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Received - 2022-11-17 11:43:06 AM
Control Number - 53758
ItemNumber - 62

PUC DOCKET NO. 53758

**APPLICATION OF GRID
UNITED TEXAS LLC FOR
PARTIAL CERTIFICATE OF
CONVENIENCE AND
NECESSITY RIGHTS PURSUANT
TO PURA §§ 37.051(C-1) AND
37.056(B)(2) TO INTERCONNECT
AN HVDC FACILITY TO THE
ERCOT TRANSMISSION GRID**

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**PUBLIC UTILITY COMMISSION
OF TEXAS**

**TEXAS INDUSTRIAL ENERGY CONSUMERS' INITIAL BRIEF ON
THRESHOLD ISSUES**

I. INTRODUCTION

Texas Industrial Energy Consumers (TIEC) appreciates the opportunity to brief the threshold issues that the Commission identified with respect to Grid United Texas LLC's (Grid United's) request for a "partial authorization"¹ for a certificate of convenience and necessity (CCN) related to a proposed DC tie interconnection between ERCOT and the El Paso Energy (EPE) service area (the "Proposed Interconnection"). As explained below, TIEC believes there are serious legal and procedural issues with Grid United's unprecedented request for "partial" CCN rights. In particular, PURA § 37.056(e) requires the Commission to award CCN rights for transmission facilities that interconnect to established transmission facility endpoints in Texas to the owner(s) of those endpoints, meaning Grid United is not eligible to receive the CCN rights it is requesting. Additionally, PURA does not authorize the Commission to grant a "partial" or preliminary CCN based on an incomplete application like the one that Grid United has filed. Instead, PURA and the Commission's Substantive Rules clearly contemplate that the Commission will conduct a single, holistic analysis of any proposed project, and that it will issue a single, unified CCN order that addresses all of the statutory and regulatory CCN factors. Further, Texas law does not allow the Commission to issue advisory opinions, and Grid United's request for an

¹ Docket No. 53758, Application at 3 ("[W]hat Grid United Texas seeks in this Application is *partial authorization* from the Commission regarding the propriety and necessity of the interconnection itself.") (emphasis added).

order making “preliminary” findings based on Grid United’s admittedly incomplete Application would necessarily be advisory in nature and should therefore be rejected.

II. THRESHOLD ISSUES

1. Does PURA § 37.056(e) prohibit the Commission from granting Grid United Texas a certificate of convenience and necessity or any rights emanating from a certificate of convenience and necessity for the proposed interconnection?

The plain language of PURA § 37.056(e) prohibits granting Grid United a CCN for the Proposed Interconnection. The Legislature created that provision to ensure that “the entity that owns the endpoint of an existing transmission line is the entity that has the right to build any new facility that may be interconnected” to that endpoint.² In relevant part, PURA § 37.056(e) reads:

A certificate to build, own, or operate a new transmission facility that directly interconnects with an existing electric utility facility . . . may be granted only to the owner of that existing facility. If a new transmission facility will directly interconnect with facilities owned by different electric utilities . . . , each entity shall be certificated to build, own, or operate the new facility in separate and discrete equal parts unless they agree otherwise.³

The Proposed Interconnection falls within the scope of this provision. First, there is no doubt that the Proposed Interconnection will “directly interconnect[] with an existing electric utility facility.”⁴ According to Grid United’s Application, its project will interconnect to “an EPE Station” on one end and LCRA TSC’s Bakersfield Station on the other.⁵ EPE (a “person”⁶) and LCRA TSC (a “river authority”⁷) both fall within PURA’s definition of an “electric utility,”⁸ so it

² S.B. 1938, Bill Analysis at 1 (May 29, 2019) (available at: <https://capitol.texas.gov/tlodocs/86R/analysis/pdf/SB01938F.pdf#navpanes=0>).

³ Emphasis added.

⁴ PURA § 37.056(e).

⁵ Docket No. 53758, Application at 1.

⁶ PURA § 11.003(14) (“‘Person’ includes an individual, a partnership of two or more persons having a joint or common interest, a mutual or cooperative association, and a corporation, but does not include an electric cooperative.”).

⁷ Substantive Rule 25.5(118) (“River authority — A conservation and reclamation district created under the Texas Constitution, article 16, section 59 . . . that is an electric utility.”).

