RAILROAD COMMISSION OF TEXAS

HEARINGS DIVISION

GUD NO. 10235

STATEMENT OF INTENT FILED BY WEST TEXAS GAS, INC. TO INCREASE GAS DISTRIBUTION RATES IN THE UNINCORPORATED AREAS OF TEXAS AND CONSOLIDATED DOCKETS

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PROCEDURAL HISTORY:

Docket Established:	January 24, 2013
Rates Suspended:	February 12, 2013
Technical Conference:	February 26, 2013
Heard By:	Cecile Hanna, Hearings Examiner Rose Ruiz, Technical Examiner
Settlement Agreement:	April 16, 2013
Amended Settlement Agreement:	April 26, 2013
Record Closed:	May 23, 2013
PFD Circulation:	May 23, 2013
Amended PFD:	June 6, 2013
Statutory Deadline:	September 25, 2013

STATEMENT OF THE CASE

West Texas Gas, Inc. (WTG) filed this proceeding to increase rates in the unincorporated areas served by WTG. WTG also filed a *Statement of Intent* in the cities of their municipal jurisdiction. The appeal and original proceeding were consolidated. Texas Railroad Commission Staff and Alliance of West Texas Gas Municipalities (AWM) intervened. An *Amended Unanimous Settlement Agreement* was filed on April 26, 2013.

WTG initially filed a *Statement of Intent* that sought an increase in revenues totaling $3,748,857 representing a 74.71% increase. The *Amended Unanimous Settlement Agreement* contemplates an increase of $1,500,000. This represented a decrease from the initial request of $2,248,857. The *Amended Unanimous Settlement Agreement* also contemplates recovery of rate case expenses in the amount of $642,578.54. The Examiners recommend that the recovery of rate case expenses be limited to customers within the jurisdiction of the Commission in this case in the amount of $457,068.12. The *Amended Unanimous Settlement Agreement* eliminates the Farwell Gas Cost Zone and requests findings for interim rate adjustments under TEX. UTIL. CODE ANN. § 104.301. The Examiners recommend approval of a Final Order consistent with the terms of the *Amended Unanimous Settlement Agreement* subject to changes to the allocation of rate case expenses and the applicability of the tariff.

TABLE OF CONTENTS

AMENDED PROPOSAL FOR DECISION

1. Procedural History

On January 24, 2013, West Texas Gas, Inc. (WTG) filed the *Statement of Intent of West Texas Gas, Inc. to Increase Gas Distribution Rates in the Unincorporated Areas of Texas.*[1] That case was docketed as GUD No. 10235. The proposed rates were suspended on February 12, 2013. On February 19, 2013 and February 26, 2013, the company filed amendments to the *Statement of Intent* to extend the proposed effective date of the rate increase. A corrected Proposed Tariff was filed on March 18, 2013, revising the list of counties served for both the revised public notice and the proposed tariff.[2]

For all customers located in unincorporated or rural areas, a copy of the Notice of Request for Gas Rate Increase was sent on March 20, 2013, by First Class U.S. Mail, to every affected domestic and non-domestic customer at their billing address shown in WTG's records. Furthermore, notice of the proposed increase was published once a week for four or more consecutive weeks, beginning the week of October 1, 2012, and running through the week of October 29, 2012, in newspapers of general circulation in each city affected by the proposed increase. Notice was sent by direct mail to all customers in the smaller cities.[3] In response, the Commission received six individual protest letters objecting that the proposed increase is excessive especially for retired individuals on a fixed income.

West Texas Gas, Inc. also filed a *Statement of Intent* proceeding within 27 of their 28 municipal jurisdictions.[4] Fifteen of the cities entered into a settlement agreement with WTG. The settling cities include: Balmorhea, Claude, Darrouzett, Farwell, Follett, Groom, Higgins, Junction, Menard, Mobeetie, Paint Rock, Shamrock, Texhoma, Texline, and Wheeler. The following twelve cities, however, denied the *Statement of Intent* filed by WTG: Cactus, Canadian, Canyon, Dalhart, Devine, Eden, Kermit, Miami, Natalia, Somerset, Sonora, and Stratford.[5]

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[1] An Amendment of West Texas Gas, Inc. to Extend Statement of Intent Effective Date for New Rates was filed on February 19, 2013, and a Second Amendment of West Texas Gas, Inc. to Extend Statement of Intent Effective Date for New Rates was filed on February 26, 2013.

[2] The revised list of Counties of Rural Systems include 69 Texas counties, as follows: Andrews, Archer, Armstrong, Atascosa, Bailey, Bexar, Brewster, Briscoe, Brown, Carson, Castro, Cochran, Coleman, Collingsworth, Concho, Crosby, Culberson, Dallam, Dawson, Deaf Smith, Dimmitt, Donley, Floyd, Frio, Gaines, Gray, Hale, Hall, Hansford, Hartley, Hemphill, Hockley, Hutchinson, Jeff Davis, Kimble, Kinney, Lamb, LaSalle, Lipscomb, Lubbock, Lynn, McCulloch, Martin, Maverick, Medina, Menard, Moore, Oldham, Ochiltree, Parmer, Pecos, Potter, Presidio, Randall, Reeves, Roberts, Runnels, Sherman, Sutton, Swisher, Terry, Tom Green, Uvalde, Val Verde, Wheeler, Wilson, Winkler, Yoakum, and Zavala.

[3] WTG Ex. 11 – Proof of Notice Filed by West Texas Gas, Inc.

[4] The company did not file the SOI with the City of Lubbock. WTG has only 23 customers within the City of Lubbock and will separately file for a rate increase in Lubbock that proposes rates for gas service in Lubbock be set at the same levels as the Atmos Energy rates from GUD No. 10174 Consolidated. WTG Ex. 3, Testimony of Jack J. (JJ) King p. 4. WTG has no customers within the Lubbock environs. Technical Conference, February 26, 2013, pp. 57-61.

[5] The Examiners note that the City of LaPryor is included as an incorporated service area in the proposed Tariff Section 2.1.1. Neither the public notice, nor the testimony in this record includes LaPryor in this case. Thus, LaPryor is not the subject of this consolidated docket. WTG Ex. 11 – Proof of Notice Filed by West Texas Gas, Inc.; and WTG Ex. 3, Direct Testimony of J.J. King, pp. 3-4.

The company filed its *Petition for De Novo Review filed by West Texas Gas, Inc. Appealing the Municipal Rate Decisions of Cactus, Canadian, Canyon, Dalhart, Devine, Eden, Kermit, Miami, Natalia, Somerset, Sonora and Stratford* on February 6, 2013.[6] That case was docketed as GUD No. 10239 and a Motion to Consolidate was granted on February 7, 2013, consolidating GUD No. 10239 with 10235. On February 28, 2013, the rate case expenses from GUD No. 10235 were severed into GUD No. 10245, styled as *Rate Case Expenses Severed from GUD No. 10235*. GUD No. 10245 was consolidated into GUD No. 10235 after receipt of the *Amended Unanimous Settlement Agreement.*

The Motion to Intervene filed by the Railroad Commission of Texas Staff was granted on January 25, 2013. A Motion to Intervene of Alliance of West Texas Gas Municipalities (AWM) was granted on February 7, 2013.

A technical conference was held on February 26, 2013. The Notice of Hearing was issued on March 8, 2013. The hearing on the merits was scheduled for May 13 – 16, 2013. On April 16, 2013, the procedural schedule was abated when the parties filed the *Unanimous Settlement Agreement*. On April 26, 2013, the parties filed the *Amended Unanimous Settlement Agreement* (*Settlement Agreement*), which included no substantive changes.[7] The amended settlement simply omits two exhibits that together are approximately 250 pages in length.[8] In order to evaluate the *Amended Unanimous Settlement Agreement*, the following documents were admitted into the record in this case:

- WTG – 1 – Prefiled Testimony of Richard D. Hatchett
- WTG – 2 – Prefiled Testimony of Barbara E. Geffken
- WTG – 3 – Prefiled Testimony of Jack J. (JJ) King
- WTG – 4 – Prefiled Testimony of James B. (Bart) Bean
- WTG – 5 – Prefiled Testimony of Carson Watt
- WTG – 6 – Prefiled Testimony of Dane A. Watson
- WTG – 7 – Prefiled Testimony of Bruce H. Fairchild
- WTG – 8 – Prefiled Testimony of William R. (Rodney) Pennington
- WTG – 9 – Prefiled Testimony of John R. (Randy) Underwood
- WTG – 10 – Updated (022713) Rate Study
- WTG – 11 – Proof of Notice filed March 29, 2013 and affidavits of J.J. King
- WTG – 12 – Schedule of Overhead Expenses of J.L. Davis submitted March 8, 2013
- WTG – 13 – Schedule of Allocation Factors for Overhead Burden filed March 8, 2013
- WTG – 14 – Schedules detailing unincorporated and incorporated areas filed on 3/8/2013
- WTG – 15 – Schedule of Entertainment & Meals Expenditures filed on March 7, 2013
- WTG – 16 – Gas Sales Volume for Test Year by Location
- Staff – 1 – WTG's Response to Staff's First Set of Requests for Information
- Joint Ex. 1 – Rate Case Expense documentation
- Examiner 1 – Recently Approved Commission Depreciation Rates (Revised)
- Examiner 2 – WTG Responses to Examiners' RFI's 2-1 through 2-3
- Examiner 3 – WTG Responses to Examiners' RFI 3-1
- Examiner 4 – WTG Responses to Examiners' RFI's 4-1 through 4-2

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[6] A Supplement to Appendix B of the *Petition for De Novo Review* was filed by the company on March 15, 2013.
[7] The *Amended Unanimous Settlement Agreement* is included as "Final Order Exhibit 1."
[8] These two exhibits are included in the evidentiary record as Staff-1 and Joint Ex. 1.

With issuance of the Amended Proposal for Decision, the Examiners close the evidentiary record in GUD No. 10235 (Consolidated).

The Gas Utility Regulatory Act (GURA) requires that the Commission establish rates that are just and reasonable. Accordingly, it is necessary to evaluate the settlement agreement for reasonableness. Further, the statute requires that the Commission make certain findings regarding affiliate transactions. The admitted exhibits are necessary to complete the evaluation of the proposed settlement agreement.

2. Jurisdiction

The Commission has jurisdiction over the applicant, associated affiliates and over the matters at issue in this proceeding pursuant to TEX. UTIL. CODE ANN. §§ 102.001, 103.003, 103.051, 104.001, 121.051, 121.052, and 121.151 (Vernon 2007 and Supp. 2012). The statutes and rules involved in this proceeding include, but are not limited to TEX. UTIL. CODE ANN. §§ 104.101, 104.102, 104.103, 104.105, 104.106, 104.107, 104.110, 104.301, and 16 TEX. ADMIN. CODE Chapter 7.

3. Overview of the Company

WTG has operated as a public utility in Texas and Oklahoma since 1976. WTG is the fourth largest Local Distribution Company (LDC) in Texas.[9] The utility is solely owned by J.L. Davis as a Subchapter S entity and is not publically traded on any stock exchange. The principal offices are located in Midland, Texas. WTG also maintains regional field operations offices in Amarillo and twelve district field offices serving WTG's Texas service area.[10]

WTG provides natural gas services and owns and operates gas distribution, gathering, and transmission pipeline systems. As for the distribution services, WTG operates approximately 5,000 miles of distribution mains serving approximately 27,000 residential, commercial, irrigation and agricultural customers in Texas and Oklahoma. The Texas distribution facilities are located in 69 counties and currently service more than 22,000 domestic and non-domestic[11] jurisdictional, irrigation and agricultural non-jurisdictional customers.[12]

WTG also operates approximately 665 miles of transmission pipeline in Texas used to supply downstream WTG distribution facilities and a few end-use or resale customers. WTG affiliates WTG Gas Transmission Company (WTGGT) and Western Gas Interstate Company (WGI) are regulated by the Texas Railroad Commission and FERC, and operate approximately 512 miles and 83 miles, respectively of transmission pipelines in Texas.[13]

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[9] WTG Ex. 7, Direct Testimony of Bruce H. Fairchild, p. 6.

[10] WTG Ex. 1, Direct Testimony of Richard D. Hatchett, pp. 4-5.

[11] Domestic customer is defined as a customer with a separate and individual meter in a private dwelling. Non-Domestic is defined as a customer other than domestic, unless served under contract. Non-Domestic includes commercial customers. (Proposed Tariff, *Settlement Agreement* p. 10, Final Order Ex. 1)

[12] WTG utilizes the term "jurisdictional" to include the domestic and non-domestic customers in the service area of the municipalities and environs. Whereas, the irrigation and agricultural customers served under contract are designated as "non-jurisdictional."

