

11/16/09

**IN THE TENNESSEE REGULATORY AUTHORITY  
AT NASHVILLE, TENNESSEE**

**IN RE:**

Petition of Piedmont Natural Gas Company,  
Inc. for Approval of Service Schedule No.  
317 and Related Energy Efficiency  
Programs

**DOCKET NO. 09-00104**

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**CONSUMER ADVOCATE'S MOTION TO COMPEL**

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The Consumer Advocate and Protection Division of the Office of the Attorney General ("Consumer Advocate") respectfully moves the Hearing Officer to compel Piedmont Natural Gas Company, Inc. ("Piedmont", "Company") to fully and completely respond to the discovery requests of the Consumer Advocate for the reasons set forth below.

**INTRODUCTION**

The Consumer Advocate received Piedmont's responses to the Consumer Advocate's discovery requests on Thursday evening, October 29, 2009, and supplemental responses provided on November 9 and 11, 2009. Piedmont and the Consumer Advocate have had communication regarding outstanding discovery disputes. Some discovery disputes have been resolved. However, outstanding discovery responses remain as the time for the Consumer Advocate to prepare direct testimony continues to shorten. For two weeks the Consumer Advocate has attempted to work with the Company. While some progress has been made, additional time and communication regarding the outstanding discovery issues appears futile in light of the expedited procedural schedule set in this matter. A status conference to resolve these issues is necessary.

For purposes of this motion, the Consumer Advocate has segregated the discovery requests it seeks to compel into two groups. The first group consists of discovery requests to

which the Company has not provided complete or substantive responses. The second group consists of discovery responses provided by the Company which are incomplete to the extent they have been provided in non-working Excel format. The Consumer Advocate specifically requested such responses be provided in working format with formulas intact. Piedmont did not object to providing such information in a working format Excel format. The Company simply has not provided it in a working Excel format. It is the understanding of the Consumer Advocate that Piedmont will not provide such information in a working Excel format.

By not providing the information in a working Excel format, the goal of having an expedited hearing is put in jeopardy and there is a greater risk for calculation errors which may be disputed at the hearing in this matter. Furthermore, to the extent the TRA Staff employs the information in its review and analysis that is provided by Piedmont in response to the Consumer Advocate's discovery requests, the TRA Staff is also hindered by not having such information in a working Excel format. In responding to the Consumer Advocate's discovery requests, Piedmont did not make any specific objection to providing such information in a working Excel format.

### **STANDARD FOR DISCOVERY**

Tennessee has a broad policy which favors the discovery of any relevant information:

Parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of any other party, including the existence, description, nature, custody, condition and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of any discoverable matter. It is not ground for objection that the information sought will be inadmissible at the trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

Tenn. R. Civ. P. 26.02(1). Thus, evidence does not have to be admissible to be discoverable as long as the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

Today, it is through discovery rather than pleadings that the parties attempt “to find the truth and to prepare for the disposition of the case in favor of the party who is justly deserving of a judgment.” *Kuehne & Nagel, Inc. v. Preston, Skahan & Smith International, Inc.*, 2002 WL 1389615 at \*3 (Tenn. Ct. App. 2002) (*quoting* Irving Kaufman, *Judicial Control Over Discovery*, 28 F.R.D. 111, 125 (1962)). Accordingly, a party seeking discovery is entitled to obtain any information that is relevant to the case and not privileged. *See Id.* Consistent with Tennessee’s open discovery policy, the relevancy requirement is “construed broadly to encompass any matter that bears on, or that reasonably could lead to other matters that could bear on any of the case’s issues.” *Id.* Discovery therefore is not limited to the issues raised by the pleadings. *See Id.*, *see also Shipley v. Tennessee Farmers Mutual Ins. Co.*, 1991 WL 77540 at \*7-8 (Tenn. Ct. App. 1991). A party may also use discovery to: define and clarify the issues; probe a variety of fact-oriented issues that are not related to the merits of the case; formulate and interject additional issues into the case which relate to the subject matter of the pleadings; and determine additional causes of actions or claims which need to be or can be asserted against a party or against third parties. *See Shipley*, 1991 WL 77540 at \*7-8 (*quoting* *Vythoulkas v. Vanderbilt University Hospital*, 693 S.W.2d 350, 359 (Tenn. Ct. App. 1985)).

