

EL PASO ELECTRIC CO /TX/
Form 10-Q
November 02, 2012
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UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

Form 10-Q
(Mark One)

QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934
For the quarterly period ended September 30, 2012

OR
 TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934
For the transition period from _____ to _____

Commission file number 001-14206

El Paso Electric Company
(Exact name of registrant as specified in its charter)
Texas
(State or other jurisdiction of incorporation or organization)

74-0607870
(I.R.S. Employer Identification No.)

Stanton Tower, 100 North Stanton, El Paso, Texas
(Address of principal executive offices)
(915) 543-5711
(Registrant's telephone number, including area code)

79901
(Zip Code)

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. YES NO

Indicate by check mark whether the registrant submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). YES NO

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer or a smaller reporting company. See definitions of "large accelerated filer", "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer Accelerated filer
Non-accelerated filer Smaller reporting company

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). YES NO

As of October 31, 2012, there were 40,117,155 shares of the Company's no par value common stock outstanding.

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PART I. FINANCIAL INFORMATION

Item 1. Financial Statements

EL PASO ELECTRIC COMPANY AND SUBSIDIARY
CONSOLIDATED BALANCE SHEETS

	September 30, 2012 (Unaudited)	December 31, 2011
ASSETS		
(In thousands)		
Utility plant:		
Electric plant in service	\$2,821,451	\$2,789,773
Less accumulated depreciation and amortization	(1,144,265)	(1,121,653)
Net plant in service	1,677,186	1,668,120
Construction work in progress	245,416	167,394
Nuclear fuel; includes fuel in process of \$51,472 and \$49,545, respectively	205,902	171,433
Less accumulated amortization	(82,109)	(59,882)
Net nuclear fuel	123,793	111,551
Net utility plant	2,046,395	1,947,065
Current assets:		
Cash and cash equivalents	8,664	8,208
Accounts receivable, principally trade, net of allowance for doubtful accounts of \$3,110 and \$3,015, respectively	98,455	76,348
Accumulated deferred income taxes	17,959	13,752
Inventories, at cost	43,500	40,222
Income taxes receivable	861	2,269
Undercollection of fuel revenues	—	9,130
Prepayments and other	6,406	4,810
Total current assets	175,845	154,739
Deferred charges and other assets:		
Decommissioning trust funds	186,724	167,963
Regulatory assets	103,446	101,027
Other	30,508	26,057
Total deferred charges and other assets	320,678	295,047
Total assets	\$2,542,918	\$2,396,851

See accompanying notes to consolidated financial statements.

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CONSOLIDATED BALANCE SHEETS (Continued)

	September 30, 2012 (Unaudited)	December 31, 2011
CAPITALIZATION AND LIABILITIES		
(In thousands except for share data)		
Capitalization:		
Common stock, stated value \$1 per share, 100,000,000 shares authorized, 65,505,583 and 65,295,888 shares issued, and 103,709 and 156,185 restricted shares, respectively	\$65,609	\$65,452
Capital in excess of stated value	309,007	309,777
Retained earnings	944,340	887,174
Accumulated other comprehensive loss, net of tax	(64,035) (77,505
	1,254,921) 1,184,898
Treasury stock, 25,492,919 shares at cost	(424,647) (424,647
Common stock equity	830,274	760,251
Long-term debt	849,838	816,497
Total capitalization	1,680,112	1,576,748
Current liabilities:		
Current maturities of long-term debt	—	33,300
Short-term borrowings under the revolving credit facility	61,542	33,379
Accounts payable, principally trade	38,247	51,704
Taxes accrued	29,829	30,700
Interest accrued	12,592	12,123
Overcollection of fuel revenues	6,969	2,105
Other	25,120	21,921
Total current liabilities	174,299	185,232
Deferred credits and other liabilities:		
Accumulated deferred income taxes	358,286	299,475
Accrued pension liability	119,138	129,627
Accrued postretirement benefit liability	104,842	100,455
Asset retirement obligation	59,572	56,140
Regulatory liabilities	21,830	21,049
Other	24,839	28,125
Total deferred credits and other liabilities	688,507	634,871
Commitments and contingencies		
Total capitalization and liabilities	\$2,542,918	\$2,396,851
See accompanying notes to consolidated financial statements.		

