



**PROCEDURAL HISTORY**

Statement of Intent Filed:	April 16, 2019
Suspension Order:	May 7, 2019
GUD 10876 Appeal Filed:	July 17, 2019
Settlement Agreement Filed:	July 18, 2019
Consolidation of GUD 10876, Appeal:	July 30, 2019
Hearing on the Merits:	August 1, 2019
Heard By:	Dee Marlo Chico, Administrative Law Judge James Currier, Technical Examiner Rose Ruiz, Technical Examiner
Evidentiary Record Closed:	August 30, 2019
Proposal for Decision Issued:	September 12, 2019
Deadline for Commission Action:	October 18, 2019

## STATEMENT OF THE CASE

On April 16, 2019, Texas Gas Service ("TGS") filed with the Railroad Commission a statement of intent ("SOI") to implement a surcharge to recover Hurricane Harvey response costs within the Gulf Coast Service Area ("GCSA") that includes approximately 44,604 customers of which 1,184 are environs customers.

Three parties intervened: Commission Staff, the City of Galveston ("Galveston"), and the Cities of Groves, Nederland, Port Arthur, and Port Neches ("Cities"). The parties reached a Unanimous Settlement Agreement in Support of a Regulatory Asset (the "Settlement"), which resolved all their issues. In the Settlement, the parties agree to the following:

- TGS will not seek to implement a surcharge and will not change utility rates for customers within the GCSA through the SOI filed in this case;
- TGS will create and record a regulatory asset to defer the Hurricane Harvey response costs at issue in this case, \$714,389;
- TGS will not include carrying costs in the regulatory asset and will not seek to recover any carrying costs associated with the regulatory asset;
- The reasonableness, necessity, and total amounts of the regulatory asset to be recovered through rates will be determined in the next comprehensive rate proceeding in which base rates for the GCSA are determined;
- TGS agrees to reimburse Cities and Galveston for their legal and consultant expenses associated with GUD No. 10844 within 30 days from the date the Commission approves the Settlement and upon TGS receiving legal invoices or other documentation reflecting Cities' and Galveston's incurred costs; and
- In the next comprehensive proceeding in which base rates for the GCSA are determined, TGS is entitled to request the recovery of rate case expenses incurred by TGS, Galveston, and Cities related to this case and a determination of the reasonableness, necessity, and total amounts of the rate case expenses to be recovered.

The Commission has both original and appellate jurisdiction in this docket. Original jurisdiction applies to the environs of the GCSA. Appellate jurisdiction applies to the four cities that acted at the municipal level. Included in this consolidated docket are GUD Nos. 10884 (the SOI) and 10876 (the Appeal).

## RECOMMENDATION

The Administrative Law Judge and Technical Examiners recommend the Commission approve the parties' settlement. **The deadline for Commission action is October 18, 2019.**

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## PROPOSAL FOR DECISION<sup>1</sup>

### I. INTRODUCTION

The Railroad Commission of Texas ("Commission") has both original and appellate jurisdiction in this consolidated docket that includes GUD Nos. 10844 (the statement of intent) and 10876 (the municipal appeal). Original jurisdiction applies to the environs of the Gulf Coast Service Area ("GCSA").<sup>2</sup> Appellate jurisdiction applies to the four cities that acted at the municipal level.

Before discovery completed, the parties reached an agreement resolving all the issues.<sup>3</sup> In the settlement, the parties agree, inter alia, to postpone the consideration of the rate case expenses incurred in this case and the reasonableness and necessity of TGS's costs incurred in its response to Hurricane Harvey until the next comprehensive rate proceeding in which the base rates for the GCSA will be determined.

As treated below, the Administrative Law Judge ("ALJ") and Technical Examiners (together with the ALJ, the "Examiners") recommend that the Commission approve all terms of the parties' settlement.

### II. PARTIES

The parties to this proceeding are Applicant Texas Gas Service ("TGS"), a "gas utility" under GURA Section 101.003 (Definitions), and the three intervenors: Commission Staff ("Staff"), the City of Galveston ("Galveston"), and the Cities of Groves, Nederland, Port Arthur, and Port Neches ("Cities").

### III. PROCEDURAL HISTORY

On April 16, 2019, TGS filed with the Commission a statement of intent to increase rates to recover Hurricane Harvey response costs within the GCSA (the "SOI"). TGS filed its SOI pursuant to Subtitle A (Gas Utility Regulatory Act) ("GURA") of the Texas Utilities Code, Chapter 104 (Rates and Services), Subchapter C (Rate Changes Proposed by Utility). The SOI was docketed as GUD 10844. Contemporaneously with its SOI, TGS also filed a statement of intent to increase rates to recover Hurricane

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<sup>1</sup> Exhibits for Texas Gas Service will be referred to in this Proposal for Decision as "TGS Exhibit [number]."

<sup>2</sup> The environs of the GCSA include customers residing in the unincorporated areas of Bayou Vista, Galveston, Groves, Jamaica Beach, Nederland, Port Arthur, and Port Neches, Texas.

<sup>3</sup> TGS Exhibit 5 (Unanimous Settlement Agreement in Support of a Regulatory Asset, filed on July 18, 2019 (the "Settlement")).

Harvey Response Costs with each municipality retaining original jurisdiction in the GCSA.<sup>4</sup> Staff, Galveston, and Cities subsequently intervened on the SOI.<sup>5</sup>

A prehearing conference was held on April 22, 2019 to consider various procedural and prehearing issues. On May 7, 2019, the Commission properly suspended the effective date of TGS's proposed rate change for a period of 150-days pursuant to GURA Section 104.107 (Rate Suspension; Deadline).<sup>6</sup> Thereafter, TGS completed its requirements under GURA Section 104.103 (Notice of Intent to Increase Rates) on June 20, 2019, by providing notice of its SOI through direct mail to each TGS customer within the GCSA.<sup>7</sup> The Commission received no written communications from the public voicing opposition to TGS's proposed rate changes. On July 3, 2019, the Administrative Law Judge ("ALJ") granted the parties' request to abate the proceeding.

On July 10, 2019, the Notice of Hearing was issued setting the hearing on the merits to commence on August 1, 2019 ("Notice of Hearing").<sup>8</sup> On July 15, 2019, the Commission published the Notice of Hearing in *Gas Utilities Information Bulletin No. 1111*.<sup>9</sup>

TGS timely filed with the Commission a petition for review from the actions of the Cities of Groves, Nederland, Port Arthur, and Port Neches on July 17, 2019.<sup>10</sup> The appeal was docketed as GUD No. 10876 (the "Appeal").

The parties filed on July 18, 2019, a Unanimous Settlement Agreement in Support of a Regulatory Asset (the "Settlement").<sup>11</sup> A copy of the Settlement is attached to this Proposal for Decision ("PFD") in Attachment 2. On July 25, 2019, Galveston's City Council approved the Settlement.<sup>12</sup>

The ALJ granted TGS's motion to consolidate GUD No. 10876 (the Appeal) with GUD No. 10844 (the SOI) on July 30, 2019. The hearing on the merits was held on August 1, 2019. The evidentiary exhibit list is attached to this PFD as Attachment 1. On August 30, 2019, the ALJ closed the evidentiary record.

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<sup>4</sup> The municipalities retaining original jurisdiction in the GCSA are the cities of Bayou Vista, Galveston, Groves, Jamaica Beach, Nederland, Port Arthur, and Port Neches, Texas.

<sup>5</sup> Staff timely intervened on April 18, 2019. In separate motions on April 24, 2019, Galveston and Cities also moved to intervene.

<sup>6</sup> See Tex. Util. Code § 104.107(a)(2) (Rate Suspension; Deadline).

<sup>7</sup> TGS Exhibit 3 (Affidavit of Notice); see *also* Tex. Util. Code § 104.103(b) (permitting gas utilities to provide notice of proposed rate increases to customers by direct mail).

<sup>8</sup> Examiners' Letter No. 10 (Notice of Hearing), issued July 15, 2019.

<sup>9</sup> See *Gas Utilities Information Bulletin No. 1111*, published by the Railroad Commission of Texas Oversight and Safety Division on July 15, 2019 ("Bulletin"), pp. 6-8. See *also* 16 Tex. Admin. Code § 7.235(a)(1)(A) (Publication and Service of Notice).

