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August 15, 2022

Rules Coordinator
Railroad Commission of Texas
Office of General Counsel
P.O. Drawer 12967
Austin, Texas 78711-2967

Re: Proposed New §3.66, relating to Weather Emergency Preparedness Standards

Mr. Chairman and Commissioners:

Occidental (Oxy) appreciates the opportunity to submit comments on the Railroad Commission of Texas's (Commission) proposed rule to be codified at 16 Texas Administrative Code (TAC) §3.66, related to Weather Emergency Preparedness Standards.

Oxy is an international energy company and one of the largest oil producers in the U.S., including the largest acreage holder and a leading producer in the Permian holding both conventional and unconventional acreage. The key elements of Oxy's onshore strategy are to leverage our subsurface technical skills, unconventional shale development expertise and carbon dioxide (CO₂) enhanced oil recovery (EOR) position and capabilities. With decades of experience in large-scale CO₂ transportation, use and storage for EOR, Oxy is applying carbon management expertise to advance low-carbon initiatives that will sustainably enhance Oxy's business. Oxy is focused on decreasing total carbon footprint and assisting others achieve the same goal.

Oxy supports the Commission's efforts to adopt rules requiring operators of gas supply chain facilities (and gas pipeline facilities) to implement preparation measures for operation during a weather emergency as required by Section 5 of Senate Bill 3. Oxy greatly appreciates the work undertaken by Commission staff to prepare this rule proposal. The following comments are offered to provide clarity and improve alignment with the requirements of Senate Bill 3.

The applicability of 16 TAC §3.66 is triggered if a gas supply chain facility is (1) included on the electricity supply chain map created under Texas Utilities Code §38.203 and (2) designated as critical gas infrastructure in 16 TAC §3.65. The current thresholds of applicability within 16 TAC §3.65 are (a) production of 15mcf/d for gas wells and (b) production of 50 mcf/d for oil leases. The comments detailed in this letter are subject to the potential reopening of 16 TAC §3.65 to increase the thresholds of applicability above 15/50 mcf/d (as applicable) and to remove the thresholds for facilities seeking exceptions. By increasing the thresholds, the majority of gas production would remain designated as critical during a weather emergency whilst minimizing the regulatory burdens on operators and the Commission of granting numerous exceptions for numerous relatively low production, lower tier assets under the current rule structure. Further, the current thresholds for exemptions should be removed as there are scenarios in which an oil lease (particularly in the context of enhanced oil recovery leases) utilizes more electric power to produce any natural gas than could be generated from the natural gas such oil lease produces into the state's gas pipeline network. Lastly, at the current thresholds, there are implications to other Texas agencies' regulatory frameworks with this de minimis production standard that prevents operators from participating in programs (i.e., ERCOT Demand Response programs) that benefit electric power customers broadly.



Recommended Changes

I. Section (b)(7)

The definition of “weather emergency” in the rule is defined broadly to cover all potential “energy emergencies” as defined under 16 TAC §3.65. Oxy believes that the definition should be reworded to (1) only cover “energy emergencies” that actually result in firm load shedding (and not also events that have the potential to result in firm load shedding) and (2) be limited to weather events that impact sustained gas facility operations in a manner that will create significant risk to electric power supply reliability. Oxy is also willing to consider addressing this comment in the event of a potential reopening of 16 TAC §3.65 as noted above.

“Extreme weather conditions, such as freezing temperatures, freezing precipitation, or extreme heat in the facility’s county or counties that result in an energy emergency as defined by §3.65 of this title constitute an event that results in firm load shed required by the reliability coordinator of a power region in Texas and that creates significant risk to power supply reliability due to the potential inability to maintain sustained operation of gas supply chain facilities or gas pipeline facilities as a result of such conditions.....”

II. Section (c)(2)

Oxy requests that the lead-in of subsection (2) be clarified to require operators to implement prudent, industry-accepted weather emergency preparation measures that are appropriate for the type/age of the applicable facility. This addition provides clarity on the applicability of weather emergency preparation measures.

“Weather emergency preparation measures required by paragraph (1) of this subsection shall include the commercially reasonable measures that a prudent operator would take in accordance with industry-accepted practices given the type and age of the facility, including:”

III. Section (c)(2)(D)

These changes clarify operators are not required to weatherize based solely on the state climatologist’s weather data table provided within the rule. When operators are weatherizing their facilities the state climatologist’s weather data table may be considered, as well as alternate weather data. These modifications align with the intent of Senate Bill 3.

“weatherization of the facility considering industry-accepted methods applicable to the facility based on the type of facility, the facility’s critical components, the facility’s location, and weather data for the facility’s county or counties including data illustrated in the table of this subsection. Weather data that may be considered by the operator include the data illustrated in the table of this subsection, as well as alternate weather data regarding low and high temperature patterns in the geographic area where the facility is located. Weatherization methods include but are not limited to the following:”



IV. Section (d)(1)(C)

Currently, there is a requirement for operators to submit an annual attestation that includes a confirmation that all weatherization measures required under the rule have been taken and implemented. The suggested modifications below are intended to be applicable to the first attestation (due 12/1/22) only and provide language regarding future weatherization measures in connection with operators' inability to meet all weatherization requirements by 12/1/22 (i.e., due to permitting delays, supply chain issues, etc.). This request is further made in the 2022 attestation only due to the short timing between when the rule is anticipated to be finalized and when the first attestation is due. In addition, Oxy is open to addressing this issue in the preamble.

*“(C) for the Weather Emergency Readiness Attestation due December 1, 2022, also describes: (i) corrective actions taken to mitigate known weather-related forced stoppages **and potential associated critical component failures that may occur in future weather emergencies** that prevented sustained operation of a facility because of previous **extreme** cold weather conditions **and could have similar impact in future extreme cold weather conditions; and** (ii) to the extent such operator has not been able to complete all required weather emergency preparation measures described in subsection (c) of this section by such December 1, 2022 date, a plan submitted by such operator for the implementation of additional weather emergency preparation measures that are in progress as of such date or that it plans to complete subsequent to that date in accordance with the measures described in subsection (c) of this section.”.*

V. Section (f)(1)

It is our understanding that operators should not be penalized for third party issues that caused a failure or stoppage of a facility during a weather emergency. The below modifications are intended to clarify this component.

*“(1) An operator of a gas supply chain facility(**ies**) or a gas pipeline facility(**ies**) that experiences a **material** weather-related forced stoppage in sustained operations during a weather emergency shall notify the Commission **as promptly as practicable immediately** through the Commission's Critical Infrastructure Division's notification portal if the stoppage is not resolved within 24 hours of discovery of the stoppage. In the event a weather-related forced stoppage **in sustained operations during a weather emergency** results in a loss of production exceeding 5,000 Mcf of natural gas per day, or a stoppage of gas processing, storage withdrawal, or transportation capacity exceeding 200 MMcf per day, the operator shall, upon discovery of the stoppage, immediately contact the Commission ~~on~~ **through the Commission's** Critical Infrastructure Division's 24-hour emergency telephone number. **The operator reporting such a weather-related forced stoppage during a weather emergency may include in such report information (if applicable) regarding any third party issues that may have directly contributed to such operator's stoppage.** If an inspection determines that the stoppage was caused by the **operator's facility's** failure to **materially** adhere to the requirements of this section, the **Commission may initiate** ~~facility will be subject to~~ an enforcement action. **Forced stoppages caused by third party actions or inactions are not subject to enforcement actions.***



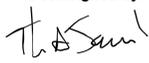
VI. Figure 16 TAC §3.66(g)(1)

There are concerns that an operator may be able to keep the majority of its aggregate gas production online during a weather emergency and still face numerous enforcement actions on other lower tier, low-production gas wells and/or oil leases. This proposal provides a mechanism to minimize penalties when operators are able to keep the majority of their aggregate gas production online.

Oxy suggests adding in a line item to the classification system table that deducts points if an operator keeps a certain % of its aggregate gas production within Texas online in the event there are failures at a number of very lower tier, low-production oil leases and/or gas wells. Suggest -2 for 70%, -3 for 80% and -4 for 90%.

Oxy appreciates the opportunity to comment on the proposed rule §3.66 and looks forward to continued engagement with the Commission.

Sincerely,

DocuSigned by:

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Thomas Janiszewski

Vice President – Land, Regulatory, Government Relations and Corporate Affairs