BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION

NASHVILLE, TENNESSEE
October 6, 2023

IN RE:	)	
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CHATTANOOGA GAS COMPANY PETITION FOR APPROVAL OF ITS 2022 ANNUAL RATE REVIEW FILING PURSUANT TO TENN. CODE ANN. § 65-5-103 (d)(6)	))))	**DOCKET NO. 23-00029**

ORDER APPROVING SETTLEMENT AGREEMENT REVISING CHATTANOOGA GAS COMPANY'S 2022 ANNUAL RATE REVIEW FILING PURSUANT TO TENN. CODE ANN. § 65-5-103(d)(6)

This matter came before Chairman Herbert H. Hilliard, Vice Chairman David F. Jones, Commissioner Robin L. Morrison, Commissioner Clay R. Good, 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 August 14, 2023, to hear and consider the *Settlement Agreement* filed on July 24, 2023, by Chattanooga Gas Company ("CGC" or the "Company") and the Consumer Advocate Division of the Office of the Tennessee Attorney General ("Consumer Advocate") to resolve the Company's *Petition for Approval of its 2022 Annual Rate Review Filing* ("*Petition*") of CGC. In summary, the *Settlement Agreement* was approved.

BACKGROUND

In Docket No. 19-00047, the Commission approved a settlement agreement between CGC, the Consumer Advocate, the Chattanooga Regional Manufacturers Association ("CRMA"), and members of the Commission Staff participating as a Party.[1] In Docket No. 19-00047, the Commission approved CGC's annual rate review mechanism ("ARRM"), as authorized under Tenn. Code Ann. § 65-5-103(d)(6). The ARRM allows the Commission to conduct annual rate reviews by the Commission in lieu of a general rate case. The first annual ARRM effective date was September 1, 2020; however, on April 8, 2020, CGC filed a request to establish a docket for the modified ARRM filing and delay its first annual filing until May 20, 2020, due to the state of emergency declared by Governor Bill Lee for the COVID-19 pandemic.[2]

In Docket No. 20-00049, the Commission approved the *Chattanooga Gas Company Petition for Approval of its 2019 Annual Rate Review Filing* and revised rates, as amended, based on its agreements with the Consumer Advocate. The Commission further acknowledged that the parties had reserved their ability to review their positions in CGC's 2021 ARRM filing regarding: COVID-19 impacts on revenues and expenses; CGC's Allowance for Funds Used During Construction ("AFUDC"); CGC's Capital Works in Progress ("CWIP"); and inclusion of CGC's legal expenses.[3]

On April 20, 2021, in Docket No. 21-00048, CGC filed its *Chattanooga Gas Company Petition for Approval of Its 2020 Annual Rate Review Filing*, indicating that the Company calculated a total revenue deficiency of $11.8 million for the Historic Base Period of 2020 while adhering to the approved methodologies from Docket No. 19-00047.[4] Based on the amount of the needed revenues, the Company voluntarily proposed to limit the total rate increase in any of the next four (4) years to

[1] *In re: Petition of Chattanooga Gas Company to Opt into an Annual Review of Rates Mechanism Pursuant to Tenn. Code Ann § 65-5103(d)(6),* Docket No. 19-00047, *Order Approving Settlement Agreement* (October 7, 2019) ("*Order Establishing ARRM*").
[2] *See In re: Chattanooga Gas Company Petition for Approval of its 2019 Annual Rate Review Filing Pursuant to Tenn. Code Ann. § 65-5-103(d)(6),* Docket No. 20-00049, *Order Approving 2019 ARM Filing*, p. 2 (October 27, 2020).
[3] *Id*. at 5-6.
[4] *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, *Order Approving Settlement Agreement on Chattanooga Gas Company's 2020 Annual Rate Review Filing Pursuant to Tenn. Code Ann. § 65-5-103(d)(6)*, p. 2 (November 1, 2021).

a maximum amount of $6.8 million.[5] Ultimately, a settlement was approved authorizing CGC's 2020 ARRM with the following provisions: (1) a $6.8 million voluntary annual rate cap; (2) inclusion of any unrecovered revenue above the voluntary rate cap in ARRM Schedule 29; (3) use of a 1.4% depreciation rate for Steel Transmission Mains; (4) restriction on applying interest only on customer deposits held more than six months; (5) applicability of the prime lending rate to customer deposits; (6) clarification concerning changes made to the T-3 Rate Schedule for Low Volume Transport customers; (7) a rate design that applied the rate increase on an equal percentage basis to all rate classes; and (8) exclusion of Special Contract customers from the rate increase. The Commission approved a total rate adjustment of $11,545,439—with CGC recovering $6.8 million (rate cap) and $4,745,439 carried forward.[6]

In Docket No. 22-00032, the Commission approved a revised calculation of a revenue deficiency of $7,911,764, subject to an annual rate cap of $6.8 million, for the calendar year 2021.[7] In addition, the Consumer Advocate, the Company, and the CRMA agreed to several customer notification improvements.[8]

<u>PETITION</u>

On April 20, 2023, CGC filed its *Petition*, asserting that for the 2022 Historic Base Period, the Company had incurred a total revenue deficiency of $11,917,087, as calculated according to the Commission-approved methodologies.[9] However, the Company again proposed to limit the total rate increase to $6.8 million with the remainder being carried forward to next year's ARRM filing. According to the *Petition*, demand for service has increased and the Company has made

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[5] *Id.* at 3.
[6] *Id.* at 14-15.
[7] *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. 16-17 (November 28, 2022).
[8] *Id.*
[9] *Petition*, pp. 5-6 (April 20, 2023).

enhancements to its infrastructure to strengthen the reliability and safety of the region's pipeline infrastructure.[10] The Company proposed a rate design to recover the $6.8 million on an equal percentage basis from all rate classes, except for special contracts. For special contract customers, the Company proposed a 5% increase for Kordsa and no increase for Volkswagen.

In support of the *Petition*, Mr. Paul Leath submitted pre-filed direct testimony and provided an overview of CGC's filing, information on the economic growth in Hamilton and Bradley counties, and the Company's operational activities. Mr. Leath asserted that the primary drivers for the revenue deficiency were the continued significant capital investments made to support the growth in CGC's service area in addition to high inflation, and uncertain economic conditions resulting in unforeseen cost increases.[11] Mr. Leath testified that by capping the rate increase at $6.8 million, the estimated increase to the typical residential customer's bill would be $4.19 per month (a 6.22% increase), and the estimated increase to the average commercial customer's bill would be $8.89 per month (a 7.03% increase).[12]

According to Mr. Leath, the reliability investments made by CGC enabled it to provide service this past winter when the temperatures were at a record low and customer demand was the fifth highest demand in its history. Mr. Leath testified that while Chattanooga's Electric Power Board had to mandate rolling black outs to meet demand, CGC met its firm customers' demand for gas.[13] Mr. Leath stated that despite the sharp increases in materials and labor, CGC stayed within its $42 million capital budget for 2022. Further, Mr. Leath testified that CGC continues to plan for anticipated future residential growth by making improvements in existing pressure and capacity issues in the area from Apison to Collegedale and Ooltewah, and that CGC completed the Standifer Gap Road-Phase 2

[10] *Id*. at 5.
[11] Paul Leath, Pre-Filed Direct Testimony, pp. 6-9, (April 20, 2023).
[12] *Id*. at 7.
[13] *Id*. at 9.

pressure improvement ("PRIM"), both of which are necessary to provide McKee Bakery the gas needed for a $500 million expansion.[14]

The Company began its pipeline replacement program ("PRP") in 2022 and there is approximately $4.5 million in PRP expenses in the 2022 ARRM filing. With pipeline age and material being a significant risk factor, CGC's PRP continues to improve its pipeline infrastructure. CGC was able to secure new interstate pipeline capacity to supplement previous capacity acquired from Oglethorpe Power Corporation ("OPC"), which gives CGC approximately 117,000 dekatherms per day in interstate capacity.[15] Mr. Leath further testified that the Company hired a damage prevention specialist and started an enhanced leak response effort for all damages resulting in reductions to the overall leak response time by half a minute.[16]

Ms. Tiffani Weems submitted pre-filed direct testimony supporting CGC's calculation of the 2022 Historic Base Period annual reconciliation balance deficiency.[17] According to Ms. Weems, the Company has a reconciliation revenue deficiency balance of $12,120,940, combined with a rate reset of ($1,044,312), resulting in a total net rate adjustment of $11,917,087. CGC requested approval of its 2022 ARRM filing with a rate increase capped at $6,800,000. Ms. Weems affirmed that while the components are slightly different, the Company's actual results for 2022 are in line with the projection provided by the Company in its 2020 ARRM filing.[18]

Ms. Weems reiterated the Company's position with respect to the cap. Any amounts above the $6.8 million are carried forward to the next ARRM filing, and in the 2025 ARRM filing, any cumulative over or under-recovery amounts will be included as part of that annual rate review filing

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[14] *Id*. at 10.
[15] *Id*. at 11-12.
[16] *Id*. at 13.
[17] Tiffani Weems, Pre-Filed Direct Testimony, p. 2 (April 20, 2023).
[18] *Id*. at 2-3.

request. The annual rate cap does not impact the Company's ability to earn its rate of return. According to CGC, the cap merely postpones the recovery of deficiencies and rate resets over an extended period of time rather than over one year.[19] Ms. Weems testified that the Company's authorized rate of return is 7.12% and that the Company's ARRM filing complies with all ratemaking methodologies established in CGC's last rate case and subsequent ARRM Orders and settlements.[20]

Ms. Weems stated that the Company's actual rate of return for the Historic Base Period is 3.56%, which is significantly lower than the authorized return of 7.12%. The difference in the authorized and actual rates of return resulted in a total annual reconciliation revenue deficiency of $12,120,940; but with the additional carrying costs, the total deficiency balance is $12,614,282. Based on the calculations of Ms. Weems, the rate reset rate of return is 7.44%, and the difference between the authorized rate of return and the actual rate of return for the rate reset results in a revenue sufficiency of ($1,044,312). After incorporating the 2022 Historic Base Period annual reconciliation balance, including the balance in excess of the $6,800,000 cap not recovered in the 2021 ARRM, the rate reset results in a total rate adjustment of $11,917,087.[21]

Ms. Weems described the Company's transition of its accounting system to Enterprise Foundations ("EF"), a cloud-based Oracle suite, which provides better support for legal compliance and tax reporting, improved controls, embeds separation protocols, enables a shared close calendar, and builds accounting best-practices. The Company has also adopted a common, streamlined, and Federal Energy Regulatory Commission ("FERC") based Chart of Accounts ("CoA") to reduce complexities and bridge the gap between different operating companies' accounting processes.[22]

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[19] *Id.* at 7-10.
[20] *Id.* at 10-11.
[21] *Id.* at 12.
[22] *Id.* at 14.

Ms. Ashley Vette provided pre-filed testimony in support of the CGC's proposed rate design to illustrate the allocation of the $6.8 million revenue increase to each rate schedule. The Company proposed allocation on an equal percentage basis with some differences due to rounding.[23] Pursuant to the special contract with Kordsa, the Company limited the allocation of the rate increase to 5%. As part of a package of incentives offered by the State of Tennessee and local governments, Volkswagen did not experience a rate increase under the Company's proposal.[24] According to Ms. Vette, the Company's proposed rates result in an average monthly increase of $4.19, or approximately a 6.22% increase. Commercial customers would see an average $8.89 increase in the monthly bill or approximately an increase of 7.03% if approved.[25]

Ms. Vette stated that the Company's proposed changes to the Rules and Regulations Tariff that will allow CGC to transfer gas service from one customer to another at a premise location for a period of time without disconnection of service, (referred to as a "Delayed Match"). Additionally, the Company proposed to make various wording changes in its Gas Tariff and Rules and Regulations Tariff to clarify and provide better uniformity of certain responsibilities and obligations of customers and the Company.[26] Finally, Ms. Weems described the nineteen supporting ARRM schedules and attested to their accord with previously approved methodologies, Commission Orders and Stipulations.[27]

POSITION OF THE CONSUMER ADVOCATE

The Consumer Advocate sought intervention on May 10, 2023, and was the only party to intervene in the docket. Pursuant to a procedural schedule, the Consumer Advocate and the Company

