

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

June 13, 2007

IN RE:)	
)	
ACA TARIFF FILING FOR RBS GAS)	DOCKET NO.
UTILITY, INC.)	07-00049

**ORDER ADOPTING ACA AUDIT REPORT OF
TENNESSEE REGULATORY AUTHORITY'S UTILITIES DIVISION**

This matter came before Chairman Sara Kyle, Director Eddie Roberson, and Director Ron Jones of the Tennessee Regulatory Authority (the "Authority" or "TRA"), the voting panel assigned to this Docket, at a regularly scheduled Authority Conference held on February 26, 2007. RBS Gas Utility, Inc. ("RBS") began operating in receivership on May 19, 2006, at which time Receivership Management, Inc. ("RMI") was appointed Receiver by the Chancery Court for Macon County, Tennessee upon petition by the TRA. On February 14, 2007, RMI filed an Actual Cost Adjustment ("ACA") to recover uncollected gas costs and stated its intent to file a rate case. RMI requested that the Authority waive the thirty day notice requirement and allow the ACA to go into effect on February 26, 2007. The ACA filed by RMI included under-recovered gas costs of \$376,606.48 from March 2003 through March 2006 and included a surcharge calculated to recover those costs over a forty-eight month period.

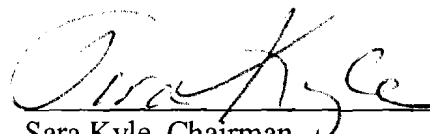
On February 15, 2007, the TRA's Utilities Division (the "Staff") filed the Compliance Audit Report ("Report") of Actual Cost Adjustment ("ACA"), attached hereto as Exhibit A and incorporated by this reference, which contains the audit findings of the Staff, the responses

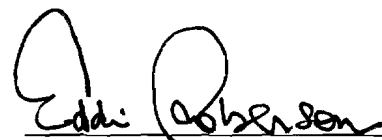
of the Receiver, and the recommendations of the Staff to the Receiver in addressing the findings. The audit report concurred with under-recovered gas cost of \$376,606.48 and recommended approval of an ACA adjustment factor of \$4.1845 per MMBtu applicable to all customers other than Nestle.¹

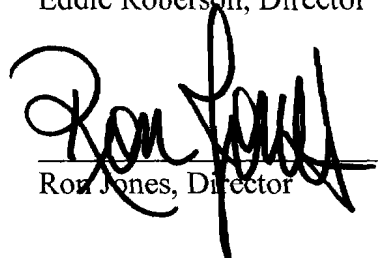
During the February 26, 2007 Authority Conference, the voting panel unanimously waived TRA Rule 1220-4-7-.02 (3) and allowed the ACA to go into effect immediately. After further consideration of the Report, the TRA approved and adopted the findings and recommendations contained therein.

IT IS THEREFORE ORDERED THAT:

The Compliance Audit Report of Actual Cost Adjustment, a copy of which is attached to this Order as Exhibit A, is approved and adopted and the findings and recommendations contained therein are incorporated in this Order as if fully rewritten herein.


Sara Kyle, Chairman


Eddie Roberson, Director


Ron Jones, Director

¹ Pursuant to a special contract, Nestle is billed and pays the NYMEX gas rate. Therefore, there was no over or under recovery of gas costs related to this contract.

FILED 4/15/07

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BEFORE THE TENNESSEE REGULATORY AUTHORITY

TRAIL COURT ROOM

NASHVILLE, TENNESSEE

February 15, 2007

IN RE:

RBS GAS UTILITY, INC.

ACTUAL COST ADJUSTMENT (ACA) AUDIT

)

)

) **Docket No. 07-00049**

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**NOTICE OF FILING BY THE UTILITIES DIVISION OF THE TENNESSEE
REGULATORY AUTHORITY**

Pursuant to Tenn. Code Ann. §§ 65-4-104, 65-4-111 and 65-3-108, the Utilities Division of the Tennessee Regulatory Authority hereby gives notice of its filing of the RBS Gas Utility, Inc ("RBS" or "Company"). 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 RBS Gas Utility, Inc. (the "Company").


2. The Company's ACA filing has been held in abeyance since RBS was placed into receivership and was filed by Receivership Management, Inc. ("RMI") on February 14, 2007. The Audit Staff ("Staff") completed its audit of same on February 15, 2007.

3. On February 15, 2007 the Staff issued its preliminary ACA audit recommendations to RMI and RMI responded to Staff the same day (See Attachment 2 to the audit report.).

4. The preliminary ACA audit report was modified to reflect RBI's response 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 conclusions and recommendations of the Utilities Division in connection therewith.

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

Respectfully Submitted:


Pat Murphy
Utilities Division of the
Tennessee Regulatory Authority

CERTIFICATE OF SERVICE

I hereby certify that on this 15th day of February 2007 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

Ms. Jeanne Bryant, President
Receivership Management, Inc.
215 Centerview Drive, Suite 133
Brentwood, TN 37027

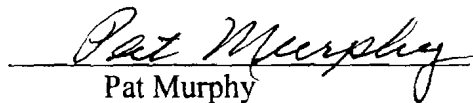

Pat Murphy

EXHIBIT A

RBS GAS UTILITY, INC.

COMPLIANCE AUDIT REPORT OF
ACTUAL COST ADJUSTMENT

Docket #07-00049

PREPARED BY:
TENNESSEE REGULATORY AUTHORITY
UTILITIES DIVISION

FEBRUARY 2007

RBS GAS UTILITY, INC.

**COMPLIANCE AUDIT REPORT OF
ACTUAL COST ADJUSTMENT**

DOCKET NO. 07-00049

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I. INTRODUCTION

The subject of this audit is RBS Gas Utility, Inc.'s ("Company" or "RBS") compliance with the Actual Cost Adjustment and Refund Adjustment of the Purchased Gas Adjustment Rule ("PGA Rule") of the Tennessee Regulatory Authority ("TRA" or the "Authority"). The objective of the audit is to determine whether the Purchased Gas Adjustments, which are encompassed by the Actual Cost Adjustment ("ACA")¹, for the thirty-seven (37) months ended March 31, 2006, are calculated correctly and are supported by appropriate source documentation.

II. BACKGROUND

The last ACA audit for RBS was conducted in 2003 covering the period March 1, 2002 to February 28, 2003 (Docket No. 03-00389). Since then, the Company has failed to file its annual ACA report as required by PGA Rule 1220-4-7-.03(2) for three consecutive years (2003-2004, 2004-2005 and 2005-2006).

Also, during this time period, RBS did not file for a PGA adjustment to reflect the changes in gas prices. The last PGA tariff was filed by the previous owner of RBS (Mr. Hathorn) to be effective July 1, 2002.² During the period of August 2005 to January 2006, gas prices rose from approximately \$8 per Mcf to approximately \$15 per Mcf, while the Company's level of PGA recovery remained at approximately \$9 per Mcf.

During the winter of 2005-2006, it came to the attention of the TRA that RBS was not billing customers for all of their gas usage. TRA Staff attempted to assist RBS owner Mr. Ayers in filing an adjustment to the PGA and filing an ACA to recover its actual gas costs that were not recovered by the existing PGA, with no success. Finally, on May 19, 2006, RBS was placed into receivership, as a result of an action filed by the TRA in Chancery Court for Macon County.³

The current ACA filing has been held in abeyance until now. At this time, Receivership Management, Inc. ("RMI") is filing an ACA covering the period March 2003 through March 2006 (37 months) to recover the gas costs billed to RBS but uncollected from RBS customers.

¹ The ACA is more fully described in Section V.

² Ownership of RBS Gas Utility was transferred from W.E. and Dianne Hathorn to Edward R. Ayers on December 26, 2002.

³ By Court order, the gas utility was placed into receivership. The gas utility is currently run by Receivership Management, Inc.

III. BACKGROUND INFORMATION ON COMPANY AND GAS SUPPLIERS

Ownership of RBS Gas Utility was transferred from W.E. and Dianne Hathorn to Edward R. Ayers on December 26, 2002. The application for transfer was filed on July 2, 2003 and approved by the Authority on September 8, 2003.

RBS serves the city of Red Boiling Springs, Tennessee, which is located in Macon County. The Company's corporate office, however, is in Madison, Mississippi. As a gas distributor it has approximately 200 customers and an annual sales volume of approximately 25,000 MMBtu.

The natural gas used to serve this area is provided through long-term contracts with a nonaffiliated third party that transports gas via the TETCO pipeline to the city gate.

IV. JURISDICTION OF THE TENNESSEE REGULATORY AUTHORITY

Tennessee Code Annotated (T.C.A.) gave jurisdiction and control over public utilities to the Tennessee Regulatory Authority. T.C.A. §65-4-104 states that:

The [A]uthority has general supervisory and regulatory power, jurisdiction, and control over all public utilities, and also over their property, property rights, facilities, and franchises, so far as may be necessary for the purpose of carrying out the provisions of this chapter.

Further, T.C.A. §65-4-105 grants the same power to the Authority with reference to all public utilities within its jurisdiction as chapters 3 and 5 of Title 65 of the T.C.A. have conferred on the Department of Transportation's oversight of the railroads or the Department of Safety's oversight of transportation companies. By virtue of T.C.A. §65-3-108, this power includes the right to audit:

The department is given full power to examine the books and papers of the companies, and to examine, under oath, the officers, agents, and employees of the companies and any other persons, to procure the necessary information to intelligently and justly discharge its duties and carry out the provisions of this chapter and chapter 5 of this title.

The Utilities Division of the TRA is responsible for auditing natural gas utilities under the Authority's jurisdiction to ensure that each company is abiding by Tennessee statute as well as the Rules and Regulations of the Authority. Pat Murphy of the Utilities Division conducted this audit.

V. DESCRIPTION OF PURCHASED GAS ADJUSTMENT RULE

The PGA Rule can be found in Chapter 1220-4-7 of the Rules of the Tennessee Regulatory Authority. The PGA Rule permits a gas company to recover, in a timely fashion, the total cost of gas purchased for delivery to its customers and to assure that a company does not over-collect or under-collect gas costs from its customers. The 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 "true-up" the difference between the actual gas costs and the gas costs recovered from customers 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 to this report.

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].

VI. SCOPE OF ACTUAL COST ADJUSTMENT AUDIT

The ACA audit is a limited compliance audit of RBS's deferred gas cost account ("ACA Account"). The audit goal is to verify that the Company's calculations of gas costs incurred and recovered are materially correct,⁴ and that the Company is following all Authority orders and directives with respect to its calculation of the ACA Account balance. Refer to the ACA Account detail provided in Section VII, Summary of ACA Account.

The ACA filing in this audit is unique in that it was compiled by RMI on behalf of the Company. To accomplish the audit goal, Audit Staff ("Staff") reviewed gas supply invoices, as well as supplemental schedules and other source documentation provided by RMI to verify the calculations contained in the calculation of the ACA Account balance.

⁴ The audit goal is not to guarantee that the Company's results are 100% correct. Where it is appropriate, Staff utilizes sampling techniques to determine whether the Company's calculations are materially correct. Material discrepancies would dictate a broadening of the scope of Staff's review.

VII. ACA AUDIT FINDINGS

The results of the Staff's audit shows an under-recovery in gas costs at March 31, 2006 in the amount of \$376,606.48. This under-recovery includes interest in the amount of \$20,578.38, which was calculated on the under-recovered balance each month for the thirty-seven (37) months audit period as required by the PGA Rule 1220-4-7-.03(1)(b)2.(vii).

Due to the disarray of the Company's financial records when RMI took over the management of RBS, a comprehensive reconciliation of gas invoices and customer metering and billing records was performed by RMI. RMI provided Staff with all documentation necessary to support the filing which is summarized below.

SUMMARY OF THE ACA ACCOUNT:⁵

<u>Line No.</u>		<u>RMI ACA Filing</u>
1	Beginning Balance at 03/01/03	\$ 1,699.31
2	<u>Activity During Current Period:</u>	
3	Plus Gas Costs	\$705,307.56
4	Minus Recoveries inc. in Base Rates	200,436.57
5	Minus ACA Recoveries	3,005.90
6	Minus PGA Recoveries	<u>147,536.30</u>
7	Ending Balance before Interest (line 1 + line 3 – line 4 – line 5 – line 6)	\$ 356,028.10
8	Plus Interest	<u>20,578.38</u>
9	Ending Balance Including Interest at 03/31/06 (line 7 + line 8)	<u>\$376,606.48</u>

⁵ A negative number represents an over-recovery (or over-collection) of gas costs.

VIII. CONCLUSIONS AND RECOMMENDATIONS

Staff has reviewed all supporting documentation used in the calculation of the ending balance in the ACA Account as of March 31, 2006, and concurs that the amount of **under-collection** of gas costs, including the associated interest due from customers is **\$376,606.48**. This balance is the sum of \$354,328.79 in under-collected gas costs for the period, \$20,578.38 in interest due from customers, and \$1,699.31 in the under-collected beginning balance at March 1, 2003.

The PGA Rule contemplates refunding or surcharging the balance in the ACA Account over the ensuing twelve (12) month period in accordance with the thirty (30) day notice requirement specified in TRA Rule 1220-4-7-.02(3). This Rule, however, also provides that the Authority may allow a Company to place rates into effect with shorter notice for “good cause shown.” Due to the uniqueness of this filing and the urgent need to provide the Court with a rehabilitation plan for RBS as explained in RMI’s letter in this docket, Staff recommends that the Authority grant RMI’s request for an effective date of February 26, 2007 for its revised tariff, to coincide with the Authority’s decision.

Due to the fact that RBS’ owner did not appropriately collect gas costs from its customers for an extended period of time and failed to file annual ACA reports with the TRA, the magnitude of the under-collection is extremely high for a gas utility of this size. RMI, therefore, also requests that the recovery of the uncollected gas costs resulting from this filing be spread over a period of four (4) years rather than twelve (12) months. PGA Rule 1220-4-7-.03(1)(b)4.(i) provides that the recovery period may extend longer than twelve (12) months if required to “appropriately” refund or surcharge the balance in the ACA Account. RMI’s request is based on the fact that under a twelve (12) month recovery period, the surcharge to customers would be unreasonably high, so as to create a hardship on the Company’s residential customers. One alternative heating source for these customers is propane gas. Therefore, RMI proposes spreading the recovery over four (4) years to make the cost of natural gas as close to the estimated cost of propane as possible. Staff finds this to be reasonable based on the circumstances and recommends that the Authority grant the request to extend the recovery period to four (4) years.

Spreading the \$376,606.48 balance over four (4) years results in an ACA adjustment factor of **\$4.1845 (surcharge) per MMBtu** of usage which applies to all customer classes. See Attachment 1 to this report for the calculation of this factor. Therefore, RBS’s **new billing rate is \$17.55 per MMBtu for residential and commercial customers**, comprised of \$7.50 tariff rate plus the currently approved \$5.8652 purchased gas adjustment plus the new \$4.1845 ACA adjustment. For **Industrial customers**, the new billing rate is **\$16.55**.

Ms. Jeanne Bryant, President of RMI reviewed the preliminary audit report and recommendations and responded that she concurs with the above recommendations. See Attachment 2 to this report for a copy of her letter.

APPENDIX A

PGA FORMULA

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

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

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

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:

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

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

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.

RBS Gas Utility, Inc.

Calculation of the ACA Factor

Line No.	Factor to be applied to residential, commercial and industrial customers:		
1	Cost of Gas purchased (3/1/03-3/31/06)	\$ 705,307.56	
2	Cost of Gas recovered from customers through PGA rates	<u>347,972.87</u>	
3	Under/(Over) Collection (Line 1 - Line 2)	\$ 357,334.69	
4	ACA surcharges/(refunds) (3/1/03-3/31/06)	3,005.90	
5	Interest calculated on average monthly balance in account	20,578.38	
6	Beginning balance at 3/1/03	1,699.31	
7	Balance in ACA account at 3/31/06 (Line 3 - Line 4 + Line 5 + Line 6)	\$ <u>376,606.48</u>	Under-Collection
8	Sales Volumes **	90,000	MMBtu
9	ACA Factor - surcharge/(refund) (Line 7 divided by Line 8)	\$ <u>4.1845</u>	Per MMBtu

** Estimated 48 months sales volumes based on historical sales.

02/15/07 11:10 FAX 370-4336 RECEIVED RMT INC 002

Receivership Management, Inc.

215 Centerview Drive, Suite 133 Brentwood, TN 37027 (615) 370-0051 Fax (615) 373-4336

February 15, 2007

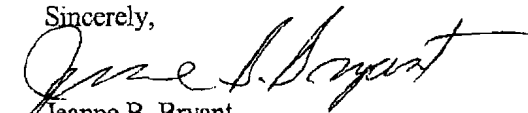
Pat Murphy
Manager, Energy and Water Utilities Division
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37243-0505

RE: ACA Tariff Filing for RBS Gas Utility Inc.

Dear Ms. Murphy:

I have reviewed the report prepared by the Audit Staff of the Tennessee Regulatory Commission concerning the ACA tariff filing for RBS Gas Utility, Inc. I concur with the recommendations contained in the Report. Please let me know if there are any questions that arise. Thank you for your assistance.

Sincerely,



Jeanne B. Bryant
President-Receivership Management Inc.
Receiver of RBS Gas Utility Company

ATTACHMENT 2