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SOAH DOCKET NO. 473-21-2425

PUC DOCKET NO. 52072

2021 MAY 27 PM 12:00

APPLICATION OF SOUTHWESTERN	§	BEFORE THE STATE OFFICE
PUBLIC SERVICE COMPANY TO	§	
ADJUST ITS ENERGY EFFICIENCY	§	OF
COST RECOVERY FACTOR	§	
	§	ADMINISTRATIVE HEARINGS

SOAH ORDER NO. 1

FILING DESCRIPTION; ADDRESSING JURISDICTION, NOTICE, AND SUFFICIENCY OF THE APPLICATION; APPROVING PROTECTIVE ORDER; SCHEDULING PREHEARING CONFERENCE; AND DISCUSSING PROCEDURES

I. FILING DESCRIPTION

On April 30, 2021, Southwestern Public Service Company (SPS or the Company) filed an application (Application) with the Public Utility Commission of Texas (Commission) requesting to adjust its Energy Efficiency Cost Recovery Factor (EECRF).

SPS indicates its requested EECRF adjustment will recover the forecasted costs associated with SPS’s Program Year (PY) 2022 energy efficiency programs as adjusted by its PY 2020 net over-recovery balance (including rate-case expenses (RCEs) incurred in its 2020 EECRF proceeding) and a proposed performance bonus. SPS received Commission approval to implement its first EECRF rider in Docket No. 39364,¹ and its current EECRF rider was approved to recover \$5,109,615 during PY 2021 in Docket No 50804.² SPS’s Application seeks Commission approval to adjust its EECRF rider to recover \$6,339,374 during PY 2022, which includes:

- SPS’s forecasted energy efficiency costs in PY 2022 (including forecasted incentives, research and development, and administrative costs) of \$4,229,379;

¹ *Application of Southwestern Public Service Company for Approval of Energy Efficiency Cost Recovery Factor*, Docket No. 39364, Order (Sept. 2, 2011).

² *Application of Southwestern Public Service Company to Adjust its Energy Efficiency Cost Recovery Factor*, Docket No. 50804, Order (Sept. 24, 2020).

- Projected Evaluation, Measurement, and Verification (EM&V) expenses of \$34,163;
- \$551,568 for SPS’s net over-recovery, including interest,³ of PY 2020 energy efficiency costs;
- \$22,980 of RCEs incurred in Docket No. 50804; and
- SPS’s performance bonus of \$2,604,419 earned in accordance with 16 Texas Administrative Code (TAC) § 25.182(e).

The relief requested in the Application will affect all of SPS’s Texas retail customers receiving service at a metered point of delivery at a voltage less than 69 kilovolts (kV), except for its industrial customers that have opted out of SPS’s energy efficiency programs under 16 TAC § 25.181(u), as well as non-profit customers or governmental entities, including educational institutions that are receiving service at a metered point of delivery at or above a voltage of 69 kV. SPS’s adjusted EECRF costs during the PY 2022 results in the following cost recovery factors:

EECRF Rate Class	\$/kWh
Residential Service	\$0.001329
Small General Service	\$0.000487
Secondary General Service	\$0.000553
Primary General Service	\$0.000840
Small Municipal and School Service	\$0.000193
Large Municipal Service	\$0.000486
Large School Service	\$0.002241

³ \$534,521 in net over-recovery (\$2 rounding) + \$17,048 in interest.

SPS requests that the Commission approve the adjusted EECRF effective January 1, 2022.

II. JURISDICTION

The Commission has jurisdiction over this proceeding pursuant to Public Utility Regulatory Act⁴ § 39.905 and 16 TAC §§ 25.181 and .182. The Commission referred this case to the State Office of Administrative Hearings (SOAH) on May 25, 2021, requesting the assignment of an Administrative Law Judge (ALJ) to conduct a hearing and issue a proposal for decision, if such is necessary. On May 24, 2021, the Commission adopted a Preliminary Order identifying the issues to be addressed in this proceeding. SOAH has jurisdiction in this proceeding to conduct a hearing and to issue a proposal for decision, if such is required, pursuant to Texas Government Code § 2003.049.

III. SUFFICIENCY OF NOTICE AND APPLICATION

SPS proposes to provide notice of the Application consistent with 16 TAC § 25.182(d)(13), to all parties that participated in SPS's last EECRF proceeding, Docket No. 50804, and its last completed base rate proceeding, Docket No. 49831.⁵ SPS will also provide notice to Texas Department of Housing and Community Affairs, which is the state agency that administers the federal weatherization program.

