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HGP Storage, LLC
3702 Fairmount St
Dallas, TX 75219

Chairman Thomas J. Gleeson
Commissioner Lori Cobos
Commissioner Jimmy Glotfelty
Commissioner Kathleen Jackson

Public Utility Commission of Texas
1701 N. Congress Avenue
Austin, TX 78711

Re: Project No. 54224 – Cost Recovery for Service to Distributed Energy Resources (DERs)

Dear Chairman Gleeson and Commissioners,

HGP Storage, LLC, one of the first battery developers in the ERCOT market, received a waiver to M-A092619-01 Operations in 2019, marking our early commitment to enhancing Texas's energy infrastructure through Distributed Energy Storage Resources (DESRs). We are writing to express our serious concerns regarding the ongoing discussions in Project No. 54224, particularly regarding the cost recovery mechanisms both proposed and enacted by Transmission and Distribution Service Providers (TDSPs) such as Oncor Electric Delivery Company, CenterPoint Energy Houston Electric, and AEP Texas.

At the forefront of our concerns is the recent enactment of House Bill 17 (2021), which significantly impacts the regulation of utility services and infrastructure based on the energy source. Section 181.903 of the Utilities Code, introduced by HB 17, explicitly prohibits regulatory authorities from adopting or enforcing measures that discriminate against utility services or infrastructure based on the type or source of energy delivered to the end-use customer. This legislation serves as a cornerstone for ensuring a fair and competitive energy market in Texas, preventing any utility or regulatory body from favoring one energy source over another.

The current proposals by some TDSPs to impose additional distribution service tariff charges on DESRs during charging operations directly conflict with the mandates of Section 181.903. By treating DESRs differently from transmission-level energy storage resources without justifiable cause, TDSPs are engaging in discriminatory practices that Section 181.903 expressly forbids. This not only undermines the economic viability of DESRs but also contravenes state law designed to promote equitable treatment of all energy sources.

Non-compliance with Section 181.903 carries significant legal ramifications. The Public Utility Commission of Texas must adhere to the provisions of Section 181.903, ensuring that no utility service or infrastructure is unfairly penalized based on its energy source. The proposed cost recovery mechanisms by TDSPs, which impose double charging and discriminatory tariffs on DESRs, are not only economically unsound but also legally impermissible under Section 181.903. Specifically, HB 17 amended Chapter 181 of the Texas Utilities Code, adding Section 181.903 to explicitly restrict such discriminatory practices. Failure to align with the Code could result in legal challenges that may delay or derail the Commission's efforts to modernize Texas's energy grid.

Beyond the legal framework, wholesale distribution service tariff charges on DESRs during charging are both discriminatory and economically unsound. These charges unjustly penalize DESRs by treating them differently from transmission-level energy storage resources, despite both providing critical services to the ERCOT grid. As New Leaf Energy has pointed out, these discriminatory practices, if left unaddressed, will significantly undermine the economic viability of DESRs, jeopardizing their ability to contribute meaningfully to Texas's reliability and resiliency goals. This is particularly concerning given the growing need for firm, dispatchable resources in ERCOT.

Moreover, wholesale distribution service tariff charges on DESRs leads to triple charging for the same service. When a DESR charges, it pays for the use of the distribution system (which it helped finance through CIAC,) and when it discharges, the distribution utility charges again for delivering that energy to end-users. This results in an unfair cost burden on DESR developers and shifts costs inappropriately onto us, despite the fact that DESRs provide significant benefits to the grid, such as congestion relief during peak hours.

New Leaf Energy has highlighted the importance of DESRs in charging during off-peak hours, typically at night when energy prices are low and congestion is minimal. By charging during these periods and discharging during peak times, DESRs help to alleviate coincident peak demand, reduce congestion, and defer costly infrastructure upgrades. This results in overall lower system costs and enhanced grid reliability. Additionally, the current flat-rate structure proposed by TDSPs fails to account for these benefits. Charging a flat \$/kW-mo rate for the highest monthly non-coincident peak demand does not reflect the true impact or value of DESR operations. Batteries that charge off-peak should not be subject to the same distribution charges as those that contribute to peak demand, and the Commission should recognize this distinction in its cost recovery rules.

We also strongly support the recent recommendations by Commissioner Jimmy Glotfelty in your August 28, 2024, memorandum. Your call for a clear, uniform statewide policy that removes barriers to entry and encourages the deployment of distributed resources is crucial for the future of DESRs in Texas. We fully endorse the proposal to provide an interconnection allowance for distributed generation and storage resources, similar to what was recently done for transmission interconnections. This approach, along with a detailed estimate of interconnection costs and the ability for developers to contest these costs, would provide the much-needed clarity and fairness in cost allocation that our industry requires.

The Commission has an opportunity in Project No. 54224 to set clear, fair, and transparent standards for TDSP cost recovery related to DESRs. We strongly urge the Commission to reject the current regime at

Oncor and proposals from other TDSPs, which appear more focused on protecting their own interests than on supporting the development of critical energy storage infrastructure. Instead, we recommend the adoption of policies that recognize the unique value that DESRs bring to the grid, including their role in mitigating peak demand and their economic benefits from off-peak charging. These resources should not be subjected to unfair financial burdens or unnecessary delays, which is the current status quo.

In conclusion, HGP Storage, LLC respectfully requests that the Public Utility Commission of Texas take decisive action to establish clear and equitable rules for TDSP cost recovery related to DESRs, fully aligning with the mandates of the Texas Utilities Code. Additionally, the senior management of the TDSPs must address the systemic issues of "kingdom building" in their rate groups. We can confidently write that all stakeholders in ERCOT have experienced seemingly capricious decisions and opaque changes in "policy" by unchecked employees at TDSPs.

Thank you for your consideration of our comments. We are available to discuss these issues, with documentation, further at your convenience.

Respectfully,

A handwritten signature in black ink, appearing to read 'G. Forero', with a stylized flourish at the end.

Gregory A. Forero
President
HGP Storage