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November 1, 2021

Rules Coordinator
Railroad Commission of Texas
Office of General Counsel
P.O. Drawer 12967
Austin, TX 78711-2967
Via email to rulescoordinator@rrc.texas.gov.

Re: Proposed New 16 TAC §3.65 and Proposed Amendments to §3.107 to Implement HB 3648 and SB 3

Public Citizen appreciates the opportunity to provide these comments. We would welcome the opportunity to discuss our recommendations further. Please contact Adrian Shelley at ashelley@citizen.org, 512-477-1155.

I. The RRC must cooperate with the PUC

Assuring fuel supply during an emergency is the Railroad Commission's responsibility. The Public Utility Commission has stated that its rule does not address fuel supply. The RRC's proposed rule must cover areas the PUC explicitly declined to regulate.

Public Citizen submitted comments (attached) to the Public Utility Commission of Texas (PUC) in its weatherization docket 51840. Public Citizen expressed concern that the Railroad Commission rules, "do not require enough information about those facilities to be shared with electric utilities to be able to appropriately designate the facilities as critical to electric generation and to prioritize their needs."

The PUC [responded](#) to our comments in part as follows:

The commission will continue to collaborate with the RRC on the issue of critical load designations of natural gas facilities, but this issue is beyond the scope of this rulemaking.

There are three things related to fuel supply that the PUC declined to do in its proposed rule:¹

- (1) establish fuel-related standards,
- (2) require a generation entity to contract with fuel suppliers and fuel delivery entities with weatherized facilities, or
- (3) require a generation entity to submit information on its current fuel contracts to the commission.

We urge the Railroad Commission to continue cooperating with the PUC in order to establish and enforce strong, effective fuel supply standards.

¹ See 51840_101 at p. 23.



II. The rule does not inform the allocation of scarce electricity supply to ensure adequate gas supply.

Critical designations are necessary to allocate limited resources during emergencies. During the February emergency, up to 10,500 MW of load shed was required at one time. Some of the electricity customers that experienced blackouts during Winter Storm Uri were part of the gas supply chain. These outages contributed to the failure of gas suppliers to meet demand during the crisis.

In SB 3 the legislature asked the Railroad Commission to do several things. It needs to provide information to the PUC and ECROT about critical gas customers so that they can receive electricity during emergencies. The Commission also needs to use its regulatory oversight to ensure the critical gas supply is available for demand during an emergency. This rule should accomplish these goals.

Suppose we call the total amount of natural gas available from all of the facilities regulated by the Railroad Commission the “total gas supply.” A portion of that gas supply that is needed during emergencies can be called the “critical gas supply.” This may be a simplification, but suppose the gas supplied to electric generators and residential customers is the “critical gas supply.” The RRC’s goal is to make all and only the critical designations necessary to ensure the critical gas supply. The difference between the total gas supply and the critical gas supply will determine the number of gas facilities that are not critical. If they are not critical, then their inclusion in load shed won’t affect the critical gas supply during an emergency. If the critical supply portion were half the total, for example, then gas facilities could shed half of their collective electricity demand during an emergency without jeopardizing critical gas supply.

Some questions, such as the amount of critical gas supply, will have to be answered by the Texas Electricity Supply Chain Security and Mapping Committee. But the Railroad Commission is in the best position to map the gas supply chain and determine which gas suppliers can provide the critical gas supply.

A. All and only the gas suppliers providing the “critical gas supply” should be designated as critical customers.

One way to frame the RRC’s goal is to guarantee only the critical gas supply during an emergency, making the rest of its customers available for inclusion in load shed.

What is the critical gas supply? The U.S Energy Information Association gives the following gas consumption totals in Texas:²

² See https://www.eia.gov/dnav/ng/ng_cons_sum_dc_u_STX_a.htm.



Natural Gas Consumption by End Use

(Million Cubic Feet)

Download Series History Definitions, Sources & Notes									
Show Data By: <input checked="" type="radio"/> Data Series <input type="radio"/> Area	Graph Clear	2015	2016	2017	2018	2019	2020	View History	
Total Consumption	<input type="checkbox"/>	4,113,608	4,020,915	3,867,275	4,464,219	4,671,722	4,630,179	1997-2020	
Lease and Plant Fuel	<input type="checkbox"/>							1967-1998	
Lease Fuel	<input type="checkbox"/>	223,817	238,693	236,577	245,360	266,877	266,496	1983-2020	
Plant Fuel	<input type="checkbox"/>	183,429	169,360	166,479	175,653	216,783	217,005	1983-2020	
Pipeline & Distribution Use	<input type="checkbox"/>	84,874	85,527	84,470	117,964	173,753	190,534	1997-2020	
Volumes Delivered to Consumers	<input type="checkbox"/>	3,621,488	3,527,335	3,379,749	3,925,242	4,014,310	3,956,144	1997-2020	
Residential	<input type="checkbox"/>	211,379	175,332	164,147	227,028	228,143	204,301	1967-2020	
Commercial	<input type="checkbox"/>	175,883	164,306	164,782	214,173	198,060	172,523	1967-2020	
Industrial	<input type="checkbox"/>	1,606,000	1,649,759	1,678,504	1,838,402	1,799,319	1,813,568	1997-2020	
Vehicle Fuel	<input type="checkbox"/>	4,390	3,875	1,842	1,785	1,587	1,103	1988-2020	
Electric Power	<input type="checkbox"/>	1,623,836	1,534,063	1,370,474	1,643,854	1,787,199	1,764,649	1997-2020	

Out of a total of 4.63 million MMCF consumed in 2020, 1.76 million MMCF (or 38%) was for electric power and 0.2 million MMCF (4%) was for residential.

Let's assume that the critical gas supply is that demanded by the residential and electric power customers, or 42% of total consumption. (The actual amount must be determined by the Electricity Supply Chain Security and Mapping Committee.) The Railroad Commission's goal is to provide this critical gas supply during an emergency. The Railroad Commission should designate as critical all and only those facilities required to provide the critical gas supply. If it falls short, it will not meet gas supply during an emergency. If it overshoots its target, it will inflate critical electric demand - by including non-critical customers - and hinder load shed.

B. Proper critical customer designations are needed to inform PUC decisions about load shed.

The Railroad Commission's goal is to inform the PUC which electricity customers are needed to provide the critical gas supply during an emergency. The PUC will use this information to inform load shed decisions. The RRC will meet its goal by designating as critical all and only those customers providing the critical gas supply. Which customers are these?

SB 3 directed the Railroad Commission to designate two types of entities, which overlap:

1. Critical gas suppliers, which we understand to mean those suppliers who, provided with electricity, will meet the critical gas supply need during an emergency.
2. Critical customers, which we understand to mean those electricity customers in the natural gas supply chain that will require electricity during an emergency because they are part of the critical gas supply chain.

Regarding critical gas suppliers, the RRC must use information from the suppliers and the Electricity Supply Chain Security and Mapping Committee to determine which entities supply electric generators



and residential customers (or whichever are the critical customers). But the RRC itself is in the best position to determine which suppliers can meet the critical gas supply during an emergency. The RRC should use its resources and best efforts to make that determination and inform the PUC about which entities to designate critical gas suppliers and how much gas they can supply.

Regarding critical customers, the RRC must identify the critical gas suppliers that require electricity from the ERCOT grid. (There are some customers that do not require electricity from ERCOT or any electricity at all.) The RRC should cooperate with the PUC to identify the proper entities to designate as critical customers and how much electricity they will demand.

If the RRC meets this goal, the electric utilities will be able to shed load from some customers under RRC's jurisdiction without jeopardizing critical gas supply. Continuing with our assumption that the critical gas supply is 42% of total consumption, could the PUC shed load from as much as 58% of RRC customers? Or is there some other percentage from which load can safely be shed? These are questions for the Railroad Commission, to be informed by the Electricity Supply Chain Security and Mapping Committee.

III. The rule has no criteria for designating critical customers.

Senate Bill 3 directs the Railroad Commission to “collaborate with the Public Utility Commission of Texas 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 customers or critical gas suppliers during energy emergencies.” Nat. Res. Code § 81.073(a).

The legislature has directed the Railroad Commission to cooperate with the PUC to designate critical customers and critical gas suppliers. We are assuming there is a “Goldilock’s Zone” of the gas supply chain that should be designated as critical. If too little is designated, critical gas supply is not assured during an emergency. If too much is designated, load shed cannot occur with the best available information.

The Railroad Commission is in the best position to get the critical designations just right. But this rule proposal doesn’t include criteria for critical designation. The proposed rule designates all facilities critical by default. This approach runs the risk of designating too many of the RRC’s customers as critical—overshooting the target and hindering the PUC’s ability to effectively load shed. The RRC is in the best position to put forth these criteria.

The Railroad Commission’s critical designation rule should accomplish two things during a weather and energy emergency:

1. Inform the PUC of the energy demand of its critical customers who provide the critical gas supply so that they may receive electricity during an energy emergency. If, for example, the critical gas supply is 42% of the total, and RRC’s customers normally demand 10,000 MW³ of

³ An arbitrary number.



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electricity, can the PUC shed 5,800 MW from RRC customers during an energy emergency? Or is this some other number? The RRC & the PUC must determine this in cooperation.

2. Ensure that adequate gas is supplied by critical gas suppliers by ensuring that they are sufficiently weatherized to operate during a weather emergency. If 42% of total gas consumption is required during an emergency, has RRC designated enough gas supply facilities as critical and ensured that they are weatherized sufficiently to operate during a weather emergency?

We don't believe the proposed rule has done this. Recall that the PUC explicitly declined to regulate fuel supply in its rulemaking. This is the Railroad Commission's job. The RRC must determine what percentage of its total fuel supply (42% or otherwise) makes up the critical gas supply. Then the Commission must ensure those customers have registered with their electric utilities as critical and are sufficiently weatherized to operate during an emergency.

What criteria should the Railroad Commission use when designating its critical gas suppliers? SB 3 directs the commission to consider essential operational elements including, "natural gas production, processing, and transportation, related produced water handling and disposal facilities, and the delivery of natural gas to generators of electric energy;" Nat. Res. Code § 81.073(b)(2).

The Railroad Commission hasn't done this. It hasn't determined how much of its total supply is critical and it hasn't assured that all and only that supply will be designated critical.

The proposed RRC rule defines "energy emergency," "weather emergency," and "critical customer information." But the Commission has not used these definitions--or any criteria at all--to designate some facilities and not others as critical.

IV. RRC is in the best position to map critical gas infrastructure and meet the critical gas supply.

Suppose that someone, perhaps the Electricity Supply Chain Security and Mapping Committee, has determined the amount of the critical gas supply. Let's say it is 2 million MMCF (close to the EIA consumption figures above for residential plus electric power). The Railroad Commission is in the best position to ensure that its facilities can supply 2 million MMCF during an emergency. How would the Commission do this?

Ideally, the Commission would know which are the gas customers demanding that critical gas supply—call them the "critical gas customers." The Electricity Supply Chain Security and Mapping Committee might supply this information. The Commission would then use its rulemaking to ensure that the critical gas customers are designated as critical customers that receive electricity during an emergency, and that these critical gas customers are sufficiently weatherized to meet the critical gas supply during an emergency. The proposed rule does not do this.

The Railroad Commission has designated all facilities within seven categories as critical. This approach is overinclusive and cannot inform PUC decisions about load shed.



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The Railroad Commission has also allowed facilities to opt-out of the critical designation by choice. This approach fails because it will prevent the creation of any comprehensive “map” of critical facilities.

Consider a hypothetical gas supply chain that includes a producing well, a flow line, a gathering line, a compressor station, a transmission line, a processing facility, a distribution line, and a customer. If the producing well is part of the critical gas supply, then that well and everything in its supply chain must be designated as critical. If the well and compressor station are designated as critical, but the processing facility is not, the chain breaks and the designation fails.

