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Public Utility Commission of Texas

TO: Chairman Peter M. Lake
Commissioner Will McAdams
Commissioner Lori Cobos
Commissioner Jimmy Glotfelty

All Parties of Record

FROM: Office of Policy and Docket Management

RE: **PUC Docket No. 52073**
SOAH Docket No. 473-21-2426 – *Application of Southwestern Electric Power Company to Adjust its Energy Efficiency Cost Recovery Factor and Related Relief*

DATE: September 2, 2021

The Commission will consider a proposed order in this docket at a future open meeting. The parties shall file corrections or exceptions to the proposed order on or before Monday, September 13, 2021.

On May 25, 2021, the Commission referred this proceeding to the State Office of Administrative Hearings. Subsequently, the docket was returned to the Commission.

If a party proposes a correction or exception, the party must fully explain the correction or exception and must provide a citation to the record to support the correction or exception.

If there are no corrections or exceptions, no response is necessary.

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

**APPLICATION OF SOUTHWESTERN
ELECTRIC POWER COMPANY TO
ADJUST ITS ENERGY EFFICIENCY COST
RECOVERY FACTOR AND RELATED
RELIEF**

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PUBLIC UTILITY COMMISSION

OF TEXAS

PROPOSED ORDER

This Order addresses the application of Southwestern Electric Power Company (SWEPCO) to adjust its energy-efficiency cost recovery factor (EECRF). SWEPCO, on behalf of itself and Commission Staff filed an unopposed proposed order. The Commission approves the adjustment to SWEPCO's agreed EECRF to the extent provided in this Order.

I. Findings of Fact

The Commission makes the following findings of fact.

Applicant

1. SWEPCO is a Delaware corporation registered with the Texas secretary of state under filing number 1211806.
2. SWEPCO owns and operates for compensation in Texas equipment and facilities to produce, generate, transmit, distribute, sell, and furnish electricity in Texas.
3. SWEPCO is required under certificate of convenience and necessity number 30151 to provide service to the public and retail electric utility service within its certificated service area.

Application

4. On April 30, 2021, SWEPCO filed an application to adjust its EECRF effective January 1, 2022.
5. No party objected to the sufficiency of the application.

6. In its application, SWEPCO sought Commission approval to adjust its EECRF to recover \$6,440,360 during program year 2022, which included the following:
- (a) SWEPCO's forecasted energy-efficiency costs of \$4,367,484 in program year 2022;
 - (b) projected evaluation, measurement, and verification (EM&V) expenses in the amount of \$63,713 for the evaluation of program year 2021;
 - (c) an adjustment of \$69,476 for SWEPCO's net over-recovery, including \$2,147 in interest, of program year 2020 energy-efficiency costs;
 - (d) a performance bonus of \$2,066,789; and
 - (e) rate-case expenses in the amount of \$11,850 incurred by SWEPCO in its most recent EECRF proceeding, Docket No. 50805.¹
7. In its application, SWEPCO requested adjusted EECRF charges per kilowatt-hour (kWh) by rate class as follows:

Rate Class	EECRF Charge
Residential	\$.001744
General Service	\$.000435
Municipal Service	\$.001386
Municipal Pumping	\$.000153
Lighting and Power	\$.001073
Cotton Gin	(\$.000109)
Metal Melting less than 69-kV	\$.005151
Oil Field Large Industrial Power	(\$.000106)
Large Lighting and Power less than 69-kV	\$.000000
Lighting	\$.000000

SWEPCO requested that the Commission make its adjusted EECRF effective as of January 1, 2022.

8. In State Office of Administrative Hearings (SOAH) Order No. 2 filed on June 17, 2021, the SOAH Administrative Law Judge (ALJ) found the application sufficient.

¹ *Application of Southwestern Electric Power Company to Adjust its Energy Efficiency Cost Recovery Factor and Related Relief*, Docket No. 50805, Order (Nov. 5, 2020).

Notice of the Application

9. On April 30, 2021, SWEPCO mailed or emailed notice of the application to all parties of record in SWEPCO's most recently completed EECRF proceeding, Docket No. 50805; all parties of record in SWEPCO's most recently completed base-rate case, Docket No. 46449;² and the Texas Department of Housing and Community Affairs, the state agency that administers the federal weatherization program.
10. On May 14, 2021, SWEPCO filed the affidavit of Gregory Gullickson, regulatory consultant for American Electric Power Service Corporation, attesting that notice of the application had been provided as described in finding of fact 9.
11. No party objected to the adequacy of notice of the application.
12. In SOAH Order No. 2 filed on June 17, 2021, the SOAH ALJ found the notice sufficient.

Intervenors and Intervenor Alignment

13. Commission Staff participated in this docket.
14. In SOAH Order No. 3 filed on June 25, 2021, the SOAH ALJ granted a motion to intervene filed by Texas Industrial Energy Consumers.

Statements of Position and Testimony

15. As part of the application filed on April 30, 2021, SWEPCO filed the direct testimonies and exhibits of Debra A. Miller, SWEPCO's consumer programs manager; Steve M. Mutiso, SWEPCO's energy-efficiency and consumer programs coordinator; and Michael D. Deibel, a senior regulatory consultant in the regulatory services department.
16. On June 11, 2021, SWEPCO filed errata to the direct testimony of Michael D. Deibel and schedule G regarding cost caps.
17. On July 1, 2021, Commission Staff filed its final recommendation supported by the memoranda of Diane Hopingardner, Pai Liu, and Charles Rudolph, recommending approval of SWEPCO's application.

² *Application of Southwestern Electric Power Company for Authority to Change Rates*, Docket No. 46449, Order on Rehearing (Mar. 19, 2018).

Referral to SOAH

18. On May 25, 2021, the Commission referred this docket to SOAH and filed a preliminary order, which included a list of issues to be addressed in this proceeding.
19. No party requested a hearing on the merits.
20. In SOAH Order No. 2 filed on June 17, 2021, the SOAH ALJ adopted a procedural schedule.
21. In SOAH Order No. 4 filed on July 7, 2021, the SOAH ALJ extended the deadline for parties to file a proposed order.
22. On July 9, 2021, SWEPCO and Commission Staff filed an unopposed proposed order. The only other party, Texas Industrial Energy Consumers, does not oppose the proposed order.
23. In SOAH Order No. 5 filed on July 16, 2021, the SOAH ALJ dismissed the case from SOAH docket and remanded it to the Commission.

Evidentiary Record

24. In SOAH Order No. 5 filed on July 16, 2021, the SOAH ALJ admitted the following evidence into the evidentiary record:
 - (a) SWEPCO's application and attachments, including the direct testimonies of Debra A. Miller, Steve M. Mutiso, and Michael D. Deibel, schedules A through S, and workpapers, filed on April 30, 2021;
 - (b) the affidavit of Gregory Gullickson regarding notice of the application filed on May 14, 2021;
 - (c) SWEPCO's errata to the direct testimony of Michael D. Deibel and schedule G filing of June 11, 2021;
 - (d) Commission Staff's final recommendation, including the memoranda of Diane Hopingardner, Pai Liu, and Charles Rudolph filed on July 1, 2021; and
 - (e) the unopposed proposed order filed on July 9, 2021.

Energy-Efficiency Goals

25. SWEPCO's 2021 demand-reduction goal is a 30% reduction of its annual growth in demand of residential and commercial customers.

26. SWEPCO's weather-adjusted average annual growth in demand for the previous five years (2016 through 2020) is 13.5 megawatts (MW) at the meter.
27. SWEPCO's 2022 demand-reduction goal is 4.05 MW when calculated as a 30% reduction in the five-year average of annual demand growth
28. In SWEPCO's prior EECRF application, Docket No. 50805, the Commission approved a demand-reduction goal of 5.60 MW and an energy-savings goal of 9,811 megawatt-hours (MWh) for SWEPCO in program year 2021.
29. Under 16 Texas Administrative Code (TAC) § 25.181(e)(1)(D), a utility's demand-reduction goal may not be lower than the goal from the prior year except as adjusted under 16 TAC § 25.181(u) for industrial-customer exclusions. Thus, for 2022, SWEPCO's demand-reduction goal is 5.60 MW.
30. SWEPCO projects that it will achieve 8.46 MW in demand reductions in program year 2022, which exceeds the minimum goal of 5.60 MW.
31. The estimated demand-reduction savings to be achieved through SWEPCO's programs for hard-to-reach customers is 0.50 MW or 8.9% of the proposed goal of 5.60 MW, which is in excess of the 5.0% minimum required by 16 TAC § 25.181(e)(3)(F).
32. SWEPCO forecasts that because of the mix of energy and demand savings achievable through the programs, it will achieve energy savings of 12,156 MWh in program year 2022, which exceeds the minimum goal of 9,811 MWh.

