

By: Hancock

S.B. No. 1579

A BILL TO BE ENTITLED

AN ACT

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

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

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

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

(1) the acquisition or construction of buildings;

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

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

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

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

(1) the acquisition or construction of a building;

(2) the purchase or lease of equipment;

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

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

SECTION 3. Chapter [1232](#), Government Code is amended to add a

1 new section to read as follows:

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

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

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

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

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

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

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

1 this state or a political subdivision of this state.

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

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

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

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

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

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

19 SUBCHAPTER I. CUSTOMER RATE RELIEF BONDS

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

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

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

16 Sec. 104.361. DEFINITIONS. In this subchapter:

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

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

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

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

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

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

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

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

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

1 financing order.

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

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

10 (b) collected by a gas utility who has received a regulatory
11 asset determination under Section 104.363, or its successors or
12 assignees, or a collection agent, as servicer, in full, separate
13 and apart from the gas utility's base rates; and (c) paid by all
14 existing or future customers receiving service from a gas utility
15 that has received a regulatory asset determination under Section
16 104.363 or its successors or assignees, even if a customer elects to
17 purchase gas from an alternative gas supplier.

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

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

25 (11) "Extraordinary costs" means:

26 (A) Reasonable and necessary costs placed in a
27 regulatory asset as defined in subpart (16) and approved by the

1 commission in a regulatory asset determination pursuant to section
2 104.363. Extraordinary costs eligible for inclusion in a
3 regulatory asset may include costs incurred to serve customers,
4 including capital costs and other costs expensed, charged to
5 self-insurance reserves, deferred, capitalized, or otherwise
6 financed, that are incurred by a gas utility or on behalf of the gas
7 utility for gas procurement, supply and system restoration and
8 infrastructure, operations and administration in response to any
9 tropical storm or hurricane, ice or snow storm, flood, or other
10 weather-related event, other natural or man-made disaster, system
11 failure, or other catastrophic event. (B) Extraordinary costs may
12 include natural gas procurement costs above normalized market
13 pricing, mobilization, staging, construction, reconstruction,
14 replacement, or repair of system facilities. Extraordinary costs
15 may include reasonable estimates of the costs of natural gas
16 procurement above normalized market pricing and any activity or
17 activities conducted or expected to be conducted by or on behalf of
18 the gas utility in connection with the restoration of service or
19 infrastructure associated with natural gas outages, and such
20 estimates may be subject to reconciliation after the actual costs
21 are known but before the commission makes a determination as to the
22 utility's regulatory asset in accordance with Section 104.363.

23 (C) Extraordinary costs may include:

24 (i) a carrying charge interest rate at the
25 gas utility's cost of long-term debt as last approved by the
26 commission in a general rate proceeding if the final order (which
27 may be an order on rehearing) approving the cost of long-term debt

1 was filed less than three years before the application for
2 regulatory asset recovery was filed;

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

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

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

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

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

24 (B) any payment required under an ancillary
25 agreement and any amount required to fund or replenish reserve or
26 other accounts established under the terms of any indenture,
27 ancillary agreement, or other financing documents pertaining to CRR

1 bonds.

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

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

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

23 (15) "Gas utility" shall mean:

24 (A) An operator of natural gas distribution
25 pipelines that delivers and sells natural gas to the public and that
26 is subject to the commission's jurisdiction under Section 102.001
27 of this title; and

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

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

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

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

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

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

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

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

21 (d) Except as provided by (c), this subchapter does not in
22 any way limit or impair a regulatory authority's plenary
23 jurisdiction over the rates, charges and services rendered by gas
24 utilities in this state under Chapter 102 of this subtitle.

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

27 Sec. 104.362. REGULATORY ASSET DETERMINATION. (a) The

1 commission shall, upon application of a gas utility to recover a
2 regulatory asset, determine the regulatory asset amount to be
3 recovered by the gas utility.

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

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

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

19 (e) The regulatory asset determination is not subject to
20 rehearing by the commission. A regulatory asset determination may
21 only be appealed to a Travis County district court by a party to the
22 proceeding filed not later than 15 days after the order is signed by
23 the commission. The judgment of the district court may be reviewed
24 only by direct appeal to the Supreme Court of Texas filed not later
25 than 15 days after entry of judgment. All appeals shall be heard and
26 determined by the district court and the Supreme Court of Texas as
27 expeditiously as possible with lawful precedence over other

1 matters. Review on appeal shall be based solely on the record before
2 the commission and briefs to the court and shall be limited to
3 whether the financing order conforms to the constitution and laws
4 of this state and the United States and is within the authority of
5 the commission under this subchapter.

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

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

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

24 Sec. 104.363. FINANCING ORDERS AND ISSUANCE OF CRR BONDS BY
25 OR ON BEHALF OF THE AUTHORITY. (a) If the commission determines
26 that CRR bond financing for extraordinary costs is the most
27 cost-effective method of funding several regulatory asset

1 reimbursements to be made to gas utilities, the commission may,
2 following the final resolution of all applications filed under
3 Section 104.363, request the authority to issue CRR bonds on its
4 behalf. Before making a request of the authority under this
5 section, the commission must issue a financing order that complies
6 with the provisions of this Section 104.363.

7 (b) The financing order shall include a finding that the use
8 of the securitization financing mechanism is in the public interest
9 and that the financing order is consistent with the standards set
10 forth in Section 104.360.

11 (c) The financing order shall detail the total amount of the
12 regulatory asset determinations to be included in the CRR bond
13 issuance.

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

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

23 (f) The financing order shall include a statement of the
24 aggregated regulatory asset determination to be included in the
25 principal amount of the CRR bonds, not to exceed \$10 billion for any
26 separate bond issue, and the maximum scheduled final maturity of
27 the CRR bonds may not exceed 30 years, however the legal final

1 maturity may be longer, based upon rating agency and market
2 considerations.

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

9 (h) The financing order shall authorize the creation of CRR
10 property in favor of the authority and the authority's transfer
11 thereof.

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

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

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

24 (k) The authority, consistent with this subchapter and the
25 terms of the financing order, shall issue CRR bonds on request by
26 the commission, in accordance with the requirements of Chapter
27 1232, Government Code, as amended by this subchapter and other

1 provisions of Title 9, Government Code, that apply to bond issuance
2 by a state agency.

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

9 (m) The authority shall establish legally isolated
10 bankruptcy remote financing entities and may enter into credit
11 agreements or ancillary agreements in connection with the issuance
12 of CRR bonds.

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

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

24 (p) The financing order shall become effective in
25 accordance with its terms, and the financing order, together with
26 the CRR property and the CRR charges authorized by the financing
27 order, shall thereafter be irrevocable and not subject to

1 reduction, impairment, or adjustment by further action of the
2 commission, except as provided under subpart (r) and permitted by
3 Section 104.368.

4 (g) The commission shall issue a financing order under this
5 Section not later than 90 days following the conclusion of all
6 proceedings filed under Section 104.363.

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

21 (s) The authority shall issue CRR bonds within 45 days of
22 the receipt of a financing order issued pursuant to this section.
23 The authority shall deliver CRR bond proceeds net of upfront
24 financing costs to each gas utility sufficient to reimburse the gas
25 utility the regulatory asset amount determined to be reasonable
26 under Section 104.363 within 15 days of issuance of the CRR bonds.
27 For the weather event that took place in February 2021, the

1 authority shall deliver CRR bond proceeds net of upfront financing
2 costs to each gas utility no later than December 31, 2021.

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

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

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

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

18 (d) CRR property shall constitute a present property right
19 for purposes of contracts concerning the sale or pledge of
20 property, even though the imposition and collection of CRR charges
21 depends on further acts of the gas utility or others that have not
22 yet occurred. The financing order shall remain in effect, and the
23 CRR property shall continue to exist for the same period as the
24 pledge of the state described in Section 104.372.

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

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

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

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

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

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

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

22 Sec. 104.367. TRUE-UP. The financing order shall include a
23 formulaic true-up charge adjustment mechanism that requires that
24 the CRR charges be reviewed and adjusted at least annually, at time
25 periods and frequencies provided in the financing order, to correct
26 any overcollections or under collections of the preceding 12 months
27 and to ensure the expected recovery of amounts sufficient to

1 provide for the timely payment of upcoming scheduled CRR bond
2 payments and financing costs. Such true-up charge adjustments
3 shall become effective within 30 days of the receipt of the true-up
4 charge adjustment letter from the gas utility or replacement
5 servicer to the commission that notifies the commission of the
6 pending adjustment. Any administrative review of such charge
7 adjustments shall be limited to notifying the servicer of
8 mathematical or clerical errors in the calculation, and the
9 servicer may correct its error and refile its letter, with the
10 adjustment becoming effective as soon as possible within 30 days
11 after the refiled letter.

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

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

20 (b) A valid and enforceable lien and security interest in
21 CRR property may be created only by a financing order and the
22 execution and delivery of a security agreement with a financing
23 party in connection with the issuance of CRR bonds. The lien and
24 security interest shall attach automatically from the time that
25 value is received for the CRR bonds and, on perfection through the
26 filing of notice with the secretary of state in accordance with the
27 rules prescribed under subsection (d), shall be a continuously

1 perfected lien and security interest in the CRR property and all
2 proceeds of the property, whether accrued or not, shall have
3 priority in the order of filing and take precedence over any
4 subsequent judicial or other lien creditor. If notice is filed
5 within 10 days after value is received for the CRR bonds, the
6 security interest shall be perfected retroactive to the date value
7 was received, otherwise, the security interest shall be perfected
8 as of the date of filing.

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

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

24 (e) The priority of a lien and security interest perfected
25 under this section is not impaired by any later modification of the
26 financing order under Section 104.368 or by the commingling of
27 funds arising from CRR charges with other funds, and any other

1 security interest that may apply to those funds shall be terminated
2 when they are transferred to a segregated account for the assignee
3 or a financing party. If CRR property has been transferred to an
4 assignee, any proceeds of that property shall be held in trust for
5 the assignee.

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

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

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

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

22 (1) reimburse each gas utility the regulatory asset
23 amount determined to be reasonable for that gas utility in the
24 financing order;

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

26 (3) provide bond reserves, as applicable.

27 (c) Any excess money remaining after the purposes for which

1 the bonds were issued is satisfied may be used to provide credits to
2 gas utility customers.

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

6 SECTION 14. Chapter 104, Utilities Code, is amended by
7 adding Section 104.370 to read as follows:

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

17 (b) With regard to outstanding CRR bonds issued by the
18 authority under this subchapter, the authority shall report to the
19 commission the amount of the bond obligations outstanding and the
20 estimated amount of bond administrative expenses each year.

21 (c) All revenue collected from the CRR charges shall be
22 promptly remitted by the applicable servicers to the authority to
23 pay bond obligations, ongoing financing costs, and bond
24 administrative expenses to ensure timely payment of bond
25 obligations and financing costs.

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

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

3 SECTION 15. Chapter 104, Utilities Code, is amended by
4 adding Section 104.371 to read as follows:

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

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

23 SECTION 16. Chapter 104, Utilities Code, is amended by
24 adding Section 104.372 to read as follows:

25 Sec. 104.372. TAX EXEMPTION. (a) A CRR bond issued under
26 this subchapter, any transaction relating to CRR bonds, and profits
27 made from the sale of CRR bonds are exempt from taxation by this

1 state or by a municipality or other political subdivision of this
2 state.

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

6 (c) Any tax obligation of the gas utility arising from its
7 receipt of CRR bond proceeds, or from the collection or remittance
8 of CRR charges is an expense that shall be recovered by the gas
9 utility.

10 SECTION 17. Chapter 104, Utilities Code, is amended by
11 adding Section 104.373 to read as follows:

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

16 SECTION 18. Chapter 104, Utilities Code, is amended by
17 adding Section 104.374 to read as follows:

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

23 SECTION 19. Chapter 104, Utilities Code, is amended by
24 adding Section 104.375 to read as follows:

25 Sec. 104.375. SEVERABILITY. Effective on the date the CRR
26 bonds are issued under this subchapter, if any provision in this
27 title or portion of this title is held to be invalid or is

1 invalidated, superseded, replaced, repealed, or expires for any
2 reason, that occurrence does not affect the validity or
3 continuation of this subchapter or any other provision of this
4 title that is relevant to the issuance, administration, payment,
5 retirement, or refunding of CRR bonds or to any actions of the gas
6 utility, its successors, an assignee, a collection agent, or a
7 financing party, which shall remain in full force and effect.

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