

MEMORANDUM

To: Members of the City Commission

From: Jack Redmon, Acting City Manager

Date: June 22, 2018

Subject: Resolution regarding the SWEPCO Wind Catcher Project

Please see attached information for a proposed resolution regarding Southwestern Electric Power Company Wind Catcher Project.

The City Attorney is reviewing the draft resolution and will be prepared to answer Commission questions regarding this agenda item

AGENDA INFORMATION SHEET
ITEM NO. _____

**OPPOSITION TO SOUTHWESTERN ELECTRIC POWER COMPANY'S
 ("SWEPCO") APPLICATION FILED WITH THE PUBLIC UTILITY
 COMMISSION OF TEXAS TO ACQUIRE AN INTEREST IN THE WIND
 CATCHER ENERGY CONNECTION PROJECT**

BACKGROUND

Recently, SWEPCO began a campaign to solicit support from the cities in which it provides service and from the counties, school districts, and chambers of commerce. SWEPCO is holding "luncheons" to present its side of why it should build the Wind Catcher Project. You may have received an invitation to SWEPCO's presentation.

SWEPCO Wants To Build A \$4.5 Billion Wind Farm It Does Not Need:

As you may be aware, the Wind Catcher Project is a very large wind-generation facility under construction in Oklahoma. SWEPCO, along with its affiliate, Public Service Company of Oklahoma, plans to purchase the facility from a company that will build the wind farm for SWEPCO. SWEPCO filed its application with the Public Utility Commission of Texas ("PUCT") on July 31, 2017 and that case is pending before the PUCT.

SWEPCO estimates that at completion, the Wind Catcher Project will provide 1,900 Megawatts ("MWs") of electricity at a cost of about \$4.5 billion, including the cost of an associated, dedicated transmission line. Of this amount, \$1.1 billion will be paid for by SWEPCO's Texas retail ratepayers. SWEPCO contends that building the wind farm will lower overall costs to Texas retail ratepayers by about \$750 million in net present value as a result of lower fuel costs and because of the availability of federal "production tax credits" ("PTCs"). Note that **SWEPCO itself admits that it does not need the plant to meet demand for electric power.** SWEPCO readily admits it has more than sufficient generating capacity to meet its current and future needs for electricity.

All Ratepayer Groups Oppose SWEPCO's Wind Catcher Project:

In the proceedings before the PUCT, the **Cities Advocating Reasonable Deregulation ("CARD")**, of which the City has been a member for well over 10 years, urged the PUCT to deny SWEPCO's application to build the wind farm. **In fact, all ratepayer groups in the case before the PUCT – from residential ratepayers, small commercial ratepayers, to huge industrial ratepayers – are urging the PUCT to deny SWEPCO's request to build the Wind Catcher Project.**

The experts that each ratepayer group engaged, each believes that the risk of building the wind farm and its related transmission line, falls too greatly on ratepayers. The ratepayer groups' experts believe that, using more conservative estimates of, for example, the price of natural gas over the next 20 – 25 years, the amount of electricity actually generated by the Project, and the value any federal Production Tax Credits, that the Wind Catcher Project if built, will mean the ratepayers will end up paying about \$1 billion more in net present value, than if SWEPCO does not build the Project. That is, it will cost ratepayers about \$1 billion more in rates. In fact, in 2021 alone, the first year of operation, ratepayers would see an increase in base rates of about \$150 million.

All Savings SWEPCO Asserts Are Dependent On Projected Numbers:

The entirety of the savings that SWEPCO asserts ratepayers will see, is wholly dependent on SWEPCO's forecasts of three key elements in its presentation:

1. The **price of natural gas** over the next 20 – 25 years. Note that the higher SWEPCO can show the price of natural gas to be, the better the Wind Catcher Project looks; CARD's and the other ratepayer groups' experts in the PUCT case believe SWEPCO's projections for the price of natural gas are highly inflated.
2. The **production of energy** from the wind turbines. The production of energy is measured in what SWEPCO refers to as its "**Net Capacity Factor.**" The Net Capacity Factor is in large measure dependent on SWEPCO's predictions of the weather, and in particular, the wind blowing at the right time for SWEPCO to be able to use the energy from the wind turbines.
3. The **value of the Production Tax Credits.** One of the main reasons that SWEPCO wants to build the Wind Catcher Project is because of federal, Production Tax Credits currently available from the federal government. Without the Production Tax Credits, the economics of the Project, even under SWEPCO's projections, fail to provide a benefit.

There are several other uncertainties affecting SWEPCO's projections, including its contention that it will incur \$550 million in a "carbon tax," but there has not been any such tax ever imposed on SWEPCO or any other utility, and it is at best speculative that the U.S. Congress would adopt such a tax.

The Only Two Certainties Are Profits To SWEPCO and Risks and Costs to Ratepayers:

If the PUCT allows SWEPCO to build and acquire the Wind Catcher Project, the only two things certain, even if SWEPCO is wrong with regard to its forecast, and it turns out there are no savings, are that SWEPCO will earn a profit on the money it spends to build/acquire the wind farm, and ratepayers will be responsible for the risks and costs of the Project.

PARTICIPATION IN CARD:

The law firm of Herrera Law & Associates, PLLC (through Mr. Alfred R. Herrera) has previously represented the City and its participation in the coalition of cities named the "Cities Advocating Reasonable Deregulation" (CARD) in matters involving SWEPCO, including SWEPCO's most recent rate and fuel cases, and is currently representing several CARD cities in the case at the PUCT.

The accompanying Resolution would authorize of Herrera Law & Associate to inform the PUCT that the City opposes SWEPCO's Wind Catcher Project. This would be at no cost to the City.

RECOMMENDATION

It is crucial that the City voice its concerns with and opposition to, SWEPCO's Wind Catcher Project. The Project places all the risk of the cost of the Wind Catcher Project on ratepayers with minimal, to no risk, on SWEPCO's shareholders.

It is recommended that the City authorize the law firm of Herrera Law & Associates, PLLC to express the City's concerns with and opposition to SWEPCO's Wind Catcher Project.

RESOLUTION NO. _____

RESOLUTION BY THE CITY OF _____ (“CITY”) NOTING THE CITY’S CONCERNS WITH AND OPPOSITOIN TO, SOUTHWESTERN ELECTRIC POWER COMPANY’S (“SWEPCO”) APPLICATION FILED ON ABOUT JULY 31, 2017 WITH THE PUBLIC UTILITY COMMISSION OF TEXAS, SEEKING APPROVAL TO ACQUIRE AN INTEREST IN THE WIND CATCHER WIND ENERGY CONNECTION PROJECT; AUTHORIZING SPECIAL COUNSEL TO NOTE THE CITY’S CONCERNS WITH AND OPPOSITION TO THE WIND CATCHER PROJECT; FINDING THAT THE MEETING COMPLIES WITH THE OPEN MEETINGS ACT; AND MAKING OTHER FINDINGS AND PROVISIONS RELATED TO THE SUBJECT

WHEREAS, on about July 31, 2017 Southwestern Electric Power Company (“SWEPCO” or “Company”) filed an application with the Public Utility Commission of Texas (“PUCT”) to amend its certificate of convenience and necessity (“CCN”) seeking authority to acquire an interest in a project SWEPCO refers to as the “Wind Catcher Energy Connection Project” (“Wind Catcher Project”); and

WHEREAS, the Wind Catcher Project is a wind generation facility being constructed by Invenergy Wind Development North America, LLC (“Invenergy”) in Oklahoma; and

WHEREAS, SWEPCO’s Wind Catcher Project includes the construction of an associated dedicated transmission line to be constructed by Quanta Services; and

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

WHEREAS, SWEPCO estimates that the total cost of the Wind Catcher Project, including construction of the related transmission line, to be about \$4.5 billion, of which SWEPCO’s share would be about \$3.2 billion; of that amount about \$1.1 billion in additional costs would be attributable to SWEPCO’s retail customers in Texas; and

WHEREAS, SWEPCO estimates a savings of about \$750 million in net present value, associated with SWEPCO’s estimate of fuel savings coupled with the availability of federal tax credits;

WHEREAS, the entirety of the savings that SWEPCO asserts that ratepayers will see are uncertain and wholly dependent on, among other factors, SWEPCO's forecasts of the price of natural gas over the course of the next 20 – 25 years; the production of energy from the Wind Catcher Project, and the value of production tax credits it may receive from the federal government; and

WHEREAS, the only two certainties, were SWEPCO allowed to build or acquire the Wind Catcher Project, even if no savings materialize, is that SWEPCO would earn a profit on the cost of the Wind Catcher Project and recover the cost of the Wind Catcher Project in rates, and ratepayers will be responsible for bearing all the costs and risks of the Project; and

WHEREAS, the Wind Catcher Project places the vast majority of the risk of the uncertainties related to the Project, including the cost of the Project, on ratepayers, including an estimated increase in rates following the Project's inclusion in rate base of about \$150 million;

WHEREAS, pursuant to the Public Utility Regulatory Act ("PURA") § 33.025 the City has standing in each case before the Public Utility Commission of Texas (the "Commission") that relates to an electric utility providing service in the municipality; and

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

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

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

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

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

Section 3. The City authorizes as Special Counsel, Herrera Law & Associates, PLLC, to express to the Public Utility Commission of Texas, the City’s concerns with and opposition to, SWEPCO’s Wind Catcher Project.

Section 4. The meeting at which this resolution was approved was in all things conducted in strict compliance with the Texas Open Meetings Act, Texas Government Code, Chapter 551.

Section 5. This resolution shall become effective from and after its passage.

PASSED AND APPROVED this _____ day of _____, 2018.

Mayor

ATTEST:

City Secretary