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PUC DOCKET NO. 49392
SOAH DOCKET NO. 473-19-3663

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PUBLIC UTILITY COMMISSION
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APPLICATION OF ENTERGY TEXAS, § PUBLIC UTILITY COMMISSION
INC. FOR APPROVAL TO ESTABLISH §
ITS DISTRIBUTION COST § OF TEXAS
RECOVERY FACTOR (2019) §

COMMISSION STAFF’S COMMENT ON SUFFICIENCY OF NOTICE

COMES NOW the Staff of the Public Utility Commission of Texas (Staff), representing the public interest, and files this Comment on Sufficiency of Notice in response to SOAH Order No. 1. In support thereof, Staff shows the following:

I. BACKGROUND

On March 28, 2019, Entergy Texas, Inc. (Entergy), filed an application requesting authority to establish a Distribution Cost Recovery Factor (DCRF) pursuant to 16 Texas Administrative Code (TAC) § 25.243 and asks that its regulatory authorities, including the Commission and applicable municipalities, approve Entergy’s proposed DCRF Rider.¹ If approved, the DCRF Rider would collect \$3.2 million annually from Entergy’s Texas retail customers.² Entergy’s application asserts that its proposed DCRF Rider is based on changes to its invested capital between January 1, 2018 and December 31, 2018,³ which spans one year following the end of the test year in its most recent base-rate case, Docket No. 48371.⁴

On April 4, 2019, Entergy provided its proof of notice.

Previously, on April 3, 2019, the State Office of Administrative Hearings (SOAH) administrative law judge (ALJ) issued Order No. 1, requiring Staff to provide comment or objection to Entergy’s sufficiency of notice by April 12, 2019. Therefore, this pleading is timely filed.

¹ Application at 1 (Mar. 28, 2019).

² *Id.*

³ *Id.*

⁴ *Entergy Texas, Inc.’s Statement of Intent and Application for Authority to Change Rates*, Docket No. 48371, Order (Dec. 20, 2018):

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II. SUFFICIENCY OF NOTICE

Under 16 Texas Administrative Code (TAC) § 25.243(e)(2), by the day following the filing of a DCRF application, an electric utility "...shall provide notice of its application, using a reasonable method of notice, to all parties in the electric utility's last comprehensive base-rate proceeding and, if applicable, last DCRF proceeding, and shall include in the notice the docket number for the new proceeding."

On April 4, 2019, Entergy filed its proof of notice, including an affidavit from Wajiha Rizvi attesting to the provision of notice.

Specifically, the affidavit states that the application was filed with all local regulatory authorities that retain jurisdiction over Entergy's rates on March 28, 2019 and March 29, 2019. Additionally, the affidavit states that on March 28, 2019, Entergy provided the application to all parties that participated in Docket No. 48371, Entergy's most recently completed base rate proceeding. Further, the affidavit states that on March 28, 2019, Entergy provided notice of its application to all parties that participated in Docket No. 47233, Entergy's last DCRF proceeding. Thereafter, on April 2, 2019, notice of the application was provided to Lela Sharpe, a participant in the aforementioned base rate proceeding, via first class mail. The affidavit explains that Ms. Sharpe was inadvertently excluded from the March 28, 2019 notice list.

According to the affidavit, the copies of the application were hand-delivered, sent by first class mail, or overnight delivered. The affidavit also attests that the notice provided to the parties included the docket number for the new proceeding.

Entergy complied with the requirements established under 16 TAC § 25.243(e)(2). Specifically, Entergy provided notice to all parties in its last base-rate proceeding and last DCRF proceeding. Further, Entergy provided notice using a reasonable method, in this instance via hand-delivery, first class mail, or overnight delivery. In addition, the notice included the docket number for this proceeding. Finally, with one exception, Entergy provided notice to all parties by March 29, 2019, the day following the filing of its DCRF application. The notice provided to Ms. Sharpe was four days beyond the deadline set under 16 TAC § 25.243(e)(2), but Staff would recommend that an exception to the requirement be granted for good cause. The affidavit explains that the oversight was inadvertent, and it is unlikely to cause prejudice to the notice recipient.

III. CONCLUSION

Staff respectfully recommends that Entergy's notice be found sufficient.

DATED: April 11, 2019

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

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CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on April 11, 2019, in accordance with 16 TAC § 22.74.



Richard A. Nemer