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INDIANA UTILITY
REGULATORY COMMISSION

SOUTHERN INDIANA GAS AND ELECTRIC COMPANY
D/B/A CENTERPOINT ENERGY INDIANA SOUTH
(CEI SOUTH)

IURC CAUSE NO. 45847

IURC
PETITIONER'S 5
EXHIBIT NO. 5-18-23
DATE REPORTER

DIRECT TESTIMONY
OF
JENNIFER K. STORY
VICE PRESIDENT, TAX

ON

OFFICIAL
EXHIBITS

FEDERAL PRODUCTION TAX CREDIT

PETITIONER'S EXHIBIT NO. 5 (PUBLIC)

DIRECT TESTIMONY OF JENNIFER K. STORY

I. INTRODUCTION

Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

A. My name is Jennifer K. Story. My business address is 1111 Louisiana Street Houston, Texas 77002.

Q. BY WHOM ARE YOU EMPLOYED?

A. I am employed by CenterPoint Energy Service Company, LLC ("Service Company"), a wholly-owned subsidiary of CenterPoint Energy, Inc. The Service Company provides centralized support services to CenterPoint Energy, Inc.'s operating units, one of which includes Southern Indiana Gas and Electric Company d/b/a CenterPoint Energy Indiana South ("Petitioner", "CEI South", or "Company").

Q. ON WHOSE BEHALF ARE YOU SUBMITTING THIS DIRECT TESTIMONY?

A. I am submitting testimony on behalf of CEI South, which is an indirect subsidiary of CenterPoint Energy, Inc.

Q. WHAT IS YOUR ROLE WITH RESPECT TO PETITIONER?

A. I am Vice President, Tax for CenterPoint Energy, Inc. and its subsidiaries and operating units, including CEI South. I am responsible for all federal and state taxes.

Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND.

A. I received a Bachelor of Science in Accounting from the University of Texas at Dallas in 2002. I am a licensed certified public accountant in the States of Texas and Hawaii.

Q. PLEASE DESCRIBE YOUR PROFESSIONAL EXPERIENCE.

A. I joined CenterPoint Energy, Inc. in October 2022. Prior to joining CenterPoint Energy, Inc., I worked for gas and electric public utilities for 16 years in tax and regulatory leadership roles.

Q. WHAT ARE YOUR PRESENT DUTIES AND RESPONSIBILITIES AS VICE PRESIDENT, TAX?

A. My primary responsibilities include leading the tax function that is responsible for accurately and efficiently reporting the federal and state taxes of CenterPoint Energy Inc. and its subsidiaries and business units, including CEI South.

1 **Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE THE INDIANA UTILITY**
2 **REGULATORY COMMISSION (THE “COMMISSION”) OR ANY STATE REGULATORY**
3 **COMMISSION?**

4 A. I have testified before the Commission in support of Petitioner’s request for a certificate of
5 public convenience and necessity (“CPCN”) for a wind facility in Cause No. 45836. In
6 addition, I have submitted direct and rebuttal testimony in Kentucky, Mississippi, Texas,
7 Colorado, Tennessee and Virginia.

8 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS PROCEEDING?**

9 A. My testimony provides support for CEI South’s request for an Order in this Cause
10 amending, pursuant to Ind. Code § 8-1-2-72, the Commission’s October 27, 2021 in Cause
11 No. 45501 Order (the “45501 Order”) to reflect the terms of an Amended and Restated
12 Build Transfer Agreement (the “Amended BTA”), under which CEI South will purchase
13 and acquire a now 191 MWac solar project in Posey County, Indiana (the “Posey County
14 Solar Project” or the “Posey Project”). To that end, my direct testimony addresses five
15 interrelated topics.

16 a. I provide a brief explanation of the Posey County Solar Project.

17 b. I explain the history of the federal production tax credit (“PTC”) for solar projects
18 and changes resulting from the enactment of the Inflation Reduction Act (“IRA”).

19 c. I then describe how CenterPoint Energy, Inc.’s tax capacity and the transferability
20 option allow it to directly realize applicable tax incentives without the added cost of
21 a tax equity partner.

22 d. Next, I describe the customer benefits resulting from CenterPoint Energy Inc.’s
23 ability to monetize the PTC.

24 e. And last, I explain how traditional cost-of-service, rate-of-return ratemaking allows
25 CEI South to quickly pass that benefit through to customers.

26 **II. POSEY COUNTY SOLAR PROJECT UNDER THE AMENDED BTA**

27 **Q. BRIEFLY DESCRIBE THE POSEY COUNTY SOLAR PROJECT FROM WHICH CEI**
28 **SOUTH EXPECTS TO RECEIVE A PTC BENEFIT AS A RESULT OF THIS**
29 **PROCEEDING.**

30 A. As explained in more detail by Petitioner’s Witness F. Shane Bradford, the Posey County
31 Solar Project is a 191 MWac solar facility to be constructed by Arevon that will be
32 transferred to CEI South pursuant to the terms of the Amended BTA. The Commission

originally authorized CEI South to enter into a BTA to purchase the Posey County Solar Project in Cause No. 45501 (the "2021 BTA"). Under the 2021 BTA, the Posey County Solar Project was to be a 300 MWac facility, but the Posey Project has been downsized to approximately 191 MWac as further discussed by Mr. Bradford.

Q. PLEASE DESCRIBE HOW CEI SOUTH IS PROPOSING TO ACQUIRE THE POSEY COUNTY SOLAR PROJECT UNDER THE AMENDED BTA.

A. As was the case with the 2021 BTA approved by the Commission in Cause No. 45501, CEI South will purchase all of the membership interests in Posey Solar CEI, LLC (the "Project Company") which is a special purpose entity and a subsidiary of Arevon, subject to fulfillment of the conditions precedent to closing. In exchange for the membership interest, the Company will pay an amount set forth in the Amended BTA sponsored by Petitioner's Witness Bradford. At or about that same time, the separate structure of this special purpose entity will be collapsed such that the individual assets making up the Posey County Solar Project will be directly owned by CEI South.

Q. WHAT RIGHTS WILL CEI SOUTH ACQUIRE UNDER THE BTA?

A. By acquiring the membership interest, CEI South will acquire all of the "Project Assets" associated with the Posey County Solar Project. Those Project Assets include all assets, properties, rights and interests of every kind, which as described by Witness Bradford includes books and records, the project site, project contracts, land leases and real property agreements, project fixtures and equipment that include the solar panels and inverters, project improvements, project permits, interconnection rights, and any warranties associated with the equipment and workmanship of the project. As I testified earlier, shortly following the acquisition of the membership interests in the special purpose entity, these individual assets held by the special purpose entity will become the direct property of CEI South.

Q. WHEN IS THE POSEY COUNTY SOLAR PROJECT EXPECTED TO BE COMPLETED?

A. The project is expected to be completed in the first quarter of 2025.

Q. PLEASE EXPLAIN THE SIGNIFICANCE TO THIS DATE OF COMPLETION AS IT RELATES TO THE TAX BENEFITS THAT MIGHT BE AVAILABLE.

1 A. Qualified projects for which construction begins prior to January 1, 2025 qualify for the
2 20% credit (\$0.0055/kwh) and a 100% credit (\$0.0275/kwh) if certain wage and
3 apprenticeship qualifications are satisfied (see discussion following).

4 **III. PRODUCTION TAX CREDIT**

5 **Q. PLEASE DESCRIBE THE HISTORY OF FEDERAL CREDITS FOR SOLAR ENERGY.**

6 A. Since 2005 federal tax incentives, in the form of tax credits, have been available for solar
7 energy systems on commercial properties under section 48 of the Internal Revenue Code
8 ("IRC").¹ Section 48 historically provided a federal investment tax credit ("ITC") which
9 reduced a taxpayer's federal income tax liability on a dollar-for-dollar basis based on
10 renewable investments and the ITC rate in effect. The solar ITC was first established under
11 the Energy Policy Act of 2005 to encourage investment in solar energy systems. The initial
12 ITC rate was 30% of qualifying expenditures. The policy was initially set to sunset at the
13 end of 2006 but was extended multiple times, with a planned gradual step-down process
14 through 2022. In 2020 Congress passed a 2-year delay on the step-down with a full phase-
15 out in 2024.

