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January 29, 2010

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## VIA E-FILING AND U.S. MAIL

Ms. LaDonna Castañuela  
Chief Clerk  
Texas Commission on Environmental Quality  
12100 Park 35 Circle  
Building F, 1st Floor, Room 1101  
Austin, Texas 78753

Re: TCEQ Docket No. 2009-0179-AIR; *Application of Houston Refining, L.P. for  
Renewal of Air Quality Permit 2167*

Dear Ms. Castañuela:

Enclosed for filing in the above-referenced and numbered cause is *Applicant  
Houston Refining, L.P.'s Response to Requests for Contested Case Hearing of the City of  
Houston and Environmental Integrity Project.*

A copy of the filing is being served on the persons identified below. If you have  
any questions concerning this filing, please do not hesitate to contact me at the number above.

Sincerely,



Jennifer Keane

Enclosure

cc: Attached Service List

APPLICATION OF HOUSTON  
REFINING, L.P. FOR RENEWAL  
AND AMENDMENT OF  
AIR QUALITY PERMIT NO. 2167

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BEFORE THE TEXAS  
COMMISSION ON  
ENVIRONMENTAL QUALITY

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**HOUSTON REFINING, L.P.'S RESPONSE TO REQUESTS FOR  
CONTESTED CASE HEARING OF THE CITY OF HOUSTON  
AND ENVIRONMENTAL INTEGRITY PROJECT**

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TO THE HONORABLE COMMISSIONERS OF THE TEXAS COMMISSION  
ON ENVIRONMENTAL QUALITY:

Houston Refining, L.P. ("Houston Refining") hereby files this, its Response to the Requests for Contested Case Hearing of the City of Houston and the Environmental Integrity Project on the "no-increase" application to renew and amend Air Quality Permit No. 2167, and in support thereof would respectfully show the following:

**INTRODUCTION**

The Houston Refinery (the "Refinery") is a 268,000-barrel-per-day petroleum refinery located on approximately 700 acres at the city limits of Houston and Pasadena, Texas. In recent years, Houston Refining has undertaken a program to reduce air emissions from the Refinery, and the company's application to renew and amend Air Quality Permit No. 2167 reflects that effort. While the primary purpose of the application is to renew the permit, the application also seeks an amendment to update the applicable permit conditions to reflect current operations of the Refinery and to lower the authorized emission rates to reflect the emissions reductions at the Refinery.

Importantly, the application will not result in an increase in allowable emissions of any air contaminant and will not result in the emission of an air contaminant not previously emitted. Therefore, the application has been properly processed by the Executive Director as a

“no increase” application under Section 382.056(g) of the Texas Clean Air Act (“TCAA”).<sup>1</sup> As a result, the City of Houston (“the City”) and the Environmental Integrity Project (“EIP”) have no legal right to demand that a hearing be held. Moreover, a hearing would be entirely inappropriate in this case and would serve only to delay the enforceability of the substantial emissions reductions to be required by the draft permit.

Houston Refining has proposed significant reductions to the authorized hourly and annual emission rates for every emissions cap in the permit. Collectively, the draft permit would require a reduction of 1,587 tons per year of emissions from the Refinery. Benzene emissions would be reduced by 127 pounds per hour (a 48 percent reduction) and 17.9 tons per year (a 31 percent reduction). The benzene reductions in the draft permit are especially important because the Refinery sits in a major industrial corridor along the Houston Ship Channel and within a TCEQ Air Pollutant Watch List (“APWL”) area for benzene. These reductions are attributable to Houston Refining’s hard work in implementing a benzene emissions reduction program to support the TCEQ’s efforts toward improving air quality along the Ship Channel

For these and the other reasons set forth below, the requests for contested case hearing submitted by the City and EIP should be denied. The TCAA does not grant the City or EIP the right to a contested case hearing on a “no increase” application. Neither requestor has justified any deviation from this fundamental aspect of the TCAA, particularly in light of the substantial emissions reductions that would be required by the draft permit. Moreover, EIP’s hearing request is deficient for failing to identify its affected person status. Houston Refining therefore respectfully requests that Commission issue an order denying the hearing requests, approve the application, adopt the Executive Director’s Response to Public Comment, and issue the draft permit.

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<sup>1</sup> TEX. HEALTH & SAFETY CODE § 382.056(g).

