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BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

February 3, 2003

IN RE:	)
	)
GASCO DISTRIBUTION SYSTEMS, INC.	) **Docket No. 02-00930**
ACTUAL COST ADJUSTMENT (ACA) AUDIT	)

NOTICE OF FILING BY ENERGY AND WATER DIVISION OF THE TENNESSEE REGULATORY AUTHORITY

Pursuant to Tenn. Code Ann. §§ 65-4-104, 65-4-111 and 65-3-108, the Energy and Water Division of the Tennessee Regulatory Authority gives notice of its filing of the Gasco Distribution Systems, Inc.'s ACA Audit Report in this docket and would respectfully state as follows:

1. The present docket was opened by the Authority to hear matters arising out of the audit of Gasco Distribution Systems, Inc. (the "Company").

2. The Company's ACA filing was received on September 3, 2002, and the Staff completed its audit of same on January 24, 2003.

3. On January 29, 2003, the Energy and Water Division issued its preliminary ACA audit findings to the Company, and on February 3, 2003, the Company responded thereto.

4. The preliminary ACA audit report was modified to reflect the Company's responses and a final ACA audit report (the "Report") resulted therefrom. The Report is

attached hereto as Exhibit A and is fully incorporated herein by this reference. The Report contains the audit findings of the Energy and Water Division, the Company's responses thereto and the recommendations of the Energy and Water Division in connection therewith.

5. The Energy and Water Division hereby files its Report with the Tennessee Regulatory Authority for deposit as a public record and approval of the recommendations and findings contained therein.

Respectfully Submitted:

Pat Murphy

Pat Murphy
Energy and Water Division of the
Tennessee Regulatory Authority

CERTIFICATE OF SERVICE

I hereby certify that on this 3rd day of February 2003, a true and exact copy of the foregoing has been either hand-delivered or delivered via U.S. Mail, postage pre-paid, to the following persons:

Sara Kyle
Chairman
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37243

Mr. Fred Steele
President and Chief Executive Officer
Gasco Distribution Systems, Inc.
4435 East Pike
Zanesville, OH 43701
FAX (740) 454-7780

Mr. Henry Walker
Boult, Cummings, Conners & Berry, PLC
414 Union Street, Suite 1600
P.O. Box 198062
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Pat Murphy

Pat Murphy

EXHIBIT A

COMPLIANCE AUDIT REPORT

OF

GASCO DISTRIBUTIONS SYSTEMS, INC.

ACTUAL COST ADJUSTMENT

Docket # 02-00930

PREPARED BY

TENNESSEE REGULATORY AUTHORITY

ENERGY AND WATER DIVISION

FEBRUARY 2003

COMPLIANCE AUDIT

GASCO DISTRIBUTIONS SYSTEMS, INC.

ACTUAL COST ADJUSTMENT

Docket # 02-00930

TABLE OF CONTENTS

I. INTRODUCTION

The subject of this audit is Gasco Distribution Systems Inc.'s ("Gasco" or the "Company") compliance with the Actual Cost Adjustment ("ACA") and Refund Adjustment ("RA") of the Purchased Gas Adjustment Rule ("PGA Rule") of the Tennessee Regulatory Authority ("TRA" or the "Authority").[1] The objective of the audit was to determine whether the purchased gas adjustments, which are encompassed by the ACA, and approved by the TRA for the twelve (12) months ended June 30, 2002, were calculated correctly and were supported by appropriate source documentation.

II. AUDIT OPINION

The Staff's audit resulted in no material dollar findings. For the current period under audit, the Company has timely applied the correct PGA factors and ACA factors to the customers' bills in both of its divisions. However, problems still exist in physically calculating the ending balance in the ACA account. Staff discovered formula errors for the Byrdstown/Fentress Division filing, despite the Company utilizing spreadsheet templates provided by Staff. While the underlying data was for the most part reported correctly, formula errors led to incorrect results.[2] Therefore, with the exception of findings and observations pointed out in this report, Staff concludes that the Purchased Gas Adjustment mechanism as calculated in the Actual Cost Adjustment is working properly in accordance with TRA rules for Gasco Distribution Systems, Inc.

Probation Review:

As a result of the findings in Docket No. 00-00998, the Authority conducted a show-cause proceeding and issued an Order[3] on August 24, 2001, placing Gasco on probation for a three (3) year period ending July 1, 2004. The Order stated that the *Revised Settlement* presented by the parties was accepted and approved. The terms of the *Revised Settlement* provided for $12,500 in fines against Gasco, of which $5,000 was due and payable on or before March 31, 2002. The remainder of $7,500 will be forgiven only if Gasco complies fully with TRA rules, directives, and orders during its probationary period.

Since the last Staff review, filing requirements for Gasco included an ACA filing, four (4) quarterly reports, and payment of the $5,000 fine. Gasco met all of these conditions in a timely manner except one. According to TRA Rule 1220-4-1-.10(2)(b)2., the quarterly report for the quarter ending March 31, 2002 was due May 30, 2002. The

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[1] See TRA Rule 1220-4-7. The ACA is more fully described in Section VI.
[2] A more detailed discussion and a detail of the audit exceptions can be found in Section X.
[3] A copy of the Authority Order (and its attached Revised Settlement Agreement) is attached as **Attachment 3** to this report.

report was received in the TRA's Energy and Water Division on August 5, 2002, a total of sixty-six (66) days late.[4]

The language in the Authority's August 24, 2001 Order is specific as to the consequences of any instance of non-compliance. (See Authority Order, page 4.)

> Gasco has agreed that any breach of the terms of the *Revised Settlement* would trigger the payment of "[t]he entire amount of the suspended fine…[to] become immediately due and payable thirty (30) days following the entry of a final order which finds that Gasco has not complied with the Authority's rules or orders."
>
> Gasco has agreed, based on this language in the *Revised Settlement*, that it will not, in the instance of a breach of the agreement, seek an extended payment plan, propose an alternative payment scheme, or otherwise move to alter, modify, or extend the terms of the Revised Settlement, but will, instead, pay in full consistent with the agreement.

III. BACKGROUND INFORMATION ON COMPANY AND GAS SUPPLIERS

Gasco Distribution Systems, Inc., with its office located in Jellico, Tennessee, is a subsidiary of The Titan Energy Group, Inc., which has its headquarters at 4435 East Pike, Zanesville, Ohio. The Company is a gas distributor, which provides service to the City of Jellico (Campbell County), City of Byrdstown (Pickett County) and a few customers in Fentress County, all of which are located in northeast Tennessee. It has approximately 500 customers and an annual sales volume of approximately 57,000 MCF. In addition to Tennessee, Gasco also operates in Kentucky, Ohio, Pennsylvania, and West Virginia.

GASCO, INC. (the fuel manager) provides the natural gas used to serve these areas, through long-term contracts with nonaffiliated third parties that deliver gas to the city gate.

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[4] Fred Steele, president of the Company, included a letter to its attorney (Mr. Henry Walker) with its filing, explaining the extenuating circumstances surrounding the late filing. See copy of the letter attached to this report as **Attachment 4**.

IV. JURISDICTION AND POWER OF THE TENNESSEE REGULATORY AUTHORITY

Tennessee Code Annotated (T.C.A.) §65-4-104 gave jurisdiction and control over public utilities to the Tennessee Public Service Commission. By virtue of Chapter 305 of the Public Acts of 1995, jurisdiction and control over public utilities was transferred from the Tennessee Public Service Commission to the Tennessee Regulatory Authority (the "TRA" or "Authority") on July 01, 1996. T.C.A. §65-4-104 states that:

> The Authority shall have general supervision and regulation of, jurisdiction, and control over, all public utilities...

T.C.A states further in §65-4-111 that the public utilities are to maintain a Uniform System of Accounts:

> The Authority shall have the power after hearing, upon notice, by order in writing to require every public utility... to keep its books, records, and accounts so as to afford an intelligent understanding of the conduct of its business, and to that end to require every public utility of the same class to adopt a uniform system of accounting. Such system shall conform, where applicable to any system adopted or approved by the Interstate Commerce Commission of the United States. And to furnish annually, or at other times as the Authority may require, a detailed report of finances and operations as shown by said system of accounts.

The TRA responded to T.C.A. §65-4-111 by establishing its own rule 1220-4-1-1.11 regarding the uniform system of accounts which public utilities should maintain. The TRA's rule provides:

> The following uniform system of accounting will be followed by utilities and other companies making periodic reports to the Authority:
>
> 1. For Classes A and B gas companies - Uniform System of Accounts as adopted by the National Association of Regulatory Utility Commissioners as revised June 30, 1972, and any amendments or revisions pertaining thereto.

The TRA received its authority to examine the books and records of public utilities from T.C.A. §65-4-105 which states that the TRA would possess all the other powers conferred on the TRA. T.C.A. §65-3-108 gives the TRA:

> full power to examine the books and papers of the said companies, and to examine, under oath, the officers, agents, and employees of said companies...to procure the necessary information to intelligently and justly discharge their duties and carry out the provisions of this chapter and chapter 5 of this title.

V. PURPOSE OF COMPLIANCE AUDITS

The two basic reasons for compliance audits are to assure compliance with the Uniform System of Accounts (USOA) and to assure that the utility is following all rules, regulations and directives adopted by the TRA.

Compliance audits provide the foundation of assurance underlying the basic objective of regulatory accounting, which is to provide a uniform method of recording transactions among similar companies. This uniform record keeping is accomplished through the adoption of the USOA and insures the integrity, reliability, and comparability of the financial data contained in financial reports filed with the TRA, which provides the TRA with one of its most useful regulatory tools for establishing just and reasonable rates.

VI. DESCRIPTION OF PURCHASED GAS ADJUSTMENT (PGA) RULE

The Tennessee Regulatory Authority issued an Order in Docket No. G-86-1, which adopted a new PGA rule beginning July 1, 1992. The PGA Rider is intended to permit the Company to recover, in a timely fashion, the total cost of gas purchased for delivery to its customers and to assure that the Company does not over-collect or under-collect gas costs from its customers. This PGA consists of three major components:

1) **The Actual Cost Adjustment (ACA)**
2: **The Gas Charge Adjustment (GCA)**
3) **The Refund Adjustment (RA)**

The ACA is the difference between the revenues billed customers by means of the GCA and the cost of gas invoiced the Company by suppliers plus margin loss (if allowed by order of the TRA in another docket) as reflected in the Deferred Gas Cost account. The ACA then "trues-up" the difference between the actual gas costs and the gas costs recovered from the customer through a surcharge or a refund. The RA refunds the "true-up" along with other supplier refunds. For a more complete definition of the GCA and RA, please see the PGA Formula in Appendix A.

Section 1220-4-7-.03(2) of the PGA Rule requires:

> Each year, the Company shall file with the [Authority] an annual report reflecting the transactions in the Deferred Gas Cost Account. Unless the [Authority] provides written notification to the Company within one hundred eighty (180) days from the date of filing the report, the Deferred Gas Cost Adjustment Account shall be deemed in compliance with the provisions of these Rules. This 180-day notification period may be extended by mutual consent of the Company and the [Authority] Staff or by order of the [Authority].

VII. **AUDIT TEAM**

The TRA's Energy and Water Division is responsible for conducting ACA audits. Pat Murphy of the Energy and Water Division conducted this audit of Gasco Distribution Systems, Inc.

VIII. **SCOPE OF AUDIT**

To accomplish the audit objective, the Staff conducted in-house audit work, during which the Company's calculations of gas costs incurred and gas costs recovered were tested. The Staff also audited a sample of customer bills to determine if the proper PGA rates and ACA rates were being applied in the Company's calculation of the customers' bills. These bills were selected to be representative of the residential, commercial and industrial customers in each of the Company's service areas. The sample was selected from all twelve months of the audit period. After recalculating each sample bill, the Staff is in agreement with the Company's calculation of the customer bills for the period.

The Staff's last ACA audit of Gasco Distribution Systems, Inc. was conducted in 2001 covering the period from July 1, 2000 to June 30, 2001.

IX. SUMMARIES OF THE ACA ACCOUNTS

The Company submitted its ACA filings on September 3, 2002, covering the period July 1, 2001, to June 30, 2002. There were separate filings for the Jellico Division and the Byrdstown/Fentress Division as directed by Staff in Docket No. 01-00775. The Jellico Division filing reflected a net balance in its ACA account at June 30, 2002, of **negative $65,702.35**, which represents an **over-collection** of gas costs from its customers. The Brydstown/Fentress Divisions filing reflected a net balance in its ACA account at June 30, 2002, of **negative $3,292.93**, which also represents an **over-collection** of gas costs from its customers. The tables below provide a summary of each ACA account.

Jellico Division

Staff is in agreement with the Company's calculation of the ending balance for the Jellico Division.[5]

Line No.		Amount
1	Cost of gas purchased (7/1/01 to 6/30/02)	$211,413.99
2	Cost of gas recovered from customers through PGA rates	297,828.86
3	Under/(Over) Recovery of gas costs (Line 1-Line 2)	$ (86,414.87)
4		
5	ACA surcharges/(refunds) (7/1/01 – 6/30/02)	(7,337.97)
6	Interest calculated on average monthly balance in account	(1,755.61)
7	Beginning balance at 6/30/01	15,130.16
8		
9	**Balance in ACA account at 6/30/02 (Line 3-Line 5+Line 6+Line 7)**	**$(65,702.35)**

[5] The negative balance on line 9 of the table indicates that the Company has over-collected this amount from its customers as of June 30, 2002. The ACA factor derived by dividing this amount by the projected sales volumes for the next twelve (12) months will attempt to refund this amount over a twelve month period. However, there are timing differences between the close of the period (6/30/02) and when the factor becomes effective (February 2003). When the next audit period (12 months ended 6/30/03) is audited the factor will have been in effect for only five (5) months. There is always regulatory lag inherent in the true-up process. Larger companies are capable of calculating ACA factors and implementing them immediately, prior to audit. However, the smaller companies must await Staff's audit report before implementing an ACA factor.

Byrdstown/Fentress Division

For the Byrdstown/Fentress filing, the Staff's audit results produced a net ending balance in the ACA account of **negative $3,778.49** in **over-collected** gas costs. The net difference between the Company's filing and the Staff's calculations is a negative $485.56.[6] A listing and discussion of audit exceptions associated with the following differences can be found in Section X.

