



Control Number: 45928



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PUC DOCKET NO. 45928

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APPLICATION OF AEP TEXAS §
NORTH COMPANY TO ADJUST §
ENERGY EFFICIENCY COST §
RECOVERY FACTOR AND RELATED §
RELIEF §

2016 JUN -1 PM 2: 52
PUBLIC UTILITY COMMISSION
PUBLIC UTILITY COMMISSION
OF TEXAS FILING CLERK

AEP TEXAS NORTH COMPANY'S APPLICATION

JUNE 1, 2016

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

TO THE HONORABLE PUBLIC UTILITY COMMISSION OF TEXAS:

AEP Texas North Company (TNC or Applicant) files its Application to Adjust Energy Efficiency Cost Recovery Factor and Related Relief pursuant to PURA¹ §39.905 and 16 Texas Administrative Code (TAC) § 25.181(f). In support thereof TNC would show the following:

I. Applicant

TNC is a transmission and distribution (T&D) utility that provides T&D service in a service area comprising all or parts of 48 counties in west and north Texas. TNC's business address is 910 Energy Drive, Abilene, Texas 79602.

II. Applicant's Authorized Representatives

TNC's authorized representative for the purpose of receiving service of documents is:

Jennifer J. Frederick
American Electric Power Service Corporation
400 West 15th Street, Suite 1520
Austin, Texas 78701
512.481.4573 (voice)
512.481.4591 (facsimile)
Email: jjfrederick@aep.com

TNC's authorized legal representative is:

Melissa Gage
American Electric Power Service Corporation
400 West 15th Street, Suite 1520
Austin, Texas 78701
512.481.3320 (voice)
512.481.4591 (facsimile)
Email: malong@aep.com

¹ Public Utility Regulatory Act (PURA), TEX. UTIL. CODE ANN. §§ 11.001-66.016 (West 2007 and Supp. 2014).

III. Jurisdiction

The Commission has jurisdiction over this application pursuant to PURA §39.905 and 16 TAC § 25.181.

IV. Affected Persons

This filing affects all retail electric providers (REPs), serving end-use retail electric customers in TNC's certificated service territory and will affect the retail electric customers of those REPs. There are approximately 190,000 end users of electricity in TNC's service territory, all of whom are customers of REPs. Those end users of electricity who take service at below 69,000 volts, with the exception of industrial distribution customers who filed a notice of intent pursuant to 16 TAC § 25.181(w) and lighting customers, for whom no energy efficiency programs are available, may be affected by the relief sought by TNC, depending on the actions taken by the REPs who provide them electricity.

V. Background

In Docket No. 44718,² the Commission authorized TNC to adjust its EECRF pursuant to PURA §39.905 and 16 TAC § 25.181(f)(1) to recover \$1,715,498 in 2016 for energy efficiency. This included \$1,480,871, the amount by which its projected energy efficiency costs for its 2016 programs exceeded the amount of energy efficiency funding expressly included in its base rate order in Docket No. 33310. TNC's approved 2016 EECRF also included \$333,281 returned to customers, the amount of energy efficiency program revenues that were over-recovered by its 2014 EECRF; recovery of \$32,247 in Evaluation, Measurement and Verification (EM&V) costs; and recovery of \$17,569 for 2014 EECRF proceeding expenses incurred in Docket No. 42509 by municipalities as authorized by 16 TAC § 25.181(f)(3)(B).

Pursuant to 16 TAC § 25.181(f)(8), a utility such as TNC that serves in an area in which customer choice is offered is required to file an application with the Commission to adjust its EECRF not later than June 1 of each year.

VI. Request to Adjust the EECRF

By this application, TNC requests the authority to update its EECRF to adjust the cost recovery factors for energy efficiency to collect \$1,780,055 in 2016 to reflect the following components:

- 1) recovery of \$1,790,454, TNC's forecasted 2017 energy efficiency program expenditures in excess of its projected energy efficiency revenues collected from base rates adjusted as outlined in the rule;

² Docket No. 44718, *Application of AEP Texas North Company To Adjust Energy Efficiency Cost Recovery Factor (EECRF) and Related Relief*, Final Order (Sept. 25, 2016).

- 2) return to customers the amount of \$200,114 representing the over-recovery of TNC's actual energy efficiency costs for 2015;
- 3) recovery of \$186,197 representing TNC's 2015 performance bonus for achieving demand and energy savings that exceeded its minimum goals to be achieved in 2015; and
- 5) recovery of \$3,517 representing 2015 EECRF proceeding expenses incurred in Docket No. 44718 by municipalities as authorized by 16 TAC § 25.181(f)(3)(B).

VII. Adjusted EECRF Cost Recovery Factors for 2017

The adjusted Schedule EECRF containing the cost recovery factors for 2017 is attached hereto as Attachment A. TNC requests the Commission to make the adjusted Schedule EECRF effective as of March 1, 2016. The requested adjusted EECRF cost recovery factors to recover the applicable energy efficiency costs during 2017 are as follows:

<u>Rate Class</u>	<u>Proposed kWh Factor</u>
Residential	\$0.000455
Secondary ≤ 10 kW	(\$0.000150)
Secondary > 10 kW	\$0.000489
Primary	(\$0.000004)
Transmission	(\$0.000059)

VIII. Testimony and Schedules Supporting 2017 EECRF

Accompanying this application are the direct testimonies of Robert Cavazos, Rhonda R. Fahrlander, Brian J. Frantz, and Jennifer L. Jackson and Schedules A through S, which support the relief sought by Applicant. The evidence sponsored by Mr. Cavazos, Ms. Fahrlander, Mr. Frantz, and Ms. Jackson fully supports the relief sought by TNC for 2017 pursuant to PURA §39.905 and 16 TAC § 25.181(f).

IX. Request for Protective Order

Schedule J contains a listing of all Energy Efficiency Service Providers (EESPs) who received incentive funds and a listing of EESPs who received more than five percent of incentive funds for 2015 along with their contracts with TNC. Pursuant to 16 TAC § 25.181(f)(10)(H) and (K), such information may be provided and treated as confidential. Accordingly, TNC requests entry of the standard Protective Order contained as Attachment B hereto.

X. Notice

TNC proposes to provide notice by providing a copy of this application by U.S. mail, postage prepaid, to all parties to TNC Docket No. 33310, TNC's most recent completed base rate case, Docket No. 44718, its last EECRF case, and the Texas Department of Housing and Community Affairs.

XI. Proposed Schedule

TNC proposes the following schedule for this proceeding:

Staff Approval of Notice	June 10, 2016
Notice Completed	June 15, 2016
Proof of Notice	June 17, 2016
Intervention Deadline	July 1, 2016
Request for a Hearing	July 1, 2016
<u>If No Hearing Requested</u>	
Staff Recommendation	July 22, 2016
Parties' Proposed Order	July 26, 2016
<u>If Hearing Requested</u>	
End of discovery on TCC Direct (if Hearing Requested)	July 1, 2016
Deadline for Intervenor Direct	July 8, 2016
Objections to TCC and Intervenor Direct	July 13, 2016
Deadline for Staff Direct	July 13, 2016
End of Discovery on Intervenor Direct	July 13, 2016
End of Discovery on Staff Direct	July 18, 2016
Replies to Objections to TCC and Intervenor Direct	July 18, 2016
Objections to Staff Direct	July 18, 2016
Discovery Responses on Intervenor Direct	July 20, 2016
Deadline for TCC Rebuttal and Cross-Rebuttal	July 22, 2016
Discovery Responses on Staff Direct	July 22, 2016
Hearing on the Merits	July 26, 2016

XII. Conclusion and Prayer for Relief

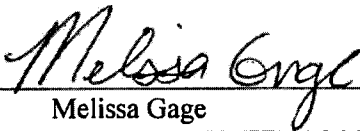
WHEREFORE, PREMISES CONSIDERED, TNC prays that the Commission:

- (i) approve the proposed Protective Order;
- (ii) approve TNC's proposed notice and method of providing notice;
- (iii) approve TNC's proposed tariff schedule;
- (iv) authorize TNC to begin applying the adjusted Schedule EECRF attached hereto as Attachment A as of March 1, 2017;
- (v) grant TNC's application; and
- (vi) grant such other and further relief to which TNC may show itself justly entitled.

Dated: June 1, 2016

RESPECTFULLY SUBMITTED,

American Electric Power Service Corporation
400 West 15th Street, Suite 1520
Austin, Texas 78701
Melissa Gage
State Bar. No. 24063949
Telephone: 512.481.3320
Facsimile: 512.481.4591

By: 
Melissa Gage
ATTORNEY FOR AEP TEXAS NORTH COMPANY

AEP TEXAS NORTH COMPANY
TARIFF FOR ELECTRIC DELIVERY SERVICE

Applicable: Entire System

Chapter: 6 Section: 6.1.1

Section Title: Delivery System Charges

Revision: Seventh Effective Date: March 1, 2017

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**6.1.1.6.6 Rider EECRF – Energy Efficiency Cost
Recovery Factors**

AVAILABILITY

Rider EECRF recovers the cost of energy efficiency programs not already included in base distribution service rates and is applicable to the kWh sales of Retail Customers taking retail electric delivery service from the Company.

APPLICABILITY

The Rider EECRF is applicable to the current month's billed kWh of each Retail Customer taking electric delivery service from the Company.

MONTHLY RATE

<u>Rate Schedule</u>	<u>Factor</u>	
Residential Service	\$0.000455 per kWh	I
Secondary Service Less than or Equal to 10 kW	(\$0.000150) per kWh	R
Secondary Service Greater than 10 kW	\$0.000489 per kWh	R
Primary Service	(\$0.000004) per kWh	I
Transmission Service	(\$0.000059) per kWh	I
<u>ID Notice Customer Base Rate Credit</u>		N
<u>For distribution industrial customers meeting the definition and fulfilling the requirements in 16 TAC§25.181(c)(30) and (w) (ID Notice Customers) the following base rate energy efficiency credit will apply.</u>		N
<u>Secondary Service Less Than or Equal to 10 kW</u>	<u>(\$0.000256) per kWh</u>	N
<u>Secondary Service Greater Than 10 kW</u>	<u>(\$0.000312) per kWh</u>	N
<u>Primary</u>	<u>(\$0.000169) per kWh</u>	N

NOTICE

This Rate Schedule is subject to the Company's Tariff and Applicable Legal Authorities.

**AEP TEXAS NORTH COMPANY
TARIFF FOR ELECTRIC DELIVERY SERVICE**

Applicable: Entire System

Chapter: 6 Section: 6.1.1

Section Title: Delivery System Charges

Revision: Seventh Effective Date: March 1, 2017

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APPLICATION OF AEP TEXAS
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PUBLIC UTILITY COMMISSION

OF TEXAS

PROTECTIVE ORDER

This Protective Order shall govern the use of all information deemed confidential (Protected Materials) or highly confidential (Highly Sensitive Protected Materials), including information whose confidentiality is currently under dispute, by a party providing information to the Public Utility Commission of Texas (Commission) or to any other party to this proceeding.

It is ORDERED that:

1. **Designation of Protected Materials.** Upon producing or filing a document, including, but not limited to, records on a computer disk or other similar electronic storage medium in this proceeding, the producing party may designate that document, or any portion of it, as confidential pursuant to this Protective Order by typing or stamping on its face "PROTECTED PURSUANT TO PROTECTIVE ORDER ISSUED IN DOCKET NO. 45928" (or words to this effect) and consecutively Bates Stamping each page. Protected Materials and Highly Sensitive Protected Materials include the documents so designated, as well as the substance of the information contained in the documents and any description, report, summary, or statement about the substance of the information contained in the documents.
2. **Materials Excluded from Protected Materials Designation.** Protected Materials shall not include any information or document contained in the public files of the Commission or any other federal or state agency, court, or local governmental authority subject to the Public Information Act.¹ Protected Materials also shall not include documents or information which at the time of, or prior to disclosure in, a proceeding is or was public

¹ TEX. GOV'T CODE ANN. §§ 552.001-552.353 (Vernon 2004 and Supp. 2009).

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knowledge, or which becomes public knowledge other than through disclosure in violation of this Protective Order.

3. **Reviewing Party.** For the purposes of this Protective Order, a “Reviewing Party” is any party to this docket.
4. **Procedures for Designation of Protected Materials.** On or before the date the Protected Materials or Highly Sensitive Protected Materials are provided to the Commission, the producing party shall file with the Commission and deliver to each party to the proceeding a written statement, which may be in the form of an objection, indicating: (a) any exemptions to the Public Information Act claimed to apply to the alleged Protected Materials; (b) the reasons supporting the producing party’s claim that the responsive information is exempt from public disclosure under the Public Information Act and subject to treatment as protected materials; and (c) that counsel for the producing party has reviewed the information sufficiently to state in good faith that the information is exempt from public disclosure under the Public Information Act and merits the Protected Materials designation.
5. **Persons Permitted Access to Protected Materials.** Except as otherwise provided in this Protective Order, a Reviewing Party may access Protected Materials only through its “Reviewing Representatives” who have signed the Protective Order Certification Form (see Attachment A). Reviewing Representatives of a Reviewing Party include its counsel of record in this proceeding and associated attorneys, paralegals, economists, statisticians, accountants, consultants, or other persons employed or retained by the Reviewing Party and directly engaged in this proceeding. At the request of the PUC Commissioners, copies of Protected Materials may be produced by Commission Staff. The Commissioners and their staff shall be informed of the existence and coverage of this Protective Order and shall observe the restrictions of the Protective Order.
6. **Highly Sensitive Protected Material Described.** The term “Highly Sensitive Protected Materials” is a subset of Protected Materials and refers to documents or information that a producing party claims is of such a highly sensitive nature that making copies of such documents or information or providing access to such documents to employees of the Reviewing Party (except as specified herein) would expose a producing party to

unreasonable risk of harm. Highly Sensitive Protected Materials include but are not limited to: (a) customer-specific information protected by § 32.101(c) of the Public Utility Regulatory Act;² (b) contractual information pertaining to contracts that specify that their terms are confidential or that are confidential pursuant to an order entered in litigation to which the producing party is a party; (c) market-sensitive fuel price forecasts, wholesale transactions information and/or market-sensitive marketing plans; or (d) business operations or financial information that is commercially sensitive. Documents or information so classified by a producing party shall bear the designation "HIGHLY SENSITIVE PROTECTED MATERIALS PROVIDED PURSUANT TO PROTECTIVE ORDER ISSUED IN DOCKET NO. 45928" (or words to this effect) and shall be consecutively Bates Stamped. The provisions of this Protective Order pertaining to Protected Materials also apply to Highly Sensitive Protected Materials, except where this Protective Order provides for additional protections for Highly Sensitive Protected Materials. In particular, the procedures herein for challenging the producing party's designation of information as Protected Materials also apply to information that a producing party designates as Highly Sensitive Protected Materials.

7. **Restrictions on Copying and Inspection of Highly Sensitive Protected Material.**

Except as expressly provided herein, only one copy may be made of any Highly Sensitive Protected Materials except that additional copies may be made to have sufficient copies for introduction of the material into the evidentiary record if the material is to be offered for admission into the record. The Reviewing Party shall maintain a record of all copies made of Highly Sensitive Protected Material and shall send a duplicate of the record to the producing party when the copy or copies are made. The record shall specify the location and the person possessing the copy. Highly Sensitive Protected Material shall be made available for inspection only at the location or locations provided by the producing party, except as specified by Paragraph 9. Limited notes may be made of Highly Sensitive Protected Materials, and such notes shall themselves be treated as Highly Sensitive Protected Materials unless such notes are limited to a description of the

² Public Utility Regulatory Act, TEX. UTIL. CODE ANN., § 32.101(c) (Vernon 2007 & Supp. 2012) (PURA).

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document and a general characterization of its subject matter in a manner that does not state any substantive information contained in the document.

8. **Restricting Persons Who May Have Access to Highly Sensitive Protected Material.**

With the exception of Commission Staff, The Office of the Attorney General (OAG), and the Office of Public Utility Counsel (OPC), and except as provided herein, the Reviewing Representatives for the purpose of access to Highly Sensitive Protected Materials may be persons who are (a) outside counsel for the Reviewing Party, (b) outside consultants for the Reviewing Party working under the direction of Reviewing Party's counsel or, (c) employees of the Reviewing Party working with and under the direction of Reviewing Party's counsel who have been authorized by the presiding officer to review Highly Sensitive Protected Materials. The Reviewing Party shall limit the number of Reviewing Representatives that review Highly Sensitive Protected Materials to the minimum number of persons necessary. The Reviewing Party is under a good faith obligation to limit access to each portion of any Highly Sensitive Protected Materials to two Reviewing Representatives whenever possible. Reviewing Representatives for Commission Staff and OPC, for the purpose of access to Highly Sensitive Protected Materials, shall consist of their respective counsel of record in this proceeding and associated attorneys, paralegals, economists, statisticians, accountants, consultants, or other persons employed or retained by them and directly engaged in these proceedings.

9. **Copies Provided of Highly Sensitive Protected Material.** A producing party shall provide one copy of Highly Sensitive Protected Materials specifically requested by the Reviewing Party to the person designated by the Reviewing Party who must be a person authorized to review Highly Sensitive Protected Material under Paragraph 8, and must be either outside counsel or an outside consultant. Other representatives of the Reviewing Party who are authorized to view Highly Sensitive Protected Material may review the copy of Highly Sensitive Protected Materials at the office of the Reviewing Party's representative designated to receive the information. Each Reviewing Party may make two additional copies of Highly Sensitive documents for outside consultants whose business offices are located outside of Travis County. All restrictions on Highly Sensitive documents in this order shall apply to the additional copies maintained in the

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outside consultants' offices. Any Highly Sensitive Protected Materials provided to a Reviewing Party may not be copied except as provided in Paragraph 7 and shall be returned along with any copies made pursuant to paragraph 7 to the producing party within two weeks after the close of the evidence in this proceeding. The restrictions contained herein do not apply to Commission Staff, OPC, and the OAG when the OAG is a representing a party to the proceeding.

