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SOAH DOCKET NO. 473-19-3864
PUC DOCKET NO. 49421

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

**COMMISSION STAFF'S RESPONSE TO CENTERPOINT ENERGY HOUSTON
ELECTRIC, LLC'S MOTION TO STRIKE PORTIONS OF THE DIRECT TESTIMONY
OF DARRYL TIETJEN AND WILLIAM B. ABBOTT**

The Staff of the Public Utility Commission of Texas (Staff), representing the public interest, files this response to CenterPoint Energy Houston Electric, LLC's (CEHE's) motion to strike portions of the direct testimony of Darryl Tietjen and William B. Abbott.

I. RESPONSE TO MOTION TO STRIKE TESTIMONY OF DARRYL TIETJEN

CEHE has moved to strike testimony that is directly relevant to maintaining CEHE's financial integrity, ensuring that CEHE's rates are just and reasonable, and that specifically responds to Preliminary Order Issue No. 9: "Are any protections, such as financial protections, appropriate to protect CenterPoint's financial integrity and ability to provide reliable service at just and reasonable rates?"¹ The SOAH ALJ has already denied CEHE's motion to strike the direct testimony of Charles Griffey on similar grounds. CEHE's motion to strike the direct testimony of Staff witness Darryl Tietjen should be denied on the same grounds.

The Commission added Preliminary Order Issue No. 9 to allow parties to address the impacts of financial risk at CEHE's parent, CenterPoint Energy, Inc. (CNP), and its competitive affiliates on CEHE's financial integrity, rates, and service, and to propose appropriate protective measures. Referencing CNP's acquisition of Vectren earlier this year, which caused CEHE to be downgraded by rating agencies,² CEHE asked the Commission to explicitly exclude from the Preliminary Order any issues related to corporate governance or "other requirements on the Company's management or operations"³; but rather than exclude these issues, the Commission

¹ Preliminary Order at 3.

² See Redacted Direct Testimony of Darryl Tietjen at 10.

³ CEHE Proposed List of Issues at 11 (April 24, 2019).

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explicitly added Issue No. 9. As Chairman Walker explained: “The next [issue] has to do with the Vectren acquisition. I would add an issue ... ‘Are any protections, such as financial protections, appropriate to protect CenterPoint’s financial integrity and ability to provide reliable service at just and reasonable rates?’”⁴

The testimony CEHE seeks to strike from Staff witness Darryl Tietjen recommends protections that would insulate CEHE from the financial exposure and potential operational risks created by its parent and competitive affiliates. Mr. Tietjen’s testimony responds directly to Commission’s Preliminary Order Issue No. 9, and is relevant to the general ratemaking requirements and grants of authority under Public Utility Regulatory Act (PURA). Contrary to the arguments CEHE makes in its motion to strike, the Commission may take actions in a Chapter 36 case beyond adjusting a utility’s rates and has broad statutory authority over an electric utility’s business operations, management, and services.

Mr. Tietjen’s testimony directly addresses financial risks raised by CEHE itself in its application, as well as other factors CEHE chose not to raise, such as financial risk that can be caused by its parent or affiliates. The purpose of Mr. Tietjen’s testimony that CEHE seeks to have stricken is to ensure that CEHE’s rates are just and reasonable considering both ratepayer and shareholder interests, a consideration squarely within the Commission’s authority and Preliminary Order Issue No. 9. For these reasons, CEHE’s motion to strike should be denied.

II. RESPONSE TO MOTION TO STRIKE TESTIMONY OF WILLIAM B. ABBOTT

CEHE argues that, because the State Office of Administrative Hearings (SOAH) granted the request to sever rate-case expenses into a separate docket,⁵ the portion of William B. Abbott’s direct testimony⁶ pertaining to rate-case expenses should be stricken from his direct testimony and considered in the rate-case expense docket, Docket No. 49595. However, on June 18, 2019, Staff’s witness Mr. Abbott filed errata removing the discussion recommending the denial of recovery of rate case expenses associated with the litigation of CEHE’s energy efficiency adjustment to billing determinants. Staff retained the testimony and recommendation

⁴ May 9, 2019, Open Meeting (http://www.texasadmin.com/tx/puct/open_meeting/20190509/, Item 12)

⁵ See CenterPoint’s Amended Motion to Sever Rate Case Expenses (May 24, 2019) and SOAH Order No. 5 at 2 (June 4, 2019).

addressing the merits of CEHE's proposal and whether or not the request has any reasonable basis in law, policy, or fact or is warranted by any reasonable argument for the extension, modification, or reversal of Commission precedent, because the recommendation is relevant to the facts and issues in the instant case. CEHE should not be permitted to prevent parties from litigating the merits of its proposals solely because the merits of CEHE's proposals may also be relevant in a future rate case expense docket.

Pursuant to 16 TAC § 25.245⁶(b), a utility requesting recovery of rate-case expenses bears the burden of proving the reasonableness of such rate-case expenses by a preponderance of the evidence. In determining the reasonableness of rate-case expenses, the Commission shall consider whether the utility's proposal on an issue has a reasonable basis in law, policy, or fact, and whether it was it was warranted by any reasonable argument for the extension, modification, or reversal of commission precedent. Thus, in the rate case expense proceeding, Docket No. 49595, the Commission may be requested to review and address the same arguments and evidence regarding the merits of CEHE's regulatory requests. Staff believes that it is best left to the Commission's discretion to determine how it addresses CEHE's substantive request in this case, regardless of whether the Commission's decision may impact future rate case expense dockets.

Thus, Staff respectfully request the issuance of an order SOAH denying CEHE's motion to strike the portion of Staff witness Mr. Abbott's direct testimony as Staff has already limited Mr. Abbott's testimony to addressing the merits of CEHE's request.

⁶ See Direct Testimony of William B. Abbott at 23, 24, and 25 (June 12, 2019).

DATE: June 20, 2019

Respectfully Submitted,

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I certify that a copy of this document will be served on all parties of record on June 20, 2019 in accordance with 16 TAC § 22.74.



Steven M. Gonzalez