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APPLICATION OF CENTERPOINT § BEFORE THE STATE OFFICE  
ENERGY HOUSTON ELECTRIC, LLC § OF  
FOR AUTHORITY TO CHANGE RATES § ADMINISTRATIVE HEARINGS

**OBJECTION OF CENTERPOINT ENERGY HOUSTON ELECTRIC, LLC  
TO H-E-B, LP'S FIRST SET OF REQUESTS FOR INFORMATION**

CenterPoint Energy Houston Electric, LLC ("CenterPoint Houston") received H-E-B, LP's ("H-E-B") First Set of Requests for Information ("RFIs") on May 28, 2019. Counsel for CenterPoint Houston and H-E-B negotiated diligently and in good faith but were unable to reach agreement concerning certain matters. Accordingly, CenterPoint Houston objects to the following RFIs on the grounds stated below. Pursuant to the procedural schedule in this case, objections to discovery are due within five calendar days of the request;<sup>1</sup> thus, these objections are timely filed. CenterPoint Houston continues to negotiate with H-E-B on these RFIs, and to the extent that any agreement is subsequently reached, CenterPoint Houston will withdraw its objections.

**I. SPECIFIC OBJECTIONS**

**H-E-B 1-3 Please provide all internal and external correspondence regarding CenterPoint's SAIDI performance for each of the last five years.**

**H-E-B 1-4 Please provide all internal and external correspondence regarding CenterPoint's SAIFI performance for each of the last five years.**

CenterPoint Houston objects to H-E-B 1-3 and 1-4 on the basis that the request is unreasonably cumulative or duplicative and the burden and expense of the proposed discovery outweighs its likely benefit.<sup>2</sup> Specifically, answering the questions as posed would require CenterPoint Houston to conduct a search of all employee emails that could contain the acronyms "SAIDI" or "SAIFI." The time, money, and attention to a vast search for email correspondence at this stage of the proceeding, especially when the Company is willing and able to provide the relevant information in another form, should not be required.

In the course of negotiation among counsel, H-E-B offered to limit the RFIs to CenterPoint Houston's SAIDI and SAIFI performance as it pertains to CenterPoint Houston's Primary and Secondary greater than 10 kVa customers, and to correspondence about repeat customer

<sup>1</sup> SOAH Order No. 2.

<sup>2</sup> Tex. R. Civ. Proc. 192.4(a)-(b).

complaints, but H-E-B continues to insist on a search for email correspondence. This limitation does little to ease the burdens discussed below, and CenterPoint Houston maintains its objections to H-E-B 1-3 and 1-4.

CenterPoint Houston has informed H-E-B that the Company is providing every weekly, monthly and annual reliability report dealing with SAIDI and SAIFI that the Company regularly produces, both internally and externally to the PUC, for the last five years in the response to HEB 1-1 and HEB 1-2. Also, CenterPoint Energy is providing all internal special reports, and the Company is providing all of the system outage data for the last five years.

Not only do these reports and outage data represent the best and most complete information available about CenterPoint Houston's SAIFI and SAIDI performance, they are in a format that H-E-B could conceivably analyze and find useful. In contrast, the email correspondence that H-E-B insists must be provided, will likely include large number of communications with irrelevant information. Given that reliability is central to CenterPoint Houston's operations, it is possible that over the last five years the terms "SAIFI" and "SAIDI" appear in hundreds of thousands of emails (or more). Before those emails could be produced, they would have to be reviewed for responsiveness, confidential or personal information, and the possibility of privileged communications.<sup>3</sup> At this stage of the proceeding, as the parties transition out of discovery on CenterPoint Houston's direct case, the search for responsive emails would be a wasteful expenditure of the parties' time and attention. This is particularly true where the request does not appear to seek information relevant to any of the issues in the Preliminary Order or the actual rate request before the Commission. Discovery must be reasonably tailored to the subject matter of the case without allowing the discovery process to turn into an impermissible fishing expedition.<sup>4</sup>

H-E-B's requests are also objectionable because the burden or expense of the proposed discovery outweighs its likely benefit. Outside counsel for CenterPoint Houston will have to spend time reviewing emails and finalizing the responses for production. Moreover, given the huge scale of the email search discussed above, CenterPoint Houston would likely have to rely on the services

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<sup>3</sup> To the extent that H-E-B's requests seeks communications that are protected by the attorney-client privilege or the work-product privilege, CenterPoint Houston objects on that basis. Tex. R. Civ. Evid. 503(b); Tex. R. Civ. Proc. 192.5; *Maryland Am. Gen. Ins. Co. v. Blackmon*, 639 S.W.2d 455, 458 (Tex. 1982) (stating that the purpose of the attorney-client privilege is to "promote the unrestrained communications between an attorney and client in matters where the attorney's advice and counsel were sought by ensuring that these communications will not be subject to subsequent disclosure").

<sup>4</sup> See *In re Lowe's Companies, Inc.*, 134 S.W.3d 876, 879 (Tex. App.—Houston [14th Dist.] 2004, no pet.) (regarding the impermissibility of fishing expeditions in discovery).

of an outside eDiscovery vendor, Consilio LLC, (“Consilio”), whose primary role is to provide a team of lawyers that review expansive metadata for discovery requests having the breadth such as H-E-B’s. Depending on how many emails are identified, the cost of the search could approach \$100,000. Whatever the ultimate cost of the discovery related to these requests, the expense must be weighed against the incremental benefit of an email search. In this case, the benefit is negligible because any information to be painstakingly distilled from email correspondence will be already contained in reports that present the information in a more user-friendly format.

If CenterPoint Houston’s objection is not sustained, and a search for email correspondence must be conducted, the Company respectfully requests that H-E-B be ordered to bear the incremental costs of the discovery rather than ratepayers through the recovery of rate case expenses.

## **II. CONCLUSION**

In sum, H-E-B’s requests are a burdensome distraction that serve no purpose. For the reasons discussed herein, CenterPoint Houston respectfully requests that its objections to H-E-B’s First Set of RFIs be sustained and that CenterPoint Houston be granted such other relief to which it has shown itself entitled.

Respectfully submitted,

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**COUNSEL FOR CENTERPOINT ENERGY  
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**CERTIFICATE OF SERVICE**

I hereby certify that on this 3<sup>rd</sup> day of June 2019, a true and correct copy of the foregoing document was served on all parties of record in accordance with 16 Tex. Admin. Code § 22.74.

  
Mark A. Santos