



Filing Receipt

Received - 2022-07-15 12:35:45 PM

Control Number - 53719

ItemNumber - 12

**SOAH DOCKET NO. 473-22-04394
PUC DOCKET NO. 53719**

APPLICATION OF ENTERGY TEXAS, INC. FOR AUTHORITY TO CHANGE RATES	§ § §	PUBLIC UTILITY COMMISSION OF TEXAS
---	----------------------	--

COMMISSION STAFF’S LIST OF ISSUES

On July 1, 2022, Entergy Texas, Inc. (ETI) filed its application for approval to change base rates with the Commission.

On July 6, 2022, the Commission issued an Order of Referral, referring this docket to the State Office of Administrative Hearings (SOAH) and establishing a deadline of July 15, 2022 for the parties to provide a list of issues to address in this docket. Therefore, this pleading is timely filed.

I. LIST OF ISSUES

1. Did ETI comply with the form and instructions for the Commission’s rate-filing package?
2. Is ETI’s application administratively complete?
3. Did ETI provide notice that was adequate and consistent with the requirements of PURA §§ 36.102 and 36.103?
4. What are ETI’s just and reasonable rates, calculated in accordance with PURA and Commission rules? Do the rates comply with the requirements of PURA § 36.003?
5. What revenue requirement will give ETI a reasonable opportunity to earn a reasonable return on its invested capital used and useful in providing service to the public in excess of its reasonable and necessary operating expenses?
6. What is ETI’s reasonable and necessary cost of providing service calculated in accordance with PURA and Commission rules?
7. What adjustments, if any, should be made to ETI’s proposed test-year and updated-period data?

Invested Capital – Rate Base and Return

8. What is the appropriate capital structure for ETI?
 - a. Is it appropriate for ETI to include preferred stock in its capital structure for ratemaking purposes?
9. What is the appropriate overall rate of return, return on equity, and cost of debt for ETI? When answering this issue please address how the factors specified in PURA § 36.052 and 16 TAC § 25.231(c)(1) should affect ETI's rate of return.
10. Are any protections, such as financial protections, appropriate to protect the utility's financial integrity and ability to provide reliable service at just and reasonable rates?
11. What are the reasonable and necessary components of ETI's rate base?
12. What is the original cost of ETI's property used and useful in providing service to the public at the time the property was dedicated to public use?
 - a. What is the appropriate rate treatment for Nelson Unit 6 and Big Cajun II, Unit 3? Is ETI's proposed rate treatment for the early retirement of these two plants in the public interest and consistent with PURA and Commission rules?
 - b. May a retired generating unit be included in a utility's revenue requirement consistent with PURA §§ 36.051 and 36.053(a)?
 - c. Has the Commission ever allowed a retired plant to be included in rate base? If so, under what circumstance?
13. What is the amount, if any, of accumulated depreciation on that property?
 - a. What is the proper adjustment, if any, to accumulated depreciation to reflect the retirement of Nelson Unit 6?
 - b. What is the proper adjustment if any, to accumulated depreciation to reflect the retirement of Big Cajun II, Unit 3?
 - c. What is the proper adjustment, if any, to accumulated depreciation to reflect the increased lifespans of Sabine I plant natural gas facility?

- d. What is the proper adjustment, if any, to accumulated depreciation to reflect the increased lifespans of the Spindletop natural gas facility?
14. Does ETI's requested invested capital or revenue requirement include any amounts no longer used and useful in the provision of electric service?
15. Did ETI include a cost-benefit study that supports the inclusion of the Spindletop natural gas storage facility in its requested invested capital as compared to immediate retirement as stipulated in Docket No. 49916¹?
16. What is ETI's transmission cost of service determined in accordance with PURA and Commission rules?
17. What amount, if any, of ETI's invested capital has not previously been subject to a prudence review by the Commission? If there are any such amounts, what are the amounts; for what facilities, property, or equipment was the investment made; and were the amounts prudently incurred? What amount, if any, of allowance for funds used during construction (AFUDC) is being transferred to invested capital in this proceeding? If AFUDC is being transferred, for what facilities and at what rate was the AFUDC accrued?
18. Did any of ETI's invested capital arise from payments made to an affiliate? If so, for each item or class of items, does the payment conform to the requirements in PURA § 36.058?
19. Is ETI seeking the inclusion of construction work in progress? If so:
- a. what is the amount sought and for what facilities, and
 - b. has ETI proven that the inclusion is necessary to the financial integrity of the electric utility, and that major projects under construction have been efficiently and prudently planned and managed; or
 - c. for transmission investment required by the Commission under PURA § 39.203(e), do conditions warrant the inclusion of construction work in progress for such transmission investment?

