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Item Number: 13

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OPEN MEETING COVER SHEET

MEETING DATE: June 20, 2013

DATE DELIVERED: June 13, 2013

AGENDA ITEM NO.: 5

CAPTION: Docket No. 41538; SOAH Docket No. 473-13-4654 - Application of AEP Texas Central Company to Adjust Energy Efficiency Cost Recovery Factor and Related Relief

ACTION REQUESTED: Discussion and possible action with respect to Preliminary Order

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Public Utility Commission of Texas

TO: Chairman Donna L. Nelson
Commissioner Kenneth W. Anderson, Jr.

All Parties of Record

FROM: Lisa Carter, Commission Advising LJC

RE: June 20, 2013 Open Meeting Agenda Item No. 5
Draft Preliminary Order, Docket No. 41538, SOAH Docket No. 473-13-4654 -
*Application of AEP Texas Central Company to Adjust Energy Efficiency Cost
Recovery Factor and Related Relief.*

DATE: June 13, 2013

Please find enclosed the draft preliminary order filed by Commission Advising in the above-referenced docket. The Commission will consider this draft preliminary order at the June 20, 2013 open meeting. Parties shall not file responses or comments addressing this draft preliminary order.

Any modifications to the draft preliminary order that are proposed by one or more Commissioners will be filed simultaneously prior to the consideration of the matter at the June 20, 2013 open meeting.

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**SOAH DOCKET NO. 473-13-4654
PUC DOCKET NO. 41538**

APPLICATION OF AEP TEXAS	§	PUBLIC UTILITY COMMISSION
CENTRAL COMPANY TO ADJUST	§	
ENERGY EFFICIENCY COST	§	OF TEXAS
RECOVERY FACTOR AND RELATED	§	
RELIEF		

DRAFT PRELIMINARY ORDER

On May 31, 2013, AEP Texas Central Company (TCC) filed an application to adjust its energy-efficiency cost-recovery factor (EECRF) for program year 2014 pursuant to § 39.905 of the Public Utility Regulatory Act (PURA)¹ and P.U.C. SUBST. R. 25.181(f). TCC is requesting a 2014 EECRF to recover \$9,492,842, which includes (a) \$7,199,976 in projected energy-efficiency-program costs for program year 2014 in excess of projected energy-efficiency revenues collected in base rates, (b) \$567,400 in evaluation, measurement, and verification expenses forecasted for the 2013 and 2014 program years, (c) inclusion of \$3,840,680 for a performance bonus based on TCC's 2012 program-year, (d) \$5,688 for rate-case expenses incurred in Docket No. 40359 by municipalities, less (e) \$2,071,768 of over-recovered costs for program year 2012, and (f) \$49,134 reflecting the November 26, 2012 revision to the April 2012 energy-efficiency plan and report filed in Project No. 40194. TCC has requested that its 2014 EECRF become effective on March 1, 2014.²

This docket was referred to the State Office of Administrative Hearings (SOAH) on June 3, 2013. Issues lists were timely filed by TCC, Steering Committee of Cities Served by TCC, and Commission Staff.

¹ Public Utility Regulatory Act, TEX. UTIL. CODE ANN. §§ 11.001 – 66.016 (Vernon 2007 & Supp. 2011) (PURA).

² *Application of AEP Texas Central Company to Adjust Energy Efficiency Cost Recovery Factor and Related Relief* (May 31, 2013).

I. Issues to be Addressed

The Commission must provide to the administrative law judge (ALJ) a list of issues or areas to be addressed in any proceeding referred to SOAH.³ After reviewing the pleadings submitted by the parties, the Commission identifies the following issues that must be addressed in this docket:

Application

1. Does the utility's EECRF application comply with P.U.C. SUBST. R. 25.181(f) and contain the testimony and schedules required by P.U.C. SUBST. R. 25.181(f)(10) and address the factors required by P.U.C. SUBST. R. 25.181(f)(11)?

2014 Program Year

2. What are the utility's appropriate demand reduction goal and energy savings goal for program year 2014 consistent with P.U.C. SUBST. R. 25.181(e)?
 - A. Has the utility requested a lower demand reduction goal under P.U.C. SUBST. R. 25.181(e)(2)? If so, has the utility demonstrated that compliance with the goal specified in P.U.C. SUBST. R. 25.181(e)(1) is not reasonably possible and demonstrated that good cause supports the lower demand reduction goal proposed by the utility?
 - B. Has the utility received any identification notices under P.U.C. SUBST. R. 25.181(w)? If so, has the utility's demand reduction goal for program year 2014 been properly adjusted to remove any load that is lost as a result of identification notices submitted to the utility under that rule?
3. What is the appropriate amount of projected energy-efficiency-program costs to be recovered through the utility's 2014 EECRF?
 - A. Are these costs reasonable estimates of the costs necessary to provide energy-efficiency programs and to meet the utility's goals under P.U.C. SUBST. R. 25.181?
 - B. Does the utility currently recover any energy-efficiency costs in its base rates? If so, what is the amount of projected program costs in excess of revenues collected through base rates?

³ TEX. GOV'T CODE ANN. § 2003.049(e) (Vernon 2011).

C. Are the projected costs of administration and costs of research and development in compliance with the administrative spending caps in P.U.C. SUBST. R. 25.181(i)? If not, has the utility requested an exception to those caps under P.U.C. SUBST. R. 25.181(e)(2)? If so, has the utility demonstrated that compliance with the administrative spending cap is not reasonably possible and that good cause supports the higher administrative spending cap proposed by the utility?

4. What are the EM&V costs assigned to the utility for program years 2013 and 2014?⁴

Reconciliation of Prior Program Years

5. Have the costs recovered by the utility through its EECRF for all prior program years complied with PURA § 39.905 and P.U.C. SUBST. R. 25.181 and were the costs reasonable and necessary to reduce energy and demand costs?⁵

A. Were the actual costs of administration and costs of research and development for program year 2012, or any prior program year that is challenged, in compliance with the administrative spending caps in P.U.C. SUBST. R. 25.181(i) or higher spending caps otherwise established by the Commission? If otherwise established by the Commission, in which docket were the higher spending caps established?

B. Did any costs for program year 2012, or any prior program year that is challenged, result from payments to an affiliate? If so, do those costs meet the requirements for affiliate expenses in PURA § 36.058?

C. What are the reasonable and necessary utility rate-case expenses for the utility's immediately previous EECRF proceeding?

⁴ P.U.C. SUBST. R. 25.181(q)(10).

⁵ See *Rulemaking Proceeding to Amend Energy Efficiency Rule*, Project No. 39674, Order Adopting Amendments to § 25.181 as Approved at the September 28, 2012 Open Meeting at 144 (Oct. 17, 2012) ("The commission clarifies that it intends that the adopted rule to be interpreted as follows: A utility has over-recovered costs in the preceding year to the extent that it has recovered costs through the EECRF, in the preceding year *or any other prior year*, that do not comply with subsection (f). For the 2013 EECRF proceeding initiated by a utility, the reasonableness of incurred expenses for *all years prior to 2013* shall be an issue to be addressed because those expenses have not been reconciled. After the 2013 EECRF proceeding, the reconciliation in an EECRF proceeding will be limited to the costs recovered in the preceding year because parties will have had an opportunity in prior EECRF proceedings to challenge the appropriateness of the expenses recovered in years prior to the preceding year and the commission will have determined in those prior EECRF proceedings whether those expenses complied with subsection (f)(12)."). (emphasis added).

- D. What are the reasonable and necessary municipality rate-case expenses for the utility's immediately previous EECRF proceeding?
6. For each EECRF rate class, what is the appropriate amount, if any, of under- or over-recovered EECRF costs consistent with P.U.C. SUBST. R. 25.181 for program year 2012, or any prior program years that are challenged?
- A. Did the utility recover any of its energy-efficiency costs through base rates for program year 2012, or any prior program years that are challenged? If so, what is the actual amount of energy-efficiency revenues collected through base rates consistent with P.U.C. SUBST. R. 25.181(f)(2)?
- B. What was the actual revenue collected through the utility's EECRF for program year 2012 and any prior program years that are challenged?
- C. What were the actual costs that comply with P.U.C. SUBST. R. 25.181(f)(12) of the utility's energy-efficiency programs for program year 2012, or any prior year for which costs are challenged?
7. Has TCC appropriately adjusted its 2014 EECRF to properly reflect the November 26, 2012 revision to TCC's April 2012 energy-efficiency plan and report?
8. Does TCC's request for recovery of its program costs (including administrative costs) and performance bonus for obtaining additional commercial load curtailment during the 2012 summer peak period, comply with the agreement as filed in Docket No. 39360 on February 6, 2012?
9. What were the reasonable costs (including administrative costs) of TCC obtaining additional commercial load curtailment available during the 2012 summer peak period pursuant to its agreement with Commission Staff and the Office of Public Utility Counsel?

