

**BEFORE THE  
RAILROAD COMMISSION OF TEXAS**

<b>RATE CASE EXPENSES SEVERED FROM GAS UTILITIES DOCKET NO. 10021</b>	<b>§ § § §</b>	<b>GAS UTILITIES DOCKET NO. 10148</b>
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**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. Chapter 551, et seq. (Vernon 2004 & Supp. 2008). The Railroad Commission of Texas adopts the following findings of fact and conclusions of law and orders as follows:

**FINDINGS OF FACT**

1. AgriTexGas, LP ("AgriTex") is a utility as that term is defined in the Texas Utility Code, and is subject to the jurisdiction of the Railroad Commission of Texas ("Commission").
2. AgriTex owns and operates a gas distribution system that provides gas service to 30 counties in the Panhandle Region of Texas.
3. On October 8, 2010, AgriTex filed a statement of intent to increase rates on customers located in the unincorporated areas of its service area which was docketed by the Commission as Gas Utilities Docket No. 10021 ("GUD No. 10021").
4. On April 24, 2012, the Examiners severed rate case expense issues in GUD No. 10021 into this docket.
5. On April 24, 2012, the Commission issued a final order in GUD No. 10021.
6. On October 23, 2012, Staff and AgriTex filed a *Joint Stipulation and Settlement Agreement* addressing all issues of AgriTex's request for reimbursement of rate case expenses, and for the purpose of developing a record that the Commission will use in making a determination on AgriTex's rate case expense request.
7. The evidence established that the hourly rates charged by consulting attorneys were reasonable; the number of consulting attorneys working on the underlying docket was minimized; the invoices accurately documented hours worked and services provided; there were no time entries exceeding 12.0 hours per day; and there were no

disbursements for hotels, valet parking, designer coffee, airfare, or meals requiring special scrutiny or disallowance.

8. The Examiners reviewed all invoices supporting the rate case expenses incurred by AgriTex and did not find any duplication of services or testimony. There is no evidence in the record that any of the expenses set forth in the Joint Stipulation and Settlement Agreement were not necessarily incurred in the prosecution of AgriTex's rate case proceeding before the Commission.

9. AgriTex's initially requested actual and estimated rate case expenses in the amount of \$133,235.79 for actual and future work for the prosecution of GUD No. 10021 before the Commission. The Examiners find that the proposed \$99,324.04 for AgriTex's total fees and expenses as set forth in the Joint Stipulation and Settlement Agreement were reasonably incurred and necessary to the underlying proceeding and this rate case expense docket.

10. As set out in the settlement agreement, AgriTex agreed to reduce its claim, for the purpose of a settlement by a total of \$33, 893.75. That sum reflects the fact the AgriTex will forgo recovery of \$26, 275.00, being expenses incurred by AgriTex to revise its filing. Additionally, AgriTex removed \$3,493.75 for tariff compliance and \$4, 125.00 from audit compliance, for a total reduction of \$33, 893.75 from initial the reimbursement claim of \$133, 235.79.

11. The evidence in the record and settlement agreement indicates that AgriTex's proposed \$0.088 per Ccf surcharge to recover rate case expenses, as shown on AgriTex's proposed Rate Case Expense Surcharge tariff (attached hereto as Exhibit A), will allow the utility to recover its costs without over-recovering from its customers. It is therefore reasonable that AgriTex recover all rate case expenses approved herein by use a \$0.088 per Ccf surcharge for its customers located in its service area.

12. The \$0.088 per Ccf surcharge on gas volumes will not be overly-burdensome on AgriTex's customers, and will allow AgriTex to recover its expenses. In GUD No. 10148 the per Ccf rate-case-expense surcharge will be \$0.088. Assuming an average consumption rate of 6 Mcf (or 60 Ccf) the average monthly residential rate-case-expense surcharge will be  $\$0.088 \times 60 = \$5.28$ .

13. AgriTex proposes that the expense be collected by a surcharge from ratepayers over an approximate 36 month period by application of a rate case expense surcharge of \$0.088 per Ccf on each customer's bill commencing within a reasonable period from the effective date of the final order in this proceeding. The rate case expense surcharge of \$0.088 per Ccf shall be in effect until rate case expenses are recovered, but in no event shall the amount collected exceed \$99,342.04.

14. As set out in the settlement agreement, Agritex will file annually, due on the 15th of each December, a report with the Gas Services Division of the Railroad Commission of Texas a report detailing the monthly collections for the Rate Case Surcharge ("RCS") and show the outstanding balance. No interest will accumulate on the outstanding balance.

### CONCLUSIONS OF LAW

- I. AgriTex Gas, LP ("AgriTex") is a gas utility as defined in TEX. UTIL. CODE ANN. §§ 101.003(7), 121.001 (Vernon 2007 & Supp. 2008) and is subject to the Commission's jurisdiction under TEX. UTIL. CODE ANN. §§ 104.001, 121.051 (Vernon 2007 & Supp. 2008).
- II. Each party seeking reimbursement for its rate case expenses has the burden to prove the reasonableness of such rate case expenses by a preponderance of the evidence, under 16 TEX. ADMIN. CODE § 7.5530 (2002).
- III. The rate case expenses enumerated in the findings of fact herein are reasonable and comply with 16 TEX. ADMIN. CODE ANN. § 7.5530 (2002).
- IV. The Commission has the authority to allow AgriTex to recover rate case expenses through a surcharge on its rates, under TEX. UTIL. CODE ANN. § 104.051 (Vernon 2007 & Supp. 2008).

**IT IS THEREFORE ORDERED** that AgriTex Gas, LP is authorized to recover all rate case expenses incurred in GUD No. 10021 and approved by this order by means of a surcharge on its rates charged to ratepayers subject to the final orders entered in GUD No. 10021. A surcharge on rates shall be charged at \$0.088 per Ccf on all gas volumes for all customer classes, commencing with the date this final order becomes effective. The \$0.088 per Ccf surcharge shall be a separate line item on each customer's bill clearly identifying the recovery rate and amount recovered each month. AgriTex Gas, LP's Rate Case Expense Surcharge tariff is approved. Agritex will file annually, due on the 15th of each December, a report with the Gas Services Division of the Railroad Commission of Texas a report detailing the monthly collections for the Rate Case Surcharge ("RCS") and show the outstanding balance. No interest will accumulate on the outstanding balance.

**IT IS FURTHER ORDERED** that any proposed findings of fact and conclusions of law not specifically adopted herein are **DENIED**. **IT IS ALSO ORDERED** that each

exception to the Examiners' Proposal for Decision not expressly granted herein is overruled and all pending motions and requests for relief not previously granted herein are hereby **DENIED**.

**IT IS FURTHER ORDERED THAT** AgriTex Gas, LP may begin surcharging rates for rate case expenses on and after the date of this Order. This Order will not be final and appealable 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.

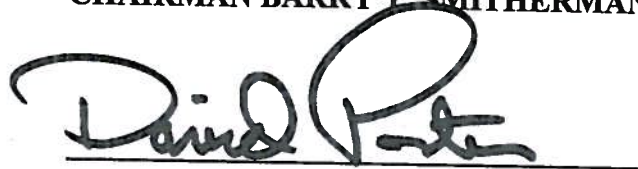
Each exception to the examiners' proposal for decision not expressly granted herein is overruled. All requested findings of fact and conclusions of law which are not expressly adopted herein are denied. All pending motions and requests for relief not previously granted or granted herein are denied.

SIGNED this 26<sup>th</sup> day of March, 2013.

**RAILROAD COMMISSION OF TEXAS**



**CHAIRMAN BARRY T. SMITHERMAN**




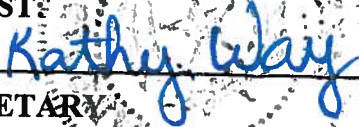
**COMMISSIONER DAVID PORTER**



**COMMISSIONER CHRISTI CRADDICK**

ATTEST

SECRETARY

**EXHIBIT "A"**

**AgriTexGas, LP**  
**Rate Sheet**  
**Rate Case Expense (RCE)**

**APPLICATION OF SCHEDULE**

This schedule is applicable to any customer served under residential, commercial, industrial, and public authority rate schedules in all cities and environs served by AgriTexGas, LP. This schedule is for the recovery of rate case expenses and shall be in effect beginning on or after December 1, 2012, for a thirty-six (36) month period or until all approved expenses are collected.

**MONTHLY RATE RECOVERY FACTOR**

The price payable by each customer for all consumption each month shall be \$0.088 per Ccf.

**RULES AND REGULATIONS**

Service under this schedule shall be furnished in accordance with the Company's General Rules and Regulations; as such rules may be amended from time to time. A copy of the Company's General Rules and Regulations may be obtained from the Company's office located at 3838 Oak Lawn Ave., Suite 1525, Dallas, Texas, 75219.

**COMPLIANCE**

The Company will file annually, due on the 15<sup>th</sup> of each December, a report with the RRC Gas Services Division. The report shall detail the monthly collections for the RCE surcharge and show the outstanding balance. No interest will accumulate on the outstanding balance.