

**LOUISIANA PUBLIC SERVICE COMMISSION
ADMINISTRATIVE HEARINGS DIVISION**

DOCKET NUMBER U-36385

SOUTHWESTERN ELECTRIC POWER COMPANY, EX PARTE.

In re: Application for certification of certain renewable resources and approval of natural gas Capacity Purchase Agreements.

**REPORT OF PROCEEDINGS
AND
SUBMISSION OF STIPULATION FOR CONSIDERATION BY COMMISSIONERS**

Nature of the Case

In this proceeding, Southwestern Electric Power Company (“SWEPCO”) is seeking Louisiana Public Service Commission (“LPSC” or the “Commission”) certification of a solar facility in Mooringsport, Louisiana, two wind generation facilities in Oklahoma (“Wagon Wheel”) and Texas (“Diversion”) (collectively referred to as the “Selected Facilities”, and totaling approximately 999 MW of new nameplate generation), and certain natural gas Capacity Purchase Agreements, for capacity planning years 2024-2026, to help bridge the gap until the Selected Facilities come in service. No parties intervened in the proceeding.

After discovery and submission of testimony, SWEPCO and the Commission Staff executed a proposed uncontested stipulated settlement in the form of a Joint Stipulation and Term Sheet (“Stipulation,” “Settlement” or “Uncontested Stipulated Settlement”). The Settlement, which resolves all issues in this docket, was presented at a stipulation hearing pursuant to Rule 6 of the Commission’s Rules of Practice and Procedure and both the confidential and redacted versions are attached hereto, along with the supporting testimony of SWEPCO Witness Thomas P. Brice, and Commission Staff Witness Jonathan R. Bourg.

Procedural History

On May 27, 2022, SWEPCO filed its Application for Certification and Approval of the Acquisition of Certain Renewable Resources and Natural Gas Capacity Contracts in Accordance with the MBM Order, the 1983 and 1994 General Orders (the “Application”), along with the Direct Testimonies of Thomas P. Brice, A. Malcolm Smoak, Joseph G. DeRuntz, Kamran Ali, Noah K. Hollis, John O. Aaron, David A. Hodgson, James F. Martin, Amy E. Jeffries, and Patrick N. Augustine. Notice of the Application was published in the Commission’s Official Bulletin on June 10, 2022. No interventions were filed during the intervention period, or at any time thereafter. At the initial status conference held August 3, 2022, the parties agreed to a procedural schedule, with hearing dates from February 28, 2023 to March 1, 2023.

On October 7, 2022, SWEPCO filed the Supplemental Testimonies of Messrs. Hodgson and Aaron to address the impacts of the Inflation Reduction Act of 2022 on the Application. On December 19, 2022, the Commission Staff filed an unopposed motion to extend certain deadlines; the Tribunal granted this motion on December 20, 2022. In accordance with the new schedule, on December 27, 2022, the Commission Staff filed the Direct Testimony of Jonathan R. Bourg. On January 27, 2023, SWEPCO filed corrected versions of the public versions of the Direct Testimonies of Ms. Jeffries and Mr. DeRuntz. On February 7, 2023, SWEPCO filed the Rebuttal Testimonies of Messrs. Brice, Aaron and Marin, and Ms. Jeffries.

On February 17, 2023, SWEPCO and the Commission Staff filed an Unopposed Joint Motion to Upset Procedural Schedule, seeking a delay in the filing of pre-hearing statements and briefs but maintaining the hearing date; the Tribunal granted the motion in part, and denied it in part. On February 20, 2022, the Commission Staff filed an Unopposed Motion to Upset Procedural Schedule and Set Status Conference; the Tribunal granted the motion, continuing the

procedural schedule without date and setting a status conference for February 22, 2023. During the February 22, 2023 status conference, a new procedural schedule was adopted with a hearing date of March 21, 2023.

On March 10, 2023, SWEPCO and the Commission Staff filed a joint motion to convert the March 21, 2023 hearing to a stipulation hearing in accordance with Rule 6 (the “Joint Motion”). The Joint Motion was accompanied by public and confidential versions of the Proposed Uncontested Stipulated Settlement term sheet, and supporting testimonies. The Tribunal granted the motion on March 10, 2023, and converted the March 21, 2023 hearing to a stipulation hearing.

The Stipulation Hearing

A stipulation hearing was convened on March 21, 2023. At the stipulation hearing, appearances were made by Bobby Gillam and Jonathan McCartney, on behalf of SWEPCO, and by Justin Bello on behalf of the Commission Staff.

