

By: Schwertner, et al.  
(Paddie)

S.B. No. 3

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

By: Paddie

C.S.S.B. No. 3

A BILL TO BE ENTITLED

AN ACT

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

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

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

SUBCHAPTER K-1. POWER OUTAGE ALERT

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

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

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

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

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

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

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

17                   (1) establish eligibility and designation  
18 requirements for persons who own or operate a facility under the  
19 jurisdiction of the commission under Section 81.051(a) or engage in  
20 an activity under the jurisdiction of the commission under Section  
21 81.051(a) who must provide critical customer designation and  
22 critical natural gas supply information, as defined by the  
23 commission, to the entities described by Section 38.077(c)(1),  
24 Utilities Code;

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

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

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

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

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

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

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

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

20           (b) This section applies only to a gas supply chain facility  
21 included on the electricity supply chain map created under Section  
22 38.203, Utilities Code.

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

26           (d) The commission shall:

27           (1) inspect gas supply chain facilities for compliance

1 with rules adopted under Subsection (c);

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

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

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

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

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

16 (2) submit the assessment to the commission.

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

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

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

1 follows:

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

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

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

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

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

15 (2) the history of previous violations;

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

17 (4) efforts to correct the violation; and

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

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

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

25 (b-1) Notwithstanding Subsection (b), the penalty for a  
26 violation of a provision of Subtitle B may be in an amount not to  
27 exceed \$1,000,000 for a violation. Each day a violation continues

1 or occurs is a separate violation for purposes of imposing a  
2 penalty.

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

5 (3-a) "Critical care residential customer" means a  
6 residential customer who has a person permanently residing in the  
7 customer's home who has been diagnosed by a physician as being  
8 dependent upon an electric-powered medical device to sustain life.

9 (3-b) "Critical load industrial customer" means an  
10 industrial customer for whom an interruption or suspension of  
11 electric service will create a dangerous or life-threatening  
12 condition on the customer's premises.

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

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

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

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



1 under Section 38.075;

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

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

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

10 Sec. 17.005. PROTECTIONS FOR CUSTOMERS OF MUNICIPALLY OWNED  
11 UTILITIES. (a) A municipally owned utility may not be deemed to be  
12 a "service provider" or "billing agent" for purposes of Sections  
13 17.156(b) and (e).

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

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

24 (d) With respect to electric customers served by a  
25 municipally owned utility outside its certificated service area or  
26 otherwise served through others' distribution facilities, after  
27 retail competition begins as authorized by the legislature, the

1 provisions of this chapter as administered by the commission apply.

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

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

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

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

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

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

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

21 Sec. 17.006. PROTECTIONS FOR CUSTOMERS OF ELECTRIC  
22 COOPERATIVES. (a) An electric cooperative shall not be deemed to  
23 be a "service provider" or "billing agent" for purposes of Sections  
24 17.156(b) and (e).

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

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

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

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

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

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

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

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

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

27        SECTION 11. The heading to Chapter 35, Utilities Code, is

1 amended to read as follows:

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

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

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

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

16 (c) The independent organization certified under Section  
17 39.151 for the ERCOT power region shall:

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

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

23 (3) report to the commission any violation.

24 (c-1) The independent organization certified under Section  
25 39.151 for the ERCOT power region shall prioritize inspections  
26 conducted under Subsection (c)(1) based on risk level, as  
27 determined by the organization.

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

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

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

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

15       (f) The independent organization certified under Section  
16 39.151 for the ERCOT power region shall review, coordinate, and  
17 approve or deny requests by providers of electric generation  
18 service described by Subsection (a) for a planned power outage  
19 during any season and for any period of time.

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

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

27       (e) In this section, "ancillary services" means services

1 necessary to facilitate the transmission of electric energy  
2 including load following, standby power, backup power, reactive  
3 power, and any other services as the commission may determine by  
4 rule.

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

18 (g) The commission shall:

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

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

26 (3) ensure that all generation resources, energy  
27 storage resources, and loads in the ERCOT power region are allowed

1 to provide ancillary services on a voluntary basis and that the  
2 ancillary services are procured and costs recovered on an equitable  
3 and nondiscriminatory basis.

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

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

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

19 (b) The independent organization certified under Section  
20 39.151 for the ERCOT power region shall:

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

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

1 inspection; and

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

4 (c) The independent organization certified under Section  
5 39.151 for the ERCOT power region shall prioritize inspections  
6 conducted under Subsection (b)(1) based on risk level, as  
7 determined by the organization.

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

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

23 Sec. 38.075. INVOLUNTARY AND VOLUNTARY LOAD SHEDDING. (a)  
24 The commission by rule shall adopt a system to allocate load  
25 shedding among electric cooperatives, municipally owned utilities,  
26 and transmission and distribution utilities providing transmission  
27 service in the ERCOT power region during an involuntary load



1 shedding event initiated by the independent organization certified  
2 under Section 39.151 for the region during an energy emergency.

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

9 (c) The commission by rule shall:

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

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

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

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

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

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

27 (2) coordinate with municipalities, businesses, and

1 customers that consume large amounts of electricity to encourage  
2 voluntary load reduction.

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

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

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

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

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

27 (b) The commission by rule shall require each electric

1 cooperative, municipally owned utility, and transmission and  
2 distribution utility to exclude any circuits that provide power to  
3 an entity or facility designated under Section 81.073, Natural  
4 Resources Code, from participation in the cooperative's or  
5 utility's attempt to shed load in response to a rolling blackout  
6 initiated by an independent organization certified under Section  
7 39.151 or another reliability council or power pool in which the  
8 cooperative or utility operates.

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

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

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

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

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

25 SUBCHAPTER F. TEXAS ELECTRICITY SUPPLY CHAIN SECURITY AND MAPPING

26 COMMITTEE

27 Sec. 38.201. TEXAS ELECTRICITY SUPPLY CHAIN SECURITY AND

1 MAPPING COMMITTEE. (a) In this subchapter, "electricity supply  
2 chain" means:

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

6 (2) critical infrastructure necessary to maintain  
7 electricity service.

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

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

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

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

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

20 (c) The committee is composed of:

21 (1) the executive director of the commission;

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

24 (3) the president and the chief executive officer of  
25 the independent organization certified under Section [39.151](#) for the  
26 ERCOT power region; and

27 (4) the chief of the Texas Division of Emergency

1 Management.

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

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

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

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

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

24 (d) The independent organization certified under Section  
25 39.151 for the ERCOT power region shall provide staff as necessary  
26 to assist the committee in carrying out the committee's duties and  
27 responsibilities.

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

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

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

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

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

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

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

25 (c) The commission shall:

26 (1) create and maintain a database identifying  
27 critical infrastructure sources with priority electricity needs to

1 be used during an extreme weather event; and

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

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

6 Sec. 38.204. MAPPING REPORT. (a) Not later than January 1,  
7 2022, the committee shall submit a report to the governor, the  
8 lieutenant governor, the speaker of the house of representatives,  
9 and the legislature on the activities and findings of the  
10 committee. The report must:

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

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

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

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

27 SECTION 16. Subchapter C, Chapter 39, Utilities Code, is

1 amended by adding Section 39.110 to read as follows:

2 Sec. 39.110. WHOLESALE INDEXED PRODUCTS. (a) In this  
3 section, "wholesale indexed product" means a retail electric  
4 product in which the price a customer pays for electricity includes  
5 a direct pass-through of real-time settlement point prices  
6 determined by the independent organization certified under Section  
7 39.151 for the ERCOT power region.

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

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

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

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

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

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

27 (5) for service starting at the beginning of the next



1 month, the retail electric provider allows the customer to switch  
2 without charge or penalty at the beginning of the next month to a  
3 fixed rate product offered by the provider to other residential and  
4 small commercial customers.

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

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

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

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

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

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

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

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

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

8           (c) The commission shall ensure that:

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

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

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

19           SECTION 18. Subchapter 7, Chapter 39, Utilities Code, is  
20 amended by adding Section 39.9165 to read as follows:

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

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

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

26 and

27           (3) may be connected in parallel operation to the

1 utility system.

2 (b) An independent organization certified under Section  
3 39.151 shall require an owner or operator of distributed generation  
4 to register with the organization and interconnecting transmission  
5 and distribution utility information necessary for the  
6 interconnection of the distributed generator.

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

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

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

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

19 (1) the seriousness of the violation, including:  
20 (A) the nature, circumstances, extent, and  
21 gravity of a prohibited act; and

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

24 (2) the history of previous violations;

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

26 (4) efforts to correct the violation; and

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

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

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

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

9           (1) public education and awareness relating to gas  
10 pipeline facilities; ~~and~~

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

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

20       (c-1) The railroad commission shall:

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

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

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

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

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

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

12           (2) submit the assessment to the commission.

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

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

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

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

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

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

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

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

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

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

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

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

26            (4) make recommendations on improving emergency  
27 operations plans and procedures in order to ensure the continuity

1 of electric service.

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

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

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

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

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

23 (f) The emergency operations plans submitted for a [~~the~~]  
24 report described by Subsection (a-1) and any additional  
25 [~~subsequent~~] plans submitted under Subsection (e) are public  
26 information except for the portions of the plan considered  
27 confidential under Chapter 552, Government Code, or other state or

1 federal law. If portions of a plan are designated as confidential,  
2 the plan shall be provided to the commission in a redacted form for  
3 public inspection with the confidential portions removed. An  
4 [~~electric generation~~] entity within the ERCOT power region shall  
5 provide the entity's plan to ERCOT in its entirety.

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

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

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

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

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

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

26 (4) make recommendations on improving emergency  
27 operations plans and procedures in order to ensure the continuity



1 of natural gas service for the electricity supply chain, as mapped  
2 under Section 38.203.

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

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

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

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

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

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

25 (g) The emergency operations plans submitted for a report  
26 described by Subsection (b) and any additional plans submitted  
27 under Subsection (f) are public information except for the portions

1 of the plan considered confidential under Chapter 552, Government  
2 Code, or other state or federal law. If portions of a plan are  
3 designated as confidential, the plan shall be provided to the  
4 commission in a redacted form for public inspection with the  
5 confidential portions removed.

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

8 SUBCHAPTER F. TEXAS ENERGY DISASTER RELIABILITY COUNCIL

9 Sec. 186.101. DEFINITIONS. In this subchapter:

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

12 (2) "Disaster" means:

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

15 (B) an extended power outage.

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

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

20 (5) "Gas provider" means:

21 (A) a natural gas pipeline facility operator;

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

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

27 (6) "Public utility" means an entity that generates,

1 transmits, or distributes electric energy to the public, including  
2 an electric cooperative, an electric utility, a municipally owned  
3 utility, or a river authority.

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

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

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

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

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

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

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

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

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

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

26 (1) the presiding officer of the utility commission;

27 (2) the executive director of the utility commission;

1           (3) the chairman of the railroad commission;

2           (4) the executive director of the railroad commission;

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

6           (6) the chief of the division.

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

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

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

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

18                   (1) the United States Department of Energy;

19                   (2) the United States Department of Homeland Security;

20                   (3) the North American Electric Reliability  
21 Corporation;

22                   (4) the Texas Reliability Entity;

23                   (5) federal and state agencies;

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

26                   (7) members of the electric industry;

27                   (8) members of the natural gas industry; and

1           (9) grid security experts.

2           (f) A public utility or gas provider shall provide to the  
3 council any information related to a disaster requested by the  
4 council. Information obtained by the council under this subsection  
5 is confidential and not subject to disclosure by the council if the  
6 information is critical energy infrastructure information as  
7 defined by the independent organization certified under Section  
8 39.151 for the ERCOT power region or federal law.

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

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

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

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

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

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

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

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

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

10 (B) is not an affected utility under Section  
11 13.1395.

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

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

17 (b) An affected utility shall:

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

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

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

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

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

11           (1) the maintenance of automatically starting  
12 auxiliary generators;

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

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

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

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

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

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

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

5           (9) water storage capabilities;

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

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

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

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

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

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



1 plan template shall contain:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5           (2) the history of previous violations;

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

7           (4) efforts to correct the violation; and

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

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

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

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

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

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

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

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

27           (c) The state energy plan prepared under this section must

1 be submitted to the legislature not later than September 1, 2022.

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

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

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

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

22 (d) An affected utility, as defined by Section 13.1394,  
23 Water Code, as added by this Act, 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 35. Not later than six months after the date the  
6 Texas Electricity Supply Chain Security and Mapping Committee  
7 produces the map required under Section 38.203, Utilities Code, as  
8 added by this Act, the Railroad Commission of Texas shall adopt  
9 rules necessary to 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 36. 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 37. 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.