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**DOCKET NO. 44698**

**APPLICATION OF SOUTHWESTERN §  
PUBLIC SERVICE COMPANY TO §  
ADJUST ITS ENERGY EFFICIENCY §  
COST RECOVERY FACTOR §**

**2015 JUN 24 AM 11:33  
PUBLIC UTILITY COMMISSION  
OF TEXAS**

**SUPPLEMENTAL PRELIMINARY ORDER**

On May 1, 2015, Southwestern Public Service Company (SPS) filed an application for approval to adjust its energy-efficiency cost recovery factor (EECRF) pursuant to § 39.905 of the Public Utility Regulatory Act (PURA) and 16 Tex. Admin. Code (TAC) § 25.181(f). SPS requests that its 2016 EECRF become effective January 1, 2016.

This docket was referred to the State Office of Administrative Hearings (SOAH) on May 4, 2015. Commission Staff and SPS timely filed proposed lists of issues on May 11, 2015. On May 22, 2015, the Commission issued a Preliminary Order identifying issues to be addressed in this proceeding.

Further, in consideration of SPS's application to approve its EECRF, an order was issued requesting briefing from interested parties on the following issues:

1. In SPS's most recent base-rate case, did the Commission approve retail rate classes that should be used in this proceeding? If so, which retail rate classes did the Commission approve for purposes of this proceeding?
2. Can the agreement of the parties regarding the future applicability of retail rate classes approved by the Commission in Docket No. 42004 preclude the use of those retail rate classes in SPS's next EECRF proceeding? In answering this question, please address the definition of rate class in 16 TAC § 25.181(49) and its applicability to § 25.181(f).
3. If the Commission did not approve retail rate classes in Docket No. 42004, or cannot use the retail rate classes referenced in Docket No. 42004, how should retail rate classes be defined for purposes of this proceeding?

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Briefs on these issues were timely filed by SPS, Commission Staff, and the Office of Public Utility Counsel. The Commission considered parties' briefs at an open meeting held on June 18, 2015.

Based on parties' pleadings and arguments, the Commission concludes that the caveats that the signatory parties added to certain schedules attached to the non-unanimous settlement in SPS's last base-rate docket, Docket No. 42004,<sup>1</sup> did not represent an agreement of the parties regarding the application of Commission-approved rate classes in Docket No. 42004 to the instant EECRF docket. The Commission finds that, per the definition found in the EECRF rule defining rate classes,<sup>2</sup> the rate classes approved by the Commission in SPS's last base-rate docket, Docket No. 42004, are the rate classes that should be used in the instant EECRF docket. Consequently, the parties are redirected to answer question 11(M)(i) as it appears in the preliminary order in the instant docket.

## II. Effect of Supplemental Preliminary Order

This Order is preliminary in nature and is entered without prejudice to any party expressing views contrary to this Order before the ALJ at hearing. The 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 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 an ALJ's order. Furthermore, this Order is not subject to motions for rehearing or reconsideration.

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<sup>1</sup> *Application of Southwestern Public Service Company for Authority to Change Rates and to Reconcile Fuel and Purchased Power Costs for the Period July 1, 2012 through June 30, 2013*, Docket No. 42004, Order (Dec. 19, 2004).


<sup>2</sup> 16 TAC § 25.181(49).

SIGNED AT AUSTIN, TEXAS the 24<sup>th</sup> day of June 2015.

PUBLIC UTILITY COMMISSION OF TEXAS

  
DONNA L. NELSON, CHAIRMAN

  
KENNETH W. ANDERSON, JR., COMMISSIONER

  
BRANDY MARTY MARQUEZ, COMMISSIONER