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May 15, 2019

Ms. Marlene Dortch, Secretary  
Federal Communications Commission  
445 12th Street S.W.  
Washington, D.C. 20554

**Re:    *In the Matter of Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991 (CG Docket No. 02-278)***

Dear Ms. Dortch:

On May 14, 2019, Patrick H. Peters III, Associate General Counsel & Director, Regulatory Affairs at CenterPoint Energy, Steven Clay, Senior Counsel at CenterPoint Energy, Aryeh Fishman of the Edison Electric Institute (“EEI”), Robert Gastner of Eckert Seamans and I met with Commissioner O’Rielly and his legal advisor, Arielle Roth, and Jamie Susskind of Commission Carr’s office. The topic of our discussions was the current application of the Commission’s 2016 Declaratory Ruling in the above-referenced docket, which established the presumption of a consumer’s “prior express consent” to receive certain calls closely related to utility service in cases where a call recipient provided a wireless telephone number to a utility for purposes related to his or her utility service account (the “Utility Presumption”).<sup>1</sup>

CenterPoint Energy owns and operates wires, poles, and electric infrastructure within the greater Houston, Texas area which serves over 2.1 million consumers. As part of its public safety mission, the company endeavors to deliver real time information to those consumers about circumstances which may impact its delivery of electric power service. CenterPoint Energy has invested heavily in the development of its Power Alert Service (“PAS”) for that purpose, and is presently able to transmit to affected customers pre-recorded voice and text messages about planned and unplanned service outages, brown outs, field work, and service restoration. However, the particular structure of the Texas competitive market precludes CenterPoint Energy from enjoying the same protection from TCPA liability under the Utility Presumption as similarly situated electric service providers in other states. As we explained, while CenterPoint Energy is solely responsible for maintaining, repairing, and restoring the electric infrastructure within its service footprint, it does not, and is not permitted to receive telephone contact information directly from Texas consumers at the time

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<sup>1</sup>    *In the Matter of Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991 (CG Docket No. 02-278)*, Blackboard, Inc. Petition for Expedited Declaratory Ruling, and Edison Electric Institute and American Gas Association Petition for Expedited Declaratory Ruling, 31 FCC Rcd 9054, FCC 16-88 (rel. Aug. 4, 2016).

that electric utility service is initiated.<sup>2</sup> Because of the unacceptable business risks associated with TCPA liability, the current circumstances have deterred the CenterPoint Energy's use of PAS to its fullest potential, to the likely detriment of electric consumers in Texas. However, CenterPoint Energy believes that a modest clarification of the current Utility Presumption is all that would be needed to ensure that the benefit of the Utility Presumption will be captured equally by all of the utility companies for which it was intended.

We appreciate the Commission's time, and look forward to our further discussions. A copy of this letter has been filed in the above-referenced docket. Please feel free to contact the undersigned if you have any questions, or require further information.

Respectfully,



Brett Heather Freedson

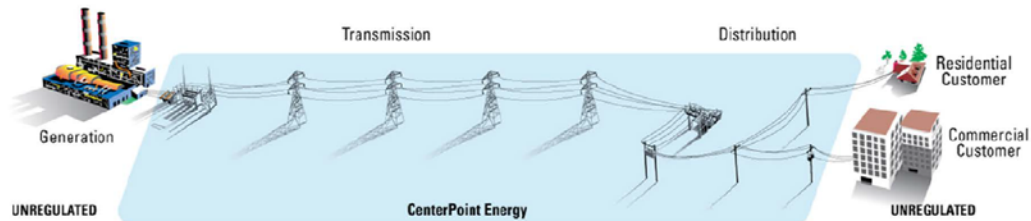
*Counsel to CenterPoint Energy*

cc: Meeting Participants

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<sup>2</sup> See attached. In the Texas competitive market, an electric customer's account is initiated by the Retail Electric Service Provider ("REP"). However, it is the transmission and distribution utility that maintains, repairs, and restores the infrastructure that is used to provide electric service.

# THE TEXAS ELECTRIC SYSTEM



## Generation

- Large, centralized power plants generate electricity

## Transmission & Distribution

- CenterPoint owns and maintains overhead and underground transmission and distribution lines

## Retail Electricity Provider (REP)

- Texas residents and business must purchase their electricity from a certified "Retail Electric Provider" (REP)