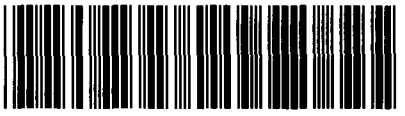


Control Number: 49737

Item Number: 298

Addendum StartPage: 0

SOAH DOCKET NO. 473-19-6862
PUC DOCKET NO. 49737

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**

INITIAL BRIEF OF EAST TEXAS ELECTRIC COOPERATIVE, INC. AND NORTHEAST TEXAS ELECTRIC COOPERATIVE, INC.

March 9, 2020

Mark C. Davis
State Bar No. 05525050
Adrianne M. Waddell
State Bar No. 24098556
Jacob J. Lawler
State Bar No. 24076502
HOLLAND & KNIGHT, LLP
111 Congress Avenue, Suite 540
Austin, Texas 78701
(512) 472-1081 OFFICE
(512) 472-7473 FAX

William H. Burchette
DC Bar No. 957308
W. Patrick Burchette
DC Bar No. 1010944
F. Alvin Taylor
DC Bar No. 468545
HOLLAND & KNIGHT, LLP
800-17th Street, N.W., Suite 1100
Washington, DC 20006
(202) 955-3000 OFFICE
(202) 955-5564 FAX

ATTORNEYS FOR EAST TEXAS ELECTRIC COOPERATIVE, INC.
AND
NORTHEAST TEXAS ELECTRIC COOPERATIVE, INC.

298

TABLE OF CONTENTS

SOAH DOCKET NO. 473-19-6862
PUC DOCKET NO. 49737

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**

INITIAL BRIEF OF EAST TEXAS ELECTRIC COOPERATIVE, INC. AND NORTHEAST TEXAS ELECTRIC COOPERATIVE, INC.

NOW COMES East Texas Electric Cooperative, Inc. ("ETEC") and Northeast Texas Electric Cooperative, Inc. ("NTEC") and files its Initial Brief and would respectfully show as follows:

I. Introduction

Southwestern Electric Power Company ("SWEPCO") and its affiliate Public Service Company of Oklahoma ("PSO") filed applications at their respective state commissions seeking authorization to acquire certain wind facilities (the "Selected Wind Facilities") in Oklahoma for an estimated capital cost of about $2 billion.[1] However, this cost does not include a generation tie line ("Gen-Tie"), which increases the capital cost by an estimated $480 million.[2] As discussed below, the Gen-Tie should be considered when evaluating this proposed acquisition. Moreover, SWEPCO makes several optimistic assumptions and offers incomplete analysis when presenting the customer benefits analysis.[3] This concern is compounded by SWEPCO's reluctance to offer meaningful protections or guarantees to the Texas customers that will be affected by the Selected

---

1 SWEPCO Ex. 2, Direct Testimony of Thomas P. Brice for SWEPCO at bates 213 (page 7, internal pagination) ("Total project costs including [Purchase and Sale Agreement] price adjustments and owner's costs are expected to be $1.996 billion.") ("Brice Direct").

2 Tr. (Ali Direct) at 394 (Feb. 25, 2020).

3 *See* Section III, below.

Wind Facilities.[4] Finally, even accepting SWEPCO's customer benefits analysis for the sake of argument, a reasonable rate impact analysis shows the Selected Wind Facilities will not provide any immediate rate benefits to most Texas retail customers.[5]

ETEC and NTEC are transmission customers in the Southwest Power Pool ("SPP") and wholesale power customers of SWEPCO and currently have power supply agreements with SWEPCO. ETEC is a Generation and Transmission ("G&T") Cooperative headquartered in Nacogdoches, Texas. NTEC is a G&T cooperative headquartered in Longview, Texas. Collectively, ETEC and NTEC have ten member distribution cooperatives that serve retail customer-members throughout east Texas.[6]

II. Certificate of Convenience and Necessity Standard of Review (P.O. Issue No. 2)

SWEPCO failed to show that the proposed wind facilities are necessary for the service, accommodation, convenience, or safety of the public. A CCN amendment may be granted by the Commission "only if the commission finds that the amendment is necessary for the service, accommodation, convenience, or safety of the public."[7] To satisfy its burden under PURA § 37.056, SWEPCO asserts that "the key statutory factor for this Application is the probable lowering of cost to customers."[8] In essence, SWEPCO is requesting that Commission approve a CCN amendment not because it is necessary for the service, accommodation, convenience, or safety of Texas retail customers but because there are *probable* cost savings for savings for customers.[9] However, as intervenors and Staff have shown, this project is not necessary and there

---

4 *See* Section IV, below. This includes not only SWEPCO's Texas retail customers, but also the retail customer-members of Cooperatives that would be affected by this proposed acquisition.

5 *See* Section III(D), below.

6 Docket No. 47169, Order at 3-4 (Oct. 11, 2017). The ten distribution cooperatives are: Bowie-Cass Electric Cooperative, Inc., Cherokee County Electric Cooperative Association, Deep East Texas Electric Cooperative, Inc., Houston County Electric Cooperative, Inc., Jasper-Newton Electric Cooperative, Inc., Panola-Harrison Electric Cooperative, Inc., Rusk County Electric Cooperative, Inc., Sam Houston Electric Cooperative, Inc., Upshur-Rural Electric Cooperative, Inc., and Wood County Electric Cooperative, Inc.

7 PURA § 37.056(a).

8 *See, e.g.*, Application at 9.

