

ORDINANCE NO. 2014-03

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF Penitas, TEXAS, (“CITY”) APPROVING A NEGOTIATED RESOLUTION BETWEEN THE CITY AND TEXAS GAS SERVICE (“TGS” OR “THE COMPANY”) REGARDING THE COMPANY’S MAY 1, 2014 COST OF SERVICE ADJUSTMENT (“COSA”) FILING; GRANTING THE COMPANY’S REQUEST FOR A GOOD CAUSE WAIVER OF LANGUAGE IN SECTION C.5 OF THE COSA CLAUSE; DECLARING EXISTING RATES TO BE UNREASONABLE; APPROVING ATTACHED TARIFFS THAT REFLECT RATE ADJUSTMENTS CONSISTENT WITH THE NEGOTIATED SETTLEMENT AND FINDING THE RATES TO BE SET BY THE ATTACHED TARIFFS TO BE JUST AND REASONABLE; PROVIDING FOR THE RECOVERY OF THE CITY’S AND TGS’ 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’S AND THE CITY’S LEGAL COUNSEL.

WHEREAS, the City of Penitas, 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 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 Cost of Service Adjustment (“COSA”) tariff that allows for an expedited comprehensive rate review process; and

WHEREAS, on or about May 1, 2014, TGS filed with the City a COSA tariff seeking to increase natural gas rates to all customers residing in the City; and

WHEREAS, TGS requested a good cause waiver to Section C.5 of the COSA clause to recognize a decline in revenue associated with a loss of customers during calendar year 2013; and

WHEREAS, the Company has requested a system wide increase of \$1,216,601; 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 existing rates are unreasonable and should be changed; and

WHEREAS, independent analysis by the City's rate expert concluded that TGS is able to justify an increase over current rates; and

WHEREAS, the City's attorney and consultant recommend that the City approve the Good Cause Waiver, a settlement of \$936,000 on a system wide basis and a modification of cost allocation factors; and

WHEREAS, the attached 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.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF Penitas, 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 implementing this Ordinance, which are attached hereto and incorporated herein as Attachment A, are just and reasonable and are hereby adopted.

Section 2. That the requested Good Cause Waiver is granted and a rate increase of \$936,000 on a system wide basis along with a modification to cost allocation factors is reasonable.

Section 3. Allocation factors shall be as follows:

Residential 35.04%; Commercial 42.85%; Industrial 6.56%; Public Authority 5.61%; Transport-T1 7.03%; and Transport-T2 2.92%

Section 4. That TGS shall reimburse the reasonable ratemaking expenses of the City in processing the Company's rate application.

Section 5. That to the extent any resolution or ordinance previously adopted by the Council is inconsistent with this Ordinance, it is hereby repealed.

Section 6. 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 7. 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 8. That the tariffs attached to this Ordinance shall become effective for meters read on and after July 29, 2014.

Section 9. That a copy of this Ordinance shall be sent to TGS, care of Jose De Alba, Director of Operations, 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.

PASSED AND APPROVED this 9 day of July, 2014.



ATTEST:

Araceli Valdez
City Secretary

APPROVED AS TO FORM:

City Attorney