## ARGUMENT

### I. As a “No-Increase” Application, Houston Refining’s Application is Not Subject to a Contested Case Hearing.

With its application to renew Air Quality Permit No. 2167 and associated amendment request, Houston Refining is not seeking to increase any allowable emissions or to authorize the emission of any air contaminant not previously emitted.<sup>2</sup> The application is therefore governed by Section 382.056(g) of the TCAA, which states that “[t]he commission may not seek further public comment or hold a public hearing under the procedures provided by Subsections (i) - (n) [which govern public participation in air permitting] in response to a request for public hearing *on an amendment, modification, or renewal that would not result in an increase in allowable emissions and would not result in the emission of an air contaminant not previously emitted.*”<sup>3</sup> Under the plain language of the statute, the City and EIP have no right to a contested case hearing on the application.

The only exception under the TCAA to this “no-hearing” law is for applications submitted by applicants who have a “poor” compliance history. Section 382.056(o) provides that “the commission may hold a hearing on permit amendment, modification, or renewal if the commission determines that the application involves a facility for which the applicant’s compliance history is in the lowest classification under Sections 5.753 and 5.754, Water Code, and rules adopted and procedures developed under those sections.”<sup>4</sup> That exception is not applicable here, because Houston Refining, like most prudent operators of industrial facilities, has an “average” compliance history under the TCEQ’s objective classification system.<sup>5</sup> Thus, the City’s assertions about what it believes to be an acceptable compliance history—which

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<sup>2</sup> Houston Refining does not seek an emissions increase or a new emissions source with its application for amendment. As noted by the Executive Director, the application for amendment does not involve construction of new facilities and will result in an overall decrease in emissions. Executive Director’s Response to Public Comment at 4 (Dec. 16, 2008).

<sup>3</sup> TEX. HEALTH & SAFETY CODE § 382.056(g) (emphasis added).

<sup>4</sup> *Id.* § 382.056(o).

<sup>5</sup> *See* Executive Director’s Response to Public Comment at 2 (noting that compliance history exception is not applicable because Houston Refining’s compliance history is not “poor”).

ignore Houston Refining's objective classification under applicable TCAA provisions and TCEQ rules—are simply not relevant to the analysis.<sup>6</sup>

## II. EIP Failed to Demonstrate “Affected Person” Status.

The clear direction of the TCAA is that any hearing request relating to a no-increase application should be denied. Beyond this basic principle, however, EIP's request is deficient because EIP failed to demonstrate, or even mention, the “affected person” status required to make a valid hearing request. The applicable Commission rules specify that only a limited set of persons may request a hearing: the Commission, the Executive Director, the applicant, and “affected persons, when authorized by law.”<sup>7</sup> Commission rules further provide that “[f]or any application, an affected person is one who has a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the application. An interest common to members of the general public does not qualify as a personal justiciable interest.”<sup>8</sup> Further, Commission rules require that a group or association, such as EIP, may request a contested case hearing only if it meets all of the following requirements:

1. One or more members of the group or association would otherwise have standing to request a hearing in their own right;
2. The interests the group or association seeks to protect are germane to the organization's purpose; and
3. Neither the claim asserted nor the relief requested requires the participation of the individual members in the case.<sup>9</sup>

The Commission's rules require the requestor to demonstrate that it will meet these fundamental requirements for “affected person” status in the hearing request. Under the Commission's rules, a request must, among other requirements:

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<sup>6</sup> See City of Houston, Renewal of Flexible Permit No. 2167 Houston Refining, L.P. Comments and Second Request for Hearing at 9-10 (Sept. 29, 2009) (hereinafter “City of Houston Comments”) (arguing, contrary to Houston Refining's objective compliance history classification, that “Houston Refining has a poor record of compliance with its existing permit.”)

<sup>7</sup> 30 TEX. ADMIN. CODE § 55.201(b).

<sup>8</sup> *Id.* § 55.203(a).

<sup>9</sup> *Id.* § 55.205(a).

identify the person's personal justiciable interest affected by the application, including a brief, but specific, written statement explaining in plain language the requestor's location and distance relative to the proposed facility and why the requestor believes he or she will be adversely affected by the proposed facility or activity in a manner not common to members of the general public.<sup>10</sup>

EIP's hearing request contains no such statement, nor does it demonstrate that EIP meets any of the requirements for an organization to be an affected party. Rather, EIP's request is completely silent about the organization's affected person status, and EIP identifies no member who would have standing to request a hearing in his or her own right. As a result, EIP's request is deficient and should be disregarded.

**III. The Requestors Have Provided No Compelling Reason to Refer the Application to a Hearing Contrary to the TCAA's Direction, Particularly Given the Significantly-Reduced Emissions Caps in the Draft Permit.**

The City and EIP have asked the Commission to hold a hearing on the application despite the TCAA's "no-hearing" directive. But neither requestor has provided a compelling reason to do so. The City's request, and, more generally, its efforts to characterize the Houston Refinery as an extraordinary contributor to ambient benzene concentrations, ignore the hard work that Houston Refining has undertaken to reduce benzene emissions from the Refinery. The City's assertion that a hearing is necessary to assess the protectiveness of the permit disregards the TCEQ processes that do just that. In sum, a contested case hearing on the application would serve only to delay the imposition of the emissions reduction requirements of the draft permit.

**A. The Renewed Permit Will Contain Across-the-Board Emission Reductions.**

The Legislature's decision to exclude no-increase renewals and amendments from the contested case hearing process does not limit the protectiveness of Air Quality Permit No. 2167, nor does that statutory policy decision limit the effectiveness of the Commission's larger air quality programs as a whole. Indeed, this renewal provides an example of how the Commission's permit program can facilitate ongoing improvement in the protectiveness of a permit. With this application, Houston Refining seeks a significant reduction to every emissions cap in the permit, and many of the underlying emissions reductions have already been achieved.

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<sup>10</sup> *Id.* § 55.201(d)(2).

Specifically, the renewal and amendment will result in enforceable *reductions* in allowable emissions of:

- 941 tpy of volatile organic compounds
- 281 tpy of carbon monoxide
- 99.7 tpy of oxides of nitrogen
- 97.4 tpy of ammonia
- 91.7 tpy of particulate matter
- 56.4 tpy of sulfur dioxide
- 17.9 tpy of benzene
- 1.4 tpy of hydrogen sulfide

Collectively, these reductions total 1,587 tpy of emissions.

**B. The Renewed Permit Will Contain Substantial Benzene Reductions.**

Houston Refining supports the ongoing area-wide efforts, led by TCEQ and the City, to reduce ambient benzene concentrations along the Houston Ship Channel. Consistent with that effort, the draft permit reflects Houston Refining's own substantial benzene emissions reductions. The benzene cap in the draft permit that the Executive Director has recommended for renewal carries a 17.9 tpy reduction from currently authorized levels, representing a 31 percent reduction. These reductions are not merely "paper reductions." They are the product of a concerted refinery-wide effort by Houston Refining to reduce benzene emissions, with particular focus given to reducing fugitive emissions and benzene emissions from external floating roof storage tanks.

The draft permit requires the Refinery to employ the "28-MID" fugitive monitoring and repair program as an upgrade from the Refinery's existing "28 VHP" program.<sup>11</sup> The new 28-MID program includes monitoring to a leak definition of 500 parts-per-million ("ppm") rather than the 2000 ppm level specified under 28 VHP. Houston Refining has completed partial implementation of the 28-MID program across the Refinery, and the program will be fully implemented upon approval of the draft permit. Further, as part of its fugitive emissions program, Houston Refining identified the equipment in the Refinery that is most prone

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<sup>11</sup> See Draft Permit, Special Condition 14.

to fugitive emissions and targets that equipment for more frequent monitoring and, when necessary, immediate repair. Houston Refining also employs infrared camera technology to find and address fugitive emissions that originate in non-traditional sources within the Refinery.

In addition to its fugitive emissions program, Houston Refining also placed an emphasis on reducing benzene emissions from external floating roof storage tanks within the Refinery. Specifically, Houston Refining upgraded the roof fittings on over 50 external floating roof tanks at the Refinery. These upgrades include the installation of “accordion-style” covers on slotted guide poles and the installation of new gaskets and socks to deck legs and other previously ungasketed roof penetrations. The emission reductions associated with these upgrades were included in Houston Refining’s application and will be reflected in the renewed permit.<sup>12</sup>

Together, the fugitive sources and external floating roof tanks targeted by Houston Refining accounted for 90 percent of the Refinery’s pre-reduction benzene emissions. By targeting these sources, Houston Refining has achieved meaningful reductions in benzene emissions from the Refinery. Houston Refining’s commitment to these reductions is reflected in the significantly lower benzene emissions cap in the renewal permit.

The results of Houston Refining’s effort to reduce benzene emissions are shown in the Toxics Reporting Inventory (“TRI”) data from recent years. Between 2005 and 2008, Houston Refining reduced benzene emissions from the Refinery as reported to TRI by 73 percent.<sup>13</sup> The Houston Refinery does not, as is asserted by the City, emit more benzene into the air than any other refinery in the nation.<sup>14</sup> The latest TRI data, from the 2008 reporting year, show that the Houston Refinery is not *first* in benzene emissions among U.S. refineries, but rather *seventeenth*.<sup>15</sup> More locally, the Refinery’s benzene emissions as reported to TRI are eighth among Texas refineries, and fourth among refineries in the Houston-Galveston-Brazoria

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<sup>12</sup> See Houston Refining, L.P., Flexible Permit No. 2167 Amendment and Renewal Application at 37 (Aug. 6, 2008) (noting that “[c]ap contributions from storage tanks have been recalculated using the current version of AP-42 and the latest physical data on each storage tank (tanks, seals, etc.)”).

<sup>13</sup> TRI Data can be accessed at <http://www.epa.gov/triexplorer/>.

<sup>14</sup> City of Houston Comments at 1.

<sup>15</sup> In its September 2008 Comments, the City cited TRI data from the 2006 reporting year. See City of Houston Comments at 2, n.2. Today, the most current data are from the 2008 reporting year. TRI data from both years can be accessed at <http://www.epa.gov/triexplorer/>.

tri-county area. While the TRI “ranking” of a given facility is not relevant to the consideration of a no-increase renewal application under any circumstances, these numbers hardly support the requestors’ assertions that this application warrants a special hearing.

**C. Benzene Reductions at the Refinery Coincide with Area-Wide Improvements.**

**1. TCEQ Toxicology Division’s Most Recent Health Effects Review of Ambient Air Monitoring Shows “Significant Improvement.”**

While the Houston Refinery is just one of a number of benzene sources along the Houston Ship Channel, the emissions reductions at the Houston Refinery coincide with an improvement in local ambient benzene concentrations as measured by TCEQ. According to the TCEQ Toxicology Division’s newly-released Health Effects Review for the Houston Region, the Galena Park APWL area, where the Houston Refinery sits, is undergoing significant progress.<sup>16</sup> The Toxicology Division concluded that the 2008 measured reduction in ambient benzene concentrations at the Galena Park and Lynchburg Ferry monitors “represents a significant improvement in air quality in these areas.”<sup>17</sup> In fact, for the first time in several years, the 2008 average benzene levels in the Galena Park APWL are below the TCEQ’s long-term health-based comparison value.<sup>18</sup>

According to the TCEQ Toxicology Division, these improvements are not isolated, but are the result of significant TCEQ efforts in the area, including, “focused agency resources, special investigations utilizing the latest technology, enhanced compliance and enforcement,” and the “cooperation of industry.”<sup>19</sup> These recent efforts have resulted not only in a curtailed upward trend, but the “2008 annual average appears to suggest a potential downward trend.”<sup>20</sup>

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<sup>16</sup> See Interoffice Memorandum from Joseph T. Haney Jr., TCEQ Toxicology Division, Health Effects Review of Ambient Air Monitoring Data Collected in TCEQ Region 12 During 2008 at 1 (Jan. 11, 2011).

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> *Id.* at 10.

<sup>20</sup> *Id.*

**2. *The Executive Director Recognized Flaws in the City's Use of Ambient Air Monitored Data.***

As noted by the Executive Director in his Response to Comments, many of the extrapolations in the City of Houston's comments lead to inaccurate conclusions about the impacts of emissions from the Houston Refinery. For instance, while the City asserts that the benzene monitors near the Houston Refining facility "exceeded the EPA's one-in-a-million cancer risk virtually 100% of the time," it omits the fact that "almost all of the populated areas of the country exceed the one-in-a-million risk level for common [hazardous air pollutants] like benzene."<sup>21</sup> As the Executive Director observed, EPA's one-in-a-million risk factor "is not intended to be used to determine public safety, but rather to allow the USEPA to identify, or focus on, those [hazardous air pollutants] that are of more concern to public health."<sup>22</sup> Similarly, the City attempts to compare an instantaneous mobile monitor reading of 12 parts-per-billion ("ppb") taken near Houston Refinery (in a boat in the Ship Channel) with the long-term ESL for benzene.<sup>23</sup> However, the Executive Director expressly stated that such a comparison is "entirely inappropriate" and it would be "more appropriate to compare short-term values to the short-term Reference Value (ReV) of 180 ppb."<sup>24</sup> In contrast to the City's misapplication of those data, the Executive Director recognized that "even when considering the cumulative impact of both benzene and 1,3 butadiene, concentrations observed at monitors near Houston Refining show that the public is being exposed to levels at or below acceptable health risk levels."<sup>25</sup>

**D. *An Ad Hoc Hearing Would Add Little to Current Efforts to Reduce Benzene.***

Houston Refining takes its role as a stakeholder in the area's air quality seriously, particularly as it relates to benzene, and this commitment has driven the reductions already accomplished at the Refinery. Houston Refining supports the TCEQ Toxicology Division's recommendation for "continued effort to control and/or reduce benzene emissions in the area such that the long-term, health-based comparison value will continue to be met at the Galena

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<sup>21</sup> Executive Director's Response to Public Comment at 17-18.

<sup>22</sup> *Id.* at 18.

<sup>23</sup> *See* City of Houston Comments at 4.

<sup>24</sup> *Id.* at 17.

<sup>25</sup> *Id.* at 16.

Park site.”<sup>26</sup> However, the referral of a contested case hearing directed at just one source’s permit would do little to support this area-wide effort. With no provision in the TCAA or the Commission’s rules, the role of such an *ad hoc* proceeding within the larger permitting process is anything but clear. Such a hearing is especially redundant when considered along with the Commission’s established programs for assessing and monitoring the risks associated with air contaminant emissions, and for controlling and reducing those emissions.<sup>27</sup> Those TCEQ programs, combined with Houston Refining’s own commitment to reducing emissions, have yielded the substantial reductions in emissions from the Refinery described above. This is hardly the type of application that warrants a departure from the TCAA’s process for no-increase renewal and amendment.

#### **IV. Programmatic Complaints About the TCEQ’s Air Permitting Rules Are Not Relevant to the Application and Do Not Warrant a Hearing.**

In their comments, both the City and EIP made several generalized complaints about the TCEQ’s air permitting program. These programmatic complaints, which address TCEQ policies that have been defined in the TCAA and the Commission’s implementing rules, are not relevant to this individual permitting action and do not justify a hearing.

EIP argues that the comment period should have run for 30 days and should have started when TCEQ reviewed and developed an analysis of the technically complete permit application.<sup>28</sup> However, that is not the process called for by Commission rules. This application was subjected to the public participation requirements for a no-increase renewal and amendment, which call for a 15-day comment period after public notice.<sup>29</sup> Additionally, Commission staff extended the public comment period by 11 days because of the landfall of Hurricane Ike.<sup>30</sup>

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<sup>26</sup> Interoffice Memorandum from Joseph T. Haney Jr., TCEQ Toxicology Division, Health Effects Review of Ambient Air Monitoring Data Collected in TCEQ Region 12 During 2008 at 1 (Jan. 11, 2011).

<sup>27</sup> A variety of these programs are at work here, including the Commission’s implementation and oversight of Maximum Achievable Control Technology requirements, which target hazardous air pollutants and have been implemented at the Houston Refinery as applicable; the Commission’s “Air Pollutant Watch List” program, which provides area-specific examination and analysis of local benzene concentrations; TCEQ’s remote sensing and mobile monitoring efforts such as the use of Differential Absorption Light (“DIAL”) detection and ranging technology; and the Commission’s permitting program.

<sup>28</sup> Environmental Integrity Project, Comments, Request for Public Hearing, and Request for Extension of the Public Comment Deadline for Houston Refining LP Permit No. 2167 at 1 (Sept. 17, 2009).

<sup>29</sup> 30 TEX. ADMIN. CODE § 55.152(a)(2).

<sup>30</sup> See Executive Director’s Response to Public Comment at 1.

TCEQ staff also held a public meeting to gain additional public input on the application, and the Executive Director later provided written responses to questions raised at the public meeting.<sup>31</sup> In total, the public had nearly five months to comment on this application, measured from the date of the first public notice on September 2, 2008 until the end of the public meeting on January 29, 2009. EIP's dissatisfaction with the Commission's public participation rules is not reason for holding a hearing over this application.

