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SOAH DOCKET NO. 473-22-04394
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ENTERGY TEXAS, INC.’S STATEMENT	§	BEFORE THE STATE OFFICE
OF INTENT AND APPLICATION FOR	§	OF
AUTHORITY TO CHANGE RATES	§	ADMINISTRATIVE HEARINGS

**ENTERGY TEXAS, INC.’S MOTION FOR LEAVE TO FILE SUPPLEMENTAL
TESTIMONY IF NECESSARY AND REQUEST FOR EXPEDITED RELIEF**

Entergy Texas, Inc. (“ETI” or the “Company”) files this motion for leave to file supplemental rebuttal testimony by November 22, 2022, if necessary, to address rate design and cost allocation issues raised in the late-filed direct testimony of Staff witness Ethan Blanchard. In light of the currently pending rebuttal deadline of November 16, 2022, ETI respectfully requests expedited relief on this motion.

On July 26, 2022, ETI filed on behalf of the parties an unopposed procedural schedule. On July 27, 2022, the State Office of Administrative Hearings (“SOAH”) Administrative Law Judges (“ALJs”) issued their Order Memorializing Prehearing Conference; Adopting Procedural Schedule; and Setting Hearing on the Merits. That Order established the procedural schedule for this case, which included the unopposed deadline of November 2, 2022, for Staff to file direct testimony, which was one week after the deadline for Intervenors to file direct testimony.

On November 2, 2022, Staff filed multiple pieces of direct testimony, but also filed a letter informing the ALJs, “that Commission Staff will be filing the direct testimony of Ethan Blanchard addressing cost allocation and rate design late but as soon as possible. . . . When Commission Staff files Mr. Blanchard’s direct testimony, it will include a motion for leave to file late testimony.” That testimony was filed a week late on November 9, 2022, which afforded parties half of the time provided for in the procedural schedule to evaluate this piece of Staff’s testimony and prepare rebuttal. The same day, Staff filed a motion for leave to file direct testimony late. In that motion, Staff stated,

In addition, consistent with longstanding practice, the modeling underlying Mr. Blanchard’s testimony will be used in the number running process for the proposal for decision and for the rates ultimately set by the Commission. On October 25, 2022, Staff received a response from ETI relevant to its analysis of ETI’s cost allocation and rate design that caused some delay in the preparation of Mr. Blanchard’s modeling. Further, the preparation of Mr. Blanchard’s modeling and direct testimony was more time-consuming than anticipated at the time that Staff received the additional information. Therefore, Staff respectfully requests that it be

given leave to file Mr. Blanchard's direct testimony late. Staff does not believe that any party will be prejudiced by the lateness, but will confer with the parties if any scheduling changes are necessary as a result of the late filing.

First, while Staff suggests that "a response from ETI . . . caused some delay," Staff's footnote refers to a discovery request Staff propounded on October 12, 2022, after which Staff contacted ETI and requested, informally, that ETI provide an expedited response. In the spirit of cooperation, ETI did in fact accommodate that request and responded on October 25, 2022, a week before the response deadline, rather than adhering to the applicable 20-day response time.¹ Thus, it is simply not credible to assert that ETI has "caused some delay" in Staff's ability to prepare its modeling. And although Staff characterizes the late-filed testimony as providing "flow through" impacts and not containing "any substantive recommended adjustments," the testimony addresses Staff's proposed allocation of costs among ETI customers. As Staff notes in its motion, the model underlying Mr. Blanchard's testimony will be used in the number running process and ultimately used to set the rates resulting from the Commission's decision in this case. Accordingly, it is critical that ETI has a meaningful opportunity to thoroughly evaluate this model. While Staff states that it "does not believe that any party will be prejudiced by the lateness," that may not be the case. ETI has had to operate under an extremely compressed time frame to attempt to fully assess and respond to Staff's late-filed testimony and the underlying model, and is still in the process of such review. Finally, while Staff stated that it would "confer with the parties if any scheduling changes are necessary as a result of the late filing," counsel for ETI has had no communication with Staff regarding this issue (either before or after the late filing of its testimony).

Given the above circumstances, ETI respectfully asserts there is a clear justification to grant the Company's request for leave to file supplemental testimony addressing the testimony of Mr. Blanchard, if necessary, by November 22, 2022.

¹ Response of Entergy Texas, Inc. to Staff's Ninth Request for Information: Staff 9:1 (Oct. 25, 2022).

Dated: November 15, 2022

Respectfully submitted,



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ATTORNEYS FOR ENTERGY TEXAS, INC

CERTIFICATE OF SERVICE

I hereby certify that on the 15th day of November 2022, a true and correct copy of the foregoing document was served on all parties of record in this proceeding.

A handwritten signature in black ink, appearing to read "G. G. Hoyt", written over a horizontal line.

George G. Hoyt