FILED August 3, 2022 INDIANA UTILITY REGULATORY COMMISSION

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

PETITION OF SOUTHERN INDIANA GAS AND ELECTRIC) COMPANY D/B/A CENTERPOINT ENERGY INDIANA SOUTH) PURSUANT TO INDIANA CODE CH. 8-1-40.5 FOR (1)) AUTHORITY TO (A) ISSUE SECURITIZATION BONDS: (B)) **COLLECT SECURITIZATION CHARGES; AND (C) ENCUMBER**) SECURITIZATION PROPERTY WITH A LIEN AND SECURITY) **INTEREST; (2) A DETERMINATION OF TOTAL QUALIFIED**) COSTS AND AUTHORIZATION OF RELATED ACCOUNTING) TREATMENT; (3) AUTHORIZATION OF ACCOUNTING) TREATMENT RELATED TO ISSUANCE OF SECURITIZATION) BONDS AND IMPLEMENTATION OF SECURITIZATION) **CAUSE NO. 45722** CHARGES; (4) APPROVAL OF PROPOSED TERMS AND) STRUCTURE FOR THE SECURITIZATION FINANCING; (5)) **APPROVAL OF PROPOSED TARIFFS TO (A) IMPLEMENT THE**) SECURITIZATION CHARGES AUTHORIZED BY THE) FINANCING ORDER IN THIS PROCEEDING, (B) REFLECT A) **CREDIT FOR ACCUMULATED DEFERRED INCOME TAXES,**) AND (C) REFLECT A REDUCTION IN PETITIONER'S BASE) **RATES AND CHARGES TO REMOVE ANY QUALIFIED COSTS**) FROM BASE RATES; AND (6) ESTABLISHMENT OF A TRUE-UP) MECHANISM PURSUANT TO INDIANA CODE § 8-1-40.5-12(c).)

INDIANA OFFICE OF UTILITY CONSUMER COUNSELOR

PUBLIC'S EXHIBIT NO. 3

TESTIMONY OF WITNESS JOSEPH S. FICHERA

AUGUST 3, 2022

Respectfully submitted,

T. Jason Haas Attorney No. 34983-29 Deputy Consumer Counselor

TESTIMONY OF OUCC WITNESS JOSEPH S. FICHERA CAUSE NO. 45722 SOUTHERN INDIANA GAS AND ELECTRIC COMPANY D/B/A CENTERPOINT ENERGY INDIANA SOUTH

I. <u>INTRODUCTION</u>

- Q: Please state your name and business address.
 A: Joseph S. Fichera, Saber Partners, LLC, 260 Madison, 8th Floor New York, New
- 3 York 10016.
- 4 Q: By whom are you employed and what is your position?
- 5 A: I am a member of Saber Partners, LLC ("Saber Partners" or "Saber") and currently
- 6 serve as its Chief Executive Officer.

7 Q: Please briefly describe your duties and responsibilities in that position.

8 A: I manage Saber Partners, its team of advisors and execute assignments for clients.

- 9 This means I provide confidential, independent, senior-level analysis, advice, and 10 execution for chief executive officers, regulators, elected officials, chief financial 11 officers, treasurers and others. Since 2000, our firm has focused on achieving the 12 lowest cost and maximum present value savings for ratepayers in Ratepayer-13 Backed Bond ("RBB") transactions, also sometimes referred to as utility 14 securitizations. We have helped many state utility commissions develop their initial 15 programs for the use of RBBs for a variety of purposes.
- 16 **Q:** Have you

Have you been engaged by a client in this matter?

17 A: Yes. I've been engaged by the Indiana Office of Utility Consumer Counselor
18 ("OUCC") to analyze the proposal made by Southern Indiana Gas and Electric
19 Company D/B/A CenterPoint Energy South ("CEI South," or "Petitioner")
20 regarding the issuance of RBBs and to provide my thoughts on ways the process

1		used by the Commission can be improved to ensure ratepayers are protected.
2	Q:	What is your educational background and professional experience?
3	A:	I have a Bachelor's degree in Public Affairs from Princeton University's Woodrow
4		Wilson School of Public and International Affairs and a Master's degree in
5		Business Administration from Yale University's School of Management and over
6		four decades of experience on Wall Street. My curriculum vitae, which documents
7		my long history of working with RBBs, is attached to this testimony as Exhibit JF-
8		1.
9 10 11	Q:	During your career on Wall Street, did you participate in any underwritings, specifically the sale of corporate bonds and/or equity securities to investors in SEC-registered public offerings?
12	A:	Yes. The primary focus of my work starting first as an Associate then becoming a
13		Managing Director, Principal was to advise on structure and execute underwritings
14		as well as private placements of debt and equity securities. Underwriters negotiate
15		with issuers of debt and equity securities to buy the securities at a specific price
16		and/or yield to reoffer to investors. Over time, my role evolved to providing
17		strategic advice to corporate treasurers, chief financial officers, and chief executive
18		officers in addition to these underwritings.
19		My responsibilities included advising these corporate officers and their
20		legal counsel on structuring, marketing, and pricing publicly offered SEC-
21		registered securities. I also led or participated in several corporate reorganizations
22		and restructurings. My underwriting experience included direct negotiations with
23		corporations, utilities, and investors over structuring, marketing, and pricing

24 publicly offered SEC registered debt and equity securities. My primary role was

1		when the firm was a "bookrunning" underwriter, sole manager, or senior manager. ¹
2		I also have experience as a co-managing underwriter of publicly offered debt and
3		equity securities. ²
4 5	Q:	Have you directly participated in transactions involving RBBs similar to CEI South's proposal?
6	A:	Yes. To-date, I have participated in 14 RBB transactions totaling over \$9.78
7		billion, involving 9 different investor-owned electric utilities and six state
8		regulatory commissions. My most recent assignment in 2020-2022 was as a
9		financial advisor to Southern California Edison Company ("SCE") on the offering
10		in February 2022 of \$533,265,000 Senior Secured Recovery Bonds Series 2022.
11		Barclays Capital, CEI South's current financial advisor, was a joint bookrunning
12		underwriter on that offering.
13	Q:	Have you worked with Barclays prior to 2022?
14	A:	Yes. In 2005 I recommended Barclays selection as a senior co-manager on RBB
15		offerings when advising the New Jersey Board of Public Utilities for PSE&G and
16		the Public Utility Commission of Texas involving CenterPoint Energy Houston that
17		year as well. In 2021, I had an informal advisory role with the offering of Southern

¹⁷

¹ A "bookrunning underwriter" is the primary underwriter or lead coordinator in a specific issuance transaction. A full glossary of financial market terms used in securities offerings is provided for the convenience of the Commission and staff is attached as Fichera Exhibit 2 to this testimony.

² As an Underwriter, I received three "Deal of the Year" awards from industry publications. These are awards for transactions that independent observers who closely follow the profession consider significant and merit the attention of one's peers. In 1990, for a preferred stock transaction, I received the award from "Institutional Investor" magazine. In 1991, I received this award again for an investor-owned utility debt reorganization in the municipal bond market. In 2003, I was recognized with a similar "Deal of the Year" award from "Asset Securitization Report" for a Ratepayer-Backed Bonds offering. "Deal of the Year" awards generally identify transactions that have unique features, overcame specific market obstacles or set precedents in the financial markets.

1		California Edison's inaugural RBB offering (SCE Recovery Funding LLC 2021-
2		A) in which Barclays Capital was structuring advisor and joint bookrunner. That
3		offering for SCE Recovery Funding adopted the structure that Saber Partners
4		pioneered in 2007 and 2009 in West Virginia for Monongahela Power and Potomac
5		Edison offering of RBBs. This structure was also used in 2016 with the Florida
6		Public Service Commission and the offering of \$1.2 billion RBBs to refinance the
7		retirement costs of a closed nuclear power plant owned by Duke Energy Florida.
8		In the 2021 offering of RBBs SCE also agreed with our analysis and
9		recommendation for a 23-year final maturity versus the 18-year maturity that
10		Barclays and Mr. Chang had testified was the "optimal" maturity for ratepayers.
11		We were subsequently formally hired on SCE's follow-on transaction in 2021
12		which were offered for sale in February 2022.
13 14	Q:	When participating in these RBB transactions, did you have direct interactions with investors, underwriters, and regulators?
15	A:	Yes, I interacted with many investors, underwriters, counsel, and others over the
16		past 40 years, including in Ratepayer-Back Bond transactions since 2001.
17 18	Q:	What was the purpose of your interactions with investors as the advisor to the ratepayer representative in these transactions?
19	A:	My interactions were to gather market intelligence to better represent the interests
20		of ratepayers in the transactions and provide an independent opinion to the utility
21		commission at the conclusion of the process for them to consider whether to
22		approve or disapprove the final issuance of the bonds in what is known as an
23		"Issuance Advice Letter" process. These processes were similar to CEI South's

1 other Saber Partner witnesses.

RBBs have a unique utility cost recovery mechanism. They are a direct borrowing on the credit of all the utility's ratepayers in its service territory, not the utility shareholders. The bonds are supported by a regulator performance guarantee to impose and adjust a new non-bypassable charge to whatever level is necessary to repay the bonds. Unlike ordinary utility bonds, then, ratepayers ultimately bear the risk of repaying these bonds directly.

8 These special characteristics, including the authorizing legislation and the 9 regulator's irrevocable financing order ("Financing Order"), often raise many 10 questions among investors and underwriters. These questions focus on the strength 11 and support of the legislation and the regulator as the source of repayment for the 12 bonds. Indeed, the irrevocable Financing Order is the basis for the entire bond 13 financing transaction.

When assessing "market conditions" for the structuring, marketing, and pricing of the bonds, interactions with investors are not solely the responsibility of the utility and underwriters. It is important not to rely on a single source such as the underwriters for all market related information.

For example, when buying a home, you would not rely solely on the seller's agent for information on, and certification of, the condition of the house or the market for similar houses. An expert financial advisor ensures transparency and accuracy of the information being presented for making decisions that affect ratepayers directly. Discussions with market participants, like investors and other broker-dealers, are part of the normal due diligence process of serving as the ratepayers' representative's financial advisor and preparing to deliver an
 independent opinion for the commission to consider when making their decision
 based on the evidentiary record in the case. Without it, the information and
 evidence used in the commission's final decision-making process would be
 incomplete.

As will be discussed below, a regulatory commission is like a company's
board of directors. The board has a wide degree of latitude in making decisions,
but it has been established that they must make informed judgements and not rely
on information that may be conflicted, biased or incomplete.

10 In addition, some of these interactions were part of the formal cooperative 11 and collaborative process for marketing with the utility and broker-dealers with a 12 prospectus on file with the SEC. For those presentations I often was given the task 13 to explain the commission's important role in writing the terms of the irrevocable 14 Financing Order and how it works. I assisted in discussing the Financing Order, 15 the authorizing legislation, and the regulatory and ratepayer support for the 16 financing. These discussions have included considering the benefits of the 17 transaction for the ratepayer, as well as the relative value of the financing order's 18 credit mechanism compared to other utility finance mechanisms in the marketplace.

Making sure that the utility had a successful transaction is also a huge benefit to ratepayers, because issuing RBBs lowers the cost to future generations of ratepayers. So, not only were we protecting ratepayer interests with our interventions, but we were also helping the utility as well reach a successful conclusion and raise the funds approved expeditiously and efficiently.

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II. <u>EXECUTIVE SUMMARY AND PURPOSE OF TESTIMONY</u>

Q: What is the purpose of your testimony?

2 A: The purpose of my testimony is to first identify and describe the other witnesses 3 from Saber Partners and their special expertise relating to each component of CEI 4 South petition. Because this is a "pilot program" for Indiana, I will briefly describe 5 the structure of the capital markets and the history of RBBs within it including 6 recent developments so that the Indiana Utility Regulatory Commission ("IURC") 7 has the appropriate context to consider this petition. I will then discuss the three 8 phases of the Financing Order process and describe how the process that occurs 9 after the Financing Order is issued is the most important part of the process for 10 ratepayers. This phase needs to be considered in drafting the initial financing order 11 in this case. I will explain and summarize the "best practices" identified from other 12 state commissions in a post-Financing Order / pre-bond issuance process that 13 involve a final decision by the commission that uses an "Issuance Advice Letter" 14 process like the one proposed by CEI South's petition. I will show how utility other 15 state regulatory commissions have used written certifications from the utility, 16 underwriters and an independent financial advisor representing ratepayer 17 interests to build the evidentiary record for it to decide on whether to approve or 18 disapprove the bond issuance as proposed by CEI South's Issuance Advice Letter 19 process. My testimony will complement the testimony of other OUCC witnesses 20 and show how these best practices prevent customer losses and achieve greater 21 customer savings. There is an overwhelming amount of evidence that includes the 22 direct testimony of CEI South affiliates in Texas and Saber Partners that these best practices work and should be included in the financing order issued by the IURC
 in this case.

III. SABER PARTNERS WITNESSES INTRODUCTION

3 Q: Please identify other Saber Partners providing testimony.

4 A: Additional Saber advisors submitting testimony on behalf of the OUCC include:

5 Rebecca Klein, the former Chair of the Public Utility Commission of Texas 6 ("PUCT") and a member of the Saber Partners Advisory Board since 2006. Ms. 7 Klein is not involved in the management of Saber Partners and receives no 8 compensation as an Advisory Board member or for her Advisory Board 9 membership. She will discuss her experience with the PUCT in establishing a new 10 utility securitization program and originating many of the "best practices" when the 11 PUCT first considered petitions to issue RBBs in Texas, including for affiliates of 12 CEI South. She will explain, from a commissioner's perspective, how the PUCT 13 approached writing initial financing orders that are in the public interest, are just 14 and reasonable, and achieve the lowest cost to the ratepayer.

15Hyman Schoenblumis the former Treasurer and Senior Vice President and served16as one of the top financial officers during a 30-year career at Consolidated Edison17Company of New York. Mr. Schoenblum is also a Senior Advisor to Saber Partners18and will discuss the best practices of a cooperative and collaborative "bond team"19process with a ratepayer representative in the structuring, marketing, and pricing of20RBBs and why this is in the utility's and ratepayers' best interest;

Brian A. Maher is the former Assistant Treasurer and 30-year veteran of ExxonMobil Corporation. Among his many financial assignments at Exxon and

1 then ExxonMobil, he was responsible for all ExxonMobil external finance. Since 2 2007 he is a Senior Advisor to Saber Partners and will explain how underwriters 3 are not fiduciaries, and are not obligated to act in the best interest of ratepayers. 4 His direct experience with the AAA/Aaa issue is the basis for his recommendation 5 that someone representing the ratepayer needs to be included in the process. Those 6 mechanisms are described by Ms. Klein, Mr. Schoenblum, and Mr. Fichera in order 7 to ensure the ratepayers' interests are adequately protected and an appropriate 8 opinion delivered to the commission to consider in the evidentiary record;

9 Paul R. Sutherland, former Assistant Treasurer of Florida Power and Light 10 Company. He is a Senior Advisor to Saber Partners involved in all Saber's RBB 11 assignments since 2001. He has audited each financial model used in those 12 transactions and the interest rates proposed by underwriters compared to Saber's 13 independent assessment of market conditions and appropriate rates. He examines 14 the financial structures proposed by CEI South and its advisor Barclays compared 15 to "best practice" analysis and provide an assessment of the current market based 16 on independently verifiable evidence;

17Steven Heller, President of Analytical Aid, who has been an independent modeler18of RBBs and a former employee of major underwriters such as Merrill Lynch and19Credit Suisse precisely on the modeling of these types of bonds i.e., the role that20CEI South advisor Barclays Capital is proposed to be hired for. He is a consultant21to Saber Partners for the purpose of evaluating the aspects of the Petition regarding22the structuring of the RBBs and the charge to achieve a AAA rating. He will testify23from his direct experience of over 20 years on how structuring decisions made by

- 1 someone who is not representing ratepayer interests can lead to higher charges for
- 2 ratepayers than necessary.
- 3 Q: RBBs use many specific terms and definitions that are not familiar to the 4 commission and others, can you provide assistance to the Commission?
- 5 A: Yes. Because RBBs are complex and not part of the normal utility ratemaking
- 6 process, many terms and definitions are not generally discussed in regulatory
- 7 proceedings or understood by participants. To assist the IURC and staff, OUCC
- 8 Witness Mr. Sutherland and I are attaching the same glossary of terms as Exhibit
- 9 JF-2 and Exhibit PS-13 for easy reference in our testimonies and the testimony of
- 10 other OUCC witnesses. So, except as otherwise defined in my testimony,
- 11 capitalized terms have the meanings assigned to them in the Glossary.

IV. <u>THE CAPITAL MARKETS AND HISTORICAL AND CURRENT</u> <u>ISSUANCES OF RBBS CREATE CHALLENGES FOR THE IURC</u>

- Q: This is the first time the IURC is addressing an RBB program and it is
 designated by the Indiana legislature as a "pilot program." Have you had
 experience in assisting other state regulatory commissions establish a RBB
 program under new legislation?
- 16 A: Yes. Saber Partners helped establish the "first-time" financing orders and issuances
- 17 of RBBs for regulators and ratepayer representatives in:
- 18 1. Texas;
- 19 2. Florida;
- 20 3. West Virginia; and
- 21 4. North Carolina.
- 22 We also provided support for changes to the New Jersey securitization program
- 23 to adopt "best practices" in 2005, and the Public Service Commission of Wisconsin
- 24 to assist in developing a model financing order. Finally, we assisted the Vermont

Public Service Board in obtaining legislation authorizing securitization to buy out
 power purchase contracts.

3 Q: What should utility commissions know about the capital markets for RBBs?

4 A: Utility commissions should be aware of the size, structure and complexity of the 5 capital markets and not just the specific RBB segment. Specifically in this case, 6 the irrevocable nature of the decision in this Petition once the bonds are issued and 7 the non-bypassable charge is set makes it imperative to get it right the first time. 8 This is especially important when establishing a "pilot program" to determine 9 whether the use of RBBs should be expanded. Recent developments in the capital 10 markets as discussed below and by Mr. Sutherland have made it more challenging 11 than ever for a commission to protect ratepayer interests using RBBs.

12 It is true RBBs have been around for more than 20 years and, as Petitioner's 13 witness Eric K. Chang noted, over \$62 billion in securitization bonds have been issued in 83 different transactions for electric utilities.³ Indeed, Saber Partners' 14 15 first assignment for RBBs involved CEI South's affiliate in Texas in 2001 that CEI 16 South referred to during the IURC's July 7, 2022, Technical Conference. However, 17 new RBB issuances have been infrequent until 2021. Indeed, as the below chart 18 shows, the amount of RBBs issued so far in 2022 nearly doubles the total amount 19 issued in the prior decade. This presents special challenges for the IURC and is 20 similar to the challenges the Public Utility Commission of Texas faced in 2001 21 when it introduced its program amid a record increase in volume.

³ Petitioner's Exhibit No. 3, Direct Testimony of Eric K. Chang, p. 5, lines 9-11.



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However, as the chart below shows, this large amount of RBBs remains very small when compared to the total amount of corporate, utility, and structured finance bonds in the market over this timeframe. Barclays' assertion that the market for RBBs is well established and well understood is not supported by the evidence. This was confirmed in their response to OUCC DR-9-2(r), included in Exhibit JF- 3, where they objected to producing any evidence to support the assertion. In reality, a very large part of the market – investors, money managers, broker-dealers, dealers and underwriters - is not familiar with the RBB credit mechanism that makes it a superior AAA-credit to achieve the lowest interest rates



available relative to comparable AAA corporate credits.

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The good news is that, while RBBs are relatively small and infrequent compared to the entire corporate bond market, they are the only corporate asset sector that consistently get AAA/Aaa ratings and have maintained those ratings over time. Most importantly, these types of bonds have never experienced a ratings downgrade, nor been on a watchlist for a downgrade by any rating agency – even when the sponsoring utility filed for bankruptcy.

8 They are extraordinarily strong credit and should command the lowest 9 lending rates from investors. Yet, as Mr. Maher, Mr. Schoenblum, Mr. Heller and 10 Mr. Sutherland will describe in more detail, this does not always happen, and, as a 11 consequence, ratepayers are at risk of overpaying Wall Street and investors.

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Fichera 3 Source Apollo Group

Yet, as Mr. Sutherland will show, not all RBB issuers have benefitted from
this scarcity with lower interest rates associated with other AAA corporate bonds.
Many RBBs have overpaid underwriters and investors, leaving substantial money
on the table.
For example, a case study of the Wisconsin Electric Power Company

1	("WEPCO"), Environmental Trust Finance I, LLC \$107 million transaction in 2021
2	in which Barclays Capital (Mr. Chang) was the testifying witness, structuring
3	advisor and sole underwriter saved \$45 million but also lost \$7 million in present
4	value because of the specific items that Barclays did not respond to accurately in
5	the financing order and structuring process. ⁴
6	The below chart shows how few AAA issuers exist in the corporate bond
7	market which should make any new AAA bonds coming to market highly sought

after for those seeking safety and return. Unfortunately, as Mr. Sutherland

9 discusses the recent slew of RBB issuances did not capture that benefit.

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⁴ See "Losing While Winning," included as Exhibit JF-4, found at <u>https://apps.psc.wi.gov/pages/viewdoc.htm?docid=444510</u>



Fichera 4

V. <u>THE DIFFERENCE BETWEEN TRADITIONAL UTILITY BONDS AND</u> <u>RBBS REQUIRE SPECIAL PROTECTIONS IN THE FINANCING</u> <u>ORDER</u>

1 Q: How are traditional utility bonds structured?

2 A: Traditional utility bonds are simple and straightforward. The structure, marketing, 3 and pricing for these bonds are all streamlined because the utility is a frequent 4 issuer, i.e., often in the market with a great deal of information readily available to 5 investors, and investors are generally aware of the issuances and issuing companies. 6 Offering documents are often prepared in advance and are on file with the SEC. 7 As can be seen by the chart below, the structure of a traditional utility bond 8 is the utility's direct debt with the commission retaining all regulatory authority 9 over the utility and all customer rates. A utility, then, cannot simply raise its rates 10 to cover debt – those rate increases must be approved by a commission.

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Fichera 5

Bondholders have a claim only on the utility and its assets such as its plant and equipment. There is no direct claim on the ratepayers or any specific component of customer rates in traditional utility bonds compared to RBBs. If there is a bankruptcy of the utility, like occurred with Pacific Gas & Electric twice, the bondholders are at risk.

6 From the perspective of the bondholder, the revenue requirements from 7 customer rates to pay principal and interest on traditional utility bonds are not 8 certain. The utility receives only revenues from customer rates approved by the 9 commission through base rate and tracker proceedings. Those revenues go to all 10 utility costs, including costs of operations, maintenance, taxes, and returns for 11 shareholders, not just principal and interest on bonds. In other words, there is no single dedicated source of funds that specifically guarantees the bond. Instead, the 12 13 bond must be serviced out of the utilities general revenues. If a utility is under a

1		long-term rate agreement, it is possible that some of the costs of financing incurred
2		between rate proceedings may not be recovered. If the shortfall is significant, the
3		regulator may allow the cost of such financings to be deferred for future recovery.
4 5	Q:	Are there checks and balances in the structuring, marketing, and pricing of traditional utility bonds?
6	A:	Yes. As more fully explained by OUCC witness Mr. Schoenblum, there are built-
7		in "checks and balances" with traditional utility bonds that are included in the
8		utility's cost of capital because the IURC retains full regulatory review of the
9		utility's costs. Moreover, the utility is more likely to achieve its allowed returns by
10		achieving the lowest cost of bonds for shareholders. The utility management has a
11		fiduciary duty to shareholders to maximize those returns and thus should be
12		incentivized to reduce bond costs and increase returns.
13		Read the chart below in sequence, 1,2,3,4 to see the incentives and checks

14 and balances in traditional utility bonds.



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Fichera 6
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As further discussed by Mr. Schoenblum, when a utility decides to issue a traditional bond, the utility has a strong incentive to negotiate hard with underwriters for the lowest possible interest rates as well as the lowest possible underwriting fees to minimize the utility's costs. Utilities also have a strong incentive to minimize other issuance costs. These same incentives do not apply in connection with RBBs.

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Q: How is an **RBB** different?

- 8 A: As illustrated by Figure 10 below, the structure of RBBs is materially different and
 9 more complex than a traditional utility bond in that:
- 10 1. The bondholder is a creditor of a special issuer with a dedicated and specific
- charge on all ratepayers, on a joint and several basis, providing the means
 to pay the principal of, and interest on, the RBBs.
- 13 2. None of the parent utility's creditors have a claim on those dedicated

1	revenues when customers use the services of the parent utility even in a
2	parent utility's bankruptcy. This is known as being "ring-fenced" or
3	"bankruptcy remote"
4	3. The utility, after receiving the proceeds of the RBB sale, is merely acting as
5	the "servicer" of the RBBs. This means it simply calculates, charges, bills,
6	and collects the revenue from ratepayers to repay the bonds on time. RBB
7	bondholders do not have a security interest in the utility's assets. Rather,
8	the bonds are backed by this statutorily authorized and regulatory mandated
9	non-bypassable charge imposed on ratepayers on a joint and several basis.
10	As can be seen below, this process is more complex and confusing compared
11	to traditional utility finance as can also be seen by the complexity of this
12	proceeding.

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Fichera 7

1Q:Are there any distinct phases of issuing RBBs of which the utility commissions2should be aware?

- 3 A: Yes. There are three phases for an RBB sale that utility commissions should
- 4 consider and one in which the IURC should provide for specific ratepayer
- 5 representation and protections.

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Fichera 8

1 2	Q:	Please describe Phase One: The Petition for a Financing Order and Writing of the Financing Order.
3	A:	We are at this initial phase with the filing of the petition, data requests and
4		testimony. During this initial phase the Financing Order needs be carefully written
5		because it is the basis for the credit associated with the bonds.
6		But as CEI South's witnesses Brett A. Jerasa and Mr. Chang correctly point
7		out, the precise bond structure, interest rates and other financing costs cannot be
8		known with any certainty at the time the Financing Order is issued. For this reason,
9		CEI South requests "flexibility" on all these items following the Financing Order's
10		issuance to determine the final structure, including the interest rate during the
11		subsequent two phases of the process. ⁵
12		However, precisely because of this uncertainty, and that all costs and terms
13		are only estimates, the financing order process often establishes a "post financing
14		order and pre-bond issuance review process." Consequently, in the initial phase
15		the commission approves a specific amount of RBBs to be issued and the desired

⁵ Petitioner's Exhibit No. 2, Direct Testimony of Brett A. Jerasa, p. 13, lines 13-17; Chang Direct, p. 30, lines 4-23.

1		maturity. However, the financing includes other specific conditions, findings of
2		fact and the processes to be followed once the financing order has been issued
3		relating to all the estimated and unknown final costs. This is so the commission can
4		be sure that in approving the amount the utility receives when bonds are sold – and
5		when the commission's financing order becomes irrevocable - ratepayers are
6		protected from overpaying for any services needed to market the bonds and interest
7		costs needed to sell bonds are kept to minimum necessary. This achieves the lowest
8		cost to ratepayers and maximizes their present value savings while it provides the
9		utility immediately with cash from the sale in an efficient and expeditious manner.
10 11	Q:	Please describe Phase Two: Implementation of the Financing Order and the Conditions the Order Establishes for final Review by the Commission.
	Q: A:	• 0
11	-	Conditions the Order Establishes for final Review by the Commission.
11 12	-	Conditions the Order Establishes for final Review by the Commission. This is the time between the Financing Order's issuance and the bonds issuance.
11 12 13	-	Conditions the Order Establishes for final Review by the Commission.This is the time between the Financing Order's issuance and the bonds issuance.Only at the time the bonds are finally issued (all approvals received and the
11 12 13 14	-	Conditions the Order Establishes for final Review by the Commission. This is the time between the Financing Order's issuance and the bonds issuance. Only at the time the bonds are finally issued (all approvals received and the transaction closes) does the Financing Order becomes final and irrevocable. This
 11 12 13 14 15 	-	Conditions the Order Establishes for final Review by the Commission. This is the time between the Financing Order's issuance and the bonds issuance. Only at the time the bonds are finally issued (all approvals received and the transaction closes) does the Financing Order becomes final and irrevocable. This phase involves multiple other parties, including nationally recognized bond rating
 11 12 13 14 15 16 	-	Conditions the Order Establishes for final Review by the Commission. This is the time between the Financing Order's issuance and the bonds issuance. Only at the time the bonds are finally issued (all approvals received and the transaction closes) does the Financing Order becomes final and irrevocable. This phase involves multiple other parties, including nationally recognized bond rating agencies, that consider the structure of the bonds, their maturity, and ability to pay

regarding the method and manner of sale.

Phase Two Post Financing Order Activities Affecting Ratepayers Include:

- Rating agency discussions
- Financial modeling stress testing, negotiations
- Documentation of transaction components and legal opinions
- Offering materials including prospectus and sales memoranda
- Securities and Exchange Commission filings and discussions
- Selection of offering method competitive bid or negotiated transaction
- Selection of underwriters
- Writing, analyzing and oversight of marketing plan and plan of distribution
- Teach-ins for underwriters; investor presentations
- Finalize all transaction documents including servicing agreement, administration agreement, bond indenture representations and warranties
- Finalize all expenses

Fichera 9

2 While the rating agency process could begin in Phase One, during this 3 second phase, there is extensive cash flow modeling that will support the bond 4 based on the examination of the utility's historical forecasts and collections as well 5 as its projections over the next 10-20 years. This is done to achieve a AAA/Aaa 6 credit rating on the bonds from nationally recognized rating agencies like S&P and 7 Moody's. A top rating assists in achieving the lowest interest rates from investors, 8 but this rating does NOT guarantee achieving the lowest interest rates in any way. 9 Also, in Phase Two, offering documents are developed and submitted to the 10 SEC, the method of sale is decided, (competitive bid or negotiated transaction) and 11 a marketing plan is developed. 12 Counsel also finalizes the process of delivering unqualified opinions and

certifications to the utility, rating agencies, the SEC and other parties concerning

1

13

1 federal, state law and regulatory matters including any constitutional issues.

2 Q: Please describe Phase Three: Pricing the Bonds and Sale to Investors.

3 A: Depending on the method of sale chosen, this process concludes the marketing 4 process and establishes the final interest rate in relation to the interest rates on 5 benchmark securities used for comparison for a chosen maturity and principal 6 repayment schedule. This process is dynamic. Mr. Sutherland describes this 7 process in detail in his testimony. Often this phase includes a filing by the utility 8 referred to as an "Issuance Advice Letter" and other submissions such as 9 independent certification letters and other information for the commission to decide 10 based on the evidence since the financing order was issued on the utility's filing. 11 Therefore, it is important that there be a way to determine whether the financing 12 order conditions have been met and the commission can allow the bonds to be 13 After this point, the financing order becomes irrevocable, and the issued. commission gives up all further review. So, the commission has only "one shot" 14 to get it right, unlike its ongoing authority over all other rates and cost of 15 16 capital.

As discussed below and in the testimony of Ms. Klein, Messrs.
Schoenblum, Maher and Sutherland there is a way based on established precedent
to address this problem.

20 Q: Can all the important decisions for an RBB be made in the first phase?

A: No. The documents and the transaction continue to develop throughout the life of
 transaction. The financial modeling is important and needs to be audited. Mr.
 Jerasa admits important elements of the transactions do not get agreed to until the

1 second and third phase.⁶

2 3	Q:	Are there the same financial incentives for the utility present in an RBB that are present in a traditional bond?
4	A:	No. Rather than the utility, the RBB's issuer is a new entity established for the sole
5		purpose of selling this type of bonds. The only collateral this new issuer must
6		pledge to investors is the related securitization property, the non-bypassable bond
7		repayment charge on ratepayer bills created by statute and the Financing Order
8		authorizing the issuance of the bonds. The Financing Order also contains the True-
9		Up Mechanism and the state pledge of non-interference in the rights of the
10		bondholders to be repaid on time. These features are unusual and highly desired by
11		investors because of the safety and security they provide.

⁶ Jesasa Direct, p. 13, lines 14-16.

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Fichera 10

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2 OUCC witnesses Mr. Schoenblum, Mr. Maher and Ms. Klein explain in 3 more detail why the interests of ratepayers, sponsoring utility and underwriters 4 might not be aligned when selling RBBs. While the utility has a general business 5 interest in keeping overall customer rates low, it will have no direct or indirect 6 obligation to repay the RBBs and will have no direct or indirect responsibility to 7 pay any of the financing costs. Ratepayers alone will bear all costs and the costs 8 will not directly impact the utility's return to its shareholders. That said, the 9 sponsoring utility's highest priority will likely be completing the issuance and 10 receiving the cash quickly, with cost control may be a lower priority.

Q: Was there anything that surprised you in CEI South's DR responses on costs?
A: Yes. As shown in CEI South's response to OUCC DR 9-5, attached in Exhibit JF3, CEI South does not have a detailed budget that allows anyone in this proceeding

1	to determine whether the costs are reasonable and appropriate.
2	For example, they do not have a breakdown of one of the largest budget
3	items - legal expense. All they have is a large lump sum of \$2 million and do not
4	have it broken down by counsel and what each counsel would do. This is a major
5	concern because it amounts to a "blank check approach" that will be filled in later.
6	We have no idea how counsel – all of whom will be paid from bond proceeds which
7	means the ratepayer - will be chosen and whether their billing rates are reasonable
8	and appropriate.
9	The cost of Barclays is said to be a flat fee of \$350,000 for financial advisory
10	services and structuring. This is \$50,000 higher than what Barclays charged
11	Southern California Edison Company about 1-year ago for a similar size
12	transaction. ⁷
13	We have found that other transaction costs for basic services could be
14	reduced by opening the selection up to competitive bidding to a group that we know
15	meets the minimum qualifications for the services provide like trustee fees.
16	Also, CEI South stated that it had not spent any funds at this time. Based
17	on our extensive experience with the SEC and the rating agency process, which are
18	key milestones in achieving a timely transaction, many items could be started now
19	before the financing order is issued. For example, as Mr. Heller discusses, the
20	rating agencies require a lot of basic information on the utility operations, billing
21	history, collections, and other information that are necessary to review in addition

⁷ Exhibit JF-5, SCE Recovery Funding Issuance Advice Letter, p. 3

to the final terms of the financing order the amount and maturity of the bonds or
 who the underwriter are. That could be started now and would be a more efficient
 use of time as well as the flat fee services of Barclays.

4 The bottom line here is every dollar is a ratepayer dollar. No expense 5 comes out of the pockets of shareholders or can affect CEI South's ability to earn 6 its allowed return for shareholders. It's a direct pass through. A lack of budget 7 detail on the largest expense in the petition, along with no process for competitive 8 selection of qualified participants at the lowest cost to transaction and the proposal 9 simply to put the expenses in the Issuance Advice Letter at the end seems to create 10 (intentionally or not) a "take it or leave it" proposal and is troubling. It certainly is 11 not the optimal approach in the RBB transactions we have seen and participated at 12 budgeting level.

Another example that we have experience in is having a "joint stipulation" on many issues to facilitate and expedite the process. We participated in this process in West Virginia in 2009 and in Florida in 2015. Waiting until the financing order is issued to begin many items with the statute encouraging but not requiring a 90-day process is risky. It could create a "rush to market" incentive which could prove costly to ratepayers.

19Q:Would granting CEI South "flexibility" in the Financing Order solve the
problem?

A: It solves one problem but creates another. With such flexibility, ratepayer
representation in the process is crucial, or the outcome the IURC expects at the time
it issues the Financing Order could change dramatically and materially for reasons
both within CEI South's control, but not fully considered. Some changes may be

1		beyond CEI South's control. CEI South recognizes this and proposed an Issuance
2		Advice Letter process following the Financing Order's issuance as the bonds are
3		structured, marketed, and priced. ⁸ This is when many material decisions are made,
4		and the terms of the RBBs' terms are locked in.
5 6	Q:	Is there anything about the structure of investment banking firms serving as underwriters that the IURC should consider in evaluating the Petition?
7	A:	Yes. It is important to understand that underwriting firms are not monoliths. They
8		are organized into different divisions, each managed and evaluated as a separate
9		profit and loss center. The compensation of investment bankers derives from the
10		separate results of these different divisions. The divisions have different customers.
11		The banking division, which pursues transactions and manages client relationships,
12		is distinct from the sales and trading division, which sell the securities to investors.

Within the sales and trading division there is usually a distinction between
institutional and retail sales. Institutions include banks, insurers and large money
managers.

Because income and profit come from transactions, there is tremendous pressure to write "tickets," to conduct transactions – and to do so quickly. Tickets are the forms that actually process client orders and earn commissions. No bond sales and trading division I know or have ever heard of is on retainer i.e., is paid a fee not associated with a transaction. Consequently, the incentive is, the more transactions a bond division completes, the quicker the sales and, the more income and profit there is to share among that division's employees.

⁸ Petition, paragraph 2, section D, subsection 6.

1	Divisions within an investment bank are further organized based on
2	securities "products" they underwrite or trade. One of the biggest challenges we
3	have encountered with RBBs is getting the attention and focus of the appropriate
4	divisions across the banks to assist in distributing the bonds at the lowest cost to
5	ratepayers. Barclays and other banks want to label these bonds as "asset-backed
6	securities" and not "corporate securities.' Structuring the bond as asset-backed
7	securities and not corporate securities limits the market for investors and drives up
8	the interest rate and cost of the bonds to ratepayers. Mr. Heller, who also worked
9	in large underwriting firms, discusses this in more detail.

10

Q:

How is this relevant to the Petition?

11 A: CEI South proposes a process relying heavily on underwriters' "professional 12 judgment" to achieve the "optimal" pricing to ratepayers. CEI South also stated in 13 its response to OUCC DR 9-2(y), included in Exhibit JF-3, that they intend to 14 pursue only a "best efforts" approach to marketing and pricing the bonds with 15 information solely coming from the underwriters.

16 However, the salespeople and the traders who will sell these RBBs to their 17 investor clients have no obligation to act in ratepayers' best interests which is 18 known as a fiduciary duty. Indeed, CEI South admits its chosen structuring advisor, 19 Barclays Capital, is not obligated to structure the bonds in the best interests of 20 ratepayers. That means neither the structuring advisor or the underwriters are 21 obligated to do anything in the best interests of ratepayers as opposed to their own 22 financial interest. Messrs., Maher, Schoenblum and Heller testimony discuss this 23 in more detail.

1		It has been my personal experience, both as an employee of major
2		investment banks for 17 years, as well as in 23 years of interacting with individuals
3		currently employed at major investment banks, that they are compensated by re-
4		selling securities quickly. Their primary clients are investors with whom they are
5		in the market frequently buying and selling securities. This "flow" of transactions
6		is critical to the financial interests of the underwriting firm and the related
7		individuals. Infrequent offerings of RBBs are not a priority.
8	Q:	What do these incentives mean for RBBs?
9	A:	Because neither utilities or the underwriters are incentivized to minimize the rates
10		or the costs to ratepayers, it calls for the inclusion of a third-party in the transaction,
11		one who is empowered to protect ratepayers and has a duty to those ratepayers.
12		Here, the entity best positioned and statutorily charged to do that in Indiana in
13		accordance with Mr. Leja D. Courter's testimony is the OUCC and its advisors.
14		This maintains the "checks and balances" and provides the Commission with the
15		information to make a final decision.
16 17 18	Q:	Does CEI South propose anything to resolve these issues of conflicts of interest and lack of fiduciary obligations to ratepayers by the structuring advisor and underwriters?
19	A:	CEI South only proposes filing an "Issuance Advice Letter" prior to the issuance
20		of the bonds to provide the IURC an opportunity to approve or disapprove the bond
21		offering. However, this will occur after CEI South makes all decisions as to the
22		bonds' structure, marketing, and pricing with the structuring advisor and
23		underwriters. CEI South only offers to keep the IURC apprised of what they are
24		deciding during this phase and only invite the IURC to observe the pricing

1 discussions.⁹

2 Q: Is CEI South's proposed process sufficient and consistent with what other 3 state commissions have approved under similar statutes?

A: No. I agree the IURC should make the final "go, no go" decision before the bonds'
issuance, and agree that an Issuance Advice Letter must be filed. However, the
process leading up to that final decision needs to produce an informed and
meaningful result for the IURC to review and consider. CEI South's proposal
excludes Indiana's statutory ratepayer representative, the OUCC, from this
important phase of the ratemaking process and the Commission's final decision.

Moreover, for the IURC to make an independent "go, no go" decision at the end of the process, it also needs expert analysis of the information it receives from the utility, structuring advisor and underwriters by the OUCC as the statutory representative of the ratepayers. This type of technical expertise is not part of the traditional expertise of the IURC staff or OUCC staff. As discussed below, many other states have employed getting independent expertise that have no conflicts of interest into the process in approving an Issuance Advice Letter process.

17 Simply "informing" the IURC at the end of the financing process of the 18 decisions being made by CEI South will not provide the IURC with the information 19 it needs to protect ratepayers and make the final decision as to whether the outcome 20 is "optimal" (as CEI South says it is committed to achieving) and the rates are just 21 and reasonable as discussed in Ms. Klein's testimony. Waiting until a final decision 22 needs to be made by the Commission before presenting them with the relevant

⁹ Jerasa Direct, p. 30, lines 25-30.

analyses of what and why it occurred is definitely a recipe for an inefficient and
 costly bond issuance.

The testimony of OUCC witness Ms. Klein describes in detail that commissioners need to provide for ratepayer representation during this process and have access to independent expert analysis of structure, marketing and pricing information contained in any Issuance Advice Letter. She discusses her personal experience as a commissioner in Texas at the beginning of its RBB program as well as other states.

9 Q: If the bond is AAA rated, won't that be sufficient protection and ensure the 10 best rate?

A: No. capital market participants often value bonds differently with the same
information. And there is no one "AAA" rate so that ratepayers get the best deal no
matter what. Thus, there can be a widespread variation in rates even with AAA

14 rated bonds. OUCC witness Mr. Maher and Mr. Sutherland discusses this in detail.

VI. <u>SUMMARY OF BEST PRACTICES FROM OTHER STATES FOR THE</u> <u>INDIANA PILOT PROGRAM</u>

- 15 Q: Please summarize these "best practices".
- 16 A: There are four basic principles guiding the "best practices" that have emerged.
 17 Each state may do some items differently but the items we have identified are:
- A decision-making standard for transaction participants in evaluating
 alternatives that will lead to achieving the lowest cost to the ratepayer and
 maximum present value savings under market conditions at the time of
 pricing;
- 22 2. Ratepayer representation in all matters relating to the structure, marketing

1		and pricing of the bonds including the use of independent technical
2		expertise and a financial advisor representing ratepayer interests on those
3		matters with the utility and underwriters;
4		3. Unqualified written certifications from the utility, underwriters and
5		ratepayer representative's financial advisor that the structure, marketing and
6		pricing of the bonds achieved the lowest cost under market conditions for
7		the chosen maturity at the time of pricing of the bonds; and
8		4. The Commission makes the final decision of whether the bonds as, and if,
9		formally proposed by the company be issued to meet the conditions of the
10		financing order and whether to issue a stop order or not.
11 12	Q:	How are these best practices implemented in a financing order such as the one proposed by the petitioner?
13	A:	In the financing order, the IURC establishes a post-Financing Order and pre-bond
14		issuance review process described earlier.
14 15		
		issuance review process described earlier.
15		issuance review process described earlier. This is the "flexible" process where the many technical, financial and
15 16		issuance review process described earlier. This is the "flexible" process where the many technical, financial and market-related issues raised in CEI South's Petition and in the OUCC's testimony,
15 16 17		issuance review process described earlier. This is the "flexible" process where the many technical, financial and market-related issues raised in CEI South's Petition and in the OUCC's testimony, that affect all ratepayers. These items are not finalized in the Financing Order
15 16 17 18		issuance review process described earlier. This is the "flexible" process where the many technical, financial and market-related issues raised in CEI South's Petition and in the OUCC's testimony, that affect all ratepayers. These items are not finalized in the Financing Order process because they depend on future circumstances concerning the rating
15 16 17 18 19		issuance review process described earlier. This is the "flexible" process where the many technical, financial and market-related issues raised in CEI South's Petition and in the OUCC's testimony, that affect all ratepayers. These items are not finalized in the Financing Order process because they depend on future circumstances concerning the rating agencies, market conditions and the various estimates of costs – most significantly
15 16 17 18 19 20		issuance review process described earlier. This is the "flexible" process where the many technical, financial and market-related issues raised in CEI South's Petition and in the OUCC's testimony, that affect all ratepayers. These items are not finalized in the Financing Order process because they depend on future circumstances concerning the rating agencies, market conditions and the various estimates of costs – most significantly the interest rates - that the Petitioner admits cannot be known with any degree of
 15 16 17 18 19 20 21 		issuance review process described earlier. This is the "flexible" process where the many technical, financial and market-related issues raised in CEI South's Petition and in the OUCC's testimony, that affect all ratepayers. These items are not finalized in the Financing Order process because they depend on future circumstances concerning the rating agencies, market conditions and the various estimates of costs – most significantly the interest rates - that the Petitioner admits cannot be known with any degree of certainty at the time of issuing the Financing Order.
decision to allow the bonds to be issued. It is only at that time that the Commission
 makes a final "go/no-go" decision.

However, to follow this proven "best practice" means amending CEI South's proposal to allow for flexibility, but also ensure that ratepayers' representatives are at the negotiating table and involved in material financing decisions as they are in these other jurisdictions.

7 8 9

Q: Should the IURC include provisions in a financing order designed to ensure the lowest cost of funds, maximum present value savings and other ratepayer protections?

A: Yes. As discussed in OUCC witnesses Mr. Courter's and Ms. Klein's testimony,
 the IURC's goal in this proceeding should be to ensure ratepayers receive the lowest
 cost possible and maximum present value savings while still achieving the
 securitization goal consistent with the Indiana law.

14 The proceeds of a bond issuance are cash dollars, a commodity. Dollars 15 have no quality component to them. For example, this is unlike the services of a 16 doctor or lawyer where a standard of "reasonable cost" might be appropriate. 17 Reasonableness is a range, and in any long-term financing, the total cost differences 18 within that range could be substantial. But in finance, one dollar is as good as 19 another. There is no reason to pay anything more for a bond issue than is necessary. 20 With a "lowest cost" standard, the emphasis is on eliminating waste and 21 inefficiency, instead of accepting it, because the interest rate and fees are in a range 22 of so-called "reasonableness." Ratepayer costs are at financial risk throughout the 23 financing process and need specific protections. And notably, while CEI indicated 24 in its response to the OUCC's DR 9.2(n)(iv), included in Exhibit JF-3, that it is committed to structuring and marketing the bonds to "optimize benefits," there is
 no commitment a specific "lowest cost" standard and structure that maximizes
 present value savings to the ratepayer.

4 Q: 5

Has a "lowest cost" standard been applied in utility and corporate bond offerings?

6 A: Yes. Throughout my almost 40 years in corporate finance, every treasurer, every 7 CFO, or other finance official I have dealt with or observed, always strove for the 8 "lowest cost" financing when pursuing a debt with a given maturity or equity 9 offering for his shareholders. This is simply an axiom of sound financial 10 management. One never wants to pay more than one absolutely must for capital 11 because the people responsible for paying back the debt generally see capital as a 12 scarce commodity. They do not want to waste it on higher costs and would rather 13 invest it in projects that earn a return. Every dollar is a dollar, and in this case, 14 every dollar is a ratepayer dollar. There is no reason to pay more for some dollars 15 versus others.

Ms. Klein's testimony shows that even when the enabling legislation did not require a lowest cost to ratepayer / maximum present value standard other state commissions such as Texas, Florida, Maryland, Louisiana and West Virginia decided to include this standard in their financing orders in addition to other protections.

21Q:Are there other ratepayer protections that need to be included in any financing22order concerning any of the proposed transaction documents?

A: Yes. There are 100's of pages of transaction documents to review and finalize.
Based on a review other financing orders approved in other states, at this time these

1	additional provisions should be included in the financing order.
2	1. CEI South retail electric rates should be adjusted to credit customers for
3	the utility's servicing fees in excess of incremental costs the utility's
4	administration fees in excess of incremental costs the value of amounts in
5	the Collection Account (other than the Capital Subaccount) immediately
6	after the bonds are fully repaid securitized charges collected after the
7	bonds are fully repaid. Mr. Sutherland addresses these issues in his
8	testimony, especially concerning tail end collections.
9	2. The standard of care in each of the following agreements that CEI South,
10	as servicer, and the special purpose entity established to issue the bonds
11	must adhere to and indemnify ratepayers for any actions that increase
12	costs to ratepayers. The standard of care should be a "negligence"
13	standard, not "gross negligence" as proposed by CEI South. CenterPoint
14	Energy Houston Electric, LLC, an affiliate of CEI South, included this
15	standard of care in a previous securitization filing for PUCT Docket No.
16	30485. ¹⁰ This standard of care should apply to the draft servicing
17	agreement.
18	3. Ratepayers should be beneficiaries of all CEI South representations and
19	warranties provided to the trustee, underwriters or others in the following
20	agreements, such that any breach of those representations or warranties

¹⁰ See Prospectus for CenterPoint Energy Transition Bond Company II, LLC, filed on Dec. 7, 2005, pp. 93, 95, found at <u>https://www.sec.gov/Archives/edgar/data/1310914/000095012905011687/h30993b5e424b5.htm</u>.

1		that cause an increase in cost to ratepayers, CEI South will make
2		ratepayers whole. This applies to the:
3		A. Servicing Agreement,
4		B. Administration Agreement, and
5		C. Sale Agreement.
6	4.	The special purpose entity established should be permitted to issue
7		additional bonds under separate financing orders so that the issuer is not
8		an asset-backed securities issuer and the bonds not asset-backed securities
9		within the meaning of Securities and Exchange Commission rules
10		governing the issuance of securities and Regulation AB. This has become
11		the market standard following the Duke Energy Florida Project Finance
12		LLC in 2016 ¹¹ and in the SCE Recovery Funding LLC in 2021. ¹²
13	5.	There should no amendments or waivers of default without Commission
14		Consent in the following agreements:
15		A. Indenture;
16		B. Servicing Agreement;
17		C. Administration Agreement; and
18		D. Sale Agreement.
19	6.	Finally, if deemed collections of the securitized charges are not remitted
20		daily, any servicer float/investment earnings of collections before

¹¹ See Prospectus for Duke Energy Florida Project Finance LLC, filed June 17, 2016, p. 55, found at <u>https://www.sec.gov/Archives/edgar/data/37637/000104746916013865/a2228973z424b1.htm</u>.

¹² See Prospectus for SCE Recovery Funding LLC, filed Feb. 10, 2022, p. 64, found at <u>https://www.sec.gov/Archives/edgar/data/92103/000119312522034503/d368069d424b1.htm</u>.

- 1 remittance to the trustee will accrue and be credited for the benefit of
- 2 customers/ratepayers.

VII. <u>IURC AND OUCC INVOLVEMENT IN THE IMPLEMENTATION OF</u> <u>THE FINANCING ORDER</u>

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O:

Should the IURC establish a process in the Financing Order to ensure the OUCC is more actively involved in this type of bond transaction than it is in traditional utility debt offerings?

6 A: Yes. For example, without OUCC involvement – with the use of its own 7 independent experts and advisors reviewing these contracts and negotiations – there 8 would be no advocate for the ratepayers in the process. There would be no one with 9 a fiduciary duty to work in the best interests of ratepayers, as more fully explained 10 by OUCC witness Mr. Maher. 11 In this transaction, the IURC issues an irrevocable financing order. But after 12 the Financing Order is issued in January, considerable work must still be done to 13 complete the transaction.

Once the RBBs are issued, and the transaction closes, the ratepayer bears all the costs directly, and those costs are not subject to further IURC review. Moreover, as proposed by CEI South, the IURC gives up all further review of the up-front and ongoing costs while promising to increase or decrease the securitization charge through the True-Up Mechanism to whatever amount is needed to pay off the bonds on time. This would result in a sacrifice of regulatory authority.

21 Q: How have other state commissions ensured that the lowest cost to the 22 ratepayers/ maximum present value savings has been achieved?

23 A: As OUCC Witness Ms. Klein's testimony details, many other state commissions

1		used ratepayer representation through independent financial advisors in the post-
2		financing order/ pre-bond issuance process leading up to an Issuance Advice Letter
3		process and a final decision by the Commission. They instructed those financial
4		advisors as well as ratepayer representatives to participate actively in all aspects of
5		the structuring, marketing and pricing of RBBs. This included reviewing the
6		earliest drafts of transactions documents and initial contacts with rating agencies as
7		well as investor presentations and the actual negotiations with underwriters at the
8		moment of pricing of the RBBs.
9 10 11	Q:	Other OUCC staff witnesses recommend that the Financing Order establish a "Bond Team" that includes the OUCC staff and the companies to participate in the structuring, marketing, and pricing Process of the RBBs. Do you agree?
12	A:	Yes, I agree.
13	Q:	Why does the recommended Bond Team not include underwriters?
14	A:	Underwriters are on the other side of the negotiating table from ratepayers'
15		representatives. They should not be part of internal discussions among CEI South
16		and the OUCC concerning how the Bond Team will negotiate with the underwriters
17		about interest costs.
18 19 20	Q:	The other OUCC witnesses further recommend the Bond Team participants be joint decision-makers on matters concerning the structuring, marketing, and pricing of the RBBs. Do you agree?
21	A:	Yes, I agree. It is both common sense and a proven "best practice." The
22		representatives of the those who pay the bills (i.e., the ratepayers) should be part of
23		the decision-making process.
	VIII	. CERTIFICATIONS TO ASSIST THE IURC TO MAKE A DECISION IN

VIII. <u>CERTIFICATIONS TO ASSIST THE IURC TO MAKE A DECISION IN</u> <u>AN ISSUANCE ADVICE LETTER PROCESS</u>

1 Q: Why are certifications from transaction participants important in a 2 transaction like this for the IURC to consider?

3 A: Certifications and opinion letters of any sort are designed to give comfort to a party 4 to a transaction that the deal has proceeded in accordance with the terms. In each 5 RBB issuance, a wide array of interested parties already receive certifications and 6 opinions of some sort, including the rating agencies, the underwriters, the investors 7 and the company itself. But as I testified earlier, RBBs are different because the 8 ratepayers are on the hook to pay back the debt through a special non-bypassable 9 surcharge and True-Up Mechanism. That makes the ratepayers (and, by extension 10 the commission or the consumer advocate who acts to protect the ratepayers) akin 11 to a party to the transaction. It should only be natural that they get the same type 12 of certifications that other parties to a transaction would get like the rating agencies,

13 trustee, SEC and even the underwriters.

14 Q: Are all certifications delivered to a commission by underwriters and advisors 15 the same?

16 A: No. They can vary widely. There are two types of certifications, "qualified" and
17 "unqualified." All transaction participants require that the certifications/opinions
18 they receive are not be qualified in any material way. Any certification given to
19 the IURC should not be qualified in any material way.

20 Q: Why does it matter that the certification not be qualified?

A: Certification in the RBB context essentially serves the same role that a "fairness opinion" does in a more traditional corporate merger or similar transaction where a board of directors has a fiduciary duty to act in the best interest of shareholders as described by Mr. Schoenblum. It provides confirmation to the IURC and to the ratepayers that they have gotten the best possible deal. If the certification contains

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caveats and qualifications, then it eliminates a lot of that security for the IURC and ratepayers.

3 Q: Is it preferable for a certification to be independent?

A: Certification from parties who don't stand to benefit from the transaction are
certainly stronger and better protect the ratepayers. Here, the OUCC proposes for
such certifications to come from OUCC's financial advisor, based on its
independent review of the transaction, including all relevant data, CEI South and
the underwriter.

9 Q: Why isn't a certification from CEI South's advisors or the underwriters
 10 sufficient?

A: CEI has indicated it intends to hire Barclays Capital Inc. to act as its lead structuring agent and banking witness. But CEI concedes in its response to OUCC DR 9.2(m)(1), included in Exhibit JF-3, that Barclays has no duty to act in the best interest of CEI or its ratepayers. The same is true of the underwriters, as described in CEI's response to OUCC DR 9-3(b), included in Exhibit JF-3. Thus, none of the certifications would come from any party whose obligations run to the ratepayer or are viewing the transaction from the ratepayer's perspective.

18 Q: Are there any particular issues with the underwriting process that might raise
 19 concerns without an independent certification?

A: CEI's response to OUCC's DR 9-2(y), included in Exhibit JF-3, indicates that it intends to structure the transaction as a "best efforts" underwriting. That means that the underwriters will not be committing to purchasing a set amount of securities regardless of the demand to be sold. Instead, they will take down the issued securities only if all listed securities are sold. This type of transaction has less risk for the underwriters, and without involvement in the underwriting process, there is limited ability for the commission to determine if this is in the best interests of the
 ratepayers, or just benefits the utility and underwriters.

3 **Q**: You earlier compared these certifications to fairness opinions. Can you 4 explain what a fairness opinion is and how it compares to these certifications? 5 Fairness opinions are provided by outside advisors to a transaction, such as a A: 6 merger, sale, leverage buyout or going private transaction. Frequently, but not 7 always, that advisor is an investment bank. The opinion will assess the value of the 8 transaction and is generally provided to the company's board to provide it with the 9 necessary information to act in accordance with their fiduciary duties to the 10 shareholders.

11 The post-deal certifications serve the same purpose. The OUCC's financial 12 advisor would analyze the final terms of any bond sale and provide an assessment 13 of whether the terms represent the lowest cost to the ratepayer. The commission, 14 then, can rely on that assessment in determining whether the approve the terms, 15 allowing it to exercise its duties to the rate holders.

16 Q: Are these fairness opinions commonly used in corporate transactions?

A: Yes. Fairness opinions help protect boards because they are evidence that the
boards' decisions were made in an informed manner, an important element of
establishing the "business judgment" of the board members is entitled to deference.
This matters in legal proceedings. Courts have pointed to the absence of a fairness
opinion as evidence that the board was not fully informed, even if such opinions
are not required by law.¹³ Because of these legal requirements, fairness opinions

¹³ Smith v. Van Gorkom, 488 A: 2d 858, 888-81 (Del. 1985) overruled on other grounds by Gantler v. Stephens, 965 A: 2d 695 (2009).

1 are a standard part of corporate practice.

2 Q: Are there conditions that must apply to a fairness opinion?

A: Yes. Courts have recognized that for boards to reasonably rely on a fairness opinion it must be "reliable" and come from a "sufficiently independent" financial advisor.¹⁴ Issues with a fairness opinion can arise where, for example, the bank issuing the opinion did not have access to or review the proper data, when there are conflicts of interest for the bank, or where the analysis did not address or consider relevant scenarios.

9 Q: What would similar standards look like in the context of certifications?

10 A: It would involve having someone or some entity who was independent of the utility 11 and underwriters conduct a review with full access to information about the 12 transaction. In short, it would involve having the OUCC and its financial advisors, 13 whose only duties would be the ratepayers, fully involved in the transaction and 14 issue an unqualified certification that the lowest possible cost was obtained and 15 presented to the IURC to consider in evaluating CEI South's Issuance Advice 16 Letter.

17Q:When you served as the advisor for the issuances in Texas, what tools allowed18you to provide an informed opinion on behalf of the Texas ratepayers?

A: Our 2005 Statement of Work in Texas included a wide array of provisions that
allowed us to fully be involved in the transaction. See Exhibit JF-6. For example,
we participated fully in all plans and decisions, we reviewed and approved the
marketing materials for the issuance, we reviewed and approved all interactions

¹⁴ Frank v. Elgamel, 2014 WL 957550, * 21 (Del. Ch. Mar. 10, 2014).

1		with rating agencies, we reviewed the underwriters' plans for marketing and their
2		lists of investors, we coordinated price talks and approved the underwriters' pricing,
3		and we had extensive authority related to document review and due diligence.
4		We were involved in the issuance of those bonds from "tee to green," and
5		thus we could tell the commission in an unqualified opinion/certification ratepayer
6		they got the best rate with confidence. Under the current proposal, there is no one
7		independent fulfilling that role and thus no one who can provide those types of
8		assurances to the commission and the ratepayers.
9 10	Q:	Are there any examples of inadequate financial advisor certifications that have been delivered in RBB transactions in other states?
11	A:	Yes. The certification used by the New Jersey Board of Public Utilities was found
12		to be inadequate by the Florida Public Service Commission staff during the
13		consideration of its first RBB issue in 2006 for Florida Power & Light Company. ¹⁵
14		Also, in North Carolina, the commission received a certification ¹⁶ from an
15		independent financial advisor that did not meet the rigorous standards of "best
16		practices" associated with opinions delivered regarding financial transactions as
17		discussed in Texas and Florida. For example, it makes too many assumptions and
18		qualifications to be meaningful. It states that the advisor has assumed, among many
19		other assumptions "without independent investigation, the accuracy and
20		completeness of information from the Company, the docket, the Financing Order,

 ¹⁵
 See
 Florida
 Public
 Service
 Commission
 staff
 decision
 memo
 at

 <u>http://www.floridapsc.com/library/filings/2006/04068-2006/04068-2006/04068-2006/04068-2006/04068-2006/04068-2006/04068-2006/04068-2006/04068-2006/04068-2006/04068-2006/04068-2006/04068-2006/04068-2006/04068-2006/04068-2006/04068-2006/04068-2006/04068-2006/04068-2006/04068-2006/04068-2006/04068-2006/04068-2006/04068-2006/04068-2006/04068-2006/04068-2006/04068-2006/04068-2006/04068-2006/04068-2006/04068-2006/04068-2006/04068-2006/04068-2006/04068-2006/04068-2006/04068-2006/04068-2006/04068-2006/04068-2006/04068-2006/04068-2006/04068-2006/04068-2006/04068-2006/0408
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- 1 the Underwriters and customary industry sources upon which we have relied at or 2 prior to the Pricing for the purposes of this letter." [Emphasis added.] 3 The reliance upon information from a conflicted source, the underwriters, 4 who as Mr. Maher details explicitly state in their underwriting agreement that they have conflicts of interest and the addition of "without independent investigation" 5 6 materially undermines the value of the opinion. 7 It is also recognized in many other contexts that for valuations to be 8 accurate, they must be independent. For example, the law only provides protection 9 to board members only when they rely on "independent" fairness valuations.¹⁷ 10 When the state wishes to condemn property, it must hire independent appraisers to value the property, not someone with an interest in the sale, to ensure citizens' 11 rights are protected.¹⁸ Courts likewise recognize that valuations that come from 12 parties with a direct financial interest in the result are of limited evidentiary value.¹⁹ 13 14 Intuitively, we recognize that independent valuations are better in our daily 15 lives as well. If you purchased a home, you would not rely solely on the value and 16 inspection from the seller's real estate agent. Instead, you would want to do your
- 18

17

19 ava

inspection from the seller's real estate agent. Instead, you would want to do your own due diligence, with an agent who was loyal to you. If you bought a car, you wouldn't simply take the dealer's word that he was offering you the best price available.

¹⁷ Frank v. Elgamel, 2014 WL 957550, * 21 (Del. Ch. Mar. 10, 2014).

¹⁸ Wagler v. West Boggs Sewer Dist., 898 N.E. 2d 815, 819 (Ind. 2008).

¹⁹ *Eubank v. Pella Corp.*, 753 F. 3d 718, 727 (7th Cir. 2014) (declining to credit valuation of class action settlement by accountant hired and paid for plaintiff's law firm).

1		The types of certifications that commissions in other states have found
2		invalid, then, fall into one of two traps. Either they are not independent, or the
3		advisor is not given any information or investigatory authority to make the
4		certification reliable. These certifications turn the commonsense preference for an
5		independent assessment based on verified information on its head. Instead, these
6		certificates simply take the word of interested parties at face value, which is a
7		substantial departure from what you would to do ensure you got a good price in any
8		other walk of life.
9 10	Q:	Have you seen unqualified underwriter certifications that should be acceptable to IURC?
11	A:	Yes. Ms. Klein's testimony in North Carolina included a redacted copy of an
12		unqualified certification. ²⁰
14		unquanned certification.
12	Q:	What language does this certification use?
	Q: A:	
13	-	What language does this certification use?
13 14	-	What language does this certification use? It requires a certification that the sale occurred in conformance with the lowest
13 14 15	-	What language does this certification use? It requires a certification that the sale occurred in conformance with the lowest charges or costs in conformance with the market conditions at the time. This
13 14 15 16	-	What language does this certification use? It requires a certification that the sale occurred in conformance with the lowest charges or costs in conformance with the market conditions at the time. This language should be used in the certifications from CEI South, the Underwriter and
13 14 15 16 17	-	What language does this certification use? It requires a certification that the sale occurred in conformance with the lowest charges or costs in conformance with the market conditions at the time. This language should be used in the certifications from CEI South, the Underwriter and OUCC's financial advisor. The language should be embodied in the Financing
13 14 15 16 17 18	A:	What language does this certification use? It requires a certification that the sale occurred in conformance with the lowest charges or costs in conformance with the market conditions at the time. This language should be used in the certifications from CEI South, the Underwriter and OUCC's financial advisor. The language should be embodied in the Financing Order and in any agreement with an underwriter or a financial advisor.
 13 14 15 16 17 18 19 	A: Q:	What language does this certification use? It requires a certification that the sale occurred in conformance with the lowest charges or costs in conformance with the market conditions at the time. This language should be used in the certifications from CEI South, the Underwriter and OUCC's financial advisor. The language should be embodied in the Financing Order and in any agreement with an underwriter or a financial advisor. How does the certification relate to the broader transaction?

²⁰ North Carolina Utilities Commission, Docket No. E-2, Sub 1262 Docket No. E-7, Sub 1243, Direct Testimony of Rebecca Klein, Klein Exhibit 4 (December 21, 2020).

1		the commission with the requisite assurances. Many other certifications and
2		opinions are required at closing for others in the transaction. This certification for
3		the IURC is well established by precedents in other states under similar
4		securitization statutes and rules governing the role of commissions in establishing
5		just and reasonable rates.
6 7	Q:	Has Saber agreed to provide these certifications in any of its agreement before?
8	A:	Yes, part of Saber's scope of work when it served as the financial advisor for the
9		issuance of RBBs in Texas required such a certification. In those transactions,
10		Saber was required to provide a certification letter prior to the close of the
11		transaction that the structure and pricing of the transaction resulted in "the lowest
12		transition bond charges given market conditions and the terms of the financing
13		order." ²¹
14	Q:	Did the underwriter also provide a certification in Texas?
15	A:	Yes. In several proceedings in which we were involved, the underwriter was
16		required to provide a certification.
17 18	Q:	How do preferred certifications differ from the letter submitted in North Carolina that contained inadequate protections?
19	A:	They differ in several ways. First, there should be no secondhand knowledge or
20		reliance on information provided by third parties. The underwriters should make
21		their certification regarding the conditions of the deals that they were directly
22		involved. Saber had also been permitted to have a substantive voice on behalf of

23 the ratepayer and the commission throughout the process. Thus, it was able to

²¹ See Exhibit JF-6.

1

submit its own independent assessment of the transaction.

2 Second, Saber was not conflicted. It was hired by the commission and 3 worked on behalf of the ratepayers. Its only duty was to provide accurate 4 information to the commission to allow the commission to assess whether to 5 proceed with the transaction. In cases like North Carolina where the certification 6 incorporated and relied on other parties who had a conflict of interest – even though 7 the advisor providing it did not have a specific conflict -, the commission had, in 8 effect, no independent source advising it. In such a situation, the commission is 9 essentially relying on the underwriter to police itself. That is contrary to financial 10 market principles as discussed by Messrs. Maher, Schoenblum, Heller and 11 Sutherland.

IX. <u>RBB BEST PRACTICE PRECEDENTS FROM OTHER STATES</u>

12 **Q**: Have commissions in other states been actively involved in the structuring, marketing, and pricing of these transactions after the issuance of the financing 13 orders? 14 15 Yes. Commissions in Texas, Florida, West Virginia, New Jersey, California, A: 16 Maryland and Louisiana have been actively involved in the structuring, marketing, 17 and pricing of RBBs. Significantly, the California Public Utilities Commission 18 ("CPUC"), one of the first states to sponsor RBBs, initially did not participate 19 actively after issuing its Financing Orders in 1997 and 1998. However, when a 20 second round of RBBs was authorized in 2004, the CPUC created an active role for 21 a Commission financing team to approve post-Financing Order matters. It 22 confirmed this role again for its third round of RBBs in November 2020 in a

Financing Order for Southern California Edison Company,²² the CPUC's first
 Financing Order in 16 years. The Florida Public Service Commission ("FPSC")
 and PUCT have had the most active post-Financing Order participation in
 establishing its program beginning in 2001, as Ms. Klein describes.

5 I will identify two transactions (though there are many other) one small and 6 one large, to illustrate the results that can be achieved by having an active and 7 involved ratepayer representative in the structuring, marketing, and pricing of 8 RBBs. In September 2005, Public Service Electric and Gas Company of New 9 Jersey sponsored the issuance of \$102 million of RBBs. Saber served as financial 10 advisor to the New Jersey Commission, and Credit Suisse ("CS") was the lead 11 underwriter. Normally a transaction of this size might have been difficult to sell 12 because of its small size relative to other competing investments.

13 In December 2005, CenterPoint Energy of Texas initially offered \$1.2 14 billion of RBBs to the market in PUCT Docket No. 30485. Saber was the financial 15 advisor with joint decision-making responsibility, along with the issuer. The PUCT 16 acted through the financial advisor. Credit Suisse was one of the bookrunning underwriters along with Lehman Brothers. In this case, the large size of the 17 18 transaction, coupled with the timing of the issuance at the end of the year (which 19 traditionally is not a good time to sell securities) posed special challenges. 20 Nevertheless, the RBBs received worldwide investor demand at record-low credit 21 spreads. The transaction was increased to \$1.85 billion, with over one-third of the

²² See California Public Utilities Commission, Application 20-07-008, Financing Order (November 5, 2020) found at: https://docs.cpuc.cA:gov/PublishedDocs/Published/G000/M350/K707/350707656.PDF.

1		bonds being sold to foreign investors for the first time ever. Yet, the credit spread
2		levels the PUCT achieved for ratepayers through these Texas RBBs, on the longest
3		maturities, were significantly below all other previously offered RBBs in any state.
4	Q:	How were these transactions compared to previous utility RBBs issued?
5	A:	According to an analysis prepared by Lehman Brothers, these transactions achieved
6		one of the lowest weighted average credit spreads versus all previous deals. ²³ Other
7		analyses also showed the success of the transactions done in Texas at this time. ²⁴
8 9 10	Q:	Did Saber Partners serve as financial advisor to the PUCT in connection with the \$1,739,700,000 principal amount of RBBs issued in 2006 for AEP Texas Central Company Docket No. 32475?
11	A:	Yes. That issuance of RBBs consisted of five separate sequential-pay tranches.
12		Each tranche was separately priced. Attached as Exhibit JF-10 is a copy of page
13		49 of the "Pricing Book" for that RBB transaction. This Pricing Book is dated
14		October 4, 2006, and was prepared by Credit Suisse, the bookrunning underwriter,
15		as a report to the sponsoring utility and to the PUCT about the success in pricing
16		each of the five tranches.
17 18 19 20	Q:	When these RBBs were priced, and the underwriters entered into an Underwriting Agreement committing to purchase all \$1,739,700,000 principal amount of RBBs, did the underwriters have orders from investors for all these bonds?
21	A:	No. At final pricing, page 49 of the "Pricing Book," Saber Partners requested the
22		underwriters prepare to memorialize the transaction process, reports that the
23		underwriters had orders for more than 100% of tranches 1, 2, 3 and 5, but for only
24		96% for tranche 4. Tranche 4 had a weighted average life of 10 years and a

²³ Exhibit JF-7, Lehman Brothers Pricing Comparison.

²⁴ Exhibit JF-8, Barclays RRB Spread Summary and Exhibit JF-9, Texas Bond Study.

- 1 principal amount of \$437,000,000. At final pricing, the underwriters did not have
- 2 orders for \$17,480,000 of Tranche 4.

3Q:If the underwriters were unable to find investors between pricing and the4October 11, 2006, closing date, who would be obligated to purchase the5\$17,480,000 of bonds not already pre-sold to investors?

A: The underwriters would be required to use their own capital to purchase this
\$17,480,000 of bonds at the initial public offering price (less the agreed upon
underwriter's discount set forth in the Underwriting Agreement). To our
knowledge the underwriters sold the remaining amount without asking to re-price
the entire issue and made their full fees.

11 This is an important and critical point about the lowest cost under market 12 conditions at the time of pricing. It is not unusual or extraordinary for an 13 underwriter not to have 100% orders for every bond. Underwriters often 14 "underwrite" and take bonds into inventory and sell the bonds at a later time, 15 perhaps that same day or even later. The entire issue or tranche does not have to 16 increase – increasing the costs to ratepayers - to sell the last bond as what CEI South 17 and Barclays appear to be saying here.

18 Q: Did outside legal counsel to AEP Texas Central deliver its opinion that those 19 RBBs were validly issued?

20 A: Yes. A copy of Sidley Austin LLP's legal opinion was filed with the SEC.²⁵

X. <u>SPECIFIC PRECEDENTS FROM TEXAS RBB ISSUANCES INVOLVING</u> <u>CEI SOUTH AFFILIATE RELEVANT TO THE IURC</u>

- 21 Q: Has CEI South, or its affiliates, been involved with RBB issuances in the past?
- 22 A: Yes, affiliates of CEI South have been involved with five (5) different securitization

²⁵ The document can be found at:

https://www.sec.gov/Archives/edgar/data/18734/000119312506185414/dex51.htm

1		proceedings in Texas. As indicated in CEI South's response to OUCC DR 8-2(a),
2		included in Exhibit JF-3, CEI South affiliates were involved in PUCT Docket Nos.
3		21665, 30485, 34448, 37200 and 39809. The Financing Orders in these cases are
4		included in OUCC Witness Leja Courter's testimony. The Financing Order for
5		PUCT Docket No. 21665, was issued on May 31, 2000; March 16, 2005, for PUCT
6		Docket No. 30485; September 18, 2007, for PUCT Docket No. 34448; August 26,
7		2009, for PUCT Docket No. 37200; and October 27, 2011, for PUCT Docket No.
8		39809.
9 10 11	Q:	In any of these proceedings, did the PUCT authorize designated personnel, representatives, or an independent financial advisor to participate in the pricing, marketing, and structuring of the bonds?
12	A:	Yes, in all five proceedings, PUCT Docket Nos. 21665, 30485, 34448, 37200 and
13		39809, the PUCT provided that designated personnel, representatives, or a financial
14		advisor would participate on the Commission's behalf directly with CenterPoint in
15		negotiations regarding the structuring, marketing, and pricing of the bonds.
16 17 18	Q:	What was the authority of the designated personnel, representatives, or a financial advisor participating in negotiations regarding the structuring, marketing, and pricing of the bonds?
19	A:	The PUCT states the designated personnel or financial advisor, "shall participate
20		directly with Applicant in negotiations regarding the pricing, and structuring of the
21		transition bonds, and shall have equal rights with Applicant to approve or
22		disapprove the proposed pricing, marketing and structuring of the transition bonds."
23		(PUCT Docket No. 21665, Financing Order, p. 63, Ordering Paragraph 22 (May
24		31, 2000)) Similar language is included in the other Financing Orders. See, e.g.,
25		PUCT Docket No. 30485, Financing Order, p. 74, Ordering Paragraph 26 (March

- 1 16, 2005); PUCT Docket No. 39809, Financing Order, p. 71, Ordering Paragraph
- 2 26 (October 27, 2011).

Q: Did the PUCT also require, as part of the issuance advice letter, that the
 structure and pricing of the bonds result in the lowest transition-bond charges
 consistent with market conditions at the time that the bonds are priced in the
 Financing Order?

7 A: Yes. In all five proceedings, the PUCT required that the issuance advice letter, 8 "shall certify to the Commission that the structure and pricing of that series results 9 in the lowest transition-bond charges consistent with market conditions at the time 10 that the transition bonds are priced, and the general parameters (including the 11 agreed amortization structure) set out in this Financing Order." (PUCT Docket No. 12 21665, Financing Order, p. 58, Ordering Paragraph 5 (May 31, 2000)) Again, 13 similar language is included in the other Financing Orders. See, e.g., PUCT Docket No. 30485, Financing Order, p. 68, Ordering Paragraph 4 (March 16, 2005); PUCT 14 15 Docket No. 37200, Financing Order, p. 71, Ordering Paragraph 6 (August 26, 16 2009).

17 Q: Did the PUCT require the same type of certification from the bookrunning 18 underwriter(s)?

A: Yes, in four of the five financing orders, PUCT Docket Nos. 30485, 34448, 37200
and 39809, the PUCT stated: "The Commission's financial advisor or designated
representative shall require a certificate from the bookrunning underwriter(s)
confirming that the structuring, marketing, and pricing of the transition bonds
resulted in the lowest transition bond charges consistent with market conditions and
the terms of this financing order." PUCT Docket No. 30485, Financing Order, p.
55, Finding of Fact 110 (March 16, 2005).

1 **Q**: Should CEI South be familiar with the "best practices" of 1) having designated 2 personnel or an independent financial advisor participate directly with it in 3 negotiations regarding the structuring marketing, and pricing of the bonds, and 2) requiring certifications that the structure and pricing of the bonds 4 5 results in the lowest securitization charges to ratepayers? 6 Yes, through its affiliate in Texas and the fact that all offerings of securities are A: 7 coordinated through a central source, CEI South should be very familiar with these 8 best practices, as they were required to follow these "best practices" in five different 9 transactions over a period of approximately ten years. 10 **Q**: Are you personally familiar with how these practices came about in Texas? 11 A: Yes. I attended an open meeting of the PUCT on February 24, 2000, where the 12 PUCT discussed the process, it wanted in establishing its initial RBB offering 13 similar to where the IURC is today in considering this proceeding. Saber Partners 14 then served as the designated independent financial advisor on the first six 15 financing orders and subsequent RBB offerings including CenterPoint's initial 16 RBB offering in 2001 and second offering in 2005. We also initiated and negotiated 17 ratepayer protections in all the transaction documents. Former PUCT 18 Commissioner, Ms. Klein, provides more detail on the PUCT objectives. 19 In the February 24, 2000, open meeting did The PUCT find that having a **O**: 20 financial advisor was advisable? 21 As stated in the Financing Order for PUCT Docket No. 21665, the PUCT A: 22 specifically found that a financial advisor was essential. Whereas previously, the 23 advisor role was envisioned as more advisory in nature, now (in 2000), the 24 Commission PUCT wanted a change. According to Chairman Wood:

- 1 One of the earlier iterations about the role of the financial advisor 2 had more or what I call sitting out in the waiting room aspect to it, 3 and I think we specifically rejected that approach in our February 4 10th or whatever meeting we did that; that we want you in the 5 room...they're [the financial advisor] in the room anyway and 6 they've got all these responsibilities for which they'll be well 7 compensated and that's kind of how this is going to work.²⁶
- 8 Q: In the February 24, 2000, open meeting, did the PUCT specifically direct that
 9 the financial advisor was to have a scope of services as broad as was in
 10 CenterPoint's PUCT Docket No. 30485?
- 11 A: The Commissioners requested a scope of services that is comparable to current, at
- 12 the time, proposals. Commissioner Walsh stated:
- 13I think our advisor's responsibility is to make sure that given all the14conditions that exist in the market at any given time . . . And then15our advisor would not sign off until he was satisfied that in fact the16- you know, the trigger could not be pulled until our advisor said,17"Yes, given all the conditions in the market this is a reasonable18economic deal.²⁷
- 19 First, Commissioner Walsh stated that no bonds should be issued until the
- 20 financial advisor was satisfied that the criteria (in the financing order) were satisfied
- 21 which had an issuance advice letter as proposed by CEI South.²⁸
- Second, even though the PUCT Commissioners were advised and fully aware that an increased scope of services would also entail increased fees, the Commission PUCT still requested the delivery of an opinion to consider in the making their final "go/no go" determination as part of the process. In the context of a discussion regarding the delivery of the opinion, Chairman Wood stated: "That

²⁶ Exhibit JF-11. Transcript of Proceedings, Open Meeting of the PUCT, pg. 10, lines 24-15 (February 24, 2000).

²⁷ Ibid., pg. 2, lines 5-22.

²⁸ Ibid., pg. 2, lines 4-6: ("... these bonds would not be issued until our advisor basically said, 'Yes, okay,' under those criteria").

1		is exactly what I want you to do and your folks to do for this Commission."29
2		Third, the Commissioners all agreed that the financial advisor and the
3		underwriters should cooperate and join in the certification that the statutory
4		requirements were met and that the best possible deal for the ratepayers was
5		achieved. During a discussion regarding the due diligence process entailed in the
6		structuring, marketing, and pricing part of the transaction, Commissioner Walsh
7		stated: "I would hope that you would be more involved in the process So that by
8		the time they [the underwriters] say this is the deal, you will have already sort of
9		looked at it with them." ³⁰
)		looked at it with them.
10 11	Q:	In the February 24, 2000, open meeting, did the PUCT explain why it believed the financial advisor should perform this broad scope of services?
10	Q: A:	In the February 24, 2000, open meeting, did the PUCT explain why it believed
10 11		In the February 24, 2000, open meeting, did the PUCT explain why it believed the financial advisor should perform this broad scope of services?
10 11 12		In the February 24, 2000, open meeting, did the PUCT explain why it believed the financial advisor should perform this broad scope of services? Commissioner Perlman explained that the combination of requiring that, (a) the
10 11 12 13		In the February 24, 2000, open meeting, did the PUCT explain why it believed the financial advisor should perform this broad scope of services? Commissioner Perlman explained that the combination of requiring that, (a) the Company (or someone) certify to the Commission PUCT that everything that was
10 11 12 13 14		In the February 24, 2000, open meeting, did the PUCT explain why it believed the financial advisor should perform this broad scope of services? Commissioner Perlman explained that the combination of requiring that, (a) the Company (or someone) certify to the Commission PUCT that everything that was done consistent with the Statute, and (b) that the best deal was achieved, would

²⁹ Ibid., pg. 9, lines 1-2.

³⁰ Ibid., pg. 9, lines 1-4, 10-13.

³¹ Ibid., pg. 3, lines 7-17.

- 1Q:In addition to the certification from CenterPoint described in the financing2order, did CenterPoint provide any supplemental certification?
- 3 A: Yes. For PUCT Docket No. 30485, CenterPoint provided the PUCT and the
- 4 financial advisor a more detailed supplemental certification than was included by
- 5 the Commission in the Texas issuance advice letter process.³²

XI. <u>PRECEDENTS FROM THE FLORIDA PUBLIC SERVICE</u> <u>COMMISSION RELEVANT TO THE IURC</u>

6 Q: In connection with issuing Florida Power and Light's ("FP&L") first storm
7 recovery bonds in 2006^{33,} did the Florida authorizing statute require Florida
8 Public Service Commission ("FPSC") to achieve a lowest cost to the ratepayer
9 standard?

- 10 A: No. The Florida statute was silent on the subject, similar to the Indiana, West
- 11 Virginia, Louisiana, Maryland and other statutes.

12 Q: Did the FPSC decide that a lowest cost standard should be included in its 13 financing order?

- 14 A: Yes. The FPSC decided active oversight in a post-financing order process should
- 15 be applied to its inaugural program. The Financing Order stated:

³³ Florida Public Service Commission, Docket No. 060038-EI, Financing Order, Order No. PSC-06-0464-FOF-EI (May 30, 2006), as amended by Order PSC-06-0626-FOF-EI (July 21, 2006).

1 2 3 4 5 6 7 8 9		While we recognize the need for some degree of flexibility with regard to the final details of the storm-recovery bond securitization transaction approved in this Financing Order, our primary focus is upon meeting all statutory requirements and ensuring that the structuring, marketing, and pricing of storm-recovery bonds will result in the lowest storm-recovery charges consistent with (i) the terms of this Financing Order and applicable law and (ii) the prevailing market conditions at the time of the offering and pricing of the storm-recovery bonds (the lowest-cost objective") ³⁴
10		The FPSC was in the same position as the IURC is today in considering the
11		petition of Florida Power & Light which proposed an issuance and issuance advice
12		letter process that is very similar to what CEI South is proposing.
13 14 15	Q:	Did the Financing Order state that, in addition to a lowest cost standard, a Bond Team would be established to participate in the structuring, marketing, and pricing of those storm recovery bonds?
16	A:	Yes. The FPSC established a post-Financing Order / pre-bond issuance review
17		process that included a Bond Team. ³⁵ In addition, when presenting the issue to the
18		FPSC, public staff recognized the approach taken in Texas and wrote:
19 20 21 22 23 24 25 26 27 28 29		The limitations on the Commission's involvement in the pricing of the storm recovery bonds are unnecessary and will undermine the transparency of the transaction. (TR 1174-1 176) The actual interest rate payable on the storm recovery bonds is not fixed until the very last moment. (TR 690) The approach suggested by FPL is fundamentally at odds with the approach used to obtain superior pricing results in the five prior Texas transactions and in the 2005 New Jersey transaction. The Commission's financial advisor needs to be an active and visible participant in the actual pricing process in real time if the Commission is to obtain maximum benefits for ratepayers. ³⁶

³⁴ Florida Public Service Commission, Docket No. 060038-EI, Order No. PSC-06-0464-FOF-EI, p. 6 (May 30, 2006).

³⁵ *Id.*, p. 6-7.

³⁶ Florida Public Service Commission, Docket No. 060038-EI, Staff Opinion Memorandum, p. 214 (May 8, 2006) located at: <u>http://www.floridapsc.com/library/filings/2006/04068-2006/04068-2006.PDF</u>.

1		The FPSC's Financing Order came after a fully contested case and
2		consideration of a detailed record discussing ratepayers' core issues and the utility's
3		response.
4	Q:	How were the bonds issued?
5	A:	FPL chose to do a competitive bid and gave assurances to the FPSC that the credit
6		spreads on those bonds would be equal or be below those of an offering for AEP in
7		Texas and for Monongahela Power and Potomac Edison in West Virginia that or
8		shareholders would absorb the difference.37 The competitive bid process
9		succeeded.
10 11 12 13	Q:	When Duke Energy Florida, LLC ("DEF") applied to the FPSC for a financing order in 2015 authorizing the issuance of securitized Ratepayer-Backed Bonds, did DEF recommend the FPSC's financing order establish a similar Bond Team? ³⁸
14	A:	No, it did not.
15 16 17	Q:	As the FPSC's staff financial advisor in 2007 for the FPL Proceeding and again in 2015 DEF proceeding, did Saber Partners recommend the FPSC's
		Financing Order direct a Bond Team be formed?
18	A:	
18 19 20	A: Q:	Financing Order direct a Bond Team be formed?
19		Financing Order direct a Bond Team be formed?Yes.How did the FPSC resolve this difference in FPL, DEF and FPSC's Financial
19 20		Financing Order direct a Bond Team be formed?Yes.How did the FPSC resolve this difference in FPL, DEF and FPSC's Financial Advisor's recommendations concerning forming a Bond Team?
19 20 21		 Financing Order direct a Bond Team be formed? Yes. How did the FPSC resolve this difference in FPL, DEF and FPSC's Financial Advisor's recommendations concerning forming a Bond Team? A: The 2006 proceeding was a fully contested case and the FPSC rendered its

³⁷ Florida Public Service Commission, Docket No. 060038-EI, Issuance Advice Letter (May 16, 2007) found at: <u>http://www.floridapsc.com/library/filings/2007/04054-2007/04054-2007.PDF</u>.

³⁸ Florida Public Service Commission, Docket No. 150171-EI, Petition (July 27, 2015).

- 1 Proposed Stipulations on Financing Order Issues states:
- If the Commission votes to issue a Financing Order, what postFinancing Order regulatory oversight is appropriate and how should
 that oversight be implemented?

5 6 DEF's customers will be effectively represented throughout the 7 proposed transaction. DEF, its structuring advisor, and designated 8 Commission staff and its financial advisor will serve on the Bond 9 Team. One designated representative of DEF and one designated representative of the Commission shall be joint decision makers for 10 all matters concerning the structuring, marketing, and pricing of the 11 12 bonds except for those recommendations that in the sole view of 13 DEF would expose DEF or the SPE to securities law and other 14 potential liability (i.e., such as, but not limited to, the making of any 15 untrue statement of a material fact or omission to state a material 16 fact required to be stated therein or necessary in order to make the statements made not misleading) or contractual law liability (e.g., 17 18 including but not limited to terms and conditions of the underwriter 19 agreement(s)). The final structure of the transaction, including 20 pricing, will be subject to review by the Commission for the limited purpose of ensuring that all requirements of law and the Financing 21 22 Order have been met.³⁹

- 23 These stipulations are reflected in the FPSC's Financing Order for the 2015
- 24 DEF RBB transaction. DEF fully accepted these conditions and worked with the
- 25 FPSC and Saber Partners to complete a highly successful transaction, exceeding all
- 26 DEF's prior estimates for maximum present value savings to the customers. The
- 27 two longest tranches achieved the tightest spreads to benchmark rates/lowest rates
- ever sold prior to that time as described by Mr. Sutherland.

XII. <u>RECOMMENDED PROCEDURES</u>

³⁹ Florida Public Service Commission, Docket No. 150171-EI, "Proposed Stipulations on Financing Order Issues." (October 13, 2015), found at: <u>https://www.floridapsc.com/library/filings/2015/06485-2015/06485-2015.pdf</u>.

1 **Q**: To summarize your testimony what are the most important best practices for 2 **Indiana's pilot program?** 3 A: Following proven best practices would benefit Indiana ratepayers in establishing 4 the proposed securitized bond program and in the initial public offerings of RBBs 5 as OUCC Witnesses Ms. Klein and Messrs. Schoenblum, Maher and Sutherland 6 explain. The best practices I highlight are: 7 1. The IURC should use its authority to include terms and conditions in the 8 Financing Order to provide for ratepayer representation through the OUCC 9 at all stages of the process in accordance with Mr. Courter's testimony, 10 which will protect ratepayers in structuring, marketing, and pricing the 11 RBBs. Examples of these conditions are in the Findings of Fact in the 12 FPSC Financing Order and Texas Financing Order referred to in this 13 testimony and attached to Ms. Klein's testimony. 14 2. The IURC should direct CEI South to collaborate with the OUCC and its 15 advisors and counsel through a "Bond Team" to ensure the "lowest cost" 16 standard is achieved in an expeditious and efficient manner. This can be 17 accomplished using the expertise of independent financial advisors, like 18 Saber Partners, to discern how that can be achieved under market conditions 19 at the time. Independent means with a duty to the OUCC as the 20 ratepayer representative. 21 3. All costs of OUCC's advisors and counsel related to the post-financing order/pre- bond issuance process would be treated the same as the utility's 22 23 advisors and counsel fees i.e., as a financing cost of the bonds and paid from

1 the bond proceeds at closing as financing costs including counsel and 2 advisors are authorized by the securitization statute. This is also how these 3 costs are treated in jurisdictions with ratepayer representatives and 4 independent financial advisors. Some commissions have the utility pay for 5 the advisor chosen by the ratepayer representative and be reimbursed in the 6 bond transactions to prevent the ratepayer representatives' advisor from 7 being contingent on the transaction and not compensated should the utility 8 or commission decide it should not proceed.

9 4. After pricing but before closing, CEI South, the Underwriter and OUCC's 10 financial advisor should each certify in writing, without any material 11 qualifications, that the lowest cost standard under market conditions at the 12 time has been achieved. The form of these certifications should be in 13 accordance with the form I previously discussed, and the examples 14 provided from other transactions as discussed in Ms. Klein's testimony. 15 This will provide the IURC the needed information and the time to stop the 16 transaction if it determines that the standard is not achieved. The IURC would also have the authority to allow the transaction to proceed whether 17 18 or not it receives the required certifications. The final decision always 19 remains with the IURC.

20 Q: Does this conclude your testimony?

21 A: Yes, it does.

Summary

Since 1982, Mr. Fichera have worked in the fields of finance and investment banking. He began as an Associate in the Public Finance Department of Dean Witter Reynolds (now a part of Morgan Stanley) from 1982-1984. I then served as Vice President in Corporate Finance at Smith Barney Harris Upham (now a part of Citigroup) from 1984-1989. He became a Managing Director, Principal in Corporate Finance and Capital Markets at Bear Stearns and Co, Inc. from 1989-1995. Following his fellowship at Princeton in 1996, Mr. Fichera served as Managing Director and Group Head of Prudential Securities Business Origination and Product Development Unit from 1997-2000. Along with several colleagues from the utility, law, and banking industries, he formed Saber Partners, LLC in 2000. Mr. Fichera has held a general securities principal license, Series 24, from the U.S. Securities and Exchange Commission ("SEC") as well as a general securities representative licenses Series 7 and Series 63.

Since forming Saber Partners in 2000, Mr. Fichera has engaged in many complex assignments in the energy and finance fields. In 2001, he served as chief financial advisor, along with the Blackstone Group, to the governor of the State of California. Saber assisted in developing the Governor's response to the energy crisis beginning in March 2001.

Mr. Fichera also served as the chief financial advisor to multiple state utility commissions or their agents (Florida, Texas, West Virginia, Wisconsin, Vermont, and New Jersey), the Office of the People's Counsel for the District of Columbia and the North Carolina Utilities Commission Public Staff and Southern California Edison Company on the use of Ratepayer-Backed Bonds. These assignments specifically involved advice on the structuring, marketing, and pricing of approximately \$9.9287 billion in Ratepayer-Backed Bonds.

Mr. Fichera was also engaged as an advisor to the SEC and ExxonMobil Corporation, among others. Currently he serves on the Board of Advisors of Princeton's Center for Economic Policy Studies. He also served as Chairman of the Princeton Economics Department Advisor Council. In that capacity, Mr. Fichera served as an advisor to Federal Reserve Chairman Ben Bernanke when he was the Chairman of the Economics Department of Princeton University in the 1990s.

Vitae and Publications

Co-Founder and Chief Executive Officer

Saber Partners, LLC 2000-Present

Fellow National Regulatory Research Institute 2018-2019

Senior Advisor

The Williams Capital Group, L.P. 2010-2016, 2018-2019

Adjunct Professor of Public and International Affairs

Princeton University, Woodrow Wilson School Public & International Affairs Fall 2011, Spring 2008

Manager

Saber Capital Partners, LLC (FINRA) 2003-2009

Managing Director and Group Head

Investment Banking, Business Origination & Product Development Prudential Securities 1997-2000

Executive Fellow

Woodrow Wilson School of Public and International Affairs Princeton University 1995-1996

Member, Board of Directors (Audit Committee)

Czech & Slovak American Enterprise Fund by designation of President Clinton 1994-96

Managing Director-Principal

Bear, Stearns & Co., Inc. 1989-1995

Vice President

Smith Barney, Harris Upham &Co. 1984-1989

Special Assistant to the Assistant Secretary

U.S. Department of Housing & Urban Development as political appointee in President Carter's administration, 1977-1980

Member, Leadership Council RFK Center for Human Rights 2010-Present

Member, Advisory Council to the Chairman (Ben Bernanke, Harvey Rosen)

Princeton University, Economics Department 1996-2004 (Chairman, 2003)

Member, Board of Advisors

Center for Economic Policy Studies (CEPS), Princeton University 1999-Present

Member, Economic Club of New York 2007-Present

Life Member, Council on Foreign Relations

Previous Professional Licenses

FINRA/SEC Series 24: Securities Principal and Series 7: Registered Representative

Author of articles concerning the interaction between corporate finance and public policy. Published in: *The New York Times, Barron's, The Wall Street Journal, Dow Jones Library of Investment Banking, Q2 Yale Management Magazine.* Contributor on *Bloomberg View, Fox Business.*

BA, Princeton, 1976; MBA, Yale, 1982

JOSEPH S. FICHERA PUBLISHED WORKS AND AWARDS (as of August 2022)				
Title	Publisher	Date		
""The US desperately needs more jobs for the millions of workers who are still unemployed, and Congress is sitting on an easy solution without inflation"	Business Insider	July, 2020		
"Utility Securitization: An Update"	National Regulatory Research Institute	January 2019		
Special Achievement in Finance	National Italian American Foundation	April 10, 2018		
"The S.E.C. Should Copy the D.M.V."	The New York Times	November 7, 2014		
"Were Detroit Swaps Unfair"	Bloomberg View	January 27, 2014		
"Price Transparency and the ABS Market"	Asset Securitization Report	September, 2013		
"Market Rejuvenation = National Municipal Bond Exchange"	MuniIC newsletter	September, 2011		
"Auction Rate Securities Need Reform, Not Just Redemption"	Saber Partners, LLC	June, 2011		
"Grid Modernization Monetization: Long-Term Ratepayer Obligation Charge Bonds May Provide Answers" (with Michael E. Ebert)	Intelligent Utility Magazine	March/April 2011		
"Securing the Grid: Intelligent Financing Creates New Options for Grid Modernization" (with Michael E. Ebert)	Intelligent Utility Magazine	December 6, 2010		
Comment on Municipal Service Rulemaking Board ("MSRB") Auction Rate Securities ("ARS") Transparency Proposal Submitted to SEC	Saber Partners, LLC	April, 2010		
Comment on ARS Transparency Proposal Submitted to MSRB	Saber Partners, LLC	July, 2008		
"Treasury Should Use New Powers to Invest in Muni ARS"	The Bond Buyer	October 6, 2008		
"Can Environmental Control Bonds Emerge in Europe"	Chapter 6: Thomson Reuters IFR, New Frontiers in European Securitisation: Opportunities in Troubled Times	2008		
'How Can Directors Become Truly Independent"	Directors Monthly	June 2008		
"How Can Directors Become Truly Independent"	Q2 Yale Management Magazine	Fall 2007		
"Lowering Environmental and Capital Costs with Ratepayer-Backed Bonds"	Natural Gas & Electricity	February 2007		

JOSEPH S. FICHERA PUBLISHED WORKS AND AWARDS (as of August 2022)		
Title	Publisher	Date
"A Rising Tide: Do Utility Securitizations Have a Future?"	Asset Securitization Report	February 9, 2005
"Deal of the Year"	Asset Securitization Report	December 1, 2003
"The State of Utility Securitization: Stranded Costs and Other Tariff-Based Financings: Opportunities, Risks and Rewards"	Prudential Securities: A Fixed- Income Research Publication	March 1998
"Why Is Wall Street Waiting?"	Electrical World Business Edition	November 1997
"Uncle Sam, Venture Capitalist"	The Wall Street Journal	May 2, 1996
"Street Smart: A Road Map for the Investment Banking Analyst"	Princeton University's Business Today	May 1996
"You Call That Debt?"	Barron's	February 26, 1996
"Deal of the Year"	Institutional Investor	1992
"Refinancing High-Coupon Tax-Exempt Debt: Understanding the Benefits and Risks of Alternative Strategies"	Financial Analytics and Structured Transactions, Bear, Stearns & Co., Inc	1991
"Making Matters Worse: The Danger of Dutch Auction Securities"	Bear Stearns & Co, Inc.	1991
"Deal of the Year"	Institutional Investor	1991
"Preferred Stock IV: Advantages of Remarketed Preferred Stock"	Chapter 16, <i>Dow–Jones Irwin,</i> <i>Library of Investment Banking</i>	1989
"Corporate Tax-Exempt Financing"	Chapter 39: <i>Dow–Jones Irwin,</i> <i>Library of Investment Banking</i>	1989
"Of Money and Merit: The Upside Down Effects of Wall Street's Bonus System"	Smith Barney Harris Upham, Inc.	1988

Size of Offering \$ Millions	Experience Involving State Utility Regulatory Agencies, Ratepayers and Ratepayer-Backed Bonds/ Securitization		
N/A			
\$748.9	Financial Advisor to Public Utility Commission (PUC) Texas		
\$797.3	Financial Advisor to Public Utility Commission Texas		
\$500.0	Financial Advisor to Public Utility Commission Texas		
\$789.8	Financial Advisor to Public Utility Commission Texas		
N/A	Financial Advisor to Vermont Public Service Board (Purchasing Agent, VEPP, Inc.)		
N/A	Financial Advisor to Wisconsin Public Service Commission (PSC)		
\$102.7	Financial Advisor to New Jersey Board of Public Utilities		
\$1,851.0	Financial Advisor to Public Utility Commission Texas		
\$1,739.7	Financial Advisor to Public Utility Commission Texas		
\$344.5	Financial Advisor to Public Service Commission of West Virginia		
\$114.8	Financial Advisor to Public Service Commission of West Virginia		
\$652.0	Financial Advisor to Florida Public Service Commission		
\$64.4	Financial Advisor to Public Service Commission of West Virginia		
\$21.5	Financial Advisor to Public Service Commission of West Virginia		
\$375	Financial Advisor to the Office of the People's Counsel (i.e., Ratepayer Advocate) of the District of Columbia Public Service Commission		
\$1,294.0	Financial Advisor to Florida Public Service Commission		
	Financial Advisor to California Community Choice Association for financial analysis and testimony before the California Public Utilities Commission Rulemaking (CPUC)17-06-026 Proceeding		
	National Regulatory Research Institute (NRRI) Fellow (Joseph S. Fichera) and author of securitization NRRI "Insights" article January, 2019		
	Advisor to HEAL Utah (Healthy Environment Alliance) securitization legislation proposal		
	Financial Advisor to North Carolina Commission Public Staff		
\$533.27	• •		
\$9.928	\$9.928.7 Billion		

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Ratepayer-Backed Bonds: *Glossary of Terms and Jargon*

Joseph S. Fichera Saber Partners, LLC Cause No. 45722 Exhibit JF-2 Page 2 of 8

Glossary (Listed Alphabetically)

Amortization. The repayment of principal of a bond on a regular schedule to the investor. This schedule is usually on a semi-annual basis.

Auction – A process established with a set of rules to sell a security by accepting the best offer from entities qualified to make offers that conform to the rules of the auction. U.S. treasury securities are sold by auctions. The rule is all bidders gets the lowest rate that clears

Asset-Backed Security (ABS) - A debt security issued by a special purpose entity (SPE), the payment of principal and interest is backed by a fixed pool of physical assets (e.g., rail cars or airplanes) or a financial asset (e.g., a mortgage or the value of a portfolio of credit card receivables). The credit associated of the asset-backed security is created by establishing two levels of risk such as an A piece and a B piece. The cashflow from the fixed pool of assets pays the A piece prior to paying the B piece. The timing and amount of those cashflows determine the amount of risk of each piece as evaluated by independent nationally recognized statistical rating organization (NRSRO), credit rating agencies such as Moody's or Standard and Poors.

Bankruptcy Remote or Ring Fenced - An entity designed in such a way that (i) the likelihood of it going into bankruptcy is extremely small, and (ii) it would experience as little economic impact as possible in the event of a bankruptcy of other related legal entities.

Basis point. One one hundredth of a percentage point (.001%) Often referred to in writing as "bp" (or "bps" in the plural).

Benchmark – When pricing a bond, the Benchmark is a security with a great deal of price transparency that is agreed upon by all parties so that the Yield on the new issue can be set relative to the Yield on the Benchmark. In that way, if Yields in the market move after agreeing on the spread to Benchmark but before final pricing, the parties do not have to renegotiate the final price/Yield. A Benchmark can also be a similar security used to determine Relative Value when talking to investors.

Bookrunner – A Broker-Dealer that serves as the primary or lead Underwriter in a Negotiated Bond Offering. The Bookrunner is the point person for negotiations with Issuers and coordinates other broker-dealers in discussions with Investors. The Bookrunner maintains the records of offers to buy from investors and makes decisions as to which orders to fulfill.

Broker-Dealer – Private firm registered with the Securities & Exchange Commission (SEC) in accordance with the Securities Exchange Act of 1934. These firms are regulated by the SEC and the Financial Industry Regulatory Authority (FINRA) and authorized to sell securities to the public.

Bullet Maturity. A single date in the future that all principal will be repaid to the investor on the bond. There are no previous principal payments until this date. All previous payments were only interest payments. A "Bullet Maturity" has no 'sinking fund" or amortization schedule."

Buy and Hold Investor/Account – An investor who primarily seeks safety of its investment over time and a return but is not actively buying and selling securities on a continual basis. This means they are not actively "trading" to increase profits and therefore liquidity – the ability to sell bonds quickly – is not as important as other investors. See **"Total Return Investor/Account"**

Callable/Non-Callable Bonds/Pre-Payment Risk - In many cases bonds are offered for sale with a "call provision" which means that the investors can be repaid before the bonds maturity date in
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other words called back from the Investor. For example, a company may want the right to retire a given bond in five years even though it carries a 25-year Maturity date. That bond would be said to carry a five-year call option. Investors who worry their bonds might be called away from them in a relatively short period of time will not pay a high price (accept a lower interest rate) for those bonds because they cannot rely on receiving the bonds' stated interest rate through the Maturity date. This is also known as Pre-Payment Risk. Non-callable bonds cannot be called away from the investor before the final Maturity date. Ratepayer-Backed Bonds typically are non-callable and have no Pre-Payment Risk.

Exchange – an organization that lists equity securities (stocks) of corporations for sale to the public following certain rules and allows the purchase and sale of those securities by members of its organization. This is the way stocks are sold and traded but not bonds. See Over the Counter for bonds.

Extension Risk. See "**Maturity**" first. The investor is at risk between the time of the "Scheduled Maturity" and the "Legal Maturity." This is known as "Extension Risk." That means if the investor receives the principal after the Scheduled Maturity" but before and event of default (Legal Maturity), the original calculations on the "Weighted Average Life" will be different...the weighted average life will be extended.

In Ratepayer-Backed Bonds, because of the robust True-Up Mechanism it is virtually impossible for the bonds to ever extend past their Scheduled Maturity and even more remote to default past their Legal Maturity.

Financing Order - An order issued by state regulators authorizing the issuance of Ratepayer-Backed Bonds, which order cannot be changed or revoked at a later date as long as the Ratepayer-Backed Bonds are outstanding, and which (i) segregates a specific component of the retail rate charge throughout the service territory, (ii) causes the right to receive this component to be treated as a present interest in property that can be bought, sold or pledged, (iii) authorizes the utility to sell such property to an SPE, (iv) authorizes the SPE to issue Ratepayer-Backed Bonds secured by such property, and (v) requires the utility which sold the property to use the proceeds of the sale for one or more specific purposes.

G-spread. See "**Spread**" first. The difference between the yield on Treasury Bonds and the yield on corporate bonds of the same maturity. Since US Treasuries are issued with maturities of 3, 5, 7, 10, 20 and 30 years, when the maturity if the corporate bonds does not match this exactly, the corresponding US Treasury is calculated by "interpolating" between two US Treasuries.¹

Interpolation – The process by which an unknown value is determined based upon knowing a value above and a value below the point in question. For example, if the yield is known for a 10-year U.S.Treasury bond and a 20-year U.S.Treasury bond, one can infer by interpolation that the yield on a 15-year Treasury bond would be halfway in between even if such a bond does not currently exist.

Legal Maturity Date – The date by which, if the principal is not fully paid, the bonds will be considered to be in default and the bondholder receives the rights as creditors to sue for compliance through the courts. Usually, the Final Legal Maturity Date is one to two years after the Final Scheduled Maturity Date. See also Maturity.

¹ See <u>https://www.investopedia.com/terms/i/interpolated_yield_curve.asp</u> "To determine the value of a missing yield or interest rate to derive a yield curve, the missing information can be interpolated using various methods including bootstrapping or regression analysis. Once the interpolated yield curve has been derived, yield spreads can be calculated from it as few of the bonds have maturities comparable to those of the on-the-run Treasuries."

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Maturity. The length of time until the issuer of a bond has to repay specified amounts to the lender. In Ratepayer-Backed Bonds, having the money to pay principal and interest is dependent upon collections based on electricity sales and the True-Up Adjustment Mechanism. For rating agency purposes – who rate the probability that the bond will "default,", there is an expected or "Scheduled Maturity" and a "Legal Maturity." The difference between the two is when the investor is given creditor rights under the bond indenture to use the courts to demand payment of the principal if it is not received i.e., it's an "event of default." That occurs on the date known as the "Legal Maturity." Having a difference between the Scheduled Maturity for investors and the Legal Maturity for the rating agencies, provides a cushion for the rating agencies to provide a higher rating on the bonds because their rating goes to "probability of default" (Legal Maturity) and not to the expected or "Scheduled Maturity".

See also "Bullet Maturity," "Weighted Average Life," "Amortization." and "Sinking Fund."

Market Conditions – At any given time the supply of securities being offered for sale, the amount of offers to buy, the level of interest rates, status of the economy, news affecting investor and issuer preferences.

Market Clearing Rate – The interest rate at which there are offers from investors that match the amount of bonds that offered for sale without using any of the underwriter's capital to facilitate transaction.

Maturity or Maturity Date - The length of time until the issuer of a bond has to repay specified amounts to the lender / investor. See also Legal Maturity Date and Scheduled Maturity Date.

Net Present Value (NPV) - The amount of cash today that is equivalent in value to a payment, or to a stream of payments, to be received in the future. To determine the Net Present Value, each future cash flow is multiplied by a present value factor. For example, if the opportunity cost of funds is 10%, the Net Present Value of \$100 to be received in one year is $100 \times [1/(1 + 0.10)] = 91$. Opportunity cost means what a dollar today could earn over a specific period of time. This concept is sometimes referred to as the time value of money since a dollar today is worth more than a dollar in the future as long as the opportunity cost (or discount rate) is greater than zero.

Nominal Dollars or **Nominal Savings -** This type of measure reflects the current situation, not adjusted for the opportunity cost of funds over time. Nominal dollars treat all dollars the same whether received today or 10 years from today. See "Net Present Value" for the way to look at dollars over time.

Negotiated Transaction – The process of selling securities by selecting a group of Underwriters/Broker-Dealer to discuss and negotiate terms of the bonds such as interest rate and maturity.

Over the Counter Market – An over-the-counter (OTC) market is a decentralized market in which market participants trade stocks, commodities, currencies, or other instruments directly between two parties and without a central exchange or broker. Over-the-counter markets do not have physical locations; instead, trading is conducted electronically

Oversubscribed/Undersubscribed – The amount of orders for bonds in relation to the amount of bonds offered for sale. Subscription is a term used by an underwriter to describe the amount of orders it has recorded in its book of order tracking the transaction. See also Bookrunner and Book Building Process.

Primary Market – The time of the initial sale of a security from an issuer to underwriters and investors. The sale between and among investors and broker-dealers occurs after the Primary Market sale. See **Secondary Market**.

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Ratepayer-Backed Bond – Bonds issued by an SPE for the benefit of one or more sponsoring utilities in a Securitization transaction usually authorized by special state legislation and conforming to certain Internal Revenue Service rules. The bonds are usually repaid from a nonbypassable charge imposed on generally all retail consumers of electricity within a utility's service territory. The payment of principal and interest of the bond on time are supported by the True-up Mechanism. This requires regulators to adjust the charge to whatever level is necessary to repay the bonds based on the utility forecast of collections.

Relative Value - The relationship between two securities as expressed by their yield . In pricing a new Ratepayer-Backed Bond issue, for example, it is useful to compare the Spread over Swaps of the proposed bond Yield to the Spread over Swaps or over a AAA-rated U.S. agency bond. If the two securities were judged equal in risk with identical terms (not callable, same WAL etc.) but one had a higher Spread, it would be said to have greater Relative Value.

Regression Line – A regression takes a group of data points and finds a mathematical relationship between them. This relationship is typically in the form of a straight line (linear regression) that best approximates all the individual data points. It is the most common type of "trendline" used in Excel.

Road Show - A formal presentation to potential purchasers of a security, typically organized by Underwriters with the involvement of the issuer and the financial advisor. A team sometimes travels around the U.S. to discuss the features of the security, resulting in the term "Road Show." Sometimes the team travels to foreign financial centers to make these presentations. In recent years, most Road Shows have been conducted using electronic media over the Internet, reducing or eliminating the need for travel.

Secondary Market – The market in which stocks or bonds are traded after their initial issuance. When a publicly offered bond trades at a substantially higher price (lower Yield) in the Secondary Market immediately following its issuance, this is an indication that the bond was mispriced (priced too low) by the Underwriters in the original public offering.

Securitization - The process by which a pool of assets, such as loan receivables, is used as a basis for issuing highly rated (often AAA) bonds. The pool of assets is created and transferred to a trust or, in a utility Securitization, to a Bankruptcy Remote or Ring Fenced SPE. The entire right, title and interest in the assets are transferred at fair market value to the SPE. The SPE pledges the assets to secure the bonds and the cash flows from those assets are used to pay principal and interest on the bonds. Thus, the risk to the bondholder is just the risk associated with the cash flows from the assets in the SPE. The assets can be physical (such as plant and equipment) or intangible (such as a loan receivable or the right to some other revenue stream).

Scheduled Maturity Date– The date by which it is expected that a principal payment on a bond or on a group of substantially identical bonds will be made. If the bonds are not paid by the Scheduled Maturity Date the bondholder do not have the right as creditors to sue in the courts for compliance. See also Maturity and Legal Maturity.

Special Purpose Entity (SPE) – A Bankruptcy Remote or Ring-Fenced legal entity. The entity is usually a subsidiary of a larger company. It is set up for the express purpose of owning the right, title and interest in certain assets that will be separate and apart from the assets of the company that owns the newly established entity i.e., the parent company. The SPE can use these assets as collateral to secure bonds it may issue and provide the cash flows to pay interest and principal on the bonds.

Spread. Difference between the market yields of different fixed income securities of similar maturities, expressed in basis points. If a Treasury bond maturing in seven years is trading to yield 3.87% and a AAA rated corporate bond is trading to yield 4.25%, the corporate bond is said to trade at

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a 38 basis point spread to the Treasury bond (4.25% - 3.87% = 0.38%). Since a basis point is one one hundred of a percent, 0.38% is called "38 basis points."

It's important to note that the maturity of the corporate bond and the corresponding US Treasury be identical for correct comparisons to other securities. US Treasuries are issued with maturities of 3, 5, 7, 10, 20 and 30 years. These are known to be "on the run" This phrase means that these US Treasuries indicating that they are highly liquid, lots of buyers and sellers and therefore the yields of those securities in the secondary market are accurate and can be used as "benchmarks."

If the maturity of the corporate bond does not precisely match the corresponding US Treasury one hss to "interpolate" the US Treasury yield between 2 "on the run" US Treasury Maturities.

Spread is the easiest way to compare the cost of funds represented by different debt securities. Participants will refer to the spread "relative to Treasuries" or "relative to swaps," as the most meaningful measure used to compare a given debt security to the most liquid, most secure, and most easily available benchmark for a given maturity. Spreads are often referred to as either "tight" or "wide" to the benchmark. (See "**Tight Spread**/**Wide Spread**" definition below.)

Interest Rate %

Sinking Fund. The payment of principal on a bond at regular intervals over time. See "**Amortization**" and "**Maturity.**"

Swaps, or Interest Rate Swap Agreements - An interest rate Swap exchanges a floating rate for a fixed rate on bonds. Under certain market conditions, a combination of floating rate bonds and fixed rate Swaps could produce a lower overall "synthetic" fixed interest rate for ratepayers. Certain investors prefer a floating rate, while other investors prefer a fixed rate. For example, many European investors prefer a floating rate. There may be an opportunity to lower overall ratepayer costs and achieve the "lowest storm recovery charges" by issuing floating rate Ratepayer-Backed Bonds and swapping them to a synthetic fixed interest rate.

Tight Spread/Wide Spread - If a Spread is considered "Tight," it is low and closer to the Benchmark rate. If it is "Wide," it is much higher than the Benchmark rate. Interest rates are composed of the Benchmark plus the Spread. Thus, a Tight Spread means a lower interest rate.

Total Return Investor/Account – An investor whose priority is to seek income and principal appreciation from an investment over time by actively managing a portfolio of investments. This means to be buying and selling securities in the primary and secondary market on a continual basis so as to affect the "total return" of the portfolio with both interest income and capital gains.

Tranche – A Tranche is a piece of a larger bond offering with its own cash flows, i.e., principal amount, Maturity and interest rate, but governed by the same offering documents as the larger bond offering, e.g., the Ratepayer-Backed Bond prospectus, trust agreement, indenture, servicing agreement, etc. While Tranche is common nomenclature for ABS type debt, corporate debt usually uses the term "series" for the same purpose.

True-up Mechanism - PSC-Guaranteed True-up Mechanism" or "**True-up Mechanism**" means the mechanism irrevocably mandated by state law and the Financing Order whereby ratepayer charges to pay debt service and ongoing expenses on Ratepayer-Backed Bonds are reviewed and adjusted at least annually or semi-annually (true-up period), depending on the jurisdiction. The rates at which the charges are imposed on ratepayers, to be paid on a joint and several basis, will be adjusted to correct any over collections or under collections from prior periods and to guarantee payment of all principal and interest on a timely basis.

Underwrite – This refers to the actions of an investment bank/broker-dealer when it initially purchases newly issued bonds with the intention of re-offering or re-selling them to the ultimate investors, thus assuming the market risk for a short period of time.

Underwriting Fee – See "Underwriters' Discount."

Underwriter - An investment bank who is a registered broker-dealer that initially purchase bonds and re-offer the bonds to investors. The term "underwriter" comes from the historic practice of the investment bank purchasing the security from the issuer, taking ownership, and then reselling the security, thus assuming market risk for some period. A lead Underwriter (sometimes called the "bookrunning" manager and most often called a lead manager) is responsible for assembling and leading a syndicate which generally includes additional investment banks in an effort to reach the widest audience of buyers. A co-lead Underwriter (or "co-manager") is another firm which also assumes responsibility to purchase bonds from the issuer. Nowadays, in practice, the Underwriters of a bond issue often have orders for 100% of a new issue before it is formally re-sold to anyone, and consequently the Underwriters do not hold the bonds or take any appreciable market risk.

Underwriter's Discount – The dollar price, below the stated value of the bond ,that the underwriter buys the bond from the issuer in the Primary Market and then reoffers the bond at the full stated value of the bond to investors. The difference is kept by the underwriters as their compensation in the offering.

Underwriters explicitly have no fiduciary duty to the issuer or to ratepayers. They engage in an armslength commercial transaction with the issuer. This means they explicitly do not need to act in the best interests of the issuer versus their own financial interests. This is explicitly said in an "underwriting agreement" signed on the date of pricing.

Weighted Average Life (WAL). The average length of time that each dollar of unpaid principal on a Ratepayer-Backed Bond, or an amortizing bond remains outstanding. Calculating WAL shows investors how many years it will take to receive roughly half (i.e., the average) of the amount of the outstanding principal. The formula shows the baseline "maturity" of the Ratepayer-Backed Bond compared to US. Treasures and other corporate bonds for accurate "Relative Value" comparisons. See "Bullet Maturity."

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SABER PARTNERS, LLC

The amount of time (in years), on average, that the principal amount will remain outstanding. It is calculated by weighting the time each component of the principal is outstanding by the principal amount. Thus, for a bond that pays back all its principal at final Maturity, the WAL is the same as the final Maturity. However, Ratepayer-Backed Bonds amortize principal over a number of years, so the WAL is always less than the Final Scheduled Maturity of each Ratepayer-Backed Bond.

Yield. The annual coupon amount of interest on a bond, divided by the selling price (expressed as a percentage). A \$1,000 principal amount bond that sells for \$1,000 with a \$50 annual interest coupon has a 5% yield. The lower the price, the higher the yield; the higher the price, the lower the yield; for example, if the same 5% coupon bond sold at a price of 80% of its face value, its yield would be 5% divided by 0.8, or 6.25%. (This yield is also called the current yield. Other calculations of yield such as the yield-to-maturity or "all-in" yield also consider the transaction costs and compounding. These yield calculations will be higher effective rates than the coupon rate.)

Yield to Maturity - Yield to Maturity is the discount rate at which the sum of all future cash flows from the bond (interest and principal) is equal to the price of the bond. This measure of Yield takes into account the difference between the current price and the principal value at redemption. This is the Yield referred to when pricing a bond and comparing to the Yield on benchmark securities. It is more reflective of true value because it accounts for the time value of money.

Yield, Current - The annual coupon amount of interest on a bond, divided by the selling price (expressed as a percentage). A \$1,000 principal amount bond that sells for \$1,000 with a \$50 annual interest coupon has a 5% Yield. The lower the price, the higher the Yield; the higher the price, the lower the Yield.

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8-2. Please refer to p. 7, line 12 of Mr. Jerasa's direct testimony. CEI South indicates its parent, CenterPoint Energy Houston Electric, LLC ("CEHE") had completed five (5) similar securitization transactions in Texas and had experience servicing and administering these five bond issues. The OUCC identified five dockets at the Public Utility Commission of Texas ("PUCT") relating to those securitizations: PUCT Dockets Nos. 21665, 30485, 34448, 37200 and 39809.

- a) Please confirm that these are the correct dockets involving similar securitization transactions for CEHE. Please identify any additional proceedings if not listed above.
- b) For Docket Nos. 21665 and 30485, please identify the CEHE costs (not the issuing subsidiary) to service and administer the bonds.
- c) In the Docket No. 30485 Financing Order, dated September 18, 2007, Ordering Paragraph 30 states:

"Servicing and Administration Agreement Revenues. The servicing and administrative fees collected by CenterPoint, or any affiliate of CenterPoint, acting as either servicer or administrator under the servicing agreement and the administration agreement, shall be included as a revenue credit and reduce revenue requirements in each CenterPoint base rate case. The expenses incurred by CenterPoint or such affiliate to perform obligations under the servicing agreement and administration agreement shall likewise be included as a cost of service in each CenterPoint base rate case."

- 1. Did CEHE track the specific costs and revenues associated with the Ordering Paragraph that were not part of the cost of service already in customer rates?
- 2. If yes, please identify the specific incremental costs that were included in the cost of service that were not part of the cost of service already in customer rates and identify the revenue credit provided.
- 3. If no, please explain how CenterPoint complied with the Financing Order and allowed for review by the PUCT.
- d) In PUCT Docket No. 37200 Financing Order dated August 26, 2009, Ordering Paragraph 31 states

"Servicing and Administration Agreement Revenues. The servicing and administrative fees collected by CenterPoint Houston, or any affiliate of CenterPoint Houston, acting as either servicer or administrator under the servicing agreement or administration agreement, shall be included as a revenue credit and reduce revenue requirements in each subsequent CenterPoint Houston base rate case. The expenses incurred by CenterPoint Houston or such affiliate to perform obligations under the servicing agreement and administration agreement shall likewise be included as a cost of service in each CenterPoint Houston base rate case."

- 1. Did CEHE track the specific costs and revenues associated with the Ordering Paragraph that were not part of the cost of service already in customer rates?
- 2. If yes, please identify the specific incremental costs that were included in the cost of service that were not part of the cost of service already in customer rates and identify the revenue credit provided.
- 3. If no, please explain how CEHE complied with the Financing Order and allowed for review by the PUCT.
- e) In PUCT Docket No. 39809 Financing Order dated October 27, 2011, Ordering Paragraph 30 states:

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"Servicing and Administration Agreement Revenues. The servicing and administrative fees collected by CenterPoint, or any affiliate of CenterPoint, acting as either the servicer or the administrator under the servicing agreement or administration agreement, shall be included as a revenue credit and reduce revenue requirements in each CenterPoint base rate case. The expenses incurred by CenterPoint or such affiliate to perform obligations under the servicing agreement and the administration agreement shall likewise be included as a cost of service in each CenterPoint base rate case."

- 1. Did CEHE track the specific costs and revenues associated with the Ordering Paragraph?
- 2. If yes, please identify the specific incremental costs that were included in the cost of service that were not part of the cost of service already in customer rates and identify the revenue credit provided.
- 3. If no, please explain how CEHE complied with the Financing Order and allowed for review by the PUCT.

Objection:

CEI South objects to the Request on the grounds and to the extent it misstates Mr. Jerasa's testimony. Mr. Jerasa's testimony states "CenterPoint Energy, Inc. has experience issuing and acting as a servicer of securitization bonds through its subsidiary CenterPoint Energy Houston Electric, LLC ("CEHE") (five different series)" (Pet. Ex. 2, p. 7, lines 12-14). CEI South's parent is not CenterPoint Energy Houston Electric, LLC. Both CEI South and CenterPoint Energy Houston Electric, LLC are wholly-owned subsidiaries of CenterPoint Energy, Inc. CEI South further objects to the Request on the separate and independent grounds and to the extent it seeks a calculation, compilation or analysis CEI South has not performed, and which CEI South objects to performing.

Response:

Subject to and without waiver of the foregoing objections, CEI South responds as follows:

- a) Confirm.
- b) 21655: \$10.7 million; 30485: \$15.4 million
- c)
- 1. Houston Electric tracks the servicing and administrative fees as a reduction of O&M expense.
- 2. Servicing (\$244,236 annually) and administration fees (\$100,000 annually) are treated as an O&M reduction.
- 3. N/A

d)

- 1. Houston Electric tracks the servicing and administrative fees as a reduction of O&M expense.
- 2. Servicing (\$332,429.50 annually) and administration fees (\$100,000 annually) are treated as an O&M reduction.

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- 3. N/A
- e)
- 1. Houston Electric tracks the servicing and administrative fees as a reduction of O&M expense.
- 2. Servicing (\$847,500 annually) and administration fees (\$100,000 annually) are treated as an O&M reduction.
- 3. N/A

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9-2. Please refer to the direct testimony of Eric K. Chang, p. 2, lines 14-18 of the direct testimony of Mr. Chang. While Mr. Chang describes Barclays as "a financial advisor and banking witness"; in the direct testimony of Brett A. Jerasa at p. page 12, line 2, references a "structuring advisor." On p. 19, lines 12-13, of his direct testimony, Mr. Jerasa also indicates, "The structuring fee is paid to Barclay's, CEI South's advisor, for providing financial advisory services." Please also refer to Petitioner's Exhibit No. 2, Attachment BAJ-4 – NBV Projections – Upfront Fee Comps and note there is no line item for "financial advisor and banking witness" or "structuring fee." How is Barclays being compensated? Please explain.

- a. Will Barclays be paid from securitization bond proceeds? If so, is this compensation on a contingency basis and dependent on the issuance of the securitization bonds? Is Barclays' fees on a "flat" or on an hourly basis? If the fees are contingent, how can Barclays ensure that they will act in the best interest of CEI South or its ratepayers?
- b. Is Barclays the "structuring advisor" for the securitization bond or CEI South's "financial advisor," or both?
- c. Are Barclays' services related to the structuring advisor for the bonds different from the services as financial advisor for CEI South?
- d. Please identify the specific services that Barclays is expected to perform as either the structuring advisor or financial advisory services.
- e. If Barclays is both financial advisor and structuring advisor, what fees have been agreed to with Barclays for each of these services
 - i. financial advisory,
 - ii. banking witness, and
 - iii. structuring advisor?
- f. Please describe the duties and the deliverables of each of the services and corresponding role, and when would they be expected to begin and end?
- g. How much has been spent or committed to as of the date for each of Barclays' services above in which CEI South responds to this request?
- h. Is the primary service/deliverable of the structuring advisor to develop an excel-based financial model of the charge for the rating agencies to evaluate the transaction in relation to their rating criteria and stress testing to achieve a top credit rating e.g., AAA?
- i. What fees, sums, or other amounts is Barclays or the structuring advisory firm charging solely to provide the financial model for use in this securitization bond transaction?
- j. Did CEI South have a competitive process to select Barclays or any other firm as structuring advisor or financial advisor for the securitization bonds?
- k. Did CEI South use a form of "request for proposal" or "request for qualifications"? If so, please provide 1) a copy of such document and 2) the responses of all recipients of the CEI South request.
- 1. How did CEI South decide which firms to invite to present proposals to serve as the structuring advisor or financial advisor?
- m. Please provide a copy of the final engagement letter terms and conditions including, but not limited to, any disclaimers by Barclays as well as indemnifications provided to Barclays by CenterPoint Energy, CEI South or any of its affiliates.

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- i. In the Barclays engagement letter, does Barclays, "as financial advisor and banking witness," have a fiduciary duty to act in the best interests of CEI South, CEI South ratepayers, or the issuer of the Securitization Bonds and not in its own financial interest? Please explain.
- ii. In the public power and state and local government market, financial advisors are not only required by their regulator, the MSRB, to hold a "duty of loyalty" (i.e., deal honestly and in the best interests of the issuer) but also a "duty of care" which requires them to possess specialized knowledge to make appropriate recommendations to the issuer. Does Barclays engagement letter reflect these same duties in their financial advisor or structuring advisor role?
- iii. In the engagement letter of the structuring advisor, does the structuring advisory firm have a fiduciary duty to act in the best interests of CEI South ratepayers, or the issuer of the securitization bonds, and not in its financial or economic interest? Please explain.
- iv. If Barclays or the structuring advisor has no fiduciary duty to CEI South or to CEI South's ratepayers, how will the Indiana Utility Regulatory Commission ("Commission") and others know what Barclays or the structuring advisor recommends is in the best interests of CEI South's ratepayers, and not CEI South's of Barclays' financial or economic interests?
- n. Would CEI South agree to pursue a competitive selection of an independent financial modeling firm as structuring advisor to save ratepayers up-front costs? If not, why not?
- o. Can Barclays, either as CEI South's financial advisor or structuring advisor, also be an underwriter of those bonds?
- p. If Barclays is performing multiple roles in this financing, do any of these roles constitute a conflict of interest?
- q. If Barclays may become one of the underwriters, how will that affect their respective fiduciary duties if any as financial advisor to CEI South and/or structuring advisor to CEI South's ratepayers? If Barclays has no fiduciary duties to either and may act in its financial and economic interest and not the interest of CEI South ratepayers, please state and confirm.
- r. Please refer to page 6 line 16-20, of the direct testimony of Mr. Chang, which states "Utility securitizations are also a well-established asset class that are broadly understood in capital markets. A diverse range of investors have participated in utility securitizations to date, including domestic and international banks, money managers, investment advisors, pensions funds, insurance companies, corporate cash managers, and different types of trust funds."
 - i. Please provide the supporting evidence to the ownership of utility securitization bonds by investor type alleged by Mr. Chang i.e., by "domestic and international banks, money managers, investment advisors, pensions funds, insurance companies, corporate cash managers, and different types of trust funds" in size and amount.
 - ii. If there is no independently verifiable information to support the statement, please acknowledge or provide the source for such information.
- s. Does CEI South believe that underwriters have a fiduciary duty to act in the best interests of the issuer and/or CEI South ratepayers and may not and will not act in their own financial or economic interest?

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- t. Please refer to page 25 line 15-24, of the direct testimony of Mr. Chang. Mr. Chang recommends a public SEC registered offering; however, he does not describe the method of the public sale. Will the securitization bonds be offered through a competitive bid/auction or through a negotiated firm commitment underwriting transaction (as further defined below) with a preselected group of underwriters? Please provide and explain the evidence to support what CEI South is proposing.
- u. If an SEC registered public offering, according to Mr. Chang's direct testimony, p. 25, lines 19-20, which states an SEC registered public offering "would likely lead to lower overall costs for CEI South's customers," on what basis would CEI South determine that a private placement is preferable to a public offering?
 - i. Who would make this decision and when?
 - ii. Have recent private placement/144A utility securitization bond offerings priced at higher or lower interest rates (credit spread to relevant benchmarks and relevant comparable corporate securities) compared to SEC registered public offerings? If higher, by how much in basis points per tranche and weighted average life of such tranche?
- v. In the sale of bonds by public power authorities and all state and local governments in Indiana and elsewhere (also known as the municipal bond market), financial advisors to bond issuers are prohibited from also being underwriters of the bonds. Moreover, as of 2011, financial advisors in the public power and state and local government market are now prohibited from resigning their role as advisor to act as an underwriter.¹ Because these bonds are the sole obligation of CEI South ratepayers directly and not its shareholders as with traditional utility bonds, would CEI South be willing to restrict Barclays from participating as an underwriter of the bonds to prevent a similar conflict of interest?
- w. If CEI South is not willing to make the above restriction, how can it ensure that Barclays will structure, market and price the offering to benefit CEI South ratepayers versus itself in the underwriting process, such as to reduce their financial risk as underwriters, if any, and allow for a quicker sale regardless of the cost to CEI South ratepayers?
- x. In connection with public offerings of securities, what is the difference between an underwriter and a placement agent?
- y. What is the difference between a "firm commitment" negotiated underwriting and a "best efforts" underwriting? Does CEI South propose that the Issuer will sell the securitization bonds to underwriters in a "firm commitment" underwriting or a "best efforts" underwriting?
 - i. In a firm commitment competitive bid, do firms purchase all the bonds at a fixed priced, regardless of having orders from investors for every bond in every tranche?
 - ii. In a firm commitment underwriting of bonds, must the underwriters always have orders from investors for every bond in every tranche when the bonds are priced and the underwriting agreement is executed?
 - iii. If CEI South proposal is not a competitive bid/auction but a negotiated firm commitment underwriting with a pre-selected group of underwriters, how will those underwriters be selected?

¹ <u>MSRB Rule G-23 - Activities of Financial Advisors</u>

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- iv. Will the underwriters provide advice to CEI South concerning the structure, marketing, preliminary pricing and final pricing of securitization bonds on which CEI South will rely?
- v. Are the underwriters expected to analyze or review other information to assist CEI South in evaluating whether the terms negotiated with the underwriters are in the best interests of CEI South ratepayers?

Objection:

Petitioner objects to the Request on the grounds and to the extent the Request seeks information which is trade secret or other proprietary, confidential and competitively sensitive business information of Petitioner, its Customers, or other third parties. Petitioner has made reasonable efforts to maintain the confidentiality of this information. Such information has independent economic value and disclosure of the requested information would cause an identifiable harm to Petitioner, its Customers, or other third parties whose confidential information is sought. The responses are "trade secret" under law (Ind. Code 24-2-3-2) and entitled to protection against disclosure. See also Indiana Trial Rule 26(C)(7). All responses containing designated confidential information are being provided pursuant to non-disclosure agreements between Petitioner and the receiving parties. Petitioner objects to producing the information sought in OUCC DR 09.2(k)(2) even pursuant to a non-disclosure agreement with the receiving parties as the information is highly sensitive trade secret information of those parties that would provide competitors of those third parties an unfair advantage in negotiating engagements of a similar nature or responding to future requests for proposal. The information is also irrelevant to this proceeding and not reasonably calculated to lead to the discovery of relevant or admissible evidence and Petitioner objects to producing the information on this basis; the harm to those third parties from disclosure outweighs any likely benefit of producing such confidential information, taking into account the needs of the case and the irrelevance of the information sought in the request. Petitioner further objects to producing the engagement letter with Barclays in response to OUCC DR 09.2(m), even pursuant to a non-disclosure agreement, as it is confidential, proprietary trade secret information of Barclays, the disclosure of which would cause identifiable harm to Barclays, affording its competitors an unfair advantage in negotiating engagements of a similar nature or responding to future requests for proposal. Petitioner further objects to producing the information requested in OUCC DR 09.2(r)i as the identity of buyers in securitizations is not public information and Petitioner is not in possession of the information sought by that Request.

Petitioner further objects to the Request on separate and independent grounds and to the extent that it is premised on legal conclusions that Petitioner has not verified, does not accept, and about which Petitioner offers no legal opinion.

Petitioner further objects to OUCC DR 09.2(v) on the separate and independent grounds and to the extent it is based on the false premise that CEI South ratepayers are the debtors under the securitization bonds.

Petitioner further objects to OUCC DR 09.2(w) on the separate and independent grounds and to the extent it calls for speculation or otherwise implies a set of circumstances that does not currently exist; Barclays has not been engaged as the underwriter for CEI South's securitization bond offering.

Response:

Subject to and without waiver of the foregoing objections, Petitioner responds as follows:

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CEI South has hired Barclays Capital Inc. to act as the Company's lead structuring agent and banking witness. CEI South will pay Barclays an advisory fee once the Commission has declared the record closed in this Cause.

- a) No. N/A. Flat fee. N/A.
- b) Barclays is engaged as the structuring advisor, though with a broad mandate. Barclays is engaged to review and analyze various structural and financial considerations related to the Securitization, including cash flow modelling; the design of customer revenue requirements; maturity and amortization profiles; the proposed true-up adjustment mechanism; assistance in the preparation and review of the Financing Order; preparation and review of content required for rating agency stress scenarios; support for the submission of Testimony, discovery, pre- and post-hearing activities; and other such matters.
- c) See response to 45722 OUCC DR 09-2(b).
- d) See response to 45722 OUCC DR 09-2(b).
- e) Flat fee for all services of \$350,000.
- f) Barclays was engaged on March 22, 2022 and the contract will automatically terminate on June 30, 2023. See response to 45722 OUCC DR 09-2(b).
- g) Please refer to the response to 45722 OUCC DR 09-2; no fees have been paid to Barclays to date.
- h) One of Barclays' services / deliverables as structuring advisor is to develop an Excel-based financial model of the charge to evaluate how rating agencies will view the transaction in relation to their rating criteria and stress testing to achieve AAA ratings.
- i) Flat fee for all services. Please refer to the response to 45722 OUCC DR 09-2(b) and (e); flat fee for all services.
- j) Yes.
- k) Yes.

Please see 45722 OUCC DR09-2k1 - CEI South RFP for Structuring Agent--July 2021.pdf.
See objection. Responses from those that participated in the RFP are considered confidential, proprietary, trade secret.

- 1) CEI South relied on internal experience in addition to reviewing recent securitization filings .
- m) See objection. The Barclays engagement letter is confidential, proprietary, trade secret information of Barclays.
 - i. No, Barclays is an independent contractor.

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- ii. No, Barclays is an independent contractor.
- iii. No, Barclays is an independent contractor.
- iv. Please refer to the Direct Testimony of Brett Jerasa, page 30, where CEI South has invited the Commission to appoint a representative (either a Commissioner or a senior staff member) to observe the pricing discussions. The Commission has the sole right to review and reject the Issuance Advice Letter if the Commission believes CEI South has not followed the Financing Order and Securitization Act or otherwise does not desire the transaction to proceed. In addition, intervening parties are participating in this adversarial proceeding, and have opportunity to provide input on structuring recommendations within this proceeding. Finally, CEI South is committed to structuring and marketing the bonds to optimize benefits and will uphold the requirements set forth in the Financing Order and Securitization Act.
- n) No, CEI South cannot agree. CEI South cannot at this time guarantee that an additional financial modeling RFP would save ratepayers up-front costs. CEI South pursued a competitive process to choose a structuring agent when selecting Barclays.
- o) Yes.
- p) No. Underwriters will be chosen in a completely separate, competitive RFP process and there is no guarantee that Barclays will be chosen as an underwriter on the securitization bond offering.
- q) Barclays is not a fiduciary.
- r)
- i. See objection. Refer to the response to OUCC DR 09.2(r)ii.
- ii. Barclays has participated as an underwriter on previous utility securitizations and the investor types described were chosen based on that experience.
- s) See objection.
- t) CEI South expects the securitization bonds will be offered through a multi-step syndication and book-building process where the bonds will be broadly marketed and offered to investors, similar in approach to recent utility securitizations.
- u) CEI South would evaluate and determine whether to pursue an SEC registered public offering or a private placement offering based on which method would likely be expected to achieve a lower bond cost and therefore increase benefits.
 - i. CEI South will make that determination with input from the underwriting syndicate and the Commission prior to commencing any investor marketing on the securitization bonds.

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- ii. There are many factors, including whether a utility securitization is offered in a public or private format, that will impact the pricing of the securitization offering. Market conditions at the time of issuance, the issuing entity, the issuance size, tenor, public vs. private offering, and other factors, can all impact pricing and must be evaluated for each utility securitization prior to coming to market.
- v) No; see objection.
- w) See objection.
- x) Placement agents are more commonly used in relation to private placement or direct placement transactions. Placement agents typically do not purchase or hold the securities – instead, they arrange for the direct transfer of securities from the Issuer to the investors. Underwriters are typically involved in public transactions and purchase the securities from the Issuer before then reselling the securities to investors.
- y) A "firm commitment" underwriting typically would require the underwriters to purchase and take down an agreed upon amount of the issued securities, regardless of whether there is sufficient investor demand to resell. In comparison, a "best efforts" underwriting typically requires the underwriters to purchase and take down the issued securities if all securities can then be resold to investors – in which case, typically, either all securities are sold, or no securities are sold. Consistent with recent utility securitizations, CEI South currently anticipates the securitization bonds will be sold using a best efforts approach.
 - i. Yes. However, please refer to response to OUCC DR 09-2(y) CEI South currently anticipates the securitization bonds will be sold using a best efforts approach.
 - ii. No. However, please refer to response to OUCC DR 09-2(y) CEI South currently anticipates the securitization bonds will be sold using a best efforts approach.
 - iii. Not applicable CEI South currently anticipates the securitization bonds will be sold using a best efforts approach.
 - iv. Yes. However, please refer to response OUCC DR 09-3(b) for limitations on the reliance on such advice.
 - v. Yes.

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9-3. In the December 9, 2005 underwriting agreement between CenterPoint Energy Houston and the underwriters for CenterPoint Energy Transition Bond Company II for Texas Public Utility Commission Docket No. 30485, the following section was included to the <u>Underwriting Agreement</u>²:

- a) "Absence of Fiduciary Relationship. Each of the Issuer and the Company acknowledges and agrees that: (a) the Underwriters have been retained solely to act as underwriters in connection with the sale of the Bonds and that no fiduciary, advisory or agency relationship between the Underwriters, on one hand, and the Company and/or the Issuer, on the other hand, has been created in respect of any of the transactions contemplated by this Underwriting Agreement, irrespective of whether the Underwriters have advised or are advising the Company and/or the Issuer on other matters; (b) the price of the Bonds was established by the Issuer and the Company following discussions and arms-length negotiations with the Underwriters, among others; (c) it has been advised that the Underwriters and their affiliates are engaged in a broad range of transactions which may involve interests that differ from those of the Issuer and Company and that the Underwriters have no obligation to disclose such interests and transactions to the Issuer or the Company by virtue of any fiduciary, advisory or agency relationship; and (d) it waives, to the fullest extent permitted by law, any claims it may have against the Underwriters for breach of fiduciary duty or alleged breach of fiduciary duty and agrees that the Underwriters shall have no liability (whether direct or indirect) to the Issuer or the Company in respect of such fiduciary duty claim or to any person asserting a fiduciary duty claim on behalf of or in right of the Issuer or the Company including stockholders, employees or creditors of the Issuer and/or the Company."
- b) However, in the underwriting agreements for CenterPoint Energy Transition Bond Company I, there is no such section or statement.3 Why was this "Absence of Fiduciary Relationship" section added to the CenterPoint securitization bond underwriting agreement in 2005 and all subsequent securitization bond underwritings? Please explain.
- c) What is the significance of this term of the underwriting agreement?
- d) In this "Absence of Fiduciary Relationship" section, it states that "the price of the Bonds was established by the Issuer and the Company following discussions and arms-length negotiations with the Underwriters, among others;" What is meant by "arms-length negotiations?" Please explain.
- e) When underwriters use their professional judgement to increase the spread, are they providing advice or a recommendation to the issuer that is in the issuer's/ ratepayer's best interest and not in the underwriter's economic interest?
- f) Please describe how CEI South would determine the appropriate credit spreads for each tranche in an "arms-length" negotiations with the underwriters to ensure the lowest cost to ratepayers/ optimal transaction for CEI South's ratepayers.
- g) Please refer to p. 33, lines 13-16, of Mr. Chang's direct testimony, which states, "This step can only occur when the book has at least an equal amount of orders on the bonds as the principal amount of securitization bonds offered (generally referred to as being "fully-subscribed")." Is this consistent with the financial industry definition (FINRA/SEC) of a firm commitment underwriting or is it a best efforts underwriting or something else?
- h) Has Barclays ever underwritten bonds? i.e., have they ever entered into a firm commitment underwriting agreement without the bonds of all tranches fully subscribed by any amount?

 ² Referenced at: <u>https://www.sec.gov/Archives/edgar/data/48732/000095012905012020/h31290aexv1w1.txt</u>
³ Referenced at: <u>https://www.sec.gov/Archives/edgar/data/1098911/000102140801508585/dex11.txt</u>

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- i) Does Mr. Chang have any experience or know of any firm that has underwritten bonds? i.e., entered into a firm commitment underwriting agreement without the bonds of all tranches fully subscribed by any amount?
- j) Does Barclays have a policy against underwriting bonds of a series or tranche? i.e., enter into a firm commitment underwriting agreement without the bonds of all tranches fully subscribed by any amount? If so, please describe.
- k) Is CEI South or Barclays aware of any firm acting as an underwriter who will not enter into a firm commitment underwriting without the bonds fully subscribed by any amount? If so, please identify.
- Please provide a detailed explanation and supporting documentation as to how CEI South plans to ensure that the underwriters are working in the best interests of the ratepayers in a negotiated or firm commitment underwriting given the agreement above that there is an "Absence of a Fiduciary Relationship" between the underwriters CEI South or its ratepayers.

Objection:

Petitioner objects to the Request on the grounds and to the extent it seeks information that is irrelevant to and beyond the scope of this proceeding, and not reasonably calculated to lead to the discovery of relevant or admissible evidence. Petitioner further objects to OUCC DR 09.3(d) to the extent it seeks a legal conclusion as to the definition of "arms-length negotiation." Petitioner further objects to OUCC DR 09.3(f) on the separate and independent grounds and to the extent it misstates the applicable statutory requirements or attempts to impose a requirement not present in the statute through the phrase "ensure the lowest cost to ratepayers/ optimal transaction for CEI South's ratepayers." Petitioner further objects to OUCC DR 09.3(h), (i) and (j) to the extent it is irrelevant and beyond the scope of this proceeding given that Barclays has not been engaged as the underwriter for CEI South's securitization bond offering. Petitioner further objects to OUCC DR 09.3(k) on the grounds and to the extent it is irrelevant and beyond the scope of this proceeding given that Barclays has not been engaged as the underwriter for CEI South is securitization bond offering. Petitioner further objects to OUCC DR 09.3(k) on the grounds and to the extent it is irrelevant and beyond the scope of this proceeding. CEI South has not selected the underwriter for securitization bond offering, and the practices of underwriting firms in general are not relevant to this proceeding.

Response:

Subject to and without waiver of the foregoing objections, Petitioner responds as follows:

- a) No questions are asked in 9-3a.
- b) The "Absence of Fiduciary Relationship" provision became a standard provision in all investment bank engagement letters, underwriting agreements, bond purchase agreements and similar agreements as a result of the eToys Inc. litigation. In the eToys case, the New York State Court of Appeals held that an issuer in an IPO can properly assert a claim for breach of fiduciary duty against an underwriter based on the issuer's reliance on the underwriter's expertise and advice on the pricing of an offering (EBC 1 Inc. v. Goldman, Sachs & Co., 5 N.Y.3d 11 (N.Y. 2005)).
- c) This provision, like others in a standard underwriting agreement, expressly sets forth the contractual relationship between an issuer and the underwriters in connection with a firm commitment underwritten offering of securities.

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- d) As noted in this provision, the price to the public for the securities and the purchase price for the securities that the underwriters pay the issuer are set after discussions and negotiations between the issuer and the underwriters.
- e) The spread on utility securitizations may increase, decrease, or stay the same depending on market conditions at the time of issuance and overall investor demand for the bonds. Any decisions that CEI South makes on spreads will be consistent with CEI South's commitment to optimize benefits.
- f) CEI South will work with the Commission and the underwriting syndicate to evaluate the pricing of the bonds to ensure that it meets the requirements of the statute.
- g) This is consistent with a best efforts underwriting approach.
- h) See objection.
- i) See objection.
- j) See objection.
- k) See objection.
- CEI South will comply with all requirements of the Financing Order and Securitization Act in regard to customer savings and is committed to structuring and marketing the bonds to optimize benefits.

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9-4. Please refer to page 26, lines 18 and 19 of Mr. Chang's direct testimony.

- a) Please provide a list of what Mr. Chang and Barclays consider comparable securities currently outstanding to compare for the CEI South securitization bond by tranche as well as for any recent new issue utility securitization bonds that he has worked on by tranche as a bookrunner. Please provide issuer name, bond description, weighted average life remaining, bond rating(s) and CUSIP #.
- b) Please provide any indicative interest rates and credit spreads of any outstanding securities that were provided to CEI South and used by Witness Jerasa in his testimony. See also page 12 of Mr. Jerasa's direct testimony. Explain how such indicative rates/credit spreads were developed and provide any information on comparable securities that was used in developing such rates. Please provide issuer name, bond description, weighted average life remaining, bond rating(s) and CUSIP #.
- c) Please refer to page 26, lines 3 and 18 of Mr. Chang's direct testimony. Please state whether Witness Change knows of any comparable corporate securities from 2021 to present securitization bond offerings for which there was no or a negligible credit spreads between the securitization bond credit spread to the interpolated US Treasury yield curve at the time (also known as the "g-spread") for a specific tranche and its g-spread for a specific tranche and weighted average life of outstanding comparable AAA rated securities trading between institutions at the time of pricing and recorded on the FINRA/TRACE system. Please indicate whether he would expect such credit spread (or lack thereof) to change over time.
- d) Please refer to Mr. Chang's direct testimony, beginning on page 31 "Section VII. Description of the Marketing Process for Utility Securitization Bonds" of Mr. Chang's direct testimony. Please provide CEI South's marketing plan for the proposed securitization bonds, including, but not limited to, the trading history of comparable securities to be used in such plan, proposed roadshow materials, pros and cons sales memorandum, and categories of investors to be targeted. Please provide all objective evidence as practicable to support the recommendations in the plan. If no such plan exists, please indicate when such a plan would be developed and available to be reviewed.

Response:

a) While there are additional outstanding utility securitizations that would be comparable to a CEI South securitization, please see table below for the most recent utility securitization offerings. Additional comparable securities across products include high quality unsecured corporate bonds, outstanding ABS bonds, first mortgage bonds, municipal bonds, etc.

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	Pacific Gas and Electric	OGE Energy Corp	Cleco Partners	Electric Reliability Council of Texas	Entergy Louisiana	Pacific Gas and Electric	Entergy Texas	DTE Electric	Southern California Edison	Rayburn
Deal Name	PCG 2022-B	ODFA 2022	CNL 2022-A	ERCOTT 2022-1	LCDA 2022- ELL	PCG 2022-A	ETR 2022-A	DTE 2022-A	EIX 2022-A	RAYCSC
Issuance Timing	July 2022	July 2022	June 2022	June 2022	May 2022	May 2022	March 2022	March 2022	February 2022	February 2022
Total Deal Size (\$mm)	\$3,900	\$762	\$425	\$2,116	\$3,194	\$3,600	\$291	\$236	\$533	\$908
	A-1: 4.99	A-1: 5.36	A-1: 4.79	A-1: 6.78	A-1: 2.74	A-1: 4.33	A-1: 3.02	A-1: 2.73	A-1: 3.76	A-1: 4.98
1	A-2: 12.09	A-2: 15.69	A-2: 15.00	A-2: 16.21	A-2: 6.80	A-2: 11.07	A-2: 9.97	A-2: 9.67	A-2: 14.07	A-2: 14.86
WAL (yrs)	A-3: 16.96	A-3: 24.44		A-3: 22.12	A-3: 10.19	A-3: 15.52			A-3: 22.82	A-3: 24.23
	A-4: 22.42			A-4: 26.11	A-4: 13.61	A-4: 21.55				
	A-5: 27.94					A-5: 27.70				
	A-1: I+100 (4.02%)	A-1: 4.29%	A-1: T+95 (4.02%)	A-1: I+120 (4.26%)	A-1: T+80 (3.62%)	A-1: I+60 (3.59%)	A-1: T+70 (3.05%)	A-1: T+75 (2.64%)	A-1: T+40 (1.98%)	A-1: T+65 (2.31%)
1	A-2: I+170 (4.72%)	A-2: 4.85%	A-2: T+160 (4.65%)	A-2: I+170 (4.96%)	A-2: T+120 (4.14%)	A-2: I+125 (4.26%)	A-2: T+135 (3.70%)	A-2: T+110 (3.11%)	A-2: T+98 (2.94%)	A-2: T+120 (3.02%)
Pricing Spread (Coupon)	A-3: I+183 (5.08%)	A-3: 5.09%		A-3: l+170 (5.05%)	A-3: T+135 (4.28%)	A-3: l+125 (4.38%)			A-3: T+92 (3.24%)	A-3: T+120 (3.35%)
	A-4: I+190 (5.21%)			A-4: l+190 (5.16%)	A-4: T+155 (4.47%)	A-4: l+125 (4.45%)				
	A-5: I+195 (5.10%)					A-5: l+160 (4.67%)				
	A-1: 693342AF4	A-1: 6789083Z5	A-1: 185512AA8	A-1: 88240TAA9	A-1: 54627RAL4	A-1: 693342AA5	A-1: 29366NAA4	A-1: 23345GAA8	A-1: 78433LAD8	A-1: 75458JAA5
	A-2: 693342AG2	A-2: 6789084A9	A-2: 185512AB6	A-2: 88240TAB7	A-2: 54627RAM2	A-2: 693342AB3	A-2: 29366NAB2	A-2: 23345GAB6	A-2: 78433LAE6	A-2: 75458JAB3
CUSIP	A-3: 693342AH0	A-3: 6789084B7		A-3: 88240TAC5	A-3: 54627RAN0	A-3: 693342AC1			A-3: 78433LAF3	A-3: 75458JAC1
	A-4: 693342AJ6			A-4: 88240TAD3	A-4: 54627RAP5	A-4: 693342AD9				
	A-5: 693342AK3					A-5: 693342AE7				

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Stranded Cost Type	Recovery of costs and expenses to pay wildfire claims costs and to accelerate the final payment to wildfire victims	Recovery of costs incurred as a result of Winter Storm Uri	Recovery of certain storm recovery costs related to Hurricanes Laura, Delta, Zeta, and Ida, and Ida, and Viola, and Viola, and fund a new restricted storm recovery reserve	Recovery of costs that arose from Winter Storm Uri and to ultimately provide financial relief for retail electric customers	Recovery of costs related to Hurricane Ida and associated expenses	Recovery of costs and expenses to pay wildfire claims costs and to accelerate the final payment to wildfire victims	Recovery of system restoration costs after power outages resulting from storms, floods or other weather- related events or natural disasters	Recovery of qualified costs associated with the closure of its River Rouge generation plant and tree trimming surge program	Recovery of costs and expenses related to catastrophic wildfires, including fire risk mitigation capital expenditures	Recovery of extraordinar y costs Rayburn incurred to purchase power from Electric Reliability Council of Texas at extraordinaril y high prices due to the supply and demand imbalance caused by Winter Storm Uri in February 2021
Barclays Role	Joint Lead Bookrunner	-	-	Joint Lead Bookrunner	-	Joint Lead Bookrunner	-	-	Joint Lead Bookrunner	-

- b) Please see response to OUCC DR04-1.
- c) Barclays has seen instances where utility securitization bond offerings have been able to achieve attractive pricing relative to where spreads on comparable utility first mortgage bonds and other high quality corporate bonds were at the time of issuance. The credit spread between each type of securities may change over time depending on a variety of market factors.
- d) Barclays has not been engaged as an underwriter. CEI South will develop a marketing plan with the input from underwriters and the Commission prior to the start of any marketing of the securitization bonds. CEI South expects the implementation of the market plan to occur after a Financing Order is received and the rating agency review process.

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9-5. Please refer to the testimony of Brett Jerasa workpapers BAJ-4, Upfront Fee and Ongoing Fee estimate by category for CEIS. Mr. Jerasa identified 16 categories of up-front costs.

- a) Please breakdown all "Underwriters' Fees and Expenses" by those that have already been spent and estimated to be spent prior to the issuance of a financing order and those expenses expected after issuance of the financing order for the issuance of the bonds.
- b) Please breakout all "Legal Fees and Expenses" by each counsel's function associated with the transaction. Specifically separate company counsel, underwriter's counsel, regulatory counsel, and any other special counsels that are to be utilized. Have all counsel been hired, and at what rate and estimated cost for each function?
- c) Please detail all "Rating Agency Fees" by each rating agency.

Objection:

Petitioner objects to the Request on the grounds and to the extent it seeks a calculation, compilation or analysis that Petitioner has not performed and which Petitioner objects to performing.

Response:

Subject to and without waiver of the foregoing objections, Petitioner responds as follows:

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Fatimeted U.S. Frank David January Casta		Spent to Date		Estimated to be	spent	Expected after Financing	
Estimated Up-Front Bond Issuance Costs	Spent to Date		prior to Financing Order		Order for Issuance		
Underwriter Fees and Expenses	\$ 1,400,500.00	\$	-	\$	-	\$	1,400,500.00
Legal Fees and Expenses	\$ 2,000,000.00	\$	-	\$	-	\$	2,000,000.00
SEC Registration Fees ⁽¹⁾	\$ 32,456.59	\$	-	\$	-	\$	32,456.59
Rating Agency Fees	\$ 787,593.75	\$	-	\$	-	\$	787,593.75
Printing / Edgarizing Costs	\$ 75,000.00	\$	-	\$	-	\$	75,000.00
Bond Trustee Fees and Expenses	\$ 35,000.00	\$	-	\$	-	\$	35,000.00
Accounting Fees and Expenses	\$ 125,000.00	\$	-	\$	-	\$	125,000.00
Original Issue Discount	\$ 11,227.66	\$	-	\$	-	\$	11,227.66
Miscellaneous	\$ 75,000.00	\$	-	\$	-	\$	75,000.00
SPE Organiziational Costs	\$ 50,000.00	\$	-	\$	-	\$	50,000.00
Servicer Set-up Costs	\$ 100,000.00	\$	-	\$	-	\$	100,000.00
Commission's Costs and Expenses	[]	\$	-	\$	-	\$	-
TOTAL ESTIMATED UP-FRONT BOND ISSUANCE COSTS	\$ 4,691,778.00	\$	-	\$	-	\$	4,691,778.00

- b) CEI South does not have a detailed breakout for all Legal Fees and Expenses broken down by function. CEI South estimated two million dollars for Legal Fees and Expenses. This estimate included functions performed by the Company's counsel, Underwriter's counsel, and Regulatory counsel. So far, CEI South has retained Barnes & Thornburg and Baker Botts as legal advisors for the securitization filing.
- c) See table below for the estimated up-front and ongoing rating agency fees:

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						Deal Size:	350,125,000	
S&P	Ratings fee (bps)	Min ratings fee	Max ratings fee	Ongoing surveillance fee	Engagement fee	Other fee	Final ratings fee	Final ongoing fee
Standard fee schedule	7	\$250,000	\$550,000	\$25,000	na	na	250,000.00	\$25,000
				Ongoing				
Moody's	Ratings fee (bps)	Min ratings fee	Max ratings fee	Ongoing surveillance fee ¹	Engagement fee	Other fee (1x complexity)	Final ratings fee	Final ongoing fee

	Ratings fee ²	Min ratings	Max	Ongoing	Engagement	Other fee (1st time		Final ongoing
Fitch	(bps)	fee	ratings fee	surveillance fee	fee	issuer)	Final ratings fee	fee
Standard fee schedule	3.5	\$175,000	\$300,000	\$10,000	na	\$25,000	200,000.00	\$10,000

² 3.5 bps for issuance amounts up to \$1.5 billion; \$25,000, one time additional fee for issuance amounts over \$1.5 billion.

	Ratings Fee	Ongoing Fee
Total for three RAs	787,593.75	\$77,000

Cause No. 45772 - CEI South 45722 OUCC DR09-2k1 - CEI South RFP for Structuring Agent--July 2021 Page 1 of 3

CenterPoint Energy Indiana South

July 29, 2021

Via electronic mail

- To: Selected investment banks interested in serving as the structuring agent and banking witness for CenterPoint Energy Indiana South's upcoming securitization case with the Indiana Utility Regulatory Commission (IURC) to obtain a financing order.
- Re: **REQUEST FOR PROPOSALS** (RFP) for Sole Structuring Agent Position for Proposed Issuance of approximately \$250 million of Bonds for retiring certain coal assets

Dear [insert banker name here],

CenterPoint Energy Indiana South (CEIS) invite your firm to submit information to be used in connection with our evaluation of your potential role as sole structuring agent and banking witness for the issuance of approximately \$250 million of bonds.

This offering of bonds is very important to CEIS and its customers. CEIS requests that you respond to the attached scope of work below so that we may evaluate your firm's capabilities to help deliver the lowest reasonable charges that are consistent with market conditions and the terms of the financing order.

This proposed bond offering is undertaken pursuant to SEA 386 that was enacted in the 2021 Indiana General Assembly legislative session, creating Indiana Code chapter 8-1-40.5 and establishing a pilot program for securitization of retired electric utility assets. At this point in time, the pilot program only applies to Southern Indiana Gas & Electric Company, also known as CenterPoint Energy Indiana South ("CenterPoint").

CEIS expects to file the case in chief with the Indiana Regulatory Commission in February of 2022. The financing order that is expected to be issued by the Commission during October 2022 will authorize the issuance of transition bonds and include a true-up mechanism to ensure the billing of transition charges necessary to generate the collection of amounts sufficient to provide all scheduled payments of principal and interest and related fees in a timely fashion. It will provide for the adjustment of the transition charges at least annually to address any overcollections or undercollections of such charges. The terms of the financing order will be consistent with statutory requirements found in SEA 386.

<u>Please respond to this RFP by 5:00 p.m. (CST) on Friday, August 6, 2021.</u> Please respond *via email* with your proposal (in a Microsoft Word, Power Point or Adobe "pdf" attachment) to Matt Rice, Indiana Director of Electric Regulatory and Rates, at matt.rice@centerpointenergy.com.

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Any questions concerning this Request for Proposals may be directed to Matt Rice via e-mail to <u>matt.rice@centerpointenergy.com</u>

After we have reviewed all responses from candidates, we may request a meeting with your firm. We anticipate that any such meeting would be held virtually in mid-August.

Our goal is to obtain information on how your firm can partner with CEIS to educate stakeholders and structure the bonds to help our customers receive the lowest reasonable rate. Thank you in advance for your interest and cooperation.

Sincerely,

Matt Rice Director of Indiana Electric Regulatory and Rates CenterPoint Energy Indiana South

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CenterPoint Energy Securitization Bonds Request for Proposal

Scope of Work:

- Assistance in the preparation of the form of proposed securitization financing order including, but not limited to:
 - Transaction structure
 - o Cash flow modeling and design of the customer revenue requirements
 - Effective date and implementation of the securitization charges
 - o True-up adjustment structure, frequency, and implementation
 - Customer savings tests
 - Role of the Commission in the financing process
 - Structure of the financing
 - o Investor education and marketing
- Preparation of draft transaction overview content for the rating agency presentation
- Interactive stakeholder education sessions on securitization throughout the process (2-3 on site meetings with various stakeholder groups including IURC Commissioners in Indianapolis, IN)
- Preparation and submission of expert written and oral testimony (live hearing in Indianapolis, IN), including rebuttal testimony and responses to data requests supporting approval of the proposed financing order
- Work with legal (CEIS and external counsel), treasury, regulatory, accounting, finance departments, and decommissioning expert throughout the case to ensure timely filing of the case in chief in February 2022.
 - Provide a lead point of contact for day to day activities, as well as clearly identify the team, including management responsible for the project.

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Wisconsin Environmental Trust Financing Orders for Prairie River Facilities: How Wall Street Can Takes Advantage of Commissions, Utilities and Ratepayers in Using Securitization

LOSING WHILE WINNING

Saber Partners, LLC

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EXECUTIVE SUMMARY

In 2003, Wisconsin legislators approved a relatively new financing tool for the state's utilities called "securitization." Utility securitization had been gaining traction around the country driven by efforts to deregulate energy markets, recover stranded costs and finance rate reductions. These securitization financings also became known as "ratepayer-backed bonds" and under the 2003 Wisconsin statute, "environmental trust bonds."

Ratepayer-backed bonds can achieve significantly lower interest rates than traditional utility financings. Once sold, the **bond's principal amount** would replace an equivalent amount of the **utility's more expensive debt and equity. Replacing** a utility's cost of debt and equity with the cost of securitization debt lowers the revenue required to be raised from electricity ratepayers in their rates. This means electricity rates can be lower when financing or refinancing approved utility expenses and investments with ratepayer-backed bonds. In 2003, Wisconsin became the first state to authorize securitization/ratepayer-backed bonds to finance "environmental control facilities."

In 2019, as part of a settlement concerning the closing of the Pleasant Prairie coal-fired power plant, WEPCO agreed to use environmental trust bonds to recover the remaining undepreciated costs of certain environmental control facilities costs that otherwise would be in customer rates until 2041.¹ In other words, the dollar amount of unrecovered costs that still were on the utility's balance sheet had already been approved for recovery in rates from WEPCO customers. State regulators unanimously approved the settlement as part of plan to address how WEPCO would recover the remaining costs of the closed Pleasant Prairie coal-fired power plant.

On May 4, 2021, Wisconsin Electric Power Company (WEPCO) sold \$118.8 million in ratepayerbacked bonds under this settlement. The \$118.8 million financing had the potential to save WEPCO ratepayers approximately \$54 million in today's dollars compared to the amounts to be charged to ratepayers under traditional ratemaking.²

However, despite low interest rates for all bond maturities at the time, WEPCO "left **on the table**" (lost) <u>over 16%</u> of that amount or over <u>\$9 million</u> in ratepayer savings.

These were savings to which ratepayers were entitled and which they would have received *but for* the critical decisions made in 2020 by the utility and regulators based on a faulty evidentiary record.

Two key issues led to over \$9 million in lost ratepayer savings in the 2021 transaction.

¹ "Undepreciated Cost" is also known as the unamortized amount of an investment in an asset like a power plant that is still on the utility's balance sheet. The total investment amount approved by regulators and owed to WEPCO under traditional utility ratemaking is included in customer current rates over a period of time known as the "amortization period." The unrecovered costs are embedded in the utility's "rate base." This period is stated in the number of years. The utility is also allowed to earn a return for its shareholders based on how much it costs the utility to raise money from shareholders and bond investors. This rate is known as the utility's "cost of capital." The cost of capital is compensation for getting paid over time rather than all at once. These costs are usually much higher than the interest rate on the ratepayer-backed bonds. ² This is also known technically as "present value savings" because it discounts future costs by a rate that reflects the alternative cost of money. The principle is that a dollar today is worth more than a dollar tomorrow. Or in other words, dollars to be paid in the future are worth less (and therefore less costly for ratepayers) than dollars paid today or the near future.

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- The Customer Repayment Period Was Too Short. The repayment period for the bonds should have matched the repayment period that was already in customer rates. That is the same period over which WEPCO was already allowed to recover its investment for the closed Prairie Point coal plant. This means WEPCO should have sold the new bonds with a structure that had a longer maturity. Structuring the bond issue with a shorter maturity – 12.6 vs 20 years – forfeited at least a \$7.5 million gain in potential savings, in today's dollars, when compared to traditional ratemaking.
- Transaction Pricing was Poor. In addition, WEPCO should have sold the bonds at lower interest rates – about 22 basis points- or 0.22% per year – for the bond issue with a final maturity of 12.6 years that it did sell. In this way, \$1.2-1.6 million of savings were lost relative to the most recent AAA/Aaa utility securitization bond offering as a benchmark (an offering that was completed for Southern California Edison Company on February 17, 2021, through Barclays Capital, WEPCO's own financial advisor and underwriter).³

These conclusions are more than just hindsight though critics might want to dismiss them that way. A prior Public Service Commission of Wisconsin ("Commission") financing order and many other state utility commission precedents since the 2003 Wisconsin statute, have named structuring and pricing as critical issues to ensure the least cost to ratepayers.

In fact, in October 2004 in the first securitization financing order under the statute approved for WEPCO, the Commission developed procedures and precedents to protect ratepayer interests and prevent losses in environmental control facility financings. Both the repayment period and transaction pricing were identified as critical elements in the use of environmental control bonds and safeguards for ratepayers needed to be included in any financing order and next bond offering.

However, in November 2020, when the Wisconsin Commission approved the WEPCO Prairie Point securitization financing order, it effectively (and unknowingly) overturned the **Commission's precedents established in October 2004. The 2004 precedents had addressed** fundamental issues about environmental trust bond structuring and costs to ratepayers. The 2004 proceeding involved almost identical issues and facts presented in the 2020 financing order proceeding. Yet, the 2020 financing order disregarded the 2004 Commission precedents without reasoning or other explanation.

Through a careful review of the record, this study uncovers the reason for the financial loss of about \$9 million in foregone ratepayer savings or 16% of the potential total. The shortfall in ratepayer savings occurred as a result of the provisions of the financing order proposed and drafted by WEPCO and approved by the Commission in 2020. The 2020 Commission was either **unaware of industry "best practices" in the structuring, marketing, and pricing of the bonds or** simply approved the WEPCO proposed financing order without including requirements for "best practices." Ironically, many of these "best practices" had been included in the Commission's 2004 financing order but were inexplicably absent in the 2020 financing order.

Fundamentally, WEPCO and their financial advisor and underwriter were apparently focused on **satisfying the underwriter's custome**rs, the investors. The advisor who proposed the structure of the financing had an inherent conflict of interest with ratepayers since they were to be the underwriters of the bonds as well. They do not have a fiduciary relationship to act in the best

³ Saber Partners, LLC recently completed an assignment on ratepayer-backed bonds for the North Carolina Utilities Commission Public Staff and is a financial advisor to Southern California Edison Company on an offering of approximately \$1 billion in utility securitization bonds. See engagement <u>description</u>.

interests of either the utility or commission or ratepayers. It is an arms-length commercial transaction. In this instance, they did not try to get the greatest present value savings for WEPCO ratepayers. Present value analysis is a fundamental principle of finance, and of traditional utility ratemaking.

This study seeks to inform Wisconsin legislators, regulators, and ratepayer advocates of the critical issues to focus on in any subsequent use of utility securitization as a tool to mitigate customer rates in coal plant retirements or other extraordinary costs.

Some might say, *"Well, it was a small transaction, and it did save money."* The shortfall in *ratepayer savings is not a lot of money.*" This study does not speculate on whether shortfall of \$9 million in savings is material to ratepayers. Instead, the study lets the facts speak for themselves.

The following table summarizes the financial analysis of the over \$9 million in lost savings for WEPCO ratepayers based on the method consistent with the evidentiary record and as further described in Appendix 2.

\$45 Million Savings Achieved and \$9 Million Savings Lost





Introduction

In 2019, as part of a settlement concerning the closing of the Pleasant Prairie coal-fired plant, Wisconsin Electric Power Company ("WEPCO") agreed to use "securitization" known in Wisconsin as "environmental trust bonds" to recover the costs of certain undepreciated environmental control facilities at the plant. These costs were to be in customer⁵ rates at a high cost until 2041.⁶ In other words, WEPCO's undepreciated amount of these costs is the dollar amount that still is on the utility's balance sheet and approved to be recovered from WEPCO in customer rates over time. WEPCO would sell environmental trust bonds allowed under a 2003 Wisconsin statute, keep the proceeds as payment in full and pass the bond's cost onto ratepayers. Customer rates should be lower for bond's costs compared to WEPCO's previous costs. State regulators, the Public Service Commission of Wisconsin, unanimously approved the settlement as part of plan to address how WEPCO would recover the costs from the retired Pleasant Prairie coal-fired plant.⁷

Background on Utility Securitization in Wisconsin

In 2003, the Wisconsin legislature approved legislation - initiated by WEPCO - that allowed the **state's** utilities to finance environmental control facilities with a special type of bonds.⁸ The bonds are known as "ratepayer-backed bonds" and the process for creating them is called "utility securitization."

Generally, the utility securitization process works this way:

- 1. A utility applies to the regulator for approval of a financing order that meets specific criteria outlined in the authorizing legislation. The financing order supports a bond financing to be issued in the amount approved in the financing order.
- 2. The regulator reviews and issues a financing order approving the securitization. During the regulatory review process, regulators may place conditions on the utility in the financing order.
- 3. Through the financing order and after the costs of the bond sale are known the regulator puts a special tariff **charge on everyone's electric bill.**
- 4. The tariff charge is pledged as collateral for bonds to be sold to investors.
- 5. The regulator guarantees to adjust the tariff charge to whatever level is necessary to guarantee that the bonds are paid back on time.
- 6. The state government pledges not to interfere with the bondholders' right to receive the tariff charges and requires the regulator to adjust the tariff charge to whatever level is necessary to pay the bonds on time and in full.

⁵ Customers and ratepayers are used interchangeably in this report.

⁶ "Undepreciated Cost" is also known as the unamortized amount of an investment in an asset like a power plant that is still on the utility's balance sheet. The total investment amount approved by regulators and owed to WEPCO under traditional utility ratemaking is included in customer rates over a period of time known as the "amortization period." The unrecovered costs are embedded in the utility's "rate base." This period is stated in the number of years. The utility is also allowed to earn a return for its shareholders based on how much it costs the utility to raise money from shareholders and bond investors. This rate is known as the utility's "cost of capital." The cost of capital is compensation for getting paid over time rather than all at once. These costs are usually much higher than the interest rate on the ratepayer-backed bonds. ⁷ See Madison.com, November 1, 2019, *PSC approves refinancing of shuttered coal plant but warns* strategy not 'a template'

⁸ See 2003, 196.027, Environmental Trust Financing statute at <u>https://docs.legis.wisconsin.gov/statutes/statutes/196/027</u>

7. The utility and its **underwriters'** structure, market, price, and sell the bonds following the terms of the financing order.

In essence, the state's legislature with the authority over the sale of an essential commodity – electricity – empowered the state's regulatory commission to approve an extremely safe investment opportunity for investors.

In Wisconsin, these securitization **bonds would be called** "environmental trust b**onds" and the charges on customer bills would be called** "environmental control charges." The legislature also set conditions in the statute that were designed to protect investors and ratepayers.

Investors consider this type of bond an extraordinarily safe investment. Credit rating agencies give it their top rating, AAA/Aaa. Importantly, this credit rating is always better than the credit rating on the **utility's own bonds. Moody's, one of the nation's leading credit rating agencies**, describes its top rating as, "to be of the highest quality, subject to the lowest level of credit risk."⁹

Utilities across the country generally support this form of financing in certain circumstances because they receive the full proceeds from the bond sale without having a direct obligation to repay the bonds using their own capital. This type of bond financing allows the utilities to fully recover their authorized costs.

The bill for payment of a **bond's** principal, interest, and administrative expenses is paid directly by utility ratepayers through the special tariff charge on their electricity bills. This special tariff charge is added to all current and future ratepayer bills **in the utility's service ter**ritory. The tariff charge is adjusted regularly to guarantee that enough cash is available to pay the bonds in full and on time.

This process is irrevocable and cannot be changed once the bonds are sold.

There is an important difference with this type of financing compared to traditional utility finance. In traditional utility cost recovery and ratemaking, the Commission keeps full regulatory **review of all the utility's** financing costs on an ongoing basis. These costs are examined in general rate cases. The Commission can disallow any costs considered not prudent or following established policies. Ratepayers are always protected.

To protect ratepayers in the securitization process where regulators must give up ongoing review, the Wisconsin legislature required the Commission to find:

"That the proposed structuring and expected pricing of the environmental trust bonds will result in the lowest environmental control charges that are consistent with market conditions and the terms of the financing order."¹⁰ [Emphasis added.]

This condition would ensure that ratepayers would always benefit from securitization to the maximum extent possible and not be overcharged by the utility, its bankers, or the investors.

⁹ Moody's "Rating Symbols and Definitions" at <u>https://www.moodys.com/Pages/amr002002.aspx</u>

¹⁰ See <u>https://docs.legis.wisconsin.gov/document/statutes/196.027(2)(b)1.b.</u>

Legislative Standards for the Structuring of Utility Environmental Trust Bonds

A key part of the Wisconsin statute is

"That the proposed structuring and expected pricing of the environmental trust bonds will result in the lowest environmental control charges that are consistent with market conditions and the terms of the financing order."^{11,12} [Emphasis added.]

"Structuring" generally refers to the time period, term, or maturity of a bond issue's repayment schedule. A bond is a loan from investors. It needs to be paid back over a specific time. Structuring is also referred to as the "amortization schedule." It includes the timing of the **bond**'s principal and interest payments.

For example, a home mortgage that has a fixed rate and level principal payments for 15 years versus a mortgage with a fixed rate and level principal payments for 30 years would be considered **to have different "structures"** – one 15 years and one 30 years. The interest rates for the two structures would also be different. The longer maturity would have a higher interest rate. But the monthly payment for the two structures would be very different. The monthly payment for the longer 30-year mortgage would be much lower than the 15-year mortgage.

So, when combining interest and principal payments along with any other administrative fees that would need to be paid, one would get the **amount of "charges" that the homeowner would** have to pay each month just like an electric bill. This amount would be similar to the Wisconsin **statute's reference to** the total **"environmental control charges" required to repay investors for the** chosen environmental trust bond's "structure."

However, unlike other states with statutes that authorized securitization/ratepayer-backed bonds at the time, the Wisconsin's statute did not specify a permissible time period, term, or maturity for securitization bonds. It did not say environmental trust bonds (akin to home mortgages) could only be 15 years and never 30. In addition, the Wisconsin statute did not specify an end date for the environmental trust charges. An end date would have limited the term structure and maturity of the environmental trust bonds since the bonds would have to be paid off before then. These are important and critical distinctions of the Wisconsin statute versus other statutes.

For, example, Michigan and New Jersey enacted laws authorizing utility securitization a few years before Wisconsin. Similar to Wisconsin, both require that **the** "proposed structure and pricing [of the bonds] will produce the lowest charges consistent with market conditions at the time the bonds are issued and the terms of the financing order."¹³ However, unlike Wisconsin, those states restricted the term and maturity of the securitized bonds.

Restricting the term limits the time period of any savings that ratepayers can achieve versus traditional utility ratemaking. In traditional utility ratemaking repayment periods can be very long (30-40 years) or very short (1-5 years), depending on what utility cost or regulatory asset is being financed and how.

¹³ See <u>Chapter 460. Public Utilities Michigan Public Service Commission, Act 3 of 1939</u> Section 460.10i (2) (c) and Section 460.10i (3) at and <u>New Jersey Title 48 Chapter 3 Article 7 (New) Energy Rate Competition</u> §§1-14,51, 15-46,57,60,66 C. 48:3-49 To 48:3-98§51 Note To 54:10A-1 & 54A:1-1 §60 Note To Title 27 & Title 13 §§59 & 66 Note To All Sections §63 C. 40A:11-15.2 §65 Repealer

¹¹ See Wis. Stat. § 196.027(2)(b)1.

¹² See <u>https://docs.legis.wisconsin.gov/document/statutes/196.027(2)(b)1.b.</u>.
The Michigan and New Jersey statutes say:

"The financing order shall detail the amount of qualified costs to be recovered and the period over which the securitization charges are to be recovered, not to exceed 15 years."¹⁴ [Emphasis added.]

This **"not to exceed 15 years"** was likely chosen because the purpose of the securitization at that time was to pay the costs of associated with deregulation of the electricity market in the state. Deregulation was a controversial issue and limiting the time period that ratepayers had to pay a surcharge for any bond costs associated with it was popular.

In New Jersey and Michigan securitization was not to be used for financing new utility investments that would be in service for long periods of time. **"Traditional utility ratemaking"** generally requires those regulatory investments/assets to be paid for by ratepayers who benefit from their use over the time period the asset is in service. At that time the New Jersey and Michigan securitization statutes were not to be used to finance the costs associated with plant retirements. There were separate policies and procedures for recovering those costs under traditional regulatory principles.

However, the 2003 Wisconsin statute was not about deregulation or so called "stranded costs" associated with deregulation of the state's energy markets. In Wisconsin, environmental trust bond proceeds could be used to finance a utility's capital costs for plant and equipment needed to comply with state and federal environmental laws. This included generation plant retirement. Generally, plant and equipment are in service for long periods of time often 20-40 years. A utility would recover the costs of these investments in customer rates over the time that the plant and equipment would be in service though traditional utility ratemaking.

Consequently, the Wisconsin legislature allowed the term and maturity of the securitization bonds – the **bonds'** repayment period – to be decided by the Wisconsin Commission. The statute required the Commission in a financing order to:

"...specify the amount of environmental control costs and financing costs that may be recovered through environmental control charges and the period over which such costs may be recovered."¹⁵ [Emphasis added.]

However, and most importantly, this meant the Wisconsin statute was flexible. The Commission had the proper authority in environmental control bonds that it has in traditional financing utility investments or retiring plants and equipment. With this flexibility on structure/repayment periods, the Commission's financing order could apply the same regulatory principles established by the Commission for other utility plant and equipment. They could apply the right recovery periods and consider inter-generational fairness issues and still achieve "the lowest environmental control charges that are consistent with market conditions and the terms of the financing order."

A Bond's Structure is the Largest Component of the Cost to Ratepayers

In setting utility rates, regulators find how much revenue is necessary to pay all of a utility's expenses, taxes, investments, and allow a **fair return for the utility's shareholders** on an after-tax basis. In traditional utility ratemaking, t**his is known as the utility's "revenue requirements."**

¹⁴ IBID

¹⁵ See <u>https://docs.legis.wisconsin.gov/statutes/statutes/196/027/2/b/2/a</u>

Environmental trust bonds as a securitization bond offering are a AAA/Aaa debt financing that replaces the "revenue requirements" of a utility's combined weighted average cost of capital (corporate debt and equity) along with related taxes and fees that are allowed though traditional ratemaking to be included in customer rates. Because securitization bond costs replace the "revenue requirements"¹⁶ for higher cost corporate debt and equity with Aaa-rated ratepayer-backed bonds, it will always produce customer "savings." The revenue requirements for ratepayer-backed bonds will almost always be lower than the revenue requirements from traditional ratemaking for the same amount.

While the cost will always be lower, the time period or structure will have the largest effect on a **customer's bill. Just like** a 30-year mortgage has a lower monthly principal payment than a 15-year, the same is true for ratepayer-backed bonds like environmental trust bonds.

Interest costs are only a small percentage of the payment amount. Under current market conditions, 30-year mortgage rates are under 4%. So, the term and maturity of the repayment of the mortgage principal will be much higher than the interest for any principal amount.

As discussed below, **both interest and principal costs over time must be converted to a "present value.**" Converting what the customer must pay in the future to the present value **(also known as "today's dollars")** is an established principle of traditional utility ratemaking and a bedrock principle of finance. In other words, there is a time value to money, a dollar tomorrow is worth less than a dollar today. So, tracking all the cash flows over **time and converting them to today's dollars allows a direct "apples to apples" com**parison of alternatives.

