

BEFORE THE  
RAILROAD COMMISSION OF TEXAS

STATEMENT OF INTENT FILED BY  
NATGAS, INC., TO INCREASE  
RATES IN AND AROUND THE  
UNINCORPORATED COMMUNITY  
OF OZONA, TEXAS

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HEARINGS DIVISION

GUD NO. 10899

**FINAL ORDER**

Notice of Open Meeting to consider this Final Order was duly posted with the Secretary of State within the time period provided by law pursuant to Chapter 551 (Open Meetings) of the Texas Government Code. The Railroad Commission of Texas adopts the following Findings of Fact and Conclusions of Law and orders as follows:

**FINDINGS OF FACT**

1. NatGas, Inc. ("NatGas"), is a gas utility as that term is defined in Tex. Util. Code § 101.003(7) and is subject to the jurisdiction of the Railroad Commission of Texas ("Commission").
2. On September 27, 2019, NatGas filed a Statement of Intent ("SOI") to increase rates in and around the unincorporated community of Ozona, Texas. The filing was docketed as GUD No. 10899.
3. NatGas requested an effective date of November 1, 2019.
4. NatGas proposes to implement the proposed rates in and around the unincorporated community of Ozona, Texas, in which it provides service.
5. NatGas has the burden of proof under Tex. Util. Code § 104.008 to show that the proposed rate changes are just and reasonable.
6. Staff of the Railroad Commission ("Staff") timely intervened on September 27, 2019.
7. On October 22, 2019, the Commission suspended the implementation of NatGas's proposed rates for 150 days from the date on which the proposed rates would otherwise become effective.
8. On October 28, 2019, NatGas filed an errata to its Direct Testimony.
9. For all customers located in and around the unincorporated community of Ozona, Texas, NatGas provided public notice by direct mail on October 17, 2019, and a revised notice on January 27, 2020, in accordance with Tex. Util. Code § 104.103(a) and 16 Tex. Admin. Code §§ 7.230 and 7.235.

10. On January 30, 2020, NatGas filed the Affidavits of Norman Smith attesting to proof of notice.
11. The publication of notice meets the statutory and rule requirements of notice and provides sufficient information to ratepayers about the proposed rate increase in the Statement of Intent, in accordance with Tex. Util. Code § 104.103(a) and 16 Tex. Admin. Code §§ 7.230 and 7.235.
12. On December 9, 2019, NatGas notified the Administrative Law Judge ("ALJ") that all parties to the proceeding had reached a settlement in principle and requesting an abatement of the proceeding.
13. On December 11, 2019, the ALJ granted the request to abate the proceeding.
14. On January 27, 2020, the Notice of Hearing was issued, setting the hearing on the merits to commence on February 26, 2020.
15. The Notice of Hearing was published in *Gas Utilities Information Bulletin No. 1124* on January 31, 2020, in accordance with 16 Tex. Admin. Code § 7.235 (Publication and Service of Notice).
16. On January 31, 2020, NatGas and Staff filed a Unanimous Settlement Agreement ("Settlement"), which resolved all issues among the parties.
17. On February 3, 2020, the Notice of Hearing was sent to the governing body of Crockett County, the only affected county, in accordance with Tex. Util. Code § 104.105(c).
18. At the merits hearing conducted on February 26, 2020, the NatGas entered evidence into the record in support of the Settlement.
19. On February 26, 2020, the Examiners sent a Request for Information ("RFI"), to which NatGas responded on March 6, 2020.
20. On March 19, 2020, the ALJ took official notice of NatGas's filings responding to Examiner RFI Nos. 1-1, 1-2, 1-3, 1-4, and 1-5.
21. The evidentiary record closed on March 19, 2020.
22. NatGas established that it maintains its books and records in accordance with the Federal Energy Regulatory Commission's ("FERC") Uniform System of Accounts ("USOA") prescribed for natural gas companies.
23. NatGas established that it has fully complied with the books and records requirements of 16 Tex. Admin. Code § 7.310, and the amounts included therein are therefore entitled to the presumption in 16 Tex. Admin. Code § 7.503 that these amounts are reasonable and necessary.

24. The test year in this filing is based upon the financial data for the twelve-month period ending December 31, 2018, adjusted for known and measurable changes.
25. NatGas requested in its Statement of Intent a revenue requirement increase of approximately \$150,821 for all customers served by NatGas in and around the unincorporated community of Ozona, Texas.
26. The Settlement contemplates an approximate \$165,392 revenue increase from current revenues as a settled amount. The revenue increase is not tied to any specific expense in NatGas's underlying cost-of-service. The approximately \$165,392 revenue increase represents an additional \$14,571 from the revenues originally requested in the Statement of Intent. The additional increase was due to the inclusion of incremental plant that was negotiated during the settlement process.
27. The parties have established that the proposed revenue increase of \$165,392 from current revenues is just and reasonable.
28. The proposed rates will affect the following classes of customers within the unincorporated areas served by NatGas in and around Ozona, Texas: Residential, Commercial, and Public Authority.
29. The rates, which are reflected in Attachment 1 to this Order, and the customer charges shown in the table below, are just and reasonable for the customers within the unincorporated areas in and around Ozona, Texas.

