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SOAH DOCKET NO. 473-19-3864
PUC DOCKET NO. 49421

2019 JUN -7 PM 3:01

FILING CLERK

APPLICATION OF CENTERPOINT ENERGY HOUSTON ELECTRIC, LLC FOR AUTHORITY TO CHANGE RATES	§ § § §	BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS

WORKPAPERS TO THE

DIRECT TESTIMONY OF BILLIE S. LACONTE

ON BEHALF OF
TEXAS INDUSTRIAL ENERGY CONSUMERS

June 7, 2019

4102

PROJECT NO. 47945

RECEIVED

2018 JAN 25 PM 4:31

PUBLIC UTILITY COMMISSION
FILING CLERK

PROCEEDING TO INVESTIGATE AND ADDRESS THE EFFECTS OF TAX CUTS AND JOBS ACT OF 2017 ON THE RATES OF TEXAS INVESTOR-OWNED UTILITY COMPANIES	§ § § § §	**PUBLIC UTILITY COMMISSION OF TEXAS**

ORDER
RELATED TO CHANGES IN FEDERAL INCOME TAX RATES

This Order addresses the change in the federal income tax rates on electric, telecommunications, and water and sewer investor-owned utilities in the State of Texas. Late last year, an act was passed that, in part, amends the Internal Revenue Code[1] 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.[2]

Through this Order, the Commission takes the first steps to reflect this lower tax rate in the utility bills of Texas customers. The Commission directs the Commission Staff to review each investor-owned utility in Texas, with input from interested stakeholders, on a case-by-case basis to determine the appropriate mechanism to adjust its rates to reflect the changes under the newly enacted federal tax law.

Until a rate change may be approved to adjust charges to Texas customers, the Commission issues this accounting order under its statutory authority to preserve any changes in the federal income tax expense charged by utilities until rates can be changed.[3] The Commission requires each electric, telecommunication, and class A water and sewer investor-owned utility, except as later stated in this Order, to record as a regulatory liability the following: (1) the difference between the revenues collected under existing rates and the revenues that would have been collected had the existing rates been set using the recently approved federal income tax rates; and, (2) the balance of excess accumulated deferred federal income taxes (ADFIT) that now exists

[1] Internal Revenue Code, 26 U.S.C.A. § 61 (West 2011 and Supp. 2014).

[2] 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).

[3] 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)

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because of the decrease in the federal income tax rate from 35% to 21%. In addition, each utility must accrue, from the date of this Order, carrying charges calculated at the company's weighted-average cost of capital on the balance of the difference in revenues collected and the balance of excess ADFIT as calculated above, with the accrual of carrying charges continuing during the time period over which the liability is amortized through rates. However, to the extent that a company can demonstrate that carrying charges on excess ADFIT balances are already reflected in rates as a result of such balances being used as an offset to the company's rate base, the calculation of carrying charges on those amounts of the excess ADFIT balance may not be required.

The requirement in the Order to create a regulatory liability does not apply to Oncor Electric Delivery Company LLC, El Paso Electric Company, or Southwestern Electric Power Company, except as provided in this paragraph. These three utilities have previously been ordered by the Commission to establish a regulatory liability tracking the difference in the amount of federal income tax collected in current rates, and the amount of federal income tax calculated under the new federal income tax rates. Accordingly, these three utilities shall record the balance of excess ADFIT as a regulatory liability.

In addition, in reviewing the rates of water and sewer utilities, the Commission Staff should first focus on class A and the larger class B utilities. The Commission Staff should then take a sample of the class C and smaller class B utilities to determine the effect of the new tax law, and report the findings back to the Commission.

In accordance with the discussion in the Order, the Commission orders the following:

1. Each investor-owned electric, telecommunications, and class A water and sewer utility in the State of Texas, for which the Commission has jurisdiction, shall, starting the date this Order is signed, record as a regulatory liability the following: (1) the difference between the revenues collected under existing rates and the revenues that would have been collected had the existing rates been set using the recently approved federal income tax rates; and, (2) the balance of excess accumulated deferred federal income taxes (ADFIT) that now exists because of the decrease in the federal income tax rate from 35% to 21%. In addition, each utility must accrue carrying charges calculated at the company's weighted-average cost of capital on the balance of the difference in revenues collected and the balance of excess ADFIT as calculated above, with the accrual of carrying charges continuing during

APPLICATION OF CENTERPOINT	**§**	**PUBLIC UTILITY COMMISSION**
ENERGY HOUSTON ELECTRIC, LLC	**§**	
FOR AUTHORITY TO CHANGE RATES	**§**	**OF TEXAS**

DIRECT TESTIMONY

OF

CHARLES W. PRINGLE

ON BEHALF OF

CENTERPOINT ENERGY HOUSTON ELECTRIC, LLC

April 2019

the 2018 estimated ARAM for protected EDIT that has not yet been refunded to customers. Because this $18.7 million has not yet been refunded to customers and is available to be refunded, it is being included with the other unprotected EDIT balances. My testimony later explains how the Company is proposing to refund to customers all remaining unprotected EDIT.

Q. IS THE COMPANY CURRENTLY REFUNDING ANY UNPROTECTED EDIT?

A. Yes. The Company is annually returning $5.1 million of unprotected transmission plant related EDIT (grossed-up to a regulatory liability of $6.5 million).[8] In addition, the Company is returning unprotected distribution plant related EDIT of $15.7 million, which grossed up and net of return equals $19.2 million annually.[9] Through the end of 2018, the Company has refunded $8.4 million of unprotected EDIT through these mechanisms. These refunds will continue until new rates go into effect.

Q. WHAT ARE THE COMPANY'S EDIT AND ASSOCIATED REGULATORY LIABILITY BALANCES DUE TO THE TCJA?

A. The Company's TCJA-related EDIT and associated regulatory liability balances at the end of the test year are shown in the table below, and can be seen on WP/II-B-11d of the RFP.

[8] Docket No. 48065, Final Order (Apr. 27, 2018).
[9] Docket No. 48226, Final Order at Finding of Fact 33 (Aug. 30, 2018).

$ in Millions	EDIT 12/31/2018	Regulatory Asset/(Liability) 12/31/2018
Protected	$562.5	($718.5)
Unprotected PP&E	$100.8	($128.5)
Unprotected Other	($17.2)	$23.1
Total	$646.1	($823.9)

Q. ARE THE AMOUNTS OF THE EDIT REGULATORY ASSETS AND LIABILITIES RECORDED AT YEAR-END 2018 SUBJECT TO CHANGE?

A. Yes. Future events such as IRS audit adjustments to the Company's previously-filed income tax returns, future IRS rulings and/or clarifications to normalization rules could change the recorded balance. The change could be to the total EDIT balance or could result in movement of a balance between the protected and unprotected balances. If such a change occurred, it would be necessary to track the change and true-up any future refunds to the revised balances.

Q. HOW IS THE COMPANY PROPOSING TO RETURN THE REMAINING UNPROTECTED EDIT REGULATORY LIABILITY?

A. The Company is proposing to return the remaining net unprotected EDIT to ratepayers outside of base rates through a separate tariff ("Rider UEDIT").

Q. WHAT UNPROTECTED EDIT REGULATORY LIABILITY AMOUNTS ARE INCLUDED IN THE PROPOSED RIDER UEDIT?

A. As shown on WP/II-B-11d of the RFP, the unprotected EDIT regulatory liability amounts included in Rider UEDIT are as follows:

- 2018 unprotected EDIT regulatory asset and liability balances – These balances are the EDIT balances shown on Schedule II-E-3.18 grossed-up to the regulatory asset and liability balances. The net amount of the unprotected EDIT regulatory liability at December 31, 2018, is $105.4 million. This balance includes the 2018 estimated protected ARAM discussed in more detail immediately below.

- 2018 estimated protected ARAM – The 2018 estimated protected ARAM amount as of December 31, 2018, was reclassified as unprotected. Because the Company has not yet filed a 2018 federal income tax return, this amount is an estimate.

- Deferred tax assets on the net EDIT regulatory liability of $21.9 million.

- True up adjustments – Any required true-up to actual amounts will be reflected when known. Those adjustments include the following:

  - TCOS and DCRF refunds after December 31, 2018 – As discussed earlier in my testimony, the net unprotected EDIT liability will decrease as the Company returns amounts to customers through the TCOS and DCRF until new base rates are established in this proceeding.

  - Estimated protected ARAM after December 31, 2018 – As discussed earlier in my testimony, the 2018 estimated protected ARAM amount was reclassified as unprotected. Similarly, any estimated protected ARAM amount after December 31, 2018, will be reclassified as unprotected.

  - Federal Income Tax Returns – Filing of the 2018 and 2019 federal income tax returns could result in differences between estimated and actual ARAM amounts.

  - TCJA Clarifications – As the Department of the Treasury and the IRS provide more guidance related to the TCJA, adjustments to protected and unprotected EDIT balances may be required.

  - Audit Adjustments – Adjustments to prior period tax returns as the result of IRS audits could change the amount of available EDIT.

V. FEDERAL INCOME TAXES

A. Schedule II-B: Rate Base

Q. WHAT TAX RELATED ITEMS ARE INCLUDED ON SCHEDULE II-B-7 (RATE BASE ACCOUNTS - ACCUMULATED PROVISIONS)?

CENTERPOINT ENERGY HOUSTON ELECTRIC, LLC
2019 CEHE RATE CASE
DOCKET 49421-SOAH DOCKET NO. 473-19-3864

GULF COAST COALITION OF CITIES
REQUEST NO.: GCCC01-06

QUESTION:

Refer to the calculation of the annual revenue requirement for the proposed Rider UEDIT labeled as "Schedule Rider UEDIT" sponsored by Ms. Colvin and the related WP/WP Rider UEDIT, which shows the regulatory liability balances with the income tax gross-up and the removal of the income tax gross-up to calculate the negative amortization expense without the income tax gross-up.

a. Confirm that this calculation reflects a negative amortization expense equal to the three-year straight-line amortization of the EDIT regulatory liability after removing the income tax gross-up.
b. Explain why the Company did not include the income tax gross-up to calculate the revenue requirement resulting from the negative amortization expense. If the Company believes that its calculation is correct then provide a copy of all authoritative support for this position. In addition, provide a copy of all internal correspondence and external correspondence wherein this issue was addressed. Further, identify the person and position of the decision-maker who decided not to include the income tax gross-up.
c. If, upon further review, the Company now believes that the negative amortization expense should be grossed-up to calculate the revenue requirement, then provide a corrected Schedule Rider UEDIT.

ANSWER:

a. The income tax gross-up was not included in the calculation
b. The Company had inadvertently excluded the income tax gross-up
c. Please see GCCC01-06 Attachment 1 for the corrected Schedule Rider UEDIT.

SPONSOR (PREPARER):
Kristie Colvin / Charles Pringle (Kristie Colvin / Charles Pringle)

RESPONSIVE DOCUMENTS:
GCCC01-06 Attachment 1.xlsx

CenterPoint Energy Houston Electric, LLC
Unprotected Excess Deferred Income Taxes (EDIT) Rider Calculation
Corrected

							In Thousands				
Line No.	Description	December 31, 2018 Regulatory Asset (Liability) Balance	Year 1	Year 2	Year 3	Total	Regulatory Asset (Liability) Balance	Year 1	Year 2	Year 3	Total
1	Rate Base Balances at End of Period										
2	Unprotected EDIT Liberalized Depreciation	$ (23,795,720)	$ (15,863,813)	$ (7,931,906)	$ 1		$ (23,796)	$ (15,864)	$ (7,932)	$ 0	
3	Unprotected EDIT PP&E	(104,733,844)	(69,822,563)	(34,911,282)	(1)		(104,734)	(69,823)	(34,911)	$ (0)	
4	Unprotected EDIT Other	23,080,495	15,386,997	7,693,499	1		23,080	15,387	7,693	$ 0	
5	Deferred Tax Asset on Unprotected EDIT Liberalized Depreciation	5,136,493	3,424,329	1,712,165	1		5,136	3,424	1,712	$ 0	
6	Deferred Tax Asset on Unprotected EDIT PP&E	22,607,622	15,071,748	7,535,874	-		22,608	15,072	7,536	$ -	
7	Deferred Tax Liability on Unprotected EDIT Other	(5,858,036)	(3,905,358)	(1,952,679)	-		(5,858)	(3,905)	(1,953)	$ -	
8	Net Period End Rate Base	$ (83,562,990)	$ (55,708,660)	$ (27,854,329)	$ 2		$ (83,563)	$ (55,709)	$ (27,854)	$ 0	
9											
10	Rate Base Balances at End of Period - Adjusted Balances	$ (99,780,818)	(66,520,545)	(33,260,272)	1		$ (99,781)	$ (66,521)	$ (33,260)	$ 0	
11											
12	Average Rate Base - Based on Adjusted Balances		$ (83,150,681)	$ (49,890,409)	$ (16,630,136)			$ (83,151)	$ (49,890)	$ (16,630)	
13	Pre-Tax Rate of Return	8 7721%	8 7721%	8 7721%	8 7721%		8 7721%	8.7721%	8.7721%	8 7721%	
14	Impact of Change to Rate Base on Revenue Requirement		$ (7,294,061)	$ (4,376,437)	$ (1,458,812)			$ (7,294)	$ (4,376)	$ (1,459)	
15	Cumulative Impact of Change to Rate Base on Revenue Requirement		$ (7,294,061)	$ (11,670,498)	$ (13,129,310)	$ (13,129,310)		$ (7,294)	$ (11,670)	$ (13,129)	$ (13,129)
16											
17	Impact on Expense										
18	Unprotected EDIT Liberalized Depreciation Amortization		$ (7,931,907)	$ (7,931,907)	$ (7,931,907)	$ (23,795,720)		$ (7,932)	$ (7,932)	$ (7,932)	$ (23,796)
19	Unprotected EDIT PP&E Amortization		$ (34,911,281)	$ (34,911,281)	$ (34,911,281)	(104,733,844)		$ (34,911)	$ (34,911)	$ (34,911)	(104,734)
20	Unprotected EDIT Other Amortization		$ 7,693,498	$ 7,693,498	$ 7,693,498	23,080,495		$ 7,693	$ 7,693	$ 7,693	23,080
21	Total Amortization of Unprotected EDIT	$ (105,449,069)	$ (35,149,690)	$ (35,149,690)	$ (35,149,690)	$ (105,449,069)	$ (105,449)	$ (35,150)	$ (35,150)	$ (35,150)	$ (105,449)
22											
23	Weighted Cost of Debt		2.1898%	2 1898%	2 1898%			2 1898%	2 1898%	2.1898%	
24	Interest Expense (Net Change to Rate Base x Weighted Cost of Debt)		$ 609,954	$ 609,954	$ 609,954			$ 610	$ 610	$ 610	
25	Federal Tax Rate	21%	21%	21%	21%			21%	21%	21%	
26	Tax Credit (Expense) due to Interest Expense		$ (128,090)	$ (128,090)	$ (128,090)	$ (384,270)		$ (128)	$ (128)	$ (128)	$ (384)
27											
28	Total Impact on Expenses		(35,277,780)	(35,277,780)	(35,277,780)			(35,278)	(35,278)	(35,278)	
29											
30	Impact to Base Rate Revenues		$ (42,571,841)	$ (39,654,217)	$ (36,736,592)	$ (118,962,649)		$ (42,572)	$ (39,654)	$ (36,737)	$ (118,962)
31											
32	True-up Adjustments - Impact of the following										
33	+ TCOS and DCRF refunds (until base rates are implemented)										
34	- Unprotected ARAM (until base rates are implemented)										
35	+/- Federal Income Tax Returns										
36	+/- TCJA Clarifications										
37	+/- Audit adjustments										
38	Total True-up Adjustments		$ -	$ -	$ -			$ -	$ -	$ -	
39											
40	**Total Impact to Base Rate Revenues**	$ (118,962,649)	$ (42,571,841)	$ (39,654,217)	$ (36,736,592)		$ (118,962)	$ (42,572)	$ (39,654)	$ (36,737)	

PUBLIC UTILITY COMMISSION OF TEXAS
CENTERPOINT ENERGY HOUSTON ELECTRIC, LLC
II-E-3.19 ANALYSIS OF EXCESS DEFERRED TAXES BY TIMING DIFFERENCE
TEST YEAR ENDED 12/31/2018
DOCKET NUMBER PENDING ASSIGNMENT
SPONSOR: C. PRINGLE

INDEX

(THOUSANDS OF DOLLARS)

Line No	FERC Account	Description	Schedule Reference	1 Balance at Test Year Beginning	2 Test Year Amortization As Adjusted	3 Balance at Test Year End	4 Rate Base Adjustment	5 Rate Base EDIT
1		**Protected excess deferred taxes**						
2		Liberalized depreciation	II-E-3 18	(582,756)	18,659	(564,097)	-	(564,097)
3								
4		**Total Protected Excess Deferred Taxes**		**(582,756)**	**18,659**	**(564,097)**	**-**	**(564,097)**
5								
6		**Unprotected excess deferred taxes**	II-E-3 18					
7		Liberalized depreciation (Unprotected)	II-E-3 18	-	(18,659)	(18,659)	18,659	-
8		PP&E (CIAC)	II-E-3 18	60,730	(5,904)	54,825	(54,825)	-
9		PP&E (Repairs and Maintenance)	II-E-3.18	(73,204)	7,117	(66,087)	66,087	-
10		PP&E (Casualty Loss)	II-E-3 18	(75,605)	7,351	(68,254)	68,254	-
11		PP&E (Developed Software)	II-E-3 18	(7,452)	725	(6,727)	6,727	-
12		PP&E (AFUDC Debt)	II-E-3 18	4,560	(443)	4,117	(4,117)	-
13								
14		**Total Unprotected Excess Deferred Taxes Related to PP&E**		**(90,971)**	**(9,814)**	**(100,785)**	**100,785**	**-**
15								
16		Partnership K-1 Income	II-E-3 18	2	-	2	(2)	-
17		Benefit Equalization & Saving Plan	II-E-3 18	24	-	24	(24)	-
18		Stock Options Exercised	II-E-3 18	634	-	634	(634)	-
19		Post-Retirement Benefits	II-E-3 18	16,607	-	16,607	(16,607)	-
20		Deferred Compensation Accrual	II-E-3 18	1,357	-	1,357	(1,357)	-
21		Injuries And Damages Accruals	II-E-3 18	1,792	-	1,792	(1,792)	-
22		Other Reserves (Environ Liab)	II-E-3 18	269	-	269	(269)	-
23		Accrued Bonuses	II-E-3 18	173	-	173	(173)	-
24		Debt Issuance Cost	II-E-3 18	16	-	16	(16)	-
25		Bad Debt Expense	II-E-3 18	164	-	164	(164)	-
26		Reg Asset - Bad Debt	II-E-3 18	(72)	-	(72)	72	-
27		Reg Asset - Stranded Costs	II-E-3 18	(409)	-	(409)	409	-
28		Reg Asset - Other	II-E-3 18	(542)	-	(542)	542	-
29		Reg Asset - Amortization	II-E-3 18	(18,053)	-	(18,053)	18,053	-
30		Reg Asset - Pension	II-E-3 18	3,273	-	3,273	(3,273)	-
31		Regulatory Liabilities (Sales)	II-E-3 18	3,641	-	3,641	(3,641)	-
32		Regulatory Liabilities (Expense)	II-E-3 18	7,895	-	7,895	(7,895)	-
33		Charitable Contribution Carryover	II-E-3 18	452	-	452	(452)	-
34								
35		**Total Unprotected Excess Deferred Taxes - Other**		**17,222**	**-**	**17,222**	**(17,222)**	**-**
36								
37		**Total Excess Deferred Income Taxes**		**(656,504)**	**8,845**	**(647,660)**	**83,563**	**(564,097)**

PUBLIC UTILITY COMMISSION OF TEXAS
CENTERPOINT ENERGY HOUSTON ELECTRIC, LLC
II-E-3.19 ANALYSIS OF EXCESS DEFERRED TAXES BY TIMING DIFFERENCE
TEST YEAR ENDED 12/31/2018
DOCKET NUMBER PENDING ASSIGNMENT
SPONSOR: C. PRINGLE

INDEX

(THOUSANDS OF DOLLARS)

