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APPLICATION OF CENTERPOINT	§	BEFORE THE STATE OFFICE
ENERGY HOUSTON ELECTRIC, LLC	§	
FOR APPROVAL TO AMEND ITS	§	OF
DISTRIBUTION COST RECOVERY	§	
FACTOR	§	ADMINISTRATIVE HEARINGS

REBUTTAL TESTIMONY

OF

ERIN E. RABEN

FOR

CENTERPOINT ENERGY HOUSTON ELECTRIC, LLC

October 5, 2022

TABLE OF CONTENTS

I.	INTRODUCTION	3
II.	REASONABLENESS OF REQUEST FOR PROPOSALS PROCESS	5
III.	REASONABLENESS OF REQUEST FOR PROPOSALS REQUIREMENTS..	11
IV.	SELECTION OF LIFE CYCLE POWER	13
V.	DUE DILIGENCE RELATED TO SELECTION OF LIFE CYCLE POWER....	17
VI.	TERMINATION CLAUSE IN LONG-TERM LEASE	22
VII.	SHORT-TERM LEASE EXTENSION	23
VIII.	CONCLUSION.....	28

TABLE OF EXHIBITS

EXHIBIT	DESCRIPTION
EXHIBIT EER-R-1	Timeline of TEEEF Procurement
EXHIBIT EER-R-2	CNP Purchasing Operations Manual (Confidential)
EXHIBIT EER-R-3	CNP Procurement Policy (Confidential)
EXHIBIT EER-R-4	Long-Term Bids Scorecard (Highly Sensitive)

TABLE OF WORKPAPERS

WORKPAPER	DESCRIPTION
WP/Comparative Analysis	Comparative Analysis (Highly Sensitive)

REBUTTAL TESTIMONY OF ERIN E. RABEN

I. INTRODUCTION

Q. PLEASE STATE YOUR NAME, POSITION, AND BUSINESS ADDRESS.

A. My name is Erin E. Raben. I am Director, Procurement for CenterPoint Energy Service Company, LLC (“CenterPoint Energy”). My business address is 1111 Louisiana St., Houston, Texas 77002.

Q. PLEASE SUMMARIZE YOUR EDUCATION AND PROFESSIONAL EXPERIENCE.

A. I earned a Bachelor’s Degree in Journalism and Business from Indiana University in 2004. I have spent over 18 years in the supply chain practice spanning many commodities, industries and applying strategic sourcing principles both globally and in the U.S. My supply chain career has included positions with Target Corporation sourcing personal care products, Whirlpool Corporation sourcing materials such as die cast components, packaging and wire harnesses and Mead Johnson Nutrition where I was responsible for many categories from commodities such as packaging and starches to patented ingredients in addition to building the company’s Responsible Sourcing Program and Supplier Code of Conduct. I have been employed by CenterPoint Energy (or Vectren Corporation) since 2015 and my positions have included Manager, Strategic Sourcing Vectren Corporation, with responsibility for sourcing all the goods and services utilized by Vectren, Director Strategic Sourcing and Director, Utility Procurement. I was named Director, Procurement in 2019 and am currently responsible for the procurement of all goods and services utilized by our electric, natural gas and generation utilities.

1 **Q. WHAT ARE YOUR CURRENT RESPONSIBILITIES?**

2 A. My duties include defining the sourcing strategy; sourcing materials and/or
3 services; and conducting activities such as competitive bid processes, negotiations,
4 contract management and risk evaluations for the materials and services utilized by
5 the electric, natural gas and generation utilities within CenterPoint Energy’s six
6 state footprint.

7 **Q. ON WHOSE BEHALF ARE YOU TESTIFYING?**

8 A. I am testifying on behalf of CenterPoint Energy Houston Electric, LLC
9 (“CenterPoint Houston” or the “Company”).

10 **Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?**

11 A. The purpose of my rebuttal testimony is to respond to criticisms that witnesses for
12 Texas Competitive Power Advocates (“TCPA”), Texas Energy Association for
13 Marketers (“TEAM”), the Alliance for Retail Markets (“ARM”), and the Houston
14 Coalition of Cities (“HCC”), (collectively the “Intervenors”) have regarding the
15 Company’s procurement process and selection of vendors for temporary
16 emergency electric energy facilities (“TEEEF”). I also address specific positions
17 some Intervenors take regarding aspects of the short-term lease and the Company’s
18 ability to terminate the long-term lease for TEEEF.

19 **Q. WAS YOUR REBUTTAL TESTIMONY PREPARED BY YOU OR UNDER**
20 **YOUR DIRECT SUPERVISION?**

21 A. Yes.

1 **Q. WHAT EXHIBITS AND WORKPAPERS HAVE YOU INCLUDED WITH**
 2 **YOUR REBUTTAL TESTIMONY?**

3 A. I have prepared or supervised the preparation of the exhibits and workpapers listed
 4 in the table of contents.

5 **II. REASONABLENESS OF REQUEST FOR PROPOSALS PROCESS**

6 **Q. WHAT POSITIONS DO THE INTERVENOR WITNESSES TAKE**
 7 **REGARDING THE COMPANY’S PROCUREMENT AND REQUEST FOR**
 8 **PROPOSALS (“RFPS”) PROCESS FOR TEEEF?**

9 A. They generally criticize the process the Company followed to prepare and execute
 10 the RFPs. As I explain in detail below, the Company used a robust process to
 11 prepare and issue the RFPs that met or exceeded the Company’s standard process
 12 and was tailored to the unique circumstances of the TEEEF procurement. To
 13 illustrate the timing and content of the Company’s TEEEF procurement, Exhibit
 14 EER-R-1 provides a timeline of key dates and relevant events, which I address in
 15 detail throughout my testimony.

16 **Q. WHAT IS PROCUREMENT’S ROLE REGARDING THE**
 17 **PROCUREMENT NEEDS FOR THE COMPANY?**

18 A. Procurement’s role is to develop the sourcing strategy, source materials and/or
 19 services activities such as conducting the competitive bid process, negotiations,
 20 contract management, and risk evaluations for the materials and services utilized
 21 by the electric, natural gas and generation utilities within CenterPoint Energy’s six
 22 state footprint, including for CenterPoint Houston. Procurement also fulfills
 23 transactional needs arising from sourcing activities such as execution of contracts,

1 issuance of purchase orders, tracking of contract implementation, vendor relations,
2 and enforcing contract compliance.

3 **Q. WERE THERE ANY UNIQUE ASPECTS FOR THE ACQUISITION OF**
4 **TEEEF?**

5 A. Yes. TEEEF was a new and unique commodity for CenterPoint Houston. As a
6 transmission and distribution utility, CenterPoint Houston does not own or operate
7 back-up generation assets similar to TEEEF. However, after Public Utility
8 Regulatory Act ("PURA") § 39.918 was passed in 2021, to fulfill the Company's
9 duty as a public utility, charged with providing reliable service to our customers,
10 we quickly sought access to TEEEF services and materials to have resources in
11 place during the peak of hurricane season. As Company witness Brad A. Tutunjian
12 notes in his testimony, the risk of not having facilities in place during a major
13 weather event or other widespread power outage was too great when there is the
14 potential loss of human life. It is also important to remember that Winter Storm
15 Uri occurred just a few months earlier, peak hurricane season was fast approaching,
16 and there was a very real sense of urgency in the Legislature's passage of various
17 measures that year, including PURA § 39.918, to mitigate the dangers to the public
18 in the event of another widespread power outage. Despite the speed with which the
19 Company moved to issue the RFPs and engage a vendor, the Company followed
20 standard procurement practices as outlined in our procurement manual and
21 procurement policy and applied those practices to source the TEEEF services and
22 materials and successfully fulfill the business' need.

1 **Q. WHAT ROLE DID PROCUREMENT HAVE IN THE RFP PROCESS FOR**
2 **TEEEF?**

3 A. As part of the preparation process, Procurement reached out to other utilities and
4 users of mobile generation resources to identify potential bidders. Procurement
5 conducted a competitive bid process by preparing both a short-term lease RFP and
6 a long-term lease RFP. Procurement also facilitated discussions with bidders,
7 reviewed the bids received, conducted contract negotiations, and continues to be
8 involved with the business unit on contract implementation and tracking, which I
9 address in more detail below.

10 **Q. DESCRIBE PROCUREMENT’S COMMUNICATIONS WITH**
11 **POTENTIAL BIDDERS PRIOR TO ISSUANCE OF THE RFPS.**

12 A. Consistent with the standard practice of surveying the market and following
13 standard procedure in the Purchasing Manual in Section 8.2.4.2 to identify potential
14 bidders and communicate the commercial and technical requirements of the RFP,
15 we communicated with potential bidders prior to the issuance of the RFPS to
16 understand the bidders’ capabilities and also share an overview of the Company’s
17 needs. The pre-communication with vendors was critical in achieving the
18 Company’s goal to have access to TEEEF facilities in advance of peak hurricane
19 and winter seasons for both RFPS.

20 **Q. WHAT PROCESS DID PROCUREMENT FOLLOW TO PREPARE THE**
21 **SHORT- AND LONG-TERM RFPS?**

22 A. Procurement began development of the procurement strategy in July 2021. A
23 Procurement resource was assigned to support the project. After researching and

1 engaging possible vendors, we utilized our standard RFP template and incorporated
2 the technical and commercial needs associated with this procurement event based
3 on input from the business unit (Electric Engineering and Asset Optimization). The
4 short-term RFP was issued prior to the long-term RFP. For the long-term RFP,
5 Procurement utilized the initial work done for the short-term RFP and continued to
6 survey the market for potential bidders. To compile the technical requirements for
7 the RFP, we facilitated dialogue with all the key stakeholders. The long-term RFP
8 was issued in October 2021.

9 **Q. HOW DID PROCUREMENT WORK WITH ELECTRIC ENGINEERING**
10 **AND ASSET OPTIMIZATION TO PREPARE THE RFPS?**

11 A. Electric Engineering and Asset Optimization provided all technical input such as
12 specifications, technology and fuel requirements, site details, and other specifics to
13 Procurement to inform the content of the RFP. Electric Engineering and Asset
14 Optimization was also a key stakeholder in the development of the evaluation
15 criteria, scoring the bids, and the vendor selection process.

16 **Q. WHAT TIMELINE WAS FOLLOWED FOR PREPARING AND ISSUING**
17 **THE RFPS?**

18 A. We were notified by the business unit of the need in July 2021 and began surveying
19 the market and compiling the RFP at that time. We developed the procurement
20 strategy to issue the short-term RFP on August 3, 2021, with responses requested
21 by August 6, 2021, to achieve the desired September 1, 2021 effective date.
22 Notably, HCC witness Kevin Mara criticizes the Company for issuing the short-

1 term RFP on a Friday. In fact, August 3, 2021, was a Tuesday with bids due by the
2 end of that week.

3 As soon as the short-term RFP was issued on August 3, 2021, we began
4 planning for the long-term RFP. After finalizing the contract for the short-term
5 TEEEF we shifted focus to finalizing the long-term RFP and it was issued on
6 October 6, 2021, with responses requested by November 5, 2021.

7 **Q. WHAT ACTIONS DID PROCUREMENT TAKE WHILE THE RFPS**
8 **WERE OUTSTANDING AND THE COMPANY WAS WAITING ON**
9 **POTENTIAL BIDS?**

10 A. During the RFP events, myself and Procurement representatives under my
11 supervision facilitated interactions with all bidders that included answering
12 questions and providing clarifications, as needed.

