RAILROAD COMMISSION OF TEXAS

WAYNE CHRISTIAN, CHAIRMAN

November 23, 2021

***Via Email*: ChairmanLake@puc.texas.gov**

Re: Comments Received Regarding Proposed Tiering of Natural Gas Critical Customers for Load-Shed Purposes

Dear Chairman Lake:

During the comment period for the Railroad Commission of Texas' ("Commission") proposed critical infrastructure designation rule, 16 Tex. Admin. Code § 3.65, the Commission received comments from the Texas Oil and Gas Association ("TXOGA"), Joint Transmission and Distribution Utilities ("Joint TDUs"),[1] South Texas Electric Cooperative, Inc. ("STEC"), the Texas Alliance of Energy Producers ("Alliance"), and the Texas Pipeline Association ("TPA"). Each of these organizations provided comments suggesting various proposed "tiers" for prioritization of critical natural gas facilities for load-shed purposes during an energy emergency. A copy of those comments is attached for your convenience.

However, the above-referenced organizations, representing several portions of the natural gas and electricity supply chain, did not provide consistent suggestions regarding which critical natural gas facilities should fall into the first tier. While the Commission does not have jurisdiction over electric utilities or electricity load-shed events, we respectfully offer to the Public Utility Commission of Texas ("PUCT") the following suggestions for the PUCT's guidance document implementing Tex. Util. Code § 38.074(b)(2) relating to load-shed during an energy emergency:

- Pipelines that directly provide natural gas to electric generation or to a natural gas local distribution facility; underground natural gas transportation and storage facilities; natural gas liquids transportation and storage facilities; gas processing plants with a capacity of 200 MMcf/day and greater; natural gas wells and oil leases producing natural gas in the amount of 5000 Mcf/day or greater, including saltwater disposal wells supporting the wells and leases; and associated compressor stations and control centers for facilities described in this bullet point should be considered in the *top tier* for maintaining continuous power delivery.

- Comments received regarding lower priority tiers are similar in content regarding the types of facilities that should be included in lower priority tiers and there appears to be consensus that these facilities should not be included in the top tier. Therefore, except for the facilities we propose be included in the first tier (as described in the bullet point above), the Commission supports the lower tiers as proposed by the commenters. Importantly, given the interrelated nature of the facilities included within the natural gas supply chain, the

[1] The following TDUs jointly filed comments: Oncor Electric Delivery Company, LLC, CenterPoint Energy Houston Electric, LLC, AEP Tilden Inc., and Texas-New Mexico Power Company.

Commission notes that curtailment of a particular category of facility may adversely impact the continued operation of other facilities within the natural gas supply chain.

The Commission supports the PUCT utilizing the above-referenced suggestions in guidance (as currently referenced in proposed PUCT rule 16 Tex. Admin. Code § 25.52(h)(2)(C)) for providing prioritization and discretion for load-shed purposes in accordance with Tex. Util. Code § 38.074(b)(2). The Commission appreciates your assistance and continued collaboration in the implementation of Senate Bill 3.

Sincerely,

Chairman Wayne Christian

Enclosures: Comments filed by the Texas Oil and Gas Association, Joint Transmission and Distribution Utilities, South Texas Electric Cooperative, Inc., the Texas Alliance of Energy Producers, and the Texas Pipeline Association.

Cc: Commissioner Christi Craddick, Railroad Commission of Texas
Commissioner Jim Wright, Railroad Commission of Texas
Commissioner Will McAdams, Public Utility Commission of Texas
Commissioner Lori Cobos, Public Utility Commission of Texas
Commissioner Jimmy Glotfelty, Public Utility Commission of Texas
Senator Charles Schwertner, Chair, Senate Committee on Business and Commerce
Representative Chris Paddie, Chair, House Committee on State Affairs
Thomas Gleeson, Executive Director, Public Utility Commission of Texas
Wei Wang, Executive Director, Railroad Commission of Texas

TEXAS OIL & GAS ASSOCIATION | SINCE 1919

Alan L. Smith
Chairman

D. Todd Staples
President

November 1, 2021

Chairman Wayne Christian
Commissioner Christi Craddick
Commissioner Jim Wright
1701 N. Congress
Austin, Texas 78701

RE: Proposed New 16 TAC §3.65 and Proposed Amendments to §3.107 to Implement HB 3648 and SB 3

Mr. Chairman and Commissioners:

Thank you for the hard work and attention the Railroad Commission of Texas has been dedicating to the implementation of various pieces of legislation resulting from the Winter Storm Uri (Uri) event. As the oldest statewide organization representing all aspects of the oil and gas industry in Texas, the Texas Oil and Gas Association has a membership which provides a broad perspective regarding the natural gas supply chain, and we appreciate the opportunity to comment.

As with any weather season and anticipated weather event, our members worked overtime in preparation of Uri by prioritizing assets, deploying resources and personnel, and reinforcing seasonal preparations already in place before the storm. Ultimately, Uri was a catastrophic event which impacted every facet of the state. Like so many other businesses that did not have the necessary power to maintain a safe working environment, many in our industry were forced to temporarily cease operations.

Our members' first priority is to ensure the safety of our personnel and operations. Inability to travel safely to sites, loss of telecommunication systems, loss of necessary third-party resources, among other things, are factors in assessing the ability to safely continue production during a weather event. However, without uninterrupted power, there is no ability for operations to continue. There is no weatherization that can sustain a four-day weather event if power is not available.

However, we recognize the important role our products play in the natural gas distribution and electric generation supply chain and are fully committed to improving the system. Accurate information and robust communications are essential to ensure product is available for Local Distribution Companies and natural gas electric generators to procure and receive during an extreme weather event.

We want to point out that the mapping process, also in Senate Bill 3, will provide a greater level of clarity as to the most integral facilities in the state. While it would have been preferred to undertake that process first, we appreciate the RRC's responsibility to adhere to statutory deadlines. It is our belief that as we learn more through the mapping process, the agency should continue to evaluate and update the critical designation requirements with any information which could improve the new rules in 3.65 and corresponding forms or guidance to ensure only the most integral assets in the state are identified. We stress this point because the very nature of a load shed event necessitates some entities losing power, and

it is imperative the most essential assets necessary for the entire supply chain to function to its maximum potential receive top priority.

The following comments represent a cross-section of diverse viewpoints related to the critical designation process and these rules specifically:

3.65 Critical Designation of Natural Gas Infrastructure.

3.65(a) Definitions:

Definitions of energy emergency (3.65(a)(1) and weather emergency (3.65(a)(2) are broad. It has been suggested that the definition and applicability of an "event" be more closely tied to an ERCOT action rather than a potential, non-specific event.

Table CCI should be updated as appropriate after mapping is completed.

3.65(c) Acknowledgement of critical status.

Guidance should be provided to assist operators who have previously filed an ERCOT Application for Critical Load Serving Electric Generation and Cogeneration[1] prior to the implementation of the RRC designation. While we understand the CI-D and CI-X should be filed, it is unclear if a new ERCOT application would be required if already submitted to the electric utility. This is not directly a RRC issue, but guidance would be helpful.

Form CI-D should be updated as appropriate after mapping is completed.

3.65(d) Critical designation exception.

The natural gas supply chain is a complicated series of physical and non-physical transactions of natural resources, infrastructure, and market demand participation. All components are necessary, and some can change overtime while other aspects can occur in real-time. Ultimately, identifying these truly critical assets will require information beyond just the physical structure, but until all the physical and commercial considerations can be fully mapped, we must begin to identify the physical assets necessary to ensure the greatest opportunity for natural gas to be produced, procured, and transported and/or stored for the purpose of electric generation.

With over 250,000 oil and gas wells identified by 131,000 leases, the electric utilities cannot reasonably manage the volume of these facilities in their systems, nor can they maintain power to all the critical assets in the system. We also know that with the capacity to store almost 544 bcf of natural gas, product is available and can be procured but we must identify those critical assets needed to ensure the entire chain can move and secure that product when its needed.

During a load shed event power will not be available to all those that could be critical. As a result, there must be a method to ensure, at minimum, non-critical facilities are not prioritized and should have a Form CI-X on file. As the RRC rules are written, the exception is that method. The PUC recently proposed rules for the electric generator requirements which also provide for exceptions. It is not reasonable to have an exception for one end of the supply chain and not the other.

[1] Final - pdf - App for gas pipeline load v020320.pdf (ercot.com)

We recommend that the exception references be further clarified as to expectations for those filing a form CI-X, examples for potential exception or clarity include:

- A facility that the operator has reasonable certainty does NOT serve an LDC or electric generator would not be considered eligible and should be indicated on the approved form CI-X.
- Clarify that a facility identified in the final mapping product would not be eligible for an exception unless there is a change operationally or commercially that justifies a change in the future.
- Minimal production exception. A minimum production amount for oil and gas wells should be considered the default threshold to be deemed critical. These facilities would not be required to file a form CI-D or CI-X. However, in certain unique production areas, it is possible these wells could serve an LDC or natural gas fueled generator and those should be allowed to file a form CI-D.
  Recommendation: Gas from oil wells or gas wells of less than 50 mcf/day. This recommendation accounts for only 0.41 BCF of production/day across the State but could remove over 55,000 facilities from the designation list and assist in reducing the volume of information to the electric utilities.
- Any other requests for an exception should be reviewed to ensure the basis for the exclusion has good cause.

Additionally, we recommend the following as either an exception or a front-end requirement for criticality but recognize all stakeholders may not be positioned to make this determination timely without additional information.

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- **Net Negative Assessment:** The large number of oil wells that produce casinghead gas necessitates a cost-benefit analysis of the electricity needed to continue operations versus the amount of natural gas production which can be used to produce a megawatt of electricity. As the State continues to further assess and identify the most critical assets in the system, it is recommended that a net negative criteria or assessment be developed to ensure that during a load shed event the benefits of the gas produced outweighs the electricity used and is a net overall benefit to the system.

Furthering the notion of input vs. output, the Texas electric grid in the ERCOT system relies not only on traditional electric generators, but also relies heavily on co-generation facilities as well as voluntary load shedding through load resource programs under the PUC and ERCOT. It is imperative that the state has a balance and diverse system that allows for and takes into consideration natural gas facilities that can provide these other opportunities to create power for or take less power from our electric grid in a time of scarcity.

Lastly, it has been discussed extensively amongst regulators, legislators and stakeholders that developing a tiered approach for prioritization within the critical load designation is important to assist the electric utilities during a load shed as well as provide further guidance to those critical assets as what to expect during a load shed event. To that end, TXOGA discussed a variety of issues related to such a tiering system within our various industry stakeholders as well as with electric utilities. While prioritization is not under the jurisdiction of the RRC, it is important that the RRC coordinate with the PUC on any recommendations related to oil and natural gas facilities. TXOGA recommends that the RRC and PUC clarify in rule that guidance documents will be produced for the purpose of assisting electric utilities to better prioritize assets during a load shed event. However, it is not recommended that whatever guidance is established be placed into rule because the mapping exercise and other requirements of Uri related legislation are still in process, and those efforts will further focus what is critical and what is not during a weather event.

TXOGA's recommendations for consideration of ways to "tier" assets within the natural gas critical designations are attached. These suggestions were developed to provide immediate and reasonably identifiable information to be a resource for electric utilities during a load shed event for the upcoming winter season. The long-term mapping must be completed in order to further develop the most focused approach to prioritization of critical assets. The mapping exercise must start with the natural gas generation facilities and contemplate the legal and contractual arrangements as well as the infrastructure's physical assets and limitations to determine natural gas flow and therefore criticality.

Thank you for the opportunity to discuss the proposed rules and we appreciate your dedication to the state of Texas.

Sincerely,

Todd Staples

Attachment

Tiers for Consideration
During a Load Shed Event

Below reflects perspectives on what are the most critical components of the natural gas supply chain necessary to ensure natural gas supply is available for

purchase by and delivery to local distribution companies and natural gas-fired electric generators, while taking into consideration the operational challenges for investor-owned electric utilities, electric cooperatives, and municipally owned utilities (electric utilities) in responding as needed and directed during electricity short-supply events. With hundreds of thousands of assets in the entire natural gas supply chain, it is impossible to provide electricity to all of these assets during a load-shed event.

The document is an effort to identify "tiers" of relative criticality that should be considered during a load shed event regarding natural gas supply chain critical designation. These tiers will provide more granular guidance to industry and the electric utilities and complement the Public Utility Commission of Texas' and the Railroad Commission of Texas' rules regarding critical natural gas facilities for load-shed purposes.

These suggestions are not intended to be the final prevailing criteria for criticality as the mapping process must further identify only those truly integrated facilities that can support the end generation user.

Critical natural gas facilities:

Tier 1:

Tier 1 facilities are intended to be those most "directly" serving the local distribution companies (LDCs) and the natural gas generators. These facilities also provide the greatest volumes of available natural gas.

- ERCOT-identified black start facilities, such as natural gas electric generators and associated pipelines, should also be included in Tier 1.
- Associated control centers for the facilities in this tier should also be included as a tier priority.

Natural gas pipelines and pipeline facilities, including compressor stations – 3.65(b)(3)

LDC critical pipelines and pipeline facilities, including compressor stations - 3.65(b)(4)

Natural gas storage facilities – 3.65(b)(5)

Natural gas liquids transportation and storage facilities – 3.65(b)(6)

Gas Processing Plants (Capacity of 200 mmcf/day and greater) – 3.65(b)(2)

Natural Gas wells [3.65(b)(1)] and associated facilities, including saltwater disposal wells [3.65(b)(7)] scaled by most accessible (no treating required) and/or largest to smallest production volume, subject to the minimum production threshold described below.

→ *Gas wells producing > 5000 mcf /day*

Oil wells producing casinghead gas [3.65(b)(1)] and associated facilities, including saltwater disposal wells [3.65(b)(7)], scaled by largest to smallest production volume rates, subject to the minimum production threshold described below. Because oil wells producing casinghead gas requires more processing these should be prioritized after gas wells.

→ *Oil wells producing > 5000 mcf /day*

Tier 2:

Tier 2 facilities are crucial elements of the supply chain. However, it is recognized that distance, accessibility, and volume of these facilities are small in comparison to the transportation and storage systems in the state. We recommend further delineation of those highest to least yielding gas assets within this tier.

Associated control centers for the facilities in this tier should also be included as a tier priority.

Gas Processing Plants (Capacity of 100 to199 mmcf/day) – 3.65(b)(2)

Natural Gas wells 3.65(b)(1) and associated facilities, including saltwater disposal wells [3.65(b)(7)] scaled by most accessible (no treating required) and largest to smallest production volume, subject to the minimum production threshold described below.

→ *Gas wells producing <5000 > 1,000 mcf /day*

→ *Gas wells producing <1000 > 250 mcf /day*

Oil wells producing casinghead gas [3.65(b)(1)] and associated facilities, including saltwater disposal wells [3.65(b)(7)], scaled by largest to smallest production volume rates, subject to the minimum production threshold described below.

→ *Oil wells producing <5000 > 1,000 mcf /day*

→ *Oil wells producing <1000 > 250 mcf /day*

Tier 3:

Tier 3 facilities are to be given the lowest level priority among the facilities in the natural gas supply chain, including those that fall below the minimum production threshold described below. These facilities include metering facilities, similar support facilities/equipment, and other critical facilities not falling into Tiers 1 or 2.

Associated control centers for the facilities in this tier should also be included as a Tier priority.

Gas Processing Plants (Capacity of 100 or less mmcf/day) – 3.65(b)(2)

Gas producing oil or gas wells of 50 mcf/day or greater.

Tier 4: *(Needed only if a minimum threshold of production is established under the RRC rules related to who is expected to file a form CI-D and request critical designation. If no minimum threshold is established, then these wells could be prioritized in Tier 3.) Tier 4 facilities would be the lowest producing oil and gas wells in the state and would generally not be considered critical based on production volume. However, these facilities could in certain circumstances be an asset that would be producing gas for an LDC or natural gas electric generator. This is more common in certain rural production areas such as those in the Panhandle.*

Gas from oil or gas wells of less than 50mcf/day.

PROPOSED NEW 16 TAC §3.65 AND	**§**	**BEFORE THE**
PROPOSED AMENDMENTS TO §3.107	**§**	**RAILROAD COMMISSION**
TO IMPLEMENT HB 3648 AND SB 3	**§**	**OF TEXAS**

JOINT TRANSMISSION AND DISTRIBUTION UTILITY INITIAL COMMENTS

TO THE HONORABLE RAILROAD COMMISSION OF TEXAS:

Oncor Electric Delivery Company LLC, CenterPoint Energy Houston Electric, LLC, AEP Texas Inc., and Texas-New Mexico Power Company, all of which are transmission and distribution utilities ("TDUs") operating within the Electric Reliability Council of Texas, Inc. ("ERCOT") power region (collectively, the "Joint TDUs"), file these Initial Comments to (i) proposed new 16 Tex. Admin. Code ("TAC") § 3.65 ("proposed §3.65") proposed by the Railroad Commission of Texas ("Commission") and published in the October 1, 2021 issue of the *Texas Register*,[1] and (ii) the associated proposed new Table of Critical Customer Information ("proposed Table CCI") and proposed new Form CI-X (Critical Customer/Critical Gas Supplier Designation Exception Application) posted on the Commission's website on September 29, 2021.[2] Attachment 1 to these comments provides the Joint TDUs' proposed revisions to proposed §3.65, and Attachment 2 provides the Joint TDUs' proposed revisions to proposed Table CCI.

On October 7, 2021, the Joint TDUs filed comments in the Public Utility Commission of Texas' ("PUCT") related rulemaking.[3] Those comments to the PUCT are attached for the Commission's reference (*see* Attachment 3). In support of these Initial Comments, the Joint TDUs respectfully show the following:

I. BACKGROUND & OVERVIEW

The Joint TDUs appreciate this opportunity to provide their perspective at this important juncture of the Commission's coordination with the PUCT, pursuant to both Senate Bill 3 ("SB 3") and House Bill 3648 ("HB 3648"). The implementation of this legislation by the Commission

[1] 46 Tex. Reg. 6461-6462 (Oct. 1, 2021).

[2] At this time, the Joint TDUs have no comments on proposed new Form CI-D (Acknowledgment of Critical Customer/Critical Gas Supplier Designation) or the proposed amendments to 16 TAC § 3.107 relating to penalty guidelines. If, however, the Commission revises proposed §3.65 consistent with the tiered criticality criteria discussed herein or adopts some other criteria for determining criticality, then Form CI-D should be revised to provide boxes that correspond with those tiers or criteria in place of the current boxes corresponding to the categories of facilities listed in proposed §3.65(b)(1)-(b)(8).

[3] *Critical Natural Gas Facilities and Entities*, PUCT Project No. 52345, Joint TDU Initial Comments on the Proposal for Publication of Amendments to 16 TAC § 25.52 (Oct. 7, 2021).

and the PUCT are vital steps in the state's response to Winter Storm Uri. Through the October 5, 2021 workshop and additional engagement with Commission Staff and industry stakeholders, the Joint TDUs have explored additional opportunities to further develop proposed §3.65 for the benefit of Texans. The Joint TDUs are committed to working with the Commission, the PUCT, and stakeholders in both the natural gas industry and the electric industry to protect Texans before and during the upcoming winter and in connection with any future energy emergencies. Under the terms of proposed §3.65, each of the Joint TDUs is an "electric entity," along with ERCOT, municipally owned utilities, and electric cooperatives, that will receive critical customer and critical gas supply information from operators.[4]

As further detailed below, the Commission's rule establishing critical designation of natural gas infrastructure, and the associated table and forms, should provide a meaningful bridge between now and when the supply chain map is finalized by the Texas Electricity Supply Chain Security and Mapping Committee ("Mapping Committee"). As drafted, however, proposed §3.65 designates the "entire natural gas supply chain"[5] as "critical" with no standards for differentiating among the thousands of entities and natural gas facilities in the natural gas supply chain other than those entities that may be allowed to opt-out of the designation. Consequently, the Joint TDUs request that the Commission revise proposed §3.65 in a way that provides additional guidance on the designation of natural gas facilities deemed critical for purposes of load shedding so that electric entities may efficiently and effectively incorporate these critical natural gas facilities into their respective load-shed plans.

II. COMMENTS ON PROPOSED §3.65

For the reasons discussed below, the Joint TDUs request that the Commission: (1) revise proposed §3.65 to incorporate criteria for designating the critical entities and facilities that form the natural gas supply chain with a focus on "tiers" of criticality; and (2) revise proposed §3.65(d) to provide additional guidance and criteria on the critical designation exceptions process.

[4] A map showing the respective service areas for each of the Joint TDUs is available at https://www.puc.texas.gov/industry/maps/Electricity.aspx (Transmission and Distribution Utilities in Competitive Retail Areas) (last accessed Oct. 29, 2021).

[5] 46 Tex. Reg. 6459.

A. Proposed §3.65 Lacks Criteria for Determining Critical Facilities; Joint TDUs Propose a Tiered Criteria for Determining Criticality.

The Joint TDUs understand that this rulemaking is a first step among many in the Commission's implementation of SB 3 and HB 3648. Proposed §3.65, and the PUCT's associated rule, will provide a bridge through the upcoming winter for the natural gas and electric industries until the Mapping Committee finalizes the electricity supply chain map, which may not happen until September 2022.[6] In the interim, ERCOT, the Joint TDUs, and other electric entities must fulfill their obligations to maintain a reliable electric grid for all Texans. Having as much visibility into the relative criticality of the natural gas supply chain as possible – as soon as possible – will facilitate load-shed and restoration planning currently underway.[7] Accordingly, although a first step and subject to the Mapping Committee's finalization of the electricity supply chain map, proposed §3.65 should establish "criteria" for determining the criticality of the various facilities, gas suppliers, and customers that form the natural gas supply chain. This directive appears in both Section 4 of SB 3 and Section 1 of HB 3648. For the rule to complement the PUCT's rule and assist electric entity planning and prioritization efforts, it must contain standards to identify critical suppliers and customers. The Legislature's direction to the Commission in HB 3648, as reflected in Tex. Nat. Res. Code § 81.073(a), was to "collaborate with the [PUCT] to adopt rules to establish a process to designate *certain* natural gas facilities and entities associated with providing natural gas in this state as critical during energy emergencies"[8]; it was not to designate *all* natural gas facilities and entities as critical.

The Commission has titled proposed §3.65(b) as the provision containing the "criteria" that it will apply to determine who and what is or is not critical during an energy emergency. However, the body of subsection (b) lists the entire natural gas supply chain plus a catchall category of "other facilities under the jurisdiction of the Commission the operation of which is necessary to operate

[6] *See* Act of June 8, 2021, 87th Leg., R.S., ch. 426, § 37, 2021 Tex. Sess. Law Serv. (West) (current version at Tex. Util. Code Ann. § 38.203) (requiring the Mapping Committee to provide the map by Sept. 1, 2022).

[7] The Joint TDUs appreciate the Commission's recently issued notice to operators to submit to their electric service providers the current ERCOT application for designation of critical loads serving natural gas-fired electric generation by November 1, 2021, *available at* https://www.rrc.texas.gov/announcements/10212021-notice-to-operators-reminder-to-file-ercot/ (last accessed Oct. 25, 2021).

[8] Emphasis added.

any of the facilities in paragraphs (1) through (7) of this subsection."[9] The lack of any specific criteria is acknowledged in the preamble to the proposed rule:

> [T]he list in subsection (b) is a comprehensive list of the facilities that are required to submit the critical customer information . . . [and that] subsection (b) include[s] these facility types, ***located up and down the entire natural gas supply chain***, because the statistics from Winter Storm Uri reveal that during the storm, every molecule of gas was important.[10]

As drafted, proposed §3.65 does not provide the information electric entities will need in order to efficiently and effectively incorporate critical natural gas facilities into their respective load-shed plans, because it does not define what is critical or enable any differentiation among facilities or operators or consider "essential operational elements," as required by section 81.073(b)(2) of the Natural Resources Code. Instead, as drafted, all facilities and entities listed in subsection (b) are automatically considered critical unless an operator files Form CI-X. The Joint TDUs have a finite number of distribution feeders that can be used for load shed. Thus, not every facility in the natural gas supply chain can or should be considered critical during an energy emergency. Additionally, during the second reading of HB 3648 in the House of Representatives, Representative Bobby Guerra proposed an amendment that would have required "each electric [entity] to exclude any circuits that provide power to an entity or facility designated under Section 81.073, Natural Resources Code, from participation in the [entity's] attempt to shed load in response to a rolling blackout[.]"[11] This amendment would have effectively done what proposed §3.65(b) does now, *i.e.*, to designate the entire natural gas supply chain as critical. This provision was removed from HB 3648 in the Senate, demonstrating that the Legislature did not intend to require that all natural gas facilities be designated as critical.

By the Commission's own estimate, approximately 6,200 operators would be subject to proposed §3.65, meaning that those entities and the facilities that they operate will, after the rule becomes effective, be immediately designated as critical during energy emergencies unless those operators obtain an exception under subsection (d) of the proposed rule. Without criteria incorporated into proposed §3.65, those responsible for executing load-shed directives to preserve

[9] 46 Tex. Reg. 6461.

[10] Emphasis added.

[11] H.J. of Tex., 87th Leg., R.S. 1244-45 (2021) (recording adoption of Amendment No. 3 to HB 3648).

the grid during short-supply emergencies face what may amount to an impossible task. Therefore, the Joint TDUs urge the Commission to utilize its unique expertise in the natural gas industry and provide more substantive criteria on the relative criticality of natural gas facilities. This will enable differentiation between the various loads in the natural gas supply chain, bolster 2021-22 winter preparations until the Mapping Committee completes its work, and make efficient and effective load-shed prioritization possible. Thus, the Joint TDUs recommend that proposed §3.65 be revised to define criticality by the three tiers as referenced in their comments to the PUCT[12] and as further discussed below. This approach focuses on the facilities most directly essential to the natural gas generators and that provide the greatest concentrated volumes of readily available natural gas.[13]

Tier 1:

Tier 1 would be composed of (i) facilities that directly provide natural gas to electric generation or gas local distribution company critical pipelines or pipeline facilities, including compressor stations and control centers, to meet its highest level of curtailment priority pursuant to an applicable tariff or Commission requirement, (ii) natural gas transportation and storage facilities, and (iii) liquids transportation and storage facilities.

Tier 2:

Tier 2 would include remaining critical facilities in the gas supply chain (such as production, produced water, salt water disposal, and processing) that provide or support substantial volumes of gas production and/or processing but do not fall within Tier 1. These facilities may become critical in load-shed scenarios of extreme depth or duration where the availability of natural gas is expected to be an issue. The Joint TDUs recommend further delineation of those highest to least yielding gas facilities within this tier.

Tier 3:

Tier 3 would include premises that do not fall within Tiers 1 or 2 and include facilities that do not provide or support substantial volumes of gas production under a minimum production threshold discussed below and/or processing, metering facilities, and similar support facilities or equipment. Facilities within Tier 3 will likely be included in

[12] *See* Attachment 3 at 6-7.

[13] *See Critical Natural Gas Facilities and Entities*, PUCT Project No. 52345, Texas Oil & Gas Association Comments (Oct. 7, 2021), *available at* https://interchange.puc.texas.gov/search/documents/?controlNumber=52345&itemNumber=39 (last accessed Oct. 29, 2021).

load shed in most scenarios, but the proactive identification and categorization of these facilities will allow for efficient restoration if load-shed conditions warrant.

Minimum production threshold:

With over 250,000 oil and gas wells identified by 131,000 leases,[14] the Joint TDUs recommend that the Commission incorporate a minimum production threshold into proposed §3.65. While the Joint TDUs are not in a position to know the specifics of such a threshold, it would be a useful tool to assist in determining eligibility for critical status and would provide a helpful way to distinguish between Tier 2 and Tier 3 facilities.

B. Proposed §3.65(d)'s Exceptions Process Should Provide More Guidance and Criteria.

As presently drafted, proposed §3.65(d) should be revised because it only requires an operator to file a form, pay a fee, and "assert" its facility is not prepared to operate during a weather emergency in order to be excepted from critical designation. Although the Joint TDUs understand from Commission Staff that submittals of Form CI-X will be vetted by Staff in the Commission's newly formed Critical Infrastructure Division, there is no reference to such a process in the proposed rule language. Under both SB 3 and HB 3648, the Joint TDUs and other electric entities retain the discretion to handle power delivery and restoration to the facilities and entities that are designated as critical by the Commission. However, to ensure that truly critical facilities and entities do not go undesignated by simply filing a form and paying a fee, the Joint TDUs suggest that the Commission require that Form CI-X be accompanied by a sworn statement from an officer of an entity attesting to its lack of preparation to operate during a weather emergency or the fact that a given facility is not in fact critical. The PUCT recently adopted weatherization standards with a similar requirement.[15] The rule could also specify the Commission Staff review process and the consequences of Staff rejection of Form CI-X, up to and including a requirement to file Form CI-D instead. Additionally, as discussed in the Form CI-X section below, proposed §3.65(d)'s exceptions process should also acknowledge that an operator may still not be critical (particularly if the tiered criteria proposed herein is adopted) even if it is prepared to operate during a weather emergency.

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[14] *See id* at 1.

[15] *Rulemaking to Establish Electric Weatherization Standards*, Project No. 51840, Order Adopting Proposal for Adoption for New 16 TAC § 25.55 at 98 (Oct. 26, 2021) (adopting 16 TAC § 25.55(f)(2)(B), which requires a notarized attestation sworn to by the transmission service provider's highest-ranking representative, official, or officer with binding authority over the provider, attesting to the completion of winter weather preparations).

III. COMMENTS ON PROPOSED TABLE CCI AND PROPOSED FORM CI-X

A. Table CCI.

The categories of information included on the Commission's proposed Table CCI are very helpful. The Joint TDUs propose that the table be revised to: (i) require that the data in the table be provided in the form of an Excel spreadsheet; and (ii) to include some additional data that is either already required under the current ERCOT critical load application utilized by the Joint TDUs or that will be useful in load-shed and emergency restoration planning. For example, regarding "Facility Location Information," many facilities are located in remote areas of the state such that both a facility address *and* a latitude/longitude reference is necessary to properly identity the precise load at issue. Additionally, the Joint TDUs propose adding a column to the table that would provide an operator's explanation of a facility or facilities' critical functions and interdependencies with other critical facilities, which is information currently solicited in the application form used today. For the Commission's reference, Attachment 2 to these comments contains a redline of proposed Table CCI with those suggested revisions.

B. Form CI-X.

Currently, proposed Form CI-X only contemplates an exception to a critical designation if an operator is "not prepared to operate" during a weather emergency. Regardless of whether the Commission revises proposed §3.65 consistent with the tiered criticality criteria discussed above, or adopts some other criteria for determining criticality, proposed Form CI-X should be revised to provide an operator the option of explaining why its facility should not be considered critical despite the fact that a facility falls under the criteria or tiers of criticality set forth in the rule. An operator should be able to file Form CI-X and explain why its facility is not actually critical, irrespective of whether the facility may be prepared to operate during a weather emergency.

IV. CONCLUSION

The Joint TDUs appreciate the opportunity to comment on proposed §3.65, proposed Table CCI, and proposed Form CI-X, and respectfully requests the Commission's full consideration of the comments set forth herein, including the proposed rule language revisions reflected in Attachment 1. As additional information and stakeholder input becomes available, the Joint TDUs will supplement these Initial Comments or submit reply comments as appropriate.

Respectfully submitted,

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November 1, 2021

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Attachment 1
Joint TDUs' Proposed Revisions to Proposed §3.65

§3.65. Critical Designation of Natural Gas Infrastructure.

(a) Definitions.

(1) Energy emergency--Any event that results in or has the potential to result in load shed required by an independent organization certified under Texas Utilities Code, § 39.151 resulting in an electric outage.

(2) Weather emergency--Any weather condition that results in or has the potential to result in an energy emergency as defined in this section.

(3) Critical customer information--The critical customer and critical gas supply information specified on Commission Table CCI, including ~~such as~~ facility identification information, facility location information, emergency contact information, gas production and/or handling information, electrical power and backup power capabilities, and electric utility information.

(b) Critical designation criteria. The following facilities are designated critical gas suppliers and critical customers of the entities described by Texas Utilities Code, § 38.074(b)(1) during an energy emergency:

(1) Tier 1 - facilities that directly provide natural gas to electric generation or the facilities designated as critical by a natural gas local distribution company, including compressor stations and control centers, to meet its highest level of curtailment priority pursuant to an applicable tariff or Commission requirement, natural gas transportation and storage facilities, or liquids transportation and storage facilities ~~wells producing gas or casinghead gas~~;

(2) Tier 2 - remaining facilities in the gas supply chain (such as production, produced water, salt water disposal, and processing) that provide or support substantial volumes of gas production, processing, or both, but do not fall within paragraph (1) of this subsection ~~gas processing plants~~;

(3) Tier 3 - premises that do not fall within paragraphs (1) or (2) of this subsection, including facilities that do not provide or support substantial volumes of gas production under a minimum production threshold set by the Commission, or processing facilities, metering facilities, and similar support facilities or equipment. ~~natural gas pipelines and pipeline facilities including compressor stations;~~

~~(4) local distribution company pipelines and pipeline facilities including compressor stations;~~

~~(5) natural gas storage facilities;~~

~~(6) natural gas liquids transportation and storage facilities;~~

~~(7) saltwater disposal facilities including saltwater disposal pipelines; and~~

~~(8) other facilities under the jurisdiction of the Commission the operation of which is necessary to operate any of the facilities in paragraphs (1) through (7) of this subsection.~~

(c) Acknowledgment of critical status. Except as provided by subsection (d) of this section, an operator of a facility designated as critical under subsection (b) of this section shall acknowledge the facility's critical status by filing Form CI-D or submitting an electronic acknowledgment as provided in this subsection.

(1) Until an electronic system is established, the acknowledgment shall be made on Form CI-D. In the year 2022, the Form CI-D acknowledgment shall be filed bi-annually by January 15, 2022 and September 1, 2022. Beginning in 2023, the Form CI-D acknowledgment shall be filed bi-annually by March 1 and September 1 of each year.

(2) When the electronic system is established, the Form CI-D acknowledgment shall be submitted through the electronic system.

(d) Critical designation exception. A facility listed in subsection (b) of this section is designated as a critical gas supplier unless the facility's operator asserts, and Commission Staff finds that, the facility is either not prepared to operate during a weather emergency or is not actually critical for some other identified reason. An operator shall submit a Form CI-X exception application that identifies each such facility and, if applicable, each such facility that is not a facility listed in subsection (b) of this section. The Form CI-X shall be accompanied by a $150 exception application fee and a sworn statement from a representative, official, or officer with binding authority over the operator attesting to the operator's lack of preparation to operate during a weather emergency or that a facility is not critical.

(e) Providing critical customer information. Unless a facility is identified on an approved Form CI-X exception application under subsection (d) of this section, the facility's operator shall provide the critical customer information to the entities described in Texas Utilities Code § 38.074(b)(1). The critical customer information shall be provided in accordance

with 16 Tex. Admin. Code § 25.52 (relating to Reliability and Continuity of Service). The operator shall certify on its Form CI-D that it has provided, or will within five business days provide, the critical customer information to the electric entity in an Excel spreadsheet format usable to the electric entity.

. . .

Attachment 2

TABLE CCI
(eff. 10/21)

Table of Critical Customer Information

Instructions: For each facility listed in the "Facility Type" column below, provide the required Critical Customer Information indicated in that facility's row to the electric entity providing power to that facility. Pursuant to Railroad Commission Rule 3.65 (16 Texas Administrative Code §3.65) and Public Utility Commission Rule 25.52 (16 Texas Administrative Code §25.52), provide the required Critical Customer Information in a useable format to the electric entity prior to, or within five business days of, filing the required Form CI-D with the Railroad Commission.

Facility Type	Facility Identification Information	Gas Production and/or Handling Information	Facility Location Information			Emergency Contact Information	Electrical Power and Backup Power Capabilities	Electric Utility Information (Competitive Areas)	Electric Utility Information (Non-Competitive Areas)	Renewal or New Designation	Explanation of Critical Function
Gas Well (§3.65(b)(1))	RRC Gas ID Number (######)	Most Recent Average Daily Gas Production (mcf/day)	Facility street address ~~or~~and Latitude/Longitude ~~if no street address,~~ (NAD 83 or Decimal format e.g. -97.743057)	Name, title, email, and phone number of on-site contact person	Facility mailing address	Name, email, and phone number of emergency contact person	Does the facility have back- up power? If the facility has back-up power: ~~,~~ • ~~h~~How long does the back-up power last (in hours)? • Is there a battery back-up, and if so what is the capacity (kW)? • Is there utility dual feed capability? • How long does it take to start up after a power outage? Does the facility have back-up generation, and if so, what is the capacity (kW)?	• Electric Utility Name In Competitive Areas (Transmission and Distribution Utilities; e.g., Oncor, CenterPoint, TNMP, or AEP) • Retail Electric Provider (that bills for service) • ESI-ID# • Utility Customer Name Associated with ESI-ID#	• Electric Utility Name In Non-Competitive Areas (e.g., Fully Integrated Utilities, including municipally owned utilities and transmission or distribution electric cooperatives) • Account Number • Utility Customer Name Associated with Account Number	• Was a critical customer designation requested for this facility in the prior year, or is this a new designation request?	• Explanation of why this facility is critical, such as a description of the electric generation facilities served by this facility or interdependencies between this facility and other critical facilities. • Whether this facility is a Tier 1, 2, or 3 facility.

