

ORIGINAL

FORMAL COMPLAINT



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BEFORE THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission

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AZ CORP COMMISSION
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COMMISSIONERS

GARY PIERCE, Chairman
BOB STUMP
SANDRA D. KENNEDY
PAUL NEWMAN
BRENDA BURNS

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Pinal Energy, LLC

Complainant

v.

Southwest Gas Corporation

Respondent

DOCKET NO. G-01551A-12-0379

FORMAL COMPLAINT

1 In accordance with A.R.S. § 40-246, Pinal Energy, LLC ("Pinal Energy") hereby files a
2 formal complaint against Southwest Gas Corporation ("Southwest Gas").

3 Pinal Energy alleges as follows:

4 **I. PARTIES AND JURISDICTION**

5 1. Pinal Energy is an Arizona limited liability company. Pinal Energy owns and
6 operates an ethanol production facility located in Pinal County at 38585 W Cowtown Road,
7 Maricopa, Arizona 85138. Each year, the facility uses approximately 18 million bushels of corn
8 to produce approximately 50 million gallons of fuel-grade ethanol, together with large quantities
9 of high-protein, high-energy animal feed. Ethanol produced at the facility is purchased by
10 refiners to blend with gasoline to produce low-emission automotive fuel. Rather than being
11 released to the atmosphere, CO₂ produced at the facility is recaptured and supplied to Arizona
12 hydroponic, dry-ice, and soft-drink businesses. The Pinal Energy facility is Arizona's only
13 ethanol production plant.

14 2. Maricopa, Arizona, has been particularly hard hit by the recent recession.
15 Maintaining existing jobs and property tax revenue is critically important to supporting the
16 Town's economic viability. Pinal Energy's ethanol production facility is one of the largest

1 employers in Maricopa, normally providing jobs to about 60 employees. Pinal Energy is also
2 one of Pinal County's largest tax payers.

3 3. Ethanol production is a high-temperature process that requires boilers to provide
4 the necessary heat. To fuel its boilers and dry the animal feed, Pinal Energy must purchase and
5 consume large quantities of natural gas.

6 4. Southwest Gas is a California corporation. Southwest Gas is a registered foreign
7 corporation in the State of Arizona, with an Arizona address of 10851 N. Black Canyon Hwy.,
8 Phoenix, Arizona 85029.

9 5. Southwest Gas is a "public service corporation," as that term is defined by Article
10 15, Section 2, of the Arizona Constitution, and is therefore subject to regulation and supervision
11 by the Arizona Corporation Commission ("Commission").

12 6. Among other things, Southwest Gas transports, distributes, delivers, and sells
13 natural gas to customers in the State of Arizona, including transportation services for Pinal
14 Energy. Southwest Gas holds a Certificate of Convenience and Necessity from the Commission
15 that provides it the exclusive right to distribute, transport, and sell natural gas in Pinal County,
16 including transporting natural gas to the Pinal Energy ethanol production facility.

17 **II. GENERAL ALLEGATIONS**

18 7. In 2005, Pinal Energy desired to construct and operate an ethanol production plant
19 and related facilities in Pinal County. To receive natural gas to fuel boilers and for other uses at
20 its ethanol plant, Pinal Energy planned to construct pipeline facilities to allow it to directly
21 connect with an interstate pipeline owned by El Paso Natural Gas Pipeline ("El Paso Pipeline").
22 Pinal Energy hired an engineering firm to prepare preliminary pipeline engineering at the cost of
23 approximately \$300,000. This would have allowed Pinal Energy to bypass Southwest Gas by
24 purchasing natural gas supplies for interstate transportation on the El Paso Pipeline and then
25 through Pinal Energy's planned pipeline directly to the ethanol facility.

26 8. After subsequent discussions with Southwest Gas, the parties agreed that Pinal

1 Energy would instead take transportation services from Southwest Gas under Rate Schedule B-1.
2 This would allow Southwest Gas to transport natural gas to Pinal Energy's facilities directly
3 from those of the El Paso Natural Gas Pipeline. Pinal Energy would purchase its own natural gas
4 supplies and then pay for transportation on the El Paso Pipeline up to the interconnection with
5 Southwest Gas. Then, Southwest Gas would use the new eight-mile pipeline—paid for by Pinal
6 Energy—to transport Pinal Energy's natural gas to the ethanol-production facility.

7 9. To qualify for Rate Schedule B-1 Pinal Energy was required to "establish that
8 bypass is economically, operationally, and physically feasible and imminent" Because Pinal
9 Energy had previously planned to construct its own pipeline to interconnect with the El Paso
10 Pipeline, the parties agreed that Pinal Energy was eligible for service under Rate Schedule B-1.

11 10. Southwest Gas stated that construction of the new eight-mile interconnection
12 pipeline was necessary for it to serve Pinal Energy's ethanol plant and related facilities because it
13 was unable to serve such a large customer through existing facilities.

14 11. Southwest Gas prepared a pipeline design, which incorporated Pinal Energy's
15 previously prepared pipeline engineering design. Southwest Gas estimated that it would cost
16 \$3,753,000 to construct the pipeline.

17 12. To allow Southwest Gas to construct the new pipeline and for Pinal Energy to
18 fund its construction, Pinal Energy and Southwest Gas entered into a September 11, 2006,
19 Incremental Natural Gas Facilities Agreement (SWG No. 32019) and a April 10, 2007,
20 Addendum No. 1 to Incremental Natural Gas Facilities Agreement. (Copies of the referenced
21 agreements are attached to this Complaint as Exhibits A and B and are referred to collectively as
22 the "Facilities Agreements.")

23 13. Southwest Gas never filed the Facilities Agreements for approval with the
24 Commission.

25 14. As stated in Addendum No. 1:

26 The Agreement defined the responsibilities of Customer concerning the construction
27 and operation of an ethanol production plant and related facilities in Pinal County,
28 in the State of Arizona and related access to and commitments for natural gas

1 service for the ethanol plant and related facilities, as well as the responsibility of
2 Utility to construct pipeline facilities for service to the proposed ethanol plant and
3 related facilities. (*Emphasis added.*)

4 15. Utility's responsibility to construct the specified pipeline facilities was at the heart
5 of the Facilities Agreements. As stated in Addendum No. 1:

6 Utility makes no representations, warranties, either express or implied, with respect
7 to the completion date for construction of the facilities. However, Utility will use all
8 commercially reasonable efforts to complete the Northern Route facilities by the
9 Customer's requested in-service date of May 1, 2007, and to complete the
10 Permanent Route by October 1, 2008. (*Emphasis added.*)

11 16. To fund the new Southwest Gas pipeline, Pinal Energy agreed to pay a "Type A"
12 volumetric charge of \$0.069 per therm, subject to true-up against the actual cost of pipeline
13 construction. (A "therm" is equal to 100,000 British Thermal Units.) Pinal Energy also agreed
14 to take or pay for monthly minimum quantities of gas. The Type A charge was never approved
15 by the Commission.

16 17. To compensate Southwest Gas for its costs associated with transporting natural
17 gas for Pinal Energy and to assure that other Southwest Gas customers are not subsidizing the
18 transportation services, Pinal Energy also agreed to and has paid each month to Southwest Gas a
19 "Type B" charge of \$0.01300 per therm and a DOT Pipeline Safety Surcharge of \$0.00072 per
20 therm. The Type B charge was also never approved by the Commission.

21 18. Pinal Energy believes that Southwest Gas books all revenue received from Type
22 A charges as income, not as contributions in aid of construction.

23 19. The Facilities Agreements provided that once Southwest Gas constructed the
24 pipeline facilities, the Type A Charges paid by Pinal Energy would be trued up against the actual
25 cost of the pipeline facilities and adjusted accordingly on an ongoing basis.

26 20. The Pinal Energy ethanol facility began operations in August 2007. Each year,
27 Pinal Energy purchases transportation services from Southwest Gas, including paying
28 approximately \$70,000 per month in Type A Charges. Pinal Energy believes that it is one of
29 Southwest Gas' largest customers.

30 21. Addendum No. 1 estimated that the total cost of the required facilities would be

1 \$3,753,000. To date, Pinal Energy has paid Southwest Gas more than \$4 million in Type A
2 volumetric charges—more than the total estimated cost of the required facilities—and continues
3 to pay those charges each month.

4 22. Because of reduced natural gas demand in the Maricopa area, Southwest Gas has
5 been able to temporarily provide transportation service for Pinal Energy over existing facilities,
6 together with new facilities that Southwest Gas required Pinal Energy to fund (as an advance in
7 aid of construction) at a cost of \$154,380.

8 23. Pinal Energy has demanded that Southwest Gas construct the pipeline facilities,
9 conduct the true-up required by the Facilities Agreements, reduce or eliminate ongoing Type A
10 Charges, and refund excess Type A Charges paid.

11 24. Despite Southwest Gas' clear obligation set forth in the Facilities Agreements and
12 Pinal Energy's subsequent demands, Southwest Gas has refused to build the pipeline facilities
13 required by the Facilities Agreements and paid for by Pinal Energy through Type A charges.

14 25. Southwest Gas has also refused to reduce or refund any of the Type A Charges
15 Pinal Energy paid to Southwest Gas under the Facilities Agreements – charges intended to fund
16 construction of the interconnection pipeline.

17 26. Pinal Energy has fully performed its obligations under the Facilities Agreements,
18 including taking or paying for the required minimum monthly delivery requirements and paying
19 all Type A Charges.

20 27. Southwest Gas has refused to construct the pipeline facilities, conduct the true-up
21 required by the Facilities Agreements, reduce or eliminate ongoing Type A Charges, or refund
22 excess Type A Charges paid.

23 **III. RECENT DEVELOPMENTS**

24 28. On June 1, 2012, Pinal Energy shut down ethanol production due to current
25 economic conditions, including high energy costs. Although its natural gas requirements have
26 been greatly reduced, Pinal Energy continues to make all payments required by Facilities

1 Agreements, including all minimum bills. At present, no employees have been laid off and all
2 are receiving their full paychecks. Pinal Energy hopes to resume ethanol production as early as
3 next year, but cannot guarantee this.

4 29. Reducing or eliminating Southwest Gas' Type A charges, together with any
5 appropriate refunds, would reduce Pinal Energy's monthly costs, including its high energy costs,
6 and would make it more likely that Pinal Energy could soon resume ethanol production and
7 avoid the necessity of further cost-saving measures such as employee terminations.

8 **IV. RESERVATION OF RIGHTS**

9 30. On March 9, 2012, Pinal Energy filed a complaint against Southwest Gas in
10 Maricopa County Superior Court (Docket No. CV2012-050939) concerning the subject matter of
11 this Commission Complaint. Southwest Gas moved to dismiss the court complaint, arguing in
12 part that the Commission had exclusive jurisdiction to consider the subject matter of the court
13 complaint. On August 3, 2012, Judge Michael D. Gordon granted Southwest Gas' Motion,
14 holding that the Court did not have subject matter jurisdiction to hear the complaint. Pinal
15 Energy has appealed that decision.

16 31. By filing this Complaint with the Commission, Pinal Energy reserves all rights
17 without prejudice to make any arguments with the Court of Appeals, the Superior Court, and this
18 Commission concerning the jurisdiction of either the Commission or the Court over the subject
19 matter of this Complaint.

20 **V. REQUESTED RELIEF**

21 Pinal Energy asks the Commission

- 22 • To order Southwest Gas to perform its obligations set forth in the Facilities
23 Agreements, including constructing the Permanent Facilities, performing the required
24 true-up, reducing or eliminating ongoing Type A Charges, and refunding any excess
25 Type A Charges paid;
- 26 • Require Pinal Energy to correctly classify any revenues from Pinal Energy that have

Exhibit A

Incremental Natural Gas Facilities Agreement

- **Dated September 11, 2006**

SOUTHWEST GAS CORPORATION
INCREMENTAL NATURAL GAS FACILITIES AGREEMENT

This AGREEMENT is made and entered into as of the 11th day of September, 2006, by and between SOUTHWEST GAS CORPORATION, a California corporation, hereafter referred to as "Utility" and PINAL ENERGY, LLC, hereafter referred to as "Customer."

RECITALS

WHEREAS:

Customer desires to construct and operate an ethanol production plant and related facilities in Pinal County, in the State of Arizona.

Utility provides natural gas sales distribution and transportation service as a public utility in the States of Arizona, Nevada, and California.

In order for Customer to access supplies of natural gas required for its planned operations, it is necessary for Utility to construct pipeline facilities for service to Customer's proposed ethanol plant and related facilities.

In conjunction with this Agreement, Customer will enter into a separate natural gas sales or transportation service agreement with Utility.

THEREFORE, in consideration of the mutual covenants and agreements as herein set forth, Utility and Customer agree as follows:

ARTICLE I - DELIVERY POINTS AND QUANTITIES

Delivery of natural gas by Utility to Customer shall be at or near the points whose locations and capacities are described on Exhibit A. The maximum hourly flow rates shown for Phases I and II represent the natural gas requirements of the ethanol production plant. The cumulative maximum hourly flow rate on Exhibit A that is inclusive of Phase I, Phase II and the cogeneration plant (642 MCFH) will be adjusted by Utility upon completion of the facilities to reflect the final length of the pipeline. In no event will the maximum hourly flow rate available be greater than the adjusted amount, unless additional capacity is requested and paid for by Customer.

ARTICLE II - APPLICABLE RATES

This Agreement shall be subject to the provisions of Utility's Arizona Gas Tariff and the Rules and Regulations applicable thereto on file with the Arizona Corporation Commission and as amended from time to time, which by this reference are incorporated herein and made a part hereof.

This Agreement shall serve as a long-term facilities extension agreement. Construction of the facilities will allow Utility to provide Customer with natural gas sales or transportation service under a separate service agreement to be executed between Utility and Customer. The Effective

Rates shown on the attached Exhibit A shall apply to the separate service agreement if Customer elects Transportation Service under Utility's Arizona Gas Tariff Schedule No. T-1 during the term of this Agreement. These rates may be amended by mutual agreement of the parties, subject to the terms and conditions of Utility's Arizona Gas Tariff. Should Customer elect to take any other service from Utility other than T-1 Transportation Service, the rates to be charged for such service shall be according to the applicable charges set forth in Utility's Arizona Gas Tariff, but in no instance less than those shown on Exhibit A. The Minimum Annual Volumes as set forth in Article V, Section A and listed in Exhibit C shall remain in full force during the primary term of this Agreement and any deficiency between actual volumes and Minimum Annual Volumes will be charged at the rates as listed in Exhibit A regardless of the type of service provided.

The estimated cost of the facilities as described in Exhibit E of this Agreement is \$3,753,000. It is expressly understood and agreed to by the Customer that this is an estimate only and the actual costs for the required facilities may be more or less than \$3,753,000. Upon completion of the facilities, the Utility shall adjust the Charge identified on Exhibit A as "Volumetric Charge - Type A - Base Volumes - Years 1-10" according to the calculation shown on Exhibit B and Exhibit D to reflect the actual costs of the facilities constructed to serve Customer's operations.

For the duration of the Agreement, the Type B volumetric charge set forth in Exhibit A shall be increased annually on each anniversary of the beginning of the primary term. The increase shall be equal to one hundred percent (100%) of the preceding year (June over June) percentage increase in the Consumer Price Index - All Urban, All Items (CPI) as published by the Bureau of Labor Statistics of the United States Department of Labor, using 1982-1984 as the base period of 100. If the 1982-1984 base period shall no longer be used as an index, the revised base period and index established by the United States Bureau of Labor Statistics shall be utilized to calculate all rate increases. The Type B volumetric charge set forth in Exhibit A shall be revised to reflect this adjustment.

Customer anticipates that its ethanol plant operations described in this Agreement will be constructed in two phases. The effective rates shown on the Exhibit A apply to both Phase I and Phase II of the ethanol plant and related facilities provided that the steam produced by Customer is used exclusively at the Customer's ethanol plant, unless prior written approval is provided by Utility and such approval shall not be unreasonably withheld. Customer also anticipates that a cogeneration plant for the production of electric energy will be constructed on Customer's property. In the event a cogeneration plant is constructed on Customer's property, then the effective rates shown on Exhibit A will also apply to the cogeneration plant and Utility would consider a reduction in the minimum annual volumes as described in Article V, Section A and listed in Exhibit C of this Agreement, subject to the following conditions: 1) that the thermal output of the cogeneration plant is used to either generate additional electricity or to offset steam used exclusively by Customer's ethanol plant and related facilities; and 2) that a separate agreement which is acceptable to Utility is executed by Customer or such third party that may own and operate the cogeneration plant that will at least offset the reduction in minimum annual volumes. Customer is also responsible for funding for the costs of any incremental facilities associated with Phase II and the cogeneration plant. The parties shall mutually determine whether recovery of the costs of the additional facilities will be through direct payment or by

adjusting the Type A volumetric charges, or by a combination of both direct payment and adjustments to Type A volumetric charges.

ARTICLE III - TERM OF AGREEMENT

This Agreement shall become effective upon execution by both parties hereto. This Agreement shall continue in effect for a primary term of twenty (20) years beginning on the first day of the month following the completion of the natural gas facilities as described in Exhibit E, but no earlier than May 1, 2007. After the primary term, the Agreement would then continue from month to month thereafter, subject, however, to termination upon the first day of any month thereafter, by either party providing written notice stating the intent to terminate and given to the other no less than thirty (30) days in advance of the requested termination. Customer may also terminate this Agreement for any reason at the end of the tenth (10th) year of the primary term only if written notice is received by Utility by the end of the seventh (7th) year of the primary term. Otherwise, the Agreement continues for the full twenty (20) year primary term. In the event Customer elects the termination option during the primary term, Customer remains liable to Utility for the entirety of the balance of the costs of facilities built to serve Customer, plus the costs of any incremental facilities associated with Phase 2 and/or the cogeneration plant.

ARTICLE IV - NOTICES

Unless herein provided to the contrary, any notice called for in this Agreement shall be in writing and shall be considered as having been given if delivered personally or upon receipt by mail or nationally-recognized, dependable overnight delivery service, or by facsimile with all postage and charges prepaid, to either Customer or Utility at the place designated. Routine communications shall be considered as duly delivered upon receipt when mailed by ordinary mail. Normal operating instructions can be made by telephone. Unless changed, the addresses of the parties are as follows:

Southwest Gas Corporation	Pinal Energy, LLC
Attn: Key Accounts Management	Attn: General Manager
P.O. Box 98510, LVB-106	38585 West Cowtown Road
Las Vegas, NV 89193-8510	Maricopa, AZ 85239
Phone No. 702-364-3063	Phone No. 520-494-7594
Fax No. 702-365-5904	Fax No. 520-494-7593

Either party may change its address at any time upon prior written notice to the other.

ARTICLE V - OTHER OPERATING PROVISIONS

A. MINIMUM ANNUAL VOLUME

For each year of the Agreement that Customer takes service under T-1 Transportation Service or under a Special Procurement Agreement pursuant to Arizona Gas Tariff Rate Schedule G-30, then Customer shall be required to schedule a Minimum Annual Volume as set forth in Exhibit C. If the annual volume scheduled by Customer, net of any subsequent trades (in the case of Transportation Service), if applicable, is less than the respective annual amount as set forth in Exhibit C, then Customer shall pay Utility an amount equal to the sum of the currently effective

Type A and Type B Volumetric Charges shown on Exhibit A times the difference between the Minimum Annual Volume and the actual volume scheduled.

In the event Customer elects to take sales service other than under a G-30 Special Procurement Agreement during the term of this Agreement, the Minimum Annual Volume, as set forth in Exhibit C, shall be based on the annual metered volume applicable to the time period reflected in Exhibit C. If Customer's annual metered volume is less than the respective annual amount as set forth in Exhibit C, then Customer shall pay Utility an amount equal to the sum of then currently effective Type A and Type B Volumetric Charges shown on Exhibit A times the difference between the Minimum Annual Volume and the annual metered volume.

Any amounts due as a result of the difference between Minimum Annual Volumes and actual scheduled or metered volumes shall be separately identified by Utility on Customer's invoice and shall be due and payable upon presentation.

B. CONFIDENTIALITY

Neither Utility nor Customer, nor their respective affiliates, directors, officers, employees, agents or permitted assignees shall disclose to any third party the terms and provisions of this Agreement without the other party's prior written consent except as required by law or by the Arizona Corporation Commission, provided the disclosing party gives immediate notice of such a requirement to the nondisclosing party and cooperates in asserting any exclusions or privileges that may be available by law or in seeking a protective order with respect to such required disclosures.

C. SCOPE OF WORK

The responsibilities of both Utility and Customer related to the natural gas facilities contemplated in this Agreement are described in Exhibit E.

