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SOAH DOCKET NO. 473-21-2606
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APPLICATION OF EL PASO	§	PUBLIC UTILITY
	§	
ELECTRIC COMPANY TO	§	COMMISSION OF TEXAS
	§	
CHANGE RATES	§	

**CITY OF EL PASO’S
RESPONSE TO EL PASO ELECTRIC COMPANY’S
MOTION FOR REHEARING**

TO THE HONORABLE PUBLIC UTILITY COMMISSION OF TEXAS:

The City of El Paso (“City”) files this response to El Paso Electric Company’s (“EPE”) Motion for Rehearing filed on October 10, 2022.

The final order in this case was signed on September 15, 2022. El Paso Electric Company filed a Motion for Rehearing on October 10, 2022. Pursuant to the Administrative Procedure Act, this response is timely filed by the 40th day after the order was signed.¹

I. El Paso Electric Company’s Motion for Rehearing is deficient as a matter of law.

The Administrative Procedure Act contains quite specific requirements for inclusion in a Motion for Rehearing. The act requires a Motion for Rehearing ² to identify with particularity findings of fact or conclusions of law that are the subject of the complaint and the legal and factual basis for the claimed error. EPE’s motion does neither. It makes no reference to any findings of fact or conclusions of law, and further does not identify any error of the Commission in the Final Order.

¹ Tex. Gov’t Code §2001.146(b)

² Tex. Gov’t Code §2001.146(g) A motion for rehearing must identify with particularity findings of fact or conclusions of law that are the subject of the complaint and any evidentiary or legal ruling claimed to be erroneous. The motion must also state the legal and factual basis for the claimed error.

Instead it says that EPE made an error in Rate Schedule 11, which it filed on July 15, 2022, as part of the Joint Motion to Implement Uncontested Settlement³ and again on September 28, 2022, a Clean Copy of Tariff.⁴ EPE does not even explain the error, except to call it a “transposition.” It is clear from the Motion, which does even explain the nature of EPE’s claimed error, that the information from which the correction requested to be made, does not even appear anywhere in the extensive record filed by EPE or any other party in this cause. SOAH Order No. 17⁵ approved the interim rates effective August 1, 2022, which includes the Rate Schedule 11-TOU, which EPE now claims is erroneous. Thus, the bills rendered on or after August 1, 2022 presumably reflect the rates that EPE now claims are erroneous. That means that EPE would directly or indirectly back charge at least four months of bills for this rate class.

II. EPE’ Requested Relief is not permissible under the Administrative Procedure Act.

EPE requests four items of relief. None of them are tied to the Final Order of September 15, 2022. First, it requests approval of a revised tariff, with no explanation of the exact nature of the claimed error or the dollar amount involved. Second, it requests an adjustment to rates in a compliance docket which was not intended to address changes in the rate schedules as filed on July 15, 2022 and September 28, 2022. Third it requests the approval of a rate schedule for which it has filed no proof of revenues to show the Commission that its new calculation is not erroneous. Fourth it requests that Ordering Paragraph No. 4 be altered to give it additional time (beyond the 60th day after September 15, 2022 or beyond November 14, 2022), in which to file its offset calculations of relation back to Excess Deferred Tax Refunds which were part of the negotiation for the settlement

³ DN 52195, Item 604

⁴ DN 52195, Item 622

⁵ DN 52195 Item 606

and which affect all parties.

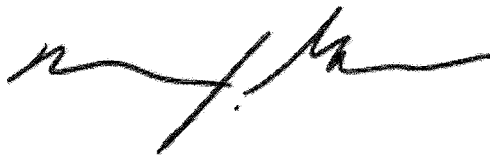
PRAYER

Wherefore, premises considered, the City of El Paso prays that El Paso Electric Company's Motion for Rehearing be, in all things denied, or in the alternative, the Commission extend the time for action to the 100th day after the Final Order was signed, as permitted by statute, to give the parties an opportunity to see if a resolution of El Paso Electric Company's claimed error can be resolved.

Respectfully submitted,

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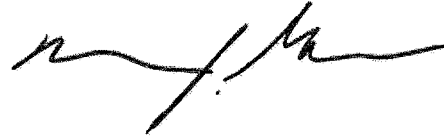


By: _____

Norman J. Gordon

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 October 25, 2022.

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

Norman J. Gordon

