

p2-1-07  
GL

**ORDINANCE NO. 2800**

**AN ORDINANCE APPROVING REVISED RATE SCHEDULES FOR TXU SESCO COMPANY, PROVIDING AN EFFECTIVE DATE THEREFOR, PROVIDING CONDITIONS UNDER WHICH SUCH RATE SCHEDULES MAY BE CHANGED, MODIFIED, AMENDED OR WITHDRAWN, AND FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FRANKSTON, TEXAS:

SECTION 1. On January 25, 2000, TXU SESCO Company (hereinafter referred to as "TXU SESCO") filed with the Governing Body of this municipality a Tariff Filing to implement within the corporate limits of this municipality revisions to three of its current tariffs (hereinafter collectively referred to as the "Revised Tariffs"). Also on January 25, 2000, TXU SESCO filed a virtually identical set of Revised Tariffs with the Public Utility Commission of Texas.

SECTION 2. The TXU SESCO Revised Tariffs, as ultimately approved by the Public Utility Commission of Texas pursuant to the January 25, 2000 Tariff Filing, are hereby approved within the corporate limits of this municipality. TXU SESCO is authorized to render service and to collect charges as specified in the Revised Tariffs as approved by the Public Utility Commission of Texas from its customers electing to receive electric service under said Tariffs within the corporate limits of this municipality until such time as said Tariffs may be changed, modified, amended or withdrawn with the approval of the Governing Body of this municipality.

SECTION 3. The Revised Tariffs herein approved shall be effective from and after the effective date approved by the Public Utility Commission of Texas.

SECTION 4. The filing of said Tariff Filing shall constitute notice to the consumers of electricity within this municipality of the availability and application of such Revised Tariffs.

SECTION 5. Nothing in this Ordinance contained shall be construed now or hereafter as limiting or modifying in any manner the right and power of the Governing Body of this municipality under the law to regulate the rates, operations, and services of TXU SESCO.

**SECTION 6.** It is hereby officially found and determined that the meeting at which this Ordinance is passed is open to the public and as required by law and that public notice of the time, place, and purpose of said meeting was given as required.

PASSED AND APPROVED at a Regular Meeting of the City  
COUNCIL of the City of FRANKSTON, Texas, on  
this the 8th day of FEBRUARY, 2000.

  
\_\_\_\_\_  
Mayor

ATTEST:

  
\_\_\_\_\_  
Secretary

ORDINANCE NO. 01-313

**AN ORDINANCE APPROVING THE GENERAL SERVICE RATES INCLUDING RATE ADJUSTMENT PROVISIONS AND MISCELLANEOUS SERVICE CHARGES TO BE CHARGED FOR SALES AND TRANSPORTATION OF NATURAL GAS TO RESIDENTIAL, COMMERCIAL AND INDUSTRIAL CONSUMERS IN THE CITY OF FRANKSTON, ANDERSON COUNTY, TEXAS, PROVIDING AN EFFECTIVE DATE THEREFOR, AND PROVIDING FOR THE MANNER IN WHICH SUCH RATES MAY BE CHANGED, ADJUSTED, AND AMENDED.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FRANKSTON, TEXAS:**

**SECTION 1.** On March 2, 2001, TXU Gas Distribution, a division of TXU Gas Company ("Company") filed with the Governing Body of this municipality a Statement of Intent to Change Residential, Commercial and Industrial Rates charged to consumers within this municipality. Also filed was the Tariff for Gas Service in the East Region Distribution System ("Tariff for Gas Service") and the supporting Cost of Service Schedules ("Schedules"). The Tariff for Gas Service includes Rate Schedules 4200 - East Region Distribution System Cities, 4201 - Residential Service, 4202 - Commercial Service, 4203 - Industrial Sales, 4204 - Industrial Transportation, 4208-1 through 4208-3 - Rate Adjustment Provisions, 9001 through 9007 - Miscellaneous Service Charges and Rider 4206 - Surcharges.

**SECTION 2.** The maximum general service rates for sales and transportation of natural gas rendered to residential, commercial and industrial consumers within the city limits of Frankston, Texas by TXU Gas Distribution, a division of TXU Gas Company, a Texas corporation, its successors and assigns, are hereby fixed and approved as set forth in Rate Schedules 4201 - Residential Service, 4202 - Commercial Service, 4203 - Industrial Sales, and 4204 - Industrial Transportation included in the Tariff for Gas Service in the East Region Distribution System.

**SECTION 3.** The Rate Adjustment Provisions set forth in the Tariff for Gas Service as Rate Schedules 4208-1 Gas Cost Adjustment, 4208-2 Tax Adjustment, and 4208-3 Weather Normalization Adjustment are approved.

**SECTION 4.** The Company shall have the right to collect such reasonable charges as are necessary to conduct its business and to carry out its reasonable rules and regulations. Such miscellaneous service charges are identified in Rate Schedules 9001 through 9007 of the Tariff for Gas Service and are approved. Services for which no charge is set out may be performed and charged for by the Company at a level established by the normal forces of competition.

**SECTION 5.** The aforesaid rate schedules herein approved shall be effective from and after the effective date set forth in the Statement of Intent, if this ordinance is passed and approved on or before that effective date.

**SECTION 6.** The rates set forth in this ordinance may be changed and amended by either the City or Company in the manner provided by law. Service hereunder is subject to the orders of regulatory bodies having jurisdiction, and to the Company's Rules and Regulations currently on file with the City.

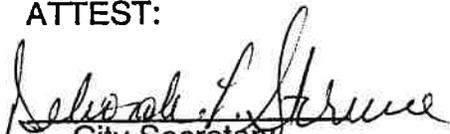
**SECTION 7.** Unless otherwise noted herein, other than TXU Gas Distribution (a named party), no person or entity has been admitted as a party to this rate proceeding.

**SECTION 8.** It is hereby found and determined that said meeting at which this ordinance was passed was open to the public, as required by Texas law, and that advance public notice of the time, place and purpose of said meeting was given.

PASSED AND APPROVED on the First Reading on this the 13<sup>th</sup> day of March, A. D., 2001.

PASSED AND APPROVED on the Second Reading on this the 10<sup>th</sup> day of April, A. D., 2001.

ATTEST:

  
City Secretary

(Seal)

  
Mayor  
City of Frankston, Texas

ORDINANCE NO. 10-09-02A

**AN ORDINANCE AMENDING THE EXISTING GAS FRANCHISE BETWEEN THE CITY AND TXU GAS COMPANY, TO PROVIDE FOR A DIFFERENT CONSIDERATION AND TO AUTHORIZE THE LEASE OF FACILITIES WITHIN THE CITY'S RIGHTS-OF-WAY; PROVIDING AN EFFECTIVE DATE; PROVIDING FOR ACCEPTANCE BY TXU GAS COMPANY; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.**

WHEREAS, TXU Gas Company (hereinafter called "TXU Gas") is, through its TXU Gas Distribution division, engaged in the business of furnishing and supplying gas to the general public in the City, including the transportation, delivery, sale, and distribution of gas in, out of, and through the City for all purposes, and is using the public streets, alleys, grounds and rights-of-ways within the City for that purpose under the terms of a franchise ordinance heretofore duly passed by the governing body of the City and duly accepted by TXU Gas; and

WHEREAS, the City and TXU Gas desire to amend said franchise ordinance to provide for a different consideration and to authorize the lease of facilities within the City's rights-of-way;

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

SECTION 1: The existing gas franchise ordinance between the City and TXU Gas Company is amended as follows:

- A. Effective January 1, 2002, the consideration payable by TXU Gas for the rights and privileges granted to TXU Gas by the franchise ordinance heretofore duly passed by the governing body of this City and duly accepted by TXU Gas is hereby changed to be four percent (4%) of the Gross Revenues, as defined in Section 1.B. below, received by TXU Gas.
- B. "Gross Revenues" shall mean all revenue derived or received the Company from the sale of gas to its residential and commercial customers within the corporate limits of said City (expressly excluding revenues from governmental accounts and revenues from other classes of customers in said City);

- (1) "Gross revenues" shall include:
  - (a) other revenues derived from the following 'miscellaneous charges':
    - i. charges to connect, disconnect, or reconnect gas within the City;
    - ii. charges to handle returned checks from consumers within the City;
    - iii. such other service charges and charges as may, from time to time, be authorized in the rates and charges on file with the City; and
    - iv. contributions in aid of construction" ("CIAC");
  - (b) revenues billed but not ultimately collected or received by the Company; and,
  - (c) gross receipts fees.

- (2) "Gross revenues" shall not include:
  - (a) the revenue of any Person including, without limitation, an affiliate, to the extent that such revenue is also included in Gross Revenues of the Company;
  - (b) sales taxes; and
  - (c) any interest income earned by the Company; and
  - (d) all monies received from the lease or sale of real or personal property, provided, however, that this exclusion does not apply to the lease of facilities within the City's right of way.

C. Calculation and Payment of Franchise Fees Based on CIAC

- (1) The franchise fee amounts based on "Contributions in aid of Construction" ("CIAC") shall be calculated on an annual calendar year basis, i.e., from January 1 through December 31 of each calendar year.
- (2) The franchise fee amounts that are due based on CIAC shall be paid at least once annually on or before April 30 each year based on the total

CIAC recorded during the preceding calendar year.

- D. Effect of Other Municipal Franchise Ordinance Fees Accepted and Paid by TXU Gas
- (1) If TXU Gas should at any time after the effective date of this Ordinance agree to a new municipal franchise ordinance, or renew an existing municipal franchise ordinance, with another municipality, which municipal franchise ordinance determines the franchise fee owed to that municipality for the use of its public rights-of-way in a manner that, if applied to the City, would result in a franchise fee greater than the amount otherwise due City under this Ordinance, then the franchise fee to be paid by TXU Gas to City pursuant to this Ordinance shall be increased so that the amount due and to be paid is equal to the amount that would be due and payable to City were the franchise fee provisions of that other franchise ordinance applied to City.
  - (2) The provisions of this Subsection D apply only to the amount of the franchise fee to be paid and do not apply to other franchise fee payment provisions, including without limitation the timing of such payments.
- E. TXU Gas Franchise Fee Recovery Tariff
- (1) TXU Gas may file with the City a tariff amendment(s) to provide for the recovery of the franchise fees under this amendment.
  - (2) City agrees that (i) as regulatory authority, it will adopt and approve the ordinance, rates or tariff which provide for 100% recovery of such franchise fees as part of TXU Gas' rates; (ii) if the City intervenes in any regulatory proceeding before a federal or state agency in which the recovery of TXU Gas' franchise fees is an issue, the City will take an affirmative position supporting 100% recovery of such franchise fees by TXU Gas and; (iii) in the event of an appeal of any such regulatory proceeding in which the City has intervened, the City will take an affirmative position in any such appeals in support of the 100% recovery of such franchise fees by TXU Gas.
  - (3) City agrees that it will take no action, nor cause any other person or entity to take any action, to prohibit the recovery of such franchise fees by TXU Gas.
- F. Lease of Facilities Within City's Rights-of-Way. TXU Gas shall have the right to lease, license or otherwise grant to a party other than TXU Gas the use of its

facilities within the City's public rights-of-way provided: (i) TXU Gas first notifies the City of the name of the lessee, licensee or user; the type of service(s) intended to be provided through the facilities; and the name and telephone number of a contact person associated with such lessee, licensee or user and (ii) TXU Gas makes the franchise fee payment due on the revenues from such lease pursuant to Sections I.A. and I.B. of this Ordinance. This authority to Lease Facilities Within City's Rights-of-Way shall not affect any such lessee, licensee or user's obligation, if any, to pay franchise fees.

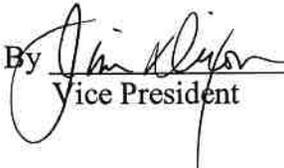
SECTION 2: In all respects, except as specifically and expressly amended by this ordinance, the existing effective franchise ordinance heretofore duly passed by the governing body of the City and duly accepted by TXU Gas shall remain in full force and effect according to its terms until said franchise ordinance terminates as provided therein.

SECTION 3: This ordinance shall take effect upon its final passage and TXU Gas' acceptance. TXU Gas shall, within thirty (30) days from the passage of this ordinance, file its written acceptance of this ordinance with the Office of the City Secretary in substantially the following form:

To the Honorable Mayor and City Council:

TXU Gas Distribution, a division of TXU Gas Company, acting by and through the undersigned authorized officer, hereby accepts in all respects, on this the 18<sup>th</sup> day of October, 2002, Ordinance No. 10-09-02A amending the current gas franchise between the City and TXU Gas and the same shall constitute and be a binding contractual obligation of TXU Gas and the City.

TXU Gas Distribution  
A division of TXU Gas Company

By  \_\_\_\_\_  
Vice President

SECTION 4. 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.

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF**  
Frankston, TEXAS , this the 8th day of October, 2002, at which meeting  
a quorum was present and voting..

  
Mayor

ATTEST:

  
City Secretary

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

ORDINANCE NO. 10-016-03

AN ORDINANCE OF THE CITY OF FRANKSTON, 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; PROVIDING AN EFFECTIVE DATE; FINDING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; AND PROVIDING FOR NOTICE OF THIS ORDINANCE TO TXU GAS COMPANY.

WHEREAS, on or about May 23, 2003, TXU Gas Company (the "Company") filed with the City of Frankston ("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 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;

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

SECTION 1. The Company's Statement of Intent to change gas rates within the City, as part of the Company's statewide gas utility system, be denied in all respects.

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

SECTION 3. This Ordinance shall become effective immediately from and after its passage, as the law and charter in such cases provide.

SECTION 4. 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 5. 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.

05-13-03

ORDINANCE NO. 13-05-03

AN ORDINANCE PROHIBITING PARKING ON THE EAST SIDE OF STATE HIGHWAY NO. 155 NORTH IN FRONT OF BURKS MOBILE HOMES; PROVIDING FOR THE ERECTION OF UPRIGHT SIGNS ON THE EAST SIDE OF SAID STATE HIGHWAY 155 NORTH; PROVIDING FOR A PENALTY.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FRANKSTON, TEXAS, AS FOLLOWS:

SECTION 1. That from and after the publication of this ordinance and the erection of the signs described in Section 2 hereof, it shall be unlawful to park any vehicle of any kind or character or leave in place any trailer, object or any other form of obstruction within the following area:

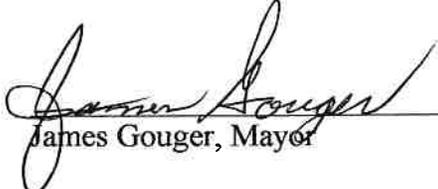
BEGINNING at a RR. spike in the East line of State Highway 155, the center of an oil road and the Southwest corner of the 2.73 acre tract.

THENCE N. 13 deg. 40 min. 30 sec. E. a distance 200.00 ft. to an iron rod in the East line of the Highway.

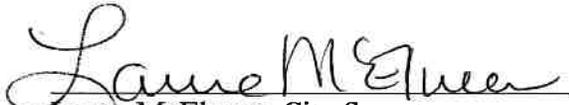
SECTION 2. The Texas Department of Transportation shall erect not less than two (2) signs on the east side of State Highway 155 North as noted above at such points as meets the approval of the Texas Department of Transportation, which state on their face in standard print that meets state requirements the words "No Parking".

SECTION 3. Any person who shall violate the provisions of Section 1 of this ordinance shall be deemed guilty of a misdemeanor, and upon conviction fined not less than \$1.00 and not more than the maximum fine permitted by law.

PASSED and APPROVED this the 13<sup>th</sup> day of May, 2003.

  
James Gouger, Mayor

ATTEST:

  
Laura McElveen, City Secretary

The State of Texas, } Know All Men by These Presents:  
County of ANDERSON

That we, JESSE W. SMITH, JR. of Anderson County, Texas, and ROBERT C. TIDMORE

of the County of Henderson, State of Texas, for and in consideration  
of the sum of -----TEN (\$10.00)-----  
----- DOLLARS  
and other good and valuable considerations  
to us in hand paid by BURKS MOBILE HOMES, INC.

as follows:

\$10.00 and other good and valuable considerations cash in hand paid, the receipt  
of which is hereby acknowledged,

have Granted, Sold and Conveyed, and by these presents do Grant, Sell and Convey, unto the said

BURKS MOBILE HOMES, INC.

of the County of Anderson, State of Texas, all that certain  
lot, tract or parcel of land situated in Anderson County, Texas described by metes and  
bounds as follows, to-wit:

All that certain lot, tract or parcel of land containing 37,848.59 sq. ft. of land,  
a part of the Joseph Ferguson Sur., A-23, Anderson Co., Texas, also a part of  
that certain called 5.63 acre tract, found to be 2.73 acres by new survey, de-  
scribed in a deed from Harold Johnson to David Mewbourn and recorded in Vol.  
796, Page 479 of the Deed Records and conveyed by Mewbourn to Tidmore and  
Smith, and being more fully described by metes and bounds, to-wit:

Beginning at a RR. spike in the East line of State Hwy. No. 155, the center of an  
oil road and the Southwest corner of the above mentioned 2.73 acre tract.

Thence N. 13 deg. 40 min. 30 sec. E. a distance of 200.00 ft. to an Iron rod in  
the East line of the Hwy.

Thence S. 76 deg. 19 min. 30 sec. E. a distance of 201.16 feet to an iron rod in  
the East line of the 2.73 acre tract.

Thence S. 0 deg. 31 min. 22 sec. W. a distance of 146.92 ft. to a RR spike in the center of the oil road and the Southeast corner of the 2.73 acre tract.

Thence N. 89 deg. 58 min. W. a distance of 241.40 ft. to the place of beginning, containing 37,848.59 sq. ft. of land, as surveyed by Garnett L. Beard, Registered Public Surveyor No. 1561, State of Texas, during the month of July, 1984.

(SUBJECT TO such prior reservations, sales and leases of oil, gas and other minerals, easements, rights-of-way and restrictions as may be valid and presently in force and affecting the above described property)

(The above property constitutes no part of the homesteads of the undersigned as our homesteads are where we now reside; the said Jesse W. Smith, Jr having a home one block off U. S. Hwy. 155 in the City of Frankston, Texas, and the said Robert C. Tidmore having a home in THREE POINTS ESTATES, a subdivision on Lake Palestine in Henderson County, Texas)

Grantors reserve for themselves, their heirs and assigns forever, all their right, title and interest in the oil, gas and similar liquid and gaseous hydrocarbons in and under and that may be produced from the above described land.

Grantors agree that they will pay all taxes for 1984 on the above property assessed by all taxing authorities wherein said property is situated.

TO HAVE AND TO HOLD the above described premises, together with all and singular the rights and appurtenances thereto in anywise belonging unto the said

BURKS MOBILE HOMES, INC., its successors

~~we~~ and assigns forever and we do hereby bind ourselves, our

heirs, executors and administrators, to Warrant and Forever Defend, all and singular the said premises

unto the said

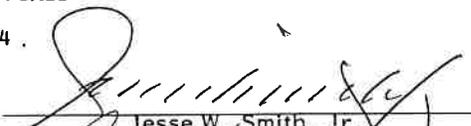
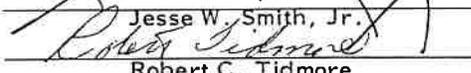
BURKS MOBILE HOMES, INC., its successors

~~we~~ and assigns, against every person whomsoever lawfully claiming, or to claim the same, or any part thereof.

WITNESS our hands at Frankston, Texas

this 18th day of July, 1984.

Witness at request of Grantor:

  
\_\_\_\_\_  
Jesse W. Smith, Jr.  
  
\_\_\_\_\_  
Robert C. Tidmore

\_\_\_\_\_  
\_\_\_\_\_

Mailing address of grantee:

Name: Burks Mobile Homes, Inc.  
Address: P. O. Box 152  
Frankston, TX 75763

(Acknowledgment)

STATE OF TEXAS  
COUNTY OF ANDERSON

This instrument was acknowledged before me on the 18th day of July, 1984  
by Jesse W. Smith, Jr. and Robert C. Tidmore

My commission expires:  
October 31, 1984

DORRIS HOUSTON  
Notary Public, State of Texas  
Notary's printed name:  
DORRIS HOUSTON

(Acknowledgment)

STATE OF TEXAS  
COUNTY OF

This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_  
by \_\_\_\_\_

My commission expires: \_\_\_\_\_

Notary Public, State of Texas  
Notary's printed name:

(Corporate Acknowledgment)

STATE OF TEXAS  
COUNTY OF

This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_  
by \_\_\_\_\_  
of \_\_\_\_\_  
a \_\_\_\_\_ corporation, on behalf of said corporation.

My commission expires: \_\_\_\_\_

Notary Public, State of Texas  
Notary's printed name:

STATE OF TEXAS  
COUNTY OF

I HEREBY CERTIFY that the foregoing instrument of writing with its certificate of authentication, was filed for record in my office on the \_\_\_\_\_ day of \_\_\_\_\_, A.D. 19\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M., and was duly recorded by me on the \_\_\_\_\_ day of \_\_\_\_\_, A.D. 19\_\_\_\_, in Vol. \_\_\_\_\_ page \_\_\_\_\_ of the Records of said County.

WITNESS MY HAND and the Seal of the County Court of said County, at my office in the day and year last above written.

(L.S.) \_\_\_\_\_ County Clerk \_\_\_\_\_ County, Texas  
By \_\_\_\_\_, Deputy.

FILED FOR RECORD AT 8:35 O'CLOCK A.M. 7-20 1984 TO HUDDLESTON  
CLERK COUNTY COURT, ANDERSON CO., TEXAS BY Jo Huddleston DEPUTY