

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

DEPARTMENT: Financial Services
AGENDA DATE: August 11, 2009
CONTACT PERSON/PHONE: Liza Ramirez-Tobias, 915-541-4074
DISTRICT(S) AFFECTED: All

SUBJECT:

El Paso Electric Company and the University of Texas at El Paso have negotiated an amendment to their agreement for a new rate, entitled Rate Schedule No. 43-TOU, Experimental State University Service Time of Use Rate (Rate), regarding the rates to be paid by the University of Texas at El Paso for electric utility services at state university facilities that meet specified load criteria.

BACKGROUND / DISCUSSION:

El Paso Electric Co. (EPEC) holds the franchise for the City of El Paso. EPEC has a Service Agreement with UTEP which the parties have amended. EPEC and UTEP have negotiated a new rate and the provisions of Company's Tariff Schedule No. 98 allows time-of-use rate with state university facilities will implement the terms of that amended agreement. This will expire either until the earlier of the date when rates become effective in the next general rate proceeding or January 1, 2012. No revenue shortfall will be recovered from other customers by means of a rate charge, and this application does not seek a base rate increase.

PRIOR COUNCIL ACTION:

September 28, 1999, City Council approved retail contracts with Phelps Dodge and UTEP

AMOUNT AND SOURCE OF FUNDING:

N/A

BOARD / COMMISSION ACTION:

*****REQUIRED AUTHORIZATION*****

LEGAL: (if required) _____ **FINANCE:** (if required) _____

DEPARTMENT HEAD: Wong
(Example: if RCA is initiated by Purchasing, client department should sign also)
Information copy to appropriate Deputy City Manager

APPROVED FOR AGENDA:

CITY MANAGER: _____ **DATE:** _____

CLARK, THOMAS & WINTERS

A PROFESSIONAL CORPORATION

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300 WEST 6TH STREET, 15TH FLOOR
AUSTIN, TEXAS 78701

July 30, 2009

Mayor John Cook
City of El Paso
#2 Civic Center Plaza
10th floor of City Hall
El Paso, Texas 79901

Re: El Paso Electric Company's Request for Approval of Rate Schedule No. 43-TOU,
Experimental State University Time of Use

Dear Mayor Cook:

El Paso Electric Company (EPE) requests approval, at the August 11, 2009 Council Meeting, of Rate Schedule No. 43-TOU, Experimental State University Time Of Use Rate (Rate). This Rate has been the result of negotiation and agreement between EPE and the University of Texas at El Paso (UTEP). The attached affidavit from Curtis Hutcheson, Manager-Economic and Rate Research, provides additional information supporting the reasonableness of this Rate. UTEP has requested that EPE seek approval of this Rate.

This Rate would allow UTEP to manage its electrical costs by shifting its load away from EPE's peak periods. The approval of this Rate would allow the UTEP accounts currently billed under the Target Load Factor Rate of the existing Electric Service Agreement for the UTEP facilities commonly known as Stanton Building, College of Health Sciences/School of Nursing, the Swimming and Fitness Center and the Physical Plant Complex to be billed under this new rate. Because these facilities are located within the city limits of El Paso, it is necessary for EPE to obtain the City of El Paso's approval, as EPE's local regulatory authority.

EPE requests that the City Council, as the regulatory authority within the municipal limits of the City of El Paso, approve the Rate as presented.

Respectfully Submitted,



Bret J. Slocum

cc: Bertha A. Ontiveros

RESOLUTION

WHEREAS, on July 12, 2005, the City Council of the City of El Paso approved a Rate Agreement with El Paso Electric Company dated July 5, 2005 establishing the electric utility rates within the City of El Paso through June 30, 2010;

WHEREAS, pursuant to the Rate Agreement and applicable law, the City of El Paso maintains original jurisdiction over rates of El Paso Electric Company for rates charged within the City limits of the City of El Paso;

WHEREAS, El Paso Electric Company currently provides retail electric service to the University of Texas at El Paso under existing Rate Schedule No. 43 and an Electric Service Agreement between EPE and UTEP;