SWEPCO presented the testimony of Mr. Brice, who confirmed SWEPCO’s support of the Uncontested Stipulated Settlement. During Mr. Brice’s testimony, he made one correction to the Stipulation, namely, to add the Mooringsport facility to the reporting requirements found in paragraph 3(d)(d) of the Joint Stipulation and Term Sheet. Commission Staff presented the testimony of Mr. Bourg who confirmed the Commission Staff’s support of the Uncontested Stipulated Settlement, with the addition of the reporting requirement as it relates to the Moorginsport facility. Prior to the conclusion of the hearing, Mr. Brice and Mr. Bourg initialed the modification to paragraph 3(d)(d) on the public and confidential versions of the Joint Stipulation and Term Sheet and the initialed versions were admitted into the record of the stipulation hearing and are included in the attachments hereto.

Testimony of Thomas P. Brice

Mr. Brice is employed by SWEPCO as Vice President of Regulatory and Finance, and in this role he is responsible for regulatory activities and financial performance of SWEPCO. Mr. Brice provided a summary of SWEPCO's request, and explained that SWEPCO has a current capacity need resulting from numerous plant retirements as well as an increase in Southwest Power Pool capacity reserve requirements from 12% to 15%. Mr. Brice provided an overview of the Settlement terms, requested that the Commission approve the Settlement, and believes that the Settlement is in the public interest.

Testimony of Jonathan R. Bourg

Mr. Bourg is the Vice President of Regulatory Policy for United Professionals Company, and he provides economic consultation analysis and regulatory policy advice to Commission Staff. Mr. Bourg summarized his analysis, including his review of over 100 discovery requests and responses related to the request for proposals ("RFP") process and resulting resource selection. Mr. Bourg summarized the terms of the Settlement, highlighting what he perceived as the most important of the conditions agreed to by SWEPCO. Mr. Bourg supports the Settlement, believes that the Settlement is reasonable in light of the record, not contrary to law and in the public interest, and he recommends that the Uncontested Stipulated Settlement be approved by the Commission.

Exhibits

The following exhibits were admitted into the record of the hearing¹:

SWEPCO and Staff Joint Exhibit 1	A copy of the Joint Motion to Convert the March 21, 2023 Hearing to A Settlement Hearing on a Proposed Uncontested Stipulated Settlement in
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¹ SWEPCO Exhibits 1-22 were submitted electronically on thumb drive.

Accordance with Rule 6, with the following attachments:

- A copy of the public, corrected version of the Joint Stipulation and Term Sheet;
- A copy of the Affidavit of Thomas P. Brice, affirming Southwestern Electric Power Company's acceptance of the Stipulation; and
- A copy of the Settlement Testimony of Jonathan P. Bourg, on behalf of the Staff of the Louisiana Public Service Commission, dated March 9, 2023; and

SWEPCO and Staff Joint Exhibit 2	A copy of confidential, corrected version of the Joint Stipulation and Term Sheet (admitted confidentially under seal).
SWEPCO Exhibit 1	A copy of the Application for Certification and Approval of the Acquisition of Certain Renewable Resources and Natural Gas Capacity Contracts in Accordance with the MBM Order, the 1983 and 1994 General Orders, as filed with the Commission on May 27, 2022;
SWEPCO Exhibit 2	A copy of the Direct Testimony of Thomas P. Brice for Southwestern Electric Power Company, dated May 2022;
SWEPCO Exhibit 3	A copy of the Direct Testimony of A. Malcolm Smoak for Southwestern Electric Power Company, dated May 2022;
SWEPCO Exhibit 4	A copy of the Direct Testimony of Kamran Ali for Southwestern Electric Power Company, dated May 2022;
SWEPCO Exhibit 5	A copy of the Direct Testimony of Noah K. Hollis for Southwestern Electric Power Company, dated May 2022;
SWEPCO Exhibit 6	A copy of Confidential Exhibit NKH-1, attached to the Direct Testimony of Noah K. Hollis (admitted confidentially under seal);

- SWEPCO Exhibit 7 A copy of the Direct Testimony of John O. Aaron for Southwestern Electric Power Company, dated May 2022;
- SWEPCO Exhibit 8 A copy of the Direct Testimony of David A. Hodgson for Southwestern Electric Power Company, dated May 2022;
- SWEPCO Exhibit 9 A copy of the Direct Testimony of James F. Martin for Southwestern Electric Power Company, dated May 2022;
- SWEPCO Exhibit 10 A copy of Confidential Exhibit JFM-1, attached to the Direct Testimony of James F. Martin (**admitted confidentially under seal**);
- SWEPCO Exhibit 11 A copy of the Direct Testimony of Patrick N. Augustine for Southwestern Electric Power Company, dated May 2022;
- SWEPCO Exhibit 12 A copy of the public version of the Direct Testimony of Joseph G. DeRuntz for Southwestern Electric Power Company, dated May 2022;
- SWEPCO Exhibit 13 A copy of the confidential version of the Direct Testimony of Joseph G. DeRuntz for Southwestern Electric Power Company, dated May 2022 (**admitted confidentially under seal**);
- SWEPCO Exhibit 14 A copy of public version of the Direct Testimony of Amy E. Jeffries for Southwestern Electric Power Company, dated May 2022;
- SWEPCO Exhibit 15 A copy of confidential version of the Direct Testimony of Amy E. Jeffries for Southwestern Electric Power Company, dated May 2022 (**admitted confidentially under seal**);
- SWEPCO Exhibit 16 A copy of the Supplemental Testimony of David A. Hodgson for Southwestern Electric Power Company, dated October 2022;
- SWEPCO Exhibit 17 A copy of the Supplemental Testimony of John O. Aaron for Southwestern Electric Power Company,

