



Control Number: 49737



Item Number: 58

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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 §

RECEIVED  
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PUBLIC UTILITY COMMISSION  
FILING CLERK  
BEFORE THE STATE OFFICE  
ADMINISTRATIVE HEARINGS

SOAH ORDER NO. 1  
NOTICE OF PREHEARING CONFERENCE

I. CASE DESCRIPTION

On July 15, 2019, Southwestern Electric Power Company (SWEPCO) filed an application with the Public Utility Commission of Texas (Commission) for a certificate of convenience and necessity (CCN) to acquire an interest in three wind generation facilities located in Oklahoma. Through a request for proposals process, SWEPCO and its sister company, Public Service Company of Oklahoma, have contracted to acquire project companies owning the following wind facilities: (1) Traverse at 999 megawatt (MW); (2) Maverick at 287 MW; and (3) Sundance at 199 MW, subject to receipt of regulatory approvals and satisfaction of other conditions. Each of the wind facilities is owned by an affiliate of Invenergy LLC and located in Oklahoma. SWEPCO has contracted to acquire 54.5% of each facility, or a total of 810 MW. The total price for the wind facilities, including all interconnection and upgrade costs is \$1.86 billion. Total project costs, including purchase and sale agreements price adjustments and owner's costs are expected to be \$1.996 billion.

SWEPCO requests that the Commission amend its CCN and authorize acquisition of the above wind facilities under PURA<sup>1</sup> § 37.056; find that SWEPCO's purchase of the wind facilities is in the public interest, if the Commission determines that PURA § 14.101 is applicable; and approve its request to include any unrealized production tax credits in a deferred tax asset included in rate base in the event the production tax credits cannot be fully utilized in a given year.

<sup>1</sup> Public Utility Regulatory Act, Tex. Util. Code § 11.001-66.016.

## II. JURISDICTION

The Commission referred this case to the State Office of Administrative Hearings (SOAH) on August 22, 2019, requesting the assignment of an Administrative Law Judge (ALJ) to conduct a hearing and issue a proposal for decision (PFD), if necessary. In its referral order, the Commission set a deadline of August 29, 2019, for filing lists of issues to be addressed in this proceeding, and stated that it will consider and possibly adopt a preliminary order in the open meeting scheduled to convene on September 12, 2019.

SOAH has jurisdiction, pursuant to Texas Government Code § 2003.049 and PURA § 14.053, over all matters relating to the conduct of a hearing in this matter. Pursuant to PURA § 37.058(d), the Commission must approve or deny this application within one year of filing on **July 15, 2020**.

## III. NOTICE OF PREHEARING CONFERENCE

The ALJs will hold a prehearing conference at **10:00 a.m. on September 12, 2019**, at the State Office of Administrative Hearings, 300 West 15th Street, Fourth Floor, Austin, Texas. The following matters will be discussed:

1. Pending motions to intervene;
2. Pending motions filed by 3:00 p.m. on September 6, 2019;
3. A procedural schedule, including a date for the hearing on the merits that will enable the Commission to make a final decision by July 15, 2020; and
4. Any other matter that may assist in the disposition of this case in a fair and efficient manner.

Those attending the prehearing are advised that they must check in with building security personnel in the lobby of the William P. Clements Building and be issued visitor badges before proceeding to the hearing room. The parties should allow sufficient time for the check-in procedure.

In developing a proposed procedural schedule, the parties shall anticipate a record close date that ensures the ALJs have 60 days to write and issue the PFD. Additionally, the parties shall endeavor to provide the Commission with enough time for two dates for open meetings to discuss the PFD and seven calendar days after the last open meeting to issue an order. This can usually be achieved by allowing the Commission five weeks before the effective date to issue an order.

#### IV. PROCEDURES

##### A. Filing

The procedures regarding filing are specified in Subchapter E of the Commission's procedural rules and apply in this proceeding. Parties are expected to know those procedures and comply with them fully. Pleadings and other filings shall be deemed filed when the proper number of legible copies are presented to the PUC filing clerk for filing. **All pleadings must contain both the SOAH and PUC docket numbers to allow for efficient processing.**

All PUC filings in this case are available for viewing and downloading from the Commission's website ([www.puc.texas.gov](http://www.puc.texas.gov)). Click on "Filings" at the top of the page; then click on "Filings Search" and type in control number (PUC Docket Number) 49737 and press "enter." You may access any of the listed documents by clicking on the item number in the first column. You may also access the PUC's procedural rules from the PUC website.

##### B. Service of Filed Documents on All Parties

All documents filed in this case must also be delivered or "served" to all other parties.

##### C. Request that Parties Sign Up for Service of SOAH-issued Orders by Email

The parties are requested to receive service of SOAH orders by email. Like filings by the parties, SOAH orders must be served on all parties. If a party has consented to service by email, the order may be transmitted more efficiently than by regular mail. Service of SOAH orders by email saves a significant amount of SOAH's time and resources. As a result, **parties are**

**strongly encouraged to provide an email address to SOAH, to be served with notice of SOAH's orders in this case by email.** To do so, go to SOAH's website at [www.soah.texas.gov](http://www.soah.texas.gov), click on the "E-Services" link at the top of the webpage, then click on "Email Service" and complete the Email Service Request Form. This will also update the service list with the party's email address.

Only one address per party will be included on the official service list maintained by SOAH. Corrections to the service list should be emailed to the ALJs' assistant, Rhonda McKinzie, at [Rhonda.McKinzie@soah.texas.gov](mailto:Rhonda.McKinzie@soah.texas.gov).

**D. Motions and Responses to Motions and Other Pleadings**

Unless otherwise specified, responses to any motion or other pleading shall be filed within **five working days** from receipt of the pleading to which the response is made. Such responsive pleadings shall state the date of receipt of the pleading to which a response is made. Failure to file a timely response will be considered acquiescence to the relief requested.

If the parties file a motion that requires the ALJs' immediate attention, the parties must also email a copy of the motion to Rhonda McKinzie at the email address provided above.

A copy of each contested motion and reply filed in this proceeding must also be provided in an editable Word format to Ms. McKinzie at the email address provided above.

**E. Discovery**

Discovery may begin immediately pursuant to Subchapter H of the Commission's procedural rules. All discovery requests and responses shall be filed with the PUC.

**F. *In Camera* Review**

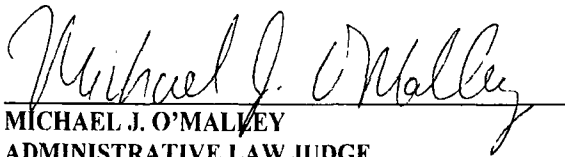
When a party seeks *in camera* review of documents in accordance with 16 Texas Administrative Code § 22.144(g), it will submit the documents to the ALJs at SOAH.


Documents submitted for review should not be filed with the Commission filing clerk. If they are filed with the Commission filing clerk, even inadvertently, the documents may not be physically removed from the Commission. Further, any claim to privilege or exemption may be waived by the filing.

At the time the documents are submitted for *in camera* review, the objecting party will file affidavits that list the facts necessary to support the explanation and the privilege or exemption that is claimed. The affidavits will be public documents and will be filed with the Commission filing clerk and served upon the propounding party.

Answers to Requests for Information (RFIs) that are submitted for *in camera* review will be grouped and separated from other answers by envelope, folder, box, or other appropriate containers; materials that constitute an answer to more than one RFI will be clearly cross-referenced. RFI answers submitted for *in camera* review will not be accessible to the other parties unless the ALJs order otherwise.

**SIGNED August 26, 2019.**

  
MICHAEL J. O'MALLEY  
ADMINISTRATIVE LAW JUDGE  
STATE OFFICE OF ADMINISTRATIVE HEARING

  
CHRISTIAAN SIANO  
ADMINISTRATIVE LAW JUDGE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS