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Public Utility Commission of Texas

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

All Parties of Record

FROM: David J. Hrcir
Commission Advising

RE: *Application of AEP Texas Inc. for Approval of a Wholesale Distribution Service
Distributed Generation Energy Storage Tariff, Docket No. 53267, Draft
Preliminary Order, August 25, 2022 Open Meeting, Item No. XX*

DATE: August 15, 2022

Please find enclosed the draft preliminary order filed by Commission Advising in the above-referenced docket. The Commission will consider this draft preliminary order at the August 25, 2022 open meeting. Parties shall not file responses or comments addressing this draft preliminary order.

Any modifications to the draft preliminary order that are proposed by one or more Commissioners will be filed simultaneously prior to the consideration of the matter at the August 25, 2022 open meeting.

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DOCKET NO. 53267

APPLICATION OF AEP TEXAS INC. § PUBLIC UTILITY COMMISSION
FOR APPROVAL OF A WHOLESALE §
DISTRIBUTION SERVICE § OF TEXAS
DISTRIBUTED GENERATION §
ENERGY STORAGE TARIFF §

DRAFT PRELIMINARY ORDER

AEP Texas Inc. filed an application for approval of a tariff for wholesale transmission service to distributed generation at distribution voltage. This preliminary order identifies the issues that must be addressed and the issues that shall not be addressed.

AEP Texas has received requests for wholesale transmission service to distributed generation at distribution voltage and is currently providing that service to several entities without charging them.¹ AEP Texas is requesting approval of a tariff under which it can provide this service and charge accordingly prospectively.² Service will be provided within a short distance of one of AEP Texas’s substations through a dedicated line from the substation to the customer’s facilities.³ AEP Texas requests that the requested terms of service and pricing proposed in the tariff have an effective date of 35 days after the filing of the application and that interim approval of the tariff and temporary rates be effective 90 days after the filing of the application, subject to true-up, if the final tariff is not in effect by then.⁴

AEP Texas’s proposed charges, which are based on its existing rate schedule for primary voltage service, are as follows:⁵

¹ Application at 1 (Feb. 24, 2022); *id.* at 27, Direct Testimony of Jennifer L. Jackson at 4.

² *Id.* at 37, Direct Testimony of Jennifer L. Jackson at 4.

³ *Id.* at 39, Direct Testimony of Jennifer L. Jackson at 6.

⁴ *Id.* at 3.

⁵ *Id.* at 40–41, Direct Testimony of Jennifer L. Jackson at 7–8.

Customer charge	\$7.35 per month
Metering charge	\$126.87 per month
Distribution system charge	\$3.112 per non-coincident-peak kilowatts (kW) of distribution billing demand
Distribution cost recovery factor (DCRF)	\$0.423685 per non-coincident-peak kW of distribution billing demand

The distribution billing demand for the distribution system charge will be the higher of the non-coincident-peak kW demand for the current billing month or 80% of the highest monthly non-coincident-peak kW demand established in the 11 months preceding the current billing months.⁶ The billing demand for the DCRF charge will be as of December 31, 2021.⁷

AEP Texas filed its application on February 24, 2022. Motions to intervene filed by the following have been granted: Hunt Energy Network, LLC; Broad Reach Power LLC; and SMT McAllen LLC.⁸ The Commission administrative law judge (ALJ) found both the application and notice of the application to be sufficient.⁹ She also approved AEP Texas's proposed rates as interim rates, effective May 24, 2022, subject to true-up to the extent the interim rates differ from the rates ultimately approved by the Commission in this proceeding.¹⁰

On April 25, 2022, Hunt Energy filed a motion to abate the proceeding or, in the alternative, to refer the proceeding to the State Office of Administrative Hearings (SOAH) for a hearing. On May 13, 2022, the Commission ALJ abated the proceeding for 60 days.¹¹ On July 12, 2022, AEP Texas filed a request for referral to SOAH for a hearing since the abatement would expire the following day.

AEP Texas was directed, and Commission Staff and other interested persons were allowed, to file a list of issues to be addressed in the docket and also identify any issues not to be addressed and any threshold legal or policy issues that should be addressed by July 27, 2022. SMT McAllen,

⁶ *Id.* at 41, Direct Testimony of Jennifer L. Jackson at 8.

⁷ *Id.*

⁸ Order No. 2 (Mar. 10, 2022); Order No. 4 (Mar. 15, 2022); Order No. 6 (Apr. 5, 2022).

⁹ Order No. 5 at 1.

¹⁰ *Id.*

¹¹ Order No. 7 (May 13, 2022).

Hunt Energy, Commission Staff, and AEP Texas each timely filed a list of issues to be addressed in this proceeding.

