

**BEFORE THE ARKANSAS POLLUTION CONTROL
AND ECOLOGY COMMISSION**

**IN RE: REQUEST BY THE SOUTHWESTERN)
ELECTRIC POWER COMPANY)
TO INITIATE RULEMAKING TO) DOCKET NO. 14-007-R
AMEND REGULATION NO. 2)**

**SOUTHWESTERN ELECTRIC POWER COMPANY'S
STATEMENT OF BASIS AND PURPOSE**

Southwestern Electric Power Company ("SWEPCO") for its Statement of Basis and Purpose, states:

1. The Arkansas Pollution Control and Ecology Commission ("APCEC" or "the Commission") is given the power and duty to promulgate rules and regulations implementing the powers and duties of the Arkansas Department of Environmental Quality ("ADEQ" or "the Department") and APCEC, including regulations prescribing water quality standards (WQS). ARK. CODE ANN. § 8-4-202(a) and (b).

2. ARK. CODE ANN. § 8-4-202(c) provides that any person has the right to petition the APCEC for an amendment of any rule or regulation. On January 13, 2016, SWEPCO filed its Petition to Reopen the Docket to Initiate Third-Party Rulemaking to Amend APCEC Regulation No. 2. SWEPCO's Petition was submitted pursuant to, and in compliance with APCEC Regulation No. 2, §§ 2.303 and 2.308, APCEC Regulation No. 8, § 8.809, and the ADEQ's Continuing Planning Process. On January 27, 2017, the APCEC entered Minute Order No. 17-05 granting SWEPCO's Petition and initiated rulemaking on the changes proposed to Regulation No. 2 by SWEPCO.

3. SWEPCO's original Petition to Initiate Third-Party Rulemaking to Amend Regulation No. 2, filed on September 11, 2014, sought to: (a) modify the total dissolved solids (TDS) and temperature water quality criteria for the Little River from Millwood Lake to the mouth of the Little River; (b) remove the designated domestic drinking water use, and (c) modify the TDS water quality criterion for the Red River from 500 mg/L to 860 mg/L from the mouth of the Little River to the Arkansas/Louisiana state line. SWEPCO's requested amendments to Regulation No. 2 were adopted by the Commission on October 23, 2015, by Minute Order 15-21, were final for state law purposes, and were submitted to EPA for its review and approval. EPA approved all of the amendments to Regulation No. 2 except changing the TDS water quality criterion to 860 mg/L on the Red River. As its basis for disapproval EPA cited inadequate aquatic life use data/documentation and the fact that the Louisiana TDS water quality standard on the Red River beginning at the state line is 780 mg/L. Thereafter SWEPCO provided EPA with additional aquatic life supporting data, and agreed to reopen the docket to seek an amendment to Regulation No. 2 to change the TDS water quality standard for the Red River from the mouth of the Little River to the Arkansas/Louisiana state line from 860 mg/L to 780 mg/L.

4. SWEPCO's Petition to Reopen the Docket to Initiate Rulemaking thus sought a change in TDS water quality criterion from 860 mg/L to 780 mg/L for the Red River from the mouth of the Little River to the Arkansas/Louisiana state line.

5. SWEPCO's Petition is supported by the following:

- SWEPCO seeks site-specific TDS criterion which reflect current conditions, bring consistency to the criteria on the Red River, and allow the Turk facility to operate as designed while protecting the attainment of the aquatic life use, primary and secondary contact recreation, and industrial and agriculture water designated uses for the Red River;

- UAA data, and the documents attached as Exhibit E to the Petition to Reopen the Docket established that the requested change will have no adverse effect on the aquatic life communities;
- The toxicity threshold based on tests of *Ceriodaphnia dubia* using the facility's effluent indicates that threshold toxicity due to minerals is well above the anticipated mineral concentration in the effluent at the critical dilution;
- Setting the TDS criterion at the site-specific levels requested by SWEPCO in the Red River from the mouth of the Little River to the Arkansas/Louisiana state line will not cause acute or chronic toxicity;
- There is no current economically feasible treatment technology for the removal of the minerals to meet the current criteria. Reverse osmosis treatment technology does exist; however, this technology is not cost effective and generates a concentrated brine which is environmentally difficult to dispose of. The technology is not required to meet the designated uses and would produce no significant additional environmental protection.
- 40 CFR 131.11(b)(1)(ii) provides states with the opportunity to adopt water quality standards that are "modified to reflect site-specific conditions."

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 10th day of May, 2017, I served a copy of the foregoing Statement of Basis and Purpose on the following by electronic service:

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