<b>Rate Schedule</b>	<b>Customer Charge</b>	<b>Commodity Charge (\$/Mcf)</b>
Residential	\$ 9.00	\$5.76
Commercial	\$12.00	\$5.76
Public Authority	\$14.00	\$4.55

30. The capital structure, cost of debt, cost of equity, weighted cost of capital, overall rate of return, and pre-tax return for the unincorporated areas in and around Ozona, Texas, which are reflected in the table below, are just and reasonable.

<b>Capital Structure</b>	<b>Percent</b>	<b>Cost</b>	<b>Weighted Cost of Capital</b>	<b>Pre-Tax Return</b>
Long-Term Debt	66.26%	<b>6.00%</b>	3.976%	3.976%
Common Equity	33.74%	<b>11.00%</b>	3.711%	4.698%
Rate of Return	100%		<b>7.687%</b>	<b>8.674%</b>

31. A net plant amount of \$546,835 as of June 30, 2019, is prudent and appropriate for recovery in this proceeding.

32. The depreciation rates, as reflected in Attachment 2 to this Order, are reasonable.
33. Interim Rate Adjustment ("IRA") factors are not necessary to establish at this time because NatGas will not use the IRA mechanism from the time this Order becomes final and effective to the time of NatGas's next rate case.
34. On February 27, 2018, the Commission issued an Accounting Order in GUD No. 10695 (together with the March 20, 2018 Order Nunc Pro Tunc, the "Accounting Order") that reflects the Commission's directives regarding changes to utility rates to account for the change in the Federal corporate income tax due to the Federal Tax Cuts and Jobs Act of 2017 (Tax Cuts and Jobs Act).
35. NatGas has a corporate income tax rate of 21 percent to recognize changes to the Federal Tax Code due to the Tax Cuts and Jobs Act and such amount reflects all impacts associated with calculation of taxes under the Tax Cuts and Jobs Act.
36. NatGas is compliant with the Commission's Accounting Order.
37. It is reasonable that NatGas calculate and record plant retirements by (1) acquiring software to calculate and record plant retirements as they occur; or (2) manually calculate and record plant retirements as they occur.
38. It is reasonable that NatGas file with Commission Staff an annual Plant Retirement Compliance Filing on March 31 of each calendar year that includes a list of the prior year's plant retirement calculations.
39. It is reasonable that NatGas correctly apply the allocation methodology in the Cost Allocation Manual ("CAM").
40. It is reasonable that NatGas file with Commission Staff an annual CAM Compliance Filing on March 31 of each calendar year that demonstrates NatGas's understanding and appropriate implementation of the CAM.

### ***Rate Case Expenses***

41. NatGas requests recovery of its rate case expenses totaling \$27,000.00, which includes \$23,319.30 in actual expenses incurred through December 31, 2019, and up to \$3,680.70 of estimated expenses through completion of this docket. NatGas's actual incurred expenses include regulatory expenses totaling \$8,010.00 and litigation expenses totaling \$15,309.30.
42. There were no attorney fees. The rate case expenses were from two consultants: One consultant charged an hourly rate of \$270 and billed 35.3 hours. The other consultant charged an hourly rate of \$180 and billed 76.3 hours.
43. The hourly rates charged by the consultants were reasonable rates charged by firms in cases addressing utility rate matters.

- 44. NatGas has established that its actual and estimated rate case expenses up to \$27,000.00 are just and reasonable, and that the expenses do not include any expenses for luxury items and did not incur any excessive airline, lodging, or meal expenses.
- 45. The amount of work performed and the time and labor required to accomplish the work were reasonable given the nature of the issues addressed.
- 46. Regulatory expenses of \$8,010.00 are itemized in the invoices dated August 5, 2019, and September 4, 2019. Invoice No. 4431, dated August 5, 2019, had an expense total of \$4,518.00. Invoice No. 4454, dated September 4, 2019, had an expense total of \$3,492.00.
- 47. The remaining invoices, which includes an October 3, 2019 invoice, document \$15,309.30 in litigation expenses.
- 48. Invoice No. 4475, dated October 3, 2019, has an expense total of \$4,005.30 and lists services performed from September 5, 2019, through September 30, 2019.
- 49. The services detailed on the October 3, 2019 invoice totaling \$4,005.30 are related to the filing of the September 27, 2019 SOI and reflect actual regulatory expenses.
- 50. The costs for the October 17, 2019 and January 23, 2020 notices sent to affected customers by direct mail are not included in the rate case expenses.
- 51. NatGas's rate case expenses, reflected in the below table, are reasonable and recoverable expenses incurred through December 31, 2019, and estimated rate case expenses incurred through completion of this case, are as follows:

<b>Actual Regulatory Expenses</b>	<b>Actual Litigation Expenses</b>	<b>Expenses Estimated to Completion</b>	<b>Total Recoverable Expenses</b>
\$12,015.30	\$11,304.00	\$3,680.70	\$27,000.00

- 52. The expenses set forth in Findings of Fact No. 52 reflect allocations consistent with 16 Tex. Admin. Code § 7.5530 (Allowable Rate Case Expenses), which is reasonable.
- 53. It is reasonable that the recovery of \$27,000.00 in total rate case expenses be recovered through a volumetric fee of \$0.194 per Mcf and that the recovery period for the surcharge occur over an approximate 24-month period or until all actually-incurred expenses are recovered, not to exceed \$27,000.00.
- 54. It is reasonable that the rate case expense surcharge will continue until the amounts to be collected under those surcharges are collected.

55. It is reasonable that NatGas submit to Commission Staff invoices reflecting actual rate case expenses with sufficient detail so that Commission Staff can accurately audit such invoices for the purposes of reconciling actual rate case expenses to estimated rate case expenses. In no case shall the total recoverable expenses exceed the actual expenses up to a total of \$27,000.00.
56. It is reasonable that NatGas file an annual Rate Case Expense Compliance Filing with the Commission's Oversight and Safety Division, referencing GUD No. 10899, within 90 days after each calendar year end until the calendar year end in which the rate case expenses are fully recovered. The compliance filing will include the amount of rate case expense recovered by month, the outstanding balance by month, the balance of actual plus estimated rate case expenses at the beginning of the annual period, the amount collected by customer class, and the ending or remaining balance.
57. The rate schedules, attached to this Order as Attachment 1, which consist of Residential, Commercial, Public Authority, Rate Case Expenses, and Miscellaneous Service Charges, are just and reasonable

#### **CONCLUSIONS OF LAW**

1. NatGas is a gas utility as defined in Tex. Util. Code §§ 101.003(7) and 121.001 and is therefore subject to the jurisdiction of the Commission.
2. The Commission has jurisdiction over NatGas's SOI affecting its customers residing in and around the unincorporated community of Ozona, Texas under Tex. Util. Code §§ 102.001, 103.022, 103.054, 103.055, 104.001, 104.001, and 104.201.
3. Under Tex. Util. Code § 102.001, the Commission has exclusive original jurisdiction over the rates and services of a gas utility that distributes natural gas in areas outside of a municipality and over the rates and services of a gas utility that transmits, transports, delivers, or sells natural gas to a gas utility that distributes the gas to the public.
4. This proceeding was conducted in accordance with the requirements of the Gas Utility Regulatory Act, Tex. Util. Code §§ 101.001 *et seq.* and the Administrative Procedure Act, Tex. Gov't Code §§ 2001.001 *et seq.*
5. The proposed rates constitute a major change as defined by Tex. Util. Code § 104.107.
6. Tex. Util. Code § 104.107 provides the Commission's authority to suspend the operation of the schedule of proposed rates for 150 days from the date the schedule would otherwise go into effect.

7. In accordance with Tex. Util. Code § 104.103 and 16 Tex. Admin. Code §§ 7.230 and 7.235, adequate notice was properly provided.
8. NatGas filed its SOI in accordance with Tex. Util. Code § 104.102 and 16 Tex. Admin. Code §§ 7.205 and 7.210.
9. NatGas met its burden of proof in accordance with the provisions of Tex. Util. Code § 104.008 on the elements of its requested rate increase identified in this Order.
10. NatGas established that its books and records conform with 16 Tex. Admin. Code § 7.310 to utilize FERC's USOA prescribed for Natural Gas Companies, and NatGas is thus entitled to the presumption that the amounts included therein are reasonable and necessary in accordance with 16 Tex. Admin. Code § 7.503.
11. The revenue, rates, rate design, and service charges identified in the rate schedules attached to this Order are just and reasonable; are not unreasonably preferential, prejudicial, or discriminatory; and are sufficient, equitable, and consistent in application to each class of consumer, as required by Tex. Util. Code § 104.003.
12. The rates, operations, and services established in this docket are just and reasonable to customers and to NatGas in accordance with the stated purpose of the Texas Utilities Code, Subtitle A, expressed under Tex. Util. Code § 101.002.
13. The overall revenues as established in the Findings of Fact and attached schedules are reasonable; fix an overall level of revenues for NatGas that will permit it a reasonable opportunity to earn a reasonable return on its invested capital used and useful in providing service to the public over and above its reasonable and necessary operating expenses, as required by Tex. Util. Code § 104.051; and otherwise comply with Chapter 104 of the Texas Utilities Code.
14. The revenue, rates, rate design, and service charges proposed will not yield to NatGas more than a fair return on the adjusted value of the invested capital used and useful in rendering service to the public, as required by Tex. Util. Code § 104.052.
15. The rates established in this docket comport with the requirements of Tex. Util. Code § 104.053 and are based upon the adjusted value of invested capital used and useful.
16. Rate case expenses totaling no more than \$27,000.00 are reasonable, necessary, and consistent with the requirements of 16 Tex. Admin. Code § 7.5530(a).

