



Control Number: 48577



Item Number: 63

Addendum StartPage: 0

RECEIVED
2019 FEB 28 PM 4:19

APPLICATION OF AEP TEXAS, INC.
FOR DETERMINATION OF SYSTEM
RESTORATION COSTS

§
§
§

PUBLIC UTILITY COMMISSION
FILING CLERK
OF TEXAS

ORDER

This Order addresses the application of AEP Texas, Inc. for a determination of system restoration costs. AEP Texas filed an unopposed settlement agreement that resolves certain issues among the parties in this proceeding. The Commission grants the application, as modified by the settlement agreement, to the extent provided in this Order.

The Commission adopts the following findings of fact and conclusions of law:

I. Findings of Fact

1. Applicant

1. AEP Texas is a Delaware corporation and a wholly owned subsidiary of American Electric Power Company, Inc., a New York corporation.
2. AEP Texas is an electric utility that owns equipment and facilities to transmit and distribute electricity in the Electric Reliability Council of Texas (ERCOT) region.
3. AEP Texas is authorized under certificate of convenience and necessity numbers 30028 and 30170 to provide service to the public within its certificated service area.
4. Effective December 31, 2016, AEP Texas Central Company and AEP Texas North Company merged into their parent company, now called AEP Texas. The Commission approved the merger in Docket No. 46050¹ and required AEP Texas to maintain separate divisions, which continue to charge separate rates and riders and maintain separate tariffs unless the Commission approves consolidated rates and tariffs. In accordance with the Order in Docket No. 46050, AEP Texas maintains a central division and a north division.

¹ *Application of AEP Texas Central Company, AEP Texas North Company, and AEP Utilities, Inc. for Approval of Merger*, Docket No. 46050, Order (Dec. 12, 2016).

The application in this proceeding affects only rates charged by AEP Texas's central division.

2. Application

5. On August 7, 2018, AEP Texas filed an application for a determination that its system restoration costs for Hurricane Harvey and certain other weather-related events were reasonable and necessary to allow AEP Texas to restore electric service to its customers and were eligible for securitization and recovery.
6. In its application, AEP Texas requested approval of the following amounts for system restoration costs and offsets:

| Description | Transmission | Distribution | Total |
|--|----------------------|----------------------|----------------------|
| Non-Hurricane Harvey system restoration costs | \$551,971 | \$35,914,602 | \$36,466,572 |
| Hurricane Harvey actual system restoration costs (4/30/2018) | 81,303,113 | 223,810,842 | 305,113,955 |
| Estimated Hurricane Harvey system restoration costs | 41,124,326 | 9,912,069 | 51,036,395 |
| Estimated Hurricane Harvey carrying costs | 3,351,207 | 28,153,094 | 31,504,301 |
| Estimated incremental litigation cost for Docket No. 48577 | 140,698 | 430,502 | 571,200 |
| Estimated employee-retention tax credit | (68,470) | (766,530) | (835,000) |
| Insurance proceeds | (6,354,092) | (2,336,429) | (8,690,521) |
| Total costs | \$120,048,752 | \$295,118,151 | \$415,166,903 |

7. No party filed a motion challenging the sufficiency of the application.

3. Notice

8. On August 8, 2018, AEP Texas mailed notice of the application via first-class mail to all parties to AEP Texas's last base-rate and distribution cost recovery factor cases for the

central division (Docket Nos. 33309² and 48222,³ respectively). On September 14, 2018, AEP Texas filed an affidavit by Jennifer J. Frederick, a regulatory case manager for American Electric Power Service Corporation, in which she attested that AEP Texas had mailed notice as described in this finding of fact.

9. On August 21, 2018, AEP Texas mailed notice of the application via first-class mail to municipalities within its central division; to each distribution service provider listed in the ERCOT wholesale matrix adopted by the Commission in Docket No. 47777;⁴ and to each retail electric provider listed on the Commission's website as of August 21, 2018. On September 14, 2018, AEP Texas filed an affidavit by Ms. Frederick in which she attested that AEP Texas had mailed notice as described in this finding of fact.
10. AEP Texas provided one-time notice of its application by publication in newspapers having general circulation in each county within the central division of AEP Texas's service territory. On September 14, 2018, AEP Texas filed publishers' affidavits and the affidavit of Ms. Frederick attesting to the publication of notice of the application, with the last publication completed on August 30, 2018.
11. No party filed an objection to the proposed form of notice.

4. Interventions

12. In State Office of Administrative Hearings (SOAH) Order No. 2 issued on August 31, 2018, the SOAH administrative law judge (ALJ) granted the motions to intervene filed by the City of McAllen, Gulf Coast Coalition of Cities, and the Steering Committee of Cities served by Oncor (collectively, Cities), as well as the oral motion to intervene of Texas Industrial Energy Consumers (TIEC).
13. In SOAH Order No. 3 issued on October 26, 2018, the SOAH ALJ granted the supplemental motion to intervene of Cities to include the City of Corpus Christi, the City

² *Application of AEP Texas Central Company for Authority to Change Rates*, Docket No. 33309, Order on Rehearing (Mar. 4, 2008).

³ *Application of AEP Texas, Inc. to Amend its Distribution Cost Recovery Factor*, Docket No. 48222, Order (Aug. 30, 2018).

⁴ *Commission Staff's Application to Set 2018 Wholesale Transmission Charges for the Electric Reliability Council of Texas*, Docket No. 47777, Order (Mar. 29, 2018).

of Penitas, the City of Sullivan City, and the Lower Rio Grande Valley Development Council.

14. Commission Staff also participated as a party to this proceeding.

5. Testimony

15. On August 7, 2018, AEP Texas filed the direct testimony, exhibits, and workpapers of Judith E. Talavera, Thomas M. Coad, K. Shawn Robinson, Randall W. Hamlett, and John O. Aaron.
16. On October 9, 2018, Cities filed the direct testimony, exhibits, and workpapers of Karl J. Nalepa.
17. On October 16, 2018, Commission Staff filed the direct testimonies and attachments of Glenda Spence and Nancy Palma.
18. On November 30, 2018, AEP Texas filed the testimony of Randall W. Hamlett in support of the settlement agreement, and Commission Staff filed the testimony of Glenda Spence in support of the settlement agreement.

6. Referral to SOAH

19. On August 9, 2018, the Commission referred this docket to SOAH.
20. On August 30, 2018, the Commission issued a preliminary order.
21. In SOAH Order No. 2 issued on August 31, 2018, the SOAH ALJ acknowledged AEP Texas's agreed extension of the statutory deadline for the Commission's final order to February 4, 2019.
22. On October 25, 2018, AEP Texas filed a letter reporting that the parties had reached a settlement in principle and requesting that the SOAH ALJ suspend the procedural schedule to allow the parties to finalize the settlement agreement.
23. In SOAH Order No. 4, which was signed on October 26, 2018 but filed on November 30, 2018, the SOAH ALJ suspended the procedural schedule.
24. On November 9, 2018, AEP Texas filed a settlement term sheet on behalf of the parties.

25. On November 29, 2018, AEP Texas filed the settlement agreement, which resolves certain issues between the parties in this proceeding. All but one party—TIEC—joined the settlement agreement. TIEC does not oppose the agreement.
26. In SOAH Order No. 5 issued on December 4, 2018, the SOAH ALJ dismissed the SOAH docket, remanded the case to the Commission, and admitted the following evidence in support of the settlement agreement: (a) AEP Texas’s application, filed on August 7, 2018; (b) the pre-filed direct testimony, exhibits, and workpapers of AEP Texas witnesses Judith E. Talavera, Thomas M. Coad, K. Shawn Robinson, Randall W. Hamlett, and John O. Aaron, filed on August 7, 2018; (c) AEP Texas’s affidavits attesting to the provision of notice, filed on September 14, 2018; (d) the pre-filed testimony, exhibits, and workpapers of Cities’ witness Karl J. Nalepa, filed on October 9, 2018; (e) the pre-filed testimony and attachments of Commission Staff’s witnesses Glenda Spence and Nancy Palma, filed on October 16, 2018; (f) the settlement agreement and all its attachments, filed on November 29, 2018; (g) the settlement testimony of AEP Texas’s witness Randall W. Hamlett, filed on November 30, 2018; and (h) the settlement testimony of Commission Staff’s witness Glenda Spence, filed on November 30, 2018.

