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DOCKET NO. 50110

**APPLICATION OF DENTON
MUNICIPAL ELECTRIC UTILITY
FOR INTERIM UPDATE OF
WHOLESALE TRANSMISSION
RATES**

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**PUBLIC UTILITY COMMISSION
OF TEXAS**



**COMMISSION STAFF'S RESPONSE TO DENTON'S REQUEST FOR A GOOD
CAUSE EXCEPTION**

COMES NOW the Staff (Staff) of the Public Utility Commission of Texas (Commission), representing the public interest, and in response to Order No. 7, files this Commission Staff's Response to Denton's Request for a Good Cause Exception. Staff recommends that the exception be denied and, in support thereof, would show the following:

I. BACKGROUND

On December 10, 2019, Denton Municipal Electric Utility (Denton) filed an application for an interim update of wholesale transmission service rates (Application). Denton filed amended applications on January 31, 2020, and on April 16, 2020.

On May 7, 2020, the Administrative Law Judge issued Order No. 7, setting a deadline of May 18, 2020 for Staff to respond to Denton's request for a good cause exception.

II. DENTON'S REQUEST FOR A GOOD CAUSE EXCEPTION

As part of Denton's second amended application, filed on April 16, 2020, Denton requested a good cause exception to the requirements of 16 Texas Administrative Code (TAC) § 25.192(h) to allow for recovery of certain "catch up" depreciation expenses from previous years. Staff opposes this request.

Denton notes that it has filed six interim transmission cost of service (TCOS) applications since its last full TCOS proceeding in 2004-2005, each time applying the same methodology and incorporating the same type of "catch-up" depreciation expenses as those included in its request for a good cause exception.¹ Denton describes its method of recording "catch up" depreciation in

¹ Second Amended Application of Denton Municipal Electric Utility for Interim Update of Wholesale Transmission Rates at 5 (Apr. 16, 2020) (Seconded Amended Application).

the (first) amended testimony of company witness Karl Nalepa.² Denton further notes that in each of the previous applications, Staff found the depreciation calculation reasonable and recommended approval.³ Inclusive of catch-up depreciation, Denton is requesting an increase in depreciation expense of \$2,829,257; exclusive of catch-up depreciation, Denton's requested increase in depreciation expense is \$536,033.⁴ While Staff recommendations in previous dockets may have found the depreciation calculation reasonable, Staff is unable to make such a recommendation in this docket and cannot support the good cause exception.

The rules contained in 16 TAC § 25.192(h) are explicit: "each TSP in the ERCOT region may apply to update its transmission rates on an interim basis not more than [twice] per calendar year to reflect changes in its invested capital."⁵ Further, "[i]f the TSP elects to update its transmission rates, the new rates shall reflect the addition and retirement of transmission facilities and include appropriate depreciation, federal income tax and other associated taxes, and the commission authorized rate of return on such facilities as well as changes in loads."⁶ An interim update of wholesale transmission rates is a mechanical calculation designed to reflect changes in the amount of a TSP's invested capital. Any changes to other components of the TCOS revenue requirement, including depreciation expense, should only be made as the result of the flow-through effects of the increase in transmission plant.

In an interim TCOS proceeding, it is inappropriate to allow a utility to selectively request updates for specific line items (other than the calculated update prescribed by the rule and rate filing package). The major factor compounding the difference in the amount of depreciation expense calculated per the rule and rate filing package versus that calculated using the methodology that Denton requests, is the sheer length of time between Denton's last comprehensive base-rate proceeding and the update in this proceeding. That same factor, however, also motivates and justifies Staff's opposition to this request to update depreciation expense alone without a full rate review.

² Amended Direct Testimony of Karl Nalepa at 6-7 (Jan. 31, 2020).

³ Second Amended Application at 5.

⁴ *Id.*, Second Amended Direct Testimony of Karl J. Nalepa at 10 (Apr. 16, 2020) (Nalepa Second Direct).

⁵ 16 TAC § 25.192(h).

⁶ *Id.*

Denton's test year for this application is the calendar year ending June 30, 2019.⁷ Therefore, the depreciation expense for the test year should be calculated by multiplying the gross plant balance in each FERC account for transmission assets as June 30, 2019, by the depreciation rate for each FERC account approved in Denton's last base-rate proceeding, and then adding up those amounts. Denton claims that the catch-up depreciation it seeks to recover is a consequence of the lag between the time an asset is placed into service and the time it is capitalized on Denton's books.⁸

The fundamental purpose of an interim TCOS filing, however, is to provide interim recovery of transmission investment between full TCOS applications, i.e., to mitigate but not completely eliminate regulatory lag, and nothing within 16 TAC § 25.192(h) allows for an additional modification to depreciation expense in order to address the time between when an asset is placed into service and when it is capitalized on a utility's books. If Denton seeks Commission approval of a greater amount of depreciation expense than the existing depreciation rates produce, an interim TCOS case is not the proper proceeding for that purpose; instead, Denton should file an application for a comprehensive review of all its wholesale transmission costs. Therefore, it is Staff's position that the catch-up depreciation expenses sought by Denton as part of this proceeding should be disallowed, Denton should calculate its request to update its depreciation expense in accordance with the rule and rate filing package, and the request for good cause exception should be denied.

III. CONCLUSION

For the reasons stated above, Staff respectfully recommends that Denton's request for a good cause exception be denied.

⁷ Amended Direct Testimony of Antonio Puente, Jr. at 5 (Apr. 16, 2020).

⁸ Second Amended Application at 6.

DATED: May 20, 2020

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

Rachelle Nicolette Robles
Division Director

Eleanor D'Ambrosio
Managing Attorney

/s/ John Harrison
John Harrison
State Bar No. 24097806
1701 N. Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3326
(512) 936-7277
(512) 936-7268 (facsimile)
John.Harrison@puc.texas.gov

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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/ John Harrison
John Harrison