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

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| APPLICATION OF EL PASO | § | PUBLIC UTILITY COMMISSION |
| ELECTRIC COMPANY TO CHANGE | § | |
| RATES | § | OF TEXAS |

**DIRECT TESTIMONY BY INTERVENOR LOCAL 960 OF
THE INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS,
AFL-CIO**

Pursuant to the Presiding Administrative Law Judges Christiaan Siano, Ross Henderson, and Srinivas Behara's SOAH Order No. 2 (dated June 29, 2021), Intervenor Local 960 of the International Brotherhood of Electrical Workers, AFL-CIO hereby submits Cross-Rebuttal Testimony in this matter.

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| APPLICATION OF EL PASO | § | PUBLIC UTILITY COMMISSION |
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| RATES | § | OF TEXAS |

CROSS-REBUTTAL TESTIMONY

OF

DAVID K. BAZAR

FOR

INTERVENOR LOCAL 960 OF

THE INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS,

AFL-CIO

November 19, 2021

I. INTRODUCTION

Q1. Please state your name and business address.

A1. David K. Bazar. My business address is 3211 E. Yandell Drive, El Paso, Texas 79903.

Q2. Are you the same David K. Bazar whose direct testimony was filed in this docket on October 22, 2021?

A2. Yes.

Q3. On whose behalf are you filing this cross-rebuttal testimony?

A3. This cross-rebuttal testimony is filed on behalf of Local 960 of the International Brotherhood of Electrical Workers, AFL-CIO ("IBEW Local 960").

Q4. Have you had an opportunity to review the direct testimony submitted by the other intervenors in this docket?

A4. Yes, I have.

Q5. Has IBEW Local 960 changed its position with regard to any of its testimony?

A5. No, IBEW Local 960 continues to support the points outlined at 2:14-3:02 and 9:05-07 of my Direct Testimony, filed October 22, 2021.

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1 **Q6. In their respective direct testimonies, multiple witnesses, including Billie S. LaConte**
2 **on behalf of Freeport-McMoran, Inc., Alex J. Kronauer on behalf of Walmart, Inc.,**
3 **and Michael P. Gorman on behalf of Texas Industrial Energy Consumers, reference**
4 **the return on equities (“ROE”) that have been approved for other utilities as a**
5 **comparison marker for what ROE EPE should receive. Do you agree that this is an**
6 **appropriate factor to review for purposes of assessing EPE’s proposed ROE of**
7 **10.3%?**

8 A6. No. My layman’s understanding of this standard is that an authorized ROE must be
9 sufficient to maintain the utility’s financial integrity, enable the utility to attract capital
10 under reasonable terms, and be commensurate with returns that those investors could earn
11 by investing in other enterprises of comparable risks. *Bluefield Water Works &*
12 *Improvement Co. v. Public Service Comm’n of West Virginia*, 262 U.S. 679 (1923) and
13 *Federal Power Comm’n v. Hope Natural Gas Co.*, 320 U.S. 591 (1944). Individuals invest
14 in business and other productive assets because they expect a return on the capital they
15 invest. Unless this return is equivalent to the amount they could receive from investments
16 of comparable risk, investors will not invest capital in a particular firm. If the Commission
17 fails to set the ROE at a level that will permit investors an adequate return on their
18 investment, then investors will be deterred from making future investments in EPE and
19 existing investors will suffer the loss of the expectation they had when they made their
20 original investment.

21 This analysis is specific to the utility at issue, and while I am not proposing that this
22 determination be done in a vacuum, it is important to be mindful that these are the
23 approved ROEs of completely different utilities in other parts of the country. I believe the
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witnesses that place significant weight on the ROEs of utility companies in other parts of the country with different regulatory risks, sizes, customer bases, and market factors are committing an error.

Q7. What do you propose is a good comparison for purposes of assessing EPE's ROE?

A7. It is my understanding and belief that the proxy companies serve this function much more adequately. In this matter, Jennifer E. Nelson, in her direct testimony, has aptly identified the appropriate proxy companies and how these companies compare to EPE specifically.

Q8. In Billie S. LaConte's Direct Testimony on behalf of Freeport-McMoran, Inc. (dated Oct. 22, 2021), she states that Ms. Nelson erred in providing that EPE's risk is higher compared to the proxy group. Do you agree with Ms. LaConte's position?

A8. No. In her Direct Testimony, Ms. LaConte provides that EPE does not face higher risks on the basis of its nuclear generation fleet and small size. *Id.* at 24:19-22, 24:23-25:12. However, as Ms. Nelson explained in her direct testimony, there are increased oversight and regulatory requirements and said requirements are constantly scrutinized and changed by the U.S. Nuclear Regulatory Commission ("NRC"). Direct Testimony of Jennifer E. Nelson on behalf of EPE (June 2021) at 55:10-21. There is also the additional uncertainty of NRC's rulemaking for storage and permanent disposal of nuclear waste. *Id.* at 55:22-09.

With regard to EPE's higher risks due to its smaller firm size, Ms. Nelson aptly explains that utility analysts have found that there are risks associated with small market ROE

capitalizations. *Id.* at 56:11-21; *see also id.* at 57:18-59:04. These categories of risk for investors include: 1) liquidity risks and 2) fundamental business risks.

For these reasons and those provided in my direct testimony, IBEW Local 960 continues to support EPE's requested ROE of 10.3%.

Q9. Is there anything else you wish to add?

A9. No.

Q10. Does this conclude your cross-rebuttal testimony?

A10. Yes.

Respectfully submitted,
Lubin & Enoch, P.C.

/s/ Nicholas J. Enoch

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CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing document was efiled with the Public Utility Commission and was served on all Intervenors in this proceeding on this 19th day of November 2021 by facsimile, electronic mail, or first class, U.S. Mail.

/s/ Clara S. Acosta, Esq.