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APPLICATION OF EL PASO ELECTRIC COMPANY TO REVISE ITS ENERGY EFFICIENCY COST RECOVERY FACTOR AND ESTABLISH REVISED COST CAPS	§ § § § §	PUBLIC UTILITY COMMISSION OF TEXAS

ORDER

This Order addresses the application of El Paso Electric Company to revise its energy-efficiency cost recovery factor (EECRF) and establish revised cost caps. El Paso Electric filed an unopposed agreement between certain parties to this proceeding. The Commission approves the adjustment to El Paso Electric's EECRF to the extent provided in this Order.

I. Findings of Fact

The Commission makes the following findings of fact.

Applicant

1. El Paso Electric is a Texas corporation registered with the Texas secretary of state under filing number 1073400.

2. El Paso Electric owns and operates for compensation in Texas equipment and facilities to produce, generate, transmit, distribute, sell, and furnish electricity in Texas.

3. El Paso Electric is required under certificate of convenience and necessity number 30050 to provide service to the public and retail electric utility service within its certificated service area.

Application

4. On May 3, 2022, El Paso Electric filed an application to adjust its EECRF tariff effective for bills issued on or after January 1, 2023 and to establish a revised cost cap for 2023.

5. On May 16, 2022, El Paso Electric filed an updated application to correct an uploading error in its original filing.

6. No party objected to the sufficiency of the application.

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7. In the application, El Paso Electric sought Commission approval to adjust its EECRF to recover $7,969,507 during program year 2023. The amount included the following:

   (a) El Paso Electric's forecasted energy-efficiency costs of $5,325,552 in program year 2023;

   (b) projected evaluation, measurement, and verification expenses in the amount of $67,272 for the evaluation of program year 2022;

   (c) an adjustment of $290,647 for El Paso Electric's net under-recovery, including interest, of program year 2021 energy-efficiency costs;

   (d) a performance bonus of $2,200,669; and

   (e) rate-case expenses incurred in El Paso Electric's most recent EECRF proceeding, Docket No. 52081,[1] in the amount of $85,367 (comprising $57,124 incurred by El Paso Electric and $28,243 incurred by the City of El Paso).

8. In the application, El Paso Electric sought a good-cause exception for a revised cost cap for residential customers and the continuation of a revised cost cap for commercial customers for 2023. El Paso Electric also sought a good-cause exception to combine the cotton-gin and cogeneration rate classes in program year 2023.

Notice of the Application

9. On May 4, 2022, El Paso Electric sent notice of the application by first-class mail or email to all parties of record in El Paso Electric's most recent base-rate proceeding, Docket No. 46831,[2] which included all parties of record in El Paso Electric's last EECRF proceeding, Docket No. 52081.

10. On May 4, 2022, El Paso Electric sent notice of the application by email to the Texas Department of Housing and Community Affairs.

11. In an affidavit filed by El Paso Electric on June 21, 2022, Nathaniel Castillo, a regulatory case manager at El Paso Electric, testified that notice was provided.

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[1] *Application of El Paso Electric Company to Adjust its Energy Efficiency Cost Recovery Factor and Establish Revised Cost Cap*, Docket No 52081, Order (Dec. 16, 2021).

[2] *Application of El Paso Electric Company to Change Rates*, Docket No. 46831, Order (Dec. 18, 2017).

12. No party objected to the adequacy of notice of the application.

13. In State Office of Administrative Hearings (SOAH) Order No. 2 filed on May 26, 2022, the SOAH administrative law judge (ALJ) found the proposed notice of the application sufficient.

Intervenors

14. Commission Staff participated in this docket.

15. In SOAH Order No. 3 filed on May 26, 2022, the SOAH ALJ granted the motion to intervene filed by Texas Industrial Energy Consumers (TIEC).

16. In SOAH Order No. 7 filed on October 21, 2022, the SOAH ALJ granted the motion to intervene filed by the City of El Paso.

Statements of Position and Testimony

17. As part of the application filed on May 3, 2022, El Paso Electric filed the direct testimonies with schedules and workpapers of Crystal A. Enoch, El Paso Electric's principal energy-efficiency coordinator, and Victor H. Silva, a rate analyst for El Paso Electric. Also, as part of the application, El Paso Electric filed an affidavit by attorney Bret J. Slocum with attachments concerning El Paso Electric's rate-case expenses incurred in Docket No. 52081.

18. On August 2, 2022, the City of El Paso filed the direct testimony of Karl J. Nalepa, and on August 11, 2022, the City of El Paso filed an errata to Mr. Nalepa's testimony. The testimony, as corrected by the errata, included declarations by Mr. Nalepa and by attorney Norman J. Gordon regarding the City of El Paso's rate-case expenses incurred in Docket No. 52081.

19. On August 29, 2022, El Paso Electric filed the rebuttal testimonies of Ms. Enoch and Mr. Silva.

20. On September 6, 2022, Commission Staff and TIEC each filed a statement of position.

21. On October 17, 2022, Commission Staff filed the testimony of Tsungirirai Gotora in support of the agreement.

Referral to SOAH for Hearing

22. On May 4, 2022, the Commission referred this proceeding to SOAH for assignment of an ALJ to conduct a hearing and issue a proposal for decision, if necessary.

23. On May 4, 2022, the Commission issued a preliminary order identifying the issues to be addressed by SOAH in this proceeding.

24. On September 7, 2022, El Paso Electric filed a letter stating that the parties had agreed to conduct a paper hearing.

25. In SOAH Order No. 5 filed on September 8, 2022, the SOAH ALJ granted the request for a paper hearing and cancelled the in-person hearing.

26. In SOAH Order No. 7 filed on October 21, 2022, the SOAH ALJ dismissed the case from SOAH's docket and remanded it to the Commission.

Evidentiary Record

27. In SOAH Order No. 7 filed on October 21, 2022, the SOAH ALJ admitted the following into the evidentiary record:

    a. El Paso Electric's petition and attachments, the direct testimony of Ms. Enoch, the direct testimony of Mr. Silva, and confidential exhibit CAE-07, filed on May 16, 2022;

    b. El Paso Electric's response and confidential response to Commission Staff's first request for information, filed on June 13, 2022;

    c. El Paso Electric's proof of notice, filed on June 21, 2022;

    d. El Paso Electric's response to Commission Staff's second request for information, filed on July 15, 2022;

    e. the direct testimony exhibits and workpapers of Mr. Nalepa, filed on August 2, 2022;

    f. amended attachment E of the direct testimony of Mr. Nalepa, filed on August 11, 2022;

    g. the rebuttal testimony of Ms. Enoch and the rebuttal testimony of Mr. Silva, filed on August 29, 2022;

h. El Paso Electric's replies to the City of El Paso's requests for information 2-5, 2-6, 2-11, and 2-12, filed on September 6, 2022;

i. the testimony of Commission Staff witness Ms. Gotora in support of the agreement, filed on October 17, 2022; and

j. the agreement and its attachments, filed on October 18, 2022.

28. On November 14, 2022, El Paso Electric filed exhibits VHS-01 and VHS-04 in support of the agreement.

29. In Order No. 1 filed on November 16, 2022, the Commission ALJ admitted exhibits VHS-01 and VHS-04.

Energy-Efficiency Goals

30. El Paso Electric's summer weather-adjusted five-year average peak demand for residential and commercial customers is 1,497 megawatts (MW) after adjustments for line loss and after adjustments under 16 Texas Administrative Code (TAC) § 25.181(u) for industrial-customer exclusion.

31. El Paso Electric's calculated 2023 demand-reduction goal—four-tenths of 1% of its summer weather-adjusted peak demand for residential and commercial customers—is 5.54 MW at the meter after accounting for line loss.

32. In El Paso Electric's 2011 EECRF application, Docket No. 39376,[3] the Commission approved a demand-reduction goal of 11.16 MW and an energy-savings goal of 19,552 kilowatt-hours (kWh) for El Paso Electric in program year 2012. El Paso Electric's demand-reduction goal has been 11.16 MW each year since.

