

BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION

NASHVILLE, TENNESSEE

February 1, 2023

IN RE:

CHATTANOOGA GAS COMPANY PETITION FOR  
APPROVAL OF TARIFF AMENDMENTS TO ITS  
T-1, T-2, AND T-3 TARIFFS

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DOCKET NO.  
22-00004

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ORDER APPROVING PETITION FOR  
APPROVAL OF AMENDMENTS TO ITS T-1, T-2, AND T-3 TARIFFS AS AMENDED

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**ORDER APPROVING PETITION FOR APPROVAL OF AMENDMENTS TO ITS T-1, T-2,  
AND T-3 TARIFFS**

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This matter came before Chairman Herbert H. Hilliard, Commissioner Robin L. Morrison, Commissioner Clay R. Good, Commissioner Kenneth C. Hill, and Commissioner John Hie of the Tennessee Public Utility Commission (the “Commission” or “TPUC”), the voting panel assigned to this docket, during a regularly scheduled Commission Conference held on November 7, 2022, for consideration of the Chattanooga Gas Company *Petition for Approval of Tariff Amendments to its T-1, T-2, and T-3 Tariffs* (“*Petition*”) filed by Chattanooga Gas Company (“CGC” or the “Company”) on January 14, 2022.

**BACKGROUND**

CGC is a public utility authorized to transport, distribute, and sell natural gas in the Chattanooga area, Cleveland, and other areas within Hamilton and Bradley counties, Tennessee.<sup>1</sup> The Company is a wholly owned subsidiary of Southern Company Gas, a natural gas holding company

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<sup>1</sup> *Petition*, pp. 1-2 (January 14, 2022).

that is the parent company of regulated natural gas utilities in Georgia, Illinois, and Virginia in addition to CGC in Tennessee.

The Company provides “firm” service to residential and business customers in which CGC assumes the responsibility for all aspects of gas supply to the customer.<sup>2</sup> CGC also serves industrial customers, some of which include “interruptible” transportation customers that have elected to be responsible for purchasing their own gas from suppliers and arranging for it to be delivered to CGC’s city gate via interstate pipeline usually under contract with a third-party marketer.<sup>3</sup> Transportation service is provided under three tariffs: Interruptible Transportation Service (T-1), Interruptible Service with Firm Gas Supply Backup (T-2), and Low Volume Transport (T-3). Whether the Company has an obligation to provide backup service to an interruptible customer is dependent upon which tariff service provision the customer elects.

On April 20, 2021, the Company filed its second annual rate review under CGC’s Annual Rate Review Mechanism (“ARRM”) in Docket No. 21-00048.<sup>4</sup> As part of that docket, CGC proposed to change the Special Terms and Conditions sections of its T-1, T-2, and T-3 transportation tariffs to provide incentives so that transportation customers did not over-nominate or under-nominate gas on days when a balancing order was in effect. After recognizing that the proposed changes were controversial and did not impact the substance of the ARRM docket, CGC withdrew the proposed tariff changes on May 18, 2021 with the stated intent to re-file at a later date.<sup>5</sup> Upon filing the *Petition* on January 14, 2022, the present docket was opened to consider the proposed tariff changes.

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<sup>2</sup> *Id.* at 3.

<sup>3</sup> *Id.*

<sup>4</sup> See *In Re: Chattanooga Gas Company Petition for Approval of its 2020 Annual Rate Review Filing Pursuant to Tenn. Code Ann. § 65-5-103(d)(6)*, Docket No. 21-00048, *Chattanooga Gas Company Notice of Withdrawal From Further Consideration in this Docket Certain Proposed T-1, T-2, and T-3 Tariff Changes*, pp. 1-2 (May 18, 2021).

<sup>5</sup> *Id.* at 3-4.

After filing the *Petition* in this docket, the Company filed its third annual rate review under CGC's ARRM in Docket No. 22-00032. The Chattanooga Regional Manufacturers Association ("CRMA"), a trade association representing over 250 manufacturers and other supporting businesses, many of whom are customers of CGC, intervened and presented testimony concerning use of the Company's Liquid Natural Gas ("LNG") facility and made claims of discrimination.<sup>6</sup> The relief sought by CRMA included a request to make LNG available to interruptible customers. After CGC filed a motion to strike on July 14, 2022, the parties in Docket No. 22-00032 ultimately agreed on July 27, 2022, to move the LNG related issues to the present docket, Docket No. 22-00004, to be considered with the Company's *Petition*.<sup>7</sup>

### **PETITION**

On January 14, 2022, the Company filed its *Petition* to amend the Company's T-1, T-2, and T-3 tariffs. Tariffs T-1, T-2, and T-3 address conditions and rates applicable to CGC's transportation of gas on behalf of customers who elect to purchase and manage their own gas supply for delivery by interstate pipelines to CGC's city gate.<sup>8</sup> T-1 is interruptible transportation service, T-2 is interruptible service with firm supply back-up, and T-3 is low volume transportation service. While transportation customers manage their own supply, CGC is responsible for managing any imbalance between the amount of gas delivered and the amount of gas consumed by both sales and transportation customers.<sup>9</sup>

According to the Company, the wording of the balancing provisions in the transportation tariffs can result in increased costs for CGC's other firm customers and, thus, necessitated a change. Many customers materially under- or over-schedule deliveries and later, as in the case of under-

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<sup>6</sup> See *In Re: Chattanooga Gas Company Petition for Approval of its 2021 Annual Rate Review Filing Pursuant to Tenn. Code Ann. § 65-5-103(d)(6)*, Docket No. 22-00032, *Order Approving Chattanooga Gas Company's Revised 2021 Annual Rate Review Filing Pursuant to Tenn. Code Ann. § 65-5-103(d)(6)*, pp. 9-10 (October 28, 2022).

<sup>7</sup> *Id.* at 15.

<sup>8</sup> *Petition*, pp. 4-5 (January 14, 2022).

<sup>9</sup> *Id.* at 4.

deliveries, schedule over-deliveries to off-set previous deficiencies. While the volumes may be off-set, the cost is not off-set and often results in costs being shifted to the firm customers. The *Petition* describes an instance in February 2021, where operational flow orders (“OFOs”) were in effect by the interstate pipelines and CGC had daily balancing orders in effect. Transportation customers under-delivered gas when prices were high and repaid the gas later when prices were lower. The difference in cost shifted from transportation customers to the sales customers.<sup>10</sup> According to the *Petition*, the proposed tariff changes would provide transportation customers an incentive to comply with balancing orders.<sup>11</sup> Any penalties collected would be credited to the gas cost recovery in the Actual Cost Adjustment (“ACA”) filing and not retained by CGC.

#### A. Direct Testimony of Archie Hickerson

In support of the *Petition*, Archie Hickerson, Director of Rates and Tariff Administration, Southern Company Gas, filed pre-filed testimony describing Tariff T-1, T-2, and T-3. Unlike most of the Company’s customers, Tariffs T-1, T-2, and T-3 apply to CGC customers that have elected to purchase and manage their own gas supply by arranging for gas to be delivered by interstate pipeline to CGC’s city gate and then transported by CGC over its system to the customers’ facilities. Tariff T-1 relates to fully interruptible transportation service, with CGC having no firm obligation to supply gas. Tariff T-2 relates to interruptible transportation service with firm supply backup provided by CGC. Customers pay for the ability to purchase up to a designated volume of gas (billing demand volume) monthly at the F-1 billing demand rate. Tariff T-3 relates to low volume transportation service. Customers have a firm right to purchase gas from CGC at the tariff C-2 rate.<sup>12</sup>

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<sup>10</sup> *Id.* at 4-5.

<sup>11</sup> *Id.* at 5.

<sup>12</sup> Archie R. Hickerson, Pre-Filed Direct Testimony, p. 4 (January 14, 2022).

As the balancing point operator, CGC is responsible for managing any imbalance between the volume of gas consumed by customers and the volume of gas scheduled to be delivered by interstate pipelines to CGC's city gate, for both sales and transportation customers. Tariff provisions address CGC's management of imbalance: (1) cash out provisions for the difference between consumption and supply on a monthly basis; (2) imbalance trading provisions allowing transportation customers to trade imbalances at end of month; and (3) daily balancing order provisions requiring customers to ensure the volumes of gas delivered on a given day equals the volumes of gas consumed during that day.<sup>13</sup>

Cash out provisions under T-1 allow CGC to sell gas to customers who consume more than delivered and purchase excess gas from customers who have more delivered gas than they consume. Sales price and purchase price are made at an adjusted index price based on percentage difference. As the imbalance difference increases, sales price increases and purchase price decreases. Under T-2, CGC sells gas to customers consuming more than delivered up to the firm volume billing demand level at the F-1 billing demand rate and purchases excess gas at an adjusted index price that decreases as imbalance increases. Under T-3, CGC sells gas to customers consuming more than delivered at the C-2 rate. Like T-1 and T-2 tariffs, CGC purchases gas at an adjusted index price.<sup>14</sup>

With respect to the imbalance trading provisions, there is no difference between tariffs T-1, T-2, and T-3. At the end of the month, all customers can trade imbalances to offset over- or under-deliveries of gas before CGC applies the cash out provisions to the final balances. Likewise, there is no difference between the tariffs regarding the balancing order provisions. When an interstate pipeline issues an OFO to protect the operational integrity of the pipeline, CGC in turn issues a balancing order that requires transportation customers to ensure the volume of gas delivered to CGC on a given

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<sup>13</sup> *Id.* at 4-5.

<sup>14</sup> *Id.* at 5-6.

day equals the volume of gas consumed during that day. OFOs often result in a supply and demand imbalance and often are accompanied by an increase in the daily price of gas.<sup>15</sup>

According to Mr. Hickerson, the current tariff language for the imbalance provisions results in an increase of the cost of gas for sales customers based on the actions of transportation customers. By not nominating gas on a daily basis, or by materially under- or over-scheduling and then later scheduling over-deliveries to off-set previous deficiencies, costs are shifted from transportation customers to the sales customers.<sup>16</sup> Mr. Hickerson provided a specific example of what happened in February 2021. During the periods of February 1st-7th, 2021, and February 13th-23rd, 2021, interstate pipelines issued OFOs and CGC had daily balancing orders in effect. The majority of T-3 customers did not schedule gas for delivery during this time when daily prices increased. These same customers delivered excess gas to offset when OFOs were not in effect and daily prices decreased. T-1 and T-2 customers had similar patterns. Essentially, transportation customers consumed expensive gas and repaid CGC with a much lower cost gas thereby shifting the difference in cost to sales customers.<sup>17</sup>

According to Mr. Hickerson, the Company has proposed an incentive for transportation customers to avoid over-nominating gas when a balancing order is in effect.<sup>18</sup> Under an OFO, CGC must maintain the balance of gas delivered for sales customers and gas delivered on behalf of transportation customers. If there is an imbalance, CGC must inject or withdraw gas from storage to avoid pipeline penalties. The current tariff provides incentive to avoid under-delivering but no incentive to not over-deliver. The proposed tariff change clarifies that on days CGC issues a daily balancing order, the daily balancing provisions apply, and customers cannot offset under- or over-deliveries on days that a balancing order is in effect by over- or under-delivering on days a balancing

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<sup>15</sup> *Id.* at 6-7.

