

BEFORE THE  
TENNESSEE PUBLIC UTILITY COMMISSION

DIRECT TESTIMONY AND EXHIBITS  
OF  
GARY A. TUCKER

IN RE:  
CHATTANOOGA GAS COMPANY  
DOCKET NO. 18-00035

I. INTRODUCTION

**Q. Please state your name, position and address.**

A. Gary Tucker, Manager, Regulatory Reporting, Southern Company Gas (“SCG”).  
My business address is 10 Peachtree Place, Location 1686, Atlanta, Georgia  
30309.

**Q. On whose behalf are you testifying in this case?**

A. I am testifying on behalf of Chattanooga Gas Company (“CGC” or “Company”),  
which is a subsidiary of Southern Company Gas. Our Regulatory Reporting  
group provides technical support and expertise to CGC and other SCG  
subsidiaries.

**Q. Please describe your professional background and education.**

A. I graduated Magna Cum Laude from Georgia State University in 2011 with a  
Bachelor of Business Administration degree in Accounting. The following year, I  
joined Georgia Power Company’s Regulatory Accounting Department. In the

1 Regulatory Accounting Department, I supported, prepared, and reviewed various  
2 regulatory filings. The filings included Georgia Power Company's 2013 Base  
3 Rate Case, 2015 and 2016 Base Rate Updates, Nuclear Construction Cost  
4 Recovery NCCR-5 Tariff adjustment, and 2015 Annual Surveillance Report. In  
5 2016 I moved to Georgia Power Company's Property Accounting Department  
6 where I was primarily responsible for compiling and reporting on Georgia Power  
7 Company's regulated assets and construction work-in-progress. In 2017 I began  
8 working at Southern Company Gas as the Regulatory Reporting Supervisor and  
9 was later promoted to the Regulatory Reporting Manager. In this position, I am  
10 responsible for the preparation, review and filing of monthly and annual financial  
11 information to state regulatory commissions, including rate case proceedings.

12  
13 **Q. Have you previously submitted testimony before the Tennessee Public Utility**  
14 **Commission or any other regulatory commission?**

15 A. Yes, I have submitted testimony before the Tennessee Public Utility Commission  
16 ("TPUC" or "Commission") in Dockets 18-00017 and 19-00047.

17  
18 **Q. What is the purpose of your testimony?**

19 A. The purpose of my testimony is to address the two issues set by the Hearing  
20 Officer for resolution in this docket. First, the amortized amounts of Excess  
21 Deferred Income Tax for the January to October 2018 period that arose as a result  
22 of the Tax Cuts and Jobs Act (the "Act"), and, second, potential tax savings in  
23 rates for the period January to October 2018 due to the reduction in the corporate  
24 federal income tax rate. While our attorneys will address the legal issues

1 associated with these two issues, I will provide the necessary factual support for  
2 CGC's proposed retention of these accrued tax savings due to its underearnings  
3 position in 2018.  
4

5 **Q. Are you sponsoring any exhibits?**

6 A. Yes. In addition to this testimony, I am sponsoring the following two exhibits:

- 7 • Exhibit GT-1 is the calculation of the regulatory liability balance comprised  
8 of deferred amounts for accumulated excess deferred income taxes  
9 ("EDIT") and income tax savings from the reduction in the corporate federal  
10 income tax rate:  
11 • Exhibit GT-2 is CGC's rate of return for 2018.  
12

13 **II. PRELIMINARY MATTERS –**  
14 **SCOPE OF THIS PROCEEDING**

15 **Q. In the Commission's February 6, 2018 Order in Docket No. 18-00001**  
16 **("February 6th Order"), the Commission directed multiple utilities,**  
17 **including Chattanooga Gas Company, to track and accumulate in a deferred**  
18 **account impacts of the 2017 Tax Cuts and Jobs Act which includes the**  
19 **change in provision for federal income taxes from 35% to 21%, deferral of**  
20 **the excess tax reserve amortization, and deferral of any other tax effects. The**  
21 **order also directed the Company to submit a proposal to reduce rates or**  
22 **make other rate making adjustments to account for the tax benefits, and the**  
23 **Commission opened Docket No. 18-00035 to address the specific tax-related**  
24 **issues for Chattanooga Gas. Has the Company complied with the**  
25 **Commission's directive?**

1 A. Yes. The Company recorded the tax impacts resulting from the Act effective  
2 January 1, 2018. On March 29, 2018, in Docket No. 18-00035 the Company  
3 made the necessary compliance filing to demonstrate the accounting for the tax  
4 benefits of the Act. As for the disposition of the tax benefits, the Company  
5 proposed that the Commission address all of the issues associated with the Act in  
6 the Company's then open rate case in Docket No. 18-00017.

