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**PUC DOCKET NO. 50804  
SOAH DOCKET NO. 473-20-3568**



**APPLICATION OF SOUTHWESTERN  
PUBLIC SERVICE COMPANY TO  
ADJUST ITS ENERGY EFFICIENCY  
COST RECOVERY FACTOR**

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**PUBLIC UTILITY COMMISSION  
OF TEXAS**

**COMMISSION STAFF'S PROPOSED LIST OF ISSUES**

**COMES NOW** the Staff (Staff) of the Public Utility Commission of Texas (Commission), representing the public interest, and files this Proposed List of Issues in response to the Order of Referral. In support, Staff shows the following:

**I. BACKGROUND**

On May 1, 2020, Southwestern Public Service Company (SPS), filed an application to revise its Energy Efficiency Cost Recovery Factor (EECRF). On May 5, 2020, the Commission issued an Order of Referral, requiring SPS and permitting Staff and any other interested party to file a list of issues to be addressed in this docket by May 11, 2020. Therefore, this pleading is timely filed.

**II. PROPOSED LIST OF ISSUES**

Staff proposes the following issues be addressed in this docket:

**Application**

1. Does the utility's EECRF application comply with 16 Texas Administrative Code (TAC) § 25.182(d), contain the testimony and schedules in Excel format with formulas intact as required by 16 TAC § 25.182(d)(10), and address the factors required by 16 TAC § 25.182(d)(11)?

**2021 Program Year**

2. What is the utility's growth in demand as defined in 16 TAC §§ 25.181(c)(25) and (44), calculated at source under 16 TAC § 25.181(e)(3)(A)?
3. What are the utility's demand-reduction and energy-savings goals for program year 2021 determined under 16 TAC § 25.181(e)?

- a. Has the utility requested a lower demand-reduction goal under 16 TAC § 25.181(e)(2)? If so, has the utility demonstrated that compliance with the goal specified in 16 TAC § 25.181(e)(1) is not reasonably possible and demonstrated that good cause supports the lower demand-reduction goal proposed by the utility?
    - i. Is the utility requesting in this application a performance bonus for a prior program year for which it has been granted a lowered demand-reduction goal?
    - ii. Were the factors that led to the utility being granted a lowered demand goal for the prior program year similar to the factors that the utility is relying upon to demonstrate that good cause supports the lower demand-reduction goal proposed in this docket? If so, should the Commission consider the utility's prior performance in determining whether to award a lowered demand goal?
  - b. Has the utility received any identification notices under 16 TAC § 25.181(u)? If so, has the utility's demand-reduction goal for program year 2021 been properly adjusted to remove any load that is lost because of identification notices submitted to the utility under that rule?
4. What amount of projected costs for the energy-efficiency program should be recovered through the utility's 2021 EECRF?
- a. Are these costs reasonable estimates of the costs necessary to provide energy-efficiency programs and to meet the utility's goals under 16 TAC § 25.181?
  - b. Does the utility currently recover any energy-efficiency costs in its base rates? If so, what is the amount of projected program costs in excess of revenues collected through base rates?
  - c. Are the projected costs of administration and costs of research and development in compliance with the administrative-spending caps in 16 TAC § 25.181(g)? If not, has the utility requested an exception to those caps under 16 TAC § 25.181(e)(2)? If so, has the utility demonstrated that compliance with the administrative-spending cap is not reasonably possible and that good cause supports the higher administrative-spending cap proposed by the utility?

- i. Is the utility requesting in this application a performance bonus for a prior program year for which it has been granted a higher administrative-spending cap?
    - ii. If so, were the factors that led to the utility being granted a higher administrative spending cap for the prior program year similar to the factors that the utility is relying upon to demonstrate that good cause supports the higher administrative-spending cap proposed in this docket? If so, should the Commission consider the utility's prior performance in determining whether to award a higher administrative-spending cap?
  - d. Are the utility's projected annual expenditures for the targeted low-income energy-efficiency program, as described in Public Utility Regulatory Act (PURA) § 39.903(f)(2), not less than 10% of the utility's energy-efficiency budget for 2021? Does the utility's targeted low-income energy-efficiency program meet the requirements imposed under PURA § 39.905(f)?
5. Does the utility include evaluation, measurement, and verification costs assigned to the utility for program year 2021, and have any of these costs already been recovered in a prior EECRF proceeding?

**Program Year 2019 Reconciliation**

6. Were the costs recovered by the utility through its EECRF for program year 2019 in compliance with PURA § 39.905 and 16 TAC § 25.182?
7. Were the costs recovered by the utility through its EECRF for program year 2019 reasonable and necessary to reduce demand growth or energy consumption?
- a. Are the actual costs of administration and costs of research and development for program year 2019 in compliance with the administrative-spending caps in 16 TAC § 25.181(g) or higher spending caps otherwise established by the Commission? If otherwise established by the Commission, in which docket were the higher spending caps established?
  - b. Did any costs for program year 2019 result from payments to an affiliate? If so, do those costs meet the requirements for affiliate expenses in PURA § 36.058?
  - c. Does the EECRF application include, as administrative costs or otherwise, EECRF rate case expenses for the utility's immediately previous EECRF proceeding? If so:

- i. Do the requested EECRF rate-case expenses comply with 16 TAC § 25.245(b)(1) through (6)?
    - ii. Using the factors in 16 TAC § 25.245(c)(1) through (6), what amount of rate-case expenses actually and reasonably incurred by the utility, if any, does a preponderance of the evidence support?
    - iii. Should any of the utility's rate-case expenses be disallowed under 16 TAC § 25.245(d)? If so, how was the disallowance calculated?
    - iv. What amount, if any, of the utility's rate-case expenses should the Commission award under PURA §§ 36.062 and 36.061(b)?
  - d. Does the EECRF application include, as administrative costs or otherwise, any municipality's EECRF rate-case expenses for the immediately previous EECRF proceeding?
    - i. Do the municipality's requested EECRF rate-case expenses comply with 16 TAC § 25.245(b)(1) through (6)?
    - ii. Using the factors of 16 TAC § 25.245(c)(1) through (6), what amount of rate-case expenses actually and reasonably incurred by the municipality, if any, does a preponderance of the evidence support?
    - iii. Should any of the municipality's rate-case expenses be disallowed under 16 TAC § 25.245(d)? If so, how was the disallowance calculated?
    - iv. What amount, if any, of the municipality's rate-case expenses should the Commission award under PURA § 33.023(b) that are not excluded by PURA § 36.062?
- 8. For each EECRF rate class, what is the amount, if any, of under- or over-recovered EECRF costs under 16 TAC § 25.182 for program year 2019?
  - a. Did the utility recover any of its energy-efficiency costs through base rates for program year 2019? If so, what is the actual amount of energy-efficiency revenue collected through base rates under 16 TAC § 25.182(d)(2)?
  - b. What was the actual revenue collected through the utility's EECRF for program year 2019?
  - c. What were the actual costs that comply with 16 TAC § 25.182(d)(12) of the utility's energy efficiency programs for program year 2018?

- d. What is the amount of interest applied on under- or over-recovery for each rate class?

**Performance Bonus**

9. What were the utility's demand-reduction and energy-reduction goals for program year 2019? If the Commission granted an exception for a lower demand-reduction goal, in what docket was the lower goal established?
10. What is the performance bonus, if any, calculated under 16 TAC § 25.182(e) for program year 2019?
  - a. Did the utility exceed its demand- and energy-reduction goals for program year 2019? If so, by what amounts?
  - b. Did the utility exceed the EECRF cost caps in 16 TAC § 25.182(d)(7)?
  - c. What are the net benefits of the utility's energy-efficiency program for program year 2019?
  - d. If a performance bonus is requested for program year 2019, was the performance bonus collected through the EECRF approved in 2018 for the 2019 program year, if any, included in the program costs for purposes of this calculation?
  - e. Did the Commission grant a good-cause exception to establish a lower demand-reduction goal, higher administrative-spending cap, or higher EECRF cost cap for the utility for program year 2019?
    - i. For program year 2019, what factors did the utility rely upon to demonstrate that compliance with its demand-reduction goal, the administrative-spending cap, or the EECRF cost cap was not reasonably possible?
    - ii. Has the utility established that the factors the utility relied upon to demonstrate that compliance with the demand-reduction goal, administrative-spending cap, or EECRF cost cap was not reasonably possible actually occurred?
    - iii. What other considerations, if any, should the Commission weigh in determining whether to reduce the utility's performance bonus?<sup>1</sup>

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<sup>1</sup> See *Rulemaking Project to Amend Energy Efficiency Rides*, Project No. 39674, Order Adopting Amendments to § 25.181 as Approved at the September 28, 2012 Open Meeting at 75 (Oct. 17, 2012) ("The commission notes that performance bonuses are awarded on a case-by-case basis for utilities that have received good cause exceptions. The purpose of a performance bonus is to reward exceptional achievement in administering energy

- iv. Should the Commission deny the entire amount of the requested performance bonus? If not, what amount of the utility's requested performance bonus should be approved? In answering this issue, what are the parties proposed methodologies for Commission approval of a portion of the bonus, and are the calculations and the data upon which any proposed methodologies are based included in the evidentiary record?