[13] WTG Ex. 1, Direct Testimony of Richard D. Hatchett, pp. 4-5

WTG also has subsidiary and affiliate entities in six states involved in natural gas marketing, intra and interstate gas transmission facilities, oil and gas exploration and production, gas gathering and processing facilities, refined products distribution, retail gasoline/convenience stores, banking, and a fixed-base private aircraft operation.[14]

While WTG is the fourth largest gas distribution utility in Texas, WTG witness, Dr. Bruce H. Fairchild, Principal with Financial Concepts and Applications, Inc., testified that the utility is not comparable in size or financial position to the largest three gas utilities serving Texas. The top three gas utilities include Atmos Energy Corporation (through its Mid-Tex and West Texas Divisions), CenterPoint Energy, Inc. (through its Entex and Arkla Divisions) and ONEOK, Inc. (through its Texas Gas Services Division).[15] Dr. Fairchild provided the following data to demonstrate his testimony related to the size of the largest four gas distribution utilities serving Texas:

Table 3.1
Four Largest Gas Distribution Utilities in Texas[16] (Dollar amounts in millions)

	Customers		Revenues		Net Plant	
Company	Texas	U.S.	Texas	U.S.	Texas	U.S.
Atmos	1,859,890	3,161,610	$ 1,439	$ 2,689	$ 2,076	$ 4,745
CenterPoint	1,563,892	3,282,487	$ 989	$ 3,374	$ 919	$ 4,535
ONEOK	607,513	2,089,930	$ 308	$ 1,621	$ 518	$ 3,392
WTG	22,224[17]	26,992	$ 168	$ 176	$ 88	$ 93

As of June 30, 2012, WTG had a total of 17,062 jurisdictional Texas customers consisting of 14,928 domestic (residential) and 2,134 non-domestic (commercial) customers. Geographically, 10,535 are domestic customers and 1,735 are non-domestic customers within the jurisdictional limits of the 28 Texas cities served by WTG. The remaining 4,792 domestic and non-domestic customers in Texas are served in rural or environs areas, as shown below in Table 3.2.[18] Subsequent to the filing of direct testimony related to the test year, the company adjusted the customer counts for known and measurable changes as shown in the Proof of Revenue, Exhibit C to the *Settlement Agreement.*

Table 3.2
Jurisdictional Customer Counts - Test Period July 2011 – June 2012

	Incorporated	Environs or Rural	Total
Domestic - Residential	10,535	4,393	14,928
Non-Domestic - Commercial	1,735	399	2,134
Total	12,270	4,792	17,062

[14] WTG Ex. 1, Direct Testimony of Richard D. Hatchett, p. 4
[15] WTG Ex. 7, Direct Testimony of Bruce H. Fairchild, pp. 6-7.
[16] WTG Ex. 7, Direct Testimony of Bruce H. Fairchild, p. 6.
[17] This total includes all West Texas Gas, Inc. customers including the approximately 5,000 non-jurisdictional agricultural, irrigation customers.
[18] WTG Ex. 3, Direct Testimony of J.J. King, p. 4.

Moreover, the number of customers served by WTG has not grown substantially in the last decade. In 2005, the company had 16,521 jurisdictional Texas customers compared to the 17,062 customers in 2012.[19] The smaller rural municipalities and their environs have experienced negative growth and the slight customer growth for the utility is due primarily to two recent acquisitions.[20]

In 2007, WTG acquired North Texas Gas Company of Dalhart, Texas and in 2010 the City of Devine's gas distribution system in Medina County, Texas. The North Texas Gas Company assets consisted of more than 650 miles of distribution pipeline systems serving approximately 300 jurisdictional domestic and non-domestic customers, along with numerous non-jurisdictional irrigation customers. The acquisition of the City of Devine's gas distribution system is composed of approximately 6 miles of steel mainline and more than 30 miles of poly mainline and service laterals. This part of the gas distribution system is mainly in the incorporated limits of the City of Devine and serves almost 900 jurisdictional domestic and non-domestic customers.[21]

For a sale, acquisition, or lease of a plant as an operating system of more than $1 million, GURA Section 102.051(a)(1) requires a report, public interest determination, and reasonable valuation of the property.[22] A report was not required for the acquisition of the Devine system because the sales price was under $1 million.[23] There was no testimony or other evidence offered related to the amount, public interest or filing of a report due to the acquisition for the Dalhart, North Texas Gas acquisition, except for a response to Staff's RFI 1-4.[24] This RFI answer states:

> There have been (2) acquisitions of Texas distribution properties since GUD No. 9488 North Texas Gas Company (GUD No. 9765) and the City of Devine (no docket number assigned because GURA section 102.051 only requires reports if the sales price is more than $1 million).

The Examiners had reviewed this RFI response and cited it in the PFD. The response was originally interpreted to mean that both systems were under $1 million. Moreover, no party requested judicial admission of GUD No. 9765,[25] which is not in evidence in this case. In WTG's Exceptions to the Proposal for Decision, the company recommends a revision to the proposal for decision and Finding of Fact No. 24 to show that the acquisition for the Dalhart, North Texas Gas system was over $1 million and that a report was filed with the Commission and docketed in the Gas Services Section as GUD No. 9765.

GURA Section 102.051(a)(1) also requires a public interest determination and reasonable valuation of the property for acquisitions over $1 million. In the initial filing there is no

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[19] WTG Ex. 3, Direct Testimony of J.J. King, p. 5.
[20] WTG Ex. 3, Direct Testimony of J.J. King, p. 5.
[21] WTG Ex. 1, Direct Testimony of Richard D. Hatchett, p. 10.
[22] Staff Ex. 1, WTG Response to Staff's First Set of Request for Information, 1-4.
[23] Staff Ex. 1, WTG Response to Staff's First Set of Request for Information, 1-4.
[24] Staff Ex. 1, WTG Response to Staff's First Set of Request for Information. 1-4.
[25] Gas Utilities Docket No. 9765, Application filed by West Texas Gas, Inc. to Report the Acquisition of Gas Utility Facilities in Carson, Castro, Dallam, Deafsmith, Hale, Hansford, Hartley, Hutchinson, Lamb, Lubbock, Moore, Palmer, Potter and Sherman Counties, Texas.

evidence to support a public interest determination. Upon review of the docket file in GUD No. 9765, it is apparent that North Texas Gas no longer intended to provide natural gas service to customers within its service area and West Texas Gas acquired the assets and stepped in to continue service to the North Texas Gas service area. Furthermore, a review of the rates proposed by WTG appear to be an overall decrease in the customer's bill compared to the rates charged by North Texas Gas. No evidence was presented by Intervenors to contradict a public interest determination in the instant docket.

Accordingly, the Examiners take judicial notice of GUD No. 9765. Furthermore, the PFD has been amended to reflect that the acquisition of the Dalhart, North Texas Gas, was over $1 million, WTG filed a report with the Commission, and the acquisition was in the public interest. As for the reasonable valuation of the property, an acquisition adjustment was recognized for the North Texas Gas acquisition, however, it was eliminated from WTG's rate model.[26]

4. Books and Records

Barbara Geffken, Controller for WTG, its subsidiaries, and affiliates, testified that WTG maintains its books and records in accordance with the Commission's regulations.[27] Namely, Rule 7.310 requires that each gas utility utilize the Federal Energy Regulatory Commission's (FERC) Uniform System of Accounts prescribed for Natural Gas Companies subject to the provision of the Natural Gas Act for all operating and reporting purposes. The FERC Uniform System of Accounts is applicable to all gas utility and gas utility related operations. Ms. Geffken asserted that the company maintains its books and records in accordance with 16 TAC § 7.310 and the amounts included therein are therefore subject to the presumption that they are reasonable and necessary.[28] West Texas Gas, Inc. established that it has complied with the requirements of 16 TAC § 7.310 and the Examiners find that the amounts noted therein are subject to the presumption encapsulated in 16 TAC § 7.503. Affiliates and subsidiaries of J.L. Davis maintain their own books and records.

5. *Amended Unanimous Settlement Agreement*

a. Overall Revenue Requirement

West Texas Gas, Inc. has not received a Commission approved rate increase since its last rate case in December 2004.[29] The company initially requested a system-wide revenue requirement increase of $3,748,857 representing a 74.71% increase.[30] The *Settlement Agreement* contemplates a system-wide revenue requirement increase of $1,500,000.[31] This represented a

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[26] Staff Ex. 1, WTG Response to Staff's First Set of Request for Information, 1-4 and Schedule C-1.2.
[27] WTG Ex. 2, Direct Testimony of Barbara Geffken, pp. 3-4 and 9.
[28] WTG Ex. 2, Direct Testimony of Barbara Geffken, p. 9.
[29] Tex. R.R. Comm'n., *Statement of Intent Filed by West Texas Gas, Inc., to Increase Special Rates in the Unincorporated Towns and Rural Areas, and appeals from the decisions of the Cities of Balmorhea, Claude, Darrouzett, Eden, Farwell, Follett, Groom, Higgins, Junction, Menard, Miami, Mobeetie, Shamrock, Stratford, Texhoma, Wheeler, Paint Rock, Cactus, Canadian, Kermit, Natalia, Somerset, Sonora and Texline*, GUD Nos. 9488 (Consolidated), Final Order (November 23, 2004).
[30] WTG Ex. 9, Direct Testimony of John R. Underwood, Schedule A. The company originally filed a proposed increase of $3,754,711 representing a 74.83% increase, however, this request was amended to remove donations from the cost of service.
[31] Proof of Revenue, Proposal for Decision Examiners' Ex. 2.

decrease from the initial request of $2,248,857. Thus, the settlement agreement represents a decrease of approximately 60% compared to the original amount requested. The company provided a full cost of service analysis, testimony and workpapers in support of its initial request with a test year from July 1, 2011 through June 30, 2012.

The *Settlement Agreement* contemplates that the $1,500,000 revenue increase is a "black box" amount and is not tied to any specific expense in the company's cost of service. The parties represent in the settlement agreement that the rates, terms, and conditions in the proposed Tariff comply with the rate-setting requirements of the Texas Utilities Code Chapter 104.[32] The *Settlement Agreement* contemplates the rates going into effect with bills on or after June 5, 2013. As this case will be decided on either June 13, 2013, or June 18, 2013, the tariff has been amended to reflect that rates will go into effect on the day after issuance of the Final Order in this case, which will be at the most 14 days after the proposed effective date in the *Settlement Agreement* and well before the statutory deadline of September 25, 2013.

b. Overall Rates

The *Settlement Agreement* contemplates approval of the following rates: [33]

Table 5.1
Proposed Rate Design

	Customer Charge	Single Block Volumetric Rate
Domestic	$10.00	$3.76 per Mcf
Non-Domestic	$13.70	$2.59 per Mcf

Initially, the company proposed rates with a Domestic Customer Charge of $17.78 and a Volumetric Charge of $4.78000. The initially proposed rates also requested a Non-Domestic Customer Charge of $13.70 and a Volumetric Charge of $2.59000. The *Settlement Agreement* contemplates a decrease from the rates as originally proposed to a $10.00 Customer Charge and a Volumetric Rate of $3.76000 for Domestic customers. The Non-Domestic customers, under the *Settlement Agreement*, do not have a change from what was initially proposed. The proposed settlement contemplates a rate of $13.70 for the Customer Charge and a Volumetric Rate of $2.59000 for these customers.

