Filing Receipt

Filing Date - 2024-09-30 08:50:19 AM

Control Number - 54224

Item Number - 33

PROJECT NO. 54224

COST RECOVERY FOR SERVICE TO DISTRIBUTED ENERGY RESOURCES (DERS)	§ § § §	**PUBLIC UTILITY COMMISSION OF TEXAS**

HUNT ENERGY NETWORK L.L.C. COMMENTS

Hunt Energy Network, L.L.C. ("HEN") submits the following comments in response to the Public Utility Commission of Texas ("PUCT" or "Commission") Staff's request for comment on the Cost Recovery for Service to Distributed Energy Resources – DER Interconnection Allowance dated September 9, 2024.

Introduction

HEN, through its affiliate HEN Infrastructure, L.L.C., has 28 operating 9.9 MW battery energy storage resources ("ESRs") located throughout the ERCOT region that are interconnected at distribution voltage. These facilities are ERCOT-registered Distribution Energy Storage Resources ("DESRs") that provide the same Energy and Ancillary Service products to the ERCOT system as transmission-connected ESRs. HEN has an additional four 9.9 MW DESRs that are still under construction and expected to be completed by first quarter of 2025. HEN has paused further development of any additional DESRs until the Commission establishes its policy regarding the charges that Distribution Service Providers ("DSPs") can impose on DESRs.

DESRs compete every day in the ERCOT market with transmission-interconnected ESRs, as well as other power generation companies ("PGCs"), to provide Ancillary Services and Energy dispatched by ERCOT through SCED. Yet, the Commission has not established a comparable policy for the interconnection and cost treatment of DESRs with their competitors in two fundamental respects. First, with the Commission's recent adoption of 16 Tex. Admin. Code ("TAC") §25.195 in Project No. 55566, *Generation Interconnection Allowance*, the Commission created a meaningful interconnection allowance for transmission-connected Generation Resources, including transmission-connected ESRs.[1] Distribution-connected Resources, including Distribution Generation Resources ("DGRs") and DESRs, on the other hand, do not receive an interconnection allowance from most interconnecting utilities and instead must pay

[1]Before the adoption of 16 TAC §25.195, transmission-connected PGCs did not pay any of the utility's interconnection costs, all of which was entirely recovered by the utility through the Transmission Cost of Service ("TCOS)".

substantial interconnection charges to the DSP through Contribution In Aid of Construction ("CIAC") charges.[2]

Second, many DSPs have begun charging DESRs monthly tariffed charges for wholesale transmission service provided at distribution voltage. No other Generation Resource or ESR is charged for wholesale delivery service. These tariffs impose significant costs on DESRs for wholesale delivery service and create and unlevel playing field for DESRs vis a vis their competitors.

The lack of comparable treatment between Generation Resources and ESRs based solely on the voltage at which they interconnect creates significant competitive disadvantages for distribution-connected Resources and is not consistent with the bedrock policy in PURA of non-discriminatory open access for all power generation companies.[3] HEN therefore urges the Commission to establish clear policy in this Project to address these two issues in a manner that is comparable for all Resources and to incorporate that decision into the interconnection rule for DERs that is anticipated to be published for comment in Project No. 54223, *Technical Requirements and Interconnection Processes for Distribution Energy Resources (DERs).*

Responses to Questions

Question 1: Can the Commission implement the proposed standard distribution resource interconnection allowance without explicit statutory language authorizing such an allowance?

Yes. The Commission has broad statutory authority under PURA §35.001 – 35.006 to order a utility (expressly including a cooperative or municipally-owned utility) to provide wholesale transmission access, and to establish the terms and conditions for such wholesale transmission service. Importantly, these same provisions of PURA apply to Resources that are delivering power into the grid through distribution facilities, such as DESRs. The definition of "transmission service" in PURA §31.002(20) (used throughout PURA Chapter 35) expressly provides that "transmission service" includes "transmission over distribution facilities."[4]

The Commission exercised this broad authority when it first adopted the wholesale transmission access rules for transmission-connected resources (16 TAC§§ 25.191-203). When these rules were first

[2] Oncor Electric Delivery Company treats DESRs as load and provides its standard load interconnection allowance to DESRs, but does not provide an allowance for DGRs.

[3] See PURA §§ 35.001 – 35.008 and PURA §31.002(20), defining "transmission service" as including "transmission over distribution facilities."

[4] *See* 16 TAC § 25.5(139)-(140); PURA § 31.002(20).

adopted over twenty years ago, the Commission consciously developed a series of wholesale policies to buttress the reliability of the electric grid by encouraging the development of competitive generation resources. These policies included the standardization of the transmission-level generation interconnection process, imposition of uniform interconnection timelines for the utilities, development of the criteria to allocate capital construction costs (including the requirement of a generator to provide financial security), and adoption of the postage-stamp rate for transmission cost allocation. To this day—and due largely to these sound policy decisions—the ability to add both competitive and regulated infrastructure in Texas on the transmission system is considered to be among the most streamlined and straightforward in the nation, if not the world. It is now time to apply those same principles, and the same broad statutory authority, to the distribution system to ensure that resources connected at distribution voltage can fairly compete in providing services to the ERCOT system.

The Commission exercised its broad authority over transmission access when the rules were first adopted to provide for an unlimited generation interconnection allowance for transmission-connected resources, for over 20 years until the recent legislative amendments to PURA §35.004(d-1).[5] The Commission can exercise that same broad authority now to establish a generation interconnection allowance for PGCs that are receiving transmission service at distribution voltage.

Further, the Commission also has broad ratemaking authority under PURA § 36.001 et seq. It has used this authority in the past to establish construction allowances in many, if not all, utility tariffs for commercial and industrial customers. Determining the costs that a utility can charge (or not charge) a customer is clearly within the Commission's broad ratemaking authority.

Question 2: What are the advantages and disadvantages of the proposed standard distribution resource interconnection allowance? Is a standard distribution resource interconnection allowance a viable option to move forward? If not, why?

The proposed standard distribution resource interconnection allowance has multiple advantages. As explained above, providing an interconnection allowance creates parity between transmission-connected and distribution-connected resources. An allowance also encourages the developer to site the project within

[5] Project No. 23157, *Rulemaking Proceeding to Revise PUC Transmission Rule Consistent with the New ERCOT Market Design,* Order Adopting New and Amended Transmission Rules and Repealing Certain Rules Consistent with the New ERCOT Market Design as approved at the May 24, 2001 Open Meeting.

a reasonable distance from the interconnecting substation, minimizing the risk of additional infrastructure burdens.

Comparable treatment with transmission-interconnected resources is critical for encouraging investment, particularly because distribution connected resources provide additional system benefits by being further distributed across the system and located closer to the point of consumption. HEN encourages the commission to allow TDSPs and developers the flexibility to optimally site the resource such that it is of benefit to both the wholesale market as well as the customers connected to that feeder, particularly during system emergencies. This collaboration ultimately accrues into a more resilient system but is also an efficient use of capital.

HEN also supports a standardized approach to setting the amount of the allowance, rather than permitting each utility to set its own allowance. The standardized approach creates regulatory certainty for developers across utility service areas. As part of this standardized approach, if the utility determines that the allowance is exceeded, and the DGR/DESR is required to pay a CIAC charge for the amount exceeding the allowance, the Commission should require utilities to provide a detailed breakdown of the interconnection cost estimates to the developer. It has been HEN's experience that the utilities provide very little to no detail in their CIAC cost estimates, which makes it impossible for the developer to know whether the cost estimates are reasonable. Creating a transparent CIAC process is thus essential to ensure costs are not inflated to exceed the allowance.

Question 3: At what amount should a standard distribution resource interconnection allowance be set? Should the applicability or amount of the allowance vary based on the size of the resource?

