



Control Number: 31544



Item Number: 375

Addendum StartPage: 0

SOAH DOCKET NO. 473-06-0092

PUC DOCKET NO. 31544

FEB 10 PM 2:59

APPLICATION OF ENTERGY
GULF STATES, INC. FOR
RECOVERY OF TRANSITION
TO COMPETITION COSTS

§
§
§
§

PUBLIC UTILITY COMMISSION

OF TEXAS

REBUTTAL TESTIMONY

OF

PHILLIP R. MAY

ON BEHALF OF

ENTERGY GULF STATES, INC.

FEBRUARY 10, 2006

SOAH DOCKET NO. 473-06-0092
PUC DOCKET NO. 31544

APPLICATION OF
ENTERGY GULF STATES, INC.
FOR RECOVERY OF
TRANSITION TO COMPETITION COSTS

REBUTTAL TESTIMONY OF PHILLIP R. MAY

TABLE OF CONTENTS

	<u>Page</u>
I. Introduction and Purpose of Testimony	1
II. Issues by Individual Witness	2
A. Rebuttal to State's Witness Hugh Higgins	2
B. Rebuttal to Cities' Witness Pous	18
C. Rebuttal to OPC Witness Norwood	23
D. Rebuttal to OPC's Witness Arndt	27
E. Rebuttal to TIEC's Witness Pollock	27
F. Rebuttal to Cities' Witness Reeder	32
III. Issues Raised by Two or More Witnesses	41
A. Rates/Riders Preparation Class	41
B. Allocating TTC Costs	43
IV. Conclusion	44

EXHIBITS

PRM-R-1	TCGMFR Schedule 1, APSC Docket No. 01-041-U
PRM-R-2	Entergy Arkansas & EGSI-Texas Retail Access Spend Path Comparisons

1 I. INTRODUCTION AND PURPOSE OF TESTIMONY

2 Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

3 A. My name is Phillip R. May. My business address is 500 Clinton Center
4 Drive, Clinton, Mississippi.

5

6 Q. ARE YOU THE SAME PHILLIP R. MAY WHO FILED DIRECT
7 TESTIMONY IN THIS DOCKET ON AUGUST 24, 2005?

8 A. Yes. For both my direct and rebuttal testimony, I am testifying on behalf of
9 Entergy Gulf States, Inc. ("EGSI" or the "Company").

10

11 Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?

12 A. I rebut a number of positions taken by witnesses for both the Intervenor
13 and Staff with regard to EGSI's Transition to Competition ("TTC") cost
14 recovery request in this docket. The topics that I address include: TTC
15 management and cost reviews; TTC costs as incremental to current base
16 rates; sufficiency of case presentation; the Rates/Riders Preparation
17 Class; the Renewable Energy Credits class; the TTC legal/rate case
18 costs; the Cities' rate case expenses; and allocation issues.

19

20 Q. HOW IS YOUR REBUTTAL TESTIMONY ORGANIZED?

21 A. After this Part I Introduction, in Part II, I address and rebut issues by
22 individual Intervenor or Staff witness. In Part III, I address and rebut
23 issues that are raised by two or more Intervenor or Staff witnesses

1 Q. DO YOU SPONSOR ANY EXHIBITS TO YOUR REBUTTAL
2 TESTIMONY?

3 A. Yes. I sponsor the exhibits listed in the table of contents to this testimony.
4

5 II. ISSUES BY INDIVIDUAL WITNESS

6 A. Rebuttal to State's Witness Higgins

7 Q. STATE'S WITNESS HUGH HIGGINS SPENDS MUCH OF HIS
8 TESTIMONY COMPLAINING ABOUT HIS PERCEIVED LACK OF
9 SUFFICIENCY OF THE COMPANY'S TTC CASE. AS AN OVERVIEW,
10 ARE MR. HIGGINS' CONCERNS VALID AND SUPPORTABLE?

11 A. No. I and a number of the EGSi rebuttal witnesses will address specific
12 issues raised by Mr. Higgins as they apply to our direct testimonies. As an
13 overarching matter, I have a few comments regarding Mr. Higgins direct
14 testimony. First, Mr. Higgins asks the Commission to adopt an after-the-
15 fact "special purpose audit" accounting review standard for this docket that
16 is unsupported by PURA and Commission rules and precedent. Mr.
17 Higgins develops an unprecedented review standard, and then argues
18 that the Company cannot or has refused to meet its burden of proof to
19 prove up its costs based on his own contrived review standard. The
20 Company, in my opinion, has proven up its TTC costs in many different
21 ways in accordance with current Commission precedent and has provided
22 an extraordinary level and amount of documentary proof to meet its
23 burden. Mr. Higgins, in his testimony, essentially ignores that proof, and

1 instead asks the ALJs and Commission to depart from Commission rules
2 and precedent in support of his contrived cost recovery standard.

3 Mr. Higgins also ignores the detailed proof presented by the
4 Company in this docket. For example, Mr. Higgins was asked in his
5 February 2, 2006 deposition in this docket if he knew "[w]hether Mr. May
6 had any invoices in his workpapers when we filed this case?" Mr. Higgins'
7 response was an amazing: "I can't tell you one way or the other for sure."
8 (Higgins Deposition at p. 79, lines 15-18, Feb. 2, 2006). Upon further
9 questioning, Mr. Higgins conceded that he seemed to remember that there
10 were invoices included with my testimony "but that they didn't tie to
11 anything," (Higgins Deposition at p. 80, lines 8-11) I attached over
12 10,000 pages of workpapers to my direct testimony filed in this docket on
13 August 24, 2005. The great majority of those workpapers are invoices,
14 contracts, and timesheets that support the TTC costs in my classes. The
15 invoices include notations indicating to which TTC project code the costs
16 stated on those invoices were billed. Mr. Higgins' initial failure to recall
17 those invoices "one way or the other," and then his belated attempt to
18 mischaracterize them, indicates that he has a fundamental lack of
19 understanding and analysis of the Company's case.

20

21 Q. MR. HIGGINS, ON PAGE 8 OF HIS TESTIMONY, CONTRASTS THE
22 TTC AMOUNTS REQUESTED IN ARKANSAS WITH THOSE INCURRED
23 IN TEXAS, AND IMPLIES THAT THEY ARE COMPARABLE BECAUSE

1 THEY ARE "[ON] APPROXIMATELY THE SAME TIME PATH, UNDER
2 SIMILAR LEGISLATION" DO YOU AGREE WITH THIS
3 COMPARISON?

4 A. No. There is no credible comparison between these two jurisdictions.
5 Although the two jurisdictions, in 1999 and into 2000, had the same initial
6 target date of January 1, 2002 for retail access, Arkansas and Texas
7 efforts took very different paths toward implementation of retail access.
8 From the beginning, Texas aggressively pursued implementation of retail
9 access while Arkansas chose a more deliberate pace. In fact, as early as
10 the second half of 2000, it was becoming clear that Arkansas would delay
11 retail access. By November 2000, the Arkansas Public Service
12 Commission ("APSC") issued a report, based on input from Arkansas
13 stakeholders, that recommended that the Arkansas Legislature extend the
14 target date for ROA in that state beyond January 1, 2002. Because of the
15 APSC actions in 2000, Arkansas stakeholders began shutting down or
16 ramping down implementation activities and dockets in the last quarter of
17 2000 in recognition of potential legislative changes to delay ROA in that
18 state.

19 The Arkansas Legislature accepted the APSC's recommendations
20 and, in February 2001, amended its ROA statute to delay the start of ROA
21 in that state to not earlier than October 2003. Then, in February 2003, the
22 Arkansas Legislature repealed its ROA statute all together.

1 Furthermore, the scope, length, and depth of activities required in
2 Texas went far beyond what had initially been undertaken in Arkansas.
3 Arkansas did not move beyond initial design stages for ROA, while Texas
4 (and EGSI) not only moved through the design stages, but also actually
5 built and implemented the systems and processes for ROA. EGSI,
6 however, was unable to move into ROA due to a lack of a federal
7 independent organization acceptable to the Texas Commission and many
8 stakeholders. It is also my opinion that the "Retail-centric" operating
9 model used in Texas ROA is much more complex than the "Distribution-
10 centric" model that was planned for Arkansas.

11

12 Q. MR. HIGGINS, ON PAGES 8-9 OF HIS TESTIMONY, DISCUSSES
13 AUDITS THAT WERE PERFORMED ON THE ENTERGY ARKANSAS
14 TTC COSTS, AND SUGGESTS THAT THE SAME TYPE OF AUDIT
15 SHOULD HAVE BEEN PERFORMED IN TEXAS. HE CONCLUDES ON
16 PAGE 9 THAT "[ONE] OR MORE COMPREHENSIVE SPECIAL-
17 PURPOSE AUDITS SHOULD HAVE BEEN CONDUCTED ON TEXAS
18 TTC COSTS." PLEASE EXPLAIN THE CIRCUMSTANCES OF THE
19 ARKANSAS AUDITS.

