

# ORDINANCE 2012-04

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF \_\_\_\_\_, TEXAS, (“CITY”) APPROVING A NEGOTIATED RESOLUTION BETWEEN CITY AND TEXAS GAS SERVICE (“TGS” OR “THE COMPANY”) REGARDING THE COMPANY’S MAY 1, 2012 COST OF SERVICE ADJUSTMENT (“COSA”) FILING AND JUNE 26, 2012 STATEMENT OF INTENT (“SOI”) FILING; DECLARING EXISTING RATES TO BE UNREASONABLE; ADOPTING TARIFFS THAT REFLECT RATE ADJUSTMENTS CONSISTENT WITH THE NEGOTIATED SETTLEMENT AND FINDING THE RATES TO BE SET BY THE SOI FILED TARIFFS TO BE JUST AND REASONABLE; PROVIDING FOR THE RECOVERY OF THE CITY’S REASONABLE AND NECESSARY RATE CASE EXPENSES; ADOPTING A SAVINGS CLAUSE; DETERMINING THAT THIS ORDINANCE WAS PASSED IN ACCORDANCE WITH THE REQUIREMENTS OF THE TEXAS OPEN MEETINGS ACT; DECLARING AN EFFECTIVE DATE; REPEALING ANY PRIOR ORDINANCES INCONSISTENT WITH THIS ORDINANCE; AND REQUIRING DELIVERY OF THIS ORDINANCE TO THE COMPANY AND THE CITY’S LEGAL COUNSEL.**

WHEREAS, the City of \_\_\_\_\_, Texas (“City”) is a gas utility customer of Texas Gas Service (“TGS” or “the Company”), and a regulatory authority with an interest in the rates and charges of TGS; and

WHEREAS, pursuant to the terms of the agreement settling TGS’ 2009 Statement of Intent (“SOI”) to increase rates, to which City was a signatory, the City and other municipalities within the Rio Grande Valley Service Area and TGS worked collaboratively to develop the COSA tariff that allows for an expedited comprehensive rate review process controlled in a three-year experiment; and

WHEREAS, the City took action in 2009 to approve a Settlement Agreement with TGS resolving the Company’s 2009 rate case and authorizing the COSA tariff; and

WHEREAS, the 2009 Settlement Agreement contemplates reimbursement of the City's reasonable expenses associated with COSA applications; and

WHEREAS, on or about May 1, 2012, TGS filed with the City a COSA tariff seeking to increase natural gas rates to all customers residing in the City; and

WHEREAS, the City coordinated a review of TGS' COSA filing and designated attorneys and consultants to resolve issues in the Company's COSA filing; and

WHEREAS, the Company has filed evidence that it was entitled to increased revenues of \$1,883,923 under the terms of the COSA and is precluded from recovering \$1,560,771 under those same terms; and

WHEREAS, on June 26, 2012, TGS filed a SOI with the City seeking to recover additional revenues it was precluded from recovering under the COSA; and

WHEREAS, TGS agreed prior to the filing of the SOI to reduce its SOI filing by \$560,771 in settlement with Cities' legal counsel and rate consultant; and

WHEREAS, the settled COSA and settled SOI are incorporated into the tariffs filed with the SOI; and

WHEREAS, the City's attorneys and consultant recommend that the City approve the rate tariffs attached to the SOI; and

WHEREAS, the SOI tariffs implementing new rates are consistent with the negotiated resolution reached by the City and are just, reasonable, and in the public interest; and

WHEREAS, the negotiated resolution of the Company's COSA filing and the resulting rates are, as a whole, in the public interest; and

WHEREAS, the effective date of new COSA and SOI rates is to be August 1, 2012 pursuant to the COSA tariff previously adopted by the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF \_\_\_\_\_, TEXAS:

Section 1. That the City Council finds that the existing rates for natural gas service provided by TGS are unreasonable and the new tariffs attached to TGS' June 26, 2012 SOI filing are just and reasonable and are hereby adopted.

Section 2. That TGS shall reimburse the reasonable ratemaking expenses of the City in processing the Company's rate application.

Section 3. That to the extent any resolution or ordinance previously adopted by the Council is inconsistent with this Ordinance, it is hereby repealed.

Section 4. That the meeting at which this Ordinance was approved was in all things conducted in strict compliance with the Texas Open Meetings Act, Texas Government Code, Chapter 551.

Section 5. That if any one or more sections or clauses of this Ordinance is adjudged to be unconstitutional or invalid, such judgment shall not affect, impair, or invalidate the remaining provisions of this Ordinance and the remaining provisions of the Ordinance shall be interpreted as if the offending section or clause never existed.

Section 6. That tariffs attached to TGS' June 26, 2012 SOI are effective as of August 1, 2012.

Section 7. That a copy of this Ordinance shall be sent to TGS, care of Dean LaFever, Director, at 5602 East Grimes Road, Harlingen, Texas 78550-1783, and to Geoffrey Gay, Special Counsel to the City, at Lloyd Gosselink Rochelle & Townsend, P.C., P.O. Box 1725, Austin, Texas 78767-1725.