Table 5.2 – A
Rate Comparison[34]
Domestic Service – Average Residential Bill
(excluding gas cost)

	Customer Charge	Volumetric Charge	6 Mcf
Current - Incorporated and Environs	$9.00	$2.42000	$23.52
Proposed - Environs/Rural/AWM Cities	$17.78	$4.78000	$46.46
Settlement	$10.00	$3.76000	$32.56

[32] Proposed Final Order, Ex. 1, *Amended Unanimous Settlement Agreement*, Page 2, Paragraph 1.
[33] *Amended Unanimous Settlement Agreement*, Page 2, Paragraph 2.
[34] Proposal for Decision Exhibit No. 4

Table 5.2 – B – Rate Comparison
Non-Domestic Service – Average Commercial Bill (excluding gas cost)

	Customer Charge	Volumetric Charge	30 Mcf
Current - Incorporated and Environs	$12.00	$2.27000	$80.10
Proposed - Environs/Rural/AWM Cities	$13.70	$2.59000	$91.40
Settlement	$13.70	$2.59000	$91.40

Moreover, Tables 5.3[35] below provides an analysis of the proposed change in rates for bills at various consumption levels for both Domestic – residential customers and Non-Domestic – commercial customers, under the *Settlement Agreement.*

Table 5.3 – A
Calculation of Change
Domestic - Residential Bills

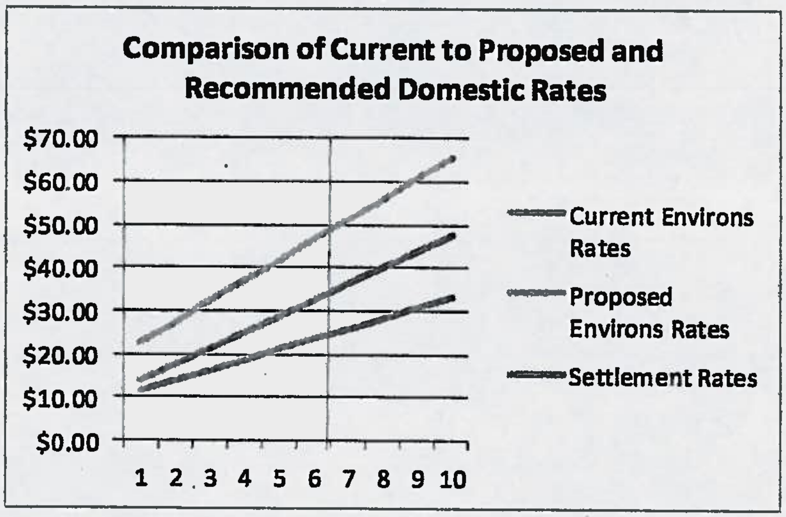
Mcf	% Change
1	20.49%
2	26.59%
3	30.87%
4	34.05%
5	36.49%
6	38.44%
7	40.02%
8	41.33%
9	42.43%

Table 5.3 – B
Calculation of Change
Non-Domestic – Commercial Bills

Mcf	% Change
10	14.12%
20	14.11%
30	14.11%
40	14.11%
50	14.10%
60	14.10%
70	14.10%
80	14.10%
90	14.10%

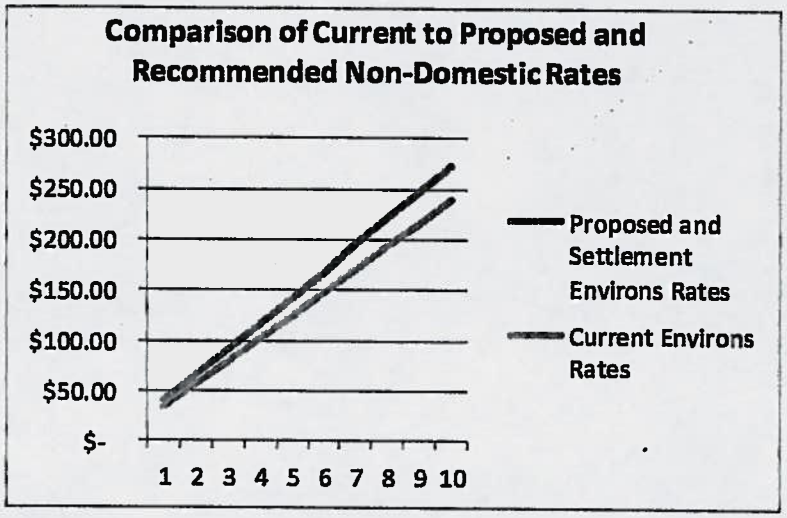
Similarly, Figures 5.1-A and 5.1-B[36] show the comparisons of current to proposed and recommended rates for Domestic and Non-Domestic customers, respectively.

Figure 5.1 – A



[35] Proposal for Decision Exhibit No. 5
[36] Proposal for Decision Exhibit No. 6

Figure 5.1 – B



Thus, based upon an average consumption of 6 Mcf, the average Domestic Customer will experience a 38.44% increase in rates without gas cost under the proposed settlement. As initially proposed in the *Statement of Intent*, Domestic Customers consuming an average of 6 Mcf, would have had a 97.53% increase in their bill, without the cost of gas. Whereas, a Non-Domestic commercial customer with an average consumption of 30 Mcf, will see a 14.11% increase under the proposed *Settlement Agreement*.

The areas of expense for the company that have seen the largest growth since the company's last rate case in 2004, include payroll from employee count and pay rates, regulatory compliance such as pipeline safety and integrity management, insurance, and employee health care costs. In addition, WTG provided evidence supporting the company's request for the proposed rate increase related to the following factors: (1) an increase in operating costs since the last rate case in December 2004; (2) investment of capital in major infrastructure extensions and improvements, and initiated a steel service line replacement program without the corresponding return on these investments; (3) personnel additions since December 2004 in an effort to comply with new or expanded regulatory requirements relating to operator qualification, distribution integrity management, public awareness, and third party pipeline damage reporting requirements; and (4) annual jurisdictional customer throughput volumes in many locations continue to decline due to the decreasing population base in most of WTG's service areas, improved energy-efficient appliances, and customer conservation efforts.[37] The Examiners find that the settlement agreement proposed rates are just and reasonable and recommend approval of those rates.

c. Cost of Capital

The *Settlement Agreement* proposes the following capital structure and weighted cost of capital, including the pre-tax return, which includes an imputed cost of debt and an imputed capital structure:[38]

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[37] WTG Ex. 1, Direct Testimony of Richard D. Hatchett, pp. 6-7.
[38] *Amended Unanimous Settlement Agreement*, Paragraph 3.

Table 5.4
Rate of Return

	Capital Structure	Debt/Equity Cost	Weighted Cost of Capital
Long Term Debt	50%	5.32%	2.66%
Common Equity	50%	10.5%	5.25%
Rate of Return	100%		7.91%

At test year-end, WTG's capital structure ratios were approximately 18% debt and 82% equity. Dr. Fairchild testified that based on data published by the American Gas Association (AGA), the gas distribution industry currently finances their investment in utility plant with approximately 41% long-term debt and preferred stock and 59% common equity.[39] Similarly, a group of nine LDCs with publicly traded common stock included in *Value Line's* Natural Gas Utility industry that are predominantly involved in natural gas distribution from 2008-2011, have average financing of approximately 44% debt and 56% equity. Yet, this same grouping shows at June 30, 2012, LDC debt ratios ranged from 31% to 51%, with equity ratios extending from a low 49% to a high of almost 68%.[40] Dr. Fairchild concluded that WTG's capital structure ratios with those maintained by the AGA and *Value Line* publicly traded LDC groups show that WTG's approximately 18% debt and 82% equity does not comport with industry averages of approximately 41%-43% debt and 57%-59% equity.[41]

Dr. Fairchild testified further that consistent with the use of industry capital structure ratios, the interest rate assigned to the debt component should reflect the cost of long-term debt. If WTG were to attempt to issue bonds, they would almost certainly be rated below investment grade. During August 2012, the Fed reported that the average yield on double-B and single-B corporate bonds was 5.25% and 6.65%, respectively. He recommends an imputed cost of debt for WTG at the average embedded cost of debt of the LDCs in the *Value Line* proxy group at June 30, 2012 of 5.32% be used for present purposes.[42]

Dr. Fairchild's testimony provides evidence to support an imputed capital structure. The Gas Services Division of the Texas Railroad Commission's Natural Gas Rate Review Handbook states that "If the consolidated capital structure is far out of line with the industry average, as shown in Moody's Utility Manual, a typical industry capital structure may be considered."[43] The Commission's Rate Review Handbook discusses another consideration related to small utilities that are heavily equity financed. The Handbook states, "A company can reasonably be expected to lower the overall cost to its ratepayers by using debt financing, but this determination should be made only after very careful consideration. Often a small utility may not have the financial capacity to borrow long-term fixed rate funds. They might even lack the financial strength to support or even qualify for short-term borrowing. If a determination is made that the company could have issued debt at reasonable cost and security, a reasonable capital structure for the company can be assigned for ratemaking purposes."[44]

[39] WTG Ex. 7, Direct Testimony of Bruce H. Fairchild, pp. 13-14.
[40] WTG Ex. 7, Direct Testimony of Bruce H. Fairchild, p. 14
[41] WTG Ex. 7, Direct Testimony of Bruce H. Fairchild, p. 14.
[42] WTG Ex. 7, Direct Testimony of Bruce H. Fairchild, p. 16.
[43] Gas Services Division of the Texas Railroad Commission's Natural Gas Rate Review Handbook pp. 23-24.
[44] Gas Services Division of the Texas Railroad Commission's Natural Gas Rate Review Handbook p. 24.

The proposed capital structure, cost of debt and equity, and the overall rate of return in the *Settlement Agreement* are based upon evidence in the record and Commission precedent. Accordingly, the Examiners find that they are just and reasonable.

d. Future Interim Rate Adjustments

In 2003, the 78th legislature provided utilities a mechanism to adjust rates with an interim adjustment for capital investment. The provision was amended in 2005 in the 79th legislative session. Prior to this statute, the only way that a utility could increase its rates was to file a *Statement of Intent* proceeding. The provisions related to this legislation are currently codified in Section 104.301 of the Texas Utilities Code Annotated. The interim rate adjustment statute allows interim adjustments to a utility's rates provided certain criteria are satisfied. Among the requirements, the utility must have completed a rate proceeding within two years of the initial interim rate adjustment filing. That proceeding would establish the applicable benchmark for certain factors to be used in the interim rate adjustment filing. The *Settlement Agreement* conforms to the requirement and includes adoption of the factors to be applied in future interim rate adjustment proceedings.

Specifically, the parties agree that no Interim Rate Adjustment (IRA) filing pursuant to TEX. UTIL. CODE ANN.§ 104.301 shall be made by WTG prior to January 1, 2014. WTG shall use the following factors for its IRA filings until changed by a subsequent rate proceeding:

a. For all filings, the capital structure and related components shall be as documented in numbered Paragraph 3, of the *Settlement Agreement*.

b. For all filings, the Ad Valorem tax of $332,250 for Jurisdictional Customers shall be divided by the net invested capital of $27,349,153 for an Ad Valorem tax rate of 1.21%.

c. For all filings, the overall depreciation expense shall be calculated based on the depreciation rates submitted by Mr. Dane Watson on behalf of WTG in GUD No. 10235 and consolidated case, all as summarized in "Exhibit D – Current and Settlement Depreciation Rates" to the *Settlement Agreement.*

d. For all filings, the federal income tax factor of 35%, or the then applicable statutory rate, shall be used.

e. For all filings, the average use per month per customer class in order to determine the current and proposed bill information in future IRA filings is as follows: Domestic at 6 Mcf and Non-Domestic at 30 Mcf.

f. For all filings, the base rate revenue allocation factors to be used to calculate the cost of changes in investment to be recovered from the appropriate customer classes are as follows: Domestic at 76.07% and Non-Domestic at 23.93%.

e. Depreciation Rates

WTG engaged Mr. Dane Watson to perform a depreciation study of WTG depreciable plant in service at December 31, 2011. The result of the study was an annualized depreciation expense for WTG of approximately $3.0 million. This represents an increase of approximately $355,000 over the annualized depreciation expense calculated on year-end 2011 investment using the current depreciation rates on a system-wide basis. Mr. Watson recommends a change from item based depreciation to group depreciation, where each plant account or sub group is depreciated based on a common rate for the group. He also recommends the company begin to record removal cost against the depreciation reserve instead of as part of the new asset.[45]

WTG's depreciation study included property in five general classes, or functional groups, of depreciable property: Intangible Property, Gathering Property, Transmission Property, Distribution Plant property, and General Plant property. The Intangible Function includes Organization costs, software, and related assets. Gathering Plant assets collect gas from natural gas producers who wish to market their gas. Transmission Plant takes the natural gas using intermediate pressure to send gas to the Distribution System. The Distribution Plant functional group primarily consists of pipes and associated facilities used to distribute gas within the cities served by the company. General Plant property is not location-specific but is used to support the overall distribution of gas to customers.[46]

The last change in the company's depreciation lives occurred in December 2004. The depreciation rates were established in GUD No. 9488-9512 and were based on a settlement agreement between the company and Intervenors in GUD No. 9488, *et al.* and authorized in the Final Order signed by the Commissioners on November 23, 2004.[47]

Mr. Watson recommended the following changes to annual depreciation expense: These amounts were determined by comparing the depreciation expense computed using current item-based rates and the proposed rates as shown in Exhibit DAW-1, Appendix A.[48]

Table 5.5
Depreciation Study Results By Group

Functional Group	Increase/(Decrease)
Intangible Property	66,000
Gathering Plant	(10,000)
Transmission Plant	69,000
Distribution Assets	439,000
General	(207,000)

The straight-line, Equal Life Group (ELG) remaining-life depreciation system was employed to calculate annual and accrued depreciation in this study.[49]

(i) Service Lives

WTG added most of its plant through acquisition of assets from other natural gas companies. When WTG acquired assets, the assets were booked with a vintage year of the

[45] WTG Ex. 6, Direct Testimony of Dane A. Watson, p. 5, lns. 15-18.
[46] WTG Ex. 6, Direct Testimony of Dane A. Watson, p. 6, lns. 9-18.
[47] WTG Ex. 6, Direct Testimony of Dane A. Watson, p. 6, lns. 27-29.
[48] WTG Ex. 6, Direct Testimony of Dane A. Watson, p. 7.
[49] WTG Ex. 6, Direct Testimony of Dane A. Watson, p. 9, lns. 4-7.

acquisition date. Acquiring assets a portion of the way through their lives and the recording of the vintages of those assets as the year of acquisition affect the book life of the asset groups. In other words, assets acquired that are 30 years old will appear to be new in the company's accounting system. As such a 60 year total life for the assets will only carry a 30 year life for depreciation purposes. The vintage year assigned to acquired assets will have a material effect on the service life of those assets.[50] The lives of assets for WTG will be much shorter than other natural gas companies.

