

**ORDINANCE NO. 03-26**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COMMERCE, PROVIDING FOR THE DISMISSAL OF TXU GAS COMPANY'S REQUESTED INCREASE IN RATES IN THE EVENT THE COMPANY FAILS TO AMEND ITS STATEMENT OF INTENT TO REMOVE INCREASES FOR PIPELINE SERVICES FROM ITS REQUESTED DISTRIBUTION RATES; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE WAS PASSED WAS IN ACCORDANCE WITH THE REQUIREMENTS OF THE TEXAS OPEN MEETINGS ACT; MAKING OTHER FINDINGS AND PROVISIONS RELATED TO THE SUBJECT; AND DECLARING AN EFFECTIVE DATE.**

WHEREAS, on or about May 23, 2003, TXU Gas Company ("TXU") filed with the City of Commerce, ("City") a Statement of Intent to Increase Rates; and,

WHEREAS, prior to June 27, 2003, the City adopted a resolution suspending the effective date of the tariffs filed with the City for ninety days from the originally scheduled effective date in order to permit the City to properly review the TXU Statement of Intent; to join a coalition of other Texas cities known as the Alliance of TXU Municipalities ("ATM"); to employ lawyers to represent the City with regard to the Statements of Intent filed at the City and at the Railroad Commission of Texas; to authorize the steering committee of ATM to provide direction and guidance to the lawyers who are representing said cities; and to employ such rate experts as are necessary as recommended by the steering committee for ATM; and,

WHEREAS, as a result of such review, the City has determined that the increase in distribution rates requested by TXU include increases in charges or rates for pipeline transmission, transportation and delivery of gas outside the territorial limits of the City; and,

WHEREAS, the City has no authority to set rates in which increases for pipeline services outside the City are included within the requested increases for distribution rates; NOW THEREFORE,

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF COMMERCE, TEXAS THAT:

Section 1. The findings set out in the preamble to this Ordinance are hereby in all things approved and adopted.

Section 2. The City has no authority to set rates in response to Statement of Intent in light of the fact that the City has no jurisdiction over the bundled distribution/pipeline rates requested by TXU.

Section 3. TXU will be given seven (7) days from the adoption of this ordinance to amend its Statement of Intent to remove all requested increases for TXU Lone Star Pipeline or for pipeline services located outside the City from its requested increases in distribution rates.

Section 4. In the event TXU fails to amend its Statement of Intent to conform to Section 3, then TXU's requested increase in rates is in all respects is dismissed.

Section 5. Notice of this ordinance shall be faxed and mailed to Mr. Autry Warren, 1601 Bryan Street, Dallas, Texas 75201-3411, the day following the Council meeting on the date of the this ordinance was adopted.

Section 6. That the meeting at which this ordinance was approved was conducted in strict compliance with the Texas Open Meetings Act, Texas Government Code Chapter 551.

Section 7. That this ordinance shall be effective immediately from and after its adoption.

PASSED, APPROVED AND ADOPTED this 16 day of September 2003.

Shirley Zelhart  
Mayor

ATTEST:

Marty Cunningham  
City Secretary

APPROVED AS TO FORM:

Marty Cunningham  
City Attorney for Jim McLeary