⁸ PURA § 31.002(6) (“‘Electric utility’ means a *person or river authority that owns or operates for compensation in this state equipment or facilities to produce, generate, transmit, distribute, sell, or furnish electricity in this state.*”) (emphases added).

is clear that their substations are “electric utility facilit[ies].” Accordingly, any “new transmission facility” that interconnects with those substations will be subject to PURA § 37.056(e).

The Proposed Interconnection is also clearly a “new transmission facility.” In prior DC tie applications, the Commission has referred to the interconnecting facilities as “transmission facilities,”⁹ and there is no reason to characterize the Proposed Interconnection differently. Additionally, while PURA does not define the term “transmission facility,” Substantive Rule 25.5(142)¹⁰ defines the “transmission system” as “[t]he transmission facilities at or above 60 kilovolts (kV) owned, controlled, operated, or supported by a transmission service provider¹¹ or transmission service customer that are used to provide transmission service.” The Proposed Interconnection falls within the plain meaning of the phrase “transmission facility” because it will interconnect to the transmission grid, will operate above 60 kV, and will be used to provide “transmission service.”¹² Accordingly, because the Proposed Interconnection is a “transmission facility” that requires “a certificate to build, own, or operate,” it falls within the scope of PURA § 37.056(e).

To the extent that the Proposed Interconnection involves any facilities outside ERCOT, which is uncertain, the question of whether PURA § 37.056(e) prohibits the Commission from awarding a CCN for the Proposed Interconnection to Grid United could ultimately turn on the resolution of *NextEra Energy Capital Holdings, Inc. v. Lake* (“*NextEra v. Lake*”),¹³ which is an ongoing legal challenge to PURA § 37.056(e) in which NextEra has alleged that applying that

⁹ See *Application of the City of Garland to Amend a Certificate of Convenience and Necessity for the Rusk to Panola Double-Circuit 345-kV Transmission Line in Rusk and Panola Counties*, Docket No. 45624, Order on Rehearing at 18, FoF 4 (“Under a transmission line agreement between Garland and Rusk Interconnection, Garland and Rusk Interconnection will cooperate in interconnecting their *transmission facilities*.”) (emphasis added).

¹⁰ 16 Tex. Admin. Code § 25.5(142).

¹¹ A “transmission service provider” is “[a]n electric utility, municipally-owned utility, or electric cooperative that owns or operates facilities used for the transmission of electricity.” 16 Tex. Admin. Code § 25.5(141). As discussed below, Grid United or any other entity that owns and operates the Proposed Interconnection would qualify as an “electric utility,” so they would fall within this definition.

¹² PURA §31.002(20) states that “transmission service” includes “scheduling resources, regulation services, reactive power support, voltage control, provision of operating reserves, and any other associated electrical service the commission determines appropriate.” The Substantive Rules define “transmission service” as “[s]ervice that allows a transmission service customer to use the transmission and distribution facilities of electric utilities, electric cooperatives and municipally owned utilities to . . . deliver power to another transmission service customer.” 16 Tex. Admin. Code § 25.5(139).

¹³ 48 F.4th 306, 309 (5th Cir. 2022) (“*NextEra*”).

statute to projects outside of ERCOT violates the Commerce Clause of the federal Constitution.¹⁴ The 5th Circuit recently issued an order reversing the District Court’s dismissal of NextEra’s Commerce Clause claim under Federal Rule of Procedure 12(b)(6) for failure to state a claim on which relief could be granted, but that order does not end the litigation. Instead, the court remanded the case to the District Court for further proceedings.¹⁵ Additionally, the Commission has filed a motion to stay the enforcement of that order while it prepares a writ of certiorari.¹⁶ There is a good chance that the Supreme Court will take up the issue to resolve a circuit split, as the 5th Circuit’s order is in direct conflict with a recent 8th Circuit decision that dismissed a Commerce Clause challenge to a nearly identical law.¹⁷ Regardless, no injunctive relief has been granted in relation to the appeal,¹⁸ so PURA § 37.056(e) remains in force while *NextEra v. Lake* is being litigated. Additionally, because *NextEra v. Lake* only challenges the application of PURA § 37.056(e) to endpoints located in the non-ERCOT areas of Texas, the resulting order is unlikely to impact that provision’s application to endpoints within ERCOT, including the Bakersfield substation to which Grid United plans to interconnect.

2. Does subchapter B of chapter 37 of PURA, including PURA§ 37.056(b)(2), authorize the Commission to grant partial certificate-of-convenience-and-necessity rights for a design concept for interconnection between ERCOT and another power region rather than specific interconnection facilities?

