

ORDINANCE NO. 571

AN ORDINANCE OF THE CITY OF WEST COLUMBIA, TEXAS (“CITY”) REVIEWING THE REQUESTED RATE INCREASE REQUEST OF CENTERPOINT ENERGY ENTEX (“CENTERPOINT”); SETTING AND ESTABLISHING RATES AND TARIFFS; ORDERING THE REFUND OF BASE RATE INCREASES IMPLEMENTED ON AUGUST 1, 2009; ESTABLISHING AN EFFECTIVE DATE FOR THIS ORDINANCE AND THE IMPLEMENTATION OF NEW RATES; PROVIDING FOR FINES FOR NON-COMPLIANCE WITH THIS ORDINANCE; FINDING THAT THE MEETING COMPLIED WITH THE OPEN MEETINGS ACT; MAKING SUCH OTHER FINDINGS AND PROVISIONS RELATED TO THE TOPICS SET FORTH IN THIS CAPTION.

WHEREAS, On May 1, 2009 CenterPoint filed a request to increase rates within the Texas Coast Division by approximately \$2 million; and

WHEREAS, the Chair of the Texas Coast Utilities Coalition of Cities (“TCUC”), Ignacio Ramirez, City Attorney for the City of Baytown, notified CenterPoint on July 13, 2009 that each of the TCUC Cities would suspend the effective date for 90 days as set forth in Attachment A which is appended hereto and incorporated herein by reference, and

WHEREAS, the City as a member of TCUC suspended CenterPoint’s requested implementation date of August 1, 2009 for 90 days or until October 30, 2009, as provided in Attachment B appended hereto and incorporated herein by reference ; 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 “The 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). The Company’s annual rate adjustment will be made in accordance with all applicable laws,” and

WHEREAS, CenterPoint refused to respond to three sets of requests for information, thus, adding to the difficulty of TCUC's consultant, Diversified Utility Consultants, Inc., completing its report and recommendation to the TCUC Cities; and

WHEREAS, the suspensions of the effective date were undertaken pursuant to Section 104.107 of the Texas Utilities Code; and

WHEREAS, in spite of the suspension, on August 1, 2009 CenterPoint increased its rates by approximately \$1.7 million or 55 cents per month for a typical residential customer; and

WHEREAS, the TCUC Cities, through its Chair, notified CenterPoint of the unlawfulness of its conduct as set forth on Attachment C as appended hereto and incorporated herein by reference; and

WHEREAS, the report of Diversified Utility Consultants, Inc. indicates that the rates requested by CenterPoint were excessive as set forth in Attachment D which is appended hereto and incorporated herein by reference; and

WHEREAS, refunds are owed to ratepayers located within the TCUC Cities for higher base rates implemented on August 1, 2009.

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 put into effect by CenterPoint on August 1, 2009 within the City is unlawful.

Section 3. That CenterPoint shall refund any base rate increase put into effect between July 31, 2009 and October 29, 2009 with interest at the rate being earned on customer deposits no later than December 31, 2009.

Section 4. That CenterPoint shall file a report on November 16, 2009 with the Chair of the TCUC Cities, Ignacio Ramirez, City Attorney for the City of Baytown, Texas, detailing, on a customer-class basis, the amount refunded as ordered by this Ordinance, and shall provide in its report the consumption data upon which refund is based.

Section 5. The report by Diversified Utility Consultants, Inc. to the TCUC Cities calls for substantial reductions in the rate request, over and above the rates set by the Railroad Commission for the environs areas but assuming CenterPoint will refund the base rate increase of August 1, 2009 until the effective date of this Ordinance the City shall forego such additional adjustments to the rate request as detailed by Diversified in its report.

Section 6. The City adopts the tariffs appended hereto and incorporated herein as Attachment E by reference so long as they do not go into effect prior to October 29, 2009.

Section 7. The effective date for this Ordinance is October 29, 2009.

Section 8. The City adopts the attached tariffs with the understanding that such tariffs, or any other principle underlying such tariffs, shall not constitute precedent in any other proceeding.

Section 9. If there is an appeal of this Ordinance, then, the City reserves the right to assert additional adjustments to the revenue requirement, cost allocation and rate design which were not contained in the report by Diversified Utility Consultants, Inc., in addition to those in the report.

Section 10. All conditions precedent to the adoption of each of the foregoing sections herein have been complied with under law.

Section 11. CenterPoint shall reimburse the reasonable rate case expenses of the TCUC city coalition.

Section 12. TCUC shall submit its rate case expenses to CenterPoint by September 1, 2009.

Section 13. CenterPoint shall reimburse TCUC for its reasonable rate case expenses through the City of Baytown no later than November 3, 2009.

Section 14. Penalty upon failure to comply. Any person violating or failing to comply with any provision or requirement of this Ordinance may be fined up to \$500.00 pursuant to the Local Government Code, Section 54.001.

Notwithstanding the foregoing, any violation of any provision of this Ordinance that constitutes an immediate danger or threat to the health, safety and welfare of the public may be enjoined in a suit brought by the city for such purpose.

Allegation and evidence of a culpable mental state is not required for the proof of an offense defined by this ordinance.

Section 15. 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 16. Severability. 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 17. The City Secretary is hereby directed to send a true and copy of this Ordinance to Richard A. Zapalac, Vice President for Gas Operations-Texas, CenterPoint Energy, Suite 2120, 1111 Louisiana Street, Houston, Texas 77002 and to Jim Boyle, Herrera & Boyle, PLLC, Suite 1250, 816 Congress, Austin, Texas 78701.

PASSED AND APPROVED this 14th day of September 2009 to be effective on October 29, 2009.


MAYOR

ATTEST:


CITY SECRETARY

ATTACHMENT A

NOTICE OF SUSPENSION OF EFFECTIVE DATE

ATTACHMENT B
SUSPENSION RESOLUTION

records of CenterPoint Gas in the last general rate case, Docket No. 9791, it is advantageous for the City as a member of Texas Coast Utilities Coalition to continue to retain such firms; and

WHEREAS, CenterPoint Gas designated August 1, 2009 as the effective date for the rate increases reflected in its rate schedules; and

WHEREAS, TCUC, through its consultants, has been examining the books and records of CenterPoint Gas, but at this point it appears that its review will not be completed by August 1, 2009 ; and

WHEREAS, under Texas law, the City has the right to suspend the effective date for up to ninety days.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WEST COLUMBIA, TEXAS THAT:

Section 1. That the findings set out in the preamble are in all things approved and adopted.

Section 2. The effective date for the changes in rate schedules is suspended for ninety days. The last day of the suspension period would be October 30, 2009, but the City may issue a decision in this matter prior to the expiration of the suspension period.

Section 3. The City, as a member of the Texas Coast Utilities Coalition, continues its retention of Diversified Utilities Consultants, Inc. and the law firm of Herrera & Boyle, PLLC, to act on its behalf with regard to matters related to the requested change in rate schedules by CenterPoint Gas; and

Section 4. The City will act as a member of the coalition of cities known as the Texas Coast Utilities Coalition in reviewing the appropriateness of the changes in rate schedules proposed by CenterPoint Gas. The City Manager and City Attorney or their designates will act as the City's representatives with regard to directing the activities of the Texas Coast Utilities Coalition.

ATTACHMENT C

NOTIFICATION OF UNLAWFUL CONDUCT

Letter to Mr. Zapalac
August 12, 2009
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Even if one were to argue that the tariff gave CenterPoint the right to implement rates within 90 days, the tariff cannot repeal the right that cities have to suspend the effective date as provided by Section 104.107 of the Gas Utility Regulatory Act.

Further, as I indicated in my letter of July 13, 2009, the TCUC Cities were willing to work with CenterPoint to see if it was possible to arrive at an amicable settlement of this rate application. We had wanted to schedule negotiations for mid to late August after we received the recommendation of our consultants. Instead of working to this end, CenterPoint notified our Austin attorney on August 4, 2009, that it would not be answering one set of requests for information which were due a day later as well as refusing to respond to two more sets of requests which were due within a couple of days thereafter. This is not working in good faith to resolve this matter.