10. **Procedures in Paragraphs 10-14 Apply to Commission Staff, OPC, and the OAG and Control in the Event of Conflict.** The procedures in Paragraphs 10 through 14 apply to responses to requests for documents or information that the producing party designates as Highly Sensitive Protected Materials and provides to Commission Staff, OPC, and the OAG in recognition of their purely public functions. To the extent the requirements of Paragraphs 10 through 14 conflict with any requirements contained in other paragraphs of this Protective Order, the requirements of these Paragraphs shall control.
11. **Copy of Highly Sensitive Protected Material to be Provided to Commission Staff, OPC and the OAG.** When, in response to a request for information by a Reviewing Party, the producing party makes available for review documents or information claimed to be Highly Sensitive Protected Materials, the producing party shall also deliver one copy of the Highly Sensitive Protected Materials to the Commission Staff, OPC, and the OAG (if the OAG is representing a party) in Austin, Texas. Provided however, that in the event such Highly Sensitive Protected Materials are voluminous, the materials will be made available for review by Commission Staff, OPC, and the OAG (if the OAG is representing a party) at the designated office in Austin, Texas. The Commission Staff, OPC and the OAG (if the OAG is representing a party) may request such copies as are necessary of such voluminous material under the copying procedures specified herein.
12. **Delivery of the Copy of Highly Sensitive Protected Material to Commission Staff and Outside Consultants.** The Commission Staff, OPC, and the OAG (if the OAG is representing a party) may deliver the copy of Highly Sensitive Protected Materials received by them to the appropriate members of their staff for review, provided such staff members first sign the certification specified by Paragraph 15. After obtaining the

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agreement of the producing party, Commission Staff, OPC, and the OAG (if the OAG is representing a party) may deliver the copy of Highly Sensitive Protected Materials received by it to the agreed, appropriate members of their outside consultants for review, provided such outside consultants first sign the certification in Attachment A.

13. **Restriction on Copying by Commission Staff, OPC and the OAG.** Except as allowed by Paragraph 7, Commission Staff, OPC and the OAG may not make additional copies of the Highly Sensitive Protected Materials furnished to them unless the producing party agrees in writing otherwise, or, upon a showing of good cause, the presiding officer directs otherwise. Commission Staff, OPC, and the OAG may make limited notes of Highly Sensitive Protected Materials furnished to them, and all such handwritten notes will be treated as Highly Sensitive Protected Materials as are the materials from which the notes are taken.
14. **Public Information Requests.** In the event of a request for any of the Highly Sensitive Protected Materials under the Public Information Act, an authorized representative of the Commission, OPC, or the OAG may furnish a copy of the requested Highly Sensitive Protected Materials to the Open Records Division at the OAG together with a copy of this Protective Order after notifying the producing party that such documents are being furnished to the OAG. Such notification may be provided simultaneously with the delivery of the Highly Sensitive Protected Materials to the OAG.
15. **Required Certification.** Each person who inspects the Protected Materials shall, before such inspection, agree in writing to the following certification found in Attachment A to this Protective Order:

I certify my understanding that the Protected Materials are provided to me pursuant to the terms and restrictions of the Protective Order in this docket, and that I have been given a copy of it and have read the Protective Order and agree to be bound by it. I understand that the contents of the Protected Materials, any notes, memoranda, or any other form of information regarding or derived from the Protected Materials shall not be disclosed to anyone other than in accordance with the Protective Order and unless I am an employee of the Commission or OPC shall be used only for the purpose of the proceeding in Docket No. 45928. I acknowledge that the obligations imposed by this certification are pursuant to such Protective Order. Provided, however, if the

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information contained in the Protected Materials is obtained from independent public sources, the understanding stated herein shall not apply.

In addition, Reviewing Representatives who are permitted access to Highly Sensitive Protected Material under the terms of this Protective Order shall, before inspection of such material, agree in writing to the following certification found in Attachment A to this Protective Order:

I certify that I am eligible to have access to Highly Sensitive Protected Material under the terms of the Protective Order in this docket.

The Reviewing Party shall provide a copy of each signed certification to Counsel for the producing party and serve a copy upon all parties of record.

16. **Disclosures between Reviewing Representatives and Continuation of Disclosure Restrictions after a Person is no Longer Engaged in the Proceeding.** Any Reviewing Representative may disclose Protected Materials, other than Highly Sensitive Protected Materials, to any other person who is a Reviewing Representative provided that, if the person to whom disclosure is to be made has not executed and provided for delivery of a signed certification to the party asserting confidentiality, that certification shall be executed prior to any disclosure. A Reviewing Representative may disclose Highly Sensitive Protected Material to other Reviewing Representatives who are permitted access to such material and have executed the additional certification required for persons who receive access to Highly Sensitive Protected Material. In the event that any Reviewing Representative to whom Protected Materials are disclosed ceases to be engaged in these proceedings, access to Protected Materials by that person shall be terminated and all notes, memoranda, or other information derived from the protected material shall either be destroyed or given to another Reviewing Representative of that party who is authorized pursuant to this Protective Order to receive the protected materials. Any person who has agreed to the foregoing certification shall continue to be bound by the provisions of this Protective Order so long as it is in effect, even if no longer engaged in these proceedings.

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17. **Producing Party to Provide One Copy of Certain Protected Material and Procedures for Making Additional Copies of Such Materials.** Except for Highly Sensitive Protected Materials, which shall be provided to the Reviewing Parties pursuant to Paragraphs 9, and voluminous Protected Materials, the producing party shall provide a Reviewing Party one copy of the Protected Materials upon receipt of the signed certification described in Paragraph 15. Except for Highly Sensitive Protected Materials, a Reviewing Party may make further copies of Protected Materials for use in this proceeding pursuant to this Protective Order, but a record shall be maintained as to the documents reproduced and the number of copies made, and upon request the Reviewing Party shall provide the party asserting confidentiality with a copy of that record.
18. **Procedures Regarding Voluminous Protected Materials.** P.U.C. PROC. R. 22.144(h) will govern production of voluminous Protected Materials. Voluminous Protected Materials will be made available in the producing party's voluminous room, in Austin, Texas, or at a mutually agreed upon location, Monday through Friday, 9:00 a.m. to 5:00 p.m. (except on state or Federal holidays), and at other mutually convenient times upon reasonable request.
19. **Reviewing Period Defined.** The Protected Materials may be reviewed only during the Reviewing Period, which shall commence upon entry of this Protective Order and continue until the expiration of the Commission's plenary jurisdiction. The Reviewing Period shall reopen if the Commission regains jurisdiction due to a remand as provided by law. Protected materials that are admitted into the evidentiary record or accompanying the evidentiary record as offers of proof may be reviewed throughout the pendency of this proceeding and any appeals.
20. **Procedures for Making Copies of Voluminous Protected Materials.** Other than Highly Sensitive Protected Materials, Reviewing Parties may take notes regarding the information contained in voluminous Protected Materials made available for inspection or they may make photographic, mechanical or electronic copies of the Protected Materials, subject to the conditions in this Protective Order; provided, however, that before photographic, mechanical or electronic copies may be made, the Reviewing Party seeking photographic, mechanical or electronic copies must provide written conformation

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of the receipt of copies listed on Attachment B of this Protective Order identifying each piece of Protected Materials or portions thereof the Reviewing Party will need.

21. **Protected Materials to be Used Solely for the Purposes of These Proceedings.** All Protected Materials shall be made available to the Reviewing Parties and their Reviewing Representatives solely for the purposes of these proceedings. Access to the Protected Materials may not be used in the furtherance of any other purpose, including, without limitation: (a) any other pending or potential proceeding involving any claim, complaint, or other grievance of whatever nature, except appellate review proceedings that may arise from or be subject to these proceedings; or (b) any business or competitive endeavor of whatever nature. Because of their statutory regulatory obligations, these restrictions do not apply to Commission Staff or OPC.
22. **Procedures for Confidential Treatment of Protected Materials and Information Derived from Those Materials.** Protected Materials, as well as a Reviewing Party's notes, memoranda, or other information regarding or derived from the Protected Materials are to be treated confidentially by the Reviewing Party and shall not be disclosed or used by the Reviewing Party except as permitted and provided in this Protective Order. Information derived from or describing the Protected Materials shall be maintained in a secure place and shall not be placed in the public or general files of the Reviewing Party except in accordance with the provisions of this Protective Order. A Reviewing Party must take all reasonable precautions to insure that the Protected Materials including notes and analyses made from Protected Materials that disclose Protected Materials are not viewed or taken by any person other than a Reviewing Representative of a Reviewing Party.
23. **Procedures for Submission of Protected Materials.** If a Reviewing Party tenders for filing any Protected Materials, including Highly Sensitive Protected Materials, or any written testimony, exhibit, brief, motion or other type of pleading or other submission at the Commission or before any other judicial body that quotes from Protected Materials or discloses the content of Protected Materials, the confidential portion of such submission shall be filed and served in sealed envelopes or other appropriate containers endorsed to the effect that they contain Protected Material or Highly Sensitive Protected Material and

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are sealed pursuant to this Protective Order. If filed at the Commission, such documents shall be marked "PROTECTED MATERIAL" and shall be filed under seal with the presiding officer and served under seal to the counsel of record for the Reviewing Parties. The presiding officer may subsequently, on his/her own motion or on motion of a party, issue a ruling respecting whether or not the inclusion, incorporation or reference to Protected Materials is such that such submission should remain under seal. If filing before a judicial body, the filing party: (a) shall notify the party which provided the information within sufficient time so that the producing party may seek a temporary sealing order; and (b) shall otherwise follow the procedures in Rule 76a, Texas Rules of Civil Procedure.

