



RAILROAD COMMISSION OF TEXAS

OFFICE OF GENERAL COUNSEL

GUD NOS. 10051

**RATE CASE EXPENSES SEVERED FROM
GAS UTILITIES DOCKET NO. 10038, 10047, 10052, 10058, 10070 and 10071**

APPEARANCES:

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ENERGY ENTEX AND CENTERPOINT ENERGY TEXAS GAS**

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PROCEDURAL HISTORY:

Docket Established:	January 31, 2011
Final Hearing Date:	June 14, 2011
Heard By:	Gene Montes, Hearings Examiner Rose Ruiz, Technical Examiner
Record Closed:	April 12, 2012
PFD Circulation:	April 13, 2012

STATEMENT OF THE CASE

In GUD No. 10038 and consolidated cases the Railroad Commission approved the settlement agreement of the parties by a Final Order that was issued on April 18, 2011. Review of the stipulated rate case expenses and all related issues were severed into this proceeding, GUD No. 10051. The following entities are parties to this proceeding: CenterPoint, ACM and SCC. In this proceeding, the parties filed a *Stipulation and Partial Settlement Agreement* on June 14, 2011. The parties stipulated to the total rate case expenses. The parties do not agree, however, on the mechanism for the recovery of the rate case expenses.

All parties agree that the recovery period should be thirty-six (36) months. All parties also agree that the total rate case expenses requested in the amount of \$1,535,125.71 are reasonable. CenterPoint proposed that the recovery be based upon the total number of bills issued to customers (customer count) within the ACM and SCC municipalities, the municipalities that ceded jurisdiction to the Commission, and the environs. This results in a \$0.46 monthly surcharge to be assessed over a thirty-six (36) month. ACM and SCC disagree and generally argue that the rate case expenses should be allocated to all customers within the South Texas Division and that the surcharge be calculated upon volumes of natural gas consumed.

As set forth below, the Examiners find that the parties have established that \$1,530,078.83 in rate case expenses are just and reasonable. The Examiners recommend that the publication and initial filing costs (regulatory required expenses) be allocated to all customers within the South Texas Division. The Examiners also recommend that regulatory required expenses and CenterPoint's litigation expenses be allocated to the ACM and SCC municipalities, the cities of Laredo and Runge, the municipalities that ceded jurisdiction, and to the environs. The Examiners also recommend that the litigation expenses of ACM and SCC and all of CenterPoint's expenses after April 2011 (appeal and expenses in GUD No. 10051) be allocated to the ACM and SCC municipalities, the municipalities that ceded jurisdiction, and to the environs. Finally, the Examiners recommend that the recovery of rate case expenses be based upon the customer count. The allocation methodology recommended herein results in a monthly surcharge of \$0.39 per month over thirty six (36) months. The Examiners recommend that the Commission issue an order authorizing CenterPoint to assess the surcharge to the ACM and SCC municipalities, the municipalities that ceded jurisdiction to the Commission, and the environs within the South Texas Division.

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PROPOSAL FOR DECISION

1. Procedural History

CenterPoint Energy Resources Corp., d/b/a CenterPoint Energy Entex and CenterPoint Energy Texas Gas ("CenterPoint") provides natural gas distribution service to approximately 136,000 customers in its South Texas Division. On December 3, 2010, CenterPoint filed a *Statement of Intent* to increase rates with the Railroad Commission of Texas ("Commission"). That case was docketed as GUD No. 10038. At that time CenterPoint also filed its *Statement of Intent* with each of the municipalities and towns within the utility's South Texas Division.

On January 12, 2011, CenterPoint also filed its *Appeal of CenterPoint Energy Resources Corp., d/b/a CenterPoint Energy Entex and CenterPoint Energy Texas Gas from the actions of the cities of Alice, Bastrop, Buda, Cibolo, Jourdan, Kyle, New Braunfels, and San Marcos* and the case was docketed as GUD No. 10047. On January 17, 2011, CenterPoint also filed its *Appeal of CenterPoint Energy Resources Corp., d/b/a CenterPoint Energy Entex and CenterPoint Energy Texas Gas from the actions of the city of Austin* and the case was docketed as GUD No. 10058. On February 2, 2011, CenterPoint filed its *Appeal of CenterPoint Energy Resources Corp., d/b/a CenterPoint Energy Entex and CenterPoint Energy Texas Gas from the Actions of the cities of Smithville and Universal City* and the case was docketed as GUD No. 10058. On April 11, 2011, CenterPoint filed its *Appeal of CenterPoint Energy Resources Corp., d/b/a CenterPoint Energy Entex and CenterPoint Energy Texas Gas from the Actions the cities of Aransas Pass, Bishop, Converse, El Campo, Elgin, Garden Ridge, Giddings, Port Lavaca, Portland, Poteet, and Victoria* and the case was docketed as GUD No. 10070. On April 13, 2011, CenterPoint filed its *Appeal of CenterPoint Energy Resources Corp., d/b/a CenterPoint Energy Entex and CenterPoint Energy Texas Gas from the Actions of the cities of Palacios and Taft* and the case was docketed as GUD No. 10071. Dockets Nos. 10047, 10052, 10058, 10070 and 10071 were consolidated into GUD No. 10038.

The following entities intervened in that proceeding: The cities of Aransas Pass, Bishop, Converse, El Campo, Elgin, Garden Ridge, Giddings, Goliad, Ingleside, Kingsville, La Coste, La Grange, Mathis, Orange Grove, Palacios, Pleasonton, Point Comfort, Portland, Port Lavaca, Poteet, Taft, and Victoria (collectively "Steering Committee of Cities" or "SCC"); the cities of Alice, Austin, Bastrop, Buda, Cibolo, Jourdan, Kyle, New Braunfels, San Marcos, Seguin, Smithville, and Universal City (collectively "Alliance of CenterPoint Municipalities" or "ACM"); Railroad Commission of Texas ("Staff"). Additionally, the following municipalities surrendered their original jurisdiction to the Commission: Eagle Lake, Goliad, Hallettsville, Kenedy, Nordheim, Pleasonton, San Diego, Seguin, Sinton and Weimar. The Texas Ratepayers' Organization to Save Energy (Texas ROSE) also filed a Motion to Intervene.

ACM, SCC and CenterPoint reached an agreement regarding the issues raised in GUD No. 10038. Staff was not a signatory of the agreement. Nevertheless, Staff recommended that the Commission approve the agreement. A hearing on March 25, 2011, was commenced to allow the Texas ROSE an opportunity to challenge the reasonableness of the proposed settlement agreement. Evidence at the hearing established, however, that the organization's articles of incorporation were revoked in 1996. Additionally, the organization was unable to establish that its members were affected by the proposed rate in GUD No. 10038. Thus, evidence at the

hearing established that the organization lacked capacity and standing to intervene. The Examiners reconsidered the organization's Motion to Intervene previously filed by Texas ROSE and the motion was ultimately denied.

The settlement agreement was approved and a Final Order was issued on April 18, 2011.¹ Review of the stipulated rate case expenses and all related issues were severed into this proceeding. The following entities are parties to this proceeding: CenterPoint, ACM and SCC. In this proceeding, the parties filed a *Stipulation and Partial Settlement Agreement* on June 14, 2011. The parties stipulated to the total rate case expenses. The parties do not agree, however, on the mechanism for the recovery of the rate case expenses.

All parties agree that the recovery period should be thirty-six (36) months. All parties also agree that the total rate case expenses requested in the amount of \$1,535,125.71 are reasonable. CenterPoint proposed that the recovery be based upon the total number of bills issued to customers within the ACM and SCC municipalities, the municipalities that ceded jurisdiction to the Commission, and the environs. This results in a \$0.46 monthly surcharge to be assessed over a thirty-six (36) month. ACM and SCC disagree and generally argue that the rate case expenses should be allocated to all customers within the South Texas Division.

2. Jurisdiction

The Commission has jurisdiction over the applicant, associated affiliates, the proposed recovery of rate case expenses, and over the matters at issue in this proceeding pursuant to Tex. Util. Code Ann. §§ 102.001, 103.003, 103.051, 104.001, 121.051, 121.052, and 121.151 (Vernon 2007 and Supp. 2010). The statutes and rules involved in this proceeding include, but are not limited to Tex. Util. Code Ann. §§ 104.101, 104.102, 104.103, 104.105, 104.106, 104.107, 104.110, 104.301, and 16 Tex. Admin. Code Chapter 7.

3. Overall Rate Case Expense Request of the Parties

a. Introduction

Rule 7.5530 provides that 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. Each gas utility and/or municipality shall detail and itemize all rate case expenses and allocations. Each entity seeking recovery of rate case expenses must provide evidence showing the reasonableness of the cost of all professional services, including but not limited to:

- (1) the amount of work done;
- (2) the time and labor required to accomplish the work;
- (3) the nature, extent, and difficulty of the work done;

¹ A copy of the Final Order issued in that case and the Conference materials prepared by the Examiners is attached as Appendix A to this *Proposal for Decision*. The Examiners have also included a copy of the Stipulation and Settlement Agreement of the parties in this case.

- (4) the originality of the work;
- (5) the charges by others for work of the same or similar nature; and
- (6) any other factors taken into account in setting the amount of the compensation.

Furthermore, Commission rules mandate that 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 the complexity of the issues in the proceeding and the amount of the increase sought as well as the amount of any increase granted.

CenterPoint, ACM, and SCC each filed detailed reports related to the rate case expense requests. ACM and SCC filed affidavits in support of the request attesting to the reasonableness of the rates charged, that no expenses were charged for any luxury items, that there are no first-class air fare or charges for use of non-commercial aircraft, no luxury hotel charges, no limousine service, no unreasonable meal charges, no charges for sporting events, alcoholic drinks or other entertainment.

The Examiners reviewed all billings, invoices and evidence submitted by the parties. The Examiners recommend an adjustment to three meal expenses submitted by CenterPoint. Otherwise, the Examiners have found no evidence of double-billing, excess charges, inappropriate documentation of work, excessive entertainment and dining expenses. With an additional exception, discussed below, all expenses incurred were reasonably necessary to the underlying proceeding and this rate case expense docket.

b. *Overall Request*

The total actual and estimated rate case expenses of the parties were \$1,535,125.71. CenterPoint requested \$982,665.83 in actual expenses and \$15,817.17 in estimated rate case expenses. ACM requested \$316,848.16 in actual expenses and \$18,000.00 in estimated rate case expenses. SCC requested \$179,794.55 in actual expenses and \$22,000.00 in estimated rate case expenses. These amounts are set forth in Table 1 below.

Table 1
Rate Case Expense Request

Party	Actual	Estimated	Total/Party
CenterPoint	\$982,665.83	\$15,817.17	\$998,483.00
ACM	\$316,848.16	\$18,000.00	\$334,848.16
SCC	\$179,794.55	\$22,000.00	\$201,794.55
Totals	\$1,479,308.54	\$55,817.17	\$1,535,125.71

c. *Recommended Adjustments*

The Examiners recommend two adjustments to the rate request. One relates to meal expense receipts included by CenterPoint and the other relates to a post-settlement filing made by ACM.

There are no rules limiting the meal expenses to a specific dollar amount that may be included in a rate case expense proceeding. The Commission has, however, consistently limited meal expenditures to \$25 per person per meal. CenterPoint included a meal expense receipt which appears to include three individual meals that cost \$38.14, \$37.12, and \$37.12.² The Examiners recommend an adjustment limiting those expenditures to \$25.00 per meal. Thus, the overall request of the company should be adjusted downward by \$37.38.

After the settlement, ACM filed a motion that was not necessary to the proceeding. Several entries were included by ACM after the hearing which appear to have been incurred related to the standing issues raised by Texas ROSE. Those entries, and the expenses of CenterPoint responding to that litigation, are summarized at Table 2.

Table 2

ACM Expenses Related to TxROSE Interim Appeal			
Date	Activity	Hours	Expense
3/29/11	Carrie Tournillon – Review TX Rose’s motion for reconsideration; Draft response in support; meet with parties, Discuss appeal, update on hearing/settlement	2.39	\$621.00
3/30/11	Carrie Tournillon – Conference call/emails regarding settlement; Research on standing issue/rate case expense surcharge issue	2.10	\$597.00
3/31/11	Carrie Tournillon – Prepare exhibits for limited hearing, including offers of proof, confidentials’; Draft response of Texas Rose Appeal of Examines Letter No. 22; Review of revised Stip; Discussion of case precedent regarding rate case expense surcharge to cities	4.80	\$1,296.00
Subtotal			\$2,514.00
CenterPoint Expenses Related to Responding to ACM’s Motion in Support of TxROSE			
4/5/2011	Review/Analyze ACM motion in support of TxROSE	.80	\$256.00
4/6/2011	Draft/Revise response to ACM/TxROSE Interim Appeal	5.20	\$1,664.00
4/7/2011	Draft/Revise response to ACM/TxROSE Interim Appeal	1.80	\$576.00
Subtotal			\$2,496.00
Total			\$5,010.00

The hearing was held on March 25, 2011. On April 1, 2011, Texas ROSE filed its interim appeal of Examiners’ Letter No. 22. ACM filed its response in support of Texas ROSE’s

² Documentation of Actual Rate Case Expenses filed by CenterPoint on April 8, 2011, p. 87.

Appeal of Examiners' Letter No. 22 revoking Texas ROSE's Party Status on April 5, 2011. As noted above, CenterPoint presented evidence challenging the capacity and standing of the Texas ROSE to participate in this proceeding. Based upon the unchallenged evidence at the hearing, the Hearings Examiner granted a motion to revoke the organization's party status in this proceeding. Nevertheless, as part of that ruling, the Hearings Examiner provided an opportunity for the Texas ROSE to file evidence and argument responsive to the evidence provided by CenterPoint. The Examiners indicated that the ruling would be reconsidered based upon those filings.

After considering the evidence and arguments presented by Texas ROSE, the Examiners found that Texas ROSE had neither the legal capacity to participate as a party nor standing to intervene in GUD No. 10038. Accordingly, the Examiners found that the Texas Ratepayers' Organization to Save Energy was not a party to GUD No. 10038. Upon reconsideration, the Motion to Intervene previously by Texas ROSE was denied. That entity had neither the legal capacity to file the motion nor standing to intervene. The Examiners further found that the entity lacked capacity or standing on the date the hearing commenced in GUD No. 10038.

As CenterPoint, ACM and SCC had reached a settlement agreement in GUD No. 10038, it cannot be argued that the brief filed by ACM in support of Texas ROSE's interim appeal was relevant and reasonably necessary to the proceeding. As noted by CenterPoint in that proceeding, ACM was a signatory to the settlement agreement and the settlement agreement expressly required ACM to support and seek approval of the agreement. ACM was in the awkward position of arguing that Texas ROSE be reinstated as a party in order to challenge the settlement agreement.³ The Examiners recommend that all expenses related to preparing the ACM brief in support of the interim appeal filed by Texas ROSE be adjusted from ACM's rate case expense request. The Examiners do not find that ACM, as a party to the proceeding, lacked authority to file its supporting brief. The Examiners find, however, that it was not reasonably necessary to resolve this proceeding and, therefore, expenses related to that filing should not be passed onto the customers.

The Examiners find that the requested rate case expenses, as adjusted, are just and reasonable. The adjusted amounts are set forth below in Table 3.

Table 3
Adjusted Rate Case Expense Request

Party	Actual	Estimated	Total/Party
CenterPoint	\$982,628.45	\$15,817.17	\$998,445.62
ACM	\$311,838.16	\$18,000.00	\$329,838.16
SCC	\$179,794.55	\$22,000.00	\$201,794.55
Totals	\$1,474,261.16	\$55,817.17	\$1,530,078.33 ⁴

³ CenterPoint's Response to Texas Ratepayers' Organization to Save Energy's Appeal of Examiner's Letter No. 22 and Alliance of CenterPoint Municipalities' Response in Support, page 1, footnote 1.

⁴ Total amount adjusted from the original \$5,047.38.

4. Allocation and Recovery of Rate Case Expenses

a. Introduction

The main issue in this proceeding relates to the allocation of rate case expenses. The municipal coalitions argue that the rate case expenses should be allocated to all customers within the South Texas Division on a volumetric basis. CenterPoint contends that the rate case expenses should be allocated to the ACM and SCC municipalities, municipalities that ceded jurisdiction, and the environs customers based upon the customer count.

