

**RAILROAD COMMISSION OF TEXAS
GAS SERVICES DIVISION**

**GAS UTILITIES
INFORMATION BULLETIN**

No. 882



**RAILROAD COMMISSION
OF TEXAS**

**Victor G. Carrillo, Chairman
Elizabeth A. Jones, Commissioner
Michael L. Williams, Commissioner**

**William O. Geise
Director
Gas Services Division**

December 28, 2009

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Orders were issued in the following dockets:

GUD No. 9910: Appeal of CenterPoint Energy Resources D/B/A/ CenterPoint Energy Entex and CenterPoint Energy Texas Gas from the Actions of Angleton, Baytown, Clute, Freeport, League City, Pearland, Shoreacres, West Columbia, and Wharton – *Order on Request for Declaratory Relief*.

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SECTION 1
NEW APPEALS AND APPLICATIONS FILED

DOCKET NO. -- 9930
CAPTION -- Application filed by CenterPoint Energy Entex to Show the City of Colmesneil, Texas Surrendered Municipal Jurisdiction to the Railroad Commission of Texas.
DATE FILED -- December 15, 2009
FILED BY -- Richard A. Zapalac
EXAMINER -- Mark Evarts

DOCKET NO. -- 9931
CAPTION -- Application filed by CenterPoint Energy Entex to Show the City of Elkhart, Texas Surrendered Municipal Jurisdiction to the Railroad Commission of Texas.
DATE FILED -- December 15, 2009
FILED BY -- Richard A. Zapalac
EXAMINER -- Mark Evarts

DOCKET NO. -- 9932
CAPTION -- Application filed by CenterPoint Energy Entex to Show the City of Hallettsville, Texas Surrendered Municipal Jurisdiction to the Railroad Commission of Texas.
DATE FILED -- December 15, 2009
FILED BY -- Richard A. Zapalac
EXAMINER -- Mark Evarts

DOCKET NO. -- 9933
CAPTION -- Application filed by CenterPoint Energy Entex to Show the City of Kenedy, Texas Surrendered Municipal Jurisdiction to the Railroad Commission of Texas.
DATE FILED -- December 15, 2009
FILED BY -- Richard A. Zapalac
EXAMINER -- Mark Evarts

DOCKET NO. -- 9934
CAPTION -- Application filed by CenterPoint Energy Entex to Show the City of Nacogdoches, Texas Surrendered Municipal Jurisdiction to the Railroad Commission of Texas.
DATE FILED -- December 15, 2009
FILED BY -- Richard A. Zapalac
EXAMINER -- Mark Evarts

DOCKET NO. -- 9935
CAPTION -- Application filed by CenterPoint Energy Entex to Show the City of New Waverly, Texas Surrendered Municipal Jurisdiction to the Railroad Commission of Texas.
DATE FILED -- December 15, 2009
FILED BY -- Richard A. Zapalac
EXAMINER -- Mark Evarts

DOCKET NO. -- 9936
CAPTION -- Application filed by CenterPoint Energy Entex to Show the City of Nordheim, Texas Surrendered Municipal Jurisdiction to the Railroad Commission of Texas.
DATE FILED -- December 15, 2009
FILED BY -- Richard A. Zapalac
EXAMINER -- Mark Evarts

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DOCKET NO. -- 9937
CAPTION -- Application filed by CenterPoint Energy Entex to Show the City of Panorama Village, Texas Surrendered Municipal Jurisdiction to the Railroad Commission of Texas.
DATE FILED -- December 15, 2009
FILED BY -- Richard A. Zapalac
EXAMINER -- Mark Evarts

DOCKET NO. -- 9938
CAPTION -- Application filed by CenterPoint Energy Entex to Show the City of Sinton, Texas Surrendered Municipal Jurisdiction to the Railroad Commission of Texas.
DATE FILED -- December 15, 2009
FILED BY -- Richard A. Zapalac
EXAMINER -- Mark Evarts

DOCKET NO. -- 9939
CAPTION -- Application filed by CenterPoint Energy Entex to Show the City of Weimar, Texas Surrendered Municipal Jurisdiction to the Railroad Commission of Texas.
DATE FILED -- December 15, 2009
FILED BY -- Richard A. Zapalac
EXAMINER -- Mark Evarts

DOCKET NO. -- 9940
CAPTION -- Application filed by CenterPoint Energy Entex to Show the City of Willis, Texas Surrendered Municipal Jurisdiction to the Railroad Commission of Texas.
DATE FILED -- December 15, 2009
FILED BY -- Richard A. Zapalac
EXAMINER -- Mark Evarts

DOCKET NO. -- 9941
CAPTION -- Appeal of CenterPoint Energy Entex from the Actions of the Cities of Deer Park, Meadows Place and Missouri City.
DATE FILED -- December 17, 2009
FILED BY -- Ann M. Coffin & Dane McKaughan
EXAMINER -- Eugene Montes

DOCKET NO. -- 9942
CAPTION -- Addition to General Rules and Regulations Tariff for CenterPoint Energy Texas Gas.
DATE FILED -- December 15, 2009
FILED BY -- Keith Wall
EXAMINER --

SECTION 2
APPEALS AND APPLICATIONS SET FOR HEARING OR PREHEARING CONFERENCE

None at this time.

