BEFORE THE
TENNESSEE PUBLIC UTILITY COMMISSION

REBUTTAL TESTIMONY OF
GARY A. TUCKER

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

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. Have you previously submitted testimony before the Tennessee Public Utility Commission ("Commission") in this proceeding?

A. Yes. I provided direct testimony and exhibits to the Commission in this proceeding.

Q. What is the purpose of your rebuttal testimony?

A. The purpose of my rebuttal testimony is to respond to the Direct Testimony of Mr. David Dittemore provided in this proceeding, submitted on behalf of the Consumer Advocate ("Advocate").

Q. Are you sponsoring exhibits in connection with your rebuttal testimony?

A. Yes, I am sponsoring in rebuttal Exhibits GT-3 and GT-4. Exhibits GT-3 and GT-4 are revised versions of Exhibits GT-1 and GT-2, incorporating the removal of the impacts of the state EDIT amortization identified in data request response CAU-1-2. The overall difference between Exhibit GT-1 and Exhibit GT-3 is a reduction in the deferred EDIT regulatory liability balance of $50.1 thousand. The change in the EDIT regulatory liability balance and the resulting impact to the rate of return from the retention of this amount is shown in Exhibit GT-4. The adjusted rate of return shown in Exhibit GT-4 is 6.39% compared to 6.42% shown in Exhibit GT-2.

Q. How will your testimony be presented?

A. My testimony will be presented in four sections as follows.

- Section I – Disputed Scope of this Proceeding
- Section II – The Advocates Calculation of Income Tax Savings
- Section III – The Advocates Position on CGC's Retention of Deferred Tax Savings
- Section VI – Conclusions and Recommendations

<u>Section I – Disputed Scope of this Proceeding</u>

Q. Is the Advocate's claim that you failed to mention that the Commission's Final Order in Docket No. 18-00017 is "silent" regarding the income tax savings, correct?

A. No. I did not fail to mention, as the Advocate asserts on page 6 of Mr. Dittemore's testimony, that the Commission's Order is silent or does not address the income tax savings. In my direct testimony at page 6 I clearly state that the Commission did not specifically direct the Company to address the income savings in this docket. I went on to say that only the EDIT issue was expressly addressed and referred back to Docket No. 18-00035. The referral back to this docket of only the EDIT issue has been acknowledged by the Consumer Advocate in response to CGC's Discovery Request No. 12. My testimony on the income tax savings issue is anything but silent since at pages 6 and 7, I thoroughly document the Commission's conclusions on this matter.

Q. So you in your testimony, and the Commission in the rate case final order, addressed the 2018 Income Tax Savings?

A. Yes. As stated in my direct testimony, the Amended Final Order in Docket No. 18-00017, at pages 40, 41, 93 and 100, sets zero or null values for the 2018 income tax savings. Since the Commission specifically sent the EDIT issue back to this docket, if the Amended Final Order had not decided the 2018 tax savings to be zero it also would have specifically sent that issue back here as well. The Order does not do that. Given that this issue was considered and decided by the Commission to be zero, no further action is necessary or appropriate by the Commission in this docket.

<u>Section II – The Advocates Calculation of Income Tax Savings</u>

Cost of Service Versus Use of 2018 Earnings

Q. The Advocate provides a calculation of income tax expense savings based on Chattanooga Gas Company's ("CGC") last approved base rate case, Docket No. 09-00183. Do you believe this calculation is the best approach in determining income tax expense savings for CGC?

A. No, primarily because the use of the tax expense approved in Docket No. 09-00183 does not reflect substantial increases in capital investments made at CGC between 2011 and 2018 and increases in revenues and expenses over this time frame. As stated in my direct testimony, the use of the tax expense approved in Docket No. 09-00183 creates a mismatch in earnings between 2010 and 2018 that overstates the actual income tax savings realized by the Company. The tax savings resulting from the reduced federal income tax rate should be based on the regulatory taxable income that generates such savings.

