

By: Paddie

H.B. No. 1520

A BILL TO BE ENTITLED

AN ACT

relating to the recovery and securitization of extraordinary costs incurred by certain gas utilities; authority to issue bonds.

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

SECTION 1. Chapter 1232.002, Government Code, is amended by adding a new (3) to read as follows:

Sec. 1232.002. PURPOSE. The purpose of this chapter is to provide a method of financing for:

(1) the acquisition or construction of buildings;

(2) the purchase or lease of equipment by executive or judicial branch state agencies; and

(3) customer rate relief bonds authorized by the Railroad Commission of Texas.

SECTION 2. Chapter 1232.06(a), Government Code is amended by adding (4) to read as follows:

Sec. 1232.06. BOARD AUTHORITY. Sec. 1232.066. BOARD AUTHORITY. (a) The board's authority under this chapter is limited to the financing of:

(1) the acquisition or construction of a building;

(2) the purchase or lease of equipment;

(3) stranded costs of a municipal power agency; or

(4) customer rate relief bonds approved by the railroad commission.

SECTION 3. Chapter 1232, Government Code is amended to add a

1 new section to read as follows:

2 Sec. 1232.1072. ISSUANCE OF OBLIGATIONS FOR CUSTOMER RATE  
3 RELIEF BONDS APPROVED BY THE RAILROAD COMMISSION OF TEXAS. (a) The  
4 authority may, either directly or by means of a trust or trusts  
5 established by it, issue obligations or other evidences of  
6 indebtedness for financing customer rate relief bonds approved by  
7 the Railroad Commission of Texas pursuant to Chapter 104, Utilities  
8 Code.

9 (b) At the request of the Railroad Commission of Texas, the  
10 authority shall issue obligations or other evidences of  
11 indebtedness in the amount of the requested customer rate relief  
12 bonds, plus the issuance costs, and shall make a grant of the  
13 proceeds of the obligations or evidences of indebtedness to the  
14 Railroad Commission of Texas. The Railroad Commission of Texas'  
15 request under this subsection must include a statement of the  
16 payment terms for recovering customer rate relief costs.

17 (c) Obligations or evidences of indebtedness issued by the  
18 authority under this section must be created pursuant to financing  
19 orders issued by the Railroad Commission of Texas. Such financing  
20 orders shall authorize the authority to create isolated bankruptcy  
21 remote financing entities to hold customer rate relief property,  
22 and the establishment of such financing entities is hereby  
23 authorized.

24 (d) Obligations or evidences of indebtedness issued by the  
25 authority under this section shall also include administrative  
26 costs related to each approved customer rate relief financing, as  
27 part of the financing costs of each financing.

1       (e) Obligations or evidences of indebtedness issued by the  
2 authority under this section must be secured by CRR property, as  
3 defined in Section 104.361 (10), Utilities Code, and non-bypassable  
4 CRR charges, as defined in Section 104.361 (9), Utilities Code,  
5 imposed by the authority on customers receiving natural gas  
6 services provided by the requesting gas utility, which must be  
7 consistent with the customer rate relief recovery terms stated in  
8 the gas utility's request unless otherwise approved by the Railroad  
9 Commission of Texas. Obligations or evidences of indebtedness  
10 issued by the authority under this section are not a debt of this  
11 state, the Railroad Commission of Texas, or any gas utility.

12       (f) The Railroad Commission of Texas shall provide  
13 necessary assistance to the authority to ensure the collection and  
14 enforcement of the non-bypassable charges, either directly or by  
15 using the assistance and powers of the requesting gas utility as  
16 servicer.

17       (1) The authority and the Railroad Commission of Texas  
18 have all the powers necessary to perform the duties and  
19 responsibilities described by this section. This section shall be  
20 interpreted broadly in a manner consistent with the most  
21 cost-effective financing of customer rate relief related costs.  
22 Obligations or evidences of indebtedness issued by the authority  
23 under this section may be structured so that any interest on the  
24 obligations or evidences of indebtedness is excluded from gross  
25 income for federal income tax purposes. Any interest on the  
26 obligations or evidences of indebtedness is not subject to taxation  
27 by and shall not be included as part of the measurement of a tax by

1 this state or a political subdivision of this state.

2 (2) The authority shall make periodic reports to the  
3 Railroad Commission of Texas and the public regarding each  
4 financing.

5 SECTION 4. Chapter 1232.018, Government Code is amended to  
6 read as follows:

7 Sec. 1232.108. LEGISLATIVE AUTHORIZATION REQUIRED. Except  
8 as permitted by Section 1232.109, 1232.1072, 2166.452, 1232.1072 or  
9 2166.453, before the board may issue and sell bonds, the  
10 legislature by the General Appropriations Act or other law must  
11 have authorized:

12 (1) the specific project for which the bonds are to be  
13 issued and sold; and

14 (2) the estimated cost of the project or the maximum  
15 amount of bonded indebtedness that may be incurred by the issuance  
16 and sale of bonds for the project.

17 SECTION 5. Chapter 104, Utilities Code, is amended by  
18 adding subchapter I to read as follows:

19 SUBCHAPTER I. CUSTOMER RATE RELIEF BONDS

20 Sec. 104.360. PURPOSE. The purpose of this subchapter is to  
21 reduce the cost that customers would otherwise experience due to  
22 the extraordinary costs that gas utilities incurred and may incur  
23 to secure gas supply and provide service during natural and  
24 man-made disasters, system failures, and other catastrophic events  
25 and to restore gas utility systems after such events by providing  
26 securitization financing enabling gas utilities to recover these  
27 costs. This financing mechanism will provide rate relief to

1 customers by extending the timeframe over which the extraordinary  
2 costs are recovered from customers and support the financial  
3 strength and stability of gas utility companies. The commission  
4 shall determine that securitization provides tangible and  
5 quantifiable benefits to customers, greater than would have been  
6 achieved absent the issuance of the CRR bonds, as defined herein.  
7 The commission shall determine that the structuring and pricing of  
8 the CRR bonds result in CRR bond charges consistent with the terms  
9 of the applicable financing order and market conditions at the time  
10 of the pricing of the CRR bonds. The proceeds of the CRR bonds shall  
11 be used solely for the purpose of reducing the amount of the  
12 regulatory asset determined by the commission to be reasonable and  
13 other purposes provided herein.

14 SECTION 6. Chapter 104, Utilities Code, is amended by  
15 adding Section 104.361 to read as follows:

16 Sec. 104.361. DEFINITIONS. In this subchapter:

17 (1) "Ancillary agreement" means any bond, insurance  
18 policy, letter of credit, reserve account, surety bond, interest  
19 rate or currency swap arrangement, interest rate lock agreement,  
20 forward payment conversion agreement, or other hedging  
21 arrangement, liquidity or credit support arrangement, or other  
22 financial arrangement entered into in connection with the issuance  
23 or payment of CRR bonds that enhances the marketability, security,  
24 or creditworthiness of CRR bonds.

25 (2) "Assignee" means any legally recognized entity to  
26 which an interest in CRR property is transferred, other than as  
27 security. The term includes a corporation, limited liability

1 company, public authority, trust, general partnership or limited  
2 partnership, or other financing entity, including any assignee of  
3 that party.

4 (3) "Authority" means the Texas Public Finance  
5 Authority, as the sponsoring issuer of CRR bonds.

6 (4) "Bond administrative expenses" means expenses  
7 incurred to administer CRR bonds issued under this subchapter,  
8 including fees for paying agents, trustees, and attorneys, and for  
9 other professional services necessary to ensure compliance with  
10 applicable state or federal law.

11 (5) "Bond obligations" means the principal of a CRR  
12 bond and any premium and interest on a CRR bond issued under this  
13 subchapter, together with any amount owed under a related ancillary  
14 agreement or credit agreement

15 (6) "Commission" means the Railroad Commission of  
16 Texas.

17 (7) "Credit agreement" means a loan agreement, a  
18 revolving credit agreement, an agreement establishing a line of  
19 credit, or any similar financing arrangement.

20 (8) "CRR bonds" means bonds, notes, certificates, or  
21 other evidences of indebtedness or ownership that are issued by an  
22 assignee pursuant to an financing order, the proceeds of which are  
23 used directly or indirectly to recover, finance or refinance  
24 railroad commission-approved regulatory assets, including  
25 extraordinary costs, and related financing costs, and that are  
26 payable from and secured by CRR property and amounts on deposit in  
27 the obligation trust fund to the extent provided by the applicable

1 financing order.

2 (9) "CRR charges" means the amounts authorized by the  
3 commission to repay, finance, or refinance regulatory assets,  
4 including extraordinary costs, financing costs, and other costs  
5 authorized by the financing order and that are non-bypassable  
6 charges:

7 (a) imposed on and part of customer bills of a gas  
8 utility who has received a regulatory asset determination under  
9 Section 104.363;

10 (b) collected by a gas utility who has received a  
11 regulatory asset determination under Section 104.363, or its  
12 successors or assignees, or a collection agent, as servicer, in  
13 full, separate and apart from the gas utility's base rates; and

14 (c) paid by all existing or future customers  
15 receiving service from a gas utility that has received a regulatory  
16 asset determination under Section 104.363 or its successors or  
17 assignees, even if a customer elects to purchase gas from an  
18 alternative gas supplier.

19 Such charges shall continue to be paid until all CRR bonds and  
20 financing costs are paid in full. CRR charges shall be designed as  
21 uniform volumetric charges applicable to all existing or future  
22 customers receiving service from a gas utility that has received a  
23 regulatory asset determination under Section 104.363.

