

By: Menéndez

S.B. No. 853

A BILL TO BE ENTITLED

AN ACT

relating to the establishment of the Texas Energy and Communications Commission to consolidate the functions of the Public Utility Commission of Texas and the Railroad Commission of Texas.

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

ARTICLE 1. RAILROAD COMMISSION OF TEXAS REESTABLISHED AS TEXAS ENERGY AND COMMUNICATIONS COMMISSION

SECTION 1.01. The heading to Chapter 81, Natural Resources Code, is amended to read as follows:

CHAPTER 81. TEXAS ENERGY AND COMMUNICATIONS [~~RAILROAD~~] COMMISSION
[~~OF TEXAS~~]

SECTION 1.02. Section 81.001, Natural Resources Code, is amended to read as follows:

Sec. 81.001. DEFINITIONS. In this chapter:

(1) "Commission" means the Texas Energy and Communications [~~Railroad~~] Commission [~~of Texas~~].

(2) "Commissioner" means any member of the Texas Energy and Communications [~~Railroad~~] Commission [~~of Texas~~].

SECTION 1.03. Subchapter A, Chapter 81, Natural Resources Code, is amended by adding Section 81.003 to read as follows:

Sec. 81.003. TEXAS ENERGY AND COMMUNICATIONS COMMISSION.

(a) The Railroad Commission of Texas is reestablished as the Texas Energy and Communications Commission.

1 (b) A reference in law to the Railroad Commission of Texas
2 means the Texas Energy and Communications Commission.

3 SECTION 1.04. (a) On January 1, 2012:

4 (1) the name of the Railroad Commission of Texas is
5 changed to the Texas Energy and Communications Commission, and all
6 powers, duties, rights, and obligations of the Railroad Commission
7 of Texas are the powers, duties, rights, and obligations of the
8 Texas Energy and Communications Commission;

9 (2) a member of the Railroad Commission of Texas is a
10 member of the Texas Energy and Communications Commission; and

11 (3) any appropriation to the Railroad Commission of
12 Texas is an appropriation to the Texas Energy and Communications
13 Commission.

14 (b) On or after January 1, 2012, a reference in law to the
15 Railroad Commission of Texas means the Texas Energy and
16 Communications Commission.

17 (c) The Texas Energy and Communications Commission is the
18 successor to the Railroad Commission of Texas in all respects. All
19 personnel, equipment, data, documents, facilities, contracts,
20 items, other property, rules, decisions, and proceedings of or
21 involving the Railroad Commission of Texas are unaffected by the
22 change in the name of the agency.

23 SECTION 1.05. This article takes effect January 1, 2012.

24 ARTICLE 2. PUBLIC UTILITY COMMISSION OF TEXAS ABOLISHED; POWERS AND
25 DUTIES TRANSFERRED TO TEXAS ENERGY AND COMMUNICATIONS COMMISSION

26 SECTION 2.01. (a) The powers, duties, obligations, rights,
27 contracts, records, employees, property, funds, and appropriations

1 of the Public Utility Commission of Texas are transferred to the
2 Texas Energy and Communications Commission on September 1, 2012, as
3 provided by this section.

4 (b) The Railroad Commission of Texas and the Texas Energy
5 and Communications Commission shall administer the transfer
6 described by Subsection (a) of this section. The Public Utility
7 Commission of Texas shall cooperate with and assist in the transfer
8 planning and administration.

9 (c) The Railroad Commission of Texas and the Texas Energy
10 and Communications Commission shall ensure that the transfer
11 described by Subsection (a) of this section does not adversely
12 affect a proceeding pending before the Public Utility Commission of
13 Texas or the rights of the parties to the proceeding.

14 (d) After the transfer has been completed, the Texas Energy
15 and Communications Commission shall prepare a written report
16 detailing the specifics of the transfer described by Subsection (a)
17 of this section and shall submit the report to the governor and the
18 legislature.

19 SECTION 2.02. On September 1, 2012:

20 (1) all powers, duties, functions, programs, and
21 activities of the Public Utility Commission of Texas are
22 transferred to the Texas Energy and Communications Commission;

23 (2) all obligations, rights, contracts, records, and
24 property in the custody of the Public Utility Commission of Texas
25 and all funds appropriated by the legislature to the Public Utility
26 Commission of Texas are transferred to the Texas Energy and
27 Communications Commission;

1 (3) all employees of the Public Utility Commission of
2 Texas become employees of the Texas Energy and Communications
3 Commission, to be assigned duties by the Texas Energy and
4 Communications Commission;

5 (4) the Public Utility Commission of Texas is
6 abolished; and

7 (5) a reference in law to the Public Utility
8 Commission of Texas means the Texas Energy and Communications
9 Commission.

10 SECTION 2.03. (a) On September 1, 2012, a rule, policy,
11 procedure, decision, or form adopted by the Public Utility
12 Commission of Texas that relates to the regulation of the electric
13 or telecommunications industries is a rule, policy, procedure,
14 decision, or form of the Texas Energy and Communications Commission
15 and remains in effect until altered by the Texas Energy and
16 Communications Commission. The secretary of state may adopt rules
17 as necessary to expedite the implementation of this subsection.

18 (b) On September 1, 2012, a rule, policy, procedure,
19 decision, or form of the Public Utility Commission of Texas that
20 relates to the management and daily operation of the Public Utility
21 Commission of Texas, to the extent of any conflict, is superseded by
22 the rules, policies, procedures, decisions, and forms of the Texas
23 Energy and Communications Commission relating to the management and
24 daily operation of the Texas Energy and Communications Commission.

25 SECTION 2.04. (a) The abolition of the Public Utility
26 Commission of Texas and the transfer of its powers, duties,
27 functions, programs, activities, obligations, rights, contracts,

1 records, property, funds, and employees to the Texas Energy and
2 Communications Commission does not affect or impair an act done,
3 any obligation, right, order, permit, certificate, rule,
4 criterion, standard, or requirement existing, any investigation
5 begun, or any penalty accrued under former law, and that law remains
6 in effect for any action concerning those matters.

7 (b) An action brought or proceeding commenced before the
8 effective date of a transfer prescribed by this Act, including a
9 contested case or a remand of an action or proceeding by a reviewing
10 court, is governed by the laws and rules applicable to the action or
11 proceeding before the transfer.

12 ARTICLE 3. CONFORMING AMENDMENTS

13 SECTION 3.01. Section 11.002(c), Utilities Code, is amended
14 to read as follows:

15 (c) Significant changes have occurred in the
16 telecommunications and electric power industries since the Public
17 Utility Regulatory Act was originally adopted. Changes in
18 technology and market structure have increased the need for minimum
19 standards of service quality, customer service, and fair business
20 practices to ensure high-quality service to customers and a healthy
21 marketplace where competition is permitted by law. It is the
22 purpose of this title to grant the Texas Energy and Communications
23 [~~Public Utility~~] Commission [~~of Texas~~] authority to make and
24 enforce rules necessary to protect customers of telecommunications
25 and electric services consistent with the public interest.

26 SECTION 3.02. Sections 11.003(4) and (5), Utilities Code,
27 are amended to read as follows:

1 (4) "Commission" means the Texas Energy and
2 Communications [~~Public Utility~~] Commission [~~of Texas~~].

3 (5) "Commissioner" means a member of the Texas Energy
4 and Communications [~~Public Utility~~] Commission [~~of Texas~~].

5 SECTION 3.03. Section 12.001, Utilities Code, is amended to
6 read as follows:

7 Sec. 12.001. TEXAS ENERGY AND COMMUNICATIONS [~~PUBLIC~~
8 ~~UTILITY~~] COMMISSION [~~OF TEXAS~~]. The Texas Energy and
9 Communications [~~Public Utility~~] Commission [~~of Texas~~] exercises
10 the jurisdiction and powers conferred by this title.

11 SECTION 3.04. Section 12.201, Utilities Code, is amended to
12 read as follows:

13 Sec. 12.201. PUBLIC INTEREST INFORMATION. (a) The
14 commission shall prepare information of public interest describing
15 the functions of the commission under this title and the
16 commission's procedures by which a complaint concerning a matter
17 subject to this title is filed with and resolved by the commission.
18 The commission shall make the information available to the public
19 and appropriate state agencies.

20 (b) The commission by rule shall establish methods by which
21 consumers and service recipients are notified of the name, mailing
22 address, and telephone number of the commission for the purpose of
23 directing [~~complaints~~] to the commission complaints concerning a
24 matter subject to this title.

25 SECTION 3.05. Sections 12.202(a) and (c), Utilities Code,
26 are amended to read as follows:

27 (a) The commission shall develop and implement policies

1 that provide the public with a reasonable opportunity to appear
2 before the commission and to speak on any issue under the
3 jurisdiction of the commission under this title.

4 (c) The commission shall prepare and maintain a written plan
5 that describes how a person who does not speak English may be
6 provided reasonable access to the commission's programs and
7 services under this title.

8 SECTION 3.06. Section [12.203\(a\)](#), Utilities Code, is amended
9 to read as follows:

10 (a) The commission shall prepare annually a complete and
11 detailed written report accounting for all funds received and
12 disbursed by the commission under this title during the preceding
13 fiscal year. The annual report must meet the reporting
14 requirements applicable to financial reporting in the General
15 Appropriations Act.

16 SECTION 3.07. Section [12.204](#), Utilities Code, is amended to
17 read as follows:

18 Sec. 12.204. INTERNET FOR HEARINGS AND MEETINGS. The
19 commission shall make publicly accessible without charge live
20 Internet video of all public hearings and meetings the commission
21 holds under this title for viewing from the Internet website found
22 at <http://www.puc.state.tx.us>. The commission may recover the
23 costs of administering this section by imposing an assessment
24 against a:

- 25 (1) public utility;
26 (2) corporation described by Section [32.053](#);
27 (3) retail electric provider that serves more than

1 250,000 customers; or

2 (4) power generation company that owns more than 5,000
3 megawatts of installed capacity in this state.