It is nonetheless recognized that the trial court may limit discovery under appropriate circumstances. Because of the broad policy favoring discovery, the trial court should not order limitations on discovery unless the party opposing discovery can demonstrate with more than conclusory statements and generalizations that the discovery limitations are necessary to protect the party from annoyance, embarrassment, oppression, or undue burden and expense. *See*

*Duncan v. Duncan*, 789 S.W.2d 557, 561 (Tenn. Ct. App. 1991). The trial court should decline to limit discovery if the party opposing discovery cannot produce specific facts to support the requested limitations. *See Id.* Moreover, given the liberal construction of discovery rules, the trial court should approach any request for limitations with common sense rather than with narrow legalisms, basing the reasonableness of any ordered limitations on the character of the information sought, the issues involved, and the procedural posture of the case. *See Id.* Rather than denying discovery outright, it is appropriate for the trial court to fashion remedies to discovery issues by balancing the competing interests and hardships of the parties and by considering whether there are less burdensome means for acquiring the requested information. *See Id.*

**I. DISCOVERY REQUESTS AND RESPONSES OF A SUBSTANTIVE NATURE  
SUBJECT TO THIS MOTION**

CAPD Discovery Request 2.

Identify any and all expert witnesses the Company intends to call in support of the petition in this docket, and for each expert witness:

- (c) Identify all publications written or presentations presented in whole or in part by the witness, including either a copy of all such publications and presentations or a reference to where such publications and presentations may be publicly obtained;
- (d) Provide the grounds (including without limitation any factual bases) for the opinions to which the witness is expected to testify, and provide a summary of the grounds for each such opinion;
- (h) Please produce copies of all documents, summaries, charts, trade articles, journals, treatises, publications, workpapers, and file notes produced by any proposed expert witness in evaluating, reaching conclusions or formulating an opinion in this matter;

- (i) Please produce copies of all pre-filed testimony produced or sponsored by the Company's expert witnesses in the last five years.

**Piedmont Response to CAPD Discovery Requests 2(c):** Please refer to pages 4-10 of Attachment 1 to Piedmont's Response to Discovery Request 2. Mr. Feingold does not maintain copies of all his written publications or presentations during his 31 year energy consulting career. If there are particular publications or presentations of interest, please indicate such and Mr. Feingold will provide copies if he has them in his possession.

**MOTION TO COMPEL Response to CAPD Discovery Request 2(c):** At this time, the Consumer Advocate has no way of knowing what may be a "particular document of interest." The Consumer Advocate requests the Company to produce the requested information to the extent any publication or presentation that pertains to revenue decoupling is available. The information is relevant to the opinions and expertise of Mr. Feingold in regards to revenue decoupling.

**Piedmont Response to CAPD Discovery Requests 2(d) & (h):** Objection. This portion of Discovery Request 2 is premature. Direct testimony from expert witnesses is not due until November 23, 2009 pursuant to the Hearing Officer's schedule.

**MOTION TO COMPEL Responses to CAPD Discovery Request 2(d) & (h):** To the extent Piedmont withholds information or documentation until its pre-filed direct testimony is due, Piedmont misconstrues its obligations under the procedural order and the difference between discovery and pre-filed testimony. Under a decision made in Docket 08-00039, the TRA Hearing Officer ruled that a party may not simply defer the production of discovery because it intends to submit that responsive information or material in pre-filed

testimony.<sup>1</sup> Accordingly, Piedmont has a duty to respond to the Consumer Advocate's discovery requests now.

It must be noted that the Company did not file any supporting testimony with its petition. Other than the petition itself, Piedmont has not provided any information, facts or opinions which the Company would use in support of its proposal. Piedmont has had several months to gather pertinent facts and opinions in support of its own revenue decoupling proposal and conservation programs. There is no valid reason for Piedmont to withhold responsive, non-privileged information or documentation currently available which supports Piedmont's position until pre-hearing testimony is due. Piedmont expressly ignores this duty, however, to answer requests now and produce all responsive information that presently exists.

