

BILL ANALYSIS

Senate Research Center

S.B. 3
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Jurisprudence
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Background

Since Winter Storm Uri, legislators have heard hours of testimony from industry stakeholders and agency leadership regarding the Texas power grid's failure to supply enough power to meet demand. The most consequential and repeatedly mentioned problems include a lack of oversight, a breakdown of communication, and major failures in coordination within and between Texas's regulatory agencies. The proposed changes in S.B. 3 are an important step to ensure we have a reliable electricity grid and to strengthen the state's prevention of and preparation for energy emergencies.

Key Provisions of S.B. 3, as filed

- Establishes an energy emergency alert system to ensure Texans are properly notified when power demand may exceed supply, and directs the Texas Division of Emergency Management (TDEM) to categorize winter storms similarly to how hurricanes are categorized.
- Formalizes the Texas Energy Reliability Council (TERC) and its duties related to ensuring the state's natural gas needs are met.
- Requires the weatherization of all generation, transmission, and natural gas facilities and pipelines within the State of Texas. Failure to comply can result in a penalty of \$1,000,000 per day. Generators, natural gas well heads, pipelines, and compression units that experience weatherization failures will be required to obtain a third-party assessment of weatherization plans, procedures, and operations (third-party audit).
- Ensures energy customers (including natural gas generators) are informed about procedures for rolling blackouts, including criteria for designation as a critical customer or critical load. Provides for more robust planning and oversight of load shedding during a rolling blackout, including geographic seasonal use variations.
- Requires generators to obtain approval before conducting maintenance during summer and winter peaks.
- Requires wind and solar power generators to meet reliability standards by committing to providing a specific load, set by the generator.
- Prohibits retail electric variable rate plans.
- Directs the Public Utility Commission of Texas (PUC) to establish an emergency system-wide offer cap.
- Strengthens reporting related to on-site generation to ensure the Electric Reliability Council of Texas (ERCOT) has a full picture of power generation in Texas.
- Requires utility providers to defer collection of bills during an extreme weather emergency and to work with customers to establish pay schedules.
- Directs the creation of a State Energy Plan.

Committee Substitute

- Changes references from "blackout alert" to "power outage alert" and directs PUC to adopt specific criteria for when to issue alerts.
- Directs the use of the National Weather Service's Winter Storm Severity Index (WSSI) to categorize winter storms instead of directing TDEM to develop categories.

- Redefines the membership and duties of TERC and directs the council to map the energy supply chain.
- Directs the Railroad Commission of Texas (RRC) to use supply chain mapping to write appropriate weatherization rules.
- Changes "rolling blackout" throughout to "involuntary load shedding."
- Directs RRC and the PUC to create penalty matrixes to ensure the \$1 million penalty cap is focused on extreme violations and not simple violations like paperwork errors.
- Gives the PUC and RRC the authority to require facilities to implement appropriate recommendations identified in a third-party assessment triggered by a weatherization failure.
- Removes language requiring PUC approval before summer and winter peak maintenance because ERCOT already does this.
- Makes changes for clarity in Section 15 regarding load shed planning and communication.
- Prohibits wholesale index plans rather than all variable rate plans.
- Removes the language related to wind and solar load commitment.
- Directs ERCOT to procure ancillary services sufficient to manage reliability impacts of intermittent generation resources and assign the costs to these generators.
- States that the emergency system-wide offer cap must be based on actual costs of generation, and that the emergency cap is only activated after 12 hours at the non-emergency cap.
- Provides that the price of ancillary services may not exceed 150 percent of the emergency high system-wide offer cap in effect at the time.
- Directs the PUC to review price caps every five years. First review must be completed by 2022.
- Requires the PUC and RRC to review and accept annual emergency operation plans from all parties along the supply chain.
- Requires retail public utilities, exempt utilities, and providers or conveyors of potable or raw water that furnish water service to more than one customer to provide emergency preparedness plans to be approved by the Texas Commission on Environmental Quality.

(Original Author's / Sponsor's Statement of Intent)

S.B. 3 amends current law relating to preparing for, preventing, and responding to weather emergencies and power outages; and increases the amount of administrative and civil penalties.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the public safety director in SECTION 1 (Section 411.302, Government Code) of this bill.

Rulemaking authority is expressly granted to the Public Utility Commission of Texas in SECTION 1 (Section 411.301, Government Code), SECTION 13 (Section 35.0021, Utilities Code), SECTION 16 (Sections 38.074, 38.075, and 38.076, Utilities Code), SECTION 18 (Section 39.160, Utilities Code), and SECTION 31 (Section 13.414, Water Code) of this bill.

Rulemaking authority is expressly granted to the Railroad Commission of Texas in SECTION 4 (Section 81.073, Natural Resources Code), SECTION 5 (Section 86.044, Natural Resources Code), SECTION 6 (Section 86.222, Natural Resources Code), SECTION 20 (Section 105.023, Utilities Code), SECTION 21 (Section 121.2015, Utilities Code), and SECTION 25 (Section 186.008, Utilities Code) of this bill.

Rulemaking authority previously granted to the Railroad Commission of Texas is modified in SECTION 21 (Section 121.2015, Utilities Code) of this bill.

Rulemaking authority is expressly granted to the Texas Commission on Environmental Quality in SECTION 26 (Section 13.1394, Water Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 411, Government Code, by adding Subchapter K-1, as follows:

SUBCHAPTER K-1. POWER OUTAGE ALERT

Sec. 411.301. POWER OUTAGE ALERT. (a) Requires the Department of Public Safety of the State of Texas (DPS), with the cooperation of the Texas Department of Transportation (TxDOT), the Texas Division of Emergency Management (TDEM), the Office of the Governor, and the Public Utility Commission of Texas (PUC), to develop and implement an alert to be activated when the power supply in this state may be inadequate to meet demand.

(b) Requires the PUC by rule to adopt criteria for the content, activation, and termination of the alert described by Subsection (a). Requires that the criteria provide for an alert to be regional or statewide.

Sec. 411.302. ADMINISTRATION. (a) Provides that the public safety director (director) is the statewide coordinator of the power outage alert.

(b) Requires the director to adopt rules and issue directives as necessary to ensure proper implementation of the power outage alert. Requires that the rules and directives include the procedures to be used by the PUC and the independent organization certified under Section 39.151 (Essential Organizations), Utilities Code, to communicate with the director about the power outage alert.

