

By: Schwertner, et al.

S.B. No. 3

A BILL TO BE ENTITLED

AN ACT

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

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

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

SUBCHAPTER K-1. POWER OUTAGE ALERT

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

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

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

(b) The director shall adopt rules and issue directives as necessary to ensure proper implementation of the power outage alert. The rules and directives must include the procedures to be used by the Public Utility Commission of Texas and the independent

1 organization certified under Section 39.151, Utilities Code, to  
2 communicate with the director about the power outage alert.

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

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

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

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

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

21 Sec. 411.305. ACTIVATION OF POWER OUTAGE ALERT. (a) When  
22 the Public Utility Commission of Texas or an independent  
23 organization certified under Section 39.151, Utilities Code,  
24 notifies the department that the criteria adopted under Section  
25 411.301(b) for the activation of the alert has been met, the  
26 department shall confirm the accuracy of the information and, if  
27 confirmed, immediately issue a power outage alert under this

1 subchapter in accordance with department rules.

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

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

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

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

26 SECTION 2. Section [418.048](#), Government Code, is amended to  
27 read as follows:

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

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

9           SECTION 3. Chapter 418, Government Code, is amended by  
10 adding Subchapter J to read as follows:

11           SUBCHAPTER J. TEXAS ENERGY RELIABILITY COUNCIL

12           Sec. 418.301. DEFINITIONS. In this subchapter:

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

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

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

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

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

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

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

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

27           (3) the chief executive of the Office of Public

1 Utility Counsel;

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

4 (5) the chair of the Texas Transportation Commission;

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

8 (7) the chief;

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

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

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

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

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

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

24 (E) one person to represent electric  
25 cooperatives;

26 (10) three persons to represent energy sectors not  
27 otherwise represented on the council, appointed by the Public

1 Utility Commission of Texas; and

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

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

6 (B) one person to represent chemical  
7 manufacturers.

8 (b) A member of the council described by Subsection (a)(1),  
9 (2), (3), (4), (5), (6), or (7) may designate a person from the  
10 member's agency to represent the member in any meeting.

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

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

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

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

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

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

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

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

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

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

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

13           (2) identify and designate the sources in the supply  
14 chain necessary to operate critical infrastructure, as defined by  
15 Section [421.001](#).

16       SECTION 4. Subchapter [C](#), Chapter [86](#), Natural Resources  
17 Code, is amended by adding Section 86.044 to read as follows:

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

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

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

24           (3) not regulated by the commission under Chapter [121](#),  
25 Utilities Code.

26       (b) The commission by rule shall require a gas supply chain  
27 facility operator to implement measures to prepare to operate

1 during a weather emergency. In adopting the rules, the commission  
2 shall take into consideration the supply chain map created under  
3 Section 418.309, Government Code.

4 (b-1) The commission shall:

5 (1) inspect gas supply chain facilities that are  
6 identified in the map created under Section 418.309, Government  
7 Code, as necessary to operate critical infrastructure for  
8 compliance with the reliability standards;

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

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

14 (b-2) The commission shall prioritize inspections conducted  
15 under Subsection (b-1)(1) based on risk level, as determined by the  
16 commission.

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

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

23 (2) submit the assessment to the commission.

24 (d) The commission may require an operator of a gas supply  
25 chain facility to implement appropriate recommendations included  
26 in an assessment submitted to the commission under Subsection (c).

27 (e) If the commission determines that a person has violated



1 a rule adopted under this section, the commission shall notify the  
2 attorney general of a violation that is not remedied in a reasonable  
3 amount of time. The attorney general shall initiate a suit to  
4 recover a penalty for the violation in the manner provided by  
5 Subchapter G.

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

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

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

17 (1) the seriousness of the violation, including:

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

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

22 (2) the history of previous violations;

23 (3) the amount necessary to deter future violations;

24 (4) efforts to correct the violation; and

25 (5) any other matter that justice may require.

26 (d) The classification system established under Subsection  
27 (c) shall provide that a penalty in an amount that exceeds \$5,000

1 may be recovered only if the violation is included in the highest  
2 class of violations in the classification system.

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

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

10 SECTION 7. Section 17.002, Utilities Code, is amended by  
11 adding Subdivision (3-a) to read as follows:

12 (3-a) "Critical care residential customer" has the  
13 meaning assigned by commission rules.

14 SECTION 8. Section 17.003, Utilities Code, is amended by  
15 adding Subsections (d-1) and (e) to read as follows:

16 (d-1) An electric utility providing electric delivery  
17 service for a retail electric provider, as defined by Section  
18 31.002, shall provide to the retail electric provider and the  
19 retail electric provider shall periodically provide to the retail  
20 electric provider's retail customers together with bills sent to  
21 the customers:

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

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

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

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

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

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

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

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

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

23           Sec. 17.005. PROTECTIONS FOR CUSTOMERS OF MUNICIPALLY OWNED  
24 UTILITIES. (a) A municipally owned utility may not be deemed to be  
25 a "service provider" or "billing agent" for purposes of Sections  
26 17.156(b) and (e).

27           (b) The governing body of a municipally owned utility shall

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

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

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

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

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

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

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

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

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

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

5           Sec. 17.006. PROTECTIONS FOR CUSTOMERS OF ELECTRIC  
6 COOPERATIVES. (a) An electric cooperative shall not be deemed to  
7 be a "service provider" or "billing agent" for purposes of Sections  
8 17.156(b) and (e).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25           (c) The independent organization certified under Section  
26 39.151 for the ERCOT power region shall:

27           (1) inspect generation assets in the ERCOT power

1 region for compliance with the reliability standards;

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

5 (3) report to the commission any violation.

6 (c-1) The independent organization certified under Section  
7 39.151 for the ERCOT power region shall prioritize inspections  
8 conducted under Subsection (c)(1) based on risk level, as  
9 determined by the organization.

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

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

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

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

24 (f) The independent organization certified under Section  
25 39.151 for the ERCOT power region shall review, coordinate, and  
26 approve or deny requests by providers of electric generation  
27 service described by Subsection (a) for a planned power outage

1 during any season and for any period of time.

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

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

8 (e) The commission shall ensure that ancillary services  
9 necessary to facilitate the transmission of electric energy are  
10 available at reasonable prices with terms and conditions that are  
11 not unreasonably preferential, prejudicial, discriminatory,  
12 predatory, or anticompetitive. The commission shall require  
13 intermittent generation resources in the ERCOT power region to  
14 purchase ancillary services and replacement power sufficient to  
15 manage net load variability. In this subsection, "ancillary  
16 services" means services necessary to facilitate the transmission  
17 of electric energy including load following, standby power, backup  
18 power, reactive power, and any other services as the commission may  
19 determine by rule. On the introduction of customer choice in the  
20 ERCOT power region, acquisition of generation-related ancillary  
21 services on a nondiscriminatory basis by the independent  
22 organization in ERCOT on behalf of entities selling electricity at  
23 retail shall be deemed to meet the requirements of this subsection.

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

27 Sec. 38.074. WEATHER EMERGENCY PREPAREDNESS. (a) The



1 commission by rule shall require each electric cooperative,  
2 municipally owned utility, and transmission and distribution  
3 utility providing transmission service in the ERCOT power region to  
4 implement measures to prepare the cooperative's or utility's  
5 facilities to maintain service quality and reliability during a  
6 weather emergency according to standards adopted by the commission.

7 (b) The independent organization certified under Section  
8 39.151 for the ERCOT power region shall:

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

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

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

19 (c) The independent organization certified under Section  
20 39.151 for the ERCOT power region shall prioritize inspections  
21 conducted under Subsection (b)(1) based on risk level, as  
22 determined by the organization.