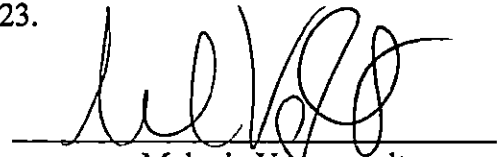
- dated October 2022;
- SWEPCO Exhibit 18 A copy of the Rebuttal Testimony of Thomas P. Brice for Southwestern Electric Power Company, dated February 2023;
- SWEPCO Exhibit 19 A copy of the Rebuttal Testimony of John O. Aaron for Southwestern Electric Power Company, dated February 2023;
- SWEPCO Exhibit 20 A copy of the Rebuttal Testimony of James F. Martin for Southwestern Electric Power Company, dated February 2023;
- SWEPCO Exhibit 21 A copy of the public version of the Rebuttal Testimony of Amy E. Jeffries for Southwestern Electric Power Company, dated February 2023; and
- SWEPCO Exhibit 22 A copy of the confidential version of the Rebuttal Testimony of Amy E. Jeffries for Southwestern Electric Power Company, dated February 2023 **(admitted confidentially under seal)**.
- Staff Exhibit 1 A copy of the public version of the Direct Testimony of Jonathan R. Bourq on behalf of the Louisiana Public Service Commission, dated October 18, 2022, with attachments; and
- Staff Exhibit 2 A copy of the confidential version of the Direct Testimony of Jonathan R. Bourq on behalf of the Louisiana Public Service Commission, dated October 18, 2022, with attachments **(admitted confidentially under seal)**.

Conclusion

In light of the Uncontested Stipulated Settlement executed by the parties to this proceeding, there are no disputed issues to be considered and addressed by the administrative law judge in the form of a recommendation. Instead, this Report of Proceedings provides a summary of the proceeding and of the Stipulation now being proposed to the Commission.

All parties are advised that the Uncontested Stipulated Settlement will be considered and voted on by the Commissioners at an upcoming monthly meeting of the Commission. Parties may ascertain whether the Uncontested Stipulated Settlement will be considered at the Commission's next monthly meeting by accessing the Commission's web page at lpsc.louisiana.gov and clicking on "Open Session" to view the Agenda for the Commission's upcoming monthly meeting. Alternatively, parties may obtain this information by calling the Commission's Records and Recordings Division at either of the two following numbers: (225) 342-3157 or (800) 256-2397.

Baton Rouge, Louisiana, this 23rd day of March, 2023.



Melanie Verzwylt
Chief Administrative Law Judge

cc: Official Service List

*Louisiana Public Service Commission
Administrative Hearings Division
11th Floor, Galvez Building
602 North Fifth Street
Post Office Box 91154
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Telephone (225) 219-9417*

**Service List for U-36385
as of 3/23/2023**

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Foster L. Campbell

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BEFORE THE
LOUISIANA PUBLIC SERVICE COMMISSION

DOCKET NO. U-36385

SOUTHWESTERN ELECTRIC POWER COMPANY
EX PARTE

*In re: Application of Southwestern Electric Power Company for Certification and Approval of
the Acquisition of Certain Renewable Resources and Natural Gas Capacity Contracts in
Accordance with the MBM Order and the 1983 and 1994 General Orders*

JOINT STIPULATION AND TERM SHEET

This Joint Stipulation and Term Sheet is entered into by Southwestern Electric Power Company ("SWEPCO" or the "Company") and the Staff of the Louisiana Public Service Commission ("LPSC Staff") (collectively, the "Settling Parties"). This stipulation, if adopted by the Commission, resolves all issues in the above-captioned proceeding. SWEPCO and the Commission Staff enter into this joint stipulation as being in compliance with all applicable orders and, conditioned upon approval by the Louisiana Public Service Commission ("LPSC" or "Commission"), and support this stipulation as being in the public interest and in the best interest of customers. The terms of the stipulation are as follows:

1. Approval of the Application

- (a) Approval of the Selected Facilities. Except as described below, the Settling Parties request that the Commission approve the relief requested by SWEPCO in its Application. It is in the public interest and the Company is authorized to acquire up to 999 MW of nameplate capacity from the Selected Facilities based on the receipt of the necessary regulatory approvals by SWEPCO.
- (b) Approval of the Capacity Purchase Agreements ("CPAs"): The Settling Parties request that the Commission approve the CPAs proposed by SWEPCO, which account for the

Joint Stipulation and Term Sheet
LPSC Docket No. U-36385



following capacity amounts: (1) 2024-2025 Planning Year (350 MW); (2) 2025-2026 Planning Year (350 MW); and (3) 2026-2027 Planning Year (200 MW).

- (c) Flex-Up. If any one of SWEPCO's other state jurisdictions does not approve acquisition of the Selected Facilities, the Settling Parties agree that the Commission should authorize SWEPCO to acquire the Selected Facilities and to allocate the retail share of the costs and benefits of that acquisition to Louisiana up to the full amount not approved by those other jurisdictions, but not less than Louisiana's allocable share among the approving jurisdictions.
- (d) SPP Capacity Deficiency Charges: The Settling Parties agree that any charges assessed by the Southwest Power Pool to SWEPCO as a result of SWEPCO's failure to meet its required capacity needs will be allocated in a manner that addresses first whether the Louisiana jurisdiction met its capacity needs based on its share of the Selected Facilities and its proportional contribution to the Planning Reserve Margin Requirement of SWEPCO. If the share of capacity taken by Louisiana jurisdictional customers indicates that its share of the Planning Reserve Margin Requirement is met by the generation whose cost is allocated to Louisiana, Louisiana customers will not be charged any of the capacity deficiency payments assessed by the Southwest Power Pool.
- (e) Cost Recovery of the Selected Facilities and the CPAs. The costs of the short-term CPAs and the Selected Facilities' revenue requirement and as described in paragraph 2 (d) below will be recovered through a rider similar to the WFA Rider approved in Docket U-35324. The Company shall file the applicable rider within 60 days of approval of the facilities and that filing will be reviewed by the LPSC Staff. If the LPSC Staff has any disputes with the rider that is filed by SWEPCO, those will be raised to the Commission for resolution.
- (f) Renewable Energy Certificates. Any sales of Renewable Energy Certificates resulting from the Selected Facilities shall flow through the Company's Rider ECR for the benefit of customers.

2. Commitments

- (a) Future Renewable Energy Requests for Proposal. In recognition of the position of the LPSC Staff, in the next Request for Proposals (RFP) seeking renewable energy and issued after the date of an order approving this Joint Stipulation and Term Sheet, the Company will include an option for bidders to propose a purchase power agreement ("PPA") structure and not unreasonably restrict the PPA's term of years allowed in the RFP.
- (b) Most Favored Nations (MFN). The Company provides a MFN commitment applicable to any guarantees requested and agreed to in a settlement with another approving state jurisdiction on the assets involved in this Application, should those guarantees provide terms or conditions more favorable than the terms and conditions provided to Louisiana customers under this Joint Stipulation and Term Sheet. The respective terms and conditions of this Joint Stipulation and Term Sheet shall be deemed modified to incorporate those

more favorable terms provided the term or condition is not unique to the other SWEPCO jurisdiction. The Company will serve the Settling Parties with the settlements described above promptly after the issuance of the Order approving a settlement in another approving jurisdiction and identify any provisions to which this MFN applies.

- (c) PTC Eligibility. SWEPCO will provide a guarantee, for cost recovery purposes, that the approved Selected Facilities will be eligible for 100% of the applicable rate per MWh value of the federal Production Tax Credits (PTCs) for the actual output of the approved Selected Facilities. 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 of Law which, for purposes of this PTC Eligibility provision, shall be limited to the adoption, repeal, imposition, promulgation, or material modification of the Internal Revenue Code or other authority constituting substantial authority 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 Eligibility and Minimum Production Guarantee (MPG) described below, customers will receive PTCs equal to the greater of actual or guaranteed MWh production during the applicable PTC period, and subject to sections 3(b) and 3(c).
- (d) Cost Cap. SWEPCO will seek cost recovery of the Selected Facilities (as defined in the Direct Testimony of Amy E. Jeffries) of no more than \$2,107,643,585 which costs include direct costs, overheads, contingency, and allowance for funds used during construction (AFUDC) (collectively, the Cost Cap). The contingency included in the cost cap is [REDACTED]. The Cost Cap will be reduced by the amount of any reduction realized by the Company pursuant to the Purchase and Sale Agreements (PSAs). The Company shall have the right to seek Commission relief from this Cost Cap in the event that there are changes in law and force majeure events outside of the Company's control. The inclusion of a cost cap in no way obligates the Company to move forward with any of the projects if in its sole discretion, the Company determines that it is not financially appropriate to do so.
- (e) Minimum Production Guarantee (MPG). There will be a MPG for the three facilities. For Wagon Wheel and Diversion, the minimum production level will be the final P95 level (1,874,570 MWh per year for Wagon Wheel and 658,406 MWh per year for Diversion), as may be adjusted pursuant to the final MWs acquired and production profile under the PSAs. For Mooringsport, the minimum production level will be 80% of the final P50 level (350,400 MWh per year), as may be adjusted pursuant to the MWs acquired and production profile under the PSA. The guarantee will be enforced in two periods. The first period will be measured over the first four years beginning six months after the commercial operation date of the last facility placed in service followed by a subsequent five-year period. For each of the time periods, the output of the Selected Facilities will be evaluated collectively. If output for the Selected Facilities falls below the guaranteed level, SWEPCO will provide the difference between the actual production and guaranteed production multiplied by the appropriate grossed up production tax credit to customers in the Fuel Adjustment Clause over 12 months following the applicable review period. With respect

to energy savings, if the output of the Selected Facilities falls below the guaranteed levels, SWEPCO will compare the actual output to the guaranteed output every hour and multiply that difference by the generation weighted Locational Marginal Price settlement price point for the Selected Facilities for that hour. SWEPCO will provide these calculations to customers in its Fuel Adjustment Clause filing following the applicable review period. Hours due to force majeure impacts, curtailments, and changes in law impacts are excluded from the MPG calculation and obligation. The exclusion of curtailments in this paragraph shall have no precedential value in any future ratemaking proceeding.

3. Other Terms and Conditions

- (a) Flowback of PTC Benefits to Customers. SWEPCO will flowback the benefits of the PTCs associated with the Selected Facilities as they are recognized.
- (b) Deferred Tax Asset (DTA). In the event PTCs are not transferred, the Company is authorized to utilize a DTA. Any DTA balance will earn a return at the Company's average cost of long-term debt, which shall be the same average cost of long-term debt used in determining the revenue requirement in the rider described in section 1(e) of this Agreement.
- (c) Transferability of PTCs. The Company will transfer PTCs to a third-party if it is prudent and appropriate to do so based on the facts and circumstances at the time. To the extent that the Company transfers the PTCs generated by the Selected Facilities, the Company will pass the net benefit it receives to the customers as a result of that transfer. Contemporaneous with such a transfer, the Company will file in this docket notice of the transfer accompanied by a description of the analysis the Company undertook to determine that such action was prudent, along with supporting workpapers. Additionally, the Company will file into this docket at least once annually an analysis that the Company has undertaken to seek a transfer of the PTCs and support for why it was not prudent for such transfer to be completed.
- (d) Informational Updates
- a. The Company will keep the Commission updated on significant events and the status of Selected Facilities' approval proceedings in other jurisdictions by filing updates in this Docket as needed.
 - b. The Company will promptly file copies of settlements reached in other state jurisdictions related to the Selected Facilities' approval and any orders ruling upon the acquisition of the Selected Facilities by other state jurisdictions.
 - c. The Company shall file a report semi-annually in this docket on the status of project construction and, if applicable, any anticipated delay in the Selected Facilities commencing commercial operation)
 - d. Within six (6) months of the commercial operation date of Wagon Wheel and Diversion, SWEPCO shall make a filing before the Commission sufficient to allow the Commission to conduct a prudence review of the construction of the facilities.

- (e) Pirkey Power Plant: The Commission will commence a separate proceeding to evaluate SWEPCO's decision to retire the Pirkey Power Plant, which was noticed by SWEPCO in Docket X-36614. This proceeding will review the prudence of the decision to retire the Pirkey Power Plant, operation of the Pirkey Power Plant during the years prior to the unit's retirement, and the costs that were flowed through the Company's FAC as part of that operation for the years not previously subject to an audit period approved by an LPSC order..

4. General Reservations

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

- (a) This Joint Stipulation and Term Sheet represents a negotiated settlement for the purposes of 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 Stipulation and Term Sheet on behalf of their client(s).
- (c) None of the signatories hereto shall be prejudiced or bound by the terms of the Joint Stipulation and Term Sheet in the event the Commission does not approve this Joint Stipulation and Term Sheet nor shall any of the Settling Parties be prejudiced or bound by the terms of this Joint Stipulation and Term Sheet should any appeal of a Commission order adopting this Joint Stipulation and Term Sheet 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 proceeding.
- (e) The Settling Parties agree that the provisions of this Joint Stipulation and Term Sheet are the result of extensive negotiations, and the terms and conditions of this Joint Stipulation and Term Sheet are interdependent. The Settling Parties agree that settling the issues in this Joint Stipulation and Term Sheet is in the public interest and, for that reason, they have entered into this Joint Stipulation and Term Sheet to settle among themselves the issues in this Joint Stipulation and Term Sheet. This Joint Stipulation and Term Sheet 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 Stipulation and

Term Sheet, will be binding as to the matters decided regarding the issues described in this Joint Stipulation and Term Sheet, 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 Stipulation and Term Sheet may differ from its position or testimony in other dockets. To the extent there is a difference, the Settling Parties are under no obligation to take the same position as set out in this Joint Stipulation and Term Sheet in other dockets.

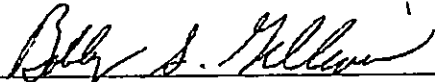
5. Non-Severability

The Settling Parties agree that the agreements contained in this Joint Stipulation and Term Sheet have resulted from negotiations among the Settling Parties and are interrelated and interdependent. The Settling Parties hereto specifically state and recognize that this Joint Stipulation and Term Sheet 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 Stipulation and Term Sheet in total and without modification or condition (provided, however, that the affected party or parties may consent to such modification or condition), this Joint Stipulation and Term Sheet 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 Stipulation and Term Sheet 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 Stipulation and Term Sheet and such Order becomes final and non-appealable.


WHEREFORE, the Settling Parties hereby submit this Joint Stipulation and Term Sheet to the Commission as their negotiated resolution settlement of this proceeding with respect to all issues included in this Application, and respectfully request the Commission to issue an Order approving this Joint Stipulation and Term Sheet.

[Signatures appear on the next page]

Executed in Baton Rouge, Louisiana this 10th day of March 2022.



Bobby S. Gilliam
Johnathan P. McCartney
Wilkinson Carmody & Gilliam
Counsel for SWEPCO



Justin Bello
Counsel for Louisiana Public Service
Commission

Docket No.: U-36385

LOUISIANA PUBLIC SERVICE COMMISSION

- confidential sealed documents
- Oversized document
- Non-paper exhibit
- Photographs
- Other:

Please contact the Records Division of the Louisiana Public Service Commission at (225) 342-3157 for more information about this item.

BEFORE THE
LOUISIANA PUBLIC SERVICE COMMISSION

DOCKET NO. U-36385

SOUTHWESTERN ELECTRIC POWER COMPANY
EX PARTE

*In re: Application of Southwestern Electric Power Company for Certification and Approval of
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STATE OF LOUISIANA

PARISH OF CADDO

AFFIDAVIT OF THOMAS P. BRICE

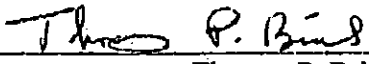
BEFORE ME, the undersigned authority, personally came and appeared, Thomas P. Brice, Vice President of Regulatory and Finance for Southwestern Electric Power Company ("SWEPCO" or the "Company"), who after being duly sworn, did depose and state:

I.

I hereby certify that the document attached as the Uncontested Stipulated Settlement Term Sheet ("Stipulation") is a true and correct copy of the settlement between the Louisiana Public Service Commission ("LPSC" or "Commission") Staff and SWEPCO in the above captioned proceeding.


II.

SWEPCO has reviewed and accepts the terms and conditions of the attached Stipulation. Accordingly, the parties have reached a Stipulated Settlement that is in the public interest.

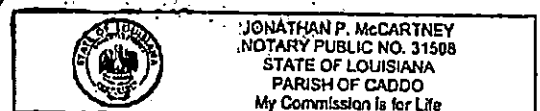


Thomas P. Brice

SWORN TO AND SUBSCRIBED BEFORE ME, Notary Public, on this the 8th day of March, 2023.



NOTARY PUBLIC



**BEFORE THE
LOUISIANA PUBLIC SERVICE COMMISSION**

DOCKET NUMBER U-36385

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*In re: Application of Southwestern Electric Company for Certification and Approval of the
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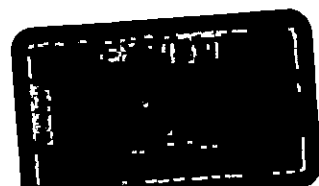
SETTLEMENT TESTIMONY

OF

JONATHAN R. BOURG

**ON BEHALF OF THE
STAFF OF THE
LOUISIANA PUBLIC SERVICE COMMISSION**

MARCH 9, 2023



1 **Q. PLEASE STATE YOUR NAME, OCCUPATION, AND BUSINESS ADDRESS.**

2 A. My name is Jonathan R. Bourg. I am the Vice President of Regulatory Policy for United
3 Professionals Company, L.L.C. ("UPC"). My business address is 201 St. Charles Avenue,
4 Suite 4240, New Orleans, Louisiana 70170.

