

Mr. Eiden further testifies that Mr. David Garrett made the same arguments in Docket No. 46449 and SWEPCO's rate case prior to that (Docket No. 40443). In both instances, the ALJs and the Commission rejected Mr. Garrett's arguments against a contingency factor.<sup>617</sup>

In addition to this precedent, Mr. Eiden explains that it is appropriate to use a contingency factor when preparing demolition cost estimates because it is common practice, it is reasonable, and it more accurately reflects the realities of power plant operating lives.<sup>618</sup> Mr. Eiden confirms that based on his experience in performing engineering tasks for over 30 years including a contingency factor is necessary.<sup>619</sup> He explains that S&L's standard practice is to include a contingency factor of 15% for power plant demolition estimates, but in an effort to comply with prior Commission precedent, S&L agreed to use a conservative 10% factor in the demolition study provided to SWEPCO in this case.<sup>620</sup>

### **2.22% Escalation Factor**

In his direct testimony, Mr. Cash explains that the terminal net salvage amounts provided by S&L in its demolition study were stated at a 2020 price level.<sup>621</sup> Mr. Cash used a 2.22% escalation or inflation factor to determine the terminal net salvage amount at each plant's retirement in future years.<sup>622</sup> Mr. Cash obtained the escalation factor from the Livingston Survey, which is published by the Federal Reserve Bank of Philadelphia.<sup>623</sup>

Mr. David Garrett disagrees with the use of an escalation factor to determine net salvage amounts. In particular, he argues that it is unreasonable to charge current customers for a future cost that has not been discounted to present value.<sup>624</sup> Mr. Cash responds that Mr. Garrett's time value of money assertion is at odds with depreciation principles in the context of ratemaking.<sup>625</sup> Mr. Cash explains that customers already receive a return on the net salvage component of

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<sup>617</sup> SWEPCO Ex. 42 at 2:12-3:12.

<sup>618</sup> SWEPCO Ex. 42 at 3:13-4:16.

<sup>619</sup> SWEPCO Ex. 42 at 4:17-6:2.

<sup>620</sup> SWEPCO Ex. 42 at 6:3-7:2.

<sup>621</sup> SWEPCO Ex. 16 at 7:16-23.

<sup>622</sup> SWEPCO Ex. 16 at 7:16-23.

<sup>623</sup> SWEPCO Ex. 16 at 8:1-6.

<sup>624</sup> CARD Ex. 1 at 9:5-17.

<sup>625</sup> Rebuttal Testimony of Jason Cash, SWEPCO Ex. 43 at 10:19-23.

depreciation expense through accumulated depreciation as a reduction to rate base.<sup>626</sup> Mr. Cash further testifies that removing the escalation factor would shift greater depreciation costs to future customers even though current and future customers receive the same benefit from the depreciated plant.<sup>627</sup> That is, applying an escalation factor allocates the depreciation expense more evenly over the life of the plant. Finally, Mr. Cash testifies that use of an escalation factor is consistent with Commission precedent established in Docket Nos. 40443 and 46449.<sup>628</sup>

### **Service Lives of Mass Property Accounts (Iowa Curve)**

Mr. Cash testifies that he performed an actuarial analysis for mass property accounts – Transmission and Distribution Accounts and General Account 390 – on behalf of SWEPCO for this rate case. These accounts involve large numbers of similar units where the life of one unit is not dependent on the life of other units (e.g., meters).<sup>629</sup> The actuarial analysis produces depreciation parameters such as the average service life, dispersion curve, and remaining life.<sup>630</sup> Mr. Cash used Iowa curves to track the useful life of the mass property accounts included in his depreciation study. Mr. David Garrett likewise performed an actuarial analysis of the mass property accounts. For certain accounts, Mr. Garrett’s Iowa curve differed from Mr. Cash. Below is a comparison:

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<sup>626</sup> SWEPCO Ex. 43 at 10:23-11:4.

<sup>627</sup> SWEPCO Ex. 43 at 11:5-19.

<sup>628</sup> SWEPCO Ex. 43 at 11:20-12:8.

<sup>629</sup> SWEPCO Ex. 43 at 12:9-15.

<sup>630</sup> SWEPCO Ex. 43 at 13:4-5.

**Rebuttal Table JAC 1<sup>631</sup>**  
**Comparison of SWEPCO Curve Life Combinations to CARD**

		SWEPCO Proposed			CARD Proposed		
		Avg. Service <u>Life</u> (Years)	Iowa <u>Curve</u>	Remain <u>Life</u>	Avg. Service <u>Life</u> (Years)	Iowa <u>Curve</u>	Remain <u>Life</u>
<b><u>TRANSMISSION PLANT</u></b>							
353.0	Station Equipment	68	S0.0	57.74	75	L0.5	65.77
354.0	Towers & Fixtures	65	L3.0	35.37	74	S1.5	45.48
355.0	Poles & Fixtures	46	S0.5	38.98	49	L1.5	41.88
356.0	Overhead Conductor & Devices	70	R2.0	57.79	80	L1.5	67.65
<b><u>DISTRIBUTION PLANT</u></b>							
364.0	Poles, Towers, & Fixtures	55	S- 5	44.69	62	L0.0	52.72
366.0	Underground Conduit	70	R4.0	55.32	80	R4.0	65.25
367.0	Underground Conductor	46	R3.0	31.86	62	R1.0	51.09
369.0	Services	59	R3.0	45.12	76	R1.5	64.21
370.0	Meters	15	L0.0	10.97	21	O2.0	17.52

Mr. Garrett testifies that the service lives he selected provide better mathematical and visual fits based on objective and unbiased factors.<sup>632</sup> Mr. Cash responds that applying Iowa curves to these mass property accounts requires professional judgment.<sup>633</sup> Mr. Garrett agrees with this general concept.<sup>634</sup> Mr. Cash explains that his selections (based on his professional judgment) are based on visual and mathematical fits as well as an understanding of the property included in these accounts.<sup>635</sup> That is, Mr. Cash routinely works with and understands the nature of the property included in these accounts. With the exception of one account, Mr. Garrett's selections are based solely on visual and mathematical curve techniques.<sup>636</sup> This difference is especially demonstrated in Account No. 370 (Distribution Meters). For this account, Mr. Garrett apparently bases his selected curve on the retirement history for Account 370.<sup>637</sup> However, Mr. Cash explains that the

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<sup>631</sup> SWEPCO Ex. 43 at 14.

<sup>632</sup> CARD Ex. 1 at 11:15-24:11.

<sup>633</sup> SWEPCO Ex. 43 at 15:5-17.

<sup>634</sup> CARD Ex. 1 at 10:8-11.

<sup>635</sup> SWEPCO Ex. 43 at 15:5-17.

<sup>636</sup> SWEPCO Ex. 43 at 15:5-17.

<sup>637</sup> CARD Ex. 1 at 24:3-11.

full history of Account 370 does not accurately reflect the average life of the meters currently in that account.<sup>638</sup> The full history includes electromechanical meters, which could have an average service life of 30 years or more. However, Mr. Cash confirms that SWEPCO replaced almost all of the meters in its service territory with electronic meters, which have a manufacturer prescribed useful life of 15 years or less.<sup>639</sup> Mr. Cash's rebuttal testimony details how his selected Iowa curves better fit the applicable mass property accounts taking into consideration not only the historical retirement data for the property, but also the various changes and updates to those accounts over the years.<sup>640</sup>

### **Conclusion**

Based on the foregoing, SWEPCO respectfully requests that Mr. David Garrett's recommendations regarding the 10% contingency fee, 2.22% escalation factor, and Iowa curve and life selection for SWEPCO's mass property accounts be rejected. Moreover, SWEPCO requests that the quantification of these recommendations (as supported by Mr. Mark Garrett)<sup>641</sup> also be rejected.

### **E. Purchased Capacity Expense**

In this proceeding, CARD has inaccurately claimed that SWEPCO's purchase of capacity under the Cajun contract is a purchase of energy. TIEC has claimed that a portion of the expense incurred under SWEPCO's wind energy Renewable Energy Purchase Agreements (REPAs) should be accounted for as a purchase of capacity. The Cajun contract was entered into nearly three decades ago. SWEPCO's REPAs have been in place for nearly a decade or more. The Commission should continue accounting for purchases of capacity under the Cajun contract as capacity and purchases of energy under the REPAs as energy, as has been done since their inception.

#### **1. Cajun Capacity Charges**

During the Test Year, SWEPCO continued to purchase 50 MW of capacity under its long-term purchase power agreement with Louisiana Generating Company (formerly Cajun Electric Power Cooperative). That agreement began in 1992. Those costs have historically been recovered

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<sup>638</sup> SWEPCO Ex. 43 at 40:13-41:3.

<sup>639</sup> SWEPCO Ex. 43 at 40:13-41:3.

<sup>640</sup> SWEPCO Ex. 43 at 12:9-41:14.

<sup>641</sup> CARD Ex. 2 at Exhibit MG-2.11.

through base rates. SWEPCO does not recover any portion of these capacity costs through its Fuel Factor.<sup>642</sup> In Docket No. 40443, the Cajun contract was recognized as SWEPCO's only capacity contract at the time: "SWEPCO explains that traditionally, a company would enter into a purchased power capacity contract for a relatively long period of time. For example, SWEPCO's only current contract in Texas rates is an 18-year contract with Louisiana Generating LLC."<sup>643</sup>

Only CARD witness Mr. Norwood argues that the capacity costs incurred by SWEPCO under the Cajun contract should now be recovered through SWEPCO's fuel factor. Highly Sensitive Exhibit SN-8 to Mr. Norwood's testimony provides an excerpt of the Cajun Contract. Under Section V. of the contract, SWEPCO may purchase Operating Reserve Capacity and may purchase Operating Reserve Energy. During the Test Year, SWEPCO did purchase the product designated as Operating Reserve Capacity under the contract and counted that capacity in SWEPCO's compliance with SPP's capacity reserve requirements. During the Test Year SWEPCO did not purchase any Operating Reserve Energy under the Cajun contract.<sup>644</sup>

Mr. Norwood appears to be confusing the phrase "Operating Reserve Capacity Charges" in the Cajun contract, which is capacity, with the SPP definition of "operating reserves," which are considered ancillary services and treated as energy. The purchase of capacity, from Cajun or another source, is distinguishable Operating Reserve services, which, since the introduction of the SPP IM in March of 2014, are procured in the SPP IM day-ahead and real-time market. These ancillary services are economically cleared simultaneously with the energy offers in the SPP IM based on the bids and offers submitted by Market Participants. Unlike the ancillary service operating reserves, capacity has to be purchased several months ahead of the start of the peak summer season, and in order for a load serving entity to be able to count on the capacity, firm transmission must be obtained from SPP. The process for obtaining firm transmission service can take over six months. In addition, the terms for purchased capacity must be for a minimum of four months.<sup>645</sup>

There are other indications in the Cajun contract that the "Operating Reserve Capacity"

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<sup>642</sup> SWEPCO Ex. 47 at 7:1-9.

<sup>643</sup> Docket No. 40443, PFD at 293.

<sup>644</sup> SWEPCO Ex. 47 at 7:10-11:2.

<sup>645</sup> SWEPCO Ex. 47 at 8:9-9:2.

product is a capacity product. The contract calls it a “capacity charge” and the cost of the capacity is priced on a \$/kW month basis. This pricing helps demonstrate that it is a capacity product and not an energy product. In contrast, the Operating Reserve Energy charge in the Cajun contract is referred to as an “energy charge” and is charged on a per-kWh basis. Further, the Cajun capacity purchase does not impact the requirement for SWEPCO to purchase operating reserve service in the SPP IM. Instead, the Cajun capacity is used in meeting SWEPCO’s SPP capacity requirement.<sup>646</sup>

Mr. Norwood’s suggestion that Cajun capacity payments should be treated as operating reserves should be rejected. Cajun capacity payments are distinct from operating reserves and should continue to be recovered through base rates, as they have been historically.

## **2. Wind Energy Contracts**

SWEPCO entered into its first contract to purchase wind energy in 2008 (Majestic). The remaining REPAs (High Majestic, Flat Ridge, and Canadian Hills) had in-service dates starting in 2012. The cost of energy incurred under these contracts has been collected through SWEPCO’s fuel factor and reconciled as energy purchases since their inception, starting with Docket No. 40443 for the Majestic REPA.<sup>647</sup> In Docket No. 40443, both a base rate and fuel reconciliation proceeding, none of the cost incurred under the Majestic REPA was attributed to capacity and included in SWEPCO’s base rates.<sup>648</sup> The prudence of the later REPAs were addressed by the Commission in Docket No. 46449. These REPAs were entered into consistent with a settlement agreement associated with the retirement of Welsh Unit 2. In Docket No. 46449, also a base rate case, SWEPCO provided evidence that the REPAs were acquired by SWEPCO at a cost forecast to be lower than SWEPCO’s marginal energy cost.<sup>649</sup> In that Docket, the Commission found that those REPAs entered into as part of the settlement were economic when the full-term of the long-term wind PPAs were considered, that economic benefit was expected for SWEPCO’s customers,

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<sup>646</sup> SWEPCO Ex. 47 at 9:11-21.

<sup>647</sup> See SWEPCO Ex. 47 at 10:20-11:4. See also Cross-Rebuttal Testimony of Tony M. Georgis, OPUC Ex. 60 at Attachment A (OPUC Ex. 61).

<sup>648</sup> Docket No. 40443, PFD at 293 (“SWEPCO’s only current [capacity] contract in Texas rates is an 18-year contract with Louisiana Generating LLC.”).

<sup>649</sup> Docket No. 46449, PFD at 82 (“She [SWEPCO witness Ms. McCellon-Allen] added that at the time of the settlement, ‘PPAs for wind generation could be acquired by SWEPCO at a cost forecast to be lower than SWEPCO’s marginal energy cost’ making that part of the settlement an ‘expected economic benefit for customers’ rather than a detriment.”)

and that SWEPCO prudently agreed to include the long-term PPAs in the settlement.<sup>650</sup> In Docket No. 46449, no capacity component was imputed to these or any of SWEPCO's REPAs.

TIEC witness Ms. LaConte now urges the Commission to impute a capacity component to SWEPCO's REPAs. In support of her allegation that capacity imputation is an "accepted practice" at the Commission, Ms. LaConte cites three Commission orders. However, none of these orders impute a capacity component to a renewable generation resource. This distinction is important for reasons noted in Ms. LaConte's testimony itself. As she acknowledges, "Renewable energy resources, such as wind farms and solar plants, operate only when the wind blows or the sun shines. Unlike thermal generating resources, wind and solar facilities cannot generate their nameplate rating on a 24-7 basis."<sup>651</sup> For this reason, SPP will allow a utility only some portion of that nameplate capacity in satisfying SPP's capacity margin criteria. According to the SPP Planning Criteria cited at footnote 39 of Ms. LaConte's testimony, the amount of capacity that may be accredited to a renewable resource is determined by a complicated set of formulas using the historical output of that particular facility and updated over time.<sup>652</sup> For this reason, the capacity accreditation made by SPP for any given resource will vary over time and is not easily quantifiable for inclusion in base rates that may be in place for a number of years.