2020 Use of the 2003 Wisconsin Environmental Trust Statute

On November 17, 2020, the Commission approved a securitization/environmental trust bond financing application from WEPCO by issuing the requested financing order. The Commission approved a financing allowing WEPCO to sell \$118.8 million in ratepayer-backed bonds with a final scheduled maturity of 12.6 years.¹⁷

The Commission approved the application and the maturity **by examining WEPCO's customer** cost-benefit analysis of only one financing alternative presented to the Commission and consumer groups in the application as an "illustrative"¹⁸ example of 12.6 years. In the approved financing, WEPCO's "illustrative" example of not to exceed 13 years maturity was the only available choice. However, there was no evidence in the record to support that this structure was the *only* alternative available. Nor does there appear to be any evidence in the record that this sole alternative would produce the largest savings ("lowest environmental control charges") to ratepayers following the statutory mandate and Commission's traditional principles of ratemaking.

¹⁶ "Revenue requirements" are all the components of a customer rates for electricity purchases including utility investment costs approved as prudent, corporate borrowing costs, operation and maintenance expenses, income taxes and other fees and expenses and the allowed return for the utility's shareholders.
¹⁷ More specifically it is a special purpose subsidiary of WEPCO established for the financing that is the "issuer" that actually sells the bonds to investors.

¹⁸ See Direct-WEPCO-Reese-23 at 2-**3 "Wisconsin Electric's il**lustrative bond structure, discussed in Mr. **Chang's testimony...**" and discussed more fully later in this text

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So, a key question to consider is whether the legislature intended this when it mandated the financing structure result in the lowest environmental control charges. Was this consistent with Commission policies and precedents to minimize customer rates?

A Wisconsin Commission in 2004 Established Precedents to Protect Ratepayers in Structuring and Pricing Environmental Trust Bonds and Meet the Legislative Mandate

In October 2004, the Commission had a similar application before it with a similar single financing structure and similar evidence in support of an application from the same utility, WEPCO, in Docket 6630-ET-100.¹⁹

At that time, the Commission took a very different position from the 2020 Commission. The Commission established precedents governing applications with similar sets of facts and evidentiary record for the statutory mandate.

The Commission said in its financing order:

"Because of the nature of this financing method, the final financing costs for the first year will not be known before the time of closing. Wis. Stat. § 196.027(2)(b)2.a. requires the Commission to specify in the financing order the amount of financing costs that may be recovered. The Commission is also required to find that the proposed structuring, marketing, and pricing of the environmental trust bonds will result in the lowest cost of funds and the lowest environmental control charges. Wis. Stat. § 196.027(2)(b)1.b. The existing record simply cannot contain sufficient information to permit the Commission **to make these determinations at this time.**"²⁰ [Emphasis added.]

It is important to note that the 2004 Commission concluded that by very nature of the financing "cannot contain sufficient information..."

To address this issue, the 2004 Commission created a precedent by setting up a post-financing order / pre-bond issuance review process (**"Pre-issuance Review Process"**) to allow the Commission to make the statutory finding at the time the bonds were actually structured and priced. It also established a precedent that the Commission staff needed outside expertise – a financial advisor - to advise the Commissioners on the structuring, marketing, and pricing of the bonds.²¹

Finally, it required a specific "Issuance Advice Letter" process to complete the evidentiary record of the application and ensure ratepayers were protected as discussed below.

The "Pre-Issuance Review Process" and "Issuance Advice Letter" are generally considered utility securitization "**best practices**."²²

²² See the Florida Public Service Commission's discussion in its May 30, 2006, securitization financing order concerning Florida Power & Light available Financing Order PSC-06-0464-FOF-EI; docket to remain open through completion of Commission's review of actual costs of storm-recovery bond issuance. (ED DS AR CT TW) [CCA note: Attachment B available in PDF format only.] Document # 04676-2006 available at http://www.floridapsc.com/ClerkOffice/ShowDocket?orderNum=PSC-2006-0464-FOF-El

¹⁹ Docket 6630-ET-100 at

https://apps.psc.wi.gov/APPS/dockets/content/detail.aspx?id=6630&case=ET&num=100 ²⁰ See Commission Financing Order Docket 6630-ET-100 at page 57

https://apps.psc.wi.gov/APPS/dockets/content/detail.aspx?id=6630&case=ET&num=100

²¹ Following the issuance of its 2004 financing order on October 12, 2004, the Commission hired Saber **Partners on November 16, 2004, to serve as the Commission's financial advisor on all matters related to the** issuance of the environmental trust bond approved in its October 12th financing order.



In Finding of Fact #35 on page 10 of the order, the Commission states:

"In order to ensure that the structuring, marketing, and pricing of the environmental trust bonds results in the lowest cost of funds and the lowest environmental control charges that are consistent with market conditions and the terms of the Financing Order, the Commission finds that it is necessary to continue to oversee the structuring, marketing, and pricing of the environmental trust bonds, the terms and conditions of which are subject to Commission review and approval."

Prior to, and subsequent to, the 2004 Commission financing order, the commissions in Texas, Florida, Ohio, West Virginia, Louisiana, and New Jersey had similar policies. Most recently, this best practice was adopted by the California Public Utilities Commission concerning more than \$9 billion in new securitization financing orders. The North Carolina Utilities Commission adopted **similar "best practices"** for about \$1 billion in ratepayer-backed bonds in May 2021.

Each of these other state commissions, even though they were dealing with different utilities and different facts, came to the same conclusion as the 2004 Wisconsin Commission did – ratepayers needed to be represented not only during the regulatory proceeding but also at the negotiating table with underwriters and investors in the structuring, marketing and pricing of the securitization bonds.

WEPCO's 2020 Application and Commission's Decision Compared to 2004 Commission

On July 20, 2020, WEPCO filed its financing order application in Docket 6630-ET-101.²³ On November 17, 2020, the Commission issued only its second financing order under the 2003 statute. In this financing order, the Commission did specify the term of the securities. However, a review of the evidentiary record shows it did not examine any alternatives to the sole term proposed by the utility and its investment bankers.

Without evidence in the record on any alternative maturity or scenario (that the 2004 Commission had said was necessary for them to make such a decision), the 2020 Commission financing order mandated that:

"The legal final maturity of the bonds shall not exceed 15 years, and the scheduled final maturity of the bonds shall not exceed 13 years."²⁴

This "shall not exceed" 13- and 15-year limitation is **found solely in WEPCO's** 2020 petition and draft financing order. The maximum maturity of the bond was not discussed directly in Commission staff's testimony.

In 2004, WEPCO also requested a bond with a final maturity of 15 years. However, the 2004 Commission specifically requested longer maturities be considered in their post financing order "pre-issuance review process" when the bonds are finally structured.

²³ Docket -6630-ET-101 at

https://apps.psc.wi.gov/APPS/dockets/content/detail.aspx?id=6630&case=ET&num=101

²⁴ A "scheduled final maturity" is when the bonds are expected to have its final payment. However, if this payment is not made "on schedule," bondholders may force the bond issuer to make the payment through the courts. An ability to access the courts to enforce terms of a bond is known as "creditor rights." A "final maturity" is the time when the payment must be made and if not, the bondholders may exercise their creditor rights.

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The 2004 financing order said the WEPCO application did not have enough evidence for them to make a final decision when issuing the financing order. The 2004 Commission only required that some of the bonds have 15-year maturities. In addition, the 2004 Commission did not limit the environmental trust **bond's** maturity by using technical terms such as **"scheduled"** and **"**legal **final" maturities**.

In the 2004 financing order, the Commission said:

"Term of Securities"

"The Applicant proposed that it issue securities with a term of no more than 15 years. The Commission staff suggested that it might be appropriate to issue bonds with a maturity in excess of 15 years to better match the collection period for the securities and the <u>expected life of the assets being financed</u>."

"The term of the securities is an important consideration, and the expected life of the assets is one of the key factors affecting the determination of the appropriate term. It is reasonable that environmental trust bonds be issued in one or more series, and each series may be issued in one or more classes or tranches. At least some of the trust bonds should have a term of 15 years."²⁵ [Emphasis added.]

However, in the 2020 Commission financing order proceeding, staff presented no testimony or analysis on the term and maturity. Nor did staff present any information on the Commission's established precedents from the 2004 financing order to the 2020 Commission.

The "shall not exceed" "13-year scheduled," and "15-year final maturity" requirements are found four times in the 2020 financing order. Despite these multiple references, the Commission did not directly conclude that this sole structuring alternative is reasonable, achieves the greatest possible customer savings, or **will produce the "lowest environmental control charges that are** consistent with market conditions at the time the bonds are issued and the terms of the financing **order.**"

In fact, the final adopted financing order was not materially changed in any respect from the draft financing order written and submitted by the utility in its July 2020 application.²⁶

At first glance, one might think that it would be disadvantageous to have longer maturities since interest rates generally increase the longer the maturity and further up the yield curve that the bonds are priced. This means more interest is paid with longer maturities instead of shorter maturities.

However, while the interest rate increases costs nominally, the "net present value" of customer **revenue requirements decreases when converted to present value or to today's dollars.** In addition, while the amount of principal does not change, the timing of the principal payments change. If one keeps level principal payments over the entire term, the longer the maturity, the less principal that needs to be paid in any year, any month.

To convert future costs **to present value or today's costs one must discount the revenue needed from ratepayers and discount them at WEPCO's weighted average cost of capital (debt and** equity). This is the present value of those revenue requirements embedded in customer rates.

²⁵ See Commission Financing Order Docket 6630-ET-100 page 29

²⁶ See Exhibit to WEPCO Reese-1 Docket No.: 6630-ET-101 Schedule 4.

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WEPCO's cost of capital is 7.49% as decided by the Commission in WEPCO's most recent general rate case. As discussed below, this is how WEPCO Reese Exhibit 1 calculates present value benefits to ratepayers from their sole alternative of 12.6 years.

The reason why customer present value savings increase despite higher interest rates for longer maturities is because the 7.49% discount rate is much higher than the carrying cost to the ratepayer, which is the interest rate on the WEPCO environmental trust bonds. Securitization interest rates were in the 1.5-3% range. This financial math is not a question of judgment. It is financial math used in traditional utility ratemaking analyses.

Excerpts from the 2020 Commission Financing Order Concerning the Proposed Structure that Led to Higher Ratepayer Costs and Lost Savings

The Commission concluded the specific statutory requirements were addressed in WEP**CO's** 2020 application. In the **financing order's "Conclusions of Law" (COL) section**:²⁷ the Commission certified:

COL #3 "This Financing Order will result in lower overall costs to ratepayers than would alternative methods of financing environmental control activities."

COL #4 "Under this Financing Order, the structuring, marketing, and expected pricing of the environmental trust bonds will result in the lowest environmental control charges that are consistent with market conditions at the time the bonds are issued and the terms of this Financing Order." [Emphasis added.]

COL # 5 "This Financing Order is otherwise consistent with the public interest, and is prudent, reasonable, and appropriate. The terms and conditions in this Financing Order are necessary to protect the public interest."

While COL #4 does reference "structuring" it does not describe the specific structure chosen. As discussed below, the "not to exceed 13 years" structure was presented by WEPCO in testimony only as an "illustrative" bond structure²⁸ and was based on assumptions by Barclays Capital, WEPCO's financial advisor on the financing.

An Apparent Contradiction Leading to a Circular Certification

In the proposed draft financing order, it appears that WEPCO made contradictory statements. It also created a circular certification (when what one has to certify to is already contained in the definition for which the certification is asking).

For example, WEPCO **asked for "flexibility"** on the structuring, marketing, and pricing of the bonds because of the uncertainty in the capital markets and with rating agencies. In its draft financing order submitted to the Commission, WEPCO stated that,

"[d]ue to this uncertainty today of future requirements and conditions, the Applicant has asked for flexibility in designing the structure, marketing, and pricing of the **environmental trust bonds.**"²⁹ [Emphasis added]

²⁷ See Commission Financing Order Docket 6630-ET-101 pages 24-25

²⁸ See Direct-WEPCO-Reese-23 at 2-**3** "Wisconsin Electric's illustrative bond structure, discussed in Mr. Chang's testimony..."

²⁹ Ex.-WEPCO-Reese-9 draft of October 7, 2020, financing order page 26

However, WEPCO also proposed in their draft financing order the strict limitations – the "shall not exceed" requirements - on its flexibility in the scheduled and final maturity of the bonds. No explanation for this restriction was contained in the financing order or in its testimony.

In the 2020 financing order "Opinion" section, the Commission said:

"Term of Securities"

"WEPCO proposed that it issue securities with a legal final maturity of no more than 15 years, and with an expected scheduled final maturity of 13 years or less. WEPCO proposed that it have flexibility to issue the environmental trust bonds in one series, with one or more tranches. However, WEPCO indicated that it expects to offer the environmental trust bonds in a single series with one tranche with an average life of approximately 7 years. It is reasonable that environmental trust bonds be issued in one series, with one or more tranches. The legal final maturity of any environmental trust bonds shall not exceed 15 years, and the expected scheduled final maturity shall not exceed 13 years." [Emphasis added]

As written, it is clear WEPCO's originally proposed "flexibility" would include "structure" and therefore term and maturity. However, inexplicably, its proposed draft financing order restricts maturity and therefore limits any such "flexibility."

Moreover, the draft financing order's determination of "reasonable" only appears to apply to issuing bonds in "one or more series." The "reasonable" finding is not included in the following sentence in the section excerpted below that declares:

"The legal final maturity of any environmental trust bonds shall not exceed 15 years, and the expected scheduled final maturity shall not exceed 13 years."

Consequently, in its verbatim adoption of **WEPCO's** draft financing order, the Commission in the financing order offers this **"F**inding of Fact (FOF):"

FOF #16³⁰

"Since many terms of the financing mechanism have not yet been established, to ensure that ratepayers receive the lowest environmental control charges that are consistent with market conditions at the time the bonds are issued and the terms of this Financing Order from the proposed securitization and so that the proposed environmental trust bond transaction will be consistent with the standards set forth in Wis. Stat. § 196.027(2)(b)1., it is necessary that:

- a) The effective duration-adjusted weighted average annual interest rate of the environmental trust bonds, including upfront and ongoing financing costs, does **not exceed WEPCO's duration**-weighted marginal cost of debt and equity.
- b) The legal final maturity of the bonds shall not exceed 15 years, and the scheduled final maturity of the bonds shall not exceed 13 years.
- c) The environmental trust bonds must have a AAA rating from at least two of the nationally recognized rating agencies.

³⁰ See Commission Financing Order Docket 6630-ET-101 Pages 8-9 Page 15 of 48

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d) WEPCO shall follow the marketing and pricing process described in the Application and this Financing Order. [Emphasis added.]

There was no similar "Finding of Fact" in the 2004 Commission financing order even though the evidentiary records are almost identical.³¹

There was no evidence in the 2020 record that explains how the Commission concluded that

"it is necessary that...The legal final maturity of the bonds shall not exceed 15 years, and the scheduled final maturity of the bonds shall not exceed 13 years." [Emphasis added.]

The Circular Certification That Creates the Crack Through which \$7.5 of \$9.1 million in Ratepayer Savings Fell

Conclusion of Law #4 states

"that the proposed structuring and expected pricing of the environmental trust bonds will result in the lowest environmental control charges that are consistent with market conditions at the time the bonds are issued and the terms of the financing order." ³² [Emphasis added.]

This creates a "circular certification" **applying to the statutory** "lowest environmental control **charges**" requirement that cost ratepayers millions of dollars in present value savings.

How?

By creating the condition in the financing order (specifically a condition that is a "term of the financing order") that limits both the maximum scheduled and final maturity, WEPCO could comply with the **statute even if "market conditions at the time of pricing" showed greater** ratepayer benefits for longer maturities of the environmental trust bonds.

With this limitation as a "term of the financing order" WEPCO had to comply with it. The statute says,

"That the proposed structuring and expected pricing of the environmental trust bonds will result in the lowest environmental control charges that are consistent with market conditions and the terms of the financing order."

WEPCO could say that it had no flexibility to adjust the maturity since it was a "term of the financing order" even though it argued for "flexibility" for changing market conditions.

The 2004 Commission financing order specifically left flexibility on bond maturities in the **"terms** of the financing order."

This "hard wiring" of the **bond's** scheduled and final maturity appears to have circumvented the intent of the Wisconsin statute. It created a circular certification concerning how the "lowest environmental control charges" required by the statute could be measured and with which WEPCO could comply. This approach directly exposed ratepayers to higher costs and significant lost savings.

³¹ See Appendix 4 for line-by-line comparison between 2004 and 2020 financing orders.

³² See Commission Financing Order Docket 6630-ET-101 page 24-25

In contrast, the 2004 Commission financing order had no such circularity. Indeed, the Commission at the time specifically found - after reviewing a virtually identical evidentiary record as presented in 2020 - that the Commission **needed to modify WEPCO's financing order** application to comply with the statute. The final term of the securities was left to the post-financing order and pre-bond issuance review process that would result in certifications delivered to the Commission that the lowest environmental control charges were, in fact, achieved.

The 2020 Evidentiary Record Does Not Address Any Structuring Alternatives – This Failure Cost Ratepayers Millions of Dollars in Lost Savings Compared to Traditional Utility Ratemaking

A thorough review of the record shows that WEPCO presented no evidence on the proper structuring. There is no evidence on how repayment periods other than the proposed "not to exceed" 13 years amortization period of the bonds compared to the traditional utility ratemaking. Traditional ratemaking for Pleasant Prairie environmental facilities had a 20-year repayment period remaining.

As noted, the Commission stated its position on this subject in the 2004 financing order:

"The term of the securities is an important consideration, and the expected life of the assets is one of the key factors affecting the determination of the appropriate term."³³ [Emphasis added.]

Instead in 2020, WEPCO ignored the 2004 policy and **presented an "illustrative"** example and said the final structure would be decided at the time of pricing and market conditions.

WEPCO could correctly assert that the Commission never requested other alternatives to the "shall not exceed 13 years" final scheduled maturity term. Indeed, neither staff nor the **intervenors offered evidence of an alternative or contradicted WEPCO's** application on this point.

Although **WEPCO's submission was initially offered as** only an "illustrative" example,³⁴ it was turned into an inflexible condition. What was presented to the Commission and the parties as only an "example" resulted in a \$7.5 million loss for ratepayers.

Where Did the 2020 Maturity and "Term of the Securities" Discussion Originate?

WEPCO's lead witness, Anthony Reese, presented only a financial analysis of a scheduled 12.6year securitization bond as an exhibit to his testimony.³⁵ Exhibit 1, with six schedules, showed that a scheduled 12.6-year AAA securitization **("Securitization Scenario")** would produce customer savings versus the traditional ratemaking for the Pleasant Prairie undepreciated costs.

However, the original and traditional way the Pleasant Prairie costs would be recovered from ratepayers would be in electricity rates until the year 2041. WEPCO disclosed this appropriately and transparently in Exhibit 1. According to the schedule, WEPCO would earn its full after-tax weighted average cost of capital – 7.49% - on the unamortized amount until 2041.

³³ See Financing Order 6630-ET-100 at page 30

³⁴ See Direct-WEPCO-Reese at page 23 line 12

³⁵ See Direct-WEPCO-Reese PSC REF#:393910

WEPCO correctly discounted all revenue requirement differences between the traditional recovery amount versus the **"Securitization Scenario"** amount at its after-tax cost of capital at 7.49%. This is how ratepayer savings occurred. These discounted amounts are what WEPCO said **its "illustrative"** example of securitization would achieve.

The mismatch between the costs in rate base until 2O41 and the environmental trust bonds only to 2O34 was disclosed in the Exhibit with multiple pages and schedules. It was not, however, discussed in testimony of either WEPCO or the Commission staff. Thus, the 2O20 Commissioners were never presented the alternative of an environmental trust bond matching the repayment period of the regulatory asset it was being used to replaced. This alternative would have been consistent with the policy and precedents Commissioners established in its 2004 financing order on the same subject and which was shown to have materially more ratepayer savings.

In addition, the principles of inter-generational fairness were never brought to the attention of the Commission. By **adopting the utility's** sole **"illustrative"** example and shortening the Pleasant Prairie recovery period to 12.6 years from 20 years, ratepayers from 2021-2034 would have higher rates than the ratepayers from 2035-2041. In the language of economics, the later year ratepayers get a what economists call a **"free ride" at the expense of current ratepayers.** However, all customers benefit for the replacement with cleaner generation alternatives.

In his testimony, Witness Reese was asked whether he wished "to highlight any assumptions in Ex.-WEPCO-Reese-1, Schedule 3?" Mr. Reese responded by saying

"The assumptions in this schedule are identical to those in Ex.-WEPCO-Reese-1, Schedule 2, except that the term of the environmental trust bonds is assumed to be shorter (approximately 13 years), the capital structure is assumed to be 0.5% equity and 99.5% debt, and the interest rate on the securitization debt is assumed to be 2.50%. Mr. Chang explains the bases for these assumptions in his direct testimony." [Emphasis added.]

Reese candidly discloses that the bonds are **"assumed"** to be shorter than what is in rate base and defers to his banker, Eric Chang of Barclays Capital, to explain these assumptions.

Mr. Reese's deference to Barclays was honest and transparent. However, this seems to suggest that WEPCO did not have any responsibility for the structuring assumptions that could affect ratepayers' costs and savings included in Exhibit 1 of his testimony.

Barclays Testimony Is from a Conflicted Party that Has No Duty to Act in the Best Interests of Either WEPCO, the Commission or Ratepayers

Barclays supplied supporting testimony on the bond structuring, marketing, and pricing. However, Barclays is a party to the bond offering that has a direct financial interest in the structure and pricing of the environmental trust bonds. This is because **Barclays was WEPCO's** financial advisor and intended to be the sole underwriter of the bonds. As both the advisor and underwriter, Barclays specifically had no fiduciary duty – a duty to act in the best interest of the client – either to WEPCO, the Commission or to ratepayers.

This lack of a duty to act in the best interests of either WEPCO, the Commission or ratepayers is clearly disclosed in the WEPCO underwriting agreement with Barclays. The Agreement states that:

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"<u>Absence of Fiduciary Relationship</u>. Each of the Issuer and Wisconsin Electric acknowledges and agrees that the Underwriters [Barclays] are acting solely in the capacity of **an arm's length contractual counterparty** to the Issuer and Wisconsin Electric with respect to the offering of the Bonds contemplated hereby (including in connection with determining the terms of the offering) and not as a financial advisor or a fiduciary to, or an agent of, the Issuer or Wisconsin Electric.... The Issuer and Wisconsin Electric shall consult with their own advisors concerning such matters and shall be responsible for making their own independent investigation and appraisal of the transactions contemplated hereby, and the Underwriters shall have no responsibility or liability to the Issuer or Wisconsin Electric, the transactions contemplated hereby or other matters relating to such transactions will be performed solely for the benefit of the Underwriters and shall not be on behalf of the Issuer or Wisconsin Electric."³⁶ [Emphasis added.]

It should be noted that in the Underwriting Agreement between WEPCO and Barclays, Barclays says it is not acting as a **"financial advisor**." However, prior to the underwriting, Barclays *was* acting as a financial advisor to WEPCO.

This relationship of being both a "financial advisor" on a bond issue and then the "underwriter" of the same bond issue would be problematic in the offering of securities by state and local governments. It is specifically prohibited by government laws and regulations.³⁷ But since environmental trust bonds are corporate securities, those rules do not apply.

Nevertheless, the principles behind those rules to protect taxpayers are relevant in discussing ways to protect ratepayers. The reason for this is the Commission must forego **future regulatory review of the securitization bond costs after issuance. On the utility's other** securities, the Commission keeps full regulatory review.

Mary Schapiro, Chairman of the Securities & Exchange Commission described the reason for prohibiting advisors from also being underwriters as a "classic example of a conflict of interest" in a speech to the Investment Company Institute on May 7, 2010.³⁸

"Financial Advisers should be prohibited from resigning as financial advisor to an issuer, and **then underwriting that issuer's bonds, as they are currently allowed to do under** MSRB rule G-23. Right now, a financial professional advising a municipality **can guide the municipality towards securities tailored to his firm's advantage,** then resign and act as underwriter. This is a classic example of conflict of interest." [Emphasis added]

In addition to the absence of a fiduciary relationship, there was no questioning of the experience or knowledge of Barclays with this form of financing. WEPCO asserted **Barclays'** experience and knowledge, but it was never questioned or examined by staff or any intervenor on the record.

³⁶ See "Underwriting Agreement" May 4, 2021, paragraph #15 at

- https://www.sec.gov/Archives/edgar/data/107815/000110465921062216/tm213205d16_ex1-1.htm ³⁷ See Municipal Services Rulemaking Board Regulation G-23 described and discussed here https://www.munibondadvisor.com/RuleG23.htm
- ³⁸ See Speech of Mary Schapiro available at <u>https://www.sec.gov/news/speech/2010/spch050710mls.htm</u>

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Barclays Testimony by Mr. Eric Chang Does Not Directly Explain the Basis for the Assumptions and Does Not Include Net Present Value Savings Analysis for Ratepayers

In his direct testimony, **Barclays'** Mr. Chang **is asked "How is "lowest price possible" of the environmental trust bonds defined?"** He responds:

"Achieving the lowest price possible on the environmental trust bonds means "that the proposed structuring and expected pricing of the environmental trust bonds will result in the lowest environmental control charges that are consistent with market conditions and the terms of the financing order," as defined by the Statute at Wis. Stat. § 196.027(2)(b)1.b. From a pricing standpoint, this means achieving the lowest credit spread possible on the offered bonds (and thus the lowest interest possible paid out to investors), while taking into account current market conditions and the terms of the financing order."³⁹ [Emphasis added.]

A "credit spread" is the difference between the interest rate on the ratepayer-backed bonds and the interest rate on a benchmark security such as U.S. Treasury securities for a given maturity. It is often referred to in "basis points." One basis point equals 0.001%.

In essence, Mr. Chang takes the Wisconsin statutory requirement and interprets it simply as the "lowest credit spread" for the **bond's maturity** that he chooses. He mixes the terminology of price with the interest rate on the bonds.

This might be acceptable except that Barclays does not address the fact that the choice of bond maturities – the structuring – has a direct and more powerful effect on how low the environmental control charges can be in the regulatory revenue requirements to pay off the bonds.

Most importantly, Mr. Chang seems unaware of the regulatory revenue requirements ratemaking process and the calculation of the net present value (NPV) of customer benefits presented by Mr. Reese in Exhibit 1. Mr. Chang's testimony is discussing only "nominal costs" (interest and principal payments) while Mr. Reese is discussing, appropriately, the "present value" of the interest and principal payments and savings to ratepayers versus traditional ratemaking. Mr. Reese is discussing the time value of those payments from ratepayers while Mr. Change is ignoring it completely. He appears focused on the investor and his firm ability to sell the security to its customers.

Barclays Testimony Ignores WEPCO's Present Value Analysis for WEPCO Ratepayers

"Present value analysis" puts the total cost of alternatives on an "apples to apples" basis and converts all amounts to today's dollars. It takes into account the time value of money, that a dollar today is worth more than a dollar tomorrow. The disconnect between Mr. Reese and his witness Mr. Chang is perplexing.

Mr. Chang is asked in his testimony to "describe the process by which the lowest ECCs [environmental control charges] will be achieved."⁴⁰

Mr. Chang responds by listing a set of terms and conditions among them is:

"No legal final maturity of the environmental trust bonds will exceed 15 years from the date of issuance, and the bonds will have an expected scheduled final payment date of 13

³⁹ Direct WEPCO Chang at page 37, line 17 REF#:393909

⁴⁰ See Direct WEPCO Chang-38 at line 16

years or less."41

However, Mr. Chang supplies no explanation for this structuring restriction of "13 years or less" in his answer or directly anywhere in his testimony. Mr. Chang asserts that this will meet the statutory requirement. It is just asserted and assumed without any questioning by staff or the Commissioners and only raised as an issue by the Citizens Utility Board.

The only other part of Barclay's Mr. Chang's testimony that might give a sign of what motivated Barclays to require this "not to exceed" 13-year final scheduled maturity came earlier in his testimony when he discussed conceptually the "structuring process." He says:

"The goal of the structuring process is to design an offering that will appeal to different classes of bond investors. Achieving that goal will increase the number of investors seeking to invest in that security and, in turn, obtain the lowest debt cost, thus preserving the lowest possible total cost to ratepayers. The transaction structure is designed to balance certain objectives, including maintaining a large enough offering to promote liquidity, and minimizing the duration of the bond. Regularly scheduled principal payments returned to investors throughout the life of the transaction results in a shorter average life for the financing and lower overall interest costs for ratepayers. All else equal, investors prefer shorter maturities to reduce the **amount of time required to receive back principal.**"^{42 43} [Emphasis added.]

Rather than explain the basis for the assumptions outlined in Mr. Reese's testimony, this testimony mostly omits and essentially is inconsistent with the net present value analysis of customer savings methodology presented by Mr. Reese in Exhibit 1 to his direct testimony.⁴⁴

Reese Exhibit 1 and Schedules 1-6 thereto lay out the traditional ratemaking approach and the securitization model in detail. All costs associated with the unamortized amount of the Pleasant Prairie coal plant investment are identified as well as all costs of the environmental trust bonds (Securitization Model).

Exhibit 1 clearly shows the unamortized Pleasant Prairie investment is in rate base under traditional ratemaking until 2041. However, the securitization bonds are paid off in 2034 – a total of 7 years earlier than the period for recovery of WEPCO's unamortized Pleasant Prairie investment under traditional ratemaking.

No explanation for this assumption is found in the exhibit. The only discussion was included in a Staff data request response but that did not show any alternatives.

⁴¹ See Direct WEPCO Chang-39 at line 1

⁴² Direct WEPCO Chang-17, at line 3

⁴³ Underwriting firms always have preferred shorter maturities than longer maturities because shorter term securities are easier and quicker to sell. Turnover is an important part of many underwriters' path to profits. The capital markets are broad and deep. Investors buy bonds at all maturities. Generally, investors are driven more by the interest rate and their risk versus other financial reward calculations of the investment. A shorter bond maturity does not mean stronger interest from investors alone or maximum benefits to ratepayers compared to traditional utility finance mechanisms and customer revenue requirements with them.

⁴⁴ See Ex.-WEPCO-Reese-1 PSC REF#:393916 **Schedule 1** "Comparison of Traditional Ratemaking to the Securitization Model" **and Schedules 2** – 6. All cash flows are appropriately discounted to present value to determine customer benefits. This model is where the first \$40 million customer savings is calculated. Using the same core inputs, Saber Partners calculated the actual savings and the lost savings from not having a structure with a longer maturity. An explanation of the method is attached in Appendix 2.

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WEPCO appropriately shows the differences between the traditional ratemaking and securitization costs to ratepayers as annual revenue requirements. The Securitization Model revenue requirements are subtracted from the unamortized investment revenue requirements. The differences in amounts and timing **are then discounted at the utility's cost of capital 7.49%**. This is standard and proper in traditional utility ratemaking to find the **"net present value" benefit** or savings to ratepayers.

Mr. Chang's testimony, however, ignores Mr. Reese's net present value analysis. His focus in solely on lowering the nominal "cost" of the bond - as he defines it - to make it most "attractive to investors." As noted above he says that "The goal of the structuring process is to design an offering that will appeal to different classes of bond investors." He says that is how the statutory requirement will be met. If that were true, WEPCO should have issued much shorter-term bonds – the interest rate would have been lower.

"The transaction structure is designed to balance certain objectives, including maintaining a large enough offering to promote liquidity, and minimizing the duration of the bond."⁴⁵ [Emphasis added.]

However, this standard of **"balancing objectives" is not contained in the statute**. Nor is it part of traditional ratemaking for bond offerings. His reference to **"minimizing the duration of the bond"** is also without a basis in Wisconsin law or traditional ratemaking practice. In this case, the plain English of the statute is clear:

"That the proposed structuring and expected pricing of the environmental trust bonds will result in the lowest environmental control charges that are consistent with market conditions and the terms of the financing order."

The statutory and regulatory goal of the structuring is to result in the lowest charges possible to ratepayers. In doing so, it does not require the Commission to ignore traditional ratemaking principles of inter-generational fairness and other regulatory criteria.

Barclays' Mr. Chang's Testimony Before the Wisconsin Commission in Context with Other Market Events and Available Public Information at the Same Time

It is reasonable to presume Mr. Chang was aware of the controversy about term and maturity and customer present value savings when he gave his testimony in Wisconsin. This is because at the same time of the Wisconsin proceeding, Barclays, and Mr. Chang were serving as the structuring advisor and lead underwriter to another utility on securitization. The proceeding was before the California Public Utilities Commission (CPUC).⁴⁶ **Barclays's** client, the investor-owned utility Southern California Edison Company, was pursuing a similar securitization financing order addressing the same bond structuring issues for a slightly larger \$338 million bond offering. The legislative mandates in California and Wisconsin were similar as well.

Barclays' Mr. Chang gave testimony on July 8, 2020, when Southern California Edison Company submitted its application. In that testimony, Mr. Chang insisted that an 18-year final

https://apps.cpuc.ca.gov/apex/f?p=401:56:0::NO:RP,57,RIR:P5_PROCEEDING_SELECT:A2007008

⁴⁵ "Duration of the bond" is another way of saying the time it takes for the investor to receive all principal and interest on the bond up to and including the bond's maturity.

⁴⁶ See California Public Utilities Commission Application of Southern California Edison Company (U 338-E) for Authority to Securitize Certain Costs and Expenses Pursuant to Public Utilities Code Section 850 *et seq.* Application No. 20-07-008 at

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maturity was the "optimal maturity."⁴⁷ An 18-year final maturity was also hard wired into the proposed draft financing order put forward by the utility. This was also upon Barclays' recommendation.

However, in the California case, some ratepayer representatives intervened and actively took issue with this and other aspects of the case.

In particular, the "Wild Tree Foundation" as an intervenor in the SCE case, in both direct testimony and in briefs, raised issues about the conflict-of-interest Barclays had as an advisor and underwriter of the bonds.⁴⁸ Wild Tree also questioned whether limiting the bonds in the financing order to a specific "not longer than maturity" (as Barclays was also proposing in Wisconsin simultaneously) would meet **California's** statutory test and Commission intergenerational fairness policies. The California legislation required the securitization bonds "to reduce rates to the maximum extent possible, that ratepayers would pay on a present value basis compared to traditional utility finance **mechanisms.**"⁴⁹

While Barclays argued in California that **the "optimal maturity"** for ratepayers was no longer than 18 years, the final structure of the California Southern California Edison securitization bonds was about 23 years. As was shown by the CPUC evidentiary record, 23 years matched the weighted average life of the assets being financed through use of securitization in California. The weighted average life is the minimum maturity, since some of the assets have longer economic lives, a longer final scheduled maturity would also be right. As discussed above, matching the securitization bond maturity to the term of the regulatory asset was a principle the 2004 Wisconsin Commission had also articulated. There was a clear precedent established.

Finally, the California Commission adopted a financing order materially different from the one proposed by Barclays on this same term and maturity of the ratepayer-backed bond issue and oversight issues.⁵⁰ Ironically, the California Commission instituted a post financing order and pre-issuance review process along the lines of the 2004 Wisconsin Commission financing order.

Mr. Chang was aware of the controversy and the final financing order well before the Wisconsin Commission adopted its order. Yet, Mr. Chang did not mention any of it.

Specifically, in **California Commission's** financing order adopted on November 5, 2020, they set up **a "Finance Team" with a similar rationale** and function as the 2004 Wisconsin Commission did. The California Commission financing order said:

"The task of ensuring the sale of a Recovery Bond⁵¹ issued pursuant to this Financing Order so as to reduce rates on a present value basis to the maximum extent possible compared to the use of traditional utility financing mechanisms therefore entails a process that is optimized <u>for transparency and in line with best practices</u>.

⁴⁹ See California Article 5.8. Catastrophic Wildfire and Ratepayer Protection Financing [850 - 850.8] at <u>https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=PUC&division=1.&title=&part=1.&chapter=4.&article=5.8</u>

⁵⁰ See CPUC Southern California Edison Company Financing Order at <u>https://docs.cpuc.ca.gov/SearchRes.aspx?DocFormat=ALL&DocID=3</u>50707656

⁵¹ "Recovery Bond" in California is the equivalent of an "environmental trust bond" in Wisconsin

⁴⁷ See SCE Application Exhibit SCE-02, page 26 line 22 and SCE brief <u>http://docs.cpuc.ca.gov/SearchRes.aspx?DocFormat=ALL&DocID=347810162</u> and reply brief <u>http://docs.cpuc.ca.gov/SearchRes.aspx?DocFormat=ALL&DocID=348580111</u>

⁴⁸ See Wild Tree brief <u>https://docs.cpuc.ca.gov/SearchRes.aspx?DocFormat=ALL&DocID=348580112</u> and reply brief <u>http://docs.cpuc.ca.gov/SearchRes.aspx?DocFormat=ALL&DocID=348580112</u>



Wild Tree [Foundation]⁵² provides a process solution, which most parties support. [Emphasis Added.]

We acknowledge party criticisms that SCE's underwriter does not have a vested interest in maximally reducing the Recovery Bond's interest rate, that the Commission would only be provided notice of the details of the process but not engaged in the process, and that SCE is proposing a process that would not be in keeping with Commission past practice (here, we expressly note D.04-11-015, our past Financing Order decision for a similar utility bond securitization). Also, we are mindful of the requirement for a solution that does not offend the underlying purpose of the legislature's intentions of AB 1054 and is in line with the statutory mandate to reduce Consumer rates on a present value basis to the maximum extent possible.

For these reasons, we will adopt Wild Tree's proposal for the creation of a Finance Team. Wild Tree writes as follows:

"This can be accomplished by including language in the financing order that setsup a financing team composed of the utility, Commission and its staff, and any necessary outside financial and legal experts that will provide approvals of the material terms of the bond in a pre-issuance review process to create a bond with material terms that can meet the statutory requirements, in particular, minimization of ratepayer cost.⁵³" ⁵⁴ [Emphasis Added.]

This requirement is remarkably similar to the 2004 Wisconsin Commission financing order requirements.

Finding of Fact #34 "It is reasonable for the Commission to actively oversee the environmental trust bond issuance and to make a final determination prior to issuance as to whether the specific terms are acceptable, including of the affiliated interest orders, conditioning this Financing Order and affiliated interest order(s) as appropriate.

"Finding of Fact #21 - ...In addition, the Applicant provided testimony regarding the security structure and expected ratings on the bonds, as well as aspects of the transaction relating to pricing such as tranches, amortization windows, and the advisability of call options. However, some of the structuring and pricing information required to make this determination pursuant to clause (b) will of necessity not be known until closer to the time of issuance. For that reason, the Commission finds that it is reasonable for it to retain a financial advisor to assist in overseeing this transaction and evaluating the structure, marketing and pricing of the bonds."

Finding of Fact #35 "In order to ensure that the structuring, marketing, and pricing of the environmental trust bonds results in the lowest cost of funds and the lowest

⁵² As noted above, Wild Tree Foundation was an intervenor in the Southern California Edison Company proceeding. They advocated in briefs and expert testimony for utility securitization "best practices" to be applied. In particular they challenged the 18-year maturity restriction in the utility's proposed financing order which was similar to WEPCO's proposal. Both were based on Barclays Capital's advice to the utilities.
 ⁵³ See CPUC Application No. 20-07-008 Wild Tree Opening Brief at 27 and drafted in its proposed Financing Order <u>https://docs.cpuc.ca.gov/SearchRes.aspx?DocFormat=ALL&DocID=348580112</u>
 ⁵⁴ See CPUC Financing Order Application No. 20-07-008 November 5, 2020, at https://docs.cpuc.ca.gov/SearchRes.aspx?DocFormat=ALL&DocID=350707656

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environmental control charges that are consistent with market conditions and the terms of the Financing Order, the Commission finds that it is necessary to continue to oversee the structuring, marketing, and pricing of the environmental trust bonds, the terms and conditions of which are subject to Commission review and approval.⁷⁵⁵

Wisconsin Bonds Price Higher Credit Spreads than Comparable AAA/Aaa Bonds Indicating an Inefficient Result

On February 17, 2021, **Southern California Edison's special purpose subsidiary set up by for the** financing, **"SCE** Recovery Funding LLC," sold about \$338 million in AAA/Aaa/AAA ratepayer-backed bonds through underwriters Barclays and RBC. The bonds had a much longer maturity.⁵⁶ One part of the bond offering had a 23-year final scheduled maturity and was only \$100 million in size i.e., less than the size of the WEPCO offering.⁵⁷

The newly established California **Commission's** "Finance Team" pushed for a longer maturity than originally proposed by Barclays and the utility. As noted above, in creating the Finance Team, the California Commission's Administrative Law Judge (ALJ) said he was following "best practices."

As a result of extending the maturity, the **Southern California Edison's** ratepayers gained an additional \$27 million in present value savings from the \$338 million offering. This \$27 million would have been lost if the financing order restricted the maturity to 18 years as recommended by Barclays, akin to WEPCO **and Barclays's** proposal for 12.6 years.⁵⁸

The California **bond's** credit spreads were much lower that the credit spreads achieved on the Wisconsin bonds on May 2021.⁵⁹ While there is difference in time, they do not account for the differences in credit spreads based on comparable benchmarks examined at both times. This data is the basis of the "efficient pricing analysis" **described** in Appendix 2. The analysis proves that an additional loss of \$1.6 million in ratepayer savings was a result of poor or inefficient pricing independent of the bond's term structure.

Given that Barclays Capital was the **both the utility's** advisor and a lead underwriter in both bond offerings, the result for Wisconsin ratepayers versus California's is perplexing... and more than disappointing. Had there been proactive Commission-oversight with access to independent expertise and sources of information, questions could have been raised before ratepayer savings were foregone. This is what the 2004 Commission identified as a key ratepayer protection. Yet, it too was not included in the 2020 financing order.

⁵⁷ See Appendix 3 for other similar small issue size utility ratepayer-backed bond issues.

⁵⁵ See Financing Order 6630-ET-100 at pages 5-6, 10

⁵⁶ See SCE Recovery Funding LLC public offering documents at <u>https://www.sec.gov/edgar/browse/?CIK=1826571</u>

⁵⁸ In a recent application filing with the CPUC for a second financing order, SCE said "Whereas SCE's Application estimated NPV savings compared to traditional utility financing mechanisms of \$173.5 million under market conditions in June 2020 and an 18-year final scheduled maturity, the final offering used a 23 year final scheduled maturity and achieved NPV savings of \$200.4 million under market conditions in February 2021 compared to traditional utility financing mechanisms, creating a 15.5% increase in customer benefits." This is similar to the 16% increase WEPCO's ratepayers could have achieved with an extension.

WEPCO Intervenor Testimony 2020 Does Raise the Maturity and "Term of the Securities" Issue

The Consumer Utility Board (CUB) acknowledged that it did not have in house technical expertise to analyze the maturity and savings issue. CUB specifically defers to the Commission's staff to make this analysis while raising the important issue of the bond's term. Nevertheless, CUB raised the critical issue of term and maturity in their direct testimony.

"While CUB would have preferred a longer term, thus lowering the rate impact in each year, based on conversations with the utility and a review of the information in the record to date, CUB believes that the terms of **WEPCO's proposal may** reasonably balance rate impacts/savings in any individual year against overall ratepayer cost, including interest costs that may be affected by a longer term. I would caveat this statement by noting that CUB does not possess at this time the inhouse capacity needed to perform a thorough analysis of securitization financing, and so I reserve the right to revise its position based on review of additional information that may be presented, particularly the testimony of Commission staff."⁶⁰ [Emphasis added.]

In other words, CUB was admitting what it doesn't know and believes that Commission staff, as noted above, would perform a "thorough analysis of the securitization financing."

Staff Data Requests About Amortization Period Were Not Responsive to Staff's Request

On August 14, 2020, Commission staff correctly identified the term issue and sent a data request to WEPCO with the following two questions among others:

"Schedule 5 of Ex.-WEPCO-Reese-1 indicates the remaining amortization period of 21 years for the P4 Regulatory Asset (Unrecovered Environmental Controls Plant). The same schedule indicates a proposed securitization bond term of 12.5 years. Explain the rationale and process used to propose a bond term different than the P4 Regulatory Asset amortization schedule."⁶¹

In response, Reese suggests flexibility and says:

"The bonds to be issued will reflect the term and conditions that will garner the best pricing for customers (and from willing investors) at the time of issuance.... [and] optimizes the savings for customers. While longer-term bonds could theoretically be issued, doing so would be more expensive to customers; less attractive to lenders and will raise the interest costs, and would thus decrease the benefits of securitization for ratepayers."⁶² [Emphasis added.]

Mr. Reese responds to staff's pointed question only with reference to nominal interest costs rising and not with any analysis of the present value that would have had to include the timing of the principal repayment schedule of a longer maturity bond. There is no sensitivity analysis on net present value savings to customer as calculated in Exhibits 1-6 of Reese. Mr. Reese's reference to "willing buyers" suggests this is based on Barclays' Chang's testimony about "balancing investor"

⁶⁰ See Direct Testimony of Corey S.J. Singletary on Behalf of Citizens Utility Board (PSC REF#:397754) page 3, line 15 Note: Mr. Singletary states that the purpose of testimony his testimony is at "high level" page 3 line 7

⁶¹ See correspondence Bates to Richard Stasik, Director–State Regulatory Affairs (PSC REF#:395405) ⁶² See Anthony Reese to Bates (PSC REF# 395794).



interests with customers as opposed to a strict NPV analysis noted above. Nor is there any mention of inter-generational fairness principle either. Essentially Mr. Reese side steps in answering **staff's** direct question without any customer impact data.

The final sentence of his response is also misleading. Of course, customer rates are lower at the AAA securitization bond rate with a 12.6 scheduled maturity than the combined cost of WEPCO cost of debt and equity. This would always be true until the AAA bond environmental trust bond rate exceeds the utility's cost of capital of 7.49%. That was not even a remote possibility in August 2020 or August 2019 or even today.

Mr. Reese, therefore, completely avoids answering whether present value savings - the core principle in finance of comparing two financing alternatives - would be increased by having a maturity equal to the regulatory asset amortization period of 21 years. Barclays Chang's answer to 1.2 shows a focus on asset-backed securities for which environmental trust bonds is an inappropriate comparison. It suggests his motivation is driven by his customer base the ABS customer who usually invests in credit card, auto loan and other assets with maturities of up to 5 years. As was discussed above, this same approach was seen in a concurrent California securitization case and rejected.

