By:  Schwertner S.B. No. 3

(In the Senate - Filed March 12, 2021; March 18, 2021, read first time and referred to Committee on Jurisprudence; March 26, 2021, reported adversely, with favorable Committee Substitute by the following vote: Yeas 5, Nays 0; March 26, 2021, sent to printer.)

COMMITTEE VOTE

                    Yea Nay Absent  PNV

Huffman           X

Hinojosa             X

Creighton            X

Hughes               X

Johnson              X

COMMITTEE SUBSTITUTE FOR S.B. No. 3 By:  Huffman

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 and activation 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 power supply in this state or a region of this state may be inadequate to meet demand, 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 with respect to a particular energy emergency alert not later than the date the department receives notice that the energy emergency alert has been canceled.

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.  Chapter 418, Government Code, is amended by adding Subchapter J to read as follows:

SUBCHAPTER J. TEXAS ENERGY RELIABILITY COUNCIL

Sec. 418.301.  DEFINITIONS. In this subchapter:

(1)  "Chief" means the division's chief.

(2)  "Council" means the Texas Energy Reliability Council.

Sec. 418.302.  COUNCIL ESTABLISHED. The Texas Energy Reliability Council is established to:

(1)  ensure that the energy and electric industries in this state meet high priority human needs and address critical infrastructure concerns; and

(2)  enhance coordination and communication in the energy and electric industries in this state.

Sec. 418.303.  MEMBERSHIP. (a) The council is composed of:

(1)  the chairman of the Railroad Commission of Texas;

(2)  the presiding officer of the Public Utility Commission of Texas;

(3)  the chief executive of the Office of Public Utility Counsel;

(4)  the presiding officer of the Texas Commission on Environmental Quality;

(5)  the chair of the Texas Transportation Commission;

(6)  a person to represent the independent organization certified under Section 39.151, Utilities Code, for the ERCOT power region, appointed by the governor;

(7)  the chief;

(8)  five persons to represent participants in the natural gas supply chain in this state, appointed by the Railroad Commission of Texas to represent as many types of participants as possible;

(9)  five persons to represent the electric industry, appointed by the Public Utility Commission of Texas, including:

(A)  one person to represent entities that provide dispatchable electric energy to the power grid in this state;

(B)  one person to represent transmission and distribution utilities, as defined by Section 31.002, Utilities Code;

(C)  one person to represent retail electric providers, as defined by Section 31.002, Utilities Code;

(D)  one person to represent municipally owned utilities, as defined by Section 11.003, Utilities Code; and

(E)  one person to represent electric cooperatives;

(10)  three persons to represent energy sectors not otherwise represented on the council, such as the non-dispatchable sources of energy, coal, or nuclear sectors, appointed by the Public Utility Commission of Texas; and

(11)  five persons to represent industrial concerns, appointed by the governor, including:

(A)  one person to represent motor fuel producers; and

(B)  one person to represent chemical manufacturers.

(b)  A member of the council described by Subsection (a)(1), (2), (3), (4), (5), (6), or (7) may designate a person from the member's agency to represent the member in any meeting.

(c)  The council may request that a person collaborate with the council to achieve the purposes described by Section 418.302.

Sec. 418.304.  OFFICERS. (a) The chief shall serve as presiding officer of the council.

(b)  The council may select an assistant presiding officer and secretary from among its members.

Sec. 418.305.  COMPENSATION; REIMBURSEMENT. A member of the council is not entitled to compensation or reimbursement of expenses for service on the council.

Sec. 418.306.  MEETINGS. (a) After its initial meeting, the council shall meet at least twice each year at a time and place determined by the chief.

(b)  The council may meet at other times the council considers appropriate. The presiding officer may call a meeting on the officer's own motion.

Sec. 418.307.  ADMINISTRATIVE SUPPORT. The division shall provide administrative support to the council.

Sec. 418.308.  GENERAL DUTIES OF COUNCIL. (a) The council shall foster communication and planning to ensure preparedness for making available and delivering energy and electricity in this state to ensure that high priority human needs are met and critical infrastructure needs are addressed.

(b)  The council shall foster communication and coordination between the energy and electric industries in this state.

Sec. 418.309.  SUPPLY CHAIN MAP. The council shall:

(1)  map the natural gas supply chain for this state in order to designate priority service needs during extreme weather events, including electric generation facilities powered by natural gas; and

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

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 to end consumers;

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

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

(b)  The commission by rule shall require a gas supply chain facility operator to implement measures to prepare to operate during a weather emergency. In adopting the rules, the commission shall take into consideration the supply chain map created under Section 418.309, Government Code.

(c)  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 provider to assess the operator's weatherization plans, procedures, and operations; and

(2)  submit the assessment to the commission.

(d)  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 (c).

(e)  If the commission determines that a person has violated a rule adopted under this section, the commission shall notify the attorney general of the violation. 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 Subdivision (3-a) to read as follows:

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

SECTION 8.  Section 17.003, Utilities Code, is amended by adding Subsections (d-1) and (e) 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 collaborate with the retail electric provider and the commission to ensure that information about the following matters is periodically provided to the retail electric provider's retail customers together with bills sent to the customers:

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

(2)  the types of customers who may be considered critical care residential 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 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.

(e)  The commission by rule shall require each retail electric provider to:

(1)  provide to the provider's customers clear and understandable information about the requirements for voluntary load shedding participation before the provider accepts a customer's agreement to volunteer to participate in voluntary load shedding;

(2)  inform the provider's transmission and distribution utilities whether the retail electric provider serves customers willing to voluntarily participate in load shedding during an energy emergency; and

(3)  coordinate with the provider's transmission and distribution utilities regarding the potential total amounts of electricity that would be available if voluntary load shedding is needed.