I. Issues to be Addressed

The Commission must provide to the ALJ a list of issues or areas to be addressed in any proceeding referred to SOAH.¹² After reviewing the pleadings submitted by the parties, the Commission identifies the following issues that must be addressed in this docket:

1. Did AEP Texas provide notice of the application in accordance with 16 Texas Administrative Code (TAC) § 22.55?
2. Has AEP Texas received a valid interconnection request to provide wholesale transmission service at distribution voltage to a wholesale customer? 16 TAC § 25.191(d)(2)(C).
3. Does AEP Texas provide wholesale transmission service at distribution voltage to itself? If so,
 - a. Please explain the details and circumstances of that service.
 - b. Does AEP Texas's proposed tariff provide wholesale transmission service at rates and terms, including terms of access, that are comparable to the rates and terms of AEP Texas's own use of its system? PURA¹³ § 35.004(a); 16 TAC § 25.191(d)(2).
4. Does AEP Texas's proposed tariff provide nondiscriminatory access to wholesale transmission service at distribution voltage for qualifying facilities, exempt wholesale generators, power marketers, power generation companies, retail electric providers, and other electric utilities or transmission and distribution utilities? PURA § 35.004(b).
5. Under the proposed tariff, will AEP Texas recover its reasonable costs in providing wholesale transmission service at distribution voltage necessary for the transaction from the entity for which wheeling service is provided so that no other customer of AEP Texas bears the costs of the service? PURA § 35.004(c).
6. Should the billing demand for demand-based charges under AEP Texas's proposed tariff be determined based on peak demand after all testing has been completed and commercial

¹² Tex. Gov't Code § 2003.049(e).

¹³ Public Utility Regulatory Act, Tex. Util. Code §§ 11.001–66.016.

operations for the customer's facility have begun, or should the billing demand include all testing that occurs before commercial operations begin?

7. What are the just and reasonable rates calculated in accordance with PURA and Commission rules? Do the rates comport with the requirements in PURA § 36.003?

This list of issues is not intended to be exhaustive. The parties and the ALJ are free to raise and address any issues relevant in this docket that they deem necessary, subject to any limitations imposed by the ALJ or by the Commission in future orders issued in this docket. The Commission may identify and provide to the ALJ in the future any additional issues or areas that must be addressed, as permitted under Texas Government Code § 2003.049(e).

II. Issues Not to be Addressed

The Commission identifies the following issues that need not be addressed in this proceeding for the reasons stated.

- 1. Whether a transmission or distribution service provider is allowed under 16 TAC § 25.191 to charge an entity engaging in wholesale storage for wholesale transmission service at distribution voltage.**

As discussed in detail in the preliminary orders filed in Docket Nos. 51409 and 51606,¹⁴ a transmission or distribution service provider is allowed to charge an entity engaging in wholesale storage for wholesale transmission service at distribution voltage. Wholesale storage entities interconnected to a transmission or distribution service provider's system at distribution voltage receive wholesale transmission service at distribution voltage under 16 TAC § 25.191(d)(2) and are assessed a separate charge for that service when they are acquiring energy. The prohibition in 16 TAC § 25.192(a) against a wholesale transmission service tariff applying to an entity engaging in wholesale storage is irrelevant to dockets like this one involving wholesale transmission service at distribution voltage under 16 TAC § 25.191.

¹⁴ *Application of the City of San Antonio, Acting by and through the City Public Service, to Amend its Wholesale Transmission Customer Primary Distribution Voltage Service Tariff*, Docket No. 51409, Preliminary Order at 2–4 (June 14, 2021); *Application of Medina Electric Cooperative, Inc. for a Wholesale Transmission Service at Distribution Voltage Tariff under 16 TAC § 25.191(d)(2)(C)*, Docket No. 51606, Preliminary Order at 2–4 (June 14, 2021).

III. Effect of Preliminary Order

The Commission's discussion and conclusions in this Order regarding issues that are not to be addressed should be considered dispositive of those matters. Questions, if any, regarding issues that are not to be addressed may be certified to the Commission for clarification if the SOAH ALJ determines that such clarification is necessary. As to all other issues, this Order is preliminary in nature and is entered without prejudice to any party expressing views contrary to this Order before the SOAH ALJ at hearing. The SOAH ALJ, upon his or her own motion or upon the motion of any party, may deviate from the non-dispositive rulings of this Order when circumstances dictate that it is reasonable to do so. Any ruling by the SOAH ALJ that deviates from this Order may be appealed to the Commission. The Commission will not address whether this Order should be modified except upon its own motion or the appeal of a SOAH ALJ's order. Furthermore, this Order is not subject to motions for rehearing or reconsideration.

Signed at Austin, Texas the _____ day of _____ 2022.

PUBLIC UTILITY COMMISSION OF TEXAS

PETER M. LAKE, CHAIRMAN

WILL MCADAMS, COMMISSIONER

LORI COBOS, COMMISSIONER

JIMMY GLOTFELTY, COMMISSIONER

KATHLEEN JACKSON, COMMISSIONER

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