Ms. LaConte also cites to the direct testimony of El Paso Electric Company (EPE) witness David Hawkins in Docket No. 44941 as support for her recommendation. Docket No. 44941 was later resolved by settlement. Interestingly, in the testimony relied on by Ms. LaConte, EPE witness Mr. Hawkins testified that he was not aware of the Commission having addressed the methodology, "or even a requirement, to impute capacity to a resource that is intermittent in its output."<sup>653</sup>

All of the payments made under these contracts are for renewable energy and are based on the MWhs of energy purchased. There are no separate provisions for the payment of any kind of capacity charge.<sup>654</sup> Because the costs incurred under these REPAs are incurred on a MWh basis

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<sup>650</sup> Docket No. 46449, Order on Rehearing at FoF Nos. 150 & 151.

<sup>651</sup> TIEC Ex. 4 at 23:5-7.

<sup>652</sup> The SPP Planning Criteria, Revision 2.3, Section 7.1.2(9)(10) relied on by Ms. LaConte is attached to this brief as Attachment A.

<sup>653</sup> TIEC Ex. 4, Exhibit BSL-2 at 2 of 4.

<sup>654</sup> SWEPCO Ex. 47 at 11:9-10.

and the long-term capacity value of these contracts is not easily quantifiable, the Commission should continue to account for the costs incurred under these REPAs as energy, as it has for a decade.

**F. Affiliate Expenses**

SWEPCO incurred a total of \$87,634,578 in adjusted total company test year affiliate charges; \$85,227,881 in charges from AEPSC and \$2,406,697 from other affiliates.<sup>655</sup> The testimony of SWEPCO lead affiliate witness Brian J. Frantz, the various SWEPCO affiliate class witnesses,<sup>656</sup> and outside expert witness Patrick L. Baryenbruch<sup>657</sup> establish that these charges meet the affiliate cost recovery standards of PURA § 36.058. No intervenor or Staff witness raised an issue with respect to these charges.

**G. Federal Income Tax Expense**

The testimony of SWEPCO witness David Hodgson contains a complete discussion of the method and manner by which federal income taxes have been calculated.<sup>658</sup> The Company's requested amount of income tax expense included in cost of service is shown on Schedule G-7.<sup>659</sup> This calculation of federal income taxes uses the return method for the historical year and the separate return (or stand-alone) approach.<sup>660</sup> The stand-alone approach provides for interest synchronization and includes in cost of service only federal income taxes resulting from the provision of utility service to customers.<sup>661</sup> The Company's request is based on revenues and expenses included in its cost of service calculation.<sup>662</sup> Mr. Hodgson explains and identifies the

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<sup>655</sup> Direct Testimony of Brian J. Frantz, SWEPCO Ex. 18 at 4:10-11.

<sup>656</sup> Direct Testimony of Lynn Ferry-Nelson, SWEPCO Ex. 5; SWEPCO Ex. 7; SWEPCO Ex. 10; SWEPCO Ex. 11; SWEPCO Ex. 12; Direct Testimony of Paul Pratt Jr., SWEPCO Ex. 13; Direct Testimony of Brian Bond, SWEPCO Ex. 14; Direct Testimony of Brian S. Healy, SWEPCO Ex. 20; SWEPCO Ex. 21; Direct Testimony of Randolph J. Ware, SWEPCO Ex. 22; Direct Testimony of Gregory A. Filipkowski, SWEPCO Ex. 23; Direct Testimony of Scott E. Mertz, SWEPCO Ex. 24; SWEPCO Ex. 25; Direct Testimony of Stephen L. Swick, SWEPCO Ex. 26; and Direct Testimony of Stacey Stoffer, SWEPCO Ex. 27.

<sup>657</sup> Direct Testimony of Patrick L. Baryenbruch, SWEPCO Ex. 19.

<sup>658</sup> SWEPCO Ex. 17.

<sup>659</sup> SWEPCO Ex. 17 at 2:10-13.

<sup>660</sup> SWEPCO Ex. 17 at 17:4-20:4.

<sup>661</sup> SWEPCO Ex.17 at 18:19-19:13.

<sup>662</sup> SWEPCO Ex.17 at 18:19-19:13.



information and amounts included in the tax schedules accompanying the RFP for the test period.<sup>663</sup>

Mr. Hodgson demonstrates that SWEPCO has properly and accurately computed the federal income tax expense included in the Company's cost of service consistent with PURA §§ 36.059 and 36.060.<sup>664</sup> No party challenged the Company's test year federal income tax expense or its inclusion in cost of service. As a reasonable and necessary expense, it should be approved.

There are, however, disagreements with Commission Staff regarding the calculation of ADFIT on a stand-alone basis and the resulting impact of that calculation on rate base, which are addressed in other sections of this brief. The Company's ADFIT calculation and the testimony addressing the issue are discussed in Section II.C.1 of this brief. There is also a disagreement between SWEPCO and Commission Staff regarding the calculation of Excess ADFIT resulting from the TCJA, which reduced the corporate federal income tax rate from 35% to 21% effective January 1, 2018. As explained by Mr. Hodgson, the reduction of the corporate tax rate resulted in an excess of deferred taxes collected from customers that will not be due in future periods.<sup>665</sup> The parties agree that the Excess ADFIT should be returned to customers. However, SWEPCO and Commission Staff disagree about how to calculate the Excess ADFIT. Moreover, multiple parties disagree with the Company's proposal to use the Excess ADFIT as an offset to recover the undepreciated value of the Dolet Hills Power Station, which will cease operations by December 31, 2021. The Company's Excess ADFIT calculation and related testimony is further discussed in Section II.C.2 of this brief. The Company's proposal regarding Excess ADFIT as an offset to the unrecovered value of the Dolet Hills Power Station is addressed in Section II.A.1 of this brief.

## **H. Taxes Other Than Income Tax**

### **1. Ad Valorem (Property) Taxes**

SWEPCO calculates the increase in ad valorem tax expense by applying an effective ad valorem tax rate to SWEPCO's pro forma net rate base at the end of the test year. Ad valorem tax expense recorded in a year reflects the taxes charged based on property values at the beginning of the year (e.g., ad valorem tax expense for the calendar year 2019 is based on plant values at

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<sup>663</sup> SWEPCO Ex.17 at 3:1-4:15.

<sup>664</sup> SWEPCO Ex.17 at 20:5-21:4.

<sup>665</sup> SWEPCO Ex.17 at 21:6-25:22.

January 1, 2019). The effective ad valorem tax rate as calculated by SWEPCO synchronizes ad valorem tax expense with the plant investments included in rate base that generates the associated tax.<sup>666</sup> This method of calculating ad valorem taxes is the same that was used by SWEPCO and approved by the Commission in SWEPCO's previous rate case, Docket No. 46449.<sup>667</sup> As she has in the present case, Staff witness Ms. Stark challenged SWEPCO's calculation of ad valorem taxes in Docket No. 46449. The Commission rejected all challenges to SWEPCO's calculation of ad valorem taxes in Docket No. 46449.<sup>668</sup>

While there are aspects of Ms. Stark's recommendation in this proceeding that SWEPCO does not contest,<sup>669</sup> the Commission should reject two aspects of her recommendation that are contrary to Commission precedent established in Docket No. 46449. First, Ms. Stark recommends the removal from the rate base that generates the associated tax the undepreciated value of both the Dolet Hills generation plant and the retired gas-fired generating units addressed above.<sup>670</sup> As discussed above, the Dolet Hills plant is not retired and the removal of its undepreciated value from rate base would violate the Commission's Cost of Service rule.<sup>671</sup> Further, the Commission has already rejected Ms. Stark's recommendation to remove the undepreciated value of retired generation units from the ad valorem tax calculation.

In Docket No. 46449, Ms. Stark recommended removal of the undepreciated value of the retired Welsh Unit 2 from the ad valorem tax calculation. In that case, the ALJs explained:

Mr. Hamlett provided persuasive testimony that a significant error in Staff's calculation of test year ad valorem taxes was the elimination of the Welsh Unit 2 plant from its calculation. Staff's methodology appears to assume that, because the plant has been retired, it should not or will not be considered by taxing authorities when they determine assets on which to assess ad valorem taxes. However, as Mr. Hamlett explained, that is not the case.<sup>672</sup>

In that case, the Commission found:

261. If SWEPCO is allowed recovery of the remaining book value of Welsh

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<sup>666</sup> SWEPCO Ex. 6 at 29:16-30:2.

<sup>667</sup> See Docket No. 46449, PFD at 290-91.

<sup>668</sup> Docket No. 46449, Order on Rehearing at FoF Nos. 261-64.

<sup>669</sup> Staff Ex. 3 at 49:4-50:12 (exclusion of capital leases from the effective tax rate calculation).

<sup>670</sup> Staff Ex. 3 at 52:8-15.

<sup>671</sup> 16 TAC § 25.231(c)(2)(F)(iii).

<sup>672</sup> Docket No. 46449, PFD at 295.

[U]nit 2 upon retirement, even without a return, this asset will be included in SWEPCO's property base for determining SWEPCO's ad-valorem-tax expense, since it still contributes to rate recovery and therefore remains a portion of the value of SWEPCO's assets. Only if SWEPCO receives no recovery at all in rates will the remaining net book value of Welsh [U]nit 2 upon retirement be excluded from SWEPCO's asset base for determining its ad-valorem tax expense.<sup>673</sup>

In Docket No. 46449, the Commission allowed SWEPCO to recover its undepreciated investment in Welsh Unit 2 and kept that value in the calculation of ad valorem taxes. In this proceeding, no party has suggested that SWEPCO should be denied recovery of its investments in these generating units. As such, they are properly included in the calculation of ad valorem taxes.

Further, Ms. Stark also recommends the removal from the ad valorem tax calculation "SWEPCO's plant adjustments related to the use of Texas-only depreciation and AFUDC rates, . . . ."<sup>674</sup> Ignoring the adjustment to put rate base on a Texas-only basis is both inappropriate and contrary to Commission precedent set in Docket No. 46449, as well. As explained by SWEPCO witness Mr. Baird, the removal of the Texas-only adjustments results in other states subsidizing Texas customers. As explained in Mr. Baird's direct testimony, SWEPCO is multi-jurisdictional, its books are a hybrid of each state's unique decisions, and for setting Texas rates the books are adjusted to recognize Texas specific decisions. For example, accumulated depreciation is restated to recognize Texas approved depreciation rates. In this case, Texas depreciation rates over time have been lower than the average. Because of this fact, on a Texas basis, the undepreciated value of SWEPCO's assets is higher in Texas than in the other two states. By not recognizing this, Ms. Stark is using the higher depreciation rates from other states to lower Texas ad valorem taxes.<sup>675</sup> In discovery, SWEPCO demonstrated that Staff's method would under allocate (or trap) actual book ad valorem taxes. That demonstration is in evidence as Staff Ex. No. 12.<sup>676</sup>

The Commission has approved this approach. In Docket No. 46449, the use of the Texas-only adjustment was challenged in the calculation of accumulated depreciation. The Commission

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<sup>673</sup> Docket No. 46449, Order on Rehearing at FoF No. 261.

<sup>674</sup> Staff Ex. 3 at 53:1-8.

<sup>675</sup> SWEPCO Ex. 36 at 38:1-16.

<sup>676</sup> SWEPCO's Response to Staff RFI 17-13, Staff Ex. 12 at Attachment 1(e).

found:

175. It was reasonable for SWEPCO to adjust its accumulated-depreciation-account balance downward by \$112,501,487 when conducting its depreciation study to consider only the depreciation rates that the Commission has ordered for SWEPCO and not the depreciation rates ordered by other jurisdictions in which SWEPCO operates.<sup>677</sup>

The misguided impetus for Ms. Stark's recommendation appears to be that Ms. Stark believes that a Texas-only adjustment should have been applied to the 2019 rate base in calculating the effective tax rate to be applied to adjusted Test Year rate base. However, to do so would misstate the actual ad valorem tax rate being incurred by SWEPCO, which is based on the actual composite book value of SWEPCO's rate base. The Texas-only adjustment is then applied to Test Year end rate base, so as to properly allocate those taxes to the Company's three state jurisdictions.

## **2. Payroll Taxes**

Test Year payroll taxes are adjusted to correspond to adjustments made to Test Year payroll costs for known and measurable changes.<sup>678</sup> While SWEPCO does not agree with the payroll adjustments recommended by Staff and intervenors, SWEPCO witness Mr. Baird does agree as a general proposition that the Commission should synchronize payroll tax expense with payroll expense adjustments, if any.<sup>679</sup> However, this general proposition does not hold in the case of an adjustment to SWEPCO's requested level of incentive compensation.

Staff witness Ms. Stark and intervenor witnesses Ms. Cannady and Mark Garrett recommend removing attendant payroll taxes related to their proposed reductions to the Company's requested cost of service related to incentive compensation. Any such adjustment to payroll taxes would be improper. The rationale given by Staff and intervenors for the exclusion of financially based incentive compensation is that it "most immediately and predominantly" benefits shareholders, not customers. No witness has challenged the reasonableness of the Company's compensation from a cost or market-competitive compensation perspective in this case. As such, this compensation is a just and reasonable cost of doing business as part of a reasonable market-competitive compensation package, without which the Company would not be

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<sup>677</sup> Docket No. 46449, Order on Rehearing at FoF No. 175.

<sup>678</sup> See SWEPCO Ex. 6 at 28:14-29:15.

<sup>679</sup> SWEPCO Ex. 36 at 34:15-18.

able to attract, motivate, engage and retain the employees it needs to efficiently and effectively provide service to customers. If the company were to reduce or eliminate the elements of incentive compensation that are challenged by Staff and intervenors in this case, the Company would need to offset this compensation with additional base pay in order to maintain the market-competitiveness of the Company's compensation. Therefore, the Company would still incur the attendant payroll and other taxes on the additional base wages, in lieu of incurring it on wages paid in the form of incentive compensation. Therefore, these taxes should not be removed from the Company's cost of service.<sup>680</sup>

### **3. Gross Margin Tax**

SWEPCO calculates the Texas gross receipts (margin) tax amount using an effective rate derived from Test Year payments and Test Year Texas retail base and fuel revenues.<sup>681</sup> SWEPCO's calculation of the cost of service gross margin tax was not contested.

#### **I. Post Test Year Adjustments for Expenses**

Contested post-Test Year adjustments are addressed in the sections of this brief specific to those adjustments.

### **V. Billing Determinants**

Test year billing determinants are used to design rates in a rate proceeding.<sup>682</sup> Specifically, the authorized revenue requirement by class is divided by the test year billing determinants to set the new effective rates.<sup>683</sup> In this case, the billing determinants SWEPCO used to design rates are presented and supported by SWEPCO witnesses Bryan J. Coffey, Chad M. Burnett, John O. Aaron, and Jennifer L. Jackson, and are further detailed in various RFP schedules.

- Mr. Coffey sponsors the RFP schedules prepared by SWEPCO's Load Research group, including the schedules that provide the Texas rate class load information on Test Year actual and Test Year adjusted bases.<sup>684</sup> Mr. Coffey explains that the unadjusted Test Year class load information was derived from actual test year customer interval meter usage data.<sup>685</sup> The adjusted test year load information was derived by applying weather,

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<sup>680</sup> SWEPCO Ex. 46 at 16:13-17:18.

<sup>681</sup> SWEPCO Ex. 6 at 29:5-7.

<sup>682</sup> Direct Testimony of Chad M. Burnett, SWEPCO Ex. 30 at 3:10-12.

<sup>683</sup> SWEPCO Ex. 30 at 3:10-12.

<sup>684</sup> Direct Testimony of Bryan J. Coffey, SWEPCO Ex. 29 at 2:2-4.

