

**PROPOSED AMENDMENTS TO 16 TAC §  
§7.455, RELATING TO CURTAILMENT §  
STANDARDS §**

**BEFORE THE  
RAILROAD COMMISSION  
OF TEXAS**

**ATMOS ENERGY CORPORATION, CENTERPOINT ENERGY RESOURCES CORP.,  
AND TEXAS GAS SERVICE COMPANY COMMENTS TO PROPOSED  
AMENDMENTS TO 16 TAC § 7.455, RELATING  
TO CURTAILMENT STANDARDS**

Atmos Energy Corporation’s Mid-Tex and West Texas Divisions (“Atmos Energy”), CenterPoint Energy Resources Corp. d/b/a CenterPoint Energy Entex (“CenterPoint”), and Texas Gas Service Company, a Division of ONE Gas, Inc. (“TGS”) (collectively “Texas LDCs”) submit these timely filed comments in response to proposed amendments to 16 Tex. Admin. Code (“TAC”) § 7.455 (“proposed amendments”) relating to curtailment standards approved for publication by the Railroad Commission of Texas (“Commission”) on November 10, 2021, and published in the November 26, 2021 issue of the *Texas Register*<sup>1</sup>.

**I. OVERVIEW**

The Texas LDCs operate as gas utilities under Texas Utilities Code § 101.003(7) and are subject to the original and appellate jurisdiction of the Commission. Collectively, the Texas LDCs provide service to a wide array of over 4 million residential, commercial, governmental, and industrial customers. This represents over 90 percent of the natural gas customers in the State of Texas. Texas LDCs are submitting these comments because they each operate local distribution company (“LDC”) pipelines and pipeline facilities subject to the Commission’s curtailment standards.

Since at least 1972, when the Commission adopted the Final Order in GUD No. 489 (“GUD No. 489”), it has placed the highest priority for natural gas availability and delivery on residences,

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<sup>1</sup> 46 Tex. Reg. 7943-7944 (Nov. 26, 2021).

hospitals, schools, churches, and other human needs customers. Texas LDCs appreciate that the proposed amendments continue to recognize the sound public policy underlying this service prioritization by making human needs service the very highest priority and making all firm service a higher priority than all interruptible service.

## **II. COMMENTS ON PROPOSED AMENDMENTS**

As discussed in detail below, the Texas LDCs respectfully request that the Commission revise the proposed amendments to accomplish the following:

- Revise the definition of curtailment event to limit it to situations where deliveries are interrupted to firm customers;
- Revise the definition of electric generation facilities to include only those facilities that are registered with the balancing authority and add a definition for balancing authority;
- Revise the definition of human needs customers to include small commercial customers that the LDCs cannot practically curtail without curtailing human needs customers;
- Revise subsection (d)(1)(H) to delete the requirement that interruptible deliveries will be made according to the same priorities in subsection (d)(1)(A)-(G);
- Add a new subsection (e) to recognize that a curtailment event may be limited to a specific pipeline segment or local distribution system; and
- Revise the tariff filing requirement to require gas utilities to file tariffs that include curtailment “priorities” rather than “standards.”

**A. Definition of Curtailment Event**

Proposed §7.455(a)(2) defines Curtailment Event as follows:

(2) Curtailment event—When a gas utility determines that its ability to deliver gas may become inadequate to support continuous service to its customers on its system and it reduces deliveries to one or more customers.

First, gas utilities in Texas provide both sales and transportation service. In order to clarify that a curtailment event can occur with respect to either type of service, the proposed definition should be revised to include a reference to transportation service.

Second, the proposed definition provides that any interruption or reduction of service by a gas utility results in a curtailment event. However, gas utilities' interruptible contracts and tariffs specifically contemplate and provide that the sales or transportation service may be interrupted and a reduction in service under this type of contract is not a curtailment event but rather an interruption. Therefore, the interruption or reduction of service to an interruptible customer should not constitute a curtailment event and the proposed definition should be revised to make that clarification.

The Texas LDCs respectfully request that proposed §7.455(a)(2) be revised to read as follows:

(2) Curtailment event—When a gas utility determines that its ability to transport or deliver gas may become inadequate to support continuous service to its firm customers on its system and it reduces deliveries to one or more firm customers.

