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**PUC DOCKET NO. 52689**

<b>EXPEDITED PETITION OF</b>	<b>§</b>	
<b>CENTERPOINT ENERGY HOUSTON</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>ELECTRIC, LLC FOR APPROVAL OF</b>	<b>§</b>	
<b>INTERIM LOAD MANAGEMENT</b>	<b>§</b>	<b>OF TEXAS</b>
<b>PROGRAMS FOR NONRESIDENTIAL</b>	<b>§</b>	
<b>CUSTOMERS AND FOR AN</b>	<b>§</b>	
<b>ACCOUNTING ORDER</b>	<b>§</b>	

**ALLIANCE FOR RETAIL MARKETS’  
STATEMENT OF POSITION ON THE NON-UNANIMOUS STIPULATION**

The Alliance for Retail Markets (“ARM”) files this statement of position on the Non- Unanimous Stipulation filed on November 9, 2021. Attached is a redline with ARM’s proposed changes to the Non-Unanimous Stipulation and Proposed Order that was filed on November 9, 2021.

**I. BACKGROUND**

Senate Bill 3, signed into law on June 8, allows Transmission and Distribution Utilities (“TDUs”) to design and operate a load management program for non-residential customers to reduce peak demand during grid emergencies.

On October 8, 2021, AEP Texas Inc. (“AEP Texas”), CenterPoint Energy Houston Electric, LLC (“CenterPoint”), and Texas-New Mexico Power Company (“TNMP”) (collectively, “Joint TDUs”) filed a petition to the Public Utility Commission of Texas (“Commission”) for authorization to design and operate an Interim Load Management Program for Non-Residential Customers and to each record a regulatory asset for any costs associated with the development and operation of such programs. Joint TDUs proposed to provide notice via publication in the *Texas Register* because potential project participants are unknown.

On October 20, 2021, Commission Staff filed a recommendation that the Joint TDUs be required to provide documentation outlining comprehensive details of the proposed Interim Load Management Program for Non-Residential Customers. Staff also recommended that the Joint TDUs be ordered to issue additional notice to every participant in each of their last base rate cases in addition to notice via publication in the *Texas Register*.<sup>1</sup>

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<sup>1</sup> It does not appear that the notice has been published in the *Texas Register*.

On October 20, 2021, Order No. 2 was issued, finding the petition and proposed notice deficient and requiring the Joint TDUs to file comprehensive details regarding the proposed load management program. On November 1, 2021, the Joint TDUs filed the additional information about the proposed Interim Load Management Program for Non-Residential Customers.

On November 9, 2021, Joint TDUs filed a Non-Unanimous Stipulation with Commission Staff and Proposed Order to approve the petition.

## II. STATEMENT OF POSITION

ARM appreciates the Commission's desire to have additional tools in the toolbox to ensure reliability in the upcoming winter season. To most efficiently and effectively accomplish that, ARM proposes that the Commission incorporate the following changes into the Joint TDUs' Interim Load Management Program for Non-Residential Customers:

- Include Retail Electric Providers ("REPs") as eligible project sponsors;
- Require TDUs to notify the REP of record of its customers enrolled in the Program and notify the REP of record when its customers participating in the Program are curtailed;
- Include a Program budget for CenterPoint Houston; and
- Correct the Program budget for AEP Texas to \$350,000 instead of \$650,000.

### a. REPs should be included as Project Sponsors

REPs are uniquely situated to provide reliable load curtailment that can be initiated when needed. They already have direct relationships with customers and can facilitate cost-effective load curtailment to support ERCOT during the winter season. As stated in Oncor's October 15<sup>th</sup> comments,<sup>2</sup> its proposed program includes REPs as eligible project sponsors, so including REPs in the Joint TDUs' programs would provide a consistent framework for Commission oversight.

### b. TDUs should notify the REP of record of its customers enrollment in the Interim Program and when those participating customers load is curtailed

The TDU should inform the REP of record when the TDU has enrolled a REP's customers in the TDU's load reduction program and also notify the REP when its participating customers'

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<sup>2</sup> Comments of Oncor Electric Delivery Company LLC at 5-6 (Oct. 15, 2021).

load is curtailed. This is important so the REP can better manage expectations of curtailed load during emergency conditions. Failing to inform the customer's REP of record could cause unexpected large variances in the REP's projected and procured load.

Furthermore, customers may have contracts with the REP that provide incentives to reduce demand. If those customers also participate in the TDUs' Interim Load Management Program, the REP should be notified so they can determine appropriately whether the customer curtailment qualifies for any REP demand response program or contract settlement credit.

**c. Include a Program Budget for CenterPoint Houston's program**

AEP Texas, TNMP, and Oncor proposed budgets for their Interim Load Management Programs; however, CenterPoint Houston did not include a budget for its program. ARM recommends that CenterPoint Houston include a budget for its program to meet its load reduction goal.

**d. Revise AEP Texas' Program Budget to \$350,000**

AEP Texas included a proposed program budget of \$650,000 to meet its goal of 10 MW load reduction with payments of \$35 per kW. To be consistent with the other TDUs' program budgets, ARM recommends that AEP Texas' proposed budget be revised to be \$350,000 (10,000 kW x \$35 = \$350,000).

**IV. CONCLUSION**

For the reasons stated herein, ARM respectfully requests that the Commission include the requested changes to the Joint TDUs' Interim Load Management Programs.

Dated: November 17, 2021

Respectfully submitted,



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**ATTORNEYS FOR ALLIANCE FOR RETAIL MARKETS**

**PUC DOCKET NO. 52689**

**CERTIFICATE OF SERVICE**

I, Matthew Arth, attorney for ARM, certify that a copy of this document was served on all parties of record on November 17, 2021 by electronic mail.



