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SOAH DOCKET NO. 473-21-2606

PUC DOCKET NO. 52195

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APPLICATION OF EL PASO
ELECTRIC COMPANY TO
CHANGE RATES

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BEFORE THE STATE OFFICE
OF
ADMINISTRATIVE HEARINGS

SOAH ORDER NO. 2

**MEMORIALIZING PREHEARING CONFERENCE; ADMITTING INTERVENORS;
FINDING APPLICATION AND NOTICE SUFFICIENT; ADOPTING PROCEDURAL
SCHEDULE; RESETTING EFFECTIVE DATE; ADOPTING PROTECTIVE ORDER**

On June 25, 2021, a prehearing conference convened. The following parties appeared through counsel: El Paso Electric Company (EPE), Staff of the Public Utility Commission of Texas, the Office of Public Utility Counsel (OPUC); the City of El Paso; Texas Industrial Energy Consumers (TIEC); Freeport-McMoran, Inc., University of Texas El Paso (UTEP). The parties discussed pending motions to intervene, the sufficiency of the application and notice, the protective order, the procedural schedule, and the revised effective date

I. INTERVENORS

The following parties moved to intervene: OPUC, the City of El Paso, UTEP; Texas Cotton Ginners Association, TIEC, and Freeport-McMoran, Inc. No party objected. The motions are granted and the movants are admitted as parties.

II. SUFFICIENCY OF NOTICE AND APPLICATION

Staff filed recommendations on the sufficiency of the application on June 21, 2021, and the notice on June 25, 2021. No party objected. Based on those recommendations, the application and notice are found to be sufficient.

III. ADOPTING PROTECTIVE ORDER

No party objected to the protective order attached as Exhibit D to the application. It is hereby adopted.

IV. EFFECTIVE DATE

By agreement, the effective date is reset to **May 31, 2022**, from December 3, 2021.¹

V. PROCEDURAL SCHEDULE

EVENT	DATE
Filing date	June 1, 2021
Intervention deadline	September 15, 2021
Deadline for serving written discovery on EPE direct case	October 13, 2021 (Wednesday)
<ul style="list-style-type: none">• Intervenors' direct testimony• Objections to EPE's direct testimony	October 22, 2021 (Friday)
<ul style="list-style-type: none">• Staff's direct testimony• Objections to Intervenors' direct testimony• Replies to objections to EPE's direct testimony	October 29, 2021 (Friday)
<ul style="list-style-type: none">• Replies to objections to Intervenors' direct testimony• Objections to Staff's direct testimony	November 5, 2021 (Friday)
<ul style="list-style-type: none">• Effective date for new rates pursuant to relate back provision of new PURA Section 36.211.	November 3, 2021 (Wednesday)

¹ Agreed procedural schedule (June 24, 2021).

<ul style="list-style-type: none">• Cross-rebuttal testimony (Staff and Intervenors)• EPE's rebuttal testimony• Deadline for serving written discovery on Staff and Intervenor direct testimony• Replies to objections to Staff's direct testimony	November 19, 2021 (Friday)
<ul style="list-style-type: none">• Objections to cross-rebuttal and EPE rebuttal testimony	December 1, 2021 (Wednesday)
<ul style="list-style-type: none">• Deadline for serving discovery on cross-rebuttal and EPE's rebuttal testimony, and deadline for all depositions• Replies to objections to cross-rebuttal and EPE rebuttal testimony	December 15, 2021 (Wednesday)
185th Day	December 3, 2021
Prehearing Conference (via Zoom)	January 5, 2022 (Wednesday)
Hearing on the Merits (via Zoom)	January 10–19, 2022
Post hearing brief	February 4, 2022
Reply brief	February 18, 2022

By filing a written agreement of all parties, any of the foregoing deadlines may be modified, except the dates for the hearing on the merits, which may only be modified by order upon proper motion.

A prehearing conference will convene at **9:30 a.m. on January 5, 2022, via Zoom**. Access instructions will be provided in a later order.

VI. HEARING ON THE MERITS

The hearing on the merits will convene at **9:30 a.m. on January 10, 2022, via Zoom** and continue no later than January 19, 2021. The hearing is expected to last seven days. Zoom access instructions will be provided in a later order.

VII. DISCOVERY AND SERVICE

The following are agreed terms that will govern discovery and service in this proceeding.

A. Discovery

1. Drafts of testimony and emails that include drafts of testimony as attachments are not discoverable.
2. Requests for Information (RFI) shall be limited to no more than 50 questions per party per day, with each subpart counting as a question. Parties will serve RFIs on other parties in a word searchable format.
3. For discovery on EPE's direct case, responses shall be due within 20 calendar days of receipt. For discovery on Intervenor and Staff direct testimony:
 - a. Responses to RFIs shall be due within five working days of receipt.
 - b. Objections to RFIs shall be due within five working days of receipt.
 - c. Motions to compel shall be due within three working days of receipt of the objections.
 - d. Responses to motions to compel shall be due within three working days of receipt of the motion to compel.
4. For discovery on EPE's rebuttal testimony and Intervenor and Staff cross-rebuttal testimony:
 - a. Responses shall be due within five working days of receipt.
 - b. Objections to RFIs shall be due within four working days of receipt.
 - c. Motions to compel shall be due within three working days of receipt of the objection.

- d. Responses to motions to compel shall be due within three working days of receipt of the motion to compel.
5. The 3:00 p.m. deadline imposed 16 Texas Administrative Code (TAC) § 22.144(b)(2) (for determining the day a RFI is considered to have been received) is 3:00 p.m. Central Prevailing Time (i.e., 2:00 p.m. Mountain Prevailing Time).
6. November 24, 2021, November 25, 2021, and November 26, 2021 will not be considered working dates for purposes of discovery due to the Thanksgiving holiday.

B. Service of Discovery and Pleadings

1. Service of Unprotected Pleadings, Discovery Requests, and Testimony:

As allowed by 16 TAC § 22.74(c)(4) as a means of service, service of pleadings, discovery requests or testimony not subject to designation as either Protected or Highly Sensitive Protected under the Protective Order (Unprotected) shall be accomplished by serving a copy by email to the email address provided by the party being served.

2. Service of Protected and Highly Sensitive Protected Pleadings, Discovery Requests, and Testimony:

Parties shall serve copies of Protected and Highly Sensitive Protected pleadings, discovery requests, and testimony by email only to those parties who have signed the protective order in accordance with the Order Suspending Rules in Docket No. 50664.

3. Service of Discovery Responses:

a. **EPE's Responses:** EPE will serve copies of discovery responses, including Protected and Highly Sensitive Protected discovery responses, through the use of a secure, password protected electronic workspace that allows access to the particular document. EPE will notify parties by email when the document may be accessed.

b. **Responses by Parties other than EPE:** Parties other than EPE will serve copies of Protected and Highly Sensitive Protected discovery responses by email only to those parties who have signed the protective order in accordance with the Order Suspending Rules in Docket No. 50664.


4. Service by Email:

To the extent that service is being accomplished by email as provided under Paragraph 1 and 3(b) above, service shall be complete upon sending an email message with the pleading or document attached to the message to the email address provided by the party being served. Any party serving a document electronically must include the Commission docket number and a description of the document(s) in the subject line of the email transmitting the document.

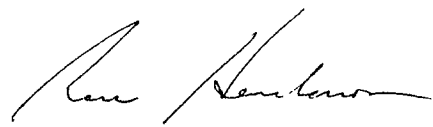
C. Other

1. Deadlines for discovery shall mean the last day to send written discovery. After October 13, 2021, Staff and Intervenors can submit 10 additional discovery questions, counting all subparts, to EPE on or before October 22, 2021.
2. Intervenors agree to serve courtesy copies of testimony to each other and to EPE by email in a word searchable format on the date filed.
3. Parties agree to file and serve workpapers one day after filing testimony.

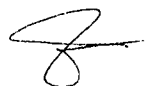
SIGNED June 29, 2021.



CHRISTIAAN SIANO
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS



ROSS HENDERSON
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS



SRINIVAS BEJJARA
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS