

# BASS

BERRY • SIMS PLC

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ATTORNEYS AT LAW

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OTHER OFFICES

KNOXVILLE  
MEMPHIS

February 25, 2011

Via Hand Delivery

Ms. Sharla Dillon  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, Tennessee 37243

filed electronically in docket office on 02/25/11

*In Re: Piedmont Natural Gas, Inc.*

*Application of Piedmont Natural Gas Company, Inc. for Approval of  
Amendment to Gas Service Contract With The Town of Smyrna, Tennessee  
Docket No. 11-00032*

Dear Ms. Dillon:

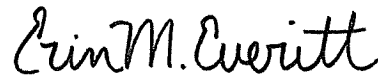
Enclosed please find an original and five (5) copies of a Petition from Piedmont Natural Gas Company, with regard to the above matter.

This document also is being filed electronically today with your office.

Please stamp two (2) copies of this document as "filed" and return them 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

EME/lfr  
Enclosures

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

IN RE:	)	
	)	
APPLICATION OF PIEDMONT NATURAL GAS	)	
COMPANY, INC. FOR APPROVAL OF	)	Docket No. 11-
AMENDMENT TO GAS SERVICE CONTRACT	)	
WITH THE TOWN OF SMYRNA, TENNESSEE	)	

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**PETITION**

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Piedmont Natural Gas Company, Inc. ("Piedmont" or the "Company"), through counsel, respectfully requests the Tennessee Regulatory Authority ("Authority") to approve an amendment to a longstanding Gas Service Contract ("Contract") between Piedmont and the Town of Smyrna, Tennessee ("Smyrna"), including the rates set forth therein. In support of its Petition, Piedmont respectfully shows unto the Authority as follows:

1. It is respectfully requested that any notices or other communications with respect to this Petition be sent to:

Jane Lewis-Raymond  
Vice President & General Counsel  
Piedmont Natural Gas Company, Inc.  
Post Office Box 33068  
Charlotte, NC 28233  
Telephone: 704-731-4261

and

R. Dale Grimes  
Bass, Berry & Sims PLC  
150 Third Avenue South, Suite 2800  
Nashville, TN 37201  
Telephone: 615-742-6244

and

James H. Jeffries IV  
Moore & Van Allen PLLC  
100 North Tryon Street, Suite 4700  
Charlotte, NC 28202-4003  
Telephone: 704-331-1079

2. Piedmont is incorporated under the laws of the State of North Carolina and is duly domesticated and is engaged in the business of transporting, distributing, and selling natural gas in the States of Tennessee, North Carolina, and South Carolina. Piedmont's principal office and place of business is located at 4720 Piedmont Row Drive, Charlotte, North Carolina.

3. Piedmont's natural gas distribution business is subject to regulation and supervision by the Authority pursuant to Chapter 4 of Title 65 of the Tennessee Code Annotated.

4. Piedmont is engaged in the business of furnishing natural gas to customers located in Nashville and the remainder of Davidson County as well as portions of the adjoining counties of Cheatham, Dickson, Robertson, Rutherford, Sumner, Trousdale, Williamson, and Wilson and in certain incorporated towns and cities located therein.

5. Smyrna is an existing customer of Piedmont, receiving sales service under a Gas Service Contract ("Contract") executed on January 1, 1988. A copy of this Contract is attached hereto as Exhibit A. Under the Contract, Smyrna purchases gas from Piedmont at the rate specified for sales service under Rate Schedule 310.

6. As a result of Smyrna's obtaining arrangements for an alternative source of supply of natural gas to meet its needs, Smyrna has requested a reduction in demand under the Contract in order to maintain a minimal of emergency supply.

7. Piedmont and Smyrna subsequently agreed to a reduction in demand, which is reflected in the executed First Amendment to Gas Service Contract ("Amendment") attached hereto as Exhibit B.

8. Piedmont and Smyrna have agreed to request approval of the Amendment as of the first day of the month following approval by the Tennessee Regulatory Authority. Piedmont requests Authority approval of the Amendment at the earliest possible date.

WHEREFORE, Piedmont Natural Gas Company, Inc., respectfully requests that the Authority: (1) approve the attached First Amendment to Gas Service Contract and authorize Piedmont to provide the natural gas sales services and to charge the rates provided under Rate Schedule 310 for such service, all as requested herein; (2) grant Piedmont any waivers it deems appropriate; and (3) grant Piedmont such other relief as may be necessary or appropriate.

Respectfully submitted this 25 day of February, 2011.

**Piedmont Natural Gas Company, Inc.**

By: R. Dale Grimes, *eme by permission*  
R. Dale Grimes  
Bass, Berry & Sims PLC  
150 Third Avenue South, Suite 2800  
Nashville, Tennessee 37201  
Telephone: 615-742-6244

By: Jim H. Jeffries, *eme by permission*  
James H. Jeffries  
Moore & Van Allen PLLC  
Bank of America Corporate Center  
100 N. Tryon Street, Suite 4700  
Charlotte, NC 28202  
Telephone: 704-331-1079

STATE OF NORTH CAROLINA  
COUNTY OF MECKLENBURG

**VERIFICATION**

Pia Powers, being duly sworn, deposes and says that she is Manager, Regulatory Affairs of Piedmont Natural Gas Company, Inc., that as such, she has read the foregoing Petition and knows the contents thereof; that the same are true of her own knowledge except as to those matters stated on information and belief and as to those she believes them to be true.

*Pia Powers*

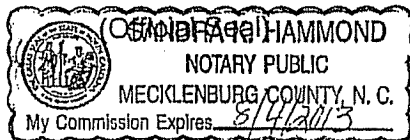
Pia Powers

Mecklenburg County, North Carolina  
Signed and sworn to before me this day by Pia Powers

Date: Feb 25, 2011

*Sandra K. Hammond*

Sandra K. Hammond, Notary Public



My commission expires: August 4, 2013

# **EXHIBIT A**

**NASHVILLE GAS COMPANY  
GAS SERVICE CONTRACT**

THIS AGREEMENT made and entered into this 1st day of January, 1988, between NASHVILLE GAS COMPANY, a Division of. Piedmont Natural Gas Company, Inc., hereinafter called the Seller, and the TOWN OF SMYRNA, TENNESSEE, hereinafter called the Buyer, covers the supply of firm natural gas service from Seller to Buyer for resale and ultimate end-use within the service area of the Smyrna Natural Gas System in Rutherford County, Tennessee.

**W I T N E S S E T H:**

The Buyer agrees to buy from the Seller and the Seller agrees to sell to the Buyer natural gas, hereinafter referred to as "gas," upon the following terms and conditions:

**ARTICLE I**

**DEFINITIONS AND USE OF PHRASES**

Section 1.1: The following words and phrases and others evidently intended as the equivalent thereof shall, in the absence of clear implication herein otherwise and if not inconsistent with definitions contained in the tariffs and service schedules on file with the Tennessee Public Service Commission and its Rules and Regulations, be given the following respective meanings herein:

"Cubic foot" means the amount of gas required to fill a cubic foot of space when the gas is at an absolute pressure of

fourteen and sixty-five hundredths (14.65) pounds per square inch and at a temperature of sixty (60) degrees Fahrenheit.

"Day" means a period of twenty-four consecutive hours beginning and ending at 8:00 o'clock a.m., at the then prevailing local time, or at such other hour or time as may be agreed upon.

"Force Majeure" means without limitations, acts of God and the public enemy, strikes, lockouts, labor disputes, industrial disturbances, riots, insurrections, civil disturbances, fires, accidents, epidemics, landslides, lightning, earthquakes, hurricanes, storms, floods, washouts, droughts, explosions, restraint of government and people, statutes, regulations and orders of the United States of America, the State of Tennessee, and any other political subdivision, department, agency or official of either thereof, orders and regulations of any military authority or other civil authority, partial or entire failure of utilities, breakage, accident, or repair or replacement of any machinery or equipment or part thereof and any other event or cause not reasonably within the control of the Seller or Buyer.

"Mcf" means one thousand (1,000) cubic feet.

"Month" means the period beginning at 8:00 o'clock a.m., at the then prevailing local time, on the first day of each calendar month and ending at 8:00 o'clock a.m. at the then prevailing local time, on the first day of the next succeeding calendar month.

"Service area" means the territory in Tennessee to which Buyer may now or at any time in the future sell gas.

Section 1.2: "Herein," "hereby," "hereunder," "hereof," "hereinbefore," "hereinafter," and other equivalent words refer to the Service Contract as a whole and not solely to the particular portion thereof in which any such word is used. The definitions set forth in Section 1.1 hereof include both singular and plural. Whenever used herein, any pronoun shall be deemed to include both singular and plural and to cover all genders.

