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SOAH DOCKET NO. 473-17-1764
DOCKET NO. 46449

APPLICATION OF SOUTHWESTERN ELECTRIC POWER COMPANY FOR AUTHORITY TO CHANGE RATES	§ § §	BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS

TEXAS INDUSTRIAL ENERGY CONSUMERS' PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

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TEXAS INDUSTRIAL ENERGY CONSUMERS' PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

TO THE HONORABLE ADMINISTRATIVE LAW JUDGES:

Texas Industrial Energy Consumers (TIEC) submits the following Proposed Findings of Fact and Conclusions of Law:

PROPOSED FINDINGS OF FACT

Welsh Unit Two Retirement

The Appropriate Ratemaking Treatment for Welsh Unit 2 [PO Issues 4, 5, 9, 10, 12, 13, 19]

1. SWEPCO retired Welsh Unit 2 in April of 2016.[1]
2. SWEPCO has proposed to include in its rate base approved in this case its undepreciated investment in Welsh Unit 2.[2] Welsh Unit 2 no longer generates electricity and is not used by and useful to SWEPCO in providing electric service to the public.[3]
3. Under SWEPCO's proposal, ratepayers would pay for a return on Welsh Unit 2 over the remaining lives of Welsh Units 1 and 3, meaning that SWEPCO would still be earning a return on Welsh Unit 2 over 20 years after it was retired.[4]
4. Because Welsh Unit 2 is no longer used and useful, SWEPCO may not include its investment associated with the plant in its rate base, and may not earn a return on that remaining investment.[5]
5. Allowing SWEPCO a return of—but not on—its remaining investment in Welsh Unit 2 balances the interests of ratepayers and shareholders with respect to a plant that no longer provides service.[6]

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[1] Tr. at 462:16-18 (Franklin Cross) (June 6, 2017)

[2] Direct Testimony of Randall W. Hamlett, SWEPCO Ex. 15 at 52-54 (Hamlett Dir.); Direct Testimony of David A. Davis, SWEPCO Ex. 27 at 10 (Davis Dir.); Direct Testimony of Jeffry C. Pollock, TIEC Ex. 1 at 34 (Pollock Dir.).

[3] TIEC Ex. 1, Pollock Dir. at 35.

[4] *Id.* at 34.

[5] *Id.* at 35; Direct Testimony of Ruth Stark, Staff Ex. 4 at 17-18 (Stark Dir.).

[6] TIEC Ex. 1, Pollock Dir. at 35-36.

6. SWEPCO may recover its remaining prudent investment in Welsh Unit 2 without a return, amortized over the remaining life of Welsh Units 1 and 3.

Turk Power Plant Cost Cap [PO Issues 4, 5, 9, 10, 19]

7. In Docket No. 33891, the Commission imposed a cap on the capital costs of the Turk Plant for which Texas ratepayers could be responsible.[7]

8. The purpose of the cost cap was to protect ratepayers from cost overruns associated with Turk Plant construction without regard to what circumstances caused the cap to be exceeded or when those circumstances occurred.[8]

9. In Docket No. 40443, the Commission found that SWEPCO's share of the cost cap is $1.116 billion on a total company basis.[9]

10. SWEPCO incurred $1.295 billion in cap-eligible direct construction costs for the Turk Plant, or $179 million above the cost cap.[10] This amount represents 13.8% of the total direct construction costs and is not included in SWEPCO's rate base.[11]

11. SWEPCO incurred $320.5 million in AFUDC costs associated with the Turk Plant.[12]

12. AFUDC costs associated with direct construction costs that exceed the cost cap should be disallowed.[13]

13. While the total cost cap was exceeded in April 2012, construction delays and cost overruns occurring earlier than that date caused the cap to be exceeded.[14] SWEPCO disclosed in 2011 SEC filings that it would exceed the cap.[15]

14. Because 13.8% of SWEPCO's direct construction costs exceeded the cost cap, 13.8% of its AFUDC costs should be disallowed.

15. $44,304,601 of AFUDC costs should be excluded from SWEPCO's rate base on a total company basis.[16]

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[7] *Application of Southwestern Electric Power Company for a Certificate of Convenience and Necessity Authorization for Coal Fired Power Plant in Arkansas*, Docket No. 33891, Order at Ordering Paragraph No. 2 (Aug. 12, 2008).

[8] *Id.*

[9] *Application of Southwestern Electric Power Company for Authority to Change Rates*, Docket No. 40443, Order on Rehearing at 9-10 (Mar. 6, 2014).

[10] TIEC Ex. 22, SWEPCO Response to TIEC 6-13 – Attachment 1.

[11] Tr. at 1192:23-1193:2 (Hamlett Cross) (June 9, 2017).

[12] Tr. at 1191:9-11 (Hamlett Cross) (June 9, 2017).

[13] TIEC Ex. 1, Pollock Dir. at 31.

[14] Direct Testimony of Venita McCellon-Allen, SWEPCO Ex. 11 at 48 (McCellon-Allen Dir.).

[15] TIEC Ex. 24, 2011 AEP 10-K

[16] TIEC Ex. 1, Pollock Dir. at Ex. JP-2.

<u>Treatment of Transmission Invested Capital [PO Issues 9, 37, 41]</u>

16. SWEPCO has proposed to exclude $274,357,541 of transmission invested capital from its rate base[17] and instead recover its transmission costs by passing on SPP OATT charges without offsetting revenue credits.[18]

17. In prior SWEPCO cases, the Commission has set SWEPCO's transmission revenue requirement by multiplying the transmission invested capital associated with the Texas retail jurisdiction by the Commission-approved rate of return, then adding the Texas retail jurisdiction's share of transmission expenses, offset by any appropriate revenue credits.[19]

18. There has not been any change since SWEPCO's last case in the methodology for changes under the SPP OATT.[20]

19. SWEPCO's proposal seeks to include the amount it charges itself for the use of its Texas Retail Transmission System but to ignore the identical amount it receives from itself.[21]

20. The Commission's current methodology for setting transmission revenue requirement does not result in an under-recovery of transmission costs, but provides for SWEPCO to recover SWEPCO's reasonable cost, based on Texas PUC precedent and policy.[22]

21. The Commission's traditional practice allows SWEPCO a reasonable opportunity to earn a reasonable return on its transmission invested capital.[23]

22. SWEPCO's proposal would remove its transmission invested capital from the Commission's jurisdiction and subject it to FERC wholesale transmission ratemaking policies.[24]

23. A similar proposal was litigated and expressly rejected by the Commission Docket No. 43695.[25]

24. The Commission should maintain jurisdiction over the Texas retail jurisdiction's share of SWEPCO's transmission invested capital.

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[17] TIEC Ex. 1, Pollock Dir. at 14 & n.1.

[18] Direct Testimony of William Abbott (with Errata), Staff Ex. 1A at 20 (Abbott Dir.).

[19] *Id.*

[20] Tr. at 368:14-18 (Brice Cross) (June 6, 2017).

[21] Tr. at 1619:11-20 (Johnson Cross) (June 13, 2017); Direct Testimony of William Perea Marcus, OPUC Ex. 6 at 10 (Marcus Dir.).

[22] TIEC Ex. 1, Pollock Dir. at 22.

[23] Staff Ex. 1A, Abbott Dir. at 24-25.

[24] TIEC Ex. 1, Pollock Dir at 20.

[25] Staff Ex. 1A, Abbott Dir. at 24-27.

Rate of Return [PO Issues 4, 5, 7, 8]

Return on Equity [PO Issue 4, 5, 8]

25. A return on common equity (ROE) of 9.35% will allow SPS a reasonable opportunity to earn a reasonable return on its invested capital.[26]

26. A 9.35% ROE is consistent with SPS's business and regulatory risk.[27]

Overall Rate of Return [PO Issue 4, 7, 8]

27. SPS's overall rate of return should be set as follows:

COMPONENT	CAPITAL STRUCTURE	COST OF CAPITAL	WEIGHTED AVG COST OF CAPITAL
LONG-TERM DEBT	51.54%	4.90%	2.53%
COMMON EQUITY	48.46%	9.35%	4.53%
TOTAL	100.00%		7.06%[28]

Operation & Maintenance Expenses [PO Issues 4, 5, 6, 11, 20, 21, 22, 24, 25, 26, 27, 28, 30, 34, 35, 36, 43, 50, 51]

Welsh Unit 2 O&M Expense [PO Issues 4, 5, 6, 21]

28. Test-year O&M expenses from Welsh Unit 2 will not recur in the future due to the plant's retirement in April of 2016.[29]

29. There is no corresponding increase in generation at other SWEPCO units to replace the Welsh Unit 2 capacity.[30]

30. Test-year expenses that are nonrecurring should not be included in future rates.[31]

31. Welsh Unit 2 O&M expenses of $472,198 (Total Company) should be disallowed.[32]

Production Maintenance Expense [PO Issues 4, 5, 6, 21]

32. SWEPCO incurred approximately $86.82 million in production maintenance expense during the test year.[33] This amount is $11.63 million, or 15%, higher than its average production maintenance expense of $75.19 million during the period 2012-2015.[34]

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[26] *See generally* Direct Testimony of Michael P. Gorman, TIEC Ex. 2 (Gorman Dir.).

[27] *Id.*

[28] *Id.* at MPG-1.

[29] Tr. at 491:8-19 (Franklin Cross) (June 6, 2017).

[30] TIEC Ex. 1, Pollock Dir at 35.

[31] *See, e.g., Application of Texas Utilities Electric Company for Authority to Change Rates*, Docket No. 9300, Examiner's Report at 210-11, 1991 WL 790285 (June 12, 1991).

[32] TIEC Ex. 1, Pollock Dir. at 34.

[33] *Id.* at Ex. JP-5.

33. During the test year, SWEPCO experienced 1,083 days of planned outage days, compared to an average of 734 days during the period 2012-2015.[35]

34. Although the Commission looks at the test year to determine base rates, the costs a utility incurs in the test year should be generally representative of the costs the utility will incur in the future.[36]

35. The abnormally high production maintenance expenses during the test year should be normalized to their inflation-adjusted 2012-2015 average.[37]

36. To reflect this adjustment, SWEPCO's requested production maintenance expense should be reduced by $9,213,233 (Total Company).[38]

Rate case and Regulatory Commission Expenses [PO Issues 4, 5, 21, 23, 43, 51]

37. SWEPCO seeks recovery of rate case expenses from eight non-major rate cases as a surcharge in Rider RCE: Docket Nos. 42448, 42527, 42730, 44496, 44701, 45691, 45712, 45824.[39] Three of those proceedings, Docket Nos. 45691, 45712, and 45824, occurred during the test year.[40]

38. Recurring expenses are normally recovered through base rates based on test-year expenses.[41]

39. Rate case expenses arising from non-major rate cases are a recurring expense.[42]

40. SWEPCO should recover its rate case expenses for its non-major rate cases through base rates based on test-year expenses. SWEPCO incurred $555,162 in eligible rate case expenses during the test year, and this amount should be placed in base rates.[43]

41. Rider RCE should only be used to recover major rate case expenses. Reasonable rate case expenses arising from this docket will be recovered through Rider RCE.[44]

42. SWEPCO agreed in the settlement of Docket No. 45712 to not seek rate case expenses arising from that docket.[45]

43. SWEPCO may not recover any rate case expenses—either internal or external—incurred in connection with Docket No. 45712.

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[34] *Id.*

[35] *Id.*

[36] Docket No. 40443, Order on Rehearing at FoF 164.

[37] TIEC Ex. 1, Pollock Dir. at 39-40.

[38] *Id.* at 40.

[39] *Id.* at 43-44 & Ex. JP-8.

[40] *Id.*

[41] Tr. at 1028:4-17 (Stark Cross) (June 9, 2017).

[42] Rebuttal Testimony of Randall W. Hamlett, SWEPCO Ex. 52 at 59 (Hamlett Reb.).

[43] TIEC Ex. 1, Pollock Dir. at 41-44.

[44] *Id.*

[45] *Application of Southwestern Electric Power Company for Approval of a Distribution Cost Recovery Factor*, Docket No. 45712, Final Order at FoF 23 (June 30, 2016).

Back-Billed SPP Z2 Costs [PO Issue 32]

44. Attachment Z2 is an SPP tariff that compensates project sponsors for self-funding creditable transmission upgrades that are subsequently used by others to fulfill transmission service requests.[46]

45. SPP invoiced its members for back-billed Z2 costs in the fall of 2016, and gave its members the options of paying the amount either in full or in five-year installments.[47] SWEPCO chose the pay-in-full option, and on November 15, 2016, SWEPCO paid $16.3 million in back-billed Attachment Z2 costs.[48] SWEPCO also expects to receive $12.2 million in back-billed credits over the next five years.[49]

46. SWEPCO requested to place the $4.1 million difference between its Attachment Z2 costs and credits in a regulatory asset for deferred accounting treatment.[50]

47. Deferred accounting is only appropriate for costs that are legitimately recoverable from customers but cannot be otherwise recovered in rates.[51]

48. SWEPCO has not demonstrated that deferred accounting is necessary for its back-billed Attachment Z2.[52]

49. SWEPCO's Attachment Z2 costs should not be placed in a regulatory asset or recovered through an amortization established in this proceeding.

Transmission Expenses and Revenues [PO Issues 4, 5, 6, 20, 21, 36, 37, 41, 53]

SPP OATT Costs

50. Instead of using the actual test-year amounts, SWEPCO proposes to set its Schedule 9 and 11 expenses based on the post-test-year August 2016 RRR file.[53] The effect of this post-test-year adjustment is a $3,021,732 increase (Total Company) to SWEPCO's proposed revenue requirement.[54]

51. The SPP RRR filed changes frequently. The August 2016 RRR file was revised 13 times by May 2017.[55] Each one of these updates changes some element of the allocation of expenses and revenues among SPP members.[56]

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[46] TIEC Ex. 1, Pollock Dir. at 44.

[47] *Id.*

[48] *Id.* at 44-45.

[49] *Id.*

[50] *Id.* at 46.

[51] *Id.*; Staff Ex. 1A, Abbott Dir. at 32-33.

[52] TIEC Ex. 1, Pollock Dir. at 46.

[53] Direct Testimony of Adrian Narvaez (with Errata), Staff Ex. 2 at 9 (Narvaez Dir.).

[54] *Id.* at 11.

[55] TIEC Ex. 1, Pollock Dir. at 25.

[56] Staff Ex. 2, Narvaez Dir. at 10.

52. The Commission rejected post-test-year adjustments to SPP expenses in Docket Nos. 42448 and 43695 that were conceptually identical to SWEPCO's proposed adjustment in this case.[57]

53. SWEPCO does not know what its Schedule 9 and 11 expenses and revenues will be during the rate year.[58]

54. SWEPCO's proposed post test year adjustment for its Schedule 9 and 11 expenses and revenues is not known and measurable with reasonable certainty.[59]

55. SWEPCO's Schedule 9 and 11 expenses and revenues should be set based on the actual test year data.

Cost Allocation [PO Issues 36, 37, 38, 40, 41, 42, 44, 45, 46, 52, 53]

Class Allocation of Production Costs [PO Issues 38, 41]

56. SWEPCO allocates production costs to various classes under the Average and Excess Demand/Four Coincident Peak (A&E/4CP) methodology. This methodology allocates a percentage of costs—equal to the system load factor—based on average demand, and the remainder of those costs based on excess demand.[60]

57. In Docket No. 43695, the only PUC case in which this issue has been litigated, the Commission determined that the system load factor should be calculated by using the single annual coincident peak, rather than the average of four coincident peaks.[61]

58. SWEPCO used the single coincident peak in calculating its system load factor for Schedule O-1.6.[62]

59. The use of the annual coincident peak in calculating system load factor is consistent with the definition of load factor in the Commission's rules.[63]

60. The use of the annual coincident peak for calculating system load factor is consistent with SWEPCO's generation and transmission planning.[64]

61. The use of the annual coincident peak for calculating system load factor is consistent with the NARUC manual.[65]

62. The use of the annual coincident peak for calculating system load factor is consistent with SPP planning.[66]

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[57] *Application of Southwestern Electric Power Company for Approval of a Transmission Cost Recovery Factor*, Docket No. 42448, PFD at 11, FoFs 37-38, 40-41 (Oct. 9, 2014); Docket No 43695, PFD at 165-66.

[58] Staff Ex. 2, Narvaez Dir. at 10.

[59] *Id.*

[60] Cross-Rebuttal Testimony and Exhibits of Jeffry C. Pollock, TIEC Ex. 3 at 7 (Pollock Cross-Reb.).

[61] *Application of Southwestern Public Service Company for Authority to Change Rates*, Docket No. 43695, Order on Rehearing 10-11.

[62] Direct Testimony of Nora Williams, SWEPCO Ex. 41 at 4 (Williams Dir.).

[63] 16 T.A.C. § 25.5(64).

[64] Tr. at 169:2-171:13 (Becker Cross) (June 5, 2017).

[65] TIEC Ex. 31, NARUC manual excerpt at 44, 49-50; Tr. at 1387:10-21 (Aaron Cross) (June 12, 2017).

63. In using the A&E/4CP methodology, SWEPCO should calculate its system load factor using the single annual coincident peak.

Class Allocation of Transmission Costs [PO Issues 38, 41]

64. SWEPCO proposes to allocate transmission costs to retail classes based on the 12 Coincident Peak (12CP) demand allocator.[67]

65. SWEPCO is a summer-peaking utility.[68]

66. The electricity demands in the summer months are the primary drivers for the amount of transmission capacity needed for SWEPCO to provide reliable service.[69]

67. SWEPCO's demands during the four summer months ranged from 4623 MW to 5149 MW, while no off-peak month had demand in excess of 4051 MW.[70]

68. The Commission has a longstanding policy of allocating transmission costs based primarily on peak demands in the four summer months.[71]

69. SWEPCO has submitted the same position in support of the 12CP methodology in this case that it did in its prior case.[72]

70. In Docket No. 40443, the Commission rejected SWEPCO's proposal to allocate transmission costs based on the 12CP methodology, and instead required SWEPCO to use the A&E/4CP methodology.[73]

71. The A&E/4CP method for allocating transmission costs to the retail classes is standard and the most reasonable methodology.[74]

72. SWEPCO should use the A&E/4CP method for allocating transmission costs to the retail classes.

Major Customer Account Representative Expense Allocation [PO Issues 38, 41]

73. It is appropriate to allocate all customer service costs to all classes based on the number of customers or number of bills.[75]

74. If some customer service expenses are disaggregated and directly assigned to the classes that use those services, then all customer services should be treated similarly by directly assigning them to the classes that use the particular services.[76]

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[66] Docket No 43695, Order on Rehearing at 11 (Feb. 23, 2016).

[67] Direct Testimony of John O. Aaron, SWEPCO Ex. 38 at 15 (Aaron Dir.).

[68] TIEC Ex. 1, Pollock Dir. at 55.

[69] *Id.*; Staff Ex. 2, Narvaez Dir. at 16.

[70] TIEC Ex. 33.

[71] Docket No. 43695, Order on Rehearing at FoF 44.

[72] Tr. at 1365.3-20 (Aaron Cross) (June 12, 2017).