20 A. There are three "Arkansas" audits referenced by Mr. Higgins. One of
21 those audits—the public audit—was performed by the APSC Staff. The
22 APSC's audit of Entergy Arkansas' recoverable transition costs was
23 consistent with its practices and Section 4 of the APSC's Transition Cost

1 Guidelines, which lay out the accounting procedures for tracking transition
2 costs that will be "subject to the review of the Commission." I am not
3 aware that the PUCT Staff performs such audits on electric utilities, and
4 Mr. Higgins acknowledges on page 9 of his testimony that he is unaware
5 that the PUCT Staff performed an audit on EGSI's TTC costs. More
6 importantly, on page 36, Mr. Higgins appears to recognize that such audits
7 are not currently required in Texas based on his request on that page that
8 the Commission use this docket to establish a precedent that would
9 require such audits in future proceedings.

10

11 Q. WHAT ARE THE OTHER ARKANSAS AUDITS REFERENCED BY MR.
12 HIGGINS, AND HOW DO THEY RELATE TO THE APSC RULING ON
13 ENTERGY ARKANSAS' TTC COSTS?

14 A. There are two confidential internal audits referenced by Mr. Higgins in
15 footnote 7 on page 8 of his testimony: a confidential internal audit and a
16 confidential internal follow-up audit. To my knowledge, the details of these
17 internal audits are not public and are subject to the Protective Order
18 issued in this docket. Importantly, those confidential audits were not used
19 to justify or support Entergy Arkansas' recovery of TTC costs before the
20 APSC or any regulatory body. For this reason, it is an erroneous
21 conclusion on Mr. Higgins' part to conclude on page 8, line 17 through
22 page 9, line 2 of his testimony that the APSC took some action based on
23 the "Arkansas audits." The APSC may have taken action based on its

1 own routine public audit of the Entergy Arkansas TTC costs, but it could
2 not have taken action based on the confidential internal Entergy Arkansas
3 audits because those audits were not provided to or requested by that
4 agency.

5 On other points, the type of special purpose TTC audit that Mr.
6 Higgins asks to be performed on EGSI's Texas TTC costs are expensive
7 projects particularly given that the audit he wants for this docket would
8 cover a six-year period from June 1, 1999 to June 17, 2005. Undertaking
9 such an audit would have added significant un-required and potentially un-
10 recoverable additional cost to the Company's case. The type of audit Mr.
11 Higgins wants also would have further delayed resolution of this case
12 given the time it would take to perform such an audit.

13 More importantly, an audit is not necessary (much less required) to
14 determine that EGSI's requested TTC costs are reasonable and
15 necessary. The costs were tracked and coded according to particular
16 TTC project codes based on recordkeeping that involved
17 contemporaneous recording of the time, material cost, and expense
18 associated with a particular project. All of the projects used to code these
19 costs were restricted to TTC-related activities. The Entergy accounting
20 and cost tracking system is well established and standardized. It has
21 been considered sufficient in past cases to present an accurate picture of
22 EGSI's costs, including base rate cases such as Docket No. 20150 and in
23 fuel reconciliation cases in which hundreds of millions or even billions of

1 dollars in Company expenditures were in issue. Mr. Higgins gives no
2 persuasive reason why the Commission should now, for the first time,
3 reject the sufficiency of that accounting and cost tracking system.

4 Further, although there were no "comprehensive" audits conducted
5 on the Texas TTC costs, there were several reviews of Entergy's financial
6 processes throughout the TTC cost incurrence period by outside auditors.
7 These reviews, which were identified for Mr. Higgins in the Company's
8 response to State of Texas RFI 1-44, included:

- 9 • Affiliate transaction testing for EGS's Unbundled Cost of Service
10 ("UCOS") filing (Docket No. 22356) by Deloitte & Touche LLP in
11 April of 2000 to ensure that the accounting and billing of the
12 applicable transactions, including transition-related activities,
13 complied with Entergy's affiliate billing policies and Generally
14 Accepted Accounting Principles (GAAP). This included testimony
15 by Messrs. Robert Hahne and Kent Francois on behalf of EGS
16 regarding the allocation of ESI costs and the capability of the EGS
17 accounting systems. I have included those two pieces of testimony
18 in my workpapers to this testimony.
- 19 • A "Test Year Review" was conducted by Deloitte & Touche LLP for
20 the 2004 Rate Case filing of the financial filings that were prepared
21 for Docket 30123 for the test year ending March 31, 2004. A copy
22 of that Test Year Review is also included in my workpapers.

1 • For this Docket No. 31544, PricewaterhouseCoopers ("PwC")
2 performed an analysis of a sample-based review of the affiliate
3 service charges associated with the TTC costs billed to EGSI. This
4 included an analysis of the TTC project codes and scope
5 statements used to charge and assign the TTC costs subject to this
6 docket. The PwC analysis also included a thorough testing of the
7 accounting of sampled TTC transactions. The results of this
8 analysis is included in the Company's direct case in this docket
9 through the direct testimony of Company witness Mark W. Niehaus,
10 who is a partner with PwC.

11 Company witness Niehaus also responds more specifically in his
12 rebuttal testimony to some of Mr. Higgins assertions regarding established
13 accounting standards. Mr. Niehaus also discusses the annual audit of the
14 Company's books, and his accounting-based review of certain TTC costs.

15
16 Q. MR. HIGGINS, STARTING ON PAGE 31 OF HIS TESTIMONY, STATES
17 THAT ALL PAYROLL AND BENEFIT CHARGES BY ESI EMPLOYEES
18 SHOULD BE DISALLOWED BECAUSE THEY ARE NOT INCREMENTAL
19 COSTS ASSOCIATED WITH TTC PROJECTS. PLEASE DESCRIBE
20 THE PROCESS BY WHICH ESI EMPLOYEES ASSIGN THEIR
21 PAYROLL COSTS TO PROJECT CODES.

22 A. All Entergy employees must charge their time to project codes that are
23 developed and available for use. The project codes are developed to

1 capture the costs of specific projects or activities. Employee time is billed
2 to the individual project codes with each of the project codes having an
3 associated billing method that assigns charges associated with that
4 employee's time to one or more Entergy jurisdictions based on the nature
5 of that work. I describe the TTC-related project codes and billing methods
6 in my direct testimony at Bates pages 1-142 through 1-149. Detailed
7 discussion of the project codes and billing method processes are also
8 covered in the direct testimony of Company witnesses Chris Barrilleaux
9 and Mark Niehaus.

10 To ensure that the costs assigned to TTC project codes were
11 incremental to other work by employees, the Controller-Utility Operations
12 established a set of Guidelines for Identifying and Tracking Transition
13 Costs. These Guidelines, which are included in my direct testimony
14 (Bates 1-146 through 1-148, and Exhibit PRM-5), provide criteria and
15 instructions for the selection of TTC project codes. Included in these
16 criteria is a checklist which helped the individuals determine whether the
17 costs were transition related or not.

18 EGSi-Texas received large incremental charges from its corporate
19 support services affiliate—ESI—as a direct result of Senate Bill 7 and the
20 PURA Chapter 39 implementation requirements. These TTC charges are
21 clearly incremental because they related to specific project codes that are
22 in addition to, and would not be a part of, the normal day-to-day support
23 ESI provides EGSi in the provision of utility service. When ESI costs are

1 allocated or directly assigned to a specific jurisdiction, those specific costs
2 are not being recovered, and cannot be recovered, in another jurisdiction.
3

4 Q. DURING THE PERIOD THAT TTC COSTS WERE INCURRED, DID EGSI
5 RECEIVE THE SAME SERVICES FOR BASIC UTILITY OPERATIONS
6 FROM ESI THAT IT WAS RECEIVING DURING THE TEST YEAR USED
7 FOR DOCKET NO. 20150?

8 A. Yes. During the TTC cost incurrence period EGSI received the same
9 services from ESI that it had received during the Docket No. 20150 test
10 year to support ongoing day-to-day operations. But the level of ESI
11 support and investments charged to EGSI grew substantially after the
12 Docket No. 20150 test year due after the enactment of Texas Senate Bill 7
13 (and PURA Chapter 39 included in Senate Bill 7) in mid-1999.

14 Thus, in addition to the support of the ongoing day-to-day utility
15 business that continued throughout the TTC cost incurrence period, ESI
16 also provided significant incremental resources to EGSI for the new,
17 incremental TTC work.
18

19 Q. WERE THE SERVICES REQUIRED BY EGSI TO COMPLY WITH THE
20 TRANSITION TO COMPETITION REQUIREMENTS OF PURA
21 CHAPTER 39 PART OF THE BASIC UTILITY OPERATIONS SERVICES
22 RECEIVED FROM ESI DURING THE TTC COST PERIOD?

1 A. No. These services were wholly separate and incremental to then current
2 and ongoing day-to-day basic utility operations.
3

4 Q. WHY DO YOU BELIEVE THE PAYROLL COSTS OF ESI EMPLOYEES
5 INCLUDED IN THE TTC COSTS REQUESTED IN THIS CASE ARE
6 INCREMENTAL AND NOT RECOVERED THROUGH BASE RATES
7 CURRENTLY CHARGED TO CUSTOMERS?

8 A. These incremental payroll costs cannot be in EGSi's base rates because
9 they were incurred after the close of the test year (ending June 30, 1998)
10 that set EGSi's current Texas base rates. The incremental payroll costs
11 that are charged to TTC project codes for recovery in this TTC docket
12 cannot have been recovered through the base rates of other Entergy
13 Operating Companies because these TTC costs were directly billed or
14 allocated solely to EGSi Texas. Company witness Wright discusses the
15 ESI labor costs in more detail in his rebuttal testimony.
16

17 Q. REGARDING MR. HIGGINS' TESTIMONY STARTING ON PAGE 31, IN
18 YOUR OPINION, IS ANY ADDITIONAL PROOF NECESSARY TO SHOW
19 THAT THE ESI PAYROLL COSTS ARE INCREMENTAL AND HAVE NOT
20 BEEN RECOVERED THROUGH CURRENT RATES?

21 A. No. The Company's annual reports for the TTC cost incurrence period
22 clearly show that EGSi was earning below its authorized rate of return,
23 which means that the Company under-earned in each year of the TTC

1 cost incurrence period. Company witness Wright addresses these annual
2 reports in both his direct and rebuttal testimony. This evidence is further
3 proof in support of the Company's position that it has not previously
4 recovered its TTC costs, including the ESI payroll and benefits costs
5 included in this TTC cost recovery request.

6

7 Q. ON PAGE 12, STARTING ON LINE 8, OF HIS TESTIMONY, MR.
8 HIGGINS SUGGESTS THAT ONLY COMPANY WITNESS KAY
9 TROSTLE FILED INVOICES AS WORKPAPERS TO HER DIRECT
10 TESTIMONY. MR HIGGINS THEN COMPLAINS ABOUT VOLUMINOUS
11 WORKPAPERS THE COMPANY FILED ON NOVEMBER 8, 2005. IS
12 MR. HIGGINS CORRECT?

13 A. Absolutely not. I included 10,088 pages of workpapers with my August
14 24, 2005 direct testimony as WP PRM-1. These workpapers included
15 reams of invoices, timesheets, and contracts. Other Company witnesses
16 also filed supporting invoices, documents and workpapers along with their
17 August 24 direct testimony. I understand that Mr. Manasco's invoices
18 inadvertently were not included with his August 24 filing but, when this
19 oversight was discovered, his supporting workpapers were filed on
20 November 8, 2005. Mr. Higgins seems to have overlooked or ignored the
21 many thousands of pages of invoices and supporting documents that the
22 Company filed with its direct case. Furthermore, the Company's filing of
23 additional supporting workpapers occurred over two months *before* Mr.

1 Higgins filed his direct testimony. Mr. Higgins also appears to have mis-
2 understood the workpapers he did review. Most of those invoices include
3 explicit, contemporaneous notations that indicate to which project code
4 that invoice would be billed. If it were a TTC-related project code, that
5 cost on that invoice, as potentially adjusted, would have been included in
6 this case.

7
8 Q. WHY DID YOU FILE SUPPLEMENTAL WORKPAPERS ON NOVEMBER
9 8, 2005?

10 A. Unfortunately, while copying the work papers for my August 24, 2005
11 direct testimony, 17 pages of invoices for one vendor who performed work
12 related to my TTC cost classes were inadvertently omitted. To provide a
13 complete set of these supporting documents, I submitted these additional
14 few invoices as part of a supplemental workpaper filing on November 8.

15
16 Q. ON PAGE 26 OF HIS TESTIMONY, MR. HIGGINS STATES THAT
17 THERE WAS A LACK OF BUDGET CONTROL OVER THE TTC COSTS.
18 YOU ADDRESSED BUDGET CONTROLS IN YOUR DIRECT
19 TESTIMONY. DO YOU HAVE ANYTHING TO ADD BASED ON MR.
20 HIGGINS' COMMENTS?

21 A. Mr. Higgins' statement ignores the three levels of controls that I described
22 in my direct testimony and bases his position simply on not having
23 received the level of budget reports he poses as a necessary requirement.

1 The "Management of TTC Costs" section in my direct testimony on Bates
2 pages 1-119 through 1-144 describes at length the Company's overall
3 management approach to the TTC effort, including spending and budget.
4 The decision boards set the policy and direction and monitored spending
5 at a high level. The business units set the actual budget amounts with
6 approval from executives within that business unit that were on the TTC
7 decision board. And each department within those business units was
8 responsible for managing to those budgets.

9 Mr. Higgins' statement also ignores the indisputable fact that
10 EGSI's TTC effort was unique. A project of this size and scope is most
11 prudently managed within the areas of expertise affected. The Company
12 moved the day-to-day management of implementation and budget
13 management to the areas that were in the best position to control costs
14 specific to those areas.

15 What Mr. Higgins and other Intervenor witnesses fail to recognize is
16 the pace and scope of change as well as the enormous complexity
17 required in this massive project. These considerations, to me, lead to the
18 conclusion that assigning the day-to-day budget accountability to the
19 experts implementing these changes was reasonable and appropriate.

20 The Company made TTC a top priority within utility operations and
21 integrated it into each of the affected business units' budgets. A process
22 was established where the TTC costs were managed by those most able
23 to control the costs, while allowing for monitoring and oversight by

1 business unit and TTC management as well as the key decision boards.
2 Accordingly, there were adequate cost controls in place.
3

4 Q. IS MR. HIGGINS CORRECT THAT "NO REVIEW OF THE COMPANY'S
5 MANAGEMENT CONTROL SYSTEM WAS POSSIBLE SINCE THE
6 COMPANY OPTED NOT TO RETAIN THESE UNDERLYING BUDGET
7 DOCUMENTS IN ITS FILES?"

8 A. No. I include responsibility view budgets that we could locate as of August
9 24, 2005 as Exhibit PRM-4 to my direct testimony. We also provided
10 many pages of additional management control and budget-related
11 documents in response to numerous RFIs in this docket. While the
12 Company does not have historic *financial* budget documents available, the
13 underlying financial budget data is retained within the Company's
14 electronic financial accounting records, which I understand to be an
15 accepted practice.
16

17 Q. ON PAGE 27 OF HIS TESTIMONY, MR. HIGGINS NOTES THAT THE
18 ENTERGY BOARD OF DIRECTORS' MINUTES DID NOT RECORD ANY
19 DISCUSSIONS CONCERNING TEXAS TTC COSTS AND CONCLUDES
20 AS A RESULT THAT THERE WAS "LITTLE IF ANY OVERSIGHT ... BY
21 THE COMPANY'S BOARD OF DIRECTORS OVER TTC COSTS". DOES
22 THIS LACK OF DOCUMENTATION INDICATE A LACK OF OVERSIGHT
23 BY THE BOARD?

1 A. No. It is my understanding it is fairly common practice for corporate
2 Boards of Directors to keep general, but not specific or detailed, minutes
3 as necessary to encourage open and frank discussions by the Board
4 members.¹ Further, Mr. Higgins is incorrect in his assumption that, just
5 because there are no specific references to the TTC costs in the Board
6 minutes, these costs were not reviewed with the Board of Directors or that
7 the Board provided no oversight. From 2000 through the 1st half of 2002
8 quarterly status reports were provided to the Audit Committee of the
9 Entergy Board of Directors for review. In addition, in 2000 additional
10 reports were provided to the Finance Committee. These reports included
11 reports on the "incremental spending above normal responsibility budgets"
12 and compared the Actual Transition to Competition spending to Budget on
13 a quarterly basis. In all instances, the actual spending was below budget.

14

15 Q. ON PAGE 28 OF HIS TESTIMONY, MR. HIGGINS SAYS THAT "THERE
16 WAS NOT EVEN A DESIGNATED COMMITTEE OF THE BOARD OF
17 DIRECTORS THAT WAS RESPONSIBLE FOR TRACKING
18 ACCUMULATION OF TTC COSTS IN TEXAS." HOW DO YOU
19 RESPOND?

¹ American Society of Corporate Secretaries – Corporate Minutes: A Monograph for The Corporate Secretary

1 A. As I stated above, the Audit Committee of the Entergy Board was given
2 quarterly updates on the TTC process from 2000 through the first half of
3 2002.

4

5 B. Rebuttal to Cities' Witness Pous

6 Q. CITIES WITNESS POUS ON PAGE 13 OF HIS TESTIMONY
7 CONTRASTS THE AMOUNT OF THE COMPANY REQUEST IN THIS
8 CASE COMPARED TO THE AMOUNT REQUESTED AND APPROVED
9 IN THE ENTERGY ARKANSAS PROCEEDING IN ARKANSAS. WHAT
10 IS THE REASON FOR THE DIFFERENCE IN THE AMOUNTS
11 INCURRED BY ENTERGY ARKANSAS AND THE COMPANY?

12 A. I addressed this question in part above with regard to comments by
13 State's witness Higgins. As stated above, there are several reasons why
14 there are major differences in transition costs between Arkansas and
15 Texas: regulatory requirements; time, scope; and complexity. In addition
16 to my points above, I add the following in rebuttal to Mr. Pous:

17 • Early in the process, the regulatory requirements in Texas were
18 considerably more burdensome than in Arkansas. As a result, the
19 Texas related costs incurred in my Planning & Regulatory Class of
20 TTC costs were \$14.8 million in 1999 and 2000 alone. A major
21 driver of these costs was the requirement for the Company to
22 prepare, file, and then defend its UCOS and BSP cases.

- 1 • As Mr. Pous noted, the Arkansas program was much shorter than
2 the EGSI-Texas transition to competition activities, which lasted for
3 six years. Of the \$11,282,339 Entergy Arkansas requested in
4 transition recovery costs, only \$990,898 (8.8%) were incurred in
5 2001 (TCGMFR schedule 1, APSC Docket No. 01-041-U). I have
6 attached this schedule as my Exhibit No. PRM-R-1. Thus, over
7 90% of the Arkansas costs were incurred through 2000. EGSI-
8 Texas, however, had only incurred about 15% of its total costs
9 through 2000. In fact, in 2001 alone, after Arkansas had ramped
10 down or shut down its efforts, EGSI-Texas' TTC spending peaked
11 at \$66.09 million, or 40% of the Company's overall request. (See
12 my direct testimony at Bates page 1-150). The actions of the
13 Arkansas Commission and the differences in the pace and scope of
14 activities related to transition to competition in Arkansas, as
15 compared to Texas, resulted in significantly different spending
16 patterns as is depicted in my attached Exhibit No. PRM-R-2.
- 17 • Entergy Arkansas did not have to fund Texas specific costs such as
18 Energy Efficiency (\$6.2 million), System Benefit Fund and
19 Renewable Energy Credits (\$7.4 million), Default Service Provider
20 (\$13.6 million), and Retail customer service costs (\$16 million).²

² Also, the \$10,241,664 Entergy Arkansas request referenced by Mr. Pous as the amount requested by that utility is misleading in that this was the amount *after* adjustments that occurred over the course of the Arkansas proceeding to recover TTC costs. A more appropriate comparison amount would be the \$11, 222,270 that Entergy Arkansas filed in its supplemental filing and that was used as the starting point by the Arkansas Commission's Auditor, Ms.

1

2 Q. ALSO ON PAGE 13 OF HIS TESTIMONY, MR. POUS STATES THAT
3 "THE REASONABLE AND NECESSARY TEST SET FORTH IN PURA
4 \$39.454 MUST TAKE INTO ACCOUNT THE COMPANY'S FAILURE TO
5 INFORM ALL INTERESTED PARTIES ON A TIMELY BASIS OF JUST
6 HOW MUCH IT WAS SPENDING, EVEN AFTER THE PUCT
7 TERMINATED THE PILOT PROJECT AND DELAYED EFFORTS
8 TOWARD RETAIL OPEN ACCESS ON JUNE 30, 2004." DID THE
9 COMPANY INFORM PARTIES OF THE COSTS IT WAS INCURRING IN
10 THE EFFORT TO PREPARE FOR ROA?

11 A. Absolutely. Mr. Jack Blakley, Vice President, Regulatory Affairs for EGSI-
12 Texas, filed testimony before this Commission on April 11, 2003 in EGSI's
13 "ESAT Market Protocols" docket in which he explicitly informed the
14 Commission of the costs incurred to that date—in early 2003—in EGSI's
15 transition efforts. In his filed testimony, Mr. Blakley stated on page three
16 of his direct testimony: "The costs associated with the transition to ROA
17 now exceed \$100 million, plus \$300,000 monthly to maintain a state of
18 readiness for pilot participation." The three hearings on the merits in that
19 docket were heard directly by the Commission. Therefore, the
20 Commission was well aware, long before it finally decided to indefinitely

Waymire in her proposed adjustments. See Ms. Waymire's Exhibits TRW-1 and TRW-2, which are attached as Exhibit PRM-R-X to this testimony). The difference in the numbers is relatively small.

1 delay ROA efforts for ESAT, that EGSI's cost of the transition effort, even
2 in early 2003, exceeded \$100 million.

3

4 Q. MR. POUS, BEGINNING ON PAGE 38 OF HIS TESTIMONY,
5 RECOMMENDS DISALLOWANCE OF \$1,518,003.81 IN COSTS
6 ASSOCIATED WITH "STRANDED COST" ACTIVITIES. DO YOU
7 AGREE THAT THESE STRANDED COST ACTIVITIES COSTS SHOULD
8 BE DISALLOWED?

9 A. No. Mr. Pous argues that these costs have already been recovered
10 because the settlement agreement in Docket No. 22356 established
11 EGSI's stranded costs at zero dollars, and determined that the Company
12 should not recover stranded costs from ratepayers. The costs in the
13 Company's request to which Mr. Pous refers, however, are not the
14 "stranded costs" set at zero in the Docket No. 22356 settlement. Instead,
15 they are the costs necessary to perform the legal, contractor, and
16 employee time and expenses required to perform technical and legal
17 analysis of the Company's stranded cost exposure and rights before it
18 could settle the stranded cost issue as part of the Docket No. 22356
19 settlement. The Company incurred over \$1.33 million in legal and contract
20 fees to complete work. The Company does not agree with Mr. Pous that
21 the Commission-approved settlement in Docket No. 22356 in any way
22 excludes recovery of costs required to reach the conclusion of the docket
23 itself.

1 Q. WITH REGARD TO "STRANDED COSTS," MR. POUS CLAIMS THAT IN
2 THE SETTLEMENT IN DOCKET NO. 22356 THE COMPANY AGREED
3 NOT TO RECOVER ANY STRANDED COSTS FROM RATEPAYERS.
4 ARE THE TYPES OF COSTS RECOMMENDED FOR DISALLOWANCE
5 BY MR. POUS THE "STRANDED COSTS" REFERENCED IN THE
6 SETTLEMENT OF DOCKET NO. 22356?

7 A. No, they are not. The stranded costs addressed by the settlement in
8 Docket No. 22356 are specifically defined in PURA § 39.251(7). That
9 definition does not include the costs for the activities addressed by Mr.
10 Pous' recommended disallowance. The Company was directed to run
11 "Excess Cost Over Market" (ECOM) models based on specific instructions
12 from the Commission. The cost to perform this analysis was not a part of
13 the model inputs and, therefore, was not a cost resolved through the
14 Docket No. 22356 settlement.

15

16 Q. MR. POUS RECOMMENDS THE RECOVERY OF CITIES' RATE CASE
17 EXPENSES AS PART OF THE TTC RIDER. DO YOU AGREE WITH
18 THIS POSITION?

19 A. No. The Company's request includes only TTC costs through June 17,
20 2005. It does not include any costs after that point. There is no provision
21 at this point to allow the Company to recover its cost of putting on this
22 case, much less the Cities, and the Company remains in a base rate
23 freeze. However, if the Commission allows the Company to recover in

1 this proceeding any expenses that it pays to the Cities, the Company
2 would not oppose such a recovery mechanism.
3

4 Q. Mr. POUS PROPOSES THAT THE COMPANY MAKE ANNUAL FILINGS
5 TO REVISE THE CARRYING COSTS EACH YEAR OF THE 15 YEAR
6 TTC COST RECOVERY PERIOD. WHAT IS THE COMPANY'S
7 POSITION ON THIS MATTER?

8 A. This proposal, if adopted, would impose an unnecessary administrative
9 burden on EGSI, the parties and the Commission. The Commission,
10 therefore, should reject Mr. Pous' proposal for annual filings. There is
11 nothing in PURA § 39.454 suggesting that annual true-ups of some kind
12 are necessary or appropriate. I understand that the Legislature, when it
13 believes that true-ups should be imposed in different situations, typically
14 includes an explicit true-up provision in the applicable statute. With regard
15 to EGSI's TTC costs, the Legislature recognized that the Company's
16 recovery of TTC costs may extend over a period not to exceed 15 years.
17 Despite the recognition of a long recovery period, the Legislature did not
18 include a burdensome (and potentially costly) true-up filing provision in
19 House Bill 1567.

20

21 C. Rebuttal to OPC's Witness Norwood

22 Q. OPC'S WITNESS NORWOOD, ON PAGE 8 OF HIS TESTIMONY,
23 NOTES THAT THE COMPANY HAS DIVIDED ITS COSTS INTO

1 FOURTEEN COST CLASSES. HE THEN STATES THAT THIS IS
2 INADEQUATE. HOW DO YOU RESPOND?

3 A. At the outset, it appears that Mr. Norwood and other Intervenor witnesses
4 would prefer that the Company had recorded its TTC costs segregated by
5 PUC docket or project number, rather than by the actual method through
6 which the TTC costs historically were recorded on EGSI's books and
7 records: through project codes. The TTC cost classes are comprised of
8 project codes—as can be seen on my Exhibit PRM-B. This project code
9 construction shows additional individual makeup of each class. In
10 addition, my workpapers provide the invoices and timesheets that backup
11 the costs in my TTC classes. Company witness Thomas addresses the
12 appropriateness of the cost classes in more detail in his rebuttal
13 testimony.

14
15 Q. WHY DOES THE COMPANY USE A 'PROJECT CODE' METHOD TO
16 RECORD COSTS, RATHER THAN RECORDING COST BY PUC
17 DOCKET OR PROJECT NUMBER?

