

CITY OF EL PASO, TEXAS
AGENDA ITEM
DEPARTMENT HEAD'S SUMMARY FORM

DEPARTMENT: Financial Services

AGENDA DATE: Regular Agenda May 25, 2010

CONTACT PERSON NAME AND PHONE NUMBER: Liza Ramirez-Tobias (915) 541-4074

DISTRICT(S) AFFECTED: All

SUBJECT:

That the rate increase identified in the 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 before the City and the Public Utility Commission of Texas, Docket No. 37690 be and is hereby suspended for 90 days after the effective date for the rate increase subject to the City's jurisdiction as specified in the filing.

BACKGROUND / DISCUSSION:

In December 2009, El Paso Electric Company, Co., filed a Statement of Intent to increase base rates in El Paso by a \$51.7 million base rate case, which was later reduced to \$46.5 million, due to revisions. The request was adjusted to \$17.15 million at the time of the hearing conducted by the Public Utilities Regulation Board (PURB) on April 19, 2010. After hearing from the witnesses, the PURB finished its deliberations and approved the negotiated proposal. Details are further discussed in the Memorandum attached.

PRIOR COUNCIL ACTION:

City Council approved a resolution on December 22, 2009 suspending the effective date of the Statement of Intent to Increase rates.

AMOUNT AND SOURCE OF FUNDING:

N/A

BOARD / COMMISSION ACTION:

The Public Utilities Regulation Board (PURB) considered the proposed increase at its March 10, 2010 meeting.

\*\*\*\*\*REQUIRED AUTHORIZATION\*\*\*\*\*

DEPARTMENT HEAD:

(If Department Head Summary Form is initiated by Purchasing, client department should sign also)

Information copy to appropriate Deputy City Manager



## PUBLIC UTILITY REGULATION BOARD

### MEMORANDUM

TO: City Council

FROM: William Stafford Thurmond, Chair  
Public Utility Regulation Board

SUBJECT: PURB Recommendations regarding the El Paso Electric Company's  
Application to Change Rates

DATE: May 25, 2010

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This memorandum briefly sets forth the recommendations of the Public Utility Regulation Board made at its May 10, 2010 meeting regarding the El Paso Electric Company's Application to Change Rates. These recommendations were made by a majority of members present at the meeting.

#### Summary of PURB Recommendation

The Board recommends that the Council approve the recommended settlement proposal that would result in a net rate increase of approximately \$17.15 million. In addition, the Board discussed the Energy Efficiency Cost Recovery Factor and, based on comments received from members of the public, recommends to the Council that if the El Paso Electric Company ("EPE" or "Company") wants to recover the Energy Efficiency costs, then the costs should be shared equally (on a 50/50 basis) between the ratepayers and the Company (and their shareholders), as further discussed below.

#### Background

El Paso Electric Company filed its statement of intent on December 9, 2009. The original request was for a \$51.7 million increase. The request, as adjusted by El Paso Electric during the discovery phase was adjusted to be an increase in base rates of \$46.5 million.

In addition El Paso Electric requested that the Public Utilities Commission of Texas ("PUC"), under its jurisdiction, approve the Reconciliation of Fuel Costs, Establish

Formula-Based Fuel Factor, and Establish an Energy Efficiency Cost Recovery Factor. The City has intervened in the PUC case and can make recommendations to the PUC regarding these matters.

### PURB Hearing

The Board meeting began shortly after 9:00 A.M. on May 10 with public comment. The Board heard public comment from 15 individuals, some of whom indicated they represented organizations while others indicated they were representing themselves. After the public comment, the Board considered the rate application. City Staff announced that EPE and all the parties to the case at the Public Utility Commission had arrived at an agreement in principle to settle all the issues in the case. City Staff and EPE made presentations to the Board outlining and explaining the provisions of the settlement. After the presentations by City Staff and EPE, the Board asked questions concerning the proposed settlement specifically and the rate increase request in general based on the Board members' review of filed documents. The Board also discussed EPE's energy efficiency program and solar initiatives. After the presentations were finished and the question period ended, the board considered the proposed settlement.

### PURB Recommendation

The Board voted to recommend that the Council approve the settlement proposal that would result in an overall base rate increase of approximately \$17.15 million and further recommended that if the Company wants to recover the costs through the Energy Efficiency Cost Recovery Factor, the Company and its shareholders should share the costs 50/50 with the City's ratepayers. The Board finished its deliberations at approximately 4:30 P.M.

Several Board members have asked that their intent in supporting the recommendation regarding the Energy Efficiency Cost Recovery Factor also be conveyed to the Council. The board members stated that during a lengthy discussion at the meeting culminating in the Board vote, they understood that the 50/50 contribution between the Company (and its shareholders) and the ratepayers would apply to amounts the Company commits to Energy Efficiency measures in the future, after the Council's action on the settlement agreement. These members stated they did not intend that the 50/50 contribution would apply to past Energy Efficiency expenditures that the Company may recover. They have further stated that their intention was to encourage the Council to have further dialogue with the Company and other third parties on renewable energy concerns.

## **RESOLUTION**

**WHEREAS**, El Paso Electric Company (“Company” or “EPE”), is a regulated utility subject to the exclusive original jurisdiction of the City of El Paso (“City”) for rates, services and operations within the City; and

**WHEREAS**, on December 9, 2009, the Company filed a Statement of Intent to increase rates within the City of El Paso based upon an increase of \$51,577,065 for Texas Jurisdictional Customers, said rate increase specified to be effective March 2, 2010; and

**WHEREAS**, on December 9, 2010, El Paso Electric Company filed the same request with the Public Utility Commission of Texas for a change in rates in the areas outside the boundaries of the City of El Paso, over which the Public Utility Commission of Texas (“PUC”) exercises original jurisdiction; and

**WHEREAS**, the EPE application at the PUC included a Reconciliation of Fuel Costs, Establish Formula-Based Fuel Factor, and Establish an Energy Efficiency Cost Recovery Factor and the City has intervened in the PUC case; and

**WHEREAS**, on December 22, 2009, the City Council suspended the operation of the filings for 90 days from the effective date or the maximum allowed by law; and

**WHEREAS**, at the direction of the City Council, the Public Utility Regulation Board held a public hearing on May 10, 2010 at which time the Public Utility Regulation Board heard a presentation from the City’s counsel, the City’s staff and from witnesses for El Paso Electric Company concerning a proposed settlement which would resolve the issues in the case pending at the City as well as the pending docket at the Public Utility Commission of Texas; and

**WHEREAS**, the proposed settlement calls for an increase in base rates of \$17.15 million for Texas Jurisdictional customers with rates effective for electric usage on and after July 1, 2010. The settlement is considered a “black box”, and that is there will be no specific findings on issues except for the following provisions:

1. The fresh start values for Palo Verde proposed by EPE, with retirements adjusted to the fresh start basis, will be used in this docket and in future dockets.
2. All additions to electric plant in service since June 30, 1993 through June 30, 2009 are deemed to be reasonable and necessary except that EPE agrees to exclude its 2003 acquisition costs for the investment in the Copper gas turbine from rate base and depreciation expense in future rate cases
3. EPE will be allowed to include the Customer Information System (CIS) in rate base effective April 1, 2010.
4. The proposed balance of accumulated depreciation reflecting the 2004 depreciation study is approved.
5. EPE’s proposed depreciation rates are approved, but shall be subject to review and adjustment on a going-forward basis in future proceedings.
6. EPE shall accrue and deposit \$7 million per year on a Texas jurisdictional basis for Palo Verde Decommissioning Expense, which amounts shall be subject to review and adjustment on a going forward basis in future rate proceedings.
7. EPE will reimburse the City for the approved amounts within 20 days of the City’s invoice to EPE. EPE will amortize the rate case expenses over a period of two (2) years.
8. EPE’s AFUDC rates will reflect a 10.125% return on equity effective with new rates.
9. EPE shall be allowed to include its loss on reacquired debt associated with the refinancing of the first mortgage bonds in 2005 in its calculation of the weighted cost of debt in future rate proceedings as proposed by EPE in this case; and

**WHEREAS**, the City Council finds that the apportionment of the increase among the various Texas Customer Classes as identified in attachment “A” to this resolution is reasonable; and

**WHEREAS**, the proposed settlement addresses the Fuel Reconciliation issues by agreeing to a separate stipulation concerning the Fuel Reconciliation which severs for a hearing at the PUC the sole issue of how much of EPE’s claimed reclamation costs for the

coal mine which provides fuel for the Four Corners Coal Plant will be recovered from Texas Ratepayers; and

