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SOAH Docket No. 473-24-17664

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**BEFORE THE
STATE OFFICE OF ADMINISTRATIVE
HEARINGS**

**APPLICATION OF EL PASO ELECTRIC COMPANY TO
ADJUST ITS ENERGY EFFICIENCY COST RECOVERY
FACTOR**

**SOAH ORDER NO. 2
ADOPTING AGREED PROCEDURAL SCHEDULE; SETTING HEARING ON
THE MERITS; PRE- AND POST-HEARING PROCEDURES**

I. ADOPTING AGREED PROCEDURAL SCHEDULE

On May 20, 2024, El Paso Electric Company (EPE) filed an agreed procedural schedule on behalf of itself and City of El Paso, Texas Industrial Energy Consumers, and staff (Staff) of the Public Utility Commission of Texas (Commission). As such, the following proposed schedule is **ADOPTED** and shall govern this proceeding unless otherwise ordered:

| Event | Deadline |
|--|------------------------|
| Deadline to intervene | June 17, 2024 |
| Deadline to serve discovery on EPE direct | July 12, 2024 |
| Intervenor Direct Testimony; Objections to EPE direct | August 9, 2024 |
| Staff Direct Testimony; Objections to Intervenor Direct | August 16, 2024 |
| Objections to Staff Direct; Replies to Objections to Intervenor Direct | August 23, 2024 |
| Deadline to serve discovery on Staff Direct and Intervenor Direct | August 23, 2024 |
| EPE Rebuttal; Intervenor Cross-Rebuttal | August 29, 2024 |
| Replies to Objections to Staff Direct | August 30, 2024 |
| Statement of positions if necessary pursuant to 16 Tex. Admin. Code 22.124 | August 30, 2024 |
| Deadline to serve discovery on Rebuttal and Cross-Rebuttal | September 3, 2024 |
| Objections to Rebuttal and Cross- Rebuttal | September 3, 2024 |
| Replies to objections to Rebuttal and Cross-Rebuttal | Live at hearing |
| Submit hearing exhibits, exhibit lists, witness lists, and order of presentation ¹ | September 4, 2024 |

¹ See instructions for prehearing exhibit submissions below.

| | |
|--|---|
| Hearing on the merits² | September 9, 2024 (by Zoom 9:30 a.m. (CT)) |
| Initial Briefs (EPE's proposed findings of fact, conclusions of law, and ordering paragraphs) | September 18, 2024 |
| Reply Briefs (other parties' responses to EPE's proposed findings of fact, conclusions of law, and ordering paragraphs) | September 25, 2024 |

The parties' following agreed discovery procedures are also **ADOPTED** and shall govern in this proceeding unless otherwise ordered:

1. Drafts of testimony and emails that include drafts of testimony as attachments are not discoverable.
2. Responses to discovery on EPE's direct testimony will be due in 20 calendar days.
3. Responses to discovery on Intervenors' and Staff's direct testimony will be due in 5 calendar days.
4. Responses to discovery on rebuttal and cross-rebuttal will be due in 5 calendar days.
5. Parties agree to service by email except that EPE may serve discovery responses by use of secure workspace.

² The City of El Paso requested a hearing in this proceeding on May 20, 2024.

II. SETTING HEARING ON THE MERITS

The hearing on the merits will be held at **9:30 a.m. (CT) on September 9, 2024**, remotely via Zoom videoconference.³ The audio portion of the prehearing conference will be recorded, and it will be the official record of the proceeding unless EPE retains a court reporter. Attend the hearing in one of these ways:

To join by computer or smart device, go to
<https://soah-texas.zoomgov.com> and enter:

Meeting ID: 161 699 3460

Video Passcode: PUC764

To join by telephone (audio only), call
+1 669 254 5252, and enter:

Meeting ID: 161 699 3460

Telephone Passcode: 002002

III. PRE- AND POST-HEARING PROCEDURES

As soon as practicable, EPE SHALL:

- Secure a court-reporting service to transcribe the hearing and shall notify the other parties of the service that has been retained; and
- Confirm with the court-reporting service, after conferring with the parties, whether the parties will be exchanging exhibits amongst themselves via

³ 1 Tex. Admin. Code § 155.405(c).

