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APPLICATION OF SOUTHWESTERN ELECTRIC POWER COMPANY FOR CERTIFICATE OF CONVENIENCE AND NECESSITY AUTHORIZATION AND RELATED RELIEF FOR THE ACQUISITION OF WIND GENERATION FACILITIES	§ § § § § § §	**BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS**

COMMISSION STAFF'S STATEMENT OF POSITION

COMES NOW the Staff (Staff) of the Public Utility Commission of Texas (Commission), representing the public interest and files this Statement of Position. In support thereof, Staff shows the following:

I. INTRODUCTION

Through its application, Southwestern Electric Power Company (SWEPCO) seeks the Commission's approval to amend its Certificate of Convenience and Necessity (CCN) to include the selected wind facilities (SWFs).

Typically, in a generation CCN application, the Commission considers whether the proposed generation facility is a reasonable solution to meet a reliability need. However, in the instant case, there is no need for additional generation capacity; instead the application seeks to "save customers money and further diversify SWEPCO's energy resource mix."[1] Therefore, the primary analysis for the Commission to consider is whether the net benefits to ratepayers exceed the costs borne by the ratepayers. Because the net benefits to customers are uncertain and based on a variety of assumptions, Staff does not recommend approval of the application, unless SWEPCO adopts additional guarantees designed to protect ratepayers. Furthermore, the Commission must also decide whether a public interest finding under § 14.101 of the Public Utility Regulatory Act (PURA) is required for SWEPCO's acquisition of the SWFs. Staff recommends that a public interest finding under § 14.101 of PURA is necessary for approval of the application.

[1] Direct Testimony of Thomas P. Brice (Brice Direct) at 70.

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II. ECONOMIC ANALYSIS OF THE SELECTED WIND FACILITIES

A. Project Description and Cost

Wind Facilities

SWEPCO and the Public Service Company of Oklahoma (PSO) have contracted in a Purchase and Sale Agreement (PSA) to acquire the selected wind facilities (SWFs) for $1.860 billion or approximately $1,253/kW.[2] SWEPCO and PSO will acquire three wind facilities: Traverse (999 MW); Maverick (287 MW); and Sundance (199 MW), for a total of 1,485 MW.[3] SWEPCO will acquire 54.5% of each facility, for a total of 810 MW, and PSO will acquire 45.5% of each facility, for a total of 675 MW.[4] Invenergy Wind Development North America, LLC is responsible for the development and construction of the SWFs.[5] The estimated total capital costs for the project is $1.996 billion, which includes each wind project's purchase price, PSA price adjustments, and owner's costs.[6]

According to witness Jeffry Pollock of Texas Industrial Energy Consumers (TIEC), these capital costs would likely not cover the life of the facilities because "there will be interim capital additions and retirements as components wear out and require periodic replacements." [7] Pollock further testified that, though SWEPCO had calculated ongoing capital costs in SWEPCO's analysis, these costs are projections and do not take into account ongoing capital additions.[8] Moreover, SWEPCO has a history of exceeding its budget on generation projects. For example, SWEPCO's Turk Plant had a capital cost cap of $1.522 billion, but went over budget by 16%.[9]

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[2] Direct Testimony of Jay F. Godfrey (Godfrey Direct) at 100-101, 123.

[3] Application at 2.

[4] *Id.*

[5] Direct Testimony of Joseph G. DeRuntz (DeRuntz Direct) at 383.

[6] *Id.* at 392.

[7] Direct Testimony of Jeffry Pollock (Pollock Direct) at 13.

[8] *Id.*

[9] *Application of Southwestern Electric Power Company for Certificate of Convenience and Necessity Authorization for a Coal Fired Power Plant in Arkansas*, Docket No. 33891, Order at 7 (Aug. 12, 2008); Tr. at 1234:12-19.

Gen-Tie

Unlike its previous application with the Wind Catcher project,[10] the instant application does not include a request for a generation tie-line (gen-tie).[11] However, because there is a potential need for a gen-tie in the future,[12] SWEPCO analyzed net benefits of the project with and without a gen-tie line in service in 2026.[13]

SWEPCO offered two alternatives for transmission from the project facilities: (1) connection directly to the American Electric Power (AEP) West Load Zone in Tulsa through the Southwest Power Pool (SPP) transmission line, as long as SPP creates new transmission lines and/or upgrades its existing infrastructure to provide transmission for increased congestion within five years; or (2) connection directly to the AEP West Load Zone through SPP transmission lines in Tulsa for a period of five years, at which time, if SPP has not upgraded existing infrastructure and congestion is too high, SWEPCO will construct a gen-tie that will provide transmission from the project facilities directly to the AEP West Load Zone in Tulsa.[14]

SWEPCO argues that it can adequately account for the costs associated with the production of a gen-tie line directly from the project facilities to the AEP West Load Zone in Tulsa.[15] SWEPCO argues that it has adequate costs analysis models for the production of their own gen-tie, yet their cost models make projections based upon gen-tie in operation in 2026[16], while SWEPCO's testimony also states that the need for a new gen-tie would either be operational or assessed in 2026.[17] SWEPCO's position on the status of a gen-tie being complete in 2026 is not clear.

