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BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION
NASHVILLE, TENNESSEE

October 21, 2021

Joint Request Of Chattanooga Gas	)	
Company and Kordsa, Inc. For	)	Docket No. 21-00094
Approval Of Special Contract	)	

CHATTANOOGA GAS COMPANY'S RESPONSES AND OBJECTIONS TO THE CONSUMER ADVOCATE's FIRST INFORMAL DISCOVERY REQUESTS

Chattanooga Gas Company ("CGC" or "Company") files these Responses and Objections to the Informal Discovery Requests of the Consumer Advocate Unit ("CA") of the Office of Attorney General & Reporter provided by email on October 12, 2021, with a formal filing to follow.

To assist the Hearing Officer in evaluating this matter, CGC is setting forth its objections in two parts. Part I sets forth general objections applicable to CGC's discovery responses. Part II sets forth objections to specific discovery requests propounded by the Consumer Advocate.

I. GENERAL OBJECTIONS

CGC objects generally to any definitions or instructions to the extent that they are inconsistent with and request information that is beyond the scope of the Tennessee Rules of Civil Procedure. CGC's responses will comply with the requirements of the Tennessee of Rules of Civil Procedure.

Any requests for production of documents are interpreted to describe each item or category of items requested with reasonable particularity as required by Tenn. R. Civ. P. 34.02, and the terms used in the requests are not interpreted "broadly". CGC will produce items and/or data in its possession, custody or control as required by Tennessee Rules of Civil Procedure.

CGC further objects to these discovery requests to the extent they seek information that is beyond the scope of legitimate discovery in this rate case or that is subject to any privilege, including the attorney-client privilege and/or attorney work product doctrine. However, without waiving any of these General Objections, the Company will respond to the Consumer Advocate's discovery requests by providing responsive, non-privileged information.

These General Objections are continuing and are incorporated by reference in CGC's responses to all discovery requests to the extent applicable. The statement of the following additional objections to specific discovery requests shall not constitute a waiver of these General Objections.

Additionally, CGC objects to the scope of the terms "identity" and "identify" as used by the Consumer Advocate. In particular, CGC objects to providing the date of birth, the current residential address, and the current residential telephone number of persons to be identified on the grounds that the scope of information requested is overly broad and not calculated to lead to the discovery of admissible evidence. CGC further objects to the Consumer Advocate's instructions to produce the "original" of "each copy" of each document requested on the grounds that the request is unduly burdensome and overly broad. CGC intends to provide copies of original documents as available.

Further, CGC is providing information that it deems to be confidential. This confidential information shall be provided to the Consumer Advocate but only pursuant to the terms of the TPUC's Protective Order issued September 29, 2021 in this docket.

II. SPECIFIC RESPONSES AND OBJECTIONS

Notwithstanding any of the foregoing objections, and without waiving any such objections, CGC's specific objections appear with each response that merits an appropriate objection on the following pages as indicated.

1-1. Refer to Page 2, Paragraph 2 of the *Joint Request of Chattanooga Gas Company and Kordsa, Inc. for Approval of Special Contract* ("Joint Request") which reads as follows:

> CGC is not currently serving Kordsa under the Special Contract terms but under CGC's current, approved tariff.[1]

Identify the rate schedule in CGC's tariff that Kordsa is currently receiving natural gas services.

<u>**CGC RESPONSE**</u>:

CGC is currently providing service to Kordsa under Rate Schedule T-1 (Interruptible Transportation Service) and (T-2 (Interruptible Transportation Service with Firm Gas Supply Backup).

Kordsa has 10 Dths/Day Firm Supply Backup under Rate Schedule T-2 with the remaining volume provided under Rate Schedule T-1.

1-2 Refer to Page 3, Paragraph 4 of the Joint Request which reads as follows:

> The prior special contract was approved in Docket No. 99-00908 ("Prior Special Contract") by the Order dated July 18, 2000 and was made effective on November 1, 1999.[2]

Provide the monthly sales/transportation volumes to the Kordsa facility from November 1, 1999, through June 30, 2021, segregated by plant ownership (Dupont, Invista, and Kordsa).

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1 *Joint Request*, p. 2, TPUC Docket No. 21-00094 (August 24, 2021).

2 *Id*. at p. 3.

<u>CGC RESPONSE</u>:

> **CGC objects to this request to the extent it seeks data back to November 1, 1999, as excessive, unduly burdensome, and not likely to lead to the discovery of relevant information. All of the requested information is not in a form readily available or ascertainable by CGC. Notwithstanding the foregoing, CGC shall provide information it can obtain based upon a reasonable due diligent search. CGC has been able to retrieve information for January 2011 forward. Please see attached confidential Excel spreadsheet labeled "2021-10-21 CONFIDENTIAL CGC Response CA DR 1-2."**

1-3 Refer to Page 5, Paragraph 12 of the Joint Request which reads as follows:

> CGC's other customers will not be adversely impacted by approval of this Special Contract; in fact, they will benefit from CGC continuing to service the Kordsa facility.[3]

Will the rates of CGC's other customers be increased by the reduction in margin of Kordsa revenues from this proposed Special Contract? If so, what is the basis for the Company's statement that "other customers will not be adversely impacted" when these other customers will in fact be required to pay higher rates?