<sup>16</sup> *Id.* at 7.

<sup>17</sup> *Id.* at 7-8.

<sup>18</sup> *Id.* at 8.

order is not in effect.<sup>19</sup> There is no penalty for over-delivery if the difference is within 5% of customer's consumption when a balancing order is in effect and no pipeline penalties are imposed.<sup>20</sup>

Each of the Company's proposed tariffs specifies the consequences of transportation customers failing to comply with: (a) daily balancing orders and taking gas in excess of its gas nomination for the balancing day, (b) curtailment orders and taking gas in excess of allowed curtailment volumes, and (c) daily balancing orders and delivering gas in excess of its actual daily consumption. Each tariff has unique charges and penalties for non-compliance, which are enumerated in the tariff language. There is, however, one condition that is uniform across (a), (b), and (c), for all three tariffs. Specifically, imbalances for days that a balancing order or curtailment order is in effect may not be offset by over- or under-deliveries on days the orders are not in effect. Additionally, these imbalances are not subject to end of month imbalance trading.<sup>21</sup> The proposed penalties for over-deliveries were summarized as follows:<sup>22</sup>

	<b>Customer takes gas in excess of its gas volume nomination for balancing day.</b>	<b>Customer takes gas in excess of allowed curtailment volumes.</b>	<b>Customer has gas delivered in excess of actual consumption.</b>
T-1	Excess vol. times avg. daily index plus \$5/Dth <u>plus</u> all applicable pipeline/gas supplier penalties.	Greater of \$15/Dth or avg. daily index plus \$5/Dth <u>plus</u> all applicable pipeline/gas supplier penalties.	\$15 times each Dth that exceeds 5% of daily consumption <u>plus</u> applicable pipeline/gas supplier penalties.
T-2	Excess vol. over gas nominated plus Customer billing demand vol. times Avg. daily index plus \$5/Dth <u>plus</u> applicable pipeline/gas supplier penalties.	Greater of \$15/Dth or avg. daily index plus \$5/Dth <u>plus</u> all applicable pipeline/gas supplier penalties.	\$15 times each Dth that exceeds 5% of daily consumption <u>plus</u> applicable pipeline/gas supplier penalties.

<sup>19</sup> *Id.* at 8-9.

<sup>20</sup> *Id.*

<sup>21</sup> *Id.* at 9-13.

<sup>22</sup> See Exhibits ARH-1 and ARH-2.



T-3	Excess at C-2 tariff rate	Greater of \$15/Dth or avg. daily index plus \$5/Dth <u>plus</u> all applicable pipeline/gas supplier penalties.	\$15 times each Dth that exceeds 5% of daily consumption <u>plus</u> applicable pipeline/gas supplier penalties.
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Under the Company’s proposal, any amounts collected under the proposed revised changes to CGC’s tariffs will be credited to gas cost recovery in the annual Actual Cost Adjustment (“ACA”) filing.

### **POSITION OF THE CONSUMER ADVOCATE**

The Consumer Advocate Unit in the Financial Division in the Office of the Tennessee Attorney General (“Consumer Advocate”) filed for intervention in the docket on February 7, 2022, which was subsequently granted.<sup>23</sup> In accordance with a procedural schedule, the Consumer Advocate engaged in discovery with the parties in this docket.

#### **A. Direct Testimony of David N. Dittmore**

On July 11, 2022, the Consumer Advocate filed the testimony of its witness David N. Dittmore, a self-employed consultant working in the utility regulatory sector. According to Mr. Dittmore, the proposed changes are designed to disincentivize transportation customers from (a) taking excess gas when a balancing order is in effect; (b) failing to comply with curtailment orders; and (c) having gas delivered in excess of daily consumption when daily balancing orders are in effect.<sup>24</sup>

The Consumer Advocate supports CGC’s recommended tariff changes with one clarification.<sup>25</sup> The daily balancing requirement proposed by CGC would apply when an OFO is in effect or when the Company determines there is an “operational” reason for the requirement. Mr. Dittmore recommended that the tariffs be clarified to state that CGC may also issue a balancing order when there are price spikes, regardless of whether an OFO has been issued. CGC could initiate

<sup>23</sup> *Order Granting the Petition to Intervene Filed by the Consumer Advocate* (February 22, 2022).

<sup>24</sup> David N. Dittmore, Pre-Filed Direct Testimony, pp. 1-3 (July 11, 2022).

<sup>25</sup> *Id.* at 5-6.

the balancing order to ensure that transportation customers could not “borrow” gas during periods of extreme market prices. Since price volatility is somewhat subjective, Mr. Dittmore also recommended that volatility be defined as a daily price that exceeds by more than 20% of the first of that month’s published index price at Henry Hub.<sup>26</sup>

### **POSITION OF THE CHATTANOOGA REGIONAL MANUFACTURERS ASSOCIATION**

The Chattanooga Regional Manufacturers Association (“CRMA”) filed for intervention in the docket on January 21, 2022, which was subsequently granted by the hearing officer.<sup>27</sup> In accordance with a procedural schedule, the CRMA engaged in discovery with the parties to this docket.

#### **A. Direct Testimony of John Edwards**

On July 11, 2022, the CRMA filed the testimony of John Edwards, Director of Operations and Maintenance of Koch Foods, LLC (“Koch”) in Chattanooga, Tennessee. Mr. Edwards testified to Koch Food’s opposition to CGC’s filing for proposed changes to their Transportation Rate Tariffs. Koch has two facilities in Hamilton County employing over 275 people at wages significantly higher than minimum wage. Additionally, Koch has several facilities located in Morristown, Tennessee. Tennessee operations contribute substantially to regional businesses that supply its facilities. The economic impact of Koch operations in Tennessee is estimated at \$300 million per year.<sup>28</sup>

According to Mr. Edwards, the cost of utilities, including the cost and reliability of natural gas play a factor into Koch plans to expand operations in Chattanooga or move production to a more favorable area. The downtown Chattanooga production facility is served under Rate Schedule T-2

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<sup>26</sup> *Id.*

<sup>27</sup> *Order Granting Petition to Intervene Filed By the Chattanooga Regional Manufacturers Association* (February 4, 2022).

<sup>28</sup> John Edwards, Pre-Filed Direct Testimony, pp 2-4 (July 11, 2022).

with Firm Backup. Koch's feedmill outside the city is served under Rate Schedule T-1.<sup>29</sup> Mr. Edwards expressed his concern that the proposal in CGC's ARRM Docket 22-00032 would allocate rate increases without considering cost of service which could cause Koch to subsidize other customer classes. A second concern was the proposed penalty language in this Docket that, if approved, would increase exposure to unjust imbalance penalties that are not cost based.<sup>30</sup>

According to Mr. Edwards, Koch's production facilities in Morristown, served by Atmos Energy, did not face any OFOs whereas Koch's facility served by CGC faced approximately thirty days of OFOs. Both areas are served by the same interstate pipeline, East Tennessee Natural Gas. Mr. Edwards claimed that the significantly increased penalties now sought by CGC are not caused by any costs that CGC incurs.<sup>31</sup> When CGC issues an OFO, Koch's feedmill (served under tariff T-1) is forced to use alternative fuel, the cost of which has increased significantly recently. According to Mr. Edwards' understanding from CGC's last rate case, CGC would offer incremental gas to T-1 customers, but has not done so this past year, even in February of 2021 when the price of gas from the pipeline was very expensive and volatile. Koch does not appear to be receiving any benefit from the capital upgrades to CGC's LNG facility. There has been no lower cost incremental gas offered by CGC.<sup>32</sup>

Regarding the downtown Chattanooga facility served under tariff T-2, Mr. Edwards agrees that the current tariff language, which allows customers to balance their supplies monthly, resulted in supply cost shifts in February 2021. However, Mr. Hickerson's proposal is not the best solution. The financial penalties are not cost-based and result in class cross-subsidization. Mr. Edwards

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<sup>29</sup> *Id.* at 4.

<sup>30</sup> *Id.* at 4-5.

<sup>31</sup> *Id.* at 5.

<sup>32</sup> *Id.* at 5-6.

asserted that a better solution is to assign firm capacity to the transportation customers, which would result in a just, fair, and equitable application and benefit all customers.<sup>33</sup>

#### B. Direct Testimony of James L. Crist

Also on July 11, 2022, CRMA filed the pre-filed testimony of James L. Crist, Registered Professional Engineer and President of Lumen Group, Inc., a consulting firm. Mr. Crist addressed not only CGC's proposed changes to the transportation tariff but also CGC's policies on pipeline capacity allocation and issues related to incremental gas, capacity management, and the LNG facility.<sup>34</sup>

With respect to the proposed balancing rules changes, Mr. Crist defined "balancing" as the process of reconciling the amount of natural gas delivered to the utility's distribution system to the amount of gas consumed by its customers. Imbalances can be "long" if customers have more gas delivered than they use or "short" if customers use more gas than they have delivered. CGC's Tariff T-1 is a high-volume transportation service to interruptible customers, who understand they may be interrupted and agree to install and maintain standby fuel burning facilities to enable them to continue operations in the event service is interrupted or curtailed.<sup>35</sup> CGC may require daily balancing only if such balancing is necessary for operational reasons. Tariff T-2 is a high-volume transportation service with firm backup gas supply. If service is interrupted, CGC will supply gas under Rate Schedule F-1, firm sales service, up to the contracted quantity of gas. Tariff T-3 is a low volume transportation service with firm backup gas supply. If service is interrupted, CGC will supply gas under Rate Schedule C-2, firm sales service, up to the contracted quantity.<sup>36</sup>

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<sup>33</sup> *Id.* at 6-7.

<sup>34</sup> James L. Crist, P.E., Pre-Filed Direct Testimony, pp. 1-3 (July 11, 2022).

<sup>35</sup> *Id.* at 3-4.

<sup>36</sup> *Id.* at 4-6.

With reference to Mr. Hickerson's direct testimony of an event that happened during February 2021, Mr. Crist disputed Mr. Hickerson's assertion that CGC's only option at that time was to purchase more expensive gas on those days. Based on CGC's confidential response to data requests, Mr. Crist concluded that CGC had extremely excessive LNG inventory and could have easily supplied the necessary gas using LNG at its Weighted Average Cost of Gas (WACOG) price instead of purchasing expensive gas.<sup>37</sup> Mr. Crist argued that the existing tariff language is not responsible for the Company's decision to purchase expensive gas rather than providing incremental sales of inexpensive LNG gas to its on-system customers.

Next, Mr. Crist contended that that the proposed penalty charges are not cost-based, they violate cost causation principles, and should be rejected.<sup>38</sup> According to Mr. Crist, there are six established principles that should be considered in designing a fair and reasonable transportation tariff.<sup>39</sup>

1. Customers or their suppliers must manage supply;
2. Assets assigned equitably based on rate classes that pay for the assets;
3. There should be no cross-subsidization between transportation and sales customers;
4. Transportation customers should be permitted to trade imbalances on daily balancing days or monthly balancing to avoid incurring penalties;
5. Over/under delivery tolerances are added to the pools that are consistent with tolerances of interstate pipeline tolerances imposed on CGC; and
6. Reasonable OFO long penalties and do not impose stricter non cost based penalties than CGC has with the interstate pipelines.

Mr. Crist recommended the following actions:<sup>40</sup>

1. Transportation gas supply pools will be setup by CGC. All transportation customers must designate a transportation supplier or pool. CGC may have to setup the Cleveland area as a separate pool due to the physical connections of the interstate pipeline;
2. All cash-out and related daily balancing charges will be assessed to the pool supplier. CGC base charges will be directly billed to CGC customers.

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<sup>37</sup> *Id.* at 7-8.

<sup>38</sup> *Id.* at 7-9.

<sup>39</sup> *Id.* at 9-10.

<sup>40</sup> *Id.* at 10-11.

3. CGC will assign a pro-rata share of interstate capacity and storage assets to each supplier pool, based on the aggregate maximum daily quantity (“MDQ”) of each pool. Such assignment will be done on a quarterly or semi-annual basis based on the aggregate supplier’s pool MDQ. A methodology will be developed based on a customer’s winter sensitivity and entitlement to LNG relative to their interstate assets assigned.
4. All Cash-out and Daily Balancing incentives will be assessed to the pool supplier. The monthly-cash-out for imbalances will be consistent with existing T-1 cash-out provisions.
5. Operational Flow Orders (Winter/Short): Pool suppliers will be required to nominate gas to cover their pool requirements. Suppliers will pay daily balancing incentives consistent with the current tariff (\$15 or \$5 plus), for all burn volumes that exceed the higher of 5% or 500 Dth/day, consistent with interstate pipeline rules. A portion of the supply may include LNG which will be assessed by CGC;
6. Operational Flow Orders (Summer/Long): Pool suppliers will be required to nominate gas such that they do not over-deliver gas and cause pipeline penalties to be incurred. The current “no harm, no foul” language is sufficient for CGC to balance the system. Furthermore, since CGC’s use of the Firm Transportation No Notice (“FTNN”) service from Sonat to automatically balance their meter, imposing a stricter balancing tariff on downward stream customers would be unfair.

With such changes, Mr. Crist contended that the tariffs would be cost-based, prevent cross-subsidization, not cause harm to customers, and promote efficient use of Company assets.<sup>41</sup>

With respect to the Company’s proposal to credit any amounts collected because of the revised tariff provisions to gas costs in the annual ACA filing, Mr. Crist insisted that such a plan was inconsistent with ratemaking principles and would create cross-class subsidization. Instead, Mr. Crist recommended that any amounts collected from transportation customers because of tariff modifications should be credited to the class of customers that generated them.<sup>42</sup>

Mr. Crist also addressed issues related to the Company’s Pipeline Capacity and Incremental Gas. CGC contracts for firm transportation and storage services on three interstate pipelines: East Tennessee Natural Gas (“ETNG”), Tennessee Gas Pipeline (“TGP”), and Southern Natural Gas

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<sup>41</sup> *Id.* at 11.

<sup>42</sup> *Id.*

Company (“SONAT”). Mr. Crist concluded that CGC holds capacity in excess of what it has experienced in the past, and therefore should offer this excess when not needed to its industrial interruptible customers.<sup>43</sup> Additionally, CGC operates an LNG facility with a deliverability of 120,000 Dth/day. According to Mr. Crist, when added to the pipeline capacity, CGG’s overall capacity clearly exceeds its design day requirements. As capital costs and annual operating costs for the LNG facility are recovered in rates that apply to all customer classes, Mr. Crist asserted CGC’s practices regarding the use of this facility are discriminatory.<sup>44</sup>

Mr. Crist claims that historically, under an incremental sales provision in the tariff, LNG was made available to all rate classes including T-1. When control of CGC’s gas operations was consolidated in Atlanta, it began denying this benefit to the T-1 customers, an issue that was raised in CGC’s 2018 rate case in Docket No. 18-00017. In response, CGC agreed it would offer incremental gas, if available, on a going forward basis, with priority given to firm customers. Mr. Crist testified that evidence shows that CGC had, and will continue to have on most days, adequate gas to meet the needs of firm customers and excess gas that can be made available to interruptible transportation customers.<sup>45</sup> Mr. Crist also claimed that during January of 2022, CGC utilized 129,000 mcf of LNG because the asset manager, a former affiliate, Sequent Energy Services (“Sequent”) was diverting some of CGC’s capacity for off-system sales.<sup>46</sup>

Mr. Crist embraced a definition of incremental gas as, “gas supply that is over and above the amount needed for design day and reserve margin requirements”, a definition he considered included LNG gas. CGC did not live up to its promise to offer incremental gas that it made in the

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<sup>43</sup> *Id.* at 12.

<sup>44</sup> *Id.* at 12-13.

<sup>45</sup> *Id.* at 13-14.

<sup>46</sup> *Id.* at 15.

2018 rate case, as it offered incremental gas to T-1 customers on only two days in 2019.<sup>47</sup> Mr. Crist concluded that CGC will probably never have need to use LNG to meet peak day demands. If it does, the portion of total LNG supply would be de minimis.<sup>48</sup>

The capital and operating costs of the LNG facility have been and continue to be paid by all customer classes, both firm and interruptible. As such, Mr. Crist concluded that all customers, have an equal right to benefit from the LNG facility. CGC does not need the LNG facility to meet its peak demand requirements, thus, Mr. Crist concluded that the LNG stored in the facility should be made available to customers upon request. Since CGC has not provided this access, Mr. Crist claimed that CGC's behavior has resulted in customers paying excessively high prices for gas during periods of cold weather when an OFO is in effect. To support his claim, Mr. Crist described an instance experienced by KordSA, Inc. ("Kordsa") in January 2022, when CGC denied its request for incremental gas.<sup>49</sup>

With reference to the triennial review process that CGC and other large regulated natural gas utilities undergo in Tennessee, Mr. Crist indicates that the scope of review could include an audit of incremental gas. With reference to the most recent triennial review of CGC in a report dated June of 2020 by Exeter Associates ("Exeter"), Mr. Crist states that Exeter confirms that on-system sales must take precedence over off-system sales, yet the Company has favored an affiliate in conducting off-system sales of LNG.<sup>50</sup> Further, Mr. Crist testified that CGC should offer incremental LNG gas to interruptible customers without refusal, except during periods of system emergency.<sup>51</sup> According to Mr. Crist, with a new 25,000 Dth/day in recently acquired capacity, CGC will not need LNG to

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<sup>47</sup> *Id.* at 14.

<sup>48</sup> *Id.* at 15-16.

<sup>49</sup> *Id.* at 17.

<sup>50</sup> *Id.* at 17-19.

<sup>51</sup> *Id.* at 18.



meet its peak delivery requirements. Mr. Crist testified that the reason CGC used LNG in January 2022 was because it did not source its full FT entitlement on SONAT and permitted its asset manager to move this capacity to another market for profit. Since the reserve capacity of the LNG facility never dropped to a critical level, it was disingenuous for CGC to deny incremental gas to Kordsa.<sup>52</sup>

Mr. Crist asserted that the issue of incremental gas sales is well within the scope of the next triennial review. If the findings in the 2023 Triennial review do not support his recommendation that CGC has more than enough capacity to meet its peak needs and therefore should be offered upon request beginning immediately, then the practice of making incremental gas available will need to be examined.<sup>53</sup> In summary, Mr. Crist testified that CGC's proposal to impose non-cost-based penalties on transportation customers should be rejected. Further, he asserts that CGC has demonstrated repeatedly that it has used its assets to enrich its affiliates to the detriment of on-system customers, especially transportation customers.<sup>54</sup> Mr. Crist has made several recommendations, including a demand that, effective immediately, LNG gas should be offered to any customer making a request on a non-discriminatory basis. Excess pipeline capacity should be offered to any customer that requests it via a capacity release mechanism that allows CGC to recall in the event such customer is not using the released capacity. Clear and firm tariff directives are necessary to remedy CGC's lack of compliance.<sup>55</sup>

#### C. Supplemental Direct Testimony of James L. Crist

Following the agreement made on August 2, 2022 in Docket No. 22-00032, the CRMA filed the supplemental direct testimony of James L. Crist. The supplemental testimony was originally included in his testimony in CGC's ARRM Docket No. 22-00032 and closely mirrored the pre-filed

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<sup>52</sup> *Id.* at 18-19.

<sup>53</sup> *Id.* at 19-20.

<sup>54</sup> *Id.* at 20.

