

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

DEPARTMENT: Office of the City Manager/Office of the City Attorney

AGENDA DATE: September 13, 2011

CONTACT PERSON/PHONE: William F. Studer, Jr., Deputy City Manager (541-4215);
Bertha A. Ontiveros, Assistant City Attorney (541-4550)

DISTRICT(S) AFFECTED: All

SUBJECT:

Discussion and Action regarding El Paso Electric Company operating results for the twelve months ended June 30, 2011 and the reasonableness of electric rates within the City of El Paso.

BACKGROUND / DISCUSSION:

Council approved electric rates on June 8, 2010 that became effective on July 1, 2010. City Council members have raised questions about El Paso Electric Company's financial operating statements over the last 12-15 months and the reasonableness of their electric rates within the city limits.

There is no staff recommendation at this time. This item is posted to allow City Council to provide further direction to City staff regarding this issue.

PRIOR COUNCIL ACTION:

Has the Council previously considered this item or a closely related one?

Yes, Council approved electric rates on June 8, 2010 that became effective on July 1, 2010.

AMOUNT AND SOURCE OF FUNDING:

N/A

BOARD / COMMISSION ACTION:

Enter appropriate comments or N/A

N/A

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

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

DEPARTMENT HEAD: _____

(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: _____

City of El Paso City Council Presentation

Agenda Item 12 B
September 13, 2011

History–Prior Cases

- ▶ Base rate Increase 1994
- ▶ Slight Base Rate decrease in 1999
- ▶ Rate Freeze for 10 years
- ▶ Extended for 5 years in 2005

History – Prior Case (2009–2010)

- ▶ Most Recent Case filed December 2009
- ▶ Based on Data for year ending June 30, 2009
- ▶ 2009 Rate Case Settled with New rates effective July 1, 2010
- ▶ \$17.125 million increase Base Rates
- ▶ Slight fuel Reduction
- ▶ 90% of Off System Sales Margins to be shared with ratepayers.

Recent Operating Information

- ▶ Operating Results for 12 months ending June 30, 2011-Form 10-Q (1st year under new rates)
- ▶ 11.9% Rate of Return on Equity Reported for year.
- ▶ Increases in customer growth and usage.
- ▶ Substantial Increase in Military Revenues –Little additional investment

EPE Claims-August 29 Letter to Mayor and Council

- ▶ Rates Could be Increased
- ▶ Industrial Rates subsidize Residential
- ▶ A litigated Case will cost \$7 million
- ▶ A Potential Doubling of Rate Case Expenses-2013 case
- ▶ One year of favorable earnings—primarily due to weather

Other Considerations

- ▶ No Prior Adjustments for Weather
- ▶ No Adjustment for Incentive Compensation-Voluntarily Removed Last Case
- ▶ Extraordinary Expenses due to February Outage
- ▶ Rate Case Expense-included as expense
- ▶ Growth on the System-Usage as well as customers
- ▶ Other Expense increases—unidentified
- ▶ Plant Increases vs. Rate Base

Legal Standard (1)

- ▶ Tx. Util. Code § 36.151-On its own motion after reasonable notice and hearing finds that existing rates are unreasonable or in violation of the law. . .shall
 - Enter an order establishing the just and reasonable rates to be observed thereafter. . . .
 - Serve a copy on the electric utility
 - The rates established shall constitute the legal rates of the electric utility until changed

Legal Standard(2)

- ▶ Tx. Util. Code. §36.153
 - -Electric Utility shall file a rate-filing package with the authority not later than the 120th day after the date the authority notifies the utility it will proceed with an inquiry.
 - The regulatory authority may grant an extension of the 120 days or waive the requirement on agreement of the parties

Legal Standard (3)-Temporary Rates

Tx. Util. Code. §36.155

- (a) At anytime after initial complaint the regulatory authority may issue an interim order establishing temporary rates to remain in effect until a final determination is made.
- (b) Upon issuance of the final order the regulatory authority may issue an order to
 - (1) refund the amount collected above the final rates with interest or
 - (2) Surcharge bills by the amount less than the final rate.

Timing

- ▶ 120 days from Today is January 11, 2012
- ▶ Up to 185 days to decide case

Potential Cost of Case

Last case (2009)\$4.7 million amortized over 2 years. (\$5.8 million estimated)

- Case was complicated
 - No rate case for 15 years
 - New Depreciation Study and Rates
 - New valuations coming out of bankruptcy
 - Plant additions over 15 years
 - Substantial changes in customer mix/customer classes
 - changes in industrial customers
 - Changes in relationships of other classes
 - Rate design was changed for virtually every class
- Ultimate Costs subsumed within the rates and amortized over 2 years.

Potential Action

- ▶ Instruct City Staff and City Attorney to Prepare Order for EPE to Show Cause why rates should not be reduced
- ▶ Authorize discussions with EPE to set timing and scope of inquiry
- ▶ Set a date to consider temporary rates