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

**INITIAL BRIEF OF  
NUCOR STEEL LONGVIEW, LLC**

**June 17, 2021**

1023

**INITIAL BRIEF OF  
NUCOR STEEL LONGVIEW, LLC**

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<b>APPLICATION OF SOUTHWESTERN ELECTRIC POWER COMPANY FOR AUTHORITY TO CHANGE RATES</b>	§ § §	<b>BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS</b>
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**INITIAL BRIEF OF  
NUCOR STEEL LONGVIEW, LLC**

**I. Introduction/Summary [Preliminary Order (PO) Issues 1, 2, and 3]**

On October 14, 2020, Southwestern Electric Power Company (“SWEPCO” or “the Company”) filed an application for authority to change rates in the above-captioned proceeding. Thereafter, Nucor Steel Longview, LLC (“Nucor”) filed the Direct Testimony and Exhibits of James W. Daniel and the Cross-Rebuttal Testimony of James W. Daniel. Daniel addresses, among other issues, the appropriate rate design and revenue distribution to apply in this case.<sup>1</sup>

For the reasons set forth below, Nucor requests that the administrative law judges (“ALJs”) issue a proposal for decision favoring approval of Nucor witness Daniel’s recommended revenue distribution and gradualism approach. Alternatively, Nucor supports SWEPCO’s revised cost of service study and revenue distribution presented in the rebuttal testimony of SWEPCO witness Jennifer L. Jackson. Additionally, Nucor recommends rejection of SWEPCO’s proposed recovery of stranded costs associated with the retiring Dolet Hills Power Station and adoption of a rate of return on equity (“ROE”) that considers the impact on SWEPCO’s ratepayers.

**II. Invested Capital - Rate Base [PO Issues 4, 5, 10, 11, 12, 13, 14, 15, 16, 18, 19, 20, 21, 22]**

**A. Generation, Transmission, and Distribution Capital Investment [PO Issues 4, 5, 10, 11, 13, 14, 15, 16]**

**1. Dolet Hills Power Station [PO Issues 67, 68, 69, 70, 71]**

In this case, SWEPCO proposes to recover the costs associated with retiring the Dolet Hills Power Station, which is scheduled to retire no later than December 31, 2021, approximately 25

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<sup>1</sup> All page numbers cited reflect the page numbers shown on the exhibits admitted at the hearing on the matter. Per SOAH Order Nos. 4 & 13, where there could be confusion, the type of page number cited herein is identified in the initial citation to the particular exhibit.

years before its previously scheduled retirement date.<sup>2</sup> Retiring the plant early results in unrecovered capital costs, so SWEPCO proposes to apply its unprotected and protected excess Accumulated Deferred Income Taxes (“ADIT”) regulatory liability to offset a portion of those costs, and SWEPCO proposes to depreciate the remaining balance over a four-year period.<sup>3</sup> Nucor takes no position on the prudence of the decision to retire Dolet Hills early; however, Nucor disagrees with SWEPCO’s proposal to recover the unrecovered capital costs. Nucor generally supports intervenors who recommend recovering the cost over the originally scheduled recovery period and returning excess ADIT to customers.<sup>4</sup>

Aside from SWEPCO, several parties to this proceeding address the Dolet Hills cost recovery in their testimony, and while the specifics of the proposals differ, they all recommend recovering the remaining plant balance over the originally scheduled time period or close to that period. For example, CARD witness Mark E. Garrett explains that accelerating the recovery of Dolet Hills as proposed by SWEPCO would “unduly increase costs.”<sup>5</sup> Instead, he recommends that SWEPCO recover the remaining costs over the plant’s original useful life (i.e., through 2046).<sup>6</sup> Other witnesses make similar recommendations.<sup>7</sup> Based on the consensus of the testifying parties other than SWEPCO, the Commission should reject the Company’s proposed accelerated depreciation plan regarding Dolet Hills and instead should require that SWEPCO recover the remaining costs over a longer period of time, such as the previously cited useful life, through 2046.

The Commission should also reject SWEPCO’s proposal to offset the unrecovered Dolet

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<sup>2</sup> SWEPCO Direct Testimony of Thomas P. Brice, SWEPCO Exhibit 4 at 6:11-12; Staff Exhibit 6, SWEPCO Response to Texas Industrial Energy Consumers’ First Request for Information, Question 1-16 (confirming that in Docket No. 46449, SWEPCO’s last base rate case, SWEPCO projected retiring Dolet Hills in 2046).

<sup>3</sup> SWEPCO Direct Testimony of Thomas P. Brice, SWEPCO Exhibit 4 at 7:20-8:6.

<sup>4</sup> The following parties recommend a longer cost recovery period and excess ADIT refunds: Commission Staff (“Staff”); Cities Advocating Reasonable Deregulation (“CARD”); East Texas Electric Cooperative, Inc. and Northeast Texas Electric Cooperative, Inc. (“ETEC/NTEC”); Office of Public Utility Counsel (“OPUC”); and Texas Industrial Energy Consumers (“TIEC”).

<sup>5</sup> CARD Direct Testimony of Mark E. Garrett, CARD Exhibit 2 at 7:24-26.

<sup>6</sup> *Id.* at 7:23-24.

<sup>7</sup> *See, e.g.*, ETEC/NTEC Direct Testimony of Steven D. Hunt, ETEC/NTEC Exhibit 1 at 5:17-22 & 11:3-9 (explaining that SWEPCO’s four-year amortization proposal is “not in the public interest nor consistent with PURA and Commission rules,” and instead recommending that the unrecovered costs be recovered over the remaining life of the composite group assets, which is 33 years); Staff Direct Testimony of Ruth Stark, Staff Exhibit 3 at 25:10-14 (recommending that the remaining net book balance of Dolet Hills at December 31, 2021, be recovered over the previously projected remaining life, or through 2046).

Hills costs with excess ADIT—the Commission should require that SWEPCO refund the excess ADIT to customers. Nucor agrees with CARD witness Garrett that SWEPCO’s proposal “would inappropriately shift the benefits of the [excess ADIT] balances from ratepayers to shareholders.”<sup>8</sup> Furthermore, as explained by TIEC witness Billie S. LaConte, the excess ADIT amounts are not related to Dolet Hills, and SWEPCO’s ratepayers are entitled to the excess ADIT refunds, regardless of whether Dolet Hills retires.<sup>9</sup> Therefore, the Commission should reject SWEPCO’s proposal to offset the unrecovered Dolet Hills costs and instead should require SWEPCO to refund the excess ADIT to customers.

**III. Rate of Return [PO Issues 4, 5, 8, 9]**

**A. Overall Rate of Return, Return on Equity, Cost of Debt [PO Issue 8]**

**1. Return on Equity**

The Commission should adopt an ROE in this proceeding that considers the impact of the resulting revenues on customers. SWEPCO proposes an ROE of 10.35% in this proceeding.<sup>10</sup> This ROE is 75 basis points higher than SWEPCO’s currently approved ROE of 9.60%.<sup>11</sup> Additionally, SWEPCO’s proposed ROE is higher than that recommended by any non-SWEPCO witness in this case. SWEPCO’s requested ROE is excessive and should be rejected.

While several parties in this proceeding address the appropriate ROE, the ROE supported by CARD witness Dr. J. Randall Woolridge appears to be the most appropriate and well-supported. Woolridge recommends an ROE of 9.00% for SWEPCO.<sup>12</sup> He testifies that the 9.00% ROE is justified because it both reflects the current market cost of equity capital and because SWEPCO has less financial risk than comparable companies based on SWEPCO’s proposed 49.37% common equity ratio.<sup>13</sup> If the Commission is of the opinion that Dr. Woolridge’s recommended ROE is too low, Nucor recommends that the Commission approve an ROE equal to the average of

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<sup>8</sup> CARD Direct Testimony of Mark E. Garrett, CARD Exhibit 2 at 7:3-6.

