



Filing Receipt

Filing Date - 2024-03-06 10:09:23 AM

Control Number - 56211

Item Number - 13

PUC DOCKET NO. 56211

APPLICATION OF CENTERPOINT	§	PUBLIC UTILITY COMMISSION
ENERGY HOUSTON ELECTRIC, LLC	§	
FOR AUTHORITY TO CHANGE RATES	§	OF TEXAS

DIRECT TESTIMONY

OF

JASON M. RYAN

ON BEHALF OF

CENTERPOINT ENERGY HOUSTON ELECTRIC, LLC

MARCH 2024

TABLE OF CONTENTS

EXECUTIVE SUMMARY	ES-1
I. INTRODUCTION	1
II. OVERVIEW OF TESTIMONY.....	4
III. GROWING IN THE PATH OF STORMS	5
IV. THE IMPORTANCE OF REFLECTING THE COMPANY’S ACTUAL CAPITAL STRUCTURE IN RATES	18
V. AFFORDABILITY OF CENTERPOINT HOUSTON’S RATES.....	36

LIST OF EXHIBITS

Exhibit JMR-1	Excerpts from CenterPoint Energy Houston Electric, LLC’s previous rate case application in Docket No. 49421
Exhibit JMR-2	Excerpts from Commission Order in Docket No. 49421
Exhibit JMR-3	Excerpts from Commission Order No. 42 in Docket No. 22344
Exhibit JMR-4	Excerpts from Commission Orders in Docket Nos. 8425 & 8431
Exhibit JMR-5	Excerpts from Commission Order in Docket No. 9850
Exhibit JMR-6	Excerpts from Commission Order in Docket No. 38339
Exhibit JMR-7	Excerpts from Amended Proposal for Decision and Railroad Commission of Texas Order, OS-22-00009896

GLOSSARY OF ACRONYMS AND DEFINED TERMS

<u>Acronym</u>	<u>Definition</u>
ADER	Aggregated Distributed Energy Resources
ALJ	Administrative Law Judge
CenterPoint Houston or Company	CenterPoint Energy Houston Electric, LLC
CNP	CenterPoint Energy, Inc.
Commission or PUC	Public Utility Commission of Texas
DOE	U.S. Department of Energy
ERCOT	Electric Reliability Council of Texas
FERC	Federal Energy Regulatory Commission
GRIP	DOE Grid Resilience and Innovation Partnerships Program
NCEI	National Centers for Environmental Information
NERC	North American Electric Reliability Corporation
NOAA	National Oceanic and Atmospheric Administration
O&M	Operation and Maintenance
PFD	Proposal for Decision
PURA	Public Utility Regulatory Act
Railroad Commission	Railroad Commission of Texas
ROE	Return on Equity
SAIDI	System Average Interruption Duration Index
SAIFI	System Average Interruption Frequency Index
TDU	Transmission and Distribution Utility
Test Year	12 months ending December 31, 2023

EXECUTIVE SUMMARY – POLICY

(JASON M. RYAN)

1 The part of the state served by CenterPoint Energy Houston Electric, LLC
2
3 (“CenterPoint Houston” or the “Company”) includes not only the fourth largest city
4 and fifth largest metropolitan area in the country, but also the largest medical center
5 on the planet, one of the largest petrochemical complexes in the world, and one of
6 the busiest ports in the country. While the Company’s service territory is only
7 about 2% of the geographic area of the state, its customers consume about 25% of
8 the electricity used in the Electric Reliability Council of Texas (“ERCOT”) region
9 of the state. And the area is growing on top of that. Each year, CenterPoint Houston
10 adds new customers roughly equivalent in number to the City of Waco. But more
11 than just growth in the number of people in the region, electrification of the
12 industrial sector and hydrogen development could double or triple the electric load
13 in the Greater Houston area over the next few decades.

14 At the same time, Harris County—the heart of the Company’s service
15 area—is one of the most vulnerable counties in the country to severe weather. As
16 more customers rely more heavily on electricity in the path of hurricanes, floods
17 and other extreme weather risk, the Company’s infrastructure must not only be
18 reliable, but it must be resilient. That means the infrastructure must take the punch
19 from storms and quickly return to normal operations.

20 The combination of rapid customer growth, load growth due to customer-
21 driven electrification and other activities, and extreme weather risk demands
22 continued significant levels of investment in the Company’s transmission and
23

1 distribution system. Over the past few decades, that investment has increased from
2 about \$500 million per year to over \$2 billion per year. And the Company projects
3 the level of investment needed will continue to increase.

4 But the regulatory capital structure currently used to design CenterPoint
5 Houston's rates and meant to compensate the Company for the cost of the capital
6 needed to make investments to benefit customers, will impede the Company's
7 ability to affordably make these investments. That currently approved regulatory
8 capital structure ignores the Company's *actual* capital structure (i.e., how the
9 Company *actually* finances projects) in favor of a *hypothetical* capital structure—
10 an outdated practice from the early years of the transition to unbundled utilities in
11 the ERCOT part of the state. The impact is that the Company is disallowed
12 recovery of the true cost of each dollar it invests. In the context of needing to invest
13 even more dollars to accommodate customer-driven load growth, more than two
14 decades after utility unbundling, the practice of using a *hypothetical* capital
15 structure no longer makes sense. *Hypothetical* capital structures are not routinely
16 used for other Texas utilities, and the Company's *actual* capital structure should be
17 used going forward unless it is proven unreasonable.

18 CenterPoint Houston understands the importance of affordability to the
19 Commission and customers and has taken actions in managing the business and
20 developing this rate application so that the Commission may approve the
21 Company's requested *actual* capital structure without adversely impacting rate
22 affordability. The added cost of using the Company's *actual* capital structure in
23 rates will be offset by the Company's reductions in O&M expense; the expiration

1 of several securitization riders in the Company's rates; lower debt costs that should
2 result if better credit ratings are achieved as the result of using a proper, *actual*
3 capital structure; and other downward adjustments to the revenue requirement
4 proposed by the Company in this case. The portion of the average residential
5 customer's electric bill attributable to CenterPoint Houston has remained relatively
6 flat over the past ten years, and the Company's proposed rate change in this case
7 (about 0.7% for residential customers on a net basis) is below the level of historic
8 inflation. The Commission in this rate case can and should position the Company
9 to address the need for significant new capital investment while maintaining
10 affordable and high-quality electric service for our customers and the communities
11 CenterPoint Houston has the privilege to serve.

I. INTRODUCTION

Q. PLEASE STATE YOUR NAME AND CURRENT POSITION.

A. My name is Jason M. Ryan. I am the Executive Vice President, Regulatory Services and Government Affairs for CenterPoint Energy, Inc. ("CNP"), the parent company of CenterPoint Energy Houston Electric, LLC ("CenterPoint Houston" or the "Company"). I am one of the five officers who make up the CNP Executive Committee and, as part of that group, have general corporate oversight responsibilities beyond the direct team that I lead. In addition to the CenterPoint Houston electric transmission and distribution utility ("TDU") business in the Houston area, CNP owns and operates an integrated electric utility in Indiana, and gas utilities in Indiana, Louisiana, Minnesota, Mississippi, Ohio and Texas.

Q. PLEASE SUMMARIZE YOUR EDUCATIONAL AND WORK BACKGROUND.

A. I graduated with honors in 1998 from The University of Texas at Austin with a bachelor's degree in business administration. In 2001, I received my law degree with honors from The University of Texas School of Law. I began my career at CNP in December 2009, and in January 2022, I was named Executive Vice President, Regulatory Services & Government Affairs following service as CNP's general counsel and in other legal leadership positions. Prior to joining CNP, I represented the Company and others in the energy industry as outside regulatory counsel as the managing partner at energy law firm Ryan Glover LLP and as an energy regulatory attorney at Baker Botts, LLP. In addition to my legal and utility experience, I was commissioned by President George W. Bush as an intelligence officer in the Navy and served with a reserve unit from 2005-2015. I was appointed

1 by Texas Governor Rick Perry to the Texas Diabetes Council in 2013 for a term
2 ending in 2019; in 2019, I was reappointed by Texas Governor Greg Abbott for a
3 term ending in 2025.

4 **Q. WHAT ARE YOUR CURRENT RESPONSIBILITIES AT CNP?**

5 A. In my current role, I report directly to CNP's Chief Executive Officer and lead
6 about 100 colleagues on the rates and regulatory portfolio management team; the
7 regulatory policy team; the regulatory legal team; and the local, state, and federal
8 government affairs team. These teams are responsible for (1) representing our
9 utility businesses—including CenterPoint Houston—in proceedings before the
10 Public Utility Commission of Texas (the "Commission" or "PUC") and other state
11 and federal agencies and any related appeals in the courts, and (2) spearheading
12 state and federal legislative initiatives to support the enterprise goals and objectives.

13 **Q. ON WHOSE BEHALF ARE YOU TESTIFYING IN THIS PROCEEDING?**

14 A. I am testifying on behalf of CenterPoint Houston.

15 **Q. HAVE YOU TESTIFIED PREVIOUSLY?**

16 A. Yes. I testified on behalf of our Minnesota gas utility before the Minnesota Public
17 Utilities Commission in proceedings in 2021 and 2022 relating to extraordinary gas
18 costs resulting from Winter Storm Uri. I previously testified on behalf of our Texas
19 gas utility about the reasonableness of rate case expenses before the Railroad
20 Commission of Texas.

21 In addition to testimony before those commissions, I have testified on behalf of
22 CNP utilities before the legislatures of Texas, Indiana, and Minnesota. In Texas, I
23 have testified for more than a decade before the relevant committees of the Texas

1 Legislature on legislation regarding energy efficiency and conservation (including,
 2 most recently, S.B. 1699¹, H.B. 2263²), capital recovery mechanisms and other
 3 ratemaking issues (including, most recently, S.B. 1015³, S.B. 1016⁴, H.B. 1520⁵),
 4 and transmission project criteria and timelines (including, most recently, S.B.
 5 1281⁶, S.B. 1076⁷).

6 I have also appeared before the Commission since August 2022 in my role as Chair
 7 of the Aggregated Distributed Energy Resources (“ADER”) Task Force. As
 8 reflected in the record in Project No. 53911, the ADER Task Force includes 20
 9 stakeholder representatives and is charged to work with ERCOT and the
 10 Commission to advance a pilot project for small, distributed generation assets on
 11 the TDU distribution grid to be aggregated and act in concert to provide energy and
 12 ancillary services in the ERCOT market. Integrating more distributed generation
 13 into the TDU distribution grid is one of the many trends leading to changed
 14 customer expectations of our business; in this case, being able to use the TDU
 15 system to sell energy, not just consume it.

¹ S.B. 1699, 88th Leg., R.S. (2023), amending Public Utility Regulatory Act (PURA) § 39.101(b) to permit customer participation in demand response programs offered by retail electric providers.

² H.B. 2263, 88th Leg., R.S. (2023), creating Tex. Util. Code §§ 104.401-403 to permit gas local distribution companies to offer energy conservation programs to customers.

³ S.B. 1015, 88th Leg., R.S. (2023), amending PURA § 36.210 to streamline distribution cost recovery factor proceedings and permit two filings per year.

⁴ S.B. 1016, 88th Leg., R.S. (2023), creating PURA § 36.067 to permit recovery of electric utility employee compensation and benefit expenses.

⁵ H.B. 1520, 87th Leg., R.S. (2021), creating Tex. Gov't Code § 1232.1072 and Tex. Util. Code §§ 104.361-380 to authorize the Texas Public Finance Authority to issue customer rate relief bonds for extraordinary gas costs incurred during Winter Storm Uri that were reviewed and approved by the Railroad Commission of Texas.

⁶ S.B. 1281, 87th Leg., R.S. (2021), amending PURA § 37.052 to add criteria for certificates of convenience and necessity for certain types of transmission line projects.

⁷ S.B. 1076, 88th Leg., R.S. (2023), amending PURA § 37.057 to shorten the statutory deadline for approval of certificates of convenience and necessity.

1 **Q. WHAT EXHIBITS HAVE YOU INCLUDED WITH YOUR TESTIMONY?**

2 A. I sponsor Exhibits JMR-1 through JMR-7 with my testimony.

3 **Q. WAS YOUR TESTIMONY PREPARED BY YOU OR BY OTHERS**
4 **WORKING UNDER YOUR DIRECTION AND CONTROL?**

5 A. Yes.

6 **II. OVERVIEW OF TESTIMONY**

7 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

8 A. First, my testimony describes recent population and load growth trends, as well as
9 weather risk trends (predominantly, high wind and flooding), in and around the
10 Houston metropolitan area, how those trends are requiring significant levels of
11 investment in our TDU system, and how that is expected to continue into the next
12 few decades.

13 Second, I highlight the need for the Commission to evolve its regulation of Texas
14 TDUs and return to the use of their *actual* capital structures in setting rates, instead
15 of *hypothetical* ones that became common after unbundling in 2001, when TDUs
16 were first formed and initially had no actual capital structure history to consider. A
17 return to the well-established practice of using CenterPoint Houston's *actual* capital
18 structure rather than a *hypothetical* one is critical, so the Company can affordably
19 make the needed investments for the customers we have the privilege to serve.

20 Third, I describe how the portion of the average residential customer's electric bill
21 attributable to CenterPoint Houston has remained relatively flat over the past
22 decade, despite significant growth in capital expenditures, and how customer
23 growth, the expiration of various securitization riders, and yearly reductions in
24 O&M expenses are expected to continue to keep rate increases below the level of

1 inflation, even when reflecting the Company's *actual* capital structure.

2 **III. GROWING IN THE PATH OF STORMS**

3 **Q. PLEASE DESCRIBE THE COMPANY'S SERVICE AREA AND**
4 **CUSTOMERS.**

5 A. CenterPoint Houston has a uniquely compact and dense service area serving
6 approximately 2.8 million homes and businesses. The service area covers
7 approximately 5,000 square miles in the Greater Houston region, including portions
8 or all of Brazoria, Chambers, Galveston, Fort Bend, Harris, Liberty, Montgomery,
9 Waller, and Wharton Counties. While the Company's service area is only about
10 2% of the geographic area of Texas, the customers in the Company's service area
11 account for approximately 25% of the total load in the ERCOT power region.
12 Because there is not sufficient generation in the Houston area to power the growing
13 region, during many parts of the year, we import the majority of the power from
14 other parts of ERCOT to serve our customers.

15 Our service area includes the city of Houston, which is the largest city in the state,
16 and the Greater Houston area, which is the fifth largest metropolitan area in the
17 country.

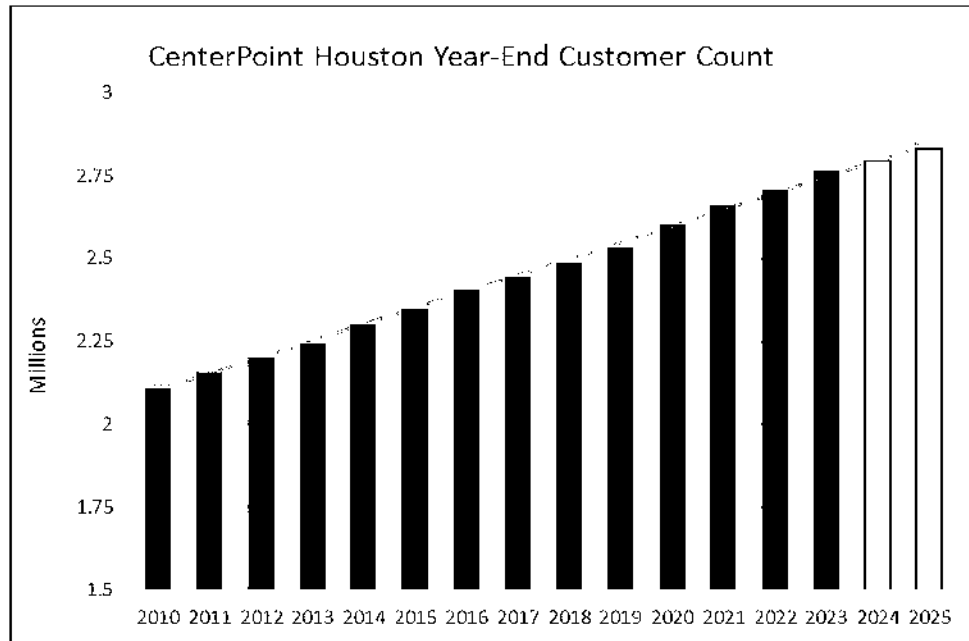
18 The Company anticipates that the population of the City of Houston will soon
19 surpass Chicago and become the third largest city in the country. This large and
20 growing population requires the Company to serve and interconnect a large number
21 of new residential and commercial customers every year. In addition, the Greater
22 Houston area has a large presence of petroleum refineries and petrochemical
23 facilities, meaning the Company has many industrial customers that consume large
24 amounts of electricity. The Greater Houston area also has some particularly

1 important public-serving facilities and infrastructure. For example, the Texas
2 Medical Center, which is the world's largest medical complex and home to multiple
3 medical and research institutions, is in Houston. Likewise, the Port of Houston,
4 which is one of the country's busiest container ports, is in the Greater Houston area.
5 In addition to the port, the city of Houston has two airports, George Bush
6 Intercontinental Airport and William P. Hobby Airport, which serve millions of
7 passengers and are local hubs for connecting flights, as well as Ellington
8 Airport/Houston Spaceport.

9 **Q. HOW WOULD YOU DESCRIBE THE RECENT GROWTH IN**
10 **CENTERPOINT HOUSTON'S SERVICE AREA.**

11 A. The pace of growth in the Company's service area has been rapid, and that growth
12 has been sustained. At the time of its electric base rate proceeding in 2010, the
13 Company had just under 2.1 million metered customers. By the company's 2019
14 base rate proceeding, that number had grown to approximately 2.5 million. Today,
15 only five years later, CenterPoint Houston has the privilege to serve approximately
16 2.8 million homes and businesses. Figure JMR-1 illustrates both customer growth
17 in the Company's service area since 2010 and estimated customer growth through
18 2025.

Figure JMR-1
CenterPoint Houston Year-End Customer Count



To put into perspective the past customer growth in the Company's service area, the Company has added into its service area the equivalent of a city roughly the size of Waco, Texas every single year since 2010! That significant annual growth requires building new infrastructure, or upgrading existing infrastructure, to serve that ever-increasing customer base. Whether building new or upgraded transmission lines to bring more power into the Houston region, new or upgraded substations, or new distribution circuits to new homes and businesses, this customer growth has been a large driver of the increased capital expenditures of the Company that I detail later in this testimony.

Also, as mentioned above, our service area is home to important public-serving infrastructure including the Texas Medical Center, the largest medical complex in the world, and the Houston Ship Channel complex, the largest port in the country in terms of waterborne tonnage. The Texas Medical Center employs over 100,000

1 people, is responsible for 10 million patient encounters per year, and is home to the
 2 world's largest children's hospital and cancer hospital.⁸ One study has estimated
 3 that the Houston Ship Channel complex supports over 1.5 million jobs throughout
 4 Texas and nearly 3.4 million jobs nationwide.⁹

5 Moreover, Houston's airports serve over 50 million passengers per year and
 6 position Houston as a gateway to the south-central United States and Latin
 7 America.¹⁰

8 Finally, most people recognize Houston as the energy capital of the world, but many
 9 may not know that 26 companies in the Fortune 500 are headquartered in Houston
 10 (and two of those relocated as recently as 2023), which puts the area third in the
 11 country for number of Fortune 500 headquarters, after New York (62) and Chicago
 12 (30).¹¹

13 **Q. IS THE RAPID GROWTH IN THE HOUSTON AREA EXPECTED TO**
 14 **CONTINUE WELL BEYOND THE NEXT FEW YEARS AS SHOWN**
 15 **ABOVE?**

16 A. Yes. Figure JMR-2, which was prepared by the Texas Demographic Center¹²,
 17 shows projected population change for Texas counties for 2020–2060.

⁸ <https://www.tmc.edu/> (last accessed Feb. 9, 2024).

