

PROJECT NO. 52345

**CRITICAL NATURAL GAS
FACILITIES AND ENTITIES**

§
§
§

**PUBLIC UTILITY COMMISSION

OF TEXAS**

**ORDER ADOPTING AMENDMENTS TO §25.52 AS APPROVED AT THE
NOVEMBER 30, 2021, WORK SESSION**

The Public Utility Commission of Texas (commission) adopts amendments to existing 16 Texas Administrative Code (TAC) §25.52, relating to Reliability and Continuity of Service, with changes to the proposed text as published in the October 1, 2021, issue of the *Texas Register* (46 TexReg 6462). These amendments implement changes to the Public Utility Regulatory Act (PURA) enacted by the 87th Texas Legislature. Specifically, these amendments implement revisions made by Senate Bill (SB) 1876 to PURA §38.072(a) and (b) by adding end stage renal disease facilities to the list of health facilities prioritized during system restoration following an extended power outage in section §25.52(f).

These amendments also implement new PURA §38.074, added by House Bill (HB) 3648 and SB 3, as part of a joint effort with the Railroad Commission of Texas (RRC) to increase the coordination between the electric and gas industries during energy emergencies. As part of this joint effort, the RRC has proposed new §3.65, relating to Critical Designation of Natural Gas Infrastructure, which will operate in conjunction with the amendments adopted in this project. Together, these rules will require a critical natural gas facility, or a “critical customer” as described under §3.65, to provide critical customer information to the utility from which it receives electric delivery service and require the utility to incorporate this information into its load-shed and power restoration planning.

The commission received comments on the proposed amendments from AEP Texas Inc., Oncor Electric Delivery Company LLC, CenterPoint Energy Houston Electric, LLC, and Texas-New Mexico Power Company (collectively, the “Joint TDUs”), Guadalupe Valley Electric Cooperative, Inc. (GVEC), the Lower Colorado River Authority and LCRA Transmission Services Corporation (collectively LCRA), Occidental Permian LTD (OPL), Office of the Public Utility Counsel (OPUC), Southwestern Electric Power Company (SWEPCO), the Steering Committee of Cities Served by Oncor and the Texas Coalition for Affordable Power (collectively Cities/TCAP), Texas Competitive Power Advocates (TCPA), Texas Electric Cooperatives, Inc. (TEC), Texas Oil & Gas Association (TXOGA), Texas Pipeline Association (TPA), Southwestern Public Service Company (SPS), Texas Public Power Association (TPPA), and Vistra Corp. (Vistra). No party requested a hearing.

General Comments

TPPA and OPUC commented that the interconnection between proposed commission rule §25.52 and the RRC proposed rule §3.65 may cause uncertainty and ambiguity for stakeholders. Specifically, the differing timelines for adoption as currently proposed for the two rules may result in inconsistencies in application.

Commission response

The Commission adjusted its adoption timeline to allow these rule amendments to be adopted on the same day that the RRC adopts §3.65.

TPPA and GVEC expressed concerns regarding the conflicting approach between the process of designating critical status by the commission and the RRC in each agency’s proposed rule

language. TCPA recommended that the commission should immediately pursue enhanced coordination efforts with the RRC to encourage an approach towards designating truly critical infrastructure, prevent entities from opting-out of “critical” designation until mapping and prioritization activities identify them as such, and also create a more meaningful threshold for the weatherization expectations of a critical natural gas facility to be “prepared to operate during a weather emergency.” TPA argued that the exception portion of proposed RRC rule §3.65 is not an “opt-out” provision, rather it is a “prohibition on a facility's ability to be considered as critical, and thus barring it from being able to be prioritized above others in a load shed event.”

Commission response

The commission has collaborated with the RRC throughout this rulemaking process, as required by PURA §38.074. However, comments addressing the RRC’s rulemaking project or entities over which the commission has no direct jurisdiction are beyond the scope of this rulemaking project.

ERCOT’s voluntary designation form

TCPA and LCRA requested clarification regarding the continued use of the Electric Reliability Council of Texas, Inc. (ERCOT) form, Application for Critical Load Serving Electric Generation and Cogeneration (Critical LSE Application), until the new RRC designation process is implemented. OPUC expressed reservations regarding the RRC’s proposed Critical Customer Information (CCI) table and its similarity to the existing application used by ERCOT.

Commission response

The commission anticipates that the new rules adopted by the commission and the RRC will become effective on the same date, rendering most clarifications regarding the ERCOT Critical LSE Application and the RRC CCI table moot. However, the commission has clarified that under §25.53(h)(2)(B), a utility may continue to treat a natural gas facility that self-designated as critical using the Critical LSE Application as a critical natural gas facility, as circumstances require.

Intrastate vs. interstate natural gas pipelines transparency

TCPA commented on the significant differences between federal regulation of interstate pipelines and state regulation of intrastate gas pipelines in Texas, including transparency requirements of gas system conditions. TCPA recommended that the commission work with the RRC to bring about more transparency regarding intrastate natural gas pipelines as part of the Texas Electricity Supply Chain Security and Mapping Committee's (Mapping Committee) mapping process, so that information available for intrastate pipelines is similar to that available for interstate pipelines. Specifically, TCPA recommended that all pipelines should publicly post on a daily basis, the capacities of, and volumes flowing through receipt and delivery points (consistent with interstate practices) and mainline segments on electronic bulletin boards in order to make available necessary information for tracking flows of natural gas throughout Texas.

Commission response

The commission has collaborated with the RRC throughout this rulemaking process, as required by PURA §38.074. However, comments addressing the RRC's rulemaking project

or entities over which the commission has no direct jurisdiction are beyond the scope of this rulemaking project. The specifics of the work being done by the Mapping Committee are also not properly addressed in this rulemaking project.

Enhanced coordination with RRC and the mapping initiative

TCPA recommended that the commission and RRC commence the mapping process as soon as possible with a goal of releasing the map and best practices far in advance of the September 1, 2022, deadline as possible. OPUC stated that formalizing rules around critical facilities is premature given the unknown result of the Mapping Committee's future effort to map out the state's critical infrastructure as well as the RRC's future weatherization rules that will serve as the basis of opting out as a critical natural gas facility under §3.65(d).

Commission response

The commission, in conjunction with the RRC, has already begun the mapping the Texas electricity supply chain, as recommended by TCPA, and will release the map as soon as practicable.

The commission disagrees with OPUC that formalizing rules concerning critical natural gas facilities is premature. HB 3648 requires the commission to adopt rules required by PURA §38.074 by December 1, 2021.

§25.52(a) – Application

Proposed §25.52(a) lists the entities to which §25.52 applies. Vistra recommended that this list also include “operators of critical natural gas facilities,” citing the proposed requirement in

subparagraph (h)(1)(A) that operators of critical natural gas facilities provide critical customer information to certain entities.

Commission response

The commission declines to add operators of critical natural gas facilities to the entities listed in subsection (a). The commission does not have direct jurisdiction over these entities. Instead, the commission modifies the language of subparagraph (h)(1)(A) to clarify that operators of critical natural gas facilities are required to provide this critical customer information in accordance with §3.65 of this title, as required by the RRC.

TPPA noted that proposed §25.52(a) states that the term “utility” when used in §25.52 means an electric utility and a transmission and distribution utility and the rule further clarifies that in subsection (h), the term also includes electric cooperative and MOUs. TPPA asserted that the same word carrying different meanings within the same rule makes the rule more difficult to understand. TPPA recommended that the commission create a separate rule for addressing MOUs and electric cooperatives.

Commission response

The commission declines to address MOUs and cooperatives in a separate rule, because this rule would have to be published separately in the Texas Register and this could not be accomplished in a timely fashion. The commission agrees with TPPA that the use of same term in different ways in a single rule could be confusing, however, the use of a single term for all applicable entities significantly increases the readability of subsection (h). To mitigate potential confusion and preserve this readability, the commission moves the clarification that

“utility,” when used in subsection (h), includes MOUs and electric cooperatives to subsection (h).

§25.52(a) – Utilities in non-ERCOT areas of Texas

SWEPCO and SPS both argued that PURA §38.074 should be limited to entities providing service in the ERCOT power region. Specifically, SWEPCO and SPP construed the use of the word “certain” in PURA §38.074(a) to limit the applicability of the statute, and therefore the rule, to facilities in the ERCOT power region. “The commission shall collaborate with the Railroad 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 during energy emergencies...” SWEPCO and SPS also indicated that contextually, HB 3648 was passed to address ERCOT-specific load shed during Winter Storm Uri and the statute and rule should therefore be limited in applicability.

SPS further argued that §38.074(b)(1)-(3) explicitly designates facilities in the ERCOT power region as the subject of the rule. SWEPCO similarly argued that the RRC’s proposed rule §3.65(e) appropriately limits the provision of critical customer information to the entities described in PURA §38.074(b)(1), however the commission’s proposed §25.52(h)(1)(A) does not. SWEPCO also recommended edits to the term “utility” in §25.52(h)(1) and §25.52(h)(2) limiting the term to facilities in the ERCOT power region. SWEPCO offered draft language for clauses §25.52(h)(1)(A)(i), and §25.52(h)(1)(A)(ii), in accordance with its desired definition of the term “utility”:

- (i) The ~~transmission and distribution~~ utility, ~~electric cooperative, or MOU~~ from which the critical natural gas facility receives electric delivery service in the ERCOT region: and

- (ii) For critical natural gas facilities located in the ERCOT region, †The independent organization certified under PURA §39.151.

Commission response

The commission declines to adopt the recommendation of SWEPCO and SPS to limit the applicability of the proposed rule to facilities in the ERCOT power region. PURA §38.074(a) states in relevant part: “...certain natural gas facilities and entities associated with providing natural gas in this state as critical during energy emergencies.” The plain meaning of PURA §38.074(a) is a directive for the RRC and the commission to establish a designation process of “[critical] facilities and entities” within the State of Texas. The adjective “certain” applies to the nouns “natural gas facilities and entities” which in turn are further limited in scope by the descriptor “in this state”, meaning the State of Texas and reflective of the intent of the designation process to be statewide and not limited to the ERCOT power region. The term “as critical” is only intended as a directive for both agencies to determine which facilities and entities providing natural gas within the State should be prioritized pursuant to the statute. PURA §38.074(b)(1) should be read as a specific directive for the ERCOT power region whereas PURA §38.074(a) is a section of general applicability. SPS’ interpretation of PURA §38.074(b)(1)-(3) is erroneous because, if the subsections were intended to limit the scope of the statute, (b)(1)-(3) would be subsections of (a) and not its own section, and the phrase “in this State” would not be have been included in (a) by the Legislature and instead have stated “in the ERCOT power region” or nothing at all.

The commission also notes that the mapping of the Texas electric supply chain as directed by SB 3, codified as PURA §38.201, as further evidence the intention of the designation of critical nature gas to be a statewide initiative. Specifically, PURA §38.201(b)(1) directs the

Mapping Committee to “map this state’s electricity supply chain” and §38.201(b)(2) which requires the Mapping Committee to “identify critical infrastructure sources in the [statewide] electricity supply chain”.

For these reasons, the commission also declines to adopt SWEPCO’s recommendation and proposed language limiting the scope of the term “utility” in §§25.52(h)(1)(A)(i), and §25.52(h)(1)(A)(ii).

§25.52(c) – Definition of “energy emergency”

SWEPCO, Vistra and Joint TDUs requested that the commission adopt a definition of “energy emergency, because the term is used in this section several times. The Joint TDUs suggested the commission adopt the definition proposed by the RRC.

Commission response

Commission agrees to define the term energy emergency but does not agree to adopt the RRC’s proposed definition, as recommended by the Joint TDUs. The commission defines energy emergency, when used in §25.52, as “[a]ny event that results in or has the potential to result in firm load shed required by the reliability coordinator of a power region in Texas.”

§25.52(c)(2) – Definition of “critical natural gas”

Proposed §25.52(c)(2) defines the term “critical natural gas” as a facility designated as a critical gas supplier by the RRC under §3.65(b) unless the critical gas supplier has obtained an exception from its critical status under the RRC’s proposed rule. Under proposed §3.65, a critical gas supplier that is not prepared to operate during a weather emergency can obtain an exception from its critical status.

Vistra recommended that rule define the term “critical natural gas facility” rather than “critical natural gas.” Further, the definition should expressly include gas supply chain facilities in the electricity supply chain map and clarify that an energy emergency is declared by ERCOT.

Commission response

The commission agrees that defining “critical natural gas facility” in lieu of “critical natural gas” improves the clarity of the rule and amends the define term accordingly. However, the supply chain map is addressed in §3.65, promulgated by the RRC. Therefore, the commission declines to adopt Vistra’s proposed language regarding the electric supply chain map for §25.52(c)(2). Moving forward, this order will refer to “critical natural gas” when discussing proposed language and will use “critical natural gas facility” when referring to the adopted rule.

Finally, the commission has relocated the statement “Critical natural gas is a critical load during an energy emergency” to (h)(2) for clarity.

Cities/TCAP argued that the definition of “critical natural gas” in the commission’s rule should not include an exception for a critical gas supplier that is not prepared to operate during a weather emergency. TCPA and TEC requested the commission adopt rule language to require an attestation by an authorized officer of the facility operator to certify that the facility complies with best practices and is prepared to maintain service in an extreme weather event established under PURA §38.203(a)(4). TCPA and TEC also recommended removing all reference to the RRC’s proposed rule §3.65 and instead rely solely on the definitions and requirements of critical natural gas facilities finalized by the commission. Specifically, TEC recommended that the commission adopt a more stringent definition for “critical natural gas” to include the criteria that the facility

has provided all required information in accordance with RRC rules and has provided additional information as requested by the electric utility in accordance with subsection (h)(1)(C)(i).

Commission response

The commission declines to remove all references to §3.65 from the definition of critical natural gas facilities. Natural gas facilities are subject to the primary jurisdiction of the RRC, making the reference to its rule appropriate. Comments addressing other aspects of the RRC's rulemaking project or entities over which the commission has no direct jurisdiction are beyond the scope of this rulemaking project.

TPPA recommended that the commission include language in proposed §25.52 excluding natural gas facilities from being declared critical if the facility failed to timely provide critical customer information to its MOU, electric cooperative, or investor-owned utility.

Commission response

The commission agrees that timely receipt of critical customer information is essential for proper emergency planning. For this reason, the commission adds language to clause (h)(1)(C)(i) that gives a utility some discretion as to whether to treat a natural gas facility that submits untimely information as critical.

TEC recommended that the commission qualify the definition of “critical natural gas” to indicate that the designation does not guarantee uninterrupted supply of energy or that load will not be shed.

Commission response

The commission agrees with TEC that a clarification of the effect of a critical designation on the certainty of electricity supply for a natural gas facility would be helpful and adds the following language to the definition of critical natural gas facility: “Designation as a critical natural gas facility does not guarantee the uninterrupted supply of electricity.”

§25.52(f) – Power restoration for certain medical facilities

Under §25.52(f), a utility must give the same priority to certain medical facilities that it gives to a hospital in the utility’s emergency operations plan for restoring power after an extended power outage.

Joint TDUs requested a new paragraph under this subsection adding “Nothing in this subsection (f) shall be deemed as altering the terms and conditions of a utility’s tariff.”

Commission response

The commission declines to add language requested by the Joint TDUs. The Joint TDUs did not provide any reasoning supporting this addition, and the commission finds it to be superfluous.

§25.52(h) – Critical natural gas

Proposed §25.52(h) specifies that critical natural gas standards, as defined under RRC rule §3.65, are applicable to gas suppliers in Texas that are designated as critical customers.

TPA recommended clarifying that load shed programs apply only to facilities served by electric distribution facilities, not transmission facilities and recommended changing the language to add the word distribution in this subsection.

Commission response

The commission declines to make the proposed changes suggested by TPA. The term “electric delivery service” encompasses both transmission and distribution service providers. Additionally, certain utilities in Texas are integrated and may provide both transmission and distribution services.

25.52(h) – Cross reference to RRC rule §3.65

TEC and TCPA commented that the cross reference to TRRC’s rule §3.65 should be removed. and proposed that the commission rely on the definition and requirements of critical natural gas facilities finalized in its own rules.

Commission response

The commission declines to remove all references to §3.65 from subsection (h). Natural gas facilities are subject to the primary jurisdiction of the RRC, making the reference to its rule appropriate.

§25.52(h)(1)(A) – Critical customer information

Proposed §25.52(h)(1)(A) requires critical natural gas facilities to provide critical customer information in a format described under RRC rule §3.65(a)(3) to their respective electric delivery service providers and, for critical natural gas facilities within the ERCOT region, to the independent organization certified under PURA §39.151.

TPPA recommended that the subsection also clarify that, for any corrections or updates provided to a utility, critical natural gas facilities would be required to concurrently provide those same corrections or updates to ERCOT.

TPA also requested the Commission to provide clarity and continuity as to what is meant by “usable format” in §25.52(h)(1)(A) regarding providing Critical Customer Information, as defined by §3.65(a)(3) of the RRC rule.

Commission response

The commission replaces the reference to “usable format” with a requirement that the critical customer information must be provided using Form CI-D and any attachments, to align with a change made by the RRC in §3.65.

The commission agrees that providing updated information to ERCOT is appropriate, but finds that such a process can be addressed in implementation of the rule.

Joint TDUs proposed expanding the scope of RRC rule §3.65(a)(3) to include additional details for each critical natural gas facility. Specifically, information regarding which facilities directly support electric generation should be included so the TDUs can incorporate those facilities into their respective load-shed and emergency restoration plans.

TEC proposed changes to this subsection to require a gas operator that provides critical customer information under §3.65(a)(3) to also provide a “prepared to operate” certification from an authorized officer of the utility and, if applicable, to ERCOT, within the time frames set forth under §3.65(c).

Commission response

The commission has collaborated with the RRC throughout this rulemaking process, as required by PURA §38.074. However, comments addressing the RRC’s rulemaking project or entities over which the commission has no direct jurisdiction are beyond the scope of this rulemaking project.

TPA proposed an alternate mechanism for identifying critical facilities in non-customer choice regions of Texas, where meters do not have ESI IDs. TPA made no specific recommendations beyond a special ID determined by the commission to be assigned to meters without ESI IDs and expressed general support for such an alternative protocol.

Commission response

The commission has collaborated with the RRC throughout this rulemaking process, as required by PURA §38.074. The specific critical customer information that critical natural gas facilities need to provide will be delineated in Form CI-D, as adopted by the RRC. This form will provide an alternate mechanism of identifying critical facilities in non-customer choice regions of Texas.

§25.52(h)(1)(B) – Updating utility email information

Under proposed subparagraph (h)(1)(B), the commission will maintain on its website, a list of utility email addresses to be used for the provision of critical customer information. This subparagraph also requires that utility to ensure that its' email address is accurate by requiring the utility to immediately provide the the commission with an updated email address if the email address is inaccurate or changes.

TPPA and TEC commented that the proposed rule's requirement to immediately update the contact information is burdensome and outside normal commission practice for emergency contact maintenance. TPPA referred to §25.53(e) and recommended that timeline for compliance be set to either "as soon as practicable" or "within 30 days." TEC proposed that email addresses be updated "as soon as reasonably practicable."

LCRA recommended that in the event the utility's email address changes or is inaccurate, the utility should be allowed five business days from the date the email address changes, or the utility is informed that the email address on file is inaccurate.

Commission response

The commission agrees with commenters that requiring a utility to update its email address immediately is inconsistent with other similar requirements in the commission's rules. The commission modifies the language to require a utility provide an updated email address within five business days of the email address changing or the utility becoming aware that the posted address is inaccurate, as recommended by LCRA.

§25.52(h)(1)(C) – Evaluation of critical customer information

Proposed new §25.52(h)(1)(C) establishes the timeline for evaluation of critical natural gas facility customer information by TDUs and notification to the gas facility of its critical status.

TPPA opposed the requirement imposed by §25.52(h)(1)(C) to notify gas facilities of their critical status and argued that the proposed rule paragraph exceeds the scope of PURA §38.074. TPPA opined on the purpose served by the notification when RRC has already designated a gas facility as critical and requested clarity on which entity grants critical status and the circumstances that could result in removal of critical status. TPPA also requested that the commission set the deadline for compliance with this subsection to either “as soon as practicable” or “within 30 days” so that TDUs can more meaningfully respond to critical information submissions by gas operators.

SWEPCO requested that the commission require critical customer information be received by utilities by September 15 of each year so it can incorporate this information during the annual review of its load shed plan. SWEPCO also requested that utilities be granted 21 days to review the information provided.

Joint TDUs asserted that 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 gas operators. Joint TDUs recommended that a timeframe of 15 business days be adopted to allow the utilities to analyze the critical customer information more thoroughly. Joint TDUs argued that this timeframe would also allow for an opportunity for clarification and communication with the operators if needed and would be more consistent with the 30-day timeframe set forth in Texas Water Code §13.1396(g), which also addresses critical infrastructure.

TEC proposed clarifying the types of notices a utility may provide to gas operators depending on the circumstances, such as notices for submitting incomplete information. TEC also requested clarifying that a gas operator must respond within five business days to a utility's requests for additional information and if a gas operator fails to respond, the utility should not be required to further evaluate, classify, or designate the facility. TEC further recommended adding a new subsection providing details on timelines for providing different notices to gas operators.

Specifically, TEC offered language changes under §25.52(h) and recommended that a utility should not be required to prioritize or plan for those gas facilities in their load shed, power delivery and power restoration plan that do not meet the Commission's definition of critical natural gas supplier under §25.52(c)(2).

Commission response

The commission agrees with commenters that five business days is insufficient time for utilities to evaluate critical customer information and increases the deadline to 10 business days. The commission declines to make the changes proposed by TEC to add a new subsection on timelines for utilities to provide various notices to gas operators.

The commission does not require utilities to receive critical customer information from critical natural gas facilities by September 15, as requested by SWEPCO. The deadline for a critical natural gas facility to provide critical customer information to its utility is governed by §3.65.

The commission modifies §25.52(h)(1)(C)(i) to allow a utility to set a deadline of no shorter than five business days for a natural gas facility to provide additional, requested critical

customer information. If the utility does not receive the additional information in a timely fashion, the utility may use its discretion to determine if it is possible to treat the natural gas facility as critical for load shed and power restoration purposes. However, the commission expects a utility to include as many critical natural gas facilities as practicable in its power restoration and load shed plans.

§25.52(h)(1)(C)(ii) – Utility notice to gas operator with complete information

Proposed new §25.52(h)(1)(C)(ii) details the required contents of a notice from a utility to a gas operator that has provided complete critical customer information under to §25.52(h)(1)(C).

TPPA requested the commission provide additional clarification on what is required of utilities when notifying gas operators of “any additional classifications assigned to the facility” under §25.52(h)(1)(C)(ii).

Commission response

Under §25.52(h)(2)(B), a utility retains discretion to implement load shed and power restoration as circumstances require. If a utility assigns any additional classifications, such as tier of criticality, using this discretion, that classification must be reported to the critical natural gas facility.

Subsection §25.52(h)(1)(D) – Confidentiality of critical customer information

This subsection establishes the requirement that neither investor-owned facilities, MOUs, electric cooperatives nor the independent system operator must not release any critical customer

information to any person unless authorized by the commission or the critical natural gas facility operator.

LCRA proposed the list of gas facilities that have filed RRC's Form CI-X, Critical Customer/Critical Gas Supplier Designation Exception Application be provided to electric generators, so the generators can determine if gas facilities in their fuel supply chain are not prepared to operate in winter weather conditions. LCRA further proposed that either the generators have access to the RRC's list of gas facilities or that the confidentiality provisions of §25.52(h)(1)(D) be amended to include generators' access to this information. LCRA and Vistra proposed sharing of critical customer information between a retail electric service provider and its transmission operator.

Commission response

Providing supply chain information to electric generators, as recommended by LCRA, is beyond the scope of this rulemaking. Therefore, the commission declines to amend the rule as proposed. The commission disagrees with both LCRA's and Vistra's proposals to allow exchange of critical gas customer information with REPs. Customers can provide the information voluntarily and at their own discretion to their REP.

LCRA proposed amending the language of §25.52(h)(1)(D) to include a utility's transmission operator as an exception to the prohibition of sharing critical customer information.

Commission response

The commission agrees with LCRA and amends the rule accordingly.

Vistra proposed amending language in §25.52(h)(1)(D) to include the word “delivery” between “electric” and “service.”

Commission response

The commission agrees with Vistra and amends the rule accordingly.

TEC proposed changes to §25.52(h)(1)(D) to clarify that confidentiality applies when both sending and receiving customer information regarding a critical natural gas facility.

Commission response

The commission agrees with TEC and amends the rule accordingly.

TEC’s proposed new subparagraph (h)(1)(E)

TEC recommended adding a new subparagraph that specifies the dates by which a utility must provide notice of the status of evaluation or designation to the critical natural gas facility operator.

TEC proposed a 30-day deadline in 2022 and a 60-day deadline beginning in 2023.

Commission response

Commission disagrees that a timeline should be memorialized in the rule and declines to adopt TEC’s proposed changes.

§25.52(h)(2) –Prioritization of critical natural gas facilities.

Proposed §25.52(h)(2) is the header section requiring a utility to incorporate critical natural gas facilities into its load-shed and restoration planning.

TEC proposed changes to the introductory statement to subsection (h)(2), and to subparagraph (h)(2)(A), to be consistent with statutory language in PURA §38.074(b)(2)-(3), which apply prioritization considerations.

Commission response

The commission disagrees with TEC that the proposed changes improve the clarity of the rule. Under §25.52(h)(2)(B) a utility has discretion regarding implementation of §25.52(h)(2) during energy emergencies. As previously noted, the commission has also relocated the statement “Critical natural gas is a critical load during an energy emergency” from the definition of “critical natural gas facilities” in §25.52(c)(2) to §25.52(h)(2).

TCPA recommended §25.52(h)(2) be revised to permit utilities to use information from the existing Critical LSE Application for at least part of the process for determining and prioritizing natural gas facilities in their power delivery and power restoration plans.

Commission response

The commission agrees with TCPA and amends the rule to allow utilities to treat utilities that voluntarily self-designated as critical using the Critical LSE Application as critical natural gas facilities as circumstances require.

Vistra requested the commission clarify §25.52(h)(2)(A) as, in its view, multiple interpretations are possible of the sentence portion “...prioritize critical natural gas facilities for load-shed purposes...” in the rule. Specifically, Vistra requested the commission clarify whether the rule intended to prioritize “critical natural gas facilities as a class for continued power delivery during a load-shed event, relative to other classes of loads.” Vistra opined

that this is the intended meaning of the rule due to the term “among” used in §25.52(h)(2)(B)-(C) to specify “relative prioritization the broader critical load segment and within the more narrow critical natural gas facility segment”. However, Vistra indicated that an opposing interpretation is possible, specifically that “critical natural gas facilities should be *prioritized for having their load shed.*” Vistra proposed language to resolve this perceived ambiguity:

- (A) A utility must ~~prioritize~~ include critical natural gas facilities as a category of facilities considered for prioritization of continued power delivery during for load-shed purposes during in an energy emergency.

Commission response

The commission agrees with Vistra that current rule language is ambiguous and modifies §25.52(h)(2)(A) to read that “[a] utility must prioritize critical natural gas facilities for continued power delivery during an energy emergency.”

SPS proposed rule language in line with its general comments under heading §25.52(h) where it argued the applicable scope of the rule is limited to the ERCOT power region.

- (h)(2)(A) A utility in the ERCOT power region must prioritize critical natural gas facilities for load-shed purposes during an energy emergency.

Commission response

The commission declines to adopt SPS’s proposed rule language for the reasons stated in response to SPS’s comments on the application of the rule, §25.52(a).

SWEPCO, Cities/TCAP, and Joint TDUs expressed concern over the ambiguity of certain provisions in §25.52(h)(2) regarding prioritization by the commission and RRC, utility

discretion for prioritization, and industry guidance. SWEPCO, Cities/TCAP, and Joint TDUs recommended the commission clarify proposed new §25.52(h)(2) in order to prioritize specific facilities or entities within the umbrella term “critical natural gas facilities”. SWEPCO proposed various criteria for the commission to consider for prioritization. Cities/TCAP recommended the commission or ERCOT publish guidance on the same. Joint TDUs recommended a specific three-tiered system based on criticality for §25.52(h)(2)(A) and making §25.52(h)(2)(C) more permissive, only obligating utilities “to consider” additional guidance or prioritization criteria, provided by a limited, identifiable group within the commission, ERCOT, and RRC.

SWEPCO argued that critical natural gas facilities should be categorized to enable utilities to incorporate them into load shed and restoration plans in the most “meaningful manner” possible.

Cities/TCAP expressed concern that identifying all gas supply chain facilities as critical without any attention to “role or ranking” may introduce risks and result in utilities unable to effectively manage prioritization of critical facilities during an emergency.

Joint TDUs asserted that neither the RRC’s nor commission’s proposed rules distinguish among natural gas facilities, nor do they provide a methodology by which critical natural gas facilities should be prioritized for load shedding, power delivery, and restoration purposes. According to Joint TDUs, 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 §8 1.073(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;”. Joint TDUs concluded that it is unclear how this evaluation would occur under either rule as

proposed. To overcome this deficiency Joint TDUs proposed Tiers 1, 2, and 3 of (high-medium-low) prioritization based on criticality. Joint TDUs provided language as proposed clauses (i), (ii), and (iii) to be added to §25.52(h)(2) to that effect. TPA argued that the commission and the RRC must recognize that not every part of a critical gas facility may be needed during a weather emergency, and not all facilities are the same. TPA emphasized the need to consider all pressure maintenance facilities "critical."

Commission response

The commission declines to adopt the proposals of SWEPCO, Cities/TCAP, Joint TDUs, TPPA, and TPA as such recommendations are premature without consideration of the passed RRC rule in conjunction with the map of the state power grid published by the Mapping Committee. The commission anticipates providing agency guidance on prioritization of natural gas to the industry or a further rulemaking project in the future. As previously stated, the commission has collaborated with the RRC throughout this rulemaking process, as required by PURA §38.074. However, comments addressing the RRC's rulemaking project or entities over which the commission has no direct jurisdiction are beyond the scope of this rulemaking project.

§25.52(h)(2)(B) – Discretion regarding load shed and restoration

SWEPCO requested the commission delete the word "critical" from the phrase "other critical loads" in subparagraph (h)(2)(B). According to SWEPCO the phrase "among critical natural gas facilities and other critical loads" could be read to limit a utility's discretion further than intended. SWEPCO provided as an example where an instance could foreseeably arise in which, to maintain the stability of the distribution system, the utility has no choice but to de-energize a circuit

containing a critical natural gas facility while a circuit with no critical loads remains energized. SWEPCO further argued that such a situation may become more likely if the natural gas facilities deemed critical are numerous and widespread. Therefore, SWEPCO concluded removing the word critical would allow utilities retain the discretion to manage all load in the most effective manner possible during an emergency

Commission response

PURA §38.074(b)(3) requires the commission to adopt rules that provide discretion to a utility to prioritize power delivery and power restoration “among the facilities and entities designated under Subsection (a).” Subsection (a) merely refers to natural gas facilities and entities designated as critical during energy emergencies. The commission acknowledges that it has expanded this to include discretion to prioritize power delivery and power restoration among all critical loads, but this was done to harmonize PURA §38.074(b)(3) with other provisions of PURA that relate to critical loads, such as PURA §38.072(c), which requires the commission to allow an electric utility to exercise discretion to prioritize power restoration for certain medical facilities.

Joint TDUs recommended commission add the phrase to the end of subparagraph (h)(2)(B) “as circumstances require.”

Commission response

The commission agrees with Joint TDUs that the recommended language provides appropriate discretion and aligns with statutory language. The commission amends the rule accordingly.

SPS proposed adding a sentence that would clarify that “Compliance with the procedures and directives of a regional transmission organization having authority over a utility outside of the ERCOT power region shall be deemed compliance for that utility.”

Commission response

The commission agrees with SPS that a utility outside of the ERCOT power region must follow the directives of a regional transmission organization with authority over that utility. The commission adopts similar language as proposed by SPS as subparagraph (D) of this paragraph.

Cities/TCAP cautioned that allowing every utility to create its own load shed and power restoration priority list will lead to ineffective execution of the proposed rule and undermines the intention of the Legislature and the commission to designate critical load for the purpose of increasing electric reliability in a weather emergency. According to Cities/TCAP, entity-by-entity discretion may not lead to the optimization of all utilities. Therefore, Cities/TCAP urged the commission to provide specific guidance on the industry-wide prioritization of natural gas facilities, considering that without natural gas supply, other critical loads cannot receive service.

Commission response

PURA §38.074(b)(3) requires the commission to “provide discretion to an electric utility...to prioritize power delivery and power restoration [for facilities and entities designated as critical under PURA §38.074(a)] and the commission is therefore prohibited from limiting such discretion, as proposed by Cities/TCAP. However, the commission may issue additional

guidance on prioritization for power delivery and power restoration purposes under §25.52(h)(2)(C).

§25.52(h)(2)(C) – Additional guidance for prioritization during a load shed event

Proposed new §25.52(h)(2)(C) requires a utility to consider any additional guidance or prioritization criteria provided by the commission, RRC, or ERCOT or governing RTO for its power region in prioritizing critical loads.

Joint TDUs argued that proposed §25.52(h)(2)(C) is vague and overly broad and may lead to confusion. Therefore, Joint TDUs recommended §25.52(h)(2)(C) should be narrowed so that utilities are only obligated to consider additional guidance or prioritization criteria provided by only certain authorized personnel from the commission, the RRC, and ERCOT. SWEPCO recommended the commission to remove §25.52(h)(2)(C) entirely because it is superfluous and vague, and it would leave open to subjective interpretation what constitutes “any additional guidance or prioritization criteria”.

TPPA argued that any such guidance or prioritization criteria must be provided by regulatory bodies in advance of load shed events, rather than during such an event. According to TPPA, load shed and power restoration planning are detailed and complex processes, and any delay in a regulatory body providing its necessary expectations for either process can result in unnecessary confusion.

Cities/TCAP stated that the RRC “passed on the option to establish prioritization of critical natural gas facilities, stating it lacks the jurisdiction.” Therefore, Cities/TCAP encouraged the commission to implement additional guidance or prioritization criteria to ensure uniformity and effective

execution of the proposed rule amendments. In the alternative, Cities/TCAP requested that the commission direct ERCOT to do so through the creation of new Nodal Protocols or Operating Guides necessary to implement the Commission's rule amendments.

Commission response

The commission declines to delete or narrow §25.52(h)(2)(C), or to set a deadline for providing additional guidance. By its very nature, an energy emergency is rapidly changing situation that calls for implementation or documentation of best practices as they are determined. The commission intends to make available guidance reflecting those best practices as appropriate, and expects that the Railroad Commission and reliability coordinators will take a similar approach. The commission further notes that the requirement in subparagraph (C) is for the utility to *consider* this additional guidance. The utility retains its discretion under under §25.52(h)(2)(B). No changes to the rule language are necessary.

Vistra recommended adding language to the rule to specify that “energy emergency prioritization should seek to maximize delivered natural gas for human needs and safety, including fuel supply to power generation facilities.” Vistra further recommended that the commission add language clarifying that the paragraph applies to an energy emergency declared by ERCOT.

Commission response

The commission declines to adopt Vistra’s recommendation. Utilities have discretion under PURA §38.074(b)(3) to prioritize load shed and power restoration, which encompasses the concept recommended by Vistra. Further, this subparagraph applies to an energy

emergency declared by any reliability coordinator not just those declared by ERCOT. Therefore, Vistra’s recommended change is not appropriate. No changes to the rule are necessary.

TEC recommended language to clarify that the guidance referenced may relate not just to prioritization among critical natural gas facilities but also how the prioritization of those facilities relates to other critical loads.

Commission response

The commission agrees with TEC and modifies the rule accordingly.

SPS commented that §25.52(h) should not be applied to SPS as it is a non-ERCOT utility in Texas subject to Federal Energy Regulatory Commission regulated Regional Transmission Organizations.

Commission response

The commission addressed this issue thoroughly in it’s analysis of comments to §25.52(a) above. Furthermore, the commission has added §25.52(h)(2)(D), which states that “[c]ompliance with directives of a regional transmission organization having authority over a utility outside of the ERCOT power region will be deemed compliance for that utility.”:

Classification criteria for critical natural gas facilities

TEC argued that the commission should explicitly allow a utility to create classifications of critical natural gas facilities for purposes of prioritizing power delivery and restoration. TEC further argued that the commission should provide the following non-exclusive list of factors to consider

when creating these classifications: availability and type of backup power supply; duration of that supply; fuel source for that supply; type of facility; role of the facility in the natural gas supply chain; size of the electric load; gas production rate; location of the facility on the utility's system; and whether new or upgraded electric energy equipment or facilities are necessary to serve the facility during an energy emergency and the cost of such equipment or facilities.

Commission response

The commission declines to add a new subparagraph explicitly authorizing a utility to create classifications of critical natural gas facilities as requested by TEC. A utility already has the discretion to develop its own classification system under subparagraph (h)(2)(B). Moreover, the commission disagrees with TEC that the non-exclusive list recommended would provide meaningful guidance to utilities in how to create such classifications. By TEC's own admission, the factors "must be non-exclusive given the variety of distribution systems, geography, and weather across the state." Given this wide variance, the commission opts to not include specific guidance in the language of the rule. The commission may, at its discretion under §25.52(h)(2)(C) as discussed previously, issue additional guidance to utilities on how to classify critical natural gas facilities at future time.

Joint TDUs' proposed new §25.52(h)(2)(D)

Joint TDUs recommended that the commission adopt a new subparagraph to (h)(2) stating that "[n]othing in this Subsection (h) shall be deemed as altering the terms and conditions of a utility's tariff."

Commission response

The commission declines to add language requested by the Joint TDUs. The Joint TDUs did not provide any reasoning supporting this addition, and the commission finds it to be superfluous.

TEC's proposed new §25.52(h)(2)(E)

TEC argued that “under [proposed rule §25.52], utilities will bear the burden of the state’s effort to evaluate and determine the priority of a potentially massive amount of critical natural gas load and other critical loads in this state.” TEC proposes a limitation on liability for implementing this regulatory process.

