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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

GULF COAST COALITION OF CITIES'

EXCEPTIONS TO THE

PROPOSAL FOR DECISION

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ATTORNEYS FOR THE GULF COAST COALITION OF CITIES

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

GULF COAST COALITION OF CITIES'
<u>EXCEPTIONS TO THE PROPOSAL FOR DECISION</u>

TO THE PUBLIC UTILITY COMMISSION OF TEXAS:

The Gulf Coast Coalition of Cities (GCCC) timely files these exceptions to the Proposal for Decision (PFD) for consideration by the Public Utility Commission of Texas (Commission) and respectfully shows as follows:

I. INTRODUCTION [PO ISSUES 1, 2, 3]

GCCC appreciates the focused analysis that the Administrative Law Judges (ALJs) brought to this proceeding. While GCCC agrees with the findings set forth in the PFD in a number of respects, GCCC continues to urge that several additional disallowances that are fully supported by record evidence be made. Though CenterPoint Energy Houston Electric, LLC (CenterPoint), the ALJs, Commission Staff, and the various intervenors disagree on specific issues, what the PFD makes clear is that CenterPoint is entitled to nothing close to its requested revenue increase of $154.6 million (including Rider UEDIT) as adjusted by CenterPoint's errata filing. This point is underlined by the ALJs' recommendation that the Company receive an overall revenue increase of $2,644,193, or 0.11%, over base revenues.[1] Yet GCCC urges that a complete view of the record in this case should lead to a conclusion that CenterPoint is due a rate decrease, as the pages that follow will demonstrate.

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[1] Proposal for Decision at 3 (Sept. 16, 2019) (PFD).

II. RATE BASE [PO ISSUES 4, 5, 10, 11, 12, 13, 15, 16, 17, 18, 19, 59]

E. Regulatory Assets and Liabilities [PO Issues 18, 19, 34, 41, 54, 59]

2. Hurricane Harvey Regulatory Asset

c. Contested Cost-Recovery Method

The PFD recommends approval of CenterPoint's proposal to recover its Hurricane Harvey restoration costs through base rates, rather than through a five-year rider as recommended by GCCC witness Lane Kollen. In the PFD, the ALJs observe that "nothing about the Hurricane Harvey-related asset, in the abstract, requires that it be recovered by a rider as opposed to a three-year recovery through base rates."[2] The ALJs' decision does not contend with GCCC's expert testimony that a rider ensures that CenterPoint recovers only the costs deferred to the related regulatory asset and the return associated with that regulatory asset, net of Accumulated Deferred Federal Income Tax (ADFIT).[3] It is *this* dynamic that should require CenterPoint to recover its Hurricane Harvey restoration costs through a rider. A rider enables recovery of the targeted cost, in the proper amount, and only that amount. Presumably, this is the reason that CenterPoint sought to *refund* what it believed to be its relevant balance of Excess Deferred Income Tax (EDIT) to customers, as GCCC witness Lane Kollen pointed out.[4] Clearly, CenterPoint prefers the certainty, focus and time-limited nature of a rider when it comes to a refund, but not when it comes to a recovery. This dichotomy should be rejected, and GCCC recommends that CenterPoint be permitted to recover its Hurricane Harvey restoration costs through a rider, as Mr. Kollen recommended.

III. RATE OF RETURN [PO Issues 4, 5, 7, 8, 9]

C. Capital Structure [PO Issue 7]

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[2] PFD at 77.

[3] Direct Testimony of Lane Kollen, GCCC Ex. 1 at 37.

[4] *Id.*

7. ALJs' Analysis and Recommendation

a. Reasoned Decision Making Compels A 60% Debt And 40% Equity Capital Structure

GCCC excepts to the ALJs' assertion that the 60% debt and 40% equity capital structure advocated by Staff and intervenors represents an extreme position.[5] Such conclusion is both odd and inappropriate in that both briefs of various parties and the PFD acknowledge that five ERCOT transmission and distribution utilities (TDUs) have capital structures reflecting 60% debt and 40% equity, and that the 60/40 split has been the policy preference of the Commission for TDUs since at least 2002.[6] For the PFD to disregard the articulated, reconsidered, and affirmed policy of the Commission regarding the appropriate capital structure for minimally risky wires companies, there should be compelling evidence and logic presented in the ALJs' analysis.

