

SOUTHEASTERN ADVOCACY



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December 19, 2011

Kenneth C. Hill
Chairman, Tennessee Regulatory Authority
c/o Sharla Dillon, Dockets and Records Manager
460 James Robertson Parkway
Nashville, Tennessee 37243

Docket Number: 11-00210

Dear Mr. Chairman:

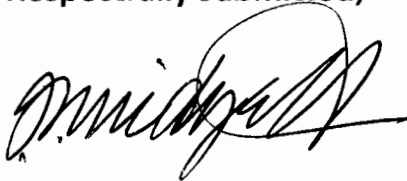
Please find enclosed an original and thirteen copies of a Petition/Complaint of ConocoPhillips Company to be filed with the Tennessee Regulatory Authority. The Petition/Complaint includes an executed Certificate of Service on Respondent, Chattanooga Gas Company.

The requisite filing fee of \$25.00 is also enclosed.

Included with the original and each of the thirteen copies of the Petition/Complaint is a sealed envelope containing confidential and privileged data pertaining to a confidential 1999 contract between the Chattanooga Gas Company and E. I. duPont de Nemurs. This contract was approved by the Authority and is in the official files and records of the Authority. Petitioner respectfully requests that the confidential and privileged data in the Addendum be kept confidential and not become a part of the public records of the Authority.

I am also enclosing an additional copy of the Petition to be stamped "filed" by the Authority, and returned to me.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'T. E. Midyett', written in a cursive style.

T. E. Midyett
Attorney for Petitioner

cc. Mr. Mike Hastings, Mr. Bruce Connell

BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE

ConocoPhillips Company

Complainant/Petitioner

-v-

Docket No.: _____

Chattanooga Gas Company

Respondent

COMPLAINT OF CONOCOPHILLIPS COMPANY FOR AN ORDER DETERMINING
CONOCOPHILLIPS NOT LIABLE FOR PENALTIES AND CHARGES ASSESSED BY
CHATTANOOGA GAS COMPANY, OR, IN THE ALTERNATIVE, PETITION FOR
SPECIAL RELIEF

ConocoPhillips Company (Petitioner) files this Complaint/Petition seeking a determination that it is not liable for penalties and other charges assessed by Chattanooga Gas Company (Respondent) for the months of December 2010 and January 2011 or, for good cause shown, a waiver of such penalties and charges levied by respondent on Petitioner for the months of December 2010 and January 2011.

As background, Chattanooga Gas is the natural gas distributor serving Chattanooga and Hamilton County, Tennessee, with its offices located at 2207 Olan Mills Drive, Chattanooga, Tennessee 37421. ConocoPhillips Company is a producer and marketer of natural gas and is the designated agent for Invista S.ä.r.l. (successor to E. I. du Pont de Nemours Company), one of the largest industrial customers on the Chattanooga Gas system.

Invista consumes approximately eighty thousand dekatherms of natural gas each month in its operation at Chattanooga. Invista has a negotiated contract (the Contract) with Respondent for both sales and transportation of natural gas for its Chattanooga facility, such contract being dated November 22, 1999, and being subsequently approved by the Tennessee Regulatory Authority. This Contract, by its terms, is confidential between Invista and Chattanooga Gas. As noted, the Contract was approved by the TRA and is in the Authority's confidential files.

For many years, ConocoPhillips (COP) has been the gas supply agent for Invista's Chattanooga plant, and has been designated as such by Invista pursuant to the Contract. As such, COP causes volumes of natural gas to be nominated and scheduled on the Southern Natural Gas Company (SNG) interstate pipeline from production receipt points to SNG's delivery point to Chattanooga Gas Company. COP then makes a concomitant nomination and scheduling of the same volumes on Chattanooga Gas

from SNG to Invista, pursuant to the Contract and to Chattanooga Gas's Rate Schedule T-1. Gas volumes are nominated daily on Southern Natural Gas (SNG) for delivery to Chattanooga Gas, and like volumes are separately nominated on Chattanooga Gas for delivery to the Invista plant.

Pursuant to the Contract, Invista is also an interruptible sales customer of Chattanooga Gas, with rights to purchase interruptible volumes under Chattanooga's Rate Schedule I-1 without prior notice to Chattanooga Gas.

For the month of December 2010, through January 6, 2011, approximately 2,200 Dth per day of gas intended for Invista was nominated, scheduled and physically delivered to SNG by COP intended for delivery to Chattanooga Gas for Invista's account. This nomination had occurred every month for several years between COP, SNG and Chattanooga Gas. However, due to an error on the part of a scheduling employee of COP, the December gas was mistakenly nominated to a SNG delivery point other than Chattanooga Gas. For January 2011, the incorrect nomination for December was "rolled over." For the thirty-seven day period, gas was delivered by SNG to the erroneously nominated delivery point but not taken. As a result, the gas was booked to SNG's Operational Balancing Agreement (OBA) for that point, and remained on the SNG system.

For this same time period, COP, unaware of the incorrect nomination on SNG, nominated and scheduled the identical volumes on Chattanooga Gas for delivery to Invista.

Due to the incorrect SNG delivery point nomination, the gas was not delivered by SNG to Chattanooga Gas, even though the gas was actually delivered into SNG by COP. Unaware of the mistaken nomination on SNG throughout the thirty-seven day period, COP, as it had for years, closely monitored its nominations on Chattanooga Gas, and the consumption levels of Invista, in order to keep them in balance. At no time for the entire thirty-seven day period did COP suspect a problem, nor did Chattanooga Gas inform COP or Invista that the intended and nominated volumes were not being received by Chattanooga Gas from SNG. In fact, when Chattanooga Gas posted Daily Balancing Orders (DBO) on its Electronic Bulletin Board during December and early January, COP adjusted its nominations accordingly in order to comply.

Chattanooga Gas knew, or certainly should have known, beginning December 2, 2010, that the Invista/COP gas was not being delivered to Chattanooga Gas by SNG. For its part, COP, as it had done each and every month for years, arranged for a supply of gas to be delivered into SNG for redelivery to Chattanooga Gas for Invista. COP made a timely and complete nomination on SNG, which resulted in SNG having on its face a complete nomination, with a receipt point and delivery point, albeit an unintended delivery point. COP also made a timely and complete nomination on Chattanooga Gas, as it had done each and every month for years. Neither COP nor Invista had any reason to believe that the gas being delivered by COP to SNG was not being transported by SNG to Chattanooga Gas, and being received by Chattanooga Gas and redelivered by Chattanooga Gas to Invista exactly as it had been done each and every month for years.

It is inconceivable to Petitioners that Chattanooga Gas did not know within the first few days of December that Invista's gas was not being received into its system from SNG.....totaling over eighty thousand dekatherms of natural gas for the ensuing thirty-seven days in the midst of the critical winter heating season. Yet Chattanooga Gas stood silent and said nothing to SNG, said nothing to COP and said nothing to Invista, one of the largest customers on the Chattanooga system. At the same time,

Chattanooga Gas continued to make full deliveries to Invista, notwithstanding the fact that it either knew, or certainly should have known, that it was receiving no gas from SNG for Invista's account.

On January 6, 2011, COP was finally informed by Chattanooga Gas that no supply had been received by Chattanooga from SNG since November 30, 2010 to correspond to COP's December and January nominations on Chattanooga to Invista. Upon being notified by Chattanooga on January 6, 2011, and upon confirmation by COP's investigation, the erroneous SNG nomination point was immediately corrected for the following day.

Petitioner is informed by Chattanooga Gas that at no time during the period in question did Chattanooga Gas receive any penalties from SNG or its other pipeline supplier East Tennessee Natural Gas. Nor were Chattanooga Gas' firm or interruptible sales, or other transportation customers injured in any way by this scheduling mistake. In fact, Chattanooga Gas has informed Petitioner that on no day during the time in question were Chattanooga Gas' interruptible sales customers interrupted, were its interruptible transportation services interrupted, nor were there curtailments on Chattanooga's system.

As a result of this erroneous nomination, Invista/COP was invoiced \$250,384.84 in cash-out charges and \$461,062 in penalties for December 2010, and \$24,037.50 in penalties for January 2011. These penalties and charges total \$735,484.34.

Upon finally being notified by Chattanooga Gas on January 6, 2011 of the delivery deficiency which had begun on December 1, 2010, COP immediately investigated the matter and immediately contacted SNG to rectify the situation. SNG quickly agreed to transfer the volumes, which were erroneously delivered and booked to the OBA at the incorrect delivery point to Chattanooga Gas' storage account on SNG. This bookkeeping action by SNG (which happens frequently among pipelines and gas transporters) corrected the error and made all parties whole....at no expense to Chattanooga Gas or its customers.

On January 18th SNG contacted all parties via email informing them of the impending transfer. No parties declined the transfer, and on January 19th the transfer was completed.

