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APPLICATION OF CENTERPOINT ENERGY HOUSTON ELECTRIC, LLC FOR APPROVAL OF ITS 2026-2028 TRANSMISSION AND DISTRIBUTION SYSTEM RESILIENCY PLAN	§ § § § §	BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS
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**TEXAS COAST UTILITIES COALITION’S OBJECTIONS TO CENTERPOINT
HOUSTON ELECTRIC’S FIRST REQUEST FOR INFORMATION
TO TEXAS COAST UTILITIES COALITION**

TABLE OF CONTENTS

I.	INTRODUCTION AND SUMMARY	2
A.	Objections Timely Filed	2
B.	Negotiations	2
C.	Summary.....	2
II.	LEGAL BASIS FOR “RELEVANCE” AND “PRIVILEGE” OBJECTIONS.....	3
A.	“Relevance” Standard In Discovery.....	3
B.	The Data CEHE Seeks in RFI No. 1-3(a) Is Subject to Privilege Under TRE Rule 503 and Are Thus Protected from Disclosure in Discovery.....	4
III.	RFIS NOS. 1-3(A), 1-3(B), 1-3(C), AND 1-4 SEEK DATA IRRELEVANT TO THE CRITERIA CEHE’S SRP PLAN MUST MEET AND SEEK PRIVILEGED COMMUNICATIONS	5
A.	RFIs Nos. 1-3(a), 1-3(b), 1-3(c), and 1-4 Seek Data Irrelevant to this Proceeding	5
B.	RFI No. 1-3(a) Seek TCUC’s Privileged Communications	6
IV.	CONCLUSION AND PRAYER	7
	CERTIFICATE OF SERVICE	8

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ENERGY HOUSTON ELECTRIC, LLC	§	BEFORE THE STATE OFFICE
FOR APPROVAL OF ITS 2026-2028	§	OF
TRANSMISSION AND DISTRIBUTION	§	ADMINISTRATIVE HEARINGS
SYSTEM RESILIENCY PLAN	§	

**TEXAS COAST UTILITIES COALITION’S OBJECTIONS TO CENTERPOINT
HOUSTON ELECTRIC’S FIRST REQUEST FOR INFORMATION
TO TEXAS COAST UTILITIES COALITION**

Texas Coast Utilities Coalition (TCUC) hereby file its Objections to CenterPoint Houston Electric LLC’s (CEHE or Company) First Set of Requests for Information (“1st RFIs”) to TCUC.

I. INTRODUCTION AND SUMMARY

A. Objections Timely Filed

TCUC received CEHE’s 1st RFIs on April 11, 2025. Pursuant to SOAH Order No. 2, objections are due within five business days after receipt of the discovery request. The Public Utility Commission of Texas (Commission or PUC) was closed on Friday April 18, 2025. Accordingly, TCUC’s objections to CEHE’s 1st RFIs are due on Monday, April 21, 2025. Thus, TCUC’s objections to CEHE’s 1st RFIs are timely filed.

B. Negotiations

Counsel for TCUC and CEHE have engaged in good faith negotiations seeking to resolve TCUC’s objections to CEHE’s 1st RFIs, however, TCUC and CEHE were unable to reach agreement regarding TCUC’s objections to CEHE’s 1st RFIs.

C. Summary

TCUC objects in part to CEHE’s 1st RFIs, RFI No. 1-3(a), 1-3(b), and 1-3(c); and 1-4 on the grounds of privilege and relevance. RFI Nos. 1-3(a), (b), and (c); and 1-4 state:

CEHE TCUC 1-3: For each city that is participating in the intervention of Texas Coast Utilities Coalition, please provide the following:

- a. any ordinance, resolution, agreement, or other document authorizing the city to intervene in this proceeding;

- b. the name and title of each city official that reviewed CenterPoint Houston's System Resiliency Plan (SRP);
- c. the name and title of each city official that reviewed the direct testimony of Mr. Norwood in this proceeding.

CEHE TCUC 1-4: With reference to the direct testimony of Mr. Norwood, please identify each city official and any personnel from a city's office of emergency management or similar body (other than outside counsel representing a city) with whom Mr. Norwood personally met, spoke, or otherwise communicated to discuss that city's views on CenterPoint Houston's SRP or appropriate resiliency measures for that city and provide the date of each such meeting, conversation, or communication.

II. LEGAL BASIS FOR "RELEVANCE" AND "PRIVILEGE" OBJECTIONS

A. "Relevance" Standard In Discovery

A party may obtain discovery regarding any matter that is not privileged and is relevant to the subject matter of the pending action,¹ so long as the information sought is reasonably calculated to lead to the discovery of admissible evidence.² The Commission's Procedural Rules³ allow discovery "regarding any matter, not privileged or exempted under the Texas Rules of Civil Evidence, the Texas Rules of Civil Procedure, or other law or rule, that is *relevant to the subject matter in the proceeding*."⁴ Rule 22.144(a) is similar to Texas Rules of Civil Procedure (TRCP), Rule 192.3(a), which states in pertinent part, "a party may obtain discovery regarding any matter that is not privileged and is *relevant to the subject matter of the pending action*,"⁵

Though the scope of discovery is broad, it is not without limits. Texas courts have interpreted the phrase "relevant to the subject matter of the action" to mean that discovery is limited to allegations stated in the pleadings.⁶ Thus, discovery related to data that is of no consequence to issues raised in pleadings is *not permissible*.⁷ And, discovery not aimed at supporting claims set

¹ Texas Rules of Civil Procedure ("Tex. R. Civ. P."), Rule 192.3; and 16 TAC § 22.141(a).

² *Id.*

³ 16 TAC §§ 22.1 *et seq.*

⁴ 16 TAC § 22.144(a).

⁵ Tex. R. Civ. P. 192.3(a).

⁶ *See In re CSX Corp.*, 124 S.W.3d 149, 152 (Tex. 2003, orig. proceeding); *see also In re Colonial Pipeline Co.*, 968 S.W.2d 938, 941 (Tex. 1989, orig. proceeding).

⁷ *See Dillard Dept. Stores, Inc. v. Hall*, 909 S.W.2d 491, 491-492 (Tex. 1995, orig. proceeding); *see also In re Allstate Fire and Casualty Insurance Company*, 617 S.W.3d 635, 643 (Tex. App. – Houston [14th Dist.] 2021, no

forth in a party's pleadings, or that is undertaken with the purpose of finding an issue rather than in support of an issue already raised by the pleadings, comprises an impermissible fishing expedition.⁸

B. The Data CEHE Seeks in RFI No. 1-3(a) Is Subject to Privilege Under TRE Rule 503 and Are Thus Protected from Disclosure in Discovery

CEHE's RFI No. 1-3(a) seeks data that are subject to privilege under Texas Rules of Evidence, Rule 503(b)(1)(A), and/or (D). Rule 503(b)(1), in pertinent part states:

(b) Rules of Privilege.

(1) General Rule. A client has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications made to facilitate the rendition of professional legal services to the client:

(A) between the client or the client's representative and the client's lawyer or the lawyer's representative;

(B) between the client's lawyer and the lawyer's representative; ...

(D) between the client's representatives or between the client and the client's representative; ...[.]⁹

pet.). See also *Lunsford v. Morris*, 746 S.W.2d 471, 473 (Tex. 1988, orig. proceeding) (holding that discovery is based on matters relevant to the claims pleaded), disapproved of on other grounds by *Walker v. Parker*, 827 S.W.2d 833, 842 (Tex. 1992, orig. proceeding); and *In re Citizens Supporting Metro Solutions, Inc.*, 2007 WL 4277850 at 3 (Tex. App.—Houston [14th Dist.] Oct. 18, 2007, orig. proceeding) (mem. op.) (holding that “the scope of discovery is measured by the live pleadings regarding the pending claims and, as here, where the trial court has not ruled on the merits of any of the claims, then the scope of discovery in the mandamus proceeding will be based on the pleadings”).

⁸ See *Dillard Dept. Stores, Inc. v. Hall*, 909 S.W.2d 491, 491-492 (Tex. 1995, orig. proceeding); see also *In re Am. Home Assurance Co.*, 88 S.W.3d 370, 376 (Tex. App.—Texarkana 2002, orig. proceeding) (holding that “discovery undertaken with the purpose of finding an issue, rather than in support of an issue already raised by the pleadings, will constitute an impermissible fishing expedition.”).

⁹ Texas Rules of Evidence, Rule 503 (TRE 503).

III. RFIS NOS. 1-3(a), 1-3(b), 1-3(c), AND 1-4 SEEK DATA IRRELEVANT TO THE CRITERIA CEHE'S SRP PLAN MUST MEET AND SEEK PRIVILEGED COMMUNICATIONS

A. RFIs Nos. 1-3(a), 1-3(b), 1-3(c), and 1-4 Seek Data Irrelevant to this Proceeding

Generally stated, under PURA § 38.078 in determining whether to approve the plan, CEHE must explain the systematic approach it will use to carry out its plan during at least a three-year period and the Commission must consider the extent to which the plan is expected to enhance system resiliency, including whether the plan prioritizes areas of lower performance, the estimated costs of implementing the measures proposed in the plan, and ultimately whether the plan is in the public interest.

TCUC filed its Motion to Intervene¹⁰ on February 10, 2025 and was granted Intervenor status by the ALJ in SOAH Order No. 2. Neither the Company nor any other party objected to TCUC's Motion to Intervene, and thus, data documenting a city's authorization to intervene in this proceeding lacks relevance entirely to this proceeding.

