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DOCKET NO. 42281

**APPEAL OF CENTERPOINT
ENERGY HOUSTON ELECTRIC,
LLC, FROM AN ORDINANCE OF
THE CITY OF TOMBALL, TEXAS**

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**BEFORE THE
PUBLIC UTILITY COMMISSION
OF TEXAS**

NOTICE OF WITHDRAWAL OF APPEAL

On November 3, 2014, the City of Tomball passed Ordinance No. 2014-36, attached as Exhibit 1. In that ordinance, Tomball amended Ordinance No. 2014-04, which is the subject of this proceeding. Based on the passage of Ordinance No. 2014-36, CenterPoint Houston no longer plans to pursue its appeal in this proceeding and, pursuant to Procedural Rule 22.181(b), files this notice of withdrawal. CenterPoint Houston is authorized to represent that no party objects to this notice of withdrawal. CenterPoint Houston requests that an order be issued closing this docket.

Respectfully submitted,



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COUNSEL FOR CENTERPOINT ENERGY
HOUSTON ELECTRIC, LLC

ORDINANCE NO. 2014-36

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF TOMBALL, TEXAS BY AMENDING SECTION 40-76, UTILITIES, OF ARTICLE III, DESIGN STANDARDS, OF CHAPTER 40, SUBDIVISIONS, TO REQUIRE ALL UTILITY LINES, OTHER THAN ELECTRIC LINES, TO BE LOCATED UNDERGROUND; TO REQUIRE ALL ELECTRIC DISTRIBUTION LINES TO BE UNDERGROUND IF THE CUSTOMER ELECTS SUCH PURSUANT TO THE UTILITY'S DISTRIBUTION TARIFF; AND TO REQUIRE ALL ABOVEGROUND ELECTRIC DISTRIBUTION LINES BE LOCATED ALONG THE PERIMETER OF THE OVERALL SUBDIVISION UNLESS THE UTILITY DETERMINES DIFFERENT PLACEMENT IS NEEDED TO PROVIDE SAFE AND RELIABLE ELECTRIC SERVICE; PROVIDING A PENALTY IN AN AMOUNT NOT TO EXCEED \$2,000 FOR EACH VIOLATION HEREOF; AND PROVIDING FOR SEVERABILITY; AND MAKING OTHER PROVISIONS AND FINDINGS RELATED THERETO.

* * * * *

WHEREAS, the City Council of the City of Tomball finds that it is in the best interest of the health, safety and welfare of its citizens for above-ground electrical distribution lines be located along the perimeter of subdivisions; and

WHEREAS, the City Council desires to amend Section 40-76 of the Tomball Code of Ordinances to require all above-ground electrical distribution lines to be located along the perimeter of the area within a recorded subdivision plat; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TOMBALL, TEXAS:

Section 1. The facts and matters contained in the preamble are hereby found to be true and correct.

Section 2. Section 40-76, Utilities, of Article III, Design Standards, of Chapter 40, Plats and the Subdivision of Land, of the Code of Ordinances of the City of Tomball, Texas is hereby amended by deleting the language struck through below and adding the language underscored below:

“Section 40-76. Utilities.

Adequate provision for all utilities shall be provided to the entire subdivision. All distribution and service lines of, telephone, television, and other wire-carrier type (other than electric) utilities shall be underground. Transformers, amplifiers, or similar devices associated with the underground lines (other than electric) shall be located upon the ground or below ground level. Where the underground placement of such facilities, other than electric facilities, is not a standard practice of the utility involved, the subdivider or developer shall request the applicable utility to place the facilities underground and shall pay all costs associated with the non-standard installation. Electric utility distribution lines shall be underground if the customer elects such non-standard installation pursuant to the terms of the utility’s distribution tariff. Electric distribution lines, if installed aboveground, shall be located along the perimeter of the overall subdivision unless the utility determines different placement is needed to provide safe and reliable electric service. All utility installations, other than electric, shall comply with the ‘City of Tomball Minimum Construction Standards for Community Improvements.’”

Section 3. Any person who shall intentionally, knowingly, recklessly, or with criminal negligence, violate any provision of this Ordinance, shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined in an amount not to exceed \$2000. Each day of violation shall constitute a separate offense.

Section 4. It is the intent of the City that this Ordinance shall comply in all respects with the applicable provisions of the United States Constitution, the Texas Constitution, and the Charter of the City of Tomball. In the event any clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Tomball, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

Section 5. This Ordinance shall take effect immediately from and after its passage and the publication of the caption hereof, as provided by law and the City's Home Rule Charter.

FIRST READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 20TH DAY OF OCTOBER 2014.

COUNCILMAN HUDGENS	<u>AYE</u>
COUNCILMAN STOLL	<u>ABSENT</u>
COUNCILMAN DEGGES	<u>AYE</u>
COUNCILMAN TOWNSEND	<u>NAY</u>
COUNCILMAN KLEIN QUINN	<u>AYE</u>

SECOND READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE _____ DAY OF _____ 2014.

COUNCILMAN HUDGENS	_____
COUNCILMAN STOLL	_____
COUNCILMAN DEGGES	_____
COUNCILMAN TOWNSEND	_____
COUNCILMAN KLEIN QUINN	_____

Gretchen Fagan, Mayor

ATTEST:

Doris Speer, City Secretary

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was served on all parties of record in this proceeding, by facsimile, hand delivery, e-mail, or United States first class mail on this 6th day of November, 2014.


