

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY OF KYLE APPROVING A RATE DECREASE FOR GAS-UTILITY SERVICES PROVIDED BY CENTERPOINT ENERGY RESOURCES, CORP. D/B/A CENTERPOINT ENERGY ENTEX AND CENTERPOINT ENERGY TEXAS GAS – SOUTH TEXAS DIVISION (“CENTERPOINT”) IN RELATION TO THE COMPANY’S STATEMENT OF INTENT TO CHANGE GAS RATES FILED WITH THE CITY ON ABOUT NOVEMBER 16, 2017; DECLARING EXISTING RATES TO BE UNREASONABLE; ADOPTING TARIFFS THAT REFLECT RATE ADJUSTMENTS CONSISTENT WITH A DECREASE IN CENTERPOINT’S NON-GAS REVENUE REQUIREMENT AND FINDING THE RATES TO BE SET BY THE ATTACHED TARIFFS TO BE JUST AND REASONABLE; FINDING RATE CASE EXPENSES ATTENDANT TO CENTERPOINT’S STATEMENT OF INTENT TO BE REASONABLE; DIRECTING CENTERPOINT TO REIMBURSE THE CITY ITS REASONABLE RATE CASE EXPENSES; DETERMINING THAT THIS RESOLUTION WAS PASSED IN ACCORDANCE WITH THE REQUIREMENTS OF THE TEXAS OPEN MEETING ACT; DECLARING AN EFFECTIVE DATE; AND REPEALING ANY PRIOR RESOLUTIONS OR ORDINANCES INCONSISTENT WITH THIS RESOLUTION**

**WHEREAS**, pursuant to Texas Utilities Code § 103.001, the City of Kyle, Texas (“City”) has exclusive original jurisdiction as a regulatory authority over CenterPoint Energy Resources, Corp. d/b/a CenterPoint Energy Entex and CenterPoint Energy Texas Gas – South Texas Division’s (“CenterPoint” or “CenterPoint”) rates, operations, and services within the City; and

**WHEREAS**, the City is also a gas utility customer of CenterPoint, and has an interest in CenterPoint’s rates and charges; and

**WHEREAS**, CenterPoint filed a Statement of Intent with the City on about November 16, 2017 to increase its system-wide annual revenue requirement by approximately \$490,000, which represents an increase in rates of approximately 4%; and

**WHEREAS**, CenterPoint requested approval of a 12-month surcharge to recover approximately \$675,992 in Hurricane Harvey restoration costs;

**WHEREAS**, CenterPoint requested approval to recover its and the cities' reasonable rate case expenses; and

**WHEREAS**, the City previously took action to suspend the effective date by the maximum extent allowable by law to allow the City's special counsel and rate consultants to review CenterPoint's application to increase rates; and

**WHEREAS**, the City coordinated its review of CenterPoint's filing with other similarly situated municipalities through a coalition of cities known as the Alliance of CenterPoint Municipalities – South Texas Division ("ACM"); and

**WHEREAS**, one of ACM's goals is to minimize rate-case expenses to the extent reasonable, that otherwise would result from lengthy, contested rate-case proceedings before the Railroad Commission of Texas and, if and where necessary, through the appellate process in the courts for the pending rate case; and

**WHEREAS**, as part of ACM's review of CenterPoint's filing, ACM authorized its attorneys and experts to formulate and review reasonable non-litigated outcomes to resolve CenterPoint's pending request to increase rates; and

**WHEREAS**, ACM's special counsel and rate consultants met numerous times with the CenterPoint to resolve CenterPoint's filing without the need for protracted litigation; and

**WHEREAS**, after extensive review and analysis, ACM's special counsel and rate consultants found that CenterPoint's proposed increase in revenue and its proposed rates are unreasonable; and

**WHEREAS**, CenterPoint, ACM, and other affected parties, agreed that a "black-box" decrease of \$3.0 million in CenterPoint's current non-gas revenue is reasonable, without agreeing to any particular ratemaking methodology, all as set forth in the attached Settlement Agreement; and

**WHEREAS**, ACM's special counsel and rate consultants, having evaluated a likely outcome from a fully-litigated proceeding at the Railroad Commission of Texas, are of the opinion that decrease of approximately \$3.0 million in CenterPoint's current non-gas revenue and approval of the surcharges related to Hurricane Harvey and Rate-

Case Expenses, compares favorably with a likely outcome from a fully-litigated proceeding at the Railroad Commission of Texas; and

**WHEREAS**, for future Interim Rate Adjustments (“IRA”) that CenterPoint submits under the Texas Utilities Code § 104.301, sometimes referred to as Gas Reliability Infrastructure Program (GRIP) applications, baseline plant amounts and certain local- and state-tax elements must be established, and allocation factors to allocate among the classes of customers, changes in rates related to future GRIP filings; and

**WHEREAS**, pursuant to Texas Utilities Code § 104.059, in future rate filings CenterPoint may pursue recovery of a deferred benefit regulatory asset or liability, which requires that base-year levels be established to track changes in pension-related and other post-employment benefits; and

**WHEREAS**, to allow CenterPoint to maintain accurate plant-account balances and related accumulated depreciation, depreciation rates must be established; and

**WHEREAS**, CenterPoint, in further implementation of the effects of the Tax Cut and Jobs Act of 2017, has committed to making a separate filing on or before November 15, 2019, pursuant to Texas Utilities Code § 104.111, to adjust its rates to reflect a reduction in its federal income tax expense related to excess deferred income taxes (“EDIT”) and that its EDIT adjustment will be computed based on the average rate assumption method (ARAM) for those amounts required under Internal Revenue Service (IRS) normalization rules; and

**WHEREAS**, CenterPoint will issue a one-time credit to its South Texas Division customers in the amount of \$640,158 related to over-recoveries under CenterPoint’s prior IRA filings; and

**WHEREAS**, after extensive review and analysis, ACM’s special counsel and rate consultants found CenterPoint’s proposed increase of \$490,000 to be unreasonable and that the negotiated rate decrease of \$3.0 million in non-gas revenue, the Hurricane Harvey and Rate-Case Expense surcharges, and the agreed plant balances to be used in future GRIP filings, the base-year balances for pension-related and other post-employment benefits, and CenterPoint’s depreciation rates to be reasonable; and

**WHEREAS**, ACM's special counsel and rate consultants recommend that the City approve the attached Settlement Agreement, resulting in a decrease of \$3.0 million in CenterPoint's non-gas current revenue, approval of the Hurricane Harvey and Rate-Case Expense surcharges, the agreed baseline plant balances to be used in future GRIP filings, the base-year balances for pension-related and other post-employment benefits, and CenterPoint's depreciation rates, and the attached tariffs, along with CenterPoint's commitments regarding future filings and the IRA refund noted above and other terms of the Settlement Agreement; and

**WHEREAS**, under the Texas Utilities Code § 103.022, the City has a right to reimbursement of its reasonable rate-case expenses and CenterPoint has an obligation to reimburse the City's reasonable rate-case expenses; and

**WHEREAS**, the attached tariffs implementing new rates are just, reasonable, and in the public interest, and are consistent with a reduction in non-gas revenue of \$3.0 million, and the Settlement Agreement as a whole is in the public interest;

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF KYLE, TEXAS THAT:**

**Section 1.** The findings set out in the preamble are in all things approved and incorporated herein as if fully set forth.

**Section 2.** That the City Council finds that:

- A.** The Settlement Agreement, **Attachment A** to this Resolution, and the decrease of \$3.0 million in CenterPoint's non-gas current revenue, the Hurricane Harvey and Rate-Case Expense surcharges are just and reasonable and in the public interest;
- B.** The plant balances to be used in future GRIP filings set forth in **Attachment A, Paragraph 4 and Exhibit C and Exhibit C.1 to the Settlement Agreement** are reasonable;
- C.** CenterPoint may pursue recovery of a deferred benefit regulatory asset or liability pursuant to Texas Utilities Code § 104.059 in a future filing and that the balances for pension-related and other post-employment benefits set forth in **Attachment A, Paragraph 5 of the Settlement Agreement** are reasonable;

- D.** CenterPoint's depreciation rates set forth in **Exhibit C** to the Settlement Agreement, are reasonable; and
- E.** The attached tariffs and rates as shown in **Exhibit A and Exhibit B, respectively, to the Settlement Agreement** are just and reasonable and in the public interest;
- F.** For purposes of future IRA filings, CenterPoint shall use the following capital structure and weighted cost of capital, including the pre-tax return shown below:

<b>Class of Capital</b>	<b>Percent</b>	<b>Cost</b>	<b>Weighted Cost of Capital</b>	<b>Pre-tax Return</b>
Long-Term Debt	45.00%	6.0480%	2.7216%	2.7422%
Common Equity	55.00%	9.8000%	5.3900%	6.8743%
Weighted Average Cost of Capital	100.00%		8.1116%	9.6165%

**Section 3.** That CenterPoint's existing rates are found unreasonable upon the implementation of the rates set forth in the Settlement Agreement.

**Section 4.** That the revenue and resulting rates set forth in the Settlement Agreement and schedule of rates and tariffs for utility service provided by CenterPoint are just and reasonable, and are hereby adopted effective upon approval of the Settlement Agreement by the Railroad Commission of Texas.

**Section 5.** That to the extent any resolution or ordinance previously adopted by the Council is inconsistent with this Resolution, it is hereby repealed.

**Section 6.** That the meeting at which this Resolution was approved was in all things conducted in strict compliance with the Texas Open Meetings Act, Texas Government Code, Chapter 551.

**Section 7.** That if any one or more sections or clauses of this Resolution is adjudged to be unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remaining provision of this Resolution and the remaining provisions of the Resolution shall be interpreted as if the offending section or clause never existed.

**Section 8.** That this Resolution shall become effective from and after its passage.

**Section 9.** As a courtesy, the City Secretary or other appropriate city official shall notify CenterPoint of this Resolution by **sending a copy of the Resolution to Sam Chang, CenterPoint Energy Services CenterPoint, LLC, 1005 Congress Avenue, Suite 650, Austin, Texas 78701** and ACM shall be notified by **sending a copy of this Resolution to Mr. Alfred R. Herrera, Herrera Law & Associates, PLLC, 816 Congress Ave., Suite 950, Austin, Texas 78701.**

**PASSED AND APPROVED** this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Mayor

**ATTEST:**

\_\_\_\_\_  
City Secretary