**EECRF Rate Classes**

- 11. What are the proper EECRF rate classes for the utility's 2021 EECRF?
  - a. What retail rate classes were approved in the utility's most recent base-rate proceeding, excluding non-eligible customers pursuant to 16 TAC § 25.182(c)(2)?
  - b. Has the utility proposed an EECRF for each eligible rate class?
  - c. Has the utility requested a good-cause exception under 16 TAC § 25.182(d)(2) to combine two or more rate classes? If so, for each rate class that is proposed to be combined, does it have fewer than 20 customers, is it similar to the other rate classes, and does it receive services under the same energy-efficiency programs as the other rate classes? Has the utility demonstrated that good cause supports the proposed combining of rate classes?

**EECRF Rate Design**

- 12. What is the total cost that should be recovered through the utility's 2021 EECRFs under 16 TAC § 25.182(d)(1)?
- 13. What are the 2021 EECRFs for each rate class calculated under 16 TAC § 25.182(d)(2)?
  - a. Are the costs assigned or allocated to rate classes reasonable and compliant with 16 TAC § 25.182?
    - i. Are the utility's program costs directly assigned to each EECRF rate class that receives services under the programs to the maximum extent possible?
    - ii. Is any bonus allocated in accordance with 16 TAC § 25.182(e)(6)?
    - iii. Are administrative costs, including rate-case expenses, and research and development costs allocated in accordance with 16 TAC § 25.181(g)?

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efficiency programs and to provide an incentive to a utility to achieve successful energy efficiency programs. However, the commission also notes, as mentioned by Joint Utilities, that a good-cause exception is generally granted by the commission when circumstances outside the utility's control prevent it from meeting the requirements of the rule.").

- iv. If applicable, how are the evaluation, measurement, and verification costs assigned to the rate classes, and is the assignment compliant with PURA § 39.905 and 16 TAC § 25.182?
    - v. Are any under- or over-recovered EECRF costs allocated to the rate classes in accordance with 16 TAC § 25.182(d)(2)?
  - b. Does the utility propose an EECRF for any commercial rate classes as a demand charge? If so, for each such rate class, do the base rates for that class contain demand charges? For each such rate class, should the EECRF for that rate class be an energy charge or a demand charge?
  - c. What is the estimate of billing determinants for the 2021 program?
  - d. What are the most current, available calculated or estimated system losses and line losses for each eligible retail rate class?
    - i. Were these line losses used in calculating the 2021 EECRF charges?
    - ii. Are the calculated or estimated line losses in evidence in this docket?
- 14. Do the total 2021 EECRF costs, excluding evaluation, measurement, and verification costs, municipal rate-case expenses, and any interest amounts applied to under- or over-recoveries, exceed the EECRF cost caps prescribed in 16 TAC § 25.182(d)(7)? If so, did the utility request an exception to the EECRF cost caps under 16 TAC § 25.181(e)(2) and, if so, has the utility demonstrated that compliance with the EECRF cost caps is not reasonably possible and demonstrated that good cause supports the higher EECRF cost caps?
  - a. Is the utility requesting in this application a performance bonus for a prior program year for which it has been granted a higher EECRF cost cap?
  - b. If so, were the factors that led to the utility being granted a higher EECRF cost cap for the prior program year similar to the factors that the utility is relying upon to demonstrate that good cause supports a higher EECRF cost cap in this docket? If so, should the Commission consider the utility's prior performance in determining whether to award a higher EECRF cost cap?
- 15. Do the incentive payments for each customer class in program year 2019 comply with 16 TAC § 25.181(f)?



**Tariff**

16. What tariff schedule should be adopted for the utility in compliance with 16 TAC § 25.182?

**III. CONCLUSION**

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

Dated: May 8, 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 8, 2020, in accordance with the Order Suspending Rules issued in Project No. 50664.

/s/ Merritt Lander  
Merritt Lander