

TENNESSEE GAS PIPELINE CO. , v. KCS RESOURCES INC.

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By Bruce Vincent

A Zapata County jury awarded more than \$143 million to a gas pipeline company after local counsel and a team from Houston's **Susman Godfrey** argued that the company was duped into buying inferior gas for a year.

Susman Godfrey partner **Mark Wawro** and associate **Charles R. Eskridge III** represented Houston-based Tennessee Gas Pipeline Co. in the suit heard by visiting judge **Ronald Carr** in Laredo's 49th District Court **Lazaro Garza-Gongora Jr.**, a name partner in Laredo's **Garza-Gongora & Gutierrez**, provided local counsel for Tennessee Gas.

Tennessee Gas signed a contract in 1979 with San Antonio's KCS Resources Inc., a gas-producing subsidiary of Edison, NJ. based KCS Energy Inc., calling for KCS Resources to supply gas that contained at least 1000 British Thermal Units per cubic foot. Tennessee Gas alleged that KCS Resources secretly injected propane into the gas beginning in November 1993 so the gas would test as though it met the contract's minimum Btu rating. Tennessee Gas claimed the secret injections continued until it sued KCS Resources in November 1994.

In their Nov. 22 verdict, jurors found that KCS Resources had committed fraud by secretly injecting the propane and later denying that fact, and that the company wrongfully breached its contract with Tennessee Gas. The jury award included \$28.5 million in actual damages, \$114.1 million in punitive damages and \$473,000 in attorneys' fees.

KCS Resources was represented by name partner **Emerson Banack II** and partners **Kenneth L. Malone** and **Charles R. Roberts** from San Antonio's **Jeffers & Banack**. KCS also called on Laredo solo practitioner **Jose Vela Jr.** as local counsel.

C.R. "Bob" DeVine, president of KCS Resources, says the company will appeal if the verdict is entered as a judgment. A judgment had not been entered by press time.