

RAILROAD COMMISSION OF TEXAS

**STATEMENT OF INTENT FILED BY §
TXU GAS COMPANY TO CHANGE § **GAS UTILITIES DOCKET NO. 9400**
RATES IN THE COMPANY'S §
STATEWIDE GAS UTILITY SYSTEM §**

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. GOVT. CODE ANN. Chapter 551, *et seq.* (Vernon 1994 & Supp. 2004). The Railroad Commission of Texas adopts the following findings of fact and conclusions of law and orders as follows:

FINDINGS OF FACT

Procedural

1. On May 23, 2003, TXU Gas Company (TXU) filed a statement of intent to change rates in the company's statewide gas utility system. The filing was docketed as Gas Utilities Docket No. (GUD) 9400, and styled *TXU Gas Company Statement of Intent to Change Rates in the Company's Statewide Gas Utility System*.
2. The Commission initially published notice of the application in Gas Utilities Bulletin (Bulletin) No. 725 on June 10, 2003.
3. TXU is a gas utility and is subject to the jurisdiction of the Railroad Commission of Texas (Commission).
4. By order signed June 24, 2003, the Commission suspended TXU's proposed rate schedule for a period of 150 days from the date on which the schedule otherwise would have become effective.
5. TXU and all other parties expressly agreed to extend the jurisdictional deadline to May 11, 2004. Subsequently, in Examiners' Letter No. 22 issued on November 19, 2003, the jurisdictional deadline was extended to May 25, 2004.
6. In response to Letter No. 22, TXU filed a pleading objecting to a ruling in that letter unrelated to the jurisdictional deadline and expressly stating that it had no objection to the remainder of Letter No. 22.
7. The Commission and all parties to this proceeding relied on the jurisdictional deadline set in Letter No. 22 in setting discovery deadlines, hearing dates and briefing schedules. TXU accepted the benefits of these less onerous deadlines.

Consolidation of Dockets

8. TXU filed appeals from rate orders or rate ordinances of municipalities that were docketed and consolidated with GUD 9400 as follows:

- a. Gas Utilities Docket (GUD) 9398, *Appeal of TXU Gas Company from the Action of Municipalities Denying a Rate Request*, filed by TXU on June 16, 2003, and consolidated on July 22, 2003.
- b. GUD 9437, *Petition for Review of TXU Gas Company from the Actions of Municipalities Denying a Rate Request*, filed by TXU on July 7, 2003, and consolidated on July 22, 2003.
- c. GUD 9442, *Petition for Review of TXU Gas Company from the Actions of Municipalities Denying a Rate Request*, filed by TXU on July 14, 2003, and consolidated on July 22, 2003.
- d. GUD 9444, *Petition for Review of TXU Gas Company from the Actions of Municipalities Denying a Rate Request*, filed by TXU on June 27, 2003, and consolidated with GUD 9400 on July 22, 2003.
- e. GUD 9448, *Petition for Review of Municipal Rate Decisions and Expedited Motion to Consolidate*, filed by TXU on August 6, 2003, and consolidated with GUD 9400 on August 13, 2003.
- f. GUD 9450, *Petition for Review of TXU Gas Company from the Actions of Municipalities Denying a Rate Request and Expedited Motion to Consolidate*, filed by TXU on August 13, 2003, and consolidated on August 14, 2003.
- g. GUD 9451, *Petition for Review of Municipal Rate Decisions and Expedited Motion to Consolidate*, filed by TXU on August 22 2003, and consolidated on August 26, 2003.
- h. GUD 9452, *Petition for Review of TXU Gas Company from the Actions of Municipalities Denying a Rate Request and Expedited Motion to Consolidate*, filed by TXU on September 3, 2003, and consolidated on September 9, 2003.
- i. GUD 9456, *Petition for Review of TXU Gas Company from the Actions of Municipalities Denying a Rate Request and Expedited Motion to Consolidate*, filed by TXU on September 10, 2003, and consolidated on September 11, 2003.
- j. GUD 9459, *Petition for Review of TXU Gas Company from the Actions of Municipalities Denying a Rate Request and Expedited Motion to Consolidate*, filed by TXU on September 29, 2003, and consolidated on October 6, 2003.

9. Because there are common questions of fact and law, it is reasonable that the appeal dockets were consolidated with GUD 9400.

10. On August 5, 2003, the Commission decided that GUD 9435, *Request of Texas A&M University for Establishment of Transportation Rate on TXU Gas Company*, should be considered separately from GUD 9400, and that docket was not consolidated.

Intervening Parties

11. The Allied Coalition of Cities (ACC) intervened on behalf of the following municipalities: Abilene, Addison, Allen, Alvarado, Angus, Argyle, Arlington, Athens, Austin, Bedford, Bellmead, Bells, Benbrook, Blossom, Blue Ridge, Bowie, Bridgeport, Brownwood, Bryan, Burkburnett, Burleson, Caddo Mills, Carrollton, Cedar Hill, Celina, Cleburne, Clyde, College Station, Colleyville, Comanche, Coppell, Corinth, Corral City, Crandall, Crowley, Dalworthington Gardens, Denison, DeSoto, Duncanville, Early, Eastland, Edgecliff Village, Ennis, Eules, Everman, Fairview, Farmers Branch, Farmersville, Fate, Flower Mound, Forest Hill, Fort Worth, Frisco, Gainesville, Garland, Garrett, Grand Prairie, Grapevine, Haltom City, Harker Heights, Haskell, Haslet, Henrietta, Highland Park, Highland Village, Honey Grove, Howe, Hurst, Irving, Justin, Kaufman, Keller, Kennedale, Kerrville, Killeen, Krum, Lake Worth, Lancaster, Lewisville, Lincoln Park, Little Elm, Malakoff, Mansfield, McKinney, Megargel, Mesquite, Midlothian, Murphy, Newark, Nocona, North Richland Hills, Northlake, Ovilla, Palestine, Pantego, Paris, Parker, Pecan Hill, Petrolia, Plano, Ponder, Pottsboro, Prosper, Putnam, Red Oak, Richardson, Richland Hills, Robinson, Rockwall, Rowlett, Sachse, Saginaw, San Angelo, Seagoville, Sherman, Snyder, Southlake, Springtown, Stamford, Stephenville, Sulphur Springs, Sweetwater, The Colony, Throckmorton, Trophy Club, University Park, Vernon, Waco, Watauga, Waxahachie, Westworth Village, White Settlement, Whitesboro, Wichita Falls, Woodway, and Wylie.

