

**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 FOR LEAVE TO FILE LIMITED SUR-  
REBUTTAL TESTIMONY**

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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 grant leave for the filing of limited sur-rebuttal in this docket. A copy of the sur-rebuttal testimony is attached. The Consumer Advocate acknowledges that sur-rebuttal is not included within the procedural schedule and further that the hearing in this matter is on December 17, 2009. However, the Consumer Advocate relies upon good cause in filing this motion.

On December 11, 2009, both the Consumer Advocate and Piedmont Natural Gas Company, Inc. ("Piedmont", "Company") filed rebuttal testimony. Within the rebuttal testimony of Piedmont witness Frank Yoho at pages 9-11, the Company made an "offer" to the TRA in event the Authority "has concerns" about implementing the proposed MDT. Mr. Yoho's proposal to the TRA offers a substantial and last minute change to Piedmont's initial petition. Among the changes the Company offers is an annual cap based on an overall return of 8.42%. If the cap is breached, consumers would be refunded the excessive amounts.

The Consumer Advocate submits a rate cap of 8.42% is not a realistic safeguard. Given the changes in capital structure and the cost of debt, this cap would allow a return on equity of 11.98% which is not a realistic safeguard. This level of return on equity has never been granted by the TRA to a regulated utility in recent history and does little to prevent the Company from

over-earning. Thus, in advance of the hearing to the extent possible, the Consumer Advocate seeks leave to file sur-rebuttal to address the Company's last minute proposal. The scope of the sur-rebuttal is strictly limited to the cap proposed by Mr. Yoho and the text consists of two pages. Furthermore, the Consumer Advocate has provided the Company with a copy of the sur-rebuttal in advance of the filing of this motion. Moreover, the Consumer Advocate is not injecting a new issue into this docket, but rather is responding to a new proposal Piedmont has made to the TRA less than a week before the scheduled hearing.

RESPECTFULLY SUBMITTED,

Robert E. Cooper, Jr., BPR No.10934  
Attorney General and Reporter



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Dated: December 15, 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  
Piedmont Natural Gas Company, Inc.  
P.O. Box 33068  
Charlotte, NC 28233

R. Dale Grimes  
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James H. Jefferies IV  
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100 North Tryon Street, Suite 4700  
Charlotte, NC 28202-4003

This the 15<sup>th</sup> day of December, 2009.



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Ryan L. McGehee

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

In the Matter of the Petition of	)	
Piedmont Natural Gas Company, Inc. to	)	
Implement a Margin Decoupling Tracker	)	DOCKET NO. 09-00104
(MDT) Rider and Related Energy	)	
Efficiency and Conservation Programs	)	
	)	

**PRE-FILED SUR-REBUTTAL TESTIMONY OF**

**CHRISTOPHER C. KLEIN, PH.D.**

**ON BEHALF OF THE TENNESSEE ATTORNEY GENERAL  
CONSUMER ADVOCATE AND PROTECTION DIVISION**

**DECEMBER 15, 2009**

1 **Q. Please state your name and your current position.**

2 **A.** My name is Christopher C. Klein and I am an Associate Professor in the Economics and  
3 Finance Department at Middle Tennessee State University (MTSU) in Murfreesboro,  
4 Tennessee.

5 **Q. Are you the same Christopher C. Klein who filed direct testimony in this**  
6 **proceeding?**

7 **A.** Yes.

8 **Q. What is the purpose of your sur-rebuttal testimony?**

9 **A.** I will respond to the proposal made by Mr. Frank Yoho in his rebuttal testimony.

10 **Q. What does Mr. Yoho propose?**

11 **A.** He proposes three modifications to Piedmont's decoupling plan. These are to adopt  
12 decoupling experimentally with a review in three years or in Piedmont's next rate case,  
13 whichever comes first; to cap Piedmont's rate of return at 8.42% during this period; and  
14 that Piedmont will bear all costs of the energy efficiency program during this time.

15 **Q. Which of these modifications will you respond to?**

16 **A.** I will respond to the proposal to cap Piedmont's rate of return at 8.42%.

17 **Q. Is the proposal to cap Piedmont's rate of return an improvement to Piedmont's**  
18 **original decoupling proposal?**

19 **A.** Yes. This prevents the initial jump in return on equity that results from implementing  
20 Piedmont's decoupling plan that I noted in my direct testimony. Unfortunately, the cap is  
21 set too high and does not make any adjustment for risk.

22 **Q. Why is the rate of return cap of 8.42% too high?**

1 A. This rate of return was a result of a settlement of Piedmont's 2003 rate case. Over the  
2 intervening years, Piedmont's capital structure has changed and its debt cost has declined.  
3 As a result, the 8.42% rate of return does not yield the return on equity of 10.07%  
4 imputed from the 2003 rate case data, but a return on equity of 11.98%, some 191 basis  
5 points higher. This is shown on Exhibit 2 of my direct testimony.

6 **Q. Is a return on equity of 11.98% too high?**

7 A. Yes, for two reasons. It is much higher than the allowed equity return in recent rate cases  
8 and it fails to account for the reduction in risk from the decoupling mechanism. For  
9 example, in November in Docket 09-04003 the Nevada Public Utilities Commission  
10 adopted an equity return for Southwest Natural Gas Corporation of 10.15%, including a  
11 25 basis point adjustment for the reduced risk of a decoupling mechanism. This suggests  
12 that Piedmont's 10.07% imputed equity return from the 2003 rate case is still in the  
13 neighborhood of Piedmont's cost of equity capital. If 10.07% is used as Piedmont's cost  
14 of equity in its updated capital structure, then an overall rate of return of 7.51% results.  
15 Further, this includes no adjustment for reduced risk. In my direct testimony, I  
16 recommended a 50 basis point reduction in return on equity for reduced risk. This  
17 additional adjustment reduces Piedmont's overall rate of return to 7.27%.

18 **Q. If Piedmont's revised decoupling proposal is adopted, should the overall rate of**  
19 **return be capped at 7.27%?**

20 A. Yes.

21 **Q. Does this conclude your testimony at this time?**

22 A. Yes.