<u>CGC RESPONSE</u>:

> **No. If the special contract is not approved and Kordsa bypasses CGC, there will be no revenues or margin from Kordsa since CGC will not be providing any service to Kordsa. If the special contract is approved and CGC provides service to Kordsa, the revenue and margin from Kordsa will increase from the $0 amount that would otherwise be received if Kordsa is not a CGC customer. As a result of the increase in the margin under the special contract, the rates for other customer will be lower than they would be if the special contract is not approved and Kordsa is not a CGC customer.**

[3] *Id.* at p. 5.

1-4 Provide a copy of the Company's monthly bills to Kordsa from January 1, 2018, through June 30, 2021.

<u>CGC RESPONSE</u>:

> **CGC is providing the requested billing information in four separate files each reflecting a year's worth (or partial year for 2021) of invoices as follows:**
>
> **2021-10-21 CONFIDENTIAL CGC Response CA DR 1-4 2018**
> **2021-10-21 CONFIDENTIAL CGC Response CA DR 1-4 2019**
> **2021-10-21 CONFIDENTIAL CGC Response CA DR 1-4 2020**
> **2021-10-21 CONFIDENTIAL CGC Response CA DR 1-4 2021**
>
> **Please note that each document is considered confidential since it contains customer specific billing information.**

1-5 Provide a pro forma calculation of the Company's monthly revenues (including any associated revenue taxes) from Kordsa under the Previous Special Contract rates, the Proposed Special Contract rates, and the Current Tariff rates from January 1, 2018, through June 30, 2021.

<u>CGC RESPONSE</u>:

> **Please see the confidential Excel spreadsheet labeled "2021-10-21 CONFIDENTIAL CGC Response CA DR 1-5.**

1-6 Refer to Paragraph 12 of the Joint Request (Confidential version) which states:

> Further, CGC and Kordsa have negotiated in good faith to determine a rate which will maintain Kordsa as a customer of CGC, with such rate being above CGC's incremental cost to serve Kordsa, thus continuing to provide some level of contribution to CGC's common overhead.

Provide a calculation of CGC's cost to provide service to Kordsa.

<u>CGC RESPONSE</u>:

> **See the confidential CGC RESPONSE to the Tennessee Public Utility Commission Staff's Discovery Request 1.01, previously provided to the Consumer Advocate.**

Note the confidential Excel spreadsheet has been updated to reflected corrected data, and it is being provided in a file named "2021-10-21 CONFIDENTIAL CGC Response CA DR 1-5, Revised CGC Response TPUC Staff DR 1-01 Attachment."

1-7 Refer to the Negotiated Contract included as Exhibit 1 to the Joint Request. Is this Negotiated Contract assignable or transferable to any other entity?

<u>CGC RESPONSE</u>:

Yes. See Section 30 of the Special Contract copied below:

30. ASSIGNMENT: Customer shall not assign this Negotiated Contract, wholly or in part, without the prior, reasonable, written consent of Company except that Customer may assign this Negotiated Contract to any affiliate of Customer or to any purchaser of Customer's facilities, subject to Company's reasonable approval of the creditworthiness of such affiliate or purchaser. Any such permitted assignment shall be binding upon Company only after proper written notice shall have been received by Company.

1-8 Refer to Page 10, Paragraph 9 of the Negotiated Contract included as Exhibit 2 to the Joint Request regarding Sales, Use or Other Taxes and Fees. Provide an updated Exhibit C (Example Bill) that takes into consideration the impact from these taxes and fees.

<u>CGC RESPONSE</u>:

See attached revised confidential Exhibit C in the file "2021-10-21 CONFIDENTIAL CGC Response CA DR 1-8, Revised Exhibit C."

1-9 Refer to Page 4, Lines 17 – 19 of the direct testimony of Company witness Ashley K. Vette which states:

> The new special contract also contemplates CGC providing additional services to Kordsa, which provides additional value to both parties.[4]

Explain what "additional services" are referred to.

<u>CGC RESPONSE</u>:

Based on discussions with Kordsa, CGC anticipates increased usage of natural gas by Kordsa.

1-10 Refer to Page 6 of the direct testimony of Kordsa witness Ben Gibson where he states:

> No, CGC stated that it believed that Kordsa underestimated the total cost of bypass.[5]

Provide a copy of CGC's analysis and workpapers of Kordsa's cost to bypass.

