

January 16, 2025

DOCKET NO.
24-00024

**ORDER APPROVING SETTLEMENT AGREEMENT REVISING CHATTANOOGA GAS
COMPANY'S 2023 ANNUAL RATE REVIEW FILING PURSUANT TO TENN. CODE
ANN. § 65-5-103(D)(6)**

This matter came before Chairman David F. Jones, Vice Chairman John Hie, Commissioner Clay R. Good, Commissioner Kenneth C. Hill, and Commissioner David Crowell 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 12, 2024, to hear and consider the *Settlement Agreement* filed on July 19, 2024, 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 Chattanooga Gas Company *Petition for Approval of its 2023 Annual Rate Review Filing* (“*Petition*”). In summary, the *Settlement Agreement* was approved.

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 acting as a Party.¹ The agreed-upon resolution to Docket No. 19-00047 approved by the Commission established an annual rate review mechanism (“ARRM”) for

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*”).

CGC, as authorized by Tenn. Code Ann. § 65-5-103(d)(6). The ARRM allows for an annual review of the Company's rates by the Commission rather than 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 a modified ARRM filing and to 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 agreed-upon adjustments of CGC and the Consumer Advocate. The Commission further acknowledged the parties reserved rights to take and advocate 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 21-00048, CGC filed the *Chattanooga Gas Company Petition for Approval of Its 2020 Annual Rate Review Filing*, indicating the Company calculated a total revenue deficiency of \$11.8 million for the Historic Base Period ("HBP") of 2020 while adhering to the approved methodologies from Docket No. 19-00047.⁴ Based on the sheer size of the needed revenues, the Company voluntarily proposed to limit the total rate increase in any of the next four years to 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) the inclusion of any unrecovered revenue above the voluntary rate cap in ARRM Schedule 29; (3) the use of a 1.4% depreciation rate for Steel Transmission Mains; (4) the restriction of applying interest only on customer deposits held more than six months; (5) the applicability of the prime lending rate

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).

⁵ *Id.* at 3.

to customer deposits; (6) clarification 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) the 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 In Docket No. 23-00029, the Commission approved a revised calculation of a revenue deficiency of \$11,936,563, subject to the annual rate cap of \$6.8 million.⁹

PETITION

On April 19, 2024, CGC filed its *Petition*, claiming that for the 2023 HBP, the Company had a total revenue deficiency of \$11,035,484, as calculated according to the Commission-approved methodologies, resulting in a total rate adjustment of \$8,422,852.¹⁰ 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 enhanced its infrastructure to strengthen the reliability and safety of the region's pipeline infrastructure.¹¹ The Company included a rate design proposing to recover the \$6.8 million on an equal percentage basis from all rate classes, except for Special Contracts. For Special Contract

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 *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. 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)*, p. 11 (October 6, 2023).

¹⁰ *Petition*, p. 6 (April 19, 2024).

¹¹ *Id.* at 5-6.

customers, the Company proposed a 5% increase for Kordsa, Inc. (“Kordsa”) and no increase for Volkswagen.

In support of the *Petition*, Mr. Paul Leath submitted pre-filed direct testimony and provided an overview of the Company’s filing, information on the economic growth in Hamilton and Bradley counties, and the Company’s operational activities. Mr. Leath testified that the primary drivers of the requested increase are significant capital investments to support the Pipeline Replacement Program (“PRP”) and economic factors such as inflation, interest rates, and labor availability.¹² The request is based solely on the 2023 HBP. According to Mr. Leath, approval of this filing, with the application of the proposed \$6.8 million cap, will result in a monthly increase of \$4.21 (6.5%) to a typical residential customer and \$8.91 (7.0%) increase to an average commercial customer.¹³

Mr. Leath asserted that the Company serves one of the fastest-growing locations in the country. Over the past ten years, CGC has more than doubled the annual number of new residential and commercial customers for an approximate 71,500 total customers.¹⁴ The Company has made significant investments in its infrastructure to improve safety and reliability, along with supporting the increased supply and demand. In 2023, the Company spent \$40.5 million on capital projects.¹⁵ Mr. Leath testified that consistent with the Commission’s approval of CGC’s PRP in Commission Docket No. 20-00131, the PRP includes approximately \$9.17 million.¹⁶ The Company completed five PRP projects in 2023, replacing 7.79 miles of mains.¹⁷ Mr. Leath noted that the Company incurred \$3.1 million in 2023 related to nine Department of Transportation (“DOT”) projects, compared to a related budget of only \$1 million.¹⁸

¹² Paul Leath, Pre-Filed Direct Testimony, p. 6 (April 19, 2024).

¹³ *Id.*

¹⁴ *Id.* at 7-8.

¹⁵ *Id.* at 8.

¹⁶ *Id.* at 10.

¹⁷ *Id.* at 10-11.

¹⁸ *Id.* at 12-13.

