



Control Number: 38717



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PUC DOCKET NO. 38717  
SOAH DOCKET NO. 473-11-1919

APPLICATION OF EL PASO  
ELECTRIC COMPANY FOR A  
CERTIFICATE OF CONVENIENCE  
AND NECESSITY FOR A PEAKING  
GENERATING UNIT AT THE RIO  
GRANDE SITE IN NEW MEXICO

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PUBLIC UTILITY COMMISSION  
OF TEXAS

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ORDER

This Order addresses El Paso Electric Company's (EPE's) application to amend its Certificate of Convenience and Necessity No. 30050 for an 87 megawatt (MW) natural gas-fired power generating unit, Rio Grande Unit 9, to be constructed at EPE's existing generation station in the City of Sunland Park, New Mexico. A stipulation and agreement was executed that resolves all of the issues in this proceeding. Consistent with the stipulation, EPE's application is approved.

The Commission adopts the following findings of fact and conclusions of law:

I. Findings of Fact

Procedural History

1. EPE is an investor-owned electric utility providing retail electric service in Texas under Certificate of Convenience and Necessity (CCN) No. 30050.
2. On September 30, 2010, EPE filed an application for CCN authorization under Chapter 37 of PURA<sup>1</sup> to build and operate an 87 MW natural gas-fired power plant, Rio Grande Unit 9. The proposed site is EPE's existing Rio Grande generating station in the City of Sunland Park, New Mexico.
3. EPE published notice of the application on October 7, 2010, in the *El Paso Times*, a newspaper having general circulation in EPE's Texas jurisdictional service territory.

<sup>1</sup> Public Utility Regulatory Act, TEX. UTIL. CODE ANN., Title 2 (Vernon 2007 & Supp. 2010) (PURA).

4. EPE hand-delivered the application to the City of El Paso and mailed notice of the application to El Paso County and to all parties in Docket No. 37690,<sup>2</sup> which was EPE's last base rate case.
5. On October 12, 2010, EPE filed proof that notice of this proceeding had been provided.
6. The City of El Paso and Texas Industrial Energy Consumers (TIEC) requested and were granted intervenor status in this matter.
7. On October 22, 2010, the Commission's Docket Management Division issued Order No. 2, finding the application sufficient and materially complete and approving of EPE's provision of notice.
8. On December 21, 2010, the Commission referred this docket to the State Office of Administrative Hearings (SOAH) for assignment of an administrative law judge (ALJ) to conduct a hearing and issue a proposal for decision, if necessary.
9. On January 7, 2011 a prehearing conference was held, which established a procedural schedule for processing this docket.
10. On January 26, 2011, the Commission issued the preliminary order in this matter. The preliminary order identified the issues to be addressed by SOAH.
11. On March 2, 2011, EPE, City of El Paso, TIEC, and Commission Staff filed a stipulation and motion to admit evidence, remand, and approve the stipulation. All of the parties to this proceeding signed the stipulation, which recommended that EPE's request be granted consistent with the stipulation.
12. On March 7, 2011, the SOAH ALJ issued Order No. 4, admitting evidence, remanding the case to the Commission, and dismissing the proceeding from the SOAH docket. The following evidence was admitted into the record of this proceeding: (a) EPE's application and all direct testimony, including exhibits, maps, and photographs, filed

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<sup>2</sup> *Application of El Paso Electric Company to Change Rates, to Reconcile Fuel Costs, to Establish Formula-Based Fuel Factors, and to Establish an Energy Efficiency Cost Recovery Factor*, Docket No. 37690, Order (Jul. 30, 2010).

September 30, 2010; (b) EPE's affidavit of proof of notice, filed October 12, 2010; and (c) stipulation and proposed order, filed March 2, 2011.

**Background on EPE**

13. EPE serves retail customers in New Mexico, where it is subject to the jurisdiction of the New Mexico Public Regulation Commission, and in Texas.
14. EPE's 2008 annual planning process indicated that, based on its load forecasts and reserve margin criteria, EPE would need additional peaking capacity beginning in 2011.
15. To meet this need for additional resources, EPE issued a request for proposals (RFP) in September 2008, seeking up to 100 MW of additional peaking power supply and load management resources by the summer of 2011.
16. EPE retained Wayne Oliver, of the Merrimack Energy Group, Inc, as independent evaluator to oversee EPE's RFP process by monitoring the bid evaluation and selection process.
17. In response to the RFP, EPE received 11 proposals from nine different companies.
18. The proposals consisted of five intermittent renewable resources (three wind projects and two solar projects); three demand side management options; a transmission capacity transaction; a proposed unit retrofit of an existing EPE unit; and an EPE self-build generating unit.
19. The EPE self-build proposal, which was submitted by EPE's generation group, was for the construction of a new peaking generation unit, using General Electric LMS 100 technology, to be located at one of two alternative existing EPE sites – either the Caliente substation or the Rio Grande generating station in Sunland Park, New Mexico.
20. With the assistance of outside consultants, EPE evaluated the bids and determined that the self-build proposal at the Rio Grande generating station, Rio Grande Unit 9, was the lowest-cost option based on the economic evaluation of the bid proposals.
21. After the 2008 RFP process was completed in January 2009, changes in EPE's system planning information affected the timing of the need for the capacity that the project would provide.

22. The two main planning inputs that changed were the load forecast, which projected lower increases in growth than the load forecast used for the 2008 RFP; and EPE's reserve-margin criteria, which EPE changed from a formula that equated to a reserve margin of 17% of firm demand in 2008 to a reserve margin of a straight 15% of firm demand.
23. EPE changed the reserve-margin criteria to be more in line with the practice of other utilities in the Western Electricity Coordinating Council, of which EPE is a member and which has no specific formal reserve-margin criteria that its members must follow.
24. The changes in EPE's system planning information had the effect of extending the need for the additional peaking capacity from 2011 to 2013.
25. EPE's 2010 load forecast, when combined with EPE's reserve-margin criteria, confirms the need for the project by the peak season of 2013.

**Description of Rio Grande Unit 9**

26. The Rio Grande Unit 9 will consist of a General Electric LMS 100 simple-cycle, aero-derivative combustion turbine that will be fueled by natural gas.
27. The project will be located within property of the existing Rio Grande generating station.
28. The relatively high elevation (approximately 3,700 feet) and high temperatures in the area will affect the performance of the project, compared to its performance if it were located at sea level and under other International Organization for Standardization (ISO) site reference conditions (which are sea-level elevation, temperature of 59 degrees Fahrenheit and 60% relative humidity).
29. Although it would have a nameplate rating of 100 MW at ISO conditions, owing to the high summer temperatures and the high elevation of the Rio Grande generating station, the project is expected to deliver 87 MW net to EPE under summer peak conditions.
30. The high elevation in the area also means that the project's heat rate will be higher than it would be at ISO conditions.
31. The project's expected full-load heat rate is 9,332 Btu per kWh, with a thermal efficiency of 44% to 50%.

32. The project's relatively low heat rate compared to the average heat rate of EPE's other gas-fired generating units will result in fuel savings for EPE's customers.
33. Based upon PROMOD operating simulation to calculate the impact of Rio Grande Unit 9 on annual fuel costs, EPE estimates that fuel costs would decline approximately \$1.8 million in 2014, the first full year of the project's operation.
34. The project will be used mostly during EPE's peak hours and is expected to operate at approximately a 25% capacity factor.
35. The project will be a quick-start unit (the only one of its kind among EPE's generation fleet), because it can be brought on-line within three minutes and reach full load within 10 minutes.
36. There is no limit on the project's number of starts or on its minimum off-line or on-line time.
37. The project can be ramped up and down as needed (for example, it can be shut down during off-peak hours) without negatively impacting maintenance costs.
38. Evaporative coolers will be used to cool the combustion turbine-inlet air for maximum operating efficiency.
39. No other EPE generation unit has this combination of features.
40. EPE's system will also benefit from the project by the additional voltage support, an additional type of contingency reserves, and additional flexibility in scheduling maintenance outages.
41. The project's estimated completion date is May 2013.
42. The project will be located inside EPE's existing Rio Grande generating station which is located within the City of Sunland Park, New Mexico, in Dona Ana County, except for a very small portion of the parking lot that is located in Texas.
43. None of the facilities being added as part of the project will be located in Texas.
44. The first unit at the Rio Grande generating station entered service in 1929, so the site has been a feature at this location for over eight decades.

45. The Rio Grande generating station has three existing, operating natural gas-fired units, with a current total capacity of 229 MW.
46. Viewed historically, there have been more units and more total capacity at the Rio Grande generating station (eight units and 400 MW) than there will be after Unit 9 is added (four units and 316 MW). Thus, the addition of the project is more than offset by previous unit retirements.
47. The existing site will fully accommodate the project and need not be enlarged.
48. Adequate land, water, natural gas, transmission, access roads and other infrastructure are currently available at the Rio Grande generating station.
49. The site, which is fenced, consists mostly of unpaved sandy soil with some pre-existing concrete structures.
50. The site has been disturbed on numerous occasions going back to 1929.
51. The nearest large-scale development is the Sunland Park Race track, which is located in New Mexico to the west of the site and, in one form or another, has existed since 1959.
52. Within Texas, there are three residential areas within a half-mile of the project, the closest of which is located approximately 0.25 miles to the east of the project.
53. Given that the Rio Grande generating station has long been a feature of this area, the project is not expected to impact these residential areas.
54. There are no parks or recreational areas in Texas within one-half mile of the project.
55. The operation of Rio Grande Unit 9 will not adversely affect any parks and recreational areas in Texas.
56. While the project will create an incremental amount of noise, it is not likely to impact the closest noise receiver in Texas. The project will use technology that is newer and produces less noise than the older existing units at the site. In addition, EPE plans to retire two of the older units at the site in the next few years, so the site noise profile should actually decrease when the retirements occur. To a large extent, the incremental noise produced by the construction and operation of the project will likely not stand out

in Texas given the existing background noise from the development, including highways, in the area.