Who determines that each critical gas supplier is part of an unbroken chain of critically designated facilities? The Railroad Commission should, but the proposed rule prevents it from doing so. Any facility can file Form CI-X and remove itself from the critical supply chain. Other facilities have no way of knowing whether they are part of an unbroken supply chain.

V. More information must be required on Form CI-D, Acknowledgment of Critical Customer/Critical Gas Supplier Designation, and Form CI-X, Critical Customer/Critical Gas Supplier Designation Exception Application.

The Railroad Commission has proposed Form CI-D (Acknowledgment of Critical Customer/Critical Gas Supplier Designation) to be used for natural gas facility operators to acknowledge critical designation of facilities and Form CI-X (Critical Customer/Critical Gas Supplier Designation Exception Application) to be use for facilities opting out of weatherization. Both forms should require additional information to ensure that the Railroad Commission, the Public Utility Commission, ERCOT, other gas facility operators, electric utilities, and electric power generators have all the information that they need to accurately predict gas supply availability during extreme weather conditions.

Winter Storm Uri demonstrated how interconnected the gas and electric systems are. It also demonstrated the complexity and interconnections of the web of gas facility operators. Each facility operator will be best able to make the necessary decisions to be prepared to operate during extreme weather if they know the status of the facilities upstream and downstream from them. Whether an operator is confirming that their facility is critical and prepared to operate during extreme weather or filing an exemption, they should be required to provide the following information, which should be included on Table CCI.

- Names and locations of any upstream gas suppliers, if any.
- Names and locations of any downstream gas customers,
 - Identify quantities of gas supplied to each,
 - Identify final use of gas (i.e. electricity generation, residential customers, commercial customers, industrial customers), if known.
- What has been done to weatherize the facility, if anything.
- What would need to be done to fully weatherize the facility, if applying for an exemption using form CI-X.
- What temperature range the facility is prepared to operate in.



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- What types of extreme weather (i.e. freezing rain/sleet, snow, hurricane, flood, etc.) is the facility not prepared to operate in, if any.

Again, we appreciate the opportunity to provide these comments. To discuss our recommendations further, please contact Adrian Shelley at ashelley@citizen.org, 512-477-1155.

Respectfully submitted,

Adrian Shelley, Texas Office Director
Kaiba White, Energy Policy and Outreach Specialist

Attachment: Comments by Public Citizen in Public Utility Commission Project 51840, also available at https://interchange.puc.texas.gov/Documents/51840_99_1154127.PDF/.



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PROJECT NO. 51840

RULEMAKING TO ESTABLISH	§	PUBLIC UTILITY COMMISSION
ELECTRIC WEATHERIZATION	§	
STANDARDS	§	OF TEXAS

COMMENTS OF PUBLIC CITIZEN

COMES NOW Public Citizen and files these Comments in response to the Proposal for Publication filed in this proceeding on August 24, 2021.

Executive Summary

Public Citizen is providing comments in this rulemaking about a parallel rulemaking by the Railroad Commission of Texas dated Sept. 14, 2021 with the subject “Proposed New 16 TAC §3.65 and Proposed Amendments to §3.107 to implement HB 3648 and SB 3.” We are concerned that the Railroad Commission’s proposal does not satisfy the requirements of HB 3648 and SB 3 and will also prevent the Public Utility Commission from satisfying those requirements. Specifically, we believe the Railroad Commission has not proposed a process to designate natural gas facilities as critical customers or critical gas suppliers that gives the electric entities that provide them with power enough information to appropriately prioritize their needs against the needs of other customers, or between one natural gas facility and another. This failure of the Railroad Commission’s rulemaking will prevent the Public Utility Commission from meeting the goals it sets for itself in its own rulemaking. Specifically, we do not believe that generation entities will be able to satisfy the requirement in this proposed rule at 16 TAC §25.55 (C) to take “All actions necessary to prevent a reoccurrence of any cold weather critical component failure that occurred in the period between November 30, 2020, and March 1, 2021.”

