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PROJECT NO. 39548

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PROJECT TO REVISE RATE FILING §
PACKAGE FOR INVESTOR-OWNED §
TRANSMISSION AND DISTRIBUTION §
UTILITIES §

BEFORE THE
PUBLIC UTILITY COMMISSION
OF TEXAS

REPLY COMMENTS OF AEP TEXAS CENTRAL COMPANY; AEP TEXAS NORTH COMPANY; CENTERPOINT ENERGY HOUSTON ELECTRIC, LLC; CROSS TEXAS TRANSMISSION, LLC; ELECTRIC TRANSMISSION TEXAS, LLC; LONE STAR TRANSMISSION, LLC; ONCOR ELECTRIC DELIVERY COMPANY LLC; SHARYLAND UTILITIES, L.P.; TEXAS-NEW MEXICO POWER COMPANY; AND WIND ENERGY TRANSMISSION TEXAS, LLC ("THE JOINT UTILITIES")

I. INTRODUCTION

Rate case cost savings are best achieved when parties are thoughtful and reasonable about their requests for information before they propound discovery *after* a utility files its case revealing the relevant issues. The RFP should not be an exhaustive list of all evidence that *may* be relevant in every rate case. No party to a rate case can guarantee—as some commenters seem to infer—that more information upfront will increase the likelihood of settlements or achieve a reduction in discovery.¹ In fact, it is probable that this additional information will have nothing to do with the matters that are ultimately at issue in the case, resulting in an increase in costs on the front end that does not convert into cost savings on the back end during discovery.

State Agencies claim that allowing additional disclosures upfront will result in the narrowing of issues if certain information is available sooner rather than later.² But obtaining the information sooner does not translate into cost savings if the information is not relevant. It actually increases the costs for the utility to produce unnecessary information and increases the costs to interveners to review unnecessary information. If the information is relevant, at most it is cost *shifting*—causing the costs to occur sooner in the rate case rather than later. To preserve the cost savings achieved in this project and others, the Joint Utilities reject the following comments put forth by the other parties in this project.

II. REPLY COMMENTS

General Instruction No. 12: Workpapers

¹ See, State Agencies' Initial Comments at 1; The Steering Committee of Cities Served by Oncor's Initial Comments at 1 (Oct. 3, 2014).

² See, State Agencies' Initial Comments at 1-2.

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OPUC proposes that this instruction be amended to require that the utility provide the public interest necessity and rate payer benefit for the adjustment.³ The Joint Utilities strongly reject this proposal because OPUC is creating a standard that does not exist in PURA. Utilities seeking a rate change have the burden to prove that the rate change is just and reasonable—not just and reasonable as long as there is a rate payer benefit or public interest necessity.⁴ Notably, just because a cost benefits the rate payer does not make it a prudent investment worthy of recovery.

If necessary and relevant to that specific cost, the utility will include it in its testimony, along with the other evidence needed to prove its rates are just and reasonable. OPUC's proposal should be rejected because it is improper to create or build a standard into the RFP that is not supported by PURA and inefficient in that the information proposed may not be relevant to the cost sought to be recovered.

Section II-C-3: Internal/External Audits

Oncor Cities recommend that the instruction to this schedule be amended to require copies of any internal or external audit report related to any audit in progress or completed during the test year.⁵ The Joint Utilities disagree with this proposed change. Internal audits are used for a variety of tasks, some of which are at the direction of the audit committee, a particular business unit, or legal counsel. Contrary to Oncor Cities' position, the costs associated with providing audit reports upfront provide little benefit to the rate payer because many of the reports may not relate to the specific utility in the case and would therefore be irrelevant or may be privileged if done at the direction of counsel. Oddly, Oncor Cities request for pending audit reports is an impossible task in that no report has been written at that stage in the process. It is for these reasons that a list of audits will provide sufficient, non-privileged information for a requestor to determine whether more information is needed.

II- E-4.6: Monthly Rate Case Expense for Any Proceeding.

The Joint Utilities strongly re-urge the Commission to exclude this provision in its entirety from the RFP. As stated in their initial comments, the requirements for recovery of rate case expenses were fully examined and finally adopted in Project No. 41622. Because rate case expenses are often severed from the rate case proceeding, addressing rate case expenses monthly is unnecessary and counterproductive to the Commission's goal of saving costs because additional expenses will be incurred at the RFP level and again during the severed proceeding. If this section remains, however, the Joint Utilities request the following changes.

³ Office of Public Utility Counsel's Initial Comments at 9 (Oct. 3, 2014).

⁴ See, TEX. UTIL. CODE ANN. §36.001.

⁵ Oncor Cities' Initial Comments at 4-5.

The Joint Utilities propose that instead of monthly updates, any requested updates should be determined by the ALJ when setting the procedural schedule, thus providing flexibility to the parties depending on whether rate case expenses are heard in the general rate case proceeding or are severed into a separate docket.

Additionally, with regard to the provision of justification for expenses that exceed \$25 dollars per meal, the Commission should reject the State Agencies' proposal to include a "per diem" upper allowable amount reflecting the Texas Comptroller's Travel Reimbursement Rates for State Employees.⁶ This standard is not reflective of a utility's actual expenses because it does not enjoy the same travel and meal discounts and tax benefits as state employees. Moreover, the Commission declined to adopt State Agencies' proposal to include this exact measure in Project 41622.⁷

The Joint Utilities agree with Oncor Cities regarding the necessity for municipal rate cases expenses to be deleted from this section.⁸ There are no efficiencies gained by the huge undertaking it would require for numerous parties to coordinate a report of their expenses monthly *during* an ongoing rate case proceeding. Further, this requirement increases the risk of opposing parties exchanging privileged information and indications of strategy during litigation.

