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March 14, 2022

Via Electronic Filing

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Re: PUCT Project No. 52373; *Review of Wholesale
Electric Market Design*

Dear Chairman and Commissioners:

This letter is in response to the Application of Hunt Energy Network, LLC and Broad Reach Power LLC (“Broad Reach”) and Jupiter Power, LLC (“Joint Petitioners”) to open a rulemaking or project to address issues related to battery storage (“Joint Petition”) filed in the above referenced proceeding.

We are filing this response on behalf of Medina Electric Cooperative, Inc. (“MEC”), who is involved in a contested case before the Public Utility Commission with Broad Reach,¹ one of the petitioners mentioned above, involving several contested issues raised in the Joint Petition.

MEC objects to the Joint Petition to the extent that Broad Reach is raising issues and alleging facts with the Commission that are the subject of pending litigation. Parties to contested cases are not be permitted to avoid *ex parte* rules by filing a contemporaneous request for rulemaking or project on the same set of facts and issues being litigated.²

MEC also suggests that Joint Petitioners request be denied because:

- Any issues that Joint Petitioners may wish to raise may be raised in the Commission’s upcoming rulemaking on distributed generation;³ and

¹ See *Application of MEC for Approval of a Wholesale Transmission Tariff at Distribution Voltage*, Docket No. 51606, Preliminary Order (June 14, 2021).

² 16 TAC 22.2(b)(2) (“Unless required for the disposition of *ex parte* matters authorized by law, members of the commission or administrative law judges assigned to render a decision or to make findings of fact and conclusions of law in a contested case may not communicate, directly or indirectly, in connection with any issue of law or fact with any agency, person, party, or their representatives, except on notice and opportunity for all parties to participate.”).

³ See *Review of Wholesale Market Design*, Docket 52373, Memo - Regarding Written Comment for Phase

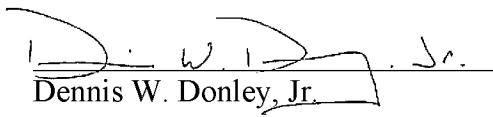
- Joint Petitioners did not follow the proper procedural rules and notice requirements for requesting a rulemaking,⁴ and have instead filed the request in a pending project without notice requirements.

Should you have any questions or concerns with regards to the above, please do not hesitate to contact our office.

Thank you for your time and attention to this matter. Both are sincerely appreciated.

Very truly yours,

NAMAN HOWELL SMITH & LEE, PLLC

By: 
Dennis W. Donley, Jr.

II Market at 3 (Dec. 6, 2021) (cited in Joint Petitioners' Application at 6).

⁴ 16 TAC 22.281 (cited and paraphrased in Broad Reach's 2020 Petition for Rulemaking on Battery Storage, Docket No. 51501, Application at 20 (Nov. 6, 2020).