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

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BEFORE THE STATE OFFICE
OF
ADMINISTRATIVE HEARINGS

PUBLIC UTILITY COMMISSION
FILING CLERK

**City of Houston and Houston Coalition of Cities’
Replies to Exceptions to Proposal for Decision**

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To the Honorable Commissioners:

The City of Houston and Houston Coalition of Cities (“COH/HCC”) respectfully submit the following Replies to Exceptions to the Proposal for Decision in the above referenced matter and, in support thereof, respectfully show the Public Utility Commission of Texas (“Commission” or “PUC”) the following:

I. Introduction/Summary [Preliminary Order (PO) Issues 1, 2, 3]

COH/HCC set forth their position on certain findings in the Proposal for Decision (the “PFD”) in their Exceptions. They continue to urge adoption of those Exceptions. In these Replies to Exceptions, COH/HCC merely respond to certain Exceptions raised by other parties.

CenterPoint Energy Houston Electric (“CEHE” or the “Company”) spends a significant portion of its Exceptions to the PFD complaining that the PFD “threatens both CenterPoint Houston’s financial health and the constructive regulatory environment [this Commission] has created in Texas.” While the continued financial health and viability of CEHE is important to the Houston region and the state as a whole, the legal standards and principles for this Commission in determining just and reasonable rates for CEHE (or any other electric utility) are set forth in the Public Utility Regulatory Act (“PURA”) and those standards alone must be followed.

PURA Sec. 36.003(a) requires the PUC to ensure that “each rate an electric utility or two or more electric utilities jointly make, demand, or receive is just and reasonable.” Further, Sec. 36.051 provides the following:

In establishing an electric utility’s rates, the regulatory authority shall establish the utility’s overall revenues at an amount that will permit the utility a reasonable opportunity to earn a reasonable return on the utility’s invested capital used and useful in providing service to the public in excess of the utility’s reasonable and necessary operating expenses.

PURA also sets forth very clearly in Sec. 36.006 that:

In a proceeding involving a proposed rate change, the electric utility has the burden of proving that:

(1) the rate change is just and reasonable, if the utility proposes the change...

These are the standards under which this Commission must review CEHE's current (and any future) rate request, and thus the PFD. In that light, many of CEHE's Exceptions to the PFD are inconsistent with the evidence and fail to comply with PURA. On several issues, as the Administrative Law Judges ("ALJs") found, the Company failed to meet its burden of proof to establish that the requested expense or rate was just and reasonable. Once such a finding is made, PURA requires that these expenses or rates be disallowed. PURA provides no exception for the Company's failure based solely on the impact of the disallowance to the utility.

COH/HCC request that the Commission, in considering the Company's rate request, and thus the PFD, follow the very clear principles, including placement and fulfillment of the burden of proof, set forth in PURA. Applying those principles, COH/HCC reply to Exceptions from the following parties:

CEHE

COH/HCC request that the Commission deny CEHE's Exceptions regarding the URD CLEP and Major Underground Rehabilitation Program capital additions. As the ALJs correctly found, CEHE failed to meet its burden of proof to establish the prudence and reasonableness of the costs borne for these two programs. COH/HCC continue to urge disallowance of the entire cost of the programs; however, at a minimum the disallowances recommended by the ALJs should be adopted.

COH/HCC also request that the Commission deny CEHE's Exceptions regarding incentive compensation, both for STI and LTI costs. The ALJs correctly found that the costs are financially-

based incentives and, therefore, are not necessary to the provision of service. The Commission should disallow the costs from rate base.

Similarly, the Commission should deny CEHE's exceptions regarding executive employee related expenses, specifically, the \$1.14 million of non-deductible salaries. The ALJs correctly found such costs should be borne by shareholders and, thus, should be excluded entirely from rate base.

COH/HCC request that CEHE's Exceptions regarding customer and meter charges also be denied. The ALJs correctly found that such charges should be on a per customer charge, which is the status quo. COH/HCC recommend that the Commission deny the Company's proposal.

COH/HCC also oppose and request denial of CEHE's Exceptions regarding the PFD Number Run Model. Staff correctly performed the number running pursuant to the findings in the PFD.

TCUC

COH/HCC support TCUC's Exceptions to the ALJs' Finding of Fact Numbers 186-188 regarding return on equity.

COH/HCC support TCUC's Exceptions to the ALJs' Finding of Fact Numbers 206-207 regarding capital structure.

