

Chapter 11 – Utilities and Solid Waste

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Chapter 11 – Utilities and Solid Waste

Article 11.00.00. Jurisdiction of Public Utility Commission

- A. By and under the terms of Article 1446c Texas Civil Statutes, Section 17, the City of Bayou Vista, Texas, herewith surrenders original jurisdiction to regulate electrical utility rates within the municipal limits of the City of Bayou Vista to the public utility commission of Texas as by the law of the State of Texas. (Ord. No. 75-90, 10-2-1990)

Note: **Ordinance 2016-10**, amending Chapter 10 of the Code of Ordinances, of the City of Bayou Vista, Texas, was approved at the Regular Called Meeting of City Council on 04-26-16, for the purpose to provide continuity with the numbering system with all the Article and Sections within the Chapter and to replace the word “village” for the word “City”.

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Article 11.01.00. Gas Utilities

Sec. 11.01.01. Definitions.

- A. The words "gas company" or "company" as used in this article shall mean and apply to every person possessing a franchise from the City or any other source permitting the furnishing of natural, manufactured or mixed gas, or any one or more of them and furnishing gas of any character thereunder to consumers in the City. (Ord. No. 33-85, § 1, 12-16-1985)

Sec. 11.01.02. Violations.

- A. Any gas company or any agent, officer or superintendent of such company who shall knowingly violate any of the provisions of this article shall be subject to prosecution. (Ord. No. 33-85 § 2, 12-16-1985)

Sec. 11.01.03. Local office.

- A. Unless otherwise provided or permitted by the Board of Aldermen, every gas company shall maintain at all times in Galveston County, Texas, an office at which there shall be kept at all times proper books reflecting the accounts with consumers in the City, and where such consumers may make payments of accounts owing by them for gas furnished, apply for service and transact all business relative to the securing and furnishing of gas to them in the City.
- B. A violation of the provisions of this section shall constitute sufficient grounds for a forfeiture of any franchise or permit to occupy the streets and public places of the City which may be held or enjoyed at the time by the company guilty of such violation, and the Board of Aldermen may, if it deems fit, forfeit the same after due notice and hearing. (Ord. No. 33-85, § 3, 12-16-1985)

Sec. 11.01.04. Service connections.

- A. Where a consumer who lives within the radius of the gas system, as established, and within one hundred fifty (150) feet of any gas main measured along the line to be followed in the street desires connection with the service, such connection must be made within a reasonable time after written demand or request therefore on the manager, superintendent or other person in charge of the gas company's business.
- B. It shall be a separate offense, both in the gas company and in the manager, superintendent or other person in charge locally of such business for each day, beyond a reasonable time. That such connection is not made, ordinarily, where no extension of mains are required a reasonable time for gas connection shall be from three (3) days to one (1) week.
- C. The words "within the radius of the gas system as established" shall mean and include any point to the left or right of one (1) of its lines and at any point in the extension of a line not more than one hundred fifty (150) feet beyond the terminus thereof at the time when request for service is made. (Ord. No. 33-85, § 4, 12-16-1985)

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Sec. 11.01.05. Service deposits.

- A. The gas company shall have the right upon connection of its service in a residence or business establishment to require the payment to the company of a reasonable deposit, to secure the payment of gas to be consumed through the meter. The company shall have the right to require an additional deposit when the amount of the deposit is less than twice the amount of the average monthly bill.
- B. The gas company shall pay six (6) percent interest per annum on such deposit to the person making same, or to his heirs or assigns from the time of such deposit, the same to be paid annually on demand or sooner if such service be discontinued. When gas service is discontinued such deposit together with any unpaid interest thereon or such part of such deposit and unpaid interest, not consumed in bills due for such service shall be returned to the depositor, his heirs or legal representatives. (Ord. No. 33-85, § 5, 12-16-1985)

Sec. 11.01.06. Annual reports.

- A. Every gas company shall on or before the first day of July in each year, file with the city secretary a copy of the report filed with the Secretary of State for that year pursuant to the provisions of V.A.C.S. Art. 1441. (Ord. No. 33-85, § 6, 12-16-1985)

Sec. 11.01.07. Gas to be of uniform character.

- A. It shall be unlawful for any gas company to furnish to any consumer or class of consumer gas of a different character and calorific value or heat content from that furnished to all other consumers. (Ord. No. 33-85, § 7, 12-16-1985)

Sec. 11.01.08. Repairs; correction of defects in service.

- A. Repairs and corrections of defects in gas service must be made within a reasonable time after written notice to the manager, superintendent or other person in charge of the gas company's business in the City. It shall be a separate offense by the company, the superintendent, manager or such person in charge for each day beyond a reasonable time that such delay exists. Ordinarily, a reasonable time for repairs or correction of defects in service shall be from one (1) to two (2) days. (Ord. No. 33-85, § 8, 12-16-1985)

Sec. 11.01.09. No duty to furnish gas to unsafe installations.

- A. No gas consumer shall be entitled to demand or receive gas of any character so long as there may be upon the premises for which such supply is demanded any gas appliance which is of such construction or in such condition as to render it unsafe and unfit for the use of gas to be furnished. (Ord. No. 33-85, § 9, 12-16-1985)

Sec. 11.01.10. Testing of meters.

- A. If any customer of the gas company desires to have his meter tested he shall make written application to the company. The company shall take the meter to its testing room where it shall be tested by a standard meter prover of the most accurate type.
- B. If the meter shows more than a two (2) percent variation as shown by a standard meter prover, and this variation is against the consumer, the consumer's bill shall be rebated proportionately from the date of his last payment to the date of test and the meter shall be replaced by another meter, tested and shown to be accurate at the time the test is made of the defective meter. (Ord. No. 33-85, § 10, 12-16-1985)

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Sec. 11.01.11. Schedule for natural gas.

- A. Every gas company engaged in the business of selling or furnishing natural gas to private or commercial consumers within the city shall charge therefore with respect to each meter served not more than the rate set forth in the rate schedule filed with the City fifteen (15) days before implementation and approved herein by the City, such schedule is filed in the office of the City secretary. (Ord. No. 92-08, § 1, 8-11-1992)

Sec. 11.01.12. Purposes not covered.

- A. Resale. Service of gas under the schedule in section 11.211 shall be for the individual use of the consumer and may not be resold by such consumer.
- B. Industrial user. The rates fixed shall be applicable to natural gas and service of natural gas for domestic and commercial purposes only and shall not be applicable to such natural gas and service for industrial purposes. (Ord. No. 33-85, § 12, 12-16-1985)

Sec. 11.01.13. Purchased gas adjustment clause.

- A. Applicability. This purchased gas adjustment clause shall apply to all general service rate schedules of Southern Union Gas Company ("the company") and in the City and the environs thereof.
- B. Definitions.
 - 1. *Commodity costs.* The cost of purchased gas multiplied by the purchase sales ratio.
 - 2. *Cost of gas.* The rate per billing unit or the total calculation under this purchased gas adjustment clause, consisting of the commodity cost, a reconciliation component and related fees and taxes
 - 3. *Cost of purchased gas.* The cost for gas purchased by the company from its supplier or the weighted average cost for gas purchased by the company from all sources where applicable.
 - 4. *Purchase/sales ratio.* A ratio determined by dividing the total volumes purchased for general service customers during the twelve-month period ending June 30 by the sum of the volumes sold to general service customers and the known volumes sold to general service customers and the known volumes of gas that may be otherwise accounted for, including but not limited to, company used gas, liquid extraction, meter errors due to inaccurate calibration or temperature fluctuations and accidental discharges of gas from the company's system during the same period. For the purpose of this computation all volumes shall be stated at 14.95 psia. Such ratio as determined shall in no event exceed 1.0526, i.e. 1/(1 .05), unless expressly authorized by the applicable regulatory authority.
 - 5. *Reconciliation account.* The account maintained by the company to assure that over time it will neither over nor under collect revenues as a result of the operation of the purchased gas adjustment clause. Entries shall be made monthly to reflect:

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- a. The total amount paid to the company's supplier(s) for gas applicable to general service customers as recorded on the company's books and records;
 - b. The revenues produced by the operation of this purchased gas adjustment clause; and
 - c. Refunds, payments or charges provided for herein or as approved by the regulatory authority.
6. *Reconciliation audit.* An annual review of the company's books and records for each twelve-month period ending with the accounting month of June to determine the amount of over or under collection occurring during such twelve-month period (seven (7) months December 1985 through June 1986 for the initial year of operation of this clause.) The audit shall determine:
- a. The total amount paid for gas purchased by the company to provide service to its general service customers during the period;
 - b. The revenues received from operation of the provisions of this purchased gas adjustment clause reduced by the amount of revenue associated fees and taxes paid on those revenues;
 - c. The total amount of refunds made to customers during the period and any other revenues or credits received by the company as a result of relevant gas purchases or operation of this purchased gas adjustment clause; and
 - d. An adjustment. If necessary, for lost and unaccounted for gas during the period in excess of five (5) percent of purchases.
7. *Reconciliation component.* The amount to be returned to or recovered from customers each month from October through June as a result of the reconciliation audit.

Sec. 11.01.14. Costs of gas.

- A. In addition to the cost of service as provided under its general service rate schedule, the company shall bill each general service customer for the cost of gas incurred during the billing period. The cost of gas shall be clearly identified on each customer bill.

Sec. 11.01.15. Determination and application of the reconciliation component.

- A. If the reconciliation audit reflects either an over-recovery or under-recovery of revenues, such amount, plus or minus the amount of interest calculated pursuant to section **11.01.16** below, if any, shall be divided by the general service sales volumes, adjusted for the effects of weather, growth and conservation for the period beginning with the October billing cycle last preceding through the June billing cycle. The reconciliation component so determined to collect any revenue shortfall or to return any excess revenue shall be applied for a nine-month period beginning with the next following October billing cycle and continuing through the next following June billing cycle at which time it will terminate until a new reconciliation component is determined.

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Sec. 11.01.16. Payment for funds.

- A. Concurrently with the reconciliation audit, the company shall determine the amount by which the cost of gas was over or under collected for each month within the period of audit. If, on the average, the company had over-collected during the period, it shall credit into the reconciliation account during September amount equal to the average balance multiplied by nine (9) percent. If on the average, the company had under-collected during the period, it shall debit into the reconciliation account during September an amount equal to the average balance multiplied by nine (9) percent.

Sec. 11.01.17. Surcharge or refund procedures.

- A. In the event that the rates and charges of the company's suppliers are retroactively reduced and a refund of any previous payments is made to the company, the company shall make a similar refund to its general service customers. Similarly, the company may surcharge its general service customers for retroactive payments made for gas previously delivered into the system. If the payment or refund related to gas purchased by the company for a period of twelve (12) consecutive months or longer, the total amount recovered or refunded shall be divided by the general service sales, adjusted for known changes including the effects of weather, growth and conservation, made to general service customers during the applicable period. With regard to amounts received or paid that are applicable to period less than twelve (12) consecutive months, the company may at its option refund or collect such amounts:
1. Over the same period of time as the over or under charge occurred;
 2. Over the same number of unit sold during the period of the over or under charge; or
 3. Include the entire amount in the reconciliation account.
- B. Refunds or charges shall be entered into the reconciliation account as they are collected from or returned the customers. For the purpose of this section **11.01.17** the entry shall be made on the same basis used to determine the refund or charge component of the cost of gas and shall be subject to the calculation set forth in section 11.216, "Payment for Funds," above.

Sec. 11.01.18. Cost of gas statement.

- A. The company shall file a cost of gas statement with the regulatory authority at least five (5) days before the effective date of any change in cost of gas. (The company shall file such initial statement as soon as is reasonably possible.) The cost of gas statement shall set forth:
1. The cost of purchase gas;
 2. That cost multiplied by the purchase/sales ratio;
 3. The amount of the cost of gas caused by any surcharge or refund;
 4. The reconciliation component;
 5. The revenue associated fees and taxes to be applied to revenues generated by the cost of gas; and
 6. The cost of gas which is the total of items (2) through (5).

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- B. The statement shall include all data necessary for the regulatory authority to review and verify the calculation of the cost of gas. The date on which billing using the cost of gas is to begin (bills prepared) is to be specified in the statement.

Sec. 11.01.19. Annual reconciliation report.

- A. The company shall file an annual report with the regulatory authority which shall include but not necessarily limited to:
 - 1. A tabulation of volumes of gas purchased and costs incurred listed by account or type of gas, supplier and source by month for the twelve (12) month[s] ending June 30;
 - 2. A tabulation of gas units sold to general service customers and related purchased gas adjustment clause revenues; and
 - 3. A summary of all other costs and refunds made during the year and the status of the operations of the purchased gas adjustment clause to date.
This report shall be filed on or before October 1 of each year.
- B. The prior balance existing as of June 30, 1985, will consist of \$5,711.55 of under collected costs for the year then ended and \$17,863.53 interest in the Galveston Service Area. This amount (\$23,575.08) shall be divided by the general service sales volumes in the Galveston Service Area adjusted for the effects of weather, growth, and conservation for the period beginning with the October billing cycle last preceding through the June billing cycle. The reconciliation component so determined to collect the revenue shortfall shall be applied beginning with the first billing cycle in January 1986 and continuing through June 1986 billing cycle at which time it will terminate until a new reconciliation component is determined. (Ord. No. 33-85, § 13, 12-16-1985)

Sec. 11.01.20. Nonpayment; procedure for discontinuing service.

- A. Gas already furnished; five days' notice. Service to a customer shall not in any case be cut off or discontinued for nonpayment of a bill for gas furnished unless such bill is for services already rendered and unless five (5) days' written notice has been given the customer.
- B. Method and time of serving notice. The customer shall be notified by mailing to his post office address a notice that the service will be cut off or discontinued if the bill is not paid within five (5) days. Such notice shall be mailed at least five (5) days before the service is cut off. (Ord. No. 33-85, § 14, 12-16-1985)

Sec. 11.01.21. Discriminatory practices, establishing classified rates for other classes of consumer.

- A. Discriminatory practices. It shall be unlawful for any gas company to make, give or allow to any consumer a rebate or discount on the amount of his gas bill, or to furnish gas to any person free of charge, or to discriminate between any users of gas.
- B. Establishing classified rates for other classes of consumers. Nothing in this division shall prevent any gas company from establishing and putting into effect classified rates for commercial and industrial users of gas, not in excess of the rates herein prescribed. (Ord. No. 33-85, § 15, 12-16-1985)

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Sec. 11.01.22. Energy audit special service charge.

- A. There shall be two (2) charges to customers to recover the cost of energy audits performed by the company in accordance with the provisions of Title II of Part I of the National Energy Conservation Policy Act. They are:
1. *The audit charge.* A one (1) time charge as provided for in the fee schedule found in the appendix of this Code, collected from each customer receiving an energy audit made in accordance with Title II of Part I of the National Energy Conservation Policy Act, and
 2. *The program charge.* An amount to be added to the bill of each customer rendered during the April and October cycles (and succeeding cycles if required) determined as provided for herein.
- B. The program charge shall be calculated by dividing the unrecovered cost of providing the energy audits at the end of the prior month by the number of bills rendered during that month. The maximum program charge permitted under the operation of this rate rider shall be as provided for in the fee schedule found in the appendix of this Code.
- C. Conditions.
1. The company shall establish and maintain such accounts of Account 495 Other Utility Revenue, and Account 908 - Customer Assistance Expense, into which all revenues received under the operation of this rate rider and all cost of promoting and conducting the audits shall be entered. The unrecovered cost to be used in the calculation of the program charge shall be the difference between revenues and costs incurred since the last determination plus or minus any prior over or under collection (the April amount will include the months of September through February and the October amount the remaining months);
 2. The audit charge may be collected at the time the request for audit is made. No audit shall be performed until the charge has been paid; and
 3. The charge provided for in this rate rider shall be set out as special line items on each customer's bill and identified as applicable to the federal energy audit program. (Ord. No. 33-85, § 16, 12-16-1985.

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Sec. 11.01.23. New purchased gas adjustment clause.

- A. The City's consultant and Southern Union Gas shall immediately undertake to devise a new purchased gas adjustment clause which shall be implemented only after approval of the City. (Ord. No. 33-85 § 17, 12-16-1985)

Sec. 11.01.24. Penalty.

- A. Any person who shall violate any provision of this article shall be guilty of a misdemeanor and upon conviction shall be punished by a fine not to exceed one hundred dollars (\$100.00).(Ord. No. 33-85, Div. IV, 12-16-1985)

Note: **Ordinance 2016-10**, amending Chapter 10 of the Code of Ordinances, of the City of Bayou Vista, Texas, was approved at the Regular Called Meeting of City Council on 04-26-16, for the purpose to provide continuity with the numbering system with all the Article and Sections within the Chapter and to replace the word “village” for the word “City”.

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Article 11.02.00. Solid Waste Management Service

Sec. 11.02.01. Purpose and intent.

- A. The intent and purpose of this article is to provide an exclusive residential refuse service contract attached, providing refuse pickup for the citizens of Bayou Vista, Texas, in accordance with Subchapter F, Local Solid Waste Services and Regulation of the Health and Safety Code codified in Vernon's Texas Civil Statutes. The establishment of Solid Waste Management Service under Article 363.113 of the Health and Safety Code reads: "Each county with a population of more than 30,000 and each municipality shall review the provision of solid waste management services in its jurisdiction and shall assure that those services are provided to all persons in its jurisdiction by a public agency or private person. (Ord. No. 77-91, § 1, 12-22-1990)

Sec. 11.02.02. Solid waste management services required.

- A. It shall be unlawful for any owner of a residence or occupant of any residence to occupy or allow occupancy of a residence without providing for solid waste services for the removal of garbage, household wastes, scraps, leaves, branches, and all other disposable materials from such residence. Such solid waste management services shall be provided by the City's contractor carrier which provides such services. (Ord. No. 02-04, § 1, 03-02-04)

Sec. 11.02.03. Penalty.

- A. No person, firm, or corporation shall engage in the business of the collection of garbage for residential customers within the City of Bayou Vista, Texas, making use of the City streets and highways therefore, other than the City's contractor carrier as provided above. It shall be unlawful for any person or persons to violate any provision of this article, and any person violating any provision of this article shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be subject to a fine in accordance with the general penalty provision found in section 1.106 of this Code, and a separate offense shall be deemed committed upon each day, during or on which a violation occurs or continues. (Ord. No. 77-91, § 2, 12-22-1990)

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