

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

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

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**CONSUMER ADVOCATE'S IDENTIFICATION OF ISSUES, CLAIMS AND  
REMEDIES**

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Robert E. Cooper, Jr., the Attorney General and Reporter for the State of Tennessee, through the Consumer Advocate and Protection Division of the Office of Attorney General ("Consumer Advocate"), respectfully submits this issues list, identification of claims and remedies in the above-styled matter.

This docket was established by the Authority "to evaluate Chattanooga Gas Company's gas purchases and related sharing incentives." It is the TRA that has decided to perform the evaluation at this time. Further, the Directors or the TRA Staff may well have additional issues, claims and remedies not identified by the Consumer Advocate, which may be addressed in this docket. Consequently, the Consumer Advocate does not waive its right to amend the lists included in this filing in the future.<sup>1</sup> The Consumer Advocate does not believe it necessary to identify claims with

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<sup>1</sup> It should be noted that discovery has not been taken. With discovery will come the potential need to add or eliminate issues, claims and remedies. Moreover, remedies will likely be fashioned only after the record is complete and the Directors of the TRA deliberate the matter. The Hearing Officer in TRA Docket No. 07-00225, at page 6 of the Hearing Officer's Order

regard to asset management issues or concerns already identified by the Authority. The present submission will, however, assist Chattanooga Gas Company (“CGC”) with respect to its claim of not understanding the need for the present docket.

## **I. IDENTIFICATION OF ISSUES.**

1. How is CGC compensated for the sale, lease, or release of capacity and any other gas supply assets, and is that compensation fair to consumers?

a. What is the bidding process, and is it fair?

b. What asset management arrangements or contracts are or have been in place with regard to capacity and any other gas supply assets, and are they fair to consumers?

c. How are FERC-mandated payments handled, and is the handling fair to consumers?

2. What exactly is the amount of total capacity and other gas supply assets, and what amount of capacity or gas supply assets are available for the sale, lease, or release to third parties or affiliates or divisions of CGC?

a. What is the appropriate level and mix of capacity and other gas supply assets?

b. What has been the record of capacity and other asset planning in the past?

c. What are the future plans for capacity and other gas supply assets?

d. Has CGC oversubscribed to storage and capacity assets to handle its jurisdictional requirements?

e. Has CGC utilized the appropriate mix of firm transportation, peaking capacity, and storage capacity?

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dated 11/08/2007, recognized this reasoning with respect to the list of claims submitted in that matter.

f. Is CGC delivering its supply to storage at the appropriate times of the year and at the appropriate cost?

g. What safeguards exist or should exist to guarantee that the customers of CGC are being treated fairly regarding the sales and purchases of natural gas?

h. Whether CGC is currently utilizing its gas storage assets to maximize benefits to ratepayers?

3. What is the appropriate relation between CGC, CGC's parent company, Sequent Energy Management, L.P. ("Sequent") and any other affiliated entity or division related to CGC's parent company?

a. What process is utilized to ensure that Sequent pays the fair market value for rights to utilize or market the assets paid for by the customers of CGC?

b. Should CGC or its parent company be subject to requirements for affiliate transactions similar to those required for Atmos Energy Corporation?

4. Are consumers receiving fair compensation for the assets related to the sale, lease or release of idle gas supply assets and excess capacity for which they have paid?

a. How much money has Sequent paid to CGC in recent years for rights to utilize or market assets paid for by the customers of CGC?

b. How much money has Sequent made from the assets paid for by the customers of CGC in recent years?

c. What safeguards exist or should exist to guarantee that the customers of CGC are being treated fairly with regard to excess capacity and storage assets?

5. Should the Tennessee Regulatory Authority impute to CGC all or a portion of the profits

Sequent generates through its management of CGC's idle gas supply assets and excess capacity?

6. Is it appropriate to revise the incentive sharing to include increased sharing for consumers of a market-based value for CGC's assets that are sold, leased, released, or assigned to Sequent or any other asset manager?

7. Should the TRA make any other changes to the current systems, procedures or arrangements regarding system capacity, gas supply planning, gas purchases or related sharing incentives? If so, what changes should be made?

8. Has CGC aided its parent company's or its affiliates' business activities by CGC's act of removing, from its asset management arrangement with Sequent, assets which were acquired by CGC's parent company or affiliates subsequent to (or as a consequence of) CGC's act of removal?

9. Whether CGC has oversubscribed to storage and capacity assets to handle the Company's jurisdictional requirements?

10. If the Tennessee Regulatory Authority's evaluation results directly or indirectly in the termination of CGC's asset management contract with Sequent, can the Tennessee Regulatory Authority order CGC to engage in asset management itself? Would prudency audits be required?

11. Should any future contracts for asset management and gas procurement agreements (or the renewal of all current such contracts) be submitted to the TRA for review and approval, either in each ratemaking hearing or after actual notice to affected parties?

## **II. IDENTIFICATION OF CLAIMS.**

The Consumer Advocate identifies its claims with regard to the issues to be decided in this

docket:<sup>2</sup>

1. Pending verification through discovery and further independent review, the Consumer Advocate believes it is more likely than not that the customers of CGC receive less than fair compensation for the sale, lease, release, relinquishment, or assignment of gas supply, pipeline capacity and storage assets (also known as “system capacity”) by CGC to its asset manager, thereby depriving customers of money that should be used to lower their natural gas utility bills.