The Joint Utilities finally propose the concept of "any proceeding" be clarified. Rate case expense information should be presented for all cases or proceedings for which a party requests recovery of rate case expenses.

The Joint Utilities' responses to other comments are below:

Section	Proposed Change and Rationale
Instruction No. 19: Good Cause Shown	Oncor Cities are opposed to the good cause restriction of requesting data beyond the historical periods required to be provided by the RFP. ⁹ Joint Utilities believe that such a restriction is appropriate to reduce the expense of providing stale (four years) data upfront in the RFP that is almost always irrelevant due to its age. In the very rare instance where such data might be relevant, the instruction allows for discovery of older data upon a showing of good cause. The Joint Utilities propose this exception remain in the instruction.

⁶ State Agencies' Initial Comments at 3.

⁷ *Rulemaking to Propose New Substantive Rule 25.245, Relating to Recovery of Expenses for Ratemaking Proceedings*, Project No. 41622, Order Adopting the New 25.245 at 143-144 (Aug. 6, 2014).

⁸ Oncor Cities' Initial Comments at 5-7.

⁹ *Id.* at 4.

Schedule II-B-7: Accumulated Provision Balances	TIEC proposes additional details be provided as part of Schedule II-B-7 with regard to insurance reserve. ¹⁰ Joint Utilities submit that this type of information is typically included, and is more appropriately found, in the analysis of the insurance reserve witness. Further, there is no need to provide monthly balances for the insurance reserve, as insurance losses are cumulative and large intra-year and inter-year variations are normal.
Schedule II-C-2: Financial Information	OPUC is proposing new schedules in the II-C section for “Amortization of Debt Discount and Expense” and “Interest Rate Swaps/Derivatives.” OPUC states that this information is routinely sought in the discovery process ¹¹ , but Joint Utilities submit that such information is not relevant to all utilities and is better left for discovery.
Section II-D-2.9: Rents and Leases	OPUC argues that Schedule II-D-2.9 should cover all leases, instead of just real property leases. ¹² Joint Utilities oppose any such requirement, as it would apply to office supplies such as copiers, telecommunications equipment, fax machines, etc. Considering the level of detail required by the proposed schedule, applying it to such smaller items would require utilities to spend a burdensome amount of time to provide information on expenses that are usually relatively small in amount and that are rarely, if ever, at issue in a rate case.
Section II-E-2.1 (lines 15-17 and 19-21): <u>Property Taxes</u>	<p>OPUC addresses two items in this section. While the Joint Utilities do not oppose amending lines 19-21 to require the information to be included by FERC account, they do oppose OPUC’s recommendation in lines 15-17 to include supporting documentation for the imprudence decision in the workpapers.¹³ In fact, the Joint Utilities propose deleting the provision in lines 15-17 because the relevant taxing authority sets property values, not utilities or the Commission. Therefore, the provision as written is confusing, because the Commission would not deem a value set by a taxing authority imprudent.</p> <p>If the provision in lines 15-17 remains, the Joint Utilities propose clarifying language with regard to this section: The Company shall indicate whether its ad valorem taxes include taxes on property values deemed imprudent by the Commission and identify the amount of taxes and the associated plant balance. Providing supporting documentation for the prudence decision in this context is also a futile addition because the purpose of this provision is to ensure rate payers are not paying <i>taxes</i> on property typically excluded from rate base (e.g., Plant Held for Future Use). Documentation of why the property was “deemed imprudent” adds no probative value to that determination.</p>

¹⁰ Texas Industrial Energy Consumers’ Initial Comments at 5-6 (Oct. 3 2014).

¹¹ OPUC’s Initial Comments at 12.

¹² *Id.* at 13.

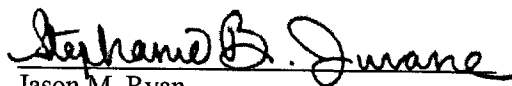
¹³ *Id.* at 14.

Schedule II-H-1.5; System Load Factors; Schedule II-H-1.6: Adjustments to Billing Demand; Schedule II-H-1.8: Peak Demand Information; and Schedule II-H-1.9: Sales by Generic Rate Class	OPUC and State Agencies want to restore certain rate design schedules that Staff has proposed to delete. ¹⁴ Joint Utilities agree with Staff that these schedules are no longer necessary in light of the additions to Schedules II-H-1.3 and II-H-1.4 and the addition of new Schedule II-H-1.3.1, and the proposed schedule deletions should not be modified.
Instruction 18	OPUC wants to amend the instruction to require an explanation as to why a particular schedule is not applicable. ¹⁵ The Joint Utilities oppose this addition because it would essentially require utilities to provide information about irrelevant information, which is a prime example of a needless increase in rate case expense for information that is not necessary as part of the RFP.

III. CONCLUSION

The Commission should only incorporate the suggested changes by other parties that are consistent with its goal to eliminate unnecessary rate case expenses and reject those that effectively undermine the Commission's attempt to control rate case expenses. The Joint Utilities request that the changes proposed herein and its initial comments be incorporated in the final RFP.

Respectfully submitted,



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¹⁴ State Agencies' Initial Comments at 4; OPUC's Initial Comments at 15-16.

¹⁵ OPUC's Initial Comments at 10.

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