24 (10) "CRR property" means the property described in  
25 Section 104.365.

26 (11) "Extraordinary costs" means:

27 (A) Reasonable and necessary costs placed in a

1 regulatory asset as defined in subpart (16) and approved by the  
2 commission in a regulatory asset determination pursuant to section  
3 104.363. Extraordinary costs eligible for inclusion in a regulatory  
4 asset may include costs incurred to serve customers, including  
5 capital costs and other costs expensed, charged to self-insurance  
6 reserves, deferred, capitalized, or otherwise financed, that are  
7 incurred by a gas utility or on behalf of the gas utility for gas  
8 procurement, supply and system restoration and infrastructure,  
9 operations and administration in response to any tropical storm or  
10 hurricane, ice or snow storm, flood, or other weather-related  
11 event, other natural or man-made disaster, system failure, or other  
12 catastrophic event.

13 (B) Extraordinary costs may include natural gas  
14 procurement costs above normalized market pricing, mobilization,  
15 staging, construction, reconstruction, replacement, or repair of  
16 system facilities. Extraordinary costs may include reasonable  
17 estimates of the costs of natural gas procurement above normalized  
18 market pricing and any activity or activities conducted or expected  
19 to be conducted by or on behalf of the gas utility in connection  
20 with the restoration of service or infrastructure associated with  
21 natural gas outages, and such estimates may be subject to  
22 reconciliation after the actual costs are known but before the  
23 commission makes a determination as to the utility's regulatory  
24 asset in accordance with Section 104.363.

25 (C) Extraordinary costs may include:

26 (i) a carrying charge interest rate at the  
27 gas utility's cost of long-term debt as last approved by the



1 commission in a general rate proceeding if the final order (which  
2 may be an order on rehearing) approving the cost of long-term debt  
3 was filed less than three years before the application for  
4 regulatory asset recovery was filed;

5 (ii) if the final order approving the gas  
6 utility's cost of long-term debt is not stated in a final order  
7 meeting the requirements of subsection (c)(i) or the final order  
8 was filed three or more years before the application for regulatory  
9 asset recovery was filed an alternative cost of long-term debt  
10 shall be used that reflects the average cost of long-term debt  
11 established by the commission for all gas utilities based on final  
12 orders issued in the most recent three-year period preceding the  
13 filing of the application for regulatory asset recovery; or

14 (iii) the carrying charge interest rate set  
15 at the applicable cost of long-term debt set forth in subsection  
16 (c)(i-ii) shall be applied from the date on which the extraordinary  
17 costs were incurred until the date that CRR bonds are issued or  
18 until extraordinary costs are otherwise recovered by the gas  
19 utility pursuant to the provisions of this section.

20 Extraordinary costs include any costs of acquiring,  
21 retiring, and refunding the gas utility's existing debt and equity  
22 securities or credit facilities in connection with the issuance of  
23 CRR bonds.

24 (12) "Financing costs" means any of the following:

25 (A) interest and acquisition, defeasance, or  
26 redemption premiums that are payable on CRR bonds.

27 (B) any payment required under an ancillary

1 agreement and any amount required to fund or replenish reserve or  
2 other accounts established under the terms of any indenture,  
3 ancillary agreement, or other financing documents pertaining to CRR  
4 bonds.

5 (C) issuance costs, and any ongoing costs related  
6 to supporting, repaying, servicing, and refunding CRR bonds,  
7 including but not limited to servicing fees, accounting and  
8 auditing fees, trustee fees, legal fees and expenses, consulting  
9 fees, administrative fees, printing fees, financial advisor fees  
10 and expenses, SEC registration fees, issuer fees, placement and  
11 underwriting fees, capitalized interest, overcollateralization  
12 funding requirements, rating agency fees, stock exchange listing  
13 and compliance fees, filing fees, and any other bond administration  
14 expenses. The term includes the costs to the commission of  
15 acquiring professional services for the purpose of evaluating  
16 extraordinary costs under this subchapter.

17 (13) "Financing order" means an order of the  
18 commission adopted under Section 104.364 approving the issuance of  
19 CRR bonds and the creation of CRR property and associated CRR  
20 charges for the recovery of regulatory assets, including  
21 extraordinary costs, and related financing costs, and other costs  
22 authorized by such financing order.

23 (14) "Financing party" means a holder of CRR bonds,  
24 including trustees, collateral agents, any party under an ancillary  
25 agreement and other persons acting for the benefit of the holder.

26 (15) "Gas utility" shall mean:

27 (A) An operator of natural gas distribution

1 pipelines that delivers and sells natural gas to the public and that  
2 is subject to the commission's jurisdiction under Section 102.001  
3 of this title; and

4 (B) a gas utility that transmits, transports,  
5 delivers, or sells natural gas or synthetic natural gas to  
6 operators of natural gas distribution pipelines and whose rates for  
7 such services are established by the commission in a cost of service  
8 rate proceeding filed pursuant to Chapter 104 of this title.

