

November 1, 2021

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

Re: Comments on Proposed New 16 Tex. Admin. Code § 3.65

To Whom It May Concern:

Electric Reliability Council of Texas, Inc. (ERCOT) respectfully submits these comments regarding the Railroad Commission of Texas's (RRC) proposed adoption of new 16 Texas Administrative Code § 3.65. ERCOT is the "independent organization" certified by the Public Utility Commission of Texas (PUC) pursuant to Utilities Code § 39.151 for the purposes of overseeing the planning and coordinated operation of the electric power system that serves the majority of Texas and administering and settling the wholesale power market that operates in that region. ERCOT's limited interest in this proceeding is that it is one of the entities designated to receive information about critical gas facilities under Utilities Code § 38.074(b)(1).

Under § 3.65(d) of the RRC's proposed rule, a critical gas supplier would be required to submit the critical customer information described in proposed Table CCI to ERCOT and the supplier's electric utility, consistent with Utilities Code § 38.074(b)(1). At this point, ERCOT expects that it would use this information to confirm that critical gas suppliers are not participating in certain ERCOT-administered reliability services that compensate participants for reducing their demand in response to an ERCOT-issued instruction during certain grid conditions, including system-wide emergencies. Based on operational concerns that arose from the participation of natural gas facilities in these programs during the February 2021 extreme winter weather event, ERCOT has proposed—and the PUC has approved—a revision to ERCOT's Protocols that will require each entity that represents a customer participating in one of these ERCOT-administered services to attest that the customer is not classified as a critical load under the PUC's rules, subject to certain limited exceptions.¹ As proposed in the PUC's rulemaking to implement Utilities Code § 38.074, any facility designated as critical under proposed § 3.65(b) that has not obtained an exception from critical status under § 3.65(d) would be considered a critical load during an emergency.² While the attestations required by ERCOT's Protocols will provide the primary

¹ See [Nodal Protocol Revision Request 1087](#). The PUC Commissioners voted to approve NPRR1087 at their October 28, 2021 open meeting.

² See PUC Project 52345, *Critical Natural Gas Facilities and Entities*, Proposal for Publication, 16 Tex. Admin. Code § 25.52(c)(2) (Sep. 16, 2021), available at https://interchange.puc.texas.gov/Documents/52345_23_1153994.PDF

evidence of critical load status, the critical load information these facility owners are required to submit to ERCOT pursuant to § 38.074 of the Utilities Code can be used to confirm the accuracy of these attestations.

ERCOT could develop its own system to enable submission of the critical load information required by § 38.074. However, ERCOT notes that the RRC's rulemaking notice indicates that the RRC already intends to develop an electronic system to allow critical gas suppliers to provide the information on Form CI-D. Accordingly, ERCOT would appreciate the RRC's consideration of the possibility of developing a single system accessible by both the RRC and ERCOT using a single Form CI-D submission form that includes all information needed by both entities. Developing a common submission system using a common form would not only avoid the additional public expense of developing duplicate systems, it would also save each of the thousands of submitting gas facility owners the time it takes to submit a second, different form and would ensure consistency in the information provided to the RRC and ERCOT. ERCOT would appreciate the RRC's consideration of this proposal and would be willing to discuss this in further detail at the RRC's convenience.

ERCOT notes that Natural Resources Code § 81.073(b)(1) implies that critical customer information must be supplied to ERCOT by the customer. However, if the RRC's proposed rule is amended to provide that critical customer information submitted to the RRC will also be provided to ERCOT, the single submission to the RRC would appear to satisfy the statute's directive.

If the RRC is amenable to allowing ERCOT to access Form CI-D information, ERCOT would request that the RRC also consider whether it can provide ERCOT access to that information during the period before the RRC is able to implement its electronic submission system. If the information would be submitted in a spreadsheet format such as the Form CI-D template currently posted on the RRC's website, ERCOT could easily use that data.

ERCOT notes that, for this single-submission proposal to provide value to ERCOT, the following fields would need to be added to the Form CI-D attachment:

- Name of utility that provides electric service to the customer
- Customer's Electric Service Identifier (ESI ID) (only for consumers not served by a municipally owned utility or electric cooperative)
- Dispatch Asset Code (only for existing ERCOT-registered Load Resources)
- Non-Settlement ESI ID (only for consumers participating, or applying to participate, in ERCOT's Load Resource program that are served by a municipally owned utility or electric cooperative)

In addition, ERCOT notes that the public disclosure of certain information concerning a specific customer's status of participation in ERCOT-administered reliability services would be prohibited under ERCOT's Protocols and PUC rules. If the RRC is not able to confirm that it can ensure confidential classification and treatment of at least this subset of critical customer information, the collaboration proposed in this comment would not appear to be a viable option.

To the extent the RRC is not amenable to modifying the Form CI-D attachment to include the information identified in the above list, ERCOT would respectfully request that the RRC consider adding the last two items identified in that list to Table CCI, as the first two items listed are already included in that table.

ERCOT appreciates the RRC's consideration of these comments. If you have any questions, please do not hesitate to contact me.

Respectfully submitted,

/s/ Nathan M. Bigbee _____

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