<sup>685</sup> SWEPCO Ex. 29 at 2:7-8.

customer, and other pro forma adjustments provided by SWEPCO witnesses Burnett and Aaron, respectively, to the unadjusted Test Year class information.<sup>686</sup>

- Mr. Burnett and Mr. Aaron sponsor a number of the RFP's O Schedules, which present the summary of Test Year data by rate class, such as kWh sales, billing demands, customer counts, and the related revenue impacts.<sup>687</sup>
- Mr. Burnett also describes the weather normalization process used to adjust the Test Year billing determinants.<sup>688</sup> And he discusses the pro forma adjustments to SWEPCO's Test Year billing determinants to account for the significant post Test Year loss of load due to the shutdown of three large industrial customers' operations in SWEPCO's Texas service territory.<sup>689</sup>
- Mr. Aaron also describes the types of pro forma adjustments SWEPCO made to the customer, sales, and revenue volumes contained in the cost of service study and Schedule O.<sup>690</sup>
- Ms. Jackson sponsors RFP Schedule Q-7, which illustrates how the various Test Year billing determinants are used to determine adjusted revenues at present rates and revenues under the proposed rates for each present and proposed rate class.<sup>691</sup>

No party contested SWEPCO's unadjusted Test Year billing determinants. One party—East Texas Salt Water District (ETSWD)—has proposed additional post Test Year adjustments to SWEPCO's adjusted Test Year billing determinants. Specifically, ETSWD witness Kit Pevoto argues that SWEPCO's Texas Retail rate class cost allocation study should be updated to account for changes to electricity usage caused by the COVID-19 pandemic.<sup>692</sup> In addition, Ms. Pevoto recommends a pro forma adjustment to SWEPCO's Test Year load data to reflect the loss of load for a Commercial and Industrial customer that occurred after the filing of this case.<sup>693</sup> Both of Ms. Pevoto's recommendations are inappropriate and should be rejected.

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<sup>686</sup> SWEPCO Ex. 29 at 2:11-14.

<sup>687</sup> SWEPCO Ex. 30 at 11:15-17; SWEPCO Ex. 31 at 4:3-4.

<sup>688</sup> SWEPCO Ex. 30 at 2:12-13.

<sup>689</sup> SWEPCO Ex. 30 at 2:13-15, 10:3-11:7. Together, these three customers' electricity usage during the Test Year was approximately 403.4 GWh. SWEPCO Ex. 30 at 10:15-16.

<sup>690</sup> SWEPCO Ex. 31 at 20:15-20.

<sup>691</sup> Direct Testimony of Jennifer L. Jackson, SWEPCO Ex. 32 at 5:18-19; *see also* SWEPCO Ex. 1 at Schedule Q-7.

<sup>692</sup> Direct Testimony of Kit Pevoto, ETSWD Ex. 1 at 5:10-11, 14:6-11.

<sup>693</sup> ETSWD Ex. 1 at 5:11-13, 14:9-15:3.

First of all, SWEPCO's initial filing did include pro forma adjustments to the Test Year billing determinants for all of the known and measureable items *at the time* this case was filed.<sup>694</sup> SWEPCO recognizes that the pandemic did affect SWEPCO's Texas jurisdictional load in the months immediately after the end of the Test Year, but the pandemic's effects were temporary in nature and are not expected to continue.<sup>695</sup> The record evidence—including Ms. Pevoto's own testimony—bears this out.

- On July 2, 2020, Governor Abbott issued an order requiring face coverings for all public spaces in Texas.<sup>696</sup> However, by March 2, 2021, Governor Abbott issued an executive order (Executive Order GA-34) removing the mask mandate and allowing businesses in Texas to operate at 100% capacity with no restrictions.<sup>697</sup> Given Executive Order GA-34, it is now known that businesses that were temporarily forced to limit their operations in response to the pandemic in 2020 will not be under the same restrictions moving forward.<sup>698</sup>
- Ms. Pevoto accurately observes that compared to 2019, SWEPCO's total Texas Retail kWh sales dropped 3.2 percent in 2020, and, while Residential kWh sales increased by 3.3 percent, Commercial and Industrial kWh consumption declined by 5.0 percent and 6.9 percent, respectively.<sup>699</sup> Mr. Burnett agreed that the impact of the pandemic was severe initially.<sup>700</sup> But he explained that this impact has been offset as businesses have been able to reopen, vaccinations have come in place, and the government has put significant stimulus money into the economy.<sup>701</sup>
- Mr. Burnett also testified that the sales data Ms. Pevoto cites in her testimony is not reflective of what SWEPCO expects going forward. In fact, he explained that the most recent data from April 2021 shows that the “narrative is flipped”—i.e., Residential sales are down and Commercial and Industrial sales are up significantly.<sup>702</sup>
- Finally, Mr. Burnett testified that Table 2 in Ms. Pevoto's direct testimony illustrates that despite the initial severity of the pandemic, its impact has lessened as time has

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<sup>694</sup> Rebuttal Testimony of Chad M. Burnett, SWEPCO Ex. 53 at 4:4-6.

<sup>695</sup> SWEPCO Ex. 53 at 4:12-15.

<sup>696</sup> SWEPCO Ex. 53 at 5:15-16.

<sup>697</sup> SWEPCO Ex. 53 at 5:16-19; *see also* Executive Order No. 34 relating to the opening of Texas in response to the COVID-19 disaster, ETSWD Ex. 9.

<sup>698</sup> SWEPCO Ex. 53 at 6:5-10; *see also* Tr. at 1481:17-1482:10 (Burnett Cross) (May 26, 2021).

<sup>699</sup> ETSWD Ex. 1 at 10:1-10.

<sup>700</sup> Tr. at 1494:21-23 (Burnett Redirect) (May 26, 2021).

<sup>701</sup> Tr. at 1494:23-1495:6 (Burnett Redirect) (May 26, 2021).

<sup>702</sup> Tr. at 1474:1-5 (Burnett Cross) and 1495:7-1496:8 (Burnett Redirect) (May 26, 2021).

passed.<sup>703</sup> In other words, the record evidence shows that SWEPCO's billing determinants are moving back to normal.

In sum, in order to accept ETSWD's recommendation to make a pro forma adjustment based on the "known" post test year normalized sales data, one would have to assume that the pandemic's effect on SWEPCO's Texas jurisdictional sales is permanent. That assumption is not consistent with the record evidence. Nor is it reasonable given Governor Abbott's recent executive order.

Second, it is true, as Ms. Pevoto notes, that SWEPCO identified in discovery the loss of load for a Commercial and Industrial customer due to business closures after the filing of this case. Ms. Pevoto's recommendation, however, that SWEPCO include a pro forma adjustment to reflect this loss of load is unreasonable because that customer has only temporarily idled its operations.<sup>704</sup> A pro forma adjustment is intended to ensure that test year data better represents a utility's ongoing operations.<sup>705</sup> Consequently, it is inappropriate to adjust for an item that is known but temporary because doing so would not represent the expected ongoing operations for the utility.<sup>706</sup> As to the small Industrial customer, SWEPCO made no pro forma adjustment because the customer announced its plant shutdown after SWEPCO filed this case.<sup>707</sup> When SWEPCO files a base rate case, significant effort is made to ensure that all of the key assumptions and inputs are coordinated and provide a comprehensive assessment of the need for the base rate adjustment.<sup>708</sup> SWEPCO does not, however, continuously update these assumptions and inputs after the case has been filed.<sup>709</sup>

## **VI. Functionalization and Cost Allocation**

SWEPCO's jurisdictional and class cost of service studies were presented and supported by SWEPCO witness John Aaron. Mr. Aaron explains the purpose of the cost of service studies, first establishing cost responsibility of each jurisdiction served by SWEPCO, then allocating the

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<sup>703</sup> Tr. at 1493:19-1494:21 (Burnett Redirect) (May 26, 2021).

<sup>704</sup> SWEPCO Ex. 53 at 2:15-17.

<sup>705</sup> SWEPCO Ex. 53 at 2:4-6.

<sup>706</sup> SWEPCO Ex. 53 at 2:19-21.

<sup>707</sup> SWEPCO Ex. 53 at 3:1-2.

<sup>708</sup> SWEPCO Ex. 53 at 3:3-5.

<sup>709</sup> SWEPCO Ex. 53 at 3:5-6.



jurisdictional cost of service to the different classes of SWEPCO customers based on their use of SWEPCO's electric system.<sup>710</sup> The class cost of service study allocates the Texas jurisdictionally-allocated total company costs to retail customer classes, thereby establishing cost responsibility by class, which is then used to determine the rates developed for services provided by SWEPCO.<sup>711</sup> Mr. Aaron also describes the three-step process of functionalization, classification and allocation used by SWEPCO to assign costs to the customer classes.<sup>712</sup>

The allocation methodologies and processes used in SWEPCO's jurisdictional and class cost of service studies reflect criteria generally used to determine the appropriateness of allocation methodologies.<sup>713</sup> They are also consistent with the development of the jurisdictional and class cost of service studies ordered by the Commission in Docket No. 46449 and with the base rates approved by the Commission in that docket and updated in Docket No. 48233.<sup>714</sup> Thus, the results of SWEPCO's jurisdictional cost of service study can be relied upon to determine the revenue requirement for the Texas retail jurisdiction, and the class cost of service study can be relied upon to determine the cost to serve SWEPCO's Texas retail rate classes.<sup>715</sup> Schedule P-7 lists the allocation factors utilized in the jurisdictional and retail customer class cost of service studies, and Schedule P-8 refers to the classification factors used to separate accounts into demand, energy, and customer-related components. SWEPCO used a number of different allocation factors in its cost of service studies, but allocation is ultimately dependent upon the three basic cost components: demand, energy, and customer.<sup>716</sup>

SWEPCO made appropriate adjustments to its cost of service studies to reflect known and measurable changes.<sup>717</sup> The pro forma adjustments fall into four categories: (1) annualizing the number of customers; (2) customer billing adjustments; (3) normalizing weather; and (4) removing

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<sup>710</sup> SWEPCO Ex. 31 at 8:1-15.

<sup>711</sup> SWEPCO Ex. 31 at 8:15-21.

<sup>712</sup> SWEPCO Ex. 31 at 9:11-12:14.

<sup>713</sup> SWEPCO Ex. 31 at 12:18-13:10.

<sup>714</sup> SWEPCO Ex. 31 at 13:23-14:4, 25:13-26:2.

<sup>715</sup> SWEPCO Ex. 31 at 13:10-13.

<sup>716</sup> SWEPCO Ex. 31 at 13:16-22.

<sup>717</sup> SWEPCO Ex. 31 at 19:23-20:5.

revenues from base revenues.<sup>718</sup> SWEPCO also adjusted miscellaneous electric revenues recorded in FERC Accounts 450, 451, 454 and 456. The adjustments are described in detail in Mr. Aaron's direct testimony, and no party raised any issues with these adjustments.<sup>719</sup>

Mr. Aaron prepared a rebuttal Texas jurisdictional and class cost of service study to reflect (a) changes to certain costs allocated to the Texas retail jurisdiction and (b) allocation changes among SWEPCO's Texas retail classes.<sup>720</sup> This resulted in a decrease to the Texas retail jurisdictional base rate revenue requirement and a shift of base rate revenues among the retail customer classes. The rebuttal Texas retail jurisdictional revenue requirement reflects changes in total Company values made from SWEPCO's as-filed case to its rebuttal case.<sup>721</sup> The table below summarizes the changes to SWEPCO's Texas base rate revenue requirement in total and by major class at an equalized return.<sup>722</sup>

	TABLE 1		
	<u>FILED</u>	<u>REBUTTAL</u>	<u>CHANGE</u>
Texas Retail	\$ 451,529,538	\$ 446,466,201	\$ (5,063,337)
Residential	\$ 188,152,651	\$ 188,778,452	\$ 625,801
Commercial	\$ 193,497,125	\$ 191,044,316	\$ (2,452,809)
Industrial	\$ 57,506,958	\$ 54,451,107	\$ (3,055,851)
Municipal	\$ 4,303,143	\$ 4,219,413	\$ (83,730)
Lighting	\$ 8,069,661	\$ 7,972,913	\$ (96,748)

#### **A. Jurisdictional Allocation**

##### **1. Production Demand**

SWEPCO used a four coincident peak (4CP) allocation methodology for the jurisdictional assignment of production demand-related costs, reflecting the jurisdictions' use of SWEPCO's

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<sup>718</sup> SWEPCO Ex. 31 at 20:15-20.

<sup>719</sup> SWEPCO Ex. 31 at 20:21-22:21.

<sup>720</sup> Workpapers to the Rebuttal Testimony of John O. Aaron, SWEPCO Ex. 54A.

<sup>721</sup> SWEPCO Ex. 36 at Exhibit MAB-1R.

<sup>722</sup> Rebuttal Testimony of John O. Aaron, SWEPCO Ex. 54 at 5:14-6:3.

production facilities at the time of the system peak demands for June through September.<sup>723</sup> Each jurisdiction's allocation factor is a ratio of the average of that jurisdiction's 4CP demand to the average of the SWEPCO's total production system 4CP.<sup>724</sup> SWEPCO reduced the average of the 4CP demand for SWEPCO's FERC jurisdiction by customer supplied resources, the output of which is included in the metered values in SWEPCO's demand and energy accounting. Allocating production costs on the unadjusted gross 4CP value would inappropriately allocate production costs to the wholesale jurisdiction.<sup>725</sup> No party contests this methodology, and the Commission should approve it.

## **2. Production Energy**

Production energy-related costs, including expenses recorded in FERC Account 501 not recovered through SWEPCO's fuel clause (i.e., non-reconcilable fuel expenses), were allocated to each jurisdiction based on adjusted Test Year annual kWh sales as reflected in Schedule O-4.1.<sup>726</sup> No party contested this allocation methodology, and it should be approved.

## **3. Transmission**

Transmission-related costs are allocated to SWEPCO jurisdictions using the average of SWEPCO's twelve monthly peak demands (12CP) coinciding with the monthly peaks in Zone 1 of the SPP. This allocation methodology appropriately reflects SWEPCO's load responsibility in the SPP,<sup>727</sup> and was not opposed by any witness.

## **4. Distribution**

Distribution plant was directly assigned to the states based on geographic location and allocated to the FERC jurisdiction by individual FERC distribution accounts. Certain wholesale customers take service from SWEPCO pursuant to wholesale formula rates at distribution voltage levels. This methodology appropriately assigns the cost responsibility to the FERC jurisdiction.<sup>728</sup>

Customer-related distribution costs such as investment in meters and lights were also directly assigned to the jurisdictions by individual FERC distribution accounts. Customer

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<sup>723</sup> SWEPCO Ex. 31 at 14:10-14.

<sup>724</sup> SWEPCO Ex. 31 at 14:16-19.

<sup>725</sup> SWEPCO Ex. 31 at 14:22-15:5.

<sup>726</sup> SWEPCO Ex. 31 at 15:8-11.

<sup>727</sup> SWEPCO Ex. 31 at 15:14-17.

<sup>728</sup> SWEPCO Ex. 31 at 15:20-16:2.

accounting, information and service expenses were allocated to each jurisdiction using a combination of adjusted Test Year-end number of customers, manually billed customers, and various other customer-based allocators as provided on Schedule P-11.<sup>729</sup> These methodologies were not contested and the Commission should approve them.

## **5. General Plant**

SWEPCO's investment in general plant is allocated using the labor allocation factors developed in Schedules P-7 and P-10, which allocate the labor portion of each O&M expense account on the same basis as the total expense. These labor allocation factors are also used to allocate many administrative and general expense items.<sup>730</sup> No party contested this allocation methodology, and it should be approved.

## **6. Revenues**

In the jurisdictional cost of service study, electricity sales revenues are directly assigned to the jurisdictions based on the existing approved jurisdictional tariffs.<sup>731</sup>

## **7. Revisions from As-Filed to Rebuttal**

In its as-filed jurisdictional cost of service study, SWEPCO inadvertently directly assigned certain distribution investments to the wholesale class. There should have been no such assignment; SWEPCO collects revenues from wholesale customers for the associated investments reducing cost allocation. Removing this allocation from the wholesale jurisdiction in the rebuttal jurisdictional cost of service study increases the allocation to other jurisdictions that is offset by a larger allocation of distribution miscellaneous revenues.<sup>732</sup>

In responding to discovery from ETSWD, SWEPCO determined that pro forma adjustments to Test Year load and customer data related to the loss of three large industrial customers were not properly reflected in the as-filed jurisdictional production and transmission demand allocations. SWEPCO included these adjustments in its rebuttal jurisdictional cost of service study, resulting in a slight decrease to the jurisdictional production allocation and a slight increase to the jurisdictional transmission allocation.<sup>733</sup>

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<sup>729</sup> SWEPCO Ex. 31 at 16:5-12.

<sup>730</sup> SWEPCO Ex. 31 at 16:14-18.

<sup>731</sup> SWEPCO Ex. 31 at 19:12-14.

<sup>732</sup> SWEPCO Ex. 54 at 6:8-15.

<sup>733</sup> SWEPCO Ex. 54 at 6:16-7:3.

## **8. Eastman and Behind-The-Meter Generation**

Eastman disputes SWEPCO's allocation to the Texas retail jurisdiction of \$5.7 million in transmission costs related to retail BTMG, arguing that such allocation is not based on cost causation requirements.<sup>734</sup> To the contrary, these transmission costs actually charged to SWEPCO by SPP were properly and appropriately allocated to the Texas retail jurisdiction because they were based on the demands used by SPP for the billing of transmission expenses incurred by SWEPCO. If these retail BTMG costs are removed from the Texas jurisdictional allocations as proposed by Eastman, the costs incurred to provide service to SWEPCO's Texas jurisdiction would be inappropriately shifted to SWEPCO's other jurisdictions (Arkansas, Louisiana, and FERC).<sup>735</sup>

### **B. Class Allocation**

SWEPCO's Texas jurisdictional production, transmission, and distribution demand-related components are allocated differently in the class cost of service study. Customer-related costs are allocated on a similar manner in both the jurisdictional and class cost of service studies.<sup>736</sup>

#### **1. Production**

In the class cost of service study, production demand-related costs are allocated to the various retail customer classes on the average and excess demand 4CP methodology (A&E 4CP).<sup>737</sup> The average demand component in the A&E 4CP ensures that all customers who benefit from the use of SWEPCO's production facilities are allocated a reasonable share of the cost of operating those facilities. Without the average demand component, customer classes such as the lighting class that do not operate at the time of any of the 4CP demands would receive no allocation of SWEPCO's production plant. The A&E 4CP methodology reasonably assigns costs on the basis of system usage.<sup>738</sup>

TIEC witness Mr. Pollock noted that SWEPCO's as filed class cost of service study used the average peak demand in the summer months (4CP) instead of the actual annual peak demand

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<sup>734</sup> Eastman Ex. 1 at 26:1-7.

<sup>735</sup> SWEPCO Ex. 54 at 1:18-2:9. *See* Section IV.A.6 of this brief for further discussion of the behind the meter generation (BTMG) load reported to SPP for billing of transmission charges to SWEPCO.

<sup>736</sup> SWEPCO Ex. 31 at 16:21-17:2.

<sup>737</sup> SWEPCO Ex. 31 at 17:6-9.

<sup>738</sup> SWEPCO Ex. 31 at 17:13-18:3.

(ICP) to calculate the system load factor used to weight average demand.<sup>739</sup> Calculating the system load factor to reflect the single annual coincident peak is consistent with the Commission's decision in Docket No. 46449. SWEPCO's rebuttal class cost of service study corrects its inadvertent application of an average demand system load factor rather than the single annual peak demand load factor.<sup>740</sup>

## **2. Transmission**

SWEPCO allocates transmission-related costs to its retail customer classes on an A&E 4CP basis. The A&E 4CP allocation for transmission-related costs differs from the A&E 4CP allocation used for production-related costs because the transmission allocation includes synchronized BTMG included in SWEPCO's transmission load responsibility in the SPP. This treatment is consistent with the cost causation concepts applied in SWEPCO's cost of service studies.<sup>741</sup>

TIEC witness Mr. Pollock incorrectly claims that SWEPCO's transmission allocation factors in the class cost of service study reflect SPP Zone 1 peak demands rather than SWEPCO system peak demands.<sup>742</sup> To the contrary, the peak demands used in the class cost of service study are SWEPCO system peak demands and not SPP Zone 1 demands. A comparison of the system peak demands indicates the production and transmission system peak demands used in the class cost of service study are the same, with the exception of the Large Light and Power Transmission class that includes the load served from BTMG included for transmission allocation purposes.<sup>743</sup>

Mr. Pollock also argues that it is inappropriate to include retail BTMG in determining the allocation of transmission costs to SWEPCO's retail customer classes.<sup>744</sup> However, the transmission allocation factor applied by SWEPCO reflects the appropriate allocation to classes based on costs billed to SWEPCO by SPP for transmission costs incurred to serve its customer classes. Excluding the retail BTMG load from the class that has that load would inappropriately shift the transmission costs incurred by SWEPCO to other classes that should not be responsible

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<sup>739</sup> TIEC Ex. 1 at 31:24-32:3.

<sup>740</sup> SWEPCO Ex. 54 at 3:2-10.

<sup>741</sup> SWEPCO Ex. 31 at 18:7-13.

<sup>742</sup> TIEC Ex. 1 at 32:8-13.

<sup>743</sup> SWEPCO Ex. 54 at 3:11-21, Exhibit JOA-1R.

<sup>744</sup> TIEC Ex. 1 at 38:10-39:9.

for those transmission costs.<sup>745</sup>

### **3. Distribution**

Distribution plant costs recorded in FERC Accounts 360-368 are allocated on the basis of customer class Maximum Diversified Demands (MDD) during the Test Year. MDDs are the maximum demand placed on the system regardless of the relationship of that point in time to the system peak. SWEPCO selected this allocation method because its distribution system is sized and operated to meet the localized load imposed upon it, which is directly related to demands and not how customers are connected.<sup>746</sup> In its as-filed class cost of service study, SWEPCO allocated distribution secondary costs recorded in FERC Account 368 (Line Transformers) to primary service customers.<sup>747</sup> Only a portion of the costs in this account should have been allocated to primary service; this allocation was corrected in SWEPCO's rebuttal class cost of service study.<sup>748</sup>

Customer-related distribution costs recorded in FERC Accounts 369 through 373 are limited to the costs that vary directly with the number of customers (i.e., meters, service drops, transformers, and associated expenses). These costs and associated expenses are allocated to the customers who require such facilities using a weighted number of customers' methodology. For example, meter reading expenses were allocated to classes based on the number of customer meters in each class, reflecting the differences in time it takes to read each type of customer meter installed to serve each class.<sup>749</sup>

### **4. Revenues**

Electricity sales revenues reflect Test Year adjusted retail sales assigned to classes by the tariff code designated for the type of service provided by SWEPCO. Late Payment Charges and Miscellaneous Service Revenues are directly assigned to the retail jurisdictions. Other Miscellaneous Electric Revenue are first functionalized based upon an analysis of the Company's records and then allocated to the jurisdictions based on the functional assignment of the asset used

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<sup>745</sup> SWEPCO Ex. 54 at 3:22-4:8. See Section IV.A.6 of this brief for further discussion of the BTMG load reported to SPP for billing of transmission charges to SWEPCO.

<sup>746</sup> SWEPCO Ex. 31 at 18:15-23.

<sup>747</sup> Direct Testimony of James W. Daniel, Nucor Ex. 1 at 15:2-29 (using the page number in the bottom center of the page).

<sup>748</sup> SWEPCO Ex. 54 at 2:14-19.

<sup>749</sup> SWEPCO Ex. 31 at 19:1-11.

to generate the revenue.<sup>750</sup>

### **C. Municipal Franchise Fees**

SWEPCO develops the effective rate for municipal franchise fees based on Test Year actual municipal franchise taxes paid, less the amount in excess of the base amount and Test Year actual kWh sales. SWEPCO applies this effective rate to the Test Year adjusted kWh sales to determine the *pro forma* amount to include in SWEPCO's cost of service.<sup>751</sup> This issue was not contested.

## **VII. Revenue Distribution and Rate Design**

The class revenue distribution is the rate design mechanism by which SWEPCO's requested revenue increase is assigned to the customer classes. The revenue distribution also determines the revenue requirement targets for each class.<sup>752</sup> The percent increase in base rates for each class is based on its revenue deficiency as determined by the class cost of service study. The revenue deficiency determines the revenue requirement needed to bring each class to an equalized return. The revenue requirement at an equalized return is the amount of revenue needed from each class to recover the full costs of serving that customer class.<sup>753</sup> The equalized revenue requirement and revenue change based on that requirement is the starting place for the revenue distribution, but SWEPCO takes into consideration other factors as well, such as moderation of customer impact and customer migration, which are presented in the target base rate increases for each class.<sup>754</sup>

SWEPCO witness Jennifer L. Jackson set forth the as-filed proposed revenue distribution in her direct testimony. The proposed revenue distribution shows the present rate schedule revenue by class along with each class's present rate of return, return relative to the retail total class return at the proposed return level (relative rate of return), equalized base increase, target base change in revenue, and total rate design proposed base change in revenue. The target base change in revenue determines the rate design revenue target for each class and is the basis for the class rate design.<sup>755</sup>

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<sup>750</sup> SWEPCO Ex. 31 at 19:14-21.

<sup>751</sup> SWEPCO Ex. 6 at 30:4-7.

<sup>752</sup> SWEPCO Ex. 32 at 9:15-18, 10:11-13.

<sup>753</sup> SWEPCO Ex. 32 at 8:22-9:4.

<sup>754</sup> SWEPCO Ex. 32 at 9:18-21.

<sup>755</sup> SWEPCO Ex. 32 at 9:8-9, 9:22-10:5, Exhibit JLJ-1.



In order to mitigate the large increases and large impacts to certain classes, classes with similarly-situated customers were combined into a major rate class and the combined change in class revenue requirement at an equalized rate of return was applied to the individual classes.<sup>756</sup> The major class groupings (Residential, Commercial and Industrial, Municipal, and Lighting) were proposed as a mitigation mechanism as well as to maintain relationships between rate schedules. The combined change in class revenue requirement at an equalized rate of return was applied to the individual classes within the major class groupings.<sup>757</sup> The major class groupings were determined based on the results of the class cost of service study, precedent from prior rate cases, increases in certain customer classes and how to moderate the resulting bill impact, and the ability of customers to take service under other rate schedules within the grouping.<sup>758</sup>

SWEPCO recognizes the parties' criticisms of the as-filed revenue distribution, most of which surround the move to cost-based rates. Therefore, SWEPCO proposed a rebuttal revenue distribution that moves all classes closer to cost while also supporting the new commercial rate schedule structural changes SWEPCO proposed in its direct case.<sup>759</sup> The rebuttal revenue distribution includes the class cost of service study changes, including the updated equalized cost to serve for each rate class. The rebuttal revenue distribution continues to recognize cost to serve, bill impact, and moderation. The main difference in the rebuttal revenue distribution is application of the individual rate class change to the industrial customer classes. SWEPCO proposes a rate schedule that supports the lower load factor commercial customers, including churches and schools. The results of the rebuttal class cost of service study show that the General Service (GS) and Lighting and Power (LP) classes are very close to the combined class increase. Therefore, the individual rate class increases for GS and LP are applied before including the Cotton Gin class subsidy.<sup>760</sup>

Staff criticizes SWEPCO's revenue distribution for what its witness Adrian Narvaez contends is a failure to recognize the Company's Distribution Cost Recovery Factor (DCRF) and

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<sup>756</sup> SWEPCO Ex. 32 at 10:18-21.

<sup>757</sup> Rebuttal Testimony of Jennifer L. Jackson, SWEPCO Ex. 55 at 4:2-3, 9-10.

<sup>758</sup> Tr. at 1255:16-1256:1 (Jackson Cross) (May 25, 2021).

<sup>759</sup> SWEPCO Ex. 55 at 7:6-10, Exhibit JLJ-1R.

<sup>760</sup> SWEPCO Ex. 55 at 7:11-21.

TCRF revenues when assigning costs to the rate classes.<sup>761</sup> Mr. Narvaez testified that the Final Order in Docket No. 46449 requires SWEPCO to evaluate a class's present revenues inclusive of TCRF and DCRF revenues when evaluating a potentially large rate increase that could warrant gradual movement to cost.<sup>762</sup> However, SWEPCO's adjustments to base rates do in fact include costs recovered through the TCRF and DCRF riders. SWEPCO's approach recognizes the rate class revenue requirement changes associated with test year cost to serve and proposes to reset base rates to include transmission and distribution costs formerly recovered in the riders. While the base rate change indicates the gross change required to move the revenue requirement from the riders to the base rates for recovery, the bill impact to the customers showing the change in rider recovery (net change) is recognized in the revenue distribution by class. After the appropriate adjustment to base rates is determined to assure full recovery based on the class cost of service study, SWEPCO's revenue distribution indicates the rate class bill impact associated with the change in the TCRF and DCRF revenues recovered during the test year. Therefore, SWEPCO's rebuttal revenue distribution appropriately recognizes the TCRF and DCRF change in accordance with the Final Order in Docket No. 46449, and no changes to SWEPCO's proposal are necessary in order to recognize TCRF and DCRF revenues.<sup>763</sup>

**A. Rate Moderation / Gradualism**

The parties agree that some form of rate moderation or gradualism is appropriate, but disagree as to how to implement it. TIEC witness Pollock recommends that increases for classes that are "producing negative rates of return and would require excessive base rate increases" be limited to approximately 43%, based on Docket No. 46449.<sup>764</sup> Nucor Steel Longview, LLC (Nucor) witness Daniel states that gradualism should only be applied for three relatively small rates classes. Walmart witness Perry does not oppose SWEPCO's proposed revenue distribution but recommends that if the Commission approves a lower revenue requirement, that the reduction move individual customer classes closer to their respective cost to serve while ensuring that no

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<sup>761</sup> Direct Testimony of Adrian Narvaez, Staff Ex. 4 at 15:18-17:7 (using the page number in the upper right hand corner of the page). Nucor and TIEC also contend that the TCRF and DCRF test year revenues should be included in evaluation of a proposed base rate increase. SWEPCO Ex. 55 at 8:16-18.

<sup>762</sup> Staff Ex. 4 at 15:19-16:2.

<sup>763</sup> SWEPCO Ex. 55 at 8:18-9:13 and Exhibit JLJ-1R; Tr. at 1531:12-1532:21 (Jackson Cross) (May 26, 2021).

<sup>764</sup> TIEC Ex. 1 at 46:9-12.

class receives an increase larger than that proposed by SWEPCO. Staff witness Narvaez states that relying on the Major Rate Class customer classification does not adequately address the requirement that rates are based on cost and recommends a multi-year phased-in gradualism approach.<sup>765</sup>

Because there was some consensus among the parties regarding rate increase moderation for rate classes with equalized increases multiple times greater than the system average increase, on rebuttal SWEPCO applied an approximate 43% cap to the increases of the three rate classes (Cotton Gin, Oilfield Secondary, and Public Street and Highway Lighting) with equalized increases of at least 1.5 times the system average return, based on the parties' moderation recommendations.<sup>766</sup> Application of this cap creates a small subsidy among the other classes that share the major class grouping with those classes, but this methodology is consistent with the Final Order in Docket No. 46449 and moves all classes closer to cost, while recognizing the billing units associated with the proposed commercial rate structure proposals.<sup>767</sup>

Staff's recommended phase-in gradualism approach is cumbersome and could result in SWEPCO foregoing an opportunity to recover its cost to serve its customers until the phase-in period is over.<sup>768</sup> This type of gradualism approach has never been proposed or approved by the Commission for an electric utility.<sup>769</sup> In response to Staff's criticism, SWEPCO has adjusted its rebuttal revenue distribution to move all rate classes closer to cost as discussed above, which eliminates the need for any gradual phase-in of the proposed rates.<sup>770</sup> Therefore, the Commission should reject Staff's gradualism proposal.

## **B. Rate Design and Tariff Changes**

There are two main goals for the proposed rate design. The first goal of the proposed rate design is to design rates that achieve the overall proposed revenue change based on the filed class cost of service study. The second goal of the proposed rate design is to develop rates that move all major classes of customers closer to an equalized return, meaning the proposed rates for each

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<sup>765</sup> SWEPCO Ex. 55 at 6:14-7:2.

<sup>766</sup> Tr. at 1247:14-1248:1 (Jackson Cross) (May 25, 2021).

<sup>767</sup> SWEPCO Ex. 55 at 8:1-12.

<sup>768</sup> SWEPCO Ex. 55 at 9:16-18.

<sup>769</sup> Staff Ex. 4 at 25:16-19.

<sup>770</sup> SWEPCO Ex. 55 at 9:18-21.

customer class are designed to recover the class responsibility for the cost to serve each respective major rate class. These goals have been balanced with considerations such as overall customer impact and moderation of severe customer impact.<sup>771</sup>

SWEPCO's proposed rate design for all classes is based on the target level of base rate change as shown in the rebuttal revenue distribution. Each class's rate components, such as the customer charge, energy rate, demand rate, and minimum bill components, have been adjusted based on the target percent change shown in the rebuttal revenue distribution.<sup>772</sup> In most cases, where a class rate structure includes a demand and energy component, the demand and energy rate were adjusted by the same amount to alleviate wide variations in customer impact based on individual customer load factors or usage patterns. A few proposed rate structures have been modified differently based on the individual circumstances of those particular rate classes, specifically those classes that have rate structure changes. After the rate components have been adjusted, some individual rate component fine-tuning was done to achieve the total proposed base revenue target. Any variation in the base revenue target results from the rate design revenues being slightly more or less than the target. The revenue distribution shows the resulting base percentage change for each class but also calculates the total bill percentage change for each class when the base rate revenue changes and fuel revenues are taken into account.<sup>773</sup>

The SWEPCO Texas Tariff contains rate schedules for the following classes:

- Residential Service (RS) for service to residential customers;
- GS for small commercial and industrial loads;
- Recreational Lighting;
- LP for commercial customers and industrial customers;
- Large Lighting and Power (LLP) for service to primary and transmission voltage customers with billing demands of 10,000 kW or greater;
- Metal Melting Service (MMS) and Oil Field Large Industrial Power;
- Cotton Gin Service and Cotton Gin Off Peak Lighting and Power Service;

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<sup>771</sup> SWEPCO Ex. 32 at 8:2-9.

<sup>772</sup> SWEPCO Ex. 32 at 12:11-18; SWEPCO Ex. 55 at Exhibit JLJ-1R.

<sup>773</sup> SWEPCO Ex. 32 at 12:18-13:13.

- Rider C-2 and the Off-peak rider to LP, LLP, and MMS;
- Municipal Pumping for service to municipal pumping loads;
- Municipal Service for service to municipal loads other than pumping and municipal street lighting; and
- Lighting Service (Private, Security, Area, Municipal, and Parkway Lighting).

The Tariff includes two Interruptible Power Service schedules; a Supplementary, Backup, Maintenance, and As-Available Standby Power Service schedule; a Standby Service schedule; and a separate As-Available Standby Power Service schedule (SBMAA).<sup>774</sup> Besides pricing changes to its rate schedules based on the rebuttal revenue distribution, SWEPCO proposed several rate structure changes as described by SWEPCO witness Jackson in her direct testimony.<sup>775</sup>

### **1. General Service Rate Schedule Change**

Staff witness Mr. Narvaez recommends rejection of SWEPCO's proposal to remove the demand requirement restriction on its GS rate schedule. According to Mr. Narvaez, this would constitute a significant tariff change that would allow customer migration from the LP tariff to the GS tariff. Mr. Narvaez contends that the proposal could result in rates being insufficient to recover costs to serve those classes. Mr. Narvaez also takes the position that adjusting billing determinants for migration to a newly designed rate structure would violate the "known and measurable" rule.<sup>776</sup>

Adjusted billing determinants set for a class based on a new rate structure or new rate schedule offering are reasonably known and measurable. SWEPCO's commercial rate design proposals reasonably estimate the new class billing determinants based on test year adjusted billing determinants.<sup>777</sup> By assigning the class average increase to the family of commercial rate schedules, SWEPCO can reliably estimate the schedule that best serves the customer based on the test year adjusted billing determinants of each class. Grouping customers together for revenue distribution purposes allows migration to be reasonably determined in a rate case, while accommodating rate classes with few customers susceptible to unusual outcomes in a particular

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<sup>774</sup> SWEPCO Ex. 32 at 13:19-14:12.

<sup>775</sup> SWEPCO Ex. 32 at 14:15-15:14.

<sup>776</sup> Staff Ex. 4 at 26:15-19, 27:10-14, 28:1-9.

<sup>777</sup> SWEPCO Ex. 55 at 10:13-16.

test year.<sup>778</sup> SWEPCO's rate design also looks at customers' load factors and typical customer bill impacts to review possible customer migration based on the proposed rate changes.<sup>779</sup>

Staff's declaration that adjustments made for rate migration in the test year do not meet the "known and measurable" standard appears unprecedented. Migration adjustments, similar to test year adjustments and normalization, are performed to estimate a reasonable rate year set of billing determinants on which to design new rates. Taking into account the effect of customer migration based on new pricing is comparable to and is part of the process of normalizing estimated test year billing determinants. Rate design by its nature is an iterative process. Adjusting rate class billing determinants based on rate structure and pricing changes, while maintaining comparative pricing among classes, is the normal course of rate design and has been used successfully in past rate cases.<sup>780</sup>

The new structure of the GS and LP rate classes is designed to create a rate schedule for customers based on their energy and load requirements (kWh usage, demand requirements, seasonality, time-of-use, and load factor).<sup>781</sup> Migration between the GS and LP rate schedules can occur after the test year and after approval of the new rate design, but that is no different from customer movement (additions, removals, and changes in customer loads) that occurs between rate cases for the existing classes; it is fluid at all times. SWEPCO has always provided additional rate options under which a customer may be eligible for service. The Commission has consistently approved those options. Providing rate options for customers puts SWEPCO in a position of better meeting its customers' needs.<sup>782</sup>

## **2. LP Secondary Class**

Walmart witness Ms. Perry advocates a more targeted approach to the LP rate schedule design, arguing that the Commission's rate design goals should include the removal of subsidies contained in the rates within the rate schedules. To accomplish this, Walmart suggests assigning the majority of the LP class increase to the demand component of the rate schedule. However, there is a concern that this proposed change would negatively impact lower load factor customers

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<sup>778</sup> SWEPCO Ex. 55 at 6:10-13.

<sup>779</sup> SWEPCO Ex. 55 at 6:1-5.

<sup>780</sup> SWEPCO Ex. 55 at 18:10-19.

<sup>781</sup> SWEPCO Ex. 55 at 10:16-19.

<sup>782</sup> SWEPCO Ex. 55 at 10:10-11:4.

in favor of higher load factor customers. Walmart did not offer any analysis in support of this recommendation or offer customer impact for customers at different load profiles.<sup>783</sup>

### **3. Reactive Demand Charge**

TIEC witness Mr. Pollock recommends no increase in the Reactive Demand charge based on his contention that SWEPCO has not provided any support for increasing the Reactive Demand charge.<sup>784</sup> A separate reactive demand study was not performed outside of the cost of service study because the reactive demand charge is encompassed within and is part of the overall cost increase. Because the reactive demand charge can apply to multiple rate classes, SWEPCO utilized the system average increase to update the reactive demand charge. The proposed reactive demand charge is \$0.66 per reactive kW, increased from the current charge of \$0.51. The proposed methodology is a reasonable way to adjust the reactive demand charge.<sup>785</sup>

#### **C. Transmission Rate for Retail Behind-The-Meter Generation**

As part of the rate schedule changes proposed in this case, SWEPCO is also introducing a provision to the SBMAA rate schedules designed to recover the cost of customers with self-generation synchronized with the SWEPCO transmission system whose load is required to be included in SWEPCO's load ratio share allocation by the SPP.<sup>786</sup> As proposed, this synchronized self-generation rate (SSGL) is determined first by dividing the total Commercial and Industrial class transmission functional revenue requirement by the total class non-coincident peak NCP kW to arrive at a transmission demand unit cost. The unit cost is then multiplied by 50% to account for the additional transmission demand cost not associated with the reservation backup charge that includes approximately 50% of the class functional transmission demand cost. The amount of revenue requirement associated with the synchronized self-generation load is removed from the total class revenue requirement, and the remaining revenue requirement change is applied to the kW and kWh charges and other SBMAA charges within the class.<sup>787</sup> This is the same

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<sup>783</sup> SWEPCO Ex. 55 at 11:7-18.

<sup>784</sup> TIEC Ex. 1 at 49:6-10.

<sup>785</sup> SWEPCO Ex. 55 at 14:22-15:6.

<sup>786</sup> SWEPCO Ex. 32 at 15:2-5, 23:4-7. *See* Section IV.A.6 of this brief for further discussion of the BTMG load reported to SPP for billing of transmission charges to SWEPCO.

<sup>787</sup> SWEPCO Ex. 32 at 23:7-16.

methodology used for SWEPCO's SBMAA charge.<sup>788</sup>

The new SSGL rate is proposed to recover additional costs associated specifically with the inclusion of BTMG load in determining SWEPCO's share of the SPP transmission costs. Instead of directly assigning the cost associated with the inclusion of the BTMG to those customers, SWEPCO proposed to create a new charge applicable to any commercial or industrial BTMG customer load that may also be included in SWEPCO's load ratio share. The new charge was included as part of the current specialty tariff sheet that includes the SMBAA rates because it is used in conjunction with the SMBAA service at this time. The pricing structure of the existing SMBAA tariff was developed prior to the development of the RTOs and prior to SPP charges associated with BTMG demands.<sup>789</sup>

Both TIEC and Eastman oppose the introduction of the SSGL rate for customers who use BTMG that is also synchronized with SWEPCO's transmission system. Eastman witness Mr. Al-Jabir recommends rejection of SWEPCO's proposed SSGL, alleging that it is inconsistent with cost causation principles and with the principles that govern cost allocation and rate design for retail customers with self-generation. TIEC witness Mr. Pollock recommends the Commission reject the proposed SSGL charge because it is not a retail service that SWEPCO is actually providing. Mr. Pollock also states that if retail BTMG load is to be included in allocating transmission costs, it would be appropriate to establish a separate rate schedule applicable to all retail BTMG loads.<sup>790</sup>

The evidence shows that the design of the SSGL rate is reasonable.<sup>791</sup> The rate was designed based on the approach used to design the backup charge for full requirements backup service except applied specifically for transmission functional cost. The cost of the BTMG load included in SPP's transmission charges must be recovered from all customers through the approved transmission allocation methodology or recovered specifically from BTMG customers. SWEPCO developed a rate to recover this cost from customers whose load is included as BTMG, but is willing to implement a solution found by the Commission to be fair and reasonable. In

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<sup>788</sup> Tr. at 1249:20-1250:10 (Jackson Cross) (May 25, 2021).

<sup>789</sup> SWEPCO Ex. 55 at 12:22-13:9.

<sup>790</sup> SWEPCO Ex. 55 at 12:1-11.

<sup>791</sup> SWEPCO Ex. 55 at 13:19-20.



recognition of the parties' concerns, SWEPCO on rebuttal developed a BTMG rate that could apply to any BTMG customer load appropriately included in SWEPCO's transmission load ratio share. The rebuttal SSGL rate methodology includes using the total SWEPCO retail transmission cost and retail NCP in determining a BTMG rate applicable to all rate classes.<sup>792</sup> It would also be reasonable and appropriate to create a separate rate schedule on a separate tariff sheet for the rebuttal SSGL rate, because it would apply to more than just the LP and LLP classes.<sup>793</sup>

#### **D. Riders**

##### **1. Proposed Residential Service Plug-in Electric Vehicle Rider**

Company witnesses Malcolm Smoak and Jennifer Jackson support SWEPCO's proposal to establish a residential plug-in electric vehicles (PEV) tariff for customers taking service under the Residential Service rate schedule who use PEV charging.<sup>794</sup> Under this option, an installed sub-meter separately measures PEV kWh usage while a standard meter measures total residence kWh usage.<sup>795</sup> An important feature of this rider is the application of a billing credit for all off-peak period PEV kWh usage measured at the sub-meter.<sup>796</sup> This rider aims to aid the integration of load from electric vehicle transportation in a manner that minimizes or eliminates additional system costs.<sup>797</sup> No other party to this proceeding addressed or challenged this proposal.

##### **2. Renewable Energy Credit Rider**

The Renewable Energy Credit (REC) Rider is a voluntary rider available to customers wishing to support the Renewable Energy Certificates derived from SWEPCO's investment in renewable energy resources. These certificates are issued when one megawatt-hour (MWh) of electricity is generated and delivered to the grid from a renewable energy resource. Customers may purchase RECs that are equivalent up to 100% of their total monthly billed kilowatt-hour usage.<sup>798</sup> The REC price will reflect a 12-month average value calculated using the S&P Global

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<sup>792</sup> SWEPCO Ex. 55 at 13:20-14:11.

<sup>793</sup> Tr. at 1502:25-1503:13, 1508:25-1509:3 (Jackson Cross) (May 26, 2021).

<sup>794</sup> See SWEPCO Ex. 3 at 8:9-9:14; SWEPCO Ex. 32 at 27:1-28:3. The Residential Plug-in Electric Vehicle Rider is included at Exhibit JLJ-3 to Ms. Jackson's direct testimony and is part of Schedule Q-8.8 (SWEPCO Ex. 1).

<sup>795</sup> SWEPCO Ex. 3 at 8:18-9:6; SWEPCO Ex. 32 at 27:1-6.

<sup>796</sup> SWEPCO Ex. 3 at 9:9-13.

<sup>797</sup> SWEPCO Ex. 3 at 9:9-13.

<sup>798</sup> SWEPCO Ex. 32 at 30:4-11.

Renewable Energy Credit Index for Texas RECs.<sup>799</sup> Proceeds from the REC sales, net of transaction costs, will be treated as a revenue credit to customers through SWEPCO's fuel balance. All Texas customers will benefit from the proposed REC rider because the proceeds will reduce SWEPCO's fuel balance and rider will enable participating customers to meet either their personal or corporate environmental and sustainability goals by purchasing the environmental attributes of renewable energy resources at a reasonable, market-based rate.<sup>800</sup>

TIEC witness Mr. Pollock recommends a REC opt-out provision that credits transmission-voltage customers that submit appropriate opt-out letters to the Commission.<sup>801</sup> SWEPCO will file a REC Opt-Out Tariff in the compliance phase of this case subject to Commission approval. SWEPCO agreed to impute a value of the RECs for its renewable energy purchases in settlement of its prior fuel reconciliation case, Docket No. 47553.<sup>802</sup> SWEPCO's calculation of the REC Opt-Out credit factor is based on the imputed total company REC values and allocation to SWEPCO's Texas retail jurisdiction and eligible rate classes.<sup>803</sup> The allocation is demand-based because the REC value is recorded in FERC Account 555 and the credit factor is developed based on kWh sales at the meter for eligible customers. SWEPCO has estimated a per kWh credit to be applied to transmission-voltage customers who submit notice to the Commission indicating a preference to opt-out of paying for RECs for SWEPCO's renewable energy purchases.<sup>804</sup>

#### **E. Retail Choice Pilot Project**

This issue is moot per the Commission's decision at the June 11, 2021 open meeting in Docket No. 51257.<sup>805</sup>

### **VIII. Baselines for Cost-Recovery Factors**

To facilitate TCRF, DCRF, and Generation Cost Recovery Rider (GCRR) filings pursuant to 16 TAC §§ 25.239, 25.243, and 25.248, respectively, SWEPCO requests that the Commission

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<sup>799</sup> SWEPCO Ex. 32 at 30:14-19.

<sup>800</sup> SWEPCO Ex. 32 at 31:6-11.

<sup>801</sup> TIEC Ex. 1 at 49:11-50:12.

<sup>802</sup> SWEPCO Ex. 55 at 15:8-11.

<sup>803</sup> SWEPCO Ex. 55 at Exhibit JLJ-2R.

<sup>804</sup> SWEPCO Ex. 55 at 15:14-19.

<sup>805</sup> *Petition of East Texas Salt Water Disposal Company for Declaratory Order and Request for the Opening of a Pilot Project Implementation Project*, Docket No. 51257, (Order pending).

set the Company's current TCRF and DCRF to zero and establish in this docket the baseline values consisting of the inputs to the calculations that will be used to calculate SWEPCO's TCRF, DCRF, and GCRR in future dockets.<sup>806</sup> In its direct case, SWEPCO set forth the Commission's statutory and regulatory requirements for the cost recovery factors and supported the Company's initial baseline calculations consistent with the allocation and functionalization factors used in SWEPCO's cost of service study.<sup>807</sup> Based on SWEPCO's response to certain discovery requests and review of intervenor testimonies, SWEPCO determined the need to correct or revise certain costs allocated to the Texas retail jurisdiction and reflect changes among the retail classes in its cost of service study.<sup>808</sup>

Commission Staff witness Adrian Narvaez proposed a class cost of service study from which it also calculated baseline values for the TCRF and DCRF.<sup>809</sup> While SWEPCO generally agrees with the methodology Staff undertook in developing its cost of service study, Staff's calculated results contained certain inconsistencies and did not reflect certain changes necessary to the jurisdictional and class allocations. Specifically, in Staff's cost of service study, functional calculations had been reduced by miscellaneous revenues when proposed revenues should equal cost of service.<sup>810</sup> Another issue Mr. Aaron noted is that several lines of the functional calculations were missing the calculations for certain classes.<sup>811</sup> Additionally, SWEPCO disclosed changes needed to its jurisdictional and class allocations in response to several data requests and as addressed in Mr. Aaron's rebuttal to Mr. Daniel's and Mr. Pollock's testimonies—all of which should be incorporated into Commission Staff's number running calculations.<sup>812</sup> Accordingly, SWEPCO offered a rebuttal cost of service study addressing these points.<sup>813</sup> These changes are required to derive the proper baseline values to be finalized based upon the Commission's

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<sup>806</sup> SWEPCO Ex. 31 at 26:19-35:9.

<sup>807</sup> SWEPCO Ex. 31 at 24:1-17; 25:9-26:17; 26:19-35:9, and Exhibits JOA-5, JOA-6, and JOA-7.

<sup>808</sup> SWEPCO Ex. 54 at 2:14-19; 3:2-10; 4:11-5:11; 5:12-7:14.

<sup>809</sup> Staff Ex. 4 at 5:7-10; Attachments AN-4 and AN-5.

<sup>810</sup> SWEPCO Ex. 54 at 4:18-21.

<sup>811</sup> SWEPCO Ex. 54 at 4:21-5:2.

<sup>812</sup> SWEPCO Ex. 54 at 5:8-11.

<sup>813</sup> SWEPCO Ex. 54 at 2:14-19; 3:2-10; 4:11-5:11; 5:12-7:14; *see also* SWEPCO Ex. 54A; Additional Workpapers to the Rebuttal Testimony of John Aaron, SWEPCO Ex. 54B.

determinations in this case.<sup>814</sup>

**A. Interim Transmission Cost of Service**

This issue pertains to ERCOT utilities and is not applicable to SWEPCO in this proceeding.<sup>815</sup>

**B. Transmission Cost Recovery Factor**

The Company's proposal to reset the baseline for the components that are used for a subsequent implementation of the TCRF is supported by the testimony of John Aaron and SWEPCO's rebuttal cost of service study.<sup>816</sup> SWEPCO's request to calculate its TCRF baseline as supported by its rebuttal cost of service is consistent with PURA § 32.209 and 16 TAC § 25.239. No party opposed the Company's request to reset the baseline value of the TCRF for future filings.

**C. Distribution Cost Recovery Factor**

The Company's proposal to reset the baseline for the components that are used for a subsequent implementation of the DCRF is supported by the testimony of John Aaron and SWEPCO's rebuttal cost of service study.<sup>817</sup> SWEPCO's request to calculate its DCRF baseline as supported by its rebuttal cost of service is consistent with PURA § 32.210 and 16 TAC § 25.243. No party opposed the request to reset the baseline value of the DCRF for future filings.

**D. Generation Cost Recovery Rider**

The Company's proposal to establish baseline values for the components that are used for a subsequent implementation of the GCRR is supported by the testimony of John Aaron and SWEPCO's rebuttal cost of service study.<sup>818</sup> SWEPCO's request to calculate its GCRR baseline is consistent with PURA § 32.213 and 16 TAC § 25.248. No party addressed or opposed the Company's request to establish the baseline value of the GCRR.

**IX. Reasonableness & Recovery of Rate-Case Expenses**

**A. SWEPCO's and CARD's Rate-Case Expenses**

SWEPCO is seeking recovery of the reasonable rate-case expenses, including expenses

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<sup>814</sup> Tr. at 1429:19-21 (confirming Staff develops number running model based on PFD); 1431:24-1432:4 (noting that corrections will be included in number running models by Staff) (Narvaez Cross) (May 26, 2021).

<sup>815</sup> See 16 TAC § 25.192.

<sup>816</sup> See SWEPCO Ex. 31 at 26:19-31:2; SWEPCO Ex. 54 at 4:11-7:14; SWEPCO Ex. 54A.

<sup>817</sup> See SWEPCO Ex. 31 at 31:4-33:16; SWEPCO Ex. 54 at 4:11-7:14; SWEPCO Ex. 54A.

<sup>818</sup> See SWEPCO Ex. 31 at 33:18-34:24; SWEPCO Ex. 54 at 4:11-7:14; SWEPCO Ex. 54A.

necessary to reimburse intervening municipalities—i.e., CARD—that SWEPCO incurs in this case and those expenses incurred in the following dockets: Docket No. 49042;<sup>819</sup> Docket No. 46449;<sup>820</sup> Docket No. 40443;<sup>821</sup> and Docket No. 50997<sup>822</sup> (SWEPCO’s pending fuel reconciliation).<sup>823</sup> The rate-case expenses associated with these dockets and supported by the current evidentiary record are shown on Table RCE-1 below.<sup>824</sup>

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<sup>819</sup> *Application of Southwestern Electric Power Company to Amend its Transmission Cost Recovery Factor*, Docket No. 49042, Final Order (Jul. 18, 2019).

<sup>820</sup> *See Review of Rate Case Expenses Incurred by Southwestern Electric Power Company and Municipalities in Docket No. 46449*, Docket No. 47141, Order at Ordering Paragraph 4 (Aug. 27, 2020) (authorizing SWEPCO to seek recovery of rate-case expenses incurred after April 13, 2020, for the pending appeals of Docket Nos. 40443 and 46449).

<sup>821</sup> *See* Docket No. 47141, Order at Ordering Paragraph 4.

<sup>822</sup> *Application of Southwestern Electric Power Company for Authority to Reconcile Fuel Costs*, Docket No. 50997 (pending). On February 10, 2021, SWEPCO notified the Administrative Law Judges presiding over Docket No. 50997 that the parties to that docket—SWEPCO, Commission Staff, OPUC, TIEC, CARD, and the Sierra Club—had reached an agreement in principle for the resolution of that proceeding and requested an abatement to allow the parties to draft and execute settlement documents consistent with that agreement. As part of that agreement in principle, the Docket No. 50997 parties agreed: (1) SWEPCO may seek recovery of its and CARD’s reasonable rate-case expenses associated with Docket No. 50997 that have not been addressed in that case; and (2) SWEPCO would seek recovery of these expenses in this pending rate case if the procedural schedule permits and no party objects.

<sup>823</sup> SWEPCO Ex. 5 at 24:11-19; Rebuttal Testimony of Lynn Ferry-Nelson, SWEPCO Ex. 34, Exhibit LFN-1R at 1-2 and 5-9.

<sup>824</sup> Consistent with SOAH Order No. 13, SWEPCO will file additional evidence documenting its rate-case expenses reflected on its books and records at the time of its final rate-case expense report.

**Table RCE-1 - SWEPCO & CARD Rate-Case Expenses**

<b>Docket No.</b>	<b>SWEPCO's Requested Rate-Case Expenses (Through February 28, 2021)</b>	<b>CARD's Requested Rate-Case Expenses<sup>825</sup> (Through March 31, 2021)</b>
51415	\$1,081,375.98 <sup>826</sup>	\$381,127
49042	\$218,375 <sup>827</sup>	\$41,463
46449	\$0 <sup>828</sup>	\$0
40443	\$190,573.21 <sup>829</sup>	\$13,191
50997	\$249,692.65 <sup>830</sup>	\$206,885
<b>Total</b>	<b>\$1,740,016.81</b>	<b>\$642,666</b>

Staff has not recommended the disallowance of any of CARD's rate-case expenses set out in Table RCE-1. SWEPCO understands Staff's position is that all of CARD's requested amounts the Commission finds reasonable should be added into the amount that SWEPCO may recover through its Rate Case Surcharge Rider (RCS Rider), even if those amounts are not yet recorded to SWEPCO's books and records. Subject to this understanding, SWEPCO requests the amounts shown on Table RCE-2 below be included in its RCS Rider.

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<sup>825</sup> Direct Testimony of Catherine J. Webking, CARD Ex. 5, Attachment CJW-2 at Exhibit A.

<sup>826</sup> SWEPCO Ex. 5, Exhibit LFN-1 at 1; SWEPCO Ex. 34, Exhibit LFN-1R at 5.

<sup>827</sup> SWEPCO Ex. 5, Exhibit LFN-2 at 1.

<sup>828</sup> SWEPCO did not book any appellate expenses for Docket No. 46449 during the period of April 13, 2020, through February 28, 2021. However, SWEPCO believes it could incur additional expenses for the Docket No. 46449 appeal before the close of the evidentiary record in this case. Any such expenses will be included in SWEPCO's rate-case expense supplements

<sup>829</sup> SWEPCO Ex. 5, Exhibit LFN-2 at 1; SWEPCO Ex. 34, Exhibit LFN-1R at 5.

<sup>830</sup> SWEPCO Ex. 34, Exhibit LFN-1R at 5. SWEPCO has removed \$15,468 consistent with Ms. Ferry-Nelson's supplemental rebuttal testimony. *See* Supplemental Rebuttal Testimony on Rate-Case Expenses of Lynn Ferry-Nelson, SWEPCO Ex. 35 at 2, n.3 (agreeing that \$15,468 of SWEPCO's rate-case expenses reflected on its first supplemental rate-case expense report for reimbursements to CARD for its participation in Docket No. 50997 should be removed from the Company's request in this case as those expenses are being addressed in Docket No. 50997).

**Table RCE-2 - SWEPCO's Requested Rate-Case Expenses  
(Based on Evidence in Record at Close of Hearing)**

<b>Docket No.</b>	<b>Requested Rate-Case Expenses</b>
51415	\$1,462,502.96
49042	\$218,375.98 <sup>831</sup>
40443	\$199,769.78 <sup>832</sup>
50997	\$456,577.65
<b>Total</b>	<b>\$2,337,226.37</b>

In her supplemental direct testimony, Staff witness Ruth Stark reviewed SWEPCO's supporting documentation as well as CARD's evidence related to the requested rate-case expenses and finds that with the exception of one downward adjustment to SWEPCO's requested expenses in the amount of \$50,752, which is discussed further below, the above amounts for each docket are reasonable and eligible for recovery consistent with the Commission's rate-case expense rule.<sup>833</sup>

**B. SWEPCO's Proposed Recovery Methodology**

The ALJs have imposed a July 6, 2021 cut-off date for SWEPCO and CARD to file additional evidence of rate-case expenses that will be considered in the PFD.<sup>834</sup> SWEPCO proposes that the Commission: (1) review and determine the reasonableness of its and CARD's actual rate-case expenses incurred before the cut-off date; and (2) authorize recovery of any expenses found to have been reasonably incurred through SWEPCO's RCS Rider.<sup>835</sup> As to the rate-case expenses incurred in this proceeding after the cut-off date, SWEPCO proposes:

1. to file a projection of the expenses expected to be incurred through a final order in this docket with its final supplemental rate-case expense report;

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<sup>831</sup> This amount reflects the removal of \$41,462.31 of CARD's expenses that were included in both SWEPCO's and CARD's expenses identified in Table RCE-1 to avoid double recovery by SWEPCO. This is consistent with Ms. Stark's recommendation. Supplemental Direct Testimony of Ruth Stark, Staff Ex. 3b at 6:19.

<sup>832</sup> This amount reflects the removal of \$3,994.43 of CARD's expenses that were included in both SWEPCO's and CARD's expenses identified in Table RCE-1 to avoid double recovery by SWEPCO. This is consistent with Ms. Stark's recommendation. Staff Ex. 3b at 6:21.

<sup>833</sup> Staff Ex. 3b at 7:3-13 and 12:11-13:2.

<sup>834</sup> SOAH Order No. 13 at 1 (May 27, 2021).

<sup>835</sup> SWEPCO Ex. 5 at 26:7-10.

2. that these projected expenses be included in and recovered through SWEPCO's RCS Rider;
3. that the Company's actual expenses incurred after the cut-off date be reviewed for reasonableness in the next proceeding before the Commission in which the Company's rate-case expenses are addressed; and
4. in that subsequent proceeding, the Commission adjust SWEPCO's RCS Rider to account for any over- or under-collection of rate-case expenses associated with this proceeding that have been found reasonable.<sup>836</sup>

Staff opposes SWEPCO's proposal to address post-cut-off date rate-case expenses arguing that the "Commission has previously rejected the recovery of projected or estimated rate-case expenses."<sup>837</sup> SWEPCO's proposal, however, is distinguishable from the cases cited by Staff. Moreover, SWEPCO's proposal is responsive to the Commission's concerns regarding intergenerational cost recovery.

SWEPCO's proposal is different from previously rejected proposals in that it offers a true up.<sup>838</sup> For example, Staff cites to the final order in Docket No. 40295, in which the Commission reversed the PFD's decision approving reimbursement of estimated municipal rate-case expenses.<sup>839</sup> But, unlike SWEPCO's proposal, the Docket No. 40295 proposal did not provide for a true up and, consequently, did not have the ability to ensure customers would pay no more or no less than the actual expenses the municipality incurred and that were found reasonable by the Commission.<sup>840</sup>

Ultimately, SWEPCO's proposal is designed to be responsive to recently expressed Commission concerns where the rate-case expenses are severed into a separate docket and reviewed after the completion of the rate proceeding in which they were incurred, causing intergenerational cost recovery issues.<sup>841</sup> The Commission has noted that this approach often takes

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<sup>836</sup> SWEPCO Ex. 5 at 26:14-25.

<sup>837</sup> Staff Ex. 3b at 13:6-14:10.

<sup>838</sup> SWEPCO Ex. 35 at 9:20-21.

<sup>839</sup> Staff Ex. 3b at 13:9-19; *see also Application of Entergy Texas, Inc. for Rate Case Expenses Pertaining to PUC Docket No. 39896*, Docket No. 40295, Order at 1-2 (May 21, 2013).

<sup>840</sup> SWEPCO Ex. 35 at 9:21-10:3; Docket No. 40295, PFD at 5-7 (Feb. 19, 2013).

<sup>841</sup> SWEPCO Ex. 35 at 9:13-16.



years to finalize, causing intergenerational cost-causation and recovery issues for customers and uncertainty for utilities.<sup>842</sup>

SWEPCO's proposed approach reasonably balances the Commission's competing objectives of reducing intergenerational issues and avoiding recovering estimated amounts by including a reasonable estimate of expenses through the final order in this proceeding that will be trued up to actuals.<sup>843</sup> Furthermore, this approach ensures that SWEPCO will not over-recover the expenses from customers while streamlining an unnecessarily complex and time-consuming process.<sup>844</sup>

### **C. Reasonableness of SWEPCO's Rate-Case Expenses**

SWEPCO's rate-case expenses fall into four categories of costs: outside legal counsel, outside consultants, cities' expenses, and miscellaneous expenses.<sup>845</sup> Exhibits LFN-1 and LFN-2 to SWEPCO witness Lynn Ferry-Nelson's direct testimony and Exhibit LFN-1R to Ms. Ferry-Nelson's rebuttal testimony contain a summary of the items that make up SWEPCO's requested rate-case expenses. Ms. Ferry-Nelson's testimony also:

- confirms that the underlying legal invoices contain sufficient information to identify the amount of expenses associated with the issues involved in the cases;<sup>846</sup>
- describes the procedures SWEPCO employs to ensure the reasonableness of rate-case expenses;<sup>847</sup>
- describes SWEPCO's approach to engaging outside consultants and legal professionals;<sup>848</sup>
- describes how invoices and other documentation is reviewed prior to approval and payment;<sup>849</sup> and
- describes how billings and employee expenses are handled.<sup>850</sup>

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<sup>842</sup> See Docket No. 47141, Open Meeting Tr. at 38 (Jul. 18, 2019).

<sup>843</sup> SWEPCO Ex. 35 at 9:16-20.

<sup>844</sup> SWEPCO Ex. 5 at 27:19-21.

<sup>845</sup> SWEPCO Ex. 5 at 31:14-15.

<sup>846</sup> SWEPCO Ex. 5 at 35:15-36:4, 38:10-15; SWEPCO Ex. 34 at 5:11-7:7, Exhibit LFN-2R.

<sup>847</sup> SWEPCO Ex. 5 at 39:8-12.

<sup>848</sup> SWEPCO Ex. 5 at 39:13-20.

<sup>849</sup> SWEPCO Ex. 5 at 40:1-9.

<sup>850</sup> SWEPCO Ex. 5 at 40:10-17.

Ms. Ferry-Nelson concludes that:

- SWEPCO has provided adequate documentation, in the same form accepted in prior Commission rate-case expense dockets, to support all of the requested rate-case expenses;
- retention of each of the professionals whose fees and expenses are included in SWEPCO's requested rate-case expenses was necessary in order for the Company to properly and fully present its case and to meet Commission requirements for the types of cases at issue;
- the total amounts billed by outside legal counsel, out-of-pocket costs incurred by AEPSC and SWEPCO personnel, and other miscellaneous expenses are proper and reasonable in amount;
- the number of outside attorneys SWEPCO used, and the amount of work they performed (as documented in monthly invoices) was reasonable and justified given the nature of these cases;
- the hourly rates charged by SWEPCO's outside counsel are reasonable, particularly when compared with those of other firms and individuals providing similar services; and
- the amount of rate-case expenses incurred and requested by SWEPCO is reasonable and necessary considering the: scope and complexity of the matters involved; the time and labor required; amount of money at stake; number and complexity of the legal, procedural, and evidentiary issues addressed in each case; and scope of responsibilities assumed by SWEPCO's outside attorneys.<sup>851</sup>

The reasonableness of the Company's rate-case expenses for these past dockets has gone largely unchallenged.

As noted above, however, Ms. Stark recommends a disallowance of \$50,752 of SWEPCO's requested rate-case expenses—\$6,868 associated with this case and \$43,884 associated with the appeal of Docket No. 40443.<sup>852</sup> Ms. Stark's proposed adjustment is based on Staff's position "for the past few years" that "any amount billed above an hourly rate of \$550 an hour is excessive under 16 TAC § 25.245(c)(1)."<sup>853</sup>

SWEPCO does not agree that a rate limitation should be applied without question or analysis to every professional that is hired for a ratemaking proceeding.<sup>854</sup> Such a rigid rule is

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<sup>851</sup> SWEPCO Ex. 5 at 41:3-42:5.

<sup>852</sup> Staff Ex. No.3b at 7:15-24.

<sup>853</sup> Staff Ex. No.3b at 7:21-23.

<sup>854</sup> SWEPCO Ex. 35 at 4:15-17.

inconsistent with how courts and the Commission typically consider the reasonableness of attorneys' fees and is inconsistent with the Commission's rule regarding rate-case expenses.<sup>855</sup>

The Commission's rate-case expense rule does not specify a cap on professional fees. Instead, the rule states that the presiding officer shall consider multiple relevant factors in deciding whether the fee paid to an attorney or other professional was extreme or excessive, including, among other factors: (1) the nature, extent, and difficulty of the work; (2) the time and labor required and expended; (3) the nature and scope of the case, including but not limited to the amount of money or value of property or interest at stake and the novelty or complexity of the issues addressed; and (4) the amount of rate-case expenses reasonably associated with each issue.<sup>856</sup> Similarly, courts consider a variety of factors in determining whether attorneys' fees are reasonable and they do not employ bright-line limitations such as the one Staff recommends.<sup>857</sup> For example, other relevant factors to consider include the experience, reputation, and ability of the professional and the fees customarily charged for similar professional services.<sup>858</sup>

Staff supports imposing a \$550/hour limitation on these professionals' fees by pointing to a memorandum issued by the Office of the Attorney General of Texas (OAG) five years ago and a PFD in a case that was dismissed before the Commission ruled on it.<sup>859</sup> But these documents do not support limiting the recovery of every professional in a ratemaking proceeding to \$550/hour.

The OAG memorandum sets an amount of \$525/hour as presumptively reasonable for an attorney's hourly rate for routine matters, and simply requires pre-authorization for an hourly rate exceeding \$525.<sup>860</sup> If a firm \$525/hour cap were uniformly imposed, there would be no reason for the OAG to allow for an exception in circumstances in which a higher hourly rate might be appropriate.<sup>861</sup>

The PFD from Docket No. 45979 cited by Staff also does not require that a limitation of \$550 must be applied to every professional in a ratemaking proceeding. Instead, as the PFD noted,

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<sup>855</sup> SWEPCO Ex. 35 at 4:17-20.

<sup>856</sup> SWEPCO Ex. 35 at 5:1-8; *see also* 16 TAC § 25.245.

<sup>857</sup> SWEPCO Ex. 35 at 5:9-11.

<sup>858</sup> SWEPCO Ex. 35 at 5:11-13.

<sup>859</sup> Staff Ex. 3b at 8:27-10:2.

<sup>860</sup> SWEPCO Ex. 35 at 7:10-12.

<sup>861</sup> SWEPCO Ex. 35 at 7:12-14.

the rate-case expense rule is intended to help ensure that utilities act more like self-funded litigants.<sup>862</sup> In this case, the facts demonstrate that SWEPCO acted like a reasonable, self-funded litigant.

All but two of SWEPCO's outside attorneys and consultants are well below Staff's proposed \$550/hour cap. For these two professionals—Mr. Bradley M. Seltzer and former Chief Justice of the Supreme Court of Texas Thomas Phillips—it was reasonable to exceed that hourly amount. And, both of these professionals have confirmed that they are routinely hired by self-funded litigants for their expert representation at the same or greater rates than those charged to SWEPCO.<sup>863</sup>

In this rate case, SWEPCO is litigating the treatment of a complex tax issue involving SWEPCO's net operating loss carryforward accumulated deferred federal income tax asset.<sup>864</sup> The vast majority of this issue has been handled by internal SWEPCO employees who were assisted by in-house and outside counsel charging an hourly rate lower than Staff's recommended \$550/hour cap.<sup>865</sup> However, due to the complex nature and the amount at stake with this issue, it was reasonable to hire an outside energy tax law expert to opine on the substantial risk that adopting Staff's proposed tax approach would violate normalization consistency rules.<sup>866</sup> Mr. Seltzer is an energy tax law expert hired to give an expert opinion based on his extensive knowledge and experience related to normalization issues affecting utilities across the country.<sup>867</sup> Although his hourly rate is over \$550, his expertise and experience are counterbalanced by efficiency in dealing with an extremely complex topic, making his fees reasonable.<sup>868</sup>

SWEPCO hired Justice Phillips to represent it in the appeal before the Texas Supreme Court, wherein SWEPCO successfully defended the Commission's order in Docket No. 40443.<sup>869</sup>

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<sup>862</sup> SWEPCO Ex. 35 at 7:17-18.

<sup>863</sup> SWEPCO Ex. 35 at Exhibit LFN-1SR (Affidavit of Thomas R. Phillips) and Exhibit LFN-2SR (Affidavit of Bradley M. Seltzer).

<sup>864</sup> SWEPCO Ex. 35 at 8:3.

<sup>865</sup> SWEPCO Ex. 35 at 8:3-6.

<sup>866</sup> SWEPCO Ex. 35 at 8:6-9.

<sup>867</sup> SWEPCO Ex. 35 at 8:9-11.

<sup>868</sup> SWEPCO Ex. 35 at 8:11-13.

<sup>869</sup> SWEPCO Ex. 35 at 8:16-18.

At all other levels of the appellate process, SWEPCO used less expensive appellate counsel.<sup>870</sup> However, at the Supreme Court level, it is reasonable to hire an appellate expert for a variety of reasons – Justice Phillips is intimately familiar with the procedure at the Texas Supreme Court and is experienced in preparing written and oral arguments, providing SWEPCO with efficient and effective service in defending the Commission’s order and reversing the decision made by the Austin Court of Appeals over an issue with a major financial impact.<sup>871</sup> Justice Phillips was therefore not providing standard utility rate case counsel, but counsel that combined the unique aspects of utility ratemaking with the appellate process before the Supreme Court of Texas.<sup>872</sup> For these reasons, SWEPCO was acting like a reasonable, privately funded litigant when it hired Justice Phillips.

**X. Other Issues [including but not limited to PO Issues]**

**A. Additional Issues**

Sierra Club witness Ms. Glick urges the Commission to not allow the recovery of future capital or fixed O&M associated with a conversion of the Welsh generating plant to operate on natural gas until SWEPCO has presented an analysis justifying such conversion. As acknowledged in Ms. Glick’s testimony, SWEPCO has not yet determined whether natural gas conversion of the Welsh plant is in customers’ best interest. Instead, SWEPCO has announced that the Welsh plant will cease coal-fired operations in 2028 in light of the CCR/ELG requirements. If such a conversion to natural gas were to materialize in the future, SWEPCO will request Commission authorization to include the costs associated with that conversion in customer rates in a future proceeding. Ms. Glick’s recommendation is premature at this time.<sup>873</sup>

**B. CWIP**

SWEPCO has not included any Construction Work in Progress (CWIP) in its requested rate base.<sup>874</sup>

**C. Cash Working Capital**

SWEPCO’s request regarding Cash Working Capital is uncontested. Schedule E-4

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<sup>870</sup> SWEPCO Ex. 35 at 8:18-19.

<sup>871</sup> SWEPCO Ex. 35 at 8:19-9:1.

<sup>872</sup> SWEPCO Ex. 35 at 9:1-4.

<sup>873</sup> SWEPCO Ex. 33 at 16:13-17:4.

<sup>874</sup> SWEPCO Ex. 6 at 6:19-22.

contains the calculation of SWEPCO's cash working capital allowance included in rate base. 16 TAC § 25.231(c)(2)(B)(iii)(IV) and (V) require that a lead-lag study be performed to determine the reasonableness of a cash working capital allowance. The lead-lag study used in this proceeding is the one approved in SWEPCO's last base rate case, Docket No. 46449.<sup>875</sup> The transmission and distribution investor-owned utilities RFP adopted in 2015 provides that if less than five years have passed since the time period examined in the utility's most recently approved lead-lag study, then the utility may use the previously approved Commission lead-lag study in the current proceeding. The provision also requires that no significant or material changes have occurred since the development of the lead-lag study. Less than five years have passed since SWEPCO's last lead-lag study. Thus, by using the last approved study, SWEPCO anticipates savings of around \$75,000 in rate-case expenses, which is the average cost of the last SWEPCO and AEP Texas lead-lag studies.<sup>876</sup> The amount of Cash Working Capital should be synchronized with the Commission's final decision.<sup>877</sup>

**D. Administrative and General O&M Expenses**

SWEPCO's test year administrative and general (A&G) expenses were \$70,385,464 on a total company basis and \$25,968,562 on a Texas jurisdictional basis.<sup>878</sup> No party has raised any issue with respect to the Company's A&G expenses.

**E. Tax Savings From Liberalized Depreciation**

As explained and supported by Company witness David Hodgson, federal income taxes were calculated consistent with PURA § 36.059, the provisions addressing treatment of tax savings derived from liberalized depreciation and amortization, the investment tax credit (ITC), or similar methods.<sup>879</sup> No party challenged this issue or the Company's FIT calculation or methodology.

**F. Advertising Expense**

The Company's evidence on this issue is uncontroverted. Company witness Michael Baird testified to the amount of expenses for contributions, donations, advertising, and memberships

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<sup>875</sup> Docket No. 46449, Order on Rehearing at FoF Nos. 152-154.

<sup>876</sup> SWEPCO Ex. 6 at 58:12-59:4.

<sup>877</sup> SWEPCO Ex. 36 at 28:1-4.

<sup>878</sup> SWEPCO Ex. 54A at JOA WP – SWEPCO TX COS\_TY 3\_2020 Rebuttal, TX JURIS tab, line 1368.

