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PUC DOCKET NO. 48122  
SOAH DOCKET NO. 473-18-3009

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PUBLIC UTILITY COMMISSION  
CLERK

APPLICATION OF AEP TEXAS, INC. §  
FOR UPDATE OF WHOLESAL §  
TRANSMISSION RATES §

PUBLIC UTILITY COMMISSION  
OF TEXAS

**ORDER**

This Order addresses the application of AEP Texas Inc. for update of its wholesale transmission rates. An agreement was executed that resolves all issues between the parties in this proceeding. The Commission approves AEP Texas's application as modified by the agreement and this Order.

The Commission adopts the following findings of fact and conclusions of law:

**I. Findings of Fact**

*AEP Texas*

1. AEP Texas transmits and distributes electricity in the Electric Reliability Council of Texas, Inc. (ERCOT) region using facilities it owns and operates.

*Procedural History*

2. Late last year, an act was passed that, in part, amends the Internal Revenue Code<sup>1</sup> by, among other things, reducing the federal income tax rate to be imposed on C corporations from 35% to 21%, effective January 1, 2018, as well as reducing the federal income tax rate on certain other entities.<sup>2</sup>
3. On February 15, 2018, the Commission issued an amended accounting order to address the change in the federal income tax rates for investor-owned electric, telecommunications, water and sewer utilities in the State of Texas.<sup>3</sup>

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<sup>1</sup> Internal Revenue Code, 26 U.S.C.A. § 61 (West 2011 and Supp. 2014).  
<sup>2</sup> Act to Provide for Reconciliation Pursuant to Tiles II and V of the Concurrent Resolution on the Budget for Fiscal Year 2018, Pub. L. No. 115-97, 113 Stat. 2054 (Dec. 22, 2017).  
<sup>3</sup> *Proceeding to Investigate and Address the Effects of Tax Cuts and Jobs Act of 2017 on the Rates of Texas Investor-Owned Utility Companies*, Project No. 47945, Amended Accounting Order (Feb. 15, 2018).



4. Until a rate change is approved to adjust charges to Texas customers, the Commission issued an amended accounting order under its statutory authority to preserve any changes in the federal income tax expense charged by utilities.<sup>4</sup>
5. On March 1, 2018, AEP Texas filed an application and supporting testimony for approval of a reduction to its wholesale transmission rates to reflect the effects of the Tax Cuts and Jobs Act of 2017 on the annual federal income tax expense included in its transmission cost of service.
6. Effective December 31, 2016, AEP Texas Central Company and AEP Texas North Company merged into their parent company, now called AEP Texas. The merger was approved by the Commission in Docket No. 46050.<sup>5</sup> The Commission ordered AEP Texas to “maintain separate TCC and TNC divisions, which will continue to charge separate rates and riders, and maintain separate tariffs, unless and until such time as the Commission may consider and approve consolidated rates and tariffs.” Consistent with the Commission’s order, AEP Texas is maintaining two divisions within AEP Texas: AEP Texas Central Division (formerly TCC) and AEP Texas North Division (formerly TNC). Therefore, AEP Texas’s filing proposed to maintain separate rates for the two divisions of AEP Texas.
7. On March 1, 2018, AEP Texas provided direct written notice of the application to every entity listed in the matrix established by the Commission in Docket No. 46604,<sup>6</sup> which established wholesale transmission charges for calendar year 2017, as well as any additional distribution service providers listed in the then-pending docket to set the transmission service charges for calendar year 2018.<sup>7</sup> AEP Texas also provided notice to

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<sup>4</sup> Public Utility Regulatory Act, Tex. Util. Code Ann. § 14.151 (West 2016 & Supp. 2017), Tex. Water Code Ann. § 13.131(a) (West 2008 & Supp. 2017)

<sup>5</sup> *Application of AEP Texas Central Company, AEP Texas North Company, and AEP Utilities, Inc. for Approval of Merger*, Docket No. 46050, Order (Dec. 12, 2016).

<sup>6</sup> *Commission Staff’s Application to Set 2017 Wholesale Transmission Service Charges for the Electric Reliability Council of Texas*, Docket No. 46604, Order (Mar. 30, 2017).

<sup>7</sup> *Commission Staff’s Application to Set 2018 Wholesale Transmission Service Charges for the Electric Reliability Council of Texas*, Docket No. 47777, Order (Mar. 29, 2018)

all parties in Docket Nos. 33309 and 33310.<sup>8</sup> AEP Texas's most recent cases reviewing its transmission cost of service (TCOS). On March 2, 2018, AEP Texas filed an affidavit attesting to the provision of notice.

8. AEP Texas requested an updated revenue requirement of \$320,178,844 (\$228,827,549 for the Central Division and \$91,351,295 for the North Division) reflecting a reduction of \$23,798,546 (\$18,177,650 for the Central Division and \$5,620,896 for the North Division). Using the 4CP approved by the Commission in Docket No. 47777, AEP Texas requested that the Commission approve a wholesale transmission rate decrease from \$3.649054 per kilowatt (kW) to \$3.401472 per kW for the Central Division and from \$1.432588 per kW to \$1.357917 per kW for the North Division.
9. In Order No. 1 issued on March 5, 2018, the Commission administrative law judge (ALJ) established a procedural schedule.
10. The City of McAllen, Texas Industrial Energy Consumers (TIEC), and the Office of Public Utility Counsel (OPUC) filed motions to intervene.
11. No party filed a motion to find the application materially deficient.
12. In Order No. 2 issued on March 13, 2018, the ALJ granted the City of McAllen's motion to intervene.
13. On March 22, 2018, TIEC filed a request for hearing and the City of McAllen filed comments on the merits.
14. In Order No. 3 issued on April 2, 2018, the ALJ granted both TIEC's and OPUC's motions to intervene.
15. On April 3, 2018, the Commission referred this docket to the State Office of Administrative Hearings (SOAH).
16. On April 4, 2018, Commission Staff indicated that it would not be filing a final recommendation due to referral to SOAH.

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<sup>8</sup> *Application of AEP Texas Central Company for Authority to Change Rates*, Docket No. 33309, Order on Rehearing (Mar. 4, 2008), and *Application of AEP Texas North Company for Authority to Change Rates*, Docket No. 33310, Order (May 29, 2007).

17. In SOAH Order No. 1 issued on April 10, 2018, the ALJ scheduled a prehearing conference and suspended the effective date of AEP Texas's proposed rates for 150 days beyond April 5, 2018, to September 2, 2018.
18. On April 23, 2018, AEP Texas filed a letter stating that the parties had reached a settlement in principle that resolved all issues between the parties and requesting that the SOAH ALJ abate the proceeding to allow for settlement finalization.
19. In SOAH Order No. 2 issued on April 25, 2018, the SOAH ALJ abated the procedural schedule, suspended the effective date indefinitely, and provided a deadline to file a status report or motion to dismiss and remand.
20. On May 1, 2018, AEP Texas filed an agreement resolving all of the issues between the parties in this proceeding.
21. On May 1, 2018, AEP Texas filed an agreed motion to implement the agreement, including a request for admission of evidence and to remand the proceeding to the Commission.
22. In SOAH Order No. 3 issued on May 4, 2018, the SOAH ALJ remanded the case to the Commission, dismissed the SOAH docket, and admitted the following into evidence: (a) AEP Texas's application, including the direct testimony and exhibits of Francis Bourland; (b) the proof of notice affidavit of Steven Beaty, filed on March 2, 2018; (c) the agreement, updated schedules and exhibits filed on May 1, 2018; and (d) Commission Staff's memorandum in support of the agreement.
23. On May 18, 2018, Commission Staff filed an amended recommendation in support of the agreement along with a request to admit the amended recommendation into evidence.
24. No party objected to admitting Commission Staff's amended recommendation into evidence.
25. AEP Texas's updated revenue requirement of \$320,178,844 (\$228,827,549 for the Central Division and \$91,351,295 for the North Division), which represents a reduction of \$23,798,546 (\$18,177,650 for the Central Division and \$5,620,896 for the North Division), accurately reflects the reduction in AEP Texas's federal income tax expense resulting from the Tax Cuts and Jobs Act of 2017.

