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PROJECT NO. 53911

AGGREGATE DISTRIBUTED § BEFORE THE
ENERGY RESOURCE (ADER) § PUBLIC UTILITY COMMISSION
ERCOT PILOT PROJECT § OF TEXAS

SECOND QUARTERLY REPORT OF THE ADER TASK FORCE

The undersigned ADER Task Force members respectfully submit this second quarterly report pursuant to the provisions of the ADER Task Force Charter.¹

The majority of this report is informative and requires no Commission action. But Section IV of this report contains four recommendations for the Commission to consider as it prepares its own recommendations for the 88th Texas Legislature. To be clear, there are no changes to current law needed for Phase 1 of the pilot project. Rather, the recommendations in Section IV of this report simply clarify how provisions in current law apply in the context of the ADER pilot project.

I. Background

The ADER Task Force was formed on August 12, 2022 to, among other things, make recommendations for a proposed ERCOT ADER pilot project, assist ERCOT in preparing a Governing Document for that pilot project, develop necessary business procedures and template agreements related to the pilot project, and provide a forum for potential pilot project participants to discuss issues related to the development and launch of the pilot project.² Joining the ADER Task Force members to complete this work are liaisons appointed from the Commission, the Office of Public Utility Counsel, ERCOT, and the ERCOT Technical Advisory Committee.

¹ Prior quarterly reports of the Task Force are available in this project. *See* Project No. 53911, First Quarterly Report of the ADER Task Force (Sep. 26, 2022).

II. Report on Task Force Activity

The ADER Task Force held its third monthly meeting in the Commissioners' Hearing Room on October 12 to provide status reports on the Governing Document and ADER Registration Form, discuss upcoming workshops, and receive public comment. Notes from that meeting and material presented were filed in this project.³

During the weeks of October 31 and November 14, the ADER Task Force held public workshops on the following topics: Details of the Aggregation Form; ADER Registry; Cybersecurity; and Customer Communications. The material presented at these workshops, and a link to an archived replay of each workshop, were filed in this project.⁴

On November 18, the ADER Task Force held a closed session focused on potential legislative recommendations as a follow-up to the August 30 public workshop titled "Review of Laws, Rules and Protocols."⁵ The recommendations from that closed session are included in Section IV of this quarterly report.

III. Pilot Project Update

1. Status of the Governing Document

The Governing Document for Phase 1 of the pilot project was approved by the ERCOT Board of Directors on October 18, 2022. The Commission discussed and approved the Governing Document on November 3, 2022. And the final Governing

² See Project No. 53911, Commissioners' Memo at Charter p1 (Aug. 12, 2022).

³ See Project No. 53911, Notes of the ADER Task Force meeting on October 12, 2022 (Oct. 18, 2022).

⁴ See Project No. 53911, Notice of ADER Task Force workshops on November 11, 2022 and November 17, 2022 (Nov. 2, 2022); Texas ADER Briefing Workshop Material Regarding ADER Registry – November 15, 2022 (Nov. 18, 2022); and Texas ADER November 18, 2022 briefing workshop regarding Customer Communications (Nov. 22, 2022). Although the cybersecurity workshop was recorded, the task force chair subsequently decided not to publicly post the recording due to the nature of the subject discussed.

⁵ The material from that workshop and a link to a replay of it were filed in this project. See Project No. 53911, Material Presented at the ADER Task Force workshop titled – Review of Laws Rules and Protocols (Aug. 31, 2022).

Document and other related material is available on ERCOT's website at www.ercot.com/mktrules/pilots/ader.

2. Status of the ADER Registration Form

Consistent with the recommendation of the Task Force in its first quarterly report,⁶ Commission Staff developed a streamlined ADER Registration Form. The form to be used during Phase 1 of the pilot project is now available for market participants at www.puc.texas.gov/industry/electric/forms/ader/aderregistrationform.pdf.

3. Participating Distribution Utilities

At the October 12 Task Force meeting, the Task Force chair requested that utilities planning to participate in the pilot project make a filing in this project indicating their intent to participate so that market participants would be able to better prepare for Phase 1 of the pilot project. The following utilities filed notices or otherwise advised the Task Force that they intend to participate in Phase 1 of the pilot project:

- AEP Texas, Inc.;⁷
- CPS Energy;⁸
- CenterPoint Energy Houston Electric, LLC;⁹
- Oncor Electric Delivery Company LLC;¹⁰ and
- Texas-New Mexico Power Company.¹¹

The following distribution utilities indicated that they do not intend at this time to participate in Phase 1 of the pilot project:

- South Texas Electric Cooperative, Inc.;

⁶ See Project No. 53911, First Quarterly Report of the ADER Task Force at 7-9 (Sep. 26, 2022).

