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**PUC DOCKET NO. 52195
SOAH DOCKET NO. 473-21-2606**

**APPLICATION OF EL PASO
ELECTRIC COMPANY TO CHANGE
RATES**

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§**

**PUBLIC UTILITY COMMISSION

OF TEXAS**

CROSS REBUTTAL RATE CASE EXPENSE TESTIMONY AND EXHIBITS

OF

JAMES Z. BRAZELL

ON BEHALF OF

THE CITY OF EL PASO

November 19, 2021

**PUC DOCKET NO. 52195
SOAH DOCKET NO. 473-21-2606**

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| APPLICATION OF EL PASO ELECTRIC COMPANY TO CHANGE RATES | § § § | PUBLIC UTILITY COMMISSION OF TEXAS |
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CROSS REBUTTAL RATE CASE EXPENSE TESTIMONY OF JAMES Z. BRAZELL

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| APPLICATION OF EL PASO ELECTRIC COMPANY TO CHANGE RATES | § § § | PUBLIC UTILITY COMMISSION OF TEXAS |
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CROSS REBUTTAL RATE CASE EXPENSE TESTIMONY OF JAMES Z. BRAZELL

I. INTRODUCTION

**Q. ARE YOU THE SAME JAMES Z. BRAZELL THAT FILED DIRECT RATE CASE
EXPENSE TESTIMONY ON BEHALF OF THE CITY OF EL PASO IN THIS
PROCEEDING?**

A. Yes.

**Q. ARE YOU SUBMITTING THIS CROSS REBUTTAL TESTIMONY ON BEHALF
OF THE CITY OF EL PASO?**

**A. Yes, I am filing this cross rebuttal testimony and testifying on cross rebuttal on behalf of the
City of El Paso (“City”) as I discussed in my direct testimony in support of the City’s request
for reimbursement of rate case expenses incurred in its participation in this rate case (PUC
Docket No. 52195) and for reimbursement of rate case expenses incurred by the City in its
participation in the five additional proceedings filed by El Paso Electric that I listed in my
direct testimony, Docket Nos. 52040, 51348, 50058, 49395, and 49148.**

Q. WHAT IS THE SPECIFIC PURPOSE OF YOUR CROSS REBUTTAL

SOAH DOCKET NO. 473-21-2606
PUC DOCKET NO. 52195

CROSS REBUTTAL TESTIMONY OF
JAMES Z. BRAZELL

1 **TESTIMONY?**

2 **A.** The specific purpose of my cross rebuttal testimony is to respond to, refute, and provide
3 evidence to rebut the adjustments made by Staff witness Anna Givens in her direct testimony
4 and to rebut her proposal for supplemental submission of rate case expenses only through a
5 cutoff date coinciding with the filing of reply briefs in this docket, after the hearing and
6 before the issuance of the proposal for decision (“PFD”). I also address the City’s
7 acknowledgement of Ms. Givens’ adjustments of the Garrett Group’s charges for expenses
8 of \$1,017.40 and \$280.20 and note that the City will revise and correct those requests in
9 future invoices and supplements.

10
11 **Q.** **ARE YOU AMENDING THE RATE CASE EXPENSE AMOUNTS THE CITY**
12 **SEEKS IN THIS FILING FOR ITS PARTICIPATION IN THIS DOCKET AND IN**
13 **THE FIVE ADDITIONAL DOCKETS?**

14 **A.** Yes.

15 First, for the reasons I discuss in more detail in Section II.C below, I have adjusted
16 the City’s request for rate case expenses for participating in the five additional dockets up
17 by \$7,389.87 to reflect the inclusion of supplemental attorneys’ and consultants’ fees and
18 expenses incurred in the City’s participation in Docket No. 49395 that were identified in the
19 City’s research to respond to Ms. Givens’ adjustments. See Exhibit JZB-RCE Cross
20 Rebuttal 1, Supplemental Exhibit 4D, attached. This adjustment increases the City’s
21 requested attorneys’ and consultants’ fees and expenses for participating in Docket No.

1 49395 from \$4,318.40 to \$11,708.27,¹ then flows through, increasing the total attorneys'
2 and consultants' fees for participating in the five dockets from \$88,414.97 to \$95,804.84.²

3 Next, as noted, I have adjusted the City's requested rate case expenses for its
4 participation in this docket, Docket No. 52195, down by \$1,297.60 to remove the Garrett
5 Group's \$1,017.40 and \$280.20 charges, as recommended by Ms. Givens. This \$1,297.60
6 adjustment lowers the City's request for the Garrett Group's fees and expenses through
7 September 30th from \$33,737.60 to \$32,440.00,³ then flows through, lowering the City's
8 requested total consultants' fees and expense for participating in this docket from
9 \$153,263.60 to \$151,966.00,⁴ and lowers the City's total fees and expenses for participating
10 in this docket from \$202,613.60 to \$201,316.00.⁵

11 With these adjustments combined, the City's requests on Pages 3, 34, and 35 of my
12 October 22, 2021, direct testimony are amended to request a total reimbursement of City
13 rate case expenses through September 30, 2021, of \$297,120.84; a request for
14 reimbursement of City expenses for the City's participation in this docket, Docket No.
15 52195, through September 30, 2021, of \$201,316.00; and a request for reimbursement of
16 \$95,804.84 for the City's participation in the five additional dockets listed above.⁶

17 As I mentioned in my direct testimony, the City's request for reimbursement for its
18 participation in this case is submitted in two pools or tranches: 1) actual rate case expenses

¹ Brazell Direct at 5 Table 2 [Bates 000007]; Exhibit 4D [Bates 000133].

² Brazell Direct at 3 [Bates 000005]; at 5 Table 2 [Bates 000007]; 34-35 [Bates 000036-000037]; Exhibit 4E [Bates 134].

³ Brazell Direct at 28 Table 6 [Bates 000030]; Exhibit 3A [Bates 000052].

⁴ Brazell Direct at 4 Table 1 [Bates 000006]; at 29 Table 6 [Bates 000031].

⁵ Brazell Direct at 3 [Bates 000005]; at 4 Table 1 [Bates 000006]; 34-35 [Bates 000036-000037]; Exhibit 3A [Bates 000052].

⁶ Brazell Direct at 3 [Bates 000005]; 34-35 [Bates 000036-000037].

1 incurred through September 30, 2021, before the October 22, 2021 testimony filing
2 deadline; and 2) actual rate case expenses incurred after September 30, 2021, expenses that
3 cannot be included in this October 22nd testimony, but expenses that nevertheless will be
4 incurred by the City for its participation in Docket No. 52195 through the completion of the
5 case. In my direct testimony, I recommended that rate case expenses after September 30,
6 2021, be recovered and reimbursed by periodic submission through the end of this
7 proceeding of supplemental rate case proof, invoices, and support. Consistent with the
8 City's proposal to allow supplementation of actual rate case expenses through the end of the
9 docket, I did not recommend reliance of estimated rate case expense (neither estimates of
10 the costs to complete the case nor estimates of the cost of an appeal). Instead, I offered
11 estimates to complete only as proof of the need to approve the City's proposed plan to permit
12 supplementation to the end of the proceeding. As I noted, I only recommended estimates to
13 determine rate case expenses if the City's proposal for supplementation was denied. I
14 continue to recommend that actual rate case expenses be determined by the City's proposed
15 periodic supplementation of actual expenses through the end of the docket as it proceeds,
16 not by reliance on estimates.

17 In that regard, I have not amended the City's recommended supplementation plan
18 nor changed the City's estimates to complete. However, because, in her testimony, Ms.
19 Givens has recommended that supplementation be cut off with the filing of reply briefs,
20 leaving a significant portion of the City's costs of participating in this docket unaccounted
21 for and, ultimately, unreimbursed, I am amending my testimony to include estimates for an

1 appeal to be used to determine the City's reimbursable rate case expenses if Ms. Givens'
2 proposal to cut off supplementation with reply briefs is approved and if the City's proposal
3 that supplementation proceed to the end of the proceeding is rejected. In support of that
4 cross rebuttal alternative, I have provided estimates of the cost of an appeal in addition to
5 the estimates to complete the case that I provided in my direct testimony. And I am
6 including, as an alternative recommendation on cross rebuttal, a proposal for the City's
7 reimbursement to be determined in this case by use of the City's estimates, if Ms. Givens'
8 early cutoff is approved and the City's requested continued supplementation is rejected.

9
10 **Q. DO YOUR TESTIMONY AND YOUR SUPPORTING DOCUMENTS AND**
11 **ATTACHMENTS DEMONSTRATE THAT THE CITY'S REQUESTED RATE**
12 **CASE EXPENSES FOR DOCKET NO. 52195 AND THE FIVE ADDITIONAL**
13 **DOCKETS REMAIN REASONABLE AND NECESSARY AND SHOULD BE**
14 **APPROVED?**

15 A. Yes. As I discussed in my direct testimony, the City's requested rate case expenses for its
16 participation in Docket No. 52195 and the five additional dockets are reasonable and
17 necessary, meet the requirements of applicable statutes and rules, and should be approved.

18
19 **Q. WITH THE INFORMATION PROVIDED IN YOUR CROSS REBUTTAL**
20 **TESTIMONY, DO THE CITY'S EXPENSES STILL MEET THE STANDARDS OF**
21 **PURA SECTION 33.023 AND PUC SUBST. R. 25.245(b) AND (c)?**

A. Yes. The City's expenses still meet the requirements of PURA Section 33.023 and PUC Subst. R. 25.245(b) and (c). The City's rate-case expenses are reasonable and necessary, appropriate for the scope, difficulty, novelty, and complexity of the issues, based on reasonable rates for the work performed and the expertise applied. Moreover, the City's rate-case expenses as a whole are not disproportionate, excessive, or unwarranted in relation to the nature and scope of the rate case addressed by the evidence pursuant to subsection (b)(5) of Rule 25.245.

II. STAFF'S RECOMMENDED ADJUSTMENTS

Q. PLEASE SUMMARIZE STAFF'S PROPOSED ADJUSTMENTS TO THE CITY'S REQUESTS.

A. Staff recommended five adjustments to the City's requested rate case expenses listed in the following table reproduced from Ms. Givens' testimony:

Table 1

TABLE AG-14 (CEP Docket No. 52195 Adjustments)

| Docket No. | Vendor | Amount | Ms. Givens' Reason | Brazell Direct Bates Page(s) |
|-------------------|--------------------------------|---------------|---------------------------|-------------------------------------|
| 52195 | Garrett Consulting Group, Inc. | (\$1,017.40) | Unsupported | 95 |
| 52195 | Garrett Consulting Group, Inc. | (\$280.20) | Unsupported | 101 |

| | | | | |
|-------|-----------------------|--------------|--------------------|---------|
| 50058 | El Paso City Attorney | (\$964.60) | Internal Expense | 263-268 |
| 49395 | Norman J. Gordon | (\$3,130.40) | Missing Invoice | 301-302 |
| 49148 | Expenses | (\$72.99) | Missing Receipt | 374 |
| | | | Total (\$5,465.59) | |

Ms. Givens states that the predominant reason for her recommended reductions to the City's request is due to inadequate supporting documentation. She states that another reason for her adjustment is to remove wages associated with the Assistant City Attorney for the City of El Paso in the amount of \$964.60 because the documentation provided by City does not indicate whether the amount requested is incremental to the individual's base pay or if the services are subsumed within the City's annual payroll. She recommends removing the wages from City's request in order to avoid double recovery.

Q. YOU MENTIONED THAT YOU SUPPLEMENTED OR UPDATED THE CITY'S REQUESTED \$3,130.40, THE SUBJECT OF ONE OF MS. GIVENS' ADJUSTMENTS. PLEASE EXPLAIN.

A. Yes. As mentioned above, in researching the City's records to respond to Ms. Givens' adjustment, the City determined that Norman J. Gordon Invoice 148, dated October 20, 2019, submitted to the City for the City's participation in Docket No. 49395, provided the correct amount of \$11,708.27 incurred by the City for its participation in Docket No. 49395, which \$11,708.27 should replace or supplement the \$3,130.40 stated in the direct testimony,

1 along with the \$1,188.00 in the testimony, adjusting the City's requested \$4,318.40 for its
2 participation in Docket No. 49395 up by \$7,389.87. This adjustment is
3 considered in my discussion of Ms. Givens' proposed adjustments.

4
5 **Q: DO YOU AGREE WITH EACH OF MS. GIVENS' PROPOSED ADJUSTMENT?**

6 A. No. As discussed in Sections A through D below, the City believes that each of the expenses
7 addressed in Ms. Givens' adjustments is fully supported, just and reasonable, and complies
8 with PURA Section 33.023 and Rules 25.245(b) and (c). However, as I discuss in more
9 detail in Part A. below, the City has agreed to accept Ms. Givens' adjustments to Garrett
10 Consulting's \$1,017.40 and \$280.20 requests.

11
12 **A. STAFF'S ADJUSTMENTS TO GARRET GROUP \$1,017.40 AND \$280.20**
13 **(BRAZELL BATES 95 AND 101).**

14 **Q. DO YOU AGREE WITH MS. GIVENS' DETERMINATION THAT THERE IS**
15 **INADEQUATE SUPPORT FOR THE GARRET GROUP'S CHARGES OF \$1,017.40**
16 **AND \$280.20?**

17 A. No. Pursuant to the City's agreement with the Garrett Group, the City agreed to pay Garrett
18 Group a fixed 4% fee to compensate Garrett for the risk of any charges for expenses that
19 Garrett might incur. The fixed fee payment was, in its economic effect, compensation for
20 Garrett's assumption of the risk that the City would limit expenses to the 4% payment even
21 if Garrett's expenses exceeded the payment, unless special circumstances were
22 demonstrated. Thus, the Garrett Group assumed the risk that expenses might exceed the 4%

figure and Garrett and the City negotiated the 4% fee to compensate Garrett for its assumption of the risk that expenses might, in fact, be more than the 4% agreed fee.

Q. IN SPITE OF YOUR DISAGREEMENT WITH MS. GIVENS' CLAIM, DOES THE CITY AGREE NOT TO SEEK THESE CHARGES AT THE REQUESTED LEVELS?

A. Yes. Although The Garrett Group's charge of \$1,017.40 (Brazell Bates 95) and the charge of \$280.20 (Brazell Bates 101) were contractually negotiated charges in the Garrett Group's contract with the City, the Garrett Group has agreed to remove those charges and to charge instead only for actual expenses. The City will receive credits back of these charges in future Garrett Group bills and will provide adjustments in future supplements to seek only the Garrett Group's actual expenses.

B. STAFF'S ADJUSTMENTS TO EL PASO CITY ATTORNEYS' \$964.60 (BRAZELL BATES 263-268).

Q. DO YOU AGREE WITH MS. GIVENS' DETERMINATION THAT THERE IS INADEQUATE SUPPORT FOR THE EL PASO CITY ATTORNEYS' CHARGE OF \$964.60 FOR WORK IN DOCKET NO. 50058?

A. No. Ms. Givens has misunderstood or misapplied the statutory requirement for compensation of the City for its rate case expenses. PURA Section 33.023 provides the applicable legal standard, as follows:

Sec. 33.023. RATEMAKING PROCEEDINGS. (a) The governing body of a

1 municipality participating in or conducting a ratemaking proceeding may engage rate
2 consultants, accountants, auditors, attorneys, and engineers to:

3 (1) conduct investigations, present evidence, and advise and represent the
4 governing body; and

5 (2) assist the governing body with litigation in an electric utility ratemaking
6 proceeding before the governing body, a regulatory authority, or a court.

7 (b) The electric utility in the ratemaking proceeding shall reimburse the governing body
8 of the municipality for the reasonable cost of the services of a person engaged under
9 Subsection (a) to the extent the applicable regulatory authority determines is reasonable.
10

11 The plain language of Section 33.023 provides that the City may engage consultants,
12 accountants, auditors, attorneys, and engineers to investigate, present evidence, and advise
13 and represent the City and to assist the city with litigation of electric utility ratemaking
14 proceedings and requires the utility to reimburse the city for the reasonable cost of the
15 services of any person so engaged.

16 The City's charge of \$964.60 (Brazell Bates 263-268) is the kind of compensation
17 contemplated in Section 33.023 for legal fees and charges the City incurred to obtain the
18 services of counsel and to participate in the rate case. The Assistant City Attorneys were,
19 as a result of their focus on the rate case as part of their regular employment, engaged for
20 the statutory purpose. There is nothing in the statute that precludes persons engaged from
21 being employees of the City. There is nothing in the statute that prohibits the charges to be
22 reimbursed from being expenses paid by the City to its own staff, if the staff is employed
23 on the rate case. In fact, such charges have been approved by the Commission and
24 considered by the Third Court of Appeals in earlier El Paso dockets. In its decision in

1 Docket No. 8018, *Inquiry Into Rate Case Expenses of El Paso Electric Co. and the City of*
2 *El Paso in Docket No. 7460 and 7172* (Sep. 1991) the Commission approved payment of
3 similar internal City Attorney expenses. Moreover, in the appeal of Docket No. 8018, in
4 the Third Court of Appeals, the Third Court of Appeals considered and acknowledged that
5 payment.⁷

6 Ms. Givens incorrectly based her recommendation on her belief that the recovery of
7 these expenses cannot “double count” the payment of the attorneys’ salary by the City. The
8 compensation allows the City to be reimbursed for expenses it has incurred and paid to
9 participate. First, there is no double counting, per se. The employee received one salary
10 and the City was compensated for the expense of paying it. This is no different than payment
11 of outside personnel. All rate case expense reimbursement provided to cities in rate cases
12 offsets and compensates cities for expenses they have paid or incurred. The City is entitled
13 to recover the costs it has paid to participate in the rate case. Being reimbursed does not
14 double count the payment—it only reimburses the City for the costs it has incurred and paid.

15
16 **C. STAFF’S ADJUSTMENTS TO NORMAN GORDON’S \$3,130.40 (BRAZELL**
17 **BATES 301-302).**

18 **Q. IN THE INTRODUCTON YOU EXPLAIN THAT YOU HAVE SUPPLEMENTED**
19 **OR UPDATED THE CITY’S REQUESTED \$3,130.40 FROM YOUR DIRECT**
20 **TESTIMONY.**

⁷ *City of El Paso v. Public Utility Commission of Texas and El Paso Electric Company*, 916 S.W.2d 515, 526 (Tex. App.-Austin 1996, writ dismissed).

1 A. Yes. As I noted above, in research to respond to Ms. Givens' adjustment, the City found
2 the Norman J. Gordon's October 20, 2019, invoice for the City's participation in Docket
3 No. 49395 which reflected that the correct amount incurred in Docket No. 49395 is
4 \$11,708.27, producing an upward adjustment of \$7,389.87.

5
6 **Q. DO YOU AGREE WITH MS. GIVENS' DETERMINATION THAT THERE IS**
7 **INADEQUATE SUPPORT FOR NORMAN GORDON'S CHARGES OF \$11,708.27**
8 **FROM DOCKET NO. 49395 FOR THE REASONS MS. GIVENS CLAIMS OR FOR**
9 **THE \$3,130.40 SHE CONSIDERED?**

10 A. No. While Ms. Givens is correct that the invoice for Mr. Gordon's charges in Docket No.
11 49395 was omitted, that omission was perfunctory and clerical. The correct invoice, Invoice
12 148, dated October 20, 2019, for \$11,708.27, is attached hereto as Exhibit JZB-RCE Cross
13 Rebuttal 1, Exhibit 4D. Invoice 148 states the correct fees and expenses the City incurred
14 participating in Docket No. 49395. Invoice 148 fully supports reimbursement of the City's
15 \$11,708.27 in attorneys' and consultants' fees and expense for the City's participation in
16 Docket No. 49395. Denying recovery would violate the statutory requirement for
17 compensation of the City for its reasonable and necessary rate case expenses.

18 For that matter, the \$3,130.40 figure Ms. Given addressed was fully supported by
19 the Declaration of Norman Gordon that was attached to my direct testimony. This \$3,130.40
20 expense is also supported by the charges through May 15, 2019, in Invoice 148. As the
21 invoice shows, the charges addressed in that declaration were for legal fees and charges Mr.

1 Gordon billed the City for the City's participation in Docket No. 49395. Denying recovery
2 would have violated the statutory requirement for compensation of the City for its
3 reasonable and necessary rate case expenses.

4
5 **D. STAFF'S ADJUSTMENTS TO EL PASO'S COPYING CHARGES OF \$72.99**
6 **(BRAZELL BATES 374, 357, & 364).**

7 **Q. DO YOU AGREE WITH MS. GIVENS' DETERMINATION THAT THERE IS**
8 **INADEQUATE SUPPORT FOR THE CITY'S PHOTOCOPYING CHARGES OF**
9 **\$72.99?**

10 A. No. The \$72.99 expense was a fully reimbursable charge for photocopying in Docket No.
11 49148. There is more than sufficient documentation supporting the charge (Brazell Bates
12 374, 357, and 364).

13 Ms. Givens claims that the receipt is missing, but she failed to recognize that the
14 proof provided in the credit card bill Mr. Gordon provided (Brazell Bates 374), in Mr.
15 Gordon's invoice (Brazell Bates 357), and in Mr. Nalepa's invoice (Brazell Bates 364), all
16 of which were filed in Docket No. 49148 attached to the City's direct testimony, makes it
17 abundantly clear that the \$72.99 expense was incurred and paid by the City for photocopying
18 of legal documents, a common and legitimate rate case expense.

19 Ms. Givens has failed to recognize that the data provided is sufficient to establish
20 the nature, amount, and reasonableness of the charges. Thus, she requires more proof than
21 is necessary to establish that these charges were correct. The charges appear on Brazell
22 Bates 374 in Mr. Gordon's credit card bill, reflecting that they were paid; they appear on

1 Bates 357 in Mr. Gordon's invoice indicating that they were for photocopying charges in
2 Docket No. 4; and the copying activities they relate to are described on Bates 364 in Mr.
3 Nalepa's description of activities for April 15, 2019.

4 Ms. Givens has overlooked the references to the charges on Brazell Bates Pages 364
5 and 357 that explain and provide additional support for these charges. Her exclusion of this
6 nominal photocopying charge misapplies the standard of proof and, in so doing, disregards
7 the statutory requirement for compensation of the City for its rate case expenses.

8
9 **E. SUMMARY OF CITY'S RESPONSES TO STAFF'S ADJUSTMENTS TO CITY**
10 **OF EL PASO CHARGES.**

11 **Q. PLEASE SUMMARIZE YOUR CONCLUSIONS REGARDING THE CHARGES**
12 **MS. GIVENS' CLAIMED LACKED ADEQUATE SUPPORT.**

13 A. Ms. Givens has incorrectly determined that the charges in her table lack needed support. As
14 noted in Table 2, below, a reconstruction by the City of Ms. Givens' table, each of the
15 charges she addresses, with the exception of the Garrett Group's \$1,017.40 and \$280.20 (for
16 which the City will secure credits in future Garrett Group invoices and substitute
17 submissions of actual expenses in future supplements) meets the statutory requirement for
18 compensation of the City for its rate case expenses and satisfies the PUC's Substantive
19 Rules. Excluding the Garrett charges, the reimbursable charges total \$12,745.86.

20
21 **Table 2**
22 **TABLE AG-14 -- REVISED**
23 **(CEP Docket No. 52195 Adjustments)**

1

| Docket No. | Vendor | Amount | City's Reasons | Brazell Direct Bates Page(s) |
|-------------------|--------------------------------|----------------|---|---|
| 52195 | Garrett Consulting Group, Inc. | [\$1,017.40] | City accepts Staff adjustment; will obtain credit back and supplement actuals | 95 |
| 52195 | Garrett Consulting Group, Inc. | [\$280.20] | City accepts Staff adjustment; will obtain credit back and supplement actuals | 101 |
| 50058 | El Paso City Attorney | \$964.60 | Reimbursable, Statutorily Permissible Rate Case Expense; no double recovery | 263-268 |
| 49395 | Norman J. Gordon | \$11,708.27 | Fully supporting Invoice included in Cross Rebuttal Exhibit 1, Section 4D | 301-302; Cross Rebuttal Exhibit 1, Section 4D |
| 49148 | Expenses | \$72.99 | Fully supported by Credit Card Receipt, Gordon Invoice, and Nalepa Invoice | 374, 364, 357 |
| | | | Total \$12,745.86 | |

2

3 **Q. DO THESE CHARGES MEET THE REQUIREMENTS FOR REIMBURSEMENT?**

4 A. Yes. These charges meet the requirements for reimbursement of city rate case expenses in
5 PURA Section 33.023, Rule 25.245(b) and (c) that I discussed in my direct testimony. I
6 recommend that the Commission approve these expenses and order reimbursement.

1

2 **III. ONGOING RATE CASE EXPENSES**

3

4 **Q. WHAT DOES MS. GIVENS RECOMMEND WITH REGARD TO RECOVERY OF**
5 **ONGOING EXPENSES AFTER THE FILING OF TESTIMONY, AFTER**
6 **BRIEFING, AND AFTER ISSUANCE OF THE PFD IN THIS DOCKET?**

7 A. In Part IX of her testimony, entitled “Ongoing Rate-Case Expenses,” Ms. Given testifies
8 that because EPE continues to incur rate-case expenses related to this proceeding, she
9 recommends that EPE provide an update to the rate-case expense reporting along with its
10 reply brief to support the amount of rate-case expenses incurred during the hearing on the
11 merits and post hearing briefing. Ms. Given testifies that this reporting will allow the
12 presiding officer to consider the final rate case expense updates in the Proposal for Decision
13 to be issued in this docket. With respect to the presentation of future updates to rate-case
14 expenses, she recommends that the presentation of the information begin with the
15 spreadsheet provided in the Response to Staff’s Sixth RFI and include updates to each
16 category for all additional expenses requested, including those incurred by the City. Further,
17 she states that EPE and the City will need to provide supporting documentation related to
18 all remaining expenses requested. Her recommendation related to the rate-case expenses
19 EPE incurs after it files its post-hearing briefing is that EPE record a regulatory asset for its
20 rate-case expenses incurred after it files its post-hearing briefing, along with the expenses
21 incurred by the City. Ms. Givens recommends that the Commission allow EPE to request
22 recovery of the trailing expenses included in this regulatory asset in its next full base rate

1 case and require it to provide supporting documentation at that time. She asserts that
2 because the requirements of PURA § 36.212 instruct EPE to file another rate change
3 application within four years, intergenerational inequity issues may exist. But she states
4 that she believes that capturing the rate-case expenses to be recovered through post-hearing
5 briefing in this proceeding limits the amount of the trailing expenses and the regulatory asset
6 that EPE can record, and in turn, lessens the magnitude of the amount of rate-case expenses
7 that might be borne by future ratepayers.

8
9 **Q. DO YOU AGREE WITH MS. GIVENS' RECOMMENDATION REGARDING**
10 **ONGOING REPORTING?**

11 A. In part, yes, to the extent she recommends continued supplementation. As I testified in my
12 direct testimony, I recommend that rate case expenses incurred after September 30th and the
13 filing of rate case expense testimony should be submitted in an ongoing series of reports or
14 summaries through the end of the docket that list, quantify, and support any incremental rate
15 case expenses that were incurred after the filing of testimony and were, accordingly, not
16 included in the requests quantified in the intervenor testimony. The supplemental reports I
17 propose could be submitted on the 20th or last day of each month (or some other convenient
18 and appropriate date) as the case progresses and could include receipts, invoices, and any
19 other supporting documents and could be submitted under the cover of affidavits or
20 declarations attesting to the expenses in the submission. This recommended
21 supplementation could continue through the end of the proceeding when the actual expenses

1 so described could be reviewed and approved either by a late Zoom prehearing or hearing
2 or could be addressed by the Commission in a mini hearing at its open meeting.
3

4 **Q. DO YOU AGREE WITH MS. GIVENS' RECOMMENDATION REGARDING**
5 **TREATMENT OF REIMBURSEMENT OF EXPENSES INCURRED AFTER**
6 **REPLY BRIEFING AND ISSUANCE OF THE PFD?**

7 A. No. While I recognize that Ms. Givens' recommendation attempts to address the challenge
8 of timing rate case expense review and reimbursement in rate cases as they are in progress,
9 specifically the difficulty of timing the submission, review, and approval of rate case
10 expenses in rate cases to permit timely review and recovery of expenses that continue to
11 accrue as the docket progresses, I disagree with her proposal to cut off supplementation
12 early in the case.

13 I recognize the logic of Ms. Givens' proposal to cut off expenses at the point that
14 reply briefs are submitted—such a cutoff would allow the rate case expense reimbursement
15 to be considered by the AJLs in the PFD. However, I am concerned that her
16 recommendation would leave a very significant part of the expenses unaddressed in this
17 docket, causing an extreme and unreasonable delay in the reimbursement of City rate case
18 expenses incurred in the proceeding, a delay that is contrary to the intent and purpose of
19 PURA Section 33.023 and one that would harm the City.

20 The aphorism “justice delayed is justice denied” is applicable. Here, delayed
21 reimbursement of rate case expenses denies the City meaningful relief under its statutory

1 rights. If rate case expenses after the cutoff in the reply briefing are not recovered in this
2 proceeding but are treated as a regulatory asset and preserved for recovery only in the next
3 rate case, it is likely that the City of El Paso will not recover its rate case expenses for as
4 long as four years after the termination of this proceeding. Such a delay in reimbursing the
5 City is unreasonable and not consistent with the intent of section 33.023, which
6 contemplates that cities are to be reimbursed in a timely manner for the rate case expenses
7 they incur participating in electric utility rate cases, in order to enable them to participate.

8 Thus, the proposed cut off that Ms. Givens recommends, though understandable
9 because it would permit the rate case expenses to be addressed in the proposal for decision,
10 would also have the extremely unfortunate effect of preventing reimbursement of a
11 significant portion of the City's rate case expenses incurred in this docket until many years
12 later, including all expenses related to the receipt, review and evaluation, and response to
13 the proposal for decision; expenses related to the exceptions and replies; expenses related
14 to work required to settle the proceeding after the issuance of the proposal for decision; as
15 well as work required to prepare for address and respond to the Commission decision in his
16 final order.

17 PURA Section 33.023 contemplates timely recovery of the costs of rate case
18 expenses incurred for any request for rehearing and appeal. Ms. Givens' proposal would
19 leave such expenses to be recovered in a significantly untimely manner, at a much later date.
20

21 **Q. WHAT DO YOU RECOMMEND REGARDING CITY RATE CASE EXPENSES**

1 **INCURRED IN DOCKET NO. 52195 AFTER THE FILING TESTIMONY?**

2 A. As I testified in my direct testimony, I recommend that the ALJs and/or the Commission
3 permit the City to update its rate case expenses by submission of supplemental filings as the
4 case progresses through the end of the case to include documentation and proof of such
5 expenses as they are incurred and become actual. If discovery or supplemental testimony,
6 affidavits, invoices, and other data are required, they can be provided along with the updates.
7 If additional hearing is required, the ALJs may convene a Zoom prehearing or hearing or
8 the Commission may conduct a brief hearing when it takes up the case at its open meeting.

