

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

IN RE:)	
)	
DOCKET TO EVALUATE)	
CHATTANOOGA GAS COMPANY’S)	DOCKET NO. 20-00139
PURCHASES AND RELATED)	
SHARING INCENTIVE)	
)	

**CONSUMER ADVOCATE’S RESPONSE TO
CGC’S FIRST SET OF DISCOVERY REQUESTS**

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 Rules 26, 33, and 34 of the Tennessee Rules of Civil Procedure, Tennessee Public Utility Commission (TPUC or the “Commission”) Rule 1220-1-2-.11, and the Agreed Procedural Schedule entered by the Hearing Officer in this Docket, hereby submits its response to the *First Set of Discovery Request of Chattanooga Gas Company* (“CGC” or “Company”) filed on October 18, 2021.

General Objections

All of the General Objections made herein are applicable to and are hereby incorporated into each and every response herein, and each response herein is made subject to and without waiver of these General Objections.

- A. The Consumer Advocate objects to each of the Company’s requests on the grounds that each is overly broad, unduly burdensome, and oppressive.
- B. The Consumer Advocate objects to the Company’s discovery requests to the extent that they purport to impose the obligations upon the Consumer Advocate beyond those contemplated by the Tennessee Rules of Civil Procedure, TPUC Rules, and

Tennessee law.

- C. The Consumer Advocate objects to each of the Company's requests to the extent that each purports to call for information and/or documents prepared in anticipation of litigation, and/or information and/or documents protected by the attorney-client privilege, the work product doctrine, the common-interest doctrine, or any other applicable protection or privilege.
- D. The Consumer Advocate objects to each of the Company's requests to the extent that they are not applicable in the context of a proceeding before the TPUC, cite an incorrect legal conclusion, or mischaracterize or improperly summarize statements made by the Consumer Advocate's expert witnesses in their pre-filed direct testimonies.
- E. By providing the objections contained herein, the Consumer Advocate does not waive or intend to waive, but rather, intends to preserve, all objections with regard to competence, relevance, materiality, and admissibility of the discovery information or documents in any subsequent proceeding on the related subject matter. Moreover, the Consumer Advocate intends by this set of responses to preserve all objections to vagueness, ambiguity, and undue burden in connection with requests to produce documents, including those that are not in the Consumer Advocate's possession, custody, or control.
- F. The responses made herein are made to the best of Consumer Advocate's present knowledge after a reasonably diligent search for responsive information. The Consumer Advocate will supplement its responses in line with the requirements of the Tennessee Rules of Civil Procedure as well as TPUC Rules and expressly reserves its right to supplement or amend its answers, if and as appropriate, including with respect to objections that may arise at a later time than this filing.

Without waiving these General Objections as they apply to each individual request, the Consumer Advocate presents the following responses:

CONSUMER ADVOCATE'S RESPONSES

- 1-1. Has Mr. Dittmore ever worked for a natural gas utility that had an outside asset manager similar to CGC's situation? If yes, please provide the basic facts associated with how the arrangement between the utility and the asset manager worked, including any key terms of the asset manager agreement including, specifically, whether there was any type of sharing of revenues/margins that was a part of the arrangement. Include in this discussion whether

Mr. Dittemore played any role in the engagement, monitoring, or regulatory oversight of the asset manager or the relationship with the asset manager. Provide copies of any state Commission orders approving, memorializing, extending, modifying, or terminating such asset manager arrangement.

RESPONSE:

To the best of Mr. Dittemore's knowledge, his former employer did not have an outside asset manager during the period of his employment. There was, however, a sharing mechanism in place that permitted the retention of 25% of capacity release revenues and 10% of off-system sales margins. Mr. Dittemore is unaware of any Kansas Corporation Commission orders related to the asset manager issue.

- 1-2. Did Mr. Dittemore review any of the sharing plans for any of the utilities identified in Section 6.0 of the Exeter Report? If yes, please provide the following information:
- a. Identify each utility and the regulatory authority with oversight of that utility.
 - b. Identify for each utility when the sharing incentive started.
 - c. Describe the type of sharing mechanism (percentage split or other basis) for the utility.
 - d. Discuss the stated basis for the sharing incentive.
 - e. Explain why Mr. Dittemore did not include any information for such utilities in his testimony. If Mr. Dittemore did not agree with the sharing percentage methodology used, please explain his concerns, problems, disagreements with such sharing methodology or percentages.
 - f. Provide as available, either electronic copies of any documents reflecting such sharing programs that Mr. Dittemore reviewed or links to such documents he reviewed.

RESPONSE:

Mr. Dittemore did not review any of the sharing plans for any of the utilities identified in Section 6.0 of the Exeter Report. The Consumer Advocate's reliance upon the independent

consultant findings is provided for as referenced within Exhibit 1 of the Commission's September 23, 2009 Order included as Exhibit DND-2 of Mr. Dittmore's testimony in this Docket. Specifically, the Order states that "... 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"

1-3. Excluding the utilities identified in the Exeter Report, has Mr. Dittmore performed any investigation, study, or other analysis that involves the sharing of revenues, margins, or other financial benefits between a utility and its ratepayers? If yes, please provide the following information:

- a. Identify each utility and the regulatory authority with oversight of that utility.
- b. Identify for each utility when the sharing incentive started.
- c. Describe the type of sharing mechanism (percentage split or other basis) for the utility.
- d. Discuss the stated basis for the sharing incentive.
- e. Explain why Mr. Dittmore did not include any information for such utilities in his testimony. If Mr. Dittmore did not agree with the sharing percentage methodology used, please explain his concerns, problems, disagreements with such sharing methodology or percentages.
- f. Provide as available, either electronic copies of any documents reflecting such sharing programs that Mr. Dittmore reviewed or links to such documents he reviewed.

RESPONSE:

Mr. Dittmore did not perform an investigation, study, or other analysis that involves the sharing of revenues, margins, or other financial benefits between a utility and its ratepayers. The Consumer Advocate's reliance upon the independent consultant findings is provided for as referenced within Exhibit 1 of the Commission's September 23, 2009 Order included as Exhibit DND-2 of Mr. Dittmore's testimony in this Docket. Specifically, the Order states

that “. . . 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”

1-4. Is Mr. Dittemore aware of any other natural gas utility in the United States with a 50/50 sharing incentive sharing split for AMA fees, capacity release revenues, and off-system sales margins? If so, please identify such utilities by jurisdiction and explain why information regarding those utilities was not discussed or otherwise included in Mr. Dittemore’s testimony.

RESPONSE:

Mr. Dittemore is not aware of any other natural gas utility in the United States with a 50/50 sharing incentive sharing split for AMA fees, capacity release revenues, and off-system sales margins.

1-5. Does the Consumer Advocate have any evidentiary support or other information to offer in this docket other than the Exeter Report that would report, discuss, or analyze the sharing split for AMA fees, capacity release revenues, and off-system sales margins? If yes, please provide such information.

RESPONSE:

The Consumer Advocate does not have any evidentiary support to offer in this Docket other than the Exeter Report. The Consumer Advocate’s reliance upon the independent consultant findings is provided for as referenced within Exhibit 1 of the Commission’s September 23, 2009 Order included as Exhibit DND-2 of Mr. Dittemore’s testimony in this Docket. Specifically, the Order states that “. . . 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”

1-6. Is the Consumer Advocate basing its case for changing CGC's sharing percentage solely on the Exeter Report? If not, please identify such other evidence the Consumer Advocate intends to offer in this proceeding to support the proposed 75/25 percentage split.

RESPONSE:

The Consumer Advocate is basing its case for changing CGC's sharing percentage solely on the Exeter Report attached to the Commissions' Order issued on September 23, 2009.

1-7. Does the Consumer Advocate agree with the Exeter Report statement at page 45, "Exeter has observed no material differences in the resource efforts of natural gas utilities to generate AMA fees, capacity release revenues, or off system sales margins under a 25% sharing incentive compared to a 10% sharing incentive nor has Exeter observed a natural gas utility failing to devote sufficient resources to maximize these revenues/margins when provided a sharing incentive." If the Consumer Advocate agrees with this explain, please explain why it believes this is true and provide such other information that supports such a conclusion.