18 A. All TTC costs are captured by a specific and appropriate Company project
19 code, which also is comprised of activity codes, which generally describe
20 the types of activities that may be captured within the project. While it is
21 common for the Company to set up a specific project code for a single,
22 sizable PUC cost recovery docket such as a base rate case, it is not
23 common to attempt to track all costs back to a specific regulatory docket.

1 Tracking costs in this manner would be inefficient and unwieldy for a
2 number of reasons: it would greatly increase the number of projects to be
3 tracked; it would lead to dilemmas as to how to record costs that are not
4 associated with a specific docket, or which are common to more than one
5 docket, and require revisions to the extent PUC dockets often are not
6 established until an application is filed, but Company time is spent
7 preparing that application before the filing, and therefore before the
8 establishment of the docket. Also, the Texas TTC effort was unique in
9 that it had a large number of new Commission dockets and projects that
10 were required to implement Senate Bill 7 and Chapter 39. A good part of
11 the work to implement TTC was intertwined among many dockets, rather
12 than for a single docket or project. For example, planning and regulatory-
13 related activities are not necessarily pegged to a specific PUCT docket or
14 project; neither was Texas or Retail SET. But all of these efforts were
15 directed solely toward compliance with Chapter 39 and Senate Bill 7's
16 ROA goal.

17 On a more discrete level, the project codes used by the Company
18 were designed to capture specific capital projects as well as general work
19 activity areas such as implementation, unbundling, and rulemaking. The
20 primary concern was to make sure that the Company was capturing a
21 transition charge and coding it in such a way that the allocation for each
22 jurisdiction was appropriate. Accordingly, for all these reasons, activity-

1 based grouping of costs makes more sense than the sorting of costs by
2 PUC docket or project.
3

4 Q. MR. NORWOOD CONCLUDES ON PAGE 21 OF HIS TESTIMONY THAT
5 BECAUSE OF THE ALLEGED FAILURE TO PROVIDE DETAILED
6 EVIDENCE THAT ALL COSTS ARE ELIGIBLE FOR RECOVERY AS TTC
7 COSTS, THE COMPANY SHOULD NOT RECOVER AN EQUITY
8 RETURN DURING THE RECOVERY PERIOD. WHAT IS YOUR
9 RESPONSE TO HIS PROPOSED RESULTING 3.0% WEIGHTED
10 AVERAGE COST OF CAPITAL?

11 A. His recommendation is unreasonable. The Company has provided
12 abundant evidence that all costs submitted in this docket are eligible for
13 recovery as TTC costs, and no such penalty is warranted. Depriving the
14 Company of an equity return on its reasonable and necessary TTC costs
15 would deny the Company full recovery of those costs, to which it is entitled
16 in accordance with PURA Section 39.454.
17

18 Q. ON PAGE 22 OF HIS TESTIMONY, MR. NORWOOD RECOMMENDS
19 THE DISALLOWANCE OF COSTS ASSOCIATED WITH RENEWABLE
20 ENERGY CREDITS ("RECS"). WHY WAS THE COMPANY EXPENDING
21 FUNDS TO UNDERTAKE THIS ACTIVITY?

22 A. The Commission ordered the Company to do so. In the Commission's
23 December 20, 2001 Order in Docket No. 24469, the Commission

1 concluded, in its Conclusion of Law 12, that it had the authority under
2 PURA § 39.904 to direct EGSI, rather than a REP, to comply with the REC
3 requirement of that section. The Commission ordered the Company to do
4 so through Ordering Paragraph 16 of that order. Because ESAT did not
5 move to ROA on January 1, 2002, EGSI's affiliated REP could not begin
6 to serve customers, and therefore had no revenue to pay for RECs. It
7 therefore fell to the utility—the still bundled EGSI—to pay for the RECs to
8 the extent it did not have sufficient renewable resources (which it did not)
9 to meet the renewable energy requirements established in Chapter 39.

10
11 D. Rebuttal to Cities' Witness Arndt

12 Q. ON PAGE 11 OF HIS TESTIMONY, CITIES' WITNESS ARNDT NOTES
13 THAT ENTERGY HAS NOT REQUESTED TTC RECOVERY IN
14 LOUISIANA, MISSISSIPPI OR NEW ORLEANS. IS HE CORRECT?

15 A. No. Existing rate reviews and Formula Rate Plans in those jurisdictions
16 allow the Entergy Operating Companies in those jurisdictions to recover
17 their costs on an annual basis. Transition costs were a part of those
18 companies' costs and were a part of their recovery process, although no
19 formal and separate TTC cost request was made or needed to be made.

20
21 E. Rebuttal to TIEC's Witness Pollock

22 Q. TIEC WITNESS POLLOCK, BEGINNING ON PAGE 40 OF HIS
23 TESTIMONY, CLAIMS THAT THE COMPANY HAS NOT PROVIDED

1 ADEQUATE DETAILED SUPPORT FOR THE DEFAULT SERVICE
2 PROVIDER ("DSP") CLASS OF COSTS AND, THEREFORE, NONE OF
3 THESE COSTS SHOULD BE RECOVERED AS PART OF THE TTC
4 COSTS. DO YOU AGREE WITH HIS ASSERTIONS?

5 A. No. My direct testimony explains that the Default Service Provider class
6 was the base level of functionality required for the DSP to comply with the
7 Price-to-Beat provision in PURA Section 39.202. I explain this in 26
8 pages of "detail" in my direct testimony at Bates pages 1-241 through 1-
9 266. There, I explain the Default Service Provider costs and discuss in
10 detail what work is represented within this class, the functionality and
11 necessity of the products (such as, SET systems needed for market
12 transactions), the RFP process, how the project was managed, the
13 primary vendor (IBM) and its role, all the way to the close of the project,
14 and full hand-off to the Retail organization at the end of the initial Texas
15 SET version. Numerous invoices associated with the DSP Class are also
16 provided as a part of my workpapers. Despite this abundance of
17 evidence, Mr. Pollock cites the lack of a breakout of load forecasting within
18 the DSP class as a reason for disallowing these costs. Mr. Pollock's lack
19 of understanding of these costs is not a reasonable basis for his proposed
20 disallowance.

21 Mr. Pollock ignores that the Company was mandated by PURA
22 Section 39.202 to be ready and prepared, at market open, to serve price-
23 to-beat load. These costs were incurred by EGSI to implement the

1 statutory scheme mandated by Senate Bill 7: to separate and establish
2 separate transmission and/or distribution companies and separate affiliate
3 retail electric provider(s).

4

5 Q. HAS THE COMPANY PROVIDED A DETAILED EXPLANATION AND
6 SUPPORT FOR YOUR DSP CLASS?

7 A. Yes. My direct testimony explains in detail why the costs in the DSP class
8 were necessary and reasonable. Those costs are also presented in
9 number different "views" in the alpha exhibits attached to my direct
10 testimony. Nevertheless, because Mr. Pollock takes exception to this
11 presentation for this class, I provide the following, additional breakout of
12 the DSP class of costs that may be more along the lines raised by Mr.
13 Pollock in his testimony:

14

Category	Amount (in millions)	Comment
AFUDC & Capital OH	4.4	Standard carrying costs for capital projects
Payroll & Benefits	0.5	ESI capital labor
IBM/Exolink	4.1	Primary vendor for overall project
SAIC	3.6	IT labor for systems interfaces
ICF	0.8	Load forecasting vendor
Andersen/Accenture	0.2	Business process assistance
Total	13.6	

15

16 Q. MR. POLLOCK ALSO STATES THAT THE METHODOLOGY USED BY
17 EGS TO ALLOCATE COSTS TO THE RETAIL COMPANIES IS FLAWED
18 BECAUSE, HE ALLEGES, YOU DID NOT DISCUSS HOW COSTS

1 WERE ATTRIBUTABLE TO EACH REP. DO YOU AGREE WITH MR.
2 POLLOCK'S ASSERTION?

3 A. No. Mr. Pollock's discussion on this point is unclear at best. I do not
4 sponsor the allocation of costs between the PTB and POLR ESAT REPs
5 and the ERCOT REP. As Mr. Pollock himself points out, Company
6 witness Quick sponsors that portion of the Company's case. It makes no
7 sense to disallow these costs based on Mr. Pollock's assertion that I do
8 not address the specific issue, while another Company witness (Mr.
9 Quick) does.

10

11 Q. YOU MENTIONED THAT MR. POLLOCK ALSO PROPOSES TO
12 DISALLOW THE ENTIRE DSP CLASS OF COST BECAUSE HE COULD
13 NOT IDENTIFY THE LOAD FORECASTING PORTION. IS IT POSSIBLE
14 TO IDENTIFY THE LOAD FORECASTING COSTS WITHIN THE DSP
15 CLASS?

16 A. Yes. Although a separate project code was not set up to individually track
17 the load forecasting work portion within the DSP, a single vendor, ICF,
18 developed and provided the load forecasting functionality for what is the
19 DSP class. ICF was paid \$791,035 for this work; ICF's invoices are
20 included in my workpapers provided with my direct testimony.

21

1 Q. DO YOU AGREE WITH MR. POLLOCK'S DISALLOWANCE
2 ASSOCIATED WITH HIS CONCERNS ABOUT IDENTIFYING THE LOAD
3 FORECAST COSTS WITHIN THE DSP?

4 A. No. The invoices within my workpapers in my direct testimony provided
5 information to answer this issue. In addition, Mr. Pollock acknowledges in
6 the DSP section of his testimony on page 40 that the DSP costs were for
7 both retail market transactions and load forecasting. It is unreasonable for
8 Mr. Pollock to make any disallowance simply because the Company did
9 not describe or breakout a specific cost in the exact way he wanted to see
10 it. Also, the table I have included above shows the breakout of the load
11 forecasting for the DSP Class.

12
13 Q. MR. POLLOCK ALSO RECOMMENDS THE DISALLOWANCE OF THE
14 ENTIRE CLASS OF COSTS BASED ON THE META GROUP STUDY
15 DISCUSSED IN COMPANY WITNESS QUICK'S TESTIMONY. DO YOU
16 AGREE WITH MR. POLLOCK'S RECOMMENDATION?

17 A. No. Mr. Pollock is misapplying a study by the Meta Group that was
18 discussed in several areas within Company witness Quick's direct
19 testimony, as it relates to an expected expenditure of approximately \$2.9
20 million for the systems associated with the load forecasting for a stand-
21 alone ERCOT company. This study has nothing to do with the DSP, but
22 Mr. Pollock appears to want to use this study to disallow the DSP costs
23 from two different and somewhat confusing perspectives. The first states

1 that the Company is seeking to recover more than the \$2.9 million Meta
2 Group estimate for load forecasting, thereby making any expenditures
3 beyond that estimate unreasonable. The second appears to state that all
4 the value from the \$2.9 million Meta Group amount has been realized by
5 the ERCOT REP and should not be recovered.

6

7 F. Rebuttal to Cities' Witness Reeder

8 Q. CITIES' WITNESS REEDER STATES ON PAGE SIX OF HIS
9 TESTIMONY THAT ONLY COSTS INCURRED TO COMPLY WITH
10 CHAPTER 39 OF PURA ARE ELIGIBLE FOR RECOVERY AS PART OF
11 THE TTC RIDER. DO YOU AGREE WITH THIS POSITION?

12 A. Yes.

13

14 Q. CITIES WITNESS REEDER, ON PAGE SIX OF HIS TESTIMONY,
15 STATES THAT "EXPENSES MADE TO COMPLY WITH CHAPTER 35
16 OF PURA (GOVERNING WHOLESALE TRANSMISSION), CHAPTER 37
17 (GOVERNING FACILITIES, INCLUDING CCN CASES), OR CHAPTER
18 38 (GOVERNING SERVICE QUALITY STANDARDS) ARE NOT
19 ELIGIBLE FOR RECOVERY. ARE ANY OF THE COSTS INCLUDED IN
20 THIS TTC COST RECOVERY CASE RELATED TO THESE SECTIONS
21 OF PURA?

22 A. No. Mr. Reeder makes this comment in the context of suggesting overall
23 cost recovery standard requirements. Within his remarks he

1 acknowledges, however, that the cost recovery standard "[sets] forth a
2 fairly minimum standard that if an EGSI expense was necessary to comply
3 with an affirmative obligation set forth in Chapter 39, or to comply with
4 legislative policies set forth in Chapter 39, the expense was necessary to
5 comply with Chapter 39." All of the costs in the Company's request are
6 related to implementation of Chapter 39.

7
8 Q. MR. REEDER NOTES ON PAGE 19 OF HIS TESTIMONY THAT THERE
9 IS A "WEAK" CONNECTION BETWEEN THE EMPLOYEES WHO
10 APPROVED TTC COSTS AND THE DECISION TEAMS AND BOARDS.
11 SHOULD THERE BE A DIRECT CORRELATION BETWEEN THESE
12 TWO GROUPS OF EMPLOYEES?

13 A. Mr. Reeder incorrectly concludes there was a weak connection between
14 the management of TTC legal costs and the decision boards. To
15 exemplify his reasoning he uses the example of Dick Westerburg, an ESI
16 attorney located in Austin and primarily responsible for the day-to-day
17 management of the Bickerstaff firm (and other Texas legal firms), not
18 being a member of any decision team or board. In fact there were strong
19 ties to decision boards and their members. Mr. Westerburg reports to
20 Kathy Lichtenberg, Associate General Counsel, who was a member of a
21 number of decision boards as well as the lead TTC Decision Board. Mr.
22 Westerburg's primary "internal client" is Jack Blakley, Vice President-
23 Regulatory Affairs EGSI-Texas, who reports directly to the President of

1 EGSi-Texas, Joe Domino. Mr. Domino was a member of the TTC
2 Decision Board and was closely involved in the overall progress and cost
3 of TTC. Therefore, not being a member of a decision board does not in
4 any way mean that your actions were not controlled and monitored by a
5 decision board.

6
7 Q. BEGINNING ON PAGE 19 OF HIS TESTIMONY, MR. REEDER
8 EXPRESSES CONCERN ABOUT WHAT HE REFERS TO AS
9 INAPPROPRIATE OVER-RELIANCE ON OUTSIDE COUNSEL. PLEASE
10 EXPLAIN THE COMPANY'S POLICY ON RETENTION OF OUTSIDE
11 COUNSEL.

12 A. ESI lawyers provide many services to EGSi, including substantial work on
13 the TTC projects. But there were not nearly enough in-house lawyers
14 available to undertake the massive amounts of work required for the
15 transition efforts, particularly in its initial stages. The Company's UCOS
16 case filing alone was presented by 48 witnesses. It is my experience that
17 it takes many lawyers to work with the Company and its witnesses to put
18 together that magnitude of a case. It is also important to note that in
19 addition to providing needed resources, outside lawyers also provide
20 expertise that is valuable but potentially unavailable from in-house
21 lawyers.

22

1 Q. WOULD IT BE REASONABLE FOR THE COMPANY TO HIRE ALL
2 NECESSARY COUNSEL AS FULL TIME EMPLOYEES?

3 A. No. I doubt the Company could successfully implement a policy based
4 upon hiring and then dismissing in-house counsel on a project-by-project
5 basis. Clearly such an approach would not be a sound business practice
6 and would have detrimental affects on the Company's reputation and
7 employee morale. TTC was not a "business as usual" situation. It
8 resulted in an unusually large volume of additional work and expertise in a
9 specialized area on a one-time basis (actually lasting much longer than
10 originally anticipated, due to the ROA delays). It would not have been
11 reasonable for the Company to hire attorneys as permanent employees in
12 this scenario. The Company did act prudently to hire one additional
13 attorney as a permanent employee as it saw the need for ongoing
14 regulatory work in Texas.

15
16 Q. MR. REEDER EXPRESSES THE OPINION THAT THE COMPANY
17 COULD HAVE HIRED ADDITIONAL COUNSEL IN ADDITION TO SOME
18 21 LAWYERS ON STAFF WHO WORKED ON TTC PROJECTS TO
19 VARYING DEGREES. IN YOUR OPINION, WERE THE NECESSARY
20 QUALIFIED IN-HOUSE COUNSEL AVAILABLE TO STAFF UP FOR THE
21 TTC MATTERS AS FULL TIME EMPLOYEES?

22 A. No. First, as I described in my previous answer, it is not prudent business
23 practice to "staff up" by hiring more attorneys as in-house employees for

1 spikes in workload. For clarification, the number of Entergy regulatory
2 attorneys available was much fewer than 21. Others were either not
3 regulatory attorneys or were working other matters in other jurisdictions,
4 and a number of the attorneys in the "21" count worked relatively little on
5 TTC matters—they were typically consulted in for special expertise or
6 limited periods.

7

8 Q. MR. REEDER STATES THAT THE COMPANY DID NOT FOLLOW ITS
9 OWN GUIDELINES WITH REGARD TO SERVICES PROVIDED BY
10 OUTSIDE COUNSEL. HOW DO YOU RESPOND?

11 A. The guidelines, as I understand them, are just that - guidelines that
12 certainly would apply in a typical case or project. But the transition efforts
13 and requirements were not typical. The Company spent a large amount of
14 time planning and implementing the Chapter 39 requirements. This
15 necessitated the use of outside counsel who worked more than typical
16 hours on the planning, counsel, research, testimony and document
17 preparation and filing, and attendance at work shops and hearings. It is
18 understandable, as Company witness Trostle has discussed, that this
19 effort required extraordinary time.

20

21 Q. MR. REEDER RECOMMENDS, BEGINNING ON PAGE 26 OF HIS
22 TESTIMONY, THAT HALF OF THE EXPENSES THE COMPANY HAS
23 REQUESTED FOR RECOVERY IN CONNECTION WITH THE FERC

1 ENTERGY SYSTEM AGREEMENT CASE SHOULD BE DISALLOWED.

2 DO YOU AGREE?

3 A. No. The System Agreement amount included in the Company's request
4 only represents the EGSI-Texas allocated share, which is already well
5 less than half of what Entergy spent on the FERC System Agreement
6 case. Except where the work was solely for the benefit of EGSI-Texas,
7 these costs were coded to shared cost TTC project codes that split costs
8 either between EGSI-Texas and Entergy Arkansas or between all Entergy
9 jurisdictions. This allocation process is addressed in my direct testimony
10 on Bates pages 1-142 through 1-145 as well as in more detail in the direct
11 testimony of Company witness Barrilleaux in Exhibits CEB-6 and CEB-7.
12 The allocation for those EGSI-Texas and Entergy Arkansas shared TTC
13 codes billing method was approximately 35% of the costs to EGSI-Texas
14 and 65% to Entergy Arkansas. The TTC codes which provided for
15 system-wide allocation only designated approximately 16% of the total
16 costs to EGSI-Texas. This cost allocation can be seen in Exhibit PRM-B of
17 my direct testimony, which shows, by project code, the System Agreement
18 related costs. Specifically, Column A shows the "Total" amount, Column B
19 shows "Billed to Others," and the Column C shows the amount "Billed to
20 EGSI-TX." These numbers can also be seen in the Company's response
21 to Cities RFI 13-7 which shows the booked cost to all jurisdictions by
22 project code and are shown in the attached workpapers.

23

1 Q. MR. REEDER RECOMMENDS BEGINNING ON PAGE 27 OF HIS
2 TESTIMONY THAT ALL COSTS ASSOCIATED WITH THE MERGER
3 SAVINGS CASE BE DISALLOWED. PLEASE DESCRIBE THE MERGER
4 SAVINGS CASE AND THE CIRCUMSTANCES THAT RESULTED IN
5 THAT LAWSUIT.

6 A. The merger savings case came about as a result of certain EGSI
7 ratepayers alleging that the Company was in breach of certain provisions
8 of the settlement agreement in Commission Docket 11292 that addressed
9 the sharing of "Merger Savings." Docket No. 11292 addressed the
10 request of Gulf States Utilities Company and Entergy Corporation that the
11 Commission find their merger consistent with the public interest. The
12 merger approval order from that docket included a requirement that
13 savings from the 1993 merger between Entergy Corporation and Gulf
14 States Utilities Company (now EGSI) would be shared 50/50 and that the
15 level of those savings to be shared would be determined in three rate
16 cases filed in 1996, 1998, and 2001.

17 The first two rate cases contemplated by the Commission's order
18 were filed but, in its Preliminary Order in EGSI's UCOS case (Docket
19 22356), the Commission decided that PURA § 39.201 required a
20 transmission and distribution rate case to be filed by April 1, 2000, to
21 implement rates and tariffs for ROA. Accordingly, the Commission
22 concluded that EGSI should not file the third bundled rate case under its
23 Docket No. 11292 order in November 2001.

1

2 Q. HOW ARE THE COSTS ASSOCIATED WITH THE MERGER SAVINGS
3 CASE RELATED TO CHAPTER 39 OF PURA?

4 A. This case would have never occurred had it not been for the
5 implementation requirements of Senate Bill 7 and the Commission's order
6 removing the need to file the third savings case. Moreover, if the plaintiffs
7 had been successful in their suit, EGSi would have had to pay "damages"
8 that were in the form of the rate reductions that the plaintiffs claimed they
9 would have realized through the final rate case that was cancelled by the
10 Commission. This result was directly contrary to the requirements of the
11 rate freeze required by PURA Chapter 39 and the Commission's extension
12 of that rate freeze (via its order in EGSi Docket No. 24469). Accordingly,
13 EGSi's defense of the merger savings class action was necessary to
14 ensure that the requirements of Chapter 39 remained undisturbed by the
15 lawsuit.

16

17 Q. MR. REEDER RECOMMENDS ON PAGE 25 OF HIS TESTIMONY THAT
18 COSTS ASSOCIATED WITH PUBLIC RELATIONS ACTIVITIES BE
19 DISALLOWED. PLEASE DESCRIBE THE ACTIVITIES ASSOCIATED
20 WITH THE COSTS INCURRED THAT HAVE BEEN IDENTIFIED AS
21 PUBLIC RELATIONS EXPENSES.

22 A. The "public relations" expenses that Mr. Reeder is referring to were
23 expenses incurred in direct support of TTC implementation for customer

1 education and would have not been expended otherwise. The Company's
2 primary customer education costs included:

- 3 • The implementation of communications campaigns on competition
4 and service reliability such as "We Deliver the Power", "Power Up"
5 and "Competition/Service Reliability" to help allay possible
6 customer concerns about any possible degradation of their service
7 quality with a new "REP." This campaign was delivered in radio
8 and television advertisements, billboard advertisements, bill inserts
9 and newspaper inserts across the Entergy territory.
- 10 • Conducting a series of town hall meetings, entitled "Power Up"
11 sessions in which the Company president, Joe Domino, met with
12 communities to update them on the status of deregulation and
13 answer their questions.

14 Also included in these costs are the TTC-related, Commission
15 required communications, such as legal notice placements and bill inserts.
16 These included notices for the Business Separation plan, UCOS, Energy
17 Efficiency Workshops, and changes in security lighting resulting from TTC
18 changes to competitive services.

19 In addition, there were some limited expenses for employee
20 education as part of the requirement for a Code of Conduct Compliance
21 Plan to educate employees about TTC and to ensure that they knew their
22 obligations under the Affiliate Rules and Code of conduct as referenced in
23 the Company's Business Separation Plan Filing Package Section J(10).

1 This included providing the Commission with sample materials and the
2 training scripts used for customer service representatives.

3 In preparing this rebuttal testimony in response to Mr. Reeder's
4 testimony, the Company did find that the invoice, labeled as, "Employee
5 Recruitment" that were incorrectly included in with a TTC code for \$487.50
6 and agree with its disallowance. We also found one other invoice labeled,
7 "Radio Placement-Habitat for Humanity" that was also incorrectly coded to
8 TTC for \$1,925 and agree with its disallowance.

9
10 Q. SHOULD THESE PUBLIC RELATIONS EXPENSES BE INCLUDED IN
11 THE TTC COSTS?

12 A. Yes. Had it not been for the Chapter 39 requirements regarding customer
13 education and implementing ROA, the Company would not have
14 expended those costs.

15

16 III: ISSUES RAISED BY TWO OR MORE WITNESSES

17 A. Rates/Riders Preparation Class

18 Q. WITNESSES POLLOCK, HIGGINS, SZERSZEN, NORWOOD, REEDER
19 AND GIVENS HAVE EACH RECOMMENDED THAT THE RATE CASE
20 EXPENSES INCURRED TO PREPARE THE 2004 RATE CASE,
21 DOCKET 30123, SHOULD NOT BE RECOVERED AS PART OF TTC
22 COSTS? WHY WAS THAT RATE CASE FILED BY THE COMPANY?

1 A. The Company filed Docket No. 30123 in accordance with PURA § 39.103.
2 That provision allows the Commission to establish new rates for a utility if
3 ROA is delayed. By the summer of 2004, when the Company filed its
4 Docket No. 30123 application, the Commission had delayed ROA in ESAT
5 at least three times as described in Company witness Domino's direct
6 testimony (Bates pages 1-85 through 1-90): once in December 2001
7 through Docket No. 24469, a second time through the Interim Solution
8 proceeding (Docket No. 27273) when it set December 2004 as an ROA
9 target date, and then in the Independent Organization docket (Docket No.
10 28818) when it indefinitely delayed ROA after it determined that there
11 would be no ROA in the near term under either an RTO or under an
12 interim solution. After the last of these delays, the Company was asking
13 the Commission, through its authority under PURA § 39.103 to reset
14 EGSI's base rates going forward as EGSI continued to work toward ROA
15 under a now indefinite delay. The two paths to ROA under the Docket No.
16 24469 settlement had both ended without ROA: no ROA in the 2002 (or
17 even 2003) time frame under an RTO (the "first" path) and no ROA under
18 an interim solution (the "second" path). The Company believed at that
19 time (and continues to believe), that in order to have the financial strength
20 to continue the transition to competition, and thus comply with Chapter 39,
21 it needed rate relief. For these reasons, the Company's application in
22 Docket No. 30123 was a legitimate TTC cost made to comply with PURA
23 Chapter 39.

1

2

B. Allocating TTC Costs

3

Q. WITNESSES POLLOCK, JOHNSON, KING AND MANNING MAKE
RECOMMENDATIONS IN THEIR DIRECT TESTIMONIES REGARDING
THE ALLOCATION OF THE TTC COST RIDER AMONG CUSTOMER
CLASSES. WHAT ARE YOUR COMMENTS TO THESE
RECOMMENDATIONS?

7

8

A. The decision to go to ROA was the policy decision made by the Texas
Legislature and the Texas Governor through Senate Bill 7. As such,
Senate Bill 7 is the cost driver, rather than traditional cost causation points
as suggested in some of the recommendations of the parties. Senate Bill
7 was focused on providing retail electric customers with choice; that is,
options for the purchase of electricity from the production function of the
competitive generation market. Absent Senate Bill 7, the Company would
not have expended the TTC costs in the transition to that new market.
The Company's proposed 50/50 weighting between Demand and Energy
is a reasonable and appropriate method for allocating these costs, and
follows the Commission's decisions on two similar issues in the SPS and
stranded cost cases. However, the Company recognizes that the issue of
appropriate allocation of TTC costs is a Commission policy decision.