26. It is appropriate to calculate the rates using the 4CP from AEP Texas's last interim TCOS filing approved by the Commission in Docket No. 47659, which was set in Docket No. 46604. The resulting wholesale transmission rates of \$3.380512 per kW for the Central Division and \$1.349550 per kW for the North Division are reasonable.
27. It is appropriate for AEP Texas to defer for future regulatory treatment any amortization of the protected and unprotected excess accumulated deferred federal income taxes that it makes for accounting purposes and reflect such deferred liability amounts in the determination of AEP Texas's rates in its next base rate application.
28. The rates established by this Order accurately reflect the federal income tax rate reduction from 35% to 21% on AEP Central's and AEP North's annual federal income tax expenses included in their revised transmission costs of service.

## II. Conclusions of Law

1. AEP Texas is an electric utility as defined in PURA<sup>9</sup> § 31.002(6) and a transmission service provider in ERCOT as defined in 16 Texas Administrative (TAC) § 25.5(143).
2. The Commission has jurisdiction over this application under PURA § 35.004.
3. The Commission processed this docket in accordance with the requirements of PURA, the Administrative Procedure Act,<sup>10</sup> and Commission rules.
4. AEP Texas provided notice of the application in compliance with 16 TAC §§ 22.54 and 22.55.
5. The requirements for informal disposition in 16 TAC § 22.35 have been met in this proceeding.
6. The rates established by this Order are just and reasonable.
7. The rates established by this Order are not preferential, prejudicial, or discriminatory and are sufficient, equitable, and consistent in application to each class of customer.

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<sup>9</sup> Public Utility Regulatory Act, Tex. Util. Code Ann. §§ 11.001-58 302 (West 2016 & Supp. 2017), §§ 59 001-66.016 (West 2007 & Supp. 2017) (PURA).

<sup>10</sup> Tex. Gov't Code Ann. §§ 2001.001-.902 (West 2016 & Supp. 2017).

### III. Ordering Paragraphs

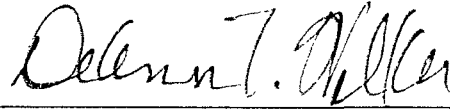
In accordance with these findings of fact and conclusions of law, the Commission issues the following orders:

1. The Commission approves AEP Texas's application as modified by the agreement and this Order.
2. AEP Texas's revenue requirement is adjusted on an annual basis to \$320,178,844 (\$228,827,549 for the Central Division and \$91,351,295 for the North Division) reflecting a reduction of \$23,798,546 (\$18,177,650 for the Central Division and \$5,620,896 for the North Division).
3. AEP Texas may begin billing the updated wholesale transmission rate on or after the date this Order is signed.
4. The Commission admits into evidence the amended recommendation in support of the agreement filed by Commission Staff on May 18, 2018.
5. Entry of this Order does not indicate the Commission's endorsement or approval of any principle or methodology that may underlie the agreement and shall not be regarded as a binding holding or precedent as to the appropriateness of any principle or methodology underlying the agreement.
6. Upon approval by the Federal Energy Regulatory Commission (FERC), AEP Texas shall file at the Commission a clean record copy of Attachment K to the FERC AEP Open Access Transmission Tariff with the appropriate effective date, stamped Approved.
7. All other motions and any other requests for general or specific relief, if not expressly granted in this Order, are denied.



Signed at Austin, Texas the 20<sup>th</sup> day of June 2018.

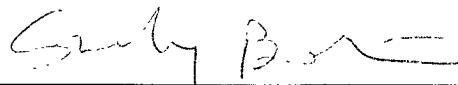
PUBLIC UTILITY COMMISSION OF TEXAS



DEANN T. WALKER, CHAIRMAN



ARTHUR C. D'ANDREA, COMMISSIONER



SHELLY BOTKIN, COMMISSIONER