

Control Number: 50806



Item Number: 31

Addendum StartPage: 0

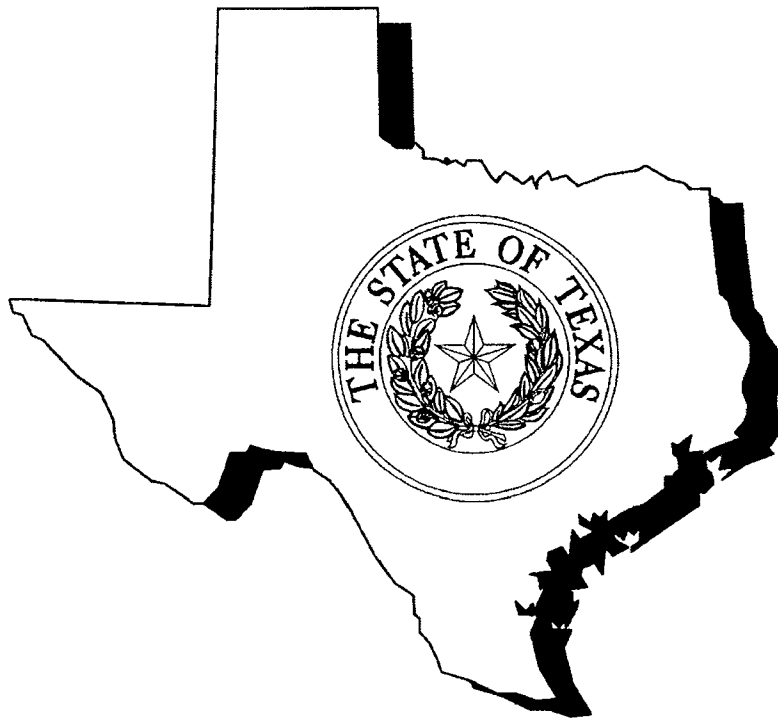
SOAH DOCKET NO. 473-20-3633
PUC DOCKET NO. 50806



APPLICATION OF EL PASO
ELECTRIC COMPANY TO ADJUST
ITS ENERGY EFFICIENCY COST
RECOVERY FACTOR AND
ESTABLISH REVISED COST CAP

§
§
§
§
§
§

BEFORE THE STATE OFFICE
OF
ADMINISTRATIVE HEARINGS



TESTIMONY OF RUTH STARK
IN SUPPORT OF THE STIPULATION AND SETTLEMENT AGREEMENT
RATE REGULATION DIVISION
PUBLIC UTILITY COMMISSION OF TEXAS
SEPTEMBER 3, 2020

TABLE OF CONTENTS

I. QUALIFICATIONS.....	1
II. PURPOSE OF TESTIMONY	2
III. SUMMARY OF THE STIPULATION.....	6
IV. BENEFITS OF THE STIPULATION.....	7

Attachment RS-1 List of Previous Testimony

1 **I. QUALIFICATIONS**

2 **Q. Please state your name and business address.**

3 A. Ruth Stark, 1701 North Congress Avenue, Austin, Texas 78711.

4 **Q. By whom are you employed and in what capacity?**

5 A. I am employed by the Public Utility Commission of Texas (Commission) as a Senior
6 Regulatory Accountant in the Rate Regulation Division.

7 **Q. What are your principal responsibilities?**

8 A. My responsibilities include testifying as a witness on accounting matters in rate cases and
9 other proceedings filed at the Commission and participating in the overall examination,
10 review, and analysis of rate change and other applications.

11 **Q. Please state briefly your educational background and professional experience.**

12 A. I received a Bachelor of Business Administration degree with a major in Accounting
13 from the University of Texas at Austin in 1983. I am a Certified Public Accountant
14 licensed in the State of Texas. I have accounting experience in public practice, industry,
15 and state government. My public accounting responsibilities included tax and financial
16 services to individuals, private enterprises, and non-profit organizations. As the
17 accountant for a multi-divisional construction, engineering and surveying company, I
18 oversaw all accounting functions from maintaining the general ledger through financial
19 statement and tax return preparation. At the Texas Water Development Board, I
20 administered a federal construction grant program and state revolving loan fund related to
21 municipal capital improvement projects. Except for the three-month period
22 encompassing October through December of 2015, I have been employed with the Public

1 Utility Commission of Texas since September of 1990. Prior to my retirement in
2 September of 2015, I held the position of Director of Financial Review in the Rate
3 Regulation Division for sixteen years.

4 **Q. Have you previously testified before the Commission?**

5 A. Yes. Attachment RS-1 presents a summary of the dockets in which I have testified.

6 **II. PURPOSE OF TESTIMONY**

7 **Q. What is the purpose of your testimony in this proceeding?**

8 A. The purpose of my testimony is to support the Stipulation and Settlement Agreement
9 (Agreement) that El Paso Electric Company (EPE), the City of El Paso (the City) and
10 Staff (together, the Signatories) have reached in this proceeding with respect to EPE's
11 request to revise its energy efficiency cost recovery factor (EECRF). Texas Industrial
12 Energy Consumers is not a signatory but is unopposed to the Agreement.

13 **Q. What is the basis of your recommendation?**

14 A. My recommendation is based on my review and analysis of EPE's application and
15 testimony, responses to Requests for Information, and the documentation filed on behalf
16 of the City in support of its requested rate-case expenses for the 2019 EECRF
17 proceeding.¹

18 **Q. What is EPE requesting in this proceeding?**

19 A. EPE requests to revise its EECRF for 2021 to a total amount of \$5,977,584 based on the
20 following five components:

¹ *Application of El Paso Electric Company to Adjust its Energy Efficiency Cost Recovery Factor and Establish Revised Cost Cap*, Docket No. 49496, Order (Nov. 21, 2019).

- 1) projected 2021 energy efficiency program costs of \$4,685,552;
- 2) a performance bonus of \$1,175,558 based on the EPE's 2019 energy efficiency program performance;
- 3) 2019 EECRF proceeding, Docket No. 49496, expenses of \$56,641;
- 4) a true-up adjustment of \$2,455, including interest, for EPE's 2019 net EECRF under-recovery;
- 5) projected evaluation, measurement, and verification (EM&V) costs allocated to EPE by the Commission of \$57,378.²

EPE also requests that the cost cap for commercial customers be revised.³ EPE maintains that in order to operate its energy efficiency programs to accomplish its energy and demand goals, its rates for the commercial customers would exceed the costs cap set under 16 Texas Administrative Code (TAC) § 25.182(d)(7) and therefore requested approval to establish a revised cost cap for this class of customers.⁴

Q. What standards are you applying in the determination of the reasonableness of the Agreement?

A. I am applying standards set forth in the Public Utility Regulatory Act, Tex. Util. Code Ann. § 39.905 (PURA)⁵ which states in part:

- (b) The commission shall provide oversight and adopt rules and procedures to ensure that the utilities can achieve the goals of this section, including:
 - (1) establishing an energy efficiency cost recovery factor for ensuring timely and reasonable cost recovery for utility expenditures made to satisfy the goal of this section

² Application at 2 (May 1, 2020).

³ *Id.* at 3.

⁴ *Id.*

⁵ Public Utility Regulatory Act, Tex. Util. Code Ann. §§ 11.001-66.016.

I am also applying 16 Texas Administrative Code (TAC) § 25.181 and § 25.182, otherwise known as the Commission's EECRF rules which state in part:

(a) **Purpose.** The purpose of this section is to implement the Public Utility Regulatory Act (PURA) § 39.905 and establish:

(1) an energy efficiency cost recovery factor (EECRF) that enables an electric utility to timely recover the reasonable costs of providing a portfolio of cost-effective energy efficiency programs that complies with this section and § 25.181 of this title (relating to Energy Efficiency Goal).

Q. Do the EECRF rules also address the recovery of rate-case expenses?

A. Yes. The recovery of rate-case expenses incurred by utilities and municipalities in EECRF proceedings is set forth in 16 TAC § 25.182(d)(3) which provides:

(3) A proceeding conducted under this subsection is a ratemaking proceeding for purposes of PURA §33.023 and §36.061. EECRF proceeding expenses shall be included in the EECRF calculated under paragraph (1) of this subsection as follows:

(A) For a utility's EECRF proceeding expenses, the utility may include only its expenses for the immediately previous EECRF proceeding conducted under this subsection.

(B) For municipalities' EECRF proceeding expenses, the utility may include only expenses paid or owed for the immediately previous EECRF proceeding conducted under this subsection for services reimbursable under PURA §33.023(b).

Q. What standard governs the determination of the reasonableness of rate-case expenses?

A. The standard that governs the determination of the reasonableness of rate-case expenses is 16 TAC § 25.245 which states in part:

(b) **Requirements for claiming recovery of or reimbursement for rate-case expenses.** A utility or municipality requesting recovery

1 of or reimbursement for its rate-case expenses shall have the
2 burden to prove the reasonableness of such rate-case expenses by a
3 preponderance of the evidence. A utility or municipality seeking
4 recovery of or reimbursement for rate-case expenses shall file
5 sufficient information that details and itemizes all rate-case
6 expenses, including, but not limited to, evidence verified by
7 testimony or affidavit, showing:

- 8 (1) the nature, extent, and difficulty of the work done by the
9 attorney or other professional in the rate case;
10 (2) the time and labor required and expended by the attorney or
11 other professional;
12 (3) the fees or other consideration paid to the attorney or other
13 professional for the services rendered;
14 (4) the expenses incurred for lodging, meals and beverages,
15 transportation, or other services or materials;
16 (5) the nature and scope of the rate case, including:
17 (A) the size of the utility and number and type of
18 consumers served;
19 (B) the amount of money or value of property or
20 interest at stake;
21 (C) the novelty or complexity of the issues addressed;
22 (D) the amount and complexity of discovery;
23 (E) the occurrence and length of a hearing; and
24 (6) the specific issue or issues in the rate case and the amount
25 of rate-case expenses reasonably associated with each
26 issue.
27

28 The standards of 16 TAC § 25.245(c) also apply:

29 (c) **Criteria for review and determination of reasonableness.** In
30 determining the reasonableness of the rate-case expenses, the
31 presiding officer shall consider the relevant factors listed in
32 subsection (b) of this section and any other factor shown to be
33 relevant to the specific case. The presiding officer shall decide
34 whether and the extent to which the evidence shows that:

- 35 (1) the fees paid to, tasks performed by, or time spent on a task
36 by an attorney or other professional were extreme or
37 excessive;
38 2) the expenses incurred for lodging, meals and beverages,
39 transportation, or other services or materials were extreme
40 or excessive;
41 (3) there was duplication of services or testimony;

- 1 (4) the utility's or municipality's proposal on an issue in the
2 rate case had no reasonable basis in law, policy, or fact and
3 was not warranted by any reasonable argument for the
4 extension, modification, or reversal of commission
5 precedent;
6 (5) rate-case expenses as a whole were disproportionate,
7 excessive, or unwarranted in relation to the nature and
8 scope of the rate case addressed by the evidence pursuant to
9 subsection (b)(5) of this section; or
10 (6) the utility or municipality failed to comply with the
11 requirements for providing sufficient information pursuant
12 to subsection (b) of this section.
13

14 **Q. On whose behalf are you testifying?**

15 A. I am testifying on behalf of the Commission Staff.

16 **III. SUMMARY OF THE AGREEMENT**

17 **Q. Please summarize the key components of the Agreement.**

18 A. The key components of the Agreement are:

- 19 • An agreement by the Signatories that the total amount to be collected through
20 EPE's 2021 EECRF is \$5,902,584 consisting of the following elements:
- 21 (a) EPE's estimated energy-efficiency costs in program year 2021 (including
22 estimated incentives, research and development, and administrative costs)
23 of \$4,685,552;
- 24 (b) a \$1,175,558 performance bonus based on EPE's 2019 energy efficiency
25 program performance;
- 26 (c) total 2019 proceeding expenses of \$56,641;
- 27 (d) a true-up adjustment, by rate class, of EPE's net under-recovery for 2019
28 of \$2,455, including interest, and;
- 29 (e) projected cost of evaluation, measurement, and verification (EM&V) that
30 is allocated to EPE by the Commission of \$57,378; less
- 31 (f) a deduction of \$75,000 for the residential class, which will be a permanent
32 reduction to EPE's true-up of its cost for its 2019 residential programs
- 33 • An agreement by the Signatories that the Commission should establish a higher
34 cost cap for commercial customers for program year 2021 pursuant to 16 TAC
35 § 25.181(e)(2) as requested by EPE because EPE has shown that attainment of the

cost cap required by the rule is not reasonably possible and good cause exists for granting EPE's request.