16 **Q. WHAT EFFECTS DID THE INFLATION REDUCTION ACT HAVE ON THE SOLAR TAX**
17 **CREDIT?**

18 A. The IRA extended the solar ITC for ten years, beginning in 2022. The ITC is set to step
19 down beginning in 2033 and phase out in 2035. In addition, for the first time, solar projects
20 now qualify for the production tax credit ("PTC").

21 **Q. PLEASE DESCRIBE THE FEDERAL PTC FOR SOLAR ENERGY.**

22 A. Section 45 of the Internal Revenue Code ("IRC") has historically provided federal tax
23 incentives, in the form of tax credits, for wind. With the enactment of the IRA, the Section
24 45 PTC became available for solar energy projects. This credit reduces a taxpayer's
25 federal income tax liability on a dollar-for-dollar basis based on energy produced and the
26 PTC rate in effect. This credit can be claimed every year over the 10-year credit period.

¹ Unless otherwise noted, all "section" or "§" references are to the IRC, all references to "Reg. §" are to the Treasury Regulations promulgated under the Code (the "regulations"), and all references to "tax" are to U.S. federal income tax.

To qualify for a full credit (\$0.0275/kwh in 2022) the IRA introduced two new requirements, a prevailing wage and an apprenticeship requirement.²

Q. PLEASE DESCRIBE IN GREATER DETAIL THE PREVAILING WAGE AND APPRENTICESHIP REQUIREMENTS SET FORTH IN THE IRA.

A. The requirements are as follows:

To satisfy the prevailing wage requirement, laborers, mechanics, contractors and subcontractors must be paid wages at least at prevailing rates in the locality in which the facility or project is located as determined by the Secretary of Labor, during the construction, alteration, and repair of the “qualified facility” for a ten-year period beginning with the date the facility was originally placed in service.

To satisfy the apprenticeship requirement, the following percentage of total labor hours for construction, alteration, or repair work on the qualified facility or energy project must be performed by qualified apprentices:

Before 1/1/23 – 10%; During 2023 – 12.5%; After 12/31/23 – 15%

Each contractor and subcontractor who employs four or more individuals to perform construction with respect to a qualified facility or an applicable project must employ at least one qualified apprentice.

IRC Sections 45(b)(7)(A)(ii) and 45(b)(8)(A)(i-ii)

Q. DOES THE IRA ALLOW THE TRANSFER OF TAX CREDITS?

A. Yes. The IRA addresses the issue of taxpayer “tax capacity” by allowing transferability, which will facilitate more cost-effective utilization of the expanded credits regime. Transferability allows taxpayers to sell tax credits to an unrelated party and provides a more efficient way to monetize the present value of the tax credits. Prior to the enactment of the IRA, taxpayers without sufficient current income-tax liability to self-monetize credits had to either (a) rely on expensive tax equity financing or (b) carry forward deferred tax assets on their own balance sheets with corresponding losses due to the time value of money.

² The IRA eliminated the credit phaseout for renewable projects placed in service after December 31, 2021. However, renewable projects placed in service prior to January 1, 2022 remain subject to the PTC phase out.

1 **Q. WILL CEI SOUTH QUALIFY FOR PTC BENEFITS BY ENTERING INTO THE**
2 **AMENDED BTA TO ACQUIRE THE POSEY COUNTY SOLAR PROJECT ASSETS?**

3 A. Yes. As previously explained, to qualify for the PTC, construction on the project must
4 begin prior to January 1, 2025. The project began construction in 2019, as further
5 explained below, and will be completed in the first quarter of 2025. Based on this timing,
6 the Company will qualify for the PTC by meeting the continuous progress safe harbor.
7 This safe harbor typically allows developers to meet the continuous progress test if
8 construction is completed within four years from commencement of construction.³ This
9 four-year safe harbor serves as an alternative to scrutinizing development schedules and
10 monetary outlays for continuous progress. However, importantly, for projects for which
11 construction began in 2016, 2017, 2018 or 2019, such as the Posey County Solar Project,
12 the Continuity Safe Harbor is satisfied if construction is completed within six years from
13 commencement of construction.⁴ Additionally the Posey County Solar Project will satisfy
14 the wage and apprenticeship requirements since construction began in 2019.⁵

