

EL PASO ELECTRIC CO /TX/
Form 10-Q
November 07, 2011
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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, 2011

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, 2011, there were 40,250,233 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, 2011 (Unaudited)	December 31, 2010
ASSETS		
(In thousands)		
Utility plant:		
Electric plant in service	\$2,758,648	\$2,522,862
Less accumulated depreciation and amortization	(1,105,527)	(1,047,498)
Net plant in service	1,653,121	1,475,364
Construction work in progress	143,645	285,086
Nuclear fuel; includes fuel in process of \$43,443 and \$47,746, respectively	175,048	150,774
Less accumulated amortization	(61,140)	(45,471)
Net nuclear fuel	113,908	105,303
Net utility plant	1,910,674	1,865,753
Current assets:		
Cash and cash equivalents	7,744	79,184
Accounts receivable, principally trade, net of allowance for doubtful accounts of \$2,799 and \$2,885, respectively	115,395	71,685
Accumulated deferred income taxes	10,777	25,818
Inventories, at cost	39,283	36,132
Income taxes receivable	6,252	12,656
Undercollection of fuel revenues	12,275	—
Prepayments and other	7,975	4,543
Total current assets	199,701	230,018
Deferred charges and other assets:		
Decommissioning trust funds	158,437	153,878
Regulatory assets	88,894	88,557
Other	27,743	26,560
Total deferred charges and other assets	275,074	268,995
Total assets	\$2,385,449	\$2,364,766

See accompanying notes to consolidated financial statements.

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CONSOLIDATED BALANCE SHEETS (Continued)

	September 30, 2011 (Unaudited)	December 31, 2010
CAPITALIZATION AND LIABILITIES		
(In thousands except for share data)		
Capitalization:		
Common stock, stated value \$1 per share, 100,000,000 shares authorized, 65,264,664 and 65,121,689 shares issued, and 196,954 and 143,371 restricted shares, respectively	\$65,462	\$65,265
Capital in excess of stated value	308,138	305,068
Retained earnings	890,529	810,858
Accumulated other comprehensive income (loss), net of tax	(35,864) (33,177
	1,228,265) 1,148,014
Treasury stock, 25,212,530 and 22,693,995 shares, respectively, at cost	(415,413) (337,639
Common stock equity	812,852	810,375
Long-term debt	816,484	849,745
Total capitalization	1,629,336	1,660,120
Current liabilities:		
Current maturities of long-term debt	33,300	—
Short-term borrowings under the revolving credit facility	17,793	4,704
Accounts payable, principally trade	49,653	41,795
Taxes accrued	36,033	29,172
Interest accrued	13,177	12,099
Overcollection of fuel revenues	1,643	18,976
Other	35,419	24,207
Total current liabilities	187,018	130,953
Deferred credits and other liabilities:		
Accumulated deferred income taxes	321,247	286,730
Accrued pension liability	85,149	93,471
Asset retirement obligation	54,944	92,911
Accrued postretirement benefit liability	64,357	61,594
Regulatory liabilities	15,283	14,489
Other	28,115	24,498
Total deferred credits and other liabilities	569,095	573,693
Commitments and contingencies		
Total capitalization and liabilities	\$2,385,449	\$2,364,766

See accompanying notes to consolidated financial statements.

EL PASO ELECTRIC COMPANY AND SUBSIDIARY
CONSOLIDATED STATEMENTS OF OPERATIONS

(Unaudited)

(In thousands except for share data)

	Three Months Ended		Nine Months Ended	
	September 30,		September 30,	
	2011	2010	2011	2010
Operating revenues	\$307,633	\$280,342	\$726,350	\$695,907
Energy expenses:				

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Fuel	73,034	60,294	177,111	160,139
Purchased and interchanged power	25,845	28,229	60,616	76,628
	98,879	88,523	237,727	236,767
Operating revenues net of energy expenses	208,754	191,819	488,623	459,140
Other operating expenses:				
Other operations	56,832	59,924	168,148	161,566
Maintenance	12,764	10,987	41,760	41,222
Depreciation and amortization	20,315	20,685	60,775	60,136
Taxes other than income taxes	16,628	16,125	43,131	41,038
	106,539	107,721	313,814	303,962
Operating income	102,215	84,098	174,809	155,178
Other income (deductions):				
Allowance for equity funds used during construction	1,379	2,398	6,441	7,645
Investment and interest income, net	618	1,351	4,593	3,289
Miscellaneous non-operating income	113	248	384	401
Miscellaneous non-operating deductions	(648)	(389)	(2,061)	(1,277)
	1,462	3,608	9,357	10,058
Interest charges (credits):				
Interest on long-term debt and revolving credit facility	13,571	12,936	40,595	37,378
Other interest	243	48	777	113
Capitalized interest	(1,318)	(796)	(3,864)	(1,282)
Allowance for borrowed funds used during construction	(808)	(1,550)	(3,837)	(4,651)
	11,688	10,638	33,671	31,558
Income before income taxes and extraordinary item	91,989	77,068	150,495	133,678
Income tax expense	33,668	27,172	52,409	50,826
Income before extraordinary item	58,321	49,896	98,086	82,852
Extraordinary gain related to Texas regulatory assets, net of tax	—	10,286	—	10,286
Net income	\$58,321	\$60,182	\$98,086	\$93,138
Basic earnings per share:				
Income before extraordinary item	\$1.41	\$1.16	\$2.33	\$1.90
Extraordinary gain related to Texas regulatory assets, net of tax	—	0.24	—	0.24
Net income	\$1.41	\$1.40	\$2.33	\$2.14
Diluted earnings per share:				
Income before extraordinary item	\$1.40	\$1.15	\$2.32	\$1.89
Extraordinary gain related to Texas regulatory assets, net of tax	—	0.24	—	0.24
Net income	\$1.40	\$1.39	\$2.32	\$2.13
Dividends declared per share of common stock	\$0.22	\$—	\$0.44	\$—
Weighted average number of shares outstanding	41,307,632	42,921,044	41,819,428	43,370,487
Weighted average number of shares and dilutive potential shares outstanding	41,564,973	43,103,698	42,051,307	43,505,434

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,	
	2011	2010
Operating revenues	\$907,694	\$888,920
Energy expenses:		
Fuel	216,801	205,849
Purchased and interchanged power	75,904	99,660
	292,705	305,509
Operating revenues net of energy expenses	614,989	583,411
Other operating expenses:		
Other operations	230,803	222,466
Maintenance	57,361	58,872
Depreciation and amortization	81,650	79,501
Taxes other than income taxes	56,582	52,413
	426,396	413,252
Operating income	188,593	170,159
Other income (deductions):		
Allowance for equity funds used during construction	9,612	9,575
Investment and interest income, net	6,619	7,333
Miscellaneous non-operating income	1,351	423
Miscellaneous non-operating deductions	(3,990)	(1,866)
	13,592	15,465
Interest charges (credits):		
Interest on long-term debt and revolving credit facility	54,043	49,576
Other interest	918	190
Capitalized interest	(5,069)	(1,504)
Allowance for borrowed funds used during construction	(5,857)	(5,910)
	44,035	42,352
Income before income taxes and extraordinary item	158,150	143,272
Income tax expense	52,599	52,459
Income before extraordinary item	105,551	90,813
Extraordinary gain related to Texas regulatory assets, net of tax	—	10,286
Net income	\$105,551	\$101,099
Basic earnings per share:		
Income before extraordinary item	\$2.50	\$2.07
Extraordinary gain related to Texas regulatory assets, net of tax	—	0.24
Net income	\$2.50	\$2.31
Diluted earnings per share:		
Income before extraordinary item	\$2.49	\$2.07
Extraordinary gain related to Texas regulatory assets, net of tax	—	0.24
Net income	\$2.49	\$2.31
Dividends declared per share of common stock	\$0.44	\$—

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Weighted average number of shares outstanding	41,969,628	43,523,270
Weighted average number of shares and dilutive potential shares outstanding	42,207,012	43,672,324

See accompanying notes to consolidated financial statements.

EL PASO ELECTRIC COMPANY AND SUBSIDIARY
CONSOLIDATED STATEMENTS OF COMPREHENSIVE OPERATIONS

(Unaudited)

(In thousands)

	Three Months Ended		Nine Months Ended		Twelve Months Ended	
	September 30,		September 30,		September 30,	
	2011	2010	2011	2010	2011	2010
Net income	\$58,321	\$60,182	\$98,086	\$93,138	\$105,551	\$101,099
Other comprehensive income (loss):						
Unrecognized pension and postretirement benefit costs:						
Net loss arising during period	—	—	—	—	(9,874)	(48,580)
Prior service benefit	—	—	—	—	26,605	—
Reclassification adjustments included in net income for amortization of:						
Prior service benefit	(1,453)	(688)	(4,358)	(2,065)	(5,047)	(2,754)
Net loss	1,625	843	4,878	2,530	5,722	2,936
Net unrealized gains (losses) on marketable securities:						
Net holding gains (losses) arising during period	(7,503)	7,019	(4,914)	3,041	(1,290)	4,619
Reclassification adjustments for net (gains) losses included in net income	1,284	193	1,081	602	601	(2,246)
Net losses on cash flow hedges:						
Reclassification adjustment for interest expense included in net income	93	86	269	252	355	333
Total other comprehensive income (loss) before income taxes	(5,954)	7,453	(3,044)	4,360	17,072	(45,692)
Income tax benefit (expense) related to items of other comprehensive income (loss):						
Unrecognized pension and postretirement benefit costs	(65)	(57)	(196)	(169)	(6,314)	16,481
Net unrealized gains (losses) on marketable securities	1,171	(1,443)	654	(729)	26	(475)
Losses on cash flow hedges	(35)	(31)	(101)	(91)	(132)	(121)
Total income tax benefit (expense)	1,071	(1,531)	357	(989)	(6,420)	15,885
Other comprehensive income (loss), net of tax	(4,883)	5,922	(2,687)	3,371	10,652	(29,807)
Comprehensive income	\$53,438	\$66,104	\$95,399	\$96,509	\$116,203	\$71,292

See accompanying notes to consolidated financial statements.

EL PASO ELECTRIC COMPANY AND SUBSIDIARY
CONSOLIDATED STATEMENTS OF CASH FLOWS

(Unaudited)

(In thousands)

Nine Months Ended

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	September 30,	
	2011	2010
Cash flows from operating activities:		
Net income	\$98,086	\$93,138
Adjustments to reconcile net income to net cash provided by operating activities:		
Depreciation and amortization of electric plant in service	60,775	60,136
Amortization of nuclear fuel	28,004	22,877
Extraordinary gain related to Texas regulatory assets, net of tax	—	(10,286)
Deferred income taxes, net	46,338	17,088
Allowance for equity funds used during construction	(6,441)	(7,645)
Other amortization and accretion	15,771	12,957
Other operating activities	1,104	(488)
Change in:		
Accounts receivable	(43,710)	(42,661)
Inventories	(3,367)	(6)
Net undercollection of fuel revenues	(29,608)	(1,322)
Prepayments and other	(4,718)	(1,996)
Accounts payable	9,500	(11,733)
Taxes accrued	13,265	33,978
Interest accrued	1,078	2,338
Other current liabilities	(1,279)	1,406
Deferred charges and credits	(5,923)	(4,177)
Net cash provided by operating activities	178,875	163,604
Cash flows from investing activities:		
Cash additions to utility property, plant and equipment	(129,651)	(124,839)
Cash additions to nuclear fuel	(33,925)	(33,889)
Capitalized interest and AFUDC:		
Utility property, plant and equipment	(10,278)	(12,296)
Nuclear fuel	(3,864)	(1,282)
Allowance for equity funds used during construction	6,441	7,645
Decommissioning trust funds:		
Purchases, including funding of \$6.4 and \$6.2 million, respectively	(77,314)	(55,207)
Sales and maturities	67,841	46,936
Other investing activities	636	56
Net cash used for investing activities	(180,114)	(172,876)
Cash flows from financing activities:		
Repurchases of common stock	(64,783)	(30,217)
Dividends paid	(18,415)	—
Borrowings under the revolving credit facility:		
Proceeds	88,723	37,810
Payments	(75,634)	(130,708)
Proceeds from issuance of long-term debt	—	110,000
Other financing activities	(92)	(2,455)
Net cash used for financing activities	(70,201)	(15,570)
Net decrease in cash and cash equivalents	(71,440)	(24,842)
Cash and cash equivalents at beginning of period	79,184	91,790
Cash and cash equivalents at end of period	\$7,744	\$66,948
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, 2010 (the "2010 Form 10-K"). Capitalized terms used in this report and not defined herein have the meaning ascribed for such terms in the 2010 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, 2011 and December 31, 2010; the results of its operations and comprehensive operations for the three, nine and twelve months ended September 30, 2011 and 2010; and its cash flows for the nine months ended September 30, 2011 and 2010. The results of operations and comprehensive operations for the three and nine months ended September 30, 2011 and the cash flows for the nine months ended September 30, 2011 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. Certain prior period amounts have been reclassified to conform to the current period presentation.

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. Accrued unbilled revenues included in accounts receivable are presented below (in thousands):

	September 30, 2011	December 31, 2010
Accrued unbilled revenues	\$22,985	\$16,644

The Company presents revenues net of sales taxes in its consolidated statements of operations.

Extraordinary Item. As a regulated electric utility, the Company prepares its financial statements in accordance with the FASB guidance for regulated operations. FASB guidance for regulated operations requires the Company to show certain items as assets or liabilities on its balance sheet when the regulator provides assurance that these items will be charged to and collected from its customers or refunded to its customers. In the final order for PUCT Docket No. 37690, the Company was allowed to include the previously expensed loss on reacquired debt associated with the refinancing of first mortgage bonds in 2005 in its calculation of the weighted cost of debt to be recovered from its customers. The Company recorded the impacts of the re-application of FASB guidance for regulated operations to its Texas jurisdiction in 2006 as an extraordinary item. In order to establish this regulatory asset, the Company recorded an extraordinary gain, in its statements of operations for the quarter ended September 30, 2010 as noted below (in thousands):

Extraordinary gain, net of income tax expense	\$10,286
Income tax expense related to extraordinary gain	5,769

This item was recorded as a regulatory asset at September 30, 2010 pursuant to the final order received from the PUCT and will be amortized over the remaining life of the Company's 6% Senior Notes due in 2035.

Supplemental Cash Flow Disclosures (in thousands)

	Nine Months Ended September 30,	
	2011	2010
Cash paid for:		
Interest on long-term debt and borrowing under the revolving credit facility	\$34,110	\$33,474
Income taxes paid (refund)	(3,031) 5,778
Non-cash financing activities:		
Grants of restricted shares of common stock	3,231	2,057
Issuance of performance shares	628	662
Acquisition of treasury stock for options exercised	500	—
Unsettled repurchases of common stock	12,491	—

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 requires 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 is 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 has used the consecutive two-statement approach; however, this new guidance will require additional disclosure on the Company's statement of operations and related notes. The new guidance is required to be applied retrospectively and is effective for fiscal years, and interim periods within those years, beginning after December 15, 2011.

In January 2010, the FASB issued new guidance to improve disclosure requirements related to fair value measurements and disclosures. The new requirements include (i) disclosure of significant transfers in and out of Level 1 and Level 2 fair value measurements and the reasons for the transfers; and (ii) disclosure in the reconciliation for Level 3 fair value measurements of information about purchases, sales, issuances, and settlements on a gross basis. The new guidance also clarifies existing disclosures and requires (i) an entity to provide fair value measurement disclosures for each class of assets and liabilities and (ii) disclosures about inputs and valuation techniques. The provisions of this new guidance were adopted in the first quarter of 2010 except for the reconciliation for the Level 3 fair value measurements on a gross basis which was adopted during the first quarter of 2011. During the three, nine and twelve months ended September 30, 2011, the Company had no purchases, sales, issuances or settlements in the Level 3 category. This guidance requires additional disclosure on fair value measurements but did not impact the Company's consolidated financial statements.

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 transactions and compliance with federally-mandated reliability standards. The decisions of the PUCT, NMPRC and the FERC are subject to judicial review.

Texas Regulatory Matters

2009 Texas Retail Rate Case. On December 9, 2009, the Company filed an application with the PUCT for authority to change rates, to reconcile fuel costs, to establish formula-based fuel factors, and to establish an energy efficiency cost-recovery factor. This case was assigned PUCT Docket No. 37690. The filing included a base rate increase which was based upon an adjusted test year ended June 30, 2009.

