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## Rulemaking Hearing Rule(s) Filing Form

*Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing. TCA Section 4-5-205*

**Agency/Board/Commission:** Tennessee Regulatory Authority

**Division:**

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**Revision Type (check all that apply):**

☒ Amendment

☒ New

☐ Repeal

**Rule(s) Revised** (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables. Please enter only **ONE** Rule Number/RuleTitle per row)

Chapter Number	Chapter Title
1220-04-07	Purchase Gas Adjustment Rules
Rule Number	Rule Title
1220-04-07-.01	Definitions
1220-04-07-.03	Computations and Application of the Purchased Gas Adjustment (PGA)
1220-04-07-.06	Procedures for Uncollected Gas Cost Recovery Adjustment

Chapter 1220-4-7  
Purchased Gas Adjustment Rules

Table of Contents

1220-04-07-.01	Definitions
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1220-04-07-.03	Computations and Application of the Purchased Gas Adjustment (PGA)
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1220-04-07-.05	Audit of Prudence of Gas Purchases
1220-04-07-.06	Procedures for Uncollected Gas Cost Recovery

Amendments

Paragraph (1) of rule 1220-4-7-.01 Definitions is amended by deleting the text of the paragraph in its entirety and substituting instead the following language so that, as amended, the paragraph shall read:

- (1) "Gas Costs" shall mean the total delivered cost of gas paid or to be paid to Suppliers, including, but not limited to, all commodity/gas charges, demand charges, peaking charges, surcharges, emergency gas purchases, over-run charges, capacity charges, standby charges, gas inventory charges, minimum bill charges, minimum take charges, take-or-pay charges and take-and-pay charges, storage charges, service fees and transportation charges and any other similar charges which are paid by the Company to its gas suppliers in connection with the purchase, storage or transportation of gas for the Company's system supply. Gas costs shall also include uncollected gas costs that have been both billed and determined to be uncollectible and are in excess of the amount of uncollectible gas costs that were approved in the last rate case for each Company.

Authority: Tenn. Code Ann. § 65-2-102, 65-4-104, 65-5-101.

Rule 1220-4-7-.01 Definitions is amended by adding a new definition as paragraph (10) and shall read as follows:

- (10) "Written-off" shall mean determined or deemed to be uncollectible by the Company.

Authority: Tenn. Code Ann. § 65-2-102, 65-4-104.

Subparts (i) & (ii) of part 1. of subparagraph (1)(b) of rule 1220-4-7-.03 Computations and Application of the Purchased Gas Adjustment (PGA) is amended by deleting the text of subpart (i) & (ii) in its entirety and substituting instead the following language so that, as amended, the subparts shall read:

$$\begin{aligned} \text{(i)} \quad \text{Firm RA} &= \left( \frac{\text{DR1} - \text{DR2}}{\text{SFR}} \right) + \left( \frac{\text{CR1} - \text{CR2} \pm \text{CR3} \pm \text{U} \pm \text{i}}{\text{STR}} \right) \\ \text{(ii)} \quad \text{Non-Firm RA} &= \left( \frac{\text{CR1} - \text{CR2} \pm \text{CR3} \pm \text{U} \pm \text{i}}{\text{STR}} \right) \end{aligned}$$

Authority: Tenn. Code Ann. § 65-2-102, 65-4-104.

Proposed new subpart (x) of part 2. of subparagraph (1)(b) of rule 1220-4-7-.03 Computations and Application of the Purchased Gas Adjustment (PGA) shall read:

(x) U = Eligible uncollected gas costs surcharged or refunded under this Rule.

Authority: Tenn. Code Ann. § 65-2-102, 65-4-104.

#### New Rule

Proposed New Rule 1220-4-7-.06 Procedures for Uncollected Gas Cost Recovery shall read:

- (1) Recovery of uncollected gas costs using the modified Refund Adjustment Formula is optional. Any Company electing to recover uncollected gas costs in its annual ACA filing using the modified Refund Adjustment Formula shall comply fully with the following procedures:
  - (a) At the time a customer account balance is written-off, the gas cost and the margin portion of the uncollected amount for each customer account shall be specifically identified from actual amounts billed and a percentage of total gas costs to the total amount written-off established.
  - (b) For purposes of the calculation in (a), other charges, such as late fees, applicable state and local taxes, and collection fees shall not be included in the calculation of the percentage of gas costs to the total amount written-off.
  - (c) If the account balance written-off is later collected in full, the uncollected gas costs shall be credited with the full amount of the gas cost portion of the account.
  - (d) If the account balance written-off is not collected in full, the partial payment shall be allocated and credited to uncollected gas costs using the same percentage established for gas costs in (a).
  - (e) If a Company's billing system (including both computer and manual functions) is not capable of accurately allocating a partial payment, the partial payment shall be credited 100% to uncollected gas costs first, with any remainder treated as recovered margin.
  - (f) For those Companies whose allowance for uncollectible accounts (recovered in base rates) contains a gas cost portion, the amount of that portion shall be netted with the eligible uncollected gas costs included for recovery in the ACA. Each such Company shall submit its calculation of the amount to be netted with actual uncollected gas cost amounts as part of the annual ACA filing.
  - (g) The gas cost portion of written-off account balances and the amount of gas costs recovered from subsequent payments on these accounts shall be charged or credited, as appropriate, to the ACA account at least annually for inclusion in the ACA filing.
  - (h) Any variance between amounts charged or credited in the annual filing of the ACA and the amounts recorded in the monthly reports required in subparagraph (2) shall be reconciled and documented by the Company for review by the TRA Compliance Staff (Staff) during the annual audit of the ACA.
  - (i) Each Company shall file its policy (internal procedures followed) for determining the uncollectibility of a customer account balance, disconnection of a customer's service for non-payment, collection attempts made by the company both before and after an account balance is written-off, and conditions a customer must fulfill to be reconnected to the gas system. This written policy shall be filed with the TRA within thirty (30) days of the effective date of this Rule part.

