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January 9, 2023

Public Utility Commission of Texas
Attn: Commission Advising & Docket Management
Post Office Box 13326
Austin, Texas 78711-3326

Re: Commission of Texas Docket No. 53625 – Application of Southwestern Electric Power Company For Certificate of Convenience and Necessity Authorization and Related Relief For the Acquisition of Generation Facilities

Dear Commissioners,

We write to you today to support the recent filing made by the rural electric cooperatives who serve the districts of the undersigned legislators entitled Joint Motion for Certified Issues, Motion to Abate and Motion to Dismiss (“the Coop Motion”).¹ The Coop Motion asks the Public Utility Commission (“PUC”) to hold off on approving SWEPCO’s proposal to increase our constituents’ rates to pay for significant new wind and solar generation until it is better understood whether there is a legitimate (in utility law terms, “prudent”) reason for SWEPCO’s proposed early retirement of the Pirkey and Welsh Power Plants in 2023 and 2028, respectively.

We understand that SWEPCO’s early retirement decision has never been brought before the PUC for approval, so it seems like a classic “cart before the horse” situation to be considering billions of dollars of new rate increases premised on the artificial need created by SWEPCO’s own, as-yet-unapproved, retirement decisions. In fact not one of the three states in which SWEPCO holds their monopoly has made a determination as to the prudence of these retirement decisions.

In the wake of Winter Storm Uri, the tireless efforts of the Texas Legislature and the PUC have been focused on ensuring grid reliability and resilience at a price the ratepayers can afford, something we owe to all Texans. In contrast to the deregulated ERCOT area of Texas where the

¹ Note that some additional state Senators (*) have chosen to sign onto this letter because of troubling connections between these retirement decisions and the misuse of ESG factors brought to light during a December 15, 2022 Senate State Affairs Hearing in Marshall, Texas. The distribution cooperatives that collectively make up Northeast Texas Electric Cooperative, Inc. (NTEC) and East Texas Electric Cooperative, Inc. (ETEC) include Bowie-Cass, Cherokee County, Deep East, Houston County, Jasper-Newton, Panola-Harrison, Rusk County, Sam Houston, Upshur Rural, and Wood County.

PUC has no direct authority to regulate power plant retirement and construction decisions, SWEPCO still maintains a monopoly service territory and, in exchange for that privilege, is subject to direct regulation by the PUC for retirement and construction decisions to make sure that the ratepayers (our constituents) are protected. It would not seem a hard decision for the PUC, in those areas of the state like ours where it retains such authority, to leverage that authority to accomplish what is likely to take years to accomplish within ERCOT – better valuing of thermal dispatchable generation to ensure the reliability and resilience of the grid.

As you are surely aware, the Pirkey plant entered into service in 1985 and has approximately 22 years of useful life remaining (through 2045). Despite this fact, in Docket No. 53625, SWEPCO has announced its intent to prematurely retire the plant in March, 2023 followed by Welsh Units 1 and 3 in 2028, a loss of thermal generation totaling approximately 1,600 MW. Furthermore, retiring the Pirkey plant inextricably results in the early retirement of the Sabine Mine which provides a local firm, resilient fuel supply not dependent upon transportation and acts as a hedge against rising natural gas and power prices currently being impacted by geopolitical events. Local fuel supply and on-site fuel inventory also provide additional resilience assurances during extreme weather events where traditional fuel supply chains can experience prolonged disruptions.

It has come to our attention that the 2020 analysis SWEPCO is relying on to justify the closure of these plants is, at best, seriously out-dated and, at worst, seriously flawed. For example, expert testimony before the PUC has called into question both the economic and environmental regulatory assumptions SWEPCO has used to rationalize the premature retirement of Pirkey - raising questions about the underlying motivations for retiring these plants. A recent hearing of the Senate State Affairs Committee in Marshall, just 10 miles from the Pirkey Power plant, uncovered evidence about the coercive “manage down to zero” ESG practices of the three top shareholders of SWEPCO’s parent company, American Electric Power, so there is ample reason for the PUC to be concerned whether other interests are being given priority over our constituent ratepayers.

Both the Pirkey plant and Sabine Mine serving the plant will have significant unrecovered costs as a result of the early retirement, costs that will be borne by the ratepayers while receiving no benefit. What’s more, the generation assets SWEPCO seeks to acquire in Docket No. 53625 are intermittent wind and solar facilities that SWEPCO estimates will be assigned just 237 MW of accredited capacity, less than half of SWEPCO’s share of the output from Pirkey alone (and 1/3 of the total capacity when coop ownership is included), but at a price tag of \$2.2 billion. It appears that much of this added wind and solar will be located hundreds of miles away necessitating high voltage transmission line construction. This is an undisclosed and significant cost to the ratepayers that renders SWEPCO’s current cost estimates insufficient and understated.

Bottom line, expert testimony and reports filed by our constituents and others with the PUC indicate that SWEPCO’s proposal to early retire these existing power plants needs to be closely scrutinized before any further consideration is given to imposing rate increases on our constituents to build new wind and solar. The Texas Legislature has provided the PUC with broad authority under PURA to ensure that Texans have a reliable and affordable electric grid. We encourage you to use that authority to abate (or dismiss without prejudice) Docket No. 53625 so that the PUC can determine whether the early retirement of the Pirkey and Welsh plants is a prudent decision and

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whether it is permissible for a utility to artificially create a capacity need through the early retirement of baseload generation facilities in order to meet its burden of proving a need for the replacement generation and justify burdening the ratepayers with the increased rates that result.

We will be monitoring this proceeding closely and look forward to working with the PUC to ensure that all Texans have the reliable and affordable electric grid they deserve and all motivations for early retirement of dispatchable power plants are fully vetted before ratepayers are exposed to increased rates due to the addition of weather-dependent resources.

Sincerely,

  

Bryan Hughes
Senate District 1

Bob Hall
Senate District 2

Robert Nichols
Senate District 3

  

Paul Bettencourt
Senate District 7

Lois Kolkhorst
Senate District 18

Brian Birdwell
Senate District 22

  

Bryan Slaton
House District 2

Cecil Bell
House District 3

Cole Hefner
House District 5

  

Matt Schaefer
House District 6

Cody Harris
House District 8

Travis Clardy
House District 11