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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

CITIES ADVOCATING REASONABLE DEREGULATION'S

INITIAL POST-HEARING CLOSING BRIEF

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CARD'S INITIAL POST-HEARING CLOSING BRIEF

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CARD'S INITIAL POST-HEARING CLOSING BRIEF

The Cities Advocating Reasonable Deregulation ("CARD") hereby submit their Initial Post-Hearing Closing Brief[1] and in support thereof, show as follows:

I. INTRODUCTION

Absent the implementation of protections to ratepayers that safeguard them from the down-side risk of the economics of Southwestern Electric Power Company's ("SWEPCO") proposal to acquire what it refers to as the "Selected Wind Facilities" ("Wind Project" or "Project"), CARD urges the Administrative Law Judges ("ALJs") to recommend denial of SWEPCO's application to amend its certificate of convenience and necessity.

As was the case in Docket No. 47461, SWEPCO's "Wind Catcher" case[2] much of the discussion at the hearing on the merits centered on the validity, or not, of the parties' projections of what the future portends in terms of the cost of gas; market-energy prices, future carbon-

[1] CARD does not provide briefing under each heading in the outline agreed to by the parties. To the extent CARD does not provide briefing with regard to a particular heading, CARD reserves the right to submit reply briefing on those topics. Also, CARD's lack of comment under a particular heading is not and should be read as agreement with or acquiescence to SWEPCO's or any other party's contentions under such heading. Lastly, to the extent CARD does present briefing under a particular heading or sub-heading, CARD reserves the right to provide a reply in its reply post-hearing brief.

[2] Docket No. 47461, *Application of Southwestern Electric Power Company for Certificate of Convenience and Necessity Authorization and Related Relief for the Wind Catcher Energy Connection Project in Oklahoma*, Final Order (August 13, 2018) ("Wind Catcher Case").

mitigation costs, and future changes in federal tax laws, which could affect the value of the production tax credits ("PTCs") and their availability to offset the cost of the Wind Project; the level of production of energy by the wind turbines, which in turn depends on forecasting the weather; the level of future congestion costs in the Southwest Power Pool ("SPP") energy market; and whether although unlike Wind Catcher, not including a "Gen-Tie," ultimately SWEPCO would need to construct a "Gen-Tie."

Similar to SWEPCO's Wind Catcher case, at bottom the risk of the validity of SWEPCO's or any other party's projections, is shouldered by the ratepayers. The only close-to-certain factor in SWEPCO's proposal, is that, if approved, SWEPCO's Wind Project will be added to its rate base and ratepayers will pay a return on and of that capital cost.[3] Likewise, irrespective of whether SWEPCO's "Low-Gas/No Carbon," or "Low-Gas/With Carbon," or "Base Case/No Carbon," or "Base Case/With Carbon," or "High-Gas/No Carbon," or "High-Gas/With Carbon," becomes reality, or approximates reality, the one constant is that SWEPCO's shareholder, its parent company, AEP, Inc., will recover its return on and of the $1.09 billion estimated capital cost of the Wind Project – plus the carrying costs related to the deferred PTCs.[4]

On a total-company basis, in net present-value dollars, SWEPCO forecasts that under base case assumptions the Project would provide about $567 million in savings; for its Texas retail jurisdiction, under base case assumptions, this equates to a projected base-case savings of about $215 million over the projected 30-year life of the Wind Project.[5] According to SWEPCO, these savings primarily would be in the form of lower energy costs. But the savings SWEPCO estimates

[3] Hearing On Merits Transcript ("HOM Tr.") at 149.

[4] HOM Tr. at 474.

[5] CARD Exh. 1 – Direct Testimony of Scott Norwood ("Norwood Dir.") at 24.

are dependent on the price of natural gas over the next 25 – 30 years and the performance of the wind turbines, two key variables that are uncertain and not guaranteed.

The entirety of the savings SWEPCO presents is based on forecasts; that in and of itself is not new to CCN applications or rate cases. In a typical CCN case the utility presents its case for the *need* for a plant – just as SWEPCO did for its Turk Plant – and generally if it prevails in showing that a proposed plant would provide firm generating capacity that is needed to meet system demand and represents the lowest reasonable cost alternative to serve that need, the Commission approves the application. In such a case, the need for the plant is weighed against the risks of building the plant and the costs and estimated savings associated with building that plant. But that is not what SWEPCO proposes in this case.

