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PROJECT NO. 54233

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

**TEXAS PUBLIC POWER ASSOCIATION'S COMMENTS FOLLOWING COMMISSION
STAFF WORKSHOPS**

The Texas Public Power Association (TPPA) appreciates the opportunity to respond to the draft rule language issued by the Staff of the Public Utility Commission of Texas (Commission) regarding technical requirements and interconnection processes for distributed energy resources (DERs). These comments are submitted on behalf of TPPA and do not necessarily reflect the opinions of any individual TPPA member.

Formed in 1978, TPPA is the statewide association for the 72 municipally-owned utilities (MOUs) in Texas. TPPA members serve urban, suburban, and rural Texas and vary in size from large, vertically integrated utilities to relatively small distribution-only systems. We are proud to serve approximately 5.1 million Texans across the state. MOUs offer a long track record of stability, and we serve an essential role in providing secure and reliable power to the wholesale electricity markets in these regions, including ERCOT. Many of our member systems have been providing stable and reliable electric power to communities in Texas for over 100 years.

Commission Staff held two workshops on June 16 and 30, 2023 and asked for feedback based on the draft rule text for 16 Texas Administrative Code (TAC) § 25.210, as well as the discussions during those workshops, by July 21. Staff also requested comments be limited to five pages. These comments are timely filed and within the requested page limit.

I. Comments on Process

As a general note, TPPA greatly appreciates the Commission's deliberative approach to these issues. The concept of DERs as an overall grid asset requires detailed economic, engineering, and legal considerations, and holding multiple workshops on different topics to solicit stakeholder input is a powerful demonstration of the Commission's intent to "get it right." The Commission should continue this route with DERs and other topics of great import to overall grid reliability to ensure that any resulting rules or policies are well-founded, durable, and appropriate for all entities subjected.

II. Comments on Applicability

Defining DERs. While TPPA remains concerned that the rule is providing undue preference to one type of load over others, TPPA notes that the draft rule's applicability section applies to DERs regardless of whether those DERs intend to dispatch energy or ancillary services to the ERCOT wholesale market or whether those DERs are exclusively meant to offset an individual load's usage during peak pricing hours or as a backup energy system. It is unclear what purpose Commission and ERCOT regulation of the latter would be, as these DERs do not directly impact the overall reliability of the grid in the same way that DERs that sell energy and ancillary services do – these DERs merely serve to protect an individual load from outages or as a hedge against high prices. This is particularly important given the detailed regulations proposed in draft 16 TAC § 25.212, which may serve to disincentivize installation of these purely backup DERs that will not participate in the wholesale market. TPPA recommends that the applicability section of this rule and draft 16 TAC § 25.212 be written to exclude these DERs.

Applicability to MOUs. In its previous filing in this project, TPPA noted the Commission's limited statutory authority to regulate MOUs' and electric cooperatives' interactions with DERs.¹ TPPA also agrees with previous comments filed by CPS Energy² and Texas Electric Cooperatives³ on this point. Simply put, PURA maintains a balance where the Commission is given authority over wholesale transmission concerns,⁴ while the local MOU is given authority over local distribution issues.⁵ The draft language presented at the workshops upsets this balance by imposing Commission regulation on MOU distribution systems in direct conflict with the express language of PURA and authority found in the Local Government Code that gives MOUs independent discretion in establishing requirements for connecting any appliance or equipment to the distribution system.⁶

This separation also makes sense at a policy level. The largest investor-owned utility in the state operates nearly 4 million meters and has more than 4000 employees. No MOU operates at nearly that

¹ Project No. 54233, Texas Public Power Association's Response to Staff Discussion Draft (Jan. 6, 2023). *See also Review of Distributed Energy Resources*, Project No. 51603, Texas Public Power Association's Response to Questions for Comment at 2 (June 15, 2022).

² Project No. 54233, CPS Energy's Initial Responsive Comments in Project No. 54233 (Jan. 6, 2023) and CPS Energy's Reply Comments in Project No. 54233 (Jan. 18, 2023). *See also Cost Recovery for Service to Distributed Energy Resources (DERs)*, Project No. 54224, CPS Energy's Initial Responsive Comments in Project No. 54224 at 5.

³ Project No. 54233, Comments of Texas Electric Cooperatives, Inc. (Jan. 6, 2023) and Reply Comments of Texas Electric Cooperatives, Inc. (Jan. 18, 2023). *See also Review of Distributed Energy Resources*, Project No. 51603, Comments of Texas Electric Cooperatives, Inc. at 1-3 (June 15, 2022).

⁴ PURA § 40.004. Similar language also exists for electric cooperatives. *See* PURA § 41.004.

⁵ PURA § 40.055. Similar language also exists for electric cooperatives. *See* PURA § 41.055.

⁶ Tex. Local Gov't Code § 552.001(d) (A municipality that owns or operates a utility system may prescribe the kind of ... electric appliances that may be used inside or outside the municipality. The municipality may inspect those facilities and appliances, require that they be kept in good condition at all times, and prescribe the necessary rules, which may include penalties, concerning them.).

scale – more than 50 MOUs (nearly three-quarters of all Texas MOUs) operate less than five thousand meters with 10 or fewer employees. It is unreasonable to think that these MOUs can operate on the same timetables as some of the country’s largest investor-owned utilities.

To be clear, TPPA agrees that the Commission maintains regulatory authority over the **operation of DERs participating in the ERCOT wholesale market** – a position we share with ERCOT.⁷ To that end, TPPA has no objection to the same technical and operational characteristics discussed by proposed 16 TAC § 25.212 applying to DERs in municipal and cooperative service areas as they apply to areas served by investor-owned utilities (subject to the caveat above regarding DERs that do not participate in the wholesale market).

TPPA’s argument here is that the Commission does not have the regulatory authority over the **relationship between DERs and an interconnecting MOU or cooperative**. Put another way, TPPA agrees that the Commission can (and should) craft rules regarding how DERs can operate in ERCOT or another ISO (such as eligibility for specific ancillary services or what level of emergency conditions a DER can charge under). TPPA, however, asserts that the Commission does not have the authority to require the universal usage of a standard interconnection agreement with specific language and set timelines that will be used by all interconnecting authorities.

At present, proposed 16 TAC § 25.210 appears to contain almost exclusively rules relating to the relationship between DERs and the interconnecting authority – terms of service, timelines for various studies and testing, and a required, standardized interconnection agreement – not rules relating to the operation of DERs. As such, TPPA recommends that the Commission exempt MOUs and electric cooperatives from the rule entirely, unless there is specific statutory language requiring certain portions of the rule to apply to those entities.

⁷ See Project 54233, Reply Comments of Electric Reliability Council of Texas, Inc. at 2 (Jan 18, 2023). “While the Commission’s authority may be limited in the context of establishing requirements for MOUs or electric co-operatives relating to registration processes or costs associated with the interconnection of distribution resources, the Commission does have authority to establish operational criteria for distribution resources that apply to MOUs and electric cooperatives.”

III. Conclusion

TPPA appreciates the opportunity to submit these comments. As always, TPPA looks forward to working with the Commission, its staff, and the stakeholders on these important questions and this broader discussion in the coming months.

Dated: July 21, 2023

Respectfully,

A handwritten signature in black ink, appearing to read 'TKilroy', written over a horizontal line.

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