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Public Utility Commission of Texas

Commissioner Memorandum

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PUBLIC UTILITY COMMISSION
FILINGS CLERK

TO: Commissioner Arthur C. D'Andrea
Commissioner Shelly Botkin

FROM: Chairman DeAnn T. Walker *DTW*

DATE: June 30, 2020

RE: July 2, 2020 Open Meeting – Item No. 22
Docket No. 49737 – *Application of Southwestern Electric Power Company for Certificate of Convenience and Necessity Authorization and Related Relief for the Acquisition of Wind Generation Facilities.*

I believe that the Commission should adopt the proposal for decision, except as described below, and make the following changes to the order.

If the Commission adopts the proposal for decision, it will deny SWEPCO's application to amend its certificate of convenience and necessity. Accordingly, the Commission need not and should not reach the issue of whether Public Utility Regulatory Act (PURA)¹ § 14.101 applies to the proposed acquisition in this proceeding. In the order's discussion section, the Commission should expressly state that it need not and does not reach that issue and therefore does not adopt the administrative law judges' discussion of the issue on pages 108 through 110 of the proposal for decision.

The Commission should standardize and simplify references to the three wind generation facilities at issue in this docket, the applicant, and a future carbon tax. In addition, the Commission should add citations for references to other dockets. The Commission should also substantively modify finding of fact 102 for completeness, findings of fact 32 and 114 for clarity, and findings of fact 30, 72, 100, and 101 to rephrase them as proper findings of fact. The proposed changes are set forth below.

30. The top three ranked bids were for the ~~(~~ Traverse, Maverick, and Sundance ~~)~~ facilities ~~became the SWFs.~~
32. SWEPCO and Public Service Company of Oklahoma ~~PSO~~ hired Simon Wind Inc.; to ~~(a)~~ independently review wind resource assessments and the expected energy output included in each of the ~~RFP~~ proposals submitted in response to the request for proposals; and to ~~(b)~~ develop a wind energy resource assessment for each of the wind generation facilities ~~SWFs.~~

¹ Public Utility Regulatory Act, Tex. Util. Code §§ 11.001–66.016.

72. The risk that production could fall below the P95 level because of due to force majeure or curtailment is material~~real~~.
100. For purposes of the economic evaluation, it is appropriate to calculate the production tax credits~~PTCs should be calculated~~ using the P95 level of output rather than the P50 level.
101. It is not appropriate to consider t~~The treatment of any deferred tax assets~~DTA should be addressed in this proceeding. Rather, it is appropriate to consider any deferred tax assets in a rate proceeding.
102. SWEPCO's forecast of the revenue requirement associated with the wind generation facilities~~SWFs~~ unreasonably assumes flat ongoing capital and operations and maintenance~~O&M~~ costs, despite statements from the wind turbine manufacturer that operations and maintenance~~O&M~~ costs are expected to be higher in later years.
114. A unanimous settlement of ~~Docket No. 19-035-U~~ was filed in Docket No. 19-035-U on January 24, 2020, which includes the option for SWEPCO~~the Company~~ to acquire a larger share of the wind generation facilities~~SWFs~~ for Arkansas customers if another SWEPCO jurisdiction should deny its respective share.

The Commission should add the following findings of fact for completeness.

- 19A. The wind generation facilities are not needed to meet any capacity need, and SWEPCO is projected to have excess capacity until 2026.
- 122A. It is not appropriate to address the rate issues raised by SWEPCO in this proceeding. Rather, it is appropriate to address them in a rate proceeding.

In addition, the Commission should modify conclusion of law 1 to accurately identify the statutes that the Commission is applying in this proceeding and should delete conclusion of law 8 as unnecessary and not standard for the Commission's orders.

1. The Commission has authority over this matter under ~~PURA~~¹ Public Utility Regulatory Act (PURA)¹, ~~Texas Utilities Code~~ § 14.001, ~~36.203, 36.204, 37.051, 37.053, 37.056, and 37.058~~⁷ (PURA).
- ¹ Public Utility Regulatory Act, Tex. Util. Code §§ 11.001–66.016.
8. ~~SWEPCO is not entitled to approval of the application~~DELETED.

Finally, I propose delegating to the Office of Policy and Docket Management staff the authority to modify the order to conform to the Citation and Style Guide for the Public Utility Commission of Texas and to make other non-substantive changes to the order for such matters as capitalization, spelling, grammar, punctuation, style, correction of numbering, and readability.

I look forward to discussing this matter with you at the open meeting.