

**PROPOSED NEW 16 TAC §3.65 AND §  
PROPOSED AMENDMENTS TO §3.107 §  
TO IMPLEMENT HB 3648 AND SB 3 §**

**BEFORE THE  
RAILROAD COMMISSION  
OF TEXAS**

**JOINT TRANSMISSION AND DISTRIBUTION UTILITY INITIAL COMMENTS**

**TO THE HONORABLE RAILROAD COMMISSION OF TEXAS:**

Oncor Electric Delivery Company LLC, CenterPoint Energy Houston Electric, LLC, AEP Texas Inc., and Texas-New Mexico Power Company, all of which are transmission and distribution utilities (“TDUs”) operating within the Electric Reliability Council of Texas, Inc. (“ERCOT”) power region (collectively, the “Joint TDUs”), file these Initial Comments to (i) proposed new 16 Tex. Admin. Code (“TAC”) § 3.65 (“proposed §3.65”) proposed by the Railroad Commission of Texas (“Commission”) and published in the October 1, 2021 issue of the *Texas Register*,<sup>1</sup> and (ii) the associated proposed new Table of Critical Customer Information (“proposed Table CCI”) and proposed new Form CI-X (Critical Customer/Critical Gas Supplier Designation Exception Application) posted on the Commission’s website on September 29, 2021.<sup>2</sup> Attachment 1 to these comments provides the Joint TDUs’ proposed revisions to proposed §3.65, and Attachment 2 provides the Joint TDUs’ proposed revisions to proposed Table CCI.

On October 7, 2021, the Joint TDUs filed comments in the Public Utility Commission of Texas’ (“PUCT”) related rulemaking.<sup>3</sup> Those comments to the PUCT are attached for the Commission’s reference (*see* Attachment 3). In support of these Initial Comments, the Joint TDUs respectfully show the following:

**I. BACKGROUND & OVERVIEW**

The Joint TDUs appreciate this opportunity to provide their perspective at this important juncture of the Commission’s coordination with the PUCT, pursuant to both Senate Bill 3 (“SB 3”) and House Bill 3648 (“HB 3648”). The implementation of this legislation by the Commission

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<sup>1</sup> 46 Tex. Reg. 6461-6462 (Oct. 1, 2021).

<sup>2</sup> At this time, the Joint TDUs have no comments on proposed new Form CI-D (Acknowledgment of Critical Customer/Critical Gas Supplier Designation) or the proposed amendments to 16 TAC § 3.107 relating to penalty guidelines. If, however, the Commission revises proposed §3.65 consistent with the tiered criticality criteria discussed herein or adopts some other criteria for determining criticality, then Form CI-D should be revised to provide boxes that correspond with those tiers or criteria in place of the current boxes corresponding to the categories of facilities listed in proposed §3.65(b)(1)-(b)(8).

<sup>3</sup> *Critical Natural Gas Facilities and Entities*, PUCT Project No. 52345, Joint TDU Initial Comments on the Proposal for Publication of Amendments to 16 TAC § 25.52 (Oct. 7, 2021).

and the PUCT are vital steps in the state’s response to Winter Storm Uri. Through the October 5, 2021 workshop and additional engagement with Commission Staff and industry stakeholders, the Joint TDUs have explored additional opportunities to further develop proposed §3.65 for the benefit of Texans. The Joint TDUs are committed to working with the Commission, the PUCT, and stakeholders in both the natural gas industry and the electric industry to protect Texans before and during the upcoming winter and in connection with any future energy emergencies. Under the terms of proposed §3.65, each of the Joint TDUs is an “electric entity,” along with ERCOT, municipally owned utilities, and electric cooperatives, that will receive critical customer and critical gas supply information from operators.<sup>4</sup>

As further detailed below, the Commission’s rule establishing critical designation of natural gas infrastructure, and the associated table and forms, should provide a meaningful bridge between now and when the supply chain map is finalized by the Texas Electricity Supply Chain Security and Mapping Committee (“Mapping Committee”). As drafted, however, proposed §3.65 designates the “entire natural gas supply chain”<sup>5</sup> as “critical” with no standards for differentiating among the thousands of entities and natural gas facilities in the natural gas supply chain other than those entities that may be allowed to opt-out of the designation. Consequently, the Joint TDUs request that the Commission revise proposed §3.65 in a way that provides additional guidance on the designation of natural gas facilities deemed critical for purposes of load shedding so that electric entities may efficiently and effectively incorporate these critical natural gas facilities into their respective load-shed plans.

## **II. COMMENTS ON PROPOSED §3.65**

For the reasons discussed below, the Joint TDUs request that the Commission: (1) revise proposed §3.65 to incorporate criteria for designating the critical entities and facilities that form the natural gas supply chain with a focus on “tiers” of criticality; and (2) revise proposed §3.65(d) to provide additional guidance and criteria on the critical designation exceptions process.

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<sup>4</sup> A map showing the respective service areas for each of the Joint TDUs is available at <https://www.puc.texas.gov/industry/maps/Electricity.aspx> (Transmission and Distribution Utilities in Competitive Retail Areas) (last accessed Oct. 29, 2021).

<sup>5</sup> 46 Tex. Reg. 6459.

**A. Proposed §3.65 Lacks Criteria for Determining Critical Facilities; Joint TDUs Propose a Tiered Criteria for Determining Criticality.**

The Joint TDUs understand that this rulemaking is a first step among many in the Commission’s implementation of SB 3 and HB 3648. Proposed §3.65, and the PUCT’s associated rule, will provide a bridge through the upcoming winter for the natural gas and electric industries until the Mapping Committee finalizes the electricity supply chain map, which may not happen until September 2022.<sup>6</sup> In the interim, ERCOT, the Joint TDUs, and other electric entities must fulfill their obligations to maintain a reliable electric grid for all Texans. Having as much visibility into the relative criticality of the natural gas supply chain as possible – as soon as possible – will facilitate load-shed and restoration planning currently underway.<sup>7</sup> Accordingly, although a first step and subject to the Mapping Committee’s finalization of the electricity supply chain map, proposed §3.65 should establish “criteria” for determining the criticality of the various facilities, gas suppliers, and customers that form the natural gas supply chain. This directive appears in both Section 4 of SB 3 and Section 1 of HB 3648. For the rule to complement the PUCT’s rule and assist electric entity planning and prioritization efforts, it must contain standards to identify critical suppliers and customers. The Legislature’s direction to the Commission in HB 3648, as reflected in Tex. Nat. Res. Code § 81.073(a), was to “collaborate with the [PUCT] to adopt rules to establish a process to designate *certain* natural gas facilities and entities associated with providing natural gas in this state as critical during energy emergencies”<sup>8</sup>; it was not to designate *all* natural gas facilities and entities as critical.

The Commission has titled proposed §3.65(b) as the provision containing the “criteria” that it will apply to determine who and what is or is not critical during an energy emergency. However, the body of subsection (b) lists the entire natural gas supply chain plus a catchall category of “other facilities under the jurisdiction of the Commission the operation of which is necessary to operate

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<sup>6</sup> See Act of June 8, 2021, 87th Leg., R.S., ch. 426, § 37, 2021 Tex. Sess. Law Serv. (West) (current version at Tex. Util. Code Ann. § 38.203) (requiring the Mapping Committee to provide the map by Sept. 1, 2022).

<sup>7</sup> The Joint TDUs appreciate the Commission’s recently issued notice to operators to submit to their electric service providers the current ERCOT application for designation of critical loads serving natural gas-fired electric generation by November 1, 2021, available at <http://www.rrc.state.tx.us/announcements/10212021-notice-to-operators-reminder-to-file-ercot/> (last accessed Oct. 25, 2021).

<sup>8</sup> Emphasis added.

any of the facilities in paragraphs (1) through (7) of this subsection.”<sup>9</sup> The lack of any specific criteria is acknowledged in the preamble to the proposed rule:

[T]he list in subsection (b) is a comprehensive list of the facilities that are required to submit the critical customer information . . . [and that] subsection (b) include[s] these facility types, *located up and down the entire natural gas supply chain*, because the statistics from Winter Storm Uri reveal that during the storm, every molecule of gas was important.<sup>10</sup>

As drafted, proposed §3.65 does not provide the information electric entities will need in order to efficiently and effectively incorporate critical natural gas facilities into their respective load-shed plans, because it does not define what is critical or enable any differentiation among facilities or operators or consider “essential operational elements,” as required by section 81.073(b)(2) of the Natural Resources Code. Instead, as drafted, all facilities and entities listed in subsection (b) are automatically considered critical unless an operator files Form CI-X. The Joint TDUs have a finite number of distribution feeders that can be used for load shed. Thus, not every facility in the natural gas supply chain can or should be considered critical during an energy emergency. Additionally, during the second reading of HB 3648 in the House of Representatives, Representative Bobby Guerra proposed an amendment that would have required “each electric [entity] to exclude any circuits that provide power to an entity or facility designated under Section 81.073, Natural Resources Code, from participation in the [entity’s] attempt to shed load in response to a rolling blackout[.]”<sup>11</sup> This amendment would have effectively done what proposed §3.65(b) does now, *i.e.*, to designate the entire natural gas supply chain as critical. This provision was removed from HB 3648 in the Senate, demonstrating that the Legislature did not intend to require that all natural gas facilities be designated as critical.

By the Commission’s own estimate, approximately 6,200 operators would be subject to proposed §3.65, meaning that those entities and the facilities that they operate will, after the rule becomes effective, be immediately designated as critical during energy emergencies unless those operators obtain an exception under subsection (d) of the proposed rule. Without criteria incorporated into proposed §3.65, those responsible for executing load-shed directives to preserve

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<sup>9</sup> 46 Tex. Reg. 6461.

<sup>10</sup> Emphasis added.

<sup>11</sup> H.J. of Tex., 87th Leg., R.S. 1244-45 (2021) (recording adoption of Amendment No. 3 to HB 3648).

the grid during short-supply emergencies face what may amount to an impossible task. Therefore, the Joint TDUs urge the Commission to utilize its unique expertise in the natural gas industry and provide more substantive criteria on the relative criticality of natural gas facilities. This will enable differentiation between the various loads in the natural gas supply chain, bolster 2021-22 winter preparations until the Mapping Committee completes its work, and make efficient and effective load-shed prioritization possible. Thus, the Joint TDUs recommend that proposed §3.65 be revised to define criticality by the three tiers as referenced in their comments to the PUCT<sup>12</sup> and as further discussed below. This approach focuses on the facilities most directly essential to the natural gas generators and that provide the greatest concentrated volumes of readily available natural gas.<sup>13</sup>

**Tier 1:**

Tier 1 would be composed of (i) facilities that directly provide natural gas to electric generation or gas local distribution company critical pipelines or pipeline facilities, including compressor stations and control centers, to meet its highest level of curtailment priority pursuant to an applicable tariff or Commission requirement, (ii) natural gas transportation and storage facilities, and (iii) liquids transportation and storage facilities.

**Tier 2:**

Tier 2 would include remaining critical facilities in the gas supply chain (such as production, produced water, salt water disposal, and processing) that provide or support substantial volumes of gas production and/or processing but do not fall within Tier 1. These facilities may become critical in load-shed scenarios of extreme depth or duration where the availability of natural gas is expected to be an issue. The Joint TDUs recommend further delineation of those highest to least yielding gas facilities within this tier.

**Tier 3:**

Tier 3 would include premises that do not fall within Tiers 1 or 2 and include facilities that do not provide or support substantial volumes of gas production under a minimum production threshold discussed below and/or processing, metering facilities, and similar support facilities or equipment. Facilities within Tier 3 will likely be included in

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<sup>12</sup> See Attachment 3 at 6-7.

<sup>13</sup> See *Critical Natural Gas Facilities and Entities*, PUCT Project No. 52345, Texas Oil & Gas Association Comments (Oct. 7, 2021), available at <https://interchange.puc.texas.gov/search/documents/?controlNumber=52345&itemNumber=39> (last accessed Oct. 29, 2021).

load shed in most scenarios, but the proactive identification and categorization of these facilities will allow for efficient restoration if load-shed conditions warrant.

**Minimum production threshold:**

With over 250,000 oil and gas wells identified by 131,000 leases,<sup>14</sup> the Joint TDUs recommend that the Commission incorporate a minimum production threshold into proposed §3.65. While the Joint TDUs are not in a position to know the specifics of such a threshold, it would be a useful tool to assist in determining eligibility for critical status and would provide a helpful way to distinguish between Tier 2 and Tier 3 facilities.

**B. Proposed §3.65(d)'s Exceptions Process Should Provide More Guidance and Criteria.**

As presently drafted, proposed §3.65(d) should be revised because it only requires an operator to file a form, pay a fee, and “assert” its facility is not prepared to operate during a weather emergency in order to be excepted from critical designation. Although the Joint TDUs understand from Commission Staff that submittals of Form CI-X will be vetted by Staff in the Commission’s newly formed Critical Infrastructure Division, there is no reference to such a process in the proposed rule language. Under both SB 3 and HB 3648, the Joint TDUs and other electric entities retain the discretion to handle power delivery and restoration to the facilities and entities that are designated as critical by the Commission. However, to ensure that truly critical facilities and entities do not go undesignated by simply filing a form and paying a fee, the Joint TDUs suggest that the Commission require that Form CI-X be accompanied by a sworn statement from an officer of an entity attesting to its lack of preparation to operate during a weather emergency or the fact that a given facility is not in fact critical. The PUCT recently adopted weatherization standards with a similar requirement.<sup>15</sup> The rule could also specify the Commission Staff review process and the consequences of Staff rejection of Form CI-X, up to and including a requirement to file Form CI-D instead. Additionally, as discussed in the Form CI-X section below, proposed §3.65(d)’s exceptions process should also acknowledge that an operator may still not be critical (particularly if the tiered criteria proposed herein is adopted) even if it is prepared to operate during a weather emergency.

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<sup>14</sup> See *id* at 1.

<sup>15</sup> *Rulemaking to Establish Electric Weatherization Standards*, Project No. 51840, Order Adopting Proposal for Adoption for New 16 TAC § 25.55 at 98 (Oct. 26, 2021) (adopting 16 TAC § 25.55(f)(2)(B), which requires a notarized attestation sworn to by the transmission service provider’s highest-ranking representative, official, or officer with binding authority over the provider, attesting to the completion of winter weather preparations).

### **III. COMMENTS ON PROPOSED TABLE CCI AND PROPOSED FORM CI-X**

#### **A. Table CCI.**

The categories of information included on the Commission's proposed Table CCI are very helpful. The Joint TDUs propose that the table be revised to: (i) require that the data in the table be provided in the form of an Excel spreadsheet; and (ii) to include some additional data that is either already required under the current ERCOT critical load application utilized by the Joint TDUs or that will be useful in load-shed and emergency restoration planning. For example, regarding "Facility Location Information," many facilities are located in remote areas of the state such that both a facility address *and* a latitude/longitude reference is necessary to properly identify the precise load at issue. Additionally, the Joint TDUs propose adding a column to the table that would provide an operator's explanation of a facility or facilities' critical functions and interdependencies with other critical facilities, which is information currently solicited in the application form used today. For the Commission's reference, Attachment 2 to these comments contains a redline of proposed Table CCI with those suggested revisions.

#### **B. Form CI-X.**

Currently, proposed Form CI-X only contemplates an exception to a critical designation if an operator is "not prepared to operate" during a weather emergency. Regardless of whether the Commission revises proposed §3.65 consistent with the tiered criticality criteria discussed above, or adopts some other criteria for determining criticality, proposed Form CI-X should be revised to provide an operator the option of explaining why its facility should not be considered critical despite the fact that a facility falls under the criteria or tiers of criticality set forth in the rule. An operator should be able to file Form CI-X and explain why its facility is not actually critical, irrespective of whether the facility may be prepared to operate during a weather emergency.

### **IV. CONCLUSION**

The Joint TDUs appreciate the opportunity to comment on proposed §3.65, proposed Table CCI, and proposed Form CI-X, and respectfully requests the Commission's full consideration of the comments set forth herein, including the proposed rule language revisions reflected in Attachment 1. As additional information and stakeholder input becomes available, the Joint TDUs will supplement these Initial Comments or submit reply comments as appropriate.

Respectfully submitted,

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November 1, 2021



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**Attachment 1**  
**Joint TDUs' Proposed Revisions to Proposed §3.65**

§3.65. Critical Designation of Natural Gas Infrastructure.

(a) Definitions.

(1) Energy emergency--Any event that results in or has the potential to result in load shed required by an independent organization certified under Texas Utilities Code, § 39.151 resulting in an electric outage.

(2) Weather emergency--Any weather condition that results in or has the potential to result in an energy emergency as defined in this section.

(3) Critical customer information--The critical customer and critical gas supply information specified on Commission Table CCI, including such as facility identification information, facility location information, emergency contact information, gas production and/or handling information, electrical power and backup power capabilities, and electric utility information.

(b) Critical designation criteria. The following facilities are designated critical gas suppliers and critical customers of the entities described by Texas Utilities Code, § 38.074(b)(1) during an energy emergency:

(1) Tier 1 - facilities that directly provide natural gas to electric generation or the facilities designated as critical by a natural gas local distribution company, including compressor stations and control centers, to meet its highest level of curtailment priority pursuant to an applicable tariff or Commission requirement, natural gas transportation and storage facilities, or liquids transportation and storage facilities ~~wells producing gas or casinghead gas;~~

(2) Tier 2 - remaining facilities in the gas supply chain (such as production, produced water, salt water disposal, and processing) that provide or support substantial volumes of gas production, processing, or both, but do not fall within paragraph (1) of this subsection ~~gas processing plants;~~

(3) Tier 3 - premises that do not fall within paragraphs (1) or (2) of this subsection, including facilities that do not provide or support substantial volumes of gas production under a minimum production threshold set by the Commission, or processing facilities, metering facilities, and similar support facilities or equipment. ~~natural gas pipelines and pipeline facilities including compressor stations;~~

~~(4) local distribution company pipelines and pipeline facilities including compressor stations;~~  
~~(5) natural gas storage facilities;~~  
~~(6) natural gas liquids transportation and storage facilities;~~  
~~(7) saltwater disposal facilities including saltwater disposal pipelines; and~~  
~~(8) other facilities under the jurisdiction of the Commission the operation of which is necessary to operate any of the facilities in paragraphs (1) through (7) of this subsection.~~

(c) Acknowledgment of critical status. Except as provided by subsection (d) of this section, an operator of a facility designated as critical under subsection (b) of this section shall acknowledge the facility's critical status by filing Form CI-D or submitting an electronic acknowledgment as provided in this subsection.

(1) Until an electronic system is established, the acknowledgment shall be made on Form CI-D. In the year 2022, the Form CI-D acknowledgment shall be filed bi-annually by January 15, 2022 and September 1, 2022. Beginning in 2023, the Form CI-D acknowledgment shall be filed bi-annually by March 1 and September 1 of each year.

(2) When the electronic system is established, the Form CI-D acknowledgment shall be submitted through the electronic system.

(d) Critical designation exception. A facility listed in subsection (b) of this section is designated as a critical gas supplier unless the facility's operator asserts, and Commission Staff finds that, the facility is either not prepared to operate during a weather emergency or is not actually critical for some other identified reason. An operator shall submit a Form CI-X exception application that identifies each such facility and, if applicable, each such facility that is not a facility listed in subsection (b) of this section. The Form CI-X shall be accompanied by a \$150 exception application fee and a sworn statement from a representative, official, or officer with binding authority over the operator attesting to the operator's lack of preparation to operate during a weather emergency or that a facility is not critical.

(e) Providing critical customer information. Unless a facility is identified on an approved Form CI-X exception application under subsection (d) of this section, the facility's operator shall provide the critical customer information to the entities described in Texas Utilities Code § 38.074(b)(1). The critical customer information shall be provided in accordance

with 16 Tex. Admin. Code § 25.52 (relating to Reliability and Continuity of Service). The operator shall certify on its Form CI-D that it has provided, or will within five business days provide, the critical customer information to the electric entity in an Excel spreadsheet format usable to the electric entity.

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**Attachment 2**



**TABLE CCI  
(eff. 10/21)**

Table of Critical Customer Information

Instructions: For each facility listed in the “Facility Type” column below, provide the required Critical Customer Information indicated in that facility’s row to the electric entity providing power to that facility. Pursuant to Railroad Commission Rule 3.65 (16 Texas Administrative Code §3.65) and Public Utility Commission Rule 25.52 (16 Texas Administrative Code §25.52), provide the required Critical Customer Information in a useable format to the electric entity prior to, or within five business days of, filing the required Form CI-D with the Railroad Commission.

| Facility Type                 | Facility Identification Information | Gas Production and/or Handling Information         | Facility Location Information   |  |                                 | Emergency Contact Information                             | Electrical Power and Backup Power Capabilities   | Electric Utility Information (Competitive Areas)  | Electric Utility Information (Non-Competitive Areas)  | <u>Renewal or New Designation</u>   | <u>Explanation of Critical Function</u>   |
|-------------------------------|-------------------------------------|--|---|--|---------------------------------|---|--|---|---|---|---|
| <b>Gas Well (§3.65(b)(1))</b> | RRC Gas ID Number (#####)           | Most Recent Average Daily Gas Production (mcf/day) | Facility street address <del>or</del> and Latitude/Longitude <del>if no street address</del> , (NAD 83 or Decimal format e.g. -97.743057) | Name, title, email, and phone number of on-site contact person | <u>Facility mailing address</u> | Name, email, and phone number of emergency contact person | <p>Does the facility have back- up power?</p> <p>If the facility has back-up power:</p> <ul style="list-style-type: none"> <li><u>How long does the back-up power last (in hours)?</u></li> <li><u>Is there a battery back-up, and if so what is the capacity (kW)?</u></li> <li><u>Is there utility dual feed capability?</u></li> <li><u>How long does it take to start up after a power outage?</u></li> </ul> <p><u>Does the facility have back-up generation, and if so, what is the capacity (kW)?</u></p> | <ul style="list-style-type: none"> <li>Electric Utility Name In Competitive Areas (Transmission and Distribution Utilities; e.g., Oncor, CenterPoint, TNMP, or AEP)</li> <li>Retail Electric Provider (that bills for service)</li> <li>ESI-ID#</li> <li>Utility Customer Name Associated with ESI-ID#</li> </ul> | <ul style="list-style-type: none"> <li>Electric Utility Name In Non-Competitive Areas (e.g., Fully Integrated Utilities, including municipally owned utilities and transmission or distribution electric cooperatives)</li> <li>Account Number</li> <li>Utility Customer Name Associated with Account Number</li> </ul> | <ul style="list-style-type: none"> <li><u>Was a critical customer designation requested for this facility in the prior year, or is this a new designation request?</u></li> </ul> | <ul style="list-style-type: none"> <li><u>Explanation of why this facility is critical, such as a description of the electric generation facilities served by this facility or interdependencies between this facility and other critical facilities.</u></li> <li><u>Whether this facility is a Tier 1, 2, or 3 facility.</u></li> </ul> |

**Attachment 2**

| Facility Type  | Facility Identification Information                                | Gas Production and/or Handling Information                                     | Facility Location Information   |  |  | Emergency Contact Information                             | Electrical Power and Backup Power Capabilities   | Electric Utility Information (Competitive Areas)  | Electric Utility Information (Non-Competitive Areas)   | <u>Renewal or New Designation</u>  | <u>Explanation of Critical Function</u>   |
|--|--|--|---|--|--|---|--|---|--|--|---|
| <b>Oil Well Producing Casinghead Gas (§3.65(b)(1))</b> | 2-digit district no. and 5-digit lease no. (##-#####)              | Most Recent Average Daily Casinghead Gas Production (mcf/day) per Lease Number | Facility street address <del>or</del> and Latitude/Longitude <del>if no street address</del> , (NAD 83 or Decimal format e.g. -97.743057) | Name, title, email, and phone number of on-site contact person | <a href="#">Facility mailing address</a> | Name, email, and phone number of emergency contact person | Does the facility have back-up power?<br><br>If the facility has back-up power: <ul style="list-style-type: none"> <li>• <a href="#">How long does the back-up power last (in hours)?</a></li> <li>• <a href="#">Is there a battery back-up, and if so what is the capacity (kW)?</a></li> <li>• <a href="#">Is there utility dual feed capability?</a></li> <li>• <a href="#">How long does it take to start up after a power outage?</a></li> </ul> Does the facility have back-up generation, and if so, what is the capacity (kW)? | <ul style="list-style-type: none"> <li>• Electric Utility Name In Competitive Areas (Transmission and Distribution Utilities; e.g., Oncor, CenterPoint, TNMP, or AEP)</li> <li>• Retail Electric Provider (that bills for service)</li> <li>• ESI-ID#</li> <li>• Utility Customer Name Associated with ESI-ID#</li> </ul> | <ul style="list-style-type: none"> <li>• Electric Utility Name In Non-Competitive Areas (e.g., Fully Integrated Utilities, including municipally owned utilities and transmission or distribution electric cooperatives)</li> <li>• Account Number</li> <li>• Utility Customer Name Associated with Account Number</li> </ul>            | <ul style="list-style-type: none"> <li>• <a href="#">Was a critical customer designation requested for this facility in the prior year, or is this a new designation request?</a></li> </ul> | <ul style="list-style-type: none"> <li>• <a href="#">Explanation of why this facility is critical, such as a description of the electric generation facilities served by this facility or interdependencies between this facility and other critical facilities.</a></li> <li>• <a href="#">Whether this facility is a Tier 1, 2, or 3 facility.</a></li> </ul> |
| <b>Gas Processing Plant (§3.65(b)(2))</b>              | Plant serial number (2-digit district and 4-digit serial, ##-####) | Plant Output Capacity (MMcf/day)   | Facility street address <del>or</del> and Latitude/Longitude <del>if no street address</del> , (NAD 83 or Decimal format e.g. -97.743057) | Name, title, email, and phone number of on-site contact person | <a href="#">Facility mailing address</a> | Name, email, and phone number of emergency contact person | Does the facility have back-up power?<br><br>If the facility has back-up power: <ul style="list-style-type: none"> <li>• <a href="#">How long does the back-up power last (in hours)?</a></li> <li>• <a href="#">Is there a battery back-up, and if so what is the capacity (kW)?</a></li> <li>• <a href="#">Is there utility dual feed capability?</a></li> <li>• <a href="#">How long does it take to start up after a power outage?</a></li> </ul> Does the facility have back-up generation, and                                   | <ul style="list-style-type: none"> <li>• Electric Utility Name In Competitive Areas(Transmission and Distribution Utilities; e.g., Oncor, CenterPoint, TNMP, or AEP)</li> <li>• Retail Electric Provider (that bills for service)</li> <li>• ESI-ID#</li> <li>• Utility Customer Name Associated with ESI-ID#</li> </ul>  | <ul style="list-style-type: none"> <li>• Electric Utility Name In Non-Competitive Areas (e.g., Fully Integrated</li> <li>• Utilities, including municipally owned utilities and transmission or distribution electric cooperatives)</li> <li>• Account Number</li> <li>• Utility Customer Name Associated with Account Number</li> </ul> | <ul style="list-style-type: none"> <li>• <a href="#">Was a critical customer designation requested for this facility in the prior year, or is this a new designation request?</a></li> </ul> | <ul style="list-style-type: none"> <li>• <a href="#">Explanation of why this facility is critical, such as a description of the electric generation facilities served by this facility or interdependencies between this facility and other critical facilities.</a></li> <li>• <a href="#">Whether this facility is a Tier 1, 2, or 3 facility.</a></li> </ul> |

**Attachment 2**

| Facility Type   | Facility Identification Information            | Gas Production and/or Handling Information  | Facility Location Information   |  |  | Emergency Contact Information                             | Electrical Power and Backup Power Capabilities   | Electric Utility Information (Competitive Areas)   | Electric Utility Information (Non-Competitive Areas)   | <a href="#">Renewal or New Designation</a>   | <a href="#">Explanation of Critical Function</a>  |
|---|--|---|---|--|--|---|--|--|--|--|---|
|   |  |   |   |  |  |   | <a href="#">if so, what is the capacity (kW)?</a>  |  |  |  |   |
| <b>Pipeline facility including compressor stations (§3.65(b)(3))</b>                            | T-4 Pipeline Permit Number (5-digit #####)     | Does the pipeline or local distribution company directly serve a natural gas electric generation facility?<br><br>Does the pipeline directly serve a Local Distribution Company or a city gate? | Facility street address, <del>or</del> <a href="#">and</a> Latitude/Longitude <del>if no street address</del> , of each compressor station and regulator station associated with the pipeline ( <del>if providing Latitude/Longitude</del> , provide <a href="#">Latitude/Longitude</a> in NAD 83 or Decimal format e.g., - 97.743057). | Name, title, email, and phone number of on-site contact person | <a href="#">Facility mailing address</a> | Name, email, and phone number of emergency contact person | Does the facility have back-up power?<br><br>If the facility has back-up power: <ul style="list-style-type: none"> <li>• <a href="#">How long does the back-up power last (in hours)?</a></li> <li>• <a href="#">Is there a battery back-up, and if so what is the capacity (kW)?</a></li> <li>• <a href="#">Is there utility dual feed capability?</a></li> <li>• <a href="#">How long does it take to start up after a power outage?</a></li> </ul> <a href="#">Does the facility have back-up generation, and if so, what is the capacity (kW)?</a> | <ul style="list-style-type: none"> <li>• Electric Utility Name In Competitive Areas (Transmission and Distribution Utilities; e.g., Oncor, CenterPoint, TNMP, or AEP)</li> <li>• Retail Electric Provider (that bills for service)</li> <li>• ESI-ID# (each ESI-ID# associated with the pipeline, including its compressor and regulator stations)</li> <li>• Utility Customer Name Associated with ESI-ID#</li> </ul> | <ul style="list-style-type: none"> <li>• Electric Utility Name In Non-Competitive Areas (e.g., Fully Integrated Utilities, including municipally owned utilities and transmission or distribution electric cooperatives)</li> <li>• Account Number (each Account # associated with the pipeline, including its compressor and regulator stations)</li> <li>• Utility Customer Name Associated with Account Number</li> </ul> | <ul style="list-style-type: none"> <li>• <a href="#">Was a critical customer designation requested for this facility in the prior year, or is this a new designation request?</a></li> </ul> | <ul style="list-style-type: none"> <li>• <a href="#">Explanation of why this facility is critical, such as a description of the electric generation facilities served by this facility or interdependencies between this facility and other critical facilities.</a></li> <li>• <a href="#">Whether this facility is a Tier 1, 2, or 3 facility.</a></li> </ul> |
| <b>Local Distribution Company pipeline facility including compressor stations (§3.65(b)(4))</b> | Regulated Entity ID (6-digit System ID, #####) | Does the local distribution company directly serve a natural gas electric generation facility?  | Facility street address, <del>or</del> <a href="#">and</a> Latitude/Longitude <del>if no street address</del> , of each compressor station and regulator station associated with the pipeline ( <del>if providing Latitude/Longitude</del> , provide <a href="#">Latitude/Longitude</a> in NAD 83 or Decimal                            | Name, title, email, and phone number of on-site contact person | <a href="#">Facility mailing address</a> | Name, email, and phone number of emergency contact person | Does the facility have back-up power?<br><br>If the facility has back-up power: <ul style="list-style-type: none"> <li>• <a href="#">How long does the back-up power last (in hours)?</a></li> <li>• <a href="#">Is there a battery back-up, and if so</a></li> </ul>  | <ul style="list-style-type: none"> <li>• Electric Utility Name In Competitive Areas (Transmission and Distribution Utilities; e.g., Oncor, CenterPoint, TNMP, or AEP)</li> <li>• Retail Electric Provider (that bills for service)</li> </ul>  | <ul style="list-style-type: none"> <li>• Electric Utility Name In Non-Competitive Areas (e.g., Fully Integrated Utilities, including municipally owned utilities and transmission or distribution electric cooperatives)</li> <li>• Account Number (each Account # associated with the</li> </ul>  | <ul style="list-style-type: none"> <li>• <a href="#">Was a critical customer designation requested for this facility in the prior year, or is this a new designation request?</a></li> </ul> | <ul style="list-style-type: none"> <li>• <a href="#">Explanation of why this facility is critical, such as a description of the electric generation facilities served by this facility or interdependencies between this facility and other critical facilities.</a></li> </ul>   |

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|---|-------------------------------------|--|---|--|--|---|--|---|---|--|---|
|   |                                     |  | format e.g. - 97.743057).   |  |  |   | <p><a href="#">what is the capacity (kW)?</a></p> <ul style="list-style-type: none"> <li><a href="#">Is there utility dual feed capability?</a></li> <li><a href="#">How long does it take to start up after a power outage?</a></li> </ul> <p><a href="#">Does the facility have back-up generation, and if so, what is the capacity (kW)?</a></p>  | <ul style="list-style-type: none"> <li>ESI-ID# (each ESI-ID# associated with the pipeline, including its compressor and regulator stations)</li> <li>Utility Customer Name Associated with ESI-ID#</li> </ul>   | <p>pipeline, including its compressor and regulator stations)</p> <ul style="list-style-type: none"> <li>Utility Customer Name Associated with Account Number</li> </ul>  |  | <ul style="list-style-type: none"> <li><a href="#">Whether this facility is a Tier 1, 2, or 3 facility.</a></li> </ul>  |
| <b>Underground natural gas storage facility (§3.65(b)(5))</b> | UIC Number (9-digit, #####)         | N/A  | Facility street address <del>or</del> and Latitude/Longitude # <del>no street address</del> , (NAD 83 or Decimal format e.g. - 97.743057) | Name, title, email, and phone number of on-site contact person | <a href="#">Facility mailing address</a> | Name, email, and phone number of emergency contact person | <p>Does the facility have back-up power?</p> <p>If the facility has back-up power:</p> <ul style="list-style-type: none"> <li><a href="#">How long does the back-up power last (in hours)?</a></li> <li><a href="#">Is there a battery back-up, and if so what is the capacity (kW)?</a></li> <li><a href="#">Is there utility dual feed capability?</a></li> <li><a href="#">How long does it take to start up after a power outage?</a></li> </ul> <p><a href="#">Does the facility have back-up generation, and if so, what is the capacity (kW)?</a></p> | <ul style="list-style-type: none"> <li>Electric Utility Name In Competitive Areas (Transmission and Distribution Utilities; e.g., Oncor, CenterPoint, TNMP, or AEP)</li> <li>Retail Electric Provider (that bills for service)</li> <li>ESI-ID#</li> <li>Utility Customer Name Associated with ESI-ID#</li> </ul> | <ul style="list-style-type: none"> <li>Electric Utility Name In Non-Competitive Areas (e.g., Fully Integrated Utilities, including municipally owned utilities and transmission or distribution electric cooperatives)</li> <li>Account Number</li> <li>Utility Customer Name Associated with Account Number</li> </ul> | <ul style="list-style-type: none"> <li><a href="#">Was a critical customer designation requested for this facility in the prior year, or is this a new designation request?</a></li> </ul> | <ul style="list-style-type: none"> <li><a href="#">Explanation of why this facility is critical, such as a description of the electric generation facilities served by this facility or interdependencies between this facility and other critical facilities.</a></li> <li><a href="#">Whether this facility is a Tier 1, 2, or 3 facility.</a></li> </ul> |



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|--|-------------------------------------|--|---|--|--|---|--|---|---|--|---|
| <b>Underground liquid hydrocarbon storage facility (§3.65(b)(6))</b> | UIC Number (9-digit, #####)         | N/A  | Facility street address <del>or</del> and Latitude/Longitude <del>if no street address</del> , (NAD 83 or Decimal format e.g. -97.743057) | Name, title, email, and phone number of on-site contact person | <a href="#">Facility mailing address</a> | Name, email, and phone number of emergency contact person | <p>Does the facility have back-up power?</p> <p>If the facility has back-up power:</p> <ul style="list-style-type: none"> <li>• <a href="#">How long does the back-up power last (in hours)?</a></li> <li>• <a href="#">Is there a battery back-up, and if so what is the capacity (kW)?</a></li> <li>• <a href="#">Is there utility dual feed capability?</a></li> <li>• <a href="#">How long does it take to start up after a power outage?</a></li> </ul> <p><a href="#">Does the facility have back-up generation, and if so, what is the capacity (kW)?</a></p> | <ul style="list-style-type: none"> <li>• Electric Utility Name In Competitive Areas (Transmission and Distribution Utilities; e.g., Oncor, CenterPoint, TNMP, or AEP)</li> <li>• Retail Electric Provider (that bills for service)</li> <li>• ESI-ID#</li> <li>• Utility Customer Name Associated with ESI-ID#</li> </ul> | <ul style="list-style-type: none"> <li>• Electric Utility Name In Non-Competitive Areas (e.g., Fully Integrated Utilities, including municipally owned utilities and transmission or distribution electric cooperatives)</li> <li>• Account Number</li> <li>• Utility Customer Name Associated with Account Number</li> </ul> | <ul style="list-style-type: none"> <li>• <a href="#">Was a critical customer designation requested for this facility in the prior year, or is this a new designation request?</a></li> </ul> | <ul style="list-style-type: none"> <li>• <a href="#">Explanation of why this facility is critical, such as a description of the electric generation facilities served by this facility or interdependencies between this facility and other critical facilities.</a></li> <li>• <a href="#">Whether this facility is a Tier 1, 2, or 3 facility.</a></li> </ul> |
| <b>Saltwater disposal well (§3.65(b)(7))</b>                         | UIC Number (9-digit, #####)         | N/A  | Facility street address <del>or</del> and Latitude/Longitude <del>if no street address</del> , (NAD 83 or Decimal format e.g. -97.743057) | Name, title, email, and phone number of on-site contact person | <a href="#">Facility mailing address</a> | Name, email, and phone number of emergency contact person | <p>Does the facility have back-up power?</p> <p>If the facility has back-up power:</p> <ul style="list-style-type: none"> <li>• <a href="#">How long does the back-up power last (in hours)?</a></li> <li>• <a href="#">Is there a battery back-up, and if so what is the capacity (kW)?</a></li> <li>• <a href="#">Is there utility dual feed capability?</a></li> <li>• <a href="#">How long does it take to start up after a power outage?</a></li> </ul> <p><a href="#">Does the facility have back-up generation, and</a></p>                                   | <ul style="list-style-type: none"> <li>• Electric Utility Name In Competitive Areas (Transmission and Distribution Utilities; e.g., Oncor, CenterPoint, TNMP, or AEP)</li> <li>• Retail Electric Provider (that bills for service)</li> <li>• ESI-ID#</li> <li>• Utility Customer Name Associated with ESI-ID#</li> </ul> | <ul style="list-style-type: none"> <li>• Electric Utility Name In Non-Competitive Areas (e.g., Fully Integrated Utilities, including municipally owned utilities and transmission or distribution electric cooperatives)</li> <li>• Account Number</li> <li>• Utility Customer Name Associated with Account Number</li> </ul> | <ul style="list-style-type: none"> <li>• <a href="#">Was a critical customer designation requested for this facility in the prior year, or is this a new designation request?</a></li> </ul> | <ul style="list-style-type: none"> <li>• <a href="#">Explanation of why this facility is critical, such as a description of the electric generation facilities served by this facility or interdependencies between this facility and other critical facilities.</a></li> <li>• <a href="#">Whether this facility is a Tier 1, 2, or 3 facility.</a></li> </ul> |

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|--|--|--|--|--|--|---|---|---|---|--|---|
|  |  |  |  |  |  |   | <a href="#">if so, what is the capacity (kW)?</a>   |   |   |  |   |
| <p><b>Other facility the operation of which is necessary to operate one or more of the facilities listed above (§3.65(b)(8)), <a href="#">including but not limited to recycling facility and midstream facility</a></b></p> | <ul style="list-style-type: none"> <li>Do NOT list a facility unless it is under a separate ESI-ID# or Account # than a facility already identified in §3.65(b)(1)-(7) above.</li> <li>Railroad Commission Issued ID Number, if any.</li> <li>Reference the facility type and ID Number listed in §3.65(b)(1)-(7) supported by this facility.</li> </ul> | N/A  | Facility street address <del>or</del> <a href="#">and</a> Latitude/Longitude <del>if no street address,</del> (NAD 83 or Decimal format e.g. -97.743057) | Name, title, email, and phone number of on-site contact person | <a href="#">Facility mailing address</a> | Name, email, and phone number of emergency contact person | Does the facility have back-up power?<br><br>If the facility has back-up power:<br><ul style="list-style-type: none"> <li><a href="#">How long does the back-up power last (in hours)?</a></li> <li><a href="#">Is there a battery back-up, and if so what is the capacity (kW)?</a></li> <li><a href="#">Is there utility dual feed capability?</a></li> <li><a href="#">How long does it take to start up after a power outage?</a></li> </ul> <a href="#">Does the facility have back-up generation, and if so, what is the capacity (kW)?</a> | <ul style="list-style-type: none"> <li>Electric Utility Name In Competitive Areas (Transmission and Distribution Utilities; e.g., Oncor, CenterPoint, TNMP, or AEP)</li> <li>Retail Electric Provider (that bills for service)</li> <li>ESI-ID#</li> <li>Utility Customer Name Associated with ESI-ID#</li> </ul> | <ul style="list-style-type: none"> <li>Electric Utility Name In Non-Competitive Areas (e.g., Fully Integrated Utilities, including municipally owned utilities and transmission or distribution electric cooperatives)</li> <li>Account Number</li> <li>Utility Customer Name Associated with Account Number</li> </ul> | <ul style="list-style-type: none"> <li><a href="#">Was a critical customer designation requested for this facility in the prior year, or is this a new designation request?</a></li> </ul> | <ul style="list-style-type: none"> <li><a href="#">Explanation of why this facility is critical, such as a description of the electric generation facilities served by this facility or interdependencies between this facility and other critical facilities.</a></li> <li><a href="#">Whether this facility is a Tier 1, 2, or 3 facility.</a></li> </ul> |

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|------------------------------------|-------------------------------------|--|---|--|--|---|--|---|---|--|---|
| <a href="#">Gas control center</a> |                                     |  | <a href="#">Facility street address and Latitude/Longitude (NAD 83 or Decimal format e.g. -97.743057)</a> | <a href="#">Name, title, email, and phone number of on-site contact person</a> | <a href="#">Facility mailing address</a> | <a href="#">Name, email, and phone number of emergency contact person</a> | <p>Does the facility have back-up power?</p> <p>If the facility has back-up power:</p> <ul style="list-style-type: none"> <li><a href="#">How long does the back-up power last (in hours)?</a></li> <li><a href="#">Is there a battery back-up, and if so what is the capacity (kW)?</a></li> <li><a href="#">Is there utility dual feed capability?</a></li> <li><a href="#">How long does it take to start up after a power outage?</a></li> </ul> <p>Does the facility have back-up generation, and if so, what is the capacity (kW)?</p> | <ul style="list-style-type: none"> <li><a href="#">Electric Utility Name In Competitive Areas (Transmission and Distribution Utilities; e.g., Oncor, CenterPoint, TNMP, or AEP)</a></li> <li><a href="#">Retail Electric Provider (that bills for service)</a></li> <li><a href="#">ESI-ID#</a></li> <li><a href="#">Utility Customer Name Associated with ESI-ID#</a></li> </ul> | <ul style="list-style-type: none"> <li><a href="#">Electric Utility Name In Non-Competitive Areas (e.g., Fully Integrated Utilities, including municipally owned utilities and transmission or distribution electric cooperatives)</a></li> <li><a href="#">Account Number</a></li> <li><a href="#">Utility Customer Name Associated with Account Number</a></li> </ul> | <ul style="list-style-type: none"> <li><a href="#">Was a critical customer designation requested for this facility in the prior year, or is this a new designation request?</a></li> </ul> | <ul style="list-style-type: none"> <li><a href="#">Explanation of why this facility is critical, such as a description of the electric generation facilities served by this facility or interdependencies between this facility and other critical facilities.</a></li> <li><a href="#">Whether this facility is a Tier 1, 2, or 3 facility.</a></li> </ul> |



## Filing Receipt

**Received - 2021-10-07 12:39:50 PM**

**Control Number - 52345**

**ItemNumber - 31**

**PROJECT NO. 52345**

**CRITICAL NATURAL GAS  
FACILITIES AND ENTITIES**

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§

**BEFORE THE  
PUBLIC UTILITY COMMISSION  
OF TEXAS**

**JOINT TDU INITIAL COMMENTS ON THE  
PROPOSAL FOR PUBLICATION OF AMENDMENTS TO 16 TAC § 25.52**

**TO THE HONORABLE PUBLIC UTILITY COMMISSION OF TEXAS:**

Oncor Electric Delivery Company LLC, AEP Texas Inc., CenterPoint Energy Houston Electric, LLC, and Texas-New Mexico Power Company (collectively, the “Joint TDUs”) timely file these Initial Comments on the proposed amendments to 16 Tex. Admin. Code § 25.52 (“TAC”), relating to (i) the addition of end stage renal disease facilities to the list of health facilities prioritized during system restoration following an extended power outage, and (ii) the process in collaboration with the Railroad Commission of Texas (“RRC”) for critical natural gas customer designation and provision of related information to the Electric Reliability Council of Texas, Inc. (“ERCOT”), where applicable, and the utilities to be incorporated into load-shed and emergency restoration plans.

The Joint TDUs appreciate the work of the Public Utility Commission of Texas (“Commission”) and the staff of the Commission (“Commission Staff”) on this matter and believe that the Commission, the RRC, and stakeholders in the electric industry and the natural gas industry remain committed to formulating rules that will best serve the State of Texas. At this time, the Joint TDUs acknowledge and accept the proposed amendments to 16 TAC § 25.52(f) that implement the Legislature’s changes to PURA<sup>1</sup> § 38.072(a) and (b) concerning the prioritization of end stage renal disease facilities, with one proposed modification as reflected in the markup of subsection (f). Regarding the proposed amendments to 16 TAC § 25.52 that are intended to implement PURA § 38.074 concerning critical natural gas facilities, the Joint TDUs respectfully show the following:

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<sup>1</sup> Public Utility Regulatory Act, Tex. Util. Code §§ 11.001–66.016 (“PURA”).

## I. EXECUTIVE SUMMARY

As instructed in the Proposal for Publication, the Joint TDUs provide the following executive summary of their Initial Comments:

- Proposed § 25.52(c) should include a definition for an “energy emergency,” given that this term is used elsewhere in the proposed amendments.
- Proposed § 25.52(h)(1)(A) points to RRC rule 16 TAC § 3.65(a)(3) in defining the categories of critical customer information that operators of critical natural gas facilities must provide to ERCOT and the utilities. The list of information required under the RRC rule should also include details on which facilities directly support electric generation for each critical natural gas facility.
- Proposed § 25.52(h)(1)(C) provides too short of a timeframe for the utilities to process, evaluate, and respond to the high volume of critical customer information that will be submitted, so a longer timeframe of 15 business days should be adopted instead.
- Proposed § 25.52(c)(2) defines “critical natural gas” by reference to RRC rule 16 TAC § 3.65(b). As currently proposed, the RRC definition in § 3.65(b) is very broad, as is the exception process set out in § 3.65(d). More guidance is needed. One or more of the Joint TDUs may offer comments in the RRC rulemaking that address the types of facilities included in the RRC definition, including whether those facilities should be grouped and given various levels of prioritization.
- Proposed § 25.52(h)(2)(A) should be revised to: (i) incorporate a hierarchy or tiered categorization of critical natural gas facilities so that the implementation of the rule is manageable for the utilities; and (ii) recognize necessary utility discretion during load-shed events and restoration consistent with applicable statutes, rules, and utility tariffs.
- Proposed § 25.52(h)(2)(C) should be revised so that utilities can consider additional guidance or prioritization criteria provided by authorized representatives of the Commission, the RRC, or ERCOT.

These issues are discussed in more detail below. The Joint TDUs' proposed revisions are also reflected on the markup of the relevant portions of the proposed rule amendments attached to these comments.

## II. SPECIFIC COMMENTS

### ***Proposed 16 TAC § 25.52(c) – Definitions***

Proposed § 25.52(c) should include a definition for the term “energy emergency,” given that this term is used elsewhere in the proposed amendments, including in the definition of “critical natural gas” in proposed § 25.52(c)(2) and in the provisions addressing prioritization of critical natural gas facilities in proposed § 25.52(h)(2). While Texas Government Code § 418.004 contains a slightly different definition of this term,<sup>2</sup> the most sensible approach is to adopt the same definition that is used in the corresponding RRC rule. This avoids confusion, given that the PUC and RRC rules are intended to work in tandem. As currently proposed, the RRC’s rule defines “energy emergency” as “[a]ny event that results in or has the potential to result in load shed required by an independent organization certified under Texas Utilities Code[] § 39.151 resulting in an electric outage.”<sup>3</sup> The Joint TDUs recommend that this same definition be incorporated into § 25.52(c).