9
10 **Q. WOULD YOU ADJUST OR REVISE YOUR RECOMMENDATION IF THE ALJs**
11 **AND/OR THE COMMISSION APPROVE MS. GIVENS' RECOMMENDATION**
12 **TO ADOPT A SUPPLEMENTATION CUTOFF THAT PRECLUDES**
13 **CONSIDERATION OF RATE CASE EXPENSES AFTER REPLY BRIEFS AND**
14 **THE PROPOSAL FOR DECISION?**

15 A. Yes. If the ALJs and/or the Commission reject the City's proposal to permit supplemental
16 submission of rate case expenses accompanied by approval later in the proceeding or near
17 the end of the case, and if the ALJs or the Commission approved Staff's procedure that
18 contemplates cutting off supplementation after the reply briefs, as Ms. Givens recommends,
19 then, under those circumstances, I recommend that the City's rate case expenses after the
20 submission of the reply briefs be determined by estimates of the City's expenses to complete
21 the docket and estimates of the City's cost for any appeal.

1
2 **Q. DOES THIS RECOMMENDATION CHANGE YOUR RECOMMENDED**
3 **TREATMENT OF ESTIMATES FROM YOUR DIRECT TESTIMONY?**

4 A. Yes, it would if the City's supplementation proposal is rejected. As I explained in my direct
5 testimony, I recommended that rate case expenses incurred as the case continues to proceed
6 be proved up by the submission of supplemental rate case expense filings that would
7 continue through the end of the proceeding and that would be addressed in a late
8 supplemental Zoom prehearing conference or hearing or addressed by the Commission in a
9 brief hearing before the Commissioners at the open meeting. Along with that
10 recommendation, I recommended that the ALJs and the Commission *not* rely on estimates
11 to determine City rate case expenses, though I provided estimates to demonstrate the need
12 to approve my recommended supplementation procedure.

13 However, if, in response to Ms. Givens' testimony, my recommendation of
14 continued supplementation is not approved and the supplemental filings will only be
15 considered up to a cutoff at the submission of reply briefs, then, as an alternative, rebuttal
16 position, I recommend that the ALJs and the Commission *use* estimates to determine the
17 rate case expenses in this docket. The City's estimates to complete that I provided in my
18 direct testimony should, in that instance, be used (along with City estimates of the cost for
19 an appeal) to determine the City's rate case expenses for the latter half of the proceeding.
20 Again, I add that, as an alternative, rebuttal response to Ms. Givens' recommendation, the
21 City's estimates to complete and the cost for an appeal, which I provide in the tables below,

1 should be used in the determination of the estimated expenses if continued supplementation
2 is not permitted.

3
4 **Q. WHAT ARE YOUR ESTIMATES OF THE ATTORNEYS' AND CONSULTANTS'**
5 **FEES AND EXPENSES TO COMPLETE THE DOCKET AND FOR AN APPEAL?**

6 A. I have set out in the tables below the City's estimate of attorneys' fees and expenses to
7 complete the docket (Table 3, col. c) and estimate for an appeal (Table 3, col. d) and the
8 City's estimate of consultants' fees and expenses to complete the docket (Table 4, col. c)
9 and for an appeal (Table 4, col. d).

10 The City's estimated attorneys' fees and expenses to complete the docket is in a
11 range of \$150,000 to \$180,000, plus \$20,000 in expenses. The City's estimated attorneys'
12 fees and expenses for an appeal is in a range of \$40,000 to \$50,000, plus \$5,000 in expenses.

13 The City's estimated consultants' fees and expenses to complete the docket is
14 \$170,196.00. The City's estimate of consultants' fees and expenses for an appeal is \$0.00.
15 The City's estimates for an appeal do not include any estimated fees and expenses for the
16 consultants.

17 Again, as noted in my direct testimony, in the Introduction above, and in the
18 footnotes to Tables 3 and 4, these estimates are not the City's principal recommendation but
19 are only the City's alternative, cross rebuttal recommendation, proposed only for
20 determining the total reimbursement if Ms. Givens' recommendation with its
21 supplementation cutoff on the filing of reply briefs is approved and City's request to

supplement throughout the proceeding is denied.

Table 3
Estimated Attorneys' Fees and Expenses to Complete and for Appeal⁸

| Docket No. 52195 City of El Paso's Estimates of Attorneys' Fees and Expenses to Complete and for Appeal | | | |
|--|--|---|--|
| (a) Attorney/Legal Personnel | (b) Hourly Rates | (c) Est. Fees & Expenses to Complete | (d) Est. Fees & Expenses for Appeal |
| Norman J. Gordon | \$350 | \$150,000.00- \$180,000.00 plus \$20,000 expenses | \$40,000.00- \$50,000.00 plus \$5,000 expenses |
| Molly Mayhall Vandervoort | \$240 | NA | |
| Snapper Carr | \$325 (\$550 if C. Seidlits at same time) | NA | |
| Curtis Seidlits | \$325 (\$550 if S. Carr at same time) | NA | |
| Total | | \$150,000.00- \$180,000.00 plus \$20,000 expenses | \$40,000.00- \$50,000.00 plus \$5,000 expenses |

⁸ In this cross rebuttal of Staff's recommendation, as noted in the City's Direct, if Ms. Givens' recommendation with its supplementation cutoff on the filing of reply briefs is approved and City's request to supplement throughout the proceeding is denied, then estimates to complete (in col. c) and estimates for appeal (in col. d) should be used as basis of request for reimbursement of the City's rate case expenses in Docket No. 52195.

1
2

Table 4
Estimated Consultants' Fees and Expenses to Complete and for Appeal⁹

| City of El Paso's Estimate of Consultants' Fees and Expenses to Complete Docket No. 52195 and for Appeal | | | |
|---|---------------------------------|--|--|
| (a) Consultants/Issues | (b) Hourly Rates | (c) Est. Fees & Expenses to Complete DN 52195 | (d) Est. Fees & Expenses for Appeal |
| ReSolved Energy Consulting; (Karl Nalepa) | \$270 / hr. | \$22,000.00 | \$0.00 |
| CJ Energy Consulting (Clarence Johnson) | \$220 / hr. | \$24,196.00 | \$0.00 |
| Dan Lawton | \$250 / hr. | \$15,000.00 | \$0.00 |
| Garrett Group; (Mark Garrett) | \$270 / hr. | \$42,000.00 | \$0.00 |
| Resolve Utility Consulting; (David Garrett) | \$200 / hr. | \$20,000.00 | \$0.00 |
| Norwood Energy Consulting (Scott Norwood) | \$220 / hr. | \$22,000.00 | \$0.00 |
| James Z. Brazell | \$350 / hr. | \$25,000.00 | \$0.00 |
| Total | | \$170,196.00 | \$0.00 |

⁹ Again, as stated in the preceding note, if Ms. Givens' recommendation with its supplementation cutoff on the filing of reply briefs is approved and City's request to supplement throughout the proceeding is denied, then estimates to complete (in col. c) and estimates for appeal (in col. d) should be used as basis of request for reimbursement of the City's rate case expenses in Docket No. 52195.

1
2 **Q ARE THESE ESTIMATED AMOUNTS TO COMPLETE AND FOR AN APPEAL**
3 **REASONABLE AND NECESSARY, DO THEY CLOSELY APPROXIMATE THE**
4 **EXPENSES THAT WILL ACTUALLY BE INCURRED, AND IS PERMITTING**
5 **RECOVERY IN THIS DOCKET BY RELIANCE ON THESE ESTIMATES**
6 **BETTER THAN LEAVING THEM UNRECOVERED FOR YEARS IN A**
7 **REGULATORY ASSET TO BE REIMBURSED IN A LATER DOCKET?**

8 A. Yes. These amounts are estimated based on the actual expenses experienced from this
9 docket so far and from the experience in other dockets. While the City does not, in the first
10 instance, recommend use of these estimates, their use is significantly more likely to result
11 in timely, just reimbursement, than the extensively delayed reimbursement that will result
12 for Staff's proposed regulatory asset treatment.

13
14 **Q. WHAT DO YOU RECOMMEND IF THE CITY'S ESTIMATES ARE GREATER**
15 **THAN OR LESS THAN THE ACTUAL EXPENSES INCURRED?**

16 A. As I mentioned above, I recommend that the amounts based on these estimates approved in
17 this docket be reconciled in the Company's next rate proceeding. By reconciling the excess
18 or insufficiency of these estimates over actuals in the next rate case, rather than leaving the
19 entire amount to be recovered through the regulatory asset process, the City receives timely
20 reimbursement of its rate case expenses as contemplated in the statute and, at the same time,
21 the trailing amount of rate case expense left unrecovered is minimized.

