



Control Number: 52689



Item Number: 39

DOCKET NO. 52689

2022 JAN 12 PM 1:18

**EXPEDITED PETITION FOR
APPROVAL OF INTERIM LOAD
MANAGEMENT PROGRAMS FOR
NONRESIDENTIAL CUSTOMERS AND
FOR AN ACCOUNTING ORDER**

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**PUBLIC UTILITY COMMISSION
OF TEXAS**

ORDER

This Order addresses the applications of AEP Texas Inc., CenterPoint Energy Houston Electric, LLC, and Texas-New Mexico Power Company to defer expenses for interim load-management programs and record those expenses in an asset account. To the extent provided in this Order, the Commission approves the requested accounting treatment. In addition, the Commission orders these utilities and Oncor Electric Delivery Company LLC to notify the Electric Reliability Council of Texas of certain aspects of their respective load-management programs.

I. Findings of Fact

The Commission makes the following findings of fact.

Applicants

1. AEP Texas Inc. is a Delaware corporation registered with the Texas secretary of state under filing number 802611352.
2. AEP owns facilities and equipment to provide transmission and distribution service under certificate of convenience and necessity (CCN) numbers 30028 and 30170.
3. CenterPoint Energy Houston Electric, LLC is a Texas limited liability company registered with the Texas secretary of state under filing number 800119842.
4. CenterPoint owns facilities and equipment to provide transmission and distribution service under CCN number 30086.
5. Texas-New Mexico Power Company (TNMP) is a Texas corporation registered with the Texas secretary of state under filing number 19241500.
6. TNMP owns facilities and equipment to provide transmission and distribution service under CCN number 30038.

Application

7. On October 8, 2021, AEP, CenterPoint, and TNMP filed as a single document applications seeking approval of an interim load-management program for nonresidential customers and deferred accounting treatment for the costs of the program.
8. In Order No. 2 filed on October 20, 2021, the administrative law judge (ALJ) found the applications deficient and directed the applicants to provide comprehensive details of their programs.
9. In a filing made on October 22, 2021, the applicants stated they were working on providing details of their respective load-management programs and would file those details by October 27, 2021.
10. On November 1, 2021, AEP, CenterPoint, and TNMP supplemented their applications by filing additional information that described each of their load-management programs.

Notice of the Application

11. In Order No. 2 filed on October 20, 2021, the ALJ directed the applicants to provide notice of the applications to every participant in the applicant's last base-rate proceeding, file proof of notice, and file a proposed notice for publication in the *Texas Register*.
12. AEP provided notice of the application on October 21, 2021 to all the participants in its last base-rate proceeding, Docket No. 49494.¹
13. CenterPoint provided notice of the application on October 21, 2021 to all the participants in its last base-rate proceeding, Docket No. 49421.²
14. TNMP provided notice of the application on October 21, 2021 to all the participants in its last base-rate proceeding, Docket No. 48401.³

¹ *Application of AEP Texas Inc. for Authority to Change Rates*, Order (Apr. 6, 2020).

² *Application of CenterPoint Energy Houston Electric, LLC for Authority to Change Rates*, Docket No. 49421, Order (Mar. 9, 2020).

³ *Application of Texas-New Mexico Power Company to Change Rates*, Docket No. 48401, Order (Dec. 20, 2018).

15. On October 22, 2021, the affidavit of Gregory Gullickson, a regulatory consultant for AEP, was filed: he attested to the provision of notice to all the participants in AEP's last base-rate proceeding.
16. On October 22, 2021, the affidavit of Michael Burleson, an employee of CenterPoint, was filed: he attested to the provision of notice to all the participants in CenterPoint's last base-rate proceeding.
17. On October 22, 2021, the affidavit of Cathie Piontek, a paralegal at TNMP, was filed: she attested to the provision of notice to all the participants in TNMP's last base-rate proceeding.

Parties

18. In Order No. 4 filed on November 12, 2021, the ALJ granted motions to intervene filed by the Texas Industrial Energy Consumers (TIEC), the Gulf Coast Coalition of Cities, the City of Houston, and the Office of Public Utility Counsel (OPUC).
19. The following cities constitute the Gulf Coast Coalition of Cities in this proceeding: Alvin, Brazos Country, Brookshire, Bunker Hill Village, Clear Lake Shores, Deer Park, Dickinson, Friendswood, Fulshear, Galveston, Hedwig Village, Hilshire Village, Hunters Creek, Iowa Colony, Jersey Village, Kemah, La Marque, Lake Jackson, Manvel, Missouri City, Mont Belvieu, Morgan's Point, Nassau Bay, Oyster Creek, Pattison, Piney Point Village, Pleak, Rosenberg, Santa Fe, Seabrook, Sealy, Simonton, South Houston, Spring Valley Village, Stafford, Sugar Land, Taylor Lake Village, Texas City, Tiki Island, Webster, and Weston Lakes.
20. In Order No. 6 filed on November 29, 2021, the ALJ granted motions to intervene filed by the Texas Competitive Power Advocates and the Alliance for Retail Markets.

Agreement

21. An agreement was filed on November 9, 2021 that addressed aspects of each applicant's proposed interim load-management program and was executed by AEP, CenterPoint, TNMP, and Commission Staff.

22. Attached to the agreement were modified (from the November 1 filing) descriptions of the applicants' load-management programs.
23. A second agreement (hereafter the agreement) was filed on November 29, 2021 that addressed aspects of each applicant's proposed interim load-management program and was executed by AEP, CenterPoint, TNMP, Commission Staff, and the Alliance for Retail Markets (the signatories). OPUC, the City of Houston, the Gulf Coast Coalition of Cities, and TIEC did not sign, but do not oppose, the agreement.
24. Attached to the agreement were modified (from the November 9 filing) descriptions of the applicants' load-management programs. As modified, the plans included express budget caps of the program costs, modified eligibility to include retail electric providers and exclude load due to operational inability, addressed notice to retail electric providers, and reduced the maximum load eligible to enroll in CenterPoint's program.

Terms of Agreement

25. The signatories agreed that AEP, CenterPoint, and TNMP may each design and operate an interim load-management program for nonresidential customers from December 1, 2021 to February 28, 2022 and that each of their respective interim load-management programs, as described in attachment A to the agreement, will be operated outside of each utility's Commission-approved energy-efficiency program.
26. The signatories agreed that AEP, CenterPoint, and TNMP may each record the reasonable and necessary costs associated with the design and operation of their respective interim load-management programs in an asset account.
27. The signatories agreed that incremental costs associated with the design and operation of the respective interim load-management programs that will be included in an asset account authorized by this Order must not be costs that are recovered through other means.
28. The signatories agreed that any affiliate costs that will be included in an asset account authorized by this Order must comply with the standards in PURA § 36.058 and Commission rules.

29. The signatories agreed that the determination of the reasonableness and necessity of the costs associated with the interim load-management programs, as well as the inclusion of such costs in rates, will be addressed in subsequent proceedings, including the next base-rate proceeding for each of the applicants.
30. AEP, CenterPoint, and TNMP each agreed to confer and coordinate with Commission Staff and the Electric Reliability Council of Texas, Inc. (ERCOT) regarding deployment and operation of the interim load-management programs.
31. The agreement permits retail electric providers to participate in an interim load-management program, establishes budget caps for each interim load-management program, and addresses certain notice issues.
32. The signatories agreed that AEP, CenterPoint, and TNMP will request consent from enrolling customers during enrollment in an interim load-management program to provide notice to the enrolling customers' retail electric provider of record of the customer's enrollment and deployment of load curtailment of the customer's load in the interim load-management program.
33. The signatories agreed that, for customers that have provided consent to notify their retail electric provider, AEP, CenterPoint, and TNMP will provide notice within three business days to the customer's retail electric provider of record subsequent to the customer's enrollment in an interim load-management program and subsequent to the deployment of load curtailment in an interim load-management program.

AEP's interim load-management program

34. Under its interim load-management program, AEP will pay program participants to curtail electricity demand when ERCOT has declared a level 2 or higher energy emergency alert or has otherwise directed AEP to shed load.
35. AEP proposed that its interim load-management program start December 1, 2021 and run through February 28, 2022.
36. AEP's nonresidential customers, national or local energy service companies, aggregation groups, and retail electric providers are eligible to participate in AEP's interim load-

management program if they (a) can identify curtailable load, (b) subscribe a minimum of 100 kilowatts (kW) of load reduction, (c) are able to curtail their load twenty-four hours a day, seven days a week, and (d) are capable of curtailing load within 30 minutes' notice.

37. Participants must commit to one scheduled test curtailment of up to one hour during the program period. The test curtailment will be conducted to demonstrate that the program participant is capable of curtailing at least 100 kW.
38. Critical load, customers participating in other load management programs—such as ERCOT's emergency response service—and load that is curtailed due to operational inability are ineligible to participate in AEP's program.
39. Load curtailment that will result in negative environmental or health effects is ineligible to participate in AEP's program, but this restriction does not preclude the use of self-generation that is in compliance with applicable environmental and health and safety laws.
40. AEP may call a maximum of four unscheduled events during the program period, with any single event lasting no more than four hours.
41. AEP seeks to achieve 10 megawatts (MW) in load reduction during the program period.
42. AEP has capped its budget for its program at \$350,000.
43. AEP will pay program participants \$35 per kW of verified curtailed load, up to the approved amount of load for each site participating in AEP's interim load-management program.
44. Program participants will receive an incentive payment based on average performance over all unscheduled curtailment events.
45. If there are no unscheduled events, program participants will receive an incentive payment based on performance during the scheduled test curtailment. AEP will verify a program participant's curtailment using the methodology approved by the Commission in the applicable *Texas Technical Reference Manual*.
46. AEP will identify and verify a program participant's load data through AEP's advanced metering system and will provide that data to Frontier Energy who will maintain and analyze the data and calculate load reduction.

47. AEP will reach out to nonresidential customers, aggregation groups, and retail electric providers. Promotion and outreach will use existing e-mail distribution lists.
48. Potential participants must complete an application to demonstrate eligibility for the program. Applications will be reviewed on a first-come-first-served basis.
49. AEP will request consent from program participants during enrollment in the program to provide notice to the enrolling customers' retail electric provider of record of the customer's enrollment and deployment of the customer's load curtailment in the program.
50. For each customer that has provided such consent, AEP will provide notice within three business days to the customer's retail electric provider of record subsequent to the customer's enrollment in an interim load-management program and subsequent to the deployment of load curtailment in an interim load-management program.

CenterPoint's interim load-management program

51. Under its interim load-management program, CenterPoint will pay program participants to curtail electricity demand when ERCOT has declared a level 2 or higher energy emergency alert or has otherwise directed CenterPoint to shed load.
52. CenterPoint proposed that its interim load-management program will run from December 1, 2021 through February 28, 2022.
53. Participants eligible to participate in CenterPoint's program are individual nonresidential customers that can identify curtailable load, national or local energy service companies, aggregation groups, and retail electric providers.
54. Critical load, customers participating in other load management programs, such as ERCOT ERS, and load that is curtailed due to operational inability are ineligible.
55. Additionally, load curtailment that will result in negative environmental or health effects are ineligible, but this restriction does not preclude the use of self-generation that is in compliance with applicable environmental and health and safety laws.
56. 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.

57. Program participants must commit to six curtailments during the program period, with a maximum of two scheduled test curtailments lasting one to three hours each and a maximum of four unscheduled curtailments lasting one to four hours each.
58. CenterPoint seeks to have between 100 to 150 MW of curtailable load in its interim load-management program.
59. CenterPoint has capped its budget for its program at \$4,500,000.
60. CenterPoint will pay program participants \$30 per kW for verified curtailed load, up to the approved amount of load for each site participating in the interim load-management program.
61. Performance will be measured and verified for each curtailment event.
62. The total incentive paid after the conclusion of the program period will be based on the average performance over all events.
63. CenterPoint will verify a program participant's curtailment using the methodology approved by the Commission in the applicable *Texas Technical Reference Manual*.
64. CenterPoint will perform the monitoring and verification process after each scheduled or unscheduled curtailment.
65. Demand savings will be based on the actual and verified load curtailed based on meter data for each participating site.
66. CenterPoint will market to potential program participants through direct outreach to nonresidential customers, aggregation groups, and retail electric providers.
67. CenterPoint will coordinate with its internal key account managers and marketing department to deploy marketing campaigns that promote the interim load-management program.
68. CenterPoint will request consent from program participants during enrollment in the program to provide notice to the enrolling customers' retail electric provider of record of the customer's enrollment and deployment of the customer's load curtailment in the program.

69. For each customer that has provided such consent, CenterPoint will provide notice within three business days to the customer's retail electric provider of record subsequent to the customer's enrollment in an interim load-management program and subsequent to the deployment of load curtailment in an interim load-management program.