D. COMPLETION OF FACILITIES

Customer, at its sole expense, shall provide Utility with all easements and rights of way required for construction of the facilities as directed by Utility, based upon the proposed routing of the facilities that will serve Customer. Any required easements or rights of way so obtained shall name Utility and its successors and assigns as grantee. Utility will not be obligated to begin preliminary efforts or actual construction for the facilities until such easements and rights of way have been provided to Utility by Customer.

Utility makes no representations, warranties, or promises, either express or implied, with respect to the completion date for construction of the facilities. However, Utility will use all commercially reasonable efforts to complete the facilities by the Customer's requested in-service date of May 1, 2007.

E. LIMIT OF LIABILITY

Neither Utility, nor its affiliates, subcontractors, agents and/or employees shall be liable for any special, incidental, indirect, exemplary, consequential or other damages, including

without limitation, loss of product, loss of profit or revenue, loss of use, costs of replacement power or supply, or delivery obligations as a result of any delay in completing construction of the facilities by the requested in-service date, even if Utility has been advised of the possibility of such damages.

F. FINANCIAL SECURITY REQUIREMENTS

As a condition precedent to formation of this Agreement and before any obligation by Utility to perform, Customer shall, as a material obligation of this Agreement, provide Utility with a duly executed irrevocable letter of credit (ILOC) in favor of Utility with a financial institution rated "C" or better by Thomson Bankwatch. Such ILOC shall be in an initial amount of \$1,000,000, plus as further specified in Exhibit D and as modified for actual construction costs, all in a form acceptable to Utility. The Customer shall be allowed to reduce the amount of the required ILOC according to the schedule in Exhibit D and as modified for actual construction costs, as long as the Customer has either met the Minimum Annual Volumes or compensated the Utility for any deficiency according to Article V, Section A of this agreement.

The ILOC, which shall be procured at Customer's sole expense, shall remain in full force and effect at all times from the execution date of this Agreement through the first ten (10) years of the primary term of this Agreement and Customer's obligations have been fully satisfied.

Such ILOC shall not be canceled, terminated, or materially changed with less than thirty (30) days prior written notice having been given to Utility. In the event of the cancellation or termination of such ILOC, Customer shall be required to furnish Utility with a new or replacement ILOC acceptable to Utility within twenty (20) calendar days prior to the effective date of the cancellation or termination of the prior ILOC. The parties expressly acknowledge and agree that the failure of Customer to furnish Utility with a new or replacement ILOC within such twenty (20) day period shall be deemed an act of default and constitute a material breach of this agreement. If a breach has occurred as aforementioned, Utility reserves the right to cash in the ILOC. If Utility receives written notice that Customer's ILOC is subject to cancellation, termination, or material change, Utility shall provide such notice to the Customer via photocopy.

G. RECOVERY OF COSTS

Customer acknowledges that, between the effective date of this Agreement and commercial operation of Customer's plant, Utility shall incur certain costs and expenses prior to, and in anticipation of, construction of the facilities contemplated in this Agreement, including, but not limited to, such items as required permits, engineering design, surveying, and materials procurement. In the event Customer does not proceed with or complete its planned operations, for whatever reason(s), then Customer shall reimburse Utility for all such costs and expenses incurred by Utility, but only to the extent such costs are directly related to the facilities.

If Utility terminates this Agreement for any material reason permitted by this Agreement or Utility's tariffs, prior to completion of the contemplated facilities, Utility shall determine the total costs owed by Customer for any costs incurred by Utility as of such date for labor and materials with respect to the facilities. Utility shall bill Customer for said amount and Customer agrees to pay such amount.

It is expressly understood and agreed by Customer that the obligation to reimburse Utility for the costs associated with the facilities shall survive the expiration or termination of this Agreement by either party for any reason. At the time this Agreement is terminated, except and unless the termination is a consequence of a material breach by Utility, Customer will pay Utility the following: (a) the applicable remaining net book value of the facilities as set forth in Exhibit D Security Amount, including any costs incurred preliminary to actual construction; (b) any cost incurred associated with termination of service and/or this Agreement; and (c) all reasonable costs incurred to remove the Onsite facilities. Customer also agrees that, in all events, Utility will retain ownership of the facilities free and clear of any claim by Customer.

ARTICLE VI- PRIOR AGREEMENTS

Customer recognizes that Utility has existing agreements and working relationships with its supplier pipeline companies and Utility agrees to cooperate reasonably with them for the purpose of receiving, transporting and delivering Customer's gas in a practical and efficient manner. Nothing in this Agreement shall be construed in any manner as limiting or modifying the rights or obligations of either party under Utility's Arizona Gas Tariff on file with the Arizona Corporation Commission and any service agreement executed by the parties for service thereunder.

When this Agreement takes effect, it supersedes, cancels, and terminates the following agreement(s):

- None -

ARTICLE VII - REGULATORY REQUIREMENTS

This Agreement, all terms and provisions contained or incorporated herein, and the respective obligations of the parties hereunder are subject to all valid laws, orders, rules and regulations of duly constituted authorities having jurisdiction over the subject matter of this Agreement. This Agreement shall at all times be subject to such changes or modifications by the Arizona Corporation Commission as it may from time to time direct in the exercise of its jurisdiction.

Should the Arizona Corporation Commission or any other regulatory or successor governmental agency having jurisdiction impose by rule, order or regulation any terms or conditions upon this Agreement which are not mutually satisfactory to the parties, then either party upon the issuance of such rule, order or regulation, and at least 30 days written notification to the other party, may terminate this Agreement.

ARTICLE VIII - SUCCESSORS AND ASSIGNS

This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. No assignment or transfer by Customer shall be made without written approval by Utility. Such approval shall not be unreasonably withheld. As between the parties hereto, such assignment shall become effective on the first day of the month following written notice that such assignment has been effectuated. Any unauthorized assignment or transfer is void, not merely voidable.

ARTICLE IX - RULES

The standard Rules of the Utility as authorized by and on file with the Arizona Corporation Commission in the Utility's Arizona Gas Tariff shall apply to the transaction to be performed hereunder, and are hereby incorporated by reference into this Agreement, except as otherwise provided in this Agreement.

ARTICLE X - RELATIONSHIP OF THE PARTIES

The relationship of the Parties hereunder shall be that of independent parties. Neither Party is intended to have, nor shall any represent to any other person that it has any power, right or authority to bind the other Party, or to assume or create any obligation or responsibility, express or implied, on behalf of the other Party, except as expressly required or authorized by this Agreement, or as otherwise permitted in writing. Nothing in this Agreement shall be construed to create any partnership, joint venture, employment relationship, franchise, or agency as between the Parties.

Nothing in this Agreement, express or implied, is intended to confer any rights or remedies under or by reason of this Agreement on any persons other than the parties to the Agreement and their respective successors and assigns, nor is anything in this Agreement intended to relieve or discharge the obligation or liability of any third persons to any party to the Agreement, nor shall any provision give any third person the right of subrogation or action over any party to the Agreement.

ARTICLE XI - MODIFICATIONS

Modifications or changes to this Agreement must be in writing, signed by the Parties.

ARTICLE XII - SEVERABILITY

Whenever possible, each provision of this Agreement shall be interpreted in such manner so as to be effective and valid under applicable law. If any provision of this Agreement shall be deemed to be prohibited or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity. Such prohibition or invalidity shall not invalidate the remainder of the provision or the other provisions of this Agreement.

ARTICLE XIII - CUMULATIVE RIGHTS; NO WAIVER OF RIGHTS

Each and every right granted to a party or allowed by law or equity shall be cumulative and not exclusive. No failure to exercise, or a delay in exercising any right, will operate as a waiver thereof, nor will any single or partial exercise of any right by a party preclude any other or future exercise thereof or the exercise of any other right.

ARTICLE XIV – GOVERNING LAW

This Agreement shall be construed, interpreted and enforced in accordance with the laws of the State of Arizona.

ARTICLE XV – ENTIRE AGREEMENT

This Agreement and the attached exhibits constitute the entire agreement and understanding of the parties with respect to the subject matter of this Agreement. The Agreement supersedes all prior agreements and understandings, oral or written, between the parties regarding the subject matter. This Agreement may be executed in counterparts, each of which shall be deemed to be an original and all of which taken together shall constitute one and the same agreement.

SOUTHWEST GAS CORPORATION

"Utility"

By: William N. Moody

William N. Moody

Title: Vice President Gas Resources

Date: 9/26/06

PINAL ENERGY, LLC

"Customer"

By: John Skelley

John Skelley

Title: General Manager

Date: 9-11-06



**SOUTHWEST GAS CORPORATION
INCREMENTAL NATURAL GAS FACILITIES AGREEMENT
STATEMENT OF EFFECTIVE RATES**

EFFECTIVE RATES

	<u>Amount</u>
Basic Service Charge Per Month Per Meter: ¹	\$ <u>720.00</u>
Volumetric Charge Per Therm:	
Type A – Base Volumes, Years 1 – 10	\$ <u>0.06900</u>
Type A – Base Volumes, Years 11 – 20	\$ <u>0.02200</u>
Type B – All Volumes, Years 1 – 20	\$ <u>0.01300</u>
DOT Pipeline Safety Surcharge/therm all usage ^{2,3}	\$ <u>0.00072</u>

Effective Date: Upon completion of Natural Gas Facilities

Phase	CSS Account No.	Meter No.	Delivery Point(s)	Delivery Pressure	Cummulative Maximum Hourly Flow (Mcfh)	Therms by Priority
#1	TBD	TBD	38585 W. Cowtown Rd.	50 Psig	286	P3b
#2	TBD	TBD	38585 W. Cowtown Rd.	50 Psig	572	P3b
Cogen	TBD	TBD	38585 W. Cowtown Rd.	Southwest Gas Line Pressure no less than 400 Psig and no more than 600 Psig	642	P3b

Date Issued: September 8, 2006 (Original)
Customer: PINAL ENERGY, LLC

SOUTHWEST GAS CORPORATION
"Utility"

By: William N. Moody
William N. Moody
Title: Vice President Gas Resources
Date: 9/26/06

PINAL ENERGY, LLC
"Customer"

By: John Skelley
John Skelley
Title: General Manager
Date: 9-11-06



¹ The Basic Service Charge per month per meter shall be revised from time to time upon approval by the ACC.
² The DOT Pipeline Safety Surcharge shall be revised from time to time upon approval by the ACC.
³ The Customer will also be responsible for any other charges that the Arizona Corporation Commission may mandate.

SOUTHWEST GAS CORPORATION
INCREMENTAL NATURAL GAS FACILITIES AGREEMENT
CALCULATION OF CONSTRUCTION COST TRUE-UP

CALCULATION OF CONSTRUCTION COST TRUE-UP

Estimated Construction Costs (\$) [A]	Actual Construction Costs (\$) [B]	Initial Volumetric Charge Type A Base Volumes Years 1 - 10 (\$/therm) [C]	Initial Type B All Volumes Years 1 - 20 (Initial Rate) (\$/therm) [D]	Adjusted Volumetric Charge Type A Base Volumes Years 1 - 10 (\$/therm) [E]
\$3,753,000	\$1,553,000	\$0.069	\$0.013	\$0.0209
\$3,753,000	\$1,753,000	\$0.069	\$0.013	\$0.0253
\$3,753,000	\$1,953,000	\$0.069	\$0.013	\$0.0297
\$3,753,000	\$2,153,000	\$0.069	\$0.013	\$0.0340
\$3,753,000	\$2,353,000	\$0.069	\$0.013	\$0.0384
\$3,753,000	\$2,553,000	\$0.069	\$0.013	\$0.0428
\$3,753,000	\$2,753,000	\$0.069	\$0.013	\$0.0472
\$3,753,000	\$2,953,000	\$0.069	\$0.013	\$0.0515
\$3,753,000	\$3,153,000	\$0.069	\$0.013	\$0.0559
\$3,753,000	\$3,353,000	\$0.069	\$0.013	\$0.0603
\$3,753,000	\$3,553,000	\$0.069	\$0.013	\$0.0646
\$3,753,000	\$3,753,000	\$0.069	\$0.013	\$0.0690
\$3,753,000	\$3,953,000	\$0.069	\$0.013	\$0.0734
\$3,753,000	\$4,153,000	\$0.069	\$0.013	\$0.0777
\$3,753,000	\$4,353,000	\$0.069	\$0.013	\$0.0821
\$3,753,000	\$4,553,000	\$0.069	\$0.013	\$0.0865
\$3,753,000	\$4,753,000	\$0.069	\$0.013	\$0.0908
\$3,753,000	\$4,953,000	\$0.069	\$0.013	\$0.0952
\$3,753,000	\$5,153,000	\$0.069	\$0.013	\$0.0996
\$3,753,000	\$5,353,000	\$0.069	\$0.013	\$0.1040
\$3,753,000	\$5,553,000	\$0.069	\$0.013	\$0.1083
\$3,753,000	\$5,753,000	\$0.069	\$0.013	\$0.1127
\$3,753,000	\$5,953,000	\$0.069	\$0.013	\$0.1171

Calculation

$$E = (B / A * (C + D)) - D$$

Date Issued: September 7, 2006
Customer: PINAL ENERGY, LLC

SOUTHWEST GAS CORPORATION
INCREMENTAL NATURAL GAS FACILITIES AGREEMENT
EFFECTIVE MINIMUM ANNUAL VOLUME SCHEDULE
(Base Volumes)

MINIMUM ANNUAL VOLUMES (Base Volumes) BY YEAR:

Agreement Year	Minimum Annual Volume (Therms per Year)
Year 1 of Primary Term	13,426,000
Year 2 of Primary Term	13,426,000
Year 3 of Primary Term	10,234,000
Year 4 of Primary Term	10,234,000
Year 5 of Primary Term	10,234,000
Year 6 of Primary Term	10,234,000
Year 7 of Primary Term	10,234,000
Year 8 of Primary Term	10,234,000
Year 9 of Primary Term	10,234,000
Year 10 of Primary Term	10,234,000
Year 11 of Primary Term	10,234,000
Year 12 of Primary Term	10,234,000
Year 13 of Primary Term	10,234,000
Year 14 of Primary Term	10,234,000
Year 15 of Primary Term	10,234,000
Year 16 of Primary Term	10,234,000
Year 17 of Primary Term	10,234,000
Year 18 of Primary Term	10,234,000
Year 19 of Primary Term	10,234,000
Year 20 of Primary Term	10,234,000

