



Control Number: 49495



Item Number: 41

Addendum StartPage: 0

2019 SEP 27 PM 1:17

APPLICATION OF SOUTHWESTERN §  
PUBLIC SERVICE COMPANY TO §  
ADJUST ITS ENERGY EFFICIENCY §  
COST RECOVERY FACTOR §

PUBLIC UTILITY COMMISSION  
OF TEXAS

**ORDER**

This Order addresses the application of Southwestern Public Service Company to adjust its energy-efficiency cost recovery factor (EECRF). SPS filed an unopposed agreement that resolves certain issues between the parties in this proceeding. The Commission approves SPS's EECRF, as modified by the agreement, to the extent provided in this Order.

**I. Findings of Fact**

The Commission makes the following findings of fact.

**Applicant** PURA § 31.002(6) and 16 TAC § 25.181(b)

- 1. SPS is a New Mexico corporation and wholly owned subsidiary of Xcel Energy Inc.
- 2. SPS provides electric generation, transmission, and distribution services in Texas under CCN number 30153.

**Application** 16 TAC §§ 25.182(d)(8), (d)(10)(A)-(M), and (d)(11)(A)-(J)

- 3. On May 1, 2019, SPS filed an application to adjust its EECRF effective January 1, 2020.
- 4. No party objected to the sufficiency of the application.
- 5. In its application, SPS sought Commission approval to adjust its EECRF to recover \$4,933,146 during program year 2020, which included the following:
  - (a) SPS's forecasted energy-efficiency costs of \$4,444,530 in program year 2020;
  - (b) Projected evaluation, measurement, and verification (EM&V) expenses for the evaluation of program year 2019 in the amount of \$34,848;
  - (c) An adjustment of \$200,266 for SPS's net over-recovery, including interest, of program year 2018 energy-efficiency costs;

- (d) \$47,001 of rate-case expenses incurred in Docket No. 48324, which was SPS's 2018 EECRF proceeding; and
  - (e) A performance bonus of \$607,033.
6. In State Office of Administrative Hearings (SOAH) Order No. 2 issued on June 10, 2019, the SOAH Administrative Law Judge (ALJ) found SPS's application sufficient.

**Notice** *16 TAC §§ 22.55, 25.182(d)(13), (14)*

7. On May 1, 2019, SPS provided notice via regular first-class mail, hand delivery, Federal Express, or electronic mail to the following: counsel for each party that participated in SPS's most recently completed base-rate case, Docket No. 47527;<sup>1</sup> counsel for each party that participated in SPS's most recently completed EECRF docket, Docket No. 48324;<sup>2</sup> and the state agency that administers the federal weatherization program, which is the Texas Department of Housing and Community Affairs. In an affidavit filed by SPS on May 14, 2019, Stephanie M. Wells, a regulatory case specialist for SPS, attested that notice had been provided as described in this finding of fact.
8. No party objected to the adequacy of notice.
9. In SOAH Order No. 2 issued on June 10, 2019, the SOAH ALJ found SPS's notice sufficient.

**Intervenors and Intervenor Alignment** *16 TAC § 22.103–22.105*

10. Commission Staff participated in this docket.
11. In SOAH Order No. 2 issued on June 10, 2019, the SOAH ALJ granted the motion to intervene of Texas Industrial Energy Consumers (TIEC).

**Statements of Position and Pre-filed Testimony** *16 TAC §§ 22.124 and 22.225*

12. On May 1, 2019, SPS included in its application the direct testimonies with attachments and workpapers of Jeremy M. Lovelady, senior regulatory analyst for Xcel Energy Services

---

<sup>1</sup> *Application of Southwestern Public Service Company for Authority to Change Rates*, Docket No. 47527, Order (Dec. 10, 2018).

<sup>2</sup> *Application of Southwestern Public Service Company to Adjust its Energy Efficiency Cost Recovery Factor*, Docket No. 48324, Order (Sep. 27, 2018).

Inc.; J. Derek Shockley, manager, product portfolio supervision, for Xcel Energy Services Inc.; and Jason N. Smith, pricing analyst for SPS.

13. On July 31, 2019, Commission Staff filed the affidavits of Nancy Palma, Frederick Quijano, and Reginald Tuvilla in support of the agreement.

**Referral to SOAH for Hearing** *16 TAC §§ 22.121 and 25.182(d)(9)*

14. On May 2, 2019, the Commission referred this docket to SOAH.
15. On May 20, 2019, Commission Staff requested a hearing on the merits.
16. On May 24, 2019, the Commission issued a preliminary order for this docket, which included a list of issues to be addressed in this proceeding.
17. In SOAH Order No. 2 issued on June 10, 2019, the SOAH ALJ gave notice of a hearing on the merits set for 10:00 a.m. at SOAH's hearing facility in Austin, Texas on August 28, 2019, to last for one day.
18. On July 31, 2019, SPS and Commission Staff filed an unopposed agreement resolving certain issues between them. The only other party, TIEC, did not sign the agreement but also does not oppose it.
19. In SOAH Order No. 5 issued on August 6, 2019, the SOAH ALJ dismissed the case from SOAH's docket and remanded it to the Commission.

**Evidentiary Record**

20. In SOAH Order No. 5 issued on August 6, 2019, the SOAH ALJ admitted the following into the evidentiary record: (a) SPS's application filed on May 1, 2019; (b) the direct testimonies with attachments and workpapers of Jeremy M. Lovelady, J. Derek Shockley, and Jason N. Smith, filed on May 1, 2019; (c) SPS's affidavit of proof of notice, filed on May 14, 2019; (d) the parties' agreement and attachments, filed on July 31, 2019; and (e) Commission Staff's affidavits of Nancy Palma, Frederick Quijano, and Reginald Tuvilla in support of the agreement, filed on July 31, 2019.

**Energy Efficiency Goals** *16 TAC § 25.181(e)*

21. SPS's weather-adjusted average annual growth in demand for the previous five years (2014 through 2018) is 41.24 megawatts (MW).

22. Because SPS has reached a demand reduction goal of greater than four-tenths of 1% of its summer weather-adjusted peak demand under 16 Texas Administrative Code (TAC) § 25.181(e)(1)(B), its minimum demand reduction goal under 16 TAC § 25.181(e)(1)(D) is 5.994 megawatts (MW).
23. SPS projects that it will achieve 9.15 MW in demand reductions in program year 2020, which is greater than the minimum of 5.994 MW.
24. The estimated savings to be achieved through SPS's programs for hard-to-reach customers is 0.650 MW or 11% of the proposed goal of 5.994 MW, which is in excess of the 5% minimum required by 16 TAC § 25.181(e)(3)(F).
25. SPS forecasts that it will achieve energy savings of 20,652 megawatt-hours (MWh) in program year 2020, which is greater than the minimum of 10,502 MWh, due to the mix of energy and demand savings achievable through the programs.

**Agreement** PURA § 14.054 and 16 TAC § 22.35

26. Under the agreement, SPS's EECRF will recover \$4,875,863 during program year 2020, which includes:
  - (a) SPS's forecasted energy-efficiency costs of \$4,444,530 in program year 2020;
  - (b) Projected EM&V expenses in the amount of \$34,848 for the evaluation of program year 2019;
  - (c) An adjustment of \$257,549 for SPS's net over-recovery, including interest, of program year 2018 energy-efficiency costs;
  - (d) SPS's rate-case expenses incurred in Docket No. 48324 in the amount of \$47,001; and
  - (e) A performance bonus of \$607,033.
27. The agreement provides an effective date of January 1, 2020 for SPS's program year 2020 EECRF tariff rider, with the rider remaining in effect until December 31, 2020 or until the Commission orders otherwise.
28. On July 9, 2019, the parties filed notice that they had reached an agreement resolving all outstanding issues between them and requested the suspension of the procedural schedule.

**Elements of Recovery and Coordination with Base-Rate Recovery** 16 TAC §§ 25.182(d)(1) and (d)(6)

29. SPS's EECRF is calculated to recover SPS's forecasted annual energy-efficiency expenditures, the preceding year's over- or under-recovery, utility EECRF proceeding expenses from SPS's immediately preceding EECRF docket, a performance bonus, and EM&V costs allocated to SPS by the Commission as allowed by 16 TAC § 25.182(d)(1)(A).
30. SPS does not recover any energy-efficiency costs in its base rates.
31. SPS's EECRF is designed to provide only for energy charges for residential and commercial rate classes in compliance with 16 TAC § 25.182(d)(6).

**EECRF Cost Caps** 16 TAC § 25.182(d)(7)

32. Before applying the consumer price index adjustment, SPS used a base cap of \$0.001303 per kilowatt-hour (kWh) for the residential class and \$0.000815 per kWh for the commercial classes in accordance with 16 TAC § 25.182(d)(7). SPS calculated its EECRF cost caps for the 2020 program year to be \$0.001332 per kWh for the residential class and \$0.000833 per kWh for the commercial classes.
33. SPS's EECRF rider tariff will impose a charge of \$0.001040 per kWh on residential customers and a charge ranging from \$0.000056 to \$0.001316 per kWh for the commercial classes. The group rate is \$0.000447 per kWh for the purpose of the commercial cost cap.