Performance Bonus

10. What were the utility's demand and energy reduction goals for program year 2012? If the Commission granted an exception for a lower demand goal, in what docket was the lower goal established?

11. What is the appropriate energy-efficiency performance bonus, if any, consistent with P.U.C. SUBST. R. 25.181(h) for program year 2012?
- A. Did the utility exceed its demand and energy reduction goals for program year 2012? If so, by what amounts?
 - B. What are the net benefits of the utility's energy-efficiency program for program year 2012?
 - C. Did the utility exceed the EECRF cost caps in P.U.C. SUBST. R. 25.181(f)(7)?
 - D. Did the Commission establish a lower demand reduction goal, higher administrative spending cap, or higher EECRF cost cap for the utility for program year 2012? If so, should the Commission reduce the utility's performance bonus?

EECRF Design

12. What are the appropriate 2014 EECRFs for each rate class consistent with P.U.C. SUBST. R. 25.181(f)?
- A. What is the total cost that should be recovered through the utility's 2014 EECRFs?
 - B. What are the appropriate EECRF rate classes for the utility's 2014 EECRFs?
 - C. Has the utility requested a good-cause exception under P.U.C. SUBST. R. 25.181(f)(2) to combine one or more rate classes? If so, for each rate class that is proposed to be combined, does it have fewer than 20 customers, is it similar to the other rate classes, and does it receive services under the same energy-efficiency programs as the other rate classes?
 - D. Are the costs assigned or allocated to rate classes reasonable and consistent with P.U.C. SUBST. R. 25.181?
 - i. Are the utility's program costs directly assigned to each EECRF rate class that receives services under the programs to the maximum extent possible?
 - ii. Is any bonus allocated consistent with P.U.C. SUBST. R. 25.181(h)(6)?

- iii. Are administrative costs, including rate-case expenses,⁶ and research and development costs allocated consistent with P.U.C. SUBST. R. 25.181(i)?
 - E. Does the utility propose an EECRF for any commercial rate classes as a demand charge? If so, for each such rate class, do the base rates for that class contain demand charges? For each such rate class, should the EECRF for that rate class be an energy charge or a demand charge?⁷
 - F. What is the appropriate estimate of billing determinants for the 2014 program?
 - G. What are the appropriate calculated or estimated system losses and line losses that should be used in calculating the 2014 EECRF charges?
13. Do the total 2014 EECRF costs, excluding EM&V costs and municipal rate-case expenses, exceed the EECRF cost caps prescribed in P.U.C. SUBST. R. 25.181(f)(7)? If so, did the utility request an exception to the EECRF cost caps pursuant to P.U.C. SUBST. R. 25.181(e)(2) and, if so, has the utility demonstrated that compliance with the EECRF cost caps is not reasonably possible and demonstrated that good cause supports the higher EECRF cost caps?
14. Do the incentive payments for each customer class in program year 2012, or any prior program year that is challenged, comply with P.U.C. SUBST. R. 25.181(g)?

Tariff

15. What tariff schedule should be adopted for the utility in compliance with P.U.C. SUBST. R. 25.181?

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

⁶ *Application of Oncor Electric Delivery Company, LLC for 2013 Energy Efficiency Cost Recovery Factor*, Docket No. 40361, Order at 6, Finding of Fact No. 30 (Aug. 29, 2012) (“The Commission, on its own motion, reconsidered the supplemental preliminary order and found that municipalities’ EECRF rate-case expenses should be allocated as all other EECRF administrative costs.”).

⁷ *Id.* at 110 (“For rate classes that are billed on a demand basis, whether to design the EECRF to provide for an energy or demand charge will be determined in the EECRF proceedings based on the particular relevant facts.”).

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. Effect of Preliminary Order

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 upon the motion of any party, may deviate from 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 _____ day of June 2013.

PUBLIC UTILITY COMMISSION OF TEXAS

DONNA L. NELSON, CHAIRMAN

KENNETH W. ANDERSON, JR., COMMISSIONER