

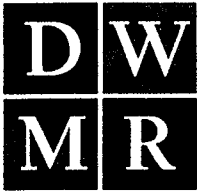


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June 10, 2019

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PUBLIC UTILITY COMMISSION
FILING CLEAR

The Honorable Rebecca S. Smith
Administrative Law Judge
State Office of Administrative Hearings
Williams P. Clements Office Building
300 West 15th, Fourth Floor
Austin, Texas 78701

Re: SOAH Docket No. 473-19-4319; PUCT Docket No. 49482 - *Application of El Paso Electric Company to Implement an Interim Fuel Refund*

Agreed Proposed Order

Dear Judge Smith:

Order No. 2 in this proceeding set a deadline of today for the filing of an agreed proposed findings of fact and conclusions of law if no party requested a hearing. El Paso Electric Company, on behalf of itself, the Staff of the Public Utility Commission, and Texas Industrial Energy Consumers submits the attached proposed order in compliance with Order No. 2. Contemporaneously with this filing, these parties are also filing an agreed motion for admission of evidence.

EPE requests that the Administrative Law Judge admit evidence pursuant to the motion, dismiss this case from the State Office of Administrative Hearings docket, and remand it the Public Utility Commission for consideration of the agreed proposed order.

Very truly yours,

Bret J. Slocum
ATTORNEY FOR EL PASO ELECTRIC
COMPANY

cc: All Parties of Record to Docket 49482

**PUC DOCKET NO. 49482
SOAH DOCKET NO. 473-19-4319**

**APPLICATION OF EL PASO ELECTRIC § PUBLIC UTILITY COMMISSION
COMPANY TO IMPLEMENT AN § OF
INTERIM FUEL REFUND § TEXAS**

PROPOSED ORDER

This Order addresses the application of El Paso Electric Company (EPE) to implement an interim fuel refund. This docket was processed in accordance with applicable statutes and Public Utility Commission of Texas (Commission) rules.

The Commission adopts the following findings of fact and conclusions of law:

I. Findings of Fact

Applicant

1. EPE provides electric generation, transmission, and distribution services in Texas under certificate of convenience and necessity number 30050.

Application

2. On April 29, 2019, EPE filed an application to implement a refund for fuel cost over-recoveries from April 1, 2016 through March 2019.
3. EPE contended that it was in a state of material over-collection and will remain in a state of material over-collection, unless the Commission approves the fuel refund.
4. EPE sought to refund \$19,219,730 of over-recovered costs and \$166,400 of interest, for a net total of \$19,386,130.
5. Because Rate Schedule No. 22, Irrigation Service Rate was in a state of under-collection, EPE did not propose any refund for this class. EPE also did not propose to surcharge this class and instead plans to carry-forward the under-collection balance.
6. EPE requested that the refund tariff it proposed be made effective commencing with bills rendered during the June 2019 billing cycle.
7. EPE requested that the Commission authorize a refund over the June, July, August, and September 2019 billing months for any customer that, under 16 Tex. Admin. Code (TAC) §25.236(e)(4), is required to be given refunds through a factor applied to their kilowatt-hour usage.

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8. EPE made the request to spread the refund over four months because of the magnitude of the refund.
9. For all other customers, except Rate Schedule No. 22, Irrigation Service Rate, EPE proposed a one-time credit.

Notice

10. SOAH Order No. 2, issued on May 16, 2019 found EPE's notice to be adequate.
11. On May 21, 2019, EPE filed an affidavit of Mariah M. Novela, Regulatory Case Manager for EPE's Regulatory Affairs Department attesting that on April 29, 2019, EPE served a copy of its filing by United States Postal Service to each party to EPE's fuel reconciliation, Docket No. 46308, *Application of El Paso Electric Company to Reconcile Fuel Costs*, and to all incorporated cities and towns within EPE's service territory. The affidavit also attested that EPE also served a copy of the filing on all incorporated cities and towns by email on April 29, 2019, except for the Town of Van Horn, which was served a copy by email on April 30, 2019.
12. Included in EPE's May 21, 2019, filing were publisher's affidavits attesting that EPE published notice by May 10, 2019, of its Application once in both English and Spanish, in the *El Paso Times*, the *Hudspeth County Herald*, and the *Van Horn Advocate*, which are newspapers having general circulation in El Paso, Hudspeth, and Culberson counties, respectively.

Interventions

13. On May 9, 2019, Texas Industrial Energy Consumers (TIEC) filed a motion to intervene.
14. In Order No. 2 issued on May 16, 2019, the ALJ granted TIEC's motion to intervene.

Interim Rates

15. To allow the refund to begin in June 2019, EPE requested approval of the refund on an interim basis.
16. In SOAH Order No 2, because no party had objected to EPE's request to implement interim rates so that it can be made during EPE's June 2019 billing month, except that Staff had objected to approval for EPE's Community Solar customers, the ALJ approved EPE's request except for Community Solar customers.
17. On May 23, 2019, EPE filed a letter stating that EPE had reached an agreement with Staff and that Staff withdrew its opposition to interim rates for Community Solar customers.

18. Under the agreement between Staff and EPE, the parties agreed that it is appropriate to evaluate whether to establish separate fuel refund or surcharge treatment for Community Solar customers, due to the likelihood that differences in fuel and generation cost recovery between these customers groups warrant separate treatment. However, due to the specific facts of the proceeding, Staff and EPE agreed that no such separate treatment shall be applied in this proceeding.
19. Under the agreement, Staff agreed to withdraw its opposition to interim rates for Community Solar customers, and EPE committed to the following: prior to, or as part of EPE's next fuel refund, fuel surcharge, or fuel reconciliation proceeding, EPE shall analyze and propose at least two options for the treatment of Community Solar customers based on fuel and generation cost recovery differences, and any associated tariff changes that may be necessary. EPE shall collaborate with Staff prior to submitting any such proposal.
20. On May 30, 2019, SOAH Order No. 3 authorized interim rates for all customers, including Community Solar customers, as proposed by EPE.

Evidentiary Record

21. No party requested a hearing.
22. On June 10, 2019, EPE, on behalf of the parties to this proceeding, filed joint proposed findings of fact and conclusions of law that resolve all of the remaining issues in this proceeding, and a motion for admission of evidence.
23. On [date], the SOAH ALJ filed SOAH Order No. __, admitting the following evidence into the record: (a) EPE's application and accompanying pre-filed testimony, and exhibits, filed April 29, 2019; (b) EPE's errata to Exhibit AH-07, the tariff, filed May 2, 2019; and (c) EPE's affidavit proving notice and publishers' affidavits, filed May 21, 2019;
24. SOAH Order No. __ also dismissed this proceeding from the SOAH docket and returned the matter to the Commission.

Informal Disposition

25. More than 15 days have passed since completion of the notice provided in this docket.
26. No issues of fact are disputed by any party; therefore, no hearing was necessary.

II. Conclusions of Law

1. EPE is a public utility as that term is defined in PURA¹ § 11.004(1) and an electric utility as that term is defined in PURA § 31.002(6).
2. The Commission has jurisdiction over the application under PURA §§ 14.001, 32.001, 36.003, and 39.552.
3. The Commission processed this docket in accordance with the requirements of PURA and the Administrative Procedure Act,² and Commission rules.
4. EPE provided notice of this application in compliance with 16 TAC §25.235(b).
5. 16 TAC §25.237(a)(3)(B) does not require findings regarding the reasonableness of underlying fuel costs in fuel refund cases. Instead, 16 TAC §25.237(a)(3)(A) states that the reasonableness of EPE's fuel costs and revenues are subject to final review and reconciliation in EPE's next applicable fuel reconciliation proceeding.
6. EPE's application meets the requirements set out in 16 TAC §25.237 and §25.236(e) regarding a fuel refund. Approval of the unopposed fuel refund represents a reasonable resolution of the issues in this proceeding and is in the public interest. The resulting refund rates are just and reasonable and otherwise in compliance with the Commission's rules and the requirements of PURA.
7. The requirements for informal disposition pursuant to 16 TAC § 22.35 have been met in this proceeding

III. Ordering Paragraphs

In accordance with these findings of fact and conclusions of law, the Commission issues the following Order:

1. EPE's interim fuel refund tariff that was filed on June 4, 2019, in response to SOAH Order No. 3 is approved.
2. Prior to, or as part of EPE's next fuel refund, fuel surcharge, or fuel reconciliation proceeding, EPE shall analyze and propose at least two options for the treatment for Community Solar customers based on fuel and generation cost recovery differences, and any associated tariff changes that may be necessary. EPE shall collaborate with Staff prior to submitting any such proposal.

¹ Public Utility Regulatory Act, Tex. Util. Code §§ 11.001-66.016.

² Administrative Procedure Act, Tex. Gov't Code §§ 2001.001-.902.

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3. All other motions, requests for entry of specific findings of fact and conclusions of law, and any other requests for general or specific relief, if not expressly granted herein, are denied.

SIGNED AT AUSTIN, TEXAS on the _____ day of [date].

PUBLIC UTILITY COMMISSION OF TEXAS

DEANN T. WALKER, CHAIRMAN

ARTHUR C. D'ANDREA, COMMISSIONER

SHELLY BOTKIN, COMMISSIONER