

**RAILROAD COMMISSION OF TEXAS**  
CASE NO. 00009211

<b>COMPLAINT OF THE CITY</b>	§	
<b>OF BRENHAM TEXAS</b>	§	<b>DOCKET NO.</b>
<b>AGAINST OASIS PIPELINE,</b>	§	
<b>L.P.</b>	§	

**COMPLAINT OF THE CITY OF BRENHAM, TEXAS**

COMES NOW, The City of Brenham, Texas, (“Brenham”) and files this complaint against Oasis Pipeline, L.P. (“Oasis”).

**I. Introduction and Background**

Brenham is a home rule city in Washington County, Texas. Brenham owns and operates the natural gas distribution system serving residential and other customers in and in the vicinity of Brenham. Oasis, a gas utility subsidiary of Energy Transfer LP, owns and operates the only pipeline transporting gas to the Brenham city gate.<sup>1</sup> Brenham’s municipally-owned system is wholly dependent on Oasis for transportation to the city gate; there is no other alternative and no competition for the provision of such transportation services.<sup>2</sup>

Oasis increased the rate for transportation of gas to Brenham dramatically starting on November 1, 2021. Based on the \$0.3325 per MMBtu transportation rate for the period November 1, 2016, through October 31, 2021, that had been agreed to between Brenham and Oasis, this represents an increase of almost 400%, or over \$450,000 on an annual

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<sup>1</sup> Brenham received gas into its distribution at two city gate stations. These will be referred to collectively as the Brenham city gate.

<sup>2</sup> The only other pipelines in the area are owned and/or operated by Oasis’s parent, Energy Transfer.

basis.<sup>3</sup> The annual effective rate increased to an estimated \$1.3609 per MMBtu, not counting imbalance charges.<sup>4</sup> The rate was increased under a new contract between Brenham and Oasis covering largely the same transportation to the Brenham system that had previously been provided under a contract between WTG Gas Marketing, Inc. and Oasis.<sup>5</sup> The new contract was in its essence a contract of adhesion as Brenham had no effective choice but to agree to the contract in order to avoid a disruption in gas deliveries as winter arrived.

The transportation rate increase by Oasis was patently unreasonable. Among other things, the \$0.3325 rate had previous been agreed to by Oasis for the previous five years. One must presume that Oasis had found that rate to be reasonable. Even allowing for inflation, the dramatic increase was way out of bounds.

Moreover, Oasis failed to file a statement of intent to Increase Rates as required by Section 104.102 of the Texas Utilities Code (“TUC”). Among other things, had Oasis filed the required statement of intent, it (presumably) would have also filed at that time “its direct evidence to support the proposed rate increase,” as required by Commission Rule 7.225. Oasis did neither.

In addition, to date we have been unable to determine whether Oasis filed a tariff for the rate as required by Rule 7.315. Indeed, Brenham has received no response to its request to Oasis to furnish a copy of any such tariff filing.

It is for these reasons that Brenham brings this complaint. In so doing, Brenham requests that the Commission review the transportation rate charged by Oasis for

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<sup>3</sup> The \$0.3325 rate had been arrived at in the context of cost of service information furnished by Oasis to Brenham in 2016. Oasis refused to furnish such information relative to the rate increase effective November 1, 2021. Even allowing for inflation, the increase is on its face unreasonable.

<sup>4</sup> Prior to execution of the contract with the \$0.3325 rate, West Texas Gas Marketing, Inc. (“WTG”) agreed to sell gas to Brenham at the city gate, with WTG becoming the shipper on Oasis effective November 1, 2016. On information and belief, the rate paid by WTG may have increased to \$0.45 per MMBtu at some point, although the increase was not flowed through to Brenham by WTG because of its contract with Brenham. Assuming the pre-November 1, 2021, rate was \$0.45 per MMBtu instead of \$0.3325, the annual revenue increase to Oasis was from \$207,824 to \$607,010, or almost 300%.

<sup>5</sup> WTG had refused to renew the existing gas supply agreement with Brenham.

transportation to the Brenham city gate and, in so doing, require Oasis to submit the cost of service information that it should have submitted with a statement of intent. Brenham requests that upon such review, and after due notice and opportunity for hearing, the Commission set the just and reasonable rate to be charged by Oasis to the Brenham city gate stations, including related charges such as imbalance fees and essential terms and conditions of service. Brenham requests that the Commission also direct Oasis to reimburse Brenham for its reasonable costs incurred for this ratemaking proceeding pursuant to TUC § 103.022.

Further, as noted below, Brenham requests, as incidental to the ratemaking proceeding, that the Commission consider the effects of the failure of Oasis to file a statement of intent to Increase Rates prior to its November 1, 2021, rate increase and to determine whether Oasis has properly filed a tariff with respect to the subject rate. In this regard, Brenham requests that the Commission consider the proper remedy for the Oasis rate increase implemented without filing a statement of intent and the proper remedy if Oasis has failed to file the required tariff.

## **II. Jurisdiction and Basis for Relief**

Oasis is a gas utility subject to the Commission jurisdiction and regulation under Title 3 of the Texas Utilities Code. Among other bases, with specific reference to transportation to the Brenham city gates, Oasis is a gas utility under TUC § 121.001(a)(3) because it is the only pipeline by which natural gas can be brought to the Brenham distribution system.

This complaint is brought under § 1.23 of the Commission's rules and TUC §§ 105.051, 121.152, and 121.153. As the owner and operator of its municipal distribution system, Brenham is a person directly affected by Oasis transportation rates to the Brenham city gate. Subject to the potential need for a greater refund relative to the Oasis failure to file a statement of intent to Increase Rates, Brenham requests that upon final determination of the proper rate or charge Oasis be ordered to reimburse to Brenham the amounts paid in

excess of the proper rate or charge from and after the filing of this complaint, pursuant to TUC § 121.154.

### III. Specific Points of Complaint

#### A. Excessive and Unreasonably Prejudicial Transportation Rate

The massive 400% increase in the Oasis transportation rate to the Brenham city gates is prima facie excessive and unreasonable, especially when the increased rate is contrasted to the transportation rate that had been charged for many years. The rate is also unreasonably prejudicial in that, among other things, it creates an undue burden on the residential and other customers of Brenham's distribution system and impairs the competitive position of businesses in Brenham. For these reasons, Brenham requests that the Commission review the rate and determine the proper, just, and reasonable rate, including balancing fees, on a cost-of-service basis under TUC §§ 104.003 and 121.151. To the extent material, Brenham also requests that the Commission review and regulate other terms and conditions of service for transportation by Oasis to Brenham.

#### B. Unlawful Rate Change

TUC Section 104.102 is unambiguous:

- (a) A gas utility may not increase its rates unless the utility files a statement of its intent with the regulatory authority that has original jurisdiction over those rates at least 35 days before the effective date of the proposed increase.

Oasis did not file the required statement of intent when it increased the city gate rate for transportation to Brenham on November 1, 2022. Under these circumstances the increased rate is not a lawful rate. "Raising rates without going through proper statutory procedures is unlawful." *Entex, a Div. of Reliant Energy Res. Corp. v. R.R. Comm'n of Texas*, 18 S.W.3d 858, 865 (Tex. App. 2000). [citation omitted]<sup>6</sup>

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<sup>6</sup> "A rate change is *illegal* if instituted before these [statement of intent] requirements are satisfied." [Railroad Comm'n v. Moran Utils. Co., 728 S.W.2d 764, 768 \(Tex.1987\).](#)

Oasis will likely point to TUC § 104.003 on negotiated contract rates and maintain that Commission policy is that filing a statement of intent is not required for such rates. But this argument cannot be supported for at least two reasons. First, the rate forced on Brenham by Oasis, while incorporated into a contract, does not meet the requirements of § 104.003(b) for considering such a rate to be just and reasonable. Second, given the long-standing regulation by the Railroad Commission of city gate rates, the policy shift by the Commission many years ago to normally not require statement of intents for negotiated contract rates, cannot reasonably be construed to not include transportation rates for deliveries to city gates for local distribution, as in Brenham. Indeed, none of the § 104.003 contract rate provisions speak one way or another to the requirement to file a statement of intent when increasing rates.

Oasis cannot support or justify its failure to follow the statute and file a statement of intent to increase rates when implementing its massive rate increase to Brenham on November 1, 2021. To be sure, had it filed the required statement of intent, along with the cost of service information required by Rule 7.225, Oasis and Brenham may well have been able to negotiate a mutually agreeable settlement rate to then be approved by the Commission. But that did not happen. Instead, Oasis effectively unilaterally set the new transportation rate. Under these circumstances, Brenham requests that the Commission consider the proper remedy, including whether Oasis must cease charging the increased rate unless and until it files a proper statement of intent that properly implements the rate change. In addition, Brenham requests that the Commission consider whether Oasis should be ordered to refund all monies collected at the higher illegal rate.

### C. Tariff

As noted above, it is not clear that Oasis properly made a tariff filing for the rate effective November 1, 2021, as required by Rule 7.315. Brenham has not been able to locate such a tariff in the coded tariff filings that Oasis has made at the Commission. Moreover, if Oasis had so filed a tariff, it did not send a copy to Brenham. Further, Oasis did not respond to a February 3, 2022, request by Brenham that it “please forward the tariff

filed with the Railroad Commission of Texas, including any revisions or updates and any documents referenced in the tariff filing or incorporated by reference into the filing.” Brenham requests that the Commission review this issue, direct Oasis to forward any tariff filing to Brenham, and take such other further action as may be appropriate.

#### **IV. Brenham Rate Case Expenses**

Brenham has already found it necessary to retain consulting and attorney services to assist with this matter. Pursuant to TUC § 103.022, Brenham requests that the Commission also direct Oasis to reimburse Brenham for its reasonable costs incurred for this ratemaking proceeding.

WHEREFORE, PREMISES CONSIDERED, Brenham prays that this complaint be considered, that the relief sought herein be granted, and that the Commission grant such other and further relief to which Brenham may be entitled.

Respectfully submitted,

By: /s/ John R. Hays, Jr.

John R. Hays, Jr.

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**ATTORNEY FOR THE CITY OF  
BRENHAM, TEXAS**

Dated: April 4, 2022

### Certificate of Service

I hereby certify that a true and correct copy of the foregoing document was served on the following persons via email on this the 4th day of April, 2022. :

/s/ John R. Hays, Jr.

John R. Hays, Jr.

Oasis Pipeline, L.P.  
1300 Main Street  
Houston, TX 77002  
attn.: Kimberly Fitzhenry<sup>7</sup>  
(via U.S. Mail)

cc: Kari French, RRC Austin, Director, Oversight & Safety Division  
Mark Evarts, RRC Austin, Director, Marketing Oversight Section  
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<sup>7</sup> Ms. Fitzhenry is the contact person shown on the Oasis Form P-5 Organization Report filed with the Commission.