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PROJECT NO. 54224

COST RECOVERY FOR SERVICE TO DISTRIBUTED ENERGY RESOURCES (DERS)	§ § §	PUBLIC UTILITY COMMISSION OF TEXAS
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**REPLY COMMENTS OF
TEXAS ELECTRIC COOPERATIVES, INC.**

Texas Electric Cooperatives, Inc. (TEC) respectfully submits these reply 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 reply comments to be filed by October 11, 2024. These reply comments are timely filed.

I. Alleged Discriminatory Treatment

Distributed energy storage resource (DESR) developers, consistently throughout the DER project process, have claimed that DESRs are treated in an unfair or discriminatory manner relative to storage resources connected directly at transmission voltage.³ Rather than being discriminatory, the current treatment of DESRs represents the true cost of connection to the distribution system and a level playing field considering the costs borne by generation or storage resources that connect directly to the transmission system.⁴ Resources connected at transmission pay for their own

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.

³ See Joint Responses to Commission Staff Questions of Hunt Energy Network, Jupiter Power and Broad Reach Power (Joint Storage Commenters) at 2 – 3 (Nov. 17, 2022); Hunter Energy Network L.L.C. Comments on at 5, 8-9 (Sept. 30, 2024); SMT Energy LLC Comments at 7-8 (response to Question 7) (Sept. 30, 2024); New Leaf Energy, Inc.'s Initial Comments on Commission Staff's Questions at 5 (Sept. 30, 2024); Responses to PUC Questions from HGP Storage LLC: Project 54224 at 3,4 (Sept. 30, 2024).

⁴ See Comments of Texas Electric Cooperatives, Inc. at 5 - 6 (response to Question 6) (Sept. 30, 2024) (TEC Comments); Oncor Electric Delivery Company LLC's Initial Response to Questions for Comment Concerning DERs Interconnection Allowance at 9 (Sept. 30, 2024) ("The distinction (but not a disparity) is that unlike DESRs, batteries on the transmission system do not use the DSP's distribution system, and instead they own their own distribution facilities at their own cost. Because transmission energy storage resources ("TESRs") do not use Oncor's distribution system, they are not charged by Oncor for the use of the distribution system. On the other hand,

distribution facilities, including lines, transformers, and protective devices, necessary for their generation activities, just as DESRs should be required to do. The transmission level generators do not pass those distribution costs onto the other customers of the local distribution system.

As TEC has argued previously, DESRs act as both a load and a resource on distribution systems that were not originally designed for two-way power flows.⁵ This dual nature of distribution connected batteries exacts a higher toll on the distribution system relative to the impact on the transmission system from transmission level batteries. Regardless, and fundamentally, there is a cost to operating a distribution system that must be paid for by the entities that use that distribution system, whether a DER, DESR, or load. Unlike a DESR, transmission level energy storage resources do not use a distribution service provider's (DSP) distribution system for their generation operations, and thus do not pay the DSP for that use. The current treatment is therefore just, reasonable, and nondiscriminatory.

Regarding monthly charges, when a DESR charges, it acts as load on the distribution system, using the distribution system and consuming power. The DESR should pay demand charges for use of the wires, like any other load, which they currently do through wholesale transmission service at distribution voltage (WTSDV) tariffs. In attempting to avoid or reduce monthly demand charges, the DESRs propose to shift the operations and maintenance costs of the distribution system onto the distribution service provider and ultimately the other distribution level consumers. The true discrimination would be a requirement for other consumers on that distribution system to subsidize these for-profit ventures.

DERs, including DESRs, use a DSP's distribution system for their operations. The CIAC and monthly charges assessed to DERs are based on cost causation principles and not discriminatory. Where a transmission level generator requires distribution facilities for its operations, it too pays for those private facilities, and the costs are not spread to other distribution customers. The playing field between transmission and distribution storage is fair when considering the different up-front costs and system usage by the resources.

batteries on the distribution system do use the DSP's distribution system and do not own their own distribution facilities.").

⁵ Comments of Texas Electric Cooperatives, Inc. at 2 - 5 (Nov. 17, 2022).

