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

**WILLIAM A. ROPER, JR.'s RESPONSE TO CENTERPOINT'S OBJECTION TO MY
MOTION TO INTERVENE**

This is William A. Roper, Jr.'s, (the "Movant") response to CenterPoint Energy Houston Electric, LLC's ("CenterPoint") objection to his motion to intervene. On April 17, 2024, William A. Roper, Jr., timely filed his motion styled *William A. Roper, Jr.'s Motion to Intervene* (Item No. 97). On April 23, 2024, CenterPoint filed its objection to the Movant's motion to intervene.¹ *No other party has objected to Movant's intervention.*

I. Background

While Movant believes that the facts set forth within his original motion are sufficient to establish his standing to intervene, Movant furnishes several additional facts by way of further background and clarification.

Movant's Real Properties and Electrical Service

Movant has owned and co-owned a number of parcels of real property in Texas, including several parcels of real estate in Brazoria, Harris, and Montgomery County within CenterPoint's service area for more than twenty years. Movant also co-owns both producing and non-producing mineral rights within CenterPoint's service area. Movant has also recently inherited

¹ *CenterPoint Energy Houston Electric, LLC's Objection to Mr. William A. Roper, Jr.'s Motion to Intervene* (Item No. 121, Filed April 23, 2024).

additional real properties and mineral rights within CenterPoint's service area as a legatee of Patricia Guarin Roper, as further related below.

One of Movant's parcels in Montgomery County within CenterPoint's service was previously subject to electrical service but does not currently have electrical service from CenterPoint.

Another *improved*, two-acre parcel co-owned by the Movant at 912 West Main Street in Tomball, Harris County, Texas, currently receives electrical service from CenterPoint.

It is the Movant's understanding that each of his *other* real properties within CenterPoint's service area is *eligible* for electrical service at CenterPoint's tariffed rates in accordance with current published tariffs. It is also Movant's understanding that CenterPoint is a regulated monopoly with a Certificate of Convenience and Necessity ("CCN") granting it an *exclusive* right to provide electrical service to landowners within CenterPoint's service area. Movant believes that several of his real properties within CenterPoint's service area are currently subject to CenterPoint's CCN and tariffs and will be subject to any future rates established through this proceeding.

The Estate of Patricia Guarin Roper

Movant's stepmother, Patricia Guarin Roper, died in Tomball, Harris County, Texas, on Monday, January 23, 2023, at age 82. Patricia left a Will bequeathing an undivided interest in all of her estate to three legatees, including Movant. Patricia's estate included interests in several tracts of Texas land *inter alia* parcels within CenterPoint's service area in Brazoria, Harris, and

Montgomery Counties. Patricia's Will was accepted for probate by Harris County Probate Court No. 1 on April 25, 2023.²

One parcel owned by Patricia at her death was the two-acre property at **912 West Main Street, Tomball, Texas**, which William A. Roper and Patricia Guarin Roper purchased in Tomball, Texas, on September 29, 1980. The property at 912 West Main Street, which was Patricia's principal residence during the last years of her life and at her death, had electrical service when Patricia died and *still has active electrical service through CenterPoint*. Movant is a co-owner of a one third undivided interest in the 912 West Main Street property by the terms of Patricia's Will.

During the interval immediately following Patricia's death prior to the granting of letters testamentary, as co-owner of this property Movant personally contributed one third of the cost of the monthly CenterPoint electrical bill. Subsequent to the granting of letters testamentary on April 25, 2023, the estate's executor began paying the monthly CenterPoint electrical bill using *estate funds*, one third of which funds belong to the Movant as a legatee of Patricia's estate. When Patricia's estate was short on cash early this year due to asymmetries in cash flow, the Movant again *advanced his own personal funds* to pay estate expenses of administration, which expenses of administration include the monthly electrical bill for service at 912 West Main Street. Patricia's executor has since *sold* one parcel of real estate in Comal County which has furnished sufficient cash to *pay all current claims*, other than secured claims, taxes, and ongoing

² *Estate of Patricia Guarin Roper, Deceased*, Harris County Probate Court No. 1, Case No. 512919.

expenses of administration.³ The executor of Patricia's estate filed a sworn affidavit in lieu of inventory on Friday, April 26, 2024, announcing such facts. Patricia's estate is now already in a position to fully distribute remaining estate property and wind-up estate business.

Contrary to the allegations of CenterPoint, Movant is *already a co-owner* of the parcel at 912 West Main Street and has been since Patricia's death, as further shown below. No further conveyance of this parcel is required to complete or perfect Movant's ownership of this property. Patricia's Will itself serves as the instrument of conveyance of all real property, subject only to the marshalling of estate resources to pay estate claims (now shown to be paid), as further shown below.

CenterPoint's Mill Creek Substation Project

During Patricia's lifetime, CenterPoint expressed an interest in purchasing a part of the 72-acre Roper family parcel on Hardin Store Road in Montgomery County for the purpose of constructing an electrical substation *immediately across the street* from Hardin Store Road from the **Cedric C. Smith Elementary School** (Magnolia ISD). At Patricia's request this Movant fielded communications from CenterPoint's representatives regarding CenterPoint's interest in this property. However, when Patricia, a former public and private high school teacher, fully understood that CenterPoint had in mind to build an electrical substation immediately across the street from a *public elementary school*, she directed this Movant to discontinue communication with CenterPoint. See Movant's affidavit styled "*William A. Roper's Corrected Affidavit In*

³ Proceeds in hand should be sufficient to pay secured claims, as well, however a property secured by deed of trust is currently on the market and it is expected that the secured claims as to that parcel will be paid from the proceeds of that sale for which the asking price is several *times* the current mortgage amount.

Support of Notice Challenge,” filed within Docket No. 55768 as Item No. 239 on Thursday, January 4, 2024.

Unknown to Movant and the Roper family, CenterPoint continued its plan to build a new electrical substation in the vicinity of the Roper family property near the intersection of Hardin Store Road and Dobbin Hufsmith Road in Magnolia, Montgomery County, Texas. CenterPoint is shown to have conducted a “Public Meeting” to present this project to the public on **December 15, 2022**. Despite regulatory requirements that affected landowners be served with a notice of any such public meeting, CenterPoint now *admits* that it did not notify the Roper family of its scheduled public meeting. CenterPoint also *withheld* notice from *neighbors* of the Roper family’s Hardin Store Road property, thereby *concealing* its intentions from those residing adjacent to CenterPoint’s proposed “Site C” for the Mill Creek Substation, a location situated on the Roper family property. CenterPoint claims that this failure to notify was an *accident*, despite CenterPoint having been in *actual* communication with this Movant during the period in which the “Public Meeting” was scheduled and held.

On November 17, 2023, CenterPoint filed its application for an amendment to its CCN to allow for the construction of a new 138-kV power transmission line through the neighborhoods near the Roper family property.⁴ Movant first learned of CenterPoint’s application from a co-owner of the Hardin Store Road property who had received a notice on November 30, 2023. Movant then filed a timely *Request to Intervene* in that case on December 10, 2023 (Docket No. 55768, Item 87).

⁴ *Application of CenterPoint Energy Houston Electric, LLC to Amend Its Certificate of Convenience and Necessity for a Proposed 138-kV Transmission Line in Harris and Montgomery Counties*, Docket No. 55768.

Subsequently, after reviewing CenterPoint's original 515-page *Application*, Movant found a shocking number of significant, material errors. Movant raised alarm about such errors within his First RFI served upon CenterPoint and filed on December 22, 2023, as well as filings challenging CenterPoint's deficient notice and route adequacy.⁵ Among the significant issues identified by the Movant was the use of *obsolete* satellite imagery and land boundary files in the preparation of the *Environmental Assessment* prepared in support of CenterPoint's original *Application*, four routes which failed to fully traverse a complete route from the identified tie in points to the proposed substation location (Routes 12-B, 13-B, 14-B, and 14-B),⁶ and false representations within the Application as to *changes* to the segments and routes following the December 2023 Public Meeting.⁷ The habitable structures counts were (and still are) materially wrong for numerous routes due to the use of obsolete satellite imagery by CenterPoint's out of state environmental consultant. In addition, **CenterPoint had made a \$1 million error in transposition in the costs of land acquisition as to Site A and Site C, thereby underestimating the cost of construction at Site A and overestimating the cost of construction at Site C.** The net effect of this error was to make the relative costs of its proposed routes to Site C appear \$2 million better in comparison to Site A than they actually were.⁸

⁵ *William A. Roper's Objection to Notice and Request for Hearing on Notice* (PUC Docket No. 55768, Item No. 185, Filed December 18, 2023), *William A. Roper's Request for Hearing on Route Adequacy* (PUC Docket No. 55768, Item No. 194, Filed December 20, 2023); and *William A. Roper, Jr.'s First Set of Requests for Information to CenterPoint Energy Houston Electric, LLC* (PUC Docket No. 55768, Item No. 205, Filed December 22, 2023).

⁶ See especially RFI Roper 1-5 at pages 6-7, *William A. Roper, Jr.'s First Set of Requests for Information to CenterPoint Energy Houston Electric, LLC* (PUC Docket No. 55768, Item No. 205, Filed December 22, 2023).

⁷ See especially RFI Roper 1-4 at page 5, *William A. Roper, Jr.'s First Set of Requests for Information to CenterPoint Energy Houston Electric, LLC* (PUC Docket No. 55768, Item No. 205, Filed December 22, 2023).

⁸ CenterPoint Energy Houston Electric, LLC's Responses to George Murray's First set of RFIs (Item No. 250, Filed January 8, 2024).

Perhaps even more alarming, at a scheduled route adequacy hearing conducted on January 5, 2024, CenterPoint presented witnesses who gave *false testimony* seeking to cover up and conceal its numerous *Application* errors. However, four days *later*, CenterPoint filed an expedited motion for *abatement* seeking time to correct the numerous errors within its original Application, while disingenuously pressing for a determination of the adequacy of its proposed routes based upon the false evidence presented (*which still has not been withdrawn*).⁹

It appears that a key factor in CenterPoint's seeking an abatement was its belated realization that discovery then immediately due to be answered, for which no timely objection had been interposed, would show that three of the routes proposed by the Movant were less costly and environmentally impactful than any of CenterPoint's proposed routes, eviscerating and exposing CenterPoint's *false testimony* to the contrary at the hearing on January 5, 2024.

Shockingly, even given six weeks to correct its slipshod work, CenterPoint's refiled *Amended Application* not only failed to correct many of the most egregious errors, but also introduced *new errors*, which also remain uncorrected to this day. For example, **in correcting the cost estimates as to construction of the substation, CenterPoint introduced a new \$400,000 error in the cost of construction as applied to every route.**¹⁰

Finally, Movant would note that sine the route adequacy hearing in the Mill Creek Substation matter, Movant has identified an additional alternative site for the substation which eliminates the necessity for construction of new transmission lines altogether, potentially saving

⁹ CenterPoint Energy's Expedited Motion to Abate (Item No. 263, Filed January 10, 2024)

¹⁰ See *William A. Roper, Jr.'s First Request for Supplementation to CenterPoint Energy Houston Electric, LLC* (PUC Docket No. 55768, Item No. 524, Filed April 15, 2024) and *William A. Roper, Jr.'s Motion to Compel Answers to His First Request for Supplementation* (PUC Docket No. 55768, Item No. 555, Filed April 24, 2024)

CenterPoint \$41,282,979 to \$75,369,000. CenterPoint seems to be eager to restrain and muzzle the Movant so that he cannot obtain access to its records or participate in this rate making proceeding. Allowing intervention promotes both the Commission's interest in hearing diverse views and the public interest in economy, service and reliability.

II. Standard of Review

The Texas Utility Code expressly defines affected person as:

“a person whose utility service or rates are affected by a proceeding before a regulatory authority” TEX. UTIL. CODE §11.003(1)(B).

Commission Procedural Rules expressly provide:

“A person has standing to intervene if that person:

(1) has a right to participate which is expressly conferred by statute, commission rule or order or other law; or

(2) has or represents persons with a justiciable interest which may be adversely affected by the outcome of the proceeding.” COMM. PROC R. §22.103(a).

