

**BEFORE THE
RAILROAD COMMISSION OF TEXAS**

STATEMENT OF INTENT OF	§	
BLUEBONNET NATURAL GAS, LLC	§	
TO COLLECT A SYSTEM	§	
REPLENISHMENT FEE IN HARDIN,	§	GAS UTILITIES DOCKET NO. 10112
JEFFERSON, LIBERTY,	§	
NACOGDOCHES, RUSK, AND TYLER	§	
COUNTIES, TEXAS	§	

FINAL ORDER

Notice of Open Meeting to consider this Order was duly posted with the Secretary of State within the time period provided by law pursuant to TEX. GOV'T CODE ANN. CHAP 551, *et seq.* (Vernon 2008 & Supp. 2011). The Railroad Commission adopts the following findings of fact and conclusions of law and orders as follows:

FINDINGS OF FACT

1. Bluebonnet Natural Gas LLC ("BNG") is a gas utility as that term is defined in the Texas Utility Code.
2. BNG operates its regulated activities through 7 separate, non-contiguous natural gas distribution systems in approximately 6 counties in the Southeast portion of Texas.
3. BNG serves unincorporated residential and small commercial customers that are within the original jurisdiction of the Railroad Commission of Texas ("Commission").
4. BNG serves incorporated residential and small commercial customers in the City of Devers and Mt. Enterprise that are within the appellate jurisdiction of the Railroad Commission of Texas ("Commission").
5. The Commission has jurisdiction over BNG 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. 2011). 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.
6. BNG also serves agricultural customers that are specifically exempt from economic regulation by the Commission, in accordance with TEX. UTIL. CODE ANN. §§ 101.003(7)(B)(iii), 123.001, *et seq.*, and 16 TEX. ADMIN. CODE § 7.351(d)(3), however,

- the Commission maintains safety jurisdiction over the pipeline operations, pursuant to TEX. UTIL. CODE ANN. §§ 121.001, *et seq.*, and 16 TEX. ADMIN. CODE Chapter 8.
7. On September 2, 2011, Bluebonnet Natural Gas LLC filed a *Statement of Intent* to establish a System Replenishment Fee and related tariff.
 8. BNG proposed an effective date of December 1, 2011.
 9. On October 11, 2011, the Commission suspended the implementation of the rate.
 10. Notice of the proposed increase was provided as a separate mailing for all affected customers on January 12, 2012, satisfying the requirements of 16 TEX. ADMIN. CODE §§1.45, 7.230 and 7.235, TEX. UTIL. CODE ANN. § 104.103, and TEX. GOV'T. CODE ANN. § 2001.052.
 11. BNG's last rate case, GUD No. 9810, provided an increase of \$219,991 annually and was approved in November 2008.
 12. In June 2010, the Commission approved recovery of relocated pipeline in the amount of \$150,362.62 to be recovered at a rate of \$1.286 per Mcf.
 13. As of December 31, 2011, BNG recovered \$75,055.33 of the \$150,362.62, leaving \$75,307.29 to be recovered from the customer.
 14. BNG requests approval of a System Replenishment Fee (SRF) to be uniformly assessed to all customer classes throughout the unincorporated areas of its service area.
 15. BNG projects the SRF to generate \$97,725 annually on a company-wide basis from its customers based on test year volumes at a rate of \$1.25 per Mcf.
 16. Effective March 2011, BNG must make a risk assessment of its pipeline systems under Commission rules.
 17. BNG has approximately 42 miles of pipeline that requires integrity testing.
 18. For the twelve months ended June 30, 2011, BNG's Lost and Unaccounted For Gas (LUG) ranged from 3.21% to 30.09%.
 19. It is reasonable that BNG is only allowed to recover its actual LUG, up to a maximum of 5% loss.
 20. The customer will benefit from replacement of pipeline that exceeds 5% LUG from a safety aspect.
 21. BNG will benefit from replacement of pipeline that exceeds 5% by reducing its losses of gas cost that cannot be passed on to the customer.

22. The proposed SRF would increase the amount received by the company from the customer by approximately 10%.
23. The proposed SRF is a Contribution In Aid of Construction (CIAC).
24. BNG is not seeking rate case expense reimbursement.
25. Notice of the Hearing was given to all parties entitled to notice, and the hearing on the merits in this matter was held on January 12, 2012.
26. BNG does not have the capital or the cash flow to utilize an Interim Rate Adjustment to replace the pipe that has an LUG exceeding 5%.
27. BNG was not able to secure financing to replace the pipe that has an LUG exceeding 5%.
28. BNG has been operating at a loss for the last three years, 2008 through 2010, (\$171,334), (\$43,110), and (\$91,108), respectively.
29. BNG is not seeking rate case reimbursement.
30. It is reasonable that BNG collect \$1.25 per Mcf from all classes of customers for the sole purpose of main replacement, as necessary.

