

Rate Case Expenses Severed from Gas Utilities Docket Nos. 9770, 9773 and 9789

APPEARANCES:

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Texas Gas Service Company (“TGS”)

PROPOSAL FOR DECISION

1. Procedural History

On November 9, 2007, Texas Gas Service Company (“TGS”) filed an appeal of the actions of the Cities of Lockhart and Luling, Texas. On November 30, 2007, TGS filed an appeal of the actions of the Cities of Cuero, Gonzales, Nixon, Shiner and Yoakum, Texas. On December 6, 2007, TGS filed a statement of intent to increase rates in the unincorporated areas of the South Texas Service Area, and requested an effective date of January 10, 2008. On January 8, 2008, the Examiners consolidated TGS’s two appeals and its statement of intent into GUD No. 9770 pursuant to 16 TEX. ADMIN. CODE § 1.125 (1991). On January 23, 2008, Staff of the Railroad Commission of Texas (“Staff”) intervened as a party to GUD No. 9770. On February 29, 2008, the Examiners severed rate case expense issues out of GUD No. 9770 and into a separate docket, Gas Utilities Docket No. 9790: Rate Case Expenses severed from Gas Utilities Docket Nos. 9770, 9773, 9774 and 9789. On April 24, 2008, the Commission issued a final order in GUD No. 9770.

2. Jurisdiction

The Commission has jurisdiction over the matters at issue in this proceeding under Texas Utilities Code §§ 102.001, 121.051, and 121.151. The statutes and rules involved include, but are not limited to TEX. UTIL. CODE ANN. §§ 103.022, 103.054, & 103.055, (Vernon 1998) and 16 TEX. ADMIN. CODE § 7.5530 (2002).

3. Analysis of the Utility's Rate Case Expenses

On December 2, 2008, Ms. Stacey McTaggart¹ filed testimony on behalf of TGS regarding rate case expenses incurred in prosecuting GUD No. 9770 through the Commission. TGS requests approval for reimbursement of \$166,576 actual and estimated future rate case fees and expenses. The utility is requesting \$151,576 in actual fees incurred in GUD No. 9770 to date and \$15,000 in estimated future expenses. TGS proposes a volumetric surcharge on all tariffed customer classes over a two-year period. TGS proposes a \$0.0119 per Ccf surcharge on all Ccf during each billing period. Ms. McTaggart testified about the utility's attempts to limit rate case expenses and cost control measures in this docket. The Examiners reviewed all billings and evidence submitted by TGS. The utility incurred \$123,659 in legal and consulting expenses. The following tables summarize the expenses incurred.

Legal and Consulting Fees and Expenses	\$123,659
Internal Expenses	\$2,568
Notice Publishing Expenses	\$25,349
Estimated Future Expenses	\$15,000
Total Expenses	\$166,576

The evidence indicates that the amount of work required to prosecute GUD No. 9770 justifies the work performed by the utility's attorneys and consultants pursuant to the requirements of §7.5530(a).² The Commission ultimately approved the utility's rate request in the underlying docket. As a result of the Commission's final order, the Commission approved an approximate overall revenue in GUD No. 9770 of \$3,429,881, a \$1,083,765 increase over adjusted test year revenues of \$ 2,346,116 or 46.9%. The rate case expenses are approximately 15.49 percent of the increase in test year revenues (or, 4.89 percent of annual revenues) approved by the Commission. The Examiners did not find any duplication of services or testimony. Given the aggregate revenues approved in this docket and the fact that the Commission approved the utility's request, the Examiners do not find sufficient evidence on which to recommend that the Commission reduce or deny the utility's rate case expenses under §7.5530(b).³

¹ Direct Testimony of Stacey McTaggart.

² (a) In any rate proceeding, any utility and/or municipality claiming reimbursement for its rate case expenses pursuant to Texas Utilities Code, §103.022(b), shall have the burden to prove the reasonableness of such rate case expenses by a preponderance of the evidence. Each gas utility and/or municipality shall detail and itemize all rate case expenses and allocations and shall provide evidence showing the reasonableness of the cost of all professional services, including but not limited to: (1) the amount of work done; (2) the time and labor required to accomplish the work; (3) the nature, extent, and difficulty of the work done; (4) the originality of the work; (5) the charges by others for work of the same or similar nature; and (6) any other factors taken into account in setting the amount of the compensation.

³ (b) In determining the reasonableness of the rate case expenses, the Commission shall consider all relevant factors including but not limited to those set out previously, and shall also consider whether the request for

Further, the Examiners have not identified any specific amounts, expenditures, fees, and expenses actually incurred in GUD No. 9770 that are different from the types of fees and expenses approved by the Commission in prior rate cases. Therefore, the Examiners recommend that the Commission approve the utility's request to recover \$151,576 in actual expenses incurred in GUD No. 9770.

The Examiners also recommend that the Commission approve the utility's request to recover a maximum of \$15,000 in estimated future expenses necessary to complete GUD Nos. 9770 and 9790, subject to subsequent verification of actual incurrence and reasonableness of these amounts. The Examiners propose that the utility be required to file with the Gas Services Division of the Commission, on a quarterly basis, a report detailing at a minimum all amounts recovered per surcharge, evidence establishing the reasonableness of the charges under §7.5530, and any other information required by Gas Services Division staff.

The Examiners recommend that the Railroad Commission of Texas approve the attached Proposed Final Order containing findings of fact and conclusions of law.

Respectfully submitted,

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a rate change was warranted, whether there was duplication of services or testimony, whether the work was relevant and reasonably necessary to the proceeding, and whether the complexity and expense of the work was commensurate with both the complexity of the issues in the proceeding and the amount of the increase sought as well as the amount of any increase granted.