SECTION 3
STATUS OF PENDING CASES

None at this time.

SECTION 4
NOTICES OF DISMISSAL

None at this time.

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SECTION 5
ORDERS OF THE COMMISSION

RAILROAD COMMISSION OF TEXAS

APPEAL OF CENTERPOINT ENERGY	§	
RESOURCES D/B/A CENTERPOINT ENERGY	§	
ENTEX AND CENTERPOINT ENERGY TEXAS	§	GAS UTILITIES DOCKET
GAS FROM THE ACTIONS OF ANGLETON,	§	NO. 9910
BAYTOWN, CLUTE, FREEPORT, LEAGUE	§	(and consolidated cases)
CITY, PEARLAND, SHOREACRES, WEST	§	
COLUMBIA, AND WHARTON	§	

ORDER ON REQUEST FOR DECLARATORY RELIEF

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. Chapter 551, et seq. (Vernon 1994 & Supp. 2008). The Railroad Commission of Texas 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 utility as that term is defined in the Texas Utility Code.
2. CenterPoint owns and operates a gas distribution system, referred to as the Texas Coast Division.
3. On December 16, 2008, the Railroad Commission issued its Order on Rehearing which approved a cost of service adjustment (COSA-3) rate schedule in GUD No. 9791 for the unincorporated areas of the Texas Coast Division and the group of cities that appealed the rate increase to the Commission (Texas Coast Utilities Coalition - TCUC Cities).
4. On May 1, 2009, CenterPoint filed its proposed COSA adjustment with the TCUC cities and with the Railroad Commission. Pursuant to the terms of the proposed COSA the rates would go into effect on August 1, 2009.
5. The COSA filing made at the Railroad Commission was docketed as GUD No. 9872 and on July 21, 2009, the Railroad Commission issued a Final Order approving an adjustment to rates.
6. The following cities acted to suspended the implementation of rates: Angleton, Bayton, Clute, Freeport, League City, Pearland, Shoreacres, West Columbia and Wharton.
7. On August 1, 2009, CenterPoint implemented the same rates approved by the Railroad Commission in GUD No. 9872 for the Environs in all of the other municipalities.
8. The municipalities issued ordinances declaring that the rates charged by CenterPoint as of August 1, 2009 were unlawful and that CenterPoint must refund any base rate increase effective between July 31, 2009 and October 29, 2009 with interest at the rate being earned on customer deposits no later than December 31, 2009.
 - a. Angleton, Ordinance No. 2009-0-9A, September 8, 2009;

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- b. Baytown, Ordinance No. 11-172, October 29, 2009;
 - c. Clute, Ordinance No. 2009-10, September 10, 2009;
 - d. Freeport, Ordinance No. 2009-2229, September 14, 2009;
 - e. League City, Ordinance No. 2009-40, October 13, 2009;
 - f. Pearland, Ordinance No. 1387, September 28, 2009;
 - g. Shoreacres, Ordinance No. 2009-07, September 14, 2009;
 - h. West Columbia, Ordinance No. 571, September 14, 2009; and
 - i. Wharton, Ordinance No. 2009-07, September 14, 2009.
9. As set out in a filing made on December 14, 2009, by the TCUC municipalities, the ordinances adopted by the TCUC cities approved an increase in rates in the same amount as the Commission approved in GUD No. 9872.
 10. The ordinances, however, did not permit those rates to go into effect until October 28, 2009. Accordingly, the ordinances required a refund of amounts charged between August 1, 2009 and October 28, 2009, that were in excess of the rates approved in GUD No. 9791.
 11. CenterPoint filed an appeal from each of municipal ordinances and seeks a declaration that CenterPoint's COSA adjustment became effective by operation of law on August 1, 2009, and that the municipalities lack the authority to compel a refund.
 - a. GUD No. 9910, Appeal of CenterPoint Energy Resources Corp. d/b/a CenterPoint Energy Entex and CenterPoint Energy Texas Gas from the Actions of the Cites of Baytown, Clute, Shoreacres, Wharton, and Angleton;
 - b. GUD No. 9916, Appeal of CenterPoint Energy Resources Corp. d/b/a CenterPoint Energy Entex and CenterPoint Energy Texas Gas from the Actions of the Cites of Shoreacres, Freeport, Pearland, and West Columbia; and
 - c. GUD No. 9919, Appeal of CenterPoint Energy Resources Corp. d/b/a CenterPoint Energy Entex and CenterPoint Energy Texas Gas from the Actions of League City.
 12. As the cases present common issues of law and fact, the cases were properly consolidated into GUD No. 9910.
 13. The action of the municipalities challenge the Commission's decision in GUD No. 9791 to automatically suspend the implementation of rates by 90 days through COSA. Thus, the only issue before the Commission is the ability of the municipalities to suspend the implementation of rates beyond August 1st.

