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<p>RULEMAKING TO ADDRESS THE USE OF NON-TRADITIONAL TECHNOLOGIES IN ELECTRIC DELIVERY SERVICE</p>	<p>§ § § § §</p>	<p>PUBLIC UTILITY COMMISSION OF TEXAS</p>	<p>PUBLIC UTILITY COMMISSION FILING CLERK</p>
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REPLY COMMENTS OF TEXAS ELECTRIC COOPERATIVES, INC.

These reply comments are filed on behalf of Texas Electric Cooperatives, Inc. (“TEC”), the statewide association of electric cooperatives operating in Texas, representing its members except as their interests may be separately represented.¹

I. Introduction

TEC appreciates the opportunity to provide reply comments to the Public Utility Commission of Texas (“Commission”) on the important issue of the integration of non-traditional technology into electric delivery service. TEC did not submit initial comments in this proceeding because the questions posed in the Commission’s Request for Comment address the ownership and operation of non-traditional technologies by transmission and distribution utilities (“TDUs”). Electric cooperatives are excluded from the definition of TDU in the Public Utility Regulatory Act (“PURA”),² thus questions related to TDUs are not generally applicable to TEC members.³ After review of initial comments filed by other parties, TEC provides these reply comments to address a limited set of issues relevant to its members.

II. Electric Cooperatives May Deploy Non-Traditional Technologies

As the Commission knows, electric cooperatives are differently situated than TDUs in terms of the types of facilities they may own and operate. Electric cooperatives were not subject

¹ TEC’s 75 members include distribution cooperatives that provide retail electric utility service to approximately 3,000,000 consumers in statutorily authorized service areas that encompass more than half of the total area of the state. TEC’s G&T members generally acquire generation resources and power supply for their member distribution cooperatives and deliver electricity to them at wholesale.

² Public Utility Regulatory Act, Tex. Util. Code Ann. §§ 11.001-58.302 (West 2016 & Supp. 2017), §§ 59.001-66.016 (West 2007 & Supp. 2017).

³ *Id* § 31.002(19) (defining TDU as “a person or river authority that owns or operates for compensation in this state equipment or facilities to transmit or distribute electricity, except for facilities necessary to interconnect a generation facility with the transmission or distribution network, a facility not dedicated to public use, or a facility otherwise excluded from the definition of “electric utility” under this section, in a qualifying power region certified under Section 39.152, but does not include a municipally owned utility or an electric cooperative”). *See also id.* § 31.002(6) (excluding electric cooperatives from the definition of electric utility).

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to the unbundling requirements of Senate Bill 7 that today distinguish power generation companies (“PGCs”) from public utilities in the regulatory framework governing the ERCOT market.⁴ Electric cooperatives are authorized to own and control both generation facilities and transmission and distribution facilities, and electric cooperatives are also authorized to provide retail delivery service to end users within their certificated service territories.⁵ While the Texas Legislature required the functional separation of the regulated and competitive business units of electric utilities, cooperatives remain fully bundled, non-opt-in entities, unless the cooperative elects otherwise. As such, electric cooperatives may construct, operate, and own generation in ERCOT, including non-traditional technologies such as battery storage, and cooperatives need not obtain a certificate of convenience and necessity (“CCN”) for such facilities.⁶

TEC understands that a non-traditional technology that behaves in a manner similar to a generation resource constitutes a generation asset for the purposes of ownership and operation.⁷ PURA states the owner or operator of a generation asset is a PGC and required to register as such.⁸ Given the unbundling requirement in section 39.051(b), such treatment prohibits TDUs from owning and operating non-traditional technologies that constitute generation assets. As bundled entities, however, electric cooperatives are not subject to the same restrictions. Moreover, electric cooperatives cannot be considered PGCs as that term is defined in PURA. The definition of PGC excludes entities that own transmission or distribution facilities or that have a certificated service area.⁹ And a PGC is a “person,” which is a defined term that expressly excludes electric cooperatives.¹⁰ Accordingly, while electric cooperatives may construct, own, and operate generation facilities, due to their integrated operations and exclusion from the definition of a PGC, electric cooperatives are not required to register as PGCs to construct, own, or operate generation facilities, including energy storage or other non-traditional technologies.

⁴ See PURA § 39.051(b) (requiring each electric utility to separate its business activities from one another into a power generation company, a retail electric provider, and a transmission and distribution utility).

⁵ See, e.g., PURA §§ 35.005 & 37.051; Tex. Util. Code §§ 161.121 - .124.

⁶ PURA § 37.051(c).

⁷ See PURA § 35.152.

⁸ PURA § 35.152(b) (“The owner or operator of electric energy storage equipment or facilities that are generation assets under Subsection (a) is a power generation company and is required to register under Section 39.351(a).”)

⁹ PURA § 31.002(10).

¹⁰ PURA § 11.003(14).

If, as recommended by certain parties, the Commission clarifies its Substantive Rules to prohibit TDUs from ownership of non-traditional technologies,¹¹ PURA does not permit extension of this prohibition to electric cooperatives.

III. Any New Pre-Approval Process Must Comport with PURA

In its Request for Comment, the Commission asks whether a Certificate of Convenience and Necessity (“CCN”) or other Commission pre-approval process should be required before the construction or procurement of utility-owned non-traditional technologies to support reliability on the transmission or distribution system.¹² In initial comments filed in this project, certain parties supported the requirement that utilities obtain a CCN or engage in a pre-approval process before the construction of non-traditional technologies.¹³

If the Commission determines that such a new process is needed, electric cooperatives must be specifically exempt from the requirement for any project identified as a generation facility because, as set forth in PURA, “an electric cooperative is not required to obtain a certificate of public convenience and necessity for the construction, installation, operation, or extension of any generating facilities or necessary interconnection facilities.”¹⁴ PURA requires that the decision to construct generation facilities, including non-traditional technologies, must remain solely within the purview of the cooperative’s Board of Directors and shall not be subject to any additional pre-approval process.¹⁵

TEC thanks the Commission for consideration of these reply comments and looks forward to further participation in this project as it progresses.

¹¹ *Rulemaking to Address the Use of Non-Traditional Technologies in Electric Delivery Service*, Project No. 48023, Texas Industrial Energy Consumers’ Initial Comments at 5.

¹² Project No. 48023, Public Notice of Request for Comments at 2 (Oct. 2, 2018).

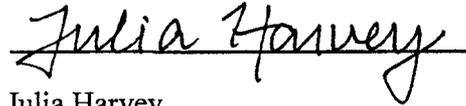
¹³ *See, e.g.*, Project No. 48023, Comments of NextEra Energy Resources, LLC at 3; Comments of the Office of Public Utility Counsel at 8-11; Comments of Pattern Energy Group Inc. at 5; Comments of the Steering Committee of Cities Served by Oncor at 7; Calpine Corporation’s Comments at 8; NRG Energy Inc. Comments at 4-5; Comments of Apex Compressed Air Energy Storage at 3-4; Comments of Public Citizen at 8-9; Initial Comments of Texas-New Mexico Power Company at 3.

¹⁴ PURA § 37.051(c).

¹⁵ PURA § 41.055(6) (establishing that a cooperative’s Board of Directors has exclusive control over resource acquisition).

Dated: November 16, 2018

Respectfully submitted,

A handwritten signature in black ink that reads "Julia Harvey". The signature is written in a cursive style and is positioned above a solid horizontal line.

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