24. **Maintenance of Protected Status of Materials during Pendency of Appeal of Order Holding Materials are not Protected Materials.** In the event that the presiding officer at any time in the course of this proceeding finds that all or part of the Protected Materials are not confidential or proprietary, by finding, for example, that such materials have entered the public domain or materials claimed to be Highly Sensitive Protected Materials are only Protected Materials, those materials shall nevertheless be subject to the protection afforded by this Protective Order for three (3) full working days, unless otherwise ordered, from the date the party asserting confidentiality receives notice of the presiding officer's order. Such notification will be by written communication. This provision establishes a deadline for appeal of a presiding officer's order to the Commission. In the event an appeal to the Commissioners is filed within those three (3) working days from notice, the Protected Materials shall be afforded the confidential treatment and status provided in this Protective Order during the pendency of such appeal. Neither the party asserting confidentiality nor any Reviewing Party waives its right to seek additional administrative or judicial remedies after the Commission's denial of any appeal.
25. **Notice of Intent to Use Protected Materials or Change Materials Designation.** Parties intending to use Protected Materials shall notify the other parties prior to offering them into evidence or otherwise disclosing such information into the record of the proceeding. During the pendency of Docket No. 45928 at the Commission, in the event

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that a Reviewing Party wishes to disclose Protected Materials to any person to whom disclosure is not authorized by this Protective Order, or wishes to have changed the designation of certain information or material as Protected Materials by alleging, for example, that such information or material has entered the public domain, such Reviewing Party shall first file and serve on all parties written notice of such proposed disclosure or request for change in designation, identifying with particularity each of such Protected Materials. A Reviewing Party shall at any time be able to file a written motion to challenge the designation of information as Protected Materials.

26. **Procedures to Contest Disclosure or Change in Designation.** In the event that the party asserting confidentiality wishes to contest a proposed disclosure or request for change in designation, the party asserting confidentiality shall file with the appropriate presiding officer its objection to a proposal, with supporting affidavits, if any, within five (5) working days after receiving such notice of proposed disclosure or change in designation. Failure of the party asserting confidentiality to file such an objection within this period shall be deemed a waiver of objection to the proposed disclosure or request for change in designation. Within five (5) working days after the party asserting confidentiality files its objection and supporting materials, the party challenging confidentiality may respond. Any such response shall include a statement by counsel for the party challenging such confidentiality that he or she has reviewed all portions of the materials in dispute and, without disclosing the Protected Materials, a statement as to why the Protected Materials should not be held to be confidential under current legal standards, or that the party asserting confidentiality for some reason did not allow such counsel to review such materials. If either party wishes to submit the material in question for in camera inspection, it shall do so no later than five (5) working days after the party challenging confidentiality has made its written filing.
27. **Procedures for Presiding Officer Determination Regarding Proposed Disclosure or Change in Designation.** If the party asserting confidentiality files an objection, the appropriate presiding officer will determine whether the proposed disclosure or change in designation is appropriate. Upon the request of either the producing or Reviewing Party or upon the presiding officer's own initiative, the presiding officer may conduct a

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prehearing conference. The burden is on the party asserting confidentiality to show that such proposed disclosure or change in designation should not be made. If the presiding officer determines that such proposed disclosure or change in designation should be made, disclosure shall not take place earlier than three (3) full working days after such determination unless otherwise ordered. No party waives any right to seek additional administrative or judicial remedies concerning such presiding officer's ruling.

28. **Maintenance of Protected Status during Periods Specified for Challenging Various**

Orders. Any party electing to challenge, in the courts of this state, a Commission or presiding officer determination allowing disclosure or a change in designation shall have a period of ten (10) days from: (a) the date of an unfavorable Commission order; or (b) if the Commission does not rule on an appeal of an interim order, the date an appeal of an interim order to the Commission is overruled by operation of law, to obtain a favorable ruling in state district court. Any party challenging a state district court determination allowing disclosure or a change in designation shall have an additional period of ten (10) days from the date of the order to obtain a favorable ruling from a state appeals court. Finally, any party challenging a determination of a state appeals court allowing disclosure or a change in designation shall have an additional period of ten (10) days from the date of the order to obtain a favorable ruling from the state supreme court, or other appellate court. All Protected Materials shall be afforded the confidential treatment and status provided for in this Protective Order during the periods for challenging the various orders referenced in this paragraph. For purposes of this paragraph, a favorable ruling of a state district court, state appeals court, Supreme Court or other appellate court includes any order extending the deadlines in this paragraph.

29. **Other Grounds for Objection to Use of Protected Materials Remain Applicable.**

Nothing in this Protective Order shall be construed as precluding any party from objecting to the use of Protected Materials on grounds other than confidentiality, including the lack of required relevance. Nothing in this Protective Order constitutes a waiver of the right to argue for more disclosure, provided, however, that unless the Commission or a court orders such additional disclosure, all parties will abide by the restrictions imposed by the Protective Order.

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30. **Protection of Materials from Unauthorized Disclosure.** All notices, applications, responses or other correspondence shall be made in a manner which protects Protected Materials from unauthorized disclosure.
31. **Return of Copies of Protected Materials and Destruction of Information Derived from Protected Materials.** Following the conclusion of these proceedings, each Reviewing Party must, no later than thirty (30) days following receipt of the notice described below, return to the party asserting confidentiality all copies of the Protected Materials provided by that party pursuant to this Protective Order and all copies reproduced by a Reviewing Party, and counsel for each Reviewing Party must provide to the party asserting confidentiality a letter by counsel that, to the best of his or her knowledge, information, and belief, all copies of notes, memoranda, and other documents regarding or derived from the Protected Materials (including copies of Protected Materials) that have not been so returned, if any, have been destroyed, other than notes, memoranda, or other documents which contain information in a form which, if made public, would not cause disclosure of the substance of Protected Materials. As used in this Protective Order, "conclusion of these proceedings" refers to the exhaustion of available appeals, or the running of the time for the making of such appeals, as provided by applicable law. If, following any appeal, the Commission conducts a remand proceeding, then the "conclusion of these proceedings" is extended by the remand to the exhaustion of available appeals of the remand, or the running of the time for making such appeals of the remand, as provided by applicable law. Promptly following the conclusion of these proceedings, counsel for the party asserting confidentiality will send a written notice to all other parties, reminding them of their obligations under this Paragraph. Nothing in this Paragraph shall prohibit counsel for each Reviewing Party from retaining two (2) copies of any filed testimony, brief, application for rehearing, hearing exhibit or other pleading which refers to Protected Materials provided that any such Protected Materials retained by counsel shall remain subject to the provisions of this Protective Order.

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32. **Applicability of Other Law.** This Protective Order is subject to the requirements of the Public Information Act, the Open Meetings Act,³ the Texas Securities Act⁴ and any other applicable law, provided that parties subject to those acts will notify the party asserting confidentiality, if possible under those acts, prior to disclosure pursuant to those acts. Such notice shall not be required where the Protected Materials are sought by governmental officials authorized to conduct a criminal or civil investigation that relates to or involves the Protected Materials, and those governmental officials aver in writing that such notice could compromise the investigation and that the governmental entity involved will maintain the confidentiality of the Protected Materials.
33. **Procedures for Release of Information under Order.** If required by order of a governmental or judicial body, the Reviewing Party may release to such body the confidential information required by such order; provided, however, that: (a) the Reviewing Party shall notify the producing party of the order requiring the release of such information within five (5) calendar days of the date the Reviewing Party has notice of the order; (b) the Reviewing Party shall notify the producing party at least five (5) calendar days in advance of the release of the information to allow the producing party to contest any release of the confidential information; and (c) the Reviewing Party shall use its best efforts to prevent such materials from being disclosed to the public. The terms of this Protective Order do not preclude the Reviewing Party from complying with any valid and enforceable order of a state or federal court with competent jurisdiction specifically requiring disclosure of Protected Materials earlier than contemplated herein. The notice specified in this section shall not be required where the Protected Materials are sought by governmental officials authorized to conduct a criminal or civil investigation that relates to or involves the Protected Materials, and those governmental officials aver in writing that such notice could compromise the investigation and that the governmental entity involved will maintain the confidentiality of the Protected Materials.

³ TEX. GOV'T CODE ANN. § 551.001-551.146 (Vernon 2004 & Supp. 2009).

⁴ TEX. REV. CIV. STAT. ANN. arts. 581-1 to 581-43 (Vernon 1964 & Supp. 2009).

34. **Best Efforts Defined.** The term “best efforts” as used in the preceding paragraph requires that the Reviewing Party attempt to ensure that disclosure is not made unless such disclosure is pursuant to a final order of a Texas governmental or Texas judicial body, the written opinion of the Texas Attorney General sought in compliance with the Public Information Act, or the request of governmental officials authorized to conduct a criminal or civil investigation that relates to or involves the Protected Materials. The Reviewing Party is not required to delay compliance with a lawful order to disclose such information but is simply required to timely notify the party asserting confidentiality, or its counsel, that it has received a challenge to the confidentiality of the information and that the Reviewing Party will either proceed under the provisions of §552.301 of the Public Information Act, or intends to comply with the final governmental or court order. Provided, however, that no notice is required where the Protected Materials are sought by governmental officials authorized to conduct a criminal or civil investigation that relates to or involves the Protected Materials, and those governmental officials aver in writing that such notice could compromise the investigation and that the governmental entity involved will maintain the confidentiality of the Protected Materials.
35. **Notify Defined.** “Notify” for purposes of Paragraphs 32, 33 and 34 means written notice to the party asserting confidentiality at least five (5) calendar days prior to release; including when a Reviewing Party receives a request under the Public Information Act. However, the Commission or OPC may provide a copy of Protected Materials to the Open Records Division of the OAG as provided herein.
36. **Requests for Non-Disclosure.** If the producing party asserts that the requested information should not be disclosed at all, or should not be disclosed to certain parties under the protection afforded by this Protective Order, the producing party shall tender the information for in camera review to the presiding officer within ten (10) calendar days of the request. At the same time, the producing party shall file and serve on all parties its argument, including any supporting affidavits, in support of its position of non-disclosure. The burden is on the producing party to establish that the material should not be disclosed. The producing party shall serve a copy of the information under the classification of Highly Sensitive Protected Material to all parties requesting the

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information that the producing party has not alleged should be prohibited from reviewing the information.

Parties wishing to respond to the producing party's argument for non-disclosure shall do so within five working days. Responding parties should explain why the information should be disclosed to them, including why disclosure is necessary for a fair adjudication of the case if the material is determined to constitute a trade secret. If the presiding officer finds that the information should be disclosed as Protected Material under the terms of this Protective Order, the presiding officer shall stay the order of disclosure for such period of time as the presiding officer deems necessary to allow the producing party to appeal the ruling to the Commission.

37. **Sanctions Available for Abuse of Designation.** If the presiding officer finds that a producing party unreasonably designated material as Protected Material or as Highly Sensitive Protected Material, or unreasonably attempted to prevent disclosure pursuant to Paragraph 36, the presiding officer may sanction the producing party pursuant to P.U.C. PROC. R. 22.161.
38. **Modification of Protective Order.** Each party shall have the right to seek changes in this Protective Order as appropriate from the presiding officer.
39. **Breach of Protective Order.** In the event of a breach of the provisions of this Protective Order, the producing party, if it sustains its burden of proof required to establish the right to injunctive relief, shall be entitled to an injunction against such breach without any requirements to post bond as a condition of such relief. The producing party shall not be relieved of proof of any element required to establish the right to injunctive relief. In addition to injunctive relief, the producing party shall be entitled to pursue any other form of relief to which it is entitled.

ATTACHMENT A

Protective Order Certification

I certify my understanding that the Protected Materials are provided to me pursuant to the terms and restrictions of the Protective Order in this docket and that I have received a copy of it and have read the Protective Order and agree to be bound by it. I understand that the contents of the Protected Materials, any notes, memoranda, or any other form of information regarding or derived from the Protected Materials shall not be disclosed to anyone other than in accordance with the Protective Order and unless I am an employee of the Commission or OPC shall be used only for the purpose of the proceeding in Docket No. 45928. I acknowledge that the obligations imposed by this certification are pursuant to such Protective Order. Provided, however, if the information contained in the Protected Materials is obtained from independent public sources, the understanding stated here shall not apply.

Signature

Party Represented

Printed Name

Date

I certify that I am eligible to have access to Highly Sensitive Protected Material under the terms of the Protective Order in this docket.

Signature

Party Represented

Printed Name

Date

**PROTECTIVE ORDER
ATTACHMENT B**

I request to view/copy the following documents:

Document Requested	# of Copies	Non-Confidential	Protected Materials and/or Highly Sensitive Protected Materials

Signature

Party Represented

Printed Name

Date

PUC DOCKET NO. 45928
PUBLIC UTILITY COMMISSION OF TEXAS

APPLICATION OF
AEP TEXAS NORTH COMPANY
TO ADJUST
ENERGY EFFICIENCY COST RECOVERY FACTOR AND RELATED RELIEF

DIRECT TESTIMONY OF
ROBERT CAVAZOS
FOR
AEP TEXAS NORTH COMPANY

JUNE 1, 2016

TESTIMONY INDEX

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1 I. INTRODUCTION

2 Q. PLEASE STATE YOUR NAME, POSITION, AND BUSINESS ADDRESS.

3 A. My name is Robert Cavazos. I am the Energy Efficiency & Consumer Programs
4 Manager for AEP Texas Central Company (TCC) and AEP Texas North Company
5 (TNC). My business address is 539 N. Carancahua, Corpus Christi, Texas 78401.

6 Q. PLEASE STATE YOUR EDUCATIONAL AND PROFESSIONAL BACKGROUND.

7 A. I received a Bachelor of Business Administration degree from Texas A&M University
8 – Corpus Christi in 1998. From 1986 until 1993, I served as a meter reader with
9 Central Power and Light Company, the predecessor to AEP Texas Central Company
10 (TCC). In 1993, I transferred to the Customer Service Center as a Sr. Telephone
11 Representative and later to the after-hour dispatch center. In 1996, I was appointed to
12 the position of Lead Telephone Representative and in 1998 became Customer Service
13 Supervisor. In 2002, I held the position of Demand Side Management Coordinator
14 and in 2004, transferred to Competitive Retail Relations as a Market Specialist. In
15 2005, I transferred to AEP's Human Resource (HR) department as a HR Field
16 Representative and prior to my departure, I had held the position as a Senior HR
17 Consultant. In early 2014, I accepted the position of Business Operations Supervisor
18 and by July 2014 had accepted my current position as the Energy Efficiency &
19 Consumer Programs Manager for AEP Texas Central Company and AEP Texas North
20 Company overseeing the implementation and administration of energy efficiency
21 programs in compliance with the Public Utility Regulatory Act (PURA) and with
22 Public Commission of Texas (PUC or Commission) rules for such programs.

1 Q. HAVE YOU PREVIOUSLY FILED TESTIMONY BEFORE ANY REGULATORY
2 AGENCY?

3 A. Yes, I have previously filed testimony before on the following dockets:

- 4 • Docket No. 44717, Application of AEP Texas Central Company for an Energy
5 Efficiency Cost Recovery Factor (EECRF) and Related Relief; and
- 6 • Docket No. 44718, Application of AEP Texas North Company for an Energy
7 Efficiency Cost Recovery Factor (EECRF) and Related Relief.

8 Q. DO YOU SPONSOR ANY OF THE SCHEDULES THAT ACCOMPANY TNC'S
9 FILING?

10 A. Yes, I sponsor Schedule D. In addition, I cosponsor Schedules A, J, P and S with
11 TNC witness Rhonda R. Fahrlender; Schedules A and C with TNC witness Jennifer
12 L. Jackson; and Schedule K with TNC witness Brian J. Frantz.

13 Q. DESCRIBE THE TNC AND TCC ENERGY EFFICIENCY AND DEMAND
14 RESPONSE DEPARTMENT.

15 A. The TNC and TCC Energy Efficiency and Demand Response (EE/DR) Department
16 consists of 10 employee positions, each with certain designated responsibilities for the
17 design, implementation, and overall administration of energy efficiency and demand
18 response programs for TNC and TCC. The employees within the department are
19 designated as employees of TNC or TCC based upon their particular assignments and
20 responsibilities.

21 The EE/DR employees are responsible for administering standard offer
22 programs (SOPs) and market transformation programs (MTPs) to achieve the
23 mandated goals for energy efficiency. Program administration includes outreach

1 activities, application review, contract execution, on-site inspections of work
2 submitted, invoice review and processing, website maintenance, monitoring of the
3 programs and energy efficiency expense accounting. In addition, the EE/DR
4 employees ensure compliance with regulatory rules and statutory requirements by
5 providing statutorily mandated energy efficiency opportunities for all eligible
6 customers through third-party contractors on a non-discriminatory, market-neutral
7 basis.