9 *See also* Tr. (Brice Direct) at 103:1-7 (Mr. Brice stating "The project was recommended due to the almost $2 billion of nominal benefits that the project will create and reduce costs for customers, and it would be -- that

are substantive flaws in SWEPCO's benefits analysis that turns probable savings into doubtful savings. There is no guarantee the Selected Wind Facilities will benefit customers. In fact, approval of the proposed project may end up costing customers more money in both the short- and long-term. SWEPCO bears the burden of showing the Selected Wind Facilities are necessary for the service, accommodation, convenience, or safety of the public and it has not meet this burden. That is, uncertain and unknown cost savings for customers is not a sufficient justification for requiring ratepayers to pay billions of dollars so that SWEPCO may acquire the Selected Wind Facilities.

III. Analysis of Economics of Selected Wind Facilities (P.O. Issue Nos. 2, 3, 5, 6, 19, 23)

A. Request for Proposals Selection Process

SWEPCO failed to perform an adequate analysis of the transmission impacts resulting from the Request for Proposal ("RFP") process. As discussed by ETEC/NTEC witness John Chiles, SWEPCO's flawed analysis understates the cost of necessary transmission upgrades and the cost of congestion.

SWEPCO's analysis omits potential voltage and stability issues.

Although SWEPCO did request SPP to perform the voltage and stability analyses as part of the DISIS process, other parts of SWEPCO's transmission system analysis of the RFP failed to account for voltage and stability issues with respect to system deliverability. SWEPCO evaluated the transmission impacts of the RFP using two parts: a distribution factor ("DFAX") analysis to identify generation clusters and a First Contingency Incremental Transfer Capability ("FCITC") analysis to assess deliverability from each generation cluster to the AEP West area.[10]

---

particular statute [PURA § 37.056] has provision, from my understanding – I'm not an attorney -- that the Commission can grant the authority as a result of the *probable lowering of cost.*" (emphasis added)).

[10] SWEPCO Ex. No. 7, Direct Testimony of Kamran Ali at bates 455 (page 3, internal pagination).

As Mr. Chiles explains, the purpose of the DFAX (or distribution factor) is to is to group generators into clusters based upon their common impacts on the transmission system.[11] The DFAX shows the percentage of line flow across a specific element of the transmission system resulting from a power transfer from a point of injection to a point of withdrawal.[12] The DFAX analysis, however, only considers real power flow and not the impact of reactive power. In order to fully evaluate the impact of additional generation on the SPP system, a comprehensive analysis should include real power flow, reactive power, voltage criteria, AC power flow, and transient stability.[13] This comprehensive analysis is necessary to make a "reliable estimate of deliverability and transmission requirements associated with new generation."[14] In short, the DFAX is only a portion of the necessary analysis SWEPCO should have conducted on the RFP proposals.

For deliverability purposes, SWEPCO conducted an FCITC analysis following the DFAX analysis. The FCITC analysis utilizes power flow models that SPP uses for their Definitive Interconnection System Impact Study ("DISIS") to evaluate Energy Resource Interconnection Service ("ERIS").[15] SWEPCO's FCITC analysis used a base assumption for wind generation in each cluster of 20% of nameplate capacity consistent with ERIS modeling techniques. SWEPCO then changed the model to increase all wind generation in the cluster to 100% of nameplate capacity. Then, the power transfer from each generation cluster was simulated by decrementing generation in the AEP West area by a proportionate amount.[16]

In addition, the assumption to decrement all generation on a *pro rata* basis assumes that wind generation will impact all generation in the AEP West delivery area equally, without regard

---

11 ETEC/NTEC Ex. 2, Direct Testimony and Exhibits of John W. Chiles at bates JWC_00006-00007 (pages 4-5, internal pagination) ("Chiles Direct").

12 *Id.* at JWC_00006 (page 5, internal pagination).

13 *Id.* at JWC_00007 (page 7, internal pagination).

14 *Id.*

15 Notably, FERC Order 2003-A clarifies that ERIS is not a deliverability product; *see also* Tr. (Brice Direct) at 172:21-22 ("Q: Okay. Are you familiar with the portion of it [FERC Order 2003-A] that clarify ERIS is not a deliverability product? A: I am not"); Chiles Direct at JWC_00009 (page 7, internal pagination).

16 *Id.* at JWC_00010 (page 8, internal pagination).

to economic dispatch that would occur in real-time operation.[17] Mr. Chiles suggests that the "more accurate representation for the FCITC analysis would have been to decrement only the generation that would be displaced" by the Selected Wind Facilities.[18] Mr. Chiles notes that there is an inherent bias in SWEPCO's analysis since generators have an impact on the base flows of the transmission system.[19]

Mr. Chiles testifies, " it is common practice to consider the impact a generating facility has on the thermal loading, the changes in voltage, short circuit current and system stability."[20] However, SWEPCO failed to conduct such analysis. Instead, SWEPCO utilized DFAX and FCITC analysis using linearized DC modeling that is quick and efficient but is not comprehensive. Consequently, the Commission does not know what impact the Selected Wind Facilities will have on system voltage or stability and whether mitigation plans will be necessary.[21] That is, the Commission does not know the full impact and cost of the Selected Wind Facilities on the system.

SWEPCO's application should consider the potential need for a Gen-Tie.

SWEPCO evaluated scenarios in which a Gen-Tie may be necessary, but unlike the Wind Catcher proceeding, has not formally proposed a Gen-Tie in this case. While a Gen-Tie may relieve future congestion, there is concern that a single Gen-Tie would be used to alleviate 100% of the congestion from the Selected Wind Facilities to the AEP West area.[22] As Mr. Chiles states, this "assumption is simply inconsistent with transmission planning contingency analysis, where the loss of a single element (N-1) in a normal planning evaluation would result in the loss of the gen-tie and increase flows on the remaining SPP system which would also lead to increased congestion that was supposed to be addressed by the gen-tie."[23] Furthermore, had SWEPCO

---

17 *Id.* (Mr. Chiles explaining that "By decrementing all generation, the Company has improperly modeled the effects of the delivery of the proposed generation.").

18 *Id.*

19 *Id.* at JWC_00011-00012 (pages 9-10, internal pagination).

20 *Id.* at JWC_00008 (page 6, internal pagination).

21 *Id.*

22 Chiles Direct at JWC_00016 (page 14, internal pagination).

23 *Id.* at JWC_00017 (page 15, internal pagination).

performed transient stability analysis, as Mr. Chiles recommends, it is possible that additional transmission facilities would have been identified as necessary and the cost of those facilities considered in the evaluation of RFP proposals.[24] In fact, Mr. Chiles estimates that construction of a reliable Gen-Tie would add an additional $220 million to $440 million to the Gen-Tie cost, thus increasing the overall cost of the Selected Wind Facilities substantially.[25] If SWEPCO had conducted a comprehensive analysis, the costs for additional transmission facilities would have been considered from the beginning, instead of being theoretical but probable costs in the future.

The use of an additional Gen-Tie assumes that the current interconnection to the SPP system for the Selected Wind Facilities is not sufficient. The proposed Gen-Tie may be an integrated transmission facility, as the Selected Wind Facilities' interconnection facilities would not be eliminated, but would continue to provide interconnection to SPP in addition to the Gen-Tie. SWEPCO's claim that the new facility is a Gen-Tie and not an integrated transmission facility would raise new issues, namely that (1) the existing interconnection facilities are stranded costs being borne by the ratepayers which could have them classified as not used and useful, and (2) the integration of a 345-kV $480 million facility would be borne by all SPP members under the current SPP highway-byway cost allocation construct.

The use of three different models ignores operational realities.

The calculation of congestion costs using three different models in PROMOD, AURORA and PLEXOS ignores the operational realities of fuel price changes and carbon changes on the long-term dispatch and congestion costs.[26] There are a number of concerns with the various three models that produce a flawed analysis. First, PROMOD uses different power flows than FCITC analysis but still uses the same linearized DC solution that omits a number of factors (*i.e.,* voltage and stability issues). In addition, the base case developed by SWEPCO makes unrealistic and material assumptions that exclude proposed transmission facilities that are in the current SPP

---

24 *Id.*

25 *Id.* at JWC_00018 (page 16, internal pagination).

26 *Id.* at JWC_00020 (page 18, internal pagination).

Integrated Transmission Plan—in essence, the analysis is outdated and incorrect.[27] Second, the AURORA modeling contains a natural gas prices and carbon assumptions that not consistent with the more accurate security constrained dispatch pricing in PROMOD.[28] This means, that "without also modeling the changes in assumptions from the AURORA cases in PROMOD, the Company has not carried a consistent set of assumptions through the RFP process."[29] Third, SWEPCO used the PLEXOS model, in combination with AURORA and PROMOD, to achieve an accurate long-term forecast of prices and congestion to assess the Selected Wind Facilities.[30] However, AURORA and PLEXOS are allegedly more effective for long-term price projections based on future expansion but they do not contain sufficient "detailed transmission modeling that is necessary to calculate the projections of locational marginal prices for several pricing nodes."[31]

We know from SWEPCO witness Mr. Sheilendranath that all models make simplifying assumptions.[32] When these models that already contain inherent simplifying assumptions are modified by bias or unreasonable assumptions, the flaws are compounded and the results skewed. As Mr. Chiles has shown, there are a number of assumptions and changes that raise sufficient concern to question whether SWEPCO has considered and presented the full cost of the Selected Wind Facilities before the Commission.

B. Project Description and Cost

The outcome of the RFP process was the selection of three wind projects, the Selected Wind Facilities—which includes Traverse (999 MW), Maverick (287 MW) and Sundance (199 MW).[33] Combined, the Selected Wind Facilities have a total capacity of 1,484 MW at an

---

27 Chiles Direct at JWC_00021 (page 19, internal pagination).

28 *Id.*

29 *Id.*

30 *Id.* at JWC_00020 (page 28, internal pagination).

31 *Id.*

32 Tr. (Sheilendranath Direct) at 331:14-16 ("Q: Okay. And the PROMOD model makes certain simplifying assumptions. Correct? A: Correct, but all models do.") (Feb. 25, 2020).

33 SWEPCO Ex. 1, Direct Testimony of A. Malcolm Smoak for SWEPCO at bates 295 (page 3, internal pagination) ("Smoak Direct").

aggregated filed capital cost of $1.996 billion.[34] SWEPCO's share of the capacity and cost is 54.5%, or approximately 810 MW and $1.09 billion.[35] Importantly, this cost does not include a Gen-Tie, which would add approximately $480 million to the total.[36]

C. Economic Modeling

1. Modeling Methodology

Not addressed.

2. Projected Production Cost Savings

a. Natural Gas Prices

Not addressed.

b. Other Assumptions Affecting Locational Marginal Prices

Not addressed.

c. Capacity Factor

Not addressed.

d. Useful Life of Wind Facilities

Not addressed.

---

34 *Id.*; Brice Direct at bates 222 (page 16, internal pagination).

