

**ORDINANCE No. 2011-99
CITY OF SHOREACRES, TEXAS**

AN ORDINANCE OF THE CITY OF SHOREACRES, TEXAS, REVIEWING THE RATE INCREASE REQUEST OF CENTERPOINT ENERGY ENTEX; DENYING THE REQUESTED INCREASE IN RATES; ORDERING THAT NO CHANGE IN RATES OCCUR; REQUIRING THE REIMBURSEMENT OF RATE CASE EXPENSES; ESTABLISHING AN EFFECTIVE DATE FOR THIS ORDINANCE; MAKING SUCH OTHER FINDINGS AND PROVISIONS RELATED HERETO; CONTAINING A SAVINGS CLAUSE; AND PROVIDING FOR THE EFFECTIVE DATE THEREOF ELECTION.

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WHEREAS, on or about April 29, 2011 CenterPoint Energy Entex ("CenterPoint") filed a request to increase rates by an annual amount of approximately \$82,000 within the Texas Coast Division under the "Cost of Service Adjustment-3" ("COSA-3") tariff approved by the Railroad Commission of Texas; and,

WHEREAS, CenterPoint's filing purports to be in compliance with a "Cost of Service Adjustment-3" ("COSA-3") tariff approved by the Railroad Commission of Texas; and,

WHEREAS, the COSA-3 tariff approved by the Railroad Commission of Texas provides that "[t]he provisions of this Cost of Service Adjustment are to be implemented in harmony with the Gas Utility Regulatory Act (Texas Utilities Code, Chapters 101-105)" and that the "Company's annual rate adjustment will be made in accordance with all applicable laws"; and,

WHEREAS, absent the availability of the COSA-3 tariff approved by the Railroad Commission of Texas, it is highly unlikely that CenterPoint would have initiated a rate case to recover a change in its cost of service of \$82,000, which represents approximately 0.15 percent (0.15%) of its overall cost of service; and,

WHEREAS, absent the availability of the COSA-3 tariff approved by the Railroad Commission of Texas, the City would not be expending resources to address an application to increase rates by the *de minimis* amount of \$82,000; and,

WHEREAS, the Railroad Commission of Texas in Gas Utility Docket No. 9910 concluded that a municipality may not suspend the effective date that CenterPoint

proposes in its request to change rates under a COSA application, a conclusion with which the City disagrees and which issue is pending before the Travis County District Court; and,

WHEREAS, CenterPoint proposed an effective date of August 1, 2011, which in conjunction with the Railroad Commission of Texas' conclusion that the City may not suspend CenterPoint's proposed effective date, precludes the City from conducting a meaningful review of CenterPoint's request to raise rates, thereby denying the City's counsel and consultants the ability to provide a full review and recommendation to the Texas Coast Utilities Coalition of Cities ("TCUC Cities"); and,

WHEREAS, CenterPoint failed to carry its burden of proof and meet the requirements of the Gas Utility Regulatory Act as necessary to warrant a change in rates, by failing to meet the requirements of the Gas Utility Regulatory Act in several areas of its rate request, including, but not limited to the following areas:

- a. CenterPoint's expenses related to its Affiliate Transactions;
- b. CenterPoint's proposed cost of capital, including its Return on Equity, its Cost of Debt, its Capital Structure, and its overall Rate of Return;
- c. CenterPoint's proposed Rate Design;
- d. CenterPoint's proposed treatment of Accumulated Deferred Income Tax;
- e. CenterPoint's proposed calculation of its Cash Working Capital; and,
- f. CenterPoint's proposed calculation of its Pension Expense; and,

WHEREAS, the 345th Judicial District Court of Travis County, Texas in Cause No. D-1-GN-09-000982, *Texas Coast Utilities Coalition vs. The Railroad Commission of Texas*, Judge Stephen Yelenosky presiding, issued a Judgment concluding that the Railroad Commission of Texas did not have the authority to impose the COSA-3 tariff on the City and did not have the authority to approve a COSA-3 tariff in those areas where the Railroad Commission of Texas had original jurisdiction;

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

SECTION 1: That the facts contained in the preamble of this Ordinance are determined to be true and correct and are hereby adopted as part of this Ordinance.

SECTION 2: That the base rate increase proposed by CenterPoint is denied.

SECTION 3: That to the extent CenterPoint implements any change in rates in contradiction of this Ordinance, CenterPoint shall refund to the City any base rate increase in full, plus interest calculated at the rate being earned on customer deposits, and shall also remit any and all amounts pursuant to penalties that may apply.

SECTION 4: That the effective date for this Ordinance is the date of its adoption.

SECTION 5: If there is an appeal of this Ordinance, the City reserves all rights to advocate adjustments to the revenue requirement, cost allocation and rate design proposed by CenterPoint and to fully participate in such appeal, including the reimbursement of its reasonable rate case expenses.

SECTION 6: The City is a participant in a coalition of cities known as the Texas Coast Utilities Coalition of Cities and authorizes intervention in proceedings related to CenterPoint's rate application before the Railroad Commission of Texas and related proceedings in courts of law, and subject to the right to terminate employment at any time, the City authorizes the law firm of Herrera & Boyle, PLLC to act as special counsel with regard to rate proceedings involving CenterPoint before the City, the Railroad Commission of Texas, or any court of law.

SECTION 7: All conditions precedent to the adoption of each of the foregoing sections herein have been complied with under law.

SECTION 8: CenterPoint shall reimburse the reasonable rate case expenses of the TCUC Cities upon presentment of invoices received by the City.

SECTION 9: That if any section or part of any section, paragraph, or clause of this Ordinance is declared invalid or unconstitutional for any reason, such declaration shall not be held to invalidate or impair the validity, force, or effect of any other section or sections, part of section, paragraph, or clause of this Ordinance.

SECTION 10: That the City Council officially finds, determines, recites and declares that a sufficient written notice of the date, hour, place and subject of this meeting of the City Council was posted at a place convenient to the public at the City Hall of the City for the time required by law preceding this meeting, as required by the Open Meetings Law, Chapter 551, Texas Government Code; and that this meeting has

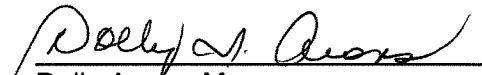
been open to the public as required by law at all times during which this Ordinance and the subject matter thereof has been discussed, considered, and formally acted upon. The City Council further ratifies, approves and confirms such written notice and the contents and posting thereof.

SECTION 11: That the City Secretary is hereby directed to send a true and copy of this Ordinance to Scott E. Doyle, Regional Vice President Gas Operations, CenterPoint Energy, 1111 Louisiana Street, Houston, Texas 77002 and to Alfred R. Herrera, Herrera & Boyle, PLLC, Suite 1250, 816 Congress, Austin, Texas 78701.

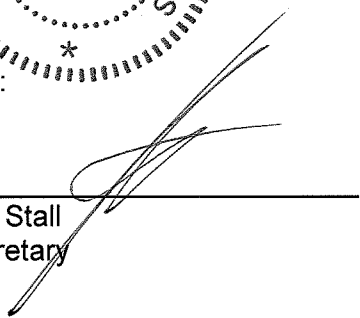
SECTION 12: This Ordinance shall be effective from and after its passage and approval, and it is so ordered.

PASSED AND APPROVED this the 13th day of June 2011.




Dolly Arons, Mayor

ATTEST:



David K. Stall
City Secretary