

BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION
NASHVILLE, TENNESSEE

December 6, 2019

IN RE:)	
)	
CHATTANOOGA GAS COMPANY)	Docket No.
COMPLIANCE FILING AND)	
REPORT)	18-00035
)	

CHATTANOOGA GAS COMPANY'S
FIRST SET OF DISCOVERY TO THE CONSUMER ADVOCATE

To: Office of the Tennessee Attorney General
Consumer Advocate Unit, Financial Division
c/o Daniel P. Whitaker III, Esq.
Karen H. Stachowski, Esq.
Vance Broemel, Esq.
P.O. Box 20207
Nashville, Tennessee 37202-0207
301 6th Avenue North
Nashville, Tennessee 37243

These discovery requests are hereby served upon the Office of the Tennessee Attorney General, Consumer Advocate Unit, Financial Division ("Consumer Advocate") by Chattanooga Gas Company ("CGC" or "Company") pursuant to Rules 26, 33, 34 and 36 of the Tennessee Rules of Civil Procedure and Tenn. Comp. R. & Reg. 1220-1-2-.11, and the Orders of the Tennessee Public Utility Commission ("TPUC") in this docket dated June 27, 2019, and September 26, 2019. CGC requests that full and complete responses be provided pursuant to the Tennessee Rules of Civil Procedure and the orders of the TPUC. The Consumer Advocate's responses are to be produced at the offices of Butler Snow LLP, 150 3rd Avenue South, Suite

1600, Nashville, TN 37201 on or before December 20, 2019. As available, emailed copies of responses are requested to be provided to Mr. Luna and Mr. Self.

PRELIMINARY MATTERS AND DEFINITIONS

Each discovery request calls for all knowledge, information, and material available to the CONSUMER ADVOCATE, as a party, whether it be the CONSUMER ADVOCATE, in particular, or knowledge, information, or material possessed or available to the CONSUMER ADVOCATE through its employees, representatives, agents, experts, or consultants.

These discovery requests are to be considered continuing in nature as is required by the Tennessee rules, and are to be supplemented from time to time as information is received by the CONSUMER ADVOCATE or any of its employees, representatives, agents, experts, or consultants which would make a prior response inaccurate, incomplete, or incorrect.

For each discovery request, provide the name of the witness(es) or employee(s) responsible for compiling and providing the information contained in each response.

For purposes of these discovery requests, the term “you” shall mean and include the CONSUMER ADVOCATE and all employees, agents, and representatives thereof.

As used herein, the term “document” shall have the broadest possible meaning under applicable law. “Document” as used herein means any medium upon which intelligence or information can be recorded or retrieved, such as any written, printed, typed, drawn, filmed, taped, electronic, or recorded medium in any manner, however produced or reproduced, including but not limited to any writing, drawing, graph, chart, form, work paper, spreadsheet, email note, photograph, tape recording, computer disk or record, or other data compilation in any form without limitation. You shall produce the original and each copy, regardless of origin or location, of any document, including but not limited to any book, pamphlet, periodical,

publication, letter, correspondence, note, report, survey, summary, draft, work paper, memorandum (including memoranda, note or report of a meeting or conversation), projection, comparison, evaluation, telephone call records, transcripts, witness statements, minutes or statistical compilation, spreadsheet, photograph, videotape, audio tape, computer disk, other electronic record or tape or printout, e-mail or electronic email files, or any other written, typed, reported, transcribed, punched, taped, filmed, or graphic matter, however produced or reproduced, which is in your possession, custody or control. If any such document or thing was, but no longer is, in your possession or control, state what disposition was made of it and when.

If you produce documents in response to these discovery requests, produce the original of each document or, in the alternative, produce a copy of each original document and identify the location of the original document. If the original document is itself a copy, that copy should be produced as the original.

If a document exists in different versions, including any dissimilar copies (such as a duplicate with handwritten notes on one copy), each version shall be treated as a different document and each must be identified and produced.

As used herein, the terms “and” and “or” shall be construed conjunctively or disjunctively as necessary to include any information that might otherwise be construed outside the scope of these requests.

As used herein, the term “communication” means any transmission of information by oral, graphic, pictorial or otherwise perceptible means, including but not limited to personal conversations, telephone conversations, letters, memoranda, telegrams, electronic mail, newsletters, recorded or handwritten messages, or otherwise.

If you contend that you are entitled to refuse to fully answer any of the discovery requests, state the exact legal basis for each such refusal.

If any of the discovery requests are not answered on the basis of privilege or immunity, include in your response to each such request a written statement evidencing:

- a. A complete explanation of the privilege being asserted;
- b. The nature of the communication, document, or information;
- c. The date of the communication, document, or information;
- d. The identity of the persons present at such communication or who prepared the document or information; and
- e. A brief description of the communication, document, or information sufficient to allow the Authority to rule on a motion to compel.

If, for any reason, you are unable to answer a discovery request fully, submit as much information as is available and explain why your answer is incomplete. If precise information cannot be supplied, submit 1) your best estimate, so identified, and your basis for the estimate and 2) such information available to you as comes closest to providing the information requested. If you have reason to believe that other sources of more complete and accurate information exist, identify those sources.

“Identify” or “identifying” or “identification” when used herein with respect to any document means to provide a description of the document, including but not limited to the type of document (e.g., letter, memorandum, etc.), the date of the document, the title or label of the document, the identity of the person(s) who authored the document, was a recipient of the document, or possessed a copy of the document, and the current location of the document. “Identify” or “identifying” or “identification” when used herein with respect to any person or

entity means without limitation the name of the person or entity and the current contact information (including but not limited to the daytime telephone number and address).

If any information requested is not furnished as requested, state where and how the information may be obtained or extracted, the person or persons having knowledge of the procedure, and the person instructing that the information be excluded.

CGC FIRST DISCOVERY REQUESTS TO THE CONSUMER ADVOCATE

1. Do you agree that the purpose of this docket is to prevent CGC from receiving windfall profits due to the reduction in the federal corporate tax rate from 35% to 21% resulting from the 2017 Tax Cuts and Jobs Act ("2017 Tax Act"). If not, please explain the Consumer Advocate's understanding as to the purpose of this docket.

RESPONSE:

2. How does the TPUC measure the profitability of a utility? In responding to this request, please identify the metric(s) to be used in such an assessment.

RESPONSE:

3. Do you agree that a utility's authorized rate of return or return on equity is how the Tennessee Public Utility Commission measures the overall profitability of a utility? In responding to this request, explain your response.

RESPONSE:

4. How many basis points above a utility's authorized rate of return does that utility's earnings become excessive or a windfall? Is there any other measure by which a utility's earnings would be excessive or a windfall? In responding to this request, explain your response.

RESPONSE:

5. If a utility is earning below its authorized rate of return, and as a result of a reduction in the federal corporate tax rate the utility's earnings are still below its authorized rate of return, would the utility be experiencing excessive or windfall profits? In responding to this request, explain your response.

RESPONSE:

6. If as a result of a reduction in the federal corporate tax rate a utility was still earning below its authorized rate of return, could that utility file for a general rate case and seek an increase in rates in order to have an opportunity to earn its rate of return? In responding to this request, explain your response.

RESPONSE:

7. For purposes of this request, assume the following:

- Tax Cuts and Jobs Act required an increase in the corporate tax rate from 35% to 49% as opposed to a decrease from 35% to 21%, and
- Chattanooga Gas was in an over earning position in 2018.

(a) Would the Consumer Advocate's positions and methodologies currently used in this proceeding be the same? (b) Would the Consumer Advocate object to full recovery of the impact in the increase in the income tax rate regardless of the earnings position of Chattanooga Gas?

RESPONSE:

8. With respect to the other four large utilities subject to the TPUC's February 6, 2018, Order in Docket No. 18-00001 (i.e., Atmos Energy, Kingsport Power, Piedmont Natural Gas, and Tennessee American Water), did the TPUC ultimately reduce rates for each of these utilities in their individual tax dockets? For each such utility for which rates were reduced, was that utility earning below its authorized rate of return for 2018 before rates were reduced? As applicable, please explain your answer and identify the documents relied upon.

RESPONSE:

9. To the extent the Consumer Advocate is presently aware, did other state utility commissions address the effect of the lower federal corporate tax rate by always reducing rates? Specifically, is the Consumer Advocate aware of any situations in other states where a utility was earning below its authorized rate of return and the utility was able to retain the revenues associated with the tax savings for 2018 or other years and not reduce rates or be required to take other offsets (depreciation, riders, etc.)?

RESPONSE:

10. Did the Consumer Advocate agree that all of the issues associated with the 2018 Tax Act were to be addressed in CGC's rate case in Docket No. 18-00017? If not, please explain why.

RESPONSE:

11. In CGC's rate case in Docket No. 18-00017, did the Consumer Advocate, in its testimony, brief, and other filings, address, state, discuss, or otherwise advocate its position with respect to all of the 2018 Tax Act issues it believed were relevant and necessary to be addressed by the TPUC? If not, please explain what was omitted and why it was not addressed.

RESPONSE:

12. Does the Consumer Advocate agree that in CGC's rate case final order, the Amended Order issued January 15, 2019, in Docket No. 18-00017, that the only issue expressly sent back to this docket, Docket No. 18-00035, was the EDIT issue that has been identified as Issue 1 in this proceeding by the Order Establishing Issues, issued June 27, 2019? If the Consumer Advocate believes any other issue was expressly referred back to this docket, please provide the page number of the Amended Order and quote the language making such a referral.

RESPONSE:

13. Identify any TPUC (or predecessor agencies to the TPUC) orders that Mr. Dittmore relied upon for his testimony regarding the application of the filed rate doctrine.

RESPONSE:

14. Identify any Tennessee judicial decisions that Mr. Dittimore relied upon for his testimony regarding the application of the filed rate doctrine.

RESPONSE:

15. Identify any non-Tennessee regulatory agency orders or judicial decisions that Mr. Dittimore relied upon for his testimony regarding the application of the filed rate doctrine.

RESPONSE:

Respectfully submitted this 6th day of December, 2019.



J. W. Luna, Esq. (No. 5780)
Butler Snow LLP
150 3rd Avenue South, Suite 1600
Nashville, TN 37201
(615) 651-6749
(615) 651-6701 facsimile
JW.Luna@butlersnow.com

and

Floyd R. Self, Esq. (Fla. Bar # 608025)
Berger Singerman LLP
313 North Monroe Street, Suite 301
Tallahassee, Florida 32301
Direct Telephone: (850) 521-6727
Facsimile: (850) 561-3013
Email: fself@bergersingerman.com

Attorneys for Chattanooga Gas Company

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing has been provided electronically via e-mail on this the 6th day of December, 2019 to:

Office of the Tennessee Attorney General
Consumer Advocate Unit, Financial Division
c/o Daniel P. Whitaker III, Esq.
Karen Stachowski, Esq.
Vance Broemel, Esq.
P.O. Box 20207
Nashville, TN 37202-0207

A handwritten signature in blue ink is written over a horizontal line. The signature is stylized and appears to be "D. Whitaker III".