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BEFORE THE
STATE OFFICE OF ADMINISTRATIVE
HEARINGS

APPLICATION OF CENTERPOINT ENERGY HOUSTON
ELECTRIC, LLC FOR AUTHORITY TO CHANGE RATES

SOAH ORDER NO. 6
DENYING MOTION TO INTERVENE

William A Roper, Jr. filed a motion to intervene on April 16, 2024. On April 23, CenterPoint objected for lack of standing. On April 30, Mr. Roper responded. On May 6, CenterPoint replied. On May 7, Mr. Roper moved for leave to file a surreply and filed a surreply. On May 7, CenterPoint responded. Mr. Roper's request for leave to surreply is granted. The ALJ has considered all the filings on this matter.

Mr. Roper resides in Pennsylvania and does not receive service from CenterPoint. According to Mr. Roper, he is the owner or co-owner of several parcels of land and mineral rights within CenterPoint's service area, most of which are

undeveloped. Notably, Mr. Roper is a devisee of a house at 912 West Main Street, Tomball, Texas, that currently receives electric service from CenterPoint. The home is a part of the estate of Mr. Roper's late stepmother, Patricia Garin Roper, who named Mr. Roper in her will, bequeathing him a one-third undivided interest. Immediately after Mrs. Roper's death and before the granting of letters testamentary (January-April 2024), Mr. Roper contributed one-third of the cost of the CenterPoint electric bill, after which the estate began paying the electric bill using estate funds. However, since that time, Mr. Roper has advanced funds to the estate to cover administration, including paying the electric bill. According to Mr. Roper, he is already a co-owner of this estate and no further conveyance is required to perfect his ownership. However, Mr. Roper admits that the electric bill serving this property is not in his name and is, instead, in the name of the executor of the estate.

CenterPoint responds that Mr. Roper does not have a judiciable interest because he is not a customer of CenterPoint and none of his land in CenterPoint's service area is developed. Therefore, he is not impacted by this proceeding. CenterPoint further argues that the executor of the estate, a Lyle Kuntz, has justiciable interest, as a representative of the estate,¹ but not Mr. Roper, who is only an heir to the estate.

In surreply, Mr. Roper emphasizes that he does not seek to enforce the legal rights of the estate of Patricia Guarin Roper, but only his own.

¹ Tex. Est. Code Ann. § 101.003; Tex. Est. Code 351.054; *Burns v. Burns*, 2 S.W.3d 339, 342 (Tex. App.—San Antonio 1999, no pet.) (“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.”).

A person has standing to intervene if that person has a statutory right to participate or has “a justiciable interest which may be adversely affected by the outcome of the proceeding.”² Because Mr. Roper does not allege a statutory right to participate, the question becomes whether he has a justiciable interest that may be adversely affected by the outcome of the proceeding.

The Commission has interpreted “justiciable interest” as “interests that merit relief which is sought and which is within the Commission’s power to grant.”³ “[I]f a movant seeking to become 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.”⁴ Mr. Roper has failed this test. Whether he has a justiciable interest on account of his property interests *generally* does not answer whether he has a justiciable interest *in this proceeding*.

Mere ownership of property within CenterPoint’s service area does not confer standing. Although his interests in the 912 Main Street property may vest

² 16 Tex. Admin. Code § 22.103(b).

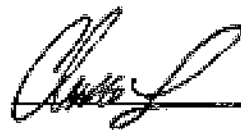
³ *Application of Southwestern Bell Telephone Company to Approve Deletion of the Carrier Common Line and Interexchange Carrier Access Charge Credits*, Docket No. 10463, Examiner’s Order No. 9: Rulings on Motions to Intervene at 2 (Dec. 3, 1991).

⁴ *Id.*

immediately,⁵ this does not give Mr. Roper a justiciable interest. Mr. Roper does not allege that he is, or even intends, to occupy the house and become a CenterPoint customer himself. As CenterPoint points out, the house may just as probably be occupied by one of the other two devisees, and Mr. Roper may never become a customer of CenterPoint on account of his interest in that property. Moreover, his contributions to the costs of administering his stepmother's estate, or the use of estate funds to pay the electric bill, does not establish an interest in the outcome of this proceeding.

Mr. Roper has not shown himself to be affected by the outcome of this proceeding, immediate or in the future with any probability, direct or indirectly. Mr. Roper has failed to establish that he has a justiciable interest in this proceeding. Mr. Roper's motion to intervene is DENIED.

SIGNED May 9, 2024



Christiaan Siano,
Administrative Law Judge

⁵ Tex. Est. Code § 101.001; *Ferguson v. Ferguson*, 111 S.W.3d 589, 596 (Tex. App.—Fort Worth 2003, pet. denied) (“A right to the property devised is conferred on the devisee as effectively as if the transfer had been made in the form of a deed by the testator.”).