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DOCKET NO. 51780

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APPLICATION OF EL PASO § PUBLIC UTILITY COMMISSION
ELECTRIC COMPANY FOR WAIVER §
OF CERTAIN RATE FILING § OF TEXAS
PACKAGE SCHEDULES IN ITS 2021 §
RATE APPLICATION §

NOTICE OF APPROVAL

This Order addresses the application of El Paso Electric Company (EPE) for waiver of the requirement to file Schedule S (Independent Audit of the Application) and of the requirement to perform the related audit of its future rate application. The Commission grants the requested waiver.

I. Findings of Fact

The Commission makes the following findings of fact.

Applicant

1. EPE is a Texas corporation registered with the Texas secretary of state under filing number 1073400.
2. EPE provides electric generation, transmission, and distribution services in Texas under certificate of convenience and necessity number 30050.

Application

3. On February 1, 2021, EPE filed an application requesting that the Commission waive the requirement of 16 Texas Administrative Code (TAC) § 22.243(b) that it file all of the schedules required by the Commission's current rate filing package (RFP) with its next rate case application.
4. EPE specifically requested a waiver of the requirement to file Schedule S (Independent Audit of the Application) and of the requirement to perform the related audit required by Schedule S, for a rate case that EPE expects to file in 2021.

5. Schedule S is a report by the utility's independent certified public utility accountants on an audit covering the test year used in a rate application, which complies with applicable standards established by the American Institute of Public Accountants.
6. In Order No. 3 filed on March 23, 2021, the administrative law judge (ALJ) found the application sufficient for further review.
7. On May 5, 2021, Commission Staff recommended approval of EPE's application

Notice

8. On March 4, 2021, EPE provided notice of the application to all parties in Docket No. 46831,¹ EPE's most recent rate case.
9. On March 8, 2021, EPE sent notice that the docket had been restyled to all parties in Docket No. 46831.
10. On March 9, 2021, EPE filed the affidavit of Judith M. Parsons, regulatory case manager for EPE, attesting that notice of the application was provided to all parties in Docket No. 46831 on March 4, 2021 and March 8, 2021.
11. In Order No. 3 filed on March 23, 2021, the ALJ deemed EPE's notice sufficient.

Evidentiary Record

12. On May 14, 2021, the parties filed a joint motion to admit evidence.
13. In Order No. 6 filed on May 17, 2021, the ALJ admitted the following evidence into the record of this proceeding: (a) EPE's application filed on February 1, 2021; (b) EPE's proof of notice filed on March 9, 2021; and (c) Commission Staff's final recommendation filed on May 5, 2021.

Similar Waivers Granted by the Commission

14. In Docket No. 49831², a State Office of Administrative Hearings (SOAH) ALJ granted a waiver of the requirement to file Schedule S for Southwestern Public Service Company for its pending base rate proceeding.

¹ *Application of El Paso Electric Company to Change Rates*, Docket No. 46831, Order (Dec. 18, 2017).

² *Application of Southwestern Public Service Company for Authority to Change Rates*, Docket No. 49831, SOAH Order No. 2 at 3-4 (Sept. 6, 2019).

15. In Docket No. 47414³, the ALJ granted a waiver of the requirement to file Schedule S for Entergy Texas Inc. for its 2018 base rate proceeding in Docket No. 48371.
16. In Docket No. 46373⁴, the ALJ granted a waiver of the requirement to file Schedule S for El Paso Electric Company for its 2017 base rate proceeding in Docket No. 46831.
17. In Docket No. 50917,⁵ the ALJ granted Southwestern Electric Power Company a waiver of the Schedule S filing requirement for its 2021 base-rate proceeding, Docket No. 51415.

Waiver of RFP Schedule S – Independent Audit of Application

18. EPE plans to file a base rate change application in the second quarter of 2021.
19. EPE must prepare its rate case application using the Commission's currently approved RFP, titled *Electric Utility Rate Filing Package for Generating Utilities*,⁶ and dated September 9, 1992.
20. EPE submitted that the independent audit and subsequent generation of Schedule S would result in unnecessary rate case expense for EPE's customers.
21. EPE stated that the audit required by Schedule S is expensive and typically constitutes a significant part of a utility's rate case expense. In two of EPE's previous rate proceedings, Docket No. 37690⁷ and Docket No. 40094,⁸ the independent audits have cost \$701,795 and \$557,426, respectively.
22. EPE states in its Proposed Notice of Approval, filed on May 14, 2021, that one of the significant cost drivers of the Schedule S review is the requirement for verification of the

³ *Application of Entergy Texas, Inc. for Waiver of Rate Filing Package Schedule S in its 2018 Rate Application*, Docket No. 47414, Notice of Approval (Oct. 10, 2017).

⁴ *Application of El Paso Electric Company for Waiver of Rate Filing Package Schedule S in its 2017 Rate Application*, Docket No. 46373, Notice of Approval (Nov. 28, 2016).

⁵ See *Application of Southwestern Electric Power Company for Waiver of Rate Filing Package Schedule S*, Docket No. 45886, Notice of Approval (Jul. 11, 2016).

⁶ 16 TAC § 22.243(b).

⁷ *Application of El Paso Electric Company to Change Rates, to Reconcile Fuel Costs, to Establish Formula-based Fuel Factors, and to Establish an Energy Efficiency Cost Recovery Factor*, Docket No. 37690, Order (Dec. 9, 2009).

⁸ *Application of El Paso Electric Company to Change Rates and Reconcile Fuel Costs*, Docket No. 40094, Order (May 22, 2012).

mathematical accuracy of the schedules, and that the widespread use of Microsoft Excel spreadsheets substantially decreases the likelihood of mathematical errors.

23. Commission Staff and EPE have agreed to the following modifications to EPE's waiver request:

- a) In its upcoming 2021 rate case, EPE will provide testimony or an affidavit from its independent auditors describing the procedures performed in auditing EPE's FERC Form 1 and the interdependency of that financial report and the audited financial statements of EPE. Such testimony or affidavit will be filed with the rate case application or within 30 days thereafter.
- b) In its upcoming 2021 rate case, EPE will provide testimony that explains the derivation of the RFP information from the audited financial statements.
- c) In its upcoming 2021 rate case, EPE will provide testimony describing EPE's participation in its most recent FERC audit and the corrective measures implemented in response to that audit.
- d) EPE will not request recovery of any rate-case expenses associated with the costs of this proceeding (Docket No. 51780).
- e) EPE will meet the Schedule S requirements of the Commission's RFP at the filing of its next base rate proceeding following the EPE's upcoming 2021 rate case.

24. Good cause exists under 16 TAC § 22.5(b) to grant EPE's requested waiver of the requirement of 16 TAC § 22.243(b) to include the RFP Schedule S information in its next base rate case application and to perform the related audit. The benefits of including the Schedule S information and performing the related audit are outweighed by the sizeable cost to EPE to comply with the requirement.

Informal Resolution

25. More than 15 days have passed since the completion of notice provided in this docket.

26. Commission Staff and EPE are the only parties to this proceeding.

27. No party requested a hearing and no hearing is necessary.

28. Commission Staff recommended approval of the application.
29. The decision is not adverse to any party.

II. Conclusions of Law

The Commission makes the following conclusions of law.

1. EPE is an electric utility as defined in PURA⁹ § 31.002(6).
2. Under 16 TAC §22.243(b), EPE must prepare its rate case application using the Commission's approved RFP, which is a form titled "Electric Utility Rate Filing Package for Generating Utilities," dated September 9, 1992.
3. The Commission has authority over the application under PURA § 36.102 and 16 TAC § 22.5(b).
4. Notice was provided as required by 16 TAC § 22.55.
5. The Commission processed this docket in accordance with the requirements of PURA, the Administrative Procedure Act,¹⁰
6. Good cause exists under 16 TAC § 22.5(b) to waive the requirement of 16 TAC § 22.243(b) to file RFP Schedule S in EPE's next base rate application.
7. The requirements for informal disposition under 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 orders.

1. The Commission grants EPE a waiver of the requirement to file Schedule S, and perform the related audit, in the rate case it will file later this year.

⁹ Public Utility Regulatory Act, Tex. Util. Code §§ 11.001–66.016.

¹⁰ Tex. Gov't Code §§ 2001.001-.903.

2. The Commission denies all other motions, requests for entry of specific findings of fact or conclusions of law, and any other requests for general or specific relief, if not expressly granted herein.

Signed at Austin, Texas the 17th day of May 2021.

PUBLIC UTILITY COMMISSION OF TEXAS

A handwritten signature in black ink, appearing to read "G. R. Siemankowski", is written over a horizontal line.

GREGORY R. SIEMANKOWSKI
ADMINISTRATIVE LAW JUDGE