



## Filing Receipt

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SOAH DOCKET NO. 437-22-04394  
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APPLICATION OF	§	BEFORE THE STATE OFFICE
ENTERGY TEXAS, INC. FOR	§	OF
AUTHORITY TO CHANGE RATES	§	ADMINISTRATIVE HEARING
	§	

**EL PASO ELECTRIC COMPANY'S  
MOTION FOR LEAVE TO INTERVENE**

El Paso Electric Company (EPE) files this Motion for Leave to Intervene in the above-captioned proceeding pursuant to 16 Tex. Admin. Code §§ 22.103 and 22.104.

**I. AUTHORIZED REPRESENTATIVES**

Pursuant to 16 TAC §§ 22.103 and 22.104, EPE seeks to intervene in this proceeding. The names, addresses, and telephone numbers of EPE's authorized representatives are as follows:

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**II. STANDING TO INTERVENE**

EPE is a vertically integrated electric utility that operates in non-ERCOT areas of far west Texas. In its August 4, 2022 preliminary order in this case, the Commission listed the following as an issue to be addressed: "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?"

As a vertically integrated electric utility, EPE has a justiciable interest in whether it is appropriate for such utilities to own electric vehicle ("EV") charging stations and infrastructure, and the Commission recently clarified and determined that it will decide this issue within this proceeding. Under 16 TAC §§ 22.103(b)(2), a person has a right to intervene if that person has or

represents persons with a justiciable interest which may be adversely affected by the outcome of the proceeding. For these reasons, EPE has standing to intervene in this proceeding, limited to the issue of utility ownership of EV charging stations and infrastructure.

### **III. REQUEST FOR LEAVE**

EPE seeks leave to intervene after the August 15, 2022 deadline set by the Commission in this proceeding. Under 16 TAC §§ 22.104(d), a motion to intervene that was not timely filed may be granted considering factors such as whether objections are filed, the movant has good cause for filing after the time prescribed, prejudice to existing parties, and disruption of the proceeding from permitting late intervention. The rule further states, “The presiding officer may impose limitations on the participation of an intervenor to avoid delay and prejudice to the other party.” 16 TAC §§ 22.104(d)(2).

Prior to the Open Meeting on October 6, 2022, it was unclear whether EPE had standing to intervene in Entergy’s base rate case on the issue of EV charging stations and infrastructure ownership. The administrative law judge had denied the request to intervene of another vertically integrated electric utility that provides service in non-ERCOT areas of Texas.<sup>1</sup> At the October 6, 2022 Open Meeting, however, the Commission overruled the ALJ’s denial of the utility’s motion to intervene and clarified and determined that it will decide within this proceeding whether it is appropriate for vertically integrated non-ERCOT utilities to own EV charging stations and infrastructure, which indicated that utilities such as EPE have a justiciable interest in this case. In light of this determination, EPE respectfully requests leave to intervene, limited to the issue of EV charging station and infrastructure ownership and how it applies to utilities such as EPE.

Further, EPE’s intervention will not prejudice the existing parties or disrupt the proceedings. EPE has no objection to the existing procedural schedule and, if permitted to intervene, EPE intends to comply with all established deadlines.

### **IV. CONCLUSION**

EPE has a justiciable interest in the Commission’s decision on whether it is appropriate for vertically integrated utilities to own EV charging stations and infrastructure because it directly impacts the scope of EV-related pilot programs EPE may pursue in its Texas service area, and

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<sup>1</sup> SOAH Order No. 4, Denying Motion to Intervene (Sept. 7, 2022).

EPE's intervention will not disrupt the proceeding. Since the Commission will now decide the appropriateness of utility ownership of charging stations and infrastructure, EPE seeks leave from the Commission because EPE now has a justiciable interest in a specific issue in this case.

#### **V. PRAYER**

WHEREFORE, PREMISES CONSIDERED, EPE respectfully requests that the Commission issue an order granting EPE's Motion for Leave and allow EPE to intervene in this case along with any further relief to which EPE is entitled and the Commission deems appropriate.

Respectfully submitted,

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/s/Rosanna Al-Hakeem

**ATTORNEYS FOR  
EL PASO ELECTRIC COMPANY**

### **CERTIFICATE OF SERVICE**

It is hereby certified that a copy of the foregoing has been served by email on all parties of record who have provided an email address on October 17, 2022.

/s/*Rosanna Al-Hakeem*