

**RAILROAD COMMISSION OF TEXAS**

**STATEMENT OF INTENT FILED BY §  
CENTERPOINT ENERGY ENTEX TO §  
INCREASE THE RATES IN THE § GAS UTILITIES DOCKET NO.  
UNINCORPORATED AREAS OF THE § 9791  
TEXAS COAST DIVISION AND ALL §  
CONSOLIDATED DOCKETS §  
§**

**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. Chapter 551, et seq. (Vernon 1994 & Supp. 2004). 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 ("TCD").
3. The TCD includes the cities of Alvin, Angleton, Baytown, Beach City, Beasley, Brookshire, Brookside Village, Clear Lake Shores, Clute, Danbury, Dickinson, East Bernard, El Lago, Freeport, Friendswood, Hillcrest Village, Hitchcock, Jones Creek, Katy, Kemah, Kendleton, La Marque, La Porte, Lake Jackson, League City, Liverpool, Manvel, Morgan's Point, Mont Belvieu, Needville, Orchard, Oyster Creek, Pearland, Pleak, Richmond, Richwood, Rosenberg, Santa Fe, Seabrook, Shoreacres, Sugar Land, Taylor Lake Village, Texas City, Wallis, Webster, West Columbia, Wharton and their surrounding environs.
4. On March 6, 2008, CenterPoint filed a statement of intent to increase rates in the unincorporated areas of the TCD.
5. On April 15, 2008, CenterPoint filed an appeal of the actions of the Cities of Baytown, Clute and Shoreacres, Texas, and was originally docketed by the Commission as Gas Utilities Docket No. 9796.
6. On June 4, 2008, CenterPoint filed an appeal of the actions of the Cities of Freeport, Pearland, West Columbia, and Angleton, Texas, and was originally docketed by the Commission as Gas Utilities Docket No. 9803.
7. On July 9, 2008, CenterPoint filed an appeal of the actions of the Cities of League City and Wharton, and was originally docketed by the Commission as Gas Utilities Docket No. 9808.

8. On April 8, 2008, the Commission suspended the implementation of CenterPoint's proposed rate changes on environs customers for up to 150 days pursuant to TEX. UTIL. CODE ANN. §104.107(a)(2).
9. The Examiners consolidated Gas Utilities Docket Nos. 9791, 9796, 9803 and 9808 into one docket, Gas Utilities Docket No. 9791 ("GUD No. 9791"), because the four dockets request rates for the TCD and involve common questions of law and fact pursuant to 16 TEX. ADMIN. CODE § 1.125 (1991).
10. CenterPoint agreed to extend the statutory deadline for Commission action on GUD No. 9791 until October 21, 2008.
11. CenterPoint requested that the proposed new rates for all customer classes become effective on April 10, 2008.
12. On July 25, 2008, the Examiners severed Commission consideration of rate case expenses into a separate docket for consideration by the Commission, Gas Utilities Docket No. 9811: Rate Case Expenses Severed from GUD No. 9791.
13. On April 15, 2008, the Texas Coast Utilities Coalition ("TCUC") intervened as a party to this proceeding.
14. On July 28, 2008, the State of Texas ("STATE") intervened as a party to this proceeding.
15. A final hearing was conducted in Austin by the Commission on August 18, 19, and 20, 2008, to take testimony, other evidence, and legal argument on all issues of law and fact that were raised in or relevant to CenterPoint's appeals and statement of intent, for the purpose of developing a record that the Commission will use in setting rates.
16. CenterPoint published public notice of the proposed rate changes once a week for four or more consecutive weeks in newspapers of general circulation in each county that contains territory affected by the proposed changes. CenterPoint completed its requirement to publish notice on or before April 10, 2008.
17. CenterPoint's publication of notice meets the statutory and rule requirements of notice and provides sufficient information to rate payers about the statement of intent.
18. There are approximately 231,256 residential, 12,180 general service-small, and 576 general service-large customers that will be affected by CenterPoint's rate changes for the TCD.
19. The data submitted by CenterPoint in this docket encompass a full test-year, i.e. the twelve-month period ending September 30, 2007.
20. It is reasonable to allow CenterPoint to update its test-year data with actual values as of May

31, 2008, in order to account for known and measurable changes.

*Rate-Base*

21. CenterPoint's proposed level of adjusted rate base is not reasonable.
22. CenterPoint's proposed inclusion of storage gas in rate base is not reasonable.
23. It is reasonable to allow CenterPoint to recover storage gas costs through its purchased gas adjustment clause, attached hereto as Rate Schedule PGA-7, for use in the TCD.
24. It is reasonable to set CenterPoint's system-wide rate base at the level indicated in Schedule 2, attached hereto, for purposes of establishing CenterPoint's overall cost of service for its customers in the Texas Coast Division.
25. CenterPoint's proposed cost of plant is reasonable, as indicated in attached Schedule 2a.
26. CenterPoint's proposed accumulated depreciation reserve is reasonable, as indicated in attached Schedule 2b.
27. It is reasonable to set cash working capital at \$0.00, as proposed by CenterPoint.

*Rate of Return*

28. Prior to hearing, CenterPoint, TCUC and the State executed a joint stipulation regarding a reasonable rate of return and capital structure for CenterPoint in this docket. The Commission finds that the Joint Stipulation is reasonable and sets a reasonable rate of return and capital structure for CenterPoint.
29. A capital structure of 55.4% common equity and 44.6% long-term debt is reasonable.
30. A cost of long-term debt for CenterPoint of 7.239% is reasonable.
31. A cost of equity of 10.06% for CenterPoint is reasonable.
32. A pre-tax rate of return of 11.8% is reasonable.

*COSA*

33. CenterPoint's proposed cost of service adjustment clause is not reasonable.
34. It is reasonable to allow CenterPoint to implement the revised cost of service adjustment clause attached hereto as Rate Schedule COSA-3, for use in the TCD.

*Tax Adjustment Tariffs*

35. CenterPoint proposes to collect revenue-related taxes, including state gross receipts taxes and municipal franchise fees, through separate tariffs that will appear as a line-item on the customer's bill rather than include these amounts in the cost of service.

36. It is reasonable to allow CenterPoint to implement its Tax Adjustment tariffs attached hereto as Rate Schedule No. FFA-2 and Rate Schedule No. TA-7, for use in the TCD.

*Purchased Gas Adjustment Tariff*

37. CenterPoint proposes a Purchased Gas Adjustment ("PGA") tariff to recover all purchased gas costs through the PGA Rate Schedule rather than through base rates.

38. It is reasonable to allow CenterPoint to implement its Purchased Gas Adjustment clause attached hereto as Rate Schedule No. PGA-7, for use in the TCD.

*Miscellaneous Service Charges*

39. It is reasonable to allow CenterPoint to implement its Miscellaneous Service Charges attached hereto as Rate Schedule No. MISC-9, for use in the TCD.

*Revenues and Expenses*

40. CenterPoint's proposed level of adjusted test-year operating revenues is not reasonable.

41. It is reasonable to set CenterPoint's system-wide operating revenues at the level indicated in Schedule 4a, attached hereto, for purposes of establishing CenterPoint's overall cost of service for the Texas Coast Division.

42. CenterPoint's proposed level of adjusted test-year operating expenses is not reasonable.

43. CenterPoint's proposed uncollectible expense is not reasonable.

44. It is reasonable to average five years of uncollectible expense, 2003, 2004, 2005, 2006, and 2007, in order to determine a reasonable uncollectible expense for CenterPoint's cost of service model.

