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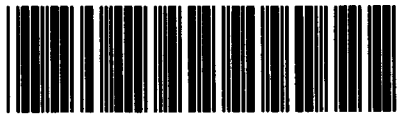

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SOAH DOCKET NO. 473-10-1962
DOCKET NO. 37744

APPLICATION OF ENTERGY TEXAS, INC. FOR AUTHORITY TO CHANGE RATES AND RECONCILE FUEL COSTS	§ § § §	BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS

REBUTTAL TESTIMONY

OF

J. DAVID WRIGHT

ON BEHALF OF

ENTERGY TEXAS, INC.

JUNE 30, 2010

ENTERGY TEXAS, INC.
REBUTTAL TESTIMONY OF J. DAVID WRIGHT
PUC DOCKET NO. 37744

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I. INTRODUCTION

A. Introduction and Qualifications

Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

A. My name is J. David Wright. My business address is 2500 TCBY Building, 425 West Capital Avenue, Little Rock, Arkansas 72201.

Q. DID YOU PREVIOUSLY FILE DIRECT TESTIMONY ON BEHALF OF ENTERGY TEXAS, INC. ("ETI" OR "THE COMPANY") IN THIS PROCEEDING?

A. Yes, I did.

Q. WHAT IS THE PURPOSE OF THIS TESTIMONY?

A. The purpose of my Rebuttal Testimony is to respond to various issues raised in Staff and Intervenor Direct Testimonies.

II. REBUTTAL ISSUES

A. Vendor Rebates

Q. OPC WITNESS SEYBOLD CONCLUDES THAT VENDOR REBATES WERE NOT PART OF THE "BLACK BOX" SETTLEMENT AMOUNT FOR DOCKET NO. 36931 (PAGE 7). DO YOU AGREE WITH THIS CONCLUSION?

A. No. That settlement resulted in, among other things, ETI agreeing to reduce its requested system restoration costs by $11.15 million. Vendor

rebates, unlike insurance receipts, were not carved out or in any way identified in that settlement as an item excluded from consideration in the settlement, or that would be subsequently trued up. For example, Section 4 of that settlement, a complete copy of which is attached in Ms. Seybold's workpapers filed with her testimony in this docket, states in part:

> Subsequent to receipt of all insurance payments related to Hurricanes Ike and Gustav, the $70.0 million credited, as provided in this paragraph, shall be trued up in accordance with PURA § 36.402. The trued-up amount shall be subject to carrying charges at the rate described in paragraph 3 of this Agreement until such costs are recovered in rates.

There is not a similar paragraph in the settlement that reserves some form of true-up for vendor rebates.

Further, Ms. Seybold's proposed disallowance of $747,968 for vendor rebates is less than 7% of the amount ETI gave up in that black box settlement and is subsumed in the amount that ETI gave up. Further, Ms. Seybold's own testimony illustrates that vendor rebates fell within the issues subject to the settlement, and were not reserved as an item for true up because, as Ms. Seybold indicates on her page 7, Company witness Israel addressed vendor rebates in her Rebuttal Testimony filed in that docket. That testimony, however, was filed prior to the parties reaching the unanimous settlement agreement that resolved the parties' litigation positions except for certain reserved items, and vendor rebates were not then included or identified as a reserved item. As such, and unlike

insurance receipts that were specifically reserved, vendor rebates were a known issue that was encompassed in the settlement and not reserved.

Q. MS. SEYBOLD STATES THAT THE LANGUAGE IN CONTRACT CLAUSES FOR CALCULATING VENDOR REBATES USES THE SUM OF ALL CHARGES FROM THE CONTRACTOR (VENDOR) ACCUMULATED DURING THE REBATE PERIOD (THE ONE YEAR PERIOD ENDING JUNE 30, 2009) (PAGE 13). DO YOU AGREE WITH THIS ASSERTION?

A. In part. While several contracts only allow rebates for storm costs, other contracts do allow rebates for the total costs incurred with the vendor. But it is more important to recognize that some of the vendors with contracts that contain the "total costs" provision do not conduct a significant amount of business with the Company outside of storm restoration. Thus, they will not have a significant amount of non-storm charges.

Q. WHY DO YOU MAKE THE DISTINCTION BETWEEN STORM AND NON-STORM CHARGES?

A. Expenses related to hurricanes and other severe storms are not typical, recurring events. For the most part, it is only the occurrence of a hurricane or severe storm that triggers the rebate provisions cited by Ms. Seybold. Because storm expenses are not recurring, charges related

to such events should be excluded from any calculation of test year vendor rebates.

Q. MS. SEYBOLD INDICATES THAT HER RECOMMENDED DISALLOWANCE OF $747,968 IS LIKELY TO BE SIGNIFICANTLY LOWER THAN THE ACTUAL REBATES RECEIVED FOR THE ENTIRE YEAR (PAGES 13). DO YOU AGREE WITH THIS ASSERTION?

A. No. To date, ETI has received $455,091 of vendor rebates for dollars expended during the 12 month period ending June 30, 2009. As stated above, storm costs should be excluded from the rebate calculation because they are non-recurring costs. After excluding storm costs, the amount of rebates reflected in the test year would be $92,153.

Q. MS. SEYBOLD RECOMMENDS THAT THE COMPANY MAKE EVERY EFFORT TO ENSURE THAT VOLUME REBATE CLAUSES ARE RETAINED, IF AT ALL POSSIBLE (PAGE 12). DO YOU AGREE WITH THIS RECOMMENDATION?

A. No. The volume rebate program has proven to require significant effort to administer, is difficult to enforce with all vendors, and has not yielded benefits that materially outweigh the cost and effort of administration and enforcement. Historically, vendors have been reluctant to participate in such a program for various reasons. For the small number of vendors that offered rebates, the rebate spending thresholds were difficult to reach

during a normal year that is not impacted by storms. These considerations weigh against continuation of the volume rebate program. The Company will pursue competitive pricing upfront rather than trying to administer rebate programs that only potentially offer smaller benefits after the fact.

Q. IF THE COMMISSION REJECTS THE COMPANY'S POSITION ON THESE VENDOR REBATES, WHAT IS THE COMPANY'S ALTERNATIVE PROPOSAL?

A. In that event, while doing so would be contrary to the settlement agreement in the hurricane cases, the vendor rebate amount ordered by the Commission should be a one-time charge to the storm reserve, and not a test-year adjustment. Since the Company is no longer pursuing vendor rebates, these rebates will not be recurring in the future.

B. Depreciation

Q. WHAT DEPRECIATION ISSUES WILL YOU ADDRESS IN THIS SECTION OF YOUR REBUTTAL TESTIMONY?

A. I will address the matter of "fully accrued depreciation" presented by Cities witness Jacob Pous in Section III, pages 89-93 of his Direct Testimony. I will also address certain allegations of Staff witness Nara Srinivasa on page 85 (lines 9-13) of his Direct Testimony regarding the Company's accounting for retirements and related costs.

