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SOAH DOCKET NO. 473-10-1962
PUC DOCKET NO. 37744

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PUBLIC UTILITY COMMISSION
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APPLICATION OF ENTERGY TEXAS,	§	PUBLIC UTILITY COMMISSION
INC., FOR AUTHORITY TO CHANGE	§	
RATES AND TO RECONCILE FUEL	§	OF TEXAS
COSTS	§	

PRELIMINARY ORDER

On December 30, 2009, Entergy Texas, Inc. filed an application for authority to change rates and to reconcile fuel costs pursuant to PURA¹ §§ 14.001, 36.101-36.111, 36.203-36.206, 36.209, and 39.452(b). Entergy requests that the Commission approve base rate tariffs and riders designed to collect a total non-fuel revenue requirement for the Texas retail jurisdiction of \$838.4 million, based on an adjusted twelve-month test year ending on June 30, 2009. Entergy requests a total annual rate increase of \$198.7 million (net of certain fuel savings), which includes a base rate decrease of \$45 million, plus \$255.5 million related to purchased capacity and Renewable Energy Credits through riders.² Entergy also requests that the Commission approve the complete set of proposed tariff schedules and reconcile its fuel and purchased-power costs and fuel factor and Rider IPCR revenues for the reconciliation period from April 2007 to June 2009. Entergy represents that, during the reconciliation period, it incurred over \$1.8 billion in eligible fuel and purchased-power expenses to generate and purchase electricity, net of certain revenues properly credited to such expenses and other adjustments. Entergy's reconciliation includes interest expense on any over/under-recovery balance. Entergy does not seek to implement a refund or surcharge of fuel or purchased-power cost at the conclusion of this case; rather Entergy seeks authority to roll any ending fuel balances forward to serve as the beginning balance for the next reconciliation period. Entergy proposes to surcharge the final Rider IPCR

¹ Public Utility Regulatory Act, TEX. UTIL. CODE ANN. §§ 11.001-66.016 (Vernon 2007 & Supp. 2009) (PURA).

² Direct Testimony of Joseph F. Domino at 11.

under-recovery balance, to be calculated in a compliance filing, at the conclusion of this proceeding. Finally, Entergy requests that the Commission approve the waivers to the Rate Filing Package instructions presented in RFP Schedule V of the application. The proposed changes to the base rate plus the purchased-power rider will increase residential rates \$25.87 per month for 1000 kilowatt-hours.³

On January 4, 2010, the Commission issued an order referring this docket to the State Office of Administrative Hearings (SOAH) and requesting that interested parties file a list of issues to be addressed in this proceeding. On January 13, 2010, Commission Staff, State of Texas, Cottonwood Energy Company, L.P., and Entergy timely filed lists of issues. To date, the following entities have filed motions to intervene, which have not been ruled on by the SOAH administrative law judge (ALJ) assigned to this docket: Texas Industrial Energy Consumers, State of Texas, Rose City, Kroger Co., Cottonwood Energy Company, L.P., and Office of Public Utility Counsel.

I. Issues to be Addressed

The Commission must provide to the ALJ a list of issues or areas to be addressed in any proceeding referred to SOAH.⁴ After reviewing the pleadings submitted by the parties, the Commission identifies the following issues that must be addressed in this docket:

Rate Change Request

1. Are Entergy's proposed rates just and reasonable and in compliance with all relevant statutory and Commission requirements? If not, what are the just and reasonable rates Entergy should be permitted to charge?

³ *Id.* at 14.

⁴ TEX. GOV'T CODE ANN. § 2003.049(e) (Vernon 2009).

2. What is Entergy's reasonable and necessary cost of providing transmission and distribution service calculated in accordance with statutory and Commission requirements?
3. Are costs appropriately assigned to Entergy and its affiliates? Has Entergy met the standard for recovery of affiliate costs under PURA § 36.058 and Commission requirements?
4. Are Entergy's revenue requirements for the test year reasonable?
5. Is Entergy's storm and property insurance reserve reasonable, adequate, and in the public interest?
6. Are Entergy's rate case expenses reasonable and necessary, and does the requested amount of rate case expenses include any anticipated expenses to appeal this docket?
7. Are all of the components of Entergy's rate base reasonable and necessary?
8. What is the appropriate and reasonable overall rate of return, return on equity, cost of debt, and capital structure for Entergy?
9. Are Entergy's proposed depreciation rates, level of depreciation expense, and treatment of excess depreciation assets reasonable and in compliance with all relevant statutory and Commission requirements?
10. Are Entergy's costs properly functionalized into transmission, distribution, metering, and customer-service categories?
11. What is the appropriate and reasonable cost allocation and rate design of the transmission and distribution rates?
12. Are Entergy's proposed pro forma adjustments to its test-year results reasonable and in compliance with all relevant statutory and Commission requirements?
13. Are Entergy's proposed capital additions to rate base reasonable and in compliance with all relevant statutory and Commission requirements?

14. Does PURA authorize the proposed Cost of Service Adjustment, also described as a Formula Rate Plan, as an alternative to traditional ratemaking for a fully integrated utility? If so, has Entergy demonstrated that it is good public policy to impose formula-based rates via a Cost of Service Adjustment rider to become effective prospectively following establishment of Entergy's cost of service and authorized returns as a result of the test year presented in the application? If so, is Entergy's proposed methodology reasonable and does it result in just and reasonable rates?
15. Are Entergy's proposed amounts for nuclear decommissioning expense and depreciation expense related to the River Bend Nuclear Generating Station reasonable and necessary?
16. Is Entergy's proposal for the Competitive Generation Service tariff, Competitive Generation Service Cost Rider, and Competitive Generation Service Unrecovered Cost Rider consistent with PURA § 39.452?
17. Did Entergy properly incur costs claimed with respect to Hurricane Ike restoration that are included in its application? What amount of Hurricane Ike costs is proper for inclusion in Entergy's base rates? Were any of these costs already included in base rates or otherwise recovered via the system-restoration-cost securitization mechanism in PURA?
18. Is Entergy's proposal to close its Unmetered Services Schedule to new business consistent with PURA and Commission rules?
19. Is Entergy's proposal to open its Interruptible Service to new customers consistent with PURA and Commission rules?
20. Is Entergy's proposal to modify terms and charges in its Miscellaneous Electric Services Schedule consistent with PURA and Commission rules?
21. Is Entergy's proposal to discontinue its Institutions of Higher Education Schedule consistent with PURA and Commission rules?

22. Are the proposed minor modifications to the Large Industrial Power Service, the Large Industrial Power Service Time of Day, the Experimental Rider to Schedule LIPS & LIPS-TOD for Interruptible Service, and Miscellaneous Electric Services schedules consistent with PURA and Commission rules?
23. Should the Commission waive the Rate Filing Package requirements?

Riders

24. Is Entergy's proposed Purchased Power Recovery rider consistent with PURA § 36.204 - 36.206?
25. Should the Commission allow Entergy to establish a regulatory asset for purchased-power costs limited to a certain purchased-power contract that will commence prior to the time that the proposed Purchased Power Recovery rider goes into effect?
26. Is Entergy's proposed Transmission Cost Recovery Factor rider consistent with PURA § 36.209 and Commission rules?
27. Has Entergy demonstrated that it is good public policy to allow recovery of the cost of renewable energy credits and accomplish the opt-out allowed for certain customers through a Renewable Energy Credits rider? If so, is the structure of the proposed Renewable Energy Credits rider consistent with PURA and Commission rules?
28. Has Entergy demonstrated that it is good public policy to allow recovery for a wireless communication link to the company's meter located at the customer's premises to provide access to customer usage data for billing purposes through a Remote Communications Link rider? If so, is the structure of the proposed Remote Communications Link rider consistent with PURA and Commission rules?
29. Has Entergy demonstrated that it is good public policy to allow recovery for a market-based alternative to interruptible service through an Experimental Market Valued Energy Reduction Service rider? If so, is the structure of the proposed Experimental Market Valued Energy Reduction Service rider consistent with PURA and Commission rules?

Fuel Reconciliation

30. Were Entergy's eligible fuel-factor expenses reasonable and necessary expenses incurred to provide reliable electric service to retail customers pursuant to P.U.C. SUBST. R. 25.236(d)(1)?
31. Did Entergy properly calculate the jurisdictional allocation for the portion of the reconciliation period that was prior to jurisdictional separation?
32. Should the Commission grant Entergy's request for a special circumstances finding, pursuant to P.U.C. SUBST. R. 25.236(a)(6), to recover unexercised natural gas call options as eligible fuel expense?
33. During the reconciliation period, did Entergy prudently manage its fuel, fuel-related, and purchased-power contracts; fuel inventories; generation of electricity; generating-facilities maintenance; and generating-unit dispatch?
34. Did Entergy take advantage of opportunities in the fuel and purchased-power markets to reduce costs, lessen price volatility, and enhance reliability?
35. Did Entergy pay affiliates for fuel or purchased-power and did such payments meet the statutory standards for passing such costs on to Texas customers?
36. Did Entergy record revenues and expenses from off-system sales in a manner consistent with the Commission's rules?
37. What is the proper quantification of any capacity costs (whether explicitly stated or not) in Entergy's purchased-power contracts?

38. Did Entergy properly implement its Performance Based Ratemaking plan, including discontinuance of the plan upon jurisdictional separation, pursuant to the Order in Docket No. 34800?⁵
39. How should the Rough Production Cost Equalization payments received by Entergy be credited to the ratepayers? How much interest should be included on those payments? How should those credits be allocated to Entergy's rate classes?
40. Does Entergy's fuel balance exceed the 4% threshold set forth in P.U.C. SUBST. R. 27.237(a)(3)(B)?
41. Is Entergy's request to carry forward its fuel balance appropriate, or should a refund or surcharge be imposed by this docket?
42. If a surcharge results from this docket, how and over what period of time should that amount be charged to customers in light of any other ongoing surcharges?

Rider IPCR Reconciliation

43. Were Entergy's purchased-power capacity costs eligible for recovery through its Rider IPCR reasonable and necessary expenses incurred to meet Entergy's load requirements pursuant to PURA § 39.455?
44. Did Entergy pay affiliates for purchased-power capacity, and did such payments meet the statutory standards for passing such costs on to Texas customers?
45. Did Entergy properly allocate to the Texas retail jurisdiction the purchased-power capacity costs eligible for recovery under PURA § 39.455?
46. To what extent, if at all, are Entergy's purchased-power capacity costs currently recovered in base rates, adjusted for load growth?

⁵ *Application of Entergy Gulf States, Inc. for Authority to Change Rates and to Reconcile Fuel Costs*, Docket No. 34800 Order (March 16, 2009).

47. What is the total amount of incremental purchased-power capacity costs that should be permitted to be recovered through Rider IPCR?
48. Does Entergy's Rider IPCR reconciliation comply with the five-percent cap set forth in PURA § 39.455?

This list of issues is not intended to be exhaustive. The parties and the ALJ are free to raise and address any issues relevant in this docket that they deem necessary, subject to any limitations imposed by the ALJ, or by the Commission in future orders issued in this docket. The Commission reserves the right to identify and provide to the ALJ in the future any additional issues or areas that must be addressed, as permitted under TEX. GOV'T CODE ANN. § 2003.049(e).

II. Issues Not to Be Addressed

The Commission takes the position that the following issue need not be addressed in this proceeding for the reasons stated.

1. Did Section 63 of SB 7 repeal PURA § 36.351?

In Docket No. 34800,⁶ the Commission determined that Section 63 of SB 7 did not repeal PURA § 36.351 and that PURA § 36.351 is still applicable to Entergy.

III. Effect of Preliminary Order

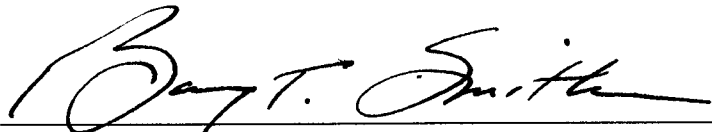
The Commission's discussion and conclusions in this Order regarding issues that are not to be addressed should be considered dispositive of those matters. Questions, if any, regarding issues that are not to be addressed may be certified to the Commission for clarification if the SOAH ALJ determines that such clarification is necessary. As to all other issues, this Order is preliminary in nature and is entered without prejudice to any party expressing views contrary to this Order before the SOAH ALJ at hearing. The SOAH ALJ, upon his or her own motion or

⁶ *Application of Entergy Gulf States, Inc. for Authority to Change Rates and to Reconcile Fuel Costs*, Docket No. 34800 Order (August 15, 2008).

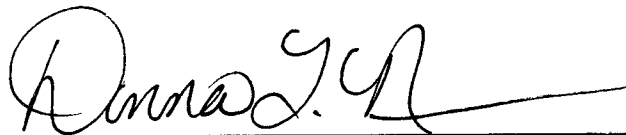
upon the motion of any party, may deviate from the non-dispositive rulings of this Order when circumstances dictate that it is reasonable to do so. Any ruling by the SOAH ALJ that deviates from this Order may be appealed to the Commission. The Commission will not address whether this Order should be modified except upon its own motion or the appeal of a SOAH ALJ's order. Furthermore, this Order is not subject to motions for rehearing or reconsideration.

SIGNED AT AUSTIN, TEXAS the 4th day of February 2010

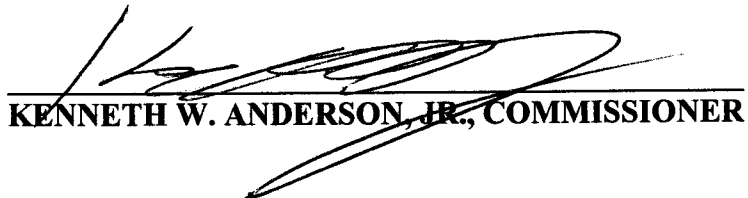
PUBLIC UTILITY COMMISSION OF TEXAS



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DONNA L. NELSON, COMMISSIONER



KENNETH W. ANDERSON, JR., COMMISSIONER