In addition to the environs there are sixty-five (65) municipalities within the South Texas Division. Thirty (30) municipalities denied the requested rate increase and joined either the ACM or SCC coalitions. The remaining thirty-five (35) municipalities took no action and allowed the proposed rates to go into effect by operation of law, surrendered their jurisdiction to the Commission, or reached a separate settlement with the utility.

b. Allocation of Expenses Among Customers: Argument of the Parties

The parties in this proceeding do not agree upon the allocation of the rate case expenses. CenterPoint contended that the recovery of rate case expenses should be made from the customers within the jurisdiction of the Commission, including customers within those municipalities that ceded jurisdiction to the Commission, the SCC and the ACM municipalities. In other words, CenterPoint argued that all expenses should be recovered from the thirty (30) municipalities that denied the proposed increase and joined either SCC or ACM, the ten (10) municipalities that surrendered their jurisdiction to the Commission, and the environs of the South Texas Division. CenterPoint proposed that none of the costs be allocated to the remaining twenty-five municipalities.

ACM argued that the recovery of rate case expenses should be based upon the total volume of consumption of all ratepayers in the South Texas Division. Alternatively, ACM argued that the Commission should consider that the CenterPoint expenses related to all ratepayers and that at least CenterPoint's expenses should be allocated among all customers. SCC also contended that rate case expenses should be allocated to all customers on a volumetric basis. First, SCC argued that CenterPoint's proposal is in conflict with precedent at the Commission and the PUC. Second, SCC asserted that limiting recovery of rate case expenses to the participants in this proceeding would discourage the participation of municipalities in rate case proceedings. Third, SCC maintained that the utility's rate case expenses are a regulatory cost of business that should be borne by all customers that should be equitably allocated among all parties.

ACM and SCC contended that allocation among all customers within all municipalities of rate case expenses was reasonable because CenterPoint ultimately charged the same rate to all customers within the South Texas Division. ACM and SCC also pointed that the nine (9) settling cities that were not part of either coalition included a "most favored nations" clause. Thus, each municipality would benefit from the outcome.

c. *Examiners Recommendation: Allocation of Certain CenterPoint Expenses Among all Customers within the South Texas Division*

Analysis of the rate case expenses should be considered in the context of the timeline of this case. Table 4 below sets out the key dates in this proceeding:

Table 4

Date	Event
December 3, 2010	Statement of Intent filed with municipalities and Commission
December 7, 2010	Edna settlement
December 14, 2010	Ganado settlement
December 15, 2010	Falls City settlement
December 20, 2010	Freer & Poth settlement
December 21, 2011	Schertz settlement
January 6, 2011	Premont settlement
January 12, 2011	Appeal filed from actions of cities of Alice, Bastrop, Buda, Cibolo, Jourdanton, Kyle, New Braunsfels, and San Marcos (GUD No. 10047).
January 17, 2011	Appeal filed from actions of the city of Austin (GUD No. 10058).
February 2, 2011	Appeal filed from actions of cities of Smithville and Universal City. (GUD No. 10052).
March 25, 2011	Hearing
April 1, 2011	ACM, SCC, and CenterPoint Settlement Agreement
April 4, 2011	Laredo settlement
April 4, 2011	Approximate deadline for municipal action.
April 7, 2011	Runge settlement
April 11, 2011	Appeal from actions of the cities of Aransas Pass, Bishop, Converse, El Campo, Elgin, Garden Ridge, Giddings, Port Lavaca, Portland, Poteet, and Victoria. (GUD No. 10070).
April 13, 2011	Appeal from action of the cities of Palacios and Taft. (GUD No. 10071).
April 18, 2011	Final Order

The Examiners note that there are no Commission regulations that specifically address the allocation of rate case expenses. It is reasonable that all expenses related to the filing of the *Statement of Intent* proceeding be allocated to all customers as this is a regulatory cost that is a necessary component of the expenses of a regulated customer. These expenses include the initial expense necessary to prepare the filing and publication of the proceeding. The cost of publication is necessary to inform all customers within the South Texas Division and it would not be equitable to impose those expenses on the municipalities that challenged the rate case expense proceeding. CenterPoint indicated that from September 2010 through November 2010 the total expenses were \$85,209 for preparing the filing. The Examiners find that it is reasonable to allocate those expenses, including all publication expenses of \$73,334.00, related to the notice of the *Statement of Intent* filing, among all customers within the South Texas Division. These expenses may be referred to as the regulatory required expenses.

The Examiner find that beyond the expenses related to the initial filing, it is not reasonable to allocate any expenses to municipalities that took no action and allowed the rates to go into effect by operation of law. It would not be reasonable to allocate expenses to those sixteen municipalities that acquiesced to the company's proposed increase.

The Examiners find that the allocation of CenterPoint's expenses among the settling municipalities should be based upon the company's expenses as of the date of settlement.⁵ For example, the City of Edna approved a settlement on December 7, 2010, a few days after the *Statement of Intent* was filed. Again, the Examiners find that it would be unreasonable to impose any additional expenses upon the City of Edna beyond its allocated share related to the initial filing. On the other hand, the City of Laredo did not settle until April 4, 2011 and the City of Runge did not settle until April 7, 2011. This was several days after the settlement was reached with ACM and SCC. The Examiners find that it would be reasonable to allocate a share of the CenterPoint rate case expenses through that date to the cities of Laredo and Runge.

On the other hand, the cities of Laredo and Runge did not join either the SCC or the ACM coalition of cities. The reason for the decision of those cities' refusal to join either coalition cannot be known. The Examiners find that it would be unreasonable to allocate any expenses of the ACM or the SCC coalitions to any municipality that is not a member of either group. Accordingly, the Examiners recommend that those expenses be recovered exclusively from the municipalities that have joined in the litigation of this proceeding. Similarly, the Examiners find that it is reasonable to allocate all appeal expenses and expenses related to this docket to the ACM and SCC municipalities, the municipalities that ceded jurisdiction to the Commission, and the environs.

The Examiners recognize that the Commission may not direct CenterPoint to recover the allocated expenses from municipalities over which the Commission does not have jurisdiction. In this case, those municipalities are the nine municipalities that settled separately and the municipalities that allowed the proposed rates to go into effect by operation of law. This does not preclude CenterPoint, however, from seeking recovery of those expenses. CenterPoint may request approval from those municipalities of the expenses.⁶ Furthermore, allocation of these expenses is no different than allocation of other corporate expenses. For example, utility corporate expenses are often allocated among various jurisdictions. The fact that a regulatory authority may not have jurisdiction over rates that may be charged in Arkansas, for example, does not preclude the allocation of corporate expenses.

The allocation recommended by the Examiners results in the allocation of \$248,730.66 expenses to entities that are not within the Commission's jurisdiction in this proceeding. CenterPoint will recover from entities within the jurisdiction of the Commission in this case \$1,281,347.67.

⁵ This is consistent with the observations raised by ACM regarding recent Commission precedent. ACM Reply Brief, pp. 6 – 7.

⁶ The Examiners express no opinion at this time as to whether CenterPoint's agreements with the nine settling municipalities preclude recovery of rate case expenses.

d. Examiners Recommendation: Allocation on the Basis of Customer Count.

ACM and SCC also argued that the Commission should allocate any rate case expense surcharge on a volumetric basis, not a per bill basis. ACM and SCC pointed out that the Commission has allocated those expenses on a volumetric basis. The municipal coalitions contended that a volumetric allocation more closely allocates those expenses to a customer's usage. SCC argued that allocation on a volumetric basis more fairly spreads the cost among customer classes.

ACM and SCC are correct that the Commission has previously allocated rate case expenses on a volumetric basis. CenterPoint also correctly notes that the Commission has allocated the recovery of rate case expense on a per meter or per bill basis. SCC correctly countered that the cases cited by CenterPoint allocated a different surcharge for each customer class.⁷ In this case CenterPoint seeks recovery of rate case expenses by a uniform charge to all customer classes. CenterPoint has cited to any dockets as precedent in support of this request.

The Examiners find that allocation rate case expenses based on the customer count is reasonable. It is well settled that allocation of certain expenses on this basis is reasonable. For example, in GUD No. 9670, the Commission allocated the following expense accounts based upon the number of customer installations:

Table 5
Allocation of Expenses Based Upon Customer Locations⁸

879	Customer Installations
901	Supervision
902	Meter reading expense
904	Uncollectible accounts
908	Customer assistance expense
909	Informational and instructional advertising expenses
910	Miscellaneous customer service expense
911	Supervision
912	Demonstrating and selling expense
913	Advertising expense
916	Miscellaneous sales promotion expense
928	Regulatory commission expense
930.1	General advertising expense.

This is consistent with the methodology proposed by CenterPoint in the underlying proceeding in this case.⁹ Rate case expenses are similar to the category of expenses included in the accounts

⁷ For example, in *Severed Rate Case Expenses from Docket No. 9762*, GUD No. 9787, the Commission allowed the recovery of rate case expense by billing residential customers \$0.49, commercial customers \$1.44, and industrial and transportation customers \$21.47.

⁸ GUD No. 9670, CARD – 14.

⁹ GUD No. 10038, CenterPoint Ex. 15, Exhibit ST – 14. The allocation factor proposed for Accounts 902 and 904 were allocated on the bases of “Investment-weighted number of customer locations by customer class.” All others were proposed to be allocated on the basis of the number of customer locations.

described in Table 6 above. Allocation of rate case expenses on that basis is reasonable and consistent with the allocations made by the Commission of similar utility expenses. Furthermore, recovery of rate case expenses on volumetric basis may not result in recovery of the expense within the thirty-six (36) month period agreed to by all parties. The utility will not recover its rate case expenses in that period if there are warmer than normal temperatures. Additionally, the proposed recovery mechanism results in a constant monthly charge which is less confusing than a volumetric charge and more transparent.

Conclusion

In conclusion, the Examiners find that the parties have established that \$1,530,078.83 in rate case expenses are just and reasonable. The Examiners recommend that the publication and initial filing costs (regulatory required expenses) be allocated to all customers within the South Texas Division. The Examiners also recommend that regulatory required expenses and CenterPoint's litigation expenses be allocated to the ACM and SCC municipalities, the cities of Laredo and Runge, the municipalities that ceded jurisdiction, and to the environs. The Examiners also recommend that the litigation expenses of ACM and SCC and all of CenterPoint's expenses after April 2011 (appeal and expenses in GUD No. 10051) be allocated to the ACM and SCC municipalities, the municipalities that ceded jurisdiction, and to the environs. Finally, the Examiners recommend that the recovery of rate case expenses be based upon the customer count. As set forth in Examiner's Schedule No 1, the allocation methodology recommended above results in a monthly surcharge of \$0.39 per month over thirty six (36) months. The Examiners recommend that the Commission issue an order authorizing CenterPoint to assess the surcharge to the ACM and SCC municipalities, the municipalities that ceded jurisdiction to the Commission, and the environs within the South Texas Division.

Respectfully submitted,



Gene Montes
Hearings Examiner
Office of General Counsel



Rose Ruiz
Technical Examiner
Gas Services Division

EXAMINER'S SCHEDULE 1

			GROUP A Full Cost Allocation	GROUP B Publication and Filing Costs Plus CNP SOI	GROUP C Publication and Filing Costs Only
			ACM, SCC, Environs, Ceded	Laredo and Runge	Cities that Took No Action and Cities that Settled (not including Laredo and Runge)
Customer Count		136,075	92,416	29,200	14,459
Required Regulatory Expenses	CenterPoint SOI Filing Expenses (Invoices - Sept - Nov. 2010)	\$85,209.00	\$85,209.00	\$85,209.00	\$85,209.00
	CenterPoint SOI Notice	\$73,334.00	\$73,334.00	\$73,334.00	\$73,334.00
	Total Reg Expense	\$158,543.00	\$158,543.00	\$158,543.00	\$158,543.00
	Group Percentage of Total Cust		67.92%	21.46%	10.63%
	Group Cost Allocation		\$107,675.25	\$34,021.35	\$16,846.40
Litigation Expenses	CenterPoint Post-SOI Filing Expenses	\$824,085.45	\$824,085.45	\$824,085.45	
	Group Percentage of Total Cust		75.99%	24.01%	
	Group Cost Allocation		\$626,222.54	\$197,862.91	
	SCC Rate Case Expenses	\$179,794.55	\$179,794.55		
	ACM Rate Case Expenses	\$311,838.16	\$311,838.16		
	Group Percentage of Total Cust		100.00%		
GUD No. 10051 and Estimated Appeal Expenses	Total Estimated Expenses	\$55,817.17	\$55,817.17		
	Group Percentage of Total Cust		100.00%		
	Group Cost Allocation		\$55,817.17		
Surcharge	Total Expenses Allocated to Each Group	\$1,530,078.33	\$1,281,347.68	\$231,884.26	\$16,846.40
	Customer Count x 36		3,326,976	1,051,200	520,524
	36 month surcharge		\$0.39	\$0.22	\$0.03



RAILROAD COMMISSION OF TEXAS

OFFICE OF GENERAL COUNSEL

TO: Chairman Elizabeth A. Jones
Commissioner David Porter

FROM: Gene Montes, Hearings Examiner
Office of General Counsel – Hearings Section
Rose Ruiz, Technical Examiner
Gas Services Division – Market Oversight Section

SUBJECT: GUD No. 10038 (and consolidated cases), *Statement of Intent filed by CenterPoint Energy Resources Corp., d/b/a CenterPoint Entex and CenterPoint Energy Texas Gas ("CenterPoint") to Increase Rates on a Division Wide Basis in the South Texas Division.*

DATE: April 11, 2011

On December 3, 2011, CenterPoint Energy Resources Corp., d/b/a CenterPoint Energy Entex and CenterPoint Energy Texas Gas ("CenterPoint") filed a statement of intent to increase Rates with the Railroad Commission of Texas ("Commission"). CenterPoint provides natural gas distribution service to approximately 136,000 customers in its South Texas Division. On January 12, 2011, CenterPoint also filed its *Appeal of CenterPoint Energy Resources Corp., d/b/a CenterPoint Energy Entex and CenterPoint Energy Texas Gas from the actions of the cities of Alice, Bastrop, Buda, Cibolo, Jourdanton, Kyle, New Braunfels, and San Marcos* and the case was docketed as GUD No. 10047. On January 17, 2011, CenterPoint also filed its *Appeal of CenterPoint Energy Resources Corp., d/b/a CenterPoint Energy Entex and CenterPoint Energy Texas Gas from the actions of the city of Austin* and the case was docketed as GUD No. 10058. Dockets Nos. 10047, 10052, and 10058 were consolidated into GUD No. 10038.¹

The following entities intervened in this proceeding: The cities of Aransas Pass, Bishop, Converse, El Campo, Elgin, Garden Ridge, Giddings, Goliad, Ingleside, Kingsville, La Coste, La Grange, Mathis, Orange Grove, Palacios, Pleasonton, Point Comfort, Portland, Port Lavaca, Poteet, Taft, and Victoria (collectively "Steering Committee of Cities" or "SCC"); the cities of Alice, Austin, Bastrop, Buda, Cibolo, Jourdanton, Kyle, New Braunfels, San Marcos, Seguin, Smithville, and Universal City (collectively "Alliance of CenterPoint Municipalities" or "ACM"); Railroad Commission of Texas ("Staff"). Additionally, the following municipalities

¹ CenterPoint has indicated that at least one additional jurisdiction will act on its request and the municipal level and that an appeal will be filed before April 15, 2011. CenterPoint requested that the record remain open until that date to allow for those proceedings to be consolidated into this proceeding. Accordingly, the record remains open at least until April 15, 2011.

surrendered their original jurisdiction to the Commission: Eagle Lake, Hallettsville, Kenedy, Nordheim, Pleasonton, San Diego, Seguin, Sinton and Weimar.

The Texas Ratepayers' Organization to Save Energy also filed a Motion to Intervene. A hearing on March 25, 2011, was commenced to allow the Texas Ratepayers' Organization to Save Energy an opportunity to challenge the reasonableness of the proposed settlement agreement. Evidence at the hearing established, however, that the organization's articles of incorporation were revoked in 1996. Additionally, the organization was unable to establish that its members were affected by the proposed rate in this proceeding. Thus, evidence at the hearing established that the organization lacked capacity and standing to intervene. The status of the organization was not altered prior to the time the motion to intervene was filed, at the commencement of the hearing, or at the time additional evidence was filed to respond to the issues raised. The Examiners reconsidered the organization's Motion to Intervene previously filed by it and the motion was subsequently denied.

CenterPoint, SCC, and ACM ("Signatories") have reached a settlement agreement regarding the issues raised in this statement of intent proceeding, and consolidated cases. The *Settlement Agreement* is attached to the Final Order as, Exhibit 1. Staff of the Railroad Commission, although not a Signatory to the *Settlement Agreement*, recommended that the Commission approve the *Settlement Agreement*. The Examiners have reviewed the Settlement Agreement, evidence in support of rate case expenses, and the comments of the Texas Ratepayers' Organization to Save Energy and recommend approval of the *Settlement Agreement*.

Terms of the Settlement Agreement

CenterPoint sought an increase in revenues of \$6.5 million. The settlement agreement reflects an increase in revenues of \$4.6 million. The Statement of Intent sought approval of a rate design for residential customers that included an increase in the customer charge from \$11.75 to \$19.00. The Settlement Agreement reflects a change in the customer charge from \$11.75 to \$13.95. Additionally, the company initially proposed a customer charge of \$25.00 for small commercial customers. The settlement included a customer charge of \$25.00. Table 1, below compares certain terms of the proposal and the Settlement Agreement.

Table 1
Terms of CenterPoint Request Compared to *Settlement Agreement*

	CenterPoint Proposed	Settlement Agreement
Overall Revenue Increase	\$6.5 million	\$4.6 million
Residential Rate ²		
Customer Charge	\$19.00	\$13.95
Single Block Volumetric	\$0.0553 per Ccf	\$0.2180 per Ccf
Small Commercial Rate		
Customer Charge	\$25.00	\$20.00
Single Block Volumetric	\$0.0759 per Ccf	\$0.1046 per Ccf
Large Volume		
Customer Charge	\$100	\$100
Single Block Volumetric	\$0.0759	\$0.0412
Cost of Equity	11.00%	10.050%
Rate of Return (Pre-Tax)	9.2990%	11.75%

The parties reached an agreement regarding the factors to be used in future interim rate adjustment filing pursuant to Tex. Util. Code Ann. § 104.301, and certain pension-related factors. Finally, the parties reached an agreement regarding rate case expenses.

Paragraph 6 of the settlement agreement relates to rate case expenses of CenterPoint, ACM, and SCC. The parties agreed to file by April 8, 2011, documentation supporting their actually incurred rate case expenses in this docket.³ CenterPoint, ACM, and SCC agree to seek Commission approval of the parties' reasonable rate case expenses simultaneously with request for approval of this Settlement Agreement. The parties agreed that rate case expenses should be recovered by a surcharge over a thirty-six month period. The parties agree that any rate case expense docket following approval of this Settlement Agreement should be limited to the legal/policy issues related to the appropriate South Texas Division customers to whom the expenses will be surcharged.

Comments of Texas Ratepayers' Organization to Save Energy

At the hearing the Examiners noted that despite the failure of Texas Ratepayers' Organization to Save Energy to establish capacity and standing to intervene, the Commission has broad discretion to consider comments. The Examiners further indicated that the prefiled testimony would be considered as written comments to be reviewed at the time the proposed

² There is a minor difference in the volumetric rate for residential and commercial based upon the atmospheric pressure of either \$14.65 psi and \$14.95 psi.. The difference for residential customers is about 3% and the difference for commercial customers is about 2%. The rates shown in Table 1 are based upon 14.65 psi.

³ As noted below, CenterPoint and SCC timely filed documentation in support of the rate case expense request. ACM did not file its documentation as agreed. ACM sought approval from CenterPoint to delay filing until Monday, April 11, 2011. A motion was not filed with the presiding officers.

settlement is evaluated. Accordingly, the Examiners offer an evaluation of the comments filed by the Texas Ratepayers' Organization to Save Energy.

As an initial matter, the representation of ACM in its *Alliance of CenterPoint Municipalities' Response in Support of Texas Rose's Appeal of Examiners' Letter No. 22, Revoking Texas Rose's Party Status* that the ruling in **Examiners Letter No. 22** precluded that the organization's voice would be heard in this proceeding is disingenuous at best.⁴ The Examiners explicitly stated on the record that the comments and concerns of the Texas Ratepayers Organization to Save Energy would be considered in the context of the *Settlement Agreement*.⁵ The suggestion that the concerns of the Texas Ratepayers Organization to Save Energy would not be considered or ignored in this proceeding is plainly false. Despite the inability of Texas Ratepayer's Organization to Save Energy to satisfy its legal burden, the Examiners have evaluated its concerns.

The comments of the Texas Ratepayers' Organization to Save Energy focused upon two aspects of this proceeding. First, the organization stated that the South Texas Division lacked a low-income energy efficiency program and that such a program should be adopted for the South Texas Division. Second, Texas Ratepayers' Organization to Save Energy objected to the increase in the customer charge or commodity charge proposed by the company. The comments suggested that an increase in the customer charge or commodity charge is deleterious for two reasons: (1) A higher customer charge impacts low income and low usage levels disproportionately, and (2) provides no incentive to customers to conserve natural gas. As the key concerns raised have policy implications, it is appropriate for the Commission to consider them at this juncture.

Energy Efficiency Program – Low-Income Weatherization

Texas Ratepayers' Organization to Save Energy argued that CenterPoint should implement an Energy Efficiency Program in the South Texas Division. CenterPoint operates a similar program in other jurisdictions where CenterPoint provides service such as Minnesota, Arkansas, and Oklahoma. The organization also surveyed the published literature on the poverty level in the South Texas Division and indicated that publications note that the poverty level in Texas is 15.8%, averaged about 16.52% in the CenterPoint service area affected by this case, and in certain counties the poverty rate may reach nearly 30%. Further, low-income households would benefit from a low-income weatherization program as it would reduce the household's energy requirements. Thus, the Texas Ratepayers' Organization to Save Energy concluded that there is a need for an energy efficiency program that targets low-income households in the South Texas Division. The organization urged that the program should cover 100% of the weatherization expenses of low-income households, the program should be used in conjunction with other Federal Weatherization Assistance Programs, target 500 low-income households per year at an average cost of \$2,000 and total funding should be \$1 million per year.

⁴ In its conclusion, ACM stated as follows: "ACM fully supports the proposed settlement. . . . ACM urges the Commission to grant Texas ROSE's appeal, to overturn the Examiners' order revoking Texas ROSE's party status, and to allow Texas ROSE to be reinstated as a party in this proceeding." *ACM Response in Support of Texas ROSE's Appeal of Examiners' Letter No. 22, Revoking Texas Rose's Party Status*. (Emphasis added).

⁵ Tr. March 25, 2011.

The Examiners find that while weatherization programs are important to conserve resources and reduce monthly bills it is difficult to address in this docket for several reasons: (1) all parties have settled, (2) the Texas Ratepayers' Organization to Save Energy did not fully address and explore the issue of funding, and (3) the Commission currently has a docket on the subject of conservation energy efficiency programs pending. By way of example, the Texas Ratepayer's Organization to Save Energy did not specify the funding source: Is the funding to be provided solely by the shareholders or to be included in the cost of service calculation and, thus, contributed by customers of the system. The utility in GUD No. 9762, proposed a Conservation Energy Efficiency Program that was funded by matching amounts through rates and shareholders. These types of details should be addressed in a separate docket. Currently the Commission has established GUD No. 9900, *Establishment of a Natural Gas Conservation Energy Efficiency Program*. The Examiners find that the issues raised by the Texas Ratepayer's Organization to Save Energy are best addressed in that proceeding.

Rate Design

CenterPoint initially proposed a rate design for residential customers that would increase the current customer charge from \$11.75 to \$19.00. The Texas Ratepayer's Organization to Save Energy objected to this as it represented a nearly 61.70% increase to the customer charge. The organization leveled two main criticisms. First, a customer charge of that magnitude would discourage conservation. Second, a customer charge increase of 61.70% would have a disproportionate impact on low-income residential customers. The Texas Ratepayer's Organization to Save Energy is not the only entity that objected to the increase in the customer charge. ACM and SCC each objected to the increase.⁶ These municipal intervenors are signatories to the Settlement Agreement and, thus, find that the increase to the customer charge encompassed in that document is just and reasonable.

As to conservation, the concern raised by the Texas Ratepayer's Organization to Save Energy ignores the commodity cost itself, which is the largest component of the customer bill. The typical residential customer bill is made up of two main components: (A) The cost of service, which is usually set by the regulatory authority and is calculated in cases such as this one, and (B) the cost of gas which is a pass through cost and is typically recovered through the operation of the utility's purchase gas adjustment clause. The cost of gas is a market based rate. The Gas Services Division publishes annually a *Six MCF Residential Gas Bill Analysis for Twenty-Five Texas Cities*. The 2010 report included a table that provided an analysis of the average gas cost for twenty-five Texas Cities. The average is based upon a six Mcf residential gas bill. Table 1 below summarizes the findings contained in the annual *Six Mcf Residential Gas Bill Analysis for the Twenty-Five Texas Cities* at Table 2 of that report.

⁶ See, Direct Testimony of Jim Daniel, ACM Ex. 2 and Direct Testimony of Karl J. Nalepa, SCC Ex. 2.

Table 1
Average Cost of Gas

Month	Average Cost
January	38.92
February	37.55
March	35.70
April	33.04
May	34.68
June	33.67
July	40.60
August	39.57
September	36.46
October	35.41
November	32.55
December	33.10
Overall Average	35.63

The data contained herein establishes that even the initial proposed customer charge of \$19.00 is only a little over 50% of the gas costs. In other words, the gas cost provides a strong price signal to the customer and is a significant encouragement to conserve natural gas. Accordingly, the customers charge contained in this settlement agreement which is substantially less than the proposed customers charge, a customer charge of \$13.95, is less than 40% of the total customer bill and the gas cost itself provides a strong price signal.

As to the impact on low-income customers, it is clear that the settled customer charge is substantially lower than the proposed \$19.00 customer charge. Instead of a 61.70% increase in the customer charge the settlement contemplates an increase of less than 20%. Further, the customer charge is consistent with the customer charge approved in several recent cases by the Commission. Table 2 below summarizes the customer charge approved in several recent proceedings:

Table 2
Customer Charge Approved in Recent Proceedings

Docket	Residential Customer Charge
9762	\$14.00
9869	\$16.00
9902	\$14.59
9988	\$10.80

In conclusion, the record in this case establishes that CenterPoint and the other Signatories to the Settlement Agreement have established that the customer charge is reasonable.

The comments offered by the Texas Ratepayers' Organization to Save Energy have not offered a basis upon which the *Settlement Agreement* should be rejected.

Rate Case Expenses

As part of the *Settlement Agreement* the parties have stipulated to the rate case expenses and do not oppose the rate case expense of each party. CenterPoint offered evidence in support of \$998,483 in actual and estimated rate case expenses. SCC offered evidence in support of \$191,569.71 in actual and estimated rate case expenses and ACM offered evidence in support of _____ in actual and estimated rate case expenses. Total actual and estimated rate case expenses are _____.⁷

The intent of the signatories is not clear from the language contained in paragraph six of the *Settlement Agreement* and the Examiners recommend that the Final Order include a clarifying directive from the Commission. First it is clear from the timing of the *Settlement Agreement* that the parties did not review each other's rate case expenses in this proceeding. The *Settlement Agreement* was executed on April 1, 2011, and the parties did not exchange documentation supporting their actually incurred or estimated rate case expenses until after that date. The *Settlement Agreement* contemplated that it would be filed at some date after the execution of the *Settlement Agreement*. Further as noted above, one of the Signatories, ACM, did not comply with that term of the *Settlement Agreement* and instead submitted its documentation in support of rate case expenses on April 11, 2011.

Second, the Examiners are concerned that litigation continues in this proceeding among the signatories to the *Settlement Agreement*. ACM, a signatory to the *Settlement Agreement* made a filing *after* the *Settlement Agreement* was submitted. CenterPoint, also a signatory to the *Settlement Agreement* was required to respond to the filing. In GUD No. 10007 and 10018 the Commission rejected a settlement agreement that contemplated continued litigation of the underlying case. The Examiners are concerned by the recent tendency in gas utility rate proceedings to reach a "settlement agreement" that contemplates continued litigation of the underlying "settled" case but that presumes that expenses associated to that litigation are just and reasonable.

Third, as just noted, the agreement suggests that the parties have reached an agreement that the expenses related to the continued litigation, future rate case expenses, are reasonable. Strictly construed the language of the *Settlement Agreement* precludes evaluation of the rate case expenses, actual or future: "[A]ny rate case expense docket following approval of this Settlement Agreement should be limited to the legal/policy issue related to the appropriate South Texas Division customers to whom the expenses will be surcharged."⁸ The language in the *Settlement Agreement* appears to bind this Commission and preclude the Commission from complying with its statutory obligation to review the justness and reasonableness of those future

⁷ Although the Settlement Agreement set the deadline for filing the amount requested and documents in support of the request as April 8, 2011, ACM and CenterPoint unilaterally agreed to have ACM file that documentation on April 11, 2011. As of the writing of this memo ACM has not submitted its request nor documentation supporting its request. Thus, the Examiners have not had an opportunity to examine the request. The information will be provided in a supplemental memorandum.

⁸ *Settlement Agreement*, paragraph 6, ln. 4.

rate case expenses. Simply stated such agreements may not be in the public interest. It is particularly troubling in a case such as this where the Signatories continue to litigate the underlying rate case.

Accordingly, the Examiners recommend that language be added to the order to conform the terms of the *Settlement Agreement* to the requirement of the Gas Utility Regulatory Act. While the parties may agree to no longer challenge the rate case expenses of each other, the Commission maintains its authority to review the rate case expenses in the severed rate case proceeding and modify the request as necessary. At a minimum the Settlement Agreement should not be interpreted to preclude the Commission from evaluating the reasonableness and necessity of future rate case expenses.

In conclusion, the Examiners recommend approval of the *Settlement Agreement* with proposed findings of fact that ensure that rate case expenses ultimately recovered from ratepayers are just and reasonable.

CASE SUMMARY

GAS UTILITIES DOCKET NO. 10038 (and consolidated cases). *Statement of Intent of CenterPoint Energy Resources Corp., d/b/a CenterPoint Energy Texas Gas to Increase Rates on a Division Wide Basis in the South Texas Division*

PREPARED BY: Gene Montes
Rose Ruiz

ISSUE: Whether the proposed Settlement Agreement should be approved?

PARTIES OF RECORD: Center Point Energy Entex
Steering Committee of Cities (SCC)
Alliance of CenterPoint Municipalities (ACM)
Railroad Commission Staff (Staff)

PROCEDURAL HISTORY:

Statement of Intent filed:	December 3, 2011
Hearing:	March 25, 2011 & April 1, 2011
Settlement Filed:	April 1, 2011
Documentation in Support of Rate Case Expenses Centerpoint & SCC ACM	April 8, 2011 April 11, 2011
Statutory Deadline:	June 22, 2011
Current Status:	Protested

KEY FACTS/BACKGROUND:

1. On December 3, 2011, CenterPoint filed this Statement of Intent. Appeals from the actions of certain municipalities were filed in the following docketed cases: GUD No. 10047, 10052 and 10058. Those proceedings were consolidated into GUD No. 10038.
2. A hearing was held on March 25, 2011, and based on evidence presented at the hearing it was established that the Texas Ratepayers' Organization to Save Energy lacked standing or capacity to participate in this proceeding.
3. Consideration of the policy issues raised by the Texas Ratepayers' Organization to Save Energy was considered in the context of the Settlement Agreement.
4. The Settlement Agreement reduced the revenue increase from the requested \$6.5 million to \$4.5 million, reduced the increase in the customer charge for residential and small commercial customers. Evidence in this record established that Settlement Agreement is just and reasonable.
5. Clarifying language regarding the recovery of the rate case expenses should be added to the final order to ensure that rate case expenses are reviewed to ensure that they are just and

reasonable.

LEGAL PRINCIPLE INVOLVED:

1. Pursuant to TEX. UTIL. CODE ANN. §104.102 (Vernon 2007), a gas utility may not increase its rates unless the utility files a statement of intent with the regulatory authority that has original jurisdiction over those rates.
2. The Commission has exclusive original jurisdiction over the rates and services of a gas utility distributing natural gas in areas outside a municipality. TEX. UTIL. CODE ANN. § 102.101 (Vernon 2007).
3. The Commission has exclusive appellate jurisdiction to review an order or ordinance of a municipality exercising exclusive original jurisdiction. TEX. UTIL. CODE ANN. § 102.101 (Vernon 2007).

ACTION REQUESTED:

The Examiners recommend that the Settlement Agreement be approved..

GUD NO. 10051

RATE CASE EXPENSE ISSUES
SEVERED FROM GUD NO. 10038,
CONSOLIDATED

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§
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BEFORE THE
RAILROAD COMMISSION
OF TEXAS

OFFICE OF COUNSEL
RAILROAD COMMISSION

2011 JUN 14 PM 12:02

FILED

STIPULATION AND PARTIAL SETTLEMENT AGREEMENT

TO THE HONORABLE RAILROAD COMMISSION OF TEXAS:

This Stipulation and Partial Settlement Agreement is entered into by and between CenterPoint Energy Resources Corp. d/b/a CenterPoint Energy Entex and CenterPoint Energy Texas Gas ("CenterPoint" or the "Company"); the Steering Committee of Cities ("SCC") whose members include the Cities of Aransas Pass, Bishop, Converse, El Campo, Elgin, Garden Ridge, Giddings, Goliad, Ingleside, Kingsville, La Coste, La Grange, Mathis, Orange Grove, Palacios, Pleasanton, Point Comfort, Portland, Port Lavaca, Poteet, Taft, and Victoria (collectively "SCC Cities"); and the Alliance of CenterPoint Municipalities ("ACM") whose members include the Cities of Alice, Austin, Bastrop, Buda, Cibolo, Jourdanton, Kyle, New Braunfels, San Marcos, Seguin, Smithville, and Universal City (collectively "ACM Cities"). CenterPoint, SCC, and ACM are collectively referred to as the "Signatories."

WHEREAS, the Signatories believe that a fully contested hearing in this case would be time-consuming and entail substantial additional expense for all parties and that the public interest will be served by admission into the record of this Stipulation and Partial Settlement Agreement and resolution of the remaining issues in dispute through submission of briefs;

NOW, THEREFORE, the Signatories, through their undersigned representatives, agree to and recommend for approval by the Railroad Commission of Texas the Settlement Terms and Stipulated Facts listed below as a means of partially resolving issues in dispute and providing for the submission of the remaining issues through briefing filed by the parties.

SETTLEMENT TERMS:

1. The Parties stipulate to the admissibility of the affidavits attached hereto as Exhibit A and reflecting the amount of rate case expenses incurred in GUD Nos. 10038 and 10051 through May 31, 2011 and estimating the amount of additional rate case expenses expected to be incurred to complete this docket.
2. The Parties stipulate that the requested amounts of rate case expenses reflected in the affidavits and documentation filed contemporaneously with this Stipulation by each respective party, including estimates, were or will be reasonably and necessarily incurred.
3. The Parties stipulate that a party in briefing may cite to prior Railroad Commission of Texas Orders and Proposals for Decision adopted by the Commission.
4. The Parties stipulate that it is appropriate for the Signatories to rely in briefing and for the Examiners to take Official Notice of the record in GUD No. 10038.

STIPULATED FACTS:

1. The SCC Cities passed ordinances joining SCC and authorizing participation in GUD No. 10038, an example of which is attached hereto as Exhibit B.
2. The ACM Cities passed ordinances joining ACM and authorizing participation in GUD No. 10038, an example of which is attached hereto as Exhibit C.
3. The Commission in GUD No. 10038 had original jurisdiction over the environs areas of the South Texas Division as well as the municipalities of Eagle Lake, Goliad, Hallettsville, Kenedy, Nordheim, Pleasanton, San Diego, Seguin, Sinton, and Weimar, Texas, which have ceded original jurisdiction to the Commission.
4. No other municipality in the Company's South Texas division passed ordinances joining a coalition or authorizing intervention or participation in GUD No. 10038.

5. CenterPoint did not appeal to the Railroad Commission any other municipal ordinance from its South Texas division denying the proposed rates.
6. CenterPoint offered cities, including the City of Laredo, the option of passing an ordinance accepting the results of the Railroad Commission appeal (GUD No. 10038) without joining a coalition and participating in the docket and CenterPoint would not implement rates in the city until such time as the rates were approved by the Commission (Settlement Ordinance).
7. The cities of Edna, Falls City, Freer, Ganado, Laredo, Poth, Premont, Runge, and Schertz, Texas passed the Settlement Ordinance, an example of which is attached hereto as Exhibit D.
8. In evaluating CenterPoint's proposed rate increase the City of Laredo weighed the question of whether it would be required to pay rate case expenses if it did not join a coalition. The City of Laredo contacted CenterPoint regarding whether it would be allocated recovery of rate case expenses if it did not join a coalition, and in an email dated March 21, 2011, CenterPoint, at Laredo's, request explained its interpretation of the law, a copy of which is attached as Exhibit E.
9. The City of Laredo, on or about April 4, 2011, adopted an ordinance directing CenterPoint to issue and file with the City of Laredo tariff sheets identical to the tariff sheets ultimately approved as just and reasonable by the Order of the Commission and with an effective date consistent with the Commission's Order in GUD No. 10038, a copy of which is attached as Exhibit F.
10. The universe of potential billing determinants applicable to any surcharge of rate case expenses resulting from this docket are as reflected in the spreadsheet attached hereto as Exhibit G. This spreadsheet provides the number of customers and usage of customers

by class, further broken out by the action taken by each individual city on the proposed rates.

11. It is the Company's intent to implement system-wide rates in the South Texas Division.

12. The Signatories agreed that rate-case expenses would be recovered over a period of thirty-six (36) months.

Agreed to this 14th day of June, 2011.

CENTERPOINT ENERGY RESOURCES CORP.

By: 

Dane McKaughan

Attorney for CenterPoint Energy Resources Corp.

STEERING COMMITTEE OF CITIES

By: _____

Thomas Brocato

Attorney for Steering Committee of Cities

ALLIANCE OF CENTERPOINT MUNICIPALITIES

By: _____

Alfred Herrera

Attorney for Alliance of CenterPoint Municipalities

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CENTERPOINT ENERGY RESOURCES CORP.

By: _____
Dane McKaughan
Attorney for CenterPoint Energy Resources Corp.

STEERING COMMITTEE OF CITIES

By: Thomas Brocato
Thomas Brocato
Attorney for Steering Committee of Cities

ALLIANCE OF CENTERPOINT MUNICIPALITIES

By: _____
Alfred Herrera
Attorney for Alliance of CenterPoint Municipalities

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Agreed to this _____ day of June, 2011.

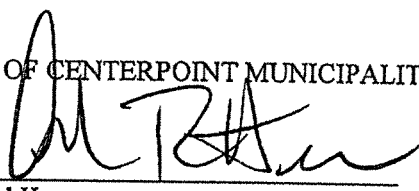
CENTERPOINT ENERGY RESOURCES CORP.

By: _____
Dane McKaughan
Attorney for CenterPoint Energy Resources Corp.

STEERING COMMITTEE OF CITIES

By: _____
Thomas Brocato
Attorney for Steering Committee of Cities

ALLIANCE OF CENTERPOINT MUNICIPALITIES

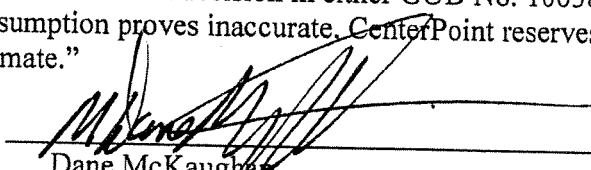
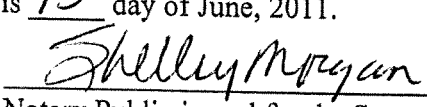
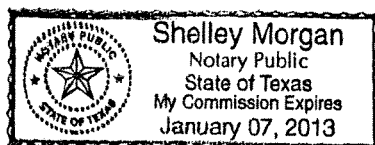
By:  _____
Alfred Herrera
Attorney for Alliance of CenterPoint Municipalities

RATE CASE EXPENSE ISSUES
SEVERED FROM GUD NO. 10038,
CONSOLIDATED§
§
§BEFORE THE
RAILROAD COMMISSION
OF TEXASAFFIDAVIT OF MICHAEL DANE MCKAUGHAN, JR.STATE OF TEXAS §
§
COUNTY OF TRAVIS §

Before me, the undersigned authority, on this date personally appeared Michael Dane McKaughan, Jr., known to me to be the person whose name is subscribed below, and being by me first duly sworn, stated upon oath as follows:

"My name is Michael Dane McKaughan, Jr. I am a partner in the Austin, Texas law firm of Parsley Coffin Renner LLP, and have practiced law in Travis County since 1998. I have extensive experience representing and defending clients before the Railroad Commission of Texas and Public Utility Commission of Texas. I am over 18 years of age, of sound mind, and fully competent to make this affidavit. Each statement of fact herein is true and of my own personal knowledge.

I am counsel for CenterPoint Energy Resources Corp., d/b/a CenterPoint Energy Entex and CenterPoint Energy Texas Gas ("CenterPoint") in Gas Utilities Docket No. 10051. On April 8 and April 14, 2011, CenterPoint filed in GUD No. 10038 support for rate case expenses actually incurred through March 31, 2011 of \$936,970.65. Contemporaneously with this affidavit, CenterPoint files additional rate case expenses incurred through May 31, 2011 of \$45,695.18, for a total of \$982,665.83 in rate case expenses incurred in GUD Nos. 10038 and 10051. Based on my experience in administrative proceedings, my knowledge of the length of a contested case proceeding of this nature, and my knowledge of issues raised by CenterPoint and the parties in this proceeding, I estimate that the Company's total actual and estimated rate case expenses for GUD Nos. 10038 and 10051 will be \$998,483. This figure is consistent with the Company's estimate included in the letter filed on April 8, 2011. The estimate for expenses to complete this rate case expense docket assumes a limited docket wherein the parties brief a single legal/policy issue regarding the appropriate methodology for surcharging rate case expenses, as contemplated by the Stipulation and Partial Settlement Agreement. CenterPoint reserves the right to supplement its rate case expense estimate should this assumption prove inaccurate. In addition, this estimate assumes no appeal by a party of the Commission decision in either GUD No. 10038 or GUD No. 10051. Again, to the extent this assumption proves inaccurate, CenterPoint reserves the right to supplement its rate case expense estimate."


Dane McKaughanSWORN AND SUBSCRIBED before me on this 13th day of June, 2011.
Notary Public in and for the State of Texas

GAS UTILITIES DOCKET NO. 10051

**RATE CASE EXPENSE ISSUES
SEVERED FROM GUD NOS. 10038
AND 10047**

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**BEFORE THE
RAILROAD COMMISSION
OF TEXAS**

**AFFIDAVIT OF THOMAS L. BROCATO RELATED TO THE STEERING
COMMITTEE OF CITIES SERVED BY CENTERPOINT'S
RATE CASE EXPENSES**

STATE OF TEXAS)
)
COUNTY OF TRAVIS)

BEFORE ME, the undersigned authority, on this day personally appeared Thomas L. Brocato who being by me first duly sworn, on oath depose and said the following:

1. My name is Thomas L. Brocato. I am a principal with the law firm of Lloyd Gosselink Rochelle and Townsend, P.C. ("Lloyd Gosselink") and lead counsel for the Steering Committee of Cities Served by CenterPoint ("SCC") in GUD Nos. 10038 and 10051. I have been practicing public utility law since I graduated from law school and began my career as a Staff attorney at the Public Utility Commission of Texas ("PUC") in 1990. I have represented entities at the Railroad Commission and PUC for over 20 years. Having participated in numerous rate cases and appeals, I have represented municipalities since 2004.
2. I am familiar with the work performed by Lloyd Gosselink and the technical consultants on behalf of SCC in connection with GUD Nos. 10038 and 10051 concerning the *Statement of Intent of CenterPoint Energy Resources Corp., d/b/a CenterPoint Energy Entex and CenterPoint Energy Texas Gas to Increase Rates in the Unincorporated Areas of CenterPoint's South Texas Division*. I am over

the age of 18 years and am not disqualified from making this affidavit. My statements are true and correct.

3. I have reviewed the billings of Lloyd Gosselink submitted to SCC for legal services performed in GUD Nos. 10038 and 10051. I affirm that those billings accurately reflect the time spent and expenditures incurred by Lloyd Gosselink on SCC's behalf. Those billings were accurately calculated before they were tendered, and there was no double billing. None of the charges billed to SCC have been recovered through reimbursement for other expenses. The expenses charged were associated with review of CenterPoint's rates in GUD Nos. 10038 and 10051 and were necessary to advise SCC and accomplish tasks in these proceedings.
4. For the period December 2010 through May 2011, SCC has incurred legal and consultant fees and expenses in the amount of \$179,794.55 in GUD Nos. 10038 and 10051. This amount is comprised of \$93,598.65 for legal services and \$86,195.90 for consulting services.
5. For the period December 2010 through May 2011, Lloyd Gosselink has billed \$93,598.65 for legal services in GUD Nos. 10038 and 10051. This figure includes legal fees and expenses. The fees and expenses incurred through May 2011 were necessary to advise SCC on rates, review the application, identify issues, retain and work with consultants, engage in discovery, review and edit testimony, prepare for a hearing, and negotiate a settlement agreement.
6. Invoices from Lloyd Gosselink also include invoices for R.J. Covington Consulting for Karl Nalepa in the amount of \$47,557.50. Mr. Nalepa is a utility

expert with over 20 years of experience on regulatory matters. Mr. Nalepa's responsibilities in this matter involved reviewing the Company's application and discovery responses and preparing direct testimony on cash working capital, cost allocation, and rate design issues. Mr. Nalepa's hourly rate for this proceeding is \$250. This is the same or similar hourly rate charged other clients for comparable services during the same time period. Mr. Nalepa's rate is comparable to the rates charged by other professionals offering similar services.

7. Invoices from Lloyd Gosselink also include invoices from J. Stowe & Company for Ms. Connie Cannady in the amount of \$38,638.40. Ms. Cannady is a regulatory expert with over 25 years of experience on utility matters. Ms. Cannady's responsibilities in this matter involved reviewing the Company's application and discovery responses and preparing direct testimony on a variety of cost of service issues, such as taxes, personnel costs, and other issues. Ms. Cannady's hourly rate for this proceeding is \$195. This is the same or similar hourly rate charged other clients for comparable services during the same time period. Ms. Cannady's rate is comparable to the rates charged by other professionals offering similar services.
8. The attorneys hourly rates of \$195-\$370, upon which the billings are based, are the same hourly rates charged other clients for comparable services during the same time frame. Our firm's rates are at the lower end of the range compared to the rates charged by other lawyers with similar experience providing similar services. The hours spent to perform the tasks assigned to Lloyd Gosselink were necessary to complete those tasks in a professional manner on a timely basis. The

bulk of the work performed by Lloyd Gosselink in this case was accomplished by two lawyers. My many years of experience participating in utility rate cases at the PUC and Railroad Commission aid in our efforts to keep rate case expenses reasonable.

9. The invoices submitted by Lloyd Gosselink include a description of services performed and time expended on each activity. The invoices for GUD Nos. 10038 and 10051 as well as a spreadsheet summary of services broken down by categories of cost have been filed at the Railroad Commission. Lloyd Gosselink has documented all charges with time sheets, invoices, and records. The documentation in this case is similar to that provided in many previous rate cases at the Railroad Commission.
10. To complete this case, it is estimated that SCC will incur fees and expenses of \$22,000. This estimate is based on actual experience in previous rate cases at the Railroad Commission. This estimate assumes and accounts for:
 - a. Reaching conclusion in GUD No. 10038, including, but not limited to attending Open Meetings where these proceedings will be discussed; and
 - b. Resolution of limited issues relating to rate case expenses in GUD No. 10051. This estimate assumes that the contested rate case expense issues will be decided on briefing, without the need for a fully litigated proceeding including testimony and a hearing.

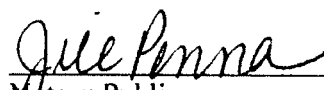
This estimate is reasonable based upon the vast experience of this firm in appealing and/or defending the Commission's final orders in court. SCC will

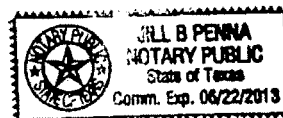
request reimbursement only for the actual amount billed for work that has been performed.

11. The total amount requested of \$201,794.55 is reasonable given the complexity, importance, and magnitude of this case, the comprehensive nature of SCC's case, the number of issues and the length of time necessary to receive a final order.


Thomas L. Brocato

SUBSCRIBED AND SWORN TO BEFORE ME, the undersigned authority, on this 14th day of June, 2011.


Notary Public



GUD NO. 10038

STATEMENT OF INTENT OF
CENTERPOINT ENERGY RESOURCES
CORP., D/B/A CENTERPOINT
ENERGY TEXAS GAS TO INCREASE
RATES ON A DIVISION-WIDE BASIS
IN THE SOUTH TEXAS DIVISION

BEFORE THE
RAILROAD COMMISSION
OF TEXAS

GUD NO. 10051

RATE CASE EXPENSE ISSUES
SEVERED FROM GUD NOS. 10038 AND
10047

BEFORE THE
RAILROAD COMMISSION
OF TEXAS

AFFIDAVIT OF ALFRED R. HERRERA RELATED
TO ACM'S RATE CASE EXPENSES

STATE OF TEXAS §
§
COUNTY OF TRAVIS §

Before me, the undersigned authority, on this day personally appeared Alfred R. Herrera, being by me first duly sworn, on oath deposed and said the following:

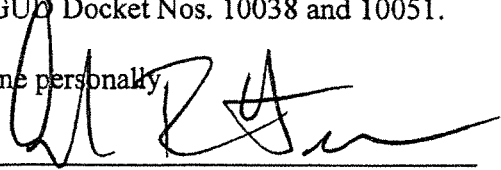
1. My name is Alfred R. Herrera, and I am a principal of Herrera & Boyle, PLLC. I have over 27 years of experience in legal and legislative matters related to the utility industry (telecommunication, electric, and gas). I have litigated numerous electric and gas utility rate matters. Herrera & Boyle, PLLC has been retained by the Alliance of CenterPoint Municipalities ("ACM") in connection with *GUD Docket No. 10038, Statement of Intent of CenterPoint Energy Resources Corp., d/b/a CenterPoint Energy Entex and CenterPoint Energy Texas Gas Increase Rates in the Unincorporated Areas of CenterPoint's South Division* and *GUD 10051, Rate Case Expense issues severed from GUD Nos. 10038 and 10047*.
2. I am familiar with the work performed by Herrera and Boyle and the technical consultants on behalf of ACM in connection with *GUD Docket No. 10038, Statement of Intent of CenterPoint Energy Resources Corp., d/b/a CenterPoint Energy Entex and CenterPoint Energy Texas Gas Increase Rates in the Unincorporated Areas of CenterPoint's South Division* and *GUD 10051, Rate Case Expense issues severed from GUD Nos. 10038 and 10047*. I am over 18 years of age and I am not disqualified from making this affidavit. My statements are true and correct.
3. This firm has provided services to ACM in this docket including, but not limited to, the following activities: the provision of legal advice and strategy to ACM; negotiating

schedules and substantive issues; identification of consultants and recommendations to client regarding consultants; coordination of issue development; legal research; preparation and filing of pleadings and briefs; discovery; preparation for and participating in prehearing conferences; briefing clients and discussions with consultants.

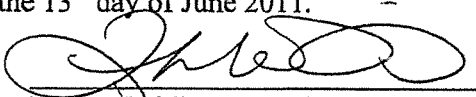
4. I am responsible for coordinating and supervising the efforts of my firm's personnel pertaining to the services rendered to ACM in this docket. I have personally reviewed all billings for all work performed (legal and consulting) in connection with *GUD Docket No. 10038, Statement of Intent of CenterPoint Energy Resources Corp., d/b/a CenterPoint Energy Entex and CenterPoint Energy Texas Gas Increase Rates in the Unincorporated Areas of CenterPoint's South Division* and *GUD 10051, Rate Case Expense issues severed from GUD Nos. 10038 and 10047*.
5. Invoices and backup for the fees and expenses charged to ACM are provided to ACM for approval and forwarding to CenterPoint Energy Resources Corp. for payment. My firm's billings are associated with efforts that were reasonable and necessary for development of the record and advocacy of ACM's position. Duplication of effort was avoided.
6. My firm's individual charges and rates are reasonable, consistent with the rates billed to others for similar work and comparable to rates charged by other professionals with the same level of expertise and experience. The amounts charged for such service are reasonable and there has been no double billing of charges. No meal expense has been billed by any attorney or other Herrera & Boyle personnel. No charges have been incurred or billed for luxury items, first-class airfare, limousines, alcohol, sporting events, or entertainment.
7. For the period December 1, 2010 through May 31, 2011, ACM has incurred legal and consultant fees and expenses in the amount of \$316,848.16 in GUD Docket No. 10038. This figure includes \$159,303.50 in legal fees, \$6,555.03 in legal expenses and \$150,989.63 in consultant fees and expenses. The fees and expenses incurred through May 31, 2011 were necessary to advise ACM on the rate package filing, review the application, identify issues, coordinate activities, retain and work with consultants, engage in discovery, draft pleadings, and prepare for hearing, engage in settlement discussions and participate in Open Meetings.
8. The attorney hourly rates of \$245-\$295, upon which the billings are based, are comparable to hourly rates charges other clients for comparable services during the same time frame. Herrera and Boyle's rates are at the lower end of the range of reasonable hourly rates compared to the rates charges by other lawyers with similar experience providing similar services.
9. The hours spent to perform the tasks assigned to Herrera and Boyle were necessary to complete assigned task in a professional manner on a timely basis. My many years in working with and supervising attorneys and consultants in utility rate cases at the Railroad Commission facilitates efforts to keep rate case expenses reasonable.

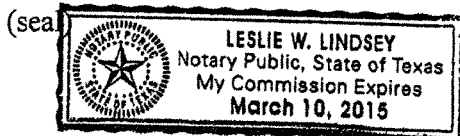
10. Recognizing that another city group had intervened in GUD Docket No. 10038 I directed that care be taken to avoid duplication of effort. Coordination with counsel for SCC led to an agreement to minimize duplication of effort to the extent reasonable possible. In this proceeding, the other city group, "Steering Committee of Cities" ("SCC"), relied upon the analysis of Mr. Jacob Pous and Mr. David Parcell in presenting a complete revenue requirement in its schedules. However, these witnesses were under the direction of ACM and our firm.
11. Jacob Pous is a registered professional engineer. He has participated in well over 400 utility rate proceedings in the United States and Canada during his nearly 40-year career. He is currently a principal of the firm of Diversified Utility Consultants, Inc. His time and efforts in GUD Docket No. 10038 were coordinated with me and attorneys working under my direction. Because of his extensive background and experience, including knowledge of CenterPoint, Jacob Pous was able to work very efficiently and accomplish his assignment with fewer hours than I would expect other consultants or expert witness would require. Jack Pous' time, effort and associated fees of \$44,637.69 are reasonable and necessary.
12. David C. Parcell is a consulting economist and he has provided cost of capital testimony in numerous public utility ratemaking proceedings. He has participated in over 460 utility proceedings before some 50 regulatory agencies in the United States and Canada. He is currently President and Senior Economist of Technical Associates, Inc. His time and efforts in GUD Docket No. 10038 were coordinated with me and attorneys working under my direction. Because of his extensive background and experience, David C. Parcell was able to work very efficiently and accomplish his assignment with fewer hours than I would expect other consultants or expert witness would require. David C. Parcell's time, effort and associated fees of \$25,950 are reasonable and necessary.
13. James R. Dittmer is a Senior Regulatory Consultant. For the past thirty years James R. Dittmer has appeared on behalf of clients in utility rate proceedings before various federal and state regulatory agencies. His time and efforts in GUD Docket No. 10038 were coordinated with me and attorneys working under my direction. Because of his extensive background and experience, James R. Dittmer was able to work very efficiently and accomplish his assignment with fewer hours than I would expect other consultants or expert witness would require. James R. Dittmer's time, effort and associated fees of \$28,988.60 are reasonable and necessary.
14. James W. Daniel is a Vice President of the firm GDS Associates, Inc. For over thirty years James W. Daniel has participated in utility proceedings throughout the United States and provided testimony on revenue requirement, cost of service and rate design studies. His time and efforts in GUD Docket No. 10038 were coordinated with me and attorneys working under my direction. Because of his extensive background and experience, James W. Daniel was able to work very efficiently and accomplish his assignment with fewer hours than I would expect other consultants or expert witness would require. James W. Daniel's time, effort and associated fees of \$51,413.34 are reasonable and necessary.

15. The invoices submitted for reimbursement by Herrera and Boyle include a description of services performed and time expended on each activity. The invoices for GUD Nos. 10038 and 10051 will be provided to the Railroad Commission Staff and CenterPoint and are available for review by any party to GUD Docket Nos. 10038 and 10051. Herrera and Boyle has documented all charges with time sheets, invoices and records. The documentation in this case is similar to that provided in many previous cases at the PUC.
16. Legal expenses connected with GUD Docket Nos. 10038 and 10051 total \$6,555.03. There are no luxury items associated with Herrera and Boyle's expense. The total consist of reimbursable items such as courier services, express mail, postage and shipping, and photocopying. Internal copying charges were limited to 15¢ per page.
17. My responsibilities, as well as other attorneys assigned to GUD Nos. 10038 and 10051, included client communication, strategy development, overall case management, discovery review, review and edit testimony, prepare for hearing and negotiate settlement.
18. To complete GUD Nos. 10038 and 10051, it is estimated that Herrera and Boyle will invoice additional fees and expenses for a total estimate, including fees and expenses of \$18,000 to resolve GUD Docket No. 10038, as well as to resolve the limited issues associated with GUD No. 10051. This estimate is based upon actual experience in previous cases before the Railroad Commission. These estimates are based on experience in previous rate cases at the Railroad Commission. ACM will request reimbursement only for actual amount billed for work that has been performed. When added to fees and expenses actually incurred through March 31, 2011, the total rate case expenses are \$334,848.16 to cover GUD Docket Nos. 10038 and 10051. This amount does not include an estimate for an appeal should there be an appeal of the Commission's order in GUD No. 10051. I do not anticipate an appeal of the final order in GUD No. 10051, but should there be one, my estimate to complete this case would need to be updated.
19. ACM reserves the right to amend this affidavit and its request for reimbursement as more invoice information is gathered over the course of GUD Docket Nos. 10038 and 10051.
20. Statements in this affidavit are true and known by me personally


Alfred R. Herrera

SWORN AND SUBSCRIBED before me on this the 13th day of June 2011.


Notary Public, State of Texas



RESOLUTION NO. R2010-17

**RESOLUTION OF THE CITY OF EL CAMPO
SUSPENDING THE JANUARY 7, 2011, EFFECTIVE DATE
OF CENTERPOINT ENERGY ENTEX AND
CENTERPOINT ENERGY TEXAS GAS SOUTH TEXAS
DIVISION REQUESTED RATE CHANGE TO PERMIT
THE CITY TIME TO STUDY THE REQUEST AND TO
ESTABLISH REASONABLE RATES; APPROVING
COOPERATION WITH OTHER CITIES IN THE
CENTERPOINT SOUTH TEXAS SERVICE AREA TO HIRE
LEGAL AND CONSULTING SERVICES AND TO
NEGOTIATE WITH THE COMPANY AND DIRECT ANY
NECESSARY LITIGATION AND APPEALS;
AUTHORIZING INTERVENTION IN GUD NO. 10,038 AT
THE RAILROAD COMMISSION; AUTHORIZING LEGAL
REPRESENTATION; REQUIRING REIMBURSEMENT OF
CITIES' RATE CASE EXPENSES; FINDING THAT THE
MEETING AT WHICH THIS RESOLUTION IS PASSED IS
OPEN TO THE PUBLIC AS REQUIRED BY LAW;
REQUIRING NOTICE OF THIS RESOLUTION TO THE
COMPANY AND LEGAL COUNSEL**

WHEREAS, on or about December 3, 2010, CenterPoint Energy Entex and CenterPoint Energy Texas Gas (CenterPoint), pursuant to Gas Utility Regulatory Act § 104.102 filed with the City of El Campo a Statement of Intent to change gas rates in all municipalities exercising original jurisdiction within its Southern Division service area effective January 7, 2011; and

WHEREAS, it is reasonable for the City of El Campo to cooperate with other similarly situated cities in conducting a review of the Company's application and to hire and direct legal counsel and consultants and to prepare a common response and to negotiate with the Company and direct any necessary litigation; and

WHEREAS, the Gas Utility Regulatory Act § 104.107 grants local regulatory authorities the right to suspend the effective date of proposed rate changes for ninety (90) days; and

WHEREAS, CenterPoint has filed an application with the Railroad Commission, GUD No. 10,038, that could become the docket into which appeals of city action on the CenterPoint filing are consolidated;

WHEREAS, the Gas Utility Regulatory Act § 103.022 provides that costs incurred by Cities in ratemaking activities are to be reimbursed by the regulated utility.

THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL CAMPO, TEXAS:

1. That the January 7, 2011, effective date of the rate request submitted by CenterPoint on or about December 3, 2010, be suspended for the maximum period allowed by law to permit adequate time to review the proposed changes and to establish reasonable rates.

2. That the City is authorized to cooperate with other cities in the CenterPoint service area to hire and direct legal counsel and consultants, negotiate with the Company, make recommendations to the City regarding reasonable rates and to direct any necessary administrative proceedings or court litigation associated with an appeal of a rate ordinance and the rate case filed with the City or Railroad Commission.

3. That subject to a final determination of legal counsel by a Cities' Steering Committee, Geoffrey Gay of the law firm of Lloyd Gosselink is authorized to represent the City in all matters associated with the CenterPoint application to increase rates and appeals thereof.

4. That intervention in Railroad Commission GUD No. 10,038 be authorized.

5. That the City's reasonable rate case expenses shall be reimbursed by CenterPoint.

6. That it is hereby officially found and determined that the meeting at which this Resolution is passed is open to the public as required by law and the public notice of the time, place, and purpose of said meeting was given as required.

5. A copy of this Resolution shall be sent to Scott Doyle, Regional Vice President Gas Operations, CenterPoint Energy, 1111 Louisiana Street, Houston, Texas 77002, and to Geoffrey Gay, at Lloyd Gosselink, 816 Congress Avenue, Suite 1900, Austin, Texas 78701.

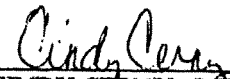
PASSED AND APPROVED THIS THE 13TH DAY OF DECEMBER, 2010.



CITY OF EL CAMPO, TEXAS


RICHARD YOUNG, MAYOR

ATTEST:


CINDY CERNY, CITY SECRETARY

ORDINANCE NO. 20110127-054

**AN ORDINANCE DENYING A RATE INCREASE PROPOSED BY
CENTERPOINT ENERGY ENTEX; ESTABLISHING REASONABLE RATES
AND CHARGES; REQUIRING REIMBURSEMENT OF MUNICIPAL RATE
CASE EXPENSES BY THE REGULATED UTILITY; AND PROVIDING
NOTICE.**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. FINDINGS:

(A) CenterPoint Energy Resources Corp., d/b/a CenterPoint Energy Entex and CenterPoint Energy Texas Gas ("CenterPoint") filed a Statement of Intent with the City on December 3, 2010, to increase its system-wide natural gas rates effective on January 7, 2011.

(B) Due to the timing of CenterPoint's rate filing, the City requested that CenterPoint delay the effective date of the rate increase to allow the City a reasonable amount of time to consider and act on the requested rate increase prior to being imposed on its Austin customers, a request that CenterPoint denied.

(C) The rate increase results in an approximately \$6.5 million increase to CenterPoint's annual revenue requirement and affects CenterPoint's 168 Austin customers by increasing base rates and increasing the customer charge.

(D) Under the Texas Utilities Code §103.001 and under Article XI, §6 of the City Charter, the City has exclusive original jurisdiction to regulate CenterPoint's rate increase.

(E) The rate increase constitutes a "major change" as defined by §104.101 of the Texas Utilities Code and therefore requires consideration by the City within 30 days after the effective date of the rates to determine the propriety of the increase.

(F) Based on information provided by CenterPoint, the increased rates result in an average monthly increase per customer as follows:

Residential - \$4.05 or approximately 25%

General Service-Small Commercial - \$5.00 or approximately 14%

(G) Joining the with other CenterPoint-served cities known as the Alliance of CenterPoint Municipalities ("ACM") will allow the City to participate as a member of ACM before the Gas Utilities Docket No. 10038 being considered by the Railroad Commission of Texas to address CenterPoint's rate increase.

(H) Based in part on the following, the increased rates are not just, are unreasonable, and are not proper:

(1) CenterPoint's rate increase seeks an excessive return on equity of 11.00%;

(2) CenterPoint's rate increase is based upon several adjustments to its cost of service which were recently rejected by the Railroad Commission of Texas;

(3) CenterPoint seeks to increase the Residential customer charge by 62% from \$11.75 to \$19.00 and the General Service-Small Commercial customer charge by 67%, from \$15.00 to \$25.00; the requested design of the rates puts more of the cost of gas utility operations on low-use residential customers who often are in the worst position to absorb such cost increases; and

(4) the request seeks the implementation of a rate mechanism that provides a disincentive to reduce costs and becoming more productive or efficient and creates a disincentive to conserve the use of gas.

PART 2. CenterPoint's rate increase filed with the City on December 3, 2010, is denied.

PART 3. Acting under its authority in §104.110 of the Texas Utilities Code, the City hereby enters an order to establish the rates CenterPoint shall charge are those rates charged by CenterPoint immediately prior to CenterPoint's filing of its Statement of Intent dated December 3, 2010.

PART 4. CenterPoint is directed to reimburse all related municipal rate case expenses incurred by the City as required by §103.022 of the Texas Utilities Code, and CenterPoint shall do so on a monthly basis and within 30 days after submission of the City's invoices for the City's reasonable costs associated with the City's activities related to this rate review or to related proceedings involving CenterPoint before the City, the Railroad Commission of Texas, or any court of law.

PART 5. Notice of this ordinance is hereby provided to CenterPoint Energy Resources Corp.

PART 6. This ordinance takes effect on February 7, 2011.

PASSED AND APPROVED

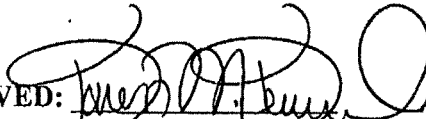
January 27, 2011

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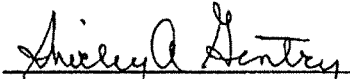


Lee Leffingwell
Mayor

APPROVED:


Karen Kennard
Acting City Attorney

ATTEST:


Shirley A. Gentry
City Clerk



Scott E. Doyle
Division Vice President
Texas Region


December 8, 2010

Mayor Joe D. Hermes
City of Edna
126 W. Main
Edna, Texas 77957

To the Honorable Mayor and City Council of the City of Edna:

CenterPoint Energy Resources Corp., its successors and assigns, hereby accepts the attached Settlement Agreement and agrees to be bound by all of its terms.

CENTERPOINT ENERGY RESOURCES CORP.



Scott E. Doyle
Regional Vice President - Texas

Dated this 8th day of December, 2010.

Attachment

ORDINANCE NO. 2010-20

AN ORDINANCE OF THE CITY OF EDNA, TEXAS, ESTABLISHING A SETTLEMENT AGREEMENT REGARDING THE STATEMENT OF INTENT FILED WITH THE CITY OF EDNA, TEXAS, BY CENTERPOINT ENERGY RESOURCES CORP. ON OR ABOUT DECEMBER 3, 2010; ESTABLISHING THE EFFECTIVE DATE; REPEALING ALL ORDINANCES IN CONFLICT HERewith AND PROVIDING FOR SEVERABILITY.

WHEREAS, CenterPoint Energy Resources Corp., d/b/a CenterPoint Energy Entex and CenterPoint Energy Texas Gas ("CenterPoint"), filed a Statement of Intent to Increase Rates in its South Texas Division with the City of Edna, Texas (the "City of Edna" or the "City") on or about December 3, 2010; and

WHEREAS, CenterPoint proposed identical system-wide rates for its South Texas Division in a Statement of Intent to Increase Rates filed with the Railroad Commission of Texas ("Railroad Commission"), and such proposed rates are currently being reviewed by the Railroad Commission in Gas Services Division Docket No. 10038; and

WHEREAS, after reasonable notice, the City Council of the City of Edna entered into a hearing to determine the propriety of such change; and

WHEREAS, after said hearing, the City Council of the City of Edna has determined that it is in the best interests of the City to enter into the Settlement Agreement established by this ordinance;

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

SECTION 1. THAT CenterPoint is hereby ordered to issue and file with the City tariff sheets identical to the tariff sheets ultimately approved as just and reasonable by Order of the Railroad Commission in Docket No. 10038 and such other docket number(s) as may be assigned to the same cause (the "Order").

SECTION 2. THAT the rates set out in the tariff sheets filed pursuant to Section 1. hereof shall become effective with bills rendered on or after the effective date of the Order and shall be filed with the City within thirty days of the Order.

SECTION 3. THAT until such time as the tariff sheets are filed pursuant to Section 1. hereof, CenterPoint shall continue to charge and observe the level of rates in effect for CenterPoint within the City as of the date of this ordinance.

SECTION 4. THAT this Settlement Agreement shall become effective upon its acceptance by CenterPoint. Such acceptance shall be transmitted to the City within 15 days of the date of this ordinance and shall be in the following form:

"To the Honorable Mayor and City Council of the City of Edna, Texas:

CenterPoint Energy Resources Corp., its successors and assigns, hereby accepts the attached Settlement Agreement and agrees to be bound by all of its terms."

CENTERPOINT ENERGY RESOURCES CORP.

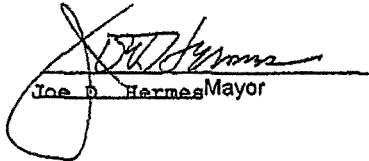
By: _____
Scott Doyle
Regional Vice President - Texas


Dated this _____ day of _____, 201__.

SECTION 5. THAT all Ordinances and parts of Ordinances in conflict herewith are hereby repealed.

SECTION 6. THAT if any provision, section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, void or invalid (or for any reason unenforceable), the validity of the remaining portions of this ordinance shall not be affected thereby, it being the intent of the City of Edna in adopting this ordinance that no portion hereof or provision or regulation contained herein shall become inoperative or fail by any reason of any unconstitutionality or invalidity of any other portion, provision or regulation, and to this end, all provisions of this ordinance are declared to be severable.

PASSED, ADOPTED AND APPROVED at a regular meeting of the City Council of the City of Edna, Texas, on this 7th of December, 2010.


Joe D. Hermes Mayor

ATTEST:

Becky Wiska, City Secretary
(City Secretary or Clerk)

Juarez, Nelda I.

From: Juarez, Nelda I.
Sent: Tuesday, May 17, 2011 9:30 AM
To: Juarez, Nelda I.
Subject: FW: Railroad Commission Statutory Authority
Attachments: TexUtilCode.pdf; 9811 Final Order Nunc Pro Tunc.pdf

From: Juarez, Nelda I.
Sent: Monday, March 21, 2011 4:32 PM
To: 'rcasso@cl.laredo.tx.us'
Cc: laredocarlos@yahoo.com
Subject: FW: Railroad Commission Statutory Authority

I am sending you 2 documents in response to your request. The first document contains two statutory provisions from Chapter 102 of the Texas Utilities Code, which is part of the Gas Utility Regulatory Act. Section 102.001 defines the jurisdictional authority of the Railroad Commission. Basically, the Commission only has original jurisdiction over rates outside the city, unless that city elects to surrender its jurisdiction to the Railroad Commission. The Commission does, however, have appellate jurisdiction over the rates within a city if a party appeal a rate decision to the Commission. Section 102.002 states that the Commission does not have the authority to affect the regulatory jurisdiction of a city that has elected to regulate and supervise a utility. Put together, these sections state that the Commission can only act to change rates within a city if that city surrenders its original jurisdiction (not applicable) or if a party appeals a city's action on rates to the Railroad Commission, as would happen if the city in this case denied the rate request. Since a rate case expense rider to surcharge rate case expenses for litigating the appeal at the Commission would affect rates within a city's jurisdiction, the Commission can only order a surcharge for those cities and environs that participated in the proceeding and were subject to the Commission's jurisdiction.

The second document demonstrates this jurisdictional separation in action. This document is the Final Order issued in GUD No. 9811, which was the docket rate case expense docket associated with CenterPoint's last Texas Coast Division case (9791). In this case, there were initially two city groups, TCUC and GCCC. GCCC settled with the Company and did not participate in the appeal proceeding at the Railroad Commission. Nonetheless, TCUC argued that the GCCC cities, as well as any other cities that were not members of either coalition, should still have pay their proportionate share of the rate case expenses incurred as part of the appeal. In the Order at Finding of Fact No. 14, the Commission rejects this theory, stating

"It is reasonable that rate case expenses incurred in prosecuting GUD Nos. 9791 and 9811 before the Commission be recovered from all customers located within the TCUC cities and environs because these customers primarily benefitted from the participation of TCUC in these proceedings and were subject to the Commission's jurisdiction in GUD Nos. 9791 and 9811."

Therefore, based on the statutory provisions and this recent precedent, individual cities cannot be charged rate case expenses associated with an appeal at the Railroad Commission unless they are parties to that appeal. Cities that do not join a coalition or act to deny a rate request that is appealed to the Commission are not subject to rate case expenses incurred at the Commission.

Hope this helps.

Nelda

GAS REGULATION
Title 3

Law Review and Journal Commentaries

Rate-making in the public utility commission
of Texas. Ron Moss, 44 Baylor L.Rev. 825
(1992).

SUBCHAPTER A. GENERAL POWERS OF RAILROAD COMMISSION

§ 102.001. Railroad Commission Jurisdiction

(a) The railroad commission has exclusive original jurisdiction over the rates and services of a gas utility:

(1) that distributes natural gas or synthetic natural gas in:

(A) areas outside a municipality; and

(B) areas inside a municipality that surrenders its jurisdiction to the railroad commission under Section 103.003; and

(2) that transmits, transports, delivers, or sells natural gas or synthetic natural gas to a gas utility that distributes the gas to the public.

(b) The railroad commission has exclusive appellate jurisdiction to review an order or ordinance of a municipality exercising exclusive original jurisdiction as provided by this subtitle.

Acts 1997, 75th Leg., ch. 166, § 1, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 1233, § 63, eff. Sept. 1, 2001.

Historical and Statutory Notes

Acts 2001, 77th Leg., ch. 1233 rewrote the section, which previously read:

"(a) The railroad commission has exclusive original jurisdiction over the rates and services of a gas utility distributing natural gas or synthetic natural gas in areas outside a municipality. The railroad commission also has exclusive original jurisdiction over the rates and services of a gas utility that transmits, transports, delivers, or sells natural gas or synthetic natural gas

to a gas utility that distributes the gas to the public.

"(b) The railroad commission has exclusive appellate jurisdiction to review an order or ordinance of a municipality as provided by this subtitle."

Prior Laws:

Acts 1983, 68th Leg., p. 1188, ch. 263, § 20.
Vernon's Ann.Civ.St. art. 1446e, § 2.01(b).

Administrative Code References

Commission rules, see 16 TAC § 7.1 et seq.

Library References

Gas ¶2.
Westlaw Topic No. 190.
C.J.S. Gas §§ 6 to 13, 15 to 19.

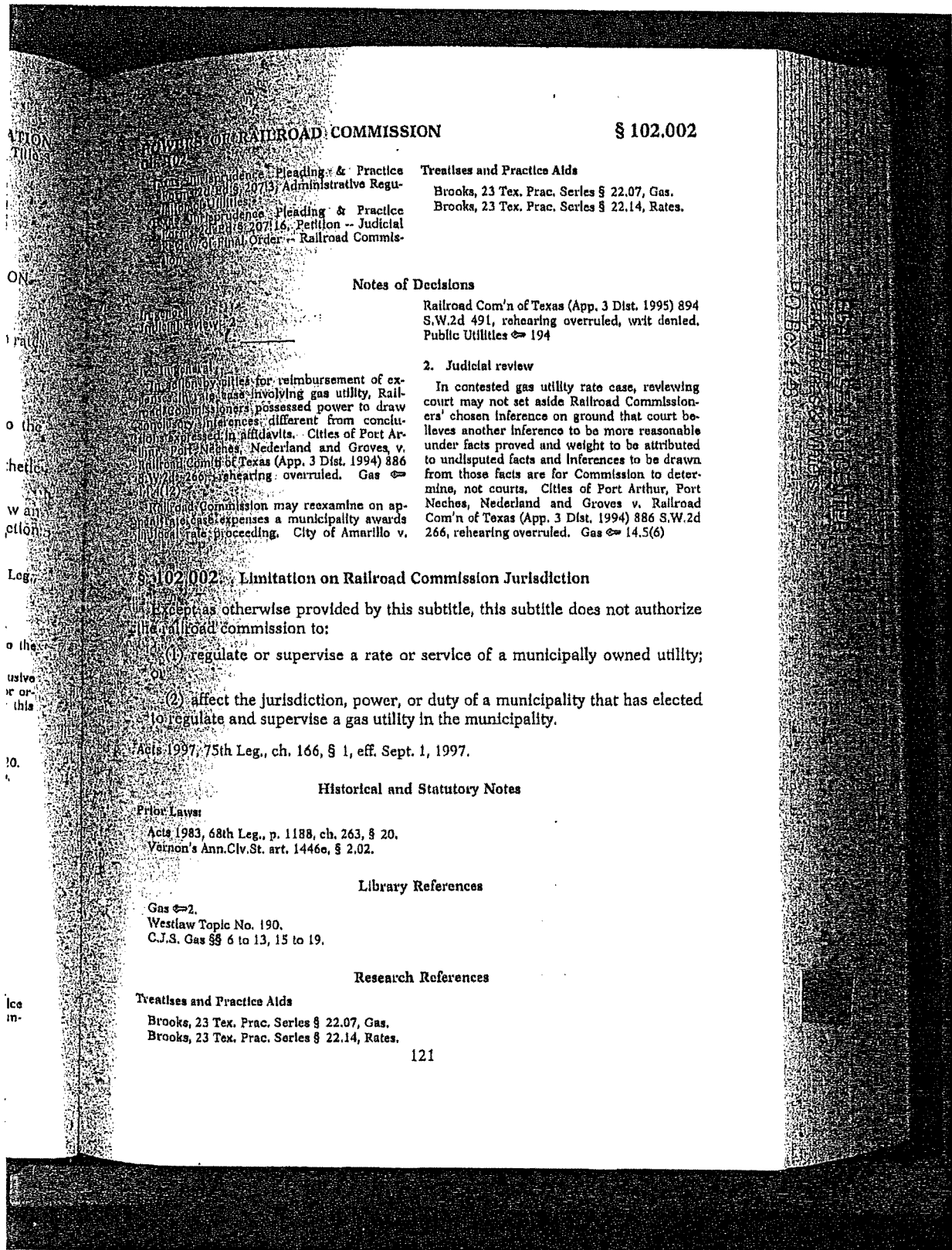
Research References

Encyclopedias

TX Jur. 3d Public Utilities § 131, Area Outside Municipality.

Forms

Texas Jurisprudence Pleading & Practice
Forms 2d Ed § 104:1, Introductory Comments.



POWERS OF RAILROAD COMMISSION

§ 102.002

Administrative Regulation
Pleading & Practice
Administrative Regulation
Pleading & Practice
Judicial Review
Original Order -- Railroad Commission

Treatises and Practice Aids

Brooks, 23 Tex. Prac. Series § 22.07, Gas.
Brooks, 23 Tex. Prac. Series § 22.14, Rates.

Notes of Decisions

Railroad Com'n of Texas (App. 3 Dist. 1995) 894 S.W.2d 491, rehearing overruled, writ denied. Public Utilities ¶ 194

2. Judicial review

In contested gas utility rate case, reviewing court may not set aside Railroad Commissioners' chosen inference on ground that court believes another inference to be more reasonable under facts proved and weight to be attributed to undisputed facts and inferences to be drawn from those facts are for Commission to determine, not courts. Cities of Port Arthur, Port Neches, Nederland and Groves v. Railroad Com'n of Texas (App. 3 Dist. 1994) 886 S.W.2d 266, rehearing overruled. Gas ¶ 14.5(6)

§ 102.002: Limitation on Railroad Commission Jurisdiction

Except as otherwise provided by this subtitle, this subtitle does not authorize the railroad commission to:

- (1) regulate or supervise a rate or service of a municipally owned utility;
- (2) affect the jurisdiction, power, or duty of a municipality that has elected to regulate and supervise a gas utility in the municipality.

Acts 1997, 75th Leg., ch. 166, § 1, eff. Sept. 1, 1997.

Historical and Statutory Notes

Prior Laws

Acts 1983, 68th Leg., p. 1188, ch. 263, § 20.
Vernon's Ann.Civ.St. art. 1446e, § 2.02.

Library References

Gas ¶ 2.
Westlaw Topic No. 190.
C.J.S. Gas §§ 6 to 13, 15 to 19.

Research References

Treatises and Practice Aids

Brooks, 23 Tex. Prac. Series § 22.07, Gas.
Brooks, 23 Tex. Prac. Series § 22.14, Rates.

BEFORE THE
RAILROAD COMMISSION OF TEXAS

RATE CASE EXPENSES SEVERED	§	
FROM GAS UTILITIES DOCKET	§	GAS UTILITIES DOCKET
NO. 9791	§	NO. 9811
	§	

FINAL ORDER NUNC PRO TUNC

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 2004 & 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, and is subject to the jurisdiction of the Railroad Commission of Texas ("Commission").
2. CenterPoint owns and operates a gas distribution system that provides gas service to customers in its 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.
3. On March 6, 2008, CenterPoint filed a statement of intent to increase rates in the unincorporated areas of the TCD. On April 15, 2008, CenterPoint filed an appeal of the actions of the Cities of Baytown, Clute and Shoreacres, Texas which was docketed as Gas Utilities Docket No. 9796. On June 4, 2008, CenterPoint filed an appeal of the actions of the Cities of Freeport, Pearland, West Columbia, and Angleton, Texas which was docketed as Gas Utilities Docket No. 9803. On July 9, 2008, CenterPoint filed an appeal of the actions of the Cities of League City and Wharton, Texas which was docketed as Gas Utilities Docket No. 9808. Gas Utilities Docket Nos. 9791, 9796, 9803 and 9808 were consolidated into one docket, Gas Utilities Docket No. 9791 ("GUD No. 9791").
4. On December 16, 2008, the Commission issued a final order in GUD No. 9791.
5. On April 15, 2008, the Texas Coast Utilities Coalition ("TCUC") intervened as a party to GUD No. 9791 and is a party in this docket. On July 28, 2008, the State of Texas ("STATE") intervened as a party to GUD No. 9791 and is a party in this docket.

GUD No. 9811

Final Order Nunc Pro Tunc

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6. On July 9, 2009, CenterPoint and TCUC filed a stipulation and partial settlement agreement (the "Agreement") in order to settle several issues presented in this docket and therefore avoid a fully contested case hearing. In the Agreement, both TCUC and CenterPoint stipulated to the admissibility of the direct and rebuttal testimony submitted by each party. The Agreement also stipulates that the requested amounts of rate case expenses, including estimated future expenses, were reasonably and necessarily incurred.

7. A final hearing in GUD No. 9811 was conducted on July 20, 2009.

8. CenterPoint's witnesses established that the hourly rates charged by consulting attorneys, and special service consultants were reasonable; the number of consulting attorneys working on the underlying docket was minimized; the invoices accurately documented hours worked and services provided; there were no time entries exceeding 12.0 hours per day; and there were no disbursements for hotels, valet parking, designer coffee, airfare, or meals requiring special scrutiny or disallowment.

9. TCUC's witnesses established that the hourly rates charged by consulting attorneys, and special service consultants were reasonable; the number of consulting attorneys working on the underlying docket was minimized; the invoices accurately documented hours worked and services provided; there were no time entries exceeding 12.0 hours per day; and there were no disbursements for hotels, valet parking, designer coffee, airfare, or meals requiring special scrutiny or disallowment.

10. The Examiners reviewed all invoices supporting the rate case expenses incurred by CenterPoint and did not find any duplication of services or testimony. There is no evidence in the record that any of the expenses submitted for reimbursement were not necessarily incurred in the prosecution of CenterPoint's rate case proceeding before the Commission.

11. The evidence submitted establishes that CenterPoint's total rate case expenses of \$1,045,845 are reasonable and were necessary to prosecute GUD Nos. 9791 and 9811. Of that amount, \$695,845 are actual expenses and \$350,000 are estimated future expenses.

12. The evidence submitted establishes that TCUC's total rate case expenses of \$755,462 are reasonable and were necessary to prosecute GUD Nos. 9791 and 9811. Of that amount, \$580,462 are actual expenses and \$175,000 are estimated future expenses.

13. It is reasonable that CenterPoint recover all rate case expenses approved herein over a period of twenty-four (24) months. It is reasonable that CenterPoint recover rate case expenses by using a per bill surcharge.

14. It is reasonable that rate case expenses incurred in prosecuting GUD Nos. 9791 and 9811 before the Commission be recovered from all customers located within the TCUC cities and environs because these customers primarily benefitted from the participation of TCUC in these proceedings and were subject to the Commission's jurisdiction in GUD Nos. 9791 and 9811.

15. A rate case expense surcharge of \$0.50 per bill for Residential customers, \$0.58 per bill for Small Commercial customers, and \$10.67 per bill for Large Commercial customers is reasonable because these

GUD No. 9811

Final Order Nunc Pro Tunc

Page 3 of 4

surcharges are designed to recover rate case expenses over a twenty-four (24) month period, based on non-gas revenues.

16. It is reasonable to require CenterPoint to true-up rate case expenses after the twenty-four month recovery period because it will allow the utility to recover the exact amount of rate case expenses without over-recovering or under-recovering the utility's rate case expenses from customers.

17. It is reasonable that CenterPoint file a report detailing recovery with the Commission forty-five (45) days after the end of December 2010 and June 2011, identifying the beginning balance for the period, the recovery by month with monthly volumes, the interest calculation and the ending balance. It is reasonable that the report include a reconciliation of the estimated rate case expense approved by providing invoices submitted to the total authorized recovery of the estimated rate case expense.

CONCLUSIONS OF LAW

1. CenterPoint Energy Resources Corp. d/b/a CenterPoint Energy Entex and CenterPoint Energy Texas Gas ("CenterPoint") is a gas utility as defined in TEX. UTIL. CODE ANN. §§ 101.003(7), 121.001 (Vernon 2007 & Supp. 2008) and is subject to the Commission's jurisdiction under TEX. UTIL. CODE ANN. §§ 104.001, 121.051 (Vernon 2007 & Supp. 2008).
2. Each party seeking reimbursement for its rate case expenses has the burden to prove the reasonableness of such rate case expenses by a preponderance of the evidence, under 16 TEX. ADMIN. CODE § 7.5530 (2002).
3. The rate case expenses enumerated in the findings of fact herein are reasonable and comply with 16 TEX. ADMIN. CODE ANN. § 7.5530 (2002).
4. The Commission has the authority to allow CenterPoint to recover rate case expenses through a surcharge on its rates, under TEX. UTIL. CODE ANN. § 104.051 (Vernon 2007 & Supp. 2008).

IT IS THEREFORE ORDERED that CenterPoint is authorized to recover all rate case expenses incurred in GUD No. 9791 and approved by this order by means of a surcharge on its rates charged to ratepayers subject to the final orders entered in GUD No. 9791. A rate case expense surcharge of \$0.50 per bill for Residential customers, \$0.58 per bill for Small Commercial customers, and \$10.67 per bill for Large Commercial customers to be implemented over a period of approximately twenty-four (24) months, commencing with the date this final order becomes effective. The per bill surcharge shall be a separate line item on each customer's bill clearly identifying the recovery rate and amount recovered each month.

IT IS FURTHER ORDERED that CenterPoint shall true-up any amounts over-recovered or under-recovered at the end of the twelve month recovery period. If at the end of the twenty-four (24) month recovery period, CenterPoint is either over or under recovered, the utility shall file a report with the Director of the Gas Services Division identifying the over or under recovered amount and the estimated number of months required to fully collect any under recovered amount. All over-recovered amounts shall be refunded, with interest, in the following billing cycle.

GUD No. 9811

Final Order Nunc Pro Tunc

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IT IS FURTHER ORDERED that any proposed findings of fact and conclusions of law not specifically adopted herein are **DENIED**. IT IS ALSO ORDERED that each exception to the Examiners' Proposal for Decision not expressly granted herein is overruled and all pending motions and requests for relief not previously granted herein are hereby **DENIED**.

IT IS FURTHER ORDERED THAT CenterPoint may begin surcharging rates for rate case expenses on and after the date of this Order. This Order will not be final and appealable 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.

Each exception to the examiners' proposal for decision not expressly granted herein is overruled. 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.

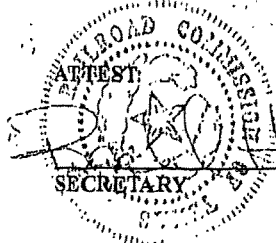
SIGNED this 21 day of September, 2010.

RAILROAD COMMISSION OF TEXAS


CHAIRMAN VICTOR CARRILLO


COMMISSIONER ELIZABETH A. JONES


COMMISSIONER MICHAEL L. WILLIAMS



SECRETARY

SERVICE LIST
Gas Utilities Docket No. 9811
Rate Case Expenses Severed from Gas Utility Docket No. 9791
Examiner: John Chakales
Co Examiner: Mark Evarts

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ORDINANCE NO. 2011-O-044

AN ORDINANCE OF THE CITY OF LAREDO, TEXAS, ESTABLISHING A SETTLEMENT AGREEMENT REGARDING THE STATEMENT OF INTENT FILED WITH THE CITY OF LAREDO, TEXAS, BY ~~CENTERPOINT ENERGY RESOURCES CORP.~~ ON OR ABOUT DECEMBER 3, 2010; ESTABLISHING THE EFFECTIVE DATE; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH AND PROVIDING FOR SEVERABILITY.

WHEREAS, CenterPoint Energy Resources Corp., d/b/a CenterPoint Energy Entex and CenterPoint Energy Texas Gas ("CenterPoint"), filed a Statement of Intent to Increase Rates in its South Texas Division with the City of Laredo, Texas (the "City of Laredo" or the "City") on or about December 3, 2010; and

WHEREAS, CenterPoint proposed identical system-wide rates for its South Texas Division in a Statement of Intent to Increase Rates filed with the Railroad Commission of Texas ("Railroad Commission"), and such proposed rates are currently being reviewed by the Railroad Commission in Gas Services Division Docket No. 10038; and

WHEREAS, after reasonable notice, the City Council of the City of Laredo entered into a hearing to determine the propriety of such change; and

WHEREAS, after said hearing, the City Council of the City of Laredo has determined that it is in the best interests of the City to enter into the Settlement Agreement established by this ordinance;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE
CITY OF LAREDO:**

SECTION 1. THAT CenterPoint is hereby ordered to issue and file with the City tariff sheets identical to the tariff sheets ultimately approved as just and reasonable by Order of the Railroad Commission in Docket No. 10038 and such other docket number(s) as may be assigned to the same cause (the "Order").

SECTION 2. THAT the rates set out in the tariff sheets filed pursuant to Section 1. hereof shall become effective with bills rendered on or after the effective date of the Order and shall be filed with the City within thirty days of the Order.

SECTION 3. THAT until such time as the tariff sheets are filed pursuant to Section 1. hereof, CenterPoint shall continue to charge and observe the level of rates in effect for CenterPoint within the City as of the date of this ordinance.

SECTION 4. THAT this Settlement Agreement shall become effective upon its acceptance by CenterPoint. Such acceptance shall be transmitted to the City within 15 days of the date of this ordinance and shall be in the following form:

"To the Honorable Mayor and City Council of the City of Laredo, Texas:

CenterPoint Energy Resources Corp., its successors and assigns, hereby accepts the attached Settlement Agreement and agrees to be bound by all of its terms."

CENTERPOINT ENERGY RESOURCES CORP.

By: 

Scott Doyle
Regional Vice President - Texas

Dated this 11TH day of APRIL 2011."


SECTION 5. THAT all Ordinances and parts of Ordinances in conflict herewith are hereby repealed.

SECTION 6. THAT if any provision, section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, void or invalid (or for any reason unenforceable), the validity of the remaining portions of this ordinance shall not be affected thereby, it being the intent of the City of Laredo in adopting this ordinance that no portion hereof or provision or regulation contained herein shall become inoperative or fail by any reason of any unconstitutionality or invalidity of any other portion, provision or regulation, and to this end, all provisions of this ordinance are declared to be severable.


PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF
LAREDO ON THIS THE 4th DAY OF April, 2011.



RAUL G. SALINAS
MAYOR

ATTEST:


GUSTAVO GUEVARA, JR.
CITY SECRETARY

APPROVED AS TO FORM:


RAUL CASSO
CITY ATTORNEY

Billing Determinants by Volumetric Consumption

GUD 10051
Stipulation and Partial Settlement Agreement
Exhibit G
Page 1 of 2

Action Taken	ACM	SCC	No Coalition	Total Cities	RES Ccf	GSS Ccf	GSL Ccf	Total Ccf
Denied	11	20		31	21,051,194	11,304,737	5,518,131	37,874,062
Alice	1			1	859,192	564,479	267,853	1,691,524
Aransas Pass		1		1	269,768	279,300	131,723	680,791
Austin	1			1	63,990	1,330	0	65,320
Bastrop	1			1	578,274	469,632	159,110	1,207,016
Bishop		1		1	208,415	34,846	0	243,261
Buda	1			1	614,649	244,500	170,970	1,030,119
Cibolo	1			1	36,865	118,129	88,358	241,352
Converse		1		1	744,841	227,060	190,550	1,162,451
El Campo		1		1	862,011	352,370	427,983	1,642,364
Elgin		1		1	634,826	299,060	43,689	977,575
Garden Ridge		1		1	523,582	29,372	0	552,954
Giddings		1		1	310,825	255,472	100,990	667,287
Ingleside		1		1	187,969	111,990	19,190	319,149
Jourdanton	1			1	78,414	53,280	69,850	201,544
Kingsville		1		1	1,180,761	503,728	224,246	1,908,735
Kyle	1			1	2,180,745	234,570	137,310	2,552,625
Lacoste		1		1	84,589	19,413	0	84,002
LaGrange		1		1	390,079	278,990	20,970	690,039
Mathis		1		1	223,752	97,800	19,910	341,462
New Braunfels	1			1	2,428,825	2,028,864	1,066,389	5,522,078
Orange Grove		1		1	54,311	46,551	0	100,862
Palacios		1		1	264,943	106,860	0	371,803
Point Comfort		1		1	59,591	16,733	0	76,324
Port Lavaca		1		1	657,593	364,880	157,380	1,179,853
Portland		1		1	651,319	221,270	196,580	1,069,169
Poteet		1		1	126,706	50,384	0	177,090
San Marcos	1			1	1,274,221	1,600,986	821,788	3,696,995
Smithville	1			1	406,415	121,847	54,260	582,522
Taft		1		1	259,372	89,440	0	348,812
Universal City	1			1	1,109,346	490,823	208,800	1,808,969
Victoria		1		1	3,747,005	1,992,778	940,232	6,680,015
No Action			16	16	2,540,402	1,550,263	708,248	4,798,913
Aqua Dulce			1	1	37,080	7,292	0	44,372
Driscoll			1	1	31,728	27,060	0	58,788
Floresville			1	1	307,751	273,300	294,705	875,756
Kames City			1	1	165,384	78,580	31,780	275,744
Marion			1	1	38,408	55,124	0	93,532
Niederwald			1	1	0	6,762	0	6,762
Odem			1	1	114,676	43,670	0	158,346
Refugio			1	1	229,798	116,294	86,910	433,002
Schulenberg			1	1	289,297	227,689	20,400	537,386
Selma			1	1	1,968	33,279	13,340	48,587
Beeville			1	1	505,182	368,100	151,450	1,024,732
Gregory			1	1	128,185	12,690	1,520	142,395
Hondo			1	1	454,223	238,033	108,143	800,399
Ingleside on Bay			1	1	26,762	2,130	0	28,892
Seadrift			1	1	49,526	16,370	0	65,896
Yorktown			1	1	160,434	43,890	0	204,324
Settlement			9	9	6,164,000	3,701,997	2,176,251	12,042,248
Edna			1	1	423,010	189,650	68,960	681,620
Falls City			1	1	42,140	26,030	0	68,170
Freer			1	1	83,790	52,870	0	136,660
Ganado			1	1	139,166	43,520	29,080	211,766
Laredo			1	1	4,787,137	2,738,767	1,587,761	9,113,665
Poth			1	1	115,634	29,635	112,040	257,309
Premont			1	1	100,197	31,667	0	131,864
Runge			1	1	75,559	11,858	0	87,417
Schertz			1	1	397,367	578,000	378,410	1,353,777
Surrendered OJ	1	2	7	10	3,263,104	2,207,801	705,387	6,176,272
Eagle Lake			1	1	308,503	74,590	42,850	425,943
Hallettsville			1	1	275,491	197,474	26,970	499,935
Kenedy			1	1	212,005	101,810	28,360	342,175
Nordheim			1	1	33,509	5,133	0	38,642
Pleasanton		1		1	243,379	318,874	57,180	619,433
San Diego			1	1	191,577	68,775	20,147	280,499
Seguin	1			1	1,345,867	1,065,955	409,060	2,820,882
Sinton			1	1	333,698	195,560	32,280	561,538
Weimar			1	1	217,954	118,880	88,520	425,354
Goliad		1		1	101,121	60,750	0	161,871
Environ			1	1	2,183,215	1,087,057	1,626,644	4,896,916
South Texas Env.			1	1				
Total	12	22	33	67	35,201,915	19,851,855	10,734,641	65,788,411

