

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

**IN THE MATTER OF EL PASO ELECTRIC)
COMPANY’S APPLICATION FOR APPROVAL)
OF A LONG TERM PURCHASED POWER) Case No. 12-00386-UT
AGREEMENT WITH MACHO SPRINGS)
SOLAR, LLC)**

FINAL ORDER ADOPTING RECOMMENDED DECISION

THIS MATTER comes before the New Mexico Public Regulation Commission (“PRC” or “Commission”) on the Recommended Decision issued by PRC Hearing Examiner Ashley Schannauer on April 8, 2013 concerning El Paso Electric Company’s (“EPE”) Application seeking Approval of a Long-Term Purchased Power Agreement (“LTPPA”) with Macho Springs Solar, LLC (“Macho Springs”) to purchase energy from a new 50 MW solar facility for a period of twenty years, as well as approval of its proposed recovery of costs associated with the LTPPA through EPE’s Fuel and Purchased Power Cost Adjustment Clause. Having considered the Recommended Decision and April 9, 2013 Errata Notice to the Recommended Decision (copies of which are attached hereto as Exhibit 1 and are incorporated herein by reference as the “Recommended Decision”), the record in this case, and being otherwise duly informed in the premises,

THE COMMISSION FINDS AND CONCLUDES:

1. The Commission has jurisdiction over the parties and the subject matter of this case.
2. No exceptions to the Recommended Decision have been filed by any of the parties to this proceeding.

3. The Recommended Decision, including the Statement of the Case, Discussion, Findings of Fact and Conclusions of Law, and Decretal Paragraphs recommended by the Hearing Examiner, is well taken and should be ADOPTED, APPROVED, and ACCEPTED as the Order of the Commission.

IT IS THEREFORE ORDERED:

A. The Recommended Decision, including the Statement of the Case, Discussion, Findings of Fact and Conclusions of Law, and Decretal Paragraphs recommended by the Hearing Examiner, is well taken and should be ADOPTED, APPROVED, and ACCEPTED in its entirety as the Order of the Commission.

B. This Order is effective immediately.

C. Copies of this Order shall be provided to all persons listed on the attached Certificate of Service, via e-mail to those whose e-mail addresses are known, and otherwise via regular mail.

D. This Docket is closed.

ISSUED under the Seal of the Commission at Santa Fe, New Mexico, this 1st day of
May, 2013.

NEW MEXICO PUBLIC REGULATION COMMISSION



Ben L. Hall

BEN L. HALL, CHAIRMAN

Valerie Espinoza

VALERIE ESPINOZA, VICE CHAIR

Karen L. Montoya

KAREN L. MONTOYA , COMMISSIONER

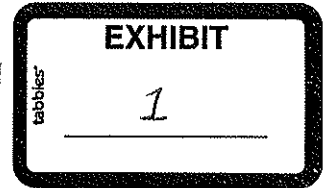
Patrick H. Lyons

PATRICK H. LYONS, COMMISSIONER

Theresa Becenti-Aguilar

THERESA BECENTI-AGUILAR, COMMISSIONER

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION



IN THE MATTER OF EL PASO ELECTRIC)
COMPANY'S APPLICATION FOR APPROVAL)
OF A LONG TERM POWER PURCHASE)
AGREEMENT WITH MACHO SPRINGS)
SOLAR, LLC)
)
EL PASO ELECTRIC COMPANY,)
Applicant.)
_____)

Case No. 12-00386-UT

RECOMMENDED DECISION

April 8, 2013

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Ashley C. Schannauer, Hearing Examiner for this case, submits this Recommended Decision to the New Mexico Public Regulation Commission ("Commission" or "PRC") pursuant to NMSA 1978, Section 8-8-14, and PRC Rules of Procedure 1.2.2.29.D(4) and 1.2.2.37.B NMAC. The Hearing Examiner recommends that the Commission adopt the following statement of the case, discussion, findings of fact, conclusions of law and decretal paragraphs in an Order.

I. STATEMENT OF THE CASE

On November 21, 2012, El Paso Electric Company, Inc. ("EPE" or the "Company") filed an Application requesting Commission approval of a Long-Term Purchased Power Agreement ("LTPPA") with Macho Springs Solar, LLC ("Macho Springs") pursuant to the Commission's rule requiring prior approval of purchased power agreements. 17.9.551 NMAC. EPE seeks approval of a twenty-year LTPPA with Macho Springs to purchase energy from a 50 megawatt ("MW") solar facility to be constructed by Macho Springs in EPE's New Mexico service territory. EPE also seeks approval of the recovery of costs associated with the LTPPA through EPE's Fuel and Purchased Power Cost Adjustment Clause ("FPCCAC") in accordance with Rule 551 and Rule 17.9.550 NMAC.

