

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

**January 13, 2010**

<b>IN RE:</b>	)	
	)	
<b>PETITION OF CHATTANOOGA GAS</b>	)	
<b>FOR GENERAL RATE INCREASE,</b>	)	<b>Docket No. 09-00183</b>
<b>IMPLEMENTATION OF THE</b>	)	
<b>ENERGYSMART CONSERVATION</b>	)	
<b>PROGRAMS, AND IMPLEMENTATION OF</b>	)	
<b>A REVENUE DECOUPLING MECHANISM</b>	)	
	)	

**CHATTANOOGA GAS COMPANY'S OBJECTIONS TO  
CAPD's FIRST DISCOVERY REQUESTS**

Pursuant to the Hearing Officer's December 23, 2009 Order Granting Petitions to Intervene and Establishing a Procedural Schedule, Chattanooga Gas Company ("CGC" or "Company") files these Objections to the First Discovery Requests of the Consumer Advocate and Protection Division ("CAPD") of the Office of Attorney General & Reporter. The Company and the CAPD have been able to work together and resolve certain discovery issues and will continue to try to resolve these remaining issues.

To assist the Hearing Officer in evaluating this matter, CGC is setting forth its objections in two parts. Part I sets forth general objections applicable to CGC's discovery responses. Part II sets forth objections to specific discovery requests propounded by the CAPD.

**I. GENERAL OBJECTIONS**

CGC objects generally to any definitions or instructions to the extent that they are inconsistent with and request information that is beyond the scope of the Tennessee Rules

of Civil Procedure. CGC's responses will comply with the requirements of the Tennessee of Rules of Civil Procedure.

Any requests for production of documents are interpreted to describe each item or category of items requested with reasonable particularity as required by Tenn. R. Civ. P. 34.02, and the terms used in the requests are not interpreted "broadly". CGC will produce non-privileged, responsive items and/or data in its possession, custody, or control as required by Tennessee Rules of Civil Procedure.

CGC further objects to these discovery requests to the extent they seek information that is beyond the scope of legitimate discovery in this rate case or that is subject to any privilege, including the attorney-client privilege and/or attorney work product doctrine. Without waiving any of these General Objections, the Company will respond to the CAPD's discovery requests by providing responsive, non-privileged information.

These General Objections are continuing and are incorporated by reference into CGC's responses to all discovery requests to the extent applicable. The statement of the following additional objections to specific discovery requests shall not constitute a waiver of these General Objections.

Additionally, CGC objects to the scope of the terms "identity" and "identify" as used by the CAPD. In particular, CGC objects to providing the date of birth, the current residential address, and the current residential telephone number of persons to be identified on the grounds that the scope of information requested is overly broad and not calculated to lead to the discovery of admissible evidence. CGC further objects to the CAPD's instructions to produce the "original" of "each copy" of each document

requested on the grounds that the request is unduly burdensome and overly broad. CGC intends to provide copies of original documents as available.

Further, CGC is proceeding in the traditional course of providing information that it deems to be confidential pursuant to the terms of the Tennessee Regulatory Authority's ("TRA") model protective order by marking the information as confidential. Along with its initial case filing, the Company filed the TRA's standard protective order for the Hearing Officer's entry in this case. The CAPD has chosen to object to the standard TRA protective order and has moved to change that protective order, and the TRA has invited all interested parties to provide comments in this present docket rather than convening a separate docket. The Company has provided and will continue to provide confidential documents in good faith reliance on the issuance of the TRA's standard protective order as proposed by the Company. In the event that such protective order is not entered and these documents are no longer deemed protected, CGC reserves the right to demand the return of these documents and to assert an objection to the discovery of these materials.

## **II. OBJECTIONS TO SPECIFIC DISCOVERY REQUESTS**

CGC is specifically objecting to the following discovery requests propounded by the CAPD as explained in detail below.

**REQUEST NO. 121** Provide all correspondence, memorandum, in-house analyses and reports, and other documents which describe or discuss the Company's decision to withdraw its decoupling proposal in Docket No. 06-00175.

CCG objects to Request No. 121 to the extent that it seeks documents that are protected by the attorney-client communication privilege or the attorney work product

doctrine. The Company further objects in that this request is overbroad and unduly burdensome in that any requested responsive information is already in the CAPD's possession, custody, or control or is readily available from the TRA website. Without waiving said objections, the Company intends to provide any responsive, non-privileged documents that it has in its possession, custody, or control and/or to refer the CAPD to any publicly available source of the information.

**REQUEST NO. 185** Please explain how the Company derived the repair cost for non-cathodically-protected steel main.

CGC objects to this discovery request in that it is vague and ambiguous. The Company has sought clarification from the CAPD of what Company derived repair cost the CAPD is referencing. However, as of this filing, the Company has not received any additional information or guidance. If the Company obtains additional information, CGC reserves its right to raise any additional objections that it may have at that time.

