ORDINANCE NO. 579

AN ORDINANCE OF THE CITY OF West Columbia **, TEXAS, REVIEWING THE RATE INCREASE REQUEST OF CENTERPOINT ENERGY ENTEX; DENYING THE REQUESTED INCREASE IN RATES; ORDERING THAT NO CHANGE IN RATES OCCUR; ESTABLISHING AN EFFECTIVE DATE FOR THIS ORDINANCE; MAKING SUCH OTHER FINDINGS AND PROVISIONS RELATED HERETO; CONTAINING A SAVINGS CLAUSE; AND PROVIDING FOR THE EFFECTIVE DATE THEREOF.**

WHEREAS, on April 30, 2010 CenterPoint Energy Entex ("CenterPoint") filed a request to increase rates within the Texas Coast Division by approximately $3.6 million; and

WHEREAS, CenterPoint's filing purports to be in compliance with a "Cost of Service Adjustment" ("COSA") tariff approved by the Railroad Commission of Texas; and

WHEREAS, the COSA tariff approved by the Railroad Commission of Texas provides that "[t]he provisions of this Cost of Service Adjustment are to be implemented in harmony with the Gas Utility Regulatory Act (Texas Utilities Code, Chapters 101-105)" and that the "Company's annual rate adjustment will be made in accordance with all applicable laws;" and

WHERAS, the Railroad Commission of Texas in Gas Utility Docket No. 9910, concluded that a municipality may not suspend the effective date that CenterPoint proposes in its request to change rates under a COSA application, a conclusion with which the City disagrees; and

WHEREAS, CenterPoint proposed an effective date of August 1, 2010, which in conjunction with the Railroad Commission of Texas' conclusion that the City may not suspend CenterPoint's proposed effective date, precludes the City from conducting a meaningful review of CenterPoint's request to raise rates, thereby denying the City's counsel and consultants the ability to provide a full review and recommendation to the TCUC Cities; and

WHEREAS, CenterPoint failed to carry its burden of proof and meet the requirements of the Gas Utility Regulatory Act to warrant a change in rates, in several areas of its rate request, including, but not limited to the following areas:

a. CenterPoint's expenses related to its Affiliate Transactions;
b. CenterPoint's proposed cost of capital, including its Return on Equity, its Cost of Debt, its Capital Structure, and its overall Rate of Return;

c. CenterPoint's proposed Rate Design;
d. CenterPoint's proposed treatment of Accumulated Deferred Income Tax;
e. CenterPoint's proposed calculation of its Cash Working Capital;
f. CenterPoint's proposed calculation of its Pension Expense; and

WHEREAS, the 345th Judicial District Court of Travis County, Texas in Cause No. D-1-GN-09-000982, *Texas Coast Utilities Coalition vs. The Railroad Commission of Texas*, Judge Stephen Yelenosky presiding, issued a Judgment concluding that the Railroad Commission did not have the authority to impose the COSA tariff on the City and did not have the authority to approve a COSA tariff in those areas where the Railroad Commission had original jurisdiction;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF West Columbia, TEXAS:

Section 1: That the facts contained in the preamble of this ordinance are determined to be true and correct and are hereby adopted as part of this ordinance.

Section 2: That the base rate increase proposed by CenterPoint is denied.

Section 3: That to the extent CenterPoint implements any change in rates in contradiction of this Ordinance, in addition to any penalties that may apply, CenterPoint shall refund any base rate increase with interest at the rate being earned on customer deposits.

Section 4: The effective date for this ordinance is July 31, 2010.

Section 5: If there is an appeal of this ordinance, then, the City reserves all rights to assert adjustments to the revenue requirement, cost allocation and rate design proposed by CenterPoint and to fully participate in such appeal, including reimbursement of its reasonable rate case expenses.

Section 6: All conditions precedent to the adoption of each of the foregoing sections herein have been complied with under law.

Section 7: CenterPoint shall reimburse the reasonable rate case expenses of the TCUC city coalition upon presentment of invoices received by the City.

Section 8: If any section or part of any section, paragraph, or clause of this ordinance is declared invalid or unconstitutional for any reason, such declaration shall not be held to invalidate or impair the validity, force, or effect of any other section or sections, part of section, paragraph, or clause of this ordinance.

Section 9: The City Council officially finds, determines, recites and declares that a sufficient written notice of the date, hour, place and subject of this meeting of the City Council was posted at a place convenient to the public at the City Hall of the City for the time required by law preceding this meeting, as required by the Open Meetings Law, Chapter 551, Texas Government Code; and that this meeting has been open to the public as required by law at all times during

which this Ordinance and the subject matter thereof has been discussed, considered and formally acted upon. The City Council further ratifies, approves and confirms such written notice and the contents and posting thereof.

Section 10: The City Secretary is hereby directed to send a true and copy of this Ordinance to Scott E. Doyle, Regional Vice President Gas Operations, CenterPoint Energy, 1111 Louisiana Street, Houston, Texas 77002 and to Alfred R. Herrera, Herrera & Boyle, PLLC, Suite 1250, 816 Congress, Austin, Texas 78701.

INTRODUCED, READ and **PASSED** by the affirmative vote of the City Council of the City of West Columbia on this the 23rd day of August 2010.

Mayor

ATTEST:

Kelli R. Kuban
City Secretary

APPROVED AS TO FORM:

City Attorney