<sup>55</sup> *Id.* at 20-21.

testimony filed in the present docket on July 11, 2022. One difference is the claim in the supplemental testimony that after August 2018, CGC ceased off-system sales to its affiliate Pivotal. After August of 2018, CGC did not sell LNG off-system or on-system. The minor amount of LNG used during cold periods did not exhaust its total LNG volumes.<sup>56</sup> Mr. Crist proposed that CGC provide incremental gas “immediately and on-going.” Mr. Crist offered that if the 2023 Triennial Review, which originated in Commission Docket No. 07-00224, uncovered data that demonstrates there is insufficient capacity, then the practice of making incremental gas available should be examined.<sup>57</sup>

#### D. Direct Testimony of Chance Donahue

On August 2, 2022, CRMA filed the direct testimony of its witness Chance Donahue, the Utilities Manager of Kordsa, a chemical manufacturing plant served by CGC. Mr. Donahue stated the subject of his testimony is to discuss his concerns regarding CGC’s incremental gas practices and how availability of incremental gas to Kordsa and other T-1 customers reduces natural gas costs. Kordsa entered into a special contract with CGC in March 2022.<sup>58</sup> Terms and conditions of the special contract are consistent with the T-1 tariff. Kordsa contracts with a third-party supplier to deliver recallable/interruptible gas supply to CGC. During peak days when demand is high, Kordsa can switch over to its #2 Fuel Oil or CGC may offer alternative incremental gas based on CGC’s cost or cost of LNG inventory.<sup>59</sup>

Mr. Donahue testified that gas supply availability recently has become more limited on peak days leading to higher pricing and volatility, referencing as an example the month of January in

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<sup>56</sup> James L. Crist, Pre-Filed Supplemental Testimony, p. 4 (August 2, 2022).

<sup>57</sup> *Id.* at 8-9.

<sup>58</sup> *See In Re: Joint Request of Chattanooga Gas Company and KordSA, Inc. For Approval of Special Contract*, Commission Docket No. 21-00094, *Order Approving Special Contract As Modified* (May 13, 2022).

<sup>59</sup> Chance Donahue, Pre-Filed Direct Testimony, pp. 3-4 (August 2, 2022).

2022 when Kordsa's gas supply was restricted on 25 out of 31 days. On those days, Kordsa's options were to purchase gas at higher market prices or switch to #2 Fuel Oil. Mr. Donahue states that because of purchasing premium gas, Kordsa estimates its additional costs were \$350,000 for the month of January alone.<sup>60</sup>

Mr. Donahue testified that Kordsa and other T-1 interruptible transportation customers should have access to incremental LNG gas. The LNG plant was built in the 1970s to provide peaking on cold days and provide a supplemental supply for all rate classes. The cost of the LNG assets and investments in improvements have been evenly allocated to all rate classes including T-1 transportation customers. Mr. Donahue further asserted that LNG is a very valuable asset that could provide tremendous cost benefits to Kordsa and other manufacturers. CGC, however, has offered incremental gas on only two days in January 2019 since its 2018 rate case.<sup>61</sup> Mr. Donahue indicated that Kordsa is willing to pay its fair share of rate increases, but that CGC cannot justify across the board increases when it denies potential benefits from the LNG improvements. It is Kordsa's position that a thorough review by the Commission will reveal that there is plenty of LNG capacity to benefit all rate classes.<sup>62</sup>

#### **CROSS REBUTTAL TESTIMONY OF THE CONSUMER ADVOCATE**

On August 8, 2022, the Consumer Advocate filed the cross-rebuttal testimony of David N. Dittemore to respond to the Direct Testimony of Mr. James Crist, witness for the CRMA. Specifically, Mr. Dittemore addressed Mr. Crist's recommended framework for transportation tariffs and Mr. Crist's conclusion that CGC should continue to use its no-notice storage service to mitigate imbalances on its system.<sup>63</sup>

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<sup>60</sup> *Id.* at 4.

<sup>61</sup> *Id.* at 4-5.

<sup>62</sup> *Id.* at 5.

<sup>63</sup> David N. Dittemore, Cross Rebuttal Testimony, pp.1-2 (August 8, 2022).

The Consumer Advocate opposed the adoption or further pursuit of Mr. Crist's recommendation to revamp CGC's transportation tariffs. According to Mr. Dittmore, Mr. Crist does not provide sufficient detail for the significant change proposed and does not fully describe the potential consequences on cost and reliability of service to CGC's firm customers. Specifically, Mr. Crist did not define the term "pool," does not state whether and how often a customer could opt out of a pooling arrangement, does not discuss the potential implications on the customer in selecting a pool, does not state whether the pooling arrangement would be subject to the Commission's authority, and does not discuss the implications for CGC and its non-transportation customers.<sup>64</sup>

With respect to CRMA's proposed assignment of a pro-rata share of interstate capacity and storage assets to each supplier pool, Mr. Dittmore opined that it is unclear whether Mr. Crist is referring to CGC's entire existing firm capacity or some portion of it. In addition, there is no discussion of the implications on CGC's firm customers or whether CGC would have sufficient remaining capacity to ensure reliable, uninterrupted service would be available to meet peak demand of its firm customers.<sup>65</sup>

Mr. Dittmore testified that he was unaware of any evidence that the T-1 class customers are incurring costs associated with no-notice storage service.<sup>66</sup> Assuming T-1 customers are not incurring costs associated with this storage service, Mr. Dittmore states it is not appropriate to expect CGC to use the no-notice storage contract to balance receipts and withdrawals of the T-1 class. These customers have voluntarily assumed responsibility for their own gas purchases, which includes obtaining supply, balancing their gas deliveries, and securing upstream transportation in order to achieve gas cost savings. To the extent CGC has used its no-notice storage service to balance

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<sup>64</sup> *Id.* at 2-3.

<sup>65</sup> *Id.* at 3.

<sup>66</sup> *Id.* at 5.

its load including T-1 customers, the Commission must ensure that non-transportation customers are adequately compensated when assigning storage costs to those classes that benefit from the service.<sup>67</sup> In summary, Mr. Dittmore testified that CRMA's proposed changes are only described in a general nature and lack the detail necessary for serious consideration.<sup>68</sup>

#### **REBUTTAL AND SUPPLEMENTAL TESTIMONY OF THE COMPANY**

##### **A. Rebuttal Testimony of Tiffany Callaway-Ferrell**

On August 19, 2022, CGC filed the rebuttal testimony of Tiffany Callaway-Ferrell, Vice President of Operations for Chattanooga Gas Company, covering a general policy overview of CGC's obligations to ensure delivery of safe, reliable, and affordable natural gas service to its customers, with a particular focus on firm customers.

Ms. Callaway-Ferrell testified that the LNG plant was originally built to be a peaking facility.<sup>69</sup> At the time of CGC's 2018 rate case, CGC had limited options to meet the needs of the firm customers. CGC made the business decision to utilize the LNG facility to make up for anticipated transportation capacity CGC would lose in 2022.<sup>70</sup> CGC obtained 50,000 Dth/day of incremental transportation this year, therefore, it is vitally important that CGC return the LNG facility back to its intended purpose as a peaking-only facility.<sup>71</sup>

According to Ms. Callaway-Ferrell, the LNG facility is not "excess" capacity. Excess capacity suggests that the transportation and gas supply assets secured by CGC are more than what is needed to serve customers. Even though it is not utilized on a daily basis, the LNG facility serves a vitally important function in serving firm customers. As the LNG facility is located on the distribution

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<sup>67</sup> *Id.* at 5.

<sup>68</sup> *Id.* at 4.

<sup>69</sup> Tiffany Callaway-Ferrell, Pre-Filed Rebuttal Testimony, p. 3 (August 19, 2022).

<sup>70</sup> *Id.* at 4.

<sup>71</sup> *Id.* at 3-4.

system, it allows CGC to avoid seeking out transportation capacity and/or gas supply on days where one or both may be constrained by weather conditions or other reasons. The LNG facility is able to provide deliverability for only a few days due to storage limitations. Therefore, LNG is usually used only under extreme cold conditions or toward the end of the winter period.<sup>72</sup>

Ms. Callaway-Ferrell provided another perspective regarding how the LNG facility can be used to serve firm customers. The East Tennessee Gas Pipeline had scheduled maintenance a few years ago which affected Cleveland, TN. CGC was able to fill a tanker truck with LNG and use the tanker and other equipment to inject gas into the system to support the firm customers in Cleveland. The value of the LNG plant is priceless in fulfilling CGC's commitment to serve firm customers.<sup>73</sup>

Ms. Callaway-Ferrell testified that if interruptible customers need a more reliable alternative to being interrupted, they should subscribe to CGC's firm back up service. System enhancement upgrades over the last several years support firm load obligations and provide greater reliability for the interruptible customers. CGC had two system curtailment orders during the 2021-2022 winter. One was canceled due to warmer than expected temperatures and the other lasted only one day in March. Therefore, Ms. Callaway-Ferrell testified that interruptible customers have benefitted as well as firm customers due to system improvements.<sup>74</sup>

In summary, Ms. Callaway-Ferrell testified that Interruptible Transportation Service with Firm Backup under Rate Schedule T-2 is a very good option for T-1 Interruptible customers that shifts the burden to CGC to provide the necessary backup when needed. The extra work for CGC to provide this backup has a cost associated with it as is reflected in the tariff rate that corresponds to the service.

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<sup>72</sup> *Id.* at 4-5.

<sup>73</sup> *Id.* at 5.

<sup>74</sup> *Id.* at 6-7.

The requirement that CGC make incremental service available to interruptible customers under the conditions proposed by the CRMA is not needed.<sup>75</sup>

B. Rebuttal Testimony of Greg Becker and Chris Bellinger

On August 19, 2022, CGC filed the rebuttal testimony of witnesses Greg Becker, Director of Capacity Planning for Southern Company Gas and Chris Bellinger, Gas Supply Manager of Southern Operations for Southern Company Gas in a joint filing intended to serve as panel witnesses (Mr. Becker and Mr. Bellinger will be collectively referred to herein as “Panel Witnesses”).<sup>76</sup> The purpose of their testimony was to support CGC’s position on its ability to offer incremental sales or gas supply capability to interruptible transportation customers and respond to opinions of Mr. James Crist, Mr. John Edwards of Koch Foods, and Mr. Chance Donahue of Kordsa. They are sponsoring Exhibits GB-2 (CGC Preliminary Design Day Gas Supply Capability) and GB-3 (Hourly System Load on February 16, 2021).

The Panel Witnesses testified that there is no “excess” LNG or other gas supply that is available to interruptible customers at the rates, terms or conditions requested by the CRMA. The service CRMA witnesses desire is already available to them under the Company’s tariffs for firm service or interruptible service with firm backup. The Panel Witnesses characterized CRMA’s request as desiring backup service at interruptible rates. Allowing this scenario would lead to far reaching consequences for other customers, especially residential customers. CGC’s ability to provide affordable and reliable service to residential customers would be materially and adversely affected. These customers would likely face significant rate increases and a potential loss in gas supply.<sup>77</sup>

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<sup>75</sup> *Id.* at 7-8.

<sup>76</sup> Greg Becker and Chris Bellinger, Pre-Filed Rebuttal Testimony, p. 6 (August 19, 2022).

<sup>77</sup> *Id.* at 7.

The Panel Witnesses testified that the on-system LNG plant is not a large storage facility available whenever someone wants to purchase gas. It is a reserve facility that serves as a last call for natural gas available to firm customers in times of high demand and the last line of defense when the system does not operate according to plan.<sup>78</sup> Further, the LNG facility is not a ready year-round source of supply. There are defined maintenance periods when it is unavailable. It is fully staffed only during specific injection or liquefaction periods each year. CGC must also consider the economics of using inventory and cost of replacement gas for the best interest of the firm customers.<sup>79</sup>

According to the Panel Witnesses, most of the original investment in the construction of the LNG plant has been recovered in rates.<sup>80</sup> The costs for ratepayers consist of ongoing operation and maintenance costs, employees necessary to operate the plant, and occasional improvements or upgrades. The LNG facility provides an onsite gas resource fully controlled by CGC, independent of other gas supply or transportation issues with the pipelines. Further, it is a very flexible and cost-effective method of responding to firm customers' needs, which are primarily driven by cold weather. It provides the economic benefit of not having to buy expensive incremental firm transport capacity to meet the growing needs of the system's firm customers. LNG is a vital operational component of the CGC system to ensure reliable and affordable gas to firm customers and help prevent a system failure.<sup>81</sup>

The Panel Witnesses offered an explanation with respect to the differences in OFOs issued to Koch's Morristown facility and its Chattanooga facility, as testified to by Mr. John Edwards. CGC is served by two interstate pipelines, Southern Natural Gas Pipeline and East Tennessee Natural Gas ("ETNG"), both of which are fully subscribed. Atmos takes delivery from a completely different

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<sup>78</sup> *Id.* at 8.

<sup>79</sup> *Id.* at 8-9.

<sup>80</sup> *Id.* at 9.

<sup>81</sup> *Id.* at 10-11.



operating segment of ETNG than the lateral serving CGC. Therefore, it is not unusual for there to be a different number of OFOs issued to the two natural gas companies.<sup>82</sup> Assessment of imbalance penalties to transportation customers is not punitive in nature. CGC would rather have the right amount of gas being delivered to its system and have everything in balance.<sup>83</sup>

The Panel Witnesses disagreed with CRMA's request that the LNG facility should be made available immediately and ongoing to transportation customers to meet their demand requirements and lower their gas costs. Transportation, storage, and peak shaving assets exist to ensure CGC's ability to meet the needs of its firm customers in a safe and reliable manner. CGC's gas supply portfolio is not built to supplement the interruptible transportation customers' gas supply requirements. Firm customers should not be expected to pay for a service which provides a supplemental service to non-firm customers.<sup>84</sup> According to the Company, the result of CRMA's proposal would create a scenario where current firm customers are incentivized to switch to a non-firm rate schedule and pay less while still enjoying the benefits of firm service. If interruptible customers want more gas cost certainty; avoid curtailments; and receive safe, reliable service, they can switch to firm service in a move that places the obligation to plan for and provide needed supply at any time squarely on CGC.<sup>85</sup>

The Panel Witnesses testified that the LNG facility is CGC's only peak shaving asset available for no-notice use to serve firm customers on cold days when the interstate pipeline capacity is not sufficient to meet firm customer demand. Mr. Crist's claim that the amount of capacity held by CGC is in excess of past experience and prediction of future needs is incorrect according to the Panel Witnesses. Design day weather conditions are rare, but when they occur, CGC's sole responsibility

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<sup>82</sup> *Id.* at 11-13

<sup>83</sup> *Id.* at 13.

<sup>84</sup> *Id.* at 13-14.

<sup>85</sup> *Id.*

is to provide safe and reliable life-saving service to customers. Readiness should not be downgraded because, on average, there has not been a design day.<sup>86</sup> The LNG facility serves as a contingency supply if there is a disruption on the system or the interstate pipelines have operational issues. LNG inventory is finite and will cover only thirteen (13) days of availability with full vaporization capability used. If it is depleted during a heating season, CGC's ability to liquify and replace the gas during the same heating season is extremely limited. It is not appropriate to allow an asset manager to use the LNG facility for off-system sales while putting the system's firm customers at risk.<sup>87</sup>

In the time since the Company's rate case in 2018, CGC has been making major investments in its facilities to meet the demand of its ever-growing firm customer base. The Panel Witnesses testified that because of the finite inventory and limited amount of liquefaction capability, the LNG facility's gas supply capabilities must be maintained and guarded to fulfill CGC's obligation to provide safe and reliable service to firm customers on the coldest of winter days. The limited value created by optimization by an asset manager is meaningless if CGC's obligations are compromised. While CGC can direct an asset manager to stop optimization activity at any time, the Company does not believe it is prudent to expose firm customers to the many operational risks. Further, it is not uncommon for extreme cold days to occur late in the winter season, so it is best to retain the LNG resources to ensure they are available late in the season.<sup>88</sup>

The Panel Witnesses testified that CGC should not sell LNG to transportation customers since they are responsible for arranging for their own gas supply requirements. In exchange, they pay a lower tariff rate. CGC is willing to take over these responsibilities for the transportation customers if they elect to become firm customers.<sup>89</sup> Current tariff provisions allow CGC to sell incremental gas,

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<sup>86</sup> *Id.* at 14-16.

<sup>87</sup> *Id.* at 16.

<sup>88</sup> *Id.* at 16-17.

<sup>89</sup> *Id.* at 18.

if available, at the applicable index rate plus variable pipeline charges. The cost, however, should include all related costs of the LNG inventory, including pipeline demand charges for the firm transport capacity, all fuel charges, and variable costs for transportation of gas to CGC's system, plus all costs incurred to liquify and vaporize the gas. Without including all these directly related costs, firm customers would clearly be subsidizing the interruptible user.<sup>90</sup>

The Panel Witnesses offered additional rationales for denying incremental sales to interruptible transportation customers. LNG is not available for incremental sales year-round, due to routine and unplanned maintenance, replacement, or repairs.<sup>91</sup> CGC's firm customers can be harmed economically by paying more for replacement gas, lower guaranteed minimum payments by asset managers, and reduced LNG inventory that could be used by firm customers to offset high prices during the heating season. The published index price of gas for the day does not accurately reflect the true cost and CGC does not have the personnel or resources to hedge for replacement gas. When CGC replaces LNG gas inventory as a result of incremental sales, more interstate transportation assets are used resulting in fewer assets available to an asset manager which, in turn, lowers the potential annual fixed fee that benefits firm customers by offsetting gas prices.<sup>92</sup> Additional LNG operations and maintenance expenses would increase due to added usage, creating a large expense that is borne by firm customers. Liquefaction required during the summer months would increase as well, which escalates the risk of not replenishing LNG inventory ahead of the next heating season.<sup>93</sup>

The Panel Witnesses agreed with Mr. Crist's calculation of CGC's current pipeline capacity, but disagreed with the conclusion that CGC now has excess capacity.<sup>94</sup> At the time of the 2018 rate

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<sup>90</sup> *Id.* at 18.

<sup>91</sup> *Id.* at 19.

<sup>92</sup> *Id.* at 18-20.

<sup>93</sup> *Id.* at 20-22.

<sup>94</sup> *Id.* at 22-23.

case, CGC was facing the loss of 25,000 Dth/day pipeline capacity by January 31, 2022. CGC's system is located in an area of the country with limited gas supply resources provided by two interstate pipelines that are fully subscribed. After nearly four years, CGC has been able to secure a total of 50,000 Dth/day of additional incremental pipeline capacity, which makes up for the 25,000 Dth/day loss plus some additional firm transport capacity for future growth. The LNG plant, therefore, is restored to its original design intent as peak shaving resource to provide affordable and reliable service to firm customers on extremely cold days that place huge demands on the entire system. The Panel Witnesses testified that it is not fair or reasonable to consider any of this 50,000 Dth/day as excess gas supply capacity.<sup>95</sup> At a time when CGC has a reasonably adequate level of firm transport to meet current and future needs and considering the extreme weather conditions these last few years, the Company cannot bargain away this capacity for a regulatory settlement that makes CGC become more reliant on LNG again.<sup>96</sup>

Both Mr. Crist and Mr. Donahue alleged that CGC's failure to provide incremental gas to Kordsa in January 2022 caused Kordsa to incur approximately \$350,000 in additional gas charges. The Panel Witnesses testified that Kordsa, a large and sophisticated gas customer, elected to take interruptible service from CGC rather than firm service and now benefits from a special contract rate in lieu of building its own bypass facility. While Kordsa may have incurred more cost on the days in question than usual, Panel Witnesses opined that most likely Kordsa's aggregate costs are less than if it was a firm customer.<sup>97</sup>

The Panel Witnesses disagreed with Mr. Crist's reliance upon the Exeter Report in support of a claim that CGC sells incremental gas for the benefit of its affiliate asset manager Sequent. The

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<sup>95</sup> *Id.* at 23-24.

<sup>96</sup> *Id.* at 24-25.

<sup>97</sup> *Id.* at 25.

Panel Witnesses testified that (1) the Exeter Report found that CGC did nothing wrong or improper; (2) Sequent is no longer an affiliate of CGC since July 1, 2021; (3) the Exeter Report suggested a number of changes to the RFP process for the asset manager that were adopted and implemented in the latest asset manager agreement; and (4) the sharing percentage between CGC and its customers recently changed from 50/50 to 75/25 to the benefit of customers.<sup>98</sup>

Because of CGC's denial of incremental gas on January 6, 2022, the CRMA alleges that CGC was diverting gas that had been scheduled for delivery to CGC to non-jurisdictional customers when CGC's interruptible customers needed and wanted that gas. The Panel Witnesses denied the allegation and testified that no gas scheduled for delivery on behalf of CGC was replaced with LNG gas. LNG vaporized by CGC in January 2022 was used solely to serve firm customer demand. CGC must consider several factors when determining whether to offer incremental gas. In the January event cited, CGC determined it was too early in the winter season to offer incremental gas using its peak shaving inventory from LNG. In making its allegation that CGC diverted gas, the Panel Witnesses asserted that it is possible CRMA confused pipeline capacity with actual gas scheduled for delivery.<sup>99</sup>

The Panel Witnesses testified that managing the gas supply for CGC's firm customers is very complicated and a number of conditions must be considered before CGC uses LNG.<sup>100</sup> On days where forecasted demand is greater than all the transportation assets in its portfolio and CGC determines it will use all of its no-notice storage gas, CGC will use LNG to meet the forecasted firm customer demand. CGC, under its Asset Management Agreement, is required to purchase gas each business day for the next day's flow, on Fridays for the weekend and Monday flow, and on the business day prior to a holiday. CGC reviews weather forecasts and current operating conditions to

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<sup>98</sup> *Id.* at 26.

