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Addendum StartPage: 0

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

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BEFORE THE STATE OFFICE  
OF  
ADMINISTRATIVE HEARINGS

**CROSS-REBUTTAL TESTIMONY**  
**OF**  
**MARILYN J. FOX**  
**ON BEHALF OF**  
**THE ENERGY PROFESSIONALS ASSOCIATION**

NOVEMBER 14, 2017

S, Y



1 **I. INTRODUCTION**

2 **Q. PLEASE STATE YOUR NAME.**

3 A. My name is Marilyn J. Fox.

4 **Q. DID YOU PREVIOUSLY FILE DIRECT TESTIMONY IN THIS PROCEEDING**  
5 **ON BEHALF OF TEPA?**

6 A. Yes, I filed testimony in this docket on behalf of The Energy Professionals Association,  
7 also referred to as TEPA, on October 19, 2017.

8 **Q. WHAT IS THE PURPOSE OF YOUR CROSS-REBUTTAL TESTIMONY?**

9 A. I am responding to the positions presented by other intervenors, and explaining issues on  
10 which we are in close agreement or disagreement, and in the process, clarifying TEPA's  
11 position.

12 **Q. UPON WHAT DO YOU BASE YOUR CROSS-REBUTTAL TESTIMONY?**

13 A. I read each party's testimony or statement of position, and I attended and participated in  
14 each of the three technical conferences held in this case. In particular, I am relying on the  
15 responses provided by others during the October 12, 2017 technical conference held at the  
16 Commission's offices during which pre-filed questions were answered by Oncor's witness  
17 Mr. Donny Helm, on behalf of the Joint TDUs; the October 23, 2017 technical conference  
18 conducted by tele-conference during which Mr. Helm responded to questions related to his  
19 prefiled direct testimony on behalf of the Joint TDUs; and the October 26, 2017 technical  
20 conference held at the Commission's offices at which questions were asked by any  
21 interested party and responses were provided by the intervenors other than the Joint TDUs.

22 **II. CROSS REBUTTAL**

23 **Q. TO WHICH PARTIES IN THIS PROCEEDING ARE YOU PRESENTING CROSS**  
24 **REBUTTAL?**

25 A. I will address the testimonies filed by the following parties: ARM and TEAM; OPUC; and  
26 Oncor for the Joint Development and Operating Agreement (JDOA).

1 **Q. WHAT POSITION(S) REGARDING ARM/TEAM’S DIRECT TESTIMONY ARE**  
2 **YOU ADDRESSING?**

3 A. Based on responses from Mr. John Schatz at the technical conference, it is clear that his  
4 testimony on behalf of the two REP associations, ARM and TEAM, is limited to those REPs  
5 that are listed on the motions to intervene filed by those two associations.<sup>1</sup> In addition, Mr.  
6 Schatz clarified that when he refers to REPs that utilize SMT in his testimony, he means the  
7 REPs of Record (ROR), and not REPs who are attempting to acquire a person as a customer.  
8 It is my understanding that the latter group, REPs who are not REPs of Record, are  
9 considered third parties or Competitive Service Providers (CSP) under the Business  
10 Requirements.

11 **Q. WILL MR. SCHATZ’S RECOMMENDATIONS PROVIDE CUSTOMERS AND**  
12 **THIRD PARTIES A MORE STREAMLINED PROCESS TO ACCESS**  
13 **CUSTOMER DATA?**

14 A. No. While I agree with some of his recommendations concerning strengthening the service  
15 level agreements between the JDOP and the service provider and increasing the number of  
16 months SMT data is available from 13 to 24,<sup>2</sup> he did not address some of the difficulties in  
17 making the data convenient and secure.<sup>3</sup>

18 **Q. DO YOU HAVE ANY RESPONSES TO THE DIRECT TESTIMONY OF**  
19 **MICHELLE GREGG FILED ON BEHALF OF OPUC?**

20 A. Yes, Ms. Gregg has interpreted the requirements of the PURA and the customer protection  
21 rules to impose more conditions than are currently required for access to monthly meter  
22 data. She relies on PURA Section 39.107(k) to assert that “A customer may choose to  
23 share their meter usage data, but any disclosure is strictly prohibited without the affirmative

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<sup>1</sup> TEAM’s Motion to Intervene is Interchange Item #8; ARM’s Motion to Intervene is Interchange Item # 18.

