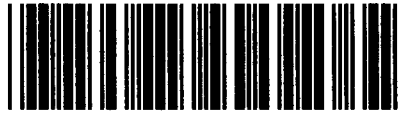


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APPLICATION OF CENTERPOINT § BEFORE THE STATE OFFICE  
ENERGY HOUSTON ELECTRIC, LLC § OF  
FOR AUTHORITY TO CHANGE § ADMINISTRATIVE HEARINGS  
RATES §

TCUC'S RESPONSE TO  
CENTERPOINT ENERGY HOUSTON ELECTRIC, LLC'S  
MOTION TO ALIGN AND CONSOLIDATE INTERVENOR CITIES

The Texas Coast Utilities Coalition<sup>1</sup> ("TCUC") files this response to CenterPoint Energy Houston Electric, LLC's ("CenterPoint" or the "Company") Motion to Align and Consolidate Intervenor Cities. TCUC received CenterPoint's filing on July 20, 2010 and thus this response is timely filed.

I. INTRODUCTION

CenterPoint's Motion to Align and Consolidate Intervenor Cities is both premature and unnecessary. CenterPoint's motion states two primary objectives. The Company wants to align and consolidate cities so the Commission can resolve this case within 185 days and achieve procedural efficiencies designed to reduce rate case expenses.<sup>2</sup> CenterPoint's motion is superfluous and it provides no concrete examples of the inefficiencies or duplication of work. The Company's pleading also fails to mention the enormity of its proposed rate increase and the breadth of information in its application.<sup>3</sup> CenterPoint's wants to force all the cities into a single party but its reasons for doing so are without merit. Despite CenterPoint's concerns the cities

<sup>1</sup> TCUC is comprised of the cities of Baytown, Clute, Freeport, Jones Creek, League City, Pearland, Richwood, Shoreacres and Wharton.

<sup>2</sup> CenterPoint Energy Houston Electric, LLC's Motion to Align and Consolidate Intervenor Cities at 2.

<sup>3</sup> CenterPoint is requesting to increase its transmission and distribution rates by \$94 million, which results in approximately a 16% increase to residential base rates.

have successfully coordinated efforts in the past and CenterPoint's presents no evidence that they would not do so going forward in this case.

## **II. CENTERPOINT'S REQUEST IS PREMATURE AND UNNECESSARY**

CenterPoint's rate case is on a 185-day schedule. CenterPoint's request for a 185-day resolution of the case is already a moot point and should not even be considered when determining the merits (or lack thereof) of CenterPoint's filing. If CenterPoint had waited a mere 48 hours to file its motion, until after the prehearing conference on July 22, 2010, it would have discovered no city opposed a 185-day schedule.<sup>4</sup> Instead, CenterPoint chose to file a motion that could not even be considered by the ALJs or the Commission before a procedural schedule was issued by the ALJs. So despite an Order being issued by SOAH that already addresses the 185-day goal, the issues linger on in CenterPoint's filing and still must be addressed by the parties.<sup>5</sup> Based on Order No. 5 a final decision in this case will be rendered by the 185th day and the ultimate resolution of this motion will have no impact on the schedule whatsoever.

The actual facts of the case do not appear to influence the arguments CenterPoint's presents in its pleading. How else could CenterPoint justify its request to align and consolidate not only the current city groups, but also any city or city coalition that subsequently intervenes in this case? If CenterPoint was legitimately concerned about aligning cities with common interests and avoiding duplication and therefore rate case expenses, it would have some modicum of interest in determining what issues are important to a city intervening in the case and give the

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<sup>4</sup> The Office of Public Utility Counsel was the only party that did not consent to a 185- day schedule and instead requested a 45-day extension due to its lack of available resources.

<sup>5</sup> Order No. 5 (July 26, 2010).

city the opportunity to assess the Company's application. Instead CenterPoint asks the ALJs to issue a blank-check order to group all current cities and any future city into a single party, regardless of why a city is in the case or its position on a particular issue. CenterPoint's request has no relation to the Commission's rules and procedures.

