

RAILROAD COMMISSION OF TEXAS

**STATEMENT OF INTENT FILED BY §
BLUEBONNET NATURAL GAS, LLC. §
TO INCREASE RATES IN ITS SERVICE §
AREAS IN HARDIN, JEFFERSON, § GAS UTILITIES DOCKET NO. 9810
LIBERTY, NACODOCHES, RUSK, AND § 9823, and 9827.
TYLER COUNTIES AND PETITION §
FOR DE NOVO REVIEW OF THE §
DENIAL OF THE STATEMENT OF §
INTENT FILED IN DEVERS AND MT. §
ENTERPRISE, TEXAS. §**

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. GOV'T CODE ANN. Chapter 551, et seq. (Vernon 1994 & Supp. 2009). The Railroad Commission of Texas adopts the following findings of fact and conclusions of law and orders as follows:

FINDINGS OF FACT

1. Bluebonnet Natural Gas ("BNG") is a gas utility as that term is defined in the Texas Utility Code.
2. BNG owns and operates a gas distribution system that distributes gas in the following municipalities: Devers, Mt. Enterprise, and Nome, Texas and its surrounding environs. BNG also operates systems in the following counties: Hardin, Jefferson, Liberty, Nacodoches, Rusk and Tyler.
3. On July 16, 2008, BNG filed a Statement of Intent requesting that the Railroad Commission of Texas ("Commission") approve new rates for all customer classes within the areas served by BNG. BNG also filed a Statement of Intent within the municipalities served by it.
4. The proposed rates will increase BNG's total annual revenues by approximately \$219,991.
5. BNG's proposed rates would have gone into effect on August 20, 2008.
6. On July 29, 2008, the Commission suspended the implementation of BNG's proposed rates for 150 days after the date the rate schedules would otherwise be effective.
7. The City of Devers denied the proposed rate increase on August 12, 2008 and the City of Mt. Enterprise denied the proposed rate increase on August 26, 2008.

8. BNG timely filed its appeal of the denial of the proposed rate increase and those appeals were consolidated in this docket.
9. Notice of the proposed increase was provided to customers by U.S. Mail on August 21, 2008.
10. BNG's publication of notice meets the statutory and rule requirements of notice for the proposed increase of \$219,991 and the proposed rates of a \$15.00 customer charge and a volumetric rate of \$0.6980 per CCF for residential customers and a \$25.00 customer charge and a volumetric rate of 0.6980 per CCF for commercial customers.
11. A protest was filed with the Commission regarding the proposed new rate schedules on September 16, 2008; no motions to intervene were filed in this proceeding.
12. Prehearing conferences were held on August 7, 2008, and September 16, 2008, and a hearing was convened on October 15, 2008 and October 21, 2008.
13. The data submitted by BNG in this docket encompass a full test-year, i.e, the twelve-month period ending June 30, 2008.
14. There are approximately 1,196 Residential, and 72 Commercial class customers that will be affected by BNG's rate changes. BNG also serves approximately 10 agricultural customers.
15. A cost of long-term debt for BNG of 7.65 percent is reasonable.
16. BNG requested a cost of common equity of 14.00%.
17. BNG has not established that a cost of common equity of 14.00% is reasonable and consistent with the cost of common equity recently established for other utilities.
18. A cost of common equity for BNG of 12.5% is reasonable
19. An overall rate of return of 9.27% based on the weighted average cost of capital is reasonable.
20. BNG established that a cost of \$18,996 for intangible plant, \$918,066 for total distribution plant, \$238,734 for general plant, and an overall plant in service cost of \$1,175,796 is just and reasonable.
21. A total net plant of \$424,999 for BNG is reasonable in this case.

22. BNG has not established that an acquisition adjustment of \$97,018 is just and reasonable.
23. In determining BNG's total rate base, it is reasonable to increase the rate base by an amount for cash working capital, \$71,092, and material inventory, \$8,478, as set out in the attached schedules.
24. In determining BNG's total rate base, it is reasonable to reduce the rate base by an amount for prepaid postage, \$203, and customer deposits, \$34,700.
25. A total rate base of \$469,667 for BNG is reasonable in this case.
26. BNG provided insufficient estimates, in the form of an e-mail, to support its request for \$10,000 in legal expense and \$12,000 in audit expenses.
27. BNG's inclusion of a non-recurring expense, rate case expenses, as part of its overall request for consulting expenses is not reasonable.
28. It is reasonable to recover rate case expenses as a separate surcharge.
29. Total administrative general expenses of \$281,758, distribution expenses of \$275,625, customer and accounting and collections expenses of \$5,658, sales promotion of \$698, and an overall operations and maintenance expense of \$563,739 for BNG are just and reasonable.
30. A depreciation expense of \$77,448 for BNG is just and reasonable.
31. Income tax expense of \$32,650, and taxes other than income taxes of \$39,184 are reasonable.
32. The notice that was issued to the customers of BNG did not include a notice of the proposed surcharge related to rate case expenses and indicated that the proposed increase would not exceed \$219,991.
33. BNG's proposed Residential Sales Rate, consisting of a minimum customer charge of \$15.00 per month and a single volumetric charge of \$0.6980 per Ccf on all gas volumes delivered, is reasonable.
34. BNG's proposed Commercial Sales Rate, consisting of a minimum customer charge of \$25.00 per month and a single volumetric charge of \$0.6980 per Ccf on all gas volumes delivered, is reasonable.

35. BNG's proposal to include a pipeline inspection fee in the attached tariffs is reasonable.
36. BNG has established that affiliate expenses related to management fees are just and reasonable and the rate charged for the services to the gas utility are not higher than the prices charged by the supplying affiliate to its other affiliates or divisions or to non-affiliated persons for the same item or class of items.
37. It is reasonable to sever the proposed rate case expenses to allow BNG an opportunity to provide notice of the proposed surcharge to recover rate case expenses and further review the reasonableness of the proposed rate case expenses.
38. The proposed tariffs include a purchased gas adjustment (PGA) clause.
39. BNG purchases gas from CPR Pipeline.
40. CPR Pipeline is owned by Rene Garza, President of BNG, and is therefore, an affiliate of BNG.
41. Rates charged by CPR Pipeline to BNG are passed through to customers of BNG through the operation of the PGA.
42. CPR Pipeline has not filed a tariff with the Gas Services Division.
43. It is not reasonable for BNG to pass through the costs charged by CPR Pipeline unless a tariff is filed by CPR Pipeline with the Gas Services Division.
44. It is reasonable to consider in a separate docket the reasonableness of the rates passed through by BNG of CPR Pipeline, and for the Staff of the Gas Services Division to initiate an inquiry into the rates charged by CPR Pipeline to BNG, and whether a tariff was previously on file to authorize those charges.