4 SECTION 3.08. Section 14.002, Utilities Code, is amended to
5 read as follows:

6 Sec. 14.002. RULES. The commission shall adopt and enforce
7 rules reasonably required in the exercise of its powers and
8 jurisdiction under this title.

9 SECTION 3.09. Sections 14.0025(a) and (b), Utilities Code,
10 are amended to read as follows:

11 (a) The commission shall develop and implement a policy to
12 encourage the use of:

13 (1) negotiated rulemaking procedures under Chapter
14 2008, Government Code, for the adoption of commission rules under
15 this title; and

16 (2) appropriate alternative dispute resolution
17 procedures under Chapter 2009, Government Code, to assist in the
18 resolution of internal and external disputes under the commission's
19 jurisdiction under this title.

20 (b) The commission's procedures relating to alternative
21 dispute resolution under this title must conform, to the extent
22 possible, to any model guidelines issued by the State Office of
23 Administrative Hearings for the use of alternative dispute
24 resolution by state agencies.

25 SECTION 3.10. Section 14.006, Utilities Code, is amended to
26 read as follows:

27 Sec. 14.006. INTERFERENCE WITH TERMS OR CONDITIONS OF

1 EMPLOYMENT; PRESUMPTION OF REASONABLENESS. In exercising its
2 jurisdiction under this title, the [~~The~~] commission may not
3 interfere with employee wages and benefits, working conditions, or
4 other terms or conditions of employment that are the product of a
5 collective bargaining agreement recognized under federal law. An
6 employee wage rate or benefit that is the product of the collective
7 bargaining is presumed to be reasonable.

8 SECTION 3.11. Section 14.007, Utilities Code, is amended to
9 read as follows:

10 Sec. 14.007. ASSISTANCE TO MUNICIPALITY. On request by the
11 governing body of a municipality, the commission may provide
12 commission employees as necessary to advise and consult with the
13 municipality on a [~~pending~~] matter pending under this title.

14 SECTION 3.12. Section 14.051, Utilities Code, is amended to
15 read as follows:

16 Sec. 14.051. PROCEDURAL POWERS. In exercising its
17 jurisdiction under this title, the [~~The~~] commission may:

- 18 (1) call and hold a hearing;
- 19 (2) administer an oath;
- 20 (3) receive evidence at a hearing;
- 21 (4) issue a subpoena to compel the attendance of a
22 witness or the production of a document; and
- 23 (5) make findings of fact and decisions to administer
24 this title or a rule, order, or other action of the commission.

25 SECTION 3.13. Sections 14.052(a) and (b), Utilities Code,
26 are amended to read as follows:

27 (a) The commission shall adopt and enforce rules governing

1 practice and procedure before the commission under this title and,
2 as applicable, practice and procedure before the utility division
3 of the State Office of Administrative Hearings under this title.

4 (b) The commission shall adopt rules that authorize an
5 administrative law judge acting under this title to:

6 (1) limit the amount of time that a party may have to
7 present its case;

8 (2) limit the number of requests for information that
9 a party may make in a contested case;

10 (3) require a party to a contested case to identify
11 contested issues and facts before the hearing begins;

12 (4) limit cross-examination to only those issues and
13 facts identified before the hearing and to any new issues that may
14 arise as a result of the discovery process; and

15 (5) group parties, other than the office, that have
16 the same position on an issue to facilitate cross-examination on
17 that issue.

18 SECTION 3.14. Sections 14.053(a) and (b), Utilities Code,
19 are amended to read as follows:

20 (a) The utility division of the State Office of
21 Administrative Hearings shall conduct each hearing in a contested
22 case under this title that is not conducted by one or more
23 commissioners.

24 (b) The commission may delegate to the utility division of
25 the State Office of Administrative Hearings the authority to make a
26 final decision and to issue findings of fact, conclusions of law,
27 and other necessary orders in a proceeding under this title in which

1 there is not a contested issue of fact or law.

2 SECTION 3.15. Section 14.054(a), Utilities Code, is amended
3 to read as follows:

4 (a) The commission by rule shall adopt procedures governing
5 the use of settlements to resolve contested cases under this title.

6 SECTION 3.16. Sections 14.057(a) and (b), Utilities Code,
7 are amended to read as follows:

8 (a) A commission order under this title must be in writing
9 and contain detailed findings of the facts on which it is passed.

10 (b) The commission shall retain a copy of the transcript and
11 the exhibits in any matter in which the commission issues an order
12 under this title.

13 SECTION 3.17. Section 15.001, Utilities Code, is amended to
14 read as follows:

15 Sec. 15.001. RIGHT TO JUDICIAL REVIEW. Any party to a
16 proceeding before the commission under this title is entitled to
17 judicial review under the substantial evidence rule.

18 SECTION 3.18. Section 15.002, Utilities Code, is amended to
19 read as follows:

20 Sec. 15.002. COMMISSION AS DEFENDANT. The commission must
21 be a defendant in a proceeding for judicial review under this title.

22 SECTION 3.19. Section 15.003(a), Utilities Code, is amended
23 to read as follows:

24 (a) A party represented by counsel who alleges that existing
25 rates are excessive or that rates prescribed by the commission are
26 excessive and who prevails in a proceeding for review of a
27 commission order or decision under this title is entitled in the

1 same action to recover against the regulation fund reasonable fees
2 for attorneys and expert witnesses and other costs for the party's
3 efforts before the commission and the court.

4 SECTION 3.20. Section 15.004, Utilities Code, is amended to
5 read as follows:

6 Sec. 15.004. JUDICIAL STAY OR SUSPENSION. While an appeal
7 of an order, ruling, or decision of a regulatory authority under
8 this title is pending, the district court, court of appeals, or
9 supreme court, as appropriate, may stay or suspend all or part of
10 the operation of the order, ruling, or decision. In granting or
11 refusing a stay or suspension, the court shall act in accordance
12 with the practice of a court exercising equity jurisdiction.

13 SECTION 3.21. Section 15.022, Utilities Code, is amended to
14 read as follows:

15 Sec. 15.022. CONTEMPT. The commission may file a court
16 action for contempt against a person who:

17 (1) fails to comply with a lawful order of the
18 commission under this title;

19 (2) fails to comply with a subpoena or subpoena duces
20 tecum issued under this title; or

21 (3) refuses to testify about a matter that is subject
22 to the commission's jurisdiction under this title and on which the
23 person may be lawfully interrogated.

24 SECTION 3.22. Sections 15.024(a), (b), (d), (e), and (f),
25 Utilities Code, are amended to read as follows:

26 (a) If the commission [~~executive director~~] determines that
27 a violation of this title or a rule or order adopted under this

1 title has occurred, the commission [~~executive director~~] may issue
2 [~~to the commission~~] a report that states:

3 (1) the facts on which the determination is based;

4 (2) whether [~~and~~] the commission proposes to impose
5 [~~executive director's recommendation on the imposition of~~] an
6 administrative penalty; and

7 (3) if a penalty is proposed, [~~including a~~
8 ~~recommendation on~~] the amount of the proposed penalty.

9 (b) Not later than the 14th day after the date the report is
10 issued, the commission [~~executive director~~] shall give written
11 notice of the report to the person against whom the penalty may be
12 imposed [~~assessed~~]. The notice may be given by certified mail. The
13 notice must:

14 (1) include a brief summary of the alleged violation;

15 (2) state the amount of the proposed [~~recommended~~]
16 penalty; and

17 (3) inform the person that the person has a right to a
18 hearing on the occurrence of the violation, the amount of the
19 penalty, or both the occurrence of the violation and the amount of
20 the penalty.

21 (d) Not later than the 20th day after the date the person
22 receives the notice, the person may accept the determination and
23 proposed [~~recommended~~] penalty of the commission [~~executive~~
24 ~~director~~] in writing or may make a written request for a hearing on
25 the occurrence of the violation, the amount of the penalty, or both
26 the occurrence of the violation and the amount of the penalty.

27 (e) If the person accepts the commission's [~~executive~~

1 ~~director's~~] determination and proposed [~~recommended~~] penalty, the
2 commission by order shall approve the determination and impose the
3 proposed [~~recommended~~] penalty.

4 (f) If the person requests a hearing or fails to timely
5 respond to the notice, the commission [~~executive director~~] shall
6 set a hearing and give notice of the hearing to the person. The
7 hearing shall be held by an administrative law judge of the State
8 Office of Administrative Hearings. The administrative law judge
9 shall make findings of fact and conclusions of law and promptly
10 issue to the commission a proposal for a decision about the
11 occurrence of the violation and the amount of a proposed penalty.
12 Based on the findings of fact, conclusions of law, and proposal for
13 a decision, the commission by order may find that a violation has
14 occurred and impose a penalty or may find that no violation
15 occurred.

16 SECTION 3.23. Section [15.025](#), Utilities Code, is amended to
17 read as follows:

18 Sec. 15.025. PAYMENT OF ADMINISTRATIVE PENALTY. (a) Not
19 later than the 30th day after the date the commission's order
20 imposing an administrative penalty under this subchapter is final
21 as provided by Section [2001.144](#), Government Code, the person shall:

- 22 (1) pay the amount of the penalty;
- 23 (2) pay the amount of the penalty and file a petition
24 for judicial review contesting:
- 25 (A) the occurrence of the violation;
- 26 (B) the amount of the penalty; or
- 27 (C) both the occurrence of the violation and the

1 amount of the penalty; or

2 (3) without paying the amount of the penalty, file a
3 petition for judicial review contesting:

4 (A) the occurrence of the violation;

5 (B) the amount of the penalty; or

6 (C) both the occurrence of the violation and the
7 amount of the penalty.

8 (b) Not later than the 30th day after the date the
9 commission's order is final as provided by Section [2001.144](#),
10 Government Code, a person who acts under Subsection (a)(3) may:

11 (1) stay enforcement of the penalty by:

12 (A) paying the amount of the penalty to the court
13 for placement in an escrow account; or

14 (B) giving to the court a supersedeas bond that
15 is approved by the court for the amount of the penalty and that is
16 effective until all judicial review of the commission's order is
17 final; or

18 (2) request the court to stay enforcement of the
19 penalty by:

20 (A) filing with the court a sworn affidavit of
21 the person stating that the person is financially unable to pay the
22 amount of the penalty and is financially unable to give the
23 supersedeas bond; and

24 (B) giving a copy of the affidavit to the
25 commission [~~executive director~~] by certified mail.

26 (c) The commission [~~executive director~~], on receipt of a
27 copy of an affidavit under Subsection (b)(2), may file with the

1 court, not later than the fifth day after the date the copy is
2 received, a contest to the affidavit. The court shall hold a
3 hearing on the facts alleged in the affidavit as soon as practicable
4 and shall stay the enforcement of the penalty on finding that the
5 alleged facts are true. The person who files an affidavit has the
6 burden of proving that the person is financially unable to pay the
7 amount of the penalty and to give a supersedeas bond.

8 (d) If the person does not pay the amount of the penalty and
9 the enforcement of the penalty is not stayed, the commission
10 [~~executive director~~] may refer the matter to the attorney general
11 for collection of the amount of the penalty.

12 SECTION 3.24. Section 15.026(a), Utilities Code, is amended
13 to read as follows:

14 (a) Judicial review of a commission order imposing an
15 administrative penalty under this subchapter is:

16 (1) instituted by filing a petition as provided by
17 Subchapter G, Chapter 2001, Government Code; and

18 (2) under the substantial evidence rule.

19 SECTION 3.25. Section 15.027(c), Utilities Code, is amended
20 to read as follows:

21 (c) The commission [~~executive director~~] may delegate any
22 power or duty relating to an administrative penalty given the
23 commission [~~executive director~~] by this subchapter to a person
24 designated by the commission [~~executive director~~].

25 SECTION 3.26. Sections 15.051(b) and (c), Utilities Code,
26 are amended to read as follows:

27 (b) The commission shall keep for a reasonable period

1 information about each complaint filed with the commission that the
2 commission has authority to resolve under this title. The
3 information shall include:

- 4 (1) the date the complaint is received;
- 5 (2) the name of the complainant;
- 6 (3) the subject matter of the complaint;
- 7 (4) a record of each person contacted in relation to
8 the complaint;
- 9 (5) a summary of the results of the review or
10 investigation of the complaint; and
- 11 (6) if the commission took no action on the complaint,
12 an explanation of the reason the complaint was closed without
13 action.

14 (c) The commission shall keep a file about each written
15 complaint filed with the commission that the commission has
16 authority to resolve under this title. The commission shall
17 provide to the person filing the complaint and to each person or
18 entity complained about information concerning the commission's
19 policies and procedures on complaint investigation and resolution.
20 The commission, at least quarterly and until final disposition of
21 the complaint, shall notify the person filing the complaint and
22 each person or entity complained about of the status of the
23 complaint unless the notice would jeopardize an undercover
24 investigation.

25 SECTION 3.27. Section [39.157](#)(d), Utilities Code, is amended
26 to read as follows:

27 (d) Not later than January 10, 2000, the commission shall

1 adopt rules and enforcement procedures to govern transactions or
2 activities between a transmission and distribution utility and its
3 competitive affiliates to avoid potential market power abuses and
4 cross-subsidizations between regulated and competitive activities
5 both during the transition to and after the introduction of
6 competition. Nothing in this subsection is intended to affect or
7 modify the obligations or duties relating to any rules or standards
8 of conduct that may apply to a utility or the utility's affiliates
9 under orders or regulations of the Federal Energy Regulatory
10 Commission or the Securities and Exchange Commission. A utility
11 that is subject to statutes or regulations in other states that
12 conflict with a provision of this section may petition the
13 commission for a waiver of the conflicting provision on a showing of
14 good cause. The rules adopted under this section shall ensure that:

15 (1) a utility makes any products and services, other
16 than corporate support services, that it provides to a competitive
17 affiliate available, contemporaneously and in the same manner, to
18 the competitive affiliate's competitors and applies its tariffs,
19 prices, terms, conditions, and discounts for those products and
20 services in the same manner to all similarly situated entities;

21 (2) a utility does not:

22 (A) give a competitive affiliate or a competitive
23 affiliate's customers any preferential advantage, access, or
24 treatment regarding services other than corporate support
25 services; or

26 (B) act in a manner that is discriminatory or
27 anticompetitive with respect to a nonaffiliated competitor of a

1 competitive affiliate;

2 (3) a utility providing electric transmission or
3 distribution services:

4 (A) provides those services on nondiscriminatory
5 terms and conditions;

6 (B) does not establish as a condition for the
7 provision of those services the purchase of other goods or services
8 from the utility or the competitive affiliate; and

9 (C) does not provide competitive affiliates
10 preferential access to the utility's transmission and distribution
11 systems or to information about those systems;

12 (4) a utility does not release any proprietary
13 customer information to a competitive affiliate or any other
14 entity, other than an independent organization as defined by
15 Section 39.151 or a provider of corporate support services for the
16 purposes of providing the services, without obtaining prior
17 verifiable authorization, as determined from the commission, from
18 the customer;

19 (5) a utility does not:

20 (A) communicate with a current or potential
21 customer about products or services offered by a competitive
22 affiliate in a manner that favors a competitive affiliate; or

23 (B) allow a competitive affiliate, before
24 September 1, 2005, to use the utility's corporate name, trademark,
25 brand, or logo unless the competitive affiliate includes on
26 employee business cards and in its advertisements of specific
27 services to existing or potential residential or small commercial

1 customers located [~~locating~~] within the utility's certificated
2 service area a disclaimer that states, "(Name of competitive
3 affiliate) is not the same company as (name of utility) and is not
4 regulated by the Texas Energy and Communications [~~Public Utility~~]
5 Commission [~~of Texas~~], and you do not have to buy (name of
6 competitive affiliate)'s products to continue to receive quality
7 regulated services from (name of utility).";

8 (6) a utility does not conduct joint advertising or
9 promotional activities with a competitive affiliate in a manner
10 that favors the competitive affiliate;

11 (7) a utility is a separate, independent entity from
12 any competitive affiliates and, except as provided by Subdivisions
13 (8) and (9), does not share employees, facilities, information, or
14 other resources, other than permissible corporate support
15 services, with those competitive affiliates unless the utility can
16 prove to the commission that the sharing will not compromise the
17 public interest;

18 (8) a utility's office space is physically separated
19 from the office space of the utility's competitive affiliates by
20 being located in separate buildings or, if within the same
21 building, by a method such as having the offices on separate floors
22 or with separate access, unless otherwise approved by the
23 commission;

24 (9) a utility and a competitive affiliate:

25 (A) may, to the extent the utility implements
26 adequate safeguards precluding employees of a competitive
27 affiliate from gaining access to information in a manner

1 inconsistent with Subsection (g) or (i), share common officers and
2 directors, property, equipment, offices to the extent consistent
3 with Subdivision (8), credit, investment, or financing
4 arrangements to the extent consistent with Subdivision (17),
5 computer systems, information systems, and corporate support
6 services; and

7 (B) are not required to enter into prior written
8 contracts or competitive solicitations for non-tariffed
9 transactions between the utility and the competitive affiliate,
10 except that the commission by rule may require the utility and the
11 competitive affiliate to enter into prior written contracts or
12 competitive solicitations for certain classes of transactions,
13 other than corporate support services, that have a per unit value of
14 more than \$75,000 or that total more than \$1 million;

15 (10) a utility does not temporarily assign, for less
16 than one year, employees engaged in transmission or distribution
17 system operations to a competitive affiliate unless the employee
18 does not have knowledge of information that is intended to be
19 protected under this section;

20 (11) a utility does not subsidize the business
21 activities of an affiliate with revenues from a regulated service;

22 (12) a utility and its affiliates fully allocate costs
23 for any shared services, corporate support services, and other
24 items described by Subdivisions (8) and (9);

25 (13) a utility and its affiliates keep separate books
26 of accounts and records and the commission may review records
27 relating to a transaction between a utility and an affiliate;

1 (14) assets transferred or services provided between a
2 utility and an affiliate, other than transfers that facilitate
3 unbundling under Section 39.051 or asset valuation under Section
4 39.262, are priced at a level that is fair and reasonable to the
5 customers of the utility and reflects the market value of the assets
6 or services or the utility's fully allocated cost to provide those
7 assets or services;

8 (15) regulated services that a utility provides on a
9 routine or recurring basis are included in a tariff that is subject
10 to commission approval;

11 (16) each transaction between a utility and a
12 competitive affiliate is conducted at arm's length; and

13 (17) a utility does not allow an affiliate to obtain
14 credit under an arrangement that would include a specific pledge of
15 assets in the rate base of the utility or a pledge of cash
16 reasonably necessary for utility operations.

17 SECTION 3.28. Section 163.123, Utilities Code, is amended
18 to read as follows:

19 Sec. 163.123. AUTHORITY OF TEXAS ENERGY AND COMMUNICATIONS
20 [~~PUBLIC UTILITY~~] COMMISSION. A joint powers agency created under
21 this subchapter is:

22 (1) subject to all applicable provisions of Title 2;
23 and

24 (2) under the jurisdiction of the Texas Energy and
25 Communications [~~Public Utility~~] Commission [~~of Texas~~] as provided
26 by Title 2.

27 SECTION 3.29. Section 183.001(1), Utilities Code, is

1 amended to read as follows:

2 (1) "Commission" means the Texas Energy and
3 Communications [~~Public Utility~~] Commission [~~of Texas~~].

4 SECTION 3.30. Section 184.001, Utilities Code, is amended
5 to read as follows:

6 Sec. 184.001. DEFINITION. In this chapter, "commission"
7 means the Texas Energy and Communications [~~Public Utility~~]
8 Commission [~~of Texas~~].

9 SECTION 3.31. Section 185.001(1), Utilities Code, is
10 amended to read as follows:

11 (1) "Commission" means the Texas Energy and
12 Communications [~~Public Utility~~] Commission [~~of Texas~~].

