

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

**NASHVILLE, TENNESSEE**

**October 13, 2009**

**IN RE:** )  
 )  
**DOCKET TO EVALUATE CHATTANOOGA GAS** ) **DOCKET NO.**  
**COMPANY'S GAS PURCHASES AND RELATED** ) **07-00224**  
**SHARING INCENTIVES** )

---

**ORDER REGARDING TRIENNIAL REVIEW PROCEDURES AND CRITERIA**

---

This docket came before Chairman Sara Kyle, Director Eddie Roberson and Director Mary W. Freeman of the Tennessee Regulatory Authority (the "Authority" or "TRA"), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on September 21, 2009 to consider comments to the proposed procedures and criteria for the triennial review that was ordered as part of the Authority's resolution of this docket.<sup>1</sup>

**COMMENTS OF THE PARTIES**

Chattanooga Gas Company ("CGC" or "Company"): CGC advocates that the procedures outlined for comment are broad and drafted to apply to Piedmont Natural Gas ("PNG"). CGC argues that PNG has a performance incentive plan while CGC has a performance based ratemaking mechanism and the language of the proposed review is tailored to review a performance incentive plan. CGC opines that it would be more appropriate to detail the scope of the review process to CGC and this could be done at the time of the review. Additionally, CGC believes it would be more appropriate and justified to only require a review if there were material

---

<sup>1</sup> On August 24, 2009, the panel deliberated this matter and, among other things, directed that a triennial review was to start in 2012 with the selection of an independent consultant. The panel also distributed proposed procedures and criteria for the review and directed the parties to comment on the proposal. *Order*, p. 6 (September 23, 2009).

changes in the variables of the company, such as customer mix and usage patterns. If a review is ordered, however, CGC believes the scope could be established at that time. Finally, CGC offers that the review could be left up to the TRA Staff to perform and, if necessary, the TRA could determine at the time if an outside consultant was needed

Consumer Advocate:<sup>2</sup> The Consumer Advocate offers that the procedures released for comment encompass an appropriate balance between the ratepayer and the company. The Consumer Advocate's primary concern is the timing of the review. As the Consumer Advocate points out, the 2012 timeframe ordered for the CGC review coincides with the PNG triennial review and moving the date to 2010 would eliminate this work load conflict. Finally, the Consumer Advocate requests that clarification be made regarding the interpretation of "relationships" within the proposed language. The Consumer Advocate requests that the Authority clarify that performance of a review of CGC or any other gas company does constitute a "relationship" between CGC, the Consumer Advocate or TRA and the consultant for the purpose of the audit.

### **FINDINGS AND CONCLUSIONS**

The panel deliberated this matter at the regularly scheduled Authority Conference held on September 21, 2009. Based on the entire record, the panel unanimously voted as follows:

1. The action taken on August 24, 2009 was reconsidered to the extent that the review will occur in 2013 with any future review determined at the conclusion of that review.<sup>3</sup>
2. Procedures and processes for the review in 2013 were adopted and are attached to this Order as Exhibit 1 and are hereby referenced and incorporated as if copied herein.

---

<sup>2</sup> Consumer Advocate and Protection Division of the Office of the Attorney General.

<sup>3</sup> All other actions taken by the panel on August 24, 2009 remain unchanged.

3. Performance of a previous review of CGC or any gas company regulated by the TRA does not constitute a relationship between the company, TRA or the Consumer Advocate and the consultant for the purpose of this review.

**IT IS THEREFORE ORDERED:**

1. The first triennial review will occur in 2013 with any future review determined at the conclusion of that review.

2. Procedures and processes for the review in 2013 were adopted and are attached to this Order as Exhibit 1 and are hereby referenced and incorporated as if copied herein.

3. Performance of a previous review of CGC or any gas company regulated by the TRA does not constitute a relationship between the company, TRA or the Consumer Advocate and the consultant for the purpose of this review.