8 Q. DOES THE EE/DR DEPARTMENT RECEIVE AMERICAN ELECTRIC POWER
9 SERVICE CORPORATION SUPPORT?

10 A. Yes, the department receives a variety of affiliate services to meet its information
11 technology, human resources, accounting and other corporate business needs. These
12 services do not duplicate the activities performed by the EE/DR employees. Please
13 refer to TNC witness Frantz's testimony for additional detail.
14

15 II. PURPOSE OF TESTIMONY AND SUMMARY OF TNC'S FILING

16 Q. WHAT IS THE PURPOSE OF YOUR DIRECT TESTIMONY?

17 A. The purpose of my testimony is to:

- 18 • provide a summary of the relief sought by TNC in this proceeding and of its
19 filing;
- 20 • lay out the policy considerations for recovery of TNC's projected costs for its
21 2017 energy efficiency programs in its adjusted Energy Efficiency Cost
22 Recovery Factor (EECRF) for 2017, as contemplated by Public Utility
23 Regulatory Act, Tex. Util. Code Ann. § 39.905 (West 2007 & Supp. 2014)
24 (PURA) and 16 Tex. Admin. Code § 25.181(f) (TAC);

- 1 • provide information regarding the over-recovery of TNC's energy efficiency
2 program revenues for its 2015 programs to be included in its adjusted EECRF
3 in 2017;
- 4 • provide information regarding TNC's performance bonus for its 2015 energy
5 efficiency results, as contemplated in 16 TAC § 25.181(h), to be recovered
6 through its adjusted EECRF in 2017;
- 7 • provide information regarding TNC's share of costs for Evaluation,
8 Measurement and Verification (EM&V) activities for evaluating programs, as
9 contemplated in 16 TAC § 25.181(q)(10), to be recovered through its adjusted
10 EECRF; and
- 11 • provide information regarding recovery of 2015 EECRF proceeding expenses
12 incurred in Docket No. 44718 by municipalities to be recovered through its
13 adjusted EECRF in 2017.

14 Q. PLEASE DESCRIBE TNC'S FILING.

15 A. TNC's filing consists of my direct testimony and the direct testimony of three other
16 witnesses. Ms. Fahrlander's direct testimony addresses the energy efficiency costs
17 that TNC incurred for its 2015 programs, the EM&V costs TNC actually incurred in
18 2015 for the evaluation of program year (PY) 2014, TNC's energy efficiency results
19 from its 2015 programs, TNC's energy efficiency goals for 2017 as established by the
20 Commission's rule, the impact of the industrial identification notice as stated in 16
21 TAC § 25.181(w), the programs that TNC will offer in 2017 to meet its energy
22 efficiency objectives, the costs TNC projects to incur in 2017 in connection with these
23 energy efficiency programs and objectives, the estimated EM&V costs for evaluating
24 2016 programs, and Docket No. 44718 EECRF proceeding expenses incurred by and
25 reimbursed to municipalities pursuant to 16 TAC § 25.181(f)(3)(B).

26 Ms. Jackson's direct testimony describes the design of the adjusted EECRF,
27 the energy efficiency cost assignment among the EECRF rate classes to be recovered

1 through the adjusted EECRF, and the billing determinants used to develop the
2 adjusted EECRF.

3 Mr. Frantz's direct testimony describes the affiliate costs of TNC's energy
4 efficiency programs and the reasonableness of these costs.

5 Accompanying the direct testimony of TNC's witnesses are Schedules A
6 through R that provide the information that the Commission has specified should be
7 provided in support of a sufficient request for the adjusted EECRF. The
8 reasonableness of costs incurred in 2015 is included within the schedules in this
9 filing. TNC has also included Schedule S, TNC's 2016 Energy Efficiency Plan and
10 Report (EEPR) filed in Docket No. 45675.

11 Q. WHAT RELIEF DOES TNC SEEK IN THIS PROCEEDING?

12 A. 16 TAC § 25.181(f)(8) requires a utility in an area in which customer choice is
13 offered to apply no later than June 1 of each year to adjust its EECRF effective March
14 1 of the following year, in order to reflect changes in costs, performance bonus, its
15 share of EM&V costs, and to minimize any over- or under-recovery in prior years'
16 program costs. Accordingly, by this application TNC requests the Commission to
17 approve an adjustment to TNC's EECRF to recover \$1,780,055 through its 2017
18 EECRF. As my testimony and the testimonies of TNC witnesses Fahlender, Jackson
19 and Frantz explain, the amount TNC seeks to recover through its adjusted 2017
20 EECRF reflects the following components:

- 21 1) recovery of \$1,790,454, TNC's forecasted 2017 energy efficiency program
22 expenditures in excess of its projected energy efficiency revenues collected
23 from base rates adjusted as outlined in the rule;

- 1 2) return to customers the amount of \$200,114 representing the over-recovery
2 of TNC's actual energy efficiency costs for 2015;
- 3 3) recovery of \$186,197 representing TNC's 2015 performance bonus for
4 achieving demand and energy savings that exceeded its minimum goals to
5 be achieved in 2015; and
- 6 4) recovery of \$3,517 representing 2015 EECRF proceeding expenses
7 incurred in Docket No. 42509 by municipalities as authorized by 16 TAC
8 § 25.181(f)(3)(B).

9 Q. WHAT ARE TNC'S ESTIMATED PROGRAM YEAR 2017 ENERGY
10 EFFICIENCY COSTS?

11 A. As shown in Schedule A, TNC's PY 2017 projected energy efficiency program cost
12 of \$3,277,000 is reasonably necessary for TNC to achieve its energy efficiency
13 objectives for PY 2017 pursuant to 16 TAC § 25.181(e)(1).

14 Q. DOES TNC'S 2017 EECRF INCLUDE TNC'S PROJECTED SHARE OF THE
15 STATEWIDE EM&V COSTS?

16 A. No. The current EM&V contract expires at the end of PY 2016; therefore TNC does
17 not have any projected EM&V expenses to be included for recovery in PY 2017.

18 Q. DO TNC'S CURRENT BASE RATES INCLUDE ANY AMOUNT THAT IS
19 EXPRESSLY SPECIFIED FOR ENERGY EFFICIENCY?

20 A. Yes, in the Commission's Final Order in Docket No. 33310, the amount expressly
21 included in TNC's base rates for energy efficiency program funding was \$1,294,430.
22 This express amount has been adjusted to \$1,486,546 according to the Commission
23 rule, and is discussed in more detail in TNC witness Jackson's testimony.

1 Q. DID TNC INCUR GREATER ENERGY EFFICIENCY COSTS FOR ITS 2015
2 ENERGY EFFICIENCY PROGRAMS THAN THE AMOUNT EXPRESSLY
3 INCLUDED IN ITS PRIOR BASE RATE ORDER?

4 A. Yes. As shown on Schedule B, TNC incurred a total of \$2,766,474 in energy
5 efficiency expenditures for its 2015 programs and for research and development
6 (R&D). This was \$1,279,928 less than the \$1,486,546 expressly included for energy
7 efficiency in its prior base rate order as adjusted according to the Commission rule
8 and discussed by Ms. Jackson.

9 Q. DID TNC SPEND MORE OR LESS THAN IT PROJECTED FOR ITS 2015
10 ENERGY EFFICIENCY PROGRAMS AND R&D?

11 A. As shown on Schedule B, TNC incurred a total of \$2,766,474 in energy efficiency
12 expenditures for its 2015 programs and R&D, which is \$244,373 less than its 2015
13 projection for energy efficiency.

14 Q. DID TNC EXCEED ITS GOALS FOR PY 2015?

15 A. Yes. TNC exceeded its demand and energy reduction goals for PY 2015 of 4.26
16 megawatt (MW) and 7,464 megawatt-hour (MWh), respectively.

17 Q. DID TNC QUALIFY FOR A PERFORMANCE BONUS FOR ITS PY 2015
18 ENERGY EFFICIENCY ACHIEVEMENTS?

19 A. Yes. Schedule D sets forth the calculation of the \$186,197 performance bonus that
20 TNC earned. TNC requests that this performance bonus amount of \$186,197 also be
21 included for recovery through its adjusted EECRF for 2017.

1 Q. WHAT DOES TNC REQUEST TO BE THE EFFECTIVE DATE OF THE
2 ADJUSTED EECRF FOR 2017?

3 A. Pursuant to 16 TAC § 25.181(f)(8), TNC requests that the adjusted EECRF be made
4 effective March 1, 2017.
5

6 III. POLICY CONSIDERATIONS FOR RECOVERY OF
7 ENERGY EFFICIENCY EXPENDITURES

8 A. Statutory Policies

9 Q. WHAT ARE THE STATUTORY POLICY CONSIDERATIONS THAT GOVERN
10 THE RECOVERY OF ENERGY EFFICIENCY COSTS?

11 A. In PURA § 39.905, the Texas Legislature established policies that an electric utility
12 such as TNC annually will provide, through market-based SOPs or targeted MTPs,
13 incentives sufficient for retail electric providers (REPs) and competitive energy
14 efficiency service providers (EESPs) to acquire additional cost-effective energy
15 efficiency, subject to cost ceilings established by the Commission, for the utility's
16 residential and commercial customers equivalent to:

17 a) not less than 30 percent of the utility's annual growth in demand of residential
18 and commercial customers by December 31 of each year beginning with the
19 2013 calendar year; however, not less than the preceding year.