Books and Records

31. BNG must maintain its books and records in accordance with Federal Energy Regulatory Commission (FERC) Uniform System of Accounts (USOA) and Commission Rule 7.310.
32. BNG must account for funds received from the customer in the form of CIAC according to Gas Plant Instruction (2)(D) in the FERC USOA.
33. It is reasonable that the amounts collected through the SRF be accounted for as Contribution in Aid of Construction (CIAC).
34. It is reasonable for BNG to account for all SRF amounts collected from the customer monthly by class of customer, maintain detailed records of amounts expended for each replacement by project, and maintain detailed descriptions of each project.
35. It is reasonable that BNG forecast and reassess for each of the ten-years through on-going risk analysis each proposed project and re-prioritize, as needed, each project annually.
36. It is reasonable that BNG maintain detailed records on each project describing the leak repair history, the lost and unaccounted for gas loss for the twelve-months ended June 30 prior to replacement and a comparison of LUG to the current twelve-months ended June

- 30, improvements in repair history, safety improvements and compliance with Texas statutes and commission regulations.
37. It is reasonable for BNG to estimate annually the volumes and amounts to be collected for the current year.
 38. BNG will not be able to earn a return on the capital investment that has been replaced using the funds obtained from the customers through the SRF in future rate cases.
 39. It is reasonable that BNG not earn a return on the capital investment that is associated with the CIAC.
 40. BNG is currently in compliance with the FERC USOA.

Tariff

41. It is reasonable that the tariff's intended application of the SRF is to all classes of customers.
42. It is reasonable that the tariff approved in this docket is only applicable to customer under the original jurisdiction of the Commission.
43. It is reasonable that BNG file a System Replenishment Fee Annual Report 45 days after the end of each calendar year as described in the tariff. (Attachment A)

CONCLUSIONS OF LAW

1. Bluebonnet Natural Gas LLC is a "Gas Utility" as defined in TEX. UTIL. CODE ANN. §101.003(7) (Vernon 2007 & Supp. 2011) and §121.001(2007) and is therefore subject to the jurisdiction of the Railroad Commission of Texas (Commission).
2. The Commission has jurisdiction over Bluebonnet Natural Gas LLC and its *Statement of Intent* under TEX. UTIL. CODE ANN. §§ 102.001, 103.022, 103.054, & 103.055, 104.001, and 104.201 (Vernon 2007 and Supp. 2011).
3. Under TEX. UTIL. CODE ANN. §102.001 (Vernon 2007 and Supp. 2011), the Commission has exclusive original jurisdiction over the rates and services of a gas utility that distributes natural gas in areas outside of a municipality and over the rates and services of a gas utility that transmits, transports, delivers, or sells natural gas to a gas utility that distributes the gas to the public.
4. This Statement of Intent was conducted in accordance with the requirements of the Gas Utility Regulatory Act (GURA), and the Administrative Procedure Act, TEX. GOV'T CODE ANN. §§2001.001-2001.902 (Vernon 2008 and Supp. 2011) (APA).

5. TEX. UTIL. CODE ANN. §104.107 (Vernon 2007 and Supp. 2011) provides the Commission's authority to suspend the operation of the proposed rate for 150 days from the date the schedule would otherwise go into effect.
6. The proposed rate constitutes a major change as defined by TEX. UTIL. CODE ANN. §104.101 (Vernon 2007 and Supp. 2011).
7. In accordance with TEX. UTIL. CODE ANN. §104.103 (Vernon 2007 and Supp. 2011), 16 TEX. ADMIN. CODE ANN. §§ 7.230 and 7.235, adequate notice was properly provided.
8. In accordance with TEX. UTIL. CODE ANN. §104.102 (Vernon 2007 and Supp. 2011), 16 TEX. ADMIN. CODE ANN. §§ 7.205 and 7.210, Bluebonnet Natural Gas LLC filed its Statement of Intent to change its gas distribution rate.
9. The rate and rate design proposed by Bluebonnet Natural Gas LLC are found to be just and reasonable, are not unreasonably preferential, prejudicial, or discriminatory, and are sufficient, equitable, and consistent in application to each class of consumer, as required by TEX. UTIL. CODE ANN. §104.003 (Vernon 2007 and Supp. 2011).
10. In accordance with the stated purpose of the Texas Utilities Code, Subtitle A, expressed under TEX. UTIL. CODE ANN. §101.002 (Vernon 2007 and Supp. 2011), the Commission has assured that the rates, operations, and services established in this docket are just and reasonable to customers and to the utilities.
11. In this proceeding, Bluebonnet Natural Gas LLC has the burden of proof under TEX. UTIL. CODE ANN. §104.008 (Vernon 2007 and Supp. 2011) to show that the proposed rate change is just and reasonable.
12. Bluebonnet Natural Gas LLC is required by 16 TEX. ADMIN. CODE §7.315 to file electronic tariffs incorporating rates consistent with this Order within thirty days of the date of this Order.
13. Bluebonnet Natural Gas LLC is required by 16 TEX. ADMIN. CODE § 7.310 to utilize the Federal Energy Regulatory Commission's (FERC) Uniform System of Accounts (USOA) prescribed for natural gas companies.
14. Under TEX. UTIL. CODE ANN. §§ 102.101, 102.003, and 102.202, the Commission has the authority to prescribe the records, reports and forms for reports to be kept by a utility.