Action Taken	ACM	SCC	No Coalition	Total Cities	RES Cust	GSS Cust	GSL Cust	Total Count
Denied	11	20		31	67524	5245	162	72931
Alice	1			1	3656	298	8	3962
Aransas Pass		1		1	1298	138	3	1439
Austin	1			1	160	8	0	168
Bastrop	1			1	1556	203	5	1764
Bishop		1		1	811	32	0	843
Buda	1			1	1654	130	6	1790
Cibolo	1			1	111	28	2	141
Converse		1		1	2395	90	4	2489
El Campo		1		1	2431	219	13	2663
Elgin		1		1	1646	127	2	1775
Garden Ridge		1		1	943	32	0	975
Giddings		1		1	888	152	1	1041
Ingleside		1		1	891	58	1	950
Jourdanton	1			1	368	41	2	411
Kingsville		1		1	4834	260	7	5101
Kyle	1			1	6427	154	2	6583
Lacoste		1		1	217	20	0	237
LaGrange		1		1	1163	174	1	1338
Mathis		1		1	912	61	1	974
New Braunfels	1			1	7071	697	30	7798
Orange Grove		1		1	213	35	0	248
Palacios		1		1	980	82	0	1062
Point Comfort		1		1	228	19	0	247
Port Lavaca		1		1	2381	169	5	2555
Portland		1		1	2760	124	7	2891
Poteet		1		1	567	47	0	614
San Marcos	1			1	4166	617	28	4811
Smithville	1			1	1101	124	1	1226
Taft		1		1	901	53	0	954
Universal City	1			1	3185	223	8	3414
Victoria		1		1	11610	830	27	12467
No Action			16	16	8871	889	18	9778
Aqua Dulce			1	1	158	14	0	172
Driscoll			1	1	127	8	0	135
Floresville			1	1	1083	123	6	1212
Kames City			1	1	529	46	1	576
Marion			1	1	131	22	0	153
Niederwald			1	1	0	1	0	1
Odem			1	1	465	31	0	496
Refugio			1	1	762	66	3	831
Schulenberg			1	1	779	131	1	911
Selma			1	1	6	19	1	26
Beeville			1	1	2057	189	2	2248
Gregory			1	1	528	15	1	544
Hondo			1	1	1357	145	3	1505
Ingleside on Bay			1	1	133	6	0	139
Seadrift			1	1	238	23	0	261
Yorktown			1	1	518	50	0	568
Settlement			9	9	32169	1648	64	33881
Edna			1	1	1233	108	3	1344
Falls City			1	1	133	17	0	150
Freer			1	1	380	35	0	415
Ganado			1	1	409	38	1	448
Laredo			1	1	27690	1195	49	28934
Poth			1	1	388	29	1	418
Premont			1	1	474	32	0	506
Runge			1	1	253	13	0	266
Schertz			1	1	1209	181	10	1400
Surrendered OJ	1	2	7	10	10564	1176	23	11763
Eagle Lake			1	1	820	63	1	884
Hallettsville			1	1	792	136	1	929
Kenedy			1	1	708	73	1	782
Nordheim			1	1	100	11	0	111
Pleasanton		1		1	1136	155	2	1293
San Diego			1	1	848	47	1	896
Seguin	1			1	3984	466	13	4463
Sinton			1	1	1283	105	2	1370
Weimar			1	1	587	76	2	665
Goliad		1		1	326	44	0	370
Environ			1	1	7104	592	25	7722
South Texas Env.			1	1				
Total	12	22	33	67	126232	9550	292	136075

**BEFORE THE
RAILROAD COMMISSION OF TEXAS**

RATE	CASE	EXPENSE	ISSUES	§	
SEVERED FROM GUD NOS. 10038, 10047,				§	GAS UTILITIES DOCKET No. 10051
10052, 10058, 10070 and 10071				§	

PROPOSED 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. CenterPoint provides natural gas distribution service to approximately 136,000 customers in its South Texas Division.
3. On December 3, 2011, CenterPoint filed this Statement of Intent to Increase Rates with the Railroad Commission of Texas ("Commission") and each of the cities in the South Texas Division retaining original jurisdiction.
4. On January 12, 2011, CenterPoint also filed its Appeal of CenterPoint Energy Resources Corp., d/b/a CenterPoint Energy Entex and CenterPoint Energy Texas Gas from the actions of the cities of Alice, Bastrop, Buda, Cibolo, Jourdanton, Kyle, New Braunfels, and San Marcos. The case was docketed as GUD No. 10047.
5. On February 2, 2011, CenterPoint also filed its Appeal of CenterPoint Energy Resources Corp., d/b/a CenterPoint Energy Entex and CenterPoint Energy Texas Gas from the actions of the cities of Smithville and Universal City. The case was docketed as GUD No. 10052.
6. On January 17, 2011, CenterPoint also filed its Appeal of CenterPoint Energy Resources Corp., d/b/a CenterPoint Energy Entex and CenterPoint Energy Texas Gas from the actions of the city of Austin. The case was docketed as GUD No. 10058.
7. On April 11, 2011, CenterPoint also filed its Appeal of CenterPoint Energy Resources Corp., d/b/a CenterPoint Energy Entex and CenterPoint Energy Texas Gas from the actions of the cities of Aransas Pass, Bishop, Converse, El Campo, Elgin, Garden Ridge,

- Giddings, Port Lavaca, Portland, Poteet, and Victoria. The case was docketed as GUD No. 10070.
8. On April 13, 2011, CenterPoint also filed its Appeal of CenterPoint Energy Resources Corp., d/b/a CenterPoint Energy Entex and CenterPoint Energy Texas Gas from the actions of the cities of Palacios and Taft. The case was docketed as GUD No. 10071.
 9. Dockets No. 10047, 10052, 10058, 10070 and 10071 were consolidated into GUD No. 10038.
 10. The following entities intervened in GUD No. 10038:
 - a. The cities of Aransas Pass, Bishop, Converse, El Campo, Elgin, Garden Ridge, Giddings, Goliad, Ingleside, Kingsville, La Coste, La Grange, Mathis, Orange Grove, Palacios, Pleasonton, Point Comfort, Portland, Port Lavaca, Poteet, Taft, and Victoria (collectively “Steering Committee of Cities” or “SCC”);
 - b. The cities of Alice, Austin, Bastrop, Buda, Cibolo, Jourdanton, Kyle, New Braunfels, San Marcos, Seguin, Smithville, and Universal City (collectively “Alliance of CenterPoint Municipalities” or “ACM”);
 - c. Railroad Commission of Texas (“Staff”).
 11. The following municipalities surrendered their original jurisdiction to the Commission: Eagle Lake, Hallettsville, Kenedy, Nordheim, Pleasonton, San Diego, Seguin, Sinton and Weimar.
 12. The Texas Ratepayers’ Organization to Save Energy (“Texas ROSE”) also filed a Motion to Intervene.
 13. Texas ROSE sought to challenge the proposed settlement of the parties.
 14. Evidence at the hearing established that the organization’s articles of incorporation were revoked in 1996. The Texas ROSE was unable to establish that any of its members were affected by the rates at issue in this proceeding. The motion to intervene filed by Texas ROSE was subsequently denied.
 15. ACM, SCC, and CenterPoint reached an agreement regarding the issues raised in GUD No. 10038. Staff recommended that the Commission approve the agreement.
 16. The settlement agreement was approved and a Final Order was issued on April 18, 2011.
 17. Review of the stipulated rate case expenses and all related issues were severed into this proceeding.

18. CenterPoint, ACM, and SCC, the parties to this proceeding, filed a *Stipulation and Partial Settlement Agreement* in this proceeding.
19. The total actual and estimated rate case expenses of the parties were \$1,535,125.71. CenterPoint requested \$982,665.83 in actual expenses and \$15,817.17 in estimated rate case expenses. ACM requested \$316,848.16 in actual expenses and \$18,000.00 in estimated rate case expenses. SCC requested \$179,794.55 in actual expenses and \$22,000.00 in estimated rate case expenses.
20. The Commission has consistently limited meal expenditures to \$25 per person per meal.
21. CenterPoint included meal receipts for three individual meals in excess of \$25. The three meal expenses included in the receipts filed in support of rate cases expenses were for \$38.14, \$37.12, and \$37.12.
22. It is reasonable to adjust the meal expenses set out in Finding of Fact No. 21, to \$25.00. Thus, an overall downward adjustment totaling \$37.38 to CenterPoints request is reasonable.
23. CenterPoint has established that actual rate case expenses in the amount of \$982,628.45 and estimated expenses in the amount of \$15,817.17 are just and reasonable.
24. After the parties in GUD No. 10038 reached a settlement agreement and after the hearing in that docket, ACM filed a motion in support of the interim appeal filed by Texas ROSE.
25. Texas ROSE sought party status in GUD No. 10038 in order to challenge the settlement agreement reached by the parties in that case.
26. ACM was a signatory to the settlement agreement in GUD No. 10038 and all signatories were expressly required to support and seek approval of the agreement.
27. The brief filed in support of Texas ROSE by ACM was not reasonably necessary to the resolution of GUD No. 10038.
28. All expenses of ACM required to prepare the brief filed in GUD No. 10038 in support of Texas ROSE's interim appeal and all expenses of CenterPoint responding to ACM's brief were not necessary to the resolution of GUD No. 10038 and should not be included in the rate case expense request of the parties.
29. ACM and CenterPoint recorded \$5,010.00 in expenses related to the brief filed by ACM in support of the interim appeal filed by Texas ROSE. Thus, an overall adjustment to the rate case expenses of ACM in the amount of \$5,010.00 is just and reasonable.
30. ACM has established that \$311,813.15 in actual expenses and \$18,000.00 in estimated rate case expenses are just and reasonable.

31. In addition to the environs, there are sixty-five (65) municipalities within the South Texas Division. Thirty (30) municipalities denied the requested rate increase and joined either the ACM or SCC coalitions. The remaining thirty-five (35) municipalities took no action and allowed the proposed rates to go into effect by operation of law, surrendered their jurisdiction to the Commission, or reached a separate settlement with the utility.
32. The expenses related to filing the *Statement of Intent* proceeding in all regulatory jurisdictions, including the publication of notice of the proposed expenses, are required regulatory expenses.
33. It is reasonable that all required regulatory expenses be allocated among all customers within the South Texas Division.
34. The total regulatory expenses of CenterPoint were \$158,543 and it is reasonable that these expenses be allocated among all customers within the South Texas Division.
35. The *Statement of Intent* was filed on December 3, 2010.
36. The cities of Edna, Ganado, Falls City, Freer, Poth, Shertz and Premont all reached a settlement with CenterPoint within 35 days of the filing.
37. Sixteen municipalities took no action and the proposed rates went into effect by operation of law.
38. ACM and SCC reached a settlement with CenterPoint in April of 2011.
39. The cities of Laredo and Runge entered into a separate settlement agreement with CenterPoint in April of 2011.
40. CenterPoint's litigation expenses through April of 2011 in the amount of \$824,085.45 should be allocated to the ACM and SCC municipalities, the cities of Laredo and Runge, the municipalities that ceded jurisdiction to the Commission, and the environs of the South Texas Division.
41. All municipalities identified in Finding of Fact No. 40 continued to negotiate with CenterPoint through April of 2011 and it is reasonable that CenterPoint's litigation expenses through that month be allocated among all active participants in the *Statement of Intent* proceeding.
42. The litigation expenses of ACM and SCC in the amount of \$491,632.71, should be allocated to the ACM and SCC municipalities, the municipalities that ceded jurisdiction to the Commission, and the environs of the South Texas Division.

43. It is not reasonable that municipalities that did not join either ACM or SCC be allocated the litigation expenses of those municipal coalitions as they did not review, control, or participate in the litigation decisions of the those coalitions.
44. The estimated expenses of CenterPoint in the amount of \$15,817.17, the estimated expenses of ACM in the amount of \$18,000.00, and the estimated expenses of SCC in the amount of \$22,000.00 should be allocated to the ACM and SCC municipalities, the municipalities that ceded jurisdiction to the Commission, and the environs of the South Texas Division
45. Recovery of rate case expenses over a thirty-six (36) month period is reasonable.
46. Allocation based upon customer count is reasonable and consistent with Commission precedent and allocation of other utility expenses.
47. Based upon the allocations set forth in Findings of Fact Nos. 31 through 46 the total amount of rate case expenses to be recovered from the ACM and SCC municipalities, the municipalities that ceded jurisdiction to the Commission, and the environs within the south Texas Division is just and reasonable.
48. Based upon the allocations set forth in Findings of Fact Nos. 31 through 46 a rate case expenses surcharge of \$0.39 to the ACM and SCC municipalities, the municipalities that ceded jurisdiction to the Commission, and the environs within the south Texas Division is just and reasonable to recover \$1,281,347.56.

CONCLUSIONS OF LAW

1. CenterPoint Energy 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 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 proceeding 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 proceeding, TEX. UTIL. CODE ANN. §§ 102.001 and 103.055.

IT IS THEREFORE ORDERED it is therefore ordered that the attached tariff is just and reasonable.

IT IS FURTHER ORDERED that rate case expenses in the amount of \$1,281,347.68 be recovered from customer through a surcharge of \$0.39 per month for 36 months from customers within the ACM and SCC municipalities, the municipalities that ceded jurisdiction to the Commission, and the environs within the South Texas Division.

IT IS FURTHER ORDERED that the CenterPoint shall file annually, due on the 15th of each July, a report with the RRC Gas Services Division. The report shall detail the monthly collections for RCE surcharge and show the outstanding balance.

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.

SIGNED this ____ day of May, 2012.

RAILROAD COMMISSION OF TEXAS

CHAIRMAN BARRY T. SMITHERMAN

COMMISSIONER DAVID PORTER

COMMISSIONER BUDDY GARCIA

ATTEST:

SECRETARY

**CENTERPOINT ENERGY RESOURCES CORP.
D/B/A CENTERPOINT ENERGY ENTEX
AND CENTERPOINT ENERGY TEXAS GAS
SOUTH TEXAS DIVISION
RATE SHEET
RATE SCHEDULE NO. RCE-1**

APPLICATION OF SCHEDULE

This schedule is applicable to any customer served under residential, general service-small, general service-large rate schedules in the following cities and South Texas Division Environs:

Aransas Pass, Bishop, Converse, El Campo, Elgin, Garden Ridge, Giddings, Goliad, Ingleside, Kingsville, La Coste, La Grange, Mathis, Orange Grove, Palacios, Pleasonton, Point Comfort, Portland, Port Lavaca, Poteet, Taft, and Victoria (collectively "Steering Committee of Cities" or "SCC"); the cities of Alice, Austin, Bastrop, Buda, Cibolo, Jourdan, Kyle, New Braunfels, San Marcos, Seguin, Smithville, and Universal City (collectively "Alliance of CenterPoint Municipalities" or "ACM")

Additionally, the following municipalities surrendered their original jurisdiction to the Commission: Eagle Lake, Goliad, Hallettsville, Kenedy, Nordheim, Pleasonton, San Diego, Seguin, Sinton and Weimar.

This rate schedule is for the recover of rate case expense and shall be in effect beginning on or after June _____, 2012 for a thirty-six (36) month period or until all approved expenses are collected.

MONTHLY RATE RECOVER FACTOR:

Residential \$0.39 per bill
General Service-Small \$0.39 per bill
General Service-Large \$0.39 per bill

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.

COMPLIANCE

The Company will file annually, due on the 15th of each July, a report with the RRC Gas Services Division. The report shall detail the monthly collections for RCE surcharge and show the outstanding balance.