Date Issued: September 7, 2006 (Original)
Customer: PINAL ENERGY, LLC

SOUTHWEST GAS CORPORATION
INCREMENTAL NATURAL GAS FACILITIES AGREEMENT
SCHEDULE OF SECURITY REQUIREMENTS

SECURITY REQUIREMENTS¹

Schedule	Security Amount
Upon Execution of Agreement	\$1,000,000
Prior to Commencement of Construction	\$3,753,000
Year 1 of Primary Term	\$3,753,000
Year 2 of Primary Term	3,377,700
Year 3 of Primary Term	3,002,400
Year 4 of Primary Term	2,627,100
Year 5 of Primary Term	2,251,800
Year 6 of Primary Term	1,876,500
Year 7 of Primary Term	1,501,200
Year 8 of Primary Term	1,125,900
Year 9 of Primary Term	750,600
Year 10 of Primary Term	375,300
Years 11 – 20 of Primary Term	None

Date Issued: September 8, 2006 (Original)
Customer: PINAL ENERGY, LLC

¹ This schedule is based upon the estimated Facilities cost of \$3,753,000 and will be adjusted to reflect the final Facility costs per the terms of the Agreement.

**Scope of Work Document
Related to Incremental Natural Gas Facilities
to Serve Pinal Energy, LLC**

Component Definitions

Note: These facilities will ultimately be constructed, owned, operated and maintained by Southwest Gas Corporation (Southwest) unless otherwise noted.

- **El Paso Natural Gas (El Paso) Delivery Point** – The physical tap of the El Paso pipeline(s), the El Paso metering station, and all associated facilities that are designed, constructed, owned, operated and maintained by El Paso.
- **Delivery Point Regulation Station** – This pressure regulation station is immediately downstream of the El Paso Delivery Point and upstream of the Pipeline.
- **Pipeline** – This pipeline will run from the downstream valve at the Delivery Point Regulation Station to the upstream valve for the Onsite Facilities.
- **Onsite Facilities** – All of the natural gas facilities located at the plant site immediately downstream of the Pipeline and upstream of the Customer Houeline that are required to properly regulate and measure the natural gas requirements for Pinal Energy's Phase I. These facilities will include a regulation station, meter set assembly(ies) and all associated equipment. The onsite facilities that will be required for both Phase II and the proposed cogeneration plant will be designed and constructed to coincide with the in-service schedules for those projects.
- **Customer Houeline** – The natural gas facilities between the outlet valve at Southwest Meter Set Assembly(ies) and the individual gas loads. These facilities will be designed, constructed, owned and operated by Pinal Energy.

**Scope of Work Document
Related to Incremental Natural Gas Facilities
to Serve Pinal Energy, LLC**

Pinal Energy, LLC (Pinal Energy)

Responsibilities

- Complete the full design of the Pipeline per Southwest's specifications from the downstream valve of the El Paso Delivery Point to the upstream valve of the Onsite Facilities. Design drawings will be submitted to Southwest for review at 30%, 60%, 90%, and 100% of completion.
- Prepare a materials list for all pipe, fittings and associated materials required for installation and nondestructive testing of the Pipeline.
- Obtain the El Paso Delivery Point facilities through separate agreement with El Paso. Rights to this tap shall be assigned to Southwest as the receiving party prior to the in-service date.
- Obtain and/or provide all necessary easements and/or right-of-way from the outlet of the El Paso Delivery Point to the inlet of the Customer Housetine. These easements will need to be recorded in the name of, and to the benefit of, Southwest, its successors and assigns, prior to the installation date.
- Obtain all permits for the natural gas facilities from the outlet of the El Paso Delivery Point to the inlet of the Customer Housetine. (Railroad, Arizona Department of Transportation (ADOT), Pinal County, Environmental, Storm Water Discharge, etc. as required)

Southwest Gas Corporation (Southwest)

Responsibilities

- Provide design specifications for the Pipeline to Customer or Customer's designated engineering design firm.
- Provide periodic design reviews to ensure that the Pipeline design meets Southwest's specifications. (30-60-90-100% Reviews)
- Specify, order, and purchase material for Delivery Point Regulation, Pipeline, and Onsite Facilities, upon receipt of the irrevocable letter of credit specified in Exhibit D.
- Prepare all necessary bid documentation and bid the Pipeline construction, installation, inspection, and nondestructive testing.
- Manage the construction of the Pipeline, including installation, inspection and testing.
- Design and construct the Delivery Point Regulation Station and the Onsite Facilities.
- Provide pipeline capacity to Pinal Energy per pending agreement.
- The Pipeline will have capacity greater than that contracted for by Pinal Energy. Unused capacity will be available to Southwest to be used for its system customers.
- Southwest will fund costs associated with increasing the capacity of the natural gas facilities over and above that required for Pinal Energy ethanol plant and proposed

**Scope of Work Document
Related to Incremental Natural Gas Facilities
to Serve Pinal Energy, LLC**

cogeneration plant requirements. Such increased capacity will be for Southwest's own needs and requirements to serve customers other than Pinal Energy.

- Own, operate and maintain the Delivery Point Regulation Station, Pipeline and Onsite Facilities.

Exhibit B

Addendum to Incremental Natural Gas Facilities Agreement

- Dated April 10, 2007

ADDENDUM 1 to
INCREMENTAL NATURAL GAS FACILITIES AGREEMENT

This ADDENDUM 1 is made and entered into as of the 10th day of April, 2007, by and between SOUTHWEST GAS CORPORATION, a California corporation, hereafter referred to as "Utility" and PINAL ENERGY, LLC, hereafter referred to as "Customer," and collectively referred to as "the Parties."

RECITALS

Previously Customer and Utility entered into an Incremental Natural Gas Facilities Agreement ("Agreement"), dated September 11, 2006. The Agreement defined the responsibilities of Customer concerning the construction and operation of an ethanol production plant and related facilities in Pinal County, in the State of Arizona and related access to and commitments for natural gas service for the ethanol plant and related facilities, as well as the responsibility of Utility to construct pipeline facilities for service to the proposed ethanol plant and related facilities. The Agreement was structured based on preliminary estimates and designs for a single pipeline and related facilities to serve the natural gas requirements of the anticipated phased construction of the ethanol plant and related facilities.

In order to meet Customer's requested in-service date for Phase 1 of the ethanol plant, Customer requested that the Utility construct, own, operate and maintain a pipeline and related facilities (collectively referred to as the Northern Route) from the Utility's existing distribution system to the Customer's Delivery Point. Specifically, the Northern Route facilities include the Cowtown pipeline, which runs along Cowtown Road from White and Parker Roads to the plant site, and the onsite facilities, which include the service line, onsite regulation station, and the meter set assembly.

Because Utility can provide service through the upstream system that feeds the Northern Route facilities only for a limited period of time, but not later than October 1, 2008 (or longer at Utility's sole discretion), and only to serve Phase 1 requirements as defined in the Agreement, the Utility will also construct, own, operate and maintain a second pipeline and related facilities (collectively referred to as the Permanent Route). Utility shall also acquire, also at Customer's expense, the necessary easements for the Permanent Route. All facilities associated with both the Northern Route and the Permanent Route shall be referred to as the "Combined Facilities."

This ADDENDUM 1 modifies or revises certain terms and conditions in the Agreement Articles to which the parties previously agreed with respect to final designs and plans for the construction of pipeline facilities in light of the Combined Facilities. The specific modifications are comprised of: Article I; Paragraphs Two, Three, and Five of Article II; Article III; Article V. D; and Paragraph One of Article V.F., Article V, Part C is deleted in its entirety. The ADDENDUM also includes revisions to Exhibits A, B, and D to the Agreement and deletes Exhibit E in its entirety. These revised Exhibits are attached hereto and incorporated by reference, replacing the prior exhibits and their references throughout the Agreement in their entirety. All other terms and conditions of the Agreement remain in full force and effect.

This ADDENDUM 1 shall become effective upon the date of signature of both parties. This ADDENDUM 1 may be executed in counterparts, each of which shall be deemed to be an original and all of which taken together shall constitute one and the same agreement.

THEREFORE, in consideration of the mutual covenants and agreements herein set forth, and consistent with Article XI of the Agreement concerning Modifications, the Parties agree to the following modifications to the Agreement.

Modification 1. For ARTICLE 1, Delivery Points and Quantities, the entire article in the Agreement is replaced as follows:

ARTICLE I - DELIVERY POINTS AND QUANTITIES

Delivery of natural gas by Utility to Customer shall be at or near the points whose locations and capacities are described on Revised Exhibit A. The maximum hourly flow rates shown for Phases I and II represent the natural gas requirements of the ethanol production plant. The cumulative maximum hourly flow rate on Revised Exhibit A that is inclusive of Phase I, Phase II and the cogeneration plant (642 MCFH) will be adjusted by Utility upon completion of the Permanent Route facilities to reflect the final length of the Permanent Route's pipeline. In no event will the maximum hourly flow rate available be greater than the adjusted amount, unless additional capacity is requested and paid for by Customer.

Modification 2. For ARTICLE II, Applicable Rates, the second and third paragraphs of the Agreement are replaced as follows:

ARTICLE II - APPLICABLE RATES

This Agreement shall serve as a long-term facilities extension agreement. Construction of the facilities will allow Utility to provide Customer with natural gas sales or transportation service under a separate service agreement to be executed between Utility and Customer. The Effective Rates shown on the attached Revised Exhibit A shall apply to the separate service agreement if Customer elects Transportation Service under Utility's Arizona Gas Tariff Schedule No. T-1 during the term of this Agreement. These rates may be amended by mutual agreement of the parties, subject to the terms and conditions of Utility's Arizona Gas Tariff. Should Customer elect to take any other service from Utility other than T-1 Transportation Service, the rates to be charged for such service shall be according to the applicable charges set forth in Utility's Arizona Gas Tariff, but in no instance less than those shown on Revised Exhibit A. The Minimum Annual Volumes as set forth in Article V, Section A and listed in Exhibit C shall remain in full force during the primary term of this Agreement and any deficiency as defined in Article V Section A will be charged at the rates as listed in Revised Exhibit A regardless of the type of service provided.

The estimated base cost of the facilities forming the basis of the Agreement is \$3,753,000. It is expressly understood and agreed to by the Customer that this is an estimate only and the actual costs for the Combined Facilities, and associated easements, may be more or less than \$3,753,000. Upon completion of the Permanent Route, the Utility shall adjust the Charge identified on Revised Exhibit A as "Volumetric Charge - Type A - Base Volumes - Years 1-10" according to the calculation shown on Revised Exhibit B and Revised Exhibit D to reflect the actual costs of the Combined Facilities constructed to serve Customer's operations.

Modification 3. For ARTICLE II, Applicable Rates, the second sentence of the Fifth Paragraph is corrected for a misspelling of the word "facilities."

Modification 4. For ARTICLE III, Term of Agreement, the entire Article in the Agreement is replaced as follows:

ARTICLE III - TERM OF AGREEMENT

This Agreement shall become effective upon execution by both parties hereto. This Agreement shall continue in effect for a primary term of twenty (20) years beginning on the first day of the month following the completion of the Northern Route, but no earlier than May 1, 2007. After the primary term, the Agreement would then continue from month to month thereafter, subject, however, to termination upon the first day of any month thereafter, by either party providing written notice stating the intent to terminate and given to the other no less than thirty (30) days in advance of the requested termination. Customer may also terminate this Agreement for any reason at the end of the eleventh (11th) year of the primary term only if written notice is received by Utility by the end of the eighth (8th) year of the primary term. Otherwise, the Agreement continues for the full twenty (20) year primary term. In the event Customer elects the termination option during the primary term, Customer remains liable to Utility for the entirety of the balance of the costs of the Combined Facilities built to serve Customer, plus the costs of any incremental facilities associated with Phase 2 and/or the cogeneration plant.

Modification 5. For ARTICLE V, Other Operating Provisions, Part C, Scope of Work, is deleted in its entirety.

Modification 6. For ARTICLE V, Other Operating Provisions, Part D is replaced in its entirety as follows:

ARTICLE V – OTHER OPERATING PROVISIONS

D. COMPLETION OF FACILITIES

Customer, at its sole expense, shall obtain the El Paso Delivery Point Facilities ("tap") for the Permanent Route through a separate agreement with El Paso Natural Gas Company ("El Paso"). Customer shall ensure all rights for this tap are assignable to Utility in Customer's agreement with El Paso. Customer shall assign its rights to this tap to Utility as the receiving party prior to the required in-service date of the Permanent Route.

Utility, as part of its design and construction of the Permanent Route, will secure the necessary rights-of-way and easements required for the Permanent Route. The costs of such rights-of-way and easements shall be included in the actual costs of the Combined Facilities and included for recovery of costs under the Agreement. Customer, at its sole expense, shall also provide all necessary easements for any portion of the Combined Facilities to be located on the Customer's property.

Utility makes no representations, warranties, or promises, either express or implied, with respect to the completion date for construction of the facilities. However, Utility will use all commercially reasonable efforts to complete the Northern Route facilities by the Customer's requested in-service date of May 1, 2007, and to complete the Permanent Route by October 1, 2008.

Modification 7. For ARTICLE V, Other Operating Provisions, Part F, the first paragraph Part F, Financial Security Requirements, is replaced as follows:

ARTICLE V – OTHER OPERATING PROVISIONS

F. FINANCIAL SECURITY REQUIREMENTS

As a condition precedent to formation of this Agreement and before any obligation by Utility to perform, Customer shall, as a material obligation of this Agreement, provide Utility with a duly executed irrevocable letter of credit (ILOC) in favor of Utility with a financial institution rated "C" or better by LACE Financial Corporation or equivalent. Such ILOC shall be in an initial amount of \$660,000 (Six-Hundred Sixty Thousand dollars), plus as further specified in Revised Exhibit D and as modified for actual construction costs, all in a form acceptable to Utility. The Customer shall be allowed to reduce the amount of the required ILOC according to the schedule in Revised Exhibit D and as modified for actual construction costs of the Combined Facilities, as long as the Customer has either met the Minimum Annual Volumes or compensated the Utility for any deficiency according to Article V, Section A of this Agreement.

Modification 8. The Parties acknowledge that there are numerous references throughout the Agreement to Exhibits A, B and D. Those Exhibits are now revised and the revised Exhibits are part of this ADDENDUM 1. Therefore, the Parties agree that all references in the original Agreement to "Exhibit A," "Exhibit B," or "Exhibit D" are hereby modified to read "Revised Exhibit A," "Revised Exhibit B," and "Revised Exhibit D," as applicable. Exhibit E is deleted in its entirety.

THE SIGNATURES OF THE DULY AUTHORIZED REPRESENTATIVES OF THE PARTIES SHOWN BELOW INDICATE THEIR ACCEPTANCE OF THIS ADDENDUM 1.

SOUTHWEST GAS CORPORATION

"Utility"

By: William N. Moody
Title: Vice President Gas Resources
Date: 4/10/07

PINAL ENERGY, LLC

"Customer"

By: John Skelley
Title: General Manager
Date: 4-10-07



**SOUTHWEST GAS CORPORATION
INCREMENTAL NATURAL GAS FACILITIES AGREEMENT**

STATEMENT OF EFFECTIVE RATES

EFFECTIVE RATES

	<u>Amount</u>
Basic Service Charge Per Month Per Meter: ¹	\$ 720.00
Volumetric Charge Per Therm:	
Type A – Base Volumes, Years 1 – 10	\$ 0.06900
Type A – Base Volumes, Year 11	\$ 0.03300
Type A – Base Volumes, Years 12 – 20	\$ 0.02200
Type B – All Volumes, Years 1 – 20	\$ 0.01300
DOT Pipeline Safety Surcharge/therm all usage ^{2,3}	\$ 0.00072

Effective Date: Upon completion of Natural Gas Facilities

Phase	CSS Account No.	Meter No.	Delivery Point(s)	Delivery Pressure	Cumulative Maximum Hourly Flow (Mcfh)	Therms by Priority
#1	TBD	TBD	38585 W. Cowtown Rd.	50 Psig	286	P3b
#2	TBD	TBD	38585 W. Cowtown Rd.	50 Psig	572	P3b
Cogen	TBD	TBD	38585 W. Cowtown Rd.	Southwest Gas Line Pressure no less than 400 Psig and no more than 600 Psig	642	P3b

Date Issued: April 10, 2007 supersedes Exhibit A issued September 8, 2006
Customer: PINAL ENERGY, LLC

SOUTHWEST GAS CORPORATION

"Utility"

By: *William N. Moody*
William N. Moody
Title: Vice President Gas Resources

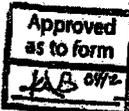
Date: 4/10/07

PINAL ENERGY, LLC

"Customer"

By: *John Skelley*
John Skelley
Title: General Manager

Date: 4-10-07



¹ The Basic Service Charge per month per meter shall be revised from time to time upon approval by the ACC.
² The DOT Pipeline Safety Surcharge shall be revised from time to time upon approval by the ACC.
³ The Customer will also be responsible for any other charges that the Arizona Corporation Commission may mandate.

**SOUTHWEST GAS CORPORATION
INCREMENTAL NATURAL GAS FACILITIES AGREEMENT
CALCULATION OF CONSTRUCTION COST TRUE-UP**

CALCULATION OF CONSTRUCTION COST TRUE-UP

Base Cost of Facilities (\$) [A]	Actual Cost of Facilities Including Both the Northern and Permanent Routes (\$) [B]	Initial Volumetric Charge Type A Base Volumes Years 1 - 10 (\$/therm) [C]	Initial Type B All Volumes Years 1 - 20 (Initial Rate) (\$/therm) [D]	Adjusted Volumetric Charge Type A Base Volumes Years 1 - 10 (\$/therm) [E]
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\$3,753,000	\$2,753,000	\$0.069	\$0.013	\$0.0472
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\$3,753,000	\$4,353,000	\$0.069	\$0.013	\$0.0821
\$3,753,000	\$4,553,000	\$0.069	\$0.013	\$0.0865
\$3,753,000	\$4,753,000	\$0.069	\$0.013	\$0.0908
\$3,753,000	\$4,953,000	\$0.069	\$0.013	\$0.0952
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\$3,753,000	\$5,753,000	\$0.069	\$0.013	\$0.1127
\$3,753,000	\$5,953,000	\$0.069	\$0.013	\$0.1171

Calculation

$$E = (B / A * (C + D)) - D$$

Date Issued: April 10, 2007 supersedes Exhibit B issued September 7, 2006
Customer: PINAL ENERGY, LLC

**SOUTHWEST GAS CORPORATION
INCREMENTAL NATURAL GAS FACILITIES AGREEMENT
EFFECTIVE MINIMUM ANNUAL VOLUME SCHEDULE
(Base Volumes)**

MINIMUM ANNUAL VOLUMES (Base Volumes) BY YEAR:

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Year 9 of Primary Term	10,234,000
Year 10 of Primary Term	10,234,000
Year 11 of Primary Term	10,234,000
Year 12 of Primary Term	10,234,000
Year 13 of Primary Term	10,234,000
Year 14 of Primary Term	10,234,000
Year 15 of Primary Term	10,234,000
Year 16 of Primary Term	10,234,000
Year 17 of Primary Term	10,234,000
Year 18 of Primary Term	10,234,000
Year 19 of Primary Term	10,234,000
Year 20 of Primary Term	10,234,000

Date Issued: April 10, 2007 supersedes Exhibit C issued September 7, 2006
Customer: PINAL ENERGY, LLC

**SOUTHWEST GAS CORPORATION
INCREMENTAL NATURAL GAS FACILITIES AGREEMENT
SCHEDULE OF SECURITY REQUIREMENTS**

SECURITY REQUIREMENTS⁴

Schedule	Security Amount
Prior to Commencement of Construction of the Northern Route	\$642,000
Prior to the Placement of the Order for the Steel Pipe for the Permanent Route	\$1,642,000
Prior to Commencement of Construction of the Permanent Route	\$4,095,000
May 1, 2009	\$3,640,000
May 1, 2010	\$3,185,000
May 1, 2011	\$2,730,000
May 1, 2012	\$2,275,000
May 1, 2013	\$1,820,000
May 1, 2014	\$1,365,000
May 1, 2015	\$910,000
May 1, 2016	\$455,000
May 1, 2017 through the end of the Primary Term	None

Date Issued: April 10, 2007 supersedes Exhibit D issued September 8, 2006
Customer: PINAL ENERGY, LLC

⁴ This schedule will be adjusted to reflect the final cost of the Combined Facilities per the terms of the Agreement.