

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE SETTING RATES AND ESTABLISHING TARIFFS FOR THE PROVISION OF NATURAL GAS SERVICE BY TEXAS GAS SERVICE COMPANY, A DIVISION OF ONEOK, INC. WITHIN THE CITY OF AUSTIN; DECLARING THIS ORDINANCE TO BE A FINAL DETERMINATION OF RATES; REQUIRING ACCEPTANCE BY TEXAS GAS SERVICE COMPANY OF THE RATES PRESCRIBED HEREIN; AND ESTABLISHING AN EFFECTIVE DATE.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**

**PART 1. FINDINGS.**

The Council finds:

- (A) On February 11, 2009, Texas Gas Service Company ("TGS") filed its Statement of Intent to increase its annual revenue by \$3,563,868 within its Central Texas Service Area ("CTXSA"), which, in addition to the City of Austin ("City"), includes the cities of Cedar Park, Kyle, Rollingwood, Sunset Valley, Westlake, and certain unincorporated areas in central Texas.
- (B) In accordance with the Gas Utility Regulatory Act, Utilities Code, §104.107, the City suspended the TGS' proposed effective date of March 18, 2009, for a period not to exceed 90 days from TGS' proposed effective date, to June 16, 2009.
- (C) In order to provide the City and TGS sufficient time to conclude discussions regarding TGS' Statement of Intent without the need for a contested proceeding, TGS agreed to extend its proposed effective date from March 18, 2009, to March 27, 2009 thereby extending the 90-day suspension period to June 25, 2009.
- (D) TGS provided adequate public notice of its proposed increase in rates in accordance with the Gas Utility Regulatory Act.
- (E) A public hearing was conducted in accordance with applicable law on June 18, 2009.
- (F) A base rate revenue increase in the amount of \$1,050,000 per annum, which corresponds to an annual base rate revenue requirement for the CTXSA of

\$42,654,625, is reasonable and consistent with the requirements of the Gas Utility Regulatory Act, will permit TGS a reasonable opportunity to earn a reasonable return on its invested capital, and will yield a fair return upon the adjusted value of TGS' property used and useful in rendering service to the public.

- (G) Consistent with the City's continued interest in promoting the conservation of natural resources, the City approves a new "Green Saver" tariff intended to encourage customers to improve the energy efficiency of their homes and businesses.
- (H) To improve the energy-efficiency efforts intended to be fostered by the "Green Saver" tariff, the City and TGS will continue in good faith to discuss possible changes to that tariff that would improve the program, with the goal of reaching agreement on any necessary amendments to the Green Saver tariff within 120 days following the effective date of this ordinance.
- (I) TGS and the City will continue in good-faith to discuss TGS' proposal for a "fixed-gas-cost" pilot program intended to allow certain customers to pay a pre-set price for gas purchases made by TGS and resulting changes to TGS' "Gas Cost Adjustment" tariff that would address the details of a fixed-gas-cost pilot program, with the goal of reaching agreement on a tariff within 120 days following the effective date of this ordinance.
- (J) The tariffs and specific rates and charges, and customer service rules appended to this ordinance are reasonable and in the public interest.
- (K) The costs of the City's rate consultants, attorneys, and technical staff to conduct investigations, present evidence, advise and represent the City of Austin in these rate-making proceedings are reasonable and necessary expenses, as are the rate case expenses incurred by TGS in this proceeding.

**PART 2.** The City is the regulatory body with exclusive original jurisdiction over the rates, operations, and services of Texas Gas Service Company, a division of ONEOK, Inc., within the municipality.

**PART 3.** An increase in the amount of \$1,050,000 in TGS' annual base-rate revenue, as determined on a systemwide basis for the CTXSA, is approved within the City of Austin.

**PART 4.** Except to the extent approved in Attachments 1 and 2 and this ordinance, the City denies TGS' request for rates, tariffs, and charges as proposed in TGS' Statement of Intent and rate increase request filed with the City on February 11, 2009.

**PART 5.** The rates, tariffs, charges, schedules, and service rules appended to this ordinance as “Attachment 1” for natural gas service provided by TGS within the City of Austin, are reasonable and are hereby approved. Said rates, tariffs, charges, schedules, and service rules approved and adopted in accordance with this ordinance are those under which TGS shall be authorized to render service and to collect charges from its customers for the provision of natural gas service within the corporate limits of the City of Austin until such time as they may be changed, modified, amended, or withdrawn with the approval of the City Council, and shall apply to all natural gas service rendered within the City of Austin beginning with the effective date of this ordinance or the effective date as specifically applicable to the rate, tariff, charge, or rule appended to this ordinance in “Attachment 1”.

**PART 6.** The proposed depreciation and amortization rates set forth on the Depreciation and Amortization Expense summary appended to this ordinance as “Attachment 2” are approved by this ordinance.

**PART 7.** TGS’ return on equity shall be assumed to be 10.50% with a capital structure of 49% Long-term Debt and 51% Equity. This return on equity and capital structure produces an overall rate of return of 8.40%. TGS’ incremental federal income tax rate shall be assumed to be 35%.

**PART 8.** TGS shall be allowed to recover its costs of stored gas through its Gas Cost Adjustment (“GCA”) clause and to earn a return on its investment in stored-gas inventories at the overall rate of return of 8.40% as set forth in Part 6 above and as set forth in the GCA tariff appended to this ordinance. The return on the Company’s investment in stored gas shall be calculated for each month of the year based upon this authorized rate of return and the arithmetic average of the beginning and ending balances of gas in storage inventory for the prior calendar month, the same method for quantifying a utility’s investment in stored gas that was approved by the Railroad Commission of Texas for CenterPoint Energy in GUD No. 9791.

**PART 9.** TGS shall file, no later than June 28, 2009, an acceptance of the rate provisions of this ordinance. Failure to accept the rates prescribed herein within the specified time, or an attempted acceptance under protest or with qualifications or any appeal of this ordinance, shall render the rate provisions of this ordinance void and the rates in effect prior to passage of this ordinance shall remain without change. Any failure of TGS to accept the rate provisions or TGS’ appeal of this ordinance shall constitute a final determination and decision as of the date of passage of this ordinance that the rates in effect prior to the passage of this ordinance shall remain in effect.

**PART 10.** TGS Company shall file with the City a revised schedule of rates and tariffs setting forth those rates, tariffs, and charges based upon the provisions of this ordinance.

**PART 11.** The costs of rate consultants, attorneys, and technical staff to conduct investigations, present evidence, advise, and represent the City of Austin in this rate-making proceeding shall be reimbursed to the City of Austin by TGS no later than 30 days after the effective date of this ordinance. The total amount of rate case expenses of the City and TGS shall be amortized by TGS over a period of three years and recovered through base rates.

**PART 12.** Nothing in this ordinance shall be construed as limiting or modifying in any manner the right and power of the City under the law to regulate the rates and charges of TGS Company.

**PART 13.** This ordinance takes effect on \_\_\_\_\_, 2009.

**PASSED AND APPROVED**

\_\_\_\_\_, 2009      §  
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   \_\_\_\_\_  
   Will Wynn  
   Mayor

**APPROVED:** \_\_\_\_\_  
                                 David Allan Smith  
                                 City Attorney

**ATTEST:** \_\_\_\_\_  
                                 Shirley A. Gentry  
                                 City Clerk