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APPLICATION OF ENERGY §
TEXAS INC. FOR APPROVAL OF §
A TRANSMISSION COST §
RECOVERY FACTOR §

BEFORE THE PUBLIC UTILITY COMMISSION OF TEXAS
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PUBLIC UTILITY COMMISSION
FILING CLERK

CITIES' COMMENTS

The Cities of Anahuac, Beaumont, Bridge City, Cleveland, Conroe, Dayton, Groves, Houston, Huntsville, Liberty, Montgomery, Navasota, Nederland, Oak Ridge North, Orange, Pine Forest, Pinehurst, Port Arthur, Port Neches, Rose City, Shenandoah, Silsbee, Sour Lake, Splendora, Vidor, and West Orange ("Cities") file these Comments in the above styled and numbered docket.

Pursuant to the Commission's Order No. 4, these Comments are timely filed.

I. INTRODUCTION

In his May 3, 2016 Memorandum, and at the Open Meeting on May 4, 2016, Commissioner Anderson raised concerns that Entergy Texas, Inc.'s ("ETI" or "Company") practice of transferring spare autotransformers and other capital assets to other Entergy Operating Companies ("EOCs") would have the effect of Texas customers subsidizing the cost of capital assets for other jurisdictions.¹ In response, ETI filed supplemental testimony showing that the practice has in fact resulted in Texas customers paying a return and other expenses on capital assets, sometimes for years before and after the assets are transferred to benefit other jurisdictions.² Cities have already shown that these spare transformers should be excluded from the Company's Transmission Cost Recovery Factor ("TCRF") Request because they are not in service and were improperly booked to Federal Energy Regulatory Commission ("FERC") plant account 353, Station Equipment.³ Cities agree with Commissioner Anderson that, if spare capital assets are to be included in a TCRF, Texas customers should be reimbursed for monies they have paid towards assets that ultimately benefit other jurisdictions. But Cities maintain their prior

¹ Memorandum from Commissioner Kenneth W. Anderson, Jr. to Chairman Donna L. Nelson and Commissioner Brandy Marty Marquez at 3 (May 3, 2016) (filed in this docket).

² Supplemental Direct Testimony of Patrick J. Stack, Jr. at Exhibit PJS-SD-1.

³ See Cities' Initial Brief at 8; Cities' Reply Brief at 6.

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position that spare autotransformers should not be included in a TCRF case, but may be included in a base rate case.

II. COMMENTS

A. Texas customers have subsidized the cost of capital assets for other jurisdictions.

In his May 3, 2016 Memorandum, Commissioner Anderson unequivocally stated: “Texas ratepayers should not subsidize the cost of spare transformers for customers in other jurisdictions.”⁴ Cities agree with Commissioner Anderson. Company witness Stack establishes that indeed, spare autotransformers and other transmission capital assets have been transferred to other jurisdictions after Texas customers have paid return and other expenses on them, sometimes for years.⁵

Moreover, rate base is not self-adjusting when a sale occurs. Mr. Stack’s Exhibit PJS-SD-1 does not account for the fact that customers continue to pay return and expenses on capital assets beyond the sale date until the next base rate case or TCRF is completed. To this day, customers are paying return and other expenses on any items that would have been included in rate base in the last base rate case (Docket No. 41791) but were sold after the test year concluded, such as the coupling capacitor transferred under work order C6PPBB0864.⁶ This asset was sold to another EOC in August 2013 according to Exhibit PJS-SD-1, but was not taken out of rate base until this TCRF filing.⁷ Customers will continue to pay return and expenses on this asset until the rate effective date of this TCRF case, even though the asset has benefitted customers in a different state for almost three years now. Likewise, customers will pay return and other expenses for each spare asset included in rate base through these TCRF proceedings until the next base

⁴ Memorandum from Commissioner Kenneth W. Anderson, Jr. to Chairman Donna L. Nelson and Commissioner Brandy Marty Marquez at 3 (May 3, 2016) (filed in this docket).

⁵ Supplemental Direct Testimony of Patrick J. Stack, Jr. at Exhibit PJS-SD-1. The most extreme example was a transformer ETI sold to another Entergy Operating Company under work order C6PPBB0731.

⁶ *Id.* See also *Application of Entergy Texas, Inc. for Authority to Change Rates and Reconcile Fuel Costs*, Docket No. 41791, Final Order (May 16, 2014). The test year for Docket No. 41791 ended on March 31, 2013. *Id.* at FoF 2.

⁷ TCRF_TIC Schedule II & III Workpaper, ETI Exhibit 1 at tab “PIS Trans Plant Data 0413_0615,” line 7168.

rate case or TCRF is completed, even if that asset is transferred out of Texas the day after the final order in this case is entered.

The Company tries to minimize the impact of these transfers by taking credit for the transfer of capital assets from other jurisdictions into Texas, but this would effectively require Texas customers to pay the Company for return and expenses that have already been paid by customers in other jurisdictions.⁸ These customers in other jurisdictions will continue to pay for these assets until the regulatory authority changes their rates. ETI's attempt at netting these transfers between Texas and other jurisdictions does not capture the reality of the rate-setting process. Mr. Stack's netting approach fails to recognize the potential undue windfall to ETI and the other EOCs, since customers in two Entergy Corporation jurisdictions might be simultaneously paying return and other expenses on the same asset.

B. Spare capital assets should not be included in expedited rate proceedings such as a TCRF.

Cities do not oppose the Company's recommendation that the Commission should require the Company to report the transfers of capital assets in future base rate proceedings to ensure that customers have not paid return and other expenses on capital assets that ultimately serve customers in other states.⁹ However, Cities have previously pointed out that the rules and procedures for asset inclusion in a base rate case are not as limited as they are for a TCRF, and for good reason.¹⁰ PURA Section 36.209, which authorizes TCRF recovery for "transmission infrastructure improvement costs,"¹¹ was intended to allow non-ERCOT utilities "an opportunity to more quickly recover costs associated with *new transmission construction*."¹² Other costs related to the maintenance of existing transmission infrastructure, and investment in capital spare inventory, are

⁸ The Company further minimizes the potential impact of these transactions by stressing the annualized impact over the impact of individual transactions, which obscures the true range of impact these transactions can have, depending on how long the asset was in rate base before being transferred. See Supplemental Direct Testimony of Patrick J. Stack, Jr. at 8:11-20.

⁹ See *id.* at 9:9-14.

¹⁰ See Cities' Initial Brief at 9; Cities' Reply Brief at 6.

¹¹ Public Utility Regulatory Act, Tex Util. Code Ann. § 36.209 ("PURA").

¹² House Comm. on Regulated Industries, Bill Analysis, Tex. H.B. 989, 79th Leg., R.S. (2005) (emphasis added).


more appropriately reserved for a base rate case. Cities have shown that investment in capital spares should be booked in FERC account 154 rather than account 353, according to the National Association of Regulatory Utility Commissioners and FERC guidance, as well as ETI's own capitalization policy.¹³ This alone makes capital spares ineligible for recovery in a TCRF proceeding, under which recovery for transmission invested capital is limited to plant booked to FERC accounts 350-359.¹⁴

Company witness Stack's Exhibit PJS-SD-1 shows that Texas customers have subsidized the cost of spare transformers and other spare capital assets for customers in other jurisdictions. In a base rate case, the Commission should require the Company to report the transfers of capital assets since the last rate proceedings and to require reimbursement to Texas customers in full for return and other expenses paid on capital assets that serve customers in other states. The Commission can further preserve the best interest of Texas customers by implementing a bright line standard that spare capital assets cannot be included in expedited rate proceedings such as a TCRF.

III. PRAYER

For the above stated reasons, Cities respectfully request that the Commission issue a final order consistent with these Comments and all other relief to which they may show themselves to be justly entitled.

Respectfully submitted,
LAWTON LAW FIRM, P.C.


Daniel J. Lawton 00791082
Molly Mayhall Vandervoort 24048265
12600 Hill Country Blvd., Suite R-275
Austin, Texas 78738
(512) 322-0019
(855) 298-7978 Fax
ATTORNEY FOR CITIES

¹³ Cities' Initial Brief at 7-9.

¹⁴ 16 Tex. Admin. Code § 25.239(b)(2).

CERTIFICATE OF SERVICE

I hereby certify that a copy of this document was served on all parties of record in this proceeding on this the 15th day of June 2016, by First Class, U.S. Mail, facsimile transmission, or hand delivery.


Molly Mayhall Vandervoort