5 **Q. ARE YOU THE SAME JONATHAN R. BOURG WHO FILED DIRECT**
6 **TESTIMONY IN THIS PROCEEDING?**

7 A. I am.

8 **Q. ON WHOSE BEHALF ARE YOU TESTIFYING IN THIS DOCKET?**

9 A. I am testifying on behalf of the Louisiana Public Service Commission ("LPSC" or
10 "Commission") Staff.

11 **Q. WERE YOU AND UPC ENGAGED BY THE COMMISSION TO ASSIST THE**
12 **LPSC STAFF IN ITS ANALYSIS OF THE ISSUES IN THIS DOCKET?**

13 A. Yes.

14 **Q. DID UPC PERFORM A COMPREHENSIVE ANALYSIS OF THE APPLICATION**
15 **IN THIS DOCKET?**

16 A. Yes, we did. That review included analysis of the direct, supplemental, and rebuttal
17 testimony provided by several Southwestern Electric Power Company ("SWEPCO" or the
18 "Company") witnesses as well as SWEPCO's responses to numerous discovery requests
19 propounded by the LPSC Staff.

20 **Q. PLEASE PROVIDE A BRIEF SUMMARY OF SWEPCO'S APPLICATION IN**
21 **THIS DOCKET.**

22 A. Through its Application in this proceeding, SWEPCO has sought LPSC approval and
23 certification of several generating resources, which I grouped into three categories in my
24 Direct Testimony: (1) acquisition of two wind resources (the "Selected Wind Facilities");

1 (2) acquisition of a solar photoelectric facility (the "Selected Solar Facility") and
2 (3) purchase power agreements ("PPAs") with two counterparties for the purchase of
3 capacity from natural gas fired facilities (the "Selected Capacity PPAs."). I refer to the
4 Selected Wind Facilities and Selected Solar Facilities collectively in this testimony as the
5 "Selected Facilities." SWEPCO's Application asserts that it complied with the
6 Commission's Market Based Mechanisms General Order dated October 29, 2008 (the
7 "MBM Order") in procuring these resources, and SWEPCO seeks certification of the
8 proposed resources pursuant to the LPSC's General Order dated September 20, 1983 (the
9 "1983 General Order") and its General Order dated March 18, 1994 (the "1994 General
10 Order").

11 **Q. PLEASE PROVIDE A BRIEF SUMMARY OF YOUR FINDINGS IN THIS**
12 **PROCEEDING.**

13 A. After reviewing and analyzing the testimony of SWEPCO's witnesses and SWEPCO's
14 responses to discovery, I believe that SWEPCO managed its Request for Proposal ("RFP")
15 process in a manner that complied with the MBM Order, and therefore I recommended that
16 the Commission make such a finding. With regard to the certification of the facilities, I
17 took exception to the limitations that SWEPCO placed on the RFPs that led to the selection
18 of the Selected Facilities, specifically SWEPCO's exclusion of purchase power agreements
19 ("PPAs") from consideration in the RFP process. Based on the concerns I raised in my
20 Direct Testimony, I recommended several conditions that should be placed on any
21 certification of the Selected Facilities by the Commission. I also provided
22 recommendations regarding the appropriate recovery of the costs of both the Selected
23 Facilities and the Selected Capacity PPAs if the Commission were to certify those
24 resources.

1 Q. HOW DID SWEPCO RESPOND TO YOUR FINDINGS AND
2 RECOMMENDATIONS?

3 A. SWEPCO witnesses provided rebuttal testimony to respond to my recommendations and
4 findings. After the filing of that rebuttal testimony, the LPSC Staff and SWEPCO engaged
5 in extensive discussions in an attempt to address the concerns raised by LPSC Staff.

6 Q. DID THE DISCUSSIONS YOU REFERENCED RESULT IN A STIPULATED
7 SETTLEMENT?

8 A. Yes. SWEPCO and the LPSC Staff have reached a Stipulated Settlement and the parties
9 are now seeking approval from the Commission of that Stipulated Settlement.

10 Q. DO YOU BELIEVE THAT APPROVAL OF THE STIPULATED SETTLEMENT
11 IS IN THE PUBLIC INTEREST?

12 A. I do. There were considerable negotiations that occurred between the parties to ensure that
13 the Stipulated Settlement is in the public interest. With the guarantees, conditions and
14 commitments agreed to by SWEPCO – and required by the LPSC Staff – I believe that
15 certification of the Selected Facilities and the Selected Capacity PPAs will result in just,
16 reasonable, and non-discriminatory rates and is in the public interest.

17 Q. PLEASE DESCRIBE THE TERMS OF THE STIPULATED SETTLEMENT?

18 A. First, I note that the Stipulated Settlement speaks for itself and nothing I state here is
19 intended to alter the terms of the Stipulated Settlement. The term sheet generally
20 recommends approval of the Selected Facilities and the Selected Capacity PPAs subject to
21 the conditions included in the Stipulated Settlement.

