

**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 FOR LEAVE TO SERVE MORE THAN FORTY
(40) DISCOVERY REQUESTS**

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 for leave to serve more than forty (40) discovery requests.

TRA Rule 1220-1-2-.11 provides as follows:

No party shall serve on any other party more than forty (40) discovery requests including sub-parts without first having obtained leave of the Authority or a Hearing Officer. Any motion seeking permission to serve more than forty (40) discovery requests shall set forth the additional requests. The motion shall be accompanied by a memorandum establishing good cause for the service of additional interrogatories or requests for production. If a party is served with more than forty (40) discovery requests without an order authorizing the same, such party need only respond to the first forty (40) requests.

As cause for serving more than forty (40) discovery requests, the Consumer Advocate would show the following:

1. This is a complex docket opened by the TRA to perform its duty to the public to evaluate Chattanooga Gas Company's gas purchases and related incentive sharing. The matter deals with the use of assets paid for by rate-payers. These assets are then used by CGC and an affiliated

company, Sequent, to produce revenue which ultimately flows to the parent company, Atlanta Gas Light (AGL). Through the sharing arrangement only a portion of the money rate-payers spend is returned to them. We know from the proceedings in TRA Docket No. 08-00012 that Sequent considers the asset arrangement very valuable. While CGC, Sequent and AGL may speak in terms of doing something for consumers, please do not forget that each is a corporation. A corporation's goal is to make money for its stock holders. The rate-payers are part of that process. The Consumer Advocate has intervened in the docket and in order to adequately do its job of protecting the interests of Tennessee consumers the Consumer Advocate needs to ask more than the garden variety forty (40) questions allowed for any matter, no matter how large or small. Although legal counsel for Chattanooga Gas Company (CGC) insists on claiming uncertainty as to what is going on in the present docket, this matter is similar in many ways to TRA Docket No. 07-00225.¹ In fact, the schedule in the present docket sets deadlines three months behind TRA Docket No. 07-00225 accomplishing the following: 1) the work performed in TRA Docket No. 07-00225 may provide a road map to resolution of the present docket; and 2) it is important that the deadlines in TRA Docket No. 07-00225 do not conflict with the present docket.

2. It appears that CGC is unwilling to go beyond broad stroke presentations made here in Tennessee and in Houston, Texas of how it and Sequent goes about the business of making profits off non-jurisdictional sales of assets paid for by rate-payers.² It is not reasonable to think of

¹ The Consumer Advocate has on several occasions referred legal counsel for CGC to TRA Docket No. 07-00225 as a way to assist legal counsel in getting up to speed with respect to the present docket. Additionally, the Consumer Advocate has met with and held additional phone conferences to assist legal counsel in understanding the issues at hand.

² The trip to Houston was very helpful. The Consumer Advocate is appreciative of CGC's participation. However, the Consumer Advocate did not leave Houston with the

the trip to Houston, Texas for a question and answer session as a substitute for discovery, as stated by CGC in its Response to the CAPD's Statement of Claims and Issues, filed February 25, 2008. Neither representatives from CGC, nor representatives from Sequent ever suggested that the trip to Houston, Texas was such a substitute. The Consumer Advocate certainly does not agree. The Consumer Advocate has asked if CGC would agree to allow the Consumer Advocate to serve data requests in excess of the forty (40) request limit. CGC has yet to respond with a yes or no. CGC's manner stands in apparent contrast to the way Atmos and Atmos Energy Management is approaching the same process in TRA Docket No. 07-00225. Atmos and Atmos Energy Marketing have given the Consumer every indication that they are complying with discovery. Further, both have met with the Consumer Advocate on several occasions to discuss discovery production. One meeting was held in Houston, Texas.

3. As evidence of the need for thorough discovery in this case, the Consumer Advocate would point out that the Hearing Officer allowed each party to ask one hundred twenty (120) requests of the other parties in TRA Docket No. 07-00225 for a total of two hundred forty (240) requests to Atmos and Atmos Energy Management from each intervenor. To date, the Consumer Advocate is the only intervenor. Further, it appears that the TRA Staff will not participate in this docket. The first round of discovery requests are not due in this matter until March 18, 2008. By submitting this motion now the Consumer Advocate seeks to smooth the development of the present docket and assistance in the preparation of its discovery. Without knowing how many requests it may serve, the Consumer Advocate will need to broaden the scope of its requests. In such case, not

necessary information and documents it needs to establish a proper record in this matter. What the Houston trip did provide is assistance to the Consumer Advocate in forming its discovery requests in this matter and in TRA Docket No. 07-00225.

only will the requests be more difficult to respond to, but the responses will be less helpful to the Consumer Advocate. The likelihood of discovery disputes would also increase. The Consumer Advocate requests that the Hearing Officer note that the Consumer Advocate has not asked all of the discovery requests allowed by the Hearing Officer in TRA Docket No. 07-00225. There will be additional rounds of discovery. However, the Consumer Advocate will endeavor to ask the pointed, specific discovery necessary for the development of the record in the present docket and in TRA Docket No. 07-00225. Further, the Consumer Advocate requests that the Hearing Officer note the lack of discovery disputes between the Consumer Advocate, Atmos and Atmos Energy Marketing in the other docket.

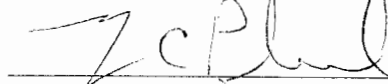
4. In all major rate cases, the questions from the Consumer Advocate have exceeded forty (40) in number. This is so because a major rate case requires investigation and analysis of the cost and capital structure, investment, and rate design of a large public utility as well as its affiliates, a task that could hardly be accomplished on forty (40) questions alone. For example, in the Tennessee American Water case filed in 2003, TRA Docket No. 03-00118, the Consumer Advocate submitted two sets of requests totaling 88 requests ($72+16=88$); with sub-parts these requests numbered approximately 188 ($129+59=188$). In contrast, the Consumer Advocate ask the Hearing Officer to note the limited discovery served by the Consumer Advocate in TRA Docket No. 08-00012.

5. There are no minimum filing guidelines applicable to the present docket which are similar to the "Filing Guidelines for Rate Cases" which grew out of the Gas Forum attended by gas companies, TRA staff and the Consumer Advocate. The purpose of the Guidelines is to ensure that the initial filing contains sufficient information to begin a thorough analysis of a standard rate

request. In the present docket, CGC and Sequent hold information unavailable to the Consumer Advocate. In order to properly prepare this matter for hearing, the Consumer Advocate must be able to ask a number of data requests exceeding forty (40). The Consumer Advocate will attempt in all manner to work with CGC. Further, the Consumer Advocate will endeavor to keep its discovery to relevant material, sought by specific requests and use only that portion of the allotted requests as is necessary.

For the foregoing reasons, the TRA should grant the Consumer Advocate's request for leave to serve more than forty (40) requests. The Consumer Advocate requests that it be allotted two hundred forty (240) requests. Further, the Consumer Advocate requests that the Hearing Officer direct that CGC be required to collect from Sequent the information and documents necessary to respond fully to each request.

Respectfully submitted,



TIMOTHY C. PHILLIPS, BPR No. 12751

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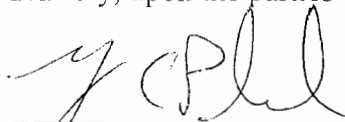
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Certificate of Service

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 the February 28, 2008.

A handwritten signature in black ink, appearing to read 'T. C. Phillips', written over a horizontal line.

Timothy C. Phillips
Senior General

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