⁷ See Project No. 53911, AEP Texas Inc.'s Statement of Intention to Participate (Oct. 31, 2022).

⁸ CPS Energy's representative on the Task Force has represented that CPS Energy intends to participate in Phase 1 of the pilot project.

⁹ See Project No. 53911, CenterPoint Energy Houston Electric, LLC's Statement of Intention (Oct. 27, 2022).

¹⁰ See Project No. 53911, Oncor Electric Delivery Company LLC's Notice of Intent to Participate (Oct. 31, 2022).

¹¹ See Project No. 53911, Texas New Mexico Power Company's Statement of Intention to Participate (Oct. 31, 2022).

- Jackson Electric Cooperative, Inc.;
- Karnes Electric Cooperative, Inc.;
- Magic Valley Electric Cooperative, Inc.;
- Medina Electric Cooperative, Inc.;
- Nueces Electric Cooperative, Inc.;
- San Bernard Electric Cooperative, Inc.;
- San Patricio Electric Cooperative, Inc.;
- Victoria Electric Cooperative, Inc.; and
- Wharton County Electric Cooperative, Inc.¹²

Because the requested notices of intent were voluntary, additional distribution utilities may choose to participate either in Phase 1 or later phases of the pilot project even though they have not yet filed notices of that intent.

IV. Legislative Recommendations

As noted at the outset of this report, there are no changes to current law needed for Phase 1 of the pilot project. The following legislative recommendations would simply clarify how provisions in current law apply in the context of the ADER pilot project, and as a result, are helpful rather than necessary.

1. Clarifying Registration Requirement

As the Commission is aware, an ADER Registration Form is required for Phase 1 of the ADER pilot project. But it would be helpful to clarify that the actual owner of the distributed energy resource need not be registered if the aggregator has registered the resource. As a result, the Task Force recommends the following amendment to the first sentence of Section 39.351(a) of the Texas Utilities Code:

(a) A person may not generate electricity, except as part of a registered aggregate distributed energy resource, unless the person is registered with the commission as a power generation company in accordance with this section.

¹² See Project No. 53911, South Texas Electric Cooperative, Inc.'s Statement of Intention (Oct. 28, 2022).

2. Clarifying Streamlined Registration Authority

Section 39.351(c) of the Texas Utilities Code provides that the Commission may establish simplified power generation company filing requirements for distributed natural gas generation facilities. Although the Task Force believes that the ADER Registration Form for Phase 1 of the pilot project is already permitted under the law, for the avoidance of doubt, the Task Force suggests the following edit to make clear that such streamlined filings may be utilized for aggregate distributed energy resources, and not only natural gas distributed generation:

(c) The commission may establish simplified filing requirements for distributed natural gas generation facilities and aggregate distributed energy resources.

3. Clarifying REP Authority to Aggregate

The Task Force believes that, under current law, REPs can aggregate distributed energy resources without also making those REPs power generation companies. But for the avoidance of doubt, the Task Force recommends an amendment to the definition of “retail electric provider” in Section 31.002 of the Texas Utilities Code as shown below:

(17) “Retail electric provider” means a person that sells electric energy to retail customers in this state. A retail electric provider may not own or operate generation assets, but may aggregate distributed energy resources. The term does not include a person not otherwise a retail electric provider who owns or operates equipment used solely to provide electricity charging service for consumption by an alternatively fueled vehicle, as defined by Section 502.004, Transportation Code.

4. Clarifying Customer Protection Authority

Under Chapter 14 of the Texas Utilities Code, the Commission has the broad authority to adopt and enforce rules reasonably required in the exercise of its powers and jurisdiction. Additionally, Chapter 17 of the Texas Utilities Code broadly vests authority

in the Commission to protect retail electric customers from fraudulent, unfair, misleading, deceptive or anticompetitive practices. The Task Force therefore believes the Commission's rules, including customer protection rules, jurisdiction, and authority extends to market participants and customers participating in Phase 1 of the pilot project. To make that clear, though, especially as it relates to any third-parties engaged by retail electric providers in ADER activities, the Task Force recommends a new section, perhaps in Chapter 31 of the Texas Utilities Code, adding the following language:

A retail electric provider who aggregates distributed energy resources shall comply with rules and guidelines established by the commission and by Chapter 17 and this chapter, and shall remain accountable to all applicable laws and commission rules for all activities conducted on its behalf by any subcontractor, agent, or any other entity.

V. The Next Quarterly Report

The ADER Task Force will submit its next official quarterly report on or before March 31, 2023. That next quarterly report will, among other things, review the initial months of the ADER pilot project and identify any early issues that may need to be addressed, as well as a look forward to Phase 2 of the pilot project.

Respectfully submitted,



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