

**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) and 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; and

**WHEREAS**, The City Council on October 4, 2011, initiated a proceeding pursuant to Texas Utilities Code Section 36.151 and ordered the El Paso Electric Company to file a rate filing package, and

**WHEREAS**, pursuant to Texas Utilities Code Section 36.155, the City of El Paso as Regulatory Authority may issue an interim order establishing temporary rates to be in effect until a final determination is made pursuant to the proceeding initiated pursuant to Texas Utilities Code Section 36.151, and

**WHEREAS** the City Council finds that setting a hearing to allow El Paso Electric Company to make a presentation regarding temporary rates is appropriate and in the public interest.

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

Section 1. A Hearing concerning Temporary Rates is hereby scheduled as part of the Regular City Council meeting beginning at 9:00 A.M. on October 25, 2011.

Section 2. That the City Manager shall notify El Paso Electric Company of the Council's order by having a copy of this Resolution delivered or mailed to the El Paso Electric Company's Chief Executive Officer.

Adopted this \_\_\_\_\_ day of October, 2011

CITY OF EL PASO

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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 and Management Support Services