(1) an electronic file-sharing site that the court-reporting service will also have access to, or (2) filings on the Commission's Interchange.⁴

- If the parties do not utilize a file-sharing site, EPE shall confirm how the court-reporting service prefers to receive the parties' electronic pre-hearing exhibits and exhibit lists and shall notify the other parties of that preferred process.

By 3:00 p.m. (CT) on September 4, 2024, the parties **SHALL** comply with the following requirements:

- EPE shall, after conferring with parties as needed, file on the Commission's Interchange:
 - A list of persons who have signed the Protective Order adopted in this proceeding;
 - A proposed order of presentation, witnesses, and cross-examination for the hearing; and
 - A list of witnesses for whom cross-examination has been waived.
- Each party shall submit electronic copies of (1) a list of all witnesses the party intends to call to testify during the hearing, listed in the order that the party intends to call them, (2) a list of all exhibits the party intends to offer at the hearing in MS Word format (including, for example, on cross-examination, if known prior to the hearing); and (3) all exhibits included on the party's exhibit list, to the following persons/entities as described below:
 - **To SOAH:** by electronic submission via SOAH's MOVEit platform. On August 30, 2024, the parties will receive an email from SOAH's Secure File Transfer (noreply@moveitcloud.com) with a link to access the secure MOVEit platform.
 - ☞ Any file or folder uploaded via MOVEit SHALL be compressed (i.e., zipped).

⁴ The parties may agree upon an alternative delivery method for providing each other with exhibits and the required information below.

- ☞ If a party seeks to upload more than 10 files, the party SHALL upload a zipped folder containing the separate files.
- ☞ If applicable, parties SHALL upload subfolders containing and identifying any Protected Materials or Highly Sensitive Protected Materials.
- **To other parties:** by either uploading to the applicable file-sharing site or filing on the Commission's Interchange.⁵
- **To the court reporter:** by access to the file-sharing site or by the court-reporting service's preferred process (as confirmed and disseminated to the parties by EPE).

Cross-examination exhibits not included in the parties' initial pre-hearing exhibit submissions **SHALL** be submitted along with an updated exhibit list **no later than 7:00 p.m. (CT) before each day of the hearing that the party anticipates using the exhibits during the following day of hearing** to the following persons/entities as described below:

- **To SOAH:** by electronic submission via SOAH's MOVEit platform (described above).
- **To other parties:** by either uploading to the file-sharing site or through another delivery method agreed upon by the parties.
 - Parties shall upload/provide cross-examination exhibits that include Protected Materials or Highly Sensitive Protected Materials to either (1) a separate folder on the file-sharing site that may be accessed only by parties that signed the Protective Order; or (2) through an alternative delivery method to only to those parties that signed the Protective Order
- **To court reporter, if applicable:** by access to the file-sharing site or by the court-reporting service's preferred process (as confirmed and disseminated to the parties by EPE).

⁵ Or alternative delivery method agreed upon by the parties.

After the Hearing:

- **No later than the first business day following the conclusion of the hearing**, the parties shall confer and arrange to organize the admitted, record set of exhibits. All exhibits should be readily identifiable by specific folder (*e.g.*, EPE Admitted Exhibits, Staff Admitted Exhibits, etc.). A party's failure to timely include its exhibits in the record set of exhibits may result in submission of an incomplete record to the agency.
- **No later than the second business day following conclusion of the hearing**, the parties shall submit the final, record set of exhibits in electronic format to the court-reporting service, which contains all exhibits that were admitted as evidence or accompanied by an offer of proof. 1 Tex. Admin. Code § 155.101(b)(1)(G)(iii). This set of exhibits will constitute the "record set" that SOAH will send to the Commission when SOAH's involvement has concluded.

Requirements for parties' pre- and post-hearing exhibits lists and exhibits:

- Exhibit lists shall identify any exhibit containing Protected Materials or Highly Sensitive Protected Materials under the Protective Order adopted in this proceeding.
- Exhibits shall be marked with the offering party's name and the exhibit number.
- Exhibits should be numbered sequentially, and multipage documents shall be paginated or Bates-stamped.
- Exhibits not meeting a requirement in this order may not be admitted into the record absent good cause.

Signed May 22, 2024

ALJ Signature(s):

A handwritten signature in cursive script, reading "Meaghan Bailey", written over a horizontal line.

Meaghan Bailey

Presiding Administrative Law Judge