Q. WHAT IS MR. POUS' POSITION REGARDING FULLY ACCRUED DEPRECIATION?

A. Mr. Pous has invented a new regulatory theory that there is exact matching of depreciation expenses that were originally used to determine electric utility rates and current revenues. His erroneous theory is that depreciation expenses are in some way a permanent component of revenues from the moment electric utility rates are set until such rates are re-determined in some future rate case and if any item in plant in service remains in plant in service beyond the point that its service value is fully amortized, depreciation expense should continue to be accrued. Or perhaps Mr. Pous has determined that the setting of rates creates an exact recovery mechanism that requires periodic true up; it is difficult to determine which theory he is espousing.

What Mr. Pous fails to recognize is that time passes and that all costs change as do all other factors that initially formed the determination of historical electric utility rates.

Q. WHY IS MR. POUS' THEORY IN ERROR?

A. Depreciation is the loss in service value over time. Service value is the original cost of plant plus the cost of removing plant from service ("cost of removal") less any proceeds realized upon its disposition ("salvage"). Once that service value has been fully amortized through the application of the depreciation rate(s) most recently approved by the regulator, there

is no further loss in service value to be recognized unless and until the regulator determines that other factors require further evaluation. The other factors would be the incurred cost of removal versus the cost of removal underlying the depreciation rate and the realized salvage versus the salvage underlying the depreciation rate.

Q. ARE THERE OTHER CONSIDERATIONS?

A. Yes. The Company constantly adds, removes, retires, replaces, etc. various assets and components of assets between rate cases. It does not, however, defer the depreciation expense on the new plant additions for future recovery, nor does it "unilaterally" continue to recognize depreciation on assets where the service value has been fully amortized. Neither the first nor the second procedure is appropriate for purposes of recording depreciation expense.

Q. HAS THE COMPANY CONSISTENTLY ADHERED TO THE PRINCIPLE THAT DEPRECIATION CEASES ONCE THE SERVICE VALUE OF ASSETS ARE FULLY AMORTIZED?

A. Yes. That has been the Company's policy for as long as I am aware.

Q. DO ANY OF ENTERGY'S OTHER REGULATORS ADHERE TO MR. POUS' POSITION ON THIS ITEM?

A. Not that I am aware of. In fact, APSC staff witness Ms. Gayle Freier stated on page 24, lines 3 through 5 of her Direct Testimony in the recent APSC Docket No. 09-084-U, "For ratemaking purposes, depreciation expense should not be calculated on any account with a reserve ratio equal to or exceeding 100% unless the account has a negative salvage value." In that section of her testimony she was discussing the calculation of depreciation expense on 22 accounts that were fully amortized. Of the 22 accounts Ms. Freier identified, Entergy Arkansas had stopped depreciating 20 prior to the date of filing (some as early as 2005).

Q. WHAT RECENT EVENTS HAVE OCCURRED TO MAKE THIS ISSUE RELEVANT TO ETI?

A. Two things have occurred. First, ESI put into place a new fixed asset accounting system in 2005 that enables ESI and the Entergy Operating Companies to automate processes previously handled manually, such as stopping the recording of depreciation expense when service value is fully amortized. The second thing that occurred is that three accounts became fully amortized since ETI's last rate case. Neither of these things is abnormal, nor do they change any company policy concerning depreciation.

Q. ARE THE COMPANY'S ACTIONS IN ANY MANNER CONTRARY TO ANY ORDERS OR REQUIREMENTS OF THE PUCT?

A. Not at all. The Company has continued at all times to observe the Commission approved depreciation rates and to accrue depreciation expense consistent with Commission rules and the FERC System of Accounts.

Q. IS THERE ANYTHING ELSE THE COMMISSION SHOULD CONSIDER ON THIS MATTER?

A. Yes. First of all, depreciation expense accruals only stop so long as the account is fully amortized. In other words, if a subsequent addition occurs to the account in the future, depreciation will begin to be accrued anew even though that item is not "in rates" through the application of approved depreciation rates. The Company cannot defer that depreciation until the next rate case. Secondly, the Company's depreciation accounting is subject to independent external audit, and Company auditors would not allow the Company to "unilaterally cease" depreciation expense accrual if such action required regulatory approval; nor would they allow ETI to "unilaterally" continue to accrue depreciation, as suggested by Mr. Pous, without specific regulatory approval.

Q. WHY WOULD THE COMPANY'S EXTERNAL AUDITORS REJECT AN ATTEMPT BY THE COMPANY TO CONTINUE TO ACCRUE DEPRECIATION EXPENSE ON FULLY DEPRECIATED ACCOUNTS?

A. Because it would be a violation of Generally Accepted Accounting Principles ("GAAP") to continue to record depreciation expense on items which are fully depreciated.

Q. DO YOU KNOW WHETHER OTHER TEXAS REGULATORS HAVE CONSIDERED MR. POUS' THEORY ON FULLY ACCRUED DEPRECIATION?

A. Yes. The Railroad Commission of Texas rejected Mr. Pous' theory in two cases. The PFD and Orders in these two cases are attached as Exhibit JDW-R-1.

Q. HAS THE COMPANY VIOLATED ANY REGULATORY PRINCIPLE AS SUGGESTED BY MR. POUS?

A. No. However, the refund of under accrued depreciation expense as Mr. Pous recommends would constitute retroactive ratemaking.

Q. WHAT IS MR. SRINIVASA'S RECOMMENDATION ON PAGE 85, LINES 9-13 OF HIS DIRECT TESTIMONY REGARDING DEPRECIATION ACCOUNTING?

A. Mr. Srinivasa is recommending that the Company track depreciation data at each FERC account level instead of the functional category level on a going forward basis.

Q. IS THAT A PROBLEM FOR THE COMPANY?

A. No. In fact, as I stated earlier in my testimony, the Company has recently installed a new fixed asset system in part so that it may more precisely comply with such record keeping requirements. In short, the Company is doing precisely what Mr. Srinivasa is recommending.

C. Spindletop

Q. WHAT IS MR. POUS' POSITION REGARDING THE SPINDLETOP GAS STORAGE FACILITY ("SGSF")?

A. Mr. Pous has created an argument that the Company has over-recovered its investment in SGSF through what he refers to as "equivalent" depreciation[1] over a term that he alleges is shorter than appropriate and above the facility's current market value. As such, Mr. Pous argues that the Company should refund the excess "equivalent" depreciation over the remaining life (35.5 years) of ETI's Sabine Station Unit 5. Mr. Pous bases his argument on the fact that the facility had an appraised value in 2004[2] of $100,000,000. He goes on to speculate that its future value could be

[1] Pous Page 98, Lines 21-23.

[2] Schedule (JP-3) source for Line 1.

much higher than that value, and therefore the customer should also realize that speculative future market value over the remaining life of Sabine Station Unit 5 as a credit.

Q. HAS THE COMPANY RECOVERED "EXCESS" DEPRECIATION FROM ITS CUSTOMERS?

A. No. The Company reimbursed the previous owner of the facility for construction costs incurred and included that amount in rates in accordance the requirements of Docket No. 10894. Whatever amount the Company received from customers did no more than allow the Company to recover the costs it incurred in connection with the facility construction, and the Company neither profited from nor retained those dollars.