7. System Restoration Costs

27. The signatories agreed that AEP Texas’s reasonable and necessary system restoration costs (exclusive of carrying costs), offsetting insurance proceeds and offsetting employee-retention tax credits, and the functionalization of such amounts to transmission and distribution, are as follows:

| Description | Transmission | Distribution |
|---|---------------------|---------------------|
| Non-Hurricane Harvey system restoration costs | \$551,971 | \$35,914,602 |
| Hurricane Harvey system restoration costs | \$118,682,325 | \$228,722,911 |
| Insurance proceeds | (\$11,469,779) | (\$2,336,429) |
| Employee-retention tax credit | (\$68,470) | (\$766,530) |
| Total net system restoration costs | \$107,696,047 | \$261,534,554 |

28. The agreed system restoration costs described above in finding of fact 27 are reasonable and necessary.

29. The settlement agreement includes a \$5 million reduction to AEP Texas’s requested distribution-related Hurricane Harvey system restoration costs, and AEP Texas agreed not to seek recovery of this amount in any future proceeding.
30. The settlement agreement includes a reduction of \$3,745,114 to AEP Texas’s requested transmission-related system restoration costs because that amount was incorrectly included as storm-related costs. The signatories agreed that AEP Texas may seek recovery of these costs in another appropriate ratemaking proceeding.
31. The settlement agreement includes a reduction of \$571,200 to AEP Texas’s requested system restoration costs relating to the estimated litigation expenses associated with this docket. The signatories agreed that AEP Texas may seek recovery of these costs in another appropriate ratemaking proceeding.
32. The agreed system restoration costs include estimated amounts, which are identified in attachment 1 to the settlement agreement. Under the settlement agreement, the estimated costs are subject to true-up and reconciliation in a future ratemaking proceeding after the actual costs are known.

8. Carrying Charges

33. The signatories agreed for AEP Texas to recover carrying costs on the agreed Hurricane Harvey-related system restoration costs set forth above in finding of fact 27 as calculated using the following carrying-cost rates:

| Year | 2017 | 2018-2019 |
|-----------------------------------|---------|-----------|
| Annual carrying cost rate | 9.6444% | 8.5582% |
| Monthly carrying cost rate | 0.7702% | 0.6867% |

34. The signatories agreed for Hurricane Harvey distribution-related carrying costs to be updated and added to the securitizable system-restoration-cost balance in AEP Texas’s proceeding for system-restoration-cost securitization. The signatories also agreed for AEP Texas to calculate distribution-related carrying costs from the date on which the distribution-related system restoration costs were incurred—or, for system restoration costs booked to plant, the date that plant was placed into service—until the date that system restoration securitization bonds are issued.

35. The signatories agreed for Hurricane Harvey transmission-related carrying costs to be updated and added to the recoverable system-restoration-cost balance in AEP Texas's next base-rate case. The signatories agreed for transmission-related carrying costs to be calculated from the date on which the transmission-related system restoration costs were incurred—or, for system restoration costs booked to plant, the date that plant was placed into service—until the date the system restoration costs are included in AEP Texas's interim transmission-cost-of-service update or base rates.
36. The basis for the agreed carrying cost rates is the weighted average cost of capital approved by the Commission in AEP Texas's last base-rate case, Docket No. 33309: 7.4992%.
37. The 9.6444% annual carrying cost rate calculated for 2017 is based on a gross-up of the 7.4992% weighted average cost of capital for a 35% federal income tax rate.
38. The 8.5582% annual carrying cost rate calculated for 2018–2019 is based on a gross-up of the 7.4992% weighted average cost of capital for a 21% federal income tax rate.
39. The settlement agreement's treatment of carrying costs is appropriate.

9. Affiliate Charges

40. The services performed by AEP Texas's affiliates were reasonable and necessary to support the restoration effort. If AEP Texas had not used the services of its affiliates, it would have needed to engage additional outside vendors to provide the services.
41. The amount that AEP Texas's affiliates billed it is based on the actual cost to provide the services with no profit added.
42. All affiliate charges included in the agreed system restoration costs are reasonable and necessary, are allowable, and were charged to AEP Texas at a price no higher than that charged for the same item or class of items by the supplying affiliate to other affiliates or divisions or to a nonaffiliated person within the same market area or having the same market conditions.

10. Insurance Proceeds

43. The signatories agreed to a \$5,115,687 increase to AEP Texas's original requested transmission-related insurance proceeds to reflect updated amounts.

44. The total insurance proceeds received by AEP Texas in connection with Hurricane Harvey may ultimately exceed, or fall short of, the insurance proceeds stated in the settlement agreement. The signatories agreed for any shortfall or excess to be used to adjust the amount of system restoration costs included in AEP Texas's future interim transmission-cost-of-service updates or base rates once the actual insurance proceeds are known.
45. The signatories further agreed for the shortfall or excess in insurance proceeds to bear interest from the time of the receipt of the insurance proceeds until the proceeds are reflected in rates. The signatories agreed for the interest to be at the same carrying-cost rates specified above in finding of fact 33.
46. The settlement agreement's treatment of insurance proceeds is appropriate.

11. Employee-Retention Tax Credit

47. The Disaster Tax Relief and Airport Extension Act of 2017 provides targeted tax relief to victims of Hurricanes Harvey, Irma, and Maria and includes an employee-retention tax credit for employers.⁵
48. The employee-retention tax credit for employers under the Disaster Tax Relief and Airport Extension Act of 2017 provided another source of funding that is used to reduce system restoration costs.
49. The signatories agreed that the estimated value of the employee-retention tax credit that offsets AEP Texas's system restoration costs is \$835,000.
50. The settlement agreement's treatment of the employee-retention tax credit is appropriate.

12. Accumulated Deferred Federal Income Taxes

51. The signatories agreed for AEP Texas's transmission-related unprotected excess accumulated deferred federal income taxes (ADFIT) for its central division to be used to offset the transmission catastrophe reserve and for the adjusted transmission catastrophe reserve to be included in rate base in AEP Texas's next base-rate case.

⁵ Disaster Tax Relief and Airport Extension Act of 2017, Pub. L. No. 115-63, 131 Stat. 1168, 1178–1181 (2017).

52. The signatories further agreed for the remaining portion of AEP Texas's distribution-related unprotected excess ADFIT for its central division, not already addressed in Docket No. 48222, to be used to offset the amount of non-capital Hurricane Harvey system restoration costs to be securitized.
53. The signatories agreed for AEP Texas's current estimates of transmission- and distribution-related unprotected excess ADFIT to be updated in AEP Texas's future securitization proceeding or its base-rate case that addresses the system restoration costs, so that the final unprotected excess ADFIT value is in accordance with AEP Texas's federal income tax return for 2017.
54. The settlement agreement's treatment of ADFIT is appropriate.

13. Functionalization and Class Cost Allocation

55. The signatories agreed to use the allocation factors reflected in attachment 3 to the settlement agreement for the allocation of distribution-related system restoration costs among retail customer classes.
56. The parties agreed to the functionalization of system restoration costs and offsets that are reflected above in finding of fact 27.
57. The agreed system restoration costs are functionalized and allocated to customers in the same manner as the corresponding facilities and related expenses are functionalized and allocated in AEP Texas's current base rates.

14. Informal Disposition

58. More than 15 days have passed since completion of the notice of the application.
59. No party filed a request for a hearing, and no hearing is necessary.
60. The decision reflected in this Order is not adverse to any party in this proceeding.

II. Conclusions of Law

1. AEP Texas is a public utility as that term is defined in PURA⁶ § 11.004(1) and an electric utility as that term is defined in PURA § 31.002(6).

⁶ Public Utility Regulatory Act, Tex. Util. Code §§ 11.001–66.016 (PURA).

2. The Commission exercises regulatory authority over AEP Texas and over the subject matter of this application under PURA §§ 14.001, 32.001, and 36.401 through 36.406.
3. SOAH exercised jurisdiction over this proceeding under PURA § 14.053 and Texas Government Code § 2003.049.
4. The Commission processed this docket in accordance with the requirements of PURA, the Texas Administrative Procedure Act,⁷ and Commission rules.
5. AEP Texas provided adequate notice of its application in compliance with 16 Texas Administrative (TAC) § 22.55.
6. The affiliate charges included in the system restoration costs determined in this Order comply with PURA § 36.058.
7. The system restoration costs determined in this Order are reasonable and necessary and meet the requirements of PURA § 36.402(a).
8. The estimates of system restoration costs determined in this Order, which are identified in attachment 1 to the settlement agreement, are reasonable and are subject to true-up and reconciliation under PURA § 36.402(a) in a future ratemaking proceeding after the actual costs are known.
9. The provisions of the settlement agreement regarding carrying costs for system restoration costs comply with PURA § 36.402(b).
10. The provisions of the settlement agreement regarding insurance proceeds are in accordance with PURA § 36.402(c).
11. The offsetting of system restoration costs by employee-retention tax credits complies with PURA § 36.402(c).
12. An electric utility that determines that the actual amount of government grants or other sources of funding that compensate the electric utility for system restoration costs is less than the estimated amount included in a determination proceeding must adjust, once the actual amount is known, the amount of system restoration costs included in its next base-

⁷ Tex. Gov't Code §§ 2001.001–.902.

- rate proceeding or any subsequent proceeding, other than a true-up proceeding under PURA § 39.307, in which the Commission considers the electric utility's system restoration costs. PURA § 36.402(c).
13. An electric utility must calculate interest on the amount of government grants or other sources of funding that compensate the electric utility for system restoration costs from the time of the receipt of those grants or other sources until the date that those grants or other sources are used to reduce the amount of system restoration costs that are securitized or are otherwise reflected in AEP Texas's rates. The electric utility is required to calculate interest at the same cost of capital included in the utility's system restoration costs. PURA § 36.402(e).
 14. The provisions of the settlement agreement regarding carrying costs for insurance proceeds comply with PURA § 36.402(e).
 15. The system restoration costs determined in this Order comply with the requirements of PURA § 36.403(g) with respect to functionalization and allocation to customers.
 16. The system restoration costs determined in this Order are eligible for securitization and recovery in accordance with PURA §§ 36.403(g) and 36.405(b).
 17. The treatment of excess unprotected ADFIT in the settlement agreement is reasonable.
 18. Under PURA § 36.405(g), this Order is not subject to rehearing.
 19. The requirements for informal disposition in 16 TAC § 22.35 have been met in this proceeding.

III. Ordering Paragraphs

In accordance with these findings of fact and conclusions of law, the Commission issues the following orders:

1. The Commission approves AEP Texas's request for a determination of its reasonable and necessary system restoration costs, as modified by the settlement agreement, to the extent provided in this Order.

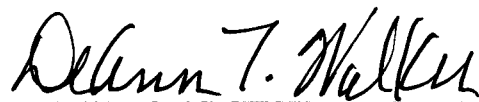
2. AEP Texas must not seek recovery in any future proceeding of the \$5 million reduction to AEP Texas's requested distribution-related Hurricane Harvey system restoration costs that was applied in this docket, as described above in finding of fact 29.
3. In another appropriate ratemaking proceeding, AEP Texas may seek recovery of the \$3,745,114 in transmission-related system restoration costs that were incorrectly included as storm-related costs in the application, as described above in finding of fact 30.
4. In another appropriate ratemaking proceeding, AEP Texas may seek recovery of its litigation expenses associated with this docket, as described above in finding of fact 31.
5. AEP must true-up and reconcile the estimates of system restoration costs identified in attachment 1 to the settlement agreement in a future ratemaking proceeding after the actual costs are known, as described above in finding of fact 32.
6. AEP must recover carrying costs on the agreed Hurricane Harvey-related system restoration costs at the rates specified above in finding of fact 33.
7. In the application for AEP Texas's proceeding for system-restoration-cost securitization, AEP must update and add Hurricane Harvey distribution-related carrying costs to the securitizable system-restoration-cost balance. AEP Texas must also calculate distribution-related carrying costs from the date on which the distribution-related system restoration costs were incurred—or, for system restoration costs booked to plant, the date that plant was placed into service—until the date that system restoration securitization bonds are issued.
8. In the application for AEP Texas's next base-rate case, AEP Texas must update and add Hurricane Harvey transmission-related carrying costs to the recoverable system-restoration-cost balance. AEP Texas must also calculate transmission-related carrying costs from the date on which the transmission-related system restoration costs were incurred—or, for system restoration costs booked to plant, the date that plant was placed into service—until the date the system restoration costs are included in AEP Texas's interim transmission-cost-of-service update or base rates.

9. AEP Texas must use any shortfall or excess in the insurance proceeds stated in the settlement agreement to adjust the amount of system restoration costs included in AEP Texas's future interim transmission-cost-of-service updates or base rates once the actual insurance proceeds are known.
10. AEP Texas must calculate interest on the shortfall or excess in insurance proceeds from the time of the receipt of the insurance proceeds until the proceeds are reflected in rates. To calculate the interest, AEP must use the same carrying-cost rates specified above in finding of fact 33.
11. If AEP Texas determines that the actual amount of employee-retention tax credits is less than the estimated amount included in this proceeding, once the actual amount is known, AEP Texas must adjust the amount of system restoration costs included in its next base-rate proceeding or any subsequent proceeding, other than a true-up proceeding under PURA § 39.307, in which the Commission considers system restoration costs.
12. AEP must calculate interest on the amount of employee-retention tax credits from the time of the receipt of those tax credits until the date that those credits are used to reduce the amount of system restoration costs that are securitized or are otherwise reflected in AEP Texas's rates. To calculate the interest, AEP must use the same carrying-cost rates specified above in finding of fact 33.
13. AEP Texas must use its transmission-related unprotected excess accumulated deferred federal income taxes (ADFIT) for its central division to offset the transmission catastrophe reserve. AEP Texas must also include the adjusted transmission catastrophe reserve in rate base in its next base-rate case.
14. AEP Texas must use the remaining portion of AEP Texas's distribution-related unprotected excess ADFIT for its central division, not already addressed in Docket No. 48222, to offset the amount of non-capital Hurricane Harvey system restoration costs to be securitized.
15. AEP Texas must update its current estimates of transmission- and distribution-related unprotected excess ADFIT in its future securitization proceeding or its base-rate case that addresses the system restoration costs, so that the final unprotected excess ADFIT value is in accordance with AEP Texas's federal income tax return for 2017.

16. AEP Texas must use the factors reflected in attachment 3 to the settlement agreement for the allocation of distribution-related system restoration costs among retail customer classes.
17. AEP Texas must functionalize the system restoration costs and offsets as reflected above in finding of fact 27.
18. Entry of this Order does not indicate the Commission's endorsement or approval of any principle or methodology that may underlie the settlement agreement and must not be regarded as precedential as to the appropriateness of any principle or methodology underlying the settlement agreement.
19. The Commission denies all other motions and any other requests for general or specific relief, if not expressly granted.

Signed at Austin, Texas the 28th day of February 2019.

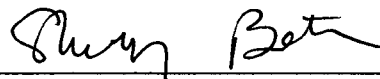
PUBLIC UTILITY COMMISSION OF TEXAS



DEANN T. WALKER, CHAIRMAN



ARTHUR C. D'ANDREA, COMMISSIONER



SHELLY BOTKIN, COMMISSIONER