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DOCKET NO. 51381

**APPLICATION OF ENTERGY TEXAS,
INC. TO ESTABLISH A GENERATION
COST RECOVERY RIDER RELATED
TO THE MONTGOMERY COUNTY
POWER STATION**

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**PUBLIC UTILITY COMMISSION
OF TEXAS**

**ORDER NO. 4
ADOPTING PROCEDURAL SCHEDULE AND ADDRESSING PROCEDURAL
MATTERS**

The Commission has decided to directly preside over the hearing in this matter, instead of referring it to the State Office of Administrative Hearings. The hearing will be held on December 17-18, 2020.

This Order addresses various procedural matters in this docket. In light of the disruption to normal business operations caused by the Covid-19 virus, the administrative law judge (ALJ) issues this order to specify the procedures that will be followed in this case. If the parties identify any problems created by these procedures or identify any other issues that need to be addressed, they are encouraged to file pleadings notifying the ALJ. The ALJ also urges all parties to collegially and patiently work together through the roadblocks and hassles created by holding the hearing during a pandemic.

I. Procedural Schedule

Given the extremely short timelines involved in this case, the ALJ, without waiting for the parties to propose a schedule, adopts the following procedural schedule to govern this case:

Event	Deadline
Objections to applicant's direct testimony	December 3, 2020
Response to objections to applicant's direct testimony	December 4, 2020
Intervenor direct testimony	December 7, 2020
Objections to intervenor direct testimony	December 8, 2020
Response to objections to intervenor direct testimony	December 9, 2020
Commission Staff direct testimony	December 10, 2020
Objections to Commission Staff direct testimony	December 11, 2020
Response to objections to Commission Staff direct testimony	December 14, 2020
Applicant's rebuttal testimony	December 14, 2020

Objections to applicant's rebuttal testimony	December 15, 2020
Response to objections to applicant's rebuttal testimony	December 16, 2020 by 10:00 a.m.
Deadline for parties' requests for witness waivers	December 16, 2020 by 10:00 a.m.
Prehearing Conference	December 16, 2020 at 1:00 p.m.
Hearing on the Merits	December 17-18, 2020

II. Prehearing Conference

A prehearing conference will be held on December 16, 2020, at 1:00 p.m. The details of how the prehearing conference will be held are currently being decided at the Commission. The ALJ will issue a subsequent order explaining the details of how to participate in the prehearing conference as soon as possible.

At the prehearing conference, the parties should be prepared to discuss any outstanding motions, evidentiary matters, including objections or motions to strike testimony, and any other matters that may assist in the disposition of this proceeding in a fair and efficient manner. The parties should make every effort to resolve objections, motions to strike, and any other disputes prior to this prehearing conference.

In addition, all witnesses will be sworn in at the December 16, 2020 prehearing conference. Accordingly, all witnesses must attend this prehearing conference.

At a prehearing conference, rulings will be made on the admissibility of the parties' exhibits. Those rulings may necessitate redactions or other revisions to exhibits. The parties will be required to conform their exhibits to the rulings made at the prehearing conference and share those conformed exhibits with the other parties, court reporter, and commissioners in time for the hearing on the merits.

III. Hearing on the Merits

The Commission will hold the hearing on the merits as authorized under PURA¹ §§ 14.001 and 14.051 to consider the application. **The hearing will take place on Thursday and Friday,**

¹ Public Utility Regulatory Act, Tex. Util. Code §§ 11.001–66.016.

December 17-18, 2020. The hearing will begin on December 17, 2020 immediately following the conclusion of the Commission's open meeting on that date. Unless otherwise ordered by the Commission, the hearing will resume on the morning of December 18, 2020 at 9:00 a.m. As with the prehearing conference, the ALJ will issue a subsequent order explaining how to participate in the hearing on the merits.

IV. Time Allotments for Parties Participating in the Hearing on the Merits

By December 15, 2020, the parties must file their proposals for allotting time among themselves. The time allotments must include estimates of how much of that time will be used for opening statements, cross-examination, redirect, and rebuttal. Parties should allow sufficient time for questions by the Commissioners and staff advisors to the Commissioners. Assuming the hearing runs from 1 p.m. to 5 p.m. on the 17th and from 9 a.m. to 5 p.m. on the 18th, there will be a total of roughly 9.5 hours of hearing time to allocate among the parties (excluding lunches and break time).

V. Exhibits

All direct testimony must be presented as written direct testimony and must be prefiled.

By December 14, 2020, each party must:

- 1) Deliver to the Commission's Central Records² office *eight hard copies* of the complete set of exhibits they plan to offer into evidence, together with an exhibit list;
- 2) send to the court reporter at Kennedy Reporting Services one hard copy and one electronic copy on a flash drive or compact disc the complete set of exhibits they plan to offer into evidence, together with an exhibit list; and
- 3) provide to all other parties copies of the complete set of exhibits they plan to offer into evidence, together with an exhibit list.

All exhibits must be pre-marked, including, to the maximum extent possible, documents anticipated for use in cross-examination. It is the obligation of the party offering the evidence to make sure that all exhibits, including copies distributed to other parties, are properly marked and

² Due to limited building access and reduced office hours during the pandemic, the parties must coordinate via telephone or email with personnel in Central Records before hand-delivering exhibits. Central Records may preferably be reached at centralrecords@puc.texas.gov or (512) 936-7180. If for any reason parties are unable to reach Central Records, they may contact Stephen Journeay at (512) 936-7215, or Shelah Cisneros at (512) 936-7282.

included in the record. The exhibit list must clearly describe any exhibits that are confidential. By December 14, 2020, an electronic copy of the exhibit list must be emailed to: andrea.gonzalez@puc.texas.gov and hunter.burkhalter@puc.texas.gov.

By the start of the hearing on the merits on December 17, 2020, each party must have:

- 1) provided to the ALJ *8 hard copies* of any redactions or corrections to its exhibits so that they conform to evidentiary rulings made at the December 16, 2020 prehearing conference;
- 2) provided to all other parties copies of any redactions or corrections to its exhibits so that they conform to evidentiary rulings made at the December 16, 2020 prehearing conference;
- 3) provided to Kennedy Reporting Services one hard copy and one electronic copy on a flash drive or compact disc of the party's complete set of exhibits which conform to the evidentiary rulings made at the December 16 prehearing conference; and
- 4) provided two hard copies to the appeals box of the parties' complete set of exhibits which conform to the evidentiary rulings made at the December 16 prehearing conference.

Exhibits containing confidential material must meet all the requirements of 16 Texas Administrative Code (TAC) § 22.71(d)(1), in addition to being marked with the exhibit number. Exhibits submitted that do not conform to 16 TAC § 22.71(d)(1) may be rejected at the December 16, 2020, prehearing conference and will not be accepted until they are resubmitted as corrected.

VI. Cross-Examination, Redirect, Clarifying Questions, and Testimony Regarding Confidential Exhibits

Witness panels will not be allowed. Each witness presenting written direct testimony must be available for cross-examination by the other parties. The Commissioners and advisory staff members may ask questions at any point during the proceeding and may direct a party or a witness to provide additional information as needed to fully develop the record of the proceeding. Redirect is limited to the scope of cross-examination.

If an attorney wishes to discuss a specific document while engaging in direct or cross examination of a witness, it is the attorney's responsibility to ensure that the witness has access to the document.

In the event there is a need to close the hearing to consider confidential evidence, parties are reminded that only persons who have signed the Protective Order can participate in or observe the hearing.

VII. Additional Matters

The parties are required to, prior to the December 16, 2020 prehearing conference, forward to the court reporter at Kennedy Reporting Service business cards for each attorney and each witness.

Signed at Austin, Texas the 1st day of December 2020.

PUBLIC UTILITY COMMISSION OF TEXAS


HUNTER BURKHALTER
CHIEF ADMINISTRATIVE LAW JUDGE