On January 8, 2013, the Commission issued an Order designating the undersigned as Hearing Examiner to preside over this case.

A prehearing conference was held on January 16, 2013, and a procedural order was issued thereafter establishing a schedule for the case.¹ The procedural order also provided for the filing of supplemental testimony by EPE.

¹ One of the items discussed at the prehearing conference was EPE's Motion for Entry of Protective Order and its request for confidential treatment of the Macho Springs LTPPA. The parties agreed to a schedule for the filing of position statements and supporting affidavits and briefs, which ultimately resulted in the withdrawal of the requests for confidential treatment of the LTPPA.

Motions to Intervene were subsequently filed by Macho Springs, LLC, the New Mexico Attorney General, and Coalition for Clean Affordable Energy ("CCAIE"). The motions were not opposed and were thereby granted pursuant to 1.2.2.23.D(1) NMAC.

On March 14, 2013, a public hearing was held on EPE's Application. The following appearances were entered at the hearing:

For EPE

Randall Childress, Esq.

Stacey Goodwin, Esq.

For Macho Springs, LLC

Deanna Bennett, Esq.

For Staff

Cydney Beadles, Esq.

Jeffrey Taylor, Esq., attorney for the New Mexico Attorney General requested permission to be excused and was granted that permission. Charles F. Noble, Esq., attorney for CCAIE did not appear.

During the hearing, the following was admitted into evidence:

For EPE

(1) Direct Testimony of Ricardo Acosta (EPE Exhibit 1).

(2) Supplemental Testimony of Ricardo Acosta (EPE Exhibit 2).

For Staff

(1) EPE Response to Staff Discovery Request No. 1-5 (Staff Exhibit 1).

(2) Direct Testimony of Jack Sidler (Staff Exhibit 2).

(3) Direct Testimony of James Brack (Staff Exhibit 3).

(4) Interconnection Agreement between EPE and Macho Springs (Staff Exhibit 4).

For Commission

(1) EPE's Response to Bench Request No. 2 (Commission Exhibit 1).

No members of the public appeared at the hearing to offer oral comment and no written comments were filed in this case.

At the conclusion of the hearing, at Staff's request, the Hearing Examiner gave parties the opportunity to file statements of position based upon the record developed at the hearing by April 2, 2013 and responses to the statements by April 5, 2013. Staff filed its Statement of Position on April 2, 2013, and EPE filed a Response to Staff's Position Statement on April 5, 2013.

II. DISCUSSION

A. Legal standard

Section 17.9.551.8 of the Commission's rules states that electric utilities may not become irrevocably obligated under an LTPPA without first obtaining the commission's written approval of the agreement. 17.9.551.8(A) NMAC. The rule requires utilities to file at the Commission within thirty (30) days after the execution of a LTPPA, an application for the Commission's review and approval of the LTPPA. 17.9.551.8(B) NMAC.

The rule specifies filing requirements for such Applications, including the following:

- (1) A copy of the LTPPA; and
- (2) An explanation of the key terms and conditions of the LTPPA containing:
 - (a) The term of the LTPPA including any options to extend the agreement;
 - (b) The size in MW of capacity and the amount of energy in MWh or kWh per month and any conditions regarding the minimum or maximum amount of energy or capacity made available or required to be purchased;
 - (c) The price or pricing formula under which the electric utility will pay for the power and energy contracted for, including identification of when charges begin to be incurred, any price reopeners and any price escalation provisions;
 - (d) Obligations by the electric utility to pay for any fixed or variable administrative, transactional or operation and maintenance costs incurred through the operation of the generation facility, including start-up costs, taxes, insurance, environmental or reclamation-related costs, fuel costs and any other costs that the electric utility may incur; and
 - (e) Provisions relating to non-performance by the counter-party and the remedies provided;
- (3) A description of transmission costs the electric utility will incur or pay to receive the purchased power, which may include the costs of third-party transmission wheeling, or construction of transmission to facilitate purchases under the LTPPA or both;
- (4) An explanation of how the electric utility proposes to recover from ratepayers the costs incurred and an estimate of the effect on rates to customers;

- (5) A general description of:
 - (a) The generating facility or facilities that will generate the purchased power; or
 - (b) If the power is to be generated from one or more specific generating units to be constructed outside New Mexico, a description of the anticipated siting of the generating unit, expected construction time and the expected commercial operation date; and
 - (c) If the power is to be generated from one or more specific generating units to be constructed within New Mexico, a description of:
 - (i) The approvals required to construct and operate the generating unit, including air quality and other environmental permits;
 - (ii) The expected construction time;
 - (iii) The expected commercial operation date;
 - (iv) The fuel type and supply sources; and
 - (v) Other provisions addressing the electric utility's ownership options for the generating unit during or after the term of the agreement;
- (6) Evidence that entering into the LTPPA is consistent with the provision of safe and reliable electric utility service at the lowest reasonable cost, considering both short and long-term costs and all other relevant factors;
- (7) Evidence of the LTPPA's impact on the electric utility's financial condition and financial metrics;
- (8) Evidence that the LTPPA is consistent with the electric utility's most recent commission-accepted integrated resource plan unless, as described in Section 17.7.3.10 NMAC, material changes that would warrant a different course of action by the electric utility have occurred; in which case, the testimony shall include justification for deviation from the integrated resource plan;
- (9) Evidence addressing whether a utility-owned generation resource could have been constructed as an alternative to the LTPPA with greater benefit to ratepayers;
- (10) Evidence addressing the methodology and criteria by which the purchased power agreement was selected; and
- (11) Any other information or evidence that the electric utility believes will assist the commission in its review of the LTPPA.

17.9.551.8(D) NMAC.

The rule also prescribes the following ratemaking treatment that will apply to PPAs

unless the utility requests and/or the Commission requires otherwise:

- (1) Energy costs incurred under a purchased power agreement are recoverable through a fuel and purchased power cost adjustment clause ("FPPCAC") according to the provisions of the FPPCAC approved for the electric utility; and
- (2) Capacity costs and fixed costs incurred under a purchased power agreement, as well as energy costs incurred by an electric utility without an approved FPPCAC, may be recoverable through base rates when the commission issues an order authorizing a change

in base rates that includes recovery of the capacity costs and fixed costs, and energy costs in the case of an electric utility without an approved FPPCAC.

17.9.551.9 NMAC.

The rule requires the Commission to issue a final order on the application within six months after the date the application was filed. Otherwise, the application will be deemed to be approved. 17.9.551.10 NMAC.

B. EPE's Application

1. Key terms of the LTPPA.

The Macho Springs LTPPA is a 20-year energy contract for EPE to purchase the energy generated from the Macho Springs Solar Project. The purchases acquire both the energy and the renewable energy certificates ("RECs") associated with the energy under the same bundled price.

The LTPPA does not provide for the purchase of any capacity *per se*. Due to the anticipated availability of the LTPPA's solar facility at EPE's peak, however, EPE anticipates being able to count 35MW of the facility's 50 MW capacity toward its planning reserve margin.

The LTPPA prescribes minimum amounts of energy to be generated each year ("Committed Solar Energy") and expected amounts ("Expected Solar Energy"). The Committed Solar Energy is 75% of the Expected Solar Energy amounts. EPE is obligated to purchase up to 115% of the Expected Solar Energy and has the option to purchase more. The expected generation starts at 149,440 MWh per year in the first year of the contract and declines to 135,864 MWh per year in year 20 as the solar panels gradually degrade over time.

The LTPPA has the same \$57.90 per MWh price for each year of the contract. Any amounts purchased in excess of 115% of the Expected Solar Energy are priced at EPE's avoided costs. There are no capacity or fixed cost payments. The contract price is an "all-in" price. EPE will not be responsible for fixed or variable administrative, transactional, O&M or other costs

such as start-up costs, taxes, insurance, environmental or reclamation related costs associated with the project.

EPE is entitled to receive damages if Macho Springs fails to perform in accordance with its obligations under the agreement. Macho Springs will be responsible for the cost of replacement energy if Macho Springs generates less than the Committed Solar Energy.

2. Transmission costs

EPE witness Ricardo Acosta testified that Macho Springs is responsible for the work required to connect the solar facility to a nearby EPE substation and 345-kV transmission line. The work will include additional substation construction, including a 345kV breaker, switches, metering and relaying. The cost is estimated to be \$1 million, to be paid initially by Macho Springs with reimbursement by EPE over approximately nine months per the Large Generator Interconnection Agreement. Acosta Direct, pp. 8-9.

3. Cost recovery and bill impact

EPE requests Commission approval to recover the contract costs of the purchased power through EPE's monthly FPPCAC, in accordance with Rules 550 and 551. Acosta Direct, pp. 21-22. EPE estimates the cost to New Mexico customers in the first year of operation under the LTPPA to be approximately \$1,950,919. Acosta Supp., p. 3. But EPE estimates that the net cost will be less, approximately \$578,466, because the use of the LTPPA energy will replace other more expensive sources of energy. Acosta Supp., p. 4. EPE estimates that the bill impact for a residential customer in New Mexico using 685 kWh per month would be approximately \$0.22 per month, or an increase of approximately 0.2% compared to the current average monthly bill of \$89 per month, depending on system operations and market prices at the time. Acosta Supp., pp. 3-4.

EPE has not requested approval to recover the costs it will incur under the Interconnection Agreement with Macho Springs or to address the ratemaking treatment of the revenues EPE may receive if EPE sells the RECs acquired under the PPA.

4. Facility description

The solar facility generating the power purchased under the LTPPA will be a new 50 MW solar plant to be built on a site adjacent to an existing wind farm in Luna County, New Mexico. The facility will use poly-crystalline or thin film photovoltaic ("PV") technology and a groundmounted single axis tracking system. The solar modules will rotate in an east-west motion on a horizontal axis throughout the day. The facility will be used as an EPE system resource, and it will be the largest solar facility in New Mexico.

EPE's Application identifies the governmental approvals, licenses and authorizations to be obtained by Macho Springs, and Mr. Acosta testified that Macho Springs is on schedule to obtain them. Tr. 28. The Application also includes a construction schedule with construction starting on December 1, 2013 and an expected commercial operation date of May 1, 2014.

5. Consistency with EPE Integrated Resource Plan

EPE identified the need to add new resources in its 2009 Integrated Resources Plan ("IRP"), which was filed with and accepted by the Commission. The LTPPA was also addressed and is consistent with EPE's 2012 IRP which was filed with and accepted by the Commission in Case No. 12-00294-UT. Action item 3 from the 2012 IRP states the following: "As a result of the competitive-bid RFP process, EPE is also pursuing a solar [LTPPA] option. This proposal was chosen in combination with EPE's self build proposal based on its competitive pricing and potential ability to provide some additional capacity. EPE will seek any necessary regulatory approvals should it successfully negotiate a LTPPA."

6. The RFP process

EPE forecasts its energy and demand needs on an annual and multi-year basis. EPE compiles its supply, demand and reserves information into a Loads and Resources ("L&R") table. The L&R table shows the balance or imbalance of EPE generating and purchased power resources versus expected loads, taking into account EPE's reserve margin criterion and assuming no new capacity is added.

EPE determined its need for new generation capacity in 2014 through 2016 as part of its annual planning process. EPE's March 30, 2011 Load Forecast ("2011 Forecast"), combined with EPE's reserve margin target, showed that EPE would need additional peaking capacity beginning in 2014 and that EPE's capacity need would increase in the following years. The 2011 L&R document showed EPE as 66 MW deficient in 2014, with the resource deficiency growing to 992 MW by 2020. As a result, EPE anticipated a need to add new resources in order to meet peak demand during EPE's summer peak hours and to satisfy EPE's reserve margin target, beginning in 2014.

On June 28, 2011, EPE issued its 2011 Peaking RFP, requesting proposals for resources between 80-100 MW in 2014 and 2015 and 160-200 MW in 2016. EPE received 38 proposals (5-solar, 19-gas, 4-wind and 10-Demand- Side/Storage) from 23 companies. Among the bids submitted were 8 self-build options from EPE's Generation Projects Group, and a proposal for the Macho Springs LTPPA.

EPE hired an Independent Evaluator to review the evaluation to make sure there was no bias toward any self-build option. EPE and the Independent Evaluator reviewed compliance with the 2011 Peaking RFP's requirements by looking for overall responsiveness, bidder financial ability, and technical capability and viability.

Next, EPE calculated the levelized cost of each proposal, and the proposals were ranked lowest to highest based on their levelized costs. Levelized cost is the present value of the entire cost of the construction and operation of a generating plant over its economic life, converted to equal annual payments.

A short list of bids based on the levelized cost evaluation was then modeled using Ventyx's Strategist software ("Strategist") to determine the least cost optimized resource plan. Strategist is a resource expansion planning model that determines the optimal integrated demand and supply plan for a utility system under a prescribed set of constraints and assumptions. EPE used Strategist to estimate EPE's net present value of revenue requirements for each bid over the time period of 2012 through 2021.

The optimal resource plan that resulted from the Strategist analysis included the addition of the Macho Springs LTPPA and two natural gas turbines at EPE's Montana site in El Paso.² The Macho Springs LTPPA was the lowest cost option of all bids submitted, but it could not fully meet EPE's peaking needs as a stand-alone project. Acosta Direct, pp. 16-17. The levelized cost of the two natural gas turbines is \$106.29 per MWh. Commission Exhibit 1.³

The Macho Springs LTPPA \$57.90 per MWh contract price is also substantially lower than the prices of other long-term solar contracts that the Commission has approved in past EPE RPS procurement proceedings. EPE's previously approved solar contracts have bundled energy and REC prices that range from \$104.89 per MWh for the 24 MW SunEdison PPA to \$127.45 per MWh for the 20 MW NRG PPA. Tr. 51.

² The Commission issued a Certificate of Public Convenience for the construction of the Montana units in January 23, 2013 in Case No. 12-00137-UT.

³ Mr. Acosta also said that Strategist showed that the LTPPA would produce approximately \$6 million in savings over the period 2014 - 2021 compared to the use of other likely resources. Acosta Direct, p. 18.

EPE's witness Ricardo Acosta stated that the price is less than the other solar PPA prices for two primary reasons. He said that technological improvements have made solar panels more efficient and that the availability of low cost panels from China have driven prices down. Tr. 49-50. He also said that the facility's close proximity to an existing substation and transmission line facilitates its operational incorporation into EPE's system and enables EPE to connect to the facility at a lower cost. Tr. 18, 50-51.

EPE states that the LTPPA will not have any significant impact on EPE's financial condition or financial metrics. Acosta Direct, p. 18.

7. Use of Macho Springs RECs

EPE will receive the RECs associated with the solar energy delivered to EPE at no extra cost, but EPE has not identified any proposed uses for the RECs, and it has not sought any further Commission approvals in this case for any uses. Tr. 63.

EPE states that it may seek the Commission's approval in future RPS Procurement Plan filings to include some of the energy and RECs from the project in its Procurement Plan for RPS compliance purposes. Acosta Direct, p. 20.

Mr. Acosta also states that, if EPE were to sell any of the New Mexico RECs associated with the jurisdictional energy in the future, EPE anticipates that any revenues from the sale would be passed through the FPPCAC. Acosta Supp., p. 3. He said EPE will address any proposed treatment of revenues from REC-only sales in its annual procurement plans on a case by case basis. Tr. 3.

C. Staff's recommendations

Staff recommends that the Commission approve EPE's request to enter into the Macho Springs LTPPA and to recover the costs allocated to New Mexico through EPE's fuel adjustment clause.

Staff also recommends that EPE file into the docket in this case a report each year that enumerates for the prior year the total amount of energy received through the LTPPA, the New Mexico allocated portion of the energy, the total RECs received, the New Mexico allocated RECs, the disposition of the New Mexico allocated RECs, the total amount paid to Macho Springs for the energy, the New Mexico allocated cost of the energy received, and any other information the Commission might want by April 1 of the following year.⁴ Sidler Direct, pp. 13-14.

Further, Staff recommends that EPE be required to address the following in each of SPS's annual renewable energy procurement plans filed pursuant to §62-16-4 of the Renewable Energy Act during the term of the Macho Springs PPA: the amount of RECS received pursuant to this PPA; value attributed to the RECs, and whether RECS associated with the Macho Springs PPA are proposed to satisfy the RPS, banked with WREGIS, sold to another entity for cash, or disposed of in another manner. Staff's Position Statement, p. 5. Staff states that the RECs acquired through the PPA represent part of the value of the Macho Springs purchase and could be used to satisfy the RPS at no additional cost to ratepayers. Staff states that it is important for the Commission to ensure that New Mexico customers receive the benefits associated with the value of Macho Springs energy that customers pay for and for which EPE will receive automatic cost recovery through its fuel clause.

Mr. Brack stated in his pre-filed direct testimony that any revenue received from the future sale of New Mexico-allocated RECs should be credited back to New Mexico customers through the FPPCAC, since the original bundled cost to the energy and RECs would be charged

⁴ On questioning by the Hearing Examiner and EPE, Staff witness Jack Sidler stated that his recommendation that the filings be made in the current docket was not absolute. He said his main concern is that the filings would be made in a place where people could find them. Tr. 72-76.

to New Mexico customers through the FPPCAC. Brack Direct, pp. 3-4. At the hearing, however, he testified that the issue did not need to be addressed in this case and that it would be better addressed in EPE's annual renewable energy procurement filings. Tr. 80, 85.

Finally, Staff recommends two additional future filings in this docket. Staff recommends that that EPE be required to file a notice if any changes in ownership or management of Macho Springs occur during the course of the LTPPA within three months of the change. Second, Staff recommends that the Commission require EPE to file a notice in this docket of the date on which EPE first receives energy under this LTPPA. Sidler Direct, pp. 13-14.

