

**BEFORE THE
RAILROAD COMMISSION OF TEXAS**

RATE CASE EXPENSES SEVERED	§	
FROM GAS UTILITIES DOCKET	§	GAS UTILITIES DOCKET
NO. 9839	§	NO. 9867
	§	

FINAL ORDER

Notice of Open Meeting to consider this Order was duly posted with the Secretary of State within the time period provided by law pursuant to TEX. GOV'T CODE ANN. Chapter 551, et seq. (Vernon 2004 & Supp. 2008). The Railroad Commission of Texas adopts the following findings of fact and conclusions of law and orders as follows:

FINDINGS OF FACT

1. Texas Gas Service Company ("TGS") is a utility as that term is defined in the Texas Utility Code, and is subject to the jurisdiction of the Railroad Commission of Texas ("Commission").
2. TGS owns and operates a gas distribution system that provides gas service to customers in Jack, Palo Pinto, Parker, Stephens, and Young Counties, Texas, referred to as the North Texas Distribution System.
3. On December 1, 2008, TGS filed a statement of intent to increase rates on customers located in the unincorporated areas of Jack, Palo Pinto, Parker, Stephens, and Young Counties, Texas, which was originally docketed by the Commission as Gas Utilities Docket No. 9839 ("GUD No. 9839").
4. On April 8, 2009, the Examiners severed rate case expense issues in GUD No. 9839 into this docket.
5. On April 28, 2009, the Commission issued a final order in GUD No. 9839.
6. A final hearing was conducted in Austin on June 25, 2009, to take testimony, other evidence, and legal argument on all issues of law and fact that were raised in or relevant to TGS's request for reimbursement of rate case expenses, and for the purpose of developing a record that the Commission will use in making a determination on TGS's rate case expense request.
7. TGS's evidence established that the hourly rates charged by consulting attorneys were reasonable; the number of consulting attorneys working on the underlying docket was minimized; the invoices accurately documented hours worked and services provided; there were no time entries

exceeding 12.0 hours per day; and there were no disbursements for hotels, valet parking, designer coffee, airfare, or meals requiring special scrutiny or disallowance.

8. The Examiners reviewed all invoices supporting the rate case expenses incurred by TGS and did not find any duplication of services or testimony. There is no evidence in the record that any of the expenses submitted for reimbursement were not necessarily incurred in the prosecution of TGS's rate case proceeding before the Commission.

9. The requested actual rate case expenses of TGS in the amount of \$39,556.77 for actual work performed were reasonable and were necessary for the prosecution of GUD No. 9839 before the Commission.

10. The evidence in the record indicates that TGS's proposed \$0.0151 per Ccf surcharge to recover rate case expenses, as shown on TGS's proposed Rate Case Expense Surcharge tariff (attached hereto as Exhibit A), will allow the utility to recover its costs without over-recovering from its customers. It is therefore reasonable that TGS recover all rate case expenses approved herein by use a \$0.0151 per Ccf surcharge for its customers located in Jack, Palo Pinto, Parker, Stephens, and Young Counties, Texas.

11. The evidence in the record indicates that imposing a \$0.0151 per Ccf surcharge on gas volumes will not be overly-burdensome on TGS's customers, and will allow TGS to recover its expenses.

12. TGS's proposal to true-up rate case expenses is reasonable because it will allow the utility to recover the exact amount of rate case expenses without over-recovering or under-recovering the utility's rate case expenses from customers.

13. It is reasonable to allow TGS to recover up to \$3,000 in estimated future rate case expenses, provided that TGS submit evidence of actual incurrence and the reasonableness and necessity of the future expenses to the Gas Services Division of the Commission.

CONCLUSIONS OF LAW

1. Texas Gas Service Company ("TGS") is a gas utility as defined in TEX. UTIL. CODE ANN. §§ 101.003(7), 121.001 (Vernon 2007 & Supp. 2008) and is subject to the Commission's jurisdiction under TEX. UTIL. CODE ANN. §§ 104.001, 121.051 (Vernon 2007 & Supp. 2008).