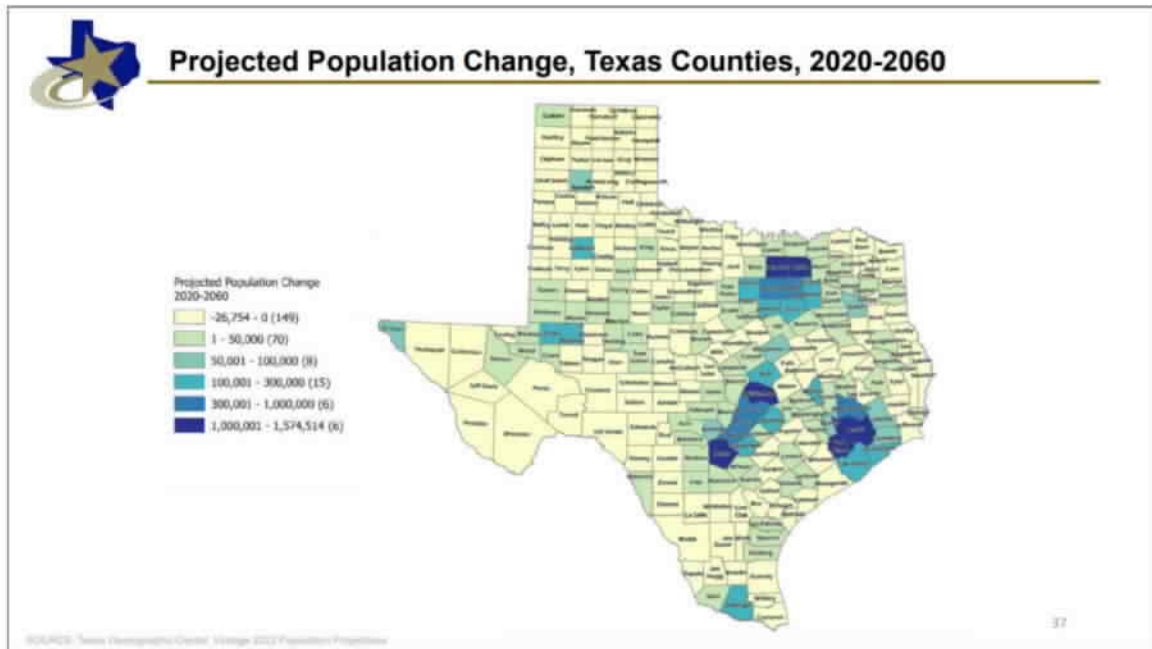
⁹ <https://porthouston.com/about/our-port/statistics/> (last accessed Feb. 9, 2024).

¹⁰ <https://www.fly2houston.com/biz/about> (last accessed Feb. 9, 2024).

¹¹ <https://www.houston.org/houston-data/fortune-500-companies> (last accessed February 9, 2024).

¹² The Texas Demographic Center is housed within The University of Texas at San Antonio and the Stephen F. Austin building in the Capitol Complex in Austin.

Figure JMR-2
Projected Population Change, Texas Counties, 2020-2060



As Figure JMR-2 illustrates, Harris County, the heart of the Company's service area, is expected to continue growing, increasing by between 1 million and 1.57 million people between 2020 and 2060. Fort Bend County, also in our service area, is projected to see similar growth. As the map shows, similar growth is projected to occur in the Austin and Dallas-Ft. Worth areas, but unlike those regions, the CenterPoint Houston service area is located along the Texas Gulf Coast, exposing it to hurricanes and other types of severe weather events that may not occur further inland. Several of the Company's witnesses discuss customer growth in more detail, including Lynnae Wilson, Eric Easton, and Randy Pryor.

Q. PLEASE DESCRIBE THE SEVERE WEATHER THREATS AFFECTING THE COMPANY.

1 A. There are few, if any, locations in the United States where customers are as
 2 susceptible to substantial impacts from severe weather events as customers in
 3 Harris County, Texas. According to data collected by the National Centers for
 4 Environmental Information (“NCEI”) at the National Oceanic and Atmospheric
 5 Administration (“NOAA”), Harris County has the highest possible risk and
 6 vulnerability rating (100 out of 100) for flooding risk and hurricane (a.k.a., tropical
 7 cyclone) risk and has a very high risk and vulnerability rating for severe storms
 8 (94.56 out of 100) and winter storms (65.33 out of 100).

9 **Figure JMR-3**
 10 **Risk and Vulnerability Ratings for Harris County**
 11 **NOAA National Centers for Environmental Information¹³**

Risk and Vulnerability

Data Type	Census Tract 5505	Harris County	Texas	U.S.
Weather and Climate Risk				
 Drought Risk	3.40	20.36	14.32	11.61
 Flooding Risk	35.88	100.00	12.97	9.13
 Freeze Risk	3.40	12.05	13.09	15.72
 Severe Storm Risk	35.62	94.56	20.58	16.99
 Tropical Cyclone Risk	44.35	100.00	6.41	4.36
 Wildfire Risk	--	11.81	11.28	6.30
 Winter Storm Risk	16.97	65.33	15.99	13.71
 Weather and Climate Combined Risk	29.74	100.00	17.29	13.30

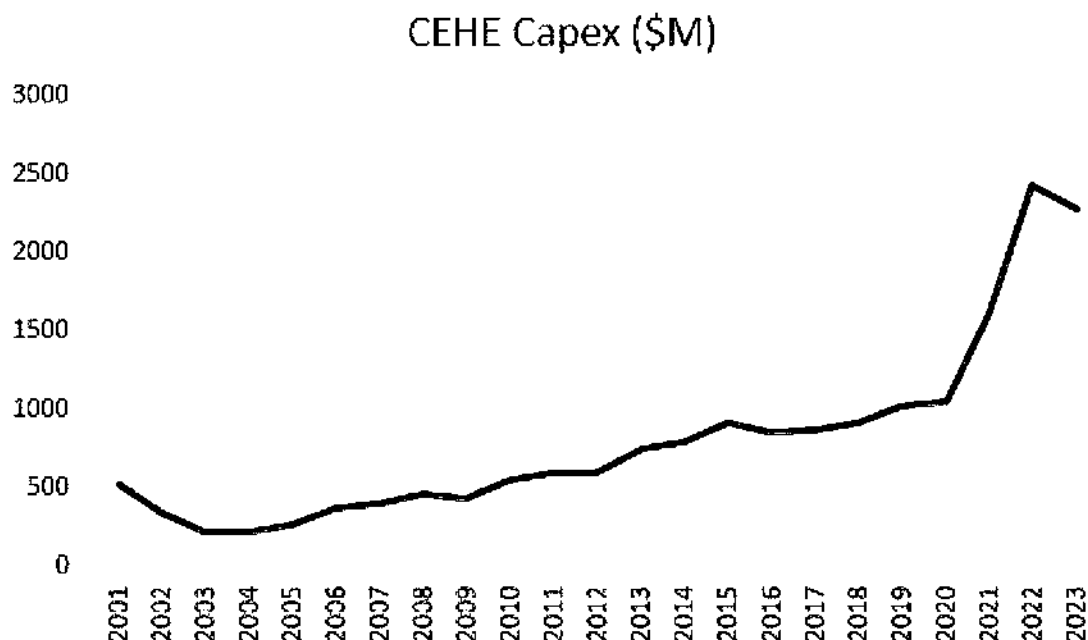
12
 13 As Figure JMR-3 demonstrates, those risk and vulnerability ratings are much higher
 14 than for Texas or the U.S. generally.

• ¹³ NOAA National Centers for Environmental Information (NCEI) U.S. Billion-Dollar Weather and Climate Disasters (2024). <https://www.ncei.noaa.gov/access/billions/>. DOI: [10.25921/stkw-7w73](https://doi.org/10.25921/stkw-7w73) (last accessed on February 9, 2024).

Q. HOW DOES THE COMBINATION OF RAPID AND SUSTAINED GROWTH AND SEVERE WEATHER AFFECT THE COMPANY?

A. To meet the needs of all our customers, maintain our system, make the grid more dynamic, and harden our system in the face of severe weather, the Company has invested over \$6 billion dedicated to its transmission and distribution operations over the past five years. Figure JMR-4 shows CenterPoint Houston historical capital expenditures, as reported in our annual Form 10-K reports, for 2001 through 2023.

**Figure JMR-4
Historical Capital Expenditures, 2001-2023**



After electric utility unbundling in 2001, capital expenditures by CenterPoint Houston remained at or below \$500 million per year through 2009. Beginning in 2010 and through the next decade, however, capital expenditures would double in response to a 20% increase in the number of customers served by the Company, a

generational storm in 2017 (Hurricane Harvey), and the deployment of approximately 2.5 million advanced meters, as explained in the Company's previous rate case application attached as an excerpt in Exhibit JMR-1.¹⁴ By 2019 and 2020, the Company's capital expenditures exceeded \$1 billion per year. Needed capital expenditures increased to \$2.436 billion in 2022 and fell only slightly in 2023 to \$2.290 billion. To put CenterPoint Houston's historical capital expenditures in perspective, Figure JMR-5 summarizes the capital expenditures of Houston Lighting & Power, CenterPoint Houston's predecessor, in the years leading up to the passage of S.B. 7¹⁵ in 1999, which required the unbundling of vertically integrated electric utilities in the ERCOT power region and the transition to a competitive retail electric market by 2002. The capital expenditures below are for an integrated utility and include generating facilities, transmission facilities, distribution facilities, substation facilities, and general plant.

Figure JMR-5
HL&P Capital Expenditures (1993-1998)

Year	Capital Expenditures (Excludes Allowance for Funds Used During Construction)
1993	\$329 million (includes nuclear fuel)
1994	\$413 million
1995	\$392 million (includes nuclear fuel)
1996	\$383 million
1997	\$234 million
1998	\$429 million

Q. WHAT LEVEL OF ANNUAL CAPITAL INVESTMENT DOES THE COMPANY ANTICIPATE GOING FORWARD?

¹⁴ *Application of CenterPoint Energy Houston Electric, LLC for Authority to Change Rates*, Docket No. 49421, Statement of Intent and Application at 1-2 (April 5, 2019).

¹⁵ S.B. 7, 76th Leg., R.S. (1999), creating Chapter 39 of PURA to unbundle vertically integrated utilities in the ERCOT power region and transition to a competitive retail electric market.

1 A. In our most recent annual report, the Company estimates that its annual capital
 2 expenditures over the next five years will average nearly \$2.56 billion per year, as
 3 shown in Figure JMR-6.

4 **Figure JMR-6**
 5 **CEHE Projected Capital Expenditures (2024-2028)**
 6

Year	Projected Capital Expenditures
2024	\$1,895 million
2025	\$2,598 million
2026	\$2,663 million
2027	\$2,822 million
2028	\$2,816 million
Total	\$12,794 million

7 We expect that level of investment to continue through 2033, as our current plans
 8 call for investing approximately \$25 billion over the next decade. As Lynnae
 9 Wilson and other witnesses explain, that level of investment will be necessary to
 10 keep up with customer growth, respond to generator interconnection requests that
 11 are becoming more numerous and more complicated, and make our system more
 12 modern and more resilient.

13 **Q. IS INVESTMENT AT THAT LEVEL REALLY NECESSARY?**

14 A. Yes, it is. Customer growth in our service area is not occurring in a vacuum. It is
 15 accompanied by changing customer expectations related to reliability and
 16 resiliency, as well as a marked trend toward increasing electrification, especially in
 17 our industrial customer sector.

18 **Q. PLEASE EXPLAIN WHAT YOU MEAN BY INCREASING**
 19 **EXPECTATIONS FOR RELIABILITY AND RESILIENCY.**

20 A. CenterPoint Houston faces increasingly high expectations from customers in terms
 21 of more reliable service and faster restoration following outages, and from

1 regulators and policymakers increasingly concerned with strengthening the electric
2 grid in Texas. Both the 87th and 88th regular sessions of the Texas Legislature
3 produced significant legislation aimed at weatherizing and strengthening the
4 ERCOT grid, including legislation encouraging utilities to file system resiliency
5 plans with the Commission. CenterPoint Houston is also actively participating in
6 market design proceedings, such as chairing the Commission's ADER Task Force,
7 which is working to enable more customers to use the distribution system not only
8 to receive power, but to send power to the grid and participate in the ERCOT energy
9 and ancillary services market. More information about the ADER Task Force can
10 be found in Project No. 53911.

11 **Q. HOW HAS THE COMPANY PERFORMED IN MEETING THOSE**
12 **CUSTOMER EXPECTATIONS?**

13 A. While we constantly strive to improve our customer service, as Ms. Wilson testifies,
14 the Company has received high praise from its customers and awards for its
15 customer service. Rina Harris describes the Company's efforts to improve the
16 relationship with H-E-B to the point that H-E-B filed a letter with the Commission
17 acknowledging the Company's efforts and the improvement in the relationship. Her
18 testimony includes several other letters from large customers describing their
19 positive experience working with CenterPoint Houston. Shonda Royston-Johnson
20 describes the high levels of customer satisfaction in response to Company surveys
21 and also notes that the American Customer Satisfaction Index in 2023 ranked
22 CenterPoint Energy Houston second among investor-owned utilities in customer
23 satisfaction. As noted by Ms. Wilson in her direct testimony, in the face of rapid

1 customer growth and severe weather, the Company has fallen short on some of its
2 System Average Interruption Duration Index (“SAIDI”) and System Average
3 Interruption Frequency Index (“SAIFI”) targets. However, as explained by Ms.
4 Wilson and other witnesses, the Company is working hard to improve its SAIDI
5 and SAIFI performance.

6 **Q. PLEASE DESCRIBE THE ELECTRIFICATION TREND THAT IS**
7 **AFFECTING THE COMPANY.**

8 A. Electrification takes several forms. First, we have seen an increase in generator
9 interconnection requests. Since Docket No. 49421, our last rate case, the Company
10 has built transmission interconnection facilities to interconnect twenty-five new
11 resource plants collectively representing approximately 6,435 MW of planned
12 capacity out of which wind, solar and storage resources constitute approximately
13 4,685 MW of planned capacity. Second, on the distribution side, more homes and
14 businesses are installing distributed energy resources, primarily roof-top solar
15 systems. These systems allow customers to offset energy demands and often export
16 excess energy back to the distribution system. Distribution circuits that were
17 originally designed for power to flow in one direction, from the grid to the
18 customer, are now being called upon to handle the flow of power in both directions,
19 which requires changes to system design and creates operational challenges as well.
20 Mr. Easton discusses both trends in his testimony. Third, the Company continues
21 to see more customers adopting electric vehicles and commercial fleet conversions.
22 Rina Harris’s testimony describes how CenterPoint Houston has proactively
23 engaged with commercial customers who have decided to electrify, or are

1 considering electrifying, some or all of their vehicle fleet to install the necessary
2 infrastructure and charging stations they require. Fourth, as Ms. Harris describes in
3 her testimony, quite a few of our large industrial customers are moving to electrify
4 their operations. It is important to note that each of these trends—new generation
5 interconnections, increasing penetration of distributed energy resources, a move to
6 more electric vehicles, and industrial electrification—is *customer*-initiated. As the
7 electric utility with an obligation to serve these customers, CenterPoint Houston
8 must invest in the necessary transmission and distribution infrastructure to meet
9 their needs.

10 **Q. WHAT IS THE EXPECTED PACE OF ELECTRIFICATION IN**
11 **CENTERPOINT HOUSTON’S SERVICE AREA?**

12 A. The Greater Houston Partnership, which is the Houston region’s equivalent of a
13 chamber of commerce, is currently conducting a comprehensive study of projected
14 load growth in the region as a result of customer-initiated electrification efforts and
15 hydrogen development. Electrification and hydrogen development in the Houston
16 area are being supported by an unprecedented level of federal grant and loan
17 funding under the Bipartisan Infrastructure Law (as enacted in the Infrastructure
18 Investment and Jobs Act of 2021) and the Inflation Reduction Act of 2022. Many
19 of our large industrial customers are applying for grants under those laws, which
20 will accelerate electrification efforts and hydrogen development. I expect the
21 Greater Houston Partnership study to be released in the near future and will provide
22 it in supplemental direct testimony. But based on our involvement in the study, I

1 expect it to show a potential of doubling or tripling of load in the Houston area by
2 2050, primarily caused by these customer-driven activities.

3 Consistent with what I expect to be shown in the Greater Houston Partnership
4 study, an April 2022 report from The University of Texas at Austin notes that the
5 City of Houston has set a net-zero target by 2050,¹⁶ and suggests that to reach such
6 a target relying on electrification, electric consumption would need to more than
7 double over that time frame.¹⁷

8 It is important to note that, unlike steady increases in population, which increase
9 load but in a more gradual way, industrial electrification will happen in larger
10 increments. For example, when the Freeport LNG facility began operation in our
11 service area, it required 690 MW of electricity, which was almost 9 times the
12 Freeport area's previous load, which was less than 80 MW.¹⁸ Given the growth in
13 capital expenditures that has been needed to keep up with population growth,
14 industrial electrification and hydrogen development will require a game-changing
15 level of infrastructure development by the Company.

¹⁶ Gee, Isabella *et al.*, The University of Texas at Austin, "Don't Mess with Texas: Getting the Lone Star State to Net-Zero by 2050" at 23. [UT Texas Net Zero by 2050 April2022 Full Report.pdf \(utexas.edu\)](#).

¹⁷ *Id.* at 38 (Figure 3.2, showing overall electricity demand in Texas more than doubling by 2050 compared to 2020 for all net-zero scenarios).

¹⁸ U.S. Energy Information Administration, Natural Gas Weekly Update, September 12, 2019, found at https://www.eia.gov/naturalgas/weekly/archivenew_ngwu/2019/09_12/#:~:text=Freeport%20LNG%20requirements%20690%20megawatts,was%20less%20than%2080%20MW.

1 **Q. REGARDING THE FOURTH CATEGORY, GOVERNMENT GRANTS,**
2 **WHAT IS THE COMPANY DOING TO PURSUE THAT SOURCE OF**
3 **FUNDS TO ADDRESS CENTERPOINT HOUSTON’S INVESTMENT**
4 **NEEDS?**

5 A. There are some government grants available to help fund utility infrastructure, and
6 CenterPoint has been diligent in pursuing such funds over the past few decades. The
7 Company’s current intelligent grid and network of advanced meter systems, for
8 example, were built with the assistance of a \$200 million grant in 2010 from the
9 U.S. Department of Energy (“DOE”). CenterPoint Houston was one of only six
10 utilities to receive the maximum award available for any large project and used the
11 money to accelerate the deployment of its AMS system and invest in additional
12 intelligent grid improvements. More recently, in 2023, the Company submitted a
13 \$100 million application in the first round of the DOE Grid Resilience and
14 Innovation Partnerships (“GRIP”) Program to fund high wind and flood mitigation
15 projects but was not ultimately selected for a grant. In January 2024, we submitted
16 two concept papers for \$100 million each in the second round of GRIP Program
17 grant applications, again seeking to fund high wind and flood mitigation projects, as
18 well as more resilient metering technology. We expect to find out soon whether we
19 will be invited to submit a full application on these concept papers. Later this month,
20 we intend to submit a concept paper for a grant as part of the DOE’s Transmission
21 Facilitation Program to fund one or more transmission projects. And when the Texas
22 Department of Emergency Management opens its process to administer the Texas
23 allocation of GRIP funding, we plan to apply there as well. But while we are

1 pursuing all reasonable grant opportunities to help fund the capital needs of the
2 Company, and despite our past success, receiving grant funding is not a certainty
3 and, even when successful, the amounts available are small relative to the need.

4 **Q. HOW, THEN, DOES THE COMPANY PROPOSE TO RAISE THE FUNDS**
5 **TO MAKE THE SYSTEM INVESTMENTS THAT ARE NECESSARY IN**
6 **OVER THE COMING YEARS?**

7 A. We will use sources two and three from my list above: debt and equity. And
8 reflecting the *actual* amount (not a *hypothetical* amount) of debt and equity in the
9 costs we recover coming out of this case is a topic of foremost importance.