33. Because the calculated demand-reduction goal of 5.54 MW is lower than El Paso Electric's program year 2022 demand-reduction goal of 11.16 MW, El Paso Electric will continue to use the demand-reduction goal of 11.16 MW.

34. El Paso Electric forecasts that it will achieve 31.207 MW in demand reductions in program year 2023, which exceeds the minimum of 11.16 MW.

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[3] *Application of El Paso Electric Company for Approval to Revise Its Energy Efficiency Cost Recovery Factor and Request to Establish Revised Goals and Cost Caps*, Docket No. 39376, Order (Aug. 23, 2011).

35. The estimated savings to be achieved through El Paso Electric's 2023 programs for hard-to-reach customers is 800 kilowatts (kW) or 7.17% of the proposed demand-reduction goal of 11.16 MW, which exceeds the minimum of 5%.

36. El Paso Electric forecasts that because of the mix of energy and demand savings achievable through the programs it will achieve energy savings of 27,125 megawatt-hours in program year 2023, which exceeds the minimum of 19,552 megawatt-hours.

Agreement

37. Under the agreement, El Paso Electric's EECRF will recover $7,789,507 during program year 2023. The amount includes the following:

    (a) El Paso Electric's estimated energy-efficiency costs in program year 2023 (including an agreed reduction of $42,399 to El Paso Electric's estimated incentives, research and development, and administrative costs with the understanding that the actual amount spent during 2023 will be subject to reconciliation in El Paso Electric's 2024 EECRF proceeding) of $5,283,153;

    (b) projected evaluation, measurement, and verification expenses for program year 2023 in the amount of $67,272;

    (c) an adjustment of $290,647 for El Paso Electric's net under-recovery, including interest, of program year 2021 energy-efficiency costs;

    (d) a voluntary refund of $137,601 for incentive costs for 2021;

    (e) rate-case expenses of $85,367 (consisting of $57,124 incurred by El Paso Electric and $28,243 incurred by the City of El Paso) for Docket No. 52081, which was El Paso Electric's 2021 EECRF proceeding; and

    (f) a performance bonus of $2,200,669.

38. Under the agreement, the signatories agree that the Commission should establish a higher cost cap for residential and commercial customers for program year 2023 in accordance with 16 TAC § 25.181(e)(2) as requested by El Paso Electric.

39. Under the agreement, El Paso Electric agrees to include in testimony a section addressing the reasonableness of implementers' incentives in El Paso Electric's 2023 EECRF proceeding.

40. Under the tariff attached to the agreement as exhibit A, El Paso Electric's EECRF charges per kWh by rate class are as follows:

Rate No.	Description	Energy-Efficiency Cost Recovery Factor ($/kWh)
01	Residential	0.001685
EVC	Electric vehicle charging	0.000000
02	Small commercial	0.000436
07	Outdoor recreational lighting	0.001883
08	Governmental street lighting	0.000002
09	Governmental traffic signal	0.000011
11-TOU	Time-of-use municipal pumping	(0.000001)
WH	Water heating	(0.000020)
22	Irrigation service rate	0.002547
24	General service rate	0.001425
25	Large power (excludes transmission)	0.002015
34	Cotton gin	0.000379
41	City and county	0.000197
46	Maintenance power service for cogeneration and small power production facilities	0.000379
47	Backup power service for cogeneration and small power production facilities	0.000379

Elements of Recovery and Coordination with Base-Rate Recovery

41. El Paso Electric's EECRF is calculated to recover the preceding year's total under-recovery with interest as well as El Paso Electric's forecasted annual energy-efficiency expenditures, a performance bonus, El Paso Electric's EECRF proceeding expenses from El Paso Electric's immediately preceding EECRF docket, and evaluation, measurement, and verification costs allocated to El Paso Electric by the Commission.

