

BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION

NASHVILLE, TENNESSEE

October 21, 2020

IN RE:

**CHATTANOOGA GAS COMPANY COMPLIANCE
FILING AND REPORT**

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**DOCKET NO.
18-00035**

**ORDER GRANTING PETITION FOR RECONSIDERATION AND AUTHORIZING
PROPOSED EXPEDITED RETURN OF PREVIOUSLY DETERMINED TAX SAVINGS**

This matter came before Chairman Kenneth C. Hill, Vice Chairman Herbert H. Hilliard, and Commissioner John Hie of the Tennessee Public Utility Commission (“Commission” or “TPUC”) during the regularly scheduled Commission Conference held on September 14, 2020, to consider *Chattanooga Gas Company’s Petition for Reconsideration and Request for Oral Argument* filed by Chattanooga Gas Company (“CGC” or “Company”) on June 4, 2020. The Company and the Consumer Advocate Unit in the Financial Division of the Tennessee Attorney General’s Office (“Consumer Advocate”) were the parties in this matter.

BACKGROUND

The enactment of 2017 Tax Cuts and Jobs Act, Pub. L. No. 115-97 (“2017 Tax Act”) reduced taxes paid by public utilities, including CGC. The Hearing on the merits in this docket occurred on February 18, 2020. Deliberations took place on March 9, 2020, and the *Final Order* was issued on May 20, 2020. In this docket, the Commission previously determined that Deferred Income Tax Expense Savings is \$843,810 and the Deferred Amortization of Excess

Accumulated Deferred Income Tax (“EDIT”) is \$1,000,900.¹ The aggregate amount of these regulatory liabilities is \$1,844,710 and represents a “tax savings” to be passed back to customers. The regulatory liability of \$1,844,710 was ordered to be amortized over a three-year period and incorporated into the Annual Review Mechanism (“ARM”) of CGC’s annual filings with an unamortized balance reflected as a reduction in rate base.²

On June 4, 2020, CGC filed the *Petition for Reconsideration* which was accepted by the Panel on June 15, 2020 and set for oral argument.³ The Company’s *Petition for Reconsideration* did not challenge the bulk of the Commission’s decision in this docket or 2017 Tax Act-related and ancillary determinations made in the Company’s rate case. Rather, CGC sought to expedite the return of the tax savings to its Tennessee customers in light of the economic challenges presented by the COVID-19 pandemic.⁴ On reconsideration, the Company sought to expedite the return of the tax savings in the Company’s ARM filing in Docket No. 20-00049.

The Company’s *Petition for Reconsideration* was unusual in terms of both the relief sought and the procedure. In part, the relief sought went beyond the amortization period for the tax savings determined in this docket; rather it also sought to speed up the return of related tax savings determined in the Company’s rate case in Docket No. 18-00017. In total, CGC proposes to return \$3.394 million of tax savings to customers sooner than previously ordered by the Commission, including some 2017 Tax Act- related tax savings determined in the Company’s previous rate case.

¹ *Final Order*, pp. 1, 21 (May 20, 2020).

² *Id.*

³ *Order Accepting Chattanooga Gas Company’s Petition for Reconsideration* (July 7, 2020).

⁴ *Petition for Reconsideration*, pp. 2-3 (June 4, 2020).

The \$3.394 million of tax savings includes the income tax expense savings deferral of \$843,810 and EDIT amortization deferral of \$1,000,900.⁵ The combined amount of this tax reserve is \$1.845 million and constitutes the income tax expense savings and EDIT amortization that accrued in 2018 before CGC's new rates took effect on October 1, 2018 pursuant to the general rate case decided in Docket No. 18-00017. CGC was ordered to amortize this regulatory liability over three years through its ARM mechanism.⁶

This amount also includes the federal basis adjustment EDITs of \$957,000. Although classified as unprotected, the federal basis adjustment EDITs were being amortized with protected EDITs using the average rate assumption method (ARAM). The \$957,000 amount is the projected ending basis adjustment EDIT balance aligning with the commencement of new rates in October 2020.⁷ Remaining amortization of the existing unprotected EDIT reserve balance of \$592,000. This amount constitutes the remaining amount to be amortized in 2021.⁸ CGC was ordered to amortize this regulatory liability over five years.⁹

Rather than returning a total of \$3.394 million of tax savings to ratepayers over multiple years, CGC requests to use the tax savings now to reduce the proposed rate increase in its ARM filing under consideration in Docket No. 20-00049. CGC's request is due to the extraordinary hardship caused by the coronavirus pandemic on CGC's customers, the extent of which was

⁵ *Final Order*, pp. 21-22 (May 20, 2020).

⁶ *In Re: Chattanooga Gas Company Compliance Filing and Report, Final Order*, Docket No. 18-00035, p. 22 (May 20, 2020).

⁷ *Petition for Reconsideration*, p. 4 (June 4, 2020); *In re: Chattanooga Gas Company's Petition for Approval of Its Annual Rate Review Filing Pursuant to TCA § 65-5-103 (d)(6)*, Docket No. 20-00049, Gary Tucker Pre-Filed Direct Testimony, pp. 12-13 (May 29, 2020).

⁸ *Id.*

⁹ *In Re: Petition of Chattanooga Gas Company for Approval of an Adjustment in Rates and Tariff*, Docket No. 18-00017, *Amended Order*, pp. 54-55 (Jan. 15, 2019).

unknown at the time the Commission decided the amortization periods for return of the tax savings.¹⁰

No one filed comments in the docket file or opposed the Company's *Petition for Reconsideration*. In addition, members of the public were given an opportunity to comment during consideration of the *Petition for Reconsideration*, but no one sought recognition to speak.

FINDINGS AND CONCLUSIONS

Based on the presentations and administrative record, the Panel found that the circumstances surrounding the unforeseen coronavirus pandemic constitute good cause for reconsidering the amortization periods for the following tax savings and benefits determined previously in this docket and the Company's last rate case: (1) the 2018 tax expense savings and deferred EDIT reserve; (2) the federal basis adjustment EDIT balance; and (3) the remaining unprotected EDIT reserve. The Panel voted unanimously to grant the Company's *Petition for Reconsideration* and determined the aforementioned tax savings and benefits be returned to ratepayers through the Company's ARM mechanism in accordance with the Commission's decision in Docket No. 20-00049.

Here, it should be noted that there is no precedent for a motion to reconsider filed in one docket to reach into and reconsider determinations made in a rate case docket. Nor should this decision be relied upon as such a precedent given the extraordinary circumstances. In making this decision, the Commission relies upon several factors, including the impact of the COVID-19 virus.¹¹ The relief sought here relates entirely to the timing of the return of tax savings stemming from the 2017 Tax Act and does not seek to overturn or modify the fundamental basis of any prior decisions. Finally, the relief sought here is of a benevolent nature given the extraordinary

¹⁰ *Petition for Reconsideration*, pp. 2-5 (June 4, 2020).

¹¹ See *In Re: Emergency Petition to Suspend Service Disconnections Filed by the Consumer Advocate Unit of the Financial Division of the Tennessee Attorney General*, Docket No. 20-00047 (March 31, 2020).

circumstances and there has been no opposition or opposing views expressed by interested parties or the public.

IT IS THEREFORE ORDERED THAT:

1. The *Petition for Reconsideration* filed by Chattanooga Gas Company on June 4, 2020 is granted.

2. Any party aggrieved by the Commission's decision in this matter may file a Petition for Reconsideration with the Commission within fifteen (15) days from the date of this Order.

3. Any party aggrieved by the Commission's decision in this matter has the right to request judicial review by filing a Petition for Review in the Tennessee Court of Appeals, Middle Section, within sixty (60) days from the date of this Order.

FOR THE TENNESSEE PUBLIC UTILITY COMMISSION:

**Chairman Kenneth C. Hill,
Vice Chairman Herbert H. Hilliard, and
Commissioner John Hie concurring.**

None dissenting.

ATTEST:



Earl R. Taylor, Executive Director