

**BEFORE THE  
RAILROAD COMMISSION OF TEXAS**

<b>APPEAL OF CENTERPOINT ENERGY</b>	<b>§</b>	
<b>RESOURCES CORP.,</b>	<b>d/b/a §</b>	
<b>CENTERPOINT ENERGY ENTEX AND</b>	<b>§</b>	<b>GAS UTILITIES DOCKET</b>
<b>CENTERPOINT ENERGY TEXAS GAS</b>	<b>§</b>	<b>Nos. 10007 &amp; 10018</b>
<b>FROM THE ACTIONS OF THE TCUC</b>	<b>§</b>	
<b>CITIES (COSA-3).</b>	<b>§</b>	

**FINAL ORDER**

Notice of Open Meeting to consider this Order was duly posted with the Secretary of State within the time period provided by law pursuant to Tex. Gov't Code Ann. Chap 551, et seq. (Vernon 2004 & Supp. 2010). The Railroad Commission adopts the following findings of fact and conclusions of law and orders as follows:

**FINDINGS OF FACT**

1. CenterPoint Energy Resources Corp. d/b/a CenterPoint Energy Entex and CenterPoint Energy Texas Gas ("CenterPoint") is a gas utility as that term is defined in the Texas Utility Code.
2. On August 11, 2010, CenterPoint filed this appeal of actions taken by the Cities of Angleton, Baytown, League Citye, Pearland, Shoreacres, West Columbia, and Wharton (collectively "TCUC") denying the company's proposed cost of service adjustment ("COSA - 3") for 2009.
3. The parties have reached a *Settlement Agreement* regarding the issues raised in the appeal.
4. The parties have stipulated to the following documents and they are admitted into the record of the case:

**CenterPoint;**

- Direct Testimony of Scott Doyle, CenterPoint Ex. 1;
- Direct Testimony of Kelly Gauger, CenterPoint Ex. 2;
- Rebuttal Testimony of Kelly Gauger, CenterPoint Ex. 3;
- Rebuttal Testimony of Dean Woods, CenterPoint Ex. 4;
- Rebuttal Testimony of Jay Joyce, CenterPoint Ex. 5; and
- Rebuttal Testimony of Jason Ryan (redacted), CenterPoint Ex. 6.

**TCUC:**

- Direct Testimony of Jacob Pous, TCUC Ex. 1;
- Direct Testimony of James Brazell, TCUC Ex. 2;
- Various Workpapers Related to Pous' Direct Testimony, TCUC Ex. 3,
- Direct Testimony of James Brazell, TCUC Ex. 4, and
- Supplemental Testimony of James Brazell, TCUC Ex. 5.

5. The parties have also stipulated to rate case expenses and in support of the rate case expenses the parties filed the following documents admitted into the record of this proceeding:
  - CenterPoint Energy filing made on January 20, 2011, in support of rate case expenses totaling \$155,741.04, CenterPoint Ex. 6.
  - GCCC filing made on January 20, 2011, in support of rate case expenses totaling \$131,289.80, TCUC Exs. 4 and 5.
6. The COSA – 3 tariff limits recovery of rate-case expenses to \$100,000.
7. GUD No. 10006 was a parallel proceeding and involved a similar tariff, COSA – 2. The parties to that proceeding requested approval of \$43,075.46.
8. The COSA – 2 adjustment calculated an ultimate system-wide adjustment of \$1,996,164.
9. The expenses in that proceeding were about 2% of the calculated increase.
10. The COSA -3 adjustment calculated an ultimate system-wide adjustment of \$2,049,142.
11. The expenses in this proceeding, as reflected in the Settlement Agreement, are at least 14% with no limitation in the event the appellate proceeding is not abated, of the calculated increase and are not commensurate with the rate increase requested.
12. The rate-case expense request of the parties in this proceeding is more than six times the rate-case expenses request in GUD No. 10006.
13. The rate-case expense request in this proceeding will impact only a portion of the 244,012 residential and commercial customers within the Texas Coast Division as only seven municipalities intervened in this proceeding as set out in Finding of Fact No. 2.
14. In the prefiled testimony filed in this case, the company requested \$155,741.04 in rate-case expenses. The proposed Settlement Agreement included a minimum of the \$155,741.04 in actual and estimated rate-case expenses.
15. In the prefiled testimony filed in this case, the company asserted that the reasonable rate-case expenses of TCUC should be limited to \$131,289.80. The proposed Settlement Agreement included a minimum of \$131,289.80 in actual and estimated rate-case expenses.
16. It is reasonable to conclude that a fully litigated proceeding should result in rate-case expenses that are higher than rate-case expenses included in a settled case.
17. Prefiled testimony provided by the parties in this proceeding on November 23, 2011, asserted that rate-case expenses in the amount of \$287,031 were just and reasonable in the event this case was fully litigated. The Settlement Agreement included a minimum of \$287,031 in actual and estimated rate-case expenses.
18. The proposed settlement agreement does not terminate litigation in this proceeding.