Q. In what instance do you believe the Commission's approach is most applicable and/or appropriate?

A. It is my belief that the Commission's approach in determining income tax savings would be most applicable and/or appropriate for a utility that has either recently performed a rate case or has experienced little change in its net rate base and overall cost of service. However, if rates have not been recently reset or there have been increases in rate base and the cost of service, then the tax expense deferral based on the Commission's approach could be in excess of the tax benefit actually realized, and this is the case at CGC. I do not believe the Commission intended for the calculation of the tax reserve for income tax savings to be in excess of the benefit recognized as a result of the Tax Cuts and Jobs Act ("Act"). While I believe the Commission's approach for calculating the tax reserve is appropriate when applied broadly to all utilities and that they are seeking a balanced approach to assess whether excess profits have been incurred and reserved, the method by which it has requested the income tax savings deferral to be calculated does not accomplish its intent for CGC.

Q. If actual earnings from January to October 2018 produced a higher income tax savings deferral compared to the amount calculated using tax expense approved in the Company's cost of service, would your position and calculation be the same?

A. Yes, CGC's position and calculation of the income tax savings deferral would be the same.

Apportionment of Income Tax Savings

Q. Notwithstanding your belief that the approach used by the Advocate is not the best approach for CGC, do you agree that the Advocate's calculation of income tax savings is reasonable and follows the Commission's directive for calculating income tax savings as prescribed in Docket No. 18-00001?

A. Yes, it is a reasonable estimate using the cost of service amount as the basis for the calculation of the deferral. However, as discussed in my direct testimony on page 9 supporting the use of 2018 earnings rather than the cost of service tax expense, the calculation of income tax savings should be calculated in a manner that recognizes that earnings are not realized equally over a twelve-month period. That is to say, simply using the number of months prior to new rates or 10/12 produces a reasonable income tax savings deferral amount, but it is not the most accurate approach.

Q. What would the income tax savings deferral be if you were to use the income tax savings as calculated by the Advocate but apportion the savings using CGC's margin from January through October 2018 rather than the straight-line method used by the Advocate?

A. Using CGC's 2018 margin from January through October, the allocation factor would be 78.8%, which produces a total income savings reserve of $798 thousand compared to the Advocates calculation of $844 thousand. Again, this approach is more accurate as it recognizes that earnings are not realized on a straight-line basis as calculated by the Advocate.

Section III – The Advocates Position on CGC's Retention of Deferred Tax Savings

Q. Do you take issue with the Advocate's position on CGC's request to retain the tax savings based on under-earnings for 2018?

A. Yes. The Advocate states that whether CGC is under-earning is not a relevant consideration in determining the disposition of the 2018 deferred tax savings. However, I believe total earnings determine profitability and that focusing on only one aspect of a utility's earnings, such as the tax savings resulting from the Act, would lead to non-compensatory rates and unfair results.

Q. Please explain further why total earnings are a relevant consideration for the Commission.

A. In Docket No. 18-00001, page 3 Findings and Conclusions, the Order states that "*Commission review and action is necessary in order to investigate to prevent utilities from receiving windfall profits*." Whether a utility experiences "windfall profits" can only be determined from an analysis of the utility's total earnings and a review of the Company's rate of return or return on equity viewed both before and after the tax benefit. A refund should not be ordered merely based upon one revenue source being greater than that which was calculated when setting rates. Rather, the Commission should look at all revenue sources in the aggregate, like all expenses and return on investment, and then determine whether the utility was earning above its authorized rate of return. In this case, CGC was earning below its authorized return.

Q. The Advocate states that rates should have been requested to be established in a timelier manner if the Company believed its 2018 rates were unreasonable. Did the passage of the Act delay the Company's rate application and rate relief?

A. Yes, as I pointed out in my direct testimony, the passage of the Act delayed the filing of CGC's general rate case and therefore the rate relief granted by the Commission by approximately two months. This statement is not an assertion or claim that there should be retroactive rates to remedy this delay, but information provided to the Commission to weigh in its decision on whether windfall profits were experienced through the collection of revenues based on the rates approved and filed with this Commission.

Q. Is the Advocate's assertion that the Company's request to retain the deferred tax savings violates the Filed Rate Doctrine correct?

