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P.U.C. DOCKET NO. 38339
SOAH DOCKET NO. 473-10-5001

APPLICATION OF CENTERPOINT ENERGY HOUSTON ELECTRIC, LLC FOR AUTHORITY TO CHANGE RATES §
§
§ **BEFORE THE PUBLIC UTILITY COMMISSION OF TEXAS**

CITY OF HOUSTON AND HOUSTON COALITION OF CITIES' MOTION TO STRIKE PORTIONS OF THE REBUTTAL TESTIMONY OF CHARLES DEAN WOODS

The City of Houston and Houston Coalition of Cities ("COH/HCOC") file this motion to strike portions of the rebuttal testimony of Charles Dean Woods and, in support thereof, respectfully show as follows:

The ALJ should strike portions of the rebuttal testimony of Charles Dean Woods for two reasons. First, Mr. Woods is not qualified to testify as to the various actuarial assumptions that effect CEHE's pension plan expense. Mr. Woods holds a masters degree in Special Education. Clearly, he is not qualified to testify regarding actuarial assumptions.

A. Legal Standard for Admissibility of Expert Testimony

The decision whether to admit evidence rests within the discretion of the trial court, or in this case, the tribunal. *E.I. du Pont de Nemours and Co., Inc. v. Robinson*, 923 S.W.2d 549, 558 (Tex. 1995). To be admissible, the expert must be qualified to give an expert opinion "by knowledge, skill, experience, training, or education." TEX. R. CIV. EVID. 702. The expert must have a higher degree of knowledge, skill, experience, training, or education about the subject of the testimony than an ordinary person. *Id.*; *Roberts v. Williamson*, 111 S.W.3d 113, 121 (Tex. 2003). Non-scientific testimony is admissible if it is offered by a qualified expert and the testimony is relevant and based on

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a reliable foundation. See *Gammill v. Jack Williams Chevrolet, Inc.*, 972 S.W.2d 713, 723 (Tex. 1998). The offering party must establish that the expert has knowledge, skill, experience, or education regarding the specific issue before the court which would qualify the expert to give an opinion on that particular subject. *Brooders v. Heise*, 924 S.W.2d 148, 153 (Tex. 1996).

B. Mr. Woods is Not Qualified to Testify to Actuarial Assumptions

Unlike Ms. Blumenthal, who offers no criticisms of the actuarial assumptions, and merely relies upon responses to discovery from the Company to generally discuss these assumptions for background purposes, Woods goes much further, and actually forms independent opinions regarding the actuarial assumptions. For example, Woods testifies on pages 7-8 of his rebuttal testimony as follows:

“CNP’s plan is a cash balance plan. Cash balance plan liabilities are not sensitive to the rate of compensation increase assumption, unlike final average pay plans. Cash balance plans are accumulation plans, and future increases in compensation do not increase benefits associated with past service. Future compensation growth only affects future pay credits added to the cash balance accounts; therefore, only the service cost is affected by the rate of compensation increase assumption under Statement of Financial Accounting Standards No-87.”

“In a final average pay plan, in contrast, future compensation growth increases the value of benefits associated with past service. Even if a participant reached a service cap, and accrued no more benefit service, their benefit would increase, because the final average pay used in the benefit formula would incorporate prospective pay growth. A change in the rate of compensation does not have a significant impact on CNP’s Retirement Plan expense.”

“CNP’s selected discount rate for 2010 expense is 5.70%, compared to the median discount rate for the utility group included in Hewitt’s database of approximately 5.91%. While CNP’s December 31, 2009 discount rate assumption was 0.21% lower than the median rate, the difference is not material. More importantly, the discount rate selection is based on a yield curve analysis that matches the Plan’s projected benefits to a high-quality corporate bond yield curve. There is not much latitude in discount rate selection based on prevailing standards of practice, where the use of a yield curve is preferred because it better reflects a plan’s underlying demographic characteristics and benefit features. In an increasing term structure

of interest rates, which was exhibited on December 31, 2009, plans with lower durations (due to earlier cash payouts on average) will have lower discount rates when compared to others.”

However, Woods has no specialized training or education in actuarial accounting. Woods is not a certified public accountant, and does not possess any education or training in accounting. In fact, ***Woods holds a Masters Degree in Special Education.*** Clearly, this education does not qualify him to testify as to actuarial pension assumptions. For these reasons, the COH/HCOC request that the Commission strike the following testimony of Woods:

- Page 5, line 19 to Page 9, line 9.

FOR THESE REASONS, the City of Houston and Houston Coalition of Cities respectfully request that the Commission strike the rebuttal testimony of Charles Dean Woods and grant all other relief to which they are justly entitled.

Respectfully submitted,

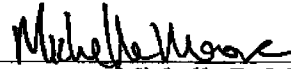
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11/26/2017

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CERTIFICATE OF SERVICE

On this the 5th day of October, 2010, a true and correct copy of the foregoing document was served upon all parties of record by facsimile, email and/or U.S. mail, postage paid.

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