12. The Association of TXU Municipalities (ATM) intervened on behalf of the following municipalities: Balch Springs, Bandera, Belton, Bertram, Bremond, Burnet, Caldwell, Cameron, Cedar Park, Cisco, Clifton, Coleman, Commerce, Copperas Cove, Corsicana, De Leon, Denton, Dublin, Electra, Fredricksburg, Frost, Gatesville, Goldthwaite, Granbury, Grandview, Greenville, Groesbeck, Hamilton, Hillsboro, Holland, Lake Dallas, Lampasas, Leander, Lexington, Llano, Lometa, Longview, Manor, Mart, McGregor, Mexia, Pflugerville, Ranger, Rockdale, Rogers, Round Rock, San Saba, Santa Ana, Seymour, Somerville, Thorndale, Trinidad, West, and Whitney.

13. The following municipalities ceded jurisdiction to the Commission: Abbott, Anson, Bardwell, Blackwell, Blanket, Bronte, Calvert, Chandler, Como, Coolidge, Cooper, Covington, Cumby, Emory, Ferris, Forney, Franklin, Gustine, Hamlin, Hawley, Hearne, Hubbard, Italy, Ladonia, Lipan, Little River-Academy, Lott, Lueders, Madisonville, Marble Falls, Melissa, Merkel, Midway, Moody, New Chapel Hill, Normangee, O'Brien, Pecan Gap, Penelope, Point, Robert Lee, Roby, Roxton, Rule, Sadler, Sanctuary, Southmayd, Talty, Trent, Tyler, Van Alstyne, Weinert, Whitehouse, Wixon Valley, and Wolfe City.

14. The following additional parties intervened: the City of Dallas (Dallas); Industrial Gas Users (IGU); Chaparral Steel Midlothian, L.P. (Chapparral); Brazos Electric Power Cooperative, Inc. (Brazos); Garland Power & Light (GP&L); West Texas Gas, Inc. (WTG); CoServ Gas, Ltd. (CoServ); the Texas General Land Office (GLO); the United State Department of Defense and Other Federal Executive Agencies (DoD); the State of Texas through the Attorney General's Office Consumer Protection Division (State of Texas); and Staff of the Railroad Commission of Texas (Staff).

15. TXU and CoServ negotiated an agreement whereby CoServ's existing contract was extended for five years. Therefore, on December 11, 2003, CoServ's motion to withdraw as an intervening party was granted.

16. On the first day of the hearing, TXU and GLO announced settlement. On February 20, 2004, the Examiners granted GLO's February 19, 2004, motion to be dismissed as a party to GUD 9400.

Rate Case Expenses

17. On August 5, 2003, the Commission ordered TXU to reimburse ACC and ATM for rate case expenses on a quarterly basis, subject to TXU being reimbursed upon a Commission determination of reasonableness and subject to payment of interest on the quarterly payments to TXU.

18. On March 23, 2004, the Commission severed the rate case expenses issue out of GUD 9400 and into a separate docket, GUD 9517, *Rate Case Expenses Severed from Gas Utilities Docket No. 9400*.

Motions to Dismiss

19. The Examiners' September 4, 2003, Letter No. 9 denied parties' motions to dismiss and approved a proposed protective order. The State of Texas, CoServ, Brazos, ATM, and GLO filed appeals or support for appeals of the Examiners' decisions. The Commission considered this matter at the September 22, 2003, open meeting, but made no ruling. On September 24, 2003, by operation of law and rule, the appeals were deemed denied. Therefore, TXU's application was not dismissed and the proposed protective order was approved in this docket.

20. On February 11, 2003, CoServ filed a Motion to Dismiss or, in the Alternative, to Sever Certain Issues for Separate Proceedings. Examiners' October 9, 2003, Letter No. 14, granted CoServ's motion, in part. CoServ appealed the Examiners' decision to the Commission. On September 24, 2003, CoServ's Motion to Dismiss was denied by operation of law.

Severance of Issues

21. On October 9, 2003, the Examiners severed certain issues from GUD 9400, and on October 16, 2003, assigned the severed issues new dockets, as follows:

- a. TXU's Proposed Curtailment Order, Rate Schedule 34 in Volume 3 of TXU Gas Company's Statement of Intent, will be considered in GUD 9460, *Curtailment Issues Severed from Docket No. 9400*;
- b. TXU's Proposed Service Rules and Regulations, Rate Schedules 21 – 27 in Volume 3 of TXU Gas Company's Statement of Intent, will be considered in GUD 9461, *Service Rules and Regulations Severed from Docket No. 9400*;
- c. TXU's Proposed Rate LEP - Line Extension Policy, Rate Schedule 15 in Volume 3 of TXU Gas Company's Statement of Intent, will be considered in GUD 9462, *Rate LEP*

Severed from Docket No. 9400; and

- d. TXU's Proposed Rider CIAF - Capital Investment Adjustment Factor, Rider 18 in Volume 3 of TXU Gas Company's Statement of Intent, will be considered in GUD 9463, *Rider CIAF Severed from Docket No. 9400*.

22. On October 16, 2003, CoServ and Brazos filed appeals seeking to sever transmission pipeline issues from consideration in GUD 9400. The Commission considered the appeals at the November 13, 2003, open meeting, but took no action. The appeals were deemed denied by operation of law on December 1, 2003.

23. On November 3, 2003, ATM filed an appeal of Examiners' Letter No. 18 and sought to have Docket No. 9400 dismissed and the case re-filed such that transportation issues would be considered separately from distribution issues. The Commission considered ATM's appeal at the November 13, 2003, open meeting, but took no action. The appeal was deemed denied on December 19, 2003.

Notice

24. TXU published public notice of the proposed rate changes once a week for four or more consecutive weeks in newspapers of general circulation in each county that contains territory affected by the proposed changes.

25. TXU's publication of notice meets the statutory and rule requirements of notice and provides sufficient information to rate payers about the statement of intent.

Hearing on the Merits

26. The hearing in the merits in GUD 9400 convened on January 26, 2004.

27. There were 18 days of actual hearing on the merits in this matter; the last day of hearing was February 20, 2004.

28. The evidentiary record was closed by Examiners' Letter No. 49, issued on April 20, 2004.

Test Year

29. TXU's test year is calendar year 2002.

Invested Capital

30. The invested capital amounts shown in the attached Schedules H(D) and H(P) are reasonable for TXU's utility plant that is used and useful in providing gas utility service.

31. The amounts shown in the attached Schedule H(P) do not include TXU's proposed adjustment to invested capital for construction completed not classified (CCNC). It is reasonable to disallow

TXU's requested adjustment because the evidence presented did not support post-test year adjustments, as discussed in Section VI.A.2. of the Proposal for Decision.

