

**RAILROAD COMMISSION OF TEXAS  
GAS SERVICES DIVISION**

WEST TEXAS GAS, INC.	)	
STATEMENT OF INTENT TO	)	GAS UTILITIES DOCKET NO. 10118
INCREASE GAS DISTRIBUTION	)	(and Consolidated cases)
RATES ON A STATEWIDE BASIS	)	

**WEST TEXAS GAS, INC.'S MOTION TO WITHDRAW  
AND NOTICE OF NON-SUIT**

TO THE HONORABLE RAILROAD COMMISSION OF TEXAS:

Comes now West Texas Gas, Inc. ("WTG") and files its Motion to Withdraw and Notice of Non-suit of its Statement of Intent and subsequent Petition for Review of Twenty-Seven Municipalities denying statements of intent to change rates within the various municipalities' original jurisdiction. Under the Texas Rules of Civil Procedure, Rule 162, WTG has the right to "Non Suit" a proceeding it initiated at any time before all its evidence is introduced.

**Motion to Withdraw**

On September 27, 2011, WTG filed a Statement of Intent with the Commission to change rates in various rural, unincorporated, or environs areas subject to the Commission's original jurisdiction. WTG also filed Statements of Intent on September 27, 28 and 29, 2011 with the twenty-eight (28) Cities it serves. All filings were part of a statewide filing to increase rates. Since the filing of the Statement of Intent and Petition for Review with the Commission, various issues have arisen regarding the adequacy of notice, the timing of the filing of WTG's testimony, the sufficiency of the information submitted with WTG's Statement of Intent and direct testimony, discovery burdens, and other matters have been raised by the municipalities and the Commission Staff.

Although WTG believes that its filings complied with the Commission's rules and regulations, there is now substantial uncertainty that did not exist in September 2011 over how

these issues will be resolved by the Commission. As in its previous 2004 filing, WTG believed it could process a statewide application to mitigate rate case expenses across WTG's limited customer base. In fact, WTG requested each City to deny the request so all city cases could be consolidated with the Railroad Commission proceeding and handled as a single case in order to retain statewide rates. WTG had hoped that a mutually agreeable settlement could be achieved after a reasonable amount of discovery, as was accomplished in WTG's 2004 rate filing.

Numerous reasons have come to light since WTG made its original filings in September, 2011 that makes it reasonable to withdraw this case. First, WTG has filed this case without a depreciation study, intending to rely upon a depreciation study proposed by the Cities, accepted by WTG as a settlement, and approved by the Commission in WTG's last rate case docketed GUD 9488. Now it appears that WTG will need to hire an expert to prove that its depreciation rates are reasonable; otherwise, WTG could lose the opportunity to recover any depreciation expenses at all. Second, a recent decision at the Commission made it clear that WTG cannot get rate relief without conducting a complex rate analysis with detailed modeling much like the larger gas utilities. Third, another recent decision by the Commission suggests that settlement rates might not be approved unless the utility had met its "burden of proof," the parameters of which are not detailed in the Commission's current rules.

Unfortunately these factors indicate that WTG's original plan is not plausible, therefore WTG has decided to withdraw its proposal to increase rates at this time. This decision is without prejudice to file a new rate case based on a new test period and further study of its depreciation costs and other expenses.


**Confidential Information**

WTG requests all parties to either return or destroy all copies of all confidential documents produced by WTG pursuant to the Agreed Protective Order in this proceeding, and to confirm compliance to WTG's counsel.

WHEREFORE, WTG hereby non-suits its requests for relief and requests the Commission to dismiss WTG's Statement of Intent to Increase Rates in the Unincorporated Areas docketed as GUD 10118 and WTG's Petition of Appeal of Twenty-Seven cities docketed as GUD 10128 without prejudice to refile Statements of Intent to change its rates at a later date.

Respectfully submitted,

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*Attorneys for West Texas Gas, Inc.*

January 13, 2012

**CERTIFICATE OF CONFERENCE**

WTG has discussed this Motion with Commission Staff and is authorized to state that Staff does not oppose WTG's withdrawal of its Statement of Intent and related appeals of actions taken by various municipalities.

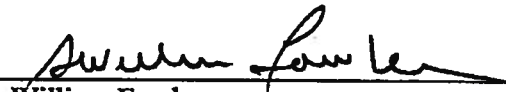
  
G. William Fowler

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document was served on Counsel for Commission Staff and AWM on this 13<sup>TH</sup> day of January, 2012, by U.S. first class mail, hand delivery, or email.

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