By:  Hancock, Bettencourt S.B. No. 1750

A BILL TO BE ENTITLED

AN ACT

relating to extreme weather preparedness of critical electric and natural gas infrastructure; authorizing administrative penalties.

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

SECTION 1.  The legislature finds that Winter Storm Uri revealed the interconnectedness of the gas and power industries in the face of extreme weather and resolves to protect the citizens of this state from similar events by requiring coordinated enforcement by relevant regulatory bodies.

SECTION 2.  Subchapter C, Chapter 86, Natural Resources Code, is amended by adding Section 86.044 to read as follows:

Sec. 86.044.  EXTREME WEATHER EMERGENCY PREPAREDNESS. (a) In this section, "extreme weather emergency" means a period when:

(1)  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; 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)  The commission by rule shall require an operator of a gas well to implement measures to prepare the well to operate during an extreme weather emergency.

SECTION 3.  Section 121.2015(a), Utilities Code, is amended 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 an extreme weather emergency, as defined by Section 86.044, Natural Resources Code.

SECTION 4.  Subchapter A, Chapter 186, Utilities Code, is amended by adding Section 186.008 to read as follows:

Sec. 186.008.  WINTER WEATHER EMERGENCY PREPAREDNESS AND COORDINATION. (a) In this section:

(1)  "Coordinating agency" means the Public Utility Commission of Texas, the Railroad Commission of Texas, or the Texas Division of Emergency Management.

(2)  "Coordinated entity" means a power generation company as defined by Section 31.002, the independent organization, or an entity engaged in the transport, storage, or shipping of natural gas to or for a power generation company.

(3)  "Independent organization" means the independent organization certified under Section 39.151 for the ERCOT power region.

(b)  The Public Utility Commission of Texas and the Railroad Commission of Texas each by rule shall require each coordinated entity subject to the agency's jurisdiction to establish and submit to the respective agency a winter preparedness emergency operations plan. The rules must require a winter preparedness emergency operations plan to include:

(1)  a plan for operating during extremely cold weather;

(2)  a plan that addresses any known critical failure points of the entity, including any effects of weather design limits;

(3)  a plan for operating during an emergency shortage of water or other critical supplies;

(4)  a plan for identifying potentially extreme weather events;

(5)  a plan for staffing during extreme weather events;

(6)  natural gas curtailment priorities and procedures, if applicable;

(7)  a description of priorities for recovery of operational capacity or restoration of service, as applicable;

(8)  identification of critical loads necessary to maintain production of electricity or natural gas;

(9)  a communications plan that describes the procedures and threshold conditions for initiation of communication about a potential extreme weather event with the coordinating agencies, other coordinated entities, the public, the media, and customers; and

(10)  an affidavit from an owner, partner, officer, manager, or other official with responsibility for the entity's operations affirming that all relevant operating personnel of the entity are familiar with the contents of the emergency operations plan and that the personnel will follow the plan, except to the extent deviations are appropriate under the circumstances during an emergency.

(c)  An emergency operations plan may be combined or coordinated with other preparedness reporting requirements, including requirements regarding other weather scenarios, natural disasters, cybersecurity events, physical security events, and pandemics. A coordinating agency may authorize a coordinated entity to submit for the purposes of this section a plan required to be submitted to the agency under another provision of law if the plan includes the information required by this section to be included in an emergency operations plan.

(d)  The coordinating agencies shall analyze jointly emergency operations plans developed by coordinated entities in each even-numbered year and prepare a weather emergency preparedness report on power generation and natural gas weatherization preparedness in this state. In preparing the report, the coordinating agencies shall:

(1)  review the emergency operations plans on file with each of the coordinating agencies;

(2)  analyze and determine the ability of the electric grid and natural gas system to withstand extreme weather events in the upcoming biennium;

(3)  consider the anticipated weather patterns for the upcoming biennium; and

(4)  make recommendations on improving emergency operations plans and procedures to ensure the continuity of electric and natural gas service, including identifying and defining potentially appropriate weatherization and emergency operations standards, that may:

(A)  differentiate between existing and new facilities; and

(B)  consider geography, suitable alternatives, cost-effectiveness, and other practical constraints.

(e)  A coordinating agency may require a coordinated entity subject to the agency's jurisdiction and this section to file an updated emergency operations plan if the coordinating agency finds that an emergency operations plan on file does not contain sufficient information to determine whether the coordinated entity can provide adequate services.

(f)  Each coordinating agency may adopt rules relating to the implementation of the report described by Subsection (d).

(g)  The coordinating agencies shall submit the report described by Subsection (d) 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. The coordinating agencies may combine a report required by this section with a report required to be produced by a coordinating agency by another provision of law when making the submission required by this subsection.

(h)  An emergency operations plan submitted to a state agency under this section is confidential under Chapters 418 and 552, Government Code, and any other applicable law, and is not subject to disclosure under Chapter 552, Government Code. If portions of a plan are directly referenced in the report described by Subsection (d), the information must be in a redacted form for public inspection with the confidential portions removed. A coordinated entity in the ERCOT power region shall provide the entity's entire plan to the independent organization. The independent organization shall maintain the confidentiality of the plan.

(i)  The Public Utility Commission of Texas and the Railroad Commission of Texas each shall notify coordinated entities under their respective jurisdictions of any potential deficiencies in entity emergency operations plans and describe any applicable winter weatherization and emergency operations standards recommended by the coordinating agencies. Not later than the 30th day after the date a coordinated entity receives notice under this subsection, the entity in writing shall acknowledge to the Public Utility Commission of Texas or the Railroad Commission of Texas, as applicable, that the entity received the notice.

(j)  The Public Utility Commission of Texas or the Railroad Commission of Texas, after notice and opportunity for hearing, may impose an administrative penalty on a coordinated entity subject to the agency's jurisdiction for failure to submit an emergency operations plan or respond to a notice of potential deficiency by the required time.

SECTION 5.  The Railroad Commission of Texas shall adopt rules as required by Section 86.044, Natural Resources Code, as added by this Act, and Section 121.2015(a), Utilities Code, as amended by this Act, not later than November 1, 2021.

SECTION 6.  Not later than January 1, 2022, the Public Utility Commission of Texas and the Railroad Commission of Texas shall adopt the rules required by Section 186.008, Utilities Code, as added by this Act.

SECTION 7.  The Railroad Commission of Texas is required to implement this Act only if the legislature appropriates money specifically for that purpose. If the legislature does not appropriate money specifically for that purpose, the Railroad Commission of Texas may, but is not required to, implement this Act using other appropriations available for the purpose.

SECTION 8.  This Act takes effect September 1, 2021.