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Matthew A. Arth

**DOCKET NO. 52689**

<b>EXPEDITED PETITION FOR</b>	<b>§</b>	<b>PUBLIC UTILITY</b>
<b>APPROVAL OF INTERIM LOAD</b>	<b>§</b>	
<b>MANAGEMENT PROGRAMS FOR</b>	<b>§</b>	<b>COMMISSION OF TEXAS</b>
<b>NONRESIDENTIAL CUSTOMERS AND</b>	<b>§</b>	
<b>FOR AN ACCOUNTING ORDER</b>	<b>§</b>	

**STIPULATION AND SETTLEMENT AGREEMENT**

This Stipulation and Settlement Agreement (Agreement) is entered into before the Public Utility Commission of Texas (Commission) by and among AEP Texas Inc. (AEP Texas); CenterPoint Energy Houston Electric, LLC (CenterPoint Houston); Texas-New Mexico Power Company (TNMP) (collectively, the Joint TDUs); and Commission Staff (collectively, the Signatories). As this stipulation and settlement agreement resolves all outstanding issues in this proceeding, the Signatories recommend that the remaining deadlines in the procedural schedule are moot and respectfully request this agreement be considered and approved in an expeditious manner.

**I. Background**

A. On October 8, 2021, the Joint TDUs filed an Expedited Petition. In their Expedited Petition, the Joint TDUs requested that the Commission approve, on an expedited basis, the Joint TDUs: (1) designing and operating load management programs for nonresidential customers during the period of December 1, 2021 through February 28, 2022 (the Interim Load Management Programs) and (2) recording a regulatory asset for the reasonable and necessary costs associated with the design and operation of the Interim Load Management Programs and for future load management programs for nonresidential customers.

B. The Signatories believe a negotiated resolution of this proceeding is desirable and in the public interest because the result is reasonable under the circumstances, as it will conserve the public's and the Signatories' resources and eliminate controversy.

The Signatories, through their undersigned representatives, enter into this Agreement on the following terms:

**II. Terms of the Agreement**

A. The Signatories agree that the Joint TDUs may design and operate load management programs for nonresidential customers during the period of December 1, 2021 through February 28, 2022. AEP Texas', CenterPoint Houston's, and TNMP's respective Interim Load Management Programs are further described in Attachment A to this Agreement. AEP Texas', CenterPoint Houston's, and TNMP's respective Interim Load Management Programs will be operated outside of their respective Commission-approved energy efficiency programs.

B. The Signatories agree that AEP Texas, CenterPoint Houston, and TNMP may each

record a regulatory asset for the reasonable and necessary costs associated with the design and operation of their respective Interim Load Management Programs.

C. The Signatories agree that incremental costs associated with the design and operation of the Joint TDUs' respective Interim Load Management Programs that will be included in the Joint TDUs' respective regulatory assets must not be costs that are recovered through other means.

D. The Signatories agree that any affiliate costs that will be included in the Joint TDUs' respective regulatory assets must comply with the standards set out in Section 36.058 of the Public Utility Regulatory Act<sup>1</sup> and the Commission's rules.

E. The Signatories agree that the determination of the reasonableness and necessity of the costs associated with the Joint TDUs' respective Interim Load Management Programs, as well as their recovery will be addressed in subsequent proceedings, including the Joint TDUs' respective next base rate case proceedings.

F. The Joint TDUs agree to confer and coordinate with Commission Staff and the Electric Reliability Council of Texas (ERCOT) regarding deployment and operation of the Interim Load Management Programs.

G. The Signatories agree to support the entry of any order required to give effect to the terms of this Agreement, and to facilitate this process agree to the Proposed Order in Attachment B of this Agreement.

### **III. Effect of Stipulation and Settlement Agreement**

A. The Signatories arrived at this Agreement through negotiation and compromise. Except as otherwise provided in this Agreement, the Signatories stipulate that the failure to litigate any specific issue in this docket does not waive any Signatory's rights to contest a similar issue in any other current or future docket and that the failure to litigate an issue as a result of this Agreement cannot be asserted as a defense or estoppel, or any similar argument, by or against any Signatory in this or any other proceeding. The Signatories do not endorse any methodology underlying the Agreement as being applicable in any other docket or proceeding.

B. The Signatories urge the Commission to adopt an appropriate order consistent with the terms of this Agreement. The terms of this Agreement may not be used either as an admission or concession of any sort or as evidence in any proceeding. The Signatories further agree that: (a) oral or written statements made during the course of the settlement negotiations may not be used for any purposes other than as necessary to support the entry by the Commission of an order implementing this Agreement, and (b) other than to support the entry of such an order, all oral or written statements made during the course of the settlement negotiations are governed by Texas Rule of Evidence 408 and are inadmissible. The obligations set forth in this subsection shall continue and be enforceable, even if this Agreement is terminated as provided below.

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<sup>1</sup> Tex. Util. Code §§ 11.001-66.016.

C. This Agreement reflects a compromise, settlement, and accommodation among the Signatories, and the Signatories agree that the terms and conditions of the Agreement are interdependent. If the Commission enters an Order that is inconsistent with any of the terms of this Agreement, each Signatory has the right to withdraw from this Agreement and to assume any position it deems appropriate with respect to any issue in this proceeding. A Signatory who withdraws shall not be deemed to have waived any procedural right or taken any substantive position on any fact or issue by virtue of the Signatory's entry into the Agreement or its subsequent withdrawal. If a Signatory withdraws from this Agreement, all negotiations, discussions and conferences related to this settlement are privileged, inadmissible, and not relevant to prove any issues in Commission Docket No. 52689 pursuant to Texas law, including, but not limited to, Rule 408 of the Texas Rules of Evidence.

D. Except as otherwise provided, this Agreement is binding on each of the Signatories. This Agreement shall not be binding or precedential upon a Signatory outside this case. It is acknowledged that a Signatory's support of the matters contained in this Agreement may differ from the position taken or testimony presented by it in this or any other docket. To the extent there is a difference, a Signatory does not waive its position in any other dockets. Because this is a stipulated resolution, no Signatory is under any obligation to take the same positions as set out in this Agreement in other dockets, whether those dockets present the same or a different set of circumstances, except as may otherwise be explicitly provided in this Agreement.

Each person signing this document represents that he is authorized to sign it on behalf of the Signatory represented. For administrative convenience, this document may be executed in multiple counterparts and filed with facsimile signatures.

Date: November 9, 2021

Respectfully submitted,



## **Attachment A to the Agreement**

## **AEP Texas' Interim Load Management Program**

# AEP Texas Interim Winter Load Management Pilot Program

## PROGRAM OVERVIEW

### Description

The Interim Winter Load Management Pilot Program (Program) provides incentives to Program participants (Participants) for curtailing electricity demand when the ERCOT power region has declared a Level 2 Emergency or a higher level of emergency or has otherwise directed AEP Texas to shed load. Participants include non-residential customers, national or local energy service companies, ~~and~~ commercial aggregation groups, and retail electric providers that can identify curtailable load. The Program will operate December 1, 2021 through February 28, 2022 (Program operating period). Participants must be available to curtail 24 hours a day, seven days a week and be capable of curtailing load within 30 minutes' notice. The minimum load reduction that may be subscribed in the Program is 100 kilowatts (kW).

Program savings are determined using the load management calculations in the Texas Technical Reference Manual (TRM).<sup>2</sup> A baseline load management test will be conducted to demonstrate that the participant is capable of curtailing at least 100 kW. Final Program payments are determined by established Program rules and TRM calculations.

### Rationale

The Program seeks to support grid resiliency by providing winter load reduction capabilities in the non-residential market.

### Program Objectives

The primary objective of this Program is to achieve demand reduction to support ERCOT during the winter peak season. Additional objectives of the Program are to:

- gather information to inform and establish best practices for winter load management;
- encourage involvement by a wide range of Participants;
- streamline Program processes to improve event notification protocols, data analysis, and Participant payments; and
- evaluate TRM calculations and evaluate possibilities for a more comprehensive winter load management program.

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<sup>2</sup> See generally *Energy Efficiency Implementation Project Under 16 TAC § 25.181(q)*, Project No. 38578, Commission Staff Approval of Texas Technical Reference Manual Version 8.0 (Apr. 7, 2021).

## PROGRAM PRICING

### Program Goals and Budget

The Program seeks to achieve 10 MW in load reduction during the Program operating period, with an estimated budget for incentive payments of ~~\$650,000~~ \$350,000.

### Pricing Structure

AEP Texas will pay the project sponsor (i.e., customer, ~~or~~ third-party aggregator, or retail electric provider) an incentive payment of \$35.00 per kW of the verified curtailed load, up to the approved kW amount for each site participating in the Program. There is no obligation to pay for any curtailed loads that exceed the approved kW amount. Performance will be measured and verified for each curtailment event. The total incentive paid after the conclusion of the program period will be based on the average performance over all unscheduled events. AEP Texas will verify a Participant's curtailment using the methodology approved by the Commission in the TRM.

## ELIGIBILITY

### Participant

All AEP Texas non-residential customers, national or local energy service companies, ~~and~~ aggregation groups, and retail electric providers that can identify curtailable load are eligible to participate. Each Participant must subscribe a minimum of 100 kW of load reduction to be eligible for the Program. Critical load and customers participating in other load management programs, such as ERS are ineligible. Eligibility is determined at the ESIID level. Additionally, load curtailment that will result in negative environmental or health effects are ineligible. This restriction does not preclude the use of self-generation that is in compliance with applicable environmental and health and safety laws.

### Measure

Participants must be capable of curtailing their load within 30 minutes of notification. Events may be called 24 hours a day, seven days a week during the Program operating period. AEP Texas may call a maximum of four unscheduled events during the Program operating period, with any single event lasting no more than four hours.

## IDENTIFICATION AND VERIFICATION OF CURTAILED LOAD

### Responsibility

AEP Texas will identify and verify a Participant's load data through AEP Texas' Advanced Metering System (AMS). AEP Texas Energy Efficiency will work with AEP Consumer Program Services to acquire AMS data. Metering may be required to ping meters or dispatch technicians to acquire incomplete meter data. AEP Consumer Program Services will send the AMS data to Frontier Energy who will import this AMS data into their eCurtail database, which will maintain, analyze, and calculate load reduction based on TRM calculations.

### Approach

Identification and verification is completed by acquiring AMS meter data, identifying and resolving incomplete data, and completing calculations in accordance with the TRM.

## Inspection Procedures

No onsite inspections are required in the Program.

## PROGRAM PROCESS

### Application

Potential Participants must complete an application to participate in the program. The application provides evidence of qualifications and identifies the participating ESIIDs. Submitted ESIIDs will be compared to the AEP Texas critical load and ERCOT ERS lists to ensure eligibility. Additionally, the Participant submits a load curtailment estimate as part of the application. Applications will be reviewed on a first-come, first-served basis. To enroll, participants will submit an application through an online database and sign applicable agreement documents. AEP Texas will provide notice to the Retail Electric Provider of record through MarkeTrak of ESI IDs belonging to the REP of Record that are enrolled in the Program and will provide notice to the REP of Record through MarkeTrak of any ESI IDs deployed or tested under the program.

### Participation and Incentive Payment

Participants must commit to: (a) one scheduled test curtailment of up to one hour during the Program operating period; and (b) a maximum of four unscheduled curtailments during the Program operating period, with each curtailment lasting up to four hours in duration. The scheduled test curtailment will be conducted to demonstrate that the participant is capable of curtailing at least 100 kW. The Participant incentive will be established based on average performance over all unscheduled events. If there are no unscheduled events, the Participant incentive will be established based on performance during the test event.

## PROGRAM PROMOTION

AEP Texas will conduct outreach to eligible program participants, including aggregation groups, retail electric providers, and non-residential customers that can identify curtailable load. Program promotion and outreach will utilize existing email distribution lists for non-residential customers.

## PILOT PROGRAM RATIONALE

As a pilot program, AEP Texas will test several aspects of the Program:

- demonstrate Program load reduction capabilities during the Program operating period;
- test the Program design, outreach and participant recruitment, program rules, data collection methodologies, and effectiveness of TRM calculations during the Program operating period;
- identify any issues with participant compliance and sustainability throughout the Program operating period; and
- identify the non-residential measures that provide significant load reduction during Program operating period.

