

ORDINANCE NO. 2020-020

ORDINANCE OF THE CITY OF MAGNOLIA, TEXAS, AUTHORIZING THE SUSPENSION OF THE EFFECTIVE DATE FOR AN ADDITIONAL NINETY (90) DAYS BEYOND THE EFFECTIVE DATE PROPOSED BY EPCOR GAS TEXAS, INC. IN CONNECTION WITH ITS STATEMENT OF INTENT TO INCREASE RATES FILED ON JUNE 29, 2020; AUTHORIZING THE HIRING OF LAWYERS AND RATE EXPERTS; AUTHORIZING THE CITY'S PARTICIPATION TO THE FULL EXTENT PERMITTED BY LAW AT THE RAILROAD COMMISSION OF TEXAS; REQUIRING REIMBURSEMENT OF MUNICIPAL RATE CASE EXPENSES; FINDING THAT THE MEETING COMPLIES WITH THE OPEN MEETINGS ACT; MAKING OTHER FINDINGS AND PROVISIONS RELATED TO THE SUBJECT; AND DECLARING AN EFFECTIVE DATE

WHEREAS, on or about June 29, 2020, EPCOR Gas Texas, Inc. ("EPCOR" or the "Company") filed a Statement of Intent with the City of Magnolia ("City") to increase gas rates within the incorporated areas of the City by approximately \$117,254 per year; and

WHEREAS, City has exclusive original jurisdiction over the rates, operations and services of a gas utility in areas in the municipality pursuant to *Tex. Util. Code* §103.001; and

WHEREAS, Gas Utility Regulatory Act § 103.021 requires a local regulatory authority to make a reasonable determination of rate base, expenses, investment and rate of return and retain the necessary personnel to determine reasonable rates; and

WHEREAS, the City's reasonable cost for regulatory expenses in ratemaking proceedings shall be reimbursed by the gas utility under Gas Utility Regulatory Act § 103.022; and

WHEREAS, given the complexity of the proposed rate increase and the need to fully review the proposed rate adjustment and request for consolidation, it is necessary to suspend the effective date for implementing the proposed rates until at least November 2, 2020 in order to allow the City's rate experts sufficient time to determine the merits of the Company's proposal.

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

Section 1. That the statement and findings set out in the preamble to this ordinance are hereby in all things approved and adopted.

Section 2. The effective date of EPCOR's proposed rate increase, and the proposed tariffs related thereto, is hereby suspended for an additional ninety (90) days until November 2, 2020 in order to complete the review and investigation by the City's experts.

Section 3. The City employs The Lawton Law Firm, P.C. to represent the City with regard to the proposed rate increase of EPCOR before local and state regulatory authorities and any court of law and authorizes counsel to employ such rate experts as are necessary to review and litigate the case.

Section 4. The City shall review the invoices of the lawyers and rate experts for reasonableness before submitting the invoices to EPCOR for reimbursement.

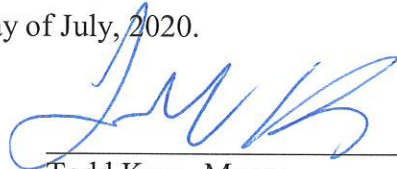
Section 5. City's legal representatives shall have the right to obtain additional information from EPCOR through the service of requests for information, which shall be responded to within seven (7) calendar days of receipt of such requests for information.

Section 6. EPCOR shall reimburse the City for the reasonable costs of attorney and consultant fees and expenses related thereto, upon the presentation of invoices reviewed by the City.

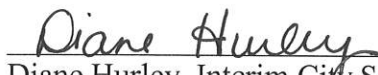
Section 7. The meeting at which this ordinance was approved was in all things conducted in strict compliance with the Texas Open Meetings Act, Texas Government Code, Chapter 551.

Section 8. This ordinance shall become effective from and after its passage.

PASSED AND APPROVED this 30<sup>th</sup> day of July, 2020.

  
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Todd Kana, Mayor

ATTEST:

  
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Diane Hurley, Interim City Secretary

# THE LAWTON LAW FIRM, P.C.

12600 Hill Country Blvd., Suite R-275 • Austin, Texas 78738 • 512/322-0019 • Fax: 512/329.2604

July 17, 2020

*Sent via e-mail*

Mr. Leonard Schneider  
City Attorney – City of Magnolia  
Liles Parker PLLC  
2261 Northpark Dr., Suite 445  
Kingwood, TX 77339

Mr. Don Doering  
City Administrator – City of Magnolia  
City of Magnolia  
18111 Buddy Riley Blvd.  
Magnolia, Texas 77354

Re: EPCOR Gas Texas, Inc.'s 2020 Base Rate Case

Dear Mr. Schneider and Mr. Doering:

The City of Magnolia recently received EPCOR Gas Texas, Inc.'s ("EPCOR" or the "Company") notice of intent to increase rates in the incorporated service areas of the City of Magnolia. The Company simultaneously filed its Statement of Intent with the Railroad Commission to raise rates in the unincorporated areas of Austin, Colorado, Grimes, Harris, Montgomery and Waller Counties, Texas.

The Company is requesting a revenue increase of approximately \$117,254, excluding cost of gas, from customers located in the incorporated Magnolia service area, and the proposed effective date is August 4, 2020. The average residential customer using 2.5 Mcf per month will see an increase of approximately \$9.11 per month, which represents a 20.1% increase over current rates.

The effective date of the rate increase may be suspended for up to ninety days or until November 2, 2020. **We have attached a proposed Rate Ordinance, which will need to be acted on before the August 4, 2020 effective date to suspend the Company's proposed rate increase.** The rate suspension will allow time for a review of the Company's rate proposals. The attached Rate Ordinance authorizes the hiring of an attorney and consultants to review the rate request, and

provides time for a rate report to be filed with the City so that each City may make a final rate determination in this matter.

Our initial review indicates a number of issues will need to be addressed ranging from the size of the proposed annual increase, cost allocation, the proposed level of shareholder profit, and proposed expense levels. Another important consideration in this case that we will review carefully is the proposed rate design. As they have done in the past, the Company has proposed to shift most of its revenue recovery to the fixed monthly customer charge, reducing the importance of the monthly volume charge. Such a rate policy change reduces Company risks by shifting cost and revenue recovery risks from shareholders to customers.

Again, we recommend that the Cities suspend the Company's request until November 2, 2020, to allow time for a thorough review of the Company's various proposals. **We have attached a proposed Rate Ordinance, which will need to be acted on before the August 4, 2020 effective date to suspend the Company's proposed rate increase.** Please forward a copy of passed ordinance to us at danlawtonlawfirm@gmail.com and molly@mayhallvandervoort.com.

If you have any questions or need any further information, please feel free to call.

Sincerely,

Molly Mayhall Vandervoort