CONCLUSIONS OF LAW

1. Bluebonnet Natural Gas ("BNG") is a "Gas Utility" as defined in TEX. UTIL. CODE ANN. §101.003(7) (Vernon 1998 & Supp. 2005) and §121.001(Vernon 1998 & Supp. 2005) and is therefore subject to the jurisdiction of the Railroad Commission (Commission) of Texas.
2. The Railroad Commission of Texas ("Commission") has jurisdiction over BNG's Statement of Intent under TEX. UTIL. CODE ANN. §§102.001, 104.001, 104.001, and §104.201(Vernon 1998 & Supp. 2005).
3. Under TEX. UTIL. CODE ANN. §102.001 (Vernon 1998 & Supp. 2005), 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. 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 & Supp. 2005) (“APA”).
5. In accordance with the stated purpose of the Texas Utilities Code, Subtitle A, expressed under TEX. UTIL. CODE ANN. §101.002 (Vernon 1998 & Supp. 2005), the Commission has assured that the rates, operations, and services established in this docket are just and reasonable to customers and to the utilities.
6. TEX. UTIL. CODE ANN. §104.107 (Vernon 1998 & Supp. 2005) provides the Commission authority to suspend the operation of the schedule of proposed rates for 150 days from the date the schedule would otherwise go into effect.
7. In accordance with TEX. UTIL. CODE §104.103 (Vernon 1998 and Supp. 2005), 16 TEX. ADMIN. CODE ANN. §7.230 (2002), and 16 TEX. ADMIN. CODE ANN. §7.235 (2002), adequate notice was properly provided.
8. In accordance with the provisions of TEX. UTIL. CODE ANN. §104.102 (Vernon 1998 & Supp. 2005), 16 TEX. ADMIN. CODE ANN. §7.205 (2002), and 16 TEX. ADMIN. CODE §7.210 (2002), BNG filed its Statement of Intent to change rates.
9. Except for the proposed expenses related to the acquisition adjustment, legal fees, and audit fees BNG met its burden of proof in accordance with the provisions of TEX. UTIL. CODE ANN. §104.008 (Vernon 1998 and Supp. 2005) that its rate changes are just and reasonable.
10. A utility is required to provide notice of the proposed increase to its customers pursuant to TEX. UTIL. CODE ANN. § 104.103 and the increase provided in this order does not exceed the increase noticed by the utility.
11. The revenue, rates, rate design, and service charges proposed reflected in the attached tariffs and schedules are just and reasonable, 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 & Supp. 2005).
12. The overall revenues as established by the findings of fact are reasonable; fix an overall level of revenues for BNG 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 & Supp. 2005); and otherwise comply with Chapter 104 of the Texas Utilities Code.

12. The revenue, rates, rate design, and service charges proposed will not yield to BNG more than a fair return on the adjusted value of the invested capital used and useful in rendering service to the public to the public, as required by TEX. UTIL. CODE ANN. § 104.052 (Vernon 1998 & Supp. 2005).
13. All expenses for lost and unaccounted for gas in excess of 5.0 percent shall be disallowed, consistent with TEX. ADMIN. CODE § 7.5525(b)(1) (2002).
14. BNG 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.

IT IS THEREFORE ORDERED that the rates reflected in the findings of fact and conclusions of law are hereby **APPROVED**.

IT IS FURTHER ORDERED that, in accordance with 16 TEX. ADMIN. CODE §7.315, within 30 days of the date this Order is signed, BNG shall file tariffs with the Gas Services Division and may not charge rates until a tariff is accepted by the Gas Services Division. The tariffs shall incorporate the rates, rate design, and service charges consistent with this Order, as stated in the findings of fact and conclusions of law.

IT IS FURTHER ORDERED that BNG's rates as requested and to the extent recommended to be approved in the findings of fact and conclusions of law are **HEREBY APPROVED** to be effective for gas consumed and for services delivered on and after the date of this Order.

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**.

IT IS FURTHER ORDERED that rate case expenses shall be considered in a separate docket after proper notice to affected customers is provided by BNG.

IT IS FURTHER ORDERED that staff of the Railroad Commission shall initiate an inquiry into the rates passed through to customers, through the operation of the purchase gas adjustment clause, and that BNG not pass through the expenses of CPR Pipeline until a tariff is filed with the Gas Services Division.

IT IS FURTHER ORDERED THAT BNG may begin charging rates for gas delivered and for

services delivered on and after the date of this Order. This Order will not be final and appealable until 20 days after a party is notified of the Commission's order. A party is 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 such motion is 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. Each exception to the examiners' proposal for decision not expressly granted herein is overruled. All requested findings of fact and conclusions of law which are not expressly adopted herein are denied. All pending motions and requests for relief not previously granted or granted herein are denied.

SIGNED this _____ day of November, 2008.

RAILROAD COMMISSION OF TEXAS

CHAIRMAN MICHAEL L. WILLIAMS

COMMISSIONER VICTOR G. CARRILLO

COMMISSIONER ELIZABETH A. JONES

ATTEST:

SECRETARY