BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION

NASHVILLE, TENNESSEE

October 27, 2020

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

ORDER CONCERNING 2020 TRIENNIAL REVIEW AND EXTENDING REVIEW PROCESS

This matter came before Vice Chairman Herbert H. Hilliard, Commissioner Robin L. Morrison, and Commissioner John Hie of the Tennessee Public Utility Commission ("Commission" or "TPUC"), the voting panel assigned to this docket, during a regularly scheduled Commission Conference held on September 14, 2020 to review the gas procurement activities of Chattanooga Gas Company ("CGC" or the "Company") and to consider whether to extend the triennial review process established for this evaluation.

RELEVANT BACKGROUND

In accordance with the *Order Extending Triennial Review Process* entered in this docket on November 9, 2017, Exeter Associates, Inc. ("Exeter") completed its review of CGC's gas procurement activities relative to its Performance Based Ratemaking Mechanism for the period July 2016 through March 2019, releasing its report on June 29, 2020. For the review period, Exeter examined the Company's actual gas procurement transactions and costs, including storage activity, and reconciled these transactions to the related Actual Cost Adjustment ("ACA"), Performance Based Ratemaking Mechanism ("PBRM"), and Interruptible Margin Credit Rider ("IMCR") filings.[1] Exeter also identified and described CGC's system and markets, including an evaluation of the Company's gas supply portfolio relative to its system load.

Exeter made the following findings of fact regarding the review period:

1. CGC contracted for services with Tennessee Gas Pipeline, East Tennessee Natural Gas ("ETNG"), and Southern Natural Gas Company ("SONAT");[2]

2. CGC operated under Asset Management Agreements with its affiliate, Sequent Energy Management ("Sequent"), which were approved by TPUC;[3]

3. CGC served an average of 67,400 sales and transportation customers, and annual throughput averaged approximately 15,500,000 Dth;[4]

4. CGC's storage inventory planning criteria were reasonable, the Company generally adhered to those criteria, and its storage activity was reasonable;[5]

5. CGC realized net margins of $[redacted][6] from off-system liquid natural gas ("LNG") sales activities, fifty percent (50%) of which benefited ratepayers;[7]

6. Sequent realized net margins of $[redacted][8] from off-system sales using CGC SONAT Excluded Assets and the capacity CGC acquired from Oglethorpe Power Corporation ("OPC"), fifty percent (50%) of which benefited ratepayers;

7. CGC's design day probability of occurrence is consistent with industry practice;[9]

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[1] *Chattanooga Gas Company Review of Performance Based Ratemaking Mechanism Transactions and Activities (Public Redacted Version)* (June 29, 2020) ("Exeter Report").
[2] *Id.* at 47.
[3] *Id.*
[4] *Id.*
[5] *Id.*
[6] The Company has redacted the amount as confidential in the Public Redacted Version of the Exeter Report. The Confidential Unredacted Version of the Exeter Report is on file with the Commission's Docket Clerk.
[7] Exeter Report, p. 47 (June 29, 2020).
[8] The Company has redacted the amount as confidential in the Public Redacted Version of the Exeter Report. The Confidential Unredacted Version of the Exeter Report is on file with the Commission's Docket Clerk.
[9] Exeter Report, p. 47 (June 29, 2020).

8. CGC's forecasts of design day demands were reasonable and included the impact of customer conservation efforts;[10]

9. CGC's use of a five percent (5%) capacity reserve margin was reasonable;[11]

10. CGC could reduce its interstate pipeline demand costs by relying on seasonal capacity instead of year-round capacity, but there are currently no opportunities for the Company to do so;[12]

11. CGC's gas costs are deemed prudent under the PBRM and the audit required by TPUC Rule 1220-04-07-.05(1)(a) was waived.[13]

Exeter also described the following areas of concern:

1. CGC selects its Asset Manager through and RFP process. However, Exeter noted that Sequent has been the selected Asset Manager for nearly twenty (20) years. Exeter attributes this longevity to Sequent's considerable experience with CGC's utilization of its interstate pipeline resources to service its customers, and certain language and information contained in the RFP documents may discourage potential third-party bidders. This combination gives Sequent a competitive advantage in its RFP submissions for Asset Manager services. Exeter recommends the following in order to establish a more competitive bid process and encourage additional bidders;[14]

    a. CGC should include three (3) years of historical daily interstate pipeline usage data in its next RFP, including usage of in-ground storage purchases to meet CGC storage fill requirements;

