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SOAH DOCKET NO. 473-08-3436
PUC DOCKET NO. 35763

APPLICATION OF SOUTHWESTERN § BEFORE THE STATE OFFICE
PUBLIC SERVICE COMPANY FOR §
AUTHORITY TO CHANGE RATES, TO §
RECONCILE FUEL AND PURCHASED § OF
POWER COSTS FOR 2006 AND 2007, §
AND TO PROVIDE A CREDIT FOR §
FUEL COST SAVINGS § ADMINISTRATIVE HEARINGS

ORDER NO. 1

FILING DESCRIPTIONS; SUSPENDING EFFECTIVE DATE OF TARIFF CHANGES;
AND NOTICE OF PREHEARING CONFERENCE

Filing Descriptions

On June 12, 2008, Southwestern Public Service Company (SPS) filed an application and statement of intent to change its rates, to reconcile fuel and purchased power costs for 2006 and 2007, and to provide a credit for fuel cost savings. Among other things, SPS requests authority to increase its base rate charges for the Texas retail jurisdiction by \$84,234,501, based upon a Texas retail base rate revenue requirement of \$394,407,787 and a return on common equity of 11.25%. In addition, SPS filed a statement of intent to implement interim rates that would increase rates by \$18 million per annum. However, in conjunction with the interim rate increase, SPS would provide a credit for fuel cost savings associated with its purchases made under the Power Purchase Agreement between SPS and Lea Power Partners, LCC (Lea Power) in the amount of \$23.46 million, resulting in a reduction of overall rates as the credit for fuel cost savings would be greater than the interim base rate increase.

The Public Utility Commission of Texas (Commission) has jurisdiction over this proceeding pursuant to PURA §§ 14.001, 36.001-36.111, and 36.203. The Commission referred this case to the State Office of Administrative Hearings (SOAH) on June 16, 2008, requesting the assignment of an Administrative Law Judge (ALJ) to conduct a hearing and issue a proposal for decision (PFD), if necessary. SOAH has jurisdiction over matters relating to the conduct of the hearing in this proceeding pursuant to TEX. GOV'T. CODE ANN. § 2003.049. In its referral order, the Commission

set a briefing deadline of June 23, 2008, for issues to be addressed in this proceeding and stated it will consider and possibly adopt a preliminary order in the July 3, 2008 open meeting.

Suspending Effective Date of Tariff Changes

The proposed effective date of the tariff changes requested by SPS is July 17, 2008, which is 35 days after the filing of its petition and statement of intent. Pursuant to PURA § 36.108, P.U.C. SUBST. R. 25.241(i), and P.U.C. PROC. R. 22.33(c), it is ORDERED that the effective date of the proposed tariff changes is suspended for 150 days (until December 14, 2008) to allow sufficient time required for a final determination.

Interim Rates / Fuel Cost Savings Credit

As noted previously, SPS has filed a motion to implement interim rates that would increase rates by \$18 million per annum but would be offset by a credit for fuel cost savings in the amount of \$23.46 million, resulting in a reduction of overall rates as the credit for fuel cost savings would be greater than the interim base rate change. The proposed effective date of the interim rate tariff sheet is July 17, 2008, but, under the terms of the proposed tariff, SPS would not begin to charge the interim rates until Hobbs begins Commercial Operation (in combined cycle mode), which is expected to occur in late July or early August 2008.

SPS notes that in its most recent base rate case, Docket No. 32766, the parties to the Unanimous Stipulation agreed that they would not oppose this request for interim rates, and the Commission approved that provision of the stipulation. Therefore, SPS does not anticipate any opposition to its motion, and it requests that the interim rates be approved without the necessity of a hearing, as authorized by P.U.C. Proc. R. 22.125(c).

Currently, no objections have been filed to SPS's motion for interim rates. If no objections

are filed, the motion may be granted without the need for a hearing. If objections are filed, the motion will be heard at the prehearing conference described below.

Notice of Prehearing Conference

The ALJ will convene a joint prehearing conference in this case at **10:00 a.m. on July 15, 2008, at the SOAH hearing facilities located at the William P. Clements Office Building, 300 West 15th, Fourth Floor, Austin, Texas.** The following matters will be discussed:

1. Motion to Implement Interim Rates and to Provide a Credit for Fuel Cost Savings (if necessary).
2. Pending motions to intervene.
3. Any other motion filed by 3:00 p.m. on **July 14, 2008**, and hand-delivered or sent via facsimile to the ALJs on that day. The facsimile number is (512) 936-0770.
4. Proper notice of the proceeding.
5. A procedural schedule, including a date for the hearing, that will enable the Commission to make a final decision by December 14, 2008.
6. Adoption of the protective order proposed by Applicant in its application.
7. Any other matters that may assist in the disposition of these proceedings in a fair and efficient manner.

Those attending the prehearing are advised that they must check in with building security personnel in the lobby of the William P. Clements Building and be issued visitor badges before proceeding to the hearing room. The parties should allow sufficient time for the check-in procedure.

Discovery

Discovery may begin immediately pursuant to Subchapter H of the Commission's Procedural

Rules.

Filing and Service Procedures

All pleadings shall be filed with the Commission's filing clerk, not with the SOAH filing clerk. The Commission's filing clerk will forward a copy of the pleadings to SOAH. Parties wishing to hand-deliver a file-stamped copy of a pleading to the ALJ should deliver it to Room 504, 5th Floor, Clements Building, 300 W. 15th St., Austin, Texas. Parties may also FAX copies of pleadings, especially those that are time-sensitive, to the ALJ at (512) 936-0770.

The procedures regarding filing specified in Subchapter E of the Commission's procedural rules apply in this proceeding. Parties are expected to know those procedures and comply with them fully. Pleadings and other filings shall be deemed filed when the proper number of legible copies are presented to the Commission filing clerk for filing. P.U.C. PROC. R. 22.71(c).

All mail sent to the parties by the ALJs will be sent by first class mail *or* by FAX, unless a party requests express mailing and provides an express mail account number. Parties seeking to arrange express mailing should contact Ms. Norma Lopez at (512) 936-0712.

SIGNED June 23, 2008.

A handwritten signature in black ink, appearing to read "Thomas H. Walston", is written over a horizontal line.

**THOMAS H. WALSTON
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS**