



Control Number: 57194



Item Number: 25

**PUC DOCKET NO. 57194  
SOAH DOCKET NO. 473-25-03211**

**APPLICATION OF EL PASO  
ELECTRIC COMPANY TO  
IMPLEMENT AN INTERIM FUEL  
REFUND**

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**PUBLIC UTILITY COMMISSION  
OF TEXAS**

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**ORDER**

This Order addresses the application of El Paso Electric Company for approval to implement an interim fuel refund for over-collected fuel costs during the period of April 2022 through August 2024. El Paso Electric filed a unanimous agreed proposed order between itself, Commission Staff, the City of El Paso, the Office of Public Utility Counsel (OPUC), and Texas Industrial Energy Consumers (TIEC). The parties agreed that the \$21,135,627 over-recovery, including interest, would be refunded over a period of two months from November to December 2024, except that transmission voltage-level customers and seasonal agricultural customers would receive a one-month refund during the November 2024 billing cycle. The Commission authorizes El Paso Electric to implement an interim fuel refund for over-collected fuel costs to the extent provided in this Order.

**I. Findings of Fact**

The Commission makes the following findings of fact.

**Applicant**

1. El Paso Electric Company 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 October 11, 2024, El Paso Electric filed an application to implement a \$21,135,627 fuel refund, including accumulated interest, for over-collected fuel costs incurred from April 2022 through August 2024.
5. In its application, El Paso Electric stated that, including significant recent off-system sales margins, El Paso Electric has materially over-recovered its fuel costs and projects that it will continue to be in a state of material over-recovery for the foreseeable future absent this requested refund.
6. El Paso Electric calculated that one customer in the interruptible rate class (the interruptible customer) was not entitled to a fuel-cost refund but instead would be subject to a surcharge. However, El Paso Electric did not propose to surcharge the interruptible customer with a net surcharge because the interruptible customer will receive a net refund overall when the surcharge is combined with the refund of its firm rate.
7. El Paso Electric also calculated that customers taking service under Rate Schedule No. 22-Irrigation Service Rate will experience application of a surcharge during the refund months.
8. In its application, El Paso Electric proposed a refund period over two months consisting of the November and December 2024 billing months, except for transmission voltage level customers and seasonal agriculture customers, for which El Paso Electric proposed a one-month refund in November 2024.
9. El Paso Electric's application did not request a change to its fixed fuel factors.
10. In State Office of Administrative Hearings (SOAH) Order No. 2 filed on October 29, 2024, the SOAH administrative law judge (ALJ) found the application sufficient.

**Notice**

11. On November 8, 2024, El Paso Electric filed the following:
  - a. the affidavit of Curtis Hutcheson, manager of regulatory case management for El Paso Electric, attesting that El Paso Electric provided a copy of its application via email to each party from El Paso Electric's previous fuel reconciliation proceeding,

Docket No. 54142,<sup>1</sup> and the currently pending fuel reconciliation proceeding, Docket No. 57149,<sup>2</sup> on October 11, 2024;

- b. the publisher's affidavit attesting that notice of the application was published in *El Diario de El Paso*, a newspaper of general circulation in El Paso County, Texas on October 23, 2024;
  - c. the publisher's affidavit attesting that notice of the application was published in the *Hudspeth County Herald*, a newspaper of general circulation in Hudspeth County, Texas on October 25, 2024;
  - d. the publisher's affidavit attesting that notice of the application was published in the *Van Horn Advocate*, a newspaper of general circulation in Culberson County, Texas on October 24, 2024; and
  - e. the publisher's affidavit attesting that notice of the application was published in the *El Paso Times*, a newspaper of general circulation in El Paso County, Texas on October 27, 2024.
12. In SOAH Order No. 2 filed on October 29, 2024, the SOAH ALJ found El Paso Electric's proposed notice sufficient.

**Intervention**

13. In SOAH Order No. 2 on October 29, 2024, the SOAH ALJ granted the motions to intervene of TIEC and El Paso.
14. SOAH Order No. 3, filed on November 7, 2024, memorialized the prehearing conference held on October 30, 2024, during which the SOAH ALJ granted OPUC's motion to intervene.

**Referral to SOAH**

15. On October 15, 2024, the Commission referred this proceeding to SOAH and filed a preliminary order.

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<sup>1</sup> *Application of El Paso Electric Company to Reconcile Fuel Costs*, Docket No. 54142, Order (Apr. 11, 2024)

<sup>2</sup> *Application of El Paso Electric Company to Reconcile Fuel Costs*, Docket No. 57149 (pending).

16. On October 29, 2024, OPUC requested a hearing on the merits.
17. On November 25, 2024, the parties filed a joint motion to cancel the hearing and modify the procedural schedule to set a deadline for filing a motion for admission of evidence and an agreed proposed order.
18. In SOAH Order No. 4 filed on November 25, 2024, the SOAH ALJ canceled the hearing.
19. On December 20, 2024, the parties filed a joint motion for admission of evidence and an agreed proposed order that provided for approval of El Paso Electric's application as filed.
20. In SOAH Order No. 5 filed on December 23, 2024, the SOAH ALJ dismissed the proceeding from SOAH's docket and remanded it to the Commission.

**Evidentiary Record**

21. In SOAH Order No. 5 filed on December 23, 2024, the SOAH ALJ admitted the following evidence into the record of this proceeding:
  - a. El Paso Electric's application and all attachments filed on October 11, 2024, including the direct testimony of Manuel Carrasco;
  - b. El Paso Electric's affidavit attesting to the provision of notice filed on November 8, 2024;
  - c. the direct testimony of Commission Staff witness Frederick Quijano filed on November 20, 2024; and
  - d. the agreed proposed order filed on December 20, 2024.

**Interim Fuel Refund**

22. The parties agreed that El Paso Electric's over-recovery of \$21,135,627, including interest, incurred from April 2022 through August 2024, would be refunded over a period of two months from November through December 2024, except that transmission voltage-level customers and seasonal agricultural customers would receive a one-month refund during the November 2024 billing cycle.

23. It is appropriate for El Paso Electric to refund a Texas retail jurisdictional over-recovery of eligible fuel costs incurred from April 2022 through August 2024 in the amount of \$21,135,627, including interest, subject to review in a subsequent fuel reconciliation.
24. For an over-recovery of this magnitude, applying the refund as a one-time bill credit would cause a much greater fluctuation in customers' month-to-month bills than applying that refund over multiple billing cycles.
25. Because of the magnitude of the refund required, it is appropriate for El Paso Electric to distribute the refund over two months rather than through a one-month credit, except for transmission-voltage-level customers and seasonal agricultural customers, which will receive the refund in one month.
26. Because combining the interruptible customer's surcharge with refund of its respective firm rate will result in a net refund, it is appropriate for El Paso Electric not to assess a surcharge against the interruptible customer.

**Materiality Threshold**

27. An over-recovery balance is material under 16 Texas Administrative Code (TAC) § 25.237(a)(3)(B) if the amount, including interest, is greater than or equal to 4.0% of a utility's annual actual fuel-cost figures on a rolling 12-month basis, as reflected in the utility's monthly fuel cost reports filed by the utility with the Commission.
28. As of August 2024, El Paso Electric's annual actual fuel costs on a rolling 12-month basis, as reflected in El Paso Electric's fuel-cost reports filed with the Commission, was \$73,325,766.
29. As of August 2024, a material over-recovery balance for El Paso Electric was any balance greater than or equal to \$2,933,031, which is 4.0% of \$73,325,766.
30. As of August 2024, El Paso Electric's over-recovered fuel balance was approximately \$21,135,627, including interest.
31. As of August 2024, El Paso Electric was in a state of material over-collection and projected that it would remain in a state of material over-collection absent a refund.

**Calculation of the Interim Refund**

32. El Paso Electric calculated interest on the cumulative monthly ending over- and under-recovery balances through the refund period using per-annum interest rates of 0.12% for 2022, 1.19% for 2023, and 4.90% for 2024 established by the Commission for over- and under-billing.
33. El Paso Electric allocated the monthly fuel recovery balances among the Texas rate classes based on the monthly historical kilowatt-hour (kWh) usage of each rate class, adjusted for applicable line-loss factors.
34. For Texas retail customers, except transmission-voltage-level customers and seasonal agriculture customers, the refund is based on the application of a kWh refund factor of their rate class. This factor is calculated for each rate class by dividing the amount of the balance allocated to the class by the forecasted kWh usage for the class during the projected refund month. The applicable rate class refund factor is then applied to the individual customer's actual kWh usage during the refund period.
35. El Paso Electric requested, and the parties agreed on, the following refunds per kWh for Texas retail customers, except transmission-voltage-level customers and seasonal agriculture customers:

<b>Rate No.</b>	<b>Rate Schedule</b>	<b>Voltage Level</b>	<b>Total (Refund) / Surcharge</b>	<b>Factor \$/kWh or \$/Mo.</b>
01	Residential Service	S	(\$1,555,500)	-0.005156
WH	Water Heating	S	(47,196)	-0.084247
02	Small General Service	S	(1,018,207)	-0.017864
07	Outdoor Recreational Lighting	S	(65,623)	-0.058839
07	Outdoor Recreational Lighting	P	(1,565)	-0.125591
08	Governmental Street Lighting	S	(362,103)	-0.049730
09	Traffic Signals	S	(24,349)	-0.054177
11T U	Municipal Pumping Service-TOD	S	(708,470)	-0.031127
11T U	Municipal Pumping Service-TOD	P	(348,535)	-0.043457
15	Electrolytic Refining Service	T (A)	(274,829)	-274,829
22	Irrigation Service	S	10,901	0.015643
24	General Service	S	(5,512,867)	-0.024677

<u>Rate No.</u>	<u>Rate Schedule</u>	<u>Voltage Level</u>	<u>Total (Refund) / Surcharge</u>	<u>Factor \$/kWh or \$/Mo.</u>
24	General Service	P	(27,522)	-0.005953
25	Large Power Service	S	(2,640,238)	-0.036570
25	Large Power Service	P	(1,222,939)	-0.034594
25	Large Power Service	T (A)	(56,744)	-56,744
26	Petroleum Refinery Service	T (A)	(2,555,120)	-2,555,120
28	Area Lighting Service	S	(271,009)	-0.063997
30	Electric Furnace Service 69kV	T (A)	(52,127)	-52,127
30	Electric Furnace Service 115kV	T (A)	(111,604)	-111,604
31	Military Reservation Service	T (A)	(1,227,642)	-1,227,642
34	Cotton Gin Service – GS	S (A)	(45,360)	-45,360
34	Cotton Gin Service – SC	S (A)	(376)	-376
38	Interruptible Service – Large Power	P	(97,127)	-0.017277
38	Interruptible Service – 15	T (A)	(180,490)	-180,490
38	Interruptible Service – 25	T (A)	(157,257)	-157,257
38	Interruptible Service – 26	T (A)	(620,752)	-620,752
38	Interruptible Service – 30	T (A)	(1,276,450)	-1,276,450
38	Interruptible Service – 31	T (A)	578,864	289,432
41	City & County Service	S	(1,121,539)	-0.036680
41	City & County Service	P	(134,975)	-0.029036
EVC	Electric Vehicle Charging	S	(6,877)	-0.360128
			(\$21,135,627)	
Note: (A) Directly Assigned. (S) Secondary Voltage. (P) Primary Voltage. (T) Transmission Voltage.				

36. For seasonal agriculture customers and customers taking service at transmission voltage, El Paso Electric directly assigned the fuel-cost refund amounts based on each customer's actual historical kWh usage recorded monthly during the period that the over-recovery accumulated.

#### Rate-Case Expenses

37. El Paso Electric does not seek the recovery of rate-case expenses in this proceeding.

#### Interim Relief

38. In the application, El Paso Electric requested to implement the proposed refund on an interim basis pending final resolution of this docket. El Paso Electric requested that the SOAH ALJ use the process specified in 16 TAC §§ 25.236(e)(6) and 25.237(d) and (e).
39. In SOAH Order No. 2 filed on October 29, 2024, the SOAH ALJ authorized El Paso Electric to implement the refund on an interim basis beginning in November 2024 and



extending through December 2024, subject to adjustment if the interim relief differed from the relief approved in this Order.

