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SOAH DOCKET NO. 473-04-4555  
PUC DOCKET NO. 29526

APPLICATION OF CENTERPOINT ENERGY § BEFORE THE STATE OFFICE  
HOUSTON ELECTRIC, LLC, RELIANT §  
ENERGY RETAIL SERVICES, LLC, AND § OF ADMINISTRATIVE  
TEXAS GENCO, LP TO DETERMINE §  
STRANDED COSTS AND OTHER TRUE-UP § HEARINGS  
BALANCES PURSUANT TO PURA § 39.262 §

OBJECTIONS OF CENTERPOINT ENERGY HOUSTON ELECTRIC, LLC AND  
TEXAS GENCO, LP TO TEXAS INDUSTRIAL ENERGY CONSUMERS' SIXTH SET  
OF REQUESTS FOR INFORMATION

CenterPoint Energy Houston Electric, LLC and Texas Genco, LP (together, "CenterPoint") received Texas Industrial Energy Consumers' ("TIEC") Sixth Set of Requests for Information ("RFI") on April 9, 2004. CenterPoint responded to that request on April 19, 2004. CenterPoint has located additional documents responsive to TIEC6-2 and will be producing those documents that are not privileged in a supplemental response. On May 13, 2004, CenterPoint discovered for the first time that certain of these additional documents are subject to the attorney-client privilege. CenterPoint will not include these documents in its supplemental response to the RFI. It is unclear whether assertion of attorney-client privilege requires filing an objection.<sup>1</sup> CenterPoint is complying with the requirements of TRCP 193.3 in its response to this RFI. However, the Commission's rules still appear to require an objection in this instance and, thus, CenterPoint hereby files this objection and request for good cause exception to accept this objection out of time. Counsel for CenterPoint has contacted counsel for TIEC to explain this situation. After diligent and good faith negotiations, counsel for TIEC has requested that CenterPoint file an objection for all privileged documents.

<sup>1</sup> Compare *In re Monsanto Co.*, 998 S.W.2d 917, 924 (Tex. App.—Waco 1999, no pet.) (holding that a party should no longer "object" to a request for privileged information, but should instead simply comply with the requirements of Texas Rules of Civil Procedure 193.3) and TEX. R. CIV. P. 193.3 with P.U.C. PROC. R. 22.144(d).

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Objections to the RFI would normally have been due on April 16, 2004. However, CenterPoint did not discover that these additional responsive documents were subject to attorney-client privilege until May 13, 2004. The delay in discovering these documents was not due to any lack of diligence on the part of CenterPoint, but rather was due to the large volume of documents being produced in response to RFIs and the compressed time frame available to file objections. On Friday, May 14, 2004, CenterPoint informed TIEC's counsel of this situation and promptly filed this objection.

CenterPoint was unable to meet the original objection deadline because it did not know of the privileged documents at that time. CenterPoint promptly brought this situation to the attention of TIEC and filed these objections as soon as possible. Pursuant to Public Utility Commission Procedural Rule 22.144(c)(1), good cause exists to allow these objections to be filed at this time.

**TIEC6-2      Please provide all projections of CenterPoint Energy Houston Electric, LLC's income statement, balance sheet, cash flow statement, and retained earnings statement for calendar years 2003 through 2007, including all workpapers, supporting calculations, and internal and external correspondence directly discussing the same.**

**CenterPoint's Objections:**

Additional documents responsive to this request will be produced with CenterPoint's supplemental response. Some of these documents may qualify for protection under the "Protected Material" and "Highly Sensitive Protected Material" classification of the protective order in this docket and will be filed pursuant to that order. In addition, on May 13, 2004, CenterPoint discovered for the first time that certain of the additional documents responsive to this request are subject to the attorney-client privilege. These documents will not be provided as part of CenterPoint's supplemental response. These documents contain confidential communications between CenterPoint or its predecessors and its attorneys made for

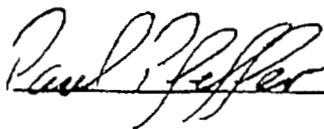

the purpose of facilitating the rendition of professional legal services to CenterPoint.<sup>2</sup> CenterPoint will file within two working days a privileged-document index that includes the information required by Public Utility Commission Procedural Rule 22.144(d)(2).

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<sup>2</sup> TRE 503(b).

Date: May 17, 2004

Respectfully submitted,

*By permission*  
 

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**ATTORNEYS FOR CENTERPOINT ENERGY HOUSTON ELECTRIC, LLC AND  
TEXAS GENCO, LP**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was served on all parties of record in this proceeding by hand delivery, overnight delivery, or United States first class mail on this 17<sup>th</sup> day of May, 2004.

Bunny Browning