Because staff was without any independent expertise in securitization to evaluate the testimony and response from a market and customer's response perspective what follows is understandable.

Staff Testimony Does Not Address **WEPCO's** Term of Securities nor Barclays Claim of Balancing Customer Financial Interests with Those of Barclays Customers, the Investors

Commission staff did not supply additional financial analysis in the evidentiary record for the Commissioners to consider. The Commission staff, including lead analyst Michael Bates,⁶³ did not have in-house technical expertise on securitization⁶⁴ and did not pursue outside expertise to analyze and complement **staff's** testimony. In testimony, **Commission staff'** appropriately identified **the need for a sensitivity analysis also known at times as "stress testing" of the utility's** modeling of ratepayer costs and benefits.

"I determined that it is appropriate to stress test WEPCO's modeling assumptions related to these factors, including lower/higher carrying cost levels and shorter/longer amortization periods under traditional ratemaking, as well as lower/higher interest rates and shorter/longer maturities in a securitization transaction." [Emphasis added]

The highlighted testimony above would suggest that alternatives maturities would be included in an analysis. However, in the same paragraph **staff's testimony** continues and then concludes:

"In my analysis I did not identify material deficiencies in the reasonableness of **WEPCO's assumptions** or the overall quality of its model and concluded that the

⁶³ See Direct Testimony of Michael Bates, Commission Staff Analyst (Direct-PSC-Bates)

⁶⁴ Saber Partners, LLC was previously under contract with the Commission on environmental trust securitization matters from 2004-2006. The Commission engaged Saber Partners in November 2004 after issuance of its financing order. See engagement description <u>here</u>. In a November 7, 2019, email from Michael Bates to Saber Partners, LLC he indicated that Commission staff would decline an offer from Saber Partners to help staff under the terms of its previous contract with the Commission concerning WEPCO environmental trust bonds. Staff said that they had decided that they did not need external specialized expertise. Staff decided not to issue either a "Request for Qualifications" or a "Request for Proposals" from other experts in utility securitization.

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analysis was sufficiently robust and can reasonably be expected to drive cost **savings to WEPCO's** ratepayers within the NPV range estimated by the settling parties in docket 5-UR-109."⁶⁵ [Emphasis added.]

The critical WEPCO assumption was the term and maturity of the environmental trust **bond's** structure. **The "NPV range" in the settlement did not have the benefit of any financial analysis or** modeling.

Commission staff's direct testimony alluded to a stress test and consideration of a range of structuring alternatives, However, staff's testimony did not present the stress case analysis of scheduled amortization terms of the securities for purposes of evaluating:

- 1. Compliance with statute requirement of "lowest environmental control charges;"
- 2. Maximizing net present value savings to ratepayers pursuant to established Commission ratemaking precedents and principles; or,
- 3. Inter-generational equity concerns about the recovery of unamortized amounts associated with a closed coal-fired plant.

In 2020, Commission staff testimony addressed only the **"reasonableness" of WEPCO's** modeling. As to the structure and term assumed and hard wired into the financing order, staff only observes and defers to WEPCO and Barclays saying:

"WEPCO and its financial advisor have indicated that current market conditions suggest that a transaction structured for a bond term of 12.5 years would achieve the most competitive interest rate, estimated at 2.501 percent at the time the application was filed."⁶⁶ [Emphasis added.]

There was no discussion of industry "best practices" nor comparisons of any terms proposed by WEPCO to those of other utility securitizations in other states.

Finally, Commission staff did not inform Commissioners in their testimony of the previous 2004 financing order. Staff did not present to the Commissioners **how WEPCO's proposed financing** order in the 2020 docket was virtually identical to the 2004 docket but differed from the precedents and positions of the Commission**'s previously issued financing order to WEPCO in** 2004.

The 2020 Evidentiary Hearing is Pro Forma

A hearing was held on October 2, 2020. There was no discussion of the structure or term of the bonds or other alternatives.

Final Staff Decision Matrix Memorandum for Commissioners Excludes Any Mention of Precedent Commission Policies on Financing Orders or Any Alternative Structuring of the Bonds⁶⁷

Standard procedure in proceedings before the Commission is for staff to summarize the issues and specify the decisions that the Commissioners should vote on. This is called a "Final Decision Matrix."

⁶⁵ Direct-PSC-Bates-4 line 23 - Direct-PSC-Bates-5 lines 1-8

⁶⁶ Direct-PSC-Bates-6 line 11

⁶⁷ See PSC REF#:399039 October 28, 2020

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Of the six issues in the Commission Staff Decision Making Matrix Memorandum none identified any alternative bond structure for the Commission to consider or discuss the appropriate methodology.

In the Final Decision Matrix, "Issue 1b states" "Would WEPCO's proposed structuring and expected pricing of the environmental trust bonds result in the lowest ECCs that are consistent with market conditions and the terms of the financing order?" Staff's position:

"Commission staff's analysis of WEPCO's proposal concluded that the proposed terms and structure of the anticipated ratepayer backed bonds can reasonably be expected to achieve a favorable interest rate on the debt securities, as supported by market conditions at the time of issuance." [Emphasis added.]

A "favorable interest rate" does not take into account the impact of the structure on a ratepayer's monthly bill and schedule of principal payments on a net present value basis as in traditional ratemaking. The comparison of the timing of total principal and interest payments to traditional ratemaking is the basis for the calculation of net present value savings to ratepayers claimed by WEPCO.

Most notably, staff's position did not address the statutory requirement posed in "Issue 1b "that the environmental trust charges that pay the interest rate be the "lowest environmental control charges consistent with market conditions." There is nothing in the record with staff supplying comments on any of the specific findings of facts, conclusions of law and ordering paragraphs of the draft financing order presented in WEPCO's testimony.

Staff presented the Commission with only two up or down choices:

"Alternative One: WEPCO's proposal would produce the lowest achievable environmental control charges.

Alternative Two: WEPCO's proposal would not produce the lowest achievable environmental control charges"⁶⁸

There were no choices of alternative bond structures for the Commissioners to consider so as to decide whether the "lowest achievable environmental control charges" standard could be met. **Staff's direct testimony concerning** stress testing "shorter/longer maturities in a securitization transaction" noted above did not appear in the **Commissioner's** Final Decision Matrix.

The Final Decision Matrix did not present any of the alternatives that the 2004 Commission order had to address the same issues as presented in this case.

The 2004 Commission's Finding of Fact that:

"The existing record simply cannot contain sufficient information to permit the Commission to make these determinations at this time,"

and other Commission precedents that, if adopted, the proposed financing order would not be following was not brought to the attention of the 2020 Commission in the proceeding.

It is also important to note that the developments in California on similar issues concerning bond structure also involving Barclays were public information. A proposed decision in the Southern

⁶⁸ See Bates **"Final Decision Matrix" of Oc**tober 28, 2020, at page 5 Page 29 of 48

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California Edison securitization proceeding was issued by the Administrative Law Judge on October 16, 2020, discussing similar maturity issues as in Wisconsin.⁶⁹ This was about 30 days before the Wisconsin decision. California issued its decision on November 5, 2020, 15 days prior to the Wisconsin Commission.

Issuance Advice Letter Requirement and Final Commission Oversight and Approval Not Included in 2020 Financing Order

A standard practice in many utility securitization financing orders in other states is to require the **utility to file an "Issuance Advice Letter" upon pricing the** bonds. The Issuance Advice Letter documents the final terms and conditions and costs of the bond offering. It also compares the initial estimated up-front and ongoing financing costs with the actual costs. Many other **commissions'** issuance advice letters for ratepayer-backed bonds require unqualified certifications from the underwriters, independent Commission advisors and the utility. The certifications are written evidence that the structure, marketing and pricing met, in fact, the statutory standards and terms of the financing order.

The other critical reason for an Issuance Advice Letter is to empower the Commission to stop the transaction if a review of the information provided in the letter, the Commission finds the final structuring and pricing did not achieve the lowest environmental control charges under market conditions and the terms of the financing order.

The 2004 Commission financing order had such a letter as a requirement.⁷⁰

Finding of Fact #21 "... The completion and filing of an issuance advice letter in the form required by the Commission, including required certifications from the Applicant, is necessary to ensure that any securitization actually undertaken by the Applicant complies with Wis. Stat. § 196.027 and this Financing Order."

The 2020 Commission financing order for Docket 6630-ET-100 did not have a required Issuance Advice Letter. It was replaced by a less detailed "compliance filing." No reasoning or explanation is in the record for this change.

Appendix 4 for shows a line-by-line comparison of the two financing orders on this and all other points.

⁶⁹ See Proposed Decision filed by ALJ/JUNGREIS/CPUC on 10/16/2020 <u>https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M348/K814/348814659.PDF</u>

⁷⁰ See Docket 6630-ET-100 Financing Order Finding of Fact 26 at page 7 Page 30 of 48

Conclusions

- 1. The past is prologue. Wisconsin's 2004 financing order was prescient in identifying key issues concerning ratepayer costs and benefits as well as for creating a process for protecting ratepayers in the securitization process. The financing order record must have enough information at the time of the approval of the financing order for the Commission to meet its statutory and regulatory obligations. As the 2004 Commission concluded so many variables are unknown at that time that a post financing order and pre-bond issuance review process is needed. This means ongoing Commission oversight up to and through the issuance of the bonds is necessary to ensure legislative and commission standards are met.
- 2. There is an important and substantive difference between "nominal costs" to ratepayers and "present value" costs. Adjusting nominal costs (and any calculated savings compared to traditional utility ratemaking) to present value dollars must be done. This is for staff and commissioners to have a consistent basis for comparing alternatives and deciding what is in the best interests of ratepayers when using ratepayer-backed bonds to replace traditional utility financing mechanisms.
- 3. Intergenerational fairness issues still should be considered when using ratepayer-backed bonds. The repayment period of any ratepayer-back bonds should at least match the repayment period of the utility asset it is financing or refinancing and is currently in rates. This practice would meet established principles of intergenerational fairness.
- 4. Issues raised by ratepayer-backed bonds are complex and need careful analysis. Most Commission staffs do not have the capacity to analyze or question sufficiently WEPCO's outside experts such as investment bankers (either advisors or underwriters) on the assertions or assumptions made about the capital markets securities offerings.
- 5. A range of alternatives need to be examined and presented so that the Wisconsin Commission can make an informed conclusion in how to meet statutory objectives and Commission principles concerning ratemaking and inter-generational fairness.
- 6. Established precedents, principles and policies of the Commission should be examined before being overturned. If any precedent, principle, or policy needs to be changed, it should be done in a transparent manner.
- 7. In securitization/ratepayer-backed bond offerings like the environmental trust bonds, the active involvement and oversight of a Commission with access to independent information and expertise can prevent less favorable outcomes for ratepayers and ensure ratepayers achieve maximum savings.
- 8. The Commission should use independent expertise and independent certifications as to the structure marketing and pricing of securitization bonds. This should be treated as the costs of the utility's counsel and advisors and included as a financing cost for the bond issue
- 9. The principles regulating financial advisors and underwriters in taxpayer -backed bonds should apply to ratepayer-backed bonds. An advisor to utility or commission cannot also be an underwriter of the same bond issue.



10. Other established industry "best practices" should be presented to the Commission as part of the evidentiary record so that the Commission can decide which if any should be applied to the securitization financing order applications before them.

Appendix 1: Key Excerpts from Commission Financing Order November 17, 2020 That Led to Higher WEPCO Customer Costs

Finding of Fact (FOF) #15

"... to ensure that the structuring, marketing, and pricing of the environmental trust bonds will result in the lowest environmental control charges that are consistent with market conditions at the time the bonds are issued and the terms of this Financing Order.

FOF #9

"Based on the evidence provided by WEPCO, the Commission finds that this Financing Order will result in lower overall costs to customers than would alternative methods of financing **environmental control activities.**" [Emphasis added.]

FOF #1371

"The right to impose and collect environmental control charges that are non-bypassable and which must be trued-up at least annually, but may be trued-up more frequently under certain circumstances, in order to ensure the timely recovery of the environmental control costs and payment of the debt service and other ongoing financing costs." [Emphasis added.]

FOF #30

"As compensation for its duties under the Servicing Agreement, it is reasonable that WEPCO receive from the SPE a servicing fee equal to 0.05 percent per annum of the initial aggregate principal amount of the environmental trust bonds, plus reimbursement of outof-pocket expenses. As described in the Application, this fee is based on current market rates in similar utility securitization transactions. As described in the Application, payment of a servicing fee that is consistent with market rates is necessary to obtain the essential bankruptcy remote nature of the SPE."

FOF #31

"It is reasonable for the SPE to have the flexibility to issue and sell environmental trust bonds in one series, with one or more tranches. The legal final maturity of the bonds shall not exceed 15 years and the scheduled final maturity of the bonds shall not exceed 13 years." [Emphasis added.]

⁷¹ This allows for more frequent true ups which necessary for the one-year difference between scheduled and final.

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"In view of these obligations, the Commission has established certain criteria in this Financing Order that must be met in order for the approvals and authorizations granted in this Financing Order to become effective. This Financing Order grants authority to issue environmental trust bonds and to impose and collect environmental control charges only if the final structure, marketing, and pricing of the securitization transactions complies in all material respects with these criteria. The combination of these limiting criteria together with the ability of the Commission to monitor compliance with the terms of this Financing Order and the progress of the issuance of the environmental trust bonds will ensure that the structuring, marketing, and pricing of the environmental trust bonds will result in the lowest environmental control charges that are consistent with market conditions at the time the bonds are issued and the terms of this Financing Order. [Emphasis added.]

As a result, the securitization will result in lower overall costs to customers than would alternative methods of financing the environmental control activities. WEPCO estimates that issuing environmental trust bonds to finance the Pleasant Prairie environmental control costs, as anticipated by the Settlement Agreement, will save **WEPCO's customers** approximately \$40 million on a net present value basis (or 31 percent) as compared to traditional utility ratemaking.

As described in the supporting testimony, Barclays has wide experience in the structuring, marketing, and pricing of asset-backed securities generally and utility securitizations specifically. Through supporting testimony, WEPCO has described the process that will be used in the structuring, marketing, and pricing of the environmental trust bonds, based on the recommendations of its experienced financial advisor. In particular, the environmental trust bonds will be issued and result in the lowest environmental control charges consistent with the terms of this Financing Order and market conditions at the time of issuance by using the following process:

"No legal final maturity of any environmental trust bonds will exceed 15 years from the date of issuance, and all environmental trust bonds will have expected scheduled final maturity dates of 13 years or less."

"Although retaining flexibility to issue the bonds in multiple tranches is important, WEPCO anticipates that the proposed offering will have one tranche with an average life of approximately 7 years. The final structure will be selected to produce the lowest securitization interest rate based on actual investor demand and existing market conditions." [Emphasis added.]

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"The price guidance and testing process described in the testimony of WEPCO's financial advisor will enable WEPCO and the underwriters to assess investor demand for the amount of securitization bonds they are willing to purchase, at certain prices and coupon rates. This will allow WEPCO and the underwriters to adjust the prices and coupon rates to ensure maximum distribution of the environmental trust bonds at the lowest bond yields consistent with a fixed price offering."

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"Subsequent to the issuance of this Financing Order, the Commission shall monitor compliance with this Financing Order and the progress of the issuance of the environmental trust bonds. WEPCO shall provide to the Commission a copy of each filing made with the Securities and Exchange Commission in connection with the proposed issuance of the environmental trust bonds. Prior to the issuance of the environmental trust bonds. WEPCO also shall provide such regular updates and progress reports as may be requested by the Commission."

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Ordering Paragraph (OP) 35.

"The legal final maturity of the environmental trust bonds authorized by this Financing Order shall not exceed 15 years, and the scheduled final maturity of the bonds shall not exceed 13 years."

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Appendix 2 Methodology for Calculating up to \$9.1 million in Lost WEPCO Ratepayer Savings



In this case study, three specific improvements are suggested that would have resulted in better net present value savings for WEPCO ratepayers and meet the statutory requirement.

"That the proposed structuring and expected pricing of the environmental trust bonds will result in the lowest environmental control charges that are consistent with market conditions and the terms of the financing order."

There are three decisions that could have met the legislative mandate and prevented the losses identified. These improvements are as follows:

- 1 year Extension. Increase the final scheduled maturity by 1 year, from 12.6 years to 13.6 years Doing so would have reduced the period between the Final Scheduled Maturity and Final Legal Maturity to one-year rather than two and has been done in other recent utility transactions. This alternative assumes that the Final Legal Maturity is kept constant at 15 years and WEPCO and Barclays simply took advantage of the ability to have the time between the Final Scheduled Maturity and Final Legal Maturity in the last year of a utility securitization as has been done by many other utilities.
- 2. 7-year Extension. Increase the Final Scheduled Maturity and Final Legal Maturity so that the Final Scheduled Maturity more closely reflects the term of the asset being financed as stated as a policy in the Commission 2004 financing order and in keeping with the traditional utility financing ratemaking that it is replacing, i.e., twenty years or 2041, since 2041 was the term of Pleasant Prairie investment that WEPC was replacing with environmental trust bonds –.

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3. Efficient Pricing. Improve the pricing of the bonds so as to achieve at least the interest rate spreads to benchmark securities achieved in the most recently priced utility securitization that Barclays was also involved in – Southern California Edison Funding LLC (SCE) in February 2021. Pricing that is consistent with the spreads to benchmark achieved by SCE is referred to in the quantitative analysis below as "efficient pricing."



To estimate the savings that might have been achieved, had these changes been implemented, we constructed a semi-annual securitization model that calculates estimated annual revenue requirements from the financing and discounts them at an assumed utility weighted average cost of capital equal to 7.49%. This model used the same cost inputs as the Securitization Scenario contained in Reese Exhibit 1, updated for market conditions at pricing on May 4, 2021, except for the changes in Final Scheduled Maturities and pricing as discussed above.

To estimate what would constitute Efficient Pricing, one can refer to the securitization offering by SCE, which was priced on February 17, 2021. These bonds were sold in three tranches with weighted average lives (WALs) of 5.68, 14.0 and 20.16 years, respectively. These bonds were priced using U.S. Treasury bonds as the pricing benchmark.

The Figure 1 shows the relationship between U.S. Treasury bond yields and the SCE bonds on the day they were priced (2/17/21). The spread between the two, using linear interpolation to match **the weighted average lives, is called the "g**-spread," which specifically refers to the interpolated **yield on US Treasury Securities for published yields for US Treasury security "on the run"** securities. On the run are the most actively traded maturities and therefor reflect correct market prices for US treasuries.) The g-spreads for the A-1, A-2 and A-3 tranches were 18, 40 and 59 basis points, respectively.

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The dashed line on the aforementioned chart is **a "best-fit" trendline** that may be used to estimated how SCE bonds might have been priced for different weighted average lives than those actually chosen.

Between the SCE pricing on 2/17/21 and the WEPCO pricing on 5/4/21, interest rates increased slightly.

The 10-year U.S. Treasury bond yield increased by about 30 basis points (bps) or 0.30%. However, the credit spread, that is to say, the spread between U.S. Treasuries and bonds of slightly lower credit quality, did not change appreciably. For example, the 15-year JNJ 3.55% AAA-rated corporate bonds traded with a g-spread of 50 bps on 2/17/21 and recently, on 6/7/21, they traded at a spread of 52 bps, an increase of just 2 bps or .02%.

This means that it is reasonable to apply the SCE g-spreads from 2/17/21 to the U.S. Treasury yield curve at the time WEPCO priced on 5/4/21 to see how WEPCO priced in comparison to SCE. The graph below shows how that would look. It appears that WEPCO priced about 22 bps above where they should have, based on the spreads to the UST benchmarks achieved by SCE in February.



With the efficient pricing curve established, it is now possible to determine where WEPCO could have priced, if the bonds had been well marketed and priced, for any WAL along the curve. Figure 3 shows where the bonds could have been efficiently priced with 12.6, 13.6 and 19.6-year final scheduled maturities corresponding to WALs of 6.81, 7.36, and 10.78 years, respectively.

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From this market data, it is also possible to estimate how WEPCO might have priced if they kept the same 22 bps pricing disadvantage to SCE but extended the Final Scheduled Maturity by either 1 or 7 years.

It is possible that the spread penalty might have changed with longer maturities, but, if anything, it likely would have increased with longer maturities. Thus, by assuming a constant 22 bp premium across the yield curve, the analysis is being conservative.

We have now defined 6 different possible outcomes, including the actual WEPCO pricing and structure, which are labeled A through F in Figure 4, below.



At first glance, one might think that it would be disadvantageous to extend maturities as shown on the chart, since interest rates will increase the further up the yield curve that the bonds are priced.

However, while the interest rate increases nominally, the net present value of **customer revenue requirements decreases when discounted at WEPCO's weighted** average cost of capital of 7.49%. This is how WEPCO Reese Exhibit 1 calculates present value benefits to ratepayers from their sole alternative of 12.6 years.

The reason why the NPVRR savings increases despite higher interest rates for longer maturities is because the <u>7.49% discount rate is much higher than the</u> <u>carrying cost to the ratepayer</u>, which is the interest rate on the WEPCO environmental trust bonds. This financial math is not a question of judgment. It is financial math used in traditional utility ratemaking analyses.

The following table shows the results for all six cases that were examined in this analysis. Compared to the results of the actual WEPCO pricing, the lost savings range from about just over \$1 million if the Final Scheduled Maturity had been extended by just a year or if the bonds had been marketed and priced more efficiently, to a just over \$9 million of lost savings from extending the Final Scheduled Maturity by 7 years and marketing and pricing the bonds more efficiently.

		Actual Scheduled Maturity		1-Year Extension		7-Year Extension	
		Actual Pricing	Efficient Pricing	Extrapolatd Actual Pricing	Efficient Pricing	Extrapolatd Actual Pricing	Efficient Pricing
Case		А	В	с	D	E	F
Term based on final scheduled maturity (yrs.)		12.6	12.6	13.6	13.6	19.6	19.6
WAL (yr:	WAL (yrs.)		6.78	7.36	7.32	10.78	10.74
i-rate (%	i-rate (%)		1.360	1.674	1.456	2.148	1.928
NPVRR ⁽¹⁾ (\$ millions)		86.0	84.8	84.7	83.4	78.5	76.9
Foregone NPV	\$ millions	0.0	1.2	1.3	2.6	7.5	9.1
Savings (Change in NPVRR from Actual)	% of Traditional NPVRR ⁽²⁾	0%	1%	1%	2%	6%	7%

WEPCO Possible Alternative Outcomes

(1) Net present value revenue requirements (NPVRR) discounted at a weighted average cost of capital of 7.49%

(2) Traditional NPVRR per WEPCO Reese Exhibit 1: \$132,022,000

Appendix 3 – Market Precedents Proving Utility Ratepayer-Backed Bond Issues Could Have Had Only One-Year Between Scheduled Maturity and Final Maturity to Meet Rating Agency Standards as Well as Final Scheduled Maturities of 20 Years

We address three questions in this Appendix based on market precedents that were public at the time of the WEPCO proceeding:

- 1. **Could WEPCO/Barclays have extended the environmental trust bond's** "final scheduled maturity" just one year and still have a "final legal maturity" of less than 15 years as required by the November 2020 financing order and still meet rating agency standards for a AAA/Aaa rating?
- 2. Because WEPCO was offering only \$118,800, 000 was it impossible (or only theoretical) to offer longer final scheduled maturities? Isn't this too small of an issue to have a long maturity?
- 3. Were other structures possible that could have been examined by WEPCO and Barclays to decide whether greater ratepayer savings were possible per **WEPCO's Reese methodology** in Exhibit 1 to his direct testimony?

Q. Could WEPCO/Barclays have extended the environmental trust **bond's** final scheduled maturity one year and still have a final legal maturity of less than 15 years as required by the November 2020 financing order and still meet rating agency standards for a AAA/Aaa rating?

A. Yes. Rating agencies have approved many utility ratepayer-backed bond issues with a final maturity 12 months or less year after final scheduled maturity. This one small change could have saved WEPCO ratepayers net present value \$1.2 million. It was a matter of effort not cost. Is that a lot of money?

Tranche	Utility Deal Name	Initial Tranche Amount	Initial Sale Date	Initial Tranche WAL (yrs.)	Scheduled Final Maturity	Final Maturity
A-3	PECO 2000-A	\$398,838,452	4/27/2000	8.7	3/1/2009	3/1/2010
A-4	PECO 2000-A	\$351,161,548	4/27/2000	9.3	9/1/2009	9/1/2010
A-6	Detroit Edison 2001	\$390,671,263	3/2/2001	13.3	3/1/2015	3/1/2016
A-5	CL&P Funding LLC	\$378,195,343	3/27/2001	8.9	12/30/2010	12/30/2011
A-6	Consumers Funding LLC	\$115,592,000	10/31/2001	12.8	10/20/2015	10/20/2016
A-5	CPL Transition Funding LLC	\$191,856,858	1/31/2002	13.0	1/15/2016	1/15/2017
A-5	CenterPoint Energy Series A	\$462,000,000	12/9/2005	12.7	8/1/2019	8/1/2020

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SABER PARTNERS, and

				Initial		
	Utility Deal	Initial Tranche	Initial	Tranche WAL	Scheduled Final	Final
Tranche	Name	Amount	Sale Date	(yrs.)	Maturity	Maturity
	AEP Texas					
	Central Transition					
A-5	Funding II	\$494,700,000	10/4/2006	12.7	7/1/2020	7/1/2021
7.0	PE	\$+74,700,000	10/ 1/ 2000	12.7	11112020	1112021
	Environmental					
A-4	Funding, LLC	\$9,975,000	4/3/2007	19.9	7/15/2027	7/15/2028
	MP					
0.4		¢ 20,025,000	4/2/2007	20.0	7/15/2027	7/15/2020
A-4	Funding LLC	\$29,025,000	4/3/2007	20.0	7/15/2027	7/15/2028
	Entergy Gulf States					
	Reconstruction					
A-1	Funding I, LLC	\$93,500,000	6/22/2007	3.0	10/1/2012	10/1/2013
	Entergy Gulf					
	States					
A-2	Reconstruction	¢101 600 000	6/22/2007	8.0	10/1/2017	10/1/2018
A-Z	Funding I, LLC Entergy Texas	\$121,600,000	6/22/2007	8.0	10/1/2017	10/1/2018
	Restoration					
A-1	Funding	\$182,500,000	10/29/2009	3.0	2/1/2015	2/1/2016
	Entergy Texas					
	Restoration					
A-2	Funding	\$144,800,000	10/29/2009	7.0	8/1/2018	8/1/2019
	CenterPoint Energy					
	Restoration					
A-1	Bond	\$224,788,000	11/18/2009	3.0	2/15/2015	2/15/2016
	CenterPoint					
	Energy					
	Restoration	¢1/0 150 000	11/10/0000	7.0	0/15/0010	0 /15 /0010
A-2	Bond CenterPoint	\$160,152,000	11/18/2009	7.0	8/15/2018	8/15/2019
	Energy					
	Restoration					
A-3	Bond	\$279,919,000	11/18/2009	10.8	8/15/2022	8/15/2023
	PE					
A 1	Environmental	¢01 510 000	10/1/ /0000	10.0	1/15/0000	1 /15 /0001
A-1	Funding LLC MP	\$21,510,000	12/16/2009	19.0	1/15/2030	1/15/2031
	Environmental					
A-1	Funding LLC	\$64,380,000	12/16/2009	19.0	1/15/2030	1/15/2031
	CenterPoint			-		
	Energy					
	Transmission	* / 0/ 000 000	1 /11 /0010	0.0	4/45/0047	
A-1	Bond Co. IV	\$606,222,000	1/11/2012	3.0	4/15/2017	4/15/2018
	CenterPoint Energy					
	Transmission					
A-2	Bond Co. IV	\$407,516,000	1/11/2012	7.0	10/15/2020	10/15/2021

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Tranche	Utility Deal Name	Initial Tranche Amount	Initial Sale Date	Initial Tranche WAL (yrs.)	Scheduled Final Maturity	Final Maturity
A-3	CenterPoint Energy Transmission Bond Co. IV	\$681,262,000	1/11/2012	10.8	10/15/2024	10/15/2025
A-1	AEP Texas Central Funding	\$307,900,000	3/7/2012	3.0	12/1/2017	12/1/2018
A-2	AEP Texas Central Funding III Ohio Phase-In-	\$180,200,000	3/7/2012	7.0	6/1/2020	6/1/2021
A-1	Recovery Funding LLC Ohio Phase-In-	\$164,900,000	7/23/2013	2.3	7/1/2017	7/1/2018
A-2	Recovery Funding LLC Appalachian	\$102,508,000	7/23/2013	5.1	7/1/2019	7/1/2020
A-1	Consumer Rate Relief Funding LLC	\$215,800,000	11/6/2013	5.0	2/1/2023	2/1/2024
A-1	Consumers 2014 Securitization Funding LLC	\$124,500,000	7/14/2014	3.0	11/1/2019	11/1/2020
A-2	Consumers 2014 Securitization Funding LLC Consumers 2014	\$139,000,000	7/14/2014	8.0	11/1/2024	11/1/2025
A-3	Securitization Funding LLC	\$114,500,000	7/14/2014	12.3	5/1/2028	5/1/2029

Q. Because WEPCO was offering only \$118,800,000 was it impossible (or only theoretical) to offer longer scheduled maturities? **Isn't this too small of an issue to** have a long maturity?

A. No. Many other utility securitizations were small in size and had longer scheduled maturities than WEPCO.

State	Date	Initial Deal Amount	Utility Beneficiary		
WV	2009	\$21,510,000	Potomac Edison		
CA	1999	\$24,000,000	Sierra Pacific Power		
NJ	2004	\$46,300,000	Rockland Electric		
NH	2002	\$50,000,000	Public Service Company of New Hampshire		
MT	1998	\$62,700,000	Montana Power		
WV	2009	\$64,380,000	Monongahela Power		
LA	2014	\$71,000,000	Entergy Gulf States Louisiana LLC		
LA	2015	\$98,730,000	Entergy New Orleans		
NJ	2005	\$102,700,000	Public Service Electric & Gas		
WV	2007	\$114,825,000	Potomac Edison		

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		Initial Deal			
State	Date	Amount	Utility Beneficiary		
PA	2005	\$115,000,000	West Penn Power		
WI	2021	\$118,400,000	Wisconsin Electric Power		
AR	2010	\$124,100,000	Entergy Arkansas, Inc.		
NJ	2003	\$152,000,000	Atlantic City Electric		
MA	2001	\$155,000,000	Western Massachusetts Electric		
LA	2008	\$180,600,000	Cleco Power LLC		
NJ	2006	\$182,400,000	Jersey Central Power & Light		
LA	2011	\$207,156,000	Entergy Louisiana, LLC		
ΤX	2019	\$235,282,000	AEP Texas Restoration Funding LLC		
LA	2014	\$243,850,000	Entergy Louisiana LLC		
LA	2010	\$244,100,000	Entergy Gulf States Louisiana LLC		
OH	2013	\$267,408,000	Ohio Power Company		
LA	2008	\$278,400,000	Entergy Gulf States Louisiana LLC		
NJ	2002	\$320,000,000	Jersey Central Power & Light		
ΤX	2007	\$329,500,000	Entergy Gulf States, Inc.		
СА	2021	\$337,000,000	Southern California Edison		
WV	2007	\$344,475,000	Monongahela Power		
	τοται	\$4,490,816,000			

TOTAL \$4,490,816,000

Q. Were other structures possible that could have been examined by WEPCO and Barclays to decide whether greater ratepayer savings were possible per **WEPCO's** Reese methodology in Exhibit 1 to his direct testimony?

A. Yes.

There are many examples of other utility ratepayer backed bonds about the size of the WEPCO Financing with both longer and shorter scheduled maturities and weighted average lives. There is no evidence of any market constraint.

Tranch e	Issuer	Initial Tranche Amount	Initial Tranch e WAL (yrs.)	Amortizatio n Period (Months)	Initial Sale Date
A-1	Entergy Arkansas Energy Restoration Funding, LLC	\$124,100,000	5.4	108	8/11/2010
A-1	Cleco Katrina/Rita Hurricane Recovery Funding LLC	\$113,000,000	5.0	96	2/28/2008
A-2	SCE Recovery Funding LLC	\$100,000,000	14.0	78	2/17/2021
A-3	SCE Recovery Funding LLC	\$100,000,000	20.2	66	2/17/2021
A-2	Entergy Gulf States Reconstruction Funding I, LLC	\$121,600,000	8.0	60	6/22/2007
A-1	AEP Texas Restoration Funding	\$117,641,000	3.1	60	9/11/2019
A-1	Atlantic City Electric Transition Funding LLC	\$109,000,000	3.0	57	12/11/200 2
A-1	Consumers 2014 Securitization Funding, LLC	\$124,500,000	3.0	54	7/14/2014
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				I	
Tranch e	Issuer	Initial Tranche Amount	Initial Tranch e WAL (yrs.)	Amortizatio n Period (Months)	Initial Sale Date
A-2	AEP Texas Restoration Funding	\$117,641,000	7.9	54	9/11/2019
A-2	Atlantic City Electric Transition	\$117,041,000	1.7	54	12/11/200
A-3	Funding LLC	\$118,000,000	10.5	51	2
A-3	Entergy Gulf States Reconstruction Funding I, LLC	\$114,400,000	12.2	42	6/22/2007
710	Louisiana Public Facilities	\$111,100,000	12.2	12	8/20/200
A-1	Authority	\$103,000,000	2.7	42	8
A-3	Consumers 2014 Securitization Funding, LLC	\$114,500,000	12.3	42	7/14/2014
	Reliant Energy Transition Bond				10/17/200
A-1	Company I, LLC	\$115,000,000	2.7	36	1
A-5	Consumers Funding LLC	\$117,000,000	10.0	36	10/31/200 1
	Oncor Electric Delivery Transition				
A-1	Bond Company LLC	\$103,000,000	2.0	36	8/14/2003
A 2	Oncor Electric Delivery Transition	\$122,000,000	5.0	36	8/14/2003
A-2 A-1	Bond Company LLC FPL Recovery Funding LLC	\$122,000,000	2.0	36	5/17/2003
A-2	Louisiana Local Government Environmental Facilities and Community Development Authority	\$111,000,000	5.0	36	7/15/2010
A-3	Louisiana Local Government Environmental Facilities and Community Development Authority	\$121,000,000	8.0	36	7/15/2010
A-1	FirstEnergy Ohio PIRB Special Purpose Trust 2013	\$111,971,000	1.6	36	6/12/2013
					10/31/200
A-6	Consumers Funding LLC Louisiana Local Government Environmental Facilities and	\$115,592,000	12.8	30	1
A-1	Community Development Authority	\$112,000,000	2.0	30	7/15/2010
	Louisiana Local Government Environmental Facilities and				
A-4	Community Development Authority	\$124,900,000	10.9	30	7/15/2010
A-2	PSNH Funding LLC 3 Reliant Energy Transition Bond	\$111,600,000	7.0	30	5/1/2018 10/17/200
A-2	Company I, LLC	\$118,000,000	5.2	24	10/1//200
A-3	FPL Recovery Funding LLC	\$100,000,000	7.3	24	5/17/2007
A-2	Ohio Phase-In-Recovery Funding, LLC	\$102,508,000	5.1	24	7/23/2013
A-2 A-1	WPP Funding LLC	\$115,000,000	4.2	24	9/22/2005
A-1 A-3	CPL Transition Funding LLC	\$107,094,258	7.2	18	1/31/2002
A-1	The Detroit Edison Securitization Funding LLC	\$124,540,305	1.5	18	3/2/2001
	Illinois Power Special Purpose				12/10/199
A-1	Trust	\$110,000,000	0.8	12	8
A-2	Illinois Power Special Purpose Trust	\$100,000,000	1.8	12	12/10/199 8

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Tranch e	Issuer	Initial Tranche Amount	Initial Tranch e WAL (yrs.)	Amortizatio n Period (Months)	Initial Sale Date
A-1	Massachusetts RRB Special Purpose Trust BEC-1	\$108,500,000	1.1	12	7/26/1999
A-I		\$106,500,000	1.1	12	1/20/1999
A-3	Massachusetts RRB Special Purpose Trust BEC-1	\$103,390,163	5.1	12	7/26/1999
	Massachusetts RRB Special				
A-1	Purpose Trust 2005-1	\$109,234,000	1.0	12	2/15/2005
A-3	RSB BondCo LLC	\$119,200,000	9.3	12	6/22/2007
A-1	PSE&G Transition Funding LLC	\$105,249,914	1.0	9	1/25/2001
	PG&E Energy Recovery Funding				
A-3	LLC	\$121,461,000	6.8	9	11/3/2005
A-1	PG&E Funding LLC	\$125,000,000	0.6	6	11/25/1997
A-1	PECO Energy Transition Trust	\$110,000,000	1.1	6	4/27/2000

Summary:

Average	\$113,307,869	5.7	35
Median	\$114,400,000	5.0	36
Count	41		
WEPCO	\$118,814,000	6.87	144

Appendix 4: Line-by-Line Comparison and Commentary on the Commission Financing Order Docket No. 6630-ET-100 October 12, 2004, with No. 6630-ET-101 November 17, 2020, Commission Financing Order – The 2004 Commission Precedents Overturned in 2020

The Commission had previously considered a WEPCO environmental trust bond financing order application soon after the law was passed in 2003 in Docket No. 6630-ET-100.

"On July 6, 2004, a prehearing conference was held at the Commission. On September 1, 2004, technical hearings were held. On September 7, 2004, hearings for public comment **were held in the Applicant's service territory**. Simultaneous briefs and reply briefs were filed with the Commission on September 10, and September 17, 2004, respectively. The Commission conducted its discussion of record on October 7, 2004. Pursuant to Wis. Stat. § 196.027(2)(b)1, issuance of a financing order is required on or before October 12, 2004."

The application and evidentiary record are remarkably similar to the WEPCO 2020 application.

WEPCO's financial advisor in 2004 was Lehman Brothers. Barclays, WEPCO's 2020 advisor and underwriter bought Lehman Brothers out of bankruptcy in 2009.

Attached is a comparison of the 2004 and 2020 Commission financing orders on the critical Findings of Facts, Conclusions of Law and Ordering Paragraphs.

When a specific change is unusual or important to the analysis, it <mark>is highlighted in yellow</mark> and/or a comment is provided.

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February 17, 2021

Advice 4416-E (Southern California Edison Company ID U338E)

Public Utilities Commission of the State of California

Subject: Issuance Advice Filing for Recovery Bonds

Pursuant to California Public Utilities Commission (CPUC) Decision (D.) 20-11-007 (Decision), Southern California Edison Company (SCE) hereby transmits for filing, on the pricing date of this series of Recovery Bonds, the initial Fixed Recovery Charges for the series. This Issuance Advice Filing is for the Senior Secured Recovery Bonds Series 2021-A, Tranche(s) A-1, A-2 and A-3 (Recovery Bonds).

Purpose:

This filing establishes initial Fixed Recovery Charges for rate schedules for Consumers. This filing also establishes the Recovery Property to be sold to the Recovery Property Owner (Special Purpose Entity or SPE), including the Billing Commencement Date. Finally, this filing sets forth the final terms of the Recovery Bonds, including a final estimate of Upfront Financing Costs and estimated Ongoing Financing Costs for the 12-month period following the Closing Date.

Background:

In the Decision, the Commission authorized SCE to submit Issuance Advice Letters when final terms and pricing for Recovery Bonds have been established. Issuance Advice Letter filings are those in which SCE uses the cost allocation and rate design methodology and Fixed Recovery Charge cash flow formula (the "adjustment mechanism") found reasonable by the Commission in the Decision to establish initial Fixed Recovery Charges for a series of Recovery Bonds. Using this methodology and formula approved by the Commission in the Decision, this filing establishes the initial Fixed Recovery Charges.

Issuance Information:

Recovery Bond Name:	Senior Secured Recovery Bonds, Series 2021-A
Recovery Property Owner (SPE):	SCE Recovery Funding LLC
Bond Trustee(s):	The Bank of New York Mellon Trust Company, N.A.
Closing Date:	2/24/2021
Bond Rating(s):	AAA(sf) (S&P)/Aaa (sf) (Moody's)/ AAA sf (Fitch)

The Decision requires SCE to provide the following information.

Principal Amount Issued	\$337,783,000 (See Table 1 below)
(Authorized Amount):	
Upfront Financing Costs:	\$5,960,504 (See Table 2 below)
Upfront Financing Costs as a Percent of Principal Amount Issued:	1.76%
Coupon Rate(s):	See Exhibit 1
Call Features:	None
Expected Principal Amortization Schedule:	See Exhibit 1
Scheduled Final Payment Date(s):	See Exhibit 1
Legal Maturity Date(s):	See Exhibit 1
Payment Dates (semi-annually):	May 15 and November 15
Annual Servicing Fee as a percent of the issuance amount:	0.05%
Annual Administration Fee:	\$75,000
Overcollateralization amount for the series, if any:	Not applicable
FRC Annual Adjustment Date:	January 1
Semi-Annual Adjustment Dates:	Not Applicable
Billing Commencement Date:	June 1, 2021
First Payment Period:	February 24 through and including November 15, 2021
Second Payment Period:	November 16, 2021 through and including May 15, 2022

Authorized Amount:

The following table sets for the computation of the final Authorized Amount (i.e., the principal amount of the Recovery Bonds).

Table 1: Authorized Amount					
Initial AB 1054 CapEx Amount:	\$326,981,000				
Estimated Pre-Securitization Debt Financing Costs of Initial AB 1054 CapEx (See Exhibit 4)	\$4,840,926				
Upfront Financing Costs (See Table 2 below)	\$5,960,504				
Total Authorized Amount (rounded to nearest \$1,000)	\$337,783,000				

Upfront Financing Costs:

The following table includes actual or estimated (as noted) Upfront Financing Costs to be incurred in connection with the issuance of the Recovery Bonds:

Table 2: Upfront Financing Costs			
Underwriters' Fees and Expenses	\$1,351,132		
Legal Fees and Expenses (estimated)	\$2,200,000		
Rating Agency Fees	\$630,000		
Accounting Fees and Expenses	\$80,000		
Company's Advisory Fee	\$300,000		
Servicer Set-up Costs (estimated)	\$500,000		
SEC Registration Fees	\$37,094		
Section 1904 Fees	\$174,892		
Printing / EDGARizing Expenses (estimated)	\$155,000		
Trustee / Trustee Counsel Fee and Expenses (estimated)	\$28,500		
Original Issue Discount	\$8,887		
Commission's Costs and Expenses (estimated)	\$420,000		
Miscellaneous (estimated)	\$75,000		
Total	\$5,960,504		

True-Up Mechanism:

Changes to the Fixed Recovery Charges will be requested through the filing of Routine True-Up Mechanism Advice Letter and Non-Routine True-Up Mechanism Advice Letters in accordance with the Decision. Annually before each FRC Annual Adjustment Date and more often as deemed necessary by the servicer the servicer will submit Routine True-Up Mechanism Advice Letter in the form of Attachment 3 to the Financing Order to ensure that Fixed Recovery Charges collections be sufficient to make all scheduled payments of bond principal, interest, and other Ongoing Financing Costs on a timely basis during each of the two payment periods. The first payment period means the period commencing on the Closing Date and ending (and including) the first Payment Date following the Closing Date (the "First Payment Period"); the second payment period means the period commencing on the day following the first Payment Date and ending (and including) the next Payment Date (the "Second Payment Period"). The servicer may also submit Allocation Factor Non-Routine True-Up Mechanism Advice Letter in the form of Attachment 4 to the Financing Order after any base rate proceeding changing the allocation factors. The servicer may also submit Non-Routine True-Up Mechanism Advice Letters in the form of Attachment 5 to the Financing Order.

Ongoing Financing Costs:

The following table includes estimated Ongoing Financing Costs for the First and Second Payment periods following Closing Date to be recovered through Fixed Recovery Charges in accordance with the Financing Order.

TABLE 3: Estimated Ongoing Financing Costs				
	First Payment Period ⁽²⁾	Second Payment Period		
Servicing Fee (SCE as Servicer) (0.05% of the initial Recovery Bond principal amount) $^{(1)}$	\$115,878	\$84,446		
Administration Fee ⁽¹⁾	\$51,458	\$37,500		
Accounting Fees and Expenses	\$54,889	\$40,000		
Legal Fees and Expenses	\$24,014	\$17,500		
Rating Agency Surveillance Fees	\$42,882	\$31,250		
Trustee Fees and Expenses	\$3,431	\$2,500		
Independent Director Fees	\$1,715	\$1,250		
Printing / EDGARizing Expenses	\$6,861	\$5,000		
Return on Equity ⁽³⁾	\$23,329	\$17,001		
Miscellaneous Fees and Expenses	\$6,861	\$5,000		
TOTAL ONGOING FINANCING COSTS (with SCE as Servicer)	\$331,318	\$241,447		

Fixed Recovery Charges:

Table 4 below shows the inputs and current assumptions for each of the variables used in calculating the Fixed Recovery Charges:

⁽¹⁾ SCE will periodically credit back to customers through the BRRBA all periodic servicing and administration fees in excess of SCE's incremental cost of performing the servicer and administration functions until the next general rate case (GRC) when costs and revenues associated with the servicing fees will be included in the cost of service. In each base rate case, SCE will include a revenue credit of the administration and servicing fees that SCE collects as the servicer/administrator of the Recovery Bonds (to the extent not previously credited back through the BRRBA). In the base rate case, SCE will also request revenue for all costs of providing servicing and administration services. *The failure on the part of SCE to provide any such credit to ratepayers will no way affect the Recovery Property, the Fixed Recovery Charge or the rights of SCE, the Trustee and the Recovery Bondholders under the Financing Order, but may be addressed by the Commission through other proceedings.*

⁽²⁾ Represents payments for approximately 8 months.

⁽³⁾ Assumes a weighted average interest cost of 2.013%.

TABLE 4: Input Values For Fixed Recovery Charges				
	First Payment Period	Second Payment Period		
Allocation Factors for each Customer Class (see Exhibit 3)	(See Exhibit 3)	(See Exhibit 3)		
Projected MWh sales for each Customer Class for payment period (See Exhibit 3)	(See Exhibit 3)	(See Exhibit 3)		
Percent of Consumers' revenue written off	0.135%	0.135%		
Average Days Sales Outstanding	22.29	22.29		
Ongoing Financing Costs for the applicable payment period (See Table 3 above)	\$331,318	\$241,447		
Recovery Bond Principal	\$5,209,292	\$6,590,210		
Recovery Bond Interest	\$4,087,776	\$2,796,730		
Periodic Payment Requirement (See Exhibit 2)	\$9,628,386	\$9,628,386		

Table 5 shows the initial Fixed Recovery Charges for each FRC Consumer Class:

TABLE 5: Fixed Recovery Charges				
Rate Group	Fixed Recovery Charges	¢/kWh		
Residential Domestic	Non-CARE	0.053		
Residential Domestic	FERA	0.000		
Res/Dom Income Qualified	CARE	0.000		
Small C&I (<20kW)	GS-1	0.040		
Traffic Control	TC-1	0.070		
Medium C&I (20 kW – 200 kW)	GS-2	0.040		
Medium C&I (200 kW – 500 kW)	GS-3	0.034		
Large C&I (Sec) includes standby customers	TOU-8-Sec	0.030		
Large C&I (Pri) includes standby customers	TOU-8-Pri	0.027		
Large C&I (Sub) includes standby customers	TOU-8-Sub	0.012		
Small AG& Pump (< 200 kw)	AG&P < 200 KW	0.037		
Large Ag& Pump (≥ 200 kw)	AG&P>= 200 KW	0.025		
Street/Area Lighting	Street Light	0.008		

<u>Recovery Property</u>:

Recovery Property is the property described in Public Utilities Code Section 850(b)(11) relating to the Fixed Recovery Charges set forth herein, including, without limitation, all of the following:

- (1) The right, title and interest in and to the Fixed Recovery Charges set forth herein, as adjusted from time to time.
- (2) The right to be paid the principal amount of the Recovery Bonds, together with interest thereon as the same become due as shown on Exhibit 2, together with all Ongoing Financing Costs as the same become due.
- (3) The right, title and interest in and to all revenues, collections, claims, payments, money, or proceeds of or arising from the Fixed Recovery Charges, as set forth herein.

(4) All rights to obtain adjustments to the Fixed Recovery Charges under the True-Up Mechanism.

These Fixed Recovery Charges, as adjusted from time to time, shall remain in place until the total amounts in Exhibit 2 are paid in full to the owner of the Recovery Property, or its assignee(s).

Proposed Tariff Changes:

SCE will submit all tariff sheets reflecting the revised Fixed Recovery Charges shown in Table 5 in the consolidated revenue requirement and rate change advice letter for rates effective on June 1, 2021.

Effective Date:

In accordance with the Decision, unless before noon on the fourth business day after pricing the Commission issues an order finding that the proposed Recovery Bond issuance does not comply with the Financing Order, the Issuance Advice Letter and the Fixed Recovery Charges established by this Issuance Advice Letter will be effective automatically at noon on the fourth business day after pricing, and pursuant to Section 850.1(h), the Recovery Property established by the Financing Order, will come into being simultaneously with the sale of the Recovery Property to the SPE. The Fixed Recovery Charges will continue to be effective, unless they are changed by a subsequent True-Up Mechanism Advice Letter. All of the Recovery Property identified herein constitutes a current property right and will continuously exist as property for all purposes. Further all Upfront Financing Costs and Ongoing Financing Costs shall be recoverable as provided in the Financing Order.

Description of Exhibits:

Exhibit 1 presents the debt service schedule for the Recovery Bonds, including expected principal amortization, scheduled final payment dates and legal maturity dates, interest rates, and aggregate scheduled debt service per payment date.

Exhibit 2 presents the Periodic Payment Requirements related to the Recovery Bonds for the two payment periods following the Closing Date.

Exhibit 3 presents the Fixed Recovery Charges calculations.

Exhibit 4 presents the calculation of Pre-Securitization Debt Financing Costs.

Notice:

In accordance with General Order 96-B, Section 4.4, a copy of this advice letter is being sent electronically and via U.S. mail to parties shown on the attached list. Address changes should be directed to Kavita Srinivasan at Kavita.srinivasan@sce.com. Advice letter filings can also be accessed electronically at: https://www.sce.com/regulatory/advice-letters

Attachments cc: Service List for A. 20-07-008

Exhibit 1

Recovery Bond Terms and Debt Service Schedule

Tranche	Expected Weighted Average Life	Principal Amount Offered	Scheduled Final Payment Date	Final Maturity Date	Interest Rate
A-1	5.68	137,783,000	11/15/2031	11/15/2033	0.861%
A-2	14.00	100,000,000	5/15/2038	5/15/2040	1.942%
A-3	20.16	100,000,000	11/15/2043	11/15/2045	2.510%
		337,783,000			

		Tranche A-1		
Payment Date	Principal Balance	Principal	Interest	Total Payment
2/24/2021	137,783,000			
11/15/2021	132,573,708	5,209,292	860,076	6,069,368
5/15/2022	125,983,498	6,590,210	570,730	7,160,940
11/15/2022	119,364,917	6,618,581	542,359	7,160,940
5/15/2023	112,717,843	6,647,074	513,866	7,160,940
11/15/2023	106,042,153	6,675,690	485,250	7,160,940
5/15/2024	99,337,725	6,704,428	456,511	7,160,939
11/15/2024	92,604,434	6,733,291	427,649	7,160,940
5/15/2025	85,842,156	6,762,278	398,662	7,160,940
11/15/2025	79,050,767	6,791,389	369,550	7,160,939
5/15/2026	72,230,141	6,820,626	340,314	7,160,940
11/15/2026	65,380,152	6,849,989	310,951	7,160,940
5/15/2027	58,500,674	6,879,478	281,462	7,160,940
11/15/2027	51,591,580	6,909,094	251,845	7,160,939
5/15/2028	44,652,742	6,938,838	222,102	7,160,940
11/15/2028	37,684,032	6,968,710	192,230	7,160,940
5/15/2029	30,685,322	6,998,710	162,230	7,160,940
11/15/2029	23,656,482	7,028,840	132,100	7,160,940
5/15/2030	16,597,383	7,059,099	101,841	7,160,940
11/15/2030	9,507,895	7,089,488	71,452	7,160,940
5/15/2031	2,387,887	7,120,008	40,931	7,160,939
11/15/2031	0	2,387,887	10,280	2,398,167

Tranche A-2						
Payment Date	Principal Balance	Principal	Interest	Total Payment		
2/24/2021	100,000,000					
11/15/2021	100,000,000	0	1,407,950	1,407,950		
5/15/2022	100,000,000	0	971,000	971,000		
11/15/2022	100,000,000	0	971,000	971,000		
5/15/2023	100,000,000	0	971,000	971,000		
11/15/2023	100,000,000	0	971,000	971,000		
5/15/2024	100,000,000	0	971,000	971,000		
11/15/2024	100,000,000	0	971,000	971,000		
5/15/2025	100,000,000	0	971,000	971,000		
11/15/2025	100,000,000	0	971,000	971,000		
5/15/2026	100,000,000	0	971,000	971,000		
11/15/2026	100,000,000	0	971,000	971,000		
5/15/2027	100,000,000	0	971,000	971,000		
11/15/2027	100,000,000	0	971,000	971,000		
5/15/2028	100,000,000	0	971,000	971,000		
11/15/2028	100,000,000	0	971,000	971,000		
5/15/2029	100,000,000	0	971,000	971,000		
11/15/2029	100,000,000	0	971,000	971,000		
5/15/2030	100,000,000	0	971,000	971,000		
11/15/2030	100,000,000	0	971,000	971,000		
5/15/2031	100,000,000	0	971,000	971,000		
11/15/2031	95,237,227	4,762,773	971,000	5,733,773		
5/15/2032	88,030,041	7,207,186	924,753	8,131,939		
11/15/2032	80,752,873	7,277,168	854,772	8,131,940		
5/15/2033	73,405,044	7,347,829	784,110	8,131,939		
11/15/2033	65,985,867	7,419,177	712,763	8,131,940		
5/15/2034	58,494,650	7,491,217	640,723	8,131,940		
11/15/2034	50,930,693	7,563,957	567,983	8,131,940		
5/15/2035	43,293,290	7,637,403	494,537	8,131,940		
11/15/2035	35,581,728	7,711,562	420,378	8,131,940		
5/15/2036	27,795,287	7,786,441	345,499	8,131,940		
11/15/2036	19,933,239	7,862,048	269,892	8,131,940		
5/15/2037	11,994,851	7,938,388	193,552	8,131,940		
11/15/2037	3,979,381	8,015,470	116,470	8,131,940		
5/15/2038	0.00	3,979,381	38,640	4,018,021		

Tranche A-3							
Payment Date	Principal Balance	Principal	Interest	Total Payment			
2/24/2021	100,000,000						
11/15/2021	100,000,000	0	1,819,750	1,819,75			
5/15/2022	100,000,000	0	1,255,000	1,255,00			
11/15/2022	100,000,000	0	1,255,000	1,255,00			
5/15/2023	100,000,000	0	1,255,000	1,255,00			
11/15/2023	100,000,000	0	1,255,000	1,255,00			
5/15/2024	100,000,000	0	1,255,000	1,255,00			
11/15/2024	100,000,000	0	1,255,000	1,255,00			
5/15/2025	100,000,000	0	1,255,000	1,255,00			
11/15/2025	100,000,000	0	1,255,000	1,255,00			
5/15/2026	100,000,000	0	1,255,000	1,255,00			
11/15/2026	100,000,000	0	1,255,000	1,255,00			
5/15/2027	100,000,000	0	1,255,000	1,255,00			
11/15/2027	100,000,000	0	1,255,000	1,255,00			
5/15/2028	100,000,000	0	1,255,000	1,255,00			
11/15/2028	100,000,000	0	1,255,000	1,255,00			
5/15/2029	100,000,000	0	1,255,000	1,255,00			
11/15/2029	100,000,000	0	1,255,000	1,255,00			
5/15/2030	100,000,000	0	1,255,000	1,255,00			
11/15/2030	100,000,000	0	1,255,000	1,255,00			
5/15/2031	100,000,000	0	1,255,000	1,255,00			
11/15/2031	100,000,000	0	1,255,000	1,255,00			
5/15/2032	100,000,000	0	1,255,000	1,255,00			
11/15/2032	100,000,000	0	1,255,000	1,255,00			
5/15/2033	100,000,000	0	1,255,000	1,255,00			
11/15/2033	100,000,000	0	1,255,000	1,255,00			
5/15/2034	100,000,000	0	1,255,000	1,255,00			
11/15/2034	100,000,000	0	1,255,000	1,255,00			
5/15/2035	100,000,000	0	1,255,000	1,255,00			
11/15/2035	100,000,000	0	1,255,000	1,255,00			
5/15/2036	100,000,000	0	1,255,000	1,255,00			
11/15/2036	100,000,000	0	1,255,000	1,255,00			
5/15/2037	100,000,000	0	1,255,000	1,255,00			
11/15/2037	100,000,000	0	1,255,000	1,255,00			
5/15/2038	95,886,081	4,113,919	1,255,000	5,368,91			
11/15/2038	87,702,511	8,183,570	1,203,370	9,386,94			
5/15/2039	79,416,238	8,286,273	1,100,667	9,386,94			
11/15/2039	71,025,972	8,390,266	996,674	9,386,94			
5/15/2040	62,530,408	8,495,564	891,376	9,386,94			
11/15/2040	53,928,225	8,602,183	784,757	9,386,94			
5/15/2041	45,218,084	8,710,141	676,799	9,386,94			
11/15/2041	36,398,631	8,819,453	567,487	9,386,94			

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5/15/2042	27,468,494	8,930,137	456,803	9,386,940
11/15/2042	18,426,284	9,042,210	344,730	9,386,940
5/15/2043	9,270,594	9,155,690	231,250	9,386,940
11/15/2043	0	9,270,594	116,346	9,386,940

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Total Debt Service						
Payment Date	Principal Balance	Principal	Interest	Total Payment		
2/24/2021	337,783,000	5 000 000				
11/15/2021	332,573,708	5,209,292	4,087,776	9,297,06		
5/15/2022	325,983,498	6,590,210	2,796,730	9,386,94		
11/15/2022	319,364,917	6,618,581	2,768,359	9,386,94		
5/15/2023	312,717,843	6,647,074	2,739,866	9,386,94		
11/15/2023	306,042,153	6,675,690	2,711,250	9,386,94		
5/15/2024	299,337,725	6,704,428	2,682,511	9,386,93		
11/15/2024	292,604,434	6,733,291	2,653,649	9,386,94		
5/15/2025	285,842,156	6,762,278	2,624,662	9,386,94		
11/15/2025	279,050,767	6,791,389	2,595,550	9,386,93		
5/15/2026	272,230,141	6,820,626	2,566,314	9,386,94		
11/15/2026	265,380,152	6,849,989	2,536,951	9,386,94		
5/15/2027	258,500,674	6,879,478	2,507,462	9,386,94		
11/15/2027	251,591,580	6,909,094	2,477,845	9,386,93		
5/15/2028	244,652,742	6,938,838	2,448,102	9,386,94		
11/15/2028	237,684,032	6,968,710	2,418,230	9,386,94		
5/15/2029	230,685,322	6,998,710	2,388,230	9,386,94		
11/15/2029	223,656,482	7,028,840	2,358,100	9,386,94		
5/15/2030	216,597,383	7,059,099	2,327,841	9,386,94		
11/15/2030	209,507,895	7,089,488	2,297,452	9,386,94		
5/15/2031	202,387,887	7,120,008	2,266,931	9,386,93		
11/15/2031	195,237,227	7,150,660	2,236,280	9,386,94		
5/15/2032	188,030,041	7,207,186	2,179,753	9,386,92		
11/15/2032	180,752,873	7,277,168	2,109,772	9,386,94		
5/15/2033	173,405,044	7,347,829	2,039,110	9,386,9		
11/15/2033	165,985,867	7,419,177	1,967,763	9,386,9		
5/15/2034	158,494,650	7,491,217	1,895,723	9,386,94		
11/15/2034	150,930,693	7,563,957	1,822,983	9,386,94		
5/15/2035	143,293,290	7,637,403	1,749,537	9,386,94		
11/15/2035	135,581,728	7,711,562	1,675,378	9,386,94		
5/15/2036	127,795,287	7,786,441	1,600,499	9,386,9		
11/15/2036	119,933,239	7,862,048	1,524,892	9,386,9		
5/15/2037	111,994,851	7,938,388	1,448,552	9,386,94		
11/15/2037	103,979,381	8,015,470	1,371,470	9,386,9		
5/15/2038	95,886,081	8,093,300	1,293,640	9,386,94		
11/15/2038	87,702,511	8,183,570	1,203,370	9,386,94		
5/15/2039	79,416,238	8,286,273	1,100,667	9,386,94		
11/15/2039	71,025,972	8,390,266	996,674	9,386,94		
5/15/2040	62,530,408	8,495,564	891,376	9,386,94		
11/15/2040	53,928,225	8,602,183	784,757	9,386,94		
5/15/2041	45,218,084	8,710,141	676,799	9,386,94		

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11/15/2041	36,398,631	8,819,453	567,487	9,386,940
5/15/2042	27,468,494	8,930,137	456,803	9,386,940
11/15/2042	18,426,284	9,042,210	344,730	9,386,940
5/15/2043	9,270,594	9,155,690	231,250	9,386,940
11/15/2043	0	9,270,594	116,346	9,386,940

Exhibit 2 Periodic Payment Requirements

The total amount payable to the owner of the Recovery Property, or its assignee(s), pursuant to this issuance advice letter is a \$337,783,000 principal amount, plus interest on such principal amount, plus Ongoing Financing Costs, to be obtained from Fixed Recovery Charges calculated in accordance with the Decision.

The Fixed Recovery Charges shall be adjusted from time to time, at least annually, via the Routine True-Up Mechanism Advice Letter and Non-Routine True-Up Mechanism Advice Letter in accordance with the Decision.

The following amounts are scheduled to be paid by the Bond Trustee from Fixed Recovery Charges it has received during the two Payment Periods following the Closing Date. These payment amounts include principal plus interest and plus other Ongoing Financing Costs.

<u>Payment Period</u>	<u>Recovery Bond</u> <u>Payments (See</u> <u>Exhibit 1)</u>	<u>Ongoing Financing</u> <u>Costs (See Table 3)</u>	<u>Periodic Payment</u> <u>Requirement</u>	
<u>First Payment</u> <u>Period</u>	\$9,297,068	\$331,318	\$9,628,386	
<u>Second Payment</u> <u>Period</u>	\$9,386,940	\$241,447	\$9,628,386	

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Exhibit 3 Fixed Recovery Charges Calculations

Rate Group	GRC Allocation Factor	Periodic Billing Requirement (\$)	Billing Requirement per Rate Group (\$)	Period 1 Forecasted Billing Determinants (MWh)	Period 2 Forecasted Billing Determinants (MWh)	Period 1 Fixed Recovery Charge (c/kWh)	Period 2 Fixed Recovery Charge (c/kWh)	New Fixed Recovery Charge (c/kWh)
Res-D	39.07%	9,628,386	3,761,990	7,118,814	8,341,327	0.053	0.046	0.053
Res-CARE	0.00%	9,628,386	0	3,936,844	4,228,115	0.000	0.000	0.000
GS-1	8.60%	9,628,386	828,033	2,106,434	2,602,786	0.040	0.032	0.040
TC-1	0.14%	9,628,386	13,320	19,296	28,492	0.070	0.047	0.070
GS-2	19.93%	9,628,386	1,918,745	4,880,887	5,721,942	0.040	0.034	0.040
TOU-GS-3	9.23%	9,628,386	888,564	2,621,068	3,232,451	0.034	0.028	0.034
TOU-8-S	8.86%	9,628,386	853,065	2,854,166	3,572,385	0.030	0.024	0.030
TOU-8-P	5.27%	9,628,386	507,176	1,908,632	2,428,709	0.027	0.022	0.027
TOU-8-T	2.62%	9,628,386	252,720	2,199,483	2,870,026	0.012	0.009	0.012
TOU-8-S-S	0.22%	9,628,386	21,531	68,481	87,811	0.030	0.024	0.030
TOU-8-S-P	0.76%	9,628,386	73,067	241,268	296,158	0.027	0.022	0.027
TOU-8-S-T	1.08%	9,628,386	104,360	864,215	1,257,395	0.012	0.009	0.012
TOU-PA-2	2.50%	9,628,386	240,787	861,699	655,208	0.028	0.037	0.037
TOU-PA-3	1.57%	9,628,386	150,937	625,770	618,566	0.025	0.025	0.025
STLT	0.15%	9,628,386	14,092	185,837	281,059	0.008	0.006	0.008
	100.00%		9,628,386					

Exhibit 4 Calculation of Pre-Securitization Debt Financing Costs

Amount
\$1,430,458
3,410 468
\$4,840,926

Updated financing costs reflects the interest expense up to the Closing Date.

ATTACHMENT A

SCOPE OF WORK CENTERPOINT TRANSITION BONDS

1. Regulatory Support and Deliverables.

a. Assist Commission staff in any docketed cases related to CenterPoint applications for Financing Orders including reviewing company testimony and briefs, preparing and responding to interrogatories, and presenting or preparing witnesses to testify as directed by PUCT staff.

b. Assist PUCT staff in preparing proposed forms of financing orders, if any, proposed subsequent to the advisor's selection.

c. Assist the Commission in evaluating the issuance advice letter.

d. Provide a "veto" or "no veto" letter to the Commission no later than noon on the second business day after the date of receipt of the issuance advice letter based on all information reasonably available to the Advisor at the time. Any "no veto" letter shall affirmatively state the following: 1) the structuring, marketing and pricing of the transaction resulted in the lowest transition bond charges consistent with market conditions and the terms of the Financing Order; 2) the Advisor performed all duties required under the terms of its contract and/or the Financing Order to be performed prior to delivery of the "no veto" letter; and 3) the Advisor performed such due diligence sufficient to ensure that all material decisions made in the transaction by the Advisor and the utility have been appropriately documented, and that any difficulties, anomalies, or unusual circumstances encountered in the transaction have been reported to the PUCT Staff and will be documented in a Final Report as described below. Any "veto" letter shall explain in detail the reasons why the Advisor recommends that the transaction should not go forward, and any circumstances or remedies that the Advisor believes must occur for the transaction to go forward.

e. For transactions that are not vetoed, the Advisor shall provide: 1) prior to closing of each transaction, a Certification letter addressed to the Commission and signed by the Advisor (in the form set forth in Attachment C to the Contract) that the structure and pricing of the transaction resulted in the lowest transition bond charges given market conditions and the terms of the Financing Order, along with similar certifications signed by the bookrunning underwriters and provided to the Advisor and a brief narrative explaining the basis for the Advisor's Certification; and, 2) within 30 days of closing of each transaction, a Final Report to the Commission that includes at least the following: (a) a summary of the transaction including the completion dates of transaction "milestone" events, the underwriters involved, the structure utilized, the pricing obtained, and a spread comparison of this transaction relative to pricing in previous Texas transition bond transactions and any similar recent transactions in other states; (b) a description of the actions taken by the Advisor to fulfill its duties under the contract including the Advisor's due diligence efforts; (c) a description of any difficulties, anomalies, or unusual circumstances encountered by the Advisor during the transaction including when these matters were communicated to the PUCT and how they were resolved to the Advisor's satisfaction; (d) recommendations for improving the process for the next transaction, if any. The bookrunning underwriters' certifications and part (c) and (d) of the Final Report described in this subsection may be provided to the Commission under seal,

f. Upon request, provide one or more oral briefings to the Commission, the PUCT Staff or other parties on the results of the transaction.

g. Provide other written reports as directed by the Commission or the PUCT Staff.

2. Transaction Duties--Structuring, Pricing, Marketing.

a. Have a decision-making role co-equal to the utility with respect to structuring, marketing and pricing of the transition bonds, including the selection of the underwriting syndicate.

b. Participate fully and in advance on all plans and decisions related to the structuring, marketing and pricing of the transition bonds.

c. Review and approve in advance all written marketing materials.

d. Participate actively in reviewing and approving, in writing, in advance all aspects of interactions with the rating agencies, including (without limitation): (1) cash flow models designed to calculate transition charges and transition bond payments; (2) "stress test" cash flow analyses; (3) business issues related to legal opinions; and (4) the resolution of other rating agency issues, including required capital contributions, overcollateralization, and other credit enhancement levels to achieve triple-A ratings.

e. Review and approve in writing, in advance, the underwriters' plans for marketing the series of transition bonds, including their: (a) strategy to market the bonds to all relevant domestic and international debt market segments, including potential crossover buyers from the corporate bond market; (b) marketing materials in both written and electronic form (e.g., sales point memoranda, road shows, and other investor education materials).

f. Ensure the lowest cost of funds by evaluating market conditions and making recommendations on various aspects of the transaction including: (a) the timing of the proposal; (b) the alternative tranching structures to target current demand conditions; and (c) the optimal mix of fixed rate and floating rate transition bonds (with such swaps, collars or other hedging strategies as found to be appropriate by the Advisor).

g. Review and approve in advance the underwriters' list of investors to whom the underwriters propose to offer the series of transition bonds.

h. Participate actively in written or oral presentations by any underwriter or group of underwriters to investors, including discussions relating to structure or price of transition bonds.

i. Approve any proposed credit enhancement, hedging or swap agreements designed to promote the credit quality and marketability of the transition bonds or to mitigate the risk of future interest rate increases.

j. Coordinate price talks with underwriters and approve preliminary pricing indications prior to release to the marketplace.

k. Have open access to the bookrunning manager's book and all orders with respect to the series of transition bonds.

1. Affirmatively approve the proposed pricing of the series of transition bonds; if there is an oversubscription, recommend whether the oversubscribed transition bonds should be re-priced.

m. Obtain written certification, to be approved by the Advisor, from the bookrunning underwriter(s) that the structuring, marketing and pricing of the transition bonds resulted in the lowest cost of funds and transition bond charges consistent with market conditions and the terms of the Financing Order.

n. Ensure that the transaction protects the competitiveness of the retail market in Texas by bringing to the attention of PUCT Staff any transaction structure issues that might result in a reduction in headroom (i.e., higher transition charges).

3. Transaction Duties—Document Review and Due Diligence.

a. Review drafts and approve in advance all transaction documents on behalf of ratepayers, giving particular attention to covenants, representations, and warranties to be given by the Applicant and by the SPE and to remedies and the measure of damages that will apply in the event of any breach of covenant, representation or warranty by the Applicant or by the SPE.

b. Review drafts and approve in advance all SEC registration statements and any written correspondence with SEC staff and participate actively in any discussions with SEC staff.

c. Participate actively in the underwriters' due diligence efforts.

d. Review the issuance advice letter, "no veto" letter, and the Final Report for compliance with the advisor's contract and the Commission's final order.

e. Review legal opinions given to rating agencies.

f. Review any Internal Revenue Service private letter ruling requests and letter rulings.

g. Conduct such other due diligence as may be necessary to support the "veto" or "no veto" letter, and the Final Report.

h. Promptly notify the Commission if the Advisor becomes aware that any material aspect of the transaction has been performed in a manner that is not legal or ethical or that any decisions made in the transaction have not been appropriately documented, including documentation of any difficulties, anomalies, or unusual circumstances encountered in the transaction and their resolution.

i. Provide other support as requested by the PUCT Staff.

4. Transaction and Post-Transaction Duties — Accounting and Financial.

a. Review all relevant information provided by the utility concerning various Qualified Costs (including costs of issuance and on-going servicing costs) and other financeable costs not fixed in the Financing Order.

b. Assist the utility in preparing the issuance advice letter, including documentation that the statutory tests have been met.

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ATTACHMENT C

CERTIFICATION

In Docket No. 30485, the Public Utility Commission of Texas (the "Commission") issued its Financing Order dated March 16, 2005 (the "Financing Order"). The Financing Order authorized CenterPoint Energy Houston Electric, LLC (the "Company") (subsequently identified as CenterPoint (the "Issuer")) to issue transition bonds and to participate in certain related transactions (the "Transaction") as specified in the Financing Order. However, the Financing Order conditions this authorization upon (a) the Commission's financial advisor notifying the Company and the Commission not later than 12:00 p.m. CST on the second business day after the Commission's receipt of the Issuance Advice Letter that it will not veto the issuance of the proposed transition bonds pursuant to Ordering Paragraph 26 of the Financing Order, and (b) the Commission determining not to issue an order prior to noon of the fourth business day after pricing pursuant to Ordering Paragraph 4 of the Financing Order.

The Financing Order imposes certain requirements on the Commission's financial advisor in connection with the issuance of transition bonds for the Company. A list of those requirements is included as Appendix A. On _____ 2005,

______, (the "Financial Advisor"), was selected to serve as financial advisor to the Commission in connection with transition bonds to be issued in connection with Docket 30485. Attachment A to the contract with the Financial Advisor contains a Statement of Work that provides additional detail regarding the duties of the Financial Advisor. That Statement of Work is provided in Appendix B.

On ______, 200_ the Company filed at the Commission an issuance advice letter dated ______, attached as Appendix C, in connection with the Transaction (the "Issuance Advice Letter"). This Issuance Advice Letter, among other things, includes a schedule setting forth the following: An aggregate principal amount of ______; the weighted average effective annual yield of ______; and the nominal interest rate, and the resulting net cost of funds to the Issuer for each tranche of Transition Bonds. According to the Issuance Advice Letter, the Transaction had (a) an original issue premium or discount (if any) of ______, (b) external credit enhancements (and the cost of any external credit enhancement), if any, of ______; and (c) the following internal credit enhancements in excess of the minimum amount of overcollateralization and Capital Subaccount funding anticipated in Findings of Fact 67 and 68 of the Financing Order (if any): ______

[As appropriate, add the following: According to the Issuance Advice Letter, (a) there will be no swapping or hedging transactions in connection with the Transaction, (b) there will be no third party credit enhancements in connection with the Transaction, and (c) there will be no internal credit enhancements in excess of the minimum amount of overcollateralization and Capital Subaccount funding anticipated in Findings of Fact 67 and 68 of the Financing Order.] The Issuance Advice Letter also includes the Company's certification letter and certification statement pursuant to Ordering Paragraph 4 and

Finding of Fact 115 of the Financing Order and the instructions to the Issuance Advice Letter found in Appendix A of the Financing Order. [Attach appropriate certifications if there are swapping or hedging arrangements, external credit enhancements, or internal credit enhancements in excess of the minimums anticipated in the Financing Order as required by Ordering Paragraphs 4 and 22 and Finding of Fact 46.]

On _____, 200_, the book running underwriter(s) for the Transaction delivered to the Commission, the Company and Financial Advisor a letter ("the Underwriter's Letter") dated ______ certifying to a variety of matters in connection with the Transaction. A Copy of the Underwriter's Letter is included as Appendix D. Among other matters, the Underwriter's Letter certifies that the Transaction was priced at __:___.M. New York time on _____, 200_, (the "Pricing Time"). The pricing for each tranche, along with its relevant benchmark and spread above the benchmark is as follows:

[Provide chart]

On ______, 200_, the Financial Advisor delivered to the Company and the Commission a written notice that the Financial Advisor would not exercise its right under Ordering Paragraph 26 of the Financing Order to veto the proposed issuance of Transition Bonds (the "No Veto Notice"). A copy of the No Veto Notice is enclosed as Appendix E. The No Veto Notice was based in part upon the form of Issuance Advice Letter enclosed as Appendix C, the Company's certificate included in the Issuance Advice Letter, and the Underwriter's Letter enclosed as Appendix D.

Based in part upon the Issuance Advice Letter enclosed as Appendix C the Company's certificate included in the Issuance Advice Letter, and the Underwriter's Letter enclosed as Appendix D, and based in part on the experience of the Financial Advisor and its officers and employees, the Financial Advisor hereby certifies as follows:

1. We consulted with the Company in its preparation of the Issuance Advice Letter enclosed as Appendix C, and reviewed it for compliance with the terms of the Financing Order.

2. We performed each of the required duties listed in Appendix A and the Statement of Work in Appendix B [describe any exceptions]. In particular, since _______, 2005, when ________ first became the Financial Advisor to the Commission in connection with the Transition Bonds, _______ has used its good faith efforts to participate fully and in advance in all plans, negotiations and decisions relating to the pricing, marketing and structuring of the Transaction.

3. Given the terms of the Financing Order, the schedule of principal amounts set forth in the attached Appendix C, market conditions at the Pricing Time, and applicable securities laws, and based on the Financial Advisor's experience and on market conditions and other information reasonably available to officers, agents and employees of the Financial Advisor, the structuring, marketing and pricing of the Transition Bonds, as described in the Issuance Advice Letter in Appendix C, will result in the lowest transition-bond charges consistent with market conditions and the terms of the Financing Order, all within the meaning of Section 39.301 of PURA.

4. [To be delivered if the Transition bonds are sold through a negotiated sale.] On _______, 200_, a decision was made by the Company and the Financial Advisor to proceed with marketing the Transition Bonds as a negotiated sale through a syndicate of selected underwriters. Based on information reasonably available to us as of that date, and given the terms of the Financing Order, the schedule of principal amounts set forth in the attached Appendix C and applicable securities laws, (a) competitive sales are not customary in the market in which transition bonds typically are marketed, nor are competitive sales generally considered to be the most effective manner in which to market highly structured securities such as the Transition Bonds; and (b) the Issuer would not have achieved lower transition bond charges for any or all tranches of the Transition Bonds through a competitive bidding process than through the negotiated sale of all the Transition Bonds to the syndicate of underwriters jointly selected by the Company and the Commission's designated representative or Financial Advisor.

5. [To be delivered if the Transition bonds are sold through a competitive sale.] On _____[date], a decision was made by the Company and the Financial Advisor to conduct the sale of the Transition Bonds through a competitive bidding process. Based on information reasonably available to us on that date, and given the terms of the Financing Order, the schedule of principal amounts set forth in Appendix C and applicable securities laws, it is our opinion that (a) there were sufficient reasons to depart from the customary practice to market Transition Bonds as a negotiated sale through a syndicate of selected underwriters, namely ______ [insert reasons]; and (b) the Issuer would not have achieved lower transition bond charges for any or all tranches of the Transition Bonds through a negotiated sale through a syndicate of underwriters jointly selected by the Company and the Commission's designated representative or Financial Advisor.

6. Given the terms of the Financing Order, market conditions at the time of pricing and the schedule of principal amounts set forth in the attached Appendix A, the amount of compensation payable to the underwriters from proceeds of the Transition Bonds was necessary to achieve the lowest transition bond charges for each tranche of Transition Bonds, and the amount of compensation payable to the underwriters and funded from proceeds of the Transition Bonds have been established at amounts that could not be reduced without increasing overall transition bond charges.

In providing the certification in (3) above, ______ provides the following facts to support the certification: [provide a short narrative comparing pricing attained to recent comparable transactions or other relevant evidence such as the subscription level attained for each tranche, marketing efforts towards new investors or investor classes and results of those efforts, etc.]

For purposes of this letter, the following definitions apply:

(a)"marketing" means all aspects of presenting the Transition Bonds to the public capital markets and offering the Transition Bonds for sale to investors, including but not limited to targeting particular investors or classes of investors and selecting methods of communicating with investors.

(b) "transition bond charges" means transition charges imposed to pay the annualized cost, expressed as a percentage, of principal, interest and the cost of external credit enhancement, if any, attributable to that tranche.

(c) the "structure" of the Transaction means the structure reflected in the forms of Indenture, Supplemental Indenture, Servicing Agreement, Administration Agreement, Sale Agreement and Underwriting Agreement reviewed by us as of

_____, 200_.

(d) the "lowest transition bond charges" means (i) the lowest transition bond charges in respect of the Transition Bonds as a whole, and (ii) the lowest transition bond charges in respect of each tranche of Transition Bonds.

This letter is being delivered to the Commission pursuant to [Part ______ of the Contract for Services by and between the Public Utility Commission of Texas and the Financial Advisor, dated as of _______, 2005,] to assist the Commission in meeting its obligation under Section 39.301 of PURA, and we shall be fully accountable to the Commission for all matters set forth in this letter. Without our written permission, this letter may not be used by or relied upon by any other person or entity.

Respectfully submitted,

[FINANCIAL ADVISOR]

Chief Executive Officer

ATTACHMENT D

CERTIFICATION OF NO CONFLICT OF INTEREST

No Conflicting Relationships. Saber Partners certifies to the Commission that no existing or contemplated relationship exists between Saber Partners and the Commission that interfere with fair competition or is a conflict of interest, and that no existing or contemplated relationship exists between Saber Partners and another person or organization, whether or not located within the State of Texas, that constitutes or will constitute a conflict of interest for Saber Partners with respect to the Commission.

Independence. Saber Partners, as the Commission's financial advisor, must be free from any conflicts of interest and must provide the Commission with independent advice. Neither Saber Partners nor any affiliate of Saber Partners may have any financial interest in or any securities trading relationship with any entity that engages in the business of underwriting or trading in bonds or other fixed income products. From the beginning of this engagement and for at least 12 months following the date of issuance of the bonds, neither Saber Partners nor any affiliate of Saber Partners may engage in the business of underwriting or trading in the market for bonds or other fixed income products for their own account or for others.

Prohibition on Transactions with Company. No member of the team of Saber Partners' employees for this assignment is currently executing any securities transactions, advisory assignments, or credit transactions for CenterPoint Energy Houston, LLC. During the term of this Agreement and for a period of one (1) year thereafter, Saber Partners shall not staff any Saber Partners' team members on any such assignments for CenterPoint Energy Houston, LLC without the prior written consent of the PUCT. Saber Partners will require that all members of Saber Partners' team agree to a prohibition against stock ownership of stock of CenterPoint Energy Houston, LLC during the term of this Agreement and for one (1) year thereafter. Prior to staffing any Saber Partners' employee to perform services under this Agreement, Saber Partners shall notify such employee of the provisions hereof and obtain a written agreement that he or she is bound hereby.

Prohibition on Transactions with Parties Adverse to Commission. Saber Partners shall agree as part of this agreement for services, and it is an express condition of this agreement, that during performance of this agreement, Saber Partners will neither provide contractual services nor enter into any agreement, oral or written, to provide services to a person or organization that is regulated or funded by the Commission or that has interests which are directly or indirectly adverse to those of the Commission. The Commission may waive this provision in writing if such activities of the Contractor will not be adverse to the interests of the Commission.

Cause No. 45722 Exhibit JF-6 Page 10 of 28

Notice of Conflict. Saber Partners agrees to promptly notify the PUCT of any circumstance which may create a real or perceived conflict of interest. Saber Partners agrees to use its best efforts to resolve any real or perceived conflict of interest to the satisfaction of the PUCT. Failure of Saber Partners to do so shall be grounds for termination of this contract for cause, pursuant to Section 6.2.1.

Date:

Saber Partners, LLC Fichera, Manager & CEO Joseph &

Saber Capital Partners, LLC

Jøseph 8. Fichera, Manager & CEO

Cause No. 45722 Exhibit JF-6 Page 11 of 28

CONTRACT

This Agreement ("Agreement"), effective as of the last date signed below by a duly authorized representative of either party ("Effective Date"), is entered into by and between the Public Utility Commission of Texas, an agency of the state of Texas with its office at 1701 N. Congress Ave., Austin, TX 78701 (the "PUCT" or the "Commission"), Saber Partners, LLC and Saber Capital Partners, LLC (collectively "Saber Partners").

RECITALS

WHEREAS, pursuant to its statutory responsibility under Chapter 39, Subchapter G of the Public Utility Regulatory Act, (PURA) the PUCT issued a Request for Proposals (RFP) for an entity to enter into a financial advisory relationship with the Commission with respect to the proposed Issuance of Transition Bonds by a special purpose entity formed by CenterPoint Energy Houston, LLP ("CenterPoint") to ensure compliance with the statutory requirements of PURA and the terms of the Financing Order issued in Docket No 30485; and

WHEREAS, Saber Partners submitted a proposal to provide the requested services; and

WHEREAS, the PUCT selected Saber Partners to provide the services requested in its RFP;

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, the PUCT and Saber Partners (the "Parties") hereby agree as follows:

Article 1. Definitions

When used in this Agreement, the following terms shall have the respective meanings set forth in this Agreement.

1.1 "Confidential Information" shall have the meaning provided in Attachment B to this Agreement.

1.2 "Intellectual Property Rights" shall mean any patent, trade secret, confidential or proprietary information, know-how, show-how, maskwork right, copyright (e.g. including but not limited to any moral right), and any other intellectual property protection and intangible legal rights and interests, of any one or more countries, including, for example, but not limited to (a) any publicity or privacy right, (b) any utility model or application, (c) any industrial model or application, (d) any certificate of invention or application, (e) any application for patent, including, for example, but not limited to any provisional, divisional, reissue, reexamination or continuation application, (f) any substitute, renewal or extension of any such application, and (g) any right of priority resulting from the filing of any such application.

1.3 "Moral Rights" shall mean any rights to claim authorship of intellectual property, to object to or prevent the modification of any intellectual property, or to withdraw from circulation or control the publication or distribution of any intellectual property, and any similar right, existing under judicial or statutory law of any country in the world, or under any treaty, regardless of whether or not such right is denominated or generally referred to as a "moral right."

1.4 "Public Utility Commission," "PUCT," or "Commission" shall include Commission employees.

1.5 "Saber Partners" shall include Saber Partners, LLC, Saber Capital Partners, LLC, and any successors, heirs and assigns.

1.6 "Services" shall mean any and all services performed and any and all goods and products delivered by Saber Partners as specified in the certification set forth in Attachment C and the Scope of Work which is attached hereto as Attachment A. Both attachments are made a part of this Agreement.

1.7 "Financing Order" shall mean the Financing Order approved in PUCT Docket No. 30485 (or a subsequent docket number assigned upon remand to the Commission).

1.8 "Issuance" shall mean the sale of Transition Bonds approved in Docket No. 30485 (or a subsequent docket number assigned upon remand to the Commission) in the amount specified in the Financing Order.

1.9 "Certification" shall have the meaning provided in Attachment A hereto and shall contain the information set forth in Attachment C hereto.

1.10 "Transition Bonds" shall mean those transition bonds issued pursuant to the Financing Order approved in PUCT Docket No. 30485 (or a subsequent docket number assigned upon remand to the Commission).

Article 2. Compensation

2.1 Compensation. Saber Partners agrees to provide all services performed under this Agreement, including all labor and expenses, including legal services, incurred in performing the duties and providing the deliverables described in Attachment A (Scope of Work) and to provide a Certification in the form set forth in Attachment C (Certification), for a flat fee of \$700,000 (the "Fee").

2.2 Payment for Services. Saber Partners acknowledges that the PUCT has not been appropriated any funds for the purposes of this Agreement. All compensation and reimbursements to Saber Partners provided for by Section 2.1 hereof shall be paid or caused to be paid by wire transfer at the time and directly from the proceeds of the Issuance of the Transition Bonds. The parties expressly agree that nothing in this Agreement is intended to constitute an obligation against or payable from funds

appropriated to the PUCT for any purpose, or general revenue funds or any other funds of the State of Texas.

2.3 Payments made to Subcontractors. Saber Partners shall pay any subcontractor hereunder the appropriate share of payments received not later than the 10th day after the date Saber Partners receives the payment. The subcontractor's payment shall be overdue on the 11th day after the date Saber Partners receives the payment.

2.4 Records. Saber Partners and its subcontractors shall maintain records and books of account relating to time and materials and services provided under this Agreement in accordance with generally accepted accounting practices. Such records and books shall be made available to the PUCT, its designee or the state auditor's office for review upon reasonable notice during Saber Partners' normal business hours for a period of at least four years after the end of the term of the Agreement.

2.5 Sole Compensation. Payments under this Article 2 are Saber Partners' sole compensation under this Agreement. Saber Partners shall not incur expenses with the expectation that the PUCT or CenterPoint will directly pay the expense to a third-party vendor outside payments made under this Article 2, irrespective of whether in exchange for Services or otherwise.

2.6 State Auditor. The state auditor may conduct an audit or investigation of any entity receiving funds from the state directly under the contract or indirectly through a subcontract under the contract. Acceptance of funds directly under the contract or indirectly through a subcontract under the contract acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds.

Article 3. Contract Administration

3.1 PUCT Contract Administration. The PUCT designates Bob Saathoff, Chief Fiscal Officer, as its Contract Administrator to serve as the PUCT's point of contact for contract administration. The PUCT designates Darryl Tietjen to serve as its Technical Point of Contact. In addition, the Commission may provide specific direction related to performance of this contract. Saber Partners acknowledges that neither the PUCT Contract Administrator nor the PUCT Technical Point of Contact have any authority to amend this Agreement on behalf of the PUCT, except as expressly provided herein. Saber Partners further acknowledges that such authority is exclusively held by the Commission or its authorized designee, Executive Director Lane Lanford.

3.2 Saber Partners Contract Administration. Saber Partners designates Joseph S. Fichera to serve as its Contract Administrator.

3.3 Reporting. Saber Partners shall report directly to the PUCT Contract Administrator and shall perform all activities in accordance with reasonable instructions, directions, requests, rules and regulations issued during the term of this Agreement as conveyed to

Saber Partners by the PUCT Contract Administrator and the PUCT Technical Point of Contact.

3.4 Cooperation. The Parties' Contract Administrators shall handle all communications between them in a timely and cooperative manner. The Parties shall timely notify each other by written communication of any change in designee or contact information.

3.5 Inquiries and Prompt Referral. Saber Partners will promptly refer all inquiries regarding this Agreement received from state legislators, other public officials, the media, or non-parties to the PUCT Contract Administrator.

Article 4. Reports and Records

4.1 Written Reports. Saber Partners will provide written reports to the PUCT in the form and with the frequency as specified in the Scope of Work which is attached hereto as Attachment A.

4.2 Records Review. Saber Partners shall, for a period of four (4) years following the expiration or termination of this Agreement, maintain its records of the work performed under this Agreement. Saber Partners shall make all records that support the performance of Services and payment available to PUCT and/or its designees or the state auditor's office during normal business hours given reasonable notice, upon the request of the PUCT Contract Administrator.

4.3 Progress Reports. In addition to the reports required by the Statement of Work, Saber Partners' Contract Administrator shall provide regular progress reports, either orally or electronically, to the PUCT Contract Administrator and the PUCT Technical Point of Contact, in a format and on a schedule agreed upon. Saber Partners agrees to provide additional ad hoc reports, within reason and in either oral, written or electronic form, that may be required by the PUCT. If Saber Partners cannot provide such reports without incurring unreasonable additional expense, Saber Partners shall notify the PUCT's Contract Administrator of the estimated cost for providing the additional reports and information substantiating the cost, prior to incurring the expense.

Article 5. Subcontracting Parties

5.1 Use of Subcontractors. The parties acknowledge and agree that at the time of execution of this Agreement Saber Partners intends to perform the Services required under this Agreement using its own employees with the exception of those legal services which shall be performed by outside legal counsel retained by Saber Partners. Saber Partners will notify the PUCT Contract Administrator of any other proposed subcontract and will work with the PUCT HUB Coordinator to procure such other subcontractor and to submit appropriate subcontractor selection documentation for approval prior to engaging any other subcontractor, such approval not to be unreasonably withheld. Any such other subcontract or subsequent substitution of a subcontractor must be approved according to the terms of Article 7 herein.

5.2 Primary Point of Contact. Joseph S. Fichera will serve as the primary point of contact for the PUCT with Saber Partners' subcontractors on all matters related to this Agreement.

5.3 Sole Responsibility. Saber Partners is solely responsible for the quality and timeliness of the work produced by all subcontractors that may be engaged by Saber Partners to provide Services hereunder and for the timely payment for all such work produced by all subcontractors which is accepted by and paid for in accordance with the terms of this Agreement.

5.4 Prime Vendor Contract. The Parties expressly agree that this Agreement is intended to constitute a prime vendor contract, with Saber Partners serving as the prime vendor for delivery of the Services made the subject hereof. Saber Partners acknowledges and agrees that Saber Partners is fully liable and responsible for timely, complete delivery of the Services described in this Agreement notwithstanding the engagement of any subcontractor to perform an obligation under this Agreement.

Article 6. Term, Suspension and Termination

6.1 Term. The term of this Agreement shall begin on the Effective Date and shall continue in effect until the later of the issuance of the Transition Bonds or the last deliverable per the statement of work unless sooner terminated under Sections 6.2 or 6.3 of this Agreement. This Agreement may be renewed by the PUCT for up to two additional one-year terms or extended as mutually agreed in writing by the Parties.

6.2 Termination for Cause by the PUCT. If Saber Partners is in default of any material term of this Agreement, the PUCT may serve upon Saber Partners written notice requiring Saber Partners to cure such default. Unless within thirty (30) days after receipt of said notice by Saber Partners, said default is corrected or arrangements satisfactory to the PUCT, as applicable, for correcting the default have been made by Saber Partners, the PUCT may terminate this Agreement for default and shall have all rights and remedies provided by law and under this Agreement.

6.2.1 Termination for the Convenience of the PUCT. The PUCT may, upon thirty (30) days written notice, terminate this Agreement whenever the interests of the PUCT so require.

6.3 Termination for Cause by Saber Partners. If the PUCT fails to comply with any of its obligations hereunder in any material respect, Saber Partners may serve upon the PUCT written notice of default. Should the PUCT fail to remedy such default or fail to present a plan acceptable to Saber Partners to remedy such default within thirty (30) days after receipt of such written notice of default, Saber Partners shall have the right to terminate the Agreement. In the event of termination, Saber Partners will provide reasonable cooperation to transfer the duties of Saber Partners under the Agreement to another entity without disruption to the progress of the securitization.

6.4 Survival. In the event that this Agreement expires or is terminated by a party pursuant to the terms hereof, the rights and obligations of the Parties hereunder shall terminate; provided that the provisions of Article 2, Sections 4.2, 7.3, 7.5 and 19.1 through 19.10 hereof, Articles 10, 11, 12, 14, 15 and 16 hereof and Attachment B in its entirety shall survive any termination or expiration of this Agreement.

Article 7. Assignment, Amendments and Modifications

7.1 Material Change Requests. Material changes to the Scope of Work may be proposed by the PUCT during the term of this Agreement. Upon receipt of a written request from the PUCT for a material change to the Scope of Work, Saber Partners' Contract Administrator shall, within a reasonable time thereafter, submit to the PUCT a detailed written estimate of any proposed price and schedule adjustment(s) to this Agreement. No material changes to the Scope of Work will occur without the written consent of Saber Partners and unless and until the PUCT or its designee approves Saber Partners' proposed modification proposal, including the schedule adjustments and the costs (if any) associated with the modifications, in writing, as provided in accordance with the terms stated in this Agreement.

7.2 Changes in Law. Subsequent changes in federal and state legislation or rules and regulations or rulings by the PUCT Commission may require modification of the terms of this Agreement, including an increase or decrease in the duties of Saber Partners and/or compensation. In the event of such subsequent changes to statutes, rules and/or regulations, the PUCT and Saber Partners shall negotiate the terms of a contract modification, whether an increase or a decrease in Saber Partners' duties and/or compensation, in good faith and incorporate such modification into this Agreement by written amendment.

7.3 No Assignment of Duties. This Agreement shall be binding upon and inure to the benefit of the permitted successors and assigns of any party (including by merger of Saber Partners or otherwise by operation of law); provided however that Saber Partners shall not otherwise, without the prior written consent of the PUCT, or as provided in Section 7.3.1 herein, assign or transfer this Agreement or any obligation incurred under this Agreement. Any attempt by Saber Partners to assign or transfer this Agreement or any obligation incurred under this Agreement, in contravention of this paragraph, shall be void and of no force and effect.

7.3.1 Assignment Permitted This Agreement may not be assigned, changed, amended or modified in any manner except by written instrument executed by authorized representatives of both parties in accordance with the terms of the Agreement, provided, however, that any activities of Saber Partner, LLC under this Agreement that may require registration as a securities broker or dealer may be assigned by Saber Partners, LLC in its discretion to Saber Capital Partners LLC ("SCP") so long as (i) SCP remains a whollyowned subsidiary of Saber Partners, LLC, (ii) SCP remains registered as a broker and dealer with the U.S. Securities and Exchange Commission, (iii) SCP remains a member in good standing of the NASD, and (iv) Joseph Fichera remains Chief Executive Officer of SCP, and any assignment by Saber Partners, LLC of any activity or activities of SCP pursuant to the preceding sentence shall not increase or otherwise affect the aggregate amount of compensation payable to Saber Partners, LLC and SCP, collectively, for any services performed under this Agreement, although Saber Partners and SCP shall to the extent practicable arrange to have compensation payable to SCP for any such activity or activities performed by SCP paid directly to SCP. In the event of any breach of this Agreement by SCP following an assignment to SCP pursuant to this Section 7.3.1, both Saber Partners, LLC and SCP shall be jointly and severally liable to the PUCT for damages to the PUCT resulting directly from that breach.

7.4 Amendments and Modifications. This Agreement may not be amended or modified in any manner except by written instrument executed by authorized representatives of the Parties in accordance with the terms of this Agreement. Any additional amounts to be securitized for CenterPoint at a later date will be the subject of an amendment to this contract with compensation to be negotiated in good faith at that time.

7.5 Binding on Successors. The terms of this Agreement shall be binding on any successor organization of any of the signatory parties.

Article 8. Representations, Warranties and Covenants

8.1 Warranty of Performance. Saber Partners represents, warrants and covenants that it will perform the Services in a professional and workmanlike manner, consistent with professional standards of practice in the industry and in accordance with its undertakings in Article 17 hereof.

8.2 Warranty of Services. Saber Partners warrants that the Services shall be rendered by the qualified personnel referred to in, or as otherwise agreed upon pursuant to, Section 19.11 hereof. If Services provided under this Agreement require a professional license, then Saber Partners represents, warrants and covenants that the activity will be performed only by duly licensed personnel.

Article 9. Risk of Loss and Property Rights

9.1 Risk of Loss. The risk of loss for all items to be furnished hereunder shall remain with Saber Partners until the items are delivered to the PUCT, at which time the risk of loss shall pass to the PUCT.

9.2 Ownership. Except for materials where any intellectual property rights are vested in a third-party, such as software or hardware, in which case such rights shall remain the property of the third party, all finished materials, conceptions, or products created and/or prepared for on behalf of the PUCT and purchased by the PUCT, or on behalf of the PUCT, which the PUCT has accepted as part of the performance of services hereunder,

shall be the PUCT's property exclusively and will be given to the PUCT either at the PUCT's request during the term of the Agreement or upon termination or expiration of the Agreement. Notwithstanding the foregoing, materials created, prepared for, or purchased exclusively by the PUCT or on behalf of the PUCT are the PUCT's exclusive property regardless of whether delivery to the PUCT is effectuated during or upon termination or expiration of this Agreement.

9.3 Licensed Software. Saber Partners may obtain software licenses as an agent of the PUCT for software that is used by Saber Partners solely for the purpose of providing services under this Agreement. Saber Partners shall provide the PUCT with a copy of any software license obtained by Saber Partners as an agent for the PUCT that is to be used by Saber Partners solely for the purpose of providing services under this Agreement.

9.4 Prior Works. Except as provided herein, all previously owned materials, conceptions or products shall remain the property of Saber Partners and nothing contained in this Agreement will be construed to require Saber Partners to transfer ownership of such materials to the PUCT.

9.5 Trademarks. The Parties agree that no rights to any trademark or service mark belonging to another party or to any non-party are granted to any other party by this Agreement, unless by separate written instrument. The PUCT acknowledges and agrees that use of any trademark associated with any software provided by Saber Partners under this Agreement does not give the PUCT any rights of ownership in the trademark or the software.

9.6 Program Information. Program information, data, and details relating to Saber Partners' services under this Agreement shall be maintained separately from other Saber Partners' activities. Saber Partners shall undertake all reasonable care and precaution in the handling and storing of the PUCT's materials.

9.7 Provision to be Inserted in Subcontracts. Saber Partners shall insert an article containing paragraphs 9.2 and 9.6 of this Agreement in all subcontracts hereunder except altered as necessary for proper identification of the contracting parties and the PUCT under this Agreement.

Article 10. Confidential Information.

10.1 Confidential Information. The Parties hereby acknowledge that they may become exposed to Confidential Information in connection with their relationship hereunder. In consideration thereof, the Parties agree to abide by the provisions of the confidentiality agreement in Attachment B hereto, which is hereby incorporated by reference herein.

10.2 Agreement Not Confidential. The Parties acknowledge that all terms of this Agreement may not be confidential pursuant to the Texas Public Information Act, regardless of whether those copies are marked "Proprietary" and/or "Trade Secret" and/or "Confidential," and regardless of the provisions of Attachment B hereto.
Article 11. Conflicts of Interest and Employment Restriction

11.1 No Conflicting Relationships. As certified on Attachment D hereto, Saber Partners certifies to the Commission that no existing or contemplated relationship exists between Saber Partners and the Commission that interfere with fair competition or is a conflict of interest, and that no existing or contemplated relationship exists between Saber Partners and another person or organization, whether or not located within the State of Texas, that constitutes or will constitute a conflict of interest for Saber Partners with respect to the Commission.

11.2 Independence. Saber Partners, as the Commission's financial advisor, must be free from any conflicts of interest and must provide the Commission with independent advice. Neither Saber Partners nor any affiliate of Saber Partners may have any financial interest in or any securities trading relationship with any entity that engages in the business of underwriting or trading in bonds or other fixed income products. From the beginning of this engagement and for at least 12 months following the date of issuance of the bonds, neither Saber Partners nor any affiliate of Saber Partners may engage in the business of underwriting or trading in the market for bonds or other fixed income products for their own account or for others.

11.3 Prohibition on Transactions with Company. No member of the team of Saber Partners' employees for this assignment is currently executing any securities transactions, advisory assignments, or credit transactions for CenterPoint Energy Houston, LLC. During the term of this Agreement and for a period of one (1) year thereafter, Saber Partners shall not staff any Saber Partners' team members on any such assignments for CenterPoint Energy Houston, LLC without the prior written consent of the PUCT. Saber Partners will require that all members of Saber Partners' team agree to a prohibition against stock ownership of stock of CenterPoint Energy Houston, LLC during the term of this Agreement and for one (1) year thereafter. Prior to staffing any Saber Partners' employee to perform services under this Agreement, Saber Partners shall notify such employee of the provisions hereof and obtain a written agreement that he or she is bound hereby.

11.4 Prohibition on Transactions with Parties Adverse to Commission. Saber Partners shall agree as part of this agreement for services, and it is an express condition of this agreement, that during performance of this agreement, Saber Partners will neither provide contractual services nor enter into any agreement, oral or written, to provide services to a person or organization that is regulated or funded by the Commission or that has interests which are directly or indirectly adverse to those of the Commission. The Commission may waive this provision in writing if such activities of the Contractor will not be adverse to the interests of the Commission.

11.5 Notice of Conflict. Saber Partners agrees to promptly notify the PUCT of any circumstance which may create a real or perceived conflict of interest. Saber Partners agrees to use its best efforts to resolve any real or perceived conflict of interest to the satisfaction of the PUCT. Failure of Saber Partners to do so shall be grounds for termination of this contract for cause, pursuant to Section 6.2.

Article 12. Other Acknowledgements and Agreements by the Parties

12.1 Indemnification. Saber Partners shall indemnify, defend and hold harmless the PUCT, the State of Texas, its officers and employees from any and all liabilities, claims, demands or causes of action of whatever kind or nature asserted by a third-party and occurring or in any way incident to, arising out of, or in connection with wrongful acts of Saber Partners, its agents, employees and subcontractors, done in the conduct of this Agreement.

Article 13. Insurance

13.1 Minimum Insurance. Saber Partners shall, at its sole cost and expense, secure and maintain as a minimum, from the Effective Date and thereafter during the term of this Agreement, for its own protection and the protection of the PUCT: (a) commercial liability insurance; (b) automobile liability coverage for vehicles driven by Saber Partners employees; and (c) workers' compensation insurance. The commercial liability policy shall provide a minimum coverage of \$500,000 per occurrence and \$1,000,000 aggregate. The automobile liability policy shall provide a minimum coverage of \$500,000 per occurrence and \$1,000,000 per occurrence. The workers' compensation insurance shall provide the following coverage: \$300,000 for medical expenses and coverage for at least 104 weeks, \$100,000 for accidental death and dismemberment, 70% of employees pre-injury income for not less than 104 weeks; and \$500 maximum weekly benefit. The PUCT shall be named an additional insured on the commercial liability and automobile policies.

13.2 Certificates of Insurance. Saber Partners shall furnish to the PUCT certificates of insurance, signed by authorized representatives of the surety or insurers, of all such bonds and insurance and confirming the amounts of such coverage within ten days of the Effective Date of this Agreement, upon request. Saber Partners shall provide the PUCT Contract Administrator with timely renewal certificates as the coverage renews. Failure to maintain such insurance coverage specified herein, or to provide such certificates promptly, shall constitute a material breach of this Agreement.

Article 14. Dispute Resolution

14.1 Alternative Dispute Resolution. The Parties agree that to the extent required by Chapter 2260 of the Texas Government Code or other Texas statutes, any and all disputes that may arise between the Parties regarding the terms of this Agreement shall be first submitted for settlement by negotiation and mediation, or other means of alternative dispute resolution. The Parties further agree that any such dispute resolution to which Chapter 2260 of the Texas Government Code applies shall be conducted in accordance with PUCT Substantive Rule Chapter 27, Subchapter C.

Article 15. Sovereign Immunity

15.1 Sovereign Immunity. The State of Texas and the PUCT do not waive sovereign immunity by entering into this Agreement, and specifically retain immunity and all defenses available to them under the laws of the State of Texas or the common law.

Article 16. Governing Law

16.1 Governing Law. Notwithstanding anything to the contrary in this Agreement, this Agreement shall be deemed entered into in Texas and shall be governed by and construed and interpreted in accordance with the laws of the State of Texas that apply to contracts executed in and performed entirely within the State of Texas, without reference to any rules of conflict of laws. The Parties consent to the exclusive jurisdiction of Texas. The Parties hereby submit to the jurisdiction of courts located in, and venue is hereby stipulated to the state courts located in Travis County, Texas. Each party stipulates that it is subject to the jurisdiction of the courts located in Travis County, Texas, for any cause of action arising from any act or omission in the performance of this Agreement. Further, each party hereby waives any right to assert any defense to jurisdiction being held by the courts located in Travis County, Texas, for any act or omission in the performance of action arising from any act or omission in the performance of action arising from any act or omission in the performance of this Agreement.

Article 17. Compliance with Law

17.1 General. Saber Partners shall comply with all federal, state and local laws, executive orders, regulations and rules applicable at the time of performance. Saber Partners warrants that all services sold hereunder shall have been produced, sold, delivered, and furnished in strict compliance with all applicable laws and regulations, including Equal Employment Opportunity laws, to which they are subject. All laws and regulation required in agreements of this character are hereby incorporated by this reference.

17.2 Taxes. Saber Partners agrees to comply with any and all applicable state tax laws that may require any filing with and/or payment to the State of Texas as result of any action taken as a result of this Agreement.

17.3 Worker's Compensation. Saber Partners agrees that it shall be in compliance with applicable state worker's compensation laws throughout the term of this Agreement.

17.4 Conflicts. Saber Partners agrees to abide by the requirements of and policy directions provided by the Texas statutes and the rules and regulations of the PUCT, and will inform and consult with the PUCT when further interpretations or directions are needed in order to fully implement the rules and regulations of the Commission. In the event that Saber Partners becomes aware of inconsistencies between this Agreement and a Texas statute or PUCT rule, Saber Partners will so advise the PUCT and will cooperate fully to revise applicable provisions of this Agreement as necessary.

Article 18. Saber Partners Certification

18.1 Effect of Acceptance. By accepting the terms of this Agreement, Saber Partners certifies that, to the extent applicable:

18.1.1 Prohibitions on Gifts. Saber Partners has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with this Agreement.

18.1.2 Delinquent Obligations. Saber Partners is not currently delinquent in the payment of any franchise or sales tax owed the State of Texas, and is not delinquent in the payment of any child support obligations under applicable state law.

18.1.3 Antitrust. Neither Saber Partners nor anyone acting for such firm, corporation, or institution has violated the antitrust laws of this State, codified in Section 15.01, et seq., of the Texas Business and Commerce Code or the Federal Antitrust Laws, nor communicated directly or indirectly to any competitor or any other person engaged in such line of business for the purpose of obtaining an unfair price advantage.

18.1.4 Family Code. Saber Partners has no principal that is ineligible to receive funds under Texas Family Code § 231.006 and acknowledges that this Agreement may be terminated and payment may be withheld if this certification is inaccurate.

18.1.5 Prohibited Compensation. Saber Partners has not received compensation from the PUCT, or any agent, employee, or person acting on the PUCT's behalf for participation in the preparation of this Agreement.

18.1.6 Family Code. Pursuant to Texas Family Code § 231.006(d), no individual or business entity named in this contract is ineligible to receive the specified grant, loan, or payment and acknowledges that this contract may be terminated and payment may be withheld if this certification is inaccurate.

18.1.7 Government Code. Pursuant to Texas Government Code § 2155.004, regarding the collection of state and local sales and use taxes, the individual or business entity named in the proposal and with whom the PUCT is contracting is not ineligible to receive the specified contract and acknowledges that this contract may be terminated and/or payment withheld if this certification is inaccurate.

18.1.8 Outstanding Obligations. Payments due under the contract will be applied towards any debt that is owed to the State of Texas, including but not limited to delinquent taxes and child support.

18.1.9 Contracting with Executive Head of State Agency. The Agreement is in compliance with Texas Government Code § 669.003 relating to contracting with the executive head of a State agency.

18.1.10 Buy Texas. Saber Partners will comply with Texas Government Code § 2155.4441, pertaining to service contracts regarding the use of products produced in the State of Texas.

Article 19. General Provisions

19.1 Relationship of Parties. Saber Partners is and shall remain at all times an independent contractor, and nothing in this Agreement shall be deemed to create a joint venture, partnership, employment, franchise, master-servant, or agency relationship between the Parties. Except as expressly provided to the contrary elsewhere in this Agreement, no party has any right or authority to act on behalf of another party, nor to assume or create any obligation, liability or responsibility on behalf of another party. Under no circumstances shall the relationship of employer and employee be deemed to arise between the PUCT and Saber Partners' personnel. Saber Partners shall be solely responsible for achieving the results contemplated by this Agreement, whether performed by Saber Partners, its agents, employees or subcontractors.

19.2 Taxes and Statutory Withholdings. Saber Partners acknowledges that it is not a PUCT employee, but is an independent contractor. Accordingly, it is Saber Partners' sole obligation to report as income all compensation received by Saber Partners under the terms of this contract. Saber Partners is solely responsible for all taxes (federal, state, local), withholdings, social security, unemployment, Medicare, Worker's Compensation insurance, and other similar statutory obligations (of any governmental entity of any country) arising from, relating to, or in connection with any payment made to Saber Partners under this contract. Saber Partners shall defend, indemnify and hold the PUCT harmless to the extent of any obligation imposed by law on the PUCT to pay any tax (federal, state, local), withholding, social security, unemployment, Medicare, Workers' Compensation insurance, or other similar statutory obligation (of any governmental entity of any country) arising from, relating to, or in connection with any payment made to Saber Partners' to the extent of any obligation imposed by law on the PUCT to pay any tax (federal, state, local), withholding, social security, unemployment, Medicare, Workers' Compensation insurance, or other similar statutory obligation (of any governmental entity of any country) arising from, relating to, or in connection with any payment made to Saber Partners' under this contract.

Further, Saber Partners understands that neither it nor any of its individual employees is eligible for any PUCT employee benefit, including but not limited to holiday, vacation, sick pay, withholding taxes (federal, state, local), social security, Medicare, unemployment or disability insurance, Worker's Compensation, health and welfare benefits, profit sharing, 401K or any employee stock option or stock purchase plans. Saber Partners hereby waives any and all rights to any such PUCT employment benefit.

19.3 Notice. All notices provided for in this Agreement shall be (a) in writing, (b) addressed to a party at the address set forth below (or as expressly designated by such party in a subsequent effective written notice referring specifically to this Agreement), (c) sent by Certified U.S. mail, Return Receipt Requested, with proper postage affixed and

(d) deemed effective upon the third business day after deposit of the notice in the U.S. mail.

IF TO THE PUCT:

ATTENTION: W. LANE LANFORD, EXECUTIVE DIRECTOR 1701 N. Congress Ave., 7th Floor Austin, TX 78701

With a copy to the PUCT Contract Administrator, Bob Saathoff, at the same address.

IF TO Saber Partners: ATTENTION: JOSEPH S. FICHERA, CEO Saber Partners, LLC 44 Wall Street New York, NY 10005

With a copy sent via facsimile to (212) 461-2371.

19.4 Severability. The Parties intend all provisions of this Agreement to be enforced to the fullest extent permitted by law. Saber Partners acknowledges and agrees that each covenant and promise contained herein is a separate obligation independently supported by good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged. Accordingly, if a court of competent jurisdiction determines that the scope and/or operation of any provision of this Agreement is unenforceable as written, then the PUCT and Saber Partners intend that the court should reform such provision (e.g. to a narrower scope and/or operation) as it determines to be enforceable (e.g. maximum enforceable period of time, territory, and/or scope). If, however, any provision of this Agreement is held to be unenforceable under present or future law, and not subject to reformation, then (a) such provision shall be fully severable, (b) this Agreement shall be construed and enforced as if such provision was never a part of this Agreement, and (c) the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by unenforceable provisions or by their severance.

19.5 Force Majeure. No party shall be responsible to another party for any resulting loss if fulfillment of any of the terms or provisions of this Agreement is delayed or prevented by any act or event which is beyond the reasonable control of the affected party (including but not limited to, court decisions, including appeals, acts of God, landslides, lightning, earthquakes, fires, explosions, floods, epidemics or acts of a public enemy, wars, blockades, riots, rebellions, sabotage, insurrections, civil disturbances or similar occurrences; and strikes, work stoppages, secondary boycotts and walkouts).

19.6 Waiver. The PUCT shall not be required to give notice to enforce strict adherence to all provisions of this Agreement. No breach or provision of this Agreement shall be deemed waived, modified or excused by a party, unless such waiver, modification or

excuse is in writing and signed by an authorized officer of the party. The failure by or delay of the aggrieved party in enforcing or exercising any of its rights under this Agreement shall (a) not be deemed a waiver, modification or excuse of such right or of any breach of the same or different provision of this Agreement, and (b) not prevent a subsequent enforcement or exercise of such right. The party shall be entitled to fully enforce any other party's covenants and promises contained herein, notwithstanding the existence of any claim or cause of action by that aggrieved party against another party under this Agreement or otherwise.

19.7 Headings. Titles and headings of paragraphs and sections within this Agreement are provided merely for convenience and shall not be used or relied upon in construing this Agreement or the Parties' intentions with respect thereto.

19.8 Export Laws. Saber Partners represents, warrants, agrees and certifies that it (a) shall comply with the United States Foreign Corrupt Practices Act (regarding, among other things, payments to government officials) and all export laws and rules and regulations of the United States Department of Commerce or other United States or foreign agency or authority and (b) shall not knowingly permit any non-party to directly or indirectly, import, export, re-export, or transship any intellectual property or any third party materials accessed by Saber Partners during the course of this Agreement in violation of any such laws, rules or regulations.

19.9 Entire Agreement. This Agreement, including the Attachments A through D, constitutes the entire agreement and understanding between the PUCT and Saber Partners relating to the subject matter hereof and supersedes and merges all prior discussions, writings, negotiations, understandings and agreements with respect thereto and shall not be amended or modified, nor shall any right be waived, except by a written amendment that is completely executed and delivered by the PUCT and Saber Partners. Any subsequent change or changes in Saber Partners' duties or compensation shall not affect the validity or scope or operation of this Agreement. By signing below, each of the Parties hereto acknowledges that it has read, understands and agrees to this Agreement as being effective for all purposes as of the Effective Date, notwithstanding any later date of execution set forth elsewhere in this Agreement.

19.10 Preprinted Forms. The use of preprinted forms, such as purchase orders or acknowledgments, in connection with this Agreement is for convenience only and all preprinted terms and conditions stated thereon are void and of no effect. The terms of this Agreement, including but not limited to Article 19.11, cannot be amended, modified or altered by any conflicting preprinted terms, provisions or conditions contained in a preprinted form, such as purchase orders or acknowledgements. If any conflict exists between this Agreement and any terms and conditions on a purchase order, acknowledgement or other preprinted form, the terms and conditions of this Agreement will govern.

19.11 Specific Personnel. The composition of employees for this assignment ("Team"), have been identified by Saber Partners as follows:

As needed to perform the tasks specified herein, Saber Partners anticipates utilizing the services of Joseph S. Fichera, Michael Noel, Thomas Best, June Reed, Dean Criddle, Eleanor Lumsden, Jeremy Tennembaum, Paul Sutherland and Alan Blinder.

Saber Partners warrants that it shall use its best efforts to avoid any changes to the Team during the course of this Agreement. Should personnel changes occur during the contract period, Saber Partners will recommend to the PUCT personnel with comparable experience and required qualifications and training. The PUCT must approve any change in personnel on this project. Saber Partners shall provide individuals qualified to perform the tasks assigned to such individual. Any individual that is found to be unacceptable to the PUCT shall be removed from the project of rendering Services per the PUCT's request. Such individual shall be replaced with another individual satisfactory to the PUCT as soon as practicable.

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IN WITNESS WHEREOF both parties by their duly authorized representatives have executed this Agreement as of the day and year signed below.

Public Utility Commission of Texas

Saber Partners, LLC

By:

W. Lane Lanford Printed Name

Executive Director Title

Date Signed: 8-15-05

By:

Joseph S Fichera, Printed Name

Manager & CEO Title

Date Signed Saber Capital Partners, LLC

By: Mana er &

Title

Historical Transition Bond Pricing Levels

Current Fixed Income Market Conditions

Comparison of Long Term Transition Bond Pricing Spreads⁽¹⁾

Rank ⁽²⁾	Offering Date	State	Issuer	Issuance Size (\$ millions)	Expected Term (years)	Wtd. Avg. Spread
	~				1.	
Lowest Cost	September-05	New Jersey	PSE&G Transition Funding II LLC	\$102.7	10	3 bps
	December-05	Texas	CenterPoint Energy Houston Electric LLC	\$1,851.0	14	8 bps
	June-04	Texas	TXU Electric Delivery Transition Bond Company LLC	\$789.8	12	14 bps
	August-03	Texas	Oncor Electric Delivery Transition Bond Company LLC	\$500.0	12	15 bps
	December-03	New Jersey	Atlantic City Electric Transition Funding LLC	\$152.0	15	22 bps
	February-02	Texas	CPL Transition Funding LLC	\$797.3	14	25 bps
	July-04	New Jersey	Rockland Electric Company Transition Funding LLC	\$46.3	15	30 bps
	October-01	Texas	CenterPoint Energy Houston Electric LLC	\$748.8	12	31 bps
	June-02	New Jersey	JCP&L Transition Funding LLC	\$320.0	15	36 bps
	April-01	New Hampshire	PSNH Funding LLC	\$525.0	12	40 bps
	January-01	New Jersey	PSE&G Transition Funding LLC	\$2,525.0	15	49 bps
	December-02	New Jersey	Atlantic City Electric Transition Funding LLC	\$440.0	19	50 bps
	March-01	Michigan	The Detroit Edison Securitization Funding LLC	\$1,750.0	14	50 bps
¥	November-01	Michigan	Consumers Funding LLC	\$468.6	14	54 bps
Highest Cost	May-01	Massachusetts	WMECO Funding LLC	\$155.0	12	60 bps

⁽¹⁾Average spread-to-benchmark-swap rates of the tranches in an issuance, weighted by original average life and size, for transactions with original expected terms of 10 years or greater ⁽²⁾ Ranked by Weighted Average Spread

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Historical Transition Bond Pricing Levels

Current Fixed Income Market Conditions

Comparison of Texas Transition Bond Costs



Source: Lehman Brothers. Bond cost equals tranche spreads to benchmark weighted by original average life and size plus underwriting fees amortized over the weighted average life of the deal

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Pricing Spreads to Credit Cards

Current Fixed Income Market Conditions



2001-2005 Transition Bonds Pricing Spreads to Credit Cards 2-3 Year WAL



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Pricing Spreads to Credit Cards

Current Fixed Income Market Conditions



2001-2005 Transition Bonds Pricing Spreads to Credit Cards 7-8 Year WAL

2001-2005 Transition Bonds Pricing Spreads to Credit Cards 9-10 Year WAL



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5. RRB Spread Summary



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Offering Spread to Swaps vs. Weighted Average Life



Texas, New Jersey and Other Deals





All-in Spread to Swaps vs. Weighted Average Life



Texas, New Jersey and Other Deals



(1) All-in spreads include annualized underwriting and structuring fees.

Cause No. 45722Exhibit JF-9Texas Securitization Transition Bond Financings 2000-2004Page 1 of 2

- Between 2000 and 2004, the Public Utility Commission of Texas (PUCT) was advised by Saber Partners, LLC.
- The PUCT approved financing orders initially for Central Power and Light (now AEP) <u>Docket #21528</u> and subsequently for Reliant Energy <u>Docket #21665</u> (now CenterPoint), and Oncor Electric and TXU <u>Docket #24892</u>). We required an independent financial advisor and an independent certification by the advisor that the structure and pricing of each bond offering was the lowest under market conditions at the time in accordance with PURA 39.301. The financial advisor's responsibilities were in Finding of Facts and Ordering paragraphs and discussed in open meetings.

Date of Offering	Texas Utility Issuing Entity	Amount
10/2001	CenterPoint Energy Transition Bond Company I, LLC	\$748,897,000
01/2002	CPL Transition Funding LLC	\$797,300,000
08/2003	Oncor Electric Delivery Transition Bond Company LLC	\$500,000,000
05/2004	TXU Electric Delivery Transition Bond Company LLC	\$789,777,000
		\$2,835,974,000

- By 2001, when a Texas utility entered the market, investor-owned utilities in other states, in 18 bond offerings, sold \$26 billion of similar AAA securitization bonds. The market was well established.
- Between 2001-2004, investor-owned utilities in New Jersey, Pennsylvania, Michigan, Massachusetts and New Hampshire, in 12 bond offerings, sold another \$7.2 billion of AAA securitization bonds with similar maturities as Texas transition bonds during this period.
- The PUCT, with Saber Partners' advice and guidance, negotiated better pricing under market conditions at the time of pricing for these bond offerings when compared to the results achieved by other investor-owned utilities at the time. This lowered the costs to Texas ratepayers and set new benchmarks for pricing these types of securities.

Pricing Results

- The appropriate and best measure of success in the corporate bond market is to compare the credit spreads (the interest rate above an independent benchmark security) of a bond for a given maturity to similar corporate bonds with the same credit rating from Moody's, Standard and Poor's and Fitch. In utility securitization, all bonds are rated Aaa/AAA/AAA respectively.
- The results speak for themselves. Saber Partners was instrumental in helping the PUCT achieve in interest costs alone approximately \$38 million in lower rate payer costs 0r about \$30 million in net present value savings.
- Saber Partners also audited the Utility transaction expenses and structuring that provided additional rate payer savings.



Representative Financial Press Reports on Texas Offerings with Saber Partners, LLC

- 1. \$749 Million Reliant Energy:
 - "...the first utility in Texas to securitize and it achieved the tightest new issue spreads to credit cards ever." (Salomon Smith Barney Research Report (now Citibank) 1/19/2002)
- 2. \$797 Million Central Power & Light:
- "Priced at unusually tight spreads...a new benchmark for the issues" Asset-Backed Alert, 2/15/02) 3. \$500 million Oncor Electric Delivery:
 - "Priced ... at the tightest levels the sector has seen to date" (Asset Securitization Report, 9/18/03)
- "Tightest ever pricing for an issue of its kind" (Asset-Backed Alert, 9/5/03) 4. \$789 Million TXU:
 - \$789 Million TXU: "Achieved the goal of repricing the sector...at historically rich spreads" (Asset Securitization Report, 5/28/04)

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PUCT Financing Orders Involving Specifying Financial Advisor Duties to the PUCT

The PUCT <u>Financing Order in Docket 21528</u> assigns to the Commission's Financial Advisor (Saber Partners, LLC) the following general responsibilities "to protect ratepayers in the State of Texas."¹ The Financing Order in this docket for Central Power & Light (the Utility) became the template for subsequent securitization PUCT securitization financing orders approved.

I. General Duties of the Financial Advisor

- 1. To ensure that the structuring and pricing of the transition bonds results in the lowest transition-bond charges consistent with market conditions and the terms of the Financing Order. (Finding of Fact (FOF) 97 and Ordering Paragraph (OP) 21).
- 2. To ensure that the structure and pricing of the transition bonds protects the competitiveness of the retail electric market in Texas. (FOF 97 and OP 21).
- 3. To give effect to the Commission's directive that the caps in the Financing Order related to costs and maximum interest rates are ceilings, not floors (FOF 97 and OP 21).

II. Specific Duties of Financial Advisor

- 1. To notify the Commission and the Utility no later than 12:00 p.m. CST after the pricing date of each series of transition bonds whether the pricing and structuring of that series of transition bonds complies with the terms and conditions of the Financing Order. (OP 21.)
- 2. To veto any proposal that does not comply with all the terms and conditions of the Financing Order. (OP 21).
- 3. To participate in negotiations regarding the pricing and structuring of the transition bonds. (OP 21).
- 4. To decide, together with the Utility, whether to use credit enhancements. (OP 17).
- 5. To determine whether it is prudent to enter into hedging and swap agreements to mitigate risk of future rate increases. (FOF 99).
- 6. To inform the Commission of any cost items that, in the Financial Advisor's opinion, are not reasonable. (OP 21).

III. General Authority of the Financial Advisor

To fulfill these duties, the Financing Order grants the Commission's Financial Advisor the following authority:

- 1. Authority to participate fully and in advance in all aspects of the pricing, marketing and structuring of the transition bonds including all plans and decisions related to the pricing, marketing and structuring of the transition bonds. (FOF 98 and OP 21).
- 2. Equal rights with the Utility to approve or disapprove the proposed pricing, marketing and structuring of transition bonds. (OP 21).
- 3. Decision making authority co-equal with the Utility with respect to the structuring and pricing of the transition bonds. (FOF 97). Thus, all matters relating to the structuring and pricing of the transition bonds must be decided jointly by the Utility and the Commission's Financial Advisor. (FOF 97).
- 4. The right to receive timely information as necessary to fulfill its obligation to advise the Commission.

¹ See comments at open meeting by Commissioners Wood, Perlman and Walsh February 24, 2000.

Order Book Status

A-1: \$217MN	1		Whisper Talk			Price Guidance		Final Pricing		
	At			At Price					Final	
	Announcement	<u>% Subscribed</u>	<u>Swaps -10/-8</u>	<u>Guidance</u>	<u>% Subscribed</u>	<u>Swaps -7/-6</u>	At Pricing - 10/5	<u>Swaps -7</u>	Allocation	<u>% Subscribed</u>
IOI/Orders	\$85.0	39%		\$128.3	59%		\$261.8		\$217.0	121%
A-2: \$341M	vi		Whisper Talk			Whisper Talk		Final Pricing		
	At			At Price					Final	
	Announcement	<u>% Subscribed</u>	<u>Swaps -6/-3</u>	<u>Guidance</u>	<u>% Subscribed</u>	<u>Swaps -3/-2</u>	At Pricing - 10/5	Swaps -2	Allocation	<u>% Subscribed</u>
IOI/Orders	\$106.0	31%		\$127.7	37%		\$402.6		\$341.0	118%
A-3: \$250MN			Whisper Talk			Which or Tolk		Einel Drieing		
A-3: \$250111	At		whisper talk	At Price		Whisper Talk		Final Pricing	Final	
	Announcement	% Subscribed	Swaps + 0/3	Guidance	% Subscribed	Swaps +2A	At Pricing - 10/5	Swaps +3	Allocation	% Subscribed
				¢400.0						
IOI/Orders	\$97.0	39%		\$180.0	72%		\$280.5		\$250.0	112%
A-4: \$437MN			Whisper Talk			Whisper Talk		Final Pricing		
	At	0/ O has the d	0	At Price		0		0	<u>Final</u>	
	Announcement	<u>% Subscribed</u>	<u>Swaps + 3/6</u>	<u>Guidance</u>	<u>% Subscribed</u>	<u>Swaps + 5/6</u>	At Pricing - 10/5	<u>Swaps +6</u>	Allocation	<u>% Subscribed</u>
IOI/Orders	\$68.0	16%		\$163.0	37%		\$420.0		\$437.0	96%
A-5: \$494.7N	IM		Whisper Talk			Whisper Talk		Final Pricing		
	At			At Price				5	Final	
	Announcement	% Subscribed	Swaps + 9/13	Guidance	<u>% Subscribed</u>	Swaps + 11/12	At Pricing - 10/5	<u>Swaps +14.1</u>	Allocation	<u>% Subscribed</u>
IOI/Orders	\$25.0	5%		\$167.0	34%		\$648.0		\$494.7	131%
	¥20.0	0/0		¥101.0	0.170		ψ0-10.0		ψτυτιι	10170



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TRANSCRIPT OF PROCEEDINGS BEFORE THE PUBLIC UTILITY COMMISSION OF TEXAS AUSTIN, TEXAS

IN THE MATTER OF THE OPEN MEETING) OF THURSDAY, FEBRUARY 24, 2000)

OPEN MEETING THURSDAY, FEBRUARY 24, 2000

BE IT REMEMBERED THAT AT 9:30 a.m., on Thursday, the 24th day of February 2000, that the above-entitled matter was heard at the Offices of the Public Utility Commission of Texas, William B. Travis Building, 1701 North Congress Avenue, Commissioners' Hearing Room, Austin, Texas, before CHAIRMAN PATRICK HENRY WOOD III and COMMISSIONERS JUDY WALSH and BRETT PERLMAN; and the following proceedings were reported by Lou Ray and William C. Beardmore, Certified Shorthand Reporters of:

1 that decision --

2	COMM. WALSH: I think that our
3	advisor does not need to be an underwriter. But
4	I think that folks have agreed that our advisor
5	has a place at the table, and I think our
6	advisor's responsibility is to make sure that
7	given all the conditions that exist in the
8	market at any given time and certainly we're
9	not expert on that but to take a look at what
10	the market looks like and, you know, all the
11	different piece parts that go to issuing these
12	bonds and to ensure that, as the order says,
13	that the structuring and the pricing of those
14	transition bonds results in a reasonable
15	economic opportunity for the ratepayers
16	conditioned with the market conditions.
17	And then our advisor then would not
18	sign off until he was satisfied that in fact
19	the you know, the trigger could not be pulled
20	until our advisor said, "Yes, given all the
21	conditions in the market this is a reasonable
22	economic deal." I don't think you can say
23	lowest because I don't think you necessarily
24	we're not in a position to know all the, you
25	know, ends and outs of what goes into play in

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7

that thing. 1 So basically I would have our advisor 2 at the table. I think the proposed cap on the 3 fee is adequate and that these bonds would not 4 be issued until our advisor basically said, 5 "Yes, okay," under those criteria. 6 MR. JOURNEAY: By adequate on the 7 cap on the fee you're referring to CPL's 8 proposal of \$500,000? 9 COMM. WALSH: Yes. 10 CHAIRMAN WOOD: Brett, thoughts? 11 COMM. PERLMAN: I had a question. 12 Is there a requirement in the letter that needs 13 to be filed when the -- just prior to the 14 transaction closing, the advisory letter? Is 15 there a provision in there that provides for 16 certification to the effect that -- from the 17 Company that the structuring and pricing of 18 transition bonds results in the lowest 19 20 transition bond charges consistent with market conditions and the terms of financing order. Is 21 that the term of the advisory letter? 22 MR. JOURNEAY: Well, in the 23 issuance of the advisory letter they will 24 25 calculate as to what the actual costs are and

1 the benefits. I might ask help on that

2 question.

3 MR. BEST: There is no such
4 certification currently provided in the issuance
5 advice letter.
6 COMM. PERLMAN: Okay. For me I

think that's the key issue here; that the 7 Company needs to certify to us -- I mean, we 8 just need someone who's on the hook -- and 9 that's the key issue -- who is willing to sign 10 on the line to say that what's been done here is 11 consistent with the statute and in fact is the 12 13 best deal that we can get. And I think it's the 14 Company's financing and I think it's the Company's obligation to certify to us that this 15 is consistent with the statute and the best deal 16 that we could possibly get. 17

18 So to the extent that the company is 19 willing to sign off on that, then, you know, I 20 feel that that is the way we should address the 21 whole issue as to the -- as to making sure that 22 we're getting the best deal.

Now, I think it is good -- I'm not suggesting that we don't have a financial advisor. I think it is good that we have the

right. That is exactly what I want you to do 1 and your folks to do for this Commission. 2 MR. FICHERA: Absolutely. 3 COMM. PERLMAN: So you're -- just 4 so I'm clear on what you just said, you're going 5 to be issuing an opinion letter. Is that right? 6 MR. FICHERA: That's right, saying 7 that this should go forward; that based on 8 everything that has been given to me and my 9 knowledge and some due diligence, I would 10 have -- we have discussed a possible option of 11 what you said. There's a list of probably due 12 diligence selections I will have or things I 13 would expect the underwriters to open up to me 14 so that I can verify rather than just presenting 15 me something and saying, "Well, that was the 16 best." 17 I need to say, "Well, I need to look at 18 the book and to look at orders, what was your 19 marketing plan, what was your approach to the 20 market, how many people were contacted, what 21 were the orders?" We need a number of due 22 diligence issues to make sure that we have done 23 our duty to say, "Yes," you know, to the 24 Commission, "we can go forward." 25

1	COMM. WALSH: I think that's what
2	we want. But I would hope that you'll be more
3	involved in the process than having to go back
4	and
5	MR. FICHERA: Right. That would
6	be up to them. I hope there would be agreement
7	we try to work together to allow us to be
8	side-by-side with them, even though we're not an
9	underwriter
10	COMM. WALSH: That's what's
11	contemplated. So that by the time they say this
12	is the deal, you will have already sort of
13	looked at it with them
14	MR. FICHERA: That's right.
15	COMM. WALSH: and say yes, this
16	is the
17	MR. FICHERA: And I think it would
18	actually help the deal to the extent that
19	Goldman if they're the ones selected would
20	allow us to have a visible role because that
21	would show the state's support and involvement
22	and investors will feel more comfortable with
23	all that. It was one of the things
24	CHAIRMAN WOOD: One of the earlier
25	iterations about the role of the financial

advisor had more of what I call sitting out in 1 the waiting room aspect to it, and I think we 2 specifically rejected that approach in our 3 February 10th or whatever meeting we did that; 4 that we want you in that room. You're not 5 underwriting or whatever the terms that go with 6 7 that are, but you're in the room. And so, I mean, I guess there's no -- in my mind no we 8 hope they agree kind of stuff. It's like that's 9 part of the deal from this Commission is in lieu 10 of them not being an underwriter on your bonds, 11 they're in the room anyway and they've got all 12 these responsibilities for which they'll be well 13 compensated and that's kind of how this is going 14 to work. 15 MR. BREWER: Mr. Chairman, that's 16 what CPL intends. 17 MR. FICHERA: And being in the 18 room, we're not the final -- we're in the market 19 as it goes along the transaction. That's 20 21 where --CHAIRMAN WOOD: The rooms. 22 23 MR. FICHERA: And also let you understand that as we approach that -- since 24 we're all in uncharted ground here, this is all 25

1 CERTIFICATE 2 STATE OF TEXAS) COUNTY OF TRAVIS) 3 4 We, William C. Beardmore and Lou Ray, 5 Certified Shorthand Reporters in and for the 6 State of Texas, do hereby certify that the 7 above-mentioned matter occurred as hereinbefore 8 set out. 9 WE FURTHER CERTIFY THAT the proceedings 10 of such were reported by us or under our 11 supervision, later reduced to typewritten form 12 under our supervision and control and that the 13 foregoing pages are a full, true, and correct transcription of the original notes. 14 15 IN WITNESS WHEREOF, we have hereunto set our hand and seal this 24th day of February 16 17 2000. 18 William C. Beardmore Certified Shorthand Reporter 19 CSR No. 918 - Expires 12/31/00 20 Kennedy Reporting Service, Inc. 800 Brazos, Suite 340 21 Austin, Texas 78701. 22 Lou Ray 23 Certified Shorthand Reporter CSR No. 1791 - Expires 12/31/01 24 Kennedy Reporting Service, Inc. 800 Brazos, Suite 340 25

Austin, Texas 78701.

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AFFIRMATION

I affirm, under the penalties for perjury, that the foregoing representations are true.

Dichera

Saber Partners, Consultants Indiana Office of Utility Consumer Counselor

Cause No. 45722 CenterPoint Energy Indiana

August 3, 2022

Date

CERTIFICATE OF SERVICE

This is to certify that a copy of the OUCC's Testimony has been served upon the following

parties of record in the captioned proceeding by electronic service on August 3, 2022.

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