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RE: Comments to Proposed Amendments to 16 TAC §7.455, relating to Curtailment Standards

Rules Coordinator:

The Texas Public Power Association (TPPA) appreciates the opportunity to respond to the proposed rule by the Railroad Commission of Texas (Commission) regarding the Commission's natural gas curtailment standards. These comments are submitted on behalf of TPPA and do not necessarily reflect the opinions of any individual TPPA member.

Formed in 1978, TPPA is the statewide association for the 72 municipally-owned utilities (MOUs) in Texas. TPPA membership also includes several electric cooperatives and joint actions agencies, as well as the Lower Colorado River Authority. TPPA members serve urban, suburban, and rural Texas and vary in size from large, vertically-integrated utilities to relatively small distribution-only systems. We are proud to serve approximately 5.1 million Texans across the state. Most of our members operate within the Electric Reliability Council of Texas (ERCOT) region,<sup>1</sup> though several are located within either the Southwest Power Pool (SPP) or Midcontinent Independent System Operator (MISO) region. MOUs offer a long track record of stability, and we serve an essential role in providing secure and reliable power to the wholesale electricity markets in these regions, including ERCOT. Many of our member systems have been providing stable and reliable electric power to communities in Texas for over 100 years, and collectively, our members provide more than 13,800 MW of generation and maintain nearly 8,500 miles of high-voltage transmission assets.

Since January 5, 1973, the Commission has maintained certain natural gas curtailment priorities in Oil and Gas Docket, Gas Utilities Division No. 20-62,505, Docket 489, commonly known as Order 489.<sup>2</sup> During Winter Storm Uri, the Commission issued an emergency order that modified Order 489 to ensure priority was given to Local Distribution Companies and electric generation

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<sup>1</sup> 70% of Lubbock Power and Light's customers were moved to the ERCOT region on May 29 and 30, 2021. The remainder will be transitioned from SPP in 2023.

<sup>2</sup> The Commission's current curtailment plan can be found at <https://www.rrc.texas.gov/gas-services/curtailment-plan/>

facilities that serve human needs customers.<sup>3</sup> TPPA supported this emergency order and believes it helped save numerous lives during Winter Storm Uri.

On November 10, 2021, the Commission approved the filing of a proposed rule to enshrine these curtailment priorities in Commission rule (as opposed to an order). This proposal was published in the Texas Register in the November 26<sup>th</sup> issue. The proposed rule requested comments by January 7, 2022. These comments are timely filed.

TPPA supports the Commission’s work to establish these curtailment priorities more permanently. Winter Storm Uri tested the ability of natural gas to deliver in extreme weather, and TPPA believes that a rethinking of curtailment priorities is vital. While TPPA supports this rule generally, TPPA proposes the following tweaks.

#### Definitions.

**Proposed §7.455(a)(1)** would define “Curtailment event” as occurring when an individual gas utility makes a decision that its ability to deliver gas may become inadequate. TPPA believes that the Commission should also include language specifically noting the Commission’s authority to issue an order, emergency or otherwise, that would supersede these individualized decisions when an event, such as Winter Storm Uri, poses a statewide or regional issue that will likely require curtailment. Such a provision would ensure a quicker and more uniform response from the state during such an event.

**Proposed §7.455(a)(1)** would define “Human needs customers” as, in part, “locations where people may congregate in an emergency,” and the proposed rule contain several examples. TPPA requests clarification as to whether city- and county-run shelters are such locations (possibly as “civil defense facilities”). To the extent that such shelters are not included within the Commission’s proposed definition, TPPA would recommend that the definition be expanded to include these shelters.

#### Standards.

**Proposed §7.455(c)(1)** would require gas utilities engaged in the purchase of natural gas for resale to “augment their supply of natural gas where it is feasible to do so” during a curtailment event. TPPA would appreciate additional clarification as to whether this criterion is intended to mean economically feasible, physically feasible, or some other meaning.

#### Priorities.

In this section, the Commission proposes a prioritization ranking with eight discrete levels. Firm deliveries make up the top seven levels, with firm deliveries to human needs customers at the highest level. Interruptible deliveries are ranked lowest, and the Commission expects interruptible deliveries to be sub-prioritized in the same manner as the Commission has prioritized firm deliveries.

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<sup>3</sup> The Commission’s emergency order can be found at <https://rrc.texas.gov/media/cw3ewubr/emergency-order-021221-final-signed.pdf>

**Proposed §7.455(d)(1)(B)** would prioritize any firm deliveries of natural gas to electric generation facilities as the second prioritization level. Similar to the Commission’s emergency order, TPPA suggests that this category be limited to those electric generation facilities which supply electricity to the grid or which serve human needs customers and not include those facilities that generate electricity solely for use at an industrial or commercial site or sites. To the extent those dedicated generation facilities qualify under proposed §7.455(d)(1)(C), they should be prioritized as the third prioritization level, but no higher.

**Proposed §7.455(d)(1)(H)** would include interruptible supply of gas below all other firm contracts. Given that this prioritization is to apply only in a curtailment event which is likely an emergency event with a great number of lives at risk, TPPA believes that including interruptible supply below all others is ill-advised.

Instead, TPPA would recommend that interruptible supply to the top three prioritization categories (human needs customers, electric generation facilities, and minimum supply to industrial and commercial users where such gas is required to prevent physical harm to the plant, its employees, or the public), should be included as the fourth prioritization level, ahead of firm deliveries to small industrials and regular commercial loads.

It is important to recognize that these curtailment priorities are not meant to apply to normal working circumstances – these priorities are to be used in crisis situations. As such, while interruptible supply should normally be ranked after firm contracts in normal business operations, during a crisis where fuel supply becomes increasingly unstable, interruptible supply to critical components of the natural gas supply chain, i.e., human needs, electric generation, and minimum supply to commercial and industrial facilities to prevent harm, should be prioritized, even over firm contracts to non-critical components.

For the rest of the prioritization categories (firm deliveries to small industrials and regular commercial loads through firm deliveries to customers otherwise not covered), TPPA would support interruptible deliveries being ranked at the last level.

**Proposed §7.455(d)(2)** would give the same end-use priority to transportation customers as sales customers. TPPA is concerned that this clause is not sufficiently granular and could be interpreted to result in an end-use customer with a transportation contract in a lower tier being treated the same as an end-user with a sales contract in a higher tier, or vice versa. TPPA recommends that this clause be rewritten to state that the applicable prioritization category for an end-user would not change based on whether the end-user’s delivery contract is a transportation or sales contract.


#### Curtailment Plans.

**Proposed §7.455(e)** speaks to the Commission’s process for granting individualized curtailment plans. While TPPA understands that some circumstances may dictate these individualized plans, TPPA suggests that this rule require that gas utilities that request an individualized curtailment plan provide notice to customers who may be within the top three curtailment levels as part of the application for such a plan.

TPPA also suggests that the Commission ask the Public Utility Commission of Texas (PUCT) to open a docket or project where the PUCT will maintain copies of Commission-approved individualized curtailment plans. Such cross-filing between agencies will better support public awareness of these curtailment plans and foster better communication between the gas and electric industries.

TPPA appreciates the opportunity to submit comments on this proposed rulemaking and requests that the Commission consider its comments and proposed revisions. TPPA looks forward to working with the Commission, its staff, and the stakeholders on this important rulemaking and this broader discussion in the coming months.

Respectfully,



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