## ARTICLE II

### SCOPE OF AGREEMENT

Section 2.1: Upon the issuance by the duly constituted regulatory authorities having jurisdiction of all authorizations necessary to the effectuation of the purposes expressed herein in forms acceptable to Seller and Buyer and upon execution of all necessary resale agreements by Buyer, Seller agrees to sell and Buyer agrees to purchase from Seller on an as-needed basis quantities of natural gas up to maximum levels as follows: 700 Mcf per hour, 1250 Mcf per day (contracted demand), 196,000 Mcf annually. Attachment A listing the nominated monthly volumes (monthly billing demand) for the 1988 calendar year is incorporated by reference into this Agreement.

Section 2.2: It is agreed and understood that the Seller is subject to regulation by the Tennessee Public Service Commission ("Commission") and therefore, pursuant to the laws of the State of Tennessee and the Rules and Regulations of the Commission, it will file for and seek the approval of the Commission as to this Agreement. The execution of this Agreement by the Seller is subject to approval by the Commission.

Section 2.3: It is understood and agreed that Seller shall not serve any customers in Buyer's service area without express written permission from Buyer.

### ARTICLE III

#### POINT OF DELIVERY, DELIVERY PRESSURE AND ODORIZATION

Section 3.1: The point of delivery of gas sold hereunder shall be at the outlet side of the block valve adjacent to and downstream from Seller's meter and regulator installation at a location in Buyer's service area near the corner of the Smyrna Airport and Highway 41A. Additional future locations shall be determined by mutual agreement.

Section 3.2: Gas pressure at the point of delivery from Seller to Buyer shall be at one hundred (100) pounds per square inch gauge.

Section 3.3: All gas delivered to Buyer hereunder shall be odorized by Seller with a standard odorizer in accordance with the requirements of the applicable federal and state pipeline safety regulations.

#### ARTICLE IV

##### METERS, MEASUREMENT AND LEAKAGE

Section 4.1: At the delivery point specified herein, Seller shall provide, operate and maintain, at its own expense, regulating and metering equipment necessary for the purpose of accurately measuring the gas delivered to Buyer. The metering and other equipment so installed by Seller shall be and remain its property and may be removed by Seller upon termination of this Agreement. Buyer may, at its option and expense, install and operate measuring equipment to check Seller's measuring equipment but measurement of gas for the purpose of this Agreement shall be by Seller's measuring equipment only. Buyer, or its agent, shall, at all reasonable times, have access to Seller's measuring and regulating equipment for inspection and checking, but calibration and adjustment thereof and the changing and reading of charts shall be done only by the employees or agents of Seller unless otherwise agreed.

Section 4.2: The Seller will (a) from time to time, and unless otherwise mutually agreed, at least once during each successive twelve-month period during the term of this Agreement, inspect such meters as are installed by it in accordance with the provisions of Section 4.1 hereof, and (b) will, upon the written request of Buyer, at any reasonable time inspect any such meter or meters, provided that if any meter inspected by the Seller pursuant to the provisions of this clause (b) is found to be registering correctly, the cost of such inspection shall be charged to Buyer, which cost it hereby agrees to pay. Buyer shall have the right to witness any or all such meter tests.

Section 4.3: It is understood and agreed that such meters shall be deemed to register correctly if the error is not greater than plus or minus two percent (2%). Should it be found during any test that the meters are not registering accurately, regardless of whether the inaccuracy is more or less than two percent (2%), then the meters will be adjusted to accuracy. In case such meters fail to register correctly, the amount of gas delivered or consumed during the period of such failure, if such period is ascertainable, shall be determined, in the absence of a more accurate basis, by reference to other corresponding periods of use. If the period of failure is not ascertainable, it shall be assumed that such period of failure does not exceed the preceding two months.

Section 4.4: Immediate notice must be given by Buyer to Seller when any leakage of gas beyond the delivery point is discovered by Buyer, and Buyer shall shut off the flow of gas to the leak immediately. Seller shall not be liable for any damages and/or loss arising out of or caused by any leakage of gas beyond the delivery point except when such loss or damage is caused by negligence or willful act of persons within the employ of the Seller. Further, Buyer agrees to indemnify Seller against all costs and/or damages arising out of or caused by the theft and/or injury to pipes, meters, and/or property of the Seller when due to the negligence of the Buyer.

#### ARTICLE V

##### PRICE

Section 5.1: The rate charged by Seller shall be the effective rate under the tariff identified as TPSC Rate Schedule No. 10, Resale Service Tariff (Attachment B to this Agreement, incorporated by reference hereto), as the same may be changed from time to time. To the extent Seller receives any refunds from its supplier(s), the refunds to the Buyer shall be according to Seller's tariffs on file and approved by the TPSC at the time of the refund.