<sup>99</sup> *Id.* at 26-28.

<sup>100</sup> *Id.* at 28-33.

establish how much gas to buy. If the actual weather is colder than forecasted, CGC must either buy gas intraday at a very high price, if it is available, or use the more cost-effective LNG to meet the increased demand. CGC may have to use LNG at certain times of the day, based on customer demand, to maintain system pressure and not lose customers. If there is a large variation in temperature forecast for a three-day weekend (Saturday, Sunday, and Monday), CGC must decide how much gas to purchase on Friday. As the purchase volumes must be the same for each day, CGC would most likely purchase the lowest forecasted amount and make up any actual differences later from the LNG inventory.<sup>101</sup>

Finally, the Panel Witnesses testified that it is unnecessary for Exeter to conduct the type of audit requested by CRMA of CGC's incremental gas practices in the next audit. Mr. Hickerson testifies that these issues are already built into the triennial review process.<sup>102</sup> In conclusion, the Panel Witnesses testified that interruptible customers have elected to be responsible for their own gas supply and transportation. They have the option of switching to firm service or transportation with firm back-up. It is crucial that CGC manage gas and transportation assets in such way to ensure that on any given day, regardless of weather or other issues impacting the interstate transportation system, CGC can meet its firm customers' demands. The availability of incremental gas on any given day depends on time of year and other factors that require CGC's exercise of sound judgment based on experience. Mandating that CGC provide incremental gas on CRMA's terms is contrary to good public policy and sound utility management.<sup>103</sup>

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<sup>101</sup> *Id.* at 30-31.

<sup>102</sup> *Id.* at 32.

<sup>103</sup> *Id.* at 32-33.

### C. Rebuttal Testimony of Archie R. Hickerson

Also on August 19, 2022, CGC filed the rebuttal testimony of Archie R. Hickerson. Mr. Hickerson first addressed statements in Mr. Edwards' and Mr. Crist's testimonies concerning CGC's 2018 commitment to provide incremental gas to T-1 customers. Mr. Hickerson testified that the commitment the Company made was to make incremental gas available in accordance with its approved tariff. Tariff provisions permit the sale of incremental gas that exceeds CGC's system needs; a system that was designed to serve firm customers. CGC did not make a commitment to make gas available to interruptible customers on demand and certainly not using LNG, which does not constitute excess gas.<sup>104</sup>

The exact tariff language regarding incremental gas does not state CGC "shall" offer gas for sale on demand but that CGC "shall" be authorized to charge the incremental rate specified in the tariff. Regarding the availability of incremental gas, the joint testimony of Mr. Becker and Mr. Bellinger discusses the factors CGC must consider, which includes the exercise of sound judgment. According to Mr. Hickerson, it appears that the CRMA is seeking to remove the sound judgment that protects firm customers and instead give priority to interruptible customers, which is not appropriate.<sup>105</sup>

According to Mr. Hickerson, CRMA's proposal would require CGC to offer incremental gas to interruptible customers at any time, essentially providing a new backup supply service to transportation customers that have voluntarily elected to purchase and manage their own gas supply. T-1 customers have expressly agreed to install and maintain standby fuel burning facilities to continue operations in the event of curtailment or give satisfactory evidence of their ability and willingness to have service interrupted or curtailed. CGC already offers a firm backup service under Rate Schedule

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<sup>104</sup> Archie R. Hickerson, Pre-Filed Rebuttal Testimony, p. 2 (August 19, 2022).

<sup>105</sup> *Id.* at 2-3.

T-2. Any T-1 customer may request to move to T-2 at any time.<sup>106</sup> The issue for these customers, however, appears to be money. T-1 customers pay a lesser rate. If these customers elect firm service or interruptible service with firm supply backup, it comes at higher rates than the T-1 rate schedule. CRMA's proposal would shift to CGC all the risk of being an interruptible customer. Under this proposal, many of CGC's other large customers would shift to this new interruptible service, which would cause problems for other customer classes, especially the residential customers.<sup>107</sup>

Mr. Hickerson states that adopting Mr. Crist's recommendation to create a new class of service would completely change the nature of transportation service and would have many consequences. CGC would be required to assign interstate capacity and storage assets to un-regulated poolers/marketers which are not public utilities subject to Commission jurisdiction.<sup>108</sup> Transportation customers would not manage their own gas supply but be required to take service from the un-regulated poolers/marketer. CGC would no longer provide Interruptible Transport with Firm Supply Backup, under the T-2 classification, since the needed assets would be assigned to the un-regulated poolers/marketers, whose services would be provided at un-regulated rates. The only other option would be under Rate Schedule F-1 or T-1. Low Volume Transport customers, under the T-3 classification, could no longer purchase gas at the Rate Schedule C-2 rate since needed assets would be assigned to the un-regulated poolers/marketers. The only other option would be to switch to firm sales under Rate Schedule C-2. CGC and the Commission would have no control over the imbalance billing which would be billed by the un-regulated poolers/marketers. CGC would have to release some operational control of its LNG facility to the un-regulated poolers/marketers.<sup>109</sup>

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<sup>106</sup> *Id.* at 4.

<sup>107</sup> *Id.* at 4-5.

<sup>108</sup> *Id.* at 5.

<sup>109</sup> *Id.* at 6.



Based on data for the 12-months ended June 30, 2022, Mr. Hickerson estimates that 43% of volumes provided to CGC's customers would be controlled by poolers/marketers if Mr. Crist's recommendation is adopted.<sup>110</sup> This shift would have significant adverse consequences for firm customers to the benefit of poolers/marketers. All the burden would be on CGC and its firm customers. Marketers would be able to use capacity secured by CGC and paid for by CGC's firm customers to transport gas for sale to transportation customers. They could use the assigned assets to make off-system sales and have no obligation to share the gain with their customers or CGC's customers. Assignment of assets to marketers would reduce the assets available for optimization and directly impact the value of the Asset Management Agreement. The result would be lower asset management payments and a reduction to the 75% credited to CGC's customers.<sup>111</sup>

According to Mr. Hickerson, while poolers/marketers would be the beneficiary of the changes proposed, none of the potential marketers have participated in this proceeding. If the Commission approved a system, which effectively deregulates a big part of CGC's business and hands it over to unknown and unregulated entities, it would do so without all relevant input. Even if this action were legal under Tennessee law, it would be irresponsible from a regulatory standpoint. Mr. Hickerson did not recommend that the Commission conduct further investigation because the proposed changes are so averse to CGC's customers and the way CGC operates that CRMA's proposal is not in the public interest.<sup>112</sup>

Mr. Hickerson opposed Mr. Crist's proposal that incremental gas be made available immediately and that the next triennial review audit in 2023 specifically examine CGC's capacity planning and gas supply practices for this immediate demand and ongoing gas availability for the

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<sup>110</sup> *Id.*

<sup>111</sup> *Id.* at 6-7.

<sup>112</sup> *Id.* at 7-8.

2022-2023 winter. According to Mr. Hickerson, CGC should only make incremental gas available using the factors discussed by Mr. Becker and Mr. Bellinger. Additionally, there are no further requirements that need to be added to the scope of the audit, as the scope already includes capacity management and storage as topics to be investigated. The first triennial review was ordered by the Commission, not because CGC's mix of capacity assets was unreasonable or inappropriate but based on the concern that because of changes in customers, weather, or usage over time CGC's mix of capacity assets might not be appropriate under future conditions.<sup>113</sup> The Commission has also adopted triennial reviews of Piedmont Natural Gas Company and Atmos Energy.<sup>114</sup>

In each of the subsequent reviews covering 2010-2013, 2013-2016, and 2016-2019, the consultant with Exeter concluded that CGC's capacity planning and asset management were reasonable.<sup>115</sup> Mr. Hickerson recommended that the Company should not be ordered, either for an interim period or otherwise, to make incremental gas available to the interruptible customers on demand and that no extra instructions are necessary for the triennial review auditor.<sup>116</sup>

With respect to CRMA's opposition to CGC's proposal to credit imbalance penalties to gas costs in the ACA, Mr. Hickerson stated that imbalances and cash-out penalties have always been treated as gas cost recovery and flowed through gas costs in the annual ACA filing. According to Mr. Hickerson, without the proposed tariff changes, interruptible customers can "game" the system with the financial consequences being borne by firm customers and not the customers causing the problem. It is not inherently unfair for interruptible customers to live with the consequences of the service level to which they chose to subscribe. Assigning firm capacity to interruptible customers as proposed by

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<sup>113</sup> *Id.* at 8-9.

<sup>114</sup> *Id.* at 10.

<sup>115</sup> *Id.* at 10-13.

<sup>116</sup> *Id.* at 13.

the CRMA is unfair for firm customers.<sup>117</sup> Interruptible T-1 customers may utilize existing tariffs to cost-effectively obtain firm backup service.<sup>118</sup>

With respect to Mr. Crist's accusation that CGC has diverted capacity to an affiliate in January of 2022 so that the affiliate could retain 50% of the gain from off-system sales, Mr. Hickerson maintained that the accusation is wrong. Sequent is no longer an affiliate and was not an affiliate in January of 2022.<sup>119</sup> Further, Mr. Hickerson contended that Mr. Crist's statement that the Exeter report explains how CGC's affiliate profits by not allowing customers access to LNG are also wrong and misleading. Sequent did not make off-system sales of LNG during the audit period.<sup>120</sup> According to Mr. Hickerson, Mr. Crist implied CGC shares in off-system sales revenues generated by its affiliates Sequent and Pivotal. Mr. Hickerson clarified that Pivotal is no longer an affiliate and the Exeter report makes clear that Pivotal ceased off-system sales of LNG in 2018 and the Exeter Report speculated that Pivotal found the balance of incentives between Pivotal and CGC's ratepayers under the sharing mechanism insufficient to continue off-system sales of CGC's LNG.<sup>121</sup> Mr. Hickerson further stated that Exeter did not address the assignment of assets in its report, as implied by Mr. Crist.<sup>122</sup>

In response to Mr. Crist's testimony that Exeter wants CGC to consider selling more displacement gas out of the LNG, Mr. Hickerson testified that CGC and the Commission considered this recommendation in Docket No. 21-00069, which approved the RFP for the current AMA. That specific Exeter recommendation to sell more displacement gas out of LNG was not adopted by the Commission because the operational risk of LNG inventory not being readily available to meet

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<sup>117</sup> *Id.* at 13-14.