<sup>879</sup> SWEPCO Ex. 17 at 3:5-16 and 20:5-15. *See also* Section IV.G. herein for additional information regarding the federal income tax calculation and supporting schedules.

included in SWEPCO's cost of service.<sup>880</sup> These costs are reasonable, necessary, and consistent with the Commission's requirements and thresholds for recovery, as supported by Company witness Brian Bond.<sup>881</sup>

#### **G. Competitive Affiliates**

SWEPCO has competitive affiliates but did not include any competitive affiliate charges in its rate request in this proceeding. Mr. Frantz's direct testimony shows that SWEPCO's affiliate request in this case was \$87,634,578, of which \$85,227,881 was billed by AEPSC and \$2,406,697 was billed by other affiliates.<sup>882</sup> AEPSC is a service company, not a competitive affiliate.<sup>883</sup> Mr. Frantz's Exhibit BJF-1B identifies the "other affiliates" that charged SWEPCO \$2,406,697. With the exception of United Sciences Testing, Inc., the "other affiliate" charges are all from SWEPCO's regulated utility sister companies such as AEP Texas.<sup>884</sup> United Sciences Testing provides management, professional and technical services.<sup>885</sup>

No party has raised an issue with respect to competitive affiliate charges.

#### **H. Deferred Costs**

SWEPCO is not seeking to include in rates any costs previously deferred by an order of the Commission.

SWEPCO is proposing that the portion of its ongoing net SPP OATT bill that is above or below the net test year level approved for recovery by the Commission be deferred into a regulatory asset or liability until it can be addressed in a future TCRF or base-rate proceeding. This is discussed above in Section IV.A.3.

As discussed in Section IX above, SWEPCO is not seeking to defer the recovery of its rate-case expenses booked after the cut-off date imposed in SOAH Order No. 13; however, the Commission's review of those expenses would be deferred to a future proceeding. If the Commission rejects SWEPCO's proposal for review and recovery of these trailing rate-case

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<sup>880</sup> SWEPCO Ex. 6 at 9:11-20, 30:8-22, 62:14-64:2; *see also* SWEPCO Ex. 1 at Schedule G-4, G-4.1-G-4.1c, G-4.1d, G-4.2-4.2c, and G-4.3-4.3e.

<sup>881</sup> SWEPCO Ex. 14 at 15:7-17:23, 30:4-11; *see also* 16 TAC § 25.231 (b)(1)-(2).

<sup>882</sup> SWEPCO Ex. 18 at 4:10-11.

<sup>883</sup> *See* 16 TAC § 25.272(c)(2) and (4) (separately defining "competitive affiliate" and "corporate support services").

<sup>884</sup> SWEPCO Ex. 18 at Exhibit BJF-1B.

<sup>885</sup> SWEPCO Ex. 1 at Schedule F.

expenses then SWEPCO does request the expenses be deferred for review and recovery in a future case.

**I. Proposed Time-of-Use Rate Pilot Projects**

Company witnesses Malcolm Smoak and Jennifer Jackson support SWEPCO's proposal to offer Texas customers a time-of-use rate.<sup>886</sup> Specifically, SWEPCO proposes an optional Residential Time-of-Use rate schedule as a pilot available to residential customers and a Commercial Time-of-Use rate schedule for commercial loads of 100 kW or greater.<sup>887</sup> The pilots will gauge interest and utilization of the time-of-use format by customers that do not qualify for SWEPCO's Off Peak Rider for LP, LLP, and MMS service.<sup>888</sup> Under the offerings, participating customers can more precisely manage their energy costs by shifting energy consumption to off-peak periods.<sup>889</sup> No other party addressed or challenged this proposal.

**J. Experimental Economic Development Rider**

Company witnesses Malcolm Smoak and Jennifer Jackson support SWEPCO's proposal to update its economic development rider.<sup>890</sup> SWEPCO aims to spur economic growth in its Texas service territory, providing long-term benefits to SWEPCO's customers.<sup>891</sup> The proposed tariff revisions offer two options to attract loads from a variety of businesses with different load requirements.<sup>892</sup> No other party addressed or challenged this proposal.

**K. Any Exceptions Requested to PUC Rules**

As discussed in Section II.A.1 of this brief, the Commission's Cost of Service rule requires that an asset in rate base be depreciated over its service life. After the Excess ADFIT offset to the remaining undepreciated value of the Dolet Hills plant discussed in that section of this brief, SWEPCO proposes an additional mitigation measure to expense the remaining value of SWEPCO's investment in the Dolet Hills plant over four years, the anticipated period between

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<sup>886</sup> See SWEPCO Ex. 3 at 9:16-10:19; SWEPCO Ex. 32 at 28:4-30:2; Exhibit JLJ-4; Exhibit JLJ-5.

<sup>887</sup> SWEPCO Ex. 3 at 9:19-22; SWEPCO Ex. 32 at 28:4-29:6 (describing the proposed optional residential time of use offering) and 29:7-30:2 (describing the commercial time of use offering).

<sup>888</sup> SWEPCO Ex. 3 at 9:22-10:3.

<sup>889</sup> SWEPCO Ex. 3 at 10:12-19; SWEPCO Ex. 32 at 29:1-5; 29:18-20.

<sup>890</sup> See SWEPCO Ex. 3 at 11:1-12:7; SWEPCO Ex. 32 at 26:8-19; SWEPCO Ex. 1 at Schedule Q-8.8, Sheet IV-17.

<sup>891</sup> SWEPCO Ex. 3 at 11:7-23.

<sup>892</sup> SWEPCO Ex. 32 at 26:9-18.



rate cases, instead of the 2021 service life of the plant.<sup>893</sup>

#### **L. Should PUC Approve Requests for Waivers**

SWEPCO has provided all of the schedules and workpapers required by the Commission's RFP for Generating Utilities.<sup>894</sup> However, SWEPCO requests a waiver of the portions of the RFP that request information related to fuel reconciliation proceedings.<sup>895</sup> SWEPCO is not filing a fuel reconciliation proceeding in this docket; therefore, the schedules dealing with fuel reconciliation proceedings are not applicable.<sup>896</sup> Schedule V of SWEPCO's RFP details the specific schedules that are not required in this proceeding related to fuel reconciliation, as well as certain other waivers requested by SWEPCO.<sup>897</sup> SWEPCO's requested waivers are uncontested and should be approved.

Additionally, SWEPCO requested and was granted a waiver of the requirement to file Schedule S (Independent Audit of the Application) in Docket No. 50917.<sup>898</sup>

#### **M. Compliance with Docket No. 46449**

Ordering Paragraph 10 of the Order on Rehearing in Docket No. 46449, SWEPCO's last base-rate case, states, "[t]he regulatory treatment of any excess deferred taxes resulting from the reduction in the federal-income-tax rate will be addressed in SWEPCO's next base-rate case." SWEPCO's compliance with this requirement is addressed in the direct testimonies of SWEPCO witnesses Thomas P. Brice and Michael A. Baird.<sup>899</sup> SWEPCO's proposal to comply with Ordering Paragraph 10 is further addressed above in Section II.A.1.

### **XI. Conclusion**

As shown throughout this brief, SWEPCO's application and its witnesses' direct and rebuttal testimonies in support of that application establish the Company's need to revise its rates to recover its reasonable and necessary costs of providing service. Accordingly, SWEPCO

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<sup>893</sup> SWEPCO Ex. 6 at 49:15-18.

<sup>894</sup> SWEPCO Ex. 4 at 5:1-4.

<sup>895</sup> SWEPCO Ex. 4 at 5:4-5.

<sup>896</sup> SWEPCO Ex. 4 at 5:5-7.

<sup>897</sup> SWEPCO Ex. 1 at Schedule V.

<sup>898</sup> SWEPCO Ex. 4 at 5:10-11; *Application of Southwestern Electric Power Company for Waiver of Rate Filing Package Schedule S*, Docket No. 50917, Order at 1 (Dec. 17, 2020).

<sup>899</sup> SWEPCO Ex. 4 at 7:12-8:7; *see also* SWEPCO Ex. 6 at 23:5-11, 48:11-49:19.

respectfully requests that the Commission approve the rates requested in its application, revised by its rebuttal testimony, and grant the Company such other relief to which it has shown itself entitled.

Respectfully submitted,

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By: \_\_\_\_\_

William Coe

**ATTORNEYS FOR SOUTHWESTERN  
ELECTRIC POWER COMPANY**

**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 June 17, 2021, in accordance with the Second Order Suspending Rules issued in Project No. 50664 and Order No. 1 in this matter.

A handwritten signature in black ink, appearing to read 'William Coe', is written over a horizontal line.

William Coe



# **SPP PLANNING CRITERIA**

## **Revision 2.3**

**Maintained by:**

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calculation of the temperature levels as defined in the Criteria. Site specific data shall contain both dry- bulb and wet-bulb temperatures.

- 6) Temperatures for summer rating of equipment should be taken from Handbook Table 1B: Cooling and Dehumidification Design Conditions - Cooling DB/MWB for 0.4% DB (dry-bulb) and MWB (mean wet-bulb) (Column 2a and 2b, respectively). According to the 2001 Handbook Page 27.2, "The 0.4% annual value is about the same as the 1.0% summer design temperature in the 1993 ASHRAE Handbook." In older Handbooks, the dry-bulb temperature for summer rating of equipment shall be taken as that which is equaled or exceeded 1% of the total hours during the months of June through September for the plant's geographical location. The wet-bulb temperature for the summer rating shall be the "mean coincident wet-bulb" temperature corresponding to the above dry-bulb temperature.
- 7) The temperature for winter rating of equipment should be taken from Handbook Table 1A: Heating and Wind Design Conditions-United States - Heating Dry Bulb 99% (Column 2b). According to the 2001 Handbook Page 27.3, "Annual 99.6% and 99.0% design conditions represent a slightly colder condition than the previous cold season design temperatures, although there is considerable variability in this relationship from location to location." In older Handbooks, the minimum dry-bulb temperature for winter testing and net generating capacity shall be taken as that which is equaled or exceeded 99% of the total hours during the months of December through February (per Handbook definition) for the plant's geographical location. The wet-bulb temperature is not significant for the winter rating and can be disregarded.
- 8) Standard barometric pressure for a plant site shall be determined for each plant elevation from the equation provided in Section 9.
- 9) For those units using a lake or river as a source of condenser cooling water, the summer standard inlet temperature is the highest water inlet temperature during the month concurrent with the member's peak load of the year, averaged over the past ten years.
- 10) Ambient wet-bulb temperature and condenser cooling water temperature are generally not significant factors in adjusting cold weather capability of generating units. Shall special situations arise in which these temperatures are required, reasonable estimates for temperatures occurring coincidentally with the winter rating dry-bulb temperature as defined in the Criteria shall be used.

#### **7.1.2 NET GENERATING CAPACITY AND DEMAND RESPONSE ADJUSTMENTS**

- 1) The rated net capability of a unit may be above or below the actual tested net capability as a result of adjustments for Net generating capacity Conditions, with the exception of units with winter season net capacity greater than their summer net capacity. For these units, the winter season rated net capability shall be no greater than the actual tested net capacity. No net generating capacity adjustment for ambient conditions shall be made.
- 2) Seasonal net capability shall not be reduced to provide regulating margin or spinning reserve. It shall reflect operation at the power factor level at which the generating equipment is normally expected to be operated over the daily peak load period.
- 3) Extended capability of a unit or plant obtained through bypassing of feed-water heaters, by utilizing other than normal steam conditions, by abnormal operation of

auxiliaries in steam plants, or by abnormal operation of combustion turbines or diesel units may be included in the seasonal net capability if the following conditions are met; a) the extended capability based on such conditions shall be available for a period of not less than four continuous hours when needed and meets the other restrictions, and b) appropriate procedures have been established so that this capability shall be available promptly when requested by the system operator.

- 4) The seasonal net capability established for nuclear units shall be determined taking into consideration the fuel management program and any restrictions imposed by governmental agencies.
- 5) The seasonal net capability established for hydroelectric plants, including pumped storage projects, shall be determined taking into consideration the reservoir storage program and any restrictions imposed by governmental agencies and shall be based on median hydro conditions.
- 6) The seasonal net capability established for run-of-the-river hydroelectric plants shall be determined using historical hydrological data on a monthly basis.
- 7) The seasonal net capability established for Demand Response Programs shall be adjusted in accordance with the Demand Response Programs Reporting and Documentation Procedures given in SPP Business Practice.
- 8) The seasonal net capability established for Behind-The-Meter Generation, which does not have firm delivery beyond a discrete point of delivery, shall be adjusted in accordance with Behind The Meter Generation Reporting and Documentation Procedures given in SPP Business Practice.
- 9) The recommended methodology to evaluate the net planning capability established for wind or solar facilities shall be determined on a monthly basis, as stated below. If a member's desire to use a more restrictive methodology to evaluate the net capability of wind or solar they may do so, however net capability determined by the alternative methodology employed cannot credit the wind or solar with a capability greater than determined with the methodology stated below:
- 10) Assemble all available hourly net power output (MWH) data measured at the system interconnection point.
  - (a) Select the hourly net power output values occurring during the top 3% of load hours for the SPP Load Serving Entity for each month of each year for the evaluation period.
  - (b) Select the hourly net power output value that can be expected from the facility 60% of the time or greater. For example, for a 5 year period with the 110 hourly net power output values ranked from highest to lowest, the capacity of the facility will be the MW value in the 65th data point.
  - (c) A seasonal or annual net capability may be determined by selecting the appropriate monthly MW values corresponding to the Load Serving Entity's peak load month of the season of interest (e.g., 22 hours for a typical 30 day month and 110 hours for a 5 year period).
  - (d) Facilities in commercial operation 3 years or less:
    - (i) The data must include the most recent 3 years.

- (ii) Values may be calculated from wind or solar data, if measured MW values are not yet available. Wind data correlated with a reference tower beyond fifty miles is subject to Supply Adequacy Working Group approval. Solar data correlated with a reference measuring device beyond two hundred miles is subject to Supply Adequacy Working Group approval. For calculated values, at least one year must be based on site specific data.
  - (iii) If the Load Serving Entity chooses not to perform the net capability calculations as described above during the first 3 years of commercial operation, the Load Serving Entity may submit 5% for wind facilities and 10% for solar facilities of the site facility's nameplate rating.
- (e) Facilities in commercial operation 4 years and greater
  - (i) The data must include all available data up to the most recent 10 years of commercial operation.
  - (ii) Only metered hourly net power output (MWH) data may be used.
  - (iii) After three years of commercial operations, if the Load Serving Entity does not perform or provide the net capability calculations to The Transmission Provider as described above, then the net capability for the resource will be 0 MW
- (f) The net capability calculation shall be updated at least once every three years.

### **7.1.3 EXEMPTION**

Behind-The-Meter Generation, less than 10 MW, are exempted from Capability and Operational performance testing during the 2020 summer season. Behind-The-Meter Generation, less than 10 MW, will be required to follow testing guidelines in accordance with the SPP Plannign Criteria starting with the 2021 summer season in order to be eligible to meet the Resource Adequacy Requirement for 2022 summer season.

### **7.1.4 TESTING AND CAPABILITY REQUIREMENTS FOR DEMAND RESPONSE PROGRAMS**

Demand Response Programs are as defined in Attachment AA

#### **7.1.4.1 *Capability Test***

Demand Response Programs will be accredited based on a sustainable level of reduction as outlined in the SPP Business Practice. The amount of load reduction shall be 100% of the claimed capability, or the load shall be reduced to an amount that is less than the load forecast of the Demand Response Programs customer by an amount equivalent to 100% of the claimed capability.

If a Demand Response Program is deployed during the summer season, the deployment of that Demand Response Program can suffice in place of the Capability Test.