<sup>10</sup> See TGS Exhibit 4 (GUD 10876 Petition for Review and Motion to Consolidate).

<sup>11</sup> Letter to the Examiners from Kate Norman, counsel for TGS, dated July 18, 2019.

<sup>12</sup> Hearing Transcript at 7:18-19 dated August 1, 2019.

#### **IV. JURISDICTION, BURDEN OF PROOF, AND NOTICE**

The Commission has jurisdiction over all matters at issue in this proceeding pursuant to GURA Chapters 102 (Jurisdiction and Powers of Railroad Commission and Other Regulatory Authorities) and 104 (Rates and Services). The statutes and rules involved in this proceeding include, but are not limited to, those contained in GURA Chapters 102, 103, and 104, and Title 16 (Economic Regulation), Part 1 (Railroad Commission of Texas), Chapters 1 (Practice and Procedure) and 7 (Gas Services Division) of the Texas Administrative Code. Specifically, the Commission has jurisdiction over TGS, which is a gas utility as defined in GURA Section 101.003(7), has exclusive original jurisdiction to set the rates TGS requests for its customers located within the unincorporated areas of the GCSA under GURA Section 102.001(a), and has exclusive appellate jurisdiction pursuant to GURA Section 102.001(b) to review the municipal actions of the following four municipalities: Cities of Groves, Nederland, Port Arthur, and Port Neches.<sup>13</sup>

As the party proposing gas utility rate changes, TGS has the burden of proving that the rate changes are just and reasonable.<sup>14</sup> Furthermore, notice has been issued in accordance with the applicable statutory and regulatory requirements.

#### **V. TGS'S ORIGINAL REQUEST**

Prior to settling, TGS requested the following:<sup>15</sup>

- A Hurricane Harvey Surcharge to recover over a two-year period TGS's costs related to restoration of its system following the impact of Hurricane Harvey in the GCSA;
- An increase of an additional \$357,194 in annual revenues over a two-year period; and
- Recovery of reasonable rate case expenses.

#### **VI. TERMS OF THE SETTLEMENT**

The parties are, in effect, deferring the resolution of the dockets until the next comprehensive rate proceeding in which base rates for the GCSA will be determined. The parties agree to the following:<sup>16</sup>

- TGS will no longer seek to implement a Hurricane Harvey Surcharge and change utility rates for customers within the GCSA through the SOI filed in this case. Accordingly, there is no change to base rates, and the parties take no

<sup>13</sup> Tex. Util. Code § 102.001 (Railroad Commission Jurisdiction). See GUD 10876 (the Appeal).

<sup>14</sup> Tex. Util. Code § 104.008 (Burden of Proof) ("In a proceeding involving a proposed rate change, the gas utility has the burden of proving that the rate change is just and reasonable, if the utility proposes the change.").

<sup>15</sup> TGS Exhibit 1 (The SOI).

<sup>16</sup> TGS Exhibit 5 (The Settlement).

position on the reasonableness or necessity of the costs that TGS proposed to recover through its SOI filing. TGS will reimburse Cities and Galveston for their legal and consultant expenses associated with GUD No. 10844, *consolidated* and is entitled to request the recovery of rate case expenses incurred by TGS, Galveston, and Cities related to this case.

The following relates to the regulatory asset required under the settlement:

- TGS will create and record a regulatory asset to defer the costs at issue in this case;
- The amount of deferred costs is \$714,389, which represents total Hurricane Harvey response costs net of insurance proceeds and other adjustments, as proposed in this docket; and
- TGS will not include carrying costs in the regulatory asset and will not seek to recover any carrying costs associated with the regulatory asset.

The following will be considered in the next comprehensive rate proceeding in which base rates for the GCSA will be determined:

- The reasonableness and necessity of TGS's costs incurred in its response to Hurricane Harvey and
- The reasonableness, necessity, and total amounts of the proposed rate case expenses to be recovered.

## VII. RECOMMENDATION

The Settlement resolves all issues in GUD No. 10844, *consolidated*. As no action will be taken until the next comprehensive base rate proceeding, the Examiners recommend the Settlement be approved.

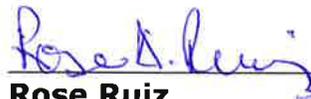
## VIII. FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Findings of Fact and Conclusions of Law contained in the Proposed Final Order, appended to this PFD as Attachment 3, are incorporated herein by reference.

**SIGNED September 12, 2019.**



**Dee Marlo Chico**  
Administrative Law Judge



**Rose Ruiz**  
Technical Examiner



**James Currier**  
Technical Examiner

**Proposal for Decision  
GUD No. 10844, Consolidated  
Attachment 1  
(Evidentiary Exhibits List)**

**GAS UTILITIES DOCKET NO. 10844**

Statement of Intent of Texas Gas Service Company,  
a Division of One Gas, Inc., to Increase Rates to Recover  
Hurricane Harvey Response Costs within the Gulf Coast Service Area

**TGS EXHIBIT LIST**

EX. NO.	DESCRIPTION	OFFERED	ADMITTED/DATE
1	GUD No. 10844 — Statement of Intent of Texas Gas Service Company, a Division of One Gas, Inc., to Increase Rates to Recover Hurricane Harvey Response Costs within the Gulf Coast Service Area, filed on April 16, 2019 (Includes all attachments as well as the direct testimony and exhibits of Stacey L. McTaggart and Schedules and Schedule Workpapers)	8/1/19	8/1/19
2	Affidavit of Jeffrey J. Husen, attesting to the Accounting Treatment for Hurricane Harvey Costs	8/1/19	↓
3	Affidavit of Stacey L. McTaggart attesting to Completion of Public Notice, Filed July 3, 2019	8/1/19	
4	GUD No. 10876, Petition for Review from the Actions of The Cities of Groves, Nederland, Port Arthur and Port Neches and Motion to Consolidate filed July 17, 2019 and consolidated on July 30, 2019	8/1/19	
5	Unanimous Settlement Agreement (Includes Exhibit 1 (Affidavit of Jeffrey J. Husen))	8/1/19	

**Proposal for Decision**  
**GUD No. 10844, Consolidated**  
**Attachment 2**  
**(Unanimous Settlement Agreement)**

**GAS UTILITIES DOCKET NO. 10844**

**STATEMENT OF INTENT OF TEXAS §  
GAS SERVICE COMPANY, A DIVISION §  
OF ONE GAS, INC., TO INCREASE §  
RATES TO RECOVER HURRICANE §  
HARVEY RESPONSE COSTS WITHIN §  
THE GULF COAST SERVICE AREA §**

**BEFORE THE  
RAILROAD COMMISSION  
OF TEXAS**

**UNANIMOUS SETTLEMENT AGREEMENT  
IN SUPPORT OF A REGULATORY ASSET**

This Unanimous Settlement Agreement is entered into by and between Texas Gas Service Company, a Division of ONE Gas, Inc. ("TGS"), the Staff of the Railroad Commission of Texas ("Staff"), the City of Galveston ("Galveston"), and the Cities of Groves, Nederland, Port Arthur, and Port Neches ("Cities") (collectively, the "Signatories").

WHEREAS, on April 16, 2019, TGS filed a Statement of Intent to Increase Rates to Recover Hurricane Harvey Response Costs Within the Gulf Coast Service Area;

WHEREAS, TGS proposed in its Statement of Intent to recover \$714,389, which reflects an offset for insurance proceeds, through a two-year surcharge;

WHEREAS, the Commission docketed the rate request as GUD No. 10844;

WHEREAS, Staff, Galveston, and Cities sought intervention and were granted party status in GUD No. 10844;

WHEREAS, on May 7, 2019, the Commission suspended the implementation of the Company's rate request for one hundred fifty (150) days from the date on which the rates would otherwise become effective, until October 18, 2019;

WHEREAS, TGS filed direct testimony with its Statement of Intent;

WHEREAS, Staff, Galveston, and Cities will not file testimony in reliance on this Unanimous Settlement Agreement;

WHEREAS, the Signatories agree that resolution of this docket by settlement agreement will significantly reduce the amount of reimbursable rate case expenses that would, if further litigation is pursued, be allocated to customers within the Gulf Coast Service Area;

WHEREAS, the Signatories represent diverse interests and the Unanimous Settlement Agreement resolves the issues in GUD No. 10844 in a manner that the Signatories agree is consistent with the public interest; and

NOW, THEREFORE, in consideration of the mutual agreements and covenants established herein, the Signatories, through their undersigned representatives, agree to and recommend for

approval by the Commission, Cities and Galveston the following Settlement Terms as a means of fully resolving the rate request pending before the Commission, Cities and Galveston without the need for additional litigation:

Settlement Terms

1. The Signatories agree that TGS is no longer seeking to implement a surcharge and change utility rates for customers within the Gulf Coast Service Area through the statement of intent filed in this case. Accordingly, no change to base rates will be approved in this docket.
2. The Signatories agree to postpone consideration of the reasonableness and necessity of TGS's costs incurred in its response to Hurricane Harvey until the next comprehensive base rate proceeding in which base rates for the Gulf Coast Service Area are determined.
3. The Signatories do not take any position at this time on the reasonableness or necessity of the costs that TGS proposed to recover through this statement of intent filing.
4. The Signatories agree that TGS will create and record a regulatory asset to defer the costs at issue in this case so that the reasonableness and necessity of these costs can be considered in the next proceeding in which base rates for the Gulf Coast Service Area are determined. The amount of deferred costs is \$714,389, which represents total Hurricane Harvey response costs net of insurance proceeds and other adjustments, as proposed in this docket.
5. The Signatories agree that TGS will not include carrying costs in the regulatory asset and will not seek to recover any carrying costs associated with the Hurricane Harvey response costs.
6. TGS agrees to reimburse Cities and Galveston for their legal and consultant expenses associated with GUD No. 10844. Such reimbursement shall be made on or before thirty (30) days from the date the Commission approves this Settlement Agreement and upon the Company receiving legal invoices or other documentation reflecting Cities' and Galveston's incurred costs. The Signatories agree that TGS is entitled to request the recovery of rate case expenses incurred by TGS, Galveston and Cities related to this case, in the next proceeding in which base rates for the Gulf Coast Service Area are determined. The reasonableness, necessity, and total amounts of the proposed rate case expenses to be recovered will be determined in the next proceeding in which base rates for the Gulf Coast Service Area are determined.
7. The Signatories agree to the admission of the following items:
  - TGS's filed Statement of Intent to Increase Rates to Recover Hurricane Harvey Response Costs Within the Gulf Coast Service Area, inclusive of all attachments and including the direct testimony of Stacey McTaggart.
  - Affidavit of Jeffrey J. Husen, Vice President, Chief Accounting Officer and Controller, ONE Gas, Inc., attesting to the accounting treatment for Hurricane Harvey costs reflected in Item 1 (attached as Exhibit 1).

- Affidavit of Stacey McTaggart attesting to the completion of notice on June 20, 2019.
8. The Signatories agree to support and seek approval by the Commission, Cities, and Galveston of this Unanimous Settlement Agreement.
  9. The Signatories agree that all negotiations, discussions, and conferences related to the Unanimous Settlement Agreement are privileged, inadmissible, and not relevant to prove any issues associated with the next proceeding in which base rates will be determined for the Gulf Coast Service Area.
  10. The Signatories agree that neither this Unanimous Settlement Agreement nor any oral or written statements made during the course of settlement negotiations may be used for any purpose other than as necessary to support the entry by the Commission of an order approving this Unanimous Settlement Agreement.
  11. The Signatories agree that the terms of the Unanimous Settlement Agreement are interdependent and indivisible, and that if the Commission intends to enter an order that is inconsistent with this Unanimous Settlement Agreement, then any Signatory may withdraw without being deemed to have waived any procedural right or to have taken any substantive position on any fact or issue by virtue of that Signatory's entry into the Unanimous Settlement Agreement or its subsequent withdrawal.
  12. The Signatories agree that this Unanimous Settlement Agreement is binding on each Signatory only for the purpose of settling the issues set forth herein and for no other purposes, and except to the extent the Unanimous Settlement Agreement governs a Signatory's rights and obligations for future periods, this Unanimous Settlement Agreement shall not be binding or precedential upon a Signatory outside this proceeding.
  13. The Signatories agree that this Unanimous Settlement Agreement may be executed in multiple counterparts and may be filed with facsimile signatures.

