

EL PASO ELECTRIC COMPANY

SCHEDULE NO. 38

NOTICED INTERRUPTIBLE POWER SERVICE

APPLICABILITY

This rate schedule is closed to new customers.

This rate schedule is available to Customers with total connected capacity requirements of at least 2,500 kilowatts (kW), and at the sole discretion of the Company and only when the Company has available capacity in excess of its firm system requirements. The minimum level of firm demand to be required from qualifying customers is 600 kW unless a greater amount is provided by a contract.

Noticed Interruptible Power Service is available under this rate schedule only if the utilization of this service is of such character that the service is capable of being interrupted at any time, upon the Company's request, without damage to property or persons and without adversely affecting the public's health, safety and welfare. This rate schedule is not available for standby, temporary, resale or interruptible service not in conjunction with firm service under other applicable rate schedules.

At the Customer's expense, the Customer will install all necessary communication, relay and breaker equipment to qualify for service under this rate schedule, subject to Company approval. The Customer will pay for the associated hardware costs.

TERRITORY

Texas Service Area

TYPE OF SERVICE

Service available under this rate schedule will be determined by the Company and will either be single or three phase at the option of the Company and at a standard Company approved voltage. All service will be taken at the point of delivery designated by the Company and at one of the Company's standard types of service. Electric energy will be measured by a single meter, or other measuring device, of each kind needed.

MONTHLY RATES

	Secondary Voltage	Primary Voltage	Transmission Voltage
Demand Charge per kW	\$4.90	\$4.59	\$2.16
Energy Charge per kWh	\$0.00502	\$0.00491	\$0.00479

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DETERMINATION OF BILLING DEMAND AND ENERGY

Maximum demand will consist of both firm and interruptible demand, and will be defined as the highest thirty (30) minute average kW load determined by measurement.

The Total Billing Demand will be the maximum demand. In no event shall Total Billing Demand be less than the Minimum Firm Contract Capacity specified in the Contract for Power Service.

Firm Power Billing Demand shall be the lesser of (1) the Total Billing Demand or (2) the Contract Firm Power Demand established in the Contract for Power Service, but not less than the Minimum Firm Contract Capacity specified in the Contract for Power Service.

Firm Power Billing Demand as defined herein shall constitute the "demand used for billing" under the Customer's firm service rate schedule, and shall be billed in accordance with the rate schedule applicable to the Customer's firm service. Noticed Interruptible Power Billing Demand shall be determined as Total Billing Demand minus Firm Power Billing Demand, and shall be billed in accordance with this rate schedule.

Firm Energy shall be determined by multiplying the ratio of the Firm Power Billing Demand to the Total Billing Demand times the metered kWh. Firm Energy shall be billed in accordance with the rate schedule applicable to the Customer's firm service. Noticed Interruptible Energy shall be the difference between the metered kWh and the Firm Energy. Noticed Interruptible Energy shall be billed in accordance with this rate schedule.

CONTRACT FOR SERVICE

A Contract for Power Service ("Contract") must be executed between the Company and the Customer prior to taking service under this rate schedule. The Contract shall establish the amount of the Customer's demand that shall be served as firm demand. All demand in excess of the amount of firm demand specified in the Contract shall constitute interruptible demand and shall be served and billed on that basis. The Contract term shall be for an initial period of three (3) years, and shall continue year-to-year thereafter until canceled by either party upon one (1) year's prior written notice. The amount of Contract Firm Power Demand and Minimum Firm Contract Capacity specified in the Contract will supersede and control over any inconsistent level of demand specified in any pre-existing agreement between the Company and the Customer.

The Company reserves the right to terminate service under this rate schedule if the Customer's average monthly load factor drops below 50 percent in any twelve (12) consecutive month period.

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**SCHEDULING PROCEDURES**

The Company and the Customer shall agree upon detailed procedures for requesting, providing notice of, and implementing interruptions, and shall set forth the same in the Contract for Power Service.

