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SIERRA CLUB

LONE STAR CHAPTER

PROJECT NO. 57004: TEXAS ENERGY FUND GRANTS FOR FACILITIES OUTSIDE OF THE ERCOT REGION: PROPOSAL FOR PUBLICATION OF NEW 16 TAC §25.512

Comments of the Sierra Club, Lone Star Chapter

The Lone Star Chapter of the Sierra Club appreciates the opportunity to comment on this proposed rule to implement the Outside of ERCOT Texas Energy Fund, authorized by passage of SB 2627 and approval by voters of Prop 7 during the November 2023 election. While Sierra Club as an organization did not support SB 2627 and Proposition 7, we recognize it is the law of the land and the will of the voters to authorize up to \$10 billion for a variety of programs, including up to \$1 billion for outside of ERCOT resiliency and reliability projects as laid out in statutes. In general terms, we believe that making grants available to utilities - whether investor-owned utilities, river authorities with electric responsibilities, municipally-owned utilities or electric cooperatives can improve the resiliency of non-ERCOT grids, potentially save consumers money and avoid load shed. In general, we believe the PUCT proposal meets the letter of the law and should be approved by the Commission. That said, we believe some further clarification and additions to the language in the rule proposal would improve the proposal, and would as an example, suggest a lower maximum amount per applicant. With vast needs outside of ERCOT, making sure that \$1 billion can assist as many Texas consumers as possible is important. We would also favor projects that help marginalized and low-income electric consumers, as opposed to projects meant to assist large industrial customers or future growth.

The list of potential projects should be interpreted as examples and not a limit on what an applicant can seek for funding

We appreciate the listing of several types of projects that would be eligible for funding in Described in (2) Project eligibility and (3) Objectives, which match the statutes approved by the legislature. However, we believe this language is meant as examples of the types of projects that might be eligible. Thus, we would suggest adding some language in (2) to make it clear that other measures could be eligible if it meets the objectives of the program. Thus, we would suggest adding a sentence such as “Measures that meet one of the objectives in (3) are eligible, including the use of programs that reduce demand on the system for critical care customers, or provide backup power to avoid load shed.”

Thus, we believe that energy efficiency and other demand-side resiliency solutions should be eligible for funding if they meet one of the objectives.

Clarification on energy storage technologies may be needed

Energy storage is a unique technology that can be utilized in a number of ways, including for resiliency. Because the statute approved by the Legislature and signed by the Governor specifically do not allow the use of TEF funds for new generation it may be necessary to add some language such as

“Energy storage technology is eligible for funding if it meets one of the objectives of the program, except that funding can not be used for energy storage whose primary objective is to provide wholesale power to the market.”

Joint projects should be made possible among utilities, even if they are not associated with the same company

The proposed language allows joint projects, but seems to limit it to two affiliated companies. However, there may be times when two unaffiliated companies or utilities wish to work together on a joint resiliency project. As an example, two contiguous electric cooperatives that are non affiliated or several municipally-owned utilities might want to jointly apply for a common project in which expenses are shared.

Project funding should be limited to \$100 million

The proposal limits the amount that can be awarded to a single applicant to \$200 million. Given the \$1 billion available for the program, we would suggest a lower amount, such as \$100 million.

24 months may be too long a time to limit more than one application from the same entity

The Sierra Club believes 24 months may be a long time to limit an applicant from submitting more than one application. We believe a shorter time period such as 18 months may be appropriate.

Limits on PUNs

We believe the limits on the use of grants for PUNs laid out in 25.512 (5) is appropriate. However, we think there should be a further clarification that the grant itself should only be used to augment existing generation, and only for the portion of the project that meets (B) by adding the following clarification in (C):

(5) Existing electric generating facilities that serve an industrial load or PUN are eligible for a grant under this section, subject to the following conditions:

(A) transmission and distribution infrastructure that serves an industrial load or PUN must be on the public use side of the meter and geographically located entirely within this state; and

(B) an electric generating facility that serves an industrial load or PUN must operate in such a manner that the portion of nameplate capacity that will serve the maximum non-coincident peak demand of the industrial load or PUN is less than 50 percent of the facility's total nameplate capacity.

(C) only the portion of the modernization of the electric generation facility that is meant to serve non-industrial or PUN is eligible for a grant

Public Access to Information

We understand that under the provisions of SB 2627, the application is considered confidential. Nonetheless, this is ultimately public information and some minimal information should be available to the public, ratepayers and policy makers. We would suggest adding a section that would require basic information about approved applications and the results of those application processes.

We would suggest adding a (6) on page 13 in the staff proposal such as

(6) Information contained in (5) will be listed on a publicly available website by the Commission, along with any decision made by the Commission on the application such as pending, rejected or approved. The website will also include contact information for the applicant where additional information can be obtained by the public.

The Sierra Club appreciates the opportunity to make these brief comments on the proposed rule.

Executive Summary

The Sierra Club is generally supportive of the proposed rule to implement the outside of ERCOT grant program authorized by the Texas Energy Fund. While we support the proposed rule, we would suggest a number of changes including:

1. Making it clear that joint projects by unaffiliated companies are allowed;
2. Specifically referencing energy efficiency, demand response and backup generation that helps avoid load shed as eligible projects if they meet one of the statutory objectives;
3. Making it clear that only the portion of upgrades to existing generation facilities that serve a PUN are eligible for funding;
4. Clarifying that existing or even new energy storage facilities are eligible but not any portion that could be used for supplying energy to the grid since there is statutory prohibition against using funding for new generation;
5. Limiting the total amount per applicant to \$100 million to spread the use of the fund;
6. Providing language to require summary information be available to the public about applications and their status; and
7. Reducing the time limit for submitting application from 24 to 18 months for any applicant.