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

OFFICE OF PUBLIC UTILITY COUNSEL'S RESPONSE TO STAFF'S REQUEST FOR COMMENTS

The Office of Public Utility Counsel ("OPUC") appreciates the opportunity to respond to the request for comments issued by the Public Utility Commission of Texas ("Commission") Staff on October 24, 2022. OPUC respectfully submits these comments in response to the questions contained in the Commission Staff's request.

1. **Is it appropriate for some amount of capital and/or operations and maintenance costs incurred by the distribution service providers (DSPs) to be uplifted to transmission cost of service (TCOS)? Why or why not? Does a distributed energy storage resource (DESR) provide the same congestion relief and reliability to the transmission system as a resource connected at transmission voltage? Please explain.**
   a. **How do congestion relief and reliability benefits differ depending on the type of resource?**
   b. **How does location of the DESR affect congestion on the transmission system?**
   c. **In the current market, are energy and ancillary service prices adequately compensating distributed energy resources (DERs) for the benefits they provide? Please explain.**

RESPONSE:

No. OPUC believes that DESRs should bear all additional capital costs and operations and maintenance costs the DESRs cause to be incurred on a DSP's system. If the DESR does not bear all capital, operations and maintenance costs incurred by the DSPs, then it is forcing other customers, whether DSP customers or ERCOT customers, to subsidize the DESRs and bear costs for which they are not responsible. Therefore, it would not be necessary to uplift these costs to TCOS.

a. OPUC supports distributed energy storage resources as they can provide many benefits according to a National Renewable Energy Laboratory ("NREL") paper.[1] "To maintain reliable power system operations, generation must exactly match electricity demand at all the times."[2] Through the help of DESR, charge or discharge can be done in a fraction of a second, making them a suitable resource for short-term reliability services, such as Primary Frequency Response ("PFR") and Regulation.[3] "Appropriately sized [DESR] (for example, a battery energy storage system- BESS) can provide longer-duration services, such as load-following and ramping services, to ensure supply meets demand."[4] "Deploying [DESR] can help by reducing congestion and improving overall transmission and distribution asset utilization.[5]"

b. "Utility-scale [DESR] can be deployed in several locations, including: 1) in the transmission network; 2) in the distribution network near load centers; or 3) co-located with VRE generators.[6] The siting of the [DESR] has important implications for the services the system can best provide, and the most appropriate location for the [DESR] will depend on its intended-use case."[7] "Placing storage near load can reduce transmission and distribution losses and relieve congestion, helping defer transmission and distribution upgrades.[8] Distribution-level [DESR] systems can also provide local power quality services and support improved resilience during extreme weather events.[9] Renewable resources that are located far from load centers may require large transmission investment to deliver power to where it is needed.[10] Given the variable nature of VRE resources, the transmission capacity used to deliver the power may be

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[1] NREL: Grid-Scale Battery Storage Frequently Asked Questions: Where should batteries be located? P.2-4 https://www.nrel.gov/docs/fy19osti/74426.pdf

[2] *Id.* at 2.

[3] *Id.* at 3.

[4] *Id.*

[5] *Id.*

[6] *Id.*

[7] *Id.*

[8] *Id.*

[9] *Id.*

[10] *Id.* at 4.

underutilized for large portions of the year.[11] A [DESR] can reduce the transmission capacity needed to integrate these resources and increase the utilization of the remaining capacity by using storage to charge excess generation during periods of high resource availability and discharge during periods of low resource availability.[12] The same [DESR] can be used to reduce the curtailment of VRE generation, either due to transmission congestion or a lack of adequate demand, as well as provide a broad range of ancillary services.[13]

c. If the market is established and functioning properly, energy and ancillary service prices should adequately compensate distributed energy resources (DERs) for the benefits they provide. Similar to other resources in the market, DERs will profit from their wholesale power sales into the market.