**B. Definition of Electric Generation Facilities**

Proposed §7.455(a)(3) defines Electric Generation Facilities as follows:

(3) Electric generation facilities—includes bulk power system assets, co-generation facilities, distributed generation, or backup power systems.

Proposed §7.455(d)(1)(B) rightfully places electric generation facilities taking firm service from gas utilities in the curtailment category immediately behind human needs customers and

recognizes the importance of securing natural gas to produce electricity for Texas customers. With that goal in mind, it is imperative that the definition of electric generation facilities includes only those facilities that are actually capable of delivering electricity to the grid and excludes customers with generation facilities that only produce electricity for the customers' own consumption. In addition, the definition should not be difficult for gas utilities and customers to understand and apply during a curtailment event.

Electric generation facilities capable of delivering electricity to Texas customers are required to register with the balancing authority that is responsible for balancing the electric supply, demand and interchange on the grid in the electric generation facilities' location. The Electric Reliability Council of Texas is the balancing authority that manages the flow of electricity for approximately 90% of the Texas power supply. The balancing authorities for the remaining portion of the State's power supply include El Paso Electric, the Midcontinent Independent System Operator, Entergy, and the Southwest Power Pool.

To make clear which electric generation facilities are entitled to the priority in proposed §7.455(d)(1)(B), the definition of electric generation facilities should be revised to include only those facilities that are registered with the appropriate balancing authority. In addition, a definition for balancing authority should be added to subsection (a)(3) through reference to the "Balancing Authority" definition in the NERC reliability standards.

These revisions will accomplish two significant goals. First, they will help to ensure that the generation facilities entitled to the higher priority are ones that provide power to the broader electric grid, rather than just for onsite consumption. Second, by reviewing the list of facilities registered with the balancing authority, gas utilities will be able to easily identify which of its customers qualify as electric generation facilities.

The Texas LDCs respectfully request that proposed §7.455(a)(3) be revised to read as follows:

(3) Electric generation facilities—includes bulk power system assets, co-generation and distributed generation facilities registered with the applicable balancing authority as defined in the reliability standards of the North American Electric Reliability Corporation.

**C. Definition of Human Needs Customers**

Proposed §7.455(a)(5) defines Human needs customers as follows:

(5) Human needs customers—Residences and other locations where people may congregate in an emergency, such as schools and places of worship, and hospitals, police, fire, military, and civil defense facilities.

Local distribution companies deliver natural gas through distribution systems that are comprised of a series of pipelines including mains and service lines. Because residential, commercial, governmental, and industrial customers are all generally served off the same pipelines, there may be circumstances where a local distribution company is not able to curtail its non-residential customers without curtailing human needs customers. The Order issued in Docket No. 489 recognized this fact in one of its introductory paragraphs that reads as follows:

WHEREAS, the Commission has determined that the transportation delivery and/or sale of natural gas in the State of Texas for any purpose other than human need consumption will be curtailed to whatever extent and for whatever periods the Commission may find necessary for the primary benefit of human needs customers (domestic and commercial consumption) and such small industries as cannot practically be curtailed without curtailing human needs.

Proposed §7.455(a)(5) should be revised to recognize that all customers of local distribution companies are served off the same series of pipelines and that certain commercial customers cannot be curtailed without also curtailing human needs customers.

The Texas LDCs respectfully request that proposed §7.455(a)(5) be revised to read as follows:

(5) Human needs customers—Residences and other locations where people may congregate in an emergency, such as schools and places of worship, and hospitals, police, fire, military, and civil defense facilities and such small commercial customers that cannot practicably be curtailed without curtailing human needs customers.

**D. Revise proposed §7.455(d)(1)(H) to delete the requirement that interruptible deliveries will be made according to the same priorities in §7.455(d)(1)(A)-(G)**

Proposed §7.455(d)(1)(H) reads as follows:

(H) interruptible deliveries of natural gas made subject to interruption or curtailment under mutually agreed upon contracts and/or tariffs. Interruptible deliveries shall be made according to the priorities as listed in subparagraphs (A) – (G).

