

**BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION  
NASHVILLE, TENNESSEE**

<b>IN RE:</b>	)	
	)	
<b>CHATTANOOGA GAS COMPANY</b>	)	
<b>PETITION TO OPT INTO AN</b>	)	<b>DOCKET NO. 20-00049</b>
<b>ANNUAL REVIEW OF RATES</b>	)	
<b>MECHANISM PURSUANT TO</b>	)	
<b>TENN. CODE ANN. § 65-5-103(d)(6)</b>	)	

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

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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.  
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These discovery requests are hereby served upon the Consumer Advocate Unit in the Financial Division of the Tennessee Attorney General's Office ("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 Order of the Tennessee Public Utility Commission ("TPUC") in this docket dated July 6, 2020. 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 August 20, 2020 at 2:00 p.m. Central. Pursuant to the Commission's requirements, emailed copies of responses also should 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.

### **FIRST DISCOVERY REQUESTS**

1. With respect to Question/Answer 8, beginning on page 4, admit or deny that Mr. Dittemore and Mr. Bradley in their respective testimonies and exhibits identified all of the adjustments that the Consumer Advocate believes need to be made to CGC's 2019 ARM recovery? If denied, identify all further adjustments that the Consumer Advocate believes needs to be made to the 2019 ARM Docket recovery. Your response to this request should not include any prospective issues presented in Mr. Dittemore's Proposed Considerations in Subsequent ARM filings section of his testimony.

#### **RESPONSE:**

2. Does the Consumer Advocate agree that CGC's rate reset period is based upon an adjusted calendar year and therefore any adjustments or normalizations should reflect a full year of activity both for cost of service and rate base? If not, explain why not.

#### **RESPONSE:**

3. Does the Consumer Advocate agree that generally (excluding rate making-adjustments) the activity and balances on CGC books and records for 2020 will be reflected in the calculation of the 2020 deficiency and included in the 2021 ARM filing? If not, explain why not.

#### **RESPONSE:**

4. Explain how carrying charges for two separate periods could be duplicative as discussed by Mr. Dittmore in Q23 on page 10 of his testimony. Specifically, address how the 2019 deficiency balance carrying charges of \$105,602 as shown in CGC Tucker Exhibit GT-1 in Schedule 29 and the 2020 or rate reset period carrying charges of \$24,962 shown in CGC Tucker Exhibit GT-3 based on the 2020 recovery of the deficiency balance are duplicative.

**RESPONSE:**

5. Identify the Commission Order with reference to the specific page number or section containing language that the Consumer Advocate believes authorizes or makes it appropriate for the proposed taxes other than income taxes (“TOTIT”) adjustment to use cash payments rather than the expense amount recorded by the Company to adjust the 2019 ARM deficiency balance.

**RESPONSE:**

6. Mr. Dittmore at page 12, line 5, states that “the legal costs of CGC continue to be very high.” Provide a comprehensive narrative describing the empirical basis for asserting that CGC’s 2019 costs “very high. Please address in this response both the Consumer Advocate’s original testimony as filed as well as the supplemental testimony on this issue.

**RESPONSE:**

7. Identify all text, research papers, and other authoritative documents on which Mr. Dittmore relies to (a) support his position that CGC legal expenses are “very high”; and, (b) evaluate or otherwise determine the reasonableness of a utility’s legal expense. Please address in this response both the Consumer Advocate’s original testimony as filed as well as the supplemental testimony on this issue.

**RESPONSE:**

8. In asserting that CGC's attorney fees "continue to be very high" and that the Consumer Advocate's "expressed concerns with the level of legal costs in CGC's most recent rate case" reflects a "trend of high regulatory legal costs has continued into 2019," does the Consumer Advocate believe that through its participation and advocacy in the CGC rate case that it shares any responsibility for the level of attorney fees incurred in that case? In responding to this request, for the period 2014 through 2020 identify each docket number for the natural gas, electric, and water/wastewater rate proceedings (general rate cases or other cases filed pursuant to Tennessee Code Annotated Section 65-5-103(d)(1)(a)) where the Consumer Advocate has been a party of record and provide the total number of discovery questions, including subparts, that the Consumer Advocate has propounded in each of those proceedings, and then discuss why CGC merited more than 800 discrete discovery questions and the Consumer Advocate presenting its own affirmative rate case that sought a rate reduction after 9 years of no increases that then caused CGC to file 14 sets of rebuttal testimony?

**RESPONSE:**

9. Identify by name the attorneys and other employees of the Office of the Attorney General that participated in Dockets 18-00017, 18-00035, 19-00047, and 20-00049. As used in this discovery request, "participated" includes but is not limited to: the review of Chattanooga Gas Company's petition, motions, testimony and exhibits; drafting, reviewing and/or approving of discovery requests to be issued to Chattanooga Gas Company; reviewing Chattanooga Gas Company's responses to discovery requests; drafting, reviewing and/or approving motions, discovery responses, briefs, and any other pleadings or filings with the Tennessee Public Utility Commission filed on behalf of the Consumer Advocate; drafting, reviewing, and/or approving testimony and exhibits filed on behalf of the Consumer Advocate; and conducting legal or other

research on issues or potential issues to be addressed by Consumer Advocate's witnesses in those proceedings. Attorneys and other employees of the Office of the Attorney General is all inclusive from Attorney General Slatery to any full or part time person, including paid and nonpaid persons, including law clerks. For each person identified in this response, provide the total number of hours that person worked on Dockets 18-00017, 19-00047, and 20-00049, as applicable. The scope of this request does not include employees who for any docket had zero hours, and it also does not include any employees such as legal assistants who had time typing, non-legal proof reading, or filing and emailing responsibilities).

**RESPONSE:**

10. With respect to the outside attorneys, consultants, experts, or such outside vendors the Consumer Advocate has employed, contracted with, or otherwise engaged in the last five years in TPUC or any judicial proceedings, has the Consumer Advocate ever disallowed any fees or costs of such vendors? In responding to this request, provide a copy of any billing guidelines provided to such vendors and an identification of each vendor utilized. In identifying each vendor, also provide the following information for each case the vendor was engaged: the tribunal and case/docket number (whether testifying or not), the hourly rate, the total billed by that vendor (separating out fees and costs), the number of times for that matter in which the Consumer Advocate disallowed any fees and costs, who disallowed such fees or costs, and the total amount of fees and costs disallowed and the reasons for such disallowance.

**RESPONSE:**

11. The following discovery request is based upon the Q51 question and A51 answer on page 22, beginning at line 8 of Mr. Dittimore's pre-filed testimony, which reads:

**Q51. PLEASE DEFINE AFUDC.**



- A51.** AFUDC is the application of carrying charges while construction expenditures are being incurred. These carrying charges terminate at such time as the asset is closed and deemed to be providing service to ratepayers. NARUC's USoA contains the following reference **to** Allowance for Funds Used During Construction:

*“Allowance for funds used during construction includes the net cost for the period of construction of borrowed funds used for construction purposes and a reasonable rate on other funds when so used.”*

Thus, the AFUDC requirement calls for first attributing the cost of short-term debt with **any** remaining financing to be determined from the composite return of the combination of long-term debt and equity.

Identify each and every order, by docket number and date, in which the Tennessee Public Utility Commission, the Tennessee Regulatory Authority, or the Tennessee Public Service Commission adopted this definition of AFUDC instead of the overall rate of return.

**RESPONSE:**

12. With respect to the rate design proposed by the Consumer Advocate in Mr. Dittmore's testimony beginning at page 18, by putting all of the rate increase on volumetric rates as proposed by the Consumer Advocate, if customers consume less gas than projected, will that create a larger potential revenue deficiency for the next ARM filing than if the rate increase is put on the fixed and volumetric charges as proposed by CGC? Explain why or why not.

**RESPONSE:**

13. Mr. Dittmore proposes at page 21, Q49 beginning at line 12, that “CGC should share in the financial burden of COVID-19, just as businesses do in the competitive marketplace.” Does CGC operate in a competitive marketplace for the provisioning of natural gas service? In responding to this request, explain your answer, including a brief summary of the hallmarks of a competitive marketplace, and address whether businesses in a competitive marketplace have their rates of return set by the government and whether those competitive businesses are able to set prices without having to obtain governmental approval. Also address whether Mr. Dittmore's

testimony that “CGC should share in the financial burden of COVID-19” violate the regulatory compact by which regulated public utilities operate? Assuming Mr. Dittemore’s position were to be adopted, where does the Commission draw the line in terms of economic downturns and other events that may be adversely impacting customers, especially an event like COVID-19 that may be having widely different impacts on customers across the spectrum, from little or no impact, to varying degrees of impact, to a major impact?

**RESPONSE:**

14. Provide an Excel workbook demonstrating Mr. Dittemore’s example calculation of AFUDC and how it would result in overstated plant-in-service and AFUDC as he asserts in Q61 on page 27 of his testimony. If support cannot be provided, would Mr. Dittemore remove/recant his examples and assertions on pages 26 and 27 as he is unable to provide verifiable data to support the statements?

**RESPONSE:**

Respectfully submitted this 14<sup>th</sup> day of August, 2020.



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*Attorneys for Chattanooga Gas Company*

**CERTIFICATE OF SERVICE**

I hereby certify that a true and exact copy of the forgoing First Set of Discovery to the Consumer Advocate have been forwarded via electronic mail on this the 14<sup>th</sup> day of August, 2020 to:

Office of the Tennessee Attorney General  
Consumer Advocate Unit, Financial Division  
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