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Filing Date - 2025-02-18 01:37:31 PM

Control Number - 57149

Item Number - 82

**SOAH DOCKET NO. 473-25-05084
PUCT DOCKET NO. 57149**

APPLICATION OF EL PASO ELECTRIC COMPANY TO RECONCILE FUEL COSTS	§ § §	STATE OFFICE OF ADMINISTRATIVE HEARINGS
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**EL PASO ELECTRIC COMPANY’S OBJECTION TO OFFICE OF PUBLIC UTILITY
COUNSEL’S FOURTH REQUEST FOR INFORMATION**

Pursuant to 16 TAC § 22.144(d), El Paso Electric Company (“EPE”) files these objections to the Office of Public Utility Counsel’s (“OPUC”) Fourth Request for Information (“RFI”), questions OPUC 4-9 to 4-13, on the grounds of relevance because they do not seek information that is reasonably calculated to lead to admissible evidence.

Introduction

EPE received OPUC’s Fourth RFI on February 6, 2025. Before filing this objection, in an effort to reach a compromise solution, EPE negotiated diligently and in good faith with counsel OPUC concerning these discovery requests, but the parties were unable to resolve these objections. Under 16 Tex. Admin. Code (“TAC”) § 22.144(d), objections are due in ten calendar days if negotiations fail, which would be Sunday, February 16, 2025, and Monday February 17, 2025, was a state holiday. Therefore, this objection is timely filed.

Legal Standard

The scope of a fuel reconciliation proceeding is dictated by the Public Utility Commission of Texas (“Commission”) rules to be “...any issue related to determining the *reasonableness of the electric utility’s fuel expenses* during the reconciliation period and *whether the electric utility has over- or under-recovered its reasonable fuel expenses*.”¹ Thus, a reconciliation proceeding concerns the reasonableness of the utility’s fuel cost and whether its revenues for recovery of fuel costs match its reasonable costs.

The scope of discovery in Commission proceedings is limited to any non-privileged matter that is “relevant to the subject matter in the proceeding.”² Evidence is relevant if: “(a) it has any

¹ 16 TAC § 25.236(d) (emphasis added).

² 16 TAC § 22.141(a).

tendency to make a fact more or less probable than it would be without the evidence; and (b) the fact is of consequence in determining the action.”³ Discovery requests seeking information that goes beyond the reasonableness of EPE’s fuel costs or whether EPE has over or under-recovered its fuel costs are therefore objectionable on the basis of relevance.

Objections

EPE objects to the following requests for information because they seek information that has no relevance to the issues of this proceeding:

- 4-9. Please refer to EPE’s Response to OPUC 3-14. Please provide a detailed description of the basis for the calculation of the demand and energy charges for New Mexico Rate Schedule No. 29 - Noticed Interruptible Service for Large Power, including a detailed explanation for the calculation of the demand and energy charges and an explanation for any reasons these demand and energy charges differ from those in the firm rate schedule, New Mexico Rate Schedule 09 - Large Power Service Rate.

This request seeks information concerning the basis for the demand and energy charges for a rate EPE has in New Mexico. EPE objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.⁴ This request seeks information unrelated to the subject matter or requested relief in the pending proceeding. Specifically, this request does not seek information relevant to the reasonableness of EPE’s Reconciliation Period fuel costs or whether EPE has over or under-recovered its fuel costs.

- 4-10 Please refer to EPE’s Response to OPUC 3-14. Please provide a detailed description of the basis for the calculation of the demand and energy charges for Texas Rate Schedule No. 38 - Interruptible Service for Large Power, including a detailed explanation for the calculation of the demand and energy charges and an explanation for any reasons these demand and energy charges differ from those in the firm rate schedule, Texas Rate Schedule 25, and the other applicable firm Texas Rate Schedule Nos. 15, 26, 30, and 31.

This request seeks information concerning the basis for the demand and energy charges in EPE’s interruptible rate. EPE objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. This request seeks information unrelated to the subject matter or requested relief in the pending proceeding. Specifically, the request does not

³ Tex. R. Evid. 401.

⁴ 16 TAC § 22.141; Tex. R. Evid. 401.

seek information relevant to the reasonableness of EPE's Reconciliation Period fuel costs or whether EPE has over or under-recovered its fuel costs.

4-11 Please refer to EPE's Response to OPUC 3-14. What percentage of production capacity component cost per billing kW were New Mexico Rate Schedule 09 and Texas Rate Schedule 25 designed to recover?

This request seeks information concerning the design of the capacity component of certain of EPE's rates. EPE objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. This request seeks information unrelated to the subject matter or requested relief in the pending proceeding. Specifically, the request does not seek information relevant to the reasonableness of EPE's Reconciliation Period fuel costs or whether EPE has over or under-recovered its fuel costs.

4-12 Please refer to EPE's Response to OPUC 3-14. What percentage of transmission capacity component cost per billing kW and distribution capacity component cost, separately, were New Mexico Rate Schedule 09 and Texas Rate Schedule 25 designed to recover?

This request seeks information concerning the design of the transmission capacity component of certain rates charged by EPE. EPE objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. This request seeks information unrelated to the subject matter or requested relief in the pending proceeding. Specifically, the request does not seek information relevant to the reasonableness of EPE's Reconciliation Period fuel costs or whether EPE has over or under-recovered its fuel costs.

4-13 Please refer to EPE's Response to OPUC 3-14. Were New Mexico Rate Schedule 09 and Texas Rate Schedule 25 designed to provide discounts associated with transmission capacity component costs or distribution capacity component costs? If so, please identify the percentage or amount per kW by component and by rate.

This request seeks information concerning the design of certain EPE's rates and whether they were intended to provide discounts of transmission and distribution capacity components. EPE objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. This request seeks information unrelated to the subject matter or requested relief in the pending proceeding. Specifically, the request does not seek information relevant to the

reasonableness of EPE's Reconciliation Period fuel costs or whether EPE has over or under-recovered its fuel costs.


Conclusion

EPE respectfully requests the ALJs sustain these objections to OPUC's Fourth Set of RFIs and grant such further relief to which it may be justly entitled.

Respectfully submitted,

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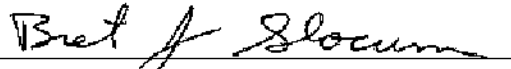
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**ATTORNEYS FOR
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was served by email on all parties of record in this proceeding on February 18, 2025.


Bret J. Stocum