

**BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION
NASHVILLE, TENNESSEE**

July 14, 2022

IN RE:)	
)	
CHATTANOOGA GAS COMPANY)	Docket No.
PETITION FOR APPROVAL OF ITS)	
2021 ANNUAL RATE REVIEW)	22-00032
FILING PURSUANT TO TENN.)	
CODE ANN. § 65-5-103(d)(g))	

**CHATTANOOGA GAS COMPANY'S MOTION TO STRIKE,
OR IN THE ALTERNATIVE TO TRANSFER, CERTAIN OF THE TESTIMONY OF
CHATTANOOGA REGIONAL MANUFACTURERS ASSOCIATION**

Chattanooga Gas Company ("CGC" or "Company"), by and through the undersigned counsel and pursuant to Tennessee Code Annotated section 65-2-109(1), hereby files this Motion to Strike certain of the prefiled testimony of Chattanooga Regional Manufacturers Association ("CRMA"), specifically, Mr. Chance Donahue's rebuttal testimony in its entirety and those portions of Mr. James Crist's testimony relating to incremental gas, as irrelevant and immaterial to CGC's Annual Review Mechanism ("ARM"), or in the alternative to transfer said issue and testimony to Docket 22-00004. In support hereof, CGC states:

BACKGROUND

1. On October 7, 2019, in Docket 19-00047, the Tennessee Public Utility Commission ("Commission") entered its *Order Approving Settlement Agreement* reflecting agreement among CGC, CRMA, and the Consumer Advocate Unit in the Financial Division of the Office of the Tennessee Attorney General ("Consumer Advocate") relative to the *Chattanooga Gas Company Petition to Opt Into An Annual Review of Rates Mechanism Pursuant to Tenn. Code Ann. § 65-5-103(d)(6)* filed on April 15, 2019 ("2019 ARM Order").

2. The 2019 ARM Order attaches, adopts, and approves a Settlement Agreement between CGC, CRMA, and the Consumer Advocate. The Settlement Agreement, in turn, attaches Exhibits A and B identifying the purpose of ARM proceedings as well as the background information, supporting testimony, applicable schedules, and other documentation required in CGC's annual ARM filings.

3. On April 20, 2022, in accordance with the 2019 ARM Order, CGC filed its *Petition for Approval of Its 2021 Annual Rate Review Filing Pursuant to Tenn. Code Ann. § 65-5-103(d)(6)*, along with the required supporting testimony, schedules, and other documentation.

4. On May 5, 2022, the Commission granted CRMA's unopposed petition to intervene in this proceeding.

5. On May 6, 2022, CRMA issued its First Round of Discovery Requests to CGC, including numerous questions related to matters outside of an ARM proceeding. The requests sought information relative to gas commodity costs, including sales, supply, and pipeline balancing orders that exceed the scope of the ARM as well as information outside of the Historic Base Period (calendar year 2021). On May 20, 2022, CGC filed its Responses and Objections to CRMA's First Discovery Requests objecting to the irrelevant requests.

6. Despite the irrelevance of the issues relative to gas commodity costs, on June 17, 2022, CRMA prefiled testimony of its two witnesses, Mr. James L. Crist and Mr. Chance Donahue, devoted largely to issues relative to gas commodity sales and the availability of "excess" or incremental gas.

7. More specifically, the testimony of Mr. Crist addresses, in part, "issues of incremental gas costs and the Company's management of its capacity and LNG facilities." Crist, p. 3, l. 10-11. Mr. Crist proposes that CGC be required to offer what Mr. Crist asserts is "excess capacity" or

“incremental gas” to “customers that request such incremental gas” unless “it cannot meet its delivery requirement with the existing pipeline capacity.” “This means offering LNG for sale to its interruptible customer[s] without refusal except during periods of a system emergency.” Crist, p. 7, l. 12 through p. 13, l. 10. The testimony of Mr. Donahue likewise is wholly devoted to the proposition that T-1 Interruptible Transportation Customers should have access to incremental gas from CGC’s LNG facility and how Kordsa could have allegedly saved money if CGC made available incremental gas on the rates, terms, and conditions sought by CRMA.