1

2 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

3 A. Yes, it does.

4

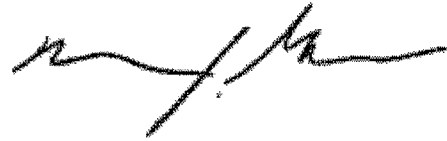
5

6

7

Certificate of Service

I certify that a true and correct copy of this document was served by e-mail and/or US mail on all parties of record in this proceeding on November 19, 2021.

A handwritten signature in black ink, appearing to read 'N. J. Gordon', written over a horizontal line.

Norman J. Gordon

**PUC DOCKET NO. 52195
SOAH DOCKET NO. 473-21-2606**

| | | |
|--|----------------------|--|
| APPLICATION OF EL PASO ELECTRIC COMPANY TO CHANGE RATES | § § § | PUBLIC UTILITY COMMISSION OF TEXAS |
|--|----------------------|--|

**CROSS REBUTTAL RATE CASE EXPENSE TESTIMONY AND EXHIBITS
OF JAMES Z. BRAZELL**

EXHIBIT JZB-RCE Cross Rebuttal 1

PUC Docket No. 49395

Revised Exhibit 4D

**First Supplemental Summary of City of El Paso Rate Case Expenses for Participation in PUC
Docket No. 49395, Application of El Paso Electric Company for a DCRF**

First Supplemental Declaration of Norman J. Gordon

Attachment A, Norman J. Gordon Invoice Dated October 20, 2019, Re: Docket No. 49395

Revised Exhibit 4D
First Supplemental Summary of City of El Paso Rate Case Expenses for Participation in
PUC Docket No. 49395 Application of El Paso Electric Company for a DCRF

| Attorney/Consultant | Invoice Date | Invoice No. | Billing Period | Fees | Expenses | Invoice Amount |
|--|---------------------|--------------------|-----------------------|-------------|-----------------|-----------------------|
| | | | | | | |
| Norman J. Gordon | 10/20/2019 | 148 | Mar-Jun 2019 | \$7,280.00 | \$108.27 | \$7,388.27 |
| | | | Total | | | \$7,388.27 |
| | | | | | | |
| | | | | | | |
| ReSolved Energy Consulting (Karl Nalepa) | 5/06/2019 | 4384 | Apr 2019 | \$1,188.00 | \$0.00 | \$1,188.00 |
| ReSolved Energy Consulting (Karl Nalepa) | 6/06/2019 | 4403 | May 2019 | \$2,052.00 | \$0.00 | \$2,052.00 |
| ReSolved Energy Consulting (Karl Nalepa) | 7/03/2019 | 4423 | Jun 2019 | \$1,080.00 | \$0.00 | \$1,080.00 |
| | | | Total | | | \$4,320.00 |
| | | | | | | |
| | | | | | | |
| | | | Case Total | | | \$11,708.27 |
| | | | | | | |

SOAH DOCKET NO. 473-21-2606
PUCT DOCKET NO. 52195

| | | |
|-----------------------------------|----------|--------------------------------|
| APPLICATION OF EL PASO | § | BEFORE THE STATE OFFICE |
| ELECTRIC COMPANY TO CHANGE | § | OF |
| RATES | § | ADMINISTRATIVE HEARINGS |

FIRST SUPPLEMENTAL DECLARATION OF NORMAN J. GORDON

THE STATE OF OHIO)
)
COUNTY OF CUYAHOGA)

1. My name is Norman J. Gordon. My business address is PO Box 8, El Paso, Texas, 79940. I am over eighteen years of age and I am not disqualified from making this Declaration. I declare under penalty of perjury that the information in this declaration provided under Chapter 132 Texas Civil Practice and Remedies Code is true and correct.

2. I am an attorney licensed in the States of Texas and Illinois, and numerous federal courts. I received my undergraduate degree and law degree from University of Illinois at Urbana-Champaign. I have been in private practice of law in El Paso since completing my military obligation with the Judge Advocate General's Corps of the United States Army in 1974. I am board certified in Civil Trial Law by the Texas Board of Legal Specialization and have been so certified since 1983. One of the areas of my practice is in the area of utility regulation. Since 1978, I have been lead counsel for parties in many major rate cases, rule making proceedings, and other administrative dockets before City Councils, the Railroad Commission of Texas, the Public Utility Commission of Texas, State District Courts, United States Bankruptcy Court, and Texas Appellate Courts, including the Supreme Court of Texas. I have filed testimony on rate case expense issues in cases before Railroad Commission of Texas. I have filed testimony and testified as an expert witness on rate case expenses in cases before the Public Utility Commission of Texas. I have also taught principles of regulation to members of the Public Utility Regulation Board of the City of El Paso, an advisory board on utility matters.

3. I became a sole practitioner in February 2019. Prior to February 2019, I was a shareholder in the El Paso firm of Mounce, Green Myers, Safi, Paxson & Galatzan, A Professional Corporation, from October 2003 until February 2019. Prior to that time my private practice was with the El Paso law firm of Diamond Rash Gordon & Jackson, P.C., for 29 years where I was a shareholder.

4. This declaration addresses the City of El Paso expenses in EPES Application to Amend its Distribution Cost Recovery Factor, PUC Docket 49395. The City of El Paso ("City") engaged me to act as outside counsel for it in that docket. The declaration that was included in the original testimony of James Z. Brazell addressed the expenses in that case up until the time the testimony was filed in case in May 2019. Subsequent to that time the additional work included

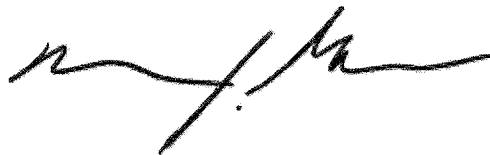
EPE's rebuttal testimony a submission on the written record, briefing and ultimately a settlement. There was one statement from my firm in connection with that case for a total of \$11,708.27 which included my fees and expenses, as well as the fees of ReSolved energy Consulting. The revised invoice dated October 20, 2019 is attached to this declaration as attachment "A" and details the services performed by me and Karl Nalepa of ReSolved Energy Consulting.

8. I am familiar with the hourly rates charged by others in Texas with similar or less experience for similar work, through the cases in which I have acted as counsel and through the cases in which I have filed testimony. The hourly rates charged by me of \$350.00 which in my experience is reasonable. The rates charged by Mr. Nalepa, \$270.00 per hour is also reasonable

9. All of the work done by me was necessary and reasonable with respect to both time and amount considering the nature, extent, and difficulty of the work, the originality of the issues presented including the nature of the issues raised and addressed by the City in this proceeding, and the amount of time spent by and charges by others for work of a similar nature in this and other proceedings. In my opinion the services performed by Mr. Nalepa was also reasonable and is documented in the attachments to my Invoice which is attached to this declaration.

Further Declarant Says Not.

Dated November 18, 2021

A handwritten signature in black ink, appearing to read 'N. J. Gordon', written over a horizontal line.

Norman J. Gordon

ATTACHMENT A
INVOICE DATED OCTOBER 20, 2019
RE: PUCT DOCKET 49395

NORMAN J GORDON

PO Box 8
El Paso

915 203 4883

Attn: Karla M. Nieman
City of El Paso
300 N. Campbell
Attn: Office of the City Attorney
PO Box 1890
El Paso, TX 79950-1890
El Paso TX 79901

Statement Date: October 20, 2019
Statement No. 148
Account No. 1.07
Page: 1

RE: DCRF Docket 49395

Payments received after 10/20/2019 are not included on this statement.

Fees

| | | | Hours | |
|------------|-----|--|-------|----------|
| 03/28/2019 | NJG | receipt and Initial review of DCRF request, prepare motions for City Council. | 1.40 | 490.00 |
| 04/02/2019 | NJG | Analysis for presentation to city Council re: filing and Intervention, to Council meeting and return. | 1.20 | 420.00 |
| 04/03/2019 | NJG | Prepare and send Intervention for filing at PUCT. | 0.20 | 70.00 |
| 04/22/2019 | NJG | Receive draft and Edit and Prepare first RFI's to EPE. | 0.70 | 245.00 |
| 05/13/2019 | NJG | E-mails from K Nalepa, Review Staff RFI's and projects identified in RFI, Identify areas of potential testimony, and EPE statements. | 1.60 | 560.00 |
| 05/14/2019 | NJG | Review and edit draft Nalepa testimony/ Tel. K Nalepa, review Staff RFI's and projects identified. | 1.10 | 385.00 |
| 05/15/2019 | NJG | Edit draft testimony, prepare declaration on fees, Tel. K Nalepa, and review EPE filing statements and discovery responses on disputed projects. | 2.50 | 875.00 |
| 06/17/2019 | NJG | Draft Initial Brief | 2.90 | 1,015.00 |
| 06/18/2019 | NJG | Finalize and edit initial brief for filing. | 3.20 | 1,120.00 |
| 06/20/2019 | NJG | Review EPE brief and draft reply brief and edits to findings | 3.00 | 1,050.00 |
| 06/21/2019 | NJG | Complete Reply Brief and finalize for filing. | 2.50 | 875.00 |
| 06/24/2019 | NJG | Review EPE Reply Brief and Staff Edits to Order. | 0.50 | 175.00 |
| | | For Current Services Rendered | 20.80 | 7,280.00 |

Advances

| | | |
|------------|---|----------|
| 04/03/2019 | Federal Express to PUCT \$27.59 of \$55.17) | 27.59 |
| 05/16/2019 | Courier fee | 45.11 |
| 06/06/2019 | ReSolved Energy Consulting | 2,052.00 |
| 06/06/2019 | ReSolved Energy Consulting | 1,188.00 |

City of El Paso
Account No. 1.07
RE: DCRF Docket 49395

Statement Date: 10/20/2019
Statement No. 148
Page No. 2

| | | |
|------------|----------------------------|--------------------|
| 06/18/2019 | Courier fee UPS To PUCT | 35.57 |
| 07/03/2019 | ReSolved Energy Consulting | 1,080.00 |
| | Total Advances | <u>4,428.27</u> |
| | Total Current Work | 11,708.27 |
| | Balance Due | <u>\$11,708.27</u> |

| Billing History | | | | |
|-----------------|-----------------|-----------------|-----------------------|-----------------|
| <u>Fees</u> | <u>Expenses</u> | <u>Advances</u> | <u>Finance Charge</u> | <u>Payments</u> |
| 7,280.00 | 0.00 | 4,428.27 | 0.00 | 0.00 |

Please make checks payable to "Norman J. Gordon"



FedEx Billing Online

Tracking ID Details

[Back](#)

Tracking ID Summary

[Help](#) [Hide](#)

Billing Information

Tracking ID no. [<Prev](#) 774878214296 [Next>](#)

Invoice no. 4-746-05111
Account no. 6433-4225-1
Bill date 04/03/2019
Total Billed \$55.17
Tracking ID Balance due \$0.00
Status Paid CC

Messages

Distance Based Pricing, Zone 4
Fuel Surcharge - FedEx has applied a fuel surcharg [Read More](#).

[View Invoice History](#)[View signature proof of delivery](#)

Transaction Details

[Help](#) [Hide](#)

Sender Information

Norman Gordon
221 N. Kansas
EL PASO TX 79901
US

Recipient Information

Public Utility Commission of T
Central Records
1701 N. Congress
AUSTIN TX 78701
US

Shipment Details

Ship date 04/03/2019
Payment type Shipper
Service type FedEx Priority Overnight
Zone 04
Package type FedEx Pak
Rated weight 2.00lbs
Pieces 1
Meter No. 114237371
Declared value \$0.00

Charges

| | |
|-----------------------|----------------|
| Transportation Charge | 61.10 |
| Fuel Surcharge | 3.85 |
| Weekday Delivery | 0.00 |
| Discount | -9.78 |
| Total charges | \$55.17 |

Original Reference

Customer reference no. Docket 48181 and Docket 4
Department no.
Reference #2
Reference #3

**\$27.59 Billed to DCRF PUC Docket
49395**

Proof of Delivery

Delivery date 04/04/2019 09:08
Service area code A1
Signed by L.CLARK

[View signature proof of delivery](#)[Back](#)

**Delivery Service Invoice**

Invoice Date **May 18, 2019**
 Invoice Number **000087FR50209**
 Shipper Number **87FR50**

Page 3 of 3

Outbound**UPS Internet Shipping**

| Pickup Date | Tracking Number | Service | ZIP Code | Zone | Weight | Published Charge | Incentive Credit | Billed Charge |
|-------------|--------------------|--|----------|------|--------|------------------|------------------|---------------|
| 05/16 | 1Z87FR500100001014 | Next Day Air Commercial | 78701 | 106 | 3 | 83.54 | -41.77 | 41.77 |
| | | Customer Weight | | | 2 | | | |
| | | Fuel Surcharge | | | | 6.68 | -3.34 | 3.34 |
| | | Customer Entered Dimensions = 13 x 11 x 2 in | | | | | | |
| | | Total | | | | 90.22 | -45.11 | 45.11 |

1st ref: 49395

UserID: Njgordon2

Sender : Norman Gordon
 Norman J Gordon
 25864 Fairmount Blvd
 BEACHWOOD OH 44122

Receiver: Central Records
 Public Utility Commission of T
 1701 N Congress
 AUSTIN TX 78701

Message Codes:r

| | | | | | | | | |
|----------------------------------|--|--|--|--|--------------|-------|--------|-------|
| Total for Internet-ID: Njgordon2 | | | | | | 90.22 | -45.11 | 45.11 |
| Total UPS Internet Shipping | | | | | 1 Package(s) | 90.22 | -45.11 | 45.11 |
| Total Outbound | | | | | 1 Package(s) | 90.22 | -45.11 | 45.11 |

Adjustments & Other Charges**Adjustments**

| Explanation | Number of Packages | Published Charge | Incentive Credit | Billed Charge |
|---------------------------------------|--------------------|------------------|------------------|---------------|
| BILLING ADJUSTMENT FOR W/E 05/18/2019 | | 1.00 | | 1.00 |
| SHIPPING CHARGE CORRECTION AUDIT FEE | | | | |
| FEE BASED ON 1 PACKAGES | | | | |
| AND \$2.50 CORRECTION AMOUNT | | | | |
| Total Adjustments | | 1.00 | | 1.00 |

Shipping Charge Corrections Learn how to avoid future shipping charge corrections. Visit www.ups.com/avoidcharges.

| Pickup Date | Tracking Number | Original Service/Corrected Service | ZIP Code | Zone | Weight | Published Charge | Incentive Credit | Billed Charge | Adjustment Amount |
|-------------|--------------------|------------------------------------|----------|------|----------------------------------|------------------|------------------|---------------|-------------------|
| 05/16 | 1Z87FR500100001014 | Next Day Air | 78701 | 106 | 3 | 83.54 | -41.77 | 41.77 | |
| | | Next Day Air | 78701 | 106 | 4.0 | 88.16 | -44.08 | 44.08 | |
| | | Fuel Surcharge | | | | 0.37 | -0.18 | 0.19 | 2.50 |
| | | 1st ref: 49395 | | | | | | | |
| | | Sender : NORMAN GORDON | | | Receiver: Central Records | | | | |
| | | NORMAN J GORDON ATTORNEY | | | Public Utility Commission of T | | | | |
| | | KANSAS | | | 1701 N Congress | | | | |
| | | EL PASO TX 79901 | | | AUSTIN TX 78701 | | | | |

| | | | | | | | | |
|-----------------------------------|--|--|--|--|--------------|--|--|------|
| Total Shipping Charge Corrections | | | | | 1 Package(s) | | | 2.50 |
| Total Adjustments & Other Charges | | | | | | | | 3.50 |

Invoice Messaging

| Code | Message |
|------|----------------------------|
| r | Dimensional weight applied |