Instead, SWEPCO proposes to build a plant it does not need to serve system peak demand requirements based entirely on the supposition that the proposed Wind Project will produce energy savings sufficient to justify the estimated $3.2 billion nominal revenue requirement associated with the Wind Project.[6] In fact, the Company's December 2018 IRP indicates that it currently has sufficient generating capacity to supply its forecasted peak demand and reserve requirements until at least 2026, *without* adding any new generating capacity.[7]

In this case, as in the Wind Catcher case, the ALJs and the Commission must again decide whether to roll the dice with ratepayers' money, that SWEPCO's view of the future is sufficiently correct, with the attendant risks of SWEPCO's projections shouldered by the ratepayers. Crucially, CARD's witness Mr. Scott Norwood, showed that the benefits of the Wind Project on

[6] CARD Exh. 1 – Norwood Dir. at 9.

[7] *Id.* at 3.

average provide a savings to ratepayers of about $3.5 to $7.2 million per year under low and base case gas price scenarios, respectively.[8]

As it did in the Wind Catcher case, SWEPCO puts forth its forecasts and its projected savings as a given. But as it did in the Wind Catcher case, SWEPCO is unwilling to offer "guarantees" based on those same projections. For example, SWEPCO's base-case projected savings assume a net capacity factor of 44%.[9] Its "guarantee," however, is premised on a net capacity factor of 38.1%.[10]

As Mr. Norwood, along with all other expert witnesses in this case representing ratepayers, testified, absent robust protections for ratepayers, and with no immediate need by SWEPCO for additional generating capacity, the risks of the Wind Project remain too high and the only all but assured certainty is the revenue requirement associated with the Wind Project and SWEPCO's return on and of the cost of the Wind Project. What remains uncertain are the savings SWEPCO forecasts.

For these reasons, absent meaningful protections for ratepayers, CARD urges the ALJs to recommend denial of SWEPCO's request for approval of the Wind Project. SWEPCO's proposal is a discretionary and risky bet made with ratepayer money that a $1.09 billion investment in the Wind Project and the attendant operating expenses will produce material savings to ratepayers over the next 25 – 30 years. But even SWEPCO's data show that on average, Texas retail ratepayers may see a savings of from $3.5 million to $7.2 million per year, depending on the level of future natural gas prices, which equates to only 0.5% to 1.1%, respectively of the Company's

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8 *Id.* at 19-20.

9 *Id.* at 11, 23.

10 *Id.* at 11, 23, 27.

forecasted Texas retail revenue requirements in 2021.[11] The only sure winner would be SWEPCO's shareholder, who would earn millions of dollars in return regardless of the level of energy savings, if any, that customers may realize.

II. CERTIFICATE OF CONVENIENCE AND NECESSITY STANDARD OF REVIEW (P.O. ISSUE NO. 2)

Not briefed.

III. ANALYSIS OF ECONOMICS OF SELECTED WIND FACILITIES (P.O. ISSUE NOS. 2, 3, 5, 6, 19, 23)

A. Request for Proposals Selection Process

CARD does not take issue with SWEPCO's request-for-proposal ("RFP") process.[12]

B. Project Description and Cost

CARD fully expects that other parties will provide the ALJs a full summary describing the Wind Project and its costs. Thus, CARD respectfully refers the ALJs to Mr. Norwood's testimony for an overview of the Wind Project and its cost.[13]

C. Economic Modeling

1. Modeling Methodology

Mr. Norwood's analysis found SWEPCO's gas-price projections and production-capacity forecasts of the Wind Project to be in the range of reasonableness,[14] as were the mechanics of SWEPCO's modeling of Project's benefits.[15]

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[11] *Id.* at 25.

[12] *See Id.* at 20-21.

[13] *See Id.* at 9-15.

[14] *Id.* at 21-26.

[15] *Id.* at 18-21.

2. Projected Production Cost Savings

a. Natural Gas Prices

Mr. Norwood testified that SWEPCO's cost/benefits analyses showed a net benefits of the Wind Project to be in the range of $94 million to $567 million on a net-present-value ("NPV") basis, for an average net benefits of $369 per year on a total-company basis, as shown in Table 6 of Mr. Norwood's testimony.[16]

Table 6
SWEPCO's Estimates of Net Benefits of SWFs
(NPV over 30-year life, Total Company, $Millions)

Scenarios	NPV	Nominal
1. Base Gas, Base Wind, With CO2	$567	$2,030
2. Base Gas, Base Wind, No CO2	$396	$1,453
3. Low Gas, Base Wind, With CO2	$396	$1,532
4. Low Gas, Base Wind, No CO2	$236	$971
5. High Gas, Base Wind, With CO2	$718	$2,501
6. Base Gas, Low Wind, With CO2	$330	$1,386
7. Base Gas, Low Wind, No CO2	$181	$883
8. Low Gas, Low Wind, With CO2	$183	$960
9. High Gas, Low Wind, With CO2	$461	$1,792
10. Base Gas, Base Wind, High Congestion, With CO2	$541	$2,025
11. Base Gas, Base Wind, High Congestion, No CO2	$330	$1,285
12. Base Gas, Low Wind, High Congestion, No CO2	$94	$640
Average:	$369	$1,455

Mr. Norwood further observed, that notwithstanding these benefits, what was concerning is that under SWEPCO's base-case, SWEPCO's estimate of $567 million in NPV benefits equated to an annual savings of about 1.1% of SWEPCO's forecasted annual Texas Retail revenue requirements for 2021.[17] "Moreover, the forecasted annual revenue requirement of the Project is

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[16] *Id.* at 23-24.

[17] *Id.* at 24-25.

approximately $130 million (Total Company basis), and much of this cost is fixed, and therefore will be borne by ratepayers even if the forecasted benefits of the SWFs do not materialize."[18]

Mr. Norwood further noted that although under all scenarios that SWEPCO assessed, SWEPCO showed a net benefit from acquisition of the Wind Project, SWEPCO's "base-case gas price forecast is more than $1/MMBtu higher than NYMEX futures prices for natural gas over the next four years, which suggests 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."[19] Under low gas-price scenarios, the projected annual NPV savings on average represent approximately 0.5% of SWEPCO's forecasted Texas Retail revenue requirement for 2021, or about $3.5 million per year for the Texas Retail jurisdiction over the 30-year life of the Project.[20]

Thus, even accepting SWEPCO's base-case scenario, ratepayers would see a net benefit of only about 1% in revenue requirements. Indeed, accepting SWEPCO's base-case scenario as the likely outcome, ratepayers would see a savings of only $16.6 million over the first four years of operations of the Wind Project, which represents a savings of about 0.6% of SWEPCO's total projected Texas retail revenue requirement over this 4-year period. In light of this, Mr. Norwood concluded that, "This situation places undue risk on ratepayers unless SWEPCO's proposed cost and performance guarantees are significantly enhanced."[21]

b. Other Assumptions Affecting Locational Marginal Prices

Not separately addressed.

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[18] *Id.*

[19] *Id.*

[20] *Id.*

[21] *Id.*

c. Capacity Factor

Not separately addressed.

d. Useful Life of Wind Facilities

Not separately addressed.

e. Congestion and Losses (including Gen-Tie)

Not separately addressed.

3. Capacity Value

Mr. Norwood's testimony establishes that based on SWEPCO's 2018 Integrated Resource Plan ("IRP"), SWEPCO is expected to have excess capacity until 2026 even without the Wind Project. The Preferred Plan presented in SWEPCO's 2018 IRP suggests that SWEPCO should add 600 MW of nameplate capacity of new wind generation in 2022, followed by another 600 MW of wind generation in 2023. With the proposed acquisition of 810 MW of the Wind Project, SWEPCO's IRP forecast indicates that the Company would have excess capacity until 2028.[22]

SWEPCO's 2018 IRP analysis indicates that optimal resource plan for the Company should include up to 2,000 MW of new wind energy resources over the next ten years. However, the base-case gas price forecast SWEPCO used for its December 2018 IRP Analysis was significantly higher than the 2019 base-case forecast it used to quantify benefits of the Wind Project. As Mr. Norwood testified, "This means that the Company's 2018 IRP analysis overstated the level of energy savings produced from new wind energy facilities and therefore likely overstates the optimal quantify of new wind energy that is justified for SWEPCO's system."[23]

SWEPCO's December 2018 IRP, excluding acquisition of the Wind Project, shows that SWEPCO will have excess capacity until 2026; but SWEPCO contends that acquisition of up to

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22 CARD Exh. 1 – Norwood Dir. at 15-16.

23 *Id.* at 16.

1,200 MW of nameplate capacity of new wind generation in the general timeframe proposed for acquisition of the Wind Project is justified as part of an optimal resource plan based on forecasted energy savings, energy-supply diversity benefits, and environmental benefits of wind generation.[24]

However, the uncertainty of long-term forecasts of natural-gas and market-energy prices and environmental-compliance costs, and the absence of a capacity need for the Project until at least 2026, underscore the risks associated with SWEPCO's proposed capital investment of $1.09 billion in the Wind Project and highlight the need for strong performance and cost guarantees to enhance the prospect that Texas customers would receive benefits from the Wind Project.[25]

4. Production Tax Credits

Not separately addressed.

5. Deferred Tax Asset

Not separately addressed.

6. Wind Facility Revenue Requirement

The record establishes that in nominal dollars, over the life of the Wind Project the revenue requirement for the Wind Project will be approximately $3.233 billion, which equates to about $1.348 billion in NPV.[26]

The record further establishes, that the future price of gas, the future production from the Wind Project, and concomitantly, the overall value of the production tax credits ("PTCs") associated with production from the Wind Project, all remain uncertain.[27] As Mr. Norwood testified, much of revenue requirement is fixed, and will be borne by ratepayers even if the

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[24] CARD Exh. 1 – Norwood Dir. at 16.

[25] *Id.*

[26] HOM Tr. at 148; 466.

[27] HOM Tr. at 151-53.

forecasted benefits of the Wind Project do not materialize, placing undue risk on ratepayers "unless SWEPCO's proposed cost and performance guarantees are significantly enhanced."[28]

What is all but a certainty is the return on and of the investment in the Wind Project that SWEPCO's shareholder will recover. So much so that SWEPCO did not undertake any probability analysis of what the return on equity, the capital structure, or depreciation rates could be over the horizon of the life of the Wind Project.[29] Once approved, the return on and of the investment in the Wind Project is all but guaranteed.[30] SWEPCO calculated the revenue requirement related to the Wind Project to be $3.233 billion.[31]

As the ALJs are well aware, a utility's revenue requirement is comprised of operations and maintenance expenses, depreciation, return, and taxes.[32] Neither Mr. Thomas Brice nor Mr. John Torpey, SWEPCO's witnesses, could state on cross-examination the amount of return included in the $3.233 billion,[33] but each agreed that the $3.322 billion included a return on the cost of the Wind Project and return of the Wind Project via depreciation expense.[34]

In calculating the revenue requirement of $3.233 billion, SWEPCO assumed a return on equity of 10.0%; a capital structure comprised of 48% equity; and a cost of long-term debt of 4.395%, which produces a pre-tax rate of return of 8.40%.[35] With regard to depreciation,

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28 CARD Exh 1 – Norwood Dir. at 25.

29 HOM Tr. at 467-68.

30 HOM Tr. at 149; 436.

31 SWEPCO Exh. 8 – Torpey Dir. at Errata Exhibit JFT-3, pp. 1-12 (*see* line labeled "Wind Facility Revenue Requirement").

32 *See* Utilities Code Chapter 36, Subchapter B §§ 36.051 *et seq.* ("Public Utility Regulatory Act" or "PURA").

33 HOM Tr. at 148; 466-68.

34 HOM Tr. at 148-49; 468.

35 SWEPCO Exh. 8B – John Torpey Dir. – Workpapers at Excel File: "Updated Torpey Errata Benefits Model Final.xlsx" at Tab: "Rate of Return".

SWEPCO employed straight-line depreciation based on a life of 30 years.[36] To calculate return dollars recovered in SWEPCO's revenue requirement, the cost of the plant in service is multiplied by rate of return.[37]

As depicted in the table below, applying SWEPCO's rate of return of 8.40% and using a depreciable life of 30 years, SWEPCO's return dollars will be about $1.42 billion, in addition to a return *of* the capital costs of the Wind Project via depreciation.[38]

CALCULATION OF RETURN AND
<u>DEPRECIATION AMOUNTS ON $3.233 BILLION INVESTMENT</u>

Yr. In Service	Plant In Service	Annual Depreciation	Pre-Tax ROR	Annual Pre-Tax Return Dollars	Tot Impact on Rev Req
1	$1,090,000,000	-$36,333,333	8.40%	$91,603,164	$127,936,497
2	$1,053,666,667	-$36,333,333	8.40%	$88,549,725	$124,883,059
3	$1,017,333,333	-$36,333,333	8.40%	$85,496,286	$121,829,620
4	$981,000,000	-$36,333,333	8.40%	$82,442,848	$118,776,181
5	$944,666,667	-$36,333,333	8.40%	$79,389,409	$115,722,742
6	$908,333,333	-$36,333,333	8.40%	$76,335,970	$112,669,303
7	$872,000,000	-$36,333,333	8.40%	$73,282,531	$109,615,865
8	$835,666,667	-$36,333,333	8.40%	$70,229,092	$106,562,426
9	$799,333,333	-$36,333,333	8.40%	$67,175,654	$103,508,987
10	$763,000,000	-$36,333,333	8.40%	$64,122,215	$100,455,548
11	$726,666,667	-$36,333,333	8.40%	$61,068,776	$97,402,109
12	$690,333,333	-$36,333,333	8.40%	$58,015,337	$94,348,671
13	$654,000,000	-$36,333,333	8.40%	$54,961,898	$91,295,232
14	$617,666,667	-$36,333,333	8.40%	$51,908,460	$88,241,793
15	$581,333,333	-$36,333,333	8.40%	$48,855,021	$85,188,354
16	$545,000,000	-$36,333,333	8.40%	$45,801,582	$82,134,915
17	$508,666,667	-$36,333,333	8.40%	$42,748,143	$79,081,477
18	$472,333,333	-$36,333,333	8.40%	$39,694,704	$76,028,038

36 *See* HOM Tr. at 468.

37 *See* TIEC Exh. 60; *see also* HOM Tr. at 468.

38 Attachment I to CARD's Initial Post-Hearing Closing Brief shows the specific inputs SWEPCO assumed to calculate its cost of capital. Additionally, as proposed by SWEPCO, to the revenue requirement for the Wind Project would be added the carrying cost related to a deferred tax asset associated with unused PTCs.

19	$436,000,000	-$36,333,333	8.40%	$36,641,266	$72,974,599
20	$399,666,667	-$36,333,333	8.40%	$33,587,827	$69,921,160
21	$363,333,333	-$36,333,333	8.40%	$30,534,388	$66,867,721
22	$327,000,000	-$36,333,333	8.40%	$27,480,949	$63,814,283
23	$290,666,667	-$36,333,333	8.40%	$24,427,510	$60,760,844
24	$254,333,333	-$36,333,333	8.40%	$21,374,072	$57,707,405
25	$218,000,000	-$36,333,333	8.40%	$18,320,633	$54,653,966
26	$181,666,667	-$36,333,333	8.40%	$15,267,194	$51,600,527
27	$145,333,333	-$36,333,333	8.40%	$12,213,755	$48,547,089
28	$109,000,000	-$36,333,333	8.40%	$9,160,316	$45,493,650
29	$72,666,667	-$36,333,333	8.40%	$6,106,878	$42,440,211
30	$36,333,333	-$36,333,333	8.40%	$3,053,439	$39,386,772
		-$1,090,000,000		$1,419,849,042	$2,381,912,545

D. Economic Evaluation Methodology

Not separately addressed.

IV. PROPOSED CONDITIONS (P.O. ISSUE NO. 10, 19, 20, 24)

A. SWEPCO Proposed Conditions

SWEPCO proposes three factors to increase value of the Wind Project to customers: a cap on the capital cost recoverable through rates; a proposal to provide ratepayers with the lost value of PTCs if its facilities are ineligible for a certain level of PTCs; and a minimum-production guarantee.

1. Capital Cost Cap

First, SWEPCO proposes that the SWEPCO's capital cost recovery for the Wind Project be capped at $1.09 billion, which is SWEPCO's share of the estimated total cost of $1.996 billion for the Wind Project, including overheads, AFUDC, and a contingency factor.[39] SWEPCO proposes that there be no exceptions to this cap, including no provision for Force Majeure events.[40]

[39] CARD Exh. 1 – Norwood Dir. at 25.

[40] *Id.*

2. Production Tax Credit Eligibility Guarantee

The second guarantee SWEPCO proposed is that if it does not receive 100% of the PTCs related to the Sundance facility, or does not receive 80% of the PTCs for the Traverse and Maverick facilities, SWEPCO will make customers whole for the lost value of tax credits based upon the actual energy production of the facilities.[41] However, the SWEPCO's PTC guarantee is subject to changes in law that effect the federal PTC.[42]

3. Minimum Production Guarantee

The third guarantee SWEPCO proposes is what it refers to as its minimum-production guarantee. SWEPCO proposed that it would make customers whole for any lost energy savings and PTCs that result if the aggregate average annual production from the Wind Project falls below 4,959 GWh per year; this level of production is tied to a 38.1% capacity factor. SWEPCO further proposes to measure whether it met the 38.1% capacity factor based on its average capacity factor over each five-year period, for a period of 10 years across all facilities, beginning in 2022.[43] SWEPCO proposes that this minimum-production guarantee be subject to exceptions for Force Majeure and curtailment of resources directed by the Southwest Power Pool ("SPP").[44]

41 *Id.* at 25-26.

42 *Id.*

43 CARD Exh. 1 – Norwood Dir. at 27; and Walmart Exh. 1 – Perry Dir. at 12-13.

44 *Id.*

B. Conditions Contained in Settlements Filed in Other Jurisdictions

DESCRIPTION OF CUSTOMER PROTECTION	TX	AR	LA	OK
Capital cost recovery for the Wind Project capped at 100% of estimated cost of project, including AFUDC and contingency excess	√	√	√	√
Make customers whole for the lost value of PTCs based upon the actual energy production of the facilities	√	√	√	√
Make customers whole for any lost energy savings and PTCs that result if the aggregate average annual production from the Wind Project falls below 4,959 GWh per year; this level of production is tied to a 38.1% capacity factor; subject to force majeure and SPP curtailment	√	√	√	√
Limit the return on the deferred tax asset ("DTA") balance resulting from unused PTCs over the first twenty (20) years of operation to SWEPCO's then applicable cost of long-term debt on any deferred tax asset balance.		√	√	√
Customers are to be credited with 100% of off-system sales margins effective January 1, 2021.		√	√	√
Pre-approval of a rider to recover the revenue requirement for a wind facility until that wind facility is included in base rates with		√	√	√
Pre-agreement on allocation of wind facilities' capital costs using the production cost allocator currently in effect for allocation of wind facilities' costs to customer classes as part of any cost of service study in base rate proceeding in which wind facilities are brought into base rates		√	√	√

C. Staff/Intervenor Proposed Conditions

As noted above, the return on and of the cost of the Wind Project are all but a certainty. SWEPCO will recover about $1.42 billion (nominal dollars) in profits over the life of the Wind Project.[45] By comparison, SWEPCO's estimated benefits of its Wind Project are highly dependent on, among other factors, the price of natural gas over the next 30 years and the performance of the wind turbines; and the projected savings in customers' overall bills over that same period fluctuate markedly from a low of $640 million to a high of $2.5 billion:[46]

[45] *See* Attachment 1 appended to this brief.

[46] CARD Exh. 1 – Norwood Dir. at 24.

