



## **Filing Receipt**

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## *Public Utility Commission of Texas*

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TO: Shelah Cisneros  
Commission Counsel

All Parties of Record

FROM: Christina Denmark   
Administrative Law Judge

RE: **Docket No. 56903**  
**SOAH Docket No. 473-25-07887** – *Application of El Paso Electric Company for an Economic Development Rate Rider for a New Data Center to be Located in El Paso Texas*

DATE: June 10, 2025

Enclosed is the Proposed Order in the above-referenced case. By copy of this memo, the parties to this proceeding are being served with the Proposed Order.

Please place this docket on an open meeting agenda for the Commissioners' consideration. Please notify me and the parties of the open meeting date. The parties must file corrections or exceptions to the Proposed Order by June 24, 2025.

**If a party proposes a correction or exception, the party must fully explain the correction or exception and must provide a citation to the record to support the correction or exception.**

**If there are no corrections or exceptions, no response is necessary.**

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**PUC DOCKET NO. 56903**  
**SOAH DOCKET NO. 473-25-07887**

<b>APPLICATION OF EL PASO</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>ELECTRIC COMPANY FOR AN</b>	<b>§</b>	
<b>ECONOMIC DEVELOPMENT RATE</b>	<b>§</b>	<b>OF TEXAS</b>
<b>RIDER FOR A NEW DATA CENTER TO</b>	<b>§</b>	
<b>BE LOCATED IN EL PASO TEXAS</b>	<b>§</b>	

**PROPOSED ORDER**

This Order addresses the application of El Paso Electric Company for approval of the economic development rate for a new data center to be located in El Paso, including tariffs reflecting El Paso Electric’s proposed rates, under PURA<sup>1</sup> § 36.003. On April 24, 2025, El Paso Electric filed an agreement resolving the issues among the parties to this proceeding (the agreement). The Commission approves El Paso Electric’s Rate Schedule No. 33A, large economic development rate, and Rate Schedule No. 33B, medium economic development rate, attached as exhibits A and B to the agreement, effective the first billing cycle following issuance of this Order, and 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, and sell electricity in Texas.
3. El Paso Electric holds certificate of convenience and necessity number 30050 to provide service to the public.

**Application**

4. On August 1, 2024, El Paso Electric filed an application for approval of two new rates under its economic development tariff, Rate Schedule No. 33, to be applicable to

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<sup>1</sup> Public Utility Regulatory Act, Tex. Util. Code §§ 11.001–66.016.

- Worldwide LLC (the customer), who intends to construct and operate a new data center in El Paso.
5. El Paso Electric's application proposed to create Rate Schedule No. 33A, large economic development rate, and Rate Schedule No. 33B, medium economic development rate.
  6. The two new rate schedules were designed based on the cost information from the agreement in El Paso Electric's last base-rate proceeding, Docket No. 52195.<sup>2</sup>
  7. Once fully operational, the data center is expected to operate with a peak demand of over 100 megawatts (MW) and an annual load factor over 90%.
  8. El Paso Electric will construct and own a new substation adjacent to the facility which will interconnect with El Paso Electric's transmission system and supply the data center load requirements at transmission voltage.
  9. El Paso Electric's existing Rate Schedule No. 25, large power service, is technically applicable for retail service for the new data center. El Paso Electric is proposing new rates for the customer under the large and medium economic development rates to reflect the significant operational and, by extension, cost of service differences between the potential new data center customer and the large power rate class.
  10. The large and medium economic development rates allow El Paso Electric to enter into negotiations with a potential new customer for a mutual agreement to establish rates not less than El Paso Electric's incremental cost of power and energy as estimated over the term of the agreement.
  11. Retail service provided by El Paso Electric under the large and medium economic development rates may consist of a combination of system generation resources and renewable generation resources separately contracted for by the customer and El Paso Electric.
  12. The rates proposed by El Paso Electric reflect a cost-of-service analysis of the estimated load profile for the customer and are designed to fully recover the expected cost of power supplied.

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<sup>2</sup> *Application of El Paso Electric Company to Change Rates*, Docket No. 52195, Order (Sept. 15, 2022).

13. Because the rates are designed to recover the expected cost of the power supplied, the rates are not less than incremental cost.
14. In Order No. 3 filed on August 23, 2024, the Commission administrative law judge (ALJ) found the application administratively complete.

**Notice**

15. On September 27, 2024, El Paso Electric filed the affidavit of Samantha Lamas, analyst in regulatory filing for El Paso Electric, who attested to the following (a) that notice was provided by email to the City of El Paso, the only affected municipality retaining original jurisdiction over El Paso Electric's rates, on August 1, 2024; and (b) published, in English and in Spanish, in the *El Paso Times* and *El Diario de El Paso*, newspapers of general circulation in El Paso, on September 12, 2024. A copy of the email to El Paso, copies of the published notice in English and Spanish, publishers' affidavits, and copies of the tear sheets were attached to the affidavit.
16. In Order No. 5 filed on October 15, 2024, the Commission ALJ found the notice sufficient.

**Intervenors**

17. In Order No. 3 filed on August 3, 2024, the Commission ALJ granted the motion to intervene filed by El Paso.
18. In Order No. 4 filed on September 5, 2024, the Commission ALJ granted the motion to intervene filed by Texas Industrial Energy Consumers (TIEC).
19. In Order No. 6 filed on October 21, 2024, the Commission ALJ granted the motion to intervene filed by Vinton Steel, LLC.

**Testimonies**

20. El Paso Electric's application included the direct testimonies of James Schichtl, vice president of regulatory operations and resource strategy for El Paso Electric, and Manuel Carrasco, manager of rate research for El Paso Electric.
21. On April 24, 2025, Commission Staff filed the direct testimony of Adrian Narvaez, rate analyst in the tariff and rate analysis section of the rate regulation division at the Commission, in support of the agreement.

**Referral to the State of Office of Administrative Hearings**

22. On December 10, 2024, the Commission referred this docket to the State Office of Administrative Hearings (SOAH).
23. On December 12, 2024, the Commission filed a preliminary order.
24. On April 24, 2025, El Paso Electric, on behalf of the parties, filed the agreement, an agreed motion to admit evidence, and a motion to remand this proceeding to the Commission.
25. In SOAH Order No. 3 filed on April 29, 2025, the SOAH ALJ admitted evidence and remanded the case to the Commission for further processing.

**Evidentiary Record**

26. In SOAH Order No. 3 filed on April 30, 2025, the SOAH ALJ admitted the following evidence into the record:
  - a. El Paso Electric's application, including the testimonies of Mr. Schichtl and Mr. Carrasco, filed on August 1, 2024;
  - b. El Paso Electric's proof of notice filed on September 27, 2024;
  - c. the agreement and its attachments filed on April 24, 2025; and
  - d. the direct testimony of Mr. Navarez filed on April 24, 2025.

**Agreement**

27. On April 24, 2025, El Paso Electric filed, on behalf of all the parties to this proceeding, the agreement that resolved all issues among the parties in this proceeding.
28. The parties agree that El Paso Electric's proposed Rate Schedule No. 33A, large economic development rate service, and Rate Schedule No. 33B, medium economic development service, and the rates contained therein, as modified by the agreement, should be approved, effective with the beginning of the first billing cycle after a final order is filed in this proceeding.
29. El Paso Electric agrees to request that Rate Schedule Nos. 33A and 33B's rates be updated for new Commission-approved cost of service until the customer is active and included in a full rate-case proceeding. El Paso Electric agrees to file a request to update Rate

Schedules Nos. 33A and 33B within 90 days of the final order in its pending base-rate proceeding, Docket No. 57568.<sup>3</sup>

30. The parties agree that in the first base-rate proceeding after service is provided under either Rate Schedule No. 33A or Rate Schedule No. 33B, El Paso Electric will provide evidence in its base-rate application that demonstrates Rate Schedule Nos. 33A and 33B are not being subsidized by other customers and that the rates contained therein do not constitute discounted rates, or if they are discounted rates, that they comply with PURA § 36.007.
31. The agreement does not constitute agreement by any party as to cost allocation or rate design principles reflected in the large or medium economic development rates.
32. The agreement does not constitute any agreement regarding the separate Green Energy Plus tariff, and El Paso, TIEC, Vinton Steel, and Commission Staff reserve the right to take any position with regard to the Green Energy Plus tariff.
33. The parties agree that El Paso and El Paso Electric's rate-case expenses associated with this proceeding should be deferred to a base-rate proceeding, but El Paso Electric agrees to reimburse El Paso for its expenses upon invoice, subject to future offset if the Commission disallows any of El Paso's rate-case expenses.
34. The parties agree that service under Rate Schedule Nos. 33A and 33B will not exceed five years from the date of initiation of service unless extended by El Paso Electric and approved by the appropriate regulatory authority.
35. The parties agree that, in the determination of billing demand sections of proposed Rate Schedule Nos. 33A and 33B, in the paragraph that specifies that billing demand will be the highest of three listed items, the third item, item C, should be changed to be "80% of the highest measured demand. . ." instead of "75%."
36. The parties agree that the agreement does not constitute agreement by any party as to cost allocation, rate design, or tariff terms and conditions applicable for the economic development customer after the effective period of the large and medium economic development rates approved in this proceeding.

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<sup>3</sup> *Application of El Paso Electric Company for Authority to Change Rates*, Docket No. 57568 (pending).

37. The parties agree any dedicated incremental costs due to a customer that is being served under Rate Schedule Nos. 33A or 33B will be excluded from transmission cost recovery factor (TCRF) or generation cost recovery rider (GCRR) cost recovery, and in the review conducted in amending any TCRF or in a subsequent base-rate proceeding, if the TCRF is not amended before the base-rate proceeding or in the reconciliation of any GCRR, the scope of the reconciliation or review will include whether any increased transmission or generation costs are incremental costs incurred due to the customer being served under Rate Schedule Nos. 33A or 33B.
38. El Paso Electric agrees to annually review the incremental cost of providing service to customers under Rate Schedule Nos. 33A and 33B within 90 days of each anniversary of the date when service is first provided under Rate Schedules Nos. 33A or 33B, and El Paso Electric will make this available for review by Commission Staff and all intervenors in this docket by emailing a link to the report to each of the parties' representatives. The parties agree that such report will be subject to the protective order in this proceeding if the report is designated as protected by El Paso Electric.
39. The parties agree that proposed Rate Schedule Nos. 33A and 33B rates are subject to review in El Paso Electric's future base-rate proceedings.
40. El Paso Electric commits to filing a rate application for a new rate schedule for service to large load and high load factor customers within 90 days of the final order in its pending base-rate proceeding, Docket No. 57568, and the new rate schedule would be applicable for customers receiving service at transmission voltage with peak demand exceeding 40 MW and an expected load factor of 85% or higher and that do not otherwise qualify for Rate Schedule Nos. 15, 26, 30, or 31.
41. The parties agree that the new rate schedule for service to large load and high load factor customers will include financial protections for El Paso Electric and other customers.
42. The parties reserve their rights to take whatever positions they wish with respect to the proposed new rate schedule for service to large load and high load factor customers.



**Informal Disposition**

43. More than 15 days have passed since completion of the notice provided in this docket.
44. El Paso Electric, El Paso, TIEC, Vinton Steel, and Commission Staff are the only parties to this proceeding.
45. All parties to this proceeding are signatories to the agreement.
46. No hearing is necessary.
47. Commission Staff recommended approval of the application, as modified by the agreement.
48. This decision is not adverse to any party.

**II. Conclusions of Law**

The Commission makes the following conclusions of law.

1. The Commission has authority over this proceeding under PURA §§ 14.001, 32.001, 36.003, 36.101 through 36.111, and 36.204.
2. El Paso Electric is a public utility as that term is defined in PURA § 11.004(1) and an electric utility as that term is defined in PURA § 31.002(6).
3. El Paso Electric provided notice of the application in compliance with 16 Texas Administrative Code (TAC) § 22.55.
4. SOAH exercised jurisdiction over this proceeding under PURA § 14.053 and Texas Government Code § 2003.049.
5. This Commission processed this docket in accordance with the requirements of PURA, the Administrative Procedure Act,<sup>4</sup> and Commission rules.
6. The rates resulting from El Paso Electric's proposed Rate Schedule Nos. 33A and 33B, as modified by the agreement and as reflected in its proposed rate schedules, are just and reasonable and meet the requirements of PURA § 36.003.

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<sup>4</sup> Tex. Gov't Code §§ 2001.001–.903.

7. In accordance with PURA § 36.003(b), the rates approved in this Order are not unreasonably preferential, prejudicial, or discriminatory and are sufficient, equitable, and consistent in application to each class of consumer.
8. The requirements for informal disposition under 16 TAC § 22.35 have been met in this proceeding.

### **III. Ordering Paragraphs**

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

1. The Commission approves El Paso Electric's Rate Schedule No. 33A, large economic development rate, and Rate Schedule No. 33B, medium economic development rate, attached as exhibits A and B to the agreement, effective the first billing cycle following the date of this Order, and to the extent provided in this Order.
2. El Paso Electric must comply with its commitments under the agreement.
3. Entry of this Order does not indicate the Commission's endorsement or approval of any principal or methodology that may underlie the agreement and must not be regarded as precedential as to the appropriateness of any principal or methodology underlying the agreement.
4. Within ten days of the date of this Order, El Paso Electric must provide the Commission with a clean copy of Rate Schedule No. 33A, large economic development rate, and Rate Schedule No. 33B, medium economic development rate, approved in this Order with the correct effective date to be stamped *Approved* and retained by Central Records.
5. The Commission denies all other motions and any other requests for general or specific relief, in not expressly granted.

**Signed at Austin, Texas on the \_\_\_\_\_ day of \_\_\_\_\_ 2025.**

**PUBLIC UTILITY COMMISSION OF TEXAS**

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**THOMAS J. GLEESON, CHAIRMAN**

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**KATHLEEN JACKSON, COMMISSIONER**

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**COURTNEY K. HJALTMAN, COMMISSIONER**