The proposed $1.5M allowance is a reasonable amount given HEN's interconnection experience over the past few years. Similar to the allowance set by the Commission in Project No. 55566 for transmission-connected resources, HEN believes that the distribution interconnection allowance should be sized sufficiently to ensure that most DGR or DESR projects are covered by the allowance while incentivizing projects to locate at points in the distribution system where the grid and end use customers can extract the maximum benefit from the resource (that is, close to the utility substations).[6] Toward that end, the interconnection allowance should include consideration and installation of the infrastructure that will

[6]Project No. 55566, *Proposal for Adoption of amendments to 16 TAC §25.195*, p. 6.

enhance TDSP resilience benefits by interconnecting the DGR at distribution voltage. HEN believes that the proposed allowance amount of $1.5M appropriately strikes this balance.

Just as with the transmission-connected generation interconnection allowance, the allowance should not be set based upon the size of the resource, but rather based upon the primary reason for the interconnection. If the benefit of the interconnection accrues primarily to the ERCOT wholesale market and a broad set of customers connected to the distribution feeder, then the DGR/DESR should receive the benefit of the allowance. If the generation is not a registered Generation Resource or Energy Storage Resource (i.e. the primary purpose of the generation is not to provide energy and ancillary services to the ERCOT market), then the generation facility should not be considered for the allowance.

It is also important to recognize, that for DESRs, the interconnection allowance is only one piece of the cost puzzle. The recurring monthly tariff charges imposed by utilities also have impacts that are detrimental to the long-term viability of projects. These tariffs are technologically discriminatory by only impacting distribution-connected energy storage resources (DESR) while other interconnected technologies are not impacted.

Question 4: How should the interconnection costs covered by such an allowance be reallocated? What effects would this have on other customers?

The Commission has several options to address the recovery of the interconnection allowance. First, the Commission could decide that these costs should be treated as transmission costs. That is, these are costs incurred by the utility to provide "transmission service", which is statutorily defined to include "transmission over distribution facilities", and therefore should be recovered through the Transmission Cost of Service ("TCOS"). This approach would recognize that Resources which are dispatched by ERCOT and can provide ancillary services benefit the ERCOT grid in the same way as transmission-connected resources providing the same services and thus the distribution interconnection allowance should also be recovered from all ERCOT customers. This is consistent with the fundamental policy underlying TCOS and the postage stamp methodology. That is, rather than charge each wholesale generator for wholesale delivery service (which would get passed on to retail customers in addition to the retail delivery charges they already pay), the Commission determined that only retail load should pay for delivery charges, and they should pay only once. By the same token, the utility should be paid for delivery charges, and paid only once. It would

not be fair to customers for the utility to be paid both for wholesale delivery and for retail delivery of the same energy.

Another approach is to recover the costs associated with the generation allowance similar to the way the utility recovers its costs associated with similar allowances. For example, if a large load is interconnecting, it receives an interconnection allowance from the utility and amounts above the allowance are paid through a CIAC charge.[7] This is a recognition that some costs are directly assigned to the customer (through the CIAC payment), while others (the costs associated with the allowance) are included in the utility's cost of service, which are allocated to all of the utility's customers through the utility's tariffed rates. The same concept could be applied for a generation interconnection allowance, particularly if the utility imposes wholesale delivery tariffs.

Question 5: Should a standard distribution resource interconnection allowance also apply in areas served by municipally owned utilities and electric cooperatives?

The standard distribution resource interconnection allowance should apply to all service areas within the ERCOT region, including in electric cooperative and municipally-owned utility service areas. PURA and the Commission's rules expressly state that "an electric cooperative that has not opted for customer choice or a municipally-owned utility that has not opted for customer choice shall provide wholesale transmission service at distribution voltage when necessary to service a wholesale customer."[8] Further, as described above, "transmission service" is defined in PURA §31.001(20) to include "transmission over distribution facilities." Chapter 35, Subchapter A of PURA establishes the transmission service requirements, and PURA §35.001 clearly states that electric cooperatives and municipally-owned utilities are "utilities" for purpose of this subsection of PURA, which includes the right of the Commission to establish the terms and conditions of wholesale transmission service by utilities. The Commission addressed this jurisdiction issue when it adopted 16 TAC §25.191, stating:

> "Because wholesale transmission service at distribution voltage is designated as a wholesale service and is included in the PURA definition of transmission service, the commission has sole jurisdiction over the rates, terms of access, and conditions for such service within

[7] *See* e.g. Oncor Electric Delivery Tariff for Retail Service, Section 6.1.3.2.6.1.
[8] PURA §39.203(b); 16 TAC §25.191(d)(2).

> ERCOT, pursuant to PURA Chapter 35, Subchapter A. Moreover, PURA §41.055 specifically excludes wholesale transmission rates, terms, and conditions set by the commission from an electric cooperative's jurisdiction."[9]

Similarly, PURA §40.055 specifically excludes wholesale transmission rates, terms of access, and conditions for wholesale transmission set by the commission from a municipally-owned utility's jurisdiction. Thus, the Commission clearly has jurisdiction over the cooperatives and municipally-owned utilities as it relates to establishing the terms and conditions of wholesale access over distribution facilities and an interconnection allowance is one such term and condition.

The Commission should assert its jurisdiction and apply the interconnection allowance in all service areas within ERCOT. Both DGRs and DESRs are SCED-dispatched by ERCOT and can provide ancillary services to the ERCOT grid, and thus should be encouraged at a time when demand is growing and additional dispatchable resources are needed. Further, as ERCOT explained in a previous filing in this Project, DGRs and DESRs are a completely dispatchable resource, capable of resolving congestion similarly to transmission connected resources.[10] Depending on the system demand, DGRs are capable of offsetting load within the immediate distribution system, reducing demands on the transmission system and reallocating the energy to other areas of need. Additionally, DGRS and DESRs can provide other resilience benefits that transmission resources are unable to provide. By the sheer nature of the resources, they are distributed across the ERCOT system and can blunt the impact of the loss of a large, single contingency resource. The benefits of DGRs accrue system-wide and therefore uniform rules should be established across ERCOT for the interconnection and cost treatment of these Resources.

Question 6: If a standard distribution resource interconnection allowance should apply in areas served by municipally owned utilities and electric cooperatives, does the Commission need to develop a wholesale cost recovery mechanism to address the costs associated with this allowance? What factors should the Commission consider in developing such a mechanism? Separate from his primary policy proposal,

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[9] Project No. 23157, *Rulemaking Proceeding to Revise PUC Transmission Rule Consistent with the New ERCOT Market Design*, Order Adopting New and Amended Transmission Rules and Repealing Certain Rules Consistent with the New ERCOT Market Design as approved at the May 24, 2001 Open Meeting, p. 18.

[10] Project No. 54224; ERCOT response to Commission Staff Questions filed Nov. 17, 2022.

Commissioner Glotfelty's memo also noted that a resource receives different treatment based on whether it interconnects at transmission or distribution voltage.

HEN believes that is unnecessary to develop additional wholesale cost recovery mechanisms to address this additional cost allowance and that the existing TCOS recovery mechanism can be utilized to permit recovery of the interconnection allowance. As explained in our answer to Question 4, it is long-standing Commission policy that the costs of open-access transmission service for generation resources (which includes service provided at distribution voltage), are recovered from all retail customers within ERCOT – retail customers pay only once for delivery service and utilities may only charge once for delivery service Utilities are functionalizing the cost of providing wholesale transmission service to DGRs and DESRs to a "distribution," rather than a "transmission," function, and thus utilities are not including those costs in their transmission cost of service[11]. Instead, those costs are being assigned directly to DESRs, which discriminates against distribution-interconnected resources vis a vis their transmission-connected competitors. HEN would propose that 16 TAC § 25.192 could be amended to state that the costs incurred by a utility to interconnect and serve a DGR or DESR should be functionalized to the transmission function, and the capital costs and related rate of return, expenses, depreciation, and property, state and federal taxes, etc. be included in TCOS.

Alternatively, the Commission could also utilize the same cost recovery process for the generation interconnection allowance as it does for load interconnections – the load interconnection allowance is recovered from all customers as a part of the utility's rates, which the amounts in excess of the allowance are recovered directly from the customer in the form of a CIAC charge. Similarly, the generation interconnection allowance is recovered from the utility's customers while amounts in excess of the allowance are recovered directly from the generator in the form of a CIAC charge.

Question 7: What disparities exist between distributed generation and energy storage resources interconnecting at transmission and distribution voltages?

