By: Hall S.B. No. 1003

A BILL TO BE ENTITLED

AN ACT

relating to promoting the resilience of the electric grid and certain municipalities.

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

SECTION 1. The legislature finds that:

(1) A resilient Texas electric grid that offers businesses continuity of operations in the event of a natural or man-made disaster, including hurricanes, flooding, terrorist attacks, cybersecurity threats, electromagnetic pulse threats, and geomagnetic disturbance threats, will be an unrivaled attraction for businesses to expand or move their operations to this state and for protecting military installations;

(2) this state's food and water supplies, fuel supply, communications systems, banking, hospitals and health care facilities, law enforcement, and countless critical functions depend on the electric grid, making the grid's protection vital to our economy and homeland security;

(3) the United States Department of Homeland Security has recommended protection against these threats and has published Electromagnetic Pulse (EMP) Protection and Resilience Guidelines for Critical Infrastructure and Equipment, which can be used to mitigate the effects of such a disaster;

(4) Texas Governor Greg Abbott has outlined in his most recent state-wide address that he is giving the legislature

time during this legislative session "to make Texas more resilient to future disasters" by "making disaster response an emergency item;"

(5) public confidence in the resilience of the Texas electric grid is essential to ensuring economic prosperity, domestic tranquility, continuity of government, and life-sustaining systems;

(6) protection of the electric grid would assure these businesses and the citizens of this state that the "lights will be back on first in Texas" in the event of a catastrophic failure of the grid;

(7) the federal government has failed to protect the citizens of this state by addressing the vulnerability of the electric grid;

(8) Texas is uniquely positioned to be the first state to take action to protect its electric grid, because it is the only state with a grid exclusively within its boundaries; and

(9) when this state begins implementation of the electric grid resilience plan, short- and long-term economic benefit will far exceed, even the most optimistic estimates of, the conventional economic incentives provided by tax abatements to attract businesses to this state.

SECTION 2. Subtitle B, Title 2, Utilities Code, is amended by adding Chapter 44 to read as follows:

CHAPTER 44. GRID RESILIENCE

Sec. 44.001. DEFINITIONS. In this chapter:

(1) "EMP Commission reports" means the July 2017

report released by the Commission to Assess the Threat to the United States from Electromagnetic Pulse (EMP) Attack titled "Recommended E3 HEMP Heave Electric Field Waveform for the Critical Infrastructures" and all other reports by the EMP Commission.

(2) "Micro-grid" means a group of interconnected loads and distributed energy resources inside clearly defined electrical boundaries that act as a single controllable entity with respect to the grid.

(3) "Security commission" means the Texas Grid Security Commission.

Sec. 44.002. TEXAS GRID SECURITY COMMISSION. (a) The security commission is composed of the following members:

(1) a representative of the Texas Division of Emergency Management appointed by the chief of the division;

(2) a representative of the State Office of Risk Management appointed by the risk management board;

(3) a representative of the independent organization certified under Section 39.151 for the ERCOT region appointed by the chief executive officer of the organization;

(4) a representative of the Texas Military Department appointed by the adjutant general of the department;

(5) a representative of the Texas Military Preparedness Commission appointed by the military preparedness commission;

(6) a representative of the Office of State-Federal Relations appointed by the director of the office;

(7) a representative of the Department of Information

Resources appointed by the director of the department.

(8) a representative of power generation companies appointed by the chief of the Texas Division of Emergency Management;

(9) two representatives of transmission and distribution utilities appointed by the chief of the Texas Division of Emergency Management;

(10) one representative appointed by the chief of the Texas Division of Emergency Management from each of the following essential services sectors:

(A) law enforcement;

(B) emergency services;

(C) communications;

(D) water and sewer services;

(E) health care;

(F) financial services; and

(G) food and agriculture;

(11) an expert in the field of higher education appointed by the chief of the Texas Division of Emergency Management.

(b) The chief of the Texas Division of Emergency Management may appoint a member of the United States Air Force's Electromagnetic Defense Task Force to the security commission.

(c) The Texas Division of Emergency Management shall designate a member of the security commission to serve as presiding officer.

(d) The security commission shall convene at the call of the

presiding officer.

(e) A vacancy on the security commission is filled by appointment for the unexpired term in the same manner as the original appointment.

Sec. 44.003. GRID RESILIENCE INFORMATION. (a) Information used in determining the vulnerabilities of the electric grid or that is related to measures to be taken to protect the grid is confidential and not subject to Chapter 552, Government Code.

(b) Information described by Subsection (a) shall be stored and maintained by the independent organization certified under Section 39.151 for the ERCOT region.

(c) A member of the security commission may not access confidential information described by Subsection (a) unless the member has a secret security clearance granted by the federal government.

(d) The following members of the security commission may apply for a secret security clearance or an interim secret security clearance to be granted by the federal government:

(1) the representative of the independent organization certified under Section 39.151 for the ERCOT region;

(2) the representative of the Texas Division of Emergency Management; and

(3) the representative of the State Office of Risk Management.

Sec. 44.004. CRITICAL COMPONENT RESILIENCE. (a) The State Office of Risk Management shall select a contractor to identify critical components of the ERCOT electric grid vulnerable to EMP,

GMD, cyber, or physical attack. The contractor must identify the critical components before the expiration of six months after the date the contractor is engaged.

(b) Not later than January 1, 2021, an entity that owns or operates a component identified by the contractor under Subsection (a) as critical shall upgrade the component as necessary for the component to meet the applicable standard proposed in the EMP Commission reports.

(c) The State Office of Risk Management shall select a contractor to verify whether affected entities have upgraded components as required by Subsection (b).

(d) Each contractor selected by the State Office of Risk Management under this section must have experience hardening electrical systems to meet military standards at the federal level.

Sec. 44.005. PLAN FOR CONTINUITY OF SERVICES. (a) Not later than January 1, 2020, the security commission shall prepare and deliver to the legislature a plan for continuity of services in the event of a catastrophic loss of power in the state.

(b) The plan must include:

(1) provisions for installing, replacing, or upgrading extra high-voltage power transformers and supervisory control and data acquisition systems to withstand 100 kilovolts/meter E1 electromagnetic pulses and 85 volts/kilometer E3 electromagnetic pulses not later than January 1, 2024;

(2) a timeline for upgrading remaining infrastructure to meet recommendations of the EMP Commission reports; and

(3) long-term resilience provisions for supporting

industries including:

(A) nuclear reactors, materials, and waste

(B) fuel supply;

(C) health care;

(D) communications;

(E) water and sewer services; and

(F) food supply; and

(4) any additional provisions deemed necessary by the security commission.

(c) The security commission may consult with the Private Sector Advisory Council in developing the plan.

(d) The Texas Division of Emergency Management shall incorporate the plan into the state emergency management plan and update the plan as necessary to incorporate the progressive improvement of the system.

Sec. 44.006. ALTERNATIVE TIMELINE OR STANDARD. A panel composed of members of the security commission who have obtained a secret security clearance granted by the federal government may approve a resilience standard or implementation timeline for an electric utility or other entity that differs from a resilience standard or implementation timeline adopted under Section 44.005.

Sec. 44.007. RESILIENCE COST RECOVERY. A regulatory authority shall include in establishing the rates of an electric utility consideration of the costs incurred to install, replace, or upgrade facilities or equipment to meet a resilience standard established under this chapter. A regulatory authority shall presume that costs incurred to meet a resilience standard under

this chapter are reasonable and necessary expenses.

Sec. 44.008. MICRO-GRIDS. (a) The security commission shall establish resilience standards for micro-grids and certify a micro-grid that meets the standards.

(b) Except as provided by Subsection (c), a municipality or other political subdivision may not enact or enforce an ordinance or other measure that bans, limits, or otherwise regulates inside the boundaries or extraterritorial jurisdiction of the municipality or political subdivision a micro-grid that is certified by the security commission under this section.

(c) The owner or operator of a micro-grid certified by the security commission is a power generation company and is required to register under Section 39.351(a). The owner or operator of the micro-grid is entitled to:

(1) interconnect the micro-grid;

(2) obtain transmission service for the micro-grid; and

(3) use the micro-grid to sell electricity and ancillary services at wholesale in a manner consistent with the provisions of this title and commission rules applicable to a power generation company or an exempt wholesale generator.

SECTION 3. Chapter 380, Local Government Code, is amended by adding Section 380.004 to read as follows:

Sec. 380.004. FIVE STAR GOLD RESILIENT COMMUNITIES.

(a) An Energy Resilient Community is one where provisions have been made to ensure that energy, electric power, and fuel supplies are protected and available for

recovery in the event of a catastrophic power outage.

(b) The Texas Grid Security Commission shall establish resilience standards for municipalities in the following essential service areas:

(1) emergency services;

(2) communications systems;

(3) clean water and sewer services;

(4) health care systems; and

(5) financial services.

(c) On the application of a municipality for the designation, the Texas Grid Security Commission may designate a municipality that meets the resilience standards in the applicable service area as:

(1) a Resilient Emergency Services Community;

(2) a Resilient Communications Systems Community;

(3) a Resilient Clean Water and Sewer Services Community;

(4) a Resilient Health Care Systems Community; or

(5) a Resilient Financial Services Community.

(d) The Texas Grid Security Commission may designate a municipality that meets the resilience standards in all five service areas as a Five Star Gold Resilient Community.

(d) A municipality may not use a resilient community designation in advertising, marketing, or economic development initiatives unless the Texas Grid Security Commission has awarded the municipality with the designation in the applicable service area or as a Five Star Gold Resilient Community.

SECTION 4. Not later than January 1, 2021, the Texas Grid Security Commission shall prepare and deliver a report to the legislature on the progress of implementing resilience standards adopted under Sections 44.004 and 44.005, Utilities Code, as added by this Act.

SECTION 5. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article II, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2019.