

1 AN ACT

2 relating to certain extraordinary costs incurred by certain gas
3 utilities relating to Winter Storm Uri and a study of measures to
4 mitigate similar future costs; providing authority to issue bonds
5 and impose fees and assessments.

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

7 SECTION 1. Section 1232.002, Government Code, is amended to
8 read as follows:

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

11 (1) the acquisition or construction of buildings;
12 [~~and~~]

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

15 (3) customer rate relief bonds authorized by the
16 Railroad Commission of Texas in accordance with Subchapter I,
17 Chapter 104, Utilities Code.

18 SECTION 2. Section 1232.066(a), Government Code, is amended
19 to read as follows:

20 (a) The board's authority under this chapter is limited to
21 the financing of:

22 (1) the acquisition or construction of a building;

23 (2) the purchase or lease of equipment; [~~or~~]

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

1 (4) customer rate relief bonds approved by the
2 Railroad Commission of Texas in accordance with Subchapter I,
3 Chapter 104, Utilities Code.

4 SECTION 3. Subchapter C, Chapter 1232, Government Code, is
5 amended by adding Section 1232.1072 to read as follows:

6 Sec. 1232.1072. ISSUANCE OF OBLIGATIONS FOR FINANCING
7 CUSTOMER RATE RELIEF PROPERTY. (a) The definitions in Section
8 104.362, Utilities Code, apply to terms used in this section.

9 (b) The authority may create an issuing financing entity for
10 the purpose of issuing customer rate relief bonds approved by the
11 Railroad Commission of Texas in a financing order, as provided by
12 Subchapter I, Chapter 104, Utilities Code.

13 (c) An issuing financing entity created under this section
14 is a duly constituted public authority and instrumentality of the
15 state and is authorized to issue customer rate relief bonds on
16 behalf of the state for the purposes of Section 103, Internal
17 Revenue Code of 1986 (26 U.S.C. Section 103).

18 (d) The issuing financing entity must be governed by a
19 governing board of three members appointed by the authority. A
20 member of the governing board may be a current or former director of
21 the authority. A member of the governing board serves without
22 compensation but is entitled to reimbursement for travel expenses
23 incurred in attending board meetings.

24 (e) The issuing financing entity must be formed in
25 accordance with, be governed by, and have the powers, rights, and
26 privileges provided for a nonprofit corporation organized under the
27 Business Organizations Code, including Chapter 22 of that code,

1 subject to the express exceptions and limitations provided by this
2 section and Subchapter I, Chapter 104, Utilities Code. A single
3 organizer selected by the executive director of the authority shall
4 prepare the certificate of formation of the issuing financing
5 entity under Chapters 3 and 22, Business Organizations Code. The
6 certificate of formation must be consistent with the provisions of
7 this section.

8 (f) The authority shall establish the issuing financing
9 entity to act on behalf of the state as its duly constituted
10 authority and instrumentality to issue customer rate relief bonds
11 approved under Subchapter I, Chapter 104, Utilities Code.

12 (g) On a request to the authority from the Railroad
13 Commission of Texas, the authority shall direct an issuing
14 financing entity to issue customer rate relief bonds in accordance
15 with a financing order issued by the railroad commission as
16 provided in Subchapter I, Chapter 104, Utilities Code.

17 (h) Before the issuance of any customer rate relief bonds,
18 the authority and the Railroad Commission of Texas shall ensure
19 that adequate provision is made in any financing order for the
20 recovery of all issuance costs and all other fees, costs, and
21 expenses of the authority, the issuing financing entity, and any
22 advisors or counsel hired by the authority or the entity for the
23 purposes of this section during the life of the customer rate relief
24 bonds.

25 (i) Customer rate relief bonds are limited obligations of
26 the issuing financing entity payable solely from customer rate
27 relief property and any other money pledged by the issuing

1 financing entity to the payment of the bonds and are not a debt of
2 this state, the Railroad Commission of Texas, the authority, or a
3 gas utility.

4 (j) The Railroad Commission of Texas shall ensure that
5 customer rate relief charges are imposed, collected, and enforced
6 in an amount sufficient to pay on a timely basis all bond
7 obligations, financing costs, and bond administrative expenses
8 associated with any issuance of customer rate relief bonds.

9 (k) The authority and the Railroad Commission of Texas have
10 all the powers necessary to perform the duties and responsibilities
11 described by this section. This section shall be interpreted
12 broadly in a manner consistent with the most cost-effective
13 financing of customer rate relief property, including regulatory
14 assets, extraordinary costs, and related financing costs approved
15 by the Railroad Commission of Texas in accordance with Subchapter
16 I, Chapter 104, Utilities Code.

17 (l) Any interest on the customer rate relief bonds is not
18 subject to taxation by and may not be included as part of the
19 measurement of a tax by this state or a political subdivision of
20 this state.

21 (m) The authority shall make periodic reports to the
22 Railroad Commission of Texas and the public regarding each
23 financing made in accordance with Section 104.373(b), Utilities
24 Code, and if required by the applicable financing order.