35 *Id.*

36 Tr. (Ali Direct) at 394 (Feb. 25, 2020) (clarifying that $480 million is the cost in 2026 dollars, while $443 million is the cost in 2021 dollars).

e. Congestion and Losses (including Gen-Tie)

SWEPCO's customer benefits model significantly underestimates the cost of congestion and losses by holding that cost constant in nominal dollars from 2029 through 2051.[37] For example, SWEPCO estimates that congestion and losses will cost ratepayers $32 million in 2029 and also $32 million in 2050.[38] In other words, the cost of congestion and losses were not modeled to even keep up with inflation for that 20+ year period.[39] Instead, in 2021 present value terms, the costs fall significantly. This is because a dollar today is worth less than a dollar tomorrow.[40] This reduction is accelerated in its customer benefits model by SWEPCO's use of a 7.09% discount rate.[41] The effect on a nominally-constant value (e.g., a $32 million cost for congestion and losses) is an exponential year-over-year reduction, in present value terms.[42] This is inconsistent with how SWEPCO modeled the customer benefits of the project, which generally increased in nominal terms during that period.[43] The nominal production cost savings, for example, increased from $143 million in 2029 to $242 million in 2050.[44] Although the 2021 present value of production cost savings decreased during that period, this decrease was partially mitigated by SWEPCO allowing these benefits to increase at a modest rate over that period.[45]

SWEPCO defends this modelling choice by claiming that the PROMOD values for 2029 were higher than expected, and thus should not be allowed to increase.[46] However, by holding congestion and losses "constant" at their nominal value, SWEPCO is actually allowing those costs

---

37 Sheilendranath Direct at bates 433 (page 10, internal pagination); Tr. (Sheilendranath Direct) at 310 (Feb. 25, 2020); Tr. (Torpey Direct) at 407 (Feb. 25, 2020); *see also* Torpey Direct at Exhibit JFT-3 page 1 of 12, bates 329 (showing line 2, Congestion and Losses, being held constant at $32 million beginning in 2029).

38 Torpey Direct at Exhibit JFT-3 page 1 of 12, bates 329. In year 2051, this cost is $27 because only two of the three wind facilities is projected to be running, with the 199 MW Sundance facility having retired.

39 Tr. (Sheilendranath Direct) at 323, 329 (Feb. 25, 2020).

40 Tr. (Torpey Direct) at 410 (Feb. 25, 2020) ("A: [. . .] I mean, a present value is -- is just recognizing that dollars in the future have less value today.")

41 *Id.* at 406 (Feb. 25, 2020).

42 *Id.* at 408-409 (Feb. 25, 2020).

43 SWEPCO Ex. 6, Direct Testimony of Akarsh Sheilendranath at bates 434 (page 11, internal pagination) ("Sheilendranath Direct").

44 Torpey Direct at Exhibit JFT-3 page 1 of 12, bates 329 (showing line 1, Production Cost Savings Excluding Congestion/Losses, increasing in nominal terms over the relevant years).

to decrease at the discount rate of 7.09% annually. This results in the congestion and losses declining from a present value (*i.e.*, in 2021 dollars) of $18 million in 2029 to only $4 million in 2050.[47] As explained below, these values are not supported by the studies and real world expectations that formed the basis of SWEPCO's witness's opinions.

SWEPCO witness Mr. Sheilendranath, who prepared the estimated congestion costs, stated that he relied on academic studies to inform his judgement of what reasonable congestion costs would be.[48] These studies indicate that the economic threshold at which congestion costs are greater than transmission costs—and thus transmission investment would be expected—is $9-10 per MWh.[49] He also confirmed that this $9-10 per MWh value is the real price for the year in which the estimate was made.[50] As such, a $10 per MWh value is 2019 would be expected to grow each year given the time value of money.[51] For example, if we use a 2.5% annual growth rate, that $10 per MWh value (in 2019) would be equivalent to $12.80 per MWh in 2029 (*i.e.*, 10 years later).[52] Mr. Sheilendranath testified that the congestion and loss-related costs calculated for 2029

---

45 The increase was $99 million nominally over the 21 year period (242 – 143 = 99); Tr. (Torpey Direct) at 408-409 (Feb. 25, 2020) (stating that the customer benefits decline each year on a present value basis).

46 Tr. (Sheilendranath Direct) at 311 (Feb. 25, 2020).

47 Tr. (Torpey Direct) at 418-419 (Feb. 25, 2020) (Using the formula Mr. Torpey provides for calculating the 2021 present value of $32 in 2029—which is 8 years removed from 2021—we would take $32 and divide it by [(1+0.0709)^8]. This calculates to $18.499. Similarly, to find the 2021 present value of $32 in 2050—which is 29 years removed from 2021—we would take $32 and divide it by [(1+0.0709)^8]. This calculates to $4.390.).

48 Tr. (Sheilendranath Direct) at 325 (Feb. 25, 2020) (Q: So for purposes of setting the flat or oscillating 20 years [of congestion costs], you're relying on not SPP material or information; you're relying on Lawrence Berkeley; you're relying on studies related to the gen-tie. Correct? A: Because SPP does not have material so -- that I could rely on. I would have relied on that material, too, but I'm relying on academic studies that are done on this [*i.e.*, congestion costs].").

49 *Id.* at 321-322, 339-340, (Feb. 25, 2020).

50 *Id.* at 340, (Feb. 25, 2020).

51 Tr. (Torpey Direct) at 410 (Feb. 25, 2020) ("A: [. . .] I mean, a present value is -- is just recognizing that dollars in the future have less value today.")

52 *Id.* at 418-419 (Feb. 25, 2020) (We can use the formula Mr. Torpey provides for calculating present value, but solve for present value instead. Thus: Future Value = Present Value multiplied by [(1 + discount or growth rate)^number of time periods]. Here, it would be $10 multiplied by [(1+0.025)^10].

