BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION

NASHVILLE, TENNESSEE

October 27, 2020

IN RE:	**)**	
	)	
CHATTANOOGA GAS COMPANY PETITION	**)**	
FOR APPROVAL OF ITS 2019 ANNUAL RATE	**)**	**DOCKET NO.**
REVIEW FILING PURSUANT TO	**)**	**20-00049**
TENN. CODE ANN. § 65-5-103(d)(6)	**)**	

ORDER APPROVING 2019 ARM FILING

This matter came before Chairman Kenneth C. Hill, Vice Chairman Herbert H. Hilliard, and Commissioner John Hie of the Tennessee Public Utility Commission (the "Commission" or "TPUC"), the voting panel assigned to this docket, during the regularly scheduled Commission Conference held on September 14, 2020[1] for hearing and consideration of the *Chattanooga Gas Company Petition for Approval of its 2019 Annual Rate Review Filing* ("*Petition*" or "2019 ARM Filing")[2] filed on May 29, 2020 by Chattanooga Gas Company ("Petitioner," "CGC," or "Company").

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[1] Due to the state of emergency declared by Governor Bill Lee relative to the Coronavirus Disease 2019 ("COVID-19") pandemic in Tenn. Exec. Order No. 14 on March 12, 2020, (superseded by Tenn. Exec. Order No. 15 on March 19, 2020 which was extended until September 30, 2020 in Tenn. Exec. Order No. 59 on August 28, 2020), the Commission Conference was held electronically via WebEx. The public health emergency places limitations on public gatherings and meetings in order to prevent the spread of COVID-19. In convening the Commission Conference electronically, the Commission relied upon Tenn. Exec. Order No. 16 (March 20, 2020), which was extended until September 30, 2020 by Tenn. Exec. Order No. 60 (August 28, 2020), and affirmed on the record that the electronic meeting was necessary to conduct the essential business of the agency and to protect the health, safety, and welfare of Tennesseans.

[2] The Company's ARM filing was submitted in 2020 for the 2019 reporting period. The filing is referred to the 2019 ARM filing for clarity of reference to the reporting period.

BACKGROUND AND 2019 ARM FILING

In Docket No. 19-00047, the Commission approved a *Stipulation and Settlement Agreement* ("*Agreement*") between CGC, the Consumer Advocate Unit in the Financial Division of the Office of the Tennessee Attorney General ("Consumer Advocate"), the Chattanooga Regional Manufacturers Association ("CRMA"), and the Commission Staff acting as a Party ("Party Staff").[3] The *Agreement* established an annual rate review mechanism ("ARM"), as authorized by Tenn. Code Ann. § 65-5-103(d)(6). The ARM allows for annual rate reviews by the Commission rather than a general rate case.[4] Pursuant to the *Order Establishing ARM*, the first annual ARM effective date is September 1, 2020. In addition, the *Order Establishing ARM* requires the Company's first annual filing to be submitted on or before April 20, 2020 so new rates can take effect on September 1, 2020.[5] On April 8, 2020, CGC filed a request to establish a docket for the modified ARM 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.[6] The Hearing Officer entered an order granting the request and extending the deadline for the 2019 annual rate review filing until May 29, 2020.[7]

The Company submitted its *Petition* on May 29, 2020, along with the Pre-Filed Direct Testimonies of Paul Leath, Gary Tucker, and Archie Hickerson, as well as schedules and workpapers in support of the *Petition*. The Consumer Advocate filed a *Petition to Intervene* on

[3] *In re: Petition of Chattanooga Gas Company to Opt Into an Annual Review of Rates Mechanism Pursuant to Tenn. Code Ann. §. 65-5-103(d)(6)*, Docket No. 19-00047, *Order Approving Settlement Agreement* (October 7, 2019) ("*Order Establishing ARM"*).
[4] Tenn. Code Ann. § 65-5-103(d)(6) (Supp. 2019).
[5] *Order Establishing ARM*, Exh. 1, p. 9 (October 7, 2019).
[6] *Chattanooga Gas Company Request to Establish a Docket and Extend the Due Date for Filing its Petition for Approval of its 2019 Annual Rate Review* (April 8, 2020).
[7] *Order Granting Motion for Extension of Time* (April 24, 2020).

June 17, 2020. The Hearing Officer entered an order granting the intervention of the Consumer Advocate on June 25, 2020. Following adoption of a procedural schedule and exchange of discovery, the Consumer Advocate filed the Pre-Filed Direct Testimonies of David N. Dittemore and Alex Bradley and Pre-Filed Supplemental Testimony of David N. Dittemore. After additional discovery, CGC submitted the Pre-Filed Rebuttal Testimonies of Paul Leath, Gary Tucker, and Archie Hickerson.

On September 2, 2020, CGC and the Consumer Advocate submitted joint correspondence indicating that there are no outstanding disputes between the parties and that the *Petition*, "as modified by CGC's rebuttal testimony and exhibits and the testimony of the Consumer Advocate that is not inconsistent with CGC's rebuttal testimony and exhibits[,]" should be granted.[8] The Agreement also sets forth the undisputed matters, as follows:

1. The revenue requirement is appropriate as presented in Exhibit GT-4 to the Pre-Filed Rebuttal Testimony of Gary Tucker, which includes both the revenue deficiency for 2019 and the rate reset;

2. The accelerated tax credits and benefits, including those accelerated tax items that are the subject of the Company's petition for reconsideration filed in Docket No. 18-00035, are appropriate and should be utilized to reduce the revenue requirement to $4,758,576;

3. The rate design proposed by CGC witness Archie Hickerson to implement new rates should be approved;

[8] *Letter to Chairman Kenneth Hill from J.W. Luna, Butler Snow, LLP*, p. 2 (September 3, 2020) ("Agreement").