IT IS THEREFORE ORDERED that Bluebonnet Natural Gas LLC proposed rate is hereby **APPROVED**.

IT IS FURTHER ORDERED that the System Replenishment Fee Annual Report content established in the findings of fact and conclusions of law and shown on the attached tariff for Bluebonnet Natural Gas LLC is **APPROVED**.

ATTACHMENT A

**BLUEBONNET NATURAL GAS LLC
TARIFF - SYSTEM REPLENISHMENT FEE
GUD NO. 10112**

Bluebonnet Natural Gas LLC
1717 St. James Place – Suite 340
Houston, Texas 77056

No.:
Effective Date:
Revision No.:
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All Classes of Customers in Hardin, Jefferson, Liberty, Nacogdoches, Rusk and Tyler Counties, Texas.

System Replenishment Fee

This shall be an individual line item charge, which is designated for construction costs and replacement of gas mains. This will be utilized for a period of up to ten (10) years. The necessity of the System Replenishment Fee (SRF) shall be determined annually by the utility at the end of each calendar year. A report of the utility's need for continuation of the fee, the replacements made in the previous calendar year and the proposed replacements for the current period shall be made and filed with the Director of the Gas Services Division within 45 days after the end of each calendar year.

A charge of \$1.25 per Mcf will be applied to all consumption by all classes of customers.

The SRF of \$1.25 per Mcf is for a period of no more than ten (10) years. The SRF shall be used to replace the distribution systems main infrastructure. The SRF shall not be used to compensate the utility's employees, replace office equipment, vehicles, office supplies, normal operation and maintenance expenses, meters, risers, service lines or other non-infrastructure equipment. The utility shall maintain a separate auditable account of the monies collected and expended on system replacement.

System Replenishment Fee Annual Report

The SRF Annual Report shall include the following:

- 1.) The utility's reassessment of the necessity of the continuation of the fee by determining:
 - a) A detailed description of the replacements that have been made in the previous 12-month period and the dollars expended on those replacements;
 - b) The beginning balance at January 1st and the ending balance at December 31st;

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- c) A detailed description of the overall replacement or repairs that still need to be made;
 - d) An estimate of the volumes for the current year and the amount of the estimated fees that will be collected;
 - e) A reassessment of the remaining replacements plans for each of the remaining years by year to include revised estimates of costs.
 - f) For each replacement a detailed description of the leak repair history and loss and unaccounted for gas for the year prior to the replacement and a comparison to the year following the replacement showing any improvement in repair history, loss and unaccounted for gas, safety and compliance with Statutes and Commission Rules.
- 2.) A detailed list of the materials and estimated costs in the current years proposed replacement plan;
- 3.) A list of the contractors and suppliers of materials for the previous years replacement project.
- 4.) A reconciliation of the previous year's project expenditures by identifying each contractor and supplier to the dollars expended for each contractor and supplier.

IT IS FURTHER ORDERED that, in accordance with 16 TEX. ADMIN. CODE §7.315, within 30 days of the date this Order is signed, Bluebonnet Natural Gas LLC shall electronically file its tariff with the Gas Services Division. The tariff shall incorporate the rate and report requirements consistent with this Order, as stated in the findings of fact and conclusions of law and shown on the attached Tariff.

IT IS FURTHER ORDERED that all proposed findings of fact and conclusions of law not specifically adopted in this Order are hereby **DENIED**.

IT IS ALSO ORDERED that all pending motions and requests for relief not previously granted or granted herein are hereby **DENIED**.

This Order will not be final and effective until 20 days after a party is notified of the Commission's order. A party is presumed to have been notified of the Commission's order three days after the date on which the notice is actually mailed. If a timely motion for rehearing is filed by any party at interest, this order shall not become final and effective until such motion is overruled, or if such motion is granted, this order shall be subject to further action by the Commission. Pursuant to TEX. GOV'T CODE ANN. §2001.146(e), the time allotted for Commission action on a motion for rehearing in this case prior to its being overruled by operation of law, is hereby extended until 90 days from the date the order is served on the parties.

SIGNED this 6th day of June, 2012.

RAILROAD COMMISSION OF TEXAS



CHAIRMAN BARRY T. SMITHERMAN



DAVID PORTER COMMISSIONER



BUDDY GARCIA COMMISSIONER

ATTEST:


SECRETARY