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**SOAH DOCKET NO. 473-22-04394
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APPLICATION OF ENTERGY TEXAS, INC. FOR AUTHORITY TO CHANGE RATES	§ § §	BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS
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**ENTERGY TEXAS, INC.’S PROPOSED FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND ORDERING PARAGRAPHS
RELATED TO PRELIMINARY ORDER ISSUE NOS. 68 & 69**

Pursuant to State Office of Administrative Hearings (“SOAH”) Order No. 14, Entergy Texas, Inc. (“Entergy Texas”) timely files its proposed Findings of Fact, Conclusions of Law and Ordering Paragraphs regarding Preliminary Order Issue Nos. 68 and 69 for consideration. These proposed findings, conclusions and ordering paragraphs are not exhaustive, but Entergy Texas respectfully requests that each one present below be included in the Proposal for Decision.

I. Findings of Fact

The Commission makes the following findings of fact.

Applicant

1. Entergy Texas is a Texas corporation registered with the Texas secretary of state under filing number 800911623.
2. Entergy Texas owns and operates for compensation equipment and facilities to generate, transmit, distribute, and sell electricity in Texas.
3. Entergy Texas is required under certificate of convenience and necessity (CCN) number 30076 to provide service to the public and to provide retail electric utility service within its certificated service area.

Application

4. On July 1, 2022, Entergy Texas filed an application requesting authority to change its Texas retail rates based on a historical test year of January 1, 2021 through December 31, 2021, adjusted for known and measurable changes. The application included a request for approval of new Transportation Electrification and Charging Infrastructure

(TECI) and Transportation Electrification and Charging Demand Adjustment (TECDA) Riders.

5. Entergy Texas' application included the direct testimony of 37 witnesses.
6. Entergy Texas filed errata to its application on September 16, 2022.
7. At the prehearing conference on July 22, 2022, the SOAH Administrative Law Judges (ALJs) found Entergy Texas' application sufficient.

Effective Date of Proposed Rates

8. Entergy Texas proposed an effective date of August 5, 2022.
9. Entergy Texas requested that, if the new rates were suspended for a period beyond 155 days after Entergy Texas filed its application, then final rates would related back and be made effective for consumption on and after the 155th day after the rate filing package was filed.
10. In SOAH Order No. 1 issued on July 11, 2022, the SOAH ALJs suspended the effective date of the proposed rates until January 2, 2023.

Notice of the Application

11. On September 21, 2022, Entergy Texas filed the affidavit of Stuart Barrett, in which he attested that Entergy Texas had provided notice of the application via email to all municipalities within Entergy Texas' service area. Mr. Barrett also attested that Entergy Texas had provided notice of the application to the Office of Public Utility Counsel (OPUC).
12. On September 21, 2022, Entergy Texas filed the affidavit of Kendra James in which she attested that Entergy Texas had mailed notice of the application to all affected customers in Entergy Texas' service territory. Further, Ms. James attested that Entergy Texas had published notice at least once a week for four consecutive weeks prior to the effective date of the proposed rate change in newspapers having general circulation in each county of Entergy Texas' service territory.
13. At the prehearing conference on July 22, 2022, the SOAH ALJs found Entergy Texas' notice sufficient.

Interventions

14. At the prehearing conference on July 22, 2022, the SOAH ALJs granted intervenor status to the following parties: OPUC, Texas Industrial Energy Consumers (TIEC), and the

Cities of Anahuac, Beaumont, Bridge City, Cleveland, Dayton, Groves, Houston, Huntsville, Liberty, Montgomery, Navasota, Oak Ridge North, Orange, Pine Forest, Pinehurst, Port Arthur, Port Neches, Roman Forest, Rose City, Shenandoah, Silsbee, Sour Lake, Splendora, Vidor, West Orange, and Willis (collectively, Cities).

15. In SOAH Order No. 3 issued on August 19, 2022, the SOAH ALJs granted the interventions of: The Kroger Co. (Kroger); the United States Department of Energy (DOE), on behalf of itself and all other affected Federal Executive Agencies (FEA); Walmart, Inc. (Walmart); FlashParking, Inc. (FlashParking); and Sierra Club.
16. In SOAH Order No. 4 filed on September 7, 2022, the SOAH ALJs denied Southwestern Public Service Company's (SPS) late motion to intervene.
17. In SOAH Order No. 5 issued on September 19, 2022, the SOAH ALJs granted ChargePoint, Inc.'s (ChargePoint) late motion to intervene.
18. In SOAH Order No. 6 filed on October 6, 2022, the SOAH ALJs granted Sempra Infrastructure Partners, L.P.'s (Sempra) late motion to intervene.
19. In Order on Appeal of SOAH Order No. 4 issued on October 20, 2022, the Commission granted SPS's appeal of SOAH Order No. 4, overturned the SOAH ALJs' decision in that order, and granted SPS's late motion to intervene.
20. In SOAH Order No. 8 issued on October 25, 2022, the SOAH ALJs granted Americans for Affordable Clean Energy's (AACE) and El Paso Electric Company's (EPE) late motions to intervene.

Appeals of Municipal Ordinances

21. Entergy Texas timely filed with the Commission petitions for review of rate ordinances of the municipalities exercising original jurisdiction within its service territory.
22. In SOAH Order No. 3 issued on August 19, 2022, the SOAH ALJs consolidated the review of the municipal ordinances adopted by the following cities/towns: Hearne, Patton Village, Daisetta, Madisonville, Bedias, Kosse, New Waverly, Somerville, Iola, Anderson, Todd Mission, Trinity, Franklin, Ames, Caldwell, Colmesneil, Bremond, Taylor Landing, Midway, Groveton, Woodbranch Village, Calvert, Woodloch, Nome, Riverside, Woodville, and Lumberton.
23. In SOAH Order No. 4 filed on September 7, 2022, the SOAH ALJs consolidated the review of the municipal ordinances adopted by the following cities/towns: Kountze,

Cleveland, Normangee, Plum Grover, Hardin, Devers, North Cleveland, Plantersville, and China.

24. In SOAH Order No. 5 issued on September 19, 2022, the SOAH ALJs consolidated the review of the municipal ordinances adopted by the following cities/towns: Cut and Shoot, Corrigan, Bevil Oaks, and Chester.
25. In SOAH Order No. 8 issued on October 25, 2022, the SOAH ALJs consolidated the review of the municipal ordinances adopted by the following cities/towns: Willis, Groves, and Nederland.
26. In SOAH Order No. 11 issued on December 1, 2022, the SOAH ALJs consolidated the review of the municipal ordinances adopted by the following cities/towns: Dayton, Sour Lake, Port Neches, Navasota, Orange, Liberty, Pinehurst, Port Arthur, Anahuac, Bridge City, Rose City, Vidor, and Roman Forest.
27. In SOAH Order No. 13 filed on December 16, 2022, the SOAH ALJs consolidated the review of the municipal ordinances adopted by the following cities/towns: Silsbee, Beaumont, and Pine Forest.
28. In SOAH Order No. 15 issued on January 24, 2023, the SOAH ALJs consolidated the review of the municipal ordinance adopted by the City of West Orange.

Testimony and Statements of Position

29. On October 26, 2022, the following intervenors filed direct testimony: Walmart, SPS, Sierra Club, Cities, OPUC, TIEC, ChargePoint, and FlashParking.
30. On October 26, 2022, the following intervenors filed statements of position: AACE and EPE.
31. On November 2, 2022, Commission Staff filed direct testimony.
32. On November 9, 2022, Commission Staff filed late direct testimony.
33. On November 16, 2022, Entergy Texas filed rebuttal testimony.
34. On November 16, the following parties filed cross-rebuttal testimony: ChargePoint, SPS, Cities, OPUC, and TIEC.
35. On November 30, 2022, the following intervenors filed statements of position: Sempra, AACE, and Sierra Club.

Referral to SOAH

36. On July 6, 2022, the Commission referred this case to SOAH.

37. On August 4, 2022, the Commission issued a preliminary order.

Written Submission for Preliminary Order Issue Nos. 68 and 69

38. In SOAH Order No. 11 issued on December 1, 2022, the SOAH ALJs adopted Entergy Texas' proposal to have Preliminary Order Issue Nos. 68 and 69 decided on written submission.

Evidentiary Record

39. On December 16, 2022, Entergy Texas filed a Joint Motion to Admit Evidence on behalf of itself, Commission Staff, OPUC, Cities, TIEC, Sierra Club, Kroger, FEA, Walmart, FlashParking, SPS, ChargePoint, Sempra, AACE, and EPE.

40. Entergy Texas requested that the documents identified in Exhibit A to its Joint Motion be admitted into evidence.

41. In SOAH Order No. 14 filed on December 28, 2022, the SOAH ALJs admitted the documents listed in Exhibit A to the Joint Motion to Admit Evidence.

Briefs

42. The following parties submitted initial briefs on Preliminary Order Issue Nos. 68 and 69 on January 13, 2023: Entergy Texas, SPS, AACE, FlashParking, ChargePoint, OPUC, and Commission Staff.

43. The following parties submitted reply briefs on Preliminary Order Issue Nos. 68 and 69 on January 27, 2023: Entergy Texas, SPS, EPE, AACE, ChargePoint, OPUC, and Commission Staff.

44. Proposed findings of fact, conclusions of law, and ordering paragraphs regarding Preliminary Order Issue Nos. 68 and 69 were filed on January 31, 2023.

Preliminary Order Issue No. 68

45. There are approximately 80,000 electric vehicles registered in Texas, and that number is expected to reach 1,000,000 vehicles by the year 2028.

46. Current charging infrastructure investment is insufficient in many areas of Texas to support existing and expected future electric vehicles.

47. Rural areas lack adequate access to electric vehicle charging facilities.

48. Expanding access to and facilitating the market for electric vehicle charging facilities is consistent with state policy.

49. Electric utilities in the vertically integrated areas are well positioned to help further the state's policy of expanding access to and facilitating the market for electric vehicle charging facilities.
50. It is appropriate for an electric utility in a vertically integrated area to own vehicle charging facilities or other transportation electrification (TE) and charging infrastructure.

Preliminary Order Issue No. 69

51. Entergy Texas should be allowed to own TE and charging infrastructure, including vehicle-charging facilities, in the manner it has proposed in its application.

a. TECI Rider

52. Under Entergy Texas' proposed TECI Rider, General Service (GS) customers will be afforded an opportunity to contract with Entergy Texas to obtain TE infrastructure and equipment.
53. The TECI Rider is similar to Entergy Texas' existing Additional Facilities Additional Facilities Charge (AFC) Rider, Option B. Both riders are voluntary, and under each Entergy Texas constructs, owns, and operates electric facilities for a customer who in turn pays for the facilities under a fixed monthly charge.
54. Entergy Texas will partner with existing competitive TE providers to provide customers choices regarding infrastructure types, initial cost, operations and maintenance plans, and other features that will suit a specific customer's needs.
55. Customers that choose to participate in the TECI Rider will be able to choose the charging equipment and the network service provider from a list of prequalified vendors.
56. The costs incurred by Entergy Texas for the equipment, installation, and ongoing operations and maintenance expenses will be added to each participating TECI Rider customer's monthly electric bill as a fixed payment.
57. Entergy Texas' cost recovery from participating TECI Rider customers is reasonable, fair, and appropriate.
58. The terms and conditions contained in the TECI Rider are reasonable and appropriate.
59. Entergy Texas' TECI Rider is reasonable and should be approved.

