

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

March 17, 2008

IN RE:

**DOCKET TO EVALUATE CHATTANOOGA
GAS COMPANY'S GAS PURCHASES AND
RELATED SHARING INCENTIVES**

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**DOCKET NO.
07-00224**

ORDER SETTING ISSUES LIST

This matter came before the Hearing Officer during a Status Conference on February 11, 2008 to finalize the issues list in the docket.

RELEVANT PROCEDURAL BACKGROUND

On February 20, 2008, the Consumer Advocate and Protection Division of the Office of the Attorney General ("Consumer Advocate") filed its *Consumer Advocate's Statement of Claims and Issues* ("*Statement of Claims and Issues*") identifying six categorical issues for the consideration of the Authority. On February 25, 2008, Chattanooga Gas Company ("CGC") filed its *Chattanooga Gas Company's Response to the CAPD's Statement of Claims and Issues* ("*Response to Statement of Claims and Issues*"). In its *Response to Statement of Claims and Issues*, CGC objects to the "lack of specificity and vagueness of the claims and issues set forth by the CAPD"¹ and provides a response to each of the Consumer Advocate's six claims or issues in an Answer-like format. Additionally, CGC submits the sole question of whether CGC may recover litigation costs incurred as a result of its participation in this docket in the future from ratepayers, to be included as an ultimate issue for consideration of the Authority in this docket.

¹ *Response to Statement of Claims and Issues*, p. 2 (February 25, 2008).

During the Status Conference convened on March 7, 2008, the Hearing Officer referred the parties to the *Order Closing Phase II of Docket* [06-00175].² In that Order, contemporaneously with the panel's decision to close the docket, it further determined that the issues raised by the Intervenor³s were appropriate for the consideration of the Authority, and considering the arguments of the parties, the panel ordered that a separate docket be opened and designated the current docket, Docket No. 07-00224, for the purpose of such review and consideration.

In Docket No. 06-00175, the Intervenor³s submitted *Issues Lists* for Phase II. Although that docket was suspended and later closed before those issues lists were finalized and approved, the lists involve and set out in detailed fashion the topics of asset management and capacity release. During the Status Conference, the Consumer Advocate stated that many of the issues submitted for consideration by the Intervenor³s in Docket No. 06-00175 continue to be applicable in this docket, and agreed to revise and resubmit its proposed claims and issues in the docket. Thereafter, the Hearing Officer set filing deadlines for the submission of revised issues and a reply thereto.

On March 12, 2008, in accordance with the *Order on March 7, 2008 Status Conference*, the Consumer Advocate filed its *Consumer Advocate's Identification of Issues, Claims and Remedies* ("*Identification of Issues*") with the Authority. In its *Identification of Issues*, the Consumer Advocate enumerates approximately eleven issues, not including sub-issues, identifies potential claims and requests certain remedies.

² *In re: Petition of Chattanooga Gas Company for Approval of Adjustment of Its Rates and Charges, Comprehensive Rate Design Proposal and Revised Tariff*, Docket No. 06-00175, *Order Closing Phase II of Docket* (December 17, 2007).

³ The Consumer Advocate and the Chattanooga Manufacturers Association were granted Intervention in Docket No. 06-00175.

On March 14, 2008, CGC filed its *Chattanooga Gas Company's Response to the CAPD's March 12, 2008 Identification of Issues, Claims and Remedies* ("Response to Identification of Issues"). In its *Response to Identification of Issues*, CGC states that "[a]s the claims set forth the rights and privileges that will be determined in the docket, CGC is only required to respond to the CAPD's five (5) claims."⁴ Thereafter, CGC incorporates by reference its previously filed *Response to Statement of Claims and Issues* and continues to rely upon the arguments set forth therein. Further, CGC states that it "continues to believe that many of the claims raised by the CAPD are appropriate for dismissal at this time"⁵ and intends to proceed with the filing of its forthcoming motion to dismiss.

FINDINGS AND CONCLUSIONS

The issues set forth in the Consumer Advocate's *Identification of Issues* generally encompass and are pertinent to the subject matter of the docket, i.e., gas purchases and related sharing incentives, including asset management and capacity release issues, as identified by the Authority in its *Order Closing Phase II of Docket* [06-00175].⁶ Nevertheless, upon review of the filings of the parties and arguments of counsel, the Hearing Officer also finds that the issues proposed are made clearer by removing repetitive statements and factual questions, and by further condensing the issues into concise matters for consideration of the Authority. Questions of fact are proper within the scope of discovery, and thus, may be more appropriately propounded during the time period for discovery set forth in the Procedural Schedule. Further, the Hearing Officer recognizes the possibility that supplemental or additional issues may arise during the discovery process, and in the event of such an occurrence, encourages the parties, upon the proper motion or filing, to bring such matters before the Hearing Officer.

⁴ *Response to Identification of Issues*, p. 1 (March 14, 2008).

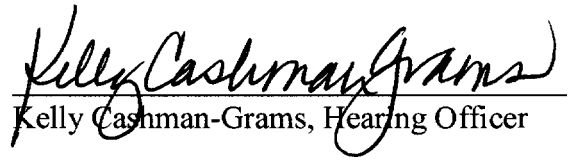
⁵ *Id.*

⁶ *See, infra.*

Therefore, in light of the foregoing, the Hearing Officer hereby sets forth the following Issues List, attached as Exhibit A, which are appropriate for consideration of the Authority in this docket.

IT IS THEREFORE ORDERED THAT:

The Issues List, attached as **Exhibit A**, shall be placed before the Authority for deliberation in this docket.


Kelly Cashman-Grams, Hearing Officer

ISSUES LIST
DOCKET NO. 07-00224

1. Should the current CGC sharing mechanism for profits from the sale, lease, or release of capacity and any other gas supply assets, be revised? If so, how?
2. Is the current bidding process fair and reasonable?
3. How is a FERC-mandated payment accounted for, and is it fair to consumers?
4. What is the appropriate level and mix of firm transportation, peaking, and storage capacity?
5. Has CGC oversubscribed to storage and transportation capacity assets to handle its jurisdictional requirements?
6. What safeguards should exist to ensure CGC subscribes to the proper levels of capacity?
7. Have CGC's storage injections been prudent with regard to timing and cost?
8. Have CGC's sales and purchases of natural gas been prudent and should safeguards be put in place to ensure least cost purchasing of natural gas? If so, what should these safeguards be?
9. Is CGC currently utilizing its gas storage assets to maximize benefits to ratepayers?
10. Is the amount paid by Sequent for the right to utilize or market assets, which are paid for by the customers of CGC, representative of the fair market value of such assets?
11. Is it proper to 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?
12. What regulatory approval should occur in the event that assets are added or removed from the asset mix set forth in the asset management agreement? What affiliate guidelines should be in place if those removed assets are subsequently purchased by an affiliate or parent company?
13. Are the current affiliate guidelines sufficient? If no, in what way(s) should they be amended?
14. If the CGC were to engage in asset management itself, how should the Tennessee Regulatory Authority monitor CGC's asset management activities?
15. Should CGC be able to recover litigation costs incurred as a result of its participation in this docket from ratepayers in the future?

Exhibit A