

# TENNESSEE REGULATORY AUTHORITY

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Nashville, Tennessee 37243-40505  
T.R.A. DOCKET ROOM

April 19, 2010

Ms. Darlene Standley  
Utilities Division Chief  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, TN. 37243-0505

RE: DOCKET NO. 09-00093 - PIEDMONT NATURAL GAS COMPANY, INC.'S ACTUAL COST ADJUSTMENT ACCOUNT FILING FOR THE TWELVE MONTHS ENDED DECEMBER 31, 2008.

Dear Ms. Standley:

This letter is in response to your data request dated April 15, 2010. In that request you asked for Audit Staff's position regarding whether the declaratory interpretation advocated by Piedmont Natural Gas Company should be applicable to the 2008 Actual Cost Adjustment filing. Audit Staff's position is that the Company's interpretation should not be applied to the 2008 ACA filing, for the follow reasons:

The tariff language at question was drafted and agreed to as part of the negotiations between the parties in Docket No. 05-00165 ("IPA Docket"). The tariff, as part of a settlement agreement, was then approved by the Authority on October 22, 2007 with an effective date of July 1, 2006. Audit Staff, as a party in the IPA Docket as well as this docket, contends that if the interpretation related to hedging costs (as set forth by Piedmont in its five (5) page response to Audit Staff's Finding #2) was in fact what the parties intended, then the tariff language would necessarily have exceeded the two (2) sentences contained therein.<sup>1</sup>

Audit Staff is not saying that Piedmont's explanation of hedge accounting and its proposed method of recovering hedging costs under its tariff is not reasonable. As stated in our Staff Rebuttal,<sup>2</sup> "there may be some merit to the Company's argument." But Audit Staff maintains that under the plain language of the tariff, the Company's conclusion cannot be reached. Therefore, we are recommending that the Authority consider and rule on Piedmont's *Request for Declaratory Interpretation* **after** the 2008 Audit Report is approved as filed. The *Request for Declaratory Interpretation* should only be approved on a going forward basis, and **after** the tariff language is rewritten to reflect the methodology proposed by the Company, if the Authority is so inclined.

<sup>1</sup> Service Schedule No. 316 Performance Incentive Plan, Second Revised Page 4 of 8.

<sup>2</sup> ACA Audit Report, page 13.

Audit Staff would point out once again to the Authority that the Company's conclusion reached in Piedmont's response to Audit Finding #2<sup>3</sup> **supports** Audit Staff's monetary finding of \$5,170,154 over-recovery. The table presented by Piedmont in its "Company Response" found on page 12 of the Report, "Calculation of Recoverable Hedging Costs," confirms that Piedmont **agrees** with the 1% cap amount of \$2,205,630 established by Audit Staff. Piedmont **also agrees** with the amount of margin requirements subject to the cap. The only difference between the column labeled "Staff" and the column labeled "Company" is the amount of hedging costs. Per their extensive explanation, they conclude that only \$1,595,660 in hedging costs should be considered in the current audit period. What the Company doesn't say in the table is the fact that Piedmont booked the entire amount of \$3,170,424 in hedging costs to the deferred account for recovery from ratepayers. Based on their own calculations (using their methodology), \$1,595,660 belongs in the current period and the difference of \$1,574,764 belongs to a future period(s). As a result, Audit Staff emphasizes that the amount of our finding is correct regardless of the interpretation of the tariff. If the Company's interpretation is adopted going forward, Audit Staff assumes Piedmont will present this incremental cost for recovery in a future ACA Audit.

In its April 16, 2010 response to the TRA's Data Request dated April 15, 2010,<sup>4</sup> Piedmont states that the declaratory interpretation sought by the Company should be applied to the 2008 Annual Cost Adjustment filing. Audit Staff provides the following comments regarding that response. First, Piedmont avers that its interpretation is "consistent with the intent of the parties who negotiated that tariff and with the language of the tariff itself." Piedmont is one party to the negotiations. Audit Staff of the TRA and the Consumer Advocate and Protection Division of the Attorney General's Office ("CAPD") are the other two parties. Obviously Audit Staff does not agree with Piedmont's interpretation. The CAPD has not yet had a chance to weigh in on this matter.

Second, Piedmont is correct in stating that Audit Staff "calculated the 1% cost cap on hedging costs based on the current ACA period and allocated the costs of the hedges to the period in which those costs were incurred." The Company is proposing to calculate the 1% cost cap using a prior audited Performance Incentive Plan period and allocate costs to the "target period for which the underlying hedges provide protection." The implication, however, that Piedmont in fact utilized its interpretation of the tariff in calculating the amount of hedging costs subject to the cap in the 2008 ACA filing and in calculating the 1% cap is not borne out by the actual filing. Piedmont booked the entire amount of hedging related costs to the 2008 ACA audit period for recovery instead of allocating the costs of hedges to the period(s) that were provided protection and did not apply a cap to those hedging costs. During discussions between the Company and Audit Staff, the Company provided a calculated 1% cap amount of \$5,152,167.<sup>5</sup> They also reported that some of the costs that were booked to the 2008 ACA audit period were in

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<sup>3</sup> ACA Audit Report, page 12.

<sup>4</sup> Piedmont and Audit Staff were asked to respond to the same question.

<sup>5</sup> This amount is based on gas costs incurred during the Incentive Plan years 7/05-6/06, 7/06-6/07, 7/07-12/08, and estimated 1/08-6/08, a three (3) year span.

fact related to future audit periods and should not have been included in the current period subject to the current cap. It is also interesting to note that in its response to Audit Staff Finding #2, the Company concludes that it agrees with Audit Staff's calculated cap.<sup>6</sup>

For the reasons presented above, Audit Staff would request that the Authority approve the ACA Audit Report with the findings and recommendations<sup>7</sup> contained therein separate and apart from the Company's *Request for Declaratory Interpretation*, so that the next ACA filing (that is currently due) will not be delayed any longer than necessary. If that would necessitate considering the Company's *Request for Declaratory Interpretation* in a separate docket, then Audit Staff would support that.

Sincerely,

A handwritten signature in black ink, appearing to read "Pat Murphy". The signature is fluid and cursive, with the first name "Pat" and last name "Murphy" clearly distinguishable.

Pat Murphy  
Utilities Division Manager

Cc: David Carpenter  
Frank Yoho  
Pia Powers  
Kally Couzens  
Gary Hotvedt  
Darlene Standley

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<sup>6</sup> ACA Audit Report, page 12.

<sup>7</sup> In its audit recommendations, Audit Staff discusses the transition of the ACA audit period from a calendar year to July through June. The result would align the audit periods for the IPA and the ACA filings. If the Authority approves the Company's interpretation of the Incentive Plan tariff going forward, then this alignment would be both proper and necessary.