(in the base case) were $12.98 per MWh.[53] Moreover, Mr. Sheilendranath acknowledged that the 2024 congestion and loss-related costs were $8.07 per MWh, which is below the $9-10 per MWh threshold for new transmission. This suggests that congestion costs could reasonably be expected to remain within the range of the 2024 to 2029 values. To accomplish this, those costs must be increased in the future years to account for the time value of money. Because SWEPCO simply held the congestion costs constant beginning in 2029, it improperly ignored the time value of money. As a result, it underestimates the cost of congestion and losses for the 2029-2051 time period. Moreover, Mr. Sheilendranath testified that, in the real system, congestion costs would oscillate, periodically increasing until they reached a high enough level that warranted transmission investment.[54] At that time transmission would get built and congestion costs would fall until new generation resources are added, other events happen, and we see congestion begin to increase again.[55] SWEPCO's model, however, only shows a nominally flat, and real-dollar declining, cost of congestion.

Focusing only on losses, SWEPCO holds constant the nominal costs of losses beginning in 2029.[56] This is problematic for two reasons. First, it assumes that line losses will decrease significantly, in 2021 present value terms, during the 20+ year period from 2029 through 2051. Yet SWEPCO presented insubstantial evidence supporting this conclusion.[57] Second, in the Gen-

---

53 Sheilendranath Direct at bates 438 (page 15, internal pagination), Figure 4; Tr. (Sheilendranath Direct) at 361-362 (Feb. 25, 2020). However, this $12.98 figure includes losses, which account for about 13% of the total. Removing losses and looking at only congestion, the value would be about $11.29 per MWh (*i.e.*, 87% of $12.98).

54 Tr. (Sheilendranath Direct) at 312-315 (Feb. 25, 2020) ("A: And when they advance that transmission solution, you'll actually see a reduction in congestion costs. And then other things happen in the system, like new wind resources will get in. Retirements happen, which will start increasing congestion again. To a point where it becomes cost-effective for SPP to identify that it's economic to build transmission, they'll build it. So in reality, you're not going to see something flat. But what you'll see is this, you know, growing and then transmission comes in, reduces congestion, gets back to growing, reduces congestion. So -- but the point is there is a threshold at which level there are more economic ways to address congestion than just accepting very high congestion costs.").

55 *Id.*

56 These losses are line losses, which is energy lost as heat due to resistance in the conductors, *see* Tr. (Sheilendranath Direct) at 362-363 (Feb. 25, 2020); Torpey Direct at Exhibit JFT-3 page 1 of 12, bates 329 (showing line 2, Congestion and Losses, remaining constant beginning in 2029. Note, however, 2051 has only two of the three wind facilities operating, which accounts for the slightly lower value.).

57 Tr. (Sheilendranath Direct) at 363 (Feb. 25, 2020) (asserting "when you build transmission, losses generally go down because you're tightening the network." However, unless SWEPCO is assuming a dramatic

Tie scenarios, SWEPCO shows the cost of congestion and losses falling to $0 once the line is in place in 2026.[58] This assumption is incorrect. Having a dedicated 345-kV line will not eliminate line losses because they are an inescapable cost of flowing power across lines that lack perfect conductivity.

SWEPCO admits there is significant congestion uncertainty in SPP.[59] In fact, Mr. Chiles describes the congestion costs experienced by ETEC's wind resources in SPP, suggesting that SWEPCO is unreasonably understating this risk.[60] Moreover, SWEPCO's witness admitted that additional wind and solar generation could increase congestion in SPP.[61] Despite this, SWEPCO offers no guarantees concerning the congestion costs the Selected Wind Facilities will incur.[62] Thus, if congestion costs are higher than SWEPCO's estimates—which is likely, for the reasons discussed above—then SWEPCO ratepayers will see the net benefits of this project reduced by those higher congestion costs or by the Gen-Tie costs (or both). Also, SWEPCO offers no guarantees concerning the capital costs of the Gen-Tie.[63] Although the current estimate is $480 million, SWEPCO admits that it has no route, and based on Wind Catcher's Gen-Tie, lengths and costs can change after the initial planning stage.[64] Therefore, the Gen-Tie costs may be higher than SWEPCO's estimates. SWEPCO attempts to address this concern by committing to seek pre-approval for the Gen-Tie prior to its construction.[65] However, this commitment offers little comfort because by the time SWEPCO would seek pre-approval, the only relevant question would

---

decrease in the distance between the Selected Wind Facilities and the Tulsa load center or a dramatic increase in transmission voltage, which would reduce the losses from resistance, this assertion is unsupported.).

58 Torpey Direct at Exhibit JFT-3 pages 10-12 of 12, bates 338-340 (showing line 2, Congestion and Losses, being held at $0 beginning in 2026 through 2051).

59 TIEC Ex. 6 at 3; Tr. (Smoak Direct) at 27-28 (Feb. 24, 2020).

60 ETEC/NTEC Ex. 2 at bates JWC_00023 (page 21, internal pagination) ("Based on the Cooperatives' experience with their participation in the Grant Wind Farm in Oklahoma and the load being embedded within the AEPW system, having firm transmission service did not alleviate the congestion exposure . . . .").

61 Tr. (Sheilendranath Direct) at 328-329 (Feb. 25, 2020).

62 Tr. (Brice Direct) at 96 (Feb. 24, 2020).

63 *Id.*

64 Tr. (Smoak Direct) at 22 (Feb. 24, 2020); Tr. (Ali Direct) at 393-395 (Feb. 25, 2020).

65 Tr. (Brice Direct) at 96-97 (Feb. 24, 2020).

be whether the expected congestion costs would be greater than the Gen-Tie costs.[66] The chance to consider the Gen-Tie holistically with the Selected Wind Facilities will be lost. All wind facility-related issues would no longer be relevant because the costs associated with the Selected Wind Facilities would be a sunk cost.[67]

3. Capacity Value

Not addressed.

4. Production Tax Credits

Not addressed.

5. Deferred Tax Asset

SWEPCO is not able to use the tax credits in the year they are earned to offset its taxable income because it lacks a sufficient "tax appetite."[68] The Deferred Tax Asset Carrying Charge, which reduces customer benefits, accounts the accumulation of unused tax credits as an addition to SWEPCO's rate base.[69] SWEPCO calculates this carrying charge to ratepayers as $123 million on a net present value basis, or $212 million nominally.[70] In other words, if SWEPCO could use all the tax credits in the year they are earned, its customers could avoid paying this $123 million carrying charge. As intervenors have indicated, the use of tax equity investors (which is a common financing method for PPA projects) would have eliminated this tax inefficiency.[71] Yet SWEPCO failed to take advantage of this option by not considering PPAs in its RFP process.

---

66 Tr. (Brice Direct) at 98 (Feb. 24, 2020).

67 *Id.* at 96-97 (Feb. 24, 2020).

68 Tr. (Smoak Direct) at 47-54 (Feb. 24, 2020).

69 *Id.*; TIEC Ex. 2, Direct Testimony and Exhibits of Charles S. Griffey at 47-48 ("Griffey Direct"); Brice Rebuttal at bates 21-22 (pages 18-19, internal pagination).

70 Torpey Direct at Exhibit JFT-3 page 1 of 12, bates 329 (showing line 5, Deferred Tax Asset Carrying Charge. These costs are similar in all the cases shown in the testimony, varying between a NPV of $123 million and $96 million with the production levels of P50 and P95, respectively).

71 TIEC Ex. 2, Direct Testimony and Exhibits of Charles S. Griffey at 47-48, 94 (citing an included SWEPCO RFI response stating that tax equity investors would be more likely to efficiently monetize the wind PTCs, but with other drawbacks such as adding complexity to the project).

6. Wind Facility Revenue Requirement

Not addressed.

D. Economic Evaluation and Summary

As a result of optimistic assumptions—including natural gas prices, congestion costs, carbon taxes, capacity values, and others—SWEPCO presents a future where its ratepayers, on average and over the life of the facilities, benefit from the Selected Wind Facilities. As intervenors and Staff have illustrated, however, many of these assumptions do not provide a sound basis for approval. In fact, ETEC/NTEC witness James W. Daniel testifies that while the costs of the Selected Wind Facilities are known, the benefits of those facilities are much more speculative.[72]

Even assuming SWEPCO's calculations of the benefits for the sake of argument, however, Mr. Daniel demonstrates that the proposed acquisition of the Selected Wind Facilities will not provide any immediate rate benefits to most Texas retail customers.[73] In other words, the Selected Wind Facilities will result in increased costs for most Texas retail customers.[74] Mr. Daniel shows that if the Selected Wind Facilities' costs are allocated using a production demand allocator, the residential rate class will experience a roughly 2% rate increase during the first few years, with the average residential customer (who uses 1,200 kWh per month) paying an extra nearly $3 per month in 2022, the first year all three wind facilities are in service.[75] Importantly, SWEPCO did not disagree with Mr. Daniel's mathematical calculations.[76] Nor is SWEPCO requesting a class allocation method be approved in this proceeding.[77] And SWEPCO admits it does not know what

---

72 ETEC/NTEC Ex. 1a, Direct Testimony and Exhibits of James W. Daniel at bates JWD_00011 (page 9, internal pagination) ("Daniel Direct").

73 Daniel Direct at JWD_00011-JWD_00018 (pages 9-16, internal pagination); *see also Id.* at Exhibits JWD-2 and JWD-3 at bates JWD_00033-JWD_00034.

74 *Id.*

75 *Id.;* Mr. Daniel discusses numerous reasons why a demand allocator is a reasonable assumption, including the fact that the company's witness, John Aaron, testified in the related PSO case in favor of using a demand allocator, and the PUCT's GIRR rule may require use of a production demand allocator. Additionally, Mr. Aaron testified in SWEPCO's Wind Catcher case in support of a production demand allocator, even requesting the Commission approve use of such an allocator in that case. *See* Tr. (Aaron Rebuttal) at 840-842 (Feb. 26, 2020).

76 Tr. (Aaron Rebuttal) at 842 (Feb. 26, 2020).

77 *Id.*.

allocation method the Commission will approve.[78] Thus, Mr. Daniel's analysis provides a more meaningful description of the likely rate impacts to Texas retail customers. Because the Selected Wind Facilities will result in initial increased costs to most Texas retail customers, SWEPCO's application is not in the public interest and should be rejected by the Commission.[79]

SWEPCO could provide immediate savings by retiring Dolet Hills

ETEC/NTEC witness James Striedel testifies that SWEPCO can achieve significant cost savings without the acquisition of the Selected Wind Facilities by retiring Dolet Hills. Dolet Hills is a 639 MW lignite generation facility co-owned by Central Louisiana Electric Company ("CLECO") (50%), SWEPCO (40.23%), NTEC (5.86%) and Oklahoma Municipal Power Authority (3.91%).[80] Based on SWEPCO's filings with the Commission, Mr. Striedel determined that fuel costs at Dolet Hills in 2019 were on average over four times higher than comparable market costs.[81] Mr. Striedel found that "Average LMPs based on Dolet Hill's actual hours of generation were $27.03/MWh in 2017, $28.16/MWh in 2018 and $26.58/MWh in 2019 through October. Dolet Hills fuel costs paid by SWEPCO ratepayers were greater than SPP LMPs by approximately $13,065,754 in 2017, $36,064,499 in 2018 and $42,462,510 in 2019 through October."[82] That is, by 2019, the operation of Dolet Hills had become extremely costly for SWEPCO and ultimately, ratepayers.

SWEPCO's failure to analyze the proposed project in light of the Dolet Hills retirement results in an oversight of "cost saving and minimization" realized without "adding billions of dollars to customer rate base."[83] SWEPCO witness Thomas P. Brice stated that "the proposed acquisition will produce *significant and immediate cost savings for SWEPCO customers*"

---

78 *Id.*

79 Daniel Direct at bates JWD_00018-JWD_00019 (pages 16-17, internal pagination).

80 ETEC/NTEC Ex. 3a, Direct Testimony and Exhibits of James E. Striedel at bates JES_00011 (page 9, internal pagination) ("Striedel Direct").

81 *Id.* at JES_00012 (page 10, internal pagination).

82 *Id.* at JES_00020 (Exhibit JES-2).

83 *Id.* at JES_00013 (page 11, internal pagination).

(emphasis added).[84] Yet, despite having all the information available to do so, SWEPCO continues to justify the acquisition of the Selected Wind Facilities without considering a significant cost saving measure for which it is already committed.[85]

Moreover, since announcing the retirement of Dolet Hills,[86] SWEPCO has not updated its analysis concerning the Selected Wind Facilities.[87] The retirement of Dolet Hills and the effects of that retirement on the economics of the Selected Wind Facilities is unknown.

IV. Proposed Conditions (P.O. Issue Nos. 10, 19, 20, 24)

A. SWEPCO Proposed Conditions

SWEPCO's proposed conditions do not provide meaningful ratepayer protection for the reasons highlighted in intervenors' testimony. Notably, significant risks such as congestion costs are wholly ignored. Although SWEPCO references a possible Gen-Tie as a solution to congestion costs, this option lacks sufficient detail to be adequately considered. For example, it is unknown whether this would be a dedicated facility or open access, radial or network, as well as the timing of such designations.

---

84 Brice Direct at bates 93 (page 27, internal pagination).

85 In December 2019, the Arkansas Public Service Commission approved a settlement agreement in SWEPCO's rate case in which SWEPCO agreed to seek approval to retire the Dolet Hills Power Plant by the end of 2020. *See* Striedel Direct at JES_00012 (page 10, internal pagination).

86 Striedel Direct at JES_00021-00022 (Exhibit JES-3) (On January 9, 2019 SWEPCO press release titled "SWEPCO to Seek Regulatory Approval to Retire Dolet Hills Power Plant by End of 2026.").

87 Tr. (Torpey Rebuttal) at 781:17-20 (Q: After the announced retirement of Dolet Hills, did the Company supplement its analysis, its economic analysis in this application? A: No."); Tr. (Torpey Rebuttal) at 788:18-789:5 ("Q: So then would you agree that a 600-megawatt plant that runs when it runs during the summer peak period would change power flows on the transmission system? A: It potentially could, yes. Q: Has SWEPCO done any analysis of the changes to power flows when Dolet Hills retires? A: I believe our transmission group has looked at it, but I don't have any firsthand knowledge of what they've done. Q: Okay. Are any of those studies reflected in any of the analysis in this proceeding? A: No.").

B. Conditions Contained in Settlements Filed in Other Jurisdictions

Although SWEPCO made certain commitments in other jurisdictions as part of settlements, it was unclear whether SWEPCO could commit to similar conditions in Texas.[88] In rebuttal testimony, SWEPCO stated it would "entertain these expansions to the Minimum Production Guarantee" as part of a Texas settlement or as part of a "reasonable suite" of conditions in a final order approving the application.[89] Similarly, during the hearing, SWEPCO witness Mr. Brice stated that he did not have authority to agree to conditions beyond those included in his testimonies.[90] Thus, it is unclear what, if any, adjustments have been made to the conditions SWEPCO originally proposed.

C. Staff/Intervenor Proposed Conditions

Not addressed.

V. Regulatory Approvals in Other Jurisdictions (P.O. Issue Nos. 7, 8, 9, 10)

A. Status Update

Not addressed.

B. Scalability of Acquisition

SWEPCO indicates in its rebuttal testimony that if Oklahoma and Arkansas approve the filed settlements, then SWEPCO and PSO would have sufficient regulatory approval to proceed with acquiring a portion of the Selected Wind Facilities.[91] And as the settlement agreements in those jurisdictions lays out, SWEPCO and PSO can acquire the entire 1,485 MW portfolio of Selected Wind Facilities once SWEPCO receives approval from either Louisiana or Texas (*i.e.*,

---

88 Tr. (Brice Direct) at 108-113 (Feb. 24, 2020).

89 SWEPCO Ex. 14, Rebuttal Testimony of Thomas Brice at bates 17-18 (pages 14-15, internal pagination) ("Brice Rebuttal").

90 Tr. (Brice Direct) at 108-113 (Feb. 24, 2020).

91 Brice Rebuttal at bates 6 (page 3, internal pagination).

both are not necessary).[92] This is because the Arkansas settlement has a "flex up" mechanism that allows SWEPCO to decide whether to proceed with the entire 1,485 MW acquisition and increase the allocation of the Selected Wind Facilities to the participating jurisdictions—so long as at least two of the three SWEPCO jurisdictions approve.[93] Here is the table from the Arkansas settlement agreement:[94]

Attachment 1

Acquisition Scenarios for SWEPCO That Include Arkansas

	Scenario A - Base Case All states and FERC approve	Scenario B - PSO Ark, Texas and FERC No La	Scenario C - PSO, Ark. La and FERC No Texas.	Scenario D - PSO, Arkansas and FERC. No Texas or La	Flex Up E -PSO Ark,Texas and FERC. No La	Flex Up F - PSO Ark La and FERC. No Texas
Total SWEPCO MW	810	513	468	171	810	810
Total AR MW (Retail Only)*	155	155	155	155	245	268
Total SWEPCO Cost	$1,088,846,127	$673,099,509	$614,517,782	$220,722,488	$1,088,846,127	$1,088,846,127
Total SWEPCO MWh at P95 .	13,523,352	8,568,905	7,817,832	2,859,143	13,523,352	13,523,352

* Estimated

Similarly, SWEPCO is seeking approval to "flex up" the Texas share of the Selected Wind Facilities in the event Louisiana or Arkansas does not approve the acquisition.[95] Because the standard Texas share does not appear to be in the public interest, an additional "flex up" share would likewise not be in the public interest.

VI. Other CCN Issues (P.O. Issue Nos. 1, 2, 3, 4, 11, 12)

Please see Section II (Certificate of Convenience and Necessity Standard of Review) above.

---

92 SWEPCO Ex. 14A, Workpapers to the Rebuttal Testimony of Thomas Brice, Arkansas settlement agreement at 9 (showing a table labelled "Acquisition Scenarios for SWEPCO that Include Arkansas", which is Attachment 1 to the settlement agreement filed with the Arkansas Public Service Commission in APSC Docket No. 19-035-U) ("Brice Rebuttal WPs"); *Id.* at 1-2 (showing the Arkansas settlement agreement, Section 1(c)-(d) describing the flex up option).

93 *Id.*

94 *Id.*

95 Brice Direct at bates 228-230 (pages 22-24, internal pagination).

VII. Rate Issues (P.O. Issue Nos. 21, 22, 25, 26, 27, 28, 29, 30, 31)

Not addressed.

VIII. Sale, Transfer, Merger Issues (P.O. Issue Nos. 13, 14, 15, 16, 17, 18)

The Commission should determine whether SWEPCO's proposal is in the public interest. A public interest finding is consistent with past Commission determinations and practical considerations. As stated by Mr. Daniel in his direct testimony, the Commission has made a public interest determination for similar applications involving out-of-state facilities.[96]

The Commission has made a public interest determination in at least two other similar proceedings: (1) a combined cycle unit located in Arkansas in Docket No. 43958 (*see* Preliminary Order (Mar. 10, 2015), Issue No. 15) and (2) transmission facilities located outside of Texas that were part of a system that is used to serve Texas customers, as well as part of the integrated system of the Southwest Power Pool (*see* Docket No. 45291, Preliminary Order (Mar. 25, 2016)). SWEPCO's assertion that a public interest finding is not required is not consistent with other proceedings. *See* also Docket No. 46936 (Southwestern Public Service Company ("SPS") previously submitted a CCN application for a wind generation facility located in New Mexico and did not make a similar claim that a public interest finding is not required).

From a practical perspective, Mr. Daniel testifies it is unreasonable for SWEPCO to seek the Commission's approval of a proposed $1.088 billion dollar project without finding a public interest determination. The proposed project will undoubtedly affect Texas customers but is proposed on the basis of uncertain cost savings.[97] SWEPCO should carry the burden of showing that the proposed project is in the public interest.

---

[96] Daniel Direct at JWD_00010 (page 8, internal pagination).

[97] Striedel Direct at JES_00014 (page 12, internal pagination) (As Mr. Striedel states, "The SWEPCO CCN application, which includes an assumption of the continued operations of Dolet Hills generation beyond 2026, fails to present a factual and accurate case for acquiring the Selected Wind Facilities by adding more than a billion dollars to customer rate base and is therefore is not in the Public Interest.").

IX. Conclusion

For the reasons discussed above, ETEC/NTEC recommends the Commission find that SWEPCO has not met its burden of proof in this proceeding. The evidence shows the proposed acquisition is not in the public interest as SWEPCO has failed to adequately demonstrate or guarantee ratepayers will receive the purported economic benefits. On the other hand, intervenors and Staff have shown that the cost of the acquisition is sufficiently known and any changes—such as higher than expected congestion costs—are likely to increase the overall cost for ratepayers.

Respectfully submitted,

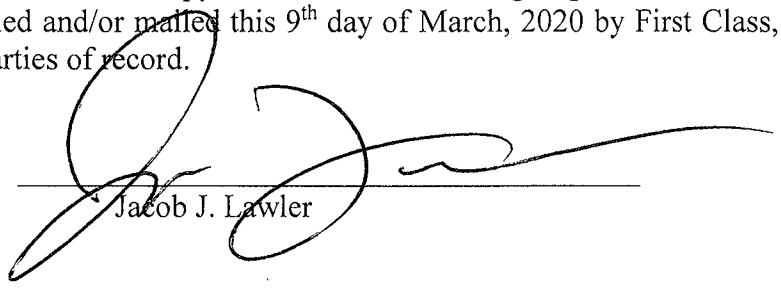
Mark C. Davis
State Bar No. 05525050
Adrianne M. Waddell
State Bar No. 24098556
Jacob J. Lawler
State Bar No. 24076502
HOLLAND & KNIGHT, LLP
111 Congress Avenue, Suite 540
Austin, Texas 78701
(512) 472-1081 OFFICE
(512) 472-7473 FAX

William H. Burchette
DC Bar No. 957308
W. Patrick Burchette
DC Bar No. 1010944
F. Alvin Taylor
DC Bar No. 468545
HOLLAND & KNIGHT, LLP
800-17th Street, N.W., Suite 1100
Washington, DC 20006
(202) 955-3000 OFFICE
(202) 955-5564 FAX

ATTORNEYS FOR EAST TEXAS ELECTRIC COOPERATIVE, INC.
AND
NORTHEAST TEXAS ELECTRIC COOPERATIVE, INC.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document was hand-delivered, electronically emailed and/or mailed this 9th day of March, 2020 by First Class, U.S. Mail, postage pre-paid to all parties of record.



Jacob J. Lawler