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

APPLICATION OF EL PASO ELECTRIC
COMPANY TO CHANGE RATES

§
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BEFORE THE STATE OFFICE
OF
ADMINISTRATIVE HEARINGS

SUPPLEMENTAL DIRECT TESTIMONY IN SUPPORT OF
UNCONTESTED SETTLEMENT

OF

JAMES SCHICHTL

FOR

EL PASO ELECTRIC COMPANY

JULY 2022

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Exhibit JS-1S Affidavit of Matthew Behrens Regarding El Paso Electric Company's Rate
Case Expenses

1 I. INTRODUCTION

2 Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

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

5
6 Q. HAVE YOU PREVIOUSLY FILED TESTIMONY IN THIS PROCEEDING?

7 A. Yes, I have filed direct and rebuttal testimony for El Paso Electric Company (EPE or
8 Company).

9
10 II. PURPOSE AND ORGANIZATION OF SUPPLEMENTAL SETTLEMENT
11 TESTIMONY

12 Q. WHAT IS THE PURPOSE OF YOUR SUPPLEMENTAL SETTLEMENT
13 TESTIMONY?

14 A. My supplemental settlement testimony describes and supports the Unopposed
15 Stipulation and Agreement (the Agreement) in this case. All the parties to this
16 proceeding support the Agreement, which settles and resolves all issues in this
17 proceeding, including the recovery of rate case expenses.

18
19 Q. HOW IS YOUR TESTIMONY ORGANIZED?

20 A. My testimony is organized by subject matter, as follows:

- 21 • Section III summarizes the Agreement, along with other background
22 information.
- 23 • Section IV describes the revenue requirement and capital structure
24 components of the Agreement. Section IV also addresses the settlement of
25 rate case expenses.

- In Section V, I describe the revenue distribution and rate design provisions of the Agreement.
- In Section VI, I describe the additional financial measures that would apply to EPE under the Agreement.
- Lastly, Section VII summarizes why the Commission should approve and implement the Agreement.

III. SUMMARY OF THE AGREEMENT

Q. COULD YOU PLEASE DESCRIBE THE AGREEMENT?

A. The Agreement, along with its eight Exhibits, has been filed separately and contemporaneously with the filing of this testimony as part of the Joint Motion to Implement Uncontested Stipulation and Agreement. The parties signing the Agreement (the Signatories) request that the Commission approve and implement it. Given its size and in the interest of avoiding unnecessary duplication, I have not attached the Agreement, but I sponsor it. The eight Exhibits to the Agreement and their corresponding articles within the Agreement are as follows:

Exhibit #1 - Depreciation rates (Article I.3)

Exhibit #2 - DCRF baseline values (Article I.11)

Exhibit #3 - TCRF baseline values (Article I.11)

Exhibit #4 - GCRR baseline values (Article I.11)

Exhibit #5 - Revenue distribution (Article I. 12)

Exhibit #6 - Rate Design agreements (Article I.12)

Exhibit #7 - Tariffs (Article I.12)

Exhibit #8 - Proposed Commission order (Article II.1)

1 Q. AT WHAT STAGE IN THIS PROCEEDING WAS THE AGREEMENT NEGOTIATED
2 AND REACHED?

3 A. Settlement discussions began tentatively following filing of rebuttal testimony on
4 November 21, 2021, and then accelerated as the hearing on the merits, which began
5 on January 10, 2022, progressed. On January 19, 2022, in Order No. 10, the
6 Administrative Law Judges (ALJs) granted the parties' request to abate the hearing so
7 that the parties could focus on settlement discussions. On February 7, 2022, the City
8 of El Paso filed a request for mediation, which was granted by SOAH Order No. 11,
9 and a mediation was conducted by SOAH on February 24, 2022. However, the
10 mediation was unsuccessful.

11 The hearing was reconvened on March 11, 2022, at which time EPE
12 announced its belief that the parties had reached an agreement on the revenue
13 increase and the distribution of the increase to the classes, but that there were still
14 rate design issues to be resolved. The hearing was recessed that day and then
15 cancelled by SOAH Order No. 15 to allow the parties to pursue a comprehensive
16 resolution of the proceeding. On July 15, 2022, the Agreement was filed.

