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BEFORE THE STATE OFFICE

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OF

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

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ADMINISTRATIVE HEARINGS

**ALLIANCE FOR RETAIL MARKETS' REPLY BRIEF**

**Contact: Stephen J. Davis**  
**512/479-9995**  
**512/479-9996 (FAX)**  
**davis@sjdlawoffices.com**

**July 16, 2019**

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<b>FOR AUTHORITY TO CHANGE</b>	§	<b>OF</b>
<b>RATES</b>	§	
	§	<b>ADMINISTRATIVE HEARINGS</b>

**ALLIANCE FOR RETAIL MARKETS' REPLY BRIEF**

**I. Introduction/Summary [Preliminary Order Issues 1, 2, 3]**

The Alliance for Retail Markets (ARM) timely files this Reply Brief pursuant to SOAH Order No. 10.<sup>1</sup> This Reply Brief responds to the sections of CenterPoint Energy Houston Electric, LLC's (CenterPoint) Initial Brief addressing its (1) proposed Energy Efficiency Program (EEP) adjustment to reduce certain test-year billing determinants, and (2) proposal to assess its Customer Charge and Metering Charge on a per-meter basis for each rate class, except Lighting Services. ARM continues to request that the Commission reject both proposals for the reasons stated in ARM's Initial Brief and this Reply Brief. This Reply Brief also addresses the proposal of the Office of Public Utility Counsel (OPUC) to recover certain regulatory assets through separate rate riders and CenterPoint's counter-proposal to combine those regulatory assets and other regulatory liabilities into a single rate rider if the Commission concludes such costs should be recovered through a rate rider, as opposed to rate base.

Proposed findings of fact, conclusions of law, and ordering paragraphs relating to most of the issues addressed in ARM's Initial and Reply Briefs appear in Attachment A.

**II. G. Regulatory Assets and Liabilities [Preliminary Order Issues 18, 19, 59]**

In response to CenterPoint's proposed recovery of certain regulatory assets as rate base items subject to a rate of return,<sup>2</sup> OPUC recommends that the Commission establish separate riders for each of those regulatory assets and decline to allow CenterPoint to earn a return on any

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<sup>1</sup> SOAH Order No. 10 at 1 (July 2, 2019).

<sup>2</sup> CenterPoint Post-Hearing Brief at 29-31, 32-48 (July 9, 2019).

of them.<sup>3</sup> OPUC's proposal relates to regulatory assets that include Hurricane Harvey restoration costs, the Medicare Part D subsidy, and Smart Meter Texas (SMT) expenses.<sup>4</sup> From an accounting perspective, Staff does not oppose OPUC's proposal as it relates to those regulatory assets.<sup>5</sup> While not taking a position on whether a rider is the appropriate cost recovery mechanism for any of these regulatory assets, ARM agrees with the repeated observation in Staff's Initial Brief that "it may be desirable to limit the number of separate riders at any given time."<sup>6</sup>

If the Commission concludes the three regulatory assets should be recovered through multiple rate riders, ARM requests that the riders employ the same amortization period, become effective on the same date, and roughly expire at the same time. This approach is consistent with viewpoint of CenterPoint witness Kristie L. Colvin, who testified that all of CenterPoint's regulatory assets and liabilities should be treated equally and amortized over the same period if the Commission supports the use of a rider to collect those costs.<sup>7</sup> ARM does not take a position on the specific amortization period for the proposed riders.

Finally, if the Commission approves the recovery of the regulatory assets through a rate rider mechanism, CenterPoint proposes a novel recommendation: Combine all of its regulatory assets and regulatory liabilities (with the exception of the TMT regulatory asset and Rider UEDIT) into a single rider and allow CenterPoint to earn its authorized rate of return on the total

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<sup>3</sup> OPUC Post-Hearing Initial Brief at 14, 20 (July 9, 2019); *see generally* OPUC Post-Hearing Initial Brief at 14-34 (July 9, 2019) (discussion of rate treatment for five CenterPoint regulatory assets).

<sup>4</sup> OPUC Post-Hearing Initial Brief at 14 (July 9, 2019). This summary of OPUC's position in Section II.G. (Regulatory Assets and Liabilities) of its Initial Brief does not comport, however, with a statement appearing in Section X.C. (Other Riders), which states: "As discussed in Section II.G. above, OPUC recommends that the Commission establish separate riders for the Company's regulatory assets for Hurricane Harvey restoration costs, the Medicare Part D subsidy, SMT expense, TGMT expense, and REP bad debt." Reviewing the evidentiary record, the statement in Section II.G. appears to accurately reflect OPUC's requests.

<sup>5</sup> Commission Staff's Initial Brief at 18, 21-22 (July 9, 2019).

<sup>6</sup> *Id.* *See also* Texas Energy Association of Marketers Initial Post-Hearing Brief at 3 (July 9, 2019) ("In general, such riders tend to create customer confusion—particularly when the rate rider is new and is unique to the utility at issue.")

<sup>7</sup> Rebuttal Testimony of Kristie L. Colvin, CenterPoint Ex. 35 at 43:1-11.

amount.<sup>8</sup> For administrative efficiency reasons, ARM does not oppose this approach if there are no legal, regulatory, or accounting impediments to employing a single rider. ARM takes no position on the issue of whether a rate of return should apply to the rider. Should the Commission decide to adopt CenterPoint’s alternative single-rider approach, ARM requests that the final order specify the name of the rider and explain the types of costs it is designed to recover. This will assist retail electric providers (REPs) in being able to effectively communicate with their customers about the rider.

## **VI. Billing Determinants [Preliminary Order Issue 4, 5, 45]**

### **B. Energy Efficiency Program Adjustment**

CenterPoint attempts to justify its unique EEP adjustment as a “known and measurable” change to kilowatt-hour (kWh) test-year billing determinants based a purported need to reflect a full year of test-year energy usage savings achieved through its 2018 energy efficiency programs in order to create a “representative test year” for setting rates in this proceeding. In further defense of the designation of its unprecedented adjustment as “known and measurable”, CenterPoint cites the “deemed savings” values in the Technical Reference Manual (TRM) upon which it relied (among other things) in laboriously constructing the adjustment, admitting that those values were created for the principal purpose of administering 16 Texas Administrative Code (TAC) § 25.181, the Commission’s energy efficiency rule. Finally, it likens its extraordinary annualized EEP adjustment to the standard annualized customer adjustment, a Commission-codified known and measurable change routinely employed by electric utilities in general rate proceedings per the direction of the Commission’s pro forma rate filing package (RFP).<sup>9</sup>

In its Initial Brief, ARM convincingly rebutted these arguments by demonstrating the proposed adjustment neither meets the threshold requirement for a “known and measurable” change, nor qualifies to the standard customer adjustment to historical test-year data in the

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<sup>8</sup> CenterPoint Ex. 35 at 43:12-21; CenterPoint Post-Hearing Brief at 132-133 (July 9, 2019).

<sup>9</sup> CenterPoint Post-Hearing Brief at 120-121 (July 9, 2019).

RFP.<sup>10</sup> CenterPoint’s citation to the rate design directive in 16 TAC § 25.234, which states that “[r]ates will be determined using revenues, billing and usage data for a historical test year adjusted for known and measurable changes....”,<sup>11</sup> does not legitimize the EEP adjustment if it does not meet the criteria for a known and measurable change in view of Commission practice and precedent. In this regard, ARM concurs with similar arguments made by the Office of Public Utility Counsel (OPUC)<sup>12</sup> and Commission Staff<sup>13</sup> in opposition to the EEP adjustment.

CenterPoint also attempts to refute the argument that its proposed EEP adjustment is similar to its lost revenue adjustment factor (LRAM) thrice rejected by the Commission in previous CenterPoint rate proceedings. In making this distinction, it characterizes the former as a billing determinant adjustment based on historical test-year data, and the latter as a forward-looking incremental revenue recovery adjustment.<sup>14</sup> The distinction is unfounded. First, the EEP adjustment is not entirely based on precise historical test-year data, given the deemed energy savings in the TRM are imprecise estimates.<sup>15</sup> Second, CenterPoint premises both proposals on the allegedly distortive effect of statutorily mandated energy efficiency programs on energy usage and sales, a viewpoint seemingly out-of-synch with the legislative objective in PURA<sup>16</sup> § 39.905(a)(2) to provide customers with the opportunity to reduce energy consumption and costs.<sup>17</sup> To offset the impact of these energy savings, CenterPoint has either proposed an adjustment to test-year energy usage due to estimated savings resulting from energy efficiency programs (the kWh adjustment here) or sought an adjustment to revenues due to estimated savings resulting from those same programs (the failed LRAM adjustment).<sup>18</sup> As Commission

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<sup>10</sup> ARM Initial Brief at 1-4 (July 9, 2019).

<sup>11</sup> CenterPoint Post-Hearing Brief at 121 (July 9, 2019).

<sup>12</sup> OPUC Post-Hearing Initial Brief at 74-76 (July 9, 2019).

<sup>13</sup> Commission Staff’s Initial Brief at 60-62 (July 9, 2019).

<sup>14</sup> CenterPoint Post-Hearing Brief at 121 (July 9, 2019).

<sup>15</sup> Direct Testimony of William B. Abbott, Staff Ex. 7 at 20:15-19, 21:4-7.

<sup>16</sup> Public Utility Regulatory Act, Tex. Util. Code §§ 11.001-66.016 (West 2016).

<sup>17</sup> *See also* 16 TAC § 25.181(a)(2).

<sup>18</sup> Staff Ex. 7 at 17:12-20.

Staff witness William B. Abbott aptly noted, either adjustment has the purposeful consequence of increasing rates,<sup>19</sup> which ARM views as undermining the legislative goal in PURA § 39.905(a)(2). For the reasons stated in its Initial and Reply Briefs, ARM requests that the Commission reject the proposed EEP adjustment.

### **VIII. Revenue Distribution and Rate Design [Preliminary Order Issues 4, 5, 43, 49, 50]**

#### **A. Customer and Metering Charges on Per Meter Basis vs. Per Customer Basis<sup>20</sup>**

In response to the direct testimonies of witnesses for H-E-B, LP (HEB) and City of Houston/Houston Coalition of Cities (COH/HCC), CenterPoint attempts to validate its proposal to abandon the long-standing TDU practice of assessing the Customer Charge and Metering Charge on a per-retail customer basis, and begin assessing those two monthly base charges on a per-meter basis. CenterPoint contends this unprecedented change is justified to eliminate an alleged subsidization of retail electric delivery customers requesting multiple meters by the remaining other customers.<sup>21</sup> In other words, CenterPoint rationalizes its proposal as necessary to address an alleged subsidization of approximately 600 retail electric delivery customers served by multiple meters assigned to a single ESI ID (0.024 percent of its total retail electric delivery customers) by approximately 2.5 million remaining customers served by a single meter assigned to a single ESI ID (99.976 percent of its total retail electric delivery customers). The math does not justify the proposed radical departure from established rate design practice.

In its Initial Brief, ARM thoroughly explained why the proposed per-meter assessment for the two base charges should be rejected.<sup>22</sup> If the Commission decides to adopt CenterPoint's proposal, however, ARM requests the inclusion of an ordering paragraph in the final order that requires CenterPoint to notify the REPs serving customers affected by the new assessment prior to sending the first monthly invoice in which multiple Customer Charges and Metering Charges will initially appear. CenterPoint has stated it would provide timely notice to an affected REP

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<sup>19</sup> *Id.* at 6:1-8:5, 17:12-20.

<sup>20</sup> Note: In its Initial Brief, ARM modified this subheading in the briefing outline to properly include Metering Charges.

<sup>21</sup> CenterPoint Post-Hearing Brief at 132-133 (July 9, 2019).

<sup>22</sup> ARM Initial Brief at 5-8 (July 9, 2019).

through the REP's Competitive Retailer Relations Account Manager.<sup>23</sup> For the purpose of effectuating this commitment, ARM requests that the Ordering Paragraph include a deadline of ten days after the entry of the final order for the provision of this notice.

**IX. C. Other Riders [Preliminary Order Issues 4, 5, 43, 51, 52]**

Please reference the discussion in Section II.G., Regulatory Assets and Liabilities, in this Reply Brief.

Respectfully submitted,



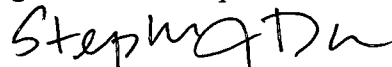
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Stephen J. Davis  
State Bar No. 05547750  
LAW OFFICES OF STEPHEN J. DAVIS, P.C.  
919 Congress Avenue, Suite 900  
Austin, Texas 78701  
512/479-9995  
512/479-9996 (FAX)  
[davis@sdjlawoffices.com](mailto:davis@sdjlawoffices.com)

**ATTORNEY FOR ALLIANCE FOR RETAIL  
MARKETS**

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document was served upon all parties on July 16, 2019 by email per the agreement of the parties.

By:   
\_\_\_\_\_  
Stephen J. Davis

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<sup>23</sup> ARM Ex. 4.



**Section VI. B. (Billing Determinants--Energy Efficiency Program Adjustment)**

Findings of Fact

1. CenterPoint's proposed Energy Efficiency Program (EEP) billing determinants adjustment is not a known and measurable change to historical test-year usage data because it is based on estimated deemed savings values used in the administration of 16 TAC § 25.181 that do not represent actual known quantities.
2. The proposed EEP adjustment is not similar to the standard year-end customer adjustment routinely employed in base rate proceedings.
3. In Docket Nos. 38213 and 39363, the Commission issued preliminary orders concluding that neither PURA nor its energy efficiency rule authorized the LRAM requested by CenterPoint in those energy efficiency cost recovery factor (EECRF) proceedings as a matter of law.<sup>1</sup> The Commission also excluded a LRAM proposal from the scope of CenterPoint's last base rate case, Docket No. 38339, in the preliminary order.<sup>2</sup>
4. The proposed EEP adjustment is similar to CenterPoint's lost revenues adjustment mechanism (LRAM) proposals previously rejected by the Commission in three CenterPoint rate proceedings because both adjustments are premised upon an alleged distortive effect of energy efficiency programs and measures upon energy usage and sales.
5. The proposed EEP adjustment is similar to CenterPoint's prior LRAM proposals because both adjustments increase rates to offset the impact of energy efficiency programs and measures upon energy usage and sales.

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<sup>1</sup> *Application of CenterPoint Energy Houston Electric, LLC for Approval of an Adjustment to its Energy Efficiency Cost Recovery Factor*, Docket No. 38213, Supplemental Preliminary Order at 2-6 (June 23, 2010); *Application of CenterPoint Energy Houston Electric, LLC for Approval of an Adjustment to its Energy Efficiency Cost Recovery Factor*, Docket No. 39363, Preliminary Order at 3 (June 6, 2011).

<sup>2</sup> *Application of CenterPoint Electric Delivery Co. to Change Rates*, Docket No. 38339, Preliminary Order at 10 (July 30, 2010).

**Section VIII.B. (Revenue Distribution and Rate Design--Customer and Metering Charges on Per Meter Basis vs. Per Customer Basis)**

Findings of Fact

1. The Customer Charge and Metering Charge are monthly flat base rates, expressed in dollar amounts, that do not vary with the customer's consumption.
2. CenterPoint has assessed these two charges to its Residential, Secondary, Primary, and Transmission customers on a per-retail customer basis since retail competition began in 2002.
3. No other ERCOT transmission and distribution utility (TDU) currently assesses its Customer Charge on a per-meter basis.
4. Only one ERCOT TDU currently assesses a Metering Charge on a per-meter basis, and it limits the assessment to its Primary and Transmission customers.
5. Approximately 600 non-residential retail customers, or 0.024 percent of the total retail customers), are currently served by multiple meters assigned to a single ESI ID in CenterPoint's service area.
6. CenterPoint's proposes to assess its flat Customer Charge and Metering Charge on a per-meter basis to address the subsidization of customers served by multiple meters assigned to a single ESI ID.
7. Section 7 in § 6.1.2.2 of CenterPoint's Tariff authorizes CenterPoint to condition the installation of a requested additional meter on a retail customer's premises upon the additional meter's assignment to a new and separate ESI ID, as opposed to the existing ESI ID assigned to the initial meter at the premises.
8. The adoption of a per-meter assessment for CenterPoint's Customer Charge and Metering Charge is not adopted given the relatively miniscule number of customers with multiple meters assigned to a single ESI ID and CenterPoint's authority under its Tariff to require the assignment of an additional meter to a new and separate ESI ID.

Ordering Paragraphs *(If the Commission adopts CenterPoint's per-meter assessment proposal)*

1. No later than ten days after the issuance of this Order, CenterPoint shall notify the retail electric providers (REP) serving customers that will be assessed multiple Customer Charges and Metering Charges under the newly adopted per-meter assessment. This

notification shall occur prior to CenterPoint's delivery of the first monthly invoice for the customer to the affected REP.

**XI.A. (Other Issues--Uncontested Issues)**

**Ordering Paragraphs**

1. CenterPoint shall file tariffs consistent with this Order within 20 days of the date of this Order. No later than ten days after the date of the tariff filings, Staff shall file its comments recommending approval, modification, or rejection of the individual sheets of the tariff proposal. Responses to the Staff's recommendation shall be filed no later than 15 days after the filing of the tariffs. The Commission shall by notice approve, modify, or reject each tariff sheet. The tariff sheets shall become effective 30 days after approval by Commission notice or deemed approved pursuant to Paragraph 2.
2. The tariff sheets shall be deemed approved on the expiration of 20 days from the date of filing, in the absence of written notification of modification or rejection by the Commission. If any sheets are modified or rejected, CenterPoint shall file proposed revisions of those sheets in accordance with the Commission's notice within ten days of the date of that notice, and the review procedure set out above shall apply to the revised sheets. The tariff sheets shall become effective 30 days after approval.