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PUBLIC UTILITY COMMISSION OF TEXAS

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EL PASO ELECTRIC COMPANY

TO CHANGE RATES

JUNE 2021

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DOCKET NO. _____

APPLICATION OF EL PASO	§	BEFORE THE PUBLIC UTILITY
ELECTRIC COMPANY TO CHANGE	§	
RATES	§	COMMISSION OF TEXAS

EL PASO ELECTRIC COMPANY'S PETITION
AND STATEMENT OF INTENT TO CHANGE RATES

TO THE HONORABLE PUBLIC UTILITY COMMISSION OF TEXAS AND MUNICIPAL REGULATORY AUTHORITIES:

El Paso Electric Company ("EPE" or "Company") files this Petition and Statement of Intent to change its base rates. EPE asks that the Public Utility Commission of Texas ("PUC" or "Commission") and municipal regulatory authorities approve a \$69.7 million Texas jurisdiction retail increase in base (non-fuel) and other miscellaneous revenues based on a test year ended December 31, 2020. EPE's request results in an average percent increase in base rates of 13.55%. The net increase to base revenues is \$41.8 million (7.79%) after accounting for the revenues EPE is already recovering through its Distribution Cost Recovery Factor ("DCRF") and its Transmission Cost Recovery Factor ("TCRF"). That is, the proposed increase in annual Texas retail revenues will be offset by setting EPE's current TCRF and DCRF to zero, a reduction of \$27.9 million.

EPE does not propose major revisions to its tariff, except as follows. EPE proposes to reopen and expand the existing interruptible rate tariff, to set customer and demand charges to be closer to full cost of service, and to shorten the summer period for standard rate tariffs, thereby modifying the cost differential between on-peak period and off-peak period for Time of Day rates. EPE also describes a new service offering it plans to propose to support the deployment of electric vehicle charging stations consistent with the program mandated in New Mexico.

To support its rate proposals, EPE has included the schedules required by the Commission's Electric Utility Rate Filing Package for Generating Utilities ("Rate Filing Package" or "RFP") and supporting testimony.

EPE proposes that the new rates be made effective 35 days after this Statement of Intent is filed, or July 6, 2021. If, however, the new rates are suspended for a period beyond 155 days

after this statement of intent and RFP are filed, then EPE requests that the final rates set in this proceeding relate back and be made effective for consumption on and after the 155th day after the date this statement of intent and RFP are filed, which equates to consumption on and after November 3, 2021.¹

EPE's requests are described in more detail below and in the accompanying RFP.

I. Authorized Representative for Service

EPE's authorized representative for the purpose of receiving service of documents is:

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II. Legal Counsel

EPE's authorized legal representatives are:

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Senior Attorney
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(915) 521-4412 (fax)
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¹ Rates can “relate back” in this fashion at EPE’s request under Tex. Util. Code § 36.211(b).

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III. Parties and Jurisdiction

EPE is a Texas corporation registered with the Texas secretary of state under filing number 1073400. EPE is an electric utility, a public utility, and a utility, as those terms are defined in the Public Utility Regulatory Act ("PURA")² §§ 11.004(1) and 31.002(6). EPE provides retail service within its certificated area under Certificate of Convenience and Necessity Number 30050. The Commission has jurisdiction over this matter under PURA §§ 14.001 (general powers), 32.001 (original jurisdiction over rates, operations, and services), 36.101 through 36.112 (procedures for utility-proposed rate changes), and 36.211 (relation back of rates for utilities outside of the Electric Reliability Council of Texas ("ERCOT"), of which EPE is one).

The Commission has exclusive original jurisdiction over this application for service to environs customers. Contemporaneous with this filing, EPE has filed a Statement of Intent to change rates with those municipalities that retain original jurisdiction over EPE's rates. These municipalities are the City of El Paso, Town of Anthony, Town of Clint, Town of Horizon City, City of San Elizario, City of Socorro, Village of Vinton, and Town of Van Horn.

EPE's business address is 100 N. Stanton Street, El Paso, Texas 79901. EPE serves approximately 338,000 retail customers in Texas. This application affects all of those customers. EPE also serves retail customers in southern New Mexico, where it is regulated by the New Mexico Public Regulation Commission. The Federal Energy Regulatory Commission ("FERC") regulates EPE's wholesale electric operations.

² Tex. Util. Code §§ 11.001-66.016.

IV. Notice

EPE will provide notice in accordance with PURA § 36.103, 16 Tex. Admin. Code ("TAC") § 22.51(a), and 16 TAC § 25.235(b). The proposed notice is provided in RFP Schedule T and is Exhibit A to this application.

V. Rate Filing Package

Under 16 TAC § 22.243(b), EPE is filing its RFP, which complies in all material respects with the Commission's requirements. EPE's RFP does not include Schedule S. Schedule S is a report by the utility's certified public accountant on a review covering the test year. In Docket No. 51780,³ the Commission approved EPE's request for a waiver of the requirement to file Schedule S or perform the related audit, subject to assurances by EPE for this rate case filing regarding EPE's audited financial statements; the most-recent FERC audit; and rate case expenses for Docket No. 51780. In addition, EPE will meet the Schedule S requirements of the Commission's rate filing package at the filing of the rate case proceeding that follows the instant proceeding.⁴

VI. Executive Summary of Filing⁵

The direct testimony of James Schichtl, who is EPE's Vice President of Regulatory and Governmental Affairs, gives an overview of this filing and introduces all of EPE's witnesses and the subject matters of their testimonies.

EPE's application consists of a base rate (including miscellaneous revenues) request, which includes a request to change, delete, and to add new tariffs. EPE is not seeking to reconcile its fuel and purchased power costs in this filing nor is it seeking to change its fuel factor.

EPE is required by PURA and Commission rules to file this proceeding. Absent a grant of an extension, which has not been done for EPE, PURA § 36.212, and 16 TAC § 25.246(c) require an electric utility that operates solely outside of ERCOT to initiate a comprehensive base rate proceeding before all of the utility's regulatory authorities on or before the fourth anniversary of the date of the final order in the electric utility's most recent comprehensive base

³ *Application of El Paso Electric Company for Waiver of Certain Rate Filing Package Schedules in Its 2021 Rate Application*, Docket No. 51780, Notice of Approval (May 17, 2021).

⁴ *Id.*

⁵ This section of the petition is the executive summary required by page 4 of the Commission RFP instructions.

rate proceeding. The final order in EPE's 2017 base rate case, Docket No. 46831,⁶ was issued in December 2017, thus requiring the next base rate filing before the end of this year.

The Test Year for this base rate case is January 1, 2020, through December 31, 2020. Under PURA § 36.112(b)(1) and its corresponding Commission rule in 16 TAC § 25.246(b)(2)(A), EPE elects to have its revenue requirement based on the information submitted for the calendar year 2020 test year, with known and measurable adjustments as permitted by PURA § 36.112(e). EPE is **not** electing to determine its revenue requirement based on the updated test year approach allowed by PURA § 36.112(b)(2) and its corresponding rule 16 TAC § 25.246(b)(2)(B). The complete set of proposed tariff schedules is presented in Schedule Q-8.8 of EPE's RFP.

EPE's Witnesses

EPE's RFP includes the testimony of 17 witnesses. Those witnesses and their subject areas are:

1. James Schichtl, EPE's Vice President of Regulatory and Governmental Affairs, provides an overview of EPE's filing and introduces EPE's other witnesses. Mr. Schichtl addresses EPE's compliance with PURA and Commission rules as well as previous orders, most notably the order approving the acquisition of EPE by Sun Jupiter Holdings LLC ("Sun Jupiter"), an indirect wholly-owned subsidiary of IIF US Holding 2 LP. He also highlights EPE's proposal for a program to support the deployment of electric vehicle charging stations.
2. Cynthia S. Prieto, EPE's Vice President and Controller, addresses various compensation and tax issues. In particular, she addresses EPE's test-year end trial balances, administrative and general expenses, executive and employee compensation, Other Post-Employment Benefits, pension, excess Allowance for Deferred Income Tax, the COVID-19 Regulatory asset, and compliance with the regulatory commitments resulting from EPE's merger with Sun Jupiter.
3. Lisa D. Budtke, EPE's Director-Treasury Services and Investor Relations, discusses EPE's capital structure and cost of capital, financing plans, and the importance of maintaining EPE's bond ratings. Ms. Budtke also presents the test-year adjustment for EPE's revolving credit facility commitment fees and the compensation for EPE's directors.

⁶ *Application of El Paso Electric Company to Change Rates*, Docket No. 46831, Order (Dec. 18, 2017).

4. Larry J. Hancock, Manager-Plant Accounting for EPE, addresses EPE's plant in service and accumulated depreciation and amortization in rate base, together with related adjustments. In addition, he presents EPE's general and intangible plant capital additions, depreciation expense, the nuclear-powered Palo Verde Generating Station ("Palo Verde" or "PVGS") decommissioning funding, and PVGS revaluation. He also supports the Company's proposed depreciation expense.
5. Jennifer E. Nelson, Assistant Vice President of Concentric Energy Advisors, Inc., presents and supports the Return on Equity ("ROE") rate necessary for EPE to provide a reasonable return to its equity investors. Ms. Nelson also assesses the reasonableness of EPE's capital structure. As Ms. Nelson testifies, the recommended ROE of 10.3% considers a variety of factors that affect the required return.
6. Daniel S. Dane, Senior Vice President of Concentric Energy Advisors, Inc., presents and supports the lead-lag study used to determine the Company's cash working capital requirements.
7. Jennifer I. Borden, EPE's Director-Regulatory Accounting, summarizes EPE's total Company revenue requirement and specifies the Texas rate increase. She sponsors and describes pro-forma adjustments that EPE has made to test-year costs, including adjustments to both cost of service (expenses and revenues) and rate base items. Ms. Borden also sponsors and discusses schedules related to short-term assets, accounting information, and fuel and purchased power. Ms. Borden affirms that EPE's RFP schedules have been prepared from EPE's books and records, which are maintained in accordance with the FERC Uniform System of Accounts as required by the Commission. In addition, Ms. Borden addresses the reconciliation of the recovery of costs under both the DCRF and the TCRF.
8. Roderick W. Knight, employed as Decommissioning Manager at TLG Services, Inc., presents the most recent decommissioning cost analysis, which provides the estimated costs associated with the shutdown of PVNGS Units 1, 2, and 3 beginning in 2045. Mr. Knight summarizes the result of the updated analysis and identifies major changes from the previous estimate.
9. John J. Spanos, President with Gannett Fleming Valuation and Rate Consultants, LLC, presents and supports the depreciation study and depreciation rates for all of EPE's assets.

10. Sean M. Ihorn, Director of Tax with EPE, addresses the federal and state income taxes included in EPE's requested cost of service and rate base. Mr. Ihorn addresses the calculation of income tax expense on a stand-alone basis and explains that the Company began normalizing state income tax expense in accordance with the settlement agreement approved by the Commission in the Company's 2015 base rate case. He also addressee taxes other than income taxes.
11. David C. Hawkins, EPE's Vice President of Strategy and Sustainability, presents an overview of EPE's system operations. He discusses EPE's decision to join the Western Energy Imbalance Market and EPE's proposed Transportation Electrification Plan for electric vehicles. Mr. Hawkins also supports the Company's imputed capacity charge that should be assigned to two renewable generation purchased power agreements. Mr. Hawkins supports the reasonableness of capital additions placed in service at Palo Verde in the test year, together with Palo Verde operations and maintenance ("O&M") expenses. Finally, Mr. Hawkins addresses the capital addition for EPE's energy management system.
12. J Kyle Olson, Manager of Power Generation Engineering with EPE, describes EPE's local generation fleet and supports recovery of the costs of new investments in that fleet and of the costs to operate and maintain it. He addresses the capital additions to EPE's local generation fleet. Mr. Olson addresses the reasonableness and prudence of the costs of the capital additions and improvements for the local generation fleet as well as the O&M expenses and practices that EPE employs to manage its local generation resources.
13. Todd Horton, Senior Vice President Site Operations with Arizona Public Service Company, supports Palo Verde O&M expenses and capital projects that have been placed in service since EPE's prior rate case through the test year in this proceeding. He also discusses the efficient capital cost management approach taken at Palo Verde.
14. Robert "Clay" Doyle, EPE's Vice President of Transmission & Distribution presents the transmission and distribution ("T&D") plant additions placed in service since the 2017 base rate case through the test year. He demonstrates that all costs related to EPE's T&D plant additions are reasonable, necessary, prudent, and used and useful for safe, reliable, and efficient service to Texas customers. He also sponsors O&M expenses for T&D and proposed revisions to the line extension tariff.

15. George Novela, Director of EPE's Economic and Rate Research Department, provides EPE's historical and forecasted sales and demand data in support of EPE's rate request. He describes the load research function and its role in gathering the energy and demand data necessary for assigning costs to rate classes, including the development of allocation factors. Mr. Novela also supports EPE's proposed weather normalization adjustment.
16. Adrian Hernandez, a Senior Rate Analyst for EPE, describes EPE's cost of service model and presents the Texas jurisdictional cost of service and EPE's class cost of service studies that support EPE's revenue requirement request and rate design proposals. Mr. Hernandez also develops the requested revenue requirement baselines for purposes of future DCRF and TCRF applications and the baseline factors supporting future Generation Cost Recovery Rider filings.
17. Manuel Carrasco, Manager of Rate Research for EPE, addresses EPE's rate design and tariff proposals. Mr. Carrasco develops annualized Texas revenues, adjusted for weather and energy efficiency savings, which serve as the basis for determining the jurisdictional revenue requirement deficiency. Mr. Carrasco also provides an evaluation of the impact of EPE's rate proposals on customers and discusses revisions to EPE's miscellaneous service charges and the tariffs.

a. Recent EPE Rate Case History

EPE's most recent base rate case was Docket No. 46831. That case was filed in February 2017 and reflected an October 2015 through September 2016 test year. Docket No. 46831 was resolved through a settlement reflected in the Commission's December 18, 2017, final order. EPE received a base rate increase of \$14.5 million. All of EPE's additions to plant in service through September 30, 2016, were found to be used and useful and prudent and included in rate base.

The rate case immediately preceding Docket No. 46831 was Docket No. 44941.⁷ EPE filed its Docket No. 44941 rate case in August 2015, using a test year of April 2014 through March 2015. The case was resolved through a settlement and the Commission's August 25, 2016, final order. EPE received an overall increase of \$37 million in Texas base rates and other revenues.

⁷ *Application of El Paso Electric Company to Change Rates*, Docket No. 44941, Order (Aug. 25, 2016).

Since EPE's most recent rate proceeding, the Commission has approved for EPE a TCRF (Docket No. 49148⁸) a DCRF (Docket No. 49395⁹), and a revised DCRF (Docket No. 51348¹⁰). EPE is currently collecting revenues of approximately \$27.9 million annually under its current TCRF and DCRF.

b. Rate Change Request

EPE seeks an overall increase in annual Texas retail base rate and miscellaneous revenues of \$69.7, or 13.55% over its adjusted test year base rate revenues. This increase is offset by the approximately \$27.9 million in combined TCRF and DCRF revenues that EPE has been collecting but will no longer collect once the DCRF and TCRF are set at zero in this case. This request is based upon EPE's costs to render service during the calendar year 2020 test year and is necessary to support the investments EPE has made since its last rate case. As described above, EPE requests that, if rates are suspended beyond November 3, 2021, then new rates be effective for consumption on and after that date. This rate request affects all of EPE's Texas retail customers. The requested changes are reflected in the proposed revisions to the tariffs in RFP Schedule Q-8.8.

Some of the key elements in EPE's base rate request include the following:

Revenue Requirement

1. The requested overall rate of return on rate base of 7.985% reflects equity capitalization of 51% and a return on equity of 10.3%.
2. EPE's total company rate base is \$2.04 billion, reflecting new investment in utility plant in service of \$953.3 million from October 2016 (the month following the end of the test year in Docket No. 46831) through the December 30, 2020, end of the test year in this 2021 rate case.
3. The increase in net plant after reflecting increases in accumulated depreciation and other plant adjustments is approximately \$425.0 million.
4. While EPE is not seeking to recover the costs of any new generation units, EPE is seeking to include in rate base its investments in other capital additions made

⁸ *Application of El Paso Electric Company for Transmission Cost Recovery Factor*, Docket No. 49148, Order (Dec. 16, 2019).

⁹ *Application of El Paso Electric Company for Distribution Cost Recovery Factor*, Docket No. 49395, Order (Sep. 27, 2019).

¹⁰ *Application of El Paso Electric Company to Amend its Distribution Cost Recovery Factor*, Docket No. 51348, Order (May 24, 2021).

from October 2017 through December 2020, with appropriate recognition of the fresh start accounting for its investment in Palo Verde as of February 1996.

5. EPE has invested \$363.1 million in distribution plant since October 1, 2016.
6. EPE has invested \$114.6 million in its transmission system since October 1, 2016.
7. EPE has invested \$114.9 million in general and intangible plant since October 1, 2016.
8. EPE has invested \$182.2 million in Palo Verde since October 1, 2016.
9. EPE has invested \$178.5 million in its local gas-fired generation units since October 1, 2016.
10. EPE is not requesting that any construction work in progress be included in rate base, nor is EPE requesting any post-test year adjustments for plant in service.
11. EPE is requesting an authorized rate of return that uses a 10.3% return on common equity. This return is necessary to reflect the risks of EPE's business and to allow EPE to raise capital on reasonable terms.
12. EPE is presenting a new depreciation study that changes the depreciation rates approved in the settlement of EPE's last base rate case in Docket No. 46831.
13. EPE has updated the information on the costs to decommission the Palo Verde nuclear plant, and at this time, it appears that additional funding is not necessary. Consequently, EPE is not requesting inclusion of expense for decommissioning in its cost of service.
14. Much of the transmission and distribution plant that EPE seeks to include in rate base was previously presented and approved for recovery through EPE's TCRF and DCRF. EPE's first TCRF case, Docket No. 49148, included transmission investment from October 1, 2016, through September 30, 2018. Together, EPE's first two DCRFs, approved in Docket Nos. 49395 and 51348, respectively, involved distribution capital placed into service from October 1, 2016, through June 30, 2020. EPE requests that these transmission and distribution investments be included in rate base, that the TCRF and DCRF be zeroed out and new baselines established, and that they be reconciled.
15. EPE also seeks to set baseline factors for a future Generation Cost Recovery Rider in accordance with 16 TAC § 25.248 and to potentially address EPE's newest gas-fired generation unit, Newman Unit 6. That unit is expected to come on-line in early 2023.

Rate Design

For most customer classes, the primary changes proposed by EPE are to the charges, but not in the structures of the rates. The customer charge for all existing rate classes is set at EPE's full cost to provide service. For all customer classes, EPE is renaming the "time-of-use" rate as a "time-of-day" ("TOD") rate because EPE believes that TOD better describes the rate structure for customers. Because of the potential impact of the pandemic on test-year consumption patterns and the large increases to some rate classes indicated by EPE's allocated cost of service for each class, EPE has limited the costs allocated to certain classes. Under EPE's proposed allocation of costs, some rate classes will see an increase in base rates while other classes will see a decrease. EPE also proposes to modify the current Federal Tax Refund Factor ("FTRF") tariff and create a new surcharge tariff for COVID-19 expenses. The FTRF would be modified to credit customers' current excess deferred federal income taxes and to account for potential changes to the corporate tax rate before its next base rate proceeding. The following is a summary of the changes to existing rates classes.

1. SCHEDULE NO. 01 – RESIDENTIAL SERVICE RATE

- Increase in customer charge from \$8.25 to \$10.54, per month.
- Change Summer Season to June through September and Non-Summer to October through May.
- Open Experimental Demand Charge TOD to any residential customer.

Low Income Rider

- Exempt from \$10.54 per month.

2. SCHEDULE NO. 02 – SMALL GENERAL SERVICE RATE

- Increase in customer charge from \$10.75 to \$12.83 per month.
- Change Summer Season to June through September and Non-Summer to October through May.

3. SCHEDULE NO. 07 – OUTDOOR RECREATIONAL LIGHTING SERVICE RATE

- Decrease in customer charge from \$28.98 to \$25.39 per month.

- 4. SCHEDULE NO. 08 – STREET LIGHTING SERVICE RATE**
 - Implement new low and top wattage ranges for light emitting diode ("LED") lamps.
- 5. SCHEDULE NO. 09 – TRAFFIC SIGNAL LIGHTS SERVICE RATE**
 - Add a Bike Signals Lane lamp charge.
- 6. SCHEDULE NO. 11-TOD – TIME-OF-DAY MUNICIPAL PUMPING SERVICE RATE**
 - Increase in customer charge from \$96.22 to \$97.87 per month.
- 7. SCHEDULE NO. 15 – ELECTROLYTIC REFINING SERVICE RATE**
 - Decrease in customer charge from \$400.00 to \$22.07 per month.
- 8. SCHEDULE NO. 22 – IRRIGATION SERVICE RATE**
 - Decrease in customer charge from \$23.94 to \$22.99 per month.
 - Change Summer Season to June through September and Non-Summer to October through May for Standard Rate Option.
 - Add bill protection clause for TOD Rate Option to promote option.
- 9. SCHEDULE NO. 24 – GENERAL SERVICE RATE**
 - Increase in customer charge from \$28.70 to \$62.60 per month.
 - Offer Experimental Demand Rate Option at 30% Load Factor.
 - Change Summer Season to June through September and Non-Summer to October through May for Standard Rate Option.
 - Power Factor Adjustment for demand of 250 kilowatt ("kW") and above.
 - Open Thermal Energy Storage Rider.
 - Add Transmission Voltage Rate Option.
- 10. SCHEDULE NO. 25 – LARGE POWER SERVICE RATE**
 - Increase in secondary and primary voltage customer charge from \$200.00 to \$1,089.05 per month.
 - Increase in transmission voltage customer charge from \$400.00 to \$1,089.05 per month.
 - Open Thermal Energy Storage Rider.
- 11. SCHEDULE NO. 26 – PETROLEUM REFINERY SERVICE RATE**
 - Decrease in customer charge from \$675.43 to \$106.31 per month.
- 12. SCHEDULE NO. 28 – AREA LIGHTING SERVICE RATE**
 - Implement a new wattage range for LED floodlight lamps.

13. SCHEDULE NO. 30 – ELECTRIC FURNACE SERVICE RATE

- Eliminate Off-Peak Demand Rate option.

14. SCHEDULE NO. 31 – MILITARY RESERVATION SERVICE RATE

- No significant changes.

15. SCHEDULE NO. 34 – COTTON GIN SERVICE RATE

- Increase in customer charge from \$474 to \$4,659.72 per month.

16. SCHEDULE NO. 38 – NOTICED INTERRUPTIBLE POWER SERVICE

- Open rate to new customers at maximum of 75 megawatts for all customers.
- Modify the interruptible demand charge based upon the Company's calculated current avoided capacity costs and update energy charges to current cost levels.
- Update the energy charge to reflect the current levels of variable production costs.

SCHEDULE NO. 41 – CITY AND COUNTY SERVICE RATE

- Increase in customer charge from \$21.64 to \$74.94 per month.
- Replace declining-block rate structure with a uniform rate.
- Implement Power Factor Adjustment for demands of 250 kW and above.
- Open Thermal Energy Storage Rider.
- Add bill protection clause for TOD Rate Option to promote option.

SCHEDULE NO. 99 – MISCELLANEOUS SERVICE CHARGES

- Add Enhanced version of No Access to Equipment Charge.
- Add Energy Diversion Charge with Damage.
- Remove Non-Pay Reconnect Charge at Meter Same Day Charge and Special Billing History Charge.

17. SCHEDULE NO. DG – INTERCONNECTION AND PARALLEL OPERATION OF DISTRIBUTED GENERATION

- No significant changes.

18. SCHEDULE NO. CS – COMMUNITY SOLAR RATE

- Update the generation rates for the allocated production costs of the current filing.
- Update applicability of rate schedule to exclude certain rate classes from participation.
- Add language that in the event EPE implements a fuel surcharge or fuel refund, any fuel surcharge or fuel refund is net of metered energy and community solar energy.

19. SCHEDULE NO. EVC – ELECTRIC VEHICLE CHARGING RATE

- Decrease in customer charge from \$9.75 to \$4.29 per month for residential and \$4.79 per month for commercial.

- Define a year-round "Super Off-Peak Period" as midnight through 8 a.m.
- Add Super Off-Peak Demand Charge Rate with Super Off-Peak hours of 12:00 a.m. to 8:00 a.m.
- Demand Charges are applicable to non-residential customers with voltage requirement of 480V.
- Remove requirement to remain on rate for a minimum of 12 months.

20. SCHEDULE NO. FTRF UPDATE – FEDERAL TAX REFUND FACTOR UPDATE

- Amortize excess deferred federal income taxes and refund it as a credit to customers.
- Adjust, if necessary, to reflect a change in the federal corporate tax rate.

21. SCHEDULE NO. COVID-19 – PROJECT NO. 50664 ASSET SURCHARGE

- A three-year amortization of the COVID-19 related expenses.

c. Applicability and Effect of Merger

In Docket No. 49849,¹¹ the Commission approved the acquisition of 100% of EPE's outstanding shares of common stock by Sun Jupiter Holdings LLC, an indirect wholly owned subsidiary of IIF US Holding 2 LP (the "Infrastructure Investments Fund" or "IIF"). This transaction closed on July 29, 2020. Because the transaction closed during the last half of the test year and, more significantly, because the transaction was not done to achieve savings, nor was it expected to, it has little or no measurable impact on EPE's revenue requirement in this proceeding. However, in the final order approving the transaction, there were a number of regulatory commitments that do have implications for this case. EPE witness Schichtl addresses EPE's compliance with these in more detail in his testimony. EPE witness Prieto also addresses some of the commitments from an accounting or cost perspective. Of those regulatory commitments, the more significant are the agreement to provide a rate credit, which is currently in effect, and to not request recovery of the rate credit nor any transaction and transition costs associated with the merger, as well as the economic development contributions that EPE is making. Consistent with the regulatory commitments, EPE has not included in its revenue requirements any of these costs.

¹¹ *Joint Report and Application of El Paso Electric Company, Sun Jupiter Holdings LLC, and IIF US Holding 2 LP for Regulatory Approvals Under PURA §§ 14.101, 39.262, and 39.915, Docket No. 49849, Order (Jan. 28, 2020).*

d. Items to Be Included in Executive Summary per Docket No. 49849

The Docket No. 49849 final order requires that, if EPE requests cost recovery for certain items in rates, then EPE must describe them in the executive summary of the RFP. Below are those items for which EPE seeks cost recovery and their descriptions, in compliance with the final order and also as addressed in the testimony of EPE witness Prieto:

- Charitable Giving (FoF 56b): EPE maintained charitable contributions following the closing of the transaction at EPE's average annual charitable giving level for the three-year period ended December as required by its commitment. See testimony of Cynthia S. Prieto at pages 30-31. As shown on WP A-3 Adjustment 26, the adjusted amount included in EPE's revenue requirement, consistent with the limitation imposed by 16 TAC § 25.231(b)(A)(1)(E) is \$1,260,720.
- Entry Level Training Programs (FoF 56d): EPE continued its entry-level training focused on engineering, management, and finance skills for the local labor force in collaboration with The University of Texas at El Paso ("UTEP"), El Paso Community College, and New Mexico State University ("NMSU"). The cost for this program is less than \$100,000 annually. See testimony of Cynthia S. Prieto at page 31-32.
- Apprenticeship Programs (FoF 56e): As described in the testimonies of R. Clay Doyle (pages 3-4) and Cynthia S. Prieto (page 32), EPE had apprenticeship programs during the test year. Wages for GRID interns of approximately \$350,000, wages for apprentices of approximately \$4.56 million, and costs of approximately \$90,000 for the Doña Ana Community College Line Worker Certification Program are included in EPE's requested revenue requirement in this proceeding.
- Supplier diversity (FoF 56f): While EPE's suppliers reflect a diversity, because of the pandemic, EPE was unable to engage in much promotion of supplier diversity during the test-year, and test-year expenses, included in EPE's request, were less than \$6,000. See testimony of Cynthia S. Prieto at pages 34-35.
- New Technology Programs (FoF 56g): As described in the direct testimony of Cynthia S. Prieto (page 35), due to the COVID-19 pandemic, these programs were postponed until 2021. EPE, however, has already collaborated with NMSU on an application to the Department of Energy for a "Connected Communities" grant and

initiated discussion with UTEP on a potential collaboration around electrification. EPE did not incur any costs in the test year, so it is not seeking any recovery in this proceeding.

e. Number and Classes of Ratepayers Affected

EPE has approximately 338,000 Texas retail customers, all of whom will be affected by this Petition. Two exhibits to this Petition show rate impacts of EPE's request using the information required by the Commission's RFP instructions for an executive summary. First, Exhibit B is a comparison of present class revenues and the proposed class revenues at an equalized rate of return for both base rate revenues and total revenues. Second, Exhibit C is a bill comparison of the current and proposed rates for the residential and small commercial classes at the 100, 200, 300, 400, 500, 600, 700, 800, 900, 1000, 1500, 2000, 2500, and 3000 kilowatt-hour usage levels.

f. Proposed Tariff/Rate Schedule Revisions

The complete set of EPE's proposed tariff schedules is presented in Schedule Q-8.8 of EPE's RFP.

g. Rate Case Expenses

EPE seeks recovery in this docket of the reasonable rate case expenses that it and any intervening municipalities incur in this case only if the recovery of such expenses can be settled in this docket, or if the parties otherwise agree to consider the issue in this docket. EPE is requesting recovery of its actual rate case expenses, amortized over four years. Consistent with Commission practice and the Commission rule governing rate case expenses in 16 TAC § 25.245, if the rate case expense issue is not settled in this docket, then the Company anticipates that the issue will be severed from this proceeding and considered in another proceeding with testimony and evidence to be filed in that separate docket. EPE will exclude the costs it incurred for Docket No. 51780, EPE's request for a waiver of RFP Schedule S.

VII. Request for Waivers of RFP Requirements

As mentioned above, in Docket No. 51780 the Commission approved EPE's request for a waiver of the requirement to file RFP Schedule S and perform the related audit, which is a report by the independent certified public accountant on its review of the test year.¹² Otherwise, EPE does not believe any waivers to the RFP requirements are necessary. EPE is not seeking to reconcile fuel and purchased power costs in this case. In addition, under 16 TAC § 25.237(d), requesting a fuel factor with a rate proceeding is optional, rather than required. EPE is not requesting a fuel factor change in this case. Consequently, EPE has indicated on those schedules or parts of schedules that request fuel reconciliation period information or forecasted fuel costs that the requested information is not applicable, as directed by the instructions to the RFP.

If it is determined that a waiver is necessary for such schedules, then EPE requests a waiver on the basis that it is not asking to reconcile fuel and purchased power costs, nor is it requesting to revise its fuel factor based on forecasted fuel costs.

VIII. Confidentiality and Protective Order

Schedule W of the Commission's RFP instructions requires that the utility prepare a confidentiality agreement using the format specified therein. However, that confidentiality agreement was developed many years ago, and Commission-approved protective orders have evolved since then. To conform to the Commission's more recent and established practice, EPE proposes to use the Commission's current standard protective order in this docket. Thus, EPE requests that the Commission enter a protective order in the form attached to this application as Exhibit D and included in RFP Schedule W that accompanies this application and that, pending entry of the protective order, the parties treat the proposed protective order as a confidentiality agreement.

¹² Per Conclusion of Law No. 5 in the June 12, 2015, Notice of Approval in Docket No. 44571, *Application of El Paso Electric Company for Waiver of Certain Rate Filing Package Schedules in Its 2015 Rate Application*, RFP Schedule N is not required to be included in a base rate filing. Therefore, a waiver of that schedule is not necessary because energy efficiency costs are no longer included in base rates.

IX. Conclusion and Prayer for Relief

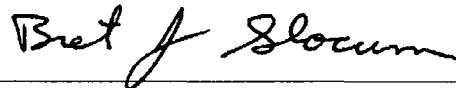
For the reasons set out in this application, Petition and Statement of Intent, and the accompanying RFP schedules and testimony, EPE requests that this Commission grant EPE's application and change its base rates, in accordance with the requests contained herein.

Respectfully submitted,

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By: _____



ATTORNEYS FOR
EL PASO ELECTRIC COMPANY

NOTICE OF EL PASO ELECTRIC COMPANY'S PETITION TO CHANGE RATES

El Paso Electric Company (EPE or Company) publishes this notice that on June 1, 2021, it filed with the Public Utility Commission of Texas (Commission) its Petition and Statement of Intent and Application to Change Rates. This filing has been assigned Commission Docket No. _____. This filing was also made with those municipal authorities in EPE's Texas service territory that have original jurisdiction over EPE's electric rates and have requested a copy of the filing.

EPE is proposing to change its rates for electric service provided to its approximately 338,000 Texas retail customers. All such customers, all classes of customers, and all areas in Texas in which EPE serves will be affected by this change in rates.

STATEMENT OF INTENT TO CHANGE RATES

EPE's request to increase its base rates is based on the financial results for a 12-month test year ending on December 31, 2020. The effect of EPE's proposed rate changes would be to increase its adjusted test year base rate and miscellaneous revenues by \$69.7 million, an overall average increase in base rates of 13.55%. The \$69.7 million increase is composed of a miscellaneous revenue decrease of \$721 thousand netted against other base rate revenue increase of \$70.4 million. EPE's proposed revenue increase will be offset by a \$27.9 million decrease in annualized Transmission Cost Recovery Factor (TCRF) and Distribution Cost Recovery Factor (DCRF) revenues. Thus, the net proposed Texas retail revenue increase is \$41.8 million, an increase of 7.79% over adjusted Texas retail test year base rate revenues exclusive of fuel and rider revenues. In addition, EPE is seeking recovery of reasonable rate-case expenses, including expenses paid to reimburse intervening municipalities, that it incurs in this case.

The impact of the rate change on various customer classes will vary from the overall impact described in this notice. The typical Residential Service customer using an average of 686 kilowatt-hours of energy per month will see an average monthly bill increase of \$11.76, or 13.36%, under the proposed rates in this proceeding versus current standard rates.

The following table shows the effect of the proposed base revenue increase on existing rate classes:

EPE Texas Proposed Base Rate Increase			
Retail Customer Class	Change in Base Revenue (\$)	Average Change of Base Charges in Bill (%) ¹	Average Change of Total Charges in Bill (%) ²
Schedule 01 - Residential Service	\$ 38,536,221	14.08%	12.66%
Schedule 02 - Small General Service	(809,757)	-2.43%	-2.21%
Schedule 07 - Outdoor Recreational Lighting Service	167,566	36.19%	33.20%
Schedule 08 - Government Street Lighting Service	(897,779)	-22.19%	-20.11%
Schedule 09 - Traffic Signal Service	5,103	5.36%	4.20%
Schedule 11 TOU - Municipal Pumping TOU Service	321,059	3.18%	2.64%
Schedule 15 - Electrolytic Refining Service	456,409	24.94%	16.50%
Schedule 22 - Irrigation Service	147,853	34.92%	31.62%
Schedule 24 - General Service	(2,515,587)	-2.01%	-1.76%
Schedule 25 - Large Power Service	2,139,407	5.95%	4.75%
Schedule 26 - Petroleum Refinery Service	2,260,115	20.61%	14.60%
Schedule 28 - Area Lighting Service	(229,631)	-7.83%	-7.09%
Schedule 30 - Electric Furnace Schedule	347,772	29.18%	10.24%
Schedule 31 - Military Reservation Service	2,091,786	16.08%	12.39%
Schedule 34 - Cotton Gin Service	49,244	37.03%	31.32%
Schedule 41 - City and County Service	(635,733)	-3.32%	-2.89%
Rider WH - Water Heating Service	69,755	14.70%	13.04%
Texas Jurisdictional Service	\$ 41,503,801	7.79%	6.79%
Schedule 38 - Noticed Interruptible (Non-Firm)	324,235	7.77%	7.87%
Texas Jurisdictional Service	\$ 41,828,036	7.79%	6.79%

¹ The Average Change of Base Charges in Bill is relative to revenue from current base rates, the transmission cost recovery factor, the distribution cost recovery factor, and the federal tax refund factor.

² The Average Change of Total Charges in Bill is relative to the revenue described in the note 1 above plus revenue from the fixed fuel factor, the energy efficiency cost recovery factor, the military base discount recovery factor, the merger credit factor, and any applicable supplemental franchise fees.

EPE has proposed that the effective date of its rate change be July 6, 2021, 35 days after the filing of the Petition and Statement of Intent. The proposed effective date is subject to suspension and extension by actions that may be taken by the Commission and other regulatory authorities. EPE has also requested that, if the effective date of the rate change is suspended, then new rates relate back to and be effective for consumption on and after November 3, 2021.

TARIFF REVISIONS

The major revisions to EPE's tariff that have been proposed include increasing demand charges to be closer to full cost of service, shortening the summer period for standard rate tariffs, modifying the cost differential between on-peak and off-peak for Time of Day rates, and customers to other rates; the reopening and expansion of the existing interruptible rate tariff. EPE describes a new service offering it plans to propose to support the deployment of electric vehicle charging stations consistent with the program mandated in New Mexico. EPE also proposes a rider to credit to customers current excess deferred federal income taxes and to account for potential changes to the corporate tax rate before its next rate proceeding. The complete set of proposed tariff schedules is presented in Schedule Q-8.8 of EPE's filing.

In addition, in order to facilitate future TCRF, DCRF, and Generation Cost Recovery Rider (GCRR) filings under 16 Texas Administrative Code §§ 25.239, 25.243, and 25.248, respectively, EPE requests that the Commission (1) set the Company's current TCRF and DCRF to zero and (2) establish in this docket the baseline values consisting of the inputs to the calculations that will be used to calculate TCRF, DCRF, and GCRR in future dockets.

CONTACT INFORMATION

Persons who wish to intervene in or comment upon these proceedings should notify the Public Utility Commission of Texas (Commission) as soon as possible, as an intervention deadline will be imposed. A request to intervene or for further information should be mailed to the Public Utility Commission of Texas, P.O. Box 13326, Austin, Texas 78711-3326. Further information may also be obtained by calling the Public Utility Commission at (512) 936-7120 or (888) 782-8477. Hearing- and speech-impaired individuals with text telephones (TTY) may contact the Commission at (512) 936-7136. The deadline for intervention in the proceeding is 45 days after the date the application was filed with the Commission. A request to intervene or for further information should refer to Docket No. _____. The 45th day after EPE filed its application is July 16, 2021.

Due to the COVID-19 pandemic, the preferred method for you to file your request for intervention or comments on the application is electronically, and you will be required to serve the request on other parties by email. Therefore, please include your own email address on the intervention request. Electronic filing via the "PUC Filer" on the Commission's website, which

includes links to instructions, can be found at <https://interchange.puc.texas.gov/filer>. Instructions for using the PUC Filer are available at the following web address: http://www.puc.texas.gov/industry/filings/New_PUC_Web_Filer_Presentation.pdf. Once you obtain a tracking sheet associated with your filing from the PUC Filer, you may email the tracking sheet and the document you wish to file to centralrecords@puc.texas.gov. For assistance with your electronic filing, please contact the Commission's Help Desk at (512) 936-7100 or helpdesk@puc.texas.gov. You can review materials filed in this docket on the PUC Interchange at <http://interchange.puc.texas.gov/>.

Exhibit B
Page 1 of 1

EL PASO ELECTRIC COMPANY
Comparison of
Texas Retail Class Revenue Under Present Rates, Equalized Rates of Return and Proposed Rates

Retail Customer Class	Present Revenue			Proposed Revenue at Equalized Rate of Return		
	Base	Fuel	Total	Base	Fuel	Total
Schedule 01 - Residential Service	\$ 273,638,830	\$ 31,804,571	\$ 305,443,401	\$ 310,833,147	\$ 31,804,571	\$ 342,637,718
Schedule 02 - Small General Service	33,319,685	3,483,415	36,803,100	32,373,090	3,483,415	35,856,505
Schedule 07 - Outdoor Recreational Lighting Service	462,980	47,019	509,999	627,947	47,019	674,967
Schedule 08 - Government Street Lighting Service	4,046,620	461,227	4,507,847	3,133,827	461,227	3,595,054
Schedule 09 - Traffic Signal Service	95,204	26,554	121,758	99,937	26,554	126,491
Schedule 11TOU - Municipal Pumping TOU Service	10,102,350	2,189,127	12,291,477	10,389,334	2,189,127	12,578,461
Schedule 15 - Electrolytic Refining Service	1,830,063	965,884	2,795,947	2,279,564	965,884	3,245,448
Rider WH - Water Heating Service	474,582	65,544	540,126	539,098	65,544	604,642
Schedule 22 - Irrigation Service	423,413	49,123	472,536	569,273	49,123	618,397
Schedule 24 - General Service	125,005,740	18,549,194	143,554,934	122,112,499	18,549,194	140,661,693
Schedule 25 - Large Power Service	35,955,664	8,621,024	44,576,688	37,975,053	8,621,024	46,596,078
Schedule 26 - Petroleum Refinery Service	10,964,770	4,673,421	15,638,191	13,184,282	4,673,421	17,857,703
Schedule 28 - Area Lighting Service	2,932,614	343,211	3,275,825	2,696,358	343,211	3,039,570
Schedule 30 - Electric Furnace Schedule	1,191,760	2,231,320	3,423,080	1,535,219	2,231,320	3,766,539
Schedule 31 - Military Reservation Service	13,009,892	4,077,775	17,087,667	15,056,014	4,077,775	19,133,789
Schedule 34 - Cotton Gin Service	132,972	20,422	153,394	181,600	20,422	202,022
Schedule 41 - City and County Service	19,126,500	2,475,875	21,602,375	18,435,136	2,475,875	20,911,011
Schedule COVID-19 - Expense Surcharge	-	-	-	2,196,060	-	2,196,060
Total Retail Sales Revenue	\$ 532,713,639	\$ 80,084,706	\$ 612,798,345	\$ 574,217,440	\$ 80,084,706	\$ 654,302,146
Non-Firm	4,174,345		4,174,345	4,498,580		4,498,580
Other Sales for Resale		65,919,768	65,919,768		65,919,768	65,919,768
Other Revenue	27,642,626		27,642,626	26,921,992		26,921,992
Total Retail Revenue	\$ 564,530,610	\$ 146,004,474	\$ 710,535,084	\$ 605,638,012	\$ 146,004,474	\$ 751,642,486

EL PASO ELECTRIC COMPANY
Executive Summary
Bill Comparisons for Current and Proposed Rates

Residential Class *

Total kWh	Current Bill	Proposed Bill	Difference	
	Total	Total	Total	Total %
-	\$8.29	\$10.60	\$2.31	27.86%
100	\$19.81	\$23.40	\$3.59	18.12%
200	\$31.35	\$36.22	\$4.87	15.53%
300	\$42.87	\$49.02	\$6.15	14.35%
400	\$54.42	\$61.88	\$7.46	13.71%
500	\$66.14	\$75.08	\$8.94	13.52%
600	\$77.90	\$88.38	\$10.48	13.45%
Average 686	\$88.05	\$99.81	\$11.76	13.36%
700	\$89.71	\$101.68	\$11.97	13.34%
800	\$101.56	\$114.97	\$13.41	13.20%
900	\$113.40	\$128.27	\$14.87	13.11%
1,000	\$125.25	\$141.57	\$16.32	13.03%
1,500	\$184.47	\$208.05	\$23.58	12.78%
2,000	\$243.69	\$274.53	\$30.84	12.66%
2,500	\$302.93	\$341.02	\$38.09	12.57%
3,000	\$362.16	\$407.51	\$45.35	12.52%

* Schedule No. 01 - Residential Service, Standard Service Rate Option

Small Commercial Class **

Total kWh	Current Bill	Proposed Bill	Difference	
	Total	Total	Total	Total %
-	\$10.81	\$12.30	\$1.49	13.78%
100	\$23.41	\$24.95	\$1.54	6.58%
200	\$36.04	\$37.62	\$1.58	4.38%
300	\$48.65	\$50.26	\$1.61	3.31%
400	\$61.25	\$62.93	\$1.68	2.74%
500	\$73.87	\$75.58	\$1.71	2.31%
600	\$86.48	\$88.23	\$1.75	2.02%
700	\$99.09	\$100.89	\$1.80	1.82%
800	\$111.71	\$113.54	\$1.83	1.64%
900	\$124.32	\$126.21	\$1.89	1.52%
1,000	\$136.92	\$138.87	\$1.95	1.42%
1,500	\$199.99	\$202.15	\$2.16	1.08%
2,000	\$263.06	\$265.43	\$2.37	0.90%
2,500	\$326.11	\$328.71	\$2.60	0.80%
3,000	\$389.18	\$392.00	\$2.82	0.72%

** Schedule No. 02 - Small General Service, Standard Service Rate Option

DOCKET NO. _____

APPLICATION OF EL PASO	§	BEFORE THE
ELECTRIC COMPANY TO CHANGE	§	
RATES	§	PUBLIC UTILITY COMMISSION
	§	
	§	OF TEXAS
	§	
	§	

PROTECTIVE ORDER

This Protective Order governs the use of all information deemed confidential (Protected Materials) or highly confidential (Highly Sensitive Protected Materials), including information whose confidentiality is currently under dispute, by a party providing information to the Public Utility Commission of Texas (Commission) or to any other party to this proceeding.

It is ORDERED that:

1. **Designation of Protected Materials.** Upon producing or filing a document, including, but not limited to, records on a computer disk or other similar electronic storage medium in this proceeding, the producing party may designate that document, or any portion of it, as confidential pursuant to this Protective Order by typing or stamping on its face “PROTECTED PURSUANT TO PROTECTIVE ORDER ISSUED IN DOCKET NO. _____” (or words to this effect) and consecutively Bates Stamping each page. Protected Materials and Highly Sensitive Protected Materials include the documents so designated, as well as the substance of the information contained in the documents and any description, report, summary, or statement about the substance of the information contained in the documents.
2. **Materials Excluded from Protected Materials Designation.** Protected Materials must not include any information or document contained in the public files of the Commission or any other federal or state agency, court, or local governmental authority subject to the Public Information Act.¹ Protected Materials also must not include documents or information which at the time of, or prior to disclosure in, a proceeding is or was public

¹ Tex. Gov’t Code Ann. § 552.001-.353 (West 2012 & Supp. 2017).

- knowledge, or which becomes public knowledge other than through disclosure in violation of this Protective Order.
3. **Reviewing Party.** For the purposes of this Protective Order, a “Reviewing Party” is any party to this docket.
 4. **Procedures for Designation of Protected Materials.** On or before the date the Protected Materials or Highly Sensitive Protected Materials are provided to the Commission, the producing party is required to file with the Commission and deliver to each party to the proceeding a written statement, which may be in the form of an objection, indicating: (a) any exemptions to the Public Information Act claimed to apply to the alleged Protected Materials; (b) the reasons supporting the producing party’s claim that the responsive information is exempt from public disclosure under the Public Information Act and subject to treatment as protected materials; and (c) that counsel for the producing party has reviewed the information sufficiently to state in good faith that the information is exempt from public disclosure under the Public Information Act and merits the Protected Materials designation.
 5. **Persons Permitted Access to Protected Materials.** Except as otherwise provided in this Protective Order, a Reviewing Party may access Protected Materials only through its “Reviewing Representatives” who have signed the Protective Order Certification Form (see Attachment A). Reviewing Representatives of a Reviewing Party include its counsel of record in this proceeding and associated attorneys, paralegals, economists, statisticians, accountants, consultants, or other persons employed or retained by the Reviewing Party and directly engaged in this proceeding. At the request of the PUC Commissioners, copies of Protected Materials may be produced by Commission Staff. The Commissioners and their staff must be informed of the existence and coverage of this Protective Order and will observe the restrictions of the Protective Order.
 6. **Highly Sensitive Protected Material Described.** The term “Highly Sensitive Protected Materials” is a subset of Protected Materials and refers to documents or information that a producing party claims is of such a highly sensitive nature that making copies of such documents or information or providing access to such documents to employees of the Reviewing Party (except as specified herein) would expose a producing party to

unreasonable risk of harm. Highly Sensitive Protected Materials include but are not limited to: (a) customer-specific information protected by § 32.101(c) of the Public Utility Regulatory Act;² (b) contractual information pertaining to contracts that specify that their terms are confidential or that are confidential pursuant to an order entered in litigation to which the producing party is a party; (c) market-sensitive fuel price forecasts, wholesale transactions information and/or market-sensitive marketing plans; and (d) business operations or financial information that is commercially sensitive. Documents or information so classified by a producing party must bear the designation “HIGHLY SENSITIVE PROTECTED MATERIALS PROVIDED PURSUANT TO PROTECTIVE ORDER ISSUED IN DOCKET NO. _____ (or words to this effect) and must be consecutively Bates Stamped. The provisions of this Protective Order pertaining to Protected Materials also apply to Highly Sensitive Protected Materials, except where this Protective Order provides for additional protections for Highly Sensitive Protected Materials. In particular, the procedures herein for challenging the producing party’s designation of information as Protected Materials also apply to information that a producing party designates as Highly Sensitive Protected Materials.

7. **Restrictions on Copying and Inspection of Highly Sensitive Protected Material.**

Except as expressly provided herein, only one copy may be made of any Highly Sensitive Protected Materials except that additional copies may be made to have sufficient copies for introduction of the material into the evidentiary record if the material is to be offered for admission into the record. The Reviewing Party is required to maintain a record of all copies made of Highly Sensitive Protected Material and must send a duplicate of the record to the producing party when the copy or copies are made. The record must specify the location and the person possessing the copy. Highly Sensitive Protected Material must be made available for inspection only at the location or locations provided by the producing party, except as specified by Paragraph 9. Limited notes may be made of Highly Sensitive Protected Materials, and such notes must themselves be treated as Highly Sensitive Protected Materials unless such notes are limited to a description of the document and a

² Public Utility Regulatory Act, Tex. Util. Code Ann. §§ 11.001-58.302 (West 2016 & Supp. 2017), §§ 59.001-66.016 (West 2007 & Supp. 2017) (PURA).

general characterization of its subject matter in a manner that does not state any substantive information contained in the document.

8. **Restricting Persons Who May Have Access to Highly Sensitive Protected Material.**

With the exception of Commission Staff, the Office of the Attorney General (OAG), and the Office of Public Utility Counsel (OPC), and except as provided herein, the Reviewing Representatives for the purpose of access to Highly Sensitive Protected Materials may be persons who are (a) outside counsel for the Reviewing Party, (b) outside consultants for the Reviewing Party working under the direction of Reviewing Party's counsel, or (c) employees of the Reviewing Party working with and under the direction of Reviewing Party's counsel who have been authorized by the presiding officer to review Highly Sensitive Protected Materials. The Reviewing Party must limit the number of Reviewing Representatives that review Highly Sensitive Protected Materials to the minimum number of persons necessary. The Reviewing Party is under a good faith obligation to limit access to each portion of any Highly Sensitive Protected Materials to two Reviewing Representatives whenever possible. Reviewing Representatives for Commission Staff, OAG, and OPC, for the purpose of access to Highly Sensitive Protected Materials, must consist of their respective counsel of record in this proceeding and associated attorneys, paralegals, economists, statisticians, accountants, consultants, or other persons employed or retained by them and directly engaged in these proceedings.

9. **Copies Provided of Highly Sensitive Protected Material.** A producing party is required to provide one copy of Highly Sensitive Protected Materials specifically requested by the Reviewing Party to the person designated by the Reviewing Party who must be a person authorized to review Highly Sensitive Protected Material under Paragraph 8. Representatives of the Reviewing Party who are authorized to view Highly Sensitive Protected Material may review the copy of Highly Sensitive Protected Materials at the office of the Reviewing Party's representative designated to receive the information. Any Highly Sensitive Protected Materials provided to a Reviewing Party may not be copied except as provided in Paragraph 7. The restrictions contained herein do not apply to Commission Staff, OPC, and the OAG when the OAG is a representing a party to the proceeding.

10. **Procedures in Paragraphs 10-14 Apply to Commission Staff, OPC, and the OAG and Control in the Event of Conflict.** The procedures in Paragraphs 10 through 14 apply to responses to requests for documents or information that the producing party designates as Highly Sensitive Protected Materials and provides to Commission Staff, OPC, and the OAG in recognition of their purely public functions. To the extent the requirements of Paragraphs 10 through 14 conflict with any requirements contained in other paragraphs of this Protective Order, the requirements of these Paragraphs control.
11. **Copy of Highly Sensitive Protected Material to be Provided to Commission Staff, OPC and the OAG.** When, in response to a request for information by a Reviewing Party, the producing party makes available for review documents or information claimed to be Highly Sensitive Protected Materials, the producing party is required to also deliver one copy of the Highly Sensitive Protected Materials to the Commission Staff, OPC (if OPC is a party), and the OAG (if the OAG is representing a party) in Austin, Texas. Provided however, that in the event such Highly Sensitive Protected Materials are voluminous, the materials will be made available for review by Commission Staff, OPC (if OPC is a party), and the OAG (if the OAG is representing a party) at the designated office in Austin, Texas. The Commission Staff, OPC (if OPC is a party) and the OAG (if the OAG is representing a party) may request such copies as are necessary of such voluminous material under the copying procedures specified herein.
12. **Delivery of the Copy of Highly Sensitive Protected Material to Commission Staff and Outside Consultants.** The Commission Staff, OPC (if OPC is a party), and the OAG (if the OAG is representing a party) may deliver the copy of Highly Sensitive Protected Materials received by them to the appropriate members of their staff for review, provided such staff members first sign the certification specified by Paragraph 15. After obtaining the agreement of the producing party, Commission Staff, OPC (if OPC is a party), and the OAG (if the OAG is representing a party) may deliver the copy of Highly Sensitive Protected Materials received by it to the agreed, appropriate members of their outside consultants for review, provided such outside consultants first sign the certification in Attachment A.

13. **Restriction on Copying by Commission Staff, OPC and the OAG.** Except as allowed by Paragraph 7, Commission Staff, OPC and the OAG may not make additional copies of the Highly Sensitive Protected Materials furnished to them unless the producing party agrees in writing otherwise, or, upon a showing of good cause, the presiding officer directs otherwise. Commission Staff, OPC, and the OAG may make limited notes of Highly Sensitive Protected Materials furnished to them, and all such handwritten notes will be treated as Highly Sensitive Protected Materials as are the materials from which the notes are taken.
14. **Public Information Requests.** In the event of a request for any of the Highly Sensitive Protected Materials under the Public Information Act, an authorized representative of the Commission, OPC, or the OAG may furnish a copy of the requested Highly Sensitive Protected Materials to the Open Records Division at the OAG together with a copy of this Protective Order after notifying the producing party that such documents are being furnished to the OAG. Such notification may be provided simultaneously with the delivery of the Highly Sensitive Protected Materials to the OAG.
15. **Required Certification.** Each person who inspects the Protected Materials must, before such inspection, agree in writing to the following certification found in Attachment A to this Protective Order:

I certify my understanding that the Protected Materials are provided to me pursuant to the terms and restrictions of the Protective Order in this docket, and that I have been given a copy of it and have read the Protective Order and agree to be bound by it. I understand that the contents of the Protected Materials, any notes, memoranda, or any other form of information regarding or derived from the Protected Materials must not be disclosed to anyone other than in accordance with the Protective Order and unless I am an employee of the Commission or OPC will be used only for the purpose of the proceeding in Docket No. _____. I acknowledge that the obligations imposed by this certification are pursuant to such Protective Order. Provided, however, if the information contained in the Protected Materials is obtained from independent public sources, the understanding stated herein must not apply.

In addition, Reviewing Representatives who are permitted access to Highly Sensitive Protected Material under the terms of this Protective Order must, before inspection of such

material, agree in writing to the following certification found in Attachment A to this Protective Order:

I certify that I am eligible to have access to Highly Sensitive Protected Material under the terms of the Protective Order in this docket.

The Reviewing Party is required to provide a copy of each signed certification to Counsel for the producing party and serve a copy upon all parties of record.