**Over- or Under-Recovery** 16 TAC § 25.182(d)(2)

34. SPS requests to recover from each rate class the difference between the actual EECRF revenues and the actual costs for that class, which results in a net over-recovery.
35. Over-recovery of 2018 program costs, including interest, is accurate. The agreed amount of \$257,549 to be refunded to SPS's Texas customers is reasonable.

**Proceeding Expenses** 16 TAC § 25.182(d)(3)

36. In its application, SPS included the affidavit of Stephen J. Davis. The factors relied upon by Mr. Davis in reaching his opinion on the reasonableness and necessity of SPS's rate-case expenses are the factors required by 16 TAC § 25.245(b). In the affidavit, Mr. Davis attested that SPS's rate-case expenses of \$47,001 incurred in its 2018 EECRF proceeding, Docket No. 48324, were reasonable and necessary.

**Performance Bonus Calculations** *16 TAC § 25.182(e)*

37. In 2018, SPS's program costs were \$4,657,765, and the total avoided costs were \$10,728,097 on energy-efficiency programs.
38. Under 16 TAC § 25.182(e)(3), SPS's application sought the maximum allowable performance bonus, which is 10% of the net benefits of \$6,070,332 achieved through its energy-efficiency incentive program costs, for exceeding its goal for calendar year 2018. The resulting performance bonus from this calculation is \$607,033.

**Evaluation, Measurement, and Verification Costs** *16 TAC § 25.181(o)*

39. SPS's share of the estimated total 2019 EM&V costs is \$34,848 and, to the maximum extent reasonably possible, is directly assigned to each rate class that receives services under its programs.

**Administrative and Research and Development Cost Caps** *16 TAC § 25.181(g)*

40. SPS incurred \$327,119 in necessary administrative costs and \$25,182 in research and development costs for the 2018 energy-efficiency programs to meet SPS's goals. Those amounts were 8.43% and 0.69%, respectively, of the total program costs for the previous year. Therefore, SPS's cumulative cost of administration and research and development was 9.07% of the total program costs.
41. SPS's cost of administration did not exceed 15% of its total program costs. SPS's cost of research and development did not exceed 10% of its total program costs. SPS's cumulative cost of administration and research and development did not exceed 20% of its total program costs for the 2018 program year.

**Cost Effectiveness** *16 TAC § 25.181(d)*

42. SPS used an avoided cost of capacity of \$80 per kW-year for 2018 and 2019. SPS used Commission Staff's posted avoided cost of energy of \$0.03757 per kWh for 2018 and set an avoided cost of energy at \$0.04705 per kWh for 2019.
43. SPS determined that its 2018 portfolio of energy-efficiency programs produced a benefit-cost ratio of 2.33, which exceeds the benefit-cost ratio of 1.0 or greater required by 16 TAC § 25.181(d).

44. SPS's forecasted 2020 energy-efficiency program costs of \$4,444,530 are a reasonable estimate of the costs necessary to provide energy-efficiency programs and meet SPS's goals for 2020.

**Total Cost Recovery** *16 TAC § 25.182(d)*

45. SPS's cost recovery of \$431,333—which consists of SPS's (i) projected EM&V expenses for program year 2019; (ii) net over-recovery adjustment of program year 2018 energy-efficiency costs; (iii) rate-case expenses incurred in Docket No. 48324; and (iv) SPS's performance bonus earned in 2018—is a reasonable amount.

**Rate Classes and Direct Assignment of Costs** *16 TAC § 25.182(d)(2)*

46. SPS directly assigned costs to the maximum extent reasonably possible to each rate class that receives services under the programs.

**Fostering of Competition Among Energy-Efficiency Service Providers** *16 TAC § 25.181(g)(2)*

47. SPS has adopted measures to foster competition among energy-efficiency service providers.

**Requirements for Standard Offer, Market Transformation, and Self-Delivered Programs**  
*16 TAC § 25.181(h)–(k)*

48. SPS's energy-efficiency program includes standard offer, market transformation, and self-delivered programs.

**Incentive Payments** *16 TAC § 25.181(f)*

49. SPS's incentive payments do not exceed 100% of avoided cost.

**Affiliate Costs** *PURA § 36.058, 16 TAC § 25.181(c)(1) and 25.182(d)(10)(l)*

50. SPS did not incur any affiliate costs for energy efficiency in 2018.

**Energy-Efficiency Plan and Report** *16 TAC § 25.181(l)*

51. On May 1, 2019, SPS filed its 2019 amended energy-efficiency plan and report required by 16 TAC § 25.181(l).

**Low-Income Energy Efficiency** *16 TAC § 25.181(p)*

52. SPS's budgeted incentive amount for its low-income programs in program year 2020 is \$450,000, which is greater than 10% of the total portfolio budget amount of \$4,479,378 (including EM&V).



