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SOAH DOCKET NO. 473-19-6862  
PUC DOCKET NO. 49737

2019 AUG 23 AM 10:30  
PUC DOCKETING DIVISION

APPLICATION OF SOUTHWESTERN § BEFORE THE STATE OFFICE  
ELECTRIC POWER COMPANY FOR §  
CERTIFICATE OF CONVENIENCE § OF  
AND NECESSITY AUTHORIZATION §  
AND RELATED RELIEF FOR THE § ADMINISTRATIVE HEARINGS  
ACQUISITION OF WIND §  
GENERATION FACILITIES §

**COMMISSION STAFF'S LIST OF ISSUES**

COMES NOW the Staff (Staff) of the Public Utility Commission of Texas (Commission), representing the public interest and files this List of Issues in Response to an Order for Referral. In support thereof, Staff shows the following:

**I. BACKGROUND**

On July 15, 2019, Southwestern Electric Power Company (SWEPCO) (AEP Texas) filed an application (Application) with the Commission for a Certificate of Convenience and Necessity and Related Relief to acquire an interest in three wind generation facilities.

On August 22, 2019, the Commission issued an Order of Referral, referring the Application to the State Office of Administrative Hearings (SOAH), and establishing a deadline of August 29, 2019, for parties to provide a list of issues to address in this docket. Thus, the pleading is timely filed.

**II. LIST OF ISSUES TO BE ADDRESSED**

Staff recommends that the following issues be addressed:

**Sale, Transfer, Merger Issues**

1. Does SWEPCO's proposal to acquire and develop the project constitute a transaction to "sell, acquire, or lease a plant as an operating unit or system in this state for a total consideration of more than \$10 million" pursuant to PURA § 14.101(a)?
2. If the proposed transaction is subject to review under PURA 14.101(a), is SWEPCO's proposal to acquire and develop the project consistent with the public interest, considering the following factors as identified in PURA § 14.101(b)?

- a. What is the reasonable value of the property, facilities, or securities to be acquired, disposed of, merged, transferred, or consolidated?
  - b. Will the transaction adversely affect the health or safety of customers or employees?
  - c. Will the transaction result in the transfer of jobs of citizens of this state to workers domiciled outside this state?
  - d. Will the transaction result in a decline in service?
3. If the proposed transaction is subject to review under PURA 14.101(a), has SWEPCO complied with reporting requirements under PURA § 14.101 and 16 TAC § 25.74?

**Other Regulatory Approvals**

4. From what other regulatory authorities must SWEPCO or a SWEPCO-affiliated company seek approval for the project?
5. Have applications for any such approvals been made and, if so, when were any such applications filed?
6. Which regulatory authorities have approved the proposed project? Which regulatory authorities have disapproved the proposed project? For applications that have not yet been approved or disapproved, when is action on the applications anticipated?
7. If any regulatory authorities, including the Federal Energy Regulatory Commission, do not approve the proposed project, should the project be completed? Irrespective of whether the proposed project is approved or completed, will Invenenergy construct the proposed facilities?
8. Has SWEPCO made any commitments related to the proposed facilities or transaction to any other regulatory authority? If so, what are those commitments and would it be appropriate to condition any approvals in this docket on similar commitments?

**Certificate of Convenience and Necessity Issues**

9. How, if at all, would SWEPCO's development and ownership of the project improve the reliability of SWEPCO's service? Is the project the most cost-effective alternative to achieve any improvement in reliability?

10. Are the prices paid for the land and the wind facility reasonable?
11. Since deciding to enter into the transaction to acquire and develop the project, has SWEPCO continued to evaluate whether the project is in the public interest?
12. Are the final amounts related to the project currently known such that the Commission can evaluate whether it is in the public interest?
13. What conditions, reporting requirements, or reviews, if any, should the Commission impose if it conditionally approves the project?
14. Are the certificate amendments to include the project necessary for the service, accommodation, convenience, or safety of the public under PURA § 37.056(a)?  
When answering this issue the following factors must be addressed.
  - a. The adequacy of the existing service.
  - b. The need for additional service. In addressing this factor the following matters must be addressed.
    - i. Has SWEPCO demonstrated a need for the additional capacity?
    - ii. Is the project a prudent alternative to meet any demonstrated need for additional capacity?
    - iii. How much additional capacity does SWEPCO need to serve its retail customers, and when is that need anticipated?
    - iv. How much additional capacity does SWEPCO need to serve its wholesale customers, and when is that need anticipated?
    - v. How does the additional capacity needed to serve each class of customers compare with the additional capacity presented in Docket No. 33891?<sup>1</sup>
    - vi. What alternatives to the project were considered to satisfy any identified need for additional service? How did those alternatives measure up compared to the project using the same metrics that are presented to support the project?