¹ *Application of Entergy Texas, Inc. for Approval to Reconcile Fuel and Purchased Power Costs*, Docket No. 49916, Order (Aug. 27, 2020)

20. What is the reasonable and necessary cash working capital allowance for ETI, calculated in accordance with Commission rules?
- a. Does ETI's lead-lag study for its proposed allowance for cash working capital comply with Commission rules?
 - b. If not, should cash working capital be set at a negative one-eighth of operations and maintenance expenses?
21. Does ETI have a self-insurance plan approved by the Commission? If so, please address the following issues.
- a. What is the approved target amount for the reserve account, and is it appropriate to change that amount?
 - b. What is the amount, if any, of any shortage or surplus for the reserve account for the approved plan, and what actions, if any, should be taken to address any balance in the reserve account?
22. What is the reasonable and necessary amount, if any, of ETI's accumulated reserve for deferred federal income taxes, excess deferred federal income taxes, unamortized investment tax credits, contingency reserves, property insurance reserves, contributions in aid of construction, customer deposits, and other sources of cost-free capital? What other items, if any, should be deducted from ETI's rate base?
23. What regulatory assets, if any, are appropriately included in ETI's rate base? If included, what is the appropriate treatment of such regulatory assets?
24. What regulatory liabilities, if any, are appropriately included in ETI's rate base? If included, what is the appropriate treatment of such regulatory liabilities?
25. What post-test-year adjustments for known and measurable rate-base changes to historical test-year data, if any, should be made? Do any such adjustments comply with the requirements of 16 TAC § 25.231(c)(2)(F)?
- a. Does each addition equal at least 10% of ETI's requested rate base, exclusive of post-test-year adjustments and construction work in progress?
 - b. Will each plant addition be in service before the rate year begins?

- c. Have the attendant impacts on all aspects of ETI's operations (including, but not limited to, revenue, expenses, and invested capital) been identified, quantified, and matched?
- d. For any post-test-year adjustments, what future filings, if any, should ETI be required to make to verify that the plant was placed in service before the rate year begins?

Expenses

- 26. What are ETI's reasonable and necessary operations and maintenance expenses?
- 27. What are ETI's reasonable and necessary administrative and general expenses?
- 28. What are ETI's reasonable and necessary rate case expenses in accordance with PURA § 36.061(b)(2) and 16 TAC § 25.245? Does this amount include any anticipated expenses to appeal this proceeding or a prior rate case proceeding? Is it appropriate to recover expenses associated with appeals of prior Commission orders before the appeals are completed?
 - a. If attorney's fees are included in rate case expenses, are they supported by the affidavit of a licensed attorney?
- 29. What are the intervening cities' reasonable rate case expenses in accordance with PURA § 33.023(b) and 16 TAC § 25.245? Does this amount include any anticipated expenses to appeal this docket or a prior rate case proceeding?
 - a. If attorney's fees are included in rate case expenses, are they supported by the affidavit of a licensed attorney?
- 30. If ETI seeks to recover rate-case expenses incurred in this proceeding after an agreed cut-off date, is it appropriate for ETI to do so?
- 31. What is ETI's reasonable and necessary depreciation expense? For each class of property, what are the proper and adequate rates and methods for depreciation, including service lives and salvage value?
- 32. What is the reasonable and necessary amount for assessments and taxes, other than federal income taxes, for ETI?

33. What is the reasonable and necessary amount for municipal franchise fees? What is the appropriate amount to be included in base rates?
34. What is the reasonable and necessary amount of ETI's federal income tax expense under PURA and the Commission substantive rules?
35. Is ETI's proposed treatment of federal income taxes consistent with PURA, the Commission's substantive rules, and the Commission's amended order in Docket No. 47945?²
- a. Has ETI appropriately addressed the impact of the Tax Cuts and Jobs Act of 2017 on its rates?
 - b. Has ETI returned to customers any excess revenue collected due to the reduction in the corporate federal income tax rate from 35% to 21% from January 25, 2018 through the date final rates are set in this proceeding? If not, should ETI return the excess revenue to customers, and what interest rate should apply to the over-collected amount?
36. Will ETI realize any tax savings derived from liberalized depreciation and amortization, investment tax credits, or similar methods? If so, are they apportioned equitably between consumers and the utility, and are the interests of present and future customers equitably balanced as required by PURA § 36.059?
37. What is the reasonable and necessary amount for ETI's advertising expense, contributions, and donations?
38. What is ETI's reasonable and necessary amount for nuclear decommissioning expenses, if any, calculated in accordance with Commission rules?
39. Is ETI seeking approval of a self-insurance plan or changes to an existing plan? If so,
- a. Is the coverage provided by the plan in the public interest?
 - b. What property and liability losses will ETI charge to the reserve account? Are these losses that cannot be reasonably anticipated and included in operating and maintenance expenses?

² *Proceeding to Investigate and Address the Effects of Tax Cuts and Jobs Act of 2017 on the Rates of Texas Investor-Owned Utility Companies*, Amended Order Related to Changes in Federal Income Tax Rates, Project No. 47945 (Feb. 15, 2018).

- c. What is the reasonable and necessary target amount for ETI's self-insurance reserve account?
 - d. What is the reasonable and necessary amount of annual accruals to properly fund the self-insurance reserve account?
 - e. Should ETI's annual accruals for the reserve account meet or exceed the target amount, how will ETI treat the excess balance of the reserve account?
 - f. Has ETI filed a cost-benefit analysis performed by a qualified independent insurance consultant? If so, please address the follow issues.
 - i. Does the cost-benefit analysis present a detailed analysis of the appropriate limits of self-insurance, an analysis of the appropriate annual accruals to build a reserve account for self-insurance, and the level at which further accruals should be decreased or terminated?
 - ii. Does the cost-benefit analysis demonstrate that, in consideration of all costs, self-insurance is a lower-cost alternative than commercial insurance?
 - iii. Does the cost-benefit analysis demonstrate that ETI's ratepayers will receive the benefits of the self-insurance plan?
40. What are ETI's reasonable and necessary expenses for pension and other post-retirement benefits, if any, calculated in accordance with PURA § 36.065 and 16 TAC § 25.231(b)(1)(H)? What is the reasonable baseline level of pension and other post-employment benefits for purposes of the expense tracker under PURA § 36.065?
- a. Has ETI established under PURA § 36.065(b) any reserve accounts for pension and other post-employment benefits? If so, has ETI recorded the proper amounts in the reserve account?
 - b. Are the amounts recorded in the reserve account reasonable expenses in accordance with PURA § 36.065(d)(1)?
 - c. Does the reserve account have a surplus or shortage? PURA § 36.065(c) and (d)(2). If so, how should ETI's rate base be modified to amortize, over a reasonable time, any surplus or shortage in the reserve account? PURA § 36.065(d)(3).