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CONSOLIDATED STATEMENTS OF OPERATIONS

(Unaudited)

(In thousands except for share data)

	Three Months Ended		Nine Months Ended	
	September 30,		September 30,	
	2012	2011	2012	2011
Operating revenues	\$267,249	\$307,633	\$664,079	\$726,350
Energy expenses:				
Fuel	56,332	73,034	145,132	177,111
Purchased and interchanged power	16,223	25,845	43,304	60,616
	72,555	98,879	188,436	237,727
Operating revenues net of energy expenses	194,694	208,754	475,643	488,623
Other operating expenses:				
Other operations	60,906	56,832	174,128	168,148
Maintenance	12,831	12,764	43,605	41,760
Depreciation and amortization	19,208	20,315	59,329	60,775
Taxes other than income taxes	15,353	16,628	43,631	43,131
	108,298	106,539	320,693	313,814
Operating income	86,396	102,215	154,950	174,809
Other income (deductions):				
Allowance for equity funds used during construction	2,419	1,379	6,589	6,441
Investment and interest income, net	1,833	618	3,711	4,593
Miscellaneous non-operating income	1,182	113	1,383	384
Miscellaneous non-operating deductions	(591)	(648)	(1,494)	(2,061)
	4,843	1,462	10,189	9,357
Interest charges (credits):				
Interest on long-term debt and revolving credit facility	13,659	13,571	40,827	40,595
Other interest	387	243	865	777
Capitalized interest	(1,324)	(1,318)	(3,992)	(3,864)
Allowance for borrowed funds used during construction	(1,431)	(808)	(3,894)	(3,837)
	11,291	11,688	33,806	33,671
Income before income taxes	79,948	91,989	131,333	150,495
Income tax expense	28,159	33,668	45,306	52,409
Net income	\$51,789	\$58,321	\$86,027	\$98,086
Basic earnings per share	\$1.29	\$1.41	\$2.15	\$2.33
Diluted earnings per share	\$1.29	\$1.40	\$2.14	\$2.32
Dividends declared per share of common stock	\$0.25	\$0.22	\$0.72	\$0.44
Weighted average number of shares outstanding	40,009,866	41,307,632	39,959,866	41,819,428
Weighted average number of shares and dilutive potential shares outstanding	40,091,625	41,564,973	40,044,154	42,051,307

See accompanying notes to consolidated financial statements.

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CONSOLIDATED STATEMENTS OF OPERATIONS

(Unaudited)

(In thousands except for share data)

	Twelve Months Ended September 30,	
	2012	2011
Operating revenues	\$855,742	\$907,694
Energy expenses:		
Fuel	191,528	216,801
Purchased and interchanged power	57,837	75,904
	249,365	292,705
Operating revenues net of energy expenses	606,377	614,989
Other operating expenses:		
Other operations	235,550	230,803
Maintenance	63,937	57,361
Depreciation and amortization	79,885	81,650
Taxes other than income taxes	56,061	56,582
	435,433	426,396
Operating income	170,944	188,593
Other income (deductions):		
Allowance for equity funds used during construction	8,309	9,612
Investment and interest income, net	4,782	6,619
Miscellaneous non-operating income	1,884	1,351
Miscellaneous non-operating deductions	(2,620)	(3,990)
	12,355	13,592
Interest charges (credits):		
Interest on long-term debt and revolving credit facility	54,347	54,043
Other interest	1,077	918
Capitalized interest	(5,305)	(5,069)
Allowance for borrowed funds used during construction	(4,905)	(5,857)
	45,214	44,035
Income before income taxes	138,085	158,150
Income tax expense	46,605	52,599
Net income	\$91,480	\$105,551
Basic earnings per share	\$2.28	\$2.50
Diluted earnings per share	\$2.27	\$2.49
Dividends declared per share of common stock	\$0.94	\$0.44
Weighted average number of shares outstanding	39,959,034	41,969,628
Weighted average number of shares and dilutive potential shares outstanding	40,085,516	42,207,012

See accompanying notes to consolidated financial statements.

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CONSOLIDATED STATEMENTS OF COMPREHENSIVE OPERATIONS

(Unaudited)

(In thousands)

	Three Months Ended September 30,		Nine Months Ended September 30,		Twelve Months Ended September 30,	
	2012	2011	2012	2011	2012	2011
Net income	\$51,789	\$58,321	\$86,027	\$98,086	\$91,480	\$105,551
Other comprehensive income (loss):						
Unrecognized pension and postretirement benefit costs:						
Net loss arising during period	—	—	—	—	(77,678)	(9,874)
Prior service benefit	—	—	—	—	—	26,605
Reclassification adjustments included in net income for amortization of:						
Prior service benefit	(1,441)	(1,453)	(4,321)	(4,358)	(5,775)	(5,047)
Net loss	2,993	1,625	8,978	4,878	10,605	5,722
Net unrealized gains (losses) on marketable securities:						
Net holding gains (losses) arising during period	6,169	(7,503)	11,986	(4,914)	18,470	(1,290)
Reclassification adjustments for net (gains) losses included in net income	(318)	1,284	916	1,081	1,193	601
Net losses on cash flow hedges:						
Reclassification adjustment for interest expense included in net income	97	93	286	269	378	355
Total other comprehensive income (loss) before income taxes	7,500	(5,954)	17,845	(3,044)	(52,807)	17,072
Income tax benefit (expense) related to items of other comprehensive income (loss):						
Unrecognized pension and postretirement benefit costs	(591)	(65)	(1,687)	(196)	28,643	(6,314)
Net unrealized gains (losses) on marketable securities	(1,201)	1,171	(2,571)	654	(3,788)	26
Losses on cash flow hedges	(36)	(35)	(117)	(101)	(219)	(132)
Total income tax benefit (expense)	(1,828)	1,071	(4,375)	357	24,636	(6,420)
Other comprehensive income (loss), net of tax	5,672	(4,883)	13,470	(2,687)	(28,171)	10,652
Comprehensive income	\$57,461	\$53,438	\$99,497	\$95,399	\$63,309	\$116,203

See accompanying notes to consolidated financial statements.

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CONSOLIDATED STATEMENTS OF CASH FLOWS

(Unaudited)

(In thousands)

	Nine Months Ended September 30,	
	2012	2011
Cash flows from operating activities:		
Net income	\$86,027	\$98,086
Adjustments to reconcile net income to net cash provided by operating activities:		
Depreciation and amortization of electric plant in service	59,329	60,775
Amortization of nuclear fuel	33,278	28,004
Deferred income taxes, net	43,818	46,338
Allowance for equity funds used during construction	(6,589)	(6,441)
Other amortization and accretion	10,904	15,771
Gain on sale of assets	(1,346)	(110)
Other operating activities	782	1,214
Change in:		
Accounts receivable	(22,107)	(43,710)
Inventories	(2,400)	(3,367)
Net overcollection (undercollection) of fuel revenues	13,994	(29,608)
Prepayments and other	(3,443)	(4,718)
Accounts payable	(6,757)	9,500
Taxes accrued	537	13,265
Interest accrued	469	1,078
Other current liabilities	3,199	(1,279)
Deferred charges and credits	(7,896)	(5,923)
Net cash provided by operating activities	201,799	178,875
Cash flows from investing activities:		
Cash additions to utility property, plant and equipment	(144,576)	(129,651)
Cash additions to nuclear fuel	(41,747)	(33,925)
Capitalized interest and AFUDC:		
Utility property, plant and equipment	(10,483)	(10,278)
Nuclear fuel	(3,992)	(3,864)
Allowance for equity funds used during construction	6,589	6,441
Decommissioning trust funds:		
Purchases, including funding of \$3.4 and \$6.4 million, respectively	(80,870)	(77,314)
Sales and maturities	74,095	67,841
Proceeds from sale of assets	1,757	129
Other investing activities	1,524	507
Net cash used for investing activities	(197,703)	(180,114)
Cash flows from financing activities:		
Repurchases of common stock	—	(64,783)
Dividends paid	(28,861)	(18,415)
Borrowings under the revolving credit facility:		
Proceeds	204,373	88,723
Payments	(176,210)	(75,634)
Pollution control bonds:		
Proceeds	92,535	—

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Payments	(92,535) —	
Other financing activities	(2,942) (92)
Net cash used for financing activities	(3,640) (70,201)
Net increase (decrease) in cash and cash equivalents	456	(71,440)
Cash and cash equivalents at beginning of period	8,208	79,184	
Cash and cash equivalents at end of period	\$8,664	\$7,744	
See accompanying notes to consolidated financial statements.			

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EL PASO ELECTRIC COMPANY AND SUBSIDIARY
 NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
 (Unaudited)

A. Principles of Preparation

These condensed consolidated financial statements should be read in conjunction with the consolidated financial statements and notes thereto in the Annual Report of El Paso Electric Company on Form 10-K for the year ended December 31, 2011 (the "2011 Form 10-K"). Capitalized terms used in this report and not defined herein have the meaning ascribed for such terms in the 2011 Form 10-K. In the opinion of the Company's management, the accompanying consolidated financial statements contain all adjustments necessary to present fairly the financial position of the Company at September 30, 2012 and December 31, 2011; the results of its operations and comprehensive operations for the three, nine and twelve months ended September 30, 2012 and 2011; and its cash flows for the nine months ended September 30, 2012 and 2011. The results of operations and comprehensive operations for the three and nine months ended September 30, 2012 and the cash flows for the nine months ended September 30, 2012 are not necessarily indicative of the results to be expected for the full calendar year.

Pursuant to the rules and regulations of the Securities and Exchange Commission ("SEC"), certain financial information has been condensed and certain footnote disclosures have been omitted. Such information and disclosures are normally included in financial statements prepared in accordance with generally accepted accounting principles.

Use of Estimates. The preparation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

Revenues. Revenues related to the sale of electricity are generally recorded when service is rendered or electricity is delivered to customers. The billing of electricity sales to retail customers is based on the reading of their meters, which occurs on a systematic basis throughout the month. Unbilled revenues are estimated based on monthly generation volumes and by applying an average revenue/kWh to the number of estimated kWhs delivered but not billed. Accounts receivable included accrued unbilled revenues of \$21.2 million and \$19.6 million at September 30, 2012 and December 31, 2011, respectively. The Company presents revenues net of sales taxes in its consolidated statements of operations.

Supplemental Cash Flow Disclosures (in thousands)

	Nine Months Ended September 30,	
	2012	2011
Cash paid for:		
Interest on long-term debt and borrowing under the revolving credit facility	\$35,922	\$34,234
Income taxes paid (refunded), net	3,834	(3,031)
Non-cash financing activities:		
Grants of restricted shares of common stock	2,384	3,231
Issuance of performance shares	1,193	628
Acquisition of treasury stock for options exercised	—	500
Unsettled repurchases of common stock	—	12,491

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EL PASO ELECTRIC COMPANY AND SUBSIDIARY
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
(Unaudited)

