



Control Number: 48371



Item Number: 141

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PUBLIC UTILITY COMMISSION
CLERK

OPEN MEETING COVER SHEET

MEETING DATE: June 28, 2018

DATE DELIVERED: June 21, 2018

AGENDA ITEM NO.: 5

CAPTION: Docket No. 48371; SOAH Docket No. 473-18-3733 -
Application of Entergy Texas, Inc. for
Authority to Change Rates

ACTION REQUESTED: Discussion and possible action with respect
to the Draft Preliminary Order.

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DeAnn T. Walker
Chairman

Arthur C. D'Andrea
Commissioner

Shelly Botkin
Commissioner

John Paul Urban
Executive Director



Greg Abbott
Governor

Public Utility Commission of Texas

TO: Chairman DeAnn T. Walker
Commissioner Arthur C. D'Andrea
Commissioner Shelly Botkin

All Parties of Record

FROM: Petrus Wassdorf
Commission Advising

RE: *Application of Entergy Texas, Inc. for Authority to Change Rates*. Docket
No. 48371. SOAH Docket No. 473-18-3733. Draft Preliminary Order. June 28,
2018 Open Meeting. Item No. 5.

DATE: June 21, 2018

Please find enclosed the draft preliminary order filed by Commission Advising in the above-referenced docket. The Commission will consider this draft preliminary order at the June 28, 2018 open meeting. Parties shall not file responses or comments addressing this draft preliminary order.

Any modifications to the draft preliminary order that are proposed by one or more Commissioners will be filed simultaneously prior to the consideration of the matter at the June 28, 2018 open meeting.

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**PUC DOCKET NO. 48371
SOAH DOCKET NO. 473-18-3733**

**APPLICATION OF ENTERGY TEXAS, § PUBLIC UTILITY COMMISSION
INC. FOR AUTHORITY TO CHANGE §
RATES § OF TEXAS**

DRAFT PRELIMINARY ORDER

Entergy Texas, Inc. (ETI) filed an application to change rates. This preliminary order identifies the issues that must be addressed in this proceeding.

ETI is seeking an increase of \$16,689,590 in annual transmission and distribution revenues, which is 1.84%¹ over ETI's revenues approved by the Commission in Docket No. 41791,² based on a test year ending December 31, 2017.³ In its application, ETI requests a total rate base of \$2,571,695,327.⁴ ETI proposes a debt-to-equity ratio of 49.3% debt and 50.7% equity,⁵ with a requested return on equity of 10.65%, and a weighted average cost of capital of 8.23%.⁶

In addition, ETI proposes to implement two new riders. The first rider is designed to pass through certain charges and credits under wholesale tariffs approved by the Federal Energy Regulatory Commission.⁷ The second rider would return to customers the estimated excess accumulated deferred federal income tax expense resulting from the enactment of the Tax Cuts and Jobs Act of 2017.⁸ ETI also requests a good cause exception to recover post-test-year adjustments that do not meet the 10% threshold required by 16 Texas Administrative Code (TAC) § 25.231(c)(2)(F).⁹

¹ Application at 15.

² *Application of Entergy Texas, Inc. for Authority to Change Rates and Reconcile Fuel Costs*, Docket No. 41791, Order (May 16, 2014).

³ Application at 1.

⁴ Application at Schedule B-1, Total Company Rate Base and Return.

⁵ Application at 212, Direct Testimony of Ellen Lapson at 33.

⁶ Application at 8.

⁷ Application at 10.

⁸ Application at 10.

⁹ Application at 9.

ETI filed its application for authority to change rates on May 15, 2018. The proceeding was referred to the State Office of Administrative Hearings (SOAH) on May 16, 2018. Texas Industrial Energy Consumers (TIEC), the Office of Public Utility Counsel (OPUC), the Cities of Anahuac, Beaumont, Bridge City, Cleveland, Conroe, Dayton, Groves, Houston, Huntsville, Liberty, Montgomery, Navasota, Nederland, Oak Ridge North, Orange, Pinehurst, Port Arthur, Port Neches, Roman Forest, Shenandoah, Splendor, Sour Lake, Vidor, and West Orange (Cities) intervened in this proceeding.

ETI was directed and Commission Staff and other interested persons were allowed to file a list of issues to be addressed in the docket and also identify any issues not to be addressed and any threshold legal or policy issues that should be addressed by June 6, 2018. ETI, OPUC, and Commission Staff timely filed a list of issues. Additionally, Commission Staff, TIEC, OPUC, and the Cities jointly identified two proposed threshold issues.

