



Control Number: 36309



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DOCKET NO. 36309

**AGREED NOTICE OF VIOLATION
AND SETTLEMENT AGREEMENT
RELATING TO AEP SOUTHWESTERN
ELECTRIC POWER COMPANY'S
VIOLATION OF PURA § 38.005 AND
P.U.C. SUBST. R. 25.52, CONCERNING
RELIABILITY AND CONTINUITY OF
SERVICE**

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**PUBLIC UTILITY COMMISSION
OF TEXAS**

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ORDER

Pursuant to P.U.C. PROC. R. 22.246(g)(l)(C), this Order addresses the Settlement Agreement and Report to Commission (Agreement) reached between the Public Utility Commission of Texas (Commission) Staff and AEP Southwestern Electric Power Company (SWEPCO) (collectively, Parties) regarding Commission Staff's investigation of SWEPCO for violations of § 38.005 of PURA¹ and P.U.C. SUBST. R. 25.52, concerning reliability and continuity of service. This docket was processed in accordance with applicable statutes and Commission rules. The Agreement resolves all of the issues in this docket. Commission Staff recommended an administrative penalty of \$54,000. SWEPCO agreed to pay the recommended administrative penalty. The Agreement is approved.

The Commission adopts the following findings of fact and conclusions of law:

I. Findings of Fact

1. SWEPCO is a transmission and distribution utility as defined in PURA § 31.002(19).
2. For reporting year 2005, SWEPCO reported that it had seven feeders with a system-average interruption duration index (SAIDI) value in the top 10% of worst feeders for two consecutive years, six feeders with a system-average interruption frequency index (SAIFI) value in the top 10% of worst feeders for two consecutive years, one feeder with a SAIDI value of more than 300% greater than system average for two consecutive years, and one

¹ Public Utility Regulatory Act, TEX. UTIL. CODE ANN. §§ 11.001-66.016 (Vernon 2007 & Supp. 2008) (PURA).

feeder with a SAIFI value more than 300% greater than system average for two consecutive years.

3. For reporting year 2006, SWEPCO reported that it had two feeders with a SAIDI value in the top 10% of worst feeders for two consecutive years and four feeders with a SAIFI value in the top 10% of worst feeders for two consecutive years.
4. On or about June 11, 2008, SWEPCO was provided proper notice of Commission Staff's investigation in this matter, the results of the investigation, information about its right to a hearing, and an opportunity to explain its activities.
5. SWEPCO fully cooperated with Commission Staff's investigation.
6. SWEPCO acknowledges the violations detailed in this Order.
7. SWEPCO participated in one or more settlement discussions with Commission Staff to resolve this matter.
8. On October 22, 2008, the Parties entered into the Agreement resolving the violations. Commission Staff recommended, and SWEPCO agreed to pay, an administrative penalty of \$54,000 for the violations.
9. The Agreement provides for a reasonable resolution of this dispute.
10. The Agreement is in the public interest.

II. Conclusions of Law

1. SWEPCO is a transmission and distribution utility for purposes of PURA § 38.005 and P.U.C. SUBST. R. 25.52.
2. The Commission has jurisdiction over this matter pursuant to PURA §§ 14.001, 14.002, 14.003, 14.051, 15.023, 15.024, and 38.005.

3. As a transmission and distribution utility, SWEPCO is required to comply with the service quality and reliability standards established by PURA § 38.005 and P.U.C. SUBST. R. 25.52.
4. This Agreement is a report of settlement to the Commission as required by P.U.C. PROC. R. 22.246(g).
5. SWEPCO was provided proper notice of Commission Staff's investigation in this matter, the results of the investigation, information about its right to a hearing, and an opportunity to explain its activities.
6. PURA § 38.005(a) provides that "[t]he commission shall implement service quality and reliability standards relating to the delivery of electricity to retail customers by electric utilities and transmission and distribution utilities." Subsection (a) goes on to require the Commission to, by rule, "develop reliability standards, including: (1) the system-average interruption frequency index (SAIFI); (2) the system-average interruption duration index (SAIDI); (3) achievement of average response time for customer service requests or inquiries; or (4) other standards that the commission finds reasonable and appropriate."
7. Pursuant to PURA, the Commission implemented the reliability standards found in P.U.C. SUBST. R. 25.52. P.U.C. SUBST. R. 25.52(f)(2)(A) requires each utility to maintain and operate its electric distribution system so that no distribution feeder with more than 10 customers sustains a SAIDI or SAIFI value for a reporting year that is among the highest (worst) 10% of that utility's feeders for any two consecutive reporting years. P.U.C. SUBST. R. 25.52(f)(2) requires each utility to maintain and operate its distribution electric system so that no distribution feeder with more than 10 customers sustains a SAIDI or SAIFI value for a reporting year that is more than 300% greater than the system average of all feeders during any two consecutive reporting years.
8. SWEPCO violated PURA § 38.005 and P.U.C. SUBST. R. 25.52, for reporting year 2005, when SWEPCO reported it had seven feeders with a SAIDI value in the top 10% of worst feeders for two consecutive years, six feeders with a SAIFI value in the top 10% of worst feeders for two consecutive years, eight feeders with a SAIDI value more than 300% greater

than system average for two consecutive years and one feeder with a SAIFI value more than 300% greater than system average for two consecutive years.

9. SWEPCO violated PURA § 38.005 and P.U.C. SUBST. R. 25.52, for reporting year 2006, when SWEPCO reported it had two feeders with a SAIDI value in the top 10% of worst feeders for two consecutive years and four feeders with a SAIFI value in the top 10% of worst feeders for two consecutive years.
10. P.U.C. PROC. R. 22.246(g)(1)(A), (B), and (C) requires issuance of a report of a settlement to the Commission and a written order that approves the settlement.
11. The requirements for informal disposition pursuant to P.U.C. PROC. R. 22.35 have been met in this proceeding.

III. Ordering Paragraphs

In accordance with these findings of fact and conclusions of law, the Commission issues the following order:

1. The Agreement attached to this Order as Attachment 1 is approved, and the Parties shall be bound by its terms.
2. SWEPCO shall pay an administrative penalty to the Commission in the amount of \$54,000. SWEPCO shall remit payment of the full amount of the administrative penalty on or before 30 calendar days after the date this Order is signed. Payment of the administrative penalty shall be made by check payable to the Public Utility Commission of Texas and shall reference Docket No. 36309. The check shall be sent to the following address:

Public Utility Commission of Texas
P.O. Box 13326
Austin, Texas 78711
ATTN: Fiscal Services

3. SWEPCO shall continue its efforts to improve the performance and reliability of all of its feeders. In particular, these efforts shall focus on feeders that have violated service quality and reliability standards for two or more consecutive years.
4. SWEPCO shall file an affidavit of payment in this docket no later than five calendar days after the date on which payment was made.
5. The Commission shall not be constrained in any manner from requiring additional action or penalties for violations that are not raised here.
6. Entry of this Order does not indicate the Commission's endorsement or approval of any principal or methodology that may underlie the Agreement. Entry of an order consistent with the Agreement shall not be regarded as a binding holding or precedent as to the appropriateness of any principle underlying the Agreement.
7. All other motions, requests for entry of specific findings of fact and conclusions of law, and any other request for general or specific relief, if not expressly granted, are denied.

SIGNED AT AUSTIN, TEXAS on the 24th day of November 2008.

PUBLIC UTILITY COMMISSION OF TEXAS


BARRY T. SMITHERMAN, CHAIRMAN


DONNA L. NELSON, COMMISSIONER


KENNETH W. ANDERSON, JR., COMMISSIONER

DOCKET NO. 36309

AGREED NOTICE OF VIOLATION AND SETTLEMENT AGREEMENT RELATING TO AEP SOUTHWESTERN ELECTRIC POWER COMPANY'S VIOLATION OF PURA § 38.005 AND P.U.C. SUBST. R. 25.52, CONCERNING RELIABILITY AND CONTINUITY OF SERVICE	§ § § § § § § §	PUBLIC UTILITY COMMISSION OF TEXAS
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SETTLEMENT AGREEMENT AND REPORT TO COMMISSION

Staff of the Public Utility Commission of Texas (Commission) and Southwestern Electric Power Company (Company or SWEPCO) (together, Parties) enter into this Settlement Agreement and Report to Commission (Agreement). This Agreement resolves and concludes the investigation of the Company for violation of PURA¹ § 38.005 and P.U.C. SUBST. R. 25.52, concerning reliability and continuity of service for reporting years 2005 and 2006.

The Parties agree as follows:

1. The Parties stipulate to the facts contained in the attached Proposed Order and request approval of the Order by the Commission.
2. Staff recommended and SWEPCO agrees to pay an administrative penalty of Fifty Four Thousand Dollars (\$54,000.00) for SWEPCO's violations described in the attached Proposed Order.
3. SWEPCO agrees to continue its efforts to improve the performance and reliability of all of its feeders. In particular, these efforts will focus on feeders that have violated service quality and reliability standards for three or more consecutive years.

¹ Public Utility Regulatory Act, TEX. UTIL CODE §§ 11.001-66.016 (Vernon 2007 & Supp. 2008) (PURA).

4. Unless specifically provided for in this Agreement, SWEPCO waives any notice and procedures that might otherwise be authorized or required in this proceeding.

5. Nothing in this Agreement shall limit the Commission Staff's ability to perform its enforcement functions as set forth in PURA and the Commission's rules.

6. A Party's support of the resolution of this docket in accordance with this Agreement may differ from its position or testimony regarding contested issues of law, policy, or fact in other proceedings before the Commission or other forums. Because this is a settlement agreement, a Party is under no obligation to take the same position as set out in this Agreement in other proceedings not referenced in this Agreement whether those dockets present the same or a different set of circumstances. The Parties' agreement to entry of a final order of the Commission consistent with this Agreement should not be regarded as an agreement as to the appropriateness or correctness of any assumptions, methodology, or legal or regulatory principle that may have been employed in reaching this Agreement.

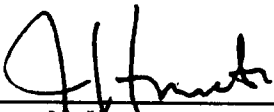
7. The Parties contemplate that this Agreement will be approved pursuant to P.U.C. PROC. R. 22.246(g)(1)(C). In the event the Commission materially changes the terms of this Agreement, the Parties agree that any Party adversely affected by that material alteration has the right to withdraw from this Agreement, thereby becoming released from its obligations arising hereunder, and to proceed as otherwise permitted by law to exercise all rights available under law. The right to withdraw must be exercised by providing the other Party written notice within 20 calendar days of the date the Commission files the final order acting on this Agreement. Failure to provide such notice within the specified time period shall constitute a waiver of the right to withdraw and acceptance of the material changes to this Agreement made by the Commission.

8. This Agreement is the final and entire agreement between the Parties regarding its terms and supersedes all other communications among the Parties or their representatives regarding its terms.

9. Each person executing this Agreement represents that he or she has been authorized to sign on behalf of the Party represented. Copies of signatures are valid to show execution. If this Agreement is executed in multiple counterparts, each is deemed an original but all of which constitute the same Agreement.

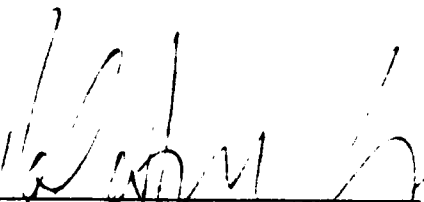
10. The Company warrants that it has read this Agreement carefully, knows the contents thereof, and signs the same as its free act.

EXECUTED by the Parties by their authorized representatives designated below.



Jerry N. Huerta
Counsel, on behalf of
Southwestern Electric Power Company
400 West 15th Street, Suite 1500
Austin, Texas 78701

Date: 10 / 22 / 08



Robert M. Long
Attorney-Legal Division
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(512) 936-7294
(512) 936-7268 (facsimile)
Public Utility Commission of Texas
1701 N. Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3326

Date: 11 / 22 / 08

