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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

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PUBLIC UTILITY COMMISSION

OF TEXAS

EL PASO ELECTRIC COMPANY'S LIST OF ISSUES

Application

1. Does the utility's EECRF application comply with 16 TAC § 25.182(d)? Does the application contain the testimony and schedules in Excel format with formulas intact as required by 16 TAC § 25.182(d)(10) and address the factors required by 16 TAC § 25.182(d)(11)?

2021 Program Year

2. What is the utility's growth in demand as defined in 16 TAC § 25.181(c)(25) and (44), calculated at source under 16 TAC § 25.181(e)(3)?
3. What are the utility's demand-reduction goal and energy-savings goal for program year 2021 determined under 16 TAC § 25.181(e)?
 - a. Has the utility requested a lower demand-reduction goal under 16 TAC § 25.181(e)(2)? If so, has the utility demonstrated that compliance with the goal specified in 16 TAC § 25.181(e)(1) is not reasonably possible and that good cause supports the lower demand-reduction goal proposed by the utility?
 - i. Is the utility requesting in this application a performance bonus for a prior program year for which it has been granted a lower demand-reduction goal?
 - ii. Were the factors that led to the utility being granted a lower demand goal for the prior program year similar to the factors that the utility is relying on to demonstrate that good cause supports the lower demand-reduction goal proposed in this docket? If so, should the Commission consider the utility's prior performance in determining whether to award a lower demand goal?

- b. Has the utility received any identification notices under 16 TAC § 25.181(u)? If so, has the utility's demand-reduction goal for program year 2021 been properly adjusted to remove any load (stated in terms of megawatts) that is lost because of identification notices submitted to the utility under that rule? Please address lost load in terms of the number of megawatts.
- 4. Do the total 2021 EECRF costs, excluding evaluation, measurement, and verification costs, municipal rate-case expenses, and any interest amounts applied to under- or over-recoveries, exceed the EECRF cost caps prescribed in 16 TAC § 25.182(d)(7)? If so, did the utility request an exception to the EECRF cost caps under 16 TAC § 25.181(e)(2) and, if so, has the utility demonstrated that compliance with the EECRF cost caps is not reasonably possible and that good cause supports the higher EECRF cost caps?
 - a. Is the utility requesting in this application a performance bonus for a prior program year for which it has been granted a higher EECRF cost cap?
 - b. If so, were the factors that led to the utility being granted a higher EECRF cost cap for the prior program year similar to the factors that the utility is relying on to demonstrate that good cause supports a higher EECRF cost cap in this docket? If so, should the Commission consider the utility's prior performance in determining whether to establish a higher EECRF cost cap?
- 5. What amount of projected costs for the utility's energy-efficiency programs should be recovered through the utility's 2021 EECRF?
 - a. Are these costs reasonable estimates of the costs necessary to provide energy-efficiency programs and to meet the utility's goals under 16 TAC § 25.181(e)?
 - b. Is the cost to the utility of the utility's energy-efficiency programs less than or equal to the benefits of the programs under 16 TAC § 25.181(d)?
 - c. Does the utility currently recover any energy-efficiency costs in its base rates? If so, what is the amount of projected program costs in excess of revenues collected through base rates?
 - d. Are the projected costs of administration and costs of research and development in compliance with the administrative-spending caps in 16 TAC § 25.181(g)? If not, has the

utility requested an exception to those caps under 16 TAC § 25.181(e)(2)? If so, has the utility demonstrated that compliance with the administrative-spending cap is not reasonably possible and that good cause supports the higher administrative-spending cap proposed by the utility?

- i. Is the utility requesting in this application a performance bonus for a prior program year for which it has been granted a higher administrative-spending cap?
 - ii. If so, were the factors that led to the utility being granted a higher administrative-spending cap for the prior program year similar to the factors that the utility is relying on to demonstrate that good cause supports the higher administrative-spending cap proposed in this docket? If so, should the Commission consider the utility's prior performance in determining whether to award a higher administrative-spending cap?
- e. Does the utility include in its energy-efficiency plan a targeted low-income energy-efficiency program? If so, does the utility's targeted low-income energy-efficiency plan utilize the cost-effectiveness methodology provided in 16 TAC § 25.181(p)(2)?
6. Does the utility include evaluation, measurement, and verification costs assigned to the utility, and have any of these costs already been recovered in a prior EECRF proceeding?

