

ORDINANCE NO. 3591

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS, DENYING TXU GAS COMPANY'S REQUEST TO CHANGE RATES IN THIS MUNICIPALITY, AS A PART OF THE COMPANY'S STATEWIDE GAS UTILITY SYSTEM; PROVIDING A REQUIREMENT FOR A PROMPT REIMBURSEMENT OF COSTS INCURRED BY THE CITY; FINDING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; PROVIDING FOR NOTICE OF THIS ORDINANCE TO TXU GAS COMPANY; PROVIDING FOR A REPEALER CLAUSE; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on or about May 23, 2003, TXU Gas Company (the "Company") filed with the City of Mesquite ("City"), a Statement of Intent to change gas rates in all municipalities within the Company's statewide gas utility system effective June 27, 2003; and

WHEREAS, the City has previously extended the effective date of the Company's rate filing; and

WHEREAS, the City has exclusive original jurisdiction to evaluate the Company's Statement of Intent as it pertains to the distribution facilities located within the City, pursuant to Texas Utilities Code §102.001(b) and §103.001; and

WHEREAS, the Texas Utilities Code §103.022 provides that costs incurred by the City in ratemaking activities are to be reimbursed by the regulated utility; and

WHEREAS, the City is participating with a coalition of over 120 other cities in opposition to the Company's filing at the Railroad Commission ("Commission"), said coalition being known as Allied Coalition of Cities ("ACC"), in GUD No. 9400 pending at the Commission; and

WHEREAS, ACC and the Company have reached a procedural agreement regarding the schedule for processing GUD No. 9400 that includes Company's concession to allow 115 additional days to process the rate case and ACC's commitment that member cities expedite the process of getting city action appealed to the Commission; and

WHEREAS, ACC and Company jointly endorse the City's denial of the Company's rate application pending before the City; and

WHEREAS, counsel for ACC, upon review of the Company's filing and upon consultation with various consultants, recommends findings that the Company's proposal is unjustified and unreasonable.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS:

SECTION 1. That TXU Gas Company's ("Company") Statement of Intent to change gas rates within the City of Mesquite ("City"), as part of the Company's statewide gas utility system, is found to be unreasonable because: (a) Company's requested return on equity is excessive, generating more than 86% of the requested increase in rates; (b) the basis for Company's proposed consolidations (of regional distribution systems and of pipeline costs with distribution costs) has not been established; (c) the City's jurisdiction to increase pipeline rates has not been established and, therefore, the proposed pipeline cost increases should be disallowed; (d) revenue requirements should be reduced rather than increased; and (e) the Company's filing should be denied pursuant to agreement with the Company; and is therefore denied in all respects.

SECTION 2. That the costs incurred by the City in reviewing the Company's application be promptly reimbursed by the Company.

SECTION 3. That it is hereby officially found and determined that the meeting at which this ordinance is passed is open to the public as required by law and that public notice of the time, place and purpose of said meeting was given as required.

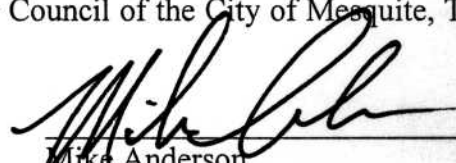
SECTION 4. That all ordinances or portions thereof in conflict with the provisions of this ordinance, to the extent of such conflict, are hereby repealed. To the extent that such ordinances or portions thereof are not in conflict herewith, the same shall remain in full force and effect.

SECTION 5. That should any word, sentence, clause, paragraph or provision of this ordinance be held to be invalid or unconstitutional, the validity of the remaining provisions of this ordinance shall not be affected and shall remain in full force and effect.

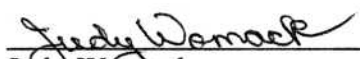
SECTION 6. That a copy of this ordinance, constituting final action on the Company's application, be forwarded to the appropriate designated representative of the Company within 10 days as follows: Autry L. Warren, Director Gas Regulatory, TXU Business Services, 1601 Bryan Street, Dallas, Texas 75201-3402.

SECTION 7. That this ordinance shall become effective immediately from and after its passage.

DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas, on the 21st day of July, 2003.

  
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Mike Anderson  
Mayor

ATTEST:

  
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Judy Womack  
City Secretary

APPROVED:

  
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B. J. Smith  
City Attorney