

DOCKET NO. 37690

APPLICATION OF EL PASO	§	
ELECTRIC COMPANY TO CHANGE	§	
RATES, TO RECONCILE FUEL	§	
COSTS, TO ESTABLISH FORMULA-	§	PUBLIC UTILITY COMMISSION
BASED FUEL FACTORS, AND TO	§	OF TEXAS
ESTABLISH AN ENERGY	§	
EFFICIENCY COST RECOVERY	§	
FACTOR	§	

EL PASO ELECTRIC COMPANY’S PETITION AND STATEMENT OF INTENT TO CHANGE RATES AND TO SEEK OTHER RATE-RELATED RELIEF

TO THE HONORABLE PUBLIC UTILITY COMMISSION OF TEXAS AND MUNICIPAL REGULATORY AUTHORITIES:

El Paso Electric Company (EPE or Company) files this Petition and Statement of Intent to change its base rates, along with other rate-related requests, and asks that the Commission and municipal regulatory authorities, to the extent it is within the regulatory authority’s jurisdiction :

1. approve a base rate increase of \$51,577,065 or 12.89% annually, based on a total non-fuel revenue requirement of \$451,672,762 for EPE’s Texas retail jurisdiction, together with tariff changes;
2. under P.U.C. Substantive Rule 25.236, approve EPE’s request for final reconciliation of its fuel and purchased power costs and fuel factor revenues for March 1, 2007 through June 30, 2009;
3. under P.U.C. Substantive Rule 25.237(a), approve EPE’s request to implement an EPE-specific fuel-factor formula; and
4. under P.U.C. Substantive Rule 25.181(f), approve EPE’s request to implement an energy efficiency cost recovery factor to recover all of its ongoing energy efficiency costs, together with the previous costs the Commission allowed the Company to defer for future recovery.

EPE’s requests are described in more detail below and in the accompanying testimony and schedules in the Electric Utility Rate Filing Package for Generating Utilities (Rate Filing Package or RFP).

I. Authorized Representative for Service

EPE's authorized representative for purpose of receiving service of documents is:

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III. Parties and Jurisdiction

EPE is an electric utility, a public utility, and a utility, as those terms are defined in §§ 11.004(1) and 31.002(6) of the Public Utility Regulatory Act (PURA). The Commission has jurisdiction over this matter under PURA §§ 14.001 (general powers), 32.001 (original jurisdiction over rates, operations and services), 36.101-36.111 (procedures for utility-proposed rate changes), 36.203 (fuel cost recovery), and 39.905 (energy efficiency cost recovery).

The Commission has exclusive original jurisdiction over this application for service provided to environs customers. Contemporaneous with this filing, EPE has filed a Statement of Intent to change rates with those municipalities that retain original jurisdiction over EPE's rates. These municipalities are El Paso, Anthony, Clint, Horizon, Socorro, Vinton, and Van Horn.

EPE's business address is 100 N. Stanton, El Paso, Texas 79901. EPE serves approximately 367,000 retail customers in Texas, and this application affects all of those customers. EPE also serves retail customers in southern New Mexico, where it is regulated by the New Mexico Public Regulation Commission. The Federal Energy Regulatory Commission (FERC) regulates EPE's wholesale electric operations.

IV. Notice

EPE will provide notice in accordance with PURA § 36.103, P.U.C. PROC. R. 22.51(a), and P.U.C. SUBST. R. 25.235(b). The proposed notice is provided in RFP Schedule T and is Exhibit A to this application.

V. Rate Filing Package

Under P.U.C. PROC. R. 22.243(b), EPE is filing its RFP, which complies in all material respects with the Commission's requirements.

VI. Executive Summary of Filing¹

The direct testimony of EPE's Chief Executive Officer, David Stevens, gives an overview of this filing and introduces all of EPE's witnesses and the subject matters of their testimony.²

EPE's application consists of four general items:

1. A base rate case, which includes a request to change tariffs. The test year for the base rate case is July 2008 through June 2009. EPE is under a rate freeze that expires June 30, 2010. EPE proposes an effective date that will permit the new base rates to be actually implemented beginning July 1, 2010 and not before then, as discussed in more detail below. The complete set of proposed tariff schedules is presented in Schedule Q-8.8 of EPE's RFP.

¹ This section includes the executive summary required by page 4 of the Commission RFP instructions.

² Exhibit DWS-1 to Mr. Stevens' testimony is a list of EPE's witnesses.

2. A fuel reconciliation request, which under P.U.C. SUBST. R. 25.236(b) must accompany a request to change base rates. The reconciliation period for EPE's fuel and purchased power costs is the period March 2007 through June 2009 (which coincides with the end of the test year of the base rate request).
3. A request to implement for the first time an EPE-specific fuel-factor formula under P.U.C. SUBST. R. 25.237(a)(1)(B), by which EPE's fuel factor may be adjusted.
4. A request to implement for the first time an energy efficiency cost recovery factor (EECRF) under P.U.C. SUBST. R. 25.181(f) for the recovery of its ongoing costs as well as costs EPE has been allowed to defer under a prior Commission order. EPE requests that the EECRF be applicable beginning July 1, 2010, to coincide with the end of the rate freeze.

Each of these four items is discussed in more detail next.

A. Base Rate Increase/Tariff Revisions

Rate change

EPE's last base rate case was Docket No. 12700, which used a test year ending June 30, 1993 and was resolved through a settlement in August 1995. In that case, EPE agreed to a 10-year rate freeze and a \$25 million base rate increase. EPE agreed to a voluntary base rate decrease of approximately \$15 million in 1999. In a 2005 rate agreement with the City of El Paso, EPE agreed to extend the rate freeze another five years, through June 2010. EPE has complied with these rate freeze agreements and now seeks to increase its base rates upon the July 1, 2010 expiration of the rate freeze. EPE proposes an effective date of January 13, 2010 for the areas where the Commission has original jurisdiction and March 2, 2010 for areas where municipal authorities retain regulatory jurisdiction. With the suspension provided by statute, these proposed effective dates will allow some time for tariff approval, beyond the processing of the application, so that rates may be actually implemented on July 1, 2010. EPE requests that the regulatory authorities suspend this effective date so that the new base rates be applicable for all customers beginning on July 1, 2010, as envisioned by the 2005 rate agreement.

EPE seeks an overall increase in annual Texas retail revenues of \$51.6, or 12.9% percent over its adjusted test year revenues (exclusive of fuel revenues and energy efficiency costs). This request is based upon EPE's costs to render service during the July 2008-June 2009 test

year. This rate request affects all of EPE's Texas retail customers. The requested changes are reflected in the proposed revisions to the tariffs in RFP Schedule Q-8.8.

Some of the key elements in EPE's base rate request include the following:

1. The amount of EPE's net invested capital for its generation fleet is lower than it would be if it were calculated by including the original cost of its facilities less accumulated depreciation. This situation arises because of the fresh start accounting EPE implemented upon emergence from bankruptcy in 1996. The Commission approved EPE's fresh-start accounting in PUC Docket No. 22280. As a result of the fresh start accounting, there was, in addition to other adjustments, a significant write-down in the book value of EPE's invested capital in the Palo Verde Nuclear Generating Station.
2. EPE is seeking to include in rate base its investment in its newest generation facility, Phase I of Newman Unit 5. This unit is a 140 MW simple cycle gas-fired unit and entered service in May 2009.
3. EPE is seeking to include in rate base the investments in capital additions made since the end of the test year in its last rate case in Docket No. 12700, with appropriate recognition of the fresh start accounting as of February 1996.
4. EPE is not requesting that any construction work in progress be included in rate base.
5. EPE is requesting an authorized rate of return that uses an 11.35% return on common equity. This return is necessary to reflect the risks of EPE's business and to allow EPE to raise capital on reasonable terms.
6. EPE is requesting two adjustments concerning depreciation. First, the Commission last approved depreciation rates for Texas in Docket No. 12700, using a 1993 depreciation study. In 2004, EPE began booking different depreciation rates system-wide (which were on balance higher than those approved in Docket No. 12700 and therefore result in higher accumulated depreciation and a lower rate base balance) based on a 2002 depreciation study and a 2003 decision of the New Mexico Public Regulation Commission approving those rates. EPE has not yet requested Texas Commission approval to use those newer rates. EPE now requests that the Commission approve the use of the 2004 depreciation rates and resulting higher accumulated depreciation reserve balances and lower rate base as if the Commission

had already approved the higher depreciation rates for use in 2004 and afterwards.³ Notwithstanding this request, EPE has supplied information reflecting depreciation rates and accumulated reserve balances as if the Docket No. 12700 rates had continued to be applied instead of the 2004 rates. Second, for future depreciation, EPE is presenting a 2008 depreciation study that supports the use of newer and more current depreciation rates, and EPE requests that the rates from that study apply once new rates are established in this case.

