

LOUISIANA PUBLIC SERVICE COMMISSION

ORDER NO. U-35324

**SOUTHWESTERN ELECTRIC POWER COMPANY,
EX PARTE**

Docket No. U-35324, In re: Application for Certification and Approval of the Acquisition of Certain Renewable Resources.

(Decided at the Commission's May 27, 2020 Business and Executive Session.)

I. PROCEDURAL HISTORY

On July 15, 2019, Southwestern Electric Power Company ("SWEPCO" or the "Company") filed an application seeking approval from the Louisiana Public Service Commission ("LPSC" or the "Commission") for the acquisition of three wind generation facilities ("Wind Facilities", "SWF", or "Project") as a part of the proposed transaction and request for Certification in compliance with the LPSC's Market Based Mechanism Order ("MBM Order") dated October 29, 2008, the September 20, 1983 General Order ("1983 General Order"), and the March 18, 1994 General Order ("1994 General Order"). After notice of SWEPCO's application was published in the Commission's Official Bulletin, Wal-Mart Inc. and the Alliance for Affordable Energy intervened in the proceeding.

After extensive discovery, testimony, and numerous discussions, all parties reached a Joint Stipulation and Settlement Agreement ("Stipulation"), which was filed into the record on April 9, 2020. The matter was then placed on the Commission's May 27, 2018 Business and Executive Session ("B&E") agenda for discussion and possible vote under Rule 57 of the Commission Rules of Practice and Procedure.

II. COMMISSION JURISDICTION

The jurisdiction of the Commission is set forth by constitutional and statutory provisions. The Louisiana Constitution, Article IV, Section 21, provides:

The commission shall regulate all common carriers and public utilities and have such other regulatory authority as provided by law. It shall adopt and enforce reasonable rules, regulations, and procedures necessary for the discharge of its duties, and shall have other powers and perform other duties as provided by law.

Pursuant to this Constitutional authority, the Commission issued the 1983 General Order, which states that no jurisdictional electric utility "shall commence any on site construction activity or enter into any contract for construction ... without first having applied to the Commission for a certification that the public convenience and necessity would be served through completion of such project or confection of such contract." Further, the Commission issued the 1994 General Order, which provides in pertinent part:

No utility or common carrier subject to the jurisdiction of the Louisiana Public Service Commission shall sell, assign, lease, transfer, mortgage, or otherwise dispose of or encumber the whole or any part of its franchise, works, property, or system, nor by any means direct or indirect, merge or consolidate its utility works, operations, systems, franchises, or any part thereof, nor transfer control or

ownership of any assets, common stock or other indicia of control of the utility to any other person, ..., where the values involved in such action exceed one percent (1%) of the gross assets of such regulated utility or common carrier, ... without prior official action of approval or official action of non-opposition by the Louisiana Public Service Commission. This section is intended to apply to any transfer of the ownership and/or control of public utilities and common carriers regardless of the means used to accomplish that transfer.

III. BACKGROUND

SWEPCO's application filed July 15, 2019, requested approval for the acquisition of the three Wind Facilities in North Central Oklahoma for the benefit of SWEPCO ratepayers. The SWF consist of three (3) separate projects totaling 1,485 megawatts in total installed name plate capacity that are currently under construction in North Central Oklahoma. They are (1) the Traverse (999 MW) Wind Project with Traverse Wind Energy, LLC ("Traverse"), (2) the Maverick (287 MW) Wind Project with Maverick Wind Project, LLC ("Maverick"), and (3) the Sundance (199 MW) Wind Project with Sundance Wind Project, LLC ("Sundance"). Traverse, Maverick, and Sundance are all affiliates of Invenergy, LLC, the largest privately held wind energy developer in North America. SWEPCO's pro-rata of portion of the 1,485 MW is 54.5%, or 810 MW, with the remaining 45.5% belonging to SWEPCO's sister company, Public Service Company of Oklahoma ("PSO").

The SWF were selected through a competitive bidding process in accordance with the Commission's MBM Order. On October 24, 2018, SWEPCO issued its Notice of Intent to Conduct an RFP for Wind Resources, and offered to provide supplemental information for review to Staff. The Commission voted unanimously on November 16, 2018, to grant SWEPCO's request for a waiver of the advanced notice requirement under the MBM Order. (Special Order 87-2018, dated December 11, 2018). The Commission also voted to hire United Professionals Company as a Consultant to assist Staff in its review of SWEPCO's proposed RFP for Wind Resources.

SWEPCO filed a draft RFP with the Commission in October 2019, as well as other supporting documents as required by the MBM Order including: a description of the proposed resource acquisition, the proposed bidding criteria and methodology, the need for the resource, safeguards in the bidding process, preferences regarding deliverability, and a proposed schedule for bidding and construction of the SWF. This information was also provided to the Staff and Consultant for review in connection with the MBM process, and was made publicly available online on November 2, 2018. A Technical Conference and bidder's webinar was held on December 10, 2018, to discuss the proposed RFP with Staff and potential bidders and to answer questions.