A. No. Like Mr. Dittemore, I am not an attorney, but I believe the Advocate has misapplied or misconstrued the Filed Rate Doctrine to the Company's request to retain the tax savings. The Filed Rate Doctrine means that filed and approved rates are presumed reasonable until they are proven to not be reasonable, which is a function of the utility's overall rate of return, with any rate changes made prospectively. There is no violation of retroactive ratemaking, or of the Filed Rate Doctrine, when CGC seeks to retain revenues due to a tax change when the utility's overall rate of return is still not achieved even when those tax revenues are retained. Since the Commission had previously set what is a reasonable rate of return for CGC, then an overcollection of tax revenues – or an overcollection of any other revenue component – does not merit a refund when the combination of all revenues and expenses still places CGC's return below its authorized return.

Q. Could you further elaborate on how the Advocate has not applied the Filed Rate Doctrine consistently in their argument?

A. Yes. The Advocate is saying that the tax rate change should be viewed in complete isolation, and because the tax rate went down, so should the rates for that period regardless of the utility's overall earnings situation or return for that period or rates approved and filed with this Commission. The Company is ***not*** seeking to collect from ratepayers under-earnings for 2018 or collect more in future rates as a result of under-earnings or requesting to recover more than its filed tariffs would allow. The Company is simply seeking to retain the revenues it collected based on rates approved and filed with this Commission, which in the aggregate put its total earnings below its authorized rate of return. To grant the Advocate's request would force the Company into an even greater under-earnings position.

Q. Does the Advocate at any point argue or deny the basis of the Company's case to retain the tax savings which is that the Company was earning less than its authorized rate of return in 2018?

A. No, the Advocate does not address or rebut the Company's position that it was under-earning in 2018.

Q. Are there any other inaccurate claims in the Advocates testimony?

A. Yes. On page 8, the Advocate states that *"The Company is essentially arguing that it has a regulatory asset (under-earnings) that more than offsets the regulatory liability."* This is not the Company's argument and its basis for retention of the tax savings should not be misconstrued in this manner. Total additional revenues for 2018 needed to earn its authorized rate of return are $2.9 million. However, the Company has ***not*** requested to recover $2.9 million in revenues or requested to reset rates so this amount could be collected prospectively. The total revenue needed to meet the authorized rate of return was merely provided in Exhibit GT-2 to demonstrate that retention of the total tax savings would still leave the Company in an under-earnings position, not to imply that this amount should be collected. Again, the Company is only requesting to retain the revenues it has already collected, through rates filed and approved by this Commission, since retaining those revenues would still result in CGC earning less than its authorized rate of return for 2018.

Section VI – Conclusions and Recommendations

Q. Please summarize your conclusions.

A. The Advocate did not provide compelling evidence that the Commission "*declined to address*" the deferred income tax savings but merely echoes that which was stated in my testimony that the Commission did not expressly discuss the issue or send the issue back to this, Docket No. 18-00035. Next, the Advocate's calculation of income tax savings overstates actual income tax expense incurred by the Company for the period and fails to recognize the many changes that have taken place at the Company since rates were previously implemented in 2010. Finally, the Advocate fails to address the basis of the Company's argument to retain the tax savings based on the fact that the Company earned less than its authorized rate of return in 2018. In fact, as provided in Exhibit GT-4, CGC would continue to be below its authorized rate of return for 2018 even if it is allowed to retain the income tax savings. Based on these facts, I request that the Commission accept the Company's proposal to retain the deferred tax savings.