Under a past decision in Docket 08-00039, a party's discovery obligations are distinct from those involving the pre-filed testimony.<sup>2</sup> As a practical matter, if no responses were due from Piedmont until the filing of pre-filed testimony, it would render the procedural order's discovery deadline meaningless against Piedmont - a result certainly not intended. Moreover, the universe of responsive information in discovery is necessarily larger than that submitted in the pre-filed testimony, as mandated by the broad edict of Rule 26 of the Tennessee Rules of Civil Procedure. In contrast, pre-filed testimony is a more focused submission narrowly prepared by the Company to advance Piedmont's specific positions at the hearing.

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<sup>1</sup> At the status conference held in Docket 08-00039 on June 4, 2008, the Hearing Officer stated: "I don't find it to be a valid objection or reason not to answer a question that a party is anticipating filing prefiled testimony. The question is asked at a particular point in time, and if the party has an answer to that question, if they know who a witness is going to be and they know what the substance of the testimony is going to be, I think the question needs to be answered. The response that you can find out when we file our prefiled testimony is not satisfactory." Transcript at 53:5-14 (June 4, 2008). This ruling was made with regard to discovery requests made by Tennessee American Water Company to the Consumer Advocate.

<sup>2</sup> *Ibid.*

Consequently, Piedmont's effort to defer discovery responses supporting the opinions and facts which support its proposed revenue decoupling and conservation programs by merging everything into its pre-filed testimony should fail. Piedmont has a duty to produce all presently existing information and material that is responsive to the Consumer Advocate's requests, and should be compelled to do so by the Hearing Officer. Furthermore, Piedmont's discovery requests to the Consumer Advocate solicit information, facts and expert opinions supporting the Consumer Advocate's position. The Consumer Advocate has provided over a thousand pages of responsive information and has referenced, with specific citations to TRA dockets, where additional information underlying the Consumer Advocate's general concerns with revenue decoupling mechanisms are publicly available, all of which informs the Consumer Advocate's general position on the issues in this docket. Once more, the Consumer Advocate has reserved the right to provide supplemental responses when it has relevant and non-privileged information relating to the Consumer Advocate's specific position and proposals in this docket when it becomes available.<sup>3</sup> The Company's discovery response to this request, on the other hand, has pledged to not provide any facts, opinions or supporting information which it intends to use in this matter until the filing of pre-filed direct testimony. Furthermore, if applicable to the material and/or information at issue here, the Hearing Officer should compel responses to these requests in a working Excel format with formulas intact.

**Piedmont Response to CAPD Discovery Requests 2(i):** Objection. This portion of Discovery Request 2 is overly broad and unduly burdensome. If there is a particular document of interest, please indicate such and Mr. Feingold will provide copies if he has them in his possession.

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<sup>3</sup> The difficulty in providing responsive information, based on the specific facts of Piedmont's proposal and specific circumstances, is exacerbated by delays in obtaining discovery from Piedmont and the dwindling time remaining for the Consumer Advocate to prepare pre-filed testimony.

**MOTION TO COMPEL Response to CAPD Discovery Request 2(i):** At this time, the Consumer Advocate has no way of knowing what may be a “particular document of interest.” The Consumer Advocate has located a copy of Mr. Feingold’s testimony pertaining to revenue decoupling on behalf of Piedmont in North Carolina which is publicly available, thus the Hearing Officer may omit this specific document from a ruling on this discovery response. The Consumer Advocate requests the Company to produce copies of all Mr. Feingold’s pre-filed testimony in the last five years which addresses revenue decoupling.

CAPD Discovery Request 4.

Provide the total normal degree days by month from November 2003 through September 2009. Provide all workpapers (in electronic spreadsheet format with all formulas and links intact) and supporting documents used to develop this response and explain all assumptions and calculations used.

CAPD Discovery Request 4 (as modified at the request of Piedmont)

Provide the total normal degree days by month (from the 1<sup>st</sup> day of the month to the end of the month) for the last thirty years used in TRA Docket No. 03-00313 and by month since TRA Docket No. 0300313 through September 2009. Provide all work papers (in electronic spreadsheet format with all formulas and links intact) and supporting documents used to develop this response and explain all assumptions and calculations used.

**Piedmont Response to CAPD Discovery Request 4:** Normal degree days were last established for Piedmont in TRA Docket 03-00313. See the enclosed schedule which is Attachment 1 to Piedmont’s Response to Discovery Request 4.

**Piedmont Supplemental Response:** Please refer to Attachment 1 to Piedmont’s Second Supplemental to its Response to Discovery Request No. 4 and the Excel spreadsheet, both of



which show the normal degree days by month, on a 1-31 day basis, set under TRA Docket No. 03-00313.

**MOTION TO COMPEL Response to CAPD Discovery Request 4: Piedmont**

provided the normal degree days by month from TRA Docket No. 03-00313, which pertained to the attrition year ended October 2004. No normal degree days after May, 2003 have been provided. Typically, a 30 year average is used to develop normal degree days by month. It is the understanding of the Consumer Advocate that the Company updates their normal degree days on a daily basis. Therefore, it would be more accurate to use a 30 year average of normal degree days by month for the twelve months ended September 2009 rather than a stale attrition period.

The monthly normal degree day is a critical component of the decoupling calculation and Piedmont has the means to provide the requested information. Such analysis is needed in order to evaluate whether Piedmont's proposed benchmark for its proposed revenue decoupling mechanism is appropriate or if an updated benchmark is needed. Furthermore, the information was not provided in a working Excel format.

Original CAPD Discovery Request 6.

Provide the Base Load (therms per month) for the twelve months ending September 2008 and September 2009. Provide all workpapers (in electronic spreadsheet format with all formulas and links intact) and supporting documents used to develop this response and explain all assumptions and calculations used.

CAPD Discovery Request 6 (as modified at the request of Piedmont)

Provide the regression analysis used to calculate the Base Load (therms per month) in TRA Docket No. 03-00313 and the regression analysis used to calculate the base load for the twelve months ending September 2008 and the twelve months ended September 2009. Provide

all work papers (in electronic spreadsheet format with all formulas and links intact) and supporting documents used to develop this response and explain all assumptions and calculations used.

**Piedmont Response to CAPD Discovery Request 6:** Piedmont most recently established the values for Base Load in TRA Docket 03-00313. See Attachment 1 to Piedmont's Response to Discovery Request 6.

**Supplemental Piedmont Response to CAPD Discovery Request 6:** Please refer to Attachment 1 to Piedmont's Second Supplement to Discovery Request No. 6, which shows the regression analysis from the Company's 2003 rate case in TRA Docket 03-00313 for Residential-Value and Residential Standard customers. Regression analysis is a calculation that compares the usage per customer for each month of the test year (dependent variable) with the actual degree days for each month of the test year (independent variable). Regression analysis has been used by Piedmont to project normalized customer usage and revenues in all proceedings before the TRA. The regression analysis results in three critical factors. The first factor is base load, defined as the use per customer that is not impacted by changes in degree days. The second factor is heat sensitivity, defined as the use per customer that is impacted by changes in degree days. The third factor is the correlation percentage, which indicates the degree to which the usage in the test period demonstrates a consistent mathematical relationship and can, therefore be used to calculate normalized usage. As approved in TRA Docket 03-00313, the Residential-Value customers show a base load of 2.3 dekatherms per month, a heat sensitivity of 0.0213 dekatherms per degree day and correlation percentage of 98%.

**MOTION TO COMPEL:** Piedmont provided the Base Load by month from TRA Docket No. 03-00313, which pertained to the attrition year ended October 2004. It is the

understanding of the Consumer Advocate that the Company can recalculate this amount for the later test periods. Therefore, it would be more accurate to use a more recent Base Load calculation than a dated attrition period. The monthly Base Load is a critical component of the decoupling calculation. Such analysis is needed in order to evaluate whether Piedmont's proposed benchmark for its proposed revenue decoupling mechanism is appropriate or if an updated benchmark is needed. Furthermore, the information should be provided in a working Excel format.

Original CAPD Discovery Request 7.

Provide the Heat Sensitivity Factor (therms per Heating Degree Day) for the twelve months ending September 2008 and September 2009. Provide all workpapers (in electronic spreadsheet format with all formulas and links intact) and supporting documents used to develop this response and explain all assumptions and calculations used.

