



Filing Receipt

Received - 2021-12-15 02:54:09 PM
Control Number - 52195
ItemNumber - 479

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

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

TEXAS INDUSTRIAL ENERGY CONSUMERS NINTH REQUEST FOR
INFORMATION TO EL PASO ELECTRIC COMPANY

Pursuant to 16 T.A.C. § 22.144, Texas Industrial Energy Consumers (“TIEC”) requests that El Paso Electric Company (“EPE”) provide all of the information requested in Exhibit “A” within the time frame specified under the procedural schedule set in this proceeding.

Pursuant to 16 T.A.C. § 22.144(c)(2), TIEC further requests that answers to the requests for information be made under oath. Each answer should identify the person responsible for preparing that answer (other than the purely clerical aspects of its preparation) and the name of the witness in this proceeding who will sponsor the answer and who can vouch for its accuracy. In producing documents pursuant to this request for information, please indicate the specific request(s) to which the document is being produced. These requests are continuing in nature, and should there be, for any reason, a change in circumstances which would modify or change an answer supplied by you, such changed answer should be submitted immediately as a supplement to your original answer pursuant to 16 T.A.C. § 22.144(i). Please answer each request and sub-request in the order in which they are listed and in sufficient detail to provide a complete and accurate answer to the request. TIEC further requests that each item of information be made available as it is completed, rather than upon compilation of all information requested.

All information responsive to the requests on the attached Exhibit “A” should be sent to the following persons via overnight courier, on a piecemeal basis as individual items become available:

Mr. Rex D. VanMiddlesworth
Mr. Benjamin B. Hallmark
Mr. Christian E. Rice
303 Colorado St., Suite 2750
Austin, TX 78701
(737) 261-8600
rexvanm@omm.com
bhallmark@omm.com
crice@omm.com
OMMeservice@omm.com

DEFINITIONS AND INSTRUCTIONS

A. “EPE,” “the Company” or “you” refers to El Paso Electric Company, and its affiliates, subsidiaries, and any person acting or purporting to act on their behalf, including without limitation, attorneys, agents, advisors, investigators, representatives, employees or other persons. This definition is not intended to extend an RFI to encompass attorney work product.

B. “Applicant” refers to El Paso Electric Company, and their affiliates, subsidiaries, and any person acting or purporting to act on their behalf, as it relates to this proceeding and related appeals, including without limitation, attorneys, agents, advisors, investigators, representatives, employees or other persons. This definition is not intended to extend an RFI to encompass attorney work product.

C. The terms “document” or “documents” are used in their broadest sense to include, by way of illustration and not limitation, all written or graphic matter of every kind and description whether printed, produced, reproduced or stored by any process whether visually, magnetically, mechanically, electronically or by hand, whether final or draft, original or reproduction, whether or not claimed to be privileged or otherwise excludable from discovery, and whether or not in your actual or constructive possession, custody, or control. The terms include writings, correspondence, telegrams, memoranda, studies, reports, surveys, statistical compilations, notes, calendars, tapes, computer disks, data on computer drives, e-mail, cards, recordings, contracts, agreements, invoices, licenses, diaries, journals, accounts, pamphlets, books, ledgers, publications, microfilm, microfiche and any other data compilations from which information can be obtained and translated, by you if necessary, into reasonably usable form. The definition includes electronic information that has been deleted. “Document” or “documents” shall also include every copy of a document where the copy contains any commentary or notation of any kind that does not appear on the original or any other copy.

D. Pursuant to Rule 196.4 of the Texas Rules of Civil Procedure, TIEC specifically requests that any electronic or magnetic information (which is included in the definition of “document”) that is responsive to a request herein be produced on CD-ROM in a format that is compatible with Adobe Acrobat, Microsoft, Macintosh and/or Word Perfect and be produced with your response to these requests. If emails are responsive to these requests, please provide a searchable .pdf copy of the entire email string. Attachments to emails should be provided with the

email in searchable .pdf form, unless it is stored in a different format, in which the attachment should be produced in its native format and provided on CD-Rom.

E. The terms “and” and “or” shall be construed both disjunctively and conjunctively as necessary to make the request inclusive rather than exclusive.

F. “Each” shall be construed to include the word “every” and “every” shall be construed to include the word “each.”

G. “Any” shall be construed to include “all” and “all” shall be construed to include “any.”

H. The term “concerning,” or one of its inflections, includes the following meanings: relating to; referring to; pertaining to; regarding; discussing; mentioning; containing; reflecting; evidencing; describing; showing; identifying; providing; disproving; consisting of; supporting; contradicting; in any way legally, logically or factually connected with the matter to which the term refers; or having a tendency to prove or disprove the matter to which the term refers.

I. The term “including,” or one of its inflections, means and refers to “including but not limited to.”

J. Words used in the plural shall also be taken to mean and include the singular. Words used in the singular shall also be taken to mean and include the plural.

K. The present tense shall be construed to include the past tense, and the past tense shall be construed to include the present tense.

L. If any document is withheld under any claims of privilege, please furnish a list identifying each document for which a privilege is claimed together with the following information: date, sender, recipients of copies, subject matter of the document, and the basis upon which such privilege is claimed. This instruction is not intended to impose an obligation greater than contemplated by the Commission’s rules and any applicable orders in this case.

M. Pursuant to 16 T.A.C. § 22.144(h)(4), if the response to any request is voluminous, please provide a detailed index of the voluminous material.

N. If the information requested is included in previously furnished exhibits, workpapers, and responses to other discovery inquiries or otherwise, in hard copy or electronic format, please furnish specific references thereto, including Bates Stamp page citations and detailed cross-references.

O. The term “emails” includes the entire email string and all attachments found anywhere within the email string. Please refer to paragraph “D.” regarding specific instructions for producing such items.

P. “Communications” refers to correspondence of any kind, including emails.

Q. “Identify” and “describe” shall have the meaning set forth below according to the context in which the term is used:

- i. When used in reference to an individual, shall mean to state his or her full name, business affiliation, job title, and business address and telephone number;
- ii. When used in reference to a corporation, shall mean to state its full name, its state of incorporation, its address and its principal place of business;
- iii. When used in reference to any entity other than an individual or corporation, shall mean to state its official name, its organizational form and its address;
- iv. When used in reference to a document, shall mean to state the type of document, date, author, addressee, title, its present location, the name and address of its custodian, and the substance of the contents thereof. In lieu of identifying any document, copies thereof may be furnished; and
- v. When used in reference to a communication, shall mean to state the form of the communication (e.g., telephone conversation, letter, telegram, teletype, telecopy, written memorandum, face to face conversation, or any other form), the date of the communication or the dates on which the communication was sent and/or received if not the same, the parties to the communication, the party who initiated it, the substance of the communication, and the present location and the name and address of the custodian if the communication was non-verbal and/or of any written memorialization of the communication.

Respectfully submitted,

O'MELVENY & MYERS LLP

/s/ Benjamin B. Hallmark

Rex D. VanMiddlesworth

State Bar No. 20449400

Benjamin B. Hallmark

State Bar No. 24069865

Christian E. Rice

State Bar No. 24122294

303 Colorado St., Suite 2750

Austin, TX 78701

(737) 261-8600

rexvanm@omm.com

bhallmark@omm.com

crice@omm.com

OMMeservice@omm.com

**ATTORNEYS FOR TEXAS INDUSTRIAL
ENERGY CONSUMERS**

CERTIFICATE OF SERVICE

I, Christian E. Rice, Attorney for TIEC, hereby certify that a copy of this document was served on all parties of record in this proceeding on this 15th day of December, 2021 by electronic mail, facsimile, and/or First Class, U.S. Mail, Postage Prepaid.

