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<b>APPLICATION OF CENTERPOINT ENERGY HOUSTON ELECTRIC, LLC FOR AUTHORITY TO CHANGE RATES</b>	§ § § § § § §	<b>BEFORE THE STATE OFFICE  OF  ADMINISTRATIVE HEARINGS</b>
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**CENTERPOINT ENERGY HOUSTON ELECTRIC, LLC’S  
REPLY TO MR. WILLIAM A. ROPER, JR.’S RESPONSE TO CENTERPOINT’S  
OBJECTION TO MY MOTION TO INTERVENE**

CenterPoint Energy Houston Electric, LLC (“CenterPoint Houston”) has reviewed William A. Roper, Jr.’s Response to CenterPoint’s Objection to My Motion to Intervene, and continues to maintain that he lacks standing to intervene in this proceeding. Pursuant to SOAH Order No. 5, CenterPoint Houston limits this response to discussion of the impact of Mr. Roper’s ownership interest in 912 West Main Street, Tomball, Texas (“912 W. Main”). As explained below, Mr. Roper is not entitled to participate in this proceeding as he is not a CenterPoint Houston customer, a fact unchanged by his interest in 912 W. Main.

**I. LEGAL STANDARD FOR INTERVENTION**

Under 16 Tex. Admin. Code § 22.103, a person has standing to intervene if that person 1) has a right to participate which is expressly conferred by statute, commission rule, 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.<sup>1</sup> A justiciable interest is an “interest[] that merit[s] relief which is sought and which is within the Commission’s power to grant.”<sup>2</sup> For an interest to be justiciable, the movant must show something “more than the speculation that the outcome of the proceeding might affect the movant at some indefinite point in the future.”<sup>3</sup> “[I]f a movant seeking to become

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<sup>1</sup> 16 Tex. Admin. Code § 22.103(b).

<sup>2</sup> *Application of Southwestern Bell Telephone Company to Approve Deletion of the Carrier Common Line and Interexchange Carrier Access Charge Credits*, Docket No. 10463, Examiner’s Order No. 9: Rulings on Motions to Intervene at 2 (Dec. 3, 1991).

<sup>3</sup> *Id.*

a party cannot show that it will be affected by the outcome of the proceeding at the present time, it must show a sufficient degree of probability that it will be so affected in the future, either directly or indirectly.”<sup>4</sup> Using this standard, the Commission denied the intervention of a trade group, whose members might have begun using a utility’s retail offerings in the future.<sup>5</sup>

## II. UNCONTESTED FACTUAL BACKGROUND

The late Patricia Guarin Roper owned 912 W. Main.<sup>6</sup> In her will, she bequeathed an undivided interest in her entire estate to three legatees.<sup>7</sup> Her will has been accepted for probate, and Lyle K. Kuntz has been appointed as executor.<sup>8</sup> Probate of the estate is ongoing, and the estate has not deeded 912 W. Main to any of the devisees, including Mr. Roper.<sup>9</sup> Mr. Roper does not live at 912 W. Main,<sup>10</sup> and the service account at 912 W. Main is under Mr. Kuntz’s name, who is managing 912 W. Main as part of his duties as the executor of Patricia Guarin Roper’s estate.<sup>11</sup> In his role as the executor, Mr. Kuntz is paying for the electric service with estate funds.<sup>12</sup>

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<sup>4</sup> *Id.*

<sup>5</sup> *Id.*, at 1.

<sup>6</sup> William A. Roper, Jr.’s Response to CenterPoint’s Objection to My Motion to Intervene at 3 (“Roper Response”) (“One parcel owned by Patricia at her death was a two-acre property at 912 West Main Street, Tomball, Texas.”)

<sup>7</sup> *Id.* at 2 (“Patricia left a Will bequeathing an undivided interest in all of her estate to three legatees, including movant.”)

<sup>8</sup> *Estate of Patricia Guarin Roper, Deceased*, Harris County Probate Court No. 1, Case No. 512919 (April 25, 2023).

<sup>9</sup> See Roper Response at 2 (acknowledging that Ms. Roper’s restate is “now already in a position to fully distribute remaining estate property,” which implicitly acknowledges that the property has yet to be distributed).

<sup>10</sup> *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, William A. Roper, Jr.’s Request to Intervene (Dec. 10, 2023) (listing Mr. Roper as residing in Harrisburg, Pennsylvania).

<sup>11</sup> Roper Response at 12 (“Movant does not deny that the electrical service is shown to be in the name of the executor of the estate.”)

<sup>12</sup> Roper Response at 3 (“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* . . . .”) (emphasis original).

### III. ARGUMENT

#### A. The Executor, not Mr. Roper, had the right to intervene in this proceeding.

Texas law assigns executors the authority to participate in legal proceedings on behalf of the estate.<sup>13</sup> This is because under Tex. Est. Code Ann. § 101.003, an executor of an estate has the “right to possession of the estate as the estate existed at the death of the testator,” and must “hold the estate in trust to be disposed of in accordance with the law.”<sup>14</sup> As executor, Mr. Kuntz has the duty to “care for estate property as a prudent person would take of that person’s own property,”<sup>15</sup> which would include managing the electric account on 912 W. Main and the estate funds used to pay the electric bill.<sup>16</sup> Thus, Mr. Kuntz, as executor, could have intervened in the present proceeding on behalf of the estate.

In contrast to Texas law that firmly gives Mr. Kuntz the right to intervene, Texas law recognizes that Mr. Roper’s status as an heir to Patricia Guarin Roper’s estate does not grant him status to participate in proceedings related to 912 W. Main. As a general matter, heirs lack the legal authority to participate in legal proceedings on behalf of the estate under administration by an executor, even though they have an interest in the estate’s claims.<sup>17</sup> While Texas courts have recognized narrow exceptions to allow heirs to act on behalf of the estate, such as when a beneficiary brings a suit against an executor to recover funds misappropriated by the executor,<sup>18</sup> Mr. Roper has not pled any unique circumstances that would justify a departure from the general rule that only the executor may represent the estate in legal proceedings. Thus, the fact that he has

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<sup>13</sup> Tex. Est. Code Ann. § 351.053 (authorizing executors to commence suits on behalf of the estate).

<sup>14</sup> Tex. Est. Code Ann. § 101.003.

<sup>15</sup> Tex. Est. Code Ann. § 351.101.

<sup>16</sup> Roper Response at 12 (“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.”)

<sup>17</sup> *Chandler v. Welborn*, 156 Tex. 294 S.W.2d 801, 806 (1956) (“[I]n the absence of circumstances requiring the intervention of equity [the statute] vests in the personal representative the prior and exclusive right to bring such suits.”); *Burns v. Burns*, 2 S.W.3d 339, 342 (Tex. App.—San Antonio 1999) (“The executor or administrator of the decedent’s estate generally has the exclusive right to bring suit for the recovery of real and personal property belonging to the estate.”)

<sup>18</sup> See e.g. *Burns v. Burns*, 2 S.W.3d at 343.

a one-third interest in the funds used by the executor to pay the electric bill associated with 912 W. Main does not give him standing to intervene.

**B. Mere ownership of property with an active service account does not establish a justiciable interest.**

An ownership interest in a property with an active service account, such as 912 W. Main, does not in and of itself establish a justiciable interest in the present proceeding. For example, imagine that after probate concluded, another co-owner moved in and established electric service in her name. As the owner of an undivided interest, the co-owner could legally take this action and would have no obligation to pay Mr. Roper rent. In this scenario, a change in the electric rates would have no immediate impact on Mr. Roper. Nor would there be proof of a direct or indirect impact on Mr. Roper in the future. Under these facts, Mr. Roper would lack a justiciable interest in the proceeding and would not have standing to intervene. While the future of 912 W. Main is unknown, the above scenario demonstrates that merely owning one of several undivided interests in a property that has an active electric service account does not create a justiciable interest in the present proceeding.

**IV. CONCLUSION AND PRAYER FOR RELIEF**

CenterPoint Houston requests that Mr. Roper's motion to intervene be denied based on his lack of standing. Mr. Roper is not a CenterPoint Houston customer nor has he expressed any concrete plans to become a CenterPoint Houston customer. Rather his desire to participate in this proceeding appears to be tied to his status as an intervenor in CenterPoint Houston's pending CCN,<sup>19</sup> which does not establish a justiciable interest under Texas law.

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<sup>19</sup> Roper Motion at 4-8.

Respectfully submitted,

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**COUNSEL FOR CENTERPOINT ENERGY  
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### **CERTIFICATE OF SERVICE**

I certify that on May 6, 2024, a true and correct copy of this document was served via the Commission Interchange System in accordance with SOAH Order No. 2 in this proceeding.

  
Andrea Moore Stover