[23] Ashley K. Vette, Pre-Filed Direct Testimony, p. 3 (April 20, 2023).
[24] *Id.*
[25] *Id.* at 3-4.
[26] *Id.* at 5.
[27] *Id.* at 6-10.

engaged in discovery. On June 28, 2023, Mr. Alex Bradley submitted pre-filed testimony on behalf of the Consumer Advocate. Mr. Bradley's review indicated CGC was allocated costs from non-jurisdictional affiliates which appeared unjustified.[28] According to Mr. Bradley, the Company agreed to remove approximately $70,512 from the revenue requirement for these costs.[29] However, Mr. Bradley asserted the correct amount to be removed is $121,696, leaving an additional needed adjustment of -$51,184. In addition, he found an error in Pension and Other Post-Employment Benefits ("OPEB") expense resulting in a needed -$926 adjustment for a total of -$52,110. According to Mr. Bradley, this amount only covers the months of August through December because the level of detail necessary to determine the source of allocated amounts is only available for those months.[30] Mr. Bradley testified an additional adjustment of $114,908 should be removed from the revenue requirement for incentive compensation, as required by the methodologies adopted in Commission Docket No. 19-00047.[31]

Mr. William H. Novak also submitted pre-filed testimony on behalf of the Consumer Advocate. Mr. Novak testified that during the discovery process with the Consumer Advocate, CGC corrected thirty (30) errors in its revised filing to arrive at a needed revenue amount of $12,044,393.[32] According to Mr. Novak, after correcting $-167,069 to operating expenses, proposed by Mr. Bradley, the calculated revenue deficiency is $11,698,227.[33] Mr. Novak concurred with the Company's proposal to limit the revenue increase to $6.8 million and the Company's proposed rate allocation, concluding it is consistent with previous decisions of the Commission. Mr. Novak also concurred

[28] Alex Bradley, Pre-Filed Direct Testimony, pp. 3-4 (June 28, 2023).
[29] *Id.* at 4.
[30] *Id.* at 5.
[31] *Id.* at 5-6.
[32] William H. Novak, Pre-Filed Direct Testimony, p. 6 (June 28, 2023).
[33] *Id.* at 8-9.

with the Company's proposed change in all billing items to achieve the needed revenue change and, therefore, concurs with the Company's proposed rate design.[34]

<u>SUPPLEMENTAL TESTIMONY OF THE COMPANY</u>

On July 17, 2023, Ms. Weems filed supplemental testimony to inform the Commission concerning revisions in the Company's calculations and to support a settlement agreement anticipated to be filed no later than July 24, 2023. Ms. Weems testified to adjustments made during discovery that increased the total rate adjustment by $19,476, from $11,917,087 to $11,936,563.[35] Ms. Weems clarified that while the Company is requesting approval of a rate adjustment of $11,936,563, the rate increase will be limited to the previously approved $6.8 million cap. Finally, Ms. Weems stated that an important non-monetary term that resulted from the negotiations between CGC and the Consumer Advocate is an agreement to work together to update or develop some new schedules to be included in CGC's 2024 ARRM filing.[36]

<u>SETTLEMENT AGREEMENT</u>

On July 24, 2023, the Parties filed a *Settlement Agreement* with updated exhibits and setting forth terms resolving outstanding issues. The *Settlement Agreement* outlined thirty (30) corrections and adjustments resulting in a total ARRM of $11,936,563, as outlined on the schedules attached to the supplemental pre-filed testimony of Ms. Weems. The Parties agreed to limit the recovery amount effective September 1, 2023, to $6.8 million.[37] The Parties further agreed to adopt the rate design proposed by the Company, allocating the rate increase to each rate schedule on an equal percentage basis, except for the special contracts with Volkswagen and Kordsa.[38]

[34] *Id.* at 9-12.
[35] Tiffani Weems, Pre-Filed Supplemental Testimony, pp. 1-2 (July 17, 2023).
[36] *Id.* at 3.
[37] *Settlement Agreement*, p. 6 (July 24, 2023).
[38] *Id.*