/s/ Christian E. Rice

Christian E. Rice

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

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

**TEXAS INDUSTRIAL ENERGY CONSUMERS NINTH REQUEST FOR
INFORMATION TO EL PASO ELECTRIC COMPANY**

- TIEC 9-1** On an electronic spreadsheet with all formulas intact, please provide complete copies of all the workpapers used to produce the charts, schedules, and figures included in EPE witness Jennifer Nelson's rebuttal testimony.
- TIEC 9-2** Please provide complete copies of the articles or portions of textbooks, reports or journals cited by Ms. Nelson in her rebuttal testimony.
- TIEC 9-3** At page 43 of Ms. Nelson's rebuttal testimony, she describes her support for use of forecasted interest rates within a CAPM. With respect to this testimony, please answer the following:
- a. Did Ms. Nelson use forecasted interest rates to be available with the market data used to develop the CAPM return including the published beta? If Ms. Nelson does not confirm, please explain how she used forecasted interest rates.
 - b. In Ms. Nelson's opinion, is it possible that the Value Line beta for companies in her proxy group will change over the next five years? Please explain her answer.
 - c. Were the beta estimates she relied on based on five years of historical data ending at or near the publish date from the Value Line source from which she relied? Please explain the answer.
 - d. Does Ms. Nelson agree that the use of forecasted GDP in growth rates for multi-stage growth assumed that those factors will come into play many years beyond the initial year where the stock dividend yield and short-term growth rates are measured? Please explain her answer.
- TIEC 9-4** At pages 46 and 47 of Ms. Nelson's rebuttal testimony, she outlines her support for use of both utility and Treasury forecasted yields in a risk premium analysis. With respect to this testimony, please provide the following:
- a. Is it accurate that Ms. Nelson did not use current observable Treasury and utility yields in measuring a risk premium analysis in this case? Please explain the answer.

- b. Please provide any analysis of whether or not Ms. Nelson has any academic studies that support Ms. Nelson's implication that forecasted yields will more accurately reflect the market's demanded cost of capital for utilities than current observable bond yields.
- c. Does Ms. Nelson agree that a utility's ability to access capital would be determined by the capital demands from investors, and not projections of economists? Please explain her answer.
- d. Is Ms. Nelson's risk premium methodology driven primarily by her representation that risk premiums will move inversely with interest rates over time in a predictable manner? Please explain the answer.

TIEC 9-5 Referring to page 51 of Ms. Nelson's rebuttal testimony where she maintains that she corrected Mr. Gorman's risk premium analysis, please specifically identify: (1) the risk premium; and (2) bond yields, used to produce the risk premium estimates of 9.47%, 9.62%, and 9.77% as referenced at line 18.

TIEC 9-6 Referring to pages 58 and 59 of Ms. Nelson's rebuttal testimony concerning the development of credit metric financial ratios, please answer the following:

- a. Is it Ms. Nelson's perspective that the authorized return on equity is irrelevant in measuring the utility's financial integrity and credit standing? Please explain her answer.
- b. Does Ms. Nelson agree that as the authorized return on equity decreases from 10.3% to 9.2%, the Debt/EBITDA ratio improves to 3.93x at 10.3% from 4.13x at 9.2%? If Ms. Nelson disagrees, please explain her perspective.
- c. Does Ms. Nelson agree that as the authorized return on equity decreases from 10.3% to 9.2%, that her estimated FFO/Debt ratio improves from 18% to 17%? If Ms. Nelson disagrees, please explain her answer.
- d. Does Ms. Nelson agree that the EBITDA largely reflects revenue requirement that supports rate base investments? Please explain her answer.
- e. Does Ms. Nelson agree that the Funds From Operations ("FFO") is a cash flow metric that measures internally generated funds for the utility and is largely based on after-tax net income, deferred taxes, depreciation expense and other non-cash items? If Ms. Nelson disagrees, please explain her understanding of FFO.

TIEC 9-7 Concerning Ms. Nelson's assessment of business risk and other considerations, please answer the following:

- a. Does Ms. Nelson understand that EPE is provided service from its parent company under an affiliate service agreement? Please explain her answer.

- b. To the extent the affiliate service agreement mitigates EPE's stand-alone risk for employees, engineering services, treasury functions, executive functions, and legal functions, does Ms. Nelson believe that customers' payment for these services from the affiliate service agreement should be considered in assessing EPE's risk? Please explain answer.

TIEC 9-8 Please identify and provide the recommended return on equity and the regulatory commission's approved return on equity in every electric utility rate case in which Ms. Nelson has testified since the beginning of 2016.

TIEC 9-9 Please provide all published materials that Ms. Nelson has authored and presentations that Ms. Nelson has given within the past ten years on utility cost of capital and return on equity issues.

TIEC 9-10 Referring to Mr. Novela's cross-rebuttal testimony at page 5-6:

- a. Has System Planning always used a forecasted CP rather than a historical CP for planning? If not, please explain when the change was made and why.
- b. Please provide EPE's monthly CP for each month in 2021.