



Control Number: 50790



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SOAH DOCKET NO. 473-20-3737
PUC DOCKET NO. 50790



JOINT REPORT AND APPLICATION § BEFORE THE STATE OFFICE
OF ENTERGY TEXAS, INC. AND EAST §
TEXAS ELECTRIC COOPERATIVE, §
INC. FOR REGULATORY APPROVALS §
RELATED TO TRANSFERS OF THE § OF
HARDIN COUNTY PEAKING §
FACILITY AND A PARTIAL INTEREST §
IN MONTGOMERY POWER STATION § ADMINISTRATIVE HEARINGS

SOAH ORDER NO. 1
DESCRIBING FILING; SETTING PREHEARING CONFERENCE;
DISCUSSING DEADLINES AND PROCEDURES

Filing Description

On April 28, 2020, Entergy Texas, Inc. (ETI) and East Texas Electric Cooperative, Inc. (ETEC) (collectively, Applicants) filed with the Public Utility Commission of Texas (Commission) a joint report and application for transfer of facilities, transfer of rights under an amendment to certificates of convenience and necessity (CCNs), and other regulatory approvals. Applicants request that the Commission approve an amendment to ETI's CCN to include the Hardin County Peaking Facility, find that ETI's acquisition of the Hardin Facility is consistent with the public interest, find 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.

The application was submitted under Public Utility Regulatory Act¹ §§ 14.001, 14.101, 32.001, 37.051, 37.053, 37.056, 37.058, 37.154, and 39.452(j). The Commission referred this case to the State Office of Administrative Hearings (SOAH) on May 20, 2020, requesting assignment of an Administrative Law Judge (ALJ) to conduct a hearing and issue a proposal for decision

¹ Public Utility Regulatory Act, Tex. Util. Code §§ 11.001-66.016 (PURA).

(PFD), if such is necessary. SOAH has jurisdiction over those matters pursuant to PURA § 14.053 and Texas Government Code § 2003.049. In its Order of Referral, the Commission stated it will consider and possibly adopt a preliminary order listing issues to be addressed in this proceeding at the Commission's open meeting scheduled for May 29, 2020.

Prehearing Conference

In response to the emergency declarations related to the novel coronavirus COVID-19, SOAH has temporarily discontinued all non-emergency in-person hearings and is conducting proceedings in non-emergency general docket contested cases primarily by telephone or videoconference. If the parties wish to have an in-person hearing, they must file a motion stating good cause why the use of telephone or videoconference is not feasible for the particular proceeding or why justice requires that the parties be permitted to appear in-person.²

The ALJs will convene a telephonic prehearing conference at **1:30 p.m. on June 3, 2020**. The dial-in information is:

Austin: (512) 807-0005

Or Toll Free: (855) 999-5357

Conference ID: 529-5266

The following matters will be discussed at the prehearing conference:

1. Any pending motion filed **on or before June 1, 2020**;

² The most recent emergency order from SOAH's Chief Administrative Law Judge regarding the updated precautionary measures for coronavirus and related information are located on SOAH's website at <http://www.soah.texas.gov/>. Parties shall comply with the emergency order in effect at the time and should check SOAH's website for updates frequently. The parties should also review COVID 19-related information on the Commission website, <https://www.puc.texas.gov/>, and the Commission's related order suspending specific rules. *See Issues Related to the State of Disaster for the Coronavirus Disease 2019*, Docket No. 50664, Order Suspending Rules (Mar. 16, 2020).

2. A procedural schedule and the date(s) and format (telephonic, audiovisual, or in-person) for the hearing on the merits. The parties are encouraged to confer in advance about the procedural schedule and hearing format and may submit a joint proposal. The procedural schedule and hearing format shall conform with current requirements on SOAH's website relating to COVID-19. The schedule shall: (1) include filing deadlines for any post-hearing initial and reply brief and proposed findings of fact, conclusions of law, and ordering paragraphs;³ (2) allow 60 days after the record closes for the ALJs to prepare a PFD;⁴ and (3) allow sufficient time after issuance of the PFD for the Commission to issue a final order in compliance with PURA § 39.262(m). Assuming the hearing will be conducted by telephone or videoconference, the schedule must also include deadlines to prefile all exhibits, including those to be offered on cross-examination.⁵
3. Any other matters that may assist in the disposition of this proceeding in a fair and efficient manner.

Other Deadlines and Procedures

As set forth in Order Nos. 1 through 3 issued by the Commission ALJ, Commission Staff shall (and any other party may) (1) **on or before June 2, 2020**, file comments and a recommendation on the sufficiency of the proposed notice and whether additional notice may be required; and (2) **on or before June 9, 2020**, file comments and a recommendation on the sufficiency of the application. Motions to intervene shall be filed **on or before June 12, 2020**.

Filing and Service Procedures

All documents shall be filed with the Commission's filing clerk, not with the SOAH filing clerk. Both the SOAH and Commission docket numbers must be included in the caption of all documents or other correspondence filed in this case. Parties wishing to hand-deliver a

³ The ALJs expect to require Applicants, and to allow any other party, to file proposed findings of fact, conclusions of law, and ordering paragraphs.

⁴ The record closes on the last day a post-hearing brief or proposed findings of fact, conclusions of law, and ordering paragraphs are filed.

⁵ See 1 Tex. Admin. Code § 155.405 and the emergency order and other documents relating to COVID-19 available at <http://www.soah.texas.gov>.

file-stamped copy of a document to the ALJs (such as protected material not available on the Commission interchange) should deliver it to Room 504, 5th Floor, William P. Clements Building, 300 West 15th Street, Austin, Texas. Discovery requests and responses shall not be delivered to SOAH unless they are exhibits to be offered at hearing or documents relating to a discovery dispute on which the ALJs must rule. Parties may also email copies of documents, especially those that are time-sensitive, to the ALJs' administrative assistant, Erin Hurley, at Erin.Hurley@soah.texas.gov. Any filing or submission to SOAH shall conform with Commission and SOAH orders issued in this case and Commission and SOAH requirements in effect at the time relating to COVID-19.⁶

Routine procedural and logistical questions may be directed to Ms. Hurley at her email address above or at 512-475-3419. SOAH support personnel may not provide advice or interpret orders or regulations for the parties.

SIGNED May 21, 2020.



DANIEL WISEMAN
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS



ELIZABETH DREWS
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS

⁶ Among other things, due to the COVID-19 emergency, currently SOAH will accept physical delivery of a document only during certain hours. See <http://www.soah.texas.gov>.