Mr. Watson claims his study utilizes the results of the actuarial analysis and the chosen Iowa Curves used to determine the average service lives for each and strikes a reasonable balance between the historical statistical indications seen in the analysis and company-specific expectations based on current and future plans, regulations and requirements to serve its customers.[51]

Table 5.6 below provides the proposed lives recommended by Mr. Watson for the each account:

Table 5.6
Recommended Lives West Texas Gas

TABLE 1[52]
Recommended Lives West Texas Gas

Account	Description	Recommended Life	Recommended Iowa Curve
301	Organization	20	SQ
302	Franchise and Consents	20	SQ
303	Intangible Plant	12	SQ
332	Field Lines	20	R3
333	Field Compressor Station Equipment	25	R3
334	Field Measuring and Regulating Equipment	20	R3
365.2	Land Rights	45	SQ
367	Transmission Mains	45	R2
368	Transmission Compressors	15	R2
369	Measuring and Regulating Equipment	20	R3
371	Other Equipment	15	R2
376	Distribution Mains	45	R3
377	Compressor Station Equipment	18	R5
378	Distribution Measuring and Regulating Equipment	25	R3
387	Other Equipment	20	R2
389	General Plant Land Rights	40	SQ
390	Structures and Improvements	25	R2.5
391	Office Furniture and Equipment	20	L2
392	Transportation Equipment	9	L2
394	Tools, Shop, and Garage Equipment	20	L2
397	Communication Equipment	17	L2
398	Miscellaneous Equipment	15	SQ

(ii) Net Salvage

WTG's current depreciation rates do not reflect any net salvage because the company is booking removal cost toward the cost of a new asset. Mr. Watson recommended that WTG change its accounting practice and record cost of removal and gross salvage to the depreciation

[50] WTG Ex. 6, Direct Testimony of Dane A. Watson, p. 9, lns. 27-31.
[51] WTG Ex. 6, Direct Testimony of Dane A. Watson, p. 11, lns. 9-11.
[52] WTG Ex. 6, Direct Testimony of Dane A. Watson, p. 12.

reserve, similar to other regulated natural gas utilities. He also recommends that if the company converts its accounting practice, WTG should incorporate net salvage in the next depreciation study. Given current accounting practice for WTG, Mr. Watson recommends 0% net salvage for all accounts.[53]

(iii) Settlement Agreement - Depreciation

With the *Settlement Agreement* the Parties filed agreed depreciation rates as Exhibit D. The following table compares the current to settlement depreciation rates:

Table 5.7
Current and Settlement Depreciation Rates

WEST TEXAS GAS, INC.
CURRENT AND SETTLEMENT DEPRECIATION RATES
TEST PERIOD JULY 2011 - JUNE 2012

Item	FERC Account	Current Rate	Settlement Rate
INTANGIBLE PLANT			
ORGANIZATION	301.0	20.00%	0.00%
FRANCHISES & CONSENTS	302.0	20.00%	0.00%
MISCELLANEOUS INTANGIBLE PLANT	303.0	1.82%	17.60%
FIELD LINES & EQUIPMENT PLANT			
FIELD LINES	332.0	5.00%	3.32%
FIELD COMPRESSOR STATION EQUIPMENT	333.0	10.00%	0.00%
FIELD MEASURING & REGULATING STATION EQUIPMENT	334.0	10.00%	0.00%
TRANSMISSION PLANT			
RIGHTS-OF-WAY	365.2	1.82%	0.50%
MAINS	367.0	2.26%	2.12%
COMPRESSOR STATION EQUIPMENT	368.0	4.06%	7.84%
MEASURING & REGULATING STATION EQUIPMENT	369.0	4.06%	5.92%
OTHER EQUIPMENT	371.0	6.14%	7.31%
DISTRIBUTION PLANT			
MAINS	376.0	2.26%	2.36%
COMPRESSOR STATION EQUIPMENT	377.0	4.06%	5.85%
MEASURING & REGULATING STATION EQUIPMENT	378.0	4.06%	3.56%
OTHER EQUIPMENT	387.0	4.06%	4.18%
GENERAL PLANT			
LAND & LAND RIGHTS - DEPR	389.0	2.86%	2.45%
LAND & LAND RIGHTS - NON-DEPR	389.1	0.00%	0.00%
STRUCTURES & IMPROVEMENTS	390.0	7.41%	2.49%
OFFICE FURNITURE & EQUIPMENT	391.0	4.66%	2.89%
TRANSPORTATION EQUIPMENT	392.0	20.07%	9.93%
TOOLS, SHOP & GARAGE EQUIPMENT	394.0	6.14%	4.94%
COMMUNICATION EQUIPMENT	397.0	6.88%	10.84%
MISCELLANEOUS EQUIPMENT	398.0	7.23%	5.12%

From Schedule D-2, Page 3

[53] WTG Ex. 6, Direct Testimony of Dane A. Watson, p. 13, lns. 13-19.

(iv) Examiners' Recommendation

The Examiners' have evaluated the settlement depreciation rates by conducting a statistical analysis of recently approved depreciation rates at the Commission.[54] While recently approved depreciation rates may not be sufficient evidence upon which to establish depreciation rates in a fully contested case, it is a useful tool to evaluate depreciation rates proposed in a settlement.

With regards to the depreciation rates for Distribution Plant and General Plant the proposed depreciation rates included in the *Settlement Agreement* are within the range of depreciation rates adopted in recently approved cases at the Railroad Commission. Accordingly, the Examiners' recommend approval of the depreciation rates presented in Exhibit D to the *Settlement Agreement*. However, at this time the Examiners express no opinion on the underlying methodology applied in the study.

6. Affiliate Expenses

The Gas Utility Regulatory Act requires that specific findings must be made by the appropriate regulatory authority before rates may be adopted. Those findings include (1) a specific finding of the reasonableness and necessity of each item or class of items allowed; and (2) a finding that the price to the gas utility is not higher than the prices charged by the supplying affiliate to its other affiliates or division or to a non-affiliated person for the same item or class of items.[55] The Examiners conclude that the nature of the settlement makes it impossible to know for certain whether the expenses related to the affiliate are included in the rates. Thus, the Examiners find that the evidence in the record of this case regarding WTG's affiliates must be evaluated to comply with the statutory requirements.

During the test year, services were provided to WTG by certain affiliates. An organizational chart[56] depicting the wholly-owned businesses of J.L. Davis shows that West Texas Gas, Inc. has ten subsidiaries/affiliates some of which have subsidiaries of their own. All of WTG's subsidiaries/affiliates, except for Basin Aviation, are energy-related businesses (*e.g.*, exploration, production, gathering, processing, transmission, gas marketing, and refined fuel retailer). Basin Aviation is a fixed-base operator that provides fuel, hangar space, maintenance, flying lessons, and charter service to the private aircraft market in the Midland, Texas area. The remaining affiliate entities owned by J.L. Davis and shown in this organizational chart are also in energy-related fields, like the WTG subsidiaries, except for Whiskey Tango, LLC and First West Texas Bancshares, Inc. Whiskey Tango owns a fleet of private aircraft that lease their fleet to Basin Aviation for private charter purposes. First West Texas Bancshares is the majority shareholder of West Texas National Bank, a retail and commercial banking network with multiple branches in the Permian Basin and the Trans-Pecos areas.[57]

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[54] This summary document was admitted into the evidentiary record as Examiners' Exhibit No. 1 and also attached to the Proposal for Decision as Exhibit No. 3.
[55] TEX. UTIL. CODE ANN. § 104.055 (Vernon 2007 & Supp. 2012).
[56] Proposal for Decision, Ex. 1
[57] WTG Ex. 1, Direct Testimony of Richard D. Hatchett, pp. 20-24 and Schedules J-2 and J-3.

J.L. Davis Consulting, operating as a sole proprietorship, provides administrative personnel and support services for WTG. These shared services are referred to by J.L. Davis Consulting as "Overhead Burden." These support services include human resources, information technology, accounts payable, mailroom, engineering, mapping, office equipment, office furniture, office supplies, office utilities, office cleaning and maintenance, secretarial, and risk management. The items are paid for by WTG, its subsidiaries and affiliates to J.L. Davis through a monthly management fee. J.L. Davis does not mark up the costs or earn a profit to provide these support services.[58] These overhead service costs are allocated to WTG and the affiliates using an allocation factor based upon revenues, operating expenses, net income and gross plant.[59] The evidence shows that sharing these services with other affiliates recognizes savings in salaries and overhead and without the shared services, WTG would be required to hire approximately five additional employees.[60]

The company maintains its utility accounting records by district (*i.e.,* cost center). There are 29 District Cost Centers, including a Corporate District for general corporate management.[61] The WTG corporate office has 13 employees, with eight of those employees working not just for WTG but also in some instances for affiliates. The WTG corporate office provides shared services that are distinct from those services provided by J.L. Davis Consulting. The WTG corporate office includes billing solely for utility operations but some employees perform work for WTG and affiliates, like gas-related marketing or comptroller services.[62] Thus, WTG used a procedure to apportion costs based on how the individual employees work and type of cost.[63] WTG performed an analysis account-by-account with the same four factors for allocation of corporate management services that were used for the J.L. Davis Overhead Burden. Those factors include revenues, operating expenses, net income and gross plant.[64] Dr. Underwood provided evidence that these factors relate to cost causation. The corporate office performs an oversight function, managing the assets and personnel to minimize costs, operate safely, and generate revenues. So, plant, revenues, and total operating expenses are three of the main factors determining corporate management's time and focus. Dr. Underwood included net income also because he believes it is a preferred allocator in this jurisdiction.[65]

The test year charges paid to affiliates are as follows:[66]

- Aztec Gas, Inc. (Aztec) provides some wellhead gas supply to WTG's Shamrock distribution system. Aztec gathers, dehydrates, and compresses this gas supply before delivery into WTG's distribution system. WTG pays Aztec a lower price for this supply than what is available to WTG off the Enbridge transmission line that also serves the Shamrock system.

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[58] WTG Ex. 1, Direct Testimony of Richard D. Hatchett, pp. 23-24.
[59] WTG Ex. 9, Direct Testimony of John R. Underwood, Schedules J-3 corrected, J-4, Schedule Q; WTG Ex. 12, Schedule Detailing J.L. Davis Overhead Expenses; and WTG Ex. 13, Allocation Factors for Overhead Burden.
[60] WTG Ex. 1, Direct Testimony of Richard D. Hatchett, p. 24.
[61] WTG Ex. 9, Direct Testimony of John R. Underwood, p. 5.
[62] WTG Ex. 9, Direct Testimony of John R. Underwood, pp. 5-6.
[63] WTG Ex. 9, Direct Testimony of John R. Underwood, p. 5, and Schedule Q.
[64] Schedule A-4.1.1 and Schedule Q.
[65] WTG Ex. 9, Direct Testimony of John R. Underwood, pp. 11-12 and Schedule Q.
[66] WTG Ex. 1, Direct Testimony of Richard D. Hatchett, pp.20- 24 and Schedule J-3.

- WTG Exploration, Inc. (WTGX) also provides some wellhead gas supply to WTG's Shamrock distribution system. WTGX gathers and dehydrates this gas supply before delivery into WTG's distribution system. WTG pays WTGX a lower price for this supply than what is available to WTG off the Enbridge transmission line that also serves the Shamrock system.
- Schleicher County System is a gas gathering system owned by Davis Gas Processing, Inc., a subsidiary of WTG. WTG fills the role as the LDC for this affiliate to provide service to a few customers electing to receive gas from this gathering system pursuant to the terms of existing right of way agreements.
- WTG Gas Marketing, Inc. (WTGGM) provides gas procurement services to WTG for nearly all of WTG's distribution systems. WTG utilizes WTGGM for gas procurement in order to benefit from WTGGM's volumetric advantages (*e.g.*, transportation discounts, imbalance accounting thresholds, and purchasing power). WTGGM does not mark up its gas supply to WTG. WTGGM gas cost is calculated and invoiced to WTG at cost (inclusive of direct costs only - cost of commodity, upstream transport, and balancing costs). Gas supply from WTGGM is made available to WTG at lower prices than gas supply available from third parties.
- Western Gas Interstate, Inc. (WGI) is the upstream interstate transmission pipeline operator that provides transportation service to several WTG distribution systems in Sherman and Moore Counties, Texas. WTG pays WGI for firm transportation service pursuant to WGI's FERC approved tariff rates.
- WTG purchases a significant portion of its fleet gasoline and diesel supplies from WTG Fuels, Inc. (WTGF) by utilizing WTGF's GasCard fleet management system to control fuel usage in WTG company vehicles. Vehicle fuel is usually purchased by WTG personnel at retail sites that are owned and operated by third parties. Fuel is paid using the GasCard fleet system. The price WTG pays to WTGF is the posted price that is offered to all retail customers at these sites, including other WTG affiliates and non-affiliated third parties. Occasionally WTG purchases oils, lubes, or propane parts at a WTGF warehouse facility. These are usually small and inexpensive items that are purchased at the market price available to any WTGF customer.
- Occasionally WTG purchases oils, lubes, or propane parts at a WTGF warehouse facility. These are usually small and inexpensive items that are purchased at the market price available to any WTGF affiliate or third party.
- WTG pays J.L. Davis a monthly administrative fee for personnel, services, and facilities provided to WTG.
- The Bowie Gas Plant is owned by Davis Gas Processing. The personnel at the Bowie Gas Plant handle daily operations for WTG's Jack County transmission system for an agreed fee of $2,500 per month. This charge is excluded from the rate case as it does not relate to distribution activities.
- The Pearsall Gas Plant is owned by Davis Gas Processing. The Pearsall Plant rented this 2,000 sq. ft. office space with shop for WTG's South Texas personnel.
- WTG rents office space (approximately 1,200 sq. ft.) and shop space from WTG Fuels in Perryton for use by WTG's area distribution operations personnel.
- WTG rents office space (approximately1,500 sq. ft.) and shop space from WTG Fuels in Seminole, Texas for use by WTG's area distribution operations personnel.

- WTG rents approximately 10,000 sq. ft. of office space from J.L. Davis in downtown Midland for WTG officer and administrative personnel. The rental rates per square foot charged by J. L. Davis are the same for all affiliates and are substantially less than comparative rates charged in Midland for "Class B" office space.
- Aztec Gas provides WTG with OSHA safety training materials, safety equipment, as well as drug and alcohol testing kits. These items are billed to WTG at Aztec's cost.
- Basin Aviation provides private aircraft charter services to WTG. The rates paid by WTG for these charter services are the same rates that Basin publishes and makes available to other affiliated or non-affiliated customers.

Mr. Hatchett, WTG Vice-President, testified that affiliate expenses are reasonable and necessary and the amounts paid by WTG to affiliates are equal to, or less than, similar charges paid by non-affiliate entities. Mr. Hatchett testified that WTG does not pay any affiliate charges that exceed normal charges from arms-length third party transactions.[67] Mr. Hatchett testified further that the price charged to the gas utility is not higher than the price charged by the affiliate to its other affiliates, or to a non-affiliated person for the same items or class of items. Thus, the evidence in the record establishes that the company has met the affiliate expenses standard under Section 104.055 of GURA, in that the services provided by its affiliates are reasonable and necessary costs of providing gas utility service, and the prices charged to West Texas Gas, Inc. are no higher than the prices charged by the supplying affiliate to WTG's other affiliates, or to a non-affiliated person for the same item or class of items. Moreover, the company has identified the affiliate costs and applied allocation factors (revenues, operating expenses, net income, and gross plant) as a means of properly assessing costs when services or employees are shared with affiliates.

7. Rate Case Expenses

In any rate proceeding, 16 TAC § 7.5530 provides that any utility and/or municipality claiming reimbursement for its rate case expenses, pursuant to Texas Utilities Code Annotated §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. Each entity seeking recovery of rate case expenses must 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.

[67] WTG Ex. 1, Direct Testimony of Richard D. Hatchett, pp. 19-20 and Schedule J-3.

Furthermore, Commission rules mandate that 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 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.

WTG and Alliance of West Texas Gas Municipalities (AWM) each filed detailed reports related to the rate case expenses. Besides detailed reports, these parties also filed affidavits in support of the request attesting to the reasonableness of the rates charged.[68] The amounts include actual rate case expenses incurred through March 31, 2013, and reasonably estimated rate case expenses through the conclusion of the docket. The requested rate case expenses, are as follows:

Table 7.1
Rate-Case-Expense Request

	Actual incurred through 3/31/13	Estimated through completion	TOTAL
WTG	$506,094.42	$40,388.85	$ 546,483.27
AWM	$ 93,095.27	$ 3,000.00	$ 96,095.27
TOTAL	$599,189.69	$43,388.85	$642,578.54

(i) West Texas Gas, Inc.

G. William Fowler filed an affidavit and supporting documents. Mr. Fowler states that reasonable actual rate case expenses are $506,094.42, as follows: (1) $87,176.47 (includes $77,410.00 in legal fees and $9,766.47 in legal expenses) – G. William Fowler from January 31, 2012 through March 29, 2013; (2) $187,789.94 – Robert A. Rima from April 12, 2012 through March 31, 2013; (3) $169,087.50 – Pendulum Energy, LLC; (4) $33,852.79 – Alliance Consultant Group; (5) $19,775.00 – Financial Concepts and Applications, Inc.; and (6) $8,412.72 – WTG direct paid expenses. WTG anticipates an additional $40,388.85 in rate case expenses from March 31, 2013 through completion of the case, as follows: $20,000 in legal fees and legal expenses; $17,888.85 remaining to be invoiced by Pendulum Energy; and $2,500 incurred by WTG.[69] The estimated rate case expenses will be documented and requested only for those amounts actually incurred.

These rate case expense amounts are for legal fees, legal expenses, as well as, the amounts the company incurred by professional consultants retained to provide direct testimony, public notice, and incidental expenses.

[68] Final Order Exhibit 1, *Amended Unanimous Settlement Agreement, Ex. E* - Affidavit of G. William Fowler and supporting documents and Affidavit of Alfred R. Herrera and supporting documents (AWM).
[69] Joint Ex. 2, Rate Case Expense documentation.

(ii) Alliance of West Texas Gas Municipalities

Alfred R. Herrera, on behalf of Intervenor, AWM, filed an affidavit and supporting documents related to AWM's rate case expenses. Mr. Herrera states that Herrera and Boyle incurred $93,095.27 (includes $30,905 in legal fees; $1,116.32 in legal expenses; and $61,073.20 in consultant fees and expenses) from September 27, 2012 through March 31, 2013. In addition, AWM anticipates an additional $30,000 in reasonable rate case expenses for legal and consulting fees and expenses to the conclusion of the case. AWM is requesting reimbursement only for actual amounts billed and for work performed.

Mr. Herrera states that his firm has provided services to AWM that include legal advice and strategy, negotiating schedules and substantive issues, coordination with consultants and issue development, legal research, preparation and filing of pleadings, discovery, preparation for and participation in prehearing and technical conferences, briefing clients, discussions with consultants, and preparation for and participation in settlement negotiations. He stated that these tasks were necessary to complete assigned tasks in a professional manner on a timely basis. Furthermore, Mr. Herrera attested to the reasonableness of the amounts charged by their consultants and the efficiency of the work performed.

(iii) Examiners' Recommendation

The Examiners reviewed all billings, invoices and evidence submitted by the company and Intervenor. The Examiners have found no evidence of double-billing, excess charges, inappropriate documentation of work, excessive entertainment and dining expenses, or other charges that were not incurred as a direct result of WTG and the Intervenor prosecuting GUD No. 10235 and the consolidated proceeding.

As for WTG, the hourly rates for the company's attorneys range from $250-$275 for Messrs. Fowler and Rima. These rates are at the lower end of the range of hourly rates for comparable services. Mr. Fowler stated that the invoices accurately document hours worked and services provided and that they were necessary to complete those tasks in a professional manner on a timely basis. Mr. Fowler added that the complexity of this case required work on issues related to the reasonableness of affiliate transactions, allocation of costs, and depreciation rates that relate to the complexity of this case, all of which had to be addressed to reach a settlement. The consultants on behalf of WTG prepared reports and direct testimony related to cost of service, cost classification and allocation, rate design, depreciation, and rate of return. Mr. Fowler's affidavit states that there were no time entries exceeding 12.0 hours per day, no expenses charged for first-class airfare, non-commercial aircraft, luxury hotels, limousine service, alcoholic beverages, sporting events or other entertainment, and no duplication of services or testimony.

Turning to Intervenor, Mr. Herrera provided an affidavit attesting to the reasonableness of the legal and consulting fees, their expenses do not include: double billing or luxury items, such as first-class airfare, limousines, alcohol, sporting events or entertainment. AWM attorneys charge hourly rates of $285-$325, which they attest are reasonable and comparable to the rates charged by other lawyers with similar experience providing similar services.

The Examiners have reviewed the supporting documents of Intervenor and WTG and do not find evidence of any prohibited expenses. Further, the Examiners did not identify any specific amounts, expenditures, fees, and expenses actually incurred in these proceedings that are different from the types of fees and expenses approved by the Commission in prior rate cases. The Examiners find that the work involved in these proceedings was not disproportionate to the complexity of the issues or the amount of revenue increase sought. Accordingly, the Examiners find that the evidence indicates that the amount of work required to litigate GUD No. 10235 Consolidated justifies the work performed by both the company's and the Intervenor's attorneys and consultants pursuant to the requirements of 16 TAC §7.5530(a) and (b).[70]

In sum, the Examiners recommend that the Commission find that the actual incurred and reasonably estimated rate case expenses contained in the *Settlement Agreement*, of $642,578.54 broken down as follows: $546,483.27 – West Texas Gas, Inc. and $96,095.27 – AWM, is just and reasonable. The Examiners recommend further that the parties file with the Commission their actually incurred rate case expenses through completion of the case within 30-days of the Final Order so as to not over-recover the reasonably anticipated rate case expenses. The allocation of the reasonable rate case expenses, however, will be discussed below.

(iv) Rate Case Expense Surcharge

The *Settlement Agreement* provides that West Texas Gas will recover rate case expenses through a surcharge of $0.0984 per Mcf over an approximately sixty (60) month period. WTG will not collect interest on the unrecovered balance of rate case expenses. The settlement agreement further proposes to recover rate case expenses from all WTG Texas "jurisdictional" customers, meaning Texas customers except for agricultural and irrigation customers.

To the contrary, this docket encompasses WTG's service area for the 12 Intervening Cities of Cactus, Canadian, Canyon, Dalhart, Devine, Eden, Kermit, Miami, Natalia, Somerset, Sonora, and Stratford, the rural areas and the environs, excluding the Lubbock environs.[71] Thus, this docket does not include the City of Lubbock, or the remaining 15 cities that entered into a settlement agreement with WTG at the municipal level. Since the City of Lubbock and the other 15 cities that settled at the municipal level are not the subject of this case, the Commission lacks original or appellate jurisdiction in this proceeding to set those rates or assess rate case expenses.

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[70] 16 TEX. ADMIN. CODE § 7.5530(a)(2010). In any rate proceeding, any utility and/or municipality claiming reimbursement for its rate case expenses pursuant to TEX. UTIL. CODE ANN., §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; and
16 TEX. ADMIN. CODE § 7.5530(b) (2010). 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 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.

[71] *Amended Unanimous Settlement Agreement*, Ex. A.

Typically, a utility reaches an agreement at the municipal level regarding a proposed rate and then files a separate case with the Commission to implement the same rates in the environs. In those cases, the utility will seek to recover expenses incurred prosecuting the environs proceeding from the environs customers and the utility will seek recovery of its expenses related to the municipal proceeding from municipal customers. Yet, in the instant docket, the tariff as proposed by WTG, would allow WTG to recover rate case expenses from the 15 cities that settled at the municipal level.

The 15 cities settled for approximately 50% of the proposed revenue increase. The *Settlement Agreement* represents an approximately 60% reduction from the proposed increase.[72] The 15 settling cities adopted an ordinance where the rates set in GUD No. 10235 will become the new statewide rates, except in Lubbock. Thus, the "favored nations" clause in the settling city ordinances will require WTG to implement the same rates in the settling cities that are set by the Commission provided that the Commission establishes rates that are lower than the settlement rates.

(v) Jurisdictional Issues

From a jurisdictional perspective, the Commission may approve the imposition of the proposed rate case expense surcharge to customers within municipalities that comprise the AWM and customers who are not within any municipal jurisdiction. It is possible to resolve the jurisdictional issue by approving the proposed tariff and making it applicable only to customers within the Commission's jurisdiction. The result would be that all rate case expenses, totaling $642,578.54, would be recovered from customers within the AWM municipalities, environs, and rural customers. There are two potential problems with this approach.

First, WTG has indicated that it will recover $185,510.42 in rate case expenses from the settling cities.[73] If the Commission were to approve the proposed tariff, allowing the recovery of $642,578.54, and make it applicable to customers within the Commission's jurisdiction, WTG may over-recover rate case expenses. Second, it would be inconsistent with the parties' intent to require recovery of all expenses from customers within the Commission's jurisdiction in this case. The parties intended that the rate case expense burden be shared equally among all customers. Thus, it may be necessary to allocate the expenses.

One option is to simply allocate $185,510.42 to the settling cities, and the remainder be allocated to the customers within the Commission's jurisdiction in this case. Thus, the Commission may approve the agreed surcharge for the jurisdictional customers until WTG has recovered $457,068.12. While there are other allocation options based upon the total number of customers, the Examiners find that the allocation of $185,510.42 to the settling municipalities and $457,068.12 to the jurisdictional customers is just and reasonable as it maintains the agreement of the settling municipalities.

[72] Examiner Ex. 2, WTG Responses to RFI's 2-1 through 2-3 and WTG Ex. 16.
[73] Examiner Ex. 3, WTG Responses to RFI 3-1.

Although this approach is different from recent Commission precedent, discussed below, the Examiners recommend approval of the proposed surcharge as it is a just and reasonable manner to allocate expenses for several reasons. First, it is consistent with the Settling Municipalities' settlement agreement in that it appears that the Settling Municipalities agreed to the imposition of their proportional share of a rate case surcharge allocated on sales volumes through November 2012 in the amount of $185,510.42.[74] Second, the rates charged within the Settling Municipalities will be adjusted downward as a result of this proceeding. Third, the Examiners are concerned that the rate case expense recovery mechanism is an integral part of the settlement agreement and find that it is reasonable to approve the proposed surcharge, subject to the jurisdictional limitations of the Commission, as proposed by the parties.[75] Thus, the Examiners recommend that the proposed rate case expenses surcharge of $0.0984 per Mcf be approved until WTG recovers $457,068.12. That surcharge is to be assessed only to customers within the jurisdiction of the Commission in this case.

(vi) Recent Commission Precedent

The proposed rate case expense recovery mechanism in the *Settlement Agreement* is different from recent Commission precedent in GUD No. 10051.[76] In that case, the Commission divided rate case expenses into three categories. First, the Commission identified certain regulatory expenses that are a function of the regulatory environment applicable to utilities. Expenses related to the initial filing and the notice fall into this category. The Commission determined that it was reasonable to allocate regulatory expenses to all customers, which include customers within the Intervening municipalities, customers within environs and rural customers, and/or customers within settling municipalities.

The second category related to litigation expenses. The litigation expenses of the litigating municipalities were to be allocated exclusively to customers within the litigating municipalities. The litigation expenses of the utility were to be allocated between the litigating cities and the environs and rural customers.

The third categories were estimated expenses. The allocation of these expenses was determined on the same basis as the allocation of litigation expenses. Thus, appeal expenses of the litigating municipalities were to be allocated exclusively to customers within the litigating municipalities. The appeal expenses of the utility were to be allocated between the litigating cities, the environs and rural customers. Table 7.2 , below, provides an allocation of expenses in the current docket based upon the allocation made in GUD No. 10051.

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[74] WTG Ex. 16.

[75] While settlements often vary and not all factors taken into account by individual parties are known, it is likely that settlement agreements may have been adopted by the Commission partly to avoid additional rate case expenses. Paragraph 13 of the *Settlement Agreement* contains a provision that states the terms are interdependent and indivisible, and if the Commission enters an order that is inconsistent with the Settlement Agreement, then any signatory may withdraw without being deemed to have waived any procedural right or to have taken any substantive position on any fact or issue by virtue of that signatory's entry into the settlement agreement or its subsequent withdrawal.

[76] Tex. R.R. Comm'n., *Rate Case Expenses Severed from Gas Utilities Docket Nos. 10038, 10047, 10052, 10058, 10070 and 10071*, (Final Order August 21, 2012 and Order Nunc Pro Tunc October 2, 2012).

Table 7.2
Alternative Allocation of Expenses Based Upon GUD No. 10051 Methodology

			GROUP A Full Cost Allocation (AWM Direct) AWM - 12 Cities	GROUP B Full Cost Allocation (Environs Direct) Environs	GROUP C Publication and Filing Costs Only 15 Cities that Settled
	Customer Count	17,133	7,112	4,792	5,229
Required Regulatory Expenses	WTG SOI Filing Expenses	$302,299.55	$302,299.55	$302,299.55	$302,299.55
	Total Reg Expense	$302,299.55	$302,299.55	$302,299.55	$302,299.55
	Group Percentage of Total Cust		41.51%	27.97%	30.52%
	Group Cost Allocation		$125,486.16	$84,551.42	$92,261.97
	WTG Municipal Level Notice	$8,486.92	$8,486.92		$8,486.92
	Total Reg Expense	$8,486.92	$8,486.92		$8,486.92
	Group Percentage of Total Cust		57.63%		42.37%
	Group Cost Allocation		$4,890.93		$3,595.99
	WTG Environs Notice	$2,055.00		$2,055.00	
	Total Reg Expense	$2,055.00		$2,055.00	
	Group Percentage of Total Cust			100.00%	
	Group Cost Allocation			$2,055.00	
Litigation Expenses	WTG Post-SOI Filing Expenses	$193,252.95	$193,252.95	$193,252.95	
	Group Percentage of Total Cust		59.74%	40.26%	
	Group Cost Allocation		$115,458.25	$77,794.70	
	AWM Rate Case Expenses	$93,095.27	$93,095.27		
	Group Percentage of Total Cust		100.00%		
	Group Cost Allocation		$93,095.27		
Estimated Expenses	WTG Estimated Expenses	$40,388.85	$40,388.85	$40,388.85	
	Group Percentage of Total Cust		59.74%	40.26%	
	Group Cost Allocation		$24,130.17	$16,258.68	
	AWM Estimated Expenses	$3,000.00	$3,000.00		
	Group Percentage of Total Cust		100.00%		
	Group Cost Allocation		$3,000.00		
Surcharge	Total Expenses Allocated to Each Group	$642,578.54	$366,060.78	$180,659.80	$95,857.96
	Customer Count x 60		426,720	287,520	313,740
	60 month - monthly customer charge		$0.86	$0.63	$0.31

WTG argues that GUD No. 10051 does not establish precedent in the instant case.[77] WTG distinguishes the CenterPoint case by pointing out that it was only a partial settlement and therefore the CenterPoint case left the issue of allocation of rate case expenses for the Commission to decide. In the current case, the settlement is unanimous and resolves all of the issues in this docket, including the allocation of rate case expenses to all customers. The company maintains that the settling municipalities have agreed that customers within their municipal limits are responsible for $185,510.42, which is their proportional share of rate case expenses up to November 2012.[78] According to WTG, the settling cities have the option in the rate ordinances they adopted that allows them to accept the ordinance settlement rates or any lower rate established by the Commission as a result of the appeals filed by WTG from the actions of the non-settling cities. The company believes that this settlement means that if the settling cities wish to accept the Commission set rates, they must also pay their proportional share of the rate case expenses associated with the appeal. Since the *Settlement Agreement* benefits the settling municipalities by lower rates than their municipal level settlement, WTG believes that application of the CenterPoint precedent would adversely affect the WTG settling cities.

The Examiners recommend that the proposed rate case expenses surcharge of $0.0984 per Mcf be approved until WTG recovers $457,068.12. That surcharge is to be assessed only to customers within the jurisdiction of the Commission in this case. Also, the Examiners recommend an Annual Compliance Report for an update on the annual collections and verification of the collection of actual expenses. The Examiners recommend further that the company file this report with the RRC Gas Services Division annually, due on or before the 30th of each June, commencing in 2014. The report shall detail the monthly collections for RCE surcharge and show the outstanding balance.

8. Right of Ways and Public Safety

The Examiners note that the *Settlement Agreement* contains an agreement of the parties related to repair and other work within the cities' rights-of ways, including emergency work that may threaten the public health and safety.[79] To the extent that these provisions are consistent with Commission regulations and also that they do not impinge upon a city's jurisdiction that has not participated in this docket, the Examiners recommend adoption of the proposed *Settlement Agreement*. This section, however, may be unenforceable in the cities that did not intervene in this case.

9. Tariffs

The settling parties proposed tariffs would be applicable to all areas served by WTG. In this case, the Commission has appellate jurisdiction over the following cities: Cactus, Canadian, Canyon, Dalhart, Devine, Eden, Kermit, Miami, Natalia, Somerset, Sonora and Stratford.[80] The Commission also has original jurisdiction over the unincorporated areas served by WTG. The

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[77] Examiner Ex. 4, WTG Responses to Examiners' RFI 4-1.
[78] Examiner Ex. 3, WTG Responses to Examiners' RFI 3-1.
[79] *Amended Unanimous Settlement Agreement*, Paragraphs 6 and 7.
[80] *Amended Unanimous Settlement Agreement*, Ex. A, List of AWM Municipalities.

Commission does not have jurisdiction in this case over Lubbock, the Lubbock environs[81] or the settling municipalities of Balmorhea, Claude, Darrouzett, Farwell, Follett, Groom, Higgins, Junction, Menard, Mobeetie, Paint Rock, Shamrock, Texhoma, Texline, and Wheeler.[82] Accordingly, the tariff has been revised to reflect the original and appellate jurisdictional limitations in this case consistent with the Proposed Final Order.

The *Settlement Agreement* contemplates the rates going into effect with bills on or after June 5, 2013. As this case will be decided on either June 13, 2013, or June 18, 2013, the tariff has been amended to reflect that rates will go into effect on the day after issuance of the Final Order in this case, which will be at the most 14 days after the proposed effective date in the *Settlement Agreement* and well before the statutory deadline of September 25, 2013.

The *Settlement Agreement* proposes elimination of the Farwell Gas Cost Zone and proposes to merge it into North Gas Zone.[83] Gas supply had been provided to the City of Farwell and its environs via special discounted backhaul transportation rates on El Paso Natural Gas Company's transmission system connected to the San Juan Basin in Northern New Mexico. El Paso Natural Gas eliminated those special backhaul rates in a 2007 rate case before the Federal Energy Regulatory Commission. WTG proposes to include Farwell in the North Gas Cost Zone to eliminate the necessity of making a separate gas cost filing for the limited number of customers in the Farwell Zone. The company maintains that there will be no material adverse impact on the customers of Farwell or customers of the North Gas Cost Zone.[84]

The *Settlement Agreement* proposes recovery of rate case expenses in the amount of $642,578.54 from all Texas WTG customers, except non-jurisdictional agriculture and irrigation customers, by a surcharge rate of $0.0984 per Mcf. The Examiners have modified Section 5.1 of the proposed tariff to reflect the recommendation that the proposed rate case expenses surcharge of $0.0984 per Mcf be collected from customers within the original and appellate jurisdiction of the Commission in this docket until WTG recovers $457,068.12.[85] The customers that the Commission has original and appellate jurisdiction in this case include WTG's service area for the environs, rural areas, and the 12 Intervening Cities of Cactus, Canadian, Canyon, Dalhart, Devine, Eden, Kermit, Miami, Natalia, Somerset, Sonora, and Stratford, excluding the Lubbock environs.

Also, the Examiners recommend an Annual Compliance Report for an update on the annual collections and verification of the collection of actual expenses. The Examiners

[81] The *Statement of Intent* did not include Lubbock or the Lubbock environs, nor was public notice issued to Lubbock or the Lubbock environs. WTG plans to separately file for a rate increase in Lubbock that proposes rates for gas service in Lubbock be set at the same levels as the Atmos Energy rates from GUD No. 10174 Consolidated. WTG has only 23 customers within the City of Lubbock and no customers in the Lubbock environs. If the company begins service in the Lubbock environs, at that time, WTG will be required to file a *Statement of Intent* for the Lubbock environs. Examiners' Ex. 2, WTG Responses to Examiners' RFI's 2-1 – 2.3; WTG Ex. 3, Direct Testimony of Jack J. (JJ) King, p. 4; and Technical Conference, February 26, 2013, pp. 57-61.

[82] WTG Ex. 3, Direct Testimony of Jack J. (JJ) King, p. 3.

[83] *Amended Unanimous Settlement Agreement,* Paragraph 5 and WTG Ex. 3, Direct Testimony of Jack J. (JJ) King, pp. 6-7.

[84] WTG Ex. 3, Direct Testimony of Jack J. (JJ) King, pp. 6-7.

[85] The $457,068.12 is an allocated amount based on the WTG Ex. 16, WTG response to Examiners' RFI No. 3-1, and Exceptions to the Proposal for Decision, which indicate that the Settling Cities agreed to reimburse WTG $185,510.42 in rate case expenses.

recommend further that the company file this report annually with the RRC Gas Services Division, due on or before the 30th of each June, commencing in 2014. The report shall detail the monthly collections for RCE surcharge and show the outstanding balance.

Table 9.1 summarizes the Examiners' recommended changes to WTG's currently approved tariff.

Table 9.1

Proposed Changes to Tariff

	Tariff Section	Current	Proposed in Settlement Agreement	Examiner Recommended
1.	Cover Page - Effective Date	n/a	June 5, 2013	Day After Final Order Issued of either June 14 or June 19, 2013.
2.	Section 1 - Definitions	Gas Cost Zones – North, Southeast, and West, and Farwell as defined in Section 4.1.	Gas Cost Zones – North, South, and West, as defined in Section 4.1.	Per Settlement Agreement. Delete Farwell and change Southeast to South
3.	Section 2.1.3 - Tariff Applicability	n/a	n/a	The Examiners have added this section to make this tariff applicable to participants in GUD No. 10235
4.	Section 2.2.1 - Domestic Service – Except Lubbock Incorporated Area	2.2.1 Domestic Service – Except Lubbock Incorporated Area	2.2.1 Domestic Service – Except Lubbock Incorporated Area	The Examiners recommend removal of "Except Lubbock Inc. Area" This has been addressed with the addition of the applicability section.
5.	Section 2.2.1 - Domestic Service – Except Lubbock Incorporated Area	Customer Charge: $9.00 All Consumption: $2.42 per Mcf	Customer Charge: $10.00 All Consumption: $3.76 per Mcf	Per Settlement Agreement. Customer Charge: $10.00 All Consumption: $3.76 per Mcf
6.	Section 2.2.2 - Non-Domestic Service – Except Lubbock Incorporated Area	Customer Charge: $12.00 All Consumption: $2.27 per Mcf	Customer Charge: $13.70 All Consumption $2.59 per Mcf	Per Settlement Agreement. Customer Charge: $13.70 All Consumption $2.59 per Mcf

	Tariff Section	Current	Proposed in Settlement Agreement	Examiner Recommended
7.	Section 2.2.3 - Domestic Service – Lubbock Incorporated Area	n/a	This section added by WTG	The Examiners recommend deleting this section because Lubbock is not a party in this docket. WTG may file City approved rates directly with the RRC Tariff Section referencing the Municipal Ordinance.
8.	Section 2.2.4 - Non- Domestic Service – Lubbock Incorporated Area	n/a	This section added by WTG	The Examiners recommend deleting this section because Lubbock is not a party in this docket. WTG may file City approved rates directly with the RRC Tariff Section referencing the Municipal Ordinance.
9.	Section 2.3.1 - Rate Schedule for Rural Systems: Domestic Service	Customer Charge $9.00 All Consumption $2.42 per Mcf	Customer Charge $10.00 All Consumption $3.76 per Mcf	Per Settlement Agreement. Customer Charge $10.00 All Consumption $3.76 per Mcf
10.	Section 2.3.2 - Rate Schedule for Rural Systems: Non-Domestic Service	Customer Charge $12.00 All Consumption $2.27 per Mcf	Customer Charge $13.70 All Consumption $2.59 per Mcf	Per Settlement Agreement. Customer Charge $13.70 All Consumption $2.59 per Mcf
11.	Section 3.1 - Gas Cost Adjustment - Applicability	Four Gas Cost Zones: North, Southeast, West, and Farwell	Three Gas Cost Zones: North, South, and West.	Per Settlement Agreement change to three gas cost zones; North, South, West.
12.	Section 3.1 - Gas Cost Adjustment – North Gas Cost Zone	Did not include Farwell, Farwell Environs	To include Farwell, Farwell Environs	Per Settlement Agreement move Farwell and Farwell Environs to North Gas Cost Zone
13.	Section 3.1 - Gas Cost Adjustment – Southeast Gas Cost Zone	Southeast Gas Cost Zone	Name change: South Gas Cost Zone	Per Settlement Agreement change name from Southeast to South Gas Cost Zone.
14.	Section 3.1 - Gas Cost Adjustment –Farwell Gas Cost Zone	Farwell Gas Cost Zone	Delete Farwell Gas Cost Zone	Per Settlement Agreement delete Farwell Gas Cost Zone.

	Tariff Section	Current	Proposed in Settlement Agreement	Examiner Recommended
15.	Section 3.1 - Gas Cost Adjustment - Gas Cost Reconciliation (GCR)	n/a	Add new service areas and pressures: Canyon 13.45 psia Dalhart 13.07 psia Devine 14.68 psia	Per Settlement Agreement add new service area pressures: Canyon 13.45 psia Dalhart 13.07 psia Devine 14.68 psia
16.	Section 5.1 - Other Surcharges	Rate Case Expense (RCE) recovery language from prior filing.	RCE limit of $642,579 from all customers.	Examiners recommend limiting recovery amount to $457,068 and to pertain only to participants in GUD No. 10235.
17.	Section 5.1 - Other Surcharges	n/a	n/a	Examiners recommend adding an annual RCE compliance report requirement.

The Examiners have provided an Examiners' proposed tariff in redline version showing the proposed changes from the settlement tariff. The Examiners' proposed tariff is attached to the Proposed Final Order as Exhibit 2. The Examiners find that the proposed tariff, subject to the Examiners' changes reflected in the redline version, are reasonable and recommend approval.

10. Conclusion

The Examiners find that the rate elements agreed to by the parties in the *Settlement Agreement* with the recommended changes to the allocation of rate case expenses and the applicability of the tariff, are just and reasonable and recommend approval of the rates. The Examiners recommend approval of a Final Order consistent with the terms of the *Settlement Agreement* with the changes to the allocation of the rate case expenses and the applicability of the tariff.

Respectfully forwarded,

Cecile Hanna

Cecile Hanna
Hearings Examiner
Hearings Division

Rose A. Ruiz

Rose Ruiz
Technical Examiner
Hearings Division

GUD NO. 10235

Proposal for Decision – Exhibit No. 1

May 23, 2013

ORGANIZATIONAL STR TURE

- J. L. DAVIS
  - West Texas Gas, Inc.
    - Davis Gas Processing, Inc.
      - Belvan Corp.
      - Belvan Partners, L.P.
      - Big Lake Gas Plant, L.P.
      - Cedar Hill Gas Plant, L.P.
      - DGP Luling Pipeline, LLC
      - DGP Taurus Field Services, L.P.
      - DGP Taurus GP Holding, LLC
      - Reagan County Gas Gathering GP, Inc.
    - Western Gas Interstate Company
    - WTG Exploration, Inc.
      - WTG Services, LLC
    - WTG Fuels, Inc.
      - Gascard Partners, L.P.
    - WTG Gas Marketing, Inc.
    - WTG Gas Transmission Company
    - WTG Hugoton, LP
    - WTGKS GP, LLC
    - Basin Aviation, Inc.
    - WTG NGL Pipeline, LLC
  - WTG Gas Processing, L.P.
    - Benedum Gas Partners, L.P.
      - WTG Benedum Joint Venture
    - LEDCO, LLC
      - Louisiana State Gas, LLC
      - LEDCO Gas Gathering, LLC
    - WTG Jameson, L.P.
    - WTG NGL Marketing, LLC
    - WTG Sonora Gas Plant, LLC
  - JLD Holding Company, LLC
    - DMH Holding, Inc.
    - Garza County Gas Gathering GP, Inc.
    - Upton Gas GP, Inc.
    - Vealmoor GP, Inc.
    - WTG Jameson Gas Plant, LLC
  - Aztec Gas, Inc.
  - Whiskey Tango, LLC
  - First West Texas Bancshares, Inc.
    - West Texas National Bank

Updated March 1, 2012

Proof of Revenue

Line	(a) Item	(b) Domestic	(c) Non-Domestic
1	Current Revenue 1/	$ 3,651,206	$ 1,366,618
2	Increase	$ 1,307,292	$ 192,708
3	Total Revenue	$ 4,958,498	$ 1,559,326
4	Percent Increase	35.80%	14.10%
5	Total Increase	$ 1,500,000	
	Item	**Proof of Rate**	**Proof of Rate**
6	Settlement Demand Rate	$ 10.00	$ 13.70
7	Customer Count	14,985	2,148
8	Demand Revenue	$ 1,798,170	$ 353,145
9	Settlement Commodity Rate	$ 3.76	$ 2.59
10	Annual Mcf	840,022	465,768
11	Commodity Revenue	$ 3,160,328	$ 1,206,340
12	Total Revenue	$ 4,958,498	$ 1,559,485

1/ From Schedule A, line 17

RECENT COMMISSION APPROVED DEPRECIATION RATES

Line No.	FERC Account No.	Docket No. / Utility / Description	WTG - 10235 Proposed/Settlement	WTG - 9400 Approved/Current	Range - RRC Approved Low	Range - RRC Approved High	Mid-Point RRC Approved	Average RRC Approved	9791 CenterPoint Texas Coast	9869 Atmos Mid-Tex	9902 CenterPoint Houston	9981 RelGas	10000 Atmos PL	10021 AgriTexGas	10038 CenterPoint South Texas	10094 TGS STSA	10170 Atmos Mid-Tex	10174 Atmos West Texas	10182 CenterPoint Beaumont/ET	10190 Hughes	10196 Bluebonnet
		Intangible Plant																			
1	301	Organization		20.00%																	
2	302	Intangible Plant		20.00%	3.97%	20.00%	8.02%	11.98%							20.00%	3.97%					
3	303	Intangible Plant	17.60%	1.82%	3.33%	10.00%	3.34%	7.78%	10.00%						10.00%	1.33%					
4																					
5		**Production and Gathering Plant**																			
6	332	Field Lines	3.33%	5.00%																	
7	333	Field Compressor Station Equipment		10.00%																	
8	334	Field Measuring and Regulating Equipment		10.00%																	
9																					
10		**Storage Plant**																			
11	350.1	Land																			
12	350.2	Rights of Way			2.03%	2.03%		2.03%					2.03%								
13	351	Structures and Improvements			2.30%	2.30%		2.30%					2.30%								
14	352	Wells			2.34%	2.34%		2.34%					2.34%								
15	353	Lines			2.98%	2.98%		2.98%					2.98%								
16	354	Compressor Station Equipment			3.30%	3.30%		3.30%					3.30%								
17	355	Meas. And Reg. Equipment			2.90%	2.90%		2.90%					2.90%								
18	356	Purification Equipment			2.62%	2.62%		2.62%					2.62%								
19	357	Other Equipment			2.79%	2.79%		2.79%					2.79%								
20																					
21																					
22		**Transmission Plant**																			
23	365.1	Land and Land Rights			1.17%	1.17%		1.17%					1.17%								
24	365.2	Rights of Way	0.50%	1.82%	1.17%	1.17%		1.17%					1.17%								
25	366	Structures and Improvements			3.30%	3.30%		3.30%					3.30%								
26	367	Transmission Mains	3.12%	2.20%	2.03%	2.03%		2.03%					2.03%								
27	368	Transmission Compressors	7.94%	4.08%	4.05%	4.05%		4.05%					4.05%								
28	369	Measuring and Regulating Equipment	3.92%	4.08%	3.60%	3.60%		3.60%					3.60%								
29	370	Communication Equipment			4.98%	4.98%		4.98%					4.98%								
30	371	Other Equipment	7.33%	6.14%	2.80%	2.80%		2.80%					2.80%								
31																					
32		**Distribution Plant**																			
33	374	Land and Land Rights		1.82%	1.13%	2.13%	0.51%	1.57%	2.13%		1.68%				1.33%		1.19%	1.30%	1.12%		
34	375	Structures and Improvements			1.73%	6.67%	2.40%	3.04%	2.29%		2.59%	3.33%			2.47%	3.38%	1.71%	3.03%	1.88%		6.67%
35	376	Mains - Steel	2.36%	2.36%	1.34%	3.97%	1.37%	2.62%	2.48%		3.17%			2.20%	2.73%	1.24%	1.97%	2.68%	2.67%	2.50%	2.50%
36	376	Mains - Plastic			2.21%	3.33%	0.59%	2.60%	2.85%		2.95%	3.33%			2.41%		2.21%	2.06%	2.25%		
37	377	Compressor Station Equipment	3.85%	4.00%	0.00%	0.00%															
38	378	Measuring and Regulating Station Equipment-General	1.50%	4.00%	1.03%	5.00%	3.07%	3.70%	4.31%		4.46%	3.33%			3.85%	1.08%	3.09%	2.63%	4.83%		3.00%
39	379	Measuring and Reg. Sta. Equip.-City Gate Check Stations			1.88%	5.00%	1.59%	3.37%	3.08%		2.98%				3.70%	2.46%	1.00%	3.92%	3.91%	3.03%	3.00%
40	380	Services - Steel			1.78%	4.46%	1.34%	3.47%	3.97%		3.46%	3.33%		4.00%	4.46%	1.78%		1.53%	3.12%		
41	380	Services - Plastic			3.49%	5.33%	0.93%	4.09%	3.33%		1.49%				4.06%		3.67%		3.59%	4.00%	
42	381	Meters			2.01%	6.67%	2.33%	3.77%	2.01%		2.98%	6.67%		3.00%	2.58%	3.67%	3.31%	3.97%	2.97%		3.00%
43	381	Meters - ERT			3.50%	3.65%	1.08%	4.50%			1.65%								1.50%		
44	382	Meter Installations - Small			2.73%	6.62%	1.89%	4.22%	2.73%		3.57%				4.99%	3.67%	1.68%	6.62%	4.27%		
45	382	Meter Installations - Large			3.85%	4.71%	0.42%	4.28%	4.16%		4.71%				4.39%				3.85%		
46	383	House Regulators			2.89%	3.89%	1.50%	4.30%	3.62%		4.78%				4.78%	2.89%	3.90%	3.89%	3.92%		3.00%
47	384	House Regulator Installations			2.78%	5.77%	1.50%	4.30%	2.78%									3.54%	5.77%		
48	385	Industrial Measuring and Regulating Station Equipment			2.80%	4.04%	0.62%	3.51%			3.82%				3.28%	2.97%	2.80%	4.04%	4.02%		
49	386	Other Property on Customers Premises			1.82%	3.67%	1.03%	2.82%	2.39%		2.33%				3.70%	3.97%		1.82%			
50	387	Other Equipment	4.10%	4.00%	3.17%	14.29%	5.36%	5.60%	3.17%		4.42%	14.29%			3.34%			4.15%	4.26%		
51		Composite Rate			3.48%	3.48%				1.48%											
52																					
53		**General Plant**																			
54	389	Land and Land Rights	2.45%	2.86%																	
55	390	Structures and Improvements	2.49%	7.41%	1.44%	3.01%	0.79%	3.54%	3.01%	1.44%	2.57%	2.50%	2.97%		2.78%		2.54%	2.54%	2.47%		
56	391	Office Furniture and Equipment	2.89%	4.60%	0.98%	14.29%	6.60%	7.05%	9.23%	0.98%	3.00%	14.29%	2.93%		4.00%	10.27%	4.00%	4.00%	5.00%	10.00%	14.29%
57	391	Computer	2.89%	4.60%	10.27%	20.00%	4.57%	14.63%			14.29%			20.00%	14.29%	10.27%			14.29%		
58	392	Transportation Equipment	9.93%	20.07%	4.60%	31.33%	14.34%	15.73%		20.98%	12.50%	20.00%	4.67%	20.00%	10.66%	10.67%	9.04%	9.04%	10.00%	33.33%	20.00%
59	393	Stores Equipment			3.37%	20.00%	8.32%	7.60%		3.37%	6.67%	20.00%	4.93%		6.67%	5.00%	4.00%	4.00%			14.29%
60	394	Tools, Shop and Garage Equipment	4.94%	6.14%	1.29%	20.00%	8.36%	7.77%	8.33%	1.29%	8.33%				6.67%	3.33%	3.00%	5.00%	10.00%		20.00%
61	395	Laboratory Equipment			3.34%	10.00%	3.33%	6.65%		1.34%	5.00%		4.98%		6.67%		10.80%	10.00%			
62	396	Power Operated Equipment Communication Equipment			1.90%	17.28%	7.65%	7.59%					1.98%		7.52%	6.67%	7.34%	7.34%	17.28%		
63	397	Communication Equipment	10.84%	4.88%	1.60%	20.00%	9.17%	7.75%		1.60%		14.29%	3.82%		5.00%	6.67%	6.67%	6.67%	5.00%	20.00%	
64	398	Miscellaneous Equipment	5.12%	7.22%	1.90%	20.00%	9.05%	3.94%	6.67%	1.90%	6.67%	20.00%	2.59%	10.00%	6.67%	4.54%	2.50%	2.50%	10.00%	20.00%	
65	399	Other Tangible Property															14.29%				

