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PROJECT NO. 54224

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

COMMENTS OF
TEXAS ELECTRIC COOPERATIVES, INC.

Texas Electric Cooperatives, Inc. (TEC) respectfully submits these comments in response to the Public Utility Commission of Texas (Commission) questions regarding a potential distributed energy resource (DER) interconnection allowance applicable to generation and energy storage resources interconnected at distribution voltage.¹ TEC is the statewide association of electric cooperatives operating in Texas, representing its members except as their interests may be separately represented.² The request for comments directs responses to be filed by September 30, 2024. These comments are timely filed.

I. Responses to Commission Questions

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

No. Shifting costs from companies to ratepayers without statutory authorization is inappropriate. PURA § 35.004(d-1), which requires the Commission establish a reasonable allowance for generation interconnection costs, explicitly cites interconnections to the transmission system at transmission voltage. As discussed below, there is no existing statutory authorization for establishing a similar allowance at the distribution level. Rather, the statute assigns cost responsibility directly to the interconnecting entity.

The Commission must comply with the following statutory mandate:

When an electric utility, electric cooperative, or transmission and distribution utility provides wholesale transmission service within ERCOT at the request of a third party, the commission shall ensure that the utility recovers the utility's reasonable

¹ Questions Concerning Standardized Distribution Interconnection Allowance for Comment (Sep. 9, 2024) (Commission Questions).

² TEC's 76 members include distribution cooperatives that provide retail electric utility service to approximately 5,000,000 consumers in statutorily authorized service areas that encompass more than half of the total area of the state. TEC's G&T members generally acquire generation resources and power supply for their member distribution cooperatives and deliver electricity to them at wholesale.

costs in providing wholesale transmission services necessary for the transaction from the entity for which the transmission is provided so that the utility's other customers do not bear the costs of the service.³

Accordingly, the Commission has used the postage stamp method to establish a transmission-owning utility's rate to recover the utility's transmission costs from all of ERCOT.⁴

In 2023, the legislature developed a process to essentially cap the amount of generation interconnection costs that could be included in wholesale transmission rates that are paid by all of ERCOT, requiring the generator to directly pay costs above an allowance set in rule for interconnections at transmission voltage.⁵ PURA § 35.004(d-1) states in relevant part: "The commission by rule shall establish a reasonable allowance for *transmission-owning utility costs* incurred to interconnect generation resources *directly with the ERCOT transmission system at transmission voltage*."⁶ Importantly, as is clear from the emphasized language, this allowance scheme is restricted to transmission-owning utilities, transmission voltage assets, and resources interconnected directly with the ERCOT transmission system. Moreover, the transmission costs associated with a generation interconnection still are not borne solely by the utility's other customers. The transmission costs are either uplifted to ERCOT or paid directly by the generator. The costs are not paid by the utility's other customers, consistent with the requirement in PURA § 35.004(c).

Although the legislature knew how to create an allowance scheme, it specifically did not do so for distribution voltage assets and distribution interconnections. This makes sense because such an allocation would directly conflict with PURA § 35.004(c). The amount of distribution costs covered by an allowance would be borne by the utility's other customers, not ERCOT ratepayers or the generator that caused the costs. Distribution voltage assets are, by definition, not transmission voltage assets, and cannot be included in a utility's transmission cost of service (TCOS) for purposes of recovery from ERCOT ratepayers.⁷ To avoid conflict with PURA § 35.004(c), the legislature would have to create a scheme in which certain distribution voltage costs could be uplifted to ERCOT ratepayers. The Commission does not have statutory authority to authorize such an allowance if it means a utility's other customers will bear the cost of providing

³ PURA § 35.004(c).

⁴ PURA § 35.004(d).

⁵ PURA § 35.004(d-1).

⁶ Tex. Util. Code § 35.004(d-1) (emphasis added).

⁷ 16 Tex. Admin. Code § 25.192(c).

wholesale transmission service at distribution voltage to a DER. For additional discussion on the statutory limitations of this proposal as it relates to electric cooperatives, see TEC's response to Question 5.

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?

TEC assumes an allowance would provide an advantage to private generation companies who will be able to pass on to ratepayers the costs they should otherwise incur. TEC sees no advantage for any other party. Rather, TEC sees disadvantages, including a shifting of costs, potentially a great deal of costs, to ratepayers. As explained previously by other parties, distribution resources do not provide the same system-wide benefit to ERCOT.⁸ Absent a legislative mandate, shifting costs to ERCOT ratepayers without a system-wide benefit is not consistent with cost-causation principles. As explained in response to Question 1, TEC asserts that a standard distribution interconnection allowance is not viable because it is not within the Commission's current statutory authority.

Additionally, a standard distribution interconnection allowance does not account for differences in distribution systems and cost variances depending on local system characteristics such as geography and local weather patterns. In particular, for cooperatives, standardizing the interconnection process undermines the ability of distribution cooperatives to tailor interconnection policies and pricing based on their local conditions. Each cooperative operates with unique grid characteristics, member-owner needs, and financial structures. The relative value or incentive of a standard allowance would vary depending on these factors.

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?

Under current law, a distribution interconnection allowance should not be established, nor should it replace the ability of a DSP to charge CIAC. If the Commission were to approve an allowance anyway, the amount of the allowance should be minimal to mitigate against cost-shifting to ratepayers for the benefit of a for-profit venture without an established system-wide benefit to ERCOT.

⁸ See Commission Staff Memo at 2 (Mar. 16, 2023) (summarizing comments in Docket No. 54224).

The allowance should not vary based on size of the resource because size of resource does not necessarily dictate the amount of distribution interconnection costs. The proximity to existing infrastructure, capacity of existing facilities, geography, and other circumstances of the distribution system play a significant role in distribution interconnection costs. Size of resource also does not necessarily indicate how the DER intends to participate in the market or the benefit it might be able to provide. The Commission should not attempt to develop rules that consider all these factors. Market forces should dictate to DERs where to seek interconnection in light of these factors and the potential to generate profits.

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

TEC questions the ability and prudence of creating an allowance for DER interconnection costs. There is no statutory basis for redefining distribution assets as transmission assets. If the Commission pursues a policy of interconnection allowances, it is imperative that a utility's distribution ratepayers do not subsidize the costs created by the interconnection and operation of a DER. The Commission cannot legally require the smaller pool of a DSP's ratepayers to pay such costs,⁹ and cost-causation principles dictate that the DER pay for the costs it causes. Allocating at distribution would force the distribution service customers of the connecting utility to pay for the DER's interconnection costs. A distribution system with a large amount of DERs could disproportionately affect the local distribution-level consumers, even though the DERs are supposedly for the benefit of the system at large. Cooperative consumers will be harmed by such costs if they are not properly allocated. Cooperatives, in comparison to their investor owned and municipal utility counterparts, have relatively low meter density. With fewer consumers on which to level the costs of an interconnection allowance, cooperative consumers will be forced to pay a greater amount per interconnection than consumers on other distribution systems, with no increased benefit compared to other consumers.

Accordingly, if the Commission creates an allowance, the allowance burden should be spread among all ERCOT ratepayers through a streamlined cost recovery process—a process that does not exist today. The challenge to this approach is that many smaller electric cooperatives and MOUs do not own transmission, do not have a TCOS or wholesale transmission rate, and do not

⁹ PURA § 35.004(c).

regularly interact with the Commission. The Commission will need to develop a process similar to the current TCOS mechanism to review DER interconnection costs to be uplifted to ERCOT. This would significantly increase the regulatory burden on the Commission and DSPs, and ultimately increase the costs to be paid by ERCOT ratepayers. While DERs will benefit, they will benefit at the cost of all other parties in the market. Such a policy should be implemented only if there is evidence of significant benefits to the entire market.

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

No. While the Commission has jurisdiction over wholesale transmission rates and service to the extent provided in Subchapter A, Chapter 35 of PURA,¹⁰ an electric cooperative's board has exclusive jurisdiction to set all terms of access, conditions, and rates applicable to distribution delivery services and to manage and operate the electric cooperative's utility systems.¹¹ And while the Commission may establish terms and conditions, but not rates, for open access to distribution facilities, this authority applies only with respect to electric cooperatives providing customer choice.¹² Rather than imposing uniform interconnection standards on cooperatives and MOUs, the Commission may consider adopting best practices that establish a framework for cooperatives and MOUs to best position their systems for use by DERs while acknowledging the unique differences in configuration, capacity, and demographics on each distribution system.

MOUs and electric cooperatives have an obligation to provide wholesale transmission service at distribution voltage (WTSDV),¹³ and in return the Commission has an obligation to make sure DSPs can recover their costs for providing such service.¹⁴ In 2001, when it adopted 16 Tex. Admin. Code § 25.191(d), the Commission determined that the appropriate mechanism by which to navigate the jurisdiction of an electric cooperative board and of the Commission was through a WTSDV tariff.¹⁵ As explained by the Third Court of Appeals, "the Commission may not initially set a rate or frame a tariff for an electric cooperative;" rather, the Commission "may review for approval a tariff prescribed initially by the cooperative to determine if its contents are

¹⁰ PURA § 41.004(1).

¹¹ PURA § 41.055(1), (6).

¹² PURA § 41.004(4).

¹³ PURA § 39.203(b).

¹⁴ PURA § 35.004(c).

¹⁵ *Rulemaking Proceeding to Revise PUC Transmission Rules Consistent with the New ERCOT Market Design*, Project No. 23157, Order at 22 - 28 (May 24, 2001).

reasonable and consistent with the standards prescribed in [PURA §§ 35.003 and 35.004]: comparable prices and services, nondiscriminatory access, and protection against a utility's customers bearing transmission costs that should be borne by others."¹⁶

Requiring an electric cooperative to implement an allowance would be tantamount to the Commission setting a rate and framing a tariff for an electric cooperative in violation of PURA. PURA defines "rate" broadly to include:

- (A) any compensation, tariff, charge, fare, toll, rental, or classification that is directly or indirectly demanded, observed, charged, or collected by a public utility for a service, product, or commodity described in the definition of utility in Section 31.002 or 51.002; and
- (B) a rule, practice, or contract affecting the compensation, tariff, charge, fare, toll, rental, or classification.¹⁷

Requiring an electric cooperative to implement an allowance would be dictating a rule or practice to the electric cooperative regarding what and how to charge a distribution resource for the use of the electric cooperative's distribution system. PURA does not allow this.

The policy and statutory basis for the current mechanism of cost recovery remains unchanged. CIAC and WTSDV tariffs should continue to be used to charge DERs for interconnection and WTSDV service provided by electric cooperatives and MOUs. The Commission should not dictate an allowance that would have to be recovered through some other mechanism.

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

Given the proliferation of DER projects, sized at 9.9 MWs, despite any rule changes, it appears current policy favors connections at distribution voltage. Distribution-level resources tend to be less costly to study and interconnect than transmission-level resources, with certain additional

¹⁶ *Brazos Elec. Power Coop. v. Pub. Util. Comm.*, 101 S.W.3d 499, 509 (Tex. App.—Austin 2002, pct. denied).

¹⁷ PURA § 11.003(16).

studies required at the transmission level. Some TEC members estimate the full cost of studies for interconnection at transmission voltage to be roughly \$100,000.

If the Commission chooses to adopt an interconnection allowance policy applicable to cooperatives and MOUs, it will necessarily need to uplift the allowance costs to wholesale. Forcing local distribution customers to pay for DER interconnections could be devastating, considering the relatively small customer base in many of these service areas. Currently, cooperatives recover costs through CIAC and monthly WTSDV rates. TEC recommends this policy continue. For additional information, see TEC's responses to Questions 4 and 5.

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

Generation resources, including energy storage resources, interconnected at transmission voltage differ in numerous ways from similar resources interconnected at distribution voltage, including size, benefit provided to the ERCOT grid, ability to provide ancillary services, congestion relief, reliability benefits, and duration of availability. Many of these differences arise from the fact that the distribution system exists and operates for a different purpose than the transmission system. The distribution system serves end-use customers, while the transmission system transmits electricity from generators to the distribution system. For energy storage resources in particular, the impact on the distribution system is more significant due to reverse flows and the fact that storage resources are both loads and resources.¹⁸ These disparities have been discussed in detail by several parties in prior comments and are not restated here.¹⁹

From a cost allocation and recovery perspective, generators interconnected at transmission voltage must pay for step-up transformers and other protective equipment.²⁰ The interconnecting utility provides all other facilities necessary for the transmission interconnection, with transmission costs ultimately uplifted to ERCOT ratepayers through the TCOS mechanism or, for costs above the allowance, directly assigned to the generator.²¹ This cost allocation and recovery

¹⁸ Comments of Texas Electric Cooperatives, Inc. at 3 (Nov. 17, 2022).

¹⁹ See, e.g., Comments of Texas Electric Cooperatives, Inc. at 1-7 (Nov. 17, 2022); Texas Public Power Association's Response to Questions for Comment at 2-4 (Nov. 17, 2022); Lower Colorado River Authority's Response to Questions for Comment at 3-4 (Nov. 17, 2022); CPS Energy's Initial Responsive Comments in Project No. 54224 at 2-9 (Nov. 17, 2022); Joint TDUs' Responses to Commission Staff's Questions for Comment at 2-5 (Nov. 17, 2022).

²⁰ 16 Tex. Admin. Code § 25.195(f)(1).

²¹ 16 Tex. Admin. Code § 25.195(d)-(f).

mechanism is a function of the purpose and benefits of the transmission system, which benefits all end-use customers in ERCOT and, thus, is paid for by all end-use customers, regardless of location.

For DERs interconnected at distribution voltage, the costs cannot be recovered through the TCOS mechanism, because the distribution facilities do not qualify as transmission voltage assets eligible for inclusion in TCOS.²² DERs cause these costs, which have not been shown to benefit all of ERCOT and which cannot be borne by the utility's other customers.²³ DERs, therefore, must pay CIAC for interconnection costs and monthly rates established in a utility's WTSDV tariff.²⁴ Distribution rates are unique to each DSP to account for the varying characteristics of their respective systems and to ensure costs are recovered fairly.

While there are distinctions between generators interconnected at transmission versus distribution, these distinctions are appropriate given the differences in the resources, benefits provided, costs caused, recovery mechanisms, and systems to which they interconnect.

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

As explained in response to Question 7, the disparities between transmission interconnections and distribution interconnections are appropriate. PURA expressly recognizes these distinctions.²⁵ The Commission should not attempt to treat transmission and distribution in a uniform way. If the Commission desires to create some incentive for DER interconnections, it must at least consider: (1) the need for statutory authority for a distribution voltage interconnection allowance; (2) the limited authority over electric cooperatives and MOUs; (3) a streamlined mechanism to ensure that allowance costs can be uplifted to all ERCOT ratepayers, as opposed to the smaller pool of a DSP's retail customers; and (4) the transformers and protective equipment that DERs should be responsible for, similar to transmission-level resources.

²² 16 Tex. Admin. Code § 25.192(c)(1).

²³ PURA § 35.004(e).

²⁴ 16 Tex. Admin. Code § 25.191(d)(2)(A)-(C); *Rulemaking Proceeding to Revise PUC Transmission Rules Consistent with the New ERCOT Market Design*, Project No. 23157, Order (May 24, 2001).

²⁵ See, e.g., PURA §§ 35.004, 41.004(1), 41.055(1).

II. Conclusion

TEC appreciates the opportunity to provide comments in response to the request of Commission Staff and looks forward to working with Staff and the other stakeholders in this project.

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Respectfully submitted,



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Executive Summary

- 1) The Commission lacks the statutory authority to create an allowance for DERs to interconnect to the distribution system.
- 2) The costs of interconnection to the distribution system should be borne by the DER.
- 3) Any costs that are not borne by the DER should be uplifted to wholesale for recovery from all consumers in ERCOT.
- 4) The Commission lacks jurisdiction to impose on electric cooperatives or MOUs an interconnection allowance or standard interconnection costs or rules.
- 5) The disparities that exist between interconnections at transmission versus distribution exist for practical reasons and should remain. Interconnections at distribution should not be treated the same as interconnections at transmission.