BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION
AT NASHVILLE, TENNESSEE

IN RE:	)	
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CHATTANOOGA GAS COMPANY PETITION FOR APPROVAL OF AN ADJUSTMENT IN RATES AND TARIFF; THE TERMINATION OF THE AUA MECHANISM AND THE RELATED TARIFF CHANGES AND REVENUE DEFICIENCY RECOVERY; AND AN ANNUAL RATE REVIEW MECHANISM	)	**DOCKET NO. 18-00017**

CONSUMER ADVOCATE'S RESPONSE TO DATA REQUESTS FROM THE TENNESSEE PUBLIC UTILITY COMMISSION

TPUC DATA REQUEST NO. 1:

Should the annual review period of an Annual Rate Review Mechanism coincide with the fiscal year end date of the Company? Please discuss any advantages or disadvantages of using the company's fiscal year as the annual review period, specifically addressing issues related to synchronization of taxes and timing issues.

CONSUMER ADVOCATE'S RESPONSE:

As a general principle, the Consumer Advocate believes that if a Company is requesting to have TPUC approve a proposed Annual Rate Review Mechanism (ARM) under Tenn. Code Ann. § 65-5-103(d)(6), then reasonable efforts should be made to have the annual review period coincide with the fiscal year end date of a Company. However, the Consumer Advocate recognizes that every proposed ARM is very fact specific, and those specific facts may impact the advisability of matching the annual review period and the fiscal year end.

First, and to address the issues related to synchronization of taxes and timing issues, the use of a fiscal year-end period within an ARM calculation may avoid arguments over claims of an alleged tax normalization violation as has been asserted by Atmos in Docket No. 17-00091 and 18-0003. To the Consumer Advocate's knowledge, the issue has not come up in any other utilities' annual rate review filings or filings made pursuant to the "alternative regulatory methods" set forth in Tenn. Code Ann. § 65-5-103(d)(2)-(5). [1] Thus, the potential avoidance of a dispute along these lines with respect to future ARM proposals would have significant administrative and efficiency benefits for TPUC, the utility, and the Consumer Advocate. In short, the Consumer Advocate believes that such compliance is likely more easily managed under a fiscal year-end ARM and would be a major advantage.

In Docket No. 18-00003, Atmos requested "to move the Company's ARM test year period to align it with the Company's fiscal year, which runs October 1 through September 30. This change is being requested as a solution to the income tax expense issue raised in Docket 17-00091 [*i.e.*, the tax normalization issue]." *Petition to Change Certain ARM Dates*, Page 2, paragraph 5. The Consumer Advocate opposed the proposed change and set forth its reasons in Docket No. 18-0003. After a hearing, the Commission declined the request to align the test year period and fiscal year. However, if the question presented by this data request were considered again in a docket such as the one offered by Chattanooga Gas, in which there is no existing order or settlement agreement incorporated into that order, then we believe that there are a number of solid reasons to recommend that an annual review period of an ARM coincide with the fiscal year-end date of the Company, thus creating a real advantage for utilities and regulators alike.

The second advantage of having the annual review period coincide with the fiscal year

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[1] Tennessee American Water Company made a filing pursuant to "alternative regulatory methods" for the recovery of various specific expenses such as capital investments, economic development, etc. in Docket No. 13-00130.

end is that the accounting information presented at the fiscal year-end period is likely to be more accurate than other time periods. It is the Consumer Advocate's understanding that a number of utility companies estimate certain expenses throughout the year and essentially true-up those expenses at fiscal year-end, thus providing a potentially more accurate depiction of financial results.

The third advantage is that the fiscal year-end financial results will be included within a 10K filing with the Securities and Exchange Commission (SEC) and with the annual reports of the TPUC. The 10K filing must be attested to by the Chief Executive Officer and Chief Financial Officer of the company. Also, there is a significant level of disclosures required in a 10K that is not required in other, non-fiscal period reports. This information can be very helpful in ensuring rates are just and reasonable. The fact that the disclosure period matches the ARM period is important.

And finally, fiscal year-end financial information is subject to independent audit by external auditors. In the Consumer Advocate's view, it is important not to place too much emphasis on external audits, though, as such reviews tend to have high materiality levels. As applied to utilities under TPUC jurisdiction, some of those utilities appear to have proportionally minimal operations in Tennessee when evaluated in the context of the overall companies and their respective multistate operations. In these situations, the outside auditors may have very limited review of Tennessee-specific operating results. Nonetheless, the Consumer Advocate believes that it is preferable that the ARM period be matched with the external audit period, and especially if the utility's Tennessee operations are significant relative to the financial results of the utility as a whole.