In light of the way in which Company's new accounting system presents information, the Parties agreed to use the FERC-based CoA, which includes new chart fields.[39] CGC has committed to providing additional documentation in its next ARRM filing to assist in the Consumer Advocate's investigation and evaluation.[40] The Company will develop new or updated schedules and provide them to the Consumer Advocate by October 1, 2023. The Parties will then meet to discuss updated schedules that will be provided with the next ARRM. According to the *Settlement Agreement*, should the Parties be unable to agree on updated schedules, then each party may submit in this Docket by December 15, 2023, a listing of agreed-to schedules and any schedules that are in dispute. The Parties request that the Commission resolve the schedules in dispute by March 15, 2024, to enable the schedules to be used in the Company's 2024 ARRM Docket filing. If the Parties agree on all new or updated schedules, the Parties shall make a supplemental filing in this docket no later than March 1, 2024.[41]

<u>HEARING</u>

A hearing on the *Settlement Agreement* was held before the voting panel assigned to this docket on August 14, 2023, as noticed by the Commission on August 3, 2023. Participating in the hearing were:

> <u>Chattanooga Gas Company</u> – Floyd R. Self, Esq., Berger Singerman, LLP, 313 North Monroe Street, Suite 301, Tallahassee, Florida, 32301; J.W. Luna, Esq., Butler Snow LLP, 150 3rd Ave. South, Suite 1600, Nashville, Tennessee 37201.
>
> <u>Consumer Advocate Division, Office of the Tennessee Attorney General</u> – Vance Broemel Esq., Mason Rush, Esq., Post Office Box 20207, Nashville, Tennessee 37202-4015.

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[39] *Id*. at 6-7.
[40] *Id*. at 7.
[41] *Id*. at 7-8.

Ms. Tiffani Weems provided testimony in support of the *Settlement Agreement*. Members of the public were given an opportunity during the hearing to offer comments, but no one sought recognition to do so.

<u>FINDINGS AND CONCLUSIONS</u>

Upon review of the record in its entirety, the panel voted unanimously to approve the *Settlement Agreement* as filed by the Parties on July 24, 2023, including the Parties' agreed-upon $11,936,563 net revenue deficiency. Further, the panel voted unanimously to approve the $6.8 million rate cap as agreed to by the Parties. In accordance with the settlement, the panel voted unanimously to approve the proposed rate design as presented in Exhibit AV-4 and as originally presented by the Company in its petition.

Further, consistent with the terms of the *Settlement Agreement*, the panel directed the Parties to collaborate and evaluate the exhibits, schedules, workpapers, and all other documentation provided by CGC in support of its annual rate review filing to ensure these submissions properly include and reflect the data necessary to evaluate the Company's proposed cost of service and customer-class allocations. As provided in the *Settlement Agreement*, the Commission will resolve any disputes between the Parties concerning new or adjusted schedules that remain outstanding as of December 15, 2023. The Commission will endeavor to resolve such disputes by March 15, 2024, as requested, provided that the Parties make their supplemental filings to this docket concerning agreed-upon or disputed schedules in a timely manner consistent with the dates included in the filed *Settlement Agreement*.

Finally, the panel found that the Annual Rate Review Mechanism continues to be in the public interest and allows Chattanooga Gas Company to timely recover its investment and operating expenses, while continuing to provide safe and reliable service to its customers.

IT IS THEREFORE ORDERED THAT:

1. The *Settlement Agreement* filed on July 24, 2023, by Chattanooga Gas Company and the Consumer Advocate Division of the Office of the Attorney General is APPROVED.

2. The revenue deficiency of $11,936,563 subject to an annual rate cap of $6.8 million, shall be recovered in a rate design as proposed in the Company's *Petition for Approval of its 2022 Annual Rate Review Filing*. Tariffs shall be filed reflecting this decision.

3. Any person who is aggrieved by the Commission's decision in this matter may file a Petition for Reconsideration with the Commission within fifteen days from the date of this Order.

4. 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 days from the date of this Order.

FOR THE TENNESSEE PUBLIC UTILITY COMMISSION:

Chairman Herbert H. Hilliard,
Vice Chairman David F. Jones,
Commissioner Robin L. Morrison,
Commissioner Clay R. Good, and
Commissioner John Hie concurring.

None dissenting.

ATTEST:

Earl Taylor abh

Earl R. Taylor, Executive Director