

Jon Niermann, *Chairman*  
Emily Lindley, *Commissioner*  
Bobby Janecka, *Commissioner*  
Toby Baker, *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

September 25, 2019

Mr. Chad V. Seely  
Vice President and General Counsel  
Electric Reliability Council of Texas, Inc.  
7620 Metro Center Drive  
Austin, TX 77844  
[chad.seely@ercot.com](mailto:chad.seely@ercot.com)

Re: TCEQ Enforcement Discretion for West Texas Transmission Emergencies

Dear Mr. Seely:

In response to your letter dated September 20, 2019 requesting consideration of enforcement discretion for certain Permian Basin units (authorized by New Source Review permit numbers 9659 and PSDTX663M1 and Federal Operating Permit number O00056), the Texas Commission on Environmental Quality (TCEQ) will exercise enforcement discretion for Luminant Generation Company LLC's (Luminant) compliance with TCEQ-issued air permit emission limits under certain localized emergency conditions in West Texas, as described in the *ERCOT Policy Concerning TCEQ Enforcement Discretion Relating to Transmission Emergencies in West Texas (ERCOT West Texas Transmission Emergency Policy)* dated September 25, 2019.

ERCOT informed TCEQ that demand for electricity in West Texas has increased in recent years, resulting in greater power imports into the region, which have, in turn, led to more frequent overloads of the transmission lines serving that region. According to ERCOT, Luminant operates five combustion-turbine generating units in West Texas (hereinafter referred to as the "Permian Units") that can be used to alleviate the need to import power into the region during high-demand periods until transmission improvements can be implemented. ERCOT has also informed TCEQ that the Permian Units are the only generating units that can be dispatched by ERCOT's systems to resolve these issues.

ERCOT relayed its concern that these units are approaching the emission limits for calendar year 2019 under their TCEQ-issued air permits and may not be available to address these localized reliability needs unless TCEQ exercises enforcement discretion in evaluating Luminant's compliance with these permits.

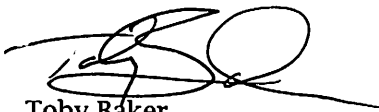
Further, as ERCOT stated, if the Permian Units are not available to ERCOT during these periods of unusually high demand, ERCOT would be required to take the extraordinary measure of ordering the temporary disconnection of customers in the import-constrained region to avoid damaging transmission facilities or causing cascading outages that could threaten the reliability of the larger system. ERCOT represents that the disconnection of customers could threaten the health and safety of consumers in West Texas. Given these concerns, ERCOT has requested that TCEQ exercise enforcement discretion with respect to the Permian Units' potential exceedance of the emission limits prescribed by their applicable TCEQ-issued air permits when they are needed

to maintain reliability in West Texas, provided that the conditions of the *ERCOT West Texas Transmission Emergency Policy* have been met.

Based on the information ERCOT has provided, TCEQ confirms that it will exercise enforcement discretion in evaluating Luminant's compliance with its TCEQ-issued air permit emission limits for the Permian Units during the remainder of calendar year 2019 in the event Luminant has exhausted the emissions allowed under those permits and ERCOT has committed the Permian Units to address a transmission emergency under the conditions described in the *ERCOT West Texas Transmission Emergency Policy*.

The TCEQ's exercise of enforcement discretion under these limited circumstances described herein does not otherwise affect the obligations of Luminant, or any other entity, under its permits or under state or federal law. It also does not affect the availability of TCEQ enforcement discretion in situations other than those described in this letter, including those involving a system-wide or local power emergency, as described in the TCEQ's *Procedure for Requesting TCEQ Enforcement Discretion Relating to a Power Emergency in Texas for ERCOT, MISO, or SPP Regions*.

Sincerely,

A handwritten signature in black ink, appearing to read 'Toby Baker', with a stylized flourish extending from the bottom right.

Toby Baker  
Executive Director  
Texas Commission on Environmental Quality