AEP Texas designed the Program to incentivize participation during December, January, and February. The Program goal of achieving 10 MW in load reduction during the Program operating period is half of the goal of AEP Texas' summer load management goal because the winter program is shorter in duration and there will likely be a smaller pool of participants, as many of the summer participants are agricultural customers. Through its experience with its summer load management program, AEP Texas has found that a \$35.00/kW incentive is sufficient to attract

participants and cost effective. The pricing structure also provides Participants incentive to curtail their maximum approved kW. However, there is no minimum curtailment in order to receive an incentive payment, so that even if a customer is unable to meet a minimum threshold a Participant is still incentivized to curtail as much as they can. Permitting this flexibility will also allow AEP Texas to better understand Participant behavior and gather important data for improving the Program in the future. AEP Texas will use Program findings and lessons learned to prepare a permanent winter load management program beginning in December 2022.

## **CenterPoint Houston's Interim Load Management Program**

# CenterPoint Houston Electric, LLC's Interim Emergency Load Management Program

## Program Summary

Senate Bill 3, signed into law on June 8, allows Transmission and Distribution Utilities to design and operate a load management program for non-residential customers to reduce peak demand during grid emergencies. CenterPoint Energy Houston Electric, LLC's (CenterPoint Houston) Interim Emergency Load Management Program (Program) addresses the opportunity provided through SB3 by incentivizing program participants to provide reliable load curtailment that can be initiated when needed. Program participants (Project Sponsors) will include commercial customers, ~~and~~ aggregation groups, and retail electric providers who can curtail load with 30 minutes' notice, and participate in curtailment events 24 hours a day, seven days a week. CenterPoint Houston will operate the Program from December 1, 2021 through February 28, 2022.

## Program Objectives

The objectives of CenterPoint Houston's Interim Emergency Load Management Program are to

- Attain reliable peak demand reduction during grid emergencies; and
- Evaluate program impacts and processes to gain insights that support the design of future Emergency Load Management Activities

## Program Pricing

CenterPoint Houston will pay the Project Sponsor (e.g., customer, ~~or~~ third-party aggregator, or retail electric provider) an incentive payment of \$30.00 per kilowatt for verified curtailed load, up to the approved kilowatt amount for each site participating in the Interim Load Management Program.

## Eligibility

### Project Sponsor Eligibility

Project Sponsors will be required to demonstrate a commitment to fulfilling program objectives and competency in completing their proposed project. Project Sponsors will be required to provide information concerning their loads, facility characteristics, and curtailment process. Eligible Project Sponsors include:

- National or local energy service companies (ESCOs) or other aggregation groups.
- Retail Individual Non-Residential customers that identify curtailable load in their own facilities.
- Retail electric providers.

### Project and Site Eligibility

A project site is defined as one or more metered locations. A single project site may include multiple buildings served by a single IDR meter or Smart Meter, or Project Sponsors may include more than one project site in their applications provided each project site is:

- A non-residential customer served by CenterPoint Houston and able to provide on call curtailment during the Performance Period (December 1, 2021 through February 28, 2022).





- Served by an Interval Data Recorder (IDR) and/or Smart Meter that is monitored by CenterPoint Houston. If all buildings and meters are tied to one ESI ID, then they may be combined into a single project site.

Eligible Curtailable Loads listed on the project application and approved by CenterPoint Houston will be available for curtailment. This may be entire building(s) and/or individual end-use electricity consuming equipment. Curtailable Loads must meet the following requirements:

- Curtailable Loads must produce demand savings (reduction of electrical consumption at the meter) as the result of verified savings following a dispatched (noticed) curtailment.
- Curtailment is to be initiated within 30 minutes of notice, and last for the duration of the curtailment, not to exceed three hours for the Scheduled (test) Curtailment and four hours each Unscheduled Curtailment, at any time during the performance period (December 1, 2021-February 28, 2022).
- Project Sponsors must commit to making Curtailable Load available for all three months of the performance period.

The following Curtailable Loads are excluded from the program:

- Critical load or load curtailment that result in negative environmental or health effects. This restriction does not preclude the use of self-generation that is in compliance with applicable environmental and health and safety laws.
- Curtailable Loads that are eligible to earn incentive payments from other programs, including but not limited to programs available through ERCOT.

## **Program Demand Reduction Goal**

CenterPoint Houston seeks to have between 100 megawatts and 300 megawatts of curtailable load in its Interim Load Management Program.

## **Measurement and Verification**

CenterPoint Houston will perform the Monitoring and Verification (M&V) Process after each curtailment (Scheduled or Unscheduled). Demand savings and incentive payment amounts will be based on actual, verified Curtailable Load reduction. CenterPoint Houston will analyze meter data for each participating site to calculate load reduction using the methodology approved by the Commission in the Texas Technical Reference Manual.<sup>3</sup>

## **Program Process**

### **Application**

Potential Project Sponsors will be required to provide an application to CenterPoint Houston. Applicants must provide the following information for each ESIID included in the application,:

- Location and description of site

<sup>3</sup> See generally Energy Efficiency Implementation Project Under 16 TAC § 25.181(q), Project No. 38578, Commission Staff Approval of Texas Technical Reference Manual Version 8.0 (Apr. 7, 2021).

- Proposed curtailment amount
- Curtailment method
- Description of load to be curtailed

Submitted Applications will be reviewed by CenterPoint Houston to determine participant eligibility, and project feasibility based on submitted data. Applicants will be notified of their application status (participation approved or denied) and CenterPoint Houston will confirm the amount of load curtailment approved for each individual site. CenterPoint Houston will provide notice to the Retail Electric Provider of record through MarkeTrak of ESI IDs belonging to the REP of Record that are enrolled in the Program and will provide notice to the REP of Record through MarkeTrak of any ESI IDs deployed or tested under the program.

## **Participation**

CenterPoint Houston has set the maximum number of curtailments at six, including a maximum of two annual Scheduled (test) Curtailment(s), and a maximum of four annual Unscheduled Curtailments.

- Scheduled curtailments are for testing program effectiveness, and the duration of Scheduled Curtailments is one to three hours.
- Unscheduled Curtailment may occur in the event ERCOT notifies CenterPoint Houston to initiate curtailment. The duration of an Unscheduled Curtailment is one to four hours.

