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PROJECT NO. 54233

**TECHNICAL REQUIREMENTS AND §
INTERCONNECTION PROCESSES § PUBLIC UTILITY COMMISSION
FOR DISTRIBUTED ENERGY § OF TEXAS
RESOURCES (DERS)**

**JOINT STORAGE COMMENTERS' REPLY COMMENTS
(HUNT ENERGY NETWORK, JUPITER POWER AND BROAD REACH
POWER)**

The comments filed by the Distribution Service Providers (“DSPs”) and many of the entities developing smaller DERs co-located with residential and commercial customer load commented that more discussion is needed for the application of the Discussion Draft Rule to smaller, co-located DER facilities. Hunt Energy Network, L.L.C. (“HEN”), Jupiter Power LLC (“Jupiter”) and Broad Reach Power LLC (“Broad Reach”) (collectively “Joint Storage Commenters”) understand and appreciate the need for further discussion of the interconnection and technical requirements for smaller DERs that are co-located with retail customer sites. We therefore agree with Oncor Electric Delivery Company, LLC (“Oncor”) that the Discussion Draft Rule should be revised to apply only to those generation assets that are stand-alone Resources registered with the ISO to supply energy and ancillary services, interconnecting at distribution voltage.¹ These Resources are seeking comparable, non-discriminatory access to wholesale transmission service provided at distribution voltage as required under PURA §35.001 and §35.004 and 16 TAC §25.191-203. Therefore, it would be appropriate to address the interconnection of ERCOT-registered Resources at distribution voltage with a new rule §25.204, as proposed in the draft rule §25.204 filed by HEN in Project No. 51603 on October 5, 2022 at the request of Commissioner McAdams.² Amending the wholesale open access rules in this manner would allow the Commission to expressly address wholesale transmission access provided at distribution voltage and thereby establish clear, consistently-applied interconnection policies for ERCOT Resources – regardless of what voltage through which they interconnect.

¹ Oncor Electric Delivery Company LLC’s Initial Comments on Staff Discussion Draft Proposed Changes to §§25.211 and 25.212, Project No. 54233, filed on January 6, 2023 (“Oncor Comments”), pp. 2,4.

² *Review of Distributed Energy Resources*, Project No. 51603, Hunt Energy Network L.L.C., Letter to Commissioners filed on October 5, 2022 (Commission Interchange Filing No. 70).

We agree with Oncor and other commenters that 16 TAC §25.211 and §25.212 should remain applicable solely to DERs located at a retail customer's site and should remain in place for now while interested Parties meet with the Commission Staff in technical conferences to specifically address the issues associated with interconnection and technical operation of these DERs.

Regardless of the approach the Commission decides to pursue, Joint Storage Commenters respectfully request that the Commission move forward now and decide the cost allocation and recovery issues that have been commented upon in Project No. 54224 and resolve these issues which have been pending for several years since certain utilities requested changes to their wholesale tariffs and energy storage developers first requested policy guidance from the Commission.³ The decision made in Project No. 54224 will determine the future of energy storage resources that are interconnected at distribution voltage and participating in the ERCOT energy and ancillary service markets. Each of our companies has existing projects that are critically impacted by that decision and our future development plans for distribution-voltage storage are in large part dependent upon that decision. We understand the need for thorough discussion of the interconnection and operational issues associated with co-located DERs, but we are troubled that including issues specific to co-located DERs in Project No. 54233 and 54224 will only further delay resolution of these DESR cost allocation and recovery issues specific to stand-alone Resources that have been the focus of discussion for the last year. The cost recovery issues addressed in Project No. 54224 are specific to DESRs and to facilities that are registered as Resources with ERCOT, providing energy and ancillary services. Resolving those issues will not impact further consideration of the technical and operational issues associated with DERs that are co-located with retail load.

³ *Application of Broad Reach Power, LLC for Declaratory Order, Rate Complaint, and Petition for Rulemaking*; Docket No. 51501, Application filed on November 6, 2020. See also *Review of Wholesale Electric Market Design*, Project No. 52373, filing made by Hunt Energy Network L.L.C. on March 3, 2022, "Request for Project Initiation Related to Battery Energy Storage Systems at Distribution Voltage." (Commission Interchange Filing No. 352).

Finally, these interconnection and technical operation rules will have a fundamental impact on the development of the two-way distribution grid of the future. There is little question that there will be a growth of DERs in our market. These are valuable resources that should not be discouraged simply because they are located on the distribution system. These resources, whether stand-alone providing services directly to the ISO, or co-located with retail load providing enhanced demand response and energy injection to the grid, are key to the reliable future of our grid. It is essential that this transformation of the distribution grid be approached in a way that maintains the reliability of the distribution system and we need to utilize the lessons learned when the transmission grid was opened to interconnect non-utility generation resources starting in the mid-1990s and throughout the move toward greater competition. The Commission developed clear, consistently-applied policies with limited utility discretion that led to a robust competitive generation market at the transmission level, instead of what some utilities once viewed as encroachment into their operations. The same policy approach is required now as the distribution grid transforms to a two-way system in which customers have greater ability to directly manage their load and also contribute resources to the broader electric grid, further increasing the competitive market's beneficial impacts on reliability, especially at the customer level.

Joint Storage Commenters have the following specific comments in response to comments made by other Parties.

A. Response to Oncor Electric Delivery Company

Joint Storage Commenters are in general agreement with Oncor regarding the approach the Commission should take with the Discussion Draft Rule. We agree that the Discussion Draft Rule should be revised to apply only to Resources that are registered with the ISO, are not co-located with retail load, and are interconnected at distribution voltage. We believe that this draft rule should move forward for formal publication for comment. The existing rules 16 TAC §25.211 and §25.212 should remain in place and apply only to those DERs co-located with retail load until the technical conferences occur and the issues related to co-located load are more fully fleshed out. We also agree with Oncor that the Discussion Draft Rule 16 TAC §25.212 should be revised to

provide a broader operational compliance requirement and not include the specific, detailed standards, which are likely to vary between power regions and change over time.⁴

We have the following specific responses to Oncor's proposed changes to the Discussion Draft Rule.

1. §25.211(d)(1): Prohibited Costs (Reply to Oncor Comments at pp. 6-7)

Oncor recommends that this section be revised to specifically address the utility costs that can be charged to the distribution resource and argues that DESRs should be charged a monthly demand charge when the DESR is charging its battery, making the analogy that a power generation company ("PGC") pays a delivery charge when it purchases and consumes auxiliary power (i.e. power consumed for guard lighting, control rooms etc.).⁵ Oncor misses the point. A battery does not consume energy when it is in a charging state; it is simply a way station, holding the power for a period of time before it is released when it is needed by the grid. A battery is similar in this respect to a water tank. The tank is filled with water, which is stored in the tank until retail customers create a surge in demand, at which point the water is released from the tank and returned to the system for ultimate consumption by retail customers. The tank itself is not consuming the water. The same is true for a battery facility, which should not be treated as though it is a customer that consumes energy. In fact, a battery storage facility *does* pay the utility retail delivery charges for the auxiliary power it actually consumes for its guard lighting and control facilities just like any other PGC. Energy storage resources interconnected at transmission voltage do not pay a demand charge when their batteries are in a charging state and imposing such a charge on batteries interconnected at distribution runs afoul of the statutory requirement to provide non-discriminatory transmission access, including at distribution voltage, and places DESRs at a competitive disadvantage.⁶ This argument was fully explained in Joint Storage Commenters' comments filed in Project No. 54224, relating to DESR cost recovery. As stated above, those issues relating to monthly charges and CIAC should be intentionally decided by the Commission in that Project.

2. §25.211(e)(3): Pre-Screen Studies (Reply to Oncor Comments at p.11)

⁴ Oncor Comments at 3-4.

⁵ Oncor Comments at 7.

⁶ PURA § 35.004.

Section 25.211(e)(3) provides that the DSP must provide a pre-screen study upon request by the DER within 15 business days unless the DSP has received more than 30 pre-screen requests. Oncor proposes both extending the time period for performing the pre-screen study to 25 business days and also reducing the total number of outstanding studies to 10 from 30 as the trigger for when more time may be provided. Joint Storage Commenters suggest that no changes are needed to this section, but if changes were to be made, either the time should be extended or the number of studies should be decreased, but not both. The pre-screen study is not intended to be a comprehensive study; rather a preliminary evaluation of whether an interconnection point can accommodate the resource. In our experience, these pre-screen studies can be provided by most of the utilities within a few days and 15 business days should be sufficient time to complete the study.

3. §25.211(g)(3)(C): Procurement of Equipment (Reply to Oncor Comments at p. 15)

Oncor notes that there is a discrepancy between the draft interconnection agreement and the Discussion Draft Rule with respect to the time deadline for procurement of equipment (the Agreement requires 15 days and the rule requires 30 days). This discrepancy should be resolved, but Joint Storage Commenters strongly believe there should be a specific deadline. Some developers have experienced situations in which the developer has fully paid the CIAC, but the utility does not begin the procurement of equipment for months. This has resulted in a delay of the in-service date for the utility's interconnection facilities, which is magnified in instances where there are still supply chain delays for equipment. If the DER has paid the utility hundreds of thousands of dollars, which occurs upon signing of the interconnection agreement, then the DSP should not delay in procuring the equipment. Joint Storage Commenters believe that 15 or 30 days is reasonable.

4. §25.211(h): Testing and §25.211(l): Alternative Requirements (Response to Oncor at pp. 15-16)

Subsections (h) and (l) of §25.211 address the testing requirements and alternative operating requirements that may be imposed by the utility. Oncor proposes that the DSP establish the testing requirements and have the authority to establish “more prescriptive standards and operating requirements” for DERs than those prescribed by the ISO.⁷ These comments highlight

⁷ Oncor Comments at 16.

Joint Storage Commenters' concerns expressed in the introduction. For all distribution-interconnected resources to be treated in a comparable, non-discriminatory fashion, it is critically important to require the DSP to clearly set forth all requirements for the construction, testing, and operating of DERs in its tariff so that it may be approved by the Commission, clearly expressed to all DER market participants, and fairly and consistently applied to all DERs.

5. Draft Interconnection Agreement: Sections 4(A), (B): CIAC (Response to Oncor at pp. 17)

Oncor takes issue with providing detailed CIAC cost estimates and truing up those estimates with the amounts actually spent by the DSP and proposes to delete these requirements from the draft interconnection agreement.⁸ Joint Storage Commenters strongly disagree and support retaining Section 4(A)(vi) and 4(B) in the draft interconnection agreement. Joint Storage Commenters have had frustrating experiences to date with the DSP CIAC estimates. We typically receive an invoice with the total amount due (which generally ranges from approximately \$400,000 - \$700,000), with little to no cost breakdown and no way to determine what is included in the CIAC to know whether the estimates are reasonable. As a captive customer of the utility, we also have no choice but to pay the CIAC if we want to move forward with development. If a DSP were recovering these costs through its rates, rather than from an individual customer, the DSP would be required to show each cost component and demonstrate that the costs are reasonable and necessary. That burden should not be eliminated simply because only one customer is paying the costs. Further, it is entirely reasonable that the CIAC be trued-up to the actual costs spent, as supported through documentation. It is not fair for the DER to pay more than the utility actually incurred. As an alternative market check on the reasonableness of the DSP's CIAC amount, the DER developer should have the right to directly hire and pay a third-party contractor that has received prior approval by the DSP to construct the interconnection facilities.

B. Response to Alternative DSP Proposed Rule

AEP Texas, Inc. ("AEP"), CenterPoint Energy Houston Electric LLC ("CenterPoint"), and Texas New Mexico Power Company ("TNMP") each proposed a variation of a draft rule that the

⁸ Oncor Comments at 18.

DSPs have apparently been developing.⁹ This alternative draft appears to have been designed to more specifically address issues raised by the interconnection of smaller DERs and DERs co-located with retail load.¹⁰ However, while the draft rule is not clear, it seems that AEP, CenterPoint and TNMP are proposing that their draft rule would apply to both stand-alone DERs that are registered as Resources with ERCOT and smaller DERs that are co-located with load.¹¹ Oncor, on the other hand, seems to propose that this TDU-draft rule would apply only to smaller DERs that are co-located with retail load.¹² For ease of reference, we are referring to the alternative draft rule suggested by AEP, CenterPoint and TNMP as the “TDU Draft”, recognizing that Oncor has not indicated its agreement with the draft, it is still clearly a draft and there are slight variations between the versions filed by AEP, CenterPoint and TNMP.

As a general comment, the TDU Draft retains significant discretion with the DSP for the interconnection and operation of DERs. As discussed above, if the distribution grid is going to move toward significant deployment of DERs, it is critical that the Commission establish clear rules with little discretion so that new market participants have regulatory certainty. It is this lack of uniformity and consistent application that has plagued Joint Storage Commenters in the development of DESRs. Each utility has its own requirements, which are not always set forth in a tariff or approved by the Commission, and which may not be consistently applied. Because the DSP is a monopoly provider for the distribution grid, DER developers like Joint Storage Commenters have little recourse except with the Commission. It is therefore important for the Commission to limit this discretion. If a utility believes that its system requirements are unique, then its requirements should be published in a tariff and approved by the Commission. Joint Storage Commenters have the following specific comments regarding the TDU Draft.

1. Subsection (a), (b); Purpose; definition of “distribution resource”¹³

⁹ Initial Comments of AEP Texas, Inc., Comments of CenterPoint Energy Houston Electric, LLC, Texas-New Mexico Power Company’s Initial Comments, each filed on January 6, 2023.

¹⁰ Oncor states in its comments that Oncor and other transmission distribution utilities have been working on a consensus draft rule to replace 16 TAC §25.211 and §25.212 to apply to smaller DERs and DERs co-located with retail load. Joint Storage Commenters assume that the drafts provided by AEP, CenterPoint and TNMP reflect those discussions. See Oncor Comments, footnote 3, p. 4.

¹¹ See CenterPoint’s Comments at 3.

¹² Oncor Comments, footnote 3, p. 4.

¹³ AEP Comments at 6; CenterPoint Comments at 8; TNMP Comments at 7.

The TDU draft creates ambiguity as to whether the rules apply to stand-alone Resources that are not co-located with load. The definition of “distribution resource” refers to the “customer’s point of delivery”, which seems to suggest a retail delivery point, not a wholesale point of interconnection. Further, subsection (a) states that “sales of power by DER facilities and distributed natural gas generation facilities in the intrastate wholesale market are subject to §§25.191 - 25.203 of this title (relating to Open-Access Comparable Transmission Service for Electrical Utilities in the Electric Reliability Council of Texas).”¹⁴ While Joint Storage Commenters agree that the transmission service rules do apply to DERs that are registered Resources with ERCOT, these rules do not address “sales of power”; rather they address the interconnection and provision of transmission service to generation resources within ERCOT. Thus, Joint Storage Commenters believe that the appropriate place to address stand-alone Resources that will be registered with ERCOT is in the ERCOT open access transmission rules, by adding a new rule to specifically address transmission service at distribution voltage provided to stand-alone Resources and any revisions to §§25.211 and 25.212 should be limited to apply to DERs that are co-located with load or any not participating as Resources in an ISO market.

2. Subsection (c); Duty to Interconnect

While subsection (c) states that the DSP has the obligation to interconnect DERs, this obligation is then qualified by the following: “provided that *any customer request for interconnection* of one or more electric generating and/or energy storage facilities with an aggregate rating not above the values referenced within Table-AMR behind a single point of common coupling, and the terms and conditions for any such interconnection *shall be in the electric utility’s discretion* in accordance with good utility practice.”¹⁵ (emphasis added) This is the exception that swallows the rule. This proviso gives the utility nearly unlimited discretion. Further, to the extent that this rule applies to stand-alone Resources registered with ERCOT and providing services to the grid, it is arguably contrary to the requirement in PURA that the utility provide open, nondiscriminatory transmission access, including at distribution voltage.

¹⁴ *Id.*

¹⁵ AEP Comments at 8; TNMP Comments at 9.

3. Subsection (d)(2)-(5); distribution utility charges

Subsection (d)(2)-(5) provides that the DSP may charge the DER delivery charges and operation and maintenance charges for *exporting* power into the electric grid, including charges for both distribution delivery charges *and* transmission delivery charges.¹⁶ This change would overturn over twenty years of Commission transmission access policy and is directly contrary to clearly established precedent in Texas, at both the transmission and distribution level. The Commission decided in the mid-1990s that only retail customers would pay for the delivery of wholesale power delivered through the transmission system and thus, these costs are recovered from retail customers through the transmission cost of service.¹⁷ This decision was made to avoid “pancaking” of delivery costs and to recover the costs from the customers that benefit from the energy delivered into the transmission system.¹⁸

A similar determination was made in the current 16 TAC §25.211, which expressly provides that the DSP may *not* charge a DER for the injection of power into the electricity grid and may *not* charge the DER for transmission service.¹⁹ Requiring DERs to pay transmission and distribution delivery and O&M charges for exporting power places these resources at a severe competitive disadvantage with transmission-interconnected resources that do not pay delivery charges. Allowing the DSPs to charge delivery charges for the export of power would significantly dampen the development of DERs at a time when the electric system needs greater reliability and additional capacity. This proposal should be clearly rejected.

1. Proposed §25.212; Technical Requirements

The TDU Draft of §25.212 is an extremely detailed rule setting forth various technical standards that would apply to DERs.²⁰ Joint Storage Commenters remain reluctant to “hard-wire”

¹⁶ AEP Comments at 9; CenterPoint Comments at 11; TNMP Comments at 9.

¹⁷ *PUC Rulemaking Proceeding to Revise PUC Transmission Rules Consistent with the New ERCOT Market Design*; Project No. 23157, Order at 29; 77-78.

¹⁸ “Pancaking” means that the generator would have to pay transmission and distribution charges for each utility system used to deliver service, which would cause the energy prices for those resources to increase. Retail customers then pay higher prices for energy and they also have to pay retail delivery rates on top of the delivery rates already paid by the generators and incorporated into higher energy prices.

¹⁹ 16 TAC§25.211(d)(1)-(3).

²⁰ AEP Comments at 20; CenterPoint Comments at 23; TNMP Comments at 18.

detailed technical requirements in a Commission rule as standards will change and evolve through time and the rules may have unintended consequences.

As an example, in both the Staff Discussion Draft Rule in §25.212(c)(2)(I) and in the TDU Draft Rule §25.212 (b)(6), there is a requirement that each DER must have a frequency droop parameter set to 5% at 0.017Hz. However, for battery storage facilities that may qualify to provide Fast Frequency Responsive Reserve (“FFR”) service to ERCOT, a more stringent droop requirement of 1% is required. Therefore, this provision should be revised to align with the ERCOT Protocol requirement that requires a droop of *no greater than 5%*.²¹ This would permit DERs to meet the more stringent standard required to provide FFR service. This is an example of how standards may change over time and it is difficult to draft detailed requirements that can adapt to future products and operations. If this standard remains in the rule, then it should be revised to establish the standard as a minimum, not an absolute standard.

A similar issue exists with respect to the provision of voltage support. The Commission Staff Draft Rule requires that each distribution resource “must have dynamic voltage support enabled.”²² Currently, many DESRs have a requirement in their interconnection agreements to operate at a unity power factor, with the capability to provide reactive power only if and when requested by the utility. It is not clear what is required for the voltage support to be “enabled”, and this may conflict with the requirements of the utilities expressed in executed interconnection agreements.²³ To address this issue, the reactive power requirement for each distribution resource must be addressed in an interconnection agreement.

If the Commission decides to incorporate detailed technical standards into the rule, then Joint Storage Commenters agrees with the comments from the TDUs and others that a series of technical conferences should be held to permit the subject matter experts to discuss these provisions.

C. Response to Texas Electric Cooperatives, Texas Public Power Association and City Public Service

²¹ ERCOT Nodal Protocol Section 6.5.7.6.2.2.

²² Commission Staff Discussion Draft Rule §25.212(c)(2)(N) (note that the rule is misnumbered such that there are two subsection “N”s. The referenced subsection is the second subsection “N”, which should be §25.212(c)(2)(P).)

²³ TNMP Comments at 21. (TDU Draft Rule, Figure 16 TAC §25.212(c), subsection (d)(3).

Texas Electric Cooperatives, Inc. (“TEC”), Texas Public Power Association (“TPPA”) and City Public Service of San Antonio (“CPS”) each raised the issue of whether the Commission has jurisdiction to establish rules for the interconnection and operation of DERs on cooperative and municipally owned systems.²⁴ The answer, at least for the interconnection of ERCOT Resources seeking interconnection to provide energy and ancillary service to the ERCOT grid, is unequivocally yes.

The provision of wholesale transmission service is governed by Chapter 35 of PURA and the definition of transmission service in PURA § 31.002 expressly includes transmission service provided over distribution facilities. Further, PURA §39.203(b) states that “When necessary to serve a wholesale customer an electric utility, 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.” This statutory requirement is also reflected in the Commission’s rules. 16 TAC §25.191(d)(2) provides 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.”

The Commission expressly addressed its jurisdiction over electric cooperatives and municipally-owned utilities when it revised the wholesale transmission access rules in 2001.²⁵ In its decision adopting the rules, the Commission explained: “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 ERCOT, pursuant to PURA Chapter 35, Subchapter A.”²⁶ Moreover, PURA §41.055 specifically excludes wholesale transmission rates, terms, and conditions set by the commission from an electric cooperative's jurisdiction.” Similarly, PURA

²⁴ Comments of Texas Electric Cooperatives, Inc. at 2-6; TPPA’s Response to Staff Discussion Draft at 2-3; CPS Energy’s Initial Responsive Comments in Project No. 54233 at 2-6.

²⁵*PUC Rulemaking Proceeding to Revise PUC Transmission Rules Consistent with the New ERCOT Market Design*, Project No. 23157, 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 (“Order”) at p. 28 (May 31, 2001).

²⁶ *Id.*

§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.

Accordingly, the Commission has clear jurisdiction to require an electric cooperative and a municipally owned utility to provide wholesale transmission service over distribution facilities. At its core, this is what Joint Storage Commenters are seeking – the establishment of clear interconnection policies for ERCOT Resources seeking wholesale transmission service provided at distribution voltage so that these Resources may participate in the ERCOT energy and ancillary service markets just like our transmission-interconnected counterparts. The cooperative and municipally owned systems should be required to provide the same wholesale access to Resources interconnected at distribution voltage as they do for Resources interconnected at transmission voltage.

Joint Storage Commenters appreciate the significant effort and time provided by the Commission Staff to develop this Discussion Draft Rule and we remain ready to provide any additional comments or assistance to develop a draft rule for publication.

Respectfully submitted,



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EXECUTIVE SUMMARY
REPLY COMMENTS FROM JOINT STORAGE COMMENTERS (HUNT ENERGY NETWORK L.L.C.; JUPITER POWER LLC AND BROADREACH POWER LLC)

Steps Forward for Rulemaking

1. The Discussion Draft Rule should apply only to Resources that are registered with the ISO, are not co-located with retail load, and are interconnected at distribution voltage and this rule should move forward for formal publication for comment.
2. Existing rules 16 TAC §25.211 and §25.212 should remain in place and apply only to those DERs co-located with retail load until technical conferences occur and the operational issues related to co-located DERs and retail load are fleshed out.
3. Discussion Draft Rule 16 TAC §25.212 should be revised to provide a broader operational compliance requirement and not include the specific, detailed standards which are likely to vary between power regions and change over time.
4. Regardless of the approach the Commission decides to pursue for the Discussion Draft Rule, the Commission should move forward now and decide the cost allocation and recovery issues that have been commented upon in Project No. 54224.

Replies to Various Parties

1. The TDUs have proposed various changes that enhance utility discretion over the interconnection and operation of DERs. For all DERs to be treated in a non-discriminatory fashion, the DSP should be required to clearly set forth all requirements for the construction, testing, and operating of DERs in its tariff so that it may be approved by the Commission, clearly expressed to all DER market participants, and consistently applied to all DERs.
2. Oncor's proposal to remove the requirement in the draft interconnection agreement to provide a detailed CIAC estimate with a true-up should be rejected. Section 4(A)(vi) and 4(B) of the draft interconnection agreement should be retained.
3. The alternative draft rule proposed by AEP, CenterPoint and TNMP has two fatal flaws: (1) it gives the DSP too much discretion to deviate from the rule and (2) it overturns long-standing Commission precedent that resources will not be charged either transmission or distribution charges for the export of power into the electric grid.
4. The Commission has clear statutory jurisdiction over the rates and terms of access electric cooperatives and municipally owned utilities establish for wholesale transmission service provided at distribution voltage, which is what stand-alone Resources registered with ERCOT interconnected at distribution voltage are seeking.