On January 25, 2011 COP was notified by email from Chattanooga Gas that Chattanooga was reversing the transfer. COP was able, nevertheless, to make up the January 1 – 7, 2011 imbalance prior to the end of January and was not subject to cash-out charges for January. Invista/COP was billed by Respondent for penalties in the amount of \$24,037.50 for January.

Following discussions between Invista, COP and Chattanooga, the invoiced amounts, including penalties and charges, were paid under protest, in order to not jeopardize continued service to Invista by Chattanooga. Invista/COP specifically retained the right to seek relief from the penalties imposed, either by negotiation or by Petition to this Authority.

It is these penalties and charges for which Petitioners seek relief.

The relationship between Invista and Chattanooga Gas is controlled by a Contract between the parties dated November 22, 1999, and subsequently approved by the Tennessee Regulatory Authority. That contract is confidential and is not part of the Authority's public records. In order to maintain such confidentiality, the terms of the Contract are not enumerated in this public Petition/Complaint.

Accompanying this Petition/Complaint is a sealed addendum discussing specific controlling contractual terms and language which the Petitioner requests be considered by the Authority and its Staff as if included herein. Petitioner/Complainant requests the TRA keep this contract language confidential and that such language not be made a part of this public filing or public record of this proceeding.

The uncontroverted facts show that a simple clerical error was made which caused no harm to Respondent or to Respondent's customers. No pipeline penalties were assessed to any party and Respondent would have been made completely whole had it not reversed SNG's January 2011 transfer to Respondent's storage account. In fact, Respondent and its customers would have benefited from higher gas prices at the time of the transfer compared to actual prices in December 2010!

As a solution to this issue, and if the Authority agrees with Petitioner's request herein to waive the penalties and other charges resulting from the nomination error, making all parties whole as if the error had not occurred, COP will make available to Chattanooga Gas 81,400 dekatherms of natural gas, which COP will cause to be delivered, at no cost to Chattanooga Gas or its customers, to either Chattanooga's receipt point from SNG or into Chattanooga's storage pool on SNG. Such deliveries to Chattanooga Gas will occur at any mutually agreeable time within ninety days of the TRA's disposition of this matter.

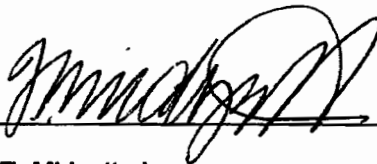
COP has thousands of transactions which its scheduling specialists administer throughout the country on a monthly, and sometimes daily, basis. No one has said that Invista, COP or SNG were in any way trying to "game the system" during this period of time, or receive any benefit from the erroneous nomination. There was simply a human error by one of COP's schedulers, on a single contract, which Chattanooga Gas, by monitoring daily flows from its pipeline suppliers into its system, should have been, if not in fact was, aware. Chattanooga Gas has this daily flow information and uses this data as it nominates its system supply requirements on a daily basis from SNG and East Tennessee.

If Chattanooga Gas had simply notified Petitioner on a timely basis, Petitioner would have easily and promptly corrected the erroneous nomination and avoided the egregious resulting penalties and charges totaling nearly three quarters of a million dollars.

For all these reasons, Petitioner respectfully requests that the Authority hold that the controlling Negotiated Contract does not permit penalties and charges as assessed by Respondent, and that such penalties and charges be promptly refunded by Respondent to Petitioner.

In the alternative, should the Authority find that Petitioner is in fact subject to penalties and other charges resulting from this clerical error, Petitioners request that, for good cause shown, the penalties and charges of \$741,436.86 be waived as no harm to Chattanooga Gas or any of its customers resulted from the simple human error which occurred.

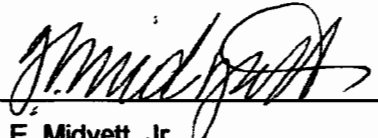
Respectfully submitted,

A handwritten signature in black ink, appearing to read "T. E. Midyett, Jr.", is written over a horizontal line.

T. E. Midyett, Jr.
Attorney for Petitioner
318 Erin Drive, Suite 2A
Knoxville, Tennessee 37919
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tmidyett@aol.com

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Petition has been forwarded to Mr. Steve Lindsey, Vice President, Chattanooga Gas Company, 2207 Olan Mills Drive, Chattanooga, Tennessee 37421 on this 19 day of Dec., 2011



T. E. Midyett, Jr.
Attorney for Petitioners