



SIERRA CLUB

LONE STAR CHAPTER

May 15, 2023

To: The Honorable Todd Hunter
Members, Committee on State Affairs
From: Cyrus Reed, Conservation Director, Lone Star Chapter Sierra Club, 512-888-9411
Re: SB 1075 by King/Guillen

The Sierra Club is neutral on SB 1075. While as introduced, SB 1075 was a significant change in law, allowing wires companies to own generation and charge it to ratepayers with very little input from the ratepayers themselves, the version that passed the senate is significantly improved. First, the new version does not allow direct ownership, and provides some ability of the PUCT to limit the amount of mobile generation that could be contracted through a third party by taking out an assumption on the capacity of those generating units.

While the Sierra Club does share Senator King and Rep. Guillen's concern about assuring that our grid is resilient and we do not suffer outages, and that utilities have tools to help restore power, our concern has been whether the bill could undermine the competitive market by allowing direct ownership of generation by utility companies and the potential impacts on air quality.

Recent decisions by the PUCT have seen the PUCT already move in a direction in which certain assets and contracts are being paid for by customers, and SB 1075 continues in the trend. We believe the new version of the bill is now more similar to other recent legislation approved, such as legislation by Senator Hancock and Rep. Holland from last session that allowed contracts for storage as a reliability service, but did not allow ownership of storage and recovery of that ownership by the TDU.

We still have concerns about the very significant definition of "Serious" outage

The bill includes several ways in which an event could be declared a power outage. Indeed one definition is simply that ERCOT determines orders "a transmission and distribution utility to shed load," which occurs anytime ERCOT orders TDUs to utilize their load management programs, while the bill in section (a-1) also allows several

entities including TDEM, ERCOT or the PUCT to declare an event as a “significant power outage.” Even more broadly, (a-2) allows the TDU itself to determine whether “a loss of electric power” creates a risk to health or safety. *Thus, the bill is written in a way that up to five or six types of situations could lead to a declaration of a significant event meaning that TDUs would be authorized to put certain investments into their rates. We would prefer to remove (a-2) from the bill.*

While we now understand that the bill has been changed to allow no direct ownership, we still view the definition of “serious” outage to be very broad and call on the PUCT to interpret this section more narrowly.

Sierra Club would note that diesel and gas mobile equipment can cause serious air quality concerns

The bill would allow utilities to lease and operate mobile generation subject to a determination by the PUCT of the capacity and type. Many of the leading utilities in Texas happen to correspond to areas already facing significant air quality issues. Indeed, both the Dallas-Fort Worth and Houston-Galveston-Brazoria airsheds currently fail to meet both the 2008 and 2015 ozone NAAQS as determined by the US EPA. Under SB 1075, utilities could operate enough machinery and mobile generators to meet a significant amount of peak load. It is important to note that peak load in the ONCOR and Centerpoint Energy areas is significant, and owning and operating gas or diesel emergency generation equipment - particularly in the hot summer when ozone levels peak - could add to the air pollution burden in areas already facing public health and ozone compliance concerns.

It is worth noting that technology is changing and the types of mobile generators that might make sense may eventually be replaced with new technologies that are cleaner including technologies using electricity and batteries, fuel cells and hydrogen. Encouraging utilities to operate often dirty mobile generators for restoring serious outages could counteract the need to meet our clean air obligations.

Sierra Club is not opposed to utilities being able to invest in resiliency and power restoration efforts, but we would like to see some limits in the bill.

How we would change the bill

We would prefer to remove (a) (2) which puts the utility not the PUCT in the position of determining whether an outage is a serious one. Second we would suggest some language around considering air quality in approving the plans for restoration.

Specifically, we would suggest language be added to the bill such as:

A mobile distributed generation facility authorized in this section must comply with emissions limitations and other rules established by the Texas Commission on Environmental Quality, including rules established as part of a State Implementation Plan.

We would also suggest adding air quality as something the PUCT must consider in approving any proposed investments with language such as

"In approving investments under this subsection, the PUCT may consult with the TCEQ and consider the potential impacts on air quality and establish operational limits."