13 SECTION 3.32. Section 22.003(d), Agriculture Code, is
14 amended to read as follows:

15 (d) The Texas Energy and Communications [~~Public Utility~~]
16 Commission [~~of Texas~~] and the Texas Commission on Environmental
17 Quality shall assist the department as necessary to enable the
18 department to determine whether a facility meets the requirements
19 of Subsection (b) for purposes of the eligibility of farmers,
20 loggers, diverters, and renewable biomass aggregators and bio-coal
21 fuel producers for grants under this chapter.

22 SECTION 3.33. Section 22.007, Agriculture Code, is amended
23 to read as follows:

24 Sec. 22.007. RULES. The commissioner, in consultation
25 with the Texas Energy and Communications [~~Public Utility~~]
26 Commission [~~of Texas~~] and the Texas Commission on Environmental
27 Quality, shall adopt rules to implement this chapter.

1 SECTION 3.34. Section 50D.011(a), Agriculture Code, is
2 amended to read as follows:

3 (a) The policy council is composed of the following 17 [~~18~~]
4 members:

5 (1) the commissioner, who serves as chair of the
6 policy council;

7 (2) one representative of the Texas Energy and
8 Communications [~~Railroad~~] Commission [~~of Texas~~] designated by the
9 commission;

10 (3) one representative of the Texas Commission on
11 Environmental Quality designated by the commission;

12 (4) [~~one representative of the Public Utility~~
13 ~~Commission of Texas designated by the commission,~~

14 [~~5~~] one representative of the Texas Water
15 Development Board designated by the board;

16 (5) [~~6~~] the chancellor of The Texas A&M University
17 System, or the person designated by the chancellor;

18 (6) [~~7~~] the chancellor of the Texas Tech University
19 System, or the person designated by the chancellor;

20 (7) [~~8~~] the chancellor of The University of Texas
21 System, or the person designated by the chancellor;

22 (8) [~~9~~] one member of the senate appointed by the
23 lieutenant governor;

24 (9) [~~10~~] one member of the house of representatives
25 appointed by the speaker of the house of representatives; and

26 (10) [~~11~~] eight members appointed by the governor,
27 with each of the following industries or groups represented by one

1 member:

2 (A) research and development of feedstock and
3 feedstock production;

4 (B) retail distribution of energy;

5 (C) transportation of biomass feedstock;

6 (D) agricultural production for bioenergy
7 production or agricultural waste used for production of bioenergy;

8 (E) production of biodiesel from nonfood
9 feedstocks;

10 (F) production of ethanol from nonfood
11 feedstocks;

12 (G) bio-based electricity generation; and

13 (H) chemical manufacturing.

14 SECTION 3.35. Section 50D.021(a), Agriculture Code, is
15 amended to read as follows:

16 (a) The research committee is composed of the following 15
17 [~~16~~] members:

18 (1) the commissioner or the person designated by the
19 commissioner, who serves as the chair of the research committee;

20 (2) one representative of the Texas Energy and
21 Communications [~~Railroad~~] Commission [~~of Texas~~] designated by the
22 commission;

23 (3) one representative of the Texas Commission on
24 Environmental Quality designated by the commission;

25 (4) [~~one representative of the Public Utility~~
26 ~~Commission of Texas designated by the commission,~~

27 [~~5~~] one representative of the Texas Water

1 Development Board designated by the board;

2 (5) [~~(6)~~] one researcher or specialist in the
3 bioenergy field from each of the following university systems,
4 appointed by the chancellor of the system:

5 (A) The Texas A&M University System;

6 (B) the Texas Tech University System; and

7 (C) The University of Texas System; and

8 (6) [~~(7)~~] eight members, with a member appointed by
9 each policy council member appointed by the governor under Section
10 50D.011(a)(10) [~~50D.011(a)(11)~~].

11 SECTION 3.36. Section 302.053, Business & Commerce Code, is
12 amended to read as follows:

13 Sec. 302.053. EXEMPTION: PERSONS REGULATED BY OTHER
14 LAW. This chapter does not apply to:

15 (1) a person offering or selling a security that has
16 been qualified for sale under Section 7, The Securities Act
17 (Article 581-7, Vernon's Texas Civil Statutes), or that is subject
18 to an exemption under Section 5 or 6 of that Act;

19 (2) a publicly traded corporation registered with the
20 Securities and Exchange Commission or the State Securities Board,
21 or a subsidiary or agent of the corporation;

22 (3) a person who holds a license issued under the
23 Insurance Code if the solicited transaction is governed by that
24 code;

25 (4) a supervised financial institution or a parent, a
26 subsidiary, or an affiliate of a supervised financial institution;

27 (5) a person whose business is regulated by the Texas

1 Energy and Communications [~~Public Utility~~] Commission under Title 2
2 or 4, Utilities Code, [~~of Texas~~] or an affiliate of that person,
3 except that this chapter applies to such a person or affiliate only
4 with respect to one or more automated dial announcing devices;

5 (6) a person subject to the control or licensing
6 regulations of the Federal Communications Commission;

7 (7) a person selling a contractual plan regulated by
8 the Federal Trade Commission trade regulation on use of negative
9 option plans by sellers in commerce under 16 C.F.R. Part 425;

10 (8) a person subject to filing requirements under
11 Chapter 1803, Occupations Code; or

12 (9) a person who:

13 (A) is soliciting a transaction regulated by the
14 Commodity Futures Trading Commission; and

15 (B) is registered or holds a temporary license
16 for the activity described by Paragraph (A) with the Commodity
17 Futures Trading Commission under the Commodity Exchange Act (7
18 U.S.C. Section 1 et seq.), if the registration or license has not
19 expired or been suspended or revoked.

20 SECTION 3.37. Section 304.002(2), Business & Commerce Code,
21 is amended to read as follows:

22 (2) "Commission" means the Texas Energy and
23 Communications [~~Public Utility~~] Commission [~~of Texas~~].

24 SECTION 3.38. Section 1(10), Article 18.21, Code of
25 Criminal Procedure, is amended to read as follows:

26 (10) "Trap and trace device" means a device or process
27 that records an incoming electronic or other impulse that

1 identifies the originating number or other dialing, routing,
2 addressing, or signaling information reasonably likely to identify
3 the source of a wire or electronic communication, if the
4 information does not include the contents of the communication. The
5 term does not include a device or telecommunications network used
6 in providing:

7 (A) a caller identification service authorized
8 by the Texas Energy and Communications [~~Public Utility~~] Commission
9 [~~of Texas~~] under Subchapter E, Chapter 55, Utilities Code;

10 (B) the services referenced in Section
11 55.102(b), Utilities Code; or

12 (C) a caller identification service provided by a
13 commercial mobile radio service provider licensed by the Federal
14 Communications Commission.

15 SECTION 3.39. Section 88.215(b), Education Code, is amended
16 to read as follows:

17 (b) The advisory committee consists of 11 members appointed
18 as follows:

19 (1) one representative of Texas A & M University
20 appointed by the director of [~~the~~] Texas AgriLife Research
21 [~~Agricultural Experiment Station~~];

22 (2) one representative of Texas Tech University
23 appointed by the dean of the College of Agricultural Sciences and
24 Natural Resources [~~Agriculture~~] of Texas Tech University;

25 (3) one representative of The University of Texas
26 appointed by the vice president for research of The University of
27 Texas System;

1 (4) one representative of the Department of
2 Agriculture appointed by the commissioner of agriculture;

3 (5) one representative of the Parks and Wildlife
4 Department appointed by the director of the department;

5 (6) one representative of the Texas Energy and
6 Communications [~~Public Utility~~] Commission [~~of Texas~~] appointed by
7 the [~~executive director of the~~] commission;

8 (7) one representative of municipal governments
9 appointed by the governor;

10 (8) one representative of the general public appointed
11 by the governor;

12 (9) one representative of the agribusiness industry
13 appointed by the governor;

14 (10) one representative of the chemical industry
15 appointed by the Texas Chemical Council; and

16 (11) one representative of the oil and gas industry
17 appointed by the Texas [~~Mid-Continent~~] Oil and Gas Association.

18 SECTION 3.40. Section [418.051\(c\)](#), Government Code, is
19 amended to read as follows:

20 (c) The communications coordination group consists of
21 members selected by the division, including representatives of:

22 (1) the Texas military forces;

23 (2) the Department of Public Safety of the State of
24 Texas;

25 (3) the Federal Emergency Management Agency;

26 (4) federal agencies that comprise Emergency Support
27 Function No. 2;

- 1 (5) the telecommunications industry, including cable
2 service providers, as defined by Section 66.002, Utilities Code;
- 3 (6) electric utilities, as defined by Section 31.002,
4 Utilities Code;
- 5 (7) gas utilities, as defined by Sections 101.003 and
6 121.001, Utilities Code;
- 7 (8) the National Guard's Joint Continental United
8 States Communications Support Environment;
- 9 (9) the National Guard Bureau;
- 10 (10) amateur radio operator groups;
- 11 (11) the Texas Forest Service;
- 12 (12) the Texas Department of Transportation;
- 13 (13) the General Land Office;
- 14 (14) the Texas Engineering Extension Service of The
15 Texas A&M University System;
- 16 (15) ~~[the Public Utility Commission of Texas,~~
17 ~~(16)]~~ the Texas Energy and Communications [Railroad]
18 Commission ~~[of Texas]~~;
- 19 (16) ~~[(17)]~~ the Department of State Health Services;
- 20 (17) ~~[(18)]~~ the judicial branch of state government;
- 21 (18) ~~[(19)]~~ the Texas Association of Regional
22 Councils;
- 23 (19) ~~[(20)]~~ the United States Air Force Auxiliary
24 Civil Air Patrol, Texas Wing;
- 25 (20) ~~[(21)]~~ each trauma service area regional
26 advisory council;
- 27 (21) ~~[(22)]~~ state agencies, counties, and

1 municipalities affected by the emergency, including 9-1-1
2 agencies; and

3 (22) [~~(23)~~] other agencies as determined by the
4 division.

5 SECTION 3.41. Section 421.021(a), Government Code, is
6 amended to read as follows:

7 (a) The Homeland Security Council is composed of the
8 governor or the governor's designee, the speaker of the house of
9 representatives or the speaker's designee, the lieutenant governor
10 or the lieutenant governor's designee, and one representative of
11 each of the following entities, appointed by the single statewide
12 elected or appointed governing officer, administrative head, or
13 chair, as appropriate, of the entity:

- 14 (1) Department of Agriculture;
- 15 (2) office of the attorney general;
- 16 (3) General Land Office;
- 17 (4) Texas Energy and Communications [~~Public Utility~~]
18 Commission [~~of Texas~~];
- 19 (5) Department of State Health Services;
- 20 (6) Department of Information Resources;
- 21 (7) Department of Public Safety of the State of Texas;
- 22 (8) Texas Division of Emergency Management;
- 23 (9) adjutant general's department;
- 24 (10) Texas Commission on Environmental Quality;
- 25 (11) [~~Railroad Commission of Texas,~~
- 26 [~~(12)~~] Texas Strategic Military Planning Commission;
- 27 (12) [~~(13)~~] Texas Department of Transportation;

- 1 (13) [~~(14)~~] Commission on State Emergency
- 2 Communications;
- 3 (14) [~~(15)~~] Office of State-Federal Relations;
- 4 (15) [~~(16)~~] secretary of state;
- 5 (16) [~~(17)~~] Senate Committee on Transportation and
- 6 Homeland Security;
- 7 (17) [~~(18)~~] House Committee on Defense and Veterans'
- 8 Affairs;
- 9 (18) [~~(19)~~] Texas Animal Health Commission;
- 10 (19) [~~(20)~~] Texas Association of Regional Councils;
- 11 (20) [~~(21)~~] Texas Commission on Law Enforcement
- 12 Officer Standards and Education;
- 13 (21) [~~(22)~~] state fire marshal's office;
- 14 (22) [~~(23)~~] Texas Education Agency;
- 15 (23) [~~(24)~~] Texas Commission on Fire Protection;
- 16 (24) [~~(25)~~] Parks and Wildlife Department;
- 17 (25) [~~(26)~~] Texas Forest Service; and
- 18 (26) [~~(27)~~] Texas Water Development Board.

19 SECTION 3.42. Section [447.006\(g\)](#), Government Code, is
20 amended to read as follows:

21 (g) The state energy conservation office may analyze the
22 rates for electricity charged to and the amount of electricity used
23 by state agencies and institutions of higher education to determine
24 ways the state could obtain lower rates and use less electricity.
25 Each state agency, including the Texas Energy and Communications
26 [~~Public Utility~~] Commission [~~of Texas~~], and institution of higher
27 education shall assist the office in obtaining the information the

1 office needs to perform its analysis.

2 SECTION 3.43. Section 487.054(a), Government Code, is
3 amended to read as follows:

4 (a) At least once each year, the following agency heads or
5 their designees shall meet in Austin to discuss rural issues and to
6 provide information showing the impact each agency has on rural
7 communities for use in developing rural policy and compiling the
8 annual report under Section 487.051(a)(5):

9 (1) the commissioner of agriculture;

10 (2) a member [~~the executive director~~] of the Texas
11 Energy and Communications [~~Public Utility~~] Commission [~~of Texas~~];

12 (3) the director of the Texas AgriLife [~~Agricultural~~]
13 Extension Service;

14 (4) the executive director of the Texas Department of
15 Housing and Community Affairs;

16 (5) the commissioner of the Department of State Health
17 Services;

18 (6) the executive administrator of the Texas Water
19 Development Board;

20 (7) the executive director of the Parks and Wildlife
21 Department;

22 (8) the commissioner of higher education;

23 (9) the comptroller;

24 (10) the executive director of the Texas Department of
25 Transportation;

26 (11) the executive director of the Texas Commission on
27 Environmental Quality;

1 (12) [~~the executive director of the Texas Economic~~
2 ~~Development and Tourism Office,~~
3 ~~(13)~~ the commissioner of insurance;
4 (13) [~~(14)~~] the commissioner of the Department of
5 Aging and Disability Services;
6 (14) [~~(15)~~] the commissioner of education;
7 (15) [~~(16)~~] the executive commissioner of the Health
8 and Human Services Commission;
9 (16) [~~(17)~~] the executive director of the Texas
10 Workforce Commission;
11 (17) [~~(18)~~] the executive director of the Texas
12 Historical Commission;
13 (18) [~~(19) a member of the Railroad Commission of~~
14 ~~Texas,~~
15 ~~(20)~~] the executive director of the State Soil and
16 Water Conservation Board;
17 (19) [~~(21)~~] the executive director of the department;
18 and
19 (20) [~~(22)~~] the head of any other agency interested in
20 rural issues.

21 SECTION 3.44. Section 551.086(b)(3), Government Code, is
22 amended to read as follows:

23 (3) "Competitive matter" means a utility-related
24 matter that the public power utility governing body in good faith
25 determines by a vote under this section is related to the public
26 power utility's competitive activity, including commercial
27 information, and would, if disclosed, give advantage to competitors

1 or prospective competitors but may not be deemed to include the
2 following categories of information:

3 (A) information relating to the provision of
4 distribution access service, including the terms and conditions of
5 the service and the rates charged for the service but not including
6 information concerning utility-related services or products that
7 are competitive;

8 (B) information relating to the provision of
9 transmission service that is required to be filed with the Texas
10 Energy and Communications [~~Public Utility~~] Commission [~~of Texas~~],
11 subject to any confidentiality provided for under the rules of the
12 commission;

13 (C) information for the distribution system
14 pertaining to reliability and continuity of service, to the extent
15 not security-sensitive, that relates to emergency management,
16 identification of critical loads such as hospitals and police,
17 records of interruption, and distribution feeder standards;

18 (D) any substantive rule of general
19 applicability regarding service offerings, service regulation,
20 customer protections, or customer service adopted by the public
21 power utility as authorized by law;

22 (E) aggregate information reflecting receipts or
23 expenditures of funds of the public power utility, of the type that
24 would be included in audited financial statements;

25 (F) information relating to equal employment
26 opportunities for minority groups, as filed with local, state, or
27 federal agencies;

1 (G) information relating to the public power
2 utility's performance in contracting with minority business
3 entities;

4 (H) information relating to nuclear
5 decommissioning trust agreements, of the type required to be
6 included in audited financial statements;

7 (I) information relating to the amount and timing
8 of any transfer to an owning city's general fund;

9 (J) information relating to environmental
10 compliance as required to be filed with any local, state, or
11 national environmental authority, subject to any confidentiality
12 provided under the rules of those authorities;

13 (K) names of public officers of the public power
14 utility and the voting records of those officers for all matters
15 other than those within the scope of a competitive resolution
16 provided for by this section;

17 (L) a description of the public power utility's
18 central and field organization, including the established places at
19 which the public may obtain information, submit information and
20 requests, or obtain decisions and the identification of employees
21 from whom the public may obtain information, submit information or
22 requests, or obtain decisions; or

23 (M) information identifying the general course
24 and method by which the public power utility's functions are
25 channeled and determined, including the nature and requirements of
26 all formal and informal policies and procedures.

27 SECTION 3.45. Section [552.133\(a\)\(3\)](#), Government Code, is

1 amended to read as follows:

2 (3) "Competitive matter" means a utility-related
3 matter that the public power utility governing body in good faith
4 determines by a vote under this section is related to the public
5 power utility's competitive activity, including commercial
6 information, and would, if disclosed, give advantage to competitors
7 or prospective competitors but may not be deemed to include the
8 following categories of information:

9 (A) information relating to the provision of
10 distribution access service, including the terms and conditions of
11 the service and the rates charged for the service but not including
12 information concerning utility-related services or products that
13 are competitive;

14 (B) information relating to the provision of
15 transmission service that is required to be filed with the Texas
16 Energy and Communications [~~Public Utility~~] Commission [~~of Texas~~],
17 subject to any confidentiality provided for under the rules of the
18 commission;

19 (C) information for the distribution system
20 pertaining to reliability and continuity of service, to the extent
21 not security-sensitive, that relates to emergency management,
22 identification of critical loads such as hospitals and police,
23 records of interruption, and distribution feeder standards;

24 (D) any substantive rule of general
25 applicability regarding service offerings, service regulation,
26 customer protections, or customer service adopted by the public
27 power utility as authorized by law;

1 (E) aggregate information reflecting receipts or
2 expenditures of funds of the public power utility, of the type that
3 would be included in audited financial statements;

4 (F) information relating to equal employment
5 opportunities for minority groups, as filed with local, state, or
6 federal agencies;

7 (G) information relating to the public power
8 utility's performance in contracting with minority business
9 entities;

10 (H) information relating to nuclear
11 decommissioning trust agreements, of the type required to be
12 included in audited financial statements;

13 (I) information relating to the amount and timing
14 of any transfer to an owning city's general fund;

15 (J) information relating to environmental
16 compliance as required to be filed with any local, state, or
17 national environmental authority, subject to any confidentiality
18 provided under the rules of those authorities;

19 (K) names of public officers of the public power
20 utility and the voting records of those officers for all matters
21 other than those within the scope of a competitive resolution
22 provided for by this section;

23 (L) a description of the public power utility's
24 central and field organization, including the established places at
25 which the public may obtain information, submit information and
26 requests, or obtain decisions and the identification of employees
27 from whom the public may obtain information, submit information or

1 requests, or obtain decisions; or

2 (M) information identifying the general course
3 and method by which the public power utility's functions are
4 channeled and determined, including the nature and requirements of
5 all formal and informal policies and procedures.