20 b) for an electric utility whose amount of energy efficiency to be acquired under
21 this subsection is equivalent to at least four-tenths of one percent of the
22 electric utility's summer weather-adjusted peak demand for residential and
23 commercial customers in the previous calendar year, not less than four-tenths
24 of one percent of the utility's summer weather-adjusted peak demand for
25 residential and commercial customers by December 31 of each subsequent
26 year; however, not less than the preceding year.

1 The Legislature has also recognized that a utility should have access to a
2 mechanism to enable it to fully and timely recover the costs of providing these energy
3 efficiency incentive programs. Additionally, PURA directs the Commission to adopt
4 rules that establish an incentive and reward utilities that exceed their minimum goals.

5 B. Commission Rule Pertaining to an EECRF Filing

6 Q. WHAT ARE THE MINIMUM ANNUAL ENERGY EFFICIENCY GOALS FOR PY
7 2017?

8 A. 16 TAC § 25.181(e)(1) provides, in pertinent part, for the following minimum energy
9 efficiency goals:

10 (B) Beginning with the 2013 program year, until the trigger described in
11 subparagraph (C) is reached, a 30% reduction of its annual growth in demand
12 of residential and commercial customers.

13 (C) If the demand reduction goal to be acquired by a utility under
14 subparagraph (B) is equivalent to at least four-tenths of 1% of its summer
15 weather-adjusted peak demand for the combined residential and commercial
16 customers for the previous program year, the utility must meet the energy
17 efficiency goal described in subparagraph (D) for each subsequent program
18 year.

19 (D) Once the trigger described in subparagraph (C) is reached, the utility
20 must acquire four-tenths of 1% of its summer weather-adjusted peak demand
21 for the combined residential and commercial customers for the previous
22 program year.

23 (E) Except as adjusted in accordance with subsection (w) of the rule, a
24 utility's demand reduction goal in any year shall not be lower than its goal for
25 the prior year, unless the Commission establishes a goal for a utility pursuant
26 to paragraph (2) of 16 TAC § 25.181(e).

27 Q. HOW HAS TNC ESTABLISHED ITS GOAL FOR 2017?

28 A. TNC has calculated its goal as determined by 16 TAC § 25.181(e)(1)(D).

1 Q. WHY IS TNC FILING THIS REQUEST TO ADJUST ITS EECRF FOR
2 RECOVERY OF ITS PROJECTED PY 2017 ENERGY EFFICIENCY
3 EXPENDITURES?

4 A. The Commission rule includes provisions for a utility such as TNC to request that an
5 EECRF be adjusted to recover all of its forecasted annual energy efficiency program
6 expenditures (16 TAC § 25.181(f)(1)). TNC witness Jackson's testimony outlines the
7 design of factors to accomplish this. Also, as I stated earlier, 16 TAC § 25.181(f)(8)
8 requires a utility in an area in which customer choice is offered to apply to adjust its
9 EECRF no later than June 1 of each year, with the adjusted EECRF to be effective
10 March 1 of the following year, to reflect changes in program costs, performance
11 bonus and to minimize any over- or under-recovery in prior year program costs.
12 Finally, 16 TAC § 25.181(q)(10) authorizes recovery of required EM&V costs that
13 will be incurred for evaluating 2016 programs through its adjusted EECRF.

14 Q. HAS TNC INCLUDED EECRF PROCEEDING EXPENSES?

15 A. Yes. According to 16 TAC § 25.181(f)(3), a proceeding conducted pursuant to this
16 subsection is a ratemaking proceeding for purposes of PURA § 33.023. EECRF
17 proceeding expenses are to be included in the adjusted EECRF calculated pursuant to
18 paragraph (1) of this subsection. EECRF proceeding expenses may include only
19 those expenses for the immediately previous EECRF proceeding conducted under this
20 subsection pursuant to 16 TAC § 25.181(f)(3)(A). TNC includes municipal EECRF
21 proceeding expenses paid for the immediately previous EECRF proceeding conducted
22 under this subsection for services reimbursable under PURA § 33.023(b). In this

1 proceeding, TNC is requesting recovery \$3,517 of municipal expenses paid for
2 Docket No. 44718.

3 Q. WHAT ARE THE REQUIRED ELEMENTS TO BE COVERED WITHIN THE
4 SCOPE OF THIS PROCEEDING?

5 A. Specifically, a utility is authorized to recover the differential between the costs
6 expressly included in base rates (if such energy efficiency costs are expressly included
7 in base rates), adjusted to account for changes in billing determinants from the test
8 year billing determinants used to set rates in the last base rate proceeding, and the
9 increased costs it must incur in order to meet the objectives of PURA § 39.905,
10 including the achievement of additional cost-effective energy efficiency in excess of
11 the minimum goals set forth in the statute.

12 As outlined in the Commission rule for energy efficiency, an EECRF rate
13 schedule must be included in the utility's tariff to permit the utility to timely recover
14 the reasonable costs of providing energy efficiency programs, including prior years'
15 over- or under-recovery of energy efficiency program costs, any applicable
16 performance bonus (16 TAC § 25.181(h)), and projected EM&V costs and EECRF
17 proceeding expenses incurred by municipalities (16 TAC § 25.181(f)(3)(B)). The
18 EECRF is to be calculated to recover the costs associated with the programs from
19 EECRF classes that receive services under the programs TNC offers (16 TAC
20 § 25.181(f)(2)). The Commission may approve an energy charge for the EECRF.
21 The EECRF must be set at a rate that will give TNC the opportunity to earn revenues
22 equal to the sum of TNC's forecasted energy efficiency program costs, net of energy

1 efficiency costs included in base rates, applicable prior years' energy efficiency over-
2 or under-recovery, applicable performance bonus (16 TAC § 25.181(f)(1)), projected
3 EM&V costs, and municipal EECRF proceeding expenses.

4 According to the Commission rule regarding a proceeding to change an
5 EECRF, a utility must show that the costs to be recovered through the EECRF are
6 reasonable estimates of the costs necessary to provide energy efficiency programs and
7 to meet the utility's goals (16 TAC § 25.181(f)(12)(A)); the costs assigned or
8 allocated to rate classes are reasonable and consistent (16 TAC § 25.181(f)(12)(D));
9 the estimate of billing determinants for the period for which the EECRF is to be in
10 effect is reasonable (16 TAC § 25.181(f)(12)(E)); and any calculations or estimates
11 of system losses and line losses used in calculating the charges are reasonable
12 (16 TAC § 25.181 (f)(12)(F)).

14 IV. TNC'S APPLICATION

15 Q. WHAT ARE THE ESSENTIAL ELEMENTS CONTAINED WITHIN TNC'S
16 APPLICATION REQUESTING EECRF RECOVERY OF ITS PROGRAM
17 COSTS?

18 A. According to 16 TAC § 25.181(f)(10), a utility's application to change an EECRF
19 must include testimony and schedules. TNC's application includes testimony and
20 schedules providing the information in compliance with 16 TAC § 25.181(f) for
21 approval of an adjusted EECRF that show:

- 22 1. the forecasted energy efficiency program costs for PY 2017;

- 1 2. the actual base rate recovery of energy efficiency program costs,
2 adjusted for changes in load subsequent to the last base rate proceeding;
- 3 3. the performance bonus based on TNC's PY 2015 energy efficiency
4 achievements;
- 5 4. the amount of TNC's PY 2015 actual energy efficiency costs that exceeded
6 the amount recovered in base rates;
- 7 5. any adjustment for over- or under-recovery of energy efficiency revenues;
- 8 6. information concerning the calculation of billing determinants for 2015 and
9 2017;
- 10 7. the direct assignment and allocation of energy efficiency costs to TNC's eligible
11 rate classes, including any portion of energy efficiency costs included in base
12 rates;
- 13 8. information concerning calculations related to the cost cap requirements;
- 14 9. incentive payments by program, including a list of each EESP receiving more
15 than 5% of TNC's 2015 overall incentive payments and the percentage of
16 TNC's 2015 incentives received by those EESPs;
- 17 10. administrative costs, including any affiliate costs and EECRF proceeding
18 expenses for 2015;
- 19 11. actual EECRF revenues by rate class, for the period of over-recovery of 2015
20 EECRF costs;
- 21 12. TNC's bidding and engagement process for contracting with EESPs, including a
22 list of all EESPs that received incentive payments during 2015;
- 23 13. the estimated useful life for each measure in each program; and
- 24 14. the actual energy efficiency program costs for PY 2015.

25 All of these elements in TNC's application for approval of its adjusted
26 EECRF for 2017 are required by virtue of 16 TAC § 25.181(f)(10) and (11).