Q. IS THE $100,000,000 AMOUNT QUOTED BY MR. POUS RELEVANT TO THIS RATE PROCEEDING?

A. No. Mr. Pous' argument is highly speculative on this issue. First of all, the estimate is from 2004. Second, Mr. Pous argues that gas prices are the primary driver of that value[3] and gas prices will continue to increase, which would lessen the value conjectured by Mr. Pous. Third, and probably more importantly, Mr. Pous has argued that the facility will be in service for an additional 32.5 years. There is no credible way to forecast what the market price for gas will be in 32.5 years. Nor is there any way to

[3] Pous Page 96, Lines 4-13.

determine what will be the impact on SGSF's value of other alternative fuel or generation sources that will be developed during that time. Mr. Pous is making a highly speculative argument.

Q. DO YOU HAVE A RECOMMENDATION REGARDING MR. POUS' ARGUMENT?

A. Yes. His argument should be rejected as invalid for the reasons presented above. There has been no excess depreciation recovered, equivalent or otherwise, by the Company and the amortization of an unknowable future value is pure speculation.

D. Interest on Customer Deposits

Q. HAVE YOU REVIEWED THE ADJUSTMENT TO INTEREST ON CUSTOMER DEPOSITS RECOMMENDED BY STAFF WITNESS GIVENS?

A. I have reviewed the adjustment proposed by Ms. Givens.

Q. ARE YOU IN AGREEMENT WITH THE CHANGE PROPOSED BY MS. GIVENS?

A. Yes. Ms. Givens proposes a change in the interest rate used in the calculation to determine interest on customer deposits. The Company used a blended rate in effect for 2008 and 2009. The rate proposed by

Ms. Givens was set December 2, 2009, for use in 2010. The Company agrees that the rate proposed by Ms. Givens is appropriate.

E. Short Term Assets

Q. DO YOU AGREE WITH THE ADJUSTMENTS WHICH MS. GIVENS MADE TO SHORT TERM ASSETS?

A. Yes.

F. Hurricane Rita Regulatory Asset

Q. HAVE YOU REVIEWED MS. GIVENS' ADJUSTMENT TO THE HURRICANE RITA REGULATORY ASSET AS DESCRIBED ON PAGE 31, LINES 7-13 OF HER DIRECT TESTIMONY?

A. Yes. Ms. Givens recommends a decrease in the regulatory asset of $1,511,688 due to updated insurance proceeds estimated for Hurricane Rita. I agree with the change in rate base of $1,511,688 and recommend a corresponding decrease in regulatory debits of $302,338 to reflect the reduction in expense over the five year amortization period.

Q. IS THE COMPANY ALLOWED TO RECOVER IN BASE RATES ANY INSURANCE PROCEEDS NOT ACTUALLY RECEIVED BY THE COMPANY IN EXCESS OF ESTIMATED PROCEEDS USED TO REDUCE THE HURRICANE RITA STORM COSTS IT SECURITIZED IN DOCKET NO. 32907?

A. Yes. This is reflected in finding of fact numbers 28 and 29 of the Commission's December 1, 2006 order issued in Docket No. 32907, which state:

> 28. Under the Agreement, carrying costs at the rate referenced in finding of fact 26 shall apply to: (1) any portion of the $65.7 million referenced in finding of fact 27 not actually received by EGSI, until EGSI actually receives such payments attributable to Texas Retail; and (2) the trued-up amount, as provided in finding of fact 29, until such trued-up amount (plus associated carrying costs at the rate of 7.9% per annum) is recovered in base rates.
>
> 29. The Agreement provides that after EGSI receives all insurance payments related to Hurricane Rita, the $65.7 million credited, as provided in finding of fact 27, shall be trued up to reflect the difference between the $65.7 million credited and all insurance payments actually received by EGSI related to Hurricane Rita attributable to Texas Retail.

Q. IS THIS A VALID BASIS FOR THE TREATMENT PROPOSED BY THE COMPANY IN ADJUSTMENT NO. 15?

A. Yes. Mr. Pous' claims that the Company's treatment of the Hurricane Rita regulatory asset is contrary to the Commission's prior order and should be rejected. The Hurricane Rita Regulatory Asset, accepted by the Staff as modified above, should be approved.

G. Staff Adjusted Total Company Operating Expenses

Q. DOES THE STAFF ADJUSTED TOTAL ELECTRIC OPERATING EXPENSES ON ATTACHMENT AG-1 PAGE 1 TO STAFF WITNESS GIVEN'S TESTIMONY AGREE WITH THE STAFF ADJUSTED TOTAL COMPANY OPERATING EXPENSES ON ATTACHMENT RL-2 TO STAFF WITNESS RICHARD LAIN'S TESTIMONY?

A. No.

Q. WHAT ARE THE DIFFERENCES?

A. Attachment RL-2 does not include the following expenses reflected on Attachment AG-1, which should be should be included in Attachment RL-2:

Regulatory Debits	$5,056,000
Interest on Customers Deposits	$129,583
Current State Income Tax	$49,000
Deferred State Income Tax	$538,000

Q. DO THE EXHIBITS ATTACHED TO THE TESTIMONY OF MR. LAIN AND MS. GIVENS CORRECTLY REFLECT TOTAL INCOME TAX EXPENSE ASSOCIATED WITH STAFF'S POSITION IN THIS CASE?

A. Attachment RL-2 reflects the correct total federal income tax expense (except for the correction of the interest expense deduction in the calculation as described below) while Attachment AG-1 incorrectly

includes adjustments for a deferred income tax credit of $4,735,000 and amortization of investment tax credit ("ITC") of $1,609,000 which are both already reflected in the total federal income tax amount of $40,389,741. The Method 1 federal income tax calculation used to calculate the $40,389,741 comprehends all federal income tax timing differences and the ITC amortization. The inclusion of the federal deferral income tax credits and the ITC amortization would understate federal income tax expense.

Q PLEASE RESPOND TO MS. GIVENS' ADJUSTMENTS TO THE PUC ASSESSMENT TAX AND UNCOLLECTIBLE EXPENSE (PAGE 28).

A. Both of these items are a function of the revenue requirement and should be conformed in the compliance filing to the revenue requirement approved by the Commission.

H. Federal Income Tax

Q. IS THE INTEREST DEDUCTION INCLUDED IN THE FEDERAL INCOME TAX CALCULATION RECOMMENDED BY STAFF WITNESS GIVENS CORRECT?

A. No. The calculation is not correct. The interest amount included in the return should be the total rate base amount times the weighted average cost of long-term debt.

Q. DID YOU CALCULATE THE CORRECT AMOUNT?

A. Yes. The corrected amounts are in the table below.

	TOTAL COMPANY AS REQUESTED	TEXAS RETAIL AS REQUESTED
TOTAL STAFF ADJUSTED RATE BASE	$1,549,628,820	$1,452,615,444
WEIGHTED AVERAGE COST OF LONG TERM DEBT	3.43%	3.43%
INTEREST SYNCHRONIZED WITH RATE BASE	$53,152,269	$49,824,710

Q. WHAT IS THE EFFECT OF CORRECTING THIS ERROR?

A. Federal income tax expense would be increased. The final amount of interest expense in the federal income tax calculation should be based on the approved rate base and weighted cost of debt.

I. Lewis Creek and Sabine Cost Assignment

Q. HAVE YOU REVIEWED CITIES WITNESS GARRETT'S PROPOSED ADJUSTMENT TO REVISE THE ASSIGNMENT OF COSTS ASSOCIATED WITH LEWIS CREEK AND SABINE GENERATING UNITS?

A. Yes. On pages 47 – 54 of Mr. Garrett's Direct Testimony, he recommends an adjustment to remove the portion of Lewis Creek and Sabine costs that are associated with the 57.5% share that is billed to Entergy Gulf States Louisiana, LLC ("EGSL").

Q. WHAT ADJUSTMENT DID THE COMPANY INCLUDE IN THE RATE FILING?

A. The Company included all of the costs of Lewis Creek and Sabine as well as the MSS-4 revenues that offset these costs. Since depreciation expense for these units was adjusted as a result of annualizing the expense and the use of new depreciation rates, these expenses were offset by additional imputed revenues for the amount to be billed to EGSL.

Q. DO YOU PROPOSE ANY ADDITIONAL CHANGES TO THE IMPUTED MSS-4 REVENUES FOR CHANGES IN DEPRECIATION EXPENSE?

A. No, not at this time. However, to the extent that approved depreciation rates are different from the Company's proposed rates, the MSS-4 revenues should be recalculated to reflect the approved depreciation rates, since those new depreciation rates will become the basis for determining the rates under the MSS-4 transaction going forward.

Q. DO YOU AGREE WITH MR. GARRETT'S PROPOSED ADJUSTMENT?

A. No. Mr. Garrett's adjustment applies selected changes from the Company's rate filing. In order to arrive at the correct amount of offset for the MSS-4 sales from these plants, the MSS-4 revenues should be adjusted to reflect any changes in the costs of the Lewis Creek and Sabine units resulting from this case. These units are not co-owned and to remove them from ETI's rate base and expense would be in effect

assigning ownership to EGSL. The Jurisdictional Separation Plan ("JSP") agreement allows for revenues to be collected for these costs in a defined methodology as determined in the MSS-4 billings. To the extent that the rate case resulted in increased or decreased Lewis Creek and Sabine generating costs, these should be adjusted as MSS-4 revenues. This approach results in no adverse impact to Texas retail customers, because the MSS-4 sales revenues reflect the same Sabine and Lewis Creek cost that the jurisdictional allocation attempted by Mr. Garrett reflects. Indeed, Mr. Garrett used MSS-4 billing statements as the basis for making his calculation.

Q. DO YOU PROPOSE ANY ADJUSTMENTS TO THE COMPANY'S MSS-4 REVENUES?

A. Yes. I propose that MSS-4 revenues be increased by $3,339,000 as shown in Exhibit JDW-R-2. This is a result of increases in payroll and related expenses associated with Lewis Creek and Sabine for EGSL's share for the adjusted test year. It also includes the decrease in depreciation expense associated with Spindletop for the EGSL share of expenses and reflects the capital structure and debt cost I support in my Rebuttal Testimony. These adjustments reflect the Company's costs for Sabine and Lewis Creek in this case and a matching MSS-4 revenue credit which addresses the Cities' concerns with the allocation of costs.

J. Amortization of General Intangible Expense

Q. HAVE YOU REVIEWED MR. GARRETT'S ADJUSTMENT FOR THE AMORTIZATION OF GENERAL INTANGIBLE EXPENSE ON PAGES 39 TO 44 OF HIS DIRECT TESTIMONY?

A. Yes. Mr. Garrett proposes reductions to amortization of intangible plant in service for assets that will be fully amortized at various points in time.

Q. PLEASE DESCRIBE THE ADJUSTMENTS THAT MR. GARRETT PROPOSES.

A. There are two sets of adjustments. The first is intended to remove the Company's requested amortization of assets that would be fully amortized by November 2010.

Q. IS NOVEMBER 2010 AN APPROPRIATE CUT OFF FOR AMORTIZATION EXPENSE TO BE COLLECTED IN RATES?

A. No. The Company has presented a representative year of amortization expense in this filing based on the test year ended June 30, 2009 and has adjusted its annual expense to reflect any assets that would be fully recovered one year from the test year, *i.e.*, by June 30, 2010.

Q. DO YOU HAVE ANY COMMENTS ON THE CALCULATIONS OF FULLY AMORTIZED AMOUNTS REFLECTED IN MR. GARRETT'S EXHIBIT AND WORKPAPERS?

A. Yes. Regarding his first adjustment for assets that would be fully amortized by November 2010, Mr. Garrett's calculation of the fully amortized amount is overstated by $306,621. For the assets listed, the Company requested amortization expense of $1,662,884, not $1,969,505 as presented by Mr. Garrett. The Company requested annual amortization for each intangible asset unless the annual amortization exceeded the asset's net book value. If net book value were exceeded by annual amortization, the Company reduced the requested amortization expense to the net book value. Mr. Garrett's calculation of the fully amortized amounts included annual amortization for any asset with a remaining life of five months or less. For assets with remaining lives over five months, he recalculated the amortization as the net book value less five months of amortization expense. These calculated amortization amounts do not reflect the filing amounts.

Q. WHAT IS THE SECOND ADJUSTMENT PROPOSED BY MR. GARRETT?

A. The second adjustment identifies assets that would be fully amortized in 18 - 36 months from the test year ended June 30, 2009 (December 2010 to June 2012). The net book value of these assets is reduced for 17 months of amortization through November 2010 and then the net book value is amortized over three years. In effect, annual amortization is assumed to be collected in rates through November 2010 and then a

reduction to extend the amortization period of three years (or until November 2013) would be implemented.

Q. SHOULD EITHER OF MR. GARRETT'S TWO AMORTIZATION EXPENSE ADJUSTMENTS BE INCLUDED IN THIS FILING?

A. No. The Company has presented a representative year of expenses. Mr. Garrett is making adjustments with inherent assumptions about regulatory lag and the timing of the next rate case which are not known and measurable. On page 43, lines 2 – 7, he indicates that a rate case could be filed prior to December 2013 and that his calculations could be repeated. This would be 54 months from the filing test year of June 30, 2009. The prior rate case was filed for the test year ended March 31, 2007 or 27 months prior to this case. In addition, these adjustments do not take into account the additions that will occur in the future and the collection of amortization expense for these assets. Projections into the future would need to take additions into account as well. The Company has had intangible plant additions of $2.8 million since the end of the test year. Amortization expense for these additions will not be included in rates until the next rate case.

K. Capital Structure and Debt Cost

Q. DO YOU ACCEPT THE CAPITAL STRUCTURE RATIOS AND DEBT COST RATE RECOMMENDED BY STAFF WITNESS CUTTER AND TIEC WITNESS GORMAN?

A. Yes, I accept both Mr. Cutter's and Mr. Gorman's capital structure ratios recommendations of 49.74% debt and 50.26% equity, and 6.90% debt cost rate after adjustment to reflect the May 25, 2010 bond issue.

Q. DO YOU AGREE WITH THE CAPITAL STRUCTURE RATIOS AND DEBT COST RATE RECOMMENDED BY OPUC WITNESS SZERSZEN?

A. No. Accepting Ms. Szerszen's capital structure ratio and debt cost rate recommendation would be beneficial to ETI; however, it does not appropriately reflect the true-up of the projected May 2010 debt issue to the actual amount of debt issued and the actual interest rate.

Q. DO YOU AGREE WITH THE CAPITAL STRUCTURE RATIOS AND DEBT COST RATE RECOMMENDED BY CITIES WITNESS PARCELL?

A. No. Mr. Parcell inappropriately recommends a gross proceeds approach to the debt capital amount, which does not appropriately reflect the amount of debt capital available for investment in rate base. Also, to my knowledge, neither Schedule K-1 nor the Commission has used a gross proceeds debt capital amount in any ETI or predecessor EGSI filing at least since the merger with Entergy in 1993. While it would be beneficial

to ETI to accept Mr. Parcell's debt cost rate of 7.09%, it does not correctly reflect the actual costs of issuance for the May 25, 2010 debt issue.

Q. DO YOU HAVE ANY OTHER COMMENTS ON THE CAPITAL STRUCTURE ISSUE?

A. Yes. Mr. Parcell states that his proposed equity ratio substantially exceeds the December 31, 2009 common equity ratio of ETI.[4] Mr. Parcell, however, has incorrectly included the Securitized Bonds in order to make this erroneous statement.

L. Property Insurance Reserve

Q. MR. POUS HAS RECOMMENDED SEVERAL REDUCTIONS TO RATE BASE FOR THE PROPERTY INSURANCE RESERVE. DO YOU AGREE WITH HIS RECOMMENDATIONS?

A. No. Company witness Shawn Corkran will address Mr. Pous' claims regarding the 1997 ice storm and Company witness Greg Wilson addresses the level of the storm accrual the Company requests. I will address the balance of Mr. Pous' recommendations for reductions to the storm reserve balance.

[4] Parcell, Page 20, Lines 22-23.

Q. MR. POUS RECOMMENDS A $7.7 MILLION REDUCTION TO THE RESERVE BALANCE FOR WHAT HE DEEMS TO BE A $50,000 DEDUCTIBLE RETROACTIVELY APPLIED TO PAST STORMS. IS THIS REDUCTION APPROPRIATE?

A. No. The $50,000 threshold has been consistently used by the Company to designate a storm which will accumulate costs to be charged to the storm reserve. A storm whose total costs are estimated to be less than $50,000 would be treated as normal O&M costs and not charged to the reserve. This was never intended to be a "deductible" amount. The fact that these costs have been charged to the reserve and not to O&M means these costs have never been reflected in base rates and to retroactively make this adjustment would be inconsistent with past base rate case treatment and result in a permanent disallowance of these storms costs. If such a change to a deductible should be made, it would need to be made on a prospective basis so that the amounts charged to reserve and normal O&M would be reflected in the on-going cost level.

Q. MR. POUS RECOMMENDS RAISING THE MINIMUM THRESHOLD FOR STORM RESERVE CHARGES TO $500,000 FROM $50,000. DO YOU AGREE WITH MR. POUS' RECOMMENDATION?

A. No. The $50,000 storm minimum has been consistently applied by the Company and there is no basis to change. Furthermore, the storm reserve charges at issue should be recovered in either O&M or through

the storm reserve. Mr. Pous' recommendation, however, would result in the recovery through neither. If Mr. Pous' recommendation is adopted, then more of the Company's storm costs will be charged to normal O&M instead of the storm reserve. Mr. Pous does not recommend the necessary increase to normal O&M for these storm costs under $500,000 that would then, under his approach, be charged to O&M.

Q. HOW MUCH WOULD NORMAL O&M HAVE TO BE INCREASED TO REFLECT MR. POUS' RECOMMENDATION?

A. The test year level of storms under $500,000 that would be charged to normal O&M instead of the storm reserve is $1,584,000. If Mr. Pous' recommended $500,000 minimum is adopted, O&M would need to increase by $1,584,000.

Q. MR. POUS ALSO RECOMMENDS REDUCING THE STORM RESERVE BALANCE FOR "MISCELLANEOUS INAPPROPRIATE CHARGES." PLEASE DISCUSS THESE ITEMS.

A. Mr. Pous has recommended excluding from the storm reserve payroll-related costs such as incentive compensation, non-productive loading and safety training loaders. These are costs that follow payroll charges and are charged to the same account as payroll in order for the account to reflect the full cost of payroll. If these cost where not charged to the reserve, they would have been charged to normal O&M and reflected in

base rates but they were not. These costs properly follow payroll and should remain in the reserve.

The fire and property insurance was an insurance cost that was incurred solely due to Hurricanes Katrina and Rita and as such was charged to the reserve. The balance of insurance premiums remaining in the reserve at June 30, 2009 is $2,004,000, not the $3,555,000 represented by Mr. Pous. I do not know specifically why the computer hardware acquisition was charged to the storm reserve, but if it is removed from the storm reserve, plant should be increased by $488,000 and depreciation expense increased by $98,000.

Q. MR. POUS OBJECTS TO THE $12,498,325 STORM RESERVE RECLASSIFICATION AS A RESULT OF THE JSP. PLEASE EXPLAIN THIS RECLASSIFICATION.

A. As Mr. Pous notes in his testimony, an analysis was done of the storm reserve charges to determine if the storm charges were incurred for Louisiana or Texas property. The reclassification was made as a result of this analysis to properly reflect the state in which the storm charges were incurred.

Q. OPC WITNESS JOHNSON STATES THAT THE COMPANY HAS CHARGED STRAIGHT TIME PAYROLL TO THE STORM RESERVE. IS HE CORRECT?

A. Yes. The Company has been consistent in charging all payroll costs related to storm work to the storm reserve. Base rates reflected only payroll charged to normal O&M in a test year. This would not include the straight time payroll charged to the storm reserve in the test year. If the straight-time payroll related to storm work had not been charged to the storm reserve, base rates for normal O&M payroll would have been higher.

Q. MR. JOHNSON POINTS OUT THAT THE MISSISSIPPI PUBLIC SERVICE COMMISSION ALLOWS ONLY INCREMENTAL COSTS TO BE CHARGED TO THE STORM RESERVE. IS HE CORRECT?

A. Yes. Unlike for ETI, the straight time payroll related to payroll is charged to normal O&M at EMI and is reflected in base rates. The key point is that the relationship between what is included in base rates as normal O&M is consistent with the amounts charged to the storm reserve and recovered as part of the storm accrual in rates.

M. Pension Asset in Rate Base

Q. CITIES WITNESS GARRETT STATES THAT ETI'S PENSION CONTRIBUTIONS IN EXCESS OF SFAS 87 COSTS ARE DISCRETIONARY PAYMENTS.[5] IS THAT A TRUE STATEMENT?

[5] Garrett, Page 10, Line 2.

A. No. ETI has made contributions to the pension fund in accordance with contribution guidelines established by the Employee Retirement Income Security Act of 1974, as amended, and the Internal Revenue Code of 1986, as amended. These contributions were not discretionary.

Q. IS THERE ANY OTHER GUIDANCE ETI USES TO DETERMINE THE PENSION CONTRIBUTIONS?

A. Yes. The required pension contributions are also affected by guidance pursuant to the Pension Protection Act of 2006 rules, effective for the 2008 plan year and beyond. These rules continue to evolve, be interpreted through technical corrections bills, and discussed within the industry and congressional lawmakers.