Scenarios	NPV	Nominal
1. Base Gas, Base Wind, With CO2	\$567	\$2,030
2. Base Gas, Base Wind, No CO2	\$396	\$1,453
3. Low Gas, Base Wind, With CO2	\$396	\$1,532
4. Low Gas, Base Wind, No CO2	\$236	\$971
5. High Gas, Base Wind, With CO2	\$718	\$2,501
6. Base Gas, Low Wind, With CO2	\$330	\$1,386
7. Base Gas, Low Wind, No CO2	\$181	\$883
8. Low Gas, Low Wind, With CO2	\$183	\$960
9. High Gas, Low Wind, With CO2	\$461	\$1,792
10. Base Gas, Base Wind, High Congestion, With CO2	\$541	\$2,025
11. Base Gas, Base Wind, High Congestion, No CO2	\$330	\$1,285
12. Base Gas, Low Wind, High Congestion, No CO2	\$94	\$640
Average:	\$369	\$1,455

As Mr. Norwood testified:

> While the Company's proposed guarantees enhance the value of the SWFs to customers by lowering somewhat primary risks that otherwise could reduce net benefits of the Project, the guarantees offered by SWEPCO in this case would provide less protection to customers than the guarantees agreed to by AEP in the Oklahoma Wind Catcher case,[footnote omitted] despite the fact that estimated benefits of the SWFs are approximately 64% lower than forecasted benefits of the Wind Catcher project. In light of the fact that the SWFs are exposed to similar if not greater costs and performance risks than the Wind Catcher Project, and are expected to provide significantly lower net benefits to customers, it is important that the performance and cost guarantees applicable to the SWFs be equivalent to or better than guarantees offered in Oklahoma by AEP (PSO) for the Wind Catcher Project. This is particularly true given the nominal average annual benefits of about \$4 million under SWEPCO's low gas-price scenarios.[47]

It is because of this uncertainty, coupled with the nominal average annual savings of from about \$3.5 million to \$7.2 million,[48] NPV, that CARD urges, that if the ALJs recommend approval of SWEPCO's application, that they do so *only* under the following conditions:[49]

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[47] *Id.* at 26-27.

[48] *Id.*

[49] *Id.* at 32.

Cap on Capital Cost Cap – SWEPCO's recovery of capital costs, including AFUDC and contingency costs, be limited to 100% of the Wind Project's expected cost with no exceptions including force majeure or change in law.

Net Benefits Guarantee – SWEPCO provides a Net Benefits Guarantee that the Wind Project will provide net benefits to customers during the initial ten years of commercial operations.[50]

PTC Guarantee – To the extent not covered by the Net Benefits Guarantee, a guarantee for receipt of the full PTC eligibility level for the actual output of the Wind Project.

Net Capacity Factor Guarantee – A minimum-production guarantee based on a guaranteed minimum average capacity factor of 39.6% measured over six 5-year periods that cover the entire expected 30-year operating lives of the Wind Project with no exceptions for force majeure or SPP curtailments.[51]

Most Favored Nation – A Most Favored Nation provision to ensure that the guarantees provided to SWEPCO's customers would reflect any other better guarantees that were adopted for the Wind Project by regulators in other jurisdictions.

Off-System Sales ("OSS") and RECs – A requirement that SWEPCO credit 100% of OSS and REC margins to customers going forward.

V. REGULATORY APPROVALS IN OTHER JURISDICTIONS (P.O. ISSUE NOS. 7, 8, 9, 10)

A. Status Update

Not briefed.

B. Scalability of Acquisition

Not briefed.

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[50] The Commission approved a similar guarantee in Docket No. 46936, *Application of Southwestern Public Service Company for Approval of Transactions with ESI Energy LLC, and Invenergy Wind Development North America LLC, to Amend a Certificate of Convenience and Necessity for Wind Generation Projects and Associated Facilities in Hale County, Texas and Roosevelt County, New Mexico, and for Related Approvals* ("SPS Wind Project"), Final Order at 3; 11 (Finding of Fact 11) (May 25, 2018).

[51] A capacity factor of 39.6% is materially below what SWEPCO contends is the more likely expected level of production at a capacity factor of 44%. As Mr. Norwood testified, "The benefits of the SWFs are highly sensitive to the capacity factors (energy output) of the units … ." CARD Exh. 1 – Norwood Dir. at 30.

VI. OTHER CCN ISSUES (P.O. ISSUE NOS. 1, 2, 3, 4, 11, 12)

Not briefed.

