

JOHN F. COOK  
MAYOR



CITY COUNCIL  
ANN MORGAN LILLY, DISTRICT 1  
SUSANNAH M. BYRD, DISTRICT 2  
EMMA ACOSTA, DISTRICT 3  
CARL ROBINSON, DISTRICT 4  
RACHEL QUINTANA, DISTRICT 5  
EDDIE HOLGUIN JR., DISTRICT 6  
STEVE ORTEGA, DISTRICT 7  
BETO O'ROURKE, DISTRICT 8

JOYCE WILSON  
CITY MANAGER

SPECIAL CITY COUNCIL MEETING MINUTES  
COUNCIL CHAMBERS  
APRIL 13, 2010

The City Council met at the above place and date. Meeting was called to order at 1:06 p.m. Mayor John Cook present and presiding and the following Council Members answered roll call: Ann Morgan Lilly, Susie Byrd, Emma Acosta, Carl Robinson, Rachel Quintana, Steve Ortega, and Beto O'Rourke. Absent: Eddie Holguin, Jr. requested to be excused.

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1.

**RESOLUTION**

**WHEREAS**, Texas Gas Service Company, an operating division of ONEOK, Inc. ("Company"), is a regulated utility subject to the exclusive original jurisdiction of the City of El Paso ("City") for rates, services and operations within the City; and

**WHEREAS**, on December 3, 2009, the Company filed a Statement of Intent to increase rates for the El Paso Service Area by \$7,234,044, which request was later amended to a request for an increase of \$5,171,079 in base rates, a Cost of Service Adjustment Clause, and a Conservation Rider, and certain changes to the Gas Tariff or rules of service, said rate increase specified to be effective January 7, 2010; and

**WHEREAS**, on April 1, 2010, Texas Gas Service Company extended the effective date of rates for one week, to January 14, 2010; and

**WHEREAS**, on December 22, 2009, the City Council suspended the operation of the filings for 90 days from the effective date or the maximum allowed by law; and

**WHEREAS**, the Company withdrew its requested changes to the Gas Tariff or Rules of Service; and

**WHEREAS**, the Public Utility Regulation Board held a public hearing on the request on March 10, 2010 at which time the Public Utility Regulation Board heard from witnesses for Texas Gas Service Company and consultants engaged by the City; and

**WHEREAS**, on March 10, 2010 the Public Utility Regulation Board made recommendations to the City Council (by memo dated March 16, 2010) with respect to the rate request of the Company recommending a reduction to base rates in an amount of \$1,744,408, inclusion of a rider to permit recovery of Pipeline integrity costs, rejection of the proposed Cost of Service Adjustment Clause, and rejection of the Conservation Rider; and

**WHEREAS**, the Company has provided evidence that it has complied with the notice requirements of Texas Utilities Code §104.103 by publication in the *El Paso Times* on February 1, 8, 15, 22, 2010, and in the *El Diario* on February 2, 8, 15, and 22, 2010; and

**WHEREAS**, City Council finds that the recommendations of the PURB are appropriate and should be adopted, and further that a reduction to the current base rates of \$1,744,408, inclusion of a rider to permit recovery of Pipeline Integrity Costs, rejection of the proposed Cost of Service Adjustment Clause and rejection of the proposed conservation rider, permits the Company a reasonable opportunity to earn a

reasonable return on its invested capital used and useful in providing service to the public in excess of its reasonable and necessary operating expenses; and

**WHEREAS**, the City Council having considered the PURB recommendation finds that the base rate change proposed by Texas Gas Service Company should be denied, lied on and after April 14, 2010; and

**WHEREAS**, the City Council finds that rate case expenses incurred and estimated to be incurred by the City in an amount not to exceed \$230,000 are reasonable for completion of this case at the City of El Paso; and

**WHEREAS**, the City Council finds it reasonable to utilize the rate of return of 7.752%, property tax factor, depreciation rates, and income tax factors as recommended by the Public Utility Regulation Board; and

**WHEREAS**, the City Council retained Mounce, Green, Myers, Safi, Paxson & Galatzan, a Professional Corporation, and expert consultants hired by the law firm to review various portions of the request, and to make presentations to the Public Utility Regulation Board and assist in settlement discussions; and

**WHEREAS**, the Public Utility Regulation Board met on March 10, 2010, and after presentation and consideration of this proposed resolution voted to recommend approval of the Modified Rate Increase to the City Council; and

**WHEREAS**, the City Council finds that actual and estimated fees and expenses of \$230,000 are reasonable for the City's evaluation of this request.