After coordinating with Staff in accordance with the MBM Order, SWEPCO and PSO ("the Companies") both issued RFPs for Wind Generation Resources in January 2019. SWEPCO requested proposals for the acquisition of up to 1,200 megawatts of wind energy resources to be in commercial operation by December 15, 2021. PSO requested proposals for the acquisition of up to 1,000 megawatts of wind energy resources to be in commercial operation by December 15, 2021. The Companies sought facilities on a turnkey, fixed-cost basis in which they would acquire all of the equity interest in the facility, or the facility and all its assets. Key considerations in the RFP evaluation process included cost, performance, and long-term deliverability. SWEPCO and PSO sought projects located in, and interconnected to, the Southwest Power Pool ("SPP") regional

grid in Louisiana, Arkansas, Texas, or Oklahoma, such that no generation tie line would be required and with a primary goal of limiting costs from congestion.

The Companies received a robust response to the RFP with 35 bids, representing 19 unique wind projects totaling 5,896 megawatts on March 1, 2019. Following a thorough review of all bids, and discussion with Staff, SWEPCO and PSO selected the SWF. On August 5, 2019, Staff issued the *Final Status Report of the Commission Staff* in LPSC Docket X-35085, summarizing the RFP process, providing comments and finding that SWEPCO comported with the Commission's MBM Order.

The total purchase price for the SWF to be paid by SWEPCO and PSO is \$1.86 billion (\$1,253/kW), including all interconnection facility upgrade costs. The purchase price is payable to the Sellers at closing of each of the SWF with no pre-closing progress or other payments. SWEPCO's share of the total purchase price is \$1.014 billion, and the estimated Louisiana jurisdictional share of the cost is \$336 million. The contracts are turnkey, fixed price Purchase & Sale Agreements that require project delivery to the Companies on the commercial operation date. These time-sensitive SWF take advantage of federal Production Tax Credits ("PTC") for the benefit of customers so as to secure at least 80% of the value of the PTCs, and in the case of Sundance, 100% of the value of the PTC. There are no fuel costs; SWEPCO is not seeking approval for the construction of a generation tie-line, and the purchase price includes all interconnection and upgrade costs for SWEPCO. SWEPCO's application also sought approval of a Flex-Up provision, so that if one of its other jurisdictions did not approve the Project, Louisiana would have the opportunity to acquire up to 464 MW of SWEPCO's allocated share of the Project, potentially increasing benefits to Louisiana customers.

After several months of discovery and negotiations, SWEPCO, Staff, Wal-Mart Inc. and the Alliance for Affordable Energy entered into a Settlement Agreement setting forth the terms of the agreement, including substantial guarantees by SWEPCO and a Most-Favored Nations provision. The guarantees are designed to provide value and assurances to customers, including a cost cap, a long-term minimum production guarantee, a net benefits guarantee, and a guarantee that the facilities will qualify for PTCs at the levels described further in the Stipulation dated April 9, 2020.

IV. STIPULATED SETTLEMENT

The Stipulation entered into by SWEPCO, Staff, The Alliance for Affordable Energy and Wal-Mart on April 9, 2020, is set out in its entirety in Attachment A.

V. COMMISSION CONSIDERATION

This matter was considered at the Commission's May 27, 2020 Business and Executive Session. On Motion of Commissioner Campbell, seconded by Chairman Francis, and unanimously adopted, the Commission voted to assert its original jurisdiction and take this matter up pursuant to Rule 57. On motion of Commissioner Campbell, seconded by Commissioner Skrmetta, and unanimously adopted, the Commission voted to accept the Stipulated Settlement, including the Flex-Up Option.

THEREFORE, IT IS ORDERED:

1. The Commission adopts the Stipulated Settlement dated April 9, 2020, attached hereto as Attachment A.
2. The Commission adopts the Flex-Up provision to authorize SWEPCO to allocate the proportionate share of the Selected Wind Facilities from a non-approving jurisdiction, up to approximately 464 MW in total, to SWEPCO's Louisiana jurisdiction, in accordance with the terms of the Stipulated Settlement in paragraph 1(c) and 3(e).
3. This Order is effective immediately.

**BY ORDER OF THE COMMISSION
BATON ROUGE, LOUISIANA**

June 24, 2020



**DISTRICT IV
CHAIRMAN MIKE FRANCIS**



**DISTRICT II
VICE CHAIRMAN CRAIG GREENE**



**DISTRICT V
COMMISSIONER FOSTER L. CAMPBELL**



**DISTRICT III
COMMISSIONER LAMBERT C. BOISSIERE, III**



**BRANDON M. FREY
SECRETARY**



**DISTRICT I
COMMISSIONER ERIC F. SKRMETTA**

BEFORE THE
LOUISIANA PUBLIC SERVICE COMMISSION

APPLICATION OF SOUTHWESTERN)
ELECTRIC POWER COMPANY (SWEPCO))
FOR CERTIFICATION AND APPROVAL OF)
THE ACQUISITION OF CERTAIN) DOCKET NO. U-35324
RENEWABLE RESOURCES IN)
ACCORDANCE WITH THE MBM ORDER)
AND THE 1983 AND 1994 GENERAL ORDERS)

JOINT STIPULATION AND SETTLEMENT AGREEMENT

COME NOW the undersigned parties to the above entitled docket and present the following Joint Stipulation and Settlement Agreement (Joint Settlement) for the Commission's review and approval as their compromise and settlement of all issues in this proceeding between the parties to this Joint Settlement (Settling Parties) as described below. The Settling Parties represent to the Commission that this Joint Settlement represents a fair, just and reasonable settlement of these issues, that this Joint Settlement addresses the resolution of all legal and factual issues presented in this docket, that the terms and conditions of the Joint Settlement are in the public interest, satisfy the MBM Order and the 1983 and 1994 General Orders, and the Settling Parties urge the Commission to issue an Order in this docket adopting and approving this Joint Settlement.

It is hereby agreed by and between the Settling Parties as follows:

TERMS OF THE JOINT SETTLEMENT

Effective with the final order of the Louisiana Public Service Commission (LPSC or Commission) approving all elements of this Joint Settlement:

1. Approval of the Application.

- (a) Except as described below, the Settling Parties request that the Commission approve the relief requested by the Company in its Application. The Company clarifies that its request for a finding that the purchase of the Selected Wind Facilities (SWFs) (also referred to collectively as North Central Energy Facilities) is in the public interest should not be construed as a request for finding a value for ratemaking purposes.
- (b) Southwestern Electric Power Company (SWEPCO or the Company) is authorized to acquire up to 810 MW from the Selected Wind Facilities, based on the receipt of all regulatory approvals by SWEPCO.

- (c) The Company is further authorized to acquire either 810 MW or a lesser amount of MW from the Selected Wind Facilities (SWF) if the Company does not receive certain regulatory approvals, as set forth in the Direct Testimony of Thomas P. Brice, Page 20, line 17, to Page 21, line 13, or if Invenergy delivers and SWEPCO accepts a lesser amount of MW pursuant to the terms of the PSAs. The anticipated scenarios, including scenarios E and F (Flex-Up Scenarios) where the Louisiana jurisdictional share of the Selected Wind Facilities will flex-up in comparison to the Base Case, are set forth in the table in Attachment 1, provided, however, that approval of the Flex-Up Scenarios is subject to Section 1(d). The Louisiana share of the Selected Wind Facilities, estimated in Attachment 1 based on the jurisdictional allocators used in the Company's direct testimony, will be determined in accordance with the Direct Testimony of Thomas P. Brice, Page 20, line 17, to Page 21, line 13, and using the jurisdictional allocation methodology set forth below in Section 3(e).
- (d) The Company, Walmart Inc. and the Alliance for Affordable Energy support inclusion of the Flex-Up Scenarios in the Settlement Agreement. The Louisiana Public Service Commission Staff and the other Settling Parties agree to present the Flex-Up Scenarios to the Commission as an option for approval in this matter.

2. Guarantees.

- (a) Cost Cap. SWEPCO commits to a total cost cap of 100% of filed capital costs, including AFUDC and contingency, as well as the interconnection costs related to the SWF that are within the scope of the Company's Application, as set forth in Attachment 1 for the Base Case and each other scenario. The Cost Cap will be reduced by the amount of any purchase price reduction realized by the Company under the terms and conditions of the Purchase and Sale Agreements (PSAs), plus a proportionate share of contingency, including any amount that reflects a reduction in the amount of MW acquired by SWEPCO if the Company does not receive certain regulatory approvals. Costs above the cap are not recoverable. There shall be no exceptions to the cap for force majeure or changes in applicable law.
- (b) PTC Eligibility. SWEPCO will provide a guarantee, for cost recovery purposes, that the SWFs will be eligible for the applicable value of the federal Production Tax Credits (PTCs) (80% for Traverse and Maverick and 100% for Sundance) for the actual output of the SWFs. SWEPCO will be excused from this guarantee protecting against a reduction in the value of PTCs to the extent such reduction is a direct result of a Change in Law which, for purposes of this PTC guarantee shall be limited to the adoption, repeal, imposition, promulgation or material modification of the Internal Revenue Code or other authority constituting substantial authority as defined in Section 1.6662-4(d)(3)(iii) of the Internal Revenue Code, and further provided that SWEPCO will prudently defend against any such reduction in value from a Change of Law at its own cost. Based on the combined effect of the PTC and Net Capacity Factor (NCF) Guarantees, customers will receive PTCs equal to the greater of actual or guaranteed MWh production upon completion of the SWFs.

- (c) Net Capacity Factor (NCF). SWEPCO guarantees a minimum net average capacity factor from the SWFs of P95 over the six five-year periods of the first thirty full years of operations (with the first year of full operations starting January 1, 2022). The NCF guarantee will be measured in MWh and at P95 will equal the applicable Total SWEPCO MWh at P95 (as set forth in Attachment 1) for each five-year period at the applicable Total SWEPCO MW (as set forth in Attachment 1), adjusted ratably for the Company's share of any reduction in the final amount of MW installed by Invenergy and its subsidiaries pursuant to the PSAs for the SWFs. The MWh guarantee for the sixth five-year period (years 26-30) will be adjusted ratably downward if the Sundance facility is constructed but is no longer in operation after its 30th year of operations.

NCF will be measured across all facilities on a combined basis and will be evaluated in a filing to the Commission in this docket to be made no later than May 1 of the year following the 5-year performance period. The output of each facility will be measured at its point of interconnection under its Generation Interconnection Agreement. Any make-whole payments resulting from a NCF production shortfall in any five-year period will flow back to customers through the Fuel Adjustment Clause over the 12-month period following the performance evaluation covering each five-year performance period. (For example, any make-whole payment pertaining to years 1-5 will flow back to customers during the 12 months following the performance evaluation in year 6.) The calculation for determining amounts due to customers under this guarantee shall be as set out in Attachment 2 hereto. Hours impacted by force majeure will not be excluded from the calculation. Economic curtailments of the Selected Wind Facilities by the Southwest Power Pool (SPP) will also not be excluded from the NCF guarantee calculation. However, reliability curtailments and curtailments for environmental reasons will be excluded from the NCF guarantee calculation.¹

- (d) Most Favored Nations (MFN). The MFN guarantee will apply to the Cost Cap Guarantee, NCF Guarantee, PTC Eligibility Guarantee and any other term or condition adopted for the Company in Arkansas and Texas or for the Public Service Company of Oklahoma (PSO) in any of the state jurisdictions on behalf of which it or PSO acquires a share of the Selected Wind Facilities, whether through settlement or order issued by any such jurisdiction, to the extent such terms or conditions are

¹ For purposes of clarification, reliability curtailments are those curtailments due to reliability directives issued by SPP caused by system emergencies, transmission outages or other reliability-associated out of merit energy (OOME) instructions issued by SPP. Environmental curtailments are curtailments that may occur at a future date to comply with laws or regulations related to impacts of the facilities on wildlife, provided that, unless the curtailment is temporary in duration, any Settling Party may request that the Commission review whether the Company made prudent efforts to mitigate or reduce the impact of such curtailments on the affected SWFs considering all of the facts and circumstances related to the curtailment. Economic curtailments are curtailments that are made for economic market reasons and exclude curtailments for reliability or environmental reasons, as described above. Furthermore, for purposes of clarification, the "Total SWEPCO MWh P95" target for the NCF Guarantee set forth in Attachment 1 will be reduced to account for reliability and environmental curtailment hours, but will not be reduced to account for hours affected by force majeure or economic curtailment, to reflect that the Company is responsible for force majeure and economic curtailment.

more favorable to the Company's Louisiana customers. The respective terms of the Joint Settlement shall be deemed to be modified to incorporate those more favorable terms provided the term or condition is not unique to the SWEPCO jurisdiction or PSO (for example, the MFN will not apply to issues related to customer cost allocation, jurisdictional allocation and rate design). The Company will serve the Settling Parties with the orders and settlements described above promptly after they are issued and identify any provisions to which this MFN Guarantee applies.

- (e) Net Benefits Guarantee. The Company will provide a net benefits guarantee as set forth in Attachment 3 hereto.

3. Other Settlement Terms and Conditions.

- (a) Deferred Tax Asset (DTA). The Company will earn a return on the DTA balance resulting from unused production tax credits over the first twenty (20) years of operation of the Selected Wind Facilities using its then applicable cost of long term debt on any deferred tax asset balance.
- (b) Off-System Sales. The Fuel Adjustment Clause will be modified such that the Company's retail customers will be credited with one-hundred percent of its off-system energy sales margins effective January 1, 2021.
- (c) Wind Facility Asset (WFA) Rider. The Company is authorized to implement a rider ("WFA Rider") to recover the revenue requirement of the Selected Wind Facilities (including O&M expenses, depreciation expense, a return on the DTA, and a return and taxes on the facilities' assets), as well as to provide to customers the benefit of the PTCs, until the date as of which the costs of the Selected Wind Facility are included in the base rates of the Company. In determining the revenue requirement, the WFA rider may use forecasted amounts of depreciation and net plant in service, adjusted by accumulated deferred income taxes, as well as forecasted PTC benefits (net of a return on the DTA) and O&M, subject to true-up on an annual basis. The WFA Rider factor for the Lighting and Power and Large Industrial classes will be calculated on a kW basis, and for all other classes on a per kWh basis.
- (d) Gen-Tie. Nothing in this Joint Settlement should be interpreted as recommending or providing approval for (1) any future transmission lines that interconnect the SWF to the SPP transmission system (i.e., gen-ties) that are not within the scope of the Company's Application, and (2) any future transmission-related upgrades or modifications to relieve any operational issues related to the deliverability of the Selected Wind Facilities that are not within the scope of the Company's Application, and this Joint Settlement shall not constitute nor be cited as precedent nor deemed an admission by any Settling Party in any future proceeding related to such facilities. In any application to the Commission seeking approval for a future SWF gen-tie that is not within the scope of the Company's application, SWEPCO will demonstrate to the Commission how it analyzed and considered alternative options such as non-

wire alternatives (e.g., battery storage) to mitigate transmission or congestion costs, with an explanation regarding why the gen-tie option was selected.

