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PROJECT NO. 54224

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

OFFICE OF PUBLIC UTILITY COUNSEL'S REPLY COMMENTS IN RESPONSE TO INITIAL STAKEHOLDER COMMENTS TO QUESTIONS FOR COMMENT – DERS INTERCONNECTION ALLOWANCE

The Office of Public Utility Counsel ("OPUC"), representing the interests of residential and small commercial consumers in Texas, respectfully submits these reply comments in response to the initial comments submitted by stakeholders to questions posed by Staff ("Staff") of the Public Utility Commission of Texas ("Commission") on cost recovery for service to distributed energy resources ("DERs").[1] Staff requests stakeholder reply comments by October 11, 2024.[2] Therefore, these reply comments are timely filed.

I. RESPONSES TO PRIMARY POLICY PROPOSAL QUESTIONS

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

OPUC stands by its position that while the Commission can implement a standard distribution allowance, guardrails must be embedded in the applicable rule to protect ratepayers.[3]

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[1] *Cost Recovery for Services to Distributed Energy Resources (DERs)*, Project No. 54224, Staff Memorandum (Sept. 9, 2024).

[2] *Id.*

[3] Office of Public Utility Counsel's Initial Comments in Response to Questions for Comment-DERS Interconnection Allowance at 3 (Sept. 30, 2024). (OPUC's Initial Comments).

While certain stakeholders may not expressly share OPUC's perspective[4] and instead argue the Commission lacks the authority to unilaterally implement such an allowance because it exceeds the agency's authority provided by the legislature,[5] many stakeholders agree that the Commission is neither prohibited nor lacking statutory authorization to implement a standard distribution resource interconnection allowance.[6]

In support of its position that the Commission has the authority to implement a standard distribution resource interconnection allowance, SMT Energy, LLC ("SMT") states, "Under PURA § 36.001 et seq., the Commission possesses broad ratemaking powers. It has historically used this authority to establish construction allowances in various utility tariffs, particularly for commercial and industrial customers."[7]

It is important to note that the allowances established under Commission-approved utility line extension policies are: (1) based on calculations of the amount of investment supported by expected revenues; (2) vary based upon the expected customers' loads and usage patterns and the tariff under which the customers are served; and (3) differ between utilities. Customers requiring line extensions are customarily required to pay a significant portion of the costs of construction for the facilities that will serve them. Consequently, SMT's argument supports the position taken by OPUC that a fixed standard distribution resource interconnection allowance would only be

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[4] *Id.*

[5] Texas Public Power Association's Response to Questions for Comment at 3 (Sept. 30, 2024). (TPPA Comments); CPS Energy's Responsive Comments at 1 (Sept. 30, 2024). (CPS Comments); Comments of Texas Electric Cooperatives at 1 (Sept. 30, 2024). (TEC Comments).

[6] *See* Texas-New Mexico Response to Commission Staff's Questions Concerning Standardized Distribution Interconnection Allowance at 2 (Sept. 30, 2024)(TNMP Comments); *see also* Grid Resilience in Texas' Comments in Response to Commission Staff's Questions on Cost Recovery for Service to Distributed Energy Resources at 2, (Sept. 30, 2024). ONCOR's Initial Response to Questions for Comment Concerning DERS Interconnection Allowance at 7 (Sept. 30, 2024)(ONCOR's Comments).

[7] SMT Energy, LLC Comments at 2 (Sept. 30, 2024). (SMT Comments).

reasonable or appropriate if the Commission incorporated adjustments into the allowance for the size of the generator, or the variances between utilities in the actual distribution resource interconnection costs incurred.[8]

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?

While stakeholders generally agree that the proposed standard interconnection allowance would provide uniformity and predictability, stakeholders are split on whether the allowance should be flat[9] or customized based on varying project sizes.[10] However, a general disadvantage of a standard allowance, whether fixed or customized, is that the costs associated with the allowance would be borne by all ratepayers.

The DER and DESR developers and associations that filed comments asserted several advantages to a standard allowance and, in general, did not identify significant disadvantages. Advantages of a standardized allowance stakeholders recognized include:

- promotes proliferation of DER and DESR resources by making more projects economically viable;[11]

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[8] OPUC's Initial Comments at 3.

