supply chain;

(2)  identify critical infrastructure sources in the electricity supply chain;

(3)  establish best practices to prepare facilities that provide electric service and natural gas service in the electricity supply chain to maintain service in an extreme weather event and recommend oversight and compliance standards for those facilities; and

(4)  designate priority service needs to prepare for, respond to, and recover from an extreme weather event.

(c)  The committee is composed of:

(1)  the executive director of the commission;

(2)  the executive director of the Railroad Commission of Texas;

(3)  the president and the chief executive officer of the independent organization certified under Section 39.151 for the ERCOT power region; and

(4)  the chief of the Texas Division of Emergency Management.

(d)  Each member of the committee may designate a personal representative from the member's organization to represent the member on the committee. A member is responsible for the acts and omissions of the designee related to the designee's representation on the committee.

(e)  The executive director of the commission serves as the chair of the committee. The executive director of the Railroad Commission of Texas serves as vice chair of the committee.

Sec. 38.202.  ADMINISTRATION. (a) The committee shall meet at least once each calendar quarter at a time determined by the committee and at the call of the chair.

(b)  A member who is an ex officio member from a state agency shall be reimbursed for actual and necessary expenses in carrying out committee responsibilities from money appropriated for that purpose in the agency's budget. Other members of the committee may receive reimbursement for actual and necessary expenses in carrying out committee responsibilities from money appropriated for that purpose.

(c)  The commission, the Railroad Commission of Texas, and the Texas Division of Emergency Management shall provide staff as necessary to assist the committee in carrying out the committee's duties and responsibilities.

(d)  The independent organization certified under Section 39.151 for the ERCOT power region shall provide staff as necessary to assist the committee in carrying out the committee's duties and responsibilities.

(e)  Except as otherwise provided by this subchapter, the committee is subject to Chapters 2001, 551, and 552, Government Code.

Sec. 38.203.  POWERS AND DUTIES OF COMMITTEE. (a) The committee shall:

(1)  map the state's electricity supply chain in order to designate priority electricity service needs during extreme weather events;

(2)  identify and designate the sources in the electricity supply chain necessary to operate critical infrastructure, as defined by Section 421.001, Government Code;

(3)  develop a communication system between critical infrastructure sources, the commission, and the independent organization certified under Section 39.151 for the ERCOT power region to ensure that electricity and natural gas supplies in the electricity supply chain are prioritized to those sources during an extreme weather event; and

(4)  establish best practices to prepare facilities that provide electric service and natural gas service in the electricity supply chain to maintain service in an extreme weather event and recommend oversight and compliance standards for those facilities.

(b)  The committee shall update the electricity supply chain map at least once each year.

(c)  The commission shall:

(1)  create and maintain a database identifying critical infrastructure sources with priority electricity needs to be used during an extreme weather event; and

(2)  update the database at least once each year.

(d)  The information maintained in the database is confidential under Section 418.181, Government Code, and not subject to disclosure under Chapter 552, Government Code.

Sec. 38.204.  MAPPING REPORT. (a) Not later than January 1, 2022, the committee shall submit a report to the governor, the lieutenant governor, the speaker of the house of representatives, and the legislature on the activities and findings of the committee. The report must:

(1)  provide an overview of the committee's findings regarding mapping the electricity supply chain and identifying sources necessary to operate critical infrastructure;

(2)  recommend a clear and thorough communication system for the commission, the Railroad Commission of Texas, the Texas Division of Emergency Management, and the independent organization certified under Section 39.151 for the ERCOT power region and critical infrastructure sources in this state to ensure that electricity supply is prioritized to those sources during extreme weather events; and

(3)  include a list of the established best practices and recommended oversight and compliance standards adopted under Section 38.203(a)(4).

(b)  The report is public information except for portions considered confidential under Chapter 552, Government Code, or other state or federal law.

SECTION 16.  Subchapter C, Chapter 39, Utilities Code, is amended by adding Section 39.110 to read as follows:

Sec. 39.110.  WHOLESALE INDEXED PRODUCTS. (a) In this section, "wholesale indexed product" means a retail electric product in which the price a customer pays for electricity includes a direct pass-through of real-time settlement point prices determined by the independent organization certified under Section 39.151 for the ERCOT power region.

(b)  Except as provided by Subsection (c), a retail electric provider may not offer a wholesale indexed product to a residential or small commercial customer.

(c)  A retail electric provider may enroll a residential or small commercial customer in a wholesale indexed product only if:

(1)  the enrollment complies with any other applicable law or commission rule;

(2)  the product caps the monthly average all-in price per kilowatt hour of electricity charged to the customer at a maximum of 200 percent more than the monthly average price of electricity in this state during the same month for the prior year, as determined by monthly electric power industry reports required by the United States Energy Information Administration;

(3)  the retail electric provider provides to each potential customer before enrollment notice of the highest monthly average price for the next six months for the product;

(4)  the retail electric provider provides to each customer in each billing statement notice of the highest monthly average price for the next six months; and

(5)  for service starting at the beginning of the next month, the retail electric provider allows the customer to switch without charge or penalty at the beginning of the next month to a fixed rate product offered by the provider to other residential and small commercial customers.

(d)  This section does not apply to accounts of a customer on the same property or contiguous properties in which one or more of the accounts has a peak demand of at least 250 kilowatts.

SECTION 17.  Subchapter D, Chapter 39, Utilities Code, is amended by adding Section 39.159 to read as follows:

Sec. 39.159.  DISPATCHABLE GENERATION. (a) For the purposes of this section, a generation facility is considered to be non-dispatchable if the facility's output is controlled primarily by forces outside of human control.

(b)  The commission shall ensure that the independent organization certified under Section 39.151 for the ERCOT power region:

(1)  establishes requirements to meet the reliability needs of the power region;

(2)  periodically determines the quantity and characteristics of ancillary or reliability services necessary to ensure appropriate reliability during extreme heat and extreme cold weather conditions and during times of low non-dispatchable power production in the power region;

(3)  procures ancillary or reliability services on a competitive basis to ensure appropriate reliability during extreme heat and extreme cold weather conditions and during times of low non-dispatchable power production in the power region;

(4)  develops appropriate qualification and performance requirements for providing services under Subdivision (3), including appropriate penalties for failure to provide the services; and

(5)  sizes the services procured under Subdivision (3) to prevent prolonged rotating outages due to net load variability in high demand and low supply scenarios.

(c)  The commission shall ensure that:

(1)  resources that provide services under Subsection (b) are dispatchable and able to meet continuous operating requirements for the season in which the service is procured;

(2)  winter resource capability qualifications for a service described by Subsection (b) include on-site fuel storage, dual fuel capability, or fuel supply arrangements to ensure winter performance for several days; and

(3)  summer resource capability qualifications for a service described by Subsection (b) include facilities or procedures to ensure operation under drought conditions.

SECTION 18.  Subchapter Z, Chapter 39, Utilities Code, is amended by adding Section 39.9165 to read as follows:

Sec. 39.9165.  DISTRIBUTED GENERATION REPORTING. (a) In this section, "distributed generation" is an electrical generating facility that:

(1)  may be located at a customer's point of delivery;

(2)  is connected at a voltage less than 60 kilovolts; and

(3)  may be connected in parallel operation to the utility system.

(b)  An independent organization certified under Section 39.151 shall require an owner or operator of distributed generation to register with the organization and interconnecting transmission and distribution utility information necessary for the interconnection of the distributed generator.

(c)  This section does not apply to distributed generation serving a residential property.

SECTION 19.  Section 105.023, Utilities Code, is amended by adding Subsections (b-1), (e), and (f) to read as follows:

(b-1)  Notwithstanding Subsection (b), a civil penalty under this section shall be in an amount of not less than $1,000 and not more than $1,000,000 for each violation of Section 104.258(c).

(e)  The railroad commission by rule shall establish a classification system to be used by a court under this subchapter for violations of Section 104.258(c) that includes a range of penalties that may be recovered for each class of violation based on:

(1)  the seriousness of the violation, including:

(A)  the nature, circumstances, extent, and gravity of a prohibited act; and

(B)  the hazard or potential hazard created to the health, safety, or economic welfare of the public;

(2)  the history of previous violations;

(3)  the amount necessary to deter future violations;

(4)  efforts to correct the violation; and

(5)  any other matter that justice may require.

(f)  The classification system established under Subsection (e) shall provide that a penalty in an amount that exceeds $5,000 may be recovered only if the violation is included in the highest class of violations in the classification system.

SECTION 20.  Section 121.2015, Utilities Code, is amended by amending Subsection (a) and adding Subsections (c-1), (c-2), (d), (e), and (f) to read as follows:

(a)  The railroad commission shall adopt rules regarding:

(1)  public education and awareness relating to gas pipeline facilities; [~~and~~]

(2)  community liaison for responding to an emergency relating to a gas pipeline facility; and

(3)  measures a gas pipeline facility operator must implement to prepare the gas pipeline facility to maintain service quality and reliability during extreme weather conditions if the gas pipeline facility directly serves a natural gas electric generation facility operating solely to provide power to the electric grid for the ERCOT power region and is included on the electricity supply chain map created under Section 38.203.

(c-1)  The railroad commission shall:

(1)  inspect gas pipeline facilities described by Subsection (a)(3) for compliance with rules adopted under Subsection (a)(3);

(2)  provide the owner of a facility described by Subsection (a)(3) with a reasonable period of time in which to remedy any violation the railroad commission discovers in an inspection; and

(3)  report to the attorney general any violation that is not remedied in a reasonable period of time.

(c-2)  The railroad commission shall prioritize inspections conducted under Subsection (c-1)(1) based on risk level, as determined by the railroad commission.

(d)  The railroad commission by rule shall require a gas pipeline facility operator that experiences repeated or major weather-related forced interruptions of service to:

(1)  contract with a person who is not an employee of the operator to assess the operator's weatherization plans, procedures, and operations; and

(2)  submit the assessment to the commission.

(e)  The railroad commission may require an operator of a gas pipeline facility described by Subsection (a)(3) to implement appropriate recommendations included in an assessment submitted to the commission under Subsection (d).

(f)  The railroad commission shall assess an administrative penalty against a person who violates a rule adopted under Subsection (a)(3) if the violation is not remedied in a reasonable period of time in the manner provided by this subchapter.

SECTION 21.  Section 121.206, Utilities Code, is amended by adding Subsections (b-1) and (e) to read as follows:

(b-1)  Notwithstanding Subsection (b), the penalty for each violation may not exceed $1,000,000 for a violation of a rule adopted under Section 121.2015(a)(3). Each day a violation continues may be considered a separate violation for the purpose of penalty assessment.

(e)  The guidelines must provide that a penalty in an amount that exceeds $5,000 for a violation of a rule adopted under Section 121.2015(a)(3) may be assessed only if circumstances justify the enhancement of the penalty.

SECTION 22.  The heading to Section 186.007, Utilities Code, is amended to read as follows:

Sec. 186.007.  PUBLIC UTILITY COMMISSION WEATHER EMERGENCY PREPAREDNESS REPORTS [~~REPORT~~].

SECTION 23.  Sections 186.007(a-1), (b), (d), (e), and (f), Utilities Code, are amended to read as follows:

(a-1)  The commission shall analyze emergency operations plans developed by electric utilities as defined by Section 31.002, power generation companies as defined by Section 31.002, municipally owned utilities, and electric cooperatives that operate generation facilities in this state and retail electric providers as defined by Section 31.002 and prepare a weather emergency preparedness report on power [~~generation~~] weatherization preparedness. In preparing the report, the commission shall:

(1)  review [~~the~~] emergency operations plans [~~currently~~] on file with the commission;

(2)  analyze and determine the ability of the electric grid to withstand extreme weather events in the upcoming year;

(3)  consider the anticipated weather patterns for the upcoming year as forecasted by the National Weather Service or any similar state or national agency; and

(4)  make recommendations on improving emergency operations plans and procedures in order to ensure the continuity of electric service.

(b)  The commission shall [~~may~~] require an [~~electric generation~~] entity subject to this section to file an updated emergency operations plan if it finds that an emergency operations plan on file does not contain adequate information to determine whether the [~~electric generation~~] entity can provide adequate electric [~~generation~~] services.

(d)  The commission shall submit the report described by Subsection (a-1) to the lieutenant governor, the speaker of the house of representatives, and the members of the legislature not later than September 30 of each even-numbered year[~~, 2012~~].

(e)  The commission may submit additional [~~subsequent~~] weather emergency preparedness reports if the commission finds that significant changes to weatherization techniques have occurred or are necessary to protect consumers or vital services, or if there have been changes to statutes or rules relating to weatherization requirements. A report under this subsection must be submitted not later than:

(1)  March 1 for a summer weather emergency preparedness report; and

(2)  September 1 for a winter weather emergency preparedness report.

(f)  The emergency operations plans submitted for a [~~the~~] report described by Subsection (a-1) and any additional [~~subsequent~~] plans submitted under Subsection (e) are public information except for the portions of the plan considered confidential under Chapter 552, Government Code, or other state or federal law. If portions of a plan are designated as confidential, the plan shall be provided to the commission in a redacted form for public inspection with the confidential portions removed. An [~~electric generation~~] entity within the ERCOT power region shall provide the entity's plan to ERCOT in its entirety.

SECTION 24.  Subchapter A, Chapter 186, Utilities Code, is amended by adding Section 186.008 to read as follows:

Sec. 186.008.  RAILROAD COMMISSION WEATHER EMERGENCY PREPAREDNESS REPORTS. (a) In this section, "commission" means the Railroad Commission of Texas.

(b)  The commission shall analyze emergency operations plans developed by operators of facilities that produce, treat, process, pressurize, store, or transport natural gas and are included on the electricity supply chain map created under Section 38.203 and prepare a weather emergency preparedness report on weatherization preparedness of those facilities. In preparing the report, the commission shall:

(1)  review any emergency operations plans on file with the commission;

(2)  analyze and determine the ability of the electricity supply chain, as mapped under Section 38.203, to withstand extreme weather events in the upcoming year;

(3)  consider the anticipated weather patterns for the upcoming year as forecasted by the National Weather Service or any similar state or national agency; and

(4)  make recommendations on improving emergency operations plans and procedures in order to ensure the continuity of natural gas service for the electricity supply chain, as mapped under Section 38.203.

(c)  The commission shall require an entity subject to this section to file an updated emergency operations plan if it finds that an emergency operations plan on file does not contain adequate information to determine whether the entity can provide adequate natural gas services.

(d)  The commission may adopt rules relating to the implementation of the report described by Subsection (b).

(e)  The commission shall submit the report described by Subsection (b) to the lieutenant governor, the speaker of the house of representatives, and the members of the legislature not later than September 30 of each even-numbered year.

(f)  The commission may submit additional weather emergency preparedness reports if the commission finds that significant changes to weatherization techniques have occurred or are necessary to protect consumers or vital services, or if there have been changes to statutes or rules relating to weatherization requirements. A report under this subsection must be submitted not later than:

(1)  March 1 for a summer weather emergency preparedness report; and

(2)  September 1 for a winter weather emergency preparedness report.

(g)  The emergency operations plans submitted for a report described by Subsection (b) and any additional plans submitted under Subsection (f) are public information except for the portions of the plan considered confidential under Chapter 552, Government Code, or other state or federal law. If portions of a plan are designated as confidential, the plan shall be provided to the commission in a redacted form for public inspection with the confidential portions removed.

SECTION 25.  Chapter 186, Utilities Code, is amended by adding Subchapter F to read as follows:

SUBCHAPTER F. TEXAS ENERGY DISASTER RELIABILITY COUNCIL

Sec. 186.101.  DEFINITIONS. In this subchapter:

(1)  "Council" means the Texas Energy Disaster Reliability Council established under this subchapter.

(2)  "Disaster" means:

(A)  a disaster defined by Section 418.004, Government Code; or

(B)  an extended power outage.

(3)  "Division" means the Texas Division of Emergency Management.

(4)  "Extended power outage" means an interruption in electric service lasting more than 24 hours.

(5)  "Gas provider" means:

(A)  a natural gas pipeline facility operator;

(B)  an operator of a natural gas well; or

(C)  an entity that produces, treats, processes, pressurizes, stores, or transports natural gas in this state or otherwise participates in the natural gas supply chain in this state.

(6)  "Public utility" means an entity that generates, transmits, or distributes electric energy to the public, including an electric cooperative, an electric utility, a municipally owned utility, or a river authority.

(7)  "Railroad commission" means the Railroad Commission of Texas.

(8)  "Utility commission" means the Public Utility Commission of Texas.

Sec. 186.102.  COUNCIL. The Texas Energy Disaster Reliability Council is established to:

(1)  prevent extended natural gas supply failures or power outages caused by disasters;

(2)  implement procedures to manage emergencies caused by disasters;

(3)  maintain records of critical infrastructure facilities to maintain service in a disaster;

(4)  coordinate the delivery of fuel to serve human needs natural gas customers and providers of electric generation service in a disaster;

(5)  monitor supply chains for the electric grid in this state to minimize service disruptions; and

(6)  study and make recommendations on methods to maintain the reliability of the electric grid in this state during a disaster, including methods for maintaining the reliability of natural gas supply networks.

Sec. 186.103.  MEMBERS. (a) The council consists of:

(1)  the presiding officer of the utility commission;

(2)  the executive director of the utility commission;

(3)  the chairman of the railroad commission;

(4)  the executive director of the railroad commission;

(5)  the chief executive officer of the independent organization certified under Section 39.151 for the ERCOT power region; and

(6)  the chief of the division.

(b)  The chief of the division shall serve as the presiding officer of the council.

(c)  The council shall hold meetings during the weeks of March 1 and September 1 of each year.

(d)  In addition to the meetings required by Subsection (c), the council shall convene as soon as reasonably possible during or in anticipation of a disaster to address an actual or potential extended power outage caused by a disaster in order to coordinate fuel supplies and minimize the duration of the outage.

(e)  In carrying out its functions, the council may consult and coordinate with:

(1)  the United States Department of Energy;

(2)  the United States Department of Homeland Security;

(3)  the North American Electric Reliability Corporation;

(4)  the Texas Reliability Entity;

(5)  federal and state agencies;

(6)  local governmental officials, including mayors, county judges, and emergency management officials;

(7)  members of the electric industry;

(8)  members of the natural gas industry; and

(9)  grid security experts.

(f)  A public utility or gas provider shall provide to the council any information related to a disaster requested by the council. Information obtained by the council under this subsection is confidential and not subject to disclosure by the council if the information is critical energy infrastructure information as defined by the independent organization certified under Section 39.151 for the ERCOT power region or federal law.

(g)  Except as provided by Subsection (g-1), the meetings of the council and information obtained or created by the council are not subject to the requirements of Chapter 551 or 552, Government Code.

(g-1)  Information written, produced, collected, assembled, or maintained under law or in connection with the transaction of official business by the council or an officer or employee of the council is subject to Section 552.008, Government Code, in the same manner as public information.

(h)  Chapter 2110, Government Code, does not apply to the council.

Sec. 186.104.  REPORT. (a) Not later than November 1 of each even-numbered year, the council shall submit to the legislature a report on the reliability and stability of the electric supply chain in this state.

(b)  The report must include recommendations on methods to strengthen the electric supply chain in this state and to decrease the frequency of extended power outages caused by a disaster in this state.

SECTION 26.  Subchapter E, Chapter 13, Water Code, is amended by adding Section 13.1394 to read as follows:

Sec. 13.1394.  STANDARDS OF EMERGENCY OPERATIONS. (a) In this section:

(1)  "Affected utility" means a retail public utility, exempt utility, or provider or conveyor of potable or raw water service that:

(A)  furnishes water service to more than one customer; and

(B)  is not an affected utility under Section 13.1395.

(2)  "Emergency operations" means the operation of a water system during an extended power outage that impacts the operating affected utility.

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

(b)  An affected utility shall:

(1)  ensure the emergency operation of its water system during an extended power outage at a minimum water pressure of 20 pounds per square inch, or at a water pressure level approved by the commission, as soon as safe and practicable following the occurrence of a natural disaster; and

(2)  adopt and submit to the commission for its approval:

(A)  an emergency preparedness plan that demonstrates the utility's ability to provide the emergency operations described by Subdivision (1); and

(B)  a timeline for implementing the plan described by Paragraph (A).

(c)  The commission shall review an emergency preparedness plan submitted under Subsection (b). If the commission determines that the plan is not acceptable, the commission shall recommend changes to the plan. The commission must make its recommendations on or before the 90th day after the commission receives the plan. In accordance with commission rules, an emergency preparedness plan for a provider of potable water shall provide for one of the following:

(1)  the maintenance of automatically starting auxiliary generators;

(2)  the sharing of auxiliary generator capacity with one or more affected utilities, including through participation in a statewide mutual aid program;

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

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

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

(6)  hardening the electric transmission and distribution system serving the water system;

(7)  for existing facilities, the maintenance of direct engine or right angle drives;

(8)  designation of the water system as a critical load facility or redundant, isolated, or dedicated electrical feeds;

(9)  water storage capabilities;

(10)  water supplies delivered from outside the service area of the affected utility; or

(11)  any other alternative determined by the commission to be acceptable.

(d)  Each affected utility that supplies, provides, or conveys raw surface water shall include in its emergency preparedness plan under Subsection (b) provisions for demonstrating the capability of each raw water intake pump station, pump station, and pressure facility to provide raw water service to its wholesale customers during emergencies. This subsection does not apply to raw water services that are unnecessary or otherwise subject to interruption or curtailment during emergencies under a contract.

(e)  The commission shall adopt rules to implement this section as an alternative to any rule requiring elevated storage.

(f)  The commission shall provide an affected utility with access to the commission's financial, managerial, and technical contractors to assist the utility in complying with the applicable emergency preparedness plan submission deadline.

(g)  The commission by rule shall create an emergency preparedness plan template for use by an affected utility when submitting a plan under this section. The emergency preparedness plan template shall contain:

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

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

(h)  An emergency generator used as part of an approved emergency preparedness plan under Subsection (c) must be operated and maintained according to the manufacturer's specifications.

(i)  The commission shall inspect each utility to ensure that the utility complies with the approved plan.

(j)  The commission may grant a waiver of the requirements of this section to an affected utility if the commission determines that compliance with this section will cause a significant financial burden on customers of the affected utility.

(k)  An affected utility may adopt and enforce limitations on water use while the utility is providing emergency operations.

(l)  Except as specifically required by this section, information provided by an affected utility under this section is confidential and is not subject to disclosure under Chapter 552, Government Code.

(m)  The commission shall coordinate with the utility commission in the administration of this section.

SECTION 27.  The heading to Section 13.1395, Water Code, is amended to read as follows:

Sec. 13.1395.  STANDARDS OF EMERGENCY OPERATIONS IN CERTAIN COUNTIES.

SECTION 28.  Section 13.1396, Water Code, is amended by adding Subsection (a-1) to read as follows:

(a-1)  This section applies only to an affected utility, as defined by Section 13.1394 or 13.1395.

SECTION 29.  Subchapter E, Chapter 13, Water Code, is amended by adding Section 13.151 to read as follows:

Sec. 13.151.  BILLING FOR SERVICES PROVIDED DURING EXTREME WEATHER EMERGENCY. (a) In this section, "extreme weather emergency" means a period when the previous day's highest temperature did not exceed 10 degrees Fahrenheit and the temperature is predicted to remain at or below that level for the next 24 hours according to the nearest National Weather Service reports.

(b)  A retail public utility that is required to possess a certificate of public convenience and necessity or a district and affected county that furnishes retail water or sewer utility service shall defer collection of the full payment of bills that are due during an extreme weather emergency until after the emergency is over and shall work with customers to establish a pay schedule for deferred bills.

SECTION 30.  Section 13.414, Water Code, is amended by adding Subsection (d) to read as follows:

(d)  The commission by rule shall establish a classification system to be used by a court under this section for violations of Section 13.151 that includes a range of penalties that may be recovered for each class of violation based on:

(1)  the seriousness of the violation, including:

(A)  the nature, circumstances, extent, and gravity of a prohibited act; and

(B)  the hazard or potential hazard created to the health, safety, or economic welfare of the public;

(2)  the history of previous violations;

(3)  the amount necessary to deter future violations;

(4)  efforts to correct the violation; and

(5)  any other matter that justice may require.

SECTION 31.  Section 13.1396(a)(1), Water Code, is repealed.

SECTION 32.  (a) The State Energy Plan Advisory Committee is composed of 12 members. The governor, lieutenant governor, and speaker of the house of representatives each shall appoint four members to the advisory committee.

(b)  Not later than September 1, 2022, the State Energy Plan Advisory Committee shall prepare a comprehensive state energy plan. The plan must:

(1)  evaluate barriers in the electricity and natural gas markets that prevent sound economic decisions;

(2)  evaluate methods to improve the reliability, stability, and affordability of electric service in this state;

(3)  provide recommendations for removing the barriers described by Subdivision (1) of this subsection and using the methods described by Subdivision (2) of this subsection; and

(4)  evaluate the electricity market structure and pricing mechanisms used in this state, including the ancillary services market and emergency response services.

(c)  The state energy plan prepared under this section must be submitted to the legislature not later than September 1, 2022.

SECTION 33.  The Public Utility Commission of Texas and the independent organization certified under Section 39.151, Utilities Code, shall annually review statutes, rules, protocols, and bylaws that apply to conflicts of interest for commissioners and for members of the governing body of the independent organization and submit to the legislature a report on the effects the statutes, rules, protocols, and bylaws have on the ability of the commission and the independent organization to fulfill their duties.

SECTION 34.  (a) Not later than November 1, 2021, each affected utility, as defined by Section 13.1394, Water Code, as added by this Act, shall complete the submissions required by Section 13.1396(c), Water Code.

(b)  Not later than March 1, 2022, each affected utility shall submit to the Texas Commission on Environmental Quality the emergency preparedness plan required by Section 13.1394, Water Code, as added by this Act.

(c)  Not later than July 1, 2022, each affected utility shall implement the emergency preparedness plan approved by the Texas Commission on Environmental Quality under Section 13.1394, Water Code, as added by this Act.

(d)  An affected utility, as defined by Section 13.1394, Water Code, as added by this Act, may file with the Texas Commission on Environmental Quality a written request for an extension, not to exceed 90 days, of the date by which the affected utility is required under Subsection (b) of this section to submit the affected utility's emergency preparedness plan or of the date by which the affected utility is required under Subsection (c) of this section to implement the affected utility's emergency preparedness plan. The Texas Commission on Environmental Quality shall approve the requested extension for good cause shown.

SECTION 35.  Not later than six months after the date the Texas Electricity Supply Chain Security and Mapping Committee produces the map required under Section 38.203, Utilities Code, as added by this Act, the Railroad Commission of Texas shall adopt rules necessary to implement:

(1)  Section 86.044, Natural Resources Code, as added by this Act; and

(2)  Section 121.2015, Utilities Code, as amended by this Act.

SECTION 36.  Not later than six months after the effective date of this Act, the Public Utility Commission of Texas shall adopt rules necessary to implement:

(1)  Section 35.0021, Utilities Code, as added by this Act; and

(2)  Section 38.074, Utilities Code, as added by this Act.

SECTION 37.  This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2021.