



City of Houston Testimony on Senate Bill 1075
Senate Business and Commerce Committee
May 12, 2023

The City of Houston (Houston or City) appreciates the opportunity to testify on Senate Bill 1075, a bill that proposes changes to Section 39.918 of the Utilities Code, authorizing the use of temporary emergency electric energy facilities (TEEEF) in response to power outages. TEEEFs are mobile power generators that can help supply electricity on a temporary, as needed basis.

Section 39.918 of the Utilities Code was enacted in 2021 to allow transmission and distribution utilities (“utility) to lease, operate, and deploy TEEEFs in limited circumstances. The utility must meet the following conditions for TEEEFs to be used to aid in restoring power to a utility’s customers:

- 1) there must be a widespread power outage, which is defined as a loss of power that affects significant number of distribution customers, is expected to last at least eight hours, and is a risk to public safety and
- 2) the independent system operator ordered the utility to shed load or the utility’s distribution utility isn’t being fully served by the bulk power system under normal operations.

Houston fully supports the efforts of the legislature and all stakeholders to minimize or even prevent widespread electricity outages resulting from statewide load shedding events. However, much of SB 1075 permits transmission and utilities in this State to go far beyond responding to Uri-type load shedding events. The importance of allowing expanded use of TEEEF is the impact to Texas ratepayers.

TEEEF deployment is extremely costly, due to the need to relocate these very large and expensive generation units, which involves commissioning and decommissioning the units, transporting them over possibly great distances and significant fuel costs. The impact of the higher rates associated with TEEEF is made even more disconcerting when viewed in the context of the hundreds and millions of dollars already spent by transmission and distribution utilities in upgrading and modifying the distribution system to better withstand weather related outages and to more efficiently and effectively restore power after these events. As demonstrated in the recent TEEEF recovery cases, these efforts, which also have resulted in significant increases in rates, are much more cost-effective and efficient than TEEEF in addressing non-load shedding, weather related outages.

SB 1075 Engrossed version makes some significant changes to the original bill. However, it also maintains certain aspects of the bill related to the circumstances under which TEEEF may be deployed. The Engrossed version, for example, greatly expands the scenarios under which a utility may deploy its TEEEF. In fact, it gives a transmission and distribution utility the discretion to unilaterally determine that an event constitutes a circumstance warranting use of TEEEF.

Furthermore, the engrossed version of SB 1075 removes the three percent (3%) of historical peak load capacity cap on TEEEF that a utility may lease or own and operate. Instead, SB 1075 allows the Public Utility Commission (“Commission”) to establish reasonable conditions on the operation and use of TEEEF, including duration times. Finally, SB 1075 allows an affiliate of the utility to own TEEEF and for the utility to lease TEEEF from its affiliates if the costs of the lease comply with certain requirements.

Houston supports the amendments in the Engrossed version that removes the presumption of reasonableness related to the three percent historical peak load. Houston remains concerned, however, about the costs associated with the expanded use of TEEEF. Section 39.918 was passed by the legislature in response to widespread power outage during Winter Storm Uri in 2021. The most recent changes to SB 1075 allow deployment of TEEEF beyond widespread power outage and mandatory load sheds to include significant, but common events, such as declared disasters or emergencies, and power outages that affect hospitals and other critical infrastructure.

Section 39.918 was intended to address a very specific and significant statewide event. It was not intended to permit transmission and distribution utilities to become power generation companies.

As utilities get more involved in power generation, as is proposed under SB 1075, the lines between a transmission and distribution utility and a power generation company start to overlap. SB 1075 allows ownership of TEEEF by the utility’s affiliates.

- In the ERCOT de-regulated market, the transmission and distribution utility and the power generation operators are supposed to be separate and distinct entities. Blurring these lines frustrates the very purposes of deregulation in this State.

For the reasons above, Houston recommends that SB 1075 be amended to limit the use of TEEEFs to when there is mandatory load shedding.