

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: October 4, 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 on Order to El Paso Electric to Show Cause why its base rates for electric service in the City of El Paso should not be lowered, and file a rate-filing package with the City of El Paso no later than February 1, 2012; directing the City Manager to notify El Paso Electric Company of the Council's order; and authorizing the City Attorney to engage outside counsel and consultants to represent the City on this matter and evaluate the filing.

Discussion and action to schedule a hearing concerning Establishing Interim Temporary Rates at the Regular City Council meeting of October 25, 2011 and directing the City Manager to notify El Paso Electric Company of the Council's order.

BACKGROUND / DISCUSSION:

Council approved electric rates on June 8, 2010 that became effective on July 1, 2010. In the last few months, City Council members 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.

Under State law, the City as the regulatory authority has reason to believe that the electric utility rates are greater than needed to provide a reasonable opportunity to earn a reasonable return, the Council may initiate an inquiry and order the electric utility to file a rate case within 120 days. In order to evaluate the filing, city staff and attorneys will work with outside counsel and consultants. The Council will have 185 days from the date the rate package is filed to make its final determination on the rates.

State law also authorizes the regulatory authority to issue an interim order establishing temporary rates for the electric utility to be in effect until a final determination is made. Staff recommends that the Council hold a hearing to consider such interim temporary rates on October 18, 2011.

PRIOR COUNCIL ACTION:

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

Council discussed the reasonableness of electric rates at its September 13, 2011 meeting. It directed staff to prepare the Order to Show Cause why rates should not be reduced, authorized city staff discussions with EPE to set timing and scope of inquiry and establish a date to consider temporary rates.

AMOUNT AND SOURCE OF FUNDING:

N/A

BOARD / COMMISSION ACTION:

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:** _____

RESOLUTION

WHEREAS, the City of El Paso, Texas is a home rule municipality operating pursuant to its Charter and the laws of the State of Texas;

WHEREAS, pursuant to Texas Utilities Code Sections 11.003(18) 33.001, the City of El Paso is a regulatory authority having exclusive original jurisdiction over the rates, operations and services of an electric utility within the areas of the city limits;

WHEREAS, pursuant to a franchise granted on July 15, 2005 and predecessor franchises El Paso Electric Company, a Texas corporation is an electric utility operating within the City of El Paso, Texas;

WHEREAS, pursuant to the City Charter of the City of El Paso Section 1.4, the City of El Paso reserved until itself all authority to regulate and fix the reasonable rates to be charged by Public Utility Corporations for electric rates to consumers, subject to and in accordance with the laws of the State of Texas;

WHEREAS, the current base rates being charged for electric service within the City Limits of the City of El Paso were established pursuant to a resolution dated June 8, 2010;

WHEREAS, the City Council has reviewed the current base rates being charged to customers and consumers within the City of El Paso in accordance with the provisions of Texas Utilities Code Section 36.051;

WHEREAS, the City Council has reason to believe that the base rates being collected by El Paso Electric Company from customers within the City of El Paso result in the Company revenues being received by El Paso Electric Company which are greater than needed to provide a reasonable opportunity to earn a reasonable return on the invested capital used and useful in rendering utility service to the public above its reasonable and necessary operating expenses, as provided in Texas Utilities Code Sections 36.003 and 36.051, and therefore unreasonable;

WHEREAS, pursuant to the City Charter and Utilities Code Section 36.151, the City Council has determined that an inquiry should proceed to determine whether the rates being charged by El Paso Electric Company for service within the City of El Paso are just and reasonable; and

WHEREAS, the City Charter and Utilities Code Section 36.151 require reasonable notice to El Paso Electric Company before such a determination is made.

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

Section 1. El Paso Electric Is hereby Ordered to Show Cause why its base rates for electric service in the City of El Paso should not be lowered.

Section 2. Pursuant to Texas Utilities Code Section 36.153 El Paso Electric is ordered to file a rate-filing package with the City of El Paso no later than February 1, 2012.

Section 3. The City Council will make a final determination not later than the 185th day after the date that El Paso Electric files the rate-filing package.

Section 4. That the City Manager shall notify El Paso Electric Company of the Council's order to submit its rate filing package by having a copy of this Resolution delivered or mailed to the company's Chief Executive Officer.

Section 5. That the City Attorney be authorized to engage outside counsel and consultants to represent the City on this matter and evaluate the filing.

Adopted this _____ day of October, 2011

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 and Management Support Services