- An agreement by the Signatories that the allocation to the rate classes of the component amounts and the resulting EECRF for each of the classes are reasonable as shown in Exhibit A to the Agreement. A tariff sheet reflecting rates that are designed to recover EPE's EECRF revenue requirement is attached as Exhibit B.
- An agreement by the Signatories that EPE's energy efficiency program costs, EECRF proceeding expenses, and EM&V costs are reasonable.

Q. Is it your opinion that the terms of the Agreement are reasonable and fair?

A. Yes. Although the Agreement contains provisions that may differ from positions that Staff would take in a fully litigated proceeding, its terms are within the reasonable range of likely results from continued litigation and provides an equitable and fair resolution of this proceeding.

IV. BENEFITS OF THE AGREEMENT

Q. What are the benefits of the Agreement?

A. The major benefits of the Agreement include:

- An EECRF that allows EPE to timely recover its reasonable 2021 expenditures made to satisfy the goals of PURA § 39.905.
- Avoidance of a hearing on the merits, which will allow the parties to conserve limited resources and to avoid the uncertainty, time, and expense of continued litigation by compromising and fully resolving this proceeding.

Q. Is it your opinion that the terms of the Agreement comply with applicable statutes and rules?

A. Yes. Based on the collective review of Staff, I believe that implementation of the Agreement results in a reasonable EECRF for EPE for 2021 that is consistent with the provisions of PURA § 39.905 and 16 TAC §§ 25.181 and 25.182. Therese Harris,

1 Director of Infrastructure Analysis and Mapping, reviewed the program costs, bonus
2 calculation, and EM&V expenses included in EPE's request. Senior Rate Analyst Adrian
3 Narvaez-Canto reviewed the rate design aspects of the request, and I reviewed the
4 accounting aspects of the requested EECRF. Both Ms. Harris and Mr. Narvaez-Canto
5 reviewed the Agreement, and both communicated that they found it reasonable.
6 Additionally, based on the evidence provided by the parties, the provisions of the
7 Agreement result in an amount of rate-case expenses for the 2019 proceeding, Docket
8 No. 49496, that complies with the criteria outlined in 16 TAC § 25.245. Specifically:

- 9 • The agreed amount of rate-case expenses does not include fees paid to,
10 tasks performed by, or time spent on a task by an attorney or other
11 professional that were either extreme or excessive.
- 12 • The agreed amount of rate-case expenses does not include expenses
13 incurred for lodging, meals and beverages, transportation, or other services
14 or materials that were either extreme or excessive.
- 15 • The agreed amount of rate-case expenses does not contain any amounts
16 for duplication of services or testimony.
- 17 • The agreed amount of rate-case expenses is not disproportionate,
18 excessive, or unwarranted in relation to the nature and scope of the
19 proceedings for which EPE and the City of El Paso are seeking recovery
20 or reimbursement.

21 **Q. What is your recommendation regarding the Agreement?**

22 A. Given the costs associated with continued litigation, and the likely results of a fully
23 litigated proceeding, I recommend that the Commission find that the terms of the
24 Agreement are in the public interest and adopt it in its entirety.

25 **Q. Does this conclude your testimony?**

26 A. Yes.

**LIST OF PREVIOUS TESTIMONY
Before the Public Utility Commission of Texas**

Docket No. 9874:

Application of Kimble Electric Cooperative, Inc. for Authority to Change Rates

Docket No. 9981:

Inquiry of the General Counsel into the Reasonableness of the Rates and Services of Central Telephone Company of Texas

Docket No. 13050:

Application of Rayburn Country Electric Cooperative, Inc. for Authority to Change Rates

Docket No. 12065:

Complaint of Kenneth D. Williams Against Houston Lighting and Power Company

Docket No. 14980:

Application of Southwestern Public Service Company Regarding Proposed Business Combination with Public Service Company of Colorado

Docket No. 17751:

Texas-New Mexico Power Company's Application for Approval of the TNMP Transition Plan and Statement of Intent to Decrease Rates, and Appeal of Municipal Rate Actions

Docket No. 29206:

Application of Texas-New Mexico Power Company, First Choice Power, Inc., and Texas Generating Company, L.P. to Finalize Stranded Costs Under PURA §39.262

Docket No. 28813:

Petition to Inquire into the Reasonableness of the Rates and Services of Cap Rock Energy Corporation

Docket No. 31994:

Application of Texas-New Mexico Power Company to Establish a Competition Transition Charge

Docket No. 32766:

Application of Southwestern Public Service Company for: (1) Authority to Change Rates; (2) Reconciliation of its Fuel Costs for 2004 and 2005; (3) Authority to Revise the Semi-Annual Formulae Originally Approved in Docket No. 27751 used to Adjust its Fuel Factors; and (4) Related Relief

Docket No. 34800:

Application of Entergy Gulf States, Inc. for Authority to Change Rates and to Reconcile Fuel Costs

Docket No. 40627:

Petition for Homeowners United for Rate Fairness to Review Austin Rate Ordinance No. 20120607-055

Docket No. 41430:

Joint Report and Application of Sharyland Utilities, LP, Sharyland Distribution & Transmission Services, and Southwestern Public Service Company for Approval of Purchase and Sale of Facilities, for Regulatory Accounting Treatment of Gain on Sale, and for Transfer of Certificate Rights

Docket No. 41906

Compliance Tariff of CenterPoint Energy Houston Electric LLC Related to Non-Standard Metering and Service Pursuant to PUC SUBST.R.25.133

Docket No. 41901

Compliance Tariff of Texas-New Mexico Power Company LLC Related to Non-Standard Metering and Service Pursuant to PUC SUBST.R.25.133

Docket No. 41890

Compliance Tariff of Oncor Electric Delivery Company LLC Regarding the Rulemaking Related to Advanced Metering Alternatives, Pursuant to PUC SUBST.R.25.133(E)(1)

Docket No. 45747

Application of CenterPoint Energy Houston Electric, LLC to Amend its Distribution Cost Recovery Factor and to Reconcile Docket No. 44572 Revenues

Docket No. 46449

Application of Southwestern Electric Power Company for Authority to Change Rates

Docket No. 48371

Entergy Texas Inc. 's Statement of Intent and Application for Authority to Change Rates

Docket No. 48233

Application of Southwestern Electric Power Company to Implement a Base Rate Decrease in Compliance with Docket No. 46449

Docket No. 48071

Joint Application of NextEra Energy Transmission Southwest, LLC and Rayburn Country Electric Cooperative, Inc. to Transfer Certificate Rights to Facilities in Cherokee, Smith, and Rusk Counties

Docket No. 47141

Review of Rate Case Expenses Incurred by Southwestern Electric Power Company and Municipalities in Docket No. 46449

Docket No. 48439

Review of the Rate Case Expenses Incurred in Docket No. 48371

Docket No. 49737

Application of Southwestern Electric Power Company for Certificate of Convenience and Necessity Authorization and Related Relief for the Acquisition of Wind Generation Facilities

Docket No. 50731

Application of Texas-New Mexico Power Company for a Distribution Cost Recovery Factor

Docket No. 50205

Application of Floresville Electric Light and Power System to Change Rates for Wholesale Transmission Service

Docket No. 50790

Joint Report and Application of Entergy Texas, Inc. and East Texas Electric Cooperative, Inc. for Regulatory Approvals Related to Transfers of the Hardin County Peaking Facility and a Partial Interest in Montgomery Power Station

Docket No. 50908

Application of CenterPoint Energy Houston Electric, LLC to Adjust its Energy Efficiency Cost Recovery Factor