

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

May 29, 2013

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

**CHATTANOOGA GAS COMPANY'S REPLY TO THE CAPD'S RESPONSE
OPPOSING THE EXTENSION OF THE ALIGNMENT AND USAGE
ADJUSTMENT AND CONSERVATION PROGRAMS
APPROVED BY THE AUTHORITY**

Chattanooga Gas Company ("CGC" or "Company") respectfully submits this reply in response to the opposition to extend the Company's alignment and usage adjustment ("AUA") and conservation programs filed by the Consumer Advocate and Protection Division of the Office of the Attorney General and Reporter ("CAPD" or "Consumer Advocate"). On April 25, 2013, CGC filed a motion requesting the Tennessee Regulatory Authority ("TRA" or "Authority") to extend the AUA and conservation programs for another three-year period or until the Company submits the required reports and the TRA has time to review and act upon the Company's analysis and recommendations. Both of these extension options – extending the AUA and conservation programs for another three-year period or indefinitely – are limited by the TRA's ordered review of the programs and the action that the TRA takes thereafter.

As explained in CGC's motion, the TRA ordered CGC at the end of the three-year trial period to submit a report on the AUA mechanism, including its impact and effect on the R-1 and C-1 classes and the Company, and provide a recommendation as to whether the AUA mechanism should be continued.¹ The AUA and conservation programs will terminate on May 31, 2013, pursuant to the TRA's November 8, 2010 Final Order. As of June 1, 2013, CGC will have no adjustments for variances in usage including even the most generally accepted protection against abnormal weather – the WNA – which all other similarly situated Tennessee natural gas utilities have been afforded. CGC is trying to alleviate the problems that will be created by the termination of the AUA which were discussed in its April 25, 2013 motion until the TRA can review and act on the Company's report regarding the AUA and conservation programs. CGC is not requesting, as suggested by the CAPD in its Response (on page 4), that the TRA reconsider the November 8, 2010 Final Order which approved the AUA for a trial three-year period.

The objective of implementing a tariff provision on an experimental basis is for the TRA to determine if the provision produces the desired results and if the provision should be modified, continued without modification, or terminated. It is not unusual for an experimental tariff provision to be revised and continued to determine if additional modifications are appropriate. In fact, in the current situation, CGC has identified concerns with the application of the annual cap and has requested that the provision be continued at least in the interim with a modification of the cap. CGC may have further recommendations if appropriate in the upcoming report that it is required to file with the TRA about the AUA and conservation programs.

¹ *Order*, November 8, 2010, (Docket 09-00183), at p. 57.

Contrary to the assertions in the CAPD's Response (on page 5), CGC has no intentions to delay filing its ordered report with the TRA. However, CGC will not be able to complete its report until the National Regulatory Research Institute ("NRRI") has developed the measures to evaluate CGC's conservation programs.² Once those measures have been developed, CGC believes that it will be able to perform its analysis and complete and submit its report in a timely manner. Contrary to the CAPD's statements in its Response (on page 5), CGC has filed annual AUA filings showing the financial impact of the AUA and the impact of the 2% cap. These annual filings show that revenues have been included in CGC's earnings but have not yet been billed or collected from CGC's customers because of the deferral of cost recovery created by the annual cap on margin.³

CGC had been optimistic that, once its report was filed, the TRA would be able to act in a timely manner without the delay of a lengthy contested case proceeding. Unfortunately, the CAPD's Response setting forth its past positions and arguments against decoupling initiatives and its continued opposition to the TRA's approval of the AUA mechanism indicates that CGC may be left without any protection against the effects of abnormal weather and conservation for a much longer period of time than anticipated, thus further supporting CGC's request for an extension of the AUA and

² The November 8, 2010 Final Order directed the TRA Staff to work with the NRRI to develop the measures to evaluate the conservation programs. *See Order*, p. 62. The TRA Staff could not comply with the Order because the State of Tennessee's purchasing regulations would have required the TRA to issue an RFP while the TRA had already included NRRI in its Order. This resulted in CGC being asked to contract with NRRI for NRRI to work with the TRA Staff in developing measures to evaluate CGC's conservation programs. CGC's involvement was to provide a process for the TRA Staff to complete the tasks ordered by the TRA Directors.

³ CGC's Motion to Extend the Alignment and Usage Adjustment and Conservation Programs Approved by the Authority, April 25, 2013, p. 3-4.

conservation programs until the TRA can complete its review and act on the Company's report.

In its last rate case, CGC proposed a decoupling mechanism, the AUA, to fully align the interests of the Company and its ratepayers by removing the disincentives for the Company to encourage conservation which were inherent in the Company's volumetric rate design.⁴ The AUA as proposed by the Company allows CGC the opportunity to earn a reasonable rate of return while promoting conservation through its proposed energySMART conservation programs. The Company's proposed AUA and conservation programs were in response in part to Tenn. Code Ann. § 65-4-126, which called for state action on the important national and state policy of aligning utility financial incentives with customers' using energy more efficiently and providing timely cost recovery and timely earning opportunity for utilities. The AUA mechanism was designed to allow CGC to recover the average revenue per customer that was used to set the rates in CGC's last rate case and to address any changes in the customers' actual usages from the levels adopted for setting CGC's rates.

CGC does not contend that decoupling alone will encourage energy conservation, but decoupling does remove the disincentive for a utility to promote conservation which would otherwise reduce the utility's ability to earn a fair return since reduced sales volumes would reduce revenues. When rates are decoupled, promoting conservation helps the customers because lower usage results in lower gas bills but does not harm the utility because the utility is able to continue to recover its fixed cost of providing service.

⁴ In response to the TRA Staff's data request, the Company proposed two alternative forms of straight fixed variable ("SFV") rate designs that complied with the directives of Tenn. Code Ann. § 65-4-126 and aligned the interests of customers and utilities. These were not part of the rate design initially proposed by the Company. See Rebuttal Testimony of Daniel P. Yardley, April 5, 2010, p. 9, 29.

During CGC's last rate case, the Company presented testimony through its expert witness, Daniel Yardley, that the AUA, which is a base revenue adjustment mechanism, operates in conjunction with the Company's base rates to normalize base revenue recoveries per customer to the level authorized by the TRA to establish base rates.⁵ When base revenue recoveries per customer are higher than the authorized level, a credit is applied to customer bills in a future period.⁶ This is what occurred during the first year of the program (from June 1, 2010 through May 31, 2011) even though the CAPD implies in its Response (on page 3) that rates are only raised when an AUA is implemented. When base revenues per customer are lower than the authorized level, a charge is applied to customers in a future period.⁷ Customers pay no more or no less to CGC for the distribution services they receive than the base revenue per customer authorized by the TRA in CGC's last rate case.⁸

The AUA decoupling mechanism does not take away CGC's incentive to control costs. CGC must continue to manage its costs in order to have the opportunity to earn the rate of return set by the TRA. The AUA mechanism does not allow CGC to collect more revenues per customer than the levels that were set in CGC's last rate case. It actually limits the amount of revenues that can be collected from the R-1 and C-1 customer classes.

In 2010, the TRA ultimately decided to allow CGC to implement the AUA and its conservation programs for the R-1 and C-1 classes for a three-year experimental period. While CGC is the only local distribution company in Tennessee that has implemented a

⁵ Testimony of Daniel P. Yardley, April 12, 2010 Hearing, Vol. I, Tr. 259.

⁶ Testimony of Daniel P. Yardley, April 12, 2010 Hearing, Vol. I, Tr. 260.

⁷ *Id.*

⁸ *Id.*

revenue decoupling mechanism such as the AUA, contrary to the CAPD's implications in its Response (on page 4), there are over forty natural gas utilities in over twenty different jurisdictions that had implemented revenue decoupling mechanisms as of the spring of 2010.⁹

The CAPD in its Response is attempting to re-litigate its arguments from three years ago against the implementation of any decoupling mechanism.¹⁰ This is premature but very enlightening as to the CAPD's likely positions regardless of what CGC files in its report. At this time, CGC simply has requested that the AUA and conservation programs be continued until the measures to evaluate the conservation programs have been developed by the NRRI and the TRA has the opportunity to review and act on CGC's report. Otherwise, CGC will have no protection for an indefinite period of time from the impact of abnormal weather and conservation.

Respectfully submitted,

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⁹ Rebuttal Testimony of Daniel P. Yardley, April 5, 2010, p. 11.

¹⁰ This year the CAPD made similar arguments in opposing alternative regulatory methods of establishing rates before committees of the Tennessee General Assembly. However, through the enactment of 2013 Tenn. Pub. Acts Ch. 245, and by a House of Representatives vote of 98-0 and a Senate vote of 29-1, these arguments were rejected.

CERTIFICATE OF SERVICE

I hereby certify that on this 29th day of May 2013, a true and correct copy of the foregoing was served on the persons below by email and U.S. Mail first class postage prepaid:

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