



VIA www14.tceq.texas.gov/epic/eComment/

Texas Commission on Environmental Quality
Office of the Chief Clerk, MC-105
P.O. Box 13087
Austin, Texas 78711-3087

September 14, 2021

RE: Conservation Organizations' Comments and Request for Public Meeting; Notice of Receipt of Application and Intent to Obtain Air Permit, Entergy Texas, Inc., Orange County Advanced Power Station, Proposed Air Quality Permit 166032, Prevention of Significant Deterioration Permit PSDTX1598, Greenhouse Gas Prevention of Significant Deterioration Permit GHGPSDTX210

To whom it may concern,

On behalf of nearly 30,000 members in Texas—including the approximately 465 members and supporters who live, work, and recreate in or around Orange County, Texas—Sierra Club, Environmental Integrity Project, Environment Texas, Air Alliance Houston, Clean Energy Fund of Texas, Inc., Port Arthur Community Action Network, and Texas Campaign for the Environment (collectively, the “Conservation Organizations”) submit these preliminary comments on the Texas Commission on Environmental Quality’s (“TCEQ’s”) Notice of Receipt of Application and Intent to Obtain Air Permit for the Entergy Texas, Inc., Orange County Advanced Power Station, Proposed Air Quality Permit 166032, Prevention of Significant Deterioration Permit PSDTX1598, Greenhouse Gas Prevention of Significant Deterioration Permit GHGPSDTX210.

Based on Entergy’s August 14 and 15 Notices of Application and Intent to Obtain a Permit, the public has only 30 days—until September 14, 2021—to evaluate and provide comment on hundreds of pages of highly-technical technology analyses, emissions calculations, and air dispersion modeling. To make matters more difficult, the Application materials were not made readily available to the public despite multiple public information requests seeking those documents. And when TCEQ finally produced the hundreds of pages of documents—just two business days before the comment deadline—there were apparent deficiencies in the

underlying air quality modeling, effectively precluding the public from providing fully informed comments on the Application itself.

Given the size and scope of the proposed project, and the complexity of the requested Prevention of Significant Deterioration (“PSD”) permit and associated air quality analysis, the Conservation Organizations, including at least 465 members and supporters, respectfully request a public meeting so that interested members of the public and our members and supporters can better understand the Application and any proposed permit. *See* 30 T.A.C. § 55.154(c)(1) and (3).¹ We further urge TCEQ to deny Entergy’s request for expedited permit processing, and to provide the public with notice and an opportunity to more fully review the permit file and provide more complete comments on any proposed permit.

I. ENTERGY’S PROPOSED GAS PLANT

Entergy Texas, Inc., proposes to construct a 1,215 megawatt (“MW”) fossil gas-burning combined-cycle turbine power plant adjacent to the existing Sabine power plant in Orange County, Texas.² Because the plant would consist of two gas-burning combustion turbines, each capable of co-firing up to 30% hydrogen, the facility is subject to additional disaster review under 40 C.F.R. Part 68.³ That disaster review and management plan are not included in the publicly-available Application. If constructed, the facility will emit approximately 4 million tons of carbon dioxide equivalents annually, as well as thousands of tons of conventional pollutants in an area that has already experienced a significant increase in industrial development in recent years.⁴

Residents of the Orange County and greater Houston-Galveston region area are already exposed to some of the highest ozone levels in the Central United States. The proposed power plant will only contribute to unhealthy increases pollution levels that would affect the air quality and health of nearby communities, including children and senior citizens susceptible to higher risks of respiratory illnesses due to the proximity of the plant to schools and homes. Indeed, the proposed gas plant—which will emit approximately 2,000 tons per year of harmful particulate matter, nitrogen oxides, volatile organic compounds, and other toxic pollutants—is just 1.3 miles to the southwest of Bridge City Elementary and Intermediate Schools. As the Application indicates, the prevailing winds will

¹ *See* Ex. 1 (collection of 465 individual Sierra Club members and supporters requesting a public meeting on the proposed permit, including 92 individual, personal comments raising concerns about the project).