A. Achievement of Objectives that Exceed the
Minimum Goals of the Statute and Rule

Q. WHAT DEMAND REDUCTION AND ENERGY SAVINGS DOES TNC PROPOSE TO ACHIEVE THROUGH ITS PY 2017 PROGRAMS?

A. TNC's PY 2017 minimum demand reduction goal is 4.26 MW. 16 TAC § 25.181(e)(1)(E) states "a utility's demand reduction goal in any year shall not be lower than its goal for the prior year." TNC's PY 2017 energy savings goal is 7,464 MWh as calculated in accordance with 16 TAC § 25.181(e)(4). The energy efficiency objectives TNC seeks to achieve through its proposed PY 2017 energy efficiency expenditures include a peak demand reduction of as much as 5.77 MW and energy savings of as much as 13,244 MWh.

Q. DO YOU BELIEVE IT IS CONSISTENT WITH THE COMMISSION RULE TO PURSUE THE OBJECTIVES TNC HAS ESTABLISHED FOR ITS PY 2017 PROGRAM?

A. Yes, I believe the intent of the Commission rule is for TNC to achieve as much cost-effective energy efficiency as is reasonably possible. This intent is manifested in PURA § 39.905(b)(2), wherein the Legislature authorized the Commission to provide a performance bonus to reward a utility for "administering programs under this section that exceed the minimum goals established by this section." The express characterization of the goals in PURA § 39.905 as "minimum goals" clearly indicates the Legislature's desire that utilities be encouraged to exceed these goals where additional cost-effective energy efficiency is reasonably possible.

1 B. Industrial Notice Customers

2 Q. HAVE ANY OF TNC'S INDUSTRIAL CUSTOMERS PROVIDED NOTICE
3 UNDER 16 TAC § 25.181(w)?

4 A. Yes. Please see the testimony of witness Fahlender for discussion regarding such
5 notice.

6 Q. ARE THESE INDUSTRIAL CUSTOMERS WHO HAVE PROVIDED NOTICE
7 EXEMPT FROM PAYING CHARGES IN THE ADJUSTED EECRF FOR
8 2017?

9 A. Yes. 16 TAC § 25.181(w) states that if an identification notice was submitted to
10 the utility no later than February 1 to be effective the following program year, the
11 identified industrial customer(s) shall not be charged any EECRF costs for a
12 period of three years.

13 C. Research and Development (R&D) Costs

14 Q. DID TNC'S PY 2015 ENERGY EFFICIENCY PROGRAM COSTS INCLUDE
15 R&D EXPENDITURES?

16 A. Yes. Please see the testimony of witness Fahlender for discussion regarding R&D
17 expenditures.

18 Q. DOES TNC'S PY 2017 ENERGY EFFICIENCY PROGRAM COST INCLUDE
19 R&D EXPENDITURES?

20 A. Yes, it does.

1 Q. HAS TNC PROJECTED ITS PY 2017 R&D EXPENDITURES?

2 A. Yes. TNC has projected \$200,000 for R&D expenditures in PY 2017.

3 Q. HAS TNC INCLUDED THE MAXIMUM AMOUNT IN PY 2017 FOR ENERGY
4 EFFICIENCY R&D EXPENDITURES ALLOWED BY THE COMMISSION
5 RULE?

6 A. No, it has not. 16 TAC § 25.181(i) specifies that the maximum amount of energy
7 efficiency R&D costs that TNC could incur is 10% of its total program costs for the
8 previous program year in PY 2017. However, TNC has projected \$200,000, the
9 amount it considers to be reasonable for projected R&D expenditures, considering
10 the whole of its energy efficiency program offerings and the magnitude of its
11 required demand reduction goal to be achieved in PY 2017.

12 D. Over-Recovery of PY 2015 Costs

13 Q. IS TNC SEEKING TO RETURN TO CUSTOMERS THE AMOUNT OF
14 OVER-RECOVERED ENERGY EFFICIENCY PROGRAM REVENUES
15 COLLECTED THROUGH ITS 2015 EECRF IN EXCESS OF THE AMOUNT OF
16 ENERGY EFFICIENCY PROGRAM COSTS ACTUALLY INCURRED IN PY
17 2015?

18 A. Yes. In addition to collecting its projected total PY 2017 energy efficiency
19 program expenditures that exceed the amount recovered through its base rates, TNC
20 is requesting to return within its adjusted 2017 EECRF the amount of its actual 2015
21 EECRF program revenues that exceeded the amount of its energy efficiency
22 program expenditures in PY 2015.

1 Q. PLEASE EXPLAIN THE BASIS FOR TNC'S INCLUSION OF THE 2015
2 OVER-RECOVERY AMOUNT WITHIN ITS ADJUSTED 2016 EECRF.

3 A. PURA § 39.905(b-1) provides that:

4 The energy efficiency cost recovery factor under Subsection (b)(1)
5 may not result in an over-recovery of costs but may be adjusted each
6 year to change rates to enable utilities to match revenues against
7 energy efficiency costs and any incentives to which they are granted.
8 The factor shall be adjusted to reflect any over-collection or under-
9 collection of energy efficiency cost recovery revenues in previous
10 years.

11 In addition, 16 TAC § 25.181(f)(1)(B) further states that the "EECRF shall be
12 calculated to recover ... the preceding year's over- or under-recovery."

13 E. 2015 Performance Bonus

14 Q. HAS TNC CALCULATED THE PERFORMANCE BONUS IT SEEKS TO
15 RECOVER IN CONNECTION WITH ITS PY 2015 ENERGY EFFICIENCY
16 ACHIEVEMENTS?

17 A. Yes. Please refer to Schedule D, which I sponsor. This schedule demonstrates the
18 calculation of the \$186,197 performance bonus TNC now seeks to be awarded based
19 upon its PY 2015 energy efficiency results.

20 TNC achieved a peak demand reduction of 4,542 MW and energy savings of
21 12,289,271 MWh from its PY 2015 portfolio of energy efficiency programs. TNC's
22 minimum demand reduction goal to be achieved in 2015 was 4260 MW, and the
23 calculated energy reduction goal to be achieved in 2015 was 7,464,000 MWh. TNC
24 exceeded both its PY 2015 demand reduction and energy reduction goals. These
25 achievements qualify TNC for a performance bonus per the Commission rule. All of

1 the calculations and requirements regarding the \$186,197 performance bonus TNC
2 now seeks are as outlined in 16 TAC § 25.181(h).

3 V. 2015 SUMMARY

4 Q. HAS TNC PROVIDED INFORMATION REGARDING PY 2015?

5 A. Yes. Information demonstrating the reasonableness of the energy efficiency costs
6 incurred and revenues received for PY 2015 is included in this filing.

7 Q. DID TNC INCUR ANY AFFILIATE COSTS IN 2015?

8 A. Yes. In 2015, TNC incurred \$71,934 in affiliate costs, which is 3% of TNC's actual
9 2015 energy efficiency costs as addressed in witness Frantz's testimony. Please refer
10 to Schedule K for additional information.

11 Q. ARE THE 2015 AFFILIATE EXPENSES REASONABLE AND NECESSARY?

12 A. Yes, the affiliate services are reasonable and necessary costs for TNC's provision of
13 energy efficiency programs.

14
15 VI. CONCLUSION

16 Q. PLEASE BRIEFLY SUMMARIZE YOUR TESTIMONY.

17 A. The components TNC includes in its request to adjust its 2017 EECRF have been
18 properly calculated in accordance with the applicable standards and criteria.

- 19 1. The energy efficiency costs projected by TNC for its PY 2017 programs represent
20 reasonable estimates of the costs necessary to provide energy efficiency programs
21 to meet TNC's energy efficiency objectives for PY 2017.
- 22 2. The portion of those projected PY 2017 program costs that exceeds the amount of
23 energy efficiency funding included in TNC's base rates is appropriately included
24 in the requested 2017 EECRF.

1 3. TNC's PY 2015 performance bonus calculation comports fully with the applicable
2 provisions of the Commission rule.

3 4. The PY 2015 energy efficiency program expenditures were reasonable and
4 necessary costs to provide energy efficiency programs for PY 2015. It is
5 reasonable and in accordance with the applicable Commission rule to include the
6 portion of those costs that exceeds the amount of energy efficiency funding
7 collected through TNC's base rates, and that revenues that were over-recovered in
8 its 2015 EECRF be returned in the adjusted 2017 EECRF.

9 5. Municipal proceeding expenses for the previous year's EECRF proceeding are
10 included in this filing for recovery in the adjusted 2017 EECRF.

11 Q. DOES TNC'S APPLICATION MEET ALL OF THE REQUIREMENTS FOR
12 ADJUSTMENT TO A UTILITY'S EECRF AS SET FORTH IN 16 TAC §
13 25.181(f)?

14 A. Yes, TNC's application meets all of the requirements for approval of the requested
15 adjustment to its 2017 EECRF to recover all of the components described in my direct
16 testimony and are fully supported by TNC's other witnesses.

17 Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?

18 A. Yes, it does.

PUC DOCKET NO. 45928
PUBLIC UTILITY COMMISSION OF TEXAS

APPLICATION OF
AEP TEXAS NORTH COMPANY
TO ADJUST
ENERGY EFFICIENCY COST RECOVERY FACTOR AND RELATED RELIEF

DIRECT TESTIMONY OF
RHONDA R. FAHRLENDER
FOR
AEP TEXAS NORTH COMPANY

JUNE 1, 2016

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