EPE did not file rebuttal testimony with respect to Staff's recommendations, and Mr. Acosta testified at the hearing that he has no position with respect to Staff's proposed reporting requirements. Tr. 66. Nevertheless, in EPE's response to Staff's Position Statement, EPE stated that it does not object to Staff's recommendation that it file notices in this docket of the date on which EPE first received energy under the LTPPA and of any changes in ownership or management of the Macho Springs facility occur during the course of the LTPPA. EPE Response to Staff's Position Statement, p. 1. EPE stated that it does object to Staff's recommendations for the filing of annual reports in this docket regarding energy and RECs received and costs paid under the LTPPA and for the filing of reports of RECs received under the LTPPA and their disposition for RPS compliance, banking or sale. EPE argued that the reporting requirements are duplicative of requirements already in place for FPPCAC and RPS reporting. EPE also states that the REC reporting is premature, contrary to Staff's position at hearing and beyond the scope of approvals under the LTPPA Rule. EPE Response to Staff's Position Statement, pp. 2-3.

D. Analysis and recommendations

1. LTPPA approval and cost recovery.

The Hearing Examiner recommends that the Commission approve the Macho Springs LTPPA. EPE has provided the information about the PPA required by the Commission's rule. EPE has shown a need for the LTPPA and has shown that the LTPPA is consistent with the provision of safe and reliable electric utility service at the lowest reasonable cost, considering both short and long-term costs. There is no evidence to indicate that the LTPPA will have a negative impact on EPE's financial condition and financial metrics. The LTPPA is consistent with EPE's most recent Commission-accepted IRP, and the evidence indicates that a utility-owned generation resource could not be constructed as an alternative to the LTPPA with greater benefit to ratepayers. Further, the RFP process that resulted in EPE's decision to proceed with the LTPPA appears to have been reasonably conducted.

The Hearing Examiner also recommends that the energy costs paid by EPE under the LTPPA be approved for recovery through EPE's FPPCAC. The Commission's rule on PPA approvals provides for the recovery of such costs through a utility's FPPCAC unless a reason is shown to do otherwise, and no such reasons have been shown here. See 17.9.551.9(A)(1) NMAC.

2. Interconnection costs.

The Hearing Examiner recommends that the Commission not address at this time the reasonableness of the Interconnection Agreement between EPE and Macho Springs, the reasonableness of the costs incurred under the agreement, or EPE's recovery of those costs. Mr. Acosta discussed the existence of the Interconnection Agreement in his testimony in this case, but EPE has not requested that the Commission in this case approve the Interconnection Agreement or the ratemaking treatment of the costs incurred under the agreement here. These

issues should be addressed in a future ratemaking proceeding where EPE seeks to recover the costs.

3. Ratemaking treatment of REC sales.

The Hearing Examiner also recommends that the Commission not address at this time the ratemaking treatment of any revenues EPE may receive from any sale of the RECs acquired under the LTPPA. Ratepayers should be compensated if EPE sells any of the RECs it acquires through the LTPPA, because the ratepayers will have paid the costs EPE incurred to acquire the RECs. No party presented a specific proposal in this case, however, as to the amount of the compensation and how the compensation should be provided. Both parties recommended that the issue be addressed in a future renewable energy procurement filing.

The Hearing Examiner therefore recommends that this issue be addressed in EPE's next renewable energy procurement filing due in July 2013. EPE should present a proposal in that proceeding describing how it intends to use the RECs acquired with the Macho Springs purchases and a proposed ratemaking treatment for revenues received from the sale of such RECs, including a showing of the amount and manner in which ratepayers should be compensated for any such sales.

The deferral of this issue to EPE's next renewable energy procurement filing in July 2013 should be sufficient to address ratepayers' interests. EPE renewable filing will be made in July 2013, and it will be decided by the end of December 2013. Purchases under the LTPPA and any potential sales of RECs acquired under the LTPPA are not anticipated until May 2014 when the Macho Springs facility is expected to be complete.

In addition, EPE shall include in each of its annual renewable energy reports under section 62-16-4 of the Renewable Energy Act the following information: the amount of RECS received pursuant to this PPA, the value attributed to the RECs, and whether RECS associated

with the Macho Springs PPA are proposed to satisfy the RPS, banked with WREGIS, sold to another entity for cash, or disposed of in another manner.

4. Future reporting.

The Hearing Examiner recommends that the following reports be required throughout the term of the LTPPA.

First, the parties agreed that EPE should be required to file notices in this docket if any changes in ownership or management of Macho Springs or the Macho Springs facility occur during the course of the LTPPA within three months of the change and of the date on which EPE first receives energy under the LTPPA. The Hearing Examiner agrees that such notices are reasonable and should be required.

Second, the parties disagreed on whether EPE should be required to file annual reports with respect to the LTPPA in this docket. The Hearing Examiner finds that the information requested by Staff should be reported but that it can reasonably be included as an additional section in EPE's annual FPPCAC reports. The FPPCAC reports include annual information on fuel costs and energy purchases pursuant to purchased power agreements. Thus, a party seeking information about the costs of the Macho Springs LTPPA could reasonably find it there. A separate filing in this docket would be duplicative.

Thus, EPE should include with the FPPCAC annual report it files pursuant to 17.9.550.13(E) NMAC a separate section that enumerates for each prior year the total amount of energy received through the LTPPA, the New Mexico allocated portion of the energy, the total RECs received, the New Mexico allocated RECs, the disposition of the New Mexico allocated RECs, the total amount paid to Macho Springs for the energy, the New Mexico allocated cost of the energy received, any amounts credited to EPE ratepayers as compensation for the sale of

RECs acquired under the LTPPA, and any other information the Commission might hereafter specify.

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Hearing Examiner recommends that the Commission **FIND** and **CONCLUDE** as follows:

1. The foregoing statement of the case, discussion, and all findings and conclusions contained therein, whether or not separately stated, numbered or designated as findings and conclusions, are hereby incorporated by reference as findings of fact and conclusions of law of the Commission.

2. The Commission has jurisdiction over the subject matter of the proceeding and the parties.

3. Reasonable, proper and adequate notice of this case has been given.

IV. DECRETAL PARAGRAPHS

The Hearing Examiner recommends that the Commission **ORDER** as follows:

A. The findings, conclusions, rulings and determinations made and construed herein are hereby adopted and approved as the findings, conclusions, rulings and determinations of the Commission.

B. SPS's request for approval of the Macho Springs LTPPA pursuant to 17.9.551.8 NMAC is granted.

C. SPS's request for approval to recover the amounts paid for purchased power under the Macho Springs LTPPA through EPE's FPPCAC pursuant to 17.9.551.9 NMAC is granted.

D. The prudence and ratemaking treatment of the costs incurred under EPE's Interconnection Agreement with Macho Springs are not addressed here and will be addressed in

a future ratemaking proceeding when EPE seeks to recover the costs.

E. The ratemaking treatment of any revenues received by EPE from the sale of the RECs acquired under the Macho Springs LTPPA is not addressed here. EPE shall present in its next renewable energy procurement filing due in July 2013 a proposal describing how it intends to use the RECs acquired with the Macho Springs purchases and a proposed ratemaking treatment for revenues received from the sale of such RECs, including a showing of how ratepayers should be compensated for any such sales. EPE shall also include in each of its annual renewable energy reports under section 62-16-4 of the Renewable Energy Act throughout the term of the LTPPA the following information: the amount of RECS received pursuant to this PPA, the value attributed to the RECs, and whether RECS associated with the Macho Springs PPA are proposed to satisfy the RPS, banked with WREGIS, sold to another entity for cash, or disposed of in another manner.

F. EPE shall include in the FPPCAC annual report it files pursuant to 17.9.550.13(E) NMAC a separate section that enumerates for each prior year the total amount of energy received through the LTPPA, the New Mexico allocated portion of the energy, the total RECs received, the New Mexico allocated RECs, the disposition of the New Mexico allocated RECs, the total amount paid to Macho Springs for the energy, the New Mexico allocated cost of the energy received, any amounts credited to EPE ratepayers as compensation for the sale of RECs acquired under the LTPPA, and any other information the Commission might hereafter specify.

G. EPE shall file the following notices in this docket at the times indicated:

1. A notice of any changes in ownership or management of Macho Springs or the Macho Springs facility that occur during the course of this LTPPA within three months of the change.

2. A notice of the date on which EPE first receives energy under this LTPPA within one month after the initial receipt of energy.

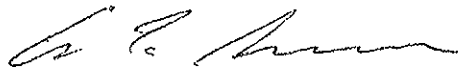
H. This Order is effective immediately.

I. Copies of this Order shall be sent to all persons on the attached Certificate of Service.

J. This docket shall remain open for further proceedings related to the further notices required in decretal paragraph G.

ISSUED at Santa Fe, New Mexico on **April 8, 2013**.