Elements of Recovery and Coordination with Base-Rate Recovery

33. SWEPCO's EECRF is calculated to credit the preceding year's total over-recovery with the required interest payment as well as to recover SWEPCO's forecasted annual energy-efficiency expenditures, a performance bonus, SWEPCO's EECRF proceeding expenses from its immediately preceding EECRF docket, and EM&V costs allocated to SWEPCO by the Commission.
34. SWEPCO does not recover any energy-efficiency costs in its base rates.
35. SWEPCO's EECRF is designed to provide only for energy charges for residential and commercial rate classes.

EECRF Cost Caps

36. Before applying the consumer price index adjustment, SWEPCO used a base cap of \$0.001351 per kWh for the residential class and \$0.000845 per kWh for the commercial classes. SWEPCO calculated its EECRF cost caps for the 2022 program year to be \$0.001364 per kWh for the residential class and \$0.000853 per kWh for commercial customers.
37. For the purpose of the cost caps for 2022, SWEPCO's rate for the residential class is \$0.001723 per kWh, which exceeds the cost cap of \$0.001364 per kWh and SWEPCO's group rate for the commercial classes is \$0.000950 per kWh, which exceeds the cost cap of \$0.000853 per kWh.
38. In its application, SWEPCO requested a good-cause exception and that the Commission revise the cost cap for the residential and commercial customer class to be equal to SWEPCO's 2022 EECRF rates for the purpose of the cost caps.

Over- or Under-Recovery

39. SWEPCO requests to refund to or collect from each rate class the difference between the actual EECRF revenues and the actual costs for that class that comply with 16 TAC § 25.182(d)(2), which results in a net over-recovery.
40. SWEPCO accurately calculated the over-recovery of 2020 program costs in the amount of \$67,329, and \$2,147 in interest.

Proceeding Expenses

41. In its application, SWEPCO included the affidavit of senior counsel Leila Melhem, who relied on the factors required by 16 TAC § 25.245(b) in reaching her opinion on the reasonableness and necessity of SWEPCO's rate-case expenses. In her affidavit, Ms. Melhem stated that SWEPCO's rate-case expenses incurred in its 2020 EECRF proceeding, Docket No. 50805, in the amount of \$11,850 were reasonable and necessary.

Performance Bonus Calculations

42. In 2020, SWEPCO's program costs were \$4,884,887 and the total avoided costs were \$25,552,777 on energy-efficiency programs.

43. Under 16 TAC § 25.182(e)(3), SWEPCO's application sought the maximum allowable performance bonus, which is 10% of the net benefits of \$20,667,891 achieved through its energy-efficiency-incentive program costs, for exceeding its goal for calendar year 2020. The resulting performance bonus from this calculation is \$2,066,789 and is allocated in proportion to the program costs for eligible customers on a rate-class basis.

Evaluation, Measurement, and Verification Costs

44. SWEPCO's share of the estimated total 2022 EM&V costs for the evaluation of program year 2021 is \$63,713, and to the maximum extent reasonably possible, it is directly assigned to each rate class that receives services under its programs.

Administrative and Research and Development Cost Caps

45. SWEPCO incurred \$552,310 in necessary administrative costs and \$135,423 in research and development costs for the 2020 energy-efficiency programs to meet SWEPCO's goals. Those amounts were 13.59% and 3.33% respectively of the total program costs for the previous year. Therefore, SWEPCO's cumulative cost of administration and research and development was 16.92% of the total program costs.
46. SWEPCO's cost of administration did not exceed 15% of its total program costs for program year 2020. SWEPCO's cost of research and development did not exceed 10% of its total program costs for program year 2020. SWEPCO's cumulative cost of administration and research and development did not exceed 20% of its total program costs for program year 2020.

Cost Effectiveness

47. SWEPCO used an avoided cost of capacity of \$80 per kW for 2020 and 2021. SWEPCO used Commission Staff's posted avoided cost of energy of \$0.11366 per kWh for 2020 and \$0.10161 per kWh for 2021.
48. SWEPCO determined that its 2020 portfolio of energy efficiency programs produced a benefit-cost ratio of 5.26, which exceeds the benefit-cost ratio of 1.0 or greater required by 16 TAC § 25.181(d).

49. SWEPCO's forecasted 2022 energy-efficiency program costs of \$4,367,484 are a reasonable estimate of the cost necessary to provide energy-efficiency programs and meet SWEPCO's goals for 2022.

Total Cost Recovery

50. SWEPCO's net cost recovery of \$2,072,876—which consists of SWEPCO's projected EM&V expenses for the evaluation of program year 2021; SWEPCO's net over-recovery, including interest, of program year 2020 energy-efficiency costs; SWEPCO's performance bonus earned in 2020; and SWEPCO's rate-case expenses incurred in Docket No. 50805—is a reasonable amount.

Rate Classes and Direct Assignment of Costs

51. To the maximum extent reasonably possible, SWEPCO directly assigned costs to each rate class that receives services under the programs.

Fostering of Competition Among Energy Efficiency Service Providers

52. SWEPCO has adopted measures to foster competition among energy-efficiency service providers.

Requirements for Standard Offer, Market Transformation, and Self-Delivered Programs

53. SWEPCO's energy-efficiency program includes standard offer, market transformation, and self-delivered programs.

Incentive Payments

54. SWEPCO's incentive payments for each of its customer classes do not exceed 100% of avoided costs for that class.

Affiliate Costs

55. SWEPCO did not incur any affiliate costs for energy efficiency in 2020.

Energy-Efficiency Plan and Report (EEPR)

56. On April 1, 2021, SWEPCO filed its 2021 energy-efficiency plan and report in the project annually designated for this purpose as required by 16 TAC §§ 25.181(l) and 25.183(d).³

³ 2021 Energy Efficiency Plan and Reports under 16 TAC § 25.181, Project 51672.

57. On April 29, 2021, SWEPCO filed its 2021 amended energy-efficiency plan and report required by 16 TAC § 25.181(l). The application in this docket includes the amended plan and report.

Low-Income Energy Efficiency

58. SWEPCO is not an unbundled transmission and distribution utility and therefore is not required to have a targeted low-income energy-efficiency program.

Outreach to Retail Electric Providers

59. SWEPCO does not serve in an area in which customer choice is offered.

Industrial Customer Exclusions

60. SWEPCO's industrial customers taking service at distribution voltage who elected to exclude themselves from SWEPCO's energy-efficiency programs and provided notices under 16 TAC § 25.181(u) constituted an exclusion of 126 MW of peak demand from the calculations of the demand-reduction goal for program year 2022 when applying reasonable line-loss factors as required by 16 TAC § 25.181(e)(3)(B). Those excluded customers have been reflected in the EECRF calculations.

Line Losses

61. SWEPCO's calculation of the demand reduction goal used the line-loss factors from a 2016 report approved for use in Docket No. 46449, as follows:

Voltage	Factor
Transmission	1.01848
Subtransmission	1.03097
Primary Sub	1.02995
Primary	1.03958
Secondary	1.07339

62. SWEPCO's line-loss range used in calculating its 2022 EECRF charges is reasonable.

Billing Determinants

63. The estimate of billing determinants in calculating SWEPCO's 2022 EECRF and the calculation of the 2022 EECRF tariff rider rates are reasonable.

