

**IN THE TENNESSEE PUBLIC UTILITY COMMISSION
AT NASHVILLE, TENNESSEE**

IN RE:

**DOCKET TO EVALUATE CHATTANOOGA
GAS COMPANY'S PURCHASES AND
RELATED SHARING INCENTIVES**

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Docket No. 20-00 139

**PETITION FOR THE TENNESSEE PUBLIC UTILITY COMMISSION
TO MODIFY CHATTANOOGA GAS COMPANY'S
PERFORMANCE BASED RATEMAKING MECHANISM**

The Consumer Advocate Unit in the Financial Division of the Office of the Attorney General ("Consumer Advocate"), by and through Herbert H. Slatery III, Attorney General and Reporter for the State of Tennessee, pursuant to Tenn. Code Ann. § 65-4-118, respectfully files this petition requesting that the Tennessee Public Utility Commission ("TPUC" or "Commission") modify Chattanooga Gas Company's Performance Based Ratemaking Mechanism.

I. RELEVANT FACTS

1. The Consumer Advocate "has the duty and authority" by Tenn. Code Ann. § 65-4-118 to represent the interests of Tennessee consumers of public utility services by initiating a proceeding or intervening as a party in an existing proceeding before the Commission in accordance with the Uniform Administrative Procedures Act (Tenn. Code Ann. §§ 4-5-101, *et seq.*) and TPUC rules.

2. Chattanooga Gas Company ("Company" or "CGC") is a public utility regulated by TPUC and is in the business of transporting, distributing, and selling natural gas in the greater

Chattanooga and Cleveland, Tennessee areas within Hamilton and Bradley counties¹ to approximately 60,000 customers². The Company's principal office and place of business is 2207 Olan Mills Drive, Chattanooga, Tennessee 37421.³

3. In 2006, CGC filed a petition approval to increase rates and implement an Energy Conservation Plan ("ECP") and a Conservation and Usage Adjustment ("CUA") as part of a comprehensive rate design proposal.⁴ The Consumer Advocate and the Chattanooga Manufacturers Association ("CMA") were granted intervention in this 2006 docket.⁵ The docket was divided into two phases: (1) Phase I would involve traditional rate design issues, and (2) Phase II would involve the proposed ECP and CUA issues.⁶ Although, the Parties entered into an agreement on Phase I of the docket⁷, the Parties could not reach consensus regarding the proposed ECP and CUA. CGC filed a request to withdraw its proposed ECP and CUA, but the Consumer Advocate and CMA expressed "concern regarding an opportunity to be heard on the asset management and capacity related issues."⁸

¹ *Chattanooga Gas Company Petition to opt into an Annual Review of Rates Mechanism Pursuant to Tenn. Code Ann. § 65-5-1039(d)(6)* (CGC ARM Petition), p. 1, TPUC Docket No. 19-00047 (April 15, 2019). Chattanooga Gas is a wholly owned subsidiary of Southern Company Gas, a natural gas holding company that owns and operates regulated gas utilities in seven States, including Chattanooga Gas in Tennessee. Southern Company Gas, formerly AGL Resources, was acquired by the Southern Company in 2016. *Id.* at pp. 1-2.

² Chattanooga Gas Company's information at <https://www.chattanoogagas.com/company.html>.

³ CGC ARM Petition at p. 2.

⁴ *Petition of Chattanooga Gas Company to increase Rates, Including a Comprehensive Rate Design Proposal and Revised Tariff*, TRA No. 06-00175 (June 30, 2006).

⁵ *Order Suspending Tariffs, Granting Motions to Intervene and Establishing a Procedural Schedule*, TRA Docket No. 06-00175 (July 27, 2006).

⁶ *Order Approving Phase I Settlement Agreement*, p. 2, TRA Docket No. 06-00175 (November 19, 2007).

⁷ The Tennessee Regulatory Authority, or TRA, is the predecessor agency to the TPUC, just as the Tennessee Public Service Commission predated the TRA. While the nomenclature has changed, the scope and function of these entities has remained essentially the same.

⁸ *Order Closing Phase II of Docket*, p. 3, TRA Docket No. 06-00175 (December 17, 2007).

4. At the Tennessee Regulatory Authority (“TRA”) ⁹ Conference on July 9, 2007, Chairman Eddie Roberson moved to open a new docket to address asset-management and capacity issues raised by the Consumer Advocate and the CMA.¹⁰ As a result, the TRA opened Docket No. 07-00224.¹¹

5. In 2009, the TRA issued two orders within TRA Docket No. 07-00224. The first order required CGC to submit future asset management Request for Proposals for approval before placing them out for bid and required that a triennial review of capacity planning would begin in 2012 with the selection of an independent consultant.¹² The second order set forth the procedures and criteria for the triennial review process.¹³ There have been three triennial reviews since the 2013 order resulting in reports being released in June 2014¹⁴, June 2017¹⁵; and June 2020¹⁶.

