Control Number: 26195

Item Number: 556

Addendum StartPage: 0

State Office of Administrative Hearings

Shelia Bailey Taylor
Chief Administrative Law Judge

April 1, 2004

Mr. Stephen Journeay, Director
Office of Policy Development
William B. Travis State Office Building
1701 N. Congress, 7th Floor
Austin, Texas 78701

RE: Exceptions and Replies in 473-02-3473; PUC Docket No. 26195; Joint Application of Texas Genco, LP and Centerpoint Energy Houston Electric, LLC to Reconcile Eligible Fuel Revenues and Expenses Pursuant to Subst. R. 25.236

Dear Mr. Journeay:

After a review of the exceptions and replies to exceptions, the Administrative Law Judge (ALJ) restates the standard he used to impute capacity, modifies two findings of fact, and adds one conclusion of law.

Imputed Capacity

In determining whether to impute a capacity value to CenterPoint's contracts priced on an energy-only basis during the reconciliation period, the ALJ adopted the standard developed in *Application of Entergy Gulf States, Inc. for Authority to Reconcile Fuel Costs*, Docket No. 23550 (Aug. 2, 2002) (*Entergy*). The Commission in *Entergy* determined that if there are purchased power contracts providing system-wide reliability and firmness of supply, then imputation may be appropriate. Therefore, the ALJ's analysis focused on whether CenterPoint purchased its power to meet its base load needs to maintain system-wide reliability.

Joint Operating Agreement

To more accurately reflect the evidence, the ALJ amends Finding of Fact No. 77 to read:

77. Under the original JOA, after the JOA benefits reached the $200 million mark, the benefit split would become 50/50. During the reconciliation period, the benefits attributable to the JOA were $191 million.

The ALJ modifies Finding of Fact No. 89 to clarify that the recommended $67.1 million adjustment incorporates the recommended $46.8 million adjustment for failure to include short-term energy transactions. Finding of Fact No. 89 now reads:

89. Adjusting the benefit split to 67/33 is reasonable, and the adjustment reduces the JOA expenses by a total of $67.1 million. This adjustment incorporates the $46.8 million adjustment recommended for CenterPoint's failure to include short-term energy transactions in the Study S scenario.

To fully reflect the unreasonableness of the 90/10 benefit split, the ALJ adds Conclusion of Law No. 23:

23. CenterPoint's decision to split the benefits 90/10 (90 percent to CPS and 10 percent to CenterPoint) was unreasonable in light of CenterPoint's knowledge that short-term transactions were likely to occur in a competitive market, CenterPoint's history of short-term transactions, and CenterPoint's unreasonable estimate of the benefits attributable to CPS's coal-fired generation. P.U.C. SUBST. R. 25.236(d)(1).

Sincerely,

Michael J. O'Malley

Michael J. O'Malley
Administrative Law Judge

MJO/nl

xc: All Parties of Record