2. Each party seeking reimbursement for its rate case expenses has the burden to prove the reasonableness of such rate case expenses by a preponderance of the evidence, under 16 TEX. ADMIN. CODE § 7.5530 (2002).
3. The rate case expenses enumerated in the findings of fact herein are reasonable and comply with 16 TEX. ADMIN. CODE ANN. § 7.5530 (2002).
4. The Commission has the authority to allow TGS to recover rate case expenses through a surcharge on its rates, under TEX. UTIL. CODE ANN. § 104.051 (Vernon 2007 & Supp. 2008).

IT IS THEREFORE ORDERED that Texas Gas Service Company is authorized to recover all rate case expenses incurred in GUD No. 9839 and approved by this order by means of a surcharge on its rates charged to ratepayers subject to the final orders entered in GUD No. 9839. A surcharge on rates shall be charged at \$0.0151 per Ccf on all gas volumes for all customer classes, commencing with the date this final order becomes effective. The \$0.0151 per Ccf surcharge shall be a separate line item on each customer's bill clearly identifying the recovery rate and amount recovered each month. Texas Gas Service Company's Rate Case Expense Surcharge tariff is approved.

IT IS FURTHER ORDERED that Texas Gas Service Company shall true-up any amounts over-recovered or under-recovered. All over-recovered amounts shall be refunded, with interest, in the following billing cycle.

IT IS FURTHER ORDERED that any proposed findings of fact and conclusions of law not specifically adopted herein are **DENIED**. **IT IS ALSO ORDERED** that each exception to the Examiners' Proposal for Decision not expressly granted herein is overruled and all pending motions and requests for relief not previously granted herein are hereby **DENIED**.

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

Each exception to the examiners' proposal for decision not expressly granted herein is overruled. All requested findings of fact and conclusions of law which are not expressly adopted

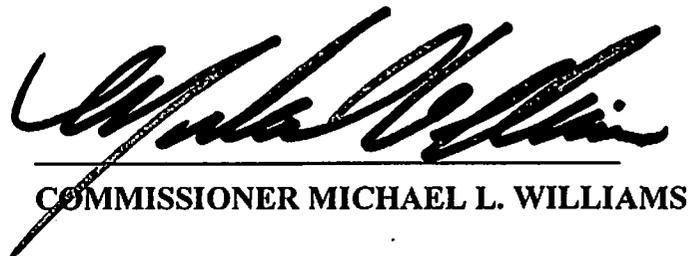
herein are denied. All pending motions and requests for relief not previously granted or granted herein are denied.

SIGNED this 18th day of August, 2009.

RAILROAD COMMISSION OF TEXAS


CHAIRMAN VICTOR CARRILLO


COMMISSIONER ELIZABETH A. JONES


COMMISSIONER MICHAEL L. WILLIAMS

ATTEST:


SECRETARY

RATE CASE EXPENSE SURCHARGE

A. APPLICABILITY

The Rate Case Expense Surcharge (RCE) rate as set forth in Section (B) below is pursuant to Final Order in GUD 9867. This rate shall apply to the following rate schedules of Texas Gas Service Company in the unincorporated areas served in the North Texas Service Area: 1A, 2A, 2B, 3A, 3B, 4A and 4B.

B. RCE RATE

All Ccf during each billing period: \$0.0151 per Ccf

This rate will be in effect until all approved and expended rate case expenses are recovered from the applicable customer classes.

C. OTHER ADJUSTMENTS

Taxes: Plus applicable taxes and fees (including franchise fees) related to above.

D. CONDITIONS

Subject to all applicable laws and orders, and the Company's rules and regulations on file with the regulatory authority.

SERVICE LIST
Gas Utilities Docket No. 9867
Rate Case Expenses Severed from Docket No. 9839
Examiner: John Chakales
Co Examiner: Lynne LeMon

PARTIES

REPRESENTATIVE

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