

# LOUISIANA PUBLIC SERVICE COMMISSION

ORDER NUMBER S-37187

**CENTERPOINT ENERGY RESOURCES CORP., DELTA UTILITIES NO. LA, LLC  
AND DELTA UTILITIES S. LA, LLC.**

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*Docket No. S-37187, In re: Joint Application for all necessary authorizations and approvals for Delta Utilities No. LA and Delta Utilities S. LA to acquire the assets of CenterPoint Energy Resources Corp. and for authority of Delta Utilities No. LA, LLC and Delta Utilities S. LA, LLC to operate as Local Distribution Companies.*

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(Decided at the November 20, 2024 Business and Executive Session.)

## **ORDER**

### **I. BACKGROUND**

On April 24, 2024, Delta Utilities No. LA, LLC (“DUN”), Delta Utilities S. LA, LLC (“DUS”) (collectively, “Delta Utilities”) and CenterPoint Energy Resources Corp. (“CERC”), (collectively, the “Joint Applicants”) filed a joint application (“Application”) with the Louisiana Public Service Commission (“LPSC” or the “Commission”), seeking the following requested relief relating to an Asset Purchase Agreement (“APA”) entered into between CERC, as Seller, and Delta Utilities, Delta Utilities MS, LLC, and Delta Shared Services Co., LLC, as Buyers, on February 19, 2024, whereby CERC would sell, and Delta Utilities would acquire certain of CERC’s public utility natural gas assets that provide natural gas utility service to customers in Louisiana, assume certain liabilities of CERC, and finance the asset acquisition, including encumbrance of the acquired assets (the “Transaction”),<sup>1</sup> pursuant to the APA and other ancillary agreements (collectively the “Transaction Agreements”) as more fully defined in the Application, and requested in the Prayer for Relief:<sup>2</sup>

1. LPSC approval of Delta Utilities to operate as a natural gas distribution utility in the state of Louisiana and subject to the jurisdiction of the LPSC;
2. LPSC approval of the transfer and sale of the Purchased Assets and assumption of the Assumed Obligations, in each case defined in the APA and in accordance with the Transaction Agreements, of the CERC Louisiana Business<sup>3</sup> and acquisition by Delta Utilities of the same as in the public interest;
3. LPSC approval of Delta Utilities assumption and adoption of CERC’s terms and conditions of service, rates, rate schedules and riders in effect at the Closing<sup>4</sup> or supported by the most recent evaluation period of CERC’s Rate Stabilization Plan (“RSP”) Riders, including the

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<sup>1</sup> As set forth in the APA, the “Transaction” also involves the sale by CERC of certain public utility natural gas assets in Mississippi to Delta Utilities’ affiliate Delta Utilities MS, LLC. This Application relates only to the sale and acquisition of the LPSC-jurisdictional assets.

<sup>2</sup> Application at Para. 42 (“Prayer for Relief”).

<sup>3</sup> The CERC “Louisiana Business” is defined in the APA (Section 1.1) as the North Louisiana Business and the South Louisiana Business. See Application at p. 4.

continuation of annual filings pursuant to CERC's RSP Riders (and their renewals) to allow for rate changes pursuant to such riders for evaluation periods in which the Transition Services Agreement ("TSA")<sup>5</sup> is in place for the majority of the 12-month evaluation period;

4. LPSC approval for Delta Utilities to create regulatory assets to defer for future recovery, subject to a prudence review in future general rate proceedings and with such recovery to be net of amounts recovered in CERC rates<sup>6</sup> related to the Excluded Assets,<sup>7</sup> investments made by Delta Utilities (a) in the assets and services needed to replace Excluded Assets and services provided by CERC and its affiliate companies, and (b) in recognition of the need for Delta Utilities to make certain expenditures prior to establishment of new LPSC-approved rates in subsequent rate proceedings for recovery of Delta Utilities investments in standing up the new gas distribution business and replacing certain assets that will not transfer to Delta Utilities at Closing;
5. LPSC determination that the costs of Purchased Assets not yet in service but currently categorized by CERC as Construction Work In Progress ("CWIP")<sup>8</sup> do not constitute an acquisition premium, or that the LPSC not specifically determine that such costs constitute an acquisition premium, such that these costs are eligible for recovery in rates once placed in service, subject to prudence considerations;
6. LPSC stating its non-opposition to Delta Utilities incurring indebtedness to finance the Transaction and costs to stand-up new LDCs and for Delta Utilities encumbering of the Purchased Assets with mortgages and/or security interests to secure the indebtedness;
7. LPSC approving or stating its non-opposition to the transfer of customer deposits from CERC to Delta Utilities, subject to the terms of the APA;
8. LPSC approving CERC's transfer of certain customer data to Delta Utilities;
9. LPSC finding that LPSC ratemaking provisions of orders applicable to CERC continue to be applicable to Delta Utilities as of the Closing,

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<sup>4</sup> The "Closing" is defined in the Application as the closing of the Transaction between CERC and Delta Utilities. *See* Application at Para. 3,

<sup>5</sup> The TSA is included in the Transaction Agreements and proposes the use of transition services provided by CERC to the Delta Utilities for a limited period of time (approximately 18 to 24 months) post-Closing to allow the Delta Utilities to stand up the new LDCs and shared services company.

<sup>6</sup> The "CERC Rates" are defined in the Application as the CERC Louisiana Business terms and conditions of service, rates, rate schedules and riders in effect at the Closing and/or supported by the most recent evaluation period of CERC's Rate Stabilization Plan ("RSP") filings. *See* Application at p. 2.

<sup>7</sup> The "Excluded Assets" are referenced in the Application as being defined in the APA and relate to the assets and services of CERC and affiliate companies that are used to operate the CERC Louisiana Business and that will not be acquired by Delta Utilities in connection with the Closing. *See* Application at p. 2.

<sup>8</sup> "CWIP" is defined in the Application as construction work in progress and relates to the costs of Purchased Assets not yet in service but currently categorized by CERC as construction work in progress. *See* Application at p. 2.

which at the time of filing this Joint Application include, but may not be limited to, General Order dated March 24, 1999 (Docket No. U-22407), PGA General Order, Order Nos. U-32996 (10-23-15), U-34667 (2-15-18), U-35740 (1-4-21), U-36126 (5-19-22) and pending U-36998 and S-37119 (CenterPoint Energy Arkla) and Order Nos. U-32998 (10-23-15), U-34669 (2-15-18), U-35739 (1-12-21), U-36124 (5-19-22), S-36943 (11-16-23), and pending U-36997 (CenterPoint Energy Entex), and LPSC General Orders and Special Orders of general application to LPSC-jurisdictional natural gas public utilities;

10. LPSC granting expedited treatment of this Joint Application, including for this Joint Application to be published in the April 26, 2024 LPSC Bulletin, with a 15-day notice period, and considered by the Commission not later than the December 2024 LPSC Business & Executive Session; and

11. For all other general and equitable relief to which Delta Utilities and CERC show themselves to be entitled.

The Application between Delta Utilities and CERC was published in the LPSC's Official Bulletin #1322, dated April 26, 2024, with a fifteen (15) day intervention period. No interventions or protests were filed. The Application was republished in Bulletin #1326, dated June 21, 2024, for informational purposes only to correct an error with the Delta Utilities' company name.

After extensive review, Staff filed its *Staff Report and Recommendation* on October 22, 2024. On October 24, 2024, Delta Utilities and CERC filed *Joint Reply to Staff Report and Recommendation* indicating their concurrence with the *Staff Report and Recommendation* and requesting this matter be heard at the Commission's Official Business and Executive Session on November 20, 2024.

## **II. COMMISSION AUTHORITY**

The Commission exercises jurisdiction in this proceeding pursuant to Article IV, Sec. 21 of the Louisiana Commission.

**La. Const. Art. IV. Sec. 21** provides in pertinent part:

The commission shall regulate all common carriers and public utilities and have such other regulatory authority as provided by law. It shall adopt and enforce reasonable rules, regulations and procedures necessary for the discharge of its duties, and shall have other powers and perform other duties as provided by law.

Pursuant to this authority, the Commission issued its **March 18, 1994 General Order**, as amended ("1994 General Order"), which requires utilities to respond to the eighteen (18) points. The 1994 General Order provides on pertinent part:

No utility or common carrier subject to the jurisdiction of the Louisiana Public Service Commission shall sell, assign, lease, transfer, mortgage, or otherwise dispose of or encumber the whole or any part of its franchise, works, property, or system, nor by any means direct or indirect, merge or consolidate its utility works, operations, systems, franchises, or any part thereof, nor transfer control or ownership of any of the assets, common stock or other indicia of control of the utility to any other person, corporation, partnership, limited liability company, utility, common carrier, subsidiary, affiliated entity or any other entity, nor merge or combine with another person, corporation, partnership, limited liability company, utility, common carrier, subsidiary, affiliated company or any other entity, or divide into two or more utilities or common carriers, where the values involved in such action exceed one percent (1%) of the gross assets of such regulated utility or common carrier, or subsidiary thereof, nor in any way commit itself to take such action or affect any right, interest, asset, obligation, stock ownership, or control, involved in such action without prior full disclosure of the prior intent and plan of such utility or common carrier with regard to such action and without prior official action of approval or official action of non-opposition by the Louisiana Public Service Commission. This section is intended to apply to any transfer of the ownership and/or control of public utilities and common carriers regardless of the means used to accomplish that transfer.

In determining whether to approve any such transfer of ownership or control, the Commission shall take into account a prescribed set of public interest factors as enumerated in the 1994 General Order.

### **III. STAFF REVIEW**

Delta Utilities provided Staff with its responses to the eighteen (18) points, as summarized below:

- Delta Utilities is committed to adhere to the terms of CERC's terms and conditions of service, rate schedules and riders, including the continuation of annual filings pursuant to CERC's RSP Riders (and their renewals) to allow for rate changes pursuant to such riders for evaluation periods in which the TSA is in place for the majority of the 12-month evaluation period of CERC's RSPs, until a revised final order by the Commission in a future Delta Utilities rate proceeding filed not less than 33 months post-Closing.
- Delta Utilities will continue to provide a high level of safe, reliable, and affordable local gas distribution services to all of CERC's existing LDC customers.
- Delta Utilities possesses the financial, technical, and managerial expertise in the industry with a strong commitment to Louisiana and local job creation.
- The transfer of CERC's local gas distribution system assets will not have a negative effect on any local competition.
- Delta Utilities has stated the resulting gas-distribution company will have access to local equity capital through its relationship to Bernhard Capital, and additional capital required to maintain or improve the financial condition of the LDC and sustain its operations.

Staff reviewed the Application as well as accompanying exhibits and answers to formal and informal data requests. Audit Staff also contacted Louisiana Department of Energy and Natural Resources (“LDENR”) regarding CERC’s compliance. LDENR informed Staff that the systems currently have three (3) open citations. Citation 654, issued July 16, 2018, relates to the Company’s Maximum Allowable Operating Pressure (“MAOP”). CERC is making a concerted effort to target and mitigate risks associated with incomplete MAOP test records, by leveraging CERC’s Distribution Integrity Management Program (“DIMP”) and the Picarro<sup>9</sup> advanced leak detection technology. Citations 1131 and 1155, issued February 9, 2023 and February 3, 2023, respectively, relate to shorted-casing violations. On April 10, 2023, CERC submitted a 10-year plan to LDENR to address the violations, with an estimated 10% execution each year. CERC provides progress reports for all three citations to LDENR every six months. These citations will remain open after the sale of the gas system assets to Delta Utilities. Delta Utilities has stated they would further assume any obligations to resolve any open citation issues post-Closing of the Transaction.<sup>10</sup>

In the Application, Delta Utilities has stated they will adopt CERC’s existing LPSC-approved tariffs, riders and rate schedules as they exist at Closing, or which may be revised and approved from time to time by the LPSC, facilitating seamless services to existing customers and rates based upon existing and established procedures before the LPSC. In adopting and assuming CERC’s rate schedules and riders, Delta Utilities would continue the annual filings pursuant to CERC’s RSP riders, and their renewals, to allow for rate changes pursuant to such riders for evaluation periods in which the TSA is in place for the majority of the 12-month evaluation period. These rates will remain in place until Delta Utilities establishes a consecutive twelve (12) month period to serve as a historical test year for a subsequent future rate proceeding. Delta Utilities has committed to filing a rate proceeding not less than thirty-three (33) months post-Closing of the Transaction. Along with adopting CERC Rates, Delta Utilities committed to maintaining CERC’s Purchase Gas Adjustment (“PGA”) filing requirements, as well as adopting CERC’s Asset Management Agreements (“AMA’s”)<sup>11</sup> currently in place as approved by the LPSC. Thus, with the Closing of the Transaction, Delta Utilities will adopt all of CERC’s rates and schedules in effect at Closing or supported by the most recent evaluation period of CERC’s RSP. Staff agreed with Delta Utilities’ request to adopt CERC Rates (Prayer for Relief No. 3) with a future rate proceeding to be filed not less than thirty-three months post-Closing of the Transaction.

CERC will provide Delta Utilities with Incident Command System (“ICS”) support, among other transition services, pursuant to and during the term of the TSA for a limited period of time post-Closing to allow Delta Utilities to develop and submit plans specific to their operations. TSA services provided by CERC to Delta Utilities pursuant thereto will facilitate a seamless transition

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<sup>9</sup> Picarro’s technology offerings help solve operational and business challenges at sensitivity, speed, and scale allowing companies to take full advantage of real-time data-driven insights, measure, quantify, and reduce fugitive methane emissions, optimize capital efficiency, and improve safety on their natural gas distribution network.

<sup>10</sup> Staff received a Non-Compliance Memo from Michael Peikert, LDENR Pipeline Division Assistant Director, on August 22, 2024 stating the open citations for CERC’s gas system with citation numbers 654, 1131 and 1155 (“Compliance Issues”).

<sup>11</sup> See LPSC Order No. S-36943 (Entex) dated November 16, 2023 and Order No. S-37119 (Arkla) dated May 10, 2024.

of operations to serve the former CERC customers post-Closing. Delta Utilities will offer prior to Closing of the Transaction employment to all of the approximately 350 of CERC's employees engaged in its Louisiana Business operations and has committed to be headquartered in Louisiana. The proposed operating structure will result in new stand-alone LDCs that preserve the efficiencies and economies of scale attributed to maintaining shared services.

Delta Utilities requested approval to create regulatory assets to defer for future recovery, subject to a prudence review in a future general rate proceeding and net of amounts recovered in CERC Rates related to the Excluded Assets, investments made by Delta Utilities (a) in the assets and services needed to replace the Excluded Assets and acquired in order to stand up the new gas LDCs through creation of a newly formed shared services company with greenfield, cloud-based technology, which will facilitate a seamless transition and independent operation of the Purchased Assets upon the termination of the TSA post-Closing, and (b) in recognition of the need for Delta Utilities to make such investments prior to establishment of new LPSC-approved rates in subsequent rate proceedings by Delta Utilities. (Prayer for Relief No. 4) ("Regulatory Asset"). It is Staff's understanding that the prudence and manner of recovery of prudently incurred costs by Delta Utilities deferred to the Regulatory Asset would be reviewed in Delta Utilities' first rate filing post-Closing. Because of that understanding, Staff takes no position on the reasonableness of the recovery of those expenses until the first-rate filing is filed with the Commission. It is also Staff's understanding that additional reductions in Transition Plan (as defined in the Transaction Agreements) costs would occur with the approval of a proposed transaction associated with the natural gas assets of Entergy Louisiana, LLC and Entergy New Orleans, LLC.<sup>12</sup> Staff believes the creation of the Regulatory Assets allow for Transition Plan expenses to be appropriately reviewed for prudence in a future rate filing by Delta Utilities. Although Staff agreed with the request to establish the Regulatory Asset, that will include carrying costs, Staff takes no position in the decision regarding the prudence of the costs to be deferred to the regulatory asset and will defer any such decisions and impact on recovery of such costs to the future rate case to be filed by Delta Utilities.

Delta Utilities has provided Staff with an estimate of how the Company intends to recover the Regulatory Asset. Delta Utilities has stated the Regulatory Asset would accrue carrying costs at Delta Utilities' weighted average cost of capital ("WACC"), which initially would be based on Delta Utilities' cost of debt and CERC's authorized target return on equity ("ROE") and authorized capital structure. Delta Utilities proposed to record the Transition Plan costs required to stand up its new gas utility in the Regulatory Asset and to accrue interim carrying costs on the regulatory asset as the costs and expenses are booked pending the LPSC's consideration of Delta Utilities' recovery of the Regulatory Asset costs in its initial rate case application. Staff is in agreement in authorizing Delta Utilities to track all expenses related to the Transition Plan cost and carrying cost for the gas utility as a Regulatory Asset. However, Staff takes no position in this docket

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<sup>12</sup> The LPSC approved the proposed transaction involving Delta States Utilities LA, LLC and Entergy Louisiana, LLC in Order No. S-37079. The related proposed transaction associated with the purchase by Delta States Utilities NO, LLC of the natural gas assets of Entergy New Orleans, LLC is currently pending before the New Orleans City Council in Docket No. UD-24-01.

regarding the method used by Delta Utilities in the recovery of the Transition Plan cost and carrying cost and will defer all decisions on the manner of recovery to the future rate case.

CERC has a current capital structure of approximately 52% equity and 48% debt for ratemaking purposes. It is Staff's position that Delta Utilities will continue the same capital structure for ratemaking purposes moving forward after the Closing of this Transaction. The LPSC has noted a concern of significantly rising equity positions in gas distribution and natural gas providers in Louisiana, whereby equity capital contributions have led to higher costs for ratepayers. This increase in cost occurs as capital funding from equity sources has historically been more costly than debt funding sources. Delta Utilities has indicated to Staff that it has the access to capital necessary to ensure the capital structure is the same or significantly the same moving forward. As evidenced by the Application, Delta Utilities is assuming CERC's assets at current tariffed rates with existing cost recovery structures in place. Staff is therefore comfortable that CERC's current capital structure, as continued by Delta Utilities, will not have a significant adverse impact on ratepayers. While Staff takes no position at this time on any future change in capital structure by Delta Utilities, Staff notes that any departure from CERC's current capital structure could potentially impact ratepayers.

#### ***Audit Analysis of the 18 points***

Staff generally agrees with Delta Utilities' responses to the 18 points, as summarized below:

- Staff finds that the Transaction is in the public interest.
- Staff finds that because Delta Utilities has the necessary access to capital, Delta Utilities will be able to ensure that the acquired gas utility assets will continue to comply with applicable requirements.
- Staff finds that the Transaction will be fair and reasonable to CERC's employees.
- Audit Staff finds that the Transaction will preserve the jurisdiction of the Commission and its ability to effectively regulate and audit the utility operations in the State of Louisiana post-Close.

#### **IV. STAFF RECOMMENDATION**

Staff reviewed Delta Utilities and CERC's Application and relevant Commission Orders. Based on Staff's review of the Application, the accompanying financials, the responses to the 18 points in accordance with the Commission General Order dated March 18, 1994, and the responses to Staff's data requests, Staff believes that the Transaction, and the resulting transfer of the Purchased Assets to Delta Utilities, assumption of the Assumed Liabilities by Delta Utilities, and financing and associated asset encumbrance, is in the public interest. As such, Staff recommends that the Commission approve the Application of Delta Utilities and CERC and grant the requests in the Prayer for Relief of the Application, subject to the following conditions:

1. Should the APA be modified in any way prior to Closing, the newly revised agreement shall be filed into the record of this proceeding no later than seven (7) business days after such modification.

2. If the Closing of the Transaction does not take place prior to April 1, 2025, Delta Utilities shall be required to file a letter into the record of the Docket, no later than April 15, 2025, detailing why.
3. Delta Utilities shall be ordered to file into the record of this proceeding, along with a copy to the Commission's Utilities Division, draft initial tariffs reflecting the Commission's action, within sixty (60) days of issuance of an Order in this proceeding. Delta Utilities shall file into the record of this proceeding final initial tariffs within 7 days post-Closing, updating the draft initial tariffs to reflect changes to CERC's tariffs between a final order in this proceeding and Closing, if any, and specifying the tariffs' effective date.
4. Within ninety (90) days of Closing of the Transaction, Delta Utilities shall file into the record of this proceeding an update on the LDENR Compliance Issues. Thereafter, until conclusion of Delta Utilities' initial rate proceeding, Delta Utilities shall semi-annually file into the record of this proceeding, an update on the LDENR Compliance Issues. For good cause, the Commission may extend this reporting requirement by final Order in Delta Utilities' initial rate proceeding.
  - a. Such semi-annual filings shall include reports of the progress made to remedy the LDENR Compliance Issues.
5. Within sixty (60) days of Closing of the Transaction, Delta Utilities shall file with the Utilities Division proof that Delta Utilities has obtained an operator ID from the LDENR.
6. Pursuant to the terms of the APA, CERC shall provide Delta Utilities with all financial information, customer lists and data, and any other information pertaining to the natural gas system at the Closing of the Transaction, and the transfer of customer deposits will occur pursuant to the terms of the APA. To the extent CERC and Delta Utilities believe that sharing certain financial, customer, and other information before the Closing of the Transaction will further a seamless transition of the gas business and better enable Delta Utilities to achieve Day One Readiness, the Commission authorizes CERC and Delta Utilities to enter into appropriate arrangements to do so provided the information is properly maintained as confidential.
7. The Closing of the Transaction shall not cause the interruption of gas service to the affected customers.
8. This approval is made without prejudice to the authority of the Commission to make investigations and require any reasonably necessary change that the Commission may legally find to be in the public interest if conditions of the Order in this proceeding are not satisfied.

## **V. COMMISSION CONSIDERATION**



On motion of Commissioner Skrmetta, seconded by Commissioner Greene, and unanimously adopted, the Commission voted to accept the Staff Report and Recommendation filed into the record on October 22, 2024.

**IT IS THEREFORE ORDERED THAT:**

- 1) The Staff Report and Recommendation filed into the record on October 22, 2024, is accepted; and
- 2) This order is effective immediately.

**BY ORDER OF THE COMMISSION**  
**BATON ROUGE, LOUISIANA**  
December 17, 2024



A handwritten signature in blue ink, appearing to read "Brandon M. Frey".

**BRANDON M. FREY**  
**SECRETARY**

/S/ MIKE FRANCIS  
**DISTRICT IV**  
**CHAIRMAN MIKE FRANCIS**

/S/ DAVANTE LEWIS  
**DISTRICT III**  
**VICE CHAIRMAN DAVANTE LEWIS**

/S/ FOSTER L. CAMPBELL  
**DISTRICT V**  
**COMMISSIONER FOSTER L. CAMPBELL**

/S/ ERIC F. SKRMETTA  
**DISTRICT I**  
**COMMISSIONER ERIC F. SKRMETTA**

/S/ CRAIG GREENE  
**DISTRICT II**  
**COMMISSIONER CRAIG GREENE**