45. CenterPoint's proposed use of a general inflation adjustment to Texas Administrative Expense is unreasonable.

46. CenterPoint's proposed use of a labor escalation adjustment to Texas Administrative Expense is unreasonable.

47. CenterPoint's proposed recovery of severance pay expenses is unreasonable.
48. It is reasonable to allow CenterPoint to recover incentive compensation expenses for direct employees of the Texas Coast Division and for Houston support employees.
49. CenterPoint's proposed inclusion of investor services expense and investor relations expense as part of Allocated Corporate Overhead expense is unreasonable.
50. It is reasonable to allow CenterPoint to use actual costs for the 12 months ended May 31, 2008, to recover call center expense.
51. CenterPoint's proposed customer allocation factor for meter reading expense (Account 902) is unreasonable. It is reasonable to allocate these expenses using an investment weighted number of customer locations allocation factor.
52. CenterPoint's proposed customer allocation factor for uncollectible expense (Account 904) is unreasonable. It is reasonable to allocate these expenses using an investment weighted number of customer locations allocation factor.
53. It is reasonable to set CenterPoint's system-wide operating expenses at the level indicated in Schedule 4a, attached hereto, for purposes of establishing CenterPoint's overall cost of service for the Texas Coast Division.
54. It is reasonable to set CenterPoint's depreciation expense and overall depreciation rate of 3.68 percent as indicated in Schedule 4a, attached hereto, for purposes of establishing CenterPoint's overall cost of service for its customers in the Texas Coast Division.
55. CenterPoint calculated its total federal income tax (FIT), based upon revenues and expenses and using the income tax rate of 35 percent.
56. It is reasonable to allow amounts for federal income tax based upon the statutory income tax rate of 35%, as proposed by CenterPoint.

#### *Rate Design*

57. CenterPoint's proposal to design rates for three (3) customer classes is/not reasonable. These customer classes proposed by CenterPoint are the following: residential, general service-small, and general service-large.
58. Residential rates, as shown on the attached rate schedule, consisting of a monthly customer charge of \$13.50 and volumetric charges of \$0.03055 per Ccf on all gas volumes, are reasonable.
59. General Service-Small rates, as shown on the attached rate schedule, consisting of a monthly customer charge of \$12.50 and volumetric charges of \$0.06655 per Ccf on all gas volumes up to 150

Ccf, and \$0.03258 on all gas volumes above 150Ccf, are reasonable.

60. General Service-Large rates, as shown on the attached rate schedule, consisting of a monthly customer charge of \$12.50 and volumetric charges of \$0.09036 per Ccf on all gas volumes up to 1500 Ccf, \$0.05880 per Ccf on all gas volumes from 1501 to 10,000 Ccf, and \$0.04980 on all gas volumes above 10,000 Ccf, are reasonable.

### **CONCLUSIONS OF LAW**

1. CenterPoint Enrgy Entex (CenterPoint) is a "Gas Utility" as defined in TEX. UTIL. CODE ANN. §101.003(7) (Vernon 2007) and §121.001(2007) 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 2007), 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 Statement of Intent and Appeals were 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. 2004) (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. TEX. UTIL. CODE ANN. §104.107 (Vernon 2007) provides the Commission's authority to suspend the operation of the schedule of proposed rates for 150 days from the date the schedule would otherwise go into effect.

7. The proposed rates constitute a major change as defined by TEX. UTIL. CODE ANN. §104.101 (Vernon 2007).

8. In accordance with TEX. UTIL. CODE §104.103 (Vernon 2007), 16 TEX. ADMIN. CODE ANN. §7.230 (2002), and 16 TEX. ADMIN. CODE ANN. §7.235 (2002), adequate notice was properly provided.

9. In accordance with the provisions of TEX. UTIL. CODE ANN. §104.102 (Vernon 1998 and Supp. 2003), 16 TEX. ADMIN. CODE ANN. §7.205 (2002), and 16 TEX. ADMIN. CODE §7.210 (2002),

CenterPoint filed its Statement of Intent to change rates.

10. CenterPoint failed to meet its burden of proof in accordance with the provisions of TEX. UTIL. CODE ANN. §104.008 (Vernon 2007) on the elements of its requested rate increase identified in this order.

11. The rates proposed by CenterPoint are in accordance with TEX. UTIL. CODE ANN. §104.006 (Vernon 1998) because the rates established for customers of each environs area do not exceed 115 percent of the average of all rates for similar services for all municipalities served by CenterPoint in the same county.

12. The revenue, rates, rate design, and service charges proposed by CenterPoint are not found to be just and reasonable, not unreasonably preferential, prejudicial, or discriminatory, and are not sufficient, equitable, and consistent in application to each class of consumer, as required by TEX. UTIL. CODE ANN. §104.003 (Vernon 1998).

13. The revenue, rates, rate design, and service charges proposed by CenterPoint, as amended by the Commission and identified in the schedules attached to this order, are just and reasonable, are not unreasonably preferential, prejudicial, or discriminatory, and are sufficient, equitable, and consistent in application to each class of consumer, as required by TEX. UTIL. CODE ANN. §104.003 (Vernon 1998).

14. The overall revenues as established by the findings of fact and attached schedules are reasonable; fix an overall level of revenues for CenterPoint that will permit the company a reasonable opportunity to earn a reasonable return on its invested capital used and useful in providing service to the public over and above its reasonable and necessary operating expenses, as required by TEX. UTIL. CODE ANN. § 104.051 (Vernon 1998); and otherwise comply with Chapter 104 of the Texas Utilities Code.

15. The revenue, rates, rate design, and service charges proposed will not yield to CenterPoint more than a fair return on the adjusted value of the invested capital used and useful in rendering service to the public to the public, as required by TEX. UTIL. CODE ANN. § 104.052 (Vernon 1998).

16. The rates established in this docket comport with the requirements of TEX. UTIL. CODE ANN. §104.053 (Vernon 1998) and are based upon the adjusted value of invested capital used and useful, where the adjusted value is a reasonable balance between the original cost, less depreciation, and current cost, less adjustment for present age and condition.

17. In accordance with TEX. UTIL. CODE ANN. §104.054 (Vernon 1998) and TEX. ADMIN. CODE §7.5252, book depreciation and amortization was calculated on a straight line basis over the useful life expectancy of CenterPoint's property and facilities.

18. In this proceeding, CenterPoint has the burden of proof under TEX. UTIL. CODE ANN. §104.008 (Vernon 1998) to show that the proposed rate changes are just and reasonable.

19. Rate case expenses for GUD No. 9791 will be considered by the Commission in accordance with TEX. UTIL. CODE ANN. §104.008 (Vernon 1998), and 16 TEX. ADMIN. CODE §7.5530 (2002), in a separate proceeding.
20. It is reasonable for the Commission to allow CenterPoint to include a Purchased Gas Adjustment Clause in its rates to provide for the recovery of all of its gas costs, in accordance with 16 TEX. ADMIN. CODE § 7.5519 (2002).
21. All expenses for lost and unaccounted for gas in excess of 5.0 percent shall be disallowed, consistent with TEX. ADMIN. CODE § 7.5519 (2002).
22. CenterPoint is required by 16 TEX. ADMIN. CODE §7.315 (2002) to file electronic tariffs incorporating rates consistent with this Order within thirty days of the date of this Order.
23. The rate setting methodologies set forth in TEX. UTIL. CODE ANN. §104.051 et seq. were used to set the rates in this proceeding.
24. Approval of a COSA tariff lies within the Commission's jurisdiction.
25. Approval of a COSA tariff does not conflict with the rate-setting provisions of GURA.
26. Approval of a COSA tariff does not prevent the utility or a regulatory authority from exercising the statutory right to initiate a rate case.

**IT IS THEREFORE ORDERED** that CenterPoint's proposed schedule of rates is hereby **DENIED**.

**IT IS FURTHER ORDERED** that the rates, rate design, and service charges established in the findings of fact and conclusions of law and in the Examiners' Recommendation shown on the attached Schedules for CenterPoint are **APPROVED**.

**IT IS FURTHER ORDERED** that, in accordance with 16 TEX. ADMIN. CODE §7.315, within 30 days of the date this Order is signed, CenterPoint shall file tariffs with the Gas Services Division. The tariffs shall incorporate rates, rate design, and service charges consistent with this Order, as stated in the findings of fact and conclusions of law and shown in the Examiners' Recommendation on the attached Schedules.

**IT IS FURTHER ORDERED** that all proposed findings of fact and conclusions of law not specifically adopted in this Order are hereby **DENIED**. **IT IS ALSO ORDERED** that all pending motions and requests for relief not previously granted or granted herein are hereby **DENIED**.

**IT IS FURTHER ORDERED THAT** within 30 days of this order CenterPoint **SHALL** electronically file tariffs and rates schedules in proper form that accurately reflect the rates approved by the Commission in this Order.



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 20<sup>th</sup> day of October, 2008.

**RAILROAD COMMISSION OF TEXAS**

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**CHAIRMAN MICHAEL L. WILLIAMS**

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**COMMISSIONER VICTOR G. CARRILLO**

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**COMMISSIONER ELIZABETH A. JONES**

**ATTEST:**

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**SECRETARY**