7. EPE has updated the information on the costs to decommission the Palo Verde nuclear power plant, together with the reasonable annual expense in its cost of service necessary for EPE to fund its share of that decommissioning.
8. EPE is a stand alone-electric utility with no utility affiliates or service company, which simplifies a review of its costs.
9. In rate design, EPE is proposing to update its tariffs to better reflect current conditions and costs to serve, while also increasing options available to customers to manage their energy costs.

Number and Classes of Ratepayers Affected

EPE has 367,000 Texas retail customers, all of whom will be affected by this petition. Two exhibits to this Petition show rate impacts of EPE's request using the information required by the Commission's RFP instructions for an executive summary. First, Exhibit B is a comparison of present revenues by class at an equalized rate of return and the proposed class revenue assignments for both base rate revenues and total revenues. Second, Exhibit C is a bill comparison of the current and proposed rates for the residential and small commercial classes at the 100, 200, 300, 400, 500, 600, 700, 800, 900, 1000, 1500, 2000, 2500, and 3000, kWh usage levels.

Proposed Tariff/Rate Schedule Revisions

Given the passage of time since its last rate case, EPE is proposing revisions to most tariffs and rate schedules. The complete set of proposed tariff schedules is presented in Schedule Q-8.8 of EPE's RFP.

³ Depreciation rate changes are accounting changes, not rate changes, under PURA, and the prohibition against retroactive ratemaking does not apply to such changes. *Application of CP National Corporation for Approval of a Change in Depreciation Rates for Trinity Valley Telephone Company*, Docket No. 7042, 14 PUC Bull 227, 238-239 (Feb. 1987).

Rate Case Expenses

EPE also seeks recovery of the reasonable rate case expenses that it and any intervening cities incur in this case.

B. Fuel Reconciliation

EPE's last fuel reconciliation proceeding was Docket No. 34695, which reconciled fuel and purchased power costs for the period March 1, 2004 through February 28, 2007. In this new case, as required under P.U.C. SUBST. R. 25.236(b), EPE seeks to reconcile its fuel and purchased power cost for the Reconciliation Period of March 2007 through June 2009. The three witnesses who sponsor direct testimony for the fuel reconciliation part of this case are Evan Evans, Andres Ramirez and Steven Buraczyk.

In Docket No. 32289, the Commission approved the "Stipulation Implementing Fuel Provisions of Rate Agreement" (Stipulation) entered into by EPE, the City of El Paso, Commission Staff, and Border Steel, Inc.⁴ Pursuant to the Rate Agreement in Docket No. 32289, the Commission approved a rate freeze for EPE's Texas base rates for customers in the PUCT's original-jurisdictional areas and in the municipalities retaining original jurisdiction over EPE's rates from July 1, 2005 through June 30, 2010.⁵ The Stipulation in Docket No. 32289 requires that EPE reconcile its fuel and purchased power costs during the new base rate freeze period according to the Commission's fuel rules in effect on July 1, 1995 and that EPE share with its Texas customers wheeling revenues and margins on off-system sales.⁶ The 1995 fuel rule is substantially the same as the Commission's current fuel rule except that the 1995 rule defines wheeling expenses as eligible fuel costs. The Stipulation and Agreed Order in Docket No. 12700 continue to set the performance standards for the Palo Verde Nuclear Generating Station, which were first established in Docket No. 8892 and modified by Docket No. 23530.⁷ The average capacity factor for Palo Verde Nuclear Generating Station during the reconciliation period was

⁴ *Joint Petition of El Paso Electric Company and the City of El Paso for Approval of Fuel-Related Provisions of Rate Agreement*, Docket No. 32289 (Dec. 8, 2006) (The Office of Public Utility Counsel neither agreed nor objected to the fuel-related provisions of the Stipulation, and Texas Ratepayers' Organization to Save Energy did not sign, but did support, the Stipulation. Order at Findings of Fact 9 and 16).

⁵ *Id.* at Finding of Fact 22.

⁶ *Id.* at Findings of Fact 19 and 22.

⁷ *Application of El Paso Electric Company to Establish Performance Standards for the Palo Verde Nuclear Generating Station*, Docket No. 8892, 17 P.U.C. Bull. 547 (Jun. 1991) (as modified by Docket No. 23530).

within the dead band of the performance standards, meaning that EPE is neither rewarded nor penalized.

EPE seeks reconciliation of its Texas jurisdictional fuel and fuel-related expenses and fuel revenues for the Reconciliation Period. The reconciled fuel balance in EPE’s previous reconciliation, Docket No. 34695, was an under-recovery balance of \$16,939,558. However, because of ongoing surcharges in effect at that time, Ordering Paragraph No. 2 in that case directed EPE to not initiate a surcharge at that time. The \$16,939,558 under-recovery fuel balance resulting from the Order was to be carried forward to be included in future proceedings.⁸

During the Reconciliation Period, EPE incurred over \$604,155,537 in eligible fuel and purchased power expenses to generate and purchase electricity, net of certain revenues properly credited to such expenses and other adjustments. The Texas-jurisdictional allocation of such eligible fuel and purchased power expenses subject to reconciliation is approximately \$463,845,826. The following table summarizes the calculation, by fuel type, of EPE’s total eligible fuel and purchased power costs to be reconciled in this proceeding:

Description of Item	(000’s—Texas Jurisdiction)	Balance (000’s Texas Jurisdiction)	Witness
Fuel Factor Revenues		\$429,914	Evans, p. 5, 7, 14
Fuel & Purchased Power Expenses			
Gas	\$391,750		Evans, p. 15, 23; Buraczyk, p. 20-31, Exh. STB-3
Oil	\$22		Evans, p. 15, 24; Buraczyk, p. 31-32, Exh. STB-3
Coal	\$21,102		Evans, p. 15, 23-24; Buraczyk, p. 32-34, Exh. STB-3

⁸ *Application of El Paso Electric Company for Authority to Reconcile Fuel Costs*, Docket No. 34695, Ordering Paragraph 2, (July 21, 2008).

Nuclear	\$46,286		Evans, p. 15, 25; Buraczyk, p. 34-38, Exh. STB-3
Purchased Power Expense	\$245,955		Evans, p. 15, 25-26; Buraczyk, p. 43-46
Off System Sales Revenues ⁹	(\$248,123)		Evans, p. 15, 26; Buraczyk, p. 48-51
Net Wheeling Expense	\$6,449		Evans p. 15, 26-28 Buraczyk, p. 46-48
Coal Reclamation Expense	\$241		Evans p. 15
Renewable Energy Certificates	\$164		Evans p. 15, 54
Total Fuel And Purchased Power:		\$463,845	Evans, p. 15;
Total Reconciliation Period Over/(Under) Recovery		(\$33,931)	Evans, p. 5, Exhs. EDE-3, EDE-7
Reconciliation Period Adjustments			
Interest On Net Over/(Under)-Recovery		(\$3,291)	Evans, p. 7, 40-42, Exhs. EDE-3, EDE-7,
Other Reconciliation Period Adjustments		\$1,690	Evans, p. 7, 21, Exhs. EDE-3, EDE-7
Docket No. 34695 Reconciled Balance (net under-recovery) (offset by Dkt. 31332 surcharge)		(\$1,037)	Evans, p. 7, 9, 31, Exhs. EDE-4, EDE-7
Coal Reclamation Expense (add amount requested)		(\$1,421)	Evans, p. 7, 43-50, Exhs. EDE-3, EDE-

⁹ This amount includes the margins from off-system sales and wheeling revenues to which customers are entitled under the agreement and order in Docket No. 32289.

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Docket No. 35204 Interim Surcharge & Interest		\$28,543	Evans, p. 6, 7, 32, Exhs. EDE-3, EDE-5, EDE-7
Docket No. 35856 Interim Surcharge & Interest		\$13,754	Evan , p. 6, 7, 33, Exhs. EDE-3, EDE-6, EDE-7
Adjusted Reconciliation Period Over/(Under) Recovery		\$4,306	Evan, p. 5, 7, Exhs. EDE-3, EDE-8
Palo Verde Performance Standards Evaluations & Interest		\$771	Evans, p. 7, 34-40, 42, Exhs. EDE-3, EDE-9; Ramirez, p. 62
Net Reconciliation Period Over/(Under)-Recovery		\$3,535	Evans, p. 5, 7, 8, 13, 34, 42, 43, 51, Exhs. EDE-3, 8

EPE's RFP and accompanying testimony demonstrates that: (1) EPE's eligible fuel and purchased power expenses were reasonable and necessary expenses incurred to provide reliable electric service; and (2) EPE properly accounted for the amount of revenues collected pursuant to its fuel factor.