Agreed to this 18<sup>th</sup> day of July 2019.

TEXAS GAS SERVICE COMPANY, a Division of ONE Gas, Inc.

By: Stephanie G. Houle by KWN  
Stephanie G. Houle  
Attorney for Texas Gas Service Company

STAFF OF THE RAILROAD COMMISSION OF TEXAS

By: Natalie Dubiel  
Natalie Dubiel  
Attorney for Staff of the Railroad Commission of Texas

THE CITY OF GALVESTON

By: \_\_\_\_\_  
Jamie Mauldin  
Attorney for the City of Galveston  
Agreed in principle, subject to approval of the City Council of the City of Galveston

THE CITIES OF GROVES, NEDERLAND, PORT ARTHUR, AND PORT NECHES

By: \_\_\_\_\_  
Molly Mayhall Vandervoort  
Attorney for the Cities of Groves, Nederland, Port Arthur, and Port Neches  
Agreed in principle, subject to approval of the City Councils of the Cities of Groves,  
Nederland, Port Arthur, and Port Neches

Agreed to this 18<sup>th</sup> day of July 2019.

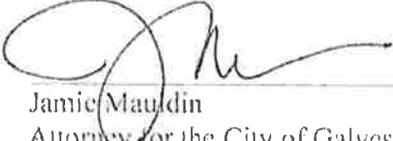
TEXAS GAS SERVICE COMPANY, a Division of ONE Gas, Inc.

By: \_\_\_\_\_  
Stephanie G. Houle  
Attorney for Texas Gas Service Company

STAFF OF THE RAILROAD COMMISSION OF TEXAS

By: \_\_\_\_\_  
Natalie Dubiel  
Attorney for Staff of the Railroad Commission of Texas

THE CITY OF GALVESTON

By:  \_\_\_\_\_  
Jamie Mauldin  
Attorney for the City of Galveston  
Agreed in principle, subject to approval of the City Council of the City of Galveston

THE CITIES OF GROVES, NEDERLAND, PORT ARTHUR, AND PORT NECHES

By: \_\_\_\_\_  
Molly Mayhall Vandervoort  
Attorney for the Cities of Groves, Nederland, Port Arthur, and Port Neches  
Agreed in principle, subject to approval of the City Councils of the Cities of Groves,  
Nederland, Port Arthur, and Port Neches

Agreed to this 18<sup>th</sup> day of July 2019.

TEXAS GAS SERVICE COMPANY, a Division of ONE Gas, Inc.

By: \_\_\_\_\_  
Stephanie G. Houle  
Attorney for Texas Gas Service Company

STAFF OF THE RAILROAD COMMISSION OF TEXAS

By: \_\_\_\_\_  
Natalie Dubiel  
Attorney for Staff of the Railroad Commission of Texas

THE CITY OF GALVESTON

By: \_\_\_\_\_  
Jamie Mauldin  
Attorney for the City of Galveston  
Agreed in principle, subject to approval of the City Council of the City of Galveston

THE CITIES OF GROVES, NEDERLAND, PORT ARTHUR, AND PORT NECHES

By:   
Molly Mayhall Vandervoort  
Attorney for the Cities of Groves, Nederland, Port Arthur, and Port Neches  
Agreed in principle, subject to approval of the City Councils of the Cities of Groves,  
Nederland, Port Arthur, and Port Neches

**Proposal for Decision  
GUD No. 10844, Consolidated  
Attachment 3  
(Proposed Final Order)**

**RAILROAD COMMISSION OF TEXAS**

<b>STATEMENT OF INTENT OF TEXAS</b>	<b>§</b>	
<b>GAS SERVICE COMPANY, A</b>	<b>§</b>	<b>GAS UTILITIES DOCKET NO.</b>
<b>DIVISION OF ONE GAS, INC., TO</b>	<b>§</b>	
<b>INCREASE RATES TO RECOVER</b>	<b>§</b>	<b>10844, CONSOLIDATED</b>
<b>HURRICANE HARVEY RESPONSE</b>	<b>§</b>	
<b>COSTS WITHIN THE GULF COAST</b>	<b>§</b>	
<b>SERVICE AREA</b>	<b>§</b>	

**PROPOSED 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.* The Railroad Commission of Texas adopts the following findings of fact and conclusions of law and orders as follows:

**FINDINGS OF FACT**

1. Texas Gas Service Company, a Division of ONE Gas, Inc., ("TGS") is a gas utility as that term is defined in the Tex. Util. Code § 101.003(7) and is subject to the jurisdiction of the Railroad Commission of Texas ("Commission").
2. On April 16, 2019, TGS filed a Statement of Intent ("SOI") with the Railroad Commission of Texas ("Commission") to recover Hurricane Harvey response costs within the Gulf Coast Service Area ("GCSA"). The filing was docketed as GUD No. 10844.
3. The unincorporated areas of the GCSA include customers residing in the unincorporated areas of Bayou Vista, Galveston, Groves, Jamaica Beach, Nederland, Port Arthur, and Port Neches, Texas.
4. TGS also filed a SOI for the incorporated areas of the GCSA with the cities of Bayou Vista, Galveston, Groves, Jamaica Beach, Nederland, Port Arthur, and Port Neches, Texas.
5. TGS requested an effective date of May 21, 2019.
6. TGS planned to implement the proposed rates within all incorporated and unincorporated areas in which it provides service in the GCSA.

7. Staff of the Railroad Commission ("Staff") timely intervened on April 18, 2019.
8. The City of Galveston ("Galveston") timely intervened on April 24, 2019.
9. The Cities of Groves, Nederland, Port Arthur, and Port Neches ("Cities") timely intervened on April 24, 2019.
10. No other parties intervened.
11. The Commission published notice of TGS's SOI application in *Gas Utilities Information Bulletin No. 1106* on April 30, 2019.
12. On May 7, 2019, the Commission suspended the implementation of TGS's proposed rates for 150 days from the date on which the proposed rates would otherwise become effective, or until October 18, 2019.
13. The Commission received no written communications from the public in response to TGS's proposed rate changes.
14. For all customers located in incorporated and unincorporated areas within the GCSA, TGS provided public notice by direct mail on June 20, 2019, in accordance with Tex. Util. Code § 104.103(a) and 16 Tex. Admin. Code §§ 7.230 and 7.235 (2016).
15. The notice meets the statutory and rule requirements of notice and provides sufficient information to ratepayers about the proposed rate change in the Statement of Intent, in accordance with Tex. Util. Code § 104.103(a) and 16 Tex. Admin. Code §§ 7.230 and 7.235.
16. On July 3, 2019, TGS filed an affidavit attesting to proof of notice.
17. On July 10, 2019, the Notice of Hearing was issued and subsequently published in *Gas Utilities Information Bulletin No. 1111* on July 15, 2019, in accordance with 16 Tex. Admin. Code § 7.235 (Publication and Service of Notice).
18. Notice of Hearing was sent to the governing bodies of affected counties.
19. By June 24, 2019, the Cities (Port Arthur, Port Neches, Groves, and Nederland) had each acted at the municipal level to deny the proposed surcharge and rate change requested by TGS.

20. On July 1, 2019, TGS notified the ALJ that all parties to the proceeding had reached a settlement in principle and requested an abatement of the proceeding.
21. On July 3, 2019, the ALJ granted the request to abate the proceeding.
22. On July 17, 2019, TGS filed a Petition for Review of Municipal Rate Decisions and Motion to Consolidate for the Cities, which was docketed as GUD No. 10876.
23. On July 30, 2019, GUD No. 10876 was consolidated into GUD No. 10844.
24. On July 18, 2019, the parties filed a Unanimous Settlement Agreement ("Settlement"), agreed to by TGS, Staff, Galveston, and the Cities.
25. At the merits hearing conducted on August 1, 2019, the parties entered evidence into the record in support of the Settlement.
26. The evidentiary record closed on August 30, 2019.
27. In the Settlement, all parties agreed that TGS will no longer seek to implement a surcharge or change utility rates for customers within the GCSA through the SOI filed in this case.
28. The Settlement contemplates that TGS will create a regulatory asset to defer the costs incurred by TGS to restore service following Hurricane Harvey so that the recovery of the costs can be considered in the next rate proceeding in which base rates for the GCSA are determined.
29. TGS calculated its Hurricane Harvey response costs to be \$714,389, which represents total Hurricane Harvey response costs net of insurance proceeds and other adjustments.
30. The proposal in the Settlement for TGS to create a regulatory asset in the amount of \$714,389 for the Hurricane Harvey response costs is just and reasonable.
31. TGS will not include carrying costs in the regulatory asset and will not seek to recover any carrying costs associated with the Hurricane Harvey response costs.
32. The determination of the reasonableness, necessity, and total amounts of the regulatory asset to be recovered through rates will be postponed

until the next rate proceeding in which base rates for the GCSA are determined.

33. The Settlement contemplates that TGS reimburse Cities and Galveston for their legal and consultant expenses associated with this proceeding on or before 30 days from the date the Settlement is approved. The determination of the reasonableness, necessity, and total amounts of the proposed rate case expenses incurred by TGS, Galveston, and Cities to be potentially recovered through rates will be reviewed at the next proceeding in which base rates for the GCSA are determined.

### **CONCLUSIONS OF LAW**

1. TGS 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 under Tex. Util. Code §§ 104.002 and 121.051.
2. The Commission has exclusive original jurisdiction over TGS and TGS's SOI affecting its customers residing in the unincorporated areas of the GCSA under Tex. Util. Code § 102.001.
3. The Commission has appellate jurisdiction over cities with original jurisdiction in the GCSA under Tex. Util. Code § 102.001.
4. TGS may appeal a municipality's rate decision and seek *de novo* review under Tex. Util. Code §§ 103.051 and 103.055.
5. This proceeding was conducted in accordance with the requirements of Tex. Util. Code §§ 101.001 et seq., and the Administrative Procedure Act, Tex. Gov't Code §§ 2001.001 et seq.
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. TGS's direct mail of notice to all customers meets the statutory and rule requirements of notice and provides sufficient information to ratepayers about the proposed rate change in the SOI, in accordance with Tex. Util. Code § 104.103(a) and 16 Tex. Admin Code §§ 7.230 and 7.235.
8. TGS filed its SOI in accordance with Tex. Util. Code § 104.102 and 16 Tex. Admin. Code §§ 7.205 and 7.210.

9. The Settlement approved by this Order to not implement a Hurricane Harvey Surcharge or change utility rates for customers within the GCSA due to the creation of a regulatory asset, the delay in consideration of the reasonableness and necessity of TGS's costs incurred in its response to Hurricane Harvey, and the delay in consideration of the reasonableness, necessity, and total amounts of the proposed rate case expenses until the next comprehensive rate proceeding in which base rates for the GCSA will be examined is just and reasonable to customers and to TGS in accordance with the stated purpose of the Texas Utilities Code, Subtitle A, expressed under Tex. Util. Code § 101.002.

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

**IT IS FURTHER ORDERED** that TGS create and record a regulatory asset to defer the Hurricane Harvey response costs in the amount of \$714,389 so that the reasonableness and necessity of the costs can be considered in the next proceeding in which base rates for the GCSA are determined.

**IT IS FURTHER ORDERED** that in the next proceeding in which base rates for the GCSA are determined, TGS will not include carrying costs in the regulatory asset and will not seek to recover any carrying costs associated with the Hurricane Harvey response costs.

**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 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 of 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 October 1, 2019.

**RAILROAD COMMISSION OF TEXAS**

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**CHAIRMAN WAYNE CHRISTIAN**

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**COMMISSIONER CHRISTI CRADDICK**

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**COMMISSIONER RYAN SITTON**

**ATTEST:**

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**SECRETARY**