Q. MR. GARRETT IMPLIES THAT IT WOULD BE DIFFICULT FOR ETI TO SHOW THAT RATEPAYERS BENEFITED FROM PENSION CONTRIBUTIONS IN EXCESS OF COST. DO YOU AGREE?

A. No. I do not agree with Mr. Garrett's implication. Ratepayers do benefit from contributions made to the pension fund, as the earnings on pension trust fund assets reduce the annual FAS 87 pension cost. In fact, the reported earnings on the pension fund assets in 2009 of approximately $20.7 million significantly contributed to the pension income (not expense) included in and reducing the test year costs. ETI is requesting an increase in pension costs on an adjusted basis; however, the expected

return on pension fund assets still significantly contributes to determining a lower FAS 87 pension cost than if the contributions had not been made. While there are market fluctuations that affect the value of the pension assets, Mr. Garrett's reference to the market downturn in late 2008 is simply a one-sided point of view and fails to even consider past gains or the prospect of future asset gains that would continue to have an impact of lowering the FAS 87 annual cost in the future.

Q. MR. GARRETT STATES THAT THERE IS NO NEED FOR THE CONTRIBUTIONS TO EARN A RATE BASE RETURN SINCE THE PENSION FUNDS ALREADY EARN A RETURN WITHIN THE PENSION FUND.[6] IS THE COMPANY ALREADY EARNING A RETURN ON THESE CONTRIBUTIONS?

A. No. ETI is not earning a return on the contributions made to the pension fund. The pension fund itself is earning a return on the contributions, which in turn has the effect of lowering the annual FAS 87 pension cost, but ETI is not receiving any return on the cash contributions it has been required to make to the pension fund. The return earned by the pension fund is directly related to customer benefits in the form of lower annual FAS 87 pension cost.

[6] Garrett, Page 10, Lines 9-12.

Q. DOES MR. GARRETT'S ADJUSTMENT FULLY REMOVE THE EFFECTS OF THE PENSION PLAN FROM RATE BASE?

A. No. If Mr. Garrett's adjustment was to be accepted, accumulated deferred income taxes ("ADIT") related to the pension plan balance would also have to be removed. This would reduce ADIT by $9.9 million.

Q. DOES THE COMPANY'S RATE BASE TREATMENT OF THE CONTRIBUTIONS TO THE PENSION FUND IN EXCESS OF FAS 87 COST REPRESENT COMPANY SUPPLIED FUNDS OR RATEPAYER SUPPLIED FUNDS?

A. The amount included in rate base is Company supplied funds. The debit balance in the pension liability account represents the excess of Company supplied funds above the amount of FAS 87 cost assumed to be recovered from ratepayers.

N. Industry Dues

Q. DO YOU AGREE WITH THE ADJUSTMENTS PROPOSED BY OPC WITNESS MARCUS REGARDING EDISON ELECTRIC INSTITUTE ("EEI") DUES?

A. No. The Company, through pro forma adjustment AJ-12, removed the identifiable portion (17.318% or $39,964) of EEI dues from O&M expense pertaining to non-recoverable activities as determined from the latest available 2009 estimates provided by EEI. Mr. Marcus believes that

outdated 2005 EEI percentages should be used for calculating the portion of excludable test year regular activity dues while using EEI's 2009 estimates to exclude a portion of industry dues. His calculations recommend an additional $71,572 be disallowed over the amount already excluded by the Company. In his argument, Mr. Marcus hypothesizes without offering any provable facts or evidence that EEI unilaterally decided to cease reporting its annual expenditures by NARUC category to prevent future regulatory disallowances for utilities. The Company used the best available information from EEI to calculate and remove the portion of dues deemed to be disallowable. This is the best information available to make this determination, as opposed to Mr. Marcus' unsupported speculation.

Q. DO YOU AGREE WITH MR. MARCUS' RELATED ADJUSTMENT TO PREPAID EEI DUES?

A. No, for the same reasons mentioned above. It should also be noted that Mr. Marcus' prepaid disallowance contains a mathematical error. He applied his additional disallowance percentage to a 13-month prepaid balance average of $98,095, whereas the actual amount shown on Schedule E-1.1 is $96,095. This would change his proposed, but inappropriate, disallowance from $36,796 to $36,045.

O. Payroll

Q. DO YOU AGREE WITH MS. GIVENS' ADJUSTMENTS TO PAYROLL?

A. For the most part. I agree with the known and measurable payroll charges for the wage increase change to 2% and to update headcount through April 2010 related to the payroll adjustment. I do not agree with the calculation of the benefits and savings plan adjustments.

Q. PLEASE EXPLAIN.

A. Ms. Givens applied the benefits and savings plan loader percentages to both the wage increase adjustment and the headcount adjustment.

Q. HOW SHOULD THEY BE CALCULATED?

A. The savings plan loader should be calculated on the wage increase only because it is included in the benefits loader rate and should not be applied to the headcount change again. The benefits loader only applies to the change in headcount and covers costs such as medical, dental, long-term disability, pensions and OPEBs that are headcount related.

Q. HOW DOES THIS AFFECT MS. GIVENS' ADJUSTMENT?

A. Her ESI adjustment for the benefits and savings plan loaders is overstated by $184,655. Her ETI adjustment for the benefits is overstated by $105,786. Exhibit JDW-R-3 shows my calculation of these overstatements.

Q. DO MS. GIVENS' ADJUSTMENTS ACCOMPLISH THE INTENT OF MR. GARRETT'S PAYROLL ADJUSTMENT?

A. Yes. Ms. Givens' adjustment reflects the actual April 2010 headcount along with actual April 2010 payroll increase.

P. PUC Docket No. 34800 Rate Case Expenditures

Q. STATE'S WITNESS MR. DELANEY NOTES THAT TWO INVOICES TOTALING $371,730 PAID TO THE CLARK, THOMAS, WINTERS LAW FIRM CONTAIN COSTS PERTAINING TO PUC DOCKET 34800 RATE MATTERS AND THAT SUCH COSTS SHOULD BE EXCLUDED FROM THE COST OF SERVICE BECAUSE THESE COSTS ARE BEING RECOVERED IN A SEPARATE RIDER. DO YOU AGREE WITH THIS ADJUSTMENT?

A. Yes. As noted in the Company's responses to State 8-24 and State 23-6, these costs were not charged to the project code used to identify and remove Docket No. 34800 costs from the cost of service. These costs, however, are for services pertaining to Docket No. 34800 and should be removed from this filing.

Q. MR. DELANEY MENTIONED THAT A LAWTON LAW FIRM INVOICE TOTALING $69,283 PROVIDED IN THE COMPANY'S RESPONSE TO STAFF 7-4 INCLUDED $47,229 RELATED TO PUC DOCKET NO. 34800 AND THAT PENDING REVIEW OF THE COMPANY'S RESPONSE TO AN RFI (*i.e.*, STATE 23-1), THIS COST SHOULD ALSO BE EXCLUDED FROM THE COMPANY'S COST OF SERVICE. HAS THIS COST BEEN INCLUDED IN THE COMPANY'S COST OF SERVICE?

