

RESOLUTION NO. 19-01

RESOLUTION BY THE CITY OF Tatum ("CITY") AUTHORIZING THE CITY TO PARTICIPATE AS PART OF THE CITIES ADVOCATING REASONABLE DEREGULATION ("CARD") IN PROCEEDINGS RELATED TO SOUTHWESTERN ELECTRIC POWER COMPANY'S ("SWEPCO") APPLICATION FILED ON ABOUT JULY 15, 2019 CONCERNING ITS REQUEST TO ACQUIRE AN INTEREST IN THREE WIND GENERATION FACILITIES (THE "SELECTED WIND FACILITIES"); AUTHORIZING THE HIRING OF ATTORNEYS AND CONSULTANTS; DIRECTING THE ACTIVITIES OF LAWYERS AND CONSULTANTS REGARDING SWEPCO'S APPLICATION; REQUIRING REIMBURSEMENT OF REASONABLE LEGAL AND CONSULTANT EXPENSES TO THE EXTENT ALLOWED BY LAW; FINDING THAT THE MEETING COMPLIES WITH THE OPEN MEETINGS ACT; AND MAKING OTHER FINDINGS AND PROVISIONS RELATED TO THE SUBJECT

WHEREAS, on about July 15, 2019 Southwestern Electric Power Company ("SWEPCO" or "Company") filed an application with the Public Utility Commission of Texas ("PUCT") to amend its certificate of convenience and necessity ("CCN") seeking authority to acquire an interest in a project SWEPCO refers to as the "Selected Wind Facilities" ("Wind Project II"); and

WHEREAS, the Wind Project II is comprised of three wind generation facilities owned by an affiliate of Invenergy Wind Development North America, LLC ("Invenergy") in Oklahoma; and

WHEREAS, SWEPCO along with its affiliate, the Public Service Company ("PSO") of Oklahoma, as a co-purchaser, intends to purchase Wind Project II from Invenergy; and

WHEREAS, Wind Project II is comprised of the Traverse Wind Facility (999 MW), the Maverick Wind Facility (287 MW), and the Sundance Wind Facility (199 MW); and

WHEREAS, SWEPCO has contracted to acquire 54.5% of each facility, for a total of 810 MW, and PSO will acquire the remaining 45.5% (675 MW) share; and

WHEREAS, SWEPCO holds CCN No. 30151 and requests that its CCN be amended to include the acquisition of its 810 MW share of the Wind Project II; and

WHEREAS, SWEPCO estimates the total project costs to be \$1.996 billion; and

WHEREAS, SWEPCO estimates that Wind Project II could provide energy cost savings of approximately \$2.1 billion (\$588 million net present value), as compared to a baseline case without the three facilities; and

WHEREAS, SWEPCO projects that the Traverse and Maverick Wind Facilities could qualify for production tax credits (“PTCs”); and

WHEREAS, SWEPCO estimates, over the first ten years of operation, the facilities to earn PTCs net of deferred tax asset carrying costs valued at approximately \$750 million; and

WHEREAS, to the extent PTCs are not fully used by the Company in a given tax year, SWEPCO requests Commission approval in this case to earn a profit on any unrealized PTCs in a deferred tax asset that will be included in rate base in subsequent rate proceedings; and

WHEREAS, SWEPCO also seeks approval of recovery of the net costs of the Wind Project II through SWEPCO’s fuel factor; and

WHEREAS, in a future filing and pursuant to newly-enacted Public Utility Regulatory Act (“PURA”) § 36.213, SWEPCO intends to request implementation of a Generation Investment Recovery Rider that will take effect on the date the facilities comprising Wind Project II begin providing service to customers; and

WHEREAS, pursuant to the PURA § 33.025 the City has standing in each case before the Commission that relates to an electric utility providing service in the municipality; and

WHEREAS, the City has the authority under PURA § 33.023 to participate in ratemaking proceedings and engage consultants and attorneys to advise and represent the City and assist in litigation before a regulatory authority, or a court; and

WHEREAS, to the extent SWEPCO’s application comprises a ratemaking proceeding, the electric utility in shall reimburse the City for the reasonable cost of the services of a person engaged under PURA § 33.023(a) to the extent the applicable regulatory authority determines is reasonable; and

WHEREAS, in order to maximize the efficient use of resources and expertise in reviewing, analyzing and investigating SWEPCO's application relating to the Wind Project II it is prudent to coordinate the City's efforts with a coalition of similarly situated municipalities; and

WHEREAS, the City, in matters regarding applications by SWEPCO to change rates, has in the past joined with other local regulatory authorities to form Cities Advocating Reasonable Deregulation ("CARD") and hereby continues its participation in CARD; and

WHEREAS, all savings, including fuel savings and receipt of production tax credits are based on projections and forecasts, but once Wind Project II is added to SWEPCO's rate base, SWEPCO's profits related to Wind Project II are effectively guaranteed; and

WHEREAS, the City will need to review and evaluate SWEPCO's application concerning the Wind Project II to exercise its due diligence as a regulatory authority as well as to protect its interests and its citizens' interests as rate-payers.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF Tatum THAT:

Section 1. The findings set out in the preamble are in all things approved and incorporated herein as if fully set forth.

Section 2. The City continues its participation with other cities in a coalition of cities known as Cities Advocating Reasonable Deregulation ("CARD") with the understanding that the Steering Committee of CARD is to provide direction and guidance to Special Counsel representing said cities.

Section 3. The City authorizes participation and intervention in proceedings at the Public Utility Commission of Texas related to SWEPCO's Wind Project II proceeding, as well as appeals taken, if any, from the Commission's decision.

Section 4. The City directs Herrera Law & Associates, PLLC as Special Counsel to represent the City with regard to SWEPCO's Wind Project II and related proceedings before local and state regulatory authorities and any court of law and authorizes Special

Counsel to engage such experts as may be reasonably necessary for review and evaluation of SWEPCO's Wind Project II.

Section 5. To the extent SWEPCO's application comprises a ratemaking proceeding, SWEPCO shall reimburse the City on a monthly basis, through CARD's coordinating city, the City of Longview, Texas, for the reasonable costs of attorneys and consultants and expenses related thereto, upon the presentation of invoices reviewed by the City of Longview.

Section 6. A copy of this resolution shall be sent to Ms. Shelli A. Sloan, Regulatory Case Manager, American Electric Power Services Corporation – SWEPCO, 400 West 15th Street, Suite 1520, Austin, Texas 78701; and to Mr. Alfred R. Herrera, Herrera Law Associates, PLLC, 816 Congress Ave., Suite 950, Austin, Texas 78701.

Section 7. The meeting at which this resolution was approved was in all things conducted in strict compliance with the Texas Open Meetings Act, Texas Government Code, Chapter 551.

Section 8. This resolution shall become effective from and after its passage.

PASSED AND APPROVED this 14 day of October, 2019.



Mayor

ATTEST:



City Secretary

Consider a resolution authorizing intervention through the Cities Advocating Reasonable Deregulation ("CARD") in a proceeding filed by Southwestern Electric Power Company's ("SWEPCO") application filed with the Public Utility Commission of Texas, to acquire an interest in the wind-generation facilities

EFFECT ON BASE RATES:

- SWEPCO's application to build its wind farm will have a dramatic impact on SWEPCO's base rates for electricity service; its application is essentially a redux of its "Wind Catcher II Project" absent the transmission-line piece, that it filed in July, 2017.
- At a high-level estimate, an addition of \$1.99 billion to SWEPCO's rate base (its invested capital), equates to a dollar return to SWEPCO of about \$201 million in profit to SWEPCO's shareholders over the life of the wind turbines, plus recovery of the \$1.99 billion cost of the wind turbines.
- At least on a very cursory review, SWEPCO is again not guaranteeing the savings it projects, but it will be in essence guaranteed the profit on the wind turbines.

IMPORTANCE TO CARD CITIES:

This proceeding is of high importance to the CARD cities. It will have a *significant impact on base rates as a certainty*, with *only predictions/projections, without a guarantee, of the savings* SWEPCO projects to occur. In short: it's assured that ratepayers would pay for the plant and that SWEPCO would earn a profit from the plant, but ratepayers are given only the possibility of savings.

SWEPCO'S APPLICATION TO AMEND ITS "CCN":

- On July 15, 2019, Southwestern Electric Power Company ("SWEPCO" or "Company") filed an application with the Public Utility Commission of Texas ("PUCT") to amend its certificate of convenience and necessity ("CCN") seeking authority to acquire an interest in three wind facilities SWEPCO refers to as the "Selected Wind Facilities" ("Wind Project II").

SWEPCO'S NEW WIND PROJECT:

- The Wind Project II is comprised of three "wind farms," the Traverse Wind Facility (999 MW), the Maverick Wind Facility (287 MW), and the Sundance Wind Facility (199 MW). Each of the wind facilities comprising Wind Project II are owned by an affiliate of Invenergy Wind Development North America, LLC ("Invenergy") in Oklahoma. SWEPCO, along with its affiliate, Public Service Company of Oklahoma, as a co-purchaser, plans to purchase the facility from Invenergy.
- SWEPCO estimates that at completion, the acquisition of Wind Project II will provide 1,485 megaWatts ("mW") of electricity at a total project cost of about \$1.996 billion.

- SWEPCO estimates that over the first ten years of operation, the three facilities are projected to earn production tax credits (“PTCs”) totaling, \$750 million, net of additional profits SWEPCO would collect related to deferred tax assets for PTCs it may not be able to use.
- To the extent that the PTCs are not fully used by SWEPCO in a given tax year, the Company requests Commission approval in this case to include any unrealized PTCs in a deferred tax asset that will be included in rate base in subsequent rate proceedings.
- As a key component of its application, SWEPCO also requests permission to recover the net costs of the Wind Catcher Project through fuel factor and to begin recovery when the facility commences commercial operations. SWEPCO proposes this rate treatment only until it files its next general base-rate case at which time it will seek to have the costs and benefits reflected in base rates.
 - This means that the impact on customers’ base rates will be almost immediate. Also any fuel savings that may offset the increase in base rates are based on projections and uncertain;
 - But the profit SWEPCO will earn on the Wind Catcher Project are effectively guaranteed.
- SWEPCO’s Wind Catcher Project is very similar to the “Wind Catcher Project” that SWEPCO tried to get approval from the Public Utility Commission almost 2 years ago to the day. The PUCT rejected that application because of the uncertainty of the fuel savings and the lack of guarantees SWEPCO was willing to offer ratepayers to ensure the savings.

COST:

Because this case is not a "ratemaking proceeding," the cities' expense of participating in this case is not reimbursable. A rough estimate of the attorneys/consultants fees about \$45K to \$60K for legal fees and \$35K to \$50K for consultants' fees, that is, an estimated total of from \$80K to \$110K.

The cost of participation may seem daunting, but in an overview of their application, SWEPCO's application again appears to be one in which the risk of bad projections re: cost of construction and cost of fuel, are borne by the ratepayers/citizens, and the profits are nonetheless guaranteed.