We recommend that, before making their sworn statement, the generation entities ensure that their specific gas suppliers have undertaken appropriate weatherization measures and designated themselves as critical. We also recommend that the Public Utility Commission recommend to the Railroad Commission that that agency revise its rule in order to establish a better process for



designating critical gas suppliers. In these comments we are offering a critique of the Railroad Commission's proposed rule as compared to the PUC's proposal.

Comments

About 20% of the electricity generation failures that occurred during winter storm Uri were caused by failure of natural gas fuel supply. In order for electric generators to comply with weatherization requirements, the gas supply chain must also comply.

The Railroad Commission has not done this in its proposed rule. Instead, it has designated all entities as "critical gas suppliers" by default. This plainly fails to satisfy the requirements of Senate Bill 3, which directs the Railroad Commission to promulgate rules that, "consider essential operational elements when defining critical customer designations and critical gas supply information...including... the delivery of natural gas to generators of electric energy[.]" The Railroad Commission has not considered any such elements because it has not distinguished among its 6,200 operators in any way. Instead it has simply declared that, "during the storm, every molecule of gas was important." This approach provides the PUC with no information about how generation entities will be assured gas supply from the critical gas supply chain.

In its proposal, the Railroad Commission has turned the obligation of designating critical gas supply around onto its operators. Operators are designated critical by default unless they file for an exception (new Form CI-X) every six months. This exception is simply elective. The Railroad Commission has provided no criteria or qualifications for an exception.

Past practice at the Railroad Commission—specifically its routine practice of granting exceptions to statewide flaring rule 32—has shown that the Commission may fail to evaluate in any way the merits of elective rule exceptions. The Railroad Commission has not proposed any criteria or procedure to evaluate exceptions to the critical gas supply designation.

Placing this obligation with operators is especially troublesome because operators can file the exception without any consideration of their place in the gas supply chain. The filing is simply an elective action that requires the operator to certify that the facility is not prepared to operate in a weather emergency. The uncoordinated approach of operators acting in isolation and filing



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elective exceptions every six months will not result in a logical or consistent critical gas supply chain. This should gravely concern generation entities that rely on gas supply.

Contrast this with the Public Utility Commission's approach in this rulemaking. PUC's proposed rule requires generation entities to do the following:

- Complete winter weather emergency preparations.
- Installation of specifically identified weatherization equipment such as wind breaks and closed sensors.
- All actions necessary to prevent a recurrence of failures related to winter storm Uri.
- Training of personnel.
- Determination of minimum operating parameters.
- Submission of a winter weather readiness report.

Granted, the Railroad Commission has not yet promulgated its own weatherization rules. It must do so by September 1, 2022. But those rules will only apply to entities in the critical gas supply chain. And the Railroad Commission has proposed a process that will allow operators to simply exempt themselves out of the supply chain. Even after weatherization rules are promulgated, it will not be possible to weatherize the supply chain effectively if the Railroad Commission has never defined or identified a critical gas supply chain.

The PUC's rule requires a generation entity's highest-ranking representative to swear in a notarize attestation that they have completed all activities necessary to meet weatherization requirements. We believe that generation entities that rely on natural gas supply will not be able to swear to this because they will not have taken "all actions necessary to prevent a recurrence" of failures during winter storm Uri. Specifically, they will not be able to ensure that their gas supply is part of a critical gas supply chain that will actually perform during a weather emergency. To remedy this, we recommend that a generation entity that relies on gas suppliers determine that its specific suppliers have undertaken appropriate weatherization measures and properly designated themselves as a part of the critical gas supply chain.



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Conclusion

We believe that the PUC should interpret the Railroad Commission's proposed critical gas supply designation rule as failing to provide generation entities with the reliable fuel supply they will need to meet the PUC's proposed weatherization requirements. SB 3 directs the PUC to collaborate with the Railroad Commission to designate critical gas facilities. We recommend that the PUC respond to the Railroad Commission's proposed rule now with the goal of promulgating a more robust rule that will allow the PUC and generation entities to meet their statutory obligations.

Public Citizen appreciates the opportunity to provide these comments and looks forward to working with the Commission and other interested parties on these issues.

Respectfully submitted,

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