17

18 Q. BEFORE REACHING THE AGREEMENT, DID THE PARTIES HAVE SUFFICIENT
19 OPPORTUNITY BOTH TO VET EPE'S CASE AND TO PRESENT THEIR OWN
20 VIEWS?

21 A. Yes, I believe so. EPE filed this rate case on June 1, 2021. The parties had the
22 opportunity for full discovery on EPE's direct case as well as its rebuttal case. The
23 parties also had the opportunity to present their own views through their direct
24 testimony and cross-rebuttal testimony. Unquestionably, the parties had an
25 abundance of information to use in analyzing the issues and developing their litigation
26 and settlement positions.

1 Q. DO ALL OF THE PARTIES IN THIS PROCEEDING SUPPORT THE AGREEMENT?

2 A. Yes.

3

4 Q. PLEASE SUMMARIZE THE KEY TERMS OF THE AGREEMENT.

5 A. The Agreement has several primary terms:

6 1. EPE will receive a \$5.149 million base revenue increase in Texas. This
7 increase will relate back to consumption on and after November 3, 2021.
8 (Agreement Article I.1).

9 2. The specific rate treatments for several components of rate base and revenue
10 requirement are addressed; for example, additions to investment for the Isleta
11 Right of Way and spare parts at the Montana Power Station. Otherwise, all of
12 EPE's invested capital is found to be prudent. (Article I.2).

13 3. The Agreement adopts the depreciation rates recommended by the Staff of the
14 Public Utility Commission of Texas ("Staff"). (Article I.3).

15 4. The Agreement specifies certain financial matters—EPE's weighted average
16 cost of capital, cost of debt, return on equity, and capital structure. (Article I.4.)

17 5. The Agreement also specifies that no costs for nuclear decommissioning are
18 included in EPE's cost of service. (Article I.5).

19 6. An agreed amount of COVID-related costs will be recovered through a
20 separate rider with a four-year amortization period. (Agreement Article I.6).

21 7. The costs for three of EPE's generating units that had been scheduled for
22 retirement in 2022 (Newman Units 1 and 2 and Rio Grande 7) are separated
23 out of base rates for recovery through a separate rider (the "Retiring Plant
24 Rider"). As each unit ceases to provide service to customers, the rider will be
25 adjusted to reflect the removal of the unit from service. (Agreement Article I.7).

- 1 8. EPE's rate case expenses are to be recovered through a separate rider over a
2 four-year period. (Agreement Article I.8).
- 3 9. The unprotected excess deferred federal income taxes and those specific
4 protected excess deferred federal income taxes that could already have been
5 returned without violating normalization requirements (the "stub period" excess
6 deferred federal income) are returned to customers over a four-year period.
7 (Agreement Article I.9).
- 8 10. The relate-back surcharge will be offset to the extent possible by the Excess
9 Accumulated Deferred Federal Income Taxes that would otherwise be
10 amortized. (Article I.10).
- 11 11. Baseline values and other provisions are established for future distribution and
12 transmission cost recovery factor and generation cost recovery rider filings.
13 (Article I.11).
- 14 12. The distribution of total revenues, including base rates and the riders, to
15 customer classes is established. (Article I.12).
- 16 13. There is an agreed rate design, and tariff language changes supporting the
17 proposed rates and the Agreement are approved. (Article I.12).
- 18 14. EPE will be subject to two of the additional Ring-Fencing provisions proposed
19 by Staff. (Article 1.13).

20 I will describe these items in more detail below.

21

22 IV. REVENUE REQUIREMENT TERMS OF THE SETTLEMENT

23 Q. PLEASE PROVIDE DETAILS OF THE REVENUE REQUIREMENT TERMS OF THE
24 AGREEMENT.

25 A. The revenue requirement terms of the Agreement reflect a significant reduction of
26 EPE's original and rebuttal revenue requirement requests. The Agreement settles and

1 resolves all revenue requirement issues in this proceeding, as set out in Article I.1 (the
2 specific rate increase) and Articles I.2 through 12 (rate treatment of certain cost items).

3 The Agreement begins with EPE's base revenues. It recommends, as I stated
4 earlier, granting the Company a base revenue increase of \$5.149 million over existing
5 base rates and Distribution Cost Recovery Factor (DCRF) and Transmission Cost
6 Recover Factor (TCRF) revenues. This rate increase is laid out in Article I.1 of the
7 Agreement.

8 After accounting for revenues already being recovered through EPE's DCRF
9 and TCRF, EPE originally requested an additional increase to base revenues of \$41.8
10 million using a January 1, 2020, through December 31, 2021, test year. EPE's request
11 equated to an average increase in base rates of 7.79 percent. Through the course of
12 discovery on that filing and a review of Staff and intervenor testimony, and with the
13 separation of COVID-related expenses and rate case expenses from the base rates
14 for recovery through a rider case docket, EPE reduced its Texas retail rate request to
15 \$35.69 million in its rebuttal testimony. That \$35.69 million is the amount of base rate
16 increase that EPE believes is supported by the facts and law, as well as Commission
17 rules and policy. It is also the amount EPE would request absent the Agreement.
18 Thus, EPE has agreed to a substantially lower base revenue increase than what EPE's
19 evidence supports.

20 The revenue requirement terms of the Agreement are the result of a lengthy,
21 detail-driven process in which numerous parties participated. Several parties to this
22 proceeding presented revenue requirement testimony, including Staff, the Office of
23 Public Utility Counsel, the City of El Paso, and Texas Industrial Energy Consumers.
24 All of these parties have agreed to the revenue requirement contained in the
25 Agreement.

1 Q. WHEN IS THE EFFECTIVE DATE FOR THE RATE INCREASE?

2 A. Rates reflecting the increased Texas jurisdictional base-rate revenue requirement and
3 the Retiring Plant Rider will apply for consumption on and after November 3, 2021.
4 The riders for COVID-related expenses, rate case expenses, and Excess Deferred
5 Federal Income Tax will apply prospectively after approval on an interim basis by the
6 State Office of Administrative Hearing (SOAH) and on a final basis by the Commission.

7

8 *Prudence & Rate Base Treatment for Investment*

9 Q. HOW DOES THE AGREEMENT ADDRESS THE RATE TREATMENT OF EPE'S
10 INVESTED CAPITAL?

11 A. Article I.2 of the Agreement addresses this subject. With two specific exceptions, all
12 EPE investment through December 31, 2020, the end of the test year, as presented
13 in EPE's rate filing package, is used and useful in providing service, prudent, and
14 included in rate base. The two specific exceptions are:

15 a. a disallowance to the original cost for the Isleta Right of Way (which is
16 described in the direct testimony of Clay Doyle filed on June 1, 2021) as
17 follows: in any future TCRF or base rate proceeding, the original cost of
18 \$16.8 million will be reduced such that the net plant in service balance as of
19 December 31, 2022, will be \$ 7.962 million (Texas retail); and

20 b. a disallowance of \$500,000 of the original cost (total company) of the spare
21 parts at the Montana Power Station, including a spare LMS 100 Turbine and
22 Booster, which are described in the direct testimony of Kyle Olson filed on
23 June 1, 2021.

24 While EPE believes the full investment in these two items was reasonable, prudent,
25 and used and useful, in the spirit of compromise EPE agreed to these adjustments to
26 reach a settlement in this proceeding.

1 This provision promotes the public interest by eliminating possible future and
2 contentious litigation over EPE's invested capital through December 2020.

3
4 *Depreciation*

5 Q. HOW DOES THE AGREEMENT ADDRESS DEPRECIATION?

6 A. In Article I.3 and Exhibit 1, the Agreement adopts the proposed depreciation rates of
7 Staff witness Heidi Graham.

8
9 *Certain Financial Matters*

10 Q. PLEASE SUMMARIZE WHAT FINANCIAL MATTERS THE AGREEMENT
11 ADDRESSES.

12 A. The Agreement (in Article I.4) lays out EPE's agreed capital structure and weighted
13 average cost of capital effective August 1, 2017, with the components as follows:

Item	Percentage
Regulatory capital structure	Long term debt = 49 Equity = 51
Cost of debt	5.576
Return on equity	9.35
Weighted average cost of capital	7.501

14 The Company had proposed a return on equity of 10.3 percent.

15
16 *Nuclear Decommissioning*

17 Q. WHAT DOES THE AGREEMENT SAY ABOUT NUCLEAR DECOMMISSIONING?

18 A. Article I.5 states that no (Texas jurisdiction) costs for nuclear decommissioning funding
19 are included in EPE's cost of service. As explained by EPE witness Larry Hancock,

1 EPE had removed from its requested cost of service any funding for decommissioning
2 of Palo Verde Generating Station because current funds and expected earnings on
3 those funds are sufficient to meet all of EPE's funding obligations at this time. No party
4 contested EPE's assessment.

5
6 *COVID-19 Expenses*

7 Q. DOES THE AGREEMENT ALSO ADDRESS THE RECOVERY OF EXPENSES EPE
8 HAS INCURRED IN RELATION TO THE COVID-19 PANDEMIC?

9 A. Yes, in Article I.6. The Commission issued an Order in Docket No. 50664 that allowed
10 EPE to defer for later recovery COVID-19 related expenses. The Company did so
11 and, in this proceeding, requested recovery of those deferred costs. Under the
12 Agreement, EPE will recover \$6,297,803 of deferred COVID-19 costs through a
13 separate COVID-19 surcharge over a four-year period (\$1,574,451 annually in
14 addition to the base rate revenue requirement in Item No. 1 above). None of the test-
15 year COVID-related costs are included in either EPE's rate base or EPE's base rate
16 revenue requirement. The Agreement provides that EPE will not include any carrying
17 costs on the unamortized amount of the regulatory asset recovered through the
18 surcharge.

19 This surcharge and the four-year amortization do not relate back to
20 November 3, 2021. Instead, the surcharge will begin in the first billing cycle after
21 approval on an interim basis by SOAH and on a final basis by the Commission.

22 Finally, the Agreement provides that by March 31 of each year, EPE will file for
23 approval of a true-up of the previous year to account for any changes in the bad-debt
24 amount and additional COVID-related expenses incurred after the test year and
25 deferred pursuant to the Order in Docket No. 50664, and the Commission may adjust

1 the COVID-19 surcharge to account for approved costs. This provision resolves the
2 procedure for handling future adjustments for the COVID-19 rider.

3 This advances the public interest by permanently resolving a potentially
4 contentious issue.

5

6

Retiring Plant Rider

7 Q. DOES THE AGREEMENT PROVIDE FOR SPECIALIZED TREATMENT FOR SOME
8 OF EPE'S GENERATING UNITS THAT COULD POTENTIALLY BE RETIRED
9 BEFORE EPE'S NEXT RATE PROCEEDING?

10 A. Yes, it does, in Article I.7. The Agreement provides that with regard to three of EPE's
11 generating units, Rio Grande Unit 7, and Newman Units 1 and 2 (collectively called
12 the Retiring Plants), the costs are separated out from EPE's base rates, and EPE will
13 implement the Retiring Plant Rider in an amount of \$5,935,946 per year, which reflects
14 the agreed return on equity and depreciation expense, in addition to other expenses
15 related to the units. The rider will continue until a unit discontinues the provision of
16 electric service, including contingent service for reliability purposes, to Texas
17 ratepayers. The Retiring Plant Rider will relate back to the effective date for base
18 rates, which is November 3, 2021. The Agreement also provides additional details on
19 the treatment of the plants in EPE's next rate proceeding, including placing an
20 obligation on EPE to provide supporting evidence of the reasonableness of the date
21 the units were removed from service.

22

23

Settlement of Rate Case Expenses

24 Q. HOW DOES THE AGREEMENT RESOLVE RATE CASE EXPENSES?

25 A. The settlement of rate case expenses is addressed in Article I.8. The Agreement
26 provides for the recovery of EPE's reasonable and necessary rate case expenses (and

1 those of the City of El Paso, whose expenses EPE should reimburse) that were
2 incurred through March 31, 2022. The Agreement clarifies that “incurred” means when
3 the service leading to the charge was provided. These expenses will be recovered
4 through a separate rider beginning after approval by the Commission and recovered
5 over four years. Based on Staff review, the Signatories agree to the disallowance of
6 \$3,275 of the total rate case expense requested and find the remaining amount of
7 \$4,267,270 to be a reasonable and necessary expense and in compliance with 16
8 Texas Administrative Code (TAC) §25.245.

9 Expenses incurred after March 31, 2022, will be considered in EPE’s next rate
10 proceeding.

11

12 Q. ARE THE RATE CASE EXPENSES ALLOWED UNDER THE SETTLEMENT
13 REASONABLE AND NECESSARY?

14 A. Yes. The Agreement presents a reasonable resolution of the issue of rate case
15 expenses, and the rate case expenses allowed were reasonable and necessary. Also,
16 I have attached an affidavit from Matthew Behrens, which supplements his previous
17 affidavit in this proceeding. Mr. Behrens, an attorney, addresses the reasonableness
18 of the total legal expenses included in the settlement.

19

20 *Excess Accumulated Excess Deferred Income Taxes*

21 Q. WHAT TREATMENT IS AFFORDED THE EXCESS ACCUMULATED EXCESS
22 DEFERRED INCOME TAXES?

23 A. For those Excess Accumulated Excess Deferred Income Taxes that are either the
24 unprotected excess deferred federal income taxes and those specific protected excess
25 deferred federal income taxes that could already have been returned without violating
26 normalization requirements (the “stub period” excess deferred federal income), the

1 Agreement provides that an agreed amount is being returned to customers over a four-
2 year period. (Agreement Article I.9). The balance of the excess accumulated deferred
3 income tax is being amortized as an element of base rates.

4 This advances the public interest by resolving a contentious issue.

5
6 *Relate-Back of Rates*

7 Q. HOW DOES THE AGREEMENT ADDRESS THE RELATE-BACK OF RATES UNDER
8 PURA §36.211?

9 A. Under the Agreement, the only two components for which a relation back will be
10 calculated are the base rate increase and the Retiring Plant Rider. The Agreement
11 provides that to the extent possible, a surcharge that would be necessary for the
12 relation-back of rates as provided by PURA §36.211 is avoided by off-setting the
13 surcharge, on a class-by-class basis, with the excess accumulated deferred income
14 taxes that would otherwise be amortized for that class during the fourth year of
15 amortization provided by the Agreement and, to the extent necessary, previous years
16 working backward. (Article I. 10). For any class that would still have a surcharge
17 balance after such netting, the surcharge will be over 12 months. Any class that would
18 get a refund by virtue of the relation back of rates will instead get a prospective credit
19 over 12 months. Because the relation-back cannot be calculated until consumption
20 for the final month of the relation-back period occurs, under the Agreement EPE will
21 make a compliance filing 60 days after the final order in this proceeding presenting its
22 calculation of the relation-back, as well as tariffs for any refund or surcharge resulting
23 from the relation-back.

24 Finally, the Agreement provides for approval of interim rates by SOAH, which
25 will reduce the magnitude of the relation-back amount.

Baseline Values for DCRF, TCRF and GCRR Filings

Q. WHAT DOES THE AGREEMENT SPECIFY FOR THE DCRF AND TCRF?

A. These subjects are addressed in Article I.11 and Agreement Exhibit 2 (DCRF) and Agreement Exhibit 3 (TCRF). The Agreement establishes the relevant baseline values that will apply when EPE files an application for a DCRF or TCRF.

Q. DOES THE AGREEMENT ADDRESS WHETHER ANY REFUND OF THE REVENUES THAT HAVE BEEN COLLECTED UNDER EPE'S DCRF OR TCRF IS NECESSARY?

A. Yes, it does in Article I.11. That provision of the Agreement states that a refund of collections under EPE's TCRF through December 31, 2020, and collections under EPE's DCRF are not necessary. Under 16 TAC §25.243(f), the Commission is required in a comprehensive base rate proceeding to reconcile investment recovered through an existing DCRF. Because, as I have discussed above, all of EPE's investments in plant through the end of the test year have been determined to be prudent, with two exceptions for investments that were not being recovered through EPE's DCRF, no refund of revenues collected under EPE's DCRF is required. Similarly, with regard to EPE's TCRF collections, under the provisions of 16 TAC §23.239, the Commission may order a refund of TCRF revenues if there has been an over-recovery of costs. In EPE's application in this proceeding, EPE witness Jennifer Borden testified that through December 31, 2020, there had not been any such over-collection and thus no refund was necessary. This testimony was uncontested.

