

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

AMENDED APPLICATION FOR APPROVAL OF EL PASO ELECTRIC COMPANY’S AMENDED 2019 RENEWABLE ENERGY PLAN AND 2020 RENEWABLE ENERGY PLAN PURSUANT TO THE RENEWABLE ENERGY ACT AND 17.9.572 NMAC, AND THIRD REVISED RATE NO. 38-RPS COST RIDER

Case No. 19-00099-UT

**EL PASO ELECTRIC COMPANY,
Applicant.**

AND

IN THE MATTER OF EL PASO ELECTRIC COMPANY'S APPLICATION FOR APPROVAL OF LONG-TERM PURCHASED POWER AGREEMENTS WITH HECATE ENERGY SANTA TERESA, LLC, BUENA VISTA ENERGY, LLC, AND CANUTILLO ENERGY CENTER LLC

Case No. 19-00348 -UT

**EL PASO ELECTRIC COMPANY,
Applicant.**

ORDER ON NOTICE TO EPE CUSTOMERS

This matter comes before Angelica Anaya Allen, hearing examiner for the New Mexico Public Regulation Commission, on the El Paso Electric Company’s (“EPE”) application requesting approval of amendments to four Purchased Power Agreements (“PPA”). The hearing examiner finds and concludes as follows.

1. The procedural order of October 27, 2022 provided that EPE file its amended application and amended notice by November 14, 2022.

2. The order further provided that comments on the proposed amended notice should be filed by November 18, 2022.
3. Upon review and revision by the hearing examiner of the proposed amended notice, the form of Notice attached as Appendix A to this Order shall be published and mailed and emailed to EPE's customers in compliance with the procedural order.

IT IS ORDERED:

That the Notice attached hereto as Appendix A be issued by EPE in compliance with the Procedural Order.

Issued at Santa Fe, New Mexico on December 7, 2022.

NEW MEXICO PUBLIC REGULATION COMMISSION



**Angelica Anaya Allen
Hearing Examiner**

APPENDIX A

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

AMENDED APPLICATION FOR APPROVAL OF EL PASO ELECTRIC COMPANY'S AMENDED 2019 RENEWABLE ENERGY PLAN AND 2020 RENEWABLE ENERGY PLAN PURSUANT TO THE RENEWABLE ENERGY ACT AND 17.9.572 NMAC, AND THIRD REVISED RATE NO. 38-RPS COST RIDER

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Case No. 19-00348 -UT

EL PASO ELECTRIC COMPANY,

Applicant.

NOTICE TO EPE CUSTOMERS

NOTICE is hereby given by the New Mexico Public Regulation Commission ("Commission" or "NMPRC") of the following:

On July 29, 2022, pursuant to the New Mexico Renewable Energy Act (NMSA 1978, §§ 62-16-1 to -10 (2004, as amended through 2021)) and Commission Rule 17.9.551 and Rule 17.9.572 of the New Mexico Administrative Code ("NMAC"), EPE filed an application requesting approval of amendments to four Purchased Power Agreements ("PPA"). The original

PPAs had been approved by the Commission in the above-captioned matters to meet EPE's near term resource capacity needs and renewable portfolio standard ("RPS") requirements.

Two of the PPAs are between EPE and Buena Vista Energy Center, LLC ("BV"): (1) The PPA dated October 17, 2019, for 100 megawatts ("MW") of solar energy and 50 MW of energy storage ("BV-PPA-1"), and (2) the PPA dated March 18, 2020, for 20 MW of solar energy ("BV-PPA-2"). The other two PPAs are between EPE and Hecate Energy Santa Teresa, LLC ("Hecate Energy"): (1) The PPA dated October 17, 2019, for 100 MW of solar energy ("Hecate-PPA-1"), and (2) the PPA dated March 18, 2020, for 50 MW of solar energy ("Hecate-PPA-2").

BV-PPA-1, approved by the Commission in Case No. 19-00348-UT, is a twenty-year PPA to acquire 100 MW of capacity of renewable solar energy plus 50 MW capacity of battery storage from a new solar electric generating facility ("BV1"). BV-PPA-1 was originally based on a fixed rate of \$20.99/megawatt-hours ("MWh") on the output of the solar facility and a capacity payment of \$5.36/kilowatt ("kW")-month on the storage over the twenty-year term of the contract and was anticipated to be in service by May 2022.

BV-PPA-2, approved by the Commission in Case No. 19-00099-UT as part of EPE's 2019-2020 REA procurement plan, is a twenty-year renewable PPA to acquire 20 MW of capacity of renewable energy and renewable energy credits ("RECs") from a solar electric generating facility ("BV2") for compliance with RPS requirements under the REA. BV-PPA-2 was originally based on a fixed rate of \$19.88/MWh and was anticipated to be in service by May 2022.

Hecate-PPA-1, approved by the Commission in Case No. 19-00348-UT, is a twenty-year solar PPA to acquire 100 MW of renewable energy from a new generating facility with name nameplate solar photovoltaic capacity ("Hecate 1"). Hecate-PPA-1 was originally based on a

fixed rate of \$14.99/MWh on the output of the solar facility which was anticipated to be in service by May 2022.

Hecate-PPA-2, approved by the Commission in Case No. 19-00099-UT, is a twenty-year solar PPA to acquire 50 MW of renewable energy and RECs for New Mexico customers from a new solar plant (“Hecate 2”). Hecate-PPA-2 was originally based on a fixed rate of \$18.93/MWh on the output of the solar facility which was anticipated to be in service by May 2022.

Due to supply chain issues and market uncertainties, NextEra Energy Resources, LLC (“NextEra”)—which owns and will operate the Buena Vista projects—and Hecate Energy could not complete the Buena Vista projects and Hecate projects, respectively, under the terms of their associated PPAs. Following a series of negotiations and subject to Commission approval, EPE and NextEra agreed to amend the BV-PPAs, and EPE and Hecate Energy agreed to amend the Hecate-PPAs, which make the following operative changes:

Amendment 1 to BV-PPA-1: Modifies the Commercial Operation Date (“COD”) to June 1, 2023, and provides for automatic reductions in the rate if NextEra fails to meet that date; Changes the rate from \$20.99 per MWh to \$24.49 per MWh, an increase of \$3.50 per MWh; Provides for an option to purchase the project at fair market value in the event of an uncured default by NextEra; and increases the security fund available to EPE to cover damages, including replacement energy costs, to \$22,500,000 until commercial operation.

Amendment 1 to BV-PPA-2: Modifies the COD to June 1, 2023, and provides for automatic reductions in the rate if NextEra fails to meet that date; Changes the rate from \$19.88 per MWh to \$23.38 per MWh, an increase of \$3.50 per MWh; Provides for an option to purchase the project at fair market value in the event of an uncured default by NextEra;

and increases the security fund available to EPE to cover damages, including replacement energy costs, to \$3,000,000 until commercial operation.

The following table shows the estimated effect of the BV-PPA Amendments’ price rate increases for the Residential rate class. These estimates are subject to change by the Commission based on its findings in this case.

Unit	Initial Cost	Expected Delivered Annual Energy	Incremental Cost Change	Additional Annual Cost	Annual Cost per kWh	Residential Customer	
						Average Bill	Monthly rate impact per customer
	\$/MWh	MWh	\$/MWh	\$	\$/kWh	kWh	\$
Buena Vista Energy Center 1 (BV1)	\$ 20.99	68,286	\$ 3.50	\$ 239,002.59	\$ 0.0001364	675	\$ 0.09
Buena Vista Energy Center 2 (BV2)	\$ 19.88	62,688	\$ 3.50	\$ 219,408.00	\$ 0.0001252	675	\$ 0.08

1) The monthly rate impact excludes EUERF, franchise fees.

Amendment 1 to Hecate-PPA-1: Modifies the COD to June 1, 2024; Construction milestone delay damages were increased from \$1,500 to \$2,500; The language on the time of construction progress reports was adjusted to make clear that such reports are due monthly until other milestones affecting their frequency are met; The Commissioning Testing dates for the new COD were adjusted; A condition precedent was added requiring the Commission’s approval of the amendment; The security fund was increased from \$10 million to \$11.6 million; and the definition of events of construction default were amended by decreasing the cure period for failing to comply with a material term and condition, adding failure to submit a timely progress report, and decreasing the time to cure a failure to meeting a construction milestone date.

Amendment 1 to Hecate-PPA-2: Modifies the COD to June 1, 2024; Construction milestone delay damages were increased from \$1,500 to \$2,500; The language on the time of construction progress reports was adjusted to make clear that such reports are due monthly until other milestones affecting their frequency are met; The Commissioning Testing dates for the new COD were adjusted; A condition precedent was added requiring the Commission's approval of the amendment; The security fund was increased from \$5 million to \$5.8 million; and the definition of events of construction default were amended by decreasing the cure period for failing to comply with a material term and condition, adding failure to submit a timely progress report, and decreasing the time to cure a failure to meeting a construction milestone date.

These Amendments do not change the original pricing of Hecate-PPA-1 or Hecate-PPA-2, and there will be no rate impact upon customers.

Procedure for Interested Persons to Contest EPE's Amendments to the PPAs:

Any interested person may inspect EPE's Amended Application and the pre-filed testimonies, exhibits, pleadings and other documents filed for this case online the Commission's website, <http://www.nmprc.state.nm.us> under "Case Lookup — eDocket," or by making arrangements for an in-person viewing at EPE's offices, 201 N. Water, Las Cruces, New Mexico, telephone number (575) 526-5555, or at EPE's website <https://www.epelectric.com/company/regulatory>. All inquiries or written comments concerning this matter should refer to Case No. 19-00099-UT and Case No. 19-00348-UT.

The procedural schedule for this case is as follows:

1. Any person desiring to intervene in the proceeding must file a Motion to Intervene pursuant to 1.2.2.23(A) and 1.2.2.23(B) NMAC on or before December 21, 2022.

2. The Commission's Utility Division Staff shall, and any intervenor may, file direct testimony on or before December 21, 2022.

3. Any rebuttal testimony shall be filed on or before January 6, 2023.

4. Any person whose testimony has been filed shall attend the hearing and submit to examination under oath.

5. A public hearing to hear and receive testimony, exhibits, arguments, and any other appropriate matters relevant to this proceeding is set to commence at 10:00 a.m. on February 6, 2023, and continue, if necessary, through February 7, 2023. Such hearing may be vacated if deemed not required pursuant to NMSA 1978, Section 62-16-4(H), in which case the Commission will take public comment and dispose of this Amended Application at an Open Meeting. The hearing will be held either in person at a location to be determined, or via the Zoom platform in whole or in part depending on potential COVID-19 restrictions and guidelines and related safety concerns. The hearing will be held to hear and receive testimony, exhibits, arguments, and any other appropriate matters pertaining to the case;

Any interested person should contact the Commission at (505) 690-4191 for confirmation of the hearing date, time, and place since hearings are occasionally rescheduled.

Interested persons who are not affiliated with a party or intervenor may submit written or oral comments pursuant to Rule 1.2.2.23(F) NMAC. Oral comment shall be taken at the beginning of the public hearing on February 6, 2023 and shall be limited to 3 minutes per commenter. As part of the public hearing, public comment will be taken via the Zoom platform. Therefore, persons wishing to make an oral comment must register in advance no later than 8:30 am MT on February 6, 2023 by e-mailing Ana Kippenbrock at Ana.Kippenbrock@prc.nm.gov. Written comments may also be submitted before the Commission takes final action by sending

the comment, which shall reference Case No. 19-00099-UT & 19-00348-UT, to prc.records@prc.nm.gov. Pursuant to 1.2.2.23(F) NMAC, written and oral comments shall not be considered evidence.

The Commission's Utility Division Procedures 1.2.2 NMAC apply to this case, except as modified by Order of the Commission or the Hearing Examiner, and they are available online at https://nmonesource.com/nmos/nmac/en/nav_date.do

Anyone filing pleadings, documents, or testimony in this case shall serve copies thereof on all parties of record and Staff via email. Any such filings shall also be sent to the Hearing Examiner by email at angelica.allen@prc.nm.gov. All pleadings shall be emailed on the date they are filed with the Commission.

The procedural dates and requirements provided herein are subject to further order of the Commission or Hearing Examiner.

PERSONS WITH DISABILITIES

ANY PERSON WITH A DISABILITY REQUIRING SPECIAL ASSISTANCE TO PARTICIPATE IN THIS PROCEEDING SHOULD CONTACT THE COMMISSION AT (505) 690-4191 TO REQUEST SUCH ASSISTANCE AT LEAST 24 HOURS PRIOR TO THE START OF THE PUBLIC HEARING.

ISSUED at Santa Fe, New Mexico this 7th day of December 2022.