Sec. 411.303. DEPARTMENT TO RECRUIT PARTICIPANTS. Requires DPS to recruit public and commercial television and radio broadcasters, private commercial entities, state or local governmental entities, the public, and other appropriate persons to assist in developing and implementing the power outage alert system.

Sec. 411.304. STATE AGENCIES. (a) Requires a state agency participating in the power outage alert system to cooperate with DPS and assist in developing and implementing the alert system and to establish a plan for providing relevant information to its officers, investigators, or employees, as appropriate, once the power outage alert system has been activated.

(b) Requires TxDOT, in addition to its duties as a state agency under Subsection (a), to establish a plan for providing relevant information to the public through an existing system of dynamic message signs located across the state.

Sec. 411.305. ACTIVATION OF POWER OUTAGE ALERT. (a) Requires DPS, when the PUC or an independent organization certified under Section 39.151, Utilities Code, notifies DPS that the criteria adopted under Section 411.301(b) for the activation of the alert has been met, to confirm the accuracy of the information and, if confirmed, immediately issue a power outage alert under this subchapter in accordance with DPS rules.

(b) Requires DPS, in issuing the power outage alert, to send the alert to designated media outlets in this state. Authorizes participating radio stations and television stations and other participating media outlets, following receipt of the alert, to issue the alert at designated intervals.

Sec. 411.306. CONTENT OF POWER OUTAGE ALERT. Requires that the power outage alert include a statement that electricity customers may experience a power outage.

Sec. 411.307. TERMINATION OF POWER OUTAGE ALERT. Requires the director to terminate any activation of the power outage alert as soon as practicable after the PUC or the Electric Reliability Council of Texas (ERCOT) notifies DPS that the criteria adopted under Section 411.301(b) for the termination of the alert has been met.

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

SECTION 2. Amends Section 418.048, Government Code, as follows:

Sec. 418.048. New heading: MONITORING WEATHER; DISASTER PREPAREDNESS EDUCATION. (a) Creates this subsection from existing text and makes no further changes.

(b) Requires TDEM to create a list of suggested actions for state agencies and the public to take to prepare for winter storms, organized by severity of storm based on the National Weather Service Winter Storm Severity Index.

(c) Requires TDEM to develop disaster preparedness educational materials that include instructions for preparing a disaster kit containing supplies most needed in a disaster or emergency, such as water, nonperishable food, medical supplies, flashlights, and other essential items, to assist families and businesses in adequately preparing for winter storms, hurricanes, floods, drought, fires, and other potential disasters.

(d) Requires TDEM to post on TDEM's Internet website and distribute to local governments and businesses the educational materials and instructions developed under Subsection (c).

SECTION 3. Amends Chapter 418, Government Code, by adding Subchapter J, as follows:

SUBCHAPTER J. TEXAS ENERGY RELIABILITY COUNCIL

Sec. 418.301. DEFINITIONS. Defines "chief" and "council."

Sec. 418.302. COUNCIL ESTABLISHED. (a) Establishes the Texas Energy Reliability Council (council) to ensure that the energy and electric industries in this state meet high priority human needs and address critical infrastructure concerns and to enhance coordination and communication in the energy and electric industries in this state.

(b) Provides that Chapter 2110 (State Agency Advisory Committees) does not apply to the council.

Sec. 418.303. MEMBERSHIP. (a) Provides that the council is composed of:

- (1) the chairman of the Railroad Commission of Texas (RRC);
- (2) the presiding officer of the PUC;
- (3) the chief executive of the Office of Public Utility Counsel;
- (4) the presiding officer of the Texas Commission on Environmental Quality (TCEQ);
- (5) the chair of the Texas Transportation Commission;
- (6) a person to represent the independent organization certified under Section 39.151, Utilities Code, for the ERCOT power region, appointed by the governor;

(7) the chief of TDEM (chief);

(8) five persons to represent participants in the natural gas supply chain in this state, appointed by RRC to represent as many types of participants as possible;

(9) five persons to represent the electric industry, appointed by the PUC, including one person to represent entities that provide dispatchable electric energy to the power grid in this state, one person to represent transmission and distribution utilities, as defined by Section 31.002 (Definitions), Utilities Code, one person to represent retail electric providers, as defined by Section 31.002, Utilities Code, one person to represent municipally owned utilities, as defined by Section 11.003 (Definitions), Utilities Code, and one person to represent electric cooperatives;

(10) three persons to represent energy sectors not otherwise represented on the council, appointed by the PUC; and

(11) five persons to represent industrial concerns, appointed by the governor, including one person to represent motor fuel producers and one person to represent chemical manufacturers.

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

(c) Authorizes the council to request that a person collaborate with the council to achieve the purposes described by Section 418.302.

Sec. 418.304. OFFICERS. (a) Requires the chief to serve as presiding officer of the council.

(b) Authorizes the council to select an assistant presiding officer and secretary from among its members.

Sec. 418.305. COMPENSATION; REIMBURSEMENT. Provides that a member of the council is not entitled to compensation or reimbursement of expenses for service on the council.

Sec. 418.306. MEETINGS. (a) Requires the council, after its initial meeting, to meet at least twice each year at a time and place determined by the chief.

(b) Authorizes the council to meet at other times the council considers appropriate. Authorizes the presiding officer to call a meeting on the officer's own motion.

Sec. 418.307. ADMINISTRATIVE SUPPORT. Requires TDEM to provide administrative support to the council.

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

(b) Requires the council to foster communication and coordination between the energy and electric industries in this state.

Sec. 418.309. INFORMATION. (a) Defines "gas provider" and "public utility."

(b) Requires a public utility or gas provider to provide to the council any information related to a disaster requested by the council. Provides that information obtained by the council under this subsection is confidential and not subject to disclosure by the council if the information is critical energy infrastructure information as defined by the independent organization certified under Section 39.151, Utilities Code, for the ERCOT power region or federal law.

(c) Provides that, except as provided by Subsection (d), the meetings of the council and information obtained or created by the council are not subject to the requirements of Chapter 551 (Open Meetings) or 552 (Public Information).