16. **Disclosures between Reviewing Representatives and Continuation of Disclosure Restrictions after a Person is no Longer Engaged in the Proceeding.** Any Reviewing Representative may disclose Protected Materials, other than Highly Sensitive Protected Materials, to any other person who is a Reviewing Representative provided that, if the person to whom disclosure is to be made has not executed and provided for delivery of a signed certification to the party asserting confidentiality, that certification must be executed prior to any disclosure. A Reviewing Representative may disclose Highly Sensitive Protected Material to other Reviewing Representatives who are permitted access to such material and have executed the additional certification required for persons who receive access to Highly Sensitive Protected Material. In the event that any Reviewing Representative to whom Protected Materials are disclosed ceases to be engaged in these proceedings, access to Protected Materials by that person must be terminated and all notes, memoranda, or other information derived from the protected material must either be destroyed or given to another Reviewing Representative of that party who is authorized pursuant to this Protective Order to receive the protected materials. Any person who has agreed to the foregoing certification is required to continue to be bound by the provisions of this Protective Order so long as it is in effect, even if no longer engaged in these proceedings.
17. **Producing Party to Provide One Copy of Certain Protected Material and Procedures for Making Additional Copies of Such Materials.** Except for Highly Sensitive Protected Materials, which must be provided to the Reviewing Parties under Paragraph 9, and voluminous Protected Materials, the producing party is required to provide a Reviewing Party one copy of the Protected Materials upon receipt of the signed certification described in Paragraph 15. Except for Highly Sensitive Protected Materials, a Reviewing Party may

make further copies of Protected Materials for use in this proceeding according to this Protective Order, but a record must be maintained as to the documents reproduced and the number of copies made, and upon request the Reviewing Party is required to provide the party asserting confidentiality with a copy of that record.

18. **Procedures Regarding Voluminous Protected Materials.** 16 Texas Administrative Code (TAC) § 22.144(h) will govern production of voluminous Protected Materials. Voluminous Protected Materials will be made available in the producing party's voluminous room, in Austin, Texas, or at a mutually agreed upon location, Monday through Friday, 9:00 a.m. to 5:00 p.m. (except on state or Federal holidays), and at other mutually convenient times upon reasonable request.
19. **Reviewing Period Defined.** The Protected Materials may be reviewed only during the Reviewing Period, which will commence upon entry of this Protective Order and continue until the expiration of the Commission's plenary jurisdiction. The Reviewing Period will reopen if the Commission regains jurisdiction due to a remand as provided by law. Protected materials that are admitted into the evidentiary record or accompanying the evidentiary record as offers of proof may be reviewed throughout the pendency of this proceeding and any appeals.
20. **Procedures for Making Copies of Voluminous Protected Materials.** Other than Highly Sensitive Protected Materials, Reviewing Parties may take notes regarding the information contained in voluminous Protected Materials made available for inspection or they may make photographic, mechanical or electronic copies of the Protected Materials, subject to the conditions in this Protective Order; provided, however, that before photographic, mechanical or electronic copies may be made, the Reviewing Party seeking photographic, mechanical or electronic copies must provide written confirmation of the receipt of copies listed on Attachment B of this Protective Order identifying each piece of Protected Materials or portions thereof the Reviewing Party will need.
21. **Protected Materials to be Used Solely for the Purposes of These Proceedings.** All Protected Materials must be made available to the Reviewing Parties and their Reviewing Representatives solely for the purposes of these proceedings. Access to the Protected Materials may not be used in the furtherance of any other purpose, including, without

limitation: (a) any other pending or potential proceeding involving any claim, complaint, or other grievance of whatever nature, except appellate review proceedings that may arise from or be subject to these proceedings; or (b) any business or competitive endeavor of whatever nature. Because of their statutory regulatory obligations, these restrictions do not apply to Commission Staff or OPC.

22. **Procedures for Confidential Treatment of Protected Materials and Information Derived from Those Materials.** Protected Materials, as well as a Reviewing Party's notes, memoranda, or other information regarding or derived from the Protected Materials are to be treated confidentially by the Reviewing Party and must not be disclosed or used by the Reviewing Party except as permitted and provided in this Protective Order. Information derived from or describing the Protected Materials must be maintained in a secure place and must not be placed in the public or general files of the Reviewing Party except in accordance with the provisions of this Protective Order. A Reviewing Party must take all reasonable precautions to insure that the Protected Materials including notes and analyses made from Protected Materials that disclose Protected Materials are not viewed or taken by any person other than a Reviewing Representative of a Reviewing Party.
23. **Procedures for Submission of Protected Materials.** If a Reviewing Party tenders for filing any Protected Materials, including Highly Sensitive Protected Materials, or any written testimony, exhibit, brief, motion or other type of pleading or other submission at the Commission or before any other judicial body that quotes from Protected Materials or discloses the content of Protected Materials, the confidential portion of such submission must be filed and served in sealed envelopes or other appropriate containers endorsed to the effect that they contain Protected Material or Highly Sensitive Protected Material and are sealed pursuant to this Protective Order. If filed at the Commission, such documents must be marked "PROTECTED MATERIAL" and must be filed under seal with the presiding officer and served under seal to the counsel of record for the Reviewing Parties. The presiding officer may subsequently, on his/her own motion or on motion of a party, issue a ruling respecting whether or not the inclusion, incorporation or reference to Protected Materials is such that such submission should remain under seal. If filing before a judicial body, the filing party: (a) must notify the party which provided the information

within sufficient time so that the producing party may seek a temporary sealing order; and (b) must otherwise follow the procedures in Rule 76a, Texas Rules of Civil Procedure.

24. **Maintenance of Protected Status of Materials during Pendency of Appeal of Order Holding Materials are not Protected Materials.** In the event that the presiding officer at any time in the course of this proceeding finds that all or part of the Protected Materials are not confidential or proprietary, by finding, for example, that such materials have entered the public domain or materials claimed to be Highly Sensitive Protected Materials are only Protected Materials, those materials will nevertheless be subject to the protection afforded by this Protective Order for three (3) full working days, unless otherwise ordered, from the date the party asserting confidentiality receives notice of the presiding officer's order. Such notification will be by written communication. This provision establishes a deadline for appeal of a presiding officer's order to the Commission. In the event an appeal to the Commissioners is filed within those three (3) working days from notice, the Protected Materials must be afforded the confidential treatment and status provided in this Protective Order during the pendency of such appeal. Neither the party asserting confidentiality nor any Reviewing Party waives its right to seek additional administrative or judicial remedies after the Commission's denial of any appeal.
25. **Notice of Intent to Use Protected Materials or Change Materials Designation.** Parties intending to use Protected Materials must notify the other parties prior to offering them into evidence or otherwise disclosing such information into the record of the proceeding. During the pendency of Docket No. _____ at the Commission, in the event that a Reviewing Party wishes to disclose Protected Materials to any person to whom disclosure is not authorized by this Protective Order, or wishes to have changed the designation of certain information or material as Protected Materials by alleging, for example, that such information or material has entered the public domain, such Reviewing Party must first file and serve on all parties written notice of such proposed disclosure or request for change in designation, identifying with particularity each of such Protected Materials. A Reviewing Party will at any time be able to file a written motion to challenge the designation of information as Protected Materials.

26. **Procedures to Contest Disclosure or Change in Designation.** In the event that the party asserting confidentiality wishes to contest a proposed disclosure or request for change in designation, the party asserting confidentiality must file with the appropriate presiding officer its objection to a proposal, with supporting affidavits, if any, within five (5) working days after receiving such notice of proposed disclosure or change in designation. Failure of the party asserting confidentiality to file such an objection within this period will be deemed a waiver of objection to the proposed disclosure or request for change in designation. Within five (5) working days after the party asserting confidentiality files its objection and supporting materials, the party challenging confidentiality may respond. Any such response must include a statement by counsel for the party challenging such confidentiality that he or she has reviewed all portions of the materials in dispute and, without disclosing the Protected Materials, a statement as to why the Protected Materials should not be held to be confidential under current legal standards, or that the party asserting confidentiality for some reason did not allow such counsel to review such materials. If either party wishes to submit the material in question for in camera inspection, it must do so no later than five (5) working days after the party challenging confidentiality has made its written filing.
27. **Procedures for Presiding Officer Determination Regarding Proposed Disclosure or Change in Designation.** If the party asserting confidentiality files an objection, the appropriate presiding officer will determine whether the proposed disclosure or change in designation is appropriate. Upon the request of either the producing or Reviewing Party or upon the presiding officer's own initiative, the presiding officer may conduct a prehearing conference. The burden is on the party asserting confidentiality to show that such proposed disclosure or change in designation should not be made. If the presiding officer determines that such proposed disclosure or change in designation should be made, disclosure must not take place earlier than three (3) full working days after such determination unless otherwise ordered. No party waives any right to seek additional administrative or judicial remedies concerning such presiding officer's ruling.
28. **Maintenance of Protected Status during Periods Specified for Challenging Various Orders.** Any party electing to challenge, in the courts of this state, a Commission or presiding officer determination allowing disclosure or a change in designation will have a

period of ten (10) days from: (a) the date of an unfavorable Commission order; or (b) if the Commission does not rule on an appeal of an interim order, the date an appeal of an interim order to the Commission is overruled by operation of law, to obtain a favorable ruling in state district court. Any party challenging a state district court determination allowing disclosure or a change in designation will have an additional period of ten (10) days from the date of the order to obtain a favorable ruling from a state appeals court. Finally, any party challenging a determination of a state appeals court allowing disclosure or a change in designation will have an additional period of ten (10) days from the date of the order to obtain a favorable ruling from the state supreme court, or other appellate court. All Protected Materials must be afforded the confidential treatment and status provided for in this Protective Order during the periods for challenging the various orders referenced in this paragraph. For purposes of this paragraph, a favorable ruling of a state district court, state appeals court, Supreme Court or other appellate court includes any order extending the deadlines in this paragraph.

29. **Other Grounds for Objection to Use of Protected Materials Remain Applicable.** Nothing in this Protective Order precludes any party from objecting to the use of Protected Materials on grounds other than confidentiality, including the lack of required relevance. Nothing in this Protective Order constitutes a waiver of the right to argue for more disclosure, provided, however, that unless the Commission or a court orders such additional disclosure, all parties will abide by the restrictions imposed by the Protective Order.
30. **Protection of Materials from Unauthorized Disclosure.** All notices, applications, responses or other correspondence must be made in a manner which protects Protected Materials from unauthorized disclosure.
31. **Return of Copies of Protected Materials and Destruction of Information Derived from Protected Materials.** Following the conclusion of these proceedings, each Reviewing Party must, no later than thirty (30) days following receipt of the notice described below, return to the party asserting confidentiality all copies of the Protected Materials provided by that party pursuant to this Protective Order and all copies reproduced by a Reviewing Party, and counsel for each Reviewing Party must provide to the party asserting confidentiality a letter by counsel that, to the best of his or her knowledge,

information, and belief, all copies of notes, memoranda, and other documents regarding or derived from the Protected Materials (including copies of Protected Materials) that have not been so returned, if any, have been destroyed, other than notes, memoranda, or other documents which contain information in a form which, if made public, would not cause disclosure of the substance of Protected Materials. As used in this Protective Order, “conclusion of these proceedings” refers to the exhaustion of available appeals, or the running of the time for the making of such appeals, as provided by applicable law. If, following any appeal, the Commission conducts a remand proceeding, then the “conclusion of these proceedings” is extended by the remand to the exhaustion of available appeals of the remand, or the running of the time for making such appeals of the remand, as provided by applicable law. Promptly following the conclusion of these proceedings, counsel for the party asserting confidentiality will send a written notice to all other parties, reminding them of their obligations under this Paragraph. Nothing in this Paragraph prohibits counsel for each Reviewing Party from retaining two (2) copies of any filed testimony, brief, application for rehearing, hearing exhibit or other pleading which refers to Protected Materials provided that any such Protected Materials retained by counsel will remain subject to the provisions of this Protective Order.

32. **Applicability of Other Law.** This Protective Order is subject to the requirements of the Public Information Act, the Open Meetings Act,³ the Texas Securities Act⁴ and any other applicable law, provided that parties subject to those acts will notify the party asserting confidentiality, if possible under those acts, prior to disclosure pursuant to those acts. Such notice is not required where the Protected Materials are sought by governmental officials authorized to conduct a criminal or civil investigation that relates to or involves the Protected Materials, and those governmental officials aver in writing that such notice could compromise the investigation and that the governmental entity involved will maintain the confidentiality of the Protected Materials.
33. **Procedures for Release of Information under Order.** If required by order of a governmental or judicial body, the Reviewing Party may release to such body the

³ Tex. Gov’t Code Ann. § 551.001-.146 (West 2017 & Supp. 2017).

⁴ Tex. Rev. Civ. Stat. Ann. arts. 581-1 to 581-43 (West 2010 & Supp. 2016).

confidential information required by such order; provided, however, that: (a) the Reviewing Party must notify the producing party of the order requiring the release of such information within five (5) calendar days of the date the Reviewing Party has notice of the order; (b) the Reviewing Party must notify the producing party at least five (5) calendar days in advance of the release of the information to allow the producing party to contest any release of the confidential information; and (c) the Reviewing Party must use its best efforts to prevent such materials from being disclosed to the public. The terms of this Protective Order do not preclude the Reviewing Party from complying with any valid and enforceable order of a state or federal court with competent jurisdiction specifically requiring disclosure of Protected Materials earlier than contemplated herein. The notice specified in this section is not required where the Protected Materials are sought by governmental officials authorized to conduct a criminal or civil investigation that relates to or involves the Protected Materials, and those governmental officials aver in writing that such notice could compromise the investigation and that the governmental entity involved will maintain the confidentiality of the Protected Materials.

34. **Best Efforts Defined.** The term “best efforts” as used in the preceding paragraph requires that the Reviewing Party attempt to ensure that disclosure is not made unless such disclosure is pursuant to a final order of a Texas governmental or Texas judicial body, the written opinion of the Texas Attorney General sought in compliance with the Public Information Act, or the request of governmental officials authorized to conduct a criminal or civil investigation that relates to or involves the Protected Materials. The Reviewing Party is not required to delay compliance with a lawful order to disclose such information but is simply required to timely notify the party asserting confidentiality, or its counsel, that it has received a challenge to the confidentiality of the information and that the Reviewing Party will either proceed under the provisions of §552.301 of the Public Information Act, or intends to comply with the final governmental or court order. Provided, however, that no notice is required where the Protected Materials are sought by governmental officials authorized to conduct a criminal or civil investigation that relates to or involves the Protected Materials, and those governmental officials aver in writing that such notice could compromise the investigation and that the governmental entity involved will maintain the confidentiality of the Protected Materials.

35. **Notify Defined.** “Notify” for purposes of Paragraphs 32, 33 and 34 means written notice to the party asserting confidentiality at least five (5) calendar days prior to release; including when a Reviewing Party receives a request under the Public Information Act. However, the Commission, OAG, or OPC may provide a copy of Protected Materials to the Open Records Division of the OAG as provided herein.
36. **Requests for Non-Disclosure.** If the producing party asserts that the requested information should not be disclosed at all, or should not be disclosed to certain parties under the protection afforded by this Protective Order, the producing party must tender the information for in camera review to the presiding officer within ten (10) calendar days of the request. At the same time, the producing party is required to file and serve on all parties its argument, including any supporting affidavits, in support of its position of non-disclosure. The burden is on the producing party to establish that the material should not be disclosed. The producing party must serve a copy of the information under the classification of Highly Sensitive Protected Material to all parties requesting the information that the producing party has not alleged should be prohibited from reviewing the information.

Parties wishing to respond to the producing party’s argument for non-disclosure must do so within five working days. Responding parties should explain why the information should be disclosed to them, including why disclosure is necessary for a fair adjudication of the case if the material is determined to constitute a trade secret. If the presiding officer finds that the information should be disclosed as Protected Material under the terms of this Protective Order, the presiding officer will stay the order of disclosure for such period of time as the presiding officer deems necessary to allow the producing party to appeal the ruling to the Commission.

37. **Sanctions Available for Abuse of Designation.** If the presiding officer finds that a producing party unreasonably designated material as Protected Material or as Highly Sensitive Protected Material, or unreasonably attempted to prevent disclosure pursuant to Paragraph 36, the presiding officer may sanction the producing party pursuant to 16 TAC § 22.161.

38. **Modification of Protective Order.** Each party will have the right to seek changes in this Protective Order as appropriate from the presiding officer.
39. **Breach of Protective Order.** In the event of a breach of the provisions of this Protective Order, the producing party, if it sustains its burden of proof required to establish the right to injunctive relief, will be entitled to an injunction against such breach without any requirements to post bond as a condition of such relief. The producing party will not be relieved of proof of any element required to establish the right to injunctive relief. In addition to injunctive relief, the producing party will be entitled to pursue any other form of relief to which it is entitled.

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ATTACHMENT A

Protective Order Certification

I certify my understanding that the Protected Materials are provided to me pursuant to the terms and restrictions of the Protective Order in this docket and that I have received a copy of it and have read the Protective Order and agree to be bound by it. I understand that the contents of the Protected Materials, any notes, memoranda, or any other form of information regarding or derived from the Protected Materials must not be disclosed to anyone other than in accordance with the Protective Order and unless I am an employee of the Commission or OPC will be used only for the purpose of the proceeding in Docket No. _____. I acknowledge that the obligations imposed by this certification are pursuant to such Protective Order. Provided, however, if the information contained in the Protected Materials is obtained from independent public sources, the understanding stated here will not apply.

Signature

Party Represented

Printed Name

Date

Email Address

I certify that I am eligible to have access to Highly Sensitive Protected Material under the terms of the Protective Order in this docket.

Signature

Party Represented

Printed Name

Date

Email Address

ATTACHMENT B

I request to view/copy the following documents:

Document Requested	# of Copies	Non-Confidential	Protected Materials and/or Highly Sensitive Protected Materials

Signature

Party Represented

Printed Name

Date

ATTACHMENT C

DOCKET NO. _____

**APPLICATION OF EL PASO § BEFORE THE
ELECTRIC COMPANY TO CHANGE § PUBLIC UTILITY COMMISSION
RATES § OF TEXAS**

**STATEMENT UNDER SECTION 4 OF THE PROTECTIVE ORDER AND LIST OF
CONFIDENTIAL OR HIGHLY SENSITIVE INFORMATION**

The following is a list of the schedules and workpapers that are included in this Application that El Paso Electric Company (EPE) has designated as either Confidential (Protected Material) or Highly Sensitive (Highly Sensitive Protected Material) as those terms are explained and applied in the Protective Order accompanying this Application. In addition, the following list provides the protected designation, the reason for the protection, and the witnesses sponsoring the protected material. EPE considers the information listed below to either be confidential employee related information, commercial or financial information, customer-specific information, proprietary information, trade secrets, information that if publicly disclosed would be contrary to contractual obligations of EPE, or some combination thereof. The public disclosure of this information would harm EPE or third parties with whom EPE must maintain an ongoing business relationship. As such, this information is excepted from disclosure under Texas Government Code §§ 418.181, 552.101, or 552.110 or Texas Utilities Code § 32.101(c).

DOCUMENT	DESIGNATION	REASON FOR PROTECTION	SPONSOR
Rate Filing Package			
C-6.9: Nuclear Fuel Inventory Policy	Highly Sensitive	Commercial Information	Hawkins, David C.
WP/E-1.2-2: Obsolete Assets	Confidential	Security-related information	Horton, Todd
WP/E-2.2: Fossil Fuel Inventory Evaluation	Confidential	Proprietary Information	Hawkins, David C.
WP/G-2.3: Administrative Fees – Contract	Confidential	Proprietary Information	Prieto, Cynthia S.

DOCUMENT	DESIGNATION	REASON FOR PROTECTION	SPONSOR
Rate Filing Package			
WP/G-2.3: Administrative Fees – Contract	Highly Sensitive	Contractual/ Proprietary Information	Prieto, Cynthia S.
G-5.1: Analysis of Legislative Advocacy	Confidential	Proprietary Information	Prieto, Cynthia S. Schichtl, James
G-5.1(a): Payments to Registered Lobbyists	Confidential	Proprietary Information	Prieto, Cynthia S. Schichtl, James
WP/G-7.13: List of FIT Testimony – Tax- Related Items	Confidential	Proprietary Information	Ihorn, Sean
H-6.1c: Nuclear Unit Outage Planning	Highly Sensitive	Commercial Information (planned outages)	Hawkins, David C.
H-6.2c: Fossil Unit Outage Planning	Highly Sensitive	Commercial Information (planned outages)	Hawkins, David C.
H-7.2: Production Plant/Unit Staffing Study	Confidential	Proprietary Information	Hawkins, David C.
H-12.3c: Generating Unit Efficiency & Controls	Confidential	Commercial Information (heat rates)	Hawkins, David C. Olson, J Kyle
I-7: Natural Gas Storage Description	Highly Sensitive	Contractual/Proprietary Information	Hawkins, David C.
I-21: Fuel Management	Highly Sensitive	Contractual/Proprietary Information	Hawkins, David C.
K-4: Notes Payable	Confidential	Financial Forecasts	Budtke, Lisa

DOCUMENT	DESIGNATION	REASON FOR PROTECTION	SPONSOR
Rate Filing Package			
K-5 and WP/K-5 page 9: Security Issuance Restrictions	Confidential	Financial Forecasts/Proprietary Information	Budtke, Lisa
K-6 and WP/K-6: Financial Ratios	Confidential	Financial Forecasts/Proprietary Information	Budtke, Lisa
K-7 and WP/K-7: Capital Requirements and Acquisition Plan	Confidential	Financial Forecasts/Proprietary Information	Budtke, Lisa
O-10.1: Historical Data (Number of Customers)	Confidential	Proprietary Information	Novela, George
O-10.2: Personal Income Data (Nominal Personal Income)	Confidential	Proprietary Information	Novela, George
Q-8.1: Expected Marginal and Average Energy Cost Schedules	Confidential	Financial Forecasts/Proprietary Information	Carrasco, Manuel
Q-8.2: Expected Annual Duration Curve	Confidential	Financial Forecasts/Proprietary Information	Carrasco, Manuel
Q-8.3: Expected Marginal and Avg. Energy Costs	Confidential	Proprietary Information	Carrasco, Manuel
Q-8.4: Diurnal Load	Confidential	Staffing Projections/Proprietary Information	Carrasco, Manuel

Protected Material for Rate Case Filing

I certify that I have reviewed the documents listed above and state in good faith that the information is excepted from public disclosure under Texas Government Code §§ 418.181, 552.101, or 552.110 or Texas Utilities Code § 32.101(c) and therefore merit the applicable designation of Confidential (Protected Material) or Highly Sensitive (Highly Sensitive Protected Material) as detailed in the Protective Order accompanying this application.



Laura Bradshaw Kennedy
Duggins, Wren, Mann & Romero, LLC
Attorney for El Paso Electric Company

Date: 5/31/2021

Protected Material for Rate Case Filing

The following is a list of the schedules and workpapers that are included in this Application that El Paso Electric Company (EPE) has designated as either Confidential (Protected Material) or Highly Sensitive (Highly Sensitive Protected Material) as those terms are explained and applied in the Protective Order accompanying this Application. In addition, the following list provides the protected designation, the reason for the protection, and the witnesses sponsoring the protected material. EPE considers the information listed below to be commercial or financial information, customer-specific information, or information that is otherwise exempt from disclosure under the Public Information Act, TEX. GOVT. CODE ANN. §§418.181, 552.101 and 552.110, or TEX. UTIL. CODE § 32.101 (c).

DOCUMENT	DESIGNATION	REASON FOR PROTECTION	SPONSOR
Rate Filing Package			
C-6.9: Nuclear Fuel Inventory Policy	Highly Sensitive	Commercial Information	Hawkins, David C.
WP/E-1.2-2: Obsolete Assets	Confidential	Security-related information	Horton, Todd
WP/E-2.2: Fossil Fuel Inventory Evaluation	Confidential	Proprietary Information	Hawkins, David C.
WP/G-2.3: Administrative Fees – Contract	Confidential	Proprietary Information	Prieto, Cynthia S.
WP/G-2.3: Administrative Fees – Contract	Highly Sensitive	Contractual/ Proprietary Information	Prieto, Cynthia S.
G-5.1: Analysis of Legislative Advocacy	Confidential	Proprietary Information	Prieto, Cynthia S. Schichtl, James
G-5.1(a): Payments to Registered Lobbyists	Confidential	Proprietary Information	Prieto, Cynthia S. Schichtl, James
WP/G-7.13: List of FIT Testimony – Tax- Related Items	Confidential	Proprietary Information	Ihorn, Sean

DOCUMENT	DESIGNATION	REASON FOR PROTECTION	SPONSOR
Rate Filing Package			
H-6.1c: Nuclear Unit Outage Planning	Highly Sensitive	Commercial Information (planned outages)	Hawkins, David C.
H-6.2c: Fossil Unit Outage Planning	Highly Sensitive	Commercial Information (planned outages)	Hawkins, David C.
H-7.2: Production Plant/Unit Staffing Study	Confidential	Proprietary Information	Hawkins, David C.
H-12.3c: Generating Unit Efficiency & Controls	Confidential	Commercial Information (heat rates)	Hawkins, David C. Olson, J Kyle
I-7: Natural Gas Storage Description	Highly Sensitive	Contractual/Proprietary Information	Hawkins, David C.
I-21: Fuel Management	Highly Sensitive	Contractual/Proprietary Information	Hawkins, David C.
K-4: Notes Payable	Confidential	Financial Forecasts	Budtke, Lisa
K-5 and WP/K-5 page 9: Security Issuance Restrictions	Confidential	Financial Forecasts/Proprietary Information	Budtke, Lisa
K-6 and WP/K-6: Financial Ratios	Confidential	Financial Forecasts/Proprietary Information	Budtke, Lisa
K-7 and WP/K-7: Capital Requirements and Acquisition Plan	Confidential	Financial Forecasts/Proprietary Information	Budtke, Lisa
O-10.1: Historical Data (Number of Customers)	Confidential	Proprietary Information	Novela, George
O-10.2: Personal Income Data (Nominal Personal Income)	Confidential	Proprietary Information	Novela, George

DOCUMENT	DESIGNATION	REASON FOR PROTECTION	SPONSOR
Rate Filing Package			
Q-8.1: Expected Marginal and Average Energy Cost Schedules	Confidential	Financial Forecasts/Proprietary Information	Carrasco, Manuel
Q-8.2: Expected Annual Duration Curve	Confidential	Financial Forecasts/Proprietary Information	Carrasco, Manuel
Q-8.3: Expected Marginal and Avg. Energy Costs	Confidential	Proprietary Information	Carrasco, Manuel
Q-8.4: Diurnal Load	Confidential	Staffing Projections/Proprietary Information	Carrasco, Manuel

I certify that I have reviewed the documents listed above and state in good faith that the information is excepted from public disclosure under Texas Government Code §§ 418.181, 552.101, or 552.110 or Texas Utilities Code § 32.101(c) and therefore merit the applicable designation of Confidential (Protected Material) or Highly Sensitive (Highly Sensitive Protected Material) as detailed in the Protective Order accompanying this application.

Laura B. Kennedy

Duggins, Wren, Mann & Romero, LLC
Attorney for El Paso Electric Company

Date: 5/31/2021

DOCKET NO. _____

APPLICATION OF EL PASO
ELECTRIC COMPANY TO CHANGE
RATES

§
§
§

PUBLIC UTILITY COMMISSION
OF TEXAS

DIRECT TESTIMONY

OF

JAMES SCHICHTL

FOR

EL PASO ELECTRIC COMPANY

JUNE 2021

EXECUTIVE SUMMARY

James Schichtl is Vice President of Regulatory and Governmental Affairs for El Paso Electric Company ("EPE" or "Company"). His responsibilities include direction of the economic research, rate design, cost analysis, and regulatory case management activities for the Company. He also has oversight of the Governmental Affairs group which manages external relations and communications with regulatory authorities, local municipalities, elected officials, community and special interest groups, and other stakeholders. Mr. Schichtl is EPE's policy witness in this base rate case. In his testimony, he provides an overview of the Company, its management, and its Texas rate case filing. Additionally, Mr. Schichtl introduces EPE's other witnesses and summarizes the Company's requests for relief in this docket.

He then describes the Commission Orders that are applicable to this proceeding and how EPE has complied with those orders, as well as how EPE has complied with applicable provisions of the Public Utility Regulatory Act and the Commission rules. He discusses the Texas jurisdictional revenue requirement deficiency (\$41.097 million), which after reflecting a reduction in miscellaneous service charges (\$0.721 million) and eliminating the existing TCRF and DCRF riders (\$27.871 million), results in an EPE requested base rate increase of \$69.689 million. He discusses EPE's requested Texas base (i.e., non-fuel) rate changes, and the proposed distribution of the requested revenue requirement increase among rate classes.

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EXHIBITS

- JS-1 – List of Sponsored Schedules
- JS-2 – Docket No. 46831 Requirements and Compliance
- JS-3 – Final Order in Docket No. 46831
- JS-4 – Texas Merger Regulatory Commitments – Docket No. 49849

I. Introduction and Qualifications

Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

A. My name is James Schichtl. My business address is 100 North Stanton Street, El Paso, Texas 79901.

Q. HOW ARE YOU EMPLOYED?

A. I am employed by El Paso Electric Company ("EPE" or "Company") as Vice President of Regulatory and Governmental Affairs.

Q. PLEASE SUMMARIZE YOUR BUSINESS AND EDUCATIONAL BACKGROUND.

A. I have been employed by EPE since February 2012. In June 2016, I was promoted from Director of Regulatory Affairs to Vice President and was assigned additional responsibility for Governmental Affairs in 2020. Prior to becoming Director, I was Manager of EPE's Economic & Rate Research group, responsible for EPE's jurisdictional cost of service, rate design analysis, and developing EPE's retail rate schedules and charges. Prior to that, I was a Senior Regulatory Case Manager, responsible for the production, filing, and execution of regulatory applications before both the Public Utility Commission of Texas ("PUCT" or "Commission") and the New Mexico Public Regulation Commission ("NMPRC").

Prior to joining EPE in February 2012, I spent 18 years in various regulatory functions at Southern California Edison Company ("SCE"), 12 of those in a managerial capacity. As Manager of Pricing Design and Research, I was responsible for SCE's rates and tariffs during deregulation and changes required in following the California power crisis in 2001. I was subsequently promoted to Manager of Tariffs and Advice Letters, with broad responsibility within regulatory for evaluating California statute, rules, and regulations and managing regulatory efforts at the California Public Utilities Commission ("CPUC"). Those efforts included significant involvement in the transition back to a deregulated generation market as well as significant expansion of distributed generation in California.

I graduated with a Bachelor of Science in Mechanical Engineering in 1987 from The University of Texas at El Paso, where I also studied economics and econometrics.

1 Throughout my career at EPE, I have attended and presented material for numerous
2 seminars and workshops related to cost of service, rate and program design, and
3 regulation.
4

5 Q. PLEASE DESCRIBE YOUR CURRENT RESPONSIBILITIES WITH EPE.

6 A. As Vice President of Regulatory and Governmental Affairs, I am responsible for the
7 oversight and direction of EPE's Economic Research, Rate Research, and Regulatory
8 Case Management groups, as well as EPE's Governmental Affairs organization.
9 Economic Research performs load research and analysis and forecasting functions. Rate
10 Research encompasses EPE's rate research function, jurisdictional and class cost of
11 service studies, rate design analysis, and the development of retail rate schedules and
12 charges. The Regulatory Case Management group coordinates and oversees regulatory
13 filings made by EPE with the PUCT, NMPRC, the Federal Energy Regulatory
14 Commission ("FERC"), and local municipal regulators. Governmental Affairs manages
15 external relations and communications with regulatory authorities, local municipalities,
16 elected officials, community and special interest groups and other stakeholders. The
17 group also oversees and directs EPE's participation and interests regarding state and
18 federal legislative initiatives. My job duties require knowledge of the statutory and
19 regulatory requirements of each jurisdiction.
20

21 Q. HAVE YOU PREVIOUSLY PRESENTED TESTIMONY BEFORE UTILITY
22 REGULATORY BODIES?

23 A. Yes, I have previously testified before the PUCT, NMPRC, FERC, and the CPUC.
24

25 II. Purpose of Testimony and Overview of Filing

26 Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

27 A. First, I provide an overview of EPE's Texas base rate case filing and EPE's management
28 and introduce EPE's other witnesses in this case. Based on the Company's overall total
29 Company revenue requirement and the Texas jurisdictional revenue requirement
30 deficiency that necessitates EPE's request in this case, I discuss EPE's proposed
31 distribution of the base revenue requirement increase across retail rate classes. I discuss

1 EPE's use of certain provisions of the Public Utility Regulatory Act¹ ("PURA") related to
2 EPE's case and regulatory lag, and I also describe the Company's compliance with prior
3 Commission orders relevant to this case and with other regulatory requirements. I also
4 highlight EPE's intention to propose a new rate offering to support the deployment of
5 electric vehicle charging stations.
6

7 Q. WHAT RATE CASE SCHEDULES FROM THE COMMISSION'S RATE-FILING
8 PACKAGE ARE YOU SPONSORING?

9 A. The schedules I sponsor or co-sponsor are listed in Exhibit JS-1.
10

11 Q. WERE THE SCHEDULES AND EXHIBITS YOU ARE SPONSORING OR
12 CO-SPONSORING PREPARED BY YOU OR UNDER YOUR DIRECT
13 SUPERVISION?

14 A. Yes, they were.
15

16 Q. WHAT IS THE OVERALL AMOUNT OF THE TEXAS BASE RATE-CASE
17 INCREASE?

18 A. EPE's Texas jurisdictional cost of service demonstrates the need for a \$41.097 million
19 increase in revenue requirements based on a Test Year ended December 31, 2020. EPE
20 currently has a Transmission Cost Recovery Factor ("TCRF") and a Distribution Cost
21 Recovery Factor ("DCRF") approved by the Commission through which it is collecting
22 annual revenues of \$27.871 million that will be reset (eliminated) in this case. In
23 addition, EPE is proposing a \$0.721 million reduction in miscellaneous service revenues.
24 After reflecting the resetting of TCRF and DCRF baselines and adjusting for
25 miscellaneous revenues, EPE is proposing to increase base (non-fuel) rates by
26 \$69.689 million. This requested base revenue increase represents an average increase
27 over current non-fuel base revenue of 13.55%. The net increase, reflecting current TCRF
28 and DCRF revenues, will be 7.79% over current non-fuel base revenue. Including

¹ Tex Util. Code §§ 11.001-66.016

1 projected fuel and proposed other operating revenues, EPE's requested revenue
2 requirement increase net of TCRF and DCRF represents an increase of 5.78%.

3
4 Q. WHAT CIRCUMSTANCES HAVE CREATED THE NEED FOR THIS RATE
5 FILING?

6 A. EPE is required by Commission rules to file this application. Absent a grant of an
7 extension, which has not been requested by EPE, both PURA § 36.212 and 16 Texas
8 Administrative Code ("TAC") § 25.246(c) requires an electric utility that operates solely
9 outside of the Energy Reliability Council of Texas ("ERCOT") to initiate a
10 comprehensive base rate proceeding before all of the utility's regulatory authorities on or
11 before the fourth anniversary of the date of the final order in the electric utility's most
12 recent comprehensive base rate proceeding. The final order in EPE's 2017 rate case,
13 Docket No. 46831², was issued in December 2017, thus requiring the next base rate filing
14 before the end of this year.

15 In addition, since September 30, 2016, which was the end of the Test Year in the
16 Company's 2017 base rate case, EPE has invested approximately \$953.3 million in new
17 electric plant to meet customer and load growth and to maintain and improve its electric
18 system. EPE's investment in new plant has included new transmission and distribution
19 capacity, and the Company has invested substantial sums in existing generation,
20 distribution, transmission, and general plant improvements to keep pace with load growth
21 and maintain reliable service for customers. These investments are highlighted by an
22 investment of over \$477.7 million in transmission and distribution facilities,
23 \$182.2 million of Palo Verde Generating Station ("PVGS" or "Palo Verde") investment,
24 approximately \$178.5 million in steam and other production investments, and investment
25 of over \$114.9 million in general and intangible plant.

26
27 Q. ARE THERE ANY PARTICULAR ASPECTS TO EPE'S APPLICATION THAT YOU
28 WOULD LIKE TO EMPHASIZE?

29 A. Yes. There are several.

² *Application of El Paso Electric Company to Change Rates*, Docket No. 46831, Order (Dec. 18, 2017).

- 1 • First, while a substantial portion of EPE's investment in distribution and transmission
2 plant is currently reflected in EPE's DCRF and TCRF, those investments will be
3 shifted to base rates for recovery in this proceeding and the current DCRF and TCRF
4 will be reset to zero. While this case involves a final determination of the costs
5 recovered under those factors, it is noteworthy that the Commission has already found
6 EPE's investment in the transmission investments that support the TCRF to be
7 reasonable and necessary, except for the Isleta Indian Lands right-of-way costs, upon
8 which no determination was made pursuant to the settlement and order in that TCRF
9 proceeding.
- 10 • In addition to resetting the baselines for use in future DCRF and TCRF proceedings,
11 EPE also seeks to set a baseline for a potential Generation Cost Recovery Rider
12 ("GCRR") in the future, to address ratemaking for EPE's newest gas-fired generation
13 unit, Newman Unit 6. That unit, which has received certificate of convenience and
14 necessity ("CCN") approval, is expected to begin commercial operation in May 2023.
- 15 • EPE's proposed jurisdictional revenue requirement addresses the Excess Accumulated
16 Deferred Federal Income Tax that resulted from the Tax Cuts and Jobs Act of 2017.
- 17 • In addition, EPE proposes to modify the federal tax factor approved after the 2017
18 case to allow for future base rate adjustments in the event federal income tax
19 expenses change before EPE's next base rate case.
- 20 • EPE accrued a regulatory asset consistent with the Commission's Order of March 26,
21 2020 in Docket No. 50664³ to account for expenses resulting from the effects of the
22 COVID-19 pandemic, including but not limited to non-payment of qualified customer
23 bills as specified by separate order. EPE is proposing amortization of the COVID
24 regulatory asset in this proceeding, as addressed by EPE witness Cynthia S. Prieto.
- 25 EPE does not propose any major revisions to its tariffs, including the current tariff
26 provisions applicable to DG customers, except for the reopening and expansion of the
27 existing Noticed Interruptible Power Service tariff - Schedule No. 38.
- 28

³ *Issues Related to the State of Disaster for Coronavirus Disease 2019*, Docket No. 50664, Order (March 26, 2020).

1 Q. YOU REFERRED TO THE COMPANY'S LAST BASE RATE CASE. WHEN WAS
2 THE COMPANY'S LAST BASE RATE CASE FILED, AND WHAT WAS THE
3 RESULT?

4 A. The Company's last rate case, Docket No. 46831, was filed in February 2017 based on a
5 Test Year ended September 30, 2016. The case was resolved by unopposed settlement in
6 December 2017, with a base rate increase of \$14.5 million. The authorized \$14.5 million
7 increase in base rates and miscellaneous service charges was effective for electricity
8 consumed on or after July 18, 2017. I discuss the 2017 base rate case and settlement in
9 more detail later in my testimony.
10

11 Q. PURA § 36.112 ALLOWS EPE TO ELECT ONE OF TWO METHODS FOR THE
12 COMMISSION TO DETERMINE EPE'S REVENUE REQUIREMENT. ONE
13 METHOD IS A HISTORICAL TEST YEAR, AND THE OTHER METHOD IS A
14 HISTORICAL TEST YEAR INCLUDING ESTIMATED INFORMATION. WHICH
15 METHOD HAS EPE ELECTED TO USE FOR THIS RATE CASE?

16 A. EPE has elected to determine its revenue requirement based on information submitted for
17 a Test Year, which is the method allowed by PURA § 39.112(b)(1). EPE will not utilize
18 the estimated and updated method allowed by PURA § 39.112(b)(2).
19

20 Q. PURA § 36.211 ALLOWS EPE, IN ITS STATEMENT OF INTENT, TO REQUEST
21 THAT THE FINAL RATES SET IN THIS CASE BE MADE EFFECTIVE ON AND
22 AFTER THE 155TH DAY AFTER THE RATE-FILING PACKAGE IS FILED. IS
23 THAT EPE'S REQUEST IN THIS CASE?

24 A. Yes, EPE requests that the revenue requirement and rates approved in this case be
25 effective for consumption on and after the 155th day after the date its rate-filing package
26 is filed if the Commission or a local regulatory authority suspends implementation of rates
27 beyond 155 days. This request is included in EPE's Statement of Intent. Based on the
28 filing date for this case of June 1, 2021, EPE's rate effective date is November 3, 2021.
29

30 Q. ARE THERE OTHER PURA PROVISIONS RELATED TO RATEMAKING THAT
31 EPE IS PROPOSING TO IMPLEMENT IN THIS CASE?

1 A. Yes. PURA §§ 36.209 and 36.210 allow an electric utility outside of the Electric
2 Reliability Council of Texas territory to periodically update its recovery of transmission
3 and distribution costs. These provisions are implemented in 16 TAC §§ 25.239 and
4 25.243, respectively, and authorize the utility to implement a TCRF and DCRF for
5 purposes of cost recovery. As I mentioned, EPE currently has both a DCRF and a TCRF.
6 In this proceeding, EPE requests that the investments currently supporting those factors
7 be approved for cost recovery through base rates and the DCRF and TCRF be reset to
8 zero. In addition, PURA § 36.213 allows EPE, as an electric utility outside of ERCOT's
9 territory, to apply for a rider to recover investment in a power generation facility. The
10 PUCT has implemented this provision in its rules (16 TAC § 25.248) by allowing a utility
11 to seek a GCRR.

12
13 Q. WHAT IS EPE REQUESTING IN THIS CASE RELATED TO THESE PROVISIONS?

14 A. EPE is requesting that the Commission re-establish "baseline" revenue requirement
15 amounts for EPE's transmission and distribution functions as defined in the respective
16 rules and to establish baseline factors for EPE's generation costs for use in a future GCRR
17 application. These baselines will enable EPE to calculate and request cost recovery
18 factors in the future to reflect increased transmission, distribution, and generation costs
19 relative to the baseline amounts authorized in this rate case. EPE witness Adrian
20 Hernandez discusses and supports these baseline amounts in more detail in his testimony.

21
22 Q. IS EPE PROPOSING TO ESTABLISH A TCRF, DCRF, OR GCRR IN THIS CASE?

23 A. No. Total transmission, distribution, and generation related revenues as adjusted for the
24 Test Year are included in EPE's total requested revenue requirement and are reflected in
25 base rates proposed in this case. Following a final order in this case, the existing TCRF
26 and DCRF rates would be reset to zero. EPE is not proposing a GCRR tariff or rate for
27 approval in this proceeding.

28
29 Q. WHAT OTHER EPE WITNESSES ARE TESTIFYING IN THIS CASE?

30 A. The other witnesses and their subject areas are as follows:

- 1 • Cynthia S. Prieto, EPE's Vice President and Controller, addresses various
2 compensation and tax issues. In particular, she addresses EPE's Test Year end trial
3 balances, administrative and general expenses, executive and employee
4 compensation, Other Post-Employment Benefits ("OPEBs"), pension, amortization of
5 excess Accumulated Deferred Income Tax (excess ADIT), the COVID-19 regulatory
6 asset, and compliance with regulatory commitments resulting from EPE's merger with
7 Sun Jupiter Holdings LLC ("Sun Jupiter"), an indirect subsidiary of IIF US Holding
8 2 LP ("IIF").
- 9 • Lisa D. Budtke, EPE's Director-Treasury Services and Investor Relations, discusses
10 EPE's capital structure and cost of capital, financing plans, and the importance of
11 maintaining EPE's bond ratings. Ms. Budtke also presents the Test Year adjustment
12 for EPE's revolving credit facility commitment fees and the compensation for EPE's
13 directors.
- 14 • Larry J. Hancock, Manager-Plant Accounting for EPE, addresses EPE's plant in
15 service and accumulated depreciation and amortization in rate base, together with
16 related adjustments. In addition, he presents EPE's general and intangible plant
17 capital additions, depreciation expense, PVGS decommissioning funding, and PVGS
18 revaluation. He also supports the Company's proposed depreciation expense.
- 19 • Jennifer E. Nelson, Assistant Vice President of Concentric Energy Advisors, Inc.,
20 presents and supports the Return on Equity ("ROE") rate necessary for EPE to
21 provide a reasonable return to its equity investors. Ms. Nelson also assesses the
22 reasonableness of EPE's capital structure. As Ms. Nelson testifies, the recommended
23 ROE of 10.3 % considers a variety of factors that affect the required return.
- 24 • Daniel S. Dane, Senior Vice President of Concentric Energy Advisors, Inc., presents
25 and supports the lead-lag study used to determine the Company's cash working
26 capital requirements.
- 27 • Jennifer I. Borden, EPE's Director of Regulatory Accounting, summarizes EPE's total
28 Company revenue requirement and specifies the Texas rate increase. She sponsors
29 and describes pro-forma adjustments that EPE has made to Test Year costs, including
30 adjustments to both cost of service (expenses and revenues) and rate base items.
31 Ms. Borden also sponsors and discusses schedules related to short-term assets,

1 accounting information, and fuel and purchased power. Ms. Borden affirms that
2 EPE's rate filing package schedules have been prepared from EPE's books and
3 records, which are maintained in accordance with the FERC Uniform System of
4 Accounts as required by the Commission. In addition, Ms. Borden addresses the
5 reconciliation of the recovery of costs under both the DCRF and the TCRF.

- 6 • Roderick W. Knight, employed as Decommissioning Manager at TLG Services, Inc.,
7 presents the most recent decommissioning cost analysis, which provides the estimated
8 costs associated with the shutdown of PVGS Units 1, 2, and 3 beginning in 2045.
9 Mr. Knight summarizes the result of the updated analysis and identifies major
10 changes from the previous estimate.
- 11 • John J. Spanos, President with Gannett Fleming Valuation and Rate Consultants,
12 LLC, presents and supports the depreciation study and depreciation rates for all of
13 EPE's assets.
- 14 • Sean M. Ihorn, Director of Tax with EPE, addresses the federal and state income
15 taxes included in EPE's requested cost of service and rate base. Mr. Ihorn addresses
16 the calculation of income tax expense on a standalone basis and explains that the
17 Company began normalizing state income tax expense in accordance with the
18 settlement agreement approved by the Commission in the Company's 2015 base rate
19 case. He also addresses taxes other than income taxes.
- 20 • David C. Hawkins, EPE's Vice President of Strategy and Sustainability, presents an
21 overview of EPE's system operations. He discusses EPE's decision to join the
22 Western Energy Imbalance Market and EPE's proposed Transportation Electrification
23 Plan for electric vehicles. Mr. Hawkins also supports the Company's imputed
24 capacity charge that should be assigned to two renewable generation purchased power
25 agreements. Mr. Hawkins supports the reasonableness of capital additions placed in
26 service at Palo Verde in the Test Year, together with Palo Verde operations and
27 maintenance ("O&M") expenses. Finally, Mr. Hawkins addresses the capital addition
28 for EPE's energy management system.
- 29 • J Kyle Olson, Manager of Power Generation Engineering with EPE, describes EPE's
30 local generation fleet and supports recovery of the costs of new investments in that
31 fleet and of the costs to operate and maintain it. He addresses the capital additions to

1 EPE's local generation fleet. Mr. Olson addresses the reasonableness and prudence of
2 the costs of other capital additions and improvements for the local generation fleet as
3 well as the O&M expenses and practices that EPE employs to manage its local
4 generation resources.

- 5 • Todd C. Horton, Senior Vice President Site Operations with Arizona Public Service
6 Company, supports PVGS O&M expenses and capital projects that have been placed
7 in service since EPE's prior rate case through the Test Year in this proceeding. He
8 also discusses the efficient capital cost management approach taken at Palo Verde.
- 9 • Robert "Clay" Doyle, EPE's Vice President of Transmission & Distribution presents
10 the transmission and distribution ("T&D") plant additions placed in service since the
11 2017 base rate case through the Test Year. He demonstrates that all costs related to
12 EPE's T&D plant additions are reasonable, necessary, prudent, and used and useful,
13 for safe, reliable, and efficient service to Texas customers. He also sponsors O&M
14 expenses for T&D and proposed revisions to the Company's Line Extension Policy.
- 15 • George Novela, Director of EPE's Economic and Rate Research Department,
16 provides EPE's historical and forecasted sales and demand data in support of EPE's
17 rate request. He describes the load research function and its role in gathering the
18 energy and demand data necessary for assigning costs to rate classes, including the
19 development of allocation factors. Mr. Novela also supports EPE's proposed weather
20 normalization adjustment.
- 21 • Adrian Hernandez, a Senior Rate Analyst for EPE, describes EPE's cost of service
22 model and presents the Texas jurisdictional cost of service and EPE's class cost of
23 service studies that support EPE's revenue requirement request and rate design
24 proposals. Mr. Hernandez also develops the requested revenue requirement baselines
25 for purposes of future DCRF and TCRF applications and the baseline factors
26 supporting future GCRR filings.
- 27 • Manuel Carrasco, Manager of Rate Research for EPE, addresses EPE's rate design
28 proposals based on the proposed revenue distribution I discuss in my testimony.
29 Mr. Carrasco develops annualized Texas revenues, adjusted for weather and energy
30 efficiency savings, which serve as the basis for determining the jurisdictional revenue
31 requirement deficiency. Mr. Carrasco also provides an evaluation of the impact of

1 EPE's rate proposals on customers and discusses revisions to EPE's miscellaneous
2 service charges.

3
4 **III. Overview of EPE**

5 Q. PLEASE DESCRIBE EL PASO ELECTRIC COMPANY.

6 A. EPE is a vertically integrated utility providing bundled service to approximately
7 441,000 retail customers (approximately 338,000 in Texas) in a 10,000 square mile area
8 of the upper Rio Grande valley in west Texas and southern New Mexico. Its service
9 territory extends from Hatch, New Mexico, to Van Horn, Texas, and includes two
10 interconnections to Ciudad Juárez, Mexico, and the Comisión Federal de Electricidad,
11 Mexico's national utility. The Company also serves Rio Grande Electric Cooperative as a
12 full requirements wholesale customer subject to FERC jurisdiction.

13 EPE provides service to customers in the following incorporated cities, towns,
14 and villages in Texas: El Paso, Anthony, Clint, Horizon City, Socorro, San Elizario,
15 Vinton, and Van Horn. Additionally, it serves customers in unincorporated areas of
16 El Paso County and portions of the unincorporated areas of Culberson and Hudspeth
17 Counties. EPE's retail customer mix in Texas is approximately 88.7% residential, 9.7%
18 small commercial/industrial, less than 1% large commercial/industrial, and 1.5% other
19 public authorities. EPE also serves several military installations, including the Fort Bliss
20 army post.

21
22 **A. Senior Leadership Team**

23 Q. PLEASE DESCRIBE EPE'S MANAGEMENT.

24 A. Quality of management has been and continues to be an important objective for the
25 Company. I believe the Company has in place a strong executive team that is well
26 equipped to manage the Company and handle issues that EPE will face in the future.

27 Following Commission approval in Docket No. 49849⁴ and the close of the
28 transaction, Sun Jupiter appointed a new board of directors consistent with the regulatory
29 commitments established in that proceeding (discussed later in this section). In July

⁴ *Joint Report and Application of El Paso Electric Company, Sun Jupiter Holdings LLC, and IIF US Holdings 2 LP for Regulatory Approvals Under PURA §§ 14.101, 39.262, and 39.915, Order (January 28, 2020).*

1 2020, the Board of Directors named Kelly A. Tomblin as Chief Executive Officer
2 ("CEO") of EPE, and she assumed that position in September 2020. Ms. Tomblin brings
3 more than 25 years of knowledge and experience in the energy industry, in both
4 competitive and vertically integrated markets throughout the United States, the
5 Caribbean, the United Kingdom, and Latin America. She has experience in the
6 generation, transmission, and distribution sectors as well as renewable development,
7 energy services, and sales. Before joining EPE, Ms. Tomblin, a winner of the S&P Platts
8 Global CEO of the Year award, served as Chief Executive Officer of INTREN, L.L.C., a
9 leading utility solutions provider with 14 regional offices throughout the United States.
10 Since the close of the recent acquisition of EPE by IIF, Ms. Tomblin has assembled an
11 Executive Leadership Team with diverse experience and backgrounds to lead EPE as it
12 faces new challenges and issues going forward.

13 Steven T. Buraczyk is EPE's Senior Vice President–Operations. In this position,
14 Mr. Buraczyk oversees the execution of all functions of Operations including Power
15 Generation, Transmission & Distribution, System Operations, Power Marketing & Fuels
16 and planning for the aforementioned areas. Mr. Buraczyk has been with EPE since 1993
17 and has had increasing levels of responsibility during his career at the Company.

18 Richard Ostberg, Senior Vice President and Chief Financial Officer ("CFO"), will
19 oversee the Company's finance and accounting teams as well as North American Electric
20 Reliability Corporation Compliance, Corporate Compliance and Risk Management.
21 Mr. Ostberg is a seasoned financial executive with over 30 years in comprehensive
22 strategy, finance, accounting, regulatory, risk, and audit experience. He has worked for
23 companies across the U.S. including San Francisco, California; Denver, Colorado; and
24 Salt Lake City, Utah.

25 Cynthia Henry, Vice President and General Counsel, has been with EPE since
26 2013 as the Director of FERC Compliance. Prior to joining EPE, Ms. Henry worked for
27 Xcel Energy in Denver, Colorado, as the Manager of FERC Compliance. She holds a
28 Bachelor of Arts degree from Brown University, a Juris Doctor from the University of
29 Texas at Austin, a Master of Law from the University of London, and an Executive MBA
30 from IE and Brown University.

1 David C. Hawkins is Vice President of EPE's newest organization, Strategy and
2 Sustainability. In that capacity he oversees business development, renewable and
3 emerging technologies, information technology and information security, operations
4 technology, resource planning and management, interconnection and transmission,
5 sustainability, and El Paso Electric's stake in PVGS. He has been with El Paso Electric
6 since 2002, holding various positions at EPE including Vice President of Generation,
7 System Planning and Dispatch, and Vice President of Power Marketing & Fuels and
8 Resource Planning. Mr. Hawkins holds a Master of Science degree and a Bachelor of
9 Science degree in Electrical Engineering from New Mexico State University.

10 Victor F. Rueda, Vice President, Human Resources ("HR"), is responsible for
11 leading the Human Resources and Safety groups, including organization and talent
12 development, labor relations, and employee benefits. Prior to joining EPE in March
13 2018, he served as Vice President of Human Resources for Andeavor, formerly Western
14 Refining Company, from 2005 until 2017. Prior to Western Refining, Mr. Rueda served
15 as Vice President of HR for Savane International (formally known as Farah Inc.) and in
16 senior HR roles at C.F. Jordan, L.P., and Homestead Hotels, all in El Paso. Mr. Rueda is
17 a native El Pasoan and graduated from the University of Texas at El Paso with a Bachelor
18 of Business Administration – Finance and holds the SPHR and SHRM-SCP level
19 professional HR certifications.

20 As I stated above, I am EPE's Vice President of Regulatory and Governmental
21 Affairs. As Vice President of Regulatory and Governmental Affairs, I oversee EPE's
22 Economic and Rate Research and Economic Research groups, Regulatory Case
23 Management, and the Governmental Affairs group. Prior to rejoining EPE in 2012, I
24 served as a regulatory analyst and manager in several regulatory functions with Southern
25 California Edison Company for 18 years. I am a native of El Paso and hold a Bachelor of
26 Science Degree in Mechanical Engineering from the University of Texas at El Paso,
27 where I also studied economics and econometrics.

28 The combination of experience and diverse backgrounds of the Company
29 executives provides EPE with a strong management team well equipped to handle issues
30 facing EPE.

B. Quality of Management and EPE's Quality of Service

Q. YOU SAY THAT THE MANAGEMENT TEAM IS WELL EQUIPPED TO HANDLE ISSUES FACING EPE. COULD YOU GIVE SOME EXAMPLES OF ISSUES EPE FACES AND HOW EPE HAS ADDRESSED ISSUES IN THE PAST?

A. Certainly. Let me first point out that the high quality of EPE's management and their accomplishments, both in overcoming past challenges and preparing for the future that I describe in this section of my testimony, support EPE's requested return on equity in this proceeding. With that consideration, I will turn first to the new issues EPE must address.

The electric industry is in a period of evolution with changing technology, generation resources, and customer expectations. With regard to advancing technology and customer expectations, on April 19, 2020, EPE filed for approval of its Advanced Metering System ("AMS") deployment. In that filing, EPE proposes to have fully deployed advanced meters by 2025, which will open up significant opportunities for EPE to help customers manage their electric usage. The ability to offer expanded rate structures and programs will also enable the more efficient use of EPE's infrastructure.

Electrification and the expected expansion of electric vehicles are widely considered to drive an evolution of the utility industry. EPE is planning to move forward with a program that will support electric vehicle ("EV") charging, and in the same vein is proposing to update its electric vehicle charging rates in this case. Smart metering and grid modernization integrating EV into the system is a major focus for management in the future. EPE witness Hawkins describes this program.

In response to the evolution of the market in the Western Interconnection, EPE is also in the process of joining the western Energy Imbalance Market ("EIM"). Many of EPE's trading partners in the Western Electricity Coordinating Council have joined the EIM and use it as their primary tool for making short-term purchases and sales. Because EPE is currently not a member of the EIM, this could significantly reduce EPE's access to and opportunities for energy sales and purchases. Joining the EIM will allow EPE to continue to take advantage of the market in the west, which will directly benefit EPE's customers in terms of reliability and cost. EPE witness Hawkins discusses this subject in his testimony.

1 EPE's generation fleet is currently significantly cleaner from a carbon perspective
2 than other utilities in Texas and the national average. As another example I can offer of
3 management's efforts to take advantage of advances in the industry, EPE recently signed
4 power purchase agreements for utility-scale solar resources, including one facility that is
5 integrated with battery energy storage. These resources, which will contribute to EPE's
6 efforts for a clean and sustainable generation portfolio were selected as part of the most
7 cost-effective portfolio in EPE's recent competitive request for proposals and reflect the
8 evolution of technology and resulting price competitiveness of renewable resources. That
9 resource selection also included EPE's newest gas resource, a 228-megawatt ("MW")
10 gas-combustion turbine to be located at EPE's existing Newman Power Station. This
11 clean and efficient dispatchable resource will replace generation units at the power station
12 being retired and will enable EPE's efforts to add more renewable resources in the future
13 by providing essential capacity support.
14

15 Q. HAS EPE ENDEAVORED TO MAKE TARIFF OFFERINGS THAT REFLECT THE
16 CHANGING TIMES?

17 A. Yes. EPE was among the first utilities in the state to offer a Community Solar tariff to its
18 customers. Similarly, EPE's electric vehicle charging rate was one of the first of its kind
19 in Texas. Historically, EPE has worked to increase the availability and use by customers
20 of time-variant rates. This has included efforts to increase the number of customers
21 served in mandatory Time-of-day ("TOD") rates as well as voluntary participation.
22 While EPE has had limited success in expanding voluntary participation on TOD rates,
23 especially with residential customers, the move to advanced metering over the next
24 several years will enable a renewed focus on TOD and other demand-side programs.
25 EPE is proposing very limited rate structure changes in this proceeding prior to
26 commercial operation of the planned AMS, in order to focus over that period on
27 development and piloting of new customer pricing programs and options.
28

29 Q. WHAT ABOUT PAST CHALLENGES THAT EPE MANAGEMENT HAS
30 EFFECTIVELY HANDLED?

1 A. EPE has focused on an evolving clean generation profile for some time, and IIF has a
2 focus on this issue. The Company made the management decision to exit the
3 Four Corners coal facility in 2016 and has since continued that journey as I described
4 previously.

5 The February 2021 freeze that struck Texas, during which much of Texas
6 experienced rolling blackouts, highlights the wisdom of some of EPE's management's
7 past decisions. After EPE's experience during a severe weather event in 2011, EPE
8 invested in winterizing its plants to withstand extreme cold. Similarly, EPE invested in
9 dual-fuel capability at its new Montana Power Station, allowing units there to burn diesel
10 in the event of short supplies of natural gas (a condition that occurred in 2011).
11 Additionally, EPE's continued investment in PVGS allowed a steady flow of energy to
12 serve base-load capacity. All of these decisions paid off well during the February freeze,
13 allowing EPE to keep the power on in its service territory despite extreme conditions and
14 to manage costs against significant natural gas price spikes. The cost savings associated
15 with the changes made by EPE are significant, with an estimated \$19 million in avoided
16 fuel costs. While projected economic costs of the February freeze vary widely, the
17 Federal Reserve Bank of Dallas estimates that insured losses range from \$10-\$20 billion.
18 Based on another measure, the Value of Lost Load, the Federal Reserve Bank of Dallas
19 estimates that power outages in Texas cost \$4.3 billion. EPE witnesses Olson and Doyle
20 address in more detail how EPE managed the February weather event.

21
22 Q. YOU MENTIONED THE PERFORMANCE OF EPE'S GENERATION DURING
23 CHALLENGING TIMES. HOW HAS EPE'S DISTRIBUTION SYSTEM PERFORMED?

24 A. As a result of decisions leading to adequate investment and maintenance, EPE
25 distribution system has performed in an exemplary manner relative to other utilities in
26 Texas. This includes very limited distribution-level power interruptions during the
27 February weather event. EPE regularly appears at the top of Texas utilities for outage
28 duration and frequency, which EPE witness Doyle discusses in his testimony.

29

1 **C. Merger with IIF**

2 Q. PLEASE DESCRIBE THE RECENT MERGER OF EPE WITH SUN JUPITER
3 HOLDINGS, LLC.

4 A. On July 29, 2020, the IIF acquisition of EPE closed. IIF is a private investment vehicle
5 advised by a dedicated infrastructure investment group within JP Morgan Investment
6 Management Inc. IIF is responsible for investing and growing the retirement funds of
7 more than 40 million families, including 2 million people across Texas and New Mexico
8 that are now invested in El Paso Electric.

9 The Commission approved IIF's acquisition in Docket No. 49849, which included
10 several commitments that IIF, Sun Jupiter (EPE's immediate parent), and EPE made in
11 support of the acquisition.
12

13 Q. COULD YOU GIVE AN OVERVIEW OF THE COMMITMENTS?

14 A. Yes. In broad terms the commitments can be divided into four categories. First, there
15 were ringfencing commitments that ensure the continued independent operation of EPE
16 and that protect it and its customers from potential financial risks coming from EPE's
17 parent or its new affiliates. Next, there were a number of ratemaking related
18 commitments that protect EPE's customers from additional costs that could result from
19 the merger. The third category includes a number of commitments that protect EPE's
20 labor force. And finally, there were commitments that provide direct benefits for EPE's
21 customers. I address in more detail later in my testimony the commitments that have
22 consequences for this base-rate proceeding.
23

24 Q. CAN YOU DESCRIBE THE IMMEDIATE BENEFITS OF THE MERGER FOR
25 CUSTOMERS?

26 A. The most immediate, and significant, benefit for customers is the \$21 million (Texas
27 retail) credit that customers began receiving following the close of the merger. That
28 credit will be paid to customers over a three-year period and began with August 2020
29 bills shortly after the close. In addition, the applicants agreed to contribute \$100 million
30 dollars towards local economic development in EPE's service territory. The Texas
31 portion of \$80 million will be provided to the City of El Paso, which will manage the

1 economic development program over the next 15 years. EPE made the first installment
2 of economic development funds on December 15, 2020, as required by the Commission
3 Order approving the merger (Finding of Fact ("FOF") No. 56(a)).
4

5 Q. HAVE YOU IDENTIFIED ANY OTHER MERGER BENEFITS THAT HAVE
6 ACCRUED TO EPE?

7 A. Yes, while the acquisition and merger were not done in order to achieve synergistic
8 savings, the merger had some effects on EPE's operations. One immediate benefit,
9 related to the availability of equity funding, was realized shortly after close of the merger
10 when Sun Jupiter provided EPE an infusion of \$125 million in September 2020.
11 Acquisition of a similar amount of capital in equity markets would previously have
12 required significantly more time, expense, and regulatory filings. In addition, the move
13 from a public to privately held company has reduced EPE's filing requirements with the
14 U.S. Securities and Exchange Commission.
15

16 Q. DID THE MERGER HAVE ANY IMPACT ON TEST YEAR COSTS?

17 A. Yes. As I have explained the acquisition case approval included a number of regulatory
18 commitments, some of which impact EPE's Test Year costs directly or indirectly.
19 Although the acquisition will not change EPE's overall operations, EPE delisted from the
20 New York Stock Exchange effective with the closing of the transaction. In addition, as a
21 wholly owned subsidiary of Sun Jupiter, EPE will no longer incur expenses for (i) public
22 shareholder reports filed with the U.S. Securities and Exchange Commission and
23 (ii) annual shareholder meetings. EPE has included cost savings associated with these
24 activities in the Test Year adjustments discussed by EPE witness Borden.

25 EPE witness Prieto discusses a number of the merger commitments from a cost
26 perspective, such as EPE's commitment to continue charitable contributions and
27 apprenticeship programs. Ms. Prieto also discusses EPE's commitment that transaction
28 costs related to the acquisition by IIF not be recovered in customer rates. Similarly, the
29 economic development and rate contribution made by IIF following the closing of the
30 transaction are not included in cost of service or recovered in rates. Costs associated with

1 the structure and compensation of the new Board of Directors, spelled out in the
2 commitments, are reflected in EPE's cost of service.

3
4 **IV. Texas Revenue Requirement and EPE's Request for Relief**

5 Q. WHAT IS THE TEST YEAR FOR EPE'S COST OF SERVICE FILING?

6 A. EPE's Test Year for this case is the twelve months ended December 31, 2020. EPE's Test
7 Year is adjusted for known and measurable changes, annualization of various items, and
8 normalization of federal and state income taxes.

9
10 Q. WHAT IS EPE'S TEXAS REVENUE REQUIREMENT IN THIS CASE?

11 A. EPE's revenue requirement is itemized by categories of costs in the testimony of EPE
12 witness Borden. EPE's proposed Texas base rate (non-fuel) revenue requirement is
13 \$573.811 million. Current adjusted base rate revenues, excluding DCRF and TCRF, are
14 \$504.122 million, resulting in a base rate revenue deficiency of \$69.689 million. EPE is
15 proposing changes for miscellaneous services which will increase the base rate deficiency
16 by an additional \$0.721 million.

17
18 Q. HOW DO THE CURRENTLY EXISTING DCRF AND TCRF RELATE TO THE
19 AMOUNT OF THE REQUESTED BASE-RATE INCREASE?

20 A. EPE's jurisdictional cost of service analysis reflects capital additions and other changes
21 occurring after the end of the Test Year in EPE's 2017 base rate case (September 30,
22 2016) to the end of the Test Year in the instant proceeding. As a result, it incorporates
23 capital additions which had been included in the authorized TCRF and DCRF billing
24 factors over the same period and extending on through to the end of the Test Year.

25
26 Q. WHAT WOULD THE IMPACT ON CUSTOMERS BE IF EPE'S REQUESTED
27 INCREASE IS GRANTED?

28 A. Ratemaking in this proceeding will move the TCRF and DCRF capital components into
29 rate base for cost recover prospectively, and these two cost recovery factors will be reset
30 to zero. The net effect on customer billed revenue is EPE's calculated base revenue
31 requirement increase of \$69.689 million less the \$27.871 million currently being

1 recovered through the TCRF and DCRF, or \$41.818 million. As a percentage of current
2 non-fuel base revenue, this represents a 7.79% increase or 5.78% of total operating
3 revenue (including fuel and purchased power).
4

5 Q. IS THE COMPANY ALSO REQUESTING TO CHANGE ITS OVERALL REVENUE
6 ALLOCATION AND RATE DESIGN?

7 A. Yes. EPE is proposing rate design changes which are presented by EPE witness
8 Carrasco. Mr. Carrasco explains EPE's proposal for rate design that balances the
9 magnitude of the rate increase required with the need to reduce subsidies between and
10 within rate classes and moves customer classes closer to the full costs of serving them.
11 Additionally, EPE witness Carrasco proposes changes in certain customer classes,
12 demand, and energy charges to reduce intra-class subsidies, incentivize energy
13 conservation, and encourage reduced on-peak usage.
14

15 Q. WHAT RELIEF IS EPE REQUESTING FROM THE COMMISSION IN THIS CASE?

16 A. EPE requests the following:

- 17 • recovery of the Texas jurisdictional base rate revenue requirement of
18 \$573.811 million, reflecting an increase of \$41.097 million to be recovered through
19 proposed changes to base rates and miscellaneous service charges;
- 20 • to include in rate base additional replacement and improvement capital additions to
21 EPE's generation, transmission, and distribution facilities since the 2017 base rate
22 case that are in service and used and useful in serving EPE's customers;
- 23 • to include in rate base EPE's new general and intangible plant;
- 24 • to include in base rates EPE's operating expenses reasonable and necessary to serve
25 Texas customers;
- 26 • to approve the various tariff and rate design changes outlined by EPE witness
27 Carrasco, including riders concerning federal taxes and for expenses incurred because
28 of the COVID-19 pandemic;
- 29 • to set baseline revenue requirements and factors for generation, transmission and
30 distribution functions to enable future GCRR, TCRF, and DCRF applications;

- 1 • to include for recovery over a four-year period EPE's rate case expenses only if the
2 recovery of such expenses can be settled in this docket, or if the parties otherwise
3 agree to consider the issue in this docket; and
4 • rates to be effective within 35 days of the date of EPE's statement of intent filing in
5 this case, unless suspended by the Commission or local regulatory authority, subject
6 to notice and appropriate hearing, for a period not longer than permitted under Texas
7 law. If rates are suspended for a period beyond 155 days after the date that EPE's
8 rate-filing package was filed in this proceeding, EPE requests that its authorized
9 revenue requirement be made effective for consumption on or after the 155th day
10 from filing.
11

12 **V. Compliance with Prior Commission Orders and**
13 **Implications of Ongoing Proceedings**

14 Q. DO PRIOR COMMISSION ORDERS PLACE ANY OBLIGATIONS ON EPE WITH
15 REGARD TO THIS FILING?

16 A. Yes, several prior Commission orders are relevant to this filing. The proceeding that
17 most directly affects EPE's filing in this proceeding is EPE's last base rate proceeding,
18 Docket No. 46831. The Order in Docket No. 49849, which concerns the purchase of
19 EPE by Sun Jupiter, also has implications for this filing. In addition, there are a few
20 other cases that have implications for this docket. Docket No. 37690, *Application of*
21 *El Paso Electric Company to Change Rates, to Reconcile Fuel Costs, to Establish*
22 *Formula-Based Fuel Factors, and to Establish an Energy Efficiency Cost Recovery*
23 *Factor*, provided for the write-down of the rate-base value of EPE's Palo Verde
24 investment, which is addressed by EPE witness Hancock. The Order in Docket
25 No. 44800⁵ affects the treatment of a solar facility that EPE owns. Finally, EPE's
26 recently completed fuel reconciliation proceeding, Docket No. 50058⁶ establishes the line
27 loss factors EPE has used in this application. I address EPE's compliance with each of
28 these orders.
29

⁵ *Application of El Paso Electric Company to Implement a Voluntary Community Solar Pilot Program in Texas*, Docket No. 44800, Order (Sept. 1, 2016).

⁶ *Application of El Paso Electric Company to Reconcile Fuel Costs*, Order (Apr. 7, 2021).

1 Q. PLEASE PROVIDE A BRIEF SUMMARY OF DOCKET NO. 46831.

2 A. On February 13, 2017, the Company filed with the City of El Paso, other municipalities
3 incorporated in its Texas service territory, and the PUCT in Docket No. 46831, a request
4 for an annual increase in non-fuel base revenues of approximately \$42.5 million. On
5 July 21, 2017, the Company filed its rebuttal testimony modifying the requested increase
6 to \$39.2 million, which also reflected a reduction for the severance of rate-case expenses
7 from the case.

8 On November 2, 2017, after extensive negotiation, the signatories to a
9 comprehensive settlement agreement filed with the PUCT a Joint Motion to Implement
10 Uncontested Stipulation and Agreement (the "Unopposed Settlement"). No party
11 opposed the settlement. On December 18, 2017, the PUCT approved the Settlement.

12 The PUCT Final Order provided for the following: (i) an annual non-fuel rate
13 increase of \$14.5 million, a return on equity of 9.65% for allowance for funds used
14 during construction purposes and as applicable to other Commission proceedings or
15 filings, and inclusion of all new plant in service in rate base; (ii) recovery of \$3.4 million
16 in rate case expenses through a separate surcharge; (iii) recovery of revenues associated
17 with the relate-back of rates to consumption on and after July 17, 2017, through a
18 separate surcharge, all as specified in the Unopposed Settlement; and (iv) Docket
19 No. 46831 rate case expenses incurred after August 31, 2017, by EPE and municipalities
20 that were parties to the case will be captured in a regulatory asset, recovery of which will
21 be resolved in EPE's next base rate case. As to the last item, EPE has recorded a
22 regulatory asset in the amount of \$382,051 for those qualifying rate case expenses, a
23 breakout of which can be found in Schedule G-14.2, and EPE is requesting full recovery
24 of that regulatory asset in this proceeding.

25 In addition, the Unopposed Settlement, as implemented by the Final Order,
26 imposed a number of other obligations, particularly concerning the treatment of
27 Distributed Generation customers. EPE has complied with these requirements. A
28 summary of the requirements resulting from the Final Order in Docket No. 46831 and
29 how EPE has complied is presented in my Exhibit JS-2.
30

1 Q. HAVE YOU INCLUDED THE DOCKET NO. 46831 FINAL ORDER WITH YOUR
2 TESTIMONY?

3 A. Yes. It is included with my testimony as Exhibit JS-3.
4

5 Q. WHAT COMPLIANCE REQUIREMENTS ARE INVOLVED AS A RESULT OF
6 DOCKET NO. 49849?

7 A. As I discussed above, Docket No. 49849 was the joint application of EPE and Sun
8 Jupiter, and Sun Jupiter's ultimate parent company, IIF, for approval of a transaction that
9 would result in Sun Jupiter owning EPE. The transition from being a publicly held
10 company to being owned by Sun Jupiter also has financial implications, which are
11 addressed by EPE witnesses Budtke and Nelson. I address the regulatory commitments
12 that have potential direct or indirect implications for this proceeding. The Commission
13 set up a compliance proceeding for Docket No. 49849, which is Docket No. 50477,
14 *Compliance Filing for Docket No. 49849 (Joint Report and Application of El Paso*
15 *Electric Company, Sun Jupiter Holdings LLC, and IIF US Holdings 2 LP for Regulatory*
16 *Approvals Under PURA §§ 14.101, 39.262, and 39.915.* EPE has been making filings in
17 that proceeding, as required, to show EPE's compliance with various provisions of the
18 Final Order in Docket No. 49849. One of the commitments is to file an annual report
19 showing compliance with the various commitments, and EPE plans to file the first such
20 report in Docket No. 50477 in June 2021. Because Docket No. 50477 is the proceeding
21 designated for addressing overall compliance with the final order in Docket No. 49849, I
22 will address here only those regulatory commitments that have implications for this
23 proceeding rather than broadly addressing compliance with all of the requirements
24 flowing from Docket No. 49849.
25

26 Q. WHAT REGULATORY COMMITMENTS ORDERED IN DOCKET NO. 49489
27 HAVE IMPLICATIONS FOR THIS PROCEEDING?

28 A. My Exhibit JS-4 summarizes the regulatory commitments that have implications for this
29 proceeding and how EPE has complied with them. Perhaps most notable among these
30 commitments, EPE has not included any costs in this application for the transaction or
31 transition costs associated with Docket No. 49849, nor costs for the rate credit or the

1 economic development fund created in the transaction. As shown on my Exhibit JS-4,
2 other EPE witnesses address elements of the commitments as they relate to this case. For
3 instance, EPE witness Prieto addresses several of the ratemaking and accounting
4 commitments.
5

6 Q. DOES THE ORDER IN DOCKET NO. 44800, APPLICATION OF EL PASO
7 ELECTRIC COMPANY TO IMPLEMENT A VOLUNTARY COMMUNITY SOLAR
8 PILOT PROGRAM IN TEXAS AFFECT EPE'S APPLICATION IN THIS
9 PROCEEDING?

10 A. Yes. In settlement of the case in response to concerns expressed by the Commissioners,
11 the Settlement Agreement, which the Commission approved, stated the following:

12 All costs for construction and operation of this facility, including but not
13 limited to capital costs, operations and maintenance costs, any joint and
14 common costs reasonably allocated to the facility, and any advertising and
15 educational costs regarding the facility, are to be recovered through the
16 proposed Community Solar Program and will not be recovered from
17 nonparticipating customers.
18

19 EPE has complied with this requirement. The Commission approved the tariff by Order
20 signed September 1, 2016. No capital costs for the Community Solar facility have been
21 included in this application, and no advertising and educational costs have been included
22 in EPE's cost of service.
23

24 Q. IS THE APPROVED COMMUNITY SOLAR TARIFF INCLUDED IN EPE'S
25 APPLICATION IN THIS CASE?

26 A. Yes. Schedule No. CS - Community Solar Rate includes rate class specific average
27 generation rates, which are applied as credits for participating customers. EPE witness
28 Carrasco describes the development of these generation rates based on EPE's class cost of
29 service study.
30

31 Q. PLEASE PROVIDE A BRIEF SUMMARY OF DOCKET NO. 50058.

1 A. Docket No. 50058 is EPE's 2019 application to reconcile its Texas jurisdictional fuel and
2 fuel-related expenses and purchased power costs with its fuel revenues for the
3 Reconciliation Period of April 2016 through March 2019, filed on September 27, 2019,
4 and resolved by settlement with a final order issued by the Commission on April 7, 2021.

5
6 Q. HOW DOES THE FUEL RECONCILIATION APPLICATION AFFECT EPE'S
7 REQUEST IN THIS CASE?

8 A. The fuel reconciliation is generally a backward-looking application where historical fuel
9 costs are reconciled with actual fuel revenues. However, the order in the
10 fuel-reconciliation includes two provisions that affect EPE's filing in this case. The first
11 is the approval by the Commission of EPE's most recent system loss study, which
12 provides loss adjustment factors and different service voltages, effective April 1, 2019.
13 The system loss study is included with Schedule O-6.3 in this case. The second was the
14 deferral of EPE's rate case expenses associated with the fuel reconciliation proceeding for
15 recovery in EPE's next base rate case, which is this proceeding. Those expenses are
16 included in EPE's request as a component of Test Year costs, to the extent such costs
17 were included during the Test Year.

18
19 Q. ARE THE LOSS FACTORS PRODUCED IN THE APPROVED SYSTEM LOSS
20 STUDY REFLECTED IN EPE'S CURRENT RATE CASE APPLICATION?

21 A. Yes, EPE witness Novela incorporates the results of this most current loss study in
22 developing energy and demand statistics used in the calculation of jurisdictional and class
23 allocation factors.

24
25 **VI. Compliance with Commission Requirements and PURA's Rate**
26 **Setting Provisions in §§ 36.051 Through 36.064**

27 Q. HAS EPE PROVIDED ALL THE SCHEDULES AND WORKPAPERS TO COMPLY
28 WITH THE COMMISSION'S REQUIREMENTS FOR BASE-RATE PROCEEDINGS?

29 A. Yes, EPE has made its filing consistent with the Commission's Electric Utility Rate
30 Filing Package for Generating Utilities and the requirements of 16 TAC § 22.243. EPE
31 has also pre-filed its supporting direct testimony, consistent with 16 TAC § 22.225(a)(6).

1 Q. SUBCHAPTER B OF PURA CHAPTER 36 HAS NUMEROUS PROVISIONS ON
2 THE COMPUTATION OF RATES. DOES EPE'S REQUEST SATISFY THOSE
3 PROVISIONS?

4 A. Yes. EPE has adhered to the rate setting standards set out in Chapter 36 of PURA and
5 the corresponding provisions in the Commission's "Cost of Service" rule,
6 16 TAC § 25.231, which requires that rates be set based on historical Test Year costs,
7 adjusted for known and measurable changes. Rates established consistent with EPE's
8 request should allow EPE the opportunity to recover a reasonable return on its used and
9 useful invested capital, in excess of its reasonable and necessary operating expenses,
10 consistent with the requirements of PURA § 36.051. Various EPE witnesses address the
11 requirements of PURA and the Commission's substantive rules as those requirements
12 apply to the costs they sponsor. Next, I address those provisions in the sequence in which
13 they appear in PURA.
14

15 **A. Just and Reasonable Rates (PURA § 36.003)**

16 Q. ARE THE RATES PROPOSED BY EPE FOR APPROVAL BY THE COMMISSION:
17 (1) JUST AND REASONABLE; (2) NOT UNREASONABLY PREFERENTIAL,
18 PREJUDICIAL, OR DISCRIMINATORY; AND (3) SUFFICIENT, EQUITABLE, AND
19 CONSISTENT IN APPLICATION TO EACH CLASS OF CONSUMER?

20 A. Yes. EPE's proposed rates are designed based on standard rate design principles and
21 accurately reflect the cost to provide service to EPE's customers. By utilizing rate class
22 definitions that group customers in a reasonable and supportable basis, EPE's cost
23 allocation fairly distributes costs based on causation. Rate differences between rate
24 classes (interclass) and within classes (intraclass) also fairly reflect cost of service
25 differences. Applying generally accepted and sound design principles equally across all
26 customer groups ensures rates that are not unreasonably preferential or discriminatory.
27 EPE's proposed rates are not extreme or excessive based on the services provided or in
28 comparison with other investor-owned utilities in Texas.

29 In his text, *The Principles of Public Utility Rates*, James Bonbright identifies
30 attributes of a sound rate structure related to cost and revenues, the most important of
31 which are grouped into three primary criteria: Capital Attraction, Consumer Rationing,

1 and Fairness to Ratepayers. I summarize Mr. Bonbright's descriptions here as guidelines
2 for EPE's rates discussed later in my testimony and by EPE witness Carrasco.

- 3 1. The capital attraction criterion encompasses the revenue requirement objective, where
4 sound rates are those that are effective in "yielding total revenue requirements under
5 the fair return standard" while avoiding socially undesirable levels of rate base,
6 product quality, and safety.
- 7 2. The consumer rationing objective emphasizes rates and structures designed to
8 "discourage the wasteful use of public utility services while promoting all use that is
9 economically justified in view of the relationships between the private and social
10 costs incurred and benefits received."
- 11 3. Fairness to ratepayers encompasses the principle "that the burden of meeting total
12 revenue requirements must be distributed fairly and without arbitrariness,
13 capriciousness, and inequities" in order to avoid "undue discrimination." These
14 attributes are characterized by rates which are subsidy free and with "equals treated
15 equally" and "unequals treated unequally."

16 EPE follows the principles described here, to the extent reasonably possible, to
17 ensure that proposed rates are just and reasonable, not unreasonably preferential or
18 discriminatory, and sufficient, equitable, and consistent.

19
20 **B. Overall Revenues (PURA § 36.051)**

21 Q. WILL THE APPROVAL OF EPE'S RATE REQUEST PERMIT EPE A REASONABLE
22 OPPORTUNITY TO EARN A REASONABLE RETURN ON ITS INVESTED
23 CAPITAL IN EXCESS OF ITS REASONABLE AND NECESSARY OPERATING
24 EXPENSES?

25 A. Yes, it will. EPE's request, based on the Test Year as adjusted for known and measurable
26 changes, includes only reasonable and necessary operating expenses plus a reasonable
27 return on invested capital, as explained by EPE witness Nelson. As discussed in detail by
28 EPE witness Borden, if the Company's request is approved, the resulting rates will allow
29 the Company a reasonable opportunity to earn a reasonable return on its invested capital
30 in excess of its reasonable and necessary operating expenses.

C. Reasonable Return (PURA § 36.052)

Q. IN DEVELOPING THE COMPANY'S RECOMMENDED RETURN, DID EPE CONSIDER THE FACTORS IN PURA § 36.052?

A. Yes, it did. EPE witness Budtke sponsors the Company's overall cost of capital and capital structure, while EPE witness Nelson discusses and supports EPE's requested return on common equity. In addition, various EPE witnesses discuss the factors listed in this section, such as the efficiency of the utility's operations. The four factors in PURA are:

1. the efforts and achievements of the utility in conserving resources;
2. the quality of the utility's services discussed by EPE witness Doyle;
3. the efficiency of the utility's operations discussed by EPE witnesses Hawkins, Olson and Doyle; and
4. the quality of the utility's management as I discussed earlier in my testimony.

Q. WHAT HAVE BEEN EPE'S "EFFORTS AND ACHIEVEMENTS IN CONSERVING RESOURCES?"

A. As a utility, EPE has acted responsibly when it comes to conserving resources. There are two areas in particular where this is evident. First, not only has the Company successfully administered energy efficiency programs in compliance with PURA § 39.905, EPE has also consistently earned bonuses for its performance. Second, EPE has invested in newer technology with the addition of highly efficient natural gas-fired generating units over the last decade, which has modernized EPE's generating fleet and lowered its average heat rate. In addition, from an environmental perspective, EPE now has in its portfolio of generation resources over 100 MW of renewable solar-powered generation either through contract or ownership, and EPE no longer relies on coal-fired generation as a resource.

As I noted previously, EPE recently received a CCN to add a state-of-the-art, 228-MW combustion turbine to be located at EPE's existing Newman Power Station, and has contracted for over 200 MW of new solar generation capacity and its first battery energy storage facility. These new resources are expected to begin commercial operation prior to the summer peak period in 2023.

D. Components of Invested Capital (PURA § 36.053)

Q. ARE THE COMPANY'S COMPONENTS OF INVESTED CAPITAL BASED ON THE ORIGINAL COST LESS DEPRECIATION OF PROPERTY USED BY AND USEFUL TO EPE IN PROVIDING SERVICE?

A. Yes. However, the rate base value for EPE's investment in Palo Verde has been written down to reflect its fresh start value resulting from EPE's emergence from bankruptcy in February 1996, as approved in Docket No. 37690 and as discussed by EPE witness Hancock.

E. Construction Work in Progress (PURA § 36.054)

Q. HAS EPE INCLUDED ANY CONSTRUCTION WORK IN PROGRESS ("CWIP") IN ITS RATE BASE?

A. No, EPE is not requesting inclusion of CWIP in rate base in this application.

F. Separations and Allocations (PURA § 36.055)

Q. HAVE THE COSTS OF FACILITIES, REVENUES, EXPENSES, TAXES, AND RESERVES BEEN SEPARATED AND ALLOCATED IN CONFORMANCE WITH COMMISSION RULES AND POLICIES?

A. Yes, these costs have been properly separated and allocated into the appropriate accounts and functions as well as among classes and jurisdictions. EPE witness Hernandez addresses the basis for the allocation of costs among EPE jurisdictions and rate classes in his testimony.

G. Depreciation, Amortization and Depletion (PURA § 36.056)

Q. HAS EPE PROPOSED PROPER AND ADEQUATE RATES AND METHODS FOR DEPRECIATION, AMORTIZATION, AND DEPLETION FOR EACH CLASS OF ITS PROPERTY?

A. Yes. EPE witness John Spanos presents an updated depreciation study in support of EPE's requested depreciation rates. EPE's proposed depreciation expense is presented by EPE witness Hancock.

1 **H. Net Income (PURA § 36.057)**

2 Q. DID EPE PROPERLY CALCULATE REVENUES AND EXPENSES IN DERIVING
3 ITS NET INCOME?

4 A. Yes, it did. EPE witness Carrasco describes in detail the determination of adjusted Test
5 Year revenue, including adjustments for weather normalization and energy efficiency
6 savings. EPE witness Borden details in her testimony EPE's adjustments to Test Year
7 expenses and identifies other EPE witnesses who support the proposed adjustments.
8

9 **I. Transactions with Affiliates (PURA § 36.058)**

10 Q. IS EPE INCLUDING IN ITS COST OF SERVICE ANY PAYMENTS TO
11 AFFILIATES?

12 A. No, there are no affiliate costs in EPE's cost of service. During the Test Year, EPE did
13 not incur any affiliate costs, and no affiliate costs are included in the adjustments to the
14 Test Year. EPE did have a pre-existing banking relationship with JP Morgan, which is
15 ongoing. Pursuant to the Order in Docket No. 49849, while not technically an affiliate,
16 EPE was nonetheless required to maintain an arm's-length relationship with JP Morgan.
17 (FOF 70(b), Docket No. 49849).
18

19 **J. Income Taxes (PURA §§ 36.059 and 36.060)**

20 Q. HAS EPE COMPUTED ITS FEDERAL INCOME TAXES IN ACCORDANCE WITH
21 PURA §§ 36.059 (TREATMENT OF CERTAIN TAX BENEFITS SUCH AS
22 LIBERALIZED DEPRECIATION) AND 36.060 (CONSOLIDATED INCOME TAX
23 RETURNS)?

24 A. Yes, it has. EPE witness Ihorn discusses the method and manner by which EPE's federal
25 income taxes have been calculated. That testimony demonstrates the Company's
26 compliance with the provisions of PURA §§ 36.059 and 36.060.
27

28 **K. Legislative Advocacy Expenses (PURA §§ 36.061 and 36.062)**

29 Q. PURA §§ 36.061 AND 36.062 PROVIDE THAT LEGISLATIVE ADVOCACY
30 EXPENSES ARE NOT TO BE INCLUDED IN COST OF SERVICE FOR

1 RATEMAKING PURPOSES. DOES EPE'S PROPOSED COST OF SERVICE
2 COMPLY WITH THESE PROVISIONS?

3 A. Yes, it does, as EPE witness Borden explains. All expenditures on EPE's books made for
4 the purpose of advocating a position to the public with respect to referenda, legislation, or
5 ordinances, or for the purpose of advocating its position on such items before public
6 officials, are excluded from cost of service. The excluded expenses include the costs of
7 lobbyists, as well as the portion of the dues to Edison Electric Institute ("EEI") that are
8 used for legislative advocacy purposes. The Company has also excluded dues to the
9 Association of Electric Companies of Texas associated with lobbying activities as these
10 amounts were charged below the line.

11 EPE excludes the portion of EEI expenditures classified as lobbying expenses by
12 recording the annual percentage of lobbying expenses provided by EEI below the line.
13 EPE records these expenses in non-operating expense accounts in accordance with the
14 FERC Uniform System of Accounts.

15
16 **L. Charitable or Civic Contributions (PURA § 36.061)**

17 Q. HAS EPE INCLUDED ANY CHARITABLE OR CIVIC CONTRIBUTIONS AND
18 DONATIONS IN ITS PROPOSED COST OF SERVICE AS PERMITTED BY
19 PURA § 36.061?

20 A. Yes, it has, as permitted by PURA § 36.061. EPE witness Borden discusses contributions
21 and donations included in this filing, together with the pro forma adjustment to
22 contributions, donations and advertising to limit these expenses to 0.3 of 1% of operating
23 revenues.

24
25 **M. Rate Case Expenses (PURA § 36.061)**

26 Q. IS EPE REQUESTING RECOVERY OF RATE CASE EXPENSES IN THIS FILING
27 AS PERMITTED BY PURA § 36.061?

28 A. Yes, EPE seeks recovery in this docket of the reasonable rate case expenses that it and
29 any intervening cities incur in this case if the recovery of such expenses can be settled in
30 this docket, or if the parties otherwise agree to consider the issue in this docket. EPE is
31 requesting recovery of its actual rate case expenses, amortized over four years, through a

1 surcharge mechanism. EPE is also seeking recovery for those rate case expenses from
2 Docket No. 46831 that were incurred after August 31, 2017.⁷ Consistent with
3 Commission practice and the new Commission rule governing rate case expenses in
4 16 TAC § 25.245, if the rate case expense issue, including those rate case expenses from
5 Docket No. 46831, is not settled in this docket, then the Company anticipates that the
6 issue will be severed from this proceeding and considered in another proceeding with
7 testimony and evidence to be filed in that separate docket.

8
9 Q. IS EPE REQUESTING TO INCLUDE EXPENSES FOR ITS DCRF AND TCRF
10 PROCEEDINGS AS RATE-CASE EXPENSES IN THIS FILING?

11 A. No. EPE expects to continue to file DCRF and TCRF cases on an annual basis, so they
12 are likely to become a regular action by EPE. For instance, since the last rate proceeding,
13 in the two years in which EPE could file a DCRF or TCRF (because of the agreement in
14 EPE's last rate proceeding to not file a TCRF or DCRF before January 1, 2019), EPE has
15 filed two DCRF proceedings and one TCRF proceeding. EPE believes that the Test Year
16 costs for its DCRF proceeding in 2020, Docket No. 51348⁸, are representative of this
17 recurring expense.

18
19 **N. Costs of Accidents/Equipment Failure/Negligence at Facilities**

20 **Not Selling Power in the State of Texas (PURA § 36.062)**

21 Q. HAS EPE INCLUDED IN ITS COST OF SERVICE ANY PAYMENTS MADE TO
22 COVER COSTS OF AN ACCIDENT, EQUIPMENT FAILURE, OR NEGLIGENCE
23 AT A UTILITY FACILITY OWNED BY A PERSON OR GOVERNMENTAL BODY
24 NOT SELLING POWER INSIDE THE STATE OF TEXAS, OTHER THAN A
25 PAYMENT MADE UNDER INSURANCE OR RISK-SHARING ARRANGEMENTS
26 EXECUTED BEFORE THE DATE OF LOSS?

27 A. No, it has not. No applicable circumstances occurred during the Test Year.
28

⁷ See, Docket No. 46831 at Findings of Fact No. 65.

⁸ *Application of El Paso Electric Company to Amend its Distribution Cost Recovery Factor*, Docket No. 51348, Order (May 24, 2021).