

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

**IN THE MATTER OF THE PETITION BY)
EPCOR WATER NEW MEXICO INC. FOR)
ADJUSTMENT OF WATER RATES FOR)
ITS CLOVIS DISTRICT)
)
EPCOR WATER NEW MEXICO INC.,)
 Petitioner)
_____)**

Case No. 18-00124-UT

PROCEDURAL ORDER

THIS MATTER comes before the Hearing Examiner in this proceeding pursuant to NMSA 1978, 8-8-14 and New Mexico Public Regulation Commission ("Commission" or "NMPRC") Rules of Procedure 1.2.2.24 and 1.2.2.29 of the New Mexico Administrative Code ("NMAC"). Being fully informed of the premises, the Hearing Examiner **FINDS** and **CONCLUDES:**

1. On August 31, 2018, EPCOR Water New Mexico Inc. ("EPCOR") filed with the New Mexico Public Regulation Commission its Advice Notice No. 40 and accompanying proposed Eleventh Revised Rate No. 1, Tenth Revised Rate No. 2, Sixth Revised Rate No. 5, Second Revised Rate Rider No. 7, Original Rate Rider No. 8, Original Rate Rider No. 9, Original Rate Rider No. 10, Original Rate Rider No. 11, and Original Rate Rider No. 12 proposing revised rates for its Clovis service district (the "Proposed Rates"), and petitioned the Commission for authorization to place the Proposed Rates into effect.

2. Through the Proposed Rates, EPCOR is requesting additional annual revenues from its water utility operations in its Clovis service district of \$910,113, representing an increase of 8.47% above its adjusted water service revenues for the twelve months ending December 31, 2017. EPCOR is also proposing changes to its purchased water and power cost adjustment clause and the approval of five new rate riders.

3. On September 26, 2018, the Commission suspended the Proposed Rates for an initial period of nine months commencing on September 30, 2018 and appointed the undersigned as hearing examiner.

4. A prehearing conference was held on October 12, 2018. Participating in the conference were representatives of EPCOR and the Utility Division Staff ("Staff") of the Commission.

5. The Hearing Examiner and the parties discussed a procedural schedule, including the filing of supplemental testimony addressing the disposition of the savings resulting from the enactment of the Tax Cuts and Jobs Act ("TCJA"), including the issue of possible refunds to customers of the savings resulting from the enactment of the TCJA from January 1, 2018 to the effective date of new rates, as raised by the Commission in Case No. 18-00016-UT in its January 24, 2018 order therein, revisions to EPCOR's proposed form and manner of notice, and a procedure for the electronic service of filings and discovery requests and responses, which the Hearing Examiner finds should be adopted.

6. The Commission has jurisdiction over the parties and the subject matter of this case.

IT IS THEREFORE ORDERED:

A. The following schedule is adopted for this proceeding:

1. EPCOR shall cause, at its sole expense, a copy of the Notice of Proceeding and Hearing appended to this Order as Attachment A to be published once in newspapers of general circulation sufficient for availability in every county where EPCOR provides service on or before November 1, 2018. EPCOR shall, at its sole expense, post a copy of the Notice of Proceeding and Hearing on its website at

www.epcor.com/clovisratecase on or before November 1, 2018. EPCOR shall also, at its sole expense, mail to its customers (by bill stuffer or separately) a copy of the Notice of Proceeding and Hearing on or before November 1, 2018. EPCOR shall promptly file affidavits reflecting such publication, posting and mailing with the Commission.

2. EPCOR shall file supplemental testimony by November 15, 2018, addressing the disposition of the savings resulting from the enactment of the TCJA, including the issue of possible refunds to customers of the savings resulting from the enactment of the TCJA from January 1, 2018 to the effective date of new rates, as raised by the Commission in Case No. 18-00016-UT in its January 24, 2018 order therein.

3. Any person who desires to become a party to this case shall file a Motion for Leave to Intervene with the Commission in conformity with 1.2.2.23(A) and (B) NMAC on or before November 30, 2018.

4. Staff and Intervenors shall file direct testimony on or before January 28, 2019.

5. Rebuttal testimony shall be filed on or before February 18, 2019.

6. A public hearing will be held beginning at 9:00 a.m. on March 12, 2019, and continuing thereafter through March 15, 2019, if necessary, in the Ground Floor Hearing Room of the Commission in the PERA Building, 1120 Paseo de Peralta, Santa Fe, New Mexico 87501 to hear and receive evidence, arguments and any other appropriate matters relevant to this proceeding.

B. To prevent the Commission from being placed in the possible position of issuing an order rejecting a stipulation and then having insufficient time remaining in the suspension period to adequately consider EPCOR's initially proposed rates, the parties are encouraged to

enter into any stipulation after the filing of Staff and Intervenor direct testimony. The parties are also put on notice that, the Hearing Examiner may refuse to consider the stipulation or condition consideration of the stipulation on the stipulating parties' agreement to toll the running of the suspension period for the period of time associated with the negotiation of the stipulation and the Commission's final action thereon.

C. If Staff recommends any changes to EPCOR's proposed revenue requirement, Staff shall include in its Direct Testimony:

1. Staff's proposed rates for each rate component (i.e., customer charge, commodity charge, conservation surcharge and riders) for each class of service.
2. For (1) each class of service and (2) for various levels of use¹:
 - i. the monthly bill *under current rates*, separately stating the customer charge, commodity charge, conservation surcharge, riders, and the total bill;
 - ii. the monthly bill *under EPCOR's proposed rates*, separately stating the customer charge, commodity charge, conservation surcharge, riders, and the total bill;and
 - iii. the monthly bill *under Staff's proposed rates*, separately stating the customer charge, commodity charge, conservation surcharge, riders, and the total bill.
3. A reconciliation statement in the form of 1.2.2.36.F(1) NMAC.
4. A proof of revenue showing, (1) under EPCOR's proposed rates and Staff's proposed rates, and (2) separately by class of service:
 - i. for each class: the proposed customer charge, commodity charge, conservation surcharge, and applicable riders;

¹ The use levels shown shall vary by class as necessary to reflect the general range of use within a particular class. One such use level shall equal the level consumed by an average-use customer within the class.

- ii. the billing determinants associated with each charge;
- iii. the anticipated revenue to be collected from each charge; and
- iv. the total anticipated revenue to be collected from the class.²

D. If any Intervenor recommends a change or changes to EPCOR's proposed revenue requirement, the Intervenor is encouraged to include in its Direct Testimony the information required of Staff under Paragraph C above (except substituting the Intervenor's proposed rates for Staff's proposed rates), to provide the Commission a sufficient record to adopt any proposed change, if desired.³

E. The Certificate of Service for this case is attached to this Order. Subject to subsequent revision pursuant to 1.2.2.10(C)(4) NMAC, the attached service list shall be used for service of all pleadings, testimony and other documents in the manner indicated to the individuals and addresses listed thereon.

F. The procedural dates and requirements provided herein are subject to further Order of the Commission or Hearing Examiner. Interested persons should contact the Commission for confirmation of the hearing date, time and place, since hearings are occasionally rescheduled.

² Staff filed most of the type of information required by this Order as exhibits to the Direct Testimony of Anthony Sisneros in Case No. 07-00319-UT (SPS rate case) and Case No. 07-00077-UT PNM rate case).

³ See, e.g., Case No. 07-00077-UT, Final Order Partially Adopting Recommended Decision, ¶ 99 ("Because CANM/SI did not provide any proposals on how blocks 2 and 3 should be sized or the rates that should be applied to those revised blocks, the Commission cannot, on the basis of the record in this case, adopt CANM/SI's proposed revision to the first block of Rate 1A."), ¶ 105 ("Without knowing the demand and load curves of SPS's other Rate 3B customers, the Commission cannot determine whether Kroger's proposed rates would have the same (and a possibly greater) disproportionate impact on those other customers that SPS's rate design appears to have on Kroger.") (4-24-08); Case No. 1539, Order at 57 ("To sustain the burden of proof, a party must present cogent reasons for the adoption of the change. Further, in presenting accounting changes, the party proposing the change should present clear and explicit evidence regarding the details of the change. Without a clear and convincing audit trail, the effect of the change is nonsensical to the trier of fact.") (7-24-80).

G. The Commission's Rules of Procedure, §§1.2.2.1 NMAC, et seq., shall apply to this case except as modified by order of the Commission or Hearing Examiner. A copy of the Rules may be obtained from the offices of the Commission or at <http://164.64.110.134/parts/title01/01.002.0002.html>

H. Discovery matters and any discovery disputes shall be governed by the Commission's discovery rules. 1.2.2.25 NMAC. The parties are advised to raise any questions or concerns regarding discovery with the Hearing Examiner in a timely manner so that they may be considered well in advance of the hearing.

I. A Commission order is not required for agreements between or among any of the participants regarding discovery matters. All other participants shall be notified of such agreements.

J. No motion regarding any discovery dispute shall be considered unless accompanied by a statement that the participants have made a good faith effort to resolve the dispute and were unable to do so.

K. Anyone filing pleadings, documents or testimony in this case may file either in person at the Commission's docketing office in the P.E.R.A. Building in Santa Fe, New Mexico, or by mail to the Commission's address at P.O. Box 1269, Santa Fe, New Mexico 87504-1269, and shall serve a copy on all parties of record and Staff. All filings shall be e-mailed on the date they are filed with the Commission. **Any such filings shall also be e-mailed to the Hearing Examiner at ashley.schannauer@state.nm.us.** All documents e-mailed to the Hearing Examiner shall include Word files if created in that format.

L. Service of all documents filed in this proceeding and discovery requests and responses shall be via e-mail unless a party requests a hard copy or unless otherwise ordered.

M. Any person filing prepared testimony under §1.2.2.35.I NMAC on behalf of a party shall attend the hearing and submit to examination under oath. Unless otherwise ordered or approved by the Commission or Hearing Examiner, at the public hearing in this case only pre-filed prepared written testimony, in question and answer form and verified by the witness, and examination of witnesses on such pre-filed testimony shall be accepted, considered and received in evidence along with other relevant and otherwise admissible exhibits. Further, the questioning of a party sponsoring a witness shall be limited on direct examination to the authentication and verification of the witness' pre-filed written testimony and later to appropriate redirect examination.

N. Any interested person may examine the rate filings together with any exhibits and related papers that may be filed at EPCOR's main business office, 1005 Norris Street, Clovis, New Mexico 88102-0430, telephone: (575) 763-5536, or at the Commission's offices. The Petition and accompanying exhibits, testimonies and papers, are also available on EPCOR's website at: www.epcor.com/clovisratecase.

The address, telephone number, and website address of the Commission are as follows:

New Mexico Public Regulation Commission
1120 Paseo de Peralta
P.E.R.A. Building
P.O. Box 1269
Santa Fe, NM 87504
1-888-427-5772
<http://www.nmprc.state.nm.us>

Further information can also be obtained at "Case Lookup EdoCKET" on the Commission's website at www.nmprc.state.nm.us .

O. Any interested person may appear at the time and place of hearing and make a written or oral comment pursuant to 1.2.2.23(F) NMAC without becoming an Intervenor.

Interested persons may also send written comments, which shall reference NMPRC Case No. 18-00124-UT, to the Commission at the address set out below. However, pursuant to Commission rule 1.2.2.23(F) NMAC, comments will not be considered as evidence in this proceeding.

P. All documents filed with the Commission by mail shall be sent to: Records Bureau, New Mexico Public Regulation Commission, P.E.R.A. Building, P.O. Box 1269, Santa Fe, New Mexico, 87504-1269. The following physical address of the Commission shall be used only for special or hand deliveries: 1120 Paseo de Peralta, Santa Fe, NM 87501.

Q. Any person with a disability requiring special assistance in order to participate in this proceeding should contact the Commission at least 24 hours prior to the commencement of the hearing.

ISSUED at Santa Fe, New Mexico, this October 18, 2018.

NEW MEXICO PUBLIC REGULATION COMMISSION



Ashley C. Schannauer
Hearing Examiner

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

IN THE MATTER OF THE PETITION BY)
EPCOR WATER NEW MEXICO INC. FOR) Case No. 18-00124-UT
ADJUSTMENT OF WATER RATES FOR ITS)
CLOVIS DISTRICT)

CERTIFICATE OF SERVICE

I CERTIFY that on this day I sent to the parties listed here and in the manners indicated below a true and correct copy of the **Procedural Order**.

Jeffrey J. Wechsler	jwechsler@montand.com ;	John Bogatko	John.Bogatko@state.nm.us ;
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Via first class mail

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DATED this October 18, 2018.

NEW MEXICO PUBLIC REGULATION COMMISSION



Ana C. Kippenbrock, Law Clerk