ReSolved Energy Consulting, LLC

11044 Research Blvd, A-420
Austin, TX 78759

Invoice

| DATE | INVOICE NUMBER |
|----------|----------------|
| 5/6/2019 | 4384 |

BILL TO

Norman Gordon Law
Norman Gordon
221 N. Kansas St., Suite 700
El Paso, TX 79901

PROJECT

EPE 19 DCRF 49395

| DESCRIPTION | HOURS | RATE | AMOUNT |
|--------------------------------------|-----------|--------|------------|
| Consulting (Nalepa) | 4.4 | 270.00 | 1,188.00 |
| Work Completed thru - April 30, 2019 | TOTAL DUE | | \$1,188.00 |

Monthly Recap

Karl Nalepa

| Date | Task | Hours |
|-----------------------|---|-------|
| <i>April 4, 2019</i> | Download and review filing. | 0.80 |
| <i>April 5, 2019</i> | Review filing. | 0.80 |
| <i>April 10, 2019</i> | Call with N. Gordon regarding schedules. Review issues lists. | 0.60 |
| <i>April 22, 2019</i> | Review filing and prepare discovery. Send to N. Gordon. | 1.40 |
| <i>April 24, 2019</i> | Continue to review filing. | 0.80 |
| | | |

4.40

ReSolved Energy Consulting, LLC

11044 Research Blvd, A-420
Austin, TX 78759

Invoice

| DATE | INVOICE NUMBER |
|----------|----------------|
| 6/6/2019 | 4403 |

BILL TO

Norman Gordon Law
Norman Gordon
221 N. Kansas St., Suite 700
El Paso, TX 79901

PROJECT

EPE 19 DCRF 49395

| DESCRIPTION | HOURS | RATE | AMOUNT |
|------------------------------------|-----------|--------|------------|
| Consulting (Nalepa) | 7.6 | 270.00 | 2,052.00 |
| Work Completed thru - May 31, 2019 | TOTAL DUE | | \$2,052.00 |

Monthly Recap

Karl Nalepa

| Date | Task | Hours |
|--------------|---|-------|
| May 5, 2019 | Work on analysis of issues. | 0.40 |
| May 6, 2019 | Download and review responses to discovery. | 0.60 |
| May 9, 2019 | Work on analysis of issues. | 0.80 |
| May 11, 2019 | Work on analysis and draft testimony. | 1.40 |
| May 13, 2019 | Send list of issues to N. Gordon. Complete draft testimony and send to N. Gordon for review. | 2.00 |
| May 14, 2019 | Review testimony and resend to N. Gordon. | 0.40 |
| May 15, 2019 | Review testimony edits. Call with N Gordon regarding support for adjustments. Review final draft testimony. | 0.80 |
| May 21, 2019 | Review responses to Staff discovery. | 0.40 |
| May 24, 2019 | Review Staff testimony. | 0.40 |
| May 29, 2019 | Call with N. Gordon to discuss settlement offer and rebuttal testimony. | 0.40 |
| | | |

7.60

**Delivery Service Invoice**

Invoice Date **June 22, 2019**
 Invoice Number **000087FR50259**
 Shipper Number **87FR50**

Page 3 of 3

Outbound**UPS Internet Shipping**

| Pickup Date | Tracking Number | Service | ZIP Code | Zone | Weight | Published Charge | Incentive Credit | Billed Charge |
|----------------------------------|------------------------|-------------------------|--------------------------------|--------------|--------|------------------|------------------|---------------|
| 06/18 | 1Z87FR500103820839 | Next Day Air Commercial | 78701 | 106 | 1 | 66.65 | -33.33 | 33.32 |
| | | Letter | | | | | | |
| | | Customer Weight | | | 0.7 | | | |
| | | Fuel Surcharge | | | | 4.50 | -2.25 | 2.25 |
| | | Total | | | | 71.15 | -35.58 | 35.57 |
| | 1st ref: 49395 | | UserID: Njgordon2 | | | | | |
| | Sender : Norman Gordon | | Receiver: Central Records | | | | | |
| | Norman J Gordon | | Public Utility Commission of T | | | | | |
| | 25864 Fairmount Blvd | | 1701 N Congress | | | | | |
| | BEACHWOOD OH 44122 | | AUSTIN TX 78701 | | | | | |
| 06/19 | 1Z87FR500113071648 | Next Day Air Commercial | 78701 | 106 | 8 | 117.36 | -58.68 | 58.68 |
| | | Fuel Surcharge | | | | 7.92 | -3.96 | 3.96 |
| | | Total | | | | 125.28 | -62.64 | 62.64 |
| | 1st ref: 49395 | | UserID: Njgordon2 | | | | | |
| | Sender : Norman Gordon | | Receiver: Central Records | | | | | |
| | Norman J Gordon | | Public Utility Commission of T | | | | | |
| | 25864 Fairmount Blvd | | 1701 N Congress | | | | | |
| | BEACHWOOD OH 44122 | | AUSTIN TX 78701 | | | | | |
| Total for Internet-ID: Njgordon2 | | | | | | 196.43 | -98.22 | 98.21 |
| Total UPS Internet Shipping | | | | 2 Package(s) | | 196.43 | -98.22 | 98.21 |
| Total Outbound | | | | 2 Package(s) | | 196.43 | -98.22 | 98.21 |

Adjustments & Other Charges**Shipping Charge Corrections** Learn how to avoid future shipping charge corrections. Visit www.ups.com/avoidcharges.

| Pickup Date | Tracking Number | Original Service/ Corrected Service | ZIP Code | Zone | Weight | Published Charge | Incentive Credit | Billed Charge | Adjustment Amount |
|-----------------------------------|--------------------------|--|--------------------------------|------|--------------|---------------------|---------------------|------------------|----------------------|
| 06/19 | 1Z87FR500113071648 | Next Day Air | 78701 | 106 | 8 | 117.36 | -58.68 | 58.68 | |
| | | Next Day Air | 78701 | 106 | 9.0 | 118.18 | -59.09 | 59.09 | |
| | | Fuel Surcharge | | | | 0.06 | -0.03 | 0.03 | 0.44 |
| | 1st ref: 49395 | | | | | | | | |
| | Sender : NORMAN GORDON | | Receiver: Central Records | | | | | | |
| | NORMAN J GORDON ATTORNEY | | Public Utility Commission of T | | | | | | |
| | KANSAS | | 1701 N Congress | | | | | | |
| | EL PASO TX 79901 | | AUSTIN TX 78701 | | | | | | |
| Total Shipping Charge Corrections | | | | | 1 Package(s) | | | | 0.44 |
| Total Adjustments & Other Charges | | | | | | | | | 0.44 |

ReSolved Energy Consulting, LLC

11044 Research Blvd, A-420
Austin, TX 78759

Invoice

| DATE | INVOICE NUMBER |
|----------|----------------|
| 7/3/2019 | 4423 |

BILL TO

Norman Gordon Law
Norman Gordon
221 N. Kansas St., Suite 700
El Paso, TX 79901

PROJECT

EPE 19 DCRF 49395

| DESCRIPTION | HOURS | RATE | AMOUNT |
|-------------------------------------|-------|-----------|------------|
| Consulting (Nalepa) | 4 | 270.00 | 1,080.00 |
| Work Completed thru - June 30, 2019 | | TOTAL DUE | \$1,080.00 |

Monthly Recap

Karl Nalepa

| Date | Task | Hours |
|---------------|---|-------|
| June 1, 2019 | Review rebuttal testimony. | 0.80 |
| June 4, 2019 | Prepare rebuttal discovery and send to N. Gordon. | 0.80 |
| June 5, 2019 | Call with N. Gordon to discuss settlement proposals. | 0.40 |
| June 6, 2019 | Call with N. Gordon to follow-up on settlement proposal. | 0.20 |
| June 11, 2019 | Call with N. Gordon to discuss case issues. | 0.20 |
| June 20, 2019 | Review initial briefs. Send comments on EPE initial brief to N. Gordon. | 1.00 |
| June 26, 2019 | Review reply briefs. | 0.60 |
| | | |

4.00