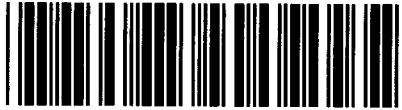




Control Number: 41791



Item Number: 29

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2013 OCT 18 AM 10:11
FILED

OPEN MEETING COVER SHEET

MEETING DATE: October 25, 2013

DATE DELIVERED: October 18, 2013

AGENDA ITEM NO.: 5

CAPTION: Docket No. 41791; SOAH Docket No. 473-14-0366 - Application of Entergy Texas, Inc. for Authority to Change Rates and Reconcile Fuel Costs

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

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Kenneth W. Anderson, Jr.
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Brandy D. Marty
Commissioner

Brian H. Lloyd
Executive Director



2013 OCT 18 AM 10:11

Public Utility Commission of Texas

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

All Parties of Record

FROM: Lisa Carter, Commission Advising *LJC*

RE: October 25, 2013 Open Meeting Agenda Item No. 5
Draft Preliminary Order, P.U.C. Docket No. 41791;
SOAH Docket No. 473-14-0366 – *Application of Entergy Texas, Inc. for
Authority to Change Rates and Reconcile Fuel Costs*

DATE: October 18, 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 October 25, 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 October 25, 2013 open meeting.

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SOAH DOCKET NO. 473-14-0366
PUC DOCKET NO. 41791

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

DRAFT PRELIMINARY ORDER

On September 25, 2013, Entergy Texas, Inc. (Entergy) filed an application for authority to change rates and to reconcile fuel costs pursuant to PURA¹ §§ 14.001, 32.001, 32.101, 36.101-.111, and 36.203-.206. The proposed base rates and existing riders are designed to collect a total non-fuel retail revenue requirement for Entergy of approximately \$822.3 million per year, which is an increase of \$38.6 million, or 4.93%, compared to adjusted retail base rate and rider revenues resulting from the Commission's order in Docket No. 39896.² Entergy has also requested that the Commission approve seven new riders: a rough production cost equalization rider; a rate-case expense rider; a new street and highway lighting tariff schedule specific for LED technology; an experimental market valued load modifying rider; an experimental market valued demand response rider; a deferred tax accounting tracker; and a transmission cost recovery factor rider, which is designed to recover incremental transmission expense beyond that recovered in base rates that would only take effect if Entergy's transmission assets are transferred to ITC Holdings Corp. Altogether, the base rates and ongoing and limited-term riders would collect a total non-fuel retail revenue requirement of \$836.8 million for the first year they are in effect, which is an increase of \$53.1 million, or 6.78% compared to the adjusted retail base rate and rider revenues resulting from the Commission's order in Docket

¹ Public Utility Regulatory Act, TEX. UTIL. CODE ANN. §§ 11.001-66.016 (Vernon 2007 & Supp. 2013) (PURA).

² *Application of Entergy Texas, Inc. for Authority to Change Rates, Reconcile Fuel Costs, and Obtain Deferred Accounting Treatment*, Docket No. 39896, Order on Rehearing (Nov. 2, 2012).

No. 39896.³ Entergy's test year for this application is the 12-month period ending March 31, 2013, adjusted for known and measurable changes.

On September 25, 2013, the Commission issued an order referring this docket to the State Office Administrative Hearings (SOAH) and requesting that interested parties file a list of issues to be addressed in this proceeding. On October 4, 2013, Entergy, Texas Industrial Energy Consumers (TIEC), and Commission Staff 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: TIEC, State Agencies, the Office of Public Utility Counsel, and the Kroger Co.

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:

A. Rate Change Request

1. What revenue requirement will give the utility a reasonable opportunity to earn a reasonable return on its invested capital used and useful in providing service to the public in excess of its reasonable and necessary operating expenses?
2. What is the reasonable and necessary cost of providing electric service calculated in accordance with PURA and Commission rules?
3. What adjustments, if any, should be made to the utility's proposed test-year data?

Invested capital – rate base, and return

4. What is the appropriate debt-to-equity capital structure for the utility?

³ *Id.*

⁴ TEX. GOV'T CODE ANN. § 2003.049(e) (Vernon 2000).

5. What is the appropriate overall rate of return, return on equity, and cost of debt for the utility? When answering this issue, please address how the factors specified in PURA § 36.052 and P.U.C. SUBST. R. 25.231(c)(1) should impact the utility's rate of return.
6. What are the reasonable and necessary components of the utility's rate base?
7. What is the original cost of the property used and useful in providing service to the public at the time the property was dedicated to public use?
8. What is the amount, if any, of accumulated depreciation on that property?
9. What amount, if any, of the utility's invested capital has not previously been subject to a prudence review by the Commission? If there are any such amounts, what are the amounts, for what facilities, property, or equipment was the investment made, and were the amounts prudently incurred? What amount, if any, of allowance for funds used during construction (AFUDC) is being transferred to invested capital in this proceeding? If AFUDC is being transferred, for what facilities and at what rate was the AFUDC accrued?
10. Did any of the utility's invested capital arise from payments made to an affiliate? If so, for each item or class of items, does the payment conform to the requirements in PURA § 36.058?
11. Is the utility seeking the inclusion of construction work in progress? If so,
 - A. what is the amount sought and for what facilities; and
 - B. has the utility proven that the inclusion is necessary to the financial integrity of the electric utility and that major projects under construction have been efficiently and prudently planned and managed; or
 - C. for transmission investment required by the Commission under PURA § 39.203(e), do conditions warrant the inclusion of construction work in progress for such transmission investment?
12. What is the reasonable and necessary working capital allowance for the utility calculated in accordance with Commission rules?

- A. Does the utility's lead-lag study for its proposed allowance for cash working capital comply with Commission rules?
 - B. If not, should cash working capital be set at a negative one-eighth of operations and maintenance expenses?
- 13. Does the utility have a self-insurance plan approved by the Commission? If so, what is the approved target amount for the reserve account and is it appropriate to change that amount? In addition, what is the amount, if any, of any shortage or surplus for the reserve account for the approved plan and what actions, if any, should be taken to return the reserve account to the approved target amount?
- 14. What is the reasonable and necessary amount, if any, of the utility's accumulated reserve for deferred federal income taxes, unamortized investment tax credits, contingency reserves, property insurance reserves, contributions in aid of construction, customer deposits, and other sources of cost-free capital? What other items, if any, should be deducted from the utility's rate base?
- 15. What regulatory assets, if any, are appropriately included in rate base? If included, what is the appropriate treatment of such regulatory assets?
- 16. What post-test-year adjustments for known and measurable rate-base changes to historical test year data, if any, should be made? Do any such adjustments comport with the requirements of P.U.C SUBST. R. 25.231(c)(2)(F)?
 - A. Does each addition comprise at least 10% of the electric utility's requested rate base, exclusive of post test-year adjustments and construction work in progress?
 - B. Will each plant addition be in service before the rate year begins?
 - C. Have the attendant impacts on all aspects of the utility's operations (including but not limited to, revenue, expenses and invested capital) been identified, quantified, and matched?
 - D. For any post-test-year adjustments, what future filings, if any, should the utility be required to make to verify that the plant was placed in service before the rate year begins?

Expenses

17. What are the utility's reasonable and necessary operations and maintenance expenses?
18. What are the reasonable and necessary administrative and general expenses?
19. What are the utility's reasonable and necessary rate case expenses?
 - A. Does this amount include any anticipated expenses to appeal this docket or Docket No. 39896?
 - B. What are the intervening cities' reasonable and necessary rate case expenses?
20. What is the reasonable and necessary depreciation expense? For each class of property, what are the proper and adequate rates and methods for depreciation?
21. What is the reasonable and necessary amount for assessments and taxes, other than federal income taxes?
22. What is the reasonable and necessary amount for municipal franchise fees? What is the appropriate amount to be included in base rates?
23. What is the reasonable and necessary amount for the utility's federal income tax expense?
 - A. Is the utility a member of an affiliated group that is eligible to file a consolidated income tax return?
 - B. If so, what is the appropriate level of consolidated tax savings adjustment to apply pursuant to PURA § 36.060?
24. Are there any tax savings derived from liberalized depreciation and amortization, investment tax credits, or similar methods? If so, are they apportioned equitably between consumers and the utility, and are the interests of present and future customers equitably balanced as required by PURA § 36.059?
25. What is the reasonable and necessary amount for the utility's advertising expense, contributions, and donations?
26. What is the reasonable and necessary amount for nuclear decommissioning expenses, if any, calculated in accordance with Commission rules?

27. Is the utility seeking approval of a self-insurance plan or changes to an existing plan? If so,
 - A. Is the coverage provided by the plan in the public interest?
 - B. Does the plan provide a lower-cost alternative to purchasing commercial insurance? Will ratepayers receive the benefits of the savings?
 - C. What is the reasonable and necessary target amount for the utility's self-insurance reserve account?
 - D. What is the reasonable and necessary amount of annual accruals to properly fund the self-insurance reserve account?
28. What are the reasonable and necessary post-retirement benefits, if any, calculated in accordance with PURA § 36.065 and P.U.C. SUBST. R. 25.231(a)(1)(H)?
29. Has the utility made any payments for expenses to affiliates? If so, for each item or class of items,
 - A. Are costs appropriately assigned to the utility and its affiliates?
 - B. Has the utility met the standard of recovery of affiliate costs under PURA § 36.058 and Commission rules?
30. Are any expenditures unreasonable, unnecessary, or not in the public interest, including but not limited to executive salaries, advertising expenses, legal expenses, penalties and interest on overdue taxes, criminal penalties or fines, and civil penalties or fines?
31. What post-test-year adjustments for known and measurable changes to historical test-year data for expenses, if any, should be made? For any such adjustments, have all the attendant impacts on all aspects of a utility's operations (including but not limited to, revenue, expenses and invested capital) been identified with reasonable certainty, quantified and matched?
32. What amount of expenses, if any, related to analyzing and planning for a transition to a regional transmission organization is included in Entergy's requested cost of service? If an amount is included, is Entergy proposing to recover those costs? If so, should such expenses be recovered in Entergy's base rates?

33. What amount of expenses, if any, related to analyzing and planning for a transition to a regional transmission organization were in Entergy's books during the test year? Were any such amounts removed from the test year, and if so, what were those amounts?
34. Has Entergy made any adjustments for costs related to analyzing and planning for a transition to a regional transmission organization incurred outside of the test year, and if so, what is the amount and how is Entergy proposing to recover such costs?
35. What are the baseline values that should be used for calculating Entergy's future purchased capacity cost recovery factor, transmission cost recovery factor, and distribution cost recovery factor, if any such factor is sought?

Rate Design and Tariffs

36. What are the just and reasonable rates calculated in accordance with PURA and Commission rules? Do the rates comport with the requirements in PURA § 36.003?
37. What are the appropriate rate classes for which rates should be determined?
38. What are the appropriate billing and usage data for the utility's test year?
 - A. What known and measurable changes, if any, should be used to adjust the test year data?
 - B. What changes, if any, are necessary to reflect abnormal weather conditions?
39. What are the appropriate allocations of the utility's revenue requirement to jurisdictions, functions, and rate classes?
 - A. What are the appropriate allocations of revenues and related costs associated with contracts that the utility enters into with wholesale customers?
 - B. Do all allocation factors properly reflect the types of costs allocated?
40. Are all rate classes at unity? If not, what if anything, should be done to address the lack of unity?
41. Is it appropriate to recover a portion of municipal franchise fees through direct charges to customers in the applicable municipal jurisdictions?

32. Should the Commission approve Entergy's request for the following new proposed riders:
- a. a rough production cost equalization adjustment rider;
 - b. a rate-case expense rider;
 - c. a new street and highway lighting schedule specific for LED technology;
 - d. an experimental market valued load modifying rider;
 - e. an experimental market valued demand response rider;
 - f. the deferred tax accounting trackers; and
 - g. a rider regarding costs incurred by Entergy if its transmission assets are transferred to ITC Holdings Corp.?
33. If Entergy's request for a rider regarding recovery of ITC-transfer-related costs is not approved, should Entergy's alternative request for deferral of certain transmission-related costs be approved?
34. Does the utility have any existing rate riders that should be modified or terminated? What regulatory assets or other items are currently being recovered through rate riders?
35. What tariff revisions are appropriate as a result of this proceeding?

B. Fuel and Purchased Power Costs Reconciliation

37. Does the utility's petition to reconcile fuel expenses comply with P.U.C. SUBST. R. 25.236(c)?
38. Has the utility met the burden of proof for fuel reconciliation proceedings in P.U.C. SUBST. R. 25.236(d)(1)?
- A. Are the costs of substances consumed in the control of emissions and emission allowances an eligible fuel expense reasonably and necessarily incurred to provide reliable electric service to retail customers? If so, should these costs be

included as an element of fuel costs within the scope of periodic fuel reconciliation proceedings?

B. Are the utility's purchased capacity costs, over and above its current long-term purchased capacity contract, an eligible fuel expense reasonably and necessarily incurred to provide reliable electric service to retail customers? If so, should these costs be included as an element of fuel costs within the scope of periodic fuel reconciliation proceedings?

39. Were any fuel contracts entered into after the utility's last reconciliation period prudently incurred?
40. During the reconciliation period, did the utility prudently manage its fuel, fuel-related, and purchased-power contracts; fuel inventories; generation of electricity; generating-facilities maintenance; and generating-unit dispatch?
41. Did the utility take advantage of opportunities in the fuel and purchased-power markets to reduce costs, lessen price volatility, and enhance reliability?
42. Did the utility pay affiliates for fuel or purchased-power and, if so, did such payments for each item or class of items meet the requirements of PURA § 36.058?
43. Did the utility record revenues and expenses from off-system sales in a manner consistent with the Commission's rules?
44. What is the proper quantification of any capacity costs (whether explicitly stated or not) in the utility's purchased-power contracts?
45. Has the utility properly accounted for the amount of fuel-related revenues collected during the reconciliation period?
46. Does the utility's fuel balance exceed the 4% threshold set forth in P.U.C. SUBST. R. 25.237(a)(3)(B)? If so, is it expected that the balance will continue to exceed the threshold?
47. 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 as eligible fuel expense certain

capacity costs, incurred during the reconciliation period that are related to two purchased power agreements?

48. Is the utility's request to carry forward its fuel balance appropriate, or should a refund or surcharge be imposed by this docket?
49. If a refund or surcharge results from this docket, how and over what period of time should that be made?

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 Section II of this Order, 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. 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 October 2013.

PUBLIC UTILITY COMMISSION OF TEXAS

DONNA L. NELSON, CHAIRMAN

KENNETH W. ANDERSON, JR., COMMISSIONER

BRANDY D. MARTY, COMMISSIONER