### ***Proposed 16 TAC § 25.52(h)(1)(A) – concerning the categories of critical customer information***

This subsection requires critical natural gas facilities to provide to the utilities “critical customer information, as defined by § 3.65(a)(3) . . . .” As currently proposed by the RRC, § 3.65(a)(3) points to the RRC’s proposed “Table CCI” that lists the categories of information that an operator of each type of critical natural gas facility must provide.<sup>4</sup> The RRC posted its proposed Table CCI on the RRC website on September 29, 2021. The utilities also need additional details, including which facilities directly support electric generation for each critical natural gas facility in order to properly incorporate those

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<sup>2</sup> See Tex. Gov’t Code § 418.004(3), defining “energy emergency” as “a temporary statewide, regional, or local shortage of petroleum, natural gas, or liquid fuel energy supplies that makes emergency measures necessary to reduce demand or allocate supply.”

<sup>3</sup> See 46 Tex. Reg. 6461 (Oct. 1, 2021).

<sup>4</sup> See *id.*

facilities into load-shed and emergency restoration plans. One or more of the Joint TDUs will raise in their comments in the RRC rulemaking the need for and benefit of being provided additional information by the operators of critical natural gas facilities. The Joint TDUs also request that the Commission take this point into account for purposes of ensuring effective prioritization of critical facilities.

***Proposed 16 TAC § 25.52(h)(1)(C) – concerning the utility’s actions upon receipt of the critical customer information***

This subsection requires the utility to evaluate critical customer information for completeness and provide written notice to the operator regarding its critical natural gas designation status within five business days. Given the large number of natural gas facilities and entities that may potentially be designated as “critical” under the RRC’s proposed rule,<sup>5</sup> and given that this information will be submitted at two specific times each year, five business days is too short of a timeframe for the utilities to process, evaluate, and respond to the volume of information that will be simultaneously submitted by the operators of those facilities. The Joint TDUs, therefore, recommend that a longer timeframe of 15 business days be adopted instead. This longer timeframe will allow the utilities to more thoroughly analyze the critical customer information, affording an opportunity for clarification and communication with the operators if needed. A longer timeframe is more consistent with the 30-day timeframe set forth in Texas Water Code § 13.1396(g), which provides that:

[i]f an electric utility determines that an affected utility’s facilities do not qualify for critical load status, the electric utility and the retail electric provider, *not later than the 30th day after the date the electric utility or retail electric provider receives the information required by Subsections (c) and (d)*, shall provide a detailed explanation of the electric utility’s determination to the affected utility and the office of emergency management of each county in which the affected utility’s facilities are located.<sup>6</sup>

For these reasons, the unmanageable five business day turnaround time should be extended

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<sup>5</sup> See 46 Tex. Reg. 6460 (Oct. 1, 2021) (estimating that approximately 6,200 operators are subject to proposed § 3.65).

<sup>6</sup> Emphasis added.



to 15 business days.

The Joint TDUs also emphasize that the time period set forth in proposed § 25.52(h)(1)(C)—whether five business days as initially proposed or 15 business days as requested herein—will be the period in which they will process the critical customer information provided by the operator and provide the required notice to the operator. The Joint TDUs note that they will not necessarily be able to incorporate every newly designated critical natural gas facility into their load-shed and emergency restoration plans within that short timeframe.

***Proposed 16 TAC § 25.52(h)(2)(A) – Prioritization of critical natural gas facilities***

Proposed § 25.52(c)(2) defines “critical natural gas” as “[a] facility designated as a critical gas supplier by the [RRC] under §3.65(b) of this title . . . unless the critical gas supplier has obtained an exception from its critical status under §3.65(d) . . . .” Under the RRC’s current proposed wording of § 3.65(b) which, under both Senate Bill 3 (“SB 3”) and House Bill 3648 (“HB 3648”), is supposed to contain criteria for designating critical natural gas suppliers,<sup>7</sup> the following natural gas facilities, among others, may ultimately be designated as critical:

- Approximately 86,267 natural gas wells,<sup>8</sup>
- Approximately 176 natural gas processing plants,<sup>9</sup>
- Approximately 52,858 miles of interstate and intrastate natural gas pipelines and related compressor stations,<sup>10</sup>
- Approximately 107,978 miles of natural gas local distribution company (“LDC”) pipelines and related compressor stations,<sup>11</sup>

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<sup>7</sup> Tex. Nat. Res. Code § 81.073(b)(1).

<sup>8</sup> RRC Texas Oil and Gas Production Statistics for December 2020. Available online at: <https://rrc.texas.gov/news/030421-december-production-statistics/> (last visited Oct. 5, 2021).

<sup>9</sup> U.S. Energy Information Administration, *Natural Gas Annual Respondent Query System (EIA Data through 2017)*. Available online at: <https://www.eia.gov/naturalgas/ngqs/#?report=RP9&year1=2017&year2=2017&company=Name> (last visited Oct. 5, 2021).

<sup>10</sup> RRC Texas Pipeline System Mileage. Available online at: <https://www.rrc.texas.gov/pipeline-safety/reports/texas-pipeline-system-mileage/> (last visited Oct. 5, 2021).

<sup>11</sup> *Id.*

- Approximately 40 natural gas storage facilities,<sup>12</sup> and
- Transportation, storage, and disposal facilities for natural gas liquids and saltwater disposal.

In sum, under the RRC’s proposed rule, a substantial amount of the natural gas industry in Texas may be designated as critical, with the exception of operators that submit a one-page exception form certifying that their facilities are not prepared to operate during a weather emergency.<sup>13</sup> In turn, the Commission’s proposed rule incorporates the critical natural gas facility designation in the RRC’s proposed rule and requires a utility to “prioritize critical natural gas facilities for load-shed purposes during an energy emergency” and gives a utility “discretion to prioritize power delivery and power restoration among critical natural gas facilities and other critical loads on its system.” As presently proposed, neither of the proposed rules presently distinguish among the natural gas facilities listed above, nor do they provide a methodology by which critical natural gas facilities should be prioritized for load shedding, power delivery, and restoration purposes. The Legislature’s mandate to the Commission and the RRC in both SB 3 and HB 3648, as reflected in PURA § 38.074(a) and Tex. Nat. Res. Code § 81.073(a), was to “collaborate with [each other] to adopt rules to establish a process to designate *certain* natural gas facilities and entities associated with providing natural gas in this state as critical during energy emergencies;”<sup>14</sup> it is unclear how this evaluation would occur under either rule as proposed.

To the extent that the RRC’s proposed rule is not revised in a way that specifies the level of criticality that should be given to each critical natural gas facility (based on criteria such as size, type, or location), then the Joint TDUs urge the Commission to provide a hierarchy or categorization of those facilities within § 25.52(h)(2)(A), with corresponding levels of prioritization to be given to each category, consistent with applicable statutes, rules, and utility tariffs. This will make the rule more manageable for the utilities to implement. The proposed hierarchy could categorize natural gas facilities designated under

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<sup>12</sup> RRC Texas Gas Storage Operations. Available online at: <https://www.rrc.texas.gov/media/xyihpsfk/gsd-gas-storage-report-072021.pdf> (last visited Oct. 5, 2021).

<sup>13</sup> See 46 Tex. Reg. 6461 (Oct. 1, 2021).

the RRC rule as critical facilities into three “tiers” of prioritization, based on criticality.<sup>15</sup> Tier 1 (highest priority of critical natural gas facilities) could include: (i) facilities that directly provide natural gas to electric generation or the facilities designated as critical by a gas LDC to meet its highest level of curtailment priority pursuant to an applicable tariff or RRC regulatory requirement,<sup>16</sup> or (ii) natural gas storage facilities. Tier 2 (intermediate priority of critical natural gas facilities) could include remaining facilities in the gas supply chain (such as production, produced water, salt water disposal, and processing) that provide or support substantial volumes of gas production and/or processing but do not fall within Tier 1. These facilities may become critical in load-shed scenarios of extreme depth or duration where the availability of natural gas is expected to be an issue. Tier 3 (lowest priority of critical natural gas facilities) could include premises that do not fall within Tier 1 or Tier 2 and include facilities that do not provide or support substantial volumes of gas production and/or processing, metering facilities, and similar support facilities or equipment. With this lowest level of priority, Tier 3 facilities will likely be included in load shed in most scenarios, but the proactive identification and categorization of these facilities will allow for efficient restoration if load-shed conditions warrant. This type of hierarchy will best allow the utilities to properly consider and incorporate these facilities into load-shed plans.

