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December 11, 2009

VIA EMAIL AND HAND DELIVERY

Chairman Sara Kyle  
c/o Ms. Sharla Dillon  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, Tennessee 37243

Re: **Petition of Piedmont Natural Gas, Inc. for Approval of Service Schedule  
No. 317 and Related Energy Efficiency Programs**  
*Docket No. 09-00104*

Dear Chairman Kyle:

Enclosed please find an original and five (5) copies of Piedmont Natural Gas, Inc.'s Pre-Filed Rebuttal Testimony of Frank Yoho for filing in Docket No. 09-00104. A copy of the filing has also been transmitted electronically to the Tennessee Regulatory Authority Docket Manager, Sharla Dillon. Please stamp one copy as "filed" and return to me by way of our courier.

Should you have any questions concerning any of the enclosed, please do not hesitate to contact me.

Sincerely,



Erin M. Everitt

Enclosures

cc: Hon. Mary Freeman (*w/o enclosure*)  
Hon. Eddie Roberson, Ph.D. (*w/o enclosure*)  
Hon. Kenneth C. Hill (*w/o enclosure*)  
Ryan McGehee, Esq.  
James H. Jeffries, Esq.

**Before the  
Tennessee Regulatory Authority**

**Docket No. 09-00104**

**Petition of Piedmont Natural Gas Company, Inc.  
to Implement a Margin Decoupling Tracker (MDT) Rider  
and Related Energy Efficiency and Conservation Programs**

**Rebuttal Testimony  
of  
Frank Yoho**

**On Behalf Of  
Piedmont Natural Gas Company, Inc.**



December 11, 2009

1 **Q. Mr. Yoho, please state your name and business address.**

2 A. My name is Frank Yoho. My business address is 4720 Piedmont Row  
3 Drive, Charlotte, North Carolina.

4 **Q. By whom and in what capacity are you employed?**

5 A. I am employed by Piedmont Natural Gas Company, Inc. ("Piedmont") as  
6 Senior Vice President – Commercial Operations.

7 **Q. Are you the same Frank Yoho that previously filed direct testimony in**  
8 **this proceeding?**

9 A. Yes.

10 **Q. What is the purpose of your rebuttal testimony?**

11 A. The purpose of my rebuttal testimony is to address several of the  
12 contentions raised by Consumer Advocate witnesses Klein, Dismukes, and  
13 Buckner in opposition to Piedmont's proposed Margin Decoupling Tracker  
14 ("MDT") mechanism.

15 **Q. What issues does your rebuttal testimony address?**

16 A. My rebuttal testimony relates to Issues 1, 2, and 3 as identified by the  
17 Hearing Officer in this proceeding.

18 **Q. What is your general reaction to the positions taken by Consumer**  
19 **Advocate witnesses Klein, Dismukes, and Buckner in their direct**  
20 **testimony?**

21 A. My reaction is that they have misunderstood and/or misconstrued the entire  
22 purpose of Piedmont's proposal in this proceeding and in doing so they are  
23 urging the Authority to turn this docket from a relatively straightforward and

1 simple proposal by Piedmont to implement a neutral decoupling tracker  
2 mechanism into a very broad, all-encompassing, and ultimately unnecessary  
3 review of Piedmont's total costs, operating revenues, return, capital  
4 structure, rate design, and rates.

5 **Q. Could you explain?**

6 A. Yes. Piedmont's filing in this proceeding was prompted directly by two  
7 recent and related actions by the Governor and General Assembly of the  
8 State of Tennessee. These actions were the certification by Governor  
9 Bredezen to the United States Secretary of Energy, on March 23, 2009, that  
10 this Authority would seek to "implement, in appropriate proceedings for  
11 each electric and gas utility, with respect to which . . . [this] Authority has  
12 ratemaking authority, a general policy that ensures that utility financial  
13 incentives are aligned with helping their customers use energy more  
14 efficiently and that provide timely cost recovery and a timely earnings  
15 opportunity for utilities associated with cost-effective measurable and  
16 verifiable efficiency savings, in a way that sustains or enhances utility  
17 customers' incentives to use energy more efficiently." Further, on June 25,  
18 2009, Governor Bredezen signed into law Public Chapter No. 531, Section  
19 53 of which declares that the goals described above are the express public  
20 policy of the State of Tennessee. In response to these two actions by the  
21 State of Tennessee, Piedmont made its proposal in this proceeding.

1 **Q. Does Piedmont's proposal align Piedmont's financial incentives with**  
2 **helping customers use energy more efficiently?**

3 A. Yes it does. By decoupling the recovery of Piedmont's margin from  
4 customer usage patterns, it aligns Piedmont's financial incentives with those  
5 of customers around conservation and energy efficiency.

6 **Q. Does Piedmont's proposal provide for cost-effective measurable and**  
7 **verifiable efficiency savings, in a way that sustains or enhances utility**  
8 **customers' incentives to use energy more efficiently?**

9 A. Yes it does. Piedmont has proposed energy efficiency programs which will  
10 contribute to energy savings by customers, including low-income customers,  
11 and which are cost-effective.

12 **Q. Is this an appropriate proceeding in which to adopt Piedmont's**  
13 **proposal?**

14 A. That is ultimately a decision for the Authority but we strongly believe that  
15 this proceeding is appropriate for the implementation of Piedmont's MDT  
16 mechanism and its proposed energy efficiency programs. I would note that  
17 while the Consumer Advocate witnesses suggest that a full-blown rate case  
18 be convened to consider Piedmont's proposals, none of them contend that  
19 this proceeding is legally inappropriate for the consideration of Piedmont's  
20 proposals.

1 **Q. What is wrong with the suggestions of the Consumer Advocate**  
2 **witnesses that a general rate case should be convened to consider**  
3 **Piedmont's proposals or that the issues typically reviewed in a general**  
4 **rate case should be injected into this docket?**

5 A. That type of undertaking is complicated, expensive, would result in a delay  
6 in implementing efficiency measures, and is simply unnecessary.

7 **Q. Why is it unnecessary?**

8 A. Because Piedmont's MDT proposal does not seek to adjust nor does it  
9 impact any aspect of Piedmont's costs, return or rate structures approved in  
10 Piedmont's last general rate proceeding. Instead, it is a simple,  
11 straightforward, and transparent tracker mechanism – similar in operation to  
12 the weather normalization adjustment – that preserves the customer usage  
13 assumptions upon which Piedmont's rate were set in its last general rate  
14 proceeding and provides Piedmont with the reasonable opportunity to  
15 recover its fixed costs.

16 **Q. Does the MDT mechanism make sense from a rate design perspective?**

17 A. Yes. It provides a ratemaking approach that complements the fixed nature  
18 of the vast majority of Piedmont's costs. Piedmont incurs a high level of  
19 fixed costs to provide a safe and reliable service to its customers and to  
20 ensure the safety of its employees and customers. In addition, Piedmont also  
21 incurs a high level of costs in purchasing and installing, testing and  
22 maintaining its natural gas distribution facilities. None of these investments  
23 or costs vary with customer usage. It is entirely reasonable for Piedmont to

1 recover these costs in a manner consistent with they way they are incurred.

2 Many state governments and the Federal Energy Regulatory Commission  
3 have recognized the legitimacy of this approach to fixed cost recovery and  
4 have adopted either decoupling mechanisms or straight fixed variable rate  
5 designs. Further, Customers are accustomed to paying for regulated  
6 services using this model but have not historically paid these types of rates  
7 for natural gas service.

8 **Q. Why do you oppose the Consumer Advocate's suggestion that a general**  
9 **rate proceeding is necessary to implement the MDT mechanism?**

10 A. Because conducting such a proceeding will have no benefit to the Company  
11 or its customers. For example, the process of going through a full blown  
12 rate case will take the better part of a year and will cost ratepayers several  
13 hundred thousand dollars in rate case expense. During this period,  
14 Piedmont's rates will not be aligned with helping customers conserve  
15 energy and customers will receive no benefit from Piedmont's proposed  
16 energy efficiency programs. Also, if a rate case is convened Piedmont's  
17 rates will be updated to reflect current usage factors, increased components  
18 of Piedmont's overall cost of service, as well as the substantial new  
19 investments in rate base Piedmont has made since its last rate case and will  
20 continue to make through the attrition period applicable to the new case, as  
21 discussed by Mr. Carpenter in his testimony. The aggregate impact on  
22 ratepayers from a full blown rate case, as is discussed in the rebuttal  
23 testimony of Mr. Carpenter, will be refreshed base rates that are higher than

1 existing rates. The primary beneficiaries from such a process will be the  
2 lawyers and consultants that work on the rate case.

3 **Q. What will be the likely impact of adoption of the MDT mechanism on**  
4 **Piedmont's rates?**

5 A. The base usage rates for residential service established in the Piedmont's  
6 last general rate case will not change. Instead, a tracker mechanism will be  
7 implemented to true up the revenues collected through those rates with the  
8 average per customer margin approved in that case. The aggregate impact  
9 of this tracker over time can be either an increase or a decrease to the total  
10 charges a residential customer would pay absent the MDT mechanism. The  
11 critical difference though is that with the MDT mechanism customers will  
12 compensate Piedmont only at the level approved by the Authority whereas  
13 without the mechanism both Piedmont and its customers are at risk based on  
14 variations in customer usage.

15 **Q. Do you have a reaction to Consumer Advocate witness Dismukes'**  
16 **conclusion that existing regulatory structures are sufficient and**  
17 **appropriate and that the MDT mechanism is, therefore, not necessary?**

18 A. I do not agree with that assessment. It seems to me that Dr. Dismukes'  
19 conclusion is fundamentally at odds with the public policy of Tennessee as  
20 expressed in Section 53 of Public Chapter 531. In other words, if existing  
21 rate structures were consistent with the goals expressed by this statute, then  
22 there would have been no need for the statute in the first place. Also, it is  
23 obvious that existing regulatory structures do not align the financial interests



1 of Piedmont with efficient usage of natural gas by its customers. To the  
2 contrary, existing regulatory structures provide a strong incentive for  
3 Piedmont to promote the increased usage of natural gas by its customers and  
4 a disincentive to promote energy efficiency – both of which are directly at  
5 odds with the statutes' purpose.

6 **Q. What is your response to the Consumer Advocate witnesses' concerns**  
7 **about Piedmont's earnings and what impact the MDT may have on**  
8 **Piedmont's return?**

9 A. These issues are addressed in the rebuttal testimony of Mr. Carpenter and  
10 Mr. Feingold but I have several comments to add. First, it is literally  
11 impossible for the MDT mechanism to cause Piedmont to earn more than its  
12 allowed rate of return. In fact, to the extent that Piedmont recovers more  
13 than its allowed margin from customers, those amounts will be returned to  
14 customers through the MDT deferred account. This is a protection for  
15 customers that does not exist under existing rate mechanisms. Second,  
16 Piedmont will not be over-earning going forward. While Piedmont's  
17 average per customer revenues have been declining in the last several years,  
18 it has simultaneously been engaged in sustained cost containment and  
19 efficiency efforts which have allowed it to "replace" lost revenues with cost  
20 savings and thereby maintain its overall level of return. Those efforts are  
21 substantially complete now and will benefit ratepayers over time but they  
22 will no longer be able to offset revenue reductions due to reduced customer  
23 consumption as is evident from Piedmont's most recent 3.03 reports which

1 show a declining rate of return. Further, Piedmont has recently begun  
2 several large capital projects that will cause Piedmont to invest roughly \$71  
3 million in the State of Tennessee over a two year period. The combined  
4 impact of these factors will be a significant reduction in the return which  
5 Piedmont has earned over the last several years, the effects of which are  
6 already apparent in Piedmont's current 3.03 report to the Authority.

7 **Q. What is your opinion about the Consumer Advocate's proposals for a**  
8 **limited "decoupling" mechanism or a performance based incentive plan**  
9 **relative to energy efficiency programs?**

10 A. I have three observations. The first is that the purpose of decoupling is not  
11 to compensate utilities for lost revenues created solely by utility sponsored  
12 energy efficiency plans. The Consumer Advocate's witnesses – particularly  
13 Dr. Dismukes – appears to believe there is some causal link between utility  
14 sponsored energy savings and decoupling and that is not the case. The  
15 purpose of decoupling – as indicated by its name is to "decouple" margin  
16 recovery from customer usage. Unless you break this link, utilities will still  
17 have the incentive to promote increased usage and either a disincentive or  
18 no incentive to promote efficiency. As such, a limited decoupling plan tied  
19 to utility sponsored energy efficiency will not align Piedmont's financial  
20 incentives with customer conservation. Second, while a performance based  
21 plan that rewards utilities for utility sponsored energy savings is consistent  
22 with the second half of Section 53, it is not a substitute for the alignment of  
23 interests called for by the first part of that statute. Third, Dr. Dismukes

1 proposals do not address the mismatch between fixed cost incurrence and  
2 the variable recovery of those costs as previously discussed.

3 **Q. Do you have any reaction to Dr. Dismukes' criticism of Piedmont's**  
4 **energy efficiency programs?**

5 A. Yes. Mr. Lisk responds to these criticisms more fully in his testimony but I  
6 would like to state that I see no possibility that all of the parties interests are  
7 not aligned around energy efficiency. In other words, Piedmont wants its  
8 programs to be effective and beneficial to customers and we assume that the  
9 Authority and the Consumer Advocate want the same thing. And while our  
10 experience with these types of programs is relatively limited, we also know  
11 that the only way you can be absolutely sure that programs will be effective  
12 is through experience. Accordingly, in my mind it is better to move forward  
13 with programs that you think will work effectively and then make  
14 adjustments based upon actual experience than it is to sit back and endlessly  
15 debate which aspects of proposed programs may be imperfect.

16 **Q. Do you have anything else you would like to add?**

17 A. Yes. Piedmont strongly believes that its proposed MDT mechanism is both  
18 an appropriate ratemaking approach and consistent with the stated public  
19 policy of Tennessee. As such, we disagree that Piedmont's proposal should  
20 be held up on the basis of speculative and unfounded fears of harm to  
21 ratepayers vocalized by the Consumer Advocate. We also strongly believe  
22 that it is appropriate to implement our proposed energy efficiency programs  
23 so participants can begin to reap the benefits of the programs.

1 Notwithstanding our beliefs, we do recognize that the implementation of  
2 decoupled rates is a new prospect for the Authority and that the Authority  
3 may have concerns about what will happen in the future once this  
4 mechanism is implemented. In order to allay any concerns in this regard,  
5 Piedmont is willing to accept implementation of its MDT mechanism and its  
6 proposed energy efficiency programs:

7 1. On an experimental basis subject to review at the earlier of  
8 Piedmont's next general rate case proceeding or three years after the date of  
9 implementation ("Interim Period");

10 2. With an annual cap on Piedmont's overall rate of return, as  
11 reported on Piedmont's 3.03 reports, for such Interim Period at Piedmont's  
12 existing approved overall rate of return of 8.42% with any annual revenues  
13 over and above that level of return to be refunded to customers through the  
14 MDT deferred account;

15 3. With all costs of Piedmont's proposed energy efficiency  
16 programs during the Interim Period borne by Piedmont.

17 Piedmont's proposal in this regards is without precedential effect and the  
18 rights of all parties, including Piedmont, with respect to these matters after  
19 the expiration of the Interim Period, are expressly reserved.

20 **Q. Why is Piedmont making this offer?**

21 A. Because we believe that our proposals are appropriate for the long term and  
22 are confident that none of the negative consequences predicted by the  
23 Consumer Advocate will actually occur. As such, we are prepared to

1       effectively guarantee that they won't occur through adoption of the  
2       safeguards I have described above for an Interim Period with an automatic  
3       reevaluation of our proposals at the end of that period.

4       **Q. Does this conclude your rebuttal testimony?**

5       A. Yes it does.

**BEFORE THE TENNESSEE REGULATORY AUTHORITY  
NASHVILLE, TENNESSEE**

IN RE:

PETITION OF PIEDMONT NATURAL GAS  
COMPANY, INC. TO IMPLEMENT A  
MARGIN DECOUPLING TRACKER (MDT)  
AND RELATED ENERGY EFFICIENCY AND  
CONSERVATION PROGRAMS

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Docket No. 09-00104

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**AFFIDAVIT**

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**STATE OF NORTH CAROLINA**

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**COUNTY OF MECKLENBURG**

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Frank Yoho, being duly sworn, deposes and says that he is the Frank Yoho whose Rebuttal Testimony accompanies this affidavit; that such rebuttal testimony was prepared by him; that he is familiar with the contents thereof; that the facts set forth therein are true and correct to the best of his knowledge, information and belief; and that he does adopt the same as his sworn rebuttal testimony in this proceeding.

\_\_\_\_\_  
Frank Yoho

Mecklenburg County, North Carolina

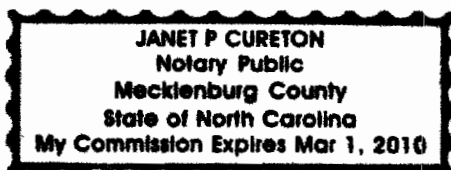
Signed and sworn to before me this day by Frank Yoho

Date: 12-9-2009

\_\_\_\_\_  
Janet P. Cureton, Notary Public

(Official Seal)

My commission expires: March 1, 2010



## CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Pre-Filed Rebuttal Testimony was served via U.S. Mail or electronic mail upon:

C. Scott Jackson  
Ryan L. McGehee  
Office of the Attorney General  
Consumer Advocate and Protection Division  
PO Box 20207  
Nashville, Tennessee 37202-0207

This 11th day of December, 2009.

*Erin M. Everett*