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

27 Sec. 38.075. INVOLUNTARY LOAD SHEDDING. (a) The

1 commission by rule shall adopt a system to allocate load shedding  
2 among electric cooperatives, municipally owned utilities, and  
3 transmission and distribution utilities providing transmission  
4 service in the ERCOT power region during an involuntary load  
5 shedding event initiated by an independent organization certified  
6 under Section 39.151 for the region during an energy emergency.

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

13 (c) The commission by rule shall:

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

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

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

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

26 (d) The commission by rule shall require electric  
27 cooperatives and municipally owned utilities providing

1 transmission service in the ERCOT power region to:

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

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

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

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

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

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

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

27 Sec. 39.110. WHOLESALE INDEXED PRODUCTS PROHIBITED. (a)

1 In this section, "wholesale indexed product" means a retail  
2 electric product in which the price a customer pays for electricity  
3 includes a direct pass-through of real-time settlement point prices  
4 determined by the independent organization certified under Section  
5 39.151 for the ERCOT power region.

6 (b) A retail electric provider may not offer a wholesale  
7 indexed product to a residential or small commercial customer.

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

10 Sec. 39.159. WHOLESale PRICING PROCEDURES. (a) The  
11 commission by rule shall establish an emergency pricing program for  
12 the wholesale electric market.

13 (b) The emergency pricing program shall compensate  
14 generators based on their actual costs of generation during the  
15 time of the emergency.

16 (c) The emergency pricing program shall take effect if the  
17 high system-wide offer cap has been in effect for 12 hours within a  
18 24 hour period after initially reaching the high system-wide offer  
19 cap. The commission by rule shall determine when the emergency  
20 pricing program shall cease.

21 (d) The emergency pricing program may not allow an emergency  
22 pricing program cap to exceed any nonemergency high system-wide  
23 offer cap.

24 (e) The emergency pricing program may include a true-up  
25 after the operating day.

26 (f) The price of ancillary services may not exceed 150  
27 percent of any high system-wide offer cap or emergency pricing

1 program in effect at the time.

2 (g) Any wholesale pricing procedure that has a low  
3 system-wide offer cap may not have the low system-wide offer cap  
4 exceed the high system-wide offer cap.

5 (h) The commission shall review each system-wide offer cap  
6 program adopted by the commission, including the emergency pricing  
7 program, at least once every five years to determine whether to  
8 update aspects of the program.

9 SECTION 17. Subchapter 2, Chapter 39, Utilities Code, is  
10 amended by adding Section 39.9165 to read as follows:

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

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

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

16 and

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

19 (b) An independent organization certified under Section  
20 39.151 shall require an owner or operator of distributed generation  
21 to register with the organization and interconnecting transmission  
22 and distribution utility information necessary for the  
23 interconnection of the distributed generator.

24 (c) This section does not apply to distributed generation  
25 servicing a residential property.

26 SECTION 18. Section 105.023, Utilities Code, is amended by  
27 adding Subsections (b-1), (e), and (f) to read as follows:

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

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

9                (1) the seriousness of the violation, including:

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

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

14                (2) the history of previous violations;

15                (3) the amount necessary to deter future violations;

16                (4) efforts to correct the violation; and

17                (5) any other matter that justice may require.

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

22        SECTION 19. Section 121.2015, Utilities Code, is amended by  
23 amending Subsection (a) and adding Subsections (c-1), (c-2), (d),  
24 (e), and (f) to read as follows:

25        (a) The railroad commission shall adopt rules regarding:

26                (1) public education and awareness relating to gas  
27 pipeline facilities; ~~and~~

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

3           (3) measures gas pipeline facility operators must  
4 implement to prepare gas pipeline facilities to maintain service  
5 quality and reliability during extreme weather conditions, taking  
6 into consideration the supply chain map created under Section  
7 418.309, Government Code.