PURA § 37.056(b)(2) does not authorize the Commission to grant partial CCN rights of the type that Grid United is requesting. In its Application, Grid United states that it “seek[s] . . . partial authorization from the Commission regarding the propriety and necessity of the interconnection itself”¹⁹ and admits that the order it seeks will not give it the right to construct or

¹⁴ *NextEra*, 48 F. 4th at 314-15.

¹⁵ *Id.* at 329 (“We REVERSE the dismissal of the Commerce Clause claims and remand those for further proceedings consistent with this opinion.”).

¹⁶ *NextEra Energy Capital Holdings, Inc. v. Lake*, No. 20-50160, Motion to Stay the Mandate (5th Cir. Oct. 6, 2022).

¹⁷ *See LSP Transmission Holdings, LLC v. Sieben*, 954 F.3d 1018 (8th Cir. 2020).

¹⁸ *NextEra Energy Capital Holdings, Inc. v. Lake*, No. 1:19-CV-626-LY, Order on Motion for Injunction Pending Appeal Electric at 2 (W.D. Tex. Mar. 13, 2020) (“In this case . . . , the injunction sought would bar the enforcement of SB 1938, effectively halting the process for certifying new electric-transmission facilities in Texas. . . . Having considered the motion and response, the court concludes that Plaintiffs have failed to make a sufficient showing to warrant an injunction pending appeal.”).

¹⁹ Docket No. 53758, Application at 3.

operate the Proposed Interconnection.²⁰ Nevertheless, Grid United attempts to rely upon the following emphasized portion of PURA § 37.056(b)(2) as the basis for the Commission’s authority to grant its requested “partial authorization”: “[t]he commission may . . . *grant the certificate for the construction of a portion of the requested system, facility, or extension or the partial exercise of the requested right or privilege.*”²¹ However, the plain meaning of that language does not support Grid United’s interpretation of this provision.

First, PURA § 37.056(b)(2) describes situations where the Commission may “grant *the certificate*,” which means grant a complete CCN rather than just issue some preliminary findings that may be prerequisites to a CCN. This is precisely what Grid United is asking the Commission to do here. Grid United is only seeking a “partial authorization” (meaning an incomplete authorization) from the Commission,²² so its request falls outside the scope of PURA § 37.056(b)(2). Moreover, even if Grid United were properly seeking a full CCN, PURA § 37.056(c) only authorizes the Commission to grant a certificate “*after considering*” multiple factors that Grid United does not address in its Application, such as routing factors and “the effect of granting the certificate on the recipient of the certificate and any electric utility serving the proximate area.”²³ Accordingly, PURA § 37.056(b)(2) does not apply to this situation because the Commission cannot possibly “grant [a] certificate” at the conclusion of this proceeding.

Second, PURA § 37.056(b)(2) only empowers the Commission to grant a CCN “for . . . the partial *exercise* of the requested right or privilege,” meaning that any certificate granted under PURA § 37.056(b)(2) must allow the recipient to actually *exercise* some right or privilege. However, Grid United admits that its requested “partial authorization”²⁴ “will not grant rights to Grid United Texas to construct and operate the interconnection at this time,”²⁵ so even if the Commission granted all of Grid United’s requested relief, the resulting order would not enable

²⁰ See *id.* at 1, 3.

²¹ PURA § 37.056(b)(2) (emphases added).

²² See Docket No. 53758, Application at 3 (“[W]hat Grid United Texas seeks in this Application is *partial authorization* from the Commission regarding the propriety and necessity of the interconnection itself.”) (emphasis added); see *id.* at 5.

²³ PURA § 37.056(c)(3).

²⁴ See Docket No. 53758, Application at 3.

²⁵ Docket No. 53758, Application at 1.

Grid United to “exercise” any right or privilege.²⁶ In contrast, an example of when the Commission might issue a CCN for the “partial exercise of the requested right or privilege” is if a utility requested a CCN for two segments of a transmission line and the Commission only granted the CCN for one of the two requested segments, finding that the need for the second segment was not supported by the evidence. Another example would be if a utility requested a CCN to exclusively serve a particular geographic area and the Commission instead issued a CCN recognizing that the requested area was dually certified between the applicant and another utility. In both situations, the resulting CCN would authorize the recipient to *do something without further Commission action*, whereas Grid United’s request for a “partial authorization” would not. As such, Grid United’s request falls outside the scope of PURA § 37.056(b)(2).