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[10] *Application of Southwestern Electric Power Company for Certificate of Convenience and Necessity Authorization and Related Relief for the Wind Cather Energy Connection Project in Oklahoma*, Docket No. 47461, Direct Testimony of Robert W. Bradish at 430 (July 31, 2017).

[11] Brice Direct at 80, 86-87.

[12] Direct Testimony of Johannes P. Pfeifenberger (Pfeifenberger Direct) at 546.

[13] Torpey Direct at Exhibit JFT-3.

[14] Direct Testimony of Kamran Ali (Ali Direct) at 462, 465.

[15] *Id.* at 463-464.

[16] Torpey Direct at Ex. JFT-3.

[17] Ali Direct at 463-464.

B. Projected Benefits of the Selected Wind Facilities

SWEPCO claims the SWFs will provide benefits to customers, including reduced energy costs, deferred capacity additions and associated costs, and increased availability of renewable energy credits for customers.[18] Additionally, SWEPCO proposes a number of customer protection guarantees, such as a capital cost cap and production guarantee.[19]

However, Staff does not recommend approval of SWEPCO's application, unless there is a guaranteed net benefit to customers, such that the projected benefit to customers offsets the costs of the SWFs that SWEPCO will recover through rates. Since SWEPCO is proposing to acquire the SWFs for economic reasons, not reliability reasons, the energy cost savings resulting from the project must be the primary focus when reviewing the application, because the validity of the modeling and assumptions used to estimate these savings will largely determine whether the ratepayers will derive a net benefit. The potential benefits to ratepayers depend primarily on whether there are production cost savings, the number of production tax credits (PTCs) earned, and the amount saved in deferred capacity additions.

Production Cost Savings

The production cost savings actually produced by the SWFs will depend on the accuracy of SWEPCO's estimate of future natural gas prices and the expected generation output of the project. Comparing a Baseline case, where SWEPCO does not acquire the SWFs, to a Project case, where SWEPCO does acquire the SWFs, SWEPCO estimates production cost savings excluding congestion and losses of $1,680,000 Net Present Value (NPV) with a carbon emissions burden or $1,467,000 NPV without carbon emissions burden.[20] These savings were calculated using a P50 capacity factor.[21] P-values represent the probability that a forecasted value is exceeded.[22] A P50 capacity factor means that the SWFs will produce more megawatt hours than the expected output 50% of the time and fewer megawatt hours than the expected output 50% of time.[23]

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[18] Application at 6.

[19] Application at 7-8.

[20] Torpey Direct at 483.

[21] *Id.*

[22] Direct Testimony of Karl Nalepa (Nalepa Direct) at 18.

[23] Brice Direct at 84.

While SWEPCO touts the production cost savings produced by a P50 capacity factor, SWEPCO is only willing to guarantee minimum production at the P95 level over 10 years, subject to *Force Majeure* and SPP curtailments.[24] With production at the P95 level, SWEPCO estimates production costs savings excluding congestion and losses of $1,456,000 NPV with a carbon emissions burden or $1,273,000 NPV without a carbon emissions burden.[25]

Production Tax Credits

Also critical to the amount of net benefits to customers is the amount of PTCs earned by the SWFs. SWEPCO estimates the PTCs will generate $507 million in savings grossed up and net of the deferred tax asset (DTA).[26] SWEPCO has also guaranteed PTCs at the 100% level for the Sundance facility and the 80% level for the Traverse and Maverick facilities.[27] Because the PTC savings are offset by the DTA, the amount of the DTA is critical to determining the actual savings generated by PTCs. However, the balance of the DTA is unknown. And if SWEPCO's request to recover the DTA in rate base is approved, the length of time the DTA remains in rate base will also directly affect the ultimate amount of PTC savings.

Capacity Value

Although SWEPCO is not acquiring the SWFs to meet a current capacity need, it has forecasted a need for additional capacity to meet SPP obligations beginning in 2026.[28] Attributing a 15% capacity value to the SWFs, SWEPCO estimates that these projects will produce cost savings of $70 million in the form of deferred capacity additions.[29] TIEC witness Charles Griffey stated that the avoided capital costs derived from the SWFs will not be realized until 2038.[30] Weighing the distant nature of these benefits against the immediate impact of the $1.996 billion in total project capital costs, it is unrealistic to include deferred capacity additions in the calculation of the net benefits the SWFs will provide to customers.