- (e) Jurisdictional Allocator. All of the costs of the SWFs to SWEPCO will be allocated among the Company's jurisdictions on behalf of which SWEPCO acquires a share of the SWFs based on energy using the Company's jurisdictional energy allocator in effect at the time of the allocation. In the event of a flex-up scenario including Louisiana and another SWEPCO jurisdiction, Louisiana and the other approving retail jurisdiction will share ratably in the non-approving jurisdiction's share of the costs of the Selected Wind Facilities to SWEPCO. The jurisdictional allocation methodology set forth above will not be impacted by any alternative jurisdictional allocation methodology adopted by another SWEPCO jurisdiction.
- (f) Allocation to Customer Classes of Revenue Requirement Net of PTCs. The Louisiana jurisdictional share of the revenue requirement of the Selected Wind Facilities under the WFA Rider will be allocated among the Company's Louisiana customer classes based on energy.
- (g) Renewable Energy Certificates (RECs). The proceeds, net of transaction costs, from the sale of RECs associated with the SWFs will be provided to customers through the Fuel Adjustment Clause. Within 90 days of the effective date of this Joint Settlement, the Company will file a tariff to provide customers with the option to purchase RECs available to the Company and derived from the SWF. The tariff filing will be submitted in accordance with section 501(B) of the LPSC's General Order dated July 1, 2019.
- (h) Information Reporting for Louisiana.
 - (i) The Company will keep the Commission updated on significant events and the status of SWF approval proceedings in other jurisdictions by filing updates in this Docket as needed, but not less than semi-annually.
 - (ii) The Company will promptly file copies of settlements reached in other state jurisdictions related to SWF approval and file amendments to this Joint Settlement to incorporate additional terms under the MFN Guarantee once those terms are agreed to by SWEPCO (or PSO) in other jurisdictions, with supporting testimony.
 - (iii) The Company shall report semi-annually to Staff on the status of project construction and any anticipated delay in the Selected Wind Facilities commencing commercial operation.
 - (iv) The Company shall notify the Settling Parties when the Selected Wind Facilities commence commercial operation.

- (v) In its next application to acquire a new renewable generation asset, the Company will include in its testimony a discussion of the rationale for the selection of the types of renewable generation assets included in the request for proposals (RFP), including a discussion of the rationale for excluding any type of renewable asset from the RFP.
- (vi) The Company will keep the Staff updated of the plan of financing needed to maintain a capital structure consistent with the Company's current levels of debt and equity by providing updates to Staff as needed, but not less than semi-annually.
- (vii) The Company will provide the following information (related to the Updated Wind Report process set forth in Section 3.16 of the PSAs) to Staff for each SWF: (1) Buyer's Wind Report, (2) any Updated Wind Report, and (3) any Updated Wind Report Adjustment or revised calculation of the Updated Wind Report Adjustment. Items (2) and (3) will be provided promptly after each report and/or calculation is completed pursuant to the PSAs.
- (i) Development Costs. The Company agrees that it will not seek recovery of development costs associated with the SWF if the SWF are not placed in service for any reason.
- (j) Guiding Principles. The Company will ensure that the rate base included in the Company's revenue requirement regarding the SWF includes only those costs prudently incurred through sound planning, construction cost control, and all aspects of effective plant operations and dispatch designed to ensure that ratepayers receive the benefit they are projected to receive. The guiding principle is the Company's continuing obligation to provide safe, reliable service at the lowest reasonable cost.
- (k) Solar RFP. SWEPCO agrees to conduct an RFP pursuant to applicable Commission orders for up to 200 MW of Solar generation resources located within the SWEPCO service territory. This RFP requirement may be satisfied by an unsolicited offer or a combination of unsolicited offers and RFP for up to 200 MW, in accordance with the Unsolicited Offer Order and other applicable Commission Orders. The RFP will request that the developer(s) of the solar resource(s) begin construction within 3 years of the Commission's approval of this Joint Settlement. By the inclusion of this provision in this joint stipulated settlement, the Commission is in no way agreeing to a need for SWEPCO to acquire energy or capacity and any such RFP and/or unsolicited offer would be fully subject to the Commission's MBM Order, the 1983 Certification Order, and/or the Unsolicited Offer Order and other applicable Commission Orders.
- (l) Clarification. The first unnumbered paragraph of Section 3.18 of the Traverse and Sundance PSAs should be interpreted to be Section 3.18(a) for purposes of this Joint Settlement.

4. **Discovery and Motions.**

As between and among the Settling Parties, all pending requests for discovery, and all motions pending before either the Commission or the Administrative Law Judge are hereby withdrawn.

5. **General Reservations.**

The Settling Parties represent and agree that, except as specifically otherwise provided herein:

- (a) This Joint Settlement represents a negotiated settlement for the purpose of compromising and settling all issues which were raised relating to this proceeding.
- (b) Each of the undersigned counsel of record affirmatively represents that he or she has full authority to execute this Joint Settlement on behalf of their client(s).
- (c) None of the signatories hereto shall be prejudiced or bound by the terms of this Joint Settlement in the event the Commission does not approve this Joint Settlement nor shall any of the Settling Parties be prejudiced or bound by the terms of this Joint Settlement should any appeal of a Commission order adopting this Joint Settlement be filed with the courts.
- (d) Nothing contained herein shall constitute an admission by any Settling Party that any allegation or contention in these proceedings as to any of the foregoing matters is true or valid and shall not in any respect constitute a determination by the Commission as to the merits of any allegations or contentions made in this rate proceeding.
- (e) The Settling Parties agree that the provisions of this Joint Settlement are the result of extensive negotiations, and the terms and conditions of this Joint Settlement are interdependent. The Settling Parties agree that settling the issues in this Joint Settlement is in the public interest and, for that reason, they have entered into this Joint Settlement to settle among themselves the issues in this Joint Settlement. This Joint Settlement shall not constitute nor be cited as a precedent nor deemed an admission by any Settling Party in any other proceeding except as necessary to enforce its terms before the Commission or any state court of competent jurisdiction. The Commission's decision, if it enters an order consistent with this Joint Settlement, will be binding as to the matters decided regarding the issues described in this Joint Settlement, but the decision will not be binding with respect to similar issues that might arise in other proceedings. A Settling Party's support of this Joint Settlement may differ from its position or testimony in other dockets. To the extent there is a difference, the Settling Parties are not waiving their positions in other dockets. Because this is a settlement, the Settling Parties are under no obligation to take the same position as set out in this Joint Settlement in other dockets.


