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SOAH DOCKET NO. 473-21-2426
PUC DOCKET NO. 52073

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PUC PUBLIC UTILITY COMMISSION
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APPLICATION OF SOUTHWESTERN § BEFORE THE STATE OFFICE
ELECTRIC POWER COMPANY TO §
ADJUST ITS ENERGY EFFICIENCY § OF
COST RECOVERY FACTOR AND §
RELATED RELIEF § ADMINISTRATIVE HEARINGS

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

I. SUFFICIENCY OF APPLICATION AND NOTICE

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 Electric Power Company (SWEPCO) are to be found sufficient. No party objected to the sufficiency of the application or notice by the deadline. SWEPCO's notice and application are **DEEMED** to be sufficient.

II. CANCELING PREHEARING CONFERENCE

On June 9, 2021, SWEPCO filed an agreed proposed schedule and motion to cancel the prehearing conference. The motion is **GRANTED**; the prehearing conference is **CANCELED**.

III. ADOPTING PROCEDURAL SCHEDULE AND PROCEDURES

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 by November 23, 2021, a date that is later than the 90- and 180-day final order deadlines under 16 Texas Administrative Code (TAC) § 25.182(d)(9)(D)-(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 deadlines and to adopt the proposed procedural schedule.

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

EVENT	DATE
Deadline to Intervene	June 14, 2021
Staff Recommendation	July 1, 2021
Deadline to Request Hearing	July 1, 2021
IF NO HEARING REQUESTED:	
Parties' Proposed Order	July 6, 2021
IF HEARING REQUESTED:	
End of Discovery on SWEPCO's Direct Testimony	June 15, 2021
Deadline for Intervenor Direct Testimony	July 2, 2021
Objections to SWEPCO and Intervenor Direct Testimony	July 9, 2021
Deadline for Staff Direct Testimony	July 9, 2021
End of Discovery on Intervenor Direct Testimony	July 9, 2021
End of Discovery on Staff Direct Testimony	July 16, 2021
Replies to Objections to SWEPCO and Intervenor Direct Testimony	July 16, 2021
Objections to Staff Direct Testimony	July 16, 2021
Deadline for SWEPCO Rebuttal Testimony and Staff and Intervenor Cross Rebuttal Testimony	July 22, 2021
Replies to Objections to Staff Direct Testimony	July 23, 2021
End of Discovery on SWEPCO Rebuttal Testimony and Staff and Intervenor Cross Rebuttal Testimony	July 30, 2021

EVENT	DATE
Deadline for Taking Depositions	July 30, 2021
Objections to SWEPCO Rebuttal Testimony and Staff and Intervenor Cross Rebuttal Testimony	August 11, 2021
Replies to Objections to SWEPCO Rebuttal Testimony and Staff and Intervenor Cross Rebuttal Testimony	August 13, 2021
Deadlines relating to lists of persons who have signed the Protective Order, witnesses, and exhibits set forth below	August 17, 2021 at NOON
Hearing on the Merits	August 24, 2021
Initial Briefs	September 9, 2021
Reply Briefs	September 24, 2021

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

1. Workpapers for all testimony are due **one working day** after the testimony is filed.
2. For written discovery on Intervenor and Staff direct testimony and SWEPCO rebuttal/Staff and Intervenor cross rebuttal testimony: (1) responses shall be filed within 7 working days of receipt of the discovery (or, for SWEPCO rebuttal/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.
3. Drafts of testimony and e-mails transmitting drafts of testimony are not discoverable.
4. 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.
5. E-mail is an acceptable form of service for filings.
6. Requests for information that are received after 12:00 noon on Friday shall be deemed to have been received the following business day.
7. 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.

IV. SETTING ZOOM HEARING

The undersigned ALJ will convene a hearing **via the Zoom videoconferencing platform on August 24, 2021, at 9:00 a.m.**

Access via computer. To access the conference, go to <https://soah-texas.zoomgov.com/> or the Zoom application on your mobile device, then select “Join a Meeting,” and enter the following information when prompted:

Meeting ID: 161 312 8048
Passcode: E2nvGD

Access via telephone. 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.

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

Meeting ID: 161 312 8048
Passcode: 390910

You may access information for participating in a zoom meeting at www.zoom.us under the “support” tab.

V. REQUIRING PROCEDURES

It is further **ORDERED** that the following actions shall be taken **no later than August 17, 2021, at NOON**:

1. SWEPCO **SHALL** file a list of persons who have signed the Protective Order.

2. 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.
3. 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.
4. The parties **SHALL** deliver to the ALJ at SOAH Room 504, 5th Floor, William P. Clements Building, 300 West 15th 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.
5. 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 TAC § 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.¹

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.

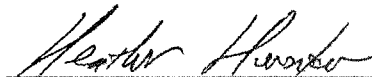
Prior to the hearing, the parties **SHALL** provide to witnesses all documents necessary for their effective participation in the hearing. Parties should also speak to the witnesses they intend to call to testify and provide them the necessary videoconferencing information.

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, Taryn Lovett, at

¹ 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.

(512) 475-4725 or Taryn.Lovett@soah.texas.gov. Routine procedural and logistical questions may also be directed to Ms. Lovett. SOAH support personnel may not provide advice or interpret orders or other legal authorities for the parties. Emails sent to any person at SOAH **SHALL** be copied to all parties.

SIGNED: June 17, 2021.



**HEATHER HUNZIKER
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS**