



Control Number: 50733



Item Number: 21

Addendum StartPage: 0

**PUC DOCKET NO. 50733**  
**SOAH DOCKET NO. 473-20-3300**

<b>APPLICATION OF AEP TEXAS INC. TO AMEND ITS DISTRIBUTION COST RECOVERY FACTOR</b>	<b>§ § §</b>	<b>PUBLIC UTILITY COMMISSION OF TEXAS</b>
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**PRELIMINARY ORDER**

AEP Texas Inc. filed an application for approval to amend its distribution cost recovery factor (DCRF). This preliminary order identifies the issues that must be addressed in this proceeding.

AEP Texas is seeking approval to amend its DCRF to include additional distribution invested capital placed in service from January 1, 2019 through December 31, 2019. (January 1, 2019 is the day after the end of the test year in Docket No. 49494.) This is AEP Texas's first DCRF application since its last base-rate case in Docket No. 49494.<sup>1</sup> AEP Texas states it invested \$440,536,911 in net distribution system invested capital during the period of January 1, 2019 through December 31, 2019. After adjusting for load growth, AEP Texas is seeking an increase of \$39,870,472 in addition to its revenue requirement approved in Docket No. 49494.

AEP Texas filed this DCRF application on April 3, 2020. The final order in AEP Texas's most recent base-rate case, Docket No. 49494,<sup>2</sup> was signed on April 3, 2020 and filed on April 6, 2020. The Commission referred the docket to the State Office of Administrative Hearings (SOAH) on April 6, 2020. In Order No. 2, the administrative law judge (ALJ) granted the motions to intervene of the Cities Served by AEP Texas, the Alliance for Retail Markets, and Texas Industrial Energy Consumers.

In its final order in Docket No. 49494 filed on April 6, 2020, the Commission authorized AEP Texas to consolidate the rates and tariffs of its central and north divisions.<sup>3</sup> The Commission

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<sup>1</sup> *Application of AEP Texas Inc. for Authority to Change Rates*, Docket No. 49494, Order, (Apr. 6, 2020).

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*, Ordering Paragraphs 1 and 2.

further ordered AEP Texas to use the DCRF baseline rate-case values in the agreement when it files an application for a DCRF.<sup>4</sup>

In 2019, AEP Texas acquired distribution assets as well as certificated rights from Oncor Electric Delivery Company LLC in Hidalgo county that serve the Sharyland Plantation area.<sup>5</sup> Those acquired distribution assets are included in this DCRF application.

AEP Texas was directed, and Commission Staff and other interested persons were allowed, to file by April 16, 2020 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. AEP Texas, Commission Staff, and the Cities Served by AEP Texas, Inc. each timely filed a list of issues.

### **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.<sup>6</sup> After reviewing the pleadings submitted by the parties, the Commission identifies the following issues that must be addressed in this docket:

1. Does AEP Texas's earnings monitoring report included in the application show AEP Texas is earning more than its authorized rate of return, using weather-normalized data, such that the application must be denied under 16 Texas Administrative Code (TAC) § 25.243(e)(4)?
2. If not, what is AEP Texas's properly calculated DCRF in accordance with Public Utility Regulatory Act (PURA)<sup>7</sup> § 36.210 and 16 TAC § 25.243(d)? In making the determination, the following issues should be addressed:
  - a. What were the DCRF-related baseline costs established in AEP Texas's most recent base-rate proceeding, Docket No. 49494, to be used in the DCRF calculation under 16 TAC § 25.243(d)(1)?

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<sup>4</sup> *Id.*, Ordering Paragraph 10.

<sup>5</sup> *Joint Report and Application of AEP Texas Inc. and Oncor Electric Delivery Company LLC for Approval of Transfer of Facilities, Transfer of Rights Under and Amendment of Certificates of Convenience and Necessity, and for Other Approvals*, Docket No. 49402, Order (Nov. 21, 2019).

<sup>6</sup> Tex. Gov't Code § 2003.049(e).

<sup>7</sup> Public Utility Regulatory Act, Tex. Util. Code §§ 11.013–66.017 (PURA).

