

- Issue 1. What is the appropriate mechanism, or financial incentive, to insure that CGC's financial incentives are aligned with the state's energy conservation policy as set out in 2009 Public Act 531, Section 53?
- Issue 2. Should CGC be required to meet specific, verifiable, measurable energy efficiency goals and/or benchmarks for any approved conservation programs?
- Issue 3. Does the implementation of a decoupling mechanism lower the business risk for CGC, thereby justifying an adjustment to its rate of return? If so, what method or evaluation tools should be utilized to quantify an appropriate adjustment to the rate of return?

As the Consumer Advocate's filing of March 2, 2010, makes clear the scope of the proposed issues list is indeed limited to the implementation of the state's new energy conservation policy. The proposed issues themselves are relatively simple and presented in a neutral manner, yet they represent exceedingly important questions for the application of a new legislative policy directive.¹ The answers to these questions will have a lasting impact on not only the ratepayers of CGC, but perhaps as well upon Tennessee consumers of other regulated natural gas utilities.

The primary criticism of CGC is that the proposed issues list does not include a recital of the potential and typical issues that may be contested in a rate case. The Consumer Advocate is unaware of any rate case in which a complete list of the potential rate case issues has ever been employed by the TRA.² The Consumer Advocate does not suggest an exhaustive list of potential

¹ The text of the proposed issues is the same as those utilized by the Authority in Docket 09-00104 with the exception of the omission of the earnings review and benchmark issues which are not applicable in this matter.

² The Consumer Advocate agrees with CGC that the TRA has not employed a complete listing issues in any rate case.

rate case issues is necessary or even productive at this time as the intervening parties are still weighing many facets of CGC's proposed rate increase in preparation for the filing of direct testimony. In addition, the Authority's own investigation may uncover issues with CGC's proposed rate increase which are unknown to intervening parties. CGC is free to consider filing a proposed list of rate case issues the Company believes will be contested in this matter, although the Consumer Advocate submits such a filing serves little purpose at this time.

Rate cases involve a litany of issues, some of which are contested by intervening parties and some which are not. Many of the determinations made resolving rate cases are based on generally applicable accounting and rate-making principles rather than new policy directives from the legislature. For example, the Authority in this rate case is not weighing whether CGC is entitled to depreciation expense as a policy, but rather how much depreciation expense is just and reasonable. In contrast, the implementation of a new energy conservation policy directive by the General Assembly in this matter goes well beyond the issues which are typical in a rate case and may well have a far-reaching impact on all of Tennessee's regulated natural gas consumers.

The implementation of the state's new policy is not limited to the Company's decoupling proposal within its petition and direct testimony of November 16, 2009. Indeed, the Consumer Advocate intends to propose mechanisms it submits fully comply with the state's new policy and provide a balanced approach to conservation which is fair to both CGC and consumers. Moreover, if the General Assembly was convinced by the concept of decoupling as a tool to encourage conservation, proposed legislation mandating such proposals would have been enacted.³ Rather, the General Assembly elected to enact the general policy language set out in 2009 Public Act 531, Section 53. As recognized by the Authority in Docket 09-00104, the

³ During the 2009 legislative session, HB 1349/SB 1375 was not enacted and referred to a study committee.

proposed energy conservation issues in this case present policy questions and requirements which must be considered.

CGC's other criticism is an assertion that the consideration of the proposed issues list by the Authority is untimely and would apparently require the commitment of additional resources. The Consumer Advocate respectfully submits this argument has no merit. In weighing the Company's argument, the Hearing Officer should consider the text of the proposed issues and the current state of the record. The Consumer Advocate's proposed issues do not inject complexity or new subject matter into this docket. The petition and pre-filed testimony of CGC recognize and rely upon the passage of 2009 Public Act 531, Section 53 in support of its proposed decoupling mechanism and conservation programs.

How a request to the Authority to consider three relatively simple and concise issues related to energy conservation will require the commitment of more time and resources is simply not a realistic concern. The Consumer Advocate has not yet filed direct testimony, within which the Consumer Advocate intends to explore these policy questions and present appropriate proposals and recommendations. Furthermore, the procedural schedule already contemplates that the Company will have a number of weeks to file rebuttal testimony from which they will have the opportunity to address these important policy questions.

RESPECTFULLY SUBMITTED,

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

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Comments was served via U.S. Mail or electronic mail upon:

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This the 2 day of March, 2010.



Ryan L. McGehee