

**SOAH DOCKET NO. 473-19-3864  
PUC DOCKET NO. 49421**

<b>APPLICATION OF CENTERPOINT</b>	<b>§</b>	<b>BEFORE THE STATE OFFICE</b>
<b>ENERGY HOUSTON ELECTRIC,</b>	<b>§</b>	<b>OF</b>
<b>LLC FOR AUTHORITY TO CHANGE</b>	<b>§</b>	
<b>RATES</b>	<b>§</b>	<b>ADMINISTRATIVE HEARINGS</b>

**TEXAS COMPETITIVE POWER ADVOCATES  
REPLY BRIEF**

The Texas Competitive Power Advocates (TCPA) files this Reply Brief in the above-referenced proceeding. TCPA addresses a specific set of issues as identified in the Proposed Briefing Outline and shown below.

**VII. Cost Allocation [PO Issues 4, 5, 43, 44, 46]**

**B. Class Allocation of Transmission Costs**

1. “CenterPoint 4CP” versus “ERCOT 4CP” Class Allocation (separately for both transmission and for distribution)
2. Transmission and Distribution Demand Allocation Factors (4CP vs NCP class allocation (separately for both transmission and for distribution)
3. 4CP Rate Design versus NCP Rate Design (separately for both transmission and for distribution)
4. Moderating the Update to the 4CP Class Allocation Factor

Three parties – CenterPoint, TIEC, and Commission Staff - addressed this issue in initial briefs and TCPA replies to the arguments asserted by each.

**A. Reply to CenterPoint Arguments in Favor of “CenterPoint 4CP” Allocation**

CenterPoint proposes to allocate transmission costs on a 4CP basis using its own summer month peak periods rather than the ERCOT 4CP periods.<sup>1</sup> CenterPoint argues that because its transmission system is built primarily to serve its own peak demand, rates are more logically

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<sup>1</sup> CEHE Initial Brief at 123.

allocated based on the 4CP intervals of its service territory rather than ERCOT as a whole.<sup>2</sup> CenterPoint correctly refutes the argument made by Staff that PURA and the Commission’s rules at 16 TAC 25.192 require use of the ERCOT 4CP allocation method for determining how CenterPoint’s customers are allocated transmission costs.<sup>3</sup> CenterPoint also correctly points out that use of the CenterPoint 4CP would make it more difficult for sophisticated customers to curtail their load to avoid being charged for the transmission costs they incur on the system because under CenterPoint’s proposal those customers would have to predict both the ERCOT and CenterPoint 4CP intervals in order to shift their costs to others.<sup>4</sup>

However, CenterPoint fails to reach the logical conclusion that the best way to prevent transmission cost avoidance by customers “gaming the system” would be to adopt the NCP method of allocation proposed by TCPA. Because NCP would allocate costs to each customer within a rate class based on their individual peak usage, it would be impossible for those costs to be unfairly avoided. Even if adoption of the CenterPoint 4CP method made gaming the system more difficult, there is no assurance that sophisticated customers could not adapt over time and thus eventually return to avoiding their incurred transmission costs in contravention of the principles of rate design based on cost causation.

CenterPoint’s only criticism of the NCP proposal is that “[a]ll costs *driven by system peak loads* have been allocated to the classes based upon their contribution to the summer peak loads.”<sup>5</sup> While this statement may be accurate, its significance is of limited value. As will be discussed below in response to the arguments of TIEC and Staff, only a portion of transmission

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<sup>2</sup> *Id.* at 124.

<sup>3</sup> *Id.* at 125.

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

<sup>5</sup> *Id.* at 126. [Emphasis added.]

costs that are allocated to DSPs and then to the DSPs' customer classes are actually based on summer peak load. Because the greater portion of transmission costs is based on components other than summer peak load, there is little justification for continuing to apply a 4CP method of allocating the costs among classes, whether the 4CP is measured ERCOT-wide or within a single DSP's service territory, such as CenterPoint.

**B. Reply to TIEC and Commission Staff's Arguments in Favor of "ERCOT 4CP" Allocation**

TIEC and Commission Staff criticize CenterPoint's 4CP proposal and the NCP method advocated by H-E-B and TCPA as a departure from Commission precedent and "inconsistent" with 16 TAC 25.192.<sup>6</sup> Staff goes further and continues to insist that use of 4CP for allocation of transmission costs to DSP customer classes is required by Commission rules<sup>7</sup> although this position has previously been debunked by CenterPoint, TCPA, and H-E-B.

TIEC correctly describes the ERCOT system of accumulating the *total* transmission costs of all facilities on the grid and then charging those costs to DSPs based on their proportion of the ERCOT 4CP intervals.<sup>8</sup> However, TIEC and Staff incorrectly double down on the testimony of Staff witness William Abbott that reduction by customers within a DSP's rate class reduces the overall transmission costs to the system and thereby provides a net benefit to the system rather than simply avoiding transmission costs for those customers.<sup>9</sup> The assertion made by Mr. Abbott, Commission Staff's Initial Brief, and repeated by TIEC that customer load at system peak "is the primary driver of transmission system costs" is simply incorrect.

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<sup>6</sup> TIEC Initial Brief at 58; Commission Staff Initial Brief at 69.

<sup>7</sup> Commission Staff Initial Brief at 69-70.

<sup>8</sup> TIEC Initial Brief at 59.

<sup>9</sup> *See id.* at 59 and 62; Commission Staff Initial Brief at 72.

As explained in TCPA's Initial Brief, transmission costs have increased significantly over the past decade and the total Transmission Cost of Service (TCOS) for 2019 has reached \$3.64 billion.<sup>10</sup> If summer peak demand on the transmission system, as measured by 4CP were the true driver of transmission costs, then transmission costs should have decreased over time in response to customer behavior to avoid incurring costs at times of peak load. Instead, the opposite has happened. For comparison, ERCOT recently reported that 4CP response by customers increased by nearly 100% from 2014 to 2018.<sup>11</sup> However, transmission costs increased by 35% or \$924 million over that same period demonstrating the lack of cost causation related to the 4CP transmission cost allocation mechanism.<sup>12</sup>

This divergence of transmission costs from 4CP is explained in part by the increase of non-conforming loads and regulatory-mandated transmission costs as discussed in TCPA's Initial Brief. Moreover, the ERCOT transmission planning process does not assess need for transmission projects based on summer peak load. Rather, through the Regional Planning Group (RPG) process, each Transmission Service Provider (TSP) assesses the reliability of its transmission system based on criteria established by ERCOT. These criteria assess the need for transmission by utilizing the individual *TSP's system* peak, regardless of when this peak occurs relative to ERCOT's system peak. This is plainly stated in Sections 4 and 6 of the ERCOT Planning Guides which refer to the Annual Planning Model that must conform with Nodal Protocol 3.10.2 which states:

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<sup>10</sup> *Commission Staff's Petition to Set 2019 Wholesale Transmission Service Charges for the Electric Reliability Council of Texas*, Docket No. 48928, Order (Apr. 4, 2019) (adopting Commission Staff's final transmission charge matrix dated February 14, 2019, available here: [https://interchange.puc.texas.gov/Documents/48928\\_41\\_1008152.PDF](https://interchange.puc.texas.gov/Documents/48928_41_1008152.PDF); see also TIEC exhibit No. 34.

<sup>11</sup>

[http://www.ercot.com/content/wcm/key\\_documents\\_lists/172869/DSWG\\_2019\\_4CP\\_Retail\\_DR\\_Analysis\\_Raish.pptx](http://www.ercot.com/content/wcm/key_documents_lists/172869/DSWG_2019_4CP_Retail_DR_Analysis_Raish.pptx) (slide 8)

<sup>12</sup> PUCT Docket 42062 (Application to Set 2014 Wholesale Transmission Charges) and PUCT Docket 47777 (Application to Set 2018 Wholesale Transmission Charges)

(1) For each of the next six years, ERCOT shall develop models for annual planning purposes that contain, as much as practicable, information consistent with the Network Operations Model. The “Annual Planning Model” for each of the next six years is a model of the ERCOT power system (created, approved, posted, and updated regularly by ERCOT) as it is expected to operate *during peak Load conditions* for the corresponding future year. [Emphasis added.]

The Annual Planning Model is built from simulations of the ERCOT grid during peak load submitted by TSPs as part of the Steady State Working Group (SSWG) case building process. The load forecasts in the SSWG cases for transmission planning utilize Annual Load Data Request (ALDR) submissions by TSPs. The data submission instructions in the ALDR process make it clear *non-coincident forecasts* must be submitted and not 4CP.<sup>13</sup>

Thus, the determination of need for transmission system development is entirely disconnected from the ERCOT 4CP method. The 4CP method does not represent accurate cost causation and there is no basis for continuing to allocate wholesale or retail transmission costs on a 4CP basis when transmission construction and development is not evaluated or approved on that basis. The arguments asserted by TIEC and Staff that 4CP must be used because “that is the way the Commission has always done it” are not sufficient justification for clinging to an outmoded and inaccurate allocation method when a more accurate method, based on true principles of cost causation, is available.

TIEC does accurately illustrate the continued problems with sophisticated customers gaming the cost allocation process by avoiding 4CP usage and thus avoiding transmission costs

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<sup>13</sup> See

<http://www.ercot.com/content/mktrules/obd/documents/Annual%20Load%20Data%20Request.zip>

that would exist under the CenterPoint 4CP proposal.<sup>14</sup> Whether the gaming issues created in the CenterPoint proposal are “better” or “worse” than in the traditional 4CP method is likely an issue of individual customer perspective, but there is no counterargument to the proposition that such gaming would be ended altogether by adoption of the NCP methodology. Staff largely ignores the gaming problems with the 4CP allocation method that result in a shifting of costs to residential consumers, implying that such gaming is a proper and positive consumer response, making the remarkably incorrect claim that a customer that avoids system use during 4CP causes “no transmission costs” upon the system. Equally concerning, Staff also implies that NCP would create a “free rider problem” by *preventing* customers from avoiding transmission costs, despite the fact that avoidance of those costs is the definition of “free riding.”<sup>15</sup> None of these arguments are persuasive in favor of retaining the 4CP allocation method.

### **C. Conclusion**

Adoption of an NCP method for allocation of transmission and distribution costs to retail customers would better reflect the manner in which transmission costs are incurred by ERCOT customers and far more accurately follow cost causation principles than the currently used 4CP method. 4CP was instituted at a time when the competitive energy market was being planned and many of the assumptions that supported adoption of the 4CP method have been proven inaccurate over time. No party disputes that transmission costs have risen dramatically as a proportion of consumers’ bills over the past decade. This increase has been driven primarily by projects designed to interconnect renewable generation, oil and gas development, and other non-peak-conforming load. Continuing reliance on the 4CP method of cost allocation is not required

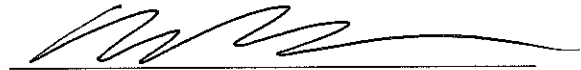
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<sup>14</sup> TIEC Initial Brief at 61.

<sup>15</sup> Commission Staff Initial Brief at 72.

by statute or the Commission's rules and is an ineffective and market-distorting artifact that is long past its usefulness. TCPA respectfully requests that CenterPoint be directed to allocate retail transmission and distribution costs utilizing the NCP method.

Respectfully submitted,

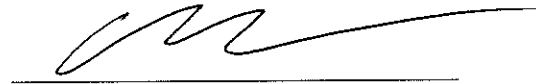


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**ATTORNEYS FOR TEXAS  
COMPETITIVE POWER ADVOCATES**

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing instrument has been served via facsimile or first-class mail to all parties of record in this proceeding on this 16<sup>th</sup> day of July, 2019.



Andres Medrano

## Proposed Findings of Fact

- xx. The use of NCP is consistent with cost causation.
- xx. Use of NCP accurately measures each customer's actual transmission costs on CenterPoint's transmission and distribution systems.
- xx. Allocation of transmission and distribution costs using NCP will avoid the "free rider" problem caused when some customers attempt to avoid incurring transmission costs during 4CP intervals thus shifting costs entirely to other customers within their rate classes.