On July 30, 2010, the PUCT approved a settlement in the 2009 Texas retail rate case in PUCT Docket No. 37690. The settlement called for an annual non-fuel base rate increase of \$17.15 million effective for usage beginning July 1, 2010. The new rate structure resulted in net increases in base rates during the peak summer season of May through October and net decreases in base rates during November through April. This increase was partially offset by the provision that, consistent with a prior rate agreement, effective July 1, 2010, the Company shares 90% of off-system sales margins with customers and retains 10% of such margins. Previously, the Company retained 75% of off-system sales margins. All additions to electric plant in service since June 30, 1993 through June 30, 2009 were deemed to be reasonable and necessary with the exception of one small addition. The Company's new customer information system completed in April 2010 was also included in base rates with a 10-year amortization. The settlement provided for the reconciliation of fuel costs incurred through June 30, 2009 except for the recovery of final Four Corners' coal mine reclamation costs. The fuel reconciliation (Docket No. 38361, discussed below) was bifurcated from the rate case to allow for litigation of the final coal mine reclamation costs. The PUCT also approved the use of a formula-based fuel factor which provides for more timely recovery of fuel costs. The PUCT approved a \$19.7 million or 11% reduction in the Company's fixed fuel factor as the initial rate under the approved fuel factor formula. The PUCT also approved an energy efficiency cost-recovery factor that includes the recovery of deferred energy efficiency costs over a three-year period.

El Paso City Council Actions. On October 4, 2011, the El Paso City Council (the "City") adopted a resolution ordering the Company to show cause why its base rates for electric service within the city limits of El Paso should not be lowered (the "Show Cause Order") which the Company has appealed as discussed below. Pursuant to the Show Cause Order, the Company would be required to file a rate case with the City no later than February 1, 2012. The City would then have until the 185th day after the date that the Company files its rate case to make a determination regarding the Company's base rates in El Paso. If the Company is ultimately required to file a rate case with the City for rates inside the city limits, the Company plans to simultaneously file a rate case with the other cities in its Texas service area and with the PUCT for rates outside any city limits.

The City conducted a hearing on temporary rates on October 25, 2011, and has scheduled an additional hearing for November 15, 2011. The revenues collected under temporary rates, if any, are subject to true-up to higher final rates approved by the PUCT and could be subject to refund if final rates are lower than temporary rates and a refund is authorized by the PUCT. The ultimate authority to set the Company's Texas electric rates is vested in the PUCT.

On October 27, 2011, the Company filed an appeal with the PUCT to set aside the City's Show Cause Order or in the alternative issue an order staying the City's Show Cause Order and corresponding jurisdictional deadlines until the City can establish that it has complied with Texas statutes. The Company intends to vigorously defend its rates, which were lawfully approved only last year by the City and the PUCT as just and reasonable. If the City succeeds in implementing lower rates, the resulting lower rates would have a negative impact on the Company's revenues, net income, and cash from operations. The Company cannot predict the outcome of this matter and the Company is unable to predict the effect, if any, this would have on the Company's future operations, cash flows, and financial condition.

Fuel Reconciliation Case (Severed from 2009 Rate Case). Pursuant to the stipulation in Docket No. 37690, a fuel reconciliation component of the rate case was severed and a separate docket, PUCT Docket No. 38361, was established to address one fuel reconciliation issue not settled by the parties. That single issue was a determination of the proper amount of the Four Corners' coal mine final reclamation costs to be recovered from the Company's Texas retail customers. The hearing on the merits of the case was held on August 11, 2010. On November 23, 2010 the Administrative Law Judge (the "ALJ") issued the Proposal for Decision which approved the Company's request. The PUCT issued a final order approving the Proposal for Decision on January 27, 2011.

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. The Company received approval on July 30, 2010 in PUCT Docket No. 37690 (discussed above), to implement a formula to determine its fuel factor. 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

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EL PASO ELECTRIC COMPANY AND SUBSIDIARY
 NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
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billing month(s) in which customers received the refund amounts shown, including interest (in thousands):

Docket No.	Date Filed	Date Approved	Recovery Period	Refund Period	Refund Amount
37788	December 17, 2009	February 11, 2010	September – November 2009	February 2010	\$11,800
38253	May 12, 2010	July 15, 2010	December 2009 – March 2010	July – August 2010	11,100
38802					