6. **Non-Severability.**

The Settling Parties agree that the agreements contained in this Joint Settlement have resulted from negotiations among the Settling Parties and are interrelated and interdependent. The Settling Parties hereto specifically state and recognize that this Joint Settlement represents a balancing of positions of each of the Settling Parties in consideration for the agreements and commitments made by the other Settling Parties in connection therewith. Therefore, in the event that the Commission does not approve and adopt the terms of this Joint Settlement in total and without modification or condition (provided, however, that the affected party or parties may consent to such modification or condition), this Joint Settlement shall be void and of no force and effect, and no Settling Party shall be bound by the agreements or provisions contained herein. The Settling Parties agree that neither this Joint Settlement nor any of the provisions hereof shall become effective unless and until the Commission shall have entered an Order approving the terms and provisions as agreed by the parties to this Joint Settlement and such Order becomes final and non-appealable.

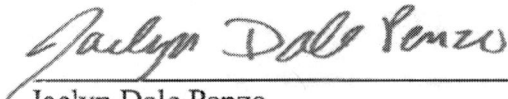
WHEREFORE, the Settling Parties hereby submit this Joint Settlement to the Commission as their negotiated settlement of this proceeding with respect to all issues which were raised with respect to this Application, and respectfully request the Commission to issue an Order approving this Joint Settlement.

[Signatures appear on next page]

SOUTHWESTERN ELECTRIC POWER COMPANY

By: 
Bobby Gilliam
Attorney for SWEPCO

LOUISIANA PUBLIC SERVICE COMMISSION STAFF

By: 
Jaelyn Dale Penzo
Attorney for the LPSC

ALLIANCE FOR AFFORDABLE ENERGY

By: _____
Susan Stevens Miller
Attorney for the Alliance for Affordable Energy

WALMART INC.

By: _____
Rick D. Chamberlain, JD, CPA
Wheeler & Chamberlain
Attorney for Walmart Inc.

SOUTHWESTERN ELECTRIC POWER COMPANY

By: _____
Bobby Gilliam
Attorney for SWEPCO

LOUISIANA PUBLIC SERVICE COMMISSION STAFF

By: _____
Jaclyn Dale Penzo
Attorney for the LPSC

ALLIANCE FOR AFFORDABLE ENERGY

By: *Susan Stevens Miller*

Susan Stevens Miller
Attorney for the Alliance for Affordable Energy

WALMART INC.

By: _____
Rick D. Chamberlain, JD, CPA
Wheeler & Chamberlain
Attorney for Walmart Inc.

SOUTHWESTERN ELECTRIC POWER COMPANY

By: _____
Bobby Gilliam
Attorney for SWEPCO

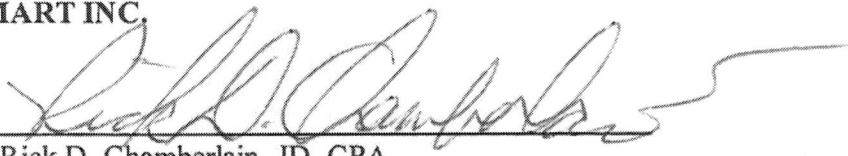
LOUISIANA PUBLIC SERVICE COMMISSION STAFF

By: _____
Jaclyn Penzo
Attorney for the LPSC

ALLIANCE FOR AFFORDABLE ENERGY

By: _____
Susan Stevens Miller
Attorney for the Alliance for Affordable Energy

WALMART INC.

By: 
Rick D. Chamberlain, JD, CPA
Wheeler & Chamberlain
Attorney for Walmart Inc.

Attachment 1

Acquisition Scenarios for SWEPCO That Include Louisiana

Scenarios*	Scenario A - Base Case, All states and FERC approve	Scenario B - PSO, Ark, La and FERC. No Texas	Scenario C - PSO, TX, La and FERC. No Ark.	Scenario D - PSO, La and FERC. No Ark or Texas	Flex Up E - PSO, Ark, La and FERC. No Texas	Flex Up F - PSO, TX, La and FERC. No Ark.
Total LA MW (Retail Only)**	268	268	268	268	464	341
Total SWEPCO MW	810	468	638	297	810	810
Total SWEPCO Cost	\$1,088,846,127	\$615,140,793	\$856,521,683	\$382,664,910	\$1,088,846,127	\$1,088,846,127
Total SWEPCO MWh at P95***	13,523,352	7,822,937	10,656,528	4,956,113	13,523,352	13,523,352

* Scenario references are to the paragraphs of the Direct Testimony of Thomas P. Brice, Page 20, line 17, to Page 21, line 13.

Flex up refers to scenarios where the share of the wind facilities initially allocated to a non-approving SWEPCO jurisdiction is proportionately reallocated to approving SWEPCO jurisdictions.

** Estimated

*** The MWh set forth in the table above are the total 5-year P95 MWh for the SWF from the wind report dated May 29, 2019 provided to Company by Simon Wind, LLC.

