

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

August 4, 2009

**IN RE: APPROPRIATENESS OF)
IMPLEMENTATION OF PURPA)
STANDARD 5(ENERGY EFFICIENCY))
AND STANDARD 6 (RATE DESIGN)
MODIFICATION) FOR PIEDMONT)
NATURAL GAS COMPANY,)
CHATTANOOGA GAS COMPANY,)
AND ATMOS ENERGY COMPANY)**

Docket 09-00065

Comments of Chattanooga Gas Company

Chattanooga Gas Company respectfully submits these comments for consideration by the Tennessee Regulatory Authority ("TRA" or "Authority").

Chattanooga Gas Company ("CGC" or "Company") is greatly appreciative of the opportunity to submit comments for the TRA to consider concerning the appropriateness of implementing the two new Public Utility Regulatory Policies Act (PURPA) standards as codified at 15 U.S.C. §3203(b)(5) through (6), and the adoption of the American Recovery and Reinvestment Act of 2009 ("Stimulus Act") policies. CGC commends the Authority for working with natural gas utilities to develop policies

and programs that promote energy conservation¹, and encourage the Authority to continue its efforts.

The two new PURPA standards that are the subject of this proceeding and codified at 15 U.S.C. §3203(b) (5) through (6) are:

(5) Energy efficiency

Each natural gas utility shall—

(A) integrate energy efficiency resources into the plans and planning processes of the natural gas utility; and

(B) adopt policies that establish energy efficiency as a priority resource in the plans and planning processes of the natural gas utility.

(6) Rate design modifications to promote energy efficiency investments

(A) In general

The rates allowed to be charged by a natural gas utility shall align utility incentives with the deployment of cost-effective energy efficiency.

(B) Policy options

In complying with subparagraph (A), each State regulatory authority and each nonregulated utility shall consider—

(i) separating fixed-cost revenue recovery from the volume of transportation or sales service provided to the customer;

(ii) providing to utilities incentives for the successful management of energy efficiency programs, such as allowing utilities to retain a portion of the cost-reducing benefits accruing from the programs;

(iii) promoting the impact on adoption of energy efficiency as 1 of the goals of retail rate design, recognizing that energy efficiency must be balanced with other objectives; and

(iv) adopting rate designs that encourage energy efficiency for each customer class.

Pursuant to 15 U.S.C. § 3203, the Authority is required to issue a public notice and conduct a hearing regarding the new standards and to adopt the standards to the extent the Authority determines the standards are appropriate and are consistent with

¹ See Docket for the Collection of Data and Comments Relating to Home Energy Conservation Matters in Tennessee, Docket No. 06-00309; Generic Contested Case Docket to Analyze and Evaluate the Cost-Benefit and funding Mechanism For Energy Conservation Research, Docket No. 08-00064.

otherwise applicable state law. If the Authority determines that a standard is not to be adopted, it must state so in writing and provide the reasons for its determination.

Additionally, Section 410 of the American Recovery and Reinvestment Act of 2009 (“Stimulus Act”) provides:

SEC. 410. ADDITIONAL STATE ENERGY GRANTS.

(a) IN GENERAL.—

Amounts appropriated under the heading “Department of Energy—Energy Programs—Energy Efficiency and Renewable Energy” in this title shall be available to the Secretary of Energy for making additional grants under part D of title III of the Energy Policy and Conservation Act (42 U.S.C. 6321 et seq.). The Secretary shall make grants under this section in excess of the base allocation established for a State under regulations issued pursuant to the authorization provided in section 365(f) of such Act only if the governor of the recipient State notifies the Secretary of Energy in writing that the governor has obtained necessary assurances that each of the following will occur:

- (1) The applicable State regulatory authority will seek to implement, **in appropriate proceedings for each electric and gas utility, with respect to which the State regulatory authority has ratemaking authority, a general policy that ensures that utility financial incentives are aligned with helping their customers use energy more efficiently and that provide timely cost recovery and a timely earnings opportunity for utilities associated with cost-effective measurable and verifiable efficiency savings, in a way that sustains or enhances utility customers’ incentives to use energy more efficiently.** (Emphasis added.)

Unlike the PURPA statute, there is no requirement for a separate hearing to specifically address these policies. The Authority, however, is required to seek to implement the policies or risk jeopardizing the State of Tennessee’s ability to receive Energy Efficiency and Renewable Energy grants under part D of title III of the Energy Policy and Conservation Act (42 U.S.C. § 6321 et seq.).

The identical goal of both the new PURPA standards and the policies specified in the Stimulus Act is the promotion of energy conservation to be accomplished by ensuring that the utilities' financial incentives are aligned with helping their customers use energy more efficiently by providing utilities incentives to help customers conserve energy, and by providing the utilities timely cost recovery and a timely earnings opportunity associated with cost-effective programs that sustain or enhances the utilities' customers' incentives to use energy more efficiently.