COH/HCC support TCUC's Exceptions to the ALJs' Finding of Fact Numbers 208 regarding overall rate of return.

COH/HCC support TCUC's Exceptions to the ALJs' Finding of Fact Numbers 251, 255, 257-266 regarding depreciation and amortization expense.

GCCC

COH/HCC support GCCC's Exceptions to the ALJs' Finding of Fact Number 299 regarding Hurricane Harvey costs in rate base.

COH/HCC support GCCC's Exceptions to the ALJs' Finding of Fact Numbers 206 and 207 regarding capital structure.

COH/HCC support GCCC's Exceptions to the ALJs' Finding of Fact Number 354 regarding CenterPoint's Rider UEDIT Proposal.

TIEC

COH/HCC recommend that the Commission accept the ALJs' recommendation and reject TIEC's Exceptions regarding allocation of municipal franchise fees. The ALJs' recommended allocation of these fees is reasonable, consistent with precedent, and aligns with cost causation principles.

II. Rate Base [PO Issues 4, 5, 10, 11, 12, 13, 15, 16, 17, 18, 19, 59]

A. Transmission and Distribution Capital Investment [PO Issues 4, 5, 10, 11, 12]

1. Prudence Issues

a. Burden of Proof

b. Underground Residential Distribution Cable Assessment and Life Extension Program and Major Underground Rehabilitation Program

COH/HCC continue to urge their Exceptions to the PFD on these programs, in which COH/HCC requested that the entirety of the program costs be disallowed as imprudent. However, at a minimum, the ALJs' recommendations disallowing \$25.5 million of the total investment of \$111.5 million in the two programs should be adopted.

In its Exceptions on the URD CLEP and Major Underground Rehabilitation Program, CEHE's comments demonstrate a fundamental misunderstanding of, or simply an unwillingness to acknowledge, the burden of proof required of an applicant seeking to increase its rates. As the applicant in this case, CEHE, not the interveners or the Staff, bears the burden to establish the reasonableness and prudence of its capital investment. As the ALJs correctly stated, CEHE "bears the burden to prove **each dollar of cost** was reasonably and prudently invested, and enjoys no presumption that the costs reflected in its books were prudently incurred by simply opening its books to inspection."¹ The burden does not shift from the utility until, and if, it establishes a *prima facie* case.² A utility's failure to present a *prima facie* case or, in other words, the failure to show "each dollar of cost incurred was reasonably and prudently invested," means the utility has failed to satisfy its burden of proof.³ CEHE "had the burden to prove prudence and [can]not shift that burden to those challenging its requested rate increase."⁴ A determination that a cost is not reasonable or prudent results in its preclusion from rate base.⁵

Applying these well-settled principles, the ALJs appropriately determined that CEHE failed to meet its burden to establish the reasonableness and prudence of its investments in the URD CLEP and the Major Underground Rehabilitation programs, when it failed to present any evidence regarding the reasonableness and prudence of the actual costs for the programs. Therefore, at a minimum, a portion of the costs had to be disallowed as imprudent.

¹ PFD, p. 10 (citing to *Entergy Gulf States, Inc. v. PUC*, 112 S.W.3d 208, 214–15) (emphasis added).

² *Gulf States*, 112 S.W.3d at 214.

³ *Id.* at 215.

⁴ *Id.* at 220.

⁵ *See id.*

This result is supported by the overwhelming evidence in the record, including the testimony of the witnesses offered by the Company. The Company's main justifications for this extraordinary increase in Plant in Service (**which as the ALJs' noted were raised for the first time in rebuttal testimony**) relate to an alleged need to increase CEHE's system reliability and for load growth. However, neither of these alleged justifications was supported by the evidence. As explained by COH/HCC witness Scott Norwood, and based on CEHE's own testimony, CEHE's load growth averaged only 1 percent and the Company's services were already extremely reliable (as stated in Norwood's direct testimony, CEHE's service reliability was approximately 99.98 percent over the last 3 years).⁶ Stated another way, CEHE's investments into the Programs was not prudent: the benefit, if any, to customers was extremely small and certainly not justified by the exorbitant cost of the investments.

As provided by CEHE's own witnesses, the Company's load growth from 2009 to 2018 was 1 percent, which is below the Company's norm.⁷ Even further, in more recent years, the Company's load growth has been between zero and negative growth.⁸

In addition to the Company experiencing little to nonexistent load growth, CEHE's investments are traditionally measured by a cost/benefit analysis to gauge whether major investments benefit customers economically and are the lowest reasonable cost alternative.⁹ It was only in response to discovery requests that CenterPoint provided any support for the prudence of these capital additions. As explained by Norwood, however, CEHE's discovery responses only

⁶ *Id.* at 9:1–5.

⁷ Tr. at 197:10–15; 212:15–18.

⁸ *Id.* at 213:5–17.

⁹ COH/HCC Hearing Exhibit No. 1, Direct Testimony of Witness S. Norwood, 15:4–15.

provided results from the Company's Asset Investment Strategy ("AIS") software, which does not measure the economic benefit of a given investment to customers.¹⁰ The software ranks capital investment projects on a Value-to-Cost ("V/C") ratio basis wherein value is determined based on four benefits: load at risk (the primary benefit), reliability, design criteria, and supplemental.¹¹ It is undisputed, as recognized by the Company, that the four categories utilized by the AIS software to determine value do not represent the expected economic benefit to CEHE's customers.¹²

As the Company's witnesses conceded, the AIS software provides no economic justification for the underground programs. However, its only attempt at justifying the cost was in response to discovery responses—responses that related exclusively to the Company's AIS software.¹³ Further, only after several requests by COH/HCC for additional information did CEHE provide, for the first time in rebuttal testimony, that its capital project investments were necessary for alleged load growth and reliability concerns.¹⁴ In his testimony, CEHE witness Martin Narendorf attempts to minimize the Company's reliance on AIS, stating that the tool is not used to evaluate project prudence.¹⁵

However, when presented with CEHE's response to City of Houston Request for Information 1-22,¹⁶ which requests the cost/benefit analysis and other information to support the prudence of major projects, Narendorf admitted that no evidence, other than analysis from AIS

¹⁰ *Id.* at 14:5–15:15.

¹¹ *Id.* at 14:11–17.

¹² *Id.* at. 15:4–15.

¹³ Tr. at 1157:22–1167:4.

¹⁴ *Id.*

¹⁵ *Id.* at 1158:18–1159:9.

¹⁶ COH/HCC Hearing Exhibit No. 10.

and information unrelated to prudence, was provided in response.¹⁷ Further, when presented with CEHE's response to COH/HCC Request for Information 15-2,¹⁸ which requested the Company to identify any testimony, exhibit, or workpaper supporting the prudence of the projects, Narendorf referenced only one page of his testimony.¹⁹ Further, Company witness Randal Pryor—whose testimony was presented to support the reasonableness of capital projects—acknowledged and confirmed that in his direct testimony, the only information he provided to support the program, was found exclusively on two pages.²⁰

CEHE's AIS software fails to produce information that would justify the costs of these programs. An investigation of investments in the Programs, which total \$111.5 million and are the Company's sixth and seventh most costly projects,²¹ prove to be "superficial and deficient."²² The AIS software rendered low V/C ratios of 0.02 and 0.04 for the Programs, indicating very load at risk benefit.²³ In addition to the clearly low V/C ratio, CEHE acknowledges that there is no direct correlation between the Programs' capital investments and SAIDI impacts.²⁴

To the contrary, the Company's own witnesses presented ample evidence that the exorbitantly high costs for these two programs were not necessary for reliability or load growth. The Company's SAIDI performance for eight of the last ten years was better than the PUC

¹⁷ Tr. at 159:2–162:24.

¹⁸ COH/HCC Hearing Exhibit No. 33.

¹⁹ Tr. at 1163:14–1165:3.

²⁰ *Id.* at 1107:22–1108:20.

²¹ *Id.* at 195:9–15; 1108:21–1109:3.

²² COH/HCC Hearing Exhibit No. 1, Direct Testimony of Witness S. Norwood 16:13–17:8.

²³ *Id.*

²⁴ *Id.*

standard, and CEHE consistently received the lowest annual penalties among major ERCOT utilities.²⁵ Based on SAIDI performance, CEHE's reliability performance has been exceptional, averaging approximately 99.98 percent over the last three years.²⁶

Moreover, the Company acknowledged that underground cables are more reliable than overhead distribution circuits.²⁷ Pryor recognized that underground cables are more expensive than overhead cables due, in part, to the increased reliability of cables.²⁸ From 2010 through 2018, underground cable failures contributed only five minutes per year to the Company's SAIDI.²⁹ The impact, if any, of the investments to improve underground circuits is almost indiscernible.³⁰ Given the Company's above-average reliability, the prudence of capital projects invested for the purpose of improving reliability must be analyzed in this context.

The magnitude of any increase in reliability would be minimal, and certainly would not justify the exorbitant costs for the two underground Programs, in light of the current overall system reliability index of 99.98 percent (and *an even higher* reliability for underground cables).

CEHE clearly failed to provide information sufficient to support the prudence of the two underground programs. To the contrary, the necessity of the underground programs is far outweighed by the pristine reliability of the Company's underground service, with an estimate of one outage every three years.³¹ In addition to the high underground reliability, the Company's

²⁵ Tr. at 1247:11–25.

²⁶ *Id.* at 1248:22–1249:3.

²⁷ *Id.* at 1115:17–25.

²⁸ *Id.* at 1116:1–20.

²⁹ *Id.* at 1147:7–1148:20.

³⁰ *Id.*

³¹ *Id.* at 1116:21–1117:4.

SAIDI as a whole, from 2008 to 2014, averaged under 100 minutes per year—significantly below the Commission’s standard.³² Even after 2014, only two years were above the standard, which was due to major Company developments.³³ Moreover, load growth, the other major justification for this excessively high cost investment in these two Programs, does not support the reasonableness and prudence of the Programs.

CEHE’s assertion that the PFD is punishing them for discovery abuses is totally misplaced. While CEHE’s discovery responses were far from satisfactory or forthcoming, the references to the Company’s discovery improprieties was a direct response to CEHE’s assertions in rebuttal that the information demonstrating the economic prudence of the programs, which COH/HCC asserted was absent from CEHE’s case, could have been obtained in discovery, but “no such request was made.”³⁴ As the ALJs and COH/HCC pointed out, the discovery responses failed to provide evidence of the economic benefit of these programs. Moreover, COH/HCC requested this specific information from CEHE in numerous RFIs, as discussed above. CEHE’s unwillingness or inability to provide this information in testimony and/or discovery responses simply reinforces the conclusion that no such support exists.

It is well settled in Texas, that capital investments not found to be prudently incurred must be disallowed. Here, due to CEHE’s failure to meet its burden or to present **any** evidence establishing the reasonableness of the costs for the two projects, there is no support for permitting any of the requested costs. CEHE had every opportunity to present evidence demonstrating the reasonableness of these costs through a cost/benefit analysis or other analysis. It chose not to do

³² *Id.* at 214:20–215:16.

³³ *Id.* at 215:17–216:13.

³⁴ Rebuttal Testimony of CEHE Witness Narendorf p. 8, ll, 17-18

so. Instead, it only provided the SAIDI reports, which it admitted did not establish the prudence of the requested costs. While COH/HCC submit that allowing any portion of these costs would reward CEHE for failing or refusing to comply with PURA and this Commission's rules and for "stone-walling" in discovery, at a minimum, the \$25.5 million disallowance recommended by the ALJs should be adopted.

COH/HCC request that CEHE's Exceptions on these issues be denied. COH/HCC further recommend that any portion of the investment in the programs found to be imprudent be disallowed and removed from rate base. Moreover, COH/HCC recommend that the Company be required to refund any imprudent program costs that have already been collected from customers through the Company's past DCRF charges, through a DCRF credit rider.

2. Land Costs

N/A.

3. Capital Project Accounting/Capitalization Policy Changes

N/A.

B. Indirect Corporate Costs

N/A.

C. Prepaid Pension Asset

N/A.

D. Other Prepayments

N/A.

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

1. Protected Excess Deferred Income Tax

N/A.

2. Hurricane Harvey

COH/HCC support GCCC's exceptions to the ALJs' Finding of Fact Number 299.

3. Medicare Part D

N/A.

4. Texas Margin Tax

N/A.

5. Smart Meter Texas

N/A.

6. REP Bad Debt

N/A.

7. BRP Pension and Postretirement

N/A.

8. Other Regulatory Assets and Liabilities

N/A.

F. Capitalized Incentive Compensation

N/A.

G. Capitalized Non-Qualified Pension Expense

N/A.

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

A. Return on Equity [PO Issue 8]

COH/HCC support TCUC's exceptions to the ALJs' Finding of Fact Numbers 186-188.

B. Cost of Debt [PO Issue 8]

N/A.