I. Issues to be Addressed

The Commission must provide to the administrative law judge (ALJ) a list of issues or areas to be addressed in any proceeding referred to SOAH.¹⁰ After reviewing the pleadings submitted by the parties, the Commission identifies the following issues that must be addressed in this docket:

1. Did ETI comply with the form and instructions for the Commission's rate-filing package?
2. Is ETI's application administratively complete?
3. Did ETI provide notice that was adequate and consistent with the requirements of PURA §§ 36.102 and 36.103?
4. What revenue requirement will give the utility a reasonable opportunity to earn a reasonable return on its invested capital used and useful in providing service to the public in excess of its reasonable and necessary operating expenses?
5. What is the reasonable and necessary cost of providing electric service calculated in accordance with PURA and Commission rules?

¹⁰ Tex. Gov't Code Ann. § 2003.049(e) (West 2016).

Invested capital – rate base and return

6. What is the appropriate debt-to-equity capital structure for the utility?
7. What is the appropriate overall rate of return, return on equity, and cost of debt for the utility? When answering this issue, please address how the factors specified in PURA § 36.052 and 16 TAC § 25.231(c)(1) should impact the utility's rate of return.
8. What are the reasonable and necessary components of the utility's rate base?
9. What is the original cost of the property used and useful in providing service to the public at the time the property was dedicated to public use? What is the amount, if any, of accumulated depreciation on that property?
10. What amount, if any, of the utility's invested capital has not previously been subject to a prudence review by the Commission? If there are any such amounts, what are the amounts, for what facilities, property, or equipment was the investment made, and were the amounts prudently incurred? What amount, if any, of allowance for funds used during construction (AFUDC) is being transferred to invested capital in this proceeding? If AFUDC is being transferred, for what facilities and at what rate was the AFUDC accrued?
11. Did any of the utility's invested capital arise from payments made to an affiliate? If so, for each item or class of items, does the payment conform to the requirements in PURA § 36.058?
12. Is the utility seeking the inclusion of construction work in progress? If so,
 - a. what is the amount sought and for what facilities; and
 - b. has the utility proven that the inclusion is necessary to the financial integrity of the electric utility and that major projects under construction have been efficiently and prudently planned and managed; or
 - c. for transmission investment required by the Commission under PURA § 39.203(e), do conditions warrant the inclusion of construction work in progress for such transmission investment?
13. What is the reasonable and necessary cash working capital allowance for the utility calculated in accordance with Commission rules?

- a. Does the utility's lead-lag study for its proposed allowance for cash working capital comply with Commission rules?
 - b. If not, should cash working capital be set at a negative one-eighth of operations and maintenance expenses?
14. Does the utility have a self-insurance plan approved by the Commission? If so, what is the approved target amount for the reserve account and is it appropriate to change that amount? In addition, what is the amount, if any, of any shortage or surplus for the reserve account for the approved plan and what actions, if any, should be taken to return the reserve account to the approved target amount?
15. What is the reasonable and necessary amount, if any, of the utility's accumulated reserve for deferred federal income taxes, unamortized investment tax credits, contingency reserves, property insurance reserves, contributions in aid of construction, customer deposits, and other sources of cost-free capital? What other items, if any, should be deducted from the utility's rate base?
16. What regulatory assets, if any, are appropriately included in rate base? If included, what is the appropriate treatment of such regulatory assets?
17. What regulatory liabilities, if any, are appropriately included in rate base? If included, what is the appropriate treatment of such regulatory liabilities?
18. What post-test-year adjustments for known and measurable rate-base changes to historical test year data, if any, should be made in compliance with the requirements of 16 TAC § 25.231(c)(2)(F)?
 - a. Does each addition comprise at least 10% of the electric utility's requested rate base, exclusive of post-test-year adjustments and construction work in progress?
 - b. Will each plant addition be in service before the rate year begins?
 - c. Have the attendant impacts on all aspects of the utility's operations (including but not limited to, revenue, expenses and invested capital) been identified, quantified, and matched?

- d. For any post-test-year adjustments, what future filings, if any, should the utility be required to make to verify that the plant was placed in service before the rate year begins?
19. Should ETI be allowed to recover the remaining unrecovered capital costs associated with the Spindletop facility? If so, how should these costs be recovered?

Expenses

20. What are the utility's reasonable and necessary operations and maintenance expenses?
21. What are the reasonable and necessary administrative and general expenses?
22. What are the utility's reasonable and necessary rate-case expenses in accordance with PURA § 36.061(b)(2) and 16 TAC § 25.245? Does this amount include any anticipated expenses to appeal this docket or a prior rate-case proceeding?
23. What are the intervening cities' reasonable and necessary rate-case expenses in accordance with PURA § 33.023(b) and 16 TAC § 25.245? Does this amount include any anticipated expenses to appeal this docket?
24. What is the reasonable and necessary depreciation expense? For each class of property, what are the proper and adequate rates and methods for depreciation, including service lives and salvage value?
25. What is the reasonable and necessary amount for assessments and taxes, other than federal income taxes?
26. What is the reasonable and necessary amount for municipal franchise fees? What is the appropriate amount to be included in base rates?
27. What is the reasonable and necessary amount for the utility's federal income tax expense?
28. Is ETI's proposed treatment of federal income taxes consistent with PURA, the Commission's substantive rules, and the Commission's amended order in Docket No. 47945?¹¹

¹¹ *Proceeding to Investigate and Address the Effects of Tax Cuts and Jobs Act of 2017 on the Rates of Texas Investor-Owned Utility Companies*, Amended Order Related to Changes in Federal Income Tax Rates, Project No. 47945 (Feb 15, 2018).

