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Received - 2022-06-22 02:13:39 PM

Control Number - 53637

ItemNumber - 12

**BEFORE THE
STATE OFFICE OF ADMINISTRATIVE
HEARINGS**

**APPLICATION OF TEXAS-NEW MEXICO POWER COMPANY
FOR APPROVAL TO ADJUST ITS ENERGY EFFICIENCY
COST RECOVERY FACTOR AND RELATED RELIEF**

**SOAH ORDER NO. 1
FILING DESCRIPTION; ADDRESSING JURISDICTION AND
SUFFICIENCY OF APPLICATION AND NOTICE; APPROVING
PROTECTIVE ORDER; GRANTING MOTIONS TO INTERVENE;
SCHEDULING PREHEARING CONFERENCE; AND DISCUSSING
PROCEDURES**

I. FILING DESCRIPTION

On May 23, 2022, Texas-New Mexico Power Company (TNMP) filed an application with the Public Utility Commission of Texas (Commission) requesting to adjust its Energy Efficiency Cost Recovery Factor (EECRF) and related relief (as amended June 13, 2022, Application) for program year 2023 in accordance with

Section 39.905 of the Public Utility Regulatory Act (PURA)¹ and 16 Texas Administrative Code (TAC) § 25.182.

TNMP proposes an adjusted EECRF to apply to all retail electric providers serving end-use retail electric customers in TNMP's certificated service territory. TNMP also seeks recovery of reasonable expenses related to Docket No. 52153.

TNMP requests the authority to update its EECRF to adjust the cost recovery factors for energy efficiency for Program Year 2023 to recover \$7,444,549, reflected in the following:

1. \$5,459,822 in projected expenses for the 2023 energy-efficiency program;
2. \$1,905,862 for a performance bonus under 16 TAC § 25.182(e);
3. \$52,421 in projected evaluation, measurement, and verification costs;
4. \$13,186 in Municipal Rate Case Expense Recovery;
5. \$13,134 of Under Collection in 2021; and
6. \$124 in Interest on Under Collection.

The effective date of SWEPCO's proposed adjusted EECRF is March 1, 2023.

¹ Public Utility Regulatory Act, Tex. Util. Code §§ 11.001-66.017 (PURA).

II. JURISDICTION

The Commission has jurisdiction over this proceeding pursuant to PURA §§ 11.004(1) and 31.002(6). The Commission referred this case to the State Office of Administrative Hearings (SOAH) on June 6, 2022, requesting the assignment of an Administrative Law Judge (ALJ) to conduct a hearing and issue a proposal for decision, if such is necessary. In its Order of Referral and Preliminary Order, the Commission listed the issues to be addressed in this proceeding. SOAH has jurisdiction over matters relating to conducting a hearing and issuing a proposal for decision in this proceeding pursuant to Texas Government Code § 2003.049.

III. SUFFICIENCY OF THE APPLICATION AND NOTICE

TNMP filed its proof of notice on June 3, 2022, and requests that its notice be approved and found sufficient. **No later than June 31, 2022**, Commission Staff shall, and any other party may, file comments on the sufficiency of TNMP's application and proposed notice.

IV. PROTECTIVE ORDER

TNMP requested approval of the Commission's standard protective order attached as Exhibit B to its original application. The proposed protective order is hereby **APPROVED**, subject to any objections raised by the parties before the prehearing conference. Any objections raised by the parties will be discussed at that time.

IV. GRANTING MOTIONS TO INTERVENE

On June 6, 2022, Cities Served by Texas-New Mexico Power Company and Texas Energy Association for Marketers filed motions to intervene. No objection was filed. The motions are **GRANTED**.

V. NOTICE OF PREHEARING CONFERENCE

The ALJ will convene the prehearing conference at **10:00 a.m. on Tuesday, July 5, 2022, via Zoom videoconference.**²

To access the prehearing 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:

² Unless a party retains a court reporter to transcribe the prehearing conference, the ALJ will make an audio recording of the hearing, and it will be the official record of the proceeding.

Meeting ID: 161 947 8752
Passcode: in7Tta

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.

Phone: (669) 254-5252 or (646) 828-7666
Meeting ID: 161 947 8752
Passcode: 614940

You may access information for participating in a Zoom meeting at www.zoom.us under the “support” tab. A party who experiences technical difficulties with joining a Zoom proceeding in this case should contact SOAH’s Docketing Division at (512) 475-4993.

The following matters will be discussed at the prehearing conference:

1. Any motion filed **by July 1, 2022**;
2. A procedural schedule that complies with 16 TAC § 25.182(d)(9). including a date for the hearing that will enable the Commission to make a final decision before the EECRF effective date. To assist the parties in making this determination, the parties should calculate a hearing date in the following manner:
 - a. Find the Commission’s open meeting date immediately prior to the effective date of March 1, 2023.

- b. Find a date for the issuance of the Proposal for Decision at least 21 days prior to the date in section (a), above.
 - c. Subtract 60 days from the date in section (b), above which is the day that reply briefs would be due.
 - d. Determine appropriate briefing deadlines that allow reply briefs to be filed on the date calculated in section (c), above.
 - e. Depending on transcript turnaround time, calculate the last hearing day that would allow a briefing deadline calculated in section (d), above.
 - f. Determine the number of days needed for hearing and determine which day would be the first day of hearing.
3. Any other matters that may assist in the disposition of this case in a fair and efficient manner.

By **no later than July 1, 2022**, the parties may file an agreed motion to cancel the prehearing conference if they include an agreed procedural schedule that complies with this Order.

VI. PROCEDURES

Except as modified by the Commission or SOAH, the Commission's procedural rules govern this case, and the parties are expected to comply with those rules. The Commission's procedural rules are available at: <https://www.puc.texas.gov/agency/rulesnlaws/procrules/Procedural.aspx>.

A. Filing Documents

The Commission is only accepting filings made online through the Commission's Interchange e-file system at <https://interchange.puc.texas.gov/filer>.³ To make an online filing, the Commission's e-filing system requires you to enter the Commission's "control number" (i.e., docket number), which is **53637** for this case. **All filings must contain both the SOAH and Commission docket numbers.**

Commission filings are available for viewing and downloading from the Commission's Interchange at <http://interchange.puc.texas.gov> by entering the **control number 53637** and pressing "search." A list of documents filed in this docket will appear (with a few exceptions such as confidential documents, if any), which can be accessed by clicking on the document number.

B. Serving Documents

When a party files a document with the Commission, that party is also required to serve (i.e., provide a copy of that document to) every other party. At this time, service must be accomplished by e-mail. Any party to this proceeding who has not previously provided an e-mail address **SHALL, no later than 7 days after the date of this order**, file a notice informing the parties of the e-mail address to be used for service.

³ The Commission's order is available at: http://interchange.puc.texas.gov/Documents/50664_205_1075813.PDF.

C. Motions and Responses to Motions and Other Pleadings

Unless otherwise specified in the Commission's procedural rules or an order issued in this case, responses to a motion or other pleading **SHALL** be filed within **five working days** from receipt of the motion or pleading. If a party does not respond to a motion, the ALJ may assume that the party is unopposed to the relief requested.

D. Discovery

Discovery in this case has already commenced and is governed by the Commission's procedural rules. Accordingly, all discovery requests and responses shall be filed with the Commission.

SIGNED JUNE 22, 2022.

ALJ Signature(s):



Daniel Wiseman,

Presiding Administrative Law Judge