

PROPOSED AMENDMENTS TO § RAILROAD COMMISSION
16 TAC § 3.65, RELATING TO §
CRITICAL DESIGNATION OF §
NATURAL GAS INFRASTRUCTURE § OF TEXAS

OFFICE OF PUBLIC UTILITY COUNSEL’S INITIAL COMMENTS ON THE TEXAS
RAILROAD COMMISSION’S PROPOSED AMENDMENTS TO 16 TAC § 3.65

The Office of Public Utility Counsel (“OPUC”) respectfully submits these comments on the Proposal for Publication (“PFP”) approved by the Railroad Commission of Texas (“Commission”) on August 30, 2022. The Commission proposes amendments to 16 Texas Administrative Code (“TAC”) § 3.65, relating to Critical Designation of Natural Gas Infrastructure, intended to simplify the rule language and the process for designating certain natural gas facilities and entities critical during energy emergencies. The proposed amendments to 16 TAC § 3.65 implement requirements from House Bill 3648 and Senate Bill 3 (87th Legislature, Regular Session) that direct the Commission to adopt rules to establish a process to designate certain natural gas facilities and entities associated with providing natural gas in Texas as critical during energy emergencies.

Specifically, these amendments provide more certainty regarding the definition of “energy emergency,” amend the list of critical gas suppliers, and revise requirements triggered by a critical gas supplier’s inclusion on the electricity supply chain map produced by the Texas Electricity Supply Chain Security and Mapping Committee (“TESCSMC”).¹ OPUC appreciates the Commission’s efforts to implement new 16 TAC § 3.65 and supports the commission’s proposed amendments as follows:

I. COMMENTS ON AMENDMENTS TO 16 TAC § 3.65

a. OPUC is supportive of the proposed amendments to § 3.65(a)

OPUC is supportive of the proposed amendment to 16 TAC § 3.65(a) to further clarify and define when an energy emergency occurs.² An energy emergency is currently defined as an event

¹ 16 TAC §§ 3.65(a),(b)(1), (c), (e), and (f).

² 16 TAC § 3.65(a)(1).

that results in firm load shed or has the potential to result in firm load shed required by the reliability coordinator of a power region in Texas.³ Under the existing rule, “the potential to result in firm load shed” is not clearly defined, leaving operators and the general public uncertain as to when an energy emergency is underway. The Electric Reliability Council of Texas’ (“ERCOT”) protocols define Energy Emergency Alerts Levels as follows: (Level 1) when operating reserves drop below 2,300 megawatts (“MW”) and are not expected to recover within 30 minutes⁴; (Level 2) when operating reserves drop below 1,750 MW and are not expected to recover within 30 minutes⁵; and (Level 3) when operating reserves drop below 1,375 MW.⁶ If operating reserves drop below 1,000 MW and are not expected to recover within 30 minutes and/or the grid’s frequency level cannot be maintained at 60 Hz, ERCOT asks transmission companies to reduce demand on the system (i.e., firm load shed)⁷. The Commission proposes to add language to clarify the definition of “potential to result in firm load shed.”⁸ OPUC agrees that further defining the “potential to result in firm load shed,” will provide operators and the public more certainty when an energy emergency is occurring. OPUC therefore supports the proposed amendment to 16 TAC § 3.65(a)(1) further defining “An event that has the ‘potential to result in firm load shed, is when the reliability coordinator of a power region in Texas has issued an Energy Emergency Alert Level 1 or 2.”

b. OPUC is supportive of the proposed amendments to § 3.65(b)(1)

OPUC is supportive of the proposed TAC § 3.65(b)(1) amendment to redefine critical designation criteria so as to reduce the number of facilities on the electricity supply chain map. Reducing the number of facilities designated critical on the electricity supply chain map would

³ *Id.*

⁴ ERCOT 2021 Energy Emergency Alert Overview, (Jun. 11, 2021). https://www.ercot.com/files/docs/2021/06/11/2021_EEA_Overview_Final.pdf.

⁵ ERCOT 2021 Energy Emergency Alert Overview, (Jun. 11, 2021). https://www.ercot.com/files/docs/2021/06/11/2021_EEA_Overview_Final.pdf.

⁶ ERCOT 2021 Energy Emergency Alert Overview, (Jun. 11, 2021). https://www.ercot.com/files/docs/2021/06/11/2021_EEA_Overview_Final.pdf.

⁷ ERCOT 2021 Energy Emergency Alert Overview, (Jun. 11, 2021). https://www.ercot.com/files/docs/2021/06/11/2021_EEA_Overview_Final.pdf.

⁸ 16 TAC § 3.65(a)(1).

enhance reliability of critical infrastructure and help eliminate the burden of electric utilities prioritizing the facilities for load-shed purposes. Furthermore, reducing the number of facilities designated critical on the electricity supply chain map will lessen the burden of load shed that will fall on other customer classes, including residential and small business consumers. During Winter Storm Uri, many critical natural gas loads were not protected from rolling outages, as demonstrated by critical natural gas production interruptions. Thus, being able to prioritize which natural gas facilities are the highest priority during an energy emergency will help to prevent this from happening in the future and is crucial when continuous service cannot be maintained for all facilities deemed critical. At this time, OPUC reserves the right to file reply comments on proposed new 16 TAC § 3.65(b)(1) upon review of industry expert comments on the rule language.

c. OPUC is supportive of the proposed amendments to § 3.65 (c), (e), and (f)

OPUC is supportive of revising the requirements triggered by a critical gas supplier's inclusion on the electricity supply chain map and revising the process to request critical designation status for those facilities not designated critical, but whose operation is required for another facility designated critical to operate. Clarifying the requirements that allow for exemptions and exceptions to the filing requirements for critical gas suppliers will lessen the burden on those facilities not designated critical.

OPUC urges the Commission to collaborate with the Public Utility Commission of Texas, ERCOT, Texas Department of Emergency Management and other stakeholders to identify the most important critical natural gas facilities based on the critical facilities map and incorporate the most restrictive designation of critical infrastructure into proposed 16 TAC § 3.65. OPUC would request that the Commission amend and update this in accordance with information available from the TESCSMC. At this time, OPUC has no further comments on proposed new 16 TAC § 3.65(c),(e), or (f).

II. CONCLUSION

OPUC appreciates the opportunity to provide comments on the Commission's proposed rules and looks forward to working with the Commission and other stakeholders on this project.

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