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BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

May 18, 2005

IN RE:	)	
	)	
NASHVILLE GAS COMPANY, a Division of	)	**Docket No. 04-00290**
PIEDMONT NATURAL GAS COMPANY	)	
INCENTIVE PLAN ACCOUNT (IPA) AUDIT	)	

STAFF REPLY TO NASHVILLE GAS COMPANY'S RESPONSE TO THE UTILITIES DIVISION'S INCENTIVE PLAN ACCOUNT AUDIT REPORT

The Audit Staff of the Utilities Division ("the Staff") submits the comments below in response to Nashville Gas Company's ("Nashville Gas" or "the Company") April 19, 2005 response to the Utilities Division's Incentive Plan Account audit report, which was filed in this docket on March 4, 2005. On March 18, 2005, the Company requested an extension of the audit review period to May 28, 2005, to allow sufficient time for filing its response. Following receipt of the Company's response, the Staff requested an additional sixteen (16) day extension to coincide with the next available Authority Conference, scheduled for June 13, 2005.[1]

Staff's responses will address each of the Company's arguments, following the same format as that used by the Company in its response, beginning on page 6, <u>DISCUSSION</u>.

[1] TRA Rule 1220-4-7- 03(2) allows for extension of the 180-day audit review period requirement of the PGA Rule by mutual consent of the TRA audit staff and the Company.

I. INCLUSION OF ASSET MANAGEMENT FEES IN THE COMPANY'S INCENTIVE PLAN ACCOUNT

Nashville Gas presents three (3) arguments to support its position that asset management arrangements are already provided for in its Incentive Plan. The first argument addresses the intent and language of the Incentive Plan and prior findings of the TRA. The second argument addresses Staff's concerns regarding the operation of the Incentive Plan. And the third argument states that Staff has presented no evidence that supports revisions to its Incentive Plan.

Regarding the Company's Contention that Staff's Recommendations are Contrary to the Intent and Language of the Incentive Plan and Inconsistent with Prior Precedent and Findings of Authority

The Company continues to argue that the status quo must be maintained. It is evident that Nashville Gas management is quite satisfied with the results of its Incentive Plan as it benefits the Company. It refuses to acknowledge that the natural gas market has evolved since the inception of its Incentive Plan. Producers, marketers, and gas distribution companies are continually seeking more efficient and less costly methods to purchase and deliver gas to the end user, as well as creative ways to generate more savings to benefit their customers and their stockholders.

Change is a fact of life and the TRA, in its foresight, has reserved the right to "modify, amend or terminate" Nashville's Incentive Plan at any time it deems necessary.[2] The Authority now has six (6) years of experience since the permanent plan was approved with which to evaluate whether or not the "incentive" is working as intended and whether the terms of the plan should be revisited. Although the passage of six years is by itself

[2] Nashville Gas Company, Service Schedule No 316, Performance Incentive Plan, page 1

justification enough to re-examine the terms of the Capacity Management Incentive Mechanism[3] as it relates to asset management arrangements, Staff offers several additional and compelling reasons to re-examine the Capacity Management Incentive Mechanism.

Staff points out that when the Incentive Plan was originally crafted it was anticipated that the <u>Company itself</u> would actively market the ratepayers' unused assets.[4] To provide an incentive for the Company to increase this type of activity and also to compensate the Company for any additional costs it might incur, the TRA approved a sliding scale sharing mechanism for release of unused capacity. The effect of the mechanism is that Nashville Gas can anticipate keeping nearly 50 percent of any fees received as a result of entering into an asset management agreement.

The Incentive Plan has worked well for the Company. In the second year after the plan was approved on a permanent basis by this Authority, the Company entered into its first asset management arrangement, whereby the capacity release function was "outsourced" to a third party in exchange for a fee.[5] Staff understands that the payment made to Nashville Gas is based on the value the third party places on these assets. That is, it is based on how much profit those assets can reasonably be expected to generate for the third party. While this transaction is a "capacity release" in literal terms, it is not the type of capacity release envisioned by the designers of the Incentive Plan. Asset management arrangements have led to reduced costs and reduced level of risk for the

[3] Nashville Gas Company, Service Schedule No 316, <u>Performance Incentive Plan</u>, page 5
[4] The assets in question have been fully paid for by the customers of Nashville Gas through the Purchased Gas recovery mechanism. The assets belong to the customers, not to the Company

Company. However, Nashville Gas still retains nearly a 50 percent share of these asset manager payments for its stockholders. Therefore, it is not surprising that the Company is resisting any review of its Incentive Plan.

Nashville Gas has suggested that adding the words "including through asset management arrangements" to the language of its current tariff would cure any concerns that the Staff might have with these types of arrangements.[6] Staff agrees that if the Authority determines that asset management agreements comply with the intent of the incentive plan and should appropriately be included, then the tariff language would have to reflect that. However, the Staff's main concern is the sharing percentages applicable to this outsourcing of capacity release. It seems reasonable to Staff that considering the reduced effort, reduced costs and reduced risks to the Company, the Company should be entitled to something considerably less than 50 percent. Staff can't emphasize enough that these assets belong to the ratepayers. They have reimbursed the Company 100 percent of its costs for these assets plus interest.

Regarding the Company's Contention that the Staff's Concerns Over Operation of the Company's Plan are Not Well-Founded

In its response, Nashville Gas addresses the comparison's made by Staff in its audit report regarding the differences between capacity release transactions made by the Company and the "bulk" release of assets to an asset manager.[7] These comparisons were

[5] Payment is made by the third party to Nashville Gas Nashville credits the payment to the deferred gas cost account through the Actual Cost Adjustment process and then surcharges back from the customers its share of the payment, in this case nearly 50%

[6] Nashville Gas Company's Response to the Utilities Division's Incentive Plan Account Audit Report, pages 1-2.

[7] Staff Audit Report, page 8.

made to point out the different nature of an asset management agreement from the type of capacity release transactions anticipated in the Company's Incentive Plan.

The Company has presented arguments defending its position that the asset management agreements appropriately belong within the Incentive Plan. While Staff does not disagree that an Incentive Plan should include all gas purchasing activities, Staff does believe the outsourcing of the capacity release function should be addressed separately by the Authority from the standard capacity release transactions that were occurring when the plan was approved.

Regarding the Company's Contention that the Staff Has Presented No Evidence That Supports Revisions to the Major Components of the Company's Incentive Plan.

As pointed out earlier, it is evident that the plan is working well for the Company and it is no surprise that the Company does not want the terms of the plan re-examined. However, Staff is concerned that the customers may not be getting their fair share of the pie. As the Company has pointed out, savings generated under both Gas Procurement and Capacity Release transactions have generated savings in excess of $17 million dollars.[8] If there were no Incentive Plan, or if the Authority itself put the customers' assets up for bid, the customers would receive 100 percent of the savings generated, that is $17 million versus $10 million actually received. While Staff is not suggesting that the above scenario is appropriate, it is suggesting that the sharing percentages for asset management arrangements should be examined by this Authority to determine the fairness of the split.

[8] Nashville Gas Company's Response to the Utilities Division's Incentive Plan Account Audit Report, page 13

In its response to the Staff's audit report in Docket 03-00489, Nashville Gas stated that:

> "Piedmont also utilizes approved asset management arrangements in both North Carolina and South Carolina. Savings under these arrangements are shared with ratepayers in each state. Further, the regulatory authorities in both North Carolina and South Carolina have treated these savings as capacity release revenues for purposes of the revenue sharing mechanisms in those states."[9]

What the Company did not reveal at that time is that the sharing split approved in North Carolina and South Carolina is 75/25, with 75 percent being credited to the ratepayers.[10] Including the asset management agreement under the Company's Incentive Plan and applying the percentages currently approved for Capacity Release transactions is tantamount to guaranteeing Nashville Gas a $1.6 million profit each year, made with relatively little effort compared to the Company managing its own unused capacity as it did when the plan was first approved.

II. REGARDING THE COMPANY'S CONTENTION THAT STAFF'S PROPOSAL TO MAKE AN ADJUSTMENT OF $620,402 IN THE COMPANY'S INCENTIVE PLAN ACCOUNT FOR THE TWELVE-MONTH PERIOD ENDED JUNE 30, 2004 SHOULD BE REJECTED

Nashville Gas has offered arguments regarding the appropriateness of the audit adjustment recommended by Staff in this docket. Staff can only report compliance issues as it determines them from the tariff being audited. The Company is entirely correct that the appropriateness of a Staff finding is a decision to be made by the Authority. Staff's duty is to report to the Authority its findings and conclusions.

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[9] Nashville Gas Company's Response to the Energy and Water Division's Incentive Plan Account Audit Report, page 8, footnote 10.

[10] See Exhibit 1 (North Carolina Utilities Commission Order in Docket No G-100, SUB 67) and Exhibit 2 (Public Service Commission of South Carolina Order in Docket No 2002-63-G, relevant pages attached).

The matter of the asset management payment being properly treated as a capacity release transaction under the current terms of the plan was not decided in the last audit (Docket No. 03-00489). The Panel deferred a determination regarding the unresolved issues of (1) asset management fees and (2) outside consultants.[11] Staff has determined that these unresolved issues exist in this docket and on that basis present them for the Authority's consideration.

III. REGARDING THE COMPANY'S CONTENTION THAT THE PROPER SCOPE OF THE STAFF'S AUDIT SHOULD BE LIMITED RATHER THAN OPEN-ENDED

The Staff and Company continue to disagree as to the proper scope of a compliance audit. The Company contends that the Staff should only test the accounting of gas and capacity costs and calculation of savings under the Incentive Plan. However, it quotes Staff's audit objective as stated in its audit report and concludes that it is consistent with the Company's view:

> "The objective of the audit is to determine whether the balance in the Incentive Plan Account as of June 30, 2004 is calculated in **conformance with the terms** of the Company's Incentive Plan…" [Emphasis added] See Staff Audit Report, page 1.

Conformance encompasses a broader scope than merely checking the Company's accounting and mathematical calculations. Conformance includes, among other things, a determination whether a transaction should be captured under the Incentive Plan terms. The definition of an "audit" presented by the Company is applicable to a financial audit

[11] Authority Order dated February 4, 2005 (Docket 03-00489), page 3

and does not limit a compliance audit.[12] TCA §§ 65-4-104, 65-4-105 and 65-3-108 describe the jurisdiction and audit authority of the TRA.

It appears to Staff that Nashville Gas is overreacting to the Staff's request for a review of its asset management agreements and whether the Company's Incentive Plan should be modified to include this type of arrangement. The Company uses such descriptive words as "well beyond the scope of what could fairly be described as an audit," "something akin to a yearly "prudence" type review of the Plan," "each and every term of the Company's approved Incentive Plan would be fair game each and every year in the audit proceeding," and "creates potential for negative impacts on the Plan's performance and a corresponding potential detriment to Nashville Gas and its customers."

Staff would point out its duty to report any issues or recommendations to the Authority. The Company itself states, "Nashville Gas does not dispute that the Authority has jurisdiction to modify, amend or terminate the Company's Incentive Plan upon appropriate proceedings and evidence, nor does the Company dispute the Staff's right, acting in its advisory capacity, to recommend such a course."[13] This is contradictory to the other statements referenced above. Where else would Staff develop its recommendations to the Authority regarding the Incentive Plan if not in the context of its annual compliance audit? Again, Staff is not recommending continued disallowance of the asset management agreement under the Company's Incentive Plan. Staff has concluded that this type of agreement is <u>different</u> from Capacity Release as it is covered under the current Incentive Plan. The remedy, in Staff's opinion, is to address

[12] <u>Nashville Gas Company's Response to the Utilities Division's Incentive Plan Account Audit Report</u>, page 16

Nashville's asset management agreements in a separate docket and determine if and how the current plan should be modified to include these agreements.

IV. REGARDING THE COMPANY'S POSITION ON STAFF'S PROPOSAL TO HIRE A CONSULTANT

Staff continues to ask for the assistance of a consultant in the context of its compliance audits, since Staff does not have the human resources needed to properly evaluate the incentive plans that are in place[14] and whether they are in fact achieving the goals envisioned at the time they were approved, which includes a balanced interest between the Company and the ratepayers. Staff cannot assure the Authority that the ratepayers are being treated fairly in the "new market arena" we find ourselves in. While Nashville Gas is dealing with a third party asset manager, other companies are dealing with an affiliate, which brings up even more issues. Staff believes that the potential benefit to the ratepayer of additional expertise far outweighs the minimal cost per customer of utilizing an outside consultant.