9 (16) "Non-bypassable" shall mean a charge that may not  
10 be offset by any credit.

11 (17) "Normalized market pricing" shall be determined  
12 using the average monthly pricing at the Henry Hub for the three (3)  
13 preceding months prior to the month during which extraordinary  
14 costs were incurred, plus contractual adders to the index price,  
15 and other non-indexed gas procurement costs.

16 (18) "Regulatory asset" includes the extraordinary  
17 costs recorded by the gas utility in its books and records in  
18 accordance with the Uniform System of Accounts Prescribed for  
19 Natural Gas Companies Subject to the Provisions of the Natural Gas  
20 Act (FERC USOA) and Generally Accepted Accounting Principles (GAAP)  
21 or classified as a receivable or financial asset under  
22 International Financial Reporting Standards (IFRS) pursuant to the  
23 commission's authorization in the Notice of Authorization for  
24 Regulatory Asset Accounting for Local Distribution Companies  
25 Affected by the February 2021 Winter Weather Event issued on  
26 February 13, 2021, or any notice or order issued by the commission  
27 thereafter for other similarly authorized natural or man-made

1 disasters or system failure events.

2 SECTION 7. Chapter 104, Utilities Code, is amended by  
3 adding Section 104.361 to read as follows:

4 Sec. 104.361. JURISDICTION AND POWERS OF THE COMMISSION AND  
5 OTHER REGULATORY AUTHORITIES. (a) The commission may authorize  
6 the issuance of CRR bonds if the commission finds pursuant to  
7 Section 104.363 that the proposed structuring, expected pricing,  
8 and proposed financing costs of the CRR bonds are reasonably  
9 expected to provide benefits to customers comparing the net present  
10 value of the costs to customers resulting from the issuance of CRR  
11 bonds and the costs that would result from the application of  
12 conventional methods of financing or recovering gas utility  
13 extraordinary costs and other costs authorized by a financing  
14 order.

15 (b) The commission may assess to a gas utility costs  
16 associated with administering this subchapter and such assessments  
17 shall be recovered from rate-regulated customers as part of gas  
18 cost.

19 (c) The commission has exclusive, original jurisdiction to  
20 issue financing orders that authorize the creation of CRR property,  
21 CRR charges to service CRR bonds and financing costs. CRR charges,  
22 if authorized by the commission through a financing order in its  
23 sole discretion, will be imposed pursuant to CRR property, and not  
24 by a gas utility.

25 (d) Except as provided by (c), this subchapter does not in  
26 any way limit or impair a regulatory authority's plenary  
27 jurisdiction over the rates, charges and services rendered by gas

1 utilities in this state under Chapter 102 of this subtitle.

2 SECTION 8. Chapter 104, Utilities Code, is amended by  
3 adding Section 104.362 to read as follows:

4 Sec. 104.362. REGULATORY ASSET DETERMINATION. (a) The  
5 commission shall, upon application of a gas utility to recover a  
6 regulatory asset, determine the regulatory asset amount to be  
7 recovered by the gas utility.

8 (b) A gas utility desiring to participate in the CRR bond  
9 process pursuant to a financing order shall file an application  
10 with the commission no later than 90 days following the conclusion  
11 of the event for which regulatory asset recovery is requested or no  
12 later than 60 days following the effective date of this  
13 subchapter's passage. The application date deadline shall be  
14 determined by the commission consistent with this subpart.

15 (c) If the commission does not make a final determination  
16 concerning the regulatory asset amount to be recovered by the gas  
17 utility not later than 90 days of an application filed under (a),  
18 the commission is considered to have approved the regulatory asset  
19 amount requested by the gas utility.

20 (d) The regulatory asset determination shall not otherwise  
21 be subject to reduction, impairment, or adjustment by further  
22 action of the commission, except as permitted by Section 104.368.

23 (e) The regulatory asset determination is not subject to  
24 rehearing by the commission. A regulatory asset determination may  
25 only be appealed to a Travis County district court by a party to the  
26 proceeding filed not later than 15 days after the order is signed by  
27 the commission. The judgment of the district court may be reviewed

1 only by direct appeal to the Supreme Court of Texas filed not later  
2 than 15 days after entry of judgment. All appeals shall be heard  
3 and determined by the district court and the Supreme Court of Texas  
4 as expeditiously as possible with lawful precedence over other  
5 matters. Review on appeal shall be based solely on the record  
6 before the commission and briefs to the court and shall be limited  
7 to whether the financing order conforms to the constitution and  
8 laws of this state and the United States and is within the authority  
9 of the commission under this subchapter.

10 (f) The commission shall issue an order to establish a  
11 schedule, filing requirements, and procedure for determining the  
12 prudence of the costs included in a gas utility's regulatory asset.

