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SOAH DOCKET NO. 473-21-2425  
PUC DOCKET NO. 52072

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

**SOAH ORDER NO. 2  
FINDING APPLICATION AND NOTICE SUFFICIENT; CANCELING PREHEARING  
CONFERENCE; SETTING ZOOM HEARING; ADOPTING PROCEDURAL  
SCHEDULE AND PROCEDURES**

On June 1, 2021, the Public Utility Commission of Texas staff (Staff) filed a recommendation that the notice and application filed on April 30, 2021, by Southwestern Public Service Company (SPS) are to be found sufficient. No party objected to the sufficiency of the application or notice by the deadline. SPS's notice and application are **DEEMED** to be sufficient.

Also on June 3, 2021, SPS filed an agreed proposed schedule and motion to cancel the prehearing conference. The motion is **GRANTED**; the prehearing conference is **CANCELED**.

In response to the COVID-19 pandemic, the State Office of Administrative Hearings (SOAH) has temporarily discontinued most non-emergency, in-person hearings, and hearings are being convened remotely. Accordingly, the Administrative Law Judge (ALJ) will conduct the hearing in this case using the Zoom videoconference platform (Zoom). Unless a party has a court reporter transcribe the hearing, the ALJ will make an audio recording of the hearing that will be the official record of the proceeding.

The parties proposed an agreed-upon procedural schedule that provides for the ALJ to issue a proposal for decision on November 16, 2021, a date that exceeds the 180-day deadline under 16 Texas Administrative Code (TAC) § 25.182(d)(9)(E). Because each of the parties agreed to the proposed schedule and no objections were filed, the ALJ finds that good cause exists pursuant to 16 TAC § 25.3 to make an exception to the 16 TAC § 25.182(d)(9)(E) deadline and to adopt the proposed procedural schedule.

The following procedural schedule is **ADOPTED** and governs this case:

<b>Event</b>	<b>Date</b>
Deadline to Intervene	June 17, 2021
Deadline for Written Objections to SPS's Direct Testimony	June 24, 2021
Settlement Conference	July 1, 2021
Deadline for Serving Written Discovery on SPS's Direct Testimony	July 9, 2021
Intervenor Direct Testimony	July 13, 2021
Discovery Begins on Intervenor Direct Testimony	July 13, 2021
Staff Direct Testimony	July 20, 2021
Discovery Begins on Staff Direct Testimony	July 20, 2021
Deadline for Serving Written Discovery on Intervenor and Staff Testimony	July 23, 2021
SPS Rebuttal Testimony/Staff and Intervenor Cross Rebuttal	August 3, 2021
Discovery Begins on SPS Rebuttal Testimony/Staff and Intervenor Cross Rebuttal Testimony	August 3, 2021
Deadline for Serving Written Discovery on SPS Rebuttal Testimony/Staff and Intervenor Cross Rebuttal Testimony	August 6, 2021
Written Objections to Intervenor and Staff Direct Testimony and SPS Rebuttal Testimony/Staff and Intervenor Cross Rebuttal Testimony	August 6, 2021
Hearing on the Merits	August 20, 2021
Initial Briefs	September 3, 2021
Reply Briefs	September 17, 2021

As agreed by the parties, the following deadlines and procedures are also **ADOPTED**:

- Workpapers for all testimony are due **one business day** after the testimony is filed.
- For written discovery on Intervenor and Staff direct testimony and SPS Rebuttal Testimony/Staff and Intervenor Cross Rebuttal testimony: (1) responses shall be filed within 7 working days of receipt of the discovery (or, for SPS Rebuttal Testimony/Staff and Intervenor Cross Rebuttal Testimony, no later than 3:00 p.m. on the day before the witness is scheduled to take the stand, whichever is earlier); (2) objections shall be filed within 5 working days of receipt of the discovery; (3) motions to compel shall be filed within 3 working days of receipt of the objections; and (4) responses to motions to compel shall be filed within 3 working days of receipt of the motion to compel.
- Drafts of testimony and the emails transmitting the drafts are not discoverable.