A. No. In preparing the Company's response to RFI State 23-1, it was determined that the $47,229 pertaining to services related to Docket No. 34800 matters were properly recorded on the Company's books and correctly excluded from the cost of service applicable to this Docket No. 37744.

Q. <u>Incentive Compensation Quantification</u>

Q. DID MR. GARRETT ADJUST INCENTIVE COMPENSATION?

A. Yes, however he omitted two plans from his calculation.

Q. WHICH PLANS WERE OMITTED?

A. He did not include the Equity Awards Program or the Restricted Share Awards Program, both of which are based 100% on financial goals.

Q. IS THIS CONSISTENT WITH THE OTHER WITNESSES' POSITIONS IN THE CASE?

A. No. The other witnesses removed 100% of the cost of these plans.

Q. HOW WOULD INCLUDING THESE PLANS IN THE DISALLOWANCE CHANGE MR. GARRETT'S CALCULATION.

A. The test year amounts for these plans are credits that would reduce his disallowance if he included them. Mr. Garrett's adjustment of $(9,331,745) should be reduced by $266,273 for the Equity Awards Program and by $14,711 for the Restricted Share Awards Program. His adjustment should be $(9,050,761). Company witness Gardner addresses the appropriateness of the incentive compensation adjustment.

Q. DOES THE $981,774 DISALLOWANCE OF PERFORMANCE SHARES AND RESTRICTED STOCK MR. MARCUS SHOWS ON PAGE 23 OF HIS DIRECT TESTIMONY AGREE WITH THE AMOUNTS SHOWN IN OPUC RFI 17-2?

A. No. The total amount reflected in the Company's response to OPUC RFI 17-2 for these plans is $736,341.

R. Outside Services Expenses

Q. STAFF WITNESS GIVENS RECOMMENDS DISALLOWANCES TOTALING $1,014,255 PERTAINING TO NUMEROUS OUTSIDE SERVICES O&M EXPENDITURES. ARE THESE ADJUSTMENTS ACCEPTABLE TO THE COMPANY?

A. In some cases the Company is agreeable to Ms. Givens' adjustments, but in other cases I believe the expenditures should be allowed. There is a great amount of detail involved in Ms. Givens' workpapers that comprise the total O&M adjustment amount of $1,014,255. Some of these transactions are also addressed by other witnesses and are likewise addressed elsewhere in my Rebuttal Testimony. Page one of six of Ms. Givens' confidential exhibit AG-5 summarizes her adjustments into three categories, 1) 2007 Rate Case Expenses in FERC 923, 2) 2007 Rate Case Expenses in FERC 928, and 3) All Other Accounts.

Q. PLEASE ADDRESS THE FIRST CATEGORY OF MS. GIVENS' RECOMMENDED DISALLOWANCES.

A. Page two of Ms. Givens' confidential exhibit AG-5 is entitled "2007 Texas Rate Case Expenses," which have been charged to FERC account 923. This pertains to PUC Docket No. 34800 costs which are allowed recovery under a separate rider. The list of items reflected on this page total $847,096 of which she nets against the total $400,183 Docket No. 34800 costs charged to account 923 that were removed in the Company's

proforma AJ16. This leaves a remainder of additional reductions to expense totaling $446,913.

Q. DO YOU AGREE WITH THIS REMAINING ADDITIONAL DISALLOWANCE AMOUNT?

A. No. There are several items that need to be adjusted from her total amount. The first amount on page 2 of Ms. Givens' confidential AG-5 list is a payment made to the law firm Clark, Thomas, & Winters ("CTW") for $31,780. This payment was for services pertaining to the RCPE filing in Docket No. 35269, and does not pertain to Docket No. 34800 and therefore should be allowed in this cost of service filing. The second and third amounts listed on this same AG-5 page also pertain to payments made to CTW for $130,156 and $241,574 respectively. As noted above in my rebuttal to State's witness Paul Delaney, the Company agrees that these Docket No. 34800 costs should be excluded from the cost of service. The sixteenth item on page 2 of AG-5 is a payment of $8,800 to Dennis Thomas & Associates. $4,400 of this total was recorded by the Company to account 426.4 and was never included in the cost of service. The remaining $4,400 which did hit account 923 does not pertain to Docket No. 34800 issues but rather pertains to services associated with Docket No. 33687. The seventeenth item on page 2 of AG-5 is a payment of $47,229 to the Lawton Law Firm. As noted above in my rebuttal to State's witness Paul Delaney, the Company disputes this disallowance.

Although the cost does pertain to Docket No. 34800, the cost was not booked to account 923, but rather was booked to deferred debit account 186GT7 - EGSTX Rate Case Exp 2007 Filing and was already excluded from the cost of service, therefore this amount should be excluded from Ms. Givens' adjustment total. My Exhibit JDW-R-4, shows the net effect of these corrections to Ms. Givens' adjustments to Account 923.

Q. PLEASE ADDRESS THE SECOND CATEGORY OF MS. GIVENS' RECOMMENDED DISALLOWANCES.

A. Page three of Ms. Givens' confidential exhibit AG-5 is entitled "2007 Texas Rate Case Expenses," which have been charged to FERC account 928. Again, this pertains to PUC Docket No. 34800 costs which are allowed recovery under a separate rider. The list of items reflected on this page total $419,969 of which she nets against the total $189,779 Docket No. 34800 costs charged to account 928 that were removed in the Company's proforma AJ16. This leaves a remainder of additional reductions to expense totaling $230,190.

Q. DO YOU AGREE WITH THIS ADDITIONAL DISALLOWANCE AMOUNT?

A. No. If you exclude the amounts from her list that were included in AJ16, which removed costs related to Docket No. 34800, and adjust her total recommended disallowances for the items discussed as follows, her net adjustment of $230,190 would be zero. Items that need removed from her

disallowance amount on page 3 of exhibit AG-5, include the first three Lawton Law Firm amounts ($70,413, $19,703, and $69,064) which were not recorded to account 928, but rather were charged to Deferred Debit account 186.GT7 and were therefore never included in the cost of service. This likewise applies to the two Econat invoice amounts ($12,000 and $2,100), which were also charged to account 186.GT7 rather than account 928. There are nine invoices from Dennis Thomas & Associates listed in Ms. Given's exhibit AG-5 disallowances for which half or more of these invoices were charged to below-the-line account 426.4 and not account 928, or which do not pertain to Docket No. 34800 matters. These amounts total $62,968 and should also be removed from Ms. Givens' additional disallowances. My Exhibit JDW-R-4, shows the net effect of all of these corrections to Ms. Givens' adjustments to Account 923, bringing her disallowance amount of $230,190 down to zero.

Q. PLEASE ADDRESS THE THIRD AND LAST CATEGORY OF MS. GIVENS' RECOMMENDED DISALLOWANCES.

A. Pages four through six of Ms. Givens' confidential exhibit AG-5 pertain to disallowances totaling $337,152 for costs outside the test year and miscellaneous other costs deemed non-recoverable.