8. The service CRMA seeks is already being offered by CGC – it is CGC’s Interruptible Transportation Service with Firm Gas Supply Backup, available in Rate Schedule T-2. While this service meets the operational request of the CRMA, it appears that CRMA does not want this service because it costs more than the current Rate Schedule T-1 service. Since CGC already offers the exact service they seek, this request is unnecessary. To grant or even consider this request would enable these customers to game the system to the detriment of CGC’s firm customers.

9. Besides being duplicative of an existing service, this request is inappropriate for CGC’s ARM Docket. First, issues relative to gas commodity costs, including sales, supply, and pipeline balancing orders are not included in the ARM because gas costs are recovered through the PGA which is not part of CGC’s ARM.

10. Second, even assuming this service request is not presently substantively available, CRMA is requesting future changes to how CGC’s LNG facility is operated and how CGC manages gas supply for its firm customers. This type of prospective change is also outside the scope of CGC’s ARM. While the 2019 ARM Order allows for parties to propose changes to CGC’s ARM mechanism, those changes still have to relate to the treatment of CGC’s rate base

and other costs relevant to the Historic Base Period. The operation of the LNG facility is simply not a relevant cost for the ARM, and, indeed, it is expressly excluded from the jurisdiction for any CGC ARM proceeding: “Jurisdictional revenues and expenses exclude the Asset Management Agreement revenues, revenue and the related cost of off-system sale of Liquid Natural Gas (‘LNG’), and other non-jurisdictional transactions as determined by the Commission.”¹

11. For these reasons, the testimony of Mr. Crist and Mr. Donahue as to these issues should be stricken as irrelevant and immaterial. More specifically, Mr. Donahue’s testimony should be stricken in its entirety. Mr. Crist’s testimony at page 3, lines 10-11; page 7, line 12 through page 13, l. 10; and page 13, l. 21 through page 14, line 2 should be stricken.

ARGUMENT

12. Pursuant to Tennessee Code Annotated section 65-2-109(1), the Commission has discretion to exclude “irrelevant” and “immaterial” evidence and has historically done so. *See Gen. Telephone Co. of the Southeast v. Tenn. Pub. Serv. Comm’n*, Docket No. U-5740 (Nov. 15, 1974) (striking testimony as irrelevant to the issues in the proceeding). The request and testimony of CRMA identified herein is irrelevant and immaterial as the subject matter of this docket, which is a review of CGC’s actual 2021 expenses and revenues.

13. First and foremost, the service CRMA seeks is already offered by CGC – interruptible customers desiring to purchase gas from CGC may subscribe to Rate Schedule T-2, Interruptible Transportation Service with Firm Gas Supply Backup. The problem appears to be that the CRMA does not want to pay for the service it desires, since T-2 service is more expensive than T-1 service. By requiring CGC to allocate or apportion some amount of gas to the interruptible customers, CRMA is essentially seeking to shift to CGC all the risk of being an interruptible customer taking

¹2019 ARM Order, at Exhibit A to Exhibit A, p. 1 of 41 (page 30 of the 2019 ARM Order) (emphasis added).

interruptible service. In essence, the CRMA proposal would have CGC purchase gas to fill its transportation contracts beyond its firm demand requirements on a speculative basis to serve potential requests for incremental gas by transport customers that may or may not ever materialize. This is simply wrong – the existing T-2 mechanism can best meet the needs of the CRMA members for gas without the creation of a new service that would be duplicative or otherwise more speculative and inefficient than the present T-2 service.

14. Second, as a general proposition, gas commodity sales are costs recovered through the PGA and not the ARM. So, on its face, these types of costs are outside the scope of the ARM Docket. Moreover, Section 12d of the Stipulation and Settlement Agreement approved in the 2019 ARM Order does not somehow pull the CRMA’s request for incremental gas back into the ARM Docket. Section 12d pertains to CGC’s rate base. CGC’s gas forecasts, excess or incremental gas, or changes to how CGC operates its LNG facility are matters completely outside the scope of CGC’s rate base since they fall within the PGA.