NEW MEXICO PUBLIC REGULATION COMMISSION



Angelica Anaya Allen
Hearing Examiner

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

**IN THE MATTER OF THE AMENDED)
APPLICATION FOR APPROVAL OF EL PASO)
ELECTRIC COMPANY'S AMENDED 2019)
RENEWABLE ENERGY PLAN AND 2020) Docket No. 19-00099-UT
RENEWABLE ENERGY PLAN PURSUANT TO)
THE RENEWABLE ENERGY ACT AND 17.9.572)
NMAC, AND THIRD REVISED RATE NO. 38-RPS)
COST RIDER)**

**IN THE MATTER OF EL PASO ELECTRIC)
COMPANY'S APPLICATION FOR APPROVAL OF)
LONG-TERM PURCHASED POWER)
AGREEMENTS WITH HECATE ENERGY SANTA) Docket No. 19-00348-UT
TERESA, LLC, BUENA VISTA ENERGY, LLC,)
AND CANUTILLO ENERGY CENTER, LLC.)**

CERTIFICATE OF SERVICE

I CERTIFY that on this date I sent to the parties listed below, via email only, a true and correct copy of the **Order on Notice to EPE Customers**, issued December 7, 2022.

Nancy Burns Maria M. Novela Patricia Griego Judith Parsons Jeffrey J. Wechsler Kari E. Olson J.F. McIntyre Teresa Pacheco Diana Luna Yolanda Sandoval Anastasia S. Stevens Jennifer Vega-Brown Lisa LaRoque José F. Provencio Charles F. Noble Stephanie Dzur Cara R. Lynch Charles de Saillan Ramona Blaber Don Hancock Philip B. Simpson Allen H. Downs Merrie Lee Soules Steve S. Michel Nann M. Winter Keith Herrmann	Nancy.burns@epelectric.com; Mariah.medley@epelectric.com; Patricia.griego@epelectric.com; Judith.parsons@epelectric.com; Jwechsler@montand.com; Kolson@montand.com; jmcintyre@montand.com; tpacheco@montand.com; dluna@montand.com; ysandoval@montand.com; Astevens.law@gmail.com; Jvega-brown@las-cruces.org; Llarocque@las-cruces.org; joprovencio@las-cruces.org; Noble.ccae@gmail.com; Stephanie@Dzur-Law.com; Lynch.cara.nm@gmail.com; Desaillan.ccae@gmail.com; Ramona.blaber@sierraclub.org; sricdon@earthlink.net; philipbsimpson@comcast.net; biz@lifeisgood2.com; mlsoules@hotmail.com; stevensmichel@comcast.net ; nwinter@stelznerlaw.com; kherrmann@stelznerlaw.com;	Nelson Goodin Fred Kennon Keven Gedko Gideon Elliot Cholla Khoury Robert Lundin Devi Glick Sarah Shenstone Sydnee Wright Andrea Crane Doug Gegax Pat O'Connell Cydney Beadles Bradford Borman John Bogatko Ed Rilkoff Jack Sidler Marc Tupler Elisha Leyba-Tercero Russell Fisk Peggy Martinez-Rael Elizabeth Ramirez Ana Kippenbrock Angelica Anaya Allen Hearing Examiner	nelsong@donaanacounty.org; Fredk@donaanacounty.org; kgedko@nmag.gov ; Gelliot@nmag.gov; ckhoury@nmag.gov; rlundin@nmag.gov ; dglick@synapse-energy.com; sshenstone-harris@synapse-energy.com ; swright@nmag.gov; ctcolumbia@aol.com; dgegax@nmsu.edu; pat.oconnell@westernresources.org; Cydney.beadles@westernresources.org; Bradford.borman@prc.nm.gov; John.Bogatko@prc.nm.gov; Ed.Rilkoff@prc.nm.gov; Jack.sidler@prc.nm.gov; Marc.Tupler@prc.nm.gov; Elisha.Leyba-Tercero@prc.nm.gov; Russell.fisk@prc.nm.gov; Peggy.Martinez-Rael@prc.nm.gov; Elizabeth.Ramirez@prc.nm.gov; Ana.Kippenbrock@prc.nm.gov; Angelica.Allen@prc.nm.gov;
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DATED this December 7, 2022.

NEW MEXICO PUBLIC REGULATION COMMISSION

Ana C. Kippenbrock

Ana C. Kippenbrock, Law Clerk