57. Within one half mile of the area, there is only one entity listed on the National Register of Historic Places in Texas. This is the El Paso County Water Improvement District No. 1, which is an irrigation canal system completed in 1945. The construction and operation of Unit 9 will have no impact on this irrigation canal system.
58. The Rio Grande generating station, including the project, falls under the jurisdiction of the New Mexico Environment Department (NMED), and several types of permits, including air quality permits, must be obtained from the NMED.
59. Neither the State of Texas nor the City of El Paso has jurisdiction over any environmental regulatory requirements or permits.
60. No other utility is or will be directly served by or connected to the proposed facilities or involved in their construction.
61. The Rio Grande Unit 9 site is not in another utility's service area.
62. EPE's estimated capital cost of the Rio Grande Unit 9 project (excluding interconnection costs and carrying costs in the form of allowance for funds used during construction (AFUDC)) is estimated to be \$75 million, which includes \$1.5 million as a contingency.
63. The estimated amount of AFUDC is approximately \$8.9 million, for an overall total estimated cost of \$83.9 million.

**Statutory CCN Factors**

**Adequacy of Existing Service/Need for Additional Service**

64. For reliability reasons, EPE needs the additional resources that the project will provide, and EPE's system will benefit from the project's operational features.

**The Effect of Granting the CCN on EPE and Any Electric Utility Serving the Proximate Area**

65. There will be a two-fold effect on EPE in granting the CCN authorization for the Rio Grande Unit 9 project – financial and operational.



66. The financial impact on EPE of the Rio Grande Unit 9 on a stand-alone basis will not be significant. The construction costs will be financed with cash generated from operations or debt or a combination thereof.
67. The financing of Rio Grande Unit 9 will have only a minimal effect on EPE's financial position and will not impair EPE's ability to attract additional capital on reasonable terms and at reasonable prices.
68. Operationally, the effect on EPE of granting the CCN will be positive.
69. The Rio Grande Unit 9 facility will enhance EPE's ability to provide reliable service, since the generating unit is needed to meet customers' demand and EPE's reserve-margin criteria.
70. The effect will also be positive from a system and transmission perspective. With the addition of local generation in Rio Grande Unit 9, EPE will receive flexibility in scheduling maintenance outages and voltage support in the local system. Additional power provided by the project will provide voltage support in EPE's local system, an additional type of contingency reserves, and additional flexibility in scheduling maintenance outages.
71. The project will not be located in the certificated service area of any other utility.
72. There will be no adverse effects on any other electric utility.

**Community Values**

73. Because of the project's location at an existing plant site in New Mexico, there will be no adverse effect on the values of any community in Texas.

**Recreational and Park Areas**

74. Because of the project's location at an existing plant site in New Mexico, and because no parks or recreational areas in Texas are within one-half mile of the project, there will be no adverse effect on any recreational or park areas in Texas.

**Historical and Aesthetic Values**

75. Because of the project's location at an existing plant site in New Mexico, there will be no adverse effect on any historical or aesthetic values in Texas.
76. Only one area listed on the National Register of Historic places in Texas is located within one half mile of the project, the El Paso County Water Improvement District No.1.
77. The construction and operation of the project will have no impact on the irrigation system that constitutes this water improvement district.

**Environmental Integrity**

78. Because of the project's location at an existing plant site in New Mexico, there is expected to be no adverse effect on the environmental integrity of any area in Texas.
79. Various types of environmental permits, including air quality permits, must be obtained from the NMED.
80. The environmental permitting regime, to which the project is and will be subject, along with EPE's compliance with those permits, will help ensure the environmental integrity of the surrounding area.

**Probable Improvement of Service or Lowering of Cost to Consumers in Area if CCN is Granted**

81. The capacity that will be provided by the Rio Grande Unit 9 will improve electric service because of the reliability and operational flexibility it will add to EPE's system, its relatively lower heat rate within EPE's system, and its contribution to meeting EPE's reserve-margin needs.
82. A PROMOD operating simulation to calculate the impact of Rio Grande Unit 9 on annual fuel costs estimated that fuel costs would decline approximately \$1.8 million in 2014, which is the first full year of operation.
83. EPE predicted that the cost impact of the project, considering the combination of both base rates and fuel, would be \$0.67 or a 1.1% increase in rates for an average Texas residential customer using 500 kWh per month.

**To Extent Applicable, Effect of Granting CCN on Ability of this State to Meet PURA Goal for Adding Renewable Energy Resources in § 39.904(a)**

84. This statutory factor is not directly applicable because the project will be located in New Mexico.
85. The ability of the project to ramp up and down quickly should facilitate the integration of intermittent renewable energy resources into EPE's generation fleet.

**Whether CCN Is Necessary for Service, Accommodation, Convenience, or Safety of the Public under PURA § 37.056**

86. Considering all the above factors, EPE's requested CCN authorization to construct, own and operate the Rio Grande Unit 9 project is necessary for the service, accommodation, convenience or safety of the public.

**The Effect, if Any, that Approval of CCN Would Have on Implementation of Customer Choice in EPE's Service Territory**

87. Customer choice has been delayed in EPE's Texas service area.
88. The Commission has adopted P.U.C. SUBST. R. 25.421 to address the transition to competition in EPE's Texas service area.
89. P.U.C. SUBST. R. 25.421 outlines the process to be followed in preparing EPE for customer choice.
90. Approval of this CCN is not expected to affect or delay the introduction of customer choice in EPE's service area.

**II. Conclusions of Law**

1. EPE is an electric utility as defined in § 31.002 of PURA.
2. The Commission has jurisdiction over the application pursuant to PURA §§ 14.001, 14.002, 37.051, 37.053, and 37.056.
3. Notice of the application was provided in compliance with PURA § 37.054 and P.U.C. PROC. R. 22.52(a).

4. This docket was processed in accordance with the requirements of PURA, the Administrative Procedure Act, TEX. GOV'T CODE ANN. Chapter 2001 (Vernon 2010), and Commission rules.
5. EPE is entitled to approval of the application described above, having demonstrated that the proposed Rio Grande Unit 9 project is necessary for the service, accommodation, convenience or safety of the public within the meaning of PURA § 37.056(a), taking into consideration the factors set out in PURA § 37.056(c).
6. The application may be approved without a hearing pursuant to § 2001.056 of the Administrative Procedure Act, TEX. GOV'T CODE ANN. Chapter 2001 (Vernon 2010).
7. This application does not constitute a major rate proceeding as defined by P.U.C. PROC. R. 22.2.
8. Consistent with the stipulation, EPE's application is reasonable, in the public interest, and should be approved.
9. The requirements for informal disposition under P.U.C. PROC. R. 22.35 have been met in this proceeding.

### III. Ordering Paragraphs

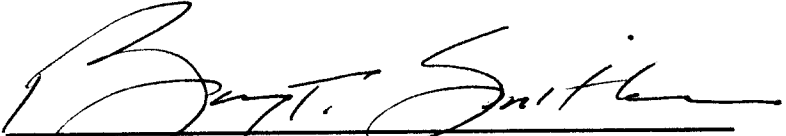
In accordance with these findings of fact and conclusions of law, the Commission issues the following order:

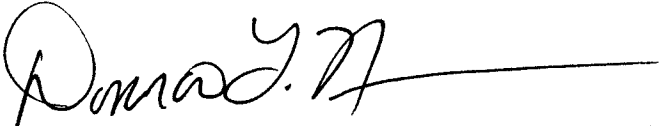
1. Consistent with the stipulation, EPE's application to amend CCN No. 30050 is approved to include the construction, ownership, and operation of the proposed 87 MW, combustion-turbine generating unit located at the Rio Grande generating station in the City of Sunland Park, New Mexico.
2. Consistent with the Stipulation, the rate recovery of the costs of Rio Grande Unit 9 was not considered and is not determined in this docket. The level of recovery of the project's costs shall be considered and determined in the rate proceeding in which EPE first seeks to include the project in rates. The prudence of EPE's actions with respect to the Rio Grande Unit 9 will be addressed at the time that EPE requests recovery of the costs in rates.

3. Entry of this Order consistent with the stipulation does not indicate the Commission's endorsement or approval of any principle or methodology that may underlie the stipulation. Entry of this Order consistent with the stipulation shall not be regarded as binding precedent as to the appropriateness of any principle underlying the stipulation.
4. All other motions, requests for entry of specific findings of fact or conclusions of law, and any other requests for general or specific relief, if not expressly granted herein, are denied.

SIGNED AT AUSTIN, TEXAS the 8<sup>th</sup> day of April 2011.

**PUBLIC UTILITY COMMISSION OF TEXAS**

  
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**BARRY T. SMITHERMAN, CHAIRMAN**

  
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**DONNA L. NELSON, COMMISSIONER**

  
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**KENNETH W. ANDERSON, JR., COMMISSIONER**