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**Subject:** The Form "Rules Comment Form" was submitted  
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## General Comment

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### Comment

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16 TAC §3.65 and §3.107

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## **Comments concerning proposed rulemakings**

Dear Commissioners, During the 2021 Legislative Session, the Lone Star Chapter of the Sierra Club followed the various pieces of legislation very closely, including both SB 3 and HB 3648. As an organization with nearly 30,000 members, most of whom were impacted one way or the other by winter storm Uri, we are writing to express serious concerns regarding the Texas Railroad Commission's new rules covering the winterization of infrastructure along the gas supplyline. While HB 3648 does allow the ability of the Commission to create an exception to winterization requirements, the Texas Railroad Commission has known about the need to winterize the power grid and gas supply line for many years. Texans literally froze to death this last winter, and the "exception" clause is written so broadly in the proposed rule, that literally any company can simply declare they are not prepared to winterize and escape all requirements beyond having to file a simple paper form. Past decisions to put profits over people, and not winterize resulted in the death of hundreds of Texans and an estimated \$295 billion dollars in damages, not to mention billions of dollars in high gas and electric bills that will be paid back by consumers over the next decade through securitization. During a recent Senate Committee on Business and Commerce, both Republican and Democratic senators expressed outrage of the exception clause in the rule. The rules currently under consideration are grossly insufficient in that they provide a way for corporations to opt out of weatherization. To be clear, any operator that supplies gas to generate power, must be classified as critical infrastructure, and therefore be required to weatherize their operations. Under the rule proposal, a facility is designated as a critical gas supplier unless the facility's operator asserts the facility is not prepared to operate during a weather emergency. This means that any gas supply infrastructure can file an

exception with no requirement to say why simply by filing a \$150 dollar exception request. To make matters even worse, it is a one-time fee, and while the operator would have to make the assertion in future filings, there is no requirement to even check whether conditions have changed and no required fee. This is simply unacceptable. The Commission must eliminate this exception, or at the very least create criteria by which an operator can reasonably assert a rationale for not being able to winterize. Oil and gas operators have made billions in profit and there is no reason to not winterize infrastructure deemed as critical that serves the gas supply chain. As long as gas continues to play a role in the Texas power grid, the operators who supply it must do so in a manner that serves Texans instead of their own financial interests. Finally, we are very disappointed in the tiny proposed penalties proposed by the Commission. The Commission proposes to impose a \$2,500 fine for failure to provide critical customer information and a mere \$1,000 for failure to turn in the required report, or exception. This is very low on both counts. We would suggest raising these amounts to \$10,000 for failure to provide critical customer information and \$5,000 for failure to turn in the report. We understand there is still a cap set by statutes for going beyond \$15,000 but believe the Commission has the authority to go to these higher levels and should do so. Texans literally died last winter because of our collective failures, and a slap on the wrist for failing to register or provide information that could lead to saving lives seems fundamentally unfair. The Sierra Club looks forward to working with the Commission to improve this insufficient rule.