CenterPoint Houston will notify Project Sponsors of a curtailment event with thirty (30) minutes' notice of the event start-time. Curtailment times will not be limited to a specific set of hours or days per week.

## **Outreach**

CenterPoint Houston will recruit participants through direct outreach to customers, ~~and aggregation groups,~~ and retail electric providers. The Company will leverage its internal Key Account Managers to offer the program to customers and will also coordinate with its Marketing organization to deploy email campaigns promoting the program.

## **Savings Verification and Payment**

At the conclusion of the Program Performance Period, CenterPoint Houston will pay Project Sponsors an incentive for verified curtailed load, up to the approved kilowatt amount for each site participating in the Interim Load Management program. There is no obligation to pay for any load curtailment that exceeds the amount approved for the Project Sponsor. Performance will be measured and verified for each curtailment event; however, the total incentive paid after the conclusion of the program period will be based on the average performance over all events.



## TNMP's Interim Load Management Program

# TNMP Interim Load Management Pilot Program

## PROGRAM OVERVIEW

### Description

The Interim Load Management Pilot Program (Program) provides incentives to program participants (Participants) for curtailing electricity demand when requested by ERCOT, and during ERCOT emergencies. Participants include energy service companies, aggregation groups, retail electric providers, and individual nonresidential customers that can identify curtailable load. The Program will operate December 1 of the current program year through the last day in February of the following year (Program operating period). Participants must be available to curtail up to 24 hours a day, seven days a week, and be capable of curtailing load within 30 minutes notice. The minimum load reduction that may be subscribed in the Program is 100 kW.

Program savings are determined using the methodology approved by the Commission in the Texas Technical Reference Manual (TRM).<sup>4</sup> A scheduled test will be conducted to demonstrate that the participant is capable of curtailing load. The contracted demand reduction will be based on available Program budget. Final Program payments are determined by established Program rules and TRM calculations.

### Rationale

The Program seeks to support grid resiliency by providing load reduction capabilities in the commercial market. Additionally, the Program addresses the requirements of Senate Bill 3.

### Program Objectives

The primary objective of this Program is to achieve demand reduction to support ERCOT. Additional objectives of the Program are to gather information to streamline Program processes, to improve program design, and optimize outreach to increase participation to encompass winter and/or 24/7 operations in a full Standard Offer Program.

## PROGRAM PRICING

### Program Goals and Budget

The Program seeks to achieve 1.5 MW in load reduction during the pilot operating period, with a budget of \$60,000.

### Pricing Structure

Standard incentives are offered for demand savings, based on TRM calculations. Incentive payments shall not exceed the budget.

## ELIGIBILITY

### Participant

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<sup>4</sup> The current approved TRM can be found at *Energy Efficiency Implementation Project Under 16 TAC § 25.181(q)*, Project No. 38578, Commission Staff Approval of Texas Technical Reference Manual Version 8.0 (Apr. 7, 2021).

All TNMP individual nonresidential customers, as well as energy service companies, ~~and aggregation groups, and retail electric providers~~ are eligible to participate. Each Participant must subscribe a minimum of 100 kW of load reduction to be eligible in the Program. Critical load and customers participating in other load management programs, such as ERS are ineligible. Eligibility is determined at the ESIID level. Additionally, load curtailment that will result in negative environmental or health effects are ineligible. This restriction does not preclude the use of self-generation that is in compliance with applicable environmental and health and safety laws.

### **Measure**

Participants must be capable of curtailing their contracted demand reduction within 30 minutes of notification. Based on ERCOT's direction, events may be called at any time during the Program operating period. TNMP may call a maximum of four events, plus one scheduled test, during the Program operating period with any single event lasting from 1 to 4 hours.

## **MEASUREMENT AND VERIFICATION**

### **Purpose**

Measurement and verification through TNMP's third-party eCurtail system to verify Participant load reduction and to calculate the Participant payment.

### **Responsibility**

TNMP Energy Efficiency (EE) will utilize internal systems to acquire AMS data. EE will work with eCurtail manager Frontier Energy to analyze the AMS data and calculate load reduction based on TRM calculations.

### **Approach**

Measurement and verification is completed by acquiring AMS meter data, uploading that data into the eCurtail system, identifying and resolving incomplete data, and completing calculations in accordance with the TRM.

### **Inspection Procedures**

No onsite inspections are required in the Program.

## **PROGRAM PROCESS**

### **Application**

Potential Participants must complete an application to participate in the program. The application provides evidence of qualifications and identifies the participating ESIIDs. Submitted ESIIDs will be compared to the TNMP critical load and ERCOT ERS lists to ensure eligibility. Additionally, the Participant submits a load curtailment estimate as part of the application. Applications will be reviewed on a first-come, first-served basis. TNMP will provide notice to the Retail Electric Provider of record through MarkeTrak of ESI IDs belonging to the REP of Record that are enrolled in the Program and will provide notice to the REP of Record through MarkeTrak of any ESI IDs deployed or tested under the program.

### **Participation**

A test event will be scheduled and participants are required to demonstrate that they can curtail load. TNMP will determine the response of each participant using AMS data and the TRM. The Participant contract Obligation will be established based on available budget.





Any actual events called by ERCOT during the operation period will be evaluated using AMS data.

### **Payment**

At the end of the Program operating period, TNMP will analyze Participant response across all events. TNMP will calculate the incentive payment based on the average of verified curtailed load across all events. In the absence of events beyond the test event, the customer payment will be based on the verified curtailed load during the scheduled test. The events will be logged, and TNMP may work with a third-party vendor to address lessons learned prior to opening the Standard Offer Program in December 2022.

### **PROGRAM PROMOTION**

TNMP will reach out directly to 2021 TNMP Load Management participants to recruit participation.

### **PROGRAM SAVINGS DETERMINATION**

Program savings determination is calculated as the sum of the verified kW for all Participants. TNMP will also report any additional Program savings achieved but not paid. This additional savings will not be eligible for incentives.

### **PILOT PROGRAM**

The Program is a pilot program. Several unique scenarios exist when implementing an up-to 24 hour a day, 7 days a week program in the commercial market.