Section 5.2: For purposes of billing, contracted demand and billing demand shall be determined by reference to Sections 2.1, 5.3 (and subsections thereof) and 5.4 of this Agreement.

Section 5.3: Buyer is in an overrun situation when its takes exceed 103% of Buyer's nominated daily and/or monthly volumes. If Buyer is in an overrun situation, then the overrun charge applies to all takes in excess of 100% of the Buyer's nominated daily and/or monthly volumes.

Section 5.3.1: In the event of daily overrun, (A) if Seller is curtailing on the day in question and Buyer is so notified, then Buyer, at its option, will either (i) pay for such overrun at the \$10.00 per Mcf penalty rate in addition to the regular rate or (ii) establish a new billing demand (in accordance with Schedule No. 10) based on the actual volume delivered on the day in question, and (B) if Seller is not curtailing on the day in question, then Buyer will pay for the overrun volume at the then effective Schedule No. 10 commodity charge.

Section 5.3.2: In the event of a monthly overrun not occasioned by a daily overrun, Buyer will pay for the overrun volume at the then effective Schedule No. 10 commodity charge.

Section 5.4: In the absence of curtailment in accordance with TPSC Schedule No. 6, Buyer is not subject to an annual overrun charge, nor is Buyer limited on an annual basis to the annual volume nominated in Section 2.1 of this Agreement.

[To illustrate how the referenced provisions of Articles II and V operate, assume that during December, 1988, Buyer purchased 1500 Mcf on every day of the month and Seller was not in curtailment on any day of the month. Seller's Daily Demand Charge would be assessed against a billing demand of 1250 Mcf; Seller's Monthly Demand Charge would be assessed against a monthly billing demand of 18,700 Mcf; and Seller's Commodity Charge would be assessed against total billing units of 46,500 Mcf. The above illustration would not be affected if Buyer exceeded its annual volume during the month. However, as to the overrun volumes, if Seller were in curtailment during any day of the month on which Buyer overran, then Buyer, at its option, would either pay a \$10.00 per Mcf rate for the daily overrun (i.e., 250 Mcf) in addition to the regular rate or would pay a daily demand charge based on a billing demand of 1500 Mcf, plus the applicable commodity charge.]

#### ARTICLE VI

##### CHARACTER OF SERVICE

Section 6.1: Deliveries of gas under this Agreement are subject to force majeure interruption by either party hereto.

Section 6.2: Seller represents and states that for curtailment purposes Buyer is properly classified as a "Large Commercial" customer, and for purposes of curtailing service as provided in TPSC Service Schedule No. 6, the Buyer, as a Large Commercial customer, is in priority 3, to be curtailed if at all on a pro rata basis with all other priority 3 customers in accordance with TPSC Schedule No. 6.

#### ARTICLE VII

#### BILLING PROVISIONS

Section 7.1: Seller shall read the meter on the first day following each billing month and shall on the same day communicate by telephone to Buyer (a) the volumes of gas sold hereunder for that prior month and (b) the total invoice amount. Seller shall render bills on or before the fifth (5th) day of each month for the natural gas purchased by Buyer during the preceding billing month. Buyer shall pay Seller so that the net payment is received by Seller on or before the twenty-first (21st) day of each month for the natural gas purchased by Buyer during the preceding month. Payment made after that date shall be for the gross amount which will be greater by five percent (5%) than the net billing.

ARTICLE VIIITERM

Section 8.1: This Agreement shall take effect on January 1, 1988, and shall continue in force and effect for a period of one (1) year. Upon conclusion of the initial term, this Agreement shall then continue on a year to year basis, provided, however, that either party may terminate this Agreement at the conclusion of the initial term or of any term thereafter upon giving to the other party ninety (90) days prior written notice of its intention to do so.

ARTICLE IXNOTICES

Section 9.1: Any notice, request, demand, statement, invoice, bill or payment provided for in this Agreement, or any notice which any party may desire to give to the other, shall be in writing and shall be considered as duly delivered when mailed by first class mail to the Post Office address of the parties as follows:

Nashville Gas Company  
Attention: Leslie B. Enoch, II  
814 Church Street  
Nashville, Tennessee 37203

Town of Smyrna  
Attention: Director of Utilities  
Post Office Box 876  
Smyrna, Tennessee 37167

or such other address as either party shall designate by formal written notice. Routine communications, including monthly statements and payments, shall be considered as duly delivered when mailed by either registered, certified or ordinary first-class mail.