Attachment 2

Facility Type	Facility Identification Information	Gas Production and/or Handling Information	Facility Location Information			Emergency Contact Information	Electrical Power and Backup Power Capabilities	Electric Utility Information (Competitive Areas)	Electric Utility Information (Non-Competitive Areas)	Renewal or New Designation	Explanation of Critical Function
Oil Well Producing Casinghead Gas (§3.65(b)(1))	2-digit district no. and 5-digit lease no. (##-#####)	Most Recent Average Daily Casinghead Gas Production (mcf/day) per Lease Number	Facility street address ~~or~~and Latitude/Longitude ~~if no street address,~~ (NAD 83 or Decimal format e.g. -97.743057)	Name, title, email, and phone number of on-site contact person	Facility mailing address	Name, email, and phone number of emergency contact person	Does the facility have back- up power? If the facility has back-up power~~.~~: • ~~h~~How long does the back-up power last (in hours)? • Is there a battery back-up, and if so what is the capacity (kW)? • Is there utility dual feed capability? • How long does it take to start up after a power outage? Does the facility have back-up generation, and if so, what is the capacity (kW)?	• Electric Utility Name In Competitive Areas (Transmission and Distribution Utilities; e.g., Oncor, CenterPoint, TNMP, or AEP) • Retail Electric Provider (that bills for service) • ESI-ID# • Utility Customer Name Associated with ESI-ID#	• Electric Utility Name In Non-Competitive Areas (e.g., Fully Integrated Utilities, including municipally owned utilities and transmission or distribution electric cooperatives) • Account Number • Utility Customer Name Associated with Account Number	• Was a critical customer designation requested for this facility in the prior year, or is this a new designation request?	• Explanation of why this facility is critical, such as a description of the electric generation facilities served by this facility or interdependencies between this facility and other critical facilities. • Whether this facility is a Tier 1, 2, or 3 facility.
Gas Processing Plant (§3.65(b)(2))	Plant serial number (2-digit district and 4-digit serial, ##-####)	Plant Output Capacity (MMcf/day)	Facility street address ~~or~~and Latitude/Longitude ~~if no street address,~~ (NAD 83 or Decimal format e.g. -97.743057)	Name, title, email, and phone number of on-site contact person	Facility mailing address	Name, email, and phone number of emergency contact person	Does the facility have back-up power? If the facility has back-up power~~.~~: • ~~h~~How long does the back-up power last (in hours)? • Is there a battery back-up, and if so what is the capacity (kW)? • Is there utility dual feed capability? • How long does it take to start up after a power outage? Does the facility have back-up generation, and	• Electric Utility Name In Competitive Areas(Transmission and Distribution Utilities; e.g., Oncor, CenterPoint, TNMP, or AEP) • Retail Electric Provider (that bills for service) • ESI-ID# • Utility Customer Name Associated with ESI-ID#	• Electric Utility Name In Non-Competitive Areas (e.g., Fully Integrated • Utilities, including municipally owned utilities and transmission or distribution electric cooperatives) • Account Number • Utility Customer Name Associated with Account Number	• Was a critical customer designation requested for this facility in the prior year, or is this a new designation request?	• Explanation of why this facility is critical, such as a description of the electric generation facilities served by this facility or interdependencies between this facility and other critical facilities. • Whether this facility is a Tier 1, 2, or 3 facility.

Attachment 2

Facility Type	Facility Identification Information	Gas Production and/or Handling Information	Facility Location Information			Emergency Contact Information	Electrical Power and Backup Power Capabilities	Electric Utility Information (Competitive Areas)	Electric Utility Information (Non-Competitive Areas)	Renewal or New Designation	Explanation of Critical Function
							if so, what is the capacity (kW)?				
Pipeline facility including compressor stations (§3.65(b)(3))	T-4 Pipeline Permit Number (5-digit #####)	Does the pipeline or local distribution company directly serve a natural gas electric generation facility? Does the pipeline directly serve a Local Distribution Company or a city gate?	Facility street address~~,~~ ~~or~~ and Latitude/Longitude ~~if no street address~~, of each compressor station and regulator station associated with the pipeline (~~If providing Latitude/ Longitude,~~ provide Latitude/Longitude in NAD 83 or Decimal format e.g., -97.743057).	Name, title, email, and phone number of on-site contact person	Facility mailing address	Name, email, and phone number of emergency contact person	Does the facility have back- up power? If the facility has back-up power~~.~~: • ~~h~~How long does the back-up power last (in hours)? • Is there a battery back-up, and if so what is the capacity (kW)? • Is there utility dual feed capability? • How long does it take to start up after a power outage? Does the facility have back-up generation, and if so, what is the capacity (kW)?	• Electric Utility Name In Competitive Areas (Transmission and Distribution Utilities; e.g., Oncor, CenterPoint, TNMP, or AEP) • Retail Electric Provider (that bills for service) • ESI-ID# (each ESI-ID# associated with the pipeline, including its compressor and regulator stations) • Utility Customer Name Associated with ESI-ID#	• Electric Utility Name In Non-Competitive Areas (e.g., Fully Integrated Utilities, including municipally owned utilities and transmission or distribution electric cooperatives) • Account Number (each Account # associated with the pipeline, including its compressor and regulator stations) • Utility Customer Name Associated with Account Number	• Was a critical customer designation requested for this facility in the prior year, or is this a new designation request?	• Explanation of why this facility is critical, such as a description of the electric generation facilities served by this facility or interdependencies between this facility and other critical facilities. • Whether this facility is a Tier 1, 2, or 3 facility.
Local Distribution Company pipeline facility including compressor stations (§3.65(b)(4))	Regulated Entity ID (6-digit System ID, ######)	Does the local distribution company directly serve a natural gas electric generation facility?	Facility street address~~,~~ ~~or~~ and Latitude/Longitude ~~if no street address~~, of each compressor station and regulator station associated with the pipeline (~~If providing Latitude/ Longitude,~~ provide Latitude/Longitude in NAD 83 or Decimal	Name, title, email, and phone number of on-site contact person	Facility mailing address	Name, email, and phone number of emergency contact person	Does the facility have back- up power? If the facility has back-up power~~.~~: • ~~h~~How long does the back-up power last (in hours)? • Is there a battery back-up, and if so	• Electric Utility Name In Competitive Areas (Transmission and Distribution Utilities; e.g., Oncor, CenterPoint, TNMP, or AEP) • Retail Electric Provider (that bills for service)	• Electric Utility Name In Non-Competitive Areas (e.g., Fully Integrated Utilities, including municipally owned utilities and transmission or distribution electric cooperatives) • Account Number (each Account # associated with the	• Was a critical customer designation requested for this facility in the prior year, or is this a new designation request?	• Explanation of why this facility is critical, such as a description of the electric generation facilities served by this facility or interdependencies between this facility and other critical facilities.

Attachment 2

Facility Type	Facility Identification Information	Gas Production and/or Handling Information	Facility Location Information			Emergency Contact Information	Electrical Power and Backup Power Capabilities	Electric Utility Information (Competitive Areas)	Electric Utility Information (Non-Competitive Areas)	Renewal or New Designation	Explanation of Critical Function
			format e.g. -97.743057).				what is the capacity (kW)? • Is there utility dual feed capability? • How long does it take to start up after a power outage? Does the facility have back-up generation, and if so, what is the capacity (kW)?	• ESI-ID# (each ESI-ID# associated with the pipeline, including its compressor and regulator stations) • Utility Customer Name Associated with ESI-ID#	pipeline, including its compressor and regulator stations) • Utility Customer Name Associated with Account Number		• Whether this facility is a Tier 1, 2, or 3 facility.
Underground natural gas storage facility (§3.65(b)(5))	UIC Number (9-digit, #########)	N/A	Facility street address ~~or~~and Latitude/Longitude ~~if no street address,~~ (NAD 83 or Decimal format e.g. -97.743057)	Name, title, email, and phone number of on-site contact person	Facility mailing address	Name, email, and phone number of emergency contact person	Does the facility have back- up power? If the facility has back-up power~~,~~: • ~~h~~How long does the back-up power last (in hours)? • Is there a battery back-up, and if so what is the capacity (kW)? • Is there utility dual feed capability? • How long does it take to start up after a power outage? Does the facility have back-up generation, and if so, what is the capacity (kW)?	• Electric Utility Name In Competitive Areas (Transmission and Distribution Utilities; e.g., Oncor, CenterPoint, TNMP, or AEP) • Retail Electric Provider (that bills for service) • ESI-ID# • Utility Customer Name Associated with ESI-ID#	• Electric Utility Name In Non-Competitive Areas (e.g., Fully Integrated Utilities, including municipally owned utilities and transmission or distribution electric cooperatives) • Account Number • Utility Customer Name Associated with Account Number	• Was a critical customer designation requested for this facility in the prior year, or is this a new designation request?	• Explanation of why this facility is critical, such as a description of the electric generation facilities served by this facility or interdependencies between this facility and other critical facilities. • Whether this facility is a Tier 1, 2, or 3 facility.

Attachment 2

Facility Type	Facility Identification Information	Gas Production and/or Handling Information	Facility Location Information			Emergency Contact Information	Electrical Power and Backup Power Capabilities	Electric Utility Information (Competitive Areas)	Electric Utility Information (Non-Competitive Areas)	Renewal or New Designation	Explanation of Critical Function
Underground liquid hydrocarbon storage facility (§3.65(b)(6))	UIC Number (9-digit, #########)	N/A	Facility street address ~~or~~and Latitude/Longitude ~~if no street address,~~ (NAD 83 or Decimal format e.g. -97.743057)	Name, title, email, and phone number of on-site contact person	Facility mailing address	Name, email, and phone number of emergency contact person	Does the facility have back- up power? If the facility has back-up power~~,~~: • ~~h~~How long does the back-up power last (in hours)? • Is there a battery back-up, and if so what is the capacity (kW)? • Is there utility dual feed capability? • How long does it take to start up after a power outage? Does the facility have back-up generation, and if so, what is the capacity (kW)?	• Electric Utility Name In Competitive Areas (Transmission and Distribution Utilities; e.g., Oncor, CenterPoint, TNMP, or AEP) • Retail Electric Provider (that bills for service) • ESI-ID# • Utility Customer Name Associated with ESI-ID#	• Electric Utility Name In Non-Competitive Areas (e.g., Fully Integrated Utilities, including municipally owned utilities and transmission or distribution electric cooperatives) • Account Number • Utility Customer Name Associated with Account Number	• Was a critical customer designation requested for this facility in the prior year, or is this a new designation request?	• Explanation of why this facility is critical, such as a description of the electric generation facilities served by this facility or interdependencies between this facility and other critical facilities. • Whether this facility is a Tier 1, 2, or 3 facility.
Saltwater disposal well (§3.65(b)(7))	UIC Number (9-digit, #########)	N/A	Facility street address ~~or~~and Latitude/Longitude ~~if no street address,~~ (NAD 83 or Decimal format e.g. -97.743057)	Name, title, email, and phone number of on-site contact person	Facility mailing address	Name, email, and phone number of emergency contact person	Does the facility have back- up power? If the facility has back-up power~~,~~: • ~~h~~How long does the back-up power last (in hours)? • Is there a battery back-up, and if so what is the capacity (kW)? • Is there utility dual feed capability? • How long does it take to start up after a power outage? Does the facility have back-up generation, and	• Electric Utility Name In Competitive Areas (Transmission and Distribution Utilities; e.g., Oncor, CenterPoint, TNMP, or AEP) • Retail Electric Provider (that bills for service) • ESI-ID# • Utility Customer Name Associated with ESI-ID#	• Electric Utility Name In Non-Competitive Areas (e.g., Fully Integrated Utilities, including municipally owned utilities and transmission or distribution electric cooperatives) • Account Number • Utility Customer Name Associated with Account Number	• Was a critical customer designation requested for this facility in the prior year, or is this a new designation request?	• Explanation of why this facility is critical, such as a description of the electric generation facilities served by this facility or interdependencies between this facility and other critical facilities. • Whether this facility is a Tier 1, 2, or 3 facility.

Attachment 2

Facility Type	Facility Identification Information	Gas Production and/or Handling Information	Facility Location Information			Emergency Contact Information	Electrical Power and Backup Power Capabilities	Electric Utility Information (Competitive Areas)	Electric Utility Information (Non-Competitive Areas)	Renewal or New Designation	Explanation of Critical Function
							if so, what is the capacity (kW)?				
Other facility the operation of which is necessary to operate one or more of the facilities listed above (§3.65(b)(8)), including but not limited to recycling facility and midstream facility	• Do NOT list a facility unless it is under a separate ESI-ID# or Account # than a facility already identified in §3.65(b)(1)-(7) above. • Railroad Commission Issued ID Number, if any. • Reference the facility type and ID Number listed in §3.65(b)(1)-(7) supported by this facility.	N/A	Facility street address ~~or~~and Latitude/Longitude ~~if no street address,~~ (NAD 83 or Decimal format e.g. -97.743057)	Name, title, email, and phone number of on-site contact person	Facility mailing address	Name, email, and phone number of emergency contact person	Does the facility have back-up power? If the facility has back-up power~~.~~: • ~~h~~How long does the back-up power last (in hours)? • Is there a battery back-up, and if so what is the capacity (kW)? • Is there utility dual feed capability? • How long does it take to start up after a power outage? Does the facility have back-up generation, and if so, what is the capacity (kW)?	• Electric Utility Name In Competitive Areas (Transmission and Distribution Utilities; e.g., Oncor, CenterPoint, TNMP, or AEP) • Retail Electric Provider (that bills for service) • ESI-ID# • Utility Customer Name Associated with ESI-ID#	• Electric Utility Name In Non-Competitive Areas (e.g., Fully Integrated Utilities, including municipally owned utilities and transmission or distribution electric cooperatives) • Account Number • Utility Customer Name Associated with Account Number	• Was a critical customer designation requested for this facility in the prior year, or is this a new designation request?	• Explanation of why this facility is critical, such as a description of the electric generation facilities served by this facility or interdependencies between this facility and other critical facilities. • Whether this facility is a Tier 1, 2, or 3 facility.

Attachment 2

Facility Type	Facility Identification Information	Gas Production and/or Handling Information	Facility Location Information			Emergency Contact Information	Electrical Power and Backup Power Capabilities	Electric Utility Information (Competitive Areas)	Electric Utility Information (Non-Competitive Areas)	Renewal or New Designation	Explanation of Critical Function
Gas control center			Facility street address and Latitude/Longitude (NAD 83 or Decimal format e.g. -97.743057)	Name, title, email, and phone number of on-site contact person	Facility mailing address	Name, email, and phone number of emergency contact person	Does the facility have back-up power? If the facility has back-up power: • How long does the back-up power last (in hours)? • Is there a battery back-up, and if so what is the capacity (kW)? • Is there utility dual feed capability? • How long does it take to start up after a power outage? Does the facility have back-up generation, and if so, what is the capacity (kW)?	• Electric Utility Name In Competitive Areas (Transmission and Distribution Utilities; e.g., Oncor, CenterPoint, TNMP, or AEP) • Retail Electric Provider (that bills for service) • ESI-ID# • Utility Customer Name Associated with ESI-ID#	• Electric Utility Name In Non-Competitive Areas (e.g., Fully Integrated Utilities, including municipally owned utilities and transmission or distribution electric cooperatives) • Account Number • Utility Customer Name Associated with Account Number	• Was a critical customer designation requested for this facility in the prior year, or is this a new designation request?	• Explanation of why this facility is critical, such as a description of the electric generation facilities served by this facility or interdependencies between this facility and other critical facilities. • Whether this facility is a Tier 1, 2, or 3 facility.

Attachment 3

Filing Receipt

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PROJECT NO. 52345

CRITICAL NATURAL GAS FACILITIES AND ENTITIES	**§**	**BEFORE THE**
	§	**PUBLIC UTILITY COMMISSION**
	§	**OF TEXAS**

JOINT TDU INITIAL COMMENTS ON THE PROPOSAL FOR PUBLICATION OF AMENDMENTS TO 16 TAC § 25.52

TO THE HONORABLE PUBLIC UTILITY COMMISSION OF TEXAS:

Oncor Electric Delivery Company LLC, AEP Texas Inc., CenterPoint Energy Houston Electric, LLC, and Texas-New Mexico Power Company (collectively, the "Joint TDUs") timely file these Initial Comments on the proposed amendments to 16 Tex. Admin. Code § 25.52 ("TAC"), relating to (i) the addition of end stage renal disease facilities to the list of health facilities prioritized during system restoration following an extended power outage, and (ii) the process in collaboration with the Railroad Commission of Texas ("RRC") for critical natural gas customer designation and provision of related information to the Electric Reliability Council of Texas, Inc. ("ERCOT"), where applicable, and the utilities to be incorporated into load-shed and emergency restoration plans.

The Joint TDUs appreciate the work of the Public Utility Commission of Texas ("Commission") and the staff of the Commission ("Commission Staff") on this matter and believe that the Commission, the RRC, and stakeholders in the electric industry and the natural gas industry remain committed to formulating rules that will best serve the State of Texas. At this time, the Joint TDUs acknowledge and accept the proposed amendments to 16 TAC § 25.52(f) that implement the Legislature's changes to PURA[1] § 38.072(a) and (b) concerning the prioritization of end stage renal disease facilities, with one proposed modification as reflected in the markup of subsection (f). Regarding the proposed amendments to 16 TAC § 25.52 that are intended to implement PURA § 38.074 concerning critical natural gas facilities, the Joint TDUs respectfully show the following:

[1] Public Utility Regulatory Act, Tex. Util. Code §§ 11.001–66.016 ("PURA").

I. EXECUTIVE SUMMARY

As instructed in the Proposal for Publication, the Joint TDUs provide the following executive summary of their Initial Comments:

- Proposed § 25.52(c) should include a definition for an "energy emergency," given that this term is used elsewhere in the proposed amendments.
- Proposed § 25.52(h)(1)(A) points to RRC rule 16 TAC § 3.65(a)(3) in defining the categories of critical customer information that operators of critical natural gas facilities must provide to ERCOT and the utilities. The list of information required under the RRC rule should also include details on which facilities directly support electric generation for each critical natural gas facility.
- Proposed § 25.52(h)(1)(C) provides too short of a timeframe for the utilities to process, evaluate, and respond to the high volume of critical customer information that will be submitted, so a longer timeframe of 15 business days should be adopted instead.
- Proposed § 25.52(c)(2) defines "critical natural gas" by reference to RRC rule 16 TAC § 3.65(b). As currently proposed, the RRC definition in § 3.65(b) is very broad, as is the exception process set out in § 3.65(d). More guidance is needed. One or more of the Joint TDUs may offer comments in the RRC rulemaking that address the types of facilities included in the RRC definition, including whether those facilities should be grouped and given various levels of prioritization.
- Proposed § 25.52(h)(2)(A) should be revised to: (i) incorporate a hierarchy or tiered categorization of critical natural gas facilities so that the implementation of the rule is manageable for the utilities; and (ii) recognize necessary utility discretion during load-shed events and restoration consistent with applicable statutes, rules, and utility tariffs.
- Proposed § 25.52(h)(2)(C) should be revised so that utilities can consider additional guidance or prioritization criteria provided by authorized representatives of the Commission, the RRC, or ERCOT.

These issues are discussed in more detail below. The Joint TDUs' proposed revisions are also reflected on the markup of the relevant portions of the proposed rule amendments attached to these comments.

II. SPECIFIC COMMENTS

Proposed 16 TAC § 25.52(c) – Definitions

Proposed § 25.52(c) should include a definition for the term "energy emergency," given that this term is used elsewhere in the proposed amendments, including in the definition of "critical natural gas" in proposed § 25.52(c)(2) and in the provisions addressing prioritization of critical natural gas facilities in proposed § 25.52(h)(2). While Texas Government Code § 418.004 contains a slightly different definition of this term,[2] the most sensible approach is to adopt the same definition that is used in the corresponding RRC rule. This avoids confusion, given that the PUC and RRC rules are intended to work in tandem. As currently proposed, the RRC's rule defines "energy emergency" as "[a]ny event that results in or has the potential to result in load shed required by an independent organization certified under Texas Utilities Code[] § 39.151 resulting in an electric outage."[3] The Joint TDUs recommend that this same definition be incorporated into § 25.52(c).

Proposed 16 TAC § 25.52(h)(1)(A) – concerning the categories of critical customer information

This subsection requires critical natural gas facilities to provide to the utilities "critical customer information, as defined by § 3.65(a)(3) . . . ." As currently proposed by the RRC, § 3.65(a)(3) points to the RRC's proposed "Table CCI" that lists the categories of information that an operator of each type of critical natural gas facility must provide.[4] The RRC posted its proposed Table CCI on the RRC website on September 29, 2021. The utilities also need additional details, including which facilities directly support electric generation for each critical natural gas facility in order to properly incorporate those

[2] *See* Tex. Gov't Code § 418.004(3), defining "energy emergency" as "a temporary statewide, regional, or local shortage of petroleum, natural gas, or liquid fuel energy supplies that makes emergency measures necessary to reduce demand or allocate supply."

[3] *See* 46 Tex. Reg. 6461 (Oct. 1, 2021).

[4] *See id.*

facilities into load-shed and emergency restoration plans. One or more of the Joint TDUs will raise in their comments in the RRC rulemaking the need for and benefit of being provided additional information by the operators of critical natural gas facilities. The Joint TDUs also request that the Commission take this point into account for purposes of ensuring effective prioritization of critical facilities.

Proposed 16 TAC § 25.52(h)(1)(C) – concerning the utility's actions upon receipt of the critical customer information

This subsection requires the utility to evaluate critical customer information for completeness and provide written notice to the operator regarding its critical natural gas designation status within five business days. Given the large number of natural gas facilities and entities that may potentially be designated as "critical" under the RRC's proposed rule,[5] and given that this information will be submitted at two specific times each year, five business days is too short of a timeframe for the utilities to process, evaluate, and respond to the volume of information that will be simultaneously submitted by the operators of those facilities. The Joint TDUs, therefore, recommend that a longer timeframe of 15 business days be adopted instead. This longer timeframe will allow the utilities to more thoroughly analyze the critical customer information, affording an opportunity for clarification and communication with the operators if needed. A longer timeframe is more consistent with the 30-day timeframe set forth in Texas Water Code § 13.1396(g), which provides that:

> [i]f an electric utility determines that an affected utility's facilities do not qualify for critical load status, the electric utility and the retail electric provider, *not later than the 30th day after the date the electric utility or retail electric provider receives the information required by Subsections (c) and (d)*, shall provide a detailed explanation of the electric utility's determination to the affected utility and the office of emergency management of each county in which the affected utility's facilities are located.[6]

For these reasons, the unmanageable five business day turnaround time should be extended

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[5] *See* 46 Tex. Reg. 6460 (Oct. 1, 2021) (estimating that approximately 6,200 operators are subject to proposed § 3.65).

[6] Emphasis added.

to 15 business days.

The Joint TDUs also emphasize that the time period set forth in proposed § 25.52(h)(1)(C)—whether five business days as initially proposed or 15 business days as requested herein—will be the period in which they will process the critical customer information provided by the operator and provide the required notice to the operator. The Joint TDUs note that they will not necessarily be able to incorporate every newly designated critical natural gas facility into their load-shed and emergency restoration plans within that short timeframe.

Proposed 16 TAC § 25.52(h)(2)(A) – Prioritization of critical natural gas facilities

Proposed § 25.52(c)(2) defines "critical natural gas" as "[a] facility designated as a critical gas supplier by the [RRC] under §3.65(b) of this title . . . unless the critical gas supplier has obtained an exception from its critical status under §3.65(d) . . . ." Under the RRC's current proposed wording of § 3.65(b) which, under both Senate Bill 3 ("SB 3") and House Bill 3648 ("HB 3648"), is supposed to contain criteria for designating critical natural gas suppliers,[7] the following natural gas facilities, among others, may ultimately be designated as critical:

- Approximately 86,267 natural gas wells,[8]
- Approximately 176 natural gas processing plants,[9]
- Approximately 52,858 miles of interstate and intrastate natural gas pipelines and related compressor stations,[10]
- Approximately 107,978 miles of natural gas local distribution company ("LDC") pipelines and related compressor stations,[11]

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[7] Tex. Nat. Res. Code § 81.073(b)(1).

[8] RRC Texas Oil and Gas Production Statistics for December 2020. Available online at: https://rrc.texas.gov/news/030421-december-production-statistics/ (last visited Oct. 5, 2021).

[9] U.S. Energy Information Administration, *Natural Gas Annual Respondent Query System (EIA Data through 2017)*. Available online at: https://www.eia.gov/naturalgas/ngqs/#?report=RP9&year1=2017&year2=2017&company=Name (last visited Oct. 5, 2021).

[10] RRC Texas Pipeline System Mileage. Available online at: https://www.rrc.texas.gov/pipeline-safety/reports/texas-pipeline-system-mileage/ (last visited Oct. 5, 2021).

[11] *Id.*

- Approximately 40 natural gas storage facilities, [12] and
- Transportation, storage, and disposal facilities for natural gas liquids and saltwater disposal.

In sum, under the RRC's proposed rule, a substantial amount of the natural gas industry in Texas may be designated as critical, with the exception of operators that submit a one-page exception form certifying that their facilities are not prepared to operate during a weather emergency.[13] In turn, the Commission's proposed rule incorporates the critical natural gas facility designation in the RRC's proposed rule and requires a utility to "prioritize critical natural gas facilities for load-shed purposes during an energy emergency" and gives a utility "discretion to prioritize power delivery and power restoration among critical natural gas facilities and other critical loads on its system." As presently proposed, neither of the proposed rules presently distinguish among the natural gas facilities listed above, nor do they provide a methodology by which critical natural gas facilities should be prioritized for load shedding, power delivery, and restoration purposes. The Legislature's mandate to the Commission and the RRC in both SB 3 and HB 3648, as reflected in PURA § 38.074(a) and Tex. Nat. Res. Code § 81.073(a), was to "collaborate with [each other] to adopt rules to establish a process to designate *certain* natural gas facilities and entities associated with providing natural gas in this state as critical during energy emergencies;"[14] it is unclear how this evaluation would occur under either rule as proposed.

To the extent that the RRC's proposed rule is not revised in a way that specifies the level of criticality that should be given to each critical natural gas facility (based on criteria such as size, type, or location), then the Joint TDUs urge the Commission to provide a hierarchy or categorization of those facilities within § 25.52(h)(2)(A), with corresponding levels of prioritization to be given to each category, consistent with applicable statutes, rules, and utility tariffs. This will make the rule more manageable for the utilities to implement. The proposed hierarchy could categorize natural gas facilities designated under

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[12] RRC Texas Gas Storage Operations. Available online at: https://www.rrc.texas.gov/media/xyihpsfk/gsd-gas-storage-report-072021.pdf (last visited Oct. 5, 2021).

[13] *See* 46 Tex. Reg. 6461 (Oct. 1, 2021).

the RRC rule as critical facilities into three "tiers" of prioritization, based on criticality.[15] Tier 1 (highest priority of critical natural gas facilities) could include: (i) facilities that directly provide natural gas to electric generation or the facilities designated as critical by a gas LDC to meet its highest level of curtailment priority pursuant to an applicable tariff or RRC regulatory requirement,[16] or (ii) natural gas storage facilities. Tier 2 (intermediate priority of critical natural gas facilities) could include remaining facilities in the gas supply chain (such as production, produced water, salt water disposal, and processing) that provide or support substantial volumes of gas production and/or processing but do not fall within Tier 1. These facilities may become critical in load-shed scenarios of extreme depth or duration where the availability of natural gas is expected to be an issue. Tier 3 (lowest priority of critical natural gas facilities) could include premises that do not fall within Tier 1 or Tier 2 and include facilities that do not provide or support substantial volumes of gas production and/or processing, metering facilities, and similar support facilities or equipment. With this lowest level of priority, Tier 3 facilities will likely be included in load shed in most scenarios, but the proactive identification and categorization of these facilities will allow for efficient restoration if load-shed conditions warrant. This type of hierarchy will best allow the utilities to properly consider and incorporate these facilities into load-shed plans.

If a large volume of natural gas facilities are newly designated as critical load under the Commission's and the RRC's rules (estimated by the RRC to affect 6,200 operators[17]), this will impact the utilities' ability to effectively plan for and effectively implement load shed. Utilities have a finite number of distribution feeders that can be used for load shed, including feeders needed for their respective automatic underfrequency load-shed programs, as required by Section 2.6.1 of the ERCOT Nodal Operating Guide and the North American Electric

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[15] *See* Oncor Electric Delivery Company LLC's Response to Commission Staff's Questions for Comment at 5-6 (Aug. 16, 2021).

[16] *See* the RRC's Feb. 12, 2021 Emergency Order temporarily amending Rule 2 of Docket 489 to modify the natural gas curtailment priorities under the RRC's approved utilities curtailment program in order to ensure the protection of human needs customers and electric generation facilities serving human needs customers until February 19, 2021; *and see* the RRC's Feb. 17, 2021 Emergency Order extending the temporary modification until February 23, 2021. While the RRC's Emergency Orders have expired, we understand that the staff of the RRC is considering incorporating this concept into the RRC's rules.

[17] *See* 46 Tex. Reg. 6460 (Oct. 1, 2021).

Reliability Corporation Reliability Standard PRC-006-5. Therefore, the greater the number of designated critical facilities that are on a utility's system, the less likely it is that a utility can successfully prioritize those facilities in its load-shed plans. It is imperative, therefore, that the Commission provide guidance within the rule on the types of facilities that merit the highest level of prioritization.

Finally, in addition to the categories of information to be provided under Table CCI and those additional details set forth above regarding proposed § 25.52(h)(1)(A), the Joint TDUs note that they must also base their load-shed prioritization on a number of other factors, including but not limited to the seasonality and the expected duration and severity of a power outage, as well as whether a facility supports a gas LDC versus strictly commercial facilities. As the Legislature recognized in both SB 3 and HB 3648, utilities must have the discretion during energy emergencies to prioritize power delivery and power restoration as individual event and electric system circumstances require.[18]

Proposed 16 TAC § 25.52(h)(2)(C) – Prioritization of critical natural gas facilities

The requirement set forth in proposed § 25.52(h)(2)(C) that utilities must consider "any additional guidance or prioritization criteria provided by the [C]ommission, the [RRC], or the independent system operator for its power region to prioritize among critical natural gas facilities during an energy emergency" is vague and overly broad. Utility personnel prepare and train for load shedding scenarios. When faced with an energy emergency that is or may necessitate load shed, utilities are, however, faced with difficult and complex decisions that must be made very quickly.[19] As proposed, this subsection poses the risk that the utilities could receive conflicting instructions from a number of different personnel at the Commission, the RRC, and ERCOT that direct different, specific courses of action with respect to load shed and prioritization among critical natural gas facilities. If adopted, this will only further complicate an already cumbersome task for the utilities. Therefore, this subsection should be narrowed so that utilities are only obligated to *consider* additional guidance or prioritization criteria provided by only certain personnel

[18] As shown in the attached markup, the Joint TDUs recommend the addition of "as circumstances require" to proposed § 25.52(h)(2)(B) to ensure consistency with the language of PURA § 38.074(b)(3).

[19] Upon receipt of a load-shed instruction from ERCOT, utilities must implement load shed within thirty minutes of receiving such instruction.

at each entity, specifically the authorized representatives of the Commission, the RRC, and ERCOT. This will make the rule manageable for utilities and will prevent potential chaos and confusion at times when utilities are making minute-by-minute decisions.

III. CONCLUSION

The Joint TDUs appreciate the opportunity to comment on the Proposal for Publication and respectfully request the Commission's full consideration of the comments set forth herein.

Respectfully submitted,

Oncor Electric Delivery Company LLC

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Joint TDUs' Proposed Revisions to Proposed § 25.52

(c) Definitions. The following words and terms, when used in this section, have the following meanings unless the context indicate otherwise.

(1) **Critical loads** – Loads for which electric service is considered crucial for the protection or maintenance of public safety; including but not limited to hospitals, police stations, fire stations, critical water and wastewater facilities, and customers with special in-house life-sustaining equipment.

(2) **Critical natural gas** – A facility designated as a critical gas supplier by the Railroad Commission of Texas under §3.65(b) of this title (relating to Critical Designation of Natural Gas Infrastructure) unless the critical gas supplier has obtained an exception from its critical status under §3.65(d) of this title. Critical natural gas is a critical load during an energy emergency.

(3) **Energy emergency** – Any event that results in or has the potential to result in load shed required by an independent organization certified under PURA § 39.151 resulting in an electric outage.

[Note: all subsequent subsections would be renumbered accordingly.]

(f) **Priorities for power restoration to certain medical facilities.**

. . .

(3) Nothing in this subsection (f) shall be deemed as altering the terms and conditions of a utility's tariff.

(h) Critical natural gas. In accordance with §3.65 of this title, critical natural gas standards apply to each facility designated as a critical gas supplier in the state.

(1) Critical customer information.

(A) The operator of a critical natural gas facility must provide critical customer information, as defined by §3.65(a)(3) of this title, to the entities listed in clauses (i) and (ii) of this subparagraph. The critical customer information must be provided in usable format via email.

(i) The utility from which the critical natural gas facility receives electric delivery service; and

(ii) For critical natural gas facilities located in the ERCOT region, the independent organization certified under PURA §39.151.

(B) The commission will maintain on its website a list of utility email addresses to be used for the provision of critical customer information under subparagraph (A) of this paragraph. Each utility must ensure that the email address listed on the commission's website is accurate. If the utility's email address changes or is

inaccurate the utility must immediately provide the commission with an updated email address.

(C) Within ~~five~~ fifteen business days of receipt, the utility must evaluate the critical customer information for completeness and provide written notice to the operator of the critical natural gas facility regarding the status of its critical natural gas designation.

(i) If the information submitted is incomplete, the utility's notice must specify what additional information is required.

(ii) If the information submitted is complete the utility's notice must notify the operator of the facility's critical natural gas status, the date of its designation, any additional classifications assigned to the facility, and notice that its critical status does not constitute a guarantee of an uninterrupted supply of energy.

(D) A utility or an independent system operator receiving critical customer information from a critical natural gas facility under this subsection must not release critical customer information to any person unless authorized by the commission or the operator of the critical natural gas facility. This prohibition does not apply to the release of such information to the commission, the Railroad Commission of Texas, the utility from which the critical natural gas facility receives electric service, or the independent system operator for the region in which the critical natural gas facility is located. This prohibition also does not apply if the critical customer information is redacted, aggregated, or organized in such a way as to make it impossible to identify the critical natural gas facility to which the information applies.

(2) Prioritization of critical natural gas facilities. A utility must incorporate critical natural gas facilities into its load-shed and restoration planning.

(A) A utility must, consistent with applicable statutes, rules, and utility tariffs, prioritize critical natural gas facilities for load-shed purposes during an energy emergency according to the tier system set forth in clauses (i), (ii), and (iii) of this subparagraph.

(i) The utility must give the highest priority to: (a) facilities that directly provide natural gas to electric generation, or the facilities designated as critical by a gas local gas distribution company to meet its highest level of curtailment priority pursuant to an applicable tariff or a Railroad Commission of Texas requirement, or (b) natural gas storage facilities.

(ii) The utility must give intermediate priority to remaining facilities in the gas supply chain such as production facilities, produced water facilities, salt water disposal facilities, and processing facilities that support substantial volumes of gas production and/or processing and

do not fall within the category described in clause (i) of this subparagraph.

(iii) The utility must give the lowest level priority to metering facilities, similar support facilities or equipment, and any other critical natural gas facilities that do not fall within the categories described in clauses (i) and (ii) of this subparagraph.

(B) A utility may use its discretion to prioritize power delivery and power restoration among critical natural gas facilities and other critical loads on its system as circumstances require.

(C) A utility must consider any additional guidance or prioritization criteria provided by authorized representatives of the commission, the Railroad Commission of Texas, or the independent system operator for its power region ~~to prioritize among critical natural gas facilities during an energy emergency~~.

(D) Nothing in this Subsection (h) shall be deemed as altering the terms and conditions of a utility's tariff.

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November 1, 2021

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Re: Proposed New 16 TAC §3.65 and Proposed Rules to §3.107 to Implement HB 3648 and SB 3.

To the Honorable Commissioners of the Railroad Commission of Texas:

South Texas Electric Cooperative, Inc. ("STEC") respectfully submits these comments in response to the Railroad Commission of Texas's ("RRC" or "Commission") Proposed New 16 TAC §3.65 and Proposed Amendments to §3.107 to Implement HB 3648 and SB 3 (the "Proposed Rules"). The deadline for comments is November 1, 2021. These comments are timely filed.

EXECUTIVE SUMMARY

It is essential to the implementation of Senate Bill 3 and House Bill 3648 that critical natural gas facilities are accurately designated and weatherized in order to avoid a recurrence of the energy disruptions experienced in February. To achieve those ends, SB 3 requires the Commission to adopt rules providing that only those facilities that are weatherized may be designated as critical, and facilities included on the electricity supply chain map and designated as critical by the Commission *must* weatherize.

The Proposed Rules, however, assume that *all* natural gas facilities are "critical" except those facilities that choose to opt out from weatherization requirements. Moreover, the Proposed Rules are silent as to the status of facilities that opt out from weatherization requirements and are later included on the supply chain map and designated as critical. The Proposed Rules thus risk

being interpreted in a way contrary to the legislative intent. STEC recommends the Proposed Rules be modified as follows:

- Shift from the "presumed critical" approach and instead provide that natural gas facilities are "eligible for designation as critical";

- State that beginning in 2023, the "critical" facility designation will include those facilities included in the supply chain map pursuant to PURA § 38.203 and designated critical by the Commission;

- Make clear that those facilities that submit the Form CI-X exception may nonetheless be required to weatherize if mapping and prioritization activities identify them as critical;

- Create more meaningful threshold weatherization expectations so members of the natural gas industry can accurately certify that they are "prepared to operate during a weather emergency" in accordance with the Proposed Rules; and

- Revise Form CCI to require facilities to provide additional information in order to better facilitate load shed planning.

STEC also strongly recommends enhanced coordination between the RRC and the PUC on the important work ahead to implement SB 3 and HB 3648, including commencement of the electric supply chain mapping process as soon as possible with a goal of releasing the map and best practices far in advance of the September 1, 2022, deadline.

Finally, STEC requests the Commission's immediate attention on certain other issues that are of critical importance to SB 3's implementation. These issues include: (1) prioritization among critical facilities, and (2) the initiation of a rulemaking for a permanent gas curtailment rule.

DISCUSSION

I. Background

A. STEC

STEC is a generation and transmission cooperative. It was formed in 1944 to provide wholesale electric services to member distribution cooperatives, which serve over 310,042 consumers in forty-seven South Texas counties. Power provided by STEC to its member cooperatives is generated from a variety of energy sources, including natural gas, wind, lignite, diesel fuel, solar and hydroelectric. STEC's member cooperatives serve a significant number of oil and gas operations in South Texas, including serving the Eagle Ford throughout Karnes County.

B. Implementation of SB 3 and HB 3648

The comprehensive measures directed by Senate Bill 3 ("SB 3") and House Bill 3648 ("HB 3648") of the 87th Regular Session address the importance of the RRC and the Public Utility Commission of Texas ("PUCT") coordinating weatherization standards, jointly mapping the gas-electric supply chain, and collaborating to develop and implement prioritization criteria to ensure that critical natural gas supplies are capable of delivering fuel to power plants during weather emergencies. *See* SB 3 Sections 3,[1] 4,[2] 5,[3] 16,[4] 17,[5] 21,[6] 25,[7] 33,[8] and 37.[9] Under SB 3, the RRC and the PUCT are directed to coordinate in the designation of certain natural gas facilities that are "critical" and develop prioritization criteria so that transmission and distribution service providers ("TDSPs") that operate their systems and perform load shed obligations can differentiate during

[1] Establishing Subchapter J of Chapter 418 of the Texas Government Code (Texas Energy Reliability Council).

[2] Creating Texas Natural Resources Code Section 81.073 (Critical Natural Gas Facilities and Entities).

[3] Creating Texas Natural Resources Code Section 86.044 (Weather Emergency Preparedness).

[4] Amending Subchapter D, Chapter 38, by adding Sections 38.074, 38.075, 38.076, and 38.077 to create prioritization criteria for load-shed purposes governing critical natural gas infrastructure during an energy emergency.

[5] Creating Subchapter F, Chapter 38, Texas Utilities Code (Texas Electricity Supply Chain Security and Mapping).

[6] Creating new Subsections 121.2015(a-1), (c-1), and (c-2), (d), (e), and (f), Texas Utilities Code (establishing weatherization, mapping and enforcement provisions for natural gas pipelines).

[7] Creating Texas Utilities Code Section 186.008 (Railroad Commission Weather Emergency Preparedness Reports).

[8] Creating the State Energy Plan Advisory Committee (to be appointed by the Governor, Lt. Governor, and Speaker of the House [4 positions each] and requiring the submitted of a State Energy Plan by September 1, 2022).

[9] Requiring the Texas Electricity Supply Chain Security and Mapping Committee to produce the above-referenced map by September 1, 2022.

times of emergencies between natural gas facility loads that are important, but are not critical to supply human needs and to supply power plants with fuel, and those that are truly critical gas supply infrastructure necessary to meet human needs and supply generation with fuel. Particularly given the size of the natural gas industry and the in-house expertise at the RRC, the RRC's expertise is *essential* in designating critical natural gas facilities so that load shedding prioritization criteria developed by PUCT and implemented by the TDSPs properly differentiate among different tiers of priority within the gas supply chain.

SB 3 provides that the Commission *"shall"* adopt rules providing that: (1) only those facilities that are weatherized (i.e., "prepared to operate during a weather emergency") may be designated as critical;[10] and (2) facilities included on the electricity supply chain map and designated as critical by the Commission *must* weatherize.[11] This means that a facility that is weatherized voluntarily may nonetheless be determined *not* to be critical, and a facility whose owner has opted *not* to weatherize may ultimately be determined to be critical by the Commission in the supply chain mapping process, and then required to weatherize. As discussed in detail herein, however, the plain language of the Proposed Rules risks undermining those directives.

The preamble to the Proposed Rules provides that the Commission's adoption of § 3.65 is "the first of many steps in implementing the requirements of Senate Bill 3" and "does not prioritize the critical facilities for load-shed purposes."[12] The language of the rule itself, however, seems to indicate the opposite. It provides that natural gas facilities *"are designated critical gas suppliers"* unless the facility's operator submits the Form CI-X exception asserting that the facility is not prepared to operate during a weather emergency, along with a one-time fee. As currently crafted, the Proposed Rules risk being interpreted in a way contrary to the legislative intent. STEC recommends the Commission take reasonable steps to mitigate that risk by taking the steps recommended herein, including the following:

- Shift from the "presumed critical" approach and instead provide, consistent with SB 3 and the preamble, that natural gas facilities are "eligible for designation as critical" rather than stating that they are "designated critical gas suppliers."

[10] *See* Nat. Res. Code § 81.073(b)(3).

[11] *See* Nat. Res. Code § 86.044.

[12] *See, e.g.*, 46 Tex.Reg. 5458.

- State that beginning in 2023, the "critical" facility designation will be limited to those facilities identified by the Mapping Committee in the supply chain map pursuant to PURA § 38.203 and designated critical by the Commission;

- Make clear that those facilities that submit the Form CI-X exception may nonetheless be determined to be critical and subject to weatherization requirements if mapping and prioritization activities identify them as critical;

- Create more meaningful threshold weatherization expectations so members of the natural gas industry can accurately certify that they are "prepared to operate during a weather emergency" in accordance with the Proposed Rules; and

- Revise Form CCI to require facilities to provide additional information in order to better facilitate load shed planning.

II. The Proposed Rules' overbroad categorization of "critical" facilities is counter to the legislative directive of SB 3.

A. Issues surrounding the current language of the Proposed Rules.

SB 3 requires the RRC and the PUCT to coordinate in designating "*certain*" natural gas facilities as "critical" and developing prioritization criteria.[13] It was also anticipated that minimum weatherization standards would be specified in order for members of the natural gas industry to understand what type of weatherization requirements would need to be met if an entity sought critical care certification (by filing new "Form CI-D") such that the entity is "prepared to operate during a weather emergency" as required by SB 3.

Unfortunately, however, the rule as drafted results in both an over-broad categorization of "critical" facilities and no expectation of weatherization for such facilities. Rather than use the discretion and judgment required by the legislation to specify criteria that will govern the "prepared to operate" certification, or even signal when that criteria will be forthcoming, the Proposed Rules assume that any facility is "critical" unless its owner elects to opt-out by

[13] *See* Tex. Nat. Res. Code § 81.073(a) ("The commission shall collaborate with the Public Utility Commission of Texas to adopt rules to establish a process to designate *certain* natural gas facilities and entities associated with providing natural gas in this state as critical customers or critical gas suppliers during energy emergencies") (emphasis added).

submitting a Form CI-X and paying the one-time ($150) fee.[14] Proposed §3.65 provides a blanket "critical" designation for arguably the entire natural gas industry when it states that:

> The following facilities ***are designated critical*** gas suppliers and critical customers of the entities described by Texas Utilities Code, §38.074(b)(1) during an energy emergency:
>
> (1) wells producing gas or casinghead gas;
> (2) gas processing plants;
> (3) natural gas pipelines and pipeline facilities including compressor stations;
> (4) local distribution company pipelines and pipeline facilities including compressor stations;
> (5) natural gas storage facilities;
> (6) natural gas liquids transportation and storage facilities;
> (7) saltwater disposal facilities including saltwater disposal pipelines; and
> (8) other facilities under the jurisdiction of the Commission the operation of which is necessary to operate any of the facilities in paragraphs (1) through (7) of this subsection.[15]

The preamble provides that §3.65 "is the first of many steps in implementing the requirements of SB 3" and "does not prioritize the critical facilities for load-shed purposes."[16] The preamble language is a helpful attempt to clarify that §3.65 does not result in the designation of "critical" facilities that are to be prioritized in accordance with SB 3, but the incongruity between the preamble and the Proposed Rules' provision that the long list of facilities "are designated as critical" creates confusion. Indeed, the PUCT's proposed amendments to §22.52 are premised on the assumption that the Proposed Rules establish the list of "critical" facilities for consideration by utilities in complying with the load shed provisions of Section 16 of SB 3.[17] The Proposed Rules should be revised to conform to the preamble language, as discussed in more detail below.

A related deficiency in the Proposed Rules is that there is no provision (or preamble clarification) made to ensure that those entities wishing to opt out of weatherization requirements will *not* be allowed to do so if they are deemed critical as a result of the upcoming gas-electric

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[14] Railroad Commission of Texas Proposed New 16 TAC §3.65 and Proposed Rules to §3.107 to Implement HB 3648 and SB 3 at §3.65(b)-(d) (46 Tex. Reg. 6458)(Oct. 1, 2021).

[15] Natural Resources Code Section 81.073(b)(3)(emphasis added).

[16] 46 Tex. Reg. 5458.

[17] Adding new Sections 38.074, 38.075, 38.076, and 38.077. The PUCT defines "critical natural gas" in the proposed amendments to 16 TAC §22.52 as "[a] facility *designated as a critical gas supplier by the Railroad Commission of Texas under §3.65(b)* of this title (relating to Critical Designation of Natural Gas Infrastructure) unless the critical gas supplier has obtained an exception from its critical status under §3.65(d) of this title. Critical natural gas is a critical load during an energy emergency." PUCT Proposal for Publication of Amendments of 16 TAC §22.52 as approved at the September 16, 2021 Work Session Meeting, filed in Project No. 52345 on September 16, 2021 (emphasis added).

supply chain mapping process. STEC reads the plain language of SB 3, taken as a whole, to provide two distinct functions that stem from a natural gas facility's being "prepared to operate during a weather emergency": (1) the objective requirement to meet weatherization requirements for facilities identified by the gas-electric supply chain map;[18] and (2) an initial criterion for critical load designation for purposes of load shed and load restoration prioritization.[19] The only reasonable way to read these statutory requirements together and give meaning to each is to conclude that the latter cannot interfere with the former. That is, a gas facility must not be given full deference in determination of its preparedness to operate in a weather emergency.

B. Impact of the Proposed Rules on oil and gas communities and operations.

Based on STEC's extensive experience serving oil and gas loads and familiarity with load shedding requirements and the number of available feeders, STEC is concerned that the overbroad designation of "critical" facilities found in the Proposed Rules has the potential to severely impact oil and gas communities and oil and gas operations. As the Commission is aware, utilities have a limited number of distribution feeders that can be used for load shed. Certain areas of the ERCOT system have significant demand that is related to natural gas production and delivery, and entities in those areas may not be able to meet their load shed obligations with a myriad of natural gas facilities being designated as critical. An overbroad "critical" designation could result in feeders not being able to be rotated, meaning that residential customers would be forced off-line and could not have their outages rotated through other feeders. Moreover, the greater the number of designated "critical" facilities that are on a utility's system, the less likely it is that a utility can successfully prioritize among those facilities in its load-shed plans.

The Proposed Rules' overbroad definition of "critical" facilities will thus eliminate many of STEC's member cooperatives' distribution feeders from load shed participation, particularly those located in the Eagle Ford at the expense of residential customers that will be shed for longer time periods. Of STEC's nearly 500 feeders, 170 (or over 34%) are subject to automatic under-frequency load shed (UFLS),[20] making them ineligible for ERCOT-instructed manual load shed. STEC estimates that between the industrial and commercial loads that are protected from load shed

[18] Texas Natural Resources Code, §86.044(c) and Texas Utilities Code, §38.201(b).

[19] Texas Natural Resources Code, §81.073(a)-(b) and Texas Utilities Code §38.074.

[20] STEC targets 25% of the load to be automatically shed due to frequency dip.

responsibilities, the UFLS-tripped loads and the other types of critical loads, the load available to include in an EEA manual load shed event is only 40% of its total load. Even before adding additional natural gas facilities to the critical load lists, therefore, STEC's member cooperatives have less than half of their total customer load available to meet ERCOT's load shed instructions. Certain of STEC's members have even less flexibility in load shed events. For instance, one member has approximately 80 feeders, only 18 of which are available for use in manual load shed. Those 18 feeders serve approximately 30 MW of a 199 MW system load, or about 15%. The remaining feeders are either subject to UFLS tripping, have critical loads attached, or have natural gas facilities attached that have submitted critical load applications.

Regardless of the critical load designations, the magnitude of load required to be shed by ERCOT will be shed, and outaged loads will be rotated with a targeted interruption time of two hours or less. As feeders are eliminated from use in a manual load shed event by critical loads, the duration of the rotation cycle will increase. There are no alternatives to those considerations. If the available feeders all have critical natural gas loads, or a majority of feeders have critical loads, the end result will be that truly critical facilities will have service interrupted as frequently as less critical loads. The RRC should shift away from the presumed-critical approach so that only truly critical natural gas facilities are designated as critical. In addition, the RRC should work to establish "tiers" of critical facilities, as discussed below.

C. STEC's Recommended Changes to the Proposed Rules.

STEC respectfully recommends that the Proposed Rules be revised to conform with the legislative directive and the language of the preamble. Rather than implying that all natural gas facilities are presumed critical with the overbroad "designated critical" language, the Proposed Rules should instead provide that natural gas facilities are "eligible for designation as critical." This shift in language would make clear that a facility's decision to weatherize does not necessitate a RRC determination that such facility is "critical." Rather, the ultimate designation of certain natural gas facilities as critical for purposes of developing prioritization criteria must be limited to those facilities that are truly critical gas supply infrastructure. Moreover, the facilities "eligible for designation as critical" that file the Form CI-D should be required to provide an affirmative certification that the facility is prepared to operate in a weather emergency. This certification should be required for all facilities submitting the Form CI-D, including saltwater disposal facilities, which should be subject to the same weatherization standards as other facilities and

which should better defined in the Proposed Rules such that only those saltwater disposal facilities that are truly critical to natural gas processing are designated critical. The rules should also make clear that the Form CI-D must be submitted for *each facility*, rather than permitting operators to submit a single form purporting to cover all of an operator's facilities.

In addition, STEC recommends that the Proposed Rules make explicit that beginning in 2023, the "critical" facility designation will be limited to those facilities that will be identified by the Mapping Committee in the supply chain map pursuant to PURA § 38.203. This requirement is consistent with SB 3, which provides that facilities included on the electricity supply chain map and designated as critical by the Commission will be required to weatherize.[21] STEC would, however, support treating the entities eligible for critical designation under §3.65 as critical as an interim step prior to the completion of the necessary mapping process. Once the supply chain map has been prepared, however, those facilities designated "critical" should be expressly limited to the facilities on that map that are deemed critical by the Commission.

The Proposed Rules and the preamble should also clarify that facilities that are included on the supply chain map and deemed critical will be required to weatherize, regardless of whether they have filed the Form CI-X exception. SB 3 does not permit operators of facilities that are included on the electricity supply chain map and designated as critical to opt out of weatherization requirements. The Proposed Rules and the preamble, however, do not address the requirements for facilities that opt out of weatherization under §3.65 and are later deemed critical. The Commission's silence on this important point risks creating confusion and false expectations. The RRC must establish weatherization requirements that apply to facilities included in the supply chain map, including those that previously filed the Form CI-X exception, and only provide good cause exceptions based on specific conditions for such facilities to be exempted from those reliability requirements. Moreover, the list of facilities that have submitted the Form CI-X should be made public, so that utilities and others can easily determine which area facilities are not prepared to operate during a weather emergency.

Finally, the Proposed Rules require operators to certify (by filing the "Form CI-D") that they are "prepared to operate during a weather emergency." The RRC has not, however, provided the necessary information to allow members of the natural gas industry to understand what type of

[21] *See* Nat. Res. Code § 86.044.

weatherization requirements would apply to them if they certified. STEC understands the tremendous task imposed upon the Commission in SB 3 and that time is of the essence. Under the circumstances, it may not be possible to address weatherization requirements in this rulemaking. However, any guidance from the Commission on this important subject is crucial in allowing oil and gas operators, and the TDSPs that provide electric service to those operators, to determine whether they are "prepared to operate during a weather emergency" and to plan accordingly.

D. Recommended changes to Commission Table CCI.

In addition to the Commission's proposed new forms discussed above – Form CI-D (Critical Infrastructure Designation) and Form CI-X (Critical Infrastructure Exception), the Commission also proposed Table CCI (Critical Customer Information) as part of the Commission's implementation of SB 3. Table CCI dictates the information a critical facility's operator is responsible for submitting to electric utilities described by Section 38.074(b)(1) of the Utilities Code.

STEC appreciates the Commission's work on Table CCI and recommends that certain additional language should be included on the table in order to better facilitate load shed planning. Attached as Exhibit A are STEC's proposed additions to Table CCI. STEC proposes two broad categories of suggested additions to the Table: (1) information currently required by the ERCOT Form M-A031821-01 (Application for Critical Load Serving Electric Generation and Cogeneration), which are underlined; and (2) additions necessary to provide more information to those responsible for developing load shedding plans, which are double-underlined. This information is essential to compare facilities to the prioritization "tiers" that are being informally developed by the PUCT and RRC that are expected to be released as guidance in the coming weeks.