[73] Docket No. 40443, Order on Rehearing at FoFs 266-72.

[74] *Id.* at FoF 271.

[75] TIEC Ex. 3, Pollock Cross-Reb. at 16-17.

[76] *Id.*

75. Because SWEPCO did not break down and allocate all of its customer service expenses by class, all classes should be allocated a portion of all customer service expenses incurred, based on the number of customers or number of bills.

Uncollectible Expense Allocation [PO Issues 38, 41]

76. Year after year, a large portion of SWEPCO's uncollectible expense is caused by the residential class.[77]

77. Approximately 93.31% of the uncollectible expense during the test year was caused by the residential class, whereas only 6.00% and 0.69% of uncollectible expense was incurred in serving commercial and industrial customers, respectively.[78]

78. Because it reflects cost causation, it is appropriate to allocate uncollectible expense based on the proportion of bad debt that is caused by each customer class.[79]

Primary and Secondary Distribution Split for Accounts 364 and 365 [PO Issues 38, 41]

79. SWEPCO allocated Accounts 364 and 365 between primary and secondary distribution primarily based on the investment method.[80]

80. Under the investment method, SWEPCO first classified poles by height, and by whether they serve primary distribution, secondary distribution, or both. The poles in each category are then summed up and multiplied by the per-unit cost of constructing that size of pole. The resulting primary/secondary split is based on the ratio of primary and secondary investment divided by the sum of the total investment.[81]

81. For poles that served both primary and secondary distribution, SWEPCO allocated the pole using the connections method.[82] The connections method is a reasonable method for determining the allocation of a pole that serves both primary and secondary customers.

82. The investment method takes into account the number and size of poles that are used for primary and secondary distribution.[83]

83. The investment method is a reasonable method for allocating Accounts 364 and 365.

84. SWEPCO should allocate between primary/secondary distribution by 62.51%/37.49% for Account 364 and 76.35%/23.65% for Account 365.[84]

Revenue Distribution [PO Issues 38, 39]

85. Establishing the appropriate number of classes to include in a cost-of-service study requires a careful balance between having too few and too many classes.

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[77] TIEC Ex. 1, Pollock Dir. at 57-58.

[78] *Id.* at 58.

[79] *Id.*

[80] TIEC Ex. 3, Pollock Cross-Reb. at 13.

[81] *Id.* at 13-14.

[82] *Id.* at 14-15.

[83] *Id.* at 13.

[84] *Id.* at 13.

86. If cost allocation is done among too large a number of small classes, cost-of-service results in a test year are more susceptible to unusual circumstances.[85]

87. It is reasonable for SWEPCO to allocate costs among the following classes: Residential, General Service, Cotton Gin, Lighting & Power, Large Lighting & Power, Oilfield, Metal Melting, Pumping Service, Municipal Service, Municipal Lighting, Public Highway Lighting, Private/Area Lighting, Customer Owned, and Lighting.[86]

88. Generally, the revenue requirement should be set at cost for each of the customer classes.[87]

89. In the past, the Commission has held that a 29% rate increase did not warrant rate mitigation.[88]

TCRF DCRF Issues [PO Issues 21, 44]

90. In Docket No. 45691, the Commission conducted a true-up of SWEPCO's existing TCRF and identified an over-recovery of $269,185, but deferred the issue of refunding over-recovered amounts until SWEPCO's next base-rate proceeding.[89]

91. The order adopting the TCRF rule explained that a refund of a TCRF over-recovery is required.[90]

92. The over-recovery of $269,185 identified in Docket No. 46951 should be refunded to ratepayers.

PROPOSED CONCLUSIONS OF LAW

The Appropriate Ratemaking Treatment for Welsh Unit 2 [PO Issues 4, 5, 9, 10, 12, 13, 19]

1. Under PURA and the Commission's cost of service rule, electric plant must be used by and useful to the utility in providing service to the public to be included in the utility's rate base.[91]

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[85] TIEC Ex. 3, Pollock Cross-Reb. at 18-20.

[86] TIEC Ex. 1, Pollock Dir. at Ex JP-13.

[87] *Id.* at 62-64.

[88] Docket No 43695, Order on Rehearing at 10.

[89] *Application of Southwestern Electric Power Company to Amend its Transmission Cost Recovery Factor*, Docket No. 45691, Order at 1 & Ordering Paragraph 3 (Sept. 23, 2016); *see also* PFD at 2 (Aug. 11, 2016).

[90] *Rulemaking Relating to Transmission Cost Recovery Factor for Non-ERCOT Utilities*, Project No. 33253, Order Adopting New § 25.239 at 28 (Dec. 14, 2007).

[91] PURA § 36.051; 16 T.A.C. § 25.231(c)(2)(A).

Treatment of Transmission Invested Capital [PO Issues 9, 37, 41]

2. Under PURA, the Commission has a statutory obligation to set the return on the utility's invested capital used and useful in providing service to the public.[92]

Operating & Maintenance Expenses [PO Issues 4, 5, 6, 11, 20, 21, 22, 24, 25, 26, 26, 28, 30, 33, 34, 35, 36, 43, 50, 51]

3. SPS has the burden of proving that all of its proposed changes to its rates are just and reasonable.[93]

4. In Texas, "future rates are made on the basis of past costs," and the Commission has long relied on a utility's historical costs and revenues to meet the statutory objective of setting just and reasonable rates.[94]

5. The Commission's rules provide that "rates are to be based upon an electric utility's cost of rendering service to the public during a historical test year, adjusted for known and measurable changes."[95]

6. Whether to grant a post test year adjustment is a matter within the Commission's discretion and such adjustments "are limited to amounts actually realized or which can be anticipated with reasonable certainty."[96]

Transmission Expenses and Revenues [PO Issues 4, 5, 6, 20, 21, 36, 37, 41, 53]

7. In Docket Nos. 42448 and 43695, the Commission found that the use of the SPP RRR file that is in effect at the time an application is filed to project Schedule 9 and 11 expenses and revenues for the future rate year does not satisfy the known and measurable standard for post test year adjustments.[97]

Revenue Distribution and Rate Design [PO Issues 38, 39, 45, 46, 52]

8. SWEPCO's rates, as approved in this proceeding, are just and reasonable in accordance with PURA § 36.003 and 16 T.A.C. § 25.234.

9. With the changes made in the above Findings of Fact, SPS's class cost-of-service study is just and reasonable.

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[92] PURA § 36.051, Staff Ex. 1A, Abbott Dir. at 19.

[93] PURA § 36.209(1).

[94] *Suburban Util. Corp. v. Pub. Util. Comm'n of Texas*, 652 S.W.2d 358, 366 (Tex. 1983).

[95] 16 T.A.C. § 25.231(a).

[96] *Suburban Util. Corp.*, 652 S.W.2d at 362 (emphasis supplied).

[97] Docket No. 42448, Order at 1-2, FoFs 32-45 (Nov. 24, 2014); *id.*, PFD at 15-16; Docket No. 43695, Order on Rehearing at FoF 157.

TCRF and DCRF Issues [PO Issues 21, 44]

10. Under PURA § 36.209, the Commission may not allow a utility to over-recover its TCRF.[98]

11. The Commission has interpreted PURA § 36.209 as requiring a refund of TCRF over-recoveries.[99]

12. The Commission's TCRF rule, 16 T.A.C. § 25.239(f), does not permit surcharges for TCRF under-recoveries.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Benjamin B. Hallmark, Attorney for TIEC, hereby certify that a copy of the foregoing document was served on all parties of record in this proceeding on this 24th day of July, 2017 by facsimile, electronic mail and/or First Class, U.S. Mail, Postage Prepaid.

Benjamin B. Hallmark

[98] PURA § 36.209(b).

[99] Docket No. 45691, Order at FoF 57; Project No. 33253, Order Adopting New § 25.239 at 28.