

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

Secretary  
Arkansas Pollution Control and Ecology  
101 East Capitol, Suite 205  
Little Rock, AR 72201  
Filed 1/13/17 *plg*

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

**PETITION TO REOPEN THE DOCKET IN  
SOUTHWESTERN ELECTRIC POWER COMPANY'S  
THIRD-PARTY RULEMAKING TO AMEND REGULATION NO. 2**

Petitioner, Southwestern Electric Power Company (SWEPCO), for its Petition to Reopen the Docket in its Third-Party Rulemaking to Amend Regulation No. 2 states:

1. SWEPCO's original Petition to Initiate Third-Party Rulemaking to Amend Regulation No. 2 was filed on September 11, 2014. The original Petition sought to: (a) modify the 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.

2. Following the period of public comment, gubernatorial review and approval, and legislative committee review and approval, all of the amendments to Regulation No. 2 proposed by SWEPCO were adopted by the Commission on October 23, 2015 by Minute Order 15-21. The amendments adopted by the Commission were submitted to EPA for review and approval. Approval by EPA is required before any change in state water quality standards can become effective for purposes of the Clean Water Act.

3. On May 16, 2016, EPA approved the amendment to the TDS and temperature water quality criteria for the Little River and approved the removal of the domestic water supply

use designation for the Red River from the mouth of the Little River to the Arkansas/Louisiana state line. However, on July 20, 2016, EPA formally disapproved changing the TDS water quality criterion to 860 mg/L on the Red River. EPA cited as its basis for disapproval inadequate aquatic life use data/documentation and the fact that the Louisiana's TDS water quality standard on the Red River beginning at the state line is 780 mg/L.

4. During the time period from the approval of the initial rulemaking by the Commission through November, 2016, SWEPCO, its consultants and counsel, and ADEQ have had numerous meetings and conversations with EPA in an effort to respond to EPA's comments, provide requested additional data, and reach agreement on the proper TDS water quality standard for the Red River from the mouth of the Little River to the Arkansas/Louisiana state line. As a result of those meetings and conversations, SWEPCO presented to ADEQ and EPA additional aquatic life supporting data/documentation all of which is attached hereto as Exhibit E.

5. SWEPCO has agreed to revise its rulemaking petition to seek a TDS water quality criterion for the Red River from the mouth of the Little River to the Arkansas/Louisiana state line that is consistent with the Louisiana TDS water quality criterion.

6. EPA and ADEQ have authorized SWEPCO to proceed with this revised rulemaking request.

7. Because Minute Order 15-21 set the TDS water quality standard at 860 mg/L for the Red River from the mouth of the Little River to the Arkansas/Louisiana state line for state law purposes, the current Arkansas TDS criterion in the Red River from the mouth of the Little River to the Arkansas/Louisiana state line is a site-specific value of 860 mg/L. As set forth more fully below in paragraph 11, below, SWEPCO, by this Petition, is requesting to reopen the

docket to modify the site-specific 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.

8. This Petition to Reopen the Docket is submitted pursuant to APCEC Regulation No. 2, §§ 2.303 and 2.308, APCEC Regulation No. 8, § 8.809, and the ADEQ's Continuing Planning Process.

9. A Use Attainability Analysis (UAA), entitled *Southwestern Electric Power Company Use Attainability Analysis for Dissolved Minerals in Little and Red Rivers Hempstead & Little River Counties, Arkansas* supporting SWEPCO's original Petition was submitted to ADEQ and was attached to SWEPCO's original Petition as Exhibit F. The UAA is specifically incorporated herein by reference.

10. SWEPCO prepared a technical and economic evaluation of possible alternatives to amendment of the TDS water quality criteria. Those alternatives and the technical and economic evaluation were set forth in UAA and summarized in paragraph 13 of the original Petition and are incorporated herein by reference.

11. Through this Motion to Reopen the Docket, and based upon the UAA and supporting documentation set forth Exhibit E attached hereto, SWEPCO is requesting the following amendment to APCEC Regulation No. 2:

- modification of the TDS water quality criterion 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.

A redline version of APCEC Regulation No. 2 showing the proposed change is attached hereto as Exhibit A and incorporated herein by reference.

12. A copy of the Legislative Questionnaire and Financial Impact Statement is attached hereto as Exhibit B and incorporated herein by reference.

13. A copy of the Economic Impact/Environmental Benefit Analysis required by APCEC Regulation No. 8, § 8.812 is attached hereto as Exhibit C and incorporated herein by reference.

14. A copy of the Governor's approval is attached as Exhibit D and incorporated herein by reference.

15. Copies of the additional documentation submitted to EPA are attached hereto as Exhibit E and incorporated herein by reference.

16. Agency correspondence is attached hereto as Exhibit F and incorporated herein by reference.

17. A copy of the proposed Minute Order to Reopen the Docket to revise the Rulemaking is attached as Exhibit G and incorporated herein by reference.

18. This 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, primary and secondary contact recreation, and industrial and agriculture water designated uses for the Red River;
- UAA data, and the documents attached hereto as Exhibit E 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 in paragraph 11 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.”
- The basis for site-specific standards is set forth in 40 CFR 131.10(g)(6) which provides that the state may establish less stringent criteria if naturally occurring pollutant concentrations, dams or other types of hydrologic modifications limit the use or if controls more stringent than those required by section 301(b) and 306 of the Clean Water Act if would result in substantial and widespread economic and social impact.

WHEREFORE, Southwestern Electric Power Company requests that the Commission enter an Order granting its Motion to Reopen the Docket to amend APCEC Regulation No. 2 in the manner requested in paragraph 11, above.

Respectfully submitted,

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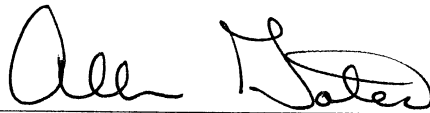
  
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**Counsel for Southwestern Electric Power Company**

**CERTIFICATE OF SERVICE**

I hereby certify that on this 13<sup>th</sup> day of January, 2017, I served a copy of the foregoing Petition to Reopen the Docket in Southwestern Electric Company's Third-Party Rulemaking to Amend Regulation No. 2 on the following by United States Postal Service, postage prepaid and by electronic service:

Michael McAlister, Esq.  
Supervising Attorney  
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A handwritten signature in black ink, appearing to read "Allan Gates", written over a horizontal line.

Allan Gates