As a pilot program, TNMP will test several aspects of the Program:

- demonstrate Program load reduction capabilities during the Program operating period;
- test the Program design, outreach and participant recruitment, program rules, data collection methodologies, and effectiveness of TRM calculations during the Program operating period;
- identify any issues with participant compliance and sustainability throughout the Program operating period;
- identify the commercial measures that provide significant load reduction during the Program operating period; and
- provide a basis for Program reported savings and cost recovery.

TNMP will use Program findings and lessons learned to prepare a Standard Offer program beginning in December 2022.

Attachment B to the Agreement

**DOCKET NO. 52689**

<b>EXPEDITED PETITION FOR</b>	<b>§</b>	<b>PUBLIC UTILITY</b>
<b>APPROVAL OF INTERIM LOAD</b>	<b>§</b>	
<b>MANAGEMENT PROGRAMS FOR</b>	<b>§</b>	<b>COMMISSION OF TEXAS</b>
<b>NONRESIDENTIAL CUSTOMERS AND</b>	<b>§</b>	
<b>FOR AN ACCOUNTING ORDER</b>	<b>§</b>	

**ORDER APPROVING THE DESIGN AND OPERATION OF INTERIM LOAD MANAGEMENT PROGRAMS FOR NONRESIDENTIAL CUSTOMERS AND THE ESTABLISHMENT OF A REGULATORY ASSET FOR ASSOCIATED COSTS**

This Order addresses the Expedited Petition filed by AEP Texas Inc. (AEP Texas); CenterPoint Energy Houston Electric, LLC (CenterPoint Houston); and Texas-New Mexico Power Company (TNMP) (collectively, the Joint TDUs) seeking approval of: (1) the design and operation of load management programs for nonresidential customers during the period of December 1, 2021 through February 28, 2022 (the Interim Load Management Programs) and (2) the recording of a regulatory asset for reasonable and necessary costs associated with the design and operation of the Interim Load Management Programs and for future load management programs for nonresidential customers. Public Utility Commission of Texas (Commission) Staff and the Joint TDUs filed a Stipulation and Settlement Agreement (Agreement) that resolves all issues related to the Joint TDUs' Expedited Petition and their respective Interim Load Management Programs. The Commission approves the Joint TDUs' Expedited Petition, as modified by the Agreement, to the extent provided in this Order.

**I. Findings of Fact**

The Commission makes the following findings of fact:

**The Joint TDUs**

1. The Joint TDUs provide electric transmission and distribution services in the Electric Reliability Council of Texas (ERCOT) power region.
2. AEP Texas is a Delaware corporation registered with the Texas Secretary of State under filing number 802611352. AEP Texas is a transmission and distribution utility and is required under certificate of convenience and necessity (CCN) numbers 30028 and 30170 to provide service to the public and retail electric utility service within its certificated service area.

3. CenterPoint Houston is a Texas limited liability company registered with the Texas Secretary of State under filing number 800119842. CenterPoint Houston is a transmission and distribution utility and is required under certificate of convenience and necessity number 30086 to provide service to the public and retail electric utility service within its certificated service area.
4. TNMP is a Texas corporation registered with the Texas Secretary of State under filing number 19241500. TNMP is a transmission and distribution utility and is required under CCN number 30038 to provide service to the public and retail electric utility service within its certificated service area.

### **Expedited Petition**

5. On October 8, 2021, the Joint TDUs filed an Expedited Petition requesting, on an expedited basis, Commission approval of the design and operation of the Interim Load Management Programs, operated outside of the Joint TDUs' respective Commission-approved energy efficiency programs, and the recording of a regulatory asset for the reasonable and necessary costs associated with the Interim Load Management Programs and with future load management programs for nonresidential customers.
6. On October 12, 2021, the Commission issued Order No. 1, which required Commission Staff to file its recommendation on the Expedited Petition by October 20, 2021.
7. On October 20, 2021, Commission Staff filed its recommendation regarding the processing of the Expedited Petition, the sufficiency of the Expedited Petition, and the notice proposed by the Joint TDUs. Commission Staff recommended that the Joint TDUs be required to provide additional information on their respective Interim Load Management Programs. Commission Staff also recommended that the Joint TDUs be required to provide notice to all the participants in their last respective base rate cases.
8. On October 20, 2021, the Commission issued Order No. 2, which required the Joint TDUs to provide additional details of their respective Interim Load Management Programs, file proof of notice, and to file proposed notice for publication in the *Texas Register*. Order No. 2 also established November 3, 2021 as the deadline for Commission Staff to file a supplemental recommendation on the sufficiency of the Expedited Petition and ~~the Joint TDUs' proposed notice~~.

9. On November 1, 2021, the Joint TDUs filed additional information on their respective Interim Load Management Programs.

~~9-10.~~ On \_\_\_\_\_, 2021 Commission Staff filed a supplemental recommendation on the Expedited Petition and notice.

### **Notice of the Expedited Petition**

~~10-11.~~ On October 22, 2021, the Joint TDUs each filed their respective proof of notice of the Expedited Petition. AEP provided notice of the Expedited Petition on October 21, 2021 to all the participants in its last base rate case. CenterPoint Houston provided notice of the Expedited Petition on October 21, 2021 to all the participants in its last base rate case. TNMP provided notice of the Expedited Petition on October 21, 2021 to all the participants in its last base rate case.

### **Staff and Intervenors**

~~11-12.~~ Commission Staff participated in this docket.

13. On \_\_\_\_\_ November 12, 2021, the Commission issued Order No. ~~\_\_\_~~, 4, which granted the motions to intervene filed by the Texas Industrial Energy Consumers, the Gulf Coast Coalition of Cities, the City of Houston, ~~and~~ the Office of Public Utility Counsel (OPUC).

~~12-14.~~ On \_\_\_\_\_, 2021, the Commission issued Order No. \_\_\_\_\_, which granted the motions to intervene filed by Texas Competitive Power Advocates and the Alliance for Retail Markets.

### **Testimony**

~~13-15.~~ On November 9, 2021, the Joint TDUs filed their respective testimonies in support of the Agreement.

### **Evidentiary Record**

~~14-16.~~ In Order No. \_\_\_\_\_ filed on \_\_\_\_\_, 2021, the Commission admitted the following into the evidentiary record:

- Expedited Petition (filed on October 8, 2021);
- The Joint TDUs' Response to Order No. 2 and respective proofs of notice (filed on October 22, 2021);

- The Joint TDUs' Additional Information and description of the Joint TDUs' respective Interim Load Management Programs (filed on November 1, 2021);
- Agreement (filed on November 9, 2021);
- Direct Testimony of Shea Richardson (filed on November 9, 2021);

- Direct Testimony of Robert Cavazos (filed on November 9, 2021); and
- Direct Testimony of Stefani Case (filed on November 9, 2021).

**AEP Texas’ Interim Load Management Program**

~~15-~~17. Under AEP Texas’ Interim Load Management Program, incentives will be provided to program participants to curtail electricity demand when ERCOT has declared a Level 2 Emergency or higher or has otherwise directed AEP Texas to shed load. The program period for AEP Texas’ Interim Load Management Program will be from December 1, 2021 through February 28, 2022. AEP Texas nonresidential customers, national or local energy service companies, ~~and~~ aggregation groups, and retail electric providers that can identify curtailable load are eligible to participate in AEP Texas’ Interim Load Management Program and must subscribe a minimum of 100 kilowatts (kW) of load reduction. Critical load and customers participating in other load management programs, such as ERCOT Emergency Response Service (ERS), are ineligible. Additionally, load curtailment that will result in negative environmental or health effects are ineligible. This restriction does not preclude the use of self-generation that is in compliance with applicable environmental and health and safety laws.

~~16-~~18. Program participants must be able to curtail twenty-four hours a day, seven days a week and must be capable of curtailing load within 30 minutes’ notice. Program participants must commit to one scheduled test curtailment of up to one hour during the program period, and AEP Texas may call a maximum of four unscheduled events during the program period, with any single event lasting no more than four hours. The test curtailment will be conducted to demonstrate that the program participant is capable of curtailing at least 100 kW.

~~17-~~19. AEP Texas seeks to achieve 10 megawatts (MW) in load reduction during the program period. A project sponsor (i.e., customer, ~~or~~ third party aggregator, or retail electric provider) will receive an incentive payment of \$35 per kW of verified curtailed load, up to the approved kW for each site participating in AEP Texas’ Interim Load Management Program. Program participants will receive an incentive payment based on average performance over all unscheduled curtailment events. If there are no unscheduled events, program participants will receive an incentive payment based on performance during the test curtailment. AEP Texas will

verify a program participant's curtailment using the methodology approved by the Commission in the applicable Technical Reference Manual (TRM). AEP Texas will identify and verify a program participant's load data through AEP Texas' Advanced Metering System (AMS).

~~18-20.~~ AEP Texas will conduct outreach to nonresidential customers, ~~and~~ aggregation groups and retail electric providers. Promotion and outreach will utilize existing e-mail distribution lists.

### **CenterPoint Houston's Interim Load Management Program**

~~19-21.~~ Under CenterPoint Houston's Interim Load Management Program, incentives will be provided to program participants to curtail electricity demand when ERCOT has declared a Level 2 Emergency or higher or has otherwise directed CenterPoint Houston to shed load. The program period for CenterPoint Houston's Interim Load Management Program will be from December 1, 2021 through February 28, 2022. Eligible program participants are individual nonresidential customers that can identify curtailable load, national or local energy service companies, ~~and~~ aggregation groups, and retail electric providers. Critical load and customers participating in other load management programs, such as ERCOT ERS, are ineligible. Additionally, load curtailment that will result in negative environmental or health effects are ineligible. This restriction does not preclude the use of self-generation that is in compliance with applicable environmental and health and safety laws.

~~20-22.~~ Program participants must be able to curtail load twenty-four hours a day, seven days a week and must be capable of curtailing load within 30 minutes' notice. Program participants must commit to six curtailments during the program period, with a maximum of two scheduled test curtailments, with a duration of one to three hours, and a maximum of four unscheduled curtailments, with the duration of one to four hours.

~~21-23.~~ CenterPoint Houston seeks to have between 100 to 300 MW of curtailable load in its Interim Load Management Program. A project sponsor (i.e., customer, ~~or~~ third party aggregator, or retail electric provider) will receive an incentive payment of up to \$30 per kW for verified curtailed load, up to the approved kW amount for each site participating in the Interim Load Management Program. Performance will be measured and verified for each curtailment event. The total incentive paid after the conclusion of the program period will be based on the average performance over all events. CenterPoint Houston will verify a program



participant's curtailment using the methodology approved by the Commission in the applicable TRM. CenterPoint Houston will perform the monitoring and verification process after each curtailment, scheduled or unscheduled. Demand savings will be based on actual, verified curtailed load, based on meter data for each participating site.

~~22-24.~~ CenterPoint Houston will market to potential program participants through direct outreach to nonresidential customers, ~~and aggregation groups,~~ and retail electric providers. CenterPoint Houston will coordinate with its internal key account managers and marketing department to deploy marketing campaigns that promote the Interim Load Management Program.

### **TNMP's Interim Load Management Program**

~~23-25.~~ Under TNMP's Interim Load Management Program, incentives will be provided to program participants to curtail electricity demand when ERCOT has declared a Level 2 Emergency or higher or has otherwise directed TNMP to shed load. The program period for TNMP's Interim Load Management Program will be from December 1, 2021 through February 28, 2022. Eligible program participants are individual nonresidential customers that can identify curtailable load, energy service companies, ~~and aggregation groups,~~ and retail electric providers. The minimum load reduction that may be subscribed in the program is 100 kW. Critical load and customers participating in other load management programs, such as ERCOT ERS, are ineligible. Additionally, load curtailment that will result in negative environmental or health effects are ineligible. This restriction does not preclude the use of self-generation that is in compliance with applicable environmental and health and safety laws.

~~24-26.~~ Program participants must be able to curtail load up to twenty-four hours a day, seven days a week and must be capable of curtailing load within 30 minutes notice. Program participants must commit to five curtailments during the program period, with one scheduled test curtailment, with a duration of one to four hours, and a maximum of four unscheduled curtailments, with the duration of one to four hours.