Good-Cause Exception

64. Good cause exists to establish revised cost caps in this case under 16 TAC § 25.181(e)(2) to enable SWEPCO to continue offering the same levels of energy-efficiency programs and customer benefits.
65. SWEPCO did not seek a good-cause exception to be eligible for a lower demand-reduction goal or a higher administrative spending cap under 16 TAC § 25.181(e)(2).
66. SWEPCO did not seek a good-cause exception to combine rate classes under 16 TAC § 25.182(d)(2).

Informal Disposition

67. More than 15 days have passed since the completion of notice provided in this docket.
68. No party requested a hearing, and no hearing is needed.
69. The proposed resolution of this docket set forth in the unopposed proposed order is not adverse to any party.

II. Conclusions of Law

The Commission makes the following conclusions of law.

1. SWEPCO is a public utility as that term is defined in Public Utility Regulatory Act⁴ (PURA) § 11.004(1) and an electric utility as that term is defined in PURA § 31.002(6).
2. The Commission has authority over this matter under PURA §§ 14.001, 32.001, 36.001, 36.204, and 39.905.
3. Under PURA § 39.905 and 16 TAC § 25.182(d)(8), an electric utility may file for an EECRF.
4. SWEPCO complied with the requirement under 16 TAC § 25.182(d)(8) to apply by May 1st of each year to adjust its EECRF effective January 1 of the following year.

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

5. The Commission processed the application in accordance with the requirements of PURA, the Administrative Procedure Act,⁵ and the Commission rules.
6. SOAH exercised jurisdiction over this proceeding in accordance with PURA § 14.053 and Texas Government Code § 2003.049.
7. SWEPCO provided notice of the application in accordance with 16 TAC § 25.182(d)(13) and 16 TAC § 22.55 and filed an affidavit attesting to the completion of notice as required by 16 TAC § 25.182(d)(14).
8. SWEPCO's application is sufficient under 16 TAC § 25.182(d)(10) and (11).
9. The hearing on the merits was set and notice of the hearing was given in compliance with Texas Government Code §§ 2001.051 and 2001.052.
10. SWEPCO calculated its weather-adjusted average annual growth in demand in compliance with 16 TAC § 25.181(e)(3).
11. SWEPCO has acquired a 30% reduction of its annual growth in demand of residential and commercial customers in compliance with 16 TAC § 25.181(e)(1)(A) and (e)(3).
12. SWEPCO's 2021 demand-reduction goal complies with 16 TAC § 25.181(e)(1)(D).
13. SWEPCO calculated its minimum energy-savings goal in compliance with 16 TAC § 25.181(e)(4).
14. SWEPCO's portfolio of energy-efficiency programs effectively and efficiently achieves the goals set out in 16 TAC § 25.181 as required by 16 TAC § 25.181(e)(5).
15. SWEPCO's EECRF uses only energy charges for recovery of energy-efficiency costs for residential and commercial rate classes included in the EECRF in compliance with 16 TAC § 25.182(d)(6).
16. SWEPCO's proposed EECRF rates comply with the requirements of the revised cost caps established in this case for good cause.

⁵ Tex. Gov't Code §§ 2001.001–.903.

17. SWEPCO's request to refund \$69,497 to customers for its net over-recovery, including interest, of program year 2020 energy-efficiency costs complies with PURA § 39.905(b-1) and 16 TAC § 25.182(d)(2).
18. EECRF proceeding expenses are rate-case expenses.
19. The requirements of 16 TAC §§ 25.181(d)(3)(A) and 25.245 apply to recovery of a utility's EECRF proceeding expenses.
20. SWEPCO's 2020 rate-case expenses of \$11,850 comply with PURA § 36.061(b)(2) and 16 TAC §§ 25.182(d)(3)(A) and 25.245.
21. SWEPCO qualified for and accurately calculated its energy efficiency-performance bonus of \$2,066,789 for its energy-efficiency achievements in program year 2020 in compliance with the requirements of PURA § 39.905(b)(2) and 16 TAC § 25.182(e).
22. The amounts and allocation of SWEPCO's administrative and research and development costs comply with 16 TAC § 25.181(g).
23. SWEPCO's portfolio of energy-efficiency programs adhere to the cost-effectiveness standards contained in 16 TAC § 25.181(d).
24. SWEPCO's 2022 energy-efficiency program costs of \$4,367,484 to be recovered through the EECRF are reasonable estimates of the costs necessary to provide energy-efficiency programs in 2022 in compliance with PURA § 39.905 and 16 TAC § 25.182(d)(1).
25. SWEPCO's net cost recovery of \$2,072,876—which consists of the EM&V expenses allocated to SWEPCO for the evaluation of program year 2021; an adjustment for SWEPCO's net over-recovery of program year 2020 energy-efficiency costs with interest; SWEPCO's performance bonus earned in 2020; and SWEPCO's rate-case expenses incurred in Docket No. 50805—complies with PURA § 39.905 and 16 TAC § 25.182(d)(2).
26. The assignments and allocations of SWEPCO's proposed 2022 EECRF rates to the rate classes are reasonable and as required by PURA § 39.905(b)(4) and 16 TAC § 25.182(d)(2).

