



Control Number: 52195



Item Number: 8

Addendum StartPage: 0

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

2021 JUN 11 PM 4:13

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

SOAH ORDER NO. 1
FILING DESCRIPTION; NOTICE AND SUFFICIENCY OF APPLICATION;
SUSPENDING EFFECTIVE DATE OF PROPOSED RATE CHANGES; NOTICE OF
PREHEARING CONFERENCE; ADOPTING PROTECTIVE ORDER; AND
PROCEDURES

I. FILING DESCRIPTION

On June 1, 2021, El Paso Electric Company (EPE) filed an Application to Change Rates. EPE requests a \$69.7 million Texas jurisdiction retail increase in base (non-fuel and other miscellaneous revenues), or an average 13.55% increase in base rates, based on a test year ending December 31, 2020. However, after accounting for the revenues EPE is already recovering through its Distribution Cost Recovery Factor (DCRF) and its Transmission Cost Recovery Factor (TCRF), the net increase to base revenues is \$41.8 million (7.79%), a reduction of \$27.9 million.

The Public Utility Commission of Texas (Commission) has jurisdiction over this proceeding pursuant to PURA §§ 14.001, 32.001, 35.004, 36.001, and 36.108.¹ The Commission referred this case to the State Office of Administrative Hearings (SOAH) on June 10, 2021, requesting the assignment of an Administrative Law Judge (ALJ) to conduct a hearing and issue a proposal for decision (PFD), if necessary. SOAH has jurisdiction over matters relating to the conduct of the hearing in this proceeding pursuant to Texas Government Code § 2003.049. In its referral order, the Commission set a deadline of June 16, 2021, for filing a list of issues to be addressed in this proceeding and stated it will consider and possibly adopt a preliminary order at its June 24, 2021 open meeting.

¹ Public Utility Regulatory Act, Tex. Util. Code §§ 11.001-64.158 (PURA).

II. NOTICE AND SUFFICIENCY OF APPLICATION

Any objection to EPE's notice shall be filed by June 30, 2021. Commission Staff shall provide a recommendation no later than June 25, 2021. Parties contending that EPE's application is materially deficient shall file a pleading no later than 21 days after the filing of EPE's application in accordance with 16 Texas Administrative Code § 22.75. EPE shall respond within five working days as contemplated by that same rule.

III. SUSPENDING EFFECTIVE DATE OF PROPOSED RATE CHANGES

The proposed effective date of the rate changes proposed by EPE is July 6, 2021. However, the effective date may be suspended for 150 days beyond the proposed effective date to allow sufficient time for a final determination.² The ALJ elects to suspend the effective date until **December 3, 2021**. However, EPE has requested that the final rate be made effective on the 155th day after the date the rate-filing package is filed, or November 3, 2021.³

IV. NOTICE OF PREHEARING CONFERENCE

A prehearing conference will convene at **10:00 a.m., on Friday, June 25, 2021, via Zoom**. You may access the hearing by going to <https://soah-texas.zoomgov.com/> and entering the following information when prompted:

Meeting ID: 161 863 5572

Passcode: EPE-21

You can also access by calling one of the following numbers:

(669) 254-5252 or (646) 828-7666

² PURA § 36.108(a)(2); 16 Tex. Admin. Code § 22.33(c).

³ PURA § 36.211; 16 Tex. Admin. Code § 25.246(b).

Once prompted you will enter the meeting ID and passcode

Meeting ID: 161 863 5572

Passcode: 300773

The following matters will be discussed:

1. Any pending motions or objections.
2. A procedural schedule, including a date for the hearing that will enable the Commission to make a final decision by December 3, 2021.
3. Any other matters that may assist in the disposition of this case in a fair and efficient manner.

V. PROTECTIVE ORDER

In its application, EPE requested entry of a protective order attached as Exhibit D to its application. The ALJ adopts the form of protective order as the protective order applicable to this docket. Any objections to the form of the protective order shall be filed no later than three working days after the date of this order.

VI. DISCOVERY

A. General Procedures

Discovery may begin immediately pursuant to Subchapter H of the Commission's Procedural Rules. Parties will not provide copies of Requests for Information (RFIs) or responses to RFIs to the ALJ. However, when a party files a motion to compel, the movant will include a copy of every RFI and objection to which the motion applies. Any affidavits supporting an objection, motion to compel, or response shall be attached to the relevant document. Discovery disputes will be resolved based on the written documents, any sworn affidavits attached thereto,

and materials, if any, provided for *in camera* inspection, unless a prehearing conference is deemed necessary.

Material that is the subject of a successful motion to compel will be supplied within three working days of receipt of the order granting the motion to compel or such other date that the ALJ order.

B. In Camera Review

When a party seeks *in camera* review of documents in accordance with 16 Texas Administrative Code § 22.144(g), it will submit the documents to the ALJ at SOAH. Documents submitted for review *should not be filed with the Commission filing clerk*. If they are filed with the Commission filing clerk, even inadvertently, the documents may not be physically removed from the Commission. Further, any claim to privilege or exemption may be waived by the filing.

At the time the documents are submitted for *in camera* review, the objecting party will file affidavits that list the facts necessary to support the explanation and the privilege or exemption that is claimed. The affidavits will be public documents and will be filed with the Commission filing clerk and served upon the propounding party.

RFI answers submitted for *in camera* review will be grouped and separated from other answers by envelope, folder, box, or other appropriate containers; materials that constitute a response to more than one RFI will be clearly cross-referenced. RFI answers submitted for *in camera* review will not be accessible to the other parties unless the ALJ orders otherwise.


VII. FILING AND SERVICE PROCEDURES

The procedures regarding filing and service are specified in the Commission's procedural rules and apply in this proceeding. All pleadings must contain both the SOAH and PUC docket numbers to allow for efficient processing. Any document that requires immediate attention must

be filed and hand-delivered to the William P. Clements Building, Room 504, 300 West 15th Street, Austin, Texas.

SOAH has implemented revised procedures relating to emailing courtesy copies to SOAH. The parties **SHALL NOT** email courtesy copies of any document to SOAH. The parties may file Microsoft Word (Word) versions of prefiled testimony or briefs, if any, on the Interchange, for access by the ALJ.⁴ If that is insufficient, the ALJ will issue an order providing instructions on how to submit courtesy Word versions of prefiled testimony and briefs to SOAH. Absent further order, the parties should not deliver a courtesy hard copy of any document.

SIGNED June 11, 2021.


CHRISTIAAN SIANO
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS

⁴ See 16 Tex. Admin. Code § 22.72(i)(1) (“Electronic filings shall be made in accordance with the current list of preferred file formats available in Central Records and on the commission’s World Wide Web site”) and <https://www.puc.texas.gov/industry/filings/FilerFaq.aspx> (listing Microsoft Word as a common file type that the Commission Interchange supports).