The MWh will be updated to reflect the total 5-year P95 MWh for the SWF acquired by the Company from the updated wind report prepared by Simon Wind, LLC to reflect the actual wind turbine layout of the acquired SWF pursuant to Section 3.16 (*Updated Wind Report and Mechanical Loads Analysis*) of the PSAs.

Attachment 2

Details for Determining the Net Capacity Factor Guarantee

Following the fifth, tenth, fifteenth, twentieth, twenty-fifth and thirtieth full years of operations of the SWFs (with the first year of full operations starting January 1, 2022), the Company will sum the actual metered energy output from the SWFs for each hour of the previous five years across all facilities on a combined basis.

- If the Company's Share of that total energy equals or exceeds the Minimum Net Average Quantity, no other calculations are made and no net capacity factor guarantee payment is necessary.
- If the Company's Share of that total energy is less than the Minimum Net Average Quantity (such differential, the Company's Five-Year Energy Shortfall), then the dollar value of both the Energy and PTC components of the net capacity factor guarantee will be separately calculated and totaled to determine the total make-whole payment to customers.
 - Energy Component. The Company's Five-Year Energy Shortfall will be multiplied by a generation-weighted market price to determine the dollar value of the shortfall energy. The Company's Share of each SWF's hourly production will be multiplied by its interconnection point's day-ahead hourly LMP for each hour of the five-year period. The resulting total energy revenue for the SWFs will then be summed and combined. This combined total revenue will then be divided by the actual total hourly production for the 5-year period to arrive at a single generation-weighted average price applicable to that 5-year period. That price will be multiplied by the Company's Five-Year Energy Shortfall to compute the energy value portion of the NCF make-whole payment.
 - PTC Component. The Company's Share of each facility's shortfall amount of PTC's will be separately computed by first multiplying the Company's Share of each facility's shortfall energy over the 5-year period (based on the facility's percentage of the total output of the SWFs during that period) by 80% for Traverse and Maverick and by 100% for Sundance (such percentages adjusted for any reduction in the federal PTC). Sundance will be excluded from the PTC calculation for the 2031 year, to the extent its 10-year PTC period ends in 2030. These three amounts will be added together and the total will be the total shortfall in PTCs. Any shortfall amount will then be multiplied by the average of the five actual IRS PTC credit rates applicable during the 5-year period. This total will be grossed up by the average federal and state effective tax rate during the five-year period for the first ten Calendar Years that the facility is in commercial operation when it is producing PTCs, and not for subsequent periods. The grossed up total shall be the shortfall PTC value.

If the Company is making payments under both the PTC and NCF Guarantees, as set forth in Section 2(b), PTC make whole payments in total for any five-year period may not exceed the greater of actual or guaranteed MWh production based on the combined effect of PTC and the NCF Guarantees.

As used in this Attachment:

- “Company’s Share” means the Company’s applicable Total SWEPCO MW share (as set forth in Attachment 1) of the output of the SWFs, adjusted ratably for any reduction in the final amount of MW installed by Invenergy and its subsidiaries pursuant to the PSAs.
- “Minimum Net Average Quantity” means, for the Company, the applicable Total SWEPCO MWh at P95 (as set forth in Attachment 1) for each five-year period of full operation of the SWFs, adjusted ratably for any reduction in the final amount of MW installed by Invenergy pursuant to the PSAs and further adjusted downward for the sixth five-year period (years 26-30) if the Sundance facility is constructed but is no longer in operation after its 30th year of operations. For purposes of clarification, the “Total SWEPCO MWh P95” target for the NCF Guarantee set forth in Attachment 1 will be reduced to account for reliability and environmental curtailment hours, but will not be reduced to account for hours affected by force majeure or economic curtailment, to reflect that the Company is responsible for force majeure and economic curtailment.

ATTACHMENT 3

Net Benefit Guarantee

I. Overview.

The Company will evaluate the SWF's net benefits for the period from the date the SWF is first placed in service until the first date the Company has a need for the SWF capacity, not to exceed ten years. Specifically, the Company will apply the calculation set forth below to the period (Evaluation Period) beginning on January 1, 2021 and ending as of the earlier to occur of (1) December 31, 2030 (i.e., a period of ten years) or (2) December 31 of the year preceding the first year in which the Company has a need (prior to any future capacity additions) for an amount of capacity equal to fifteen percent of the amount of SWF capacity acquired by the Company, which can be delivered by the SWF to meet SPP reserve margin requirements. In addition, the Company will also apply the calculation below, and the Evaluation Period will include, any subsequent year during the ten-year period ending December 31, 2030 for which the amount of capacity that can be delivered by the SWF to meet SPP reserve margin requirements is less than fifteen percent of the amount of SWF capacity acquired by the Company. For purposes hereof, the amount of net benefit allocated to the Company's Louisiana jurisdiction will be determined using its then-current energy allocator.

$$\begin{aligned} \text{Net Benefit for Customers} = & \text{Fuel Savings} + \text{PTCs} + \text{RECs Value} + \text{Minimum} \\ & \text{Net Capacity Factor Guarantee Payments}^* + \text{Carbon Savings}^* - \text{SWF Revenue} \\ & \text{Requirement} \end{aligned}$$

