

Date: March 28, 2023

To: Chairman Schwertner and the Members of the Senate Committee on Business & Commerce

From: **Adrian Shelley, Public Citizen, [ashelley@citizen.org](mailto:ashelley@citizen.org), 512-477-1155**

CC: Sen. Phil King, Sen. Brian Birdwell, Sen. Donna Campbell, Sen. Brandon Creighton, Sen. Nathan Johnson, Sen. Lois W. Kolkhorst, Sen. José Menéndez, Sen. Mayes Middleton, Sen. Robert Nichols, Sen. Judith Zaffirini  
*Via hand delivery and by email.*

**Re: SB 1751 –Public Citizen testimony in support**

Dear Chairman Schwertner and Members of the Committee:

Public Citizen appreciates the opportunity to testify in support of SB 1751 by Senator Lois Kolkhorst, relating to the regulation and tax treatment of facilities in the ERCOT power region that demand a large load of interruptible power.

**Virtual currency participation in demand response programs should be limited.**

We support SB 1751’s 10 percent cap on participation in demand response programs by the cryptocurrency industry. We don’t actually know what the right cap on participation is, but we do know that cryptocurrency could easily overwhelm Texas’ demand response program.

As of April 2022 there were 8 data mines totaling around 750 MW of controllable load in Texas.<sup>1</sup> There is an additional 2,600 MW of proposed demand from that industry.<sup>2</sup>

By one estimate, the cryptocurrency industry is already earning \$170 million a year just for enrolling in Texas’ demand response program.<sup>3</sup> This is just for registering and before the industry even participates in the demand response program.

If participation in the demand response program by the cryptocurrency industry is allowed to continue unchecked, it could exceed half a billion dollars per year.

A few examples of cryptomining companies participating in Texas’ demand response program:

- Lancium collected \$17 million in 2020 for enrolling in demand response.<sup>4</sup>
- Riot Blockchain earned \$9.5 million for participation in DR in July 2022.<sup>5</sup>

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<sup>1</sup> See (pdf download)

[https://www.ercot.com/files/docs/2022/04/25/Load\\_Resource\\_Participation\\_for\\_LFLs.pptx](https://www.ercot.com/files/docs/2022/04/25/Load_Resource_Participation_for_LFLs.pptx)

<sup>2</sup> Id.

<sup>3</sup> See [https://techtransparencyproject.cdn.prismic.io/techtransparencyproject/369c5690-7e26-427a-9116-26f46616b45d\\_Crypto+Texas+Report.pdf](https://techtransparencyproject.cdn.prismic.io/techtransparencyproject/369c5690-7e26-427a-9116-26f46616b45d_Crypto+Texas+Report.pdf)

<sup>4</sup> See <https://www.cnn.com/2022/02/03/winter-storm-descends-on-texas-bitcoin-miners-shut-off-to-protect-ercot.html>

<sup>5</sup> See <https://www.forbes.com/sites/christopherhelman/2020/05/21/how-this-billionaire-backed-crypto-startup-gets-paid-to-not-mine-bitcoin/?sh=5e4e68ae7596>



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One analysis showed that participation in demand response could represent as much as 10 percent of the total value of a cryptocurrency mine.<sup>6</sup>

We don't believe that cryptocurrency miners should be able to overwhelm the demand response program in this way. Crypto mines are only offering to offset the demand they themselves placed on the grid—their participation offers no net benefit to Texans. For this reason, we support a reasonable limit on cryptocurrency mining's participation in demand response programs.

**We support registration of large flexible loads.**

Section 2 of the bill requires facilities to register as large flexible load if they will demand more than 10 MW of electricity and if their load is interruptible. We support the registration of these loads as we understand in the context of the bill that it applies to large cryptocurrency mines.

Energy demand from cryptocurrency could be as high as 6 GW by the middle of this year.<sup>7</sup> We are concerned about the impact on the grid of this massive new demand from cryptocurrency. Requiring these large loads to register will help Texas to manage its electricity grid.

**We do not support Chapter 312 tax breaks, including for the crypto industry.**

Chapter 312 of the Tax Code provides property tax breaks to selected industries for siting in Texas. We believe corporations should pay their fair share of taxes and we do not support Chapter 312 tax breaks for any industry.

This bill excludes the crypto industry from Chapter 312 tax breaks. We support ending Chapter 312 tax breaks entirely, and so we support this provision.

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<sup>6</sup> See <https://www.utilitydive.com/news/bitcoin-mining-as-a-grid-resource-its-complicated/617896/>.

<sup>7</sup> See <https://www.markey.senate.gov/news/press-releases/lawmakers-open-investigation-into-texas-energy-grid-operators-subsidies-to-cryptominers>.