				6	7	8	9	10	11	12	13
Line No.	FERC * Account	Description	Schedule Reference	FF #	Functionalization Factor Name	Allocation to Texas	TRAN	DIST	MET	TDCS	Total
1		**Protected excess deferred taxes**									
2		Liberalized depreciation	II-E-3 18	21	GPLT	(564,097)	(179,461)	(360,823)	(17,082)	(6,731)	(564,097)
3											
4		**Total Protected Excess Deferred Taxes**				(564,097)	(179,461)	(360,823)	(17,082)	(6,731)	(564,097)
5											
6		**Unprotected excess deferred taxes**	II-E-3 18								
7		Liberalized depreciation (Unprotected)	II-E-3 18	1	DA	-	-	-	-	-	-
8		PP&E (CIAC)	II-E-3 18	1	DA	-	-	-	-	-	-
9		PP&E (Repairs and Maintenance)	II-E-3 18	1	DA	-	-	-	-	-	-
10		PP&E (Casualty Loss)	II-E-3 18	1	DA	-	-	-	-	-	-
11		PP&E (Developed Software)	II-E-3.18	1	DA	-	-	-	-	-	-
12		PP&E (AFUDC Debt)	II-E-3 18	1	DA	-	-	-	-	-	-
13											
14		**Total Unprotected Excess Deferred Taxes Related to PP&E**				-	-	-	-	-	-
15											
16		Partnership K-1 Income	II-E-3.18	1	DA	-	-	-	-	-	-
17		Benefit Equalization & Saving Plan	II-E-3.18	1	DA	-	-	-	-	-	-
18		Stock Options Exercised	II-E-3.18	1	DA	-	-	-	-	-	-
19		Post-Retirement Benefits	II-E-3.18	1	DA	-	-	-	-	-	-
20		Deferred Compensation Accrual	II-E-3.18	1	DA	-	-	-	-	-	-
21		Injuries And Damages Accruals	II-E-3 18	1	DA	-	-	-	-	-	-
22		Other Reserves (Environ Liab)	II-E-3 18	1	DA	-	-	-	-	-	-
23		Accrued Bonuses	II-E-3 18	1	DA	-	-	-	-	-	-
24		Debt Issuance Cost	II-E-3 18	1	DA	-	-	-	-	-	-
25		Bad Debt Expense	II-E-3 18	1	DA	-	-	-	-	-	-
26		Reg Asset - Bad Debt	II-E-3 18	1	DA	-	-	-	-	-	-
27		Reg Asset - Stranded Costs	II-E-3 18	1	DA	-	-	-	-	-	-
28		Reg Asset - Other	II-E-3 18	1	DA	-	-	-	-	-	-
29		Reg Asset - Amortization	II-E-3 18	1	DA	-	-	-	-	-	-
30		Reg Asset - Pension	II-E-3 18	1	DA	-	-	-	-	-	-
31		Regulatory Liabilities (Sales)	II-E-3 18	1	DA	-	-	-	-	-	-
32		Regulatory Liabilities (Expense)	II-E-3 18	1	DA	-	-	-	-	-	-
33		Charitable Contribution Carryover	II-E-3 18	1	DA	-	-	-	-	-	-
34											
35		**Total Unprotected Excess Deferred Taxes - Other**				-	-	-	-	-	-
36											
37		**Total Excess Deferred Income Taxes**				(564,097)	(179,461)	(360,823)	(17,082)	(6,731)	(564,097)

excess tax reserve no faster than it would be reduced under ARAM. It also allows for use of another alternative method if the utility does not have the data needed for ARAM. The Company has the data needed for ARAM, therefore, the alternative method is not applicable. For purposes of further discussion, I will refer to EDIT described under Section 13001(d) as protected EDIT.

Q. OVER WHAT PERIOD WILL THE PROTECTED EDIT AMORTIZE USING ARAM?

A. The protected EDIT amortization using ARAM will occur over the regulatory life of an asset. It will amortize no faster than the underlying book/tax timing difference reverses. The amortization of EDIT begins when book depreciation on an asset is greater than tax depreciation. The amortization amount will vary from year to year based on the depreciation reversals in each year.

Q. WHAT EDIT BALANCES ON THE COMPANY'S BOOKS ARE PROTECTED UNDER THE NORMALIZATION RULES?

A. The EDIT attributable to federal method/life depreciation differences are protected. There are other items protected in addition to federal method/life depreciation differences, however, the Company does not have any of the other categories of protected EDIT. In the Company's books and records, all other EDIT amounts are referred to as "unprotected" under the normalization rules.

Q. WHAT ARE THE CONSEQUENCES OF REFUNDING PROTECTED EDIT FASTER THAN ARAM?

A. The Company would have a normalization violation. Under the TCJA, the consequences of a normalization violation are twofold. First, and consistent with the historical rules under the TRA 86, the Company would be required to notify the IRS of such a violation, and it would permanently lose the ability to claim accelerated depreciation. The rules under the TCJA also call for a second penalty. The language in the TCJA states "If . . . the taxpayer does not use a normalized method of accounting . . . the taxpayer's tax for the taxable year shall be increased by the amount by which it reduces its excess tax reserve more rapidly than permitted under a normalized method of accounting . . . ."[6] Thus, if the normalization violation was caused by refunding the protected EDIT faster than allowed under ARAM, the Company would be required to pay an additional tax equal to the amount of the excess refunded.

Q. HAS THE COMPANY REFUNDED ANY OF THE PROTECTED EDIT FROM THE TCJA PRIOR TO THIS PROCEEDING?

A. No. In the Company's DCRF Docket No. 48226,[7] the Commission ordered that protected EDIT will be addressed in CenterPoint Houston's scheduled 2019 base rate proceeding or through a filing made by CenterPoint Houston on or before April 30, 2019, in the event a base rate case is not filed by that date. Schedule II-E-3.19 supports that no protected EDIT from the TCJA has been refunded prior to this proceeding.

Q. HOW IS THE AMORTIZATION OF THE PROTECTED FEDERAL EDIT REFLECTED IN THE CURRENT FILING?

A. The amortization of the protected EDIT is included as a reduction to income tax expense in the amount of $18.7 million as shown on Schedule II-E-3. This reflects

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[6] TCJA Section 13001(d).

[7] Docket No. 48226, Final Order at Finding of Fact 34 (Aug. 30, 2018).

the 2018 estimated ARAM for protected EDIT that has not yet been refunded to customers. Because this $18.7 million has not yet been refunded to customers and is available to be refunded, it is being included with the other unprotected EDIT balances. My testimony later explains how the Company is proposing to refund to customers all remaining unprotected EDIT.

Q. IS THE COMPANY CURRENTLY REFUNDING ANY UNPROTECTED EDIT?

A. Yes. The Company is annually returning $5.1 million of unprotected transmission plant related EDIT (grossed-up to a regulatory liability of $6.5 million).[8] In addition, the Company is returning unprotected distribution plant related EDIT of $15.7 million, which grossed up and net of return equals $19.2 million annually.[9] Through the end of 2018, the Company has refunded $8.4 million of unprotected EDIT through these mechanisms. These refunds will continue until new rates go into effect.

Q. WHAT ARE THE COMPANY'S EDIT AND ASSOCIATED REGULATORY LIABILITY BALANCES DUE TO THE TCJA?

A. The Company's TCJA-related EDIT and associated regulatory liability balances at the end of the test year are shown in the table below, and can be seen on WP/II-B-11d of the RFP.

[8] Docket No. 48065, Final Order (Apr. 27, 2018).
[9] Docket No. 48226, Final Order at Finding of Fact 33 (Aug. 30, 2018).

$ in Millions	EDIT 12/31/2018	Regulatory Asset/(Liability) 12/31/2018
Protected	$562.5	($718.5)
Unprotected PP&E	$100.8	($128.5)
Unprotected Other	($17.2)	$23.1
Total	$646.1	($823.9)

Q. ARE THE AMOUNTS OF THE EDIT REGULATORY ASSETS AND LIABILITIES RECORDED AT YEAR-END 2018 SUBJECT TO CHANGE?

A. Yes. Future events such as IRS audit adjustments to the Company's previously-filed income tax returns, future IRS rulings and/or clarifications to normalization rules could change the recorded balance. The change could be to the total EDIT balance or could result in movement of a balance between the protected and unprotected balances. If such a change occurred, it would be necessary to track the change and true-up any future refunds to the revised balances.

Q. HOW IS THE COMPANY PROPOSING TO RETURN THE REMAINING UNPROTECTED EDIT REGULATORY LIABILITY?

A. The Company is proposing to return the remaining net unprotected EDIT to ratepayers outside of base rates through a separate tariff ("Rider UEDIT").

Q. WHAT UNPROTECTED EDIT REGULATORY LIABILITY AMOUNTS ARE INCLUDED IN THE PROPOSED RIDER UEDIT?

A. As shown on WP/II-B-11d of the RFP, the unprotected EDIT regulatory liability amounts included in Rider UEDIT are as follows:

- 2018 unprotected EDIT regulatory asset and liability balances – These balances are the EDIT balances shown on Schedule II-E-3.18 grossed-up to

APSC FILED Time 3/27/2018 9:00 39 AM Recvd 3/27/2018 9.00:36 AM Docket 18-014-TF-Doc. 11

ARKANSAS PUBLIC SERVICE COMMISSION

IN THE MATTER OF THE APPLICATION OF ENTERGY ARKANSAS, INC. FOR A PROPOSED TARIFF REVISION REGARDING THE REQUEST FOR APPROVAL OF A TAX ADJUSTMENT RIDER TO PROVIDE TAX BENEFITS TO ITS RETAIL CUSTOMERS	)	DOCKET NO. 18-014-TF ORDER NO. 2

ORDER

On February 27, 2018, Entergy Arkansas, Inc. (EAI) filed with the Arkansas Public Service Commission (Commission) a *Request for Approval of a Tax Adjustment Rider to Provide Tax Benefits to its Retail Customers* (Request) along with the Direct Testimony of Myra L. Talkington and the proposed Tax Adjustment Rider (Rider TA) as an exhibit to her testimony. On March 2, 2018, the Office of the Attorney General Leslie Rutledge (AG) filed a notice of intent to participate in this docket. On March 14, 2018, Arkansas Electric Energy Consumers, Inc. (AEEC) filed a Petition to Intervene which was granted by this Commission on March 16, 2018, by Order No. 1. On March 16, 2018, the General Staff (Staff) of the Commission filed the Direct Testimony of Jeff Hilton. On March 19, 2018, the AG filed the Responsive Testimony of Donna Gray and AEEC filed the Direct Testimony of Billie S. LaConte. On March 23, 2018, EAI filed the Supplemental Direct Testimony of Myra L. Talkington.

Positions of the Parties

Ms. Talkington testifies on behalf of EAI that the Tax Cut and Jobs Act of 2017 (TCJA), among other things, reduces the maximum federal corporate income tax rate from 35 percent to 21 percent creating excess Accumulated Deferred Income Tax (ADIT) amounts. She states that proposed Rider TA would flow back to retail customers the excess ADIT amounts not related to the depreciation of assets and not subject to normalization provision of the Internal Revenue Code (Unprotected excess ADIT). Talkington Direct at 2-4.

Ms. Talkington describes excess ADIT as being classified into two categories: 1) the portion subject to the normalization requirements of the Internal Revenue Code, or "Protected" excess ADIT, and 2) the portion not subject to such normalization provision, or "Unprotected" excess ADIT. She explains that Rider FRP provides the means for customers to realize the benefits of the TCJA with respect to the Protected excess ADIT and expense changes, consistent with the Commission's expressed desire in Docket No. 18-006-U, on an ongoing basis. She further states that EAI does not believe that Rider FRP would accomplish the return of the Unprotected excess ADIT amounts as expeditiously as desired by the Governor of Arkansas in his letter to the Commission dated January 11, 2018, and the AG as indicated in her Notice of Intent filed in this docket. Ms. Talkington states that Rider TA accomplishes this shared objective and results in customers realizing significant savings almost immediately. Ms. Talkington testifies that she believes that the implementation of Rider TA meets the Commission's expressed objectives in Order No. 1 in Docket No. 18-006-U as she previously explained. *Id.* at 5-6.

Ms. Talkington describes the methodology by which the Unprotected excess ADIT would be provided to retail customers. She states that Rider TA amounts will offset customers' bills by reducing monthly base rate billings by the applicable rate class percentage. She states that Rider TA would go into effect the first billing cycle of April 2018 through the last billing cycle of December 2018 for customers in the Small General

APSC FILED Time: 3/27/2018 9:00:39 AM: Recvd 3/27/2018 9:00:36 AM: Docket 18-014-TF-Doc. 4

Service (SGS), Large General Service (LGS), and Lighting rate classes. For Residential customers, Rider TA would begin with the first billing cycle of April 2018 through the last billing cycle of December 2019. She explains that the length of the effective period for Rider TA for residential customers is longer than that of other customers because EAI is proposing a longer return period for residential customers to avoid adverse rate effects upon the expiration of Rider TA. She explains that using a 21-month refund period for residential customers creates an estimated $20 per month bill reduction per 1,000 kWh of usage. She further explains that if the same time period that is proposed for all other rate classes is also used for the residential class, the bill impact would almost double, creating the potential for rate shock at the end of the year when the Rider TA would expire. She states that rate stability for residential customers was a factor in determining the treatment of refunds in response to the tax reform in 1986. *Id.* at 7-8.

Ms. Talkington testifies that it is preferred and in the public interest to provide the refund of Unprotected excess ADIT through a separate rider from Rider FRP because these refunds represent significant credits to customers and such credits would be constrained by statutory restrictions on annual revenue requirement increases or decreases pursuant to Rider FRP. She explains that utilizing Rider TA allows these refunds to begin in April 2018 – nine months before it would be possible through Rider FRP and without a limitation on the level of refund. *Id.* at 8.

Ms. Talkington provides Table 1 which shows the Rider TA Rate Calculation for all the classes and indicates that the retail customer amount of approximately $466 million has been allocated to the retail classes based on base rate revenues from EAI's last approved cost of service in Docket No. 15-015-U. She states that the allocated class amounts were then divided by the forecasted base rate revenues for the months of April through December 2018 to arrive at the Rider TA billing rates for 2018. She testifies that for the Residential class, one-half of the amount would be returned to the customers in 2018 with the other half being returned in 2019. She states that there would be a redetermination of Rider TA billing percentage on or before December 1, 2018, when EAI would determine the revised Rider TA percentage rate for residential customers based on the most recent revenue forecast (to be used in the 2018 Rider FRP filing). She states that this revised rate would be effective for Residential customers' bills rendered on and after the first billing cycle of January 2019 and that it would be filed with the Commission, along with the redetermination calculation, by December 1, 2018. Ms. Talkington testifies that EAI will not include carrying charges on the redetermined Rider TA amount for the Residential rate class because it would only be equitable in the scenario wherein EAI carries forward un-refunded amounts, but otherwise reflects the full impact of the revalued ADIT in its cost of capital calculation. She explains that because ADIT is treated as cost-free capital, the revaluation has the effect of increasing EAI's rate of return and that under the proposal, all refunds, except for true-ups, will have concluded by the end of 2019. She notes that in the 2019 Rider FRP, EAI will include an offsetting amount in Current Accrued and Other Liabilities for the un-refunded balance for 2019. She states that this offsetting amount would continue to give customers the benefit of cost-free capital associated with the un-refunded amount in rates until the refund has concluded. *Id.* at 9-11.

Ms. Talkington states that on or before December 1, 2019, EAI would file a true-up calculation using the final Unprotected excess ADIT amounts based upon its 2017 expeditious resolution of this issue and that AEEC does not waive any remaining rights it may have in this docket or Docket 18-006-U by agreeing to the expeditious resolution of these issues and that AEEC fully reserves its remaining rights. Ms. Talkington also represents that the parties do not intend to file testimony in response to her Supplement Direct Testimony. *Id.* at 6-7.

Findings and Rulings of the Commission

Based on the Request by EAI and its Direct and Supplemental Direct Testimony and Exhibits, the Direct Testimony of Staff, the Responsive Testimony of the AG, and the Direct Testimony of AEEC, the Commission finds that it is reasonable and in the public interest to approve Rider TA to facilitate the expeditious return of Unprotected excess ADIT to ratepayers. The Commission further finds that it is reasonable and in the public interest to revise Rider FRP Attachment A.1 to exclude the effects of Rider TA by adding Rider TA to the list of Excluded Schedules. Rider TA filed March 23, 2018, as EAI Supplemental Direct Exhibit MLT-1 and the revised Attachment A.1. of Rider FRP filed March 23, 2018, as EAI Supplemental Direct Exhibit MLT-2 are approved effective for the first billing cycle of April 2018. The tariffs filed on February 27, 2018, are disapproved. The Commission notes that all other TCJA issues are reserved for later consideration in Docket No. 18-006-U or other appropriate future dockets or filings.

FILED 4/12/2018
DOCUMENT NO. 02896-2018
FPSC - COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Consideration of the stipulation and settlement agreement between Gulf Power Company, the Office of Public Counsel, Florida Industrial Power Users Group, and Southern Alliance for Clean Energy regarding the Tax Cuts and Jobs Act of 2017.	DOCKET NO. 20180039-EI ORDER NO. PSC-2018-0180-FOF-EI ISSUED: April 12, 2018

The following Commissioners participated in the disposition of this matter:

ART GRAHAM, Chairman
JULIE I. BROWN
DONALD J. POLMANN
GARY F. CLARK
ANDREW GILES FAY

APPEARANCES:

JEFFREY A. STONE and RUSSELL A. BADDERS, ESQUIRES, One Energy Place, Pensacola, Florida 32520-0100; Beggs & Lane, P. O. Box 12950, Pensacola, Florida 32576-2950
On behalf of Gulf Power Company (Gulf).

J.R. KELLY and CHARLES REHWINKEL, ESQUIRES, Office of Public Counsel, c/o The Florida Legislature, 111 West Madison Street, Room 812, Tallahassee, Florida 32399-1400
On behalf of the Citizens of the State of Florida (OPC).

JON MOYLE and KAREN PUTNAL, ESQUIRES, Moyle Law Firm, PA, The Perkins House, 118 North Gadsden Street, Tallahassee, Florida 32301
On behalf of the Florida Industrial Power Users Group (FIPUG).

SUZANNE BROWNLESS, ESQUIRE, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850
On behalf of the Florida Public Service Commission (Staff).

MARY ANNE HELTON, ESQUIRE, Deputy General Counsel, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850
Advisor to the Florida Public Service Commission.

KEITH HETRICK, ESQUIRE, General Counsel, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850
Florida Public Service Commission General Counsel.

FINAL ORDER APPROVING JOINT MOTION TO APPROVE STIPULATION AND SETTLEMENT AGREEMENT

BY THE COMMISSION:

BACKGROUND

On February 14, 2018, Gulf Power Company (Gulf) filed a Stipulation and Settlement Agreement (SSA) between Gulf and the Office of Public Counsel (OPC), the Florida Industrial Power Users Group (FIPUG), and the Southern Alliance for Clean Energy (SACE) regarding the Tax Cuts and Jobs Act of 2017 in Docket Nos. 20180013-PU,[1] the generic tax docket, and 20160186-EI,[2] Gulf's last base rate case proceeding. The SSA addresses the effects of the passage of the Tax Cuts and Jobs Act of 2017 (Act), signed into law by President Trump on December 22, 2017. The signatories to the SSA are OPC, FIPUG and SACE, all of whom were signatories to Gulf's last rate case stipulation.[3]

The SSA implements paragraph 6 of Gulf's 2017 Stipulation and Settlement Agreement (2017 Settlement) approved by Order No. PSC-17-0178-S-EI.[4] There are six basic parts to the SSA: 1) base rate reduction of $18.2 million per year commencing on April 1, 2018;[5] 2) establishment of a regulatory liability to account for the tax rate reduction from January 1, 2018 until the effective date of the base rate reduction;[6] 3) refund of $69.4 million by the end of 2018 through the fuel cost recovery clause for the unprotected excess deferred tax regulatory liability as of December 31, 2017;[7] 4) reduction of $15.6 million to Environmental Cost Recovery Clause (ECRC) recovered by the end of 2018;[8] 5) establishment of a 53.5% equity ratio cap for all retail regulatory purposes, e.g., earnings surveillance reporting, interim rate determinations, cost recovery clauses;[9] and 6) initiation of a limited scope proceeding by May 1, 2018, for the purpose of determining the amount and flow back period for protected excess deferred taxes through a prospective reduction in base rates, should one be warranted.[10] The SSA is intended to resolve all of Gulf's outstanding tax issues associated with the Act.

On February 19, 2018, pursuant to Section 366.076(1), Florida Statutes, this docket was opened to expedite consideration of the SSA as requested by the signatories so that the base rate reduction agreed to by the parties, if appropriate, can be implemented in April 2018. On February 26, 2018, Gulf filed a Joint Motion to Approve Stipulation and Settlement Agreement (Motion) requesting that the SSA be approved in its entirety and that this Commission take final

[1] Docket No. 20180013-PU, In re: Petition to establish a generic docket to investigate and adjust rates for 2018 tax savings, by Office of Public Counsel.
[2] Docket No. 20160186-EI, In re: Petition for rate increase by Gulf Power Company.
[3] Order No. PSC-17-0178-S-EI, issued on May 16, 2017, in Docket No. 160186-EI, In re: Petition for rate increase by Gulf Power Company.
[4] Id.
[5] Paragraphs 2, 4.
[6] Paragraphs 5, 8.
[7] Paragraph 7.
[8] Paragraph 9.
[9] Paragraph 11.
[10] Paragraph 13.

action no later than March 26, 2018, which would allow the tariffs filed with the Motion to become effective in April 2018. Gulf states that the SSA is in the best interest of Gulf's ratepayers as it allows for a reduction in base rates shortly after the Act's passage as well as reducing the Environmental Cost Recovery Clause factors, and returning unprotected excess deferred income taxes to customers more rapidly than normally done. All parties to this docket - OPC, FIPUG and SACE - as joint movants to Gulf's Motion support the Motion.

On March 20, 2018, Gulf filed amended tariffs correcting scrivener's errors in the tariffs filed on February 26, 2018. On March 26, 2018, we held an administrative hearing on this matter in which Gulf's customers and interested persons were provided with an opportunity to present public testimony and voice any concerns with the SSA. Gulf sponsored witnesses Robin Boren, Rhonda Alexander, and Lee Evans, who answered questions under oath about the SSA, and four exhibits were admitted into evidence.