- a. Has ETI appropriately addressed the impact of the Tax Cuts and Jobs Act of 2017 on its rates?
 - b. Should ETI return to customers any excess revenue collected due to the reduction in the corporate federal income tax rate from 35% to 21% from January 25, 2018 through the date final rates are set in this proceeding? If yes, what is the applicable interest rate that should apply to the over-collection of excess revenues?
29. Should the Commission approve ETI's proposed Tax Cuts and Jobs Act rider? If not, how should ETI's excess accumulated deferred federal income tax be flowed back to ratepayers?
30. Are there any tax savings derived from liberalized depreciation and amortization, investment tax credits, or similar methods? If so, are they apportioned equitably between consumers and the utility, and are the interests of present and future customers equitably balanced as required by PURA § 36.059?
31. What is the reasonable and necessary amount for the utility's advertising expense, contributions, and donations?
32. What is the reasonable and necessary amount for nuclear decommissioning expenses, if any, calculated in accordance with Commission rules?
33. Is the utility seeking approval of a self-insurance plan or changes to an existing plan? If so,
- a. Is the coverage provided by the plan in the public interest?
 - b. Does the plan provide a lower-cost alternative to purchasing commercial insurance? Will ratepayers receive the benefits of the savings?
 - c. What is the reasonable and necessary target amount for the utility's self-insurance reserve account?
 - d. What is the reasonable and necessary amount of annual accruals to properly fund the self-insurance reserve account?

34. What are the reasonable and necessary post-retirement benefits, if any, calculated in accordance with PURA § 36.065 and 16 TAC § 25.231(b)(1)(H)? What is the reasonable baseline level of pension and other post-employment benefits for the purposes of the expense tracker under PURA § 36.065
- a.. Has ETI established under PURA § 36.065(b) any reserve accounts for pension and other post-employment benefits?
 - b. If so, has ETI recorded the proper amounts in the reserve account?
 - c. Are the amounts recorded in the reserve account reasonable expenses? PURA § 36.065(d)(1).
 - d. Does the reserve account have a surplus or shortage? PURA §§ 36.065(c) and (d)(2).
 - e. If so, how should ETI's rate base be modified to amortize, over a reasonable time, any surplus or shortage in the reserve account? PURA § 36.065(d)(3).
35. Has the utility made any payments for expenses to affiliates? If so, for each item or class of items,
- a. Are costs appropriately assigned to the utility and its affiliates?
 - b. Has the utility met the standard of recovery of affiliate costs under PURA § 36.058 and Commission rules?
36. Are any expenditures unreasonable, unnecessary, or not in the public interest, including but not limited to executive salaries, advertising expenses, legal expenses, penalties and interest on overdue taxes, criminal penalties or fines, and civil penalties or fines?
37. Does ETI have any competitive affiliates, as defined by 16 TAC § 25.272(c)(2)? If so, has ETI conducted any transactions with its competitive affiliates? If so, what are these transactions, have all transactions with any competitive affiliates been conducted at arm's length, and has ETI met all of the requirements of 16 TAC § 25.272 regarding such transactions? If not, what amount of expenses should be disallowed?
38. What post-test-year adjustments for known and measurable changes to historical test-year data for expenses, if any, should be made? For any such adjustments, have all the attendant

- impacts on all aspects of a utility's operations (including but not limited to, revenue, expenses and invested capital) been identified with reasonable certainty, quantified and matched?
39. What are the appropriate amounts, if any, for transmission expenses and revenues under FERC'-approved tariffs to be recovered?
40. What amount of expenses, if any, related to analyzing and planning for a transition to a regional transmission organization is included in ETI's requested cost of service? If an amount is included, is ETI proposing to recover those costs? If so, should such expenses be recovered in ETI's base rates?
41. Has ETI made any adjustments for costs related to analyzing and planning for a transition to a regional transmission organization incurred outside of the test year, and if so, what is the amount and how is ETI proposing to recover such costs?
42. What are the baseline values that should be used for calculating ETI's future purchased capacity cost recovery factor, transmission cost recovery factor, and distribution cost recovery factor, if any such factor is sought?
43. Has ETI incurred any expenses or received any revenues as a result of ETI's exit of the Entergy system agreement or ETI's efforts to exit the Entergy system agreement? If so, have these expenses or revenues already been addressed in a prior rate proceeding? If not, how should these expenses or revenues be reflected in ETI's rates?

