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DOCKET NO. 50790



**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 §**

**PUBLIC UTILITY COMMISSION
OF TEXAS**

COMMISSION STAFF'S PROPOSED LIST OF ISSUES

COMES NOW the Staff of the Public Utility Commission of Texas (Staff), representing the public interest, and files this Proposed List of Issues. Staff recommends that the proposed issues included herein be adopted in the Commission's forthcoming preliminary order. In support thereof, Staff shows the following:

I. BACKGROUND

On April 28, 2020, Entergy Texas, Inc. (Entergy), and East Texas Electric Cooperative, Inc. (ETEC) (collectively, Applicants), filed a joint report and application for transfer of facilities, transfer of rights under and amendment to Entergy's certificate of convenience and necessity (CCN), and for other regulatory approvals. Specifically, the Applicants request that the Commission approve an amendment to Entergy's CCN to include the Hardin County Peaking Facility (Hardin Facility), find that Entergy's acquisition of the Hardin Facility is consistent with the public interest, that the full acquisition cost of the Hardin Facility is recoverable invested capital for ratemaking purposes, and authorize the transfer of a partial interest in Montgomery County Power Station to ETEC, including a determination that ETEC can continue to provide adequate service following the transfer.

This application was filed pursuant to Public Utility Regulatory Act (PURA) §§ 14.001, 14.101, 32.001, 37.051, 37.053, 37.056, 37.058, 37.154, and 39.452(j). On May 14, 2020, the Commission administrative law judge issued an Order Requesting Lists of Issues, requiring parties to file a proposed list of issues by May 20, 2020. Therefore, this pleading is timely filed.

II. PROPOSED ISSUES TO BE ADDRESSED

Commission Staff submits the following issues for consideration in this proceeding:

1. For the proposed transaction, is the application sufficient for the Commission's consideration? If not, what action should the Commission take?
2. Have the applicants complied with reporting requirements under PURA §§ 14.101, 37.154 and 16 Tex. Admin. Code (TAC) § 25.74(b)?
3. Have the applicants provided reasonable notice to affected persons regarding the filing of the application under 16 TAC § 22.55?
4. Is the proposed acquisition of the Hardin Facility consistent with the public interest, considering the following factors as identified in PURA § 14.101(b)?
 - a. What is the reasonable value of the property, facilities, or securities to be acquired, disposed of, merged, transferred, or consolidated?
 - b. Will the transaction adversely affect the health or safety of customers or employees?
 - c. Will the transaction result in the transfer of jobs of citizens of this state to workers domiciled outside this state?
 - d. Will the transaction result in a decline in service?
 - e. Will ETEC receive consideration equal to the reasonable value of the assets when it sells, leases, or transfers the assets?
5. If Entergy's acquisition of the Hardin Facility is found not to be in the public interest, how will the financial implications of the transaction be addressed to eliminate unreasonable costs in future ratemaking proceedings?
6. Will Entergy's acquisition of the Hardin Facility result in any benefits to Texas customers on a timely basis?
 - a. What are those benefits?
 - b. What is a reasonable estimate of the amount of the benefits that result from this transaction?
 - c. What benefits, if any, cannot be quantified?

- d. Do the benefits of the transaction to Texas ratepayers exceed its corresponding costs and risks to those same ratepayers? How should benefits that cannot be quantified be addressed in this evaluation?
 - e. What methods, if any, are necessary to ensure that ratepayers receive the benefits of this transaction?
 - f. Does the transaction do more than promise cost savings for Texas ratepayers?
 - g. Does the transaction cause Texas ratepayers to bear transaction costs unrelated to corresponding benefits to Texas ratepayers?
 - h. Do the benefits of the transaction to Texas ratepayers exceed the corresponding costs and risks to those same ratepayers over a medium- and long-term horizon?
7. Does Entergy's acquisition of the Hardin Facility satisfy the criteria for granting a CCN amendment under PURA § 37.056?
- a. Is granting Entergy a CCN amendment for the Hardin Facility appropriate when considering the adequacy of existing service?
 - b. Is there a need for additional service?
 - c. What effects will Entergy's acquisition of the Hardin Facility have on the following utilities:
 - i. Entergy; and
 - ii. any electric utility serving the area proximate to Entergy's service territory.
 - d. What effects will the acquisition of the Hardin Facility have on any other relevant factors including:
 - i. community values;
 - ii. recreational and park areas;
 - iii. historical and aesthetic values; and
 - iv. environmental integrity.
8. Does Entergy's proposed acquisition of the Hardin Facility satisfy identified reliability needs of the utility as required by PURA § 39.452(j)? Would the proposed acquisition of the Hardin Facility improve the reliability of Entergy's service? If so, how would reliability be improved and is the proposed transaction the most cost-effective alternative for Entergy to meet its reliability needs?

9. What amount, if any, of Entergy's acquisition cost for the Hardin Facility should be considered recoverable invested capital for ratemaking purposes under PURA § 37.058(c)? Should the amount of transaction expenses that Entergy proposes to record as an acquisition adjustment be treated as invested capital?
10. Should Entergy's certificate of convenience and necessity (CCN) rights be transferred to authorize ETEC to purchase a partial interest in Montgomery County Power Station after the closing of the proposed transaction under PURA § 37.154?
 - a. Does ETEC currently provide "adequate service" to its members?
 - b. If ETEC currently provides "adequate service," as assignee of the CCN rights, will it be able to continue to provide "adequate service" following the proposed transaction?
 - c. Should the Commission prescribe any conditions to the transfer of the CCN rights?
11. What is Entergy's proposed regulatory accounting treatment of the gain on its sale of a partial interest in Montgomery County Power Station and should the Commission approve such treatment?
12. Will the proposed transactions result in improvements in service to Texas ratepayers?
13. What other conditions, if any, should the Commission place on the approval of the proposed transactions?
14. What reporting requirements or reviews, if any, should be required for the transfer of assets?

III. CONCLUSION

In accordance with the recommendations herein, Staff respectfully requests that the Commission issue a preliminary order including Staff's proposed issues to be addressed.

Dated: May 20, 2020

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

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CERTIFICATE OF SERVICE

I certify that, unless otherwise ordered by the presiding officer, notice of the filing of this document was provided to all parties of record via electronic mail on May 20, 2020, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Richard Nemer

Richard Nemer