Ms. Tiffani Weems submitted pre-filed direct testimony in support of the Company's calculation of the 2023 HBP annual reconciliation balance deficiency.¹⁹ According to Ms. Weems, the Company's annual reconciliation balance revenue deficiency is \$11,035,484 combined with a rate reset of (\$3,377,827). After adjustments for such items as carrying charges and gross ups for taxes, the Company's computed rate adjustment is \$8,422,852.²⁰ However, the Company proposed to limit its increase to the \$6,800,000 cap. Ms. Weems testified that the actual results for 2023 are in line with projections made in the Company's 2020 ARRM filing.²¹

According to Ms. Weems, the HBP annual reconciliation balance is based on a review of the Company's actual rate of return compared to its current authorized rate of return of 7.12%. The rate reset calculation reflects certain normalization adjustments and includes the full recovery of the 2023 annual reconciliation deficit, including carrying charges. Ms. Weems attested that the filing complies with the ratemaking methodologies and requirements, as set forth in the 2019 and 2020 ARRM filings.²² The Company's actual rate of return for the HBP is 4.21%, which is significantly less than the authorized rate of return of 7.12%. The difference in the returns results in a revenue deficiency of \$11,035,484. The rate reset return is 8.04%, which is higher than the authorized rate of return due to the ARRM normalization adjustments and results in a \$3,377,827 revenue sufficiency.²³ The Company calculated a total rate adjustment of \$8,422,852 after incorporating the 2023 HBP reconciliation balance and the balance not recovered in the 2022 ARRM in excess of the \$6.8 million cap.²⁴

Ms. Weems testified that as part of the Company's previous ARRM docket, CGC and the Consumer Advocate reached a number of agreements, including CGC's commitment to provide more

¹⁹ Tiffani Weems, Pre-Filed Direct Testimony, p. 2 (April 20, 2023).

²⁰ *Id.*

²¹ *Id.* at 3.

²² *Id.* at 11.

²³ *Id.* at 12.

²⁴ *Id.*

detail for future AARM filings. Ms. Weems averred that the Company will continue to adapt models and schedules to align with the new FERC-based accounting structure.²⁵

Ms. Ashley Vette provided pre-filed testimony in support of the Company's proposed rate design to illustrate the allocation of the \$6.8 million revenue increase to each rate schedule.²⁶ Ms. Vette testified that the proposed capped rate increase of \$6.8 million, less the revenue increase proposed for the Company's special contract customers, has been allocated to each Rate Schedule on an equal percentage basis. The Company has two special contract customers, Kordsa and Volkswagen. The Company proposed to increase Kordsa's rates by 5% consistent with the terms of the special contract with CGC. The Company also proposed no change for Volkswagen as part of a package of incentives offered by the State of Tennessee and local government.²⁷ Ms. Vette testified that the average annual base rate increase for customers will be approximately 11.4%, with an average monthly increase for the residential customer of \$4.21 and \$8.91 the commercial customer.²⁸

Ms. Vette's pre-filed testimony also supported changes to the Company's tariff intended to align language for policies related to daily balancing orders for Rate Schedules T-1, T-2, and T-3. The Company further proposed changes to clarify in the tariff that the Company may require a deposit from a customer that has been delinquent in payment of their bills on multiple occasions. The Company also proposed changes to modify existing gender-specific terminology used to a more generic language.²⁹ Ms. Vette also provided a description of each the AARM schedules.³⁰

²⁵ *Id.* at 15-16.

²⁶ Ashley Vette, Pre-Filed Direct Testimony, p. 2 (April 19, 2024).

²⁷ *Id.* at 3.

²⁸ *Id.* at 4.

²⁹ *Id.* at 5-6.

³⁰ *Id.* at 6-10.

POSITION OF THE CONSUMER ADVOCATE

The Consumer Advocate sought intervention on May 6, 2024, and was the only party to intervene in the docket.³¹ Pursuant to a procedural schedule, the Consumer Advocate and the Company engaged in discovery. On June 18, 2024, Mr. Alex Bradley submitted pre-filed testimony on behalf of the Consumer Advocate. Mr. Bradley found overall that the Company's filing was consistent with the methodologies as approved by the Commission in TPUC Docket No. 19-00047 and that the Company's filing reflected the actual revenues, expenses, and net investment recorded on the Company's books.³² Mr. Bradley recommended the five adjustments to the Operation and Maintenance ("O&M") expenses totaling \$45,953, which, if approved, would increase the revenue deficiency to \$8,468,579. Mr. Bradley noted the Company has limited the revenue increase in this Docket to \$6.8 million instead of the actual deficiency.³³

Mr. Bradley recommended removing the \$7,059 expense related to Diversity, Equity, and Inclusion ("DEI") charges because shareholders should bear these costs.³⁴ In addition, Mr. Bradley sought the removal of \$5,600 of sponsorship expenses which are considered charitable giving.³⁵ Other adjustments sought by the Consumer Advocate included removing \$16,727 of allocated expenses related to electric and nuclear affiliates and removing \$153,153 for recovery of relocation expenses.³⁶

During discovery with the Consumer Advocate, the Company determined that a formula on a schedule was incorrectly doubling an adjustment. As a result, the Consumer Advocate agreed with a correction made by the Company to add back \$228,492.³⁷ Mr. Bradley agreed with the Company's rate design proposal.³⁸

³¹ *Order Granting Petition to Intervene by the Consumer Advocate*, pp. 2-4 (June 6, 2024).

³² Alex Bradley, Pre-Filed Direct Testimony, pp. 3-4 (June 18, 2024).

³³ *Id.* at 4-5.

³⁴ *Id.* at 6.

³⁵ *Id.* at 6-7.

³⁶ *Id.* at 7-8.

³⁷ *Id.* at 8-9.

³⁸ *Id.* at 9-10.

SUPPLEMENTAL TESTIMONY OF THE COMPANY

On July 15, 2024, Ms. Weems filed supplemental testimony to support revisions in the Company's calculations and to support a settlement agreement which was expected to be filed on or before July 22, 2024.³⁹ The Company presented corrections and adjustments that increased the total rate adjustment by a net \$354,925 resulting in a total rate adjustment of \$8,777,776. Nevertheless, the Company proposed to limit its revenue request to \$6,800,000, pursuant to the 2021 ARRM Order, with the remainder carried over and included in next year's ARRM filing.⁴⁰ Ms. Weems also identified a minor error in the customer charges for Kordsa, the correction of which had no impact on the overall proposed revenue deficit.⁴¹

SETTLEMENT AGREEMENT

Also on July 18, 2024, the Parties filed the *Settlement Agreement* setting forth the terms that resolved all outstanding issues between them with updated exhibits. The *Settlement Agreement* outlined corrections and adjustments resulting in a total ARRM of \$8,777,776. The Parties agreed to limit the recovery amount effective September 1, 2023, to \$6.8 million.⁴² With the exception of the Company's two special contract customers, Kordsa and Volkswagen, the \$6.8 million revenue shortfall will be recovered from each scheduled rate class on an equal percentage basis. Under the terms of the proposed rate design, special contract customer Kordsa will receive a 5.00% increase while special contract customer Volkswagen will receive no increase.⁴³

³⁹ Tiffani Weems, Pre-Filed Supplemental Testimony, p. 1 (July 15, 2024).

⁴⁰ *Id.* at 2.

⁴¹ *Id.* at 3.

⁴² *Settlement Agreement*, p. 5 (July 18, 2024).

⁴³ *Id.*

HEARING

The Hearing on the *Settlement Agreement* was held before the voting panel assigned to this docket on August 12, 2024, as noticed by the Commission on August 2, 2024. Participating in the Hearing were:

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 3rd Ave. South, Suite 1600, Nashville, Tennessee 37201.

Consumer Advocate Division, Office of the Tennessee Attorney General – Victoria B. Glover Esq., Post Office Box 20207, Nashville, Tennessee 37202-4015.

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.

FINDINGS AND CONCLUSIONS

Upon review of the record in its entirety, the hearing panel voted unanimously to approve the *Settlement Agreement* as filed by Chattanooga Gas Company and the Consumer Advocate on July 18, 2024. As presented in Schedule 1 of Ms. Weems' Supplemental Exhibit TW-3, the panel voted to approve the parties' agreed-upon \$8,777,776 revenue deficiency, along with the rate design supported by both parties and presented in Ms. Vette's Supplemental Exhibit AV-4. Further, the panel approved the \$6.8 million voluntarily capped revenue increase supported by the parties, which the Company shall begin recovering through revised fixed and volumetric rates effective September 1, 2024.

The panel directed the Company to file with the Commission appropriate tariff sheets consistent with the approval of the *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:

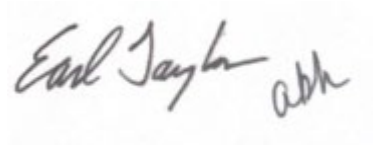
1. The *Settlement Agreement* filed on July 19, 2024, by Chattanooga Gas Company and the Consumer Advocate Division of the Office of the Attorney General is APPROVED.
2. The revenue deficiency of \$8,777,776, subject to an annual cap of \$6.8 million, shall be recovered via the rate design supported by both parties and presented in Ms. Vette's Supplemental Exhibit AV-4. Chattanooga Gas Company shall file tariffs effective September 1, 2024, reflecting this decision.
3. Any person(s) 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(s) 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 David F. Jones,
Vice Chairman John Hie,
Commissioner Clay R. Good,
Commissioner Kenneth C. Hill, and
Commissioner David Crowell concurs.**

None dissent.

ATTEST:

A handwritten signature in dark ink, appearing to read "Earl Taylor" with a stylized flourish at the end.

Earl R. Taylor, Executive Director