II. Limited Commission Authority

The Commission's authority over electric cooperatives and municipally owned utilities (MOU) is limited. The Commission's broad ratemaking authority contained in Public Utility Regulatory Act (PURA) §32.001 does not apply to electric cooperatives. That authority is limited by use of the term "electric utility."⁶ Electric cooperatives are not within the definition of an "electric utility" as used in Chapter 32.⁷ Thus, while the Commission has broad powers when regulating an electric utility, this power does not extend to electric cooperatives. At least one DER commenter recognized the Commission's limited authority with respect to electric cooperatives and municipally owned utilities (MOU).⁸

As TEC and the Texas Public Power Association (TPPA) have previously discussed, PURA § 41.055 and § 40.055 give cooperative boards and municipal governments, respectively, authority over all terms of access, conditions, and rates for distribution level services provided by the cooperative or municipal power system.⁹ Requiring an electric cooperative or MOU to implement a distribution interconnection allowance or any standardization of what may be charged to DESRs attempting to interconnect to the distribution system, is tantamount to a rate setting, counter to the Commission's limited ratemaking authority and the specific ratemaking authority reserved to MOUs and electric cooperatives.¹⁰ For instance, the Commission's role with respect to WTSDV tariffs is to review for approval a tariff prescribed initially by the cooperative to determine if its contents are reasonable and consistent with the standards prescribed in PURA §§ 35.003 and 35.004.¹¹ The Commission cannot initially dictate that an electric cooperative set an allowance or the amount of that allowance for distribution interconnections. DER stakeholders focus on the Commission's jurisdiction over wholesale transmission rates, but do not explain how to overcome the legislature's grant of exclusive jurisdiction to electric cooperative boards over distribution rates, services, and access.

⁶ PURA § 32.001 ("...the commission has exclusive original jurisdiction over the rates, operations, and services of an *electric utility*...") (emphasis added).

⁷ PURA § 31.002(6).

⁸ Grid Resilience in Texas (GRIT) Initial Comments in Response to Questions for Comment - DER Interconnection Allowance at 4 -5 (Sept. 30, 2024).

⁹ TEC Comments at 5 - 6. TPPA's Response to Questions for Comment at 5 - 6 (Sept. 30, 2024).

¹⁰ TEC Comments at 6.

¹¹ *Brazos Elec. Power Coop. v. Pub. Util. Comm.*, 101 S.W.3d 499, 509 (Tex. App.—Austin 2002, pct. denied).

III. Residential Level Interconnections

In its comments, the Texas Solar Energy Society (TXSES) entered a new policy arena by introducing the concept of interconnection allowances for small solar installations, which could include residential level solar installations.¹² For many of the same reasons previously discussed regarding larger scale DERs, it would be inappropriate to extend an interconnection allowance to small scale DERs. Residential neighbors should not be required to subsidize each other's choice to install solar panels in hopes of speculative economic benefits.

IV. Conclusion

TEC appreciates the opportunity to provide reply comments and looks forward to continuing discussions with Staff and the other stakeholders in this project.

¹² TXSES Response to Commission Staff Questions for Project 54224 (Sept. 30, 2024).

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Respectfully submitted,



Zachary Stephenson
Director
Regulatory & Legal Affairs
State Bar No. 24073402
Texas Electric Cooperatives, Inc.
1122 Colorado Street, 24th Floor
Austin, TX 78701
(512) 486-6210
zstephenson@texas-ec.org



Carl R. Galant
State Bar No. 24050633
MCGINNIS LOCHRIIDGE LLP
1111 W. 6th St., Bldg. B, Ste. 400
Austin, Texas 78703
(512) 495-6083
(512) 505-6383 FAX
cgalant@mcginnislaw.com

Attorneys for Texas Electric Cooperatives,
Inc.

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(DERS)	§	OF TEXAS

Executive Summary

- 1) DERs, including DESRs, use a DSP's distribution system for their operations. The CIAC and monthly charges assessed to DERs are based on cost causation principles and not discriminatory. Where a transmission level generator requires distribution facilities for its operations, it too pays for those private facilities and the costs are not spread to other distribution customers. The playing field is fair.
- 2) The Commission has limited ratemaking authority over electric cooperatives and MOUs. PURA specifically reserves ratemaking authority for distribution rates and terms of access to the cooperative board or municipal government. The Commission cannot initially dictate that an electric cooperative set an allowance or the amount of that allowance for distribution interconnections.
- 3) Residential level DERs should not be eligible for any kind of interconnection allowance.