40. On November 4, 2024, El Paso Electric filed a clean copy of the interim fuel-cost refund tariff approved by SOAH Order No. 2.
41. The relief approved in this Order is identical to the interim relief approved in SOAH Order No. 2.

**Informal Disposition**

42. More than 15 days have passed since completion of the notice provided in this docket.
43. El Paso Electric, El Paso, TIEC, OPUC, and Commission Staff are the only parties to this proceeding.
44. No hearing is necessary.
45. 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 defined in PURA<sup>3</sup> § 11.004(1), and an electric utility as defined in PURA § 31.002(6).
2. The Commission has authority over this matter under PURA §§ 14.001, 32.001, 36.001, and 36.203.
3. This docket was processed in accordance with the requirements of PURA, the Administrative Procedure Act,<sup>4</sup> and the Commission's rules.
4. El Paso Electric provided notice of the application in compliance with 16 TAC § 25.235(b)(1)(A).
5. El Paso Electric met its burden of proof under PURA § 36.006.

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<sup>3</sup> Public Utility Regulatory Act, Tex. Util. Code §§ 11.001-66.016.

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

6. El Paso Electric calculated its materiality threshold in accordance with 16 TAC § 25.237(a)(3)(B).
7. El Paso Electric was in a state of material over-collection under 16 TAC § 25.237(a)(3)(B) with respect to its fuel costs through August 2024.
8. El Paso Electric projected that it would continue to be in a state of material over-collection under 16 TAC § 25.237(a)(3)(B) with respect to its fuel costs through August 2024.
9. El Paso Electric calculated the interest to be refunded under the interim refund in accordance with 16 TAC § 25.236(e)(1).
10. El Paso Electric developed interclass allocations of the interim net refund in accordance with 16 TAC § 25.236(e)(3).
11. El Paso Electric developed intraclass allocations of the interim net refund in accordance with 16 TAC § 25.236(e)(4).
12. El Paso Electric calculated the net refund in accordance with the methodology set forth in 16 TAC § 25.236(e)(6).
13. The Commission may order that the over-recovery be refunded over two billing cycles rather than through a one-time bill in accordance with 16 TAC § 25.236(e)(5).
14. The appropriate allocation of El Paso Electric's eligible fuel, fuel-related, and purchased-power expenses and revenues among El Paso Electric's jurisdictions and Texas retail rate classes will be determined in El Paso Electric's next fuel reconciliation case.
15. Because the relief approved by this Order is identical to the interim relief approved by the presiding officer in SOAH Order No. 2, no true-up under 16 TAC § 22.125 is necessary.
16. The requirements for informal disposition under 16 TAC § 22.35 have been met in this proceeding.

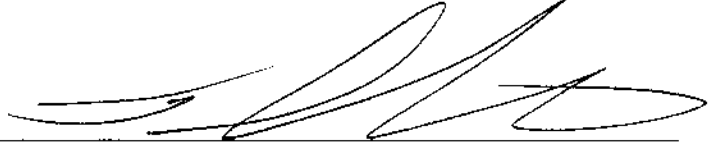
### **III. Ordering Paragraphs**

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

1. The Commission authorizes El Paso Electric to implement an interim fuel refund for over-collected fuel costs to the extent provided in this Order.
2. Subject to final reconciliation during El Paso Electric's next applicable fuel reconciliation proceeding, the Commission orders El Paso Electric to refund the total over-collection amount of \$21,135,627, including interest, through an interim fuel-cost refund tariff.
3. The Commission approves the interim fuel-cost refund tariff, Schedule No. 98-Fuel Interim (Refund), attached to the application as exhibit MC-6.
4. Within ten days of the date this Order is filed, El Paso Electric must provide the Commission with a clean copy of the interim fuel-cost refund tariff, Schedule No. 98 - Fuel Interim (Refund), to be stamped *Approved* and retained by Central Records.
5. 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.
6. The Commission denies all other motions and any other requests for general or specific relief, if not expressly granted.

Signed at Austin, Texas on the 3<sup>rd</sup> day of April 2025.

**PUBLIC UTILITY COMMISSION OF TEXAS**



**THOMAS J. GLEESON, CHAIRMAN**



**KATHLEEN JACKSON, COMMISSIONER**



**COURTNEY K. HJALTMAN, COMMISSIONER**