C. Capital Structure [PO Issue 7]

COH/HCC support GCCC's exceptions to the ALJs' Finding of Fact Numbers 206 and 207. COH/HCC also support TCUC's exceptions to the ALJs' Finding of Fact Numbers 206-207.

D. Overall Rate of Return [PO Issue 8]

COH/HCC support TCUC's exceptions to the ALJs' Finding of Fact Numbers 208.

E. Financial Integrity [PO Issue 9]

N/A.

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

A. Total of O&M Expense

N/A.

B. Labor Expenses

N/A.

**1. Effect of House Bill 1767 and PURA § 14.006 ON Electric Utility
Ratemaking Proceedings**

2. Incentive Compensation

COH/HCC request that the Commission deny CEHE's Exceptions to the PFD's findings on Incentive Compensation. The ALJs correctly recommended that 92 percent of the Company's STI costs be unrecoverable as financially-based incentives and that the \$7.5 million of LTI costs for performance shares be disallowed for same.

As provided by CEHE witness Lynn Harkel-Rumford, CEHE's STI plan is funded *only* when the Company reaches a specific overall core operating income—what the Company terms a

financial trigger.³⁵ The significance of a financial trigger for CEHE’s STI plan is that shareholders will always obtain a cut of the profits, such that it’s only a question of how much, whereas employees will only be paid if and when the Company achieves its discretionary goal.³⁶ CEHE witness Harkel-Rumford provides that the STI plan “directly and materially” benefits customers.³⁷ This point is inconsequential, even if it were true (which has not proven to be so by the Company). The allowance of financially-based incentives will always benefit shareholders *more*.

For the same reasons, the ALJs were correct in recommending a disallowance of LTI costs that are financially-based incentives. CEHE admitted that its performance shares, which are 70 percent of its LTI, are financially based.³⁸ The LTI awards are based on operating income and total shareholder return.³⁹ To that end, it appears the only disputable point by the Company is whether financially-based incentives may be recovered through rates from the customer.

In its exceptions, CenterPoint does not distinguish its argument between STI and LTI costs and thus, for purposes of this reply, COH/HCC will also not distinguish the costs, which are all financially-based incentives. CenterPoint’s exception to the ALJs’ recommendation should be disregarded. CEHE’s excepts to the ALJs’ recommendation because of its allegation that the Commission approved recovery of financially-based incentives in its last rate case, which it purports refuted the shareholder-customer benefit test. It then provides an argument for why it “must offer incentive compensation . . . based on the achievement of . . . financial goals.”

³⁵ See Tr. at 302:15–23, 303:22–25.

³⁶ COH/HCC Hearing Exhibit No. 2, Direct Testimony of Witness M. Garrett, 8:16–9:3.

³⁷ Direct Testimony of CEHE Witness L. Harkel-Rumford, 26:12–15, 27:1–18.

³⁸ CEHE Initial Brief, p. 88–89.

³⁹ COH/HCC Hearing Exhibit No. 2, Direct Testimony of Witness M. Garrett, 34:7–19.

CenterPoint in its exceptions presents the same immaterial argument that it did in its testimony, during the hearing, and in its briefing: that it must offer incentive compensation to hire and retain a certain kind of employee. To be clear, if any clarification is needed, there is a world of difference between a cost being necessary to provide electrical services to customers and a cost that may or may not aid in bettering the Company's service.

CEHE relies heavily on the adoption of HB 1767, harping on the purported policy development that should be applicable in this case, despite the bill's exclusive application to gas utilities—not electric utilities. The Company fails to acknowledge that the Legislature was presented with an opportunity to pass almost the exact bill for electric utilities through HB 1766 and refused to even present it for hearing. The Company cannot reasonably rely on a bill that does not apply to it, and ignore the clear Legislative intent in passing the bill for one utility and actively not passing it for another. CEHE fails to explain how, legally or even logically, the PUC, governing body over electric utilities, should abandon its precedent and governing law in form of PURA for a gas utility law. The Company states that the passage of the gas utility bill is a “clear policy signal from the Legislature and Governor.” On this point, COH/HCC agree—indeed, the passage of HB 1767 and the rejection to entertain HB 1766 indicate a clear sign that it intended to apply one standard for gas utilities and to no apply same for electrical utilities.

The Company also relies on Docket No. 38339, stating that Commission precedent should prevail whilst not addressing Docket Nos. 28840, 33309, 35717, 39896, 40443, 43695, and 46449.⁴⁰ Curiously, CenterPoint requests great reliance on Docket No. 38339 as opposed to “prior

⁴⁰ See COH/HCC Hearing Exhibit No. 2, Direct Testimony of Witness M. Garrett, 12.

