

**BEFORE THE
RAILROAD COMMISSION OF TEXAS**

**STATEMENT OF INTENT FILED BY §
DAL-MAR ENERGY, INC. TO §
INCREASE THE RATE IN THE § GAS UTILITIES DOCKET No. 10096
UNINCORPORATED AREAS OF CROSS §
PLAINS, TEXAS §**

FINAL ORDER

Notice of Open Meeting to consider this Order was duly posted with the Secretary of State within the time period provided by law pursuant to Tex. Gov't Code Ann. Chap 551, *et seq.* (Vernon 2004 & Supp. 2010). The Railroad Commission of Texas adopts the following findings of fact and conclusions of law and orders as follows:

FINDINGS OF FACT

1. Dal-Mar Energy, Inc ("Dal-Mar") is a gas utility as that term is defined in the Texas Utility Code.
2. On June 20, 2011, Dal-Mar filed a *Statement of Intent* to change rates in the unincorporated areas of the City of Cross Plains, Texas.
3. Dal-Mar seeks to implement the same rate changes that were previously approved by the city of Cross Plains.
4. Dal-Mar serves twelve customers within the unincorporated areas of the city of Cross Plains.
5. Notice of the proposed increase was provided by bill insert on June 1, 2011.
6. The *Statement of Intent*, as filed, did not explain or calculate the effect the proposed increase on the revenues of the company.
7. The *Statement of Intent*, as filed, did not indicate whether the proposed change was a major change.
8. The notice issued to customers did not provide information regarding the proposed increase to the average customer and it did not indicate whether the change in rates constituted a major change.
9. Dal-Mar reissued the notice of the proposed increase on October 12, 2011, and provided a detailed explanation of the proposed increase.
10. On a system-wide basis, the proposed increase will impact the revenues of the company by \$10,004, based upon an adjusted evaluation of the test-year revenues.

11. Revenues from the environs are expected to increase by approximately \$1,148, based upon an adjusted evaluation of test-year revenues.
12. Environs rates have not been changed in twenty-nine years.
13. The record in this proceeding does not establish that Dal-Mar tracks expenses associated with the services provided to Gaylyn, Inc. and associated revenues.
14. The record in this case does not establish the basis for the proposed increase.
15. The proposed miscellaneous service charges for security deposit in the amount of \$100 and a reconnect fee in the amount of \$30 are not just and reasonable.
16. Dal-Mar has not established that a late payment fee of \$10 or a tapping fee of \$150 is reasonable.
17. The applicant has not established a basis for a separate rate structure for employees of Dal-Mar energy and therefore should cease offering a preferential rate structure to employees.
18. Dal-Mar may not have a line extension policy that precludes the provision of service in areas served by the utility and its policy must comply with Commission regulations.
19. Based on the forgoing findings of fact, Dal-Mar has not established the value of the company's invested capital.
20. Based on the forgoing findings of fact, Dal-Mar has not established its reasonable and necessary operating expenses.

CONCLUSIONS OF LAW

1. Dal-Mar Energy, Inc. ("Dal-Mar") is a "Gas Utility" as defined in TEX. UTIL. CODE ANN. §101.003(7) (Vernon Supp. 2010) and §121.001(Vernon 2007) and is therefore subject to the jurisdiction of the Railroad Commission ("Commission") of Texas.
2. The Commission has jurisdiction over Dal-Mar and its *Statement of Intent* under TEX. UTIL. CODE ANN. §§ 102.001, 103.022, 103.054, & 103.055, 104.001, 104.001 and 104.201 (Vernon 2007).
3. Under TEX. UTIL. CODE ANN. §102.001 (Vernon 2009), 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. All statements of intent to increase rates must contain the following: (1) the proposed revisions of rates and schedules; (2) a statement specifying in detail each proposed change; (3) the effect the proposed change is expected to have on revenues of the applicant; (4) the classes and

numbers of utility customers affected; (5) a statement as to whether the proposed rates will or will not exceed 115% of the average of all rates for similar services of all municipalities served by the same utility within the same county; and (6) a statement as to whether the proposed change will or will not result in a "major change" as that term is defined in TEX. UTIL. CODE ANN. § 104.101 (Vernon 2009). 16 TEX. ADMIN. CODE §§ 7.205 & 7.210 (West 2010).

5. In all proceedings involving rate setting, the gas utility's notice shall include the following information: (1) the proposed revision of rates and schedules; (2) a statement specifying in detail each proposed change; (3) the effect the proposed change is expected to have on the revenues of the company; (4) the classes and numbers of utility customers affected; (5) the date of the filing of the statement of intent; (6) a statement as to whether or not the proposed rates constitute a "major change"; (7) a statement that the proposed change in rates will not become effective until similar changes have become effective within the nearest incorporated city if the rates are sought to be at the same level as the city rates; (8) the location where information concerning the proposed change may be obtained; and (9) a statement that any affected person may file in writing comments or a protest concerning the proposed change in the environs rates with the Commission. 16 TEX. ADMIN. CODE § 7.230 (West 2010).
6. TEX. UTIL. CODE ANN. § 104.051 requires that in establishing a gas utility's rates, the regulatory authority shall establish the utility's overall revenues an amount that will permit the utility a reasonable opportunity to earn a reasonable return on the utility's invested capital used and useful in providing service to the public in excess of its reasonable and necessary operating expenses.
7. Tex. Util. Code Ann. § 104.052 requires that a regulatory authority may not establish a rate that yields more than a fair return on the adjusted value of the invested capital used and useful in providing service to the public.
8. Dal-Mar's June 20, 2011, *Statement of Intent* to change gas distribution rates was insufficient to establish the company's invested capital used and useful in providing service to public and the filing was insufficient to establish the company's reasonable and necessary operating expenses as required by TEX. UTIL. CODE ANN. § 104.051.

IT IS THEREFORE ORDERED that Dal-Mar's proposed schedule of rates is hereby **DENIED**.

IT IS FURTHER ORDERED that Dal-Mar may charge only those rates that were in effect prior to filing this *Statement of Intent*, and that the tariffs that were in effect on that date remain in effect with the modifications instructed by this Final Order.

IT IS FURTHER ORDERED that Dal-Mar shall implement appropriate timekeeping procedures to track work done on behalf of Gaylyn, or any other affiliate.

IT IS FURTHER ORDERED that Dal-Mar shall file a time study, based upon those timekeeping records with its 2011 and 2012 Distribution Annual Report.

IT IS FURTHER ORDERED that Dal-Mar shall include in all future annual reports an analysis detailing all expenses incurred to generate the revenues received from Gaylyn, or any other affiliate, in

Account 415, or any other revenue account of Dal-Mar, and match revenues generated from activities performed on behalf of Gaylyn, or any other affiliate, with expenses of Dal-Mar.

IT IS FURTHER ORDERED that in any future Statement of Intent filed by Dal-Mar, Dal-Mar shall include a time study of work done for any affiliate of Dal-Mar.

IT IS FURTHER ORDERED that Dal-Mar shall file its distribution integrity management plan within 45 days of the date of the Final Order.

IT IS FURTHER ORDERED that Dal-Mar is instructed to cease offering a preferential rate structure to employees; thereby requiring Dal-Mar to charge the same rate to all customers within each customer class, including employees.

IT IS FURTHER ORDERED that Dal-Mar amend the utility's line extension policy to comply with Commission regulations.

IT IS FURTHER ORDERED that all proposed findings of fact and conclusions of law not specifically adopted in this Order are hereby **DENIED**.

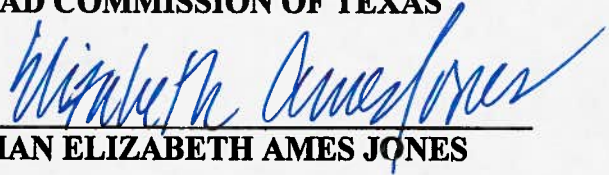
IT IS ALSO ORDERED that all pending motions and requests for relief not previously granted or granted herein are hereby **DENIED**.

This Order will not be final and effective until 20 days after a party is notified of the Commission's order. A party is presumed to have been notified of the Commission's order three days after the date on which the notice is actually mailed. 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. Pursuant to Tex. Gov't Code §2001.146(e), 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 90 days from the date the order is served on the parties.

All requested findings of fact and conclusions of law which are not expressly adopted herein are denied. All pending motions and requests for relief not previously granted or granted herein are denied.

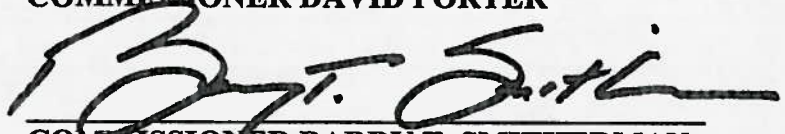
SIGNED this 24th day of January, 2012.

RAILROAD COMMISSION OF TEXAS



CHAIRMAN ELIZABETH AMES JONES

COMMISSIONER DAVID PORTER



COMMISSIONER BARRY T. SMITHERMAN

ATTEST:



SECRETARY