If a large volume of natural gas facilities are newly designated as critical load under the Commission’s and the RRC’s rules (estimated by the RRC to affect 6,200 operators<sup>17</sup>), this will impact the utilities’ ability to effectively plan for and effectively implement load shed. Utilities have a finite number of distribution feeders that can be used for load shed, including feeders needed for their respective automatic underfrequency load-shed programs, as required by Section 2.6.1 of the ERCOT Nodal Operating Guide and the North American Electric

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<sup>15</sup> See Oncor Electric Delivery Company LLC’s Response to Commission Staff’s Questions for Comment at 5-6 (Aug. 16, 2021).

<sup>16</sup> See the RRC’s Feb. 12, 2021 Emergency Order temporarily amending Rule 2 of Docket 489 to modify the natural gas curtailment priorities under the RRC’s approved utilities curtailment program in order to ensure the protection of human needs customers and electric generation facilities serving human needs customers until February 19, 2021; and see the RRC’s Feb. 17, 2021 Emergency Order extending the temporary modification until February 23, 2021. While the RRC’s Emergency Orders have expired, we understand that the staff of the RRC is considering incorporating this concept into the RRC’s rules.

<sup>17</sup> See 46 Tex. Reg. 6460 (Oct. 1, 2021).

Reliability Corporation Reliability Standard PRC-006-5. Therefore, the greater the number of designated critical facilities that are on a utility's system, the less likely it is that a utility can successfully prioritize those facilities in its load-shed plans. It is imperative, therefore, that the Commission provide guidance within the rule on the types of facilities that merit the highest level of prioritization.

Finally, in addition to the categories of information to be provided under Table CCI and those additional details set forth above regarding proposed § 25.52(h)(1)(A), the Joint TDUs note that they must also base their load-shed prioritization on a number of other factors, including but not limited to the seasonality and the expected duration and severity of a power outage, as well as whether a facility supports a gas LDC versus strictly commercial facilities. As the Legislature recognized in both SB 3 and HB 3648, utilities must have the discretion during energy emergencies to prioritize power delivery and power restoration as individual event and electric system circumstances require.<sup>18</sup>

***Proposed 16 TAC § 25.52(h)(2)(C) – Prioritization of critical natural gas facilities***

The requirement set forth in proposed § 25.52(h)(2)(C) that utilities must consider “any additional guidance or prioritization criteria provided by the [C]ommission, the [RRC], or the independent system operator for its power region to prioritize among critical natural gas facilities during an energy emergency” is vague and overly broad. Utility personnel prepare and train for load shedding scenarios. When faced with an energy emergency that is or may necessitate load shed, utilities are, however, faced with difficult and complex decisions that must be made very quickly.<sup>19</sup> As proposed, this subsection poses the risk that the utilities could receive conflicting instructions from a number of different personnel at the Commission, the RRC, and ERCOT that direct different, specific courses of action with respect to load shed and prioritization among critical natural gas facilities. If adopted, this will only further complicate an already cumbersome task for the utilities. Therefore, this subsection should be narrowed so that utilities are only obligated to *consider* additional guidance or prioritization criteria provided by only certain personnel

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<sup>18</sup> As shown in the attached markup, the Joint TDUs recommend the addition of “as circumstances require” to proposed § 25.52(h)(2)(B) to ensure consistency with the language of PURA § 38.074(b)(3).

<sup>19</sup> Upon receipt of a load-shed instruction from ERCOT, utilities must implement load shed within thirty minutes of receiving such instruction.

at each entity, specifically the authorized representatives of the Commission, the RRC, and ERCOT. This will make the rule manageable for utilities and will prevent potential chaos and confusion at times when utilities are making minute-by-minute decisions.

### **III. CONCLUSION**

The Joint TDUs appreciate the opportunity to comment on the Proposal for Publication and respectfully request the Commission's full consideration of the comments set forth herein.

Respectfully submitted,

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**Joint TDUs' Proposed Revisions to Proposed § 25.52**

- (c) Definitions. The following words and terms, when used in this section, have the following meanings unless the context indicate otherwise.
- (1) **Critical loads** – Loads for which electric service is considered crucial for the protection or maintenance of public safety; including but not limited to hospitals, police stations, fire stations, critical water and wastewater facilities, and customers with special in-house life-sustaining equipment.
  - (2) **Critical natural gas** – A facility designated as a critical gas supplier by the Railroad Commission of Texas under §3.65(b) of this title (relating to Critical Designation of Natural Gas Infrastructure) unless the critical gas supplier has obtained an exception from its critical status under §3.65(d) of this title. Critical natural gas is a critical load during an energy emergency.
  - (3) **Energy emergency** – Any event that results in or has the potential to result in load shed required by an independent organization certified under PURA § 39.151 resulting in an electric outage.

**[Note: all subsequent subsections would be renumbered accordingly.]**

- (f) **Priorities for power restoration to certain medical facilities.**
- ...
- (3) Nothing in this subsection (f) shall be deemed as altering the terms and conditions of a utility's tariff.
- (h) Critical natural gas. In accordance with §3.65 of this title, critical natural gas standards apply to each facility designated as a critical gas supplier in the state.
- (1) Critical customer information.
    - (A) The operator of a critical natural gas facility must provide critical customer information, as defined by §3.65(a)(3) of this title, to the entities listed in clauses (i) and (ii) of this subparagraph. The critical customer information must be provided in usable format via email.
      - (i) The utility from which the critical natural gas facility receives electric delivery service; and
      - (ii) For critical natural gas facilities located in the ERCOT region, the independent organization certified under PURA §39.151.
    - (B) The commission will maintain on its website a list of utility email addresses to be used for the provision of critical customer information under subparagraph (A) of this paragraph. Each utility must ensure that the email address listed on the commission's website is accurate. If the utility's email address changes or is

inaccurate the utility must immediately provide the commission with an updated email address.

- (C) Within ~~five~~ fifteen business days of receipt, the utility must evaluate the critical customer information for completeness and provide written notice to the operator of the critical natural gas facility regarding the status of its critical natural gas designation.
  - (i) If the information submitted is incomplete, the utility's notice must specify what additional information is required.
  - (ii) If the information submitted is complete the utility's notice must notify the operator of the facility's critical natural gas status, the date of its designation, any additional classifications assigned to the facility, and notice that its critical status does not constitute a guarantee of an uninterrupted supply of energy.
- (D) A utility or an independent system operator receiving critical customer information from a critical natural gas facility under this subsection must not release critical customer information to any person unless authorized by the commission or the operator of the critical natural gas facility. This prohibition does not apply to the release of such information to the commission, the Railroad Commission of Texas, the utility from which the critical natural gas facility receives electric service, or the independent system operator for the region in which the critical natural gas facility is located. This prohibition also does not apply if the critical customer information is redacted, aggregated, or organized in such a way as to make it impossible to identify the critical natural gas facility to which the information applies.

(2) Prioritization of critical natural gas facilities. A utility must incorporate critical natural gas facilities into its load-shed and restoration planning.

- (A) A utility must, consistent with applicable statutes, rules, and utility tariffs, prioritize critical natural gas facilities for load-shed purposes during an energy emergency according to the tier system set forth in clauses (i), (ii), and (iii) of this subparagraph.
  - (i) The utility must give the highest priority to: (a) facilities that directly provide natural gas to electric generation, or the facilities designated as critical by a gas local gas distribution company to meet its highest level of curtailment priority pursuant to an applicable tariff or a Railroad Commission of Texas requirement, or (b) natural gas storage facilities.
  - (ii) The utility must give intermediate priority to remaining facilities in the gas supply chain such as production facilities, produced water facilities, salt water disposal facilities, and processing facilities that support substantial volumes of gas production and/or processing and



do not fall within the category described in clause (i) of this subparagraph.

(iii) The utility must give the lowest level priority to metering facilities, similar support facilities or equipment, and any other critical natural gas facilities that do not fall within the categories described in clauses (i) and (ii) of this subparagraph.

(B) A utility may use its discretion to prioritize power delivery and power restoration among critical natural gas facilities and other critical loads on its system as circumstances require.

(C) A utility must consider any additional guidance or prioritization criteria provided by authorized representatives of 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.~~

(D) Nothing in this Subsection (h) shall be deemed as altering the terms and conditions of a utility's tariff.