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

TEXAS INDUSTRIAL ENERGY CONSUMERS' BRIEF IN RESPONSE TO THE COMMISSION'S NOVEMBER 15, 2019 BRIEFING ORDER

I. INTRODUCTION

At the November 14th Open Meeting, the Commission discussed approving certain ring-fence protections for CenterPoint Energy Houston Electric (CEHE) and changing its regulatory capital structure from 55% debt, 45% equity to 60% debt, 40% equity. Among other financial protections, the Commission indicated that it would adopt the Proposal for Decision's (PFD's) recommendation to restrict CEHE's dividends to its net income, as proposed by Commission Staff.

Counsel for CEHE raised the potential need for an exemption to this dividend restriction to allow CEHE to immediately recapitalize by making a one-time, $800 million dividend payment to its parent, CenterPoint Energy Inc. (CNP). After considering this issue, TIEC takes the following positions:

(a) TIEC's rough calculation of the equity reduction from 45% to 40% is approximately $325 million, rather than $800 million as stated by CEHE at the Open Meeting.

(b) Given ongoing growth, CEHE should be able to recapitalize over a relatively short period by funding new investment with debt, without making a one-time lump payment to CNP.

(c) However, if the Commission seeks to allow an exemption to the net-income dividend restriction as a transitional measure for policy reasons, TIEC will not oppose that approach.

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II. RESPONSE TO COMMISSION QUESTIONS

A. The equity reduction from 45% to 40% appears to be lower than CEHE stated.

TIEC is unclear as to how CEHE is calculating that the equity component of its capitalization will exceed 40% by $800 million, and seeks further clarification on how this calculation was made. CEHE's rate base during the test year was approximately $6.5 billion.[1] For CEHE to immediately match the capital structure discussed by the Commission, which is not required as discussed below, CEHE would need reduce its current equity by 5% (from 45% to 40%). Mathematically, this would appear to require an equity reduction of approximately $325 million (5% * $6.5 billion), rather than the $800 million stated at the Open Meeting, assuming that the $325 million would be replaced with debt. TIEC recognizes that actual capitalization may not exactly match the test year, but directionally believes that the excess equity to achieve a 60% debt, 40% equity capital structure is in the $350-400 million range.

B. CEHE can recapitalize over time, and is not required to immediately implement its regulatory capital structure.

In general, Texas utilities are not required to actually match their awarded regulatory capital structures. Regulatory capital structures are adopted by the Commission to establish just and reasonable overall rates. CEHE's practice of annually truing-up its actual capital structure to its regulatory capital structure is a business decision, and is not required by the Commission or any law or regulation. Thus, the rate treatment and ring fence contemplated by the Commission in this case would not require CEHE to make an immediate upstream "dividend" payment to recapitalize.

If CEHE desires to recapitalize immediately by making an upstream payment to CNP, this payment would exceed net income, violating one of the ring fence provisions the Commission indicated it would adopt[2] (although TIEC believes the payment would be $325 million, rather than $800 million). However, it appears that CEHE should be able to recapitalize over a relatively short period without this equity transfer by funding upcoming projects more heavily with debt. Given CEHE's growth rate and ongoing investment, it should be able to recapitalize relatively quickly by funding new investments primarily with debt, without the need for a lump sum payment to its

[1] CEHE Ex. 6 (Mercado Dir.) at 2.
[2] *See* PFD at 205.

parent. CEHE's annual capital expenditures (CapEx) have been around $900 million for the past five years.[3] Under a 60/40 capital structure, CEHE would fund approximately $540 million of this CapEx with debt. However, if CEHE instead funded an additional $325 million with debt, it could transition to its awarded regulatory capital structure within a year.[4] Therefore, CEHE should be able to recapitalize without making a lump-sum upstream payment or violating the dividend restrictions contemplated by the Commission.

C. If the Commission decides that immediate recapitalization is appropriate for policy reasons, TIEC will not oppose a one-time exemption to the ring fence.

As noted above, the Commission's decisions on ring-fence provisions and capital structure are not in conflict and CEHE can abide by both without a waiver or exception. However, TIEC recognizes that there may be policy reasons why the Commission wants to allow CEHE to quickly recapitalize as a transitional measure. There are at least two ways the Commission could do this. First, CEHE could receive a one-time exception to the dividend limitations to recapitalize as a transitional measure in the final order. Alternately, the Commission could add language to the "Dividend Restriction" ring fence provision that would allow CEHE to issue dividends above and beyond its net income upon a showing of good cause, and then require CEHE to file a separate proceeding to present evidence that would support its proposed dividend. TIEC would not oppose either of these solutions if the Commission finds them appropriate.

III. CONCLUSION

TIEC appreciates the opportunity to address these issues and will be prepared to discuss them if desired by the Commission at the December 13th Open Meeting.

[3] *See* CEHE Ex 6 (Mercado Dir.) at WP KMM-10 (09 to 18 10K CEHE CapEx).

[4] TIEC recognizes that CEHE's rate base has likely increased since the test year, but that should not materially change the analysis.

Respectfully submitted,

THOMPSON & KNIGHT LLP

Phillip G. Oldham
State Bar No. 00794392
Katherine L. Coleman
State Bar No. 24059596
Michael McMillin
State Bar No. 24088034
98 San Jacinto Blvd., Suite 1900
Austin, Texas 78701
(512) 469.6100
(512) 469.6180 (fax)

ATTORNEYS FOR TEXAS INDUSTRIAL ENERGY CONSUMERS

CERTIFICATE OF SERVICE

I, Katie Coleman, Attorney for TIEC, hereby certify that a copy of the foregoing document was served on all parties of record in this proceeding on this 25th day of November, 2019, by facsimile, electronic mail and/or first Class, U.S. Mail, Postage Prepaid.

Katie Coleman