

1 **I. WITNESS INTRODUCTION**

20-00049

2 **Q. Please state your name, title, and business address.**

3 A. I am Paul Leath, Regional Director of Operations, Chattanooga Gas (“Company”
4 or “CGC”) and Northeast Georgia. My business address is 2207 Olan Mills Drive,
5 Chattanooga, Tennessee, 37421.

6 **Q. Are you the same Paul Leath that submitted direct testimony on May 29, 2020,**
7 **in this docket?**

8 A. Yes, I am.

9 **Q. What is the purpose of your rebuttal testimony?**

10 A. My rebuttal testimony addresses three basic issues raised by the Consumer
11 Advocate’s witnesses. First, I respond to the testimony that seeks to have the
12 Commission inappropriately include consideration of potential 2020 COVID-19
13 events in this review of 2019 actual expenses and revenues. Second, I put in context
14 the Southern Company decision to award a dividend increase and why that is
15 completely irrelevant to this proceeding. Finally, I will address Mr. Dittmore’s
16 supplemental testimony regarding attorney fees and why, from an operational
17 standpoint, CGC’s legal costs are prudent and should be fully recovered as
18 proposed by Mr. Tucker.

19 **Q. Are you the only CGC witness providing rebuttal testimony on behalf of CGC?**

20 A. No, I’m not. CGC will also be providing rebuttal testimony by our other direct
21 testimony witnesses, Mr. Archie Hickerson and Mr. Gary Tucker, on several issues.

22 **Q. Are you sponsoring any exhibits with your Rebuttal Testimony?**

1 A. No, I do not.

2 **Q. Before beginning your specific rebuttal points, do you have any general**
3 **response to the testimony filed by the Consumer Advocate?**

4 A. Yes, I do. First, I want to thank the Consumer Advocate for the comments
5 regarding the quality and content of the case our team provided in its initial filing,
6 especially with respect to the extensive documentation we provided and the level
7 of detail. While Mr. Hickerson and Mr. Tucker were leaders on our team and
8 deserve a lot of credit for how our case was prepared and presented to the
9 Commission, there were a lot of analysts, engineers, accountants, attorneys, and
10 others working behind the scenes compiling, analyzing, and preparing the data for
11 presentation to the Commission in a responsive and responsible manner. We very
12 much disagreed with the Consumer Advocate's criticism of the quality and quantity
13 of data we provided in our 2018 rate case. However, we took to heart the
14 constructive criticism and worked through the 2019 ARM Docket to ensure that we
15 had a comprehensive list of documents and data that would constitute our annual
16 rate reviews, and we worked very hard to ensure that we properly and
17 comprehensively provided that data in this case. We appreciate that while we are
18 on opposite sides in this case, that Mr. Dittmore and Mr. Bradley took the time to
19 acknowledge the detailed documentation we presented to the Commission
20 consistent with the Commission's 2018 rate case docket and our 2019 ARM Docket
21 orders. This process was only possible because of the Consumer Advocate, Party

1 Staff, CRMA, and the Company working together in the 2019 ARM Docket to
2 establish a workable process for us to follow in these cases.

3
4 **II. SPECIFIC REBUTTAL**

5 **Q. In general, how does the Consumer Advocate's case line up with CGC's case?**

6 A. In general, we're not very far apart. First and most importantly, the Consumer
7 Advocate agrees with our proposal to accelerate certain tax credits and benefits to
8 reduce the overall rate adjustment. Mr. Tucker will address the timing differences
9 between CGC's approach versus what Mr. Dittmore is proposing. But the bottom
10 line is we agree that those tax credits and benefits should be accelerated and used
11 now to the benefit of our customers to reduce the size of the otherwise rate increase.

12 Second, a review of all of the financial testimony of both CGC and the
13 Consumer Advocate reveals that the revenue deficiency range of numbers, after
14 applying the accelerated tax credits and benefits, is fairly close, with some of the
15 differences driven by policy changes as opposed to simply applying the terms of
16 the ARM settlement. I think these narrow differences in outcomes shows the
17 benefits of the Historic Base Year approach the Commission approved for CGC's
18 ARM process. While there are some important differences in the calculations and
19 accounting approaches that remain to be resolved, Mr. Tucker's rebuttal deficiency
20 is now only \$4,758,586.

1 Finally, the Consumer Advocate has proposed some adjustments to CGC's
2 ARM process going forward that are inappropriate at this time, but there is one area
3 we agree can be improved upon that I will discuss below.

