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January 7, 2022

VIA EMAIL

Rules Coordinator
RAILROAD COMMISSION OF TEXAS
Office of General Counsel
P.O. Drawer 12967
Austin, TX 78711-2967

Re: *Proposed Amendments to 16 TAC § 7.455, relating to Curtailment Standards–
Atmos Cities Steering Committee's Comments*

Dear Sir or Madam:

On November 26, 2021, The Railroad Commission of Texas (“RRC” or “Commission”) published proposed amendments of its rules in the *Texas Register*,¹ and requested comments from interested parties to be filed by January 7, 2022. The Atmos Cities Steering Committee (“ACSC”) appreciates the opportunity to submit comments regarding *Proposed Amendments to 16 TAC § 7.455, relating to Curtailment Standards*.

ACSC is a coalition of 179 cities in North and Central Texas, and has been a regular participant in the rate cases of Atmos Energy Corp. and its predecessors for approximately 27 years. More generally, city involvement in gas utility matters has a long history in Texas, and cities have been active and productive partners of the RRC in regulating gas utility rates within their municipal boundaries. City coalitions have been involved in ensuring reliable service during weather emergencies. Like others across the state, ACSC cities were severely impacted by Winter Storm Uri. ACSC appreciates the steps taken by the legislature and the Commission to ensure cities never experience the extensive power outages and struggles with adequate gas supply that occurred last February. Reliable gas and electric utility service is critical to our state.

Generally, ACSC supports the proposal. However, we offer the following comments and suggestions.

¹ 46 Tex. Reg. 7941 (Nov. 26, 2021).

I. EXECUTIVE SUMMARY

ACSC provides the following executive summary to its comments:

- The Commission should explicitly define the terms “firm” and “interruptible” within the rule.
- Human needs customers should not be subject to interruptible contracts.
- The Commission should explicitly define “priorities” and “priority class” within the rule, or clarify whether the two terms are interchangeable.
- The Commission should address how contractual force majeure clauses will fit into the curtailment order, if at all.
- The Commission should propose an effective date that includes curtailment standards for the upcoming 2022 winter season, or otherwise provide a clear plan for possible curtailment during the time period preceding the April 1, 2022 effective date.

II. COMMENTS

A. The terms “firm” and “interruptible” should be explicitly defined in the rule.

The proposal prioritizes “firm” deliveries over “interruptible” deliveries. However, it does not define “firm” and the only guidance for defining “interruptible” references other contracts and/or tariffs. Defining these two terms is essential to a comprehensive understanding of the proposed rule change. Without clear definitions for these critical terms, the rule is ambiguous and may fail to provide its intended protections. ACSC recommends that the Commission explicitly define both terms within the rule.

B. Human needs customers should not be subject to interruptible contracts.

By incorporating subsection (A) into subsection (d)(1)(H), the proposed rule allows human needs customers to be served pursuant to an interruptible contract. The proposed rule defines “human needs customers” as “residences and other locations where people may congregate in an emergency, such as schools and places of worship, and hospitals, police, fire, military, and civil defense facilities.” In other words, human needs customers are those that are considered essential during a time of emergency. Such prioritized customers should not be subject to an interruptible contract. At a minimum, ACSC recommends removing subsection (A) from (d)(1)(H) so that human needs customers cannot be served under an interruptible contract.

C. “Priority class” should be explicitly defined in the rule.

Subsection (d) uses the terms “priorities” and “priority class” without providing definitions or clarifying whether the two terms are interchangeable. ACSC recommends explicitly defining “priority class” and “priorities” within the rule.

D. The Commission should address how the proposed change will impact existing force majeure clauses.

It is common practice for natural gas supply and transportation agreements to contain a force majeure clause. As such, the Commission should clarify how force majeure clauses should fit into the curtailment schedule. The Commission’s clarification should consider whether the clauses should conform to the curtailment order, whether the clauses supersede the order, or whether the clauses fall outside the order altogether. ACSC requests that the Commission make its expectations clear as to the interplay between the curtailment order and contractual force majeure.

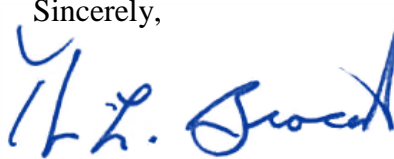
E. The effective date fails to address possible curtailment during the 2022 winter season.

The proposed effective date is April 1, 2022. While this effective date will implement an improved curtailment response for future winter seasons, it fails to address how a curtailment event should be handled during the upcoming 2022 winter season. ACSC recommends the Commission either implement an effective date for the proposed rule that encompasses the 2022 winter season, or otherwise clarify how a possible curtailment event is to be addressed from January through March 2022.

III. CONCLUSION

ACSC supports the Commission’s adoption of the new proposed rule, with modifications, as a measure of protection for the health and lives of Texans and appreciates the opportunity to comment on the proposed rule. ACSC respectfully urges the Commission to consider the foregoing comments and to adopt a rule consistent with the same.

Sincerely,



Thomas L. Brocato