Texas courts have further clarified that standing in administrative proceedings is somewhat different from the standing requirements in civil litigation:

“Since administrative proceedings are different from judicial proceedings in purpose, nature, procedural rules, evidence rules, relief available and the availability of review, it is understandable that one's right to appear in an agency proceeding should be liberally recognized. Moreover, administrative tribunals are created to ascertain and uphold the public interest through the exercise of their investigative, rulemaking and quasi-judicial powers. Any stricture upon standing in an administrative agency would thus be inconsistent with the proposition that the agency ought to entertain the advocacy of various interest and viewpoints in determining where the public interest lies and how it may be furthered.” *Texas Industrial Traffic League v. Railroad Commission of Texas*, 628 S.W.2d 187, 197 (Tex. App.—Austin 1982), *rev'd on other grounds*, 633 S.W.2d 821 (Tex. 1982).

“It is true that one’s right to appear in an agency proceeding should be liberally recognized since an agency should be apprised of diverse viewpoints in order to determine where the public interest lies and how it should be furthered. *Texas Industrial Traffic League v. Railroad Commission of Texas*, supra at 197.” *Railroad Commission of Texas v. Ennis Transp. Co.*, 695 S.W.2d 706, 710 (Tex. App.—Austin 1985).

The Commission has cited these decisions in holding:

“one’s right to appear in an agency proceeding should be liberally recognized since an agency should be apprised of diverse viewpoints in order to determine where the public interest lies and how it should be furthered.” *Entergy*. Order on Appeal, citing *Railroad Comm’n of Tex. v. Ennis Transportation Co., Inc.*, 695 S.W.2d 706, 710 (Tex. App.—Austin 1985) (citing to *Texas Industrial Traffic League v. Railroad Comm’n of Tex.*, 628 S.W.2d 187, 197 (Tex. App.—Austin 1982).” *Application of Entergy Texas, Inc., for Authority to Change Rates*, PUC Docket No. 53719, SOAH Docket No. 473-22-04394, Order on Appeal of SOAH Order No. 4 at 2, Item No. 198 (October 20, 2022)

“[S]ince administrative proceedings are different from judicial proceedings in purpose, nature, procedural rules, evidence rules, relief available and the availability of review, it is understandable that one’s right to appear in an agency proceeding should be liberally recognized.” *Application of Entergy Texas, Inc., for Authority to Change Rates*, PUC Docket No. 53719, SOAH Docket No. 473-22-04394, Order on Appeal of SOAH Order No. 4 at 2, Item No. 198 (October 20, 2022)

This is the Commission’s binding holding as to its liberal policy as to intervention.

III. Argument

CenterPoint has misrepresented both the facts freely disclosed by this Movant in conference as well as the applicable law within its opposition.

CenterPoint’s opposition states “CenterPoint Houston has conferred with Mr. Roper, who confirmed that he is not a CenterPoint Houston customer and that the referenced parcels are undeveloped.” While it is true that most of Movant’s Texas land is unimproved, Movant does

own several parcels of land which are improved, including the Movant's interest in the 912 West Main Street property in Tomball, as previously set forth above.

Movant did not tell CenterPoint's representatives in conference that he isn't a CenterPoint customer. Rather, he told them that the electrical service provided at the 912 West Main Street property in Tomball is *not in his own name*. This was to clarify and distinguish that if CenterPoint searched its records it might fail to understand and appreciate which bill reflected the service provided to the property he currently co-owns.

Next, CenterPoint contends "Separately, he indicated that he is a devisee of a home served by CenterPoint Houston that is currently owned by his mother's estate." That is not what this Movant told CenterPoint's outside counsel, who appears not to appreciate the distinction as to ownership possibly because he is less familiar with the former Texas Probate Code and current Texas Estates Code.

Movant did not tell CenterPoint that the 912 West Main Street property is owned by the Estate of Patricia Guarin Roper, because it isn't. Rather, this property is owned by Patricia's legatees, but is *subject to the probate of Patricia's estate*. This is a critical distinction.

The Texas Estates Code expressly provides:

"§101.001. Passage of Estate on the Decedent's Death.

- (a) Subject to Section 101.051, if a person dies leaving a lawful will:
 - (1) **all of the person's estate that is devised by the will vests immediately in the devisees** [emphasis added];
 - (2) all powers of appointment granted in the will vest immediately in the donees of the power; and

- (3) all of the person's estate that is not devised by will vests immediately in the person's heirs at law.
- (b) Subject to Section 101.051, the estate of a person who dies intestate vests immediately in the person's heirs at law." TEX. ESTATE CODE §101.001.

Section 101.051 further provides that:

"§101.051. Liability of Estate for Debts in General.

- (a) A decedent's estate vests in accordance with Section 101.001(a) subject to the payment of:
 - (1) the debts of the decedent, except as exempted by law; and
 - (2) any court-ordered child support payments that are delinquent on the date of the decedent's death.
- ..." TEX. ESTATE CODE §101.051(a).

Patricia Guarin Roper had *no children* and was not subject to any court ordered child support payments, delinquent or otherwise at age 82. Patricia did have some unsecured debt, all of which is now shown to be paid. But even absent the payoff of the estate debt, title to Patricia's legatees passed to her legatees at her death by the provisions of TEX. ESTATE CODE §101.001.

Movant has been a co-owner of undivided interest in real estate from Patricia's date of death, as formally *recognized* by the acceptance of Patricia's Will for probate by Harris County Probate Court No. 1. The executor has sold one parcel of estate real estate since Patricia's death and has sworn that he has paid all of the unsecured debt identified to date.

CenterPoint next contends "The electric service account for the home is in the executor's name, and Mr. Roper is not an owner of that property."

Again, CenterPoint exhibits a rather horrid understanding of probate law and the Texas Estates Code.

Movant does not deny that the electrical service is shown to be in the name of the executor of the estate. This is because the executor has the duty to administer the estate assets on behalf of the legatees during the pendency of probate for the express purpose of paying valid, lawful claims against the estate, but he does so for the benefit of the legatees.

The estate is not a legal entity. *Ray Malooly Trust v. Juhl*, 186 S.W.3d 568, 570 (Tex. 2006); *Austin Nursing Center, Inc. v. Lovato*, 171 S.W.3d 845, 849 (Tex. 2005); *Henson v. Estate of Crow*, 734 S.W.2d 648, 649 (Tex. 1987); *Price v. Estate of Anderson*, 522 S.W.2d 690, 691 (Tex.1975).

Estate funds do not belong to the executor. The executor of an estate hold estate funds *in trust for the legatees* and “the executor of an estate is held to the same fiduciary standards in his administration of the estate as a trustee.” *Humane Society of Austin and Travis County v. Austin Nat. Bank*, 531 S.W.2d 574, 577 (Tex. 1975).

The contention that “Mr. Roper is not an owner of that property” [912 West Main Street] is legally specious.

Issues relating to provision of electrical service, electrical service sufficiency and reliability, the adequacy of CenterPoint’s transmission and distribution network, as well as rates directly impact the further development potential and use of *every parcel of real property* in which this Movant has an interest. Both the utility rates and utility service for every parcel of real estate owned or co-owned by the Movant situated within the service areas defined by CenterPoint’s CCN are affected by any proceedings before the Commission, whether or not service is currently being used.

Movant notes that in prior matters concerning intervention the Commission has expressly described its approach as a “liberal intervention policy” that weighs in favor of allowing participation of parties with an interest in resolution of a proceeding. Denying Movant the ability to intervene in this matter would run entirely counter to this policy.

See also *In Re Sw. Bell Tel. Co.*, 18 Tex. P.U.C. Bull. 1156 (Tex. P.U.C. Nov. 4, 1992) (Order Granting Motion to Intervene dated November 4, 1992 , PUC Docket No. 11487); see also *In Re MCI Worldcom, Inc.*, 2000 WL 33957863 (Tex. S.O.A.H. Feb. 29,2000) (“the Commission has a long-standing policy of liberal intervention”).

WHEREFORE, premises considered, Intervener requests that the ALJ OVERRULE CenterPoint’s Object and grant his motion to intervene in this matter, as well as any other relief to which he is justly entitled.

Respectfully submitted,

/ s / William A. Roper, Jr.

William A. Roper, Jr.

waroper@pobox.com

717-914-8649

CERTIFICATE OF SERVICE

I certify that on Tuesday, April 30, 2024, I served a true and correct copy of the foregoing document on CenterPoint Energy and all other parties to this matter via e-mail.

/ s / William A. Roper, Jr.

William A. Roper, Jr.

waroper@pobox.com

717-914-8649