The proposed rule recognizes that interruptible deliveries are afforded the lowest priority of service, while the above discussion in Section A regarding the definition of curtailment event and the nature of interruptible customers points out that a customer’s specific contract or tariff determines when and how deliveries to such customer may be interrupted. Taken together, it is reasonable to conclude that the priority of deliveries to interruptible customers should be determined by the gas utility’s “mutually agreed contracts and tariffs” rather than imposed by the Commission as provided in the proposed rule. Deleting the second sentence of proposed §7.455(d)(1)(H) will allow contractual and tariff provisions to determine the priority of interruptible customers.

The Texas LDCs respectfully request that proposed §7.455(d)(1)(H) be revised to read as follows:

(H) interruptible deliveries of natural gas made subject to interruption or curtailment under mutually agreed upon contracts and/or tariffs.

**E. Add new subsection §7.455(e) to recognize that if a curtailment event is limited to a specific pipeline segment or local distribution system, a gas utility is not required to apply curtailment priorities on pipeline segments or local distribution systems that have not experienced a curtailment event.**

Winter Storm Uri was an unprecedented event that significantly affected the operation of practically every Texas natural gas pipeline and local distribution company and resulted in Governor Greg Abbott declaring a state of emergency for all 254 Texas counties. The proposed curtailment rule should be drafted to address not only the extreme state-wide conditions gas utilities faced during Uri, but also less severe, more regional, or localized weather or other curtailment events that may only impact the operation of a single pipeline segment or local distribution system.

The addition of language acknowledging that a limited curtailment event will only result in the application of curtailment priorities on those pipeline segments or distribution systems experiencing the curtailment event will allow large gas utility operators to primarily focus attention on those segments or systems experiencing difficulty.

The Texas LDCs respectfully request that a new subsection §7.455(e) be added to read as follows:

(e) If a curtailment event is limited to a specific pipeline segment or local distribution system, a gas utility is not required to apply the priorities in subsection (d) on the pipeline segments or local distribution systems that have not experienced a curtailment event.

**F. Revise proposed §7.455(f) to require tariff filings that include curtailment “priorities” rather than “standards.”**

Proposed §7.455(f) reads as follows:

(f) Required tariff filings. Within 90 days of the effective date of this section, each gas utility shall electronically file with the Commission, in the manner prescribed by the Commission, tariffs that shall include either:

- (1) the curtailment standards as specified in this section; or
- (2) a curtailment plan approved by the Commission as specified in section (f) of this section.

Proposed §7.455(f)(1) requires gas utilities that choose not to have an individual curtailment plan approved by the Commission to electronically file tariffs that include the curtailment “standards” specified in the rule. The curtailment “standards” are specified in proposed §7.455(c) and describe how gas utilities are to operate their systems and facilities during a curtailment event with respect to augmenting gas supply and directing gas supplies and transportation capacity to provide service to human needs customers.

While those curtailment “standards” are certainly significant, it would seem that the curtailment “priorities” specified in proposed §7.455(d) are far more significant with respect to the kind of information that is typically included in a gas utility’s tariffs.

The Texas LDCs respectfully request that proposed §7.455(f) be revised to read as follows:

(f) Required tariff filings. Within 90 days of the effective date of this section, each gas utility shall electronically file with the Commission, in the manner prescribed by the Commission, tariffs that shall include either:

- (1) the curtailment priorities as specified in this section; or
- (2) a curtailment plan approved by the Commission as specified in section (f) of this section.

**G. Policy Considerations regarding Plant Protection Provision**

Proposed §7.455(d)(C) reads as follows:

(C) firm deliveries of natural gas to industrial and commercial users of the minimum natural gas required to prevent physical harm and/or ensure critical safety to the plant facilities, to plant personnel, or the public when such protection cannot be achieved through the use of an alternate fuel;

The proposed language recognizes that gas utilities will need to work with industrial and commercial customers to determine the volumes of gas needed for plant protection during a curtailment event, assuming sufficient supplies are available while serving its firm customers in categories (A) and (B). Since the volumes required may vary over time, LDCs may propose tariff provisions requiring customers to annually certify their plant protection needs so that gas utilities will have the ability to confirm the operational ability to meet that need.

### **III. CONCLUSION**

The Texas LDCs appreciate the opportunity to submit these comments and look forward to working with the Commission, Staff, and other interested parties to developing the final version of this significant rulemaking.

Respectfully submitted,

/s/Daniel R. Renner

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