CAPD Discovery Request 7 (as modified at the request of Piedmont)

Provide the regression analysis used to calculate the Heat Sensitivity Factor (therms per Heating Degree Day) in TRA Docket No. 03-00313 and the regression analysis used to calculate the heat sensitivity factor for the twelve months ending September 2008 and the twelve months ended September 2009. Provide all workpapers (in electronic spreadsheet format with all formulas and links intact) and supporting documents used to develop this response and explain all assumptions and calculations used.

**Piedmont Response to CAPD Discovery Request 7:** Piedmont most recently established the values for Heat Sensitivity Factor in TRA Docket 03-00313. See Attachment 1 to Piedmont's Response to Discovery Request 7.

**Supplemental Response to CAPD Discovery Request 7:** Please refer to the Company's Second Supplemental Response to Discovery Request No. 6.

**MOTION TO COMPEL:** Piedmont provided the Heat Sensitivity Factor by month from TRA Docket No. 03-00313, which pertained to the attrition year ended October 2004. It is the understanding of the Consumer Advocate that the Company can recalculate this amount for the later test periods. Therefore, it would be more accurate to use a more recent Base Load calculation than a dated attrition period. The monthly Heat Sensitivity Factor is a critical component of the decoupling calculation. The Consumer Advocate does not have the information to perform such a calculation on its own. Such analysis is needed in order to evaluate whether Piedmont's proposed benchmark for its proposed revenue decoupling mechanism is appropriate or if an updated benchmark is needed. Furthermore, the information should be provided in a working Excel format.

**CAPD Discovery Request 10.**

Provide the Margin Decoupling Deferred Account Adjustment Calculation for each month from November 2008 through September 2009 using the test period ending September 2008 as the "Relevant Rate Order". Provide all workpapers (in electronic spreadsheet format with all formulas and links intact) and supporting documents used to develop this response and explain all assumptions and calculations used.

**Piedmont Response to CAPD Discovery Request 10:** Piedmont has not filed a rate case in Tennessee using a test period ending September 2008. The term "test period" presumes the normalization and pro forma adjustment of data from a historical period to conform that data with anticipated ongoing or normalized levels of usage, revenues and expenses. Piedmont has

not performed such an analysis with respect to the requested period and, as a result, Piedmont is unable to provide the requested calculations.

**MOTION TO COMPEL:** The Consumer Advocate is without the information required to perform a calculation such as this. Such analysis is needed in order to evaluate whether Piedmont's proposed benchmark for its proposed revenue decoupling mechanism is appropriate or if an updated benchmark is needed. Piedmont possesses the information to perform the calculation. Furthermore, such information should be provided in a working Excel format.

CAPD Discovery Request 60.

Provide all literature in the Company's possession, custody, or control which examines the energy and demand savings associated with the energy efficiency programs proposed in the instant application.

**Piedmont Response to CAPD Discovery Request 60:** Objection. Discovery Request 60 requests proprietary information that was developed by a third party. Piedmont will not produce the requested workpapers in Excel format, but will produce the literature in PDF format. See Attachments to Discovery Request 66.

**MOTION TO COMPEL:** To the extent workpapers exist in Excel format supporting or part of the requested literature, the Consumer Advocate requests production of such workpapers in a working Excel format with all formulas and links intact.

CAPD Discovery Request 66.

For purposes of this request, please refer to Exhibit B of the Company's Petition at pages 5 and 6.

- b. Provide the results and workpapers for each test conducted by the Company. Provide workpapers in electronic spreadsheet form, with all links and formulas intact, source data used, and explain all assumptions and calculations

used. To the extent the data does not exist in the exact format requested, please provide it in the format in which it is available and explain why it is not available in the format requested.

**Piedmont Response to CAPD Discovery Request 66 and 66(b):** Objection. Discovery Request 66 requests proprietary information that was developed by a third party and cannot be produced in Excel format. Piedmont will produce the requested information in PDF format.

b. See Attachment 1 to Piedmont's Response to Discovery Request 66.

