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SOAH DOCKET NO. 473-21-1200  
PUC DOCKET NO. 51476

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APPLICATION OF EL PASO § BEFORE THE STATE OFFICE  
ELECTRIC COMPANY TO §  
AMEND ITS CERTIFICATE OF §  
CONVENIENCE AND NECESSITY § OF  
FOR THE PINE-TO-SEABECK 115-KV §  
TRANSMISSION LINE IN EL PASO §  
COUNTY § ADMINISTRATIVE HEARINGS

SOAH ORDER NO. 6  
MEMORIALIZING PREHEARING CONFERENCE,  
SETTING PROCEDURAL SCHEDULE AND HEARING,  
AND ADDRESSING OTHER PROCEDURAL MATTERS

On June 10, 2021, Administrative Law Judge (ALJ) Pratibha J. Shenoy held a prehearing conference via Zoom in the above-captioned case. El Paso Electric Company (EPE) and the Staff of the Public Utility Commission of Texas (Commission) appeared. Hearing dates and prehearing matters were discussed. **This Order includes important information and should be kept for future reference.**

I. PROCEDURAL SCHEDULE

The parties attending the prehearing conference agreed to the following procedural schedule, and no Intervenor has made any objection. Accordingly, the proposed schedule is adopted and shall apply to this proceeding:

DATE/DEADLINE	EVENT
July 8, 2021	Deadline for statement challenging adequacy of routes and request for preliminary hearing on route adequacy
July 15, 2021	Responses to statements on route adequacy
July 21, 2021 at 10:00 a.m. <sup>1</sup>	Preliminary Hearing on Route Adequacy (if requested and granted)
July 29, 2021	EPE Direct Testimony
August 5, 2021	Objections to EPE Direct Testimony
August 12, 2021	Replies to Objections to EPE Direct Testimony

<sup>1</sup> The ALJ has a scheduling conflict on the proposed date of July 22, 2021.

<b>DATE/DEADLINE</b>	<b>EVENT</b>
September 1, 2021	Discovery Deadline on EPE Direct Testimony
September 1, 2021	Intervenor Direct Testimony or Statement of Position (Intervenors that havenot filed direct testimony or statements of position by this date will be dismissed as parties to this proceeding and will be struck from the service list.)
September 8, 2021	Objections to Intervenor Direct Testimony
September 16, 2021	Replies to Objections to Intervenor Direct Testimony
September 30, 2021	Staff Direct Testimony & Intervenor Cross Rebuttal
October 7, 2021	Objections to Staff Direct Testimony & Intervenor Cross Rebuttal
October 14, 2021	Deadline for discovery on Intervenor Direct and Staff Direct
October 14, 2021	Replies to Objections to Staff Direct Testimony & Intervenor Cross Rebuttal
October 14, 2021	EPE Rebuttal Testimony
October 21, 2021	Objections to Applicant Rebuttal Testimony
November 4, 2021	Replies to Objections to EPE Rebuttal Testimony
November 9, 2021	Deadlines for Discovery on Intervenor Cross Rebuttal, and EPE Rebuttal Testimony
November 15, 2021 <sup>2</sup>	Parties shall designate witnesses and hearing exhibits (see below)
<b>November 17-19, 2021</b>	<b>Hearing on the Merits</b>
January 14, 2022 <sup>3</sup>	Initial Briefs; EPE will file proposed findings of fact, conclusions of law, and ordering paragraphs
January 28, 2022	Reply Briefs; Staff and parties may respond to EPE's proposed findings of fact, conclusions of law, and ordering paragraphs
May 7, 2022	Agreed Revised One-Year Deadline (Statutory deadline for Commission decision)

The parties have agreed that drafts of testimony and statements of position, and emails transmitting such drafts, will not be discoverable.

<sup>2</sup> This deadline was added by the ALJ.

<sup>3</sup> As discussed at the prehearing conference, the proposed briefing deadlines in this docket were adjusted to fall roughly two weeks after the briefing deadlines in a related case (SOAH Docket No. 473-21-1201, PUC Docket No. 51480). The ALJ also extended the first briefing deadline in this docket to avoid conflicts with December holidays and office closures. The record close date of January 28, 2022 in this case is 10 days after the record close date set in the related case.

The parties have also agreed that responses to discovery on EPE's Direct Case, Intervenors' Direct Case, and Staff's Direct Case are due within 10 business days of service.<sup>4</sup> Discovery served on EPE's Rebuttal Case is due within 7 calendar days of service.

It is further **ORDERED** that **by no later than November 15, 2021**:

- The parties **SHALL** confer and file a joint witness list identifying and providing contact information for all witnesses the parties expect to call to testify during the hearing; and identifying witnesses, if any, for whom the parties have waived cross-examination.
- Each party **SHALL** file a list of all exhibits it intends to offer at the hearing (including, for example, on cross-examination).
- Each party **SHALL** deliver to the ALJ at the State Office of Administrative Hearings (SOAH), Room 504, 5th Floor, William P. Clements Building, 300 West 15th Street, Austin, Texas, 78701, *the ALJ's copy and two appeal copies* of all exhibits the party intends to offer. The parties shall also consult with the court reporter and arrange to provide *the record copy* to the court reporter, along with a copy of the party's witness list and exhibit list.<sup>5</sup>

All exhibits **SHALL** be marked with the offering party's name and the exhibit number. Exhibits should be numbered sequentially, and multipage documents shall be paginated or Bates-stamped. Exhibits not meeting a requirement in this order may not be admitted into the record absent good cause.

**Prior to the hearing**, the parties **SHALL** provide to witnesses all documents necessary for their effective participation in the hearing. Parties should also speak to the witnesses they intend to call to testify and provide them the videoconferencing information. All witnesses who are

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<sup>4</sup> The proposed briefing schedule stated that responses to discovery on Intervenor's and Staff's direct cases are due within 10 calendar (not business) days of service. However, the scheduling order in the related case (SOAH Docket No. 473-21-1201, PUC Docket No. 51480) applies the same deadline to all discovery on all parties' direct cases. The ALJ has followed suit in this docket.

<sup>5</sup> The parties may agree among themselves on the method of delivery to each other and may agree to forego delivery to each other of marked copies of exhibits they have already received, relying on the exhibit lists to identify the offering party and exhibit number.

identified for cross-examination by another party must be present for cross-examination at the hearing on the merits, unless the cross-examination is waived by all identifying parties.

The filing procedures and service requirements set forth in prior SOAH Orders continue to apply to this case.

## II. NOTICE OF PRELIMINARY HEARING AND NOTICE OF HEARING ON THE MERITS

As reflected in the schedule above, **the preliminary hearing on the adequacy of routes (if requested by July 8, 2021) will convene at 10:00 a.m. on July 21, 2021.** The preliminary hearing, if requested, will be convened via Zoom videoconference and the ALJ will issue an order with instructions for participation. **If a preliminary hearing is not requested on or before July 8, 2021, this preliminary hearing on route adequacy is automatically canceled.**

**The hearing on the merits will convene at 9:00 a.m. on November 17, 2021,** and the hearing is expected to last **three days**. In response to the COVID-19 pandemic, most hearings before SOAH are being convened remotely. Accordingly, the ALJ anticipates that this hearing will be convened using the Zoom videoconferencing platform. An order with instructions for participation will be issued closer to the hearing.

**If you wish to have an in-person hearing, you must file a written request and show good cause as to why the use of remote technologies is not feasible or in the interest of justice.** Upon an adequate showing of good cause, an in-person hearing (or preliminary hearing) may be scheduled, but this may necessitate rescheduling the hearing.

### III. SUFFICIENCY OF APPLICATION AND NOTICE, AND DEADLINE FOR DECISION

On December 21, 2020, a Commission ALJ found that EPE's November 16, 2020 application was administratively complete and the notice was sufficient.<sup>6</sup> At the prehearing conference, the parties in attendance agreed that there are no issues regarding completeness or notice. No other party has filed any comment or objection addressing these matters. Accordingly, the ALJ finds that the May 7, 2021 Amended Application is administratively complete and that EPE gave sufficient notice of the Amended Application.

Under PURA § 37.057 and 16 Texas Administrative Code § 25.101(b), the Commission shall render a decision approving or denying an application for a certificate of convenience and necessity within one year of the date of filing a complete application for such a certificate, unless good cause is demonstrated for extending such a period. Therefore, unless good cause is demonstrated, the Commission must issue a decision on this application by May 7, 2022.<sup>7</sup> The Commission's current open meeting calendar does not show the dates that it will convene open meetings in the spring of 2022.

### IV. ADOPTING PROTECTIVE ORDER

EPE has requested entry of the Commission's standard protective order. No party objected to the motion, which is granted. The Commission's standard form of protective order is adopted and shall govern in this case. Promptly after receipt of this order, EPE **SHALL** file the standard protective order or a letter stating where it has been filed in this case.

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<sup>6</sup> Commission Order No. 2 (Dec. 21, 2020).

<sup>7</sup> Although the application in this docket was filed November 16, 2020, an amended application was filed in the related case (SOAH Docket No. 473-21-1201, PUC Docket No. 51480) on May 7, 2021. The parties agreed to extend the decision deadline in both cases to May 7, 2022.

## V. INTERVENORS' TESTIMONY OR POSITION STATEMENTS

As noted in the Procedural Schedule above, intervenors must file either written testimony or a statement of position by **September 1, 2021**. Intervenors must understand that **the initial comment or letter submitted to intervene in this case is not a statement of position or direct testimony**. Intervenors may wish to submit the same information, but they must file and label the information as direct testimony or a statement of position.<sup>8</sup> Each position statement or testimony shall include a statement of the routes or links the witness or party opposes and/or supports.

**Any intervenor who does not file either written testimony or a position statement by September 1, 2021, will be dismissed from this case and prohibited from further participation.**

## VI. COURTESY COPIES

SOAH has recently implemented revised procedures relating to emailing courtesy copies to SOAH. Accordingly, in this docket, the parties **SHALL NOT** email courtesy copies of any document to SOAH. For the convenience of the ALJ, the parties may file Microsoft Word (Word) versions of prefiled testimony or briefs, if any, on the Commission's Interchange.<sup>9</sup> If the ALJ needs a Word version of prefiled testimony and briefs, the ALJ will either (1) download a Word version from the Interchange if it is available or (2) convert the PDF version on the Interchange to a Word version. If that is insufficient, the ALJ will issue an order providing instructions on how to submit courtesy Word versions of prefiled testimony and briefs to SOAH. The ALJ does not need a Word

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<sup>8</sup> A statement of position clarifies a party's position but is not sworn-to, is not considered evidence, and is not subject to cross-examination. Prefiled direct testimony, on the other hand, is sworn-to, is evidence, and is subject to cross-examination.

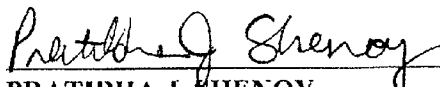
<sup>9</sup> See 16 Tex. Admin. Code § 22.72(i)(1) ("Electronic filings shall be made in accordance with the current list of preferred file formats available in Central Records and on the commission's World Wide Web site") and <https://www.puc.texas.gov/industry/filings/FilerFaq.aspx> (listing Microsoft Word as a common file type that the Commission Interchange supports).

version of any material covered by a Protective Order or of any filing in this case except prefiled testimony or briefs.

#### VII. ADDITIONAL INFORMATION

Routine procedural and logistical questions may be directed to the ALJ's Legal Secretary, Taryn Lovett, at Taryn.Lovett@soah.texas.gov. SOAH support personnel may not provide advice or interpret orders or other legal authorities for the parties.

**SIGNED June 24, 2021.**



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**PRATIBHA J. SHENOY**  
**ADMINISTRATIVE LAW JUDGE**  
**STATE OFFICE OF ADMINISTRATIVE HEARINGS**