**Outreach to Retail Electric Providers** *16 TAC C 25.181(r)*

53. SPS does not serve in an area in which customer choice is offered.

**Industrial Customer Exclusions** *16 TAC § 25.181(u)*

54. As of the filing of the application, SPS received notices under 16 TAC § 25.181(u) from six customers, totaling 839 premises, to exclude a total of 46 MW of peak demand from SPS's energy-efficiency programs for program year 2020. Those excluded customers have been reflected in the EECRF calculations.

**Line Losses** *16 TAC §§ 25.181(e)(3)(B) and 25.182(d)(10)(M)*

55. SPS's line-loss factors were derived from a study approved in its last completed rate case, Docket No. 47527.

56. SPS's energy line-loss factor of 7.88% and demand line-loss factor of 9.70% used in calculating its 2020 EECRF charges are reasonable.

**Billing Determinants** *16 TAC § 25.182(d)(10)(E)*

57. The estimate of billing determinants in calculating SPS's 2020 EECRF and the calculation of the 2020 EECRF tariff rider are reasonable.

**Good Cause Exceptions** *16 TAC §§ 22.5(b), 22.35(b)(2), 25.181(e)(2), and 25.182(d)(2)*

58. SPS did not seek a good cause exception to be eligible for a lower demand-reduction goal, a higher administrative spending cap, or a higher EECRF cost cap under 16 TAC § 25.181(e)(2). SPS also did not seek a good cause exception to combine rate classes under 16 TAC § 25.182(d)(2).

**Informal Disposition** *16 TAC § 22.35(a)*

59. More than 15 days have passed since the completion of notice provided in this docket.

60. Commission Staff requested a hearing but effectively withdrew that request by entering into the agreement. No hearing is necessary.

61. The decision is not adverse to any party.

## II. Conclusions of Law

The Commission makes the following conclusions of law.

1. SPS is a public utility as that term is defined in PURA<sup>3</sup> § 11.004(1) and an electric utility as that term is defined in PURA § 31.002(6).
2. The Commission has jurisdiction over this matter under PURA §§ 14.001, 32.001, 36.001, 36.204, and 39.905.
3. Under PURA § 39.905 and 16 TAC § 25.182(d)(8), an electric utility may file for an EECRF.
4. SPS complied with the requirement under 16 TAC § 25.182(d)(8) to apply by May 1 to adjust its EECRF, effective January 1 of the following year.
5. The Commission processed the application in accordance with the requirements of PURA, the Administrative Procedure Act,<sup>4</sup> and Commission rules.
6. SOAH exercised jurisdiction over this proceeding in accordance with PURA § 14.053 and Texas Government Code § 2003.049.
7. SPS provided notice of the application in accordance with 16 TAC § 25.182(d)(13) and 16 TAC § 22.55 and filed an affidavit attesting to the completion of notice as required by 16 TAC § 25.182(d)(14).
8. SPS's application is sufficient under 16 TAC § 25.182(d)(10) and (11).
9. The hearing on the merits was set, and notice of the hearing was given, in compliance with Texas Government Code §§ 2001.051 and 2001.052.
10. SPS calculated its weather-adjusted average annual growth in demand in compliance with 16 TAC § 25.181(e)(3).
11. SPS has acquired a reduction of four-tenths of 1% of its summer weather-adjusted peak demand of residential and commercial customers in compliance with 16 TAC § 28.181(e)(1)(B), (e)(1)(C), and (e)(3)(B).

---

<sup>3</sup> Public Utility Regulatory Act, Tex. Util. Code §§ 11.001–66.016.

<sup>4</sup> Administrative Procedure Act, Tex. Gov't Code §§ 2001.001–.902.