41. Has ETI made any payments for expenses to affiliates? If so, for each item or class of items:
- a. Are costs appropriately assigned to ETI and its affiliates?
 - b. Has ETI met the standard of recovery of affiliate costs under PURA § 36.058 and Commission rules?
42. Are any of ETI's expenditures unreasonable, unnecessary, or not in the public interest, including, but not limited to, executive salaries, advertising expenses, legal expenses, penalties and interest on overdue taxes, criminal penalties or fines, and civil penalties or fines?
43. What post-test-year adjustments for known and measurable changes to historical test-year-data for expenses, if any, should be made? For any such adjustments, have all the attendant impacts on all aspects of ETI's operations (including, but not limited to, revenue, expenses, and invested capital) been identified with reasonable certainty, quantified, and matched?
44. What are the appropriate amounts, if any, for transmission expenses and revenues under Federal Energy Regulatory Commission (FERC)-approved tariffs to be recovered?
45. Has ETI incurred any expenses or received any revenues as a result of ETI's exit of the Entergy System Agreement (ESA) or ETI's efforts to exit the ESA? If so, have these expenses or revenues already been addressed in a prior rate proceeding? If not, how should these expenses or revenues be reflected in ETI's rates?
46. Should ETI be allowed to recover costs associated with extended the life of the Spindletop facility? If so, how should those costs be recovered?
47. Did ETI provide a cost-benefit analysis to include an evaluation of the costs (including carrying costs on stored gas) and the benefits to ratepayers of operating the Spindletop facility in comparison to operating available alternatives such as acquiring firm or more flexible gas supply and delivery services and other feasible supply options?

Deferred Costs

48. Is ETI seeking to include in rates any costs previously deferred by an order of the Commission? If so, in what docket did the Commission approve deferral of the costs? Is inclusion of such deferred costs in rates necessary to carry out a provision of PURA? What is the appropriate

standard by which to make this determination, and is the proposed assignment and allocation of that recovery appropriate?

49. Is ETI seeking to defer any costs, including any rate-case expenses, in this proceeding for recovery in a future proceeding? If so, what is the amount of such costs, and why were those costs incurred (or why will they be incurred)? Is deferral of those costs necessary to carry out a provision of PURA? If not, why is it necessary to defer these costs? What are the appropriate standards to make these determinations?

Rate Design and Tariffs

50. What are the appropriate rate classes for which rates should be determined? Is ETI proposing any new rate classes? If so, why are these new rate classes needed?

51. What are the appropriate billing and usage data for ETI's test year?

- a. What known and measurable changes, if any, should be used to adjust the test-year data?
- b. What changes, if any, are necessary to reflect abnormal weather conditions or other aberrant conditions?

52. What is the just and reasonable amount of expenses and invested capital properly allocable to ETI's end-use customers in Texas, *i.e.*, what is the appropriate state jurisdictional allocation?

53. What are the appropriate allocations of ETI's cost of service components to jurisdictions, functions, and rate classes?

- a. Does ETI have any customer-specific contracts for the provision of transmission or distribution service? If so, identify each customer, and state whether the contract has been presented to the Commission for approval, and if so, in what docket. In addition, has ETI appropriately allocated revenues and related costs associated with such contracts? Do all allocation factors properly reflect the types of costs allocated?

- b. What are the appropriate allocations of ETI's transmission investment, expenses, and revenues, including transmission expenses and revenues under FERC-approved tariffs, among jurisdictions?
 - c. Does ETI have any FERC-approved tariffs? If so, identify each tariff and the FERC docket in which the tariff was approved. What are the appropriate allocations of ETI's transmission investment, expenses, and revenues, including transmission expenses and revenues under those tariffs?
54. Are all rate classes at unity? If not, what is the magnitude of the deviation, and what, if anything, should be done to address the lack of unity?
55. Has ETI proposed any rate riders? If so, should any of the proposed riders be adopted? If so, what are the appropriate costs to be recovered through the riders, and what are the appropriate terms and conditions of the riders?
56. Does ETI have any existing rate riders that should be modified or terminated? What regulatory assets or other items are currently being recovered through rate riders?
57. What tariff revisions, if any, are appropriate as a result of this proceeding?
58. Are ETI's proposed changes to its rules and rate tariffs reasonable?

Baselines for Cost-Recovery Factors

59. Should baseline amounts be determined in this proceeding for future ETI transmission-cost-recovery-factor (TCRF), distribution-cost-recovery-factor (DCRF), power-cost-recovery-factor (PCRF), or generation-cost-recovery-rider (GCRR)? If so, what are the investment and expense components and amounts?

Schedule HRC

60. What amount should ETI include in this proceeding to account for any difference between the amount refunded under the approved schedule HRC rates at the end of the refund period and the amount required to be refunded, as approved in Docket No. 52615?³

³ *Compliance Filing of Entergy Texas, Inc. for Refund of Hurricane Reconstruction Costs Charges Under Schedule HRC*, Docket No. 52615, Order (Mar. 1, 2022).