CONCLUSIONS OF LAW

1. CenterPoint Energy Entex (CenterPoint) is a "Gas Utility" as defined in TEX. UTIL. CODE ANN. §101.003(7) (Vernon 2008) and §121.001(2008) and is therefore subject to the jurisdiction of the Railroad Commission (Commission) of Texas.
2. Pursuant to the filed rate doctrine a filed tariff has the effect of law governing the relationship between the utility and its customers.
3. The Cost of Service Adjustment tariff, approved in GUD No. 9791, governs the operations of CenterPoint in the Texas Coast Division.
4. After CenterPoint filed its rate adjustment request, the following provision of Cost of Service Adjustment govern the initial and appellate review procedures:

The rate adjustment shall take effect with bills rendered on or after August 1st of each year. This Cost of Service Adjustment Rate Schedule does not limit the legal rights and duties of the regulatory

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authority. . . . The Company's annual rate adjustment will be made in accordance with applicable laws. If at the end of the ninety (90) day review period, the Company and the regulatory authority with original jurisdiction have not reached agreement on the proposed Cost of Service Adjustment Rate, the regulatory authority may take action to deny such adjustment, and the Company shall have the right to appeal the regulatory authority's action. Upon the filing of any appeal the Company shall have the right to implement the proposed Cost of Service Adjustment Rate, subject to refund.

5. In accordance with the tariff provision cited in Conclusion of Law No. 4 above the municipalities had the authority to take action to deny the proposed adjustment and CenterPoint had the right to appeal the regulatory authority's action.
6. The actions of the municipalities collaterally attack the validity of the Commission's Order on Rehearing in GUD No. 9791 that provide that the rate adjustment shall take effect with bills rendered on or after August 1st of each year.

IT IS THEREFORE ORDERED that CenterPoint's request that the Commission declare that the rate adjustment implemented on August 1, 2009 is valid and lawful is hereby **GRANTED**.

IT IS FUTHER ORDERED THAT as the rate adjustment implemented on August 1, 2009 is valid and lawful, no refund is required.

IT IS FURTHER ORDERED that all proposed findings of fact and conclusions of law not specifically adopted in this Order are hereby **DENIED**.

SIGNED this 15th day of December, 2009.

RAILROAD COMMISSION OF TEXAS

/s/

CHAIRMAN VICTOR G. CARRILLO

/s/

COMMISSIONER ELIZABETH A. JONES

/s/

COMMISSIONER MICHAEL L. WILLIAMS

ATTEST:

Rachel Hampton
SECRETARY

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SECTION 6
MISCELLANEOUS

WILLIAM O. GEISE, GAS SERVICES DIVISION DIRECTOR

1. OFFICE OF THE DIRECTOR

A. Publications

1. Texas Utilities Code Titles 3 and 4. Now available at the State of Texas' website at:

<http://www.statutes.legis.state.tx.us>

Special Rules of Practice and Procedure and Substantive Rules. Now available thru the Commission's Website at:

[http://info.sos.state.tx.us/pls/pub/readtac\\$ext.ViewTAC?tac_view=4&ti=16&pt=1&ch=7](http://info.sos.state.tx.us/pls/pub/readtac$ext.ViewTAC?tac_view=4&ti=16&pt=1&ch=7)

2.

- a. Annual Report for Fiscal Year 2007 – Now available via the Commission's website at:

<http://www.rrc.state.tx.us/data/gasservices/annualrpt/2007/index.php>

- b. Annual Report for Fiscal Year 2006 – Now available via the Commission's website at:

<http://www.rrc.state.tx.us/data/gasservices/annualrpt/2006/index.php>

- c. Annual Report for Fiscal Year 2005 – Now available via the Commission's website at:

<http://www.rrc.state.tx.us/data/gasservices/annualrpt/2005/index.php>

- d. Annual Report for Fiscal Year 2004 – Now available via the Commission's website at:

<http://www.rrc.state.tx.us/data/gasservices/annualrpt/2004/index.php>

- e. Annual Report for Fiscal Year 2003 – Now available via the Commission's website at:

<http://www.rrc.state.tx.us/data/gasservices/annualrpt/2003/index.php>

- f. Annual Report for Fiscal Year 2002 – Now available via the Commission's website at:

<http://www.rrc.state.tx.us/data/gasservices/annualrpt/2002/index.php>

- g. Annual Report for Fiscal Year 2001 – available via the Commission's website at:

<http://www.rrc.state.tx.us/data/gasservices/annualrpt/2001/index.php>

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3. Six MCF Monthly Residential Gas Bill Analysis for Twenty-five Texas Cities - \$2.00 – Now available via the Commission’s website at:

<http://www.rrc.state.tx.us/data/gasservices/sixmcf/index.php>

B. Interest Rate on Customer Deposits

We have been advised by the Public Utility Commission that the interest rate to be applied to customer deposits in calendar year 2010 is 0.34%. All gas utilities should use 2.09% through December 31, 2009 and use 0.34% effective January 1, 2010.

2. UTILITY AUDIT SECTION

A. Maintains headquarters and three district offices as follows:

Headquarters - William B. Travis Building 1701 North Congress, P. O. Box 12967, Austin, Texas 78701	Telephone (512) 463-7022 Fax (512) 475-3180
Ed Abrahamson, Director, Utility Audit Section Pearl Rodriguez, Program Specialist	

Dallas District- 1546 Rowlett Rd., Suite 107, Garland, Texas 75043	Telephone (972) 240-5757 Fax (972) 303-1897
Yolandra Davis, Auditor Josh Settle, Auditor	

Austin District- P. O. Box 12967, Austin, Texas 78711-2967	Telephone (512) 463-7022 Fax (512) 475-3180
Stephen Cooper, Senior Auditor	

Houston District- 1706 Seamist Drive, Suite 501 Houston, TX 77008-3135	Telephone (713) 869-8425 Fax (713) 869-3219
Margie Stoney, Senior Auditor Larry Alcorn, Auditor Dale Francis, Auditor LaToya Johnson, Auditor Konata Uzoma, Auditor	

B. Gas Utility Tax, Annual Reports and Audit Reports

1. Questions relating to gas utility tax, call Pearl Rodriguez at (512) 463-7022.
2. Questions relating to annual reports, call Pearl Rodriguez at (512) 463-7022.
3. Inquiries relating to audit reports, call Pearl Rodriguez at (512) 463-7022.

C. Available Information

Copies of gas utility annual reports (2000 to present), as well as information relating to any of the above, A through C, are available for review at the William B. Travis Building, Gas Services Division, 9th Floor, 1701 North Congress. All requests for copies must be made in writing and should be addressed to the

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Audit Section. Copies will be provided for a fee, depending on the volume of copy work desired, allow a minimum of seven to ten business days for completion of requests. Inquiries regarding copies should be directed to the Audit Section at (512) 463-7022, or Fax your request to (512) 475-3180.

3. MARKET OVERSIGHT

A. Maintains the following office to assist you:

Headquarters - William B. Travis Building
1701 North Congress, P.O. Box 12967, Austin, Texas 78711 Telephone (512) 463-7164
Mark Evarts, Director

B. **Gas Utilities Information Bulletin**

Published on the Commission's web site at:
<http://www.rrc.state.tx.us/forms/newsletters/gasutilitybulletins/index.php>

C. **Proposals For Decision**

Published on the Commission's web site at: <http://www.rrc.state.tx.us/meetings/dockets/index.php>

D. **Tariff Filings**

Questions pertaining to the filing of tariffs and/or quality of service rules should be directed to Kathy Arroyo, Yolanda Lovelace or Marie Blanco at (512) 463-7167.

E. **Curtailments**

Curtailment questions should be referred to (512) 463-7167. Curtailment reports made Monday through Friday, 8:00 a.m. to 5:00 p.m., should be made to (512) 463-7167. Curtailment reports made during hours other than those specified above and holidays, should be made to (512) 463-6788.

F. **Compliance Filings**

Questions regarding gas utilities docket compliance filing requirements should be referred to Mark Brock at (512) 463-7164.

G. **Complaints and Inquiries**

All complaints and inquiries relating to the gas utility industry should be directed to the Market Oversight Section at (512) 463-7164.

H. **Pending RRC Rules and Regulations:**

GUD No. 9277 Amendments to §7.305 Curtailment Rule

4. **HEARINGS AND LEGAL ANALYSIS**

A. **Miscellaneous**

Anyone wishing to obtain copies of appendices to Orders appearing in Section 5 of this Bulletin should contact the Legal Division at (512) 463-7017.

B. **Status of Pending Cases**

The status of all pending cases listed in Section 3 of this Bulletin is for informational purposes only and is complete up to the time of printing of this Bulletin. For a more accurate status of pending cases, please call

the Legal Division at (512) 463-7017.