2. Pending verification through discovery and further independent review, the Consumer Advocate believes it is more likely than not that CGC is subscribing to too much system capacity relative to its jurisdictional requirements, thereby unfairly inflating customers’ natural gas utility bills by charging them for more system capacity than is required to adequately serve their gas supply needs.

3. Pending verification through discovery and further independent review, the Consumer Advocate believes it is more likely than not that the Tennessee Regulatory Authority (“TRA”) should modify or establish rules, regulations, tariffs, orders, or requirements regarding transactions between CGC, its parent company and affiliated entities, such as Sequent, including but not confined to standards of conduct establishing minimum standards for accounting, record-keeping, reporting, enforcement, audit, and third-party rights. CGC and Sequent share a common ownership. Through this affiliate relationship, CGC has an economic incentive to maximize the profits of CGC, CGC’s

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<sup>2</sup> The hearing officer originally directed the Consumer Advocate to file its statement of claims and issues in the form of questions. However, because CGC has stated its intent to file a motion to dismiss for failure to state a claim, the Consumer Advocate, in an abundance of caution, respectfully submits statements as well as questions in order to ensure that the Consumer Advocate states claims upon which relief can be granted sufficient to withstand a motion to dismiss.

parent company or CGC's affiliates at the expense of others, including ratepayers. CGC's gas supply and storage assets have value and CGC turns over the management or use of these valuable assets to Sequent in exchange for a sharing mechanism that partially compensates CGC's ratepayers. In order to maximize profits, CGC has an economic incentive to minimize the amount of the asset management fee shared with ratepayers for its affiliate's use of CGC's assets. Without the Authority's regulatory oversight of this affiliate relationship, "it would be a simple matter, through the device of holding companies, spinoffs, or other corporate arrangements, to place the cream of a utility market in the hands of a parent company or an affiliate, and to strip the marketing area of a regulated subsidiary of its most profitable customers." *Tennessee Pub. Serv. Comm'n v. Nashville Gas Co.*, 551 S.W.2d 315, 321 (Tenn. 1977).

4. Pending verification through discovery and further independent review, the Consumer Advocate believes it is more likely than not that the TRA should establish periodic audits or reviews of CGC's system capacity arrangements and gas supply plans to be performed by the TRA or by an independent consultant for the purpose of evaluating the facts relevant to analyzing efficiency and fairness.

5. Pending verification through discovery and further independent review, the Consumer Advocate believes it is more likely than not that the TRA should make changes to the request for proposals ("RFP") process or to the agreements included in the RFP process. At a minimum, the subject contracts should not contain language that violates public policy.

### **III. REQUESTS FOR RELIEF.**

The Consumer Advocate's claims may be redressed by the Authority's granting of such relief as may be warranted in the circumstances. In particular, the Consumer Advocate requests the

following remedies:

1. Revision, repeal or termination of CGC's incentive sharing.
2. Revision or cancellation of the asset management contract or arrangement existing between CGC and Sequent, or revision of future contracts.
3. Proscription of the use of an asset manager that has an affiliate relationship with CGC or its parent company, including Sequent.
4. Implementation of standards of conduct governing the relationship between CGC, its parent company, and Sequent (or other affiliates), including, but not confined to, standards of conduct establishing minimum standards for accounting, record-keeping, reporting, enforcement, audit, and third-party rights with respect to affiliate transactions involving regulated assets, goods, or services.
5. Enforcement of standards of conduct through an audit of CGC and Sequent's affiliate transactions by the Authority staff or an independent auditor reporting to the Authority.
6. Establishment of requests for proposals ("RFP") or bid procedures, including third-party bid procedures, for selection of asset managers, with special focus on procedures for evaluation of bids and/or selection of any entity affiliated with CGC, including Sequent.
7. Imputation of profits to CGC's regulated operations that are generated from Sequent's or any other affiliate's management or use of CGC's assets.
8. Revision of the incentive sharing to include increased sharing for consumers of a market-based value for CGC's assets that are sold, leased, released, assigned or relinquished to Sequent or any other asset manager.
9. Establishment of procedures to be used to evaluate CGC's gas supply plan, which

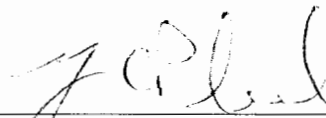
may include independent review of the plan by a consultant reporting to the Authority.

10. Assessment of civil penalties and/or customer refunds for any established violations of law, company tariffs, or Authority orders, rules, or standards of conduct.

11. Performance of periodic independent reviews of CGC's incentive sharing by a consultant reporting to the Authority.

12. Such other relief as may be deemed appropriate in the circumstances or permitted by state law.

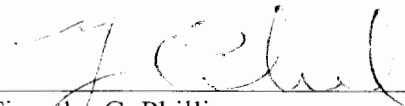
RESPECTFULLY SUBMITTED,



TIMOTHY C. PHILLIPS, B.P.R. #12751  
Senior Counsel  
Office of the Attorney General  
Consumer Advocate and Protection Division  
P.O. Box 20207  
Nashville, Tennessee 37202  
(615) 741-8722  
FAX: (615) 532-2910

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing was served on the parties of record via U.S. Mail on February 9, 2007.



Timothy C. Phillips

#115980