27. SWEPCO has adopted measures to foster competition among energy-efficiency service providers in compliance with 16 TAC § 25.181(g)(2).
28. SWEPCO's standard offer, market transformation, and self-delivered programs comply with PURA § 39.905(a)(3) and 16 TAC § 25.181(h) through (k).
29. SWEPCO's incentive payments, which do not exceed 100% of avoided cost, comply with 16 TAC § 25.181(f).
30. The requirement in 16 TAC § 25.181(p) for a targeted low-income energy-efficiency program does not apply to SWEPCO.
31. The requirement in PURA § 39.905(a)(4) and 16 TAC § 25.181(r) for outreach to retail electric providers does not apply to SWEPCO.
32. SWEPCO's load associated with industrial customers who provided qualifying identification notice was excluded from SWEPCO's calculated demand-reduction goal in accordance with 16 TAC § 25.181(u).
33. SWEPCO's proposed 2022 EECRF rates are just and reasonable under PURA § 36.003(a).
34. In accordance with PURA § 36.003(b), SWEPCO's proposed 2022 EECRF rates are not unreasonably preferential, prejudicial, or discriminatory, and are sufficient, equitable, and consistent in application to each consumer class.
35. The requirement in 16 TAC § 25.182(d)(9)(B) to serve notice of the approved rates and the effective date of the approved rates on retail electric providers does not apply to SWEPCO.
36. This proceeding meets the requirements for informal disposition in 16 TAC § 22.35.

III. Ordering Paragraphs

In accordance with these findings of fact and conclusions of law, the Commission issues the following orders:

1. The Commission approves the adjustment to SWEPCO's EECRF to the extent provided in this Order.
2. The Commission approves SWEPCO's 2022 EECRF in the amount of \$6,440,360, which is composed of the following:

- (a) SWEPCO's forecasted energy-efficiency costs of \$4,367,484 in program year 2022;
 - (b) EM&V expenses of \$63,713 for the evaluation of program year 2021;
 - (c) an adjustment of \$69,476, for the over-recovery, including interest, of program year 2020 energy-efficiency costs;
 - (d) a performance bonus of \$2,066,789; and
 - (e) SWEPCO's rate-case expenses incurred in Docket No. 50805 in the amount of \$11,850.
- 3. The Commission approves SWEPCO's EECRF tariff-rider schedule attached to SWEPCO's application as attachment A.
 - 4. The Commission authorizes SWEPCO to apply the EECRF tariff rider approved in this Order beginning on and after January 1, 2022.
 - 5. Within ten days of the date of this Order, SWEPCO must provide a clean copy of the EECRF tariff approved by this Order to central records to be marked *Approved* and filed in the Commission's tariff books.
 - 6. The Commission denies all other motions and any other requests for general or specific relief, if not expressly granted.

Signed at Austin, Texas the _____ day of _____ 2021.

PUBLIC UTILITY COMMISSION OF TEXAS

PETER M. LAKE, CHAIRMAN

WILL MCADAMS, COMMISSIONER

LORI COBOS, COMMISSIONER

JIMMY GLOTFELTY, COMMISSIONER