RATE COMPARISON

Domestic Service - Residential Bill
(excluding gas cost)

	Customer Charge	Volumetric Charge	Mcf 1.00	2.00	3.00	4.00	5.00	6.00	7.00	8.00	9.00	10.00
Current - Incorporated and Environs	$9.00	$2.42000	$11.42	$ 13.84	$ 16.26	$ 18.68	$ 21.10	$ 23.52	$ 25.94	$ 28.36	$ 30.78	$ 33.20
Proposed - Environs/Rural/AWM Cities	$17.78	$4.78000	$22.56	$27.34	$32.12	$36.90	$41.68	$46.46	$51.24	$56.02	$60.80	$65.58
Settlement	$10.00	$3.7600	$13.76	$17.52	$21.28	$25.04	$28.80	$32.56	$36.32	$40.08	$43.84	$47.60

Non- Domestic - Commercial
(excluding gas cost)

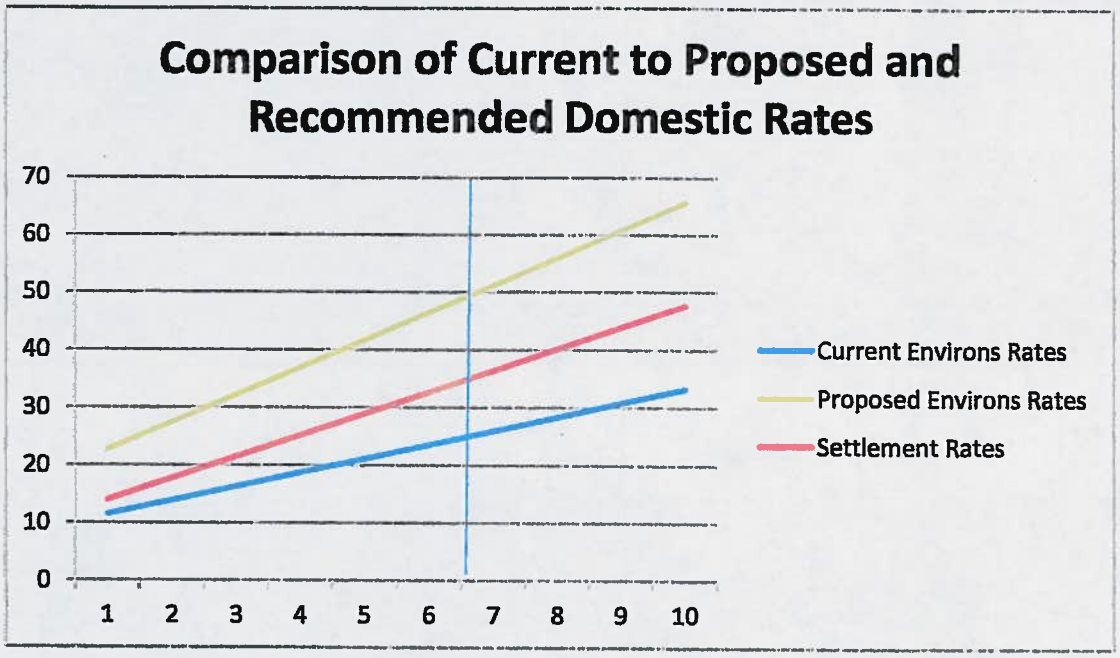
	Customer Charge	Volumetric Charge	10	20	30	40	Mcf 50	60	70	80	90	100
Current - Incorporated and Environs	$12.00	$2.27000	$ 34.70	$ 57.40	$ 80.10	$102.80	$125.50	$148.20	$170.90	$193.60	$216.30	$239.00
Proposed - Environs/Rural/AWM Cities	$13.70	$2.59000	$ 39.60	$ 65.50	$ 91.40	$117.30	$143.20	$169.10	$195.00	$220.90	$246.80	$272.70
Settlement	$13.70	$2.59000	$ 39.60	$ 65.50	$ 91.40	$117.30	$143.20	$169.10	$195.00	$220.90	$246.80	$272.70

Current/Proposed Bill Comparison
Domestic

Mcf	Current Muni and Environs Rates	Proposed Environs (SOI Filed)	Settlement	Proposed Change Environs - SOI	% Change Proposed Environs - SOI	Change Environs - Settlement	% Change Environs Settlement
1	$11.42	$22.56	$13.76	$11.14	97.55%	$2.34	20.49%
2	$13.84	$27.34	$17.52	$13.50	97.54%	$3.68	26.59%
3	$16.26	$32.12	$21.28	$15.86	97.54%	$5.02	30.87%
4	$18.68	$36.90	$25.04	$18.22	97.54%	$6.36	34.05%
5	$21.10	$41.68	$28.80	$20.58	97.54%	$7.70	36.49%
6	$23.52	$46.46	$32.56	$22.94	97.53%	$9.04	38.44%
7	$25.94	$51.24	$36.32	$25.30	97.53%	$10.38	40.02%
8	$28.36	$56.02	$40.08	$27.66	97.53%	$11.72	41.33%
9	$30.78	$60.80	$43.84	$30.02	97.53%	$13.06	42.43%
10	$33.20	$65.58	$47.60	$32.38	97.53%	$14.40	43.37%

Current/Proposed Bill Comparison
Non-Domestic

Mcf	Current Muni and Environs Rates	Proposed Environs (SOI filed)	Settlement	Proposed Change Environs - SOI	% Change Proposed Environs - SOI	Change Environs - Settlement	% Change Environs Settlement
10	$ 34.70	$ 39.60	$ 39.60	$ 4.90	14.12%	$ 4.90	14.12%
20	$ 57.40	$ 65.50	$ 65.50	$ 8.10	14.11%	$ 8.10	14.11%
30	$ 80.10	$ 91.40	$ 91.40	$ 11.30	14.11%	$ 11.30	14.11%
40	$ 102.80	$ 117.30	$ 117.30	$ 14.50	14.11%	$ 14.50	14.11%
50	$ 125.50	$ 143.20	$ 143.20	$ 17.70	14.10%	$ 17.70	14.10%
60	$ 148.20	$ 169.10	$ 169.10	$ 20.90	14.10%	$ 20.90	14.10%
70	$ 170.90	$ 195.00	$ 195.00	$ 24.10	14.10%	$ 24.10	14.10%
80	$ 193.60	$ 220.90	$ 220.90	$ 27.30	14.10%	$ 27.30	14.10%
90	$ 216.30	$ 246.80	$ 246.80	$ 30.50	14.10%	$ 30.50	14.10%
100	$ 239.00	$ 272.70	$ 272.70	$ 33.70	14.10%	$ 33.70	14.10%


Comparison of Current to Proposed and Recommended Domestic Rates
70
60
50
40
30
20
10
0
1
2
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4
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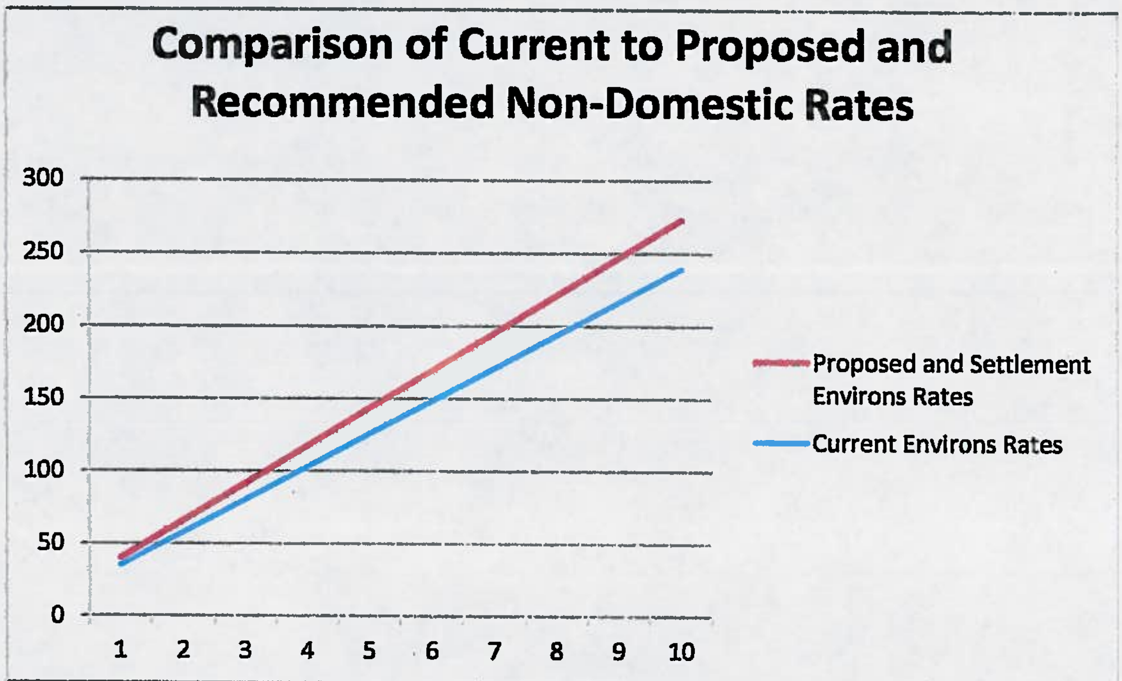
6
7
8
9
10
Current Environs Rates
Proposed Environs Rates
Settlement Rates


Comparison of Current to Proposed and Recommended Non-Domestic Rates
300
250
200
150
100
50
0
1
2
3
4
5
6
7
8
9
10
Proposed and Settlement Environs Rates
Current Environs Rates