E. Recommended path forward for RRC and PUCT Coordination.

STEC strongly recommends enhanced coordination between the RRC and the PUCT on the important work ahead to implement SB 3 and HB 3648. Moving forward, it is important that the agencies collaborate in an immediate, constant, and substantive way, and send identical parallel messages to the public and their respective regulated communities regarding the multi-step process

that needs to be conducted to complete and synchronize the legislative directives relating to natural gas supply.

As mentioned above, the supply chain map is crucial to the ultimate designation of critical gas facilities. Given the importance of the mapping, best practices for winterization, and the ultimate designation and prioritization of critical gas facilities, the agencies should commence the mapping process as soon as possible with a goal of releasing the map and best practices far in advance of the September 1, 2022 deadline. Moreover, given that the State is rapidly approaching the first winter since Winter Storm Uri, interim guidelines should be developed as soon as possible to provide some assurances to the public and the electric generation industry that the natural gas supply chain is prepared to prevent the disruptions to their system that occurred last February. Such guidance should include information on weatherization requirements, as noted above.

STEC also invites further discussion with and among the RRC, PUCT, and stakeholders regarding the concept of scaling or adjusting load shed requirements regionally to ensure that burdens associated with critical care natural gas loads are fairly shared. Such adjustments would help to ensure that oil and gas communities are not unduly penalized, given that they are essential to the production of energy resources relied upon by all Texans.

III. Additional Considerations.

Several additional issues warrant the attention of the Commission. While these issues are not squarely within the scope of the current rulemaking, they are of critical importance to implementation of SB 3 and the prevention of a recurrence of what occurred in February. STEC respectfully requests that the Commission give immediate attention to these key issues, including initiation of a rulemaking where appropriate.

A. Prioritization among critical facilities.

As discussed above, the Proposed Rules could result in an over-designation of critical facilities, and the more "critical" facilities there are on a system, the less likely a utility will be able to successfully prioritize such facilities in its load-shed plans. Compounding the problem further is the fact that the Proposed Rules do not provide for "tiers" of critical gas facilities or otherwise offer guidance as to which critical facilities should be prioritized for load shed purposes.

The only way to ensure that critical non-oil and gas load and truly critical gas facilities are not interrupted is to develop criteria for prioritizing critical load eligibility in the context of load shedding procedures. It is thus important to establish tiers of critical facilities for prioritization purposes.

In a filing made in PUCT Docket No. 52345 (concerning the proposed amendments to 16 TAC § 25.52), Oncor Electric Delivery Company LLC, AEP Texas Inc., CenterPoint Energy Houston Electric, LLC, and Texas-New Mexico Power Company (the "Joint TDUs") suggested the following tiers of prioritization for critical gas facilities:

> Tier 1 (highest priority of critical natural gas facilities): (i) facilities that directly provide natural gas to electric generation or the facilities designated as critical by a gas LDC to meet its highest level of curtailment priority pursuant to an applicable tariff or RRC regulatory requirement, or (ii) natural gas storage facilities.
>
> Tier 2 (intermediate priority of critical natural gas facilities): remaining facilities in the gas supply chain (such as production, produced water, salt water disposal, and processing) that provide or support substantial volumes of gas production and/or processing but do not fall within Tier 1. These facilities may become critical in load-shed scenarios of extreme depth or duration where the availability of natural gas is expected to be an issue.
>
> Tier 3 (lowest priority of critical natural gas facilities): Premises that do not fall within Tier 1 or Tier 2 and include facilities that do not provide or support substantial volumes of gas production and/or processing, metering facilities, and similar support facilities or equipment. With this lowest level of priority, Tier 3 facilities will likely be included in load shed in most scenarios, but the proactive identification and categorization of these facilities will allow for efficient restoration if load-shed conditions warrant.

STEC appreciates the Joint TDUs' effort on this important issue, though STEC believes the proposed tiers also raise several questions that various issues warrant additional consideration.

For instance, the proposal divides "facilities," into tiers, but does not clearly address the types of facilities contemplated. It is important that the types of "facilities" subject to prioritization are defined in order to provide useful guidance to DSPs.

The proposed tiers themselves can be defined more specifically. For instance, the Joint TDUs' proposed Tier 1 would include "facilities that directly provide natural gas to electric generation." It is unclear, however, how a DSP would determine whether a facility "directly"

provides gas to a generator, or how a facility owner would establish that its facility needs electric service in order for a generator to receive gas.

Tier 1 also includes facilities "designated as critical by a gas LDC to meet its highest level of curtailment priority," but it does not include any criteria for LDCs to consider in making that determination. Prioritization requirements should provide parameters for LDCs to utilize in determining what facilities are critical. In addition, STEC recommends having the LDCs divide critical facilities into sub-categories based on timing in the event of an emergency – e.g., facilities that are critical immediately, facilities that would become critical within a day of decreased production or high use, and facilities that would become critical after three days of decreased production or high use.

The Joint TDUs' proposal for Tier 2 includes various facilities that "provide or support substantial volumes of gas production and/or processing but do not fall within Tier 1." The proposal does not, however, define "substantial volumes of gas production and/or processing." This term needs to be defined to provide meaningful guidance. Moreover, Tier 2 includes "production: facilities, but this category needs to be further developed. For instance, even where a production facility falls short of satisfying the necessary "substantial volume" level, "gathering" or "collection" facilities may meet the substantial volume criteria and may nonetheless be considered Tier 2. In addition, if a group of wells together exceed the "substantial volume" requirement and are served by one DSP feeder, then that group of wells could be given Tier 2 priority.

The Joint TDUs' proposed Tier 3 includes "facilities that do not provide or support substantial volumes of gas production and/or processing, metering facilities, and similar support facilities or equipment." Again, however, the proposal does not define "substantial volume of gas," and it is therefore not clear what facilities fall under the proposed Tier 3.

In addition to more clearly delineating the proposed tiers, the rule or guidance adopted on prioritization should establish consequences of a facility being assigned a particular tier. STEC recommends that Tier 1 facilities' electric service feeders should not get listed in DSP load shed plans as part of an initial response to a load shed directive. Tier 1 facilities may be subject to interruption should the energy emergency warrant, but they will not be interrupted unless the utility's load shed plan has reached its limit and the utility is forced to consider interrupting natural gas, water, health, prison, and other critical loads. Tier 2 facilities' feeders may be listed in a load

shed plan, but they should be among the last feeders interrupted during an emergency. They should also have a higher priority for restoration than feeders without critical loads. Tier 3 facilities' are included in the load shed plan. DSPs should have the discretion to prioritize restoration of Tier 3 facilities or to attempt to shorten durations of outages.

STEC appreciates the Commission's attention to this important matter and believes the Commission should continue to work with industry and the PUCT to establish tiers of critical facilities for prioritization purposes, including adoption of a rule or guidance as soon as possible.

B. Permanent Gas Curtailment Rule

On February 12, 2021, the Commission issued an Emergency Order temporarily amending Rule 2 of Docket 489 regarding natural gas utility curtailment priorities, with the stated goal of ensuring the protection of human needs customers. Under the Emergency Order, the RRC made first in priority "deliveries of gas by natural gas utilities to residences, hospitals, schools, churches and other human needs customers, and deliveries to Local Distribution Companies which serve human needs customers," while "[d]eliveries of gas to electric generation facilities which serve human needs customers" are second in priority.

The prioritization of electric generation must, however, be included as a component of human needs, as individuals cannot heat their homes without electricity, and power generation is thus a key component of human needs. STEC requests that a rulemaking concerning gas utility curtailment priorities be initiated immediately, both to make the rule permanent rather than a temporary emergency measure, and to include electric generation as a component of human needs.

CONCLUSION

STEC recognizes the difficult task presented to the RRC with respect to designating critical natural gas loads and developing weatherization criteria and appreciates the opportunity to comment on this rulemaking. With the suggested revisions to the Proposed Rules discussed above, and immediate and enhanced coordination with the PUCT on the multi-step process established by SB 3, STEC is confident that the Commission can go a long way to preventing the recurrence of the energy disruptions experienced in February. STEC stands ready to actively

participate in the stakeholder process at both agencies to expedite implementation of SB 3 and is available to provide any additional information that may be helpful to the Commission.

Sincerely,

Michael J. Nasi,

EXHIBIT A

TABLE CCI
(eff. 10/21)

Table of Critical Customer Information

INSTRUCTIONS: For each facility listed in the "Facility Type" column below, provide the required Critical Customer Information indicated in that facility's row to the electric entity providing power to that facility. Pursuant to Railroad Commission Rule 3.65 (16 Texas Administrative Code §3.65) and Public Utility Commission Rule 25.52 (16 Texas Administrative Code §25.52), provide the required Critical Customer Information in a useable format to the electric entity prior to, or within five business days of, filing the required Form CI-D with the Railroad Commission.

LEGEND:

Underlined Text = Suggested additions to include information currently required by the ERCOT Form # M-A031821-01

Double-Underlined Text = Suggested additions necessary to provide more information to those responsible for developing load shedding plans, including information that is essential to compare facilities to the prioritization "tiers" that are being developed by the PUCT and RRC which are expected to be released as guidance in the coming weeks.

Table of Critical Customer Information

Facility Type	**Facility Identification Information**	**Gas Production and/or Handling Information**	**Facility Location Information**		**Emergency Contact Information**	**Electrical Power and Backup Power Capabilities**	**Emergency Preparedness**	**Electric Utility Information (Competitive Areas)**	**Electric Utility Information (Non-Competitive Areas)**	**Gas Supply Chain Information**
Gas Well (§3.65(b)(1))	RRC Gas ID Number (######)	Most Recent Average Daily Gas Production (mcf/day) Average daily production rate for the past 12 months	Facility street address or Latitude/Longitude if no street address, (NAD 83 or Decimal format e.g. -97.743057)	Name, title, email, and phone number of on-site contact person	Name, email, and phone number of emergency contact person	Describe any existing battery, back-up power, or dual feed capability at the facility, including: (1) the length of time the facility can operate (in hours) without electricity from the electric utility, and (2) the length of required time for start-up following a power outage. Describe the size of the facility's electric load.	Describe any new or upgraded electric energy equipment or facilities necessary to serve the facility during an energy emergency.	• Electric Utility Name In Competitive Areas (Transmission and Distribution Utilities; e.g., Oncor, CenterPoint, TNMP, or AEP) • Retail Electric Provider (that bills for service) • ESI-ID# • Utility Customer Name Associated with ESI-ID#	• Electric Utility Name In Non-Competitive Areas (e.g., Fully Integrated Utilities, including municipally owned utilities and transmission or distribution electric cooperatives) • Account Number • Utility Customer Name Associated with Account Number	Describe the role of the facility in the natural gas supply chain. Identify any power plant, storage facility, or local distribution company to which the facility is directly connected. Describe equipment or premise served, (e.g., production field, midstream processing plant, natural gas storage facility, gas compressor station saltwater disposal well or recycling facility, including the name of the generation unit(s) served by the infrastructure if known) and interdependencies (such as particular fields are tied to a particular midstream processing facility).

Oil Well Producing Casinghead Gas (§3.65(b)(1))	2-digit district no. and 5-digit lease no. (##-#####)	Most Recent Average Daily Casinghead Gas Production (mcf/day) per Lease Number Average daily production rate for the past 12 months	Facility street address or Latitude/Longitude if no street address, (NAD 83 or Decimal format e.g. -97.743057)	Name, title, email, and phone number of on-site contact person	Name, email, and phone number of emergency contact person	Describe any existing battery, back-up power, or dual feed capability at the facility, including: (1) the length of time the facility can operate (in hours) without electricity from the electric utility, and (2) the length of required time for start-up following a power outage. Describe the size of the facility's electric load.	Describe any new or upgraded electric energy equipment or facilities necessary to serve the facility during an energy emergency.	• Electric Utility Name In Competitive Areas (Transmission and Distribution Utilities; e.g., Oncor, CenterPoint, TNMP, or AEP) • Retail Electric Provider (that bills for service) • ESI-ID# • Utility Customer Name Associated with ESI-ID#	• Electric Utility Name In Non-Competitive Areas (e.g., Fully Integrated Utilities, including municipally owned utilities and transmission or distribution electric cooperatives) • Account Number • Utility Customer Name Associated with Account Number	Describe the role of the facility in the natural gas supply chain. Identify any power plant, storage facility, or local distribution company to which the facility is directly connected. Describe equipment or premise served, (e.g., production field, midstream processing plant, natural gas storage facility, gas compressor station saltwater disposal well or recycling facility, including the name of the generation unit(s) served by the infrastructure if known) and interdependencies (such as particular fields are tied to a particular midstream processing facility).

Facility Type	Facility Identification Information	Gas Production and/or Handling Information	Facility Location Information		Emergency Contact Information	Electrical Power and Backup Power Capabilities	Emergency Preparedness	Electric Utility Information (Competitive Areas)	Electric Utility Information (Non-Competitive Areas)	Gas Supply Chain Information
Gas Processing Plant (§3.65(b)(2))	Plant serial number (2-digit district and 4-digit serial, ##-####)	Plant Output Capacity (MMcf/day) Average daily production rate for the past 12 months	Facility street address or Latitude/Longitude if no street address, (NAD 83 or Decimal format e.g. -97.743057)	Name, title, email, and phone number of on-site contact person	Name, email, and phone number of emergency contact person	Describe any existing battery, back-up power, or dual feed capability at the facility, including: (1) the length of time the facility can operate (in hours) without electricity from the electric utility, and (2) the length of required time for start-up following a power outage. Describe the size of the facility's electric load.	Describe any new or upgraded electric energy equipment or facilities necessary to serve the facility during an energy emergency.	• Electric Utility Name In Competitive Areas (Transmission and Distribution Utilities; e.g., Oncor, CenterPoint, TNMP, or AEP) • Retail Electric Provider (that bills for service) • ESI-ID# • Utility Customer Name Associated with ESI-ID#	• Electric Utility Name In Non-Competitive Areas (e.g., Fully Integrated Utilities, including municipally owned utilities and transmission or distribution electric cooperatives) • Account Number • Utility Customer Name Associated with Account Number	Describe the role of the facility in the natural gas supply chain. Identify any power plant, storage facility, or local distribution company to which the facility is directly connected. Describe equipment or premise served, (e.g., production field, midstream processing plant, natural gas storage facility, gas compressor station saltwater disposal well or recycling facility, including the name of the generation unit(s) served by the infrastructure if known) and interdependencies (such as particular fields are tied to a particular midstream processing facility).

Pipeline facility including compressor stations (§3.65(b)(3))	T-4 Pipeline Permit Number (5-digit #####)	Does the pipeline or local distribution company directly serve a natural gas electric generation facility? Does the pipeline directly serve a Local Distribution Company or a city gate? Average daily production rate for the past 12 months	Facility street address, or Latitude/Longitude if no street address, of each compressor station and regulator station associated with the pipeline (If providing Latitude/ Longitude, provide in NAD 83 or Decimal format e.g., -97.743057).	Name, title, email, and phone number of on-site contact person	Name, email, and phone number of emergency contact person	Describe any existing battery, back-up power, or dual feed capability at the facility, including: (1) the length of time the facility can operate (in hours) without electricity from the electric utility, and (2) the length of required time for start-up following a power outage. Describe the size of the facility's electric load.	Describe any new or upgraded electric energy equipment or facilities necessary to serve the facility during an energy emergency.	• Electric Utility Name In Competitive Areas (Transmission and Distribution Utilities; e.g., Oncor, CenterPoint, TNMP, or AEP) • Retail Electric Provider (that bills for service) • ESI-ID# (each ESI-ID# associated with the pipeline, including its compressor and regulator stations) • Utility Customer Name Associated with ESI-ID#	• Electric Utility Name In Non-Competitive Areas (e.g., Fully Integrated Utilities, including municipally owned utilities and transmission or distribution electric cooperatives) • Account Number (each Account # associated with the pipeline, including its compressor and regulator stations) • Utility Customer Name Associated with Account Number	Describe the role of the facility in the natural gas supply chain. Identify any power plant, storage facility, or local distribution company to which the facility is directly connected. Describe equipment or premise served, (e.g., production field, midstream processing plant, natural gas storage facility, gas compressor station saltwater disposal well or recycling facility, including the name of the generation unit(s) served by the infrastructure if known) and interdependencies (such as particular fields are tied to a particular midstream processing facility).

Facility Type	Facility Identification Information	Gas Production and/or Handling Information	Facility Location Information		Emergency Contact Information	Electrical Power and Backup Power Capabilities	Emergency Preparedness	Electric Utility Information (Competitive Areas)	Electric Utility Information (Non-Competitive Areas)	Gas Supply Chain Information
Local Distribution Company pipeline facility including compressor stations (§3.65(b)(4))	Regulated Entity ID (6-digit System ID, ######)	Does the local distribution company directly serve a natural gas electric generation facility? Average daily production rate for the past 12 months	Facility street address, or Latitude/Longitude if no street address, of each compressor station and regulator station associated with the pipeline (If providing Latitude/ Longitude, provide in NAD 83 or Decimal format e.g. -97.743057).	Name, title, email, and phone number of on-site contact person	Name, email, and phone number of emergency contact person	Describe any existing battery, back-up power, or dual feed capability at the facility, including: (1) the length of time the facility can operate (in hours) without electricity from the electric utility, and (2) the length of required time for start-up following a power outage. Describe the size of the facility's electric load.	Describe any new or upgraded electric energy equipment or facilities necessary to serve the facility during an energy emergency.	• Electric Utility Name In Competitive Areas (Transmission and Distribution Utilities; e.g., Oncor, CenterPoint, TNMP, or AEP) • Retail Electric Provider (that bills for service) • ESI-ID# (each ESI-ID# associated with the pipeline, including its compressor and regulator stations) • Utility Customer Name Associated with ESI-ID#	• Electric Utility Name In Non-Competitive Areas (e.g., Fully Integrated Utilities, including municipally owned utilities and transmission or distribution electric cooperatives) • Account Number (each Account # associated with the pipeline, including its compressor and regulator stations) • Utility Customer Name Associated with Account Number	Describe the role of the facility in the natural gas supply chain. Identify any power plant, storage facility, or local distribution company to which the facility is directly connected. Describe equipment or premise served, (e.g., production field, midstream processing plant, natural gas storage facility, gas compressor station saltwater disposal well or recycling facility, including the name of the generation unit(s) served by the infrastructure if known) and interdependencies (such as particular fields are tied to a particular midstream processing facility).
Underground natural gas storage facility (§3.65(b)(5))	UIC Number (9-digit, #########)	N/A	Facility street address or Latitude/Longitude if no street address, (NAD 83 or Decimal format	Name, title, email, and phone number of on-site contact person	Name, email, and phone number of emergency contact person	Describe any existing battery, back-up power, or dual feed capability at the facility, including: (1) the length of time the facility can operate (in hours) without electricity from the	Describe any new or upgraded electric energy equipment or facilities necessary to serve the facility during an energy emergency.	• Electric Utility Name In Competitive Areas (Transmission and Distribution Utilities; e.g.,	• Electric Utility Name In Non-Competitive Areas (e.g., Fully Integrated Utilities, including municipally owned	Describe the role of the facility in the natural gas supply chain. Identify any power plant, storage facility, or local distribution company to

			e.g. -97.743057)			electric utility, and (2) the length of required time for start-up following a power outage. Describe the size of the facility's electric load.		Oncor, CenterPoint, TNMP, or AEP) • Retail Electric Provider (that bills for service) • ESI-ID# • Utility Customer Name Associated with ESI-ID#	utilities and transmission or distribution electric cooperatives) • Account Number • Utility Customer Name Associated with Account Number	which the facility is directly connected. Describe equipment or premise served, (e.g., production field, midstream processing plant, natural gas storage facility, gas compressor station saltwater disposal well or recycling facility, including the name of the generation unit(s) served by the infrastructure if known) and interdependencies (such as particular fields are tied to a particular midstream processing facility).

Facility Type	Facility Identification Information	Gas Production and/or Handling Information	Facility Location Information		Emergency Contact Information	Electrical Power and Backup Power Capabilities	Emergency Preparedness	Electric Utility Information (Competitive Areas)	Electric Utility Information (Non-Competitive Areas)	Gas Supply Chain Information
Underground liquid hydrocarbon storage facility (§3.65(b)(6))	UIC Number (9-digit, #########)	N/A Average daily production rate for the past 12 months	Facility street address or Latitude/Longitude if no street address, (NAD 83 or Decimal format e.g. -97.743057)	Name, title, email, and phone number of on-site contact person	Name, email, and phone number of emergency contact person	Describe any existing battery, back-up power, or dual feed capability at the facility, including: (1) the length of time the facility can operate (in hours) without electricity from the electric utility, and (2) the length of required time for start-up following a power outage. Describe the size of the facility's electric load.	Describe any new or upgraded electric energy equipment or facilities necessary to serve the facility during an energy emergency.	• Electric Utility Name In Competitive Areas (Transmission and Distribution Utilities; e.g., Oncor, CenterPoint, TNMP, or AEP) • Retail Electric Provider (that bills for service) • ESI-ID# • Utility Customer Name Associated with ESI-ID#	• Electric Utility Name In Non-Competitive Areas (e.g., Fully Integrated Utilities, including municipally owned utilities and transmission or distribution electric cooperatives) • Account Number • Utility Customer Name Associated with Account Number	Describe the role of the facility in the natural gas supply chain. Identify any power plant, storage facility, or local distribution company to which the facility is directly connected. Describe equipment or premise served, (e.g., production field, midstream processing plant, natural gas storage facility, gas compressor station saltwater disposal well or recycling facility, including the name of the generation unit(s) served by the infrastructure if known) and interdependencies (such as particular fields are tied to a particular midstream processing facility).
Saltwater disposal well	UIC Number (9-digit, #########)	N/A	Facility street	Name, title,	Name, email, and	Describe any existing battery, back-up	Describe any new or	• Electric Utility	• Electric Utility	Describe the role of the

(§3.65(b)(7))			address or Latitude/Longitude if no street address, (NAD 83 or Decimal format e.g. -97.743057)	email, and phone number of on-site contact person	phone number of emergency contact person	power, or dual feed capability at the facility, including: (1) the length of time the facility can operate (in hours) without electricity from the electric utility, and (2) the length of required time for start-up following a power outage. Describe the size of the facility's electric load.	upgraded electric energy equipment or facilities necessary to serve the facility during an energy emergency.	Name In Competitive Areas (Transmission and Distribution Utilities; e.g., Oncor, CenterPoint, TNMP, or AEP) • Retail Electric Provider (that bills for service) • ESI-ID# • Utility Customer Name Associated with ESI-ID#	Name In Non-Competitive Areas (e.g., Fully Integrated Utilities, including municipally owned utilities and transmission or distribution electric cooperatives) • Account Number • Utility Customer Name Associated with Account Number	facility in the natural gas supply chain. Identify any power plant, storage facility, or local distribution company to which the facility is directly connected. Describe equipment or premise served, (e.g., production field, midstream processing plant, natural gas storage facility, gas compressor station saltwater disposal well or recycling facility, including the name of the generation unit(s) served by the infrastructure if known) and interdependencies (such as particular fields are tied to a particular midstream processing facility).).

Facility Type	Facility Identification Information	Gas Production and/or Handling Information	Facility Location Information		Emergency Contact Information	Electrical Power and Backup Power Capabilities	Emergency Preparedness	Electric Utility Information (Competitive Areas)	Electric Utility Information (Non-Competitive Areas)	Gas Supply Chain Information
Other facility the operation of which is necessary to operate one or more of the facilities listed above (§3.65(b)(8))	• Do NOT list a facility unless it is under a separate ESI-ID# or Account # than a facility already identified in §3.65(b)(1)-(7) above. • Railroad Commission Issued ID Number, if any. • Reference the facility type and ID Number listed in §3.65(b)(1) - (7) supported by this facility.	N/A Average daily production rate for the past 12 months	Facility street address or Latitude/Longitude if no street address, (NAD 83 or Decimal format e.g. -97.743057)	Name, title, email, and phone number of on-site contact person	Name, email, and phone number of emergency contact person	Describe any existing battery, back-up power, or dual feed capability at the facility, including: (1) the length of time the facility can operate (in hours) without electricity from the electric utility, and (2) the length of required time for start-up following a power outage. Describe the size of the facility's electric load.	Describe any new or upgraded electric energy equipment or facilities necessary to serve the facility during an energy emergency.	• Electric Utility Name In Competitive Areas (Transmission and Distribution Utilities; e.g., Oncor, CenterPoint, TNMP, or AEP) • Retail Electric Provider (that bills for service) • ESI-ID# • Utility Customer Name Associated with ESI-ID#	• Electric Utility Name In Non-Competitive Areas (e.g., Fully Integrated Utilities, including municipally owned utilities and transmission or distribution electric cooperatives) • Account Number • Utility Customer Name Associated with Account Number	Describe the role of the facility in the natural gas supply chain. Identify any power plant, storage facility, or local distribution company to which the facility is directly connected. Describe equipment or premise served, (e.g., production field, midstream processing plant, natural gas storage facility, gas compressor station saltwater disposal well or recycling facility, including the name of the generation unit(s) served by the infrastructure if known) and interdependencies (such as particular fields are tied to a particular midstream processing facility).

October 29, 2021

Submitted via rulescoordinator@rrc.texas.gov

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

Re: Comments on the Proposed new §3.65, relating to Critical Designation of Natural Gas Infrastructure, and amendments to §3.107, relating to Penalty Guidelines for Oil and Gas Violations.

Due November 1, 2021

To whom it may concern:

Thank you for the opportunity to provide comment on this important rulemaking to protect natural gas infrastructure from haphazard power interruption resulting in disrupted energy production. The Texas Alliance of Energy Producers is supportive of the good work Commission staff and Commissioners undertook to develop this rule in collaboration with the Public Utility Commission (PUC). As we have reviewed the rule proposal, and in working with our members, operators, and other trade associations, we urge the adoption of this rule with some modifications to assist transmission & distribution utilities (TDUs) with more complete direction on the prioritization of natural gas facilities.

The Alliance represents over 2,600 individuals and member companies in the upstream oil and gas industry; our members are oil and gas operators and producers, service and drilling companies, royalty owners, and a host of affiliated companies and industries in Texas and beyond.

This rulemaking is an important step in securing adequate natural gas supply for both human needs and electric generator demands and is necessary to implement the requirements of Senate Bill 3. The Alliance testified during the 87th Legislative Session in support of this and similar legislation and we urged lawmakers during the process to focus on provisions that optimize the supply of natural gas to meet the demands of a growing state. In both chambers, the Alliance urged lawmakers to avoid costly provisions targeting marginal or low production wells that would result in them becoming uneconomic sooner, resulting in less overall natural gas production across the state. All sizes of companies hold these wells, and ownership does not change the fact that when the well becomes uneconomic due to production declines, market forces or government mandate, the well will be shut-in and ultimately plugged. Speeding up that process reduces overall production and adding new government mandates reduces the number of new wells coming online. The final version of Senate Bill 3 signed into law takes care to avoid direct harm to marginal well production which constitutes 10 to 20% of monthly natural gas production and the majority of oil and natural gas wells in Texas.

Winter Storm Uri was a uniquely terrible storm that took the lives of over 200 Texans caught in blizzard conditions on roadways and in freezing homes after the loss of electric heating. Unlike the 2011 storm, which it has often been compared to, Uri resulted in an unprecedented peak demand of 77,000 MW as compared to 59,000 MW in 2011, according to AB Power Advisors in a 2021 presentation to the Energy Bar Association. By comparison the all-time summer peak for the Electric Reliability Council of Texas service area was set at 74,820 MW in the summer of 2019. This record winter demand also resulted in unprecedented peak load shed in 2021 of over 20,000 MW versus 4,000 MW in 2011. The temperatures were also much lower and for longer durations. As AB Power Advisors noted, in Austin, there was 162 consecutive hours at or below freezing in 2021 with a low of 6 degrees versus 69 hours below freezing in 2011 with a low of 18 degrees.

Despite these incredible challenges to human safety and the environment, Texas natural gas performed, surging over 400% to meet electricity needs and keeping 99.95% of gas utility meters online to serve over 4 million utility meters. Behind those meters, some 16 million Texans were dependent on lifesaving natural gas warmth. The Commissioners quick work, prior to the storm, to adequately curtail gas delivery orders and prioritize human health and electricity needs made the difference to save lives. Still, more natural gas was needed to overcome the shortfalls in other types of generation. The Commission is right to further identify barriers to wider use of natural gas which has become essential as a critical fuel backstop to intermittent electricity generation.

Many of the reforms after the storm have already been implemented due to the Railroad Commission's leadership. These include spearheading reform of the critical customer designation at ERCOT. The form prior to February 2021 was inadequate to insulate the natural gas transmission system from interruption because it specifically forbade oil and natural gas systems in the field. The only available facilities for designation were those immediately connected to natural gas generation facilities. This has thankfully been rectified in the March 2021 form revisions and the Commission has urged operators multiple times over the course of this year to review their facilities and submit applications to ERCOT to prevent unnecessary interruption.

Communications was also paramount during the storm and the Alliance appreciates the regular calls with Commissioners and Commission staff, often from their cars, shelters, or during home repairs, to rise above and beyond public service to seek information, ask for problem areas, and follow up multiple times a day to identify challenges to production and how to get operators safely back online. The Commission has continued those efforts by hosting multiple workshops to inform operators and the public of their rulemaking process. We want to thank the Commission staff for their attention and resolution in working with their counterparts at the PUC while also making outreach to the regulated electricity community to learn more about their unique challenges. The Commission should be commended for taking a new step to highlight the additional storage capacity in the state that can be utilized by utilities to build the resiliency of their fuel supply. Storage is the best way to add immediate resiliency to the electricity system by ensuring generators have adequate dry gas contracted for anticipated winter demands and that we utilize all of the state's available infrastructure.

Despite this good and thorough work, there are certain things outside of this rulemaking or statute that will be just as important to maintain production in a multi-day extreme weather event. During Uri, the impassibility of roadways was the single greatest factor in resuming large-scale production across all basins in the state. Many facilities across the state rely on oil haulers and water haulers to remove liquids from tank batteries to maintain production. If these withdrawals are interrupted, the facility is designed to stop producing to protect the well and the environment. Similarly, connectivity in telecom dramatically limited

the oilfield in multiple ways. Modern operations have greatly deployed remote sensors to maximize operations to reflect changing midstream conditions. Pipelines also utilize telecom to facilitate orders and maintain flow. The interruptions during Uri to telecom and roadways made significant interruptions to production and resulted in slower resumption of full production. Employee safety is always the number one priority for operators and the ability to safely deploy crews into a storm or back into the field once a storm passes relies on safe roadways and effective communications and should always be prioritized to maximize production. The Alliance appreciates the work of the Commissioners and Commission staff in addressing these challenges which fall outside their jurisdiction.

On the rule proposal itself, the Alliance urges the Commission to reconsider the definition of "weather emergency" to reflect the winter months that necessitate increased demand on natural gas for both human health and electricity demands. Summer does not pose the same challenges on dual drawl of the system and these rules could be tailored more to winter challenges. We support the Commission adopting the legislative language on "not prepared to operate" which was a critical part of Senate Bill 3 that recognized those facilities unprepared should not be included as critical customers, in order to prioritize electricity service to those facilities prepared and ready to operate. Unfortunately, in a storm, adequate electricity supplies for the full system are untenable but the Commission is right to recognize that all natural gas production and distribution is essential to modern life and that certainly bears true with utility needs.

The Alliance supports the fee structure and qualifications for declaring "not prepared to operate". We understand the supply chain mapping process will further define this rule and ensure operators are aware of neighboring systems dependent on their operations and that may entail listing certain facilities as critical. The Alliance would like to be a resource to the Commission in this important work and stand ready to assist with calls for data or any other assistance the Commission identifies necessary to complete their work.

We join with our colleague oil and gas trade associations in recognizing the TDUs need assistance implementing this rule when presented with an incomplete picture as to the electricity generator needs and facilities. A prioritization scale listing natural gas facilities is appropriate and best informed by the natural gas production and transmission community. A prioritization model is included as an addendum to these comments.

The Alliance supports a tiered approach that maximizes the most available, dry gas to be ready for consumption by electric generators. This necessitates starting with Local Distribution Companies (LDCs) which are a primary concern during curtailment but also provide needed gas to electric generators. Also, at the top of the prioritization scale should be natural gas storage, large transmission, and large processing facilities. Because of the necessity to burn dry gas, the Commission may find during this process that storage is insufficient for our growing population or that electric generators must incorporate storage and firm gas delivery into their contracts to be supplied sufficiently in a weather emergency. We urge the Commission to continue reporting on the availability of additional storage capacity and the recommendation for generators to utilize this infrastructure. The Alliance supports these reviews and stands ready to support action taken to build resiliency into the system with firm gas delivery where it is necessary.

We support all natural gas facilities being able to declare as critical except for the statutorily authorized exception for "not prepared to operate". Marginal production wells should not be the primary focus for critical status. This was said repeatedly throughout the legislative debate on Senate Bill 3 and is reflected in other sections of the bill. While marginal wells are not the highest priority, in some cases across the state, they may constitute a large portion of production, and therefore critical for local gas supply and distribution.

Mapping and operator declarations will help the Commission to make better informed decisions than a blanket declaration that all marginal wells are non-critical or the inability of all wells below a certain production threshold to declare themselves critical. These wells are a majority of the production fleet statewide but approximately 10 to 20% of total production, a critical portion during a curtailment event.

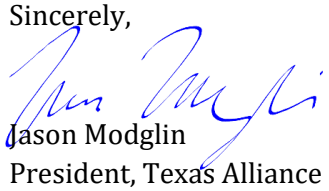
The Alliance would ask the Commission to provide guidance on what constitutes "not prepared to operate" and supports the inclusion of examples or categories that operators can clearly identify to ensure compliance. For example: wells that are idle or shut-in, a well or facility with marginal production that cannot economically support winter preparations, a well with a dedicated contract that does not serve or could not serve electricity demands, a complete on-lease use of the gas not tied to export of electricity, or finally a facility with no electricity connection at all. The purpose of this rule is to identify critical customers to avoid unnecessary electricity interruption and therefore cause subsequent problems with feedstock supply and availability. All measures should be taken to maximize gas production using the least amount of electricity. This will ensure shorter durations of load shed events and protect the broader system from harm.

Due to the potential for mapping to change this tier structure, inclusion of the tiers on the Form CI-D could help the operator to properly categorize their facilities while still allowing the Commission to take quick action to update the tiers once mapping is complete. Likewise, guidance by the RRC and PUC to both operators and TDUs is paramount as the TDUs prepare their winter storm load shed plans. They will ultimately be charged with implementation during a load shed event and while this rule or statute is no guarantee that power will remain on to these facilities, regardless of their critical status, it is the best tool to inform their process before supply chain mapping takes place.

We want to thank the Commissioners and Commission staff for their tireless efforts since February to determine what went wrong and how to ensure adequate power supplies are provided where they are needed most. Natural gas supplies play a critical role in meeting our energy demands and to improve the reliability and resiliency of the entire supply chain and grid demands, the Commission should continue to prioritize adequate storage supplies where most needed for human health and electricity needs.

The Alliance stands ready to assist the Commission in their duties and appreciate your attention to these comments.

Sincerely,



Jason Modglin
President, Texas Alliance of Energy Producers

Addendum: Natural Gas Facility Tier Proposal

<u>Critical natural gas facilities</u>:

Tier 1:

Tier 1 facilities are "closest" to the local distribution companies (LDCs) and most "directly" serve the natural gas generators. They also provide the greatest concentrated volumes of readily available natural gas.

Natural gas pipelines and pipeline facilities, including compressor stations – 3.65(b)(3)

- Include control centers as a priority for these operations consistent with the current ERCOT form.
- ERCOT identified black start facilities such as natural gas electric generators and associated pipelines should also be included in Tier 1.

LDC critical pipelines and pipeline facilities, including compressor stations - 3.65(b)(4)

Natural gas storage facilities – 3.65 (b)(5)

- Include control centers as a priority for these operations consistent with the current ERCOT form.

Natural gas liquids transportation and storage facilities – 3.65(b)(6)

Gas Processing Plants (250 mcf and greater) – 2.65(b)(2)

Natural Gas wells [3.65(b)(1)] and associated facilities, including saltwater disposal wells [3.65(b)(7)] scaled by most accessible (no treating required) and largest to smallest production volume, subject to the minimum production threshold described below.

→ *Gas wells producing > 5000 mcf /day*

Oil wells producing casinghead gas [3.65(b)(1)] and associated facilities, including saltwater disposal wells [3.65(b)(7)], scaled by largest to smallest production volume rates, subject to the minimum production threshold described below.

→ *Oil wells producing > 5000 mcf /day*

Tier 2:

Tier 2 facilities are crucial elements of the supply chain. However, it is recognized that distance, accessibility, and volume of these facilities are small in comparison to the transportation and storage systems in the state. We recommend further delineation of those highest to least yielding gas assets within this tier.

Gas Processing Plants (capacity of 100 to 249 mcf) – 2.65(b)(2)

Natural Gas wells 3.65(b)(1) and associated facilities, including saltwater disposal wells [3.65(b)(7)] scaled by most accessible (no treating required) and largest to smallest production volume, subject to the minimum production threshold described below.

→ *Gas wells producing <5000 > 1,000 mcf /day*

→ *Gas wells producing <1000 > 250 mcf /day*

Oil wells producing casinghead gas [3.65(b)(1)] and associated facilities, including saltwater disposal wells [3.65(b)(7)], scaled by largest to smallest production volume rates, subject to the minimum production threshold described below.

→ *Oil wells producing <5000 > 1,000 mcf /day*

→ *Oil wells producing <1000 > 250 mcf /day*

Tier 3:

Tier 3 facilities include metering facilities, similar support facilities/equipment, and other critical facilities not falling into Tiers 1 or 2.

Gas Processing Plants (capacity of 100 or less mcf) – 2.65(b)(2)

Gas producing oil wells of 50mcf or greater or gas wells of 50 mcf or greater.

Tier 4:
Tier 4 facilities are to be given the lowest level priority among the facilities in the natural gas supply chain.
All remaining actively producing oil and natural gas wells.

<u>Non-critical facilities</u>:
Non-critical facilities should not be prioritized and should have a Form CI-X on file as these facilities would not or could not be prioritized during a load-shed event.
Entities Not Prepared to Operate:

- Any request for an exception should be reviewed to ensure the basis for the exclusion comports with the rule and has good cause.
- Once mapping is completed, we do not anticipate facilities identified as critical on the map would be eligible for an exception unless there is a change operationally or commercially that justifies a change in the future.

Net Negative Assessment: The large number of oil wells which produce casinghead gas necessitates a cost-benefit analysis of the electricity needed to continue operations versus the amount of natural gas production which can be used to produce a megawatt of electricity. As the state continues to further assess and identify the most critical assets in the system, it is recommended that a net negative criteria or assessment be developed to ensure that during a load shed event the benefits of the gas produced outweighs the electricity used and is a net overall benefit to the system.

16 TAC – CHAPTER 3	**§** **§** **§**	**BEFORE THE** **RAILROAD COMMISSION** **OF TEXAS**

TEXAS PIPELINE ASSOCIATION'S COMMENTS TO COMMISSION'S PROPOSED NEW TAC §3.65 AND PROPOSED AMENDMENTS TO §3.107 TO IMPLEMENT HB 3648 AND SB 3

The Texas Pipeline Association (TPA) hereby submits these comments to the Railroad Commission of Texas (Commission) regarding the Commission staff's recommended new 16 Texas Administrative Code §3.65, relating to Critical Designation of Natural Gas Infrastructure, and amended §3.107, relating to Penalty Guidelines for Oil and Gas Violations, approved at the September 14, 2021, conference. These comments are submitted on behalf of the TPA and do not necessarily reflect the opinions of any individual TPA member. Commission Staff requested comments by November 1, 2021; therefore, these comments are timely filed.

INTRODUCTION

The Texas Pipeline Association appreciates the opportunity to provide input on the proposed Rules §3.65 and §3.107.[1] The Association and its constituent companies wholeheartedly supports the Commissioner's and Commission staff's efforts in developing these rules and procedures under the pressures of an extraordinarily limited amount of time given the complexity of the issues, multitude of involved parties, and approaching winter season. We believe the rule proposed adheres to the express language of SB 3,[2] and seeks to strike the appropriate balance necessary to keep those truly critical facilities powered during an energy emergency. The TPA makes these comments recognizing that adjustments to the language and rules may be necessary as the mapping process becomes refined.

[1] Comments are limited to §3.65 as TPA member companies have none regarding §3.107.

[2] The bill clearly states that "the (Railroad) commission …rules must…require that only facilities and entities that are prepared to operate during a weather emergency may be designated as a critical customer," thus putting the burden on the operator of those facilities who are not prepared to identify themselves and subsequently be removed from the priority list.

The Texas Pipeline Association ("TPA") is the largest state trade association in the country representing the interests of the intrastate pipeline network and the Texas pipeline industry. The TPA consists of more than forty members who, collectively, engage in the gathering, processing, and transmission of natural gas and liquids through pipelines across Texas.

Natural gas performed better than any other energy operator during Winter Storm Uri, with 99.95% of all local distribution company operations remaining up and running throughout the length of the storm. That means that of the 4.6 million households in the state of Texas that utilize gas in their home, 99.95% never experienced and interruption.

BACKGROUND

The TPA recognizes that the natural gas industry and the electric industry must work together to protect the public during times of energy emergencies. The electric industry cannot run without gas and the gas industry cannot run without electricity.

The TPA submits these comments with the aim of assisting the Commission in the construction of a regulatory program that will work to achieve the common goal of enhanced preparation of both the electric and gas industries. To that end, the TPA strongly encourages all involved in the gas-electric supply chain, including regulators, to review the UT Austin study[3] commissioned by the Public Utility Commission (PUC) that "recounts the factors contributing to disruptions in electricity and natural gas service in Texas during Winter Storm Uri, with a particular focus on blackouts on the Electric Reliability Council of Texas (ERCOT) grid during the period from February 15-18, 2021. Our goal is to create a common basis of fact to educate the debate over strategies to avoid similar problems in the future." Pages 28 – 34 in particular are illustrative as they inspect Generation Outages across the supply chain, not focusing solely on one industry.

COMMENTS RE: RECOMMENDED RULE §3.65

Breadth and Scope of Rule

As the Commission states in the memorandum published with the proposed rule, Section 3.65 lays out a process by which certain natural gas facilities and entities associated with providing natural gas in the state shall be designated as critical customers or critical gas suppliers. As a threshold issue, TPA notes that the Commission has further made clear in its subsequent communications regarding

[3] *The Timeline and Events of the February 2021 Texas Electric Grid Blackouts*. July 12, 2021. https://www.puc.texas.gov/agency/resources/reports/UTAustin_(2021)_EventsFebruary2021TexasBlackout_(002)FINAL_07_12_21.pdf.

the proposed rule that, while the Commission is considering a review of its orders governing curtailment in a separate docket, the designation of facilities as critical infrastructure pursuant to proposed Rule 3.65 in no way alters the curtailment obligations and firm versus interruptible contractual obligations with which TPA members must comply.

TPA is aware that concerns have been expressed regarding "over-designation" of facilities, such that it could become impractical for electric entities to use the information gained through this rule in its load-shed planning to prevent outages that would inhibit electric generation. TPA members are sensitive to that concern and intend to work with the electric entities to assist in the prioritization of critical infrastructure in a way that meets their operational needs. One way in which proposed Rule 3.65 begins to meet this need is by requiring respondents under the proposed rule to report (1) whether the facility directly serves a natural gas electric generation facility; (2) whether the facility directly serves a Local Distribution Company or a city gate; and (3) whether the facility has back-up power in order to operate during an energy emergency should power from the facility's electric utility become unavailable. These attributes, along with additional industry guidance provided herein, should assist the electric entities in using this information in their load-shed planning.

Breadth and Scope of Definitions

A number of TPA member companies expressed concern that the defined terms "energy emergency" and "weather emergency" as proposed, are overly broad. While TPA recognizes the Commission worked extensively with the Public Utility Commission of Texas (PUC) to define these terms in a way that reflects the purpose of HB 3648 and sections 4 and 16 of SB 3, (*to prevent the loss of power to critical facilities that, if they receive power, could help alleviate the need to shed load*), without further clarification or definition as to the types of events for which an operator is expected to be prepared, it is unlikely that even the most prudent operator could attest with any certainty as to whether they are "prepared to operate" during "any event that results in or has the potential to result in load shed" and in "any weather condition that results in or has the potential to result in an energy emergency."[4]

[4] While the rule contemplates operators having a different operational status for hot and cold seasons, events that could fall under these definitions range well beyond prolonged extreme cold conditions or excessively hot weather, including a

It is the TPA's understanding that the definition was drafted in this way to help ensure the flow of power to critical entities during a multitude of weather conditions, not just extreme temperatures. However, as written, it creates uncertainty among applicants as to the appropriate way to fill out the forms. The definitions in the proposed rulemaking should be refined to either narrow the range of possible events that could reasonably result in an energy emergency or load shed event, or further define those events. In the alternative, consideration should be given to including language that the operator is attesting to their reasonable belief that they are prepared to operate within the physical and economic limits of their plant, otherwise the rules could disincentivize operators from claiming critical status because of the uncertainty of the unknown and unknowable obligation.

It should be made clear that submitting a CI-D form acknowledging critical designation status (thereby indicating that the operator is prepared to operate during a weather emergency) is not the equivalent of attesting that the operator will operate under any and all conditions. Stating that you believe you are prepared to operate during an emergency and being expected to operate no matter the circumstances are two separate concepts. The first is reasonable; the latter is impractical.

Proposed Forms and Attachments

Secure information. The TPA has expressed to both the Railroad Commission and the PUC, the concern and need for assurance that proprietary and confidential information provided to either agency or provider, whether a retail electric utility or a transmission operator, will remain private and confidential in accordance with all laws, rules, regulations, and industry practices.

As drafted, Form CCI, CI-D and CI-X request operators provide non-public and sensitive information. In the interest of security, there must be robust protections implemented to secure this confidential information. Pipeline operators and storage service providers are deeply concerned about the physical and cyber security of their systems and work continuously to enhance that security. Exposure of this non-public and sensitive information in an unsecured format is the equivalent of laying out a road map for domestic and cyber terrorism against the key facilities this legislation seeks to ensure remain operational.

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category 5 hurricane, a tornado, a lightning storm, extreme flooding, seismic activity, extreme windstorms, or any combination of the above not contemplated at the time of operational preparation.

Consider and provide for non-critical loads located on-site, or ancillary to, critical facilities. TPA member companies have an ongoing concern throughout the rulemaking discussions regarding this proposed rule, PUC Project No. 52345, and ERCOT NPRR 1087, as to how newly proposed rules designating the site of an operation as critical would affect the operator's ability to segment out the truly critical facilities from those that are not critical, ultimately being able to help put more electricity back on the grid. An example of such a facility would be a gas processing plant. Clearly this facility would be designated as critical under proposed §3.65(b)(3), however while certain operations or mechanisms at the site are truly considered "critical" load, other equipment powered by that same meter, such as parking lot lights, are not. In order to maintain an operator's ability to participate in Load Resource programs, and thereby put more electricity on the grid during an energy emergency, the TPA suggests including language to the effect of "this exemption is not required for non-critical loads located at critical natural gas infrastructure facilities."

Consider use of one form for all information requested. Having three different processes for submitting three sets of documents to three different parties creates confusion, disorganization and the potential for the inaccurate submission of information, slowing down processing of that information. As proposed under Rule 3.65, PUC Project No. 52345, and ERCOT protocols, an operator would be responsible for: 1) Submitting either Form CI-D (and attachment) or Form CI-X (and attachment) to the Railroad Commission; 2) Submitting the information requested under Table CCI in "as useable format" to their electric service provider (*see* comment below); and 3) Submitting the ERCOT Application for Critical Load Serving Electric Generation and Cogeneration revised March 2021 to ERCOT. Several TPA member companies have pointed out that much of the information being requested among the forms is similar to that already provided under the ERCOT application. If possible, combining information requests and provision into one form to be used across agencies and TDUs could prove more efficient.

*NOTE: In the alternative, reference in the instructions for Form CI-D and attachment to the requirement to provide information found under Table CCI to the operator's electric service provider could go a long way to clarifying that the information requested under Table CCI is to be submitted separately.

Clarity as to "Usable Format." Regarding the instructions for providing critical customer information under table CCI and corresponding with PUC PFP No. 52345, the TPA requests that

either a standardized format be developed, or at a minimum, more guidance is given detailing what is meant by "information must be provided in a useable format via email." There should be no confusion or disagreement about what is and is not a considered a useable format among the sending and receiving parties, or which party determines what is and is not "useable." A common protocol will lessen the likelihood of the provision of insufficient information, or the slowing of documenting that information.

Comments on Prioritization, Not to be Included in Rule

The TPA acknowledges that there are competing viewpoints about whether comments on proposed tier recommendations should appear in respective Rule 3.65 and Proposed Project 52345. The TPA is of the opinion that these recommendations are just that, suggestions on how Transmission and Distribution Utilities (TDUs) might approach load shedding in their discretion afforded them under SB 3 and would not be appropriate in rule.[5] However, the Association wants to be responsive to the requests and expectations of the Legislature to provide as much information as possible to assist TDUs in making informed load shedding decisions.

At the direction of the Senate Business and Commerce Committee and the request of some electric market participants to provide suggestion on how facilities designated as critical *might* be prioritized, several gas-electric supply chain stakeholders came together to discuss what those tiers could look like in a load shed event. After several meetings, the TPA believes that the assets identified below substantially reflect the priorities identified in those conversations with TXOGA and TDUs Oncor, American Electric Power (AEP), CenterPoint Energy and Texas-New Mexico Power (TNMP).

*NOTE: The TPA does not propose to comment on or advocate on behalf of the interests of the other industry participants; thus, while any tier system crafted should contemplate the positioning

[5] As stated on page 3 of the Railroad Commission Memorandum dated September 14, 2021 on the subject of the Proposed New 16 TAC 3.65 and Proposed Amendments to 3.107 to Implement HB 3648 and SB3, "The Commission does not have jurisdiction over electric utilities or the prioritization of electric load shed and does not purport to exercise such jurisdiction in this proposed rulemaking." It is also TPA's understanding from meetings with the TDUs that their load shed plans may not include all priorities identified by the Commission; ERCOT load shed only applies to facilities served by electric distribution not those served by electric transmission.

of both upstream and midstream assets[6] based on input from the other supply chain participants, we are only commenting on where we believe midstream assets might fall in the prioritization.

Because these are suggestions provided to give TDUs as much information as possible so that they might make the most informed decision in a potential load shed event, the TPA would like to point out that they are given from a broad perspective of general categories, rather than with specific thresholds.

The TPA would like to further point out that these recommended tiers were developed based on conversations with the TDUs and the Texas Oil and Gas Association, but not all supply-chain participants. In each meeting on the subject, industry participants and regulators have acknowledged that a full and accurate picture cannot be achieved without participation from all segments, including electric generators and marketers.

Potential Prioritization of Critical Infrastructure

Designated Under Proposed Rule 3.65

Recognizing that the 2021-2022 winter season will take place before the deadlines established in SB 3 and HB 3648 come to pass, we seek to provide "right now" guidance on how to enhance preparations to ensure natural gas supply is available for purchase by and delivery to local distribution companies and natural gas-fired electric generators. With this caveat in mind the TPA makes these suggestions with the understanding that these rules and recommendations will be revisited after the season to evaluate what was effective, and what needs modification.

The TPA believes the assets listed below should be among the last cut and the first restored based not solely on the crucial function in the supply-chain, but also on the physics of how the gas flows through these facilities. Those operational elements are outlined below.

Natural gas Local Distribution Company (LDC) pipelines and pipeline facilities, including compressor stations - 3.65(b)(4). These are the facilities responsible for getting natural gas to the state's human needs customers, including homes, hospitals, and other high priority locations where people dwell.

[6] For example, ERCOT identified black start facilities such as natural gas electric generators are not a midstream asset, but the pipelines associated with them should be identified and considered during load shedding.

Natural gas storage facilities – 3.65(b)(5). When gas was no longer being produced in significant quantities during Winter Storm Uri, Texas turned to gas storage and reserves to fill that void. Without the availability of this stored natural gas, the electric grid for the ERCOT region would almost certainly have gone black.

Natural gas pipelines and pipeline facilities including compressor stations - 3.65(b)(3). These are the actual transport lines, and the compressor stations along those lines, carrying product from production areas to the region of the end-user.

Natural gas processing plants – 3.65(b)(2). Because natural gas does not generally come out of the ground in a ready-to-use state, it must first be processed before it is shipped. Like the other discreet components of the supply chain, if these facilities go down, everything upstream and downstream of them will halt as well. There has been discussion about separating out "large and small" capacity processing facilities into separate tiers. While in many situations prioritizing large processing plants over smaller ones might make a great deal of sense, certain scenarios exist where a geographic region is not served by one large plant. Rather, in many Texas regions, a community relies on several smaller plants to power the area. These smaller capacity facilities might do little on their own to keep electricity up and running, but in the aggregate, they are the sole source of gas supply for the region. Automatically classifying smaller producing facilities in a lesser tier creates the very real danger of cutting all processing, and thus all gas-powered electric generation to an entire region. This scenario is an excellent example of why the TPA believes tiered prioritization should not be dictated via rule, but rather given as a resource for TDUs to reference and considered when weighing the priorities of their operations and devising individual load shed plans.

Natural gas liquids transportation and storage facilities – 3.65(b)(6). A natural result of processing of oil and gas is the separating out of other materials like natural gas liquids ethane and propane. While the "clean" gas is then shipped off in a transport line, those liquids need to be further processed before they can be used. If the lines that transport those liquids out of the processing plant are not receiving power, and the line is not "cleared," processing facilities will back up, preventing any new gas from coming into the plant. Ultimately, this would halt all flow upstream.

*NOTE: While the control centers for the above facilities are not regulated by the Railroad Commission, the ERCOT form specifically mentions them in the instruction portion of the

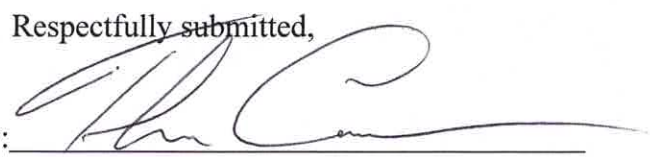
Application for Critical Load Serving Electric Generation and Cogeneration revised March 2021.[7] We recommend these centers be considered for top prioritization in each load shed event.

Natural gas supply purchased by customers of operators, including LDC and natural gas fired generation customers, moves through each of the assets listed above. Continuity of supply is critical during a potential electric load shed event as it allows end-use customers to nominate sufficient volumes of natural gas onto transportation pipeline systems to maintain baseline pressure and line pack volume required for pipeline transportation to serve all critical load.

CONCLUSION

The Texas Pipeline Association applauds the Commission in their tireless efforts, working with the PUC as well as industry stakeholders to devise a rule that best achieves the intent of the legislature, while adhering to the language of SB 3. The joint efforts of both the electric and gas industry in implementing this recent legislation will not be easily accomplished and the TPA acknowledges it will not be perfectly accomplished on the first attempt. The pipelines of Texas, however, look forward to assisting in that effort, and encourage other stakeholders and associations to join us in a continued dialogue.

Respectfully submitted,

By: 

Thure Cannon - President
Texas Pipeline Association

[7] TPA noticed that control centers are named in the introduction paragraph but are not listed in the body of the application itself where applicants are asked to describe the facilities to which they refer. TPA suggests that control centers be added into that specific segment where applicants are prompted to input information.