4. There are no going forward changes to be made in CGC's ARM mechanism in this docket. The parties also agree to the following considerations that may be addressed in the future:

a. Each party reserves its rights to take and advocate positions concerning how the Commission should address the impact of COVID-19 on CGC's expenses and revenues in the CGC 2021 ARM Docket or other proceeding designated by the Commission to address such issues;

b. The Consumer Advocate reserves its right to argue for substantive changes to the treatment of CGC's Allowance for Funds Used During Construction ("AFUDC")/Capital Works in Progress ("CWIP") in CGC's 2021 ARM Docket, which will address 2020 expenses and revenues; and,

c. CGC will add a new, additional schedule, designated "Schedule 39: Outside Legal Services," commencing with CGC's 2021 ARM Docket. Notwithstanding the addition of the new Schedule, the Consumer Advocate reserves its right to pursue discovery; take positions or make proposals for different treatment of CGC's legal expenses. CGC retains its right to make objections, present defenses, and take positions with regard to the Consumer Advocate's discovery, proposals, and positions.

THE SEPTEMBER 14, 2020 HEARING

A Hearing in this matter was held before the voting panel of Commissioners during the regularly scheduled Commission Conference on September 14, 2020, as noticed by the Commission on September 4, 2020. Participating in the Hearing were the following parties:

Chattanooga Gas Company – Floyd R. Self, Esq., Berger Singerman, LLP, 313 North Monroe Street, Suite 301, Tallahassee, FL 32301; J.W. Luna, Esq., Butler Snow, 150 3rd Ave. South, Suite 1600, Nashville, TN 37201; Paul Leath, 2207 Olan Mills Drive,

Chattanooga, TN 37241; Archie Hickerson and Gary Tucker, 10 Peachtree Place, Atlanta, GA 30309.

Consumer Advocate – Daniel P. Whitaker, III, Esq., and David N. Dittemore, Office of the Tennessee Attorney General and Reporter, P.O. Box 20207, Nashville TN 37202-0207.

Prior to the Hearing, the parties jointly notified the Commission that there were no outstanding procedural matters and that there are no disputed or contested issues with regard to the *Petition*.[9] During the Hearing, Gary Tucker testified on behalf of CGC. He offered corrections to his Pre-Filed Testimony and then gave a summary of his testimony and the Agreement. Mr. Tucker was subject to questioning before the panel and by TPUC Staff. CGC witnesses, Archie Hickerson and Paul Leath, were made available for questions from the Commission and from TPUC Staff. David Dittemore then summarized his Pre-Filed Testimony on behalf of the Consumer Advocate and indicated that Mr. Tucker's summary accurately described the Agreement. Mr. Dittemore was subject to questioning before the panel and by TPUC Staff. Members of the public were given an opportunity to offer comments, but no one sought recognition to do so.

FINDINGS AND CONCLUSIONS

Following the conclusion of the Hearing, the panel considered the Company's 2019 ARM Filing. Upon review of the Agreement, all testimonies, exhibits, workpapers, and the entire evidentiary record, the panel found that the matters addressed in the Agreement result in rates that are fair, reasonable, and consistent with the terms of CGC's ARM in addition to sound ratemaking principles. The panel found that the agreed acceleration of the amortization periods for tax savings included in the revenue deficiency calculation is in the best interest of consumers to help mitigate the pending rate increase from the ARM filing and due to unanticipated financial difficulties some customers are experiencing due to COVID-19. Therefore, the panel voted unanimously to approve

[9] *Id.* at 1.

$4,758,576 for the Company's revenue deficiency and rate reset as set forth in Gary Tucker's Rebuttal Exhibit GT-4.

The panel further found that the rate design agreed to by the Company and the Consumer Advocate, as set forth in the Pre-Filed Rebuttal Testimony of Archie Hickerson and outlined in CGC Hickerson Exhibit ARH-12 filed on August 25, 2020, is reasonable. Thereafter, the panel unanimously voted to approve this rate design, which increases rates by approximately 13.9% for all customer classes.

With regard to the going forward matters addressed by the parties in the Agreement, the voting panel found that:

1. When the Commission addresses the impact of COVID-19 on CGC, all interested parties will have the ability to participate;

2. All interested parties have and retain the right to set forth arguments and take positions regarding the treatment of AFUDC and CWIP in the CGC 2021 ARM filing; and,

3. The proposed Schedule 39 for Outside Legal Services to be filed in the CGC 2021 ARM filing is reasonable and a necessary addition for reviewing the prudency of legal expenses allowed for recovery from ratepayers.

IT IS THEREFORE ORDERED THAT:

1. The *Chattanooga Gas Company Petition for Approval of its 2019 Annual Rate Review Filing* and revised rates, as amended, filed by Chattanooga Gas Company are approved.

2. All interested parties have and will retain the right to participate, set forth arguments, and take positions in matters addressing the impact of COVID-19 on Chattanooga Gas Company and in the 2021 annual rate review mechanism filing docket of Chattanooga Gas

Company with regard to the treatment of Allowance for Funds Used During Construction and Capital Works in Progress and the examination of legal expenses.

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 Kenneth C. Hill,
Vice Chairman Herbert H. Hilliard, and
Commissioner John Hie concurring.

None dissenting.

ATTEST:



Earl R. Taylor, Executive Director