

**BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE**

IN RE:)	
)	
DOCKET TO EVALUATE CHATTANOOGA)	DOCKET NO.
GAS COMPANY'S GAS PURCHASES AND)	07-00224
RELATED SHARING INCENTIVES)	

CONSUMER ADVOCATE'S MOTION TO COMPEL

Robert E. Cooper, Jr., the Attorney General and Reporter for the State of Tennessee, through the Consumer Advocate and Protection Division ("Consumer Advocate"), respectfully moves the Authority to compel Chattanooga Gas Company ("CGC") to fully and completely respond to the first discovery requests of the Consumer Advocate set forth below.

INTRODUCTION

The discovery in dispute involves requests that generally seek information regarding the market value of the transportation and supply assets that are at issue in this docket, the superior advantage in the bidding process Sequent enjoys as an affiliate asset manager and the nature of use of assets CGC controls as a result of its relationship to rate-payers. Issue Nos. 1, 2, 5, 9, 10, 11, 12, 13 and 15 are of particular relevance. A copy of CGC's disputed discovery responses are attached herewith. Specifically, the Consumer Advocate requests the hearing officer compel responsive answers to the following requests: 14, 15, 24, 28, 34, 35, 36, 46, 49, 50, 51, 52, 53, 54, 63, 64, 70, 71, 76, 77 and 78.¹

¹ CGC's response to Request Nos. 1-8, seem to suggest that it will supplement its response no later than the filing of CGC's pre-filed testimony. If this is not the case, then these

STANDARD FOR DISCOVERY

Tennessee has a broad policy which favors the discovery of any relevant information:

Parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of any other party, including the existence, description, nature, custody, condition and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of any discoverable matter. It is not ground for objection that the information sought will be inadmissible at the trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

Tenn. R. Civ. P. 26.02(1). Thus, evidence does not have to be admissible to be discoverable as long as the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

Today, it is through discovery rather than pleadings that the parties attempt “to find the truth and to prepare for the disposition of the case in favor of the party who is justly deserving of a judgment.” *Kuehne & Nagel, Inc. v. Preston, Skahan & Smith International, Inc.*, 2002 WL 1389615 at *3 (Tenn. Ct. App. 2002) (*quoting* Irving Kaufman, *Judicial Control Over Discovery*, 28 F.R.D. 111, 125 (1962)). Accordingly, a party seeking discovery is entitled to obtain any information that is relevant to the case and not privileged. *See Id.* Consistent with Tennessee’s open discovery policy, the relevancy requirement is “construed broadly to encompass any matter that bears on, or that reasonably could lead to other matters that could bear on any of the case’s issues.” *Id.* Discovery therefore is not limited to the issues raised by the pleadings. *See Id.*, *see also Shipley v. Tennessee Farmers Mutual Ins. Co.*, 1991 WL 77540 at

requests must be added to the Motion to Compel.

*7-8 (Tenn. Ct. App. 1991). A party may also use discovery to: define and clarify the issues; probe a variety of fact-oriented issues that are not related to the merits of the case; formulate and interject additional issues into the case which relate to the subject matter of the pleadings; and determine additional causes of actions or claims which need to be or can be asserted against a party or against third parties. *See Shipley*, 1991 WL 77540 at *7-8 (quoting *Vythoulkas v. Vanderbilt University Hospital*, 693 S.W.2d 350, 359 (Tenn. Ct. App. 1985)).

It is nonetheless recognized that the trial court may limit discovery under appropriate circumstances. Because of the broad policy favoring discovery, the trial court should not order limitations on discovery unless the party opposing discovery can demonstrate with more than conclusory statements and generalizations that the discovery limitations are necessary to protect the party from annoyance, embarrassment, oppression, or undue burden and expense. *See Duncan v. Duncan*, 789 S.W.2d 557, 561 (Tenn. Ct. App. 1991). The trial court should decline to limit discovery if the party opposing discovery cannot produce specific facts to support the requested limitations. *See Id.* Moreover, given the liberal construction of discovery rules, the trial court should approach any request for limitations with common sense rather than with narrow legalisms, basing the reasonableness of any ordered limitations on the character of the information sought, the issues involved, and the procedural posture of the case. *See Id.* Rather than denying discovery outright, it is appropriate for the trial court to fashion remedies to discovery issues by balancing the competing interests and hardships of the parties and by considering whether there are less burdensome means for acquiring the requested information. *See Id.*

SPECIFIC DISCOVERY REQUESTS THAT
ARE THE SUBJECT OF THIS MOTION

I. DISPUTES REGARDING THE CONSUMER ADVOCATE'S DISCOVERY REQUESTS 24 AND 28.

The Consumer Advocate asked CGC for production of documents that would help the Consumer Advocate develop its arguments about the value of these assets, as well as the appropriate level of sharing of this value with consumers. In particular, the Consumer Advocate asked for two items of information that it has not received and that the Consumer Advocate considers indispensable to the development of its case on this claim: **Discovery Request No. 24** asked CGC to produce Sequent's general accounting ledger and related chart of accounts covering the period of the current asset management contract between CGC and Sequent; and **Discovery Request No. 28** asked CGC to produce Sequent's profit and loss by customer covering the period of the current asset management contract between CGC and Sequent.

In particular the General Ledger contains entries regarding costs of sales and information regarding Sequent's general and overhead costs. The sales, cost of sales, and general and overhead costs are needed to determine the value of the assets and the profits generated from Sequent's utilization of the assets. Determination of the value of the assets and profits generated from the utilization of the assets is relevant, indeed essential, to the Consumer Advocate's claim regarding fair compensation to rate-payers. The general ledger is the source for all financial statements, reporting, etc. Therefore, it is a necessary instrument to validate financial reporting for transactions by affiliate. Without knowing the market value of the assets, it is difficult or impossible to determine whether rate-payers are being fairly compensated.

CGC's objection is a standard form objection that does not apply. As discussed above, the information is clearly useful and will lead to the discovery of admissible evidence. The request is not overly broad, burdensome, vague, ambiguous, nor privileged. Surely CGC knows what a general ledger and the related chart of accounts are. The Consumer Advocate agrees that this information may contain confidential information, which is precisely why a protective order was entered in this docket.

CGC appears to have made an attempt, as in other responses which are the subject of this motion, to answer **Discovery Request No. 24**. However, to state that Sequent does not have information by a particular state is non-responsive. As a result of the Consumer Advocate's trip to Houston, TX, we know CGC has the information. CGC will need to produce the information in whatever form it has it, so that the Consumer Advocate may obtain the information it needs to properly litigate this matter.

II. DISPUTES REGARDING THE CONSUMER ADVOCATE'S DISCOVERY REQUESTS 34, 35, 36, 46, 49, 50, 51, 52, 53, AND 54.

These requests deal directly with the relationship of CGC and Sequent. CGC has made an attempt, as in other responses which are the subject of this motion, to answer these requests. However, the responses are either incomplete, the result of an overly restrictive reading of the request propounded or clouded by an inappropriate objection. For instance, CGC's objections to **Discovery Request Nos. 34 and 35** are standard form objections that do not apply. The Consumer Advocate understands that Sequent has agreed to share more of the profits with its affiliate and therefore the affiliate utility rate-payers than it does in Tennessee. The Consumer Advocate understands that Sequent takes only 40% of the profits in Georgia. As discussed

above, the information is clearly useful and will lead to the discovery of admissible evidence. The request is not overly broad, burdensome, vague, ambiguous, nor privileged. Surely CGC knows what the nature of a profit and loss statement. The Consumer Advocate agrees that this information may contain confidential information, which is precisely why a protective order was entered in this docket.

With respect to **Discovery Request No. 36**, CGC simply does not answer the question. CGC merely claims it complied with TRA requirements. One of the items under review is whether the TRA requirements adequately foster a process that produces competitive bids between affiliates. CGC does not explain how the sharing formula and percentages were determined. CGC's response leaves many questions. What criteria was used? What was the substance of the "negotiations" CGC references in its response? Who are the decision makers? What role did other affiliates, including the parent, play in setting the sharing arrangement? These are just a few of the questions remaining subsequent to CGC's response.

With respect to **Discovery Request Nos. 46, 49, 50, 51, 52, 53 and 54**, CGC simply does not answer the questions. CGC merely claims it complied with TRA requirements. One of the items under review is whether the TRA requirements adequately foster a process that produces competitive bids between affiliates. Knowing what information has passed between CGC and Sequent over this period is critical to understanding the superior position Sequent holds over other bidders for the asset manager arrangement.

The Consumer Advocate fully understands that each is an affiliated company and therefore has a claim that their business operations are separate. However, affiliate companies

often share employees, and employees leave one affiliate for another. As an affiliate and the former asset manager for CGC, Sequent is in a different environment. This unique environment potentially places it in the path of additional information. Each such sharing or rearrangement carries with it a transfer of information that non-affiliated companies may not be able to access.

As discussed above, the information is clearly useful and will lead to the discovery of admissible evidence. The request is not overly broad, burdensome, vague, ambiguous, nor privileged. The Consumer Advocate agrees that this information may contain confidential information, which is precisely why a protective order was entered in this docket.

III. DISPUTES REGARDING THE CONSUMER ADVOCATE’S DISCOVERY REQUESTS 63, 64, 70, 71, 76, 77 AND 78.

CGC provided responses but some are not answers to the request propounded. Understanding Sequent’s approach to valuing requests for proposals from gas utilities in Tennessee, which the TRA and the Consumer Advocate have a unique understanding of, is vital to understanding whether rate-payers are receiving a fair share of the useful assets. Just as it is important that the TRA review the relationship of Sequent, CGC and the gas pipeline(s) to know how these assets are used. CGC has made an attempt, as in other responses which are the subject of this motion, to answer these requests. However, the responses are either incomplete, the result of an overly restrictive reading of the request propounded or clouded by an inappropriate objection.

With respect to **Discovery Request Nos. 63 and 64**, CGC relies on a “scheduling summary” that it did not provide in discovery.

With respect to **Discovery Request Nos. 70 and 71**, CGC does not identify the operator of the referenced meter point. Instead, CGC seems to suggest that the meter point has more than one operator, which is not accurate.

With respect to **Discovery Request Nos. 76, 77 and 78**, the information is important for the TRA to review the relationship of Sequent, CGC and the gas pipeline(s) to know how these assets are used. It is the Consumer Advocate's understanding that "[East] Tennessee Pipeline offers customers imbalance management services in the form of operational balancing agreements under Rate Schedule LMS-MA and Rate Schedule LMS-PA. Contrary to the statements in Sequent's comments, the balancing services are not limited to the western end of the East Tennessee pipeline system; these balancing services are available throughout the pipeline system, including on the specific sections of the system identified by Sequent. Under these OBAs, East Tennessee customers taking service can remain in balance at times where the customers' actual takes at specific delivery points may differ from their scheduled nominations."²

In other portions of the discovery responses, CGC admits it has an OBA including East Tennessee's delivery point 59014. Sequent and CGC both utilize meter 59014 via separate contracts 410203-R1 and 410206-R1, a meter point which is in Hamilton County, Tennessee according to the pipeline's public records, and where CGC has a several-year-history of using that point to deliver natural gas to CGC's customers who are under the TRA's jurisdiction. Meter point 59014 is also utilized by Sequent to meet its contractual obligations to provide gas supply

² BEFORE THE FEDERAL ENERGY REGULATORY COMMISSION, Docket Nos. RP00-469-010 East Tennessee Natural Gas, LLC RP01-22-012 RP03-177-007, *ANSWER OF EAST TENNESSEE NATURAL GAS, LLC TO COMMENTS OF SEQUENT ENERGY MANAGEMENT, L.P. AND THE EAST TENNESSEE GROUP*, p. 4.

to Washington Gas Light, WGL, in Washington, D.C. To the extent that Sequent uses an OBA which overlaps CGC's OBA, it is directly relevant to the instant case that Sequent provide a copy of its OBA agreement, where the specific delivery and receipt points are identified.

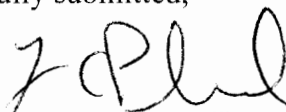
CGC's objection is a standard form objection that does not apply. As discussed above, the information is clearly useful and will lead to the discovery of admissible evidence. The request is not overly broad, burdensome, vague, ambiguous, nor privileged. Surely CGC knows what entity is the operator. The Consumer Advocate agrees that this information may contain confidential information, which is precisely why a protective order was entered in this docket. The adequacy of CGC's response to **Discovery Request No. 78** depends on CGC's responses to **Discovery Request Nos. 76 and 77**.

IV. DISPUTES REGARDING THE CONSUMER ADVOCATE'S DISCOVERY REQUESTS 14, 15, 72 AND 81.

CGC did not respond to these requests in the time frame set out in the procedural order. The Consumer Advocate received CGC's response on April 18, 2007. The Consumer Advocate has not had enough time to review this material.

WHEREFORE, the Consumer Advocate respectfully requests that the Authority enter an order compelling CGC to produce full and complete answers to the Consumer Advocate's discovery requests.

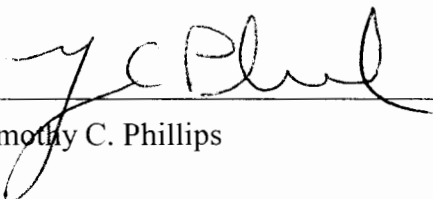
Respectfully submitted,



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Certificate of Service

I hereby certify that a true and correct copy of the foregoing was served via first-class U.S. Mail, postage prepaid, electronic mail, or hand delivery, upon the parties of record in this case on April 22, 2008.



Timothy C. Phillips

118847

Question 24:

Please provide a complete copy of Sequent's book of profits and losses for Tennessee for the time period from January 1, 2004 through the present by calendar year, or copies of the documents whether or not they are kept in the form of a book.

Response:

Sequent does not maintain books of profit by state.

Question 28:

Please produce copies of Sequent's general accounting ledger and related chart of accounts for the fiscal years ended December 31, 2004, December 31, 2005, December 31, 2006, and December 31, 2007.

Response:

Sequent objects to this question as not reasonably calculated to lead to the discovery of admissible evidence, overly broad and unduly burdensome, vague and ambiguous and seeking privileged, confidential, proprietary and/or trade secret information.

Question 34:

Please provide copies of all asset management contracts between Sequent and entities other than CGC for the time period from January 1, 2004 through the present.

Response:

Sequent objects to this question as not reasonably calculated to lead to the discovery of admissible evidence, overly broad and unduly burdensome, vague and ambiguous and seeking privileged, confidential, proprietary and/or trade secret information.

Question 35:

Please provide copies of all asset management contracts between AGL affiliates and their asset managers for the time period from January 1, 2004 through the present.

Response:

Sequent objects to this question as not reasonably calculated to lead to the discovery of admissible evidence, overly broad and unduly burdensome, vague and ambiguous and seeking privileged, confidential, proprietary and/or trade secret information.

Question 36:

Please explain how the sharing formula and percentages were determined for the asset management contracts between CGC and Sequent for the time period from January 1, 2004 through the present.

Response:

The sharing provisions included in the asset management agreement between CGC and Sequent for the period of January 1, 2004-March 31, 2008 were negotiated by the parties. The sharing provisions in the agreement effective April 1, 2008 were determined through the RFP and bidding process included in CGC's Tariff approved by the Tennessee Regulatory Authority.

Question 46:

Does CGC obtain competitive bids for information, assets, goods or services subsequently purchased from an affiliated entity? If not, document the reasons and circumstances for which CGC deems competitive bids are neither necessary or appropriate. If CGC does obtain such competitive bids, provide copies of documents showing such competitive bids.

Response

CGC has demonstrated that it complied with the Authority's requirements with respect to competitively bidding its asset management arrangement. To the extent this question seeks additional information, CGC objects to this question as not reasonably calculated to lead to the discovery of admissible evidence, overly broad and unduly burdensome, vague and ambiguous and seeking privileged, confidential, proprietary and/or trade secret information.

Question 49:

Explain in detail the process, including all communications, CGC went through in selecting Sequent as CGC's asset manager for the period January 1, 2004 through the present.

Response:

In compliance with the procedures provided in CGC's Tariff approved by the TRA, employees of AGL Services Company's Gas Control, Regulatory, and Legal Departments, acting on behalf of CGC, developed a written Request For Proposal (RFP) defining the Company's assets to be managed, detailing the Company's minimum service requirements, describing the content requirements of the bid proposals, and the procedures for submission and evaluation of the bid proposals. After approval by senior management of CGC, the RFP was provided to twenty seven potential asset managers and the TRA Staff on November 20, 2007. In addition, advertisements inviting other potential asset managers to submit proposals were published in Platts Gas Daily publication on November 27, 2007 and December 11, 2007. (A confidential copy of the RFP provided to the potential bidders and the TRA Staff and, a confidential copy of the list of potential bidders was previously provided in TRA Docket 08-00012.)

As a result of request from potential bidders the supplemental information included on Attachment A was provided to potential bidders on December 12, 2008.

Responses to the RFP that were received by 12:00 Noon, December 21, 2007, as provided in RFP, were evaluated between that date and January 3, 2008. On January 4, 2008 Sequent Energy Management was notified that it was successful bidder. (Copies of the confidential responses from all the bidders were previously provided in TRA Docket 08-00012 in response to the TRA Staff's Discovery Request #3.)

To the extent this request seeks information related to the previous asset management agreement, CGC objects as not reasonably calculated to lead to the discovery of admissible evidence, overly broad and unduly burdensome, vague and ambiguous and seeking privileged, confidential, proprietary and/or trade secret information.

Question 50:

Describe in detail all communications between CGC, AGL, and any affiliate of CGC concerning the asset management arrangements for the period from January 1, 2004 to the present.

Response:

As addressed in the response to request Item 49, employees of AGL Services Company's Gas Control, Regulatory, and Legal Departments, acting on behalf of CGC, developed a written Request For Proposal (RFP) that defined the Company's assets to be managed, detailing the Company's minimum service requirements, describing the content requirements of the bid proposals, and the procedures for submission and evaluation of the bid proposals. Sequent Energy Management, an affiliate of CGC, was included in the group of potential bidders that were provided a copy of the RFP on November 20, 2007. On December 12, 2007 supplemental information was provided to the potential bidders, including Sequent Energy Management. On January 4, 2008 Sequent was notified that its proposal had been accepted. After Sequent was notified that it was the successful bidder there was communication with Sequent addressing the procedural schedule for obtaining approval and discussion concerning what information included in the AMA agreement that should be classified as confidential. There was no communication between CGC and other affiliates concerning the AMA.

To the extent this request seeks information related to the previous asset management agreement, CGC objects as not reasonably calculated to lead to the discovery of admissible evidence, overly broad and unduly burdensome, vague and ambiguous and seeking privileged, confidential, proprietary and/or trade secret information.

Question 51:

Provide all documents of all communications between CGC, AGL and any affiliate of CGC concerning the asset management arrangements for the period from January 1, 2004 to the present.

Response:

The RFP provided to Sequent was filed in TRA Docket 08-00012, and the supplemental data provided to potential bidders is included in response to question 50.

Attached is a copy of an e-mail sent to Sequent providing the procedural schedule for TRA Dockets 08-00012 and 07-00224.

To the extent this request seeks information related to the previous asset management agreement, CGC objects as not reasonably calculated to lead to the discovery of admissible evidence, overly broad and unduly burdensome, vague and ambiguous and seeking privileged, confidential, proprietary and/or trade secret information.

Question 52:

Describe in detail the work history of all Sequent employees for the past ten years.

Response:

Sequent objects to this question as not reasonably calculated to lead to the discovery of admissible evidence, overly broad and unduly burdensome, vague and ambiguous and seeking privileged, confidential, proprietary and/or trade secret information.

Question 53:

Describe in detail all information supplied to Sequent pertinent to Sequent's valuation of the subject asset management arrangement.

Response

Please see the response to question 51 for a list of all information provided to Sequent and all potential bidders relating to CGC's most recent Asset Management RFP.

Question 54:

Describe in detail all information supplied to all other bidders in TRA docket no. 08-00012, which is in any way pertinent, or could be pertinent, to each bidder's valuation of the asset management arrangement.

Response:

Please see the response to question 51 for a list of all information provided to Sequent and all potential bidders relating to CGC's most recent Asset Management RFP.

Question 63:

Explain fully how CGC prevents its activities related to contract 410203-R1 from being commingled with Sequent's activities regarding contract 410206-R1.

Response

Gas scheduled on Sequent's contract 410206 to meter 59014 is scheduled for other third party deliveries. Volumes scheduled to meter 59014 for CGC use under the CGC Tennessee contracts or Sequent's contract 410206 is shown on a scheduling summary spreadsheet denoting the gas is to be used at other CGC meters.

Question 64:

Does CGC use or has CGC used energy delivered to Sequent at meter 59014 to meet the needs of CGC's ratepayers?

Response:

One single day, January 16, 2007, CGC purchased 5000 dths delivered on Sequent's contract 410206 to the meter 59014. This gas was denoted on a scheduling summary for CGC usage at other meters. If gas is scheduled to 59014 for CGC use, it is denoted on a scheduling summary for CGC use and it is not considered delivered to Sequent.

Question 70:

Is CGC the operator of SONAT point 19966, shown in Table 18?

Response:

Both CGC and Sonat have operating responsibilities at point 19966.

Question 71:

Is CGC the operator of any of CGC's points for East Tennessee pipeline? If so, which points? If not, what entity is the operator of CGC's points for East Tennessee pipeline?

Response

Both CGC and East Tennessee have operating responsibilities at CGC's delivery points.

Question 76:

Is there a balancing agreement between Sequent and East Tennessee?

Response

Sequent objects to this question as not reasonably calculated to lead to the discovery of admissible evidence and seeking privileged, confidential, proprietary and/or trade secret information.

Question 77:

If the response is "Yes" to either of the two requests immediately above, then provide copies of all Operating Balance Agreements between CGC and East Tennessee Natural Gas Pipeline, between Sequent and East Tennessee Natural Gas Pipeline, and between AGL and East Tennessee Natural Gas Pipeline.

Response

**Rate Schedule LMS-PA
Load Management (Pooling Area) Service**

1. AVAILABILITY

1.1 Transporter shall provide a monthly balancing service to parties (herein referred to as "Balancing Parties") who have executed an Operational Balancing Agreement ("OBA") for use at receipt points. A Receipt Point OBA will be available to:

- (a) the operator of connecting facilities at a receipt point(s) on Transporter's system;
- (b) a pipeline operator whose facilities interconnect with Transporter's system;
- (c) A supply aggregator ("Aggregator") who has obtained consent from two or more receipt point operators authorizing the Aggregator to operate such points, which authorization shall include, but not be limited to, changing physical flow at receipt points; provided however that the sum of all the MDROs at all points covered by one Aggregator's Balancing Agreement shall not exceed 5,000 Dth.

2. APPLICABILITY

The terms, conditions, and charges set forth in this Rate Schedule governing daily variances and monthly balancing shall apply to all gas flowing through meters covered by a Receipt Point OBA. A Receipt Point OBA may cover an unlimited number of points designated as Primary Receipt Points under FT-A and/or FT-GS Agreement(s), or an unlimited number of points designated as Primary Receipt Points under an FT-L Agreement, subject to the limitation in Section 1.1(c) above. A single Receipt Point OBA may not cover points on that portion of Transporter's system designated as an Incremental Lateral and points on that portion of Transporter's system not designated as an Incremental Lateral.

3. SCHEDULING AND CONFIRMATION BY BALANCING PARTY

The Balancing Party will submit confirmations to Transporter via LINK® by Transporter's confirmation deadline(s) set forth in Section 15 of Transporter's General Terms and Conditions. The Balancing Party's confirmation shall specify the quantity to be transported by each Shipper to or from Balancing Party's receipt point.

4. DAILY VARIANCES

- 4.1 The daily variance shall be the difference between the total Scheduled Quantity at that point and the actual quantity delivered into Transporter's system at that point on any day.

Issued by: D. A. McCallum, Director, Rates and Tariffs

Issued on: August 16, 2006

Effective on: October 29, 2006

Filed to comply with order of the Federal Energy Regulatory Commission, Docket No. CP05-413-000, issued February 8, 2006, 14 FERC ¶ 61,122

East Tennessee Natural Gas, LLC

FERC Gas Tariff

Third Revised Volume No. 1

First Revised Sheet No. 192

Superseding

Original Sheet No. 192

Rate Schedule LMS-PA

Load Management (Pooling Area) Service (Continued)

- 4.2 A Balancing Party may be subject to an Action Alert Penalty or a Balancing Alert Penalty for quantities delivered above the Daily Limit as set forth in Section 5.

- 4.3 Based upon the best information available, a Balancing Party shall take action to correct any imbalances occurring during the month by making adjustments in nominations or receipts. If Balancing Party fails to take such corrective action, then Transporter may, upon 48 hours notice, adjust Balancing Party's scheduled receipts over the remainder of the calendar month in order to maintain a balance of receipts and nominations.

5. DELIVERIES IN EXCESS OF DAILY LIMIT

- 5.1 On any day on which Transporter has issued an Operational Flow Order ("OFO") affecting Balancing Party's point pursuant to Section 14 of Transporter's General Terms and Conditions, and Balancing Party delivers gas in excess of the Daily Limit

applicable to the receipt point, such Balancing Party shall be subject to an Action Alert Penalty or a Balancing Alert Penalty, as applicable, as set forth in Section 14.9 of Transporter's General Terms and Conditions for each dth of excess quantities delivered beyond a two percent allowable variation. The Daily Limit shall be stated in the OFO.