~~25-27.~~ TNMP seeks to achieve 1.5 MW in load reduction during the program period. A project sponsor will receive an incentive payment, based on TRM calculations, of up to \$40 per kW. The incentive payment will be calculated based on participant program participant response across all events and based on program rules and incentive levels. If there are no unscheduled events, program participants will receive an incentive payment based on the

average of verified curtailed load across all events. TNMP will verify a program participant's curtailment using the methodology approved by the Commission in the applicable TRM. TNMP will use a third-party system to verify program participant load reduction and to calculate the incentive payment. AMS data will be analyzed.

~~26-28.~~ TNMP will conduct direct outreach to potential participants.

### **Agreement**

~~27-29.~~ 27. Under the Agreement, Commission Staff and the Joint TDUs have agreed to the following:

- a. The design and operation of AEP Texas' Interim Load Management Program, as described in Attachment A to the Agreement, to be operated outside of AEP Texas' Commission-approved energy efficiency programs.
- b. The design and operation of CenterPoint Houston's Interim Load Management Program, as described in Attachment A to the Agreement, to be operated outside of CenterPoint Houston's Commission-approved energy efficiency programs.
- c. The design and operation of TNMP's Interim Load Management Program, as described in Attachment A to the Agreement, to be operated outside of TNMP's Commission-approved energy efficiency programs.

~~28-30.~~ 28. Under the Agreement, Commission Staff and the Joint TDUs have agreed to the following:

- a. AEP Texas may record a regulatory asset for the reasonable and necessary costs for the design and operation of AEP Texas' Interim Load Management Program.
- b. CenterPoint Houston may record a regulatory asset for the reasonable and necessary costs for the design and operation of CenterPoint Houston's Interim Load Management Program.
- c. TNMP may record a regulatory asset for the reasonable and necessary costs for the design and operation of TNMP's Interim Load Management Program.

~~29-31.~~ 29. Under the Agreement, Commission Staff and the Joint TDUs have agreed to the following:

- a. Incremental costs associated with the design and operation of the Joint TDUs' respective Interim Load Management Programs or future load management programs for nonresidential customers that will be included in the Joint TDUs' respective regulatory assets must not be costs currently recovered through other means.

- b. Any affiliate costs that will be included in the Joint TDUs' respective regulatory assets must comply with the standards set out in Public Utility Regulatory Act<sup>1</sup> (PURA) § 36.058 and the Commission's rules.
- c. Recovery of the costs associated with the Joint TDUs respective Interim Load Management Programs, including the determination of the reasonableness and necessity, will be addressed in subsequent proceedings, including the Joint TDUs' next respective base rate case proceedings or any proceeding designated or created by the Commission.
- c. The Joint TDUs will confer and coordinate with Commission Staff and ERCOT regarding deployment and operation of the Interim Load Management Programs.

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**Informal Disposition**

~~30-32.~~ Commission Staff, the Joint TDUs, Texas Industrial Energy Consumers, the Gulf Coast Coalition of Cities, the City of Houston, ~~and~~ OPUC, Texas Competitive Power Advocates, and the Alliance for Retail Markets are the only parties to this proceeding.

~~31-33.~~ Commission Staff and the Joint TDUs signed the Agreement. Texas Industrial Energy Consumers, the Gulf Coast Coalition of Cities, the City of Houston, ~~and~~ OPUC, Texas Competitive Power Advocates, and the Alliance for Retail Markets are unopposed to the Agreement.

~~32-34.~~ No hearing is needed.

~~33-35.~~ The decision is not adverse to any party.

**II. Conclusions of Law**

The Commission makes the following conclusions of law.

1. The Commission has jurisdiction over this matter under PURA §§ 14.001, 14.151, 32.001, 38.075.
2. AEP Texas, CenterPoint Houston, and TNMP are each an electric utility as defined by PURA § 31.002(6) and are each a transmission and distribution utility as defined by PURA § 31.002(19).
3. ~~Under PURA § 38.075(e),~~ AEP Texas, CenterPoint Houston, and TNMP are permitted to design and operate load management programs for nonresidential customers to be used

<sup>1</sup> Tex. Util. Code §§ 11.001-66.016.

where ERCOT has declared a Level 2 Emergency or a higher level of emergency or has otherwise directed the transmission and distribution utility to shed load and are permitted to recover reasonable and necessary costs of such programs.

4. Under PURA § 14.151, the Commission has authority over the books and records of AEP Texas, CenterPoint Houston, and TNMP.
5. Reasonable notice of this proceeding was provided via AEP Texas, CenterPoint Houston, and TNMP providing notice to all participants in their last respective base rate cases.

### **III. Ordering Paragraphs**

In accordance with these findings of fact and conclusions of law, the Commission issues the following orders:

1. The Commission approves the design and operation of AEP Texas', CenterPoint Houston's, and TNMP's respective Interim Load Management Programs, as further described in Attachment A to the Agreement, with the operation of such Interim Load Management Programs being outside of AEP Texas', CenterPoint Houston's, and TNMP's respective Commission-approved energy efficiency programs.
2. AEP Texas, CenterPoint Houston, and TNMP may each record a regulatory asset for reasonable and necessary costs associated with the design and operation of their respective Interim Load Management Programs.
3. Incremental costs associated with the design and operation of the Joint TDUs' respective Interim Load Management Programs that will be included in the Joint TDUs' respective regulatory assets must not be costs that are recovered through other means. Any affiliate costs that will be included in the Joint TDUs' respective regulatory assets must comply with the standards set out in PURA § 36.058 and the Commission's rules.
4. The costs associated with the Interim Load Management Programs will be addressed and recovered in a subsequent proceeding.
5. The Commission denies all other motions and any other requests for general or specific relief that have not been expressly granted.

**Signed at Austin, Texas the \_\_\_\_\_ day of \_\_\_\_\_, 2021**

PUBLIC UTILITY COMMISSION OF TEXAS

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PETER M. LAKE, CHAIRMAN

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WILL MCADAMS, COMMISSIONER

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LORI COBOS, COMMISSIONER

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JIMMY GLOTFELTY, COMMISSIONER