<u>CGC RESPONSE</u>:

CGC concluded that Kordsa's projected costs may be understated after CGC compared the information Kordsa provided to CGC of its bypass plans with information from a CGC affiliate with experience in constructing such facilities. CGC did not complete a formal bypass study.

1-11 Provide a listing, in chronological order, of the events from the time that CGC first learned of the proposed bypass by Kordsa until CGC concluded the negotiated contract. This list should show in detail, by date, a summary of what occurred with references as well as key oral and written communications that CGC had with Kordsa regarding this application.

<u>CGC RESPONSE</u>:

As best as CGC can recreate, here is the approximate timeline:

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[4] *Testimony of Ashley K. Vette on Behalf of Chattanooga Gas Company*, p. 4, TPUC Docket No. 21-00094 (Sept. 3, 2021).

[5] *Direct Testimony of Ben Gibson on Behalf of Kordsa, Inc.*, p. 6, TPUC Docket No. 21-00094, (Sept. 3, 2021).

3/28/19: CGC met with Kordsa to discuss expiration of special contract. Kordsa informed CGC of intent to pursue bypass.

4/2/19: CGC sent letter notifying Kordsa of expiring special contract (Wendell Dallas).

7/15/19: Kordsa informed CGC by phone of intent to bypass and that they have created a Bypass Study.

8/9/19: Kordsa sent Bypass Study (Rod Walker & Assoc.) to CGC.

9/3/19: CGC sent letter notifying Kordsa of insufficient evidence to bypass (based on Bypass Study) and the requirement to elect rate class and date of rate change (Wendell Dallas); received 9/6.

10/10/19: Kordsa sent letter acknowledging CGC letter and notified CGC of intent to continue pursuing bypass option.

10/29/19: Kordsa elected new rate class F1/T2 + T1.

10/31/19: Special contract expired.

11/1/19: New rate effective.

4/28/21: Kordsa met with CGC and advised that they would move forward with bypass construction in late summer 2021.

4/29/21: Kordsa sent CGC email of additional evidence of imminent bypass (easement and newspaper ad for RFP).

5/13/21: CGC sent Kordsa email of additional info needed for supporting info.

5/19/21: Kordsa met CGC and provided additional supporting documentation; Kordsa mentioned the possibility of an acceptable rate in between their old rate and tariff rate.

5/25/21: Kordsa emailed CGC evidence of ETNG Tap Station request.

June & July 2021: CGC and Kordsa negotiate new special rate terms.

8/24/2021: Kordsa and CGC file the Joint Petition.

1-12 Refer to the Tennessee Regulatory Authority's[6] July 18, 2000, Order in Docket No. 99-00908 regarding approval of a negotiated contract with E. I. du Pont De Nemours Company

[6] The Tennessee Regulatory Authority has since been renamed as the Tennessee Public Utility Commission.

(Attached as CA Attachment 1). Specifically, refer to Pages 3 – 4 of this Order regarding the sharing of lost margin from this proposed contract which reads as follows:

> As further explained in Chattanooga's supplemental information, the IMCR as applied in Chattanooga's SS-1 tariff, allows the Company to recover ninety percent (90%) of its lost margin from both sales and transportation customers. The IMCR was not designed to work with long-term contracts such as the Negotiated Contract under consideration between Chattanooga and du Pont. Therefore, Chattanooga has asked for separate and specific authorization to recover its margin losses in the same fashion with regard to the Negotiated Contract as it typically does on a monthly basis with the IMCR.

Is the Company proposing the same sharing of margin loss for the current proposed contract with Kordsa as it did previously with du Pont in Docket 99-00908? If not, explain why such a sharing of margin loss is no longer appropriate.

CGC RESPONSE:

No. The IMCR provides for the sharing of the lost margin when a Customer switches to alternative fuel because the price of natural gas is not competitive with the customer's alternative fuel or when CGC discounts the rates charged for transportation or sales service in order to compete with the price of a customer's alternative fuel as provided in Rate Schedule SS-1. Such discounts by CGC are provided on a monthly basis and are not approved by the Commission. Since these discounts aren't approved by the Commission, the sharing of the lost margin is provided as an incentive for the Company to minimize the discount offered. Such sharing of lost margin is not appropriate for a long-term contract that is approved by the Commission to avoid an uneconomic bypass of the distribution system. In Docket 99-00908 sharing was proposed, on an interim basis, to allow CGC to recover a portion of the lost margin until the next rate. The ARM approved in Docket 19-00047 eliminated the need for CGC to recover the lost margin on an interim basis.

1-13 Refer to Page 4, Lines 1-4 of the direct testimony of Company witness Ashley K. Vette where she states that in 2019, the Company denied entering into a special contract with Kordsa because “[a]t the time of discussions in 2019, CGC was unable to justify that these [four] criteria [set forth by the Commission] could be met.” [7] Respond to the following:

a. What specific CGC RESPONSE did the Company give to Kordsa when it turned down Kordsa’s offer to enter into a special agreement in 2019?

b. What circumstances have changed from 2019 regarding Kordsa’s position to satisfy the Commission’s four criteria referenced above?

CGC RESPONSE:

a. See attached copy of the September 3, 2019 letter from Wendell Dallas V.P., Operations Chattanooga Gas Company to Mr. Kadir Toplu, Chief Operating Officer, Kordsa Inc., attached as “2021-10-21 CGC Response CA DR 1-13.”

b. 1. Kordsa confirmed that it has negotiated with the City of Chattanooga and obtained the right-of-way required to construct the bypass facilities.

2. Kordsa confirmed that East Tennessee Natural Gas agreed that a tap station could be installed to serve Kordsa.

3. Kordsa issued an RFP for a contractor to construct the bypass facilities.

RESPECTFULLY SUBMITTED this 21st day of October, 2021,

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Attorneys for Chattanooga Gas Company

7 *Testimony of Ashley K. Vette on Behalf of Chattanooga Gas Company* at p.4.

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing responses have been forwarded via electronic mail on this the 21st day of October, 2021 to the following:

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Chattanooga Gas

Wendell Dallas
Vice President, Operations

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Atlanta, GA 30309
404 584 3277
wdallas@southernco.com

September 3, 2019

Kordsa, Inc.
4501 N. Access Rd.
Chattanooga, TN 37415

Attention: Kadir Toplu, Chief Operating Officer

Subject: Kordsa Request for Special Contract Rate

Dear Mr. Toplu,

First, let me say that I very much appreciate and value Kordsa's business as well as its impact on the community and local economy. We have enjoyed a long-term relationship, and it is a priority for Chattanooga Gas that the relationship continues. At the same time, our company is required to meet the needs of all our customers and must comply with the decisions of the Tennessee Public Utility Commission ("TPUC"). Therefore, it is important that we consider the needs of all stakeholders as we carefully consider your request for a special contract rate.

While Kordsa and its predecessors have benefited from a special contract rate for the past twenty years, it is extremely rare for a special contract to be approved by the TPUC. The TPUC has established a high bar for approving special contracts. For example, the TPUC will require an imminent threat of bypass to exist before considering a special contract. The TPUC will seek to avoid a special contract rate for one customer that would potentially increase rates for all customers.

Unfortunately, the bypass feasibility study Kordsa provided on August 9 is not sufficient to demonstrate an imminent threat of bypass and to justify a filing before the TPUC for special contract rates. The study, and the estimate of annual cost savings to Kordsa of approximately $115,000 by constructing a bypass around the Company's existing natural gas distribution system to a nearby pipeline, are not provided in enough detail, and with the appropriate support, to confirm that all costs required to complete such a project are properly included in the estimated cost of such a project. The following are examples where the current detail is not sufficient: a tap cost with East Tennessee Natural Gas (ETNG) of $500,000 is identified with no additional supporting documentation; the cost of easements and accessing public right-of-way is not clearly addressed; the availability and potential increased cost of upstream pipeline capacity versus current cost is not addressed; and ongoing O&M costs appear optimistic compared to the Company's experience with similar facilities and in light of requirements by the Pipeline and Hazardous Materials Administration (PHMSA) and the TPUC.

Additionally, the limited information shared at the meeting concerning potential economic impacts, including loss of jobs, related to Kordsa's outsourcing a division of its operations as a result of tariffed rates being applied for services provided by the Company, is not sufficiently supported to justify a filing before the TPUC. Local government officials may be able to provide additional input regarding potential economic and community impacts of Kordsa's operational decisions, however these efforts are the responsibility of Kordsa, not Chattanooga Gas Company.

In summary, the Company does not have sufficient information in order to support a special contract for service at discounted rates in a filing before the TPUC. Beginning with Kordsa's bill for services provided after October 31, 2019, the Company plans to apply its standard tariff rate schedules for services provided. At this point, it is not feasible to anticipate that, prior to November 1, 2019: a contract could be negotiated; a petition, testimony and exhibits (by both the Company and Kordsa) could be prepared and filed before the Commission; that the Commission could conduct a public hearing on the matter; and a contract could be approved.

We are very open to discussing the matter further with you if you wish, and we look forward to continuing to provide you with safe, reliable, affordable natural gas delivery service.

If you or Mr. Gibson have any questions or would like to meet again, please call Gary McLeod, Manager, Major Accounts, at (678) 878-5014.

Sincerely,

Wendell Dallas

Wendell Dallas
Vice President, Operations

CC: Ben Gibson, N.A. Supply Chain Manager