Line No.		Company Combined Filing[7]	Staff Results	Difference
1	Cost of gas purchased (7/01 to 6/02)	$7,832.97	$7,832.97	$ 0.00
2	Cost of gas recovered from customers through PGA rates	9,953.97	10,675.23	721.26
3	Under/(Over) Recovery of gas costs (Line 1-Line 2)	$(2,121.00)	$(2,842.26)	$(721.26)
4				
5	ACA surcharges/(refunds) (7/1/01 – 6/30/02)	(448.68)	(698.29)	(249.61)
6	Interest calculated on average monthly balance in account	(168.96)	(182.87)	(13.91)
7	Beginning balance at 6/30/01	(1,451.65)	(1,451.65)	0.00
8				
9	**Balance in ACA account at 6/30/02 (Line 3-Line 5+Line 6+Line 7)**	$(3,292.93)	$(3,778.49)	$(485.56)

[6] The negative $485.56 difference between the two calculations represents an additional over-collection of gas costs.

[7] The Company provided schedules showing separate calculations of ending balances for Byrdstown and Fentress. The Company then attempted to combine the two schedules into a combined filing for the Byrdstown/Fentress Division. The combined schedule provided by the Company was not mathematically correct due to errors in formulas. Therefore, Staff has simply combined the data for each into its own combined results. That is what is shown in this table.

X. **ACA AUDIT FINDINGS**

As stated in Section XIX., the only dollar differences between the Company's filings and the Staff's audit results occurred with regard to the Byrdstown/Fentress Division. While not material when compared with the Company's total gas purchases in Tennessee (less than one percent), the findings are significant to the Byrdstown/Fentress Division filing. A detailed discussion of each finding, including the Company's written response to the finding follows the summary below.

SUMMARY OF FINDINGS (DIFFERENCES)[8]:

FINDING #1	PGA recoveries understated	$(721.26)	Over-collection
FINDING #2	ACA refunds understated	249.61	Under-collection
FINDING #3	Correction of Interest calculation	(13.91)	Over-collection
	Net Result	**$(485.56)**	**Over-collection**

[8] The net negative $485.56 in findings represents an additional over-collection to be added to the Company's reported balance of negative $3,292.93 over-collection.

FINDING #1:

Exception

In its filing, the Company under-stated its gas costs recovered through PGA rates charged to its Fentress customers.

Discussion

The Company used incorrect sales volumes for its three (3) residential customers for the months of December 2001 through June 2002. To arrive at residential customer usage, the Company used total through put and backed out transportation volumes associated with a special transportation contract. However, there are balancing issues each month regarding this special contract between volumes invoiced and actual volumes transported to the end-user.

Staff looked at actual residential customer invoices to determine the usage billed each month to these residential customers. These are the volumes to which the PGA factor and ACA factor (see Finding #2) are applied. This correctly matches the costs associated with these customers to the cost actually recovered from these same customers.

Use of incorrect sales volumes for the seven (7) months noted resulted in a **reported over-collection of $721.26.**

Company Response

The Company is in agreement with this finding.

FINDING #2:

Exception

In its filing, the Company under-stated its ACA refunds for both its Byrdstown customers and its Fentress customers.

Discussion

The Company made several errors in reporting its ACA refunds for the period. They can be summarized as follows:

(1) In the Byrdstown calculations, the Company had unexplained formula errors for the months of January 2002 through May 2002. ACA surcharges/(refunds) are calculated by multiplying the applicable ACA factor for the month times the sales volumes. For seven (7) months during the period, the Company correctly calculated the refunds. But for the five (5) months noted, the formula was either not used or was altered in some way. The result was a $202.97 understatement of its refunds.

(2) In the Fentress calculations, for the months of July 2001 through December 2001, the Company reported an ACA factor of negative $0.5017, when in fact customers were billed a factor of negative $0.5915.[9] This error resulted in a $42.70 understatement of ACA refunds.

(3) In the Fentress calculations, use of incorrect sales volumes for December 2001 through June 2002 resulted in a $3.95 under-statement of ACA refunds. See Finding #1 for discussion of the incorrect sales volumes.

The net result of the above errors was that ACA refunds were under-stated by $249.62. This represents a **$249.62 under-collection of gas costs.**

Company Response

The Company is in agreement with this finding.

[9] The Company reported an ACA factor of negative $0.5017 (refund), which was the correct factor approved by the TRA in Docket # 00-00998, effective April 2001. However, for the three Fentress customers, the Company continued to refund $0.5915 per month until January 2002. During an ACA true-up process, the calculations of costs and recoveries must be <u>the actual</u> costs and recoveries experienced by the Company.

FINDING #3:

Exception

The Staff calculated an **over-collection** in the amount of **$13.91** in the interest calculation.

Discussion

The Company applied the correct interest rates to the monthly balances in this ACA filing. Staff recalculated the amount of interest on account balance after making the corrections discussed in Findings #1, and #2.

Company Response

The Company is in agreement with this finding.

XI. CONCLUSIONS AND RECOMMENDATIONS

Audit Conclusions:

Staff reviewed the gas costs and recoveries of Gasco Distribution Systems, Inc. for the 12-month period ended June 30, 2002. Based on the summaries provided in Section IX., the **net balance** in the refund due customers account as of June 30, 2002 should be a **negative $69,480.84**. This means that as of June 30, the Company had over-collected this amount from its customers. The net balance is composed of an **over-collection from Jellico customers of $65,702.35** and an **over-collection from Byrdstown/Fentress customers of $3,778.49.** In order to refund these balances, the correct ACA adjustment factor to be applied to customer bills in the **Jellico Division** is a **negative $1.20 per MCF** (see Attachment 1). The correct ACA adjustment factor to be applied to customer bills in the **Byrdstown/Fentress Division** is a **negative $2.1121** (see Attachment 2). These factors are to be implemented beginning with the Company's February 2002 billing period and will remain in effect until the Staff's next audit, at which time new factors will be calculated. The Staff's next audit of Gasco will cover the period July 2002 through June 2003.

Staff has some concern regarding the over-collection balance for the Jellico Division. Over the 12-month current period since the last audit, the balance went from a $15,130 under-collection to a $65,702 over-collection. That is a spread of $80,832. As shown in Attachment 1, the root cause was an over-collection of gas costs of $86,415 through the PGA rates being charged. This was mitigated somewhat by the concurrent ACA refunds. Staff reported in the last audit report, that Gasco had recently filed to reduce its PGA by approximately 50% due to declining gas prices. However, that reduction did not become effective until the January 2002 billing. This was too late in the heating season to prevent the escalation of the over-collected balance.[10]

The ACA refund that will take place as a result of this audit will begin to reduce this balance; however, there is always regulatory lag to contend with. This is why Staff continues to stress the importance of monitoring the balance in the ACA account monthly, so that mid-year adjustments in the PGA can be made when necessary.

As a result of the last audit, Staff made five (5) recommendations. Gasco has made progress in most of Staff's areas of concern. Of primary importance was the use of correct interest rates. Gasco had no problems with interest rates in this filing. In the area of spreadsheet errors, Staff did find formula errors and unreasonable results in the Byrdstown/Fentress Division filing.

[10] By January 2002, the balance in account had reached an over-collection of approximately $57.000.

<u>Audit Recommendations:</u>

1. Again, Staff stresses that Gasco should review its spreadsheet formulas to assure reasonableness and mathematical accuracy, **prior to** filing with the TRA.

2. The Company should continue to maintain the spreadsheets on a monthly basis, to closely monitor the balance in the ACA account.

3. Since both the Byrdstown and Fentress customers <u>should have</u> the same PGA and ACA billing factors, Staff recommends that the Company maintain one spreadsheet encompassing the combined data for each. Calculating two separate spreadsheets and then combining them at the time of filing has led to formula and mathematical errors in this year's filing.

APPENDIX A

PGA FORMULA

The computation of the GCA can be broken down into the following formulas:

$$\text{Firm GCA} = \frac{D + DACA}{SF} - DB + \frac{P + T + SR + CACA}{ST} - CB$$

$$\text{Non-Firm GCA} = \frac{P + T + SR \;\; CACA}{ST} - CB$$

where

GCA	=	The Gas Charge Adjustment in dollars per Ccf/Therm, rounded to no more than five decimal places.
D	=	The sum of all fixed Gas Costs.
DACA	=	The demand portion of the ACA.
P	=	The sum of all commodity/gas charges.
T	=	The sum of all transportation charges.
SR	=	The sum of all FERC approved surcharges.
CACA	=	The commodity portion of the ACA.
DB	=	The per unit rate of demand costs or other fixed charges included in base rates in the most recently completed general rate case (which may be zero if the Company so elects and the Commission so approves).
CB	=	The per unit rate of variable gas costs included in base rates in the most recently completed general rate case (which may be zero if the Company so elects and the Commission so approves).
SF	=	Firm Sales.
ST	=	Total Sales.

The computation of the RA can be computed using the following formulas:

$$\text{Firm RA} = \frac{DR1 - DR2}{SFR} + \frac{CR1 - CR2 + CR3 + i}{STR}$$

$$\text{Non-Firm RA} = \frac{CR1 - CR2 + CR3 + i}{STR}$$

where

RA	=	The Refund Adjustment in dollars per Ccf/Therm, rounded to no more than five decimal places.
DR1	=	Demand refund not included in a currently effective Refund Adjustment, and received from suppliers by check, wire transfer, or credit memo.
DR2	=	A demand surcharge from a supplier not includable in the GCA, and not included in a currently effective Refund Adjustment.
CR1	=	Commodity refund not included in a currently effective Refund Adjustment, and received from suppliers by check, wire transfer, or credit memo.
CR2	=	A commodity surcharge from a supplier not includable in the GCA, and not included in a currently effective Refund Adjustment.
CR3	=	The residual balance of an expired Refund Adjustment.

i = Interest on the "Refund Due Customers" account, using the average monthly balances based on the beginning and ending monthly balances. The interest rates for each calendar quarter used to compute such interest shall be the arithmetic mean (to the nearest one-hundredth of one percent) of the prime rate value published in the "Federal Reserve Bulletin" or in the Federal Reserve's "Selected Interest Rates" for the 4th, 3rd, and 2nd months preceding the 1st month of the calendar quarter.

