



Control Number: 26195



Item Number: 348

Addendum StartPage: 0

JOINT APPLICATION OF TEXAS § BEFORE THE STATE OFFICE
GENCO, LP AND CENTERPOINT §
ENERGY HOUSTON ELECTRIC, LLC § OF
TO RECONCILE ELIGIBLE FUEL §
REVENUES AND EXPENSES § ADMINISTRATIVE HEARINGS
PURSUANT TO SUBST. R. 25.236 §

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ORDER NO. 14

**RULING ON TEXAS INDUSTRIAL ENERGY CONSUMERS MOTION TO COMPEL
CENTERPOINT'S RESPONSE TO ITS SECOND REQUEST FOR INFORMATION**

On December 13, 2002, Texas Industrial Energy Consumers (TIEC) filed a motion to compel Texas Genco, LP and CenterPoint Energy Houston Electric, LLC (collectively, CenterPoint) to respond to TIEC's second request for information (RFI). On December 23, 2002, CenterPoint filed a response. On January 3, 2003, TIEC filed a reply to CenterPoint's response.

TIEC states that the purpose of TIEC 2-1 is to collect summary information regarding prices, terms, and conditions of CenterPoint's firm energy purchased power contracts during the reconciliation period that were priced on an energy only basis. TIEC claims that it needs this information to determine whether the contracts were structured to provide capacity benefits to CenterPoint, and to ascertain whether the contracts were priced at levels that suggest the inclusion of implicit capacity costs in the energy-only prices.

CenterPoint never objected to TIEC 2-1 because it claims that it intended to fully respond to the question. CenterPoint asserts that it provided TIEC the necessary documents to obtain the answers to its RFI 2-1. CenterPoint, however, refused to compile the data in the summary format requested by TIEC. CenterPoint also claims that it informed TIEC that no summary form of this information existed. CenterPoint states that TIEC asked a similar question, TIEC 1-9, in October 2002, and it received the same answer.¹ CenterPoint further states that the information TIEC seeks exceeds eight linear feet, and it is being made available at CenterPoint's Houston offices.

¹ TIEC did not file a motion to compel regarding 1-9.

CenterPoint submitted the affidavit of Joseph Price, Manager of Fuels Acquisition, and the person responsible for compiling the information in TIEC 2-1. He states that CenterPoint does not maintain the information in the format requested by TIEC. He adds that the only way to provide the information in the format requested in TIEC 2-1 is to manually compile the information from the records that CenterPoint maintains. Mr. Price estimates that compiling and verifying this information would require at least 600 hours of work.

CenterPoint offered TIEC a compromise, and the Administrative Law Judges (ALJs) find that the compromise is the best solution to resolve this dispute. As CenterPoint notes, the information used to create the transaction confirmation pages that TIEC wants to have summarized is generated from what is called the ETRM database. CenterPoint no longer uses this database, and it does not have any personnel familiar with the database. While negotiating with TIEC, CenterPoint contracted with the vendor of this database to generate a report summarizing all the transactions in that database for the fuel reconciliation period. According to CenterPoint, this information could be downloaded to a spreadsheet that TIEC could use. In its reply, TIEC states that it would be extremely interested in the information from ETRM. TIEC states, however, that CenterPoint could not get TIEC the information in time for TIEC to include it in its testimony that was filed December 31, 2002. The ALJs order CenterPoint to provide the ETRM database information to TIEC as soon as possible, but no later than Friday, January 10, 2003. TIEC should begin to analyze the information, and on January 17, 2003, TIEC shall inform the ALJs if it believes a separate case should be created to address the issue of capacity costs embedded in CenterPoint's energy-only purchased power contracts.²

ISSUED this 6th day of January, 2003.



MICHAEL J. O'MALLEY

ADMINISTRATIVE LAW JUDGE



DEBORAH L. INGRAHAM

ADMINISTRATIVE LAW JUDGE

² If TIEC requests a separate docket be created, it shall indicate which parties support this request.