**WHEREAS**, the Proposed Settlement addresses EPE's proposed treatment of recovery of its Energy Efficiency Costs amortizing EPE's deferred costs over a three year period and allowing approval of the proposed Energy Efficiency rider; and

**WHEREAS**, the Company has provided evidence that it has complied with the notice requirements of Texas Utilities Code §36.103 by publication in the *El Paso Times* on December 18 and 25, 2009 and January 8, 2010; and

**WHEREAS**, the City Council having considered the PURB recommendation finds that the base rate change proposed by El Paso Electric Company as proposed on December 9, 2009 should be denied, and that an increase as identified herein, is reasonable and will produce revenues which allow El Paso Electric Company a reasonable opportunity to earn a reasonable return on its invested capital used and useful to the public in providing electric service.

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO THAT:**

**SEC. 1.** The Rate Increase Request of El Paso Electric Company as requested by El Paso Electric Company on December 9, 2009 is denied, and an increase of \$17.15 million in base (non-fuel) rates effective for electricity consumed on or after July 1, 2010 is approved, with the increase apportioned among the customer classes as provided in Attachment "A" to this Resolution which is incorporated for all purposes.

**SEC. 2.** EPE is ordered to submit tariffs implementing such rates to the City for Approval by City Council such submission will be no later than June 4, 2010.

**SEC. 3.** Authorize the City Attorney to sign the Stipulation and all documents on behalf of the City of El Paso to resolve the case before the City and the Public Utility Commission of Texas pursuant to the terms and conditions of the proposed settlement, including the energy efficiency costs and rider.

**SEC. 4.** The Company is ordered to reimburse the City for its expenses as invoiced by the City, 20 days after invoice from the City.

**SEC. 5.** All relief requested by The Company within the original jurisdiction of the City of El Paso not granted herein is denied.

**ADOPTED this 25th day of May, 2010.**

THE CITY OF EL PASO

\_\_\_\_\_  
John F. Cook  
Mayor

ATTEST:

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Richarda Duffy Momsen  
City Clerk

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

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Bertha A. Ontiveros  
Assistant City Attorney

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William F. Studer, Jr.  
Deputy City Manager  
Financial Services

EL PASO ELECTRIC COMPANY  
Development of  
Settlement Base Revenue Targets  
by Rate Class at \$17.150 M

Customer Class	<b>Final Settlement Revenue Distribution</b>		
	Present Base Revenues	Proposed Base Rate Increase Before MBRD	Total Base Rate Revenue Target
Residential Service	140,429,892	9,633,491	150,063,383
Water Heating Service	985,380	121,601	1,106,981
Small Commercial Service	23,481,646	696,669	24,178,315
Outdoor Recreational Lighting	367,583	42,357	409,940
Government Street Lighting	3,469,848	428,197	3,898,045
Municipal Pumping Service	6,844,736	732,774	7,577,510
Electrolytic Refining Service (1)	3,089,330	(404,802)	2,684,528
Irrigation Service	209,685	-	209,685
General Service	107,252,642	3,182,044	110,434,686
Large Power Service	33,440,725	992,142	34,432,867
Transmission Voltage Service	1,546,911	45,895	1,592,805
Petroleum Refinery Service (1)	16,020,460	(1,428,458)	14,592,002
Area Lighting Service	2,676,117	-	2,676,117
Electric Furnace Rate	989,265	113,995	1,103,259
Military Reservation Service (2)	5,790,655	1,447,664	7,238,318
Cotton Gin Service	104,339	12,023	116,362
City and County Service	21,903,307	1,058,491	22,961,798
University Service	3,414,370	-	3,414,370
<b>Total Retail Sales</b>	<b>372,016,890</b>	<b>16,674,084</b>	<b>388,690,974</b>
<b>Total Other Operating Revenues</b>	<b>28,078,807</b>	<b>475,916</b>	<b>28,554,723</b>
<b>Total Retail</b>	<b>400,095,697</b>	<b>17,150,000</b>	<b>417,245,697</b>

**NOTES:**

(1) The present base revenues shown for the Electrolytic Refining Service and Petroleum Refining Service classes are based on pro forma rates. Actual test year adjusted revenues for these classes were \$1,404,808 and \$8,014,049, respectively.

(2) The Total Base Rate Revenue Target for Military Reservation Service does not reflect the application of the 20% Military Base Rate Discount pursuant to PURA 36.354.