The question of the adoption by the State of Tennessee of the policies as stated in the Stimulus Act has been answered. On June 25, 2009, Governor Phil Bredesen signed Senate Bill 2357/House Bill 2389 which became Public Chapter 531 amending Tennessee Code Annotated by adding new Section 65-4-126:

The general assembly declares that the policy of this state is that the Tennessee regulatory authority will seek to implement, in appropriate proceedings for each electric and gas utility, with respect to which the authority has rate making authority, a general policy that ensures that utility financial incentives are aligned with helping their customers use energy more efficiently and that provides timely cost recovery and a timely earning opportunity for utilities associated with cost-effective measurable and verifiable efficiency savings, in a way that sustains or enhances utility customers' incentives to use energy more efficiently.

The wording of this new section of the Tennessee Code is virtually the same as that contained in the Stimulus Act. As a result, the Authority's task is not to consider adopting the policy but is to determine the appropriate proceedings for implementing the policy.

Since each of the natural gas local distribution utilities regulated by the Authority serves separate and distinct groups of customers that have differing usage characteristics

and may have differing needs concerning conservation, the implementation of the policy should not be undertaken with the assumption that one size fits all. As a result, Chattanooga Gas Company recommends that the policy be implemented on an individual utility basis to allow full consideration for the differing operating conditions of the utilities and differing needs of the customers. The policies could be implemented as part of a utility's general rate case proceeding or in a separate proceeding convened for the specific purpose of considering a utility's implementation of the policy. To ensure that customers of all of the regulated utilities benefit from the policy, the Authority should consider directing each of the utilities to specifically address how the policy is to be implemented in the utility's next rate proceeding if the matter has not been addressed in a prior separate proceeding. In order to make certain that each utility does address the policy, the Authority should establish a date certain when each of the utilities will have addressed the policy either in a specific proceeding or in a rate case proceeding.

The new PURPA standards are consistent with the policy adopted in Tennessee Public Chapter 531 (2009), but provide some more specific detail of what is to be considered.

For example, PURPA standard codified at 15 U.S.C. § 3203(b)(6)(B)(i) requires the Authority to consider separating fixed-cost revenue recovery from the volume of transportation or sales service provided to the customer. Tennessee Public Chapter 531 requires the Authority to seek to implement policies to ensure that the utilities' financial incentives are aligned with helping their customers use energy more efficiently. Separating the recovery of fixed cost from the volume of gas transported or sold is essential to aligning the interests of the utilities and their customers. This PURPA

standard is not in addition to the requirements of Tennessee Public Chapter 531 but is embedded within requirements of the statute.

The PURPA standard codified at 15 U.S.C. § 3203(b)(6)(B)(ii) requires the Authority to consider providing utilities incentives for the successful management of energy efficiency programs, such as allowing utilities to retain a portion of the cost-reducing benefits accruing from the programs. This provision is again embedded in the Tennessee Public Chapter 531 that requires the Authority to seek to implement a policy that provides timely cost recovery and a timely earnings opportunity for utilities associated with cost-effective measurable and verifiable efficiency savings in a way that sustains or enhances utility customers' incentives to use energy more efficiently.

Tennessee Public Chapter 531 does not specifically state that the Authority must consider promoting the impact on adoption of energy efficiency as 1 of the goals of retail rate design as stated at 15 U.S.C. § 3203(b)(6)(B)(iii).. However, this standard is consistent with the policy adopted by the General Assembly and signed into law by Governor Bredesen and should be considered in the context of proceedings that address the utility's rate design. This PURPA standard does not prescribe how the rates are to be designed, but simply requires that the promotion of energy efficiency be considered along with other objectives when a utility's rate design is reviewed.

The PURPA standards codified at 15 U.S.C. § 3203(b)(5)(A) and (B) that require gas utilities to integrate energy efficiency consideration into the planning process is consistent with procedures currently used by most utilities.

In summary, Chattanooga Gas Company recommends that the Authority adopt the PURPA standards and implement the provisions of the Stimulus Act and Tennessee

Public Chapter 531 (2009). The Authority should provide that the natural gas utilities may initiate a separate proceeding to implement the provisions of Tennessee Public Chapter 531 or integrate the implementation within a general rate case. The Authority should also require a utility that has not implemented the provisions of Tennessee Public Chapter 531 in a separate proceeding to do so in its next general rate case filing.

Respectfully submitted,

FARMER & LUNA, PLLC

By: 

J.W. Luna, Esq. (BPR # 5780)

Jennifer L. Brundige, Esq. (BPR # 020673)

333 Union Street, Suite 300

Nashville, TN 37201

(615) 254-9146

Attorneys for Chattanooga Gas Company

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing has been forwarded via hand delivery to the following on this the 4th day of August, 2009.

William T. Ramsey, Esq.
Neal & Harwell
150 Fourth Avenue North, Suite 2000
Nashville, TN 37219

R. Dale Grimes, Esq.
Bass, Berry & Sims, PLC
315 Deaderick Street, Suite 2700
Nashville, TN 37238

Ryan L. McGehee, Esq.
Office of the Attorney General
Consumer Advocate and Protection Division
P. O. Box 20207
Nashville, TN 37202-0207

A handwritten signature in black ink, appearing to read "R. McGehee", is written over a horizontal line.