



## Filing Receipt

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**SOAH DOCKET NO. 473-21-2606  
PUC DOCKET NO. 52195**

**APPLICATION OF EL PASO  
ELECTRIC COMPANY TO CHANGE  
RATES**

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§

**BEFORE THE STATE OFFICE**

**OF**

**ADMINISTRATIVE HEARINGS**

**COMMISSION STAFF'S RESPONSE TO EL PASO ELECTRIC COMPANY'S  
SECOND REQUEST FOR INFORMATION  
QUESTION NOS. EPE 2-1 THROUGH EPE 2-3**

The Staff of the Public Utility Commission of Texas (Staff) stipulates that the following responses to requests for information may be treated by all parties as if the answers were filed under oath.

Dated: November 19, 2021

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS  
LEGAL DIVISION**

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Division Director

/s/ Robert Dakota Parish  
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**CERTIFICATE OF SERVICE**

I certify that, unless otherwise ordered by the presiding officer, notice of the filing of this document was provided to all parties of record via electronic mail on November 19, 2021, in accordance with the Order Suspending Rules, issued in Project No. 50664

/s/ Robert Dakota Parish  
Robert Dakota Parish

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**EPE 2-1**

On page 29 of her testimony, Staff witness Sears cites three dockets, (Docket No. 49411, Application of CenterPoint Energy Houston Electric, LLC for Authority to change Rates, Docket No. 49494, Application of AEP Texas Inc. for Authority to Change Rates, and Docket No. 49831, and Application of Southwestern Public Service Company for Authority to Change Rates) in support of the three additional financial protection measures Ms. Sears recommends that the Commission require EPE to adopt. With regard to the first financial protection measure ("If EPE's issuer credit rating is not maintained as investment grade by S&P or Moody's, EPE will not use its below-investment-grade ratings to justify an argument in favor of a higher regulatory ROE"), please answer the following questions:

- a. Identify which finding of fact in each of the cases cited by Ms. Sears adopts this financial protection measure.
- b. Explain how such a commitment to not consider financial market credit ratings is consistent with the premise, discussed by Ms. Sears on pages seven to eight of her testimony, that the return should be reasonably sufficient to assure confidence in the financial soundness of the electric utility and should be adequate, under efficient and economical management, to maintain and support its credit and enable it to raise the money necessary for the proper discharge of its public duties.

**RESPONSE:**

- a. While none of the three cases cited contain the specific provision referenced, the specific ring-fencing provision is contained in the following dockets: Docket No. 34077, Finding of Fact 79 (April 24, 2008); and Docket No. 45188, Finding of Fact 226 (March 24, 2016).
- b. The legal standards of Hope and Bluefield, as well as the long history of electric utility regulation, provide that a utility's return should be adequate, under efficient and economical management, to maintain its access to capital. If a utility's credit rating falls below investment grade, its management may not be efficient or economical. Poor management should not be rewarded with a higher return.

Prepared by: Emily Sears  
Sponsored by: Emily Sears

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**EPE 2-2**           With regard to the second financial protection measure recommended by Ms. Sears on page 29 of her testimony ("EPE' s debt will not be secured by non-EPE assets"), is it Ms. Sears or Staff' s contention that under the Regulatory Commitments ordered in Docket No. 49849 EPE could currently secure debt with non-EPE assets?

**RESPONSE:**     It is Ms. Sears' position that the specific ring-fencing provision referenced was not contained in the Regulatory Commitments in Docket No. 49849. Ms. Sears' recommended ring-fencing provisions in this docket conform to ring-fencing provisions from other final orders of the Commission.

Prepared by:     Emily Sears  
Sponsored by:   Emily Sears

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**EPE 2-3**

With regard to the third financial protection measure recommended by Ms. Sears on page 29 of her testimony ("Except for access to the utility money pool and use of shared assets governed by the Commission' s affiliate rules, EPE will not commingle its assets with those of SJH or IIF"), please answer the following questions:

- a. Is it Ms. Sears or Staff' s position that absent this financial protection measure, the Commission' s affiliate rules are inadequate protection of customers from potential commingling of assets by EPE with its affiliates?
- b. Is it Ms. Sears or Staffs position that the Regulatory Commitments ordered in Docket No. 49849 do not prohibit EPE from commingling its assets with SJH or IIF beyond what is allowed under the Commission' s affiliate rules?
- c. Is it Ms. Sears or Staff' s position that if the Commission were to adopt this measure, that EPE would be authorized to have access to a utility money pool irrespective of any Regulatory Commitments ordered in Docket No. 49849?

**RESPONSE:**

- a. It is Ms. Sears' position that the affiliate rules pertain to standards that certain costs must meet in order to be included in an electric utility's cost of service. (It is Ms. Sears's position that the affiliate rules are generally adequate for this purpose.) Ms. Sears' recommendation relates to ring-fencing provisions that are separate and distinct from the Commission's affiliate rules.
- b. It is Ms. Sears' position that the regulatory commitments contained in Docket No. 49849 prohibit any pledging of EPE's assets under Finding of Fact No. 60 (j). This regulatory commitment differs from the Commission's affiliate rule. (Please see the above response to RFI No. EPE 2-3a.) It is Ms. Sears' position that the specific ring-fencing provision referenced early in this RFI is not contained in Docket No. 49849. Ms. Sears's recommended ring-fencing provisions in this docket conform to ring-fencing provisions from other final orders of the Commission.

- c. No. It is Ms. Sears' position that the regulatory commitments ordered in Docket No. 49849 prohibit any credit facilities under Finding of Fact No. 60 (m). It is also Ms. Sears' position that in addition to the three new recommended provisions in this docket that all the provisions ordered in Docket No. 49849 continue to apply.

Prepared by: Emily Sears  
Sponsored by: Emily Sears