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SOAH DOCKET NO. 473-22-04394
PUC DOCKET NO. 53719

APPLICATION OF ENTERGY TEXAS,	§	BEFORE THE STATE OFFICE
INC. FOR AUTHORITY TO CHANGE	§	OF
RATES	§	ADMINISTRATIVE HEARINGS

SUPPLEMENTAL REBUTTAL TESTIMONY

OF

MEGHAN E. GRIFFITHS

ON BEHALF OF

ENTERGY TEXAS, INC.

FEBRUARY 2023

ENTERGY TEXAS, INC.
SUPPLEMENTAL REBUTTAL TESTIMONY OF MEGHAN E. GRIFFITHS
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I. INTRODUCTION

Q1. PLEASE STATE YOUR NAME, EMPLOYER, TITLE, AND BUSINESS ADDRESS.

A. My name is Meghan E. Griffiths. I am a partner with the law firm of Jackson Walker, LLP (“Jackson Walker”). My business address is 100 Congress Avenue, Suite 1100, Austin, Texas, 78701.

Q2. ON WHOSE BEHALF ARE YOU FILING THIS SUPPLEMENTAL REBUTTAL TESTIMONY?

A. I am testifying on behalf of Entergy Texas, Inc. (“ETI”).

Q3. ARE YOU THE SAME MEGHAN E. GRIFFITHS WHO SUBMITTED DIRECT TESTIMONY ON JULY 1, 2022; SUPPLEMENTAL DIRECT TESTIMONY ON OCTOBER 13, 2022; REBUTTAL TESTIMONY ON NOVEMBER 16, 2022; AND SECOND SUPPLEMENTAL DIRECT TESTIMONY ON FEBRUARY 1, 2023 IN THIS DOCKET?

A. Yes, and I fully incorporate all of my prior testimonies as if provided in full in this supplemental rebuttal testimony. For a discussion of my educational and professional qualifications, please see my direct testimony submitted on July 1, 2022.

1 **II. PURPOSE OF SUPPLEMENTAL REBUTTAL TESTIMONY**

2 Q4. WHAT IS THE PURPOSE OF YOUR SUPPLEMENTAL REBUTTAL
3 TESTIMONY IN THIS PROCEEDING?

4 A. The purpose of my supplemental rebuttal testimony is to address the
5 recommendations of Commission Staff witness Ruth Stark with regard to rate
6 case expenses for billing rates over \$550 per hour and redacted legal invoices, the
7 standards for which were fully briefed in my initial rebuttal testimony.

8
9 Q5. WHAT ARE THE STANDARDS FOR RECOVERY OF RATE CASE
10 EXPENSES?

11 A. The standards for the recovery of rate case expenses are set forth in my direct
12 testimony, which as previously mentioned, I fully incorporate as if provided in
13 full in this supplemental rebuttal testimony. The opinions set forth in my direct
14 testimony regarding the standards for rate case expense recovery, my review of
15 rate case expenses, and the reasonableness of the fees and expenses incurred by
16 ETI remain unchanged.

17
18 Q6. WAS THIS SUPPLEMENTAL REBUTTAL TESTIMONY PREPARED BY
19 YOU OR UNDER YOUR DIRECT SUPERVISION?

20 A Yes. This supplemental rebuttal testimony was prepared by me or under my direct
21 supervision and the information contained in it is true and correct to the best of
22 my knowledge.

III. RATE CAP

Q7. ON PAGE 7, LINE 6 AND ATTACHMENT RS-4S OF MS. STARK'S SUPPLEMENTAL DIRECT TESTIMONY, MS. STARK RECOMMENDS A RATE CAP OF \$550 PER HOUR FOR ATTORNEY RATES AND A DISALLOWANCE OF ATTORNEY FEES IN EXCESS OF \$550 PER HOUR. WILL YOU PLEASE SUMMARIZE HER PROPOSED DISALLOWANCES?

A. Yes. As shown in Attachment RS-4S to her supplemental direct testimony, Ms. Stark has proposed a rate cap of \$550 per hour for: (1) Lino Mendiola, a Partner at Eversheds Sutherland (US) LLP (“Eversheds”) (a disallowance of \$19,232); (2) myself, a Partner at Jackson Walker (a disallowance of \$7,446), and (3) Alisha Adams, an Associate at Jackson Walker (a disallowance of \$684).

Q8. IN YOUR OPINION, DOES MS. STARK’S RECOMMENDATION DEMONSTRATE THAT THE FEES PAID TO AN ATTORNEY OR OTHER PROFESSIONAL AT A RATE OF \$550 OR MORE PER HOUR WERE EXTREME OR EXCESSIVE UNDER 16 TEX. ADMIN. CODE (“TAC”) § 25.245(C)(1)?

A. No, it does not. As was outlined clearly in my rebuttal testimony already incorporated by reference, under Public Utility Regulatory Act (“PURA”) §§ 36.051 and 36.061(b), as well as under the rate case expense rule in 16 TAC § 25.245, the governing principle is that the utility is entitled to recover reasonable rate case expenses in light of the applicable standards and the specific criteria outlined in the rate case expense rule. Those factors, which are addressed in my direct testimony, do not support an across-the-board rate cap. Therefore,

1 Ms. Stark's additional disallowances outlined in her supplemental direct
2 testimony are not reasonable.

3

4 Q9. HAVE YOU FORMED AN OPINION REGARDING MS. STARK'S
5 UPDATED DISALLOWANCES FOR LEGAL BILLINGS IN EXCESS OF \$550
6 PER HOUR?

7 A. Yes, I have. I reviewed the additional invoices to verify that they were calculated
8 correctly, the amounts were related to rate case matters, charges were not double
9 billed, the hours were reasonable, and no luxury items were included in ETI's
10 request. In my opinion, the services provided by Eversheds and Jackson Walker
11 were reasonable and were provided at reasonable rates.

12

13 Q10. IS COMMISSION STAFF'S PROPOSED RATE CAP OF \$550
14 REASONABLE?

15 A. No. For the reasons specifically outlined in my rebuttal testimony, Ms. Stark's
16 continued proposal of a \$550 per hour rate cap for almost a decade not only fails
17 to comport with the factors to be considered under PURA, but misinterprets the
18 factors identified in the Commission's own rate case expense rule. It is therefore
19 unreasonable and arbitrary for Ms. Stark and Commission Staff in general to
20 ignore the factors established by PURA and the rate case expense rule and
21 automatically recommend the same rate cap year after year. Indeed, in applying
22 the rate cap, Ms. Stark does not take into consideration the attorneys'
23 qualifications, education, and experience, nor does she account for the market

1 rates for similarly qualified attorneys in the same geographic area when making
2 her recommendation.

3 The rate cap also completely ignores the impact of inflation and increases
4 in law firm overhead that escalate over time, necessarily resulting in periodic
5 attorney rate increases to account for those increased costs, particularly during the
6 high inflationary periods experienced in 2021 and 2022. Consequently, ETI's rate
7 case expenses in this proceeding justify a more reasoned approach by
8 Commission Staff.

9
10 Q11. ARE THE RATES PAID BY ETI REASONABLE BASED ON MARKET
11 RATES AND THE NATURE, EXTENT, AND DIFFICULTY OF THE WORK
12 PERFORMED?

13 A. Yes. As mentioned in my rebuttal testimony, Jackson Walker is in the AmLaw200
14 and Eversheds Sutherland is in the Global 200. Both Mr. Mendiola and I are
15 senior partners with extensive experience in utility rate cases who have close to or
16 more than 20 years of electric utility experience, and our rates are within the \$600
17 to \$800 range described in my direct testimony.¹ Further, the billing rates for Mr.
18 Mendiola and me have been deeply discounted for this case. Mr. Mendiola's
19 hourly rate in this proceeding was a 32 percent discount to his 2022 standard
20 hourly rate. My hourly rate in this proceeding was a 20 percent discount to my
21 2022 standard hourly rate. Finally, Ms. Adams has seven years of experience and
22 is well qualified to assist me with this matter at a rate lower than mine, providing

¹ Direct Testimony of Meghan E. Griffiths at 24-25 (Jul. 1, 2022).

1 efficient and cost-effective services to ETI. This is further evidence that Mr.
2 Mendiola's rate of \$710 per hour and my rate of \$720 per hour are reasonable and
3 that the rates charged by Eversheds and Jackson Walker above \$550 per hour are
4 not extreme or excessive.