- Replies to all written objections and motions to strike any parties' pre-filed testimony are due in writing within 5 working days after receipt of the written objections or motions to strike.
- E-mail is an acceptable form of service for filings.
- Any party serving a document electronically must include the Commission docket number and a description of the document in the subject line of the email transmitting the document.
- Requests for information that are received after 3:00 pm shall be deemed to have been received on the following business day.
- Requests for information that are received after 12:00 noon on Friday shall be deemed to have been received the following business day.
- Parties will provide their written discovery requests (RFI questions, requests for production of documents, and requests for admission—but not the pleading, instructions, etc.) in Word format.

The ALJ will convene **the hearing on the merits at 9:00 a.m. on August 20, 2021, via Zoom**. You may access the hearing 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: 160 380 9037**  
**Passcode: vWQuz5**

If you do not have access to a device that would allow videoconference 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.

**(669) 254-5252**  
**(646) 828-7666**

**Meeting ID: 160 380 9037**  
**Passcode: 966046**

You may access information for participating in a zoom meeting at [www.zoom.us](http://www.zoom.us) under the “support” tab.

It is further **ORDERED** that the following actions shall be taken **no later than August 19, 2021, at NOON**:

- SPS **SHALL** file a list of persons who have signed the Protective Order.
- Each party **SHALL** file a witness list identifying and providing contact information for all witnesses the party expects to call to testify during the hearing. The party shall also identify its witnesses, if any, for whom all other parties waived cross-examination.
- Each party **SHALL** file a list of all exhibits it intends to offer at the hearing (including, for example, on cross-examination). The list shall identify any exhibit containing Protected Materials or Highly Sensitive Protected Materials under the Protective Order issued in this case.
- The parties **SHALL** deliver to the ALJ at SOAH Room 504, 5<sup>th</sup> Floor, William P. Clements Building, 300 West 15<sup>th</sup> Street, Austin, Texas, 78701, *the ALJ's copy, the record copy, and two appeal copies* of all exhibits (including those containing Protected Materials or Highly Sensitive Protected Materials) the party intends to offer. If a court reporter will transcribe the hearing, the parties **SHALL**, after consulting the court reporter about how to do so, provide *the record copy* of its exhibits instead to the court reporter, along with the party's witness list and exhibit list.
- The parties **SHALL** exchange a marked copy of all exhibits not containing Protected Materials or Highly Sensitive Protected Materials that they intend to offer at the hearing. In compliance with 16 Texas Administrative Code §22.71(d) and the Protective Order, any party intending to offer exhibits containing Protected Materials or Highly Sensitive Protected Materials **SHALL** also provide those exhibits to the other parties who have signed the Protective Order.<sup>1</sup>

All exhibits **SHALL** be marked with the offering party's name and the exhibit number. Exhibits should be numbered sequentially, and multipage documents shall be paginated or Bates-stamped. Exhibits not meeting a requirement in this order may not be admitted into the record absent good cause.

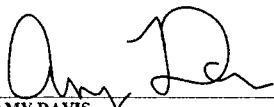
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<sup>1</sup> The parties may agree among themselves on the method of delivery to each other and may agree to forego delivery to each other of marked copies of exhibits they have already received, relying on the exhibit lists to identify the offering party and exhibit number.

**Prior to the hearing**, the parties **SHALL** provide to witnesses all documents necessary for their effective participation in the hearing. Parties should also speak to the witnesses they intend to call to testify and provide them the necessary videoconferencing information.

A party who experiences technical difficulties with joining the hearing should contact SOAH's Docketing Division at (512) 475-4993, or the ALJ's legal secretary, Jessica Hernandez, at 512-475-1276 or [Jessica.Hernandez@soah.texas.gov](mailto:Jessica.Hernandez@soah.texas.gov). Routine procedural and logistical questions may also be directed to Ms. Hernandez. SOAH support personnel may not provide advice or interpret orders or other legal authorities for the parties.

**SIGNED June 9, 2021**

  
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AMY DAVIS  
ADMINISTRATIVE LAW JUDGE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS