

**J. KENNEDY**  
**AND**  
**ASSOCIATES, INC.**

**PROPOSAL TO THE  
LOUISIANA PUBLIC SERVICE COMMISSION**

**IN RESPONSE TO RFP 20-04**

**DOCKET NO. X-35508**

**IN RE: AUDIT OF FEDERAL ENVIRONMENTAL ADJUSTMENT  
CLAUSE FILINGS FOR SOUTHWESTERN ELECTRIC POWER  
COMPANY FOR THE PERIOD OF  
JANUARY 2018 THROUGH DECEMBER 2019**

**570 Colonial Park Drive  
Suite 305  
Roswell, Georgia 30075  
770-992-2027**

**APRIL 2, 2020**

## **Executive Summary**

J. Kennedy and Associates, Inc. (“Kennedy and Associates”) is pleased to submit this proposal to assist the Louisiana Public Service Commission Staff (“Commission” and “Staff”) with the review of the Federal Environmental Adjustment Clause (“FEAC”) filings of Southwestern Electric Power Company (“SWEPCO”) pursuant to Order No. R-29380 Subdocket A (“General Order”) for the period of January 2018 through December 2019. Kennedy and Associates has provided consulting services to the Commission in numerous utility rate proceedings, audits, and other proceedings.

We will assist the Staff in analyzing SWEPCO’s FEAC filings and related environmental expenses pursuant to the requirements of the Commission’s General Order. We are very familiar with the requirements of the General Order and have assisted the Staff in numerous FEAC filings.

## **Kennedy and Associates Qualifications**

Kennedy and Associates is extremely well qualified to perform these audits. First, we assisted the Staff in the first review of SWEPCO’s FEAC filings in Docket No. X-32020 for the period of October 2009 through October 2010 and the second review of SWEPCO’s FEAC filings in Docket No. X-33969 for the period November 2010 through December 2015.

Second, we assisted the Staff in the first review of Cleco Power LLC’s (“Cleco”) FEAC filings in Docket No. X-32150 for the period of October 2009 through October 2010. We also assisted the Staff in the second review of Cleco’s FEAC filings in Docket No. X-33970 for the period November 2010 through December 2015.

Third, we assisted the Staff in the latest review of Entergy Louisiana, LLC’s (“ELL”) FEAC filings in Docket No. X-34854 for the period of January 2016 through December 2017.

Fourth, in addition to our familiarity with the FEAC General Order and our experience in assisting the Staff in numerous FEAC audits, we assisted Staff in the rulemaking that resulted in the

Commission adopting the Fuel Adjustment Clause (“FAC”) General Order in Docket No. U-21497. This included the various guidelines and rules as well as the various reporting forms reflected in the FAC General Order and now utilized by all electric utilities in the state with a FAC. The Commission’s Purchased Gas Adjustment (“PGA”) and FEAC General Orders include similar guidelines and rules as well as similar reporting requirements.

Since the FAC, PGA, and FEAC General Orders were adopted, we have assisted the Staff in numerous audits pursuant to those General Orders. One of the FAC reviews involved Entergy Louisiana L.L.C. (“ELL”) for the years 2002-2004 in Docket No. U-25116. Two of the reviews involved Entergy Gulf States, Inc. (“EGSI”), the predecessor of Entergy Gulf States L.L.C. (“EGSL”), in Docket Nos. U-20647 and U-19904. Another review involved SWEPCO in Docket No. U-23327. Kennedy and Associates also performed a special “Fuel and Purchased Power Cost” audit of ELL and EGSL in 2005 and 2006 following Hurricanes Katrina and Rita in Docket Nos. U-29175 and U-29176.

Our firm completed an audit of the FAC filings and trading activities of Cleco in Docket No. U-26994, which resulted in a settlement and significant refunds to ratepayers. We recently performed an audit of Cleco’s FAC filings for a period of five years over the period 2009 through 2013 in Docket No. X-33325 and an audit of the FAC filings of ELL and EGSL for the period 2010 through 2013, in Docket Nos. X-33323 and X-33324, respectively. We also have completed numerous PGA audits.

We completed a PGA audit of EGSL in Docket No. X-32581, PGA audits of CenterPoint Energy Arkla in Docket Nos. X-32769 and X-33603, PGA audits of CenterPoint Energy Entex in Docket Nos. X-32770 and X-33602, and a PGA audit of Atmos Energy Corporation regulatory divisions Trans Louisiana Gas Company and Louisiana Gas Service Company in Docket No. X-32583. In these proceedings, our firm identified numerous instances of non-compliance with the

Commission's prior Orders, the applicable General Orders, and sound ratemaking principles. As a result of these reviews, the Commission ordered tens of millions of dollars of refunds to Louisiana retail ratepayers.

Fifth, our firm has represented consumer interests in numerous FEAC, PGA and FAC proceedings in other jurisdictions, including Georgia, Ohio, Pennsylvania, and Kentucky. Among the issues we addressed were the prudence and reasonableness of environmental plans and costs, acquisition and costs of emission allowances, excessive fuel prices due to corruption, mine closure and reclamation costs, capital versus expense, and various accounting and ratemaking issues, including transactions with affiliates.

Sixth, our firm has been involved in hundreds of regulatory proceedings since its formation, with each of the principals having provided expert testimony in those proceedings. These proceedings have included analyzing the operations, books, and records of utility companies for the purpose of setting just and reasonable rates, addressing affiliate transactions and cost-sharing among utility affiliates (regulated and non-regulated), environmental cost recovery through surcharges, fuel and purchased power cost recovery through FAC filings, natural gas cost recovery through PGA filings, and recoveries of these costs through the base ratemaking process, and addressing the effects of various intercompany system agreements on costs recovered through these surcharges. Our principals and consultants are experienced and have filed testimony on the following subjects, among others:

1. Requirements for electric utility compliance with the Clean Air Act and the Clean Air Interstate Rule as it existed at the time the audited costs were incurred, including the purchases of allowances.
2. Experience in analyzing the operations, book and records of electric utilities for the purposes of audits, including familiarity with costing methodologies utilized by the LPSC, and environmental regulations applicable to electric utilities.

3. A full understanding and ability to analyze the proper application of the Commission's FEAC General Order.
4. Appropriate accounting standards and practices for utilities, public utility accounting, and generally accepted auditing standards.
5. Appropriate ratemaking adjustments to the utility's accounting records.
6. Appropriate allocations of costs to base rates and FEAC, PGA or FAC.
7. Recoverable expenses for ratemaking purposes.
8. Just and reasonable costs and prudent investments associated with providing reliable and quality service.
9. Costs passed through to ratepayers which are considered reasonable and prudent, appropriate and/or eligible for recovery pursuant to Commission orders, which are necessary for the provision of the FEAC and which have or will produce just and reasonable rates.

#### **Kennedy and Associates Project Team**

Mr. Lane Kollen, Vice President, CPA, CMA, CGMA will manage this project. He will be assisted by other Kennedy and Associates personnel as appropriate, including primarily Mr. Randy Futral. Mr. Kollen and Mr. Futral are experienced regulatory consultants and have performed numerous audits and reviews in conjunction with the Staff. Mr. Kollen and Mr. Futral have both testified on regulatory matters on numerous occasions in multiple jurisdictions, including the Commission.

Mr. Kollen has several decades of experience in nearly all facets of utility operations, including FEAC, FAC and PGA reviews. In addition, he is an expert in the financial, rate, tax, and planning areas. He specializes in revenue requirements analyses, taxes, evaluation of rate and financial impacts of traditional and nontraditional ratemaking, utility mergers/acquisitions and diversification. Mr. Kollen has expertise in various software systems used by utilities for budgeting, rate case support and strategic and financial planning. Mr. Kollen has testified on

hundreds of occasions before federal and state regulatory commissions and courts on utility matters.

Mr. Randy Futral, Manager, Consulting, is an expert on utility ratemaking and analyses, including FEAC, FAC and PGA reviews. Mr. Futral has worked closely with the Staff in the review of the majority of the cases listed above involving FEAC, FAC and PGA reviews. In addition, he has participated in the development and implementation of Formula Rate Plans for both investor owned utilities and distribution cooperatives providing service in Louisiana.

### **Scope of Comprehensive Review**

Kennedy and Associates' project team will review the FEAC filings of SWEPCO for the period January 2018 through December 2019. The scope of our review will be focused upon the ratemaking aspects of the Companies' environmental expenses and revenues and compliance with the Commission's General Order in Docket No. R-29380 Subdocket A and the requirements set forth in the RFP. We will work closely with the Staff to analyze and resolve the principal issues outlined below, together with any additional issues the Staff may deem appropriate and relevant to this review.

1. Whether the costs passed through the SWEPCO FEACs were reasonable and prudent.
2. Whether the costs were appropriate and eligible for recovery in the SWEPCO FEACs were consistent with the Commission's General Order dated July 21, 2009.
3. Whether the costs passed through the SWEPCO FEACs produced just and reasonable rates.
4. Whether the costs passed through the SWEPCO FEACs were necessary for the provision of electric service to Louisiana retail ratepayers.

### **Action Plan to Perform Comprehensive Review**

Kennedy and Associates will follow the Audit approach outlined in the Commission's General Order. First, we will obtain copies from the Commission of all SWEPCO FEAC filings and the related supporting documentation for the audit period.

Second, we will review the Company's purchase and sale practices for allowances and other environmental costs. We will obtain an understanding of the Company's environmental compliance practices, including the involvement of the utility's affiliates in that process, in order to assess the effect on the FEAC filings. This also will include a review of the Company's accounting for such costs and revenues, including the effects on their allowance inventory and expense accounting.

Third, we will perform analytics comparing the Company's environmental costs and revenues during the review period and prior to the review period to determine any significant changes or abnormalities in pricing or utilization during the audit period.

Fourth, we will compare the Company's purchase costs of and sale revenues from allowances against publicly available information in order to identify any significant differences or abnormalities.

Fifth, we will systematically review the costs included by SWEPCO during the audit review period against the requirements in the Commission's General Order.

Sixth, we will quantify all adjustments to the extent it is possible to do so.

Seventh, we will prepare an Audit Report for the utility, as required by the Commission's General Order, detailing the results of our investigation. The Audit Report will contain specific findings and recommendations regarding whether the costs passed through the FEAC were or were not reasonable and prudent, and whether the costs were appropriate for recovery in the FEAC mechanism consistent with the General Order.

Eighth, we will review and respond to comments on the Audit Reports by SWEPCO and other parties, if any.

Ninth, we will work with the Staff to attempt to resolve issues that are identified in the Audit Reports through settlement negotiations with the parties.

Tenth, if any of the issues identified in the Audit Reports cannot be resolved among the parties and move to litigation, we will prepare and file testimony; review and respond to the testimony of Entergy and other parties; assist Staff counsel in preparation for hearings, during the hearings, and after the hearings; and stand for cross-examination.

To perform this comprehensive review, Kennedy and Associates' project team will work closely with the Staff at the onset to develop a detailed audit plan and to incorporate the Staff into the review, consistent with the Staff's time availability and desire to participate in particular areas of interest. We anticipate several rounds of written discovery on SWEPCO and technical conferences with SWEPCO personnel as necessary.

Assuming timely responses to the Staff's written discovery, we can complete this review and prepare initial drafts of the Audit Reports for the Commission Staff to review within nine to twelve months of commencing work. We will work with the Staff and the other parties to develop a procedural schedule for SWEPCO and the other parties to comment on the Audit Reports, engage in settlement discussions, hold hearings, file briefs, respond to proposed and final recommended decisions of the ALJ, and prepare a final Commission Order.

#### **Budget to Perform Comprehensive Review**

Kennedy and Associates proposes a budget of \$26,200, consisting of \$25,500 for consulting services and \$700 for expenses, to perform the comprehensive review of the FEAC filings. This budget assumes the scope identified in the Commission's RFP and reflected in this proposal and includes the audit, preparation of the Audit Report, settlement discussions, filing of testimony, hearings, and assistance to the Commission Staff and Staff Counsel through the issuance of the



Commission's final order. The costs of such services will be billed at the hourly rates on the Attachment to this proposal.

**No Conflicts of Interest**

Kennedy and Associates has no known conflict of interest in representing the Louisiana Public Service Commission in this proceeding. Kennedy and Associates does not represent investor-owned gas or electric utilities and has not performed work for SWEPCO as a consultant or employee on any matter.

**J. Kennedy and Associates, Inc.**  
**Hourly Fee Schedule**

<u>Title</u>	<u>Name</u>	<u>Hourly Rate</u>
President	Stephen J. Baron	\$266
Vice President	Lane Kollen	\$266
Vice President	Philip Hayet	\$266
Director	Richard A. Baudino	\$254
Director	Brian R. Barber	\$254
Manager	Randy Futral	\$254
Senior Consultant	Ann Bruccoliere	\$195
Consultant	Sam Wyrobeck	\$175
Consultant	Brian Kollen	\$160
Analyst	Jessica Inman	\$120

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