8           (c-1) The railroad commission shall:

9           (1) inspect the gas pipeline facilities that are  
10 identified in the map created under Section 418.309, Government  
11 Code, as necessary to operate critical infrastructure for  
12 compliance with the reliability standards;

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

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

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

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

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

1           (2) submit the assessment to the commission.

2           (e) The railroad commission may require an operator of a gas  
3 supply chain facility to implement appropriate recommendations  
4 included in an assessment submitted to the commission under  
5 Subsection (d).

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

10           SECTION 20. Section 121.206, Utilities Code, is amended by  
11 adding Subsections (b-1) and (e) to read as follows:

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

17           (e) The guidelines must provide that a penalty in an amount  
18 that exceeds \$5,000 for a violation of a rule adopted under Section  
19 121.2015(a)(3) may be assessed only if circumstances justify the  
20 enhancement of the penalty.

21           SECTION 21. The heading to Section 186.007, Utilities Code,  
22 is amended to read as follows:

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

25           SECTION 22. Sections 186.007(a-1), (b), (d), (e), and (f),  
26 Utilities Code, are amended to read as follows:

27           (a-1) The commission shall analyze emergency operations



1 plans developed by electric utilities as defined by Section 31.002,  
2 power generation companies as defined by Section 31.002,  
3 municipally owned utilities, and electric cooperatives that  
4 operate generation facilities in this state and retail electric  
5 providers as defined by Section 31.002 and prepare a weather  
6 emergency preparedness report on power [~~generation~~] weatherization  
7 preparedness. In preparing the report, the commission shall:

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

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

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

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

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

24 (d) The commission shall submit the report described by  
25 Subsection (a-1) to the lieutenant governor, the speaker of the  
26 house of representatives, and the members of the legislature not  
27 later than September 30 of each even-numbered year [~~7-2012~~].

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

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

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

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

22 SECTION 23. Subchapter A, Chapter 186, Utilities Code, is  
23 amended by adding Section 186.008 to read as follows:

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

27 (b) The commission shall analyze emergency operations plans

1 developed by operators of gas supply chain facilities, as defined  
2 by Section 86.044, Natural Resources Code, and by gas pipeline  
3 facility operators regulated under Chapter 121 and prepare a  
4 weather emergency preparedness report on natural gas supply chain  
5 weatherization preparedness. In preparing the report, the  
6 commission shall:

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

9 (2) analyze and determine the ability of the natural  
10 gas supply chain, as mapped under Section 418.309, Government Code,  
11 to withstand extreme weather events in the upcoming year;

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

15 (4) make recommendations on improving emergency  
16 operations plans and procedures in order to ensure the continuity  
17 of natural gas service.

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

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

25 (e) The commission shall submit the report described by  
26 Subsection (b) to the lieutenant governor, the speaker of the house  
27 of representatives, and the members of the legislature not later

1 than September 30 of each even-numbered year.

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

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

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

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

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

23 (a) In this section:

24 (1) "Affected utility" means a retail public utility,  
25 exempt utility, or provider or conveyor of potable or raw water  
26 service that furnishes water service to more than one customer[+]

27 [~~(A) in a county with a population of 3.3 million~~]

1 ~~or more, or~~

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

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

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

9 SECTION 25. Subchapter E, Chapter 13, Water Code, is  
10 amended by adding Section 13.151 to read as follows:

11 Sec. 13.151. BILLING FOR SERVICES PROVIDED DURING EXTREME  
12 WEATHER EMERGENCY. (a) In this section, "extreme weather  
13 emergency" means a period when:

14 (1) the previous day's highest temperature did not  
15 exceed 32 degrees Fahrenheit and the temperature is predicted to  
16 remain at or below that level for the next 24 hours according to the  
17 nearest National Weather Service reports; or

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

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

1 for deferred bills.

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

4 (a-1) Notwithstanding Subsection (a), a retail public  
5 utility or affiliated interest that violates Section 13.151 is  
6 subject to a civil penalty of not less than \$100 nor more than  
7 \$1,000,000 for each violation.

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

12 (1) the seriousness of the violation, including:

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

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

17 (2) the history of previous violations;

18 (3) the amount necessary to deter future violations;

19 (4) efforts to correct the violation; and

20 (5) any other matter that justice may require.

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

25 SECTION 27. Section 13.4151, Water Code, is amended by  
26 adding Subsection (a-1) to read as follows:

27 (a-1) Notwithstanding Subsection (a), the penalty for a

1 violation of Section 13.151 may be in an amount not to exceed  
2 \$1,000,000 a day. The utility commission may assess a penalty in an  
3 amount that exceeds \$5,000 under this subsection only if the  
4 utility commission determines that a penalty in an amount that  
5 exceeds \$5,000 is justified based on the seriousness of the  
6 violation as classified under Subsection (b). Each day a violation  
7 continues may be considered a separate violation.

8 SECTION 28. (a) The State Energy Plan Advisory Committee is  
9 composed of 12 members. The governor, lieutenant governor, and  
10 speaker of the house of representatives each shall appoint four  
11 members to the advisory committee.

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

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

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

19 (3) provide recommendations for removing the barriers  
20 described by Subdivision (1) and using the methods described by  
21 Subdivision (2); and

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

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

27 SECTION 29. The Public Utility Commission of Texas and the

1 independent organization certified under Section 39.151, Utilities  
2 Code, shall annually review statutes, rules, protocols, and bylaws  
3 that apply to conflicts of interest for commissioners and for  
4 members of the governing body of the independent organization and  
5 submit to the legislature a report on the effects the statutes,  
6 rules, protocols, and bylaws have on the ability of the commission  
7 and the independent organization to fulfill their duties.

8 SECTION 30. The Public Utility Commission of Texas shall  
9 complete the first review required by Section 39.159(h), Utilities  
10 Code, as added by this Act, not later than December 31, 2021.

11 SECTION 31. (a) Not later than November 1, 2021, each  
12 affected utility, as defined by Section 13.1395, Water Code, as  
13 amended by this Act, shall complete the submissions required by  
14 Section 13.1396(c), Water Code.

15 (b) Not later than March 1, 2022, each affected utility  
16 shall submit to the Texas Commission on Environmental Quality the  
17 emergency preparedness plan required by Section 13.1395, Water  
18 Code, as amended by this Act.

19 (c) Not later than July 1, 2022, each affected utility shall  
20 implement the emergency preparedness plan approved by the Texas  
21 Commission on Environmental Quality under Section 13.1395, Water  
22 Code, as amended by this Act.

23 (d) An affected utility may file with the Texas Commission  
24 on Environmental Quality a written request for an extension, not to  
25 exceed 90 days, of the date by which the affected utility is  
26 required under Subsection (b) of this section to submit the  
27 affected utility's emergency preparedness plan or of the date by



1 which the affected utility is required under Subsection (c) of this  
2 section to implement the affected utility's emergency preparedness  
3 plan. The Texas Commission on Environmental Quality shall approve  
4 the requested extension for good cause shown.

5 SECTION 32. Not later than six months after the date the  
6 Texas Energy Reliability Council produces the map required under  
7 Section 418.309, Government Code, as added by this Act, the  
8 Railroad Commission of Texas shall adopt rules necessary to  
9 implement:

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

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

14 SECTION 33. Not later than six months after the effective  
15 date of this Act, the Public Utility Commission of Texas shall adopt  
16 rules necessary to implement:

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

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

21 SECTION 34. This Act takes effect immediately if it  
22 receives a vote of two-thirds of all the members elected to each  
23 house, as provided by Section 39, Article III, Texas Constitution.  
24 If this Act does not receive the vote necessary for immediate  
25 effect, this Act takes effect September 1, 2021.