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APPLICATION OF CENTERPOINT § BEFORE THE STATE OFFICE
ENERGY HOUSTON ELECTRIC, LLC §
FOR APPROVAL OF A DISTRIBUTION § OF
COST RECOVERY FACTOR §
PURSUANT TO P.U.C. SUBST. R. 25.243 § ADMINISTRATIVE HEARINGS

SOAH ORDER NO. 6
NUNC PRO TUNC
DENYING MOTION TO COMPEL

On May 11, 2015, Texas Coast Utilities Coalition (TCUC) filed a motion to compel (the Motion) seeking an order requiring Centerpoint Energy Houston Electric, LLC (Centerpoint) to respond to TCUC's Request for Information (RFI) No. 1-6. The RFI was served on Centerpoint by TCUC on April 27, 2015, and objected to by Centerpoint on May 4, 2015. The Motion was timely filed pursuant to P.U.C. Proc. R. 22.144(e), and Centerpoint timely responded to the Motion on May 14, 2015. In response to SOAH Order No. 4, TCUC and Centerpoint confirmed to the Administrative Law Judge (ALJ) on May 29, 2015, that a ruling on the Motion is requested. After reviewing the RFI at issue, the objection, the motion, and the response thereto, the ALJ denies the Motion.

TCUC's RFI No. 1-6 seeks "all internal discussion, including presentations, emails, and internal reports subsequent to the effective date of the DCRF rule, which consider the potential for filing a . . . DCRF application during a particular annual period." Centerpoint objected that the RFI sought information beyond the scope of this proceeding and that the information sought is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Centerpoint also objected that RFI No. 1-6 was unduly burdensome. In the Motion, TCUC argues that P.U.C. Subst. R. (Rule) 24.245(d)(3) makes the requesting information relevant. Rule 24.245(d)(3) requires Centerpoint to identify any costs included as distribution invested capital because of a change in accounting rules or practices and to prove that the costs are appropriate for recovery through the DCRF. TCUC contends that in light of the accounting changes testified to by Centerpoint witness Mary A. Kirk, the decisions and discussions within

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Centerpoint that resulted in additional included as distribution invested capital could reveal the appropriateness of these costs. Finally, TCUC asserts that because the information sought by RFI No. 1-6 relates directly to the DCRF filing, it should not be excessively burdensome for Centerpoint to track it down and produce it.

In response to the Motion, Centerpoint claims that it has already produced full and complete information regarding the accounting changes made in anticipation of the DCRF filing. Regarding internal discussions about whether to file a DCRF in 2012, 2013, and 2014, Centerpoint contends that there was no potential in those years for filing a DCRF, and that those discussions are beyond the scope of relevant information as to the DCRF filing in question for 2015. While it concedes that internal discussions specific to accounting changes related to the 2015 DCRF filing are relevant and that it must prove the appropriateness of the costs included as distribution invested capital because of the accounting changes, Centerpoint argues that RFI No. 1-6 goes beyond what is relevant in a DCRF proceeding, given the limited and narrow scope of this proceeding. Finally, Centerpoint contends that the time and resources required to search for and identify documents and information responsive to RFI No. 1-6 is unduly burdensome in light of the benefit achieved from it, noting that it would involve a search and review of four years' worth of Company emails and other materials.

RFI No. 1-6 is overly broad and unduly burdensome under the circumstances, and it seeks production of information that is not reasonably calculated to lead to the discovery of admissible evidence. The potential for filing a DCRF adjustment in prior years has no bearing on whether the costs included as distribution invested capital in Centerpoint's current filing are appropriate for recovery through the DCRF. The ALJ is further unconvinced that the RFI is reasonably calculated to lead to the discovery of admissible evidence relevant to the issue of whether costs included as distribution invested capital because of an accounting change are appropriate for recovery through the DCRF. The rule does not pertain to the reasons why accounting changes were made or why Centerpoint decided to file a DCRF this year and not in 2012-2014; it only requires Centerpoint to identify the costs included as distribution invested

capital as a result of the accounting change and to prove that the costs are appropriate for recovery through the DCRF. Moreover, Centerpoint has already provided information concerning the discussions that led to the accounting changes. Under these circumstances, requiring Centerpoint to cull through all Company emails and other documents from the last four years to locate discussions regarding the potential for filing a DCRF would create a burden that outweighs the benefit achieved by producing them.

Therefore, the motion to compel is **DENIED**.

SIGNED June 11, 2015.



CASEY A. BELL
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS