BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION
NASHVILLE, TENNESSEE

IN RE:	
CHATTANOOGA GAS COMPANY PETITION FOR APPROVAL OF TARIFF AMENDMENTS TO ITS T-1, T-2, AND T-3 TARIFFS	**Docket No. 22-00004**

POST HEARING BRIEF OF THE CHATTANOOGA REGIONAL MANUFACTURERS ASSOCIATION

New Information Learned at the Hearing

The hearing in this matter revealed two, important pieces of information.

1. The reason that Chattanooga Gas Company ("CGC" or "the Company") has stopped offering incremental gas for sale to interruptible customers as required by the utility's tariff[1] is that Mr. Chris Bellinger, the CGC manager in charge of making that decision (tr. 43), mistakenly believes that the Company's contractual obligation to transfer excess

[1] CGC's incremental gas tariff states that CGC "shall" offer incremental gas for sale to interruptible customers when, in the reasonable judgement of the company, "the volumes of gas are available to be purchased and transported to Customers." CGC's failure to offer incremental gas pursuant to the tariff has been an issue since the purchase of CGC by the Southern Company in 2015. Since CGC's 2018 rate case (Docket 18-00017), when the issue was discussed at length, CGC has only offered incremental gas on two days, both in early 2019. Donahue, direct testimony at 4. There is no question that CGC has excess capacity that could be used to offer incremental gas to requesting customers. Quoting from the 2020 Exeter Report, the Consumer Advocate Division stated in 2020, CGC's "overall capacity is excessive" and CGC has an incentive "to maximize capacity purchases" which may then be assigned to its asset manager for sale on the open market. Consumer Advocate's Comments filed July 9, 2020 in docket 07-00224 at p. 4. The Consumer Advocate's witness in this docket reaffirmed that conclusion. Dittemore testimony, transcript at 165. Using CGC's own figures, the illustration attached to this brief demonstrates conclusively that CGC has substantial excess capacity through 2027.

capacity to the asset manager takes priority over using that capacity to offer incremental gas to interruptible customers.[2] Mr. Bellinger was not only unaware that the asset management contract places the needs of interruptible customers ahead of the utility's contractual obligations to the asset manager but also does not understand that using regulated assets to serve off-system customers while denying service to on-system customers, as he admitted doing earlier this year, violates one of the fundamental obligations of a public utility.[3]

It is very important to understand this point. Mr. Bellinger has not offered any incremental gas in over three years (tr. 46) not because there has not been any excess capacity available but because he believes that whenever CGC has pipeline capacity that is not needed to serve firm customers, CGC is obligated by contract to allow the asset manager to use that capacity "to facilitate other deals" because "if we didn't allow them to optimize the unused transport... they would not be giving us an annual fixed fee." Tr. 55; see also Tr. 54.

---

[2] Contrary to Mr. Bellinger's understanding, the contract between CGC and its asset manager states, "Asset Manager shall have the authority to, and shall undertake the following duties: (a) Supply Gas to meet CGC's full gas supply requirements, <u>whether for firm, interruptible or operational needs</u>, as requested by CGC." Section 2.1, emphasis added. Mr. Bellinger was not aware of that provision and, when asked about it said, "I don't know why Chattanooga Gas would put in its Asset Management Agreement that we're obligated to serve interruptible and firm customers... why would we do that?" Transcript at 60.

[3] Just two months ago, the Commission issued an order reiterating that the role of an asset manager is to make use of a utility's "fallow assets" that "are not needed by customers at the time." Docket 20-00139, Order, at 15. Pipeline capacity that is needed to deliver gas to requesting, interruptible customers is not a "fallow asset" and should be used by the asset manager for off-system deliveries. Similarly the 2020 Exeter Report states, "Off-system LNG sales are subordinate to serving CGC's on-system customers." 2020 Exeter Report, Section 4.2. Even the Tennessee Court of Appeals has recognized that an asset manager may market "excess assets to other jurisdictions" only if those assets "will not be needed to meet the needs of the Gas Company's customers." <u>*Consumer Advocate & Protection Division v. Tennessee Regulatory Authority*</u>, 2012 WL 1964593 (Tenn. Ct. App., slip opinion at 6.). (During the hearing, counsel for CGC suggested that Court's reference to "customers" referred to firm customers. Although the Court conflated "pipeline capacity assets" with "purchased gas," a mistake that leads to conflating the needs of firm and interruptible customers, it is clear that the Court intended to say that CGC's jurisdictional customers should be served before customers in "other jurisdictions.")

Mr. Bellinger repeatedly stated that CGC has no obligation to serve interruptible customers. See Tr. 53, 60. He was genuinely shocked to learn that CGC's contract with the asset manager states that CGC's "full gas supply requirements" include the needs of both "firm" and "interruptible" customers and that those requirements must be met before giving excess capacity to the asset manager. Upon being told of that language in the contract, he asked, "Why would we do that?" Tr. 60.

In practice, CGC does just the opposite of what the contract states. Any assets not needed to serve firm customers are made available to the asset manager so that more asset management fees will be generated. Tr. 63-64. A portion of those fees is used to offset the cost of gas paid by firm customers. Id. As Mr. Bellinger said, "[A]ssets not used to serve the firm customers and margins that are generated by the asset manager ultimately go back and serve the firm customers." Id. For example, Mr. Bellinger acknowledged that CGC had a substantial amount of excess pipeline capacity available in January, 2022 but refused to offer any incremental gas to interruptible customers. Tr. 48-49. Instead, CGC allowed its asset manager to use that excess capacity for other, unknown purposes. Tr. 65-66.[4]

There is no reason to believe that Mr. Bellinger and others at CGC are acting in bad faith. But the fact remains that since the takeover of CGC by the Southern Company in 2015, those charged with managing CGC's gas supplies simply are not aware of the requirements of CGC's contract with its asset manager. More importantly, they do not understand that a public utility is obligated first to serve its jurisdictional customers — such as interruptible customers who help pay the costs of the utility's network and the

[4] As required by CGC's incremental gas tariff, CGC could and should have offered gas to its interruptible customers from gas stored in the LNG tanks and used the excess pipeline capacity to replace the gas taken from the tanks.

salaries of the utility's employees — before making off-system sales for the indirect benefit of the utility's stockholders.[5] That is the most important piece of information revealed in this proceeding and an issue which the Commission must directly address.

2. The second critical fact revealed at the hearing is that CGC's proposed changes to its transportation tariffs were filed because of the Consumer Advocate's concerns over extreme fluctuations in the price of gas in February, 2021 and the potential impact of those price spikes on the cost of gas to firm customers.[6] The Consumer Advocate's witness, Mr. David Dittemore, acknowledged that the CAD's concerns could be addressed by requiring daily balancing instead of monthly balancing during times of unusual price volatility.[7]

Recommended Actions to Resolve this Docket

Based on this information, the Commission should take the following actions:

1. The Commission should ask that the next triennial audit address whether CGC has reasonably interpreted and effectuated the incremental gas tariff and what changes, if any, the auditors would recommend. The Consumer Advocate agrees. Tr. 165-166.While waiting for the auditor's report, the Commission must remind CGC of its legal obligation

[5] See footnote 3, *supra*.

[6] Dittemore, transcript at 160-162.

[7] In short, T-2 and T-3 transportation customers have the right to "borrow" gas from CGC's storage facilities when the weather is cold and interruptible transportation is not available. Later, after the weather is warmer and the customers again have access to transportation, those customers can return the borrowed gas. If, by the end of the month, the amount of gas borrowed equals the amount returned, nothing is owed to CGC. The problem, according to the Consumer Advocate, is that the customers are borrowing gas when the price is high and returning gas when the price is cheap. This process, which has been permitted by CGC's tariffs for many years, may result in an increase in the average cost of CGC's stored gas and, therefore, an increase in the price paid by CGC's firm sales customers. Dittemore, direct at 4. Daily balancing instead of monthly balancing is one way to resolve this problem. Mr. Dittemore was asked, "So if you had… daily balancing [that] would kick in when there was price volatility, that would address your concern?" He answered, "Yes." Tr. 157.

to serve the needs of its jurisdictional customers before allowing the asset manager to use CGC's assets to serve non-jurisdictional customers.

2. If the Commission wants to address the concerns of the Consumer Advocate,[8] CRMA proposes that the T-2 and T-3 transportation tariffs be amended to include the language below.[9] This provision will allow the utility to require daily balancing on days when there is significant volatility in the market price of gas and will protect the interest of firm customers as requested by the Consumer Advocate.[10]

> The Company may issue a daily balancing order during periods of significant price volatility. Significant price volatility is defined as a daily price that is at least twice the most recent, first of the month price as identified by Gas Daily at the Henry Hub. On days when a balancing order is in effect because of significant price

[8] The Consumer Advocate's concerns arose following the unusual spike in gas costs that occurred in February, 2021 when the price of gas increased for two days in the middle of the month to four and five times the daily price at the beginning. Since that time, CGC has obtained over 25,000 Dth/day in additional pipeline capacity and, as a result, is now in a much better position to ignore those price spikes. As Mr. Jim Crist testified, CGC has an abundant supply of pipeline capacity and stored gas and does not need to purchase gas in the open market when the price is unusually high. Mr. James Crist, direct testimony at 8. During February, 2021, CGC could have easily supplied its T-2 and T-3 customers with inexpensive gas from CGC's LNG tanks and did not need to replace that gas until the price dropped at the end of the month. Mr. Crist testified, "It was the Company's decision to purchase extremely expensive gas instead of using the inexpensive gas in its LNG storage." Id. In other words, the Consumer Advocate's worry that the actions of T-2 and T-3 customers may result in an increase in the price of gas purchased by firm customers should no longer be of concern now that CGC has sufficient gas supplies to weather unusual price spikes.

[9] There is no need to add this language to CGC's T-1 tariff since T-1 customers are already required to adhere to "daily balancing" requirements whenever CGC issues a daily balancing order.

[10] Mr. Dittemore suggested that CGC may require daily balancing when there is a price spike of 20% within a month. He acknowledged that his recommendation was "subjective" (tr. 158) and apparently did not do any research to determine how often a 20% increase in the daily price of gas occurs. The Henry Hub price of gas for each day in the last twenty-five years is a matter of public record and can be found here: https://www.eia.gov/dnav/ng/hist/rngwhhdD.htm. Using those figures, the attached illustration shows that between January 1 and August 31, 2022, the price of gas fluctuated by 20% on 52 days, mostly during warm weather. These small spikes were likely caused by the worldwide increase in gas prices resulting from the Russian invasion of Ukraine. CRMA suggests that a "significant" increase in the price of gas should be an increase of at least 100%, far less than what occurred in February, 2021 but still enough to address the Consumer Advocate's worry about the impact of price spikes on firm customers. Using 100% instead of 20% as the measure of "significant" price volatility would not have triggered any daily balancing in the period shown on the chart.

volatility, imbalances may not be offset by over-deliveries on days when such a balancing order is not in effect and are not subject to end of month imbalance trading.

Conclusion

These actions will resolve the two main concerns in this docket.[11]

Respectfully submitted,

By:______________________________

Henry Walker (B.P.R. No. 000272)
Bradley Arant Boult Cummings, LLP
1600 Division Street, Suite 700
Nashville, TN 37203
Phone: 615-252-2363
Email: hwalker@bradley.com

[11] CGC also proposes for the first time to impose penalties on transportation customers who "over deliver," *ie*. those who order more gas than the customers use that day. That change has no apparent connection to the Consumer Advocate's concerns about firm customers that gave rise to this proceeding and, in the absence of any CGC testimony explaining how or why "over delivery" causes harm to CGC, there is no reason to change the current tariff language. See Hickerson direct testimony at 9.

CERTIFICATE OF SERVICE

I hereby certify that I have on this ___ ~~day of September~~ 3rd day of October, 2022, a copy of the foregoing document was served on the parties of record, via electronic email transmission and regular U.S. Mail, postage prepaid, addressed as follows:

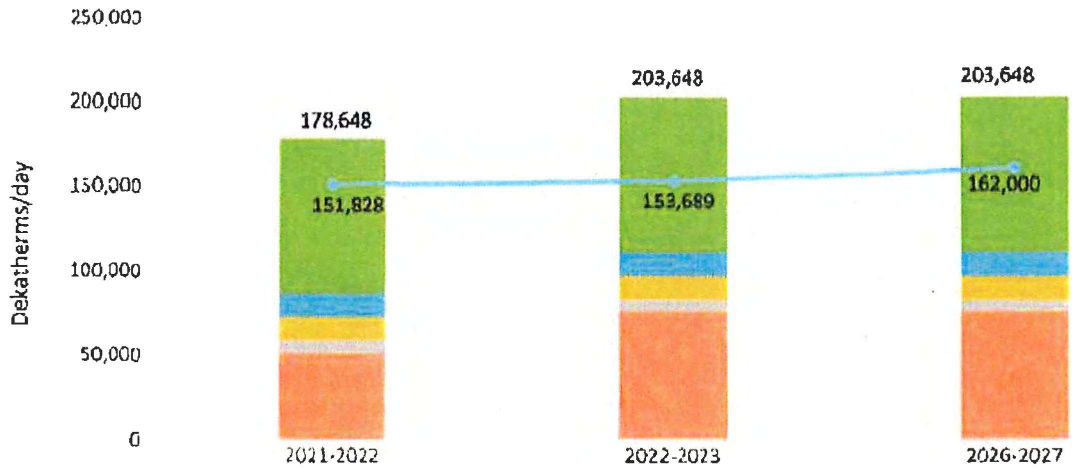
____

Henry M. Walker

Illustration 1

"CGC's Design Day Requirements and Available Capacity"

CGC Design Day Requirements* and Available Capacity**



	2021-2022	2022-2023	2026-2027
LNG	91,630	91,630	91,630
CSS	14,346	14,346	14,346
FS-PA	13,659	13,659	13,659
FS-MA	7,741	7,741	7,741
Firm Transport	51,272	76,272	76,272
Design Day Load	151,828	153,689	162,000

* Design Day figures for 2021-2022 and 2022-2023 are shown on Exhibit GB2, Becker/Bellinger rebuttal. Design Day figure for 2026-2027 is from Docket 18-00017, Santolin dlect testimony, at 6.

** All the capacity figures are from Exhibit GB2, Becker/Bellinger rebuttal. The LNG capacity shown here is the same for each winter period. It is the same capacity as the LNG capacity shown in Exhibit GB2 for the winter of 2021-2022 and the same as the current LNG capacity (prior to adding capacity through the LNG redelivery project) for the years of 2018 thorugh 2027 as testified to by Becker in the Docket 18-00017. Becker direct testimony at 8,10 (chart) and 13. The LNG capacity shown here is unestimated because it does not include the additional 6700 Dth/day of capacity added during the first phase of the LNG redelivery project) (the "Red Bank expansion") which was completed in 2020. Docket 18-00017, Becker direct testimony at 14 ("this phase would reach approximately 6700 Dth/day of the current load"); Docket 20-00049; Leath direct testimony at 11 ("the first phase of the Red Bank high pressure is done.")

Illustration 2

"Daily Henery Hub Prices from January 1 through August 31, 2022"

Daily Gas Pricing History

	TGP 500 22-Aug Index	TGP 500 22-Jul Index	TGP 500 22-Jun Index	TGP 500 22-May Index	TGP 500 22-Apr Index	TGP 500 22-Mar Index	TGP 500 22-Feb Index	TGP 500 22-Jan Index
Day of month	8.83	6.74	8.88	7.19	5.23	4.48	6.25	3.97
1	8.425	6.860	8.405	6.830	5.495	4.265	5.595	3.570
2	8.060	6.335	8.605	6.830	5.520	4.300	5.330	3.570
3	8.050	6.335	8.830	7.365	5.520	4.580	6.110	3.570
4	7.835	6.335	8.355	7.995	5.520	4.560	5.555	3.535
5	8.590	6.335	8.355	8.315	5.615	4.740	5.220	3.715
6	8.335	7.005	8.355	8.315	5.935	4.740	5.220	3.805
7	8.335	7.595	9.030	8.335	6.185	4.740	5.220	3.865
8	8.335	6.840	9.185	8.335	5.970	4.795	4.345	3.815
9	*7.645*	*6.270*	*9.430*	*8.335*	*6.200*	*4.570*	*4.310*	*3.615*
10	7.840	6.270	8.130	7.325	6.200	4.495	4.020	3.815
11	7.885	6.270	8.660	6.575	6.200	4.540	3.805	4.085
12	8.400	6.600	8.660	7.475	6.365	4.675	3.900	4.025
13	8.625	6.625	8.660	7.435	6.570	4.675	3.900	4.620
14	8.625	6.860	8.920	7.580	6.705	4.675	3.900	4.650
15	8.625	7.045	7.680	7.580	6.845	4.535	4.015	4.260
16	8.485	6.845	7.760	7.580	6.845	4.390	4.210	4.260
17	9.235	6.845	7.945	8.010	6.845	4.550	4.330	4.280
18	9.320	6.845	7.430	8.235	6.845	4.730	4.560	4.260
19	9.215	7.835	7.430	8.385	7.695	4.730	4.495	4.405
20	9.015	7.465	7.430	8.175	7.070	4.730	4.495	4.680
21	9.015	7.390	7.430	8.030	6.840	4.730	4.495	4.090
22	9.015	8.015	6.960	8.030	6.790	4.625	4.495	3.965
23	9.785	8.165	6.905	8.030	6.445	4.885	4.410	3.965
24	9.855	8.165	6.770	8.235	6.445	5.130	4.495	3.965
25	9.420	8.165	6.455	8.720	6.445	5.035	4.720	4.120
26	9.565	8.650	6.455	9.190	6.455	5.370	4.465	4.100
27	9.640	8.900	6.455	9.070	6.750	5.370	4.465	4.305
28	*9.640*	*8.360*	*6.505*	*8.295*	*6.970*	*5.370*	*4.465*	*4.475*
29	9.640	8.440	6.845	8.295	6.755	5.400		5.540
30	9.430	8.440	7.005	8.295	6.755	5.270		5.540
31	9.435	8.440		8.295		5.325		5.540
		9.000		3.000	19.000			3.000
20% Band	10.596	8.088	10.656	8.628	6.276	5.376	7.500	4.764

Days Lighted in Yellow where the daily pricing exceeded 20% of the First of Month Index.

34	0	0
20%	50%	100%