The City argues that flexible permits have not been approved as part of the Texas State Implementation Plan ("SIP").<sup>32</sup> That does not provide reason to hold a hearing on the merits of the renewal, and the SIP approvability of the flexible permit program—another programmatic issue—has no bearing on the renewal of an individual permit such as this one. TCEQ itself has made it clear that the Flexible Permit program is only to be applied in a manner that is consistent with federal requirements, affirming in comments to the Environmental Protection Agency that "[a]s part of the application review process, TCEQ has always determined whether federal new source review (FNSR), as well as state and other federal rules, apply."<sup>33</sup> Federal new source review obligations are not implicated by this renewal and amendment, which include only emissions reductions.

Finally, the City suggests that a hearing is warranted because the permit had, at the time of the City's comments, undergone 17 amendments or alterations since it was issued in 1999.<sup>34</sup> As the City acknowledged, only one amendment required public comment under the applicable TCAA and Commission rules. The City offers no indication, nor can it, that these past routine changes to the permit were accomplished in any manner that was inconsistent with Commission rules and the TCAA. The need for minor revisions to a permit covering a large, frequently changing industrial facility is a common one. The TCAA and the Commission's rules recognize this need by allowing for alteration or amendment of a permit without public notice in

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<sup>31</sup> See Texas Commission on Environmental Quality's Response to Questions; January 29, 2009 Houston Refining Public Meeting (Feb. 10, 2009).

<sup>32</sup> City of Houston Comments at 14.

<sup>33</sup> TCEQ Comments on Approval and Promulgation of Implementation Plans; Texas; Revisions to the New Source Review (NSR) State Implementation Plan (SIP); Flexible Permits, Docket ID No. EPA-R06-OAR-2005-TX-0032 at 1 (Nov. 23, 2009).

<sup>34</sup> See City of Houston Comments at 2. The permit has been altered 15 times and amended 3 times since it was issued. After the City's comments were filed, the permit was amended to include MSS emissions.

situations that do not involve increased or new emissions. The fact that a permit has been properly amended or altered in the past does not warrant a departure from the TCAA's existing renewal procedure to allow for an unwarranted collateral attack to those actions. No Commission rule even suggests that such a departure is warranted here.

Other misguided efforts by the City to find "errors and omissions" in the application largely amount to no more than dissatisfaction with existing Commission rules and policies. For example, the City argues that Houston Refining should have conducted air dispersion modeling to support the application.<sup>35</sup> However, the City cites no Commission rule or policy that requires modeling in this situation.<sup>36</sup> The Executive Director considered and responded to each of the "errors and omissions" alleged by the City, and the Executive Director found none of them to warrant changes to the permit.<sup>37</sup> To avoid repetition, the City's allegations of "errors and emissions" are not addressed again here. The City's and EIP's apparent dissatisfaction with various aspects of the TCAA and the Commission's permitting rules is not reason to refer the application for a hearing. Neither the City nor EIP offers any legitimate reason for why such a hearing is in the public interest when the TCAA prohibits it.

### **CONCLUSION AND PRAYER**

The Commission has before it a no-increase renewal and amendment that will effect a reduction of 1,587 tpy in authorized emissions, including a 17.9 tpy reduction in authorized benzene emissions. The TCAA provides that the Commission shall not hold a hearing over an application for a no-increase renewal or amendment. There is no reason presented in the requests by EIP and the City for the Commission to deviate from that statutory directive.

Houston Refining respectfully requests that the Commission deny the hearing requests submitted by the City and EIP, adopt the Executive Director's Response to Public Comment, approve Houston Refining's application for renewal and amendment of Air Quality Permit No. 2167, and issue Air Quality Permit No. 2167.

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<sup>35</sup> See City of Houston Comments at 11.

<sup>36</sup> See Executive Director's Response to Public Comment at 7 ("This renewal application does not involve an increase in emissions, and therefore air dispersion modeling is not required").

<sup>37</sup> See *id.* at 21.

Respectfully submitted,

BAKER BOTTS L.L.P.

By:  \_\_\_\_\_

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ATTORNEYS FOR HOUSTON REFINING, L.P.

## CERTIFICATE OF SERVICE

I hereby certify that I have served a true and correct copy of the foregoing by certified mail, return receipt requested and electronic mail on the following parties on this 29th day of January, 2010.

### FOR THE EXECUTIVE DIRECTOR:

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### REQUESTORS:

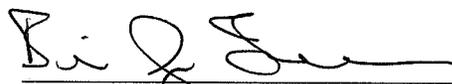
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