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SOAH DOCKET NO. 473-02-3537  
PUC DOCKET NO. 25960

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APPLICATION OF BRAZOS ELECTRIC  
POWER COOPERATIVE, INC.  
TO CHANGE RATES FOR WHOLESALE  
TRANSMISSION SERVICE

§ BEFORE THE STATE OFFICE  
§  
§  
§  
§ OF  
§  
§ ADMINISTRATIVE HEARINGS

**FILING IN COMPLIANCE WITH ORDER NO. 6**

NOW COMES Brazos Electric Power Cooperative, Inc., applicant herein, and supplies the information required by Order No. 6. Brazos Electric has circulated this pleading to other parties for review and comment prior to filing, and no party has objected to it.

**I. Joint Agreed Proposed Findings, Conclusions, and Ordering Paragraphs**

The parties' agreed findings of fact, conclusions of law, and ordering paragraphs are attached hereto as Appendix 1. A diskette with the proposed order containing all of these is also being supplied to the ALJ with this filing. For the convenience of the Commission, Brazos Electric also filed electronically the stipulation and the proposed order, including findings, conclusions, and ordering paragraphs, as attachments to its motion filed September 26, 2002.

**II. Evidence Supporting the Stipulation**

While the parties' stipulation does not specify the particular evidence upon which each of the stipulated figures is based, the agreement is within the range of reasonableness established by all the filings of all the parties addressing the merits of the TCOS rate request. That includes the May 28, 2002 rate filing package of Brazos Electric, as corrected by the "errata" filings July 19 and September 12, 2002; page 15 of the July 30 prefiled supplemental testimony of Khaki Bordovsky explaining the July 19 errata filing; the testimony of Brazos Electric witnesses Khaki Bordovsky, Carl Stover, Dr. Juan Gonzalez III, and Johnny York filed May 28, 2002; the prefiled testimony of City of Garland witness Richard J. Covington filed September 13, 2002, and the prefiled testimony of Commission Staff witness Slade Cutter filed September 20, 2002. The ALJ should admit these into evidence for the limited purpose of showing the reasonableness of the stipulation.

### **III. Regulatory or Jurisdictional Deadline**

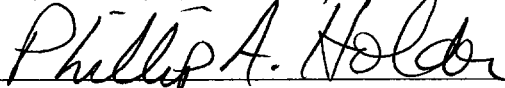
Although the parties did not resolve certain legal issues regarding the reconciliation of certain sections of PURA applying to TCOS regulation and other sections of PURA affecting other types of rate regulation, referencing the 150 day period in PURA § 36.108, counting 150 days after the July 2, 2002 effective date of the application, would be November 29, 2002.

However, the stipulation of the parties seeks more expeditious treatment: it provides for the withdrawal of pending interim appeals in this docket, and withdrawal of a motion for declaratory order in Docket No. 25002, providing the Commission adopts the stipulation no later than November 7, 2002. Finally, because of the features of the Commission's regulation of TCOS rates and the matrix to be established in Docket No. 25002, Brazos Electric has by September 26, 2002 letter to the Policy Development Division asked the Commission to place the item on its October 23, 2002 agenda.

WHEREFORE, PREMISES CONSIDERED, Brazos Electric asks that the ALJ return the docket to the Public Utility Commission as expeditiously as possible, and requests expedited consideration and approval by the Commission of the stipulation resolving this docket.

Respectfully submitted,

**SEGREST & SEGREST, P.C.**

  
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Attorneys for **BRAZOS ELECTRIC POWER  
COOPERATIVE, INC.**

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of this Motion was mailed by United States mail, postage prepaid, or delivered via Facsimile, Federal Express, or hand delivery, on the 30<sup>th</sup> day of September, 2002, to all parties of record in Docket 25960.

Philip R. Sequest, by PAH  
Philip R. Sequest

## **APPENDIX 1**

### **PROPOSED ORDER**

This Order approves the application of Brazos Electric Power Cooperative, Inc. (“Brazos Electric”) for the authority to change rates for wholesale transmission service. The docket was processed in accordance with applicable statutes and Commission rules. Brazos Electric, Commission Staff, City of Garland, and AEP ERCOT Companies (collectively “Signatories”) filed an unopposed stipulation (“Stipulation”) resolving all issues in this proceeding. CenterPoint Energy Houston Electric (“CenterPoint Energy”), formerly Reliant Energy, Incorporated, is not a signatory to the stipulation, nor are City Public Service Board of San Antonio or TXU Energy Retail Company LP (“TXU Energy”), but none opposes the stipulation filed by the Signatories. Consistent with the Stipulation, Brazos Electric’s wholesale transmission cost of service of \$41,018,476 is hereby approved.

