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SOAH DOCKET NO. 473-19-3864
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APPLICATION OF CENTERPOINT
ENERGY HOUSTON ELECTRIC,
LLC FOR AUTHORITY TO CHANGE
RATES

§ 2019 JUL 16 PM 12:25
§ BEFORE THE STATE OFFICE
§ PUBLIC UTILITY COMMISSION
§ FILING CLERK
§ OF
§ ADMINISTRATIVE HEARINGS

H-E-B, LP'S FINDINGS OF FACT AND CONCLUSIONS OF LAW

H-E-B, LP ("H-E-B") proposes the following findings of fact and conclusions of law. To the extent an issue in this proceeding is not specifically addressed below, H-E-B respectfully requests the entry of findings of fact and conclusions of law that are consistent with H-E-B's positions in this proceeding.

I. PROPOSED FINDINGS OF FACT

Reliability Issues

- H-E-B experienced frequent outages at its facilities located within CenterPoint's service area.¹
- H-E-B's facilities with on-site generation experienced 521 outages from January 2017 through May 2019 for a total duration of approximately 20,000 minutes, which is just over 333 hours or 13.88 days.²
- These outages ranged from brief interruptions lasting less than one minute to long-standing outages lasting more than 17 hours.³
- Outages of less than one minute may negatively impact H-E-B's cold chain by causing H-E-B's equipment to malfunction.⁴
- The value of the loss of electricity to H-E-B is four-fold. The value of lost load to H-E-B is the loss of the product in the "cold chain," which is a large portion of H-E-B's inventory for a store or a manufacturing facility, the cost of removing the

¹ Direct Testimony of George W. Presses, H-E-B Ex. 1 at 16:1–18:2 (Jun. 6, 2019).

² *Id.* at 11:4–11:6.

³ *Id.* at 9:18–9:19.

⁴ *Id.* at 16:23–17:4.

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product, the inability to be available to our customers during the period of the outage, and the cost to replace the product.⁵

- H-E-B had reliability issues with CenterPoint during the grand opening of a new store that forced H-E-B to shed load to avoid shutting down the store entirely during the grand opening.⁶
- CenterPoint's SAIDI levels indicate that an "average customer" experienced less than two hours of outage minutes" during the entire year.⁷
- Over the last three years, there were 45 separate instances where H-E-B experienced a longer outage in a single day than the outage duration experienced by an average CenterPoint customer for an entire year. These outages occurred at both older, existing facilities and newly developed facilities.⁸
- After CenterPoint failed to address the reliability issues, H-E-B made the business decision that it was more cost-efficient for the company to install on-site generation at its facilities than to continue to accrue the costs incurred due to CenterPoint's frequent power outages.⁹
- H-E-B's installation of on-site generation was so successful at resolving the issues caused by CenterPoint's frequent outages that H-E-B decided to expand the installation of on-site generation to additional stores to protect them from CenterPoint outages.¹⁰
- Records of customer communications with CenterPoint reveal that other CenterPoint customers have experienced similar reliability problems and a lack of responsiveness from CenterPoint in effectively addressing such issues.¹¹
- Even under CenterPoint's data, CenterPoint is responsible for 8,345 total outage minutes, which is 139 hours or 5.8 days, in 2018 at H-E-B locations.¹²
- CenterPoint's own data shows that many H-E-B locations have experienced outages for at least two hours or more for 48 days out of the year for 2018, alone.¹³ H-E-B locations continue to face reliability issues in CenterPoint's service territory.¹⁴

⁵ *Id.* at 8:19–8:23.

⁶ *Id.* at 12:4–12:6.

⁷ Direct Testimony of Dale Bodden, CEHE Ex. 9 at 33:15-33:16 (Apr. 5, 2019).

⁸ H-E-B Ex. 1 at 17:10–17:16.

⁹ *Id.* at 13:10–13:13.

¹⁰ *Id.* at 13:19–14:2.

¹¹ See CEHE's Response to HEB01-03U, H-E-B Ex. 31.

¹² Rebuttal Testimony of Julianne P. Suagrek, CEHE Ex. 33 at 12:22-12:24 (Jun. 19, 2019).

¹³ Tr. 1218:22-1219:2 (Sugarek Cross) (Jun. 27, 2019).

¹⁴ H-E-B Ex. 1 at 9:8–9:9.

- CenterPoint's repeated and sustained distribution outages continue to result in substantial losses to perishable product in H-E-B's core business.¹⁵

Rate of Return [PO Issues 4, 5, 7, 8, 9]

Capital Structure

- CenterPoint proposes a capital structure of 50% debt and 50% equity.¹⁶
- In CenterPoint's last base-rate case, the Commission approved a capital structure of 55% debt and 45% equity.¹⁷
- CenterPoint requests a higher amount of equity in its capital structure to return to, and maintain, a higher rating than its current credit rating and to hedge against regulatory and business risks.¹⁸
- CenterPoint's credit rating was recently downgraded because of the risks associated with CenterPoint's parent company's acquisition of Vectren, not because of risks associated with CenterPoint itself.¹⁹
- CenterPoint is currently able to raise capital based on its Commission-approved capital structure of 55% debt and 45% equity.²⁰
- A capital structure composed of 60% long-term debt and 40% equity is reasonable and will enable CenterPoint to attract capital from investors.

Return on Equity

- CenterPoint proposes a return on equity (ROE) of 10.40%, a 4% increase from its current ROE of 10.0%.²¹
- CenterPoint's proposed ROE is not reasonable in light of its failure to demonstrate it is providing reliable electric service.²²
- CenterPoint has not efficiently or effectively invested in distribution system projects that improve system reliability for ratepayers.²³

¹⁵ *Id.* at 15:6–15:8.

¹⁶ Application, CEHE Ex. 1 at 2:1–2:3.

¹⁷ *Application of CenterPoint Electric Delivery Company, LLC, for Authority to Change Rates*, Docket No. 38339, Order on Rehearing at 21, Finding of Fact No. 67 (Jun. 23, 2011).

¹⁸ Direct Testimony of Robert B. McRae, CEHE Ex. 27 at 14:6–14:20 (Apr. 5, 2019).

¹⁹ Direct Testimony of Randall J. Woolridge, TCUC Ex. 1 at 16 Fn. 11; 21:10–21:12 (Jun. 6, 2019).

²⁰ *Id.* at 21:1–21:2; *See also* Direct Testimony of Michael P. Gorman, TIEC Ex. 5 at 29:5–29:6 (Jun. 6, 2019).

²¹ Direct Testimony of Robert Hevert, CEHE Ex. 26 at 1:17–1:18 (Apr. 5, 2019).

²² H-E-B Ex. 1 at 26:14–26:17.

²³ Direct Testimony of Scott Norwood, C01-1/HCC Ex. 1 at 17:19–18:3 (Jun. 6, 2019).

- CenterPoint's investments in reliability projects should have resulted in lower future Operation and Maintenance ("O&M") expenses.²⁴
- A 9.0% to 9.15% ROE is the range of ROE that is consistent with CenterPoint's business and regulatory risk.

Return on Equity

- A 4.38% embedded cost of debt is reasonable.

Operating and Maintenance Expenses [PO Issues 4, 5, 21, 22, 25, 26, 28, 29, 33, 35, 36, 38, 39, 54, 55]

Incentive Compensation

- The Commission has repeatedly ruled that a utility cannot recover the cost of financially-based incentive compensation because financial measures are of more immediate benefit to shareholders and financial measures are not necessary or reasonable to provide utility services.²⁵
- CenterPoint's Short-Term Incentives (STIs) compensation is based in part on financially-based goals.²⁶
- CenterPoint's Long-Term Incentives (LTIs) compensation is based wholly on financially-based goals.²⁷
- CenterPoint's STI and LTI expenses are not tied to reliability levels or customer satisfaction levels.²⁸
- Staff's recommended adjustment to eliminate all (100%) of the financially-based STI compensation and half (50%) of (non-financially based) STI compensation is appropriate.²⁹
- Staff's recommended adjustment to eliminate all (100%) of the financially-based LTI compensation is appropriate.³⁰

²⁴ COH/HCC Ex. 1 at 12:13–12:22.

²⁵ See *Application of AEP Texas Central Company for Authority to Change Rates*, Docket No. 28840, Order, Findings of Fact Nos. 169 and 170 (Aug. 15, 2005); *Application of Southwestern Public Service Company for Authority to Change Rates*, Docket No. 43695, Order on Rehearing at 5 (Feb. 23, 2016)

²⁶ Tr. at 1343:14–1344:3 (Harkel-Rumford Cross) (Jun. 28, 2019).

²⁷ Rebuttal Testimony of Lynne Harkel-Rumford, CEHE Ex. 39 at 23:8–23:14 (Jun. 19, 2019); Tr. at 1341:23–1344:2 (Harkel-Rumford Cross) (Jun. 28, 2019).

²⁸ C01-1/HCC Ex. 1 at 17:19–18:3 (Jun. 6, 2019).

²⁹ Direct Testimony of Mark Filarowicz, Staff Ex. 4A at 12:6–14:20 (Jun. 12, 2019).

³⁰ *Id.*

Class Allocation and Rate Design

Rate Design

- Use of a non-coincident peak (“NCP”) rate design to apportion system-wide costs to CenterPoint, as well as apportioning billing determinant costs to customers, is the most equitable manner for transmission system users to pay for transmission system costs and for distribution system users to pay for distribution system costs.³¹
- Use of an NCP rate design is consistent with cost-causation principles for how system-wide transmission costs are accrued.³²
- NCP is the appropriate rate design for apportioning distribution system costs.³³
- Use of an NCP methodology for distribution charges is consistent with the methodology approved by the Commission in rate cases of other Transmission and Distribution Utilities (“TDU”).³⁴

Class Allocation

- The Commission has the authority to approve an NCP customer class allocation for transmission and distribution related costs in this proceeding.³⁵
- Use of the NCP to allocate transmission costs most fairly allocates costs among customer classes and best aligns with the market principles of ERCOT’s energy-only market.³⁶
- Using an NCP class allocation for distribution costs is consistent with Commission precedent for other TDUs.
- NCP is the appropriate class allocation methodology for transmission related costs.
- NCP is the appropriate class allocation methodology for distribution related costs.

II. PROPOSED CONCLUSIONS OF LAW

Rate of Return [PO Issues 4, 5, 7, 8, 9]

Return on Equity

³¹ H-E-B Ex. 1 at 19:9–19:11; H-E-B’s Initial Brief at 36 (Jul. 9, 2019).

³² H-E-B Ex. 1 at 6.

³³ H-E-B Ex. 1 at 19.

³⁴ Cross Rebuttal Testimony of William Abbott, Staff Ex. 7B at 32 (Jun. 19, 2019).

³⁵ Tr. at 999:1-9 (Troxle Cross) (Jun. 27, 2019).

³⁶ H-E-B Ex. 1 at 19.

- PURA § 36.052 requires that a utility's rate of return be calculated based in part on whether the utility provides reliable electric service.³⁷
- A 9.0% to 9.15%ROE is the ROE that will allow CenterPoint a reasonable opportunity to earn a reasonable return on its invested capital in accordance with PURA § 36.051.

Class Allocation and Rate Design

- Under 16 TAC § 25.192(b), the ERCOT system-wide four coincident peak ("ERCOT 4CP") intervals is used to set the transmission rate that all TSPs in ERCOT must charge and all Distribution Service Providers ("DSP") in ERCOT must pay for wholesale transmission service.
- Under 16 TAC § 25.192(b), the ERCOT 4CP is the appropriate rate design for apportioning transmission system costs.

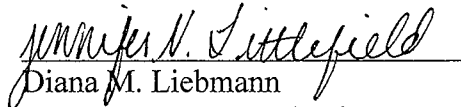
III. PROPOSED ORDERING PARAGRAPHS

- CenterPoint shall inform its customers about a customer's right and ability to file a complaint against CenterPoint regarding CenterPoint's quality of service with the Public Utility Commission of Texas whenever CenterPoint receives a customer complaint about its quality of service.

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³⁷ PURA § 36.052(2).

Respectfully Submitted,


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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this document was served on counsel for the parties of record on July 16, 2019.


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