B. New Accounting Standards

In June 2011, the FASB issued new guidance to improve the comparability, consistency and transparency of financial reporting and to increase the prominence of items reported in other comprehensive income. The new guidance required an entity to present the total of comprehensive income either in a single continuous statement of comprehensive income or in two separate but consecutive statements. In both presentations, an entity would have been required to present on the face of the financial statements reclassification adjustments for items that are reclassified from other comprehensive income to net income in the statement(s) where the components of net income and the components of other comprehensive income are presented. Historically, the Company used the consecutive two-statement approach; however, this new guidance would have required additional disclosure on the Company's statement of operations and related notes. In December 2011, the FASB issued new guidance to defer the effective date for amendments to the presentation of reclassification of items out of accumulated other comprehensive income. Deferring the effective date will allow the FASB time to redeliberate whether to present on the face of the financial statements the effects of reclassifications out of accumulated other comprehensive income on the components of net income and other comprehensive income for all periods presented. After reconsideration of its presentation requirements for reclassification, the FASB issued in August 2012, an exposure draft related to the presentation of items reclassified out of accumulated other comprehensive income. The exposure draft proposes that entities present separately in the notes tabular information about items that are reclassified out of each component of accumulated other comprehensive income and, for those items reclassified in their entirety into net income, the net income line item affected by the reclassification. The comment deadline was October 15, 2012. While the FASB is considering the operational concerns about the presentation requirements for reclassification adjustments and the needs of financial statement users for additional information about reclassification adjustments, the Company will continue to report reclassifications out of accumulated other comprehensive income consistent with the presentation requirements in effect before the guidance issued in June 2011 until further guidance becomes available.

C. Regulation

General

The rates and services of the Company are regulated by incorporated municipalities in Texas, the PUCT, the NMPRC, and the FERC. The PUCT and the NMPRC have jurisdiction to review municipal orders, ordinances and utility agreements regarding rates and services within their respective states and over certain other activities of the Company. The FERC has jurisdiction over the Company's wholesale (sales for resale) transactions, transmission service and compliance with federally-mandated reliability standards. The decisions of the PUCT, NMPRC and the FERC are subject to judicial review.

Texas Regulatory Matters

2012 Texas Retail Rate Case. The Company filed a rate increase request with the PUCT, Docket No. 40094, the City of El Paso, and other Texas cities on February 1, 2012. The rate filing was made in response to a resolution adopted by the El Paso City Council (the "Council") requiring the Company to show cause why its base rates for customers in the El Paso city limits should not be reduced. The rate filing used a historical test year ended September 30, 2011. The filing at the PUCT also included a request to reconcile \$356.5 million of fuel expense for the period July 1, 2009 through September 30, 2011. On November 15, 2011, the Council adopted a resolution which established the then current rates as temporary rates for the Company's customers residing within the city limits of El Paso.

On April 17, 2012, the Council approved the settlement of the Company's 2012 Texas retail rate case and fuel reconciliation in PUCT Docket No. 40094. The settlement reflects discussions with the PUCT, the City of El Paso and other intervenors in Docket No. 40094. The approval by the Council (i) resolves the local City of El Paso rate proceeding that commenced with the October 4, 2011 show cause order of the Council, (ii) implements new rates within the city limits of El Paso commencing with bills rendered on and after May 1, 2012, and (iii) rescinds and withdraws the temporary rate order that the Council issued on November 15, 2011.

For Texas service areas outside of the city limits of El Paso, the settlement was filed with the PUCT on April 19, 2012, and no intervenors opposed the settlement. On April 26, 2012, the administrative law judges issued an order (i) implementing the settlement rates as temporary rates effective May 1, 2012, and (ii) dismissing the case before the State Office of Administrative Hearings, sending the settlement to the PUCT for final approval. The PUCT issued a final order approving the settlement on May 23, 2012.