- (2) Each Company electing to recover uncollected gas costs in the ACA shall comply with the following reporting requirements:
- (a) Customer account balances written-off shall be tracked separately in sufficient detail, so as to permit the Staff to audit write-offs and subsequent payments on written-off accounts.
  - (b) Each Company shall submit a monthly summary report detailing each write-off and each payment to a written-off account for that month and the total amount eligible for recovery in the ACA no later than the first business day of the third month following the reported month, using a format acceptable to the Staff. Corrections or adjustments to these monthly reports shall be timely filed. Failure to submit a required monthly report may result in disallowance of recovery in the ACA of the uncollected gas costs for that month. The Company is responsible for contacting Staff should an extraordinary event prevent the timely filing of this report.
  - (c) Monthly reports shall be electronically filed in Excel format and shall contain, at a minimum, the following information:
    - 1. Information reported at the time an uncollected account balance is written-off:
      - (i) Customer account numbers, with spreadsheet data sorted by account number in ascending order;
      - (ii) Date that account balance is written-off;
      - (iii) Amount of total gas cost written-off;
      - (iv) Amount of total margin written-off;
      - (v) Total amount of gas cost and margin written-off ((iii) plus (iv));
      - (vi) Gas cost percentage of total amount written-off ((iii) divided by (v)); and
      - (vii) Margin percentage of total amount written-off ((iv) divided by (v)).
    - 2. Information reported at the time a full or partial payment is received on an account balance that has been written-off:
      - (i) Customer account numbers, with spreadsheet data sorted by account number in ascending order;
      - (ii) Date that payment was received;
      - (iii) Original write-off date of the account balance applicable to this payment;
      - (iv) Gas cost payment credited to written-off account balance;
      - (v) Margin payment credited to written-off account balance;
      - (vi) Total of gas cost payment (recovery) and margin payment (recovery) ((iv) plus (v));
      - (vii) Gas cost payment percentage of total amount recovered credited to customer account ((iv) divided by (vi)); and
      - (viii) Margin payment percentage of total amount recovered ((v) divided by (vi)).

- (3) Each Company electing to recover uncollected gas costs in its annual ACA filing shall sufficiently demonstrate to Staff that it is making reasonable efforts to collect delinquent accounts prior to the account balance being written-off. As part of the ACA filing, the Company shall submit a report showing the amount of uncollected gas costs by month, the total revenues by month, and the percentage of uncollected gas costs compared to total revenues by month and in total. The Company shall provide an explanation of any significant increase in this percentage from one month to the next.
- (4) Failure of a Company to fully comply with the procedures and/or reporting requirements contained in this Rule part may result in the disallowance of all or a portion of uncollected gas costs eligible for recovery in the ACA during the annual ACA audit.
- (5) Once a Company makes the election to recover uncollected gas costs in the ACA, the Company must continue to file its uncollected gas costs for recovery in the ACA in compliance with this Rule.

Authority: Tenn. Code Ann. § 65-2-102, 65-4-104.

\* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Eddie Roberson, Chairman	X				n/a
Pat Miller, Director	X				
Sara Kyle, Director	X				
Ron Jones, Director	X				

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee Regulatory Authority (board/commission/ other authority) on 09/10/2007, and is in compliance with the provisions of TCA 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 01/24/2007

Notice published in the Tennessee Administrative Register on: 02/15/2007

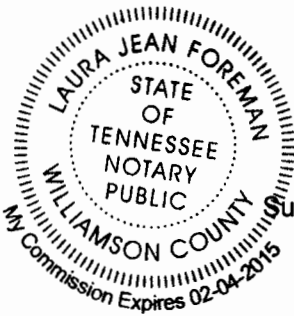
Rulemaking Hearing(s) Conducted on: (add more dates). 03/26/2007

Date: 03/07/2012

Signature: Kenneth C. Hill

Name of Officer: Kenneth C. Hill

Title of Officer: Chairman



Subscribed and sworn to before me on: MARCH 7, 2012

Notary Public Signature: Laura Jean Foreman

My commission expires on: 02/04/2015

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Robert E. Cooper, Jr.  
Robert E. Cooper, Jr.  
Attorney General and Reporter  
5-24-12  
Date

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Filed with the Department of State on: 6/18/12

Effective on: 9/16/12

Tre Hargett by John Hart, POA  
Tre Hargett  
Secretary of State

## **Public Hearing Comments**

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A. §4-5-222. Agencies shall include only their responses to public hearing comments, which can be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted.

On March 22, 2007, the Petitioners filed joint comments supporting the new rule as proposed by the Authority. The hearing on this matter took place on March 26, 2007. Although no comments were provided at the hearing the Consumer Advocate ("CAPD") request additional time to comment. The request was granted and the CAPD was given until April 9, 2007 to file comments.

### **Comments filed by CAPD on April 9, 2007**

The CAPD's comments can be summarized as follows:

1. The CAPD remains opposed to the Authority's decision to include uncollectible gas costs within the definition of gas costs;
2. The CAPD is concerned that gas companies will have no incentive to expend efforts to collect delinquent accounts;
3. To address this concern, the gas companies should be required to file their proposed internal collection policy procedures well before the effective date of the proposed rules; and
4. The proposed new Rule 1220-4-7-.06(1)(i)<sup>1</sup> should be amended to address this concern.

### **Response to Comments**

Proposed Rule 1220-4-7-.06(1)(i) requires each gas company to file in writing its internal collection policy within thirty (30) days of the effective date of the rules.

Proposed Rule 1220-4-7-.06(2) sets forth monthly reporting requirements.

Proposed Rule 1220-4-7-.06(3) requires accountability from the gas company as to its collection efforts and provides for Staff monitoring of these efforts.

Proposed Rule 1220-4-7-.06(4) gives Staff an avenue to recommend to the Authority the disallowance of all or part of uncollected gas costs as part of the annual ACA audit if a gas company fails to fully comply with the rules.

Proposed Rule 1220-4-7-.06(5) prevents a gas company from making an annual election to recover gas costs in the ACA, based on whether or not net gas cost recoveries exceed net gas costs.

The TRA believes that the CAPD's concerns have been sufficiently addressed in the rules themselves. The CAPD provided no suggested change in the language contained in proposed Rule 1220-4-7-.06(1)(i). Therefore, TRA opines that requiring the filing of written procedures within thirty (30) days of the effective date of the rules is fair and reasonable.

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<sup>1</sup> Proposed Rule part 1220-4-7-.06(1)(i) reads: "Each Company shall file its policy (internal procedures followed) for determining the uncollectibility of a customer account balance, disconnection of a customer's service for non-payment, collection attempts made by the Company both before and after an account balance is written-off, and conditions a customer must fulfill to be reconnected to the gas system. This written policy shall be filed with the TRA within thirty (30) days of the effective date of this Rule part.

**Regulatory Flexibility Addendum**

Pursuant to Public Chapter 464 of the 105<sup>th</sup> General Assembly, prior to initiating the rule making process as described in § 4-5-202(a)(3) and § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

N/A



## Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to TCA 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

Proposed Rule 1220-4-7-.06(1)(i) requires each gas company to file in writing its internal collection policy within thirty (30) days of the effective date of the rules. Proposed Rule 1220-4-7-.06(2) sets forth monthly reporting requirements. Proposed Rule 1220-4-7-.06(3) requires accountability from the gas company as to its collection efforts and provides for Staff monitoring of these efforts. Proposed Rule 1220-4-7-.06(4) gives Staff an avenue to recommend to the Authority the disallowance of all or part of uncollected gas costs as part of the annual ACA audit if a gas company fails to fully comply with the rules. Proposed Rule 1220-4-7-.06(5) prevents a gas company from making an annual election to recover gas costs in the ACA, based on whether or not net gas cost recoveries exceed net gas costs. Additionally, current subsections of Rule 1220-4-7.03(1)(a)(4) concerning modification of formulas in the computation and application of purchased gas adjustment (PGA) have been deleted.

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

Guidelines were established in *Order Denying Consumer Advocate's Motion for Summary Judgment, Granting, in Part, and Denying, in Part, Petitioners' Motion for Summary Judgment, Denying Petition for a Declaratory Ruling and Modifying Refund Adjustment Formula*, TRA Docket No. 03-00209 (Feb. 9, 2005).

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

Natural Gas Providers

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule;

N/A

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

None

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Shilina Chatterjee Brown, Counsel

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Shilina Chatterjee Brown, Counsel

- (H) Office address and telephone number of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

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(I) Any additional information relevant to the rule proposed for continuation that the committee requests.

N/A

### **Impact on Local Governments**

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 “any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments.” (See Public Chapter Number 1070) (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

(Insert statement here)

The rule is not projected to have an impact on local governments.