STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH

DOCKET NO. G-41, SUB 55

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application of Toccoa Natural Gas for Annual Review of Gas Costs Pursuant to N.C.G.S. § 62-133.4(c) and Commission Rule R1-17(k)(6)	))))))	ORDER SCHEDULING HEARINGS, REQUIRING FILING OF TESTIMONY, ESTABLISHING DISCOVERY GUIDELINES AND REQUIRING PUBLIC NOTICE

BY THE COMMISSION: Section 62-133.4 of the North Carolina General Statutes authorizes gas cost adjustment proceedings for natural gas local distribution companies. Further, N.C. Gen. Stat. § 62-133.4(c) provides that the North Carolina Utilities Commission shall conduct annual review proceedings to compare each natural gas utility's prudently-incurred costs with costs recovered from all of the utility's customers served during the test period. Commission Rule R1-17(k)(6) prescribes the procedures for such annual reviews of natural gas costs.

On September 1, 2020, Toccoa Natural Gas (Toccoa or Applicant), filed testimony and exhibits (testimony), pursuant to N.C.G.S. § 62-133.4(c) and Commission Rule R1-17(k)(6), relating to an annual review proceeding.

The Commission finds good cause to issue this Order scheduling this matter for public witness and expert witness hearings, establishing discovery guidelines, and providing for published notice of the public witness hearing. The guidelines regarding discovery in this docket, subject to modification for good cause shown, are as follows:

1. Any deposition which a party desires to take shall be taken before the deadline for filing of Public Staff and intervenor testimony. Notice of deposition shall be served on all parties at least seven days prior to the taking of the deposition. Notice of deposition and all other discovery notices, requests and motions shall be served on the appropriate parties by hand delivery or facsimile, or by electronic delivery if the receiving party has agreed to receipt by electronic delivery.

2. Any motion for subpoena of a witness to appear at the evidentiary hearing shall be filed with the Commission before the deadline for filing of Public Staff and intervenor testimony, shall be served by hand delivery or facsimile to the person sought to be subpoenaed at or before the time of filing with the Commission, and shall make a reasonable showing that the evidence of such person will be material and relevant to an issue in the proceeding. *See* N.C. Gen. Stat. § 62-62. Unless an objection is filed, the

Chief Clerk shall issue the requested subpoena 24 hours after such motion is filed.

3. Formal discovery requests related to the application and the Applicant's prefiled direct testimony shall be served on the Applicant not later than fourteen days prior to the deadline for filing of Public Staff and intervenor testimony. The party served shall have up to ten calendar days to file with the Commission objections to the discovery requests on an item-by-item basis, but in no event shall objections be filed later than ten days prior to the deadline for filing of Public Staff and intervenor testimony.

4. Formal discovery requests of the Public Staff or intervenors shall be served not later than three days after such testimony is filed. The party served shall have up to three calendar days to file with the Commission objections to the discovery requests on an item-by-item basis, but in no event shall objections be filed later than five days after that party's testimony was filed.

5. Formal discovery requests related to the Applicant's prefiled rebuttal testimony shall be served on the Applicant not later than two days after such testimony is filed. The party served shall have up to two calendar days to file with the Commission objections to the discovery requests on an item-by-item basis, but in no event shall objections be filed later than three days after the rebuttal testimony was filed. Discovery related to rebuttal testimony shall be limited to new material introduced in such rebuttal testimony and will be carefully scrutinized upon objection that such discovery should have been sought during the initial period of discovery from the Applicant.

6. Discovery requests need not be filed with the Commission when served; however, any party filing objections shall attach a copy of the relevant discovery request to the objections. Each discovery request, or part thereof, to which no objection is filed shall be answered by the time objections are due, subject to other agreement of the affected parties or other order of the Commission. Upon the filing of objections, the party seeking discovery shall have two days to file a motion to compel with the Commission, and the party objecting to discovery shall have one day thereafter to file a response. All objections, motions to compel, and responses shall be served on the other affected party at or before the time of filing with the Commission.

7. A party shall not be granted an extension of time to pursue discovery because of that party’s late intervention or other delay in initiating discovery.

The Commission recognizes that in the past most discovery has been conducted in an informal manner without the need for Commission involvement or enforcement, and that such has been generally successful. The guidelines stated above are without prejudice to the parties conducting informal discovery or exchanging information by agreement at any time with the understanding that such will not be enforceable by the Commission if outside the guidelines.

IT IS, THEREFORE, ORDERED as follows:

1. That a public witness hearing shall be, and is hereby, scheduled for Wednesday, November 4, 2020, at 10:00 a.m., in Commission Hearing Room 2115, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina, for the purpose of considering the testimony filed in this proceeding by Toccoa. The parties and their attorneys are not required to attend the public witness hearing, but may attend if they desire to do so;

2. That an expert witness hearing shall be, and is hereby, scheduled to be held by remote means on Webex on Wednesday, November 4, 2020, at 11:00 a.m., and will be subject to the following conditions:

(1) On or before Wednesday, October 21, 2020, all parties shall file a statement consenting to holding the expert witness hearing by remote means, or a statement objecting to same;

(2) On or before Wednesday, October 21, 2020, all parties shall send the email addresses of the attorneys, witnesses, and other persons that will participate in the hearing on the party's behalf directly to the Chief Clerk's Office at: ncucwebex@ncuc.net;

(3) On or before Thursday, October 22, 2020, parties shall file a list of potential cross-examination exhibits, and provide written copies of said exhibits, pre-marked but not numbered, to the other parties and the Commission;

(4) On or before Friday, October 23, 2020, Toccoa shall file a list of potential redirect examination exhibits, and provide written copies of said exhibits, pre-marked but not numbered, to the other parties and the Commission;

(5) Within ten days after the hearing, parties shall file their cross-examination and redirect exhibits used in the hearing marked as indicated during the hearing; and

(6) Parties and witnesses will be required to refrain from disclosing confidential information during the hearing, including during direct examination, cross-examination, and redirect examination. If a party believes that this requirement will materially affect the party's presentation of evidence or examination of a witness, the party shall bring this to the attention of the Presiding Commissioner at the beginning of the hearing.

3. That any person having an interest in this proceeding may file a petition to intervene stating such interest on or before Tuesday, October 20, 2020;

4. That the direct testimony and exhibits of the Public Staff and other intervenors shall be filed on or before Tuesday, October 20, 2020;

5. That Toccoa shall file its rebuttal testimony and exhibits within ten (10) days of the actual receipt of the testimony of the party to whom the rebuttal testimony is addressed;

6. That Toccoa shall publish the Public Notice attached hereto as Appendix A in a newspaper or newspapers having general circulation in its service area once a week for two successive weeks beginning at least 30 days prior to the hearing; and

7. That Toccoa shall file an affidavit of publication on or before the date of the hearing.

ISSUED BY ORDER OF THE COMMISSION.

This the 8th day of September, 2020.

NORTH CAROLINA UTILITIES COMMISSION

Kimberley A. Campbell

Kimberley A. Campbell, Chief Clerk

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NOTICE IS HEREBY GIVEN that the North Carolina Utilities Commission has scheduled a public hearing to conduct an annual review of the cost of natural gas supply, storage and transportation for Toccoa Natural Gas (Toccoa). The public hearing has been scheduled for Wednesday, November 4, 2020, at 10:00 a.m. in Commission Hearing Room 2115, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina. The hearing is being held pursuant to the provisions of N.C. Gen. Stat. § 62-133.4(c) and Commission Rule R1-17(k)(6) for the purpose of comparing Toccoa's prudently-incurred gas costs with costs recovered from all of the utility's customers served during the test period. Public witness testimony will be received in accordance with Commission Rule R1-21(g). Further, all persons attending the public witness hearing will be required to wear a mask or other appropriate face covering, and will be required to seat themselves in the hearing room at least six feet (three chairs) apart from other persons.

Toccoa filed testimony and exhibits (testimony), relating to the subject matter of this hearing on September 1, 2020. Further information may be obtained from the Office of the Chief Clerk, North Carolina Utilities Commission, 430 North Salisbury Street, Raleigh, North Carolina, where a copy of Toccoa's testimony is available for review by the public. Also, documents can be viewed on the Commission's website at www.ncuc.net.

The Public Staff is authorized by statute to represent consumers in proceedings before the Commission. Correspondence regarding the annual review proceeding and the hearing thereon should be directed to the Public Staff and should include any information which the writer wishes to be considered by the Public Staff in its investigation of the matter. Such statements should be addressed to Mr. Christopher J. Ayers, Executive Director, Public Staff, 4326 Mail Service Center, Raleigh, North Carolina 27699-4300.

The Attorney General is also authorized by statute to represent consumers in proceedings before the Commission. Statements to the Attorney General should be addressed to The Honorable Josh Stein, Attorney General, c/o Consumer Protection-Utilities, 9001 Mail Service Center, Raleigh, North Carolina 27699-9001. Written statements may be emailed to utilityAGO@ncdoj.gov.

Written statements are not evidence unless the writers appear at a public hearing and testify concerning the information contained in their written statements.

Persons desiring to intervene in this proceeding as formal parties should file a petition to intervene pursuant to Commission Rules R1-5 and R1-19 on or before Tuesday, October 20, 2020. Such petitions should be filed with the Chief Clerk of the North Carolina Utilities Commission, 4325 Mail Service Center, Raleigh, North Carolina 27699-4300. The direct testimony and exhibits of expert witnesses to be presented by intervenors should also be filed with the Commission on or before Tuesday, October 20, 2020.

ISSUED BY ORDER OF THE COMMISSION.

This the 8th day of September, 2020.

NORTH CAROLINA UTILITIES COMMISSION



Kimberley A. Campbell, Chief Clerk