

**RAILROAD COMMISSION OF TEXAS**

STATEMENT OF INTENT FILED BY §  
TEXAS GAS SERVICE COMPANY TO § GAS UTILITIES DOCKET NO. 9839  
CHANGE THE RATES WITHIN THE §  
ENVIRONS OF THE NORTH TEXAS §  
SERVICE AREA. §

**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 2004 & Supp. 2008). The Railroad Commission of Texas adopts the following findings of fact and conclusions of law and orders as follows:

**FINDINGS OF FACT**

1. Texas Gas Service Company (“TGS”) is a utility as that term is defined in the Texas Utility Code and is subject to the jurisdiction of the Railroad Commission of Texas (“Commission”).
2. TGS owns and operates a gas distribution system referred to as the North Texas Service Area (“NTSA”).
3. The NTSA consists of TGS’ gas distribution system located within five counties: Young, Jack, Stephens, Palo Pinto, and Parker Counties, Texas. The cities and unincorporated communities of Breckenridge, Graham, Jacksboro, Bryson, Jermyn, Mineral Wells, Graford, Millsap, Palo Pinto, Whitt, Perrin, Weatherford, Aledo, Hudson Oaks, Willow Park, Punkin Center, and Possum Kingdom, Texas, and their surrounding environs are located within the NTSA.
4. On December 1, 2008, TGS filed a statement of intent to increase rates in the unincorporated areas of the North Texas Service Area.
5. On December 16, 2008, the Commission suspended the implementation of TGS’s proposed rate changes on environs customers for up to 150 days pursuant to TEX. UTIL. CODE ANN. §104.107(a)(2) (Vernon 2007 & Supp. 2008).
6. TGS requested that the proposed new rates for all customer classes become effective on January 5, 2009.
7. The statutory deadline for Commission action on TGS’s December 1, 2008, filing is June 4, 2009.
8. On March 5, 2009, Staff of the Railroad Commission of Texas (“Staff”) intervened as a party to this proceeding.

9. On April 8, 2009, the Examiners severed rate case expense issues out of GUD No. 9839 and into a separate docket, Gas Utilities Docket No. 9867: Rate Case Expenses Severed From Gas Utilities Docket No. 9839.

10. TGS' filing with the Commission seeks to implement the same rates as those currently in effect in the NTSA municipalities. The proposed rates are comprised of two components: settled rates based on the statement of intent filed with the NTSA municipalities, and a Cost of Service Adjustment Clause ("COSA") charge which was approved by the NTSA municipalities.

11. TGS filed a statement of intent with the NTSA municipalities on July 10, 2007, which resulted in a settlement agreement approving a \$598,000 revenue increase for the NTSA. The environs share of the \$598,000 revenue increase is approximately \$60,601 in base revenue.

12. TGS filed a COSA adjustment with the NTSA municipalities on April 1, 2008, which resulted in an approval of a \$144,002 revenue increase for the NTSA. The environs share of the \$144,002 revenue increase is approximately \$13,175 in base revenue.

13. The data submitted by TGS in this docket encompasses full test-years. The data submitted by TGS in this docket that forms the basis of the statement of intent filed with the NTSA municipalities encompasses the test-year ending March 31, 2007. The data submitted by TGS in this docket that forms the basis of the COSA charge filed with the NTSA municipalities encompasses the test-year ending December 31, 2007.

14. TGS proposed rates for the following seven classes of customers: residential, commercial, large volume commercial, industrial, large volume industrial, public authority, and large volume public authority.

15. TGS provides gas service to approximately 17,321 customers within the entire NTSA. TGS provides gas service to approximately 1,978 customers within the environs of the NTSA. Approximately 1,761 residential, 187 commercial, 1 large volume industrial, and 29 public authority customers will be affected by TGS's proposed rate changes for the environs of the NTSA.

16. In its statement of intent filed with the Commission TGS seeks an increase to base revenues attributable to NTSA environs customers of \$73,776. TGS also seeks approval of its proposed Weather Normalization Adjustment Clause, Cost of Gas Clause, and Cost of Service Adjustment Clause. TGS seeks to withdraw all tariffs listed on Schedule 1, attached hereto.

#### Notice

17. TGS mailed notice of the proposed rate changes by United States mail, postage prepaid, to the billing address of each affected customer. Lori Moreno, Manager of Communications for ONEOK, Inc., filed an affidavit stating that notice was mailed to all environs customers directly or by bill insert on April 2, 2009.

18. The notice mailed by TGS contained information pertaining to the proposed revision of rates and schedules; details of proposed changes; the expected revenue effect on the company; the classes and numbers of customers affected; the filing date; a statement the proposed rates do not constitute a "major change;" that the proposed rates are sought to be at the same level as the city rates; where to obtain information concerning the proposed rate change; and a statement that any affected person may file in writing comments or a protest concerning the proposed change in the environs rates with the Docket Services Section of the Office of General Counsel, Railroad Commission of Texas.

19. TGS's mailing of notice meets the statutory and rule requirements of notice and provides sufficient information to rate payers about the statement of intent and satisfies the requirements imposed under TEX. UTIL. CODE ANN. §104.103(b)(2) (Vernon 2007 & Supp. 2008) and 16 TEX. ADMIN. CODE ANN. §7.230 (2002), and 16 TEX. ADMIN. CODE ANN. §7.235 (2002).

20. On March 9, 2009, the Examiners mailed by United States mail, postage prepaid, a Notice of Hearing to all affected parties giving notice of the final hearing to be conducted in Austin, Texas, at the offices of the Railroad Commission of Texas on April 7, 2009.

21. On March 16, 2009, the Examiners mailed by United States mail, postage prepaid, a Notice of Hearing to the County Judges of Young, Jack, Stephens, Palo Pinto, and Parker Counties, giving notice of the final hearing to be conducted in Austin, Texas, at the offices of the Railroad Commission of Texas on April 7, 2009.

22. No protests were filed with the Commission regarding the proposed new rate schedules for the NTSA; no customers or municipality filed a petition to intervene or otherwise participated in this proceeding. The only party to intervene in this proceeding was the Staff of the Railroad Commission of Texas.

### Final Hearing

23. A final hearing was conducted in Austin on April 7, 2009, to take testimony, other evidence, and legal argument on all issues of law and fact that were raised in or relevant to TGS's statement of intent, for the purpose of developing a record that the Commission will use in setting rates.

24. At the April 7, 2009, final hearing, TGS and Staff filed their Joint Motion for Entry of Order Adopting Settlement Agreement, requesting that the Commission approve the terms of the proposed Settlement Agreement ("Agreement"). The Agreement is attached hereto as Exhibit 1.

25. The Hearings Examiners recessed the final hearing in order to present the Agreement to the Commission.

### Settlement Agreement

26. The Agreement establishes a base revenue increase attributable to the NTSA environs of \$73,776 as requested by TGS in its statement of intent filed with the Commission. The \$73,776 increase in revenue is comprised of \$60,601 representing the environs' share of the settlement agreement resolving the July, 2007 statement of intent, and \$13,175 representing the environs' share of the 2007 COSA adjustment, both of which were approved by the NTSA municipalities.

27. The cost of service data submitted by TGS in this proceeding establishes that a \$73,776 base revenue increase from NTSA environs customers will allow TGS to recover its reasonable and necessary expenses associated with providing gas service to NTSA environs customers and allow TGS the opportunity to recover a reasonable rate of return on capital investment used to provide gas service.

28. The cost of service data submitted by TGS in this proceeding establishes that an overall rate of return of 8.5840 percent for invested capital is reasonable under current financial conditions.

29. The 8.5840 percent rate of return is comprised of the following cost of capital components:

DESCRIPTION	RATIO	COST RATE %	COMPOSITE RATE %
Long-Term Debt	0.4900	6.220%	3.0500%
Preferred Stock	0.0000	0.000%	0.0000%
Common Equity	0.5100	10.850%	5.5340%
Total	1.0000		8.5840%

30. The Agreement specifies that the overall rate of return of 8.540 percent and the component return on equity of 10.850 percent are the product of agreement with the NTSA cities and are therefore appropriate for application to the NTSA environs. The Agreement further specifies that the ROE should have no precedential effect on future determinations by the Commission of appropriate values for these two components. It is reasonable for the Commission to approve a 10.850 percent return on equity, limited to this proceeding, because this amount does not allow TGS to receive an unreasonably high rate of return on invested capital used and useful in providing gas service to customers within the NTSA environs.

31. Weather has an impact on the sale of gas to TGS's customers and therefore affects revenues. It is reasonable to account for deviations from normal weather patterns by performing weather normalization adjustments pursuant to a Weather Normalization Adjustment Clause ("WNAC"). As a result of the Agreement, TGS and Staff propose Commission adoption of the WNAC, attached hereto in Exhibit 1.

32. The WNAC will allow TGS to account for deviations from normal weather patterns by refunding over-collections or surcharging under-collections of allowable revenue due to weather that deviates from normal, and is therefore reasonable.

33. TGS requested approval of a Cost of Service Adjustment tariff (“COSA”) in its statement of intent filed with the Commission. As a result of the Agreement, Staff and TGS propose adoption of the COSA, attached hereto in Exhibit 1.

34. The COSA provides for an annual review and adjustment to the rates charged by TGS for gas service to customers within the NTSA. The COSA will allow for incremental adjustments to the rates TGS charges based on TGS’ revenues and expenses. The COSA provides for Commission review of any proposed changes to rates for gas service. The COSA as proposed will not allow TGS to over-recover or under-recover expenses or return on invested capital and is therefore reasonable.

35. The COSA allows for a 90-day regulatory review by the appropriate regulatory authority and therefore does not result in an automatic adjustment to rates.

36. The COSA requires regulatory overview by the appropriate regulatory authority and does not allow for the implementation of a rate increase or decrease without prior consent of the appropriate regulatory authority.

37. TGS requested approval of a Cost of Gas Clause (“COGC”) in its statement of intent filed with the Commission. As a result of the Agreement, Staff and TGS propose adoption of the COGC, attached hereto in Exhibit 1.

38. The COGC provides for the recovery of gas costs from ratepayers. The COGC provides for the recovery of financial hedging costs associated with reducing the volatility of gas costs. The COGC provides for the recovery of uncollectible expenses associated with gas purchases. The COGC as proposed by the Agreement is reasonable.

39. As set forth in the Agreement entered between Staff and TGS, establishing rates for seven customer classes is reasonable. The seven customer classes which TGS will provide gas service to in the NTSA and its environs are the following: residential, commercial, large volume commercial, industrial, large volume industrial, public authority, and large volume public authority.

40. Residential service rates, as shown on the attached Rate Schedule 1A, consisting of a monthly customer charge of \$10.75 and a single volumetric charge of \$0.20270 per Ccf on all gas volumes, are reasonable.

41. Commercial service rates, as shown on the attached Rate Schedule 2A, consisting of a monthly customer charge of \$22.50 and a single volumetric charge of \$0.19380 per Ccf on all gas volumes, are reasonable.

42. Large volume commercial service rates, as shown on the attached Rate Schedule 2B, consisting of a monthly customer charge of \$400.00 and a single volumetric charge of \$0.17380 per Ccf on all gas volumes, are reasonable.
43. Industrial service rates, as shown on the attached Rate Schedule 3A, consisting of a monthly customer charge of \$50.00 and a single volumetric charge of \$0.15680 per Ccf on all gas volumes, are reasonable.
44. Large volume industrial service rates, as shown on the attached Rate Schedule 3B, consisting of a monthly customer charge of \$400.00 and a single volumetric charge of \$0.13680 per Ccf on all gas volumes, are reasonable.
45. Public authority service rates, as shown on the attached Rate Schedule 4A, consisting of a monthly customer charge of \$40.00 and a single volumetric charge of \$0.18670 per Ccf on all gas volumes, are reasonable.
46. Large volume public authority service rates, as shown on the attached Rate Schedule 4B, consisting of a monthly customer charge of \$400.00 and a single volumetric charge of \$0.16670 per Ccf on all gas volumes, are reasonable.

### **CONCLUSIONS OF LAW**

1. Texas Gas Service Company ("TGS") is a "Gas Utility" as defined in TEX. UTIL. CODE ANN. §101.003(7) (Vernon 2007 & Supp. 2008) and §121.001 (Vernon 2007 & Supp. 2008) and is therefore subject to the jurisdiction of the Railroad Commission ("Commission") of Texas.
2. The Commission has jurisdiction over TGS and TGS' statement of intent under TEX. UTIL. CODE ANN. §§ 102.001, 104.001 and 104.201 (Vernon 2007 & Supp. 2008).
3. Under TEX. UTIL. CODE ANN. §102.001 (Vernon 2007 & Supp. 2008), 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 and Supp. 2004) (APA).
5. In accordance with the stated purpose of the Texas Utilities Code, Subtitle A, expressed under TEX. UTIL. CODE ANN. §101.002 (Vernon 2007 & Supp. 2008), 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 2007 & Supp. 2008) 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.

7. The proposed rates do not constitute a major change as defined by TEX. UTIL. CODE ANN. §104.101 (Vernon 2007 & Supp. 2008).

8. In accordance with TEX. UTIL. CODE §104.103 (Vernon 2007 & Supp. 2008), 16 TEX. ADMIN. CODE ANN. §7.230 (2002), and 16 TEX. ADMIN. CODE ANN. §7.235 (2002), adequate notice was properly provided.

9. In accordance with the provisions of TEX. UTIL. CODE ANN. §104.102 (Vernon 2007 & Supp. 2008), 16 TEX. ADMIN. CODE ANN. §7.205 (2002), and 16 TEX. ADMIN. CODE §7.210 (2002), TGS filed its Statement of Intent to change rates.

10. TGS met the required burden of proof in accordance with the provisions of TEX. UTIL. CODE ANN. §104.008 (Vernon 2007 & Supp. 2008) on the elements of its requested rate increase identified in this order, and as set forth in the Agreement, schedules and tariffs attached hereto.

11. The rates and tariffs proposed by TGS and Staff, as set forth in the Agreement attached hereto, are in accordance with TEX. UTIL. CODE ANN. §104.006 (Vernon 2007 & Supp. 2008) 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 TGS in the same county.

12. The rates and tariffs proposed by TGS and Staff, as set forth in the Agreement attached hereto, are found to be 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 2007 & Supp. 2008).

13. The overall revenues as established by the findings of fact and attached Agreement, schedules and tariffs are reasonable; fix an overall level of revenues for TGS 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 2007 & Supp. 2008); and otherwise comply with Chapter 104 of the Texas Utilities Code.

14. The rates and tariffs proposed by TGS and Staff, as set forth in the Agreement attached hereto, will not yield to TGS 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 2007 & Supp. 2008).

15. It is reasonable for the Commission to allow TGS to include a Cost of Gas Clause in its rates to provide for the recovery of all of its gas costs, in accordance with 16 TEX. ADMIN. CODE § 7.5519 (2002).

16. All expenses for lost and unaccounted for gas in excess of 5.0 percent shall be disallowed, consistent with TEX. ADMIN. CODE § 7.5519 (2002).

17. TGS 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.

18. Rate case expenses for GUD No. 9839 will be considered by the Commission in accordance with TEX. UTIL. CODE ANN. §104.008 (Vernon 2007 & Supp. 2008), and 16 TEX. ADMIN. CODE §7.5530 (2002), in a separate proceeding.

19. It is reasonable for the Commission to allow TGS to recover uncollectible amounts for gas cost through its Cost of Gas Clause, in accordance with 16 TEX. ADMIN. CODE § 7.5519 (2002).

20. TGS's mailing of notice meets the statutory and rule requirements of notice and provides sufficient information to rate payers about the statement of intent and satisfies the requirements imposed under TEX. UTIL. CODE ANN. §104.103(b)(2) (Vernon 2007 & Supp. 2008) and 16 TEX. ADMIN. CODE ANN. §7.230 (2002), and 16 TEX. ADMIN. CODE ANN. §7.235 (2002).

21. The COSA does not provide for an automatic adjustment to rates. It is reasonable for the Commission to approve the COSA proposed in TGS and Staff's Agreement because the COSA does not allow for the implementation of a rate increase or decrease without prior consent of the appropriate regulatory authority and is therefore allowable under 16 TEX. ADMIN. CODE ANN. §7.115(p) and §7.220(c) (2002).

**IT IS THEREFORE ORDERED** that the rates and tariffs proposed by Texas Gas Service Company and the Staff of the Railroad Commission of Texas are hereby **APPROVED**.

**IT IS FURTHER ORDERED** that the rates and tariffs established in the findings of fact, conclusions of law and as shown in the attached Schedules are **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, TGS shall file tariffs with the Gas Services Division. The tariffs shall incorporate the rates and tariffs established in the findings of fact, conclusions of law and as shown in the attached Schedules.

**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** within 30 days of this order TGS **SHALL** electronically file tariffs and rates schedules in proper form that accurately reflect the rates approved by the Commission in this Order.



This Order will not be final and effective 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 28<sup>th</sup> day of April, 2009.

**RAILROAD COMMISSION OF TEXAS**

---

**CHAIRMAN VICTOR G. CARRILLO**

---

**COMMISSIONER ELIZABETH A. JONES**

---

**COMMISSIONER MICHAEL L. WILLIAMS**

**ATTEST:**

---

**SECRETARY**