4 **Q. Turning now to the first point of difference between CGC and the Consumer**
5 **Advocate, Mr. Dittemore beginning at page 20 of his testimony recommends**
6 **changes to CGC's ARM due to the COVID-19 pandemic. Do you agree that**
7 **it is appropriate now to consider his suggested changes?**

8 A. No, I do not. The predicate for his ideas simply does not exist, and by his own
9 admission the concerns are entirely speculative.

10 **Q. Please continue.**

11 A. First, let's keep in mind that this case is only about 2019 historic actual revenues
12 and expenses. Any revenue and expense issues associated with the COVID-19
13 global pandemic would be a 2020 event that does not in any way impact what CGC
14 is seeking to recover in this case.

15 Second, Mr. Dittemore prefaces his testimony on proposed considerations
16 for subsequent ARM filings by admitting at page 21 that "[t]he revenue
17 implications associated with COVID-19 on CGC's operating results are unknown
18 at this time." I totally agree – it is entirely too early to know, or guess, what the
19 impact of the pandemic may be on CGC's 2020 revenues or expenses. I appreciate
20 Mr. Dittemore's approach in wanting to be transparent, but the Consumer Advocate
21 is essentially asking the Commission to consider significant changes to CGC's
22 ARM after only its first year of operation without any facts and based entirely upon

1 complete speculation. We don't run our business this way, and the Commission
2 certainly should not make any changes to CGC's ARM based on guesswork.

3 Third, there is no disputing the fact that this pandemic has had devastating
4 impacts on some of our customers, with the range of impacts across the customer
5 spectrum being quite diverse. Besides the day to day operational impacts the
6 pandemic has had on how we conduct our business and interact with our customers,
7 the most significant impact is that some of our customers have been unable to pay
8 their bills. We have reported and addressed this situation in the Commission's
9 separate COVID-19 proceeding, Docket 20-00047, where we have presented our
10 alternative payment plan to help get customers back current again on paying their
11 natural gas bills. While the impacts of this pandemic are still ongoing, since the
12 pandemic began in March the increase in the number of customers behind in
13 payments is always a concern, but at this point the total number of customers behind
14 has not significantly increased. But regardless of the number of customers
15 impacted or behind in payments, we will continue to work with the Commission
16 and our customers so that those customers who need extended payment terms for
17 paying for natural gas service can continue to receive service. For example, in our
18 alternative payment plan, consumers will be able to choose no down payment with
19 up to 12 months to pay that includes a waiver of late fees.

20 Fourth, the Commission's ongoing COVID-19 docket is the best place to
21 address customer responses, as we have done. In fact, in the Commission's most
22 recent decision on August 10, utilities were directed to address any necessary

1 COVID-19 expenses and recovery in an appropriate subsequent filing. Again, it is
2 still premature to discuss revenue or expense impacts for this still evolving
3 situation. We certainly hope that through our alternative payment plan, all of our
4 customers who have fallen behind can get caught back up, which would help to
5 minimize any long-term revenue impacts. Further, these ARM proceedings provide
6 us with a lot of flexibility to normalize unusual revenue and expense impacts so as
7 to levelize one-time or other unusual occurrences over several years. There just is
8 no urgency or any need to do anything now regarding COVID-19 until we know
9 more.

10 Finally, I would like for the Commission to know that CGC is not sitting
11 idly by during this national emergency. In addition to working with customers as
12 we have reported in Docket 20-00047, CGC and Southern Company Gas have taken
13 a number of actions to help constrain expenses during these challenging times.
14 We've instituted hiring delays and restricted certain expenditures, such as limiting
15 overtime to emergency response as much as possible. In addition, we have
16 eliminated almost all travel and meals expense, with the exception of the tornado
17 response in April. Many of the cost saving measures put in place in 2020 will be
18 used in 2021 to contain as much expense as possible. We have also partnered with
19 other utilities such as EPB and Tennessee American Water to share paving costs
20 when we are doing work in the same area. It has been a challenging balancing act,
21 especially with regard to the infrastructure investments we have to make in order
22 to help ensure reliable and safe service. While some customers have suffered from

1 unemployment and additional costs for health care, food, and other services, we are
2 still seeing a lot of new growth and demand across Hamilton and Bradley counties
3 that requires us to continue to grow our system to support the economic
4 development that is still occurring and projected to develop the rest of this year and
5 in successive years. We are doing everything we can to be a reasonably responsible
6 good partner with our customers and communities.

7 **Q. What about the specifics of his proposal presented on page 21, that “CGC**
8 **should share in the financial burden of COVID-19, just as businesses do in the**
9 **competitive marketplace”?**

10 A. His proposal it as odds with the regulatory compact that governs utilities, their
11 customers, and the regulator. I agree that CGC’s return on equity compensates
12 CGC for its risks as a regulated company, but the sharing of revenues with
13 stockholders was not a consideration when our ROE was set in the rate case. The
14 sharing of any COVID-19 losses with stockholders would also result in CGC
15 earning less than its authorized return on equity. Saying it is appropriate for CGC
16 to share any COVID-19 losses with its stockholders just like any other competitive
17 business fails to recognize the key difference for CGC is that as a rate base, rate of
18 return regulated company we cannot raise rates without this Commission’s
19 approval.

20 **Q. Turning to your second issue for this rebuttal, Mr. Dittmore at page 6 of his**
21 **testimony, references the Southern Company dividend of 3.2% announced this**
22 **spring as a way of saying that the Commission should not be “overly concerned**

1 **with the impact of the pandemic on utility shareholders.” What is your**
2 **response to this Consumer Advocate testimony?**

3 A. The April 20 dividend is completely irrelevant to these proceedings and the
4 pandemic. The fact that CGC’s ultimate parent company found total company
5 operations merited a dividend does not say anything as to whether Chattanooga Gas
6 Company is earning its rate of return and whether this annual rate review should be
7 approved. Moreover, the dividend was announced on April 20th, when we were
8 still in the early days of this pandemic. While we know more today about COVID-
9 19 than we did in April, this is still an ongoing situation, the full effects of which
10 are still unknown. Moreover, as I have already discussed, in an effort to mitigate
11 potential adverse effects, CGC has taken a number of different steps to help
12 consumers in the COVID-19 docket as well as other operational actions to be
13 responsible to both our customers and stockholders.

14 **Q. The final issue you have raised is the supplemental testimony on CGC’s**
15 **attorney fee invoices. How do you respond to the Consumer Advocate**
16 **testimony initially presented in Mr. Dittmore’s August 11 testimony as**
17 **modified by his August 20 supplemental testimony?**

18 A. I have a couple of responses to this testimony. First, in my prior job as the Director
19 or External and Regulatory Affairs for CGC, I worked very closely with our outside
20 attorneys on everything that we had going on before or involving the Commission,
21 as well as those other operational issues where understanding the regulatory
22 implications of business decisions was important. In 2019 I had day-to-day

1 responsibility for all regulatory matters, including our 2019 ARM Docket
2 authorization, until Paul Teague fully took over in the summer, and I have
3 continued to work with the attorneys in my present capacity on several matters,
4 including this docket. I know from personal experience that the work of our
5 attorneys is not repetitive or duplicative, and that they have always been efficient
6 and effective in their work. I did not personally review the attorney invoices, but
7 the value they have provided to me and the Company goes beyond what an invoice
8 may say about the work they have done.

9 Second, we disagree with Mr. Dittmore's conclusion on page 9 of his
10 supplemental testimony that there is a lack of corporate oversight of legal expenses.
11 Elizabeth Wade, our Chief Regulatory Counsel for Southern Company Gas, has
12 had the personal responsibility to review and approve invoices for many years, and
13 given her supervisory role and interactions with outside counsel, extensive
14 itemization of costs is unnecessary for her to determine whether work was properly
15 done for the Company. The fact that the ARM Docket costs were not segregated
16 as they should have been has nothing to do with a lack of oversight of legal expenses
17 or their prudence. Rather, because the agreement to segregate ARM Docket costs
18 came through the settlement process long after work started on the case, no one at
19 that time or later thought to go back to reallocate those costs from the General
20 Matter. That being said, there is merit to Mr. Dittmore's idea of improving how
21 these costs are captured and reported. In that regard, we believe it is reasonable for
22 CGC to require its outside attorneys to maintain invoices clearly identifying the

1 docket or general matter, and that work on different matters be broken out into
2 different time entries. Further, Mr. Tucker in his rebuttal testimony proposes an
3 additional schedule that CGC will file as a part of its future ARM cases that would
4 better document our legal expenses.

5 Third, Mr. Dittmore has reiterated again the Consumer Advocate's
6 continuing argument that certain legal expenses be "shared" or split between
7 customers and stockholders. I defer to Mr. Hickerson's rebuttal testimony which
8 discusses why CGC is entitled to recover all prudent costs. I also note the filing
9 our attorneys made in response to the Consumer Advocate's motion to compel
10 discovery request 56(a) that provides our legal basis for the recovery of all prudent
11 costs.

12 **Q. Do you have any concluding comments?**

13 A. I appreciate the Commission's consideration and approval of our case.

14 **Q. Does this conclude your rebuttal testimony?**

15 A. Yes, it does.