**REQUEST NO. 188** State the amount of routine and non-routine maintenance done on steel mains in close proximity to steel mains that are being replaced for each of the last ten years and as projected for the next five years.

CGC objects to this discovery request in that it is vague and ambiguous, is overly broad and unduly burdensome, and will require the Company to expend significant time and resources to attempt to generate information requested by the CAPD that it does not maintain. First, the request is vague and ambiguous as to what the following terms mean: "routine", "non-routine", "close proximity", and "amounts". Second, the CAPD is requesting information from the past ten (10) years and for the next five (5) years, which

is an overly broad and unduly burdensome period of time. Third, the Company does not keep a record of the "routine and non-routine maintenance done on steel mains in close proximity to steel mains that are being replaced", and the Company does not record individual cost amounts for each maintenance job as requested. The Company would be required to perform a significant study to try to determine the "routine and non-routine maintenance done on steel mains in close proximity to steel mains that are being replaced" over the past ten (10) years. This determination would depend on the availability of paper and/or electronic records regarding the maintenance performed over this extended period of time. Then, the Company would have to try to develop an estimate of the cost of each maintenance job performed. After spending significant manpower and money to perform this study, the results would only be estimates.

**REQUEST NO. 93** Please provide copies of all documents – including, without limitation, work papers, spreadsheets, summaries, charts, notes, exhibits, articles, journals, treatises, periodicals, publications, reports, records, statements, Internet web pages, or financial information – relied upon by Dr. Morin in preparing his Direct Testimony in this matter.

**REQUEST NO. 100** Provide the market values and percent of revenues from natural gas operations for each of the companies listed on Dr. Morin's Exhibits RAM-4 and RAM-6.

CGC objects to these requests as they seek information protected by copyright.

To the extent that the CAPD is seeking in these requests or any other discovery request<sup>1</sup> an excel spreadsheet that incorporates data obtained through Value Line software, Dr. Morin cannot produce and disseminate electronically the Value Line software to third parties without violating copyright laws. Dr. Morin has obtained Value Line proprietary

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<sup>1</sup> The Company's expert is currently unavailable to review the CAPD's discovery requests, and thus, the Company may not have identified each and every discovery request that involves the electronic production of Value Line data. The Company will identify any additional discovery requests subject to this objection as soon as possible.

data and software through a paid commercial subscription from Value Line and is prohibited from disseminating such software to third parties. Dr. Morin has agreed to make this software available for the CAPD to review at the office of the Luna Law Group, PLLC, at a mutually convenient date and time.

**REQUEST NO. 201** Admit or Deny: Capacity Demand Costs of Chattanooga Gas Company is sold directly or indirectly through Sequent Energy Management to SouthStar Energy Services, an AGL Resources subsidiary. For purposes of this and the following interrogatory only, "Capacity Demand Costs" shall be defined as gas commodity costs, interstate pipeline capacity, or any other costs associated with the gas supply plan of Chattanooga Gas Company.

If denied, please describe what specific portions of the preceding are denied and why they are inaccurate.

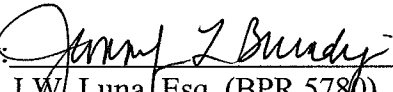
**REQUEST NO. 202** If the preceding interrogatory is "admitted," how much profit was earned by SouthStar on the capacity demand costs purchased from Chattanooga Gas Company through Sequent Energy Management. Please provide your answer by year from the period of 2003 until the present.

CGC objects to Request Nos. 201 and 202 as they seek information that is not relevant to a rate case proceeding. The CAPD is seeking information regarding capacity demand costs which are relevant to the gas cost and gas supply and capacity asset issues that have been litigated for the past two years in Docket 07-00224. The CAPD has had ample opportunity and has already obtained voluminous discovery from CGC in Docket 07-00224 regarding CGC's gas supply and capacity assets, including the related costs. The substantive issues of Docket 07-00244 have been resolved, except for the sole remaining issue of cost recovery which has already been briefed and is pending before the TRA in Docket 07-00224 for a decision. None of the information sought in Request Nos. 201 and 202 are relevant to base rates, the revenue requirement, or any rate design issues included in this rate case. Rather, all costs associated with capacity assets, as well

as all revenues from CGC's asset manager's management of the capacity assets, are handled through the Purchased Gas Adjustment ("PGA") Rule, and have already been litigated in Docket 07-00224. Accordingly, CGC objects to the requests as not relevant, not reasonably calculated to lead to the discovery of admissible evidence, and overly broad and unduly burdensome.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 13<sup>th</sup> day of January 2010, a true and correct copy of the foregoing was served on the persons below by electronic mail:

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