VII. RATE ISSUES (P.O. ISSUE NOS. 21, 22, 25, 26, 27, 28, 29, 30, 31)

If the ALJs recommend approval, in part or in whole, of SWEPCO's acquisition of the Wind Project, CARD generally urges the ALJs to leave all issues pertaining to the proper rate treatment to be afforded the Wind Project, to the ratemaking proceeding in which SWEPCO seeks recovery of the investment in the Wind Project.

A. Proposal to Recover Revenue Requirement Through Generation Rider

Not separately briefed.

B. Production Tax Credits

Not separately briefed.

C. Deferred Tax Asset Carrying Costs

Not separately briefed.

D. Jurisdictional Allocation

Not separately briefed.

E. Treatment of Renewable Energy Credits

Not separately briefed.

F. Other Rate Issues

Not separately briefed.

VIII. SALE, TRANSFER, MERGER ISSUES (P.O. ISSUE NOS. 13, 14, 15, 16, 17, 18)

Not briefed.

IX. CONCLUSION

Though there is a plethora of data in the record regarding, e.g., the future price of natural gas, the expected production from the Wind Project, the future price of energy prices in the SPP area, at bottom, the question is whether SWEPCO's forecasts are more apt to be correct; or whether TIEC's witnesses (Mr. Pollock and Mr. Griffey) provide a clearer picture of the future.

Mr. Norwood's assessment found that on average, on a NPV basis, the ratepayers may see net savings per year of about \$3.5 million to \$7.2 million – that's at most about 1% of SWEPCO's total annual revenue. Either way, the risk of those forecasts is borne by the ratepayers, and the espoused benefits of moving forward with the Wind Project are dependent entirely on who can better see the future regarding, among other things, the cost of gas and production from the wind facilities.

The *better* known factors – the return to SWEPCO on the cost of the plant – are essentially certain. Once in rates SWEPCO will earn a return on and a return of the cost of the plant. CARD is not asking that the ALJs ignore the mountain of statistics presented. CARD is, however, asking that the ALJs not lose sight of the fact that:

- If SWEPCO is correct that the upside to ratepayers is even more robust than it forecasts, SWEPCO will earn a return on and of the investment in the wind facilities;
- If the benefits are middling, SWEPCO will earn a return on and of the investment in the wind facilities; and
- If SWEPCO is wildly incorrect and there are no benefits from the wind facilities, SWEPCO will earn a return on and of the investment in the wind facilities.[52]

[52] HOM Tr. at 148; 466-68; 474.

SWEPCO's analyses bear this out: In each of its presentations, the level of return and depreciation remains unchanged. Its return on and of the investment in the Wind Project is not dependent on the price of gas or the production from the Wind Project.

Given these circumstances, absent sound protections to ratepayers that, to paraphrase a pedestrian saying, require SWEPCO to put its money where its projections are, CARD urges the ALJs to deny SWEPCO's application.

Respectfully submitted,

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ATTORNEYS FOR CITIES ADVOCATING REASONABLE DEREGULATION

CERTIFICATE OF SERVICE

I certify that I have served a copy of ***CARD's Initial Post-Hearing Closing Brief*** upon all known parties of record by fax and/or first-class mail on this the 9th day of March 2020.

Leslie Lindsey

ATTACHMENT I

INPUTS TO CALCULATE RETURN DOLLARS

Texas - COST OF CAPITAL						
Description		**Ratio**	**Cost Rate**	**Weighted Cost**	**Revenue Conversion Factor**	**Pre-Tax**
Long-Term Debt		52.00%	4.395%	2.29%	1.0000	2.29%
Common Equity		48.00%	10.00%	4.80%	1.2747	6.12%
Total		100.00%		7.09%		8.40%
Federal Tax Rate	21.00%					
State Tax Rate	0.70%					
Effective Tax Rate	21.55%					
Tax Gross-up Factor	1.2747					
Tax factor	0.2747					

Source: SWEPCO Exh. 8B – John Torpey Direct – Workpapers at Excel File: "Updated Torpey Errata Benefits Model Final.xlsx" at Tab: "Rate of Return".