There are two fundamental cost disparities. The first cost disparity is the application of a standard generation interconnection allowance, which impacts both DGRs and DESRs. Transmission-connected Generation Resources and ESRs each receive a substantial interconnection allowance. This allowance was

unlimited until recent amendments to PURA and the Commission's adoption of the amendments to 16 TAC §25.195. In contrast, most utilities do not provide any interconnection allowance for distribution-connected Resources and instead require these Resources to pay an up-front CIAC covering the utility's costs of interconnection. In HEN's experience, these CIACs can range from $400,000 to several million dollars, depending upon the utility and its interconnection requirements.

The second cost disparity impacts only DESRs. Many of the utilities are imposing, or requesting approval to impose, monthly wholesale delivery charges on DESRs. [12] These tariffed rates, which are applied when the DESR is charging the battery, can be extremely expensive, often exceeding the entire capitol cost of the DESR facility over a ten year operating period.[13] DESRs are the only Resources that are required to pay these wholesale delivery charges – they are not charged to transmission-connected ESRs or any other Generation Resource. This disparate treatment of DESRs places these resources at a competitive disadvantage and can make these resources uneconomic to build and operate.

A storage facility serves as a way station for electrons generated within the ERCOT grid—a temporary stop between the generating station and the consuming load, much like an interstate highway rest area. The energy received when the battery is charging is merely held for a period of time and then that same energy is discharged when it is needed; no consumption occurs apart from station power (HVAC, lighting, etc.), which is appropriately billed as retail consumption to energy storage facility owners.

This essential fact has been recognized by the Commission for ESRs interconnected at transmission voltage and remains true regardless of whether the storage facility is interconnected at transmission or distribution voltage. It is therefore not reasonable or consistent with PURA Chapter 35 and the Commission's regulations to treat DESRs differently from transmission-connected ESRs or other generation resources with which DESRs compete on a daily basis. HEN has briefed this issue in previous comments filed in this proceeding and in multiple litigated dockets, and strongly encourages the Commission to make a policy decision in this Project regarding the appropriateness of imposing wholesale delivery charges on DESRs.

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[12] Oncor Electric Delivery Company has implemented a Wholesale Distribution Tariff applicable to DESRs. AEP Texas is requesting approval of a similar tariff as part of its rate case proceeding in Docket No. 65165, Application of AEP Texas for Authority to Change Rates. CenterPoint Energy proposed a similar tariff in its rate proceeding in Docket No. 56211. In addition, multiple electric cooperatives have adopted similar tariffs.

[13] See, e.g. Direct Testimony of Pat Wood III in Docket No. 53601, Application of Oncor Electric Delivery Company for Authority to Change Rates, p. 4.

Question 8: What, if any, action should the Commission take to address these disparities in a uniform fashion?

HEN strongly encourages the Commission to establish a standard policy regarding these two cost disparity issues in this Project and direct Commission Staff to incorporate those policy decisions into a Proposed Rule for Publication in Project No. 54233, which addresses the interconnection process for DGRs and DESRs ("Proposed Rule").

Regarding the interconnection allowance issue, the Commission should adopt the proposed $1.5M standard interconnection allowance for distribution-connected DGRs and DESRs that are registered Resources and which, provide SCED-dispatched energy and ancillary services to the wholesale market, just like their transmission-connected competitors. As part of this policy decision, the Commission should adopt requirements for detailed, transparent cost estimates for the interconnection costs. HEN has often received from the utility only a total invoiced amount for the CIAC is it now required to pay, with very little to no detail on how the cost was calculated. If the allowance is exceeded, and a CIAC is required, it should be accompanied by a detailed cost estimate.

Regarding the wholesale distribution service tariffs that utilities are adopting for DESRs, HEN urges the Commission to reject these tariffs and treat distribution-connected resources comparably with transmission-connected ESRs. However, if the Commission decides that a monthly tariffed rate should be imposed on DESRs, then HEN strongly urges the Commission to establish a standard tariff cost allocation and rate design approach that would be incorporated into the Proposed Rule.[14] This would reduce the litigation required for each utility tariff compliance filing, standardize the treatment of DESRs across utility service areas, and provide the regulatory certainty that DESR developers need to continue to invest in distributed resources.

[14] If the Commission chooses to go this route, HEN will provide further input on the specific types of clarity needed, gleaned from our experiences to date. These include identification of what cost accounts should be included, whether it flows from the placement of DESRs into a separate rate class vs a revenue credit back to distribution customers, whether DESRs that do not charge at system peak or net peak are assessed differently, whether multiple rates based on distance from a substation would be allowed, and other issues.

Finally, with both the interconnection allowance and the monthly tariffed charge issues, HEN asks that DGRs or DESRs that have been built during this period of regulatory uncertainty and are currently operating receive the same regulatory treatment with respect to interconnection allowances. If an interconnection allowance is established (and especially if an allowance is created in conjunction with a policy permitting wholesale delivery tariffs), operating DESRs that paid full CIAC charges should receive credits to reflect the allowance. HEN and other early investors in DESRs should not be worse off with the Commission's policy clarifications in this Project.

CONCLUSION

HEN appreciates the opportunity to offer these comments and is available to answer questions the Commission may have.

Respectfully submitted,

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PROJECT NO. 54224

HUNT ENERGY NETWORK L.L.C. EXECUTIVE SUMMARY OF COMMENTS

Distribution-connected Resources (DGRs and DESRs) compete every day with transmission-interconnected Resources to provide Ancillary Services and SCED-dispatched Energy to the ERCOT market, but distribution-connected Resources are not treated comparably to their transmission-connected competitors in two key respects:

- Transmission-connected Resources receive a standard interconnection allowance while distribution-connected Resources do not and instead must pay substantial CIAC charges to the DSP.
- Many DSPs are charging distribution-connected ESRs ("DESRs") monthly tariffed rates for wholesale transmission service provided at distribution voltage. No other Generation Resource or ESR is charged for wholesale delivery service. This disparate treatment of DESRs places these resources at a competitive disadvantage and can make these resources uneconomic to build and operate.

The lack of comparable treatment between Generation Resources and ESRs based solely on the voltage at which they interconnect creates significant competitive disadvantages for distribution-connected Resources and is not consistent with the bedrock policy in PURA Chapter 35 of non-discriminatory open access for all power generation companies.

Standard Interconnection Allowance

- HEN supports a standard interconnection allowance of $1.5M for DGRs and DESRs that are registered Resources with ERCOT, providing SCED-dispatched Energy and Ancillary Services to the ERCOT market.
- The standardized allowance provides regulatory certainty and comparable treatment of distribution-connected resources across utility service areas.
- The amount of the allowance appropriately incentivizes locating DGRs/DESRs close to utility substations that have capacity to accommodate the interconnection.
- The Commission has broad statutory authority under PURA Chapter 35 to order a utility (expressly including a cooperative or municipally-owned utility) to provide wholesale transmission access, and to establish the terms for such wholesale transmission service, expressly including service over distribution facilities. Establishing interconnection allowances is within this broad authority, as well as within the Commission's broad ratemaking authority under PURA Chapter 36.
- Because the allowance is a cost of providing "transmission service" as defined by PURA, the costs of allowance could be recovered through the Transmission Cost of Service ("TCOS"). This approach is reasonable because all customers benefit from the energy and ancillary services offered by DGRs/DESRs to the ERCOT market.
- If an interconnection allowance is established, operating DESRs that paid full CIAC charges should receive credits to reflect the allowance. HEN and other early investors in DESRs should not be worse off with the Commission's policy clarifications in this Project.

Monthly Wholesale Distribution Delivery Charges

- HEN urges the Commission to treat distribution-connected resources comparably with transmission-connected ESRs and establish a policy to reject these monthly charges. If the Commission decides that a monthly tariffed rate should be imposed on DESRs, then the Commission should establish a standard tariff cost allocation and rate design approach that would be incorporated into the Proposed Rule. This would reduce the litigation required for each utility tariff compliance filing, standardize the treatment of DESRs across utility service areas, and provide the regulatory certainty that DESR developers need to continue to invest in distributed resources.