10 **Q. WHY DO YOU THINK USING THE ACTUAL CAPITAL STRUCTURE IS**
11 **AN IMPORTANT TOPIC FOR THE COMMISSION TO CONSIDER?**

12 A. It is important to note here at the beginning of this discussion that the rate case
13 schedules required by the Commission and included in this application are based on
14 *actual* books and records of the Company; they do not include *hypothetical* numbers.
15 The closest things to hypothetical numbers in the Commission-required rate
16 schedules are the few instances where actual numbers for multiple years are
17 averaged to get *normalized* actual numbers.¹⁹

18 The reasonableness of the Company's actual capital structure during the test year is
19 covered by Company witness Jacqueline M. Richert, Vice President, Corporate
20 Planning, Investor Relations, and Treasurer, as well as Ann E. Bulkley of the Brattle
21 Group. And the purpose of my testimony is not to repeat that testimony. Rather, it
22 is to highlight the continued practice in TDU rate cases to dismiss the use of *actual*

¹⁹ There are, of course, components of this application that rely on witness recommendations, such as depreciation rates, return on equity, and amortization periods.

1 capital structures in favor of a *hypothetical* one. Doing that amounts to a
2 disallowance of actual capital costs of the TDU, and disallowances are usually based
3 on a finding of an item being imprudent or unreasonable. That's not been typical
4 with the disallowances of actual capital costs for TDUs, though. Instead, prior
5 Commission decisions tend to focus on a *hypothetical* capital structure being
6 reasonable, often without articulating why a portion of the *actual* cost of capital
7 should be disallowed. This unusual handling of this cost item may be based, at least
8 in part, on the one-time need to use a *hypothetical* capital structure for TDUs when
9 they were first created as part of the unbundling period beginning in 2001, before
10 they had an *actual* capital structure that could be used for rates. That approach was
11 a major departure, for the first time (at least in the case of the Company), from using
12 the TDU's actual capital structure. Below I describe that history in more detail,
13 explaining how the Commission has gone from (1) using the Company's *actual*
14 capital structure in rates before 2001, to (2) using a *hypothetical* capital structure
15 when unbundled TDUs were first formed and had no *actual* capital structure, to (3)
16 the more than two decades since unbundling during which the Commission has
17 continued to use a variety of *hypothetical* capital structures despite a long track
18 record of *actual* capital structures. I also compare the use of this hypothetical capital
19 structure for unbundled ERCOT TDUs to the practice of using the actual capital
20 structures for other Texas electric utilities and Texas gas utilities.

21 **Q. WHAT WAS THE ACTUAL CAPITAL STRUCTURE OF THE COMPANY**
22 **DURING THE TEST YEAR?**

23 A. It was 55.10% debt and 44.90% equity.

1 **Q. WHAT CAPITAL STRUCTURE DID THE COMMISSION ADOPT IN THE**
2 **COMPANY’S LAST BASE RATE PROCEEDING?**

3 A. In Docket No. 49421, Commission Staff recommended a *hypothetical* capital
4 structure of 60% debt and 40% equity. But the administrative law judges (“ALJs”)
5 rejected that position and recommended a capital structure for ratemaking
6 purposes of 55% debt and 45% equity, which was the Company’s *actual* capital
7 structure during the test year in that case. That 45% equity structure was also the
8 capital structure approved in the rate case immediately prior, Docket No. 38339,
9 and consistent with the Company’s *actual* capital structure during the test year
10 used in that case.

11 However, during its open meeting discussions to consider the ALJs’ proposed
12 decision in Docket No. 49421, the Commission appeared poised to approve the
13 *hypothetical* 60/40 debt/equity ratio as recommended by Commission Staff. The
14 proceeding ultimately settled, and the Commission approved the settlement which
15 included a capital structure of 57.5% debt and 42.5% equity, which was not the
16 Company’s *actual* capital structure as the judges had recommended, but not as
17 extreme a *hypothetical* capital structure as a 60/40 debt to equity ratio. The
18 relevant part of the Order in Docket No. 49421 is attached as Exhibit JMR-2.

19 **Q. WHAT WAS THE BASIS FOR STAFF’S RECOMMENDATION IN THE**
20 **LAST RATE CASE OF A 60/40 DEBT TO EQUITY RATIO?**

21 A. While acknowledging that the equity ratio for TDUs around the country had been
22 “trending upward from around 45% in 2001 to almost 50% in 2018,” the Staff
23 witness on capital structure nevertheless recommended a 40% equity ratio,

1 “consistent with the Commission's ruling in Docket No. 22344, which found that
 2 a uniform capital structure consisting of 60% long term debt and 40% common
 3 equity was appropriate for ratemaking purposes for all TDUs operating in
 4 Texas.”²⁰ In other words, the basis of Staff's recommendation in 2019 was the
 5 nearly two-decades old decision in Docket No. 22344.

6 **Q. WHY, IN DOCKET NO. 22344, DID THE COMMISSION USE A**
 7 ***HYPOTHETICAL 60/40 “UNIFORM CAPITAL STRUCTURE” INSTEAD***
 8 ***OF THE UTILITY’S ACTUAL CAPITAL STRUCTURE WHEN***
 9 ***CALCULATING A UTILITY’S BASE RATE?***

10 A. The uniform 60/40 capital structure was originally adopted in Docket No. 22344
 11 to address a transitional unbundling period starting in 2001, and was a departure
 12 from prior Commission precedent, but for good reason: TDUs were new entities
 13 without historical capital structures in that new form. The relevant portion of
 14 Order No. 42 in Docket No. 22344, in which the Commission acknowledged that
 15 the hypothetical 60/40 capital structure was being adopted “for the newly
 16 unbundled TDUs during the transition period,”²¹ is attached as Exhibit JMR-3.

17 **Q. DID THE COMMISSION USE THE COMPANY’S *ACTUAL CAPITAL***
 18 ***STRUCTURE FOR RATEMAKING PURPOSES BEFORE DOCKET NO.***
 19 ***22344?***

20 A. Yes. Before the unbundling of the electric utility market and the setting of rates
 21 under Docket No. 22344, the Commission generally calculated a utility's base rate

²⁰ *Application of CenterPoint Energy Houston Electric, LLC for Authority to Change Rates*, Docket No. 49421, Direct Testimony of J. Ordonez at 35:20-36:12 (June 12, 2019).

²¹ Docket No. 22344, Order No. 42 at 8-9 (Dec. 18, 2000).

1 using the utility's actual capital structure. For example, in 1990 (Docket Nos. 8425
2 & 8431), the Commission calculated the base rates of the Company's predecessor,
3 Houston Lighting and Power, using its *actual* capital structure of 50.4% debt and
4 49.6% equity.²² The relevant portions of the final orders from these dockets are
5 attached as Exhibit JMR-4. Similarly, in 1991, the Commission approved a
6 non-unanimous stipulation in Docket No. 9850 that set the Company's rates using
7 its *actual* capital structure (48.5% debt and 51.5% equity), a point which no party
8 to the case contested.²³ Exhibit JMR-5 contains excerpts from that order.

9 **Q. PLEASE EXPLAIN FURTHER WHY THE COMMISSION CHANGED**
10 **THE WAY IT TREATED CAPITAL STRUCTURE IN DOCKET NO.**
11 **22344, SO THAT THE CAPITAL STRUCTURE USED IN THE BASE**
12 **RATE CALCULATION NO LONGER REFLECTED THE UTILITY'S**
13 **ACTUAL CAPITAL STRUCTURE.**

14 A. The Commission departed from using actual capital structure for the utilities
15 within ERCOT (but not outside of ERCOT, as I explain below) when the electric
16 industry in ERCOT unbundled in 2001. That was largely because there was no
17 *actual*, historical capital structure for the newly formed TDUs, such as CenterPoint
18 Houston, and there was considerable uncertainty about what the appropriate
19 capital structure for these new entities would be. Understandably, the Commission
20 had no sure way of predicting what a TDU's *actual* capital structure might look
21 like. As a result, in Docket No. 22344, the Commission set a *hypothetical* capital

²² *Application of Houston Lighting and Power for Authority to Change Rates*, Docket Nos. 8425 and 8431, Examiners' Report and Final Order, at 347 (May 2, 1990).

²³ *Application of Houston Lighting and Power for Authority to Change Rates*, Docket No. 9850, Final Order (Oct. 23, 1991) (see Exhibit JMR-5).

1 structure of 60% debt and 40% equity for all TDUs.²⁴ This decision is attached as
 2 Exhibit JMR-3. Notably, however, when the Commission applied this *hypothetical*
 3 capital structure, it also provided for a 0.5% (or 50 basis point) increase in ROE,
 4 in part to compensate the utility for the higher debt leverage of 60%.²⁵ This
 5 resulted in a total ROE for TDUs of 11.25%.²⁶ As noted by the Commission at
 6 the time, these decisions were closely tied to the transition period for newly
 7 unbundled TDUs.²⁷

8 **Q. HAS THE COMMISSION ALWAYS USED A 60/40 CAPITAL**
 9 **STRUCTURE SINCE DOCKET NO. 22344?**

10 A. No. For example, in the Company's 2010 base rate case, Docket No. 38339, the
 11 Commission set the Company's rates using a capital structure of 55% debt and 45%
 12 equity, which it described as "reasonable in light of CenterPoint's business and
 13 regulatory risks."²⁸ That capital structure was also very close to the Company's
 14 54.8% debt and 45.2% equity *actual* capital structure during the test year in that
 15 case. Excerpts from that decision are attached as Exhibit JMR-6 to my testimony.

²⁴ *Generic Issues Associated with Applications for Approval of Unbundled Cost of Service Rate Pursuant to PURA § 39.201 and Public Utility Commission Substantive Rule § 25.344*, Docket No. 22344, Order No. 42: Interim Order Establishing Return on Equity and Capital Structure (Dec. 22, 2000).

²⁵ *Id.* at 10 ("The Commission, however, provides for an upward adjustment to the ROE of 0.5% to account for . . . potential rating uncertainty due to higher debt, based on the adoption of 60% debt and 40% equity for capital structure in this proceeding")

²⁶ *Id.*

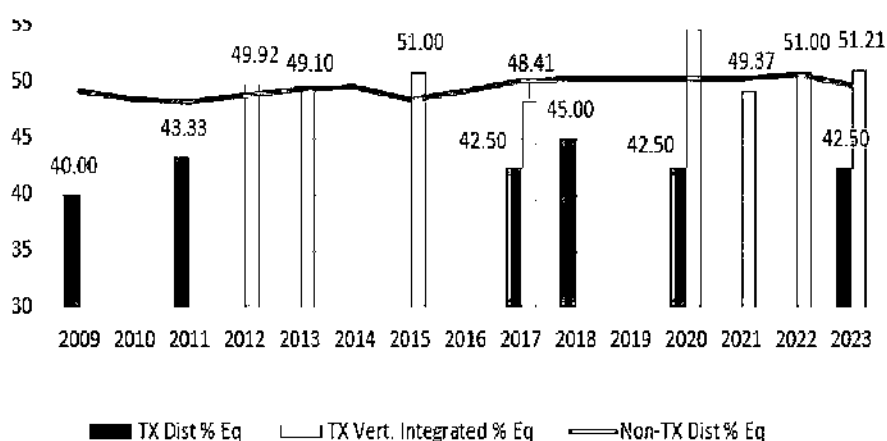
²⁷ *Id.* at 9.

²⁸ *Application of CenterPoint Electric Delivery Company, LLC for Authority to Change Rates*, Docket No. 38339, Order on Rehearing at 21 (Findings of Fact No. 67-69) (June 23, 2011).

1 **Q. HOW DOES THE USE OF A HYPOTHETICAL CAPITAL STRUCTURE**
 2 **FOR TDUs SINCE DOCKET NO. 22344 DIFFER FROM HOW THE**
 3 **COMMISSION REGULATES THE NON-ERCOT UTILITIES WHO**
 4 **NEVER WENT THROUGH THE TRANSITION WHERE THEY NEEDED**
 5 **A TRANSITORY *HYPOTHETICAL* CAPITAL STRUCTURE?**

6 A. The integrated utilities in Texas but outside of ERCOT, who never unbundled and
 7 therefore never needed a *hypothetical* capital structure, largely have their *actual*
 8 capital structure used for ratemaking purposes. Figure JMR-7 below compares
 9 equity percentages in the capital structures of Texas utilities—both integrated
 10 non-ERCOT utilities (the green bars) and ERCOT TDUs (the red bars)—as set by
 11 the Commission between 2009 and 2023 as well as the average for non-Texas
 12 transmission and distribution utilities (the blue line) during that same period.

13 **Figure JMR-7**
 14 **Commission Treatment of Utility Capital Structure, 2009-2023**



16 As shown above, assigning TDUs (the red bars) a *hypothetical* capital structure puts
 17 them out of line with other electric utilities in Texas (the green bars), as well as
 18 transmission and distribution utilities across the country. To drive home the point
 19

made by Figure JMR-7, Figure JMR-8 shows the capital structures approved in Texas since 2009 for TDUs (which are largely very *hypothetical* whole numbers), and Figure JMR-9 shows the capital structures set during the same period for integrated utilities (which, as the non-whole numbers suggest, are largely based on *actual* capital structure).

Figure JMR-8
Texas TDU Capital Structures, 2009-2023

Utility	Year	Docket	Equity Percentage
AEP Texas	2020	49494	42.5%
AEP Texas	Pending	56165	
CenterPoint	2011	38339	45%
CenterPoint	2020	49421	42.5%
CenterPoint	Pending	56211	
Oncor	2009	35717	40%
Oncor	2011	38929	40%
Oncor	2017	46957	42.5%
Oncor	2023	53601	42.5%
TNMP	2009	36025	40%
TNMP	2011	38480	45%
TNMP	2018	48401	45%

Figure JMR-9
Non-ERCOT Texas Utility Capital Structures, 2009-2023

Utility	Year	Docket	Equity Percentage
El Paso	2010	37690	n/a
El Paso	2012	40094	n/a
El Paso	2016	44941	n/a
El Paso	2017	46831	48.348%
El Paso	2022	52195	51%
Entergy Texas	2009	34800	n/a
Entergy Texas	2010	37744	n/a
Entergy Texas	2012	39896	49.92%
Entergy Texas	2014	41791	n/a
Entergy Texas	2018	48371	50.90%
Entergy Texas	2023	53719	51.21%
SPS	2009	35763	51.01%

SPS	2011	38147	n/a
SPS	2013	40824	n/a
SPS	2014	42004	n/a
SPS	2015	43695	51%
SPS	2017	45524	n/a
SPS	2018	47527	n/a
SPS	2020	49831	54.62%
SPS	2022	51802	n/a
SPS	Pending	54634	
SWEP CO	2010	37364	n/a
SWEP CO	2013	40443	49.1%
SWEP CO	2018	46449	48.46%
SWEP CO	2022	51415	49.37%

Q. DO OTHER UTILITY REGULATORS IN TEXAS USE ACTUAL CAPITAL STRUCTURE TO SET UTILITY RATES?

A. Yes. The Railroad Commission of Texas (“Railroad Commission”) often uses *actual* capital structure to set gas utility rates in Texas. Just last year, when setting rates for Texas Gas Service, a Railroad Commission ALJ recommended rejecting an intervenor’s proposed *hypothetical* capital structure in favor of using the utility’s *actual* capital structure, which was 40.26% debt and 59.74% equity.²⁹ In his Amended Proposal for Decision (“PFD”), the ALJ wrote:

Consistent with the Commission’s long-established precedent and policy to adopt a utility’s actual capital structure when doing so is reasonable and supported by industry standards, the Examiners recommend rejecting the hypothetical capital structure as argued by [City of El Paso].³⁰

²⁹ Railroad Commission of Texas, *Statement of Intent of Texas Gas Service Company, a Division of ONE Gas, Inc., to Change Gas Utility Rates*, OS-22-00009896, consolidated, Amended Proposal for Decision at ii (Jan. 11, 2023).

³⁰ *Id.* at 22.

1 The Railroad Commission adopted the ALJ's recommendation.³¹ Excerpts from the
2 Amended PFD and the Railroad Commission's Order are attached as Exhibit
3 JMR-7.

4 **Q. DOES THE PUBLIC UTILITY COMMISSION HAVE SUFFICIENT**
5 **EXPERIENCE WITH "INDUSTRY STANDARDS" FOR UNBUNDLED**
6 **TDUs SUCH THAT IT COULD ALSO RELY ON *ACTUAL* CAPITAL**
7 **STRUCTURES TO SET RATES?**

8 A. Yes. The electricity market in the ERCOT power region has been unbundled for
9 over twenty years, and we no longer need to rely on a transitional, *hypothetical*
10 capital structure when we have that history of actual capital structures to draw from.
11 Moreover, the Commission has ample information on the market's economics,
12 including the economics of each utility. For instance, in the early years of the
13 unbundled Texas market, TDUs were thought to be lower-risk entities that were
14 capable of maintaining a higher level of debt.³² Today, however, electric utilities
15 face greater risks and customers expect their utilities to provide more and better
16 services. For example, as distributed generation like roof-top solar and batteries
17 becomes more popular, customers want to use the Company's system to deliver
18 excess power *to* the grid, not just receive power *from* it. It is no longer as
19 appropriate, more than 20 years after the electric markets unbundling and transition
20 period, to assign a utility a standard capital structure, let alone a 60% debt ratio. To
21 compound matters, while some parties have continued to advocate for a 60%
22 debt/40% equity capital structure, the imposition of an artificially high debt ratio is

³¹ *Id.*, Order at 5 (Findings of Fact No. 58, 59, 60, and 63) (Jan. 18, 2023).

³² Docket No. 22344, Order No. 42 at 9-10.

1 no longer accompanied by an express 50 basis point increase in ROE to recognize
2 the added risk of a 60% debt ratio like it was in Docket No 22344.

3 **Q. WHAT DO YOU MEAN WHEN YOU SAY THAT UTILITIES NOW FACE**
4 **GREATER RISKS THAN THEY USED TO?**

5 A. The Company now faces greater risk for a couple of reasons. As discussed above
6 and by Company witness Lynnae Wilson, the Company has experienced significant
7 load growth. Customer growth has required the Company to increase capital
8 investments to maintain and improve the Company's complex transmission and
9 distribution systems. Moreover, as the Company's system expands, the Company
10 must invest more capital to ensure reliability and resiliency of the system for its
11 customers. Taking on extra debt to fund that investment creates additional risk for
12 the Company.

13 The Commissioners discussed this increased level of risk and its effect on a utility's
14 capital structure in the Commission's Open Meeting on March 9, 2023. During a
15 discussion of the proposal for decision in the most recent Oncor rate case (Docket
16 No. 53601), Commissioner Glotfelty pointed out that, after unbundling, the
17 Commission assigned a 60/40 debt to equity capital structure because "it wasn't a
18 really risky business, and now it is just getting much more risky."³³ While focusing
19 his comments on the appropriate ROE, Chairman Lake nevertheless also
20 acknowledged that TDU risk "has increased for all the reasons that [you] have
21 articulated, the load growth, the increasing complexity . . . of the network, all of
22 those things."³⁴ Therefore, the Company operates a riskier business than it did in

³³ Open Meeting, Transcript at 217:20-218:1 (Mar. 9, 2023).

³⁴ *Id.* at 221:15-18 and 20-21.

1 the past. Given the increased level of risk and that TDUs no longer operate in a
2 transition period, the Commission should apply the utility's *actual* capital structure
3 when setting rates to reflect the actual equity level needed to operate a utility
4 business in the face of these heightened risks.

5 **Q. IS A 57.5% DEBT AND 42.5% EQUITY CAPITAL STRUCTURE**
6 **APPROPRIATE FOR CENTERPOINT HOUSTON?**

7 A. No. The evidence in Docket No. 49421, our last rate case (where the PFD proposed
8 using our *actual* capital structure), demonstrated that the national average equity
9 ratio of 24 holding companies similar to CNP was well over 50%. The proxy group
10 used by Company witness Ann Bulkley in her testimony in this proceeding has a
11 similar average for capital structure.