42. El Paso Electric does not recover any energy-efficiency costs in its base rates.

43. El Paso Electric's EECRF is designed to provide only for energy charges for residential and commercial rate classes.

EECRF Cost Caps

44. Before applying the consumer-price-index adjustment, El Paso Electric used a base cost cap of $0.001364 per kWh for the residential class and $0.000853 per kWh for the commercial classes. El Paso Electric calculated its EECRF cost caps for the 2023 program year to be $0.001433 per kWh for the residential class and $0.000896 per kWh for the commercial classes.

45. For the purpose of the cost caps—after excluding evaluation, measurement, and verification costs, municipal EECRF proceeding expenses, and interest from over- and under-recoveries—El Paso Electric's rate for the residential class is $0.001662 per kWh, and El Paso Electric's group rate for the commercial classes is $0.001103 per kWh.

46. El Paso Electric's residential and commercial EECRF rates exceed the cost cap.

Over- or Under-Recovery

47. El Paso Electric requests to recover from each rate class the difference between El Paso Electric's actual EECRF revenues and its actual costs for that class, which results in a net under-recovery.

48. El Paso Electric accurately calculated its under-recovery of 2021 program costs to be $287,938, plus interest of $2,709, totaling $290,647.

Proceeding Expenses

49. As part of the application, El Paso Electric filed the affidavit of attorney Mr. Slocum. In reaching his opinion on the reasonableness and necessity of El Paso Electric's rate-case expenses incurred in its previous EECRF proceeding, Docket No. 52081, Mr. Slocum relied on the factors in 16 TAC § 25.245(b). Mr. Slocum opined that El Paso Electric's rate-case expenses of $57,124 incurred in Docket No. 52081 were reasonable and necessary.

50. On August 2, 2022, the City of El Paso filed the declaration of Mr. Nalepa. In reaching his opinion on the reasonableness and necessity of the City of El Paso's rate-case expenses incurred in Docket No. 52081, Mr. Nalepa relied on the factors in 16 TAC § 25.245(b). Mr. Nalepa stated that his non-legal portion of the City of El Paso's rate-case expenses were reasonable and necessary.

51. On August 11, 2022, the City of El Paso filed errata for the declaration of Mr. Gordon. In reaching his opinion on the reasonableness and necessity of the City of El Paso's rate-case expenses incurred in Docket No. 52081, Mr. Gordon relied on the factors in 16 TAC § 25.245(b). Mr. Gordon stated that his portion of the City of El Paso's rate-case expenses were reasonable and necessary.

52. El Paso Electric's rate-case expenses incurred in its 2021 EECRF proceeding, Docket No. 52081, in the amount of $57,214 were reasonable and necessary.

53. The City of El Paso's rate-case expenses incurred in its 2021 EECRF proceeding, Docket No. 52081, in the amount of $28,243 were reasonable and necessary.

Performance Bonus Calculations

54. In 2021, El Paso Electric's program costs were $6,177,748, and the total present value or the avoided costs were $32,378,711 on energy-efficiency programs.

55. Under 16 TAC § 25.182(e)(3), El Paso Electric sought the maximum allowable performance bonus, which is 10% of the net benefits of $26,200,963 achieved through its energy-efficiency incentive program costs, for exceeding its goal for calendar year 2021. The resulting performance bonus from this calculation is $2,620,096. This amount was further reduced by $419,427 to reflect the commercial customer group exceeding the cost cap for a final requested bonus of $2,200,669.

Evaluation, Measurement, and Verification Expenses

56. El Paso Electric's share of the estimated total 2023 evaluation, measurement, and verification costs for the evaluation of program year 2022 is $67,272, and to the maximum extent reasonably possible, it is directly assigned to each rate class that received services under its programs.

Administrative and Research and Development Cost Caps

57. El Paso Electric incurred $136,390 in necessary administrative costs and zero dollars for research and development costs for the 2021 energy-efficiency programs to meet El Paso Electric's goals. This amount was 2.7% of the total program costs for the previous year.

58. El Paso Electric's administrative costs did not exceed 15% of its total program costs for program year 2021. El Paso Electric's research and development costs did not exceed 10%

of its total program costs for program year 2021. El Paso Electric's cumulative cost of administration and research and development did not exceed 20% of its total program costs for program year 2021.

Cost Effectiveness

59. El Paso Electric used an avoided cost of capacity of $80 per kW for 2020. El Paso Electric used Commission Staff's posted avoided cost of energy of $0.10161 per kWh for 2021.

60. El Paso Electric determined that its 2021 portfolio of energy-efficiency programs produced a benefit-cost ratio of 5.27, which exceeds the benefit-cost ratio of 1.0 or greater required by 16 TAC § 25.181(d).

61. El Paso Electric's forecasted 2023 energy-efficiency program costs of $5,283,153, after a downward adjustment of $42,399, as provided by the agreement, are a reasonable estimate of the costs necessary to provide energy-efficiency programs and meet El Paso Electric's goals for program year 2023.

Cost Recovery

62. El Paso Electric's net cost recovery of $2,506,354 is a reasonable amount. The net cost recovery consists of El Paso Electric's projected evaluation, measurement, and verification expenses for the evaluation of program year 2022; El Paso Electric's net under-recovery, including interest, of program year 2020 energy-efficiency costs; El Paso Electric's agreement to refund $137,601 of 2021 incentive costs; El Paso Electric's performance bonus earned in 2021; and El Paso Electric's and the City's rate-case expenses incurred in Docket No. 52081.

Rate Classes and Direct Assignment of Costs

63. To the maximum extent reasonably possible, El Paso Electric directly assigned costs to each rate class that receives services under the programs.

64. El Paso Electric's proposed rate classes reflect the retail rate classes approved in El Paso Electric's most recent base-rate proceeding, excluding non-eligible customers.

Fostering of Competition Among Energy-Efficiency Service Providers

65. El Paso Electric has adopted measures to foster competition among energy-efficiency service providers.

Requirements for Standard Offer, Market Transformation, and Self-Delivered Programs

66. El Paso Electric's energy-efficiency programs include standard-offer and market-transformation programs.

Incentive Payments

67. El Paso Electric's incentive payments for each of its customer classes do not exceed 100% of the avoided costs for that class.

Affiliate Costs

68. El Paso Electric did not incur any affiliate costs for energy efficiency in 2021.

Energy-Efficiency Plan and Report

69. On April 1, 2022, El Paso Electric filed its 2022 energy-efficiency plan and report in the project annually designated for this purpose as required by 16 TAC §§ 25.181(*l*) and 25.183(d).[4]

70. On April 28, 2022, El Paso Electric filed errata to its energy-efficiency plan and report in Project No. 52949. The application in this proceeding includes the energy-efficiency plan and report as corrected.

Low-Income Energy Efficiency

71. El Paso Electric is not an unbundled transmission and distribution utility and therefore is not required to have a targeted low-income energy-efficiency program.

Outreach to Retail Electric Providers

72. El Paso Electric does not serve in an area in which customer choice is offered.

Industrial Customer Exclusions

73. El Paso Electric's industrial customers taking service at distribution voltage who elected to exclude themselves from El Paso Electric's energy-efficiency programs and provided notices under 16 TAC § 25.181(u) constituted an exclusion of 1.3 MW from the calculations of the demand-reduction goal for program year 2023. Those excluded customers have been reflected in the EECRF calculations after applying reasonable line-loss factors as required by 16 TAC § 25.181(e)(3)(B).

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[4] *2022 Energy Efficiency Plans and Reports under 16 TAC § 25.181*, Project No. 52949.

Line Losses

74. To calculate its annual growth in demand for calendar year 2017 to the present, El Paso Electric used a 7.54% line-loss factor approved by the Commission in El Paso Electric's last fuel reconciliation proceeding, Docket No. 50058.[5]

75. The average line-loss factor used in calculating El Paso Electric's 2023 EECRF demand-reduction goal is reasonable.

Billing Determinants

76. The estimate of billing determinants in calculating El Paso Electric's 2023 EECRF and the calculation of the 2023 EECRF tariff rider are reasonable.

Good-Cause Exceptions

77. El Paso Electric requested that the Commission establish revised cost caps for its residential and commercial classes under 16 TAC § 25.181(e)(2).

78. El Paso Electric proposed to continue with the same megawatt goal as it has had in previous years.

79. The megawatt goal will therefore not be lower than its goal for the previous year.

80. If El Paso Electric's energy-efficiency programs continue at the same level, the rates for the commercial customers will continue to exceed the cost cap for those customers.

81. El Paso Electric currently estimates it is necessary to exceed the cost cap for commercial customers during the 2023 program year to achieve its goals.

82. El Paso Electric showed that attainment of the cost cap required by 16 TAC § 25.182(d)(7) is not reasonably possible, and good cause supports a higher EECRF cost cap for El Paso Electric's commercial customers in program year 2021.

83. For the residential customer group, a revised cost cap will allow El Paso Electric to continue to meet or exceed the required goal set by 16 TAC § 25.181 in the most productive manner and recover the bonus El Paso Electric has earned for its 2020 performance.

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[5] *Application of El Paso Electric to Reconcile Fuel Costs,* Docket No. 50058, Order (Apr. 7, 2020).

84. Without the revised residential cost cap, El Paso Electric would have to revise its programs to reduce costs to the residential customer group.

85. Revision of programs to reduce costs to the residential customer group would have the effect of reducing the allocation of program costs to the otherwise successful performance of the residential customer class.

86. It is not in the best interest of El Paso Electric's energy-efficiency programs or the residential customer class to cancel programs that are in its portfolio just to achieve costs below the residential cost cap.

87. El Paso Electric showed that attainment of the cost cap required by 16 TAC § 25.182(d)(7) is not reasonably possible, and good cause supports a higher EECRF cost cap for El Paso Electric's residential customers in program year 2021.

88. El Paso Electric did not seek a good-cause exception to be eligible for a lower demand-reduction goal or a higher administrative spending cap under 16 TAC § 25.181(e)(2).

89. The cotton-gin and cogeneration rate classes each contain fewer than 20 customers and receive similar services under the same energy-efficiency programs. Combining the rate classes will ease the administration of cost recovery.

90. El Paso Electric showed that good cause supports combining El Paso Electric's cotton-gin and cogeneration rate classes in program year 2023.

Informal Disposition

91. More than 15 days have passed since the completion of notice provided in this docket.

92. El Paso Electric, Commission Staff, the City of El Paso, and TIEC are the only parties to this proceeding.

93. All the parties in the proceeding, except TIEC, signed the agreement. TIEC does not oppose the agreement.

94. No hearing is needed.

95. This decision is not adverse to any party.

II. Conclusions of Law

The Commission makes the following conclusions of law.

1. El Paso Electric is a public utility as that term is defined in PURA[6] § 11.004(1) and an electric utility as that term is defined in PURA § 31.002(6).

2. The Commission has authority over this matter under PURA §§ 14.001, 32.001, 36.001, 36.204, and 39.905.

3. Under PURA § 39.905 and 16 TAC § 25.182(d)(8), an electric utility is required to file for an EECRF.

4. El Paso Electric complied with the requirement under 16 TAC § 25.182(d)(8) to apply by May 1 to adjust its EECRF, effective January 1 of the following year.

5. The Commission processed the application in accordance with the requirements of PURA, the Administrative Procedure Act,[7] and Commission rules.

6. SOAH exercised jurisdiction over this proceeding in accordance with PURA § 14.053 and Texas Government Code § 2003.049.

7. El Paso Electric provided notice of the application in accordance with 16 TAC § 25.182(d)(13) and 16 TAC § 22.55 and filed an affidavit regarding the completion of notice as required by 16 TAC § 25.182(d)(14).

8. El Paso Electric's application is sufficient under 16 TAC § 25.182(d)(10) and (11).

9. The hearing on the merits was set, and notice of the hearing was given, in compliance with Texas Government Code §§ 2001.051 and 2001.052.

10. El Paso Electric calculated its weather-adjusted average peak demand in compliance with 16 TAC § 25.181(e)(3).

11. El Paso Electric has achieved a reduction of four-tenths of 1% of its summer weather-adjusted peak demand of residential and commercial customers in compliance with 16 TAC § 25.181(e)(1)(B), (e)(1)(C), and (e)(3)(B).

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[6] Public Utility Regulatory Act, Tex. Util. Code §§ 11.001–66.016.

[7] Tex. Gov't Code §§ 2001.001–.903.

12. El Paso Electric's 2023 demand-reduction goal complies with 16 TAC § 25.181(e)(1)(D) that requires a utility's demand-reduction goal not to be lower than the previous year's goal except as adjusted under 16 TAC § 25.181(u) for industrial customer exclusions.

13. El Paso Electric's programs for hard-to-reach customers achieved savings of at least 5% of the demand-reduction goal as required by 16 TAC § 25.181(e)(3)(F).

14. El Paso Electric calculated its minimum energy-savings goal in compliance with 16 TAC § 25.181(e)(4).

15. El Paso Electric's portfolio of energy-efficiency programs effectively and efficiently achieves the goals set out in PURA § 39.905(a) and 16 TAC § 25.181 as required by 16 TAC § 25.181(e)(5).

16. El Paso Electric's EECRF uses only energy charges for recovery of energy-efficiency costs for residential and commercial rate classes included in the EECRF in compliance with 16 TAC § 25.182(d)(6).

17. Under 16 TAC § 25.181(e)(2), there is good cause to grant El Paso Electric's request for an exception to the cap on the rates it can charge its residential and commercial customers under 16 TAC § 25.182(d)(7)(C) to recover costs related to its 2023 energy-efficiency programs.

18. El Paso Electric's request to recover $290,647 for El Paso Electric's net under-recovery of program year 2021 energy-efficiency costs complies with PURA § 39.905(b-1) and 16 TAC § 25.182(d)(1)(A) and (d)(2).

19. EECRF proceeding expenses are rate-case expenses.

20. The requirements of 16 TAC §§ 25.182(d)(3)(A) and 25.245 apply to the recovery of EECRF proceeding expenses.

21. El Paso Electric's 2021 rate-case expenses of $57,124 comply with PURA § 36.061(b)(2) and 16 TAC §§ 25.182(d)(3)(A) and 25.245.

22. The City of El Paso's 2021 rate-case expenses of $28,243 comply with PURA § 33.023(a) and 16 TAC §§ 25.182(d)(3)(B) and 25.245.

23. Under PURA § 33.023(b), El Paso Electric is required to reimburse the City of El Paso for its reasonable rate-case expenses approved in this proceeding.

24. El Paso Electric qualified for and accurately calculated its energy-efficiency performance bonus of $2,200,669 for its energy-efficiency achievements in program year 2021 in compliance with the requirements of PURA § 39.905(b)(2) and 16 TAC § 25.182(e).

25. The amounts and allocation of El Paso Electric's administrative and research and development costs under the agreement comply with 16 TAC § 25.181(g).

26. El Paso Electric's portfolio of energy-efficiency programs adheres to the cost-effectiveness standards contained in 16 TAC § 25.181(d).

27. El Paso Electric's 2023 energy-efficiency program costs of $5,283,153 to be recovered through the EECRF are reasonable estimates of the costs necessary to provide energy-efficiency programs in 2023 under PURA § 39.905 and 16 TAC § 25.182(d)(1).

28. El Paso Electric's net cost recovery of $2,506,354—which consists of the evaluation, measurement, and verification expenses allocated to El Paso Electric for the evaluation of program year 2022; El Paso Electric's surcharge of its net under-recovery of program year 2021 energy-efficiency costs; El Paso Electric's performance bonus earned in 2021; and El Paso Electric's and the City of El Paso's rate-case expenses incurred in Docket No. 52081—complies with PURA § 39.905 and 16 TAC § 25.182(d).

29. Under 16 TAC § 25.182(d)(2), there is good cause to combine El Paso Electric's cotton-gin and cogeneration rate classes in program year 2022.

