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PROJECT NO. 57236

PROJECT TO DEVELOP THE TEXAS § BEFORE THE  
BACKUP POWER PACKAGE PROGRAM § PUBLIC UTILITY COMMISSION OF  
§ TEXAS

**NRG ENERGY, INC.'S COMMENTS REGARDING STAFF QUESTIONS ON THE FINAL  
REPORT OF PATRICK ENGINEERING**

NRG Energy, Inc. (NRG) appreciates the opportunity to offer comments on the questions raised by Staff regarding the Final Report of Patrick Engineering, Inc. (Final Report) related to the Texas Backup Power Package (TBPP) program.<sup>1</sup>

**I. INTRODUCTION AND GENERAL COMMENTS**

NRG appreciates the work of the TBPP Advisory Committee, Patrick Engineering, and Commission Staff to date in helping to scope the TBPP program and identify the primary issues that will need to be addressed to make the program successful. The Final Report<sup>2</sup> offers a detailed and helpful analysis of the potential technical specifications for TBPPs, which should be useful to the Staff in drafting a proposed rule to implement the TBPP program. With that said, some of the design assumptions in the Final Report may be overly prescriptive (and costly) if mandated in the rule, and thus, as it did in earlier comments in this proceeding,<sup>3</sup> NRG continues to urge flexibility in the rule regarding the technical specifications of TBPPs (e.g., with respect to the sizing options for the gensets and the sizing and specifications of the solar/battery portions of the TBPP). In addition, certain legal and policy questions—such as the permissible uses for the TBPP, including whether they can operate outside of an emergency for load shaving purposes (which NRG contends they should be able to do)—are better suited for the Commission to address in the rulemaking proceeding.

It would also be helpful if the Commission, in its rule, could clarify how vendors that operate and maintain (but do not manufacture microgrids or component parts) for TBPPs can apply to pre-qualify as a TBPP vendor, as well as whether and how the TBPP funds could be used at critical load sites with existing backup generation facilities. If given the opportunity to apply for pre-qualification as a TBPP vendor, NRG may apply to participate in the TBPP program as an operator of TBPPs for critical facilities in Texas. Today, NRG operates and maintains emergency backup power facilities (fueled by diesel) on behalf of several critical facilities in Texas and hopes the TBPP program will provide an opportunity to replace aging units, convert to cleaner natural gas, and enhance the resiliency of the backup power systems at some of those

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<sup>1</sup> Project No. 57236, Staff Memo Requesting Comments (Jan. 23, 2025) (setting due date of February 14, 2025). NRG's stand-alone executive summary is attached as Attachment A to these comments.

<sup>2</sup> Project No. 57236, Patrick Engineering, Inc., Texas Backup Power Package: Final Report (Jan. 23, 2025) (hereafter, Final Report).

<sup>3</sup> Project No. 57236, NRG Energy, Inc.'s Comments Regarding Staff Questions and November 13, 2024 Virtual Workshop (Dec. 16, 2024).

existing sites (e.g., through adding solar and storage), as well as to expand the deployment of backup power systems to secure critical load across Texas.

## II. COMMENTS IN RESPONSE TO STAFF QUESTIONS

Question 1: The Final Report outlines specifications for TBPPs of various sizes to serve critical facilities. (A) How, if at all, could these specifications affect the ability of critical facilities to apply for, install, or utilize TBPPs? (B) How, if at all, should the outlined specifications for TBPP packages be modified to ensure that the packages can serve most critical facilities in Texas?

The Final Report's specifications seem to be based on the statutory directive to develop "sets of specifications for standard backup power packages of various sizes that can serve most critical facilities in the state."<sup>4</sup> While NRG understands that the statutory framework envisions standardization for the TBPP program, it also does not preclude the Commission from adopting a rule that allows for some customization to fit the specific needs of a particular critical facility. Indeed, the statute requires that the TBPP be engineered in a manner to serve critical load for 48 continuous hours during a grid emergency while minimizing costs,<sup>5</sup> which would be better satisfied if the rule allows for some ability to customize rather than imposing a "one-size-fits-most" framework.

The Final Report provides data showing that the per kilowatt (kW) cost of a TBPP would decrease as the size of the TBPP increases—decreasing from \$2,227/kW for a 10 kW TBPP to \$1,213/kW for a 1,000 kW TBPP (if sourced from component parts) and from \$11,328 per kW for a 10 kW TBPP to \$1,227/kW for a 2,500 kW TBPP (if sourced from microgrid vendors). In order to allow for greater customization and minimization of costs, the Commission's rule should allow for as many sizes of TBPPs as are available in the market, which should at a minimum be expanded to include a 2,500 kW genset or microgrid (in addition to the recommended 10 kW, 25 kW, 100 kW, 500 kW, and 1000 kW sizes). Some critical facilities may need the full 2,500 kW of capacity to serve their site needs during an emergency, and as indicated above, it appears to be significantly more cost effective to use a single 2,500 kW TBPP than to aggregate together smaller TBPPs to reach 2,500 kW of capacity.

In short, the rule should allow for as much flexibility as possible, with respect to sizing the TBPPs, to ensure that the TBPP program can best achieve the statutory objectives of serving critical facility loads during a grid emergency in the most cost-effective manner.

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<sup>4</sup> Public Utility Regulatory Act, Tex. Util. Code §§ 11.001-66.016 (PURA), at § 34.0203(c)(1).

<sup>5</sup> *Id.* § 34.0204(a)(1), (3), and (4).

Question 2: The Final Report provides a list of potential vendors for the TBPP program. (A) What factors, if any, could affect the ability of such vendors to assist with the sale, installation, operation, and ongoing maintenance of TBPPs? (B) How should the TBPP program be designed to maximize the ability of vendors to assist with the sale, installation, operation, and ongoing maintenance of TBPPs?

The Final Report lists potential vendors, but the list is limited to manufacturers/suppliers and the like. The Final Report indicates that the list is not intended to be exhaustive,<sup>6</sup> and NRG agrees that there should be an opportunity for additional entities to apply for pre-qualification as a TBPP vendor (potentially as part of the application for TBPP funding). This would be consistent with the statute, which requires all entities associated with the TBPP (from the sale and installation to the operation and ongoing maintenance of TBPPs) to be pre-qualified as vendors.<sup>7</sup> NRG has many years of experience as an operator and maintainer of emergency backup generation facilities for critical facilities, though it does not sell or manufacture the component parts for those facilities. The statute does not require that a single vendor be qualified to perform all the roles associated with a TBPP, but instead requires that any entity performing a role (such as operation and ongoing maintenance) must be pre-qualified and approved by the Commission. As indicated in the Final Report, the cost estimates from the vendors surveyed to date would far exceed the \$500/kW cap on grants under the TBPP program.<sup>8</sup> To ensure that critical facilities have access to the broadest range of qualified and cost-effective vendors, it would be helpful for the Commission's rule to clarify the process and timeline for pre-qualifying additional vendors to participate in the TBPP.

Question 3: In Sections 2-4 and 2-5, the Final Report outlines design requirements and assumptions; technology specifications; operating sequences; and installation requirements. (A) How, if at all, could the specifications described in these sections affect implementation of the TBPP program? (B) How, if at all, should the specifications be modified to ensure effective implementation of the TBPP program?

A. *Section 2-4.1(7) and "Operating Sequences" Use of TBPPs Outside of Grid Emergencies*

The Final Report concludes that the TBPP must "[o]perate only islanded with grid failure" and that "[g]rid connection is not permitted, with the possible exception of charging" the battery energy storage system (BESS) from the grid.<sup>9</sup> The Final Report further details an operating sequence that presumes the TBPPs will be used only in the event of a grid emergency and only in isolation from the grid.<sup>10</sup> NRG respectfully disagrees with this conclusion and requests that the Commission decide the legal interpretation

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<sup>6</sup> Final Report at 37 (Jan. 23, 2025) ("It is noted that the listings are not intended to be all inclusive or prescriptive, and additions to the list may be permitted at the time of individual TBPP selection for any particular site within Texas. Vendor selection would be based on years of experience as a business overall with at least five years' experience in the supply, installation and maintenance of microgrids.").

<sup>7</sup> PURA § 34.0205(d) ("The commission shall maintain and publish a list of approved vendors eligible to assist with the sale, installation, operation, and ongoing maintenance of Texas backup power packages.").

<sup>8</sup> *Id.* § 34.0205(b).

<sup>9</sup> Final Report at 15 (Jan. 23, 2025).

<sup>10</sup> *Id.* at 18-19.

and policy question on permissible uses of the TBPPs when adopting the rule. In NRG's view, requiring that TBPPs operate *only in an emergency* and only when islanded from the grid would be an inefficient and costly use of TBPPs and is not required by the statute.

