

Brett Heather Freedson
bfreedson@eckertseamans.com
Direct 412 566 1912

July 17, 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 July 15, 2019, Steven Clay, Senior Counsel at CenterPoint Energy, Aryeh Fishman of the Edison Electric Institute (“EEI”), Robert Gastner of Eckert Seamans, and I met with Zenji Nakazawa, Legal Advisor to Chairman Pai. Later that day, the same individuals met with Patrick Webre, Mark Stone, Kurt Schroeder, and Kristi Thornton of the Consumer and Governmental Affairs Bureau. The topic of our discussions was the current application of the Commission’s 2016 Declaratory Ruling in the above-referenced docket, which established a presumption that consumers who provide a wireless telephone number to a utility company have provided their prior express consent to be contacted by the utility company at that number, with certain types of informational calls that are closely related to the utility service (the “Utility Presumption”).¹

CenterPoint Energy Houston Electric, LLC (“CEHE”) is a transmission and delivery utility (“TDU”) that provides electric power service to over 2.1 million metered customers within its Houston, Texas service territory. As owner and operator of the entire electric distribution network, CEHE performs all maintenance, repair, and restoration functions, and has exclusive access to real-time information about service impacting events. CEHE’s customers desire, and have come to expect from CEHE, as part of their business relationship, notifications of service outages and interruptions. However, while CEHE is fully equipped to deliver up-to-date service alerts to customers across its service territory, it is deterred from doing so by the unacceptable business risks associated with TCPA liability.

As we explained, the particular structure of the competitive market in Texas precludes CEHE from enjoying the same protection under the Utility Presumption as similarly situated utility companies in other states. While CEHE plays an essential role *in the provision* of electric power service, it is, by law, the exclusive function of a Texas customer’s retail electric provider (“REP”) to collect the

¹ *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).

contact information needed to create each customer's service account.² In other words, under the Texas framework, CEHE would never be in a position to collect its customer's wireless telephone number *directly* at the time that service is initiated, as the Utility Presumption requires. However, CEHE 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 submitted,

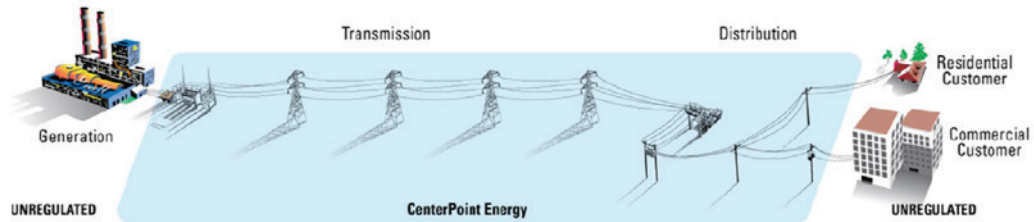
/s/ Brett Heather Freedson

Brett Heather Freedson

cc: Meeting Participants

² See attached, as distributed at our July 15, 2019 meetings.

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)