6. During the most recent triennial review, the Consumer Advocate evaluated the report entitled *Review of Performance Based Ratemaking Mechanism Transactions and Activities* (“Report”).¹⁷ After its evaluation, the Consumer Advocate filed comments addressing three topics highlighted within the triennial-review report: (a) the perpetual award of the Request for proposals to a Company affiliate sheds light on a disturbing lack of competition in the

⁹ The Tennessee Regulatory Authority, or TRA, is the predecessor agency to the TPUC, just as the Tennessee Public Service Commission predated the TRA. While the nomenclature has changed, the scope and function of these entities has remained essentially the same.

¹⁰ *Transcript of Authority Conference Monday, July 9, 2017* at 33: 5-14. The Motion was approved. *Id.* at 36: 3-6.

¹¹ *Order, In re: Docket to Evaluate Chattanooga Gas Company’s Gas Purchases and Related Sharing Incentives*, p. 2, TRA Docket No. 07-00224 (September 23, 2009).

¹² *Id.* at p. 6.

¹³ *Order Regarding Triennial Review Procedures and Criteria*, Exhibit 1, TRA Docket No. 07-00024 (October 13, 2009).

¹⁴ *Order Extending Triennial Review Process*, p. 1, TRA Docket No. 07-00224 (December 29, 2014).

¹⁵ *Order Extending Triennial Review Process*, p. 1, TRA Docket No. 07-00224 (November 7, 2017).

¹⁶ *Order Concerning 2020 Triennial Review and Extending Review Process*, p. 1 (October 27, 2020)

¹⁷ *Review of Performance Based Ratemaking Mechanisms Transactions and Activities*, TPUC Docket No. 07-00224 (June 30, 2020).

bidding process; (b) the Company retains excessive profits from the Asset Management and Agency Agreement (AMAA); and (c) the Consumer Advocate supports a recommendation to increase the available data and to investigate whether the Company's year-round capacity purchases are excessive.¹⁸

7. In its written decision on the Report, the Commission recognized that the "Consumer Advocate's comments generally support the recommendations set for in the Exeter Report and proposed further modifications that the Consumer Advocate states would be more in line with industry standards as well as with TPUC regulated utilities."¹⁹ The Commission highlighted the following recommendations from the Consumer Advocate:

1. *The scope of work should be expanded to address reasons for a lack of third-party responses to CGC's RFP;*
2. *The Commission should authorize a review of the transactions of Sequent in 2018-2019 to determine the level of margins generated through the use of CGC Assets;*
3. *The structural changes to the RFP process recommended in the Exeter Report should be adopted in order to strengthen the FRP process and to encourage responses from non-affiliate bidders;*
4. *The AMAA should be modified to adjust the sharing incentives in order to bring the incentive structure in line with industry norms and with those of other Tennessee natural gas companies; and*
5. *The recommendation that CGC should supply three years of historical daily interstate pipeline usage data in the RFP should be adopted, and in addition, the Commission should direct Exeter to conduct 'additional review to confirm that CGC has elected the least cost option consistent with maintaining sufficient, and not excessive, pipeline capacity necessary to meet peak load demand.'*²⁰

¹⁸ *Consumer Advocate's Comments Concerning Chattanooga Gas Company's AMAA Triennial Review*, TPUC Docket No. 07-00224 (July 9, 2020).

¹⁹ *Order Concerning 2020 Triennial Review and Extending Review Process*, p. 6, TPUC Docket No. 07-00224 (October 27, 2020)

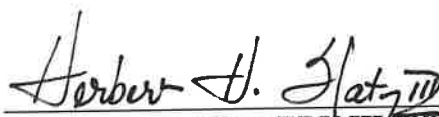
²⁰ *Id.* at pp. 6-7 (citations omitted).

8. In its Order, the Commission referred the Consumer Advocate to the *Review Procedures and Process*²¹, which details how the “Consumer Advocate may propose to expand the scope of work for the independent consultant and use the consultant’s report as grounds to propose changes to the PBRM itself.”²²

9. The Commission stated that “the Consumer Advocate may file a Petition if it so chooses” utilizing the *Review Procedures and Process*.²³

WHEREFORE, the Consumer Advocate respectfully requests that the Commission open a docket to consider the above items along with any other matters related to the PBRM that may be in the public interest.

RESPECTFULLY SUBMITTED,



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²¹ *Id.* at Exhibit 1.

²² *Id.* at pp. 8-9.

²³ *Id.* at p. 9.

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CERTIFICATE OF SERVICE

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This the 23 day of December, 2020.



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