



Comments of the Lower Colorado River Authority

Proposal Relating to Critical Designation of Natural Gas Infrastructure
and Penalty Guidelines for Oil and Gas Violations

46 Tex. Reg. 6458 (October 1, 2021)

[Submitted via rulescoordinator@rrc.texas.gov on November 1, 2021.]

I. Introduction

The Lower Colorado River Authority (LCRA) respectfully submits the following comments in response to the Railroad Commission of Texas (Commission) Proposed Rulemaking relating to Critical Designation of Natural Gas Infrastructure and Penalty Guidelines for Oil and Gas Violations published 46 Tex. Reg. 6458 (October 1, 2021) (Proposal).

LCRA is a Texas conservation and reclamation district. It has no taxing authority and operates solely on utility revenues and fees generated from supplying energy, water and community services. LCRA provides many vital services to Texans, including delivering electricity, managing the water supply and environment of the lower Colorado River basin, providing public recreation areas, and supporting community development.

LCRA and its affiliates supply wholesale electricity to more than 34 retail utilities, including cities and electric cooperatives that serve more than 1 million people in 55 counties. LCRA's well-rounded generation portfolio includes gas-fired plants, a coal-fired plant, and renewable energy. LCRA is a steward of the Colorado River and provides water for more than one million people, business, and industries in the lower Colorado River basin in Texas. LCRA operates six dams on the Colorado River that create the Highland Lakes and, through these dams, manages floodwater and produces hydroelectric power. LCRA manages over 30 parks, recreation areas, and natural resource areas. LCRA's instrumentality, LCRA Transmission Services Corporation, owns or operates about 5,500 miles of transmission lines and owns, operates, or provides services at 420 substations. LCRA owns or holds interest in several natural gas facilities subject to Railroad Commission jurisdiction including pipelines, compressor stations, wells, and an underground storage facility.

LCRA supports the Commission's goal to ensure power for critical natural gas infrastructure during a weather emergency. While this Proposal represents a first step toward that goal, LCRA urges the Commission to take additional steps at this juncture to further prioritize between gas supply facilities in the event of a weather emergency. It is crucial that the highest priority gas supply facilities continue to receive power and are properly weatherized for continued operation.

II. Additional Information Necessary on Commission Forms

The Proposal would designate essentially every natural gas facility along the statewide natural gas supply chain as critical natural gas infrastructure. LCRA understands the Commission's position that, "statistics from the Winter Storm Uri reveal that during the storm, every molecule of natural gas was important," and does not disagree with the requirement that these facilities provide critical customer information for use by electric generators to protect their power supply. However, further refinement is needed for prioritization when power is not sufficient to supply the entire natural gas chain. Senate Bill 3 and HB 3648 (87th Regular Session) established a process to map the infrastructure necessary to maintain electricity service, including natural gas infrastructure. This proposal provides an opportunity to gather the information needed in furtherance of that mapping activity and other prioritization efforts.

For this reason, LCRA urges the Commission to require additional information on the forms CI-D and CI-X. Currently, the forms require information helpful to identify the facility and to provide contact information. They also require information about whether the facility directly supplies gas to an electric generating facility, but only for pipeline and local distribution facilities. Such information is important for all types of facilities. For purposes of mapping and prioritizing, these forms should identify where the gas produced at oil and gas wells enters the gas transportation system. Additionally, facilities such as saltwater disposal wells, compressor stations, and storage facilities should be required to identify which wells and/or pipelines they serve. This information can be crucial to create a robust critical gas supply map.

III. Critical Designation Exception

LCRA does not believe that the Proposal goes far enough in limiting the ability of a natural gas supply facility to claim an exception. Under the proposed rule, there is great concern that too many natural gas facilities will “opt-out” of the critical designation in order to avoid winterization expenses, leaving the gas-fired power generators unsupported during an emergency. To avoid this situation, the Commission should make clear in this rule that an exception from critical designation by filing a form CI-X does not automatically exempt a facility from the weatherization requirements to be required by future regulatory action.

As proposed, any entity may be excepted from designation as critical infrastructure by simply filing Form CI-X certifying that it is not prepared to operate during a weather emergency and by paying a \$150 fee. There is no approval process provided in the proposed rule and no process for denial. It is clear from the numerous hours of legislative discussion regarding both Senate Bill 3 and House Bill 3648, that giving gas supply facilities the opportunity to opt out of designation as critical infrastructure does not meet the legislative intent. The Railroad Commission is focused on language in Senate Bill 3, in §81.073(b)(3) as tying its hands from imposing a critical designation on a facility that does not want to participate. LCRA suggests that this interpretation is too rigid. A more appropriate interpretation is that the Legislature does not want to ensure power during an emergency to a source that cannot use it. However, the language does not prevent the Commission from requiring that certain facilities take steps to prepare to operate. In fact, the purpose of the two bills, from identification to mapping to weatherization, is to ensure that those important portions of the natural gas supply system *are* prepared to operate when needed.

LCRA suggests that the rule should provide, at a minimum, that a facility is not eligible to claim an exception if it is included as a priority natural gas need on the electricity supply chain map created under Texas Utilities Code § 38.203. Further, the LCRA supports a process for denial or withdrawal of an exception if that facility is found by the Commission to be necessary for the production of electricity during an extreme weather event. That process should include an opportunity for an electric generator to identify sources within its natural gas supply chain that are critical to its operation.

Finally, for facilities filing a CI-X, LCRA believes that the Commission should begin a process to require the operator to take the steps necessary to become ready to operate during a weather event, if practicable and if those facilities are crucial to the gas supply. In furtherance of

this process, LCRA suggests that the CI-X form require an explanation from the applicant describing why the operator is not prepared to operate that facility, especially identifying whether the reason is something within the operator's control.

IV. Applicability of Critical Infrastructure Forms

The Proposal declares all facilities in the gas supply chain which fall under the jurisdiction of the Commission to be critical infrastructure and requires them all to submit either a CI-D or CI-X form. The only obvious purpose of the forms is to ensure that the electric supply of critical gas infrastructure is protected from load-shed when possible. However, the Proposal does not specify how facilities without electric connections should be handled. There is no acknowledgment on the CCI form that the facility might not have an electric provider. The Commission should clarify whether such facilities are subject to the requirement to file a form and whether they will be subject to weatherization requirements. Without the need for electricity, these facilities have no disincentive to file a CI-X form. Given the goals of the legislation which prompted these rules, gas supply facilities which are needed during a weather emergency should not be allowed to opt-out of the weatherization requirements simply because they do not require electricity from the grid. The requirement to weatherize must apply more broadly than just those units who do not opt out.

V. Railroad Commission Should Publish Facility Status

It will be important, for planning purposes, that gas-fired electric generators are able to determine whether facilities in their natural gas supply chain are prepared to operate during a weather emergency. LCRA recommends that the Railroad Commission keep an updated list of the facilities which have filed CI-D and CI-X forms with the Commission identifying which form was filed. This list should be searchable and published on the Commission website.

VI. Prioritization of Critical Facilities for Load-Shed Purposes

As proposed, the Commission rules and the Public Utility Commission rules leave prioritization during an emergency completely in the purview of the electric entity supplying power. While LCRA understands that at the granular level, such decisions must be made by the power supplier, it is critical that the Railroad Commission and the Public Utility Commission guidance about which types of facilities should be given priority, to the extent practicable and based on the ability of different types of gas infrastructure to return to service following an interruption to its electric supply.

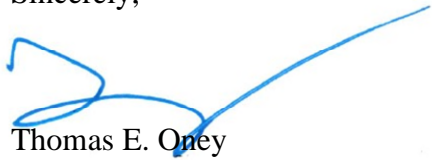
The proposal by the Public Utility Commission implementing SB 3 and HB 3684 (87th Regular Session) contains a provision in §25.52(h)(2) which states that the "utility must consider any additional guidance or prioritization criteria provided by the commission, the Railroad Commission of Texas, or the independent system operator for its power region to prioritize among critical natural gas facilities during an energy emergency." LCRA urges the Railroad Commission to adopt such guidelines to assist in the prioritization of electric generator fuel supplies.

VII. Conclusion

LCRA supports the overall goals of the Commission's first step toward securing natural gas supply to power generators during an extreme weather event. Much more work is necessary to achieve this goal.

LCRA respectfully submits the above comments. If you have any questions or need additional information regarding this submittal, please contact me at 512.578.3237 or at tom.oney@lcra.org.

Sincerely,



Thomas E. Oney
General Counsel