Commission decisions for *other* utilities,” as though there is any reason CEHE should be treated differently from any other electric utility.⁴¹ The Company makes this assertion without reason.

Regardless, and as laid out by COH/HCC witness Mark Garrett, the ALJs Proposal for Decision in Docket NO. 38339 only recommended the recovery of STI expenses because no evidence was presented “as to the nature of the goals it contended constituted impermissible financial goals” and was, thus, undisputed.⁴² It was not until post-hearing briefing that one party, TIEC, argued against the STI plan costs.⁴³ The ALJs found TIEC’s challenge in briefings insufficient “and, therefore, recommend[ed] that the Commission” find CEHE’s STI expenses recoverable.⁴⁴ That *no parties* proffered any evidence or any argument in its testimony or live at the hearing, and the fact that it was raised only by one party in post-hearing briefings, is exceedingly significant.⁴⁵

CenterPoint provides that an agency must explain its reasoning when departing from a prior position.⁴⁶ This is true - - which means the Commission would need reason, supported by evidence provided by the Company, to depart from Docket Nos. 28840, 33309, 35717, 39896, 40443, 43695, and 46449. The Company has provided only immaterial evidence regarding how CenterPoint benefits from financially-based incentives and a gas utility bill. There is no reason

⁴¹ CenterPoint Exceptions, p. 81.

⁴² See COH/HCC Hearing Exhibit No. 2, Direct Testimony of Witness M. Garrett, 15:5–26.

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ See COH/HCC Hearing Exhibit No. 2, Direct Testimony of Witness M. Garrett, 15:5–26.

⁴⁶ CenterPoint Exceptions, p. 79.

present in the record for this case that would support departure from Commission precedent. Therefore, COH/HCC request that the Commission deny CEHE's Exceptions on these issues.

a. Short-Term Incentive Compensation

See supra Section IV.B.2.

b. Long-Term Incentive Compensation

See supra Section IV.B.2.

3. Executive Employee Related Expenses

CEHE's Exception to the PFD's recommended treatment of Executive Employee Related Expenses is also without merit and should be denied. The ALJs correctly recommended the exclusion of \$1.14 million of non-deductible salaries from rates as unreasonable and unnecessary for the provision of service. These expenses should be borne by shareholders, not ratepayers.⁴⁷ Retirement benefits in excess of annual compensation limits, and beyond the Company's general pension plans, are not deductible tax expenses under the Internal Revenue Code.⁴⁸ As repeatedly recognized by the Commission, "non-qualified executive retirement benefits . . . are not reasonable or necessary to provide utility service to the public, not in the public interest, and should not be included in . . . cost of service."⁴⁹

Similar to its fallacy for financially-based incentives, the Company confuses that is required to provide electrical services and what would be helpful to provide better services. The

⁴⁷ COH/HCC Hearing Exhibit No. 2, Direct Testimony of Witness M. Garrett, 43:6–21.

⁴⁸ *Id.* at. 42:6–19.

⁴⁹ *Id.* at. 44:7–45:25 (citing *Application of SWEPCO for Authority to Change Rates*, Docket No. 46449, Findings of Fact Nos. 202–204, Order on Rehearing at 34 (March 19, 2018); *Application of SWEPO for Authority to Change Rates*, Docket No. 40443, Findings of Fact No. 227, Order on Rehearing at 40 (March 6, 2014); and *Application of Entergy Texas, Inc. for Authority to Change Rates*, Docket No. 39386, Findings of Fact Nos. 140–142, Order on Rehearing at 25–26 (November 2, 2012)).

Company argues that the costs are “critical” to CEHE’s parent company to retain and maintain its employees.⁵⁰ However, again, the Company fails to provide any evidence of why it is a cost that should be borne by ratepayers instead of shareholders. The supplemental plans are, in fact, supplemental to CEHE’s regular pension plans.⁵¹

4. Payroll Adjustments

N/A.

5. Benefit Restoration Plan Expenses

N/A.

C. Depreciation and Amortization Expense [PO Issue 25]

COH/HCC support TCUC’s exceptions to the ALJs’ Finding of Fact Numbers 251, 255, 257-266.

D. Affiliate Expenses [PO Issue 35, 36]

N/A.