CenterPoint emphasis on avoiding unnecessary duplication of efforts by the cities seems to be based on the misunderstanding that some party has previously or is currently advocating for the duplication of efforts. While TCUC is not privy to all the responses to CenterPoint's motion it would be entirely novel if a party suggests that duplication should not be avoided. Despite CenterPoint's concern, cities in a multitude of cases over the years have successfully coordinated with each other to avoid duplicating efforts. Once again instead of actually asserting a tangible concern that the parties could address, the cities are left to argue against a concern solely within the realm of CenterPoint's imagination.

CenterPoint's concern is not limited to duplication of efforts, but extends to the concept of coordination. CenterPoint's solution to a problem that does not exist is "coordination among the cities is best achieved through a single, aligned city coalition, rather than through three or more separate city coalitions, as currently exists in this case, each of whom perform the same activities and functions."<sup>6</sup> CenterPoint's proposal to align and consolidate the cities for every phase of the case and every issue is a radical departure from precedent and law and totally unsupported by CenterPoint's pleading. CenterPoint never addresses how this new super coalition would function or why cities exercising original jurisdiction are not permitted to pick its own counsel and consultants as allowed for in PURA. If in CenterPoint's view the cities were still able to pick its own counsel, it is unclear why CenterPoint believes that if its proposed super

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<sup>6</sup> CenterPoint's Motion at 3.

coalition were created it would be devoid of the same coordination and duplication issues that have been successfully dealt with previously in rate cases while maintaining separate city groups. CenterPoint provides no justification for why it believes coordination is possible in one situation, but not in another.

The Commission's rules contemplate cities having various positions on issues of fact or law.<sup>7</sup> The rules do not require alignment at hearing, but allows for it if parties have identical positions. However, in order to determine what position a party has it must be able to conduct discovery and decide what issues it wants to pursue. It is premature at this point to box parties into positions before they are finished reviewing CenterPoint's application and analyzing and compiling discovery. Ultimately the cities may have some overlapping interests, but that does not justify aligning them for the entire case. The cities, through the counsel and consultants of their choosing are entitled to independently pursue whatever issues they determine are in their best interests at any point during the case. Cities do not always agree on every issue of law and fact and the whether there is a need for alignment should be reserved for the actual hearing as contemplated under the procedural rules.<sup>8</sup> At that point, once all the parties have fully developed their issues, it may be appropriate for the parties to revisit the issue of alignment regarding certain aspects of the hearing, such as cross-examination.

In the meantime the cities will continue to coordinate with each other and limit the duplication of efforts as much as possible. This is in keeping with the approach the cities, with the endorsement of SOAH and the Commission have continually taken, case after case, without prompting from any utility. In fact, the correspondence attached to CenterPoint's motion

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<sup>7</sup> P.U.C. PROC. R 22.105.

<sup>8</sup> *Id.*

indicates that the various cities proactively attempt to coordinate efforts and attract cities with similar interests. While not every city wants to be a member of a particular coalition, many will ultimately band together in a group to have their interest represented at the Commission. CenterPoint might not appreciate the fact that they are only dealing with three coalitions, but it would be possible without the efforts of the city coalitions, for CenterPoint to be dealing with scores of cities each with their own representation. Such a potentially unwieldy situation might justify early alignment, however such a situation does not exist, and CenterPoint's arguments presented in its motion should be dismissed.

### III. CONCLUSION

CenterPoint's Motion to Align and Consolidate Intervenor Cities is premature and unnecessary and should be denied.

Respectfully submitted,

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**ATTORNEYS FOR TEXAS COAST  
UTILITIES COALITION**

**CERTIFICATE OF SERVICE**

I hereby certify that on this the 27<sup>th</sup> day of July 2010, a true and correct copy of the foregoing document was served upon all parties of record by facsimile and/or First-class mail United States mail, postage paid.

By: Felipe Alonso III  
FELIPE ALONSO III