30. The assignments and allocations of El Paso Electric's proposed 2023 EECRF rates to each rate class are reasonable and comply with PURA § 39.905(b)(4) and 16 TAC § 25.182(d)(2).

31. El Paso Electric has adopted measures to foster competition among energy-efficiency service providers in compliance with 16 TAC § 25.181(g)(2).

32. El Paso Electric's standard offer and market transformation programs comply with PURA § 39.905(a)(3) and 16 TAC § 25.181(h) through (k).

33. El Paso Electric's incentive payments, which did not exceed 100% of avoided cost, comply with 16 TAC § 25.181(f).

34. The requirement in 16 TAC § 25.181(p) for a targeted low-income energy-efficiency program does not apply to El Paso Electric.

35. The requirement in PURA § 39.905(a)(4) and 16 TAC § 25.181(r) for outreach to retail electric providers does not apply to El Paso Electric.

36. El Paso Electric's load associated with industrial customers who provided qualifying identification notices was excluded from El Paso Electric's calculated demand-reduction goal in accordance with 16 TAC § 25.181(u).

37. El Paso Electric's proposed 2023 EECRF rates are just and reasonable under PURA § 36.003(a).

38. In accordance with PURA § 36.003(b), El Paso Electric's proposed 2023 EECRF rates are not unreasonably preferential, prejudicial, or discriminatory and are sufficient, equitable, and consistent in application to each consumer class.

39. The requirement in 16 TAC § 25.182(d)(9)(B) to serve notice of the approved rates and the effective date of the approved rates on retail electric providers does not apply to El Paso Electric.

40. This proceeding meets the requirements for informal disposition in 16 TAC § 22.35.

III. Ordering Paragraphs

In accordance with these findings of fact and conclusions of law, the Commission issues the following orders.

1. The Commission approves the adjustment to El Paso Electric's EECRF to the extent provided in this Order.

2. The Commission approves El Paso Electric's 2023 EECRF in the amount of $7,789,507, which is composed of the following:

   (a) El Paso Electric's forecasted energy-efficiency costs of $5,283,153 in program year 2023;

(b) projected evaluation, measurement, and verification expenses of $67,272 for the evaluation of program year 2023;

(c) an adjustment of $290,647 for El Paso Electric's net under-recovery, including interest, of program year 2021 energy-efficiency costs;

(d) a voluntary refund of $137,601 for incentive costs for 2021;

(e) a performance bonus of $2,200,669; and

(f) rate-case expenses incurred in Docket No. 52081 in the amount of $85,367 (comprising $57,124 incurred by El Paso Electric and $28,243 incurred by the City of El Paso).

3. The Commission grants El Paso Electric's request for a good-cause exception to establish revised cost caps for the residential and commercial classes.

4. The Commission grants El Paso Electric's request for a good-cause exception to combine the cotton-gin and cogeneration rate classes in program year 2023.

5. The Commission approves El Paso Electric's EECRF tariff rider schedule attached as exhibit A to the agreement filed on October 18, 2022.

6. The Commission authorizes El Paso Electric to apply the EECRF tariff rider approved in this Order beginning on and after January 1, 2023.

7. Within 10 days of the date of this Order, El Paso Electric must provide the Commission with a clean copy of the EECRF tariff approved in this Order to be stamped *Approved* and retained by Central Records.

8. El Paso Electric must reimburse the City of El Paso $28,243 for its 2021 EECRF rate-case expenses.

9. Entry of this Order does not indicate the Commission's endorsement or approval of any principle or methodology that may underlie the agreement and must not be regarded as precedential as to the appropriateness of any principle or methodology underlying the agreement.

The Commission denies all other motions and any other requests for general or specific relief that have not been expressly granted.

Signed at Austin, Texas the 15th day of December 2022.

PUBLIC UTILITY COMMISSION OF TEXAS

PETER M. LAKE, CHAIRMAN

LORI COBOS, COMMISSIONER

JIMMY GLOTFELTY, COMMISSIONER

KATHLEEN JACKSON, COMMISSIONER

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