

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

IN RE:

**JOINT REQUEST OF CHATTANOOGA
GAS COMPANY AND KORDSA, INC.
FOR APPROVAL OF SPECIAL
CONTRACT**

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DOCKET NO. 21-00094

PETITION TO INTERVENE

The Consumer Advocate Unit in the Financial Division of the Office of the Attorney General (“Consumer Advocate”), by and through counsel, pursuant to Tenn. Code Ann. § 65-4-118, respectfully petitions the Tennessee Public Utility Commission (TPUC or the “Commission”) to grant the Consumer Advocate’s intervention into this proceeding because consumers’ interests, rights, duties or privileges may be determined or affected by the *Joint Request of Chattanooga Gas Company and Kordsa, Inc. for Approval of Special Contract* (“Joint Petition”). For cause, the Consumer Advocate would show as follows:

1. The Consumer Advocate is authorized by Tenn. Code Ann. § 65-4-118 to represent the interests of Tennessee consumers of public utilities services by initiating and intervening as a party in any matter or proceeding before the Commission in accordance with the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-101, *et seq.*, and Commission rules.
2. Chattanooga Gas Company (CGC) is a public utility regulated by the Commission and is engaged in the business of transporting, distributing, and selling natural gas in Hamilton and Bradley Counties within the State of Tennessee.¹

¹ *Joint Request of Chattanooga Gas Company and Kordsa, Inc. for Approval of Special Contract* (“Joint Petition”), p. 1, TPUC Docket No. 21-00094 (Aug. 24, 2021).

3. Kordsa, Inc. (“Kordsa”) is a current customer of CGC and receives services from CGC at Kordsa’s nylon manufacturing facility located at 4501 North Access Road, Chattanooga, Tennessee.²

4. On August 24, 2021, CGC and Kordsa filed their Joint Petition requesting approval of a negotiated Special Contract (“Special Contract”) for natural gas services between CGC and Kordsa, including the rates set forth therein.³ A redacted version of the Special Contract is attached to the Joint Petition as Exhibit 1.⁴ CGC is not currently serving Kordsa under their Special Contract terms but under CGC’s current approved tariff.⁵

5. The Special Contract between CGC and Kordsa details how CGC will furnish firm intrastate transportation services and other ancillary services such as the sale of natural gas to Kordsa.⁶ The Special Contract is a full requirements contract under which Kordsa will obtain all of its transportation and other related services from CGC as set forth in the Special Contract.⁷

6. TPUC Rule 1220-4-1-.07 provides that special contracts are subject to review and approval by TPUC, and states:

Special contracts between public utilities and certain customers prescribing and providing rates, services and practices not covered by or permitted in the general tariffs, schedules, or rules filed by such utilities are subject to supervision, regulation, and control by the Commission. A copy of such special agreement shall be filed, subject to review and approval.

7. Furthermore, in Tennessee Regulatory Authority⁸ (TRA or the “Authority”) Docket No. 10-00015, the Commission stated that considering TRA Rule 1220-4-1-.07⁹ and precedent

² *Id.* at p. 2.

³ *Id.*

⁴ *See id.* at Exhibit 1, Special Contract.

⁵ *Id.* at p. 2.

⁶ *Id.* at p. 4.

⁷ *Id.* at pp. 4-5.

⁸ The Tennessee Regulatory Authority is now referred to as the Tennessee Public Utility Commission.

⁹ The current rule is the same; however, the term “Authority” has been amended to “Commission” to reflect the current name of the agency.

established in prior dockets “the Authority has established and considers four criteria [for determinations of the approval special contracts].”¹⁰

The criteria are whether: 1. Customer by-pass is imminent; 2. Such by-pass would be uneconomic; 3. The contract rates and terms are just and reasonable and are not unjustly preferential or unduly discriminatory; and 4. The contract rates are the highest that could be negotiated.¹¹

8. Special contracts for large customers such as the one before the Commission in this Docket have been denied before. Indeed, as stated to above, special contracts are intended to be approved only in unique circumstances that further the public interest¹² based upon the Commission’s four criteria of review gleaned from prior precedent and TPUC rules. For example, in TRA Docket No. 97-00262, the Authority denied CGC’s petition for the approval of special contracts for certain large commercial or industrial customers.¹³ In its Order denying the petition, the Authority explained that the negotiation of contracts for firm or interruptible services is allowed as necessary to avoid uneconomic bypass which would be detrimental to ratepayers; however, the threat to bypass must be imminent and supported by evidence.¹⁴

9. In the present case, the Consumer Advocate has an interest in insuring that the proposed Special Contract between CGC and Kordsa complies with Commission rules and the standards the Commission has set forth in prior dockets in order to promote the best interests of consumers.

¹⁰ *Order Granting Approval of Special Contract*, pp. 3-4, TRA Docket No. 10-00015 (Oct. 28, 2010).

¹¹ *Id.*

¹² For example, in TRA Docket No. 10-00142, the Commission approved a special contract because it “meets the intent of TRA Rule 1220-4-1-.07 and furthers the public interest because it benefits Piedmont and its other customers and provides the incentives needed for DuPont to transition from the use of coal as its main fuel source to natural gas.” *Order Granting Approval of Special Contract*, p. 4, TRA Docket No. 10-00142 (Dec. 21, 2010).

¹³ *Order Disapproving Special Contract Under the Large Customer Contracts Tariff*, TRA Docket No. 97-00262 (March 17, 1998).

¹⁴ *Id.* at footnote 1; pp. 5,8 (“Because the Authority concludes that there is insufficient factual support for a threshold finding that customer bypass is imminent, the Authority finds that there is no need to consider the remaining issues at this time.”).

10. For the foregoing reasons, the interests of consumers may be affected by the determinations and orders made by the Commission with respect to CGC and Kordsa's Joint Petition.

11. Only by participating as a party in this proceeding can the Consumer Advocate adequately carry out its statutory duty to represent the interests of Tennessee consumers.

WHEREFORE, Petitioner respectfully asks the Commission to grant this Petition to Intervene in TPUC Docket No. 21-00094.

RESPECTFULLY SUBMITTED,



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CERTIFICATE OF SERVICE

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This the 1st day of October 2021.



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