Q. DO YOU AGREE WITH THESE DISALLOWANCES?

A. No. Approximately $331,000 of her disallowances relate to transactions recorded during the test year but pertain to goods and services received prior to the beginning of the test year. The individual amounts are very immaterial and are below any cost efficient threshold the Company could reasonably be expected to use to manually accrue such costs. These costs are included in the test year because of the normal lag in time between when such goods and services are received from the vendor, the time it takes for the vendor to bill for such goods and services, and the time required for the Company to validate and process these invoices for booking and payment. As with any company using an accrual based accounting system, some individual immaterial costs for goods and services provided prior to the beginning of the test year may be booked within the test year, but conversely amounts pertaining to goods and services incurred within the test year may not be booked until after the test year and likewise be excluded from test year costs. The net effect of these two circumstances should be viewed together rather than focusing just on transactions occurring prior to the test year.

Q. WHAT IS YOUR RECOMMENDATION CONCERNING MS. GIVENS' $337,152 DISALLOWANCE?

A. I believe it is reasonable to assume the lag at the beginning and end of a test year for such individual immaterial amounts wash each other out, and

therefore Ms. Givens' disallowance be reduced by $331,000. My Exhibit JDW-R-4 shows the net effect of these corrections to Ms. Givens' adjustments.

Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?

A. Yes.

RAILROAD COMMISSION OF TEXAS

OFFICE OF GENERAL COUNSEL

GAS UTILITIES SECTION

STATEMENT OF INTENT TO CHANGE THE CITY-GATE RATE OF TXU LONE STAR PIPELINE, FORMERLY KNOWN AS LONE STAR PIPELINE COMPANY ESTABLISHED IN GUD NO. 8664	§ § § § §	GAS UTILITIES DOCKET NO. 8976

REVISED PROPOSAL FOR DECISION

Gene Montes
Hearings Examiner

Issued: June 16, 2000

e. Fully Accrued Accounts

(1) *Applicant's Position*

The Company admits to over-collection of depreciation expense for four accounts.[375] At issue here is whether the over-collection was handled appropriately and what, if any, adjustments are necessary. TXU LSP asserts they were following the Generally Accepted Accounting Principles (GAAP) when they zeroed out the depreciation account for the subject accounts instead of continuing to accrue amounts on the books.[376] In addition, the Applicant asserts any type of "refund" associated with these accounts represents retroactive ratemaking, which is strictly prohibited in the Texas Utilities Code. The Company claims that there is a self-correcting mechanism embedded in its structure to adjust for any over or under accrual expense and that no action is necessary.[377]

In its Exceptions, TXU LSP notes that in *State v. Public Utility Comm'n of Texas*, 883 S.W.2d 190, 198 (Tex. 1994) the Texas Supreme Court held that the rule against retroactive ratemaking "prohibits a utility commission from making a retrospective inquiry to determine whether a prior rate was reasonable and imposing a surcharge when rates are too low or a refund when rates are too high." TXU LSP argues that recommending amortization of over-collected depreciation expense violates the rule against retroactive ratemaking. TXU LSP also notes that any over or under recovery will be carried forward and the net, if any, of the original investment, less salvage, less any accumulated reserve, will begin to be recovered under the new and future rate structure.[378]

(2) *Aligned Cities' Position*

The Aligned Cities argue that the Applicant's claim that it "suspended collection of depreciation expense on these accounts as they became fully accrued" is misleading. As Mr. Watson testified that TXU LSP continued to collect rates reflecting the depreciation rates established by the Commission in GUD No. 8664.[379] What was "suspended" was the booking of depreciation to the accumulated reserve. [380]. In short, the Applicant continued to charge rates reflecting depreciation expense allowed by the Commission in the last case, but quit crediting the amounts collected to the accumulated depreciation reserve. Consequently, the Aligned Cities argue that the result is a windfall for TXU LSP.

Mr. Pous asserts that the notion that there is "no supporting authority" for the proposition that TXU LSP may not, without Commission approval, change its rates to conform to some unidentified accounting principle is ludicrous.[381] While TXU LSP stopped booking depreciation for these accounts, the Applicant continued to collect depreciation expense as part of their

[375] TXU LSP's Ex. 12, pp. 16-17; TXU LSP's Ex. 54, Exhibit DAW-6.
[376] TXU LSP's Initial Brief, p. 113-115.
[377] TXU LSP's Ex. 54, p. 19.
[378] TXU LSP Exceptions, pp. 41-43,
[379] Tr. Vol. 6, p. 83.
[380] Tr. Vol. 6, pp. 80-81; Aligned Cities' Ex. 41, p. 46.
[381] TXU LSP's Initial Brief, p. 114.

Commission-approved rates from GUD No. 8664. If TXU LSP had not unilaterally changed rates, the depreciation expense would have been booked to accumulated depreciation which serves as an offset to rate base.[382] By changing depreciation rates without Commission approval, the Applicant has deprived customers of the accumulated depreciation and retained a windfall for itself.

Mr. Pous notes that TXU LSP is required to keep its books and records "accurately and faithfully in the manner and form prescribed by the Railroad Commission," according to Section 102.101(c)(1) of the Texas Utilities Code. The depreciation account is to be kept in accordance with the rates and methods prescribed by the Commission.[383] It is the Commission's duty, not the Applicant's, to establish "proper and adequate rates and methods of depreciation, amortization, or depletion for each class of property."[384] Pursuant to this duty, the Commission adopted specific depreciation rates resulting in a specific depreciation expense in GUD No. 8664. Second Order on Rehearing, November 25, 1997, Conclusions of Law 11 and 14. The Applicant is bound by the Commission's Order. There is nothing in GURA requiring TXU LSP to comply with "GAAP." The Company does not have the authority to unilaterally change depreciation rates in the name of "accounting principles."[385]

(3) *Examiner's Analysis and Recommendation*

The Examiner recommends that the proposed adjustment made by the Aligned Cities be rejected. The total gas plant investment, which is a part of the calculation of rate base, reflected in TXU LSP's Schedule M1.0 is $710,696,702. Rate base is offset by total accumulated depreciation. Total accumulated depreciation, reflected in Schedule O1.0 is $331,132,383. The Aligned Cities argue that, if TXU LSP had continued to book depreciation for the fully accrued accounts, the total accumulated depreciation would be higher and the corresponding rate base would be lower. If depreciation is an accounting system that spreads the expense of the item over the life of the item, applying over-accrued depreciation to rate base does not make sense. Once an account is fully accrued no further expense can be deducted from that account.

The Examiner does not agree with the Aligned Cities that an over-accrued amount should be adjusted from rate base or adjusted retroactively. The key issue in resolving this matter is the requirements of GUD No. 8664. Nothing in GUD 8664 required the continued booking of an expense for depreciation for an account that was fully accrued. Accordingly, the Examiner recommends that the proposal by the Aligned Cities to adjust depreciation expense by $1,449,890 and $221,917 be rejected.

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[382] Aligned Cities' Ex. 141, p. 46.
[383] Tex. Util. Code Ann. § 102.152.
[384] Tex. Util. Code Ann. § 104.054.
[385] In their reply to TXU LSP's Exceptions, the Aligned Cities note that GAAP were never introduced into evidence making it impossible for the Examiners or the Commission to determine GAPP's requirements. Aligned Cities' Reply to Exceptions, p. 42.