WHEREAS, El Paso Electric Company and the University of Texas at El Paso have negotiated an amendment to their agreement for a new rate, entitled Rate Schedule No. 43-TOU, Experimental State University Service Time of Use Rate (Rate), regarding the rates to be paid by the University of Texas at El Paso for electric utility services at state university facilities that meet specified load criteria;

WHEREAS, the Rate was designed to recover EPE's cost of providing service regardless of the time of use, and the higher charges for usage at the time of EPE's peak period should encourage reduction of EPE's peak load;

WHEREAS, the Rate contemplates allowing the UTEP accounts currently being billed under Section 10.c Target Load Factor Rate in the Electric Service Agreement to be billed under the new Rate, in order that El Paso Electric Company may charge the Rate, effective August 11, 2009;

WHEREAS, the Rate contemplates allowing the UTEP accounts to no longer be billed under Exhibit D, kWh Imputation Charge for the Target Load Facilities from the Electric Service Agreement, effective August 11, 2009;

WHEREAS, El Paso Electric Company has requested that the El Paso City Council approve the Rate;

WHEREAS, the City Council finds that the requested changes arise from a negotiated agreement between El Paso Electric Company and University of Texas at El Paso and are

expected to provide The University of Texas at El Paso the opportunity to lower their electricity costs; and

WHEREAS, the City Council finds the Rate to be just and reasonable and that approval of these rate changes will not affect other provisions of the Rate Agreement or adversely affect any other customer classes or rates.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO THAT:

1. El Paso Electric is hereby authorized to implement Rate Schedule No. 43-TOU, Experimental State University Time of Use Rate (effective August 11, 2009), attached hereto as **Exhibit A**.
2. Nothing in this Resolution or approval shall operate or be construed to be a precedent or approval of the concept or implementation of Experimental State University Time of Use Rate pricing for any other Customer or Customer Class.

PASSED AND APPROVED this _____ day of August, 2009

CITY OF EL PASO

John F. Cook
Mayor

ATTEST:

Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

Bertha A. Ontiveros
Assistant City Attorney

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

EXHIBIT A

EL PASO ELECTRIC COMPANY

SCHEDULE NO. 43 - TOU
EXPERIMENTAL STATE UNIVERSITY SERVICE TIME-OF-USE RATE

(N)

APPLICABILITY

This rate is available to state university facilities which have a highest measured demand, as defined by the Determination of Demand, of not less than 150 kilowatts or greater than 2000 kilowatts during the previous 12 months. 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. This rate is available until the earlier of the Company's next general rate proceeding or January 1, 2012, at which time it will be subject to modification, extension or termination by the applicable regulatory authority.

TERRITORY

City of El Paso

MONTHLY RATE

On-Peak Energy Base Rate

\$0.13550 per KWH for all energy measured within the On-Peak hours between 12:00 P.M. to 6:00 P.M. MST, Monday through Friday for the months of June through September.

Off-Peak Energy Base Rate

\$0.05370 per KWH for all energy measured for all other hours not defined as On-Peak hours.

DETERMINATION OF DEMAND

Maximum demand will be defined as the highest measured thirty (30) minute average kilowatt load determined by measurement.

FIXED FUEL FACTOR

The above rates are subject to the provisions of Company's Tariff Schedule No. 98 entitled Fixed Fuel 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.

Section Number 1
Sheet Number 25
Page 1 of 2

Revision Number 0
Effective with energy consumed on or
after

EL PASO ELECTRIC COMPANY

SCHEDULE NO. 43 - TOU
EXPERIMENTAL STATE UNIVERSITY SERVICE TIME-OF-USE RATE

(N)

TERMS AND CONDITIONS

The Company's Rules and Regulations apply to service under this schedule.

Section Number 1
Sheet Number 25
Page 2 of 2

Revision Number 0
Effective with energy consumed on or
after

County of El Paso
State of Texas

**AFFIDAVIT OF CURTIS HUTCHESON
IN SUPPORT OF
EL PASO ELECTRIC COMPANY'S
REQUEST FOR APPROVAL OF
RATES APPLICABLE TO THE UNIVERSITY OF TEXAS AT EL PASO**

BEFORE ME, the undersigned authority, on this day personally appeared CURTIS HUTCHESON, who, having been placed under oath by me, did depose as follows: My name is Curtis Hutcheson. I am of sound mind, over the age of 21, a resident of the State of Texas, and competent to make this affidavit.