- b. Under PURA § 36.210(a) and the definition of distribution invested capital in 16 TAC § 25.243(b)(3), what items should be categorized as AEP Texas's distribution invested capital, and what are AEP Texas's costs for distribution invested capital?
  - c. Under the definition in 16 TAC § 25.243(b)(4), what is AEP Texas's net distribution invested capital that is to be used in the DCRF calculation in 16 TAC § 25.243(d)(1)?
  - d. What is the appropriate weather normalization adjustment using weather data for the most recent ten calendar years in accordance with PURA § 36.210(a)(2) and 16 TAC § 25.243(b)(5)?
  - e. Did AEP Texas appropriately account for load growth under PURA § 36.210(a)(2) and 16 TAC § 25.243(d)(1)?
  - f. What is AEP Texas's appropriate rate of return under 16 TAC § 25.243(d)(2)?
  - g. In accordance with 16 TAC § 25.243(d)(3), has AEP Texas clearly identified costs, if any, included as distribution invested capital because of a change in accounting rules or practices since the test year in AEP Texas's most recent base-rate proceeding, Docket No. 49494? If so, has AEP Texas proven those costs are appropriate for recovery through the DCRF?
  - h. Has AEP Texas included any costs in its proposed DCRF revenue requirement that were already recovered from AEP Texas's existing base rates or other rates such as transmission cost of service or transmission cost recovery factor? If so, does the proposed treatment result in improper double recovery of costs?
  - i. What is AEP Texas's incremental revenue requirement to be collected through the DCRF as calculated under 16 TAC § 25.243(d)?
- 3. Are the DCRF rates to be applied by AEP Texas on a system-wide basis in accordance with PURA § 36.210(a)(5) and 16 TAC § 25.243(e)(6)(C)?
  - 4. What are the appropriate class allocations to set the DCRF rates, if any, in accordance with PURA § 36.210(a)(3) and 16 TAC § 25.243(d)(1)?
  - 5. Does the proposed DCRF comply with PURA § 36.210(c) by not including an adjustment to the portion of a nonfuel rate relating to the generation of electricity?

6. Does the DCRF application comply with the requirements of PURA § 36.210(a)(6) and 16 TAC § 25.243(e)(1), including being supported by the sworn statement of an appropriate employee of AEP Texas?
7. What rates, if any, should the Commission approve in AEP Texas's DCRF rate schedule?
8. What is the appropriate effective date for the DCRF rider in compliance with 16 TAC § 25.243(e)(6)(C)?
9. Should any party recover the cost of participating in this proceeding? If so, the following issues should be addressed:
  - a. What are the reasonable costs of participating municipalities in this proceeding under PURA § 33.023 and 16 TAC § 25.245?
  - b. What are the reasonable costs of participation incurred by AEP Texas that should be allowed as a cost or expense in this proceeding under PURA § 36.061(b)(2) and 16 TAC § 25.245?
  - c. Should these costs be addressed in this proceeding or deferred to a subsequent proceeding?
  - d. In what manner should these costs be recovered?
10. Did AEP Texas properly account for the effects of the Tax Cuts and Jobs Act of 2017?<sup>8</sup>
11. Did AEP Texas apply for a DCRF while its comprehensive base-rate proceeding was pending as prohibited by 16 TAC § 25.243(c)(1)(C)? If so, should a good-cause exception be granted?
12. Were the Sharyland distribution assets AEP Texas acquired from Oncor Electric Delivery Company and approved by the Commission in Docket No. 49402 properly included in this DCRF?

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

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<sup>8</sup> *Act to Provide for Reconciliation Pursuant to Titles II and V of the Concurrent Resolution on the Budget for Fiscal Year 2018*, Pub. L. No. 115-97, 113 Stat. 2054 (Dec. 22, 2017).

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. Effect of Preliminary Order**

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 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 1<sup>st</sup> day of May 2020.

PUBLIC UTILITY COMMISSION OF TEXAS

  
DEANN T. WALKER, CHAIRMAN

  
ARTHUR C. D'ANDREA, COMMISSIONER

  
SHELLY BOTKIN, COMMISSIONER