

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

December 16, 2009

IN RE:

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

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**DOCKET NO.
09-00104**

PRE-HEARING ORDER

These matters came before the Hearing Officer at the December 14, 2009 Pre-Hearing Conference with the parties, Piedmont Natural Gas Company, Inc. ("Piedmont") and the Consumer Advocate and Protection Division of the Office of the Attorney General ("Consumer Advocate").

PRE-HEARING CONFERENCE

On December 14, 2009, the Pre-Hearing Conference was held in the Hearing Room of the Tennessee Regulatory Authority -- the parties in attendance were as follows:

Piedmont – Erin Everitt, Esq., Jim Jefferies, Esq. (by phone) and Brian Heslin, Esq. (by phone); and,

Consumer Advocate – Ryan McGehee, Assistant Attorney General and Scott Jackson, Senior Counsel.

Pursuant to Tenn. Code Ann. § 4-5-306, the Pre-Hearing Conference was held to establish or resolve certain matters prior to the commencement of a Hearing on the merits, including any outstanding procedural matters or pending motions, and the orderly conduct of the Hearing.

I. Pending Motions

A. *Motion to Remove Confidential Designation of Certain Documents*

In its December 7, 2009 *Motion to Remove Confidential Designation of Certain Documents*, the Consumer Advocate requests that the Authority remove the confidential designation of Piedmont's discovery responses to the Consumer Advocate's discovery requests 27, 28, 29, 30 and 35. On December 11, 2009, Piedmont filed its opposition to the Consumer Advocate's motion, particularly its contention concerning responses 27, 28, 29 and 35, but consented to the removal of the confidential designation for the attachments produced in response to discovery request 30. To supplement the Consumer Advocate's memorandum in support of the motion and Piedmont's opposition to the motion, the parties were permitted to argue their respective positions at the Pre-Hearing Conference.

Based upon the filings and the arguments of counsel, the Hearing Officer found that Piedmont relied in good faith on the protective order entered in this docket in generating its responses to requests 27, 28, and 29, and that those responses should remain confidential. Therefore that part of the Consumer Advocate's motion with respect to responses 27, 28 and 29 is denied. As for response 35 concerning past advertising expenses, the Hearing Officer agrees with the Consumer Advocate's argument that as a regulated gas utility, Piedmont is a monopoly with no gas competitors and will not suffer any competitive disadvantage by such disclosure. Therefore, the Hearing Officer grants the Consumer Advocate's motion as to response 35.¹

B. *Motion for Leave to File Limited Sur-rebuttal Testimony*

In its *Motion for Leave to File Limited Sur-rebuttal Testimony* filed on December 15, 2009, the Consumer Advocate requests that the Authority accept the pre-filed sur-rebuttal testimony of Christopher Klein in response to the rebuttal testimony of Piedmont witness Frank Yoho. While not provided for in the procedural schedule, the Consumer Advocate argues that

¹ See *Transcript of Proceeding*, Docket No. 09-00104, December 14, 2009, pp. 37-41

such limited testimony is necessary to respond “to a new proposal Piedmont has made to the TRA less than a week before the scheduled hearing.” As of the entry of this Pre-Hearing Order, Piedmont has not responded to this motion, and as agreed to at the pre-hearing conference, Piedmont shall be allowed to respond at the commencement of the hearing on the merits, and such motion will be addressed at that time.

II. Order of Proof

The length and timing of the order of proof was discussed during the Pre-Hearing Conference. The following order of the hearing was then established and agreed upon by the parties:

Thursday, December 17, 2009

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|---------------------------------|--------------------------------|
| Opening Statements (15 minutes) | Piedmont and Consumer Advocate |
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|--------------------------|-----------------------------|
| Public comments (if any) | (limited to 3 minutes each) |
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|-------------------------|-------------------|
| Piedmont witness | Frank Yoho |
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| Cross-examination | Consumer Advocate |
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| Questions | TRA Staff ² |
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| Re-direct examination | Piedmont |
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| Followed by | Russell A. Feingold |
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| | David R. Carpenter |
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| | Steve Lisk |
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| Public comments (if any) | |
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Friday, December 18, 2009

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| Piedmont witness | David Dzuricky |
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| Cross-examination | Consumer Advocate |
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² While the Directors may ask questions at any time, Staff of the TRA may directly question a witness between cross and re-direct examination.

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| Questions | TRA Staff |
| Re-direct examination | Piedmont |
| Consumer Advocate witness | David E. Dismukes |
| Cross-examination | Piedmont |
| Questions | TRA Staff |
| Re-direct examination | Consumer Advocate |
| Followed by | Christopher C. Klein Terry Buckner |
| Final public comments | (if any) |
| Closing arguments / post-hearing briefs | To be determined by the panel |

Summaries of direct witnesses' testimony should be presented in five minutes, but in no case shall such summary exceed ten minutes. At least one of Piedmont's witnesses shall address the PURPA standards as directed by the voting panel's decision in Docket No. 09-00065, and a witness of the Consumer Advocate is entitled to respond to such testimony. All witnesses are subject to recall for rebuttal purposes. Additionally, the parties did not agree to submit post-hearing briefs in lieu of closing statements; that issue, as well as the timeframe, shall be determined by the voting panel.

IT IS THEREFORE ORDERED THAT:

1. The Consumer Advocate's *Motion to Remove Confidential Designation of Certain Documents* is denied as to Responses 27, 28 and 29, and granted as to Response 35.
2. At least one of Piedmont's witnesses shall address the PURPA standards as directed by the voting panel's decision in Docket No. 09-00065, and a witness of the Consumer Advocate is entitled to respond to such testimony.
3. The order of hearing shall proceed as set forth herein.

4. The Hearing on the merits in this docket will commence promptly at **9:00 a.m. on Thursday, December 17, 2009.**

5. The Consumer Advocate's *Motion for Leave to File Limited Sur-rebuttal Testimony* shall be addressed at the commencement of the Hearing on December 17, 2009.

A handwritten signature in black ink, appearing to read 'Gary Hotvedt', written over a horizontal line.

Gary Hotvedt, Hearing Officer