Q. WHAT DOES THE AGREEMENT PROVIDE FOR A FUTURE GCRR?

A. The Agreement establishes the relevant baseline values that will apply when EPE files an application for a GCRR. The Agreement also provides that the GCRR baseline

1 includes a jurisdictional allocator consistent with the treatment of Newman Unit 6 as a
2 system resource. That jurisdictional treatment of Newman Unit 6 will apply in a future
3 GCRR filing by EPE unless EPE petitions outside a GCRR filing and the treatment as
4 a system resource is then otherwise modified in a subsequent Commission order.
5

6 V. REVENUE DISTRIBUTION AND RATE DESIGN TERMS OF SETTLEMENT

7 Q. COULD YOU PROVIDE A BRIEF EXPLANATION OF THE REVENUE
8 DISTRIBUTION REFLECTED IN THE SETTLEMENT IN THIS PROCEEDING?

9 A. Yes. The terms are set out in detail in the Agreement. Article I.12 and Exhibit 6
10 address revenue distribution, and Article I.12 and Exhibit 7 address the tariff sheets
11 setting out the rate design for the settlement rates.

12 The increased base-rate revenue of \$5.149 Million and each of the riders are
13 distributed to the various rate classes as shown on Exhibit 5 to the Agreement. The
14 parties did not agree upon a cost of service or a cost-of-service model for purposes of
15 allocation or in analyzing the relative rate of return for each class. However, the
16 agreed revenue distribution is fair overall because it moves classes closer to EPE's
17 analysis of the cost of serving each class. Each class that is currently below cost
18 under EPE's analysis of the class's cost of service is given an increase and each class
19 that is currently above cost in EPE's analysis of the class's cost of service is given a
20 rate decrease.

21

22 Q. WHAT IS THE BASIS FOR THE REVENUE DISTRIBUTION?

23 A. The revenue distribution was negotiated and agreed-upon by the Signatories to the
24 Agreement identified above. It is the result of several months of back-and-forth
25 negotiation, including the mediation conducted by SOAH, with all of the major rate

1 classes being directly represented throughout the process. The few classes that were
2 not represented were treated reasonably.

3

4 Q. HOW DOES THE SETTLEMENT REVENUE DISTRIBUTION COMPARE WITH
5 EPE'S ORIGINAL PROPOSAL?

6 A. The revenue distribution is the result of extensive negotiation, but in broad terms it is
7 generally consistent with what was originally proposed by EPE, recognizing that the
8 agreed revenue requirement is substantially less than EPE's request.

9

10 Q. PLEASE SUMMARIZE THE RATE DESIGN TERMS OF THE AGREEMENT.

11 A. The Agreement resolves a number of contentious rate design issues and represents
12 a reasonable compromise among the parties. The parties were also able to resolve
13 all those issues by agreement, and the agreed rate design is reflected in Agreement
14 Exhibit 6 and the Agreed Tariff, which is Exhibit 7 to the Agreement.

15

16 Q. IS THE AGREED RATE DESIGN FOR THE RATE CLASSES THAT YOU HAVE
17 DISCUSSED AND THAT IS REFLECTED IN THE AGREED TARIFF REASONABLE?

18 A. Yes. The agreed rate design reflects a compromise among the parties with competing
19 interests and in each case falls within the range of proposals in this case.

20

21 VI. ADDITIONAL FINANCIAL MEASURES

22 Q. DOES THE AGREEMENT PROVIDE FOR ADOPTION OF ADDITIONAL FINANCIAL
23 MEASURES AS RECOMMENDED BY STAFF?

24 A. Yes. While, as I testified in my rebuttal, EPE does not believe any financial measures
25 are needed in light of the recent Commission order in EPE's merger proceeding, where

1 the topic of financial measures was thoroughly vetted, the Agreement provides for
2 adoption of two of the additional measures recommended by Staff. Those are:

- 3 a. No EPE Debt Secured by Non-EPE Assets. EPE's debt will not be secured by
4 non-EPE assets.
- 5 b. No Commingling of Assets. Except for access to the utility money pool 12 and
6 use of shared assets governed by the Commission's affiliate rules, EPE will
7 not commingle its assets with those of Sun Jupiter Holdings, LLC or IIF US
8 Holding 2 LP.

