



Control Number: 48387



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COMPLAINT OF DANA SCHMUKAL § BEFORE THE STATE OFFICE
AGAINST ONCOR ELECTRIC § OF
DELIVERY COMPANY LLC AND § ADMINISTRATIVE HEARINGS
CHAMPION ENERGY SERVICES, LLC §

**ONCOR ELECTRIC DELIVERY COMPANY LLC'S
MOTION TO DISMISS THE COMPLAINT FOR FAIRLURE TO PROSECUTE AND
MOTION TO ABATE THE PROCEDURE SCHEDULE**

TO THE HONORABLE CRAIG R. BENNETT, ADMINISTRATIVE LAW JUDGE:

COMES NOW Oncor Electric Delivery Company LLC ("Oncor"), and files the following Motion to Dismiss the Complaint for Failure to Prosecute pursuant to 16 Texas Administrative Code § 22.181 ("TAC"), with prejudice, and Motion to Abate the Procedural Schedule, respectfully showing as follows:

I. MOTION TO DISMISS THE COMPLAINT FOR FAILURE TO PROSECUTE

This case involves whether Oncor is charging Ms. Dana Schmukal ("Complainant") pursuant to the correct tariff provision. On June 26, 2018, the Public Utility Commission of Texas referred this case to the State Office of Administrative Hearings ("SOAH") to conduct a hearing and issue a proposal for decision if necessary to resolve any issues that are contested by the parties. SOAH Order No. 2 adopted a procedural schedule that the parties jointly agreed to and proposed. The procedural schedule required the Complainant to file direct testimony by August 15, 2018. As noted in the attached affidavit, the Complainant failed to file direct testimony. Accordingly, Oncor respectfully requests that the Complaint in this proceeding be dismissed, with prejudice, for Complainant's failure to prosecute her Complaint.

II. MOTION TO ABATE THE PROCEDURAL SCHEDULE

Pursuant to the procedural schedule adopted in SOAH Order No. 2, Oncor's direct testimony is due September 5, 2018. Because the Complainant did not file direct testimony, Oncor believes that her Complaint should be dismissed for failure to prosecute. Until Your Honor issues a decision regarding the Motion to Dismiss, and to avoid the parties having to expend potentially unnecessary resources regarding direct testimony, Oncor respectfully requests that the procedural schedule be abated. If the

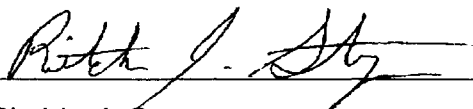
Motion to Dismiss is denied, Oncor will work with the parties to present a new proposed procedural schedule.

III. CONCLUSION AND PRAYER

WHEREFORE, Oncor respectfully requests that Your Honor grant the Motion to Dismiss the Complaint for Failure to Prosecute pursuant to 16 TAC § 22.181, with prejudice, and Motion to Abate the Procedural Schedule, and grant Oncor such further and other relief to which it may show itself entitled.

Respectfully submitted,

Oncor Electric Delivery Company LLC

By: 

Ritchie J. Sturgeon
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**ATTORNEY FOR ONCOR ELECTRIC
DELIVERY COMPANY LLC**

CERTIFICATE OF SERVICE

It is hereby certified that a copy of the foregoing has been hand delivered or sent via courier service, fax, overnight delivery, or first class United States mail, postage prepaid, to all parties of record in this proceeding on this the ^{24th} day of August, 2018.




AFFIDAVIT OF RITCHIE J. STURGEON

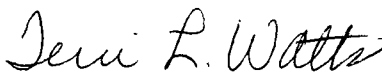
STATE OF TEXAS §
COUNTY OF DALLAS §

Before me, the undersigned authority, on this day personally appeared Ritchie J. Sturgeon, who, having been placed under oath by me, did depose as follows:

1. My name is Ritchie J. Sturgeon. I am of legal age and fully competent to make this affidavit. The facts discussed in this affidavit are true, correct, and based on my personal knowledge.
2. I am employed by Oncor Electric Delivery Company LLC ("Oncor" or "Company") as Counsel. In my current role at Oncor, I represent the Company in proceedings before the Public Utility Commission of Texas ("Commission") and the State Office of Administrative Hearings ("SOAH").
3. On June 26, 2018, the Commission referred this case to SOAH to conduct a hearing and issue a proposal for decision if necessary to resolve any issues that are contested by the parties. SOAH Order No. 2 adopted a procedural schedule that the parties jointly agreed to and proposed. The procedural schedule required Ms. Dana Schmukal ("Complainant") to file direct testimony by August 15, 2018. However, the Complainant failed to file direct testimony.


Ritchie J. Sturgeon

SUBSCRIBED AND SWORN TO BEFORE ME by the said Ritchie J. Sturgeon
the 23rd day of August, 2018.


Notary Public, State of Texas