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO THAT:**

**SEC 1.** The Rate Increase Request of Texas Gas Service Company a Division of ONEOK, Inc. filed on December 3, 2009 is denied, and Texas Gas Service Company is hereby denied.

**SEC. 2.** The Company is ordered to reimburse the City for its expenses as invoiced by the City, not to exceed \$230,000.00, within 30 days after invoice from the City.

**SEC. 3.** The factors for rate of return of 7.752%, property tax factor of 1.3079%, federal income tax rates of 35%, and depreciation rates as recommended by the PURB will be utilized by the Company for any filings with the City of El Paso pursuant to the "GRIP" statute of the Texas Utility Code §104.301 until further order of the City Council.

**SEC. 4.** All relief requested by the Company not granted herein is denied.

Mr. Norman J. Gordon, outside Counsel, presented a PowerPoint presentation (on file in the City Clerk's office).

Ms. Krystal Parker, Vice President of Texas Gas Service, presented a PowerPoint presentation (on file in the City Clerk's office).

Mayor Cook and Representatives O'Rourke, Ortega, Robinson, Byrd and Acosta commented.

Ms. Joyce Wilson, City Manager, commented and Ms. Bertha Ontiveros, Assistant City Attorney, gave legal advice.

The following speakers commented:

1. Mr. J. Alan Holman, Attorney for Texas Gas Service
2. Mr. Jacob Pous, Diversified Utility Consultants, Austin, Texas
3. Ms. Stacey McTaggart, Texas Gas Service

The following members of the public commented:

1. Mr. Richard Dayoub, President and CEO of the Chamber of Commerce
2. Ms. Lisa Turner, Public Utility Regulation Board member
3. Mr. Richard Schecter, citizen

**1<sup>ST</sup> MOTION**

Motion made by Representative Byrd, seconded by Representative Lilly, and unanimously carried to **RETIRE** into **EXECUTIVE SESSION** at 1:07 p.m. pursuant to Section 3.5A of the El Paso City Charter and the Texas Government Code, Sections 551.071 (Consultation with Attorney).

**2<sup>ND</sup> MOTION**

Motion made by Representative Quintana, seconded by Representative Ortega, and unanimously carried to **ADJOURN** the Executive Session at 1:53 p.m. and **RECONVENE** the meeting of the City Council.

NOT PRESENT FOR THE VOTE: Representative Byrd

**3<sup>RD</sup> MOTION**

Motion made by Representative Ortega, seconded by Representative Robinson, and unanimously carried to **RETIRE** into **EXECUTIVE SESSION** at 3:58 p.m. pursuant to Section 3.5A of the El Paso City Charter and the Texas Government Code, Sections 551.071 (Consultation with Attorney).

**4<sup>TH</sup> MOTION**

Motion made by Representative Robinson, seconded by Representative Lilly, and unanimously carried to **ADJOURN** the Executive Session at 4:42 p.m. and **RECONVENE** the meeting of the City Council.

**5<sup>TH</sup> AND FINAL MOTION**

Motion made by Mayor Pro Tempore Acosta, seconded by Representative Lilly, and unanimously carried to **DENY** the rate increase requested from Texas Gas Service.

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Motion made by Representative Robinson, seconded by Representative Quintana, and unanimously carried to adjourn this meeting at 4:43 p.m.  
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APPROVED AS TO CONTENT:

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Richarda Duffy Momsen, City Clerk