2. **Is it appropriate for a DESR to pay some level of distribution charges? Why or why not? Do DESRs affect congestion and capacity availability on the distribution system? Please explain.**
   a. **Is it appropriate to exempt DESRs from any portion of the wholesale transmission service at distribution voltage rates or tariff provisions? Why or why not? Please also address whether such an exemption would be consistent with Public Utility Regulatory Act (PURA) § 35.004(d).**
   b. **Should a DSP be required to implement a DESR-specific tariff for transmission service at distribution voltage? Why or why not?**
      i. **If so, what is the appropriate rate structure for a DESR to pay for transmission service at distribution voltage?**
      ii. **If the rate paid by a DESR does not fully recover costs related to that service, how should the DSP allocate the remaining costs? Should the costs be reallocated to other customers or uplifted to TCOS?**

[11] *Id.*

[12] *Id.*

[13] *Id.*

RESPONSE:

Yes, it is appropriate for DESRs to pay distribution charges consistent with their use of the distribution system and the costs the DESRs cause to be incurred on the distribution system. If DESRs do not pay for their allocated share of the distribution costs they cause to be incurred, those costs will be borne by the other distribution customers. PURA § 36.003 (a) and (b) states:

> (a) The regulatory authority shall ensure that each rate an electric utility or two or more electric utilities jointly make, demand, or receive is just and reasonable.
> (b) A rate may not be unreasonably preferential, prejudicial, or discriminatory but must be sufficient, equitable, and consistent in application to each class of consumer.

For the charges to DESRs to be just and reasonable, and to be sufficient, equitable and consistent in application to each class of customer, these rates must recover the cost incurred relative to the DESRs customers' use of the utility's distribution system.

Furthermore, 16 TAC § 25.234(a) states, "Rates shall not be unreasonably preferential, prejudicial, or discriminatory, but shall be **sufficient, equitable, and consistent in application to each class of customers**, **and shall be based on cost**." (Emphasis added)

It would not be equitable or consistent in application to assess charges that do not fully recover the distribution service required to serve the DESRs while assessing such charges on other customers and customer classes and requiring those customers and customer classes to subsidize the DESR customers. For the rates to be based on cost, the rates assessed to DESR customers must fully reflect all costs incurred to serve them.

a. To the extent a DESR connects directly to a distribution substation or to a point of interconnection adjacent to the substation through a distribution line owned and maintained by the DESR and the DESR does not receive service from any other distribution facilities, the DESR should be exempted from any portion of the wholesale transmission service at distribution voltage rates related to distribution line investment and costs.

   The exemption described above is consistent with PURA § 35.004(d) because DESRs would only be charged for the use of facilities and the level of service they receive from the electric utility or transmission and distribution service provider ("TDSP").

b. No, a DSP should not be required to implement a DESR-specific tariff for transmission service at distribution voltage. The DESR should be charged wholesale service rates similar to other wholesale transmission service customers who take delivery at distribution voltages.
   i. Not applicable.
   ii. The applicable rates should fully recover the allocated costs to serve the DESR customers, similar to other wholesale service customers.

3. Should other distribution customers bear costs caused from interconnecting DESRs in their DSP's territory? Why or why not?

a. Should other distribution customers bear the costs caused from interconnecting DERs in their DSP's territory? Why or why not?

b. Is it appropriate for a DER to pay less than the entire contribution in aid of construction (CIAC) fee? Why or why not?

c. If it is appropriate for a DER to pay less than the entire CIAC fee, then how should the amount payable by the DER be determined?

d. If it is appropriate for a DER to pay less than the entire CIAC fee, how should any remaining costs be recovered by the DSP?

RESPONSE:

No, other distribution customers should not bear the costs from interconnecting DESRs in their DSP's territory, unless the costs are necessary to continue to serve other distribution customers in the absence of the DESRs. Any such interconnection costs are not costs caused by the other distribution customers nor are they costs necessary to continue to provide the other distribution customers with safe and reliable distribution service.

Furthermore, PURA § 36.003(a) and (b) and 16 TAC § 25.234(a) require that each rate an electric utility makes, demands, or receives must be just and reasonable. In addition, rates "may not be unreasonably preferential, prejudicial, or discriminatory but must be sufficient, equitable, and consistent in application to each class of consumer."[14] In order for the charges to DESRs to be just and reasonable, and to be sufficient, equitable and consistent in application

[14] Public Utility Regulatory Act (PURA) § 36.003(b)

to each class of customer, these rates must recover the cost incurred relative to the DESRs customers' use of the utility's distribution system.

a. No. Please see the response above to the general question.

b. No. Please see the response above to the general question. If the DER pays less than the entire contribution in aid of construction (CIAC) fee, then those costs will be borne by the DSP's other distribution customers who are not responsible for the investment being incurred.

c. Not applicable.

d. If the DSP recovers less than the entire CIAC fee, the remaining costs should be uploaded to TCOS and should not be borne directly by the DSP's other distribution customers.

Additional Staff question:

4. **16 Texas Administrative Code § 25.501(m) provides, "Wholesale storage is not subject to retail tariffs, rates, and charges or fees assessed in conjunction with the retail purchase of electricity. Wholesale storage shall not be subject to ERCOT charges and credits associated with ancillary service obligations, or other load ratio share or per megawatt-hour based charges and allocations." Given changes in technology and the proliferation of Energy Storage Resources (ESRs) on the ERCOT grid, should the Commission revisit this policy on wholesale storage load applicability for ESRs interconnecting in the future? If so, how?**

RESPONSE:

Yes. Although DSPs may assess charges for wholesale transmission service to customers who take delivery at distribution voltages, it would be appropriate for the Commission to open a rulemaking to revisit its policy on wholesale storage load applicability for ESRs under TAC § 25.501(m). This would enable the Commission and all stakeholders to gain a more complete understanding of the changes in technology and the proliferation that ESRs have had on the ERCOT grid. It will also enable the Commission and all stakeholders to re-evaluate prior decisions established prior to the technology changes and proliferation of ESRs. Additionally, it will ensure the recovery of costs caused by ESRs appropriately reflect current and expected future conditions and are reasonable and accurate.

OPUC believes that through soliciting input from all stakeholders to identify the important issues to be addressed and to provide their input on those issues within a rulemaking process, the Commission can better ensure that cost recovery related to the interconnection of ESRs on the ERCOT grid is reasonable and appropriately encourages the development of those resources to improve reliability of the ERCOT grid.

EXECUTIVE SUMMARY OF OFFICE OF PUBLIC UTILITY COUNSEL'S RESPONSE TO STAFF'S REQUEST FOR COMMENTS

Below is a summary of OPUC's comments in response to Staff's request:

- DESRs should bear all additional capital costs and operations and maintenance costs the DESRs cause to be incurred on a DSP's system.
- It is appropriate for DESRs to pay distribution charges consistent with their use of the distribution system and the costs the DESRs cause to be incurred on the distribution system. If DESRs do not pay for their allocated share of the distribution costs they cause to be incurred, those costs will be borne by the other distribution customers.
- In order for the charges to DESRs to comply with PURA § 36.003 (a) and (b), the rates charged to DESRs must recover the cost incurred relative to the DESR's customers' use of the utility's distribution system.
- It would not be equitable or consistent in application to assess charges that do not fully recover the distribution service required to serve the DESRs while assessing such charges on other customers and customer classes and requiring those customers and customer classes to subsidize the DESR customers. Consequently, such rates would not comply with 16 TAC § 25.234(a).
- Other distribution customers should not bear costs associated with interconnecting DESRs in their DSP's territory, unless the costs are necessary to continue to serve other distribution customers in the absence of the DESRs.
- If the Commission approves the DSP recovering less than the entire CIAC fee, the remaining costs should be uploaded to TCOS and should not be borne directly by the DSP's other distribution customers.
- It would be appropriate for the Commission to open a rulemaking to revisit its policy on wholesale storage load applicability for ESRs under TAC § 25.501(m).

Date: November 17, 2022

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