13 **Q. WHAT DID PROCUREMENT DO AFTER BIDS WERE RECEIVED?**

14 A. After RFP responses were received, Procurement facilitated the bid review process
15 with an extensive group of cross functional stakeholders across the Company. After
16 the review process was complete, Procurement began the commercial negotiation
17 process, to identify a preferred vendor, which again included Company
18 stakeholders such as Operations, Engineering, Legal, Regulatory, Insurance Risk
19 Management, Credit, and Accounting. The commercial negotiation process
20 included developing a direct comparison of all bids, running multiple scenarios to
21 determine the maximum benefit, and negotiating discount structures, including for
22 pre-payment, with the bidders. During this commercial negotiation process, Life
23 Cycle Power (“LCP”) was identified as the preferred vendor because it offered the

1 most beneficial commercial scenario. At this point in time, we moved into the
2 contract negotiation phase to negotiate legal terms and conditions directly with
3 LCP. Finally, after contract execution, Procurement continues to be involved
4 working with the business unit on contract implementation and tracking.

5 **Q. REGARDING THE TIMING OF CONTRACT EXECUTION, WAS THE**
6 **SHORT-TERM LEASE CONTRACT SIGNED AFTER THE COMPANY**
7 **RECEIVED TEEEF UNITS?**

8 A. No. The short-term lease was executed on September 1, 2021, and the first delivery
9 of TEEEF units occurred on September 13, 2021. Mr. Mara seems to criticize the
10 Company for initially targeting a mid-August 2021 delivery date with anticipated
11 lease execution on September 1, 2021. While the Company and LCP endeavored
12 to meet the mid-August timeline to have TEEEF available on September 1, 2021,
13 due to the new and unique nature of this procurement coupled with the time for
14 contract negotiations, delivery by mid-August did not occur.

15 **Q. WAS THE RFP PROCESS FOR TEEEF CONSISTENT WITH THE**
16 **STANDARD COMPANY PROCESS FOR RFPS?**

17 A. Yes, we followed the process as outlined in the CenterPoint Energy Purchasing
18 Operations Manual and Procurement Policy. The Purchasing Operations Manual
19 (Confidential) is Exhibit EER-R-2 and the Procurement Policy (Confidential) is
20 Exhibit EER-R-3 and was previously provided to parties in this case in response to
21 discovery, HCC RFP 05-02, on August 12, 2022.

III. REASONABLENESS OF REQUEST FOR PROPOSALS
REQUIREMENTS

**Q. WHAT FACTORS INFLUENCED THE TIMING OF THE ISSUANCE AND
 BID RESPONSES FOR THE SHORT-TERM RFP?**

A. The Company has a responsibility to provide safe and reliable service to our customers even when natural disasters interfere with electric utility service. To fulfill that responsibility, the Company wanted to procure access to TEEEF for support during the 2021 hurricane season. Company witness Martin W. Narendorf Jr. explains in more detail in his rebuttal testimony that although hurricane season technically begins in June, the threat of severe weather is heightened in the Gulf Coast area starting in August and September each year. Notably, the Company's timing benefited customers. By obtaining access to TEEEF, the Company was able to provide service to support the restoration efforts after Hurricane Nicholas in September 2021. In addition, the Company's Purchasing Manual states: "A typical RFP process will vary greatly depending on many factors such as the complexity of the work, the amount of market research required, *and the urgency of the requirement* (emphasis added)."¹

**Q. WAS IT REASONABLE TO INCLUDE A THREE-DAY DEADLINE FOR
 RESPONSES TO THE SHORT-TERM RFP?**

A. Yes, it was reasonable due to the pre-work and pre-communication with potential vendors prior to the RFP that informed an understanding of which vendors had units

¹ Exhibit EER-R-2 Purchasing Operations Manual (Confidential) at 22.

1 available and within proximity to mobilize in September 2021 and provide support
2 during the remainder of peak hurricane season or the Texas Gulf Coast.

3 **Q. WHAT FACTORS INFLUENCED THE TIMING OF THE ISSUANCE AND**
4 **BID RESPONSES FOR THE LONG-TERM RFP?**

5 A. The timing of the long-term RFP was driven by a desire to have TEEEF available
6 to the Company for support during the cold weather peak in Winter Season
7 2021/2022. As part of our responsibility of providing resilient service to our
8 customers in times of natural or man-made disasters, the ability to have TEEEF
9 available to the Company for support during the cold weather peak in Winter
10 Season 2021/2022 was imperative.

11 **Q. DO YOU AGREE WITH TCPA/ARM WITNESS CHARLES GRIFFEY**
12 **THAT THERE WAS NO REAL THREAT THAT OTHER UTILITIES**
13 **WOULD PROCURE TEEEF BY THE TIME THE LONG-TERM LEASE**
14 **WAS EXECUTED?**

15 A. No, I do not agree with this assertion. Based on the information we had, there was
16 competition to procure these types of units from California utilities, other utilities
17 that operated under the threat of hurricanes, and other Texas utilities utilizing the
18 same legislation. There was also a limited available supply of TEEEF. Had the
19 Company not acted within the timeframe we did, there was a likelihood the
20 Company would not have been able to procure adequate TEEEF for support during
21 hurricane seasons and cold weather peaks.

1 **Q. WHAT IS YOUR RESPONSE TO MR. GRIFFEY’S CRITICISM OF THE**
 2 **COMPANY FOR MOVING FORWARD WITH A LONG-TERM LEASE**
 3 **INSTEAD OF CONTINUING THE SHORT-TERM LEASE UNTIL THE**
 4 **PUBLIC UTILITY COMMISSION OF TEXAS (“COMMISSION”)**
 5 **COMPLETES A RULEMAKING?**

6 A. There was a significant cost benefit to leveraging the long-term lease option. If the
 7 Company had another short-term lease for the winter season in 2022, it would not
 8 have been able to secure the cost benefit of the pre-payment for the long-term lease.
 9 In addition, as I note above, the Company needed to move quickly to lock in the
 10 TEEEF units because our peers were right behind us in seeking bids for long-term
 11 leases. If the Company continued to rely on the month-to-month extension in the
 12 short-term lease, there would have been an incentive for our vendor to pull those
 13 units from us and go under contract with another utility.

14 **IV. SELECTION OF LIFE CYCLE POWER**

15 **Q. WHAT PROCESS DID THE COMPANY FOLLOW TO SELECT A TEEEF**
 16 **VENDOR AFTER RECEIVING BIDS FROM THE LONG-TERM RFP?**

17 A. After responses to the long-term RFP were received, Procurement facilitated the
 18 bid review process with an extensive group of cross functional stakeholders across
 19 the Company. The Company analyzed the conforming bids and conducted an in-
 20 depth commercial analysis including multiple commercial scenarios to determine
 21 the most cost-effective scenario for our customers and a scenario that met the
 22 legislative requirements. In addition, we utilized a scorecard as another factor for

1 selection of a TEEEF vendor. Procurement also performed many of these tasks for
2 the short-term RFP bids as well.

3 **Q. HOW MANY BIDS DID THE COMPANY RECEIVE?**

4 A. For the short-term RFP, the Company received two bids, only one of which was
5 conforming. The Company received six responses to the long-term RFP, with most
6 displaying very limited capabilities and only two were conforming. The non-
7 conforming long-term proposals failed to provide one or more of the criteria
8 requested in the RFP such as the technology of the units to Engineering
9 specifications, MW capacity that met the 500 MW need, and availability and
10 delivery timeframes by the end of January 2022.

11 **Q. WHAT IS THE PURPOSE OF THE SCORECARD?**

12 A. The scorecard is used as a guide to help Procurement and the business unit consider
13 and evaluate the quantitative and qualitative factors related to selecting the best bid
14 and vendor.

15 **Q. WHAT PROCESS DID PROCUREMENT FOLLOW TO SCORE THE BIDS**
16 **FOR THE LONG-TERM RFP FROM LCP AND DISTRIBUTED POWER**
17 **SOLUTIONS (“DPS”)?**

18 A. We facilitated scoring with the appropriate cross functional subject matter experts
19 to provide scores for each section. The scored sections included equipment
20 availability, operational readiness, commercial structure, vendor financials and
21 contract negotiations. In addition, our review process was more robust than a
22 typical procurement event as it included the Company’s Strategic Planning
23 Department as a key member of the evaluation team to provide an in-depth analysis

1 of the commercial scenarios and benefits to customers that each bid provided. The
2 scorecard for the long-term bids is attached to my testimony as Highly Sensitive
3 Exhibit EER-R-4, which was provided to parties in response to HCC RFP 05-02.

4 **Q. DID PROCUREMENT HAVE TO CONDUCT ANY ANALYSIS OF THE**
5 **BIDS BEFORE YOU WERE ABLE TO SCORE THEM?**

6 A. Yes, in partnership with our Strategic Planning department. Due to the complexity
7 of the procurement event, we had to review all proposals received and create an
8 analysis for scoring that showed a direct comparison of all the bid components. For
9 example, one bidder provided a base monthly lease cost including all ancillary costs
10 for movement, labor and fired hours (which are the hours the generating facility is
11 operating on fuel), whereas the other bidder provided a base lease cost with each
12 ancillary service itemized. In addition, each bidder provided a different discounting
13 structure based on time of lease and quantity of units leased. Each of these items
14 had to be evaluated, rationalized into a direct comparison and put into correlating
15 scenarios for evaluation. The results of that analysis are contained in the Highly
16 Sensitive Board of Directors Presentation attached to Mr. Narendorf's Amended
17 Direct Testimony as Exhibit MWN-6 and are shown below:

Scenario A – 100% Single Sourced to Life Cycle Power

Scenario B – 30MW blocks to Life Cycle Power, 5MW blocks to Distributed Power Solutions

Scenario C – 11x 30MW to Life Cycle Power, 4x 30MW & 5xMW to Distributed Power Solutions

(\$ in millions, except for \$/kw)

	5 Year Term			7.5 Year Term		
	A	B	C	A	B	C
Cumulative Lease Payment	\$522	\$538	\$514	\$721	\$746	\$726
Est. Cumulative Op. Cost	39	39	76	58	59	114
'All in Cost'	\$561	\$577	\$590	\$779	\$805	\$840
Annualized	\$112	\$115	\$118	\$104	\$107	\$112
Total MW	500	500	512	500	500	512
'All in Cost' / KW	\$1,121/kw	\$1,153/kw	\$1,151/kw	\$1,556/kw	\$1,608/kw	\$1,640/kw
Annual 'All in Cost' / KW	\$224/kw	\$231/kw	\$230/kw	\$207/kw	\$214/kw	\$219/kw
Amount to be Pre-Paid	\$552	\$508	\$374	\$721	\$701	\$516
Pre-Payment Customer Favorability	5.8%	1.2%	1.2%	5.5%	0.9%	0.9%

1 **Q. WHAT SCORES DID THE LCP AND DPS BIDS RECEIVE?**

2 A. LCP earned a score of 0.78 and DPS's score was 0.67.

3 **Q. MR. MARA NOTED THE LACK OF SCORING FOR DPS ON**
 4 **“CONTRACT NEGOTIATIONS” WAS THE MAJOR DIFFERENCE**
 5 **BETWEEN LCP'S 0.78 SCORE AND DPS'S 0.67 SCORE. WHAT IS YOUR**
 6 **RESPONSE?**

7 A. The scorecard is a tool used to guide a procurement decision but is not the only or
 8 final factor used to select a vendor. In this specific procurement event, we utilized
 9 both the scorecard and the commercial analysis. After reviewing the scorecard and
 10 this extensive commercial analysis, we determined DPS was not the top provider
 11 because its discounting structure did not provide the greatest benefit to the

customer. Once we reached this conclusion, we discontinued negotiation efforts with DPS. This allowed us to focus our negotiation efforts on LCP, who was the preferred vendor to achieve the necessary timeline.

Q. MR. GRIFFEY CRITICIZES THE COMPANY'S SELECTION OF LCP, IN PART, BECAUSE HE ASSERTS THAT DPS'S COSTS WERE LOWER THAN LCP'S COSTS. IS THAT ACCURATE?

A. No. The numbers Mr. Griffey cites in his testimony² represent the costs in the two bids, which are not the final costs that the Company analyzed. In addition, the raw bids submitted did not represent a comparison of equal factors. As described above, both companies included different factors in their lease costs that had to be rationalized before a true comparison could be completed. To get to a preferred vendor recommendation, Procurement commenced commercial negotiations with both LCP and DPS to determine whether they could offer better pricing and discount structures than was contained in the bids.

V. DUE DILIGENCE RELATED TO SELECTION OF LIFE CYCLE POWER

Q. DID THE COMPANY CONDUCT DUE DILIGENCE BEFORE ENTERING INTO THE LONG-TERM LEASE WITH LCP?

A. Yes, we worked with multiple cross-functional department subject matter experts along with External Counsel to review the safety, technological, credit, financial, insurance and lien/title components of the transaction prior to entering into the lease with LCP. Over the course of approximately one month, this due diligence included

² Direct Testimony of Charles S. Griffey at 22:17-19, 24:11-12.

1 intense efforts by a broad array of functional experts for CenterPoint Houston
 2 conducting due diligence inquiries including, meetings with the Private Equity firm
 3 providing financial assurances for LCP, credit assessment, review of financial
 4 statements, insurance verification, lien and title searches and technical review of
 5 proposed generator technology.

6 **Q. IS THAT DUE DILIGENCE CONSISTENT WITH THE COMPANY'S**
 7 **STANDARD PRACTICE?**

8 A. Yes, in fact this due diligence was more robust than standard practice due to the
 9 nature of the procurement. Specifically, during contract negotiations we worked
 10 with the CenterPoint Energy Risk Management department, Strategic Planning
 11 department and External Counsel to conduct diligence review such as credit and
 12 funding analysis, insurance verification and lien and title searches.

13 **Q. ARE BACKGROUND CHECKS ON THIRD-PARTY VENDOR OFFICERS**
 14 **STANDARD COMPANY PRACTICE?**

15 A. No. It is not standard practice to conduct background checks on a vendor's officers
 16 or other principals as part of due diligence and/or contract negotiations. And as I
 17 discuss below, the Company negotiated several beneficial provisions in the lease
 18 agreement that mitigate a wide range of potential risks.

19 **Q. MR. GRIFFEY CRITICIZES CENTERPOINT HOUSTON'S DUE**
 20 **DILIGENCE IN AWARDING THE MOBILE GENERATION LEASE TO**
 21 **LCP. DO YOU AGREE WITH HIS CRITICISM?**

22 A. No, I do not.

1 **Q. WAS THE LEVEL OF DUE DILIGENCE THAT CENTERPOINT**
 2 **HOUSTON PERFORMED BEFORE ENTERING INTO THE LEASE**
 3 **TRANSACTIONS WITH LCP LOWER THAN THE LEVEL OF DUE**
 4 **DILIGENCE THAT THE COMPANY PERFORMS OR WOULD**
 5 **PERFORM BEFORE ENTERING INTO PURCHASE TRANSACTIONS**
 6 **WITH OTHER VENDORS?**

7 A. No. As I mentioned earlier, the level of due diligence that CenterPoint Houston
 8 conducted for the lease transactions was, if anything, more robust than the due
 9 diligence the Company would perform for transactions with shorter terms or lesser
 10 value.

11 **Q. PLEASE IDENTIFY AND DESCRIBE THE RISK MITIGATION**
 12 **PROVISIONS IN THE LEASE AGREEMENTS.**

13 A. In the event of a performance breach or other breach in the Lease Agreement,
 14 CenterPoint Houston may exercise a variety of remedies.

- 15 • For example, CenterPoint Houston negotiated a security interest in the lease
 16 Equipment as collateral security for the payment and performance by LCP
 17 of its obligations under the Lease Agreement. Upon the occurrence of an
 18 event of default by LCP, CenterPoint Houston may exercise all rights and
 19 remedies available to it with respect to the equipment collateral under
 20 applicable law and under the Uniform Commercial Code.
- 21 • In addition, CenterPoint Houston required LCP to provide credit support
 22 from a "Creditworthy Bank" (i.e., a bank with at least \$10 billion of assets
 23 and a minimum credit rating of A-/A3) in the form of a letter of credit. The
 24 letter of credit was issued by Cadence Bank and may be drawn by
 25 CenterPoint Houston at any time upon the occurrence of an event of default
 26 by LCP. Currently, the face amount of the letter of credit represents an
 27 amount equal to \$67 million.
- 28 • LCP has also obtained \$50 million of excess or umbrella liability insurance
 29 coverage and is further required to obtain and maintain other customary
 30 types of insurance. Certificates of insurance were delivered at the time of

1 closing and CenterPoint Houston is named as an additional insured as it
2 relates to the umbrella coverage.

3 • Finally, upon the occurrence of an event of default by LCP, LCP is required
4 to promptly return to CenterPoint Houston, in immediately available funds,
5 the “Returned Rent Amount” (i.e., 85% of the unused portion of the
6 “Prepaid Rent” for the remainder of the lease term). If LCP fails to pay this
7 amount, CenterPoint Houston’s claim would be a secured one, on account
8 of the security interest in the collateral described above.

9 **Q. ARE YOU PRESENTLY AWARE THAT LCP’S CEO AT THE TIME THAT**
10 **THE LEASES WERE EXECUTED WAS A CONVICTED FELON?**

11 A. Yes.

12 **Q. WERE YOU OR, TO YOUR KNOWLEDGE, ANYONE AT**
13 **CENTERPOINT HOUSTON AWARE OF THAT FACT AT THE TIME**
14 **THE LEASES WERE EXECUTED?**

15 A. No.

16 **Q. IN YOUR OPINION, BASED ON YOUR EXTENSIVE PROCUREMENT**
17 **EXPERIENCE, DOES THE FACT THAT LCP’S FORMER CEO HAD A**
18 **CRIMINAL CONVICTION WHEN THE LEASES WERE SIGNED**
19 **INCREASE CENTERPOINT HOUSTON’S RISK UNDER THE LEASE**
20 **AGREEMENTS OR DIMINISH THE EFFECTIVENESS OF THE RISK**
21 **MITIGATION PROVISIONS YOU PREVIOUSLY DESCRIBED?**

22 A. No, it does not. The leases are between CenterPoint Houston and LCP, and the
23 parties’ rights and duties under those leases belong to and are enforceable by them.
24 The obligations owed to CenterPoint Houston under the leases are LCP’s
25 obligations, not the obligations of any individual employee or officer of LCP,
26 including its former CEO. Moreover, we successfully negotiated risk mitigation

1 provisions in the leases to protect CenterPoint Houston against LCP's breach of its
2 performance obligations under the leases, which are effective and enforceable
3 regardless of who LCP's CEO was at the time.

4 **Q. IN YOUR OPINION, DOES THE PRIOR CONVICTION OF LCP'S**
5 **FORMER CEO CONSTITUTE A BREACH OF THE LEASE**
6 **AGREEMENTS?**

7 A. No. As the Lessor, LCP's representations and warranties in both leases include the
8 standard rep and warranty that "Lessor is authorized to enter into this Lease, to
9 consummate the transactions contemplated herein, and that this Lease represents a
10 binding obligation of Lessor."³ The prior conviction of LCP's former CEO does
11 not constitute a breach of this representation and warranty, in my opinion as a
12 procurement specialist. In fact, LCP's former CEO was not even a signatory to the
13 long-term lease.

14 **Q. TO YOUR KNOWLEDGE, IS THE EFFECTIVENESS OF THE RISK**
15 **MITIGATION PROVISIONS IN THE LEASE AGREEMENTS THAT YOU**
16 **PREVIOUSLY DESCRIBED DIMINISHED BY THE PENDING**
17 **LITIGATION DISCUSSED IN MR. GRIFFEY'S TESTIMONY?**

18 A. No.

³ Amended Direct Testimony of Martin W. Narendorf Jr., Exhibit MWN-1 Short-term Lease Contract (Highly Sensitive) at Article 5(a).

1 **Q. WITH WHOM DID PROCUREMENT PRIMARILY NEGOTIATE THE**
2 **TERMS OF THE LEASE WITH LCP?**

3 A. We primarily negotiated with Arroyo Investors and its attorneys. Arroyo Investors
4 is the owner of LCP and is a long-standing institutionally backed private equity
5 fund that has been investing in energy and infrastructure assets for over 30 years.

6 **VI. TERMINATION CLAUSE IN LONG-TERM LEASE**

7 **Q. MR. MARA AND TEAM/ARM WITNESS CHRIS HENDRIX ADDRESS A**
8 **PROVISION IN THE LONG-TERM LEASE THAT ALLOWS**
9 **CENTERPOINT HOUSTON TO TERMINATE THE LEASE IF THERE IS**
10 **A RULING OR REGULATORY EVENT THAT CREATES AN ADVERSE**
11 **CONDITION. CAN YOU DESCRIBE THE PURPOSE OF THIS**
12 **PROVISION?**

13 A. Article I(c)(2)(a) of the long-term lease gives CenterPoint Houston “the right to
14 terminate this Lease with respect to all or any portion of the Equipment at any time
15 between October 1, 2022 and March 31, 2023 if a Ruling or Regulatory Event
16 creates a material adverse condition, as determined by the [CenterPoint Houston]
17 in its reasonable discretion.” CenterPoint Houston can exercise this right on 30-
18 days’ notice to LCP. If CenterPoint Houston exercises this right, however, LCP is
19 required to refund only 75% of the prepaid lease payments that CenterPoint
20 Houston has made for the period from the effective date of the termination to end
21 of the initial term of the lease, which is June 30, 2029. LCP has the right to retain
22 the remaining 25% of the prepaid lease payments if CenterPoint Houston exercises
23 this early termination right.

1 These types of “regulatory out” clauses are meant to protect or minimize
2 certain risk and exposure to the Company in the event that a change in law (such as
3 a legislative repeal or judicial or administrative tribunal interpretation of an existing
4 law) occurs that materially affects a party’s purpose for entering into the contract
5 or its ability to perform the contract. Given this was new legislation and the first
6 proceeding before the Commission, the Company thought it would be prudent to
7 have such a clause.

8 **Q. IF CENTERPOINT HOUSTON WERE TO EXERCISE THE OPTION TO**
9 **TERMINATE THE LONG-TERM LEASE UNDER THIS PROVISION,**
10 **WOULD THAT HAVE FINANCIAL CONSEQUENCES FOR THE**
11 **COMPANY?**

12 A. Yes, please see the rebuttal testimony of Company witness Jeff Garmon.

13 **VII. SHORT-TERM LEASE EXTENSION**

14 **Q. PLEASE EXPLAIN THE EXTENSION TO THE SHORT-TERM LEASE**
15 **THAT MR. MARA ADDRESSES IN HIS TESTIMONY.**

16 A. The short-term lease extension was executed as an administrative matter to allow
17 the Company to continue utilizing the TEEEF until they could be added to the long-
18 term lease.

19 **Q. DO YOU AGREE WITH MR. MARA’S POSITION THAT THE**
20 **ADDITIONAL 225 MW OF CAPACITY IN THE SHORT-TERM LEASE**
21 **EXTENSION WAS SOLE SOURCED AND NOT COMPETITIVELY BID?**

22 A. No. The 225 MW in the short-term lease extension are the same assets that were
23 competitively bid as part of the long-term lease RFP. If you compare the TEEEF

1 units making up the capacity listed in Exhibit A to the short-term lease extension,
2 you can see that they are the exact same TEEEF units that are listed in Appendix
3 A, Table 2 to the long-term lease that were the subject of the long-term lease
4 competitive bidding process. After the long-term lease was awarded to LCP, and
5 during the contract negotiations on the lease, the parties agreed to “park” that
6 portion of the capacity that was awarded to LCP in the long-term lease RFP process
7 under the earlier-awarded short-term lease (and extending its term) until the first
8 lien security interest that CenterPoint Houston required on the assets that made up
9 that capacity could be obtained and verified.

10 **Q. WOULD IT HAVE BEEN REASONABLE TO ISSUE A RFP FOR**
11 **CAPACITY FOR THE 9-MONTH PERIOD THAT FALLS WITHIN THE**
12 **SHORT-TERM LEASE EXTENSION?**

13 A. No. It would have been unlikely the Company would have attracted competitive
14 bids due to the long-term lease that was already in place. Bidders would not want
15 to invest their time, resources or money in a bid that is unlikely they would win and
16 had already bid as part of the long-term lease RFP. Conducting this RFP would
17 also have provided an opportunity for LCP to increase the costs for the TEEEF
18 units already mobilized on CenterPoint Houston’s property, which would
19 ultimately increase the costs to customers for these services.

1 **Q. DO YOU AGREE WITH MR. MARA’S SPECULATION THAT THE**
2 **PROPOSED DPS LEASE COSTS WOULD BE LOWER IF A RFP WAS**
3 **ISSUED FOR THE EXTENSION PERIOD?**

4 A. No, for the reasons I just mentioned above. In addition, switching to another
5 provider would have resulted in twice the mobilization costs and unnecessary
6 demobilization costs because the units were already in use.

7 **Q. WAS THE SHORT-TERM LEASE EXTENSION REASONABLE?**

8 A. Yes.

9 **Q. ON PAGE 27 OF MR. MARA’S DIRECT TESTIMONY, HE CITES THE**
10 **STATUTORY PROCUREMENT REQUIREMENTS FOR TEXAS CITIES**
11 **AND STATE AGENCIES TO TRY TO SHOW THAT THE COMPANY’S**
12 **PROCUREMENT PROCEDURE FOR THE SHORT-TERM LEASE WAS**
13 **UNREASONABLE. HAVE YOU LOOKED AT THOSE STATUTES?**

14 A. While the statutes do not apply to procurement by a utility such as CenterPoint
15 Houston, I have compared their requirements to the Company’s processes.

16 **Q. WHAT DO THOSE STATUTES SAY?**

17 A. Chapter 252 of the Texas Local Government Code, “Purchasing and Contracting
18 Authority of Municipalities,” sets out the competitive bidding procedures that
19 Texas cities must follow to purchase goods or services of more than \$50,000.⁴ The
20 Chapter 252 procedures generally seem to require a city to give at least 14 days’
21 notice of the city’s posting of a request for competitive bids.⁵ However, this statute

⁴ Tex. Local Gov’t Code § 252.021.

⁵ *Id.* § 252.041.

1 further states that the competitive bidding procedures in chapter 252 “*do[] not*
2 *apply to an expenditure for* (1) a procurement made because of a public
3 calamity . . . ; (2) *a procurement necessary to preserve or protect the public health*
4 *or safety of the municipality’s residents*; (3) a procurement necessary because of
5 unforeseen damage to public machinery, equipment, or other property; [or] . . . (15)
6 electricity.”⁶ Similarly, chapter 2155 of the Texas Government Code, “Purchasing:
7 General Rules and Procedures,” sets out the competitive bidding procedures that
8 Texas state agencies must follow to purchase goods or services of more than
9 \$25,000.⁷ The chapter 2155 procedures likewise generally require a state agency
10 to give at least 14 days’ notice of the state agency’s request for competitive bids
11 after posting an entire RFP solicitation package (not 21 days as Mr. Mara testified).⁸
12 However, chapter 2155 also carves out an exception to its competitive bidding
13 procedures, providing that this “minimum time for posting required by this
14 subsection . . . *does not apply in an emergency requiring the state agency to make*
15 *the procurement more quickly to prevent a hazard to life, health, safety, welfare, or*
16 *property.*”⁹

⁶ *Id.* § 252.022(a). Emphasis added.

⁷ Tex. Gov’t Code § 2155.083.

⁸ *Id.* § 2155.083(i).

⁹ *Id.* (emphasis added).

1 **Q. IN YOUR OPINION, WAS THE COMPANY’S PROCUREMENT OF THE**
2 **SHORT-TERM LEASE FOR TEEEF NECESSARY TO “PROTECT**
3 **PUBLIC HEALTH AND SAFETY” OR “TO MAKE THE PROCUREMENT**
4 **MORE QUICKLY TO PREVENT A HAZARD TO LIFE, HEALTH,**
5 **SAFETY, WELFARE, OR PROPERTY”?**

6 A. Yes. As everyone knows, we started the procurement process before PURA
7 § 39.918 officially became effective on September 1, 2021, because the height of
8 the 2021 hurricane season was fast approaching, and the Company is committed to
9 taking necessary steps to provide reliable service to the public and take reasonable
10 measures to protect the public from damage or harm against power outages caused
11 by natural and man-made disasters.

12 **Q. WAS THE COMPANY’S PROCUREMENT PROCESS FOR THE SHORT-**
13 **TERM LEASE REASONABLE?**

14 A. Yes. In my opinion as an experienced procurement professional, the Company’s
15 procurement procedures for the short-term lease of TEEEF was reasonable and
16 prudent and consistent with industry practice, the Company’s own procurement
17 policies and procedures, and PURA § 39.918. The procurement was urgent because
18 of the imminent threat of a hurricane and the scarcity of available TEEEF options.
19 Moreover, even though the requested bid-response time was shorter than what
20 generally occurs in non-emergency situations, CenterPoint Houston had been in
21 contact with all the potential bidders prior to the formal bid solicitation and made
22 them aware of what the Company was generally seeking in terms of bids.

