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DOCKET NO. 47472

COMMISSION STAFF'S PETITION TO
DETERMINE REQUIREMENTS FOR
SMART METER TEXAS

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PUBLIC UTILITY COMMISSION
OF TEXAS

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PUBLIC UTILITY COMMISSION
FILING CLERK

JOINT UTILITIES' MOTION FOR REHEARING

AEP Texas Inc.; CenterPoint Energy Houston Electric, LLC; Oncor Electric Delivery Company; and Texas-New Mexico Power Company (together, the Joint Utilities) respectfully move the Commission for a rehearing on the Commission's order issued in this docket on May 24, 2018 (the Order) to address limited clarifications. This motion is made pursuant to and in conformance with 16 Tex. Admin. Code (TAC) § 22.264 and the Administrative Procedure Act, Tex. Gov't Code § 2001.146(a). The grounds for this motion are set out below, and the specific clarifications to the Order that the Joint Utilities move the Commission to adopt on rehearing are reflected in Exhibit A attached to this motion.

The Order Needs Clarification to Correctly Specify the Basis for the Commission's Grant of a Waiver to 16 TAC § 25.130(g)(1)(j).

As described more fully below, the Order's description of the basis of the Commission's granting of the request waiver from 16 TAC § 25.130(g)(1)(j) is internally inconsistent. On May 2, 2018, the parties in this case filed a Joint Request for Waiver with the Commission¹ seeking a waiver from the requirement in 16 TAC § 25.130(g)(1)(j) that

¹ The following parties joined in the Joint Request for Waiver: Commission Staff, the Office of Public Utility Counsel, the Joint Utilities, Alliance for Retail Markets, Texas Energy Association of Marketers, Steering Committee of Cities Served by Oncor, EnerNOC, Inc., MP2 Energy Texas, LLC, Brasovan Energy's Electricity Users Group, Engie Resources LLC, Mission:data Coalition, Inc., Texas Advanced Energy Business Alliance, and The Energy Professionals Association.

each Joint Utility's advanced metering system (AMS) must provide the "capability to communicate with devices inside the premises . . . through a home area network (HAN), based on open standards and protocols that comply with nationally recognized non-proprietary standards."² One of the grounds asserted by the parties to support the waiver was that Smart Meter Texas 2.0 (SMT 2.0) will provide an adequate substitute for the HAN-related AMS requirements in 16 TAC § 25.130(g)(1)(J) through its enhanced on-demand read functionality.³ Under 16 TAC § 25.130(g)(3), the existence of an adequate substitute for any of the AMS requirements listed in 16 TAC § 25.130(g)(1) is sufficient grounds for granting a waiver from such requirements.

In Finding of Fact No. 62E, the Commission finds that the "functionality of on-demand read that would be available on SMT through the revised business requirements attached to the settlement agreement, as modified by this Order, provides an adequate substitute for HAN functionality." In addition, Find of Fact No. 62F finds that "[i]f it operates in accordance with the business requirements attached to the settlement agreement, as modified by this Order, SMT provides an adequate substitute for HAN functionality." Those findings are supported by the record in this case and are correct findings. Those findings alone support the Commission's grant of the Joint Request for Waiver. However, in three places in the Order, the description of how the utilities will provide the required on-demand reads is inconsistent with Findings of Fact Nos. 62E and 62F and appears to provide a second "adequate basis" for the waiver that is not consistent with the evidence supporting the Joint Request for Waiver.

² Joint Request for Waiver at 2.

³ See Second Supplemental Testimony of Donny R. Helm, pp. 8-10.

First, on page 2, the Order provides the following: “That substitute is that AEP Texas, CenterPoint, Oncor and TNMP have agreed to support HAN technology separately through their advanced metering systems instead of through SMT.” To be consistent with Finding of Fact 62E and to be consistent with what the Stipulating Parties have agreed to, this sentence should reflect that the utilities will provide on-demand reads through SMT. (The Joint Utilities’ support of HAN functionality for customers with existing HAN devices is discussed below.) More specifically, the Joint Utilities respectfully request that this sentence should be revised as follows:

“That substitute is that AEP Texas, CenterPoint, Oncor and TNMP have agreed to provide on-demand meter reads ~~support HAN technology separately through their advanced metering systems instead of through SMT.~~”

Similarly, Finding of Fact No. 62I should be revised to reflect that the provision of the on-demand read functionality is an adequate substitute for HAN functionality. The Joint Utilities respectfully request that this finding be revised as follows:

“On-demand read functionality ~~The utilities’ advanced metering systems, as implemented through SMT and the utilities’ respective initiatives, are~~ is an adequate substitute for HAN functionality.”

For consistency, Conclusion of Law 14B also requires a similar revision, which is shown below:

“On-demand read functionality ~~The utilities’ advanced metering systems as implemented through SMT and the utilities’ respective initiatives are~~ is an adequate substitute for HAN functionality on SMT under 16 TAC § 25.130(g)(3).”

If these three provisions in the Order are not revised, then the Order will have the unintended effect of denying the Joint Request for Waiver by requiring the Joint Utilities to continue to support HAN functionality through their respective advanced metering systems. The Joint Request for Waiver that the Order granted specifically sought a waiver from the requirement to support HAN functionality, whether through SMT 2.0 or through the Joint Utility's respective advanced metering systems.⁴

The Order Needs Clarification to Correctly Specify the Customers Who Will Continue to Receive HAN Functionality.

On page 2, the Order specifies that utilities may not discontinue supporting a customer's existing HAN device unless the customer requests that the HAN device be disconnected from the customer's meter, and that the decision to disconnect an existing HAN device from the customer's meter is the customer's choice, not the utility's. There are three locations later in the Order, however, in which the Order should be clarified to ensure that the intended group of customers who have HAN devices will continue to receive HAN functionality. Without these revisions, the Order appears to require each utility to provide HAN functionality to all customers through its AMS – not just to those customers who have a device paired to a meter and in use at the time that SMT 2.0 is implemented.

First, Finding of Fact 62G incorrectly indicates that the signatories have agreed that continued HAN functionality would be supported by each utility's advanced metering system and not through SMT. Instead, this finding should state the Commission's intent that

⁴ The only exception that the joint parties made in their waiver request was for "any HAN device that is paired to a meter and in use at the time SMT 2.0 is implemented." See Stipulation at 6. For those HAN devices only, the Joint Utilities agreed that "continued HAN functionality will be supported by each TDUs' AMS system and not through SMT 2.0." See Mr. Helm's Supplemental Testimony in support of the Joint Request for Waiver at 8.

customers who currently have HAN devices will continue to have those devices supported by their utility. To reflect the Commission's decision as correctly described on page 2 of the Order, Finding of Fact No. 62G should be revised as follows:

~~"The signatories agreed that e~~Continued HAN functionality for customers with a HAN device paired to a meter and in use at the time that SMT 2.0 is implemented would be supported by each utility's advanced metering system and not through SMT."

Similarly, Finding of Fact No. 62H should be revised as follows:

~~"It is appropriate for continued HAN functionality for customers with a HAN device paired to a meter and in use at the time that SMT 2.0 is implemented to~~ be supported by each utility's advanced metering system and not through SMT."

Ordering Paragraph No. 4 also requires revision to reflect the customers for whom the Joint Utilities will continue to provide HAN functionality. That Ordering Paragraph should be revised to read as follows:

~~"AEP Texas, CenterPoint, Oncor, and TNMP shall continue to support HAN functionality for those customers with a HAN device paired to a meter and in use at the time that SMT 2.0 is implemented~~ through their respective advanced metering systems."

If the Commission Desires the Joint Utilities to Continue to Provide the HAN Functionality Required by 16 TAC § 25.130(g)(1)(J), the Joint Utilities Request the Commission to Allow Them to Do that through the Existing SMT Business Requirements Relating to HAN Functionality.

If, notwithstanding the existence of an adequate substitute for the HAN requirements specified in 16 TAC § 25.130(g)(1)(J), the Commission desires that the Joint Utilities continue to meet those requirements, then the Joint Utilities request that they be permitted to

continue to meet those requirements as they do today, through SMT and the SMT business requirements related to HAN functionality that are currently in place, rather than through their respective individual advanced metering systems. In that event, the enhanced ODR functionality agreed to by the Stipulation signatories may no longer be cost-justified, since its purpose was to be the adequate substitute for HAN functionality. These changes to the SMT 2.0 business requirements (reinserting the existing SMT business requirements that were struck in the SMT 2.0 business requirements, and striking the enhanced ODR business requirement that was added to the SMT 2.0 business requirements) would be material modifications to the signatories' agreement in the Stipulation. Whether those modifications would cause any of the signatory parties to withdraw from the Stipulations is uncertain, as is the impact such a withdrawal would have on the enforceability of an order that adopts the remaining SMT 2.0 business requirements agreed to in the Stipulation.

If the Commission Rejects this Motion for Rehearing, then the Joint Utilities Respectfully Request that the Commission Vacate the Order and Refer the Proceeding Back to SOAH for Completion of Post-Hearing Processes.

If the Commission rejects the Joint Utilities' request to revise the Order to either (1) find that the Stipulation and the SMT 2.0 business requirements attached to it constitute an adequate substitute for the HAN requirements specified in 16 TAC § 25.130(g)(1)(J) or (2) allow the Joint Utilities to meet them through SMT business requirements related to HAN functionality that are currently in place, then the Joint Utilities respectfully request the Commission to vacate the Order and refer this proceeding back to the State Office of Administrative Hearings (SOAH).

CONCLUSION

The Joint Utilities respectfully urge the Commission to grant this Motion for Rehearing and to revise the Order consistent with the revisions shown in the text of this Motion and on Exhibit A attached to this Motion, or vacate the Order and refer this proceeding back to SOAH. The evidence that has been admitted into the record in this case supports a finding that the enhanced ODR functionality contained in the SMT 2.0 business constitute an adequate substitute for the HAN requirements described in 16 TAC § 25.130(g)(1)(I).

Respectively submitted,

CENTERPOINT ENERGY HOUSTON ELECTRIC, LLC



MICKEY MOON
Assistant General Counsel
State Bar No. 00791291
1111 Louisiana, Suite 4600
Houston, Texas 77002
(713) 207-7231
(713) 454-7197 (fax)
mickey.moon@centerpointenergy.com

ON BEHALF OF THE JOINT UTILITIES

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing was served on all parties of record by hand delivery, electronic mail, overnight delivery, facsimile, or United States first class mail on this 15th day of JUNE, 2018.