<sup>9</sup> TIEC Direct Testimony of Billie S. LaConte, TIEC Exhibit 4 at 8:1-5 (native page no.); *see also* ETEC/NTEC Direct Testimony of Steven D. Hunt, ETEC/NTEC Exhibit 1 at 5:16-17 (“SWEPCO needlessly intertwines the flow-back of Excess ADIT Liability and the rate treatment for Dolet Hills.”).

<sup>10</sup> SWEPCO Direct Testimony of Dylan W. D’Ascendis, SWEPCO Exhibit 8 at 7:2.

<sup>11</sup> *See Application of Southwestern Electric Power Company for Authority to Change Rates*, Docket No. 46449, Order on Rehearing at 31 (Mar. 19, 2018) (approving an ROE of 9.60% for SWEPCO).

<sup>12</sup> CARD Direct Testimony of Dr. J. Randall Woolridge, CARD Exhibit 4 at 4:17-18 (native page no.).

<sup>13</sup> *Id.* at 4:24-5:3.

the intervenors' and Staff's witness recommendations, namely, 9.24%.<sup>14</sup>

## **VI. Functionalization and Cost Allocation [PO Issues 4, 5, 52, 53, 55, 56, 57, 58]**

### **B. Class Allocation [PO Issues 53, 58]**

SWEPCO's rebuttal testimony sets forth the appropriate rate classes for which rates should be determined. However, all rate classes are not at unity, meaning that certain classes are either over- or under-recovering their cost of service. As discussed in Section VII.A., *infra*, the Commission should adopt Nucor's proposed revenue distribution, which corrects longstanding inter-class subsidies and moves classes closer to unity. Alternatively, SWEPCO's proposed revenue distribution, as presented in its rebuttal testimony, should be adopted subject to modification, as discussed in Section VII.A., *infra*.

## **VII. Revenue Distribution and Rate Design [PO Issues 4, 5, 47, 48, 52, 59, 60, 61, 62, 75, 76, 77, 78, 79]**

### **A. Rate Moderation / Gradualism [PO Issue 52]**

The Commission should approve Nucor witness James W. Daniel's proposed revenue distribution. Alternatively, the Commission should approve a revenue distribution that incorporates Daniel's distribution objectives, such as SWEPCO's rebuttal revenue distribution, subject to certain modifications as described below.

#### **1. When allocating revenues, the Commission should consider TCRF and DCRF revenues in SWEPCO's current base rate revenues**

In order to appropriately identify the amount of revenues to be allocated to SWEPCO's respective rate classes, the Commission must first identify the correct current base rate revenue level. SWEPCO's current base rate revenue amounts exclude revenues collected under the Transmission Cost Recovery Factor ("TCRF") and Distribution Cost Recovery Factor ("DCRF") charges.<sup>15</sup> The costs recovered via the TCRF and DCRF charges will be rolled into the approved base rate revenues.<sup>16</sup> Therefore, to develop a proper revenue distribution, the Commission should

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<sup>14</sup> CARD witness Woolridge recommends a 9.00% ROE; TIEC witness Michael P. Gorman recommends a 9.15% ROE; Staff witness Mark Filarowicz recommends a 9.225% ROE, which incorporates a 12.5 basis point downward adjustment; and Walmart witness Lisa V. Perry recommends an ROE of no higher than 9.60%; the average of these four proposed ROEs is 9.24%. *Id.* at 4:17-18; TIEC Direct Testimony of Michael P. Gorman, TIEC Exhibit 3 at 5:17-18; Staff Direct Testimony of Mark Filarowicz, Staff Exhibit 1 at 8:13-19; & Walmart Direct Testimony of Lisa V. Perry, Walmart Exhibit 1 at 13:14-18 (native page no.).

<sup>15</sup> Nucor Direct Testimony of James W. Daniel, Nucor Exhibit 1 at 14:6-13 (native page no.).

