



## **Filing Receipt**

**Filing Date - 2024-05-06 03:34:25 PM**

**Control Number - 56572**

**Item Number - 7**

**BEFORE THE  
STATE OFFICE OF ADMINISTRATIVE  
HEARINGS**

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**APPLICATION OF EL PASO ELECTRIC COMPANY TO  
ADJUST ITS ENERGY EFFICIENCY COST RECOVERY  
FACTOR**

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**SOAH ORDER NO. 1  
CASE DESCRIPTION; JURISDICTION; REQUIRING COMMENTS ON  
APPLICATION AND NOTICE SUFFICIENCY; ADOPTING PROTECTIVE  
ORDER; SETTING PREHEARING CONFERENCE; AND GENERAL  
PROCEDURES**

**I. CASE DESCRIPTION**

On May 1, 2024, El Paso Electric Company (EPE) filed an application with the Public Utility Commission of Texas (Commission) to adjust its energy-efficiency cost recovery factor (EECRF) for program year 2025 to reflect the following components:

1. The projected 2025 energy efficiency program costs totaling \$5,161,212;

2. A \$3,221,821 performance bonus based on the EPE's 2023 energy efficiency program performance;
3. EPE's 2023 EECRF proceeding expenses totaling \$55,747;
4. A true-up adjustment by rate class of EPE's \$1,125,164 net over-recovery for 2023, including interest; and
5. The projected evaluation, measurement, and verification costs totaling \$67,486, as allocated by the Commission.

In total, EPE requests \$7,381,102 be included in its 2025 EECRF. EPE's request is based on its continuing all of its energy efficiency programs with the same 11.16 megawatt goal and at the same level they have been at since 2011.

## **II. JURISDICTION AND FINAL ORDER DEADLINE**

The Commission has jurisdiction over this proceeding pursuant to PURA<sup>1</sup> sections 14.001 and 39.905 and 16 Texas Administrative Code section (Rule) 25.181-.182. As set forth in Rule 25.182(d)(8), **the Commission must issue a final order in this proceeding no later than January 1, 2025.**

On May 3, 2024, the Commission referred this case to the State Office of Administrative Hearings (SOAH), requesting the assignment of a SOAH Administrative Law Judge (ALJ) to conduct a hearing and issue a proposal for decision (PFD), if needed. In conjunction with the referral, the Commission issued the Preliminary Order setting forth the issues that must be addressed in this proceeding.

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<sup>1</sup> Public Utility Regulatory Act, Texas Utilities Code §§ 11.001-66.016.

SOAH has jurisdiction over matters relating to the conduct of the hearing in this proceeding pursuant to Texas Government Code section 2003.049.

### **III. REQUIRING COMMENTS ON APPLICATION AND NOTICE SUFFICIENCY**

Within its application, EPE described its proposed provision of notice of the application and requests that its proposed notice be found sufficient. No later than **noon on May 17, 2024**, Commission staff shall, and any other party may, file comments on the sufficiency of EPE's application and proposed notice.

### **IV. ADOPTING PROTECTIVE ORDER**

EPE requests entry of the Commission's standard protective order to govern the use and maintenance of certain documents designated as either Protected Material or Highly Sensitive Protected Material in this proceeding.

EPE's proposed protective order is **ADOPTED**. Any objections to the form of the adopted protective order must be filed **no later than five working days** after the date of this Order.

### **V. SETTING PREHEARING CONFERENCE**

A prehearing conference will be held at **10:00 a.m. (CT) on May 20, 2024**, remotely via Zoom videoconference.<sup>2</sup> The audio portion of the prehearing conference will be recorded, and it will be the official record of the proceeding unless EPE retains a court reporter. Attend the hearing in one of these ways:

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<sup>2</sup> 1 Tex. Admin. Code § 155.405(c).

To join by computer or smart device, go to  
<https://soah-texas.zoomgov.com> and enter:

Meeting ID: 473-24-17664

Video Passcode: PUC764

To join by telephone (audio only), call  
+1 669 254 5252, and enter:

Meeting ID: 473-24-17664

Telephone Passcode: 002002

The purpose of the prehearing conference is to address the following matters:  
(1) pending motions filed by noon on May 17, 2024; (2) a procedural schedule, including a date for the hearing on the merits; and (3) any other matter that may assist in the disposition of this case in a fair and efficient manner.

Prior to the prehearing conference, EPE **SHALL** confer with all parties and persons/entities with pending motions to intervene regarding a procedural schedule that complies with this Order. Any proposed procedural schedule must address the Commission's January 1, 2025 final order deadline and allow 60 days for the preparation of the PFD after the record closes. Moreover, the schedule must include deadlines for post-hearing briefs and proposed findings of fact, conclusions of law, and ordering paragraphs.

If, no later than **noon on May 17, 2024**, EPE files an agreed procedural schedule that complies with this Order on behalf of all parties and persons/entities with pending motions to intervene, EPE may request an agreed motion to cancel the prehearing conference. The ALJ will rule on such motion after reviewing the proposed schedule.

## **VI. GENERAL PROCEDURES**

All Commission filings are available for viewing and downloading from the Commission's Interchange available at <http://interchange.puc.texas.gov/>, by entering the control number 56572 and selecting the "search" tab. A list of documents filed in the docket will appear, which can be accessed by clicking on the document number (with a few exceptions such as confidential documents, if any). The Commission's procedural rules are available on the Commission's website at <http://www.puc.texas.gov/agency/rulesnlaws/procrules/Procedural.aspx>. The procedural rules will govern the conduct of these proceedings, and the parties are expected to comply with those rules.

Routine procedural and logistical questions may be directed to the ALJ's administrative assistant, Tujuana Tate, at [tujuana.tate@soah.texas.gov](mailto:tujuana.tate@soah.texas.gov). SOAH support personnel may not provide advice or interpret law or orders for the parties.

Except as modified by orders issued in these proceedings or by the Commission or SOAH, the Commission's procedural rules govern. The parties

should review the Commission and SOAH websites as needed for updates regarding any such modifications.

#### **A. FILING AND SERVICE**

Filing of pleadings is governed by Rule 22.71 and service is governed by Rule 22.74. However, under the Commission's Second Order entered in Docket No. 50664, all parties must file any pleading or document with the Commission solely through the Interchange on the Commission's website at <https://interchange.puc.texas.gov/filer>, and provide notice, by e-mail, to all other parties that the pleading or document has been filed with the Commission, unless otherwise ordered. It will be incumbent upon all other parties to obtain a copy of the pleading or document by accessing the Interchange. **Filings should not be made at SOAH. All filings must contain both the applicable SOAH and PUC docket numbers.**

When a party files a document with the Commission, that party is also required to serve (i.e., provide a copy of that document to) every other party. At this time, service must be accomplished by e-mail. Any party to this proceeding who has not previously provided an e-mail address **SHALL file a notice informing the parties of the e-mail address to be used for service no later than seven days after the date of this Order.**

#### **B. MOTIONS**

Motions for continuance are governed by Rule 22.79. If a continuance or extension of time is sought, the motion shall propose a range of new dates and state

whether the other parties agree. The ALJ will not contact parties to ascertain their position or to negotiate dates. In the absence of a ruling by the ALJ, a contested motion for continuance or extension is not granted and the existing schedule remains in place.

Unless otherwise specified in the applicable procedural rules, responses to any motion or other pleading shall be filed within five working days from receipt of the motion or pleading. The response shall state the date of receipt of the motion or pleading to which a response is made. If a party does not respond to a motion, the ALJ will assume that the party agrees with the motion or does not oppose the requested relief.

### **C. DISCOVERY**

Discovery may begin immediately. Copies of requests for information (RFIs) and objections and responses to RFIs will not be provided to the ALJ. If a party files a motion to compel responses to discovery, the motion shall include 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. The ALJ will resolve discovery disputes based on the written documents, any sworn affidavits attached thereto, and materials, if any, provided for in camera inspection, unless the ALJ concludes that a prehearing conference on the discovery dispute should be held.

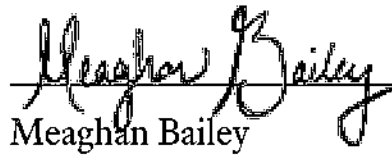
If a party seeks in camera review of documents in accordance with Rule 22.144(g), it will submit the documents to the ALJ at SOAH. Documents



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.

**Signed May 6, 2024**

ALJ Signature(s):



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Meaghan Bailey

Presiding Administrative Law Judge