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Thomas J. Gleeson
Chairman

Kathleen Jackson
Commissioner

Courtney K. Hjaltman
Commissioner



Greg Abbott
Governor

Connie Corona
Executive Director

Public Utility Commission of Texas

TO: Chairman Thomas J. Gleeson
Commissioner Kathleen Jackson
Commissioner Courtney K. Hjaltman

All Parties of Record

FROM: Alex Scheifler
Commission Advising

RE: *Application of El Paso Electric Company for Approval of Accounting Treatment for Temporary Reassignment of Jurisdictional Energy*, Docket No. 57760, Draft Preliminary Order, June 5, 2025 Open Meeting, Item No. 26.

DATE: May 29, 2025

Please find enclosed the draft preliminary order filed by Commission Advising in the above-referenced docket. The Commission will consider this draft preliminary order at the June 5, 2025 open meeting. Parties shall not file responses or comments addressing this draft preliminary order.

Any modifications to the draft preliminary order that are proposed by one or more Commissioners will be filed simultaneously prior to the consideration of the matter at the June 5, 2025 open meeting.

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DOCKET NO. 57760

APPLICATION OF EL PASO	§	PUBLIC UTILITY COMMISSION
ELECTRIC COMPANY FOR	§	
APPROVAL OF ACCOUNTING	§	OF TEXAS
TREATMENT FOR TEMPORARY	§	
REASSIGNMENT OF	§	
JURISDICTIONAL ENERGY	§	

DRAFT PRELIMINARY ORDER

El Paso Electric Company filed an application for approval to temporarily account for up to 35,000 megawatt-hours (MWh) of production under the Macho Springs purchased power agreement (PPA) in calendar year 2025 that would otherwise be allocated to El Paso Electric's Texas jurisdiction as reassigned to El Paso Electric's New Mexico jurisdiction. Because of the relief requested, El Paso Electric requests that the Commission grant interim relief while this case is pending and set an expedited schedule for a final order. This preliminary order identifies the issues that must be addressed in this proceeding.

A. Procedural History

In Order Nos. 3 and 4, the administrative law judge (ALJ) granted motions to intervene filed by Texas Industrial Energy Consumers (TIEC) and the City of El Paso. On April 2, 2025, the Office of the Public Utility Counsel (OPUC) filed a motion to intervene. In Order No. 6 filed on April 22, 2025, the ALJ revised the procedural schedule in response to the parties' request for a two-week delay of outstanding deadlines. The City of El Paso and OPUC each requested a hearing. On May 7, 2025, Commission Staff filed a statement declining to provide a recommendation on final disposition and instead recommending that this case proceed to the State Office of Administrative Hearings (SOAH).

El Paso Electric was directed, and Commission Staff and other interested persons were allowed, by May 27, 2025, to file a list of issues to be addressed in the docket and also identify any issues not to be addressed and any threshold legal or policy issues that should be addressed. El Paso Electric, the City of El Paso, and Commission Staff each timely filed a list of issues.

II. Issues to be Addressed

The Commission must provide to the ALJ a list of issues or areas to be addressed in any proceeding referred to the SOAH.¹ After reviewing the pleadings submitted by the parties, the Commission identifies the following issues that must be addressed in this docket:

1. What relief is required from the Commission to temporarily assign up to 35,000 MWh of El Paso Electric's Texas jurisdictional portion of capacity and energy generated and delivered by the Macho Springs facility to its New Mexico jurisdiction?
2. Should El Paso Electric's proposed accounting change be treated as an allocation change?
3. Did El Paso Electric provide proper notice of the proposed reassignment of the Macho Springs PPA under 16 Texas Administrative Code § 22.55?
4. From what other regulatory authorities must El Paso Electric seek approval for the requested change in the accounting treatment? Which regulatory authorities have approved the transaction? When are any approvals anticipated?
5. What is the current allocation between Texas and New Mexico customers of capacity and energy under the Macho Springs PPA? Does El Paso Electric's proposed allocation between Texas and New Mexico customers change in this application?
6. How will El Paso Electric replace the capacity and energy from the Macho Springs facility that is currently serving Texas customers?
7. Does El Paso Electric's proposal require a tariff change in this proceeding?
8. Will El Paso Electric's proposal affect its Texas customers' rates?
9. Will fuel costs allocated to Texas customers be affected as a result of the proposed reassignment of Macho Springs capacity and energy to the New Mexico jurisdiction?
 - a. If so, has El Paso Electric included in its application an estimate of possible effects to fuel costs of the proposed reassignment of Texas jurisdictional energy?
 - b. Does this estimate of fuel-cost effects include imputed capacity charges included in Texas base rates?

¹ Tex. Gov't Code § 2003.049(e).

- c. Could the proposed reassignment of Macho Springs capacity and energy result in an increase in total fuel costs paid by Texas customers?
 - d. What is the net effect on allocated fuel costs of reassigning Macho Springs capacity and energy to the New Mexico jurisdiction?
10. What commitments are proposed by El Paso Electric, and what conditions should the Commission impose, to adequately ensure that no additional costs for Texas customers result from the temporary reassignment of Macho Springs capacity and energy to New Mexico customers?
11. If the application is to be approved, what other adjustments or changes, if any, are required to fairly and equitably treat Texas customers?
12. Does El Paso Electric's proposed reassignment comply with applicable statutes and Commission rules?
13. Is El Paso Electric's proposed reassignment precluded by previous Commission orders?
14. Should El Paso Electric's request for accounting treatment for the Macho Springs PPA be granted?

This list of issues is not intended to be exhaustive. The parties and the ALJ are free to raise and address any issues relevant in this docket that they deem necessary, subject to any limitations imposed by the ALJ or by the Commission in future orders issued in this docket. The Commission may identify and provide to the ALJ in the future any additional issues or areas that must be addressed, as permitted under Texas Government Code § 2003.049(e).

III. Effect of Preliminary Order

This Order is preliminary in nature and is entered without prejudice to any party expressing views contrary to this Order before the SOAH ALJ at hearing. The SOAH ALJ, upon his or her own motion or upon the motion of any party, may deviate from this Order when circumstances dictate that it is reasonable to do so. Any ruling by the SOAH ALJ that deviates from this Order may be appealed to the Commission. The Commission will not address whether this Order should be modified except upon its own motion or the appeal of a SOAH ALJ's order. Furthermore, this Order is not subject to motions for rehearing or reconsideration.

Signed at Austin, Texas the _____ day of _____ 2025.

PUBLIC UTILITY COMMISSION OF TEXAS

THOMAS J. GLEESON, CHAIRMAN

KATHLEEN JACKSON, COMMISSIONER

COURTNEY K. HJALTMAN, COMMISSIONER

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