With the above advantages noted in the context of a new proposed ARM, it also should be noted that one administrative disadvantage of using a fiscal year-end period is that some utilities rely on a calendar year-end as their fiscal year. Utilities, generally wishing to minimize regulatory lag, would presumably seek to submit ARM filings as quickly as practical after the close of their fiscal period. Without taking appropriate measures to stagger these filings, the Commission and the Consumer Advocate would likely be faced with multiple significant filings running concurrently at some point in the first quarter of each year. The Consumer Advocate recommends that consideration be given to staggering such filings to avoid undue administrative challenges of addressing multiple filings with nearly identical procedural schedules.

The Consumer Advocate recommends that in the context of a new ARM proposal with no existing settlement agreement and order, the benefits of using a utilities' fiscal year outweighs the disadvantages. With that in mind, the Consumer Advocate recommends that Chattanooga Gas use its fiscal year end if it chooses to continue with its request to opt into and implement an ARM.

TPUC DATA REQUEST NO. 2:

Please provide comments on the necessity of having a projected (budgeted) Annual Rate Review Mechanism with a true-up filing vs. having one Annual Rate Review filing which reconciles actual results of the annual review period to the authorized ROE.

CONSUMER ADVOCATE'S RESPONSE:

The Consumer Advocate respectfully recommends that budget filings be eliminated in favor of having one ARM filing which reconciles actual results of the annual review period to the authorized ROE.

For reasons of administrative review and efficiency, the Consumer Advocate does not believe a budgeted ARM is necessary and the administrative burden of these filings outweighs its benefits. Simply put, budgets are challenging to audit, especially in terms of the prudency requirement that the Consumer Advocate believes should be a focus of the budget review. Budget filings require resources that, in our view, would be better spent focusing on true-up reconciliation filings and other regulatory review tasks. Further, concerns have been raised about the potential for essentially gaming the ARM process – in other words, adjusting the next budget to make up the difference from any shortfall that resulted from the most recent reconciliation docket. The potential for a utility essentially to never reduce rates by that means provides another weight against using a budget and reconciliation approach.

As background, it should be noted that the term "annual rate review mechanism" has been applied to two forms of proceedings. The first form generally has followed the rider model established by Tennessee-American Water Company (TAWC) in Docket No. 13-00130, which in the context of three of its riders allows for the recovery of particular expenses and a return on investment on specific categories of expenses, rather than a review of all financial data that is then adjusted to ensure the utility earns its authorized return on equity. It is worth noting that the Consumer Advocate brought up concerns about the workload associated with the separate budget and reconciliation filings.

The second form of ARM occurred when Atmos recently proposed and received approval for an ARM with budget and true-up filings in Docket No. 14-00146. In that Docket, the Consumer Advocate only reluctantly agreed to the separate budget filing; and the Consumer Advocate's agreement was dependent on the inclusion of a true-up or reconciliation filing that trued-up the budget filing to the per-books actual results. The true-up of the per-books actual results to the budget filing recently has proven more challenging to implement, as seen in Atmos'

Docket No. 17-00091.

It also should be noted that consumers are significantly disadvantaged by implementing separate budget and reconciliation filings. Specifically, there may be immediate increases to customer bills on the approval of the budget filing. These increases, of course, would be viewed as an advantage by the utility, since by increasing rates at the front of the review period for anticipated investments and operating costs, the utility is able to increase its cash flow before having incurred investment or costs to which the revenues relate. However, from a consumer's perspective, this significant cash flow disadvantage weighs against having budget and reconciliation filings.

In addition, the Consumer Advocate has one further recommendation to improve clarity and accountability in the ARM process. The Consumer Advocate recommends that the utility be required to submit to TPUC and the Consumer Advocate its financial budget annually, and in any event no later than the date of its annual ARM reconciliation filing. This financial budget filing would not be for the purpose of setting rates but would be used to compare and put in context the final true-up results compiled at TPUC. This financial budget should contain forecasted data for all components of the revenue requirement: revenue, expenses, capital expenditures, working capital and debt/equity with a copy in Excel format with formulas operational. This budget submittal should be accompanied by an attestation of a company officer that such budget contains forecasted earnings that are identical to those contained in its composite earnings guidance provided to investors for the company as a whole. This earnings guidance will reflect total company forecasted earnings, of which the Tennessee operations will comprise some small portion. However, the Consumer Advocate believes the TPUC budget information should match the Tennessee component of that included in total company earnings guidance. The comparison of budget to actual results within the ARM true-up process will provide TPUC and the Consumer Advocate valuable insight into the utility's operating results.

In the Consumer Advocate's view, then, the theory and practice of the ARM process would be a true-up of actual results, modified for regulatory adjustments, and then compared with authorized returns. Such differences would then be built into an ARM surcharge and such over-under recoveries would be carried forward for future periods in subsequent ARM filings.

RESPECTFULLY SUBMITTED,

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This the 6th day of April, 2018.

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