Program Year 2019 Reconciliation

7. Were the costs recovered by the utility through its EECRF for program year 2019 in compliance with PURA § 39.905 and 16 TAC §§ 25.181 and 25.182?
8. Were the costs recovered by the utility through its EECRF for program year 2019 reasonable and necessary to reduce demand growth or energy consumption?
 - a. Are the actual costs of administration and costs of research and development for program year 2019 in compliance with the administrative-spending caps in 16 TAC § 25.181(g) or higher spending caps otherwise established by the Commission? If the higher spending caps were otherwise established by the Commission, in which docket were they established?
 - b. Did any costs for program year 2019 result from payments to an affiliate? If so, do those costs meet the requirements for affiliate expenses in PURA § 36.058?

- c. Does the EECRF application include, as administrative costs or otherwise, EECRF rate-case expenses for the utility's immediately previous EECRF proceeding under 16 TAC § 25.182(d)(1)(A)? If so,
 - i. Do the requested EECRF rate-case expenses comply with 16 TAC § 25.245(b)(1) through (6)?
 - ii. Using the factors in 16 TAC § 25.245(c)(1) through (6), what amount of rate-case expenses actually and reasonably incurred by the utility, if any, does a preponderance of the evidence support?
 - iii. Should any of the utility's rate-case expenses be disallowed under 16 TAC § 25.245(d)? If so, how should the disallowance be calculated?
 - iv. What amount, if any, of the utility's rate-case expenses should the Commission award under PURA §§ 36.061 and 36.062?
 - d. Does the EECRF application include, as administrative costs or otherwise, any municipality's EECRF rate-case expenses for the immediately previous EECRF proceeding?
 - i. Do the municipality's requested EECRF rate-case expenses comply with 16 TAC § 25.245(b)(1) through (6)?
 - ii. Using the factors of 16 TAC § 25.245(c)(1) through (6), what amount of rate-case expenses actually and reasonably incurred by the municipality, if any, does a preponderance of the evidence support?
 - iii. Should any of the municipality's rate-case expenses be disallowed under 16 TAC § 25.245(d)? If so, how should the disallowance be calculated?
 - iv. What amount, if any, of the municipality's rate-case expenses should the Commission award under PURA § 33.023(b) that are not excluded by PURA § 36.062?
9. For each EECRF rate class, what is the amount, if any, of under- or over-recovered EECRF costs under 16 TAC § 25.182 for program year 2019?

- a. Did the utility recover any of its energy-efficiency costs through base rates for program year 2019? If so, what is the actual amount of energy-efficiency revenues collected through base rates under 16 TAC § 25.182(d)(2)?
- b. What was the actual revenue collected through the utility's EECRF for program year 2019?
- c. What were the actual costs of the utility's energy-efficiency programs for program year 2019 that comply with 16 TAC § 25.182(d)(12)?
- d. What is the amount of interest applied to under- or over-recovery for each rate class?

Performance Bonus

- 10. What were the utility's demand-reduction and energy-reduction goals for program year 2019? If the Commission granted an exception for a lower demand-reduction goal, in what docket was the lower goal established?
- 11. What is the performance bonus, if any, calculated under 16 TAC § 25.182(e) for program year 2019?
 - a. Did the utility exceed its demand- and energy-reduction goals for program year 2019? If so, by what amounts?
 - b. Did the utility exceed the EECRF cost caps in 16 TAC § 25.182(d)(7)?
 - c. What are the net benefits of the utility's energy-efficiency programs for program year 2019?
 - d. Is a performance bonus requested for program year 2019? If so, for the purposes of calculating the net benefits, do the program costs deducted from the total avoided cost include the previous performance bonus?
 - e. Did the Commission grant a good-cause exception to establish a lower demand-reduction goal, higher administrative-spending cap, or higher EECRF cost cap for the utility for program year 2019?
 - i. For program year 2019, what factors did the utility rely on to demonstrate that compliance with its demand-reduction goal, the administrative-spending cap, or the EECRF cost cap was not reasonably possible?

- ii. Has the utility established actual occurrence of the factors relied on by the utility to demonstrate that compliance with the demand-reduction goal, administrative-spending cap, or EECRF cost cap was not reasonably possible?
- iii. What other considerations, if any, should the Commission weigh in determining whether to reduce the utility's performance bonus?
- iv. Should the Commission deny the entire amount of the requested performance bonus? If not, what amount of the utility's requested performance bonus should be approved? In answering this issue, what are the parties' proposed methodologies for Commission approval of a portion of the bonus, and are the calculations and the data on which any proposed methodologies are based included in the evidentiary record?

EECRF Rate Classes

12. What are the proper EECRF rate classes for the utility's 2021 EECRF?
 - a. What retail rate classes were approved in the utility's most recent base-rate proceeding, excluding non-eligible customers, and therefore under 16 TAC § 25.182(c)(2) should be used to calculate the utility's 2021 EECRF?
 - b. Has the utility proposed an EECRF for each eligible rate class?
 - c. Has the utility requested a good-cause exception under 16 TAC § 25.182(d)(2) to combine two or more rate classes? If so, for each rate class that is proposed to be combined, does it have fewer than 20 customers, is it similar to the other rate classes, and does it receive services under the same energy-efficiency programs as the other rate classes? Has the utility demonstrated that good cause supports the proposed combining of rate classes?

EECRF Rate Design

13. What is the total cost that should be recovered through the utility's 2021 EECRFs under 16 TAC § 25.182(d)(1)?
14. What are the 2021 EECRFs for each rate class calculated under 16 TAC § 25.182(d)(2)?
 - a. Are the costs assigned or allocated to rate classes reasonable and in compliance with 16 TAC §§ 25.181 and 25.182?

- i. Are the utility's program costs directly assigned to each EECRF rate class that receives services under the programs to the maximum extent reasonably possible in accordance with 16 TAC § 25.182(d)(2)?
 - ii. Is any bonus allocated in accordance with 16 TAC § 25.182(e)(6)?
 - iii. Are administrative costs, including rate-case expenses and research and development costs, allocated in accordance with 16 TAC § 25.181(g)?
 - iv. If applicable, how are the evaluation, measurement, and verification costs assigned to the rate classes, and is the assignment in compliance with PURA § 39.905 and 16 TAC § 25.181(0)(10)?
 - v. Are any under- or over-recovered EECRF costs allocated to the rate classes in accordance with 16 TAC § 25.182(d)(2)?
- b. Does the utility propose an EECRF for any commercial rate classes as a demand charge? If so, for each such rate class, do the base rates for that class contain demand charges? For each such rate class, should the EECRF for that rate class be an energy charge or a demand charge?
 - c. What is the estimate of billing determinants for the 2021 program?
 - d. What are the most current, available calculated or estimated system losses and line losses for each eligible retail rate class?
 - i. Were these line losses used in calculating the 2021 EECRF charges?
 - ii. Are the calculated or estimated line losses in evidence in this docket?
15. Do the incentive payments for each customer class in program year 2019 comply with 16 TAC § 25.181(f)?

Tariff

16. What tariff schedule should be adopted for the utility in compliance with 16 TAC §§ 25.181 and 25.182?

ISSUES NOT TO BE ADDRESSED

Given the limited scope of this annual EECRF proceeding as provided under 16 TAC § 25.182(d)(12), the Company submits that issues regarding the level of funding for specific individual energy efficiency programs and the efficacy and costs of specific individual energy efficiency programs are not properly within the scope of this proceeding.¹ As such, attempts by intervenors to improperly litigate these or any other issues that fall outside the scope of 16 TAC § 25.182 as it applies to a utility's annual EECRF proceeding should be prohibited.

THRESHOLD LEGAL OR POLICY ISSUES

EPE has not identified any legal or policy issues that should be briefed for a preliminary order.

CONCLUSION

EPE respectfully requests that the Commission adopt a preliminary order consistent with issues listed above and grant the Company such further and other relief to which it may show itself entitled.

¹ See *Application of Oncor Electric Delivery Company, LLC, for 2010 Energy Efficiency Cost Recovery Factor*, Docket No. 36958, PFD at 4-5 (Oct. 16, 2009) (limiting the scope of the annual EECRF proceeding to those issues expressly provided for in 16 TAC §25.181(f), now 16 TAC §25.182(d)). See also *Application of El Paso Electric Company to Adjust its Energy Efficiency Cost Recovery Factor and Establish Revise Cost Cap*, Docket No. 48332 Order (Jan. 17, 2019).

Respectfully submitted,
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/s/ Bret J. Slocum

Bret J. Slocum

**ATTORNEYS FOR EL PASO ELECTRIC
COMPANY**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was served via email on all parties of record in this proceeding on May 19, 2020.

/s/ Bret J. Slocum

Bret J. Slocum