IV. REGARDING THE COMPANY'S CONTENTION THAT STAFF'S RECOMMENDATION THAT NASHVILLE GAS' INCENTIVE PLAN BE SUSPENDED SHOULD BE REJECTED

Staff has recommended that the Company's tariff be temporarily suspended, while the Authority addresses the outstanding concerns in a separate docket. While the Plan was evaluated by an independent consultant after its experimental period, that evaluation did not take into consideration the new market conditions and the now common practice of hiring asset managers. Staff believes that, after six years, a fresh review is needed to

[13] Nashville Gas Company's Response to the Utilities Division's Incentive Plan Account Audit Report, page 17

[14] The annual review of a Company's gas costs go hand in hand with the Incentive Plan mechanism

appropriately and fairly include the asset management agreements in the Company's Incentive Plan.

CONCLUSION

To the extent that the Authority determines that asset management agreements fall appropriately under the intent and purpose of Nashville Gas Company's Incentive Plan, Staff would respectfully request the Authority to address the treatment of these agreements in a separate docket. Staff has concerns that the sharing percentages currently used in the Capacity Release Mechanism are not fairly balanced between the Company and its ratepayers, considering the different nature of the bulk one-time release of ratepayer assets for a fee. Staff would also ask that, if a separate docket is opened, the Authority also consider the issue of utilizing an outside consultant to add additional expertise to the Staff's audit function.

Respectfully submitted,

Pat Murphy

Pat Murphy
Manager of Energy and Water
Utilities Division

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served as indicated on the person or persons listed below on 5 - 18 - 05.

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EXHIBIT

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STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH

OFFICIAL COPY

DOCKET NO. G-100, SUB 67

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

12-22-95

In the Matter of Accounting for Secondary Market Transactions By Natural Gas Local Distribution Companies	))	ORDER APPROVING STIPULATION

BY THE COMMISSION: On July 22, 1994, the Commission issued an Order in Docket No. G-100, Sub 63, adopting accounting procedures to be followed by the local distribution companies (LDCs), with respect to the net compensation they receive on certain transactions involving the sale of unutilized capacity rights. The Commission found that these transactions, known as buy/sell arrangements and capacity release transactions, are "clearly an integral part of managing gas system capacity rights." The Commission concluded that because Rule R1-17(k) guarantees full rate recovery of demand and storage charges, ratepayers should receive most of the net compensation from capacity sales that mitigate those costs. Accordingly, the Commission required the LDCs to record 90% of the net compensation from these transactions in their deferred accounts as a reduction of demand and storage charges for the purpose of the true-up under Rule R1-17(k)(4)(a).

On March 16, 1995, the Public Staff filed a Petition for Investigation in which it requested the Commission to institute an investigation into certain secondary market transactions which also involve the sale of unutilized capacity. In its Petition, the Public Staff stated that it was not prepared to recommend an accounting treatment for these transactions until it obtained a better understanding of the transactions.

On November 2, 1995, a Motion to Approve Stipulation and Stipulation was filed by the Public Staff, North Carolina Natural Gas Corporation (NCNG), Pennsylvania & Southern Gas Company (Penn and Southern), Piedmont Natural Gas Company, Inc., (Piedmont), Public Service Company of North Carolina, Inc. (Public Service), and Carolina Utility Customers Association, Inc. (CUCA).

In support of the Motion, the parties indicated that the Public Staff and the LDCs had met on several occasions to discuss an appropriate accounting for all interstate sales and transportation transactions entered into by an LDC involving use of its firm transportation or storage capacity rights on pipelines, the costs of which capacity are recovered from North Carolina utility customers under Rule R1-17(k) including, but not limited to, the transactions addressed in the Commission's Order of July 22, 1994, and transactions of the type referred to in the Public Staff's Petition for Investigation. As a result of these meetings, the parties stipulated and agreed as follows:

a. Effective November 1, 1995, each LDC shall record 75% of the net compensation received from secondary market transactions in its PGA deferred account as a reduction of demand and storage charges for the purpose of computing the demand and storage charges true-up required by Rule R1-17(k)(4)(a). For purposes of this rule, "secondary market transactions" means all interstate sales or transportation transactions entered into by an LDC involving use of its firm transportation or storage capacity rights on pipelines the costs of which capacity are recovered from North Carolina utility customers under Rule R1-17(k) including, but not limited to, buy/sell, capacity release, off system sales or other sale for resale transactions. For purposes of this rule, "net compensation" means the gross compensation received by an LDC from a secondary market transaction less all transportation charges, taxes and other costs, including all costs incurred by the LDC in connection with the purchase of the gas directly related to the transaction. In the case of a secondary market transaction between an LDC and its affiliate, "gross compensation" shall not be less than the gross compensation received in connection with the same or similar transactions between the LDC and non-affiliated parties. If a secondary market transaction involves firm capacity a portion of which is allocated to a jurisdiction other than North Carolina, the amount recorded in the LDC's North Carolina PGA deferred account shall be determined in the same manner as would be used to allocate such capacity to North Carolina if the capacity were not subject to a secondary market transaction.

b. The LDCs acknowledge that G.S. 62-51 authorizes the Public Staff to inspect the books and records of corporations affiliated with public utilities regulated by the Commission where such books and records relate either directly or indirectly to the provision of intrastate service by the utility, and this authorization extends both to books and records in the State of North Carolina and to books and records outside the State of North Carolina. The LDCs agree to cooperate with the Public Staff in complying with this statute, and the Public Staff agrees to cooperate with the LDCs to protect confidential and proprietary information inspected by the Public Staff pursuant to this statute.

The Stipulation further provided that to the extent the Order issued in respect of this Stipulation shall be inconsistent with any other Commission Order or any Commission-approved tariff or rider, the terms of the Order approving this Stipulation shall control. The parties to the Stipulation submitted that the Stipulation is in the public interest and requested that the Commission approve the Stipulation as soon as possible in order to permit it to become effective beginning November 1, 1995.

On November 16, 1995, the Attorney General filed a response to the proposed Stipulation arguing that the Commission should adopt the Stipulation with the modification that the net compensation to LDC shareholders from secondary market transactions should not be increased to 25%, and with the clarification that the Attorney General, as well as the Public Staff, should be authorized to inspect the books and records of affiliate corporations as discussed in the Stipulation.

On November 21, 1995, an Order was entered requesting that the parties participating in the Stipulation file comments in response to the Attorney General's filing of November 16, 1995. Comments have been filed by the stipulating parties as well as the Attorney General.

The Public Staff, in its comments, states that it is net compensation from secondary market transactions not expressly covered in Docket No. G-100, Sub 63, that can be expected to grow. Net compensation from grandfathered buy/sell transactions can only be expected to stagnate or decline and net compensation from capacity release transactions can be expected to decline significantly as the market becomes increasingly competitive. According to the Public Staff, unlike the procedures adopted in Docket No. G-100, Sub 63, which served their purpose well, the Stipulation in this docket anticipates the possibility of many new types of transactions. It accepts the principle that ratepayers are entitled to a substantial portion of the revenues from such transactions, while providing an incentive to the LDCs to be creative and aggressive in developing new markets for their products and services. It also provides for LDC cooperation with the Public Staff in fulfilling its responsibilities to monitor and investigate the activities of the LDCs and their affiliates.

Piedmont, Penn and Southern, NCNG, and Public Service filed joint comments in this matter. These parties argue that the Commission should approve the Stipulation as filed because it represents a reasonable and just compromise of the LDCs' and the public's interests for the following reasons:

1. Off-system sales and sales for resale transactions are fundamentally different than buy/sell and capacity release transactions and do not fall within the scope of the Commission's July 22, 1994 Order in Docket No. G-100, Sub 63.

2. The Stipulation reasonably accommodates the desires of both the LDCs and the public and is a judicious compromise of their respective interests.

