

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

February 12, 2008

IN RE:)	
)	
REQUEST OF CHATTANOOGA GAS COMPANY)	DOCKET NO.
FOR APPROVAL OF ASSET MANAGEMENT)	08-00012
AGREEMENT)	
)	

**ORDER SETTING ISSUES FOR RESOLUTION,
DISCOVERY AND PROCEDURAL SCHEDULE**

This matter came before the Hearing Officer during a Status Conference on February 11, 2008, at which time the Hearing Officer heard argument of the parties, Chattanooga Gas Company ("CGC" or "Company") and the Consumer Advocate and Protection Division of the Office of the Attorney General ("Consumer Advocate"), concerning issues to resolved, discovery, and a procedural schedule in the docket.

RELEVANT PROCEDURAL BACKGROUND

On February 6, 2008, the Hearing Officer convened a telephone conference with the parties. During that telephone conference, the parties stated that they would continue to work together to frame the issues for resolution in the docket and agreed to file a status report including their proposed issues, both as agreed and those that remain in dispute, no later than 2:00 p.m. on February 8, 2008. Additionally, the parties confirmed their availability to attend a Status Conference on February 11, 2008.

On February 8, 2008, the Hearing Officer issued a *Notice of Status Conference* setting a Status Conference on February 11, 2008. As noticed, the purpose of status conference was to

discuss the issues proposed for resolution in the docket, whether discovery is needed, establishing a procedural schedule, and any other matters preliminary to a hearing. Also on February 8, 2008, *Chattanooga Gas Company's Status Report* and the *Consumer Advocate's Status Report* were filed with the Tennessee Regulatory Authority ("TRA" or the "Authority").

Prior to the Status Conference on February 11, 2008, the Consumer Advocate filed its *Consumer Advocate's Statement of Issues* and its *Consumer Advocate's Discovery Requests*.

FEBRUARY 11, 2008 STATUS CONFERENCE

The Status Conference was convened following the regularly scheduled Authority Conference on February 11, 2008. The following parties were represented at the Status Conference:

Chattanooga Gas Company – **J.W. Luna, Esq.** and **Jennifer L. Brundige, Esq.**, Farmer & Luna, PLLC, 333 Union Street, Suite 300, Nashville, TN 37201.

Consumer Advocate and Protection Division – **Stephen R. Butler, Esq.** and **Timothy Phillips, Esq.**, Office of the Attorney General, 425 5th Ave. N, John Sevier Building, P.O. Box 20207, Nashville, TN 37202.

During the Status Conference, the parties presented their respective positions on the issues to be included for resolution in the docket, the discovery requests filed by the Consumer Advocate and a procedural schedule to bring this matter before the Authority Panel for a Hearing during the next regularly scheduled Authority Conference on February 25, 2008.

ISSUES FOR RESOLUTION & DISCOVERY

In its *Chattanooga Gas Company's Status Report*, the Company stated that the docket was convened "to evaluate whether CGC has complied with its Tariff in bidding and awarding this new asset management agreement and whether the new agreement should be approved for the benefit of CGC's customers,"¹ and further, "[t]he Company believes that there are no other

¹ *Chattanooga Gas Company's Status Report*, p. 1 (February 8, 2008).

issues for this docket.”² The Company asserts that it “has complied with the Request for Proposal (“RFP”) procedures in its Tariff”³ and that “the agreement should be approved without delay so that the asset management services may continue after March 31, 2008,”⁴ the expiration date of the current agreement. Further, the Company contends

The Consumer Advocate has identified to CGC its potential issues which focus on re-negotiating the terms and provisions of the agreement. However, the purpose of the current docket is to determine whether the agreement pending before the TRA provides benefit to CGC’s customers and should be approved.⁵

Additionally, the Company asserts, “[t]his docket is not about negotiating the provisions in the new asset management agreement. The provisions and terms of the agreement have already been determined as a result of the RFP process.”⁶

In its *Consumer Advocate’s Status Report*, the Consumer Advocate states, “[t]he TRA ordered the Company to submit its asset management contract to the TRA for approval, and the Consumer Advocate contends that the TRA must have intended to carefully review the contract as a whole prior to making its decision about whether to approve the contract.”⁷ Further, the Consumer Advocate asserts that “some aspects the contract could be altered without any real harm to the company or to the asset manager.”⁸ In its status report filing made on February 8th, the Consumer Advocate stated that it was considering raising the issue of “whether the winning bid is properly designated as confidential by the Company. . .”⁹ and thereafter set forth a proposed procedural schedule that deferred the filing of proposed issues in the docket. In its

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ *Id.* at 3.

⁶ *Id.* at 2.

⁷ *Consumer Advocate’s Status Report*, p. 1 (February 8, 2008).

⁸ *Id.*

⁹ *Id.*

Consumer Advocate's Statement of Issues, the Consumer Advocate lists four issues for resolution:

1. Is the dollar amount of the Annual Guaranteed Minimum properly designated as confidential by Chattanooga Gas Company? (P. 7, ¶ 4).¹⁰
2. Is the Cooperation section properly included in the Asset Management and Agency Agreement? (P. 10, ¶ 14).¹¹
3. Is the Early Termination provision concerning the TRA's jurisdiction over the Asset Manager properly included in the Asset Management and Agency Agreement? (P. 14, ¶ 18.1(i)).¹²
4. Is the Term of three years, plus a four-year extension, for a total Term of seven years properly included in the Asset Management and Agency Agreement? (P. 7, ¶ 4).¹³

The *Consumer Advocate's Discovery Requests*, filed in conjunction with its issues list on February 11, 2008, provides some insight and clarification of the specific focus of the issues it submits for inclusion in the docket.¹⁴

During the Status Conference, the Company stated that while it maintained a broad objection to issues that seek to extend beyond whether or not the agreement benefits the Company and consumers and thus should be approved by the Authority, it had reviewed the Consumer Advocate's discovery requests and intended to respond as quickly as possible to accommodate the Hearing date set forth by the Hearing Officer. In order to accomplish this task, CGC suggested February 13, 2008 as the date that a majority of its responses (an estimated 14 of 17) could be provided, and February 15, 2008 for submission of the remaining responses. Also during the Status Conference, the Consumer Advocate stated that it did not object to the Company's proposed issues.

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ See, *Consumer Advocate's Discovery Requests* (February 11, 2008).

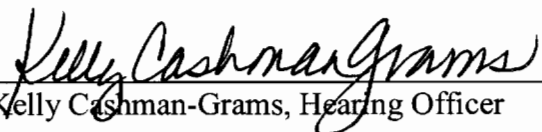
Upon consideration of the filings of the parties and arguments advocated at the Status Conference, the Hearing Officer found that all issues asserted by the parties, noted above, would be included for resolution in the docket, and are restated in **Exhibit A**.

PROCEDURAL SCHEDULE

In light of the time-sensitive nature of this docket, the goals of the procedural schedule are to efficiently move this docket forward with a focus on the issues raised by the parties and prepare for a Hearing on February 25, 2008. As agreed by the parties during the Status Conference, the Hearing Officer adopts the proposed Procedural Schedule, attached as **Exhibit B**. As with any schedule, the effectiveness of this Procedural Schedule is directly dependent upon the extent of cooperation or delay on the part of the parties in meeting the individual benchmark dates. The Hearing Officer encourages the parties continue to work amicably to resolve any disputes, if any should arise, and also to bring any such matters to the immediate attention of the Hearing Officer.

IT IS THEREFORE ORDERED THAT:

1. The issues list attached to this Order as **Exhibit A** is hereby adopted and all issues listed therein shall be heard by the panel.
2. The Procedural Schedule attached to this Order as **Exhibit B** is hereby adopted and is in full force and effect.


Kelly Cashman-Grams, Hearing Officer

***Request of Chattanooga Gas Company
for Approval of Asset Management Agreement***

TRA Docket No. 08-00012

ISSUES LIST

1. Whether CGC has complied with its Tariff in bidding and awarding the Asset Management and Agency Agreement submitted for approval of the Tennessee Regulatory Authority?
2. Whether the Asset Management and Agency Agreement submitted for approval of the Tennessee Regulatory Authority should be approved for the benefit of CGC's customers?
3. Is the dollar amount of the Annual Guaranteed Minimum properly designated as confidential by Chattanooga Gas Company? (Asset Management and Agency Agreement, p. 7, ¶ 4).
4. Is the Cooperation section properly included in the Asset Management and Agency Agreement? (Asset Management and Agency Agreement, p. 10, ¶ 14).
5. Is the Early Termination provision concerning the TRA's jurisdiction over the Asset Manager properly included in the Asset Management and Agency Agreement? (Asset Management and Agency Agreement, p. 14, ¶ 18.1(i)).
6. Is the Term of three years, plus a four-year extension, for a total Term of seven years properly included in the Asset Management and Agency Agreement? (Asset Management and Agency Agreement, p. 7, ¶ 4).

Exhibit A

***Request of Chattanooga Gas Company
for Approval of Asset Management Agreement***

TRA Docket No. 08-00012

PROCEDURAL SCHEDULE

February 13, 2008	Initial Discovery Responses Due (one copy filed with Authority)
February 15, 2008	Remaining Discovery Responses Due (one copy filed with Authority)
February 20, 2008	Initial Briefs Due by 12:00 noon
February 22, 2008	Reply Briefs Due by 12:00 noon
February 25, 2008	Hearing on the Merits

Exhibit B