b. TECDA Rider

60. Entergy Texas' TECDA Rider provides demand charge relief and reduces electric bill uncertainty for customers installing separately metered charging equipment.
61. The TECDA Rider limits the amount of demand billed under Rate Schedule GS to a qualifying customer during any billing period in which the actual calculated load factor is less than 15 percent.
62. Under the Rate Schedule GS with the TECDA Rider applied, the amount of Billing Demand billed to EV charging stations will be the lesser of: (a) measured demand (kilowatts (kW)), as conventionally determined and subject to the terms of the GS; or (b) adjusted demand (kW), as calculated based on actual usage and a minimum 15 percent monthly load factor.
63. The TECDA Rider is self-correcting and will phase out over time. As charging station utilization improves with the increased adoption of EVs above the 15 percent monthly load factor floor, the participating customers' bills will automatically adjust to the standard rates under Rate Schedule GS.
64. The Ratepayer Impact Measure test shows that the TECDA Rider results in net benefits through lower rates to Entergy Texas customers over a ten-year period.
65. The TECDA Rider is limited to customers with electric load less than or equal to 1,500 kW for a term of five years and will be available for only the first 30,000 kW of electric load that enrolls and becomes operational after the TECDA Rider is approved.
66. The terms and conditions contained in the TECDA Rider are reasonable and appropriate.
67. Entergy Texas' TECDA Rider is reasonable and should be approved.

II. Conclusions of Law

The Commission makes the following conclusions of law.

1. Entergy Texas is a public utility as that term is defined in PURA¹ § 11.004(1) and an electric utility as that term is defined in PURA § 31.002(6).

¹ Public Utility Regulatory Act, Tex. Util. Code §§ 11.001-66.016 (2021) (PURA).

2. The Commission exercises regulatory authority over Entergy Texas and over the subject matter of this application under PURA §§ 14.001, 32.001, 36.001 through 36.112 and 36.211.
3. The Commission has jurisdiction over an appeal from municipalities' rate proceedings under PURA § 33.051.
4. SOAH exercised jurisdiction over this proceeding under PURA § 14.053 and Texas Government Code § 2003.049.
5. This docket was processed in accordance with the requirements of PURA, the Texas Administrative Procedure Act,² and Commission rules.
6. Entergy Texas provided adequate notice of its application in compliance with PURA § 36.103 and 16 Texas Admin. Code (TAC) § 22.51(a) and filed affidavits attesting to the completion of notice in compliance with 16 TAC § 22.51(d).
7. PURA does not prohibit vertically integrated utilities from owning TE infrastructure and equipment.
8. The tariffs approved in this Order are just and reasonable; are not unreasonably discriminatory, preferential, or prejudicial; are sufficient, equitable, and consistent in application to each class of customer; and meet the requirements of PURA § 36.003.
9. The tariffs approved in this Order meet the requirements of PURA § 36.003 and 16 TAC § 25.234(a).

III. Ordering Paragraphs

In accordance with these findings of fact and conclusion of law, the Commission issues the following orders.

1. Entergy Texas' TECI and TECDA Riders described in this Order are approved effective on the date of this Order.
2. Within 20 days of the date of this Order, Entergy Texas must file a clean record copy of the tariffs approved in this Order, with the approved effective dates, with Central Records to be marked *Approved* and filed in the Commission's tariff books.

² Tex. Gov't Code Ann. §§ 2001.002-2001.902 (APA).

3. The Commission denies all other motions and any other requests for general or specific relief, if not expressly granted.

Respectfully submitted,

/s/ Lino Mendiola, III

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ATTORNEYS FOR ENTERGY TEXAS, INC.

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Entergy Texas, Inc.'s Proposed Findings of Fact and Conclusions of Law was served by electronic delivery on all parties of record in this proceeding on January 31, 2023.

/s/ Sarah Merrick
