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**SOAH DOCKET NO. 473-21-0538
PUC DOCKET NO. 51415**

**APPLICATION OF SOUTHWESTERN § BEFORE THE STATE OFFICE
ELECTRIC POWER COMPANY FOR § OF
AUTHORITY TO CHANGE RATES § ADMINISTRATIVE HEARINGS**

**SOUTHWESTERN ELECTRIC POWER COMPANY'S OBJECTION
TO NUCOR'S FIRST REQUESTS FOR INFORMATION**

Southwestern Electric Power Company (SWEPCO) files this objection to Nucor's First Set of Requests for Information to SWEPCO. Pursuant to 16 Tex. Admin. Code § 22.144(d), SWEPCO's objections must be made within ten (10) calendar days of the receipt of the requests for information (RFIs). SWEPCO received Nucor's First Set of RFIs on January 13, 2021, making objections due by January 25, 2021. Counsel for SWEPCO and Nucor have worked to negotiate this objection diligently and in good faith. Accordingly, this objection is timely filed.

I. Specific Objection

Request for Information

Nucor 1-3 On a continuing basis, identify and provide copies of all information provided by SWEPCO to any party related to this proceeding (or the issues in the docket) including, but not limited to, correspondence, discovery and other requests for data and corresponding responses, oral or written.

Objection

SWEPCO objects to this request as being overly broad, vague, not tailored or reasonably calculated to lead to the discovery of admissible evidence, and outside the scope of permissible discovery. SWEPCO also objects that this request is unduly burdensome and the burden of attempting to comply with this request far outweighs any possible benefit.

First, this request is not limited in scope as to time, place, and the subject matter.¹ As written, this request fails to identify with any particularity the nature of the information sought. Neither does the request provide SWEPCO with sufficient information to identify the information

¹ *In re Allstate County Mut. Ins. Co.*, 227 S.W.3d 667, 669 (Tex. 2007) (calling requests that were not limited "as to time, location, and scope and [that] could easily have been more narrowly tailored to the dispute at hand" overbroad).

requested. It is so vaguely worded as to potentially include any communication with another party related to this proceeding. Nucor makes a sweeping and impermissibly broad request for “*all information*” provided “to any party *related to this proceeding (or the issues in this docket)*” including any oral or written communications. Parties “must formulate [their] request[s] for production with a certain degree of specificity” to allow the responding party the ability to comply.²

But here, this overbroad request exceeds the permissible scope of discovery. Ultimately, it amounts to no more than an impermissible fishing expedition.³ The test for overbreadth is whether the request could have been tailored “to avoid including tenuous information and still obtain the necessary, pertinent information.”⁴ “Requests for information ‘must be reasonably tailored to include only matters relevant to the case’ and may not be used as a ‘fishing expedition.’”⁵ Most communications with other parties in a rate case relate to minor discovery issues or other matters unrelated to the substantive issues in this case. Responding to such an untargeted request would impose an undue and disproportionate burden on SWEPCO. The burden on SWEPCO of attempting to comply with this expansive request for information far exceeds the possible value of the information sought. And to the extent this request seeks information that has been or will be supplied to all parties or filed on the Commission’s Interchange, it is duplicative and requests information otherwise available to and obtainable by Nucor.

² *Loftun v Martin*, 776 S.W.2d 145, 148 (Tex. 1989, orig. proceeding) (holding request vague, ambiguous, and overbroad).

³ *In re CSX Corp.*, 124 S.W.3d 149, 152 (Tex. 2003) (per curiam) (explaining that discovery requests “may not be used simply to explore”).

⁴ *Id.* at 153.

⁵ See *In re Sun Coast Rest., Inc.*, 562 S.W.3d at 146 (citations omitted). “Because discovery is limited to matters relevant to the case, requests for information that are not reasonably tailored as to time, place, and subject matter amount to impermissible ‘fishing expeditions.’” *In re Jarvis*, 431 S.W.3d 129, 134 (Tex. App.—Houston [14th Dist.] 2013, no pet.).

Respectfully submitted,

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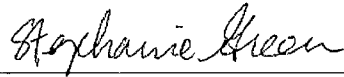
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**ATTORNEYS FOR SOUTHWESTERN
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CERTIFICATE OF SERVICE

I certify that, unless otherwise ordered by the presiding officer, notice of the filing of this document was provided to all parties of record via electronic mail on January 25, 2021, in accordance with the Second Order Suspending Rules issued in Project No. 50664 and Order No. 1 in this matter.



Stephanie Green