SFR = Firm sales as defined in the GCA computation, less sales under a transportation or negotiated rate schedule.

STR = Total sales as defined in the GCA computation, less sales under a transportation or negotiated rate schedule.

ATTACHMENT 1

Gasco Distribution Systems, Inc.

Calculation of the ACA Factor
(for Jellico customers)

Line No.	Factor to be applied to residential, commercial and industrial customers:		
1	Cost of Gas purchased (7/1/01 - 6/30/02)	$ 211,413.99	
2	Cost of Gas recovered from customers through PGA rates	297,828.86	
3	Under/(Over) Collection (Line 1 - Line 2)	$ (86,414.87)	
4	ACA surcharges/(refunds) (7/1/01 - 6/30/02)	(7,337.97)	
5	Interest calculated on average monthly balance in account	(1,755.61)	
6	Beginning balance at 6/30/01	15,130.16	
7	**Balance in ACA account at 6/30/02** (Line 3 - Line 4 + Line 5 + Line 6)	**$ (65,702.35)**	**Over-Collection**
8	Sales Volumes **	54,753	MCF
9	ACA Factor - surcharge/(refund) (Line 7 divided by Line 8)	$ (1.2000)	Per MCF

** Company projected volumes for 12 months ending 6/30/03.

ATTACHMENT 2

Gasco Distribution Systems, Inc.

Calculation of the ACA Factor
(for Byrdstown/Fentress customers)

Line No.	Factor to be applied to residential, commercial and industrial customers:		
1	Cost of Gas purchased (7/1/01 - 6/30/02)	$ 7,832.97	
2	Cost of Gas recovered from customers through PGA rates	10,675.23	
3	Under/(Over) Collection (Line 1 - Line 2)	$ (2,842.26)	
4	ACA surcharges/(refunds) (7/1/01 - 6/30/02)	(698.29)	
5	Interest calculated on average monthly balance in account	(182.87)	
6	Beginning balance at 6/30/01	(1,451.65)	
7	**Balance in ACA account at 6/30/02** (Line 3 - Line 4 + Line 5 + Line 6)	$ **(3,778.49)**	**Over-Collection**
8	Sales Volumes **	1,789	MCF
9	ACA Factor - surcharge/(refund) (Line 7 divided by Line 8)	$ (2.1121)	Per MCF

** Company projected volumes for 12 months ending 6/30/03.

BEFORE THE TENNESSEE REGULATORY AUTHORITY

RECEIVED
TN REG. AUTHORITY
AUG 3 0 2001
ENERGY & WATER DIVISION

NASHVILLE, TENNESSEE
August 24, 2001

IN RE:	)	
	)	
GASCO DISTRIBUTION SYSTEMS	)	DOCKET NO.
ACTUAL COST ADJUSTMENT (ACA) AUDIT	)	00-00998

INITIAL ORDER OF THE HEARING OFFICER ACCEPTING PROPOSED REVISED SETTLEMENT AGREEMENT

On May 14, 2001, the Tennessee Regulatory Authority (the "Authority" or "TRA") issued an Order requiring Gasco Distribution Systems, Inc. ("Gasco" or the "Company") to show cause as to why penalties should not be imposed for Gasco's apparent failure to comply with the *Order Adopting ACA Audit Report of Authority's Staff, In Re: Gasco Distribution Systems Actual Cost Adjustment (ACA) Audit*, TRA Docket No. 99-00647 (Nov. 24, 1999). This matter is before the Hearing Officer for consideration of the parties' proposed *Revised Settlement Agreement* (the "*Revised Settlement*").[1] After careful consideration and for the reasons set forth below, the Hearing Officer accepts and approves the *Revised Settlement.*[2]

HISTORY OF THE CASE:

The basis for the May 2001 Show Cause Order is set forth with particularity therein and reaffirmed in the *Initial Order of The Hearing Officer Denying Gasco's Request to Dismiss Show*

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[1] The *Revised Settlement* was submitted by Gasco, TRA Staff (as a party), and the Consumer Advocate and Protection Division of the Attorney General's Office on August 17, 2001. A copy of the *Revised Settlement* is attached hereto as **Exhibit A.**

[2] The terms of the *Revised Settlement* provide that Gasco is thereunder liable for $12,500, with $5,000 due and payable on or before March 31, 2002, and $7,500 suspended pending Gasco's compliance with Authority rules, directives, and orders during a three (3) year probationary period. *See Revised Settlement*, TRA Docket No. 00-

Cause Proceeding, In Re: Gasco Distribution Systems, Inc. Actual Cost Adjustment (ACA) Audit, TRA Docket No. 00-00998 (June 11, 2001). Thus, it would be superfluous to restate with detail the same here. In sum, the TRA Staff's Actual Cost Adjustment ("ACA") Compliance Audit Report (the "2000 Report"), for the period from July 1, 1999, through June 30, 2000, contained a finding that Gasco failed to comply with the TRA Staff's 1999 ACA Compliance Audit Report (the "1999 Report") for the preceding audit period and the *Order Adopting ACA Audit Report of Authority's Staff, In Re: Gasco Distribution Systems Actual Cost Adjustment (ACA) Audit*, TRA Docket No. 99-00647 (Nov. 24, 1999), approving and adopting the 1999 Report. At the April 17, 2001, Authority Conference, the Authority unanimously approved and adopted the findings and recommendations contained in the 2000 Report.

DISCUSSION AND ANALYSIS:

Gasco agrees that it "failed to timely implement an ACA price reduction as required by the Authority's rules" and in accordance with the Authority's Order of November 24, 1999.[3] Gasco's record of past performance demonstrates that it has had a history of similar violations, which Gasco does not contest. *See, e.g., Initial Order of The Hearing Officer Requiring Compliance with Authority's November 5, 1998, Order, In Re: Show Cause Proceeding Against Gasco Distribution Systems, Inc.*, TRA Docket Nos. 97-00160 and 97-00293, p. 13 (June 7, 2001) ("The current issues must be considered in light of Gasco's unfortunate history of non-compliance.").

It is unquestioned that the agency has acted with leniency concerning Gasco's past failures to comply with agency rules and orders. In fact, Gasco could have avoided a substantial

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00998, p.1 (Aug. 17, 2001). It should be noted, and the parties do not disagree, that Gasco's *potential* exposure, absent this settlement, is $18,250.

[3] *Revised Settlement* at 1.

portion of the ordered fines for past violations, not at issue herein, with subsequent compliance. *See Initial Order of The Hearing Officer Requiring Compliance with Authority's November 5, 1998, Order*, TRA Docket Nos. 97-00160 and 97-00293, p. 9 (June 7, 2001) ("The Order states very succinctly that a portion of Gasco's fines would be forgiven if compliance is achieved; and, conversely, would be 'due and payable' if compliance with the Order is ignored. The *November 5, 1998, Order*, in effect, gave Gasco the 'key to the jailhouse door' when it allowed Gasco to avoid paying a portion of the fines imposed in the Order by making timely filings during the probationary period."). A directive to comply with TRA rules on a going forward basis accompanied this benevolence. *See Initial Order of The Hearing Officer*, TRA Docket Nos. 97-00160 and 97-00293, p. 8 (Oct. 1, 1998) ("[T]he Company is hereby placed on notice that compliance with TRA Rule 1220-4-1.10 is not optional or discretionary. Strict compliance is required and expected."). Gasco, again, seeks leniency.

Although, as recounted above, Gasco has found compliance to be an illusive target, it has nevertheless, in this instance, presented persuasive arguments that distinguish its instant request for leniency from its earlier entreaties; and, as such, is deserving of continuing favorable consideration. Most persuasive is Gasco's action to repair an organizational structural deficiency that Gasco has apparently concluded would not self-improve if left unchanged.

Apparently, Gasco's past failures to comply with the Authority's rules and orders were largely the responsibility of the Company's chief financial officer. The Authority has been informed that the Company's chief financial officer was discharged, principally for his repeated failure to comply with TRA rules, orders, and directives. The Company's action here is demonstrative of its willingness to correct an apparent systemic problem that, in the past, according to Gasco, thwarted its ability to comply with the Authority's rules and orders.

Additionally, Gasco has agreed that any breach of the terms of the *Revised Settlement* would trigger the payment of "[t]he entire amount of the suspended fine . . . [to] become immediately due and payable thirty (30) days following the entry of a final order which finds that Gasco has not complied with the Authority's rules or orders." *See Revised Settlement*, p.1. Gasco has agreed, based on this language in the *Revised Settlement*, that it will not, in the instance of a breach of the agreement, seek an extended payment plan, propose an alternative payment scheme, or otherwise move to alter, modify, or extend the terms of the *Revised Settlement*, but will, instead, pay in full consistent with the agreement. The Authority's Staff, as a party to this proceeding, and the Consumer Advocate and Protection Division of the Attorney General's Office, as signatories to the *Revised Settlement*, have both acknowledged their understanding, consistent with the above language, of Gasco's agreement.

CONCLUSION:

For the foregoing reasons, the Hearing Officer finds, on the state of the record, that the *Revised Settlement* is adequately supported and appropriate, given the circumstances, and that it is consistent with the public interest. Therefore, the Hearing Officer hereby accepts and approves the *Revised Settlement* as filed.

IT IS THEREFORE ORDERED THAT:

1. The *Revised Settlement* filed on August 17, 2001, is hereby accepted and approved.

2. Any party aggrieved by the Hearing Officer's decision in this matter may file a Petition for Reconsideration with the Hearing Officer within fifteen (15) days from the date of this Order.

3. Any party aggrieved by the decision of the Hearing Officer in this matter may file a Petition for Appeal with the Tennessee Regulatory Authority within fifteen (15) days from the date of this Order.

4. In the event this Order is not appealed to the Directors of the Tennessee Regulatory Authority within fifteen (15) days, this Order shall become final and shall be effective from the date of entry.

MELVIN J. MALONE, DIRECTOR
AS HEARING OFFICER

ATTEST:

K. David Waddell, Executive Secretary

EXHIBIT A

BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE

REGULATORY AUTH.
'01 AUG 17 AM 10 44
OFFICE OF THE
EXECUTIVE SECRETARY

IN RE: GASCO DISTRIBUTION SYSTEMS ACTUAL ADJUSTMENT (ACA) AUDIT	))))	DOCKET NO. 00-00998

REVISED SETTLEMENT AGREEMENT

The purpose of this document is to present a revised settlement among the parties to the above-captioned show cause proceeding. This filing is intended to supercede the "Proposed Settlement Agreement" filed on July 20, 2001.

During the period from November 19, 1999 through June 30, 2000, Gasco Distribution Systems, Inc. ("Gasco") failed to timely implement an ACA price reduction as required by the Authority's rules. The Staff and the Consumer Advocate Division of the Attorney General's office have requested --- and Gasco has agreed to pay --- a fine of $12,500 subject to the following conditions. Of that amount, $5,000 of the fine is due and payable on or before March 31, 2002. The remainder of the fine ($7,500) would be suspended pending Gasco's continuing compliance with all TRA rules and orders for a probationary period of three years, beginning July 1, 2001, and continuing until July 1, 2004. The entire amount of the suspended fine would become immediately due and payable thirty days (30) following the entry of a final order which finds that Gasco has not complied with the Authority's rules or orders. The suspended fine will be forgiven upon demonstration of full compliance throughout the entire probationary period.

The parties recognize that Gasco also failed to timely implement an ACA price reduction as required by the Authority's rules for the period of July 1, 2000 to Nov. 30, 2000. The parties agree, however, that Gasco's failure to implement the ACA price reduction for that period will not, in and of itself, result in the issuance of a second Show Cause proceeding against Gasco, or otherwise trigger the provisions of this settlement agreement. In the event, however, Gasco subsequently violates any TRA rule or order, the Authority, Staff counsel and/or the Attorney General's office, through the Consumer Advocate and Protection Division, may seek any fines and all other appropriate remedies related to Gasco's failure to implement the ACA price reduction during that period. Gasco reserves the right to assert all appropriate defenses.

Although not a condition of the Revised Settlement, the parties took into consideration the fact that Gordon Brothers, the company's chief financial officer and the individual responsible for Gasco's compliance with the TRA's rules and orders is no longer employed by the company. According to Fred Steele, president of Gasco, the principal reason for Mr. Brother's departure was his repeated failure to file reports at the TRA and at other state regulatory commissions on a timely basis and to otherwise follow the agency's rules.

Respectfully submitted,

BOULT, CUMMINGS, CONNERS & BERRY, PLC

By: ________________________________

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Timothy Phillips by permission

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Gary Hotvedt
Tennessee Regulatory Authority
460 James Robertson Parkway
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Counsel for the TRA Staff

ATTACHMENT 4

GASCO
DISTRIBUTION SYSTEMS, INC.

4445 EAST PIKE ZANESVILLE, OH 43701 OFFICE 740 454-6198
FAX 740 454-7780

July 29, 2002

RECEIVED
TN REG. AUTHORITY
AUG 5 2002
ENERGY & WATER DIVISION

Henry M. Walker
Boult Cummings Conners & Berry, PLC
414 Union Street, Suite 1600
P.O. Box 198062
Nashville, Tennessee 37219

RE: GDSI Form PSC-3.04 Quarterly Report

Dear Henry,

Attached please find a copy of the Form PSC-3.04 Quarterly Report of Tennessee Revenues, Expenses and Investments-Gas Companies that was filed on July 26, 2002, with the Tennessee Regulatory Authority. This report was due on May 30, 2002. I take full responsibility for the failure to have it filed timely. Because we have reduced our accounting staff significantly over the past twelve months I, along with Trina L. King have been performing most of the accounting duties. I have been out of the office a considerable amount of time since May 13. My mother went into the hospital on that date and was diagnosed with cancer shortly thereafter. I moved her from the hospital to her home on June 11 and have spent a great deal of time with her during the past sixty days and I expect to continue to do so up until the time she passes away which will I expect to be soon.

A couple of weeks ago I hired an outside accounting firm to help us to once again get caught up on our filings which they have done. If the TRA is upset with us I understand. I believe that everything now is filed that needs to be filed and I hope that we can make the filing that is due on August 29, for the Quarter ending June 30 timely.

I just wanted you to know the reason for our untimeliness in filing. We have a very limited staff now and if someone is out it becomes a real burden to meet all of the filing deadlines.

Very Truly Yours,

Fred A Steele

Fred A. Steele
President

FAS/bdt