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[24] Brice Direct at 83.

[25] Torpey Direct at Exhibit JFT-3.

[26] *Id.* at 483.

[27] Application at 7.

[28] Torpey Direct at 485.

[29] *Id.* at 486-87.

[30] Direct Testimony of Charles Griffey (Griffey Direct) at 44.

C. Economic Evaluation

Economic evaluation compares the project costs to the net benefits of the SWFs. While the minimum project costs are relatively certain, SWEPCO's estimate of net benefits are uncertain and rely on a variety of assumptions including the price of natural gas, the cost of carbon, the useful life of the project, and the capacity factor at which the SWFs operate. Because the net benefits are uncertain, Staff does not recommend approval of the application without a net benefits guarantee, in addition to other guarantees to protect consumers.

Evaluation Methodology

For its evaluation of net benefits, SWEPCO compared the Project Case and the Baseline Case. Then, SWEPCO compared the difference between these two cases for a period of 30 years, from 2021 to 2051. The net benefits also included the SWFs' capacity value, which was determined using the PLEXOS model, and the adjusted production cost savings were added to avoided capacity value and the value of PTCs (grossed up and net of the DTA), to arrive at the total consumer benefit. Project Costs, including the SWFs project revenue requirements and congestion and line loss costs, were then subtracted from the total benefit to arrive at an annual net benefit and the present value of all costs and benefits were then calculated.[31] SWEPCO's PLEXOS model is used to determine how the SWEPCO's energy and capacity related costs will be affected by the ownership and operation of the SWFs.[32]

Economic Evaluation Assumptions

Useful Life

SWEPCO states that the proposed SWFs are engineered to have a useful life of 30 years and the SWFs ongoing O&M and capital forecast is based on maintaining the availability and performance of the turbines for 30 years.[33] However, for the previously proposed Wind Catcher project, SWEPCO assumed a useful life of 25 years.[34] SWEPCO has not explained why the

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[31] Torpey Direct at 485.

[32] Pfeifenberger Direct at 547.

[33] DeRuntz Direct at 397.

[34] *Application of Southwestern Electric Power Company for Certificate of Convenience and Necessity Authorization and Related Relief for the Wind Catcher Energy Connection Project* (Docket No. 47461) Direct Testimony of Paul Chadok at 55 (July 31, 2017).

useful life of the SWFs increased by five years from the useful life for the previously proposed Wind Catcher project. TIEC witness Jeffery Pollock stated that a shorter useful life reduces net benefits, since removing the production cost savings in the last five years would outweigh the incremental costs and that net benefits should be quantified using a 25-year useful life, rather than a 30-year useful life.[35]

Locational Marginal Prices

The benefits to be realized by ratepayers is dependent on the market price of energy, or the locational marginal price (LMP) of energy. The higher the LMPs, the greater the production cost savings. SWEPCO used the AURORA model to determine forecasted LMPs.

A major factor in estimating future LMPs is the projection of future natural gas prices. SWEPCO relied on its in-house "Fundamentals" forecast for predicting future natural gas prices. At least three other intervening parties have expressed concerns that SWEPCO has overstated its natural gas prices.[36] Most notably, SWEPCO did not incorporate the New York Mercantile Exchange (NYMEX) gas futures prices into its analysis.[37] TIEC's witness Jeffery Pollock contends that the U.S. Energy Information Administration's (EIA's) High Oil and Gas Supply Case provides better predictions for future natural gas prices than SWEPCO'S provided EIA Reference Case.[38]

Lastly, SWEPCO presumed the existence of a carbon emissions burden in in estimating future LMPs, which is potentially speculative and inflates the value of projected LMPs.[39] SWEPCO's 2019 Fundamentals Forecast employed the presumption of a carbon emissions burden beginning in 2028 at $15 per ton and escalating by 3.5% a year.[40] Another concern is that

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[35] Pollock Direct at 10.

[36] Nalepa Direct at 28 (concluding that "at current natural gas prices, the wind generation facilities provide no net benefit to SWEPCO's customers and likely result in increased costs to customers"); Norwood Direct at 20 (concluding that "savings under the Company's low-gas price scenarios (rather than the base case analysis) may be more indicative of likely Project benefits to customers"); Griffey Direct at 5 (noting that "Simply adjusting SWEPCO's overstated gas prices to more reasonable levels, without any other corrections to SWEPCO's model, shows that the Wind Projects are uneconomical").

[37] Direct Testimony of Karl R. Bletzacker (Bletzacker Direct) at 413.

[38] Errata to Pollock Direct at 18.

[39] Pollock Direct at 25-27; Nalepa Direct at 15-16.

[40] Bletzacker Direct at 419.