**MOTION TO COMPEL:** The Consumer Advocate disagrees with the designation of "intellectual property" applied to the formulas and data used to arrive at the results provided by the Company. Moreover, there is nothing about inputs such as costs, participation levels and estimated savings per measurement which could be considered "intellectual property." Further, the formula itself employed in Piedmont's response is, or should be, the standard formula defined in the California Standard Practice Manual which is publicly available and twenty years old and employed by multiple state commissions. Piedmont states that the California Standard Practice Manual was employed. While the Company states the information could not be produced in an Excel format, it appears the PDF version provided is simply a scanned version of an Excel document. To the extent the Authority deems the requested information to be proprietary, then such information should be made available under a protective order. Moreover, the information should be produced in a working Excel format.

## **II. DISCOVERY REQUESTS AND RESPONSES WHICH ARE INADEQUATE AND ARE THEREFORE SUBJECT TO THIS MOTION**

The Consumer Advocate moves the Hearing Officer to compel Piedmont to provide responses to the discovery requests which follow in a working Excel format with formulas intact.

The Consumer Advocate does not dispute the substance of Piedmont's responses to the discovery requests listed which follow, per se.<sup>4</sup> However, by not providing such information in a working format with formulas intact, the chance for errors in calculations is greatly compounded. When large amounts of data are provided in Excel spreadsheets in a locked of "stripped" form, the Consumer Advocate must transfer the data, line by line, via a data entry process which is both time consuming, burdensome on resources and creates the potential for error. As the Consumer Advocate has attempted to employ the information provided by the Company, the Consumer Advocate has realized more and more Excel documents provided by Piedmont are protected documents (i.e. a non-working format).

By not providing the information in a working Excel format, the goal of having an expedited hearing is put in jeopardy and there is a greater risk for calculation errors which may be disputed at the hearing in this matter. Furthermore, to the extent the TRA Staff employs the information in its review and analysis that is provided by Piedmont in response to the Consumer Advocate's discovery requests, the TRA Staff is also hindered by not having such information in a working Excel format. In responding to the Consumer Advocate's discovery requests, Piedmont did not make any specific objection to providing such information in a working Excel format.

Following are the specific discovery requests to which Piedmont responded but did not provide information in a working Excel format.

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<sup>4</sup> However, as discussed earlier in this motion, any and all responses by Piedmont to requests 2, 4, 6, 7, 8, 10, 60 and 66 should be provided in a working Excel format.

CAPD Discovery Request 1.

Please provide electronic copies (preferably in Microsoft Excel format) of any and all exhibits filed with, or in relation to, Piedmont's Petition, including Company responses to the Data Requests of the Tennessee Regulatory Authority ("TRA").

CAPD Discovery Request 3.

Please provide the actual number of residential customers and actual usage by rate schedule in the format of Piedmont's response to TRA Data Request #1-2 dated August 7, 2009 for the following months:

November 2003  
December 2003  
January 2004  
February 2004  
March 2004  
April 2009  
May 2009  
June 2009  
July 2009  
August 2009  
September 2009

CAPD Discovery Request 5.

Provide the total actual degree days by month from November 2003 through September 2009. Provide all workpapers (in electronic spreadsheet format with all formulas and links intact) and supporting documents used to develop this response and explain all assumptions and calculations used.

CAPD Discovery Request 9.

Provide the Margin Decoupling Deferred Account Adjustment Calculation for each month from November 2004 through September 2009 using TRA Docket #03-00313 as the "Relevant Rate Order". Provide all workpapers (in electronic spreadsheet format with all



formulas and links intact) and supporting documents used to develop this response and explain all assumptions and calculations used.

CAPD Discovery Request 11.

Provide the average market price (Henry Hub) per dekatherm of natural gas and the average price per dekatherm paid by the Company by month from November 2003 through September 2009. Provide all workpapers (in electronic spreadsheet format with all formulas and links intact) and supporting documents used to develop this response and explain all assumptions and calculations used.

CAPD Discovery Request 15.

Provide all monthly Computation of Customer Utilization Adjustment amounts reported to the North Carolina Utilities Commission and the total amount per residential customer since its inception. Provide all workpapers (in electronic spreadsheet format with all formulas and links intact) and supporting documents used to develop this response and explain all assumptions and calculations used.

CAPD Discovery Request 16.

Provide the cumulative percentage increase per residential customer for the Customer Utilization Tracker ("CUT") since inception through September 2009 in North Carolina. Provide all workpapers (in electronic spreadsheet format with all formulas and links intact) and supporting documents used to develop this response and explain all assumptions and calculations used.

CAPD Discovery Request 24.

Provide the capital structure for Piedmont Natural Gas for year-end 2007, 2008, and latest actual for 2009. Include dollar amounts, percentages, and cost rates for Long Term Debt,

Short Term Debt, Preferred Stock, and Common Equity as applicable. Provide all workpapers (in electronic spreadsheet format with all formulas and links intact) and supporting documents used to develop this response and explain all assumptions and calculations used.

CAPD Discovery Request 25.

Provide the actual Tennessee revenues by customer class, by rate schedule, and the Tennessee revenues by customer class that would have been realized had the Margin Decoupling Plan been in effect for each month from November 2008 through September 2009. Provide all workpapers (in electronic spreadsheet format with all formulas and links intact) and supporting documents used to develop this response and explain all assumptions and calculations used.

CAPD Discovery Request 26.

Provide the actual Tennessee after-tax return on rate base for each month from November 2008 through September 2009. Provide all workpapers (in electronic spreadsheet format with all formulas and links intact) and supporting documents used to develop this response and explain all assumptions and calculations used.

CAPD Discovery Request 27.

Provide the Tennessee return on rate base that would have been realized had the Margin Decoupling Plan been in effect for each month from November 2008 through September 2009. Provide all workpapers (in electronic spreadsheet format with all formulas and links intact) and supporting documents used to develop this response and explain all assumptions and calculations used.

CAPD Discovery Request 28.

Using the capital structure for June 2009, provide the actual Tennessee return on equity for each month from October 2008 through September 2009. Provide all workpapers (in electronic spreadsheet format with all formulas and links intact) and supporting documents used to develop this response and explain all assumptions and calculations used.

CAPD Discovery Request 29.

Using the capital structure for June 2009, provide the Tennessee return on equity that would have been realized had the Margin Decoupling Plan been in effect for each month from October 2008 through September 2009. Provide all workpapers (in electronic spreadsheet format with all formulas and links intact) and supporting documents used to develop this response and explain all assumptions and calculations used.

CAPD Discovery Request 32.

For each adjustment clause, rider, or other mechanism (i.e. ACA, WNA and non-gas costs passed through the PGA) that allows the Company to collect revenues by means other than base rates, please provide for each of the years 2004, 2005, 2006, 2007, and 2008, and as projected for 2009, the total company and Tennessee jurisdictional expense, revenue, and rate base (if applicable) associated with the revenue collected under these mechanisms. In the response, include the amounts for uncollectibles recovered through the PGA. Provide workpapers in electronic spreadsheet form, with all links and formulas intact, source data used, and explain all assumptions and calculations used. To the extent the data does not exist in the exact format requested, please provide it in the format in which it is available and explain why it is not available in the format requested.

CAPD Discovery Request 33.

Provide all empirical analyses, studies and other documentation which examine the cost of serving a new customer versus the cost of serving an existing customer. In your response please provide a detailed cost breakout (by primary USOA Account) that shows the cost of adding a new residential, commercial, and industrial customer versus the embedded (average) cost of serving existing residential, commercial, and industrial customers. Provide the requested information separately by customer group, i.e. residential, commercial, and industrial. Provide any associated documentation for the information provided in response to this request and explain all assumptions used. Provide workpapers in electronic spreadsheet form, with all links and formulas intact, source data used, and explain all assumptions and calculations used. To the extent the data does not exist in the exact format requested, please provide it in the format in which it is available and explain why it is not available in the format requested.

CAPD Discovery Request 34.

For each year from 2003 to 2008, please provide the amount of lost base revenue associated with energy efficiency. Provide the annual savings in therms as well as the associated lost base revenue. Provide any source data used to calculate these figures. Provide all workpapers (in electronic spreadsheet format with all formulas and links intact) and supporting documents used to develop this response and explain all assumptions and calculations used.

CAPD Discovery Request 35.

Provide the amount of advertising expense for the promotion of natural gas use in Tennessee by year by NARUC account for the years ended 2004, 2005, 2006, 2007, 2008 and year to date 2009.

CAPD Discovery Request 39.

Provide the average number of customers for each rate class for each of the years 2003 – 2008 and as projected by rate class for 2009. Provide the source documents containing the customer data supplied in response to this request. Provide any associated documentation for the information provided in response to this request and explain all assumptions used. Provide workpapers in electronic spreadsheet form, with all links and formulas intact, source data used, and explain all assumptions and calculations used. To the extent the data does not exist in the exact format requested, please provide it in the format in which it is available and explain why it is not available in the format requested.

CAPD Discovery Request 41.

Refer to the Company's Response to TRA Data Request #1-2.

- a. Provide the analogous actual billing determinants and actual number of customers for each month of 1999 through 2002, 2003, January, February and March of 2004, and as projected for each month 2009. Provide workpapers in electronic spreadsheet form, with all links and formulas intact, source data used, and explain all assumptions and calculations used. To the extent the data does not exist in the exact format requested, please provide it in the format in which it is available and explain why it is not available in the format requested.
- b. Provide the analogous weather normalized data for each month, by customer class for 1999 through 2008, and as projected for each month of 2009. Provide workpapers in electronic spreadsheet form, with all links and formulas intact, source data used, and explain all assumptions and calculations used. To the extent the data does not exist in the exact format requested, please provide it in the format in which it is available and explain why it is not available in the format requested.

CAPD Discovery Request 43.

Please refer to the Company's Response to TRA Data Request #1-3. Please describe how the Company developed the 74 DT per customer figure cited in this response. Provide all

workpapers and assumptions used in the development of the 74 DT per customer. Provide the workpapers in electronic spreadsheet form, with all links and formulas intact, source data used, and explain all assumptions and calculations used. To the extent the data does not exist in the exact format requested, please provide it in the format in which it is available and explain why it is not available in the format requested.

CAPD Discovery Request 45.

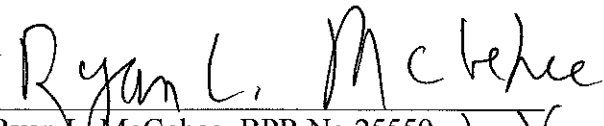
Provide the base revenue and total for each current rate class, including commercial and industrial customers, for each of the years 1999 – 2008 and as projected by rate class for 2009. Provide any associated documentation for the information provided in response to this request and explain all assumptions used. Provide workpapers in electronic spreadsheet form, with all links and formulas intact, source data used, and explain all assumptions and calculations used. To the extent the data does not exist in the exact format requested, please provide it in the format in which it is available and explain why it is not available in the format requested.

CAPD Discovery Request 54.

Provide financial statements that show revenue by customer class, expenses by detailed USOA account and rate base by detailed USOA account on a total company and Tennessee jurisdictional basis. Provide the financial statements for the years 2004, 2005, 2006, 2007 and 2008. For each year, please provide the amount of revenue collected through an adjustment clause or rider and indicate that account in which it is included. For each year, provide the expense or investment associated with the revenue collected through an adjustment clause or rider and indicate the account in which it is included.

RESPECTFULLY SUBMITTED,

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Attorney General and Reporter

  
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Dated: November 16, 2009.

CERTIFICATE OF SERVICE

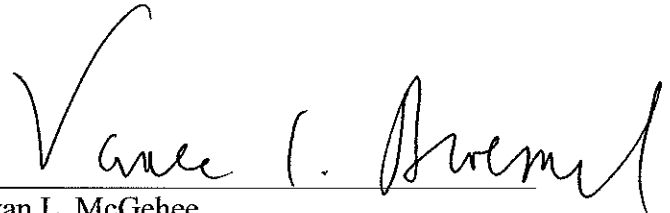
I hereby certify that a true and correct copy of the foregoing Statement of Issues was served via U.S. Mail or electronic mail upon:

Jane Lewis-Raymond  
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This the 16th day of November, 2009.

  
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Ryan L. McGehee