5 Because ETI bears the burden of proof on its application, ETI has to hire
6 sophisticated and specialized legal counsel that can efficiently address the
7 complex interdisciplinary issues raised in this proceeding. To meet its evidentiary
8 burden for recovery of its rate case expenses, ETI was required to engage a
9 qualified attorney to opine on the reasonableness of the attorneys' fees requested.²
10 As noted in my direct testimony, the rates charged to ETI in this proceeding are
11 reasonable based on the nature and complexity of the case, the experience of the
12 counsel, and the rates charged by other attorneys who have provided similar
13 services.

14
15 **IV. REDACTED LEGAL INVOICES**

16 Q12. ON PAGE 7 OF MS. STARK'S TESTIMONY, MS. STARK RECOMMENDS A
17 DISALLOWANCE OF \$21,740 FOR LINE ITEMS IN INVOICES THAT
18 CONTAIN REDACTIONS. DO YOU AGREE WITH HER RECOMMENDED
19 DISALLOWANCE?

20 A. No, I do not. ETI has unredacted or partially unredacted certain task narratives
21 included in invoices that were previously provided, thereby lowering Ms. Stark's
22 overall recommended disallowance. However, the remaining redactions protect

² *Application of Southwestern Electric Power Company for Authority to Reconcile Fuel Costs*,
Order Remanding Proceeding, Docket No. 50997 at 1 (Sept. 7, 2021).

1 information considered to be protected attorney work product under 16 TAC
2 § 22.221(b), which states that the “rules of privilege and exemption recognized by
3 Texas law shall apply” in contested cases. Thus, it is inappropriate for Ms. Stark
4 to disallow reasonable legal expenses otherwise eligible for recovery solely
5 because ETI has properly redacted certain narrative details of the time entries that
6 contain protected attorney work product.

7
8 Q13. DID YOU REVIEW THE UNREDACTED INVOICES TO DETERMINE THE
9 REASONABLENESS OF THE RATE CASE EXPENSES ASSOCIATED WITH
10 THE REDACTED ENTRIES?

11 A. Yes, I did. As was outlined in my rebuttal testimony, it is my opinion that the
12 legal fees associated with these line items are reasonable rate case expenses and
13 the redacted information constitutes privileged information under Texas law. It is
14 reasonable for ETI to redact attorney work product in its invoices, which it has
15 done on limited line items that would disclose litigation strategy and other
16 privileged information to opposing parties. 16 TAC § 22.221(b) provides that
17 Texas law addressing privilege and exemptions applies in contested cases, and
18 Rule 192.5 of the Texas Rules of Civil Procedure further establishes that work
19 product can be “material prepared or mental impressions developed in
20 anticipation of litigation” and is considered privileged information not subject to
21 discovery. Consequently, to require that ETI reveal protected work product and
22 privileged information as part of Commission Staff’s review would violate the
23 Commission’s own rules related to privilege.

V. CONCLUSION

2 Q14. DOES THIS CONCLUDE YOUR SUPPLEMENTAL REBUTTAL
3 TESTIMONY IN THIS CASE?

4 A. Yes, it does.

AFFIDAVIT OF MEGHAN GRIFFITHS

THE STATE OF TEXAS

§

§

COUNTY OF TRAVIS

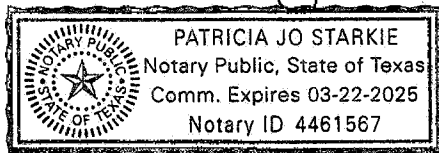
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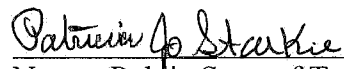
This day, Meghan Griffiths, the affiant, appeared in person before me, a notary public, who knows the affiant to be the person whose signature appears below. The affiant stated under other:

“My name is Meghan Griffiths. I am of legal age and a resident of the State of Texas. The foregoing supplemental rebuttal testimony offered by me is true and correct, and the opinions stated therein are, to the best of my knowledge and believe, accurate, true and correct.”


Meghan Griffiths

SUBSCRIBED AND SWORN TO BEFORE ME, notary public, on this the 22nd day of February 2023.




Notary Public State of Texas