SWEPCO understates the influx of renewable resources that is currently under construction, overstating SWEPCO's LMP projections.[41]

Overall

As shown above, the net benefits to ratepayers are dependent on a variety of assumptions and at least a few intervenors question the assumptions made by SWEPCO. Scott Norwood for CARD states that while the cost/benefit analysis for the SWFs appear reasonable the forecasted net benefits are still relatively small (between 0.5 – 1%) compared to SWEPCO's forecasted annual revenue requirement.[42] Therefore, Staff does not recommend approval of the application, without the incorporation of additional guarantees designed to benefit ratepayers.

III. PROPOSED CONDITIONS TO CCN

A. Intervenors' Proposed Conditions

TIEC and East Texas Electric Cooperative and Northeast Texas Electric Cooperative (ETEC) recommend rejection of the application.[43] However, other intervenors, including CARD and the Office of Public Utility Counsel (OPUC), recommend approval of the application only with additional protections, including a net benefits guarantee and an improved production guarantee.[44] OPUC and CARD condition approval of the application on an improved production guarantee of 44.01% or 39.6% net capacity factor, respectively.[45] Both intervenors state that production guarantee should not include exceptions for *Force Majeure* or SPP curtailments and should be in place for the entire 30-year life span of the SWFs.[46] CARD and OPUC also believe a net benefits guarantee is necessary for protecting consumers.[47] Lastly, CARD states that customers should receive 100% of the benefits of off system sales attributable to the SWFs as an offset to fuel costs and 100% of the attributable Renewable Energy Credit (REC) sales.[48]

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[41] Pollock Direct at 32.

[42] Norwood Direct at 20.

[43] Pollock Direct at 5; Direct Testimony of James W. Daniel at 16-17.

[44] Nalepa Direct at 8; Norwood Direct at 5, 22-26.

[45] *Id.*

[46] *Id.*

[47] *Id.*

[48] Norwood Direct at 5, 24.

CARD also conditions approval of the application on requiring SWEPCO to seek Commission pre-approval of any new transmission lines that it seeks to construct in the future to mitigate congestion costs associated with energy supplied from the SWFs.[49]

B. Staff's Proposed Conditions

In the event that the Commission approves the application, Staff recommends the addition of the following additional guarantees:

- A net benefits guarantee;
- A production guarantee; and
- A requirement that SWEPCO file a CCN application in the event that it determines that a gen-tie is necessary.

These additional conditions would lead to the probability that the project would result in a probable lowering of cost to SWEPCO's consumers and allow the Commission to have an opportunity to review an application that may affect Texas ratepayers. The guarantee that SWEPCO file a CCN application in the event that it determines a gen-tie is necessary will ensure that the Commission will have the opportunity to review the application of a future gen-tie or transmission lines and determine whether the project meets Texas statutory requirements.

IV. PROPOSED RATEMAKING TREATMENTS

A. Generation Investment Recovery Rider

SWEPCO intends to apply for a Generation Investment Recovery Rider under PURA § 36.213 to recover the Texas share of the SWFs (309 MW).[50] If approved by the Commission, the rider would take effect on the date the SWFs begin providing service to customers and the amounts recovered through the rider would be subject to reconciliation in SWEPCO's next base rate case.[51] Staff does not take a position on the rider in this proceeding and reserves the right to address the issue once the application requesting the rider is filed.

B. Deferred Tax Asset for PTCs

As discussed previously, the DTA requested by SWPECO reduces the amount of customer savings resulting from the PTCs. SWEPCO is seeking approval to recover the DTA in

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[49] *Id.* at 6, 26.

[50] Direct Testimony of John O. Aaron (Aaron Direct) at 666.

[51] *Id.*

rate base.[52] As discussed in detail in the direct testimony of Staff witness Ruth Stark, Staff opposes preapproving the ratemaking treatment that will be applied to the DTA as part of a CCN proceeding.[53] Her recommendation is based on the uncertainties related to potential changes in law, the amount and timing of the DTA balance, and the future positions of SWEPCO's affiliates.[54]

C. Jurisdictional and Class Allocation

SWEPCO has not proposed a jurisdictional allocation for the SWFs as part of the application nor has it proposed class allocation factors. As explained by SWEPCO witness John Aaron, the analysis in the application used an estimated energy allocator to determine jurisdictional and class allocations.[55] Because SWEPCO has not proposed actual jurisdictional and class allocation factors in this docket, Staff does not take a position on whether an energy allocator is appropriate at this time and reserves the right to address the issue in SWEPCO's next bas rate case.

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[52] Application at 6.

[53] Direct Testimony of Ruth Stark at 0000007 (Jan. 22, 2020).

[54] *Id.* at 0000016.

[55] Aaron Direct at 664.

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CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on February 18, 2020 in accordance with 16 TAC § 22.74.

Rashmin J. Asher