[9] *See* East Point Energy, LLP Comments at 3 (Sept. 30, 2024). (East Point Energy Comments); *see also* Comments of TEC at 4.

[10] *See* TNMP Comments at 2; *see also* AEP Texas Initial Response to Commission Staff's Question for Stakeholder Comment Related to Cost Recovery for Service to Distribution Energy Resources at 2 (Sept. 30, 2024) (AEP Comments) (asserting that if allowance is determined to be necessary the Allowance could vary based on size and or distance from substation); *see also* Responses to PUC Questions from HGP Storage LLC; Project 54224, Question 3 (Sept. 30, 2024)(HGP Storage Responses).

[11] *See* SMT Comments at 3; *see also* Regis Energy Partners LLC Comments at Question 2 (Sept. 30, 2024). (Regis Comments); *see also* GRIT Comments at 2.

- provides regulatory and investment certainty for developers across utility service areas;[12]
- allows developers to more effectively model projects' economics against other distribution-connected and transmission-connected projects;[13] and,
- creates parity between transmission-connected and distribution-connected resources;[14] and
- brings greater transparency to the distribution interconnection process.[15]

However, the comments of DER and DESR developers and associations ignore the fact that a standard allowance would be a transfer of wealth from retail electric customers to the owners of these distribution resources and to the shareholders of the electric utilities.[16] These comments also overlook the important distinction that a standard allowance would not be based on actual costs, variations in costs, or the quantified benefits from these resources.

The DER and DESR developers and associations, who stand to benefit economically from adoption of such an approach, provide no data or other specific evidence that could be used to evaluate the value or impact of the various benefits they have asserted would be achieved through establishing a standard "one-size-fits-all" allowance. Rather than presenting factual evidence that

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[12] *See* SMT Comments at Question 2; *see also* New Leaf Energy, Inc.'s Initial Comments on Commission Staff's Questions at 3 (Sept. 30, 2024). (New Leaf Comments); *see also* Comments of Texas Advanced Energy Business Alliance at 2 (Sept. 30, 2024) (TAEBA Comments).

[13] East Point Energy Comments at 2.

[14] *See* New Leaf Comments at 2; *see also* SMT Comments at Question 2; *see also* HGP Storage Responses at Question 2.

[15] *See* Shell Energy's Response to Staff Question at 1, Question 2 (Sept. 30, 2024). (Shell Energy Responses); *see also* GRIT Comments at 2; *see also* Regis Comments Question 2.

[16] The shareholders of electric utilities will benefit because the standard allowance is included in the electric utilities' rate base, on which the shareholders would be permitted a reasonable opportunity to earn a reasonable return on that investment pursuant to Public Utility Regulatory Act ("PURA") § 36.051.

could be used to evaluate the value and benefits to the Electric Reliability Council of Texas ("ERCOT") grid, retail electric customers, or the individual electric utilities that would justify such an approach, they suggest various grandiose benefits.

Furthermore, retail electric customers, particularly commercial and industrial customers, readily make decisions concerning the locations and construction of facilities that require line extensions and forecast the expected economic viability of those facilities without the existence of a fixed, standard line extension allowance for all electric utilities, all sizes of loads, and for all expected usage characteristics. Therefore, it is unreasonable to argue that DERs and DESRs are incapable of making similar decisions concerning the location and sizing of their facilities in the absence of a standard distributed generation interconnection allowance applicable to all DERs, DESRs, and utilities.

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?

Many DER and DESR developer comments argued in support of the proposed $1.5 million standard allowance to be applicable to all distribution resource interconnections, without variations based on the size of the resource,[17] while some asserted that the allowance should vary based on the size of the resource and that proximity to and capacity of existing infrastructure should dictate the size of the allowance.[18] Some argued the amount of any allowance should be associated with

[17] *See* East Point Energy Comments at 3 (Sept. 30, 2024); *see also*, TEC Comments at 4.