As well, whether a city official reviewed or did not review CEHE's SRP, or reviewed Mr. Norwood's testimony in this proceeding, or met with Mr. Norwood and discussed the city's view on CEHE's SRP is not information reasonably calculated to lead to the discovery of admissible evidence as such data do not inform any of the issues listed in PURA § 38.078¹¹ or 16 Texas Administrative Code (TAC) § 25.62.

Curiously, CEHE limited its RFIs seeking information from a party's principals, only to the city groups in this proceeding, thus underscoring the lack of relevance of its RFI Nos. 1-3 and 1-4.

Thus, CEHE's RFIs Nos. 1-3(a), 1-3(b), 1-3(c), and 1-4 seek data irrelevant to this proceeding, and thus are outside the scope of discovery.

¹⁰ *Application of CenterPoint Energy Houston Electric, LLC for Approval of its 2026-2028 Transmission and Distribution System Resiliency Plan*, Docket No. 57579, TCUC's Motion to Intervene (Feb. 10, 2025).

¹¹ Public Utility Regulatory Act (PURA) § 38.078.

B. RFI No. 1-3(a) Seek TCUC's Privileged Communications

CEHE RFI No. 1-3(a) seek data that is subject to privilege under Texas Rules of Evidence, Rule 503(a) and Rule 503(b)(1)(A), (B), and/or (D). RFI Nos. 1-3(a) among other matters, seeks “documents” authorizing cities in TCUC to intervene in this proceeding. CEHE’s description of “document” or “documents” arguably includes electronic mail (email).

Authority for TCUC cities to intervene in this proceeding, and the basis for such authority, is included in email communications between TCUC’s counsel and representatives of each TCUC city. TCUC notes that it has fully responded to CEHE’s RFI No. 1-3(a), without disclosing privileged communications.

For purposes of Rule 503(b)(1)(A), the client is TCUC and each city participating in this proceeding is part of TCUC. The “client’s representatives” are city personnel that direct counsel in the rendition of professional legal services to the client, and who make or receive confidential communications while acting in the scope of employment for the client. The “client’s lawyers” are Mr. Sergio E. Herrera and Mr. Alfred R. Herrera.

For purposes of Rule 503(b)(1)(D), the client’s representatives are the same as those noted for purposes of Subparagraph (A).

Under TRE Rule 503(a)(2), each city personnel with whom counsel for TCUC communicates is a “client representative.” Each is a “person who has authority to obtain professional legal services for the client or to act for the client on the legal advice rendered;”¹² or each is a “person who, to facilitate the rendition of professional legal services to the client, makes or receives a confidential communication while acting in the scope of employment for the client.”¹³

The communications between the client’s representatives and TCUC’s lawyers related to this proceeding are “not intended to be disclosed to third persons other than those ... to whom disclosure is made to further the rendition of professional legal services to the client; or reasonably necessary to transmit the communication.”¹⁴

Thus, the following communications are protected from disclosure under TRE 503(b)(1)(A), (B), and (D):

¹² TRE 503(a)(2)(A).

¹³ TRE 503(a)(2)(B).

¹⁴ TRE 503(a)(5)(A) and (B).

- Communications between the client – TCUC – or the client’s representative – here city personnel – and the client’s lawyer or the lawyer’s representative;¹⁵
- Communications between the client’s lawyer and the lawyer’s representative;¹⁶
- Communications between the client’s representatives or between the client and the client’s representative.¹⁷

RFI No. 1-3(a), in addition to seeking irrelevant data, seeks privileged communications contained in emails between TCUC’s counsel and TCUC’s client representatives.

Good cause exists for TCUC to not have to file a privilege log at this juncture; to do so would be an inefficient use of resources given the data CEHE seeks is irrelevant to the issues in this proceeding. Thus, pursuant to 16 TAC § 22.144(d)(3), TCUC objects to filing an objection at this time and notes it will submit its privilege index within five working days of receipt of an order denying the relevance objection or overruling the objection to the filing of an index.¹⁸

IV. CONCLUSION AND PRAYER

For the reasons stated above, TCUC urges the ALJ to sustain TCUC’s Objections to CEHE’s 1st RFIs identified above and further requests such other relief to which TCUC may be entitled.

¹⁵ TRE 503(b)(1)(A).

¹⁶ TRE 503(b)(1)(B).

¹⁷ TRE 503(b)(1)(D).

¹⁸ 16 TAC § 22.144(d)(3).

Respectfully submitted,

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**ATTORNEYS FOR TEXAS COAST
UTILITIES COALITION**

CERTIFICATE OF SERVICE

I certify that I have served a copy of *the Texas Coast Utilities Coalition's Objections to CenterPoint Houston Electric LLC's First Set of Requests for Information* upon all known parties of record by electronic mail in accordance with the Order Suspending Rules, issued in Project No. 50664 on this the 21st day of April 2025.

/s/ Mariann Wood

Mariann Wood