13 (g) To extent a gas utility subject to this subchapter  
14 receives insurance proceeds, governmental grants, or any other  
15 sources of funding that compensates or otherwise reimburses or  
16 indemnifies it for extraordinary costs following the issuance of  
17 CRR bonds a gas utility may record the amount in a regulatory  
18 liability account and such amounts will be reviewed in a future  
19 proceeding. If any audit conducted under a valid gas purchase  
20 agreement identifies a change to the total amount of greater than 5%  
21 of the gas supply costs incurred during the extraordinary event set  
22 forth in Section 104.361(10)(A) is identified, the gas utility may  
23 record the amount in a regulatory asset or regulatory liability  
24 account and such amounts will be reviewed for recovery in a future  
25 proceeding.

26 SECTION 7. Chapter 104, Utilities Code, is amended by  
27 adding Section 104.363 to read as follows:

1       Sec. 104.363. FINANCING ORDERS AND ISSUANCE OF CRR BONDS BY  
2 OR ON BEHALF OF THE AUTHORITY. (a) If the commission determines  
3 that CRR bond financing for extraordinary costs is the most  
4 cost-effective method of funding several regulatory asset  
5 reimbursements to be made to gas utilities, the commission may,  
6 following the final resolution of all applications filed under  
7 Section 104.363, request the authority to issue CRR bonds on its  
8 behalf. Before making a request of the authority under this  
9 section, the commission must issue a financing order that complies  
10 with the provisions of this Section 104.363.

11       (b) The financing order shall include a finding that the use  
12 of the securitization financing mechanism is in the public interest  
13 and that the financing order is consistent with the standards set  
14 forth in Section 104.360.

15       (c) The financing order shall detail the total amount of the  
16 regulatory asset determinations to be included in the CRR bond  
17 issuance.

18       (d) The financing order shall authorize the recovery of any  
19 tax obligation of the gas utilities arising or resulting from its  
20 receipt of CRR bond proceeds, or from the collection or remittance  
21 of CRR charges through the gas utilities' gas cost recovery  
22 mechanism or other means determined by the commission to be  
23 reasonable.

24       (e) The financing order shall authorize the authority's  
25 issuance of CRR bonds through one or more legally isolated  
26 bankruptcy remote financing entities established by the authority.

27       (f) The financing order shall include a statement of the

1 aggregated regulatory asset determination to be included in the  
2 principal amount of the CRR bonds, not to exceed \$10 billion for any  
3 separate bond issue, and the maximum scheduled final maturity of  
4 the CRR bonds may not exceed 30 years, however the legal final  
5 maturity may be longer, based upon rating agency and market  
6 considerations.

7 (g) The financing order shall provide for the imposition and  
8 mandatory periodic formulaic adjustment of CRR charges in  
9 accordance with Section 104.368 and the collection thereof by all  
10 gas utilities for whom a regulatory asset determination has been  
11 made pursuant to Section 104.363 to guarantee that the bonds will be  
12 paid in full.

13 (h) The financing order shall authorize the creation of CRR  
14 property in favor of the authority and the authority's transfer  
15 thereof.

16 (i) The financing order shall direct the authority to  
17 disperse the proceeds of CRR bonds to gas utilities for which a  
18 regulatory asset determination has been made under Section 104.363  
19 and the amounts to be distributed.

20 (j) The principal amount determined by the commission under  
21 subsection (c) may be increased to include an amount sufficient to:

- 22 (1) pay the financing costs for such issuance;  
23 (2) reimburse the authority for any costs incurred for  
24 the issuance;  
25 (3) provide a bond reserve fund; and  
26 (4) capitalize interest for the period determined  
27 necessary by the commission.



1       (k) The authority, consistent with this subchapter and the  
2 terms of the financing order, shall issue CRR bonds on request by  
3 the commission, in accordance with the requirements of Chapter  
4 1232, Government Code, as amended by this subchapter and other  
5 provisions of Title 9, Government Code, that apply to bond issuance  
6 by a state agency.

7       (l) The authority, consistent with this subchapter and the  
8 terms of the financing order, shall determine the method of sale,  
9 type of bond, bond form, maximum interest rates, and other terms of  
10 the CRR bonds that, in the authority's judgment, best achieve the  
11 economic goals of the financing order and effect the financings at  
12 the lowest practicable cost.

13       (m) The authority shall establish legally isolated  
14 bankruptcy remote financing entities and may enter into credit  
15 agreements or ancillary agreements in connection with the issuance  
16 of CRR bonds.

17       (n) The financing order shall provide that CRR charges shall  
18 be collected and allocated among customers of each utility for whom  
19 a regulatory determination has been made under Section 104.363  
20 through uniform, monthly volumetric charges to be paid by customers  
21 as a component of the gas utility's gas cost or in such other manner  
22 as determined by the commission to be reasonable.