19. The rate-case expense provisions included in the proposed settlement agreement does not propose an effective cap on rate-case expenses.
20. Based upon the record in this proceeding, the *Settlement Agreement* is not just and reasonable.

### CONCLUSIONS OF LAW

1. CenterPoint Enrgy Entex (CenterPoint) is a "Gas Utility" as defined in Tex. Util. Code Ann. §101.003(7) (Vernon 2009) and §121.001(2009) and is therefore subject to the jurisdiction of the Railroad Commission (Commission) of Texas.
2. The Railroad Commission of Texas (Commission) has jurisdiction over CenterPoint and CenterPoint's statement of intent and appeals under Tex. Util. Code Ann. §§ 102.001, 103.022, 103.054, & 103.055, 104.001, 104.001 and 104.201 (Vernon 2007).
3. Under Tex. Util. Code Ann. §102.001 (Vernon 2009), the Commission has exclusive original jurisdiction over the rates and services of a gas utility that distributes natural gas in areas outside of a municipality and over the rates and services of a gas utility that transmits, transports, delivers, or sells natural gas to a gas utility that distributes the gas to the public.
4. This Appeals was processed in accordance with the requirements of the Gas Utility regulatory Act (GURA), and the Administrative Procedure Act, Tex. Gov't Code ANN. §§2001.001-2001.902 (Vernon 2000 and Supp. 2009) (APA).
5. In accordance with the stated purpose of the Texas Utilities Code, Subtitle A, expressed under Tex. Util. Code Ann. §101.002 (Vernon 1998), the Commission has assured that the rates, operations, and services established in this docket are just and reasonable to customers and to the utilities.
6. In any rate proceeding, any utility and/or municipality claiming reimbursement for its rate case expenses pursuant to Texas Utilities Code, §103.022(b), shall have the burden to prove the reasonableness of such rate case expenses by a preponderance of the evidence. Evidence must be provided related to, but not limited to, the amount of work done, the time and labor required to accomplish the work, the nature, extent, and difficulty of the work done, the originality of the work, the charges by others for work of the same or similar nature, and any other factor taken into account in setting the amount of the compensation. 16 Tex. Admin. Code 7.5530(a).
7. In determining the reasonableness of the rate case expenses, the Commission shall consider all relevant factors including but not limited to those set out previously, and shall also consider whether the request for a rate change was warranted, whether there was duplication of services or testimony, whether the work was relevant and reasonably necessary to the proceeding, and whether the complexity and expense of the work was commensurate with both complexity of the issues in the proceeding and the amount of the increase sought as well as the amount of any increase granted. 16 Tex. Admin. Code 7.5530(b).
8. The jurisdiction of the Commission in this case does not extend to municipalities that are not parties to this proceedings, Tex. Util. Code Ann. §§ 102.001 and 103.055.

**IT IS THEREFORE ORDERED** that the *Settlement Agreement* is not just and reasonable and is **HEREBY** rejected.

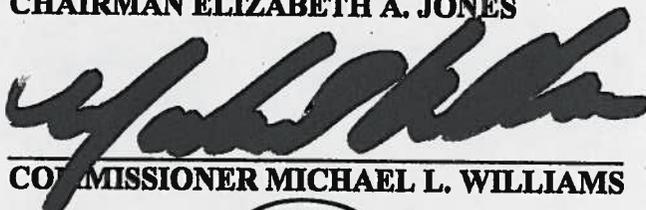
This Order will not be final and effective until 20 days after a party is notified of the Commission's order. A party is presumed to have been notified of the Commission's order three days after the date on which the notice is actually mailed. If a timely motion for rehearing is filed by any party at interest, this order shall not become final and effective until such motion is overruled, or if such motion is granted, this order shall be subject to further action by the Commission. Pursuant to Tex. Gov't Code §2001.146(e), the time allotted for Commission action on a motion for rehearing in this case prior to its being overruled by operation of law, is hereby extended until 90 days from the date the order is served on the parties.

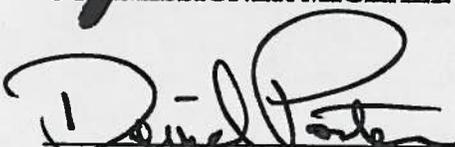
All requested findings of fact and conclusions of law which are not expressly adopted herein are denied. All pending motions and requests for relief not previously granted or granted herein are denied.

**SIGNED** this 8th day of March, 2011.

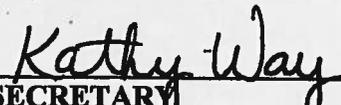
**RAILROAD COMMISSION OF TEXAS**

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**CHAIRMAN ELIZABETH A. JONES**

  
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**COMMISSIONER MICHAEL L. WILLIAMS**

  
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**COMMISSIONER DAVID PORTER**

**ATTEST:**

  
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**SECRETARY**