As noted above, EPE's cumulative Reconciliation Period ending balance is an over-recovery of \$3.5 million. This balance does not constitute a material over-collection under the Commission rules.¹⁰ In addition, it should be noted that an interim fuel refund was already authorized for November and December 2009, which is expected to offset most of this balance.¹¹

In addition, under the Docket No. 34695 agreement and order, EPE currently shares margins from off-system sales and transmission wheeling revenues on a 75% EPE/25% customer basis. This arrangement will end on June 30, 2010. As explained by Company witness Steven

¹⁰ P.U.C. SUBST. R. 23.23(b)(2)(A)(iii)(II) (rule in effect July 1995); P.U.C. SUBST. R. 25.237(a)(3)(B) (current rule).

¹¹ Docket 37433, *Application of El Paso Electric to Implement an Interim Fuel Refund*, Order October 23, 2009.

Buraczyk, EPE is proposing that, effective July 1, 2010, EPE retain 10% of the margins from off-system sales.

Finally, in conjunction with the reconciliation of fuel costs, EPE requests a prudence finding for the fuel-related contracts and arrangements entered into or modified during the Reconciliation Period. Attached as Exhibit D to this Petition is a list of these contracts.

C. Proposed Formula for Fuel Factor Changes

P.U.C. SUBST. R. 25.237(a)(1) allows a utility to determine its fuel factor in one of two ways. Historically, EPE has used the approach which divides projected net fuel expenses by corresponding projected sales. In this new case, EPE proposes to switch to the other method, which determines the fuel factor under a Commission-approved, utility-specific formula. Under Rule 25.237(a)(1)(B), such a formula can be approved in a general rate change proceeding such as this. Company witness Evan Evans presents EPE's proposal for such a fuel factor.

The goal of EPE's fuel factor formula proposal is to implement an objective, transparent, and predictable means of adjusting the fuel factor. All of the information used to make the calculations is publicly available and, therefore, easily verified by the Commission Staff and other parties. EPE's proposed fuel factor formula offers the opportunity to allow fuel factor adjustments in a more expeditious and efficient process. The main elements of EPE's proposal are as follows:

- The proposed formula uses the fuel costs incurred over a twelve month historical period with a natural gas market price adjustment for all eligible fuel costs except for specifically identified costs.
- The fuel and purchased power costs are separated into two parts. One part, the Historical Portion Costs, consists of actual nuclear fuel expense, coal expenses, Four Corners Mine Reclamation costs and any NO_x or SO₂ credits or costs over the most recent twelve month historical period at the time it files an application to adjust its fuel factor under the formula.
- The second part, the Projected Market Adjusted Costs, includes the remainder of eligible fuel costs, which primarily consists of natural gas and purchased power expenses. A "Projected Market Adjustment" will be applied to these costs based upon average Permian Basin natural gas futures prices for the rate year divided by the simple average of the Permian Basin natural gas prices for the twelve-month historical period.
- These Projected Market Adjusted Costs are added to the Historical Portion Costs to derive the Total Fixed Fuel Factor Costs. The Total Fixed Fuel Factor Costs are divided by the actual sales for the twelve-month historical period to derive the Fixed Fuel Factor.

- Rather than specifying particular windows for adjusting the fuel factor, EPE proposes to adjust the factor whenever it believes an adjustment is appropriate within the constraints of the Commission's rule.

In connection with its fuel request, EPE also seeks a good cause exception to P.U.C. SUBST. R. 25.236(a) to allow all costs and revenues from SO₂ and NO_x emission allowances as eligible fuel expense. Currently, there is no Commission order specifying how these allowances should be treated. Treating these items as eligible fuel is warranted due to the relationship or correlation between the amount of fuel burned and the number of allowances required. This treatment of SO₂ and NO_x allowances as eligible fuel is consistent with the stipulation and order in Docket No. 34800.¹²

Similarly, because of the positive correlation between fuel costs and the obligation to retire Renewable Energy Credits, EPE also requests a good cause exception SUBST. R. 25.236(a) for the recovery of this expense as an eligible fuel expense. The obligation to purchase RECs is based on sales, which of course dictates the magnitude of fuel costs. Consequently, EPE believes that they should be considered an eligible fuel cost because it is an expense it incurs in much the same manner as other fuel costs. In addition, the price of RECs has been volatile over the years, and including it as a reconcilable fuel cost would protect both the company and its customers from a mismatch between the amount collected and the amount paid out.

Finally, EPE also proposes to increase the amount of the monthly amortization of mine closing (or reclamation) costs for the Four Corners' mine so that the amortization provides for the recovery of EPE's full share of the expected mine closing costs.