23       (o) The financing order shall reflect the commitment made by  
24 each gas utility receiving proceeds therefrom that such proceeds  
25 shall be in lieu of recovery of these costs through the regular  
26 rate-making process or other mechanism to the extent such costs are  
27 reimbursed to the gas utility by CRR bond financing proceeds.

1       (p) The financing order shall become effective in  
2 accordance with its terms, and the financing order, together with  
3 the CRR property and the CRR charges authorized by the financing  
4 order, shall thereafter be irrevocable and not subject to  
5 reduction, impairment, or adjustment by further action of the  
6 commission, except as provided under subpart (r) and permitted by  
7 Section 104.368.

8       (q) The commission shall issue a financing order under this  
9 Section not later than 90 days following the conclusion of all  
10 proceedings filed under Section 104.363.

11       (r) A financing order is not subject to rehearing by the  
12 commission. A financing order may only be appealed to a Travis  
13 County district court by a party to the proceeding filed within 15  
14 days after the financing order is signed by the commission. The  
15 judgment of the district court may be reviewed only by direct appeal  
16 to the Supreme Court of Texas filed within 15 days after entry of  
17 judgment. All appeals shall be heard and determined by the district  
18 court and the Supreme Court of Texas as expeditiously as possible  
19 with lawful precedence over other matters. Review on appeal shall  
20 be based solely on the record before the commission and briefs to  
21 the court and shall be limited to whether the financing order  
22 conforms to the constitution and laws of this state and the United  
23 States and is within the authority of the commission under this  
24 subchapter.

25       (s) The authority shall issue CRR bonds within 45 days of  
26 the receipt of a financing order issued pursuant to this section.  
27 The authority shall deliver CRR bond proceeds net of upfront

1 financing costs to each gas utility sufficient to reimburse the gas  
2 utility the regulatory asset amount determined to be reasonable  
3 under Section 104.363 within 15 days of issuance of the CRR bonds.  
4 For the weather event that took place in February 2021, the  
5 authority shall deliver CRR bond proceeds net of upfront financing  
6 costs to each gas utility no later than December 31, 2021.

7 SECTION 8. Chapter 104, Utilities Code, is amended by  
8 adding Section 104.364 to read as follows:

9 Sec. 104.364. PROPERTY RIGHTS. (a) The CRR bonds will be  
10 solely the obligation of the assignee or issuing financing entity  
11 and will not be a debt of a gas utility or a debt or a pledge of the  
12 faith and credit of the state or any political or governmental unit  
13 thereof.

14 (b) The CRR bonds shall be nonrecourse to the credit or any  
15 assets of the state and the authority.

16 (c) The rights and interests of the authority or successor  
17 under a financing order, including the right to impose and receive  
18 CRR charges authorized in the financing order, shall be only  
19 contract rights until they are first transferred to an assignee or  
20 pledged in connection with the issuance of the CRR bonds, at which  
21 time they will become "CRR property."

22 (d) CRR property shall constitute a present property right  
23 for purposes of contracts concerning the sale or pledge of  
24 property, even though the imposition and collection of CRR charges  
25 depends on further acts of the gas utility or others that have not  
26 yet occurred. The financing order shall remain in effect, and the  
27 CRR property shall continue to exist for the same period as the

1 pledge of the state described in Section 104.372.

2 (e) All revenues and collections resulting from CRR charges  
3 shall constitute proceeds only of a property right arising from the  
4 financing order.

5 (f) An amount owed by the authority or an issuer under a  
6 credit agreement shall be payable from and secured by the CRR  
7 property, including CRR charges and amounts to the extent provided  
8 in the proceedings authorizing the credit agreement.

9 SECTION 9. Chapter 104, Utilities Code, is amended by  
10 adding Section 104.365 to read as follows:

11 Sec. 104.365. NO SET-OFF. The interest of an assignee or  
12 pledgee in CRR property, including the revenues and collections  
13 arising from CRR charges are not subject to setoff, counterclaim,  
14 surcharge, or defense by the gas utility or any other person or in  
15 connection with the bankruptcy of the gas utility, the authority,  
16 or any other entity. A financing order shall remain in effect and  
17 unabated notwithstanding the bankruptcy of the gas utility, the  
18 authority or their successors, or assignees.

19 SECTION 10. Chapter 104, Utilities Code, is amended by  
20 adding Section 104.366 to read as follows:

21 Sec. 104.366. NO BYPASS. A financing order shall include  
22 terms ensuring that the imposition and collection of the CRR charge  
23 authorized in the order shall be non-bypassable.

