



## Filing Receipt

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**SOAH DOCKET NO. 473-22-04394**  
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<b>APPLICATION OF ENTERGY</b>	<b>§</b>	<b>BEFORE THE STATE OFFICE</b>
<b>TEXAS, INC. FOR AUTHORITY</b>	<b>§</b>	<b>OF</b>
<b>TO CHANGE RATES</b>	<b>§</b>	<b>ADMINISTRATIVE HEARING</b>

**CHARGEPOINT, INC’S REPLY TO  
ENTERGY TEXAS’ OBJECTION**

ChargePoint, Inc. (ChargePoint) respectfully submits this reply in support of ChargePoint’s Motion for Leave to Intervene out of Time (Motion) for the purpose of replying to Entergy Texas, Inc.’s (ETI) Objection.<sup>1</sup> Pursuant to 16 TAC § 22.78(a) of the Texas Public Utility Commission’s (Commission) Rules, a responsive pleading is due within “five working days after receipt of the pleading to which the response is made.” ETI filed its objection on September 9, 2022; thus, ChargePoint’s response is timely filed.

**I. Argument**

**A. ChargePoint has a clear justiciable interest in this proceeding.**

ChargePoint’s Motion made clear that it has a justiciable interest which may be adversely affected by the outcome of the proceeding as required under 16 TAC § 22.103(b). As explained, “ChargePoint would be directly impacted by Entergy’s proposed Transportation Electrification and Charging Infrastructure (TECI) Rider and Transportation Electrification and Charging Demand Adjustment (TECDA) Rider.”<sup>2</sup> ChargePoint seeks intervention to address Riders TECI and TECDA, which implicate issues 67, 68, and 69 raised in the Commission’s Preliminary Order dated August 4, 2022, as shown below:

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<sup>1</sup> ETI Objection at 1.  
<sup>2</sup> ChargePoint Motion at 3.

67. Has Entergy proposed any rate riders? If so, should any of the proposed riders be adopted? If so, what are the appropriate costs to be recovered through the riders, and what are the appropriate terms and conditions of the riders?

68. Is it appropriate for an electric utility in a vertically integrated area to own vehicle charging facilities or other transportation electrification and charging infrastructure, or should the ownership of such facilities be left to competitive providers?

69. Should Entergy be allowed to own transportation electrification and charging infrastructure - including vehicle-charging facilities - in the manner it has proposed in its application, or should such ownership be wholly left to customers or third parties?

To ChargePoint's knowledge, this proceeding will be the first time that the Commission has been asked to approve a proposal by a regulated monopoly utility to spend ratepayer funds to participate in the unregulated, competitive EV charging market. Utilities play an important role in electrifying the transportation sector, but it is crucial that the Commission ensure that ETI's proposed TECI Rider and TECDA Rider tariffs support the competitive market without harming or distorting it. Therein lies ChargePoint's interest. ChargePoint's Motion explained that ETI's proposed TECDA Rider would directly impact the cost of operating EV charging stations and therefore directly impact the value proposition of ChargePoint's products and services. ChargePoint's Motion further explained that ETI's proposed TECI Rider will directly impact ChargePoint's ability to sell its products and services to prospective customers in the Company's service territory. Whether these impacts are positive or negative to ChargePoint's business is yet to be determined and making that determination requires participation in this docket. These interests are far from "attenuated;" rather, they pertain directly to ChargePoint's ability to do business in ETI's service territory. Moreover, even if ChargePoint determines that Rider TECI or Rider TECDA will have positive impacts on ChargePoint, other parties to this proceeding may recommend modifying ETI's proposals in a manner that would negatively impact ChargePoint.

ChargePoint can only protect its substantial interests through participation as a party in this proceeding.

Importantly, ChargePoint's interest does not stem from "competing" with ETI, as ETI claims.<sup>3</sup> ChargePoint merely seeks intervenor status to ensure that the outcome of this case supports, and does not hamper or distort, the competitive market for EV charging equipment and services in ETI's service territory. ChargePoint does not explain whether a positive or negative impact will result from adoption of those two riders, because it does not have adequate information to make that determination at this time. As an intervening party, it will have the ability to obtain that information and make such a determination.

ETI's contention that the Commission should deny ChargePoint's intervention for the same reasons it denied intervention by Southwestern Public Service Company's ("SPS") is misplaced as well. As a separate regulated utility, SPS's interest is easily distinguishable from ChargePoint's. As the Commission notes in SOAH Order No. 4 denying SPS's intervention request, "SPS stated that it seeks to intervene because the Preliminary Order in this case includes two issues that may, it argues, materially impact SPS in its own rate cases." Conversely, ChargePoint is not another Texas regulated utility, nor does it seek to address issues in this case that belong elsewhere. ChargePoint's interests arise directly from ETI's proposals and the potential impacts those proposals will have on ChargePoint. The fact that the Commission chose not to confer intervenor status to SPS is irrelevant to ChargePoint's interest in this proceeding. As ChargePoint's Motion explains, "the nature of ChargePoint's interests and the manner in which the outcome of this proceeding will affect those interests are specific to ChargePoint's business model, its operations,

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<sup>3</sup> ETI Objection at 3.

and its customers in the Company's service territory."<sup>4</sup> ChargePoint's interests are its own and no other party can adequately represent them. Accordingly, the Commission should grant ChargePoint intervenor status.

**B. ChargePoint had good cause for its late intervention request.**

ETI espouses that "ChargePoint's request should not be granted because it proffers an apparently pretextual basis as good cause for its untimely motion."<sup>5</sup> ETI is incorrect. ChargePoint's justiciable interest, its need to protect that interest, and the value ChargePoint will bring to this proceeding significantly outweigh the delay.

ChargePoint initially became aware of this case on August 11, 2022. Upon review, ChargePoint identified its potential substantial interest in the outcome. Subsequently, ChargePoint's counsel began review of ETI's application, accompanying testimony, and exhibits, ultimately advising ChargePoint that intervention was necessary to protect its interest. ChargePoint would have filed for intervention at that time, but was initially misinformed about the need for local counsel to make an appearance in this proceeding. ChargePoint's counsel spent approximately two weeks searching for adequate local counsel to assist. Once that person was identified, they informed ChargePoint's counsel that ChargePoint could participate in the case without local counsel provided it designated an Authorized Representative pursuant to Rule 16 TAC §§ 22.101(a), as noted in the Motion. This was an honest mistake. Notwithstanding, this mistake should not preclude ChargePoint from protecting its interest in this proceeding, as discussed above.

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<sup>4</sup> Motion at 5.

<sup>5</sup> ETI Objection at 1.

Notably, ETI does not allege in its response that it would be prejudiced in any way or that the proceeding might be disrupted by allowing ChargePoint's late intervention. As noted in the Motion, ChargePoint sought intervention well in advance of the October 26, 2022 deadline for discovery and intervenor direct testimony and ChargePoint does not seek any modifications to the procedural schedule. Accordingly, ChargePoint meets each of the four factors for late intervention under 16 Tex. Admin. Code § 22.104(d).

## **II. Conclusion**

For the foregoing reasons, absent intervention, ChargePoint's justiciable interest may be adversely affected by the outcome of this case within the meaning of 16 Tex. Admin. Code §22.103(b)(2). For ChargePoint to properly protect its interests with respect to Issues 67, 68, and 69, it should be granted leave to intervene in this matter to participate in resolution of these issues. ChargePoint respectfully requests the Commission grant its Motion for Leave to Intervene Out of Time, along with any further relief the Commission deems proper.

Respectfully submitted on September 16, 2022,

/s/ Scott F. Dunbar

Scott F. Dunbar  
Colorado Bar No. 44521  
Keyes & Fox LLP  
1580 Lincoln St., Suite 1105  
Denver, CO 80203  
949-525-6016  
sdunbar@keyesfox.com

Lucas A. Fykes  
Ohio Bar No. 98471  
Keyes & Fox LLP  
1580 Lincoln St., Suite 1105  
Denver, CO 80203  
614-285-856

*Counsel to ChargePoint, Inc.*

**Certificate of Service**

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to all counsel of record on September 16, 2022:

/s/ Alicia Zaloga