The statute requires, in relevant part, that TBPPs:

- Use “interconnection technology and controls that enable immediate islanding from the power grid and stand-alone operation for the host facility”<sup>11</sup>;
- Be “capable of operating for at least 48 continuous hours without refueling or connecting to a separate power source”<sup>12</sup>;
- Not be “used by the owner or host facility for the sale of energy or ancillary services”<sup>13</sup> or be “a commercial energy system, a private school, or a for-profit entity that does not directly service public safety and human health”<sup>14</sup>; and
- Be “engineered to minimize operation costs.”<sup>15</sup>

As NRG reads the statute, so long as the TBPP is designed with the ability to immediately island from the grid during an emergency (and satisfies other requirements in the statute, such as not being used for the sale of energy or ancillary services), the TBPP can also operate in parallel with the transmission grid at times outside of an emergency (e.g., for testing purposes and for load reduction during peak periods). The use of a TBPP outside of a grid emergency to allow the critical facility to reduce its load during peak intervals would enable the critical facility to manage its electricity costs generally, but would involve no sale of energy or ancillary services by either the TBPP operator or the critical facility—instead, the TBPP would reduce the load measured by the critical facility's settlement meter and ultimately billed to the critical facility for electricity service from the grid, rather than result in the critical facility or TBPP operator selling energy or ancillary services. Further, the use of a TBPP to reduce the load of the critical facility outside of an emergency would not preclude the ability of the TBPP to immediately island during a grid emergency and to continue serving the critical facility load continuously for at least 48 hours. If the Commission has concerns about the availability of TBPPs during emergency load shed conditions, the Commission could require that the TBPP operator not operate the TBPP in parallel with the grid when ERCOT has determined that load shed conditions are likely (such as when an Energy Emergency Alert, Level 1, or even a Watch has been issued).

Allowing TBPPs to be used in circumstances like load management will make them more economically beneficial to the critical facility (through an appropriate arrangement with its retail electric

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<sup>11</sup> PURA § 34.0204(2) (emphasis added).

<sup>12</sup> *Id.* § 34.0204(3) (emphasis added).

<sup>13</sup> *Id.* § 34.0204(6) (emphasis added).

<sup>14</sup> *Id.* § 34.0205(c)(1) (emphasis added).

<sup>15</sup> *Id.* § 34.0204(3) (emphasis added).

provider) and thus will help further the statutory requirement that TBPPs be engineered to minimize operation costs. In addition, this would help the state ensure that its grant dollars are put to the best and most efficient use. If TBPPs are required to be operated only in the context of a grid emergency that requires islanding of the critical facility from the grid (i.e., during or immediately preceding load shed conditions), then the TBPPs will rarely, if ever, be used. NRG respectfully suggests that result is neither required by the statute, nor prudent from a policy perspective, and requests that the Commission clarify in its rulemaking proceeding that TBPPs can be used in circumstances outside of grid emergencies, so long as they comply with all relevant statutory requirements.

B. *Section 2-4.1 Design Assumptions*

1. Sizing of BESS and solar relative to gas/propane

The Final Report suggests that the BESS component of the TBPP be sized with the ability to serve the entire critical facility load for at least one hour (e.g., for a 1000 kW gas generator, the Final Report recommends installation of a 1000 kWh BESS). The Final Report then recommends that the solar component be sized to recharge the BESS during 6 hours of daylight (e.g., for the 1000 kWh BESS, they recommend 200 kW of solar).

NRG recommends that the Commission's rule allow more flexibility with respect to the BESS and solar portion of the TBPP, in order to further the statutory aims of minimizing costs while also providing critical facility loads with continuous power for at least 48 hours during a grid emergency.<sup>16</sup> As a general rule, gas/propane units are better suited to providing continuous service during a long duration emergency than either solar (e.g., if the emergency coincides with cloudy conditions and/or continues through the night) or storage (which has a limited duration by design and presumably would have to be recharged by the solar panels during the day). The Final Report's recommendations regarding the BESS and solar panel design would provide a single hour of electricity to the critical facility load in the event of an outage or derate of the gas/propane unit (before the BESS would need to recharge for six hours of daylight). Yet, even at that sizing, the BESS would account for roughly half the cost of the total TBPP package,<sup>17</sup> and the overall TBPP packages are estimated to cost more than double the \$500/kW cap for TBPP grants in the statute.<sup>18</sup>

Instead of mandating that the BESS be sized to serve the same load as the genset would serve, for at least one hour, the Commission rule should allow for maximum flexibility in the sizing of the BESS (and associated solar panels to recharge the BESS). The statute does not mandate any particular sizing for the BESS and solar portions. To ensure that the backup power system is designed to meet the statutory requirement of operating continuously, without refueling, for 48 hours, the TBPP should include sufficient

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<sup>16</sup> *Id.* § 34.0204(3).

<sup>17</sup> Final Report at 11 (filed Jan. 23, 2025) (estimating the BESS portion of a 1000 kW TBPP, if the BESS is sized to serve 1000 kW of demand for one hour, to cost \$600,000 of a total projected cost of just over \$1.2 million, and estimating the BESS portion of a 500 kW TBPP, if sized at 500 kWh, to cost \$300,000 of a total cost of just over \$600,000).

<sup>18</sup> *Id.* § 34.0205(b).

capacity of natural gas (or propane for smaller critical facilities<sup>19</sup>) to serve the critical facility's anticipated load through at least two nights and during any cloudy conditions, which often coincide with grid emergencies that occur during extreme cold weather. The solar and storage components would still be available to provide additional resiliency in the event of fuel-related issues during the emergency, but should not be the primary source of power for the critical facility and should not, with respect to the BESS, be required to be sized equal to the gas/propane portion of the TBPP.

While a BESS that could serve the entire critical facility load for a full hour (or more) would add greater resiliency in the event of an interruption of service from the genset (gas or propane) for fuel or other reasons, the statute requires that cost be a consideration for designing the TBPP,<sup>20</sup> and sizing the BESS at that level does not appear to be cost-effective based on the data provided by the Final Report. If the critical facility load wants to invest more money in a larger BESS, then they have that option at their own expense, but it should not be a requirement to receive funding under the program.

## 2. Other Design Assumptions

Other design assumptions, specified below, also should not be hard-coded into the rule, so that the individual TBPPs can be designed in the most effective, efficient manner. For example, Design Assumption 2.c states that the TBPP should be sized based on a "load factor" based either on billing data (if available) or a typical load factor of 60 percent. However, such a load factor may not be accurate to determine what the critical facility's load may be during a grid emergency. If the intent is to allow the entire critical facility load to be served (at least by the gas/propane genset portion of the TBPP) during a grid emergency, then peak load, including the electricity needed to start heavy equipment (if any), should be used to size the TBPP.

Similarly, Design Assumption 8 assumes that the solar will be designed for fixed tilt ground mount using available existing lot space. While that might be the right design for some facilities, the rule should not require that design feature. At some critical facilities, it may make more sense to use roof panels than to install solar facilities on the ground. In order to meet the requirement for minimization of costs, the rule should allow for flexibility in the design of the solar portion of the TBPP.

Question 4: How should the TBPP be designed to mitigate or remedy any other factors that could negatively affect program implementation or participation, while ensuring compliance with statutory requirements? Please limit this response to factors not previously mentioned in responses to questions one through three above.

A. *Clarify ability to seek funding at sites with existing backup power*

It would be helpful if the rule could clarify that program funds will be available to critical facilities with existing emergency backup generators—e.g., to replace aging units and convert to gas if not already

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<sup>19</sup> The Final Report assumes that gas will be used for most critical facilities and that propane would be used for smaller facilities only, which seems like a reasonable assumption.

<sup>20</sup> PURA § 34.0204(1).

gas-fired and to add the requisite solar and storage components in the statute. Chapter 34 of the Public Utility Regulatory Act (PURA)<sup>21</sup> does not appear to bar use of the Texas Energy Fund (TEF) funds for this purpose, so long as the technical specifications of the program are satisfied. Unlike the TEF ERCOT loan program,<sup>22</sup> the subchapter regarding the TBPP makes no distinction between “new” or “existing” facilities, thus indicating that funds could be available for both types of sites. With that said, clarification on this point in the rulemaking would be helpful.

In NRG’s view, the TBPP funds should be made available for sites with existing backup power facilities, to best further the intent of the statute. The stated intent of Subchapter B of PURA (“Texas Power Promise: Backup Power Packages”) is to “facilitate and provide funding for the design, procurement, installation, and use of Texas backup power packages to ensure the reliability or adequacy of an electric power grid in this state **for facilities on which communities rely for health, safety, and well-being.**”<sup>23</sup> Many such facilities (e.g., water treatment plants, hospitals) already maintain emergency backup power generators on site (either based on a legal requirement<sup>24</sup> or as a matter of best practice) and many have been in place for some time. Thus, to fulfill the above-stated statutory intent, TBPP funds should be available to such facilities, even if they already have backup generators on site, if use of the funds would enable them to replace existing units and convert to gas if not already gas-fired and to enhance resiliency by adding solar panels and a battery. Otherwise, the TBPP program may fail to provide funds to the most critical types of facilities in the state, which would seem to frustrate the statutory intent.

*B. Clarify identity of the applicant*

It would be helpful for the rule to clarify who can be the applicant for TBPP financing. As addressed in more detail below (related to ownership and financing), NRG anticipates that many critical facilities may face challenges (potentially related to tax, lack of technical expertise, potential liability, and the like) that would make it difficult for them to own, operate, and maintain their TBPP. If a third party will own and operate/maintain the facility, it could make sense for that party to be the applicant, on behalf of the critical facility, for the TBPP grant or loan, since that party likely would also be the one to procure and oversee the installation of the TBPP at the site.

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<sup>21</sup> Tex. Util. Code §§ 11.001-66.016 (PURA).

<sup>22</sup> PURA §§ 34.0104. To be clear, the statute does not make program funds available for only one type of site (e.g., new or existing), but it is notable that the loan program does distinguish between new and existing for some purposes, whereas the TBPP part of the statute does not.

<sup>23</sup> PURA § 34.0202 (emphasis added).

<sup>24</sup> *E.g.*, Tex. Health & Safety Code § 251.017 (requirements for end-stage renal disease facilities); Tex. Water Code § 13.1394 (requirements for certain water providers); 25 Tex. Admin. Code (TAC) § 133.45 (making National Fire Protection Association standards applicable to hospitals, which include emergency backup power requirements – see NFPA 110).



C. *Clarify ability to use alternative ownership models*

In NRG's experience, many critical loads (especially political subdivisions like cities) do not want to own a generator (including "lease to own")<sup>25</sup> or take on the liability or responsibility for operating and maintaining something outside their core business. Thus, NRG would support the Commission rule allowing for (or not prohibiting) alternative ownership models, so long as such models comport with PURA, including a model by which a third party owns the TBPP and provides resilience as a service, for example, by operating, testing, and maintaining the TBPP on behalf of the critical facility. Under Chapter 34 of PURA, a TBPP cannot be used to generate electricity for sale in the wholesale market as energy or ancillary services<sup>26</sup> and is intended to be used as a backup power source in times when the critical facility cannot access electricity from the grid due to an extended grid outage.<sup>27</sup> Thus, by design, TBPPs could not be used to sell wholesale power to the grid and would be used primarily to provide electricity to the critical facility during grid emergencies (and potentially in other circumstances not involving sales of energy/ancillary services, such as the load shaving use discussed above). In NRG's view, a third party could own the TBPP on behalf of the critical load facility in these circumstances, consistent with PURA,<sup>28</sup> and perform O&M and testing services for a critical load that, for liability, tax, or whatever other reason, cannot or does not want to own the TBPP itself.<sup>29</sup> NRG suggests that the Commission address this issue in the upcoming rulemaking to remove any doubt regarding the ability for third party ownership of TBPPs (at least in areas of the state open to retail electric competition).

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<sup>25</sup> With that said, it is not uncommon for a contract arrangement for emergency backup power to include a lease and an option to buy at the conclusion of the lease for a nominal amount.

<sup>26</sup> See, e.g., PURA § 34.0204(6) (allowing funding for a TBPP only if it "is not used by the owner or host facility for the sale of energy or ancillary services"); *id.* § 34.0205(c) (prohibiting funding for a "commercial energy system").

<sup>27</sup> See *id.* § 34.0202 (defining the purpose of the TBPP as ensuring "reliability or adequacy of an electric power grid in this state for facilities on which communities rely for health, safety, and well-being"); *id.* § 34.0201 (defining "Texas backup power package" as "a stand-alone, behind-the-meter, multiday backup power source that can be used for islanding"); *id.* § 34.0204 (requiring that a TBPP be capable of "immediate islanding from the power grid and stand-alone operation for the host facility" and be "capable of operating for at least 48 continuous hours without refueling or connecting to a separate power source").

<sup>28</sup> PURA has limitations on who can own and operate facilities in the state, for compensation, to transmit and distribute electricity (i.e., a transmission and distribution utility (TDU)) and who can make sales of electricity at wholesale and retail in the areas of the state open to competition (i.e., a power generation company (PGC) and retail electric provider (REP), respectively). See, e.g., PURA §§ 39.051, 39.105(a), 31.002(6)(C), (H), 31.002(10), 31.002(17), 37.051. In NRG's view, ownership and operation of the TBPP can be done in a way that does not violate any of these restrictions. For example, as noted above, (1) the TBPP would not be used to make wholesale sales to the grid, so the TBPP owner/operator could register as a self-generator (rather than a PGC); (2) with respect to the provision of electricity behind the meter (e.g., during grid emergencies or for load management purposes), that can be structured in a manner to avoid any retail sale of electricity; (3) any sales of electricity to the critical facility from the grid would, of course, have to be made by a REP; and (4) the arrangement could be structured to avoid ownership by the TBPP operator of wires facilities or substations used to supply power to the critical facility to avoid any violation of the prohibitions against unlawfully acting as an electric utility.

<sup>29</sup> PURA permits self-service, so this would also be an option for a critical facility that is able to and willing to own the TBPP. PURA § 31.002(6)(J)(i).

III. CONCLUSION

NRG appreciates the Commission's leadership on the development and implementation of the Texas backup power package program and looks forward to the opportunity to continue working with the Commission and Staff to develop the rules needed to ensure its success.

Respectfully submitted,



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**ATTACHMENT A – NRG ENERGY, INC.’S EXECUTIVE SUMMARY**

- NRG appreciates the work of the Texas Backup Power Package (TBPP) Advisory Committee, Patrick Engineering, Inc., and Commission Staff to date in helping to scope the TBPP program and identify the primary issues that will need to be addressed to make the program successful.
- Patrick Engineering’s Final Report offers a detailed and helpful analysis of the potential technical specifications for TBPPs, which should be useful to the Staff in drafting a proposed rule to implement the TBPP program. With that said, some of the design assumptions in the Final Report may be overly prescriptive (and costly) if mandated in the rule, and thus, NRG urges flexibility in the rule regarding the technical specifications of TBPPs. For example:
  - The rule should allow for as many sizes of gas/propane gensets as are available in the market and should not limit the capacity to the five sizes listed in the Final Report (10 kW, 25 kW, 100 kW, 500 kW, and 1,000 kW). At a minimum, a 2,500 kW genset size should be added, as the data in the Final Report indicates that the per-kW cost decreases as the size of the genset increases, and as minimizing costs is one of the statutory requirements for the TBPP design.
  - The rule also should allow flexibility with respect to the battery energy storage system (BESS) and solar sizes relative to the gas/propane size. The Final Report recommends that the BESS be sized to serve the entire load (equal to the capacity of the gas/propane genset) for at least one hour and that the solar facilities be sized to recharge the BESS in six hours of daylight. However, under this recommendation, the cost of the BESS (even providing only one hour of service at a time) would be roughly half the total cost of the TBPP, and the cost estimates provided by vendors to date indicate that, even at the most cost-effective size option, the TBPPs will cost more than double the \$500/kW statutory cap for grants under the program.
  - Other design “assumptions” (e.g., that a load factor should be used to size the genset or that fixed tilt ground solar facilities should be used instead of roof panels) should not be hard-coded into the rule, in order to allow the most cost-effective option to be chosen.
- In addition, certain legal and policy questions—such as the permissible uses for the TBPP, including whether they can operate outside of an emergency for load shaving purposes—are better suited for the Commission to address in the rulemaking proceeding.
  - Nothing in the statute precludes use of a TBPP in parallel with the grid or outside of an emergency, so long as it is designed to enable immediate islanding during an emergency and to perform as required under the statute during an emergency and satisfies all other statutory requirements (e.g., no sales of energy or ancillary services).
  - Allowing for uses outside an emergency (such as for load shaving) will result in a better and more efficient use of the tax dollars spent on the TBPPs, without contravening the statutory design.
- The Commission should clarify that entities that operate and maintain, but do not manufacture, supply, or install TBPPs or component parts, can qualify as a vendor for the program.
- The rule should also clarify the ability to use alternative ownership models (such as allowing the TBPP facility to be owned and operated by a vendor, who provides resiliency as a service), consistent with the bulk of comments at the November 2024 virtual workshop and following that workshop. Similarly, the rule should clarify who can be the applicant for TBPP program funds.
- Finally, it would be helpful for the rule to clarify that critical loads with existing backup power facilities (many of which are already required to maintain such facilities under another statute and may have had backup facilities in place for years) can apply to participate in the program to replace aging units, convert to natural gas (e.g., if currently using another fuel like diesel), and add solar and BESS facilities to increase resiliency at their sites.