[10] *Id.*
[11] *Id.*
[12] *Id.*
[13] *Id.* at 47-48.
[14] *Id.* at 48-49.

b. CGC should modify the RFP requirement that "all bidders must be willing to accept in their entirety the Asset Management and Agency Agreement and Gas Purchase and Sales Agreement and Exhibits included in the RFP" should be modified to allow for proposed changes to be presented to CGC for consideration;

c. To eliminate uncertainty, CGC should revise a provision in the RFP to provide that the Asset Manager would be designated to utilize the Excluded Assets when not needed by CGC for its on-system requirements and include a three-year history of daily Excluded Asset availability; and

d. CGC should include provisions in the next AMA RFP that would provide an Asset Manager the ability to engage in off-system LNG tanker and/or displacement sales.

2. Due to reduced liquidity of supply on the Nora Lateral after the winter of 2016-2017, CGC acquired released capacity from ETNG as an alternative to Nora Lateral capacity to address CGC's increasing design day capacity requirements. Exeter states this acquisition appears reasonable;[15]

3. The released acquired capacity was used by Sequent to deliver supplies purchased at the Texas Eastern/ETNG interconnect in Mt. Pleasant, TN. Exeter maintains the purchases should have been priced and benchmarked based on Texas Eastern Zone M-1 instead of the price and benchmark utilized. While CGC's cost would have decreased under the Zone M-1 pricing, it would not have resulted in CGC's actual commodity gas costs exceeding benchmark costs by 1%;[16]

[15] *Id.*
[16] *Id.* at 49-50.

4. The variable charges paid by CGC for purchases from Sequent at the Texas Eastern/ETNG interconnect were not calculated correctly. It appears CGC was billed twice, once by Sequent and once by ETNG. CGC states it will review the billing to determine the correct amount and will credit any improper charges to the ACA account in its next filing with the Commission; and

5. CGC failed to include in its PBRM filing 35,660 Dth of daily Texas Eastern purchases made in August and September 2018. Since the actual cost of the purchases equaled the benchmark, the oversight did not have a material impact on the PBRM.[17]

In addition, this triennial review was expanded to include an evaluation of the balance of incentives between CGC and its customers regarding the sharing of AMA fees and off-system sales margins. As a result of this evaluation, Exeter made the following proposals:

1. The incentive mechanism should be modified to a 75% customer/25% utility share to provide a more reasonable balance of incentives;[18]

2. As an alternative to supporting off-system LNG tanker sales, CGC could utilize its LNG facility to engage in off-system LNG sales by displacement. In order to encourage these sales, the RFP should specify the terms and conditions under which LNG would be available for such sales, should request bids both inclusive and exclusive of these sales, and provide the option to bid exclusively on the LNG aspect of the AMA;[19] and,

3. In order to eliminate uncertainty concerning the use of the SONAT Excluded Assets in the RFP, the RFP should be modified to state that the Asset Manager would be

[17] *Id.*at 50.
[18] *Id.* at 45.
[19] *Id.* at 45-46.

designated to utilize the Excluded Assets when they are determined to be unnecessary for CGC's on-system requirements.[20]

The Consumer Advocate Unit in the Financial Division of the Tennessee Attorney General's Office ("Consumer Advocate") filed comments concerning the Exeter Report on July 9, 2020. The Consumer Advocate's comments generally support the recommendations set forth in the Exeter Report and proposed further modifications that the Consumer Advocate states would be more in line with industry standards as well as with TPUC regulated utilities, Atmos Energy Corporation and Piedmont Natural Gas Company. The Consumer Advocate made the following recommendations in its comments:

1. The scope of work should be expanded to address reasons for a lack of third-party responses to CGC's RFP;[21]

2. The Commission should authorize a review of the transactions of Sequent in 2018-2019 to determine the level of margins generated through the use of CGC assets;[22]

3. The structural changes to the RFP process recommended in the Exeter Report should be adopted in order to strengthen the RFP process and to encourage responses from non-affiliate bidders;[23]

4. The AMAA should be modified to adjust the sharing incentives in order to bring the incentive structure in line with industry norms and with those of other Tennessee natural gas companies;[24] and,

[20] *Id.* at 46.
[21] *Consumer Advocate's Comments Concerning Chattanooga Gas Company's AMAA Triennial Review*, p. 2 (July 9, 2020).
[22] *Id.*
[23] *Id.* at 3.
[24] *Id.* at 3-4.

5. The recommendation that CGC should supply three years of historical daily interstate pipeline usage data in the RFP should be adopted, and in addition, the Commission should direct Exeter to conduct an "additional review to confirm that CGC has elected the least cost option consistent with maintaining sufficient, and not excessive, pipeline capacity necessary to meet peak load demand."[25]

<u>FUTURE TRIENNIAL REVIEWS</u>

The *Order Regarding Triennial Review Procedures and Criteria* provides that the Commission will determine whether any future triennial reviews should be conducted at the conclusion of the initial review.[26] The first Triennial Review was commenced in the fall of 2013 and was conducted by Exeter. Exeter's review covered the period April 2010 through March 2013, with the final report issued in June 2014. The Commission considered whether to extend the triennial review process at its September 15, 2014 Conference. It was determined that future triennial reviews would benefit the Commission and customers and that the next triennial review should be commenced in the fall of 2016, with a final report issued by July 1, 2017.[27] Exeter was again selected to conduct the review for the Triennial Review under consideration in the present matter and issued its report in July 2017. The Commission considered Exeter's 2017 report as well as whether to extend the triennial review process again at its October 23, 2017 Commission Conference. The panel found that future triennial reviews would benefit the Commission and voted unanimously that the next triennial review should commence in the fall of 2019, with a final report issued by July 1, 2020, as described hereinabove. Save for the comments of the Consumer

[25] *Id.* at 4.
[26] *In re: Docket to Evaluate Chattanooga Gas Company's Gas Purchases and Related Sharing Incentives*, Docket No. 07-00224, *Order Regarding Triennial Review Procedures and Criteria*, p. 3 (October 13, 2009).
[27] *In re: Docket to Evaluate Chattanooga Gas Company's Gas Purchases and Related Sharing Incentives*, Docket No. 07-00224, *Order Extending Triennial Review Process*, p. 5 (December 29, 2014).

Advocate described hereinabove, no other party intervened or submitted comments regarding this matter.

<u>SEPTEMBER 14, 2020 COMMISSION CONFERENCE</u>

During its regularly scheduled Commission Conference held on September 14, 2020, the panel considered whether to extend the triennial review process for CGC. The panel found that Exeter's review of CGC's transactions has provided the Commission with valuable information about the Company's gas procurement activities, as well as its utilization of pipeline transportation and storage assets. The review identified issues related to the benchmarking of gas purchases and the acquisition of additional released pipeline capacity. In addition, the review identified an apparent over-billing of variable pipeline charges, which CGC will verify, crediting any improper charges back to customers in the next ACA filing with the Commission.

Further, the review identified certain weaknesses with the Company's RFP process to select an asset manager, leading to the Company's affiliate, Sequent, being selected for nearly twenty years. The panel reviewed Exeter's proposals to enhance and modify the language of the RFP in order to provide a more even playing field for third parties who may wish to bid on the AMA contract. The panel found that Exeter's recommendations will be beneficial in making the AMA contract more desirable to potential bidders and benefit the customers. The Commission directed Commission Staff to work closely with CGC to ensure implementation of Exeter's proposals in the Company's next RFP, to be brought before the Commission for prior approval as required by the September 23, 2009 Order in this docket.

With regard to the Consumer Advocate's filed comments requesting that the Commission take affirmative steps to address their concerns regarding the structure of CGC's PBRM and IMCR, the panel referred the Consumer Advocate to the Review Procedures and Process, attached as Exhibit 1 to the *Commission Order Regarding Triennial Review Procedures and Criteria* dated October 13, 2009. That document details how the Consumer Advocate may propose expanding the scope of work for the independent consultant and use the consultant's report as grounds to propose changes to the PBRM itself. Following these procedures, the Consumer Advocate may file a Petition if it so chooses.

The panel found that audits such as the triennial review assist the Commission in its efforts to ensure that public utility companies are continuing to adhere to the Commission's rules and regulations and that quality utility services are being provided to consumers at reasonable and affordable prices. Thereafter, upon consideration of the record in this docket, the panel found that future triennial reviews would benefit the Commission and consumers and voted unanimously that the next triennial review of CGC should be commenced during the fall of 2022 covering the period April 2019 through March 2022 with a final report issued by July 1, 2023. The panel also voted unanimously that the next triennial review shall be conducted in accordance with the review procedures and process adopted by the Commission in this docket, which are attached as Exhibit 1 to the *Order Regarding Triennial Review Procedures and Criteria* issued on October 13, 2009.

IT IS THEREFORE ORDERED THAT:

1. A triennial review of the gas procurement activities of Chattanooga Gas Company shall commence in the Fall of 2022, and a final report shall be issued by July 1, 2023.

2. The triennial review set to commence in the Fall of 2022 shall be conducted in accordance with the review procedures adopted by the Commission and attached as Exhibit 1 to its *Order Regarding Triennial Review Procedures and Criteria* issued in this docket on October 13, 2009.

3. Commission Staff is directed to work closely with Chattanooga Gas Company to ensure implementation of the modifications proposed by Exeter Associates, Inc. in its report to Chattanooga Gas Company's next Request for Proposals.

4. Any person who is aggrieved by the Commission's decision in this matter may file a Petition for Reconsideration with the Commission within fifteen days from the date of this Order; and,

5. Any person who is aggrieved by the Commission's decision in this matter has the right to judicial review by filing a Petition for Review in the Tennessee Court of Appeals, Middle Section, within sixty days from the date of this Order.

FOR THE TENNESSEE PUBLIC UTILITY COMMISSION:

Vice Chairman Herbert H. Hilliard,
Commissioner Robin L. Morrison, and
Commissioner John Hie concurring.

None dissenting.

ATTEST:

Earl R. Taylor, Executive Director

EXHIBIT 1

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESEE

October 13, 2009

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

ORDER REGARDING TRIENNIAL REVIEW PROCEDURES AND CRITERIA

This docket came before Chairman Sara Kyle, Director Eddie Roberson and Director Mary W. Freeman of the Tennessee Regulatory Authority (the "Authority" or "TRA"), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on September 21, 2009 to consider comments to the proposed procedures and criteria for the triennia review that was ordered as part of the Authority's resolution of this docket.[1]

COMMENTS OF THE PARTIES

Chattanooga Gas Company ("CGC" or "Company"): CGC advocates that the procedures outlined for comment are broad and drafted to apply to Piedmont Natural Gas ("PNG"). CGC argues that PNG has a performance incentive plan while CGC has a performance based ratemaking mechanism and the language of the proposed review is tailored to review a performance incentive plan. CGC opines that it would be more appropriate to detail the scope of the review process to CGC and this could be done at the time of the review. Additionally, CGC believes it would be more appropriate and justified to only require a review if there were material

[1] On August 24, 2009, the panel deliberated this matter and, among other things, directed that a triennial review was to start in 2012 with the selection of an independent consultant. The panel also distributed proposed procedures and criteria for the review and directed the parties to comment on the proposal. *Order*, p. 6 (September 23, 2009).

changes in the variables of the company, such as customer mix and usage patterns. If a review is ordered, however, CGC believes the scope could be established at that time. Finally, CGC offers that the review could be left up to the TRA Staff to perform and, if necessary, the TRA could determine at the time if an outside consultant was needed

Consumer Advocate:[2] The Consumer Advocate offers that the procedures released for comment encompass an appropriate balance between the ratepayer and the company. The Consumer Advocate's primary concern is the timing of the review. As the Consumer Advocate points out, the 2012 timeframe ordered for the CGC review coincides with the PNG triennial review and moving the date to 2010 would eliminate this work load conflict. Finally, the Consumer Advocate requests that clarification be made regarding the interpretation of "relationships" within the proposed language. The Consumer Advocate requests that the Authority clarify that performance of a review of CGC or any other gas company does constitute a "relationship" between CGC, the Consumer Advocate or TRA and the consultant for the purpose of the audit.

FINDINGS AND CONCLUSIONS

The panel deliberated this matter at the regularly scheduled Authority Conference held on September 21, 2009. Based on the entire record, the panel unanimously voted as follows:

1. The action taken on August 24, 2009 was reconsidered to the extent that the review will occur in 2013 with any future review determined at the conclusion of that review.[3]

2. Procedures and processes for the review in 2013 were adopted and are attached to this Order as Exhibit 1 and are hereby referenced and incorporated as if copied herein.

[2] Consumer Advocate and Protection Division of the Office of the Attorney General.
[3] All other actions taken by the panel on August 24, 2009 remain unchanged.

3. Performance of a previous review of CGC or any gas company regulated by the TRA does not constitute a relationship between the company, TRA or the Consumer Advocate and the consultant for the purpose of this review.

IT IS THEREFORE ORDERED:

1. The first triennial review will occur in 2013 with any future review determined at the conclusion of that review.

2. Procedures and processes for the review in 2013 were adopted and are attached to this Order as Exhibit 1 and are hereby referenced and incorporated as if copied herein.

3. Performance of a previous review of CGC or any gas company regulated by the TRA does not constitute a relationship between the company, TRA or the Consumer Advocate and the consultant for the purpose of this review.

Sara Kyle, Chairman

Eddie Roberson, Director

Mary W. Freeman, Director

Chattanooga Gas Company

Review Procedures and Process
(Adopted by the Authority on September 21, 2009 in <u>Docket to Evaluate Chattanooga Gas Company's Gas Purchases and Related Sharing Incentives</u>, Docket No. 07-00224)

A comprehensive review of the transactions and activities related to the Performance-Based Ratemaking Mechanism (PBRM") shall be conducted by an independent consultant. The initial review shall be started in the autumn of 2013 and subsequent reviews shall be conducted at the order of the Authority. The TRA Staff, the CAD, and CGC shall make an effort to maintain a list of no less than five (5) mutually agreeable independent consultants[1] or consulting firms qualified to conduct the aforementioned review. Any dispute concerning whether an independent consultant shall be added to the list shall be resolved by the TRA Staff, after consultation with CGC and the CAD. For each review, the TRA Staff shall select three (3) prospective independent consultants from that list. Each such consultant shall possess the expertise necessary to conduct the review. The TRA Staff shall provide the list of prospective independent consultants to the CGC and the CAD via e-mail. CGC and the CAD shall have the right, but not the obligation, to strike one (1) of the prospective independent consultants from the list by identifying the stricken consultant in writing to the TRA Staff within thirty (30) days from the date the list is e-mailed. The TRA Staff shall select the independent consultant from those remaining on the list after CGC's and the CAD's rights to strike have expired. The cost of the review shall be reasonable in relation to its scope. Any and all relationships between the independent consultant and CGC, the TRA Staff and/or the CAD shall be disclosed and the independent consultant shall have had no prior relationship with either CGC, the TRA Staff, or the CAD for a least the preceding five (5) years unless CGC, the TRA Staff and CAD agree in writing to waive this requirement. The TRA Staff, the CAD and CGC may consult amongst themselves during the selection process; provided, however, that all such communications between the parties shall be disclosed to any party not involved in such communication so that each party may participate fully in the selection process.

The scope of the review may include all transactions and activities related either directly or indirectly to the PBRM as conducted by CGC or its affiliates, including, but not limited to, the following areas of transactions and activities: (a) natural gas procurement; (b) capacity management; (c) storage; (d) hedging; (e) reserve margins; and (f) off-system sales. The scope of each review shall include a review of each of the foregoing matters as well as such additional matters as may be reasonable identified by CGC, the TRA Staff, or the CAD relative to the operation or results of the PBRM.

CGC, the TRA Staff, or the CAD may present documents and information to the independent consultant for the independent consultant's review and consideration. Copies

[1] Performance of a previous review of CGC or any gas company regulated by the TRA does not constitute a relationship between the Company, TRA, or the Consumer Advocate and the consultant for the purpose of this review.

of all such documents and information shall be presented simultaneously to the independent consultant and all other parties.

The independent consultant shall make findings of fact, as well as identify and describe areas of concern and improvement, if any, that in the consultant's opinion warrant further consideration; however, the independent consultant shall not propose changes to the structure of the PBRM itself. The independent consultant shall complete and issue a written report of its findings and conclusions by July 1 of the year immediately following the review. The report deadline may be waived by the written consent of the TRA Staff, CGC, and the CAD.

The independent consultant shall not propose changes to the structure of the PBRM itself; however, the TRA Staff, CGC, or the CAD may use the report of the independent consultant as grounds for making recommendations or proposed changes to the Authority, and the TRA Staff, CGC, or the CAD may support or oppose such recommendations or proposed changes. Any proposed changes to the structure of the PBRM resulting from the initial review or subsequent review, whether adopted by agreement or pursuant to a ruling of the Authority, shall be implemented on a prospective basis only beginning with the incentive plan year immediately following such agreement or ruling.

The cost of the review shall be paid initially by CGC and recovered through the ACA account. The TRA Staff may continue its annual audits of the PBR and the ACA account and the review shall not in any way limit the scope of such annual audits.