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<sup>1</sup> *Application of Southwestern Electric Power Company for a Certificate of Convenience and Necessity Authorization for Coal Fired Power Plant in Arkansas*, Docket No. 33891, Order (Aug. 12, 2008).

- vii. Has SWEPCO analyzed the alternative option of purchasing additional wind generation, including from a competitive affiliate, in the Southwest Power Pool market instead of acquiring the project? If so, what were the results of that analysis?
  - c. The effect of granting the certificate on SWEPCO, including its financial ratings, and any electric utility serving the proximate area. How does SWEPCO propose to finance the transaction? What other approaches to financing the transaction were evaluated and how did any alternative approaches compare with the chosen method?
  - d. Community values.
  - e. Recreational and park areas.
  - f. Historical and aesthetic values.
  - g. Environmental integrity. Will completion of the transaction change SWEPCO's plans related to retiring any other generation facilities or adding additional air-pollution abatement equipment? If so, how will SWEPCO's plans change?
  - h. The probable improvement of service or lowering of cost to consumers in SWEPCO's service areas or other consumers in Texas if the certificate is granted.
  - i. To the extent applicable, the effect of granting the certificate on the ability of Texas to meet the renewable energy goals in PURA § 39.904(a).
15. What effect, if any, would approval of the certificate of convenience and necessity have on the implementation of customer choice in SWEPCO's service territory, particularly on how the utility would mitigate market power and achieve full customer choice, including specific alternatives for construction additional transmission facilities, auctioning rights to generation capacity, divesting generation capacity, or any other measure that is consistent with the public interest? PURA § 39.402(c). Would approval of the certificate create or increase any stranded costs? What actions can be taken to eliminate the creation of or minimize stranded costs?

16. Should the Commission grant a generation certificate of convenience and necessity for a rate-regulated utility, or should it require the utility to acquire any additional generation through a competitive affiliate? Should the answer to this question depend on whether generation is needed to serve native load or whether the generation is for economic purposes? What other factors, if any, should inform the Commission's answer to this question?

**Creation of Deferred-Accounting Assets and Cost-Reconciliation Mechanisms**

17. Should the Commission place a cap on the amount of capital costs for which Texas customers may be responsible, including, but not limited to, allowance for funds used during construction?
18. What is the anticipated revenue stream from the sale of electricity from the project? If SWEPCO were to rely only on the revenue from sales, when would SWEPCO receive a return on its investment?

**Deferred Tax Asset**

19. Should the Commission approve the proposal to create a deferred tax asset relating to unused production-tax credits? If so, what is the appropriate method to do so? What would be the anticipated amount in this account and how much would it affect rates?
20. If approved in this proceeding, should there be a termination date associated with inclusion of a deferred tax asset related to unused production-tax credits in SWEPCO's invested capital balance?

**Production-Tax Credits**

21. What is the timing of receipt of the production-tax credit?
22. Over what time period will SWEPCO be eligible for the production-tax credit? How long can any unused production-tax credits be carried forward?
23. What additional mechanism, if any, should be implemented if production-tax credits are terminated?

**Depreciation Rates**

- 24. Should the Commission set depreciation rates for the production-related assets to be included in the project in this docket?
- 25. If so, what is the appropriate depreciation rate? Is it appropriate to set a net salvage value based on non-wind generation assets? Is 25 years an appropriate service life?

**Other Rate Issues**

- 26. Should the Commission determine in this docket whether the methodologies proposed by SWEPCO decrease its risks of recovering the costs of the project? If so, are SWEPCO's risks reduced?
- 27. If the Commission addresses whether SWEPCO's risks of recovering the costs of the project are reduced in this docket, should it also address any adjustments that would be appropriate to its return? If so, what is the appropriate adjustment?
- 28. If the Commission considers in this docket any rate-case or fuel-reconciliation-case related issues, what other rate-case-related or fuel-reconciliation-related issues should also be considered so that all attendant impacts are appropriately considered?

**Renewable-Energy Credits**

- 29. Should the Commission determine the appropriate treatment of sales of renewable-energy credits in this docket?
- 30. If so, what is the appropriate treatment of any sales of renewable-energy credits? Why is treatment as off-system sales more appropriate than as a non-fuel item?

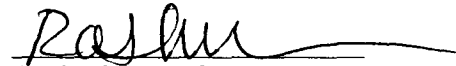
**III. ISSUES NOT BE ADDRESSED**

Staff has not identified any issues not to be addressed.

**PUBLIC UTILITY COMMISSION OF  
TEXAS LEGAL DIVISION**

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**CERTIFICATE OF SERVICE**

I certify that a copy of this document will be served on all parties of record on this August 29, 2019 in accordance with 16 TAC § 22.74.



Rashmin J. Asher