

CAUSE NO. 2021-14622

PAMELA BUNKLEY, Individually	§	IN THE DISTRICT COURT OF
And as Representative of the Estate of	§	
JAMES THOMAS JONES, DECEASED	§	
	§	
<i>Plaintiff,</i>	§	
	§	
V.	§	HARRIS COUNTY, TEXAS
	§	
CENTERPOINT ENERGY, INC.	§	
	§	
<i>Defendant.</i>	§	<u>127th</u> JUDICIAL DISTRICT

PLAINTIFF'S ORIGINAL PETITION

NOW COME Plaintiff Pamela Bunkley, Individually and as Representative of the Estate of James Thomas Jones, deceased ("Plaintiff"), complaining of Defendant CenterPoint Energy, Inc. ("Defendant" or "CenterPoint") and for cause of action would respectfully show this Honorable Court the following:

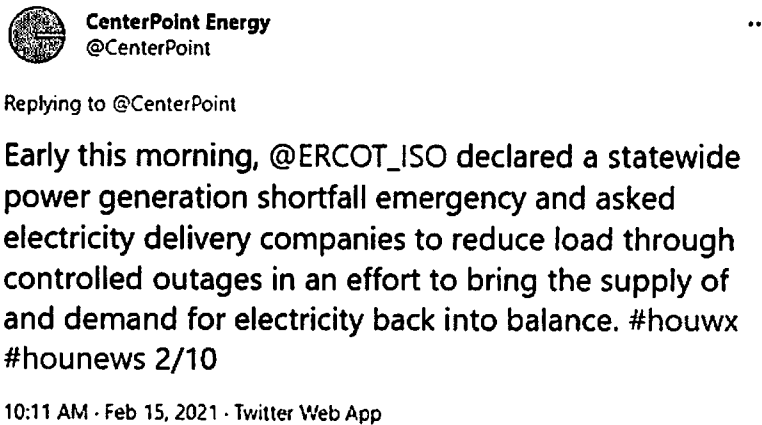
I. FACTUAL BACKGROUND

Plaintiff's father, James Thomas Jones died because the respirators he needed to breathe lost power. As a result of CenterPoint's gross mismanagement of power, Mr. Jones was without power during the coldest periods of the February 2021 winter storm. That loss of power, which was never "rotated," killed Mr. Jones. As set forth herein, CenterPoint's failure to balance the allocation of power left Mr. Jones without a way to utilize his respirators, as he could not plug in one nor could he charge the other. This failure caused Mr. Jones's death, as indicated in his death certificate.

1. CenterPoint's "Rotating" Blackouts

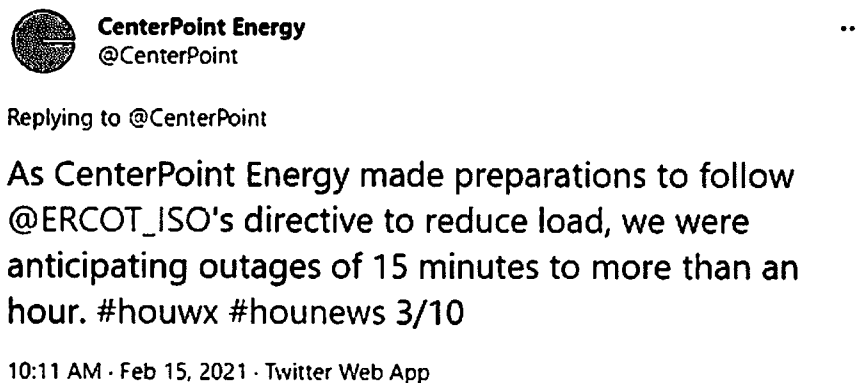
On the early morning of February 15, 2021, The Electric Reliability Council of Texas ("ERCOT"), the agency that oversees the state's electric grid, issued an Energy Emergency Alert

(Level 3) because of lower power supply and high demand for power caused by low temperatures brought by the February 2021 cold snap. Specifically, the apparent purpose of this Alert was to “order” utility providers, like CenterPoint, to reduce the distribution of power on the grid so that the overall power burden placed on the grid could be reduced.



As the transmission and service company for these millions of Houstonians, CenterPoint could control where to cut power and how to “rotate” outages so the stress load on the grid could be managed. “Manage” the distribution of power, CenterPoint did. For millions of Houstonians, this reduction meant the complete loss of power for days. For others, somehow, the power never went out for the duration of the cold snap.

When CenterPoint began the first wave of mass blackouts, it initially claimed that they were only on a “rotating” basis.



However, millions of Houstonians were without power for days, not minutes or hours. CenterPoint knew that blackouts would last days, because they had the power to control the flow of power.



CenterPoint Energy
@CenterPoint

...

Replying to @CenterPoint

Unfortunately, if you are a customer who is currently experiencing an outage, you should be prepared to be without power for at least the rest of the day. #houwx #hounews 5/10

10:11 AM · Feb 15, 2021 · Twitter Web App

On February 17, 2021, the Public Utility Commission of Texas issued an order that clarified that “many customers that were subjected to load shed¹ have remained in an outage status for days.” The order continued that “[t]he expectation is that customers will be rotated through outages so that the burden is shared: that no customer’s outage will last so long as to precipitate endangerment and so that all customers shared this burden in as equitable a manner as circumstances will allow.”

What is clear now is that CenterPoint absolutely failed to control outages in such a way to avoid endangerment to its customers. Its gross mismanagement accelerated the potential harm to millions by categorically denying millions power, while ensuring privileged others never lost it. Though the mid-February cold snap had been predicted,² it was only on the literal dawn of the freeze that CenterPoint would decide to act and provide warning to Texans. However, the extent of CenterPoint’s action included the deliberate decision to de-energize mass swathes of Houston

¹ The order explains that “load shedding obligations are imposed on distribution service providers[,]” which includes CenterPoint under ERCOT Nodal Operating Guides § 4.5.3.4.

² The National Oceanic and Atmospheric Administration (NOAA) first highlighted the threat the winter storm posed on February 5, 2021, and continued forecasts with greater urgency as the storm approached.

populace merely so that a select few in the affluent portions of the city could keep power throughout the freeze. CenterPoint's conscious indifference to strip millions of power, while publicly stating with a wink and a nod that power would be "rotated" in sub-hour intervals lead to the deaths of many—including Mr. James Thomas Jones.

2. Mr. James Thomas Jones

Like many Houstonians during the winter storm, Mr. Jones hunkered down with his family on the night of February 14, 2021 to await the incoming freeze. At the time, Mr. Jones was living with his daughter, Plaintiff Pamela Bunkley. Similar still to millions of Houstonians, Plaintiff's home lost power on Monday, February 15, 2015. Plaintiff's home initially lost power at 10:00 pm—it did not return for a full twenty-four (24) hours until Tuesday, February 16, 2021 at approximately 10:00 pm. During that grueling interval, Mr. Jones was unable to use his primary respirator, which he needed to breathe. Mr. Jones also possessed a battery-powered back-up respirator; but, over the twenty-four hours the battery had run dry. Mr. Jones literally began to suffocate in the freezing cold.

Overtime, his breathing became more labored as the conditions worsened. Plaintiff and her husband, realizing the dire situation, frantically tried to charge the back-up respirator's battery by utilizing jumper cables connected to Plaintiff's car. But, this only provided minimal charge that was insufficient to power Mr. Jones's respirator for any meaningful amount of time. Slowly, Mr. Jones grew weaker as the blackout prolonged, and as his body struggled to breathe in oxygen.

When the power returned to Plaintiff's home at 10:00 pm on February 16, 2021, Plaintiff and her father believed they had endured the worst of the freeze. Quickly, Mr. Jones was connected to his respirator, and his back-up was plugged in to charge. Mr. Jones, Plaintiff, and their family began to relax that they had weathered the crisis.

On February 17, 2021, at 2:30 am, Plaintiff's power went back out. With only minimal power restored to the battery, Mr. Jones had little time to use his respirator before it was completely dry. Despair returned. Rapidly this time, Mr. Jones' breathing grew worse and more labored. After only thirty (30) minutes after the second blackout, Plaintiff and her husband rushed Mr. Jones to the hospital. At that point, Mr. Jones's breathing had become extremely labored and he was growing increasingly pale. Tragically, when Plaintiff's car was only yards from the Memorial Hermann Katy Hospital ER, Plaintiff shared a final gaze with her father as he laid in the car's backseat before he passed. Mr. Jones was pronounced dead soon after being transported from the car to the ER on February 17, 2021.

Plaintiff and Mr. Jones would have been saved from tragedy had CenterPoint not failed to manage power that *all* Houstonians needed during the storm—especially the elderly like Mr. Jones who needed power to breathe. CenterPoint did not plan for the winter storm and did not care to. CenterPoint's clumsy, misleading actions make this clear. As a result, Plaintiff lost her father, and her life will never be the same.

II. DISCOVERY PLAN

Plaintiff intends to conduct discovery under Level 2 of the Texas Rules of Civil Procedure.

III. PARTIES

Plaintiff Pamela Bunkley is an individual who resides in Texas.

Defendant CenterPoint Energy, Inc. is a domestic for-profit corporation doing business in the State of Texas. Defendant CenterPoint may be served by and through its registered agent: CT Corporation System, 1999 Bryan St., Suite 900, Dallas, Texas 75201.

IV. VENUE AND JURISDICTION

Venue and jurisdiction are proper. Defendant's principal place of business is located in this County. Defendant CenterPoint Energy, Inc. is not a natural person; therefore, venue is proper in

this County. TEX. R. CIV. P. 15.002(a)(3). The relief requested herein is within the jurisdictional limits of this Court.

V. CAUSES OF ACTION

A. NEGLIGENCE

Plaintiff incorporates all preceding paragraphs herein. At the time of the accident, Defendant CenterPoint was the utility service provider for Plaintiff. As such, Defendant owed Plaintiff the duty of ordinary care. Defendant had a duty to exercise ordinary care and operate the distribution of power in a reasonable and prudent manner in accordance with applicable operator guidelines. That duty was breached, and such negligence was a proximate cause of Plaintiff's injuries.

Defendant breached its duty of reasonable care in one or more of the following ways, among others:

1. Failing to warn and notify of known hazard;
2. Failing to warn customers that there could be extended intervals without power;
3. Failing to observe standard operating procedures;
4. Failing to maintain and implement standard operating procedures in accordance with industry standards;
5. Failing to properly "rotate" power in a reasonably equitable manner;
6. Utilizing unsafe policies and procedures for power shortages;
7. Negligently directing the allocation of power;
8. Negligently directing grid operators to de-energize sectors for more than twelve-hour intervals; and
9. Directing power be cut in certain areas while maintain power supply continuously to other areas.

Each of these acts and omissions, singularly or in combination with others, constitute negligence, which was the proximate cause of this incident and the injuries sustained by Plaintiff.

B. GROSS NEGLIGENCE

Plaintiff will further show that the acts and/or omissions of Defendant, as described above, when viewed objectively from Defendant's standpoint, involve an extreme degree of risk considering the probability and magnitude of the potential harm to others. Defendant had actual subjective awareness of the risk involved, but nevertheless proceeded in conscious indifference to the rights, safety, and/or welfare of the others, including Plaintiff. Defendant's actions and omissions over the winter storm were reckless, callous and lead to the deaths of many, including Mr. Jones.

As such, Defendant's actions and omissions constitute gross negligence and malice as those terms are understood by law. Cutting power to most while leaving it for the select few is wrong, malicious, and grossly negligent.

VI. DAMAGES

Plaintiff seeks all damages allowed for a beneficiary in a wrongful death and survival action pursuant to Texas Civil Practice and Remedies Code § 71.021 et seq. Plaintiff further seeks pre-death physical pain and suffering, mental anguish, past and future; medical expenses, past and future; loss of consortium, loss of companionship and society, and all other damages authorized by law. Because of the egregious nature of Defendant's actions, Plaintiff seeks punitive damages.

VII. PRAYER

By reason of all the above and forgoing, and on account of the injuries suffered by Plaintiff as a result of this tragic incident, Plaintiff is entitled to recover from Defendant damages set forth in this petition, within the jurisdictional limits of this Court. Plaintiff seeks damages in excess of

\$1,000,000. Plaintiff also seeks pre- and post-judgment interest and any other relief to which Plaintiff may be justly entitled.

Respectfully submitted,

**ABRAHAM, WATKINS, NICHOLS,
AGOSTO, AZIZ & STOGNER**

/s/ Benny Agosto Jr.

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