² PSD Application for Orange County Power Station at 1, Project No.: 0574234, CN603282054, RN102513041 (July 15, 2021).

³ *Id.* at 30.

⁴ *Id.* at 22.

frequently carry pollution from the power plant directly to the schools.⁵ Moreover, the nearby Houston-Galveston region is already in violation of EPA’s health-based National Ambient Air Quality Standards (“NAAQS”) for ozone, and the Application likewise indicates that emissions from the facility will drift to the nonattainment area, likely exacerbating the failing air quality in the Houston area.

Texas’s failing air quality has adverse and well-documented public health and economic consequences for the millions of Texans that live in the greater Houston areas, where EPA has deemed the air quality unsafe to breathe. More than 13% of Texas children under the age of 18 will have asthma over the course of their childhood, and nearly 9% of children currently have asthma.⁶ Children, the elderly, minorities, and low-income households are especially sensitive to ground-level smog, and often bear a disproportionate asthma burden. Non-Hispanic blacks have the highest asthma hospitalization rates out of any group in Texas—double the rate of non-Hispanic whites. Moreover, black Texans are twice as likely as white Texans to visit the emergency department for asthma. And Black Texans are nearly 2.5 times more likely to die from asthma than white Texans.⁷

II. COMMENTS

A. TCEQ Must Hold a Public Meeting on the Proposed Permit.

Under 30 T.A.C. § 55.154(c)(1), the executive director or the Office of the Chief Clerk “shall” hold a public meeting on a proposed permit if the executive director determines that there is a substantial or significant degree of public interest in the application. Under section 55.154(c)(3), the agency must hold a public meeting if an interested person requests one regarding a draft PSD permit or “air quality analysis.”

TCEQ must hold a public meeting on the Entergy Application under either standard. First, as reflected in the attached, individual comments, at least 455 Sierra Club members and supporters have expressed concerns regarding the proposed permit and specifically request a public meeting to better understand the Application and its potential environmental and public health impacts.⁸ These comments, which include at least 90 individualized sets of comments on the

⁵ See Orange County Advanced Power Station Air Dispersion Modeling Protocol at 19 (July 21, 2021).

⁶ Center for Disease Control, National Center for Environmental Health, Asthma in Texas, http://www.cdc.gov/asthma/stateprofiles/asthma_in_tx.pdf; Texas Dep’t of State Health Services, 2010 Texas Asthma Burden Report, <https://www.dshs.state.tx.us/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=8589994855>.

⁷ *Id.* at 20.

⁸ See Ex. 1.

proposed gas plant, make clear that there is “significant degree of public interest” in the Application, and TCEQ must therefore hold a public hearing. 30 T.A.C. § 55.154(c)(1).

Second, in addition to the significant public interest in the proposed gas plant, TCEQ must hold a public meeting because the Conservation Organizations specifically request such a meeting regarding the proposed PSD permit and underlying air quality analysis. 30 T.A.C. § 55.154(c)(3). Among other PSD issues, the Conservation Organizations have numerous concerns about Entergy’s underlying air quality analysis, which are not readily discernible from the Application or the current permit file. As an initial matter, it does not appear that Entergy has completed the required, final air quality modeling according to TCEQ’s specifications.⁹ Specifically, TCEQ’s August 16, 2021 deficiency letter and PSD modeling protocol response identify multiple and fundamental deficiencies in Entergy’s modeling protocol for the Orange County facility, including, among other missing analyses, the need to provide “full documentation for each source characterization and complete technical justification for” the project’s emission sources,¹⁰ the need to “consider all new and increased emissions from the site related to the project,” including emissions from maintenance, startup, and shutdown activities in conducting both the NAAQS and increment analysis,¹¹ the need to provide a “full increment analysis for PM2.5,”¹² and the need to provide a speciated VOC evaluation as part of “health effects analysis in addition to VOCs being evaluated as part of ozone formation.”¹³ TCEQ’s Notice of Deficiency directs Entergy to provide a complete response and a revised modeling protocol by September 18, 2021—after the deadline for public comment on the Application.

The Conservation Organizations share TCEQ’s initial concerns about Entergy’s modeling protocol. Moreover, it is critical that the public also have an opportunity to review and provide comment on Entergy’s underlying modeling files to confirm the extent and significance of the air quality impacts of the proposed project, evaluate whether the project contributes to nonattainment, and evaluate whether the project exceeds significant impact levels or requires a comprehensive evaluation of all emissions from the proposed project and nearby facilities.

⁹ See Aug. 19, 2021 Email from Huy Pham to Annisa White, 20210824_094344_EMAIL_RE Application Deficiency Permit 166032 Entergy Texas Inc, Project 331768.pdf

¹⁰ See Aug. 16, 2021 Entergy Texas Inc Air Quality Analysis Protocol § 1.3, AIR NSR_xPrimaryID-331768_Permits_Public_20210817_Modeling_5743678_.pdf

¹¹ *Id.* § 2.6.2.

¹² *Id.* § 3.0.

¹³ *Id.* § 1.1.

In sum, given the size and scope of the proposed project, and the complexity of the requested PSD permit and associated air quality analysis, and the requests of the Conservation Organizations and at least 455 individual members and supporters, TCEQ must hold a public meeting so that the public and our members and supporters may better understand the Application and any proposed permit. *See* 30 T.A.C. § 55.154(c)(1) and (3).

B. Entergy Has Not Demonstrated That Expedited Permitting Is Appropriate.

In its Application, Entergy requests expedited processing because of the purported benefits of the proposed project to the local economy. Under 30 T.A.C. § 101, 600, however, TCEQ “may” expedite the processing of a permit application only if the applicant “demonstrates that the purpose of the application will benefit the economy,” and executive director determines that expediting the permit will, in fact, benefit the economy. Here, Entergy’s Application fails to demonstrate that this proposed permit qualifies for expedited processing; and the public’s interest in transparency and the opportunity to fully evaluate the environmental and air quality impacts of a 1,200 MW fossil gas plant weighs against fast-tracking this permit. As an initial matter, Entergy’s conclusory, one-sentence assertion that the project will result in incidental benefits to the local economy through the addition of jobs is simply inadequate to demonstrate that “the purpose” of the project is to benefit the economy.¹⁴ In fact, Entergy’s representations to its shareholders suggest that the Company’s goal in proposing this particular gas plant is to “leverage” existing infrastructure, including hydrogen pipelines that might be used to fuel the facility.¹⁵ In any event, the Company makes no effort to quantify the jobs that will supposedly be created or to compare that figure to alternative generation proposals, such as a mix of renewable and energy efficiency options.

Given the scope, volume of data, and complexity of the Application, as well as the size of the proposed gas plant and Entergy’s proposal to transport and co-fire hydrogen, the Conservation Organizations believe that expedited permitting is not appropriate. To provide the public an opportunity to fully analyze the potential impacts of the proposed permit, which contemplates a novel hydrogen co-firing option, and provide meaningful comments on this highly-technical BACT and air quality modeling analyses, TCEQ should deny Entergy’s proposal to fast-track this permit. Instead, the agency should follow its standard practice for processing and permitting major fossil-fuel burning power plants with the potential to substantially increase pollution in the area.

¹⁴ *See* Application at 2; *see also* Expedited Permitting Request, Form APD-EXP, OTHER_INFORMATION_20210729_013753.pdf.

¹⁵ *See* Ex. 2, slide 22.

To the extent that standard permit processing would delay a final permit decision, we believe any delay would be minimal and outweighed by the value of administrative transparency, carefully considering public input, technical comments, and making any necessary permit revisions. Conversely, given the scope and complexity of the proposed permit, expedited processing will hamper the public's ability to review all of the relevant technical data and provide meaningful legal and technical comments. Moreover, fast-tracking this proposed permit will adversely affect the Conservation Organizations' and their supporters' interests in pollution reduction, the environment, as well their health and welfare. To provide a more transparent and comprehensive public participation process, we respectfully request that TCEQ deny the request for expedited processing.

C. TCEQ's Public Participation Process Was Deficient

Finally, the Conservation Organizations have serious concerns about TCEQ's compliance with Texas's public notice requirements in processing Entergy's Application and Notice of Intent to Obtain a Permit. As an initial matter, contrary to the public notice and the agency's regulations, TCEQ failed to make the Application available for "viewing and copying at the TCEQ central office."¹⁶ On September 10, 2021, in response to an in-person visit to the central office to review the permit file, TCEQ informed Sierra Club staff that they did not have the Application. Moreover, despite multiple electronic public records requests for the Application materials, TCEQ also failed to produce the Application and supporting documents. And when the agency did provide the Application materials—just two business days before the deadline for public comment—the file was incomplete, missing records of several communications between TCEQ and Entergy regarding deficiencies in the Application.¹⁷ We also note that the contact information listed in the Notice of Application for the Entergy contact was incorrect, which not only defeats the requirements of the agency's public notice requirements,¹⁸ but impedes the ability of the public to obtain and evaluate the Application.

Although the Conservation Organizations were able to obtain a copy of the Application two business days before the comment deadline as a result of repeated requests, the difficulties in obtaining information about this project suggest that the

¹⁶ See Notice of Application at 1.

¹⁷ Sierra Club discovered these discrepancies only by comparing TCEQ's September 10, 2021 document production to the full permit file, which was obtained by Environmental Integrity Project through a separate request.

¹⁸ 30 T.A.C. § 39.411(e)(2) requires the Notice of Application to include the name, address, and telephone number of the applicant so that the public may obtain further information. The phone number for the Entergy contact listed in the Notice of Application has been disconnected and as such, it was not possible to obtain additional information through the Applicant.

general public lacks access to basic information about the potential impacts of this project. In short, the lack of transparency and difficulty obtaining the Application for this project provide further support for holding a public meeting in this case so that interested members of the public may ask questions and fully evaluate Entergy's Application to construct and operate for many years a very large fossil gas-burning power plant in the Bridge City community.

III. CONCLUSION

The Conservation Organizations and their members and supporters have serious concerns about the potential environmental and public health impacts of Entergy's proposal to build a new gas-burning power plant in an area that is already exposed to some of the highest pollution levels in the Central United States. Based on the Conservation Organizations' difficulties obtaining basic information about the proposed project, we have significant concerns about the ability of the public to engage in, and obtain information about, the process. We urge TCEQ to deny Entergy's request for expedited permit processing so that the public may fully evaluate any proposed permit and provide meaningful comment. Moreover, given the size and scope of the proposed project, and the complexity of the requested PSD permit and associated air quality analysis, the Conservation Organizations respectfully request a public meeting so that interested members of the public and our members and supporters may better understand the Application and any proposed permit. *See* 30 T.A.C. § 55.154(c)(1) and (3).

Sincerely,

/s/ Joshua Smith
Staff Attorney
Sierra Club
2101 Webster Street, Suite 1300
Oakland, CA 94612
joshua.smith@sierraclub.org

/s/Colin Cox
Environmental Integrity Project
Staff Attorney
1206 San Antonio St.
Austin, Texas 78701
colincox@environmentalintegrity.org

/s/ Corey Williams
Research and Policy Director
Air Alliance Houston
corey@airalliancehouston.org

/s/ Luke Metzger
Executive Director
Environment Texas
luke@environmenttexas.org

/s/ Steve Brown
Chief Executive Officer
Clean Energy Fund of Texas, Inc.

/s/ Jeffrey Jacoby
Deputy Director
Texas Campaign for the Environment

/s/ John Beard
Chairman and Chief Executive Officer
Port Arthur Community Action
Network