D. Energy Efficiency Cost Recovery Factor

EPE witnesses Evan Evans and Paul Royalty present EPE's proposal for its energy efficiency program costs. Currently, EPE has no tariff or rider to recover its energy efficiency costs. Nor does the rate order in the Company's last rate case, Docket No. 12700, expressly include any amount for energy efficiency costs. Under P.U.C. SUBST. R. 25.181(f), an EECRF tariff is required to permit timely recovery of the reasonable costs of providing energy efficiency

¹² *Application of Entergy Gulf States, Inc. for Authority to Change Rates and to Reconcile Fuel Costs*, Docket No. 34800, Final Order, Conclusion of Law 12, page 12, and Finding of Fact 43, page 8–9 (Mar. 16, 2009).

programs. In addition, the rule requires that a utility's base rates shall not be set to recover energy efficiency costs. EPE seeks to comply with this rule.

EPE proposes that it recover all of its energy efficiency costs (described by Mr. Royalty) through the cost recovery factor tariff (presented by Mr. Evans). In addition, EPE requests that the costs it recovers through its EECRF include the energy efficiency costs that it was allowed to defer for future recovery in Docket No. 35612.¹³ The deferral of such costs by a utility with a rate freeze, together with the recovery of such costs on the expiration of the rate freeze, is expressly allowed by P.U.C. SUBST. R. 25.181(f)(7). EPE requests an initial EECRF to recover: (a) \$1,915,000 in energy efficiency costs projected to be incurred from July 1 through December 31, 2010, and (b) the portion of the annual amortization expense pertaining to the period from July 1 through December 31, 2010 in the amount of \$1,233,389 for the reasonable costs for energy efficiency during the period from September 1, 2007 through June 30, 2010, which have been deferred pursuant to Commission authorization and are amortized over a three year period including carrying costs, as Mr. Royalty explains.

EPE requests that the EECRF tariff become applicable July 1, 2010. In addition, EPE seeks a good-cause exception to P.U.C. SUBST. R. 25.181(f)(10), which requires that a procedural schedule be established that will enable a final order within a 60 or 120-day period after the initial filing of the request for an EECRF. EPE will work with the parties to this proceeding and, if possible, propose a mutually agreeable schedule.

VII. Request for Waivers of RFP Requirements

EPE does not believe any waivers to the RFP requirements are necessary. Under P.U.C. SUBST. R. 25.237(d), requesting a fuel factor with a rate proceeding is optional, rather than required. In this proceeding, EPE is requesting, pursuant to P.U.C. SUBST. R. 25.237(a)(1)(B), that the Commission approve a fuel factor formula. EPE is not requesting that a fuel factor be set based on the traditional, non-formulaic, forecasted, rate year fuel costs. Consequently, EPE has indicated on those schedules or parts of schedules that request forecasted fuel costs that the requested information is not applicable, as directed by the instructions to the Rate Filing Package. In the event that it is determined that a waiver was necessary for such schedules, EPE

¹³ *Application of El Paso Electric Company to Defer Energy Efficiency Costs Under PURA § 39.905 and P.U.C. Substantive Rule § 25.181(f)*, Docket No. 35612, Order (Sept. 12, 2008).

requests on waiver on the basis that it is not requesting a fuel factor based on forecasted fuel costs.

VIII. Confidentiality and Protective Order

Schedule W of the RFP instructions requires that the utility prepare a confidentiality agreement using the format specified therein. However, that confidentiality agreement was developed many years ago, and Commission-approved protective orders have evolved since then. To conform to the Commission's more recent and established practice, EPE proposes to use the protective order approved in EPE's last fuel reconciliation in Docket No. 34695 (as well as more recent fuel-related cases) as the basis for the protective order in this new docket. The Commission's Legal Division has approved the use of this protective order. Thus, EPE requests that the Commission enter a protective order in the form attached to this application as Exhibit E and included in RFP Schedule W that accompanies this application and that, pending entry of the protective order, the parties treat the proposed protective order as a confidentiality agreement.

IX. Conclusion and Prayer For Relief

For the reasons set out in this application, petition and statement of intent, and the accompanying RFP schedules and testimony, EPE requests that this Commission grant EPE's application and change its base rates, reconcile its fuel costs, approve the new formula-based fuel factor, and approve the new energy efficiency cost recovery factor, all in accordance with the requests contained herein.

Respectfully submitted,

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