25 (n) The issuing financing entity shall issue customer rate
26 relief bonds in accordance with and subject to other provisions of
27 Title 9 applicable to the authority.

1 (o) The issuing financing entity may exercise the powers
2 granted to the governing body of an issuer with regard to the
3 issuance of obligations and the execution of credit agreements
4 under Chapter 1371. A purpose for which bonds, obligations, or
5 other evidences of indebtedness are issued under this section and
6 Subchapter I, Chapter 104, Utilities Code, constitutes an eligible
7 project for purposes of Chapter 1371 of this code.

8 (p) Assets of an issuing financing entity may not be
9 considered part of any state fund and must be held outside the state
10 treasury. The liabilities of the issuing financing entity may not
11 be considered to be a debt of the state or a pledge of the state's
12 credit. An issuing financing entity must be self-funded from
13 customer rate relief property and established in accordance with
14 Subchapter I, Chapter 104, Utilities Code. A state agency may
15 provide money appropriated for the purpose to the issuing financing
16 entity to provide for initial operational expenses of the issuing
17 financing entity.

18 SECTION 4. Section 1232.108, Government Code, is amended to
19 read as follows:

20 Sec. 1232.108. LEGISLATIVE AUTHORIZATION REQUIRED. Except
21 as permitted by Section 1232.1072, 1232.109, 2166.452, or 2166.453,
22 before the board may issue and sell bonds, the legislature by the
23 General Appropriations Act or other law must have authorized:

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

26 (2) the estimated cost of the project or the maximum
27 amount of bonded indebtedness that may be incurred by the issuance

1 and sale of bonds for the project.

2 SECTION 5. Chapter 104, Utilities Code, is amended by
3 adding Subchapter I to read as follows:

4 SUBCHAPTER I. CUSTOMER RATE RELIEF BONDS

5 Sec. 104.361. PURPOSE; RAILROAD COMMISSION DUTY. (a) The
6 purpose of this subchapter is to reduce the cost that customers
7 would otherwise experience because of extraordinary costs that gas
8 utilities incurred to secure gas supply and provide service during
9 Winter Storm Uri, and to restore gas utility systems after that
10 event, by providing securitization financing for gas utilities to
11 recover those costs. The securitization financing mechanism
12 authorized by this subchapter will:

13 (1) provide rate relief to customers by extending the
14 period during which the costs described by this subsection are
15 recovered from customers; and

16 (2) support the financial strength and stability of
17 gas utility companies.

18 (b) The railroad commission shall ensure that
19 securitization provides tangible and quantifiable benefits to
20 customers, greater than would have been achieved absent the
21 issuance of customer rate relief bonds.

22 Sec. 104.362. DEFINITIONS. In this subchapter:

23 (1) "Ancillary agreement" means a financial
24 arrangement entered into in connection with the issuance or payment
25 of customer rate relief bonds that enhances the marketability,
26 security, or creditworthiness of customer rate relief bonds,
27 including a bond, insurance policy, letter of credit, reserve

1 account, surety bond, interest rate or currency swap arrangement,
2 interest rate lock agreement, forward payment conversion
3 agreement, credit agreement, other hedging arrangement, or
4 liquidity or credit support arrangement.

5 (2) "Authority" means the Texas Public Finance
6 Authority.

7 (3) "Bond administrative expenses" means all costs and
8 expenses incurred by the railroad commission, the authority, or any
9 issuing financing entity to evaluate, issue, and administer
10 customer rate relief bonds issued under this subchapter, including
11 fees and expenses of the authority, any bond administrator, and the
12 issuing financing entity, fees for paying agents, trustees, and
13 attorneys, and fees for paying for other consulting and
14 professional services necessary to ensure compliance with this
15 subchapter, applicable state or federal law, and the terms of the
16 financing order.

17 (4) "Bond obligations" means the principal of a
18 customer rate relief bond and any premium and interest on a customer
19 rate relief bond issued under this subchapter, together with any
20 amount owed under a related ancillary agreement or credit
21 agreement.

22 (5) "Credit agreement" has the meaning assigned by
23 Section 1371.001, Government Code.

24 (6) "Customer rate relief bonds" means bonds, notes,
25 certificates, or other evidence of indebtedness or ownership the
26 proceeds of which are used directly or indirectly to recover,
27 finance, or refinance regulatory assets approved by the railroad

1 commission, including extraordinary costs and related financing
2 costs, and that are:

3 (A) issued by an issuing financing entity under a
4 financing order; and

5 (B) payable from and secured by customer rate
6 relief property and amounts on deposit in any trust accounts
7 established for the benefit of the customer rate relief bondholders
8 as approved by the applicable financing order.

9 (7) "Customer rate relief charges" means the amounts
10 authorized by the railroad commission as nonbypassable charges to
11 repay, finance, or refinance regulatory assets, including
12 extraordinary costs, financing costs, bond administrative
13 expenses, and other costs authorized by the financing order:

14 (A) imposed on and included in customer bills of
15 a gas utility that has received a regulatory asset determination
16 under Section 104.365;

17 (B) collected in full by a gas utility that has
18 received a regulatory asset determination under Section 104.365, or
19 its successors or assignees, or a collection agent, as servicer,
20 separate and apart from the gas utility's base rates; and

21 (C) paid by all existing or future customers
22 receiving service from a gas utility that has received a regulatory
23 asset determination under Section 104.365 or its successors or
24 assignees, even if a customer elects to purchase gas from an
25 alternative gas supplier.

26 (8) "Customer rate relief property" means:

27 (A) all rights and interests of an issuing

1 financing entity or any successor under a financing order,
2 including the right to impose, bill, collect, and receive customer
3 rate relief charges authorized in the financing order and to obtain
4 periodic adjustments to those customer rate relief charges as
5 provided in the financing order and in accordance with Section
6 104.370; and

7 (B) all revenues, collections, claims, rights to
8 payments, payments, money, or proceeds arising from the rights and
9 interests specified by Paragraph (A), regardless of whether the
10 revenues, collections, claims, rights to payments, payments,
11 money, or proceeds are imposed, billed, received, collected, or
12 maintained together with or commingled with other revenues,
13 collections, rights to payments, payments, money, or proceeds.

14 (9) "Financing costs" means any of the following:

15 (A) interest and acquisition, defeasance, or
16 redemption premiums that are payable on customer rate relief bonds;

17 (B) a payment required under an ancillary
18 agreement or credit agreement or an amount required to fund or
19 replenish reserve or other accounts established under the terms of
20 an indenture, ancillary agreement, or other financing document
21 pertaining to customer rate relief bonds;

22 (C) issuance costs or ongoing costs related to
23 supporting, repaying, servicing, or refunding customer rate relief
24 bonds, including servicing fees, accounting or auditing fees,
25 trustee fees, legal fees or expenses, consulting fees,
26 administrative fees, printing fees, financial advisor fees or
27 expenses, Securities and Exchange Commission registration fees,

1 issuer fees, bond administrative expenses, placement and
2 underwriting fees, capitalized interest, overcollateralization
3 funding requirements including amounts to fund or replenish any
4 reserve established for a series of customer rate relief bonds,
5 rating agency fees, stock exchange listing and compliance fees,
6 filing fees, and any other bond administrative expenses; and

7 (D) the costs to the railroad commission of
8 acquiring professional or consulting services for the purpose of
9 evaluating extraordinary costs under this subchapter.

10 (10) "Financing order" means an order adopted under
11 Section 104.366 approving the issuance of customer rate relief
12 bonds and the creation of customer rate relief property and
13 associated customer rate relief charges for the recovery of
14 regulatory assets, including extraordinary costs, related
15 financing costs, and other costs authorized by the financing order.

16 (11) "Financing party" means a holder of customer rate
17 relief bonds, including a trustee, a pledgee, a collateral agent,
18 any party under an ancillary agreement, or other person acting for
19 the holder's benefit.

20 (12) "Gas utility" means:

21 (A) an operator of natural gas distribution
22 pipelines that delivers and sells natural gas to the public and that
23 is subject to the railroad commission's jurisdiction under Section
24 [102.001](#); or

25 (B) an operator that transmits, transports,
26 delivers, or sells natural gas or synthetic natural gas to
27 operators of natural gas distribution pipelines and whose rates for

1 those services are established by the railroad commission in a rate
2 proceeding filed under this chapter.

3 (13) "Issuing financing entity" means a special
4 purpose nonmember, nonstock, nonprofit public corporation
5 established by the authority under Section 1232.1072, Government
6 Code.

7 (14) "Nonbypassable" means a charge that:

8 (A) must be paid by all existing or future
9 customers receiving service from a gas utility that has received a
10 regulatory asset determination under Section 104.365 or the gas
11 utility's successors or assignees, even if a customer elects to
12 purchase gas from an alternative gas supplier; and

13 (B) may not be offset by any credit.

14 (15) "Normalized market pricing" means the average
15 monthly pricing at the Henry Hub for the three months immediately
16 preceding the month during which extraordinary costs were incurred,
17 plus contractual adders to the index price and other non-indexed
18 gas procurement costs.

19 (16) "Regulatory asset" includes extraordinary costs:

20 (A) recorded by a gas utility in the utility's
21 books and records in accordance with the uniform system of accounts
22 prescribed for natural gas companies subject to the provisions of
23 the Natural Gas Act (15 U.S.C. Section 717 et seq.) by the Federal
24 Energy Regulatory Commission and generally accepted accounting
25 principles; or

26 (B) classified as a receivable or financial asset
27 under international financial reporting standards under the

1 railroad commission's authorization in the Notice of Authorization
2 for Regulatory Asset Accounting for Local Distribution Companies
3 Affected by the February 2021 Winter Weather Event issued February
4 13, 2021.

5 (17) "Servicer" means, with respect to each issuance
6 of customer rate relief bonds, the entity identified by the
7 railroad commission in the financing order as servicer responsible
8 for collecting customer rate relief charges from participating gas
9 utilities, remitting all collected funds to the applicable issuing
10 financing entity or the bond trustee, calculating true-up
11 adjustments, and performing any other duties as specified in the
12 financing order.

13 (18) "Winter Storm Uri" means the North American
14 winter storm that occurred in February 2021.

15 Sec. 104.363. EXTRAORDINARY COSTS. For the purposes of
16 this subchapter, extraordinary costs are the reasonable and
17 necessary costs related to Winter Storm Uri, including carrying
18 costs, placed in a regulatory asset and approved by the railroad
19 commission in a regulatory asset determination under Section
20 104.365.

21 Sec. 104.364. JURISDICTION AND POWERS OF RAILROAD
22 COMMISSION AND OTHER REGULATORY AUTHORITIES. (a) The railroad
23 commission may authorize the issuance of customer rate relief bonds
24 if the requirements of Section 104.366 are met.

25 (b) The railroad commission may assess to a gas utility
26 costs associated with administering this subchapter. Assessments
27 must be recovered from rate-regulated customers as part of gas

1 cost.

2 (c) The railroad commission has exclusive, original
3 jurisdiction to issue financing orders that authorize the creation
4 of customer rate relief property. Customer rate relief property
5 must be created and vested in an issuing financing entity and does
6 not constitute property of the railroad commission or any gas
7 utility.

8 (d) Except as provided by Subsection (c), this subchapter
9 does not limit or impair a regulatory authority's plenary
10 jurisdiction over the rates, charges, and services rendered by gas
11 utilities in this state under Chapter 102.

12 Sec. 104.365. REGULATORY ASSET DETERMINATION. (a) The
13 railroad commission, on application of a gas utility to recover a
14 regulatory asset, shall determine the regulatory asset amount to be
15 recovered by the gas utility. A gas utility may request recovery of
16 a regulatory asset under this subchapter only if the regulatory
17 asset is related to Winter Storm Uri.

18 (b) A gas utility desiring to participate in the customer
19 rate relief bond process under a financing order by requesting
20 recovery of a regulatory asset must file an application with the
21 railroad commission on or before the 60th day after the effective
22 date of the Act enacting this subchapter.

23 (c) If the railroad commission does not make a final
24 determination regarding the regulatory asset amount to be recovered
25 by a gas utility before the 151st day after the gas utility files
26 the application, the railroad commission is considered to have
27 approved the regulatory asset amount requested by the gas utility.

1 (d) The regulatory asset determination is not subject to
2 reduction, impairment, or adjustment by further action of the
3 railroad commission, except as authorized by Section 104.370.

4 (e) The regulatory asset determination is not subject to
5 rehearing by the railroad commission and may be appealed only to a
6 Travis County district court by a party to the proceeding. The
7 appeal must be filed not later than the 15th day after the date the
8 order is signed by the railroad commission.

9 (f) The judgment of the district court may be reviewed only
10 by direct appeal to the Supreme Court of Texas. The appeal must be
11 filed not later than the 15th day after the date of entry of
12 judgment.

13 (g) All appeals shall be heard and determined by the
14 district court and the Supreme Court of Texas as expeditiously as
15 possible with lawful precedence over other matters. Review on
16 appeal shall be based solely on the record before the railroad
17 commission and briefs to the court and limited to whether the
18 financing order:

19 (1) complies with the constitution and laws of this
20 state and the United States; and

21 (2) is within the authority of the railroad commission
22 to issue under this subchapter.

23 (h) The railroad commission shall establish a schedule,
24 filing requirements, and a procedure for determining the prudence
25 of the costs included in a gas utility's regulatory asset.

26 (i) To the extent a gas utility subject to this subchapter
27 receives insurance proceeds, governmental grants, or other sources

1 of funding that compensate or otherwise reimburse or indemnify the
2 gas utility for extraordinary costs following the issuance of
3 customer rate relief bonds, the gas utility may record the amount in
4 a regulatory liability account and that amount shall be reviewed in
5 a future proceeding. If an audit conducted under a valid gas
6 purchase agreement identifies a change of greater than five percent
7 to the total amount of the gas supply costs incurred during the
8 event for which regulatory asset recovery was approved, the gas
9 utility may record the amount in a regulatory asset or regulatory
10 liability account and that amount shall be reviewed for recovery in
11 a future proceeding.

12 Sec. 104.366. FINANCING ORDERS AND ISSUANCE OF CUSTOMER
13 RATE RELIEF BONDS. (a) If the railroad commission determines that
14 customer rate relief bond financing for extraordinary costs is the
15 most cost-effective method of funding regulatory asset
16 reimbursements to be made to gas utilities, the railroad
17 commission, after the final resolution of all applications filed
18 under Section 104.365, may request the authority to direct an
19 issuing financing entity to issue customer rate relief bonds.
20 Before making the request, the railroad commission must issue a
21 financing order that complies with this section.

22 (b) To make the determination described by Subsection (a),
23 the railroad commission must find that the proposed structuring,
24 expected pricing, and proposed financing costs of the customer rate
25 relief bonds are reasonably expected to provide benefits to
26 customers by:

27 (1) considering customer affordability; and

1 (2) comparing:

2 (A) the estimated monthly costs to customers
3 resulting from the issuance of customer rate relief bonds; and

4 (B) the estimated monthly costs to customers that
5 would result from the application of conventional recovery methods.

6 (c) The financing order must:

7 (1) include a finding that the use of the
8 securitization financing mechanism is in the public interest and
9 consistent with the purposes of this subchapter;

10 (2) detail the total amount of the regulatory asset
11 determinations to be included in the customer rate relief bond
12 issuance;

13 (3) authorize the recovery of any tax obligation of
14 the gas utilities arising or resulting from:

15 (A) receipt of customer rate relief bond
16 proceeds; or

17 (B) collection or remittance of customer rate
18 relief charges through the gas utilities' gas cost recovery
19 mechanism or other means that the railroad commission determines
20 reasonable;

21 (4) authorize the issuance of customer rate relief
22 bonds through an issuing financing entity;

23 (5) include a statement of:

24 (A) the aggregated regulatory asset
25 determination to be included in the principal amount of the
26 customer rate relief bonds, not to exceed \$10 billion for any
27 separate bond issue;

1 (B) the maximum scheduled final maturity of the
2 customer rate relief bonds, not to exceed 30 years, except that the
3 legal final maturity may be longer based on rating agency and market
4 considerations; and

5 (C) the maximum interest rate that the customer
6 rate relief bonds may bear, not to exceed the maximum net effective
7 interest rate allowed by law;

8 (6) provide for the imposition, collection, and
9 mandatory periodic formulaic adjustment of customer rate relief
10 charges in accordance with Section 104.370 by all gas utilities and
11 successors of gas utilities for which a regulatory asset
12 determination has been made under Section 104.365 to ensure that
13 the customer rate relief bonds and all related financing costs will
14 be paid in full and on a timely basis by customer rate relief
15 charges;

16 (7) authorize the creation of customer rate relief
17 property in favor of the issuing financing entity and pledge of
18 customer rate relief property to the payment of the customer rate
19 relief bonds;

20 (8) direct the issuing financing entity to disperse
21 the proceeds of customer rate relief bonds, net of bond issuance
22 costs, reserves, and any capitalized interest, to gas utilities for
23 which a regulatory asset determination has been made under Section
24 104.365 and include the amounts to be distributed to each
25 participating gas utility;

26 (9) provide that customer rate relief charges be
27 collected and allocated among customers of each gas utility for

1 which a regulatory determination has been made under Section
2 104.365 through uniform monthly volumetric charges to be paid by
3 customers as a component of the gas utility's gas cost or in another
4 manner that the railroad commission determines reasonable; and

5 (10) reflect the commitment made by a gas utility
6 receiving proceeds that the proceeds are in lieu of recovery of
7 those costs through the regular ratemaking process or other
8 mechanism to the extent the costs are reimbursed to the gas utility
9 by customer rate relief bond financing proceeds.

10 (d) The financing order may provide for a centralized
11 servicer to coordinate with participating gas utilities who bill
12 and collect customer rate relief charges and to provide certain
13 collection and forecast data required for calculating true-up
14 adjustments. The financing order may not provide for the railroad
15 commission, the authority, the issuing financing entity, or a
16 participating utility to act as servicer.

17 (e) The principal amount determined by the railroad
18 commission must be increased to include an amount sufficient to:

19 (1) pay the financing costs associated with the
20 issuance, including all bond administrative expenses to be paid
21 from the proceeds of the bonds;

22 (2) reimburse the authority and the railroad
23 commission for any costs incurred for the issuance of the customer
24 rate relief bonds and related bond administrative expenses;

25 (3) provide for any applicable bond reserve fund; and

26 (4) capitalize interest for the period determined
27 necessary by the railroad commission.

1 (f) The authority, consistent with this subchapter and the
2 terms of the financing order, shall:

3 (1) direct an issuing financing entity to issue
4 customer rate relief bonds at the railroad commission's request, in
5 accordance with the requirements of Chapter 1232, Government Code,
6 and other provisions of Title 9, Government Code, that apply to bond
7 issuance by a state agency;

8 (2) determine the methods of sale, types of bonds,
9 bond forms, interest rates, principal amortization, amount of
10 reserves or capitalized interest, and other terms of the customer
11 rate relief bonds that in the authority's judgment best achieve the
12 economic goals of the financing order and effect the financing at
13 the lowest practicable cost; and

14 (3) reimburse the railroad commission, the authority,
15 or any issuing financing entity for bond administrative expenses
16 and other costs authorized under this subchapter.

17 (g) To the extent authorized in the applicable financing
18 order, an issuing financing entity may enter into credit agreements
19 or ancillary agreements in connection with the issuance of customer
20 rate relief bonds.

21 (h) The financing order becomes effective in accordance
22 with its terms. The financing order, together with the customer
23 rate relief property and the customer rate relief charges
24 authorized by the financing order, is irrevocable and not subject
25 to reduction, impairment, or adjustment by further action of the
26 railroad commission, except as provided under Subsection (j) and
27 authorized by Section 104.370.

1 (i) The railroad commission shall issue a financing order
2 under this section not later than the 90th day following the date of
3 the conclusion of all proceedings filed under Section 104.365.

4 (j) A financing order is not subject to rehearing by the
5 railroad commission. A financing order may be appealed only to a
6 Travis County district court by a party to the proceeding. The
7 appeal must be filed not later than the 15th day after the date the
8 financing order is signed by the railroad commission.

9 (k) The judgment of the district court may be reviewed only
10 by direct appeal to the Supreme Court of Texas. The appeal must be
11 filed not later than the 15th day after the date of entry of
12 judgment.

13 (l) All appeals shall be heard and determined by the
14 district court and the Supreme Court of Texas as expeditiously as
15 possible with lawful precedence over other matters. Review on
16 appeal shall be based solely on the record before the railroad
17 commission and briefs to the court and is limited to whether the
18 financing order:

19 (1) complies with the constitution and laws of this
20 state and the United States; and

21 (2) is within the authority of the railroad commission
22 to issue under this subchapter.

23 (m) The railroad commission shall transmit a financing
24 order to the authority after all appeals under this section have
25 been exhausted.

26 (n) The authority shall direct an issuing financing entity
27 to issue customer rate relief bonds as soon as practicable and not

1 later than the 180th day after receipt of a financing order issued
2 under this section, except that the authority may cause the
3 issuance after the 180th day if necessary based on bond market
4 conditions, the receipt of necessary approvals, and the timely
5 receipt of necessary financial disclosure information from each
6 participating gas utility.

7 (o) The issuing financing entity shall deliver customer
8 rate relief bond proceeds net of upfront financing costs in
9 accordance with the applicable financing order.

10 (p) For the benefit of the authority, the issuing financing
11 entity, holders of customer rate relief bonds, and all other
12 financing parties, the railroad commission shall guarantee in a
13 financing order that the railroad commission will take all actions
14 in the railroad commission's powers to enforce the provisions of
15 the financing order to ensure that customer rate relief charge
16 revenues are sufficient to pay on a timely basis scheduled
17 principal and interest on the customer rate relief bonds and all
18 related financing costs and bond administrative expenses.

19 (q) The railroad commission shall make periodic reports to
20 the public regarding each financing.

21 Sec. 104.367. PROPERTY RIGHTS. (a) Customer rate relief
22 bonds are the limited obligation solely of the issuing financing
23 entity and are not a debt of a gas utility or a debt or a pledge of
24 the faith and credit of this state or any political subdivision of
25 this state.

26 (b) Customer rate relief bonds are nonrecourse to the credit
27 or any assets of this state or the authority. A trust fund created

1 in connection with the issuance of customer rate relief bonds is not
2 subject to Subtitle B, Title 9, Property Code.

3 (c) The rights and interests of an issuing financing entity
4 or the successor under a financing order, including the right to
5 receive customer rate relief charges authorized in the financing
6 order, are only contract rights until pledged in connection with
7 the issuance of the customer rate relief bonds, at which time the
8 rights and interests become customer rate relief property.

9 (d) Customer rate relief property created under a financing
10 order is vested ab initio in the issuing financing entity. Customer
11 rate relief property constitutes a present property right for
12 purposes of contracts concerning the sale or pledge of property,
13 notwithstanding that the imposition and collection of customer rate
14 relief charges depends on further acts of the gas utility or others
15 that have not yet occurred. The financing order remains in effect,
16 and the customer rate relief property continues to exist, for the
17 same period as the pledge of the state described by Section 104.374.

18 (e) All revenue and collections resulting from customer
19 rate relief charges constitute proceeds only of a property right
20 arising from the financing order.

21 (f) An amount owed by an issuing financing entity under an
22 ancillary agreement or a credit agreement is payable from and
23 secured by a pledge and interest in the customer rate relief
24 property to the extent provided in the documents evidencing the
25 ancillary agreement or credit agreement.

26 Sec. 104.368. PROPERTY INTEREST NOT SUBJECT TO SETOFF,
27 COUNTERCLAIM, SURCHARGE, OR DEFENSE. The interest of an issuing

1 financing entity or pledgee in customer rate relief property,
2 including the revenue and collections arising from customer rate
3 relief charges, is not subject to setoff, counterclaim, surcharge,
4 or defense by the gas utility or any other person or in connection
5 with the bankruptcy of the gas utility, the authority, or any other
6 entity. A financing order remains in effect and unabated
7 notwithstanding the bankruptcy of the gas utility, the authority,
8 an issuing financing entity, or any successor or assignee of the gas
9 utility, authority, or issuing financing entity.

10 Sec. 104.369. CUSTOMER RATE RELIEF CHARGES NONBYPASSABLE.

11 A financing order must include terms ensuring that the imposition
12 and collection of the customer rate relief charges authorized in
13 the order are nonbypassable.

14 Sec. 104.370. TRUE-UP MECHANISM. (a) A financing order
15 must include a formulaic true-up charge adjustment mechanism that
16 requires that the customer rate relief charges be reviewed and
17 adjusted at least annually by the servicer or replacement servicer,
18 including a subservicer or replacement subservicer, at time periods
19 and frequencies provided in the financing order, to:

20 (1) correct any overcollections or undercollections
21 of the preceding 12 months; and

22 (2) ensure the expected recovery of amounts sufficient
23 to provide for the timely payment of customer rate relief bond
24 principal and interest payments and other financing costs.

25 (b) True-up charge adjustments must become effective not
26 later than the 30th day after the date the railroad commission
27 receives a true-up charge adjustment letter from the servicer or

1 replacement servicer notifying the railroad commission of the
2 pending adjustment.

3 (c) Any administrative review of true-up charge adjustments
4 must be limited to notifying the servicer of mathematical or
5 clerical errors in the calculation. The servicer may correct the
6 error and refile a true-up charge adjustment letter, with the
7 adjustment becoming effective as soon as practicable but not later
8 than the 30th day after the date the railroad commission receives
9 the refiled letter.

10 Sec. 104.371. SECURITY INTERESTS; ASSIGNMENT; COMMINGLING;
11 DEFAULT. (a) Customer rate relief property does not constitute an
12 account or general intangible under Section 9.106, Business &
13 Commerce Code. The creation, granting, perfection, and enforcement
14 of liens and security interests in customer rate relief property
15 that secures customer rate relief bonds are governed by Chapter
16 1208, Government Code.

17 (b) The priority of a lien and security interest perfected
18 under this section is not impaired by any later adjustment of
19 customer rate relief charges under a mechanism adopted under
20 Section 104.370 or by the commingling of funds arising from
21 customer rate relief charges with other funds. Any other security
22 interest that may apply to those funds is terminated when the funds
23 are transferred to a segregated account for the issuing financing
24 entity or a financing party. If customer rate relief property has
25 been transferred to a trustee or another pledgee of the issuing
26 financing entity, any proceeds of that property must be held in
27 trust for the financing party.

1 (c) If a default or termination occurs under the customer
2 rate relief bonds, a district court of Travis County, on
3 application by or on behalf of the financing parties, shall order
4 the sequestration and payment to the financing parties of revenue
5 arising from the customer rate relief charges.

6 Sec. 104.372. BOND PROCEEDS IN TRUST. (a) The issuing
7 financing entity may deposit proceeds of customer rate relief bonds
8 issued by the issuing financing entity under this subchapter with a
9 trustee selected by the issuing financing entity or the proceeds
10 may be held by the comptroller in a dedicated trust fund outside the
11 state treasury in the custody of the comptroller.

12 (b) Bond proceeds, net of the financing costs and reserves
13 described by Subdivisions (2) and (3), including investment income,
14 must be held in trust for the exclusive benefit of the railroad
15 commission's policy of reimbursing gas utility costs and applied in
16 accordance with the financing order. The issuing financing entity
17 shall deliver the net proceeds, as provided in the applicable
18 financing order, to:

19 (1) reimburse each gas utility the regulatory asset
20 amount determined to be reasonable for that gas utility in the
21 financing order;

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

23 (3) provide bond reserves or fund any capitalized
24 interest, as applicable.

25 (c) On full payment of the customer rate relief bonds and
26 any related financing costs, any customer rate relief charges or
27 other amounts held as security for the bonds shall be used to

1 provide credits to gas utility customers as provided in the
2 financing order.

3 Sec. 104.373. REPAYMENT OF CUSTOMER RATE RELIEF BONDS. (a)
4 As long as any customer rate relief bonds or related financing costs
5 remain outstanding, uniform monthly volumetric customer rate
6 relief charges must be paid by all current and future customers that
7 receive service from a gas utility for which a regulatory asset
8 determination has been made under Section 104.365. A gas utility
9 and its successors, assignees, or replacements shall continue to
10 bill and collect customer rate relief charges from the gas
11 utility's current and future customers until all customer rate
12 relief bonds and financing costs are paid in full.

13 (b) The authority shall report to the railroad commission
14 the amount of the outstanding customer rate relief bonds issued by
15 the issuing financing entity under this subchapter and the
16 estimated amount of annual bond administrative expenses.

17 (c) All revenue collected from the customer rate relief
18 charges shall be remitted promptly by the applicable servicers to
19 the issuing financing entity or the bond trustee for the customer
20 rate relief bonds to pay bond obligations and ongoing financing
21 costs, including bond administrative expenses, to ensure timely
22 payment of bond obligations and financing costs.

23 (d) Customer rate relief property, including customer rate
24 relief charges, may be applied only as provided by this subchapter.

25 (e) Bond obligations are payable only from sources provided
26 for payment by this subchapter.

27 Sec. 104.374. PLEDGE OF STATE. (a) Customer rate relief

1 bonds issued under this subchapter and any related ancillary
2 agreements or credit agreements are not a debt or pledge of the
3 faith and credit of this state or a state agency or political
4 subdivision of this state. A customer rate relief bond, ancillary
5 agreement, or credit agreement is payable solely from customer rate
6 relief charges as provided by this subchapter.

7 (b) Notwithstanding Subsection (a), this state, including
8 the railroad commission and the authority, pledges for the benefit
9 and protection of the financing parties and the gas utility that
10 this state will not take or permit any action that would impair the
11 value of customer rate relief property, or, except as permitted by
12 Section 104.370, reduce, alter, or impair the customer rate relief
13 charges to be imposed, collected, and remitted to financing parties
14 until the principal, interest and premium, and contracts to be
15 performed in connection with the related customer rate relief bonds
16 and financing costs have been paid and performed in full. Each
17 issuing financing entity shall include this pledge in any
18 documentation relating to customer rate relief bonds.

19 (c) Before the date that is two years and one day after the
20 date that an issuing financing entity no longer has any payment
21 obligation with respect to customer rate relief bonds, the issuing
22 financing entity may not wind up or dissolve the financing entity's
23 operations, may not file a voluntary petition under federal
24 bankruptcy law, and neither the board of the issuing financing
25 entity nor any public official nor any organization, entity, or
26 other person may authorize the issuing financing entity to be or to
27 become a debtor under federal bankruptcy law during that period.

1 The state covenants that it will not limit or alter the denial of
2 authority under this subsection, and the provisions of this
3 subsection are hereby made a part of the contractual obligation
4 that is subject to the state pledge made in this section.

5 Sec. 104.375. TAX EXEMPTION. (a) The sale or purchase of
6 or revenue derived from services performed in the issuance or
7 transfer of customer rate relief bonds issued under this subchapter
8 is exempt from taxation by this state or a political subdivision of
9 this state.

10 (b) A gas utility's receipt of customer rate relief charges
11 is exempt from state and local sales and use taxes and utility gross
12 receipts taxes and assessments, and is excluded from revenue for
13 purposes of franchise tax under Section 171.1011, Tax Code.

14 Sec. 104.376. RECOVERABLE TAX EXPENSE. A tax obligation of
15 the gas utility arising from receipt of customer rate relief bond
16 proceeds or from the collection or remittance of customer rate
17 relief charges is an allowable expense under Section 104.055.

18 Sec. 104.377. ISSUING FINANCING ENTITY OR FINANCING PARTY
19 NOT PUBLIC UTILITY. An issuing financing entity or financing party
20 may not be considered to be a public utility or person providing
21 natural gas service solely by virtue of the transactions described
22 by this subchapter.

23 Sec. 104.378. NO PERSONAL LIABILITY. A commissioner of the
24 railroad commission, a railroad commission employee, a member of
25 the board of directors of the authority, an employee of the
26 authority, or a director, officer, or employee of any issuing
27 financing entity is not personally liable for a result of an

1 exercise of a duty or responsibility established under this
2 subchapter.

3 Sec. 104.379. CATASTROPHIC WEATHER EVENT STUDY. (a) The
4 railroad commission shall conduct a study on measures to mitigate
5 catastrophic weather events, including measures to:

6 (1) establish natural gas storage capacity to ensure a
7 reliable gas supply, including location, ownership, and other
8 pertinent factors regarding gas storage capacity;

9 (2) assess the advantages and disadvantages of
10 requiring local distribution companies to use hedging tactics to
11 avoid volatile customer rates; and

12 (3) assess the advantages and disadvantages of
13 prohibiting spot market purchases during a catastrophic weather
14 event that contribute to volatile customer rates.

15 (b) Not later than December 1, 2022, the railroad commission
16 shall report the railroad commission's findings to the governor,
17 the lieutenant governor, and the speaker of the house of
18 representatives.

19 (c) This section expires August 31, 2023.

20 Sec. 104.380. SEVERABILITY. After the date customer rate
21 relief bonds are issued under this subchapter, if any provision in
22 this title or portion of this title or related provisions in Title
23 9, Government Code, are held to be invalid or are invalidated,
24 superseded, replaced, repealed, or expire for any reason, that
25 occurrence does not affect the validity or continuation of this
26 subchapter or any other provision of this title or related
27 provisions in Title 9, Government Code, that are relevant to the

1 issuance, administration, payment, retirement, or refunding of
2 customer rate relief bonds or to any actions of a gas utility, its
3 successors, an assignee, a collection agent, or a financing party,
4 which shall remain in full force and effect.

5 SECTION 6. This Act takes effect immediately if it receives
6 a vote of two-thirds of all the members elected to each house, as
7 provided by Section 39, Article III, Texas Constitution. If this
8 Act does not receive the vote necessary for immediate effect, this
9 Act takes effect September 1, 2021.

President of the Senate

Speaker of the House

I certify that H.B. No. 1520 was passed by the House on April 20, 2021, by the following vote: Yeas 139, Nays 5, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 1520 on May 28, 2021, by the following vote: Yeas 130, Nays 12, 1 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 1520 was passed by the Senate, with amendments, on May 26, 2021, by the following vote: Yeas 29, Nays 2.

Secretary of the Senate

APPROVED: _____

Date

Governor