

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

**IN RE:** )  
 )  
**DOCKET TO EVALUATE CHATTANOOGA** ) **Docket No. 20-00139**  
**GAS COMPANY'S PURCHASES AND** )  
**RELATED SHARING INCENTIVES** )

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**CONSUMER ADVOCATE'S RESPONSE TO DIRECTIVE TO PREPARE A JOINT  
PROPOSED PROCEDURAL SCHEDULE**

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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 submits the following response to the Hearing Officer's direction for the parties to develop a joint proposed procedural schedule in this Docket.<sup>1</sup>

1. After filing the initial petition, the Consumer Advocate and Chattanooga Gas Company (CGC) agreed, and the Hearing Officer so ordered, to limit this Docket to the single issue of: *"Should the sharing incentive percentage of Chattanooga Gas Company's Asset Management and Agency Agreement be modified and if so, what is the appropriate percentage?"*<sup>2</sup>

2. On May 7, 2021, the Consumer Advocate moved the Tennessee Public Utility Commission (TPUC or the "Commission") to set a hearing in this Docket,<sup>3</sup> instead of implementing a full procedural schedule involving discovery and testimony deadlines. The Consumer Advocate argued, in summary, that discovery and testimony in this Docket would be

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<sup>1</sup> See *Order Establishing Issue to Be Addressed in Docket and Setting Date for Response*, pg. 2, TPUC Docket No. 20-00139 (April 7, 2021) ("In addition, the Hearing Officer directed to parties to begin developing a joint proposed procedural schedule").

<sup>2</sup> See *id.*

<sup>3</sup> See *Motion to Set Hearing*, TPUC Docket No. 20-00139 (May 7, 2021).

duplicative and an inefficient use of resources because an independent third-party consultant (acting at the directive of CGC) has already prepared a report, which directly addresses the issue in this docket; that report is titled, “Review of Chattanooga Gas Company’s Performance Based Ratemaking Transactions and Activities” (“Exeter Report” or “triennial-review report”).<sup>4</sup>

3. On May 14, 2021, CGC filed a *Response in Opposition to the Consumer Advocate’s Motion to Set Hearing*.<sup>5</sup>

4. On May 26, 2021, the Hearing Officer sent an email to the parties denying the Consumer Advocate’s *Motion to Set Hearing*.<sup>6</sup>

5. The Consumer Advocate respects the Commission’s decision to not set a hearing in this Docket at this time; however, the Consumer Advocate represents that it will not seek discovery from CGC, nor will it file direct testimony in this Docket. The Consumer Advocate further represents that if a hearing is held, the Consumer Advocate intends to rely solely on the Exeter Report.<sup>7</sup> The Consumer Advocate will provide a witness to discuss the Exeter Report and other matters, if necessary. The Consumer Advocate does not challenge CGC’s right to dispute the Exeter Report within the limits of the Rules of Civil Procedure and rulings of the Commission.

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<sup>4</sup> *Chattanooga Gas Company Review of Performance Based Ratemaking Mechanism Transactions and Activities*, pp. 43-46, § 6.1, TRA Docket No. 07-00224 (June 30, 2020). The report was prepared by the third-party consultant Exeter Associates, Inc (“Exeter”) at the request of CGC, in accordance with the TRA Order in TRA Docket No. 07-00024 dated November 9, 2017, and October 13, 2009.

<sup>5</sup> *Chattanooga Gas Company’s Response in Opposition to the Consumer Advocate’s Motion to Set Hearing*, TPUC Docket No. 20-00139 (May 14, 2021).

<sup>6</sup> Email from Monica Smith-Ashford, Hearing Officer, to Rachel Bowen, Assistant Attorney General (May 26, 2021, at 5:17 PM CDT) (on file with Rachel Bowen).

<sup>7</sup> *Order Regarding Triennial Review Procedures and Criteria*, Exhibit 1, p. 2, TPUC Docket No. 07-00224 (October 13, 2009) (“The independent consultant shall not propose changes to the structure of the PBRM itself; however, the TRA Staff, CGC, or the CAD may use the report of the independent consultant as grounds for making recommendations or proposed changes to the Authority, and the TRA Staff, CGC, or the CAD may support or oppose such recommendations or proposed changes.”).

6. The Consumer Advocate maintains its position that the Exeter Report and the Commission's knowledge and expertise in reviewing the sharing percentages of other gas companies in Tennessee is sufficient for TPUC to render a decision in this case. The position of the Consumer Advocate is that the Commission may rely upon the independent report of Exeter to support changes to the mechanism is supported by the Commission's *Order Concerning 2020 Triennial Review and Extending Review Process*, which states:

With regard to the Consumer Advocate's filed comments requesting that the Commission take affirmative steps to address their concerns regarding the structure of CGC's PBRM and IMCR, the panel referred the Consumer Advocate to the Review Procedures and Process, attached as Exhibit to the *Commission Order Regarding Triennial Review Procedures and Criteria* dated October 13, 2009. That document details how the Consumer Advocate may propose expanding the scope of work for the independent consultant and use the consultant's report as grounds to propose changes to the PBRM itself. Following these procedures, the Consumer Advocate may file a petition if it so chooses.<sup>8</sup>

WHEREFORE, the Consumer Advocate respectfully represents that it does not intend to file discovery questions or direct testimony in this matter and will look to the Commission's discretion and guidance for establishing the appropriate procedural schedule.

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<sup>8</sup> pp. 8-9, TRA Docket No. 07-00224 (October 27, 2020).

RESPECTFULLY SUBMITTED,

*Rachel C. Bowen*

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## CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served via U.S. Mail, with a courtesy copy by electronic mail, upon:

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This the 8<sup>th</sup> day of July, 2021.

  
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