Commission response

The commission declines to add a new subparagraph providing a limitation on liability as requested by TEC. PURA §38.074 directs the commission to adopt rules that provide discretion to utilities regarding how to prioritize power delivery and power restoration during energy emergencies. The Texas Legislature did not opt to include liability protection as part of this statutory framework.

OPL's proposed new §25.52(h)(3) Limitation on critical status proposed by OPL

OPL argued that, absent weather conditions that pose a risk of supply chain disruptions, the commission should only consider natural gas facilities that are directly related to gas storage and transport as critical. OPL stated that it would be inefficient and potentially detrimental to grid reliability for the commission to require utilities to treat all types of natural gas facilities as critical electric loads throughout the year, as maintaining adequate gas supply is exclusive to extreme cold

weather conditions. OPL further argued that many natural gas facilities currently provide demand response services that contribute to grid reliability, and such facilities could continue to provide those valuable services in most weather conditions without any risk of creating gas supply issues in the ERCOT power region. However, OPL contended that being unnecessarily designated as “critical electric load” under all conditions could unintentionally interfere with a natural gas facility's ability to participate in demand response.

OPL provided recommended language requiring the ERCOT to define conditions under which certain types of natural gas facilities will be treated as critical for purposes of load obligations and being restricted from participating in ancillary services or other demand response programs in ERCOT. OPL’s recommended language also indicated that until these conditions were defined by ERCOT, certain natural gas facilities designated as critical gas suppliers by the RRC shall only be treated as critical during the months of December, January, and February, or during other periods declared an extreme cold weather event by the commission.

Commission response

Commission declines to make changes in response to the comments of OPL. Under PURA §38.074, the critical status of natural gas facilities is tied to “energy emergencies” and not seasonality or weather conditions as proposed by OPL. Moreover, how ERCOT defines the conditions under which certain types of natural gas facilities are restricted from participating in ancillary services or other demand response programs is beyond the scope of this rulemaking project.

These new rules are adopted under the following provisions of PURA: §14.001, which provides the commission the general power to regulate and supervise the business of each public utility within its jurisdiction and to do anything specifically designated or implied by PURA that is necessary and convenient to the exercise of that power and jurisdiction; §14.002, which provides the commission with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction; §38.072, which requires the commission to adopt a rule requiring an electric utility to give end stage renal disease facilities the same priority it gives to hospitals in the utility's emergency operations plan for restoring power after an extended power outage; and §38.074, which requires the commission to, in collaboration with the Railroad Commission of Texas, rules to establish a process to designate certain natural gas facilities and entities as critical natural gas customers during energy emergencies and to require utilities to prioritize these facilities for load-shed and power restoration purposes during an energy emergency.

Cross reference to statutes: PURA §§14.001, 14.002, 38.072, and 38.074.

§25.52. Reliability and Continuity of Service.

- (a) **Application.** This section applies to all electric utilities as defined by §25.5(41) of this title (relating to Definitions) and all transmission and distribution utilities as defined by §25.5(137) of this title. When specifically stated, this section also applies to electric cooperatives and municipally-owned utilities (MOUs). The term “utility” as used in this section means an electric utility and a transmission and distribution utility.
- (b) **General.**
- (1) Every utility must make all reasonable efforts to prevent interruptions of service. When interruptions occur, the utility must reestablish service within the shortest possible time.
 - (2) Each utility must make reasonable provisions to manage emergencies resulting from failure of service, and each utility must issue instructions to its employees covering procedures to be followed in the event of emergency in order to prevent or mitigate interruption or impairment of service.
 - (3) In the event of national emergency or local disaster resulting in disruption of normal service, the utility may, in the public interest, interrupt service to other customers to provide necessary service to civil defense or other emergency service entities on a temporary basis until normal service to these agencies can be restored.
 - (4) Each utility must maintain adequately trained and experienced personnel throughout its service area so that the utility is able to fully and adequately comply with the service quality and reliability standards.

- (5) With regard to system reliability, a utility must not neglect any local neighborhood or geographic area, including rural areas, communities of less than 1,000 persons, and low-income areas.
- (c) **Definitions.** The following words and terms, when used in this section, have the following meanings unless the context indicates 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 facility** – A facility designated as a critical customer by the Railroad Commission of Texas under §3.65(b) of this title (relating to Critical Designation of Natural Gas Infrastructure) unless the facility has obtained an exception from its critical status. Designation as a critical natural gas facility does not guarantee the uninterrupted supply of electricity.
- (3) **Energy emergency** — Any event that results in or has the potential to result in firm load shed required by the reliability coordinator of a power region in Texas.
- (4) Interruption classifications:
- (A) **Forced** — Interruptions, exclusive of major events, that result from conditions directly associated with a component requiring that it be taken out of service immediately, either automatically or manually, or an interruption caused by improper operation of equipment or human error.

- (B) **Scheduled** — Interruptions, exclusive of major events, that result when a component is deliberately taken out of service at a selected time for purposes of construction, preventative maintenance, or repair. If it is possible to defer an interruption, the interruption is considered a scheduled interruption.
- (C) **Outside causes** — Interruptions, exclusive of major events, that are caused by influences arising outside of the distribution system, such as generation, transmission, or substation outages.
- (D) **Major events** — Interruptions that result from a catastrophic event that exceeds the design limits of the electric power system, such as an earthquake or an extreme storm. These events shall include situations where there is a loss of power to 10% or more of the customers in a region over a 24-hour period and with all customers not restored within 24 hours.
- (5) **Interruption, momentary** — Single operation of an interrupting device which results in a voltage zero and the immediate restoration of voltage.
- (6) **Interruption, sustained** — All interruptions not classified as momentary.
- (7) **Interruption, significant** — An interruption of any classification lasting one hour or more and affecting the entire system, a major division of the system, a community, a critical load, or service to interruptible customers; and a scheduled interruption lasting more than four hours that affects customers that are not notified in advance. A significant interruption includes a loss of service to 20% or more of the system's customers, or 20,000 customers for utilities serving more than 200,000 customers. A significant interruption also includes interruptions adversely affecting

a community such as interruptions of governmental agencies, military bases, universities and schools, major retail centers, and major employers.

(8) **Reliability indices:**

(A) **System Average Interruption Frequency Index (SAIFI)** -- The average number of times that a customer's service is interrupted. SAIFI is calculated by summing the number of customers interrupted for each event and dividing by the total number of customers on the system being indexed. A lower SAIFI value represents a higher level of service reliability.

(B) **System Average Interruption Duration Index (SAIDI)** -- The average amount of time a customer's service is interrupted during the reporting period. SAIDI is calculated by summing the restoration time for each interruption event times the number of customers interrupted for each event and dividing by the total number of customers. SAIDI is expressed in minutes or hours. A lower SAIDI value represents a higher level of service reliability.

