



## **Filing Receipt**

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**PROJECT NO. 54999**

**TEXAS ENERGY FUND**

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**PUBLIC UTILITY COMMISSION**

**OF TEXAS**

**POST-WORKSHOP COMMENTS OF  
TEXAS ELECTRIC COOPERATIVES, INC.**

Texas Electric Cooperatives, Inc. (TEC) respectfully submits these comments in response to the Public Utility Commission (Commission) of Texas Staff (Staff) request for comments regarding the Texas Energy Fund (TEF) following the TEF workshop on September 21, 2023. TEC is the statewide association of electric cooperatives operating in Texas, representing its members except as their interests may be separately represented.<sup>1</sup> Staff requested comments to be filed by October 13, 2023. These comments are timely filed.

**I.**

**Grants for Facilities Outside of the ERCOT Power Region –  
Public Utility Regulatory Act (PURA) § 34.0103**

The grant program for facilities outside of the ERCOT Power Region was incorporated into SB 2627, the legislation that created the TEF, through Amendment 1, authored by Chairman Metcalf.<sup>2</sup> Prior to Amendment 1, the programs established in SB 2627 were focused solely on facilities inside the ERCOT region. As explained by Chairman Metcalf on the House Floor, Amendment 1 creates a program for non-ERCOT entities to weatherize and modernize their facilities to protect against natural disasters, ensuring that all taxpayers benefit from the programs established in SB 2627.<sup>3</sup> Amendment 1 was passed without objection.<sup>4</sup>

TEC is concerned that without addressing the issues discussed below, the potential rules for the grant program for facilities outside of ERCOT may inhibit rural communities and the cooperatives that serve them from accessing the program. This would be contrary to the legislative intent of the bill, which is to ensure all Texans, including rural Texas, have access to the program.

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<sup>1</sup> TEC's 75 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.

<sup>2</sup> Tex. S.B. 2627, 88th Leg., R.S., Amendment 1 (2023).

<sup>3</sup> *Id.*

<sup>4</sup> House Journal, 88th Leg., R.S. at 4904 – 4905 (May 22, 2023).

Further, because of their geographic and demographic conditions, rural electric cooperatives face unique challenges in their costs to serve rural consumers. The combination of dispersed infrastructure (higher costs), significantly lower distribution line densities (lower revenues), and limited capital resources means that electric cooperatives are more sensitive to increases in costs. This is conveyed with a simple metric: TEC’s member systems serve an average of just six meters per mile of distribution line. In areas served by other providers, that average is forty to seventy customer meters per mile of distribution.<sup>5</sup> This difference in population density results in higher per-consumer investments for cooperatives as compared to utilities serving urban and suburban communities. Similarly, a grant award of the same dollar amount has the potential to provide higher rate savings per consumer in rural cooperative areas versus more densely populated areas.

**A. Definition of Facility Modernization**

PURA § 34.0103 (a)(1) allows for grants for facilities outside of the ERCOT power region specifically for “facility modernization”. TEC recommends that the Commission take a broad view of the term modernization to encompass various modernization activities such as grid automation, communications upgrades, facility hardening, looping circuits for back-feed purposes, and other measures that enable the minimization of system outages. Activities that involve adaptation to new technologies should qualify as modernization measures that will improve the resiliency and reliability of the grid outside of ERCOT.

**B. Regulated Utility Treatment of Grant Awards**

Regarding the regulatory treatment of grant awards, TEC suggests the Commission evaluate how grant money may or may not be considered in the rate base of investor-owned utilities (IOUs), given that the intent of this program is to benefit Texans, not create opportunities for additional return to investors. In contrast, the consideration of “rate treatment” by the Commission would not be applicable to a cooperative receiving grants. Electric cooperatives are not-for-profit utilities, owned by the member-consumers in the communities they serve, who are also their shareholders. Any margins or revenues remaining after a cooperative’s expenses are paid and returned to their member-consumers. Further, as Staff knows, the rate treatment of these grants falls within the purview of the cooperative’s locally elected regulators.<sup>6</sup>

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<sup>5</sup> Senate Committee on Business & Commerce Texas Senate Interim Report 2018, 86th Leg. at 49 (Dec. 3, 2018).

<sup>6</sup> PURA § 41.055(1).

### **C. The Commission Should Level The Playing Field to Ensure Rural Cooperative Equity In Grant Awards**

During the workshop, Commission Staff mentioned the possibility of hosting educational or informational sessions with eligible grant recipients to enable these entities to better understand the application process and evaluation criteria. TEC fully supports any opportunity for guidance for our member systems to assist in their participation in the program. As not-for-profit and community/Member driven organizations, often serving some of the largest and most dispersed geographical regions with low population densities, rural electric cooperatives simply do not have the staff or in-house expertise to navigate an overly burdensome grant process. TEC therefore requests the Commission develop a streamlined application process for electric cooperatives or a grant application assistance program to ensure the legislative intent of the program is met.

To further provide for the equitable disbursement of funds, TEC recommends the Commission consider establishing a minimum rural set aside for electric cooperatives to ensure the program is not exhausted by larger utilities with readily available in-house staff and resources to seek out such grants. Having limited resources places electric cooperatives at a disadvantage versus their IOU counterparts when it comes to competitive grants. The Commission should level the playing field by establishing a rural set aside and streamlined application process or assistance program that considers the unique issues faced by cooperatives and rural Texas.

## **II. The Texas Backup Power Package Program - PURA § 34.0201 -.0205**

TEC looks forward to working in collaboration with the new advisory committee to be convened by the Commission.<sup>7</sup> However, TEC recommends that the Commission clearly delineate the duties and powers of the advisory committee. For example, Commission Staff's pre-workshop questions asked, "How should the PUC discern between projects eligible for loans versus projects eligible for grants?"<sup>8</sup> This question as posed may conflict with statute, which delineates the advisory committee as the entity responsible for recommending criteria for discerning between project eligibility for loans versus grants.<sup>9</sup> In order to avoid conflicting interpretations at a later

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<sup>7</sup> PURA § 34.0203(a)-(b).

<sup>8</sup> September 21, 2023 Texas Energy Fund Public Workshop Agenda (Sep. 19, 2023).

<sup>9</sup> PURA § 34.0203(b) ("The advisory committee shall recommend criteria for the commission to employ in making a grant or loan under this subchapter.").

date, TEC recommends that the Commission clearly state the powers and duties of the advisory committee convened under PURA § 34.203.

In addition to defining the scope of the advisory committee, TEC recommends the Commission resolve an area of potential uncertainty related to the lawful use of backup power systems. According to statute, the Texas Backup Power Package program is not intended to fund backup power systems that will be used for commercial activity or economic gain by the owners or host facilities.<sup>10</sup> Rather, the Texas Backup Power Program is designed to provide backup power to certain essential facilities that “directly serve public safety and human health.”<sup>11</sup> To avoid future uncertainty on this issue, TEC recommends the Commission clarify with precision the extent of the prohibition on the use of backup power systems for commercial activities or other applications such as peak shaving. Further, to ensure the limitations set forth in the statute are adhered to by the owners or operators of backup power systems, TEC recommends that the Commission require an annual attestation from backup power system owners and hosts that no sales of energy or ancillary services has occurred in the previous year and that the host or owner is not a commercial energy system, a private school, or a for-profit entity that does not directly serve public safety and human health.

### **III. Conclusion**

As the Commission develops their rules, TEC suggests that Staff review the Comptroller’s Broadband Development Office (BDO) and their implementation of rules surrounding the funding of broadband programs as a framework for how the Commission should structure the funding and operations of the TEF funds. The BDO, like the Commission, has been tasked with handling competitive loans and grants for the expansion and betterment of the state’s broadband networks. While not every aspect of the BDO rules will translate to electric system grants and loans, the general framework could be informative as a baseline for Commission Staff in their work.

TEC appreciates the opportunity to provide comments in response to the workshop and looks forward to working with Staff and the other stakeholders in this project.

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<sup>10</sup> PURA § 34.0204(6); PURA § 34.0205(e)(1).

<sup>11</sup> PURA § 34.0205(e)(1).

Dated: October 13, 2023

Respectfully submitted,

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

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