SPS filed its proof of notice on May 14, 2021, and requests that its notice be approved and found sufficient. **No later than June 1, 2021**, Commission Staff shall, and any other party may, file comments on the sufficiency of SPS's application and proposed notice.

⁴ Public Utility Regulatory Act, Tex. Util. Code §§ 11.001-66.016.

⁵ *Application of Southwestern Public Service Company for Authority to Change Rates*, Docket No. 49831, Order (August 27, 2020).

IV. PROTECTIVE ORDER

SPS has requested approval of the proposed protective order attached to its Application, which SPS states is substantially the same as that approved in Docket No. 51802, SPS's pending base rate case.⁶ The proposed protective order is **APPROVED**, subject to any objections raised by the parties before the prehearing conference. Any objections raised by the parties will be discussed at that time.

V. NOTICE OF PREHEARING CONFERENCE

The undersigned ALJ will convene a **prehearing conference** via Zoom commencing at **10:00 a.m., June 7, 2021**. You may access the prehearing conference by going to <https://soah-texas.zoomgov.com/> or the Zoom application on your mobile device, selecting "Join a Meeting," and entering the following information when prompted:

Meeting ID: 160 238 7730

Password: dE7hvZ

If you do not have access to a device that would allow videoconferencing capabilities, you may join by telephone by calling either number below and entering the following Meeting ID and passcode. Note that the passcode to join by telephone is different than the passcode to join via a computer or smart device.

Telephone Number: 669 254 5252

Telephone Number: 646 828 7666

Meeting ID: 160 238 7730

Passcode: 875547

⁶ *Application of Southwestern Public Service Company for Authority to Change Rates*, Docket No. 51802, Order No. 1 (Mar. 20, 2021).

The following matters will be discussed at the prehearing conference:

1. Pending motions to intervene.
2. Any other motion filed by 3:00 p.m. on June 3, 2021.⁷
3. A procedural schedule that complies with 1 TAC § 25.182(d)(9), including a date for the hearing if requested that will enable the Commission to make a final decision before the EECRF effective date. To assist the parties in making this determination, the parties should calculate a hearing date in the following manner:
 - a. Find the open meeting date immediately prior to the effective date.
 - b. Assume PFD issuance at least 21 days prior to the date in a. above.
 - c. Subtract 60 days from the date in b. above, which is the day that reply briefs would be due.
 - d. Determine appropriate briefing deadlines that allow reply briefs to be filed on the date calculated in c. above.
 - e. Depending on transcript turnaround time, calculate the last hearing day that would allow a briefing deadline calculated in d. above.
 - f. Determine the number of days needed for hearing and determine which day would be the first day of hearing.
4. Any other matters that may assist in the disposition of this case in a fair and efficient manner.

VI. PROCEDURES

Discovery may begin immediately pursuant to Subchapter H of the Commission's Procedural Rules.

⁷ The parties may file by this deadline a joint motion to cancel the prehearing conference if they include an agreed procedural schedule that complies with this order.

The parties should be aware that, in response to COVID-19, the Commission has issued an order suspending certain rules and requiring email service and online filings.⁸ The Commission's order is available at: http://interchange.puc.texas.gov/Documents/50664_3_1055816.PDF

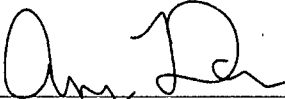
The parties should review the Commission's and SOAH's websites for the latest information on how COVID-19 is impacting applicable procedural requirements.

When a party files a document with the Commission, that party is also required to serve (i.e., provide a copy of that document to) every other party. **At this time, due to COVID-19, service must be accomplished by e-mail.** Any party to this proceeding who has not previously provided an e-mail address **SHALL, no later than seven days after the date of this order**, file a notice informing the parties of the e-mail address to be used for service.

SOAH's orders must also be provided to, or served on, the parties. Parties will be served with SOAH's orders electronically at the e-mail address they provide.

Except as modified by the Commission or SOAH in response to COVID-19, the Commission's procedural rules will govern the conduct of this case, and the parties are expected to comply with those rules. The Commission's procedural rules are available on its website at: <https://www.puc.texas.gov/agency/ruleslaws/procrules/Procedural.aspx>.

SIGNED: May 27, 2021.



AMY DAVIS
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS

⁸ See *Issues Related to the State of Disaster for the Coronavirus Disease 2019*, Docket No. 50664, Order Suspending Rules (Mar. 16, 2020).