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**PUC DOCKET NO. 41223  
SOAH DOCKET NO. 473-13-2879**

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**APPLICATION OF ENTERGY  
TEXAS, INC., ITC HOLDINGS  
CORP., MID SOUTH TRANSCO  
LLC, TRANSMISSION COMPANY  
TEXAS, LLC, AND ITC MIDSOUTH  
LLC FOR APPROVAL OF CHANGE  
OF OWNERSHIP AND CONTROL  
OF TRANSMISSION BUSINESS,  
TRANSFER OF CERTIFICATION  
RIGHTS, CERTAIN COST  
RECOVERY APPROVALS, AND  
RELATED RELIEF**

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**BEFORE THE**

**STATE OFFICE OF**

**ADMINISTRATIVE HEARINGS**

**ENTERGY TEXAS, INC.'S OBJECTIONS TO STATE AGENCIES' FIRST REQUESTS  
FOR INFORMATION TO ENTERGY TEXAS, INC.**

Applicant Entergy Texas, Inc. (ETI), files these objections to State Agencies' First Requests for Information (RFIs) to ETI.

**I. Introduction**

ETI received State Agencies' first set of RFIs on April 12, 2013. Counsel for ETI and State Agencies have attempted to negotiate these objections diligently and in good faith. The negotiations were unsuccessful. By agreement with counsel for State Agencies, these objections are timely filed.

**II. Reservation of Rights**

Based on diligent inquiry, ETI believes that all necessary objections have been raised in this pleading. ETI does not, however, waive its right, if additional documents are subsequently found that are responsive to these requests, to claim that such documents are confidential or privileged if such an objection is determined to be appropriate.

### **III. Objections to Definitions & Instructions**

ETI objects to the definitions and instructions to the extent they attempt to impose requirements in excess of the applicable rules. ETI will respond to discovery in accordance with applicable rules.

### **IV. Specific Objections**

#### **Requests for Information**

**STATE 1-1** In its response to TIEC's RFI 3-2, the Company included the following statement: "The witnesses became aware of the facts underlying their mental impressions and opinions during the course and scope of their employment."

For each ETI witness who was not been identified as an expert witness please identify, by page and line of testimony, those portions that were based on "facts" learned "during the course and scope of their employment" and that were derived in any part from documents generated by entities outside of Entergy Services, Inc. or ETI or discussions with any person from outside Entergy Services, Inc. or ETI. With regard to responsive documents, please provide a copy of each such document and specify the particular information from each document upon which each identified portion of testimony is based. With regard to discussions with outside persons, please identify with as much specificity as possible the person involved and his/her employer, the subject matter of the discussion, the time of the discussion, a list of other persons present, and the substance and context of the discussion. If any notes were made or documents exchanged during the discussion, please provide copies of those as well.

At the appropriate time, please update or supplement your answers for any rebuttal testimony given by a non-expert witness who presented direct testimony.

**STATE 1-2** In its response to TIEC's RFI 3-2, the Company included the following statement: "The witnesses became aware of the facts underlying their mental impressions and opinions during the course and scope of their employment."

For each ETI witness who was not been identified as an expert witness please identify, by page and line of testimony, those portions that were based on "facts" learned "during the course and scope of their employment" and that were derived in any part from documents generated by persons within Entergy Services, Inc., ETI, or any affiliate corporation, or from discussions with such persons. With regard to responsive documents, please provide a copy of each such document and specify the particular information from each document upon which each identified portion of testimony is based. With regard to discussions, please identify with as much specificity as possible the person involved and his/her

employer, the subject matter of the discussion, the time of the discussion, a list of other persons present, and the substance and context of the discussion. If any notes were made or documents exchanged during the discussion, please provide copies of those as well.

At the appropriate time, please update or supplement your answers for any rebuttal testimony given by a non-expert witness who presented direct testimony.

### **Objection**

ETI objects to these requests because they are overly broad and unduly burdensome.<sup>1</sup> The burden of gathering such information outweighs any likely benefit to be gained.<sup>2</sup> These requests ask each of ETI's lay witnesses to recall and identify every conversation they have had and each piece of paper they have seen during the course and scope of their employment that contributed to their personal knowledge of the facts underlying their mental impressions and opinions. This is neither possible nor required by the Commission's rules or the Texas Rules of Civil Procedure. The requests also seek information that is duplicative of information already contained within the witnesses' direct testimonies as well as unnecessary details.

In addition, ETI objects to these requests because they fail to identify with reasonable particularity the information, documents or material sought.<sup>3</sup> A general request for the basis of every fact learned by the witnesses during the course and scope of their employment lacks the specificity required by the Commission's rules.<sup>4</sup>

ETI further objects to these requests on the grounds that they seek discovery of information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence in this docket.<sup>5</sup>

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<sup>1</sup> TEX. R. CIV. PROC. 192.4(a); *In re CSX Corp.*, 124 S.W.3d 149, 152-53 (Tex. 2003).

<sup>2</sup> TEX. R. CIV. PROC. 192.4(b).

<sup>3</sup> P.U.C. PROC. R. 22.144(b)(1).

<sup>4</sup> *Id.*

<sup>5</sup> TEX. R. CIV. PROC. 192.3(a); TEX. R. EVID. 401.

Finally, ETI objects to requests to the extent they seek privileged information protected from disclosure, including attorney-work product and attorney-client communications.<sup>6</sup>

## **V. Conclusion**

For the foregoing reasons, ETI respectfully requests that its objections to State Agencies' first set of RFIs be sustained and that it be granted such other relief to which it has shown itself entitled.

Respectfully submitted,

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By: \_\_\_\_\_  
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State Bar No. 24047492

ATTORNEYS FOR ENTERGY TEXAS,  
INC., MID SOUTH TRANSCO LLC, AND  
TRANSMISSION COMPANY TEXAS,  
LLC

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<sup>6</sup> TEX. R. CIV. PROC. 192.5; TEX. R. EVID. 503.

Certificate of Service

I certify that a true and correct copy of the foregoing document has been served on all parties of record this 22<sup>nd</sup> day of April, 2013.

A handwritten signature in black ink, appearing to read "Patrick Pearsall", written in a cursive style.

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Patrick J. Pearsall