<sup>118</sup> *Id.* at 14.

<sup>119</sup> *Id.* at 15-16.

<sup>120</sup> *Id.* at 17.

<sup>121</sup> *Id.*

<sup>122</sup> *Id.* at 18.

customer demand was too great to allow LNG assets to be made available to an asset manager for optimization.<sup>123</sup>

Mr. Hickerson testified that CGC has complete control of the LNG facility. The AMA for the term April 1, 2018 to March 31, 2021 and extended to March 31, 2022 includes the LNG facility as an excluded asset. Excluded assets are 100% controlled by CGC and during this period CGC did not allow the asset manager to use or optimize the LNG facility. In the current AMA covering the term April 1, 2022 to March 31, 2025, the LNG facility is not included and is specifically excluded from assets subject to optimization by the asset manager. Further, the asset manager cannot direct CGC to operate the LNG facility so that the asset manager can make sales by displacement. CGC did not vaporize gas in January 2022 for the asset manager to make sales by displacement, as alleged by CRMA in its Motion to Strike or Transfer Certain Testimony filed on July 21, 2022 in Docket No. 22-00032.<sup>124</sup>

With respect to Mr. Donahue's testimony that if CGC had offered incremental gas to Kordsa, Kordsa could have saved as much as \$25,000-\$30,000 per day and estimated their additional gas costs were \$350,000 for the month of January 2022 alone, Mr. Hickerson testified that Mr. Donahue's conclusion is not supported. The calculations are not in accordance with the tariff which requires the use of the index rate plus adjustment for the gas used in liquefaction and vaporization.<sup>125</sup> Under its Special Contract with CGC, Kordsa can purchase firm supply backup in accordance with the provisions of Rate Schedule T-2. If Kordsa had done so, Mr. Hickerson calculated Kordsa could have saved more than \$250,000 as fully described in his Confidential Exhibit ARH-3.<sup>126</sup> Kordsa currently has a relatively small amount of firm supply backup. Kordsa could increase this amount if it chooses.

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<sup>123</sup> *Id.* at 18.

<sup>124</sup> *Id.* at 18-19.

<sup>125</sup> *Id.* at 19-20.

<sup>126</sup> *Id.* at 21.

It is not necessary for CGC to be required to offer new firm incremental gas service as proposed by Mr. Crist and Mr. Donahue.<sup>127</sup>

The impact of incremental gas sales is reflected in the PGA and does not impact base rates. Gas that is withdrawn from the LNG facility as incremental gas will have to be replaced with gas that is purchased, liquified, and injected into the tank.<sup>128</sup> According to Mr. Hickerson, when it is withdrawn, CGC does not know what its future replacement costs will be. If the price CGC charges interruptible customers for incremental gas is less than its replacement cost, firm customers will pay more through the PGA. LNG gas generally costs more than flowing gas since 15-18% of the gas purchased for liquefaction is consumed during the liquefaction process. Therefore, the price of incremental gas, if it occurs, will need to be increased to reflect these additional costs so that firm customers are not paying for them.<sup>129</sup>

In summary, Mr. Hickerson testified that CGC's system works the way it is designed. There is an easy option for interruptible customers that want access to a reliable gas source – buy firm back up from CGC. Requiring CGC to make incremental gas available on demand this winter would drastically change the way CGC manages its gas supply, especially the LNG storage, to the detriment of its firm customers for which the system was designed. Further, it is not necessary for the triennial review consultant to perform additional review of CGC's capacity management or gas supply operations over what they normally do. Mr. Hickerson recommended that the Commission should approve the proposed tariff amendments as filed in this docket and reject CRMA's incremental gas and triennial review proposals.<sup>130</sup>

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<sup>127</sup> *Id.*

<sup>128</sup> *Id.*

<sup>129</sup> *Id.* at 21-22.

<sup>130</sup> *Id.* at 22.

## **SEPTEMBER 12, 2022 HEARING AND APPEARANCES**

A Hearing in this matter was held before the voting panel of Commissioners during the regularly scheduled Commission Conference on September 12, 2022, as noticed by the Commission on September 2, 2022. Making appearances were the following:

Chattanooga Gas Company – Floyd R. Self, Esq., Berger Singerman, LLP, 313 North Monroe Street, Suite 301, Tallahassee, Florida, 32301; J.W. Luna, Esq., Butler Snow LLP, 150 3<sup>rd</sup> Ave. South, Suite 1600, Nashville, Tennessee 37201

Consumer Advocate Unit, Financial Division, Office of the Tennessee Attorney General – Karen H. Stachowski Esq., Post Office Box 20207, Nashville, Tennessee 37202-4015

Chattanooga Regional Manufacturers Association – Henry M. Walker, Esq., Bradley Arant Boult Cummings, LLP, 1600 Division Street, Suite 700, Nashville, Tennessee 37203-2754

During the hearing, the parties presented their respective witnesses who were subject to cross-examination by the parties and made available for questions by the Hearing Panel and Commission Staff. The Commissioners opened the floor for public comment but no member of the public sought recognition to give comment. Following the conclusion of the hearing, the Hearing Panel announced it would take the matter under consideration and deliberate later.

## **POST HEARING BRIEFS**

### **A. Post Hearing Brief of the Chattanooga Regional Manufacturers' Association**

In its post-hearing brief, CRMA claimed that the reason CGC stopped offering incremental gas sales to the interruptible customers, as required by tariff, is Mr. Chris Bellinger's misunderstanding of CGC's contractual obligation under the asset management agreement to prioritize the needs of the interruptible customers over those of the asset manager.<sup>131</sup> In addition to

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<sup>131</sup> Post-Hearing Brief of the Chattanooga Regional Manufacturers Association, pp. 1-2 (October 3, 2022).

his misunderstanding of the language in CGC's asset management agreement with Sequent, Mr. Bellinger does not understand that using regulated assets to serve off-system customers violates the fundamental obligations of a public utility to serve its jurisdictional customers before customers in other jurisdictions. CRMA argued that Mr. Bellinger's explanation for not offering incremental gas in over three years is not actually because CGC has no excess capacity available, but because of the belief that under the asset management contract any pipeline capacity not needed to serve firm customers may be optimized for profit by the asset manager. The opportunity to use CGC's fallow assets generates the annual fixed fee paid to CGC. CRMA, however, avers that capacity needed to deliver gas to requesting interruptible customers is not a "fallow" asset.<sup>132</sup>

Mr. Bellinger repeatedly stated during the Hearing that CGC has no obligation to serve interruptible customers. Mr. Bellinger acknowledged that CGC refused to offer any incremental gas to interruptible customers in January 2022, even though there was a substantial amount of excess pipeline capacity available.<sup>133</sup> The CRMA states that there is no reason to believe that CGC is acting in bad faith. Since Southern Company's takeover of CGC, however, employees responsible for managing CGC's gas supplies are not aware of the asset management contract requirements. CRMA argued that the Company does not understand a public utility's obligation is to first serve its jurisdictional customers, which includes interruptible customers who help pay costs of the utility's system and salaries of its employees, before making off-system sales that indirectly benefit its stockholders.<sup>134</sup>

With respect to CGC's proposed changes to the transportation tariffs, the CRMA addressed only the Consumer Advocate's concerns regarding price spikes. Consumer Advocate witness Mr.

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<sup>132</sup> *Id.* at 2.

<sup>133</sup> *Id.* at 3.

<sup>134</sup> *Id.* at 3-4.

David Dittmore acknowledged that its concerns could be addressed by requiring daily balancing instead of monthly balancing during periods of unusual price volatility.<sup>135</sup>

CRMA's recommendations to resolve this docket included requiring that the next triennial audit address whether CGC has reasonably interpreted and administered its incremental gas tariff and what changes, if any, the auditor would recommend.<sup>136</sup> If the Commission addresses the concerns expressed by the Consumer Advocate, CRMA proposed that the T-2 and T-3 transportation tariffs should be amended to include the following recommended language to allow the utility to require daily balancing on days with significant price volatility in the market and protect the interests of firm customers:

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 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.<sup>137</sup>

#### B. Post-Hearing Brief of the Consumer Advocate

The Consumer Advocate asserted that existing tariff language permits sophisticated marketers and transportation customers to under-deliver their actual gas consumed on days when the price of gas spikes causing CGC to purchase additional gas for the firm sales customers at peak prices. Marketers then over-deliver gas later in the month when the gas price is cheaper to offset their imbalance. This "gaming" behavior results in the unfair shifting of cost from transportation customers to the firm sales customers. CGC seeks approval of a tariff amendment to the Special Terms and Conditions of its T-1, T-2, and T-3 tariffs to incentivize these customers to not over-nominate or

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<sup>135</sup> *Id.* at 4.

<sup>136</sup> *Id.* at 4-5.

<sup>137</sup> *Id.* at 5-6.



under-nominate gas on days when a balancing order is in effect. The Consumer Advocate supported CGC's proposed amendments with the inclusion of Mr. Dittmore's recommended language to specifically address the need for daily balancing during periods of price volatility.<sup>138</sup>

Ensuring that CGC's firm sales customers do not unfairly incur higher costs due to the actions of interruptible transportation customers during periods of price volatility is the Consumer Advocate's priority. CGC's proposed amendments, as explained by Mr. Hickerson, are intended to incentivize compliance with daily balancing orders issued by the Company. These amendments, however, do not address cost shifting behavior by transportation customers during periods of price volatility when a balancing order from CGC is not in effect. Current tariff language allows CGC to issue a daily balancing order for operational reasons but price volatility is not considered an operational reason.<sup>139</sup>

To address the price volatility concern, the Consumer Advocate proposed that the additional language recommended by Mr. Dittmore be included in the Special Terms & Conditions section of the tariffs:

The Company may issue a daily balancing order when an OFO order has been issued, when in the judgment of the Company it is required to maintain the operational integrity of the distribution system, or during periods of significant price volatility. Significant price volatility is defined as daily pricing that exceeds the most recent first of the month pricing as identified by Gas Daily at the Henry Hub by a minimum of 20%.<sup>140</sup>

The proposed provision would allow CGC to issue a daily balancing order based on a specified price volatility as measured by a widely accepted industry reference point in the absence of an OFO or other operational needs.

