

Control Number: 33309



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**SOAH DOCKET NO. 473-07-0833
PUC DOCKET NO. 33309**

**APPLICATION OF AEP TEXAS § PUBLIC UTILITY COMMISSION
CENTRAL COMPANY FOR AUTHORITY §
TO CHANGE RATES § OF TEXAS**

**SOAH DOCKET NO. 473-07-0851
PUC DOCKET NO. 33310**

**APPLICATION OF AEP TEXAS NORTH § PUBLIC UTILITY COMMISSION
COMPANY FOR AUTHORITY TO §
CHANGE RATES § OF TEXAS**

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**COMMISSION STAFF'S RESPONSE TO AEP'S INITIAL RESPONSE TO
JOINT PETITION FOR A DECLARATORY ORDER**

COMES NOW the Staff of the Public Utility Commission of Texas (Staff), representing the public interest and files this response to the Initial Response filed by AEP Texas Central Company (AEP TCC) and AEP Texas North Company (AEP TNC) (collectively AEP) concerning the Joint Petition for a Declaratory Order and would show the following:

I. INTRODUCTION

On May 8, 2007, AEP filed its Initial Response to Joint Petition for a Declaratory Order in the above-referenced cases. Pursuant to Order No. 22 in Docket No. 33309 and Order No. 15 in Docket No. 33310, Staff files the following response to AEP's arguments. Because of the short time allowed for this response, Staff is not responding to all of the issues raised by AEP.

II. RESPONSE

On an initial matter, AEP argues that the filing of the Joint Petition was improper because the Commission does not currently have jurisdiction of the issues in controversy. However, the issue was raised by AEP's request for establishment of bonded rates, which was filed directly with the Commission, not with the Administrative Law Judges (ALJs). Since the request was filed with the entity from which AEP sought authorization for its tariff, it was appropriate for the request for declaratory order be filed with that entity. In any event, since the Commission has

now deferred to the ALJs,¹ it might be appropriate to treat the Joint Petition as a request for certification of the issue to the Commission under P.U.C. PROC. R. 22.127. Such action would enable all of the parties to more completely brief the issue and allow the Commission to address the issue on the merits before it issues its final order, which is likely to be in late summer. An early ruling would help prevent any party from being harmed by AEP's proposed elimination of the merger savings and rate reduction riders in violation of the ISA.² Alternatively, the parties would be forced to file complaints or Staff might have to file for administrative penalties if AEP violates the ISA.

On the merits of AEP's argument, Staff would note that AEP ignores an important part of Attachment H to the ISA, which states:

The rate reduction rider (Table H-1 of Attachment H) for each Texas operating company will cease upon the effective date of new base rates for such company established pursuant to Section 36.151 or Section 36.101 of PURA.

The reference to these sections indicates that the parties intended that the new base rates would not be effective until the conclusion of a "base rate proceeding" under PURA. The other references to "until base rates are changed" should be read in that context. Further, there is no reference to PURA §36.110, concerning bonded rates, as a means of establishing a new effective date for base rates. Despite AEP's arguments, the language of the ISA supports the conclusion that the merger savings and rate reduction riders may not be terminated until and unless the Commission issues a final order changing AEP TCC's rates.

¹ See, Order No. 23 in Docket No. 33309 and Order No. 16 in Docket No. 33310, issued by the Commission's ALJ on May 9, 2007.

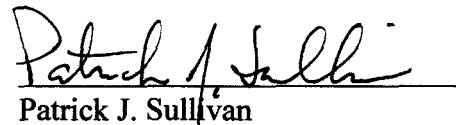
² Integrated Stipulation and Agreement (ISA); see, *Application of Central and Southwest Corporation and American Electric Power Company, Inc. Regarding Proposed Business Combination*, Docket No. 19265 (Nov. 18, 1999).

WHEREFORE, PREMISES CONSIDERED, Staff respectfully requests that the ALJs deny AEP TCC's request to terminate the merger savings credit and the rate reduction riders established in Docket No. 19265 or that this issue be submitted to the Commission as a certified issue under P.U.C. PROC. R. 22.127.

Respectfully Submitted,

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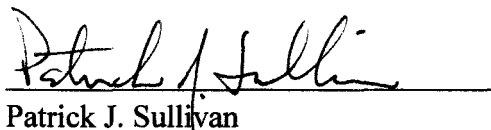
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CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on May 14, 2007 in accordance with Public Utility Commission of Texas Procedural Rule 22.74.



Patrick J. Sullivan