RESPONSE:

The Consumer Advocate has no independent knowledge regarding the resource efforts of natural gas utilities to generate AMA fees, capacity release revenues or off system sales margins under a 25% sharing incentive compared to a 10% sharing incentive as discussed on page 45 of the Exeter report. The Consumer Advocate notes that Exeter is an independent consulting firm engaged by the parties to this Docket to provide its conclusions based upon its expertise in fuel acquisition related issues.

Regardless of whether an incentive mechanism is in place, including the nature of the incentive mechanism, a utility has the obligation to provide quality service at the least cost.

This requires the utility to maximize off-system capacity and commodity transactions in order to minimize ratepayer costs.

1-8. How familiar is Mr. Dittmore with the incentive programs of Atmos and Piedmont discussed in Sections 6.1.2 and 6.1.3 of the Exeter Report? To the extent Mr. Dittmore has any familiarity or knowledge with the Atmos and Piedmont incentive mechanisms, please explain how and to what extent the circumstances for Atmos and Piedmont are the same and different from those applicable to CGC.

RESPONSE:

Mr. Dittmore is generally familiar with the incentive programs of Atmos and Piedmont. At a high level, the respective incentive programs of Atmos and Piedmont are similar in that they allow the utilities to increase profits through off-system transactions. The incentive programs differ in how the incentives are determined for each utility. CGC is permitted to retain 50% of the asset management fees as well as 50% of margins achieved from capacity release and off-system sales activities. CGC's gas costs are deemed prudent and there is no incentive retained or penalty imposed if such costs fall within 1% of the applicable published index price.

The Atmos gas procurement plan is a symmetrical mechanism which allows for the retention of 50% of amounts below a deadband based upon monthly and daily benchmarks. Likewise, if such amounts are above the deadband, 50% of such costs are disallowed from recovery. Any transportation or storage capacity or off-system sales margins are split with ratepayers on a 90/10% basis.

Piedmont's incentive plan includes a gas acquisition procurement incentive compared to a monthly index incorporating a 75%/25% split of the difference between actual and

benchmark costs: i) Capacity release revenues are shared on a 75%/25% basis; and ii) AMA fees are split on a 75%/25% basis.

Both the Atmos and Piedmont mechanisms have a cap placed on the total amount of benefit accruing to their shareholders under the incentive plans. CGC has no such cap.

1-9. Identify any information used or relied upon by Mr. Dittemore in support of his conclusion that a cap of \$550,000 would be appropriate for CGC.

RESPONSE:

The information relied upon by Mr. Dittemore in support of the \$550,000 cap was identified in his direct testimony in this Docket filed on October 11, 2021.

1-10. Does Mr. Dittemore agree that some kind of incentive sharing mechanism is necessary so that the utility has an incentive sufficient to ensure ratepayer benefits are maximized? In responding to this request, discuss how and why a 75/25 split in the ratepayers' favor provides more of an incentive to the utility than a 50/50 split. Please discuss any other relevant policy or economic matters relevant to Mr. Dittemore's response to this question.

RESPONSE:

Mr. Dittemore believes that utilities have an obligation to minimize costs to their customers, which would include maximizing off-system capacity and commodity sales. Mr. Dittemore believes it is an open question whether incentive mechanisms are necessary to maximize ratepayer benefits. To the extent incentives are necessary, the Consumer Advocate believes such incentives should be aligned with industry standards and tested periodically to ensure that such incentives remain necessary and function as intended.

1-11. Provide copies of any documents utilized or relied upon by Mr. Dittemore in preparing his testimony or responses to this discovery that have not otherwise been produced or identified in responding to this discovery. In lieu of producing electronic copies, an index of links to documents may be provided for those materially publicly available online in an electronic form.

RESPONSE:

The documents relied upon by Mr. Dittemore were identified in his direct testimony and are publicly available.

RESPECTFULLY SUBMITTED,



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In Re: TPUC Docket No. 20-00139

Consumer Advocate's First Set of Discovery Responses to CGC

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 28th day of October, 2021.



RACHEL C. BOWEN
Assistant Attorney General