



Control Number: 57816



Item Number: 29

**DOCKET NO. 57816**

<b>APPLICATION OF TEXAS-NEW</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>MEXICO POWER COMPANY TO</b>	<b>§</b>	
<b>AMEND ITS DISTRIBUTION COST</b>	<b>§</b>	<b>OF TEXAS</b>
<b>RECOVERY FACTOR</b>	<b>§</b>	

**ORDER**

This Order addresses the application of Texas-New Mexico Power Company (TNMP) to amend its retail and wholesale distribution cost recovery factor (DCRF) riders under PURA<sup>1</sup> § 36.210 and 16 Texas Administrative Code (TAC) § 25.243. The Commission amends TNMP's DCRF to the extent provided in this Order.

**I. Findings of Fact**

The Commission makes the following findings of fact.

**Applicant**

1. TNMP is a Texas corporation registered with the Texas secretary of state under filing number 19241500.
2. TNMP owns and operates for compensation in Texas facilities and equipment to transmit and distribute electricity in the Electric Reliability Council of Texas region.
3. TNMP holds certificate of convenience and necessity number 30038 to provide service to the public.

**Application**

4. On March 14, 2025, TNMP filed an application for approval to amend its DCRF and retail and wholesale tariffs with the Commission and each of its municipal regulatory authorities.
5. This is TNMP's first DCRF application in 2025 and its seventh DCRF proceeding since its last base-rate proceeding, Docket No. 48401.<sup>2</sup>

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<sup>1</sup> Public Utility Regulatory Act, Tex. Util. Code §§ 11.001–66.016.

<sup>2</sup> *Application of Texas-New Mexico Power Company to Change Rates*, Docket No. 48401, Order (Dec. 20, 2018).

6. In Docket No. 50731, the Commission approved TNMP's initial DCRF after Docket No. 48401 based on the period of January 1, 2018 through December 31, 2019.<sup>3</sup>
7. In Docket No. 51959, the Commission approved TNMP's second DCRF after Docket No. 48401 based on the period of January 1, 2018 through December 31, 2020.<sup>4</sup>
8. In Docket No. 53436, the Commission approved TNMP's third DCRF after Docket No. 48401 based on the period of January 1, 2018 through December 31, 2021.<sup>5</sup>
9. In Docket No. 54807, the Commission approved TNMP's fourth DCRF after Docket No. 48401 based on the period of January 1, 2018 through December 31, 2022.<sup>6</sup>
10. In Docket No. 56428, the Commission approved TNMP's fifth DCRF after Docket No. 48401 based on the period of January 1, 2018 through December 31, 2023.<sup>7</sup>
11. In Docket No. 56887, the Commission approved TNMP's sixth DCRF after Docket No. 48401 based on the period of January 1, 2018 through June 30, 2024.<sup>8</sup>
12. In its application in this docket, TNMP requested approval of a DCRF based on an annual revenue requirement of \$97,441,761, after adjusting for load growth.
13. TNMP calculated its annual requirement using the period of January 1, 2018 through December 31, 2024.
14. The request represented an incremental increase of approximately \$24,975,071 to TNMP's DCRF revenue requirement.
15. In its application, TNMP stated that, from January 1, 2018 through December 31, 2024, it had invested \$939,089,283 in net distribution-system invested capital booked in Federal

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<sup>3</sup> *Application Of Texas-New Mexico Power Company to Amend Its Distribution Cost Recovery Factor*, Docket No. 50731, Order (Aug. 13, 2020).

<sup>4</sup> *Application of Texas-New Mexico Power Company to Amend Its Distribution Cost Recovery Factor*, Docket No. 51959, Order (Sep. 29, 2021).

<sup>5</sup> *Application Of Texas-New Mexico Power Company to Amend Its Distribution Cost Recovery Factor*, Docket No. 53436, Order (Nov. 3, 2022).

<sup>6</sup> *Application of Texas-New Mexico Power Company to Amend Its Distribution Cost Recovery Factor*, Docket No. 54807, Order (July 20, 2023).

<sup>7</sup> *Application of Texas-New Mexico Power Company to Amend Its Distribution Cost Recovery Factor*, Docket No. 56428, Order (June 13, 2024).

<sup>8</sup> *Application of Texas-New Mexico Power Company to Amend Its Distribution Cost Recovery Factor*, Docket No. 56887, Order (Oct. 3, 2024).

Energy Regulatory Commission accounts 303, 352, 353, 360 through 374, 391, and 397 and had a \$4,677,133 change related accumulated deferred federal income taxes.

16. In its application, TNMP requested the following DCRF retail rates, compared to those approved by the Commission in TNMP's last DCRF proceeding, Docket No. 56887:

<b>Rate Class Description</b>	<b>DCRF Rate Proposed in Application</b>	<b>DCRF Rate Approved in Docket No. 56887</b>	<b>Billing Units</b>
Residential service	\$0.017409	\$0.012937	kWh
Secondary service (less than or equal to 5 kW)	\$0.020673	\$0.014474	kWh
Secondary service (greater than 5 kW)	\$3.522658	\$2.587853	Billed kW
Primary service	\$0.839649	\$0.628469	Billed kW
Transmission service	\$665.91	\$503.72	per ESI ID and per meter
Lighting service	\$0.067962	\$0.050184	kWh

17. In its application, TNMP requested the following DCRF wholesale rate, compared to the one approved by the Commission in TNMP's last DCRF proceeding, Docket No. 56887:

<b>Rate Class Description</b>	<b>DCRF Rate Proposed in Application</b>	<b>DCRF Rate Approved in Docket No. 56877</b>	<b>Billing Units</b>
Wholesale distribution service	\$0.839649	\$0.628469	Per billing kw

18. TNMP's application affects all retail electric providers (REPs) that take electric delivery service from TNMP and will affect the retail electric customers of those providers to the extent that the providers pass along charges to their customers under TNMP's approved DCRF tariffs. The application also affects TNMP's wholesale customers receiving service at distribution voltage.
19. In the earnings monitoring report included in its application, TNMP demonstrated that it is not earning more than its authorized rate of return using weather-normalized data.

20. TNMP does not have a comprehensive base-rate proceeding pending before the Commission.
21. In its application in this docket, TNMP used the DCRF baseline values approved in Docket No. 48401.
22. In its application, TNMP calculated and applied a 7.05% alternative rate of return.
23. In its application, TNMP proposed two DCRF riders: one for wholesale customers of TNMP receiving service at distribution voltage and one for REPs that take delivery service from TNMP. The Commission approved the use of these two riders in Docket No. 50731.
24. In its application, TNMP included the direct testimonies of Stacy R. Whitehurst, TNMP's vice president of regulatory affairs; Keith C. Nix, TNMP's vice president of operations; Arin Apodaca, TNMP's manager of cost of service; and Michael S. Seamster, TNMP's associate general counsel. These testimonies collectively demonstrate TNMP's compliance with the DCRF recovery standards.
25. No party filed a motion to find the application materially deficient within 30 days after service of notice was completed, and the administrative law judge (ALJ) did not issue an order concluding that material deficiencies exist in the application.

#### **Notice**

26. On March 14, 2025, TNMP provided notice of the application, including all attachments, by e-mail or by certified mail, to all municipalities retaining original jurisdiction over TNMP, to all parties in TNMP's last comprehensive base-rate proceeding, Docket No. 48401, and to all parties in TNMP's most recent DCRF proceeding, Docket No. 56887.
27. On March 19, 2025, TNMP filed the affidavit of Alexander Yoakum, TNMP's authorized representative, attesting to the provision of notice of the application described above.
28. TNMP's provision of notice by e-mail or by certified mail was reasonable.
29. In Order No. 5 filed on April 22, 2025, the ALJ found the notice sufficient.

#### **Interventions**

30. In Order No. 2 filed on March 28, 2025, the ALJ granted the motion to intervene filed by Cities Served by Texas-New Mexico Power Company (TNMP Cities).

31. In Order No. 3 filed on April 1, 2025, the ALJ granted the motions to intervene filed by the Alliance of Texas-New Mexico Power Municipalities (ATM) and Texas Industrial Energy Consumers (TIEC).

**Testimony and Recommendations**

32. On March 14, 2025, TNMP filed the direct testimonies of Mr. Whitehurst, Mr. Nix, Mr. Apodaca, and Mr. Seamster.
33. On April 4, 2025, TIEC filed its recommendation on TNMP's application.
34. On April 9, 2025, Commission Staff filed its recommendation on final disposition, which included memoranda from Caitlin Gaspar, of the Commission's infrastructure division; Vonetta Jackson, a regulatory accountant; and Dylan Love, from the Commission's regulatory rate division.
35. On April 11, 2025, ATM filed the affidavit of Alfred R. Herrera, attorney for ATM, related to the rate-case expenses ATM incurred in this docket.
36. On April 14, 2025, TNMP Cities filed the affidavit of Jamie L. Mauldin, attorney for TNMP Cities, related to the rate-case expenses TNMP Cities incurred in Docket No. 56887.
37. On April 15, 2025, ATM filed the first supplemental affidavit of Mr. Herrera attesting to the rate-case expenses ATM incurred in Docket No. 56887.

**Evidentiary Record**

38. In Order No. 6 filed on April 25, 2025, the ALJ admitted the following evidence into the record of this proceeding:
- a. TNMP's application and attachments filed on March 14, 2025, which includes the direct testimony and exhibits of Stacy R. Whitehurst; the direct testimony and exhibits of Keith C. Nix; the direct testimony and exhibits of Arin Apodaca; and the direct testimony and exhibits of Michael S. Seamster;
  - b. TNMP's proof of notice filed on March 19, 2025;
  - c. Commission Staff's recommendation on the administrative completeness of the application filed on March 28, 2025;

- d. Commission Staff's recommendation on final disposition filed on April 9, 2025;
- e. TNMP Cities' affidavit of Ms. Mauldin related to the rate-case expenses incurred in Docket No. 56687 filed on April 14, 2025; and
- f. ATM's first supplemental affidavit of Mr. Herrera related to the rate-base expenses incurred in Docket No. 56687 filed on April 15, 2025.

**Jurisdictional Deadline**

39. In Order No. 4 filed on April 9, 2025, the ALJ extended, by 15 days, the deadline to enter a final order on the application, under PURA § 36.210(i).

**Categorization of Projects**

40. The capital projects included in TNMP's application have been properly categorized by TNMP as distribution-related intangible plant or distribution-related communication equipment and networks properly recorded in FERC Accounts 303, 352, 353, 360 through 374, 391, and 397.

**Rates**

41. It is appropriate for the Commission to approve rates in the DCRF tariffs that are attached as exhibits SRW-5 and SRW-6 to the testimony of Mr. Whitehurst included with TNMP's application filed on March 14, 2025.
42. It is appropriate for TNMP to have two DCRF riders: one for its wholesale customers and one for REPs that take delivery service from TNMP.
43. The factor used to allocate invested-capital costs to each rate class in calculating the DCRF approved by this Order is the same allocation factor approved in TNMP's last base-rate proceeding, Docket No. 48401.
44. The rate-class billing determinants used in calculating the DCRF approved by this Order are weather-normalized and reflect TNMP's number of customers as of December 31, 2024.
45. The DCRF approved by this Order does not include any indirect corporate costs or capitalized operations and maintenance costs.

**Affiliate Costs**

46. The application did not include any affiliate capital additions during the period of January 1, 2018 through December 31, 2024 but, in its direct capital costs, TNMP included affiliate costs associated with services such as procurement, human resources, administration, and information technology that were provided by PNMR Services Company.
47. The affiliate costs included in the DCRF rates approved by this Order are reasonable and necessary.
48. With respect to affiliate costs included in the DCRF rates approved by this Order, the price charged to TNMP is not higher than the prices charged by the supplying affiliate for the same item or class of items to its other affiliates or divisions or to a non-affiliated person within the same market area or having the same market conditions.

**Rate-Case Expenses****Expenses Incurred in Docket No. 56887**

49. In Docket No. 56887, TNMP's previous DCRF proceeding, the Commission's final order did not make a finding of reasonableness regarding the rate-case expenses incurred in that docket.
50. TNMP requests the recovery of its rate-case expenses in the amount of \$38,734.19 incurred in Docket No. 56887. TNMP also requests the recovery of \$33,981 in rate-case expenses reimbursed to TNMP Cities for Docket No. 56887. TNMP further requests the recovery of a total of \$13,273.50 in rate-case expenses reimbursed to ATM (consisting of \$12,979 in rate-case expenses incurred in Docket No. 56887 and \$294.50 in rate-case expenses incurred in Docket No. 56428).
51. In its application in this proceeding, TNMP filed the direct testimony of Mr. Seamster, associate general counsel for TNMP. In reaching his opinion on the reasonableness and necessity of rate-case expenses incurred in Docket No. 56887, Mr. Seamster relied on the factors in 16 TAC § 25.245(b), including the time and labor required; expenses for lodging, meals, and transportation; and the nature and scope of the case. In his testimony, Mr. Seamster stated that TNMP's rate-case expenses incurred in Docket No. 56887 in the amount of \$38,734.19 were reasonable and necessary.



52. On April 14, 2025, TNMP Cities filed the affidavit of Ms. Mauldin attesting that the rate-case expenses incurred in Docket No. 56887 are reasonable given the complexity, importance, and magnitude of TNMP's case, the comprehensive nature of TNMP Cities' case in the matter, the number of issues, and the effort required to achieve a satisfactory outcome in the matter.
53. On April 15, 2025, ATM filed the affidavit of Mr. Herrera attesting that the rate-case expenses incurred in Docket No. 56887 are reasonable given the complexity, importance, and magnitude of TNMP's case, the comprehensive nature of ATM's case in the matter, the number of issues, and the effort required to achieve a satisfactory outcome in the matter.
54. TNMP's rate-case expenses in the amount of \$38,734.19, TNMP Cities' rate-case expenses in the amount of \$33,981, and ATM's rate-case expenses in the amount of \$12,746.50, all of which were incurred in Docket No. 56887, are reasonable and necessary. ATM's remaining rate-case expenses of \$294.50, which were incurred in Docket No. 56428, have already been found by the Commission to have been reasonable and necessary.<sup>9</sup>
55. The reasonable rate-case expenses incurred in Docket No. 56887 by TNMP and TNMP Cities and in Docket Nos. 56428 and 56887 by ATM in the amount of \$85,756.19 will be recorded as a regulatory asset until the Commission orders the method of recovery for such approved expenses in a subsequent rate proceeding.

**Expenses Incurred in this Proceeding**

56. TNMP will reimburse ATM and TNMP Cities' reasonable rate-case expenses associated with this proceeding. ATM and TNMP Cities will provide evidence of the reasonableness of such municipal rate-case expenses either in this proceeding or when reviewed in a future proceeding; and if any municipal rate-case expenses from this proceeding are disallowed by the Commission, TNMP will apply a credit to offset any disallowed amounts against that party's rate-case expenses incurred in that subsequent proceeding, unless the party reimburses TNMP for any disallowed amount within 30 days of a final order by the Commission disallowing such amount.

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<sup>9</sup> *Application of Texas-New Mexico Power Company to Amend Its Distribution Cost Recovery Factor*, Docket No. 56428, Order at Finding of Fact 64 (June 13, 2024).

57. It is appropriate for TNMP to seek recovery of the reasonable rate-case incurred by TNMP Cities, ATM, and TNMP in this proceeding in a future DCRF or other rate proceeding.

## **II. Conclusions of Law**

The Commission makes the following conclusions of law.

1. TNMP is a public utility as defined in PURA § 11.004(1) and an electric utility as defined in PURA § 31.002(6).
2. The Commission has authority over this matter under PURA §§ 14.001, 32.001, 33.002, and 36.210.
3. The Commission processed this docket in accordance with the requirements of PURA, the Administrative Procedure Act,<sup>10</sup> and Commission rules.
4. TNMP is eligible to file this application for a DCRF amendment under PURA § 36.210(d) and 16 TAC § 25.243(e)(1)(C).
5. TNMP provided notice of the application using a reasonable method in compliance with 16 TAC § 25.243(e)(2).
6. The application was deemed sufficient under 16 TAC § 25.243(e)(6)(A).
7. The basis for TNMP's DCRF application was changes in invested capital under PURA § 36.053 that are categorized or functionalized as distribution plant, distribution-related intangible plant, and distribution-related communication equipment and networks under PURA § 36.210(a) and 16 TAC § 25.243(b)(3).
8. The rates approved by this Order are just and reasonable under PURA § 36.003(a).
9. In accordance with PURA § 36.003(b), the rates approved by this Order are not unreasonably preferential, prejudicial, or discriminatory and are sufficient, equitable, and consistent in application to each class of customer.
10. The rates approved by this Order establish TNMP's overall revenue at a level that will provide the utility a reasonable opportunity to earn a reasonable return as required by PURA § 36.051.

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<sup>10</sup> Tex. Gov't Code §§ 2001.001–.903.

11. The affiliate expenses included in TNMP's DCRF rates approved by this Order are reasonable and necessary and comply with PURA § 36.058.
12. The rates approved by this Order were calculated in compliance with 16 TAC § 25.243(d).
13. The rate of return used to calculate the DCRF approved by this Order complies with 16 TAC § 25.243(d)(2).
14. TNMP's DCRF approved by this Order complies with PURA § 36.210 and 16 TAC § 25.243.
15. TNMP's DCRF approved by this Order takes into account changes in the number of TNMP's customers and the effects, on a weather-normalized basis, that energy consumption and energy demand have on the amount of revenue recovered through TNMP's base rates in accordance with PURA § 36.210(a)(2) and 16 TAC § 25.243(d)(1).
16. TNMP's DCRF approved by this Order is consistent with the manner in which costs for distribution invested capital were allocated to each rate class in Docket Nos. 48401, 50731, 51959, 53436, 54807, 56428, and 56887, in accordance with PURA § 36.210(a)(3) and 16 TAC § 25.243(d)(1).
17. TNMP is required to provide notice of the approved rates in accordance with PURA § 36.210(b)(2) and 16 TAC § 25.243(e)(6)(C) and (E).
18. TNMP met the requirements of 16 TAC § 25.245 with respect to the rate-case expenses incurred in TNMP's last DCRF proceeding, Docket No. 56887, and approved by this Order.
19. The documentation of ATM and TNMP Cities' rate-case expenses incurred in Docket No. 56887 complies with 16 TAC § 25.245.
20. The rate-case expenses approved in this docket reflect the reasonable cost of participating in Docket No. 56887 in accordance with PURA §§ 33.023(b) and 36.061(b)(2).
21. Under PURA § 33.023(b), TNMP is required to reimburse the governing bodies of the municipalities that participated in this proceeding for their reasonableness and necessary rate-case expenses to the extent the applicable regulatory authority determines is reasonable.

### III. Ordering Paragraphs

In accordance with these findings of fact and conclusions of law, the Commission issues the following orders.

1. The Commission amends TNMP's DCRF to the extent provided in this Order.
2. The Commission approves the DCRF tariff schedules attached to the testimony of Mr. Whitehurst as exhibits SRW-5 and SRW-6 filed on March 14, 2025, effective on and after TNMP's provision of 45 days' notice of the approved rates to REPs.
3. TNMP must provide notice to REPs of the approved DCRF rates and the effective date within one working day after this Order is signed and at least 45 days before the approved rates are implemented.
4. TNMP is authorized to include \$85,756.19 in a regulatory asset related to reasonable rate-case expenses incurred for TNMP's previous DCRF proceeding, Docket No. 56887, until the Commission orders the method of recovery for such approved expenses in a subsequent rate proceeding.
5. TNMP must reimburse ATM and TNMP Cities for their reasonable rate-case expenses incurred in this proceeding.
6. The Commission authorizes TNMP to request recovery of its own and any participating municipality's rate-case expenses incurred in this proceeding either in a future rate-case proceeding or through a separate surcharge, subject to a final determination by the Commission as to the reasonableness and necessity of those expenses.
7. The Commission makes no determinations in this proceeding regarding the reasonableness of participating municipalities' or TNMP's rate-case expenses incurred in this proceeding. The Commission will make determinations regarding the reasonableness of those expenses in a future docket.
8. Within ten days of the date of this Order, TNMP must provide the Commission with a clean copy of the DCRF tariff schedules approved by this Order to be stamped *Approved* and retained by Central Records.
9. The Commission is not determining in this Order whether investments recovered through the DCRF comply with PURA or are prudent, reasonable, and necessary. The Commission

will make those determinations in TNMP's DCRF reconciliation under 16 TAC § 25.243(f).

10. The Commission denies all other motions and any other requests for general or specific relief that are not expressly granted in this Order.

Signed at Austin, Texas the 15<sup>th</sup> day of May 2025.

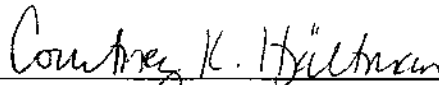
**PUBLIC UTILITY COMMISSION OF TEXAS**



**THOMAS J. GLEESON, CHAIRMAN**



**KATHLEEN JACKSON, COMMISSIONER**



**COURTNEY K. HJALTMAN, COMMISSIONER**