



Control Number: 51381



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# OPEN MEETING COVER SHEET

## DRAFT PRELIMINARY ORDER

**MEETING DATE:** June 24, 2021

**DATE DELIVERED:** June 17, 2021

**AGENDA ITEM NO.:** 15

**CAPTION:** Docket No. 51381; SOAH Docket No. 473-21-2605 – Application of Entergy Texas, Inc. to Establish a Generation Cost Recovery Rider Related to the Montgomery County Power Station

**DESCRIPTION:** Draft Preliminary Order

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**Will McAdams**  
Commissioner



**Greg Abbott**  
Governor

**Thomas J. Gleeson**  
Executive Director

## ***Public Utility Commission of Texas***

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TO: Chairman Peter M. Lake  
Commissioner Will McAdams

All Parties of Record

FROM: David Hrcir  
Commission Advising

RE: *Application of Entergy Texas, Inc. to Establish a Generation Cost Recovery Rider Related to the Montgomery County Power Station*, Docket No. 51381, SOAH Docket No. 473-21-2605, Draft Preliminary Order, June 24, 2021 Open Meeting, Item No. 15.

DATE: June 17, 2021

Please find enclosed the draft preliminary order filed by Commission Advising in the above-referenced docket. The Commission will consider this draft preliminary order at the June 24, 2021 open meeting. Parties shall not file responses or comments addressing this draft preliminary order.

Any modifications to the draft preliminary order that are proposed by one or more Commissioners will be filed simultaneously prior to the consideration of the matter at the June 24, 2021 open meeting.

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**PUC DOCKET NO. 51381**  
**SOAH DOCKET NO. 473-21-2605**

|                                       |          |                                  |
|---------------------------------------|----------|----------------------------------|
| <b>APPLICATION OF ENTERGY TEXAS,</b>  | <b>§</b> | <b>PUBLIC UTILITY COMMISSION</b> |
| <b>INC. TO ESTABLISH A GENERATION</b> | <b>§</b> |                                  |
| <b>COST RECOVERY RIDER RELATED</b>    | <b>§</b> | <b>OF TEXAS</b>                  |
| <b>TO THE MONTGOMERY COUNTY</b>       | <b>§</b> |                                  |
| <b>POWER STATION</b>                  | <b>§</b> |                                  |

**DRAFT PRELIMINARY ORDER**

Entergy Texas, Inc. filed an application under 16 Texas Administrative Code § 25.248(h) to update its generation cost recovery rider (GCRR) to reflect Entergy's actual capital investment in the Montgomery County Power Station (the Montgomery plant). This preliminary order identifies the issues that must be addressed and an issue that shall not be addressed.

The applicant seeks approval to update its GCRR to reflect its actual capital investment in the Montgomery plant. The update application is based on a total GCRR revenue requirement of \$88,466,712, which represents a \$2,345,259 increase from the revenue requirement used to calculate the interim rates approved by the interim order filed on January 20, 2021.

The amended update application filed on May 11, 2021 reflects the Commission's order in Docket No. 50790,<sup>1</sup> which amended Entergy's certificate of convenience and necessity for the transfer of a partial interest in the Montgomery plant from Entergy to East Texas Electric Cooperative, Inc. The amended application reflects Entergy's expectation that the transfer will close on June 4, 2021, although as of June 16, 2021, Entergy has not filed evidence in this docket regarding whether the transaction closed on that date. The amended application is based on Entergy owning 100% of the Montgomery plant through June 4, 2021 and owning a 92.44% interest after that date.

Entergy also seeks the Commission's approval of the form of a separate relate-back rider to its tariff. The relate-back rider is designed to recover the difference between what Entergy has collected under its interim GCRR rates and the amounts Entergy would have collected if its full

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<sup>1</sup> *Joint Report and Application of Entergy Texas, Inc. and East Texas Electric Cooperative, Inc. for Regulatory Approvals Related to Transfers of the Hardin County Peaking Facility and a Partial Interest in Montgomery County Power Station*, Docket No. 50790, Order (Apr. 7, 2021).

investment in the Montgomery plant had been reflected in its GCRR rates on January 1, 2021. The relate-back rider is designed to include carrying costs through the date the Commission approves an updated GCRR. Because the exact carrying costs will not be known until the Commission approves updated GCRR rates, Entergy intends to file the final relate-back rider in this docket after the Commission has approved the updated GCRR rates. Entergy estimates a revenue requirement of \$3.936 million for the relate-back rider based on a June 4, 2021 closing date for the transaction approved in Docket No. 50790 and an effective date of July 31, 2021.

### **I. Procedural Background**

Entergy filed its original GCRR application in this docket on October 5, 2020. The application was based on Entergy's invested capital in the Montgomery plant through August 31, 2020. Texas Industrial Energy Consumers (TIEC), the Office of Public Utility Counsel (OPUC), and Cities<sup>2</sup> were all granted intervenor status in this proceeding.<sup>3</sup> The proceeding was scheduled for a Commission-held hearing, but the hearing was cancelled because the parties filed an unopposed agreement between themselves.

At its January 14, 2021 open meeting, the Commission approved the agreed GCRR rates on an interim basis and then abated the proceeding pending resolution of Docket No. 50790 because the Commission determined that if the proposed transaction in Docket No. 50790 closed, Entergy's GCRR should reflect the transaction. The Commission instructed Entergy to file any update application under 16 Texas Administrative Code (TAC) § 25.248(h) in this docket and authorized Docket Management to unabate this proceeding to address such an update application. After the proceeding was abated, TIEC objected to the January 1, 2021 effective date of the interim GCRR rates, but the Commission ALJ overruled the objection,<sup>4</sup> and the Commission ALJ's order was not appealed.

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<sup>2</sup> The Cities group comprises the following municipalities: Anahuac, Beaumont, Bridge City, Cleveland, Dayton, Groves, Houston, Huntsville, Liberty, Montgomery, Navasota, Nederland, Oak Ridge North, Orange, Pine Forest, Pinehurst, Port Arthur, Port Neches, Roman Forest, Shenandoah, Silsbee, Sour Lake, Splendora, Vidor, and West Orange.

<sup>3</sup> *Application of Entergy Texas, Inc. to Establish a Generation Cost Recovery Rider Related to the Montgomery County Power Station*, Docket No. 51381, Order No. 2 (Oct. 16, 2020).

<sup>4</sup> Order No. 9 (Mar. 5, 2021).

On March 2, 2021, Entergy filed an application to update its GCRR under 16 TAC § 25.248(h). In the update application, Entergy presented its actual capital investment in the Montgomery plant through January 31, 2021. The update application also presented two different scenarios depending on whether the Commission approved or denied Entergy's application in Docket No. 50790. The Commission ALJ unabated the proceeding and found the application and notice of the application to be sufficient.<sup>5</sup>

On May 11, 2021, Entergy amended the update application as discussed above in part to reflect the Commission's approval of the transaction in Docket No. 50790. TIEC, Cities, and Commission Staff each requested a hearing, and the Commission referred the docket to the State Office of Administrative Hearings (SOAH) on June 10, 2021.

In the order of referral, Entergy was directed, and Commission Staff and other interested persons were allowed, to file a list of issues to be addressed in the docket and also identify any issues not to be addressed and any threshold legal or policy issues that should be addressed by June 16, 2021. Entergy and Commission Staff each timely filed a list of issues.

## **II. Issues to be Addressed**

The Commission must provide to the administrative law judge (ALJ) a list of issues or areas to be addressed in any proceeding referred to the State Office of Administrative Hearings (SOAH).<sup>6</sup> After reviewing the pleadings submitted by the parties, the Commission identifies the following issues that must be addressed in this docket:

### **Application**

1. On what date did the Montgomery plant begin providing service to Energy's customers?
2. Did Entergy file its application to update its GCRR within 60 calendar days after the Montgomery plant began providing service to Entergy's customers?
3. Does the application to update Entergy's GCRR include only one discrete power generation facility?

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<sup>5</sup> Order No. 10 (Apr. 16, 2021); Order No. 11 (May 3, 2021).

<sup>6</sup> Tex. Gov't Code § 2003.049(e).

4. What amount of investment in the Montgomery plant did the Commission originally approve for recovery in the GCRR before this update?

**Baseline Values**

5. What were the GCRR-related baseline values established in Entergy's most recent base-rate proceeding, Docket No. 48371?<sup>7</sup>
6. What is the rate of return approved by the Commission in Docket No. 48371?
7. What were the baseline jurisdictional and rate-class allocation factors established in Docket No. 48371?
8. What were the rate classes established in Docket No. 48371?
9. What were the billing determinants used to establish generation base rates in Docket No. 48371?
10. Did Entergy include any adjustments to the GCRR-related baseline values established in Docket No. 48371? If so, should the Commission approve those adjustments?

**Power-Generation-Facility Net Invested Capital**

11. What is the power-generation-facility net invested capital to be included in Entergy's updated GCRR that reflects Entergy's actual capital investment in the Montgomery plant?
  - a. Is the invested capital included in the updated GCRR limited to the invested capital functionalized as generation plant properly recorded in the Federal Energy Regulatory Commission's Uniform System of Accounts, account numbers 303 through 347, 352, and 353 when the Montgomery plant was placed in service?
  - b. Has the generation invested capital included in the updated GCRR been adjusted for accumulated depreciation and any changes in accumulated deferred federal income taxes (ADFIT), including changes to excess ADFIT, associated with the Montgomery plant?

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<sup>7</sup> Entergy Texas, Inc. 's Statement of Intent and Application for Authority to Change Rates, Docket No. 48371, Order (Dec. 20, 2018).

- c. Does the amount of generation invested capital included in the updated GCRR comply with the cost caps that the Commission approved for the Montgomery plant in Docket No. 46416?<sup>8</sup>
- d. Is it appropriate for Entergy to recover through the GCRR approved in this proceeding the power-generation-facility invested capital incurred after the date that the Montgomery plant began providing service to Entergy's customers?

**Docket No. 50790 Issues**

- 12. On what date did the transaction approved in Docket No. 50790 close?
- 13. Did Entergy appropriately account for the transaction approved in Docket No. 50790?

**Revenue Requirement and Rates**

- 14. What is the total revenue requirement to be collected through the updated GCRR?
- 15. What rates, if any, should the Commission approve in this proceeding?
  - a. Do the updated GCRR rates comply with 16 TAC § 25.248(d)(1) by not taking into account changes in the number of Entergy customers and the effects that energy consumption and energy demand have on the amount of revenue recovered through Entergy's base rates?
  - b. Do the updated GCRR rates comply with 16 TAC § 25.248(d)(2) by not including any estimated costs?
  - c. What is the appropriate weather normalization adjustment using weather data for the most recent ten calendar years?
  - d. What is the appropriate effective date for any rates approved?

**Carrying Costs and Relating Back**

- 16. Did Entergy correctly calculate the carrying costs that apply to the amount of updated investment in excess of the investment initially approved for recovery in the GCRR?
- 17. Is Entergy's proposal of a relate-back rider appropriate? If so,

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<sup>8</sup> *Application of Entergy Texas, Inc. to Amend its Certificate of Convenience and Necessity to Construct Montgomery County Power Station in Montgomery County*, Docket No. 46416, Order, Ordering Paragraph No. 3 (Jul. 28, 2017).



- a. Is Entergy's proposed methodology for calculating the rider's revenue requirement and rates appropriate?
- b. What is the appropriate term for the rider?

**Notice**

18. Did Entergy provide notice of the application to all parties in Entergy's last base-rate proceeding in compliance with the requirements of 16 TAC § 25.248(g)(2)?

**Rate-Case Expenses**

19. Should any party recover the cost of participating in this proceeding? If so, the following issues should be addressed.
  - a. What are the reasonable costs of participating municipalities in this proceeding under Public Utility Regulatory Act (PURA)<sup>9</sup> § 33.023 and 16 TAC § 25.245?
  - b. What are the reasonable costs of participation by Entergy that should be allowed as a cost or expenses in this proceeding under PURA § 36.061(b)(2) and 16 TAC § 25.245?
  - c. Should these costs be addressed in this proceeding or deferred to a subsequent proceeding?
  - d. In what manner should these costs be recovered?

**Overall Compliance Issues**

20. If the Commission approves Entergy's updated GCRR, will Entergy have only one GCRR?
21. If the Commission approves Entergy's updated GCRR, will Entergy's GCRR include cumulative incremental recovery for power generation facilities in an amount of generation invested capital that is greater than \$200 million on a Texas jurisdictional basis?

This list of issues is not intended to be exhaustive. The parties and the ALJ are free to raise and address any issues relevant in this docket that they deem necessary, subject to any limitations imposed by the ALJ or by the Commission in future orders issued in this docket. The Commission may identify and provide to the ALJ in the future any additional issues or areas that must be addressed, as permitted under Texas Government Code § 2003.049(e).

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<sup>9</sup> Public Utility Regulatory Act, Tex. Util. Code §§ 11.001–66.016.

### **III. Issues Not to be Addressed**

The Commission identifies the following issues that need not be addressed in this proceeding for the reasons stated.

**1. Whether generation invested capital included in the application complies with PURA, is reasonable and necessary, and was prudently incurred.**

The Commission's GCRR rule specifically prohibits these issues from being addressed in a GCRR proceeding.<sup>10</sup>

### **IV. Effect of Preliminary Order**

The Commission's discussion and conclusions in this order regarding issues that are not to be addressed should be considered dispositive of those matters. Questions, if any, regarding issues that are not to be addressed may be certified to the Commission for clarification if the SOAH ALJ determines that such clarification is necessary. As to all other issues, this Order is preliminary in nature and is entered without prejudice to any party expressing views contrary to this Order before the SOAH ALJ at hearing. The SOAH ALJ, upon his or her own motion or upon the motion of any party, may deviate from the non-dispositive rulings of this Order when circumstances dictate that it is reasonable to do so. Any ruling by the SOAH ALJ that deviates from this Order may be appealed to the Commission. The Commission will not address whether this Order should be modified except upon its own motion or the appeal of a SOAH ALJ's order. Furthermore, this Order is not subject to motions for rehearing or reconsideration.

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<sup>10</sup> 16 TAC § 25.248(g)(1).

**Signed at Austin, Texas the \_\_\_\_\_ day of June 2021.**

**PUBLIC UTILITY COMMISSION OF TEXAS**

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**PETER M. LAKE, CHAIRMAN**

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**WILL MCADAMS, COMMISSIONER**