



**Franchise Agreement
CITY OF AUSTIN
RECOMMENDATION FOR COUNCIL ACTION**

AGENDA ITEM NO.: 9
AGENDA DATE: Thu 11/03/2005
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SUBJECT: Approve a resolution directing ONEOK, Inc. (Texas Gas Service) to submit to a management audit of the company's operations in Austin.

AMOUNT & SOURCE OF FUNDING: Funding is provided through the Texas Gas Service franchise agreement.

FISCAL NOTE: There is no unanticipated fiscal impact. A fiscal note is not required.

REQUESTING Financial and **DIRECTOR'S**
DEPARTMENT: Administrative Services - **AUTHORIZATION:** Vickie Schubert
Telecommunications and
Regulatory Affairs

FOR MORE INFORMATION CONTACT: Rondella Hawkins, Manager, 974-2422

PRIOR COUNCIL ACTION: N/A

BOARD AND COMMISSION ACTION: Approved by Council Committee for Emerging Technology and Telecommunications

In 2003, ONEOK, Inc. acquired the assets and obligations of Southern Union Gas Company, including a franchise with the City of Austin held by Southern Union since 1986. The franchise grants the Company the use of the public rights-of-way to install, maintain, and use its gas transportation and delivery facilities. In return, the franchise helps insure the reliable delivery of gas to City residents and businesses.

The gas franchise agreement between the City of Austin and ONEOK, Inc. (dba Texas Gas Service (TGS)) expires on November 17, 2006. In preparation for the upcoming franchise renewal and to provide additional assurance regarding TGS's purchasing practices for natural gas, the cost of which is passed on to the consumer, staff recommends that a management audit be performed. The proposed management audit will focus on TGS's management policies and procedures and determine if the resulting outcome secures reliable gas supplies at the lowest possible prices. The audit will also determine if costs incurred by TGS were reasonable and necessary. Finally, the audit will recommend what changes, if any, the City should seek in the upcoming gas franchise negotiations with TGS.

Section 103.001 of the Texas Utilities Code grants the City Council exclusive original jurisdiction to regulate the "...rates, operations, and services of a gas utility within the municipality..." Incumbent in this regulatory authority is Council's right to "...inquire into the management and affairs of each gas utility and keep itself informed as to the manner and method in which each gas utility is managed and its affairs are conducted." Utilities Code Section 102.201, Article XI, Section 5 of the City Charter anticipates exercising this authority making every issued franchise subject to Council's right "...to examine and audit at any time the accounts and other records of any franchise holder, and to require reports on the local operations of the utility" as the Council may specify. Accordingly, Section 4.5 of the ONEOK, Inc. franchise states, "The City Council may, at its discretion, pursuant to the authority in the City Charter, require a management audit of the Company's operations in Austin."



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This resolution directs ONEOK, Inc. doing business locally as TGS, to submit to a management audit of its Austin operations, conducted or directed by the City Manager. The resolution also directs ONEOK, Inc. to allow the City's choice in auditors unfettered access to all records and documents concerning TGS's Austin operations. Finally, the resolution requires TGS to reimburse the City for all reasonable expenses associated with this audit, which TGS may recover through its rates.

RESOLUTION NO. 20051103-

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

WHEREAS, Texas Gas Service, a division of ONEOK, Inc., acquired its Austin operations, from Southern Union Gas in January, 2003, including a franchise with the City of Austin for the sale and delivery of natural gas to Austin residents; and

WHEREAS, Section 103.001 of the Texas Utilities Code grants the City Council exclusive original jurisdiction "...to regulate the rates, operations, and services of a gas utility within the municipality...", including the right to "...inquire into the management and affairs of each gas utility"; and

WHEREAS, Article XI, Section 5 of the City Charter requires each franchise approved by the City Council be subject to Council's right to examine and audit at anytime the accounts and other records of the franchise holder, and to require reports on the local operations of the utility"; and

WHEREAS, Section 4.5 of the Texas Gas Service franchise states, "The City Council may, at its discretion, pursuant to the authority in the City Charter, require a management audit of the Company's operations in Austin; **NOW, THEREFORE**,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

That the City Manager conduct or direct a management audit of the Austin operations of Texas Gas Service, a division of ONEOK, Inc..

BE IT FURTHER RESOLVED:

That Texas Gas Services, a division of ONEOK, Inc., submit to a management audit of the Company's Austin operations as required by both state law and its franchise with the City.

BE IT FURTHER RESOLVED:

That Texas Gas Service, a division of ONEOK, Inc., give City auditors access to all records and documents regarding its Austin operations deemed necessary by the auditors.

BE IT FURTHER RESOLVED:

That Texas Gas Service, a division of ONEOK, Inc., reimburse the City for all reasonable expenses incurred because of this audit.

ADOPTED: November 3, 2005

ATTEST: _____
Shirley A. Brown
City Clerk

MPCC-GLARCAs-2005-Res-10280-#10272 Audit of TGS Senny Hoodlen