Q. Does this conclude your rebuttal testimony?

A. Yes.

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

Line	**Calculation of EDIT Amortization Deferral**	**Filed**		**Revised**
1	Federal	$ 409,443		$ 409,443
2	Federal Offset	(46,907)		(23,246)
3	State	68,074		-
4	Amortization of Protected EDIT	$ 430,609		$ 386,196
5	Amortization of Unprotected EDIT	500,995		500,995
6	Total Amortization of EDIT - Protected & Unprotected	$ 931,605		$ 887,192
7	Factor to Prorate EDIT Amortization for January through October	83.33%		83.33%
8	Prorated Deferred EDIT Amortization	$ 776,337		$ 739,326
9	Tax Gross-Up Factor	135.38%		135.38%
10	EDIT - Regulatory Liability Balance	$ 1,051,005		$ 1,000,900
11	**Calculation of Income Tax Savings Deferral**			
12	January through October Earnings before Taxes (EBT)	$ 3,285,938		$ 3,285,938
13	Change in Composite Income Tax Rate	13.09%		13.09%
14	Income Tax Savings Deferral	$ 430,129		$ 430,129
15	Tax Gross-Up Factor	135.38%		135.38%
16	Income Tax Savings - Regulatory Liability Balance	$ 582,309		$ 582,309
17	Total Tax Savings - Regulatory Liability Balance	$ 1,633,314		$ 1,583,209
18	**Reduction in Reserved balance:**			**$ (50,105)**
19	**Change in Composite Tax Rate**	Old Rate		New Rate
20		100.00%		100.00%
21	State Excise tax rate	6.50%		6.50%
22	Subject to Federal Taxation	93.50%		93.50%
23	Federal Income Tax rate	35.00%		21.00%
24	Federal Taxes after State deduction	32.73%		19.64%
25	Composite Income Tax Rate	39.23%		26.14%
26	Change in Composite Income Tax Rate			13.09%

Chattanooga Gas Company
Rate of Return Computed Per Docket 18-00017
Twleve Months Ended December 31, 2018

		Filed		Revised
Line #		Average For 12 MTD		Average For 12 MTD
	Additions			
1	Utility Plant (1)	$ 283,403,456		$ 283,403,456
2	Construction Work In Progress (1)	16,947,643		16,947,643
3	Postretirement Retirement Benefits	-		-
4	Materials & Supplies & Gas Stored	9,293,478		9,293,478
5	Working Capital	816,788		816,788
6	Total Additions	$ 310,461,364		$ 310,461,364
	Deductions			
7	Accumulated Depreciation (1)	$ (126,675,845)		$ (126,675,845)
8	Accumulated Deferred Income Tax (1) (2)	(45,274,892)		(45,274,892)
9	Unamortized Investment Credit-Pre 1971	-		-
10	Customer Deposits	(1,396,969)		(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)		(336,542)
15	Total Deductions	$ (173,684,248)		$ (173,684,248)
16	Rate Base	$ 136,777,116		$ 136,777,116
17	Net Operating Income (NOI)	$ 5,540,114		$ 5,540,114
	Adjustments to NOI (Itemized)			
18	PUHCA Income Tax Adjustment	(57,269)		(57,269)
19	Adjust taxes to Statutory rate	300,764		300,764
20	Allowance for Funds During Construction	376,639		376,639
21	Interest On Customer Deposits	(80,176)		(80,176)
22	Interest Synchronization	(20,840)		(20,840)
23	Pension	256,200		256,200
24	OPEB	(132,654)		(132,654)
25	Incentive Compensation Disallowance	609,334		609,334
26	Income Tax - On Other Income	96,138		96,138
27	Eliminate prom./goodwill advertising (3)	139,909		139,909
28	Removal of Lobbying Expense	41,312		41,312
29	Removal of AMA Sharing Revenue	(433,957)		(433,957)
30	Adjustment for AUA and RC Write-off	937,195		937,195
31	Adjusted Net Operating Income	$ 7,572,706		$ 7,572,706
32	Rate of Return (L31/L16)	5.54%		5.54%
33	Add Back Deferred EDIT Tax Benefits	776,337		739,326
34	Add Back Deferred Income Tax Benefits	430,129		430,129
35	Net Operating Income adjusted for TC&JA Deferrals	$ 8,779,173		$ 8,742,162
36	**Adjusted Rate of Return (L35/L16)**	**6.42%**		**6.39%**
37	**Authorized Rate of Return**	**7.12%**		**7.12%**
38	Required Operating Income to Earn Authorized ROR	$ 9,737,163		$ 9,737,163
39	Operating Income	$ 7,572,706		$ 7,572,706
40	Current Operating Income Deficiency	$ (2,164,457)		$ (2,164,457)
41	Tax Gross-Up Factor	135.38%		135.38%
42	**Revenue Deficiency**	**$ (2,930,241)**		**$ (2,930,241)**

(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.