Additional Issues

61. Has ETI requested any exceptions to any requirements in any Commission rules? If so, what are those rule requirements, and has ETI demonstrated good cause for the exception? Should the Commission grant the exception?
62. Should the Commission approve ETI's requests for waivers of requirements, if any, in the Commission's rate filing package?
63. Does ETI's test year include any capacity costs associated with power purchase agreements not previously reviewed by the Commission? Should the Commission approve any power purchase agreement extensions?
64. Has ETI complied with the Commission's final order in Docket No. 48371?⁴
65. Has ETI complied with the Commission's final order in Docket No. 50790?⁵
66. Has ETI complied with the Commission's final order in Docket No. 51997?⁶
67. Has ETI complied with the Commission's final order in Docket No. 51381?⁷
68. Has ETI complied with the Commission's final order in Docket No. 50540?⁸
69. Has ETI complied with the Commission's final order in Docket No. 50714?⁹
70. Has ETI complied with the Commission's final order in Docket No. 52624?¹⁰

⁴ *Entergy Texas, Inc.'s Statement of Intent and Application for Authority to Change Rates*, Docket No. 48371, Order (Dec. 20, 2018).

⁵ *Joint Report and Application of Entergy Texas, Inc. and East Texas Electric Cooperative, Inc. for Regulatory Approvals Related to Transfers of the Hardin County Peaking Facility and a Partial Interest in Montgomery County Power Station*, Docket No. 50790, Order (Apr. 7, 2021).

⁶ *Application of Entergy Texas, Inc. for Determination of System Restoration Costs*, Docket No. 51997, Order (Dec. 2, 2021).

⁷ *Application of Entergy Texas, Inc. to Establish a Generation Cost Recovery Rider Related to the Montgomery County Power Station*, Docket No. 51381, Order (Jan. 14, 2022).

⁸ *Application of Entergy Texas, Inc. for an Accounting Order Related to a Tax Accounting Method Change*, Docket No. 50540, Order (Mar. 26, 2020).

⁹ *Application of Entergy Texas, Inc. to Amend its Distribution Cost Recovery Factor*, Docket No. 50714, Order (Oct. 16, 2020).

¹⁰ *Application of Entergy Texas, Inc. to Amend its Transmission Cost Recovery Factor*, Docket No. 52624, Order (June 30, 2022).

71. Has ETI complied with the Commission's final order in Docket No. 47416?¹¹

This proposed list of issues is not intended to be exhaustive; Staff reserves the right to raise and address other issues in the proceeding.

II. ISSUES NOT TO BE ADDRESSED

Staff has not identified any issues not to be addressed in this docket.

III. CONCLUSION

Staff requests that its list of issues be among the issues that will be considered by the Commission in this proceeding.

¹¹ *Application of Entergy Texas, Inc. for Approval of Advanced Metering System (AMS) Deployment Plan, AMS Surcharge, and Nonstandard Metering Service Fees, Docket No. 47416, Order (Dec. 14, 2017).*

Dated: July 15, 2022

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

Keith Rogas
Division Director

Sneha Patel
Managing Attorney

/s/ Margaux Fox
Margaux Fox
State Bar No. 24120829
Mildred Anaele
State Bar No. 24100119
Merritt Lander
State Bar No. 24106183
Scott Miles
State Bar No. 24098103
1701 N. Congress Avenue
P.O. Box 13480
Austin, Texas 78711-3480
(512) 936-7381
(512) 936-7268 (facsimile)
Sneha.Patel@puc.texas.gov

**SOAH DOCKET NO. 473-22-04394
PUC DOCKET NO. 53719**

CERTIFICATE OF SERVICE

I hereby certify that, unless otherwise ordered by the presiding officer, a true and correct copy of the foregoing document was transmitted by electronic mail to the parties of record on July 15, 2022 in accordance with the Order Suspending Rules issued in Docket No. 50664.

/s/ Margaux Fox
Margaux Fox