There is nothing compelling in the three paragraphs offered as "ALJs' Analysis and Recommendation"[7] that justifies rejection of the 60% debt and 40% equity capital structure recommended by Staff, Texas Industrial Energy Consumers (TIEC), Texas Coast Utilities Coalition (TCUC), and H-E-B, LP (HEB). Rather than decide on the reasonableness of various arguments or the credibility of evidence and opinions, the ALJs simply declared that all parties other than the Office of Public Utility Counsel (OPUC) advocated extreme positions.[8] The Commission should not be persuaded by the ALJs' analysis. What should be persuasive to the Commission is the ALJs' discussion of "TIEC's Evidence and Arguments,"[9] which indicates not only that the ALJs apparently accept TIEC's rebuttal of CenterPoint's arguments to justify increasing the equity in its capital structure, but also, that CenterPoint failed its burden to justify any deviation from Commission policy regarding capital structure for TDUs.

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[5] PFD at 191.

[6] *See* PFD at 188, and its references to Docket No. 22344 and Project No. 46046.

[7] PFD at 190-191.

[8] PFD at 191.

[9] PFD at 180-184.

A 60% debt and 40% equity capital structure is reasonable, and supported by the evidence. To allow CenterPoint to continue to enrich its parents' shareholders with 45% equity is an unreasonable burden on ratepayers.

IX. RIDERS [PO Issues 4, 5, 43, 51, 52]

A. Rider UEDIT [PO Issue 51]

3. Structure of Rider UEDIT

As GCCC described in its Initial Brief, and through its witness Lane Kollen, CenterPoint has proposed to structure its rider Unprotected Excess Deferred Income Tax (UEDIT) in an unusual manner that should be rejected. GCCC proposed a straightforward structure in which the Rider reflects the annual revenue requirement over each of the three one-year periods of the Rider term.[10] Instead, in discovery, CenterPoint witness Charles W. Pringle explained that the proposed Rider UEDIT would use the second year of the Rider's revenue requirement for all three years, subject to true-up in the final year of the Rider.[11] The ALJs chose to credit the differing testimony of CenterPoint witness Matthew A. Troxle, who claimed that the Company's proposed methodology was to take the total UEDIT refund amount, with interest, and amortize it over a three-year period.[12] However, the ALJs did not explain why Mr. Troxle's rebuttal testimony was more credible on this point than Mr. Pringle's previous, sworn RFI response to the contrary. If it is now CenterPoint's intent that the more straightforward amortization described in Mr. Troxle's and Mr. Kollen's testimony is indeed the proper amortization method, GCCC asks that the Commission's Order reflect that point.

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[10] GCCC Initial Brief at 32, citing GCCC Ex. 1 at 54.

[11] GCCC Ex. 1 at 53, citing CenterPoint's response to COH RFI No. 03-06, Kollen Attachment N at bates pages 134-135.

[12] PFD at 376, citing CenterPoint Ex. 45 at 44.

4. Amount of Return through Rider UEDIT

g. ALJs' Analysis and Recommendation

GCCC recommends that the PFD not be adopted with regard to the approximately $158 million in Excess Deferred Federal Income Tax (EADFIT) that CenterPoint closed to income in late 2017. The ALJs recommend that if the Commission concludes that this issue merits further exploration and possible action, it should set a deadline for CenterPoint to initiate a new proceeding, in which the proper treatment of this EADFIT balance would be determined.[13] Through its witness Lane Kollen, GCCC recommended that the full $158 million be returned to ratepayers through CenterPoint's Rider UEDIT.[14] And as GCCC noted throughout this proceeding, the position of CenterPoint is *not* that these funds cannot be disposed of. Rather, CenterPoint's view of the proper disposition of these funds is clear—the Company simply took them for itself, and closed the relevant EADFIT amount to income in December of 2017, just as the Commission initiated its efforts to reflect the proper treatment of the Tax Cuts and Jobs Act in utility rates.