12. SPS's minimum energy-savings goal was calculated in compliance with 16 TAC § 25.181(e)(4).
13. SPS's portfolio of energy-efficiency programs effectively and efficiently achieves the goals set out in 16 TAC § 25.181 as required by 16 TAC § 25.181(e)(5).
14. SPS's proposed EECRF rates comply with the requirements for cost caps under 16 TAC § 25.182(d)(7).
15. SPS's requested adjustment for its net over-recovery of \$257,549, including interest, of program year 2018 energy-efficiency costs complies with PURA § 39.905(b-1) and 16 TAC § 25.182(d)(2).
16. SPS qualified for and accurately calculated its energy-efficiency performance bonus of \$607,033 for its energy-efficiency achievements in program year 2018 in compliance with the requirements of PURA § 39.905 and 16 TAC § 25.182(e).
17. EECRF proceeding expenses are rate-case expenses.
18. The requirements of 16 TAC § 25.182(d)(3)(A) and 16 TAC § 25.245 apply to the recovery of EECRF proceeding expenses.
19. SPS's 2018 proceeding expenses of \$47,001 comply with 16 TAC § 25.182(d)(3)(A) and 16 TAC § 25.245.
20. The amounts and allocation of SPS's administrative and research and development costs comply with 16 TAC § 25.181(g).
21. SPS's energy-efficiency programs adhere to the cost-effectiveness standards contained in 16 TAC § 25.181(d).
22. SPS's 2020 energy-efficiency program costs of \$4,444,530 to be recovered through the EECRF are reasonable estimates of the costs necessary to provide energy-efficiency programs in 2020 in compliance with PURA § 39.905 and 16 TAC § 25.182(d)(1).
23. SPS's cost recovery of \$34,848, which consists of SPS's projected EM&V expenses for evaluation of program year 2019, complies with PURA § 39.905 and 16 TAC § 25.182(d).

24. The assignments and allocations of SPS's proposed 2020 EECRF rates to the rate classes are reasonable and comply with PURA § 39.905(b)(4) and 16 TAC § 25.182(d)(2).
25. SPS has adopted measures to foster competition among energy-efficiency service providers in compliance with 16 TAC § 25.181(g)(2).
26. SPS's standard offer, market transformation, and self-delivered programs comply with PURA § 39.905(a)(3) and 16 TAC § 25.181(h) through (k).
27. SPS's incentive payments, which do not exceed 100% of avoided cost, are in compliance with 16 TAC § 25.181(f).
28. SPS's targeted low-income energy-efficiency program exceeds the minimum of 10% of its energy-efficiency budget for the program year in compliance with 16 TAC § 25.181(p).
29. The requirement in PURA § 39.905(a)(4) and 16 TAC § 25.181(r) for outreach to retail electric providers does not apply to SPS.
30. SPS's load associated with industrial customers who provided qualifying identification notice was excluded from SPS's calculated demand-reduction goal in accordance with 16 TAC § 25.181(u).
31. SPS's proposed 2020 EECRF rates are just and reasonable under PURA § 36.003(a).
32. In accordance with PURA § 36.003(b), SPS's proposed 2020 EECRF rates are not unreasonably preferential, prejudicial, or discriminatory and are sufficient, equitable, and consistent in application to each consumer class.
33. The requirements for informal disposition in 16 TAC § 22.35 have been met in this proceeding.

### III. Ordering Paragraphs

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

1. The Commission approves SPS's EECRF, as modified by the agreement, to the extent provided in this Order.
2. SPS's 2020 EECRF is approved in the amount of \$4,875,863, which is composed of the following: (a) estimated 2020 energy-efficiency program costs of \$4,444,530; (b) a performance bonus of \$607,033 for 2018 program achievements; (c) \$47,001 in 2018 EECRF rate-case expenses; (d) EM&V costs of \$34,848; and (e) a \$257,549 adjustment for the over-recovery of 2018 program costs, including interest.
3. The Commission approves SPS's EECRF tariff-rider schedule attached as exhibit B to the agreement.
4. SPS is authorized to apply the EECRF tariff rider approved by this Order beginning on and after January 1, 2020.
5. Within ten days of the date of this Order, SPS must provide a clean copy of the EECRF tariff approved by this Order to central records to be marked *Approved* and filed in the Commission's tariff books.
6. Entry of this Order does not indicate the Commission's endorsement or approval of any underlying principle or methodology that underlies the agreement and must not be regarded as precedential as to the appropriateness of any principle or methodology underlying the agreement.
7. The Commission denies all other motions and any other requests for general or specific relief that have not been expressly granted.

Signed at Austin, Texas the 27<sup>th</sup> day of September 2019.

**PUBLIC UTILITY COMMISSION OF TEXAS**



**DEANN T. WALKER, CHAIRMAN**



**ARTHUR C. D'ANDREA, COMMISSIONER**



**SHELLY BOTKIN, COMMISSIONER**

W2013  
q:\cadm\orders\final\49000\49495 fo docx