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 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 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 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 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, qualifying facility, 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 that is not remedied in a reasonable period of time.

(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 a period in which historically, as determined by the commission, electricity use has reached a summer or winter peak.

(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 in the manner provided by Chapter 15.

SECTION 13.  Section 35.004(e), Utilities Code, is amended to read as follows:

(e)  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. The commission shall ensure that the independent organization certified under Section 39.151 for the ERCOT power region procures ancillary services sufficient to manage any reliability impacts of intermittent generation resources, including variability across peak demand periods, and shall directly assign the costs of such services to intermittent generators consistent with cost-causation principles. 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.

SECTION 14.  Subchapter D, Chapter 38, Utilities Code, is amended by adding Sections 38.074, 38.075, and 38.076 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 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 in the manner provided by Chapter 15.

Sec. 38.075.  INVOLUNTARY 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 an independent organization certified under Section 39.151 for the region during an energy emergency.

(b)  The system must provide for allocations for electric cooperatives, municipally owned utilities, and transmission and distribution utilities in different seasons based on historical seasonal peak usage in the geographic area served by 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 load shedding; and

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

(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.

Sec. 38.076.  LOAD SHEDDING EXERCISES. (a) The commission and the independent organization certified for the ERCOT power region shall conduct 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 exercise is conducted during a summer month and one exercise is conducted during a winter month.

SECTION 15.  Subchapter C, Chapter 39, Utilities Code, is amended by adding Section 39.110 to read as follows:

Sec. 39.110.  WHOLESALE INDEXED PRODUCTS PROHIBITED. (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)  A retail electric provider may not offer a wholesale indexed product to a residential or small commercial customer.

SECTION 16.  Subchapter D, Chapter 39, Utilities Code, is amended by adding Section 39.159 to read as follows:

Sec. 39.159.  WHOLESALE EMERGENCY PRICING PROCEDURES. (a) The commission by rule shall establish an emergency system-wide offer cap program based on actual costs of generation at the time of the emergency for the wholesale electric market.

(b)  If the program includes more than one emergency system-wide offer cap:

(1)  the program may not authorize the high system-wide offer cap to be in effect for a continuous period of more than 12 hours;

(2)  the program may only allow for a low system-wide offer cap that cannot exceed the high system-wide offer cap;

(3)  the program may not allow an emergency system-wide offer cap to exceed any nonemergency high system-wide offer cap; and

(4)  the price of ancillary services may not exceed 150 percent of the high system-wide offer cap.

(c)  The commission shall review the emergency system-wide offer cap program at least once every five years to determine whether to update aspects of the program.

SECTION 17.  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)  is located at a customer's point of delivery;

(2)  is connected at a voltage less than or equal to 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 18.  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 19.  Section 121.2015, Utilities Code, is amended by amending Subsection (a) and adding Subsections (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 gas pipeline facility operators must implement to prepare gas pipeline facilities to maintain service quality and reliability during extreme weather conditions, taking into consideration the supply chain map created under Section 418.309, Government Code.

(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 provider 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 supply chain facility 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) in the manner provided by Subchapter E.

SECTION 20.  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 21.  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 22.  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 23.  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 gas supply chain facilities, as defined by Section 86.044, Natural Resources Code, and by gas pipeline facility operators regulated under Chapter 121 and prepare a weather emergency preparedness report on natural gas supply chain weatherization preparedness. 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 natural gas supply chain, as mapped under Section 418.309, Government Code, 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.

(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 24.  Section 13.1395(a), Water Code, is amended to read as follows:

(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 furnishes water service to more than one customer[~~:~~

[~~(A)  in a county with a population of 3.3 million or more; or~~

[~~(B)  in a county with a population of 550,000 or more adjacent to a county with a population of 3.3 million or more~~].

(2)  "Emergency operations" means the operation of a water system during an extended power outage at a minimum water pressure of 35 pounds per square inch.

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

SECTION 25.  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:

(1)  the previous day's highest temperature did not exceed 32 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; or

(2)  the National Weather Service issues a heat advisory for any county in the relevant service territory, or when such an advisory has been issued on any one of the previous two calendar days.

(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 26.  Section 13.414, Water Code, is amended by adding Subsections (a-1), (d), and (e) to read as follows:

(a-1)  Notwithstanding Subsection (a), a retail public utility or affiliated interest that violates Section 13.151 is subject to a civil penalty of not less than $100 nor more than $1,000,000 for each violation.

(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.

(e)  The classification system established under Subsection (d) 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 27.  Section 13.4151, Water Code, is amended by adding Subsection (a-1) to read as follows:

(a-1)  Notwithstanding Subsection (a), the penalty for a violation of Section 13.151 may be in an amount not to exceed $1,000,000 a day. The utility commission may assess a penalty in an amount that exceeds $5,000 under this subsection only if the utility commission determines that a penalty in an amount that exceeds $5,000 is justified based on the seriousness of the violation as classified under Subsection (b). Each day a violation continues may be considered a separate violation.

SECTION 28.  (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) and using the methods described by Subdivision (2); and

(4)  evaluate the electricity market structure and pricing mechanisms used in this state.

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

SECTION 29.  The Public Utility Commission of Texas and the independent organization certified under Section 39.151, Utilities Code, shall 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 30.  The Public Utility Commission of Texas shall complete the first review required by Section 39.159(c), Utilities Code, as added by this Act, not later than December 31, 2022.

SECTION 31.  (a) Not later than November 1, 2021, each affected utility, as defined by Section 13.1395, Water Code, as amended 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 13.1395, Water Code, as amended 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 13.1395, Water Code, as amended by this Act.

(d)  An affected utility 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 32.  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.

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