<sup>16</sup> *Id.* at 14:11-13.

use current base rate revenues that include both the base rate revenues and the TCRF and DCRF revenues.<sup>17</sup>

**2. The Commission should approve a revenue distribution that sets rates at or near cost-based rates**

SWEPSCO's existing rates reflect long-standing inter-class subsidies among the Company's rate classes.<sup>18</sup> These significant inter-class subsidies have existed for up to 41 years.<sup>19</sup> To mitigate these inter-class subsidies, the Commission should approve a revenue distribution methodology that moves all rate classes closer to cost of service. Nucor witness James W. Daniel recommends that, with the exception of three small rate classes, all rate class revenues be set equal to their cost of service.<sup>20</sup> Under Daniel's proposed revenue distribution, the inter-class subsidies are reduced to \$421,839, compared to SWEPSCO's originally proposed inter-class subsidies of \$6,047,984.<sup>21</sup> Daniel's proposed revenue distribution is reflected in Exhibit JWD-6 to his direct testimony.<sup>22</sup>

In addition to his specific revenue distribution recommendations, Daniel outlines the basic objectives the Commission should consider when approving a revenue distribution. The revenue distribution method approved in this case should incorporate the following objectives:

- a. The revenue distribution should be specific to each customer class in the class cost of service study rather than to broad groups of customers;
- b. The revenue distribution should result in customer class revenue levels that equal their cost of service or that make a significant move toward their cost of service, to the extent practical;
- c. In situations where moving completely to the cost of service results in a substantial rate increase for a customer class, gradualism should be applied in order to alleviate the rate increase; and
- d. Any revenue shortfall due to the application of gradualism should be

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<sup>17</sup> *Id.* at 14:13-21.

<sup>18</sup> *Id.* at 8:6-12 (explaining that SWEPSCO's historical practice of grouping rate classes for purposes of revenue distribution has perpetuated inter-class subsidies).

<sup>19</sup> *Id.* at 9:1-3.

<sup>20</sup> *Id.* at 16:2-7.

<sup>21</sup> *Id.* at 17:1-3. In SWEPSCO's rebuttal testimony, the Company changed its proposed revenue distribution approach to set rates closer to cost; therefore, the Company's proposed revenue distribution results in significantly mitigated inter-class subsidies compared to the Company's direct case. *See* SWEPSCO Rebuttal Testimony of Jennifer L. Jackson, SWEPSCO Exhibit 55, Exhibit JLJ-1R.

<sup>22</sup> Nucor Direct Testimony of James W. Daniel, Nucor Exhibit 1, Exhibit JWD-6.



appropriately spread to other customer classes.<sup>23</sup>

Meeting these objectives will ensure that the approved revenue distribution results in fair customer class revenue levels with the least amount of inter-class subsidies. The Commission should reject revenue distribution proposals that do not adhere to these objectives.

SWEPSCO's original revenue distribution proposal did not adhere to Nucor witness Daniel's revenue distribution objectives and would cause perverse results including prolonging significant levels of inter-class subsidies and moving some classes further from cost of service.<sup>24</sup> Any revenue distribution method proposed by other parties in this proceeding that relied on, or resembled, SWEPSCO's original revenue distribution was similarly flawed.<sup>25</sup>

In SWEPSCO's rebuttal case, the Company abandoned its initial revenue distribution proposal (that retained significant inter-class subsidies) and proposed instead to move most of customer classes to cost-based rates. SWEPSCO proposes a "revenue distribution that moves all classes closer to cost" while also incorporating other changes the Company made to its commercial rates.<sup>26</sup> Instead of applying a rate grouping approach for revenue distribution, SWEPSCO proposes to apply individual rate class revenue changes to the industrial customer classes.<sup>27</sup> The result of SWEPSCO's rebuttal revenue distribution is that most customer classes move closer to their cost of service, thereby reducing inter-class subsidies. SWEPSCO's current revenue distribution proposal is reflected in Exhibit JLJ-1R to Jennifer L. Jackson's rebuttal testimony.<sup>28</sup>

Nucor's and SWEPSCO's revenue distribution proposals incorporate Daniel's revenue distribution objectives and move classes closer to cost-of-service, and as such, the Commission should approve either approach. However, if the Commission approves SWEPSCO's revenue distribution proposal, the Commission should determine the revenue increase by including TCRF/DCRF revenues in current base rate revenue, and the Commission should adopt Nucor's gradualism proposal, discussed below.

