

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

November 6, 2013

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**

**DOCKET NO.
09-00183**

**ORDER EXTENDING ALIGNMENT AND USAGE ADJUSTMENT MECHANISM,
CONVENING A CONTESTED CASE PROCEEDING AND
APPOINTING A HEARING OFFICER**

This matter came before Chairman James M. Allison, Vice Chairman Herbert H. Hilliard, and Director David F. Jones of the Tennessee Regulatory Authority (the "Authority" or "TRA"), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on June 17, 2013, for consideration of *Chattanooga Gas Company's Motion to Extend the Alignment and Usage Adjustment and Conservation Programs Approved by the Authority ("CGC's Motion")* and related tariff filed by Chattanooga Gas Company ("CGC" or the "Company") on April 25 and 29, 2013, to extend the Alignment and Usage Adjustment Mechanism ("AUA Mechanism") and Conservation Programs for three years, and to change the annual 2% cap on margin accruals.

Relevant Background

In this docket on May 24, 2010, the assigned panel approved an AUA Mechanism for the residential and small commercial classes of customers.¹ The AUA Mechanism was designed to assist CGC in maintaining a more constant revenue stream by allowing CGC to recover an

¹ See *Order* (November 8, 2010).

average revenue per customer that was used to set rates in CGC's last rate case and to address any change in the customers' actual usages from the levels adopted for setting CGC's rates.² In order to accomplish this, a revenue amount per customer was calculated from the approved revenues and billing determinants in CGC's last rate case, and this amount became the benchmark for comparing actual revenues earned per customer in future years.

Under this approach, the Company's Weather Normalization Adjustment ("WNA") ceased to operate for these customer classes because the AUA mechanism takes into account all adjustments to usage, including those related to weather.³ The Authority also placed a 2% annual cap on the annual base revenue (margin) accruals for the R-1 and C-1 Rate Schedules.⁴ In order to ensure the AUA mechanism is in the consumers' best interest, the Authority approved it for a three-year trial basis.⁵ At the end of the three-year trial period, CGC was ordered to provide a report on the AUA mechanism, including its impact and effect on both consumers and the Company and whether it should be continued.⁶

The Authority also approved a portion of CGC's proposed EnergySMART programs.⁷ Specifically, the Authority approved the Programmable Thermostat program and funding of \$150,000 for Education and Outreach Programs, all of which are funded through consumers' share of revenues generated by CGC's asset manager.⁸ The Authority ordered the Company to file annual reports including the detailed costs incurred with the programmable Thermostat Program and a detailed accounting of all money spent on its Education and Outreach Programs.

² See *CGC's Motion* (April 25, 2013).

³ *Id.* at 1.

⁴ *Id.* at 3.

⁵ *Id.* at 2.

⁶ *Id.*

⁷ This Program provides for multiple methods of communication to reach out and educate consumers about energy conservation. See *Order*, pp. 58-60 (November 8, 2010).

⁸ See *Order*, pp. 61-62 (November 8, 2010).

Finally, the Authority ordered TRA Staff to work with National Regulatory Research Institute (“NRRI”) to develop a set of measurements to evaluate the thermostat and education programs.⁹

CGC’s Motion and Proposed Tariff

On April 25, 2013, CGC filed a motion requesting that “the experimental AUA and conservation programs be continued for another three-year trial period or until the required reports have been submitted and the TRA has had time to review and analyze the results.”¹⁰ The Company states that as a result of the 2% margin cap, the major portion of the AUA revenue has been deferred to future periods.¹¹ According to CGC, “[a]pproximately \$1,041,530.00 of the total AUA was the result of the warmer than normal weather during the heating season that CGC would have recovered through the WNA if it had been in place for the 2011-2012 heating season.”¹² To alleviate this problem and allow CGC to recover revenues that have declined due to warmer weather, CGC requests that the existing 2% margin cap be revised to a cap of 2% of gross revenues.¹³ Further, the Company states that if the 2% cap had been on gross revenues rather than margin, the problem of deferring recovery to future periods would have been eliminated.¹⁴

On April 29, 2013, CGC filed a tariff to extend the AUA mechanism and to change the annual 2% cap to apply to gross revenues instead of margin. CGC filed revised tariff sheets on May 21, 2013 that extended the effective date of the revised tariff until after the June 18, 2013 Authority Conference.

⁹ *Id.*

¹⁰ *CGC’s Motion*, p. 4 (April 25, 2013).

¹¹ *Id.* at 3.

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.* at 3-4.

Response of the CAPD to CGC's Motion

On May 3, 2013, the Consumer Advocate and Protection Division of the Office of the Attorney General (“CAPD” or “Consumer Advocate”) filed its *Response of the Consumer Advocate to the Motion of Chattanooga Gas Company to Extend the Usage Adjustment and Conservation Programs Approved by the Authority* (“CAPD Response”). The Consumer Advocate opposes a three-year extension of the trial period of the AUA and increasing the cap without a thorough review by the Authority.¹⁵ According to the CAPD, it is not in the public interest to extend the experimental period for three years and modify the AUA Mechanism without review by the Authority.¹⁶ The TRA’s Order did not provide for an extension of the AUA or energySMART programs. Therefore, the CAPD argues, CGC’s “request to extend the authorization of the AUA and energySMART without meeting the requirements of the *Order* is ultimately an untimely motion to reconsider.”¹⁷ The Consumer Advocate has opposed decoupling mechanisms because of the impact on the public utility’s ability to exceed authorized returns.¹⁸ The CAPD maintains the latest Monthly Report Form TRA-3.03 submitted to the Authority indicates that CGC is earning more than its authorized rate of return and modifying the cap when CGC is overearning is not just and reasonable and not in the public interest.¹⁹

Essentially, the Consumer Advocate asserts that *CGC’s Motion* should not be granted until the information ordered by the Authority for evaluating the programs is provided. The CAPD maintains “[b]efore considering the renewal of the energySMART program, the Authority must conduct a thorough review to ensure any approved energy conservation is cost-effective and produces measurable and verifiable energy saving for consumers as part of Tennessee’s

¹⁵ *CAPD Response*, p. 1 (May 3, 2013).

¹⁶ *Id.*

¹⁷ *Id.* at 4.

¹⁸ *Id.* at 5.

¹⁹ *Id.* at 5-6.

energy conservation policy.”²⁰ Without Authority review to determine the effectiveness of the programs, the CAPD asserts “the mandatory requirement for consumers to fund the energy conservation programs more closely resembles a tax rather than an investment that may yield results.”²¹

CGC’s Reply to CAPD Response

On May 29, 2013, the Company filed *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* (“CGC Reply”). CGC asserted that it did not intend to delay filing its AUA Report but that it could not do so until after NRRI has developed the measures to evaluate CGC’s conservation programs.²² According to CGC, if an extension of the AUA mechanism is not granted, then it “will have no protection for an indefinite period of time from the impact of abnormal weather and conservation.”²³

June 17, 2013 Authority Conference

In its Order dated November 8, 2010, the Authority required that certain information be provided at the end of the three-year experimental period for the AUA Mechanism and the thermostat/educational programs. The information ordered, however, was due at the same time the three-year period ended making it difficult, if not impossible, to have a proper evaluation of the full three-year period before considering whether to extend the programs.

At the June 17, 2013 Authority Conference, the panel considered *CGC’s Motion*. The panel found that an evidentiary hearing is needed before considering an increase in the annual cap of 2% of gross revenues, which would impact customer rates. In addition, the panel found that information related to the thermostat and consumer education programs is needed before the

²⁰ *Id.* at 6.

²¹ *Id.* at 6-7.

²² *CGC Reply*, p. 3 (May 29, 2013).

²³ *Id.* at 6.

panel would consider an extension of the AUA mechanism. Without a tariff in place to continue the AUA mechanism, the Company would have no mechanism to account for declining usage and the effect of weather on revenues.


Based on the record, the panel voted unanimously to appoint General Counsel or her designee as Hearing Officer to prepare this case for hearing before the panel, including ruling on any discovery issues. The panel also voted unanimously that the proposed tariffs filed in this docket be suspended pending a hearing and directed CGC to file tariffs maintaining the existing Alignment and Usage Adjustment Mechanism in the interim period.

IT IS THEREFORE ORDERED THAT:

1. General Counsel or her designee is appointed as Hearing Officer to prepare this case for hearing, including ruling on discovery issues.
2. The proposed tariffs filed in this docket are suspended pending a hearing in this matter.
3. Chattanooga Gas Company shall file tariffs maintaining the existing Alignment and Usage Adjustment Mechanism in the interim period.

Chairman James M. Allison, Vice Chairman Herbert H. Hilliard, and Director David F. Jones concur.

ATTEST:



Earl R. Taylor, Executive Director