

171 FERC ¶ 61,001  
FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, DC 20426

April 1, 2020

In Reply Refer To:  
Southwestern Electric Power Company  
Docket No. ER20-869-000

Steptoe & Johnson LLP  
1330 Connecticut Avenue, NW  
Washington, DC 20036-1795

Attention: Steven J. Ross

Dear Mr. Ross:

1. On January 24, 2020, Southwestern Electric Power Company (SWEPCO) filed a Settlement Agreement (Settlement) that resolves the five specific formula rate issues that the Commission set for hearing in a complaint filed by the City of Prescott, Arkansas (Prescott), regarding its Power Supply Agreement (PSA) with Prescott.<sup>1</sup> The Settlement consists of agreed-upon changes to the PSA (Revised PSA) and the formula rate contained therein.
2. On February 13, 2020, both Prescott and the Commission's Trial Staff filed comments supporting the Settlement. On February 27, 2020, the Settlement Judge certified the Settlement as uncontested.<sup>2</sup>
3. Some of the specifics of the Settlement include Article IV, which provides that SWEPCO will file updated depreciation rates as formula rate inputs whenever its retail regulators approve changes to SWEPCO's depreciation rates that would affect Prescott's rates under the Revised PSA. In addition, SWEPCO will continue using the actual depreciation expense recorded on its books. Further, if SWEPCO has not filed updated depreciation rates for any period of four consecutive years following Commission approval of the Settlement, SWEPCO commits to do so within a reasonable time thereafter.

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<sup>1</sup> *City of Prescott, AR v. Sw. Elec. Power Co.; Midcontinent Indep. Sys. Operator, Inc.*, 168 FERC ¶ 61,177, at PP 10, 49 (2019); Settlement at article V, section 5.3. The remaining complaint issues are pending in Docket Nos. EL19-60-000 and EL17-89-000.

<sup>2</sup> *City of Prescott, AR v. Sw. Elec. Power Co.*, 170 FERC ¶ 63,022 (2020).

4. Article V of the Settlement commits SWEPCO to provide Prescott annually with the populated formula rate, including detailed workpapers and other relevant supporting documentation, and to responding to Prescott's requests for additional data related to the formula rate calculations. In addition, SWEPCO commits to provide files that detail the transmission charges and Midcontinent Independent System Operator, Inc.'s market charges included in SWEPCO's monthly invoices to Prescott.

5. Article VII of the Settlement provides that:

**7.1 Modifications/Standard of Review.** The public interest standard of review set forth in *United Gas Pipe Line v. Mobile Gas Service Corp.*, 350 U.S. 332 (1956), *Federal Power Commission v. Sierra Pacific Power Co.*, 350 U.S. 348 (1956), and *Morgan Stanley Capital Group, Inc. v. Public Utility District No. 1 of Snohomish County*, 554 U.S. 527 (2008) shall govern the Commission's consideration of any modification of this Settlement Agreement that is proposed by a Settling Party unilaterally or with the concurrence of less than all Settling Parties. The "ordinary" just and reasonable standard of review, as discussed in *Morgan Stanley*, 554 U.S. 527, 535 (2008), shall govern the Commission's consideration of any modification to this Settlement Agreement that is proposed by the Commission itself acting *sua sponte*. Nothing in this Settlement Agreement affects the standard of review for changes to the PSA and/or the Formula Rate, as provided in Section 15.3 of the PSA or the Revised PSA and/or the Revised Formula Rate, as provided in Section 15.3 of the Revised PSA.

6. We find that the Settlement appears to be fair and reasonable and in the public interest, and it is hereby approved. Accordingly, the Revised PSA is accepted effective April 1, 2019, as requested.<sup>3</sup> The Commission's approval of the Settlement does not constitute approval of, or precedent regarding, any principle or issue in this proceeding.

By direction of the Commission. Commissioner Danly is not participating.

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

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<sup>3</sup> Southwestern Electric Power Company, FERC FPA Electric Tariff, SWEPCO Rate Schedules and Service Agreements Baseline, [Rate Schedule No. 127, Revised and Restated Prescott PSA, 10.0.0.](#)