21

22

Q. IN THE COMPANY'S FILING, NO TTC COSTS WERE ASSIGNED TO
RATE SCHEDULE EAPS (ECONOMIC AS-AVAILABLE POWER

23

1 SERVICE) OR TO RATE SCHEDULE SMS (STAND-BY AND
2 MAINTENANCE SERVICE). BOTH OPC WITNESS JOHNSON AND
3 STATE OF TEXAS WITNESS KING RECOMMEND THAT SOME TTC
4 COSTS BE ASSIGNED TO THESE RATE SCHEDULES. IN HIS
5 CROSS-REBUTTAL TESTIMONY, TIEC WITNESS POLLOCK
6 RECOMMENDS AGAINST ASSIGNING TTC COSTS TO THESE RATE
7 SCHEDULES. WHAT IS THE COMPANY'S POSITION ON THIS
8 MATTER?

9 A. The problem with allocating TTC costs to EAPS and SMS is the
10 contingent nature of those rate schedules. Demand for service under
11 these two classes in particular is difficult to forecast and, as such,
12 recovery of TTC costs allocated to these classes is speculative. However,
13 if it is this Commission's determination that Rider TTC should be
14 applicable to EAPS and SMS, then both of these rates schedules should
15 be included in the LIPS rate class for the allocation of costs and
16 calculation of a rate to avoid a potential under-recovery of TTC costs by
17 the Company.

18

19 IV. CONCLUSION

20 Q. DO YOU HAVE ANY CHANGES OR REVISIONS TO YOUR DIRECT
21 TESTIMONY THAT YOU CAN MAKE AT THIS TIME?

22 A. No.

23

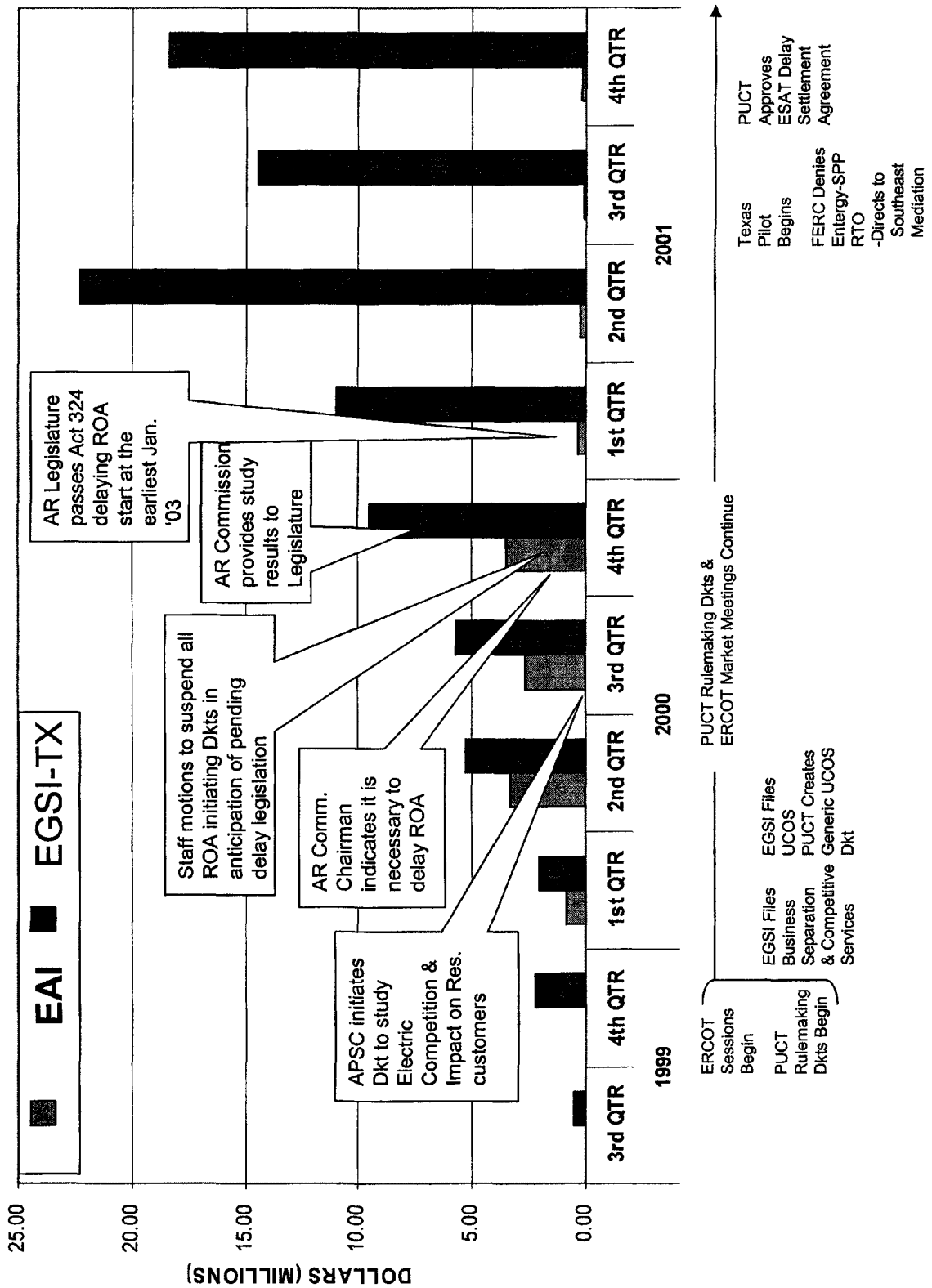
- 1 Q DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?
- 2 A. Yes, at this time.

ARKANSAS PUBLIC SERVICE COMMISSION
TRANSITION COST RECOVERY FILING SCHEDULES
SCHEDULE 1 SUMMARY OF ACTUAL TRANSITION COSTS INCURRED BY PROJECT CODE

ENTERGY ARKANSAS, INC.
FOR THE PERIOD JULY 30, 1999 THROUGH DECEMBER 31, 2001

(1)	(2)	(3)	(4)	(5)
Project Code	Project Code Description	1999 & 2000 Actual EAI Requested Recovery Amount \$	2001 Actual EAI Requested Recovery Amount \$	Cumulative Total EAI Requested Recovery Amount \$
CAPITAL COSTS				
ATTCAT	Market Mechanics Sys-Distr Ark.	1,308,328.52	102,435.68	1,410,764.20
	Capital Sub-total	1,308,328.52	102,435.68	1,410,764.20
O&M COSTS				
TRACEI	Consumer Education-EAI Incremental Costs	(2,020.36)	4,315.20	2,294.84
TRACII	Customer Interface Infrastructure-EAI Incremental Costs	22,165.62	1,653.38	23,819.00
TRAIMI	Transition Implementation Management-EAI Incremental Costs	610,085.41	200,439.26	810,524.67
TRAMPI	Market Power Activities-EAI Incremental Costs	93,652.71	23,285.28	116,937.99
TRARMI	Rulemaking-EAI Incremental Costs	796,310.03	77,722.43	874,032.46
TRASAI	System Agreement Modification-EAI Incremental Costs	1,603.93	23,878.29	25,482.22
TRASCI	Stranded Cost (method, determination, securitization, recovery)-EAI Incremental Costs	902,221.41	224,229.59	1,126,451.00
TRAUBI	Unbundling (tariffs, functions, billing)-EAI Incremental Costs	299,290.44	43,106.66	342,397.10
TRCCII	Customer Interface Infrastructure- Incremental Costs	917,480.71	0.00	917,480.71
TRCCMI	Transition Implementation Management-Incremental Costs	3,049,848.59	55,779.51	3,105,628.10
TRCRMII	Rulemaking- Incremental Costs	1,861.45	660.28	2,521.73
TRCSAI	System Agreement Modification- Incremental Costs	8,054.62	7,885.89	15,940.51
TRCSCI	Stranded Cost (method, determination, securitization, recovery) - Incremental Costs	68,077.48	10,908.97	78,986.45
TRCUBI	Unbundling (tariffs, functions, billing) - Incremental Costs	1,358,720.64	35,361.86	1,394,082.50
TRJCEI	Consumer Education-Incremental Costs	90.45	0.00	90.45
TRJCII	Customer Interface Infrastructure-Incremental Costs	7,904.81	0.00	7,904.81
TRJIMI	Transition Implementation Management-Incremental Costs	347,077.11	58,910.43	405,987.54
TRJRMII	Rulemaking-Incremental Costs	12,954.38	3,156.45	16,110.83
TRJSAI	System Agreement Modification-Incremental Costs	251,120.75	102,969.48	354,090.23
TRJSCI	Stranded Cost (method, determination, securitization, recovery) -Incremental Costs	227,641.40	13,690.60	241,332.00
TRJUBI	Unbundling (tariffs, functions, billing) -Incremental Costs	8,970.94	508.30	9,479.24
	O&M Sub-total	8,983,112.52	888,461.85	9,871,574.37
	Grand Total	10,291,441.04	990,897.53	11,282,338.57

ENTERGY ARKANSAS & EGS-TEXAS RETAIL ACCESS SPEND PATH



49