22 Q. PLEASE GENERALLY DESCRIBE THE COMMITMENTS INCLUDED IN THE
23 STIPULATED SETTLEMENT.

1 A. Pursuant to the Stipulated Settlement, SWEPCO has agreed to three important
2 commitments to ensure that the Selected Facilities will provide economic benefits to
3 customers. These commitments include a guarantee (1) that the costs of the Selected
4 Facilities will not exceed a set total capital cost, (2) that the Selected Facilities will meet a
5 minimum performance guarantee; and (3) that the Selected Facilities will be eligible for
6 the full benefits of the production tax credits (“PTCs”) available to them. With these
7 guarantees agreed to by SWEPCO, I believe that the Selected Facilities are projected to
8 provided economic benefits to customers and therefore are in the public interest.

9 **Q. ARE THERE OTHER CONDITIONS THAT SWEPCO HAS AGREED TO IN THE**
10 **STIPULATED SETTLEMENT THAT FURTHER SUPPORT APPROVAL OF**
11 **THE STIPULATED SETTLEMENT?**

12 A. Yes, there are several. First, and importantly, the Stipulated Settlement requires that
13 SWEPCO will allow for PPAs to be included in its future RFPs. Second, the Stipulated
14 Settlement includes a Most Favored Nations clause, which ensures that if any other
15 approving state jurisdiction that regulates SWEPCO includes additional guarantees or
16 conditions, those same guarantees or conditions will be provided for the benefit of
17 SWEPCO’s Louisiana jurisdictional customers. Third, the Stipulated Settlement requires
18 that the benefit of PTCs will be flowed back to customer as recognized and puts restrictions
19 on the Company’s treatment of those PTCs as it relates to tax effects. Fourth, the Stipulated
20 Settlement places reporting requirements on SWEPCO to ensure that the terms of the
21 Stipulated Settlement are met.

22 **Q. IS THERE A CONDITION OF THE STIPUALTED SETTLEMENT RELATED TO**
23 **THE RETIREMENT OF THE PIRKEY POWER PLANT?**

1 A. Yes. The Stipulated Settlement provides that the Commission will commence a separate
2 proceeding to evaluate SWEPCO's decision to retire the Pirkey Power Plant. That separate
3 proceeding will be established to evaluate, in one proceeding, all aspects of that decision,
4 which would include the operation of that plant until the time of its retirement.

5 **Q. DOES THE STIPULATED SETTLEMENT ADDRESS STAFF'S CONCERNS**
6 **ABOUT RETAIL RATE RECOVERY?**

7 A. It does. SWEPCO has agreed to provide a cost recovery proposal similar to that approved
8 in LPSC Docket U-35324 within 60 days of approval of the Stipulated Settlement here.
9 Based on my review of the previously approved WFA Rider, and SWEPCO's commitment
10 that it will be similar to that rider, I believe that the rider proposed will meet the intent of
11 Staff. Nevertheless, the Stipulated Settlement preserves the LPSC Staff's right to raise to
12 the Commission any disputes with SWEPCO's proposed rider recovery.

13 **Q. IS THERE ANY OPPOSITION TO THE STIPULATED SETTLEMENT BY ANY**
14 **PARTY IN THIS DOCKET?**

15 A. No, it is my understanding that no party opposes the Stipulated Settlement.

16 **Q. WHAT IS YOUR RECOMMENDATION IN THIS DOCKET?**

17 A. Because the Stipulated Settlement resolves all the issues in this docket in a manner that is
18 in the public interest, I recommend that the Commission approve the Stipulated Settlement.

19 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

20 A. Yes.

**BEFORE THE
LOUISIANA PUBLIC SERVICE COMMISSION**

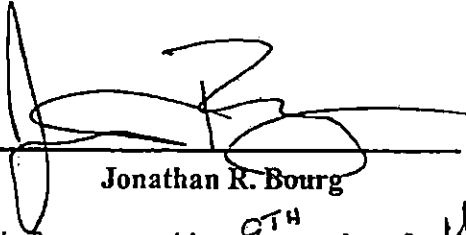
DOCKET NUMBER U-36385

SOUTHWESTERN ELECTRIC POWER COMPANY, EX PARTE.

*In re: Application of Southwestern Electric Company for Certification and Approval of the
Acquisition of Certain Renewable Resources and Natural Gas Capacity Contracts in
Accordance with the MBM Order and the 1983 and 1984 General Orders*

AFFIDAVIT

Jonathan R. Bourg, being first duly sworn, deposes and says: that he is the same Jonathan R. Bourg whose Testimony accompanies this affidavit; that Testimony was prepared by him or under his direction; that he is familiar with the contents thereof; that the facts and opinions set forth therein are true and correct to the best of his knowledge, information and belief; and that he does adopt the same as his sworn testimony in this proceeding.


Jonathan R. Bourg

Subscribed and sworn before me on this 9TH day of March, 2023.

 137553
34482

Notary Public

My Commission Expires: at death