(d) **Record of interruption.** Each utility must keep complete records of sustained interruptions of all classifications. Where possible, each utility must keep a complete record of all momentary interruptions. These records must show the type of interruption, the cause for the interruption, the date and time of the interruption, the duration of the interruption, the number of customers interrupted, the substation identifier, and the transmission line or distribution feeder identifier. In cases of emergency interruptions, the

remedy and steps taken to prevent recurrence must be recorded. Each utility must retain records of interruptions for five years.

(e) **Notice of significant interruptions.**

- (1) **Initial notice.** A utility must notify the commission, in a method prescribed by the commission, as soon as reasonably possible after it has determined that a significant interruption has occurred. The initial notice must include the general location of the significant interruption, the approximate number of customers affected, the cause if known, the time of the event, and the estimated time of full restoration. The initial notice must also include the name and telephone number of the utility contact person and must indicate whether local authorities and media are aware of the event. If the duration of the significant interruption is greater than 24 hours, the utility must update this information daily and file a summary report.
- (2) **Summary report.** Within five working days after the end of a significant interruption lasting more than 24 hours, the utility must submit a summary report to the commission. The summary report must include the date and time of the significant interruption; the date and time of full restoration; the cause of the interruption, the location, substation and feeder identifiers of all affected facilities; the total number of customers affected; the dates, times, and numbers of customers affected by partial or step restoration; and the total number of customer-minutes of the significant interruption (sum of the interruption durations times the number of customers affected).

(f) **Priorities for power restoration to certain medical facilities.**

(1) A utility must give the same priority that it gives to a hospital in the utility's emergency operations plan for restoring power after an extended power outage, as defined by Texas Water Code, §13.1395, to the following:

(A) An assisted living facility, as defined by Texas Health and Safety Code, §247.002;

(B) A facility that provides hospice services, as defined by Texas Health and Safety Code, §142.001;

(C) A nursing facility, as defined by Texas Health and Safety Code, §242.301;
and

(D) An end stage renal disease facility, as defined by Texas Health and Safety Code, §251.001.

(2) The utility may use its discretion to prioritize power restoration for a facility after an extended power outage in accordance with the facility's needs and with the characteristics of the geographic area in which power must be restored.

(g) **System reliability.** Reliability standards apply to each utility and are limited to the Texas jurisdiction. A "reporting year" is the 12-month period beginning January 1 and ending December 31 of each year.

(1) **System-wide standards.** The standards must be unique to each utility based on the utility's performance and may be adjusted by the commission if appropriate for weather or improvements in data acquisition systems. The standards will be the

average of the utility's performance from the later of reporting years 1998, 1999, and 2000, or the first three reporting years the utility is in operation.

- (A) **SAIFI.** Each utility must maintain and operate its electric distribution system so that its SAIFI value does not exceed its system-wide SAIFI standard by more than 5.0%.
 - (B) **SAIDI.** Each utility must maintain and operate its electric distribution system so that its SAIDI value does not exceed its system-wide SAIDI standard by more than 5.0%.
- (2) **Distribution feeder performance.** The commission will evaluate the performance of distribution feeders with ten or more customers after each reporting year. Each utility must maintain and operate its distribution system so that no distribution feeder with ten or more customers sustains a SAIDI or SAIFI value for a reporting year that is more than 300% greater than the system average of all feeders during any two consecutive reporting years.
- (3) **Enforcement.** The commission may take appropriate enforcement action, including action against a utility, if the system and feeder performance is not operated and maintained in accordance with this subsection. In determining the appropriate enforcement action, the commission will consider:
- (A) the feeder's operation and maintenance history;
 - (B) the cause of each interruption in the feeder's service;
 - (C) any action taken by a utility to address the feeder's performance;
 - (D) the estimated cost and benefit of remediating a feeder's performance; and
 - (E) any other relevant factor as determined by the commission.

(h) **Critical natural gas facilities.** In accordance with §3.65 of this title, critical natural gas standards apply to each facility in this state designated as a critical customer under §3.65 of this title. In this subsection, the term “utility” includes MOUs, electric cooperatives, and entities considered utilities under subsection (a) of this section.

(1) **Critical customer information.**

(A) In accordance with §3.65 of this title, the operator of a critical natural gas facility must provide critical customer information to the entities listed in clauses (i) and (ii) of this subparagraph. The critical customer information must be provided by email using Form CI-D and any attachments, as prescribed by the Railroad Commission of Texas.

(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 provide the commission with an updated email address within five business days of the change or of becoming aware of the inaccuracy.

- (C) Within ten 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 and provide a deadline for response that is no sooner than five business days from when the critical natural gas facility receives the written notice. If the utility does not receive the additional information in a timely fashion, the utility may use its discretion to determine if it is possible to treat the natural gas facility as critical for load shed and power restoration purposes.
 - (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 by the utility, and notice that its critical status does not constitute a guarantee of an uninterrupted supply of energy.
 - (iii) A utility must provide an additional notice to the operator of the critical natural gas facility regarding any changes to the information provided in the notice required under clause (i) of this subparagraph. Notice must be provided within ten business days of the effective date of the change.

- (D) A utility or an independent system operator receiving or sending critical customer information regarding 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 delivery service, the designated transmission operator, or the independent system operator or reliability coordinator for the power 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 critical natural gas facility is a critical load during an energy emergency. A utility must incorporate critical natural gas facilities into its load-shed and restoration planning. For purposes of this paragraph, a utility may also treat a natural gas facility that self-designated as critical using the *Application for Critical Load Serving Electric Generation and Cogeneration* form as a critical natural gas facility, as circumstances require.
- (A) A utility must prioritize critical natural gas facilities for continued power delivery during an energy emergency.

- (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 the commission, the Railroad Commission of Texas, or the reliability coordinator for its power region to prioritize among critical natural gas facilities and other critical loads during an energy emergency.
- (D) Compliance with directives of a regional transmission organization having authority over a utility outside of the ERCOT power region will be deemed compliance for that utility.

This agency certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority. It is therefore ordered by the Public Utility Commission of Texas that amendments to 16 TAC §25.52, relating to Reliability and Continuity of Service are hereby adopted with changes to the text as proposed.

Signed at Austin, Texas the _____ day of November 2021.

PUBLIC UTILITY COMMISSION OF TEXAS

PETER M. LAKE, CHAIRMAN

LORI COBOS, COMMISSIONER

WILL MCADAMS, COMMISSIONER

JIMMY GLOTFELTY, COMMISSIONER