Deferred Costs

44. Is ETI seeking to include in rates any costs previously deferred by an order of the Commission? If so, in what docket did the Commission approve deferral of the costs? Is inclusion of such deferred costs in rates necessary to carry out a provision of PURA? What is the appropriate standard by which to make this determination, and is the proposed assignment and allocation of that recovery appropriate?
45. Is ETI seeking to defer any costs, including any rate-case expenses, in this proceeding for recovery in a future proceeding? If so, what is the amount of such costs, and why were those costs incurred (or why will they be incurred)? Is deferral of those costs necessary to

carry out a provision of PURA? If not, why is it necessary to defer these costs? What are the appropriate standards to make these determinations?

Rate Design and Tariffs

46. What are the just and reasonable rates calculated in accordance with PURA and Commission rules? Do the rates comport with the requirements in PURA § 36.003?
47. What are the appropriate rate classes for which rates should be determined? Is ETI proposing any new rate classes? If so, why are these rate classes needed?
48. What are the appropriate billing and usage data for the utility's test year? What known and measurable changes, if any, should be used to adjust the test year data? What changes, if any, are necessary to reflect abnormal weather conditions?
49. What is the just and reasonable amount of expenses and invested capital properly allocable to ETI's end-use customers in Texas, i.e., what is the appropriate state jurisdictional allocation?
50. What are the appropriate allocations of the utility's revenue requirement to jurisdictions, functions, and rate classes?
 - a. Does ETI have any customer-specific contracts for the provision of transmission or distribution service? If so, identify each customer, and state whether the contract has been presented to the Commission for approval, and if so, in what docket. In addition, has ETI appropriately allocated revenues and related costs associated with such contracts? Do all allocation factors properly reflect the types of costs allocated?
 - b. What are the appropriate allocations of ETI's transmission investment, expenses, and revenues, including transmission expenses and revenues under FERC-approved tariffs, among jurisdictions?
 - c. Does ETI have any FERC-approved tariffs? If so, identify each tariff and the FERC docket in which the tariff was approved. What are the appropriate allocations of ETI's transmission investment, expenses, and revenues, including transmission

expenses and revenues under those tariffs? Has ETI made appropriate allocations for import to and exports from ERCOT?

51. Does ETI provide wholesale transmission service at distribution voltage to any customers? If so, has ETI properly allocated costs to, and designed rates for, those customers as required under PURA § 35.004(c)?
52. Are all rate classes at unity? If not, what if anything, should be done to address the lack of unity?
53. What tariff provisions are appropriate as a result of this proceeding?
54. Does the utility have any existing rate riders that should be modified or terminated? What regulatory assets or other items are currently being recovered through rate riders?
55. Should the Commission approve ETI's request for a proposed Federal Energy Regulatory Commission-established revenue and cost rider?
56. Should the Commission approve ETI's requested post-test-year adjustments for new transmission and distribution facilities that will be placed into service by ETI on or before June 30, 2018?
57. What tariff revisions are appropriate as a result of this proceeding?

Additional Issues

58. Has ETI requested any exceptions to any requirements in any Commission rules? If so, what are those rule requirements, and has ETI demonstrated good cause for the exception? Should the Commission grant the exception?
59. Should the Commission approve ETI's requests for waivers of requirements, if any, in the Commission's rate-filing package?
60. Has ETI complied with the Commission's final order in Docket No. 41791?

This list of issues is not intended to be exhaustive. The parties and the ALJ are free to raise and address any issues relevant in this docket that they deem necessary, subject to any limitations imposed by the ALJ, or by the Commission in future orders issued in this docket. The Commission

may identify and provide to the ALJ in the future any additional issues or areas that must be addressed, as permitted under Texas Government Code § 2003.049(e).

II. Effect of Preliminary Order

This order is preliminary in nature and is entered without prejudice to any party expressing views contrary to this order before the SOAH ALJ at hearing. The SOAH ALJ, upon his or her own motion or upon the motion of any party, may deviate from this order when circumstances dictate that it is reasonable to do so. Any ruling by the SOAH ALJ that deviates from this order may be appealed to the Commission. The Commission will not address whether this order should be modified except upon its own motion or the appeal of a SOAH ALJ's order. Furthermore, this order is not subject to motions for rehearing or reconsideration.

Signed at Austin, Texas the _____ day of June 2018.

PUBLIC UTILITY COMMISSION OF TEXAS

DEANN T. WALKER, CHAIRMAN

ARTHUR C. D'ANDREA, COMMISSIONER

SHELLY BOTKIN, COMMISSIONER