(d) Provides that information written, produced, collected, assembled, or maintained under law or in connection with the transaction of official business by the council or an officer or employee of the council is subject to Section 552.008 (Information for Legislative Purposes) in the same manner as public information.

Sec. 418.310. REPORT. (a) Requires the council, not later than November 1 of each even-numbered year, to submit to the legislature a report on the reliability and stability of the electricity supply chain in this state.

(b) Requires that the report include recommendations on methods to strengthen the electricity supply chain in this state and to decrease the frequency of extended power outages caused by a disaster in this state.

SECTION 4. Amends Subchapter C, Chapter 81, Natural Resources Code, by adding Section 81.073, as follows:

Sec. 81.073. CRITICAL NATURAL GAS FACILITIES AND ENTITIES. (a) Requires RRC to collaborate with the PUC to adopt rules to establish a process to designate certain natural gas facilities and entities associated with providing natural gas in this state as critical customers or critical gas suppliers during energy emergencies.

(b) Requires that the rules:

(1) establish criteria for designating persons who own or operate a facility under the jurisdiction of RRC under Section 81.051(a) (relating to providing that RRC has jurisdiction over certain entities) or engage in an activity under the jurisdiction of RRC under Section 81.051(a) who are required to provide critical customer and critical gas supply information, as defined by RRC, to the entities described by Section 38.074(b)(1), Utilities Code;

(2) consider essential operational elements when defining critical customer designations and critical gas supply information for the purposes of Subdivision (1), including natural gas production, processing, and transportation, related produced water handling and disposal facilities, and the delivery of natural gas to generators of electric energy; and

(3) require that only facilities and entities that are prepared to operate during a weather emergency are authorized to be designated as a critical customer under this section.

SECTION 5. Amends Subchapter C, Chapter 86, Natural Resources Code, by adding Section 86.044, as follows:

Sec. 86.044. WEATHER EMERGENCY PREPAREDNESS. (a) Defines "gas supply chain facility."

(b) Provides that this section applies only to a gas supply chain facility that is included on the electricity supply chain map created under Section 38.203,

Utilities Code, and is designated as critical by RRC in the manner provided by Section 81.073.

(c) Requires RRC by rule to require a gas supply chain facility operator to implement measures to prepare to operate during a weather emergency. Requires RRC, in adopting the rules, to take into consideration weather predictions produced by the office of the state climatologist.

(d) Requires RRC to:

(1) inspect gas supply chain facilities for compliance with rules adopted under Subsection (c);

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

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

(e) Requires RRC to prioritize inspections conducted under Subsection (d)(1) based on risk level, as determined by RRC.

(f) Requires RRC by rule to require an operator of a gas supply chain facility that experiences repeated weather-related or major weather-related forced interruptions of production to contract with a person who is not an employee of the operator to assess the operator's weatherization plans, procedures, and operations and to submit the assessment to RRC.

(g) Authorizes RRC to require an operator of a gas supply chain facility to implement appropriate recommendations included in an assessment submitted to RRC under Subsection (f).

(h) Requires RRC, if RRC determines that a person has violated a rule adopted under this section, to notify the attorney general of a violation that is not remedied in a reasonable amount of time. Requires the attorney general to initiate a suit to recover a penalty for the violation in the manner provided by Subchapter G (Enforcement; Judicial Review).

SECTION 6. Amends Section 86.222, Natural Resources Code, by adding Subsections (a-1), (c), and (d), as follows:

(a-1) Provides that, notwithstanding Subsection (a) (relating to the provision that any person who violates a provision, rule, or order of Chapter 86 is liable for certain penalties), a person who violates a provision of a rule adopted under Section 86.044 is liable for a penalty of not more than \$1,000,000 for each offense.

(c) Requires RRC by rule to establish a classification system to be used by a court under Subchapter G for violations of rules adopted under Section 86.044 that includes a range of penalties that are authorized to be recovered for each class of violation based on:

(1) the seriousness of the violation, including the nature, circumstances, extent, and gravity of a prohibited act, and the hazard or potential hazard created to the health, safety, or economic welfare of the public;

(2) the history of previous violations;

(3) the amount necessary to deter future violations;

(4) efforts to correct the violation; and

(5) any other matter that justice may require.

(d) Requires that the classification system established under Subsection (c) provide that a penalty in an amount that exceeds \$5,000 is authorized to be recovered only if the violation is included in the highest class of violations in the classification system.

SECTION 7. Amends Section 15.023, Utilities Code, by adding Subsection (b-1), as follows:

(b-1) Authorizes the penalty for a violation of a provision of Section 35.0021 or 38.075, notwithstanding Subsection (b) (relating to the maximum penalty amount for a violation under the Public Utility Regulatory Act), to be in an amount not to exceed \$1,000,000 for a violation. Provides that each day a violation continues or occurs is a separate violation for purposes of imposing a penalty.

SECTION 8. Amends Section 17.002, Utilities Code, by adding Subdivisions (3-a) and (3-b) to define "critical care residential customer" and "critical load industrial customer" for Chapter 17 (Customer Protection).

SECTION 9. Amends Section 17.003, Utilities Code, by adding Subsection (d-1), as follows:

(d-1) Requires an electric utility providing electric delivery service for a retail electric provider, as defined by Section 31.002, to provide to the retail electric provider, and requires the retail electric provider to periodically provide to the retail electric provider's retail customers together with bills sent to the customers, information about:

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

(2) the types of customers who are authorized to be considered critical care residential customers, critical load industrial customers, or critical load according to PUC rules adopted under Section 38.076;

(3) the procedure for a customer to apply to be considered a critical care residential customer, a critical load industrial customer, or critical load according to PUC rules adopted under Section 38.076; and

(4) reducing electricity use at times when involuntary load shedding events are authorized to be implemented.

SECTION 10. Amends Section 17.005, Utilities Code, as follows:

Sec. 17.005. PROTECTIONS FOR CUSTOMERS OF MUNICIPALLY OWNED UTILITIES. (a)-(e) Creates these subsections from existing text and makes no further changes.

(f) Requires a municipally owned utility to periodically provide with bills sent to retail customers of the utility information about:

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

(2) the types of customers who are authorized to be considered critical care residential customers, critical load industrial customers, or critical load according to PUC rules adopted under Section 38.076;

(3) the procedure for a customer to apply to be considered a critical care residential customer, a critical load industrial customer, or critical load according to PUC rules adopted under Section 38.076; and

(4) reducing electricity use at times when involuntary load shedding events is authorized to be implemented.

SECTION 11. Amends Section 17.006, Utilities Code, as follows:

Sec. 17.006. PROTECTIONS FOR CUSTOMERS OF ELECTRIC COOPERATIVES.

(a)-(e) Creates these subsections from existing text and makes no further changes.

(f) Requires an electric cooperative to periodically provide with bills sent to retail customers of the cooperative information about:

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

(2) the types of customers who are authorized to be considered critical care residential customers, critical load industrial customers, or critical load according to PUC rules adopted under Section 38.076;

(3) the procedure for a customer to apply to be considered a critical care residential customer, a critical load industrial customer, or critical load according to PUC rules adopted under Section 38.076; and

(4) reducing electricity use at times when involuntary load shedding events are authorized to be implemented.

SECTION 12. Amends the heading to Chapter 35, Utilities Code, to read as follows:

CHAPTER 35. ENERGY PROVIDERS

SECTION 13. Amends Subchapter A, Chapter 35, Utilities Code, by adding Section 35.0021, as follows:

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

(b) Requires the PUC by rule to require each provider of electric generation service described by Subsection (a) to implement measures to prepare the provider's generation assets to provide adequate electric generation service during a weather emergency according to reliability standards adopted by the PUC. Requires the PUC, in adopting the rules, to take into consideration weather predictions produced by the office of the state climatologist.

(c) Requires the independent organization certified under Section 39.151 for the ERCOT power region to:

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

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

(3) report to the PUC any violation.

(c-1) Requires the independent organization certified under Section 39.151 for the ERCOT power region to prioritize inspections conducted under Subsection (c)(1) based on risk level, as determined by the organization.

(d) Requires the PUC by rule to require a provider of electric generation service described by Subsection (a) for a generation asset that experiences repeated or major weather-related forced interruptions of service to contract with a person who is not an employee of the provider to assess the provider's weatherization plans, procedures, and operations for that asset, and to submit the assessment to the PUC and the independent organization certified under Section 39.151 for the ERCOT power region.

(e) Authorizes the PUC to require a provider of electric generation service described by Subsection (a) to implement appropriate recommendations included in an assessment submitted to the PUC under Subsection (d).

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

(g) Requires the PUC to impose an administrative penalty on an entity, including a municipally owned utility or an electric cooperative, that violates a rule adopted under this section and does not remedy that violation within a reasonable period of time.

SECTION 14. Amends Section 35.004, Utilities Code, by amending Subsection (e) and adding Subsections (f), (g), and (h), as follows:

(e) Defines "ancillary services" for Section 35.004 (Provision of Transmission Service).

(f) Creates this subsection from existing text and makes a nonsubstantive change.

(g) Requires the PUC to review the type, volume, and cost of ancillary services to determine whether those services will continue to meet the needs of the electricity market in the ERCOT power region, and to evaluate whether additional services are needed for reliability in the ERCOT power region while providing adequate incentives for dispatchable generation.

(h) Requires the PUC to require the independent organization certified under Section 39.151 for the ERCOT power region to modify the design, procurement, and cost allocation of ancillary services for the region in a manner consistent with cost-causation principles and on a nondiscriminatory basis.

SECTION 15. Amends Subchapter B, Chapter 35, Utilities Code, by adding Section 35.037, as follows:

Sec. 35.037. FACILITATING CERTAIN INTERCOMPANY LANDFILL GAS-TO-ELECTRICITY USE. (a) Provides that this section only applies in a county with a population of more than one million in which a national wildlife refuge is wholly or partly located.

(b) Authorizes a person who is not an electric utility and who owns and operates equipment or facilities to produce, generate, transmit, distribute, store, sell, or furnish electricity produced by the use of landfill methane gas, notwithstanding any other provision of Title 2 (Public Utility Regulatory Act), and for the purposes of reducing environmental emissions, putting to a beneficial purpose landfill gas as an electric generation fuel that would otherwise be flared, enabling the operation of electric generation to a greater degree, and enhancing the reliability and resilience of electric service in this state, to:

(1) use the equipment or facilities to provide electricity and electric service to the person and to the person's affiliates without being

considered to be an electric utility, a public utility, a retail electric provider, a power marketer, or a person providing aggregation;

(2) interconnect the equipment or facilities in a timely manner and on reasonable and nondiscriminatory terms and conditions with any electric utility, municipally owned utility, or electric cooperative that has a retail service area for any portion of the equipment or facilities; and

(3) receive backup, supplemental, or other electric service for any of the person's or the person's affiliates' facilities that consume electricity from any electric utility, municipally owned utility, or electric cooperative that has a retail service area for any portion of the person's facilities or equipment that are interconnected regardless of whether those facilities are in the same retail service area as the location of the interconnection point.

(c) Provides that backup, supplemental, or other electric service provided under this section through an interconnection for a person's electricity-consuming facilities that are connected to the person's interconnected equipment or facilities does not constitute a service area encroachment or other violation of law by the electric utility, municipally owned utility, or electric cooperative supplying the backup, supplemental, or other electric service.

SECTION 16. Amends Subchapter D, Chapter 38, Utilities Code, by adding Sections 38.074, 38.075, 38.076, and 38.077, as follows:

Sec. 38.074. CRITICAL NATURAL GAS FACILITIES AND ENTITIES. (a) Requires the PUC to collaborate with RRC to adopt rules to establish a process to designate certain natural gas facilities and entities associated with providing natural gas in this state as critical during energy emergencies.

(b) Requires that the rules:

(1) ensure that the independent organization certified under Section 39.151 for the ERCOT power region and each electric utility, municipally owned utility, and electric cooperative providing service in the ERCOT power region is provided with the information required by Section 81.073, Natural Resources Code;

(2) provide for prioritizing for load-shed purposes during an energy emergency the facilities and entities designated under Subsection (a); and

(3) provide discretion to an electric utility, municipally owned utility, or electric cooperative providing service in the ERCOT power region to prioritize power delivery and power restoration among the facilities and entities designated under Subsection (a) on the utility's or cooperative's systems, as circumstances require.

Sec. 38.075. WEATHER EMERGENCY PREPAREDNESS. (a) Requires the PUC by rule to require each electric cooperative, municipally owned utility, and transmission and distribution utility providing transmission service in the ERCOT power region to implement measures to prepare the cooperative's or utility's facilities to maintain service quality and reliability during a weather emergency according to standards adopted by the PUC. Requires the PUC, in adopting the rules, to take into consideration weather predictions produced by the office of the state climatologist.

(b) Requires the independent organization certified under Section 39.151 for the ERCOT power region to:

(1) inspect the facilities of each electric cooperative, municipally owned utility, and transmission and distribution utility providing transmission

service in the ERCOT power region for compliance with the reliability standards;

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

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

(c) Requires the independent organization certified under Section 39.151 for the ERCOT power region to prioritize inspections conducted under Subsection (b)(1) based on risk level, as determined by the organization.

(d) Requires the PUC to impose an administrative penalty on an entity, including a municipally owned utility or an electric cooperative, that violates a rule adopted under this section and does not remedy that violation within a reasonable period of time.

(e) Requires the PUC, notwithstanding any other provision of Subtitle B (Electric Utilities), to allow a transmission and distribution utility to design and operate a load management program for nonresidential customers to be used where the independent organization certified under Section 39.151 for the ERCOT power region has declared a Level 2 Emergency or a higher level of emergency or has otherwise directed the transmission and distribution utility to shed load. Requires a transmission and distribution utility implementing a load management program under this subsection to be permitted to recover the reasonable and necessary costs of the load management program under Chapter 36 (Rates). Provides that a load management program operated under this subsection is not considered a competitive service.

Sec. 38.076. INVOLUNTARY AND VOLUNTARY LOAD SHEDDING. (a) Requires the PUC by rule to adopt a system to allocate load shedding among electric cooperatives, municipally owned utilities, and transmission and distribution utilities providing transmission service in the ERCOT power region during an involuntary load shedding event initiated by the independent organization certified under Section 39.151 for the region during an energy emergency.

(b) Requires that the system provide for allocation of the load shedding obligation to each electric cooperative, municipally owned utility, and transmission and distribution utility in different seasons based on historical seasonal peak demand in the service territory of the electric cooperative, municipally owned utility, or transmission and distribution utility.

(c) Requires the PUC by rule to:

(1) categorize types of critical load that are authorized to be given the highest priority for power restoration; and

(2) require electric cooperatives, municipally owned utilities, and transmission and distribution utilities providing transmission service in the ERCOT power region to submit to the PUC and the independent organization certified under Section 39.151 for the region customers or circuits the cooperative or utility has designated as critical load and a plan for participating in load shedding in response to an involuntary load shedding event described by Subsection (a).

(d) Requires the PUC by rule to require electric cooperatives and municipally owned utilities providing transmission service in the ERCOT power region to maintain lists of customers willing to voluntarily participate in voluntary load

reduction, and to coordinate with municipalities, businesses, and customers that consume large amounts of electricity to encourage voluntary load reduction.

(e) Provides that this section does not abridge, enlarge, or modify the obligation of an electric cooperative, a municipally owned utility, or a transmission and distribution utility to comply with federal reliability standards.

(f) Authorizes the PUC, after each load shedding event, to conduct an examination of the implementation of load shedding, including whether each electric cooperative, municipally owned utility, and transmission and distribution utility complied with its plan as filed with the PUC under Subsection (c)(2).

Sec. 38.077. LOAD SHEDDING EXERCISES. (a) Requires the PUC and the independent organization certified for the ERCOT power region to conduct simulated or tabletop load shedding exercises with providers of electric generation service and transmission and distribution service in the ERCOT power region.

(b) Requires the PUC to ensure that each year at least one simulated or tabletop exercise is conducted during a summer month and one simulated or tabletop exercise is conducted during a winter month.

SECTION 17. Amends Chapter 38, Utilities Code, by adding Subchapter F, as follows:

SUBCHAPTER F. TEXAS ELECTRICITY SUPPLY CHAIN SECURITY AND MAPPING COMMITTEE

Sec. 38.201. TEXAS ELECTRICITY SUPPLY CHAIN SECURITY AND MAPPING COMMITTEE. (a) Defines "electricity supply chain."

(b) Establishes the Texas Electricity Supply Chain Security and Mapping Committee (committee) to:

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

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

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

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

(c) Provides that the committee is composed of the executive director of the PUC, the executive director of RRC, the president and the chief executive officer of the independent organization certified under Section 39.151 for the ERCOT power region, and the chief.

(d) Authorizes each member of the committee to designate a personal representative from the member's organization to represent the member on the committee. Provides that a member is responsible for the acts and omissions of the designee related to the designee's representation on the committee.

(e) Provides that the executive director of the PUC serves as the chair of the committee. Provides that the executive director of RRC serves as vice chair of the committee.

Sec. 38.202. ADMINISTRATION. (a) Requires the committee to meet at least once each calendar quarter at a time determined by the committee and at the call of the chair.

(b) Requires that a member who is an ex officio member from a state agency be reimbursed for actual and necessary expenses in carrying out committee responsibilities from money appropriated for that purpose in the agency's budget. Authorizes other members of the committee to receive reimbursement for actual and necessary expenses in carrying out committee responsibilities from money appropriated for that purpose.

(c) Requires the PUC, RRC, and TDEM to provide staff as necessary to assist the committee in carrying out the committee's duties and responsibilities.

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

(e) Provides that, except as otherwise provided by this subchapter, the committee is not subject to Chapters 2001 (Administrative Procedure), 551, and 552, Government Code.

(f) Provides that information written, produced, collected, assembled, or maintained under law or in connection with the transaction of official business by the committee or an officer or employee of the committee is subject to Section 552.008, Government Code. Provides that this subsection does not apply to the physical locations of critical facilities, maps created under this subchapter, or proprietary information created or gathered during the mapping process.

Sec. 38.203. POWERS AND DUTIES OF COMMITTEE. (a) Requires the committee to:

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

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

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

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

(b) Requires the committee to update the electricity supply chain map at least once each year.

(c) Requires the PUC to create and maintain a database identifying critical infrastructure sources with priority electricity needs to be used during an extreme weather event and to update the database at least once each year.

(d) Provides that the information maintained in the database is confidential under Section 418.181 (Confidentiality of Certain Information Relating to Critical Infrastructure), Government Code, and not subject to disclosure under Chapter 552, Government Code.

(e) Requires the committee to provide the council with access to the electricity supply chain map.

Sec. 38.204. MAPPING REPORT. (a) Requires the committee, not later than January 1, 2022, to submit a report to the governor, the lieutenant governor, the speaker of the Texas House of Representatives (house), the legislature, and the council on the activities and findings of the committee. Requires that the report:

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

(2) recommend a clear and thorough communication system for the PUC, RRC, TDEM, and the independent organization certified under Section 39.151 for the ERCOT power region and critical infrastructure sources in this state to ensure that electricity supply is prioritized to those sources during extreme weather events; and

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

(b) Provides that the report is public information except for portions considered confidential under Chapter 552, Government Code, or other state or federal law.

SECTION 18. Amends Subchapter D, Chapter 39, Utilities Code, by adding Sections 39.159 and 39.160, as follows:

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

(b) Requires the PUC to ensure that the independent organization certified under Section 39.151 for the ERCOT power region:

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

(2) periodically, but at least annually, determines the quantity and characteristics of ancillary or reliability services necessary to ensure appropriate reliability during extreme heat and extreme cold weather conditions and during times of low non-dispatchable power production in the power region;

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

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

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

(c) Requires the PUC to ensure that:

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

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

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

Sec. 39.160. WHOLESALE PRICING PROCEDURES. (a) Requires the PUC by rule to establish an emergency pricing program for the wholesale electric market.

(b) Requires that the emergency pricing program take effect if the high system-wide offer cap has been in effect for 12 hours in a 24-hour period after initially reaching the high system-wide offer cap. Requires the PUC by rule to determine the criteria for the emergency pricing program to cease.

(c) Prohibits the emergency pricing program from allowing an emergency pricing program cap to exceed any nonemergency high system-wide offer cap.

(d) Requires the PUC by rule to establish an ancillary services cap to be in effect during the period an emergency pricing program is in effect.

(e) Prohibits any wholesale pricing procedure that has a low system-wide offer cap from allowing the low system-wide offer cap to exceed the high system-wide offer cap.

(f) Requires the PUC to review each system-wide offer cap program adopted by the PUC, including the emergency pricing program, at least once every five years to determine whether to update aspects of the program.

(g) Requires that the emergency pricing program allow generators to be reimbursed for reasonable, verifiable operating costs that exceed the emergency cap.

SECTION 19. Amends Subchapter Z, Chapter 39, Utilities Code, by adding Section 39.9165, as follows:

Sec. 39.9165. DISTRIBUTED GENERATION REPORTING. (a) Defines "distributed generation."

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

(c) Provides that this section does not apply to distributed generation serving a residential property.

SECTION 20. Amends Section 105.023, Utilities Code, by adding Subsections (b-1), (e), and (f), as follows:

(b-1) Requires that a civil penalty under Section 105.023 (Civil Penalty Against Gas Utility or Affiliate), notwithstanding Subsection (b) (relating to the minimum and maximum amounts for a civil penalty under this section), be in an amount of not less than \$1,000 and not more than \$1,000,000 for each violation of Section 104.258(c) (relating to prohibiting a natural gas provider from disconnecting service to a residential customer during an extreme weather emergency).

(e) Requires RRC by rule to establish a classification system to be used by a court under Subchapter B (Enforcement and Penalties) for violations of Section 104.258(c) that includes a range of penalties that may be recovered for each class of violation based on:

- (1) the seriousness of the violation, including the nature, circumstances, extent, and gravity of a prohibited act, and the hazard or potential hazard created to the health, safety, or economic welfare of the public;
- (2) the history of previous violations;
- (3) the amount necessary to deter future violations;
- (4) efforts to correct the violation; and
- (5) any other matter that justice may require.

(f) Requires that the classification system established under Subsection (e) provide that a penalty in an amount that exceeds \$5,000 is authorized to be recovered only if the violation is included in the highest class of violations in the classification system.

SECTION 21. Amends Section 121.2015, Utilities Code, by amending Subsection (a) and adding Subsections (a-1), (c-1), (c-2), (d), (e), and (f), as follows:

(a) Requires RRC to adopt rules regarding:

- (1) and (2) makes nonsubstantive changes to these subdivisions; and
- (3) measures a gas pipeline facility operator is required to implement to prepare the gas pipeline facility to maintain service quality and reliability during extreme weather conditions if the gas pipeline facility:
 - (A) directly serves a natural gas electric generation facility operating solely to provide power to the electric grid for the ERCOT power region or for the ERCOT power region and an adjacent power region; and
 - (B) is included on the electricity supply chain map created under Section 38.203.

(a-1) Requires RRC, in adopting rules under Subsection (a)(3), to take into consideration weather predictions produced by the office of the state climatologist.

(c-1) Requires RRC to:

- (1) inspect gas pipeline facilities described by Subsection (a)(3) for compliance with rules adopted under Subsection (a)(3);
- (2) provide the owner of a facility described by Subsection (a)(3) with a reasonable period of time in which to remedy any violation RRC discovers in an inspection; and
- (3) report to the attorney general any violation that is not remedied in a reasonable period of time.

(c-2) Requires RRC to prioritize inspections conducted under Subsection (c-1)(1) based on risk level, as determined by RRC.

(d) Requires RRC by rule to require a gas pipeline facility operator described by Subsection (a)(3) that experiences repeated or major weather-related forced interruptions of service to contract with a person who is not an employee of the operator to assess the

operator's weatherization plans, procedures, and operations, and to submit the assessment to the PUC.

(e) Authorizes RRC to require an operator of a gas pipeline facility described by Subsection (a)(3) to implement appropriate recommendations included in an assessment submitted to the PUC under Subsection (d).

(f) Requires RRC to assess an administrative penalty against a person who violates a rule adopted under Subsection (a)(3) if the violation is not remedied in a reasonable period of time in the manner provided by Subchapter E (Pipeline Safety).

SECTION 22. Amends Section 121.206, Utilities Code, by adding Subsections (b-1) and (e), as follows:

(b-1) Prohibits the penalty for each pipeline safety violation, notwithstanding Subsection (b), from exceeding \$1,000,000 for a violation of a rule adopted under Section 121.2015(a)(3). Authorizes each day a violation continues to be considered a separate violation for the purpose of penalty assessment.