[18] *See* TNMP Comments at 2; *see also* AEP Texas Comments at 2; *see also* HGP Storage Responses at Question 3.

the size of the project.[19] Arguing that the Commission should consider different levels of allowance based upon project size and whether the customer's intent is participation in ancillary services, Grid Resilience in Texas ("GRIT") and Base Power, Inc. ("BASE") support a tiered system which they contend will allow for greater customization.[20]

Rather than adopting a flat $1.5 million allowance, Texas Industrial Energy Consumers ("TIEC") argues that the Commission should collect information form DSPs to understand the average costs of DER interconnections and provide this for public analysis and comment.[21] East Point Energy argues against an allowance that would vary based on size of the resource, because size of resource does not necessarily dictate the amount of distribution interconnection costs.[22] Rather, East Point Energy argues that factors such as 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.[23] In their joint comments, Texas Solar Power Association and Solar Energy Industries Association ("TSPA and SEIA") opine that a 500 kilowatt ("kW") threshold should be used to differentiate between resources and that the allowance should be standardized, rather than set by each utility. TSPA and SEIA contend utilities should be required to provide detailed itemization of the estimated interconnection costs that the developer is expected to pay through a contribution in aid of construction ("CIAC").[24] They argue that other costs such as upgrading distribution networks to accommodate additional

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[19] *See* TNMP Comments at 2; *see also* AEP Texas Comments at 2; *see also* HGP Storage Responses at Question 3; *see also* GRIT Comments at 3; *see also* BASE Comments at 2.

[20] GRIT Comments at 3; *Accord* BASE Comments at 2.

[21] TIEC Comments at 5.

[22] East Point Energy Comments at 3.

[23] *Id.*

[24] TSPA and SEIA Comments at 3.

interconnections of residential and small commercial on-site DERs should be managed through a utility's normal course of business and rate-base rather than individual customers being charged for utility distribution system upgrades needed beyond the customer's premise.[25] Others argue the proposed $1.5 million allowance is reasonable.[26] Texas Solar Energy Society proposes that small distributed generation ("DG") interconnections, at 50 kW or less, should be covered under a marginal interconnection allowance standard of no greater than $300.[27] However, none of the DER and DESR developer comments include any data analysis, or other factual data that would support an argument that a one-size-fits-all standard interconnection allowance of $1.5 million reasonably reflected the actual cost of interconnections, or the value to the ERCOT grid, retail electric customers, or the individual electric utilities.

In its initial comments, Oncor Electric Delivery Company, LLC ("ONCOR") proposes that the size of the allowance should depend on how much the Commission deems appropriate for other ratepayers to subsidize, instead of the amount by which the entity that will financially profit from the facility should have to contribute towards the interconnection of its own resource.[28] While ONCOR's comments lack any data or analysis that identifies the range of values to the ERCOT grid, retail electric customers, or the individual electric utilities that will result from DER or DESR projects, ONCOR's data clearly reveals that a $1.5 million standard allowance would far exceed the interconnection costs of all but one of its current projects, or the projects under construction.[29]

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[25] *Id.*

[26] *See generally* Initial Comments of: Hunt Energy Network, LLC; see also Comments of CenterPoint Energy Houston Electric, LLC (Sept. 30, 2024)(CenterPoint Comments); *see also* TAEBA Comments; *see also* Shell Energy Responses; *see also* SMT Comments; *see also* New Leaf Comments; *see also* HGP Storage Responses; *see also* and Regis Comments.

[27] Texas Solar Energy Society Response to Commission Staff Questions for Project 54224 (Sept. 30, 20224).

[28] ONCOR's Comments at 7.

[29] *Id.* at 5.

OPUC reaffirms its support for the position also taken by AEP that there should *not* be a standard dollar amount for a distribution resource interconnection allowance.[30] However, if the standard allowance is authorized, it would be reasonable to establish the allowance based on a standard amount per expected accredited capacity on a *dollar per kW basis,* based on each utility's average actual cost of interconnection per kW for distribution resources.[31] Furthermore, without sufficient facilities cost information for all utilities and a determination of the value these interconnected DER and DESR projects bring to the ERCOT grid and retail electric customers, it would not be reasonable or responsible regulatory policy for the Commission to establish a standard distribution resource interconnection allowance.

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

Many stakeholders believe that costs should be allocated to all customers benefiting from DERs.[32] The difference lies in how those costs are allocated. Many stakeholders support the cost of the allowance being allocated similarly to transmission cost of service ("TCOS") approach.[33] However, if the Commission determines it is appropriate to establish a standard allowance, OPUC and the vast majority of stakeholders agree that it would be reasonable to establish a mechanism whereby these costs are uplifted to ERCOT and are not borne solely by the retail customers to which the resources are interconnected.

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[30] OPUC's Initial Comments at 4; *Accord* AEP Texas Comments at 2.

[31] AEP Comments at 2.

[32] *See* GRIT Comments at 4; *see also* TSPA & SEIA Comments at 7; *see also* BASE Comments at 3; *see also* Shell Energy Comments at Question 4.

[33] *See* TNMP Comments at 3; *see also* CenterPoint Comments at 3; *see also* TAEBA Comments at 3; *see also* East Point Energy Comments at 3; *see also* HGP Storage Responses at Question 4; *see also* TSPA and SEIA Comments at 7; *see also* Regis Comments at Question 4.

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

A significant majority of other stakeholders support the position that if an allowance is established for investor-owned utilities, then the allowance should be applicable to all ERCOT electric utilities including municipally owned utilities ("MOUs") and electric cooperatives ("Cooperatives").[34] OPUC agrees because doing so will create uniformity and predictability for distribution resources throughout ERCOT. Further, limiting the standard interconnection allowance to only investor-owned utilities would disincentivize distribution resources to construct and locate their facilities on MOU and Cooperative systems thereby limiting the benefits and shifting the costs of DERs and DESRs to specific customers.

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?

OPUC agrees with the positions taken by East Point Energy, TAEBA, and the joint position of TSPA and SEIA, that MOUs and Cooperatives should be able to recover the costs associated with this allowance, but the Commission does not need to develop a wholesale cost recovery mechanism.[35] Moreover, OPUC supports the factors suggested by HGP Storage LLC ("HGP Storage") that the Commission should consider: (1) regional differences between MOUs and

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[34] *See* Regis Comments at Question 5; *see also* HGP Storage Responses at Question 5; *see also* East Point Energy Comments at 4; *see also* Shell Energy Comments at Question 5; *see also* TAEBA Comments at 4; *see also* TSPA and SEIA comments at 8.

[35] *See* East Point Energy Comments at 4; *see also* TAEBA Comments at 4; *see also* TSPA and SEIA at 8.

Cooperatives such as size and capacity to avoid overwhelming small entities and their ratepayers with interconnections costs, and (2) fair cost allocation that "reflects the grid-wide benefits of DESRs."[36]

II. ADDITIONAL QUESTIONS SUPPLEMENTING PRIMARY POLICY PROPOSAL

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

OPUC has no reply commentary to this question.

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

OPUC has no reply commentary to this question.

[36] HGP Storage Responses at Question 6.

III. CONCLUSION

OPUC appreciates the opportunity to provide reply comments to the initial comments submitted by stakeholders to questions posed by Staff and looks forward to working with Staff and other stakeholders on this project.

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PROJECT NO. 54224

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

EXECUTIVE SUMMARY

OPUC offers the following reply comments:

- A fixed standard distribution resource interconnection allowance would only be reasonable if the Commission incorporated adjustments into the allowance for the size of the generator or variances in distribution resource interconnections costs incurred by utilities.

- A standard allowance is disadvantageous because it will shift costs to ratepayers without a system-wide benefit which is not consistent with cost-causation principles. A substantial allowance would reduce or eliminate the economic incentive for DERs to be located at sites with lower costs and discourage a design that maximizes interconnection through fewer facilities, leading to increased costs to customers.

- There should not be a standard dollar amount of allowance. OPUC could support a reasonable standard amount per expected accredited capacity on a dollar per kW basis based on each utility's average actual cost of interconnection per kW for distribution resources.

- Costs should be allocated based on approved transmission capacity cost allocation for each utility. Resources will benefit all TDU customers and should be allocated to customers served at all voltage levels. Alternatively, the distribution voltage services classes should be provided a credit for the capacity and energy interconnected at distribution voltages.

- The allowance should apply to MOUs and Co-Ops.