24 SECTION 11. Chapter 104, Utilities Code, is amended by  
25 adding Section 104.367 to read as follows:

26 Sec. 104.367. TRUE-UP. The financing order shall include a  
27 formulaic true-up charge adjustment mechanism that requires that

1 the CRR charges be reviewed and adjusted at least annually, at time  
2 periods and frequencies provided in the financing order, to correct  
3 any overcollections or under collections of the preceding 12 months  
4 and to ensure the expected recovery of amounts sufficient to  
5 provide for the timely payment of upcoming scheduled CRR bond  
6 payments and financing costs. Such true-up charge adjustments  
7 shall become effective within 30 days of the receipt of the true-up  
8 charge adjustment letter from the gas utility or replacement  
9 servicer to the commission that notifies the commission of the  
10 pending adjustment. Any administrative review of such charge  
11 adjustments shall be limited to notifying the servicer of  
12 mathematical or clerical errors in the calculation, and the  
13 servicer may correct its error and refile its letter, with the  
14 adjustment becoming effective as soon as possible within 30 days  
15 after the refiled letter.

16 SECTION 12. Chapter 104, Utilities Code, is amended by  
17 adding Section 104.368 to read as follows:

18 Sec. 104.368. SECURITY INTERESTS; ASSIGNMENT; COMMINGLING;  
19 DEFAULT. (a) CRR property does not constitute an account or  
20 general intangible under Section 9.106, Business & Commerce Code.  
21 The creation, granting, perfection, and enforcement of liens and  
22 security interests in CRR property are governed by this section and  
23 not by the Business & Commerce Code.

24 (b) A valid and enforceable lien and security interest in  
25 CRR property may be created only by a financing order and the  
26 execution and delivery of a security agreement with a financing  
27 party in connection with the issuance of CRR bonds. The lien and

1 security interest shall attach automatically from the time that  
2 value is received for the CRR bonds and, on perfection through the  
3 filing of notice with the secretary of state in accordance with the  
4 rules prescribed under subsection (d), shall be a continuously  
5 perfected lien and security interest in the CRR property and all  
6 proceeds of the property, whether accrued or not, shall have  
7 priority in the order of filing and take precedence over any  
8 subsequent judicial or other lien creditor. If notice is filed  
9 within 10 days after value is received for the CRR bonds, the  
10 security interest shall be perfected retroactive to the date value  
11 was received, otherwise, the security interest shall be perfected  
12 as of the date of filing.

13 (c) Transfer of an interest in CRR property to an assignee  
14 shall be perfected against all third parties, including subsequent  
15 judicial or other lien creditors, when the financing order becomes  
16 effective, transfer documents have been delivered to the assignee,  
17 and a notice of that transfer has been filed in accordance with the  
18 rules prescribed under subsection (d); provided, however, that if  
19 notice of the transfer has not been filed in accordance with this  
20 subsection within 10 days after the delivery of transfer  
21 documentation, the transfer of the interest is not perfected  
22 against third parties until the notice is filed.

23 (d) The secretary of state shall implement this section by  
24 establishing and maintaining a separate system of records for the  
25 filing of notices under this section and prescribing the rules for  
26 those filings based on Chapter 9, Business & Commerce Code, adapted  
27 to this subchapter and using the terms defined in this subchapter.

1       (e) The priority of a lien and security interest perfected  
2 under this section is not impaired by any later modification of the  
3 financing order under Section 104.368 or by the commingling of  
4 funds arising from CRR charges with other funds, and any other  
5 security interest that may apply to those funds shall be terminated  
6 when they are transferred to a segregated account for the assignee  
7 or a financing party. If CRR property has been transferred to an  
8 assignee, any proceeds of that property shall be held in trust for  
9 the assignee.

10       (f) If a default or termination occurs under the CRR bonds,  
11 the financing parties or their representatives, a district court of  
12 Travis County, on application by or on behalf of the financing  
13 parties, shall order the sequestration and payment to them of  
14 revenues arising from the CRR charges.

15       SECTION 13. Chapter 104, Utilities Code, is amended by  
16 adding Section 104.369 to read as follows:

17       Sec. 104.369. BOND PROCEEDS. (a) The proceeds of CRR bonds  
18 issued by or on behalf of the authority under this subchapter may be  
19 deposited with a trustee selected by the authority or held by the  
20 comptroller in a dedicated trust fund outside the state treasury in  
21 the custody of the comptroller.

22       (b) Bond proceeds, including investment income, shall be  
23 held in trust for the exclusive benefit of the commission's policy  
24 of reimbursing such gas utility costs. The authority shall use the  
25 proceeds to:

26       (1) reimburse each gas utility the regulatory asset  
27 amount determined to be reasonable for that gas utility in the

1 financing order;

2 (2) pay the financing costs of issuing the bonds; and

3 (3) provide bond reserves, as applicable.

4 (c) Any excess money remaining after the purposes for which  
5 the bonds were issued is satisfied may be used to provide credits to  
6 gas utility customers.

7 (d) If there are no outstanding bonds or bond interest to be  
8 paid, the remaining proceeds shall be used to provide credits to gas  
9 utility customers.