<sup>2</sup> Direct Testimony of John Schatz, page 20, line 26-27.

<sup>3</sup> P.U.C. Subst. Rule 25.130. (j)(1) “An electric utility shall provide a customer, the customer’s REP, and other entities authorized by the customer read-only access to the customer’s advanced meter data, including meter data used to calculate charges for service, historical load data, and any other proprietary customer information. The access shall be *convenient and secure*, and the data shall be made available no later than the day after it was created.” Emphasis added.

1 informed consent of that customer.”<sup>4</sup> Ms. Gregg goes on to state that extra education may  
2 be required for the customer and that additional security precautions should be incorporated  
3 into the business requirements for third party access to customer data.

4 **Q. DO THE CURRENT PROCESSES THAT ALLOW THIRD PARTIES OR CSPs**  
5 **ACCESS TO SMT DATA REFLECT AN ATTEMPT TO PROVIDE EXTRA**  
6 **EDUCATION AND SECURITY PRECAUTIONS?**

7 A. No, although the current process for the owner of the data to grant access to their data  
8 through SMT forces the customer to set up an account which must be approved, set up  
9 users and administrators, and sign agreements.<sup>5</sup> CSPs also must set up an account, and  
10 acquire a security certificate or encryption key which must be provided to the customers to  
11 set up the agreements. This cumbersome process does not necessarily make the customer  
12 more informed or their data more secure, but probably explains the low number of SMT  
13 users.

14 **Q. DID THE OPUC WITNESS PROVIDE ANY EXAMPLES OF INAPPROPRIATE**  
15 **USE OF CUSTOMER DATA BY THIRD PARTIES?**

16 A. No.

17 **Q. DOES THE CURRENT PROCESS TO OBTAIN CUSTOMERS DATA IN**  
18 **MONTHLY SUMMARIES (NON—SMT) BY CSPS REQUIRE EXTRA**  
19 **EDUCATION OR SECURITY?**

20 A. No. The Letter of Authorization (LOA) used since market open places the burden on the  
21 CSP to prove it has obtained customer authorization by either submitting a copy of the  
22 signed LOA to the TDU or checking a box attesting the CSP has obtain appropriate  
23 authorization. It is a simple one page document signed by the customer that grants  
24 permission for the CSP to obtain the meter data. The authorization may be for an unlimited  
25 term if the customer wishes. The CSP submits the LOA to the TDU, which accepts the  
26 LOAs and then transmits the customer’s data. The CenterPoint (CNP) portal is a good  
27 example of how the burden to verify proper authorization is placed on the CSP.

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<sup>4</sup> Testimony of Michele Gregg, page 10, line 22 – page 11, line 1.

<sup>5</sup> SMT Third-Party Service Provider User Guide, pages 55 through 59.

1 **Q. DO YOU HAVE ANY RESPONSES TO THE DIRECT TESTIMONY OF DONNY**  
2 **R. HELM ON BEHALF OF THE JOINT TDUs?**

3 A. Yes. Mr. Helm presented an alternative process for CSPs to access customer data through  
4 SMT instead of the current two-step process. However, his suggestion that CSPs be  
5 required to “register with and be overseen by the Commission”<sup>6</sup> appears to impose  
6 requirements that are beyond the Commission’s authority. As stated by Ms. Gregg, the  
7 Commission does not have authority over some of the CSPs.<sup>7</sup>

8 **Q. IS THERE ANOTHER FORM OF REGISTRATION THAT COULD BE USED?**

9 A. Yes. The current process requires the CSPs to register with SMT to access SMT data and  
10 that registration should continue unless and until the CSP violates the terms and conditions  
11 to use SMT.

12 **Q. WHAT IS OR WOULD BE THE REMEDY FOR “BAD ACTORS”?**

13 A. The remedy would be exclusion from participating in SMT or if the offense were fraudulent  
14 or serious abuses of the data, the customer would have to seek other remedies through  
15 criminal or civil statutes. This is similar to the remedies available today for customers  
16 other than residential and small commercial customers (under 50 kW), who are not  
17 protected by the PUC Customer Protection Rules.

18 **Q. DO YOU HAVE OTHER RESPONSES TO MR. HELM’S TESTIMONY?**

19 A. Yes. Mr. Helm addresses the use of the Green Button Connect My Data (GBCMD) but  
20 suggests that has more functions than are required by SMT.<sup>8</sup> It is my understanding that  
21 these functions do not have to be implemented. Mr. Helm’s Exhibit DRH-4 provides an  
22 overview which seems to accomplish what most parties have expressed as goals. From

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<sup>6</sup> Direct Testimony of Donny R. Helm, page 7, lines 23 through 24.

<sup>7</sup> Direct Testimony of Michele Gregg, page 11, lines 1-4.

<sup>8</sup> Direct Testimony of Donny R. Helm, page 13, lines 19-27.

1 information provided in the technical conferences, it appears that this would be a less  
2 expensive alternative than requiring a new contractor to develop and incorporate the same  
3 goals. It also allows for REPs and CSPs who operate in other jurisdictions using GBCMD  
4 to have a common tool which would reduce costs to the overall markets.

5 My last response to Mr. Helm's testimony concerns his recommendation that Docket 47472  
6 should be the final examination of business requirement by market participants and that  
7 minor changes made to SMT in the future should be limited to the sole direction of the  
8 Joint TDUs.<sup>9</sup> Given the inherent changes in this technology, and the potential for changes  
9 by the Commission or the Texas Legislature, this seems to be an unrealistic  
10 recommendation. I can readily understand the TDUs' frustration with this process but  
11 prohibiting future input from the market and customers is not the answer. The Commission  
12 should consider a change in the governance of SMT by creating a separate non-profit entity  
13 with a board of directors. The independent entity could establish its operating rules and  
14 by-laws. This would eliminate the TDUs' concerns of liability and violation notices from  
15 the Commission.

16 **Q. AS A RESULT OF YOUR REVIEW OF OTHER PARTIES' TESTIMONY AND**  
17 **YOUR ATTENDANCE AT THE THREE TECHNICAL CONFERENCES, DO**  
18 **YOU NEED TO CLARIFY ANYTHING IN YOUR PREFILED DIRECT**  
19 **TESTIMONY?**

20 **A.** In my opinion, the current SMT registration process for CSPs is adequate. After the CSP  
21 receives a security certificate or encryption key, they should be able to use it on all future  
22 requests for usage data. When a Customer, who owns their usage data, signs the Letter of  
23 Authorization (LOA), and provides their ESID(s), the CSP should be able to complete an  
24 online electronic form much like that currently used by CenterPoint (CNP) to request the  
25 customer's SMT data. If additional requirements related to notices and security are required  
26 by the Commission, the customer could be sent an email from SMT with a copy to the CSP,  
27 with the email address provided by the CSP to a modified validation process similar to the  
28 CNP portal, to let the Customer know that the CSP has acted on the LOA that they signed.

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<sup>9</sup> Direct Testimony of Donny R. Helm, page 15, lines 14-25.



1 If the Customer agrees that the CSP cited in the email has been authorized to receive the  
2 data, then we recommend that no further action be required of the Customer. However, if  
3 the Customer does not agree that they have authorized the CSP to receive their data, they  
4 can reply with a “No” and the data will not be released and the CSP will be notified that the  
5 Customer replied “No.” This type of negative confirmation is common with on-line  
6 accounts and transactions.

7 **Q. THE COMMISSION ISSUED ITS PRELIMINARY ORDER IN THIS CASE ON**  
8 **OCTOBER 26, 2017, WHICH WAS AFTER DIRECT TESTIMONY HAD BEEN**  
9 **FILED. THAT ORDER IDENTIFIES THE ISSUE THAT MUST BE ADDRESSED**  
10 **IN THIS DOCKET AS FOLLOWS: *WHAT CHANGES, IF ANY, SHOULD BE***  
11 ***MADE TO THE EXISTING BUSINESS REQUIREMENTS FOR SMART METER***  
12 ***TEXAS? IN ANSWERING THIS ISSUE, PLEASE SPECIFICALLY ADDRESS***  
13 ***WHAT CHANGES, IF ANY, SHOULD BE MADE TO THE EXISTING BUSINESS***  
14 ***REQUIREMENTS RELATING TO THE REGISTRATION OF THIRD-PARTY***  
15 ***ENTITIES THAT WILL USE CUSTOMER DATA FOR THE PURPOSE OF***  
16 ***PROVIDING CUSTOMER-APPROVED SERVICES OTHER THAN ELECTRIC***  
17 ***UTILITY SERVICE. WHAT IS TEPA’S RESPONSE TO THE LAST PORTION OF***  
18 ***THAT ISSUE RELATED TO “SERVICES OTHER THAN ELECTRIC UTILITY***  
19 ***SERVICE”?***

20 **A.** As stated above, all CSPs who want access to data should register with SMT, and if the  
21 customer authorizes its data to be available to the CSP (who need not be a REP),<sup>10</sup> it does  
22 not matter what services are provided. Section 39:107 (k) states affirmatively that:

23 “The commission shall allow an electric utility or transmission and distribution  
24 utility to share information with an affiliated corporation, or other third-party entity, if the  
25 information is to be used only for the purpose of providing electric utility service to the  
26 customer or **other customer-approved services,**” (Emphasis added.)

27 There is no limitation in this language that would indicate “the customer-approved  
28 services” must be limited to electric utility service. While TEPA’s primary interest is in  
29 using the customer’s data to help lower bills for electric service, this is an evolving market  
30 and there is no reason to impose limitations on use of the data for other customer-approved  
31 services.

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<sup>10</sup>P.U.C. Subst. R. 25.130(j)(5).

1 **III. CONCLUSION**

2 **Q. DO YOU THINK THERE IS A SOLID BASIS FOR SETTLING THIS DOCKET?**

3 A. I think most of the Parties are close enough to settle on issues related to a streamlined and  
4 simplified process that will allow a customer to provide CSPs access to their usage data.  
5 All parties agree on the need for a CSPs registration process with SMT. It appears that  
6 everyone except ARM and TEAM supports changes to the process that should result in  
7 easier access by the customer's representatives to their usage data for services related to  
8 their electricity procurement and use.

9 **Q. PLEASE SUMMARIZE TEPA'S CONCLUSIONS IN LIGHT OF THE POSITIONS**  
10 **TAKEN BY THE OTHER PARTIES.**

11 A. TEPA's members support any provisions that give customers and their authorized  
12 representatives access to usage data that may enable them to secure services, including  
13 brokerage services, which can save the customer money while maintaining a safe and  
14 comfortable lifestyle. The only specific concerns raised by others relate to security and  
15 notice. I believe that a process like that outlined above reasonably addresses both of these  
16 issues. TEPA supports the Solutions and the Business Requirement modifications proposed  
17 by Mission Data. I believe that the parties can work out specific modifications to the  
18 Business Requirements if ordered to do so by the Commission.

19 **Q. DOES THIS CONCLUDE YOUR CROSS-REBUTTAL TESTIMONY?**

20 A. Yes.