12 **Q. WHAT IS A “PROXY GROUP” AND WHY IS IT IMPORTANT?**

13 A. When considering what is an appropriate capital structure (and ROE) for
14 CenterPoint Houston, it is important to compare CenterPoint Houston to a “proxy
15 group” or “peer group” of companies that have similar financial and operational
16 characteristics—companies that investors view as comparable to CenterPoint
17 Houston. If ROE and capital structure are set based on companies that are not
18 comparable to CenterPoint Houston, investors will not respond as intended. If ROE
19 and equity ratio are set lower than comparable companies, investors will shift
20 dollars to similar companies that have more appropriate capital structures; and if
21 ROE and equity ratio are set higher than comparable companies, the Company (and
22 its customers) risk paying more for capital than they need to. Unfortunately, the
23 Commission has not always paid close enough attention to proxy groups. For

1 example, in Oncor's recent rate case (Docket No. 53601), the Commission's open
2 meeting discussion focused on the ROEs recently approved for other Texas utilities,
3 even though *none* of the parties in the case had included *any* of those utilities in the
4 proxy groups they used to formulate their ROE recommendations. The utilities in
5 Texas are different in important ways—corporate structure, size, geography,
6 weather risk, customer growth, and others—and while parties often disagree on
7 what constitutes an appropriate proxy group, there is general consensus that using
8 an appropriate proxy group is a fundamental step in setting an appropriate ROE and
9 capital structure. As the Commission considers capital structure (and ROE) for
10 CenterPoint Houston, it should do so with reference to an appropriate proxy group,
11 not simply by looking to its prior decisions for other Texas utilities. If the
12 Company's *actual* capital structure is in line with this proxy group, absent other
13 evidence that it is unreasonable, it should be approved. To ignore that proxy group
14 evidence, set the equity ratio artificially low, and disallow the cost of capital
15 actually incurred by the Company, is inconsistent with the Public Utility Regulatory
16 Act.

17 **Q. WHAT ARE THE COMPANY'S OPTIONS IF THE EQUITY RATIO IN ITS**
18 **REGULATED CAPITAL STRUCTURE IS SET TOO LOW?**

19 A. The Company has two options. First, The Company can attempt to conform its
20 *actual* capital structure to the Commission-approved *hypothetical* capital structure
21 (and risk increased debt costs or, in extreme cases, inability to access debt markets),
22 or second, it can maintain an *actual* capital structure that continues to rely on a

1 higher proportion of equity than the Commission used to set its rates (and thereby
2 likely earn below the Company's authorized ROE). Neither option is a good one.

3 **Q. WHAT IS WRONG WITH SIMPLY CONFORMING THE COMPANY'S**
4 **ACTUAL CAPITAL STRUCTURE TO THE HYPOTHETICAL CAPITAL**
5 **STRUCTURE?**

6 A. When a utility carries too much debt in its capital structure, its credit ratings suffer.
7 As Company witness Jacqueline Richert explains in her testimony, CenterPoint
8 Houston's credit ratings were lowered after the last rate case, at least in part due
9 to the high debt ratio in its *hypothetical* capital structure. Weaker credit ratings
10 make it harder and/or more expensive for CenterPoint Houston to obtain funds
11 through either debt *or* equity. Creditors and investors will both demand more in
12 return for loaning to, or investing in, a utility with a lower credit rating. That is a
13 problem for any utility, but it is particularly a problem for CenterPoint Houston,
14 which faces the yearly threat of devastating hurricanes that can necessitate the
15 unplanned borrowing of hundreds of millions of dollars to rebuild its system. It
16 also increases the cost of obtaining the funds to invest in hardening its system to
17 mitigate the damage caused by hurricanes and other weather events. Ultimately,
18 our customers end up paying more.

19 **Q. WHY CAN'T THE COMPANY SIMPLY MAINTAIN A HIGHER**
20 **ACTUAL EQUITY RATIO THAN THE ONE USED TO SET ITS RATES?**

21 A. Neither the Public Utility Regulatory Act nor the Commission's rules expressly
22 requires CenterPoint Houston to make its *actual* capital structure match an imposed
23 *hypothetical* capital structure. However, because the Company actually obtains

1 closer to 45% of its capital through higher-priced equity when its rates have been
2 set assuming that it will raise only 42.5% of its capital through equity, the
3 Company's rates are not fully compensating the Company (and its investors) for
4 the incremental 2.5% of equity content of its capital costs. The Company is
5 accessing the incremental capital through higher cost equity capital, but only being
6 reimbursed through rates at the lower cost of debt capital. In other words, by not
7 allowing the Company to recover its actual cost of capital by recognizing the *actual*
8 capital structure in rates, the Commission is disallowing a portion of that cost of
9 capital. This is true even though there has never been a finding that the Company's
10 actual capital structure is imprudent or unreasonable. It is fairly unprecedented for
11 a disallowance to occur without such a finding.

12 **Q. IS IT POSSIBLE TO QUANTIFY THE COST OF THE MISMATCH**
13 **BETWEEN THE COMPANY'S *ACTUAL* CAPITAL STRUCTURE AND**
14 **THE *HYPOTHETICAL* CAPITAL STRUCTURE USED TO SET**
15 **CENTERPOINT HOUSTON'S CURRENT RATES?**

16 A. Yes. All other things being equal, if CenterPoint Houston's actual equity ratio is
17 45%, but the Commission uses a 42.5% equity ratio to set the Company's rates (as
18 reflected in the Company's current rates), the Company under recovers its annual
19 equity costs by approximately \$30 million dollars, as illustrated by the year end
20 2023 example in Figure JMR-10, below. The company is funding at a 45% equity
21 layer but only receiving an annual ROE on a 42.5% equity layer.

Figure JMR-10
Actual versus Commission-Established Capital Structure

Capital as of Dec, 2023 (in millions)		ACTUAL	AUTHORIZED
Equity Content		45%	42.5%
Total Capital		\$13,341	13,341
Equity		5,991	5,670
ROE	9.4%	\$563	\$533
		Under earning	\$30

This \$30 million mismatch is the amount of the disallowance the Commission would make if it were to adopt a *hypothetical* 42.5% equity ratio instead of the Company's *actual* capital structure. A 40% equity ratio would result in an even larger disallowance. In the next section, I'll discuss how reflecting the Company's *actual* capital structure in rates can be done while maintaining affordable rates for the customers we have the privilege to serve.

Q. WHY DON'T YOU INSTEAD PROPOSE A 50 BASIS POINT ROE ADDER IN THIS PROCEEDING, LIKE THE ONE USED IN DOCKET NO. 22344 TO OFFSET THE EFFECTS OF A *HYPOTHETICAL* CAPITAL STRUCTURE?

A. First, now that we have decades of *actual* TDU capital structures, there simply is no reason anymore to litigate what ROE adder would be appropriate to compensate the utility for a *hypothetical* capital structure that reflects too much debt. Second, in many scenarios, using the Company's *actual* capital structure would be more affordable to customers, both initially and in the form of lower debt costs for unexpected needs for capital, such as in response to a storm, than a 50 basis point ROE adder. Even in scenarios where an ROE adder adds slightly less to the revenue

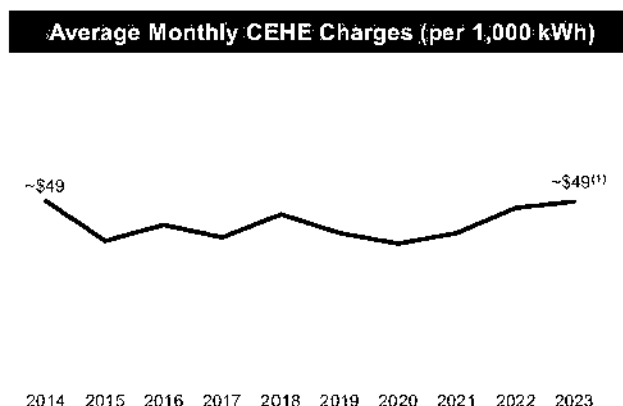
1 requirement than using the Company's *actual* capital structure, the exercise seems
2 unnecessarily complicated in the context of having decades of *actual* TDU capital
3 structure history, which was not the case in Docket No. 22344. And finally, as
4 explained in the testimony of Company witness Jacqueline Richert, there are other
5 benefits of using the *actual* capital structure as well, which may not be obtained
6 simply by adding to the utility's ROE while leaving an artificially high level of debt
7 in the *hypothetical* capital structure.

8 **V. AFFORDABILITY OF CENTERPOINT HOUSTON'S RATES**

9 **Q. WHAT IS "AFFORDABILITY" AND WHY IS IT IMPORTANT?**

10 A. CenterPoint Houston believes it is important to focus not only on the overall cost
11 of providing its services (its revenue requirement), but also the cost of the
12 Company's services to the average residential customer (its rates). Rates, rather
13 than revenue requirement, impact the ability of individual customers to afford
14 electric service. CenterPoint Houston's revenue requirement was set at \$1.4 billion
15 in its 2010 rate case (Docket No. 38339). Nine years later, in the Company's 2019
16 rate case (Docket No. 49421), the revenue requirement had grown to approximately
17 \$2.5 billion. However, despite the growth in its revenue requirement, the portion of
18 the average residential customer's electric bill attributable to CenterPoint Houston
19 has remained relatively flat over the past ten years, as reflected in Figure JMR-11.

Figure JMR-11
CenterPoint Houston Average Monthly Charges per 1,000 KWh



Nearly flat charges on customer bills over the last 10 years at Houston Electric

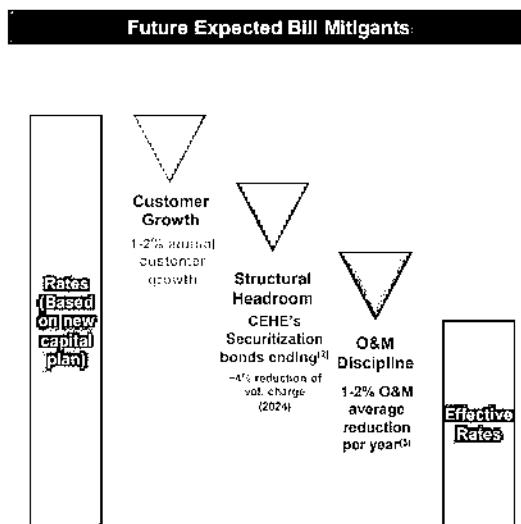
~2.8% average annual inflation rate for that same period

(1) As of December 31, 2023

Q. HOW HAS CENTERPOINT HOUSTON KEPT ITS RATES RELATIVELY FLAT FOR THE LAST DECADE WHILE, AT THE SAME TIME, SIGNIFICANTLY INCREASING ITS INVESTMENT TO EXPAND, MODERNIZE, AND HARDEN ITS TRANSMISSION AND DISTRIBUTION SYSTEM?

A. As illustrated by Figure JMR-12, the Company has three factors working to help contain average residential customer rates, even as the Company increases its revenue requirements.

Figure JMR-12
CenterPoint Houston Future Expected Bill Mitigants



(2) Refers to Houston Electric's securitization bonds; One tranche of transition bonds remain, with a scheduled final payment date in 2024
 (3) Projections based on internal forecast and are based on annual targets

First, customer growth spreads the cost of increased investments over an ever-larger number of customers, so that incremental capital does not result in the same incremental increase in rates. Second, since 2019, three securitization charges related to the transition to competition and hurricane restoration costs (TC2, TC3, and SRC/ADFIT) have been retired, resulting in a total reduction of \$4.48 per month for the average residential customer. A fourth securitization charge (TC5) will be retired by October 2024, resulting in a similar reduction in the amount of \$1.92 per month. Together, the retirement of these securitization charges will reduce average residential customer bills by approximately \$6.40. Third, CNP has focused on reducing its O&M expenses by an average of 1-2% per year, which drives the O&M reduction shown in this case compared to rates approved in the Company's last case. The result is that the Company can increase its investment in its transmission and distributions system while keeping average customer charges within normal inflation rates and maintaining affordability. In this case, even

1 though the company's proposed revenue requirement is now approximately \$3.8
2 billion, the residential rate impact, net of all of the above factors, reflects a 0.7%
3 residential rate increase compared to existing rates.

4 **Q. DID THE COMPANY TAKE ANY ACTION IN CONJUNCTION WITH**
5 **THIS APPLICATION TO ENSURE ITS RATES REMAIN AFFORDABLE**
6 **AFTER THIS CASE?**

7 A. Yes. These actions included:

- 8 • recommending a 10.4% return on equity, even though Ms. Bulkley's expert
9 testimony supports a 10.6% return;
- 10 • removing costs associated with having both a chief executive officer and a chief
11 operating officer in the CNP corporate structure, which was the case in the test year,
12 but is not the case now;
- 13 • asking to amortize regulatory assets over 5 years, consistent with the Commission's
14 order in Oncor's recent rate case, Docket No. 53601, instead of 3 years as the
15 Company originally intended (and believes would be justified); and
- 16 • not recommending an increase in depreciation expense, even though a material
17 increase is supported by the updated depreciation study included in this application.

18 **Q. PLEASE PROVIDE AN ESTIMATE OF THE IMPACT OF THE ACTIONS**
19 **TAKEN TO KEEP RATES AFFORDABLE AS PART OF THIS**
20 **APPLICATION.**

21 A. At a high level, the Company's actions described above reduce the total revenue
22 requirement by almost \$80 million and result in a requested increase on an average
23 residential customer bill of approximately \$1.25. Of course, the actual impact of

these reductions is dependent on the Commission's final decisions in this case.

Figure JMR-13 below provides an estimate for each action described above.

Figure JMR-13

Estimated Impact of Company Decisions to Address Affordability (\$000s)	
Using 10.4% ROE instead of 10.6%	\$13,755
Remove costs associated with former executive position	12,623
Amortize regulatory assets over 5 years instead of 3 years	17,657
Continue use of existing depreciation rates	35,003
Total Estimated Impact	\$79,038

Q. WILL AFFORDABILITY SUFFER IF CENTERPOINT HOUSTON IS GRANTED THE ACTUAL CAPITAL STRUCTURE IT SEEKS IN THIS PROCEEDING?

A. No. First, before considering any of the benefits to the Company and its customers of using the *actual* capital structure, as explained above, using the Company's *actual* capital structure results in residential rates well below the rate of historic inflation (not to mention the recent higher inflation).

But second, as explained in the testimony of Company witness Jacqueline Richert, rates that reflect the Company's *actual* capital structure yield benefits that offset the revenue increase resulting from using that *actual* capital structure. For example, because the use of the Company's actual capital structure supports an improved credit rating, as the Company refinances existing debt and takes on new debt, the cost of that debt (which is also paid by customers) will be materially lower. Moreover, for unplanned borrowing needs, such as in the aftermath of a severe hurricane (which could result in costs in the \$1 billion range that need to be financed), a better credit rating would lower the borrowing costs that get passed on to customers.

1 **Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?**

2 **A. Yes.**

The following files are not convertible:

WP JMR-01 CEHE Capex History.xlsx
WP JMR-03 Affordability Efforts.xlsx

Please see the ZIP file for this Filing on the PUC Interchange in order to access these files.

Contact centralrecords@puc.texas.gov if you have any questions.

DOCKET NO. _____

APPLICATION OF CENTERPOINT § PUBLIC UTILITY COMMISSION
ENERGY HOUSTON ELECTRIC, LLC §
FOR AUTHORITY TO CHANGE RATES § OF TEXAS

**STATEMENT OF INTENT AND APPLICATION OF CENTERPOINT ENERGY
HOUSTON ELECTRIC, LLC FOR AUTHORITY TO CHANGE RATES**

CenterPoint Energy Houston Electric, LLC (“CenterPoint Houston” or the “Company”) files this Statement of Intent and Application for Authority to Change Rates (“Application”) pursuant to Subchapter C of Chapter 36 of the Public Utility Regulatory Act (“PURA”).¹

I. INTRODUCTION

In compliance with the rate scheduling requirements of 16 Texas Administrative Code § 25.247(c)(2)(B) (“TAC”) and the Company’s commitment to the timing of a rate filing in Project No. 47945, *Proceeding to Investigate and Address the Effects of the Tax Cuts and Jobs Act of 2017 on the Rates of Texas Investor-Owned Utility Companies*, CenterPoint Houston presents this Application for a comprehensive rate review.

Since the Company’s last base rate case, Docket No. 38339, *Application of CenterPoint Energy Houston Electric, LLC for Authority to Change Rates*, the Company has continued its long history of providing safe, reliable, value-added service to its customers. As a result, CenterPoint Houston now maintains and operates a transmission and distribution system for the benefit of over 2.5 million metered customers—nearly 400,000 more customers than it served when it filed its last rate case in Docket No. 38339.

In response to this approximately 20% increase in the number of customers it serves, CenterPoint Houston has, since January 1, 2010, invested over \$6 billion in transmission and

¹ Public Utility Regulatory Act, Tex. Util. Code Ann. §§ 11.001-66.017 (Supp.) (“PURA”).

distribution infrastructure to safely and reliably support economic and population growth in Houston and its surrounding cities and weathered the impact of a generational storm event in 2017—Hurricane Harvey. Over the course of the same period, CenterPoint Houston installed approximately 2.5 million Advanced Metering System (“AMS”) meters, improved the intelligence and resiliency of its transmission and distribution system, and prudently managed its cash flow so that the Company could take advantage of capital market conditions to lower the Company’s overall cost of debt.

This filing presents the opportunity to review the investment and expenses that CenterPoint Houston has incurred since the Company’s last base rate case and to establish a solid foundation that will enable CenterPoint Houston to continue to meet the expectations of its customers, respond to growth and support economic development within the State of Texas. This is vitally important because residential customer growth in the Company’s service territory is expected to continue at a rate of approximately two percent per year for the next 20 years and CenterPoint Houston must be solidly positioned to respond to this demand.

Essential to establishing this solid foundation is the Commission’s approval of a higher equity ratio and higher cost of equity for CenterPoint Houston. These adjustments are necessary in order to ease the financial pressure created by two factors outside of the Company’s control—growth in the Company’s service territory, which has materially increased the level of capital investment required on an annual basis, and the Tax Cuts and Jobs Act of 2017 (“TCJA”), which has significantly reduced the Company’s cash flow. Put simply, two very good things for customers (strong economic growth in the Houston area and tax relief) will negatively impact the Company’s financial condition if its capital structure and return on equity are not adjusted to reflect a 50% equity/50% long-term debt capital structure and a 10.4% cost of equity.

PUC DOCKET NO. 49421
SOAH DOCKET NO. 473-1920864

RECEIVED
28 MAR -9 PM 3:03

APPLICATION OF CENTERPOINT § PUBLIC UTILITY COMMISSION
ENERGY HOUSTON ELECTRIC, LLC §
FOR AUTHORITY TO CHANGE § OF TEXAS
RATES §

ORDER

This Order addresses the application of CenterPoint Energy Houston Electric, LLC for authority to change its rates. CenterPoint Houston filed a settlement agreement that resolves certain issues between the parties to the proceeding. The Commission approves the rates, terms, and conditions set forth in the agreement to the extent provided in this Order.

I. Background

On April 5, 2019, CenterPoint Houston filed an application for authority to change its rates. CenterPoint Houston initially sought to increase its annual transmission and distribution revenues by approximately \$161 million but revised its requested increase in an errata filing to approximately \$154.6 million, inclusive of a rider (rider UEDIT) to refund to customers the unprotected excess deferred federal income tax (EDIT) balance that resulted from the Tax Cuts and Jobs Act of 2017. CenterPoint Houston requested an overall rate of return of 7.39%, based on a cost of debt of 4.38%, a return on equity of 10.4%, and a capital structure of 50% long-term debt and 50% equity.

The Commission referred this docket to the State Office of Administrative Hearings (SOAH) on April 8, 2019. Parties filed testimony and engaged in discovery. After a hearing on the merits was held, the SOAH administrative law judges (ALJs) filed a proposal for decision on September 9, 2019. In the proposal for decision, the SOAH ALJs recommended an increase of \$2,644,193 to CenterPoint Houston's total base-rate revenue requirement. The SOAH ALJs also recommended an overall rate of return of 6.65%, based on a cost of debt of 4.38%, a return on equity of 9.45%, and a capital structure of 55% long-term debt and 45% equity.

The Commission considered the proposal for decision at its November 14, 2019 open meeting but did not formally act on it at that time. On January 9, 2020, CenterPoint Houston filed

792

a letter indicating that all parties had either agreed in principle to an agreement or were unopposed to it. CenterPoint Houston filed a non-unanimous but unopposed agreement on January 23, 2020. The signatories agreed to a \$13 million black-box increase to CenterPoint Houston's total base-rate revenue requirement. The signatories agreed that CenterPoint Houston's overall rate of return should be 6.51%, based on a cost of debt of 4.38%, a return on equity of 9.4%, and a capital structure of 57.5% long-term debt and 42.5% equity. The agreement also specified that CenterPoint Houston will recover all existing and future transmission-related costs through its transmission cost recovery factor instead of through base rates. However, the agreement left to the Commission the resolution of whether dividend restrictions should be imposed on CenterPoint Houston.