NEW MEXICO PUBLIC REGULATION COMMISSION



Ashley C. Schannauer
Hearing Examiner

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

IN THE MATTER OF EL PASO ELECTRIC)
COMPANY'S APPLICATION FOR APPROVAL.)
OF A LONG TERM PURCHASED POWER) No. 12-00386-UT
AGREEMENT WITH MACHO SPRINGS)
SOLAR, LLC)
_____)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing *Recommended Decision*, issued April 8, 2013, was e-mailed to the following and mailed to the following:

Email Addresses:

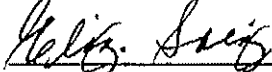
Randall Childress	randy@childresslaw.com ;
Stacey Goodwin	Stacey@childresslaw.com ;
Evan Evans	Evan.evans@epelectric.com ;
Mario Contreras	Mario.contreras@epelectric.com ;
Lorenzo Nieto	Lorenzo.Nieto@epelectric.com ;
Jeffrey Taylor	JTaylor@nmag.gov ;
Loretta Martinez	LMartinez@nmag.gov ;
John Curl	Jcurl@westernresources.org ;
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Cydney Beadles	Cydney.beadles@state.nm.us ;
Michael C. Smith	MichaelC.Smith@state.nm.us ;
Ashley Schannauer	Ashley.Schannauer@state.nm.us ;
Jack Sidler	Jack.sidler@state.nm.us ;
James Brack	Jim.brack@state.nm.us

And mailed to:

Randall W. Childress, Esq.	Mario Contreras
Stacey J. Goodwin, Esq.	El Paso Electric Company
Law Offices of Randall W. Childress, P.C.	100 North Stanton
300 Galisteo Street, Suite 205	El Paso, TX 79901
Santa Fe, NM 87501	

DATED this 8th day of April, 2013.

NEW MEXICO PUBLIC REGULATION COMMISSION



Elizabeth Saiz, Law Clerk

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

IN THE MATTER OF EL PASO ELECTRIC)
COMPANY'S APPLICATION FOR APPROVAL)
OF A LONG TERM POWER PURCHASE) Case No. 12-00386-UT
AGREEMENT WITH MACHO SPRINGS)
SOLAR, LLC)
)
EL PASO ELECTRIC COMPANY,)
Applicant.)
)
_____)

ERRATA NOTICE TO RECOMMENDED DECISION

Pursuant to 1.2.2.37(G)(1) NMAC, the Hearing Examiner gives NOTICE that the Recommended Decision issued on April 8, 2013 should be corrected as follows.

In three locations, i.e., (1) first sentence of the second paragraph on page 11, (2) Decretal paragraph B, and (3) Decretal paragraph C, the Recommended Decision mistakenly refers to "SPS" instead of "EPE."

1. The correct language for the first sentence of the second paragraph on page 11 should read as follows:

"Further, Staff recommends that EPE be required to address the following in each of EPE's annual renewable energy procurement plans filed pursuant to §62-16-4 of the Renewable Energy Act during the term of the Macho Springs PPA: . . ."

2. The correct language for Decretal Paragraph B should read as follows:

"B. EPE's request for approval of the Macho Springs LTPPA pursuant to 17.9.551.8 NMAC is granted."

3. The correct language for Decretal Paragraph C should read as follows:

"C. EPE's request for approval to recover the amounts paid for purchased power under the Macho Springs LTPPA through EPE's FPPCAC pursuant to 17.9.551.9 NMAC is granted.

IT IS THEREFORE ORDERED:

A. The Recommended Decision is corrected as provided above.

B. This Errata is effective immediately.

C. The Commission's Records Bureau shall attach a copy of this Errata to the end of the Recommended Decision issued in the docket.

ISSUED at Santa Fe, New Mexico, on **April 9, 2013**.

NEW MEXICO PUBLIC REGULATION COMMISSION



Ashley C. Schannauer
Hearing Examiner

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

IN THE MATTER OF EL PASO ELECTRIC)
COMPANY'S APPLICATION FOR APPROVAL)
OF A LONG TERM PURCHASED POWER) No. 12-00386-UT
AGREEMENT WITH MACHO SPRINGS)
SOLAR, LLC)
_____)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that true and correct copies of the Final Order Adopting Recommended Decision were sent by electronic mail to the individuals listed below.

Email Addresses:

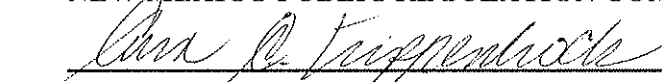
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Jack Sidler	Jack.sidler@state.nm.us ;
James Brack	Jim.brack@state.nm.us

And mailed to:

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Stacey J. Goodwin, Esq.	El Paso Electric Company
Law Offices of Randall W. Childress, P.C.	100 North Stanton
300 Galisteo Street, Suite 205	El Paso, TX 79901
Santa Fe, NM 87501	

DATED this 1st day of May, 2013.

NEW MEXICO PUBLIC REGULATION COMMISSION



Ana C. Kippenbrock, Paralegal