

RAILROAD COMMISSION OF TEXAS

STATEMENT OF INTENT FILED BY §
MONTGOMERY GAS TRANSMISSION, § GAS UTILITIES DOCKET NO. 9921
INC. TO INCREASE THE CITY GATE §
RATE CHARGED TO LDC, LLC §

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

FINDINGS OF FACT

1. Montgomery Gas Transmission, Inc. ("MGT") is a utility as that term is defined in the Gas Utility Regulatory Act.
2. MGT owns and operates a gas pipeline system that transports gas to LDC, LLC at the city-gate for the unincorporated area in and around Montgomery County, Texas.
3. On November 4, 2009, MGT filed a statement of intent requesting that the Railroad Commission of Texas ("Commission") approve a new city gate transmission rate charged to LDC, LLC.
4. The proposed rates will increase MGT's total annual revenues by approximately \$52,500.
5. On December 8, 2009, the Commission suspended the implementation of MGT's proposed rate changes for the city-gate for up to 150 days pursuant to TEX. UTIL. CODE ANN. §104.107(a)(2).
6. The statutory deadline for Commission action on this docket is May 8, 2010.
7. No protests were filed with the Commission regarding the proposed new rate schedules for MGT; no customers or municipality filed a petition to intervene or otherwise participated in this proceeding.
8. MGT requested that the proposed new city gate transmission rate become effective on November 1, 2010.
9. MGT's proposed rate increase does not constitute a major change and no final hearing was conducted in this docket.
10. MGT completed its notice requirements by mailing notice directly to each affected customer.
11. The data submitted by MGT in this docket encompass a full test-year, i.e. the twelve-month period ending December 31, 2008.

12. MGT proposed a \$2.30 per Mcf city-gate rate to be charged to LDC, LLC. MGT also proposed that the volumetric rate increase four percent (4%) annually beginning in January of 2012.
13. There are approximately 459 residential and 19 commercial customers that will be affected by MGT's rate change.
14. A capital structure of 70.71 percent long-term debt and 20.29 percent common equity is reasonable.
15. A cost of long-term debt for MGT of 7.00 percent is reasonable.
16. A cost of common equity for MGT of 8.50 percent is reasonable.
17. An overall rate of return of 7.30 percent based on the weighted average cost of capital is reasonable.
19. It is reasonable to set MGT's overall cost of service at \$ 167,662.
20. It is reasonable to set MGT's operating expenses at \$182,240 for purposes of establishing MGT's overall cost of service.
21. It is reasonable to set MGT's accumulated depreciation expense at \$21,158 for purposes of establishing MGT's overall cost of service.
22. It is reasonable to set MGT's rate base at \$482,629 for determining MGT's overall cost of service as that level of rate base is used and useful in providing gas service.
23. MGT's proposed city-gate transmission rate of \$2.30 per Mcf is reasonable and will allow the utility to recover its operating expenses and a reasonable return on its invested capital.
24. MGT's proposed automatic four percent annual increase to its city-gate transmission rate of \$2.30 per Mcf is not-reasonable because it constitutes an increase in rates that is not based on the utility's expenses.

CONCLUSIONS OF LAW

1. MGT, LLC ("MGT") is a "Gas Utility" as defined in TEX. UTIL. CODE ANN. §101.003(7) (Vernon 2007 & Supp. 2008) and §121.001(2007) and is therefore subject to the jurisdiction of the Railroad Commission ("Commission") of Texas.
2. The Railroad Commission of Texas has jurisdiction over MGT and MGT's statement of intent under TEX. UTIL. CODE ANN. §§ 102.001, 104.001, 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 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.

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. 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.

8. 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), MGT filed its Statement of Intent to change rates.

9. The revenues and city-gate rate proposed by MGT, as amended by the Examiners 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 2007 & Supp. 2008).

10. The overall revenues as established by the findings of fact are reasonable; fix an overall level of revenues for MGT 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.

11. The revenue, rates, rate design, and service charges proposed will not yield to MGT 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).

12. The city-gate rate established in this docket comport with the requirements of TEX. UTIL. CODE ANN. §104.053 (Vernon 2007 & Supp. 2008) and is 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.

13. In accordance with TEX. UTIL. CODE ANN. §104.054 (Vernon 2007 & Supp. 2008) and TEX.

ADMIN. CODE §7.5252, book depreciation and amortization was calculated on a straight line basis over the useful life expectancy of MGT's property and facilities.

14. In this proceeding, MGT has the burden of proof under TEX. UTIL. CODE ANN. §104.008 (Vernon 2007 & Supp. 2008) to show that the proposed rate changes are just and reasonable.

15. 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).

16. MGT 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.

17. The rate setting methodologies set forth in TEX. UTIL. CODE ANN. §104.051 et seq. were used to set the rates in this proceeding.

18. MGT's proposed automatic four percent annual increase to its city-gate transmission rate of \$2.30 per Mcf is not reasonable and violates the rate-making procedures set forth in TEX. UTIL. CODE ANN. §104.001 *et seq.*

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

IT IS FURTHER ORDERED that the \$2.30 per Mcf city-gate transmission rate established in the findings of fact and conclusions of law and in the Examiners' Recommendation for MGT is **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, MGT 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 Examiners' Recommendation on 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 MGT **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 20th day of April, 2010.

RAILROAD COMMISSION OF TEXAS


CHAIRMAN VICTOR G. CARRILLO


COMMISSIONER ELIZABETH A. JONES


COMMISSIONER MICHAEL L. WILLIAMS

ATTEST:


Deputy SECRETARY

SERVICE LIST
Gas Utilities Docket No. 9921
Statement of Intent Filed by Montgomery Gas Transmission, Inc.
to Increase the City Gate Rate Charged to LDC, LLC
Examiner: John Chakales
Co Examiner: Frank M. Tomicek

PARTIES

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