- 5.2 In addition to the remedy set forth in 5.1 above, in the event Balancing Party delivers gas in excess of the Daily Limit applicable to the receipt point and Transporter believes it is necessary to take actions (i.e., buying or selling gas, etc.) to maintain system integrity or to prevent interrupting firm service, Transporter shall have the right, but not the obligation, to take such remedial actions as it deems necessary. If Transporter takes these actions, it shall be made whole by the Balancing Party that failed to observe the Daily Limit for all costs that Transporter incurs.
- 5.3 Any penalty revenue collected by Transporter pursuant to this Section 5 will be credited to Non-offending LMS-PA Balancing Parties pursuant to Section 47.4 of the General Terms and Conditions of this FERC Gas Tariff.

6. IMBALANCE TRADING

LMS-PA Balancing Parties will be allowed to trade imbalances occurring during the month.

Transporter shall allow LMS-PA Balancing Parties to trade imbalances with other LMS-MA or

LMS-PA Balancing Parties within the same Operational Impact Area, as defined in Section

1

of the General Terms and Conditions, if the two Balancing Parties' imbalances are offsetting balances for the month, such that the net imbalance for each Balancing Party after the completion of the trade would be reduced to a quantity closer to zero. A Balancing Party may trade any imbalance with another Balancing Party, provided that the trade shall not result in a transportation path which crosses a Posted Point of Restriction, as defined in Section 1 of the General Terms and Conditions, for that month.

A Transportation Component for each imbalance to be traded will be calculated and applied pursuant to Section 8.4 of Rate Schedule LMS-MA.

Issued by: D. A. McCallum, Director, Rates and Tariffs

Issued on: November 13, 2006

Effective on: December 14, 2006

Rate Schedule LMS-PA
Load Management (Market Area) Service (Continued)

Transporter will provide the ability to post and trade imbalances at any time during the gas flow month, and until the seventeenth Business Day after the end of the month during which the imbalances occurred. To facilitate the trading process, Transporter will, upon receipt of an LMS-PA Balancing Party's authorization, post an LMS-PA Balancing Party's imbalance quantity on its Web site. Authorizations to Post Imbalances that are received by Transporter by 11:45 a.m. will be effective by 8:00 a.m. the next Business Day (central clock time). An Authorization to Post Imbalances will remain in effect until cancelled by the LMS-PA Balancing Party. Imbalances previously authorized for posting will be posted as they become available, but no later than the ninth Business Day of the month; however, Transporter will not be required to post zero imbalances. The information posted will identify the LMS-PA Balancing Party, the contract number, the Operational Impact Area and the gas flow month applicable to the posted imbalance quantity. Transporter will provide to all Customers the ability to view, and upon request, download posted imbalance information.

Transporter shall enable the imbalance trading process by (i) receiving the Request for Imbalance Trade, (ii) receiving the Imbalance Trade Confirmation, (iii) sending the Imbalance Trade Notification to all affected parties, and (iv) reflecting the trade prior to or on the next monthly Shipper Imbalance or cash-out. When trading imbalances, the quantity to be traded must be specified. After receipt of an Imbalance Trade Confirmation, Transporter will send the Imbalance Trade Notification to the initiating trader and the confirming trader no later than noon (central clock time) on the next Business Day. Imbalance trades can only be withdrawn by the initiating trader and only prior to the confirming trader's confirmation of the trade. Imbalance trades are considered final when confirmed by the confirming trader and effectuated by Transporter. Transporter shall update the LMS-PA Balancing Party's imbalance data to reflect any final trades of imbalance quantities no later than 9:00 a.m. CT on the next Business Day after the trade is finalized.

Issued by: D. A. McCallum, Director, Rates and Tariffs

Issued on: November 13, 2006

Effective on: December 14, 2006

Rate Schedule LMS-PA
Load Management (Pooling Area) Service (Continued)

7. MONTHLY IMBALANCES

7.1 The LMS-PA Balancing Party's monthly imbalance shall be the net total of daily variances from all points covered by the LMS-PA Balancing Party's OBA(s) adjusted for make-up quantities and imbalance trading transactions, with the exception that monthly imbalances created on that portion of Transporter's system not designated as an Incremental Lateral shall not be netted against monthly imbalances created on that portion of Transporter's system designated as an Incremental Lateral. Unless Transporter and the Balancing Party mutually agree to correct the imbalance in kind on a nondiscriminatory basis, each month Transporter and the Balancing Party shall "cash out" any imbalance between Scheduled Quantities and actual receipts. To determine the % monthly imbalance, Transporter shall divide the lesser of the monthly imbalance based on Operational Data or the actual monthly imbalance by the total scheduled quantities for all days of the month for all points covered by the Balancing Agreement, then multiply by 100.

7.2 (a) If the monthly imbalance is due to an excess of actual receipts relative to scheduled quantities, then the monthly imbalance shall be considered a "positive" imbalance and Balancing Party/Shipper shall sell to Transporter, and Transporter shall buy from the Balancing Party/Shipper, in accordance with the formula listed in Section 7.2(a) of this Rate Schedule. If the monthly imbalance is due to a deficiency in actual receipts relative to scheduled quantities, then the monthly imbalance shall be considered a "negative" imbalance and Transporter shall sell to the Balancing Party/Shipper, and Balancing Party/Shipper shall buy from Transporter, in accordance with the formula listed in Section 7.2(a)(ii).

The amounts due hereunder shall be paid in accordance with

Section 16 of the General Terms and Conditions of
Transporter's FERC Gas Tariff.

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East Tennessee Natural Gas, LLC

FERC Gas Tariff

Third Revised Volume No. 1

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Load Management (Pooling Area) Service (Continued)

- (i) The Balancing Party or Shipper (hereinafter referred to as the "Party") and Transporter shall "cash out" the actual monthly imbalance at the applicable price described below.
 - (A) For each month, the monthly "Low Price" or "LP" for each Market Area shall be established by taking the lowest weekly Market Area Region Price ("MARF") set forth in Tennessee's tariff pursuant to its Rate Schedule LMS-MA established for the Market Area applicable to the month.
 - (B) For each month, the monthly "High Price" or "HP" for each Market Area shall be established by taking the highest weekly MARF established for the Market Area applicable to the month.
 - (C) For each month, the monthly "Average Price" or "AP" for each Market Area shall be determined by taking the simple arithmetic average of the weekly MARF figures established for the Market Area applicable to the month.

In the event that these prices are no longer available or valid, Transporter will file to change its tariff and may, at its discretion, select a representative price in the interim period, subject to refund. In the event that a more representative posting is established, Transporter will file to change its tariff.

- (ii) For all Parties whose % monthly imbalance is less than or equal to 5% (as

calculated according to Section 7.1 of this Rate Schedule) or whose monthly imbalance (either actual or operational) is less than or equal to 1,000 Dth, the following definitions shall apply to the formula under which the Parties' imbalance volumes are "cashed out":

- "Total Positive Imbalance" or "P" shall mean the absolute value ("abv") of the sum of all actual positive imbalances under Section 7.2(a) of this Rate Schedule LMS-PA.
- "Total Negative Imbalance" or "N" shall mean the abv of the sum of all actual negative imbalances under Section 7.2(a) of this Rate Schedule LMS-PA.
- "Net Pipeline Imbalance" or "I" shall mean the difference between the Total Positive Imbalances and the Total Negative Imbalances ($I = P - N$).
- Each of the imbalances (P, N, and I) shall be calculated once, no later than the first billing of cash outs after the close of the month.

The Parties' actual imbalance volumes shall be "cashed out" according to the following formula:

(A) If $I > \text{or} = \text{zero}$ then:

- Price for negative imbalances and imbalances less than or equal to 1,000 Dth = AP
- Price for positive imbalances =
 $(\text{abv}(I) \times LP) + (N \times AP)$

P

P

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East Tennessee Natural Gas, LLC
FERC Gas Tariff
Third Revised Volume No. 1

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Rate Schedule LMS-PA
Load Management (Pooling Area) Service (Continued)

(B) If $I < \text{zero}$ then:

- Price for negative imbalances =

$$\frac{(\text{abv}(I) \times \text{HP})}{N} + \frac{(P \times \text{AP})}{N}$$
- Price for positive imbalances and imbalances less than or equal to 1,000 Dth
 $= \text{AP}$

(iii) For all Parties whose % monthly imbalance is greater than 5% (as calculated according to Section 7.1 of this Rate Schedule) and greater than 1,000 Dth, the actual negative imbalance volumes shall be "cashed out" according to the following formula:

Imbalance Tier	Price
0 - 5%	100% of HP
> 5% - 10%	115% of HP
> 10% - 15%	130% of HP
> 15% - 20%	140% of HP
> 20% -	150% of HP

For purposes of determining the tier at which an imbalance will be cashed out, the price will apply only to volumes within a tier. For example, if there is a 7% imbalance, volumes that make up the first 5% of the imbalance are priced at 100% of the HP. Volumes making up the remaining 2% of the imbalance are priced at 115% of the HP.

(iv) For all Parties whose % monthly imbalance is greater than 5% (as calculated according to Section 7.1 of this Rate Schedule) and greater than 1,000 Dth, the actual positive imbalance volumes shall be "cashed out" according to the following formula:

Imbalance Tier	Price
0 - 5%	100% of LP

> 5% - 10%	85% of LP
> 10% - 15%	70% of LP
> 15% - 20%	60% of LP
> 20% -	50% of LP

For purposes of determining the tier at which an imbalance will be cashed out, the price will apply only to volumes within a tier. For example, if there is a 7% imbalance, volumes that make up the first 5% of the imbalance are priced at 100% of the LP. Volumes making up the remaining 2% of the imbalance are priced at 85% of the LP.

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Third Revised Volume No. 1

Third Revised Sheet No. 197

Superseding

Second Revised Sheet No. 197

Rate Schedule LMS-PA

Load Management (Pooling Area) Service (Continued)

- (b) Access to Information - Transporter will make available within one Business Day following the day of gas flow the best information it has concerning the total physical receipts. Transporter will also make available by electronic means the best information it has concerning the scheduled and allocated receipts at all receipt points. This information will include electronic gas measurement data at meters where such data is used for billing purposes (Electronic Data). Transporter will designate where Electronic Data is available. No later than 11:00 a.m. Central Time on the third full Business Day following the day of gas flow, the information regarding the scheduled and allocated receipts shall become "Operational Data" and Operators will be entitled to rely on the Operational Data for purposes of correcting imbalances during the month. Imbalances will be cashed out on the basis of actual

receipts and scheduled quantities; provided that the Imbalance Tier and tiered pricing associated with imbalances will be based upon the lesser of (1) the monthly operational imbalance reported by Transporter based upon the Operational Data or (2) the monthly imbalance based upon actual receipts and receipts at such locations; provided that, if the monthly imbalance reported by Transporter as of the 20th day of the calendar month based upon Electronic Data is subsequently adjusted during the remainder of the month and (1) such adjustments materially increase the level of the imbalance and (2) the Balancing Party did not have adequate time to correct the imbalance by adjusting nominations or receipts, then the Imbalance Tier associated with imbalances at points where Electronic Data is available will be based upon the lesser of (a) the imbalance reported as of the 20th day of the calendar month plus the imbalance reported for each subsequent day in the calendar month or (b) the monthly imbalance based upon actual receipts at such points to the extent the Balancing Party documents the situation. Notwithstanding anything to the contrary, if the Electronic Data at any point is inaccurate, through no fault of Transporter, but rather as the result of the action or inaction of third parties, then the Imbalance Tier associated with monthly imbalances occurring at such points will be based upon actual receipts.

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FERC Gas Tariff

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Superseding

First Revised Sheet No. 198

Rate Schedule LMS-PA
Load Management (Pooling Area) Service (Continued)

- (c) Limitation on Tiered Pricing - Any imbalances caused by an event of force majeure as set forth in Section 24 of the

General Terms and Conditions of Transporter's FERC Gas Tariff or caused by Transporter's actions (1) will not be included in the calculation of the total monthly imbalance for purposes of determining the appropriate cash-out level and (2) will be cashed out at the 0-5% tolerance level, as set forth in 7.2 above.

- (d) Operational Integrity - Nothing in this Section 7 shall limit Transporter's right to take action as may be required to adjust receipts and deliveries of gas in order to alleviate conditions that threaten the integrity of its system.

8. DISPOSITION OF CHARGES

At the conclusion of each annual period, Transporter will determine the net cashout activity under its LMS Rate Schedules and Section 8 of Rate Schedule PAL. In the event that charges collected by Transporter under its cashout provisions exceed the actual cost of providing service under this Rate Schedule, Transporter shall credit such excess revenues to all eligible Balancing Parties. Credits shall be applied based on volumes transported during the past year. Any credits due hereunder shall be made within 45 days following approval by the Federal Energy Regulatory Commission of Transporter's report and refund plan concerning such credits. To the extent that the cashout activity in any annual period results in a negative balance, such balance will be carried forward and applied to the next annual determination of cashout activity. Within 150 days after each anniversary of the Implementation Date, Transporter will file a report and refund plan with the Commission.

9. GENERAL TERMS AND CONDITIONS

9.1 Shipper shall provide Transporter with such information as is needed to meet the requirements placed on Transporter by regulation, rule, and/or order by any duly authorized agency. Furthermore, any terms or conditions not specified in this Rate Schedule shall be determined consistent with the General Terms and Conditions of Transporter's FERC Gas Tariff, which are incorporated into this Rate Schedule.

9.2 In the event of a conflict between the provisions of this Rate Schedule and Transporter's General Terms and Conditions, the provisions of Transporter's General Terms and Conditions shall govern.

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East Tennessee Natural Gas, LLC

FERC Gas Tariff

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Question 78:

Explain fully how Sequent's deliveries to meter 59014 are treated within the context of any balancing agreement that includes any of or all of CGC's meter points.

Response:

Sequent deliveries to meter 59014 are treated just like any other delivery to that meter. Contract 410206 is scheduled just like any other third party nomination. Gas scheduled on CGC contracts to meter 59014 is on a scheduling summary spreadsheet clearly denoting whether the gas is to be burned in CGC or at meter 59014. . All gas burned at meter 59014 is for firm and interruptible customers on AGLC's distribution system. The AGLC Gas Control department scheduling the volumes is then clear where the gas is to be burned (at 59014 meter or at CGC meters).

AGLC and CGC share an OBA with East Tennessee. The split out of the OBA has two parts.

- 1) **Measured Burns:** The measured burns (actual usage) at the meters is completely separate. All gas burned at meter 59014 is gas burned by firm and interruptible customers on AGLC's distribution system. All gas burned at the CGC meters is for CGC.
- 2) **Scheduled nominations:** The scheduled volumes are kept separate as well. All gas scheduled to CGC meters is for CGC burn. Gas scheduled to meter 59014 on non-CGC contracts is nominated in the Atlanta Gas Light Gas Operations System. Gas scheduled on CGC contracts to meter 59014 is on a scheduling summary clearly denoting whether the gas is to be burned in CGC or AGLC meters. Gas Control is then clear where the gas is to be burned (at meter 59014 or at CGC meters).

The East Tennessee OBA allows CGC to schedule gas to the 59014 meter and burn it at CGC meters. East Tennessee treats it as one OBA. East Tennessee looks at the difference between scheduled and burned for the sum of the CGC and the 59014 meters. There is one East Tennessee cash-out for the difference between scheduled and burned for the each month. AGLC and CGC separate this one OBA based on the separate scheduled volumes and separate burn volumes.