1. I am Manager-Economic and Rate Research at El Paso Electric Company ("EPE"), am authorized to make this affidavit, and I have personal knowledge of the facts stated herein.

2. El Paso Electric is proposing an Amendment No. 1 To Electric Service Agreement between EPE and The University of Texas at El Paso ("UTEP") concerning Section 10.c Target Load Factor Rate, Section 19.n Notices, Section 19.s Products and Materials Produced in Texas, Section 19.u Breach of Contract Claims, Sections 19.v Subcontracting and Exhibit D kWh Imputation Charge for the Target Load Facilities.

3. The current Electric Service Agreement ("Agreement") was entered into as of September 9, 1999 between EPE and UTEP.

4. Currently under Section 10.c of the Agreement, metered electric energy service to the facilities commonly known as the Stanton Building, the College of Health Sciences/School of Nursing, the Swimming and Fitness Center and the Physical Plant Complex ("Facilities") are billed based on a Load Factor Target Rate. If any Target Load Factor Facility fails to meet its Load Factor Target in any six (6) month period following the Load Factor Target

Commencement Date, a kWh Imputation Charge is added to the following month's bill in order to bring that Target Load Factor Facility's previous six month's usage up to the Load Factor Target established for such facility. This was to encourage these sites to maintain an appropriate load factor.

5. In October 2007, UTEP expressed an interest in having discussions with EPE about rate alternatives to the Target Load Factor Rate and the associated Facilities. EPE evaluated a time of use rate design proposal for the Target Load Factor Facilities. A time of use rate design would provide flexibility and opportunity to achieve annual billing savings by shifting consumption to off-peak periods or reducing on-peak consumption. Amendment No. 1 To Electric Service Agreement would amend Section 10.c to remove all reference to the Target Load Factor Rate and replace it with the Time of Use Rate II (TOU II Rate).

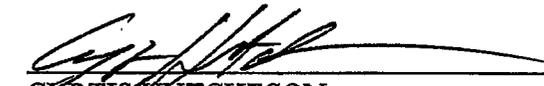
6. The TOU II Rate contains specific time of use pricing features that will encourage the facilities to reduce their loads during EPE's peak summer hours. The resulting reduction to EPE's summer peak loads will benefit EPE's other customers by reducing the need and associated cost for EPE to acquire additional peak load capacity in the future.

7. The TOU II Rate was designed based upon the electric consumption characteristics of the Facilities loads. Specifically, this rate was designed in a such a manner that if these loads do not change their consumption from their historical patterns, the total bills for these loads on an annual basis should not change from what they otherwise would have been as a result of taking service under this TOU II Rate. Consequently, the Facilities served under the TOU II Rate should experience lower annual electric bills if they reduce their on-peak consumption and should experience higher annual bills if they increase their on-peak consumption.

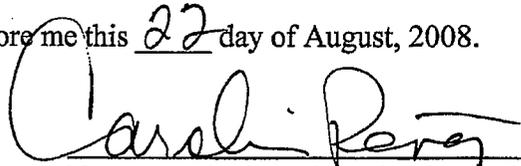
8. Other administrative sections were updated in Amendment No. 1 To Electric Service Agreement. Section 19.n Notices updates the contact information for UTEP and the mailing address for EPE. Section 19.s Products and Materials Produced in Texas, Section 19.u Breach of Contract Claims and Section 19.v Subcontracting are added in their entirety to the Agreement. Exhibit D kWh Imputation Charge for the Target Load Facilities is deleted from the Agreement.

9. The approval of Amendment No. 1 To Electric Service Agreement is not expected to negatively impact any other EPE customer and should provide benefits to all EPE customers by encouraging load shifting to off-peak periods.

10. EPE is requesting an effective date of September 1, 2008 for the Amendment No. 1 To Electric Service Agreement. EPE proposes billing the Facilities effective with the September 2008 bills.


CURTIS HUTCHESON

SUBSCRIBED AND SWORN TO before me this 22 day of August, 2008.


Notary Public in and for the State of Texas

My commission expires: 3/24/11

