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April 13, 2005

BY HAND DELIVERY

The Honorable Bill Newchurch
State Office of Administrative Hearings
300 W. 15th Street, Suite 502
Austin, Texas 78701

Re: SOAH Docket No. 473-04-6558, PUC Docket No. 29801; *Application of Southwestern Public Service Company for Reconciliation of Its Fuel Costs for 2002 and 2003, a Finding of Special Circumstances, and Related Relief*

Dear Judge Newchurch:

I understand that the Proposal for Decision (PFD) in this case is to be issued on April 18 or before, and that Southwestern Public Service Company has submitted a letter today proposing a delay in the issuance of the PFD to allow consideration of an agreement in principle between three of the parties to this case. Texas Industrial Energy Consumers is not a party to that agreement, and in fact was advised of its existence and provided a copy only yesterday. The proposed settlement addresses numerous issues that are outside the scope of this fuel reconciliation proceeding, and TIEC does not believe that it can legally be adopted in this proceeding. TIEC is a strong believer in settlements and has entered into literally hundreds of them at the PUC. Given the status of this case, however, and the proposal for a non-unanimous agreement that would require a further hearing and would address issues outside the reconciliation period, TIEC does not believe that withholding the PFD, which is presumably virtually complete, would facilitate a prompt resolution of this case. Nor would the issuance of a PFD prevent all of the parties from attempting to reach a settlement.

For the above reasons, TIEC recommends that in the absence of a full settlement of this case, the procedures currently in place continue, including the issuance of a PFD.

Respectfully submitted,



Rex D. VanMiddlesworth
Attorney for
Texas Industrial Energy Consumers

RV/dp

cc: All parties of record