15. Third, what CRMA seeks is expressly excluded from CGC’s ARM mechanism. The Settlement Agreement signed by CRMA specifically states: “Jurisdictional revenues and expenses exclude the Asset Management Agreement revenues, revenue and the related cost of off-system sale of Liquid Natural Gas (‘LNG’), and other non-jurisdictional transactions as determined by the Commission.”² This exclusion makes complete sense. CGC’s assessment as to whether it will offer incremental gas to interruptible transport customers who voluntarily choose to not take firm backup or any other firm service involves an evaluation of multiple factors including but not limited to the time of the year or date within the winter period, gas supply forecasts, supply management, the current LNG inventory, and the need to support safe, reliable, and economical

² *Id.*

sourcing of natural gas to meet firm customer demand. Winter Storm Uri and the impacts of the extreme weather in Texas in 2021 highlight the importance of utilizing sound gas supply determinations and maintaining reasonable reserve margins necessary to providing uninterrupted service to firm customers. These types of operational matters are far beyond and outside the scope of CGC's ARM mechanism as they have nothing to do with a review of CGC's actual historic revenues and expenses for 2021.

16. Tennessee Code Annotated section 65-5-103(d)(6) allows for annual rate reviews on a retrospective basis. In fact, the 2019 ARM Order recognizes that the "general nature of the ARM . . . require[s] the ARM to be filed annually and a reconciliation of previous year's earnings with the earnings authorized in the last rate case is performed. Adjustment to historical data will be in conformity with the Company's latest rate case."³ The Settlement Agreement approved by the 2019 ARM Order and signed by CRMA specifically states that "[r]ates subject to the annual rate reset shall be based upon the review of the historic information as set forth in CGC's Petition" and that the Historic Base Period is "the twelve-month period ending December 31 of each year prior to each Annual Filing Date."⁴ The relief now being sought in this proceeding far exceeds the scope of CGC's ARM mechanism, and is completely irrelevant and immaterial to information to be considered in an ARM proceeding.

17. CGC recognizes that the Settlement Agreement provides for intervenors to "propose one or more prospective changes to CGC's ARM Plan."⁵ However, the changes proposed by CRMA are wholly unrelated to CGC's "ARM Plan" as reflected in Exhibits A and B to the Settlement Agreement. As has been discussed above, issues relative to gas commodity costs, including sales,

³ *Id.* at p. 8 (emphasis added).

⁴ *Id.* at Exhibit A, ¶ 22 (emphasis added); *Id.* at Exhibit A to Exhibit A, p. 4(J) (emphasis in original).

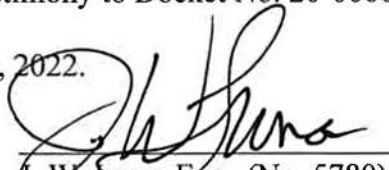
⁵ *Id.* at Exhibit A, ¶ 16(a).

supply, and pipeline balancing orders are not included in the ARM because gas costs are recovered through the PGA and the wider scope of what CRMA is requesting is expressly excluded from and not a part of CGC's ARM. The CRMA's testimony on this request is immaterial and irrelevant to CGC's ARM, and all of Mr. Donahue's testimony and that portion of Mr. Crist's testimony regarding incremental gas and use of the LNG facility and should be stricken.

18. If the Commission determines that it does desire to hear the issues raised by the CRMA, then in the alternative, CGC would not object to transferring the testimony relative to LNG operation and incremental gas supply to Docket No. 2022-0004, *Chattanooga Gas Company Petition for Approval of Tariff Amendments to its T-1, T-2 and T-3 Tariffs*.

WHEREFORE, Chattanooga Gas Company respectfully requests that the Commission enter an Order striking Chance Donahue's testimony in its entirety and striking Mr. Crist's testimony at page 3, lines 10-11; page 7, line 12 through page 13, l. 10; and page 13, l. 21 through page 14, line 2 or, alternatively, transferring the testimony to Docket No. 20-00004.

Respectfully submitted this 14th day of July, 2022.



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and exact copy of the forgoing Motion to Strike or in the Alternative to Transfer, Certain of the Testimony of Chattanooga Regional Manufacturers Association has been forwarded via electronic mail on this the 14th day of July, 2022 to:

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