10 SECTION 13. Chapter 104, Utilities Code, is amended by  
11 adding Section 104.370 to read as follows:

12 Sec. 104.370. REPAYMENT OF CRR BONDS. (a) If any CRR bonds  
13 and related financing costs remain outstanding, a uniform, monthly,  
14 volumetric CRR charges shall be paid by all existing and future  
15 customers that receive service from a gas utility for whom a  
16 regulatory asset determination under Section 104.363. A gas  
17 utility and its successors, assigns and or replacements, shall  
18 continue to bill and collect, as servicer, CRR charges from the gas  
19 utility's existing and future customers until all CRR bonds and  
20 financing costs are paid in full.

21 (b) With regard to outstanding CRR bonds issued by the  
22 authority under this subchapter, the authority shall report to the  
23 commission the amount of the bond obligations outstanding and the  
24 estimated amount of bond administrative expenses each year.

25 (c) All revenue collected from the CRR charges shall be  
26 promptly remitted by the applicable servicers to the authority to  
27 pay bond obligations, ongoing financing costs, and bond



1 administrative expenses to ensure timely payment of bond  
2 obligations and financing costs.

3 (d) Revenues received from the CRR charges may be applied  
4 only as provided by this subchapter.

5 (e) Bond obligations are payable only from sources provided  
6 for payment in this subchapter.

7 SECTION 14. Chapter 104, Utilities Code, is amended by  
8 adding Section 104.371 to read as follows:

9 Sec. 104.371. PLEDGE OF STATE. (a) CRR bonds issued under  
10 this subchapter, and any related ancillary agreement, or credit  
11 agreement, are not a debt of the state or any state agency or  
12 political subdivision of the state and are not a pledge of the faith  
13 and credit of any of them. A CRR bond, ancillary agreement, or  
14 credit agreement is payable solely from CRR charges as provided by  
15 this subchapter.

16 (b) The state, including the commission and the authority  
17 pledge, however, for the benefit and protection of the financing  
18 parties and the gas utility, that it will not take or permit any  
19 action that would impair the value of CRR property, or, except as  
20 permitted by Section 104.368, reduce, alter, or impair the CRR  
21 charges to be imposed, collected, and remitted to financing  
22 parties, until the principal, interest and premium, and contracts  
23 to be performed in connection with the related CRR bonds and  
24 financing costs have been paid and performed in full. The authority  
25 or any other entity issuing CRR bonds is authorized to include this  
26 pledge in any documentation relating to those bonds.

27 SECTION 15. Chapter 104, Utilities Code, is amended by

1 adding Section 104.372 to read as follows:

2 Sec. 104.372. TAX EXEMPTION. (a) A CRR bond issued under  
3 this subchapter, any transaction relating to CRR bonds, and profits  
4 made from the sale of CRR bonds are exempt from taxation by this  
5 state or by a municipality or other political subdivision of this  
6 state.

7 (b) A gas utility's receipt or collection of CRR charge  
8 amounts is exempt from state and local income, sales, franchise,  
9 gross receipts, and other taxes or similar assessment.

10 (c) Any tax obligation of the gas utility arising from its  
11 receipt of CRR bond proceeds, or from the collection or remittance  
12 of CRR charges is an expense that shall be recovered by the gas  
13 utility.

14 SECTION 16. Chapter 104, Utilities Code, is amended by  
15 adding Section 104.373 to read as follows:

16 Sec. 104.373. NOT PUBLIC UTILITY. An assignee or financing  
17 party shall not be considered to be a public utility or person  
18 providing natural gas service solely by virtue of the transactions  
19 described in this subchapter.

20 SECTION 17. Chapter 104, Utilities Code, is amended by  
21 adding Section 104.374 to read as follows:

22 Sec. 104.374. NO PERSONAL LIABILITY. The Commissioners of  
23 the commission, commission employees, the board of directors of the  
24 authority, and the employees of the authority shall not be  
25 personally liable as a result of exercising the duties and  
26 responsibilities established under this subchapter.

27 SECTION 18. Chapter 104, Utilities Code, is amended by

1 adding Section 104.375 to read as follows:

2       Sec. 104.375. SEVERABILITY. Effective on the date the CRR  
3 bonds are issued under this subchapter, if any provision in this  
4 title or portion of this title is held to be invalid or is  
5 invalidated, superseded, replaced, repealed, or expires for any  
6 reason, that occurrence does not affect the validity or  
7 continuation of this subchapter or any other provision of this  
8 title that is relevant to the issuance, administration, payment,  
9 retirement, or refunding of CRR bonds or to any actions of the gas  
10 utility, its successors, an assignee, a collection agent, or a  
11 financing party, which shall remain in full force and effect.

12       SECTION 20. This Act takes effect immediately if it  
13 receives a vote of two-thirds of all the members elected to each  
14 house, as provided by Section 39, Article III, Texas Constitution.  
15 If this Act does not receive the vote necessary for immediate  
16 effect, this Act takes effect September 1, 2021.