### **Findings of Fact**

#### **Procedural History**

1. Brazos Electric filed a statement of intent to change rates, and supporting application on May 28, 2002, seeking to change its rate for transmission cost of service (“TCOS”).
2. Brazos Electric gave notice of its application by giving copies of the statement of intent to all parties to pending Docket No. 25002, *Commission Staff’s Application to Set Wholesale transmission Service Charges for ERCOT*, and to all of Brazos Electric’s wholesale power customers.
3. The Commission referred the docket to the State Office of Administrative Hearings for an evidentiary hearing.
4. Several affected persons moved for intervention, and the SOAH ALJ granted all such motions. The intervenors are: City Public Service Board of San Antonio, City of Garland, AEP

ERCOT Companies, TXU Energy Retail Company LP (“TXU Energy”), and CenterPoint Energy Houston Electric (“CenterPoint Energy”), formerly Reliant Energy Incorporated.

5. The SOAH ALJ conducted an evidentiary prehearing conference on August 15, 2002 for the purpose of ruling on Brazos Electric’s motion for interim implementation of the proposed TCOS rates.

6. The ALJ denied the interim implementation motion by written order on September 9, 2002, and Brazos Electric filed an interim appeal of that order.

7. On September 26, 2002, certain parties to this docket filed a stipulation and agreement resolving the contested issues raised by the parties through pleadings and prefiled testimony in this docket.

8. No party has opposed the Stipulation or requested hearing on it.

9. The Signatories have agreed that the resolution of the contested issues in accordance with the Stipulation does not represent the establishment of precedent, or consensus on any underlying legal, policy, methodology or factual underpinning of the agreed result of this docket.

11. Brazos Electric’s reasonable and necessary wholesale transmission cost of service for the 2001 test year is \$41,018,476.

12. Brazos Electric’s reasonable and necessary return for its transmission function is \$20,995,285.

13. Brazos Electric’s reasonable and necessary rate base for its transmission function is \$246,975,737.

14. Brazos Electric’s just and reasonable wholesale transmission rate is \$775.218 per MW or \$0.775218 per kw, based on the 2001 ERCOT 4-CP of 52,912.1460 MW

### **Conclusions of Law**

1. The Commission has jurisdiction over Brazos Electric's application for change of TCOS rates, and authority to adopt the final order proposed by the Signatories, pursuant to PURA, Chapter 35, Subchapter A.
2. Brazos Electric is a transmission service provider, within the meaning of PUC SUBST. R. § 25.5(82).
3. The Stipulation of the Signatories dated September 26, 2002, resolves all contested issues in the docket, and renders the application for change in TCOS rates eligible for resolution by informal disposition under PUC PROC. R. § 22.35.
4. Commission adoption of a final order in conformance with the Stipulation of the Signatories satisfies the requirements of Tex. Gov't. Code § 2002.051 and 2001.056, without the necessity of a contested case hearing on the merits of the application.
5. Brazos Electric gave notice of its application in compliance with PUC PROC. R. 22.54 and 22.55.
6. Brazos Electric's wholesale transmission cost of service as shown in Stipulation is reasonable and necessary, and properly calculated pursuant to PUC Subst. R. 25.192.
7. Brazos Electric's wholesale transmission rate is just and reasonable and properly calculated pursuant to PUC Subst. R. 25.192.

### **Ordering Paragraphs**

In accordance with the foregoing findings of fact and conclusions of law, the Commission issues the following Order:

1. Brazos Electric's application to establish a transmission cost of service is approved consistent with the Stipulation. The new transmission cost of service rates are effective on the date this order is signed.
2. Brazos Electric shall file a separate compliance tariff for wholesale transmission service based on (i) the cost of service adopted in this docket, (ii) the ERCOT 4-CP approved on an interim basis in the Interim Order dated February 19, 2002, in PUC

Docket No. 25002. The compliance tariff shall be served on all parties to this docket by Brazos Electric on the date Brazos Electric makes its compliance filing. The compliance tariff, any objections to it, and responses to objections shall be filed in accordance with a schedule to be prescribed by the Commission.

3. The entry of this Order consistent with the Stipulation does not include the Commission's endorsement of any principle or method that may underlie the Stipulation. Neither should entry of this Order be regarded as a precedent as to the appropriateness of any principle of method underlying the Stipulation.
4. Brazos shall, within three working days following the date of this Order, file a motion to withdraw its pending Motion for Declaratory Order in Docket No. 25002. Brazos shall not raise the issues contained in the Motion for Declaratory Order in any other pleading filed in Docket No. 25002.
5. All other motions and other requests for general or specific relief, if not expressly granted herein, are hereby denied for want of merit.

SIGNED AT AUSTIN, TEXAS this \_\_\_\_\_ day of September 2002.

PUBLIC UTILITY COMMISSION OF TEXAS

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REBECCA KLEIN, CHAIRMAN

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BRETT A. PERLMAN, COMMISSIONER