

Scope and Purpose of Gas Franchise Agreements



Austin Financial Services
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Purpose



Franchise agreements are intended to set parameters for a utility's use of a municipality's right-of-way and provide compensation to the municipality for that use. Chapter 103 of the Gas Utility Regulatory Act details a municipality's right to grant or refuse a franchise to use the streets and alleys in the municipality and impose a charge for that use pursuant to a franchise agreement.

By statute, both municipalities and the Railroad Commission (RRC) are “regulatory authorities” with original jurisdiction over gas utilities; however, the RRC has exclusive appellate jurisdiction to review a municipality's order or ordinance.

City Charter Requirements

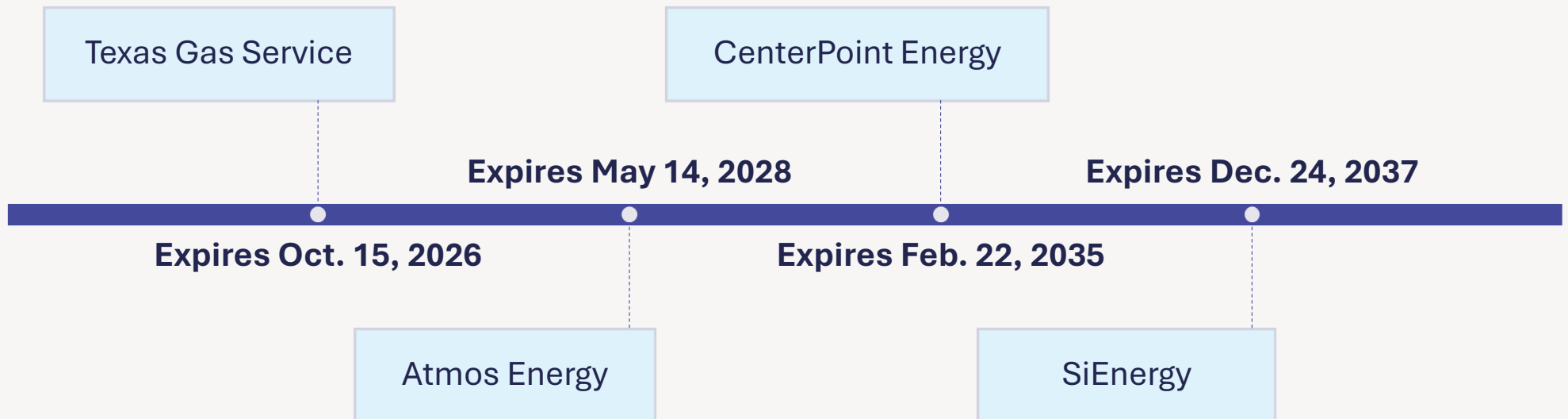


Article XI of the Austin City Charter grants the City Council the authority to grant, renew, and extend franchises for public utilities operating within the city, subject to specific procedures and limitations, and ensures that such agreements are formalized through ordinance and approved by the Council.

Term of no more than 25 years.

Every ordinance granting, renewing, extending, or amending a franchise shall be read at three regular meetings of the council and there must be 30 days between first and third reading. No such ordinance shall become effective until the expiration of 60 days following the date of its final adoption by the council. Subject to referendum procedure under state law.

Active Gas Franchise Agreements



Items Typically Included in a Franchise



- Permitting requirements, timelines, and approval process
- Plan requirements for utility's projects in the right-of-way
- Operational, maintenance, and engineering expectations
 - Requiring compliance with industry standards; excavation and restoration; warning signs and markers; meter installation; time periods; depth requirements; emergency notification, etc.
- Indemnification clause
- Liability insurance requirements
- Preserving city's rights to construct and make other necessary changes within right-of-way
- Relocation - logistics and cost responsibility
- Franchise fee – percentage of gross revenues (a term defined within the agreement), right to city audits of franchise payments

Items Addressed Outside of a Franchise



- Ratemaking generally handled in separate proceedings filed with municipalities and Railroad Commission
- Railroad Commission has exclusive original jurisdiction over energy conservation programs implemented by local distribution companies
- Approval of capital investment is generally sought through base rate proceedings or in interim mechanisms available to utilities (for example, Gas Reliability Infrastructure Program, or GRIP)
- Terms governing the utility's provision of gas service to customers