1. CenterPoint’s Vectren Acquisition Adjustment

2. Compensation for Use of Capital/Affiliate Carrying Charge

E. Injuries and Damages

N/A.

F. Hurricane Harvey Restoration Costs [PO Issues 54, 55]

N/A.

G. Self-Insurance Reserve [PO Issues 16, 33]

N/A.

⁵⁰ CEHE Initial Brief, p. 99.

⁵¹ COH/HCC Hearing Exhibit No. 2, Direct Testimony of Witness M. Garrett, 43:6–21.

H. Vegetation Management

N/A.

I. Smart Meter Texas Expense

N/A.

J. Street Lighting Service

N/A.

K. Loss on Sale of Land

N/A.

V. Wholesale Transmission Cost of Service [PO Issue 4, 5, 6, 37]

N/A.

VI. Billing Determinants [PO Issue 4, 5, 45]

N/A.

1. Weather Normalization

2. Energy Efficiency Program Adjustment

VII. Functionalization and Cost Allocation [PO Issues 4, 5, 43, 44, 46]

A. Functionalization

1. Texas Margin Tax Expense and Associated Accounts

N/A.

2. Miscellaneous General Expense (FERC Account 930.2)

N/A.

3. Unprotected Excess Deferred Income Tax

N/A.

4. FERC Accounts 586 and 597

N/A.

B. Class Allocation

N/A.

1. Class Allocation of Transmission Costs and Distribution Costs

N/A.

a. Transmission Costs

b. Demand Related Costs

c. 4CP Rate Design versus NCP Rate Design

d. Moderating the Update to the 4CP Class Allocation Factor

2. Municipal Franchise Fees [PO Issue 27]

COH/HCC request that the Commission deny TIEC's Exception to Finding of Fact Number 370 allocating municipal franchise fees. The ALJs found, based on the evidence presented, that CenterPoint's proposal is reasonable, consistent with precedent, and aligns with cost causation principles. Thus, TIEC's exception to the ALJs' recommendation, which is the only exception to Finding of Fact Number 370, is unsupported on a cost-causation basis and also inconsistent with Commission precedent.

. In its initial briefing, TIEC incorrectly suggested that its method is consistent with the "direct method" that has been previously approved by the Commission.⁵² In its exceptions, TIEC seems to now at least recognize its departure from precedent, pleading that the Commission should take a "fresh look at this issue."⁵³ Regardless, TIEC has failed to show why its new method aligns with cost causation principles.

⁵² See TIEC Initial Brief, p. 65; see also COH/HCC Hearing Exhibit No. 4, Cross-Rebuttal Testimony of Witness K. Pevoto, 4:9–22.

⁵³ TIEC Exceptions, p. 20.

Specifically, the proposed method drastically distorts the first step of the direct method: allocation.⁵⁴ The precedential direct method allocates municipal franchise fees based on kWh sales to customer classes for customers residing within cities, when establishing transmission and distribution rates in ERCOT.⁵⁵ The Commission has long recognized that all customers benefit from the use of municipal rights of way, and thus the payment of franchise fees, regarding of their location within the service area.

TIEC's method multiplies the class's in-city kWh sales for that city by the city's municipal franchise fee rate. The method uses allocators specifically developed for each city to assign municipal franchisee fees among rate classes for each city.⁵⁶ TIEC provides no evidence for this deviation or for how or why this proposal is warranted. The proposal would allocate costs and set rates based on geographic location, meaning that costs would no longer be allocated based on a system average basis.⁵⁷

The motive behind this proposal is made obvious by the rate impact. TIEC's proposal would shift \$4 million in municipal franchise fees "from the transmission rate class to all of the other rate classes. It would additionally assign \$1.5 million municipal franchise fees to the Residential class."⁵⁸ This proposal is transparently an attempt by TIEC, whose consumers are primarily transmission class members, to avoid or mitigate expenses associated with municipal franchise fees.⁵⁹ This is not a reasonable purpose to divert from precedent and reasonable methods. COH/HCC recommend that the Commission continue with its precedent, utilizing the direct method, and adopt the ALJs recommendation.

⁵⁴ Tr. at. 460:18–461:1.

⁵⁵ COH/HCC Hearing Exhibit No. 4, Cross-Rebuttal Testimony of Witness K. Pevoto, 4:1–22.

⁵⁶ *Id.*

⁵⁷ *Id.* 5:1–17.

⁵⁸ *Id.* at 5:11–17.

⁵⁹ *Id.* at 5: 18–24.

3. Transmission Accounts and Support Group

N/A.

4. Allocation of Hurricane Harvey Restoration Costs [PO Issue 56]

N/A.

5. Other Cost Allocation issues [PO Issue 46]

a. Subject FERC Accounts

b. FERC Accounts 907-10

N/A.

VIII. Revenue Distribution and Rate Design [PO Issues 4, 5, 43, 49, 50]

A. Residential Customer Charge

N/A.

B. Customer and Meter Charges - Per Meter Basis vs. Per Customer Basis

CEHE's Exception to the ALJs' recommendation to reject the Company's proposal to impose a customer charge on a per meter basis is without merit and likewise should be rejected. The reasonableness of CEHE's proposed customer charge to residential customers on per a meter basis is not supported by witness testimony.

CEHE Witness Troxle admitted that a per meter charge will cause changes to customers with multiple meters. Specifically, its multiple-meter customers will experience an increase in their bills.⁶⁰ As Mr. Troxle further testified, tailoring or designing the rates to the fullest extent possible in a manner that is clear and understandable for Retail Electric Providers, and ultimately the customer, so they understand for what they are being billed and paying, is a primary

⁶⁰ Tr. at 974:14-21, 1030:11-1031:2.

consideration in setting rates.⁶¹ Nevertheless, Troxle admits that there would be confusion in switching to per-meter charges.⁶² This is because CEHE's proposal will go one of two ways: customers with multiple meters would receive multiple bills or, alternatively, retail electric providers would be required to consolidate the bills for the customers.⁶³

COH/HCC recommend that customers continue to be charged on a per customer basis and, as such, that CEHE's proposal to switch to per meter basis charging be rejected.

C. Transmission Service Facility Extensions

N/A.

D. Street Lighting Service

N/A.

E. Discretionary Services – Pre-Interconnection Study Costs

N/A.

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

N/A.

A. CenterPoint's Rider UEDIT Proposal

COH/HCC support GCCC's exceptions to the ALJs' Finding of Fact Number 354.

B. Merger Savings Rider

C. Other Riders

X. Baselines for Cost-Recovery Factors [PO Issue 4, 5, 43, 53]

N/A.

⁶¹ *Id.* at 1030:1–8.

⁶² *Id.* at 1029:19–25.

⁶³ *Id.* at 30:3–13.

XI. PFD Number Run Model

CEHE incorrectly asserts that there were errors made by Staff in the Number Run Model, which resulted in the revenue requirement from the PFD being understated. According to CEHE, the total base revenue increase from the PFD should be \$31.497 million (instead of \$2.644 million as set forth in the PFD). This assertion, and the supporting allegations of errors in the number running model, is without merit and should be rejected.

CEHE first asserts that there is an improper disparity of \$40 million between two “retail revenue requirement models” -- “49421 – Rev Req Model – ALJ Number Run – 9-9-2019.xlsx” and “49421 – Model of CEHE’s CCOSS – PFD.xlsm”. They are incorrect. The first model represents the CEHE total cost of service (not simply retail service). The second model (CEHE’s CCOSS) reflects the retail class cost of service. The \$40 million difference between the two models relates to the increased responsibility of retail customers for the wholesale transmission payment.

As COH/HCC expect Staff to explain in detail, CEHE’s other assertions are equally without merit. Based on COH/HCC’s review and analysis, Staff correctly performed the number running pursuant to the PFD findings. Accordingly, there is no need to admit Attachment A to the evidentiary record in this case, especially in light of the fact that the other parties have not had the opportunity to conduct discovery and/or question the persons performing the analysis on CEHE’s behalf.

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

N/A.

XIII. Conclusion and Prayer

For these reasons, COH/HCC request that the Commission reject the Exceptions addressed in these Replies. COH/HCC request all other relief, legal and equitable, to which they are justly entitled.

Respectfully submitted,

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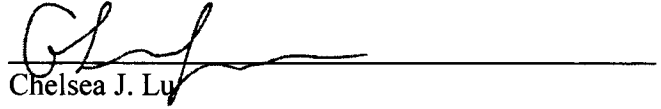
By: _____

Chelsea J. Lu

**Counsel for City of Houston and
Houston Coalition of Cities**

CERTIFICATE OF SERVICE

I hereby certify that on this October 24, 2019, a true and correct copy of the foregoing document was served upon the parties of record by email, facsimile and/or First Class Mail.


Chelsea J. Lu