  
Sara Kyle, Chairman

  
Eddie Roberson, Director

  
Mary W. Freeman, Director

## **Chattanooga Gas Company**

### **Review Procedures and Process**

***(Adopted by the Authority on September 21, 2009 in Docket to Evaluate Chattanooga Gas Company's Gas Purchases and Related Sharing Incentives, Docket No. 07-00224)***

A comprehensive review of the transactions and activities related to the Performance-Based Ratemaking Mechanism (PBRM<sup>1</sup>) shall be conducted by an independent consultant. The initial review shall be started in the autumn of 2013 and subsequent reviews shall be conducted at the order of the Authority. The TRA Staff, the CAD, and CGC shall make an effort to maintain a list of no less than five (5) mutually agreeable independent consultants<sup>1</sup> or consulting firms qualified to conduct the aforementioned review. Any dispute concerning whether an independent consultant shall be added to the list shall be resolved by the TRA Staff, after consultation with CGC and the CAD. For each review, the TRA Staff shall select three (3) prospective independent consultants from that list. Each such consultant shall possess the expertise necessary to conduct the review. The TRA Staff shall provide the list of prospective independent consultants to the CGC and the CAD via e-mail. CGC and the CAD shall have the right, but not the obligation, to strike one (1) of the prospective independent consultants from the list by identifying the stricken consultant in writing to the TRA Staff within thirty (30) days from the date the list is e-mailed. The TRA Staff shall select the independent consultant from those remaining on the list after CGC's and the CAD's rights to strike have expired. The cost of the review shall be reasonable in relation to its scope. Any and all relationships between the independent consultant and CGC, the TRA Staff and/or the CAD shall be disclosed and the independent consultant shall have had no prior relationship with either CGC, the TRA Staff, or the CAD for a least the preceding five (5) years unless CGC, the TRA Staff and CAD agree in writing to waive this requirement. The TRA Staff, the CAD and CGC may consult amongst themselves during the selection process; provided, however, that all such communications between the parties shall be disclosed to any party not involved in such communication so that each party may participate fully in the selection process.

The scope of the review may include all transactions and activities related either directly or indirectly to the PBRM as conducted by CGC or its affiliates, including, but not limited to, the following areas of transactions and activities: (a) natural gas procurement; (b) capacity management; (c) storage; (d) hedging; (e) reserve margins; and (f) off-system sales. The scope of each review shall include a review of each of the foregoing matters as well as such additional matters as may be reasonable identified by CGC, the TRA Staff, or the CAD relative to the operation or results of the PBRM.

CGC, the TRA Staff, or the CAD may present documents and information to the independent consultant for the independent consultant's review and consideration. Copies

---

<sup>1</sup> Performance of a previous review of CGC or any gas company regulated by the TRA does not constitute a relationship between the Company, TRA, or the Consumer Advocate and the consultant for the purpose of this review.

of all such documents and information shall be presented simultaneously to the independent consultant and all other parties.

The independent consultant shall make findings of fact, as well as identify and describe areas of concern and improvement, if any, that in the consultant's opinion warrant further consideration; however, the independent consultant shall not propose changes to the structure of the PBRM itself. The independent consultant shall complete and issue a written report of its findings and conclusions by July 1 of the year immediately following the review. The report deadline may be waived by the written consent of the TRA Staff, CGC, and the CAD.

The independent consultant shall not propose changes to the structure of the PBRM itself; however, the TRA Staff, CGC, or the CAD may use the report of the independent consultant as grounds for making recommendations or proposed changes to the Authority, and the TRA Staff, CGC, or the CAD may support or oppose such recommendations or proposed changes. Any proposed changes to the structure of the PBRM resulting from the initial review or subsequent review, whether adopted by agreement or pursuant to a ruling of the Authority, shall be implemented on a prospective basis only beginning with the incentive plan year immediately following such agreement or ruling.

The cost of the review shall be paid initially by CGC and recovered through the ACA account. The TRA Staff may continue its annual audits of the PBR and the ACA account and the review shall not in any way limit the scope of such annual audits.