15 **Q. WHAT FACTORS DETERMINE WHEN A PROJECT BEGINS AND IS FINISHED FOR**
16 **PURPOSES OF QUALIFYING FOR THE PTC?**

17 A. Under IRS guidance, developers can show that construction has begun in one of two
18 ways. They can either begin actual physical work of a significant nature or they can meet
19 the safe harbor by incurring a non-refundable expenditure representing 5% or more of a
20 facility's total cost. The year in which this occurs is deemed the year that construction
21 begins. Construction is complete when the project is placed into service. For the Posey
22 County Solar Project, a [REDACTED]

23 [REDACTED]
24 This activity constituted beginning off-site physical work of a significant nature for the
25 physical work test, resulting in a 2019 start date for the project's construction.

26 **Q. ARE THERE ANY OTHER REQUIREMENTS THAT CEI SOUTH OR THE PROJECT**
27 **MUST MEET TO QUALIFY FOR THE FULL BENEFIT?**

28 A. No.

³ IRC Notice 2016-31, I.R.B 2016-23, May 18, 2016.

⁴ IRC Notice 2021-41, June 29, 2021.

⁵ A qualified facility meets the wage and apprenticeship requirements if the construction of which begins prior to the date that is 60 days after the Secretary publishes guidance with respect to the requirements of paragraphs (7)(A) and (8). PUBLIC LAW 117-169 Section A 13001(f)(B)(ii). Notice 2022-61 provided this guidance and was issued on November 29, 2022.

Q. HOW IS THE PTC TREATED DIFFERENTLY FOR THIS PROJECT AS OPPOSED TO A PPA?

A. When a developer or other entity retains ownership of a solar project, that entity receives the PTCs for the project. In negotiating a PPA agreement, the benefit of those credits can sometimes reduce the cost of energy for the utility offtaker, but not always. Many times, there is no assurance that these tax benefits are passed along to customers in the form of lower energy purchase costs. In fact, PPA pricing is often at competitive rates which may be significantly higher than the costs produced through traditional ratemaking.

Q. HOW IS A PTC DIFFERENT THAN AN ITC?

A. As described above, a PTC is a tax credit based on annual generation of energy. This tax credit reduces income tax expense each year it is generated. In contrast, an ITC is a credit based on qualified investment in an eligible energy-related property. Therefore, the ITC is calculated by multiplying qualifying capital expenditures times the ITC rate in effect. A tax basis adjustment is recorded for the qualified ITC property, reducing the amount of tax depreciation allowable. In contrast, no tax basis adjustment is required for PTCs since the credit is not based on capital investment. In addition, ITCs are subject to the normalization provisions of the Internal Revenue Code. This means that the benefits from ITCs are flowed through customer rates via amortization of the credit over the productive life of the underlying asset. PTC benefits are not subject to normalization and the benefits can be flowed to customers as soon as they are monetized by the utility. Witness Chrissy M. Behme explains how the benefits are passed to customers for the Posey County Solar Project and provides an illustration in Petitioner's Exhibit No. 4, Attachment CMB-1 (CONFIDENTIAL), the CECA-X CMB Filing Exhibit, tab CMB-2 Sch 1, Excel row 53.

Q. HOW IS THE ALLOWABLE AMOUNT FOR THE PTC DETERMINED?

A. The full allowable PTC for 2022 is \$.0275/kwh. This amount will be adjusted for inflation each year thereafter. This full PTC is allowed if the basic PTC requirements regarding construction start and end dates, and the wage and apprenticeship requirements are satisfied. In addition, there are bonus "adders" for domestic content and if the project is located in an "energy community." Each of these bonus amounts add 10%⁶ to the PTC and can be stacked on top of each other.

⁶ If wage and apprenticeship requirements are met. If they are not met, the bonus adders are 2% each.

1 **Q. PLEASE DESCRIBE THE DOMESTIC CONTENT ENHANCEMENT.**

2 A. After 2022, an adder of 10% for the PTC will apply if specific domestic materials
3 requirements are met. The requirement is met if the above percentage of total costs of all
4 manufactured products of such facility or project are attributable to manufactured products
5 (including components), which are mined, produced or manufactured in the United States.
6 The Treasury Secretary can provide exceptions to this requirement in certain
7 circumstances (e.g., if the requirement results in cost increases of more than 25% or
8 comparable products are not readily available in the United States). Clarifying guidance is
9 expected to be issued regarding the domestic content enhancement eligibility.

10 **Q. PLEASE DESCRIBE THE LOCATION OF PROJECTS IN “ENERGY COMMUNITIES”**
11 **ENHANCEMENT.**

12 A. The IRA also provides a PTC enhancement for projects placed in service within an “energy
13 community” defined to include brownfield sites; a census tract or any adjacent census tract
14 in which a coal mine has closed after 1999, or a coal-fired electric generating unit has
15 been retired after 2009; and a metropolitan or nonmetropolitan statistical area that (1) at
16 any time after 2009 has had at least 0.17% direct employment or 25% local tax revenues
17 from the extraction, processing, transport, or storage of coal, oil, or natural gas and (2)
18 had an unemployment rate at or above the national average for the previous year, in each
19 case as determined by the Treasury Secretary. Assuming the prevailing wage and
20 apprenticeship requirements are met, the amount of the base PTC is increased by 10%
21 (or 2% if the wage and apprenticeship requirements are not satisfied). Clarifying guidance
22 is expected to be issued regarding the eligibility for the energy communities enhancement.

23 **Q. WILL THE POSEY COUNTY SOLAR PROJECT QUALIFY FOR EITHER OF THE**
24 **ENHANCEMENTS YOU DESCRIBED ABOVE?**

25 A. Yes, the Posey County Solar Project is expected to qualify for the energy communities
26 enhancement since it is within a census tract of a coal fired unit retirement. The retirement
27 of this unit will occur in October, 2023.

28 **Q. DOES THE FACT THAT POSEY COUNTY SOLAR PROJECT IS ELIGIBLE FOR THE**
29 **PTC MAKE THE USE OF TRADITIONAL RATEMAKING BENEFICIAL FROM A**
30 **CUSTOMER PERSPECTIVE?**

31 A. Yes. The PTC can immediately be flowed to customers in rates and is not constrained by
32 IRS normalization rules regarding when and how the benefit can be shared with

customers, like the ITC. One of the reasons CEI South proposed to use a levelized rate in Cause No. 45501 was that it could not immediately begin flowing the benefits of the ITC back to customers. The Company's proposed traditional ratemaking treatment ensures that 100% of the realized PTC benefits are flowed to ratepayers via lower electricity costs at the time that the Company receives these benefits.

Q. WHAT DO YOU ESTIMATE IS THE VALUE FROM MONETIZING THE PTC BENEFITS?

A. The estimated value from monetizing the PTC benefits associated with the Posey County PTC benefits is [REDACTED]. This amount is derived from the estimated annual kwh of [REDACTED], using a PTC rate of \$0.03025/kwh (\$0.0275 times 110%) and assuming inflation adjustments of 2% for each of the next three years. This estimated value assumes that the project will meet the wage and apprenticeship requirements and the enhancement for being located in an energy community, but not the domestic content adder.

IV. CENTERPOINT ENERGY INC.'S ABILITY TO DIRECTLY REALIZE THE PTC

Q. IS CEI SOUTH PROPOSING TO USE A TAX EQUITY PARTNER FOR THIS PROJECT?

A. No.

Q. WHY HAS A TAX EQUITY PARTNER HISTORICALLY BEEN NEEDED TO UTILIZE TAX CREDITS?

A. There could be a number of reasons, but the most likely reason is the utility or company constructing the project does not have sufficient income to fully use the credit. To promote capital spending, the government in recent years implemented many taxpayer-friendly rules including bonus depreciation⁷. These rules have resulted in some companies having net operating loss carryforwards and not paying cash taxes. When a company is not paying cash taxes it has historically (prior to the IRA) been unable to realize the benefits of a PTC, since the credit cannot reduce current cash taxes. For a taxpayer in this situation, it has been necessary to bring in a tax equity partner to benefit from the PTC.

Q. WHY IS CENTERPOINT ENERGY INC. ABLE TO UTILIZE THIS CREDIT WITHOUT A TAX EQUITY PARTNER?

A. CenterPoint Energy, Inc. is not in the tax situation that I just described and so, in the year the Posey County Solar Project is placed in service, should be able to fully utilize the credit without a tax equity partner resulting in efficient utilization of the PTC. In other words, the

⁷ Available for public utilities prior to the Tax Cuts and Jobs Act enactment in 2017

PTC will be fully used by CenterPoint Energy, Inc. to offset its income taxes. In addition, the IRA provision allowing transferability of PTCs allows taxpayers without sufficient taxable income to monetize these credits by transferring them to a third party.

V. CUSTOMER BENEFITS RESULTING FROM CENTERPOINT ENERGY, INC.'S ELIGIBILITY FOR PTC

Q. HOW DOES CENTERPOINT ENERGY, INC.'S ABILITY TO REALIZE THE PTC FOR THE POSEY COUNTY SOLAR PROJECT BENEFIT CUSTOMERS?

A. The PTC realized by CenterPoint Energy, Inc. will result in a reduction to the amount recovered through rates associated with this Project as further described by Witness Behme. This ensures that every dollar of benefit the Company receives will be used to lower customer rates. As further described by Witness Behme, CEI South will include the eligible revenue requirement amounts associated with the Posey County Solar Project in its next general rate case or, if not there, in the Company's annual CECA filing once the Posey County Solar Project investments have been placed into service. The difference between the actual PTC and any amount that is reflected in base rates will flow through the CECA, even if the Posey County Solar Project itself is reflected in base rates.

Q. WHAT IS THE VALUE OF THE PTC THAT WILL BE PASSED ON TO CEI SOUTH'S CUSTOMERS?

A. CEI South's customers will receive the full value of the PTC, estimated to be \$ [REDACTED] per year if CenterPoint Energy, Inc. is able to fully utilize the PTC as anticipated. If CenterPoint Energy, Inc. instead must monetize the credit by transferring it, customers will receive the full amount monetized.

Q. IF THE PTC IS TRANSFERRED, WHAT IS THE VALUE OF THE PTC THAT WILL BE PASSED ON TO CEI SOUTH'S CUSTOMERS?

A. The IRA included the option to transfer credits, enabling taxpayers to monetize PTCs and ITCs even if they lack sufficient taxable income to utilize the credits currently. Future guidance will likely further clarify the means by which companies will be able to take advantage of this provision. Discount rates will be determined by the market. CEI South will include the total amount received in exchange for transferred PTCs as a reduction to customer rates. As with the variances described earlier in my testimony, CEI South will still use CECA to reflect the PTC generated by the Project, or in the event it is included in

1 rate base in Petitioner’s next general rate case, the extent the actual PTC differs from the
2 amounts reflected in base rates.

3 **Q. IN YOUR OPINION, WILL ACQUIRING THE POSEY COUNTY SOLAR PROJECT BE**
4 **BENEFICIAL TO CEI SOUTH’S CUSTOMERS?**

5 A. Yes. As described by Petitioner’s Witness Bradford, the Posey County Solar Project will
6 increase the resilience of CEI South’s system while utilizing clean generation. This activity
7 is incentivized by the federal government in the form of PTCs, which are used to offset tax
8 expense. The full benefit received by the Company for these PTCs will be used to reduce
9 CEI South’s customer rates.

10 **Q. BASED ON THE USE OF THE COST-OF-SERVICE OR RATE-OF-RETURN**
11 **RATEMAKING, WILL THE POSEY COUNTY SOLAR PROJECT BE TREATED AS**
12 **PUBLIC UTILITY PROPERTY FOR TAX PURPOSES?**

13 A. Yes. However, as explained below, this categorization will not impact the Company’s
14 timing or ability to flow benefits of the PTC to customers.

15 **VI. CONCLUSION**

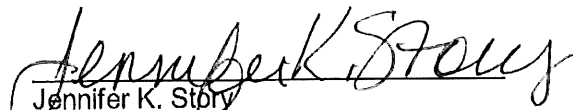
16 **Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?**

17 A. Yes, at the present time.

VERIFICATION

I affirm under penalties for perjury that the foregoing representations are true to the best of my knowledge, information, and belief.

SOUTHERN INDIANA GAS AND ELECTRIC
COMPANY D/B/A CENTERPOINT ENERGY
INDIANA SOUTH


Jennifer K. Story
Vice President, Tax

1/31/2023
Date