3. **Does the Commission have authority under subchapter B of chapter 37 of PURA to make a preliminary finding that a certificate is necessary for the service, convenience, or safety of the public under PURA § 37.056(a) or a preliminary finding that the public convenience and necessity requires, or will require, the proposed interconnection under PURA § 37.051(c-1)? If so, what effect will such preliminary determinations have, including whether the Commission will have any authority to revisit those determinations in a future certification proceeding?**

- A. *PURA does not give the Commission authority to make the preliminary findings Grid United is requesting, and issuing such “preliminary” findings would create unresolvable practical and procedural issues.*

PURA does not give the Commission the authority to make preliminary findings of the type described above. PURA Chapter 37, Subchapter B does not provide any explicit authority for the Commission to consider a CCN on a piecemeal basis by issuing preliminary findings on need or public interest in isolation and then coming back later to consider the remaining statutory factors in a separate proceeding. Instead, the Commission has always considered issues like public interest, need, cost, and routing on a holistic basis at the time the CCN is issued. As the Third Court of Appeals has found:

²⁶ Importantly, under PURA § 37.051(c-1), public interest and need findings are prerequisites to granting a CCN, but those findings alone do not entitle the applicant to exercise any right or privilege. *See* PURA § 37.051(c-1) (“The commission shall apply Section 37.056[, which includes a need finding.] in considering an application under this subsection. In addition, the commission must determine that the application is consistent with the public interest before granting the certificate.”).

The determination of whether the services provided under a CCN are necessary is made *when the CCN is initially obtained*, or when additional services are added to the existing CCN. This determination is made under PURA section 37.056[, which] sets out the considerations by which the Commission determines whether to “grant” a CCN.²⁷

It makes sense for the Commission to consider all aspects of a proposed CCN as part of a single, holistic analysis because the various elements of the CCN evaluation interact with one another. That is why PURA § 37.056(c) requires the Commission to “grant each certificate on a nondiscriminatory basis *after considering*” various factors, including the adequacy of existing service, the need for additional service, the impact of granting the CCN on the applicant and utilities in the area, routing considerations, and the probable improvement of service or lowering of cost to consumers in the area.²⁸

Additionally, the “preliminary” findings that Grid United is seeking would constitute advisory opinions that Texas law does not allow.²⁹ “An opinion is advisory when the judgment sought would not constitute specific relief to a litigant or affect legal relations.”³⁰ In general, the prohibition on issuing advisory opinions prevents courts from “declar[ing] rights on facts which have not arisen or adjudicat[ing] matters which are contingent, uncertain, or rest in the future.”³¹ Accordingly the Commission should not issue “preliminary findings” based on an admittedly incomplete Application. Instead, the Commission should require Grid United to present a full CCN application that can be considered on a holistic basis, as PURA clearly envisions that CCN proceedings will be handled.

The Commission has consistently avoided issuing orders that amount to advisory opinions because doing so creates practical and procedural problems. It is dangerous for the Commission to make decisions based on incomplete or evolving facts. Even if the Commission could alter its decision later, parties will likely argue that they proceeded in reliance on the Commission’s

²⁷ *Pub. Util. Comm’n of Tex. v. Cities of Harlingen*, 311 S.W.3d 610, 621-22 (Tex. App.—Austin 2010, no pet.) (emphasis added).

²⁸ PURA § 37.056(c) (emphasis added).

²⁹ The Texas Supreme Court has found that the Commission has no authority to issue advisory opinions. *See Pub. Util. Comm’n of Tex. v. Houston Lighting & Power Co.*, 748 S.W.2d 439, 442 (Tex. 1987).

³⁰ *Brinkley v. Tex. Lottery Comm’n*, 986 S.W.2d 764, 767 (Tex. App.—Austin 1999, no pet.).

³¹ *Id.* at 768 (quoting 26 C.J.S. Declaratory Judgments, § 28 (1956)).

original order, complicating the Commission’s ability to modify it. As it has in other contexts, the Commission should reject Grid United’s request to make findings on incomplete information.

B. PURA Chapter 37 provides an avenue for the Commission to issue a “Preliminary Order” on a CCN application, but even those orders must be based on a holistic analysis of the CCN factors.

PURA provides a single explicit avenue for the Commission to grant a preliminary or conditional CCN authorization, and by specifying that avenue, the Legislature implied that there is no other path to obtain a “preliminary” CCN order of the type that Grid United is requesting.³² PURA § 37.055 authorizes the Commission to issue a “preliminary order” in a CCN proceeding when a utility “wants to exercise a right or privilege under a franchise or permit that the utility anticipates obtaining but has not been granted.”³³ PURA § 37.055 does not apply to Grid United’s request because first, only “[a]n electric utility” may request a preliminary CCN order,³⁴ and at this point,³⁵ Grid United is not an electric utility. Second, even if the Commission found that Grid United could avail itself of PURA § 37.055, that statute clearly contemplates that the Commission will consider ***all*** of the CCN factors in PURA and the Commission’s rules and determine all of the terms of the requested CCN prior to issuing a “preliminary order.”³⁶ Then, when the Commission revisits the preliminary CCN, the only issue it is permitted to consider is whether the utility has presented “evidence satisfactory to the commission that the electric utility has obtained the franchise or permit”³⁷ that it was lacking, at which point the Commission “shall grant” the CCN as described in its prior order.³⁸ Accordingly, Grid United’s request for “preliminary” CCN rights does not fall within the scope of PURA § 37.055(c) because Grid United is asking the Commission

³² *E.g., Rodriguez v. State*, 953 S.W.2d 342, 354 (Tex. App.—Austin 1997, pet. ref’d) (“The maxim *expressio unius est exclusio alterius* is often employed in the construction of statutes. In general, it means that a statute’s inclusion of a specific limitation excludes all other limitations of that type.”).

³³ PURA § 37.055(a).

³⁴ PURA § 37.055(a) (“An electric utility that wants to exercise a right or privilege under a franchise or permit that the utility anticipates obtaining but has not been granted may apply to the commission for a preliminary order under this section.”).

³⁵ As discussed below, Grid United would become an “electric utility” once the Proposed Interconnection went into service.

³⁶ PURA § 37.055(b) (“The commission may issue ***a preliminary order declaring that the commission, on application and under commission rules, will grant the requested certificate on terms the commission designates,*** after the electric utility obtains the franchise or permit.”).

³⁷ PURA § 37.055(c).

³⁸ *Id.*

to issue partial CCN rights without fully considering the underlying facts, and then to make additional factual determinations on the CCN in a future proceeding.

4. Must the Commission make a determination on the criteria specified in PURA § 37.056(c) and (d) to make a finding that a certificate is necessary for the service, convenience, or safety of the public under PURA § 37.056(a) or a finding that the public convenience and necessity requires, or will require, the proposed interconnection under PURA § 37.051(c-1)?

Yes, the Commission must make a determination on the criteria specified in PURA § 37.056(c) and (d) prior to making Grid United's requested findings. As explained above, the Commission should engage in a holistic analysis prior to issuing any findings with respect to a CCN application because the various factors that go into the CCN analysis impact one another, and it is impossible to fully evaluate the broader factors like public interest on a piecemeal basis as Grid United has requested. PURA is written in a way that assumes the Commission will not consider the CCN factors independently from one another, and it explicitly requires the Commission to consider the criteria specified in PURA § 37.056(c) and (d) before issuing any CCN rights.

PURA § 37.056(c) states that the "commission shall grant each certificate on a nondiscriminatory basis *after considering*" the specified factors,³⁹ which implies that the Commission may not issue any CCN rights without considering those factors. Further, the Commission clearly intended for that requirement to apply to DC tie applications, as PURA § 37.051(c-1) states that "[t]he commission *shall apply Section 37.056* in considering an application under this subsection."⁴⁰

Similarly, PURA § 37.056(d) requires the Commission to "*establish criteria . . . for granting a certificate* for a transmission project that serves the ERCOT power region, that is not necessary to meet state or federal reliability standards, and that is not included in a plan developed under Section 39.904(g)."⁴¹ Because all of those facts are true of Grid United's Proposed

³⁹ Emphasis added.

⁴⁰ Emphasis added.

⁴¹ Emphasis added.

Interconnection, the Commission must consider those criteria—which appear in Substantive Rule 25.101—prior to granting any CCN.⁴²

5. **Does the Commission have authority under PURA §§ 37.051(c-1) and 37.056 to direct that the criteria identified in PURA § 37.056(c) and (d) must be applied in this proceeding but that no determination will result regarding the factors specified in PURA § 37.056(c)(1) through (c)(3)?**

As explored above, PURA §§ 37.051 and 37.056 contemplate the Commission conducting a single, holistic CCN analysis rather than withholding judgment on any of the factors laid out in PURA or the Substantive Rules. It is unclear to TIEC how the Commission could “appl[y]” the criteria identified in PURA § 37.056(c) and (d) while simultaneously not making any determination with respect to PURA § 37.056(c)(1) through (c)(3). TIEC can envision a situation where the Commission determines that the Proposed Interconnection does not materially impact some of those criteria, but such determinations would need to be issues of fact that parties would have an opportunity to contest during litigation. In prior CCN proceedings, SOAH has found that the “Applicant clearly has the burden of persuasion to make a *prima facie* case on *all* the elements listed in PURA § 37.056 and P.U.C. SUBST. R. 25.101.”⁴³ Accordingly, the Commission should not pre-judge the issue of whether a determination is unnecessary on any of those factors without fully developing and considering the record.

