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SOAH DOCKET NO. 473-10-1677  
PUC DOCKET NO. 37690

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APPLICATION OF EL PASO § BEFORE THE STATE OFFICE  
ELECTRIC COMPANY TO CHANGE §  
RATES, TO RECONCILE FUEL §  
COSTS, TO ESTABLISH FORMULA- § OF  
BASED FUEL FACTORS, AND TO §  
ESTABLISH AN ENERGY §  
EFFICIENCY COST RECOVERY §  
FACTOR § ADMINISTRATIVE HEARINGS

SOAH ORDER NO. 14

GRANTING MOTION TO ADMIT EVIDENCE AND SEVER FUEL  
RECONCILIATION ISSUES, APPROVING INTERIM RATES, DISMISSING SOAH  
DOCKET AND RETURNING SETTLED CASE TO COMMISSION

SOAH DOCKET NO. 473-10-4775  
PUC DOCKET NO. 38361

APPLICATION OF EL PASO § BEFORE THE STATE OFFICE  
ELECTRIC COMPANY TO §  
RECONCILE FUEL § OF  
COSTS (SEVERED FROM PUC §  
DOCKET NO. 37690) § ADMINISTRATIVE HEARINGS

SOAH ORDER NO. 1

GRANTING MOTION TO SEVER RECONCILIATION ISSUES AND SETTING  
HEARING

On June June 16, 2010, the following parties filed a Stipulation and Agreement (Agreement): El Paso Electric Company (EPE or Company), the Public Utility Commission Staff (Commission Staff), the Office of Public Utility Counsel (OPUC), the City of El Paso (City), Texas Industrial Energy Consumers (TIEC), the Texas State Agencies (State Agencies), Freeport-McMoRan Copper & Gold, Inc. (Freeport-McMoRan), Wal-Mart Stores Texas, LLC and Sam's East, Inc. (Wal-Mart), and the United States Department of Defense and All Other Federal Executive Agencies (DOD/FEA) (collectively, the Signatories). The Agreement resolves all issues in this case except for one fuel reconciliation-related issue. The Signatories

also filed a Joint Motion to admit evidence supporting the Agreement, to sever the fuel reconciliation phase of this case and identify the one issue that is to be litigated, to implement interim rates effective July 1, 2010, and to return the case (excluding the severed fuel reconciliation case) to the Commission. These requests are **GRANTED**, as follows.

### I. ADMISSION OF EVIDENCE

Consistent with the Signatories' request, the following evidence is admitted into the record:

- EPE's application, including its direct testimony and exhibits (already filed);
- the affidavits attesting to notice and the publishers' affidavits filed by EPE on January 20, 2010, and February 4, 2010; and
- the Agreement, together with all of its attachments (1 through 8).

### II. SEVERANCE OF FUEL RECONCILIATION PHASE

Consistent with the Signatories' request, the fuel reconciliation component of this case is severed from PUC Docket No. 37690. A separate docket, SOAH Docket No. 473-10-4775, PUC Docket No. 38361, is established to address that subject. Parties in SOAH Docket No. 473-10-1677, PUC Docket No. 37690, shall retain their status as parties in the fuel reconciliation in SOAH Docket No. 473-10-4775, PUC Docket No. 38361. A procedural schedule will be established at a later date. Because the Signatories have settled all but one fuel reconciliation issue under Article II of the Agreement, the scope of SOAH Docket No. 473-10-4775, PUC Docket No. 38361 shall be as indicated in the Agreement. Specifically, all issues in the new fuel reconciliation docket are settled except for the following issue: what is the proper amount of the Four Corners' coal mine final reclamation costs that may be recovered from Texas retail customers? No other issue shall be litigated in that proceeding.

### III. APPROVAL OF INTERIM RATES

The Joint Motion seeks approval of interim base rates, fuel factor rates, an energy efficiency cost recovery factor (EECRF), and other tariff changes effective for all consumption

on or after July 1, 2010. The proposed interim rates are the same rates as the final rates that the Agreement recommends be approved by the Commission (for example, the interim base rate increase is \$17.150 million). The request to approve these interim rates in areas in which the Commission is exercising original or appellate jurisdiction is granted. These interim rates are effective for consumption on or after July 1, 2010, and are subject to refund or surcharge in accordance with P.U.C. PROC. R. 22.125(e), as appropriate, if the final rates approved by the Commission differ from the interim rates. The tariffs, rate schedules and riders that were filed as part of the Agreement are approved.

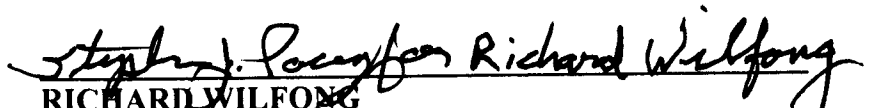
#### IV. RETURN OF CASE TO COMMISSION

With the severance of the fuel reconciliation, the remaining part of this case -- SOAH Docket No. 473-10-1677, PUC Docket No. 37690 -- is now settled in full. Therefore, it is ORDERED that this case is dismissed from the docket of the State Office of Administrative Hearings without prejudice and is returned to the Commission for final processing and approval. The Agreement includes agreed proposed findings of fact, conclusions of law and ordering paragraphs. As soon as practicable, EPE SHALL email the proposed order to the Commission in care of Ms. Sell at [angie.sell@puc.state.tx.us](mailto:angie.sell@puc.state.tx.us).

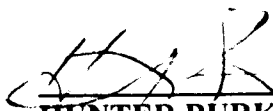
SIGNED June 21, 2010.



THOMAS H. WALSTON  
ADMINISTRATIVE LAW JUDGE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS



RICHARD WILFONG  
ADMINISTRATIVE LAW JUDGE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS



HUNTER BURKHALTER  
ADMINISTRATIVE LAW JUDGE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS