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May 13, 2016

The Honorable Larry Gonzales
Chair, Sunset Advisory Commission
P.O. Box 13066
Austin, Texas 78711-3066

RE: Sunset Staff Report on the Railroad Commission of Texas dated April 29, 2016

Dear Chairman Gonzales:

On behalf of CenterPoint Energy, Inc. (CenterPoint Energy or Company), I am submitting the following comments on the Sunset Staff's Report on the Railroad Commission of Texas (Report). While CenterPoint Energy agrees with the recommendation to continue the agency for another 12 years, certain other recommendations should not be adopted.

Gas utility oversight, including the hearings process for contested cases, is an integral part of the functions and mission of the Railroad Commission of Texas (RRC) and is carried out today in an efficient, effective, transparent and fair manner. In fact, the Report affirms that "Railroad Commission ratemaking functions are working." Yet, despite this assessment, the Report recommends transferring the RRC's ratemaking function to the Public Utility Commission of Texas (PUC), apparently for theoretical and merely "*potential* benefits from aligning all state utility regulation within one agency." The Report's recommendations also prohibit even the PUC from trying those gas utility rate cases, instead requiring such cases to be litigated at the State Office of Administrative Hearings (SOAH)—a requirement that does not exist for any other case handled by the PUC. These recommendations have no quantifiable benefits to utility ratepayers, utilities themselves, the three agencies involved, or taxpayers of the State of Texas. Rather, for the reasons stated below, these recommendations have only quantifiable risks without rewards.

Gas Utility Oversight should not be split and transferred in part to the PUC.

As a combined natural gas and electric delivery utility, CenterPoint Energy operates gas distribution utilities and an intrastate pipeline utility that are regulated by the RRC as well as an electric transmission and distribution utility that is regulated by the PUC. CenterPoint Energy's experience is that each agency affords an efficient, effective, transparent and fair process for addressing matters within its jurisdiction. While one might argue that either agency *could* potentially carry out functions currently performed by the other agency if allotted sufficient resources, this certainly does not mean that functions *should* be transferred or combined. In fact, there are several important reasons why the State of Texas is better served by maintaining economic regulation of gas utilities within the RRC.

1. **Gas utility oversight as part of the broader gas supply chain is a core function of the RRC.** Gas utility oversight, including both pipeline safety regulation and economic regulation, is integral to the RRC's overall regulation of natural gas transportation from the wellhead to the end user. The RRC understands the interdependencies between the various components of the oil and gas industry and has dealt with the coordination of many industry issues over its long history. As an example, reliability of gas service requires coordination of all of the elements of the supply chain from production, processing and treating facilities, through the transmission pipeline infrastructure, down through the distribution systems, and ultimately to the end-use customer. Separation of the industry across two agencies – only one of which is charged by the state constitution with having expertise in the oil and gas industry – would make this coordination significantly more challenging.
2. **The RRC is uniquely equipped with a comprehensive understanding of the interplay between pipeline safety regulation and economic regulation.** The RRC's ability to understand the complex interplay between safety and economic regulation of gas utilities makes for more informed regulation that can better serve the State of Texas. For example, properly evaluating and understanding the economic impact on customers of proposed safety regulations is important in successful implementation of new pipeline safety regulations. Likewise, understanding and evaluating whether existing regulatory mechanisms provide sufficient opportunity for utilities to recover in a timely manner the costs associated with required safety programs is also important to ensuring successful implementation. The Report suggests that if these interrelated functions are separated between the RRC and PUC, the two agencies can still communicate and share information as needed. However, such a separation would undoubtedly create an additional obstacle to informed regulation that does not exist today, thus making the regulation of gas utilities less efficient and potentially less effective.
3. **Important distinctions exist between the natural gas and electric utility industries.** While the Report suggests that the transfer of a core RRC function to the PUC would be a relatively seamless change, this characterization fails to account for the sizeable differences between the gas utility industry and the electric utility industry and the impact of those differences on economic regulation. These differences include the relationship between pipeline safety regulation and rate regulation previously discussed, reliability issues and consequences of outages, and differences in setting cost-of-service based rates for gas distribution utilities versus market-based rates for gas transmission utilities. As a result of these and other differences, there do not appear to be any clear synergies to be gained by merging the economic regulation of gas utilities, which requires the coordination of natural gas transportation issues from the wellhead to the end user in the oil and gas industry, with the oversight of the entire competitive electric market and its issues spread across electric generation and the transmission and distribution of electricity to the customer's meter. In fact, the Report does not clearly establish cost savings for customers as a result of combining these functions under the jurisdiction of the PUC.

4. **Both the PUC and RRC have broader missions beyond ratemaking.** Although the Report points to the ratemaking expertise currently existing within the PUC as a potential benefit of the restructuring, it is important to understand that this expertise will not automatically transfer to gas utility rate regulation, especially because the PUC has limited, if any, expertise in the oil and gas industry. Furthermore, it is worth noting that utility ratemaking is certainly not the only function that the PUC conducts. The PUC's mission statement clearly reflects a broader view of its role:
5. **The PUC's mission and focus have shifted from regulation of rates and services to oversight of competitive markets and compliance enforcement of statutes and rules for the electric and telecommunication industries.**

Effective oversight of competitive wholesale and retail markets for electric and telecommunication is necessary to ensure that customers receive the benefits of competition. For water and sewer utility service, however, the focus remains on the regulation of rates and services.

<http://www.puc.texas.gov/agency/about/mission.aspx>)

As has been mentioned, the RRC regulates the oil and gas industry from wellhead to end user. Gas utility rate regulation is clearly a core function of the RRC and an integral part of its overall energy-industry regulatory activity.

6. **Transferring gas utility regulation to the PUC would still leave over 1,200 separate regulatory authorities for customers to call.** The Report suggests that transferring gas utility regulation to the PUC would "provide the public with a single agency focused on addressing its concerns and complaints about utilities." However, in the State of Texas, cities have jurisdiction over customer complaints regarding service within their city limits whether the utility is regulated by the RRC or the PUC. Therefore, the result of transferring gas utility regulation from the RRC to the PUC is that instead of 1,218 regulatory authorities for customers to call there would now be 1,217.

Furthermore, consistent and predictable rate regulation is important for CNP and its customers as the company continues to make significant ongoing investments in its natural gas distribution system to ensure safe and reliable natural gas delivery to customers' homes and businesses. Transferring the economic regulation of gas utilities from the RRC to the PUC undoubtedly introduces uncertainty for customers and utilities during the transition period and beyond. Although the Report contends that "the same regulatory approaches that exist now in gas utilities statutes would continue to apply at PUC," it recommends that the PUC should produce a report for consideration in the 2019 legislative session that seeks to standardize ratemaking requirements between its current authority and any new ratemaking or other authority transferred to the PUC. Therefore, while the transfer is recommended to be completed by September 1, 2018, potentially significant ratemaking changes could continue well beyond that time period according to the Sunset staff's own recommendation. Introducing this type of uncertainty and unpredictability over the next several years for customers and gas utilities in light of the Report's own assessment that "ratemaking functions are working" at the RRC does not seem to be in the best interest of the State and its citizens.

Contested hearings should not be transferred to SOAH.

The RRC's well-established hearings process is a fundamental component of the RRC's gas utility oversight function and ensures fairness to all affected parties with decisions that are evidence-based. The RRC's hearings examiners, equipped with relevant industry-specific experience, provide a thorough, fair and transparent adjudicatory process through which all parties can provide evidence in a case in accordance with the same rules of evidence that would apply at SOAH, the PUC or any other Texas court. As noted previously, the Report affirms that "Railroad Commission ratemaking functions are working." Moving a working function of the RRC to another agency not only eliminates a core function of a three-member, statewide-elected body but would carry unknown risks and costs associated with such a transfer at the expense of Texas utility customers and voting taxpayers.

Additionally, Section 102.006 of the Texas Utility Code already grants the RRC the authority and discretion to use SOAH to conduct gas utility hearings. This discretion affords the RRC the greatest opportunity to carry out its mission in an efficient, effective, transparent and fair manner. However, the Report recommendation seeks to remove this discretion entirely by requiring the use of SOAH for all contested cases, a recommendation that differs from how other agencies including the PUC are treated. Specifically, under standard provisions directing state agencies to utilize SOAH for the purpose of contested case hearings, agencies are afforded the discretion of hearing any certain case within their agency. For example, Texas Utilities Code Sec. 14.053 preserves the ability of the PUC to hear cases of their choosing and, thus, the PUC is not required to refer all contested cases to SOAH. The RRC should maintain its current authority and discretion to use SOAH for contested gas utility cases and, at the very least, the Report's recommendation should provide the RRC the same discretion enjoyed by the PUC. CenterPoint Energy appreciates the opportunity to offer comments on the Report. We look forward to working with you on these important issues affecting the future regulation of our natural gas industry.

Sincerely,



Scott E. Doyle
Senior Vice President – Regulatory and Public Affairs

CC: The Honorable Van Taylor, Vice Chair, Sunset Advisory Commission
Members, Sunset Advisory Commission
Mr. Ken Levine, Director, Sunset Advisory Commission