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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

March 12, 2025

Richard Paces
Hill Country Energy Sub-Regional Planning Commission
700 Main, Ste. 101
Kerrville, Texas 78028

Dear Commissioner Paces,

Thank you for your letter dated March 3, 2025, regarding the coordination of planning for Battery Energy Storage System (BESS) facilities in Kendall and Kerr Counties. We appreciate your proactive approach.

The Texas Commission on Environmental Quality (TCEQ) acknowledges the importance of coordinating with the Hill Country Energy Sub-Regional Planning Commission (HCESRPC) as outlined in Section 391.009(c) of the Texas Local Government Code. As a state agency, TCEQ's role is to ensure effective and orderly implementation of TCEQ programs at the regional level. We understand the environmental sensitivities and potential risks associated with potential emergencies at BESS facilities in your region. Meanwhile, TCEQ is unfamiliar with HCESRPC's plans, and has not been involved with the ERCOT BESS installation projects to which you refer in your letter.

While TCEQ is committed to ensuring that any development, installation, or operation of BESS facilities in Kendall and Kerr Counties prioritizes the health, safety, and general welfare of your residents, it is important to note that our regulatory authority in this area would limit any recommendations or technical information contemplated by Tex. Local Gov't Code 391.004(b) or 391.009(b) to matters within TCEQ jurisdiction. Specifically, TCEQ's jurisdiction in relation to BESS facilities may include:

1. **Stormwater Authorization During Construction:** TCEQ regulates stormwater runoff from construction sites to ensure water quality is maintained. BESS facility operators are subject to construction stormwater regulations. The operator of the site must obtain a Construction General Permit (CGP, TXR150000) authorization and develop and implement best management practices and a stormwater pollution prevention plan prior to starting land disturbance from construction or construction support activities.
2. **Waste Management:** TCEQ oversees the management of waste, including the disposal of batteries that are damaged and beyond repair or at the end of their life cycle. Once a battery is considered waste it must be classified appropriately as either nonhazardous or hazardous waste and properly disposed of at an appropriate solid waste facility.

Additionally, in TCEQ's capacity as lead agency for oil and hazardous material spill and response under Emergency Support Function 10 (Texas Government Code, Chapter 418), TCEQ may respond to significant incidents that impact ambient air, groundwater, surface water, or soil. Although TCEQ staff are not first responders, TCEQ may deploy investigators to assist local government jurisdictions with assessing environmental conditions during an emergency

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event and to ensure that releases of hazardous materials are stopped or contained and then properly cleaned up.

Other aspects of BESS facility planning and operation may fall under the purview of different state or federal agencies. Despite these limitations, we are dedicated to working collaboratively with HCESRPC and other relevant entities to address your concerns to the greatest extent feasible. We are prepared to engage in meaningful discourse and provide input on environmental issues and other relevant matters within our regulatory scope, which are limited to those described above. We are available to discuss if you are available for a call.

We look forward to working closely with the HCESRPC to achieve our shared goals of improving the health, safety, and general welfare of the residents in Kendall and Kerr Counties.

Sincerely,

A handwritten signature in black ink that reads "Kelly W. Cook". The signature is written in a cursive style with a large initial "K".

Kelly W. Cook, Deputy Director
Critical Infrastructure Division
Office of Compliance and Enforcement
Texas Commission on Environmental Quality