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PUC DOCKET NO. 40343  
SOAH DOCKET NO. 473-12-6040

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APPLICATION OF EL PASO ELECTRIC §  
COMPANY FOR APPROVAL TO §  
REVISE ITS ENERGY EFFICIENCY §  
COST RECOVERY FACTOR AND §  
REQUEST TO ESTABLISH REVISED §  
GOALS AND COST CAPS §

PUBLIC UTILITY COMMISSION  
OF TEXAS

PUC DOCKET NO. 40348  
SOAH DOCKET NO. 473-12-6064

APPLICATION OF TEXAS NEW §  
MEXICO POWER COMPANY FOR §  
APPROVAL OF AN ENERGY §  
EFFICIENCY COST RECOVERY §  
FACTOR §

PUBLIC UTILITY COMMISSION  
OF TEXAS

PUC DOCKET NO. 40356  
SOAH DOCKET NO. 473-12-6077

APPLICATION OF CENTERPOINT §  
ENERGY HOUSTON ELECTRIC, LLC §  
FOR APPROVAL OF AN ADJUSTMENT §  
TO ITS ENERGY EFFICIENCY COST §  
RECOVERY FACTOR §

PUBLIC UTILITY COMMISSION  
OF TEXAS

PUC DOCKET NO. 40358  
SOAH DOCKET NO. 473-12-6079

APPLICATION OF AEP TEXAS NORTH §  
COMPANY TO ADJUST ENERGY §  
EFFICIENCY COST RECOVERY §  
FACTOR AND RELATED RELIEF §

PUBLIC UTILITY COMMISSION  
OF TEXAS

**PUC DOCKET NO. 40359  
SOAH DOCKET NO. 473-12-6080**

<b>APPLICATION OF AEP TEXAS</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>CENTRAL COMPANY TO ADJUST</b>	<b>§</b>	
<b>ENERGY EFFICIENCY COST</b>	<b>§</b>	<b>OF TEXAS</b>
<b>RECOVERY FACTOR AND RELATED</b>	<b>§</b>	
<b>RELIEF</b>	<b>§</b>	

**PUC DOCKET NO. 40360  
SOAH DOCKET NO. 473-12-6081**

<b>APPLICATION OF ENTERGY TEXAS,</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>INC. FOR AUTHORITY TO</b>	<b>§</b>	
<b>REDETERMINE RATES FOR THE</b>	<b>§</b>	<b>OF TEXAS</b>
<b>ENERGY EFFICIENCY COST</b>	<b>§</b>	
<b>RECOVERY FACTOR TARIFF</b>	<b>§</b>	

**PUC DOCKET NO. 40361  
SOAH DOCKET NO. 473-12-6082**

<b>APPLICATION OF ONCOR ELECTRIC</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>DELIVERY COMPANY, LLC FOR 2013</b>	<b>§</b>	
<b>ENERGY EFFICIENCY COST</b>	<b>§</b>	<b>OF TEXAS</b>
<b>RECOVERY FACTOR</b>	<b>§</b>	

**SUPPLEMENTAL PRELIMINARY ORDER**

On April 30, 2012 El Paso Electric Company and on May 1, 2012, Texas New Mexico Power Company; CenterPoint Energy Houston Electric, LLC; AEP Texas North Company; AEP Texas Central Company; Entergy Texas, Inc.; and Oncor Electric Delivery Company each filed applications to revise their existing energy-efficiency cost recovery factors. Some of the

applications included discussion of recovery of EECRF proceeding rate-case expenses for the utility and the municipalities as part of the EECRF. An order requesting briefing on threshold legal and policy questions was issued on May 10, 2012.

### **I. Threshold Legal/Policy Determinations**

Parties and Commission Staff filed briefs addressing the following legal and policy questions. The following statements of position were reached in consideration of arguments of the parties. Accordingly, pursuant to the Administrative Procedure Act<sup>1</sup> § 2001.058(c), the Commission states its position on the following threshold issues:

**1. Are rate-case expenses for EECRF proceedings properly classified as EECRF administrative costs?**

Administrative costs for EECRF proceedings are defined in P.U.C. SUBST. R. 25.181(i)(1) to include all reasonable and necessary costs incurred by a utility in carrying out its responsibilities under the energy-efficiency rule, including “any other activities that are necessary and appropriate for successful program implementation.” Administrative costs are limited by P.U.C. SUBST. R. 25.181(i) to not exceed 15% of the utility’s total program costs.

The Commission finds that utilities’ rate-case expenses are administrative costs for EECRF proceedings and are therefore subject to the EECRF administrative cost cap.

Under PURA § 33.023(b), because an EECRF proceeding is a ratemaking proceeding,<sup>2</sup> the utility must reimburse the governing bodies of municipalities for any expenses they incur in participating in the proceeding in the event a municipality intervenes in the EECRF proceeding. Unlike the utilities’ own rate-case expenses, utilities do not have control over the amount of municipalities’ rate-case expenses. The Commission finds that municipality rate-case expenses

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<sup>1</sup> Administrative Procedure Act, TEX. GOV’T CODE ANN. §§ 2001.001-.902 (Vernon 2000 & Supp. 2004) (APA).

<sup>2</sup> PURA § 36.061(b)(2).

are administrative costs in EECRF proceedings, but are not subject to the administrative cost cap set out in P.U.C. SUBST. R. 25.181(i).

The Commission also finds that the municipalities' rate-case expenses should not be recovered from all of the ratepayers that are served by the utility, but are recoverable only from ratepayers on whose behalf the municipalities intervened in the EECRF proceeding. The municipalities' rate-case expenses shall be recoverable in a separate rider in the next year's EECRF proceeding.

**2. If not, should the rate-case expenses for EECRF proceedings be addressed in an EECRF rate proceeding or in a utility's base rate case?**

Based on the Commission's determination of issue 1 above, the Commission finds that this issue need not be addressed.

**3. If it is appropriate to consider rate-case expenses for an EECRF proceeding in an EECRF rate proceeding, is it appropriate to consider rate-case expenses from a prior year's EECRF proceeding?**

The Commission finds that rate-case expenses from the prior year's EECRF proceeding shall be provided for review by the Commission in the next year's proceeding and included in the next EECRF for the utility and the EECRF rate-case expense rider for the municipalities' rate-case expenses. This will ensure that all of the rate-case expenses for the prior year's proceeding have been submitted and are known and measurable so that the Commission can make a determination of the reasonableness of the expenses.

## **II. Effect of Preliminary Order**

The Commission's discussion and conclusions in this Order regarding threshold legal and policy issues should be considered dispositive of those matters. Questions, if any, regarding threshold legal and policy issues may be certified to the Commission for clarification if the SOAH ALJ determines that such clarification is necessary. As to all other issues, this Order is preliminary in nature and is entered without prejudice to any party expressing views contrary to this Order before the SOAH ALJ at hearing. The SOAH ALJ, upon his or her own motion or upon the motion of any party, may deviate from the non-dispositive rulings of this Order when

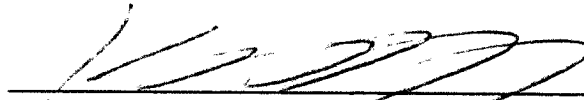
circumstances dictate that it is reasonable to do so. Any ruling by the SOAH ALJ that deviates from this Order may be appealed to the Commission. The Commission will not address whether this Order should be modified except upon its own motion or the appeal of a SOAH ALJ's order. Furthermore, this Order is not subject to motions for rehearing or reconsideration.

SIGNED AT AUSTIN, TEXAS the 20<sup>th</sup> day of June 2012

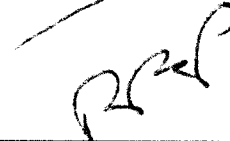
**PUBLIC UTILITY COMMISSION OF TEXAS**



**DONNA L. NELSON, CHAIRMAN**



**KENNETH W. ANDERSON, JR., COMMISSIONER**



**ROLANDO PABLOS, COMMISSIONER**