7  
8 **Q. Did the Consumer Advocate agree that all of the Act's tax impacts be**  
9 **addressed in CGC's rate case?**

10 A. Yes.

11  
12 **Q. Did the Company fully address the tax benefits of the Act in its rate case?**

13 A. Yes, the Company provided testimony and other evidence on all aspects of the  
14 Act that impacted the Company's rates, including a proposal to retain the tax  
15 savings generated between January 1, 2018 until the effective date of new base  
16 rates.

17  
18 **Q. Did the Consumer Advocate present its case on the tax benefits of the Act in**  
19 **CGC's rate case?**

20 A. Yes.

21  
22 **Q. Is the Company's rate case filing complete?**

1       A.     Yes. The Commission approved new rates on October 15, 2018. The new tariff  
2       reflecting the approved rates was approved and became effective on November 1,  
3       2018. Thus, as of November 1, 2018, and going forward, the rates charged to  
4       Chattanooga Gas Company's customers reflect the benefits of the Act, including a  
5       federal income tax rate of 21% and the amortization of excess accumulated  
6       deferred income taxes. The Company received the final Commission Order for  
7       Docket No. 18-00017 on January 15, 2019.

8  
9       **Q.     Were all of the impacts of the Tax Cuts and Jobs Act fully resolved in Docket**  
10       **No. 18-00017?**

11      A.     No. In the January 15, 2019, Amended Order in the rate case docket, the  
12      Commission referred one issue back to this docket, specifically the disposition of  
13      the amortized amounts of Excess Deferred Income Tax ("EDIT") for the January  
14      to October 2018 period, before new rates took effect November 1, 2018.

15  
16      **Q.     What exactly did the rate case Amended Order say?**

17      A.     At page 55 of the Amended Order, it states: "In addition, the voting panel  
18      ordered CGC to accrue into a regulatory liability account all amortized amounts  
19      of EDIT for the period from January 2018 to the effective date of the rate change  
20      ordered in this docket, with the disposition of the regulatory liability to be  
21      determined in Docket No. 18-00035."

1       **Q. Did the Amended Order in Docket No. 18-00017 specifically direct the**  
2       **Company to address the savings resulting from the reduction in the federal**  
3       **income tax rate in Docket No. 18-00035?**

4       A. No, I only see the EDIT issue referred to this docket.

5  
6       **Q. So should the Commission be addressing the 2018 tax savings not specifically**  
7       **referred to this docket?**

8       A. I believe not since we presented our testimony on this issue in the rate case and I  
9       see in the rate case Amended Order specific adjustments of “zero” associated with  
10      this issue.

11  
12      **Q. Can you please further address how the Commission considered and decided**  
13      **this issue?**

14      A. Yes. First, page 93 of the Amended Order, is Schedule 2, the Commission’s  
15      decisions on Rate Base. The top of this schedule is additions to rate base and the  
16      bottom half of this chart shows the deductions to rate base. If you look at line 13,  
17      this says, “Regulatory Liability – Deferred Tax Savings,” and the amount  
18      included in rate base is zero. For comparison purposes, on line 12 you see the  
19      excess tax deferrals that were decided in the amount of \$22,177,646.

20               Second, on pages 40 and 41 of the Amended Order is a brief overview of  
21      rate base. This overview includes a table on page 41 of the rate base amounts  
22      recommended by the Company, the Consumer Advocate and Staff. Looking at  
23      this table, on the far-right column labeled “Staff” you see the exact same

1 information that is on Schedule 2 on page 93, since the panel adopted the Staff's  
2 recommendation for rate base. In the Company or CGC column, the number  
3 presented there is a dash, which depending upon how you format a table in Excel  
4 or Word, a zero is sometimes presented as a dash instead of a zero. For  
5 comparison purposes, the middle column presents the number sought by the  
6 Consumer Advocate. In the last column there is another dash, which as we have  
7 seen on Schedule 2, on page 93, is presented as the number zero.

8 Third, on page 100 of the Amended Order is Schedule 9, which reflects all  
9 of the Excise and Income Taxes. On lines 24 and 25 are the deferred tax  
10 liabilities that were not sent back to the CGC tax docket. On the next line, line  
11 26, you have a line that says, "Less 2018 Tax Savings Amortization," with the  
12 amount on this line a blank or zero, consistent with what we saw on pages 41 and  
13 93.

14  
15 **Q. So what is your conclusion from the review of the Amended Order?**

16 A. When you read these zero numbers in the context of the one express referral of  
17 the EDIT issue back to this docket, it looks to me like the savings resulting from  
18 the reduction in the federal income tax rate was considered and decided to be  
19 zero.

20  
21 **Q. Notwithstanding whether there is only one or two issues for consideration,**  
22 **are there any tax savings issues associated with the new rates that took effect**  
23 **on November 1, 2018?**

1 A. No, there are not. As I previously discussed, to the extent tax savings are at all  
2 relevant, it is important to note that in the new rates that took effect on November 1,  
3 2018, the Company has deferred all tax impacts going forward, which includes the  
4 income tax savings resulting from the reduction in the federal income tax rate. So to  
5 the extent there is any issue with tax savings, it is for the very limited period of  
6 January 1 to October 31, 2018.

### 8 III. AMOUNTS IN DISPUTE

9 Q. What is the balance of the deferred tax savings regulatory liability?

10 A. The Company has a total deferred tax savings regulatory liability balance of  
11 \$1,633,314. Please see Exhibit GT-1 for a summary of the balance, segmented  
12 between the deferred income tax savings and EDIT amortization.

#### 14 A. Reduction in Federal Income Tax Rate Savings

15 Q. What portion of the deferred tax savings regulatory liability is related to the  
16 reduction in the federal income tax rate?

17 A. As shown in Exhibit GT-1, \$582,309 of the regulatory liability balance is due to the  
18 reduction in the federal income tax rate. These savings were calculated and accrued  
19 on a monthly basis using the preliminary earnings before taxes ("EBT") multiplied  
20 by the change in the composite statutory income tax rate of 13.09%. The change in  
21 the composite rate is the difference between the composite statutory income tax rate  
22 of 39.23% based on a 35.0% federal income tax rate, less the new composite  
23 statutory income tax rate of 26.14% based on 21.0% federal income tax rate. Once



1 the adjustment to EBT was determined, the amount was then grossed up for taxes to  
2 arrive at the appropriate revenue adjustment. The revenue adjustment was then  
3 recorded as a reduction to revenues with an equal offsetting entry to the deferred tax  
4 savings regulatory liability account. The entries were made from January 2018  
5 through October 2018, the periods prior to the implementation of CGC's new  
6 service rates in November 2018, with a true-up entry in December 2018.

7  
8 **Q. Why was the current period EBT used in the calculation of the income tax**  
9 **savings deferral?**

10 **A.** Current period EBT was used in the calculation of the income tax savings deferral  
11 primarily for two reasons. First, it appropriately recognizes the earnings received  
12 from January 2018 through October 2018 rather than a simple assumption that  
13 earnings are recognized equally over a twelve-month period. Second, prior to the  
14 2018 rate case, rates were last set in 2010 and do not reflect the current taxable  
15 income for CGC, which includes additional capital investments made at CGC  
16 between 2011 and 2018 and increases in revenues and expenses. This creates a  
17 mismatch in earnings between 2010 and 2018 that would overstate the actual  
18 income tax savings realized by the Company if the savings were based on CGC's  
19 operating income set back in 2010. The tax savings resulting from the reduced  
20 federal income tax rate should be based on the taxable income that generates such  
21 savings.

22  
23 **Q. So what is your recommendation on this issue?**

1 A. Again, the tax savings resulting from the reduced federal income tax rate should  
2 not even be an issue in this case. However, to the extent the tax savings must now  
3 be addressed in this docket, the correct amount is \$582,309.  
4

5 **B. Amortized EDIT Deferral**

6 **Q. What portion of the deferred tax savings regulatory liability is related to the**  
7 **EDIT amortization deferral?**

8 A. The Company reserved \$1,051,005 in EDIT tax savings. In 2018, the Company  
9 amortized \$931,605 of unprotected and protected EDIT. To account for activity  
10 prior to the implementation of new rates, the EDIT amortization was then prorated  
11 for the January through October timeframe to arrive at an EDIT amortization of  
12 \$776,337. Once the prorated amount was determined, it was grossed-up for taxes  
13 and recorded as a reduction to revenues with an equal offsetting entry to the tax  
14 savings regulatory liability account. The EDIT amortization for 2018 reflects the  
15 Company's finalized 2017 tax return and utility plant activity for 2018.  
16

17 **Q. Does the 2018 EDIT amortization align with the amount presented and**  
18 **approved in the Company's rate case Docket No. 18-00017?**

19 A. No. The EDIT balance and amortization is segmented into two components,  
20 protected and unprotected. The protected portion of the EDIT amortization approved  
21 as part of Docket No. 18-00017 for 2018, was subject to change pending the  
22 finalization of the 2017 tax return and the overall utility plant activity for 2018. As  
23 such, the final protected EDIT amortization for 2018 is \$430,609 compared to the

1 approved estimated amortization for 2018 of \$396,378. Unprotected EDIT  
2 amortization for 2018 is \$500,995, which aligns with the amount approved in  
3 Docket No. 18-00017.  
4

5 **C. Disposition of Disputed Amounts**

6 **Q. How does the Company propose to dispose of the deferred tax savings**  
7 **regulatory liability?**

8 A. The Company proposes to recognize and retain the tax savings in the current  
9 period. An adjustment would also be made to the current period rate of return  
10 calculation to remove any impacts as a result of retaining the tax savings.  
11

12 **Q. What is the basis for the Company's proposal to recognize and retain the**  
13 **deferred tax savings?**

14 A. The Company is proposing to recognize and retain the deferred tax savings because  
15 it did not earn its authorized rate of return for 2018, even with two months of rate  
16 relief. Exhibit GT-2 provides the calculation of the Company's 2018 rate of  
17 return, the calculation reflects the current authorized rate of return and rate  
18 making adjustments approved in Docket No. 18-00017. As shown in Exhibit GT-  
19 2, the Company earned a rate of return of 5.54% for calendar year 2018. The  
20 current authorized rate of return set in Docket No. 18-00017 is 7.12%. The  
21 difference between the authorized rate of return of 7.12% and actual rate of return  
22 of 5.54%, represents a revenue deficiency for the Company of \$2.9 million. If

you apply the former authorized rate of return of 7.41%, which was the rate of return in place January – October 2018, the revenue deficiency is even greater.

**Q. Would the recognition of the deferred tax savings result in the Company earning its authorized rate of return?**

A. No, recognizing the deferred tax savings reduces this shortfall and produces a rate of return of 6.42%, still below the Company's current authorized rates of return, of 7.12% and the former rate of return of 7.42%, and represents a revenue deficiency of \$1.3 million using the 7.12% rate of return.

**Q. Do you believe that the Company's proposal to retain the deferred EDIT tax benefit is reasonable and appropriate?**

A. Yes. The Company's recent rate case filing was delayed by approximately two months, and rate relief was deferred primarily due to the passage of the Act. While the rates in effect prior to November 1, 2018, reflected the higher corporate tax rate, as demonstrated in Exhibit GT-2, even using the lower overall rate of return approved in the 2018 rate case, Chattanooga Gas was still underearning. By allowing Chattanooga Gas to recognize the deferred tax benefit, the Company will be afforded a partial offset to the insufficiency of the Company's total rates for 2018.

## IV. CONCLUSION

**Q. Has CGC calculated the correct amounts associated with the two issues set for hearing in this matter?**

1       A.     Yes, as my testimony provides, and the attached exhibits reflect, the Company has a  
2             total deferred tax savings regulatory liability balance of \$1,633,314. Of this amount,  
3             \$582,309 is the regulatory liability balance due to the reduction in the federal  
4             income tax rate, with EDIT tax savings of \$1,051,005.

5  
6       **Q.     Is CGC's proposal to retain the EDIT amounts and tax savings in the public**  
7             **interest?**

8       A.     Yes, they are. As a factual matter, the Commission has the function of providing  
9             utilities with an opportunity to earn its fair and reasonable return. In granting rate  
10            relief in the Amended Order, the Commission explicitly recognized that CGC would  
11            not be earning its rate of return without rate relief. Moreover, as my testimony  
12            demonstrates, retaining these savings still leaves CGC below its authorized return by  
13            more than 100 basis points based upon its then effective rate of return. While any  
14            deficiency is bad, a rate of return deficiency of more than 100 basis points is cause  
15            for serious concern. With the relief granted in the Amended Order, the Commission  
16            addressed CGC's ability to earn its return on a going forward basis. The Company  
17            is now requesting the Commission to partially offset the deficiency for January to  
18            October 2018 by allowing CGC to retain these tax savings.

19  
20       **Q.     Does this conclude your direct testimony?**

21       A.     Yes.

**Chattanooga Gas Company**  
**Calculation of Total Tax Savings - Regulatory Liability Balance**  
**January 1, 2018 through October 31, 2018**

**Calculation of EDIT Amortization Deferral**

Federal	\$ 409,443
Federal Offset	(46,907)
State	68,074
Amortization of Protected EDIT	\$ 430,609
Amortization of Unprotected EDIT	500,995
Total Amortization of EDIT - Protected & Unprotected	\$ 931,605
Factor to Prorate EDIT Amortization for January through October	83.33%
Prorated Deferred EDIT Amortization	\$ 776,337
Tax Gross-Up Factor	135.38%
EDIT - Regulatory Liability Balance	\$ 1,051,005

**Calculation of Income Tax Savings Deferral**

January through October Earnings before Taxes (EBT)	\$ 3,285,938
Change in Composite Income Tax Rate	13.09%
Income Tax Savings Deferral	\$ 430,129
Tax Gross-Up Factor	135.38%
Income Tax Savings - Regulatory Liability Balance	\$ 582,309

Total Tax Savings - Regulatory Liability Balance	\$ 1,633,314
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<b>Change in Composite Tax Rate</b>	<b>Old Rate</b>	<b>New Rate</b>
	100.00%	100.00%
State Excise tax rate	6.50%	6.50%
Subject to Federal Taxation	93.50%	93.50%
Federal Income Tax rate	35.00%	21.00%
Federal Taxes after State deduction	32.73%	19.64%
Composite Income Tax Rate	39.23%	26.14%
Change in Composite Income Tax Rate		13.09%

**Chattanooga Gas Company**  
**Rate of Return Computed in Accordance with Docket 18-00017**  
**Twelve Months Ended December 31, 2018**

Line #		Average For 12 MTD
	<b>Additions</b>	
1	Utility Plant (1)	\$ 283,403,456
2	Construction Work In Progress (1)	16,947,643
3	Postretirement Retirement Benefits	-
4	Materials & Supplies & Gas Stored	9,293,478
5	Working Capital	816,788
6	<b>Total Additions</b>	<b>\$ 310,461,364</b>
	<b>Deductions</b>	
7	Accumulated Depreciation (1)	\$ (126,675,845)
8	Accumulated Deferred Income Tax (1) (2)	(45,274,892)
9	Unamortized Investment Credit-Pre 1971	-
10	Customer Deposits	(1,396,969)
11	Other Deductions (Itemize)	-
12	Contribution In Aid Of Construction	-
13	Customer Advances For Construction	-
14	Accrued Interest On Customer Deposits	(336,542)
15	<b>Total Deductions</b>	<b>\$ (173,684,248)</b>
16	<b>Rate Base</b>	<b>\$ 136,777,116</b>
17	<b>Net Operating Income (NOI)</b>	<b>\$ 5,540,114</b>
	<b>Adjustments to NOI (Itemized)</b>	
18	PUHCA Income Tax Adjustment	(57,269)
19	Adjust taxes to Statutory rate	300,764
20	Allowance for Funds During Construction	376,639
21	Interest On Customer Deposits	(80,176)
22	Interest Synchronization	(20,840)
23	Pension	256,200
24	OPEB	(132,654)
25	Incentive Compensation Disallowance	609,334
26	Income Tax - On Other Income	96,138
27	Eliminate prom./goodwill advertising (3)	139,909
28	Removal of Lobbying Expense	41,312
29	Removal of AMA Sharing Revenue	(433,957)
30	Adjustment for AUA and RC Write-off	937,195
31	<b>Adjusted Net Operating Income</b>	<b>\$ 7,572,706</b>
32	<b>Rate of Return (L31/L16)</b>	<b>5.54%</b>
33	Add Back Deferred EDIT Tax Benefits	776,337
34	Add Back Deferred Income Tax Benefits	430,129
35	<b>Net Operating Income adjusted for TC&amp;JA Deferrals</b>	<b>\$ 8,779,173</b>
36	<b>Adjusted Rate of Return (L35/L16)</b>	<b>6.42%</b>
37	<b>Authorized Rate of Return</b>	<b>7.12%</b>
38	Required Operating Income to Earn Authorized ROR	\$ 9,737,163
39	Operating Income	\$ 7,572,706
40	Current Operating Income Deficiency	\$ (2,164,457)
41	Tax Gross-Up Factor	135.38%
42	<b>Revenue Deficiency</b>	<b>\$ (2,930,241)</b>

(1) Includes AGL Services Company allocated:	Average For 12 MTD
Plant	2,632,512
CWIP	1,430,879
Accumulated Depreciation	(1,056,680)
ADIT	(273,144)

(2) Includes adjustments for deferred income tax related to Pensions and OPEBs.

(3) Includes promotional adv., civic and community affairs, and shareholder funded outreach.