

**BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION**

**NASHVILLE, TENNESSEE**

**January 5, 2018**

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

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**ORDER MOVING OUTSTANDING ISSUES INTO NEW DOCKET AND  
ADMINISTRATIVELY CLOSING THE DOCKET**

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This matter came before the Hearing Officer of the Tennessee Public Utility Commission (TPUC or Commission) during a Status Conference held on December 18, 2017 for consideration of the issues for resolution proposed by the parties, Chattanooga Gas Company (CGC or Company), the Consumer Protection and Advocate Division of the Office of the Tennessee Attorney General (Consumer Advocate), and the Tennessee Public Utility Commission Staff designated as a Party (Party Staff) (collectively referred to as the Parties) and to establish a procedural schedule to completion.

**RELEVANT BACKGROUND**

On November 16, 2009, the Company filed its *Petition of Chattanooga Gas Company for a General Rate Increase, Implementation of the EnergySMART Conservation Programs and Implementation of a Revenue Decoupling Mechanism (Petition)*. In its *Petition* and supplemental supporting documents, CGC sought approval to increase gas utility rates, implement an energy conservation program called EnergySMART, and adoption of an Alignment and Usage

Adjustment (AUA) revenue decoupling mechanism. Following an extensive contested case proceeding, examination of the record, and a hearing on the merits, the Commission (then known as the Tennessee Regulatory Authority) panel voted unanimously to, among other things, 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.<sup>1</sup> In addition, the panel voted unanimously to adopt two parts of CGC's EnergySMART program: the Programmable Thermostat measure and a more limited Education and Outreach program. The panel directed Party 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 of the EnergySMART program.<sup>2</sup>

On September 19, 2017, Party Staff filed a report concerning the Programmable Thermostat and Education and Outreach programs, which also incorporated the NRRI Report concerning measuring the effectiveness of energy efficiency programming. Party Staff's report did not include any comment or recommendation on the AUA mechanism.

On September 26, 2017, CGC filed a report and recommendation on its AUA mechanism. In its report, CGC states that the mechanism "has resulted in a significant cumulative shortfall in revenue for both the R-1 and C-1 classes, \$895,058 and \$893,125, respectively."<sup>3</sup> The Company concluded that, "overall, the AUA has not met its objectives or served the best interests of Customers or the Company."<sup>4</sup> On October 20, 2017, CGC filed its *Request to Terminate the Trial AUA Mechanism and Reinstate the WNA* [Weather Normalization Adjustment] (*Request*), effective December 1, 2017. In its *Request*, CGC states that there is a

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<sup>1</sup> *Order*, pp. 55-58 (November 8, 2010).

<sup>2</sup> *Order*, pp. 61-62 (November 8, 2010).

<sup>3</sup> CGC AUA Report, p. 5 (September 26, 2017).

<sup>4</sup> *Id.* at 4.

substantial under-recovery of AUA revenues of nearly \$2 million. The Company contends that there are problems with the AUA and, considering the upcoming winter season, it is important to terminate the AUA as soon as possible and for the Company and the Commission to address the Company's under-recovery at a later time.<sup>5</sup> In addition, CGC stated that "the programmable thermostat and outreach programs expired at the end of their three year trials without any further action."<sup>6</sup>

On October 24, 2017, the Consumer Advocate filed the Direct Testimony of William H. Novak. In his testimony, Mr. Novak summarizes his recommendations concerning CGC's *Request* as follows: 1) CGC's request to establish or reinstate a WNA mechanism for R-1 and C-1 customers outside of a rate case should be denied; 2) CGC's request for recovery of the deferred AUA balance should be denied; 3) a financial audit of the AUA surcharges and refunds should be conducted by Commission Staff; and 4) the AUA mechanism should be terminated.

On October 26, 2017, Party Staff filed its *TPUC Party Staff Response Regarding Chattanooga Gas Company's Report and Recommendations on the Trial AUA (Response)*. In its *Response*, Party Staff stated that it "takes no position and does not plan to actively participate" on the issue of whether the Commission should terminate the AUA or institute a WNA mechanism. In addition, Party Staff stated that staff acting as a party in this docket "will not participate in an advisory capacity on issues regarding the AUA, WNA, or other related issues that may be determined by the Commission."<sup>7</sup>

#### **DECEMBER 18, 2017 STATUS CONFERENCE**

The Status Conference was convened, as previously noticed on December 1, 2017, at approximately 10:00 a.m. in the Executive Conference Room of the Offices of the Tennessee

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<sup>5</sup> *Request*, pp. 1-2 (October 20, 2017).

<sup>6</sup> *Id.* at 4.

<sup>7</sup> *Response*, p. 2 (October 26, 2017).

Public Utility Commission on the Fourth Floor of the Andrew Jackson State Office building at 502 Deaderick Street, Nashville, Tennessee. The parties appearing were as follows:

**For Chattanooga Gas Company:**

**J.W. Luna, Esq.**, Luna Law Group, PLLC, 333 Union Street, Suite 300, Nashville, TN, 37201 and, via telephone, **Floyd Self, Esq.**, Berger Singerman LLP 313 North Monroe Street, Suite 301, Tallahassee, FL 32301;

**For the Consumer Advocate:**

**Vance Broemel, Esq., Wayne Irvin, Esq. Daniel Whitaker, Esq.** and **Alex Bradley** of the Office of the Attorney General, Consumer Protection and Advocate Division, 315 Deaderick Street, Nashville, TN 37243; and

**For the Tennessee Public Utility Commission:**

**Monica Smith-Ashford, Esq.**, Commission Party Staff, 502 Deaderick Street, 4<sup>th</sup> Floor, Nashville, TN 37243.

During the Status Conference, the parties informed the Hearing Officer that, while they disagree as to the actions the Commission should take concerning the substantive issues related to the AUA, they agree on a procedure for resolving the outstanding issues in this docket.

First, the Parties acknowledged that the thermostat and outreach programs expired automatically after the 3-year trial period ended, and agreed that no further action is needed by the Commission concerning these programs. Second, the Parties agreed that the outstanding issues identified below should be moved and incorporated for consideration of the Commission into CGC's next rate case:

- a. Whether the AUA mechanism should be terminated;
- b. Whether the WNA should be reinstated;
- c. Resolution of the CGC deferral under-recovery.

The Company and the Consumer Advocate disagree as to how these issues should be resolved, and Party Staff did not take a position on these issues.

Next, the Consumer Advocate noted that, due to her past experience with similar rate cases, Monica Smith-Ashford would be familiar with these issues when serving as hearing officer in CGC's next rate case. The hearing officer reminded the Parties of the potential conflict of Monica Smith-Ashford<sup>8</sup> performing as designated hearing officer in CGC's next rate case, which is anticipated to be filed in early 2018. Thereafter, both the Company and the Consumer Advocate voiced confidence in Ms. Smith-Ashford's qualifications and ability to serve as hearing officer in the next CGC rate case, and voluntarily waived any objection to her serving in such capacity.<sup>9</sup>

Finally, in light of the outstanding issues remaining in this docket being moved and incorporated into CGC's next rate case, the Hearing Officer finds no good cause to keep the docket open. The Parties may, of course, reference and attach any facts or documents concerning the outstanding issues entered in this docket in the next rate case filed by CGC, or may request that the Commission take administrative notice of such facts or documents.

**IT IS THEREFORE ORDERED THAT:**

1. The Programmable Thermostat and Education and Outreach programs, having expired of their own accord, require no further action by the Commission.
2. The outstanding issues identified below shall be moved and incorporated into Chattanooga Gas Company's next rate case docket file anticipated to be filed the first week of January 2018. These issues are so identified as:
  - a. Whether the Alignment and Usage Adjustment revenue decoupling mechanism should be terminated;
  - b. Whether a Weather Normalization Adjustment should be established or reinstated

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<sup>8</sup> Monica Smith-Ashford, while representing Party Staff in this docket, performs as the primary hearing officer designated by General Counsel in the agency's contested case dockets.

<sup>9</sup> Transcript of Proceedings, pp. 23-26 (December 18, 2017).

for Chattanooga Gas Company; and

- c. The manner in which Chattanooga Gas Company's deferral and under-recovery of funds as a result of the Alignment and Usage Adjustment should be resolved.

3. No further action is required by the Commission in this docket, and the docket file is hereby administratively closed.

  
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Kelly Cashman-Grams, General Counsel  
Hearing Officer