VIII. CONCLUSION

1
2 **Q. PLEASE SUMMARIZE YOUR TESTIMONY.**

3 A. My testimony shows the Company's RFP process for TEEEF was robust, consistent
4 with standard industry practice, Company requirements, and reasonably addressed
5 the unique aspects of TEEEF including the timeframe during which the Company
6 needed the assets as well as specific technological requirements. In addition, the
7 selection of LCP was reasonable based on its response to the Company's RFPs and
8 the competitive pricing it offered compared to other bids. The due diligence the
9 Company conducted before entering the long-term lease with LCP was also
10 reasonable. Finally, I also address specific aspects of the Company's actions
11 related to or content in the short-term and long-term leases to show the Intervenor
12 criticisms are unfounded or unreasonable based on the full context of the
13 Company's TEEEF procurement.

14 **Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?**

15 A. Yes.

Timeline of TEEF Procurement

HURRICANE SEASON	June 15, 2021	HB 2483 signed by Governor Abbott
	Immediately after legislation passes	High Voltage Materials group analyzes optimal solutions for TEEF deployment
	July 2021	Strategic Planning reviews available options and presents proposed strategy to CenterPoint Houston Executive Committee
	Mid-July 2021	Electric Engineering and Asset Optimization contacts Procurement
	July 2021	Procurement immediately begins developing sourcing strategy
	July 29, 2021	Procurement, Electric Engineering and Asset Optimization communicate with other users of TEEF to identify potential bidders
	3 rd to 4 th weeks of July 2021	Procurement actively communicates with 4 potential bidders for Short-Term RFP
	August 3, 2021 (Tuesday)	Short-Term RFP issued to 4 bidders
	August 4, 2021	Long-Term RFP planning begins
	August 6, 2021 (Friday)	2 bids received in response to Short-Term RFP
	August 6-13, 2021	Assessment of bids, further negotiations with bidders
	Mid-August 2021	Original requested date for receipt of TEEF under Short-Term Lease
	2 nd week of August 2021	Selection of Life Cycle Power (LCP) as Short-Term Lease vendor
	September 1, 2021	HB 2483/PURA § 39.918 takes effect
	September 1, 2021	Desired Effective Date for Short-Term Lease
	September 1, 2021	Short-Term Lease executed
	September 13, 2021	Company begins receiving TEEF
	September 13-14, 2021	Hurricane Nicholas approaches Texas coast, makes landfall and causes damage to Company facilities
	September 15-17, 2021	TEEF Deployed to Lake Jackson Civic Center
	September 25, 2021	Company receives all TEEF under Short-Term Lease
	October 6, 2021	Long-Term RFP issued to 15 bidders
	3 rd week October, 2021	Commissioning and pre-positioning of available TEEF completed under Short-Term Lease
	November 5, 2021	6 Bids received for Long-Term RFP
	November 5 -December 2, 2021	Bids analyzed, commercial negotiations occur
WINTER SEASON	December 3, 2021	Internal Executive review of proposed award scenario
	December 9, 2021	Board of Directors approves Long-Term Lease of TEEF
	December 9, 2021	Contingent letter of award issued to LCP
	December 9, 2021-December 31, 2021	Contract Negotiations with LCP
	December 31, 2021	Amendment to Short-Term lease through September 30, 2022 adding equipment not covered under Long-Term Lease
	December 31, 2021	Long-Term Lease Executed
	January 28, 2022	Date by which all TEEF delivered under Long-Term Lease
	March 2022	Winter Season Ends

EXHIBIT EER-R-2 (CONFIDENTIAL)
CONFIDENTIAL PROTECTED MATERIALS
WILL BE PROVIDED PURSUANT TO
PROTECTIVE ORDER ISSUED IN THIS THIS
DOCKET

EXHIBIT EER-R-3 (CONFIDENTIAL)
CONFIDENTIAL PROTECTED MATERIALS
WILL BE PROVIDED PURSUANT TO
PROTECTIVE ORDER ISSUED IN THIS THIS
DOCKET

EXHIBIT EER-R-4 (HIGHLY SENSITIVE)
HIGHLY SENSITIVE PROTECTED
MATERIALS WILL BE PROVIDED
PURSUANT TO PROTECTIVE ORDER
ISSUED IN THIS THIS DOCKET


STATE OF TEXAS §
 §
COUNTY OF HARRIS §

AFFIDAVIT OF ERIN E. RABEN

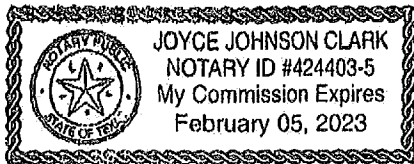
BEFORE ME, the undersigned authority, on this day personally appeared Erin E. Raben, who being by me first duly sworn, on oath, deposed and said the following:

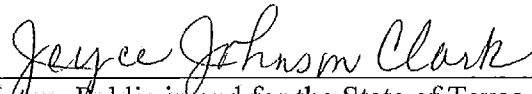
1. "My name is Erin E. Raben. I am of sound mind and capable of making this affidavit. The facts stated herein are true and correct based on my personal knowledge. My current position is Director of Utility Procurement for CenterPoint Energy Service Company, LLC.
2. The foregoing rebuttal testimony and any attached exhibits have been prepared by me or under my direct supervision and are true and correct to the best of my knowledge."

Further affiant sayeth not.


Erin E. Raben

SUBSCRIBED AND SWORN TO BEFORE ME on this 29th day of September, 2022.




Notary Public in and for the State of Texas

CERTIFICATE OF SERVICE

I certify that a true and correct copy of this filing has been forwarded to all parties of record via electronic mail on October 5, 2022, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/Mark A. Santos
Mark A. Santos