



PERMIAN BASIN
PETROLEUM ASSOCIATION

October 29, 2021

Chairman Wayne Christian
Commissioner Christi Craddick
Commissioner Jim Wright

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

SUBMITTED VIA ELECTRONIC MAIL TO:

rulescoordinator@rrc.texas.gov

Commissioners,

The Permian Basin Petroleum Association (PBPA) and its member companies appreciate the opportunity to provide constructive public comments on 16 TAC §3.65 and §3.107 as developed by Railroad Commission of Texas (RRC) staff and approved by Commissioners for public comment and published in the Texas Register on October 1, 2021.

PBPA is the largest regional oil and gas association in the United States, serving as the voice of the Permian Basin Oil and Gas Industry since it was founded in 1961, and currently represents the most prolific oil and gas producing region in the world.

Our mission is to promote the safe and responsible development of our region's oil and gas resources and our membership contains operators in different parts of the energy stream and of varying sizes.

PBPA fully supports efforts by the RRC and other agencies to increase the resiliency and reliability of electric generation for Texans across the state. These efforts appropriately include working to ensure that necessary power to critical facilities is maintained so that operators can continue to provide sufficient natural gas supplies to fuel the electric grid in order to avoid the types of conditions that affected the grid during February 2021's Winter Storm Uri (Winter Storm).

During the Winter Storm, our members were susceptible to electric generation or distribution failures, either localized due to the storm or due to the lack of power for vital functions of field operations, which created significant challenges to producing sufficient product necessary to fuel the electric grid at times of highest demand. In some cases these localized or generation failures also led to telecom disruptions and more throughout the Permian Basin, which greatly impeded the ability of operators to communicate needs in the field and outside of the region. This issue was not limited to operators, as there were clear challenges in communicating other emergency operational needs, including clearing

transportation lanes for residents and other first responders throughout far west Texas. During the event, roads were impassable for operators in remote and even non-remote areas and employee safety is always paramount in our members operations.

It is also clear that many of the best practices for weatherization during extreme winter weather that operators can undertake—including methanol injection or drip; heat systems like blankets, heaters, or tapes; and many other practices that are necessary to keep fluids moving in freezing temperatures—all require reliable power at facilities in order to produce the natural gas required for use in homes and for electric generation.

Ensuring power to assets that allow for the continual flow of produced gasses and liquids is vital and our members support efforts to clearly target the highest and best use of available power and ensuring those facilities are determined and provided power during an energy emergency. In establishing this rule to address the concerns of emergencies, we implore the RRC and the Public Utility Commission of Texas (PUCT) to continue to consider the second and third order effects the designations may have on the Texas electricity grid since there will be fewer options of loads to shed during emergency conditions and fewer loads backstopping the grid and providing ancillary services, which could ultimately reduce available power for residential and other consumers.

Our intention in these comments is to present the diversity of opinions our members have on this proposal and to offer solutions that take into account these different perspectives and preserve flexibility in how and to whom the rule is applied; we are specifically not presenting a consensus but rather the valuable and diverse set of perspectives our members hold. There is no question that determining the highest and best use of available electric assets is necessary to maintain the natural gas supply chain for Texans during a “weather emergency” precipitating an “energy emergency.”

To that point, the proposed definition of “energy emergency” is overly broad. As proposed, the definition is tied to an event that results in or has the potential to result in load shed that causes an electric outage. The definition would be clearer if it were directly tied to the Electric Reliability Council of Texas’s (ERCOT) Energy Emergency Alert (EEA) Level 2, which triggers ERCOT’s ability to reduce demand on the system by interrupting power to those who have contractually agreed to have their electricity turned off during an emergency and by utilizing demand response resources. That certainty could provide load customers a situational awareness given that conservation alerts and EEA Level 1 precede the issuance of EEA Level 2.¹ Additional clarification could also be provided to the subsequent “weather emergency” definition in 3.65(a)(2).

In addition to those “triggers,” the RRC has in the past issued emergency notices that anticipate and define obligations for operators and could consider tying those notices and orders to energy or weather emergencies. As the RRC reviews the type of emergency orders it maintains and evaluates the definition of human needs, it should consider how its notices can provide operators additional context and transparency in advance of and during emergency situations.

With regards to the listing of facilities prescribed in 3.65(b), operators note several important practical concerns. First, many of our members operate wells that produce casinghead gas at the wellhead; however, these amounts are small and considered non-reportable volumes of gas. These wells should

¹ ERCOT’s use of Energy Emergency Alerts
http://www.ercot.com/content/wcm/lists/164134/EEA_OnePager_FINAL.PDF

not be subject to the criteria for critical designation because it is not necessary to protect minimal gas production that is not tied to any supply chain.

