

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

IN THE MATTER OF THE PROTEST            )  
TO EL PASO ELECTRIC COMPANY'S        )  
2015 INTEGRATED RESOURCE PLAN        )        **Case No. 15-00241-UT**

ISSUE SCOPING AND PROCEDURAL ORDER

**THIS MATTER** comes before Frances I. Sundheim, Hearing Examiner in this proceeding, upon the February 19, 2016 New Mexico Public Regulation Commission (“Commission”) Order Appointing Hearing Examiner.

On July 16, 2015, El Paso Electric Company (“EPE”) submitted its Integrated Resource Plan for Period 2015-2034 (“Plan”) pursuant to EPE Rule 17.7.3 NMAC (“Rule”).

On July 28, 2015, Merrie Lee Soules (“MLS”) timely filed her protest as a resident of Las Cruces, New Mexico. Ms. Soules alleged that the submitted IRP does not satisfy the requirements of the IRP Rule, 17.7.3 *et seq.* Subsequently, A/C LCEP d/b/a/ One Hour Air conditioning and Heating (“One Hour”) filed a Protest on August 14, 2015. Such protests trigger Rule 17.7.3.12.A. NMAC, barring the Commission from finding the IRP compliant with the Rule —if the protest demonstrates to the Commission’s reasonable satisfaction that a hearing is necessary. This Rule provides for a hearing on compliance to the IRP Rule if deemed necessary by the Commission.

On September 21, 2015, MLS filed to Intervene in this case. Other Motions to Intervene were filed on October 20, 2015, by Stephen Fischmann (“SF”); on September 9, 2015, by Doña Ana County (“County”); and on July 14, 2016, by the City of Las Cruces (“City”). The Hearing Examiner convened a Pre-hearing Conference on July 19, 2016.

On July 22, 2016, the Hearing Examiner issued a Procedural Order requiring that EPE respond to the issues delineated in the protests, and that Staff shall, and the Intervenors may, file responses to the EPE filing. On September 12, 2016, a Pre-hearing was scheduled to discuss issues to be pursued in the case and to set a procedural schedule. A discussion of the various issues raised in the filings between the Hearing Examiner and the parties took place. The Hearing Examiner stated a scoping and procedural order would be issued based on the discussion. The parties were not interested in mediation.

Being fully informed of the premises, the Hearing Examiner **FINDS** and **CONCLUDES** that:

1. Through the submission of its 2015 Integrated Resource Plan, EPE proposed to identify the most cost effective portfolio of resources to supply the energy needs of its customers pursuant to 17.7.3.6 NMAC.
2. Protestants MLS and One Hour and proposed intervenors MLS, One Hour, SF, the County, and City have alleged that the submitted Plan does not satisfy the requirements of the IRP rules.
3. Based upon the Protests raised, the scope of the issues is determined to be:
  - A. There shall be a Public Hearing held on January 9, 10, and 11, 2017. The Commission's Initial Order ordered the Hearing Examiner to hold hearings regarding the issues raised.
  - B. The protest regarding the abandonment of the Four Corners Plant was fully adjudicated in Case No. 15-00109-UT and will not be an issue.
  - C. Protestant MLS's assertion that the methodology to be applied to the IRP should be the Levelized Cost of Energy. This is one element of a larger process and will not be considered as a separate methodology, as it is inconsistent with the intent of the IRP Rules.

D. The issue of whether EPE selected the most cost effective portfolio pursuant to Rule 17.7.3.6. NMAC will be examined as follows:

1. In order to demonstrate the modeling process and inputs and assumptions utilized in the IRP, EPE shall provide all studies and forecasts used in the development of the resource portfolio selected in the IRP in a transparent manner.

2. EPE shall present the range of load forecasts that were considered by EPE in the planning process, not a single reference case.

3. EPE shall demonstrate how load management and energy efficiency savings developed pursuant to 17.9.572 and 17.7.2 NMAC were treated in the models, including all information regarding supply curves by type of demand response, modeled against competing supply alternatives, and adjustments (reductions) to load attributable to them.

4. EPE shall demonstrate that future load management and energy efficiency were included as separate resources in evaluation of new supply alternatives in the IRP. Additional demand response and energy efficiency, separate from and in addition to Rule 17.9.572 and 17.7.2 NMAC, must be evaluated as resources in comparing future supply options for portfolio evaluation. Meeting the RPS and the UCT goals are separate and distinct from modeling future supply alternatives.

5. EPE shall supply the Burns & McDonnell studies used in the IRP Study Process, particularly with regard to the evaluation of retirement of older units.

6. Rio Grande Unit 6 was not specifically identified as an EPE generation resource included in the IRP. This exclusion violates Rule 17.7.3.9 E. (1) NMAC. The unit is regarded by EPE as a fully depreciated “contingency” unit, and its costs were removed from rate base in the company’s last rate case. However, the Rule requires the utility to provide information regarding “utility owned generation.” As such, EPE must list the unit in the appropriate table of the IRP and include information regarding it.

7. A protest was filed regarding EPE's refusal to model One Hour's Customer Time of Use Rate and separately consider the program in the filed IRP. The IRP rule does not require modeling of specific participant program proposals.

Additionally, in the Final Order in Case No. 15-00127-UT the Commission determined with regard to this program that "...these issues (time of use rate proposals) are likely to be better developed for consideration in the next rate case." (P. 89). Also included in that Order, the Commission adopted the Hearing Examiner's recommendations with regard to encouraging the development of load reducing measures going forward and accepted the recommendation that EPE issue an RFP for Pilot Demand Response Programs. Finally, on July 20, 2016, the Commission issued an Order Denying Motion for Partial Rehearing regarding the One Hour program.

Based upon the foregoing Final Orders, the Hearing Examiner adopts Commission precedent determining that this program be reviewed in EPE's next rate case or as part of the Demand Response RFP, and it shall not be an issue to be addressed in this case.

8. One Hour protests that the IRP failed to comply with Rule 17.7.3.9.F. (3) NMAC, requiring the utility to consider and evaluate how "changes in rate design might assist in meeting, delaying or avoiding the need for new capacity."

EPE shall submit a clarifying description of the IRP information regarding existing rates and tariffs that incorporate load management or load shifting concepts and also describe how changes in rate design might assist in meeting, delaying, or avoiding the need for new capacity.

9. EPE shall address the public advisory process consideration of public proposals in the IRP, including how the process met the requirements of the Rule.

The Hearing Examiner **ORDERS** that:

A. A Public Hearing will be held at 9:30 a.m. on January 9, 10 and 11, 2017, in the Commission's Offices in the Ground Floor Board Room at 1120 Paseo de Peralta, Santa Fe, New Mexico. Please check the Commission's website for late openings or cancellations due to winter weather. Any interested person should contact the Commission for confirmation of the hearing dates, time, and place since hearings are occasionally rescheduled. The hearing date and other information regarding this case will be posted on the Commission's website calendar at [www.nmprc.state.us](http://www.nmprc.state.us).

B. The protest regarding the abandonment of the Four Corners Plant was fully adjudicated in Case No. 15-00109-UT and is not an issue for consideration.

C. The Levelized Cost of Energy is one element of a larger IRP planning process and will not be considered as a separate methodology.

D. The issue of whether EPE selected the most cost effective portfolio pursuant to Rule 17.7.3.6 NMAC shall be examined.

E. EPE shall provide all the studies and forecasts used in the development of the resource portfolio selected in the IRP in a transparent manner in order to demonstrate the modeling process and inputs utilized in the IRP.

F. EPE shall present the range of load forecasts considered by EPE in the planning process, not only a reference case.

G. EPE shall demonstrate how existing and future demand response and energy efficiency savings developed pursuant to Rules 17.7.2 and 17.9.572 NMAC were treated in the models, including all information regarding supply curves by type of demand response, modeled against competing supply alternatives, and adjustments (reductions) to load attributable to them.

