

**BEFORE THE
RAILROAD COMMISSION OF TEXAS**

COMPLAINT OF WEST TEXAS GAS, §	
INC., AND WTG GAS MARKETING, §	
INC. AGAINST ENTERPRISE TEXAS §	
PIPELINE, LLC, REGARDING §	GAS UTILITIES DOCKET
VIOLATION OF GAS UTILITY §	No. 9959
REGULATORY ACT AND §	
COMMISSION RULES §	

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. 2009).

FINDINGS OF FACT

1. Enterprise Texas Pipeline, LLC (“Enterprise”) owns and operates Line 9041 Medina Field to Frio Road 6” and 8” pipeline (“Line 9041”).
2. Line 9041 is located in Bexar and Medina counties and is approximately 23.524 miles in length.
3. Line 9041 is supplied from the east end near San Antonio and flows west.
4. The line is made up of a combination of 8-inch diameter pipe and 6-inch diameter pipe.
5. West Texas Gas, Inc. (“WTG”) and WTG Gas Marketing, Inc. (“WTGGM”) is a shipper on Line 9041 and a transportation customer of Enterprise.
6. Three municipally owned gas utilities purchase natural gas from WTGGM: (1) the City of Castroville, (2) the City of Devine, and (3) the City of Lytle.
7. West Texas Gas provides natural gas to end use customers within the municipalities of Natalia and Somerset.
8. As an operator Enterprise is required to develop a Pipeline Integrity Assessment and Management Plan for all pipeline operated by Enterprise.
9. Implementation of the initial baseline assessment for Line 9041 will require that the line be out of service for approximately twenty-one days.

10. Enterprise initially scheduled commencement of the baseline assessment test for July 7, 2009.
11. The following municipalities requested a delay of the baseline assessment test to allow the municipalities to budget for the outage: Castroville, Devine, and Lytle.
12. Enterprise submitted a request to delay the scheduled baseline assessment of Line 9041 to the Pipeline Safety Division and, after reviewing the existing Pipeline Integrity Assessment and Management Plan and the records related to Line 9041, the Pipeline Safety Division granted the request.
13. On May 28, 2010, Enterprise notified the municipalities, WTG, and WTGGM that the baseline assessment test would commence one year later on July 6, 2010.
14. The Pipeline Integrity Assessment and Management Plan developed by Enterprise was designed to meet federal and state standards.
15. The Pipeline Integrity Assessment and Management Plan developed by Enterprise scheduled an assessment of all pipelines operated by Enterprise.
16. Moving the testing date from one year to the next may impact the operator's schedule regarding other pipelines that must be assessed.
17. The Pipeline Integrity Assessment and Management Plan, and the baseline assessment test for Line 9041, was reviewed by the Pipeline Safety Division and found to comply with Rule 8.101.
18. Line 9041 was originally installed in 1937.
19. All of Line 9041 has been replaced since it was initially installed and tested subsequent to 1937.
20. The most recent test on Line 9041 occurred in 1999 but certain segments have not been tested since 1977.
21. Witnesses for all parties testified that the purpose of a baseline test is to identify problems that are unknown.
22. The most serious concern regarding Line 9041 is unknown damage from a third-party.
23. It is not reasonable to delay the baseline assessment testing another year.
24. All parties agree that the test of Line 9041 will require some period of outage.

25. The proposed twenty-one-day outage to conduct the baseline assessment test is reasonable.
26. Enterprise has an economic incentive to minimize the period of outage as Enterprise will earn no natural gas transportation revenues on Line 9041 while the line is out of service.
27. In developing the assessment plan, Enterprise has a preference to test the line while it is in service.
28. Enterprise, the operator of Line 9041, concluded that it was not possible to conduct a test of the pipeline while it was still in service.
29. WTG and WTGGM will be required to provide an alternative source during the period of outage.
30. The contract between WTG/WTGGM and Enterprise contains contract provisions that govern the parties' responsibilities due to an outage due to modifications, repairs, maintenance or testing.
31. The parties may dispute issues related to breach of contract in district court.
32. WTG and WTGGM has not argued any necessity that would satisfy the public interest test requiring revision of the contract terms.

CONCLUSIONS OF LAW

1. West Texas Gas, Inc. ("WTG") and Enterprise Texas Pipeline, LLC ("Enterprise") are "Gas Utilities" as defined in Tex. Util. Code Ann. §101.003(7) (Vernon 2007) and §121.001(2009) and is therefore subject to the jurisdiction of the Railroad Commission (Commission) of Texas.
2. The Railroad Commission may by rule prescribe or adopt safety standards. Tex. Util. Code Ann. 121.201, 121.2015, et seq.
3. A rate for a pipeline-to-pipeline transaction or to a transportation, industrial, or similar large volume contract customer is considered to be just and reasonable and otherwise to comply with section 104.003 and shall be approved by the Commission if one of the following conditions have been met: (1) Neither the gas utility nor the customer had an unfair advantage during the negotiations; (2) the rate is substantially the same as the rate between the gas utility and at least two of those customers under the same or similar conditions of service; or, (3) competition does or did exist with another gas utility, another supplier of natural gas, or a supplier of an alternative form of energy. Tex. Util. Code Ann. § 104,003(b).

- 4. Rates that are established by contract may be set aside if the Commission determines, after a hearing, that it is in the public interest to set aside those contractual rates. *High Plains Natural Gas Company v. Railroad Commission of Texas*, 467 S.W.2d 532 (Tex. App. – Austin 1971, writ refused).
- 5. No necessity has been argued that would satisfy the public interest test requiring a revision of the contract terms.

IT IS THEREFORE ORDERED BY THE RAILROAD COMMISSION OF TEXAS that the proposed baseline assessment for Line 9041 Medina Field to Frio Road 6” and 8” not be delayed further.

IT IS FURTHER ORDERED BY THE RAILROAD COMMISSION OF TEXAS that no hearing be established to develop an alternative methodology for the baseline assessment of Line 9041 Medina Field to Frio Road 6” and 8”.

IT IS FURTHER ORDERED BY THE RAILROAD COMMISSION OF TEXAS that no hearing be established to shift the burden of providing an alternative source of natural gas that is set out in the contract between WTG/WTGGM and Enterprise.

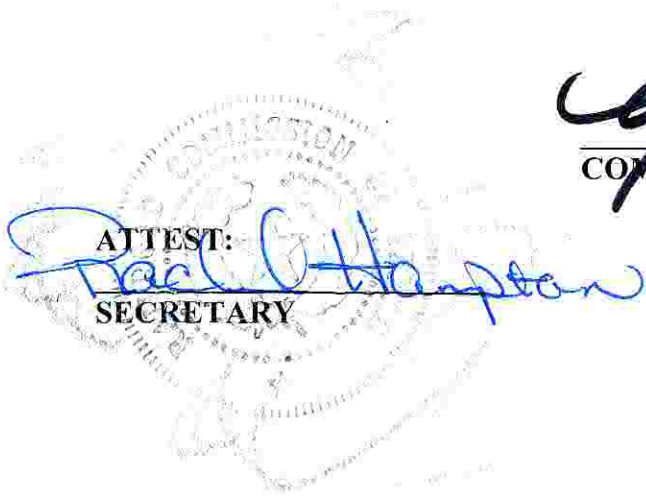

SIGNED this 18th day of May, 2010.

RAILROAD COMMISSION OF TEXAS


 CHAIRMAN VICTOR G. CARRILLO


 COMMISSIONER ELIZABETH A. JONES


 COMMISSIONER MICHAEL L. WILLIAMS


 ATTEST:

 SECRETARY