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<sup>23</sup> Nucor Cross-Rebuttal Testimony of James W. Daniel, Nucor Exhibit 2 at 3:15-4:3 (native page no.).

<sup>24</sup> Nucor Direct Testimony of James W. Daniel, Nucor Exhibit 1 at 7:13-26 & 17:15-23.

<sup>25</sup> See Nucor Cross-Rebuttal Testimony of James W. Daniel, Nucor Exhibit 2 at 4:17-5:7 (explaining that parties such as OPUC, East Texas Salt Water Disposal Co., Walmart, Inc., and CARD relied on or accepted SWEPSCO's original revenue distribution methodology).

<sup>26</sup> SWEPSCO Rebuttal Testimony of Jennifer L. Jackson, SWEPSCO Exhibit 55 at 7:7-10.

<sup>27</sup> *Id.* at 7:14-16.

<sup>28</sup> *Id.*, Exhibit JLJ-1R.

### **3. Gradualism should only be applied for three classes that would see a disproportionately large increase if rates were set at cost**

As discussed in Nucor witness Daniel's testimony, the Commission should direct SWEPCO to set rates at cost, subject to applying gradualism to three classes that would see too large of a base rate increase if their rates were set at cost. Daniel explains that if all rates were set at cost, Cotton Gin Service, Oilfield Secondary Service, and Public Street and Highway Lighting Service would see base rate increases of 79.6%, 85.5%, and 195.2%, respectively.<sup>29</sup> In order to limit the rate increase to these classes, Daniel recommends that the base rate increase be limited to 1.5 times the system average increase (*i.e.*, a maximum increase of 37.44% at the Company's proposed revenue increase).<sup>30</sup> Daniel's gradualism approach would result in a revenue shortfall from these classes, and that shortfall should be proportionally assigned to rate classes that receive a below average rate increase.<sup>31</sup>

Therefore, to move all classes closer to cost of service, while still preventing overly large base rate increases for any particular class, the Commission should adopt Nucor's revenue distribution proposal described in Daniel's direct testimony. Alternatively, if the Commission adopts the revenue distribution set forth in SWEPCO's rebuttal testimony, then that revenue distribution should be modified to adopt Nucor's gradualism proposal, while also considering TCRF/DCRF revenues in current base rate revenues.

## **XI. Conclusion**

Wherefore, Nucor respectfully requests that the ALJs issue a proposal for decision, and the Commission issue an order: (1) adopting Nucor witness Daniel's recommended revenue distribution and gradualism approach; (2) alternatively adopting a revenue distribution method that incorporates Daniel's distribution objectives, such as SWEPCO's rebuttal cost of service study and revenue distribution, while maintaining Nucor's gradualism approach and considering TCRF and DCRF revenues in current base rate revenue; (3) rejecting SWEPCO's proposed recovery of stranded costs associated with the retiring Dolet Hills Power Station and instead requiring SWEPCO to (a) refund to customers excess ADIT, and (b) recover the stranded costs over a longer

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<sup>29</sup> Nucor Direct Testimony of James W. Daniel, Nucor Exhibit 1 at 16:13-18

<sup>30</sup> *Id* at 16:18-21.

<sup>31</sup> *Id* at 16:21-23.

period of time; and (4) adopting an ROE of 9.00%, as recommended by Dr. Woolridge, or 9.24%, the average of the intervenor and Staff recommendations.

Respectfully submitted,

**STONE MATTHEIS XENOPOULOS & BREW, PC**

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**AUTHORIZED REPRESENTATIVES FOR  
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## CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document was served via electronic transmission, hand delivery and/or U.S. mail to all parties of record this 17th day of June 2021.

*/s/ Joseph R. Briscar*

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Joseph R. Briscar