

Procedure for Requesting TCEQ Enforcement Discretion Relating to a Power Emergency in Texas for ERCOT, MISO, or SPP Regions *(Update September 1, 2023)*

Whenever Electric Reliability Council of Texas, Inc. (ERCOT), Midcontinent Independent System Operator, Inc. (MISO), or Southwest Power Pool, Inc. (SPP) (a “Reliability Entity”) determines that it is, or likely will be, unable to reliably meet its system electric demand and reserve requirements or that a local reliability issue exists with the generation facilities that are expected to be available to serve that demand (a “Emergency Condition”) in Texas, the Reliability Entity may notify the Texas Commission on Environmental Quality (TCEQ) “Designated Contact” of the Power Emergency and request that TCEQ consider exercising its enforcement discretion with respect to a potential violation under TCEQ jurisdiction. Once the TCEQ Designated Contact is in receipt of the notification and request for enforcement discretion, they will confer with the Office of Compliance and Enforcement (OCE) Director and the Agency’s Executive Director to consider the request and approve if appropriate. The TCEQ Designated Contact will communicate by phone the TCEQ’s response directly to the affected Reliability Entity, and then confirm by written communication the TCEQ’s decision.

If the TCEQ Designated Contact notifies the Reliability Entity that the request has been granted, the Reliability Entity will promptly provide a written communication to its market participants notifying them of TCEQ’s determination. Further, at the conclusion of the Power Emergency, the Reliability Entity will provide a written communication to its market participants notifying them that the Reliability Entity has ended its request for TCEQ enforcement discretion. The Reliability Entity shall send a copy of these written communications to the TCEQ Designated Contact.

Regulated entities must maintain records of operation that occurred during the Power Emergency; these records include records required under TCEQ authorizations and rules. Regulated entities shall send a list of all violations which they will seek enforcement discretion to the TCEQ Designated Contact. The TCEQ Designated Contact will provide this list to the appropriate TCEQ Regional Office. Regulated entities shall address questions specific to enforcement discretion directly to the TCEQ Designated Contact and may copy the relevant Reliability Entity on any written communications. The TCEQ will consider and reply to these questions.

TCEQ Designated Contacts

Deputy Director of Critical Infrastructure Division: (Primary)

Kelly Cook, 512-563-3890 (mobile), 512-239-0044 (office), kelly.cook@tceq.texas.gov

Agency Homeland Security Coordinator: (Secondary)

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Executive Director System Operations (Primary)

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Executive Director Market Operations (Secondary)

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SPP

Executive Vice-President & General Counsel (Primary)

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Vice-President Operations (Secondary)

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