PERMIAN BASIN
PETROLEUM ASSOCIATION

October 7, 2022

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

RE: Proposed Amendments to §3.65, relating to Critical Designation of Natural Gas Infrastructure

The Permian Basin Petroleum Association ("PBPA") writes to you today to share our members' concerns and perspectives regarding the proposed amendments to Statewide Rule §3.65, relating to Critical Designation of Natural Gas Infrastructure ("Rule" or "Rule 3.65") by the Railroad Commission of Texas ("Commission" or "RRC"). The PBPA represents oil and gas operators in the most prolific oil and natural gas producing region in the world. Our mission is to promote the safe and responsible development of oil and natural gas resources while providing legislative, regulatory, and educational support services for the industry.

Our membership includes the smallest exploration, service and support companies as well as some of the largest oil and natural gas companies with world-wide operations. We firmly believe that Texas, the United States, and our allies benefit from a vibrant and diverse oil and gas sector and are committed to continuing the development of these resources for generations to come.

All Texans deserves a reliable, resilient, electric grid that provides affordable and efficient energy ensuring Texas remains the greatest place to live, work, and raise a family. Our members greatly appreciate the opportunity to provide these comments with the hope that the significant improvements proposed may be made to the Rule to accomplish the goal of increasing the reliability and resiliency of the electric grid.

Our members have had nearly a year to operate under the existing Rule 3.65 and greatly appreciate the work the Commission has done to adopt, monitor and now propose changes that maintain a balance between a reasonable regulatory environment and one that ensures the designation of natural gas production that is truly critical.

PBPA members support the work and efforts of those serving on the Supply Chain Mapping Committee and we believe this function in collaboration with a review of assets by the Commission is best able to determine what facilities are critical.

Currently, Rule 3.65 establishes a minimal production threshold of 15 mcf/d for gas wells and 50 mcf/d for oil leases that requires an operator to file Critical Customer/Critical Gas Supplier Designation (CI-D) or apply for a Critical Customer/Critical Gas Supplier Designation Exception (CI-X) with the Commission.

This process is a burdensome effort that requires operators with very marginal production to apply and does not assist in providing more natural gas for the Texas electric grid.

Additionally, the de minimis production includes far too many facilities that present challenges for certain utilities in processing and designating these facilities as critical customers.

We support the proposed increase to 250 mcf/d for gas wells and 500 mcf/d in oil leases and believe this threshold maintains a significant percentage of total oil and gas production. This change focuses the attention on weatherization and inspections of facilities that most critically produce natural gas for the Texas electric grid. We also understand that as we continue to learn more about the supply chain, a higher threshold could also be recommended and would support that increase as well.

According to the Commission's proposal, this change would still maintain nearly 80% of natural gas production. We appreciate the Commission's continued willingness to recognize and adapt as we all better understand the supply chain and ensure we are creating a regulatory framework that best serves Texans.

However, we are concerned that excluding operators from simply applying for an exception and proving a case before the Commission under any circumstance is not the best path for operators or the RRC. The RRC should maintain a process that affords them the opportunity to review any information an operator presents, in order to best determine whether or not a facility is truly critical, and then approve or deny exception applications based on the evidence presented.

The process for mapping remains to be defined, and given that the language precludes an operator from applying for an exception if they are mapped, the cycle to learn about whether or not the facility is mapped may have not allowed the operator to be notified before they submit their application. Therefore under the current language they may be prohibited from applying for an exception despite being unaware of the prohibition. There is also room to better clarify how the mapping process will be undertaken and operators would benefit from a more clear and consistent process that includes how these assets are determined, reviewed, as well as how designation is communicated to operators and when that communication will consistently occur.

As an example of why this flexibility is important, the Commission has recognized that the process for weatherization of facilities should be for those that are determined critical AND mapped. At present time there are likely facilities that are critical because of the de minimis production threshold and mapped that will no longer be required to weatherize because of the change in threshold. This recognizes the value in utilizing the Commission's discretion and the internal decision making processes that exist for the permitted activities under the Commissions jurisdiction.

Given the changes of facilities that may or may not be included on current or future versions of the supply chain map, a facility may be on one iteration and not on the next, and an operator will be unaware of whether they may apply.

The Commission has established an exception process that allows operators to make best cases for determination, and this includes facilities that utilize more electricity than they produce, making them not critical. They should not suddenly be critical because the mapping process occurred before their ability to make their case. Any process that would create disincentives for efficient production and could create waste runs counter to the mandate of the Commission.

For example, many enhanced oil recovery operations extend the life of declining assets because they can gather a large number of wells into leases that allow them to remain economic, and prevent waste of the

natural resources being produced. Additionally, it stands to reason that a significant portion of these assets would require significantly more electrical power than the power ultimately generated from the natural gas they would produce, regardless of whether they are mapped. The Commission has already demonstrated through the hearings process that a facility that takes more power than it produces for the grid is not of benefit to the grid during these events and should not be listed as critical. We support this and ask the Commission to consider extending that logic consistently as they work through the amendments to the Rule.

Some also note that the current inability for disposal wells to apply for exception creates practical challenges for operators, and that simply by existing, disposal wells are considered critical. The Commission should consider a process that takes into account whether these facilities serve critical infrastructure or whether, if they are interconnected, a process that could determine that they have adequate volumes within their operations to prioritize and serve facilities that are critical and producing as part of the supply chain.

Another operational concern are fields where gas lift systems and water flood operations both present challenges the Commission should consider. For these operations some options are imprudent and impractical. Gas lift systems likely cannot retrofit to ensure sustained pressures for production or to combat freezing, and water flood operations likely provide negligible volumes despite being energy intensive. These are other examples of assets that are beneficial to produce for the state as a whole rather than not being produced, however they are not likely the best assets to remain on the grid during an extreme event.

For all of those reasons and more, the Commission should allow themselves and operators the ability to review most thoroughly facilities throughout the entirety of the CI-D and CI-X process and not preclude or deny themselves or operators the ability to determine or present their case before the Director or through the hearings process.

With regard to the status of critical customers, our members fully support the recognition that if a facility's self-designation as critical customers is denied by their utilities, they should not be required to comply with provisions under Rule 3.65 and should be allowed to present this information to the Commission.

Lastly and more generally, our members would also like to bring to your attention the current difficulty in submitting the Form CI-D online and would strongly encourage the Commission to continue their efforts in improving this system to ensure proper and timely filings with the greatest ease for operators.

The efforts of the Commission to amend Rule 3.65 because of new information provided through public comments is testimony of the process that benefits the state and we greatly appreciate the opportunity to provide our comments for your review.

Thank you again, and please do not hesitate to contact us if we may be of service.

Regards,

Ben Shepperd
President