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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
(Unaudited)

Under the terms of the settlement, among other things, the Company agreed to:

A reduction in its non-fuel base rates of \$15 million annually, with the decrease being allocated primarily to Texas retail commercial and industrial customer classes. The rate decrease was effective as of May 1, 2012 and is the same rate decrease approved by the El Paso Council described above;

New tariffs that include an Economic Development Rate Rider that provides discounts in the demand charge and is intended to spur new business development in the Company's Texas service area;

Revised depreciation rates for the Company's gas-fired generating units and for transmission and distribution plant that lower depreciation expense by \$4.1 million annually;

Continuation of the 10.125% return on equity for the purpose of calculating the allowance for funds used during construction;

A two-year amortization of rate case expenses, none of which will be included in future regulatory proceedings; and

Palo Verde decommissioning funding of \$3.6 million annually on a Texas jurisdictional basis, which will be subject to review and adjustment on a going-forward basis in future proceedings.

As part of the settlement, the Company agreed to withdraw its request to reconcile fuel costs for the period from July 1, 2009 through September 30, 2011. The Company will file a fuel reconciliation request covering the period beginning July 1, 2009 and ending no later than June 30, 2013 by December 31, 2013 or as part of its next rate case, if earlier.

Fuel and Purchased Power Costs. The Company's actual fuel costs, including purchased power energy costs, are recoverable from its customers. The PUCT has adopted a fuel cost recovery rule ("Texas Fuel Rule") that allows the Company to seek periodic adjustments to its fixed fuel factor. In 2010, the Company received approval in PUCT Docket No. 37690, to implement a formula to determine its fuel factor which adjusts natural gas and purchased power to reflect natural gas futures prices. The Company can seek to revise its fixed fuel factor based upon the approved formula at least four months after its last revision except in the month of December. The Texas Fuel Rule requires the Company to request to refund fuel costs in any month when the over-recovery balance exceeds a threshold material amount and it expects fuel costs to continue to be materially over-recovered. The Texas Fuel Rule also permits the Company to seek to surcharge fuel under-recoveries in any month the balance exceeds a threshold material amount and it expects fuel cost recovery to continue to be materially under-recovered. Fuel over and under-recoveries are considered material when they exceed 4% of the previous twelve months' fuel costs. All such fuel revenue and expense activities are subject to periodic final review by the PUCT in fuel reconciliation proceedings.

The Company has filed the following petitions with the PUCT to refund recent fuel cost over-recoveries, due primarily to fluctuations in natural gas markets and consumption levels. The table summarizes the docket number assigned by the PUCT, the dates the Company filed the petitions and the dates a final order was issued by the PUCT approving the refunds to customers. The fuel cost over-recovery periods represent the months in which the over-recoveries took place, and the refund periods represent the billing month(s) in which customers received the refund amounts shown, including interest:

Docket No.	Date Filed	Date Approved	Recovery Period	Refund Period	Refund Amount Authorized (In Thousands)
38253	May 12, 2010	July 15, 2010	December 2009 – March 2010	July – August 2010	\$11,100
38802	October 20, 2010	December 16, 2010	April – September 2010	December 2010	12,800
39159	February 18, 2011	May 3, 2011	October – December 2010	April 2011	11,800
40622	August 3, 2012	September 28, 2012	January 2011- June 2012	September 2012	6,600

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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
(Unaudited)

The Company has filed the following petitions with the PUCT to revise its fixed fuel factor pursuant to the fuel factor formula authorized in PUCT Docket No. 37690:

Docket No.	Date Filed	Date Approved	Increase (Decrease) in Fuel Factor	Effective Billing Month
38895	November 23, 2010	January 6, 2011	(14.7)%	January 2011
39599	July 15, 2011	August 30, 2011	9.4%	August 2011
40302	April 12, 2012	April 25, 2012	(18.5)%	May 2012

Application of El Paso Electric Company to Amend its Certificate of Convenience and Necessity ("CCN") for Five Solar Powered Generation Projects. On December 9, 2011, the Company filed a petition seeking a CCN to construct five solar powered generation projects, totaling approximately 2.6 MW, at four locations within the City of El Paso and one location in the Town of Van Horn. This case was assigned PUCT Docket No. 39973. A hearing was conducted on June 20, 2012. The administrative law judge issued a proposal for decision on September 28, 2012 that recommended approval of the CCN. Oral argument was heard at the PUCT's October 25, 2012 open meeting, and the PUCT is expected to consider the case again by the end of 2012.

