

PROPOSED RULE § 3.66 RELATING TO WEATHER EMERGENCY PREPAREDNESS STANDARDS §
§
§ **RAILROAD COMMISSION OF TEXAS**

JOINT ELECTRIC UTILITIES’ COMMENTS ON PROPOSED RULE § 3.66

AEP Texas Inc. (AEP Texas), Entergy Texas, Inc. (Entergy Texas), Oncor Electric Delivery Company LLC (Oncor), Southwestern Electric Power Company (SWEPCO), Southwestern Public Service Company (SPS), and Texas-New Mexico Power Company (TNMP) (collectively, the Joint Electric Utilities) provide the following comments regarding the Railroad Commission of Texas’ (RRC’s) proposed rule 16 Texas Administrative Code (TAC) § 3.66. The Joint Electric Utilities appreciate the collaboration by the RRC with the Public Utility Commission of Texas (PUC) on weather emergency preparedness, as well as the opportunity to comment on this proposed rule before the RRC.

The Joint Electric Utilities collectively provide electric delivery service to more than 6,000,000 homes and businesses in Texas. SWEPCO and SPS are vertically integrated electric utilities operating within the Southwest Power Pool, Inc. (SPP) power region, and Entergy Texas is a vertically integrated electric utility operating in the Midcontinent Independent System Operator, Inc. (MISO) power region. AEP Texas, Oncor, and TNMP are electric transmission and distribution utilities (TDUs) operating within the Electric Reliability Council of Texas, Inc. (ERCOT) power region.

I. Comments

In drafting proposed 16 TAC § 3.66, the RRC referenced its recently created *Critical Designation of Natural Gas Infrastructure* rule: “The gas supply chain facility operators who must comply are those whose facilities are included on the electricity supply chain map created under § 38.203 of the Texas Utilities Code and are designated as critical by the Commission in 16 Texas Administrative Code (TAC) § 3.65, relating to Critical Designation of Natural Gas Infrastructure,

which was adopted under Texas Natural Resources Code § 81.073.”¹ The creation of 16 TAC § 3.65 was mandated by Section 4 of Senate Bill 3, which created Texas Natural Resources Code § 81.073 including the following requirement: “The rules must require that only facilities and entities that are prepared to operate during a weather emergency may be designated as a critical customer under this section.”²

In other words, the law prohibits natural gas entities from including non-weatherized facilities in the list of “critical” facilities they provide to the electric utility. To include such facilities would defeat the purpose of prioritizing them during a weather emergency. Despite this statutory requirement, 16 TAC § 3.65 designates numerous types of facilities as critical, but does not contain a provision requiring those critical natural gas facilities to weatherize. Similarly, it does not contain language that would limit the list of critical facilities to those that have been weatherized. Nor does Form CI-D or CI-D Attachment contain any such limitations. That rule and its forms do not specify that a critical natural gas facility must be prepared to operate during a weather emergency.

Therefore, absent a simultaneous revision of 16 TAC § 3.65, proposed 16 TAC § 3.66 must be adopted in a manner requiring facilities deemed critical customers under 16 TAC § 3.65 to comply with 16 TAC § 3.66. But as proposed, 16 TAC § 3.66 does not include such a requirement. Instead, this new weatherization rule would apply only to a limited subset of facilities specified in proposed 16 TAC § 3.66(a):

1. A gas supply chain facility that meets both of the following criteria: (1) is designated as critical under § 3.65, and (2) is included on the electricity supply chain map created under Texas Utilities Code § 38.203; and

¹ See page 1 of Memorandum from Haley Cochran to Chairman Wayne Christian, Commissioner Christi Craddick, and Commissioner Jim Wright pertaining to Proposed New § 3.66 Relating to Weather Emergency Preparedness Standards, dated June 24, 2022.

² Texas Natural Resources Code § 81.073(b)(3).

2. A gas pipeline facility that meets all of the following criteria: (1) is regulated by the RRC under Chapter 121 of the Utilities Code, (2) directly serves a natural gas electric generation facility operating solely to provide power to the electric grid for the Electric Reliability Council of Texas (ERCOT) power region or for the ERCOT power region and an adjacent power region, and (3) is included on the electricity supply chain map created under Texas Utilities Code § 38.203.³

The proposed rule does not include all varieties of natural gas facilities designated as critical by 16 TAC § 3.65(b) and (c). Furthermore, it would only require a critical facility to weatherize if it is included on the electricity supply chain map, even though § 81.073(b)(3) requires any facility designated as a critical customer to be prepared to operate during a weather emergency.

The Joint Electric Utilities recommend that 16 TAC § 3.66 clearly state that any facility designated as a critical customer under 16 TAC § 3.65 must comply with the weatherization requirements of 16 TAC § 3.66, in accordance with Texas Natural Resources Code § 81.073(b)(3). If a facility does not meet the RRC's weatherization requirements, then it must not be designated as a critical customer for the purposes of 16 TAC § 25.52(h) relating to prioritization of critical natural gas facilities by electric utilities. To deem a non-weatherized facility as such would violate the law and defeat the purpose of prioritizing the facility during a weather emergency. The Joint Electric Utilities respectfully propose the following revision to the proposed rule:

(a) Applicability.

(1) [No change.]

(2) [No change.]

(3) In accordance with Texas Natural Resources Code § 81.073(b)(3), this section applies to any facility designated as a critical customer under § 3.65 of this title that is not included in the preceding paragraphs.⁴

³ Proposed 16 TAC § 3.66(a)(1) and (a)(2).

⁴ Corresponding revisions will be needed to conform the proposed rule to this requirement. For example, the applicability of paragraph (d)(1) would need to be expanded.

II. Conclusion

The Joint Electric Utilities appreciate the opportunity to comment on the proposed rule and are available to respond to questions if needed.

Respectfully submitted,

/s/ Leila Melhem _____

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