32. The amounts shown in the attached Schedules H(D) and H(P) do not include TXU's proposed adjustment to Pipeline invested capital for the sale of the Streetman and Teague Pipeline facilities. It is reasonable to disallow TXU's proposed adjustment because the evidence presented did not support post-test year adjustments, as discussed in Section VI.A.3. of the Proposal for Decision.

Accumulated Depreciation

33. The accumulated depreciation amounts shown in the attached Schedules H(D) and H(P) are consistent with the invested capital amounts recommended for inclusion; have been calculated on a straight-line basis over the useful lives of the items included; and are properly allocated.

34. The accumulated depreciation amounts shown in the attached Schedule H(P) do not include TXU's proposed adjustment to Pipeline accumulated depreciation for the sale of the Streetman and Teague Pipeline facilities. It is reasonable to disallow TXU's proposed adjustment because the evidence presented did not support post-test year adjustments, as discussed in Section VI.A.3. of the Proposal for Decision.

Investment Additions

35. TXU's requested invested capital for materials and supplies (M&S) and prepayments, as shown in the attached Schedules H(D) and H(P), is reasonable in amount, is used and useful in providing gas utility service, and should be included in invested capital.

36. TXU's requested amount for line pack gas, included in the attached Schedule H(P), is reasonable, is used and useful in providing gas utility service, and should be included in invested capital.

37. TXU's requested amount for cushion gas, included in the attached Schedule H(P), is reasonable, is used and useful in providing gas utility service, and should be included in invested capital.

38. It is reasonable to remove \$98,182,654 from TXU's Distribution invested capital and include \$98,182,654 in Pipeline invested capital for working gas in storage, as included in the attached Schedules H(D) and H(P), because TXU failed to show that working gas in storage had been included in Distribution invested capital in previous rate proceedings.

39. It is reasonable to allocate 100 percent of working gas in storage to the City Gate customer class, as included in the attached Schedule E(P), because it is used and useful for the city-gate customer class.

40. TXU's proposed reductions to invested capital for investment tax credits (ITC) and accumulated deferred federal income tax (ADFIT), as included in the attached Schedules H(D) and H(P), are reasonable and should be approved because the amounts reflect current levels of TXU's ITC and ADFIT.

41. TXU's proposed reductions to invested capital for customer deposits and customer advances for construction, as included in the attached Schedule H(D), are reasonable and should be approved because TXU showed that the reductions to invested capital were reasonable.

42. TXU's proposed reductions to invested capital for injuries and damages reserve, as included in the attached Schedules H(D) and H(P), are reasonable and should be approved because TXU's proposed injuries and damages reserve was reasonable. TXU showed that using 1999 injuries and damages reserve data would not result in an appropriate amount because in that year, TXU Vermont charged no premiums to TXU because the utility had sufficient loss reserves.

43. It is reasonable to include asset relocation costs of \$55,660,675 in Distribution plant as invested capital, as shown in the attached Schedule H(D).

44. TXU's proposed transfers of facilities between Distribution and Pipeline are reasonable, as included in the attached Schedules H(D) and H(P), because the resulting classification accurately reflects the use of the facilities.

45. It is not reasonable to allow \$42,982,796 to be included in invested capital for Poly 1 pipe or Safety Compliance Program costs as proposed by TXU because TXU did not show that the costs for locating and removing Poly 1 pipe were reasonable, necessary, and prudent. As shown in the attached Schedule H(D), this amount is excluded from invested capital.

46. It is reasonable to exclude from TXU's invested capital \$212,093 of Poly 1 pipe or Safety Compliance Program software costs. As shown in the attached Schedule H(D), this amount is excluded from invested capital.

Lead-Lag Study/Cash Working Capital

47. The Lead-Lag studies for Distribution and Pipeline proposed in TXU Exhibit 61 and modified as shown in the attached Schedules J(D), J(P), J-1(D), and J-1 (P), provide a reasonable basis for determining a reasonable cash working capital allowance for TXU.

48. The errors in TXU's proposed Lead-Lag studies do not invalidate the overall result of the studies because TXU corrected the errors identified, the errors did not make the studies so flawed that the studies were unreliable, and because the defects did not nullify the overall framework of the Lead-Lag studies.

Adjustments to Invested Capital

49. TXU Energy's lease of TXU Gas Company's customer information system (CIS) for \$62,486 per month, in accordance with the provisions of the Service Level Agreement (SLA), is reasonable.

50. Total invested capital as shown in the attached Schedules H(D) and H(P) is reasonable.

Rate of Return

51. TXU Gas Company's capital structure should be based on the average capital structure of a proxy group of local distribution companies (LDCs).
52. Based on an analysis of the proxy group a capital structure of 48.3 percent long-term debt, 1.9 percent preferred securities, and 49.8 percent common equity is reasonable.
53. A cost of long-term debt for TXU Gas Company of 6.57 percent is reasonable.
54. A cost of preferred securities for TXU Gas Company of 5.51 percent is reasonable.
55. A cost of common equity for TXU Gas Company of 10.00 percent is reasonable.
56. An overall rate of return of 8.258 percent based on the weighted average cost of capital of TXU Gas Company is reasonable.

Revenues

57. It is reasonable for the Commission to allow Distribution ratepayers to benefit from the sale of the Carrollton Service Center land because TXU included land in invested capital and ratepayers have been paying return on that investment. It is reasonable to amortize the net gain on the sale of the asset of \$1,428,613 over three years, resulting in a decrease in annual amortization expense of \$476,204 and a decrease in invested capital of \$952,409, as shown in the attached Schedules H(D), I(D), and I-1(D).
58. It is reasonable for the Commission to allow Pipeline ratepayers to benefit from the sale of cushion gas to Richardson Energy Marketing and to TXU Energy Trading because TXU included cushion gas in invested capital and ratepayers have been paying return on that investment. It is reasonable to amortize the net gain on the sale of the asset of \$3,775,792 over three years, resulting in a decrease in annual amortization expense of \$1,258,597 and a decrease in invested capital of \$2,517,195, as shown in the attached Schedules H(P), I(P), and I-1(P).
59. It is not necessary to adjust revenues based upon transfers of assets between Pipeline and Distribution, as shown in the attached Schedules K(D) and K(P), because TXU's transfers were properly made to more accurately classify the assets in accordance with the function for which the asset is currently being used.
60. It is reasonable to reduce Distribution residential and commercial revenues in the amount of \$10,394, including gas costs, for the removal of the Poyner and Riesel duplicated revenues. TXU Exhibit 61 reflects the agreed upon adjustment that is incorporated in the attached Schedule K(D).

Weather Normalization Adjustment

61. Weather has an impact on the sale of gas to residential and commercial customers and therefore affects revenues.
62. It is reasonable to account for deviations during the test year from normal weather patterns by performing weather normalization adjustments.

63. To accurately determine TXU's revenue deficiency or surplus, it is necessary to use weather-normalized gas sales to residential and commercial customers.

64. TXU has correctly calculated the weather-normalized adjustments for gas sales to residential and commercial customers during the test year.

Customer Growth Adjustment

65. Customer growth has an impact on the sale of gas to residential and commercial customers and therefore affects revenues.

66. It is reasonable to account for customer growth patterns during the test year by performing customer growth adjustments.

67. To accurately determine TXU's revenue deficiency or surplus, it is necessary to use customer growth adjusted gas sales to residential and commercial customers.

68. TXU has correctly calculated the customer growth adjustments for gas sales to residential and commercial customers during the test year.

Miscellaneous Adjustments to Customers, Sales and Revenue

69. It is reasonable to account for changes in customer class by industrial sales, transportation and pipeline transportation customers by making adjustments to the numbers of customers so classified.

70. To accurately determine TXU's revenue deficiency or surplus, it is necessary to adjust gas sales volumes to industrial sales, transportation, and pipeline transportation customers.

EXPENSES

Performance Enhancement Plan (PEP)

71. It is reasonable to disallow any adjustments for TXU's Performance Enhancement Plan, as shown in the attached Schedules L(D), L-2(D), L-3(D), L(P), L-2(P), and L-3(P), because the requested adjustment is based upon an anticipated level of future performance by TXU employees, is speculative, and is not known and measurable.

Deferred Incentive Compensation Plan (DICP)

72. It is reasonable for the Commission to disallow any adjustments for TXU's Deferred Incentive Compensation Plan (DICP), as shown in the attached Schedules L(D), L-2(D), L-3(D), L(P), L-2(P), and L-3(P), because TXU's normalization was not shown to be reasonable and necessary, because the future value of TXU Corp. stock is unknown, and it is not reasonable for the Commission to allow TXU to recover of an expense that may not exist if the TXU Corp. stock value increases.

Federal Income Tax

73. TXU calculated its total federal income tax (FIT), based upon revenues and expenses and using the income tax rate of 35 percent.

74. It is reasonable to allow amounts for federal income tax based upon the statutory income tax rate of 35%, as proposed by TXU.

Taxes Other than FIT

75. It is reasonable to include payroll taxes, ad valorem taxes, revenue related taxes, U.S. Department of Transportation pipeline user fees, and state franchise taxes in the calculation of Distribution and Pipeline's costs of service, as shown in the attached Schedules N(D), N-1(D), N(P) and N-1(P).

76. It is reasonable for the Commission to approve state franchise tax based on the tax calculation method, either the Taxable Capital Method or the Taxable Income Method, that results in the higher amount of tax owed.

77. It is reasonable for the Commission to approve Pipeline and Distribution Pension and Other Employee Benefits expense, in the amounts shown in the attached Schedules L(P), L-1(P), L-2(P), L-3(P), L(D), L-1(D), L-2(D) L-3(D), as discussed in Section VIII.B.9. of the Proposal for Decision.

Poly 1 Pipe

78. TXU should not be allowed to include the costs of the Poly 1 pipe or the Safety Compliance Program as invested capital or as an expense. It is reasonable for the Commission to disallow, going forward, inclusion of \$42,982,796 as a regulatory asset in invested capital, resulting in a reduction of annual amortization expense of \$3,008,705. In addition, it is reasonable for the Commission to disallow, going forward, inclusion of \$87,837,109 as capitalized gas utility plant in service in invested capital. These adjustments are included in the attached Schedules H(D), I(D), and I-1(D).

WINS Savings

79. As discussed in Section V.B. of the Proposal for Decision, it is reasonable for the Commission to reduce expenses to reflect increased WINS savings of \$1,350,353 for Pipeline and \$3,079,711 for Distribution. These adjustments are included in the attached Schedules L(P), L-1(P), L-2(P), L-3(P), L(D), L-1(D), L-2(D), and L-3(D).

WINS Expenses

79A. It is reasonable for the Commission to approve a WINS-related regulatory asset of \$5,560,483 for Distribution and \$2,174,474 for Pipeline as proposed by TXU. It is also reasonable to allow TXU to amortize these regulatory assets over five years and to recover the associated amortization expense of \$1,112,097 to Distribution and \$434,895 to Pipeline.

Integrity Assessment

80. It is reasonable to approve TXU's requested increase for future pipeline integrity assessment costs in 2003, 2004, and 2005, as included in the attached Schedules L(P), L-2(P), L-3(P), L(D), L-2(D), and L-3(D).

81. [Not adopted]

Uncollectible Expense

82. It is reasonable to reduce Distribution uncollectible expenses, as included in the attached Schedules L(D), L-2(D), and L-3(D), because TXU failed to show that its proposed uncollectible expense was reasonable or representative of actual levels of uncollectible expense.

83. TXU's request for Distribution and Pipeline injuries and damages expense is reasonable, as shown in the attached Schedules L(D) and L(P), because TXU showed that this expense was reasonable, necessary, and reflects the on-going costs of TXU operations.

84. [Not adopted]

85. [Not adopted]

86. [Not adopted]

87. It is reasonable to reduce Distribution expense for the Oncor logo labeling, as included in the attached Schedules L(D), L-2(D), L-3(D), and because gas utility rate payers should not pay for costs resulting from electric utility restructuring activities.

Affiliate Expense

88. TXU Business Services is a wholly-owned subsidiary of TXU Corp. which provides consolidated corporate support services including accounting, financial, information technology, regulatory, procurement, and human resources services to TXU Corp.'s subsidiaries, including to TXU Gas Company.

89. It is reasonable to reduce Distribution and Pipeline expense for the TXU Business Services charges, as included in the attached Schedules L(D), L-2(D), L-3(D), L-4(D), because TXU did not show that the requested amounts were reasonable or necessary. As reduced and shown in the the Schedules, the amounts are reasonable for the administrative services necessary for provision of gas utility service.

90. The affiliate transaction charges by TXU Business Services to TXU Gas Company for services to Distribution and Pipeline, as included in the attached Schedules L(D), L-2(D), L-3(D), and L-4(D), are reasonable and necessary.

91. TXU Energy provides billing and customer care services to its affiliate, TXU Gas Company, under the terms of the Service Level Agreement.

92. It is reasonable to approve Distribution expense for the Service Level Agreement, as shown in the attached Schedules L(D), L-2(D), L-3(D), L-4(D).
93. The affiliate transaction charges by TXU Energy to TXU Gas Company-Distribution under the Service Level Agreement, as included in the attached Schedules L(D) and L-2(D), are reasonable and necessary.
94. Oncor Electric Delivery Company, L.P. (Oncor Electric) provides operations support services for its affiliate TXU Gas Company-Distribution, including reading customers' meters, design and engineering of construction projects, and other operating activities.
95. The affiliate transaction charges by Oncor Electric to TXU Gas Company-Distribution, as included in the attached Schedules L(D) and L-2(D), are reasonable and necessary.
96. TXU Receivables Company sells to financial institutions undivided interests of accounts receivable it purchases from its affiliates, including from TXU Gas Company.
97. The affiliate transaction charges by TXU Receivables Company to TXU Gas Company, as included in the attached Schedules L(D) and L-2(D), are reasonable and necessary.
98. TXU Vermont Insurance Company (TXU Vermont) provides insurance coverage for TXU Corp. subsidiaries, including to TXU Gas Company.
99. The affiliate transaction charges by TXU Vermont to TXU Gas Company, as included in the attached Schedules L(D) and L-2(D), are reasonable and necessary.
100. TXU demonstrated that the price charged by affiliates to TXU Gas Company-Distribution is not higher than the prices charges to other affiliates or to non-affiliated persons.

Depreciation

101. Depreciation and amortization expenses, as included in the attached Schedules I(D), I-1(D), I(P), and I-1(P), are reasonable and necessary.
102. It is reasonable for TXU to have used the equal life group (ELG) depreciation method.
103. TXU's proposed Distribution and Pipeline service lives used to determine the depreciation rates included in the attached Schedules I (D), I-1(D), I (P), and I-1(P), are reasonable and should be approved.
104. Decreasing the Distribution depreciation rate for computer software Account No. 303 to 13.6955 percent to reflect removal of Poly 1 initiative software from this account, as included in the attached Schedules I(D) and I-1(D), is reasonable because it is consistent with the recommended rate treatment of other Poly 1 initiatives.

105. TXU's proposed Distribution and Pipeline depreciation treatment of the miscellaneous computer equipment fully accrued account, as included in the attached Schedules I(D), I-1(D), I (P), and I-1(P), is reasonable and should be approved.

106. TXU's proposed change from negative 30% net salvage to negative 40% net salvage to determine the depreciation rate of Distribution plant accounts 347, 375, 376, 378, 379, 380, 381, and 383 is reasonable and necessary.

107. It is reasonable to use negative forty percent net salvage to determine the depreciation rate of Distribution plant accounts 347, 375, 376, 378, 379, 380, 381, and 383 and to include that rate in the calculation of depreciation rates in the attached Schedules I (D) and I-1(D).

108. Adjusting TXU's depreciation reserve by the half-year convention is not reasonable or necessary because intervening parties did not show that TXU's depreciation was not reasonable and did not show that there was a need to adjust TXU's accumulated depreciation reserve based upon the level of year-end plant-in-service levels.

Amortization of Regulatory Assets

109. Decreasing TXU's proposed Distribution and Pipeline amortization expense to exclude pre-test-year Other Post Employment Benefits (OPEBs) costs, as included in the attached Schedules L(D), L-2(D), L-3(D), L(P), L-2(P), and L-3(P) is reasonable and should be approved because the Commission's decision in GUD 9145 to deny these requested amounts should stand; rates should be based upon the 2002 test year levels adjusted for known and measurable changes, rather than upon costs that pertain to prior periods.

110. It is reasonable to decrease TXU's proposed Distribution amortization expense to exclude TXU's proposed inclusion of pre-test-year 1997 Enhanced Retirement Plan (1997 ERP) costs, as included in the attached Schedules L(D), L-2(D), and L-3(D), because requests for approval of pre-test year merger-related costs.

111. Decreasing TXU's proposed Distribution and Pipeline amortization expense to exclude pre-test-year 1999 Enhanced Retirement Plan (1999 ERP) costs, as included in the attached Schedules L(D), L-2(D), L-3(D), L(P), L-2(P), and L-3(P), is reasonable because TXU failed to show that the requested amortization is reasonable or necessary and because rates should be based upon the 2002 test year levels adjusted for known and measurable changes, rather than upon costs that pertain to prior periods.

112. Decreasing TXU's proposed Distribution and Pipeline amortization expense to exclude pre-test-year 1999 Voluntary Severance Plan (1999 VSP) costs, as included in the attached Schedules L(D), L-2(D), L-3(D), L(P), L-2(P), and L-3(P), is reasonable because TXU failed to show that the requested amortization is reasonable or necessary and because rates should be based upon the 2002 test year levels adjusted for known and measurable changes, rather than upon costs that pertain to prior periods.

113. [Not adopted]

114. [Not adopted]

115. Because TXU failed to show that Poly 1 pipe or Safety Compliance Program costs were reasonable, necessary, or prudently incurred, it is reasonable for the Commission to decrease TXU's proposed Distribution amortization expense to exclude Poly 1 pipe and Safety Compliance Program amortization expenses, as included in the attached Schedules I(D) and I-1(D).

116. Distribution and Pipeline expenses, as included in the attached Schedules L(D), L-1(D), L-2(D), L-3(D), L(P), L-1(P), L-2(P), and L-3(P), are reasonable and should be approved.

Gas Cost Recovery and Lost and Unaccounted for Gas

117. It is reasonable to recover gas costs through a monthly Gas Cost Recovery Factor applied to gas volumes delivered to residential, commercial and industrial sales customers. The Gas Cost Recovery Factor shown here on attached Schedule P is reasonable with the additional provision that the net impact of injecting and withdrawing gas from storage, or any amount that is attributable to the return on interest in working gas in storage is not included in the calculation of the Gas Cost Recovery Factor or any components thereof.

118. It is reasonable to determine TXU's lost and unaccounted for gas on a system-wide basis.

119. It is reasonable that the Gas Cost Recovery Factor be comprised of four (4) components: Estimated Gas Cost Factor, Reconciliation Factor, Tax and Adjustments.

120. It is reasonable that the Estimated Gas Cost Factor include lost and unaccounted for gas attributable to residential, commercial and industrial sales customers.

120A. During 2002, the most recent test year, TXU's system wide lost and unaccounted for gas was 2.59% of all gas metered into the system. It is reasonable that the amount of lost and unaccounted for gas recoverable as expenses by the utility be limited as follows: to 5% for the first twelve month period following the effective date of this order; 4% for the subsequent twelve month period; and, thereafter, be limited to 3%.

121. It is reasonable that the Reconciliation Factor be determined by dividing the difference between Actual Gas Cost Incurred, exclusive of interest, over the preceding twelve-month period ended June 30 and the Actual Gas Cost Billed over the same twelve-month period by the estimated total residential, commercial, and industrial sales for the succeeding October through June billing months.

122. It is not reasonable that the Reconciliation Factor include the net impact of injecting and withdrawing gas from storage, or any amount that is attributable to the return on interest in working gas in storage.

123. It is not reasonable that the Gas Cost Recovery Factor allow recovery of rate case expenses or any other expenses not directly attributable to the commodity cost of gas purchased by the utility.

124. TXU's proposed estimated gas cost recovery factor quarterly filing procedure (attached hereto

as Schedule Q) is reasonable.

125. The 36-month gas purchase prudence review procedure attached hereto as Schedule R is reasonable.

Cost Allocation, Functionalization, and Classification

126. The functionalization of TXU's system into distribution, transportation, storage, and general provides an accurate separation of costs associated with facilities and is reasonable.

127. TXU did not submit sufficient evidence to establish that the further functionalization of transportation costs into bulk transmission and network transmission increases the accuracy of allocating costs among TXU's customers.

128. TXU did not establish that further functionalization of transportation costs into bulk transmission and network transmission is reasonable.

129. The classification of costs as being driven by the number of customers, demand for gas, volume of gas delivered to customers, or combinations of the foregoing is reasonable for allocating costs among TXU's customers by class for rate-making purposes.

130. It is reasonable to classify fixed costs as demand and customer related.

131. It is reasonable to classify variable costs as volume related.

132. It is reasonable to classify a portion of costs associated with Account 376, Distribution Mains as customer-related and to classify the remaining portion as demand-related.

133. It is reasonable to classify Account 376, Distribution Mains, as 43.2% customer-related and 56.8% demand-related.

Allocation

134. It is not just and reasonable to allocate fixed costs solely on the basis of demand for cost allocation purposes.

135. An allocation factor for customer-related costs based on total number of customers is reasonable.

136. An allocation factor for demand-related costs based exclusively on four maximum daily use days during the months December, January, February, and March is not reasonable.

137. An allocation factor for demand-related costs that averages the Test Year delivered gas volumes for the four maximum daily use days during the months December, January, February, and March with Test Year annual delivered gas throughput is reasonable.

138. It is reasonable to apply the allocation factors in Schedule F(D) to allocate TXU Gas

Company's distribution cost of service as shown in Schedule E(D).

138A. It is reasonable to allocate revenue-related taxes on the basis of total revenue.

139. It is reasonable to apply the allocation factors in Schedule F(P) to allocate TXU Gas Company's pipeline cost of service as shown in Schedule E(P).

Ancillary Services

140. The connection charge of \$65.00 during business hours and \$97.00 after business hours proposed by TXU, and attached in Schedule S is reasonable.

141. The read-for-change charge of \$19.00 proposed by TXU, and attached in Schedule S is reasonable.

142. The returned-check handling charge will of \$20.00 for each check returned proposed by TXU, and attached in Schedule S is reasonable.

143. The installation and maintenance of excess flow valve proposed by TXU, and attached in Schedule S is reasonable.

144. The temporary discontinuance of service charge for residential customers of \$65.00 proposed by TXU, and attached in Schedule S is reasonable.

145. The temporary discontinuance of service charge for non-residential customers of \$107.00 proposed by TXU, and attached in Schedule S is reasonable.

146. The charge for meter testing of \$15.00 proposed by TXU, and attached in Schedule S is reasonable.

147. The charge for service calls of \$26.00 during business hours and \$40.00 after business hours proposed by TXU, and attached in Schedule S is reasonable.

148. The tampering charge of \$125.00 proposed by TXU, and attached in Schedule S is reasonable.

149. The charge for the recovery of connection costs associated with stand-by gas generators proposed by TXU, and attached in Schedule S is reasonable.

Rate Design

150. The proposed rate design creates six customer rate classes: Residential Sales, Commercial Sales, Industrial Sales, Transportation Service, City-Gate Service, and Pipeline Transportation Service.

151. Residential Sales rates, as shown on Schedule O-1(D), consisting of a monthly customer charge of \$9.00 and volumetric charges of \$1.2390 per Mcf for the first 3 Mcf and \$0.9890 per Mcf for gas volumes over 3 Mcf are reasonable.

152. Commercial Sales rates, as shown on Schedule O-2(D), consisting of a monthly customer charge of \$15.50 and volumetric charges of \$0.7894 per Mcf for the first 30 Mcf, \$0.5394 per Mcf for the next 320 Mcf, and \$0.2894 per Mcf for gas volumes over 350 Mcf are reasonable.
153. Industrial Sales rates, as shown on Schedule O-3(D), consisting of a \$150 per meter charge and volumetric charges of \$0.4882 per MMBtu for the first 1,500 MMBtu, \$0.3382 per MMBtu for the next 3,500 MMBtu, \$0.1882 per MMBtu for the next 45,000 MMBtu, and \$0.0382 per MMBtu for gas volumes over 50,000 MMBtu are reasonable.
154. Transportation Service rates, as shown on Schedule O-3(D), consisting of a \$150 per meter charge and volumetric charges of \$0.4882 per MMBtu for the first 1,500 MMBtu, \$0.3382 per MMBtu for the next 3,500 MMBtu, \$0.1882 per MMBtu for the next 45,000 MMBtu, and \$0.0382 per MMBtu for gas volumes over 50,000 MMBtu are reasonable.
155. City-Gate Service rates, as shown on Schedule O-1(P), consisting of a \$200 per meter charge, a capacity charge of \$0.9988 per billing MDU, and a volumetric charge of \$0.2103 per MMBtu are just and reasonable.
156. Pipeline Transportation Service rates, as shown on Schedule O-2(P), consisting of a \$200 per meter charge and volumetric charges of \$0.1739 per MMBtu for the first 12 MDU per billing MDU and \$0.1579 per MMBtu for all additional MMBtu are just and reasonable.
- 156A. The daily and hourly imbalance fees proposed by TXU are unreasonable.
- 156B. The operational flow order imbalance fee proposed by TXU is unreasonable.
157. The proposed Rate ANS - Ancillary Services, is unreasonable and deficient as it does not contain rates for the enumerated services.
158. The proposed Rider CT - Competitive Transportation Service, attached in Schedule T is reasonable.
159. The proposed Rider RA - Retention Adjustment, attached in Schedule T is reasonable.
160. The proposed Rider FF - Franchise Fee Adjustment, attached in Schedule T is reasonable.
161. The proposed Rider SUR - Surcharges, attached in Schedule T is reasonable.
162. The proposed Rider Tax - Tax Adjustment, attached in Schedule T is reasonable.
163. It is not reasonable to approve TXU Gas' proposed Standard Agreements for Service and mandate that the Standard Agreements for Service apply uniformly to all of TXU Gas' Transportation customers.

CONCLUSIONS OF LAW

1. TXU Gas Company (TXU) is a “Gas Utility” as defined in TEX. UTIL. CODE ANN. §101.003(7) (Vernon 1998 and Supp. 2004) and §121.001(Vernon 1998 and Supp. 2004) and is therefore subject to the jurisdiction of the Railroad Commission (Commission) of Texas.
2. The Railroad Commission of Texas (Commission) has jurisdiction over TXU and TXU’s Statement of Intent under TEX. UTIL. CODE ANN. §102.001 (Vernon 1998 and Supp. 2003), §103.001 (Vernon 1998 and Supp. 2003), §103.003 (Vernon 1998 and Supp. 2003), §103.051 (Vernon 1998 and Supp. 2003), §104.001 (Vernon 1998 and Supp. 2003), §104.001 (Vernon 1998), §104.201(Vernon 1998), §121.051 (Vernon 1998) and §121.052 (Vernon 1998).
3. Under TEX. UTIL. CODE ANN. §102.001 (Vernon 1998 and Supp. 2004), 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. In addition, TEX. UTIL. CODE ANN. §102.001 (Vernon 1998 and Supp. 2004) also provides that the Commission has exclusive appellate jurisdiction to review an order or ordinance of a municipality.
5. Under TEX. UTIL. CODE ANN. §103.003 (Vernon Supp. 2004), a municipality may have the Commission exercise original jurisdiction over gas utility rates, operations, and services in the municipality.
6. Under TEX. UTIL. CODE ANN. §103.001 (Vernon 1998 and Supp. 2004) and §103.051 (Vernon 1998 and Supp. 2003), a municipality has exclusive original jurisdiction and the Commission has appellate jurisdiction over the rates, operations, and services of a utility within the municipality.
7. This Statement of Intent 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. 2004) (APA).
8. 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.
9. TEX. UTIL. CODE ANN. §104.107 (Vernon 1998 and Supp. 2004) provides the Commission’s authority to suspend the operation of the schedule of proposed rates for 150 days from the date the schedule would otherwise go into effect.
10. TEX. UTIL. CODE ANN. §104.107 (Vernon 1998 and Supp. 2004) provides authority for the local regulatory authority to suspend the operation of the schedule of proposed rates for 90 days from the date the schedule would otherwise go into effect.
11. The suspension of the operation of the rates proposed by TXU in this case has been extended until May 25, 2004, and TXU has waived and is estopped from asserting any claim that the statutory jurisdictional deadline controls over the May 25, 2004, jurisdictional deadline to which it agreed and

acquiesced.

12. Under TEX. UTIL. CODE ANN. §104.107 (Vernon 1998 and Supp. 2004), if the regulatory authority does not make a final determination before the expiration of the applicable suspension period, then the Commission is considered to have approved the proposed schedule. However, this approval is subject to the authority of the Commission thereafter to continue a hearing in progress.

13. When a utility appeals a municipal decision to the Commission, the Commission has 185 days after the date the appeal is perfected to enter a final order establishing the rates. If the Commission does not enter a final order within 185 days, the rates proposed by the gas utility are considered to be approved by the Commission and take effect on the expiration of the 185-day period. TEX. UTIL. CODE ANN. §103.055 (Vernon 1998).

14. Under TEX. UTIL. CODE ANN. §103.055 (Vernon 1998), the Commission is not prohibited from establishing rates by final order after 185 days from the date the appeal of a municipal decision is perfected. However, from the 185th day from which the appeal was perfected for each municipality until the date the Commission issues a final order establishing those rates, TXU may assess to the customers within each municipality the rates it proposed in its statement of intent.

15. A municipality has standing in a case before the Commission that relates to a gas utility's rates and services in the municipality. The Commission has the right to consolidate a municipality with any other party on an issue of common interest. TEX. UTIL. CODE ANN. §103.023 (Vernon 1998).

16. In accordance with TEX. UTIL. CODE ANN. §103.051 (Vernon 1998 and Supp. 2004), TXU acted appropriately in its appeal of municipal decisions.

17. TXU filed with the Commission its petitions for review within thirty days of the final decision by the municipality, in accordance with the requirements of TEX. UTIL. CODE ANN. §103.054 (Vernon 1998).

18. The provisions of TEX. UTIL. CODE ANN. §103.056 (Vernon 1998) are not applicable because TXU did not request interim rates.

19. The proposed rates constitute a major change as defined by TEX. UTIL. CODE ANN. §104.101 (Vernon 1998).

20. In accordance with TEX. UTIL. CODE §104.103 (Vernon 1998), 16 TEX. ADMIN. CODE ANN. §7.230 (2002), and 16 TEX. ADMIN. CODE ANN. §7.235 (2002), adequate notice was properly provided.

21. In accordance with the provisions of TEX. UTIL. CODE ANN. §104.102 (Vernon 1998 and Supp. 2003), 16 TEX. ADMIN. CODE ANN. §7.205 (2002), and 16 TEX. ADMIN. CODE §7.210 (2002), TXU filed its Statement of Intent to change rates.

22. TXU failed to meet its burden of proof in accordance with the provisions of TEX. UTIL. CODE ANN. §104.008 (Vernon 1998) on the elements of its requested rate increase identified in this order.

23. The rates proposed by TXU are in accordance with TEX. UTIL. CODE ANN. §104.006 (Vernon

1998) because the rates established for customers of each environs area do not exceed 115 percent of the average of all rates for similar services for all municipalities served by TXU in the same county.

24. TXU's intent to set system-wide rates is consistent with 16 TEX. ADMIN. CODE §7.220 (2002), that provides that rates applicable to customers located in the environs may be the same as those rates in the nearest incorporated area in Texas served by the same utility.

25. The revenue, rates, rate design as proposed by TXU are not just and reasonable; unreasonably preferential, prejudicial, or discriminatory; and not sufficient, equitable, and consistent in application to each class of consumer, as required by Tex. Util. Code Ann. §104.003 (Vernon 1998).

25A. The revenue, rates, rate design, and service charges proposed by TXU, as amended and set out in this Order and accompanying schedules, are just and reasonable, are not unreasonably preferential, prejudicial, or discriminatory, and are sufficient, equitable, and consistent in application to each class of consumer, as required by Tex. Util. Code Ann. §104.003 (Vernon 1998).

26. The overall revenues as established by the findings of fact and attached schedules are reasonable; fix an overall level of revenues for TXU that will permit the company a reasonable opportunity to earn a reasonable return on its invested capital used and useful in providing service to the public over and above its reasonable and necessary operating expenses, as required by TEX. UTIL. CODE ANN. § 104.051 (Vernon 1998); and otherwise comply with Chapter 104 of the Texas Utilities Code.

27. The revenue, rates, rate design, and service charges approved herein will not yield to TXU more than a fair return on the adjusted value of the invested capital used and useful in rendering service to the public, as required by TEX. UTIL. CODE ANN. § 104.052 (Vernon 1998).

28. The rates established in this docket comport with the requirements of TEX. UTIL. CODE ANN. §104.053 (Vernon 1998) and are based upon the adjusted value of invested capital used and useful, where the adjusted value is a reasonable balance between the original cost, less depreciation, and current cost, less adjustment for present age and condition.

29. In accordance with TEX. UTIL. CODE ANN. §104.054 (Vernon 1998) and TEX. ADMIN. CODE §7.5252, book depreciation and amortization was calculated on a straight line basis over the useful life expectancy of TXU's property and facilities.

30. In this proceeding, TXU has the burden of proof under TEX. UTIL. CODE ANN. §104.008 (Vernon 1998) to show that the proposed rate changes are just and reasonable.

31. Under TUC §104.055(b), payments to affiliates are excluded from TXU's invested capital or operating expenses unless the Railroad Commission of Texas specifically finds each item or class of items reasonable and necessary and finds that the price to TXU Gas Company is not higher than the prices charged by the supplying affiliate to its other affiliates or divisions or to a nonaffiliated person for the same item or class of items.

32. Under TUC §104.055(b), payments to affiliates are not presumed to be reasonable.

33. Under TUC §104.055(b), the TXU Business Services, Inc. charges to TXU Gas Company are affiliate transactions subject to the requirements of the TUC.
34. Under TUC §104.055(b), the TXU Energy charges to TXU Gas Company under the Service Level Agreement are affiliate transactions subject to the requirements of the TUC.
35. Under TUC §104.055(b), the Oncor Electric Delivery Company L.C. charges to TXU Gas Company, the TXU Receivables Company charges to TXU Gas, and the TXU Vermont Insurance Company charges to TXU Gas Company are all affiliate transactions subject to the requirements of the TUC.
36. As provided in the findings of fact, TXU did not meet its burden of proof to meet the requirements of TUC §104.055(b) for all of its affiliate transactions.
37. As provided in the findings of fact, TXU Gas Company met its burden of establishing that transactions charged to TXU Gas Company from its affiliates are reasonable and necessary and TXU Gas Company does not pay more than the price charged to other affiliates or divisions or to a non-affiliated person for the same item or class of items.
38. Rate case expenses for GUD 9400 will be considered by the Commission in accordance with TEX. UTIL. CODE ANN. §103.022 (Vernon 1998), §104.008 (Vernon 1998), and 16 TEX. ADMIN. CODE §7.5530 (2002), in a separate proceeding.
39. It is reasonable for the Commission to allow TXU to include a Gas Cost Recovery Factor in its municipal and environs rates to provide for the recovery of all of its gas costs, in accordance with 16 TEX. ADMIN. CODE § 7.5519 (2002).
40. As required by TEX. ADMIN. CODE § 7.5525, all expenses for lost and unaccounted for gas in excess of the following percentages shall be disallowed as unreasonable: 5% for the first twelve month period following the effective date of this order; 4% for the subsequent twelve month period; and, 3% for each twelve month period thereafter.
41. TXU is required by 16 TEX. ADMIN. CODE §7.315 (2002) to file electronic tariffs incorporating rates consistent with this Order within thirty days of the date of this Order.
42. The rate setting methodologies set forth in TEX. UTIL. CODE ANN. §104.051 *et seq.* were used to set the rates in this proceeding.

IT IS THEREFORE ORDERED that TXU's proposed schedule of rates is hereby **DENIED**.

IT IS FURTHER ORDERED that the rates, rate design, and service charges established in the findings of fact and conclusions of law and in the attached Schedules for TXU are **APPROVED**.

IT IS FURTHER ORDERED that TXU Gas Company **SHALL NOT** recover expenses for any lost and unaccounted for gas in excess of the following: during the first twelve month period following the effective date of this order, its actual lost and unaccounted for gas or five (5) percent, whichever is less; during the following twelve month period its actual lost and unaccounted for gas or four (4) percent,

whichever is less; and, during each succeeding twelve month period its actual lost and unaccounted for gas or three (3) percent, whichever is less.

IT IS FURTHER ORDERED that TXU shall file with the Gas Services Division of the Railroad Commission, on or prior to March 25, June 25, September 25, and December 25 of each year, a certified sales rate statement reflecting the estimated gas cost to sales customers to be effective over the succeeding three-month periods beginning April 1, July 1, October 1, and January 1.

IT IS FURTHER ORDERED that TXU shall file annually a certified statement with the Gas Services Division of the Railroad Commission, on or prior to September 1 of each year, reconciling its expenditures for gas to serve residential, commercial and industrial sales customers with TXU's recovery of those costs from these customers for the previous twelve-month period ending June 30.

IT IS FURTHER ORDERED that TXU shall file with the Gas Services Division of the Railroad Commission a triennial application for a prudence review to demonstrate that its gas costs are reasonable and necessary beginning with the period November 1, 2003, to October 31, 2006. The filing shall be due on or before May 1 following each triennial period ending on October 31. The Commission may order refund as appropriate.

IT IS FURTHER ORDERED that, in accordance with 16 TEX. ADMIN. CODE §7.315, within 30 days of the date this Order is signed, TXU shall file tariffs with the Gas Services Division. The tariffs shall incorporate rates, rate design, and service charges consistent with this Order, as stated in the findings of fact and conclusions of law and shown in the attached Schedules.

IT IS FURTHER ORDERED that this Order shall not be final and effective until twenty days after a party is notified of the Commission's Order. Under TEX. GOV'T CODE § 2001.142(c), a party shall be 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 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.

IT IS FURTHER ORDERED that all proposed findings of fact and conclusions of law not specifically adopted in this Order are hereby **DENIED**. **IT IS ALSO ORDERED** that all pending motions and requests for relief not previously granted or granted herein are hereby **DENIED**.

SIGNED this _____ day of May, 2004.

RAILROAD COMMISSION OF TEXAS

CHAIRMAN VICTOR G. CARRILLO

COMMISSIONER CHARLES R. MATTHEWS

COMMISSIONER MICHAEL L. WILLIAMS

ATTEST:

SECRETARY