** if applicable*

II. Procedure for Evaluating Net Benefits.

- A. Annual Informational Filings:** The Company will make an annual informational filing by no later than May 1 of each year (beginning May 1, 2022) setting forth (1) a table of the Company's capacity, demand and reserves for purposes of determining the first year the Company has a need (prior to any future capacity additions) for an amount of capacity equal to fifteen percent of the amount of SWF capacity acquired by the Company, and for reporting the amount of capacity that can be delivered by the SWF to meet SPP reserve margin requirements, for the then-current calendar year and (2) applying the net benefits calculation set forth below for the preceding calendar year during the Evaluation Period.
- B. Net Benefits for Customers:** If the net benefit for customers at the end of the Evaluation Period is positive, that means that customers have received net savings and, therefore, the Company does not owe customers any compensation under this customer net benefit guarantee. If the net benefit for customers at the end of the Evaluation Period is negative, that means that customers have incurred a net cost and, therefore, the Company will compensate customers for such net cost under this customer net benefit guarantee. A regulatory liability will be established if

customers are owed a credit under this calculation. The regulatory liability will be amortized in retail rates over a 10-year amortization period starting in year 11 of commercial operations (after the determination is complete for the second five-year NCF guarantee period).

III. Components of Net Benefits Equation.

- A. **Fuel Savings:** The Louisiana retail portion of the fuel savings achieved by the SWF during the Evaluation Period will be based upon a comparison of a Base Case to a Modified Base Case for each hour of the period. The Base Case shall represent the thermal and non-thermal generating units set forth on Table 1 hereto, which represents for purposes hereof the thermal and non-thermal generating units that the Company currently owns or controls under power purchase agreements (collectively, the “Company’s Generation”), and including the Company’s share of energy from the SWF. In the Modified Base Case, the Company will remove the SWF and re-dispatch the Company’s Generation to replace the removed SWF generation. The difference in costs (including all variable unit production costs) between the Base Case and Modified Base Case will be used to determine the fuel savings attributable to the SWF. The Fuel Savings will be the incremental generation from the units in the Modified Base Case multiplied by the costs for each of those units. The Modified Base Case will incorporate the following assumptions:
- (i) Unit operating characteristics, constraints and limits including such inputs as heat rate coefficients, unit availability, start-up costs, tolling fees, non-fuel operating and maintenance costs, and fuel prices. Unit minimums will not be used to exclude dispatch of the next economic unit.
 - (ii) Actual integrated hourly operating reserve requirements.
 - (iii) To the extent that the Company’s Generation in the Modified Base Case is insufficient to replace the SWF generation, the Company will assume in its calculations that the marginal unit is used to serve the entirety of the insufficiency.
- B. **PTCs:** The Company’s portion of the PTCs grossed up for taxes, either passed through or held in a regulatory liability (or asset) and determined annually, and any credits to customers resulting from the Company’s PTC guarantee.
- C. **Minimum Net Capacity Factor Guarantee:** Any payments by the Company pertaining to the minimum net capacity factor guarantee for each of the first two five-year NCF periods.
- D. **RECs Value:** Any Company renewable energy credit value received, or inventory value at the prevailing market price, resulting from the SWF.

- E. Carbon Savings:** Any carbon costs that would have been actually incurred by the Company through the operation of the Company's fossil generation fleet but for the SWF.
- F. SWF Revenue Requirement:** The Company's Revenue Requirement for the SWF that is in rates.

Table 1 – The Company’s Generation

Unit Name[B]	State	Fuel Type	Capacity	2021-2030 Period
			MW	Retirements[A]
Arsenal Hill 5	LA	ST-Gas	110	12/31/2025
Dolet Hills 1	LA	Lignite	258	12/31/2026
Flint Creek 1	AR	Coal	259	
JL Stall 1	LA	CC-Gas	534	
Knox Lee 5	TX	ST-Gas	348	
Lieberman 3	LA	ST-Gas	109	12/31/2022
Lieberman 4	LA	ST-Gas	108	12/31/2024
Mattison 1	AR	CT-Gas	78	
Mattison 2	AR	CT-Gas	78	
Mattison 3	AR	CT-Gas	79	
Mattison 4	AR	CT-Gas	80	
Pirkey 1	TX	Lignite	580	
Turk TXLA	AR	Coal	389	
Welsh 1	TX	Coal	528	
Welsh 3	TX	Coal	517	
Wilkes 1	TX	ST-Gas	168	12/31/2029
Wilkes 2	TX	ST-Gas	365	
Wilkes 3	TX	ST-Gas	360	
Canadian Hills 048	OK	Wind PPA	48	
Canadian Hills 053	OK	Wind PPA	52.8	
Canadian Hills 100	OK	Wind PPA	100.45	
Flat Ridge II	KS	Wind PPA	31	
Flat Ridge III	KS	Wind PPA	77.8	
Majestic	TX	Wind PPA	79.5	1/31/2029
Majestic II	TX	Wind PPA	79.6	
North Central Energy Facilities	OK	Wind	810 ^[C]	

Notes:

- A. Units without retirement dates indicated are assumed on-line through the 2021-2030 period. Units with retirement dates will no longer be included in the fuel cost calculation after the date listed.
- B. Units listed will be utilized independent of future modifications to retirement dates of existing units or commercial operation dates of new units.
- C. Estimated. Subject to adjustment based on the actual number of MW acquired by the Company, as further set forth in Section 1 of the Joint Settlement.