17. NatGas is required by 16 Tex. Admin. Code § 7.315 to file electronic tariffs incorporating rates consistent with this Final Order within thirty days of the date of this Final Order.

**IT IS THEREFORE ORDERED** that the terms under the Settlement, as reflected in this Order, are hereby **APPROVED**.

**IT IS FURTHER ORDERED** that the proposed schedule of rates, as reflected in this Order and in Attachment 1, is hereby **APPROVED**.

**IT IS FURTHER ORDERED** that the rates, rate design, and service charges established in the Findings of Fact, Conclusions of Law, and as shown on the attached tariffs (Attachment 1) are **APPROVED**.

**IT IS FURTHER ORDERED** that NatGas calculate and record plant retirements by (1) acquiring software to calculate and record plant retirements as they occur or (2) manually calculate and record plant retirements as they occur.

**IT IS FURTHER ORDERED** that NatGas file with Commission Staff in the Gas Services Department an annual Plant Retirement Compliance Filing on March 31 of each calendar year that includes a list of the prior year's plant retirement calculations and an affidavit from an officer of NatGas that these retirements have been properly recorded in the books and records of NatGas.

**IT IS FURTHER ORDERED** that NatGas file with Commission Staff in the Gas Services Department an annual CAM Compliance Filing on March 31 of each calendar year end that demonstrates NatGas' understanding and appropriate implementation of the CAM.

**IT IS FURTHER ORDERED** that final actual incurred rate case expenses be filed with the Commission through completion of the case within 30 days of issuance of this Order.

**IT IS FURTHER ORDERED** that NatGas file an annual Rate Case Expense Compliance Filing with Commission Staff detailing recovery of rate case expenses as described in Finding of Fact No. 57 within 90 days after each calendar year end until the calendar year end in which the rate case expenses are fully recovered. The compliance filing will include the amount of rate case expense recovered by month, the outstanding balance by month, the balance of actual plus estimated rate case expenses at the beginning of the annual period, the amount collected by customer class, and the ending or remaining balance. The total recoverable rate case expenses will not exceed the actual expenses up to a total of \$27,000.00.

**IT IS FURTHER ORDERED** that, within 30 days of this Order, in accordance with 16 Tex. Admin. Code § 7.315, NatGas electronically file its rate schedules in proper form that accurately reflect the rates in Attachment 1 to this Order. The tariffs shall incorporate rates, rate design, and service charges consistent with this Final Order,

as stated in the Findings of Fact and Conclusions of Law and shown on the attached schedules (Attachment 1).

**IT IS FURTHER ORDERED** that any incremental change in rates approved by this Order and implemented by NatGas shall be subject to refund unless and until NatGas's tariffs are electronically filed and accepted by the Gas Services Department of the Oversight and Safety Division of the Commission in accordance with 16 Tex. Admin. Code § 7.315.

**IT IS FURTHER ORDERED** that all proposed Findings of Fact and Conclusions of Law not specifically adopted in this Final Order are hereby **DENIED**.

**IT IS FURTHER ORDERED** that all pending motions and requests for relief not previously granted or granted herein are hereby **DENIED**.

**IT IS FURTHER ORDERED** that this Order will not be final and effective until 25 days after the date this Order is signed. If a timely motion for rehearing is filed by any party at interest, this Order shall not become final and effective until such motion is overruled, or if such motion is granted, this Order shall be subject to further action by the Commission. The time allotted for Commission action on a motion for rehearing in this case prior to its being overruled by operation of law is hereby extended until 100 days from the date this Order is signed.

**SIGNED** on April 21, 2020.

**RAILROAD COMMISSION OF TEXAS**

DocuSigned by:

*Wayne Christian*

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**CHAIRMAN WAYNE CHRISTIAN**

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*Christi Craddick*

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**COMMISSIONER CHRISTI CRADDICK**

DocuSigned by:

*Ryan Sitton*

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**COMMISSIONER RYAN SITTON**

**ATTEST:**

DocuSigned by:

*Callie Farrar*

**SECRETARY**