(e) Requires that the RRC guidelines for determining the amount of the penalty provide that a penalty in an amount that exceeds \$5,000 for a violation of a rule adopted under Section 121.2015(a)(3) is authorized to be assessed only if circumstances justify the enhancement of the penalty.

SECTION 23. Amends the heading to Section 186.007, Utilities Code, to read as follows:

Sec. 186.007. PUBLIC UTILITY COMMISSION WEATHER EMERGENCY PREPAREDNESS REPORTS.

SECTION 24. Amends Sections 186.007(a-1), (b), (d), (e), and (f), Utilities Code, as follows:

(a-1) Requires the PUC to analyze emergency operations plans developed by electric utilities as defined by Section 31.002, power generation companies as defined by Section 31.002, municipally owned utilities, and electric cooperatives that operate generation facilities in this state and retail electric providers as defined by Section 31.002 and prepare a weather emergency preparedness report on power weatherization preparedness, rather than on power generation weatherization preparedness. Makes nonsubstantive changes.

(b) Requires the PUC to require an entity subject to Section 186.007, rather than authorizes the PUC to require an electric generation entity subject to this section, to file an updated emergency operations plan if it finds that an emergency operations plan on file does not contain adequate information to determine whether the entity can provide adequate electric services. Makes conforming changes.

(d) Requires the PUC to submit the report described by Subsection (a-1) to the lieutenant governor, the speaker of the house, and the members of the legislature not later than September 30 of each even-numbered year, rather than not later than September 30, 2012.

(e) Authorizes the PUC to submit additional weather emergency preparedness reports, rather than subsequent weather emergency preparedness reports, if the PUC finds that significant changes to weatherization techniques have occurred or are necessary to protect consumers or vital services, or if there have been changes to statutes or rules relating to weatherization requirements.

(f) Makes conforming and nonsubstantive changes to this subsection.

SECTION 25. Amends Subchapter A, Chapter 186, Utilities Code, by adding Section 186.008, as follows:

Sec. 186.008. RAILROAD COMMISSION WEATHER EMERGENCY PREPAREDNESS REPORTS. (a) Defines "commission."

(b) Requires RRC to analyze emergency operations plans developed by operators of facilities that produce, treat, process, pressurize, store, or transport natural gas and are included on the electricity supply chain map created under Section 38.203 and prepare a weather emergency preparedness report on weatherization preparedness of those facilities. Requires RRC, in preparing the report, to:

(1) review any emergency operations plans on file with RRC;

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

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

(4) make recommendations on improving emergency operations plans and procedures in order to ensure the continuity of natural gas service for the electricity supply chain, as mapped under Section 38.203.

(c) Requires RRC to require an entity subject to this section to file an updated emergency operations plan if it finds that an emergency operations plan on file does not contain adequate information to determine whether the entity can provide adequate natural gas services.

(d) Authorizes RRC to adopt rules relating to the implementation of the report described by Subsection (b).

(e) Requires RRC to submit the report described by Subsection (b) to the lieutenant governor, the speaker of the house, and the members of the legislature not later than September 30 of each even-numbered year.

(f) Authorizes RRC to submit additional weather emergency preparedness reports if RRC finds that significant changes to weatherization techniques have occurred or are necessary to protect consumers or vital services, or if there have been changes to statutes or rules relating to weatherization requirements. Requires that a report under this subsection be submitted not later than March 1 for a summer weather emergency preparedness report and September 1 for a winter weather emergency preparedness report.

(g) Provides that the emergency operations plans submitted for a report described by Subsection (b) and any additional plans submitted under Subsection (f) are public information except for the portions of the plan considered confidential under Chapter 552, Government Code, or other state or federal law. Requires that a plan, if portions of the plan are designated as confidential, be provided to RRC in a redacted form for public inspection with the confidential portions removed.

SECTION 26. Amends Subchapter E, Chapter 13, Water Code, by adding Section 13.1394, as follows:

Sec. 13.1394. STANDARDS OF EMERGENCY OPERATIONS. (a) Defines "affected utility," "emergency operations," and "extended power outage."

(b) Requires an affected utility to:

(1) ensure the emergency operation of its water system during an extended power outage at a minimum water pressure of 20 pounds per square inch,

or at a water pressure level approved by TCEQ, as soon as safe and practicable following the occurrence of a natural disaster; and

(2) adopt and submit to TCEQ for its approval:

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

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

(c) Requires TCEQ to review an emergency preparedness plan submitted under Subsection (b). Requires TCEQ, if TCEQ determines that the plan is not acceptable, to recommend changes to the plan. Requires TCEQ to make its recommendations on or before the 90th day after TCEQ receives the plan. Requires that an emergency preparedness plan for a provider of potable water, in accordance with TCEQ rules, provide for one or more of the following:

(1) the maintenance of automatically starting auxiliary generators;

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

(3) the negotiation of leasing and contracting agreements, including emergency mutual aid agreements with other retail public utilities, exempt utilities, or providers or conveyors of potable or raw water service, if the agreements provide for coordination with TDEM;

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

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

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

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

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

(9) water storage capabilities;

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

(11) the ability to provide water through artesian flows;

(12) redundant interconnectivity between pressure zones;

(13) emergency water demand rules to maintain emergency operations; or

(14) any other alternative determined by TCEQ to be acceptable.

(d) Requires each affected utility that supplies, provides, or conveys raw surface water to include in its emergency preparedness plan under Subsection (b)

provisions for demonstrating the capability of each raw water intake pump station, pump station, and pressure facility to provide raw water service to its wholesale customers during emergencies. Provides that this subsection does not apply to raw water services that are unnecessary or otherwise subject to interruption or curtailment during emergencies under a contract.

(e) Requires TCEQ to adopt rules to implement this section as an alternative to any rule requiring elevated storage.

(f) Requires TCEQ to provide an affected utility with access to TCEQ's financial, managerial, and technical contractors to assist the utility in complying with the applicable emergency preparedness plan submission deadline.

(g) Requires TCEQ by rule to create an emergency preparedness plan template for use by an affected utility when submitting a plan under this section. Requires that the emergency preparedness plan template contain a list and explanation of the preparations an affected utility may make under Subsection (c) for TCEQ to approve the utility's emergency preparedness plan and a list of all TCEQ rules and standards pertaining to emergency preparedness plans.

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

(i) Requires TCEQ to inspect each utility to ensure that the utility complies with the approved plan.

(j) Requires TCEQ to consider whether compliance with this section will cause a significant financial burden on customers of an affected utility when making recommended changes under Subsection (c).

(k) Authorizes an affected utility to adopt and enforce limitations on water use while the utility is providing emergency operations.

(l) Provides that, except as specifically required by this section, information provided by an affected utility under this section is confidential and is not subject to disclosure under Chapter 552, Government Code.

(m) Requires TCEQ to coordinate with the PUC in the administration of this section.

SECTION 27. Amends the heading to Section 13.1395, Water Code, to read as follows:

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

SECTION 28. Amends Section 13.1395(d), Water Code, as follows:

(d) Provides that this subsection does not apply to raw water services that are unnecessary or otherwise subject to interruption or curtailment during emergencies under a contract. Requires each affected utility that supplies, provides, or conveys surface water to include in its emergency preparedness plan under Subsection (b) provisions:

(1) for the actual installation and maintenance of automatically starting auxiliary generators or distributive generation facilities for each raw water intake pump station, water treatment plant, pump station, and pressure facility necessary to provide water to its wholesale customers during emergencies; or

(2) that demonstrate the capability of each raw water intake pump station, water treatment plant, pump station, and pressure facility to provide water to its

wholesale customers during emergencies through alternative means acceptable to TCEQ.

Makes nonsubstantive changes.

SECTION 29. Amends Section 13.1396, Water Code, by adding Subsection (a-1), to provide that Section 13.1396 (Coordination of Emergency Operations) applies only to an affected utility, as defined by Section 13.1394 or 13.1395.

SECTION 30. Amends Subchapter E, Chapter 13, Water Code, by adding Section 13.151, as follows:

Sec. 13.151. BILLING FOR SERVICES PROVIDED DURING EXTREME WEATHER EMERGENCY. (a) Defines "extreme weather emergency."

(b) Provides that a retail public utility that is required to possess a certificate of public convenience and necessity or a district or affected county that furnishes retail water or sewer utility service is prohibited from imposing late fees or disconnecting service for nonpayment of bills that are due during an extreme weather emergency until after the emergency is over and is required to work with customers that request to establish a payment schedule for unpaid bills that are due during the extreme weather emergency.

SECTION 31. Amends Section 13.414, Water Code, by adding Subsections (a-1), (d), and (e), as follows:

(a-1) Provides that, notwithstanding Subsection (a) (relating to the minimum and maximum amounts of a penalty against a retail public utility or affiliated interest), a retail public utility or affiliated interest that violates Section 13.151 is subject to a civil penalty of not less than \$100 nor more than \$50,000 for each violation.

(d) Requires the PUC by rule to establish a classification system to be used by a court under Section 13.414 (Penalty Against Retail Public Utility or Affiliated Interest) for violations of Section 13.151 that includes a range of penalties that are authorized to be recovered for each class of violation based on certain criteria.

(e) Requires that the classification system established under Subsection (d) provide that a penalty in an amount that exceeds \$5,000 is authorized to be recovered only if the violation is included in the highest class of violations in the classification system.

SECTION 32. Repealer: Section 13.1396(a)(1) (relating to defining "affected utility" for Section 13.1396), Water Code.

SECTION 33. (a) Provides that the State Energy Plan Advisory Committee (advisory committee) is composed of 12 members. Requires the governor, lieutenant governor, and speaker of the house each to appoint four members to the advisory committee.

(b) Requires the advisory committee, not later than September 1, 2022, to prepare a comprehensive state energy plan. Requires that the plan:

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

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

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

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

(c) Requires that the state energy plan prepared under this section be submitted to the legislature not later than September 1, 2022.

SECTION 34. Requires the PUC and the independent organization certified under Section 39.151, Utilities Code, to annually review statutes, rules, protocols, and bylaws that apply to conflicts of interest for commissioners and for members of the governing body of the independent organization and submit to the legislature a report on the effects the statutes, rules, protocols, and bylaws have on the ability of the PUC and the independent organization to fulfill their duties.

SECTION 35. Requires the PUC to complete the first review required by Section 39.160(f), Utilities Code, as added by this Act, not later than December 31, 2021.

SECTION 36. (a) Requires each affected utility, as defined by Section 13.1394, Water Code, as added by this Act, not later than November 1, 2021, to complete the submissions required by Section 13.1396(c), Water Code.

(b) Requires each affected utility, not later than March 1, 2022, to submit to TCEQ the emergency preparedness plan required by Section 13.1394, Water Code, as added by this Act.

(c) Requires each affected utility, not later than July 1, 2022, or upon final approval by TCEQ, to implement the emergency preparedness plan approved by TCEQ under Section 13.1394, Water Code, as added by this Act.

(d) Authorizes an affected utility to file with TCEQ a written request for an extension, not to exceed 90 days, of the date by which the affected utility is required under Subsection (b) of this section to submit the affected utility's emergency preparedness plan or of the date by which the affected utility is required under Subsection (c) of this section to implement the affected utility's emergency preparedness plan. Requires TCEQ to approve the requested extension for good cause shown.

SECTION 37. Requires the committee to produce the map required under Section 38.203, Utilities Code, as added by this Act, not later than September 1, 2022.

SECTION 38. Requires RRC, not later than six months after the date the committee produces the map required under Section 38.203, Utilities Code, as added by this Act, to adopt rules necessary to implement Section 86.044, Natural Resources Code, as added by this Act, and Section 121.2015, Utilities Code, as amended by this Act.

SECTION 39. Requires the PUC, not later than six months after the effective date of this Act, to adopt rules necessary to implement Section 35.0021, Utilities Code, as added by this Act, and Section 38.075, Utilities Code, as added by this Act.

SECTION 40. Provides that it is the intent of the legislature that this Act not restrict or amend the sole jurisdiction of RRC to establish rules or requirements relating to curtailment orders for facilities and entities in RRC's jurisdiction under the Natural Resources Code or the Utilities Code.

SECTION 41. Effective date: upon passage or September 1, 2021.