At its February 14, 2020 open meeting, the Commission considered the agreement in lieu of the proposal for decision and voted to approve it without imposing dividend restrictions on CenterPoint Houston. Accordingly, the Commission does not adopt the proposal for decision.

II. Findings of Fact

The Commission makes the following findings of fact.

Applicant

1. CenterPoint Houston is an investor-owned electric utility within the Electric Reliability Council of Texas (ERCOT) system.
2. CenterPoint Houston is a subsidiary of CenterPoint Energy, Inc.
3. CenterPoint Houston serves approximately 2.5 million metered customers.
4. CenterPoint Houston's electric system covers approximately 5,000 square miles located in and around Houston, Texas and has approximately 58,000 miles of overhead and underground transmission and distribution lines.
5. CenterPoint Houston's last base-rate case was filed on June 30, 2010 and docketed as Docket No. 38339.¹

¹ *Application of CenterPoint Energy Houston Electric LLC for Authority to Change Rates*, Docket No. 38339 Order on Rehearing (Jun. 23, 2011).

Application

6. On April 5, 2019, CenterPoint Houston filed an application and statement of intent to change retail transmission and distribution rates and wholesale transmission rates.
7. CenterPoint Houston used a test year from January 1, 2018 through December 31, 2018.
8. CenterPoint Houston initially sought Commission approval to increase transmission and distribution revenues by approximately \$161 million, inclusive of rider UEDIT. The requested adjustment included a net annual increase in retail transmission and distribution revenue of approximately \$154.2 million over adjusted test-year revenues. The requested increase also included an annual increase of approximately \$6.8 million for wholesale transmission service.
9. CenterPoint Houston also initially proposed the establishment of rider UEDIT to continue returning to customers over three years approximately \$97 million in unprotected EDIT resulting from the enactment of the Tax Cuts and Jobs Act of 2017.²
10. In an errata filed on May 20, 2019, CenterPoint Houston amended its requested annual increase in transmission and distribution revenues to \$154.6 million, inclusive of rider UEDIT. This increase comprises a net annual increase in retail transmission and distribution revenue of approximately \$149.2 million over adjusted test-year revenues and an annual increase of approximately \$5.4 million for wholesale transmission service. In its errata filing, CenterPoint Houston proposed to return approximately \$119 million to customers over a three-year period through rider UEDIT.
11. In addition to the rate increase, CenterPoint Houston requested a prudence determination for all capital investment made between January 1, 2010 and December 31, 2018, approval to establish and recover certain regulatory assets and liabilities, permission to install voltage-regulation battery assets, approval of new facility-extension policies for electric-vehicle public charging stations, and the recovery of reasonable rate-case expenses.

² Act to Provide for Reconciliation Pursuant to Titles II and V of the Concurrent Resolution on the Budget for Fiscal Year 2018, Pub. L. No. 115-97, 113 Stat. 2054 (Dec. 22, 2017).

12. No party challenged the adequacy and completeness of CenterPoint Houston's application.
13. In SOAH Order No. 4 filed May 28, 2019, the SOAH ALJs found the application sufficient.
14. CenterPoint Houston complied with the form and instructions for the Commission's rate-filing package and the application was administratively complete.

Effective Date of Proposed Rates

15. CenterPoint Houston's application to change rates initially proposed an effective date of May 10, 2019.
16. In SOAH Order No. 1 filed April 9, 2019, the SOAH ALJs suspended CenterPoint Houston's proposed effective date until October 7, 2019 and provided notice of a prehearing conference.
17. At the June 24, 2019 prehearing conference, CenterPoint Houston agreed to extend the effective date of its proposed rates to October 12, 2019.
18. In a letter to the Commission filed October 11, 2019, CenterPoint Houston agreed to extend the effective date of its proposed rates to November 15, 2019.
19. In a letter to the Commission filed December 13, 2019, CenterPoint Houston agreed to extend the effective date of its proposed rates to January 16, 2020 to allow settlement discussions to continue.
20. On January 23, 2020, CenterPoint Houston filed a non-unanimous but unopposed agreement that resolved certain issues between the parties. The signatories agreed for the approved rates to be effective 45 days after the date of this Order if the Order was filed after February 5, 2020.

Notice

21. Notice of CenterPoint Houston's application was published once each week for four consecutive weeks on April 18, April 25, May 2, and May 9, 2019 in the *Houston Chronicle*, which is a newspaper that has general circulation in each county of CenterPoint Houston's Texas service area. On May 14, 2019, CenterPoint Houston filed the affidavit of Alice S. Hart, who attested to the completion of notice as described in this finding of

fact. In addition, CenterPoint Houston filed publisher's affidavits from the *Houston Chronicle*.

22. No party challenged the adequacy of the notice provided by CenterPoint Houston, and Commission Staff recommended that the SOAH ALJs find that the notice was sufficient.
23. In SOAH Order No. 2 filed May 1, 2019, the SOAH ALJs found CenterPoint Houston's notice of the application sufficient.
24. A copy of the application and rate-filing package was sent by hand delivery or overnight mail to each party that participated in Docket No. 38339.
25. CenterPoint Houston served a copy of its statement of intent on each municipality within CenterPoint Houston's service area and provided a copy of its petition to each municipality with original jurisdiction over CenterPoint Houston's rates and services on March 1, 2019.
26. CenterPoint Houston served notice of the application by mail to each of the ERCOT wholesale transmission customers on the service list in Docket No. 48928.³
27. CenterPoint Houston served by mail notice of the application to each retail electric provider listed on the Commission's website as of the date on which service was sent.
28. On April 16, 2019, a revised notice was mailed to each of the ERCOT wholesale transmission customers on the service list in Docket No. 48928 and to each retail electric provider listed on the Commission's website.

Intervenors

29. In SOAH Order No. 2 filed May 1, 2019, the SOAH ALJs granted the motions to intervene of the following entities: Office of Public Utility Council (OPUC), City of Houston, Gulf Coast Coalition of Cities, Texas Coast Utilities Coalition, Texas Industrial Energy Consumers (TIEC), Alliance for Retail Markets, and Texas Energy Association for Marketers.

³ *Application to Set 2019 Wholesale Transmission Service Charges for the Electric Reliability Council of Texas*, Order (Apr. 4, 2019).

30. In SOAH Order No. 3 filed May 16, 2019, the SOAH ALJs granted the motions to intervene of the following entities: Calpine Corporation, Texas Competitive Power Advocates, and Olin Corporation.
31. In SOAH Order No. 6 filed June 4, 2019, the SOAH ALJs granted the motions to intervene of the following entities: McCord Development, Inc.; Generation Park Management District; H-E-B, LP; Enel X North America, Inc.; Walmart Inc.; Solar Energy Industries Association; and Houston Coalition of Cities. The SOAH ALJs also held that any party who did not timely file either direct testimony or a statement of position by the deadline was subject to being stricken as a party.
32. Olin Corporation did not file testimony or a statement of position. On June 20, 2019, CenterPoint Houston filed a motion to strike all intervenors who failed to file direct testimony or a statement of position. On June 24, 2019, the SOAH ALJs granted the motion and Olin Corporation was struck as a party to this proceeding.

Appeals of Municipal Ordinances

33. CenterPoint Houston appealed to the Commission the actions of the following municipalities exercising original jurisdiction within CenterPoint Houston's service territory: Brookside Village, Clute, Danbury, East Bernard, El Lago, Freeport, Jones Creek, Meadows Place, Oak Ridge North, Oyster Creek, Richmond, Richwood, Sandy Point, Shoreacres, Simonton, Southside Place, Stafford, Surfside Beach Village, Thompsons, Weston Lakes, Wharton, the Village of Fairchilds, the Village of Pleak, the Town of Quintana, La Marque, South Houston, Dickinson, Jersey Village, Manvel, Lake Jackson, Deer Park, Rosenberg, Webster, Brazos Country, Santa Fe, La Porte, West University Place, Spring Valley Village, Galveston, Hedwig Village, Houston, Alvin, Friendswood, Clear Lake Shores, Pasadena, Sugar Land, Baytown, Missouri City, Pearland, West Columbia, Sealy, League City, Beach City, Bellaire, Bunker Hill Village, Fulshear, Hunter's Creek, Seabrook, Taylor Lake Village, Texas City, and Tiki Island.
34. In SOAH Order No. 7 filed June 18, 2019, municipal rate appeals of the following municipalities were consolidated into this proceeding: Brookside Village, Clute, Danbury, East Bernard, El Lago, Freeport, Jones Creek, Meadows Place, Oak Ridge North, Oyster

Creek, Richmond, Richwood, Sandy Point, Shoreacres, Simonton, Southside Place, Stafford, Surfside Beach Village, Thompsons, Weston Lakes, Wharton, the Village of Fairchilds, the Village of Pleak, and the Town of Quintana.

35. In SOAH Order No. 11 filed September 11, 2019, municipal rate appeals of the following municipalities were consolidated into this proceeding: La Marque, South Houston, Dickinson, Jersey Village, Manvel, Lake Jackson, Deer Park, Rosenberg, Webster, Stafford, Brazos Country, Santa Fe, La Porte, West University Place, Spring Valley Village, Galveston, Hedwig Village, Oak Ridge North, Houston, Alvin, Friendswood, Clear Lake Shores, Pasadena, Sugar Land, Baytown, Missouri City, Freeport, Pearland, West Columbia, Sealy, Clute, League City, Wharton, Beach City, Bellaire, Brookside Village, Bunker Hill Village, Fulshear, Hunter's Creek, Oyster Creek, Seabrook, Simonton, Taylor Lake Village, Texas City, and Tiki Island.

Testimony and Statements of Position

36. CenterPoint Houston included in its application the direct testimonies and exhibits of Kenny M. Mercado, Randal M. Pryor, Martin W. Narendorf Jr., Dale Bodden, Julianne P. Sugarek, John R. Hudson, Kristie L. Colvin, Charles W. Pringle, Justin J. Hyland, Michelle M. Townsend, John E. Slanina, Shachella D. James, Rebecca Demarr, Shane Kimzey, Kelly C. Gauger, Diane M. Englet, Lynne Harkel-Rumford, John J. Reed, Timothy S. Lyons, Dane A. Watson, Robert B. Hevert, Robert B. McRae, Gregory S. Wilson, J. Stuart McMenamin, Matthew A. Troxle, and Myles F. Reynolds.
37. On June 6, 2019, OPUC filed the direct testimonies and exhibits of June M. Dively, Anjuli Winker, and Karl Nalepa; City of Houston and Houston Coalition of Cities jointly filed the direct testimonies and exhibits of Kit Pevoto, Mark E. Garrett, and Scott Norwood; Gulf Coast Coalition of Cities filed the direct testimony and exhibits of Lane Kollen; Texas Coast Utilities Coalition filed the direct testimonies and exhibits of J. Randall Woolridge and David J. Garrett; Walmart filed the direct testimony of Steve W. Chriss; TIEC filed the direct testimonies and exhibits of Jeffrey Pollock, Billie S. LaConte, Michael P. Gorman, and Charles S. Griffey; and H-E-B filed the direct testimony of George W. Presses.

38. On June 12, 2019, Commission Staff filed the direct testimonies and exhibits of Brian T. Murphy, Reginald J. Tuvilla, William B. Abbott, Mark Filarowicz, Blake P. Ianni, Alicia Maloy, Jorge Ordonez, Tom Sweatman, and Darryl Tietjen.
39. On June 12, 2019, Alliance for Retail Markets, Calpine Corporation, Enel X, Generation Park Management District, McCord Development, Solar Energy Industries Association, Texas Competitive Power Advocates, and Texas Energy Association for Marketers each filed a statement of position either individually or jointly.
40. On June 19, 2019, CenterPoint Houston filed the rebuttal testimonies of Randal M. Pryor, Martin W. Narendorf Jr., Julianne P. Sugarek, John R. Hudson, Kristie L. Colvin, Charles W. Pringle, Michelle M. Townsend, Kelly C. Gauger, Lynne Harkel-Rumford, John J. Reed, Dane A. Watson, Robert B. Hevert, Robert B. McRae, J. Stuart McMenamin, Matthew A. Troxle, Jeffrey S. Myerson, Ellen Lapson, and George C. Sanger.
41. On June 19, 2019, City of Houston and Houston Coalition of Cities jointly filed the cross-rebuttal testimony of Kit Pevoto; TIEC filed the cross-rebuttal testimony of Jeffrey Pollock; OPUC filed the cross-rebuttal testimony of Karl Nalepa; H-E-B filed the cross-rebuttal testimony of George W. Presses; and Commission Staff filed the cross-rebuttal testimonies of William B. Abbott and Brian T. Murphy.
42. At the hearing on the merits, Commission Staff produced the supplemental direct testimony of Tom Sweatman. The testimony was filed on July 3, 2019.

Referral to SOAH

43. On April 8, 2019, the Commission referred this docket to SOAH.
44. On May 9, 2019, the Commission approved the preliminary order for this docket, setting forth a list of 59 issues to be addressed. The preliminary order stated that the following issues would not be addressed in this proceeding:
 - a. Whether CenterPoint Houston should be permitted to install voltage-regulation battery assets; and
 - b. Whether CenterPoint Houston should be permitted to modify its tariff to add an additional allowance for facility extensions to electric charging stations.

45. In SOAH Order No. 5 filed June 4, 2019, the SOAH ALJs granted CenterPoint Houston's motion to sever issues related to rate-case expenses incurred in this docket and other prior dockets and established Docket No. 49595, *Review of Rate Case Expenses Incurred by CenterPoint Energy Houston Electric, LLC in Docket Nos. 38339, 45747, 47032, 47364, 48226, and 49421*.
46. The hearing on the merits convened on June 24, 2019 and adjourned on June 28, 2019.
47. On July 9, 2019, the parties filed initial post-hearing briefs.
48. On July 16, 2019, the parties filed reply briefs, and the record was closed.
49. On September 16, 2019, the SOAH ALJs filed a proposal for decision for the Commission's consideration.
50. Parties filed exceptions to the proposal for decision on October 10, 2019 and replies to the exceptions on October 24, 2019.
51. On November 7, 2019, the SOAH ALJs filed a letter recommending certain corrections to the proposal for decision.

Agreement

52. On December 13, 2019, CenterPoint Houston filed a letter requesting that the Commission defer further consideration of this docket until its January 16, 2020 open meeting to allow parties to engage in settlement discussions.
53. On January 22, 2020, CenterPoint Houston filed a non-unanimous but unopposed agreement between the parties.
54. The following parties signed the agreement: CenterPoint Houston, Commission Staff, OPUC, City of Houston and Houston Coalition of Cities, Gulf Coast Coalition of Cities, H-E-B, TIEC, Alliance for Retail Markets, Texas Energy Association for Marketers, and Walmart.
55. The following parties are unopposed to the agreement: Texas Competitive Power Advocates, Calpine Corporation, Solar Energy Industries Association, Enel X, Generation Park Management District, and McCord Development.

56. The agreement between the parties is reasonable.

Agreement – Overall Revenues

57. The signatories agreed that CenterPoint Houston's total base-rate revenue requirement should be increased by a black-box amount of \$13 million, as reflected in exhibit A to the agreement.

58. The signatories agreed for the approved rates to be effective 45 days after the date of this Order.

59. The revenues produced by the rates approved in this Order will provide CenterPoint Houston with revenues sufficient to cover its expenses and provide an adequate return.

Agreement – Return and Capital Structure

60. The signatories agreed that, beginning on the effective date of the rates approved by this Order, CenterPoint Houston's weighted average cost of capital will be 6.51%, based on a cost of debt of 4.38%, a return on equity of 9.4%, and a capital structure of 57.5% long-term debt and 42.5% equity.

61. It is appropriate for CenterPoint Houston to have an overall rate of return of 6.51%, based on a cost of debt of 4.38%, a return on equity of 9.4%, and a capital structure of 57.5% long-term debt and 42.5% equity.

62. The signatories agreed that the weighted average cost of capital, cost of debt, return on equity, and capital structure of CenterPoint Houston will apply in all Commission proceedings or Commission filings requiring the application of those items.

63. It is appropriate for the overall rate of return (referenced as the weighted average cost of capital in the agreement), cost of debt, return of equity, and capital structure for CenterPoint Houston to apply in all Commission proceedings or Commission filings requiring the application of those items.

Agreement – Allocation of Revenue Requirement

64. The signatories agreed that the revenue requirement, including the revenue increase, must be distributed among CenterPoint's customer classes per the allocation as set forth in

appropriate rating. They also asserted that adopting the IOU's proposed capital structure would have a significant revenue requirement impact.

OPUC/EGSI Cities stated that the IOUs' claims that they need a lower debt ratio to continue operations during the times of financial adversity are unfounded, since the risk of such adversity already exists today for the integrated utility. Finally, OPUC/EGSI Cities asserted that the IOUs failed to address evidence that the IOUs currently have a 40% equity ratio. If this were the case and risks were reduced, ratings should not be affected.

For the purposes of setting a generic capital structure, the IOUs requested a ratio consisting of 50-55% debt, which they believe corresponds to an ROE of not less than 11.5%. This proposal was based on the assumption that the capital structure recognizes that a higher debt ratio should give rise to a higher cost of equity. Additionally, the IOUs requested that the Commission make changes to the capital structure in a gradual, incremental manner.

The IOUs did not agree that the TDUs would face substantially lower risk than existing integrated utilities; on the contrary, they argued that some risks could increase. They stated that their proposed capital structure is consistent with a risk premium analysis for the appropriate proxy group, which IOUs believe should be the local gas distribution companies. The IOUs asserted that this capital structure will allow the TDUs to meet the financial challenges presented by a competitive market and that it would support a single A bond rating. They also asserted that the rate filing package presumption of a 200 basis point risk premium as appropriate did not represent the final determination by the Commission. The IOUs maintained that the capital structure should not be determined based solely on a desire to reduce the revenue requirement.

III. Commission Conclusion

In approaching the issues of the appropriate ROE and capital structure, the Commission notes two underlying considerations that served as a starting point in the decision-making process. First, these decisions are made for ratemaking purposes for the

newly unbundled TDUs during the transition period; and, second, the decisions are based on the close correlation between the ROE and capital structure.

The factors the Commission considered when determining an appropriate and reasonable ROE for the unbundled TDUs in Texas include: (1) the levels of business and financial risk; (2) the Commission's decisions in the rate design phase of this case; (3) the need to maintain reasonable rates; (4) the need for new transmission capacity; (5) the maintenance of adequate reliability standards; and (6) the companies' ability to attract new capital.

The Commission reviewed analyses of various proxy groups, including generation-divested, integrated, and water utilities and local gas distribution companies, for indications of risk levels and market concerns. The Commission finds that, while the generation-divested utilities most closely resembled the functions of the unbundled TDUs, significant differences in market restructuring in Texas and the size of the sample group do not allow for generalizations. The Commission also finds that the other sample groups provided useful information and need to be considered.

Based on these reviews, the Commission concludes there is strong evidence to support the presumption that, relative to the existing market structure, unbundled TDUs in the Electric Reliability Council of Texas (ERCOT) will be exposed to less risk.⁸ The following observations support the assertion that the Texas market is significantly different from other jurisdictions and should result in lower risk for the TDUs: (1) complete separation of generation and transmission and distribution functions, thus virtual elimination of commodity risk; (2) a requirement on retail electric providers (REPs) to be the point of sales for retail customers; (3) Commission-approved substantive rules related to registration and financial requirements to minimize a possibility of a REP default on payments for contracted services;⁹ and (4) P.U.C. SUBST. R. 25.193 to ensure

⁸ Direct Testimony of Martha Hinkle, pp. 8 -9, 17, and 19, and NUS Joint Reply Brief, pp. 3-10.

⁹ P.U.C. SUBST. R. 25.107, relating to Certification of Retail Electric Providers (REPs), and P.U.C. SUBST. R. 25.108, relating to Financial Standards for Retail Electric Providers Regarding the Billing and Collection of Transition Charges.

speedy recovery of transmission expenditures related to expansion of the transmission network. Therefore, the Commission concludes these favorable market and regulatory conditions in Texas should result in a lower business risk to Texas TDUs.

Additionally, in its consideration of an appropriate and reasonable ROE, the Commission reviewed a range of methods and models, as proposed by the parties: discounted cash flow (DCF), multi-stage DCF, capital asset pricing model (CAPM), and risk premium method. The Commission finds that the multi-stage DCF analysis as proposed by the IOUs does not accurately capture the lower business risk for Texas TDUs.¹⁰

In its determination of an appropriate ROE, the Commission considered the NUS recommendation of 10.75% as a reasonable starting point.¹¹ It also lies in the middle of the ranges of reasonable ROE admitted into evidence. Further review of OPUC/EGSI Cities CAPM analysis indicated that the NUS ROE is compatible with a 60% debt in the capital structure.¹² The Commission, however, provides for an upward adjustments to the ROE of 0.5% to account for: (1) the Commission decision in the rate design phase of this proceeding;¹³ (2) potential rating uncertainty due to higher debt, based on the adoption of 60% debt and 40% equity for capital structure in this proceeding; and (3) a risk premium recalculation as indicated in a Commission Staff witness' errata testimony.¹⁴ Accordingly, the Commission approves an ROE of 11.25% for the Texas unbundled TDUs, starting in 2002.

With regard to the issue of capital structure, the Commission recognizes that the ultimate determination of the appropriate relationship between the level of debt and

¹⁰ Direct Testimony of D.Tietjen, pp. 8-10.

¹¹ Direct Testimony of D.Tietjen and M. Hinkle; *see also* NUS Initial Brief, pp. 12-19.

¹² IOU Reply Brief, Exhibit C; *see also* Direct Testimony of Hill, Schedule 7.

¹³ The Commission adopted a Transmission Cost Recovery Factor, which may increase risk for the distribution company. Also adopted was an 80% ratchet for the distribution company, which may result in more streamlined cash flow, however, the adopted ratchet was the lowest one proposed.

¹⁴ Staff Exhibit 1B, Errata to Martha Hinkle's Direct Testimony; *see also* November 6, 2000 Hearing Transcript at 1309-11.

DOCKET NO. 22344

ORDER NO. 42

Page 11 of 12

equity and the corresponding ROE is not an exact science. As a general proposition, however, the Commission finds that an increase in debt should result in an increase in ROE unless offset by lower business risk.

Both NUS and OPUC/EGSI Cities proposed debt to equity ratio of 60/40. These parties presented substantial evidence showing that the unbundled TDUs would not be adversely affected by higher levels of debt, either in terms of adequate cash flows or market perception. The Commission agrees with these parties that any increase in the financial risk due to the higher debt leverage would be offset by the lower business risk to the TDUs. The Commission is not persuaded by the IOUs' arguments that greater debt leverage would have a detrimental impact on the TDUs. The Commission finds that the TDUs are able to carry a higher level of debt and still achieve a favourable credit rating, which will allow capital to be raised at acceptable rates.

Therefore, the Commission finds that a capital structure of 60/40 debt to equity ratio is reasonable and that it will allow TDUs to attract sufficient capital at reasonable rates, while minimizing costs to the ratepayers. The Commission also finds that any increase in the financial risk due to the higher debt leverage is offset by the lower business risk faced by the TDUs. The Commission, therefore, adopts a 60% debt and 40% equity ratio as the capital structure for ratemaking purposes for Texas TDUs.¹⁵

¹⁵ NUS Initial Brief, pp. 4-11.

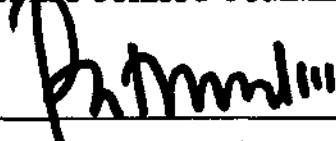
DOCKET NO. 22344

ORDER NO. 42

Page 12 of 12

SIGNED AT AUSTIN, TEXAS the 18th day of December 2000.

PUBLIC UTILITY COMMISSION OF TEXAS



PAT WOOD, III, CHAIRMAN



JUDY WALSH, COMMISSIONER



BRETT A. PERLMAN, COMMISSIONER

q:\opd\orders\interim\22000\22344-42-gen ROE capS.doc

APPLICATION OF HOUSTON LIGHTING AND §
POWER COMPANY FOR AUTHORITY TO CHANGE § DOCKET NO. 8425
RATES §

APPLICATION OF HOUSTON LIGHTING AND §
POWER COMPANY FOR A FINAL § DOCKET NO. 8431
RECONCILIATION OF FUEL COSTS §
THROUGH SEPTEMBER 30, 1988 §

June 20, 1990

In a major rate proceeding in which the prudence of HL&P's investment in the South Texas Project was considered (see Docket No. 6668), the Commission approved an overall increase of \$255,183,000, or approximately 8.72 percent over adjusted test year revenues. Motions for rehearing were granted in part and denied in part September 18, 1990; subsequent motions for rehearing were denied by operation of law.

[1] PROCEDURE--RATE CASES

The ALJ in Phase 3 of this docket (Docket No. 6668) declined to apportion "two-for-one" days under PURA § 43(d) to either HL&P or CPL according to a determination of how much time was spent in cross-examination regarding each utility. The Commission declined to consider an appeal of that order of the ALJ. (p. 2225)

[2] PROCEDURE--RATE CASES
RATEMAKING--COST OF SERVICE--OPERATIONS AND MAINTENANCE--RATE CASE AND
OTHER LEGAL EXPENSES

Commission approved monthly reimbursement of municipal rate case expenses. (p. 2227)

[3] PROCEDURE--PREHEARING PROCEEDINGS--PROTECTIVE ORDERS/PRIVILEGED DOCUMENTS

In Phase 3 of this docket (Docket No. 6668), the ALJ found certain documents prepared by Mr. Marc Victor, an attorney, to be privileged and therefore exempt from discovery. The ALJ was reversed by the Commission but the privilege upheld on appeal to the courts. (p. 2228)

[4] RATEMAKING--INTERIM AND BONDED RATES

HL&P implemented system-wide bonded rates pursuant to PURA Section 43(d). (p. 2230)

[5] PROCEDURE--RATE CASES
RATEMAKING--COST OF SERVICE--OPERATIONS AND MAINTENANCE--RATE CASE AND
OTHER LEGAL EXPENSES

Temporary court injunction prohibited the Commission from requiring monthly reimbursement of municipal rate case expenses without a hearing. (p. 2230)

DOCKET NOS. 8425 & 8431
EXAMINERS' REPORT
PAGE NO. 90

it is undergoing the level of risk attendant to a prudently constructed nuclear power plant. The examiners' recommendation makes that assumption.

B. Capital Structure/Overall Rate of Return

The parties presented slightly different capital structures for HL&P based upon its actual capital structure at different times. The capital structure recommended by HL&P was its capital structure at the end of the test year. The examiners agree with the General Counsel that it is appropriate to use the most recent figures available, calculated by Mr. Orozco at the hearing and set forth in General Counsel's Exhibit 22. See Tr. Vol. 42 at 6678-81. Using the examiners' recommended return on equity, HL&P has an overall cost of capital of 10.41 percent, as set forth below:

<u>Component</u>	<u>Weight</u>	<u>Cost</u>	<u>Weighted Cost</u>
Long-term debt	50.445%	8.94%	4.510%
Preferred Stock	6.327%	8.18%	0.518%
Common equity	<u>43.229%</u>	12.45%	<u>5.382%</u>
Total	100.00%		10.410%

CFUR witness Parcell recommended the use of HL&P's end-of-test-year capital structure, but including a notes-payable component weighted at 4.86 percent. There was very little discussion of that recommendation in Mr. Parcell's testimony or at the hearing. CFUR Ex. 63 at 18; Tr. Vol. 31 at 4476-78. The examiners prefer to use Mr. Orozco's calculated capital structure, set forth above, because it is based on more recent information.

IV. Cost of Service (Expenses and Taxes)

A. Reconcilable Fuel and Purchased Power Expense

HL&P sought the final reconciliation of all reconcilable coal costs for the period August 1, 1984, through April 30, 1986. HL&P also sought a final

DOCKET NOS. 8425 & 8431
EXAMINERS' REPORT
PAGE NO. 347

82. HL&P is a company in transition. It is not like companies with significant ongoing nuclear construction; its nuclear construction program is finished. Nor is it like companies with operating nuclear plants which have long been in service.

83. At the end of this rate case, the Commission's treatment of STP--which is by far the biggest risk facing HL&P--will be decided.

84. Some regulatory uncertainty will linger as STP continues to operate, as rates are phased in, and as this case and Docket No. 6668 proceed through the courts on appeal.

85. The best estimate of HL&P's cost of equity was Mr. Orozco's, stripped of its reliance on the direct HII analysis.

86. HL&P's cost of equity is 12.45 percent.

87. HL&P's rate of return should not be increased to account for the additional risk resulting from any disallowance of imprudent costs. To make such an adjustment would be to remove imprudent investment from rate base with one hand while returning it through rate of return with the other.

88. It is appropriate to use the most recent figures available for HL&P's capital structure.

89. HL&P has an overall cost of capital of 10.41 percent, as set forth below:

<u>Component</u>	<u>Weight</u>	<u>Cost</u>	<u>Weighted Cost</u>
Long-term debt	50.445%	8.94%	4.510%
Preferred Stock	6.327%	8.18%	0.518%
Common equity	43.229%	12.45%	5.382%
Total	100.00%		10.410%

DOCKET NOS. 8425 & 8431
EXAMINERS' REPORT
PAGE NO. 355

125. Approximately \$230,000 should be eliminated from UFI's invested capital for spare parts which were included in both materials and supplies and plant in service.

126. A reasonable overall return on UFI's invested capital is 10.88 percent, using the staff's recommended UFI capital structure and the examiners' recommended return on equity.

127. HL&P has reasonable and necessary operations and maintenance expenses as set forth on Schedule II attached to the Commission's Order.

128. The staff's methodology, which relied upon the most recent data available at the time of the hearing, should be used to calculate payroll expense.

129. A three percent union wage increase was contractually based and took place in May of 1989.

130. A non-union increase of five percent has been approved by HL&P's Board of Directors and is consistent with HL&P's non-union wage increases in 1983-87 and wage increases for other companies in the Houston area.

131. HL&P's payroll expense should include both the 3 percent union wage increase and the 5 percent non-union wage increase.

132. The staff's methodology, which used the most recent data available and the appropriate expense factor, should be used to calculate employee benefits.

133. HL&P's 16.87 percent inflation adjustment to its medical and dental insurance was not known and measurable and should be disallowed.

134. Life Insurance, LTD, and AD&D expense should be calculated using the staff's methodology and result.

DOCKET NO. 9850

APPLICATION OF HOUSTON LIGHTING
AND POWER COMPANY FOR AUTHORITY
TO CHANGE RATES

§
§
§

PUBLIC UTILITY COMMISSION
OF TEXAS

EXAMINERS' REPORT

I. Introduction

Houston Lighting & Power Company (HL&P or Company) filed its application originally seeking approval of Steps 2 and 3 of its rate moderation plan approved in its last rate case, Docket No. 8425.¹ HL&P proposed a two-step consecutive increase in annual revenues over a test year ending March 31, 1990, as follows: (1) effective December 17, 1990, an increase of \$397,319,000 comprising an increase of \$336,534,000 in base rates and of \$60,785,000, in non-base rates; and (2) effective December 2, 1991, an increase in non-base rates of \$154,754,000. Steps 2 and 3 constituted an 11.6 and 4.1 percent increase over adjusted test year, respectively.

Prior to the hearing on the merits, a non-unanimous settlement agreement (NUS) was executed and filed in this docket. The signatory parties were: HL&P, General Counsel, City of Houston, Coalition of Cities, Department of Energy, Occidental Chemical Corporation, Dow, State Agencies, Texas-New Mexico Power Company, and Texas Industrial Electric Consumers. The Office of Public Utility Counsel (OPC) and the City of Lake Jackson opposed the NUS. Only OPC actively challenged the NUS in the hearing.

Due to the time at which the NUS was filed, the hearing was limited to considering whether the NUS resulted in just and reasonable rates and thus was in the public interest. Based on the record in the docket, the examiners recommend that the Commission find that the NUS is in the public interest and set rates consistent with NUS. Because the manner in which HL&P and OPC presented their evidence, it is necessary to analyze each element of the NUS's

¹Application of Houston Lighting and Power Company to Change Rates; Application of Houston Lighting and Power Company for a Final Reconciliation of Fuel Costs Through September 30, 1988, Docket Nos. 8425 and 8431, 16 P.U.C. BULL. 2199 (April 4, 1991) (Docket No. 8425).

DOCKET NO. 9850

EXAMINERS' REPORT

PAGE 70

Mr. Cutter's non-constant DCF model was the most reliable presented in this docket because it accounted for investors' current and future expectations of buying the stock, receiving dividends over a period of time, and selling the stock in the future. Mr. Cutter provided credible explanations about the model illustrating his working knowledge of the model. His unfamiliarity with one book written by Gordon did not diminish his credibility.

The examiners find that Mr. Cutter's recommended return on equity reasonably accounted for Houston Industries' diversification. No witness could quantify the effect of the diversification, but all agreed that there was some effect of increasing HL&P's return on equity. To minimize that effect, Mr. Cutter used the lower end of his single-company DCF and the higher end of this comparable company DCF range. Both reasonably accounted for the diversification.

Mr. Cutter's analysis for a flotation cost adjustment was also credible. Mr. Cutter explained the basis for his judgment and adequately defended the adjustment.

Dr. Szerzsen's recommended return on equity was not credible. As explained by Dr. Hadaway, the use of a continuously compounding DCF model is not reasonable because it does not accurately depict investors' expectations or realistic business practices. Moreover, while she devoted considerable effort to explaining the effects of Houston Industries' diversification, Dr. Szerzsen did not devise an effective method of accounting for such effects.

8. Capital Structure/Overall Rate of Return

HL&P originally recommended its capital structure as of March 31, 1990. All parties, including OPC, used this capital structure. There being no

DOCKET NO. 9850

EXAMINERS' REPORT

PAGE 71

dispute about the capital structure, the examiners recommend an overall cost of capital of 10.49 percent, as set forth below:

<u>Component</u>	<u>Weight</u>	<u>Cost</u>	<u>Weighted Cost</u>
Long-term debt	48.50%	8.99%	4.36%
Preferred Stock	7.94%	8.30%	.66%
Common equity	43.56%	12.55%	5.47%
Total			10.49%

VIII. Cost of Service (Expenses and Taxes)

As noted above, HL&P originally sought a two-step consecutive rate increase. Step 2 of the increase totalled \$397,319,000 comprising an increase of \$336,534,000 in base rates and of \$60,785,000, in non-base rates. Step 3 would have increase base rates by \$154,754,000. Steps 2 and 3 constituted an 11.6 percent and 4.1 percent increase over adjusted test year, respectively.

The NUS revenue requirement level provides for a one-step increase in base rates of \$313,000,000, resulting in a total revenue requirement of \$3,737,139,000.

Based on OPC's schedules, its recommended revenue requirement is \$3,510,694,000, resulting from an increase of \$95,018,000. OPC Ex. 178, p. 1. However, it should be noted that these numbers do not completely reflect OPC's recommendations. OPC chose not to include many of its recommendations in its final revenue requirement schedules. Consequently, the full extent of OPC's recommendations are not reflected in these numbers. The examiners indicate which adjustments are not included in OPC's revenue requirement schedules throughout the Report.

DOCKET NO. 9850

EXAMINERS' REPORT

PAGE 258

89. HL&P has an overall cost of capital of 10.49 percent, as set forth below:

<u>Component</u>	<u>Weight</u>	<u>Cost</u>	<u>Weighted Cost</u>
Long-term debt	48.50%	8.99%	4.36%
Preferred Stock	7.94%	8.30%	.66%
Common equity	43.56%	12.55%	5.47%
Total			10.49%

90. The capital structure reflected in Finding of Fact No. 89 is reasonable and undisputed.

91. The cost of long-term debt and preferred stock as shown in Finding of Fact No. 89 is reasonable and undisputed.

92. The reasonable cost of equity for HL&P is 11.25 percent.

93. Mr. Cutter's use of the comparable discounted cash flow non-constant model was reasonable and accounted for investors' current and future expectations of buying stock, receiving dividends over a period of time, and selling stock in the future.

94. Mr. Cutter's recommended return on equity of 11.25 percent reasonably accounted for Houston Industries' diversification.

95. The NUS level of fuel and purchased power, as reflected in Schedule I, is reasonable.

96. Utility Fuels' charges included in fuel and purchased power were adjusted to reflect the NUS return on equity of 12.55 percent.

97. HL&P's current fixed fuel factor of \$0.020597 per kilowatt hour as set in Docket No. 8425 is reasonable.

DOCKET NO. 9850

EXAMINERS' REPORT

PAGE 282

33. The rates and service rules contained in the NUS and proposed tariff are just and reasonable and otherwise comply with the ratemaking mandates of Article VI of PURA and should be approved.

Respectfully submitted,



KATHERINE K. MUDGE
ADMINISTRATIVE LAW JUDGE



SHELIA BAILEY KNEIP
ADMINISTRATIVE LAW JUDGE

APPROVED this 3^d day of September, 1991.


MARY ROSS McDONALD
DIRECTOR OF HEARINGS

DOCKET NO. 9850

APPLICATION OF HOUSTON LIGHTING
AND POWER COMPANY FOR AUTHORITY
TO CHANGE RATES

§
§
§

PUBLIC UTILITY COMMISSION
OF TEXAS

ORDER

In open meeting at its offices in Austin, Texas, the Public Utility Commission of Texas finds that this docket was processed by administrative law judges in accordance with applicable statutes and Commission rules. The Examiners' Report, containing findings of fact and conclusions of law, is **ADOPTED** and **INCORPORATED** by reference into this Order, with the following modifications:

1. General Counsel's Exceptions are **GRANTED** and Houston Lighting & Power Company's Exceptions to the Examiners' Report are **GRANTED IN PART**. Therefore, the findings of fact and conclusions of law appended to this Order as Attachment 1 are **ADOPTED** and **INCORPORATED** into this Order in lieu of the examiners' proposed findings of fact and conclusions of law. The findings of fact and conclusions of law adopted herein modify the examiners' proposed Findings of Fact Nos. 13, 14, 16, 17, 26, 28, 33, 87, 92, 94, 98, 106, 125, 127, 154 - 156, 163, 164, 175, 178, 180, 184, 191, 232, 253, 255, and 257, and Conclusion of Law No. 14. The Commission also adds Findings of Fact Nos. 69A, 95A, 96A - 96I, 97A, and 98A to the findings proposed by the examiners.
2. Those portions of the discussion in the Examiners' Report that recommend findings of fact or conclusions of law contrary to those appended to this Order are **NOT ADOPTED**.
3. The attached schedules, which reflect the revenue requirement approved by the Commission, are also **ADOPTED** and **INCORPORATED** into this Final Order.

DOCKET NO. 9850

ORDER

PAGE 2

The Commission further issues the following Order:

1. The application of Houston Lighting and Power Company (HL&P) for authority to change rates as amended by the Non-Unanimous Stipulation (NUS) is GRANTED to the extent recommended in the Examiners' Report and as modified by the Findings of Fact and Conclusions of Law attached to this Order in Attachment 1.
2. The tariff attached to the NUS is APPROVED.
3. The revised and approved rates shall be charged for service rendered in the areas over which this Commission is exercising its original and appellate jurisdiction. Said rates shall be charged only for service rendered after the tariff approval date.
4. Because the NUS is not rejected and the permanent rates approved pursuant to this Order are equal to the bonded rates that have been in effect, no refund of the bonded rates is necessary.
5. HL&P SHALL address in the Company's next rate case whether the supplemental agreement for State-owned educational institutions (supplemental agreement (SEI)), or a similar proposal, should be extended to other large general service customers who, but for the fact that they are non-governmental entities, would otherwise qualify to take service under supplemental agreement (SEI).
6. HL&P SHALL perform the various studies described in Article IX of the NUS in accordance with the time frames specified therein.
7. HL&P is further ORDERED to make the franchise fee amendments contained in Article XI of the NUS available to all municipalities in its service area, and to provide written notice to all such municipalities of the availability of the revision to the method HL&P remits franchise fees.

DOCKET NO. 9850

ORDER

PAGE 3

8. HL&P is further ORDERED to meet all commitments contained in the letter agreement, dated March 20, 1991, between HL&P and The Metropolitan Organization regarding Project SHARE.
9. In its next rate case, HL&P SHALL support adoption of reasonable performance standards for the South Texas Project. HL&P is ORDERED to work closely with the Commission Staff in developing the standards and SHALL provide to the Staff information necessary to the development of these standards.
10. HL&P is further ORDERED to complete all commitments made in Article XIII of the NUS, which include:
 - a. To have heat rate equipment fully operational and in use at its Limestone plant by the end of calendar year 1991.
 - b. To repair the motor bay rusting problem at the Limestone plant.
 - c. To segregate financial data on W.A. Parish Units 1, 2, 3, and 4 from the financial data on Parish Units 5, 6, 7, and 8, commencing with accounting periods beginning no later than January 1, 1991.
11. HL&P is further ORDERED to address the reasonableness of its decommissioning costs, including specific evidence on compliance with P.U.C. SUBST. R. 23.59.
12. HL&P is ORDERED to make monthly payments in the amount of \$500,000 to its decommissioning fund at the Mellon Bank until further order by this Commission.
13. All motions, applications, and requests for entry of specific findings of fact and conclusions of law and any other requests for

DOCKET NO. 9850

ORDER

PAGE 4

relief, general or specific, are DENIED for lack of merits if not expressly granted herein.

SIGNED AT AUSTIN, TEXAS the 23rd day of October 1991.

PUBLIC UTILITY COMMISSION OF TEXAS


MARTA GREYTOR, COMMISSIONER


PAUL D. MEEK, CHAIRMAN

ATTEST:


MARY ROSS McDONALD
SECRETARY OF THE COMMISSION

Docket No. 9850

Attachment No. 1

Page 1

A. Findings of Fact

1. On November 9, 1990, Houston Lighting & Power Company (HL&P or Company) filed its application for authority to change rates. The application was assigned Docket No. 9850.

2. HL&P requested approval of Steps 2 and 3 of its rate moderation plan approved in its last rate case, Application of Houston Lighting & Power Company for Authority to Change Rates; Application of Houston Lighting & Power Company for a Final Reconciliation of Fuel Costs Through September 30, 1988, Docket Nos. 8425 and 8431, 16 P.U.C. BULL. 2199 (April 4, 1991). HL&P requested a two-step consecutive increase in annual revenues over a test year ending March 31, 1990.

3. In Step 2, HL&P requested an annual revenue increase of \$397,319,000, or 11.6 percent, effective December 17, 1990, comprising an increase of \$336,534,000 in base rates and of \$60,785,000, in non-base rates.

4. In Step 3, HL&P requested an increase in non-base rates of \$154,754,000, or 4.1 percent, effective December 2, 1991.

5. Operation of the proposed rate schedules was suspended for 150 days beyond the proposed effective dates, until May 16, 1991, for Step 2, and December 30, 1991, for Step 3.

6. Intervention status was granted to Occidental Chemical Company, Office of Public Utility Counsel (OPC), Texas State Agencies, Texas-New Mexico Power Company, Department of Energy, Texas Industrial Energy Customers (TIEC), Big Three Industries, Inc., Dow Chemical Co./Destec Energy, Inc. (Dow), Industrial Intervenors, The Woodlands Corporation, The Metropolitan Organization, the City of Lake Jackson, J. M. Lebeaux, the City of Houston, and the Coalition of Cities.

7. HL&P gave notice of its rate-change application by publishing a statement of intent once each week for four consecutive weeks in newspapers of

Docket No. 9850

Attachment No. 1

Page 11

89. HL&P has an overall cost of capital of 10.49 percent, as set forth below:

<u>Component</u>	<u>Weight</u>	<u>Cost</u>	<u>Weighted Cost</u>
Long-term debt	48.50%	8.99%	4.36%
Preferred Stock	7.94%	8.30%	.66%
Common equity	43.56%	12.55%	5.47%
Total			10.49% ✓

90. The capital structure reflected in Finding of Fact No. 89 is reasonable and undisputed.

91. The cost of long-term debt and preferred stock as shown in Finding of Fact No. 89 is reasonable and undisputed.

92. The reasonable cost of equity for HL&P is 12.55 percent.

93. Mr. Cutter's use of the comparable discounted cash flow non-constant model was reasonable and accounted for investors' current and future expectations of buying stock, receiving dividends over a period of time, and selling stock in the future.

94. Mr. Cutter's recommended return on equity of 12.55 percent reasonably accounted for Houston Industries' diversification.

95. The NUS level of fuel and purchased power, as reflected in Schedule I, is reasonable.

95A. HL&P's capacity payments to cogenerators of \$181,211,000 included in the Company's revenue requirement are reasonable and necessary costs and are properly included in rates.

96. Utility Fuels' charges included in fuel and purchased power were adjusted to reflect the NUS return on equity of 12.55 percent.

PUC DOCKET NO. 38339
SOAH DOCKET NO. 473-10-5001

APPLICATION OF CENTERPOINT § **PUBLIC UTILITY COMMISSION**
ELECTRIC DELIVERY COMPANY, §
LLC, FOR AUTHORITY TO CHANGE § **OF TEXAS**
RATES §

ORDER ON REHEARING

This Order addresses the application of CenterPoint Electric Delivery Company, LLC for authority to change its rates. On June 30, 2010, CenterPoint filed its application with the Public Utility Commission of Texas requesting authority to increase its transmission and distribution rates and to reconcile costs related to its advanced metering system (AMS) deployment. CenterPoint originally requested a total net increase of \$110 million: \$18 million represented the net increase associated with transmission service and \$92 million associated with retail delivery service. CenterPoint requested a rate of return on investment of 9.0%, based on a proposed capital structure having 50-50 ratio of debt to equity; a 6.74% cost of debt; and a return on equity of 11.25%.

On December 3, 2010, the State Office of Administrative Hearings (SOAH) administrative law judges (ALJs) issued a proposal for decision in which they recommended an overall rate increase for CenterPoint of \$21.483 million.¹ For the reasons discussed in this Order, the Commission adopts in part and rejects in part the proposal for decision, including findings of fact and conclusions of law, and determines that CenterPoint's appropriate system-wide adjusted rates will lead to a retail revenue increase of \$14.65 million and an overall revenue requirement increase of \$2.4 million for both retail and wholesale combined.²

¹ Proposal for Decision (PFD), Attachment ALJ-3 at 1, line 10, column 2 "Difference between ALJs' Rec. and CNP, current revenues." (Dec. 3, 2010).

² Revised Number Runs and Associated Workpapers, Attachment Comm-3 AFTER Postage Stamp Update, at 1, line 10, column 2 (Feb. 18, 2011).

- 64. [DELETED]
- 65. CenterPoint's regulatory asset in the amount of \$453,000 for expenses associated with the cost of performing expedited switches was properly determined and is reasonable and necessary.
- 66. CenterPoint's three-year amortization period is appropriate for the CenterPoint's regulatory asset for costs for performing expedited switches.

Rate of Return and Cost of Capital

- 67. The appropriate capital structure for CenterPoint is 55% long-term debt and 45% common equity.
- 68. A capital structure composed of 55% debt and 45% equity is reasonable in light of CenterPoint's business and regulatory risks.
- 69. A capital structure composed of 55% debt and 45% equity will help CenterPoint attract capital from investors.
- 70. [DELETED]
- 70A. A return on common equity (ROE) of 10.00% will allow CenterPoint a reasonable opportunity to earn a reasonable return on its invested capital.
- 71. [DELETED]
- 71A. CenterPoint's energy conservation efforts, the quality of its services, the efficiency of its operations, and the quality of its management support a 10.00% ROE.
- 72. [DELETED]
- 72A. The results of the discounted cash flow model, capital asset pricing model, and risk premium approach support a ROE of 10.00%.
- 73. [DELETED]
- 73A. A 10.00% ROE is consistent with CenterPoint's business and regulatory risk.
- 74. CenterPoint's proposed embedded cost of debt 6.74% is reasonable.
- 75. [DELETED]

75A. CenterPoint's overall rate of return is as follows:

COMPONENT	CAPITAL STRUCTURE	COST OF CAPITAL	WEIGHTED AVG COST OF CAPITAL
LONG-TERM DEBT	55.00%	6.74%	3.71%
COMMON EQUITY	45.00%	10.00%	4.50%
TOTAL	100.00%		8.21%

Cost of Service

76. CenterPoint's test-year total transmission operations and maintenance (O&M) expense in FERC accounts 560 through 573 as adjusted by the Commission in the amount of \$234.721 million is reasonable and necessary.
77. CenterPoint's test-year total-distribution O&M expense in FERC accounts 580 through 598 as adjusted by the Commission in the amount of \$188.132 million is reasonable and necessary.
78. CenterPoint's proposed \$7.15 million O&M expenditure related to storm hardening is reasonable and necessary.
79. CenterPoint's requested total-customer-services-and-information expense of \$35.54 million is reasonable and necessary.
80. CenterPoint's Commission-adjusted administrative-and-general-expense request of \$178.178 million is reasonable and necessary.
81. The evidence demonstrates that CenterPoint's short-term incentive compensation plan (STI) is a reasonable and necessary component of a total compensation package required to recruit, retain, and motivate employees.
82. CenterPoint's long-term incentive-compensation plan (LTI) is not a reasonable and necessary component of CenterPoint's total compensation package.
83. The corporate and financial goals of STI are directly tied to metrics such as customer service and safety.

SIGNED AT AUSTIN, TEXAS the 23rd day of June 2011

PUBLIC UTILITY COMMISSION OF TEXAS


BARRY T. SMITHERMAN, CHAIRMAN


DONNA L. NELSON, COMMISSIONER


KENNETH W. ANDERSON, JR., COMMISSIONER

CHRISTI CRADDICK, *CHAIRMAN*
WAYNE CHRISTIAN, *COMMISSIONER*
JIM WRIGHT, *COMMISSIONER*



DANA AVANT LEWIS, *DIRECTOR*

RAILROAD COMMISSION OF TEXAS HEARINGS DIVISION

**OS-22-00009896, consolidated
AMENDED PROPOSAL FOR DECISION**

***Statement of Intent of Texas Gas Service Company, a Division of ONE Gas, Inc.,
to Change Gas Utility Rates Within the Unincorporated Areas of the West Texas
Service Area, the North Texas Service Area, and the Borger Skellytown Service
Area***

**Administrative Law Judge: Brennan J. Foley
Technical Examlners: Rose A. Ruiz and James R. Currier**

PARTIES

APPLICANT: **Texas Gas Service Company, a Division of ONE Gas, Inc. ("TGS")**
Kate Norman, Esq.
C. Glenn Adkins, Esq.
Coffin Renner LLP
Counsel for TGS

Stephanie G. Houle, Esq.
Counsel for TGS

INTERVENORS: **City of El Paso ("CEP")**
Norman J. Gordon, Esq.
Counsel for City of El Paso

City of Borger ("Borger")
Alfred R. Herrera, Esq.
Sergio E. Herrera, Esq.
Herrera Law & Associates, PLLC
Counsel for City of Borger

Staff of the Railroad Commission of Texas ("Staff")
Natalie Dubiel, Esq.
Seth Boettcher, Esq.
Office of General Counsel, Railroad Commission of Texas
Counsel for Staff

OS-22-00009896, consolidated

AMENDED PROPOSAL FOR DECISION

PROCEDURAL HISTORY

Statement of Intent Filed:	June 30, 2022
Suspension Order Issued:	August 30, 2022
Hearing on the Merits:	November 2-3, 2022
Evidentiary Record Closed:	December 14, 2022
Proposal for Decision Issued:	December 14, 2022
Exceptions to Proposal for Decision Filed:	December 29, 2022
Replies to Exceptions to Proposal for Decision Filed:	January 9, 2023
Amended Proposal for Decision Issued:	January 11, 2023
Deadline for Commission Action:	January 27, 2023

STATEMENT OF THE CASE

On June 30, 2022, Texas Gas Service Company, a Division of ONE Gas Inc. ("TGS"), filed with the Railroad Commission of Texas ("Commission") a Statement of Intent to increase gas utility rates within the unincorporated areas of its West Texas Service Area ("WTSA"), North Texas Service Area ("NTSA"), and Borger Skellytown Service Area ("BSSA") (the "SOI"). Along with the requested rate increase, TGS requests to consolidate the WTSA, NTSA and BSSA into a new service area called the West North Texas Service Area ("WNSA"). Contemporaneously with the filing of its Statement of Intent with the Commission, TGS filed its SOI with the cities that have retained original jurisdiction over gas utility rates and services within the WTSA and BSSA.

The parties in this proceeding include the applicant, TGS, and three intervenors—the City of El Paso ("CEP"), the City of Borger ("Borger") and the Staff of the Railroad Commission of Texas ("Staff").

A hearing on TGS's requested relief was held on November 2-3, 2022.

The Commission has exclusive original jurisdiction over gas utility rates and services within the unincorporated areas of the WTSA, NTSA and BSSA. The Commission has appellate jurisdiction over incorporated areas within the WTSA, NTSA and BSSA.

SUMMARY OF RECOMMENDATIONS

The Administrative Law Judge ("ALJ") and Technical Examiners ("Examiners") recommend the Commission approve the following:

- Consolidation of the WTSA, NTSA and BSSA into the new WNSA service area for all purposes except that consolidation of TGS's cost of gas clause should be denied
- An \$8,033,715 increase in TGS's revenue requirement for the WNSA resulting in a \$135,499,490 revenue requirement, which is a reduction of \$4,961,413 from TGS's requested revenue requirement
- A rate of return of 7.38 percent consisting of a 9.6 percent return on equity, 4.09 percent cost of debt and a capital structure of 59.74 equity and 40.26 debt
- A finding that capital investment booked to plant in the proposed WNSA through December 31, 2021, of \$636,550,719 is prudent
- TGS's proposed depreciation rates
- TGS's Method 3 to distribute revenues among the customer classes

Included in this consolidated docket are two petitions for review of the rate actions taken by the cities of Borger and Horizon City (OS-22-00011334) and the cities of El Paso, Anthony, Clint, San Elizario, Vinton and Socorro (OS-22-00011506).

This Amended Proposal for Decision ("Amended PFD") makes non-substantive changes to the Examiners' original Proposal for Decision ("Original PFD") and the Decision Summary and Proposed Final Order appended to the Original PFD as Attachments 2 and 3 to reflect the correction of errors made in the Examiners' Schedules filed with the Original PFD on December 14, 2022. These changes are outlined in detail in the cover letter accompanying this Amended PFD. This Amended PFD makes additional non-substantive clerical and typographical corrections to the Original PFD and updates the procedural history of this proceeding.

The deadline for Commission action is January 27, 2023.

maintain financial integrity, pay a return to security owners, and ensure the continued attraction of capital at a reasonable cost and in an amount to meet future needs.¹⁴⁴

Table 3: CEP Recommended Rate of Return

	Capital Structure	Cost	Weighted Average
Long-Term Debt	49.00%	4.09%	2.004%
Common Equity	51.00%	9.35%	4.769%
Rate of Return	6.773%		

Also in opposition, Staff recommends that the rate of return be set at 7.346% based on the capital structure and costs shown below.¹⁴⁵ Staff explains that the entirety of TGS's gas utility service areas statewide are operating with a 9.50 percent return on equity ("ROE"), excluding the NTSA and BSSA (9.75%), and urges the Commission not rush to address temporary market conditions by over-inflating TGS's ROE.¹⁴⁶

Table 4: Staff Recommended Rate of Return

	Capital Structure	Cost	Weighted Average
Long-Term Debt	40.26%	4.09%	1.647%
Common Equity	59.74%	9.54%	5.699%
Rate of Return	7.346%		

The components of calculating an appropriate rate of return – capital structure, cost of debt and cost of equity – are treated individually below.

1. Capital Structure

TGS proposes using ONE Gas's December 31, 2021, capital structure ratios of 40.26 percent debt and 59.74 percent equity. According to TGS, this capital structure reflects how TGS is actually financed and follows the Commission's practice of using a utility's actual capital structure ratios when they fall within industry bounds. In support, TGS states that as an operating division of ONE Gas—its parent company—it has no independent financing, and it relies entirely on ONE Gas for capital to finance its investment in assets, including those in the WNSA.¹⁴⁷ TGS testified that ONE Gas has intentionally maintained an approximately 60 percent equity and 40 percent debt ratio since its inception in 2014.¹⁴⁸

TGS acknowledges that its proposed capital structure is not the actual, per book capital structure of ONE Gas, but adjusted to account for debt issuances related to Winter Storm Uri. TGS testified that approximately \$2.1 billion of ONE Gas's \$3.7 billion of long-term debt outstanding at year-end 2021 is attributable to three debt issuances used to finance extraordinary gas costs incurred during Winter Storm Uri, which were capitalized as regulatory assets. TGS explains that these debt issuances are expected to be repaid primarily with proceeds from the securitizations of the regulatory assets approved by regulators in Texas,

¹⁴⁴ CEP Ex. 1, Direct Testimony and Exhibits of Daniel J. Lawton ("Lawton Direct") at 13.

¹⁴⁵ Staff Exhibit 4, Errata to the Direct Testimony of Miriam "Mimi" Winetroub, including native files ("Winetroub Direct") at 7, 36.

¹⁴⁶ Staff Initial Brief at 8.

¹⁴⁷ TGS Ex. 13 (Fairchild Direct) at 4, 13-20.

¹⁴⁸ *Id.* at 19.

Oklahoma, and Kansas. Deducting the \$2.1 billion in temporary debt from the \$3.7 billion total leaves about \$1.6 billion in permanent debt, as shown in the below table.¹⁴⁹

Table 5: TGS Proposed Capital Structure

	Per Book	Uri	Proposed
Long-Term Debt	\$3,683,378	\$(2,100,000)	\$ 1,583,378
Common Equity	\$2,349,532	\$ 0	\$ 2,349,532
Total	\$ 6,032,910	\$(2,100,000)	\$ 3,932,910

TGS witness Bruce H. Fairchild, a principal in Financial Concepts and Applications, Inc., testified that ONE Gas' actual capital structure gave it borrowing capacity during Winter Storm Uri that it would not otherwise have had, which allowed it to obtain billions in loans necessary to purchase natural gas and maintain service to TGS customers throughout the severe weather conditions.¹⁵⁰

CEP opposes and Staff supports TGS's proposed capital structure. Borger did not address the issue.

CEP's Position

In opposition, CEP recommends setting a hypothetical capital structure of 51 percent common equity and 49 percent long-term debt.¹⁵¹ CEP provided three explanations for its recommendation: 1) an equity ratio in the 51% range is consistent with the recent range of authorized returns by regulatory authorities for the gas utility industry;¹⁵² 2) a 51 percent equity ratio is slightly higher than the forecasted comparable group equity ratio;¹⁵³ and 3) the 60.1 percent equity ratio the Commission authorized in GUD No. 10506 is high by historical standards.¹⁵⁴

CEP explains that it is not possible to determine a reasonable equity ratio, let alone an overall return based on a policy, but that the ideal capital structure is one that minimizes the overall cost of capital to the firm, while still maintaining its financial integrity.¹⁵⁵ CEP claims that its rate of return recommendation, including its capital structure, will not put TGS in danger of losing current credit ratings and will not cause TGS's financial integrity to diminish.¹⁵⁶ CEP argues that none of the documents attached as the confidential exhibits to TGS witness Smith's rebuttal testimony provide economic analysis of TGS's financial integrity with a different equity ratio.¹⁵⁷

CEP argues that TGS's requested 59 percent equity ratio is out of sync with the industry. In support, TGS provided data showing that the average equity ratio approvals for the past six years, going back to 2017, have ranged from 49.88 percent to 51.87 percent.¹⁵⁸

¹⁴⁹ *Id.* at 14.

¹⁵⁰ *Id.* at 18; TGS Ex. 8 (Smith Direct) at 20-21.

¹⁵¹ CEP Ex. 1 (Lawton Direct) at 4.

¹⁵² *Id.* at 53-54.

¹⁵³ *Id.* at 55, Schedule DLJ-5.

¹⁵⁴ *Id.* at 55.

¹⁵⁵ *Id.* at 52.

¹⁵⁶ *Id.* at 59-61.

¹⁵⁷ CEP Reply Brief at 7.

¹⁵⁸ CEP Ex. 1 (Lawton Direct) at 53 (citing RRA Regulatory Focus, Major Rate Case Decisions July 27, 2022, at page 7).

Staff's Position

Staff supports TGS's proposed capital structure.¹⁵⁹ Staff states that its preference is to use the actual capital structure of a utility when the actual capital structure is consistent with those of publicly traded gas distribution utilities within this segment of the industry. Staff testified regarding 10 dockets, all approved in the last 10 years, in which the utility's actual capital structure was adopted by the Commission.¹⁶⁰ Staff explains that the capital structure that TGS proposes is based on that reported by TGS's parent company ONE Gas.¹⁶¹

TGS's Response

In response, TGS defends ONE Gas' actual test year-end capital structure ratios as reasonable and prudent and argues that CEP's recommendation to abandon Commission practice and use hypothetical capital structure ratios to calculate TGS's rate of return should be rejected.¹⁶²

TGS warns that adopting CEP's hypothetical capital structure would put ONE Gas at risk of a credit ratings downgrade, which if it occurs, would cause customers to pay a higher cost of debt for financing investment in TGS's system.¹⁶³ TGS also warns that requiring ONE Gas to use a hypothetical capital structure could hinder the company's ability to access financial markets in times of crisis; COVID-19 and Winter Storm Uri have illustrated the necessity of having a strong balance sheet with an ability to access capital markets as needed.¹⁶⁴

TGS acknowledges that its equity ratios are above LDC industry averages, but argues that they are not beyond industry standards.¹⁶⁵

TGS argues that by assuming more debt and less equity in ONE Gas' capital structure than it actually has, TGS will not have a fair opportunity to earn its allowed return on book equity because existing equity will be "trapped" and not earn the allowed rate of return unless ONE Gas rebalances its actual capital structure by taking on new debt, all of which would increase costs to customers and weaken the company's balance sheet.¹⁶⁶

Examiners' Recommendation

Considering the evidence, the Examiners find that TGS's proposed capital structure of 59.74 percent equity and 40.26 percent long-term debt is just and reasonable and supported by the weight of the evidence. TGS demonstrated that this equity ratio reflects TGS's actual capital structure, that this equity ratio is within the range of industry norms, and that TGS has maintained an equity ratio of approximately 60 percent since 2014. Accordingly, the Examiners recommend approval of TGS's proposed capital structure.

Consistent with the Commission's long-established precedent and policy to adopt a utility's actual capital structure when doing so is reasonable and supported by industry standards, the Examiners recommend rejecting the hypothetical capital structure as argued by

¹⁵⁹ Staff Ex. 4 (Winetroub Direct) at 8-11.

¹⁶⁰ *Id.* at 10.

¹⁶¹ *Id.* at 8-9.

¹⁶² TGS Ex. 22, Rebuttal Testimony, Exhibits, and Workpapers of Bruce H. Fairchild ("Fairchild Rebuttal") at 3, 21-24.

¹⁶³ TGS Ex. 19, Rebuttal Testimony and Exhibits of Mark W. Smith ("Smith Rebuttal") at 4, 30-32.

¹⁶⁴ *Id.* at 31-32.

¹⁶⁵ TGS Ex. 22 (Fairchild Rebuttal) at 22.

¹⁶⁶ *Id.*; TGS Ex. 19 (Smith Rebuttal) at 31.

CEP. The Examiners find that by assuming more debt than it actually has, TGS will not have a fair opportunity to earn its allowed return on book equity because existing equity will be “trapped” and not earn the allowed rate of return.

2. Cost of Debt

TGS proposes the cost of debt be set at 4.09 percent. TGS provided evidence that a 4.09 percent cost of debt is the average cost on December 31, 2021, of the \$1.6 billion of permanent long-term debt issued by ONE Gas and outstanding on December 31, 2021.¹⁶⁷

No parties addressed this issue.

Examiners’ Recommendation

Considering the evidence, the Examiners find that a 4.09 percent cost of debt was the average cost as of December 31, 2021, of the \$1.6 billion of long-term debt issued by ONE Gas and outstanding on December 31, 2021.¹⁶⁸ The Examiners recommend that TGS’s overall rate or return be calculated using a 4.09 percent cost of debt.

3. Cost of Equity

TGS’s Proposal

TGS proposes a rate of return on common equity (“ROE”) of 10.25 percent. In support, TGS provides the following quantitative analyses to develop a cost of equity range of 9.5 percent to 10.5 percent: constant growth discounted cash flow (“DCF”) method, capital asset pricing model (“CAPM”), risk premium method, and comparable earnings method.¹⁶⁹ TGS explained that despite the theoretical appeal of – or precedent for – using a particular method, no single approach is wholly reliable. According to TGS, it is essential to compare the ROE estimates produced by one method with those produced by other methods and that all estimates pass fundamental tests of reasonableness and economic logic.¹⁷⁰

TGS reviewed the operations and finances of TGS and ONE Gas, along with the general conditions in the natural gas industry and capital markets, including a discussion of the actions the Federal Reserve Board (“Fed”) is taking in the aftermath of the COVID-19 pandemic and recent jumps in the Consumer Price Index (“CPI”).¹⁷¹ TGS also goes into detail regarding the variety of market, operating, capital-related, and regulatory risks that local distribution companies (“LDCs”) face.¹⁷²

TGS argues that the Fed’s aggressive actions in fighting inflation, which include hikes in the federal funds rate and significant reductions in its long-term bond inventory, necessitate higher ROEs than those recently authorized for LDCs over the last few years.¹⁷³ TGS explains that coupling the increased borrowing costs with the greater volatility in stock prices implies that the relatively low capital cost environment that has existed for the last decade is ending.¹⁷⁴

¹⁶⁷ TGS Ex. 13 (Fairchild Direct) at 5, 20-21.

¹⁶⁸ *Id.*

¹⁶⁹ *Id.* at 3,5.

¹⁷⁰ *Id.* at 26.

¹⁷¹ *Id.* at 3,5.

¹⁷² *Id.* at 7-9, Appendix C.

¹⁷³ *Id.* at 13, 43.

¹⁷⁴ *Id.* at 13.

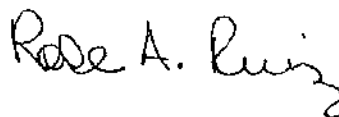
XV. FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDERING PARAGRAPHS

The Findings of Fact, Conclusions of Law and Ordering Paragraphs contained in the Proposed Final Order, appended to this Amended PFD as **Attachment 3**, are incorporated herein by reference.

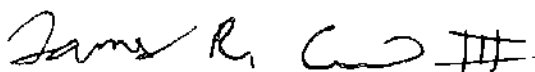
Signed on January 11, 2023.



Brennan J. Foley
Administrative Law Judge



Rose A. Ruiz
Technical Examiner



James R. Currier
Technical Examiner

BEFORE THE RAILROAD COMMISSION OF TEXAS

**STATEMENT OF INTENT OF TEXAS GAS §
SERVICE COMPANY, A DIVISION OF §
ONE GAS, INC., TO CHANGE GAS §
UTILITY RATES WITHIN THE §
UNINCORPORATED AREAS OF THE §
WEST TEXAS SERVICE AREA, NORTH §
TEXAS SERVICE AREA, AND THE §
BORGER SKELLYTOWN SERVICE AREA §**

HEARINGS DIVISION

OS-22-00009896, consolidated

PROPOSED FINAL ORDER

Notice of Open Meeting to consider this Order was duly posted with the Secretary of State within the time period provided by law pursuant to Tex. Gov't Code Chapter 551, *et seq.* The Railroad Commission of Texas adopts the following findings of fact and conclusions of law and orders as follows:

FINDINGS OF FACT

1. Texas Gas Service Company, a Division of ONE Gas, Inc., ("TGS" or the "Company") is a gas utility as that term is defined in the Texas Utilities Code ("Tex. Util. Code") and is subject to the jurisdiction of the Railroad Commission of Texas ("Commission").
2. On June 30, 2022, TGS filed with the Commission a Statement of Intent to change gas utility rates within the unincorporated areas of the West Texas Service Area ("WTSA"), the Borger Skellytown Service Area ("BSSA") and the North Texas Service Area ("NTSA"). In the Statement of Intent, TGS requested approval to consolidate those existing service areas to create the West North Service Area ("WNSA"). That filing was docketed as Case No. OS-22-00009896.
3. The WTSA comprises the incorporated and environs areas of Andrews, Anthony, Barstow, Clint, Crane, Dell City, El Paso, Horizon City, McCamey, Monahans, Pecos, Pyote, San Elizario, Socorro, Thorntonville, Vinton, Wickett, and Wink, Texas as well as the environs of Fabens and Canutillo, Texas.
4. The BSSA comprises the incorporated and environs areas of Borger and Skellytown, Texas.
5. The NTSA comprises the incorporated and environs areas of Aledo, Breckenridge, Bryson, Graford, Graham, Hudson Oaks, Jacksboro, Mineral Wells, Millsap, Weatherford and Willow Park, Texas as well as Possum Kingdom.
6. On June 30, 2022, TGS filed a Statement of Intent to change gas utility rates with each city within the WTSA and BSSA that has original jurisdiction. TGS did not file a Statement of Intent with the cities within the NTSA.
7. On August 30, 2022, the Commission suspended the effective date for TGS's rate increase for 150 days.
8. On September 7, 2022, the issue of rate case expense recovery was severed and docketed as OS-22-00010583.

51. It is reasonable that Cloud Computing costs be booked to FERC Account 186, then transferred to Account 107, and ultimately booked to gas plant account 391.99 Cloud Computing.
52. It is reasonable to include Cloud Computing costs in future Gas Reliability Infrastructure Program ("GRIP") filings.
53. It is reasonable that Cloud Computing costs be amortized over 13 years.
54. TGS's proposed Cash Working Capital ("CWC") is just and reasonable, including the calculation methods used.
55. The weight of the evidence supports TGS's proposed CWC amount and that interest on long-term debt should be excluded.
56. The affiliate costs included in TGS's filing are reasonable and necessary costs of providing gas utility service, and the prices charged to the WNSA are no higher than the prices charged by the supplying affiliate to other affiliates or divisions of TGS, or to a non-affiliated person for the same item or class of items.

Rate of Return

57. A rate of return of 7.38% is just and reasonable, supported by the facts and evidence unique to this case, and will not yield more than a fair return on the adjusted value of invested capital used and useful in providing service to the public.
58. TGS established that the use of its actual capital structure should be approved in this case.
59. TGS's proposed capital structure of 59.74% equity and 40.26% long-term debt is just and reasonable and supported by the weight of the evidence.
60. TGS demonstrated that this equity ratio reflects TGS's actual capital structure, is within the range of industry norms, and that TGS's parent company ONE Gas has maintained an equity ratio of approximately 60% since 2014.
61. A 4.09% cost of debt is just and reasonable and supported by the weight of the evidence.
62. A return on equity of 9.6% is just and reasonable and supported by the facts and evidence unique to this case.
63. The following capital structure, cost of debt, cost of equity, and weighted cost of capital, shown below, are just and reasonable:

	Capital Structure	Debt/Equity Cost	Weighted Cost of Capital
Long-Term Debt	40.26%	4.09%	1.65%
Common Equity	59.74%	9.60%	5.74%
Rate of Return			7.38%

BEFORE THE RAILROAD COMMISSION OF TEXAS

**STATEMENT OF INTENT OF TEXAS GAS §
SERVICE COMPANY, A DIVISION OF §
ONE GAS, INC., TO CHANGE GAS §
UTILITY RATES WITHIN THE §
UNINCORPORATED AREAS OF THE §
WEST TEXAS SERVICE AREA, NORTH §
TEXAS SERVICE AREA, AND THE §
BORGER SKELLYTOWN SERVICE AREA §**

HEARINGS DIVISION

OS-22-00009896, consolidated

FINAL ORDER

Notice of Open Meeting to consider this Order was duly posted with the Secretary of State within the time period provided by law pursuant to Tex. Gov't Code Chapter 551, *et seq.* The Railroad Commission of Texas adopts the following findings of fact and conclusions of law and orders as follows:

FINDINGS OF FACT

1. Texas Gas Service Company, a Division of ONE Gas, Inc., ("TGS" or the "Company") is a gas utility as that term is defined in the Texas Utilities Code ("Tex. Util. Code") and is subject to the jurisdiction of the Railroad Commission of Texas ("Commission").
2. On June 30, 2022, TGS filed with the Commission a Statement of Intent to change gas utility rates within the unincorporated areas of the West Texas Service Area ("WTSA"), the Borger Skellytown Service Area ("BSSA") and the North Texas Service Area ("NTSA"). In the Statement of Intent, TGS requested approval to consolidate those existing service areas to create the West North Service Area ("WNSA"). That filing was docketed as Case No. OS-22-00009896.
3. The WTSA comprises the incorporated and environs areas of Andrews, Anthony, Barstow, Clint, Crane, Dell City, El Paso, Horizon City, McCarney, Monahans, Pecos, Pyote, San Elizario, Socorro, Thorntonville, Vinton, Wickett, and Wink, Texas as well as the environs of Fabens and Canutillo, Texas.
4. The BSSA comprises the incorporated and environs areas of Borger and Skellytown, Texas.
5. The NTSA comprises the incorporated and environs areas of Alamo, Breckenridge, Bryson, Graford, Graham, Hudson Oaks, Jacksboro, Mineral Wells, Millsap, Weatherford and Willow Park, Texas as well as Possum Kingdom.
6. On June 30, 2022, TGS filed a Statement of Intent to change gas utility rates with each city within the WTSA and BSSA that has original jurisdiction. TGS did not file a Statement of Intent with the cities within the NTSA.
7. On August 30, 2022, the Commission suspended the effective date for TGS's rate increase for 150 days.
8. On September 7, 2022, the issue of rate case expense recovery was severed and docketed as OS-22-00010583.

51. It is reasonable that Cloud Computing costs be booked to FERC Account 186, then transferred to Account 107, and ultimately booked to gas plant account 391.99 Cloud Computing.
52. It is reasonable to include Cloud Computing costs in future Gas Reliability Infrastructure Program ("GRIP") filings.
53. It is reasonable that Cloud Computing costs be amortized over 13 years.
54. TGS's proposed Cash Working Capital ("CWC") is just and reasonable, including the calculation methods used.
55. The weight of the evidence supports TGS's proposed CWC amount and that interest on long-term debt should be excluded.
56. The affiliate costs included in TGS's filing are reasonable and necessary costs of providing gas utility service, and the prices charged to the WNSA are no higher than the prices charged by the supplying affiliate to other affiliates or divisions of TGS, or to a non-affiliated person for the same item or class of items.

Rate of Return

57. A rate of return of 7.38% is just and reasonable, supported by the facts and evidence unique to this case, and will not yield more than a fair return on the adjusted value of invested capital used and useful in providing service to the public.
58. TGS established that the use of its actual capital structure should be approved in this case.
59. TGS's proposed capital structure of 59.74% equity and 40.26% long-term debt is just and reasonable and supported by the weight of the evidence.
60. TGS demonstrated that this equity ratio reflects TGS's actual capital structure, is within the range of industry norms, and that TGS's parent company ONE Gas has maintained an equity ratio of approximately 60% since 2014.
61. A 4.09% cost of debt is just and reasonable and supported by the weight of the evidence.
62. A return on equity of 9.6% is just and reasonable and supported by the facts and evidence unique to this case.
63. The following capital structure, cost of debt, cost of equity, and weighted cost of capital, shown below, are just and reasonable:

	Capital Structure	Debt/Equity Cost	Weighted Cost of Capital
Long-Term Debt	40.26%	4.09%	1.65%
Common Equity	59.74%	9.60%	5.74%
Rate of Return			7.38%

Rate Schedules and Tariffs

26. The tariffs attached to this Order comply with applicable GURA and Commission requirements.
27. TGS is required by 16 TAC § 7.315 to file electronic tariffs incorporating rates consistent with this Order within thirty days of the date of this Order.

Review of Reasonableness and Prudence

28. Capital investment in the WNSA made through December 31, 2021, was reasonable and prudent and consistent with GURA Chapter 104 (Rates and Services) and Commission Rule 7.7101 (Interim Rate Adjustments), except for \$44,725 related to the Rule 8.209 Regulatory Asset balances included in prior GRIP filings.

Interim Rate Adjustments

29. Neither Tex. Util. Code § 104.301 nor 16 Tex. Admin. Code § 7.7101 permit TGS to recover uncollected revenues under its IRA from CEP customers in this base rate proceeding.
30. In accordance with Commission Rule 7.7101 (Interim Rate Adjustments), TGS may adjust its revenues in future IRA filings based on the difference between value of the investment amounts only by the constant factors set in this docket for the following: return on investment; depreciation expense, for those individual rates for each FERC account; ad valorem taxes; revenue related taxes; and federal income tax.

Rate Case Expenses

31. Rate case expenses for OS-22-00009896, OS-22-000011334, and OS-22-000011506 will be considered by the Commission in accordance with applicable Texas law in a separate consolidated proceeding, OS-22-00010583.

IT IS THEREFORE ORDERED that TGS's request to consolidate the WTSA, BSSA and NTSA to create the West North Service Area except for the consolidation of TGS's Cost of Gas Clauses is hereby **APPROVED**.

IT IS FURTHER ORDERED that the rates, rate design, and service charges for the consolidated WNSA established in the findings of fact, conclusions of law, and set forth in Attachment 1 are **APPROVED**.

IT IS FURTHER ORDERED that the proposed schedule of rates for the WNSA as reflected in the Order and in Attachment 1 are hereby **APPROVED**.

IT IS FURTHER ORDERED that the factors established for future IRAs in Finding of Fact No. 113 are **APPROVED**.

IT IS FURTHER ORDERED that the regulatory asset amounts approved by this Order are just and reasonable and are **APPROVED**.

IT IS FURTHER ORDERED that the Schedule EDIT-Rider be discontinued and TGS's request to flow EDIT to customers through base rates is **APPROVED**.

IT IS FURTHER ORDERED that the form of notice TGS proposed for the PIT Rider is **APPROVED**.

IT IS FURTHER ORDERED that within 30 days of this Final Order, in accordance with 16 TAC § 7.315 (Filing of Tariffs), TGS shall electronically file its rate schedules in proper form that accurately reflect the rates in Attachment 1 approved in this Final Order. The tariffs shall incorporate rates, rate design and service charges consistent with this Order, as stated in the findings of fact and conclusions of law and otherwise shown as part of this Order.

IT IS FURTHER ORDERED that all proposed findings of fact and conclusions of law not specifically adopted in this Order are hereby **DENIED**.

IT IS FURTHER ORDERED that all pending motions and requests for relief not previously granted or granted herein are hereby **DENIED**.

IT IS FURTHER ORDERED by the Commission that this order shall not be final and effective until 25 days after the Commission's Order is signed, unless the time for filing a motion for rehearing has been extended under Tex. Gov't Code § 2001.142, by agreement under Tex. Gov't Code § 2001.147, or by written Commission Order issued pursuant to Tex. Gov't Code § 2001.146(e). If a timely motion for rehearing of an application is filed by any party at interest, this order shall not become final and effective until such motion is overruled, or if such motion is granted, this order shall be subject to further action by the Commission. Pursuant to Tex. Gov't Code § 2001.146(e) and 16 Tex. Admin. Code § 1.128(e), the time allotted for Commission action on a motion for rehearing in this case prior to its being overruled by operation of law is hereby extended until 100 days from the date the Commission Order is signed.

SIGNED on January 18, 2023.

RAILROAD COMMISSION OF TEXAS

DocuSigned by:
Christi Craddick
15303070E1CC42A
CHAIRMAN CHRISTI CRADDICK

DocuSigned by:
Wayne Christian
F1D7166F4B61002
COMMISSIONER WAYNE CHRISTIAN

DocuSigned by:
Jim Wright
F1D7166F4B61002
COMMISSIONER JIM WRIGHT

ATTEST:

DocuSigned by:
Colbie Foman
5C46620F0E0A43
SECRETARY