**GENERAL CONDITIONS**

The Company may make intentional interruptions at any time and from time to time, when emergency conditions exist and at the Company's sole discretion, for up to two hundred (200) hours in any calendar year with individual interruptions limited to no more than six (6) hours per interruption, and no more than three (3) interruptions per calendar week. In the event of an interruption, the Company will provide thirty (30) minute notice prior to interruption. Emergency conditions are deemed to exist at any time, in the sole judgment of the Company, that demands for electricity exceed or are expected to be likely to exceed the Company's available electric supply for whatever reason or reasons including, but not limited to, breakdown of generating units, distribution equipment or other critical facilities; short-term or long-term shortages of fuel or generation, distribution, and other facilities; or requirements or orders of governmental agencies. The Company may not interrupt the Customer (1) due solely to differences in the Company's marginal cost of energy and the energy-related charges for Noticed Interruptible Power Service, or (2) to continue or make non-firm off-system sales.

An hour of interruption shall be any clock-hour or part thereof during which the Company invokes an intentional interruption. The number of hours of interruption remaining during the calendar year for the term of the contract shall be reduced by a minimum of four (4) hours each interruption occasion, even though the actual interruption may last for a lesser period.

Interruptions will be directly controlled by the Company's system operator with the appropriate notice provided to the Customer.

**NON-COMPLIANCE**

Noticed Interruptible Transmission Power Service is provided to the Customer with the explicit knowledge and understanding that such service shall be subject to curtailment by the Customer with notice from the Company. Failure to comply with the Company's request for curtailment shall result in the following adjustments to the Customer's billings and service:

1. During a calendar year, the first occasion in which the Customer fails to comply with a request for curtailment shall result in the Customer being billed (or re-billed,

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if necessary) the entire month at the retail rates currently in effect and otherwise applicable to the Customer ("Retail Rate"); and

2. During the same calendar year, the second occasion in which the Customer fails to comply with a request for curtailment shall result in the Customer being re-billed at the Retail Rate for the period from January 1 of such calendar year through the end of the month in which such second failure occurred (less amounts previously remitted by Customer for such period) with an additional five percent (5%) charge applied to the additional base portion of the recalculated monthly bills (less amounts previously remitted by Customer for such period); and
3. During the same calendar year, the third occasion in which the Customer fails to comply with a request for curtailment shall result in the immediate termination of service under the Noticed Interruptible Power Service rate, and the Customer will be served and billed for electric service for that entire month and thereafter at the Retail Rate. Additionally, the Customer will be re-billed at the Retail Rate for each month of such calendar year that was not previously billed or re-billed at the Retail Rate under this Non-Compliance section, with an additional five percent (5%) charge applied to the additional base portion of the recalculated monthly bills (less amounts previously remitted by the Customer for such period).

Upon the expiration of twelve (12) consecutive months following the date of the third failure to comply, the Customer may reapply for electric service at the Company's then-current noticed interruptible rate schedule. As a condition precedent to the re-establishment of electric service at the Company's then-current interruptible rate schedule, the Customer must demonstrate to the Company's satisfaction its ability to comply with the Company's noticed interruptible curtailment requirements prior to establishing a new service agreement under this rate schedule.

**POWER FACTOR ADJUSTMENT**

If the power factor at the time of the highest measured thirty (30) minute interval kW demand for the entire plant is below 90% lagging, a power factor adjustment shall be calculated as follows:

- ADJ = ((kW x .95 / PF) - kW) x DC, where
- ADJ = Increase to applicable Demand Charge,
- kW = Monthly Measured Demand,
- PF = Monthly measured Power Factor, and
- DC = Demand Charge.

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**FIXED FUEL FACTOR**

This rate schedule is subject to the provisions of the Company's Rate Schedule No. 98 (Fixed Fuel Factor).

**MILITARY BASE DISCOUNT RECOVERY FACTOR**

This rate schedule is subject to the provisions of the Company's Rate Schedule No. 96 (Military Base Discount Recovery Factor).

**TERMS OF PAYMENT**

The due date of the bill for utility service shall not be less than sixteen (16) days after issuance. A bill becomes delinquent if not received at the Company by the due date. If the due date falls on a holiday or weekend, the next Company business day shall apply.

**TERMS AND CONDITIONS**

Service supplied under this rate schedule is subject to the Company's Rules and Regulations on file with the Public Utility Commission of Texas and available for inspection at Company offices.

During the term of the Customer's Contract for Power Service, Customer may not engage in self-generation other than periodic operation of self-generation facilities for emergency situations or to comply with an interruption request.

Interruptible sales under this rate schedule are non-firm sales and as such are not subject to cost-of-service allocations in any Company rate case.

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