



**City of Houston Supplement  
to Senate Bill 1075 Testimony Submitted to the  
Senate Business and Commerce Committee  
on April 11, 2023**

Clarifying Questions and Answers about Senate Bill 1075

- 1. Proponents of S.B. 1075 assert that this legislation will *save lives* because it gives Transmission and Distribution Utilities (TDUs) the ability to own *temporary* emergency electric facilities (TEEEF) to quickly restore power to critical facilities like hospitals during natural disasters (tornados, hurricanes, floods, etc.) Is this true?**

**Claims like these are greatly exaggerated.** For example, based on the evidence presented during CenterPoint’s initial TEEEF recovery case, *including testimony from CenterPoint’s own witnesses*, the TEEEF resources *currently* leased by the Company do not function as presented by proponents of this bill.

CenterPoint’s 5 MW generators take between **12 and 48** hours to deploy, and the 32 MW generators take between **7 and 8 days** to deploy. Although the smaller generators have shorter deployment times, they are not able to provide the power necessary to run anything larger than a few small buildings. Although S.B. 1075 supporters may argue that this bill would solve the timeliness issue by allowing utilities to deploy these in *anticipation of an event*, that represents an unnecessary cost to ratepayers because utilities, eager to recover costs and rate of return on their capital assets, will likely deploy these at the inception of *every* weather event, whether it is anticipated to be severe or not. **Where a hurricane may strike – the “cone of uncertainty” – frequently does not solidify until well into the period that these assets need to be deployed to be of any value.** Thus, there is a strong possibility that where the assets are placed, and the location of the power outage resulting from the event, could involve a completely different group of customers than was anticipated. **These are not nimble and easy to move facilities and they will not save lives under the non-load shed scenarios described, despite representations to the contrary.**

As discussed in more detail in Question 2, below, for short duration power outages that do not meet the deployment requirements for TEEEF (which are **much** more likely to occur), it would be far more effective for protecting health and safety – and more cost-effective and strategic – to invest in, and subsidize, more resilient distribution equipment or customer-sited backup power than costly mobile generators. Since evidence shows that CenterPoint and other TDUs are already engaging in these distribution investments, to *the tune of hundreds of millions of dollars*, it would be extremely inefficient, and very detrimental to ratepayers, to sink significantly more funds into TEEEF.

**2. Proponents of S.B. 1075 claim that TDUs must have backup power generation assets to diminish the impact of power outages on consumers. Is this true?**

**NO.** There are many backup power solutions for electricity customers in Texas' deregulated market, including personal portable generators. Retail electric providers (REPs) sell power to customers and offer various backup power solutions. The City of Houston, for example has existing contracts with its REP to provide backup power generators at many of our critical facilities during any extended power outage.

Further, as we have discovered through recent Distribution Cost Recovery Factor ("DCRF") proceedings, TDUs have already expended hundreds of millions of dollars on distribution repairs and upgrades that will help immensely in restoring power to millions of customers experiencing outages resulting from hurricanes and other natural disasters causing damage to distribution facilities. *In most of these instances, addressing the outages through shifts in distribution facilities or upgrades to the distribution system has proven to be much more efficient, from both a time and cost perspective.* If utilities are allowed to use TEEEF resources at their discretion, without any review as to whether such use is the better response, ratepayers will bear the burden of these inefficient and more costly decisions. More significantly, because these assets cannot be deployed where will be needed in a timely manner, relying on these assets rather than other distribution upgrades **may result in greater loss of life.**

**3. Proponents of S.B. 1075 argue that this legislation does nothing more than give Transmission and Distribution Utilities (TDUs) the same ability to deploy backup power during power outages that Municipally Owned Utilities (MOUs) and Cooperative Utilities (COOPs) already have. Is this a desirable outcome?**

**NO.** There is no similarity between TDUs, MOUs, and COOPs, and comparing their roles in outage situations is completely misleading.

MOUs and COOPs are vertically integrated utilities that manage **all aspects of power generation, transmission, distribution, and retail service for their customers.** They are responsible for providing generation during normal operations as well as during emergencies.

The same is not true of TDUs. When the Texas Legislature deregulated electricity, it eliminated vertically integrated public utilities and required them to sell their generation assets and their retail operations. Until 2021, TDUs were not allowed to own *any* generation assets. However, after Winter Storm Uri, H.B. 2483 was enacted by to give TDUs a *very limited* ability to lease and operate *temporary* emergency electric facilities (TEEEF) *during emergencies only.*

**If this bill truly intended to give TDU's the same ability to deploy generation assets during power outages that MOUs and COOPs currently have, the intent of the bill would be to completely undo retail electric competition in Texas.**

**4. This bill purports to “tweak” the existing law that allows TDUs to own temporary emergency electric facilities. What “tweaks” is S.B. 1075 offering?**

The current statute already allows TDUs to lease and operate TEEEF, but it has limitations on how and when TEEEF can be deployed to ensure the lines between generation providers and TDUs in Texas does not become blurred.

Under the current statute, temporary emergency generation assets can only be deployed by TDUs to address outages of no less than 8 hours that affect a significant number of distribution customers and pose a significant risk to public health and safety. TDUs can only lease or operate the facilities to restore power during an outage in which ERCOT has ordered the utility to shed load or the distribution facilities are not being fully served by the bulk power system under normal operations. The limitations exist to prevent exorbitant costs and market interference, while allowing TDUs *temporary* and *emergency* generation assets to lessen the impact to customers of mandatory load-shedding events during the most severe and extended power outages.

The current statute was carefully drafted to allow TDUs to deploy generation assets only during actual emergencies – outages of significant duration. S.B. 1075 would allow TDUs to deploy TEEEF not only during actual emergencies, but also during *anticipated emergencies, before any disruption to the system has even occurred.*

The proposed legislation is much more than a “tweak.” S.B. 1075 would allow TDUs to deploy emergency backup generators for almost any reason, including outages of short duration, and those that may have affect only on localized service. In addition, it would allow automatic cost recovery. **Moreover, it would create the presumption that all TEEEF costs requested by TDUs are prudent and reasonable as long as they do not exceed an *arbitrary* cap of three (3) percent of the utility’s peak load. This is a significant departure from the current legislation, which requires that all TEEEF costs be reviewed for prudence and reasonableness, without any presumptions.**

**5. Does TDU backup power have the potential to interfere in the wholesale electricity market?**

**YES.** S.B. 1075, as drafted, would likely enable TDUs to anticipate potential outages prior to their occurrence. This would enable them to deploy TEEEF into the market prior to the existence of any actual outages. Under the current statute, TDUs can deploy TEEEF only AFTER there is a widespread outage event that satisfies Sec. 39.918 of the Utilities Code. At that point the local distribution system is totally disconnected from ERCOT and, thus, the TEEEF deployment has no impact on the wholesale market. **Because S.B. 1075 would permit deployment prior to the outages, and thus before disconnection from the ERCOT grid, it would have a direct impact on the wholesale market.**

**6. If TEEEF is not a cost-effective solution for power restoration during hurricanes, tornados, and other extreme weather events that cause power outages that last fewer than 8 hours, could TEEEF be used in any extreme weather scenario?**

TEEEF is most suitable for reducing the impact of “load shed” on customers during *extended* (see the response to question 5 above which describes the deployment time required for TEEEF and therefore the meaning of “extended”) power outages that affect the state or a specific region. It is not cost-effective to use TEEEF to restore power to individual customers, which are better served by sourcing their own backup power solutions in the deregulated market. For example, the Texas Medical Center in Houston has dedicated backup generation and HEB has contracted with Enchanted Rock for on-site backup generation. The City of Houston has also arranged for backup generation for many of our critical facilities.

**7. How often do power outages eligible for TEEEF occur?**

There have only been *four load shed events in Texas since 1989*. Significantly, only one load-shed event met all the requirements of the *existing* statute for deployment and operation of TEEEF – Winter Storm Uri. Specifically, no other load shed event has met the eight-hour duration requirement under the existing statute. With no explanation, S.B. 1075 unnecessarily lowers the threshold to six hours.

**8. Will TDUs profit from leasing, owning, and operating TEEEF?**

**YES.** TDUs can recover their TEEEF costs, in addition to a guaranteed rate of return. TEEEF costs and the associated profit are passed onto ratepayers. For example, CenterPoint is currently proposing an additional \$3.24 per month (on top of the approximately \$1.00 per month already included in its initial TEEEF recovery case) for the average residential customer to recover costs of their **\$842.5 million TEEEF program**. Significantly, although CenterPoint *is requesting recovery of* \$842.5 million in TEEEF costs under the *current statute*, **the equipment has never been used or useful to save lives in a load-shedding event, which was the purpose for which the TEEEF statute was originally designed.**

While TDUs do not bill for the kilowatt hours that a TEEEF resource provides while it is operating during an emergency, **ratepayers will still be on the hook for every minute that a TEEEF is being stored, transported, and operated. The longer or more frequently a TEEEF is used will effectively result in ratepayers paying for more kilowatt hours being placed onto the system.**

**9. Is there any aspect of this proposed legislation that the City of Houston supports?**

S.B. 1075 proposes to allow utilities to own TEEEF rather than lease it. The City of Houston agrees that if the Legislature desires for utilities to deploy TEEEF, it is far more favorable for ratepayers

if the utility owns the facilities rather than leasing them, because they can be amortized over the useful lives of the assets rather than an artificially short period.

However, this benefits ratepayers only if (a) the legislation also limits the amount of TEEEF that can be acquired by a utility; (b) eliminates the provisions that would allow utilities to deploy these assets *in anticipation* of extreme weather events or outages; and (c) removes the **presumption** that TEEEF costs are prudent and reasonable.

For the reasons set forth above, Houston requests that S.B. 1075 not move forward, as filed. Houston appreciates the opportunity to present this information to you and we look forward to working with you this legislative session.