GCCC believes that the record in this case is sufficient to disallow this $158 million in EADFIT. Furthermore, it is clear that CenterPoint had the burden of proof in this case, a case that was processed on a compressed schedule that accommodated a statutory deadline that CenterPoint insisted upon. Even so, if the Commission believes that further consideration of this EADFIT is necessary, GCCC does not object to the initiation of another ratemaking proceeding to address it, as recommended by the PFD.[15]

B. Merger Savings Rider

CenterPoint's recently consummated acquisition of Vectren is projected to bring the Company savings which are expected to be significant and ongoing. GCCC presented evidence of CenterPoint's own expectations of the resulting savings and entered a document detailing

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[13] PFD at 394.

[14] GCCC Ex. 1 at 56-61.

[15] PFD at 471.

those expectations into the record as GCCC Exhibit 5. Notably, these expectations are presumably based on the Company's own first-hand knowledge of both its own cost structure, and that of Vectren, its acquisition target. However, CenterPoint's direct case declines to share the benefit of the expected savings with ratepayers. In contrast, GCCC witness Mr. Kollen proposed a new Merger Savings Rider that would be effective until the savings arising from the merger can be reflected in base rates in CenterPoint's next base rate case. In the alternative, GCCC recommends a known-and-measurable adjustment to the Company's test year to reflect CentertPoint's share of the merger savings calculated by CenterPoint's Service Company in the years subsequent to the merger closing.[16]

There is nuance and balance in Mr. Kollen's Merger Savings Rider proposal that is not recognized in the PFD's analysis. Under this proposal, 75% of the annual gross merger expense savings targets, less the estimated expenses incurred in achieving those savings targets, as calculated by Service Company, would be shared through the Merger Savings Rider.[17] Mr. Kollen's proposal would permit CenterPoint to retain the remaining 25% until base rates are reset in its next rate case.[18]

The ALJs rejected Mr. Kollen's proposal because of "the uncertainty regarding the actual amounts of savings or costs that will eventually flow" to CenterPoint.[19] To the degree that there is uncertainty in CenterPoint's expectations as detailed in GCCC Exhibit No. 5, that uncertainty is taken into account by Mr. Kollen's proposal—it does not pass through the entirety of the savings to customers, but holds a significant amount back for CenterPoint, and then subjects that sharing to review in the Company's next rate case. This balanced approach is necessary to ensure that ratepayers share in the benefits of the Vectren merger, and should have been approved by the ALJs.

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[16] CEHE Ex. 1 at 48.

[17] GCCC Ex. 1 at 48.

[18] *Id.*

[19] PFD at 396.

XI. OTHER ISSUES [including but not limited to PO Issues 13, 14, 20, 30, 31, 32, 40, 41, 42, 47, 48, 57, 58, 59]

GCCC notes that Footnote No. 1476 referenced "GCCC Ex. 1 at 22" for a block of language instead drawn from the pre-filed direct testimony of TIEC Witness Mr. Jeffry Pollock. That footnote should instead make reference to TIEC Ex. 1.

XV. CONCLUSION

GCCC respectfully requests that the Commission adopt the PFD, consistent with these Exceptions, and reject the PFD's recommendations as indicated above. GCCC also requests such other relief to which it has shown itself entitled.

Respectfully submitted,

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ATTORNEYS FOR GULF COAST COALITION OF CITIES

CERTIFICATE OF SERVICE

I hereby certify that on October 10, 2019, a true and correct copy of the foregoing document was served on the parties of record in accordance with SOAH Order Nos. 2 and 7.

CHRISTOPHER L. BREWSTER