3. The proposed sharing ratio of 75/25 is reasonable and within the range of approved ratios for similar transactions.

CUCA states that the ability of the LDCs to enter into secondary market transactions promise significant benefits to end-users and provides the LDCs with a way to mitigate the impact of higher interstate pipeline capacity costs; that any increase in the extent to which the LDCs engage in secondary market transactions will, under the terms of the Stipulation, reduce the interstate pipeline capacity costs which must be recovered from the LDCs' existing ratepayers; that the best way to encourage the LDCs to engage in an optimal level of secondary market transactions is to provide them with a monetary reward for doing so; and that the amount of the incentive provided in the Stipulation does not strike CUCA as sufficiently great to create a real risk that the LDCs will "overbuy" capacity

The Attorney General, in his reply, asserts that all transactions under the proposed Stipulation -- the buy/sell and capacity release transactions explicitly covered by the Commission's Order in Sub 63 as well as the new transactions that have evolved since then--use capacity which has been fully paid for by ratepayers; that the Commission has already ruled that recovery of 10% of net compensation by the LDCs is fully adequate for virtually identical transactions; and that no party has presented a need or justification for increasing the already generous incentives established by the Commission.

The Commission notes from the comments filed that since the effective date of the Commission's Order in Docket No. G-100, Sub 63, the North Carolina LDCs have accounted for buy/sell and capacity release transactions in accordance with that Order. During this same period, however, the interstate natural gas market -- in conjunction with the advent of increasing competition on the interstate pipeline system and the continued unbundling required by FERC Order 636 -- has developed new mechanisms for the utilization of "excess" capacity. These "gray" or "secondary" market transactions include "sales for resale" and "off-system sales." These transactions may generally be characterized as the sale, assignment or use by the LDCs of certain firm transportation and storage capacity rights in conjunction with gas supplies to either buy or sell bundled city gate service. These transactions, according to the comments of the LDCs, bear little similarity to buy/sell or capacity release transactions addressed in Docket No. G-100, Sub 63.

While the Commission acknowledges that these secondary market transactions are somewhat different from the transactions previously addressed in Docket No. G-100, Sub 63, it is convinced that some sharing arrangement is appropriate. As pointed out by CUCA, any increase in the extent to which the LDCs engage in these types of transactions will reduce the capacity costs which must be recovered from ratepayers. Accordingly, the Commission is of the opinion that the expanded use of secondary market transactions by the LDCs which involve prudently incurred capacity costs is in the public interest and should be encouraged. The aggressive utilization of secondary market transactions will provide a means for the LDCs to minimize customer costs. Further, the Commission notes that the Stipulation accepts the principle that ratepayers are entitled to a substantial portion of the revenues from these transactions and that the scope of programs subject to revenue sharing will be substantially broadened to include all interstate sales or transportation transactions entered into by an LDC involving use of its firm transportation or storage capacity rights on pipelines the costs of which are recovered from North Carolina utility customers. The question before the Commission then becomes exactly what sharing ratio is appropriate. The Attorney General asserts that the appropriate percentage of net compensation for the LDCs to retain is 10% while the stipulating parties advocate a percentage of 25% for the LDCs.

The Commission recognizes, as noted in the comments of the LDCs, that this sharing ratio must serve two functions: it must compensate the LDCs for the additional administrative burden and operational complexities that can be attendant to negotiating and administering secondary market transactions, and it must provide an adequate incentive for LDCs to actively seek such transactions. For present purposes, the Commission concludes that the 25% sharing as provided for in the Stipulation will provide the LDCs with an adequate incentive to aggressively utilize secondary market transactions and is within a range of reasonableness.

Based upon the foregoing, the Commission concludes that the terms as set forth in the November 2, 1995 Stipulation are just and reasonable and in the public interest. They provide for the application of a fair and reasonable sharing mechanism to all secondary market transactions, they provide a means to lower capacity charges paid by North Carolina natural gas customers, and, accordingly, they should be approved at this time. However, the Commission notes that the appropriate sharing ratio is a matter of judgment and that the Commission has little experience on which to base their judgment at this time. The Commission will monitor the effect of the sharing ratio approved herein in the context of our annual review proceedings for the LDCs' gas costs. If experience demonstrates that a different sharing ratio might serve the ends of justice, the Commission reserves the right to revisit this issue and to reconsider our decision on this point prospectively.

IT IS, THEREFORE, ORDERED that the Stipulation filed with the Commission on November 2, 1995, providing for the accounting for secondary market transactions by natural gas local distribution companies, as set forth hereinabove, is hereby approved effective November 1, 1995, subject to the Commission's right to revisit the issue of the appropriate sharing ratio prospectively.

ISSUED BY ORDER OF THE COMMISSION.

This the 22nd day of December 1995.

NORTH CAROLINA UTILITIES COMMISSION

Geneva S. Thigpen

(SEAL)

Geneva S. Thigpen, Chief Clerk

EXHIBIT

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BEFORE

THE PUBLIC SERVICE COMMISSION OF

SOUTH CAROLINA

DOCKET NO. 2002-63-G - ORDER NO. 2002-761

NOVEMBER 1, 2002

IN RE:	Application of Piedmont Natural Gas Company for an Adjustment of its Rates and Charges and for Approval of Revised Depreciation Rates	))))	ORDER APPROVING NEW RATES AND CHARGES AND DEPRECIATION RATES

I. INTRODUCTION

This matter comes before the South Carolina Public Service Commission (hereinafter the "Commission") by way of the Application of Piedmont Natural Gas Company, Inc. (hereinafter "the Company"), filed on May 3, 2002, for an increase in certain rates and charges for natural gas services provided by the Company in South Carolina and for approval of revised depreciation rates. The Application was filed pursuant to S.C. Code Ann.§58-5-240 (Supp. 2001), as amended, and R.103-830, et seq of the Commission's Rules and Regulations.

On May 17, 2002, the Commission's Executive Director instructed the Company to cause to be published a prepared Notice of Filing and Hearing once a week for two consecutive weeks in newspapers of general circulation in the Company's service area. The Notice of Filing and Hearing indicated the nature of the Company's Application and advised all interested parties desiring to participate in the proceeding of the manner and time in which to file the appropriate pleadings. It also indicated that a hearing would be held in the instant proceeding. The Company was required to notify directly all customers affected by the proposed rates and charges. On July 22, 2002, the Company furnished affidavits and certification demonstrating that the Notice of

(2) The Company's current facilities charges are out-of-line with facilities charges imposed by gas distribution companies in other jurisdictions in the Southeast and with the fixed charges for other products and services.

(3) Although the shifting of cost from the volumetric rate to the facilities charge may cause some shifting among individual residential customers, it does not increase the total revenue obtained from the residential customers. It does, however, better match costs with cost causation.

(4) Higher facilities charges will enable the Company to recover more of its costs from new customers in fixed charges as they are added to the system, making it more economical for the Company to continue to add residential customers in South Carolina.

K. Approved Rates.

Based on the foregoing analysis of the evidence and a careful consideration of the entire record, the Commission finds and concludes that the rates attached hereto as Appendix A are fair and reasonable to the Company's customers and shareholders.

XII. OFF-SYSTEM SALES AND CAPACITY RELEASE.

The Staff recommended that the Company's PGA be amended to reflect a sharing of margin from off-system sales and capacity release transactions. More specifically, the Staff recommended that margin from off-system sales and capacity release transactions be subject to a sharing mechanism pursuant to which 75% of such margin or cost credits would be credited to the deferred cost of gas account 25304 and the Company would retain 25% of the margin. No party objected to this proposal, and the Commission finds it to be fair and reasonable. The Commission also finds that capacity release credits and off-system sales shall be allocated to South Carolina using the same design day methodology as approved herein for fixed demand costs.

(4) Debt coverage ratio of earnings to fixed charges.

IT IS THEREFORE ORDERED:

1. That the proposed rate schedules filed by the Company on May 3, 2002, are not just and reasonable.

2. That the rates set forth in Appendix A hereto are reasonable and proper and are hereby approved.

3. That the WNA factors and allocation of costs of gas attached hereto in Appendices B and C are fair and reasonable and are hereby approved.

4. That beginning with the effective date of the rates approved herein, 75% of the margin or cost savings realized from off-system sales and capacity release transactions shall be credited to the deferred cost of gas account 25304 and the Company shall be entitled to retain the remaining 25%.

5. That the Company file all reports herein identified in accordance with the findings contained herein.

6. That this Order shall remain in full force and effect until further order of the Commission.

BY ORDER OF THE COMMISSION:

Mignon L. Clyburn, Chairman

ATTEST:

Gary E. Walsh, Executive Director
(SEAL)