H. EPE shall demonstrate that future load management and energy efficiency were included as separate resources in evaluation of new supply alternatives in the

IRP. Additional demand response and energy efficiency, separate from and in addition to Rules 17.9.572 and 17.7.2 NMAC, must be demonstrated to have been evaluated as resources in comparing future supply options for portfolio evaluation. The RPS and the UCT goals are separate and distinct from modeling future supply alternatives in the IRP.

I. EPE shall supply the Burns & McDonnell studies used in the IRP Study Process, particularly evaluating retirement of older units.

J. Rio Grande Unit 6 was not specifically identified as an EPE generation resource included in the filed IRP. This exclusion violates Rule 17.7.3.9 E. (1) NMAC. EPE shall list the unit in the appropriate table of the IRP and include all appropriate information regarding it.

K. The One Hour Customer Time of Use Rate shall not be separately considered in the issues raised regarding the IRP. The Hearing Examiner adopts the precedent in the Commission's Final Order in Case No. 15-00127-UT and the Order Denying Motion for Partial Rehearing by One Hour in that case.

L. EPE shall submit a clarifying description of the IRP evaluation of existing rates and tariffs that incorporate load management or load shifting concepts. EPE also shall describe how changes in rate design might assist in meeting, delaying or avoiding the need for new capacity.

M. EPE shall address the public advisory process consideration of public proposals in the IRP, including how the public advisory process met the requirements of the Rule.

N. EPE shall prepare a Notice to Customers regarding this matter, which shall be submitted to Staff and the parties for review prior to filing it in the docket. EPE shall publish the approved Notice in newspapers in record in its service territory not later than September 30, 2016, and promptly file affidavits attesting to such publication.

O. Any person desiring to intervene to become a party to this case must file a Motion for Leave to Intervene in conformity with NMPRC Utility Division Rules 1.2.2.23.A and B. NMAC on or before October 14, 2016, at:

New Mexico Public Regulation Commission  
ATTN: Records Division  
PERA Building  
P.O. Box 1269  
1120 Paseo de Peralta  
Santa Fe, NM 87501-1269

P. EPE's Direct Testimony shall be filed on or before October 27, 2016.

Q. Staff shall, and intervenors may file testimony in response on or before December 5, 2016.

R. Rebuttal testimony shall be filed on or before December 19, 2016.

S. The Commission's Utility Division Procedures, 17.1.2 NMAC, et seq., shall apply to this case except as modified by order of the Commission or Hearing Examiner. A copy of such Rules may be obtained from the Commission's website at [www.nmprc.state.nm.us](http://www.nmprc.state.nm.us).

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

U. Any interested person may appear at the time and place of hearing and make written or oral comment pursuant to 1.2.2.23.F. NMAC without becoming an Intervenor, at the address above. Interested persons may also send written comments, which shall specifically reference NMPRC Case No. 15-00241-UT, to the Commission at the following mailing address:

New Mexico Public Regulation Commission  
Records Division  
1120 Paseo de Peralta  
P.O. Box 1269  
Santa Fe, NM 87501-1269

Any such comments shall not be considered as evidence in this case.

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

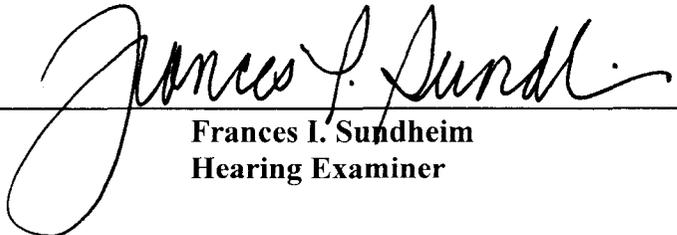
W. All documents exchanged in this matter, except discovery, shall also be sent via email in Word format to the Hearing Examiner at Frances.Sundheim@state.nm.us.

X. Any person with a disability requiring special assistance in order to participate in this proceeding should contact the Commission at (505) 827-4084 at least 24 hours prior to the commencement of the hearing.

Y. Any party objecting to the disposition of any issue in the Scoping Order shall file objection thereto within 15 days of the issuance of this Order.

**ISSUED** at Santa Fe, New Mexico this 20th day of September 2016.

**NEW MEXICO PUBLIC REGULATION COMMISSION**



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**Frances I. Sundheim**  
**Hearing Examiner**

**BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION**

**IN THE MATTER OF THE PROTEST )  
TO EL PASO ELECTRIC COMPANY'S ) Case No. 15-00241-UT  
2015 INTEGRATED RESOURCE PLAN )**

**EL PASO ELECTRIC COMPANY'S NOTICE TO CUSTOMERS**

**NOTICE** is hereby given of the following matters pertaining to the above-captioned case pending before the New Mexico Public Regulation Commission ("Commission):

On July 16, 2015, El Paso Electric Company ("EPE") submitted its Integrated Resource Plan for Period 2015-2034 ("2015 IRP") pursuant to IRP Rule 17.7.3 NMAC ("Rule").

On July 28, 2015, Merrie Lee Soules ("MLS") timely filed her protest as a resident of Las Cruces, New Mexico. Ms. Soules alleged that the submitted IRP does not satisfy the requirements of the IRP Rule, 17.7.3 *et seq.* Subsequently, AJC LCEP d/b/a/ One Hour Air conditioning and Heating ("One Hour") filed a Protest on August 14, 2015. Such protests trigger Rule 17.7.3.12.A. NMAC, barring the Commission from finding the IRP compliant with the Rule --if the protest demonstrates to the Commission's reasonable satisfaction that a hearing is necessary. This Rule provides for a hearing on compliance to the IRP Rule if deemed necessary by the Commission.

Through the submission of its 2015 IRP, EPE proposed to identify the most cost effective portfolio of resources to supply the energy needs of its customers pursuant to 17.7.3.6 NMAC. Protestants MLS and One Hour have alleged that the submitted Plan does not satisfy the requirements of the IRP Rule, 17.7.3 *et seq.* The Commission's Initial Order ordered the Hearing Examiner to hold hearings regarding the issues raised. The

Hearing Examiner issued a Procedural Order determining the scope of issues for this proceeding.

Any interested person may inspect EPE's 2015 IRP filed in this case at EPE's offices, 201 N. Water, Las Cruces, New Mexico, telephone number (575) 526-5551, or the Commission's Records Department at the PERA Building, 1120 Paseo de Peralta, Santa Fe, New Mexico or through its website [www.nmprc.state.nm.us](http://www.nmprc.state.nm.us). This case has been docketed as Case Number 15-00241-UT, and any inquiries should be referred to that number.

The procedural schedule for this case is as follows:

1. Any person desiring to intervene to become a party to this case must file a Motion for Leave to Intervene in conformity with Rule 1.2.2.23.A and B. NMAC on or before October 14, 2016, at:

New Mexico Public Regulation Commission  
Records Division  
P.O. Box 1269  
1120 Paseo de Peralta  
Santa Fe, NM 87501-1269

2. EPE's Direct Testimony shall be filed on or before October 27, 2016.
3. The Commission's Utility Division Staff shall, and any intervenor may, file direct testimony in response on or before December 5, 2016.
4. Any rebuttal testimony shall be filed on or before December 19, 2016.
5. A public hearing to hear and receive testimony, evidence, arguments, and any other appropriate matters relevant to this proceeding in this case is set to commence at 9.30 A.M. on January 9, 10 and 11, 2017, at the Commission's Offices in the Ground Floor Board Room at 1120 Paseo de Peralta in Santa Fe, New Mexico.

The procedural dates and requirements provided herein are subject to further order

of the Commission or the Hearing Examiner.

The Commission's Utility Division Procedures 17.1.2 NMAC apply to this case, except as modified by Order of the Commission or the Hearing Examiner. These rules may be obtained from Commission's website at [www.nmprc.state.nm.us/nmac](http://www.nmprc.state.nm.us/nmac).

Anyone filing pleadings, documents or testimony in this case shall serve copies on all parties of record, the Commission Staff, and the Hearing Examiner via first class mail and email. All filings shall be emailed on the date they are filed with the Commission.

Any interested person may appear at the public hearing and give a written or oral comment pursuant to Rule 1.2.2.23.F. NMAC without becoming an intervenor. Written comments, which shall specifically reference Case No. 15-00241-UT, may also be submitted by mail at the following mailing address:

New Mexico Public Regulation Commission  
Records Division  
1120 Paseo de Peralta  
P.O. Box 1269  
Santa Fe, NM 87501-1269

Such comments will not be considered as evidence in this case.

Any interested person should contact the Commission for confirmation of the hearing dates, time, and place because hearings are occasionally rescheduled.

Any person with a disability requiring special assistance in order to participate in this proceeding should contact the Commission at (505) 827-4084 at least 24 hours prior to the hearing.

**I S S U E D** at Santa Fe, New Mexico this 23<sup>rd</sup> day of September 2016.

**NEW MEXICO PUBLIC REGULATION COMMISSION**

  
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Frances I. Sundheim  
Hearing Examiner

**BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION**

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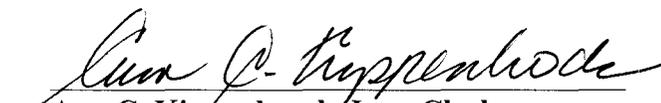
**OFFICIAL CERTIFICATE OF SERVICE**

I CERTIFY that on this date I sent via email to the individuals listed below a true and correct copy of the *Issue Scoping and Procedural Order* of September 20, 2016.

Nancy Burns	<a href="mailto:Nancy.Burns@epelectric.com">Nancy.Burns@epelectric.com</a> ;	Nann M. Winter	<a href="mailto:nwinter@stelznerlaw.com">nwinter@stelznerlaw.com</a> ;
Curtis Hutcheson	<a href="mailto:Curtis.hutcheson@epelectric.com">Curtis.hutcheson@epelectric.com</a> ;	Tim Figart	<a href="mailto:tomf@donaanacounty.org">tomf@donaanacounty.org</a> ;
Patricia Griego	<a href="mailto:Patricia.Griego@epelectric.com">Patricia.Griego@epelectric.com</a> ;	Jason Marks	<a href="mailto:lawoffice@jasonmarks.com">lawoffice@jasonmarks.com</a> ;
Joan E. Drake	<a href="mailto:Jdrake@modrall.com">Jdrake@modrall.com</a> ;	Rocky Bacchus	<a href="mailto:rocky.bacchus@gmail.com">rocky.bacchus@gmail.com</a> ;
Joseph Yar	<a href="mailto:Jyar@nmag.gov">Jyar@nmag.gov</a> ;	Allen Downs	<a href="mailto:ecomaxac@lifeisgood2.com">ecomaxac@lifeisgood2.com</a> ;
Loretta Martinez	<a href="mailto:Lmartinez@nmag.gov">Lmartinez@nmag.gov</a> ;	Merrie Lee Soules	<a href="mailto:mlsoules@hotmail.com">mlsoules@hotmail.com</a> ;
Dan Neidlinger	<a href="mailto:dneid@cox.net">dneid@cox.net</a> ;	Lizbeth Ellis	<a href="mailto:lellis@nmsu.edu">lellis@nmsu.edu</a> ;
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Jose F. Provencio	<a href="mailto:joprovencio@las-cruces.org">joprovencio@las-cruces.org</a> ;	Cydney Beadles	<a href="mailto:Cydney.Beadles@state.nm.us">Cydney.Beadles@state.nm.us</a> ;
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Tom Solomon	<a href="mailto:tasolomon6@gmail.com">tasolomon6@gmail.com</a> ;		
Don Hancock	<a href="mailto:sricdon@earthlink.net">sricdon@earthlink.net</a> ;		

DATED this 20th day of September 2016.

NEW MEXICO PUBLIC REGULATION COMMISSION

  
Ana C. Kippenbrock, Law Clerk