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PUC DOCKET NO. 49421

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**APPLICATION OF CENTERPOINT
ENERGY HOUSTON ELECTRIC, LLC
FOR AUTHORITY TO CHANGE
RATES**

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BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

**SOAH ORDER NO. 6
MEMORIALIZING PREHEARING CONFERENCE; GRANTING MOTIONS TO
INTERVENE; RULING ON JOINT OBJECTION TO CENTERPOINT'S
ERRATA I; ADOPTING AMENDED PROCEDURAL SCHEDULE;
AND DISCUSSING TIEC'S MOTION TO COMPEL**

I. MEMORIALIZING PREHEARING CONFERENCE

On May 30, 2019, Administrative Law Judges (ALJs) Steven Arnold, Elizabeth Drews, and Meaghan Bailey held the second prehearing conference for this proceeding at the hearing facility of the State Office of Administrative Hearings (SOAH) in Austin, Texas. The following parties appeared and participated:

- CenterPoint Energy Houston Electric, LLC (CenterPoint), represented by Patrick Peters, Mark Santos, and Ann Coffin
- Public Utility Commission of Texas (Commission) staff (Staff) represented by Rachelle Robles, Stephen Mack, Steven Gonzalez, Rashmin Asher, and Rustin Tawater
- Office of Public Utility Counsel (OPUC), represented by Cassandra Quinn and Eleanor D'Ambrosio
- Gulf Coast Coalition of Cities (GCCC), represented by Chris Brewster
- Texas Coast Utilities Coalition (TCUC), represented by Sergio Herrera and Freddie Herrera
- Houston Coalition of Cities (Houston Coalition) and the City of Houston, represented by Alton Hall, Jr.

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- Texas Industrial Energy Consumers (TIEC), represented by Michael McMillin
- Generation Park Management District (GPMD) and McCord Development, Inc. (McCord), represented by James Zhu
- H-E-B, LP (HEB), represented by Jennifer Littlefield
- Walmart Inc. (Walmart), represented by Lisa Perry
- Texas Energy Association for Marketers (TEAM), represented by Catherine Webking
- Calpine Corporation, represented by Maria Faconti
- Solar Energy Industries Association (SEIA) and Enel X North America, Inc. (Enel X), represented by Pamela Whittington

II. GRANTING MOTIONS TO INTERVENE

GPMD, McCord, HEB, Enel X, Walmart, SEIA, and Houston Coalition filed motions to intervene in this proceeding. No objections were filed. Accordingly, the motions to intervene were **GRANTED** by oral ruling at the prehearing conference.

III. RULING ON JOINT OBJECTION TO CENTERPOINT'S ERRATA I

On May 20, 2019, CenterPoint filed its Errata I and summarized the necessary corrections to errors it had identified within its Rate Filing Package (RFP). On May 28, 2019, TCUC, on behalf of itself, the Alliance for Retail Markets, GCCC, OPUC, TIEC, and TEAM (collectively, Joint Movants) filed a joint objection to CenterPoint's Errata I and requested an amendment to the existing procedural schedule (Joint Objection).

The Joint Movants suggested that the effect of CenterPoint's Errata I was an increase to the rates that CenterPoint provided in its notice to ratepayers. For this reason, the Joint Movants argued CenterPoint's Errata I resulted in a completely a new application which necessitated a later effective date. The Joint Movants asserted that CenterPoint failed to provide the corrected workpapers and schedules along with its Errata I, but rather proposed to provide them with its

rebuttal testimony. The Joint Movants argued that the corrected documents are not rebuttal testimony and that the parties would be denied a meaningful opportunity for review and to propound discovery if the documents are not provided prior to CenterPoint's rebuttal.

Ultimately, the Joint Movants requested that the ALJs: (1) suspend the existing procedural schedule; (2) require CenterPoint to file all testimony, schedules, or workpapers to support its Errata I; (3) establish a new effective date and statutory deadline for CenterPoint's completed statement of intent; (4) determine a new effective date to be 35 days from the date CenterPoint files all testimony, schedules, or workpapers supporting its Errata I; and (5) establish a new procedural schedule. Additionally, as an alternative remedy, the Joint Movants proposed an amendment to the existing procedural schedule that extended the due dates for intervenor and Staff testimony.

On May 29, 2019, HEB filed a response indicating that it supported the Joint Objection. However, HEB stated it did not agree with the amended procedural schedule proposed by the Joint Movants (*i.e.*, the Joint Movants' alternative remedy).

CenterPoint responded on May 29, 2019, and requested that the ALJs deny the relief sought in the Joint Objection. CenterPoint argued that its Errata I: (1) did not materially impact its requested cost of service, or the rate increase provided in its notice to the ratepayers; (2) did not result in a new application; and (3) did not provide justification to extend the statutorily-imposed deadline. Additionally, CenterPoint asserted that it had previously disclosed the corrections identified in its Errata I to the parties during discovery.

After consideration of the parties' filings, the ALJs concluded that: (1) no legal grounds existed to extend the effective date based on CenterPoint's Errata I, without CenterPoint's agreement; (2) the remaining updated documents regarding CenterPoint's Errata I were required to be provided in CenterPoint's RFP and thus would not be proper rebuttal; and (3) the existing procedural schedule should be amended to provide an opportunity for the parties to propound

discovery and provide testimony on CenterPoint's Errata I. Accordingly, the ALJs notified the parties that the Joint Objection was **DENIED IN PART** and **GRANTED IN PART**.

IV. ADOPTING AMENDED PROCEDURAL SCHEDULE

In response to the ALJs' ruling on the Joint Objection, the parties conferred and proposed an agreed amendment to the existing procedural schedule. Accordingly, the ALJs **ADOPT** the following amended procedural schedule that shall be in effect in this proceeding:¹

Event	Deadline
Application filed	April 5, 2019
Publication of notice completed	May 9, 2019
Effective date	May 10, 2019
Intervention deadline; submission of publisher's affidavits; objections to CenterPoint's direct testimony	May 20, 2019
Response to objections to CenterPoint's direct testimony	May 24, 2019
CenterPoint provides to parties an electronic copy of its executable RFP schedules and workpapers reflecting Errata I, Preliminary Order issues not to be addressed, and severance of rate case expenses	May 31, 2019
CenterPoint files and provides to parties any direct testimony changes reflecting Errata I, Preliminary Order issues not to be addressed, and severance of rate case expenses, and a list of all other parts of its direct case it will not offer in evidence due to Preliminary Order issues not to be addressed and severance of rate case expenses	June 3, 2019
Intervenors and Staff provide to CenterPoint a list containing categories of questions that may be asked at the technical conference on Errata I	End of Day June 3, 2019
Technical conference on Errata I (conducted telephonically, parties to agree on time)	June 4, 2019
Intervenors' direct testimony	June 6, 2019
Objections to CenterPoint's Errata I	June 7, 2019
Responses to objections to Errata I; objections to Intervenors' direct testimony; deadline for discovery on CenterPoint's direct testimony (including any remaining discovery on Errata I)	June 10, 2019
Responses to objections to Intervenors' direct testimony; Staff's direct testimony; Statements of Position that comply with 16 Tex. Admin. Code § 22.124	June 12, 2019

¹ The previously issued SOAH orders for this proceeding remain in effect to the extent they are not superseded by a different provision in this order.

<u>Event</u>	<u>Deadline</u>
Settlement conference at the Commission	June 13, 2019
CenterPoint files update on status of settlement to the ALJs; objections to Staff's direct testimony	June 14, 2019
Deadline for discovery on Staff's and Intervenors' direct testimony; responses to objections to Staff's direct testimony	June 17, 2019
CenterPoint's rebuttal testimony; Staff's and Intervenors' cross-rebuttal testimony; CenterPoint files paper copy of RFP schedules reflecting Errata I, Preliminary Order issues not to be addressed, and severance of rate case expenses	June 19, 2019; testimony shall be electronically served on parties by 12:00 noon
Deadline for parties to email to every other party whose witnesses the emailing party will cross-examine a list of such witnesses and testimony	June 20, 2019
Objections to rebuttal/cross-rebuttal testimony; deadline for notice of any depositions on rebuttal or cross-rebuttal testimony; CenterPoint files parties' proposed schedule of when all witnesses will testify and proposed order of cross-examination	June 21, 2019
Responses to objections to rebuttal/cross-rebuttal testimony; prehearing conference	June 24, 2019
Hearing on the merits	June 24-27, 2019
Initial briefs	July 5, 2019
Reply briefs and proposed findings of fact, conclusions of law, and ordering paragraphs	July 12, 2019
Final order deadline	October 7, 2019

Additionally, the ALJs **ADOPT** the following special provisions that shall be in effect in this proceeding:

1. All parties shall file errata to prefiled evidence no later than three working days after the error is discovered.
2. The only deadline for discovery on any party's errata filed after CenterPoint's Errata I is that it must be served in time for the response deadline to precede the start of the hearing.
3. Any party that filed neither direct testimony nor a statement of position by the deadline is subject to being stricken as a party. The hearing on whether to strike such a party will occur at the June 24, 2019 prehearing conference.

V. DISCUSSING TIEC'S MOTION TO COMPEL

On May 11, 2019, TIEC filed a motion to compel CenterPoint to respond to TIEC's request for information (RFI) 2-11. CenterPoint objected to RFI 2-11 on relevance grounds and argued that the question of whether it could be consolidated with its parent company or affiliates in bankruptcy was not at issue in this proceeding.

TIEC's RFI 2-11 states:

Within the last ten years, has CenterPoint ever requested a non-consolidation legal opinion that a bankruptcy court could not consolidate the assets and liabilities of CenterPoint with CNP and/or any of CenterPoint's affiliates? If so, please provide all such opinions.

TIEC argued that CenterPoint's relevance objection should be overruled because: (1) information regarding CenterPoint's financial exposure in the event of bankruptcy of its parent company or affiliates is reasonably calculated to lead to the discovery of admissible evidence, and (2) during the Commission's May 9, 2019 Open Meeting, the Commissioners discussed a recent acquisition by CenterPoint's parent company and explicitly indicated they intend to address the type of financial risk raised by TIEC's RFI 2-11.

CenterPoint responded on May 13, 2019, and indicated that TIEC's requested relief was moot because, notwithstanding its objection, CenterPoint had responded to RFI 2-11 and produced all responsive documents (two requested non-consolidation opinions). Additionally, CenterPoint maintained that the information requested in RFI 2-11 is irrelevant because the Commission lacks the statutory authority to impose "financial protections" on CenterPoint in a PURA² chapter 36 base rate proceeding.

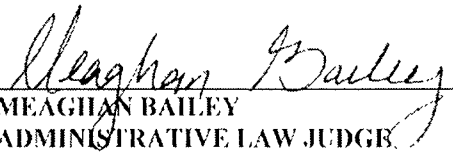
On May 29, 2019, TIEC filed a letter stating that in light of CenterPoint's response to TIEC's RFI 2-11, no ruling is necessary on TIEC's motion to compel at this time.


² Public Utility Regulatory Act, Tex. Util. Code §§ 11.001-66.016.

The ALJs agree that TIEC's request for relief is moot because CenterPoint produced the responsive documents and therefore will not rule on this matter.

SIGNED June 4, 2019.


STEVEN D. ARNOLD
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS


MEAGHAN BAILEY
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS


ELIZABETH DREWS
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS