

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

November 8, 2010

IN RE:

**PETITION OF CHATTANOOGA GAS COMPANY
FOR A GENERAL RATE INCREASE,
IMPLEMENTATION OF THE ENERGYSMART
CONSERVATION PROGRAMS AND
IMPLEMENTATION OF A REVENUE
DECOUPLING MECHANISM**

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**DOCKET NO.
09-00183**

ORDER

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This matter came before Chairman Sara Kyle, Director Eddie Roberson, and Director Mary W. Freeman, of the Tennessee Regulatory Authority (“Authority” or “TRA”), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on May 24, 2010 for consideration of the *Petition of Chattanooga Gas Company for a General Rate Increase, Implementation of the Energy SMART Conservation Programs and Implementation of a Revenue Decoupling Mechanism* (“*Petition*”) filed on November 16, 2009. In the *Petition*, Chattanooga Gas Company (“CGC” or “the Company”) seeks Authority approval to increase gas utility rates, implement an energy conservation program, and implement a revenue decoupling mechanism.

Upon consideration of the entire record, including all exhibits and the testimony of witnesses, the panel unanimously voted that the Company had a Revenue Deficiency of \$60,068, which should be recovered from base rates and from the single rate per thermo of usage for the residential customer class. These conclusions, as well as other decisions, are fully discussed below.

TRAVEL OF THE CASE

CGC filed its *Petition*, Minimum Filing Guidelines, a revised Tariff and the pre-filed testimony of CGC’s witnesses: Daniel P. Yardley, Marcie H. Shields, Steven L. Lindsey, Donna Peeples, Daniel J. Nikolich, Ronald D. Hanson, Rhonda Watts, Archie Hickerson, and Dr. Roger A. Morin on November 16, 2009. CGC requested recovery of approximately \$2.6 million of revenue deficiency, proposed implementation of an energy conservation program called EnergySMART, and adoption of an Alignment and Usage Adjustment (“AUA”) revenue decoupling mechanism. On the same date, the Company also filed a *Proposed Procedural Schedule* and a *Proposed Agreed Protective Order*. At a regularly scheduled Authority Conference held on November 30, 2009, the Authority unanimously voted to convene a

contested case proceeding, suspend CGC's tariff for ninety days, and appoint General Counsel or his designee as Hearing Officer for the purpose of preparing the case for Hearing.¹

The Consumer Advocate and Protection Division of the Office of the Attorney General ("Consumer Advocate") filed a *Petition to Intervene* on December 8, 2009. The Chattanooga Manufacturers Association ("CMA") filed a *Petition to Intervene* on December 11, 2009. The Hearing Officer granted the petitions to intervene and issued an *Order Granting Petitions to Intervene and Establishing a Procedural Schedule* on December 23, 2009.

On December 28, 2009, the Consumer Advocate filed a *Proposed Protective Order* and on the same day the Hearing Officer filed a *Notice of Public Comment* seeking comment on the competing proposed protective orders filed in the docket. The Hearing Officer noted that for several years a "model" protective order has been used by the TRA, however, CGC and the Consumer Advocate submitted separate proposed protective orders containing different language. The Consumer Advocate argued that the CGC's protective order gave too much discretion to the Company in designating documents as confidential and submitted its protective order for use in this docket, as well as other dockets, on a going forward basis. Because there has been an ongoing disagreement about certain language in the protective order used in various dockets, the TRA invited public comment on the opposing versions of the protective orders to be considered by the TRA in another docket.

On December 29, 2010, CMA petitioned to have CGC's request for reimbursement of legal fees in Docket No. 07-00224² included in this docket. CMA claimed that the request for \$700,000 in legal fees should be included in the rate case because (1) the request is for a specific

¹ See *Order Convening a Contested Case, Suspending Tariff for Ninety Days and Appointing a Hearing Officer* (January 13, 2010).

² Motion Of Chattanooga Manufacturers Association To Combine The Request Of CGC For Reimbursement Of Increase In Docket 09-00183, Docket No. 09-00183 (December 29, 2009); See also CGC's Motion to Accumulate and Defer Litigation Costs filed in *In re: Docket to Evaluate Chattanooga Gas Company's Purchases and Related Sharing Incentives*, Docket No. 07-00224 (February 28, 2008). Legal Fees In Docket 07-00224 With The Request Of CGC For A General Rate

expense, (2) CGC's ratepayers need to have public notice of this increase, as well as, the opportunity to comment, and (3) the TRA does not have the statutory authority to award legal fees outside of a rate case proceeding. On January 8, 2010, the Consumer Advocate and CGC filed a response to CMA's request. The Consumer Advocate agreed with CMA, stating that the TRA does not have the statutory authority to award legal fees. The Consumer Advocate argued further that regardless of the docket in which the legal expenses are presented, they are simply litigation costs unrelated to the instant rate case, and therefore, the legal fees cannot be considered a just and reasonable cost of providing service and cannot be awarded under any circumstances. CGC argued that the legal fees should be categorized as "gas-related costs" and collected from ratepayers under the Purchased Gas Adjustment ("PGA") rules of the TRA that allows for amounts paid to a consultant by a local distribution company to be recorded in the Deferred Gas Cost Account and recovered through a PGA filing.³ The Hearing Officer granted CMA's motion to combine and issued an *Initial Order Granting the Motion to Combine* on February 11, 2010, finding that the legal fees requested in Docket No. 07-00224 were not "gas-related costs" and could not be collected pursuant to the PGA rules. Further, the Hearing Officer found that legal fees and regulatory expenses are regularly evaluated in the context of a rate case, and if considered valid and prudent, they are included in a portion of the overall cost of service for recovery through base rates.

On February 17, 2010, the parties submitted a *Proposed Agreed Protective Order*.⁴ The Hearing Officer issued the *Agreed Protective Order* on February 19, 2010. The parties completed discovery in the form of interrogatories and requests for production of documents and the intervening parties submitted their pre-filed direct testimony on March 10, 2010. The

³ Tenn. Comp. R. & Reg. 1220-4-7-.05(1)(a)(3).

⁴ In the cover letter to the *Proposed Agreed Protective Order*, CGC's counsel stated that the parties had reached an agreement to use this protective order solely in Docket No. 09-00183 and by using this protective order, it would not create any precedent regarding use in future dockets. At the April 26, 2010 Authority Conference, the Directors voted 2-1 to open a generic docket to examine proposed modifications to the Authority's model protective order.

Consumer Advocate filed the direct testimony of John Hughes, Dave Peters, Dr. Christopher C. Klein, Dr. David E. Dismukes, and Terry Buckner. CMA filed the direct testimony of Phillip E. Pickett.⁵ On April 5, 2010, CGC filed the rebuttal testimony of Daniel P. Yardley, Archie R. Hickerson, Steve Lindsey, Dr. Roger A. Morin, Daniel J. Nikolich, Marcie H. Shields, Rhonda Watts, Donna Peeples, and Ronald D. Hanson.

CGC filed a *Motion in Limine* on April 5, 2010. CGC sought to strike portions of pre-filed testimony and pre-filed supplemental testimony filed by Terry Buckner of the Consumer Advocate concerning a CGC affiliate, South Star. Specifically, CGC stated it had previously objected to discovery of information concerning South Star during the discovery phase of the proceeding and further objected to the relevance of testimony with respect to South Star and to its admissibility as part of the record during the Hearing on the merits. CGC argued that these matters were litigated in Docket No. 07-00224 and the Consumer Advocate had the opportunity in that docket to review matters related to asset management practices and dealings with CGC's gas and capacity supply assets. Therefore, CGC stated that such Purchase Gas Adjustment ("PGA") matters are not part of this rate case and portions of testimony related to these issues and any of South Star's secondary transactions should be stricken and not admitted into the record during the Hearing on the merits. On April 7, 2010, the Consumer Advocate responded to CGC's *Motion in Limine* and stated that the transactions involving South Star are not related to Docket No. 07-00224 and the South Star issue involves affiliate transactions, not the asset management agreement between Sequent and CGC. The Hearing Officer heard oral argument from the parties on this issue during a Pre-Hearing Conference held on April 6, 2010. On April 9, 2010, the Hearing Officer issued *Order Addressing Several Pretrial Motions* wherein the Hearing Officer granted CGC's *Motion In Limine* and ruled that the South Star issue is not

⁵ On March 26, 2010, the CMA filed a notice stating that its expert witness, Edward Colucci would be replacing Phillip E. Pickett as CMA's expert witness.

relevant in this docket.

On April 8, 2010, the Consumer Advocate filed its *Stipulation of the Consumer Advocate* (“Stipulation”) with regard to the rate base of CGC for the twelve month period ending April 30, 2011. The Consumer Advocate stated that CGC’s witness Ronald D. Hanson’s recalculation of CGC’s rate base resulted in an immaterial variance between the Consumer Advocate’s position and CGC’s resulting rate base. Therefore, the Consumer Advocate agreed to stipulate to CGC’s resulting rate base; however, it did not stipulate to the individual calculations in determining the rate base. Additionally, the Consumer Advocate stated that it was in agreement with CGC on the following Statement of Income items: Base Revenues, Other Revenues, Interest on Customer Deposits and Taxes Other than Federal Income and State Excise and agreed not to present live testimony as to these stipulated items. However, the Consumer Advocate reserved its right to assert its position as articulated in its pre-filed testimony, in future proceedings or in this rate case in the event CGC attempted to cross-examine any Consumer Advocate witness on rate base issues during the Hearing on the merits.

II. THE HEARING AND POST HEARING FILINGS

On March 19, 2010, the Hearing Officer issued a *Notice of Public Service Standard Hearing and Pre-Hearing Conference*, setting a Public Service Standard Hearing and Pre-Hearing Conference to be held on April 6, 2010 in Chattanooga, Tennessee. On the same day, the Hearing Officer issued a *Notice of Hearing* setting the Hearing on the merits before the panel in Nashville, Tennessee, beginning on April 12, 2010 through April 13, 2010 and to reconvene on April 26, 2010.

In advance of the Public Service Standard Hearing in Chattanooga on April 6, 2010, the Hearing Officer held a Pre-Hearing Conference during which he addressed several outstanding discovery issues, the Consumer Advocate’s *Motion to Compel* regarding the attorney billings

related to Docket No. 07-00224 and CGC's *Motion in Limine* to strike portions of the testimony of Consumer Advocate witness, Terry Buckner. The Hearing Officer denied the Consumer Advocate's *Motion to Compel*, stating that the Consumer Advocate has recourse to pursue the SouthStar issue during the next triennial review as established in Docket No. 07-00224. As to the issue of production of the unredacted version of CGC's attorney fee billing statements, the Hearing Officer ruled that he would conduct an in camera review of the documents to determine whether those statements would be produced. Further, the Hearing Officer ruled on the attorney-client privilege issue as to the attorney fee billings submitted by CGC and removed the confidentiality designation from the redacted legal billing statements submitted by CGC in support of its litigation expenses thereby making those statements public documents. Finally, the Hearing Officer granted CGC's *Motion in Limine* to strike the testimony of Terry Buckner as to the issue related to SouthStar.

After the Pre-Hearing Conference, the TRA heard public comment during the Public Service Standard Hearing held in Chattanooga. Customers of Chattanooga Gas Company provided statements regarding their experiences with CGC and the rates proposed by the Company. Additionally, written comments were filed by members of the public. On April 9, 2010, the Company filed copies of the legal notices regarding the proposed rate change and the Hearing date that were published in appropriate newspapers of general circulation, as required by TRA Rule 1220-4-1-.05. During the Hearing in Nashville, Tennessee, the panel again solicited comments from the public, but no one sought to be heard.

The Hearing on the merits of the Petition commenced in Nashville and was held on April 12, 2010, April 13, 2010, and April 26, 2010. Participating in the Hearing were the following parties and their respective counsel:

**Chattanooga Gas Company – J.W. Luna, Esq. and Jennifer Brundidge, Esq.,
Farmer & Luna, 333 Union Street, Suite 300, Nashville, Tennessee 37201; Elizabeth**

Wade, Esq., AGL Resources Inc., Ten Peachtree Place, N.W., 15th Floor, Atlanta, GA 30309; **Kenneth T. Maloney, Esq.**, Cullen and Dykman, LLP, 1101 14th Street, NW, Suite 550, Washington, D.C. 20005-5633; and **Archie Hickerson**, AGL Resources, Inc., 150 W. Main Street, Suite 1510, Norfolk, Virginia 23510.

Consumer Advocate – Ryan McGehee, Esq., C. Scott Jackson, Esq., T.J. Warner, Esq., Vance Broemel, Esq., and Cynthia Kinser, Esq., Consumer Advocate and Protection Division of the Office of the Attorney General, P.O. Box 20207, Nashville, Tennessee 37202.

Chattanooga Manufacturers Association – Henry Walker, Esq., Boulton, Cummings, Connors & Berry, PLC, 1600 Division Street, Suite 700, Nashville, Tennessee 37203; and **Ray Childers**, CMA President, 10 W. Martin Luther King Blvd., Chattanooga, Tennessee 37403.

The panel heard testimony from Company witnesses: Steven L. Lindsey, Donna Peeples, Daniel J. Nikolich, Ronald D. Hanson, Rhonda Watts, Daniel P. Yardley, Archie Hickerson, and Dr. Roger A. Morin. Witnesses presented by the Consumer Advocate were: Dr. David Dismukes, Terry Buckner, John Hughes, and Dr. Christopher Klein.

The Company revised its forecast during the course of the proceeding, resulting in a final projected revenue deficiency of \$2.2 million. The Consumer Advocate also submitted a revised forecast, resulting in a final projected revenue surplus of \$0.3 million, with the exclusion CGC's decoupling mechanism, or a \$0.7 million revenue surplus if the Authority approved some type of decoupling mechanism.

Prior to the conclusion of the Hearing on April 26, 2010, the parties agreed to submit Post-Hearing Briefs to the TRA. On May 7, 2010, the Consumer Advocate filed its *Stipulation*

of the Consumer Advocate, Joint Submission of Agreed Late Filed Exhibits and the Consumer Advocate and Protection Division's Post-Hearing Brief. On the same day, the CMA filed *Chattanooga Manufacturer's Post-Hearing Brief* and the Company filed *Chattanooga Gas Company's Post-Hearing Brief*.

III. CRITERIA FOR ESTABLISHING JUST AND REASONABLE RATES

In setting rates for public utilities, the Authority is required to balance the interests of the utilities subject to its jurisdiction with the interests of Tennessee consumers, i.e., it is obligated to fix just and reasonable rates.⁶ The Authority must approve rates that provide regulated utilities the opportunity to earn a just and reasonable return on their investments⁷ while avoiding the exploitation of consumers by not setting exorbitant rates. "A rate need only fall within the 'zone of reasonableness' . . . that takes into consideration the interests of both the consumer and the utility."⁸

The Authority considers a petition for a rate increase, filed pursuant to Tenn. Code Ann. § 65-5-203, in light of the following criteria:

1. The investment or rate base upon which the utility should be permitted to earn a fair rate of return;
2. The proper level of revenues for the utility;
3. The proper level of expenses for the utility; and
4. The rate of return the utility should earn.

The general standards to be considered in establishing the costs of common equity for a public utility are financial integrity, capital attraction and setting a return on equity ("ROE") that is commensurate with returns investors could achieve by investing in other enterprises of

⁶ Tenn. Code Ann. § 65-5-201 (Supp. 2004).

⁷ See *Bluefield Water Works and Improvement Company v. Public Service Commission of the State of West Virginia*, 262 U.S. 679, 43 S.Ct. 675 (1923).

⁸ *Tennessee Cable Television Ass'n. v. Tennessee Pub. Serv. Comm'n*, 844 S.W.2d 151, 159 (Tenn. Ct. App. 1992).

corresponding risk. The utility's cost of common equity is the minimum return investors expect, or require, in order to make an investment in the utility.⁹

In determining a fair rate of return, the Authority must conduct an in-depth analysis and give proper consideration to numerous factors, such as capital structure, cost of capital and changes which can reasonably be anticipated in the foreseeable future. The Authority has the obligation to make this determination based upon the controlling legal standard set forth in the landmark cases of *Bluefield Water Works and Improvement Company v. Public Service Commission of the State of West Virginia*¹⁰ and *Federal Power Commission v. Hope Natural Gas Company*,¹¹ which have been specifically relied upon by the Tennessee Supreme Court.¹²

In the *Bluefield* case, the United States Supreme Court stated:

A public utility is entitled to such rates as will permit it to earn a return on the value of the property which it employs for the convenience of the public equal to that generally being made at the same time and in the same general part of the country on investments in other business undertakings which are attended by corresponding risk and uncertainties; but it has no constitutional rights to profits such as are realized or anticipated in highly profitable or speculative ventures. The return should be reasonably sufficient to assure confidence in the financial soundness of the utility, and should be adequate, under efficient and economical management to maintain and support its credit and enable it to raise the money necessary for the proper discharge of its public duties.¹³

Later, in the *Hope* case, the United States Supreme Court refined these guidelines, holding that:

From the investor or company points of view it is important that there be enough revenue not only for operating expenses but also for the capital costs of the business. These include service on the debt and dividends on the stock. By that standard the return to the equity owner should be commensurate with returns on investments in other enterprises having corresponding risks. That return, moreover, should be sufficient to assure confidence in the financial integrity of the enterprise so as to maintain its credit and to attract capital.¹⁴

⁹ See *Federal Power Commission v. Hope Natural Gas Co.*, 320 U.S. 591, 64 S.Ct. 281 (1944).

¹⁰ *Bluefield Water Works and Improvement Company v. Public Service Commission of the State of West Virginia*, 262 U.S. 679, 43 S.Ct. 675 (1923).

¹¹ *Federal Power Commission v. Hope Natural Gas Co.*, 320 U.S. 591, 64 S.Ct. 281 (1944).

¹² *Southern Bell Telephone & Telegraph Co. v. Public Service Commission*, 304 S.W.2d 640, 647 (1957).

¹³ *Bluefield*, 262 U.S. at 692-93.

¹⁴ *Hope*, 320 U.S. at 603.

Thus, rates established must allow a company to cover its operating expenses and provide an opportunity to earn a fair rate of return on a company's investment used to provision service. Further, a rate should be reasonable not only when it is first established but also for a reasonable time thereafter.¹⁵ When the TRA considers whether a rate is just and reasonable, it "should take into consideration the known and/or estimated effect of reasonably expected expenses and investments."¹⁶

Applying these principles, and upon consideration of the entire record, including all exhibits and the testimony of the witnesses, the panel made the following findings and conclusions.

IV. TEST PERIOD AND ATTRITION PERIOD

In a rate case, the Authority must decide which test period is appropriate. The goal of selecting the test period is to provide an indication of the rate of return that will be produced during the period under the existing rate structure in the reasonably foreseeable future. The test period takes into consideration the estimated effect of calculations related to revenues, expenses and investments.

The Company used the twelve months ended June 30, 2009 as its test period, while the Consumer Advocate used the twelve months ended December 31, 2009. The TRA found that the best test period would be the one that will be the best basis for forecasting individual items for the attrition period. While the panel noted that the test period for the most recent period is generally preferred, such as the December 31, 2009 test period used by the Consumer Advocate, circumstances may exist which favor the use of the June 30, 2009 test period used by the

¹⁵ *McCardle v. Indianapolis Water Co.*, 272 U.S. 400, 408-409, 47 S.Ct. 144, 148 (1926) *Southern Bell Tel. & Tel. Co. v. Tennessee Pub. Serv. Comm'n.*, 202 Tenn. at 482, 304 S.W.2d at 647.

¹⁶ *Tennessee Cable Television Ass'n v. Tennessee Public Service Comm'n.*, 844 S.W.2d 151, 159-160 (Tenn. Ct. App. 1992) citing *Southern Bell Tel. Co. v. Tennessee Pub. Serv. Comm'n.*, 579 S.W.2d 429, 435 (Tenn. Ct. App. 1979).

Company. The test periods used in this case for rate setting purposes were chosen to provide the Company the opportunity to earn a fair rate of return on its investment.

The TRA panel voted unanimously to adopt the twelve months ending April 30, 2011 for the attrition period since all the parties reached agreement on this attrition period and it represents the period during which the proposed rates would be in effect.

V. CONTESTED ISSUES

The position of the parties and the determinations of the voting panel are set out below for each of the following contested issues: Section V(a) - Revenues, Section V(b) - Expenses, Section V(c) – Taxes Other Than Income, Section V(d) – Income Taxes, Section V(e) – Net Operating Income, Section V(f) – Rate Base, Section V(g) – Revenue Conversion Factor, Section V(h) – Rate of Return, Section V(i) – Revenue Deficiency, Section V(j) Other issues, and Section V(k) Rate Design.

V(a). REVENUES

V(a)1. TOTAL OPERATING MARGIN

Total Operating Margin consists of the sum of Base Revenues, Other Revenues and Allowance for Funds Used During Construction (“AFUDC”) less the Cost of Gas. The parties stipulated to the amounts for Base Revenues, Other Revenues, and Cost of Gas. In rebuttal testimony, the Company accepted the Consumer Advocate’s forecast of operating revenues and cost of gas as a reasonable update, even though it did not agree with the method used to compute the amount.¹⁷ The panel voted unanimously to adopt the agreed upon revenue amounts as follows:

¹⁷ Ronald D. Hanson, Pre-Filed Rebuttal Testimony, pp. 4-5 (April 6, 2010).

V(a)2. BASE REVENUES

The Base Revenues were determined by the TRA to be \$29,028,086 based on the Consumer Advocate's updated billing determinates and current rates.

V(a)3. OTHER REVENUES

The TRA calculated the proper amount for Other Revenues as \$686,066.

V(a)4. ALLOWANCE FOR FUNDS USED DURING CONSTRUCTION

The parties did not agree on a proper amount for AFUDC, the final revenue component of Total Operating Margin. AFUDC is a non-cash item that reflects the period cost of capital devoted to plant under construction. Costs associated with current projects are a reduction to rate base. As projects are completed, these costs are transferred to Plant in Service. The Company initially stated a projected AFUDC of \$352,221¹⁸ by multiplying the forecasted balance of Construction Work in Progress ("CWIP"), \$4,252,910 for the attrition period (non-inclusive of corporate allocated CWIP),¹⁹ by the estimated weighted average cost of capital ("WACC") of 8.28% for the attrition period.²⁰ The forecasted balance of CWIP is based on the thirteen month average CWIP during the test year.²¹ The Consumer Advocate took the amount of plant additions in the attrition period from May 2010 to April 2011,²² and multiplied the individual monthly plant additions by its forecast of the weighted average cost of capital of 7.29%²³ to arrive at a monthly AFUDC. The individual monthly AFUDC was then totaled for an attrition period AFUDC amount of \$210,826.

In Rebuttal Testimony, the Company agreed with the process used by the Consumer Advocate in forecasting AFUDC for the attrition period, but disagreed with the cost of capital

¹⁸ Ronald D. Hanson, Pre-Filed Direct Testimony, Exhibit RDH-1, Schedule 1 (November 16, 2009).

¹⁹ Revised Consumer Advocate Exhibits, Schedule 8 (April 16, 2010).

²⁰ Ronald D. Hanson, Pre-Filed Direct Testimony, Exhibit RDH-1, Schedule 1 (November 16, 2009).

²¹ Ronald D. Hanson, Pre-Filed Direct Testimony, p. 7 (November 16, 2009).

²² Terry Buckner, Pre-Filed Direct Testimony, Workpaper RAFUDC, p. 2 (March 10, 2010).

²³ TRA FG Item No. 43, CGC Attachment 43-1 (November 16, 2009).

applied to determine AFUDC. Using its percentage of 8.28%, rather than the Consumer Advocate's cost of capital, the Company revised its forecast of AFUDC for the attrition period to the amount of \$239,457.²⁴

While the panel accepted the parties' agreed upon process using the amount of plant additions from May 2010 to April 2011, the panel rejected both parties' calculations for AFUDC because the panel adopted a different cost of capital as discussed in detail below. The panel applied its determined weighted average cost of capital of 7.419% to the plant additions from May 2010 to April 2011 and adopted \$214,551 as the proper forecast amount for AFUDC during the attrition period.

Thereafter, the panel voted unanimously to adopt a Total Operating Margin of \$29,928,703. The panel arrived at \$29,928,703 based on the sum of the amounts it had adopted for Base Revenues in the amount of \$29,028,086, Other Revenues in the amount of \$686,066, and AFUDC in the amount of \$214,551.

V(b). EXPENSES

V(b)1. TOTAL OPERATING EXPENSE

Total Operating Expense consists of the sum of: Operation and Maintenance Expense; Interest on Customer Deposits; Depreciation Expense; Taxes Other than Income Tax; and State Excise and Income Taxes. The Company projected Total Operating Expense of \$23,546,051 for the attrition period. The Consumer Advocate forecasted the Total Operating Expense of \$22,897,185 for the attrition period.²⁵ The panel unanimously voted to adopt Total Operating Expense of \$23,004,863 for the attrition period of based upon each expense component discussed below.

²⁴ Ronald D. Hanson, Pre-Filed Rebuttal Testimony, p. 5 (April 6, 2010).

²⁵ Revised Consumer Advocate Exhibits, Schedule 3 (April 16, 2010).

V(b)2. PAYROLL EXPENSE

The payroll expense is the direct labor expenses of the Company's employees in Chattanooga. The Company originally forecasted a Tennessee direct attrition period Payroll Expense of \$2,147,475.²⁶ This forecast is based on identified forty full-time Tennessee direct employees during the attrition period.²⁷ To price out attrition period Payroll Expense, the Company started with the actual annualized base pay at June 21, 2009, the final payroll in the test year. Base pay at June 30, 2009 was adjusted for known and expected changes. The portion of employees' time spent working on capital projects was not considered payroll expense. A capitalization rate was calculated, so that a portion of payroll is included in the cost of capital projects. In this case, total forecasted base pay plus non-base pay was capitalized using the Company's capitalization rate of 7.98%.²⁸

The Consumer Advocate forecasted Tennessee direct attrition period Payroll Expense of \$2,198,645.²⁹ The Consumer Advocate used its test period of twelve months ended December 31, 2009.³⁰ The forecast is based on thirty-nine full-time employees during the attrition period. The Consumer Advocate priced out the attrition period Payroll Expense beginning with the actual annualized base pay at December 31, 2009 for the test year total. The forecast includes 3% merit increases for March, 2010 and March, 2011 to arrive at the attrition year amount. The Consumer Advocate forecasted premium payroll which included overtime, double time, and beeper pay for non-base pay for hourly and Liquefied Natural Gas ("LNG") hourly employees using the total premium pay on December 31, 2009. The total forecasted salaried and hourly employees' payroll amount of \$2,378,711 was reduced by the capitalized amount of \$180,066

²⁶ Ronald D. Hanson, Pre-Filed Direct Testimony, Exhibit RDH-2, Schedule 2 (November 16, 2009).

²⁷ Ronald D. Hanson, Pre-Filed Direct Testimony, p. 8 (November 16, 2009).

²⁸ Capitalization percentage based upon test period capitalization rate. The capitalization for the twelve months ended June 30, 2008 of 6.75% is also presented for comparability in the Company response to TRA FG Item No. 45, Schedule 45-1 (Page 1 of 2).

²⁹ John Hughes, Pre-filed Direct Testimony, p. 8 (March 10, 2010).

³⁰ John Hughes, Pre-filed Direct Testimony, p. 8 (March 10, 2010).

using the capitalization rate 7.57%,³¹ resulting in a total direct Payroll Expense for the attrition period of \$2,198,645.³² The attrition period forecast was \$51,170 higher than the Company's original calculation. In Rebuttal Testimony, the Company adopted the Consumer Advocate's price out amount of \$2,198,645.³³

After reviewing the record and the parties' calculations, the panel found that the price out method used to forecast the attrition year payroll expense is reasonable, based on actual employee count at December 31, 2009, applying known rates for premium payroll and salaried payroll. Further, the panel found that the capitalization rate of 7.57% was reasonable and voted unanimously to adopt the attrition period payroll expense of \$2,198,645, as agreed to by the parties.

V(b)3. EMPLOYEE BENEFITS

The Company projected Employee Benefits Expense of \$1,129,340 for the attrition period. The Consumer Advocate forecasted \$1,061,662 for Employee Benefits Expense.³⁴ The difference of \$67,679 is for Annual Incentive Plan ("AIP") Bonus Expense. The AIP bonus is based on employee performance criteria which address safety, customer service, operating efficiency, and compliance.³⁵ CGC included \$135,358 in compensation for employees for the AIP bonuses during the attrition year. The Consumer Advocate proposed to allow 50% of the Company's AIP bonus expense because the current AIP plan serves the interests of both ratepayers and stockholders.

The panel found that the AIP bonuses are designed to improve the performance of employees and thus provides a benefit to both the ratepayers and stockholders. Ultimately, this

³¹ John Hughes, Pre-Filed Direct Testimony, Consumer Advocate Work Paper E-SUMMARY (March 10, 2010).

³² John Hughes, Pre-Filed Direct Testimony, Consumer Advocate Work Paper E-PAY SUMMARY (March 10, 2010).

³³ Ronald D. Hanson, Pre-Filed Rebuttal Testimony, Exhibit RDH-5, Schedule 5 (April 6, 2010).

³⁴ Revised Consumer Advocate Exhibits, Schedule 4 (April 16, 2010).

³⁵ Testimony of John Hughes, Transcript of Hearing, pp. 632-633, lines 20-22 (April 13, 2010).

will result in more efficient operation of the Company. Therefore, the Authority determined that it was reasonable for each group to bear the cost of the plan and pay 50% of the cost of the plan. The panel voted unanimously to adopt an attrition period forecast of \$1,061,662 for Employee Benefits Expense.

V(b)4. BENEFITS CAPITALIZED

The Capitalized Benefits Expense is forecasted by multiplying the estimated level of benefits expense for the attrition period by the percentage of capitalized payroll to total payroll for the test year. The capitalized benefit is a reduction to the Operation and Maintenance (O&M) expense. The Company projected a level of \$(101,369)³⁶ in Benefits Capitalized for the attrition period. The Consumer Advocate forecasted \$(92,776)³⁷ for Benefits Capitalized expense for the attrition period. The Consumer Advocate's forecast was based upon the Company's booked amount of \$1,225,574 for the twelve months ended December 31, 2009 multiplied by the 7.57%³⁸ capitalization percentage. In its calculation, the Consumer Advocate only includes 50% of AIP bonus expense in the Company's booked amount.

In Rebuttal Testimony, the Company accepted the Consumer Advocate's forecasted amount of \$(92,776), but increased \$10,588 from the Consumer Advocate's forecasted amount due to updated information regarding Pension contribution and Post Retirement Benefits Expense Other than Pensions ("PBOP") expense. Also, the Company reduced \$5,123 from the Consumer Advocate's forecasted amount to add back 50% of the AIP bonus expense to the Company's booked amount. Therefore, the Company's revised projection of Benefits Capitalized expense was \$(87,311)³⁹ for the attrition period. While the Consumer Advocate

³⁶ Ronald D. Hanson, Pre-Filed Direct Testimony, Exhibit RDH-2, Schedule 2 (November 16, 2009).

³⁷ John Hughes, Pre-Filed Direct Testimony, Consumer Advocate Work Paper E-BENEFITS-CAP (March 10, 2010).

³⁸ John Hughes, Pre-Filed Direct Testimony, Consumer Advocate Work Paper E-PAY SUMMARY (March 10, 2010).

³⁹ Ronald D. Hanson, Pre-Filed Rebuttal Testimony, Exhibit RDH-5, Schedule 5 (April 6, 2010).

updated its schedules post-Hearing to include the Company's updated pension adjustment, it did not accept adding back 50% of AIP expense to the Company's booked amount.⁴⁰ The panel agreed with the Consumer Advocate's calculations, consistent with the treatment of AIP expense in Employee Benefits expense, and voted unanimously to adopt the attrition period forecast of \$(82,188) for the Benefits Capitalized expense.

V(b)5. FLEET SERVICES AND FACILITIES EXPENSE

The Company forecasted \$861,624 for Fleet Services and Facilities Expense. This is based upon the historical test period amount of \$844,524 increased by the Company's inflation factor of 1.0202.⁴¹ The Consumer Advocate forecasted \$833,649 for Fleet Services and Facilities Expense based upon the Company booked amount of \$816,236 for the twelve months ended December 31, 2009, increased by the Consumer Advocate inflation/growth factor of 1.0213.⁴² The Company has accepted the Consumer Advocate's attrition period forecast for Fleet Services and Facilities Expense of \$833,649.⁴³ The panel found that the Consumer Advocate's projection is based upon a more recent test year amount and was properly grown for inflation. Thereafter, the panel voted unanimously to adopt the parties' agreed upon Fleet Services and Facilities Expense amount of \$833,649.

V(b)6. OUTSIDE SERVICES EXPENSE

The Company projected Outside Services Expense of \$1,442,709 for the attrition period. The Consumer Advocate forecasted \$1,046,501 for Outside Services Expense.⁴⁴ The difference of \$396,208 is for Outside Services – Legal Bills. The Company forecasted \$590,821 for Outside Services – Legal Bills. This is based upon the \$578,479 of actual booked expenses for

⁴⁰ Updated Exhibits Requested By The TRA At The Conclusion Of Terry Buckner's Testimony On April 13, 2010 (April 16, 2010).

⁴¹ Ronald D. Hanson, Pre-Filed Direct Testimony, Exhibit RDH-2, Schedule 2 (November 16, 2009). Variance due to rounding.

⁴² John Hughes, Pre-Filed Direct Testimony, Consumer Advocate Work Paper E-FLEET (March 10, 2010).

⁴³ Ronald D. Hanson, Pre-Filed Rebuttal Testimony, Exhibit RDH-5, Schedule 5 (April 6, 2010).

⁴⁴ Revised Consumer Advocate Exhibits, Schedule 4 (April 16, 2010).

the twelve months ended December 31, 2009 increased by the Consumer Advocate inflation factor of 1.0213. The Consumer Advocate proposed an amount of \$194,613 for Outside Services – Legal Bills. This amount is a three year average (2005-2007) of legal bills prior to the initiation of TRA Docket No. 07-00224.

The panel determined that it would not be just and reasonable to include the \$744,744 in legal bills for TRA Docket No. 07-00224 in calculating the Outside Services Expense because of the atypical nature of that docket. Instead, the panel found it reasonable to calculate the Outside Services – Legal Bills based upon a three year average of those costs for 2007 through 2009, excluding the legal costs related to TRA Docket No. 07-00224, because costs for this period were based on a more typical test year. Employing this methodology, the panel adopted \$185,951 in Outside Services – Legal Bills for the attrition period. To this figure, the panel added the Consumer Advocate's Outside Services expense of \$851,888 excluding its forecast of Outside Services – Legal Bills. Thereafter, the panel voted unanimously to adopt \$1,037,839 as the Outside Services Expense for the attrition period.

V(b)7. BAD DEBT EXPENSE

The Company developed its uncollectible percentage of .7098793% based on the net charge-offs for the 24 months of 2008 and 2009. The net charge offs for the two year period were summed and then divided by the net margin excluding damaged billing.⁴⁵ The Company methodology results in an attrition period expense of \$229,587.⁴⁶ The Company notes in its testimony that this method was approved by the TRA in CGC's last two rate cases.⁴⁷ The Consumer Advocate filed revised exhibits on April 16, 2010 indicating that it accepted the

⁴⁵ "Damaged billing" refers to the bills that CGC sends for the cost to repair to its damaged pipes.

⁴⁶ Ronald D. Hanson, Pre-filed Rebuttal Testimony, Workpaper 10 (April 6, 2010).

⁴⁷ CGC's last two rates cases before the TRA were Docket Nos. 04-00034 and 06-00175. Ronald D. Hanson, Pre-Filed Rebuttal Testimony, p. 8 (April 6, 2010).

Company's methodology (Schedule 4).⁴⁸ The panel voted unanimously to adopt the agreed upon bad debt expense of \$229,587 because the panel concluded the Company's methodology was reasonable based on historical trends of this expense component.

V(b)8. SALES PROMOTION EXPENSE

The Company projected \$23,006 Sales Promotion Expense for the attrition period, based upon the \$22,549 of the normalized test year amount increased by the Company inflation factor of 1.0202.⁴⁹ The Consumer Advocate forecasted \$13,818 for Sales Promotion Expense, based upon the Company's normalized amounts for the twelve months ended December 31, 2009 increased by the Consumer Advocate growth/inflation factor of 1.0213.⁵⁰ The Company accepted the Consumer Advocate's attrition period forecast for Sales Promotion Expense of \$13,818.⁵¹ The panel found that the Consumer Advocate's projection is based upon a more recent normalized test year amount, properly grown for inflation and adopted the Consumer Advocate's Sales Promotion Expense amount of \$13,818, as agreed upon by the Consumer Advocate and the Company.

⁴⁸ Revised Consumer Advocate Exhibits, Schedule 4 (April 16, 2010).

⁴⁹ TRA FG Item No. 25, CGC Schedule 25-4 (November 16, 2009).

⁵⁰ John Hughes, Pre-Filed Direct Testimony, Consumer Advocate Work Paper E-SALES (March 10, 2010).

⁵¹ Ronald D. Hanson, Pre-Filed Rebuttal Testimony, Exhibit RDH-5, Schedule 5 (April 6, 2010).

V(b)9. CUSTOMER SERVICE AND ACCOUNT EXPENSE

The Company forecasted \$5,280 for Customer Service and Account Expense for the attrition period. The Company arrived at this figure by applying its inflation factor of 1.0202 to the historical test year amount of \$5,176.⁵² The Consumer Advocate forecasted \$5,930 for Customer Service and Account Expense, based upon the Company booked amount of \$5,806 for the twelve months ended December 31, 2009 increased by the Consumer Advocate inflation/growth factor of 1.0213.⁵³ The Company ultimately accepted the Consumer Advocate's attrition period forecast for Customer Service and Account Expense of \$5,930.⁵⁴ The panel found that the Consumer Advocate's projection is based upon a more recent test year amount and applies the appropriate inflation factor and was reasonable, and therefore, the panel unanimously adopted the Consumer Advocate's Customer Service and Account Expense amount of \$5,930.

V(b)10. ADMINISTRATIVE AND GENERAL EXPENSE

The Administrative and General Expense category includes Legal, Office Administration and Supply, Development and Training, Dues and Subscriptions, Travel and Entertainment, Equipment Leases and Miscellaneous Operation.⁵⁵ The Miscellaneous Operation expense contains rate case expense.⁵⁶ The Company projected Administrative and General Expense of \$1,030,990⁵⁷ for the attrition period which included \$240,569 of rate case expense. The Company has requested to recover \$632,002 in rate case expense from the present docket plus \$89,706 for the remaining unrecovered costs from the Docket No. 06-00175 amortized over three years. The Consumer Advocate forecasted \$896,957⁵⁸ for Administrative and General

⁵² Ronald D. Hanson, Pre-Filed Direct Testimony, Exhibit RDH-2, Schedule 2 (November 16, 2009).

⁵³ John Hughes, Pre-Filed Direct Testimony, Consumer Advocate Work Paper E-CUST. (March 10, 2010).

⁵⁴ Ronald D. Hanson, Pre-Filed Rebuttal Testimony, Exhibit RDH-5, Schedule 5 (April 6, 2010).

⁵⁵ TRA FG Item No. 25, CGC Schedule 25-1a (November 16, 2009).

⁵⁶ TRA FG Item No. 25, CGC Schedule 25-1a (November 16, 2009).

⁵⁷ Revised Consumer Advocate Exhibits, Schedule 4 (April 16, 2010).

⁵⁸ Revised Consumer Advocate Exhibits, Schedule 4 (April 16, 2010).

Expense which included \$106,536⁵⁹ of rate case expense. The Consumer Advocate proposed using 50% of the rate case preparation costs of \$632,002 amortized over three years and eliminating the unrecovered rate case expense from Docket No. 06-00175.⁶⁰ According to the Consumer Advocate, the rate case expense balance from the 2006 rate case should be zero at December 31, 2009.⁶¹

The panel noted that the only difference between the Company's forecast and the Consumer Advocate's forecast is \$134,033 in rate case expense. The Consumer Advocate cites Authority precedent in recommending recovery of only 50% of the legal costs incurred to prepare this case.⁶² The Consumer Advocate states that in Docket No. 08-00039, the TRA ruled that it was appropriate for the shareholders to bear some of the expense of the company's rate case expense.⁶³ However, the TRA also noted in that docket that "in the future the Authority should closely examine the costs associated with rate case filings to determine the portions to be recovered from rate payers and shareholders."⁶⁴ In Docket No. 08-00039, the award of 50% of costs was based on the specific facts of that rate case. In the instant docket, the panel closely examined CGC's costs of filing this rate case and found that it was reasonable for CGC to recover the full amount of legal costs because this rate case was filed in compliance with the Settlement Agreement and the TRA's approval of the same in Docket 06-00175.⁶⁵ The panel did agree with the Consumer Advocate's position that the 2006 rate case expense should be totally amortized by December 31, 2009. Thus, the panel found it was reasonable to allow the Company to recover the total requested \$632,002 for rate case expense in this docket over a three

⁵⁹ John Hughes, Pre-Filed Direct Testimony, Consumer Advocate Work Paper E-A&G (March 10, 2010).

⁶⁰ Testimony of Ronald D. Hanson, Transcript of Hearing, Volume I, p. 156 (April 12, 2010).

⁶¹ Testimony of Ronald D. Hanson, Transcript of Hearing, Volume I, pp. 151-156 (April 12, 2010).

⁶² Consumer Advocate's Post-Hearing Brief, p. 9 (May 7, 2010).

⁶³ Consumer Advocate's Post-Hearing Brief, p. 9 (May 7, 2010).

⁶⁴ *In Re: Petition of Tennessee American Water Company to Change and Increase Certain Rates and Charges So As to Permit it to Earn a Fair and Adequate Rate of Return on Its Property Used and Useful in Furnishing Water Service to Its Customers*, TRA Docket No. 08-000039, Order, p. 24 (January 13, 2009).

⁶⁵ As part of the Settlement Agreement that was approved by the TRA in Docket No. 06-00175, the parties agreed that CGC would file another rate case on or before May 28, 2010.

year period, resulting in an annual rate case expense of \$210,667. Thereafter, the panel voted unanimously to adopt an attrition period total for administrative and general expense of \$1,001,088 after excluding the 2006 rate case expense and calculating the totals allowed for all administrative and general expenses.

V(b)11. ADMINISTRATIVE AND GENERAL EXPENSE CAPITALIZED

The Company projected \$(34,456) for Administrative and General Expense Capitalized Expense for the attrition period.⁶⁶ The Consumer Advocate's forecast of \$(38,668) for Administrative and General Expense Capitalized Expense is based upon the Company booked amount of \$(37,860) for the twelve months ended December 31, 2009, increased by the Consumer Advocate's inflation/growth factor of 1.0213.⁶⁷ The Company accepted the Consumer Advocate's attrition period forecast for Administrative and General Expense Capitalized Expense of \$(38,668).⁶⁸ The panel found that the Consumer Advocate's projection is based upon a more recent test year amount and properly grown for inflation. Thereafter, the panel voted unanimously to adopt the agreed upon Administrative and General Expense Capitalized Expense amount of \$(38,668).

V(b)12. OTHER DISTRIBUTION AND STORAGE EXPENSE

Storage expense represents the costs, other than labor and gas, incurred in operating and maintaining the Company's gas storage assets. The Company owns a LNG facility that is included in the rate base calculation under Plant in Service. The Company projected \$574,178 for Other Distribution and Storage Expense for the attrition period. This amount was calculated by applying the Company inflation factor of 2.02% to the test period for Other Distribution and Storage Expense of \$495,824.⁶⁹ Additionally, the test period expense was increased by \$68,314

⁶⁶ Ronald D. Hanson, Pre-Filed Direct Testimony, Exhibit RDH-2, Schedule 2 (November 16, 2009).

⁶⁷ John Hughes, Pre-Filed Direct Testimony, Consumer Advocate Work Paper E-A&G-CAP (March 10, 2010).

⁶⁸ Ronald D. Hanson, Pre-Filed Rebuttal Testimony, Exhibit RDH-5, Schedule 5 (April 6, 2010).

⁶⁹ Ronald D. Hanson, Pre-Filed Direct Testimony, p. 15 (November 16, 2009).

to include the cost of painting the LNG Plant.⁷⁰ The Consumer Advocate projected an attrition period for Other Distribution and Storage Expense of \$625,098. The Consumer Advocate projection was based upon the twelve months ended December 31, 2009 actual expense of \$545,154. The Consumer Advocate applied its inflation/growth factor of 1.0213 to these expenses to arrive at \$556,783 and added \$68,314 to include the cost of painting the LNG Plant.⁷¹ The Company accepted the Consumer Advocate's attrition period forecast.

The panel found that the Consumer Advocate's projection is based upon a more recent test year amount and properly grown for inflation. Thereafter, the panel voted unanimously to adopt Other Distribution and Storage Expense amount of \$625,098.

V(b)13. AGL SERVICES COMPANY ALLOCATION EXPENSE

The Company's original forecast for Allocated Corporate O&M expense was \$4,516,810.⁷² The Consumer Advocate projected attrition period expenses for AGL Services Company Allocations Expense of \$4,635,602. The Consumer Advocate's projection was based upon the twelve months ended December 31, 2009 actual expense of \$5,071,197 adjusted for normalizing items.⁷³ The Consumer Advocate eliminated \$488,007 of amounts charged to CGC for AIP expense and \$189,359 of amounts charged to CGC for Long-Term Incentive Pay (LTIP) expense. Next, the adjusted amount of \$4,393,831 was multiplied by the Consumer Advocate inflation/growth factor of 1.0213 to arrive at an amount of \$4,487,566. Finally, the Consumer

⁷⁰ The Company expects to incur \$341,571 related to the painting of the LNG plant during the summer of 2010. The Company is proposing to amortize this cost for recovery over 5 years which results in the inclusion of \$68,314 in the cost of service during the attrition period. Ronald D. Hanson, Pre-Filed Direct Testimony, p. 16 (November 16, 2009).

⁷¹ John Hughes, Pre-Filed Direct Testimony, Consumer Advocate Work Paper E-DIST (March 10, 2010).

⁷² TRA FG Item No. 25 CGC Schedule 25-12 (November 16, 2009).

⁷³ The Consumer Advocate makes six normalizing adjustments, eliminating: \$16,746 of Civic Participation Allocations, \$3,880 of Promotional Advertising Allocations, \$493 of Goodwill Allocations, \$165,163 of Property Tax Allocations, \$274,975 expense for Call Center Allocations, and \$73,531 of PUCHA Tax Collection Allocations.

Advocate added back \$148,036 or 50% of AIP bonus expenses resulting in a projection of \$4,635,602 for the attrition period.⁷⁴

In Rebuttal Testimony, the Company made eight adjustments to the Consumer Advocate's forecasted amount of \$4,635,602. Five of the adjustments were made to reverse the Consumer Advocate's adjustments. First, the Company made an increase of \$165,163 for an amount related to CGC's property tax expense. Second, the Company made a reduction of \$73,531 for allocated income tax. Third, the Company increased \$117,651 of AGSC allocated expenses for pension and PBOP. Fourth, the Company made a reduction of \$352,911 for allocated depreciation expense. Fifth, the Company made a reduction of \$129,739 for allocated Taxes Other than Income. Sixth, the Company made an increase of \$96,520 for the estimated pension expense to update the actuarial determination. Seventh, the Company decreased \$54,324 for the allocated Call Center costs due to the use of more recent budget dates. Eighth, the Company added back \$189,359 for 100% of LTIP and \$148,036 for 50% of AIP expense. Therefore, the Company projected AGL Services Company Allocation Expense of \$4,741,826⁷⁵ for the attrition period.⁷⁶

During the Hearing, the Consumer Advocate provided its latest updated Schedule 4 showing \$4,394,930 for AGL Services Company Allocation Expense.⁷⁷ To arrive at this forecasted amount, the Consumer Advocate started with the normalized historical test year amount of \$5,071,197, accepted the Company's correction for the Company's adjustments numbers one, two and four through seven to reach \$4,625,855. Then, the Consumer Advocate eliminated \$488,007 of amounts charged to CGC for AIP expense and \$189,359 of amounts

⁷⁴ John Hughes, Pre-Filed Direct Testimony, Consumer Advocate Work Paper E-ALLO-2 (March 10, 2010).

⁷⁵ Ronald D. Hanson, Pre-Filed Rebuttal Testimony, Exhibit RDH-5, Schedule 5 (April 6, 2010).

⁷⁶ Ronald D. Hanson, Pre-Filed Rebuttal Testimony, Exhibit RDH-5, Schedule 8 (April 6, 2010).

⁷⁷ Revised Consumer Advocate Exhibits, Schedule 4 (April 16, 2010).

charged to CGC for LTIP expense. The residual expense of \$3,948,489 was increased by the Consumer Advocate's inflation factor of 1.0213 to reach \$4,032,723. Finally, the Consumer Advocate added \$148,036 or 50% of AIP bonus expenses, \$117,651 of AGSC allocated expenses for benefits expense other than pensions ("PBOP"), and \$96,520 for the estimated pension expense.

After reviewing and verifying each adjustment for accuracy and consistency with the treatment of AIP and LTIP in the recommendations for Employee Benefits and Benefits Capitalized, the panel voted unanimously to adopt the Consumer Advocate's revised attrition period AGL Allocation Expense of \$4,394,930.

V(b)14. DEPRECIATION EXPENSE

CGC projected Depreciation and Amortization Expense for the attrition period of \$5,312,911. CGC filed a Depreciation Study⁷⁸ with the Direct Testimony of Rhonda Watts. The Depreciation Study recommended that the current depreciation expense should be reduced by approximately \$717,000 and that mortality changes were needed for numerous accounts resulting in revised depreciation rates.⁷⁹ The Study was based on the depreciable property on the books as of December 31, 2008.⁸⁰ In Rebuttal Testimony, the Company agreed with the Consumer Advocate's calculations with the exception of the understatement of depreciation expense related to three accounts which total \$111,480.

The Consumer Advocate projected Depreciation and Amortization Expense of \$5,201,431⁸¹ for the attrition period. The Consumer Advocate's projection was based upon December 31, 2009 Plant in Service balances, the net monthly plant additions and retirements⁸²

⁷⁸ Rhonda Watts, Pre-filed Direct Testimony, Exhibit RW-1 (November 16, 2009).

⁷⁹ Rhonda Watts, Pre-filed Direct Testimony, p. 5 (November 16, 2009).

⁸⁰ Rhonda Watts, Pre-filed Direct Testimony, p. 5 (November 16, 2009).

⁸¹ Terry Buckner, Pre-filed Direct Testimony, Work Paper E-DEP (March 10, 2010).

⁸² Terry Buckner, Pre-filed Direct Testimony, pp. 14-16 (March 10, 2010).

and CGC's new depreciation rates⁸³ through April 30, 2011. During the Hearing, the Consumer Advocate presented testimony that adopted the rates from the Depreciation Study. Further, the Consumer Advocate stated that if rates were based on the reallocated reserves and TRA ordered the reallocation of the book reserves, then the \$111,480 difference between its forecast and the Company's forecast would be resolved.⁸⁴

The panel noted that the difference in the parties' forecasts for Depreciation Expense is based on the treatment of the reallocation of reserves resulting from the Depreciation Study and determined that the new rates resulting from the Depreciation Study were just and reasonable. Further, the panel found the Consumer Advocate's argument regarding reallocated reserves was persuasive, as well the argument that the \$111,480 for the three accounts with a zero or negative book value should be included in Depreciation Expense. The panel agreed with the *Stipulation of the Consumer Advocate* because the rate base is inclusive of CGC's new proposed rates, will not include any depreciation for zero or negative book values, and is based upon the more recent actual plant balances at December 31, 2009. Based on these findings, the panel voted unanimously to order the reallocation of CGC's accumulated depreciation in conformity with the theoretical reserve as stated in the Consumer Advocate's Stipulation and adopt the rates resulting from the Depreciation Study and its forecast for Depreciation Expense of \$5,312,911.

V(b)15. INTEREST ON CUSTOMER DEPOSITS

TRA Rule 1220-4-5-.15 allows gas utilities to accrue interest on Customer Deposits. The interest is refunded to the customer along with the security deposit after a specified time period when the customer demonstrates credit-worthiness. The Company forecasted \$132,216 for the attrition period Interest on Customer Deposits. The average customer deposit balance for the

⁸³ Rhonda Watts, Pre-filed Direct Testimony, RW-1, Appendix A (November 16, 2009).

⁸⁴ Testimony of Terry Buckner, Hearing Transcript, pp. 580-582 (April 13, 2010).

attrition period of \$2,203,593 was multiplied by the tariffed interest rate of 6.0% per annum.⁸⁵ In its pre-filed direct testimony, the Consumer Advocate agreed with the Company's attrition period forecast for Interest on Customer Deposits of \$132,216.⁸⁶ The panel confirmed the Company's calculation of the average customer deposit balance for the attrition period, as well as the interest rate and voted unanimously to adopt the Company's projected Interest on Customer Deposits in the amount of \$132,216.

V(c). TAXES OTHER THAN INCOME

V(c)1. PROPERTY TAXES

The Company projected Property Tax expense of \$1,727,603 for the attrition period.⁸⁷ Property Tax expense for the test year was \$2,857,314.⁸⁸ The Consumer Advocate projected Property Taxes of \$1,603,581 for the attrition period.⁸⁹ In Rebuttal Testimony, the Company agreed with the Consumer Advocate's attrition period forecast for projected Property Taxes in the amount of \$1,603,581.⁹⁰ The Consumer Advocate used actual numbers and the Company used estimated numbers.

The panel found that the Consumer Advocate's methodology to calculate Property Tax expense was reasonable because it updated the property valuation and properly prorated the tax through the end of the attrition period. The panel voted unanimously to adopt the Consumer Advocate's projected Property Taxes amount of \$1,603,581.

⁸⁵ TRA FG Item No. 25, CGC Schedule 69-6 (November 16, 2009).

⁸⁶ Terry Buckner, Pre-filed Direct Testimony, Exhibits - Schedule 3 (March 10, 2010).

⁸⁷ TRA FG Item No. 25 CGC Schedule 25-14 (November 16, 2009).

⁸⁸ Ronald D. Hanson, Pre-Filed Direct Testimony, Exhibit RDH-2, Schedule 2 (November 16, 2009).

⁸⁹ John Hughes, Pre-Filed Direct Testimony, Consumer Advocate Work Paper T-OTAX1 (March 10, 2010).

⁹⁰ Ronald D. Hanson, Pre-Filed Rebuttal Testimony, Exhibit RDH-5, Schedule 5 (April 6, 2010).

V(c)2. GROSS RECEIPTS TAX

The Company originally projected Gross Receipts Tax expense for the attrition period at \$698,074.⁹¹ The Consumer Advocate projected Gross Receipts Tax of \$699,928 for the attrition period. The Consumer Advocate forecasted amount was based on one-sixth of the actual Gross Receipts Tax return as filed with the Tennessee Department of Revenue for the tax period July 1, 2009 through June 30, 2010. The remaining five-sixths of the Gross Receipts Tax was based on twelve months to date revenue as of September 30, 2009.⁹² In Rebuttal Testimony, the Company agreed to the Consumer Advocate's attrition period forecast for projected Gross Receipts Taxes of \$699,928.⁹³

The panel approved the use of actual numbers as proposed by the Consumer Advocate. Therefore, the panel unanimously voted to adopt the Consumer Advocate's projected Gross Receipts Tax amount of \$699,928.

V(c)3. FRANCHISE FEE

The Company forecasted \$666,172 for the total Franchise Fee to be paid to the State and City of Chattanooga. For the attrition period, the Company projected paying \$365,000 to the City of Chattanooga for the Franchise Fee and \$301,172 for the State Franchise Fee.⁹⁴ The Consumer Advocate projected \$675,947 for the total Franchise Fee.⁹⁵ The Consumer Advocate projected \$365,000 to pay the City of Chattanooga Franchise Fee and \$310,947 to pay the State Franchise Fee for the attrition period.⁹⁶ In Rebuttal Testimony, the Company agreed with the Consumer Advocate's attrition period forecast of \$675,947 for the total Franchise Fee.⁹⁷ The difference between the forecasted amounts is based on net plant in service. The Company used

⁹¹ Ronald D. Hanson, Pre-Filed Direct Testimony, Exhibit RDH-2, Schedule 2 (November 16, 2009).

⁹² John Hughes, Pre-Filed Direct Testimony, Consumer Advocate Work Paper T-OTAX7 (March 10, 2010).

⁹³ Ronald D. Hanson, Pre-Filed Rebuttal Testimony, Exhibit RDH-5, Schedule 5 (April 6, 2010).

⁹⁴ TRA FG Item No. 25, CGC Schedule 25-1a (November 16, 2009).

⁹⁵ John Hughes, Pre-Filed Direct Testimony, Consumer Advocate Work Paper T-OTAX0 (March 10, 2010).

⁹⁶ John Hughes, Pre-Filed Direct Testimony, Consumer Advocate Work Paper T-OTAX6 (March 10, 2010).

⁹⁷ Ronald D. Hanson, Pre-Filed Rebuttal Testimony, Exhibit RDH-5, Schedule 5 (April 6, 2010).

the balance as of June 30, 2009 and the Consumer Advocate used the balance as of December 31, 2009. The panel found that using the more recent updated net plant balance was preferable, and therefore, voted unanimously to adopt the Consumer Advocate's projected total Franchise Fee amount of \$675,947.

V(c)4. TRA INSPECTION FEE

The Company calculated the TRA Inspection Fee based on estimated Attrition Period Gas Revenues of \$87,549,763,⁹⁸ less Uncollectible Accounts Expense of \$297,462 and a \$5,000 exemption, resulting in net Gross Receipts of \$87,247,301.⁹⁹ The first \$1,000,000 of net Gross Receipts is assessed at .425% and all amounts over \$1,000,000 are assessed at .325%.¹⁰⁰ The total TRA Inspection Fee projected by the Company for the attrition period was \$285,537.¹⁰¹ The Consumer Advocate also projected TRA Inspection Fees for the attrition period of \$285,537.¹⁰² After reviewing the calculations and verifying the statutory rates and methodology used by the Company and the Consumer Advocate, the panel unanimously adopted the amount of \$285,537 for TRA Inspection Fees, as projected by the parties.

V(c)5. PAYROLL TAXES

In rebuttal, the parties agreed to the level of payroll and the proper level of payroll tax expense by applying the proper tax rates and capitalization rate to the attrition period payroll to calculate Payroll Taxes of \$173,560 for the attrition period. The panel unanimously adopted \$173,560 as the Payroll Tax Expense for the attrition period based upon the Payroll Expense.

⁹⁸ Ronald D. Hanson, Pre-Filed Direct Testimony, Exhibit RDH-1, Schedule 1 (November 16, 2009).

⁹⁹ TRA FG Item No. 25, CGC Schedule 25-14 (November 16, 2009).

¹⁰⁰ Tenn. Code Ann. §65-4-303(c)(1).

¹⁰¹ $(\$1,000,000 \text{ (First \$1,000,000 of Gross Receipts)} * 0.00425 \text{ (Accessed Rate)}) + (\$87,549,763 \text{ (CGC's Gross Receipts)} - \$1,000,000) * 0.00325 \text{ (Accessed Rate)}$.

¹⁰² John Hughes, Pre-Filed Direct Testimony, Consumer Advocate Work Paper E-O&M SUM (March 10, 2010).

V(c)6. ALLOCATED TAXES OTHER THAN INCOME

The Company's initial test period Allocated Taxes Other Than Income amount of \$132,186 was increased by \$10,502 to arrive at the attrition period Allocated Taxes Other than Income of \$142,688.¹⁰³ The Consumer Advocate also projected Allocated Taxes Other Than Income for the attrition period of \$142,688.¹⁰⁴ The panel unanimously adopted the amount of \$142,688, finding that the amount was proper and the parties agreed on the forecasted amount.

V(d). INCOME TAXES

The Company and the Consumer Advocate each presented its schedules as exhibits for its calculations on the proper amount of income tax. Income Taxes include both the Tennessee Excise Tax and the Federal Income Tax. Income tax is calculated based on operating margin and expense calculations and applying statutory tax rates. Based on the statutory tax rates and other items decided in this rate case, the panel unanimously adopted Income Taxes of \$2,241,272 for the attrition period after verifying the tax rates and the calculations of same.

V(e). NET OPERATING INCOME

Net Operating Income ("NOI") represents the earnings of the Company under present rates that are available after all items of the cost of providing utility service have been considered. CGC and the Consumer Advocate presented their calculations in their filed exhibits for NOI. CGC stated it required a NOI of \$8,096,385. The Consumer Advocate stated that CGC would require a NOI in the amount of \$6,628,385.

NOI is the operating margin minus total operating expenses. The sum of revenues (sales, forfeited discounts and other), cost of gas, gross margin on sales and service, and AFUDC results in an Operating Margin in an amount of \$29,928,703. Thereafter, the following amounts are subtracted: operation and maintenance expense, interest on customer deposits, depreciation and

¹⁰³ Ronald D. Hanson, Pre-Filed Direct Testimony, Exhibit RDH-2, Schedule 2 (November 16, 2009).

¹⁰⁴ John Hughes, Pre-Filed Direct Testimony, Consumer Advocate Work Paper E-O&M SUM (March 10, 2010).

amortization expense, taxes other than income tax, state excise tax and federal income tax. This results in the total operating expense in the amount of \$23,004,863. The total operating expense of \$23,004,863 is subtracted from the operating margin of \$29,928,703 to arrive at the net operating income of \$6,923,840. The panel voted unanimously to adopt NOI in the amount of \$6,923,840 for the attrition period.

V(f). RATE BASE

The main difference between the Company and Consumer Advocate rate base amounts was the use of a more recent twelve month test period by the Consumer Advocate. The Consumer Advocate used the twelve month period ending December 31, 2009. In rebuttal testimony, CGC agreed with the more recent test period and filed updated exhibits along with the testimony of Ronald D. Hanson which reduced the variance to \$113,203. Because the Consumer Advocate considered the variance between it and CGC as immaterial, the Consumer Advocate stipulated to a rate base for CGC in the amount of \$93,818,504 for the twelve month period ending April 30, 2011.¹⁰⁵ The Consumer Advocate also filed revised exhibits on April 16, 2010 reflecting no difference in the rate base amounts of CGC and the Consumer Advocate.¹⁰⁶

The panel unanimously voted to adopt the agreed-upon rate base of \$93,818,504 for the attrition year ending April 30, 2011, based upon the following findings that the individual components are reflective of the respective amounts in this case and are necessary and reasonable.

V(f)1. UTILITY PLANT IN SERVICE AND CONSTRUCTION WORK IN PROCESS

Utility Plant in Service ("UPIS") represents the original investment cost to the Company of the assets used in providing utility service. Construction Work in Process ("CWIP") represents the cost of investment that is currently under construction and will be transferred to

¹⁰⁵ *Stipulation of the Consumer Advocate*, p. 2 (April 8, 2010).

¹⁰⁶ *Revised Exhibits*, Schedule 2 (April 16, 2010).

Plant in Service when completed. UPIS and CWIP were calculated by both parties by taking the balance at December 31, 2009, adding budgeted plant additions and retirements by month including the allocated plant of 3.12% from the parent company through April 30, 2011. The Company and the Consumer Advocate both calculated the average projected thirteen months balance for the period ending April 11, 2011 to arrive at UPIS and CWIP for the attrition period. The Company and Consumer Advocate agreed upon a net amount of \$202,527,956 for UPIS and CWIP. The panel voted unanimously to adopt the agreed-upon UPIS and CWIP of \$202,527,956 for the attrition year ending April 30, 2011, based upon the determination of the booked amounts in this case and upon finding that this amount is reasonable.

V(f)2. POST RETIREMENT BENEFITS OTHER THAN PENSIONS

Both the Company and the Consumer Advocate agreed on an average attrition period balance for Post Retirement Benefits Other Than Pensions ("PBOP") of \$257,596. The panel voted unanimously to adopt \$257,596 for PBOP because it is reasonable and is based upon the more recent December 31, 2009 amounts.

V(f)3. WORKING CAPITAL

Working Capital is the amount of funds necessary for daily expenditures and a variety of non-plant investments that are necessary to sustain ongoing operations of the utility until those expenditures can be recovered through revenues received from customers. The Company and the Consumer Advocate agreed upon \$13,484,033 for Working Capital using the more recent test period amount as of December 31, 2009 because that amount is known and measurable. The panel voted unanimously to adopt the agreed upon Working Capital of \$13,484,033 because it is based on more recent known and measurable amounts.

V(f)4. ACCUMULATED DEPRECIATION, CONTRIBUTIONS IN AID OF CONSTRUCTION, ADVANCES IN AID OF CONSTRUCTION, ACCUMULATED DEFERRED TAX

Contributions In Aid of Construction (“CIAOC”) represents funds that are received from ratepayers for certain construction projects. These projects are undertaken when the Company’s facilities are either extended or relocated at the customer’s request in an area that is not likely to be economically feasible to serve under normal conditions. Accumulated Deferred Tax represents the accumulated differences between accounting or book income and taxable income. Some of these differences are permanent while others involve temporary or timing matters that will reverse in subsequent years. In the case of utilities, the major component of these differences generally involves the accelerated depreciation that is taken on utility plant for tax purposes. The tax effect of the difference between book and tax depreciation methods results in a deferral of income to later periods. These annual deferrals are then credited to this account and represent a tax savings of timing differences to the Company that will ultimately turn around. Since the ratepayers’ charges are based on book depreciation amounts, the ratepayers are entitled to relief through a reduction in rate base for the total amount of Accumulated Deferred Tax.

Because the amounts were based on the later test period of the 12 months ended December 31, 2009 to project the attrition period, the Company and the Consumer Advocate agreed on the following: Accumulated Depreciation of \$96,483,074; Contributions in Aid of Construction of \$1,508,644; Advances in Aid of Construction of \$286,394; and Accumulated Deferred Tax of \$24,172,970.

Based upon its finding and determination that these amounts are reasonable and that each balance agrees with the later test period date of December 31, 2009, the panel voted unanimously to adopt the agreed upon Accumulated Depreciation of \$96,483,074, Contributions in Aid of Construction of \$1,508,644, Advances in Aid of Construction of \$286,394 and Accumulated Deferred Tax of \$24,172,970 for the attrition year ending April 30, 2011.

V(g). REVENUE CONVERSION FACTOR

The Revenue Conversion Factor represents the adjustment factor necessary to translate any surplus or deficiency in NOI into a Revenue Deficiency or Surplus that rates will be designed to produce. To produce a certain amount of revenue several factors are considered. In order to determine the proper amount of revenue needed for the Company to have the opportunity to earn a fair rate of return, it is necessary to apply a revenue conversion factor to Net income deficiency or the NOI. After this amount is calculated, it is necessary to add forfeited discounts (late payments) and subtract uncollectibles, state excise tax, and federal income tax. The Company proposed a revenue conversion factor of 1.650310% while the Consumer Advocate proposed a revenue conversion factor of 1.651701%. Based on the Company's adoption of the Consumer Advocate's forecast for base revenues, the panel found the forfeited discount ratio and uncollectible ratio used by the Consumer Advocate in the revenue conversion calculation to be appropriate and voted unanimously to adopt a Revenue Conversion Factor of 1.651701%.

V(h). RATE OF RETURN

CGC requests an overall rate of return of 8.28%.¹⁰⁷ The Company proposes a capital structure comprised of: 42.15% long-term debt; 6.94% short-term debt and 50.90% common equity.¹⁰⁸ The Company describes the methodology for determining capital structure as involving two steps. In the first step, the percentage of short-term debt in the capital structure of the parent, AGL Resources, Inc. ("AGLR"), was established at the end of the attrition period on April 30, 2011. The second step involves determining relative percentages of long-term debt and

¹⁰⁷ Ronald D. Hanson, Pre-filed Direct Testimony, Exhibit RDH 4 (November 16, 2009).

¹⁰⁸ Ronald D. Hanson, Pre-filed Direct Testimony, Exhibit RDH 4 (November 16, 2009).

equity in the capital structure by multiplying the percentage of long-term capital by the relative percentage of long-term debt and equity from a sample of peer companies.¹⁰⁹

The Company estimated the short-term debt cost for AGLR to be 2.04%.¹¹⁰ The estimate was derived by adjusting future estimates of the London Inter-Bank Offering Rate (“LIBOR”) and by adding the estimated commercial paper spread and estimates for the costs associated with issuing short-term debt to form the estimate of short-term debt cost.¹¹¹

The cost rate for AGLR’s long-term debt is 6.03% according to CGC.¹¹² To determine the cost of long-term debt, calculations were made for changes in the cost of the long-term debt components in AGLR’s capital structure that will occur between June 30, 2009 and the end of the attrition year in 2011. In deriving its recommended overall cost of capital of 8.28%, CGC claimed that its ROE should be set at 11.00%.¹¹³

The equity return was derived by implementing the Capital Asset Pricing Model (“CAPM”) and a variant of the CAPM known as the Empirical CAPM (“E-CAPM”). A historical risk premium analysis of the utility industry and cost of equity estimates using the Discounted Cash Flow (“DCF”) model were also performed. The Company’s recommendation is based upon the results of the models listed above and the assumption that the Company has a 54% equity ratio exclusive of short-term debt.¹¹⁴

Flotation costs are the costs associated with the issuance of securities. The Company asserts that its cost of equity estimates should be increased by thirty basis points to account for flotation costs.¹¹⁵ This amount is in addition to the data points already calculated.

¹⁰⁹ Ronald D. Hanson, Pre-filed Direct Testimony, pp. 32-33 (November 16, 2009).

¹¹⁰ Ronald D. Hanson, Pre-filed Direct Testimony, pp. 34-35 (November 16, 2009).

¹¹¹ Ronald D. Hanson, Pre-filed Direct Testimony, pp. 34-35 (November 16, 2009).

¹¹² Ronald D. Hanson, Pre-filed Direct Testimony, Exhibit RDH-4 Schedule 1 (November 16, 2009). *See also* Ronald D. Hanson, Pre-filed Rebuttal Testimony, Exhibit RDH-7 Schedule 1 (April 6, 2010).

¹¹³ Dr. Roger A. Morin, Pre-filed Direct Testimony, p. 4 (November 16, 2009).

¹¹⁴ Dr. Roger A. Morin, Pre-filed Direct Testimony, p. 5 (November 16, 2009).

¹¹⁵ Dr. Roger A. Morin, Pre-filed Direct Testimony, p. 43 (November 16, 2009).

Based on this analysis, the Company posits that 10.5% is a conservative, yet reasonable, return on equity for CGC. However, CGC states that there is risk associated with the small size of CGC and there has been declining consumer demand and therefore, CGC advocates increasing the reasonable return on equity to 11%. Using the Company's AUA rate design proposal would result in a cost of capital of 10.75% for CGC.

The Consumer Advocate recommends an overall weighted cost of capital of 7.29% for CGC.¹¹⁶ Underlying the recommendation is a capital structure comprised of 10% short-term debt, 42% long-term debt and 48% common equity.¹¹⁷ The Consumer Advocate's proposed capital structure is based on the historical consolidated capital structure of AGLR.¹¹⁸ Using estimates from the CAPM and DCF models, the Consumer Advocate recommends a return on equity of 9.5%.¹¹⁹ In the event that CGC's decoupling plan is adopted by the TRA, the Consumer Advocate recommends a fifty basis point reduction in equity return resulting in an overall cost of capital of 7.05%.¹²⁰ The Consumer Advocate accepts the short-term and long-term debt costs proposed by CGC.¹²¹

In determining CGC's capital structure, the Consumer Advocate compared historical capital structures for AGLR for 2007-2009 to the recommendation of the Company. The Consumer Advocate observed that the recommendation of CGC only contains 6.04% short-term debt, while the historical average from 2007-2009 is 11.60%.¹²² The Consumer Advocate concludes that the Company's figure likely represents a brief departure from the long run capital structure of AGLR. As a result, the Consumer Advocate's recommended capital structure contains 10% short-term debt, 42% long-term debt and 48% common equity.

¹¹⁶ Dr. Christopher C. Klein, Pre-filed Direct Testimony, pp. 5-6 (March 10, 2010).

¹¹⁷ Dr. Christopher C. Klein, Pre-filed Direct Testimony, p. 5 (March 10, 2010).

¹¹⁸ Dr. Christopher C. Klein, Pre-filed Direct Testimony, p. 5 (March 10, 2010).

¹¹⁹ Dr. Christopher C. Klein, Pre-filed Direct Testimony, p. 5 (March 10, 2010).

¹²⁰ Dr. Christopher C. Klein, Pre-filed Direct Testimony, p. 6 (March 10, 2010).

¹²¹ Dr. Christopher C. Klein, Pre-filed Direct Testimony, p. 5 (March 10, 2010).

¹²² Dr. Christopher C. Klein, Pre-filed Direct Testimony, pp. 7-8 (March 10, 2010).

To estimate the cost of equity, the Consumer Advocate implements the CAPM and DCF models on data referencing CGC's corporate parent AGLR.¹²³ The result of the Consumer Advocate's CAPM analysis is an equity return range of 6.13% to 8% for AGLR.¹²⁴ The Consumer Advocate implements the DCF model using two different estimates of dividend growth and an estimate of earnings growth. The results of the analysis produce a range of cost of equity for AGL of 7.5% to 9.7% with a midpoint of 8.6%. The Consumer Advocate claims that its DCF and CAPM estimates, as a group, suggest a cost of equity for AGLR between 8.0% and 10.0%. The Consumer Advocate recommends 9.5% for AGLR's cost of equity to account for the possibility of increased interest rates and required returns.¹²⁵

The Consumer Advocate agrees with CGC on flotation costs and states that such costs must be recovered, but claims that the Company overestimates the effect on cost of equity.¹²⁶ The Consumer Advocate recommends no adjustment because the required adjustment is small relative the much larger range of uncertainty surrounding the appropriate cost of equity.¹²⁷

The Consumer Advocate asserts that the equity return for CGC should be adjusted if the TRA adopts a decoupled rate structure. The adjustment proposed by the Consumer Advocate is based upon the CAPM because CGC's risk is reduced with a decoupled rate structure. Based upon statistical analysis of data on equity returns and gas consumption, the Consumer Advocate proposes a 10% reduction of CGC's equity return if its decoupling proposal is adopted.¹²⁸ Based upon this calculation, the 10% risk reduction translates into a fifty basis point reduction in equity return for CGC.¹²⁹

¹²³ Dr. Christopher C. Klein, Pre-filed Direct Testimony, p. 9 (March 10, 2010).

¹²⁴ Dr. Christopher C. Klein, Pre-filed Direct Testimony, p. 13 (March 10, 2010).

¹²⁵ Dr. Christopher C. Klein, Pre-filed Direct Testimony, p. 14 (March 10, 2010).

¹²⁶ Dr. Christopher C. Klein, Pre-filed Direct Testimony, p. 16 (March 10, 2010).

¹²⁷ Dr. Christopher C. Klein, Pre-filed Direct Testimony, p. 16 (March 10, 2010).

¹²⁸ Dr. Christopher C. Klein, Pre-filed Direct Testimony, p. 20 (March 10, 2010).

¹²⁹ Dr. Christopher C. Klein, Pre-filed Direct Testimony, p. 21 (March 10, 2010).

The panel noted that the goal of regulatory rate setting is to ensure a fair rate of return on a company's investments while ensuring the safety and reliability of the service provided. The fair rate of return standard is established in court decisions in the *Hope* and *Bluefield* cases.¹³⁰ A fair rate of return is achieved when (1) the return is comparable to other businesses that bear similar risks; (2) the allowed return is sufficient to ensure financial integrity; and (3) the Company can attract credit at reasonable cost to meet its capital requirements.

The panel employed a three step process to determine the cost of capital. First, the capital structure of the Company was established. Traditionally, the TRA has established the capital structure for CGC by examining the capital structure of its parent company AGLR. Second, the cost of each component of the capital structure – debt and equity – was calculated. Finally, the panel computed the overall return by calculating the weighted cost of capital.

Capital Structure

The panel rejected the Company's proposed capital structure for two reasons. First, the long-term components of the Company's proposed capital structure are derived from data of peer companies, not data from the Company itself. The panel noted that the TRA prefers to use company-specific data when available, and in this proceeding such data was readily available. The primary consequence of the Company's methodology was to inflate the amount of equity in the capital structure. For example, the Consumer Advocate uses historical data and finds that the average equity ratio for AGLR is 46%. The Company's technique inflates this figure to 50.9%. Further, in response to Minimum Filing Guideline 81, the Company forecasts an equity ratio of 45.59% at the end of the attrition year in 2011.¹³¹ Based on historical data and the Company's own projections, the panel found that the proposed capital structure contained too much equity.

¹³⁰ *Bluefield Water Works & Improvement Co. v. P.S.C. of West Virginia*, 262 U.S. 679 (1923) and *F.P.C. v. Hope Natural Gas Co.*, 320 U.S. 591 (1944).

¹³¹ MFG 81, Schedule 81-1, p. 3 of 8 (November 16, 2009).

The second reason the panel rejected CGC's proposed capital structure was that it does not contain adequate amounts of short-term debt. The Company projected that its capital structure will contain approximately 7% short-term debt as of April 30, 2011. The Consumer Advocate's historical analysis of AGLR's short-term debt ratio concluded that AGLR's capital structure contains at least 10% short-term debt. While acknowledging the Company's retirement of significant short-term debt in August 2009, the panel found that U.S. Securities and Exchange Commission ("SEC") documents filed in this proceeding evidenced that end-of-year 2009 short-term debt level had significantly increased. The panel found this data persuasive evidence that the Company's proposed capital structure was not reflective of its typical capital structure which contains higher levels of short term debt.

The panel also rejected the recommended capital structure of the Consumer Advocate. In reviewing the Consumer Advocate's analysis and ultimate recommendation, the panel found that the Consumer Advocate's capital structure appeared to be based upon an average of the Company's proposed capital structure and the Consumer Advocate's analysis of the historical average capital structure. Therefore, the panel rejected the Consumer's Advocate's recommendation as it was contaminated by CGC's analysis with excessive equity and insufficient short-term debt.

However, the panel found that the Consumer Advocate's averaging methodology better fits the data in this case. The panel found that for a company with a capital structure that varies throughout the year, averaging is more likely to produce a representative capital structure rather than trying to forecast a capital structure based upon known and measurable factors that are transitory rather than permanent. Thereafter, the panel adopted the historical average capital structure derived by the Consumer Advocate which contained 11.60% short-term debt, 42.34%

long-term debt and 46.06% common equity, as it represents a capital structure likely to be maintained by the Company.

Cost of Debt

The panel adopted the short-term and long-term debt costs proposed by the Company. The Consumer Advocate also accepted CGC's short-term and long-term debt cost estimates as part of its cost of capital recommendation. Thus, the panel finds that the costs of short-term debt and long-term debt for AGLR are 2.04% and 6.03%, respectively.

Equity Return

While there is no simple single-step process for determining the appropriate equity return, there are a number of factors used to determine the equity return, including: the results of the parties' models, prevailing economic conditions, rulings by other state commissions and other factors that may provide evidence about the relative risk of investing in CGC or AGLR.

The panel reviewed the CAPM estimates of the parties and specifically examined the CAPM estimates for AGLR. The panel noted that the fundamental idea underlying the CAPM is that investors demand higher returns for assuming additional risk. The CAPM produces a quantitative measure of the additional return required for bearing additional risk. The additional return needed to induce an investor to engage in a riskier investment is known as the risk premium.

To understand the results of the CAPM based upon economic conditions expected during the attrition period, the panel performed its own analysis referencing AGLR. Both parties reported a beta¹³² statistic from Value Line of 0.75 for AGLR for the long-run risk premium and that was adopted by the panel. For the market risk premium, the panel used the 7.0% long-run risk premium proposed by the Company as it was derived in part from Ibbotson Associates (now

¹³² The beta (β) of a stock or portfolio is a number describes the relation of its returns with that of the financial market as a whole. It measures the volatility or risk of a security in comparison to the market as a whole. Beta, as used in the CAPM model, calculates the expected return of an asset based on its beta and expected market returns.

Morningstar) data that the Authority frequently encounters in rate cases. For the risk-free return, the panel noted that testimony and data in late-filed exhibits indicate long-term interest rates are expected to rise throughout the attrition year. Based on the foregoing, the panel computed an equity return of 10.15% under forecasts that the risk-free rate will increase to 4.9%.¹³³ Looking slightly beyond the end of the attrition year into 2012, long-term Treasury rates are expected to climb to 5.3%, which implies an equity return of 10.55%.¹³⁴

The panel rejected the thirty basis point adjustment to the equity that the Company makes to account for flotation costs. The TRA and its predecessor the Public Service Commission have rejected adding flotation costs to the return on equity when there is no accompanying stock issuance.¹³⁵ The Company indicated at the Hearing that it was unaware of any planned stock issuances by AGLR.¹³⁶ The panel therefore used the results of CGC excluding the impact of flotation costs when setting the equity return.

The panel was unpersuaded by the Consumer Advocate's CAPM calculations, because it uses short-term interest rates as a proxy for risk-free return. The panel found that the use of longer-term interest rates as a proxy for risk-free return is preferable because it more closely matches the expected life of a security like that of a stock or an investment in utility plant. Similarly, the panel placed little weight on the Company's DCF analysis of electric and gas utilities as it found that those utilities have significantly higher equity returns than those from the sample of natural gas companies. Alternatively, the panel placed weight on recent decisions concerning equity return made by other regulatory bodies. At the hearing, testimony established

¹³³ Joint Submission of Agreed Late Filed Exhibits, Exhibit 2 (May 7, 2010).

¹³⁴ Joint Submission of Agreed Late Filed Exhibits, Exhibit 2 (May 7, 2010).

¹³⁵ See *In re: Petition of Chattanooga Gas Company for Approval of Adjustment of its Rates and Charges and Revised Tariff*, Docket No. 04-00034, Order, pp. 57-58 (October 20, 2004).

¹³⁶ Testimony of Ronald D. Hanson, Transcript of Hearing, v. I, pp. 204-205 (April 12, 2010).

that equity returns have been set slightly above 10% in cases decided by other regulatory bodies.¹³⁷

Given the foregoing analysis and acknowledgments from the Company witness that it was not experiencing any impediments in attracting capital at the present authorized 10.2% equity return,¹³⁸ the panel found an equity return of 10.3% to be in the zone of reasonableness. The panel further found that the ROE should be reduced by twenty-five basis points under the rate design adopted in this case. Also, the panel found that the evidence presented by the parties made clear that decoupling impacts the return on equity by reducing risks, although both parties presented different views on both the direction and magnitude of the required adjustment. Having carefully reviewed the record, the panel voted unanimously to adopt the conservative estimate of a twenty-five basis point reduction to equity return based upon the rate design adopted by the panel. Finally, the panel voted unanimously to adopt 10.05% as the appropriate equity return for use in this proceeding.

Overall Rate of Return

Based on the findings above for relevant debt and equity costs, the panel calculated an overall cost of capital of 7.53% for CGC. Based on the rate design adopted by the panel, the panel voted unanimously to adopt an overall cost of capital of 7.41% finding that to be in the required zone of reasonableness.

V(i). REVENUE DEFICIENCY

Based upon rate base, net operating income, fair rate of return, and the revenue conversion factor adopted by the panel, the panel determined that the revenue deficiency for CGC is \$60,068 for the attrition period.

¹³⁷ Testimony of Dr. Roger A. Morin, Transcript of Hearing, v. III, pp. 739-740 (April 26, 2010).

¹³⁸ Testimony of Dr. Roger A. Morin, Transcript of Hearing, v. III, pp. 739-740 (April 26, 2010).

V(j). OTHER ISSUES

V(j)1. LEGAL EXPENSE FROM DOCKET NO. 07-00224

The issues of asset management and capacity release were first raised by the Consumer Advocate and CMA in Phase II of CGC's prior rate case (Docket No. 06-00175).¹³⁹ At that time, the Authority agreed with CGC's assertion that it would be more appropriate to address these issues in a separate docket. Therefore, the Authority voted to close Phase II of Docket No. 06-00175 and opened a new docket in September 2007 to consider the issues raised by the Consumer Advocate and CMA (Docket No. 07-00224).¹⁴⁰ The Consumer Advocate and CMA both filed for and were granted intervention in Docket No. 07-00224. In February 2008, CGC sought permission from the Authority to defer its litigation costs for possible future recovery in Docket No. 07-00224. During the two plus years of litigation, CGC incurred legal costs of \$744,743.81 related to litigating the issues in Docket No. 07-00224. At the conclusion of the case, CGC petitioned the Authority to recover its costs. The CMA filed a motion to move the request for legal costs into the current rate case claiming that the TRA could allow recovery of legal expenses only in the context of a rate case. The Hearing Officer granted CMA's motion and CGC's request to recover the legal expenses was transferred into this rate case.

¹³⁹ *In Re: Petition of Chattanooga Gas Company to Increase Rates, Including a Comprehensive Rate Design Proposal and Revised Tariff*, Docket No. 06-00175.

¹⁴⁰ *In Re: Docket to Evaluate Chattanooga Gas Company's Gas Purchases and Related Sharing Incentives*, Docket No. 07-00224.

CGC argued that these costs should be classified as gas costs and, as such, are recoverable through the purchase gas adjustment/actual cost adjustment (“ACA”) mechanism. Therefore, CGC proposed to recover the costs through a temporary rider over a three-year period.¹⁴¹ The Consumer Advocate maintained that the litigation costs are legal fees unrelated to the rate case. The Consumer Advocate argued that the TRA does not have the authority under Tennessee law to award recovery of legal fees, regardless of the docket,¹⁴² since throughout the proceedings in Docket No. 07-00224, CGC claimed that it was not a rate case.

The panel found that CGC was required by the Authority to participate in Docket No. 07-00224 and did incur the legal expense in a complex, lengthy and protracted proceeding. Additionally, the panel found that these costs were incurred in litigating issues stemming from CGC’s prior rate case docket, Docket No. 06-00175. Upon questioning by Director Roberson, Mr. Buckner acknowledged that these legal expenses would have been an allowable rate case expense in Docket No. 06-00175 if the asset management issue had been litigated within the 06-00175 docket.¹⁴³ Therefore, the panel determined that CGC should be allowed full recovery of the legal costs incurred in Docket No. 07-00224. The panel determined that the most equitable method for the Company to recover these costs would be from asset management funds. Allowing recovery of legal expenses from asset management funds is an appropriate accounting treatment for the non-recurring legal expense and also provides the Company a more timely recovery of legal expenses it has already paid. The panel determined the recovery of legal expenses should come from the consumers’ share of earnings from the asset management fund, rather than through a recurring charge on their monthly bill. Thereafter, the panel voted unanimously that recovery of legal expenses should be from asset management funds.

¹⁴¹ Archie R. Hickerson, Pre-Filed Direct Testimony, p. 20 (March 5, 2010).

¹⁴² Terry Buckner, Pre-filed Direct Testimony, p. 31 (March 10, 2010).

¹⁴³ Testimony of Terry Buckner, Transcript of Hearing, v. II, pp. 609-610 (April 13, 2010).

V(j)2. CONSUMER PROTECTION RECOMMENDATIONS

The Consumer Advocate proposes that CGC be required to implement certain “consumer protection” recommendations, including budget repayment plans, alternative address notification, and waiver of all fees in special circumstances.¹⁴⁴ The Company states the Consumer Advocate presented no analyses to quantify the costs that CGC would incur, no evidence to support the necessity for these recommendations and no objective definition of “special circumstances” that would enable the Company to perform its own analysis.¹⁴⁵ According to the Company, it currently offers a budget billing program, offers an alternate address notification, and works with its customers to address individual concerns and situations.¹⁴⁶ CGC opposed adopting the proposed service recommendations.

The panel found that the Company already had policies in place that address the substance of the Consumer Advocate’s recommendations. Further, the record contains no evidence of any increase in customer complaints regarding billing practices of CGC. Finally, the panel noted that no adjustments to Other Revenues or Operations Expense were recommended by the Consumer Advocate to reflect the impact of fee waivers or the increased costs that the Company would incur if the Authority required CGC to adopt the proposed service recommendations. Based upon these findings, the panel voted unanimously not to adopt the service recommendations proposed by the Consumer Advocate.

V(j)3. ECONOMIC DEVELOPMENT GAS SERVICE TARIFF (EDGS-1)

CGC is proposing to establish a new economic development tariff. The purpose of the tariff is to provide economic incentives for new companies to relocate to the Chattanooga area.

¹⁴⁴ Terry Buckner, Pre-filed Direct Testimony, Appendix A (March 10, 2010).

¹⁴⁵ Steve Lindsey, Pre-Filed Rebuttal Testimony, pp. 2-5 (April 5, 2010).

¹⁴⁶ *Id.*

The tariff provides discounts off the non-gas commodity charge (base rate) that are phased out over a four-year period for qualifying customers.¹⁴⁷ While the main thrust is to recruit new customers to the area, the tariff will also apply to existing customers who significantly expand their operations.¹⁴⁸ The Company states the tariff will encourage job creation, which is especially needed in the existing difficult economy.¹⁴⁹ The unemployment rate is near 10% in Chattanooga.¹⁵⁰ CGC references Atmos Energy and Chattanooga Electric Power Board as two other utilities in Tennessee with economic development tariffs.¹⁵¹ Additionally, the Company clarifies that the tariff will eventually benefit other customers by spreading operational costs over a larger customer base resulting in lower customer rates.¹⁵² Other customers will not be subsidizing the discounts because new customers will be required to meet main and service extension tariff guidelines.¹⁵³

The panel recognized the benefits of offering economic incentives to encourage new development and the need for incentives under the current economic conditions. The panel noted that no party filed testimony opposing this tariff. The panel unanimously voted to approve the new Economic Development Gas Service Tariff (“EDGS”) as filed by CGC.

V(j)4. MISCELLANEOUS TARIFF CHANGES

CGC proposed one change to its Rate Schedule F-1 (Seventh Revised Sheet No. 20A).¹⁵⁴ Language was added to the Billing Demand section to clarify the establishment of billing demand for service that is provided in conjunction with the companion Rate Schedule T-2.¹⁵⁵

¹⁴⁷ The criteria are a minimum usage of 1,000 dekatherms annually for new customers or an additional 1,000 dekatherms annually over historic usage for existing customers. The discounts are as follows: Year 1 – 40%; Year 2 – 30%; Year 3 – 20%; Year 4 – 10%; Over 4 years – 0%. Higher discounts offered up front to provide more customer savings in the first year or two of operations.

¹⁴⁸ Daniel J. Nikolich, Pre-Filed Direct Testimony, pp. 18-19 (November 16, 2009).

¹⁴⁹ Daniel J. Nikolich, Pre-Filed Direct Testimony, pp. 17-18 (November 16, 2009).

¹⁵⁰ Daniel J. Nikolich, Pre-Filed Direct Testimony, pp. 17-18 (November 16, 2009).

¹⁵¹ Daniel J. Nikolich, Pre-Filed Direct Testimony, p. 19 (November 16, 2009).

¹⁵² Daniel J. Nikolich, Pre-Filed Direct Testimony, p. 18 (November 16, 2009).

¹⁵³ Daniel J. Nikolich, Pre-Filed Direct Testimony, p. 19 (November 16, 2009).

¹⁵⁴ Refers to Commercial and Industrial Large Volume Firm Sales Service.

The panel found that the current tariff does not specify how the billing demand should be calculated for the companion rate schedule for transportation customers who have a firm backup supply. The panel also noted that no party filed testimony opposing the proposal. Therefore, the panel voted unanimously to approve the language added to Rate Schedule F-1 to clarify establishment of billing demand for service that is provided in conjunction with the companion Rate Schedule T-2.

V(k). RATE DESIGN AND ENERGY CONSERVATION

V(k)1. RATE DESIGN

The Company proposed to recover most of its revenue deficiency from residential customers. Additionally, the Company stated that because its rates are designed to recover a significant portion of its fixed costs by way of a charge per therm, when consumption decreases, CGC is not given the same opportunity to recover its costs.¹⁵⁶ While the Company contends conservation is good for consumers and should be promoted, it maintains that the current rate structure does not align the interests of consumers and CGC.¹⁵⁷ If the Company maintains the existing rate design, there is an incentive for the Company to sell more gas in order to earn its authorized return, rather than encourage conservation.¹⁵⁸ To alleviate this conflicting interest, the Company proposed the implementation of a revenue decoupling mechanism¹⁵⁹ called the Alignment and Usage Adjustment (“AUA”) and stated that it will allow CGC the opportunity to

¹⁵⁵ Daniel J. Nikolich, Pre-Filed Direct Testimony, p. 19 (November 16, 2009). Refers to Interruptible Transportation Service with Firm Gas Supply Backup.

¹⁵⁶ Steve Lindsey, Pre-filed Direct Testimony, p. 5 (November 16, 2009).

¹⁵⁷ Steve Lindsey, Pre-filed Direct Testimony, p. 5 (November 16, 2009).

¹⁵⁸ Steve Lindsey, Pre-filed Direct Testimony, p. 6 (November 16, 2009).

¹⁵⁹ A decoupling mechanism is generally defined as a ratemaking mechanism that is instituted to reduce or eliminate a utility’s revenue being generated from sales of the commodity. A utility’s revenue generation is directly tied to retail sales and any reduction in energy consumption by consumers reduces the companies’ profitability. The purpose of a decoupling mechanism is to eliminate the disincentive for the utility to promote conservation efforts by eliminate the link between sales and profits and using an alternate way to generate revenue from sales.

earn a fair rate of return while also promoting conservation through its proposed energySMART conservation programs.¹⁶⁰

The Company's proposed rate design will increase monthly fixed charges and implement the AUA mechanism, which is designed to normalize revenues per customer. The AUA works in a similar manner to the existing Weather Normalization Adjustment ("WNA"), but takes into consideration all effects on revenue recovery associated with usage. The Company states that approval of its rate design will eliminate the need to continue the WNA. The Company proposes that the AUA apply to the residential R-1 customer class and to the C-1, C-2 and T-3 commercial classes.¹⁶¹

The Company contends that its proposed rate design is consistent with national and local energy policies. In particular, the Company cites the 2007 amendment to the Public Utilities Regulatory Policies Act ("PURPA"), the American Recovery and Reinvestment Act of 2009 ("ARRA"), and Tenn. Code Ann. § 65-4-126,¹⁶² which are aimed at aligning utility's financial incentives while encouraging energy efficiency and conservation.¹⁶³

CGC provided a cost of service study for all classes of services. A cost of service study compares revenue received from the different classes of customers compared to the cost to serve each class. This helps to determine the income received on each class of customer and the rate of return on investment. CGC's study indicates that the residential service classes are earning a negative return, small commercial is earning 2.41%, medium commercial and industrial classes

¹⁶⁰ Steve Lindsey, Pre-filed Direct Testimony, pp. 3-5 (November 16, 2009).

¹⁶¹ Steve Lindsey, Pre-filed Direct Testimony, pp. 8-10 (November 16, 2009).

¹⁶² Tenn. Code Ann. § 65-4-126 states:

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 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.

¹⁶³ Steve Lindsay, Pre-filed Direct Testimony, pp. 6-7 (November 16, 2009).

are earning 25.59% and the industrial class is earning 28.29%.¹⁶⁴ Based upon these returns, CGC proposes to recover more costs from residential and small commercial customers through higher fixed monthly charges and less from its industrial customers.¹⁶⁵

The above referenced increase in fixed charges is the first step of a two-step approach in CGC's proposed rate design. The second step is the implementation of the AUA mechanism, which is designed to normalize revenues per customer at levels used to establish base rates.¹⁶⁶ The Company proposes to apply the AUA mechanism to residential, commercial and transportation customers.¹⁶⁷ Essentially, revenue per customer would be calculated for the aforementioned customer classes in this proceeding. Each year, the actual revenue per customer would be compared to the benchmark revenue per customer. If the revenue per customer declines, then customers are surcharged to collect the difference during the subsequent year. Under this approach, the Company's WNA would cease to operate.¹⁶⁸ In rebuttal testimony, CGC also provided two Straight-Fixed Variable (SFV) rate designs which it contends satisfies the objectives set forth in Tenn. Code Ann. § 65-4-126.

Tenn. Code Ann. § 65-4-126 codifies the State of Tennessee's policy regarding aligning utility financial incentives with customers' efficient use of energy. CGC maintains that its comprehensive conservation program, energySMART, includes a mechanism that would remove the financial disincentives for a utility to promote the usage of natural gas by its customers.¹⁶⁹

The first SFV design proposes to eliminate the recovery of fixed charges through usage charges and, instead, increase the monthly fixed charge and implement an average demand charge of \$11.09. The demand charge would fluctuate based on customer usage throughout the

¹⁶⁴ Daniel P. Yardley, Pre-filed Direct Testimony, p. 21, Exhibit DPY-10 (November 16, 2009).

¹⁶⁵ Daniel P. Yardley, Pre-filed Direct Testimony, p. 15, Exhibit DPY-9 (November 16, 2009).

¹⁶⁶ Daniel P. Yardley, Pre-filed Direct Testimony, p. 15 (November 16, 2009).

¹⁶⁷ Daniel P. Yardley, Pre-filed Direct Testimony, p. 31 (November 16, 2009).

¹⁶⁸ Daniel P. Yardley, Pre-filed Direct Testimony, p. 30 (November 16, 2009).

¹⁶⁹ Chattanooga Gas Company's Post-Hearing Brief, p. 6 (May 7, 2010).

year with a higher demand charge in the winter months. This proposal would increase summer and winter monthly residential fixed rates by \$1.00. It would also establish a demand charge of \$5.28/month for small commercial customers and increase the existing demand charge for large commercial and transportation customers from \$5.50 to \$16.94. The proposed rate design would reduce the overall rates paid by interruptible customers and slightly increase rates for industrial customers with full and partial standby service.¹⁷⁰ In this rate design, the WNA would not be necessary.

The second SFV approach also includes an average demand charge for residential customers of \$7.75/month, but still allows for recovery of 15% fixed costs through delivery charges. The demand charge would fluctuate based on customer usage throughout the year with a higher demand charge in the winter months. This proposal would increase summer and winter monthly residential fixed rates by \$1.00. It would also establish a demand charge of \$4.00/month for small commercial customers and increase the existing demand charge for large commercial and transportation customers from \$5.50 to \$11.00/month.¹⁷¹ The proposed rate design would reduce the overall rates paid by interruptible customers and slightly increase rates for industrial customers with full and partial standby service. This rate design, however, would require the WNA to remain in effect.¹⁷²

CGC also included a straight-fixed rate design, but only for residential customers. Under this approach, all usage charges would be eliminated for the recovery of fixed costs and instead residential customers would pay base rate of \$29.00/month in the winter and \$18.38/month during the summer and proposed to eliminate the volumetric charges included in the Company's fixed cost.

¹⁷⁰ Daniel P. Yardley, Pre-Filed Rebuttal Testimony, Attachment 29-1 (April 5, 2010).

¹⁷¹ Daniel P. Yardley, Pre-Filed Rebuttal Testimony, Attachment 29-2 (April 5, 2010).

¹⁷² Daniel P. Yardley, Pre-Filed Rebuttal Testimony, pp. 30-31 (April 5, 2010).

The Consumer Advocate proposes that any change in the revenue requirement be spread uniformly across all customer classes to ensure that benefits or burdens of any rate adjustment are shared proportionately. The Consumer Advocate, however, does not recommend increases to fixed monthly charges; rather, it proposes to spread the total revenue increase to existing volumetric charges. By maintaining the recovery of a high portion of fixed costs in the delivery charges, the Consumer Advocate contends that customers will have a greater incentive to conserve.¹⁷³

The Consumer Advocate recommends that the TRA reject CGC's proposed AUA mechanism for the following reasons:

1. Revenue decoupling is not necessary in order to meet state and federal legislation;
2. Revenue decoupling is inconsistent with traditional regulation and would lead to disincentives for cost efficiencies and risk management;
3. The AUA would transfer risk from shareholders to ratepayers with no reciprocal benefits;
4. CGC was unable to prove that its energy efficiency programs would not cause financial harm;
5. The AUA includes no ratepayer protection mechanisms;
6. The proposed energy efficiency programs do not justify the need for revenue decoupling; and
7. Negative financial impact from the energy efficiency programs could be accommodated within a lost base revenues mechanism.¹⁷⁴

Nevertheless, the Consumer Advocate provided the following recommendations should the TRA decide to approve revenue decoupling:

1. Include a Return on Equity adjustment to reflect lower risk;
2. Disallow revenue recovery associated with customer growth;

¹⁷³ Terry Buckner, Pre-filed Direct Testimony, pp. 25-26 (March 10, 2010).

¹⁷⁴ David E. Dismukes, Pre-filed Direct Testimony, pp. 3-4 (March 10, 2010).

3. Include a consumer protection mechanism to limit decoupling recovery to either:
 - a. A level no greater than annual capacity or throughput cost savings similar to the New Jersey Approach;¹⁷⁵
 - b. An amount not to exceed 24% which decreases for shortfalls in reaching targeted energy savings similar to the Washington approach;¹⁷⁶ or
 - c. A level of no more than 2% of total margin.
4. Require a review of the decoupling mechanism in no more than three years and evaluate the mechanism against energy efficiency goals;
5. Establish and define criteria for the decoupling review including energy efficiency, revenue deferrals and collections, customer usage analysis, and any other criteria defined by the TRA;
6. Require CGC to make annual filings identifying and comparing the cost of each program, number of participants, and actual savings for each program, including a cost itemization of education activities; and
7. CGC should be held to performance metrics for program costs and savings.¹⁷⁷

In making its determinations regarding rate design, the panel was guided by several policy considerations and principles. The overall goal of rate design is to establish a system of rates that will enable a utility to generate sufficient revenues to cover expenses needed to operate the utility plus an equity return for investors. There are often many factors that are taken into

¹⁷⁵ David E. Dismukes, Pre-filed Direct Testimony, p. 80 (March 10, 2010). This refers to New Jersey's revenue decoupling program, known as Conservation Incentive Program ("CIP"). The program ties weather-adjusted margin recovery to upstream natural gas savings attained in the PGA and also effectively ties downstream (downstream of the city gate) natural gas savings to those attained upstream.

¹⁷⁶ David E. Dismukes, Pre-filed Direct Testimony, pp. 82-84 (March 10, 2010). This refers to the Washington Utilities and Transportation Commission ("WUTC") experience with revenue decoupling over the past twenty years. The WUTC held a decoupling workshop and found the issue so nuanced that it deferred any decisions on the matter to utility-specific requests rather than a rulemaking. After rejecting two separate requests, it did approve two pilot programs for two companies, Cascade, and Avista. However, special requirements were imposed for the decoupling plan. The Avista decoupling plan was capped at 90% of the total deferrals with actual recoveries of those deferrals were tied to specific savings targets and the plan was instituted as a pilot program with the requirement that a third-party independent review be conducted to determine its merits.

¹⁷⁷ David E. Dismukes, Pre-filed Direct Testimony, pp. 6-8 (March 10, 2010).

consideration when designing rates, including those related to economic and societal conditions. In addition, recently enacted federal and state laws encourage energy efficiency and energy conservation. Through such legislation, the Authority is tasked with exploring rate design alternatives that align the conservation interests of consumers, while providing utilities with the proper financial incentive for promoting energy efficiency and energy conservation.

While the panel found that the Company's proposed rate design was consistent in theory with the considerations enumerated above, the panel did not find it just and reasonable to impose a possible surcharge on customers and to shift \$2.0 million of cost recovery to the residential class, while reducing rates for large industrial and interruptible customers. For this reason, the panel rejected the Company's proposed rate design, as presented in both its direct and rebuttal testimony.

The panel found that 45% of revenues are currently collected for fixed costs through volumetric charges and that customer usage has declined. As a result, it has been more difficult for CGC to maintain a revenue stream sufficient to earn its authorized rate of return. The panel also found that CGC has no incentive to encourage customers to use less gas and, in fact, the Company has an incentive to sell more gas to generate additional revenues in order to increase its earnings. Therefore, the panel determined that it is necessary to break the link of fixed cost recovery through volumetric charges. The panel determined that it was consistent with policy and legislative considerations to adopt a rate design that recovers approximately 70% of fixed costs via fixed monthly charges and only 30% from volumetric charges, with an automatic annual adjustment mechanism as proposed by the Company with safeguards as proposed by the Consumer Advocate.

Additionally, the panel found that adopting the Company's AUA mechanism for the residential class would enable the Company to maintain a more stable revenue stream, thereby

reducing financial risk for the Company. In so doing, the panel determined that the AUA mechanism should enable CGC to encourage its customers to conserve gas usage and implement methods for energy efficiencies without affecting its revenue stream. With this mechanism, revenue per customer would be calculated from the approved revenues and billing determinants and become the benchmark for comparing the actual revenues earned per customer in future years. The panel further noted that the Company's WNA would cease to operate, as the AUA mechanism takes into account all adjustments to usage including those related to weather.

The panel voted unanimously to allow the AUA mechanism to be placed into effect on a three year trial basis for the Residential (R-1) and Small Commercial (C-1) classes. At the end of the three year trial period, the Company shall provide a report to the Authority on the AUA mechanism, including its impact and effect on both consumer classes and the Company. The report shall provide recommendations as to whether the AUA mechanism should be continued. Further, the panel voted unanimously to adopt the 2.0% annual cap on margin accruals within the AUA mechanism for the R-1 and C-1 classes, as recommended by the Consumer Advocate.

The panel found that the Company's current methodology for recovering the portion of fixed charges through volumetric rates by charging customers less per 100 cubic feet (ccf) when increasing usage did not provide encouragement for conservation. Therefore, the panel voted unanimously to replace the Company's declining block volumetric rate structure with a single volumetric rate of \$0.11591 per therm.

Based on the prior decisions regarding rate design, the panel voted unanimously to increase the R-1 Class fixed monthly charges from \$10.00 to \$13.00 in the summer and from \$12.00 to \$16.00 in the winter. The panel also voted unanimously to increase the residential reconnection charge from \$50.00 to \$65.00. These rates are based upon the Consumer Advocate's billing determinants for customer bills and the Company's proposed usage which

was agreed to by the Consumer Advocate. The panel noted that these decisions did not include any rate changes to any other customer classes in recognition, but not adoption, of the class of service cost study.

V(k)2. ENERGY CONSERVATION

With adoption of its proposed rate design, CGC commits to promote energy conservation through its energySMART programs, consisting of the Community Outreach and Customer Education Program and additional energy conservation initiatives including the Programmable Thermostat Program, the Low-Income Home Weatherization Program, and programs aimed at encouraging consumers to install high-efficiency gas water heaters and furnaces.¹⁷⁸

With regard to the Community Outreach and Customer Education Program, the Company planned to utilize several methods of communication to reach consumers including newspapers, magazines, radio, television, billboards, digital media, direct mail and bill inserts.¹⁷⁹ Also, the Company proposes to develop literature to distribute directly to consumers by means of its own field service representatives, along with HVAC contractors and plumbers. CGC also planned to explore establishing collaborative relationships with retailers of natural gas appliances, with the possibility of holding homeowner clinics.¹⁸⁰ By utilizing this program, the Company asserted that a consumer could save up to \$280 annually.¹⁸¹ CGC also proposed several programs for its commercial customers to improve energy efficiency, which could potentially result in \$500 in annual savings.¹⁸²

For its Low-Income Home Weatherization plan, the Company proposed to partner with local agencies that oversee the Weatherization Assistance Program such as the Department of Human Services. The Company stated that working with these agencies that already have

¹⁷⁸ Steve Lindsey, Pre-filed Direct Testimony, p. 10 (November 16, 2009).

¹⁷⁹ Donna Peeples, Pre-filed Direct Testimony, p. 8 (November 16, 2009).

¹⁸⁰ Donna Peeples, Pre-filed Direct Testimony, p. 9 (November 16, 2009).

¹⁸¹ Donna Peeples, Pre-filed Direct Testimony, p. 10 (November 16, 2009).

¹⁸² Donna Peeples, Pre-filed Direct Testimony, p. 11 (November 16, 2009).

reliable sources and methods for providing assistance to low-income households should eliminate a substantial portion of expenses that the Company would otherwise incur for developing new programs. Eligible participants must qualify within existing federal and state programs to be eligible. In addition to weatherization measures (including insulation upgrades and air and duct sealing), appliance and equipment repair/replacement will be provided free of charge to qualifying consumers.¹⁸³

CGC also proposed rebates to residential customers that replace energy inefficient water heaters and furnaces. According to the Company, it is possible for a consumer to receive a rebate of up to \$500 for an energy efficient furnace and \$150 for an energy efficient water heater. Similar rebates will be offered to commercial users for Commercial Space Heating Units/Boilers and tankless water heaters.¹⁸⁴ Finally, CGC proposed to provide residential consumers with a free programmable thermostat so that consumers can automatically reduce the thermostat temperature setting when no one is home or when it is not necessary to maintain a high home temperature, thereby reducing natural gas usage. The Company estimated that homeowners could save an average of \$180 annually by properly setting programmable thermostats.¹⁸⁵

The Company utilized the following five standard cost/benefit analysis tests for evaluating its energySMART Program:¹⁸⁶

1. The Participant Test which determines whether a program is cost effective for the consumer taking part in the program;
2. The Ratepayer Impact Measure Test which determines the impact a program will have on non-participating consumers;
3. The Total Resource Cost Test which is designed to measure the cost-effectiveness from a societal standpoint.

¹⁸³ Donna Peeples, Pre-filed Direct Testimony, pp. 12-13 (November 16, 2009).

¹⁸⁴ Donna Peeples, Pre-filed Direct Testimony, pp. 15-16 (November 16, 2009).

¹⁸⁵ Donna Peeples, Pre-filed Direct Testimony, p. 16 (November 16, 2009).

¹⁸⁶ Daniel J. Nikolich, Pre-filed Direct Testimony, pp. 3-4 (November 16, 2009).

4. The Program Administrator Cost Test which is designed to measure a program's cost-effectiveness as a utility resource alternative; and
5. The Societal Benefit Test, while closely resembling the Total Resource Cost Test, also incorporates higher marginal costs to reflect societal costs of more expensive resources.

The tests were specifically applied to the following energySMART programs:¹⁸⁷

1. Residential free Programmable Thermostat;
2. Residential Low Income Weatherization Grants;
3. Residential Space Heating High Efficiency Furnace/Boiler Incentive;
4. Residential Tankless Water Heater Incentive;
5. Residential High Efficiency Storage Water Heater;
6. Commercial Food Service Equipment Incentive;
7. Commercial Space Heating Furnace/Boiler Incentive;
8. Commercial Tankless Water Heater Incentive;
9. Commercial High Efficiency Storage Water Heater Incentive; and
10. Commercial Booster Water Heater Incentive.

CGC claimed that the overall programs pass the Participant Cost Test, the Total Resources Cost Test, the Program Administrator Test, and the Societal Benefit Test. While the Company admitted that the Rate Impact Measure ("RIM") Test¹⁸⁸ is not cost effective given the assumptions used, CGC stated that an increase in gas costs would push the results to positive.¹⁸⁹

The Company proposed to recover the costs of the Low Income Weatherization Program (\$198,000) from profits generated under its Asset Management Agreement. The annual costs of the remaining programs is \$792,000 which takes into account Company-provided funding of \$100,000 in the first year, \$50,000 in the second year, and \$25,000 in the third year.¹⁹⁰ CGC proposed to recover the \$792,000 of program costs through a monthly therm charge to the Residential-1 class, Commercial-1 and 2 classes, and the Transportation 3 class. The recovery of

¹⁸⁷ Daniel J. Nikolich, Pre-filed Direct Testimony, pp. 4-5 (November 16, 2009).

¹⁸⁸ Daniel J. Nikolich, Pre-filed Direct Testimony, p. 4 (November 16, 2009). This test determines the impact that a program will have on non-participating rate payers.

¹⁸⁹ Daniel J. Nikolich, Pre-filed Direct Testimony, pp. 15-16 (November 16, 2009).

¹⁹⁰ Daniel J. Nikolich, Pre-filed Direct Testimony, Exhibit DJN-1 (November 16, 2009).

these costs would be projected by the Company and true-up at the end of the year for any over-or under-recovery of program costs.¹⁹¹

The Consumer Advocate contended that the Company's cost analysis supporting its proposed energy efficiency programs include mechanical and input errors, and faulty assumptions which yield unreliable results.¹⁹² Moreover, according to the Consumer Advocate, the Company's own analysis found that every residential and commercial measure failed the non-participant or RIM test, except programmable thermostats. In sum, the Consumer Advocate recommended that the energy efficiency programs be rejected. Furthermore, the Consumer Advocate recommended that the Education and Outreach program be rejected because it lacks sufficient details, plans and goals.¹⁹³

Tenn. Code Ann. §65-4-126 requires that TRA approve energy efficiency programs that are: 1) cost-effective; 2) measurable; and 3) verifiable in sustaining or enhancing incentives for consumers to use energy more efficiently. The panel found that the Company proposed an ambitious and forward-thinking program called energySMART. Nevertheless, the panel was not persuaded that all of the proposed programs met the statutory criteria. Therefore, in conformance with the statute, the panel voted to adopt only two parts of CGC's energySMART Program: the Programmable Thermostat measure and a more limited Education and Outreach component than proposed by the Company. Regarding the latter, the panel voted unanimously to approve only half of the proposed funding, \$150,000, for CGC's proposed Education and Outreach program. The panel noted that with the shareholder money pledged, the first three years of the energySMART Program will cost ratepayers a total of \$275,000, or \$91,666 annually over three years. The panel found that the two programs in the amounts outlined above fit the cost-effective standard of the statute. The panel further voted unanimously that these

¹⁹¹ Daniel J. Nikolich, Pre-filed Direct Testimony, p. 16 (November 16, 2009).

¹⁹² David E. Dismukes, Pre-filed Direct Testimony, p. 5 (March 10, 2010).

¹⁹³ David E. Dismukes, Pre-filed Direct Testimony, pp. 5-6 (March 10, 2010).

initiatives be funded through revenues generated by CGC's asset manager and be collected through CGC's Interruptible Margin Credit Rider ("IMCR") tariff.

As to the measurability standard, the panel directed TRA Staff to work with the National Regulatory Research Institute ("NRRI") to establish a set of measures sufficient to evaluate the Programmable Thermostat and Education and Outreach components. The panel noted that NRRI is a nationally recognized research organization that can provide the TRA Staff with valuable insights and assistance in crafting an instrument that can be used as a model not only for the instant docket, but for other energy conservation programs. Recent state legislation has directed that the results of energy conservation programs be measurable. NRRI has the expertise to assist the TRA Staff in establishing adequate measures to evaluate energy conservation programs. Because energy conservation programs ultimately benefit consumers, it is reasonable to have NRRI conduct the necessary research and have it funded by consumers that will benefit from such research. The panel voted unanimously that the cost of NRRI's assistance, not to exceed \$25,000, shall be funded from the consumers' share of the asset management revenues.

As to the verifiability standard, the panel voted unanimously that the Company be required to file annual reports concurrent with its IMCR tariff detailing the costs incurred with the programmable Thermostat Program and a detailed accounting of all money spent on its Education and Outreach Programs, as well as, the program evaluation created by the TRA Staff. Copies of these documents shall also be filed concurrently with the Consumer Advocate.

VI. PURPA STANDARDS

The Public Utility Regulatory Policies Act ("PURPA") was enacted in 1978 to "encourage (1) conservation of energy supplied by gas utilities; (2) the optimization of the efficiency of use of facilities and resources by gas utility systems; and (3) equitable rates to gas

consumers of natural gas.”¹⁹⁴ PURPA originally contained two federal standards for gas utilities; two additional standards were added by the Energy Policy Act of 1992. The PURPA requirements apply to gas utilities with total annual retail sales greater than ten billion cubic feet using a baseline year of the calendar year immediately preceding passage of the 2007 Energy Act.¹⁹⁵ PURPA requires a “state regulatory authority (with respect to each gas utility for which it has ratemaking authority)” to adopt each standard or to state in writing that it has determined not to adopt such a standard.¹⁹⁶ If a state regulatory authority declines to implement a standard, it must state in writing the reason for the decision and make that statement available to the public.¹⁹⁷

The Energy Independence and Security Act of 2007 (“2007 Energy Act”) amended PURPA by adding two additional standards that a state regulatory authority must consider and determine the appropriateness of implementing those standards with respect to each gas utility for which the agency has ratemaking authority. These additional standards are codified at 15 U.S.C. § 3203(b)(5) through (6). In addition to the requirements of the 2007 Energy Act, the recently passed ARRA requires that state regulatory authorities seek to implement policies similar to those described in the 2007 Energy Act in order to receive stimulus funds.¹⁹⁸

The 2007 Energy Act created the following new PURPA standards:

- (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

¹⁹⁴ 15 U.S.C. § 3201(a).

¹⁹⁵ 15 U.S.C. § 3201(b).

¹⁹⁶ 15 U.S.C. § 3203(c)

¹⁹⁷ *Id.*

¹⁹⁸ ARRA, Title IV Sec. 410 (a)(1): The applicable State regulatory authority will seek to implement 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.

- (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.¹⁹⁹

In Docket No. 09-00065, the TRA considered adoption of PURPA standards created via amendments in the 2007 Energy Act related to energy efficiency and rate design for natural gas utilities. The Directors unanimously adopted the Report and Recommendation of the Hearing Officer that the PURPA standards should be addressed in individual, company-specific dockets.²⁰⁰

With respect to PURPA Standard 5 concerning energy conservation, the Company maintained that it had already integrated energy efficiency resources into its planning and had established it as a priority in the planning process. The Company noted that conservation plays a role in determining the need for gas supply contracts and assets.²⁰¹ The Company further noted that as conservation programs mature, additional efficiencies may make more supply resources

¹⁹⁹ 15 U.S.C. § 3203(b)(5)-(6).

²⁰⁰ 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 No. 09-000065, *Order Declining to Adopt Standards in Instant Docket*, p. 4 (January 11, 2010).

²⁰¹ Archie Hickerson, Pre-filed Direct Testimony, p. 22 (March 5, 2010).

available to address future needs.²⁰² The positions of parties with respect to the PURPA standard on rate design are set forth above in Section V(k)1.

The panel noted that Standards 5 and 6 sought to ensure that energy efficiency was a primary goal for public gas utilities by requiring that (1) energy efficiency be included in each utility's planning processes and (2) utilities' financial incentives be aligned with cost-effective deployment of energy efficiency. After careful consideration of PURPA standards 5 and 6, the panel found that existing state authority is sufficient to provide oversight of the Company's rate design and energy efficiency planning. Therefore, the panel voted unanimously to decline to adopt PURPA standards 5 and 6 for Chattanooga Gas Company.

VI. RESEARCH AND DEVELOPMENT FUNDING

The panel found in favor of CGC's position that it is appropriate for ratepayers to fund consumer-oriented research into natural gas conservation devices and strategies. Therefore, the panel voted unanimously to direct the Company to provide \$20,000 annually during the three year trial period from asset management funds, when available, to fund such consumer-oriented research. The Company shall file a report with the TRA detailing the contribution to the natural gas research organization of its choice within sixty days from the issuance of the Order in this docket.

²⁰² *Id.*

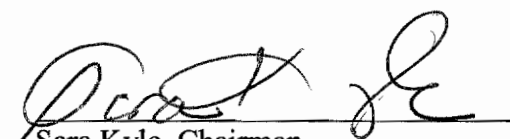
IT IS THEREFORE ORDERED THAT:

1. The rates filed by Chattanooga Gas Company on November 16, 2009 are denied;
2. For purposes of the rates herein, the annual test period shall be the historical test period for the twelve months that ended December 31, 2009, with adjustments for attrition through April 30, 2011;
3. For purposes of the rates herein, the rate base is \$93,818,504 and the net operating income is \$6,923,840;
4. For purposes of the rates herein, the capital structure of 11.60% short-term debt, 42.34% long-term debt and 46.06% common equity. The cost of capital rates consist of 2.04% short-term debt, 6.03% of long-term debt. The panel adopted an equity return of 10.3% and reduced the equity return by 25 basis points to an amount of 10.05% as a result of adopting the AUA mechanism;
5. For purposes of the rates herein, the overall cost of capital shall be 7.41%.
6. For purposes of the rates herein, the Revenue Conversion Factor is 1.651701, resulting in a Revenue Deficiency of \$60,068, the amount needed for the Company to earn a fair return on its investment during the attrition year;
7. The Alignment and Usage Adjustment (“AUA”) mechanism shall be placed into effect on a three-year trial basis for the Residential (R-1) and Small Commercial (C-1) classes. At the end of the three-year trial period, the Company shall provide a report to the Authority on the AUA mechanism, including its impact and effect on both consumers and the Company and provide recommendations whether the AUA mechanism should be continued.
8. The margin accruals within the AUA mechanism for R-1 and C-1 classes shall have a 2.0% annual cap.

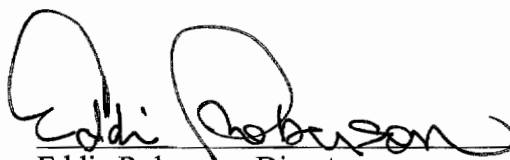
9. The Company shall replace the declining block volumetric rate structure with a single volumetric rate of \$0.11591 per therm.
10. The R-1 Class fixed monthly charges shall be \$13.00 in the summer and \$16.00 in the winter.
11. The residential reconnection charge shall be \$65.00.
12. The Programmable Thermostat measure and funding of \$150,000 for Education and Outreach Programs shall be funded through revenues generated by CGC's asset manager and be collected through CGC's IMCR tariff.
13. Language shall be added to Rate Schedule F-1 to clarify the establishment of billing demand for service that is provided in conjunction with the companion Rate Schedule T-2.
14. The full amount of legal costs from Docket No. 07-00224 shall be recovered and such recovery shall be from asset management funds.
15. The new Economic Development Gas Service Tariff (EDGS-1) is approved as filed.
16. Chattanooga Gas Company shall file tariffs with the Tennessee Regulatory Authority that are designed to produce an increase of \$60,068 in revenue for service rendered and any tariffs necessary to be consistent with this Order,
17. Chattanooga Gas Company shall provide \$20,000 annually during the three-year trial period from asset management funds, when available, to fund consumer-oriented research into natural gas conservation devices and strategies and shall file a report with the Tennessee Regulatory Authority detailing the contribution to the natural gas research organization of its choice within sixty days from the issuance of the Order in this docket.

18. Any party aggrieved by the Authority's decision in this matter may file a Petition for Reconsideration with the Authority within fifteen days from the date of this Order; and

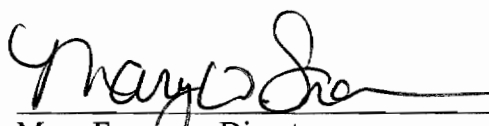
19. Any party aggrieved by the Authority's decision in this matter has the right to judicial review by filing a Petition for Review in the Tennessee Court of Appeals, Middle Section, within sixty days from the date of this Order.



Sara Kyle, Chairman



Eddie Roberson, Director



Mary Freeman, Director