

Control Number: 49421



Item Number: 639

Addendum StartPage: 0

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

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

**MOTION TO STRIKE PORTIONS OF THE  
CROSS-REBUTTAL TESTIMONY OF GEORGE W. PRESSES**

CenterPoint Energy Houston Electric, LLC (“CenterPoint Houston”) files this Motion to Strike Portions of the Cross-Rebuttal Testimony of George W. Presses and respectfully shows as follows:

**I. BACKGROUND**

On June 19, 2019, H-E-B, LP (H-E-B) filed the cross-rebuttal testimony of George W. Presses. Pursuant to SOAH Order No. 6, objections to cross-rebuttal testimony are due by June 21, 2019.<sup>1</sup> Accordingly, this motion is timely filed.

**II. DISCUSSION**

The deadline for intervenor direct testimony in this case was June 6, 2019.<sup>2</sup> In contrast to direct testimony, the purpose of cross-rebuttal testimony is to allow intervenors to respond in opposition to positions taken by other intervenors in direct testimony.<sup>3</sup> Yet H-E-B used much of its cross-rebuttal testimony to file additional direct testimony in an effort to bolster positions taken by other intervenors or, more often, as a vehicle to further address positions taken by CenterPoint Houston. CenterPoint Houston cannot respond to this new direct testimony because the deadline for its rebuttal testimony has passed, and thus its due process rights are adversely impacted by H-E-B’s failure to abide by the procedural schedule. Accordingly, the portions of testimony

---

<sup>1</sup> SOAH Order No. 6 at 5.

<sup>2</sup> SOAH Order No. 6 at 4.

<sup>3</sup> H-E-B acknowledges this requirement in its own testimony but does not follow its own stated purpose. Direct Testimony of George W. Presses at 4:16-19 (“My cross-rebuttal testimony responds to the intervenor direct testimony...”)(June 19, 2019).

identified below are late-filed direct testimony and improper cross-rebuttal. Those portions of testimony should be struck.

Much of H-E-B's supposed cross-rebuttal simply endorses the testimony of other intervenors, often as a means for Mr. Presses to supplement his prior testimony in response to CenterPoint Houston. To take two examples from many, H-E-B testifies that "H-E-B supports Mr. Norwood's conclusion . . ."<sup>4</sup> and also testifies that "H-E-B supports the recommendation of Ms. Pevoto . . ."<sup>5</sup> Other sections of H-E-B's supposed cross-rebuttal testimony make only a passing mention to other intervenors and instead supplement and reframe positions that H-E-B took in its direct testimony.<sup>6</sup> H-E-B also took improper advantage of the cross-rebuttal process to establish new positions and proposals on issues such as capital structure.<sup>7</sup>

Additionally, H-E-B cites CenterPoint Houston discovery responses in a further attempt to raise new issues through cross-rebuttal and expand on its direct testimony rather than respond to other intervenor witnesses. H-E-B attaches to Mr. Presses' cross rebuttal testimony responses from CenterPoint Houston to discovery requests that were served on CenterPoint Houston on May 28, too late—even under expedited discovery deadlines—for H-E-B to receive the responses before filing Mr. Presses' direct testimony. Although H-E-B might still be able to use these discovery responses in support of cross-examination, it is improper to attempt to introduce them into evidence through purported cross rebuttal.

Accordingly, CenterPoint Houston moves to strike the following portions of the Direct Testimony of George W. Presses and exhibits identified below:

- Page 7, line 1 through page 10, line 8;
- Exhibit 1: Excerpt of CenterPoint's Response to H-E-B 01-03;

---

<sup>4</sup> Direct Testimony of George W. Presses at 8:4.

<sup>5</sup> Direct Testimony of George W. Presses at 11:6-7.

<sup>6</sup> Direct Testimony of George W. Presses at 10:10-19; *Id.* at 7:1-14.

<sup>7</sup> Direct Testimony of George W. Presses at 11:19-20.

- Exhibit 2: CenterPoint's Response to H-E-B 01-03, Attachments 10 and 11;
- Page 10 line 10 through page 11, line 9;
- Page 11, line 11 through page 12, line 13;
- Page 12, line 16 through page 15, line 14;
- Page 15, line 16 through page 16, line 1, ending with "...to reflect a 9.0% ROE.";
- Page 16, line 5 through page 17, line 15.

### III. CONCLUSION

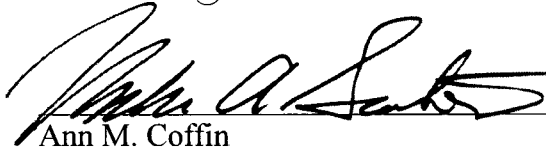
CenterPoint Houston respectfully requests that the Administrative Law Judges strike the above-referenced portions of the improper Cross-Rebuttal Testimony of George W. Presses for the reasons stated herein, and that it be granted such further relief to which it has shown itself entitled.

Respectfully submitted,

Patrick H. Peters III  
Associate General Counsel and  
Director of Regulatory Affairs  
CenterPoint Energy, Inc.  
1005 Congress Avenue, Suite 650  
Austin, Texas 78701  
512.397.3032  
512.397.3050 (fax)  
patrick.peters@centerpointenergy.com

Mickey Moon  
Assistant General Counsel  
CenterPoint Energy, Inc.  
1111 Louisiana, 19<sup>th</sup> Floor  
Houston, Texas 77002  
713.207.7231  
713.454.7197 (fax)  
mickey.moon@centerpointenergy.com

Coffin Renner LLP  
1011 West 31<sup>st</sup> Street  
Austin, Texas 78705  
512.879.0900  
512.879.0912 (fax)  
ann.coffin@crtxlaw.com  
mark.santos@crtxlaw.com

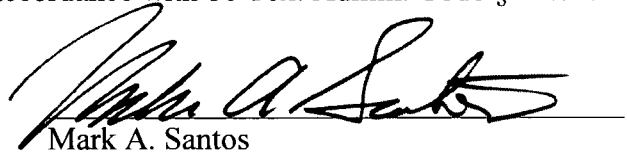


Ann M. Coffin  
State Bar No. 00787941  
Mark A. Santos  
State Bar No. 24037433

**COUNSEL FOR CENTERPOINT ENERGY  
HOUSTON ELECTRIC, LLC**

**CERTIFICATE OF SERVICE**

I hereby certify that on this 21<sup>st</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