TNMP's interim load-management program

70. Under TNMP's interim load-management program, TNMP will pay program participants to curtail electricity demand when ERCOT has declared a level 2 or higher energy emergency alert or has otherwise directed TNMP to shed load.
71. The program period for TNMP's interim load-management program will be from December 1, 2021 through February 28, 2022.
72. Eligible program participants are individual nonresidential customers that can identify curtailable load, energy service companies, aggregation groups, and retail electric providers.
73. The minimum load reduction to which a participant may subscribe is 100 kW.
74. Critical load, customers participating in other load management programs such as ERCOT emergency response service, and load that is curtailed due to operational inability are ineligible.
75. Load curtailment that will result in negative environmental or health effects are ineligible, but this restriction does not preclude the use of self-generation that is in compliance with applicable environmental and health and safety laws.
76. 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.
77. Program participants must commit to five curtailments during the program period, with one scheduled test curtailment lasting one to four hours and a maximum of four unscheduled curtailments lasting one to four hours.
78. TNMP seeks to achieve 1.5 MW in load reduction during the program period.
79. TNMP has capped its budget for its program at \$60,000.

80. TNMP will pay program participants up to \$40 per kW of verified curtailed load, up to the approved amount of load for each participant.
81. The incentive payment will be calculated based on a participant's response across all events and based on program rules and incentive levels.
82. If there are no unscheduled events, program participants will receive an incentive payment based on the average of verified curtailed load across all events.
83. TNMP will verify a program participant's curtailment using the methodology approved by the Commission in the applicable *Texas Technical Reference Manual*.
84. TNMP will use a third-party system to verify program-participant load reduction and to calculate the incentive payment.
85. TNMP will conduct direct outreach to potential participants.
86. TNMP will request consent from program participants during enrollment in the program to provide notice to the enrolling customer's retail electric provider of record of the customer's enrollment and deployment of the customer's load curtailment in the program.
87. For customers that have provided such consent, TNMP will provide notice within three business days to the customer's retail electric provider of record subsequent to the customer's enrollment in an interim load-management program and subsequent to the deployment of load curtailment in an interim load-management program.

Testimony, Comments, and Statements of Position

88. On October 15, 2021, Oncor Electric Delivery Company LLC filed comments regarding its winter load-management programs.
89. On November 9, 2021, AEP filed in support of the agreement the direct testimony of Robert Cavazos, AEP's energy-efficiency and consumer programs manager.
90. On November 9, 2021, CenterPoint filed in support of the agreement the direct testimony of Shea Richardson, CenterPoint's manager of energy-efficiency compliance.

91. On November 9, 2021, TNMP filed in support of the agreement the direct testimony of Stefani Case, TNMP's energy-efficiency manager for regulatory policy and case management.
92. On November 17, 2021, Voltus, Inc. filed comments regarding the proposed interim load-management programs.
93. On November 17, 2021, the Texas Competitive Power Advocates filed a statement of position.
94. On November 22, 2021, Voltus filed comments in response to the commissioner requests for information.
95. On November 29, 2021, Oncor filed a response to the commissioner requests for additional information.
96. At the Commission's meeting on December 2, 2021, Oncor agreed to notify the retail electric provider of record of a customer's enrollment and deployment of the customer's load curtailment in the program if so ordered by the Commission.

Evidentiary Record

97. In Order No. 5 filed on November 29, 2021, the ALJ admitted the following into the evidentiary record: (a) the application filed on October 8, 2021, (b) AEP, CenterPoint, and TNMP's joint response to Order No. 2, (c) the affidavits regarding notice that were filed by AEP, CenterPoint, and TNMP on October 22, 2021, (d) AEP's, CenterPoint's, and TNMP's additional information and description of each utility's interim load-management program filed on November 1, 2021, (e) the agreement between AEP, CenterPoint, TNMP, and Commission Staff filed on November 9, 2021, (f) the direct testimony of Mr. Richardson in support of the agreement filed on November 9, 2021, (g) the direct testimony of Mr. Cavazos in support of the agreement filed on November 9, 2021, and (h) the direct testimony of Ms. Case in support of the agreement filed on November 9, 2021.
98. In Order No. 7 filed on December 2, 2021, the ALJ admitted into the evidentiary record ERCOT's response to the commissioner requests for information filed on November 29,

2021 and the revised agreement between AEP, CenterPoint, TNMP, the Alliance for Retail Markets, and Commission Staff filed on December 1, 2021.

Informal Disposition

99. Commission Staff, AEP, CenterPoint, TNMP, TIEC, the Gulf Coast Coalition of Cities, the City of Houston, OPUC, Texas Competitive Power Advocates, and the Alliance for Retail Markets are the only parties to this proceeding.
100. Commission Staff, AEP, CenterPoint, TNMP, and the Alliance for Retail Markets signed the agreement.
101. TIEC, the Gulf Coast Coalition of Cities, the City of Houston, and OPUC are unopposed to the revised agreement.
102. No hearing is needed.
103. The decision is not adverse to any party.

II. Conclusions of Law

The Commission makes the following conclusions of law.

1. AEP Texas Inc. is a transmission and distribution utility under PURA § 31.002(19).
2. CenterPoint Energy Houston Electric, LLC is a transmission and distribution utility under PURA § 31.002(19).
3. Texas-New Mexico Power Company (TNMP) is a transmission and distribution utility under PURA § 31.002(19).
4. Under PURA § 38.075(e), a transmission and distribution utility is permitted to design and operate load management programs for nonresidential customers to be used when ERCOT has declared a level 2 or higher level of energy emergency alert or has otherwise directed the transmission and distribution utility to shed load.
5. A transmission and distribution utility is permitted to recover reasonable and necessary costs of a load-management program authorized under PURA § 38.075 through its chapter-36 rates.

6. Under PURA § 14.151(b), the Commission has authority to prescribe the form of books, accounts, records, and memoranda to be kept by a public utility.
7. Under 16 TAC § 25.272, a utility may not release any proprietary customer information to a competitive affiliate or any other entity—other than the customer, ERCOT, or a provider of corporate support services as allowed by the rule—without appropriate consent of the customer.
8. Under 16 TAC § 25.272(g)(1), if a utility releases proprietary customer information to ERCOT, ERCOT is subject to the rules in 16 TAC § 25.272 with respect to releasing such information to other persons.
9. Under 16 TAC § 25.272(g)(1)(A), a utility may release proprietary customer information to another entity without customer authorization when authorized to do so by the Commission.

III. Ordering Paragraphs

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

1. AEP may defer the reasonable and necessary costs associated with the design and operation of its interim load-management program incurred after December 16, 2021 until February 28, 2022 that are not recovered through other means and record those costs in an asset account. Any affiliate costs that will be included in an asset account authorized by this Order must comply with the standards set forth in PURA § 36.058 and Commission rules.
2. CenterPoint may defer the reasonable and necessary costs associated with the design and operation of its interim load-management program incurred after December 16, 2021 until February 28, 2022 that are not recovered through other means and record those costs in an asset account. Any affiliate costs that will be included in an asset account authorized by this Order must comply with the standards set forth in PURA § 36.058 and Commission rules.
3. TNMP may defer the reasonable and necessary costs associated with the design and operation of its interim load-management program incurred after December 16, 2021 until February 28,

2022 that are not recovered through other means and record those costs in an asset account. Any affiliate costs that will be included in an asset account authorized by this Order must comply with the standards set forth in PURA § 36.058 and Commission rules.

4. AEP must notify ERCOT of its total procured load-management capacity at least one business day before the start date of its interim load-management program.
5. AEP must update ERCOT as to the impact of any deployments initiated by AEP on the amount of load-management capacity and deployment hours remaining.
6. CenterPoint must notify ERCOT of its total procured load-management capacity at least one business day before the start date of its interim load-management program.
7. CenterPoint must update ERCOT as to the impact of any deployments initiated by CenterPoint on the amount of load-management capacity and deployment hours remaining.
8. TNMP must notify ERCOT of its total procured load-management capacity at least one business day before the start date of its interim load-management program.
9. TNMP must update ERCOT as to the impact of any deployments initiated by TNMP on the amount of load-management capacity and deployment hours remaining.
10. Oncor must notify ERCOT of its total procured load-management capacity at least one business day before the start date of its interim load-management program.
11. Oncor must update ERCOT as to the impact of any deployments initiated by Oncor on the amount of load-management capacity and deployment hours remaining.
12. Oncor must notify the retail electric provider of record when a customer enrolls or is deployed under Oncor's winter load-management program.
13. AEP, CenterPoint, TNMP, and Oncor must confer and coordinate with Commission Staff and ERCOT regarding deployment and operation of their respective interim load-management programs.
14. Commission Staff must work with ERCOT to evaluate the interim load-management programs and file a report with the Commission by June 1, 2022.

15. The Commission denies all other motions and any other requests for general or specific relief, if not expressly granted.

Signed at Austin, Texas the 12th day of January 2022.

PUBLIC UTILITY COMMISSION OF TEXAS



PETER M. LAKE, CHAIRMAN



WILL MCADAMS, COMMISSIONER



LORI COBOS, COMMISSIONER



JIMMY GLOTFELTY, COMMISSIONER