9 This compromise allowed resolution of an otherwise contested issue.

10

11 VII. WHY THE COMMISSION SHOULD APPROVE AND IMPLEMENT THE
12 AGREEMENT

13 Q. SHOULD THE COMMISSION APPROVE AND IMPLEMENT THE AGREEMENT?

14 A. Yes, it should. The settlement proposal being offered through the Agreement should
15 be approved and implemented.

16 First, as I have discussed above, the agreed revenue requirement, agreed
17 revenue distribution, and agreed rate design present reasonable compromises and
18 are supported by EPE's evidence. All of the parties to this proceeding have either
19 agreed to, or agreed that they will not oppose, the comprehensive settlement of all
20 issues in this proceeding as presented by the Agreement.

21 Second, the rate case expenses are also settled, so the parties and
22 Commission can avoid the time and expense of litigation.

23 All things considered, the Agreement should be approved and implemented as
24 resulting in just and reasonable rates and an outcome that is in the public interest.

- 1 Q. DOES THIS CONCLUDE YOUR SETTLEMENT SUPPLEMENTAL DIRECT
2 TESTIMONY?
3 A. Yes, it does.

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

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

**SUPPLEMENTAL AFFIDAVIT
REGARDING EL PASO ELECTRIC COMPANY'S
RATE CASE EXPENSES**

**STATE OF TEXAS §
 §
COUNTY OF EL PASO §**

Before me, the undersigned authority, on this day personally appeared Matthew K. Behrens, who, upon being duly sworn, deposed and said the following:

1. My name is Matthew K. Behrens. I am over the age of twenty-one years and am of sound mind and competent to testify as to the matters stated herein. I have personal knowledge of the facts set forth in this affidavit, and they are true and correct. I am competent to make this affidavit.
2. I am Director of Energy Solutions for El Paso Electric Company (EPE). I joined EPE in 2017. Before my current role, I was senior attorney for EPE for four years. Prior to that, I was Assistant General Counsel for El Paso Water Utilities - Public Service Board for two years; a senior project manager in EPE's Renewable and Emergent Technologies Group for nine months; Assistant City Attorney for the City of El Paso, Texas, for two years; State and Local Tax Director for Hunt Companies in El Paso, Texas, for two years; and a senior tax consultant for Deloitte in Houston, Texas, for five years. I have practiced law for over ten years, including cases before the Public Utility Commission of Texas (Commission).
3. The purpose of this affidavit is to supplement my previous affidavit and support the reasonableness of the final cost of the legal services procured by EPE for which recovery is requested in Docket No. 52195.
4. I have reviewed the additional invoices for work done since my initial affidavit in this proceeding, which have been provided in EPE's Second through Seventh supplemental responses to Eleventh requests for information. The invoices included billings from Duggins Wren Mann & Romero, LLP (DWMR).
5. Consistent with my analysis of the previous billings from DWMR, I believe the time spent on the various tasks included on these additional invoices were directly in support of EPE's request in this proceeding and were reasonable and necessary. As I explained in my previous affidavit, the hourly rates for the services were

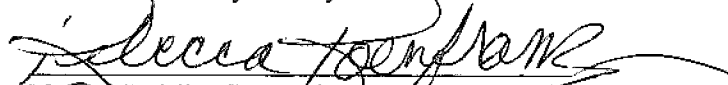
reasonable, cost competitive, and appropriate. DWMR's billings were consistent with the standards set forth by the Commission in 16 Tex. Admin. Code § 25.245 for recovery of rate case expenses.

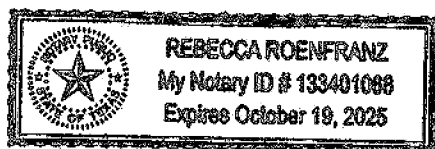
5. EPE's legal consultants were required to perform high-level, complex work. The nature of utility law requires a legal team that not only has specialized legal knowledge and experience in administrative law, but also substantive knowledge of complex utility questions such as cost of service analysis, transmission, generation, and financial matters.
8. In summary, I believe the rate case expenses EPE incurred for professional legal services for which recovery is requested in Docket No. 52195 are reasonable.

Further affiant sayeth not.


Matthew K. Behrens

SWORN TO AND SUBSCRIBED before me on the 15th day of July 2022.


Notary Public, State of Texas
Rebecca RoenFranz
Notary's Printed Name



My commission expires: 10/19/2025