6. **Should the Commission determine whether Grid United Texas (and any other owners of the proposed interconnection) will be an electric utility under PURA upon commencement of operation of the proposed interconnection? If so, will Grid United Texas (and any other owners) be electric utilities under PURA upon commencement of operation of the proposed interconnection?**

As part of the holistic CCN review process described above, the Commission should determine whether Grid United or any other owners of the proposed interconnection would become

⁴² That rule also states that “the commission may grant an application and issue a certificate *only if it finds that the certificate* is necessary for the service, accommodation, convenience, or safety of the public, and *complies with the statutory requirements in the Public Utility Regulatory Act (PURA) §37.056.*” 16 Tex. Admin. Code § 25.101(b) (emphasis added).

⁴³ *Application of LCRA Transmission Services Corporation to Amend its Certificate of Convenience and Necessity for a 138 kV Transmission Line in Kendall and Bexar Counties*, Docket No. 29684, SOAH Order No. 10 Regarding Adequacy of Routes at 5 (Nov. 30, 2004).

electric utilities⁴⁴ when the facilities go into service. Many of the essential questions surrounding this facility—such as the scope of the Commission’s authority over the facility’s operations⁴⁵ and the potential avenues through which the costs of the facility might make their way into customers’ rates⁴⁶—will turn on the specific facts of the Proposed Interconnection as it is finally conceived and whether the facility’s owners and operators would be electric utilities under PURA.

Any entity that owns or operates the Proposed Interconnection would be an electric utility. PURA defines an “electric utility” as “a person or river authority that owns or operates for compensation in this state equipment or facilities to . . . transmit, distribute, . . . or furnish electricity in this state.”⁴⁷ The owner or operator of the Proposed Interconnection would fall within that definition because the DC tie and associated facilities would “transmit, distribute, . . . or furnish electricity” in Texas “for compensation.” Accordingly, those entities would be “electric utilities” under PURA.

III. CONCLUSION

TIEC appreciates the opportunity to provide briefing on these threshold issues and looks forward to continuing to participate in this proceeding as it moves forward.

⁴⁴ PURA § 31.002 (“‘Electric utility’ means a person or river authority that owns or operates for compensation in this state equipment or facilities to produce, generate, transmt, distribute, sell or furnish electricity in this state.”).

⁴⁵ PURA grants the Commission “exclusive original jurisdiction over the rates, operations, and services *of an electric utility*.” PURA § 32.001(a) (emphasis added). Similarly, PURA grants the Commission authority to “require *an electric utility* to provide transmission service at wholesale to another electric utility, a qualifying facility, an exempt wholesale generator, or a power marketer and . . . determine whether terms for the transmission service are reasonable.” PURA § 35.005(a) (emphasis added).

⁴⁶ PURA § 36.001(a) states that the Commission “may establish and regulate rates *of an electric utility*.” (emphasis added).

⁴⁷ PURA § 31.002(6).

Respectfully submitted,

O'MELVENY & MYERS LLP

/s/ Michael A. McMillin

Katherine L. Coleman

State Bar No. 24059596

Michael A. McMillin

State Bar No. 24088034

John R. Hubbard

State Bar No. 24120909

303 Colorado St., Suite 2750

Austin, TX 78701

(737) 261-8600

kcoleman@omm.com

mmcmillin@omm.com

jhubbard@omm.com

OMMeservice@omm.com

**ATTORNEYS FOR TEXAS INDUSTRIAL
ENERGY CONSUMERS**

CERTIFICATE OF SERVICE

I, John R. Hubbard, Attorney for TIEC, hereby certify that a copy of this document was served on all parties of record in this proceeding on this 17th day of November, 2022 by electronic mail, facsimile, and/or First Class, U.S. Mail, Postage Prepaid.

/s/ John R. Hubbard

John R. Hubbard