At the Hearing, Mr. Hickerson expressed his agreement with the Consumer Advocate's recommendation. According to the Consumer Advocate, the circumstances underlying the

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<sup>138</sup> Consumer Advocate Post-Hearing Brief, p. 2 (October 3, 2022).

<sup>139</sup> *Id.* at 3-4.

<sup>140</sup> *Id.* at 4.

recommended tariff amendments are not hypothetical, as is shown in Mr. Hickerson's example of February 17, 2021 when T-3 transportation customers consumed expensive gas and repaid CGC with lower cost gas.<sup>141</sup> Similar behavior was exhibited by other T-1 and T-2 customers during the month. The costs of procuring additional gas were shifted to the firm sales customers who pay the PGA rate for gas. The Consumer Advocate asserted that the daily balancing provisions proposed by CGC and the Consumer Advocate are not designed to be punitive, but as a fair and reasonable solution to incentivize transportation customers to appropriately manage their gas supply. Penalties are not imposed if the volume of gas delivered is within 5% of the customer's consumption.<sup>142</sup>

The Consumer Advocate asserted that there was no persuasive proof presented at the hearing to support not issuing daily balancing orders during periods of price volatility. CRMA witness Mr. Crist testified that a lack of available capacity might be a reason for failure to deliver gas on an extremely cold day. While it is understandable that transportation customers are trying to save money, it should not be at the expense of other customers. The cost of supply, not the availability of capacity, is the real issue.<sup>143</sup>

Provision of incremental gas to transportation customers is not mandated by tariff. CGC may do so "at its option." T-1 transportation customers receive service under a less expensive tariff rate but want access to LNG supply on demand, thereby achieving the effect of interruptible service with firm backup, which is readily available under the T-2 tariff. The Company's use of fees paid by transportation customers that contribute to LNG facility development does not justify this conclusion. Transportation customers have continued to receive the benefits of the service they elect under the applicable tariffs.<sup>144</sup>

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<sup>141</sup> *Id.* at 5.

<sup>142</sup> *Id.*

<sup>143</sup> *Id.* at 5-6.

<sup>144</sup> *Id.* at 6-7.

According to the Consumer Advocate, operational limitations and the ability to provide deliverability for a limited number of days prevent the LNG facility from being used as requested by the CRMA. CGC must focus on operational readiness of the CGC system and ensure that it is available when needed most during the winter peak demand season. CRMA argues that the Company should have used lower cost LNG gas when transportation customers failed to deliver gas. This argument, however, misstates the purpose of the LNG facility and tries to avoid transportation customers' responsibility to deliver their own gas.<sup>145</sup>

While not opposing the CRMA's pooling proposal in principle, the Consumer Advocate recommended denying the proposal while allowing that a more comprehensive analysis is necessary to ascertain the implications of the pooling agreements, especially with regard to the potential effect on CGC's ability to provide reliable service to its firm sales customers.<sup>146</sup>

#### C. Post-Hearing Brief of Chattanooga Gas Company

In its post-hearing brief, the Company gave an overview of the utility-customer framework for transportation customers. Transportation customers choose to manage their own gas supply and are subject to interruption upon certain conditions on the interstate pipeline or on CGC's system. They are required to have their own backup fuel supply or purchase CGC's firm backup service. CGC offers transportation service under three tariffs, T-1, T-2, and T-3, that lay out the conditions and terms of service.<sup>147</sup> CGC, as balancing point operator, is responsible for managing any imbalance between the volume of gas consumed and the volume of gas scheduled for delivery to CGC's city gate for both the firm and transportation customers.<sup>148</sup>

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<sup>145</sup> *Id.* at 7.

<sup>146</sup> *Id.* at 8.

<sup>147</sup> Post-Hearing Brief of Chattanooga Gas Company, pp. 8-11 (October 3, 2022).

<sup>148</sup> *Id.* at 1-2.

According to the Company, the current balancing provisions of the transportation tariffs have the potential to shift certain gas costs from the transportation customers who cause an imbalance to the firm customers. This can occur on days when the pipelines issue an OFO and CGC has daily balancing orders in effect. Certain customers may choose to consume more gas than they scheduled to be delivered, taking gas from CGC that is usually more expensive. Later in the month, these same customers over-schedule the delivery of lower cost gas in order to bring their gas deliveries for the month in balance. Gas costs, however, do not balance out and the difference in cost is charged to the firm customers. The Company's proposed tariff amendments would provide an incentive to comply with daily balancing orders. All amounts collected under these amendments would be credited back to firm customers as a recovery to gas costs under the Actual Cost Adjustment ("ACA").<sup>149</sup>

The Company objects to CRMA's request to make gas from its LNG facility available on demand or for CGC to turn over approximately 43% of its capacity to undefined and unregulated poolers/marketers.<sup>150</sup> CGC argues that such a proposal is short-sighted and reckless and would materially undermine the Company's ability to meet the regulatory obligations to provide safe, reliable, and affordable service to its firm customers and is contrary to public interest.<sup>151</sup> CGC already offers the gas supply backup service that transportation customers are seeking under Rate Schedule T-2 (Transportation Service with Firm Backup), which some transportation customers already use.<sup>152</sup>

The acquisition of capacity does not render the LNG facility excess capacity. The LNG facility does not represent "excess capacity" but rather a finite contingency resource.<sup>153</sup> Requiring CGC to sell gas supply from its LNG facility to interruptible customers would negatively impact firm

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<sup>149</sup> *Id.* at 2.

<sup>150</sup> *Id.* at 3.

<sup>151</sup> *Id.* at 5.

<sup>152</sup> *Id.* at 3.

<sup>153</sup> *Id.* at 14-15.

customers in terms of reliability and financially in the form of replacement costs for LNG gas that is used and in offsets from asset management fees.<sup>154</sup> The Company asserted there was no factual basis to claims that CGC sold LNG gas to an affiliate in order to share revenues from the sale.<sup>155</sup> The Company opposed the proposal of CRMA to shift supply and assets to unregulated poolers or marketers. Finally, the Company reiterated that it already provides the service that the T-1 customers seek in this docket.<sup>156</sup>

### **FINDINGS AND CONCLUSIONS**

The intent of the Company's proposed changes is to provide a sufficient incentive to discourage "gaming the system" and avoid shifting undue costs from one group of customers that have elected to manage their own gas supply to the detriment of the Company's firm customers. Based on the record in this case, the voting panel unanimously found that the proposed amendments to Chattanooga Gas Company's transportation tariffs T-1, T-2, and T-3 are reasonable and should be approved, as modified by the Consumer Advocate and agreed to by the Company. The agreed upon language proposed by the Consumer Advocate should be included in the Company's tariff as follows:

The Company may issue a daily balancing order when an OFO order has been issued, when in the judgment of the Company it is required to maintain the operational integrity of the distribution system, or during periods of significant price volatility. Significant price volatility is defined as daily pricing that exceeds the most recent first of the month pricing as identified by Gas Daily at the Henry Hub by a minimum of 20%.

The Chattanooga Regional Manufacturing Association requested that (1) LNG gas be offered to any customer making a request on a non-discriminatory basis; (2) excess pipeline capacity be offered to any customer that requests it via a capacity release mechanism; and (3) the next triennial review address whether the Company has reasonably interpreted and administered its incremental gas

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<sup>154</sup> *Id.* at 18.

<sup>155</sup> *Id.* at 20-23.

<sup>156</sup> *Id.* at 26-27.

tariff. Based on the evidence and arguments presented by the Company and the Consumer Advocate, the voting panel unanimously found that these requests are not in the public interest and should be denied.

At this time, there is little persuasive evidence for the Commission to authorize placing a large bulk of the Company's gas supply in the control of a vaguely defined pooling system. The Company's position with respect to treating the LNG facility as a reserve is reasonable under the facts in the record. The Company's forecasts for gas consumption and availability are dependent upon several variables. The actual effects of weather that drive gas consumption can undermine the best forecast. It is an imprecise endeavor and should be approached with an exercise of caution. There simply is not sufficient evidence in the record to support shifting substantial risk to the detriment of customers that place complete reliance on the Company's management to provide safe, reliable, and affordable gas in order to benefit a group of customers that have elected to manage their own supply of gas. Moreover, the Company's management and performance in gas supply has been found reasonable over several years of triennial reviews. Interruptible customers are not without options under the Company's tariffs and may choose to receive firm service at any time.

The voting panel did not foreclose revisiting any future claims of discrimination with respect to gas supply but CRMA's current claims have been subject to litigation that included extensive discovery and open debate amongst the experts of the parties. After having concluded this case, the voting panel is not convinced that Exeter should be directed to conduct additional or a deeper review on the issue at this time. Finally, the voting panel concludes that directing Exeter to fixate the upcoming triennial review on such claims well after the issuance of the triennial review RFP, the issuance of a contract, and without regard for any additional costs that the Company's ratepayers will ultimately bear, is not in the public interest.

**IT IS THEREFORE ORDERED THAT:**

1. The *Petition* filed by Chattanooga Gas Company on January 14, 2022 is approved, as modified by the agreement between Chattanooga Gas Company and the Consumer Advocate Unit in the Financial Division of the Tennessee Attorney General noted herein above on page 46.
2. Any person who is aggrieved by the Commission's decision in this matter may file a Petition for Reconsideration with the Commission within fifteen (15) days from the date of this Order.
3. Any person who is aggrieved by the Commission's decision in this matter has the right to judicial review by filing a Petition for Review in the Tennessee Court of Appeals, Middle Section, within sixty (60) days from the date of this Order.

**FOR THE TENNESSEE PUBLIC UTILITY COMMISSION:**

**Chairman Herbert H. Hilliard,  
Commissioner Robin L. Morrison,  
Commissioner Clay R. Good,  
Commissioner Kenneth C. Hill, and  
Commissioner John Hie concurring.**

None dissenting.

**ATTEST:**



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**Earl R. Taylor, Executive Director**