DECISION

The standard for approval of a settlement agreement is whether it is in the public interest.[11] A determination of public interest requires a case-specific analysis based on consideration of the proposed settlement taken as a whole.[12]

As testified to by Gulf's witnesses, effective the first billing cycle of April 2018, this SSA greatly benefits ratepayers by implementing a base rate decrease of $18.2 million per year associated with the reduction of the corporate income tax rate from 35 to 21 percent. This reduction will remain in effect until Gulf's next base rate case. Further, Gulf's customers will also receive $69.4 million through the Fuel Clause in 2018 associated with unprotected accumulated deferred income taxes that would normally be amortized over a 5 to 10 year period. Finally, Gulf's ratepayers will immediately see a $15.6 million reduction in the Environmental Cost Recovery Clause factor which would normally not be implemented until January of 2019. Combined, Gulf's ratepayers will see a $103.2 million reduction in charges in 2018. Although Gulf's equity ratio cap will increase from 52.5% to 53.5% to allow the refund of $103.2 million in one year, the equity ratio is well within the normal, accepted equity range and will maintain Gulf's financial stability. The issue of excess protected deferred income taxes, which total

[11] Order No. PSC-13-0023-S-EI, issued January 14, 2013, in Docket No. 120015-EI, In re: Petition for increase in rates by Florida Power & Light Company; Order No. PSC-11-0089-S-EI, issued February 1, 2011, in Docket Nos. 080677 and 090130, In re: Petition for increase in rates by Florida Power & Light Company and In re: 2009 depreciation and dismantlement study by Florida Power & Light Company; Order No. PSC-13-0023-S-EI, issued January 14, 2013, in Docket No. 120015-EI, In re: Petition for increase in rates by Florida Power & Light Company; PSC-10-0398-S-EI, issued June 18, 2010, in Docket Nos. 090079-EI, 090144-EI, 090145-EI, 100136-EI, In re: Petition for increase in rates by Progress Energy Florida, Inc., In re: Petition for limited proceeding to include Bartow repowering project in base rates, by Progress Energy Florida, Inc., In re: Petition for expedited approval of the deferral of pension expenses, authorization to charge storm hardening expenses to the storm damage reserve, and variance from or waiver of Rule 25-6.0143(1)(c), (d), and (f), F.A.C., by Progress Energy Florida, Inc., and In re: Petition for approval of an accounting order to record a depreciation expense credit, by Progress Energy Florida, Inc.; Order No. PSC-05-0945-S-EI, issued September 28, 2005, in Docket No. 050078-EI, In re: Petition for rate increase by Progress Energy Florida, Inc.

[12] Order No. PSC-13-0023-S-EI, at p. 7.

approximately $386.1 million per year, has not been resolved by this SSA. The parties will continue to work on a mutually acceptable resolution to this issue and, if none can be reached by May 1, 2018, Gulf will file a petition for a limited proceeding in this docket to resolve the issue.

Based on our review of the SSA, the exhibits entered into the record, the support of the Parties, the testimony provided by Gulf witnesses, and the benefits to Gulf customers discussed above, we find that the SSA, taken as a whole, is in the public interest. Therefore, the SSA is hereby approved.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the Joint Motion to Approve Stipulation and Settlement Agreement between Gulf Power Company, the Office of Public Counsel, the Florida Industrial Power Users Group, and the Southern Alliance for Clean Energy, dated February 14, 2018, is hereby granted and the Stipulation and Settlement Agreement, Attachment A hereto, approved. It is further

ORDERED that the revised tariff sheets implementing the Stipulation and Settlement Agreement between Gulf Power Company, the Office of Public Counsel, the Florida Industrial Power Users Group, and the Southern Alliance for Clean Energy, dated February 14, 2018, reflecting the approved final rates and charges, as filed on February 26, 2018, and amended on March 20, 2018, are hereby approved effective the first billing cycle of April 2018. It is further

ORDERED that this docket shall remain open for disposition by this Commission of the issue of protected excess deferred income taxes.

By ORDER of the Florida Public Service Commission this 12th day of April, 2018.

Carlotta S Stauffer

CARLOTTA S. STAUFFER
Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399
(850) 413-6770
www.floridapsc.com

Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

SBr

PUC DOCKET NO. 43695
SOAH DOCKET NO. 473-15-1556

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PUBLIC UTILITY COMMISSION
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APPLICATION OF SOUTHWESTERN PUBLIC SERVICE COMPANY FOR AUTHORITY TO CHANGE RATES	§ § §	**PUBLIC UTILITY COMMISSION OF TEXAS**

ORDER

This order addresses the application of Southwestern Public Service Company (SPS) for authority to change its Texas retail rates, filed on December 8, 2014. SPS originally sought a $64.75 million increase to its Texas retail revenue requirement. SPS subsequently reduced its requested increase to $58.85 million and then further lowered its request to a $42.07 million increase.[1]

A hearing on the merits was held over seven days at the State Office of Administrative Hearings (SOAH). On October 12, 2015, the SOAH administrative law judges (ALJs) filed their proposal for decision in which they recommended a Texas retail revenue requirement increase of $1.2 million. In response to parties' exceptions and replies to the PFD, on November 20, 2015, the SOAH ALJs filed a letter making changes to the PFD, including clarifying that they were recommending a $14.4 million increase to SPS's Texas retail revenue requirement.

Except as discussed in this order, the Commission adopts the PFD as modified, including findings of fact and conclusions of law. The Commission's decisions result in a Texas retail base-rate revenue requirement of $509,395,343, which is a decrease of $4,025,973 from SPS's present Commission-authorized Texas retail base-rate revenue requirement. Finding of Fact 237A is modified to reflect the Commission-authorized decrease to SPS's Texas retail revenue requirement. New findings of fact 19A through 19E are added to reflect issuance of the PFD and filings and events thereafter. The Commission incorporates by reference the abbreviations table provided in the PFD.

[1] Southwestern Public Service Co. (SPS) Initial Brief on the Revenue Requirement (Rev.) at 17 (Jul. 24, 2015); Proposal for Decision (PFD) at 27 (Oct. 12, 2015).

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III. Operating and Maintenance Expense

A. Payroll Expense – Annual Incentive Plan

SPS's annual incentive plan is an incentive-compensation plan that covers exempt, non-bargaining employees in all states in which Xcel Energy operates. Each employee eligible to participate in the plan has a set of performance objectives. The amount an employee earns under the plan is dependent upon the achievement of specific corporate, business area, and individual performance goals.[20] In its requested expense for this plan, SPS removed what it asserted were all costs associated with the financially-based performance objectives. However, AXM advocated that all costs of the program should be disallowed as financially-based incentive compensation and OPUC agreed. Alternatively, OPUC's expert calculated a partial reduction to better reflect that the plan has a financially-based trigger and incents each employee to meet financially-based performance goals. Commission Staff also calculated its own recommended disallowance, reflecting what Commission Staff deemed to be excessive compensation to Xcel employees categorized as executives or grade X, business-area vice presidents or executives. In the PFD, the SOAH ALJs recommended the Commission accept Commission Staff's recommended reduction and reject the disallowances sought by AXM and OPUC.

It is well-established that a utility may not include in its rates the costs of incentives that are tied to financial-performance measures.[21] The Commission agrees with the SOAH ALJs' characterization of the annual incentive plan as "complicated" and notes that when a utility elects to adopt a compensation plan that involves both financially-based and performance-based metrics, the utility still must show it has removed all aspects of the financially-based goals from its requested expense.[22] Based on the testimony of the experts offered by AXM and OPUC, the Commission is not convinced SPS's adjustment fully captured the financial aspects of the annual incentive plan. Yet, SPS has sufficiently demonstrated that some portion of the plan is tied to performance-based objectives and is part of the necessary expense of attracting and retaining

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[20] SPS Ex. 29, Reed Dir. T. at 26-27.

[21] *E.g. Application of Entergy Texas, Inc. for Rate Case Expenses Pertaining to PUC Docket No. 39896*, Docket No. 40295, Order at 2 (May 21, 2013) "The Commission has repeatedly ruled that a utility cannot recover the cost of financially-based incentive compensation because financial measures are of more immediate benefit to shareholders and financial measures are not necessary or reasonable to provide utility services."

[22] PFD at 86.

PUC DOCKET NO. 43695
SOAH DOCKET NO. 473-15-1556

APPLICATION OF SOUTHWESTERN PUBLIC SERVICE COMPANY FOR AUTHORITY TO CHANGE RATES	§ § §	**PUBLIC UTILITY COMMISSION OF TEXAS**

2016 FEB 23 PM 12: 29
PUBLIC UTILITY COMMISSION
FILING CLERK

ORDER ON REHEARING

This order addresses the application of Southwestern Public Service Company (SPS) for authority to change its Texas retail rates, filed on December 8, 2014. SPS originally sought a $64.75 million increase to its Texas retail revenue requirement. SPS subsequently reduced its requested increase to $58.85 million and then further lowered its request to a $42.07 million increase.[1]

A hearing on the merits was held over seven days at the State Office of Administrative Hearings (SOAH). On October 12, 2015, the SOAH administrative law judges (ALJs) filed their proposal for decision (PFD) in which they recommended a Texas retail revenue requirement increase of $1.2 million. In response to parties' exceptions and replies to the PFD, on November 20, 2015, the SOAH ALJs filed a letter making changes to the PFD, including clarifying that they were recommending a $14.4 million increase to SPS's Texas retail revenue requirement.

Except as discussed in this order, the Commission adopts the PFD as modified, including findings of fact and conclusions of law. The Commission's decisions result in a Texas retail base-rate revenue requirement of $509,395,343, which is a decrease of $4,025,973 from SPS's present Commission-authorized Texas retail base-rate revenue requirement. Finding of Fact 237A is modified to reflect the Commission-authorized decrease to SPS's Texas retail revenue requirement. New findings of fact 19A through 19K are added to reflect issuance of the PFD and filings and events thereafter. The Commission incorporates by reference the abbreviations table provided in the PFD.

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[1] Southwestern Public Service Co. (SPS) Initial Brief on the Revenue Requirement (Rev.) at 17 (Jul. 24, 2015); Proposal for Decision (PFD) at 27 (Oct. 12, 2015).

1044

III. Operating and Maintenance Expense

A. Payroll Expense – Annual Incentive Plan

SPS's annual incentive plan is an incentive-compensation plan that covers exempt, non-bargaining employees in all states in which Xcel Energy operates. Each employee eligible to participate in the plan has a set of performance objectives. The amount an employee earns under the plan is dependent upon the achievement of specific corporate, business area, and individual performance goals.[20] In its requested expense for this plan, SPS removed what it asserted were all costs associated with the financially-based performance objectives. However, AXM advocated that all costs of the program should be disallowed as financially-based incentive compensation and OPUC agreed. Alternatively, OPUC's expert calculated a partial reduction to better reflect that the plan has a financially-based trigger and incents each employee to meet financially-based performance goals. Commission Staff also calculated its own recommended disallowance, reflecting what Commission Staff deemed to be excessive compensation to Xcel employees categorized as executives or grade X, business-area vice presidents or executives. In the PFD, the SOAH ALJs recommended the Commission accept Commission Staff's recommended reduction and reject the disallowances sought by AXM and OPUC.

It is well-established that a utility may not include in its rates the costs of incentives that are tied to financial-performance measures.[21] The Commission agrees with the SOAH ALJs' characterization of the annual incentive plan as "complicated" and notes that when a utility elects to adopt a compensation plan that involves both financially-based and performance-based metrics, the utility still must show it has removed all aspects of the financially-based goals from its requested expense.[22] Based on the testimony of the experts offered by AXM and OPUC, the Commission is not convinced SPS's adjustment fully captured the financial aspects of the annual incentive plan. Yet, SPS has sufficiently demonstrated that some portion of the plan is tied to performance-based objectives and is part of the necessary expense of attracting and retaining

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[20] SPS Ex. 29, Reed Dir. T. at 26-27.

[21] *E.g. Application of Entergy Texas, Inc. for Rate Case Expenses Pertaining to PUC Docket No. 39896*, Docket No. 40295, Order at 2 (May 21, 2013) "The Commission has repeatedly ruled that a utility cannot recover the cost of financially-based incentive compensation because financial measures are of more immediate benefit to shareholders and financial measures are not necessary or reasonable to provide utility services."

[22] PFD at 86.

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

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APPLICATION OF SOUTHWESTERN ELECTRIC POWER COMPANY FOR AUTHORITY TO CHANGE RATES	§ § §	PUBLIC UTILITY COMMISSION OF TEXAS

ORDER ON REHEARING

This order addresses the application of Southwestern Electric Power Company (SWEPCO) for authority to change its rates, filed on December 16, 2016. SWEPCO originally sought a \$69 million increase to its Texas retail revenue requirement, primarily to reflect investments in environmental controls. However, SWEPCO also proposed a significant modification to the manner in which its transmission costs should be recovered. In addition, SWEPCO sought additional cost recovery for vegetation management, rate-case expenses, and a regulatory asset for certain costs under the Southwest Power Pool's open-access tariff.

A hearing on the merits was held between June 5 and June 15, 2017 at the State Office of Administrative Hearings (SOAH). On September 22, 2017, the SOAH administrative law judges (ALJs) filed their proposal for decision (PFD) in which they recommended a Texas retail revenue requirement increase of approximately \$51 million. The SOAH ALJs rejected SWEPCO's new method to recover transmission costs and recommended granting its requested rate-case expenses, and regulatory asset. In response to parties' exceptions and replies to the PFD, on November 8, 2017, the SOAH ALJs filed a letter making changes to the PFD.

Except as discussed in this order, the Commission adopts the PFD as modified, including findings of fact and conclusions of law. The Commission's decisions result in a Texas retail base-rate revenue requirement of \$369,234,023, which is an increase of \$50,001,133 from SWEPCO's present Commission-authorized Texas retail base-rate revenue requirement. New findings of fact 17A through 17J are added to address the procedural history of this docket after the close of the evidentiary record at SOAH. The Commission incorporates by reference the abbreviations table provided in the PFD.

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176. This adjustment ensures that the undepreciated cost of SWEPCO's assets will be spread over the remaining lives of those assets.

Adjustment to Accumulated Depreciation Production Plant

177. The plant demolition studies SWEPCO used to develop terminal removal cost and salvage for each of SWEPCO's generating facilities, when adjusted to account for a 10% contingency factor, are reasonable.

178. It was not reasonable for the demolition studies used in SWEPCO's depreciation studies to include a 15% contingency factor. Instead, a reasonable contingency factor for the demolition studies is 10%.

179. It is common practice to include contingency amounts in cost estimates for contract work across all industries.

180. The 10% contingency factor for inclusion in SWEPCO's demolition studies is reasonable, because the demolition of SWEPCO's natural-gas and coal power plants are less complex, less risky, and less costly than the demolition of a nuclear power plant, which is allowed a maximum contingency factor of 10% by Commission rule.

181. It was reasonable for the demolition studies to consider the applicable variables such as quantities and prices as of a specific point in time, and it would be improper to change the applicable date and associated price for only one of those variables.

182. It is reasonable for SWEPCO to escalate the terminal removal cost and salvage in the demolition studies (which are stated in year-end 2016 dollars) to the expected final retirement date of each plant using a 2.25% inflation rate from the *Livingston Survey* dated December 2015 and published by the research department of the Federal Reserve Bank of Philadelphia.

Transmission Plant

183. It is reasonable to apply an R1.5-73 Iowa-curve-life combination for FERC Account 353–*Transmission Station Equipment*.

184. It is reasonable to apply an R2.5-70 Iowa-curve-life combination for FERC Account 356–*Overhead Conductors & Devices*.

Distribution Plant

185. It is reasonable to apply an R3.0-70 Iowa-curve-life combination for FERC Account 361–*Structures & Improvements.*

186. It is reasonable to apply an S0.5-55 Iowa-curve-life combination for FERC Account 362–*Distribution Substation Equipment.*

187. It is reasonable to apply an R0.5-55 Iowa-curve-life combination for FERC Account 364–*Distribution Poles.*

188. It is reasonable to apply an R1.5-50 Iowa-curve-life combination for FERC Account 367–*Distribution Underground Conductor.*

189. It is reasonable to apply an L0.0-50 Iowa-curve-life combination for FERC Account 368–*Distribution Line Transformers.*

General Plant

190. It is reasonable to apply an L0.5-55 Iowa-curve-life combination for general plant.

Payroll Adjustment

191. SWEPCO's proposed base payroll is based on the salaries of its employees for the final pay period at the end of the test year (annualization) plus post-test-year test-year pay increase of 3.5% for which all increases were approved and then implemented by April 2017.

192. Because these payroll increases were awarded in 2017, they represent appropriate known and measurable changes.

193. SWEPCO's calculation in this proceeding matches the adjustment approved in Docket No. 40443, which is to annualize salaries of employees on the payroll at the end of the test year and then apply a known and measurable increase that was awarded post-test year.

Annual Incentive Compensation

194. The Commission has repeatedly ruled that a utility cannot recover the cost of financially-based incentive compensation because financial measures are of more immediate benefit to shareholders and financial measures are not necessary or reasonable to provide utility services.

195. SWEPCO's annual incentive plan includes both financially-based and performance-based goals.

196. Compensation to employees under the annual incentive plan is based in part on an earnings-per-share trigger.

197. A certain amount of incentives to achieve operational measures is reasonable and necessary to the provision of electric service. However, SWEPCO failed to prove that its proposal removed all of the costs associated with the financially-based components of the annual incentive plan.

198. Staff's recommended adjustment to eliminate $2,277,726 associated with the annual incentive plan, plus corresponding flow through reductions, results in allowable expense for the plan that is reasonable and necessary to the provision of electric service, and should be included in the cost of service.

Long-Term Incentive Compensation

199. SWEPCO removed the entirety of its financially based long-term incentive compensation in the amount of $2,140,880. However, the $359,705 of restricted stock units are not based on financial measures as are other SWEPCO or AEP incentive plans and are appropriate to include in SWEPCO's rates.

Financial Counseling Expense

200. The $4,071 related to executive perquisites should not be included in rates because they provide no benefit to ratepayers and are not reasonable or necessary for the provision of electric service.

Supplemental Executive Retirement

201. SWEPCO requests recovery of $99,654 in directly incurred non-qualified pension expense and an additional $310,422 that was allocated from AEP Services Company (AEPSC) ($410,076 total).

202. SWEPCO provides non-qualified supplemental executive retirement plans for highly compensated individuals such as key managerial employees and executives that, because of limitations imposed under the Internal Revenue Code, would otherwise not receive retirement benefits on their annual compensation over $270,000 per year.

ML 224417

ORDER NO. 89072

IN THE MATTER OF THE APPLICATION OF THE POTOMAC EDISON COMPANY FOR ADJUSTMENTS TO ITS RETAIL RATES FOR THE DISTRIBUTION OF ELECTRIC ENERGY	* * * * * * *	BEFORE THE PUBLIC SERVICE COMMISSION OF MARYLAND CASE NO. 9490

Before: Mindy L. Herman, Commissioner (Chair)[1]
Michael T. Richard, Commissioner
Anthony J. O'Donnell, Commissioner

Issued: March 22, 2019

[1] *See* Designation of Panel dated January 9, 2019, ML#223597, Case No. 9490 Docket (Dkt) Item No. 30.

Staff recommended removing the costs related to short- and long-term incentive compensation that are related to achieving Potomac Edison's financial goals.[164]

Party Responses

Potomac Edison argued on brief that its inclusion of long-term and short-term incentive compensation is both reasonable and appropriate. Potomac Edison contends that if it were to remove its incentive programs tied to financial goals, it would have to raise base salaries to attract skilled and talented employees and prevent attrition to competing employers, thus incentive pay is important because it improves performance and minimizes costs.[165]

Commission Decision

The Commission is not directing Potomac Edison to discontinue its incentive programs; the financial goals of these programs appear to benefit the Company's shareholders. However, the Commission is charged with determining which expenses should reasonably be passed on to ratepayers and the Commission will continue to disallow costs associated with financial-related goals as not benefitting ratepayers. Given that Staff's adjustment most accurately reflected Commission policy on this issue, the Commission adopts Staff's adjustment.

10. Adjustment – Supplemental Executive Retirement Plan

Supplemental Executive Retirement Plan ("SERP") is a program designed to provide enhanced retirement compensation for highly compensated individuals at levels that are above levels set forth in IRS guidelines.

[164] Poberesky Direct at 14-15.
[165] Potomac Edison Initial Brief at 21.

2019 WL 2176231 (Ohio P.U.C.)

In the Matter of the Application of Duke Energy Ohio, Inc. for Recovery of Program Costs, Lost Distribution Revenue, and Performance Incentives Related to its Energy Efficiency and Demand Response Programs.

No. 16-664-EL-RDR
No. 17-781-EL-RDR

Ohio Public Utilities Commission

May 15, 2019
FINDING AND ORDER

BY THE COMMISSION.

***1** Entered in the Journal on May 15, 2019

I. SUMMARY

The Commission approves the applications for recovery of program costs, lost distribution revenue and performance incentives related to Duke's energy efficiency and demand response programs for 2015 and 2016 be approved, subject to modifications.

II. PROCEDURAL BACKGROUND

Duke Energy Ohio, Inc. (Duke or the Company) is an electric distribution utility (EDU) as defined in R.C. 4928.01(A)(6) and a public utility as defined in R.C. 4905.02, and, as such, is subject to the jurisdiction of this Commission.

R.C. 4928.141 provides that an EDU shall provide customers within its certified territory a standard service offer (SSO) of all competitive retail electric services necessary to maintain essential electric services to customers, including firm supply of electric generation services. The SSO must be either a market rate offer in accordance with R.C. 4928.142 or an electric security plan (ESP) in accordance with R.C. 4928.143.

Pursuant to R.C. 4928.66, EDUs are required to implement energy efficiency and peak demand response (EE/PDR) programs. Through these programs, the EDUs are mandated to achieve a specific amount of energy savings every year.

By Opinion and Order issued August 15, 2012, the Commission approved a stipulation entered into between Duke and some of the parties. *In re Duke Energy Ohio, Inc.*, Case No. 11-4393-EL-RDR. Specifically, among other things, the Commission approved the recovery of program costs, lost distribution revenue, and performance incentives related to Duke's EE/PDR programs.

On March 30, 2016, Duke filed an application for recovery of program costs, lost distribution revenue, and performance incentives related to its energy efficiency and demand response programs for 2015 in Case No. 16-664-EL-RDR (*2015 Recovery Case*). Duke's applications for recovery of expenses for 2013 and 2014 resulted in a Stipulation between Staff and Duke that was approved by the Commission on October 26, 2016, and affirmed on rehearing on April 10, 2019. *In re Duke Energy Ohio, Inc.*, Case No. 14-457-EL-RDR and *In re Duke Energy Ohio, Inc.*, Case No. 15-534-EL-RDR (*2013 & 2014 Recovery Cases*). Motions to intervene were filed by the Ohio Consumers' Counsel (OCC) and the Ohio Energy Group (OEG). No party objected to the motions to intervene and the motions should be granted.

On November 13, 2017, Staff filed its review and recommendation for the *2015 Recovery Case.*

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In reply, Duke disputes portions of Staff's recommended deductions. First, Duke states it accepts Staff's recommendations to remove expenses for sponsorships, dining, and other miscellanea, such as gift cards. However, Duke submits that deductions for incentive compensation, employee expenses, and de minimis expenses were unreasonable, unsupported, and inconsistent with prior positions. Duke states the removal of incentive compensation accounts for $299,822 of Staff's $386,544 recommended deductions. Duke argues that while Staff typically removes incentive pay that is directly tied to financial goals, Staff erroneously excluded additional pay that should otherwise be recoverable. According to Duke, for certain incentives, only a percentage is explicitly tied to financial goals. Duke asks that, if any incentive pay is excluded, it be limited to only the pay that is tied to financial goals. According to Duke, this is consistent with pervious Staff recommendations. Duke additionally disputes the exclusion of employee expenses. Duke maintains that employee expenses associated with EE/PDR programs are specifically accounted for and are not included in base rates. In support, Duke notes that Staff acknowledged that energy efficiency expenses should not be included in rate base in the Company's recent rate case. Finally, Duke disagrees with Staff's removal of all de minimis expenses. Duke avers that Staff's exclusion of all expenses under $10 was arbitrary and unsupported and, in total, accumulates to over $27,000.

OCC comments that Staff's recommendations should be adopted and that Duke should be directed to stop including expenses that are consistently found to be imprudent. OCC agrees with Staff that incentive pay, dining, sponsorships, employee expenses and de minimis expenses should not be recoverable. Regarding incentive pay, OCC states Staff regularly excludes all incentive pay and merely emphasizes that incentive pay associated with financial goals should not be included. OCC observes that Duke continues to include expenses that Staff routinely finds should not be recoverable. OCC argues that Duke should be directed to stop attempting to recover expenditures that the Company is aware are inappropriate. Further, OCC asks that Duke be required to include specific refund language in its tariff in order to guarantee refunds to customers for imprudent or unlawful EE-PDRR charges.

C. Commission Conclusion

***4** Upon review, the Commission finds that Duke's applications for recovery of program costs, lost distribution revenue and performance incentives related to its energy efficiency and demand response programs are reasonable and should be approved, subject to the modifications described below. Initially, we note that Duke accepts Staff's removal of dining, sponsorships, and other miscellaneous expenses from the Company's Rider EE-PDRR recovery. For the 2026 *Recovery Case*, Duke submits that a significant portion of the Company's incentive pay is not directly associated with meeting financial goals, and therefore should still be eligible for recovery. However, Staff identifies financial incentives as including "performance awards, restricted stock units, executive incentives, earnings per share, shareholder returns, stock purchases, and/or other financially motivated incentives tied to the Company's bottom line" (2026 *Recovery Case*, Staff Review and Recommendation, Sept. 11, 2018). While not all of the performance goals may be explicitly tied to financial objectives, they are correlated with Duke's bottom line and meeting shareholder interests (*See e.g. 2016 Recovery Case*, Duke Comments, att. A at 40, Oct. 11, 2018). Thus, the Commission finds Staff appropriately excluded these expenses. The Commission is also not persuaded by Duke's argument that Staff inappropriately deducted recovery for employee expenses and other de minimis charges. Staff's recommendation to disallow recovery for employee expenses such as a cell phone reimbursements appear to be proper as they are either not directly associated with Rider EE-PDRR or not beneficial to Ohio ratepayers. Further, while Duke states Staff deducted all expenses under $10 for arbitrary reasons, Staff asserted that the expenses were non-incremental and not directly associated with energy efficiency. We note that this is consistent with our most recent approval of EE/PDR recovery (*In re Duke Energy Ohio, Inc.*, Case No. 15-534-EL-RDR, Opinion and Order at ¶ 44, Oct. 26, 2016). Accordingly, we find Staff's removal of those expenses was proper. In doing so, we note Staff explained that many expenses were improperly categorized and/or unsupported by documentation.

In sum, the Commission finds that Duke's applications for recovery of program costs, lost distribution revenue and performance incentives in both the 2015 *Recovery Case and* the 2016 *Recovery Case* should be approved subject to the specified recommendations found in Staffs audit. The Commission notes that Rider EE-PDRR is subject to

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

IN THE MATTER OF THE APPLICATION OF EL PASO ELECTRIC COMPANY FOR REVISION OF ITS RETAIL ELECTRIC RATES PURSUANT TO ADVICE NOTICE NO. 2436	)	**Case No. 15-00127-UT**
EL PASO ELECTRIC COMPANY, Applicant	)	

FINAL ORDER PARTIALLY ADOPTING RECOMMENDED DECISION (WITH CORRECTED PARAGRAPH NUMBERING)

THIS MATTER comes before the New Mexico Public Regulation Commission (the "Commission") upon the Recommended Decision issued by Hearing Examiner Elizabeth C. Hurst on February 16, 2016, including the Errata Notice issued on February 24, 2016 (collectively, the "RD"). Having considered the RD (a copy of which is not attached hereto due to its length), and the record in this case, and being fully informed in the premises, the Commission adopts the following as its Final Order in this case.

98. DAC, in its Response, claims that APS's incentive compensation plan for PVNGS had operating – or non-financial – incentives, as well as financially-driven incentives. [DAC Response at 7.] DAC further states that the majority of the incentive compensation results from the achievement of operating goals and that DAC's proposed adjustment would not eliminate any of that compensation. [*Id.* at 8.]

99. DAC further argues that the RD's direction to EPE to calculate disallowance presents procedural due process issues, and so, intervenors should be given the opportunity to review EPE's submission. [*Id.* (1.2.2.37(E) NMAC).]

Commission Determination

100. The Commission adopts the recommendation of the Hearing Examiner. In addition to the reasons given in the RD, the Commission notes the following considerations. As noted by the Hearing Examiner, the Commission's general policy is to exclude financially-driven incentive compensation. *See* SPS 07-319 Final Order at ¶ 94. EPE is correct in noting that the Commission has acknowledged that an evidentiary showing of benefit to ratepayers may allow for an exception to this general policy in certain cases. *See id.* However, there has not been a sufficient showing in this case.

H. NON-QUALIFIED EXCESS BENEFIT PLAN [RD at 169-173; EPE Exception No. 6; CLC Exception No. 13.]

101. In the RD, the Hearing Examiner found that EPE had provided sufficient evidence showing that its Non Qualified Excess Benefit Plan ("EBP") and Supplemental Executive Retirement Plan ("SERP") are reasonable compensation programs designed to help EPE compete for executive employees. [RD at 173.] However, the Hearing Examiner recommended

APPLICATION OF CENTERPOINT	**§**	**PUBLIC UTILITY COMMISSION**
ENERGY HOUSTON ELECTRIC, LLC	**§**	
FOR AUTHORITY TO CHANGE RATES	**§**	**OF TEXAS**

DIRECT TESTIMONY

OF

LYNNE HARKEL-RUMFORD

ON BEHALF OF

CENTERPOINT ENERGY HOUSTON ELECTRIC, LLC

April 2019

performance over the last four years, and test year LTI expenses. The Company's requested payroll costs also include a three percent CPA for 2019. The compensation costs the Company is requesting include direct and allocated expenses. Please refer to the detailed payroll expense schedules prepared by Accounting and sponsored by Ms. Colvin. Ms. Colvin also addresses the adjustment to test year base salary amounts and STI expenses in her direct testimony.

Q. ARE THE PAY LEVELS CNP OFFERS REASONABLE?

A. Yes. From both a base salary and total cash perspective, the compensation levels CNP offers are reasonable when compared to competitor companies because they are designed to target the median of the market, and the average actual costs are below market levels. To maintain this competitive position, CNP must continue to provide competitive base salary levels, annual salary increases and incentive compensation opportunities. Reducing or removing any of these compensation elements would interfere with the CNP's competitive position and its ability to attract, retain and motivate the skilled workforce that is necessary to operate a safe and reliable electric utility.

C. Incentive Compensation

Q. PLEASE GENERALLY DESCRIBE THE COMPANY'S INCENTIVE COMPENSATION REQUEST IN THIS CASE.

A. The Company requests recovery of incentive pay for employees who are involved in the day-to-day operation and support of the Company. These employees include personnel employed directly by the Company itself as well as support personnel who provide necessary services primarily from a centralized location in Houston.

The employees who work for or support the Company's operations are eligible to receive incentive pay, including Houston-based positions such as customer service call center agents, billing processing agents, employees who provide HR services, and safety and other operations-related training programs. To meet CNP's incentive plan goals, all employees must do their jobs safely and do them well, including the provision of efficient and responsive customer service.

D. Short-Term Incentive Plan

Q. PLEASE EXPLAIN CNP'S STI PLAN.

A. The STI Plan is the second component of CNP's market-based total compensation pay philosophy. The STI Plan provides the opportunity for all employees to earn incentive pay based on the attainment of annual goals. These goals include operating income, earnings per share, operations and maintenance expenditure management, customer satisfaction, and safety.

Together, the plan goals are designed to motivate employees to do their best to contribute to the effective operation of CNP and its business units. The plan goals focus employee efforts in ways that help CNP and the Company to maintain its financial health and to encourage employees to run a cost-efficient business. Additionally, the STI goals are designed to encourage employees to execute their job functions safely and to strive for high levels of customer satisfaction.

Further, a well-designed incentive plan is an important component of the total compensation necessary to attract and retain competent employees. By providing incentive pay opportunities comparable to those an employee could find in other companies, CNP is able to assure its customers that experienced and capable employees will be on the job to provide safe and reliable service.

Q. DO INCENTIVE PLANS SUCH AS CNP'S STI PLAN CONTINUE TO BE A PREVALENT COMPONENT OF TOTAL COMPENSATION IN THE MARKETPLACE?

A. Yes. According to a 2018-2019 survey conducted by WorldatWork, 85% of 1,908 U.S. survey respondents, including 96 utilities, indicated that they use variable pay programs, which is another term for incentive plans. As defined in the WorldatWork survey, variable pay is the percentage of payroll established by employers to grant performance-based cash awards to employees during the year. Further, 69% of those using variable pay use an incentive plan design like CNP's plan, which is based on achieving both the organization's goals and individual performance. See Exhibit LHR-4 for the WorldatWork survey. Therefore, the Company's provision of STI is consistent with its peers in the market and is necessary to compete with other utilities and similar employers in the region.

Q. HOW DOES THE COMBINATION OF CNP'S BASE SALARY AND STI LEVELS COMPARE TO THE LEVELS OF BASE SALARY AND STI IN THE MARKET?

A. Overall, the combination of CNP's base salary and STI levels is below the base salary and STI in the market. In the aggregate, the Company's overall total cash compa-ratio for all non-union jobs is approximately 98% of market median. Examples of market compensation comparisons for some Company and Service Company positions shown below. These charts illustrate that the base salary and STI levels are below their market median elements for several positions.[1]

[1] The Electrical Engineer and Service Consultant examples are Company positions. The Financial Analyst and Accountant examples are Service Company positions.

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portion of its requested base salary or STI expenses, the Company would not recover its reasonable and necessary compensation expenses. In the examples above, if the Company's requested STI expenses were disallowed, the recovery of total cash compensation costs would fall to approximately 89% of market, or approximately 11% below the median total cash compensation level found in the market surveys.

Q. DID THE COMMISSION APPROVE THE RECOVERY OF STI IN THE COMPANY'S LAST RATE CASE IN DOCKET NO. 38339?

A. Yes. The Commission approved the recovery of the Company's STI request and found that it was a reasonable and necessary component of a total compensation package required to recruit, retain, and motivate employees.[2] The Commission also found that the corporate and financial goals of STI are directly tied to metrics such as customer service and safety.[3]

Q. HAS CNP CHANGED ITS STI PLAN SINCE DOCKET NO. 38339?

A. CNP's overall STI Plan purpose has remained the same since Docket No. 38339. Although some of the specific goals have changed since 2009, the broader plan concept designed to align customer, employee, and shareholder interests is unchanged.

Q. WHAT WERE CNP'S STI GOALS FOR THE 2018 TEST YEAR?

A. The goals were as follows:

[2] *Application of CenterPoint Electric Delivery Company, LLC, for Authority to Change Rates*, Docket No. 38339, Order on Rehearing at Finding of Fact 81 (June 23, 2011).
[3] *Id.* at Finding of Fact 83.

GOAL	WEIGHTING
CNP Core Operating Income	35%
CNP Consolidated Diluted Earnings Per Share	20%
CNP Operations and Maintenance Expenditures	25%
Customer Satisfaction Composite	10%
CNP Safety Composite	10%

For a detailed presentation of CNP's 2018 STI goals, see Exhibit LHR-5 Short-term Incentive Plan Goals (Confidential).

Q. HOW DO THE CNP STI GOALS COMPARE TO THE STI GOALS OF PEER UTILITY COMPANIES?

A. CNP's 2018 STI goals are consistent with goals used by most of CNP's peer utilities, which are designed to benefit Company stakeholders such as customers, communities, employees and shareholders. Refer to Exhibit LHR-6 Meridian Compensation Partners Incentive Plan Analysis (Confidential) for additional information related to CNP's peer utilities and STI goals.

Q. DO CUSTOMERS AND SHAREHOLDERS BENEFIT FROM THE GOALS IN THE STI PLAN?

A. Yes. The goals provide benefits to customers and shareholders. Customers directly and materially benefit from the provision of STI awards to the Company's employees that are based on the attainment of these goals, which serves to align the interests of shareholders and customers. These goals also encourage expense management and operational efficiencies that benefit customers through reasonable rates, safe and reliable operations, and enhanced customer service. Further, having healthy operating income is a key factor in ensuring CNP has a strong balance sheet and credit metrics, both of which allow for a reasonable cost of capital. Specifically, the goals associated with STI motivate employees to effectively manage operations expenses, which contribute to a financially healthy company, allowing investors to earn a reasonable return on their investment. This attracts new investors and allows CNP greater access to capital at better rates, which results in savings to customers through lower interest costs. Healthy cash flow also enables the Company to proactively maintain and repair infrastructure and provide enhanced customer services, such as Power Alert Service. For a detailed description of Power Alert service see testimony of Company witness Rebecca Demarr. Thus, not only are the requested STI costs reasonable because they are the result of an STI Plan that is comparable to those in the market and necessary because the costs are part of an overall compensation package that must be competitive, the STI Plan also includes goals that lead to customer and shareholder benefits. In this way, STI is no different than the Company's ongoing capital investment in new infrastructure. That capital investment allows the Company to continue to provide safe and reliable service to customers while also giving shareholders the opportunity to earn a reasonable return on the Company's investment.

Q. CAN YOU PROVIDE EXAMPLES OF HOW INCENTIVE GOALS WORK TO MINIMIZE OPERATIONS AND MAINTENANCE EXPENSE?

A. Yes. The inclusion of expense management goals in the employee total compensation package fosters awareness at all levels that prudent spending practices are expected and necessary. All managers and employees are reminded

PUBLIC UTILITY COMMISSION OF TEXAS
CENTERPOINT ENERGY HOUSTON ELECTRIC, LLC
II-D-3.6.1a SHORT TERM INCENTIVE COMPENSATION BY GOALS
TEST YEAR ENDED 12/31/2018
DOCKET NO. 49421
SPONSOR: K. COLVIN/L. HARKEL-RUMFORD

INDEX

A copy of this material will be provided only after execution of a certification to be bound by the draft protective order set forth in Section VII of this Rate Filing Package or a protective order issued in this docket.

		1	2	3	4	5	6
		Financial		**Operational**			
Line No.	2018 Short Term Goals and Objectives	Overall Company Core Operating Income	Overall CNP Consolidated Diluted Earnings Per Share	Overall O&M Expenditures	Customer Satisfaction Composite	Overall Company Safety Performance Composite	Total
1	Weighting	[redacted]					
2	Achievement Level						
3	% of Goal Funding (Weighted Achievement Level)						
4	% of Overall Funding						
5							
6	2018 Short-Term Incentive By Goals (Direct)(in thousands)	$ 6,651	$ 5,279	$ 2,375	$ 1,227	$ 1,768	$ 17,300
7	2018 Short-Term Incentive By Goals (Affiliate)(in thousands)	$ 4,676	$ 3,711	$ 1,670	$ 863	$ 1,243	$ 12,162
		$ 11,327	$ 8,990 #	$ 4,045	$ 2,090	$ 3,011	$ 29,462

This information is confidential, and will be made available only after execution of a certification to be bound by the draft protective order set forth in Section VII of this Rate Filing Package or a protective order issued in this docket

38 4%	30 5%	13 7%	7 1%	10 2%	100.0%

benefits for key stakeholders, including customers. Finally, the total costs of CNP's STI awards are reasonable compared to similar opportunities at other employers.

E. Long-Term Incentive Plan

Q. PLEASE EXPLAIN CNP'S LTI PLAN.

A. The LTI Plan is the third component of CNP's total compensation pay philosophy. LTI pay, along with base pay and STI pay, comprise the non-benefits portion of a competitive compensation package that CNP employees will compare to other employers in the marketplace. As with STI, providing a well-designed LTI Plan is essential for attracting, retaining and motivating plan participants, typically CNP executives and other key employees in the Company who can influence the long-term performance of CNP. The LTI Plan is designed to focus the efforts of participants on sustained improvements in CNP's and the Company's performance over longer periods of time, typically three years. It is also designed to retain participants over time to provide continuity of a qualified management team. In this way, the LTI Plan is one tool CNP uses to retain experienced employees who are necessary to ensure the safe, reliable and successful operations of the Company.

Q. IS IT NECESSARY AND APPROPRIATE FOR LTI TO BE OFFERED AS PART OF THE TOTAL COMPENSATION PACKAGE?

A. Yes. LTI pay is a nearly universal component of total compensation for employees in executive and key positions among investor-owned utilities in today's workplace. In fact, Fredrick W. Cook and Co., Inc.'s ("Cook") December 2018 study titled, "The 2018 Top 250 Report: Long-Term Incentive Grant Practices for Executives," demonstrates that LTI is a necessary and expected component of modern compensation plans. Of the 250 largest companies in the Standard &

Poor's 500 Index, all reported having a LTI pay component. This includes all 14 of the utility sector companies included in the study. A copy of the confidential Cook study is attached to my testimony as Exhibit LHR-7.

Q. HOW DOES THE TOTAL COMPENSATION LEVEL (THE COMBINATION OF BASE SALARY, STI, AND LTI) OF CNP'S LTI-ELIGIBLE EMPLOYEES COMPARE TO THE TOTAL COMPENSATION LEVELS OF CNP'S PEER COMPANIES?

A. As described previously, CNP annually compares its total compensation, including STI and LTI, to the compensation found in the market surveys for LTI-eligible employees. As with STI, the 2018 comparison indicates that CNP's average total compensation levels when LTI is included are below the market median at approximately 98% for LTI eligible employees.

Q. PLEASE EXPLAIN THE COMPONENTS OF THE LTI PLAN.

A. LTI pay is a variable compensation component that rewards participants with shares of CNP stock called performance shares, based on the achievement of predetermined goals measured over three-year overlapping performance periods. LTI pay also rewards participants with shares of CNP stock called restricted stock awards. Costs for LTI during the test year are represented by the performance shares and restricted stock during the three-year periods that overlap with the 2018 test year: 2016 through 2018, 2017 through 2019, and 2018 through 2020. The LTI goals for these periods are based on total shareholder return and operating income for 2016 and 2017 and total shareholder return and net utility income for 2018. These goals are achieved based on the efforts of the plan participants to improve productivity, service, expense management, and other factors that are a necessary part of providing safe and reliable service. This type of variable incentive plan opportunity motivates and rewards employee performance, which is essential to recruiting and retaining a qualified management team. A more detailed explanation of the goals associated with the performance shares and the restricted stock awards included in the test year expense is provided in Exhibit LHR-8, Long-term Incentive Plan Goals (Confidential).

Q. IS IT APPROPRIATE FOR LTI TO BE LINKED TO SHAREHOLDER RETURN AND INCOME GOALS?

A. Yes. CNP's LTI Plan design is very similar to the LTI plan design of other comparable regulated investor-owned utilities that fall within a reasonable range of CNP's annual revenue and market capitalization. Using a group of peer utility companies helps align CNP's compensation programs with competitors that are in the same industry sector. LTI goals are meant to ensure that participants are focused on the health of the entire organization, including the Company. The majority of LTI plans in the job market consist of one or two goals that are designed to align participants' efforts with the interests of all stakeholders.

The Cook study referenced previously reported that 40% of the 250 companies in the study used performance-based LTI with a single performance measure or goal, while 36% of the survey group used two separate performance goals, and 24% used three or more goals. The following are the performance goals and frequency of use of each as reported by the Cook study:

NATIVE FILES ON THE ATTACHED CD