6 SECTION 3.46. Section 555.051(a), Government Code, is
7 amended to read as follows:

8 (a) This section applies only to information held by or for
9 the office of the attorney general, the Texas Department of
10 Insurance, the Texas State Board of Public Accountancy, the Texas
11 Energy and Communications [~~Public Utility~~] Commission [~~of Texas~~],
12 the State Securities Board, the Department of Savings and Mortgage
13 Lending, the Texas Real Estate Commission, the Texas Appraiser
14 Licensing and Certification Board, the Texas Department of Banking,
15 the credit union department, the Office of Consumer Credit
16 Commissioner, or the Texas Department of Housing and Community
17 Affairs that relates to the possible commission of corporate fraud
18 or mortgage fraud by a person who is licensed or otherwise regulated
19 by any of those state agencies. In this subsection, "corporate
20 fraud" means a violation of state or federal law or rules relating
21 to fraud committed by a corporation, limited liability company, or
22 registered limited liability partnership or an officer, director,
23 or partner of those entities while acting in a representative
24 capacity.

25 SECTION 3.47. Section 572.003(c), Government Code, is
26 amended to read as follows:

27 (c) The term means a member of:

1 (1) ~~[the Public Utility Commission of Texas,~~
2 ~~(2) the Texas Department of Economic Development,~~
3 ~~(3)]~~ the Texas Commission on Environmental Quality;
4 (2) ~~[(4)]~~ the Texas Alcoholic Beverage Commission;
5 (3) ~~[(5)]~~ The Finance Commission of Texas;
6 (4) ~~[(6)]~~ the Texas Facilities Commission;
7 (5) ~~[(7)]~~ the Texas Board of Criminal Justice;
8 (6) ~~[(8)]~~ the board of trustees of the Employees
9 Retirement System of Texas;
10 (7) ~~[(9)]~~ the Texas Transportation Commission;
11 (8) ~~[(10) the Texas Workers' Compensation~~
12 ~~Commission,~~
13 ~~[(11)]~~ the Texas Department of Insurance;
14 (9) ~~[(12)]~~ the Parks and Wildlife Commission;
15 (10) ~~[(13)]~~ the Public Safety Commission;
16 (11) ~~[(14)]~~ the Texas Ethics Commission;
17 (12) ~~[(15)]~~ the State Securities Board;
18 (13) ~~[(16)]~~ the Texas Water Development Board;
19 (14) ~~[(17)]~~ the governing board of a public senior
20 college or university as defined by Section [61.003](#), Education Code,
21 or of The University of Texas Southwestern Medical Center at
22 Dallas, The University of Texas Medical Branch at Galveston, The
23 University of Texas Health Science Center at Houston, The
24 University of Texas Health Science Center at San Antonio, The
25 University of Texas System M. D. Anderson Cancer Center, The
26 University of Texas Health Science Center at Tyler, University of
27 North Texas Health Science Center at Fort Worth, Texas Tech

1 University Health Sciences Center, Texas State Technical
2 College--Harlingen, Texas State Technical College--Marshall, Texas
3 State Technical College--Sweetwater, or Texas State Technical
4 College--Waco;

5 (15) [~~(18)~~] the Texas Higher Education Coordinating
6 Board;

7 (16) [~~(19)~~] the Texas Workforce Commission;

8 (17) [~~(21)~~] the board of trustees of the Teacher
9 Retirement System of Texas;

10 (18) [~~(22)~~] the Credit Union Commission;

11 (19) [~~(23)~~] the School Land Board;

12 (20) [~~(24)~~] the board of the Texas Department of
13 Housing and Community Affairs;

14 (21) [~~(25)~~] the Texas Racing Commission;

15 (22) [~~(26)~~] the State Board of Dental Examiners;

16 (23) [~~(27)~~] the Texas Medical [~~State~~] Board [~~of~~
17 ~~Medical Examiners~~];

18 (24) [~~(28)~~] the Board of Pardons and Paroles;

19 (25) [~~(29)~~] the Texas State Board of Pharmacy;

20 (26) [~~(30)~~] the Department of Information Resources
21 governing board;

22 (27) [~~(31)~~] the Motor Vehicle Board;

23 (28) [~~(32)~~] the Texas Real Estate Commission;

24 (29) [~~(33)~~] the board of directors of the State Bar of
25 Texas;

26 (30) [~~(34)~~] the bond review board;

27 (31) [~~(35)~~] the [~~Texas Board of~~] Health and Human

1 Services Commission;

2 (32) [~~(36)~~ the Texas Board of Mental Health and
3 ~~Mental Retardation;~~

4 [~~(37)~~ the Texas Board on Aging;

5 [~~(38)~~ the Texas Board of Human Services;

6 [~~(39)~~] the Texas Funeral Service Commission;

7 (33) [~~(40)~~] the board of directors of a river
8 authority created under the Texas Constitution or a statute of this
9 state; or

10 (34) [~~(41)~~] the Texas Lottery Commission.

11 SECTION 3.48. Section 660.203(a), Government Code, is
12 amended to read as follows:

13 (a) An individual is entitled to reimbursement for the
14 actual expense of meals and lodging incurred while performing the
15 duties of the individual's office or employment if the individual
16 is:

17 (1) a judicial officer;

18 (2) a chief administrative officer of a state agency,
19 subject to Subsection (c);

20 (3) the executive director of the Texas Legislative
21 Council;

22 (4) the secretary of the senate;

23 (5) a member of the Texas [~~Natural Resource~~
24 ~~Conservation~~] Commission on Environmental Quality, the Texas
25 Workforce Commission, the Texas Energy and Communications [~~Public~~
26 ~~Utility~~] Commission [~~of Texas~~], the Board of Pardons and Paroles,
27 or the Sabine River Compact Administration; or

1 (6) a full-time member of a board and receives a salary
2 from the state for service on that board.

3 SECTION 3.49. Sections [1232.1071](#)(d) and (e), Government
4 Code, are amended to read as follows:

5 (d) The Texas Energy and Communications [~~Public Utility~~]
6 Commission [~~of Texas~~] shall provide necessary assistance to the
7 authority to ensure the collection and enforcement of the
8 nonbypassable charges, whether directly or by using the assistance
9 and powers of the requesting member city.

10 (e) The authority and the Texas Energy and Communications
11 [~~Public Utility~~] Commission [~~of Texas~~] have all powers necessary to
12 perform the duties and responsibilities described by this section.
13 This section shall be interpreted broadly in a manner consistent
14 with the most cost-effective financing of stranded costs. To the
15 extent possible, obligations or evidences of indebtedness issued by
16 the authority under this section must be structured so that any
17 interest on the obligations or evidences of indebtedness is
18 excluded from gross income for federal income tax purposes. Any
19 interest on the obligations or evidences of indebtedness is not
20 subject to taxation by and may not be included as part of the
21 measurement of a tax by this state or a political subdivision of
22 this state.

23 SECTION 3.50. Section [2003.0421](#)(c), Government Code, is
24 amended to read as follows:

25 (c) This section applies to any contested case hearing
26 conducted by the office, except hearings conducted on behalf of the
27 Texas [~~Natural Resource Conservation~~] Commission on Environmental

1 Quality or the Texas Energy and Communications [~~Public Utility~~]
2 Commission [~~of Texas~~] which are governed by Sections 2003.047 and
3 2003.049.

4 SECTION 3.51. Section 2003.049(a), Government Code, is
5 amended to read as follows:

6 (a) The office shall establish a utility division to perform
7 the contested case hearings for the Texas Energy and Communications
8 [~~Public Utility~~] Commission [~~of Texas~~] as prescribed by Title 2,
9 Utilities Code, and Section 102.006, Utilities Code, [the Public
10 Utility Regulatory Act of 1995] and other applicable law.

11 SECTION 3.52. Section 2007.003(b), Government Code, is
12 amended to read as follows:

13 (b) This chapter does not apply to the following
14 governmental actions:

15 (1) an action by a municipality except as provided by
16 Subsection (a)(3);

17 (2) a lawful forfeiture or seizure of contraband as
18 defined by Article 59.01, Code of Criminal Procedure;

19 (3) a lawful seizure of property as evidence of a crime
20 or violation of law;

21 (4) an action, including an action of a political
22 subdivision, that is reasonably taken to fulfill an obligation
23 mandated by federal law or an action of a political subdivision that
24 is reasonably taken to fulfill an obligation mandated by state law;

25 (5) the discontinuance or modification of a program or
26 regulation that provides a unilateral expectation that does not
27 rise to the level of a recognized interest in private real property;

1 (6) an action taken to prohibit or restrict a
2 condition or use of private real property if the governmental
3 entity proves that the condition or use constitutes a public or
4 private nuisance as defined by background principles of nuisance
5 and property law of this state;

6 (7) an action taken out of a reasonable good faith
7 belief that the action is necessary to prevent a grave and immediate
8 threat to life or property;

9 (8) a formal exercise of the power of eminent domain;

10 (9) an action taken under a state mandate to prevent
11 waste of oil and gas, protect correlative rights of owners of
12 interests in oil or gas, or prevent pollution related to oil and gas
13 activities;

14 (10) a rule or proclamation adopted for the purpose of
15 regulating water safety, hunting, fishing, or control of
16 nonindigenous or exotic aquatic resources;

17 (11) an action taken by a political subdivision:

18 (A) to regulate construction in an area
19 designated under law as a floodplain;

20 (B) to regulate on-site sewage facilities;

21 (C) under the political subdivisions's statutory
22 authority to prevent waste or protect rights of owners of interest
23 in groundwater; or

24 (D) to prevent subsidence;

25 (12) the appraisal of property for purposes of ad
26 valorem taxation;

27 (13) an action that:

1 (A) is taken in response to a real and
2 substantial threat to public health and safety;

3 (B) is designed to significantly advance the
4 health and safety purpose; and

5 (C) does not impose a greater burden than is
6 necessary to achieve the health and safety purpose; or

7 (14) an action or rulemaking undertaken by the Texas
8 Energy and Communications [~~Public Utility~~] Commission [~~of Texas~~] to
9 order or require the location or placement of telecommunications
10 equipment owned by another party on the premises of a certificated
11 local exchange company.

12 SECTION 3.53. Section 2302.001(2), Government Code, is
13 amended to read as follows:

14 (2) "Commission" means the Texas Energy and
15 Communications [~~Public Utility~~] Commission [~~of Texas~~].

16 SECTION 3.54. Section 382.501(a), Health and Safety Code,
17 as added by Chapter 1125 (H.B. 1796), Acts of the 81st Legislature,
18 Regular Session, 2009, is amended to read as follows:

19 (a) The commission, [~~and~~] the Texas Energy and
20 Communications [~~Railroad~~] Commission [~~of Texas~~], and the
21 Department of Agriculture [~~, and the Public Utility Commission of~~
22 ~~Texas~~] shall jointly participate in the federal government process
23 for developing federal greenhouse gas reporting requirements and
24 the federal greenhouse gas registry requirements.

25 SECTION 3.55. Section 386.001(11), Health and Safety Code,
26 is amended to read as follows:

27 (11) "Utility commission" means the Texas Energy and

1 Communications [~~Public Utility~~] Commission [~~of Texas~~].

2 SECTION 3.56. Section 391.102(f), Health and Safety Code,
3 is amended to read as follows:

4 (f) In coordinating interagency application review
5 procedures, the commission shall:

6 (1) solicit review and comments from:

7 (A) the comptroller to assess:

8 (i) the financial stability of the
9 applicant;

10 (ii) the economic benefits and job creation
11 potential associated with the project; and

12 (iii) any other information related to the
13 duties of that office; and

14 (B) the Texas Energy and Communications [~~Public~~
15 ~~Utility~~] Commission [~~of Texas~~] to assess:

16 (i) the reliability of the proposed
17 technology;

18 (ii) the feasibility and
19 cost-effectiveness of electric transmission associated with the
20 project; [~~and~~]

21 (iii) [~~any other information related to the~~
22 ~~duties of that agency; and~~]

23 [~~(C) the Railroad Commission of Texas to assess:~~]

24 [~~(i)~~] the availability and cost of the fuel
25 involved with the project; and

26 (iv) [~~(ii)~~] any other information related
27 to the duties of that agency;

1 (2) consider the comments received under Subdivision
2 (1) in the commission's grant award decision process; and

3 (3) as part of the report required by Section 391.104,
4 justify awards made to projects that have been negatively reviewed
5 by agencies under Subdivision (1).

6 SECTION 3.57. Section 401.246(b), Health and Safety Code,
7 is amended to read as follows:

8 (b) To the extent practicable, the commission shall use the
9 methods used by the Texas Energy and Communications [~~Public~~
10 ~~Utility~~] Commission [~~of Texas~~] under Sections 36.051, 36.052, and
11 36.053, Utilities Code, when establishing overall revenues,
12 reasonable return, and invested capital for the purpose of setting
13 fees under Subsection (a).

14 SECTION 3.58. Sections 771.001(5) and (11), Health and
15 Safety Code, are amended to read as follows:

16 (5) "Local exchange service provider" means a
17 telecommunications carrier providing telecommunications service in
18 a local exchange service area under a certificate of public
19 convenience and necessity issued by the Texas Energy and
20 Communications [~~Public Utility~~] Commission [~~of Texas~~].

21 (11) "Business service" means a telecommunications
22 service classified as a business service under rules adopted by the
23 Texas Energy and Communications [~~Public Utility~~] Commission [~~of~~
24 ~~Texas~~] or under the applicable tariffs of the principal service
25 supplier.

26 SECTION 3.59. Section 771.031(b), Health and Safety Code,
27 is amended to read as follows:

1 (b) The following individuals serve as nonvoting ex officio
2 members:

3 (1) the executive director of the Texas Energy and
4 Communications [~~Public Utility~~] Commission [~~of Texas~~], or an
5 individual designated by the executive director;

6 (2) the executive director of the Department of
7 Information Resources, or an individual designated by the executive
8 director; and

9 (3) the executive commissioner of the Health and Human
10 Services Commission, or an individual designated by the executive
11 commissioner.

12 SECTION 3.60. Section 771.0725, Health and Safety Code, is
13 amended to read as follows:

14 Sec. 771.0725. ESTABLISHMENT OF RATES FOR FEES. (a)
15 Subject to the applicable limitations prescribed by Sections
16 771.071(b) and 771.072(b), (d), and (e), the Texas Energy and
17 Communications [~~Public Utility~~] Commission [~~of Texas~~] shall
18 monitor the establishment of:

19 (1) emergency service fees imposed under Section
20 771.071; and

21 (2) the equalization surcharge imposed under Section
22 771.072, including the allocation of revenue under Sections
23 771.072(d) and (e).

24 (b) Each year the commission shall provide documentation to
25 the Texas Energy and Communications [~~Public Utility~~] Commission [~~of~~
26 ~~Texas~~] regarding the rate at which each fee should be imposed and
27 the allocation of revenue under Sections 771.072(d) and (e). The

1 commission may provide such documentation more often under this
2 subsection if the commission determines that action is necessary.

3 (c) The Texas Energy and Communications [~~Public Utility~~]
4 Commission [~~of Texas~~] shall review the documentation provided by
5 the commission as well as allocations derived therefrom and also
6 identified by the commission. If the Texas Energy and
7 Communications [~~Public Utility~~] Commission [~~of Texas~~] determines
8 that a recommended rate or allocation is not appropriate, the Texas
9 Energy and Communications [~~Public Utility~~] Commission [~~of Texas~~]
10 shall provide comments to the commission, the governor, and the
11 Legislative Budget Board regarding appropriate rates and the basis
12 for that determination.

13 (d) The Texas Energy and Communications [~~Public Utility~~]
14 Commission [~~of Texas~~] may review and make comments regarding a rate
15 or allocation under this section in an informal proceeding. A
16 proceeding in which a rate or allocation is reviewed is not a
17 contested case for purposes of Chapter 2001, Government Code. A
18 review of a rate or allocation is not a rate change for purposes of
19 Chapter 36 or 53, Utilities Code.

20 SECTION 3.61. Section 771.076(c), Health and Safety Code,
21 is amended to read as follows:

22 (c) At the request of the Texas Energy and Communications
23 [~~Public Utility~~] Commission [~~of Texas~~], the state auditor may audit
24 a regional planning commission or other public agency designated by
25 the regional planning commission that receives money under this
26 subchapter.

27 SECTION 3.62. Section 772.001(21), Health and Safety Code,

1 is amended to read as follows:

2 (21) "Business service" means a telecommunications
3 service classified as a business service under rules adopted by the
4 Texas Energy and Communications [~~Public Utility~~] Commission [~~of~~
5 ~~Texas~~] or under the applicable tariffs of the principal service
6 supplier.

7 SECTION 3.63. Section 772.002(e), Health and Safety Code,
8 is amended to read as follows:

9 (e) The Texas Energy and Communications [~~Public Utility~~]
10 Commission [~~of Texas~~] may impose an administrative penalty under
11 Subchapter B, Chapter 15, Utilities Code, against a service
12 provider who is a person regulated under the Utilities Code if the
13 person:

14 (1) does not provide information required by a
15 district under this section; or

16 (2) bills and collects a 9-1-1 emergency service fee
17 as required by this chapter but does not remit the fee to the
18 appropriate district.

19 SECTION 3.64. Section 246.001(1), Local Government Code, is
20 amended to read as follows:

21 (1) "Commission" means the Texas Energy and
22 Communications [~~Public Utility~~] Commission [~~of Texas~~].

23 SECTION 3.65. Section 283.002(3), Local Government Code, is
24 amended to read as follows:

25 (3) "Commission" means the Texas Energy and
26 Communications [~~Public Utility~~] Commission [~~of Texas~~].

27 SECTION 3.66. Section 304.001(f), Local Government Code, is

1 amended to read as follows:

2 (f) A political subdivision corporation may appear on
3 behalf of its incorporating political subdivisions before the Texas
4 Energy and Communications [~~Public Utility~~] Commission [~~of Texas~~],
5 [~~the Railroad Commission of Texas,~~] the Texas [~~Natural Resource~~
6 ~~Conservation~~] Commission on Environmental Quality, any other
7 governmental agency or regulatory authority, the Texas
8 Legislature, and the courts.

9 SECTION 3.67. Sections 33.2053(b) and (c), Natural
10 Resources Code, are amended to read as follows:

11 (b) The Texas Energy and Communications [~~Public Utility~~]
12 Commission [~~of Texas~~] shall comply with Sections 33.205(a) and (b)
13 when issuing:

14 (1) a certificate of convenience and necessity; [~~—~~]

15 (2) [~~(c) The Railroad Commission of Texas shall~~
16 ~~comply with Sections 33.205(a) and (b) when issuing:~~

17 [~~(1)~~] a wastewater discharge permit;

18 (3) [~~(2)~~] a waste disposal or storage pit permit; or

19 (4) [~~(3)~~] a certification of a federal permit for the
20 discharge of dredge or fill material.

21 SECTION 3.68. Section 81.01001, Natural Resources Code, is
22 amended to read as follows:

23 Sec. 81.01001. SUNSET PROVISION. The Texas Energy and
24 Communications [~~Railroad~~] Commission [~~of Texas~~] is subject to
25 Chapter 325, Government Code (Texas Sunset Act). Unless continued
26 in existence as provided by that chapter, the commission is
27 abolished September 1, 2023 [~~2011~~].

1 SECTION 3.69. Section 81.01005, Natural Resources Code, is
2 amended to read as follows:

3 Sec. 81.01005. NAME AND SEAL. (a) The commissioners are
4 known collectively as the "Texas Energy and Communications
5 ~~["Railroad] Commission [of Texas]."~~

6 (b) The seal of the commission contains a star of five
7 points with the words "Texas Energy and Communications ~~["Railroad]~~
8 ~~Commission [of Texas]"~~ engraved on it.

9 SECTION 3.70. Section 28.03(d), Penal Code, is amended to
10 read as follows:

11 (d) The terms "public communication, public transportation,
12 public gas or power supply, or other public service" and "public
13 water supply" shall mean, refer to, and include any such services
14 subject to regulation by the Texas Energy and Communications
15 ~~[Public Utility] Commission [of Texas, the Railroad Commission of~~
16 ~~Texas,]~~ or the Texas ~~[Natural Resource Conservation]~~ Commission on
17 Environmental Quality or any such services enfranchised by the
18 State of Texas or any political subdivision thereof.

19 SECTION 3.71. Section 8281.103, Special District Local Laws
20 Code, as effective April 1, 2011, is amended to read as follows:

21 Sec. 8281.103. LIMITATION ON PROVIDING WATER TO CERTAIN
22 USERS. Notwithstanding any other provision of this chapter, the
23 district may not compete with the City of Mabank in providing water
24 to household users unless the district receives permission from the
25 Texas Energy and Communications ~~[Public Utility] Commission [of~~
26 ~~Texas]~~, with the consent of that city.

27 SECTION 3.72. Section 22.01(h), Tax Code, is amended to

1 read as follows:

2 (h) If the property that is the subject of the rendition is
3 regulated by the Texas Energy and Communications [~~Public Utility~~]
4 Commission [~~of Texas, the Railroad Commission of Texas~~], the
5 federal Surface Transportation Board, or the Federal Energy
6 Regulatory Commission, the owner of the property is considered to
7 have complied with the requirements of this section if the owner
8 provides to the chief appraiser, on written request of the chief
9 appraiser, a copy of the annual regulatory report covering the
10 property and sufficient information to enable the chief appraiser
11 to allocate the value of the property among the appropriate taxing
12 units for which the appraisal district appraises property.

13 SECTION 3.73. Section 301.004(c), Tax Code, is amended to
14 read as follows:

15 (c) In this section, "telephone company" means a person who
16 owns or operates a telephone line or a telephone network in this
17 state, charges for its use, and is regulated by the Texas Energy and
18 Communications [~~Public Utility~~] Commission [~~of Texas~~] as a
19 certificated provider of local exchange telephone service.

20 SECTION 3.74. Section 203.0922(g), Transportation Code, is
21 amended to read as follows:

22 (g) This section or a contractual right obtained under an
23 agreement under this section does not:

24 (1) make the department or a utility subject to new or
25 additional licensing, certification, or regulatory jurisdiction of
26 the Texas Energy and Communications [~~Public Utility~~] Commission or
27 the [~~of Texas,~~] Texas Department of Insurance [~~, or Railroad~~

1 ~~Commission of Texas~~]; or

2 (2) supersede or otherwise affect a provision of
3 another law applicable to the department or a utility regarding
4 licensing, certification, or regulatory jurisdiction of an agency
5 listed in Subdivision (1).

6 SECTION 3.75. Section 227.021(e), Transportation Code, is
7 amended to read as follows:

8 (e) Nothing in this chapter, or any contractual right
9 obtained under a contract with the department authorized by this
10 chapter, supersedes or renders ineffective any provision of another
11 law applicable to the owner or operator of a public utility
12 facility, including any provision of the Utilities Code regarding
13 licensing, certification, and regulatory jurisdiction of the Texas
14 Energy and Communications [~~Public Utility~~] Commission [~~of Texas or~~
15 ~~Railroad Commission of Texas~~].

16 SECTION 3.76. Section 370.033(n), Transportation Code, is
17 amended to read as follows:

18 (n) Nothing in this chapter or any contractual right
19 obtained under a contract with an authority under this chapter
20 supersedes or renders ineffective any provision of another law
21 applicable to the owner or operator of a public utility facility,
22 including any provision of the Utilities Code [~~utilities code~~]
23 regarding licensing, certification, or regulatory jurisdiction of
24 the Texas Energy and Communications [~~Public Utility~~] Commission [~~of~~
25 ~~Texas or the Railroad Commission of Texas~~].

26 SECTION 3.77. Section 370.181(e), Transportation Code, is
27 amended to read as follows:

1 (e) Nothing in this chapter, or any contractual right
2 obtained under a contract with an authority authorized by this
3 chapter, supersedes or renders ineffective any provision of another
4 law applicable to the owner or operator of a public utility
5 facility, including any provision of the Utilities Code regarding
6 licensing, certification, and regulatory jurisdiction of the Texas
7 Energy and Communications [~~Public Utility~~] Commission [~~of Texas or~~
8 ~~Railroad Commission of Texas~~].

9 SECTION 3.78. Section 370.302(g), Transportation Code, is
10 amended to read as follows:

11 (g) Nothing in this chapter, or any contractual right
12 obtained under a contract with an authority authorized by this
13 chapter, supersedes or renders ineffective any provision of another
14 law applicable to the owner or operator of a public utility
15 facility, including any provision of the Utilities Code regarding
16 licensing, certification, and regulatory jurisdiction of the Texas
17 Energy and Communications [~~Public Utility~~] Commission [~~of Texas or~~
18 ~~Railroad Commission of Texas~~].

19 SECTION 3.79. Section 452.065(b), Transportation Code, is
20 amended to read as follows:

21 (b) The parties to a contract made under Subsection (a)(3)
22 may fulfill the terms of the contract notwithstanding any order or
23 rule of the Texas Energy and Communications [~~Public Utility~~]
24 Commission [~~of Texas~~] with respect to certification, except that
25 any supply of power or energy by one utility into the service area
26 of another utility must be provided over transmission or
27 distribution lines owned by the authority.

1 SECTION 3.80. Sections 13.1396(b), (c), and (f), Water
2 Code, are amended to read as follows:

3 (b) An affected utility shall submit to the county judge,
4 the office of emergency management of each county in which the
5 utility has more than one customer, the Texas Energy and
6 Communications [~~Public Utility~~] Commission [~~of Texas~~], and the
7 office of emergency management of the governor, a copy of:

8 (1) the affected utility's emergency preparedness plan
9 approved under Section 13.1395; and

10 (2) the commission's notification to the affected
11 utility that the plan is accepted.

12 (c) Each affected utility shall submit to the county judge
13 and the office of emergency management of each county in which the
14 utility has water and wastewater facilities that qualify for
15 critical load status under rules adopted by the Texas Energy and
16 Communications [~~Public Utility~~] Commission [~~of Texas~~], and to the
17 Texas Energy and Communications [~~Public Utility~~] Commission [~~of~~
18 ~~Texas~~] and the division of emergency management of the governor:

19 (1) information identifying the location and
20 providing a general description of all water and wastewater
21 facilities that qualify for critical load status; and

22 (2) emergency contact information for the affected
23 utility, including:

24 (A) the person who will serve as a point of
25 contact and the person's telephone number;

26 (B) the person who will serve as an alternative
27 point of contact and the person's telephone number; and

1 (C) the affected utility's mailing address.

2 (f) Not later than May 1 of each year, each electric utility
3 and each retail electric provider shall determine whether the
4 facilities of the affected utility qualify for critical load status
5 under rules adopted by the Texas Energy and Communications [~~Public~~
6 ~~Utility~~] Commission [~~of Texas~~].

7 SECTION 3.81. Section 152.255, Water Code, is amended to
8 read as follows:

9 Sec. 152.255. RECOVERABILITY OF COSTS FROM RATEPAYERS.
10 This subchapter does not limit the authority of the Texas Energy and
11 Communications [~~Public Utility~~] Commission [~~of Texas~~] to determine
12 the recoverability of costs from ratepayers.

13 SECTION 3.82. Section 152.301, Water Code, is amended to
14 read as follows:

15 Sec. 152.301. ELECTRIC TRANSMISSION SERVICES AND
16 FACILITIES. Notwithstanding any other law, a river authority may:

17 (1) provide transmission services, as defined by the
18 Utilities Code or the Texas Energy and Communications [~~Public~~
19 ~~Utility~~] Commission [~~of Texas~~], on a regional basis to any eligible
20 transmission customer at any location within or outside the
21 boundaries of the river authority; and

22 (2) acquire, including by lease-purchase, lease from
23 or to any person, finance, construct, rebuild, operate, or sell
24 electric transmission facilities at any location within or outside
25 the boundaries of the river authority.

26 SECTION 3.83. This article takes effect September 1, 2012.

27 ARTICLE 4. REPEALER

1 SECTION 4.01. The following are repealed:

- 2 (1) Sections 12.002, 12.003, 12.004, and 12.005,
3 Utilities Code;
- 4 (2) Subchapters B, C, and D, Chapter 12, Utilities
5 Code;
- 6 (3) Section 15.029, Utilities Code;
- 7 (4) Subchapter B, Chapter 16, Utilities Code;
- 8 (5) Section 2003.049, Government Code;
- 9 (6) Section 33.2053(b), Natural Resources Code; and
- 10 (7) Section 12.013(h), Water Code.

11 SECTION 4.02. This article takes effect September 1, 2012.

12 ARTICLE 5. TRANSITION; EFFECTIVE DATE

13 SECTION 5.01. The Railroad Commission of Texas shall adopt
14 a timetable for phasing in the change of the agency's name so as to
15 minimize the fiscal impact of the name change. Until January 1,
16 2012, to allow for phasing in the change of the agency's name and in
17 accordance with the timetable established as required by this
18 section, the agency may perform any act authorized by law for the
19 Railroad Commission of Texas as the Railroad Commission of Texas or
20 as the Texas Energy and Communications Commission. Any act of the
21 Railroad Commission of Texas acting as the Texas Energy and
22 Communications Commission after the effective date of this Act and
23 before January 1, 2012, is an act of the Railroad Commission of
24 Texas.

25 SECTION 5.02. Except as otherwise provided by this Act,
26 this Act takes effect immediately if it receives a vote of
27 two-thirds of all the members elected to each house, as provided by

S.B. No. 853

1 Section 39, Article III, Texas Constitution. If this Act does not
2 receive the vote necessary for immediate effect, this Act takes
3 effect on the 91st day after the last day of the legislative
4 session.