To that end, some PBPA members recommend including a volume threshold to exclude operators with little reportable gas volumes. These operators are likely not a part of any supply chain, and expanding regulatory obligations on these operators could make these volumes uneconomical, further limiting gas supply and increasing costs, with little benefit to safety or grid reliability. It should not be necessary for smaller operators to be subject to the critical load requirements, by default, and required to request exemption if it is already clear that they should be exempted from the rule. The PBPA looks forward to working with other stakeholders to determine the appropriate thresholds or range of thresholds that should apply to operators that have little or no impact on the supply chain.

It is also important to note that, because the proposed rule will inevitably expand the universe of “critical” facilities, energy needs during critical events will necessarily expand because enhanced weatherization best practices will require additional energy demand. This speaks to why the RRC must take extra care to determine what entities and assets are truly “critical” to safety and grid stability and which clearly are not and should be excluded from the rule; otherwise, the sheer number of critical entities captured under the rule could cause even higher energy demands at times of critical need. Accordingly, more flexibility in the application of the rule is appropriate.

Additionally, while the proposed rule lists the criteria for critical designation, it does not specifically prioritize the critical facilities for load-shed purposes. Many of our members, as well as stakeholders in other trades, have signaled support for a tiered approach for designating critical load status. A tiered system could create more predictability in the prioritization of resources and applicability of the rule and also ensure that reliable natural gas supply is available to those facilities that are most critical to serving needs, like local distribution and generators that rely on natural gas. However, this approach should be considered transitory in that the eventual supply chain map should govern the priorities as it will identify the most necessary facilities during these emergencies. In addition, some operators have suggested a metric for determining priority could be analyzing the gas volume-to-load-to-power-to-proximity ratio, focusing on the amount of energy that operators are utilizing to yield certain volumes of gas. This estimation could more efficiently advise prioritization efforts.

While the PBPA recognizes that the RRC does not have jurisdiction over electric utilities or the prioritization of electric load shed, a tiered system could provide guidance to electric utilities that could be incorporated into pending rule changes at the PUCT or ERCOT or the utilities’ load-shedding plans. PBPA and our members will continue working with the RRC to best determine the specific facilities that would serve the highest use and be considered the highest priority.

With regard to the critical status designation form that the RRC will require, we encourage the agency to support the continued use of ERCOT’s existing voluntary form for critical load² until the supply chain map is completed. Although we recognize the RRC cannot continue to rely on voluntary reporting through ERCOT alone, we support the continued use of ERCOT’s form on a temporary basis because it would provide additional data to assist in the mapping process. For example, the voluntary critical load form provided by ERCOT contains an associated assessment of volumes of gas

² Application for Critical Load Serving Electric Generation and Cogeneration, http://www.ercot.com/content/wcm/key_documents_lists/174326/Final_-_pdf_-_App_for_gas_pipeline_load_v020320.pdf

tied to the critical load. Having this information available would aid in directing limited electric generation to the highest and best use during an emergency.

Notably, the proposed rule will impose new administrative burdens on operators that could present challenges. As noted before, some smaller operators likely have no effect on system safety or reliability and the costs to these operators would likely outweigh any benefit that might be achieved by applying the rule to these entities. In addition, some members will have to account for tens of thousands of facilities as part of these reporting and critical designation requirements. Apart from that, operators are currently advised to take “all necessary precautions”. Some of our members believe a better standard would include all reasonable and prudent precautions for operators to work toward in preparing to operate during an emergency.

The PBPA also anticipates that the timelines for some members—large and small—to complete the initial data submission will be extremely tight considering the amount of information that will need to be culled and reviewed. The PBPA requests that the RRC allow operators to supplement, amend or otherwise correct the initial filing as additional information becomes available. The RRC should also clarify who at each entity is the most appropriate to certify as to the accuracy of the information provided, what liability protections exist for employees who fill out or certify the data submission, and what discretion the RRC has under proposed Rule 3.107 to limit or avoid entirely penalties when submissions contain errors despite good faith efforts to provide accurate information.

In reviewing the form for the exception, many of our members questioned whether there ought to be a standard for non-operation in the “Form CIX.”

It should also be noted that operators supplying this information are aware there is no guarantee that power will be deployed to these facilities. In those instances where local or other outages occur, the RRC should add language clarifying that operators are not liable for being unable to operate under those conditions.

Finally, PBPA requests that the RRC continue to evaluate how its proposed rule changes will affect operators when implemented alongside currently pending rule changes at the PUCT and ERCOT. For instance, PBPA is concerned that critical load designation under Rule 3.65 could result in some operators being limited or precluded from participating as load resources under PUCT and ERCOT rules. PBPA requests that the RRC continue to view these rules holistically in order to avoid unintended consequences that could significantly affect its members.

Our members greatly appreciate the opportunity to provide feedback to the RRC for review of this rule and for all of the tremendous work the agency has done in consultation with others in ensuring that Texans have the reliable natural gas infrastructure they deserve. We look forward to continuing to work with the agency and other stakeholders on these important rule revisions.

Respectfully,

A handwritten signature in blue ink that reads "Ben Shepperd". The signature is written in a cursive, flowing style and is positioned above a horizontal line.

Ben Shepperd
President