We are still willing to work toward an amicable settlement if CenterPoint would answer the outstanding discovery and refund to customers any increase in base rates since August 1, 2009. With this understanding, please let us know by Monday, August 17, 2009, if CenterPoint is willing to work with us to resolve this rate case.

Sincerely yours,



Ignacio Ramirez
City Attorney

DIVERSIFIED UTILITY CONSULTANTS, INC.
1912 W. Anderson Ln, 202 • Austin, Texas 78757 • (512) 257-2600 • Fax (512) 257-2243

August 12, 2009

Texas Coast Utilities Coalition of Cities

RE: CenterPoint Entex COSA Filing - Texas Coast Division

Dear Mayors and City Council Members:

This report contains Diversified Utility Consultants, Inc.'s ("DUCI") review, analysis and investigation of CenterPoint Entex's ("CenterPoint" or "Company") initial cost of service adjustment ("COSA") filing for the Texas Coast Division ("TCD"). The letter provides a summary of recommendations, while the balance of the report discusses DUCI's analyses and each adjustment in greater detail.

CenterPoint filed its initial COSA filing on May 1, 2009. The COSA filing seeks to take advantage of a process approved by the Railroad Commission of Texas ("Commission" or "RCT") in GUD No. 9791 in 2008.¹ While this report does not address the Cities' position regarding the legality of the COSA, it does recognize that the Company's filing falls short of being a reasonable or adequate rate filing package. The Company's failure to comply with standard or typical informational presentations in its filing undermines any presumption that its request only seeks reasonable and necessary revenue requirements. Further, compounding the problems of the Company's limited rate filing presentation is the Company's position that the Cities must take action with 90 days of the filing. It appears the Company is attempting to take unfair advantage of Cities and customers by limiting both the amount of information and the corresponding time period to obtain, review and analyze information in order to set a rate in compliance with the law.

The Company's COSA request seeks an annual increase of \$2,050,632. The Company's proposed increase is excessive. The proposed increase incorporates various inappropriate costs or expenses that do not comply with various rate setting standards, including items previously denied by the Commission. The following table sets forth the Company's monthly proposed base rate increase and DUCI's recommended increases, by customer class.

¹ Final Order GUD No. 9791 signed October 20, 2008 and the Order on Rehearing dated December 16, 2008.

ATTACHMENT E

TARIFFS

**CENTERPOINT ENERGY RESOURCES CORP.
D/B/A CENTERPOINT ENERGY ENTEX
AND CENTERPOINT ENERGY TEXAS GAS
TEXAS COAST DIVISION
RATE SHEET
GENERAL SERVICE-SMALL
RATE SCHEDULE NO. GSS-2074**

APPLICATION OF SCHEDULE

This schedule is applicable to natural gas service to any customer engaging in any business, professional or institutional activity, for all uses of gas, including cooking, heating, refrigeration, water heating, air conditioning, and power.

This schedule is applicable to any general service customer for commercial uses and industrial uses, except standby service, whose average monthly usage for the prior calendar year is 150,000 cubic feet or less. Natural gas supplied hereunder is for the individual use of the customer at one point of delivery and shall not be resold or shared with others.

MONTHLY RATE

For bills rendered on and after the effective date of this rate schedule, the monthly rate for each customer receiving service under this rate schedule shall be the sum of the following:

(a) The Base Rate consisting of:

- (1) Customer Charge – \$13.13⁴
- (2) Commodity Charge –
 - First 150 Ccf \$0.06655 per Ccf
 - Over 150 Ccf \$0.03258 per Ccf

(b) Tax Adjustment – The Tax Adjustment will be calculated and adjusted periodically as defined in the Company's Tax Adjustment Rate Schedule and Franchise Fee Adjustment Rate Schedule.

(c) Gas Cost Adjustment – The applicable Purchased Gas Adjustment (PGA) Rate – as calculated on a per Ccf basis and adjusted periodically under the applicable Purchased Gas Adjustment (PGA) Rate Schedule – for all gas used.

RULES AND REGULATIONS

Service under this schedule shall be furnished in accordance with the Company's General Rules and Regulations, as such rules may be amended from time to time. A copy of the Company's General Rules and Regulations may be obtained from Company's office located at 1111 Louisiana Street, Houston, Texas.

**CENTERPOINT ENERGY RESOURCES CORP.
D/B/A CENTERPOINT ENERGY ENTEX
AND CENTERPOINT ENERGY TEXAS GAS
TEXAS COAST DIVISION
RATE SHEET
GENERAL SERVICE-LARGE VOLUME
RATE SCHEDULE NO. GSLV-605**

Company, except in cases where the existing Consumer will be purchasing increased volumes of gas from Company because of expansions or for any other reasons, in which event the Company may estimate usage by such Consumer. Also in the case of new Consumers, the Company may estimate usage by the Consumer. Any such estimates made by Company shall be binding on Consumer in determining whether or not a contract is required. Such written contract shall be executed by Consumer upon request of Company and Company shall not be obligated to serve any such Consumer more than 25 Mcf during any one day until such written contract is executed and delivered by Consumer.

MEASUREMENT

The term "cubic foot of gas" for the purpose of measurement of the gas delivered and for all other purposes is the amount of gas necessary to fill a cubic foot of space when the gas is at an absolute pressure of 14.65 pounds per square inch and at a base temperature of sixty (60) degrees Fahrenheit.

The term "Mcf" shall mean 1,000 cubic feet of gas.

The Sales Unit shall be one Mcf.

Assumed Atmospheric Pressure - The average atmospheric pressure shall be assumed to be fourteen and seven-tenths (14.7) pounds per square inch, irrespective of actual elevation or location of the point of delivery above sea level or variation in such atmospheric pressure from time to time.

Orifice Meters - When orifice meters are used for the measurement of gas, such orifice meters shall be constructed and installed, and the computations of volume made, in accordance with the provisions of Gas Measurement Committee Report No. 3 of the American Gas Association as revised September, 1969 ("A.G.A. Report No. 3), with any subsequent amendments or revisions which may be mutually acceptable.

The temperature of the gas shall be determined by a recording thermometer so installed that it may record the temperature of the gas flowing through the meter or meters. The average of the record to the nearest one (1) degree Fahrenheit, obtained while gas is being delivered, shall be the applicable flowing gas temperature for the period under consideration.

The specific gravity of the gas shall be determined by a recording gravitometer owned and operated by the pipeline company from whom Company purchases its gas, so installed that it may record the specific gravity of the gas flowing through the meter or meters; provided, however, that the results of spot tests made by the pipeline company with a standard type specific gravity instrument shall be used at locations where the pipeline company does not have a recording gravitometer in service. If the recording gravitometer is used, the average of the record to the nearest one-thousandth (0.001), obtained while gas is being delivered, shall be the applicable specific gravity of the gas for the period under consideration. If the spot test method is used, the specific gravity of the gas delivered hereunder shall be determined once monthly, the result obtained, to the nearest one-thousandth (0.001), to be applicable during the succeeding billing month.

Adjustment for the effect of supercompressibility shall be made according to the provisions of A.G.A. Report No. 3, hereinabove identified, for the average conditions of pressure, flowing temperature and specific gravity at which the gas was measured during the period under consideration, and with the proportionate value of each carbon dioxide

**CENTERPOINT ENERGY RESOURCES CORP.
D/B/A CENTERPOINT ENERGY ENTEX
AND CENTERPOINT ENERGY TEXAS GAS
TEXAS COAST DIVISION
RATE SHEET
GENERAL SERVICE-LARGE VOLUME
RATE SCHEDULE NO. GSLV-605**

The additional amount specified above charged for unauthorized over-run gas shall be adjusted, either plus or minus, to conform to the change made by Company's supplier in its rate schedule under which Company purchases its gas supply for resale under this schedule.

RULES AND REGULATIONS

Service under this schedule shall be furnished in accordance with the Company's General Rules and Regulations, as such rules may be amended from time to time. A copy of the Company's General Rules and Regulations may be obtained from Company's office located at 1111 Louisiana Street, Houston, Texas.