Generation CCN Filing. On May 2, 2012, the Company filed a petition with the PUCT requesting a CCN to construct a new generation facility to be located at a new plant site, the Montana Power Station, in far east El Paso. The new facility will initially consist of two 88 MW simple-cycle aeroderivative combustion turbines, which will be powered by natural gas. The first unit is scheduled to become operational in 2014. This case was assigned PUCT Docket No. 40301. On October 25, 2012, the Company filed an unopposed stipulation and settlement that resolves all matters in this proceeding. The State Office of Administrative Hearings returned the case to the PUCT for its consideration of the stipulation. It is anticipated that the PUCT will consider the case by the end of 2012.

Energy Efficiency Cost Recovery Factor. On April 30, 2012, the Company filed an application to revise its Energy Efficiency Cost Recovery Factor ("EECRF") and to establish revised energy efficiency goals and cost caps, pursuant to Public Utility Regulatory Act ("PURA") Section 39.905 and PUC Substantive Rule 25.181. The expenditures, revised energy efficiency goals, cost caps proposed by the Company for 2013, a half year of amortization of the prior year deferred costs, and a refund of over-recovered costs for 2011 result in a decrease in the currently effective EECRF. The PUCT entered an order adopting a Stipulation and Settlement Agreement on September 20, 2012 and the new factors will go into effect with January 2013 billings.

Military Base Discount Recovery Factor. On July 16, 2012, the Company filed a petition to revise its Military Base Discount Recovery Factor ("MBDRF"), pursuant to PURA Section 36.354, which requires that each electric utility, in an area where customer choice is not available, provide discounted charges to military bases. The Company's rates provide for the 20% discount required by PURA for eligible customers, and assess a surcharge designed to recover the cost of the discount from all other Texas customers. On October 5, 2012, the Company filed a Stipulation and Settlement, with the City of El Paso and Staff, which provides for the surcharge to be increased from 0.936% to 1.055% beginning with December 2012 billing. The revised MBDRF is designed to recover estimated discounts, with the recovery of past under-recoveries spread over two years. A final order in this case is expected to be issued by the end of 2012.

New Mexico Regulatory Matters

Application for Approval to Recover Regulatory Disincentives and Incentives. On August 31, 2010, the Company filed an application for approval of its proposed rate design methodology to recover regulatory disincentives and provide incentives associated with the Company's energy efficiency and load management programs in New Mexico. On March 18, 2011, the Company entered into an uncontested stipulation which would provide for a rate per kWh of energy efficiency savings that would be recovered through the efficient use of energy rider. A hearing on the uncontested stipulation was held on April 26, 2011 and briefs were filed on September 26, 2011. A final order was

issued on November 22, 2011 in which the NMPRC did not adopt the unopposed stipulation, but modified the structure of the energy rider to reduce the return to two percent and made the mechanism temporary. The Company filed a Notice of Appeal with the Supreme Court of the State of New Mexico on January 20, 2012 on the grounds that the NMPRC's decision is arbitrary and without substantial evidence. However, in accordance with the final order issued on November 22, 2011, the efficient use of energy rider was implemented for New Mexico customers on February 1, 2012. The Supreme Court suspended the appeal pending further review by the NMPRC in the Company's 2011 Application for rate rider.

Application for Approval of 2011 New and Modified Energy Efficiency Programs. On February 15, 2011, the Company filed an Application for Approval of New and Modified Energy Efficiency Programs for 2011 with the NMPRC. On June 22, 2011, parties to this case entered into a partial stipulation, agreeing