

ORDINANCE NO. 2005- 23

An ordinance denying CenterPoint Energy Entex's requested rate changes; authorizing intervention in any appeal of the City's action to the Railroad Commission; providing a requirement for a prompt reimbursement of costs incurred by the City; finding that the meeting at which this ordinance is passed is open to the public as required by law; and providing for notice of this ordinance to CenterPoint Energy Entex; declaring an emergency; and providing an effective date.

WHEREAS, on or about June 30, CenterPoint Energy Entex (the "Company") filed with the City a Statement of Intent to change its rates in its South Texas Division, to be effective August 4, 2005; and

WHEREAS, the City suspended the effective date of the rate changes for a period of ninety (90) days to investigate the adequacy of public notice and the reasonableness of the filing; and

WHEREAS, the City has determined that CenterPoint has failed to publish adequate notice to identify the percentage increase for a typical residential and a typical commercial customer that is being requested by CenterPoint within the City; and

WHEREAS, CenterPoint has failed to publish adequate notice to identify the current service charges that it is seeking to increase and the proposed service charges that it is seeking to implement; and

WHEREAS, the historic test year used by CenterPoint in its rate filing ended on March 31, 2004, is stale and not in compliance with state law; and

WHEREAS, CenterPoint has attempted to circumvent the original jurisdiction of the City over its rates inside the City by filing an environs case at the Railroad Commission prior to filing a case that could be reviewed by the City and suggesting that the results of an uncontested proceeding should be accepted by the City; and

WHEREAS, CenterPoint has been unresponsive to data requests from the City; and

WHEREAS, the Gas Utility Regulatory Act grants local regulatory authorities the right to intervene in rate proceedings filed at the Railroad Commission; and

WHEREAS, the Texas Utilities Code § 103.022 provides that costs incurred by the City in ratemaking activities are to be reimbursed by the regulated utility; and

WHEREAS, counsel and consultants for the City, upon review of the Company's filing, recommend finding that the Company's proposal is unjustified and unreasonable;

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

1.

The Company's filing is materially deficient for improper notice and use of a stale test year.

2.

The Company's requested rate changes in its Statement of Intent are found to be unreasonable and are therefore denied in all respects.

3.

The costs incurred by the City in reviewing the Company's rate request shall be promptly reimbursed by the Company.

4.

The City is authorized to intervene in any appeal of the City's action filed at the Commission.

5.

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

6.

A copy of this ordinance, constituting final action on the Company's application shall, be forwarded to the appropriate designated representative of the Company within 10 days as follows: Charles J. Harder, Executive Director of Rates and Regulatory, CenterPoint Energy Entex, P.O. Box 2628, Houston, Texas 77252-2628, and to Geoffrey Gay, legal counsel to the City, at Lloyd Gosselink, P.O. Box 1725, Austin, Texas 78767-1725.

7.

The requested rate increase will go into effect on November 2, 2005, unless it is denied before that time; therefore, an emergency is declared and the requirement of Article II, § 9 of the City Charter that no ordinance shall be passed finally on the date of its first reading is suspended, and this Ordinance shall become effective immediately upon passage and approval by the City Council of the City of Victoria, Texas.

PASSED, this the 1st day of November, 2005.

AYES: 7

NAYS: 0

ABSTENTIONS: 0

APPROVED AND ADOPTED, this the 1st day of November, 2005.



ATTEST:

Scarlet Swoboda
SCARLET SWOBODA, City Secretary

Distribution: Legal Department

Will Armstrong
WILL ARMSTRONG, Mayor of the
City of Victoria

APPROVED AS TO LEGAL FORM:
David Atmar Smith
DAVID ATMAR SMITH, City Attorney

Copies Sent: NOVEMBER 8, 2005