#### ARTICLE X

##### TRANSFER AND ASSIGNMENT

Section 10.1: This Agreement shall be binding upon and shall inure to the benefit of the successors of the parties hereto, but neither this Agreement nor any rights hereunder shall be assignable by either party without first obtaining the written consent of the other party which permission shall not be unreasonably withheld.

#### ARTICLE XI

##### CONTROLLING LAW

Section 11.1: The interpretation and performance of this Agreement shall be in accordance with and controlled by the laws of the State of Tennessee, including the Rules and Regulations of the Commission, as the same may be changed from time to time.

ARTICLE XIIMISCELLANEOUS

Section 12.1: In the event any agreement contained in this Agreement should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

Section 12.2: The Seller warrants generally the title to all gas delivered or to be delivered under this Agreement and agrees to indemnify Buyer from all suits, actions, debts, accounts, damages, costs, losses and expenses arising from or out of adverse claims of any or all persons to said gas or royalties or charges thereon. The Seller further warrants that it has the unencumbered right to sell all such gas to Buyer.

Section 12.3: In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 12.4: The parties hereto recognize that certain provisions of this Agreement supplement and modify certain provisions of TPSC Rate Schedule No. 10. In the absence of TPSC

rulings to the contrary, the provisions of this Agreement shall control.

Section 12.5: The article headings and captions contained herein are included for convenience only and shall not be considered a part of or affect in any manner the construction and interpretation hereof.

THIS AGREEMENT has been approved and its execution authorized by proper officials of both parties and, subject to Commission approval, is intended to bind and be for the benefit of both parties hereto, their successors and assigns.

Dated this 1st day of January, 1988.

Witness:

D. L. Trusty

Witness:

J. Michael Wood

APPROVED AND ACCEPTED BY:

NASHVILLE GAS COMPANY

(Seller)

By:

Leslie B. Enoch, II

Title: Sr. V.P. & Gen. Counsel

TOWN OF SMYRNA, TENNESSEE

(Buyer)

By:

Mayor

## ATTACHMENT A

1988  
NOMINATED MONTHLY VOLUMES

<u>Month</u>	<u>Mcf</u> <u>Quantity</u> <u>(Mcf)</u>
January,	23,300
February	22,000
March	18,000
April	15,000
May	14,500
June	14,000
July	10,000
August	14,000
September	14,500
October	15,000
November	17,000
December	18,700

January 1, 1988

# **EXHIBIT B**

## FIRST AMENDMENT TO GAS SERVICE CONTRACT

This First Amendment to the Gas Service Contract ("Amendment") is entered into by and between Piedmont Natural Gas Company, Inc. ("Piedmont"), formerly Nashville Gas Company and the Town of Smyrna, Tennessee ("Town of Smyrna") (individually a "Party" and collectively the "Parties") as of the 21<sup>st</sup> day of December, 2010.

WHEREAS, Piedmont and the Town of Smyrna are parties to that certain Gas Service Agreement dated January 1, 1988, ("Agreement"); and

WHEREAS, Section 2.1 of the Agreement establishes the amount of natural gas that can be purchased by Town of Smyrna from Piedmont; and

WHEREAS, the Town of Smyrna has requested and Piedmont has agreed to amend the amount of natural gas that the Town of Smyrna is allowed to purchase under Section 2.1 of the Agreement; and

WHEREAS, Piedmont and the Town of Smyrna agree to further amend the Agreement as needed for other reasons as explained further below.

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the undersigned Parties do hereby agree as follows:

1. Revised Section 1.1. Section 1.1 of the Agreement is hereby amended by removing "8:00 o'clock a. m." and replacing it with "nine o'clock (9:00) A.M." in all occurrences in the definitions of "Day" and "Month".
2. Revised Section 2.1. Section 2.1 of the Agreement shall be amended, by deleting the hourly, daily and annually contract demand specified and replacing them with 30 Mcf per hour, 50 Mcf per day (contracted demand) and 8,000 Mcf annually.
3. Revised Section 2.2. Section 2.2 of the Agreement shall be amended, by deleting "Tennessee Public Service Commission" and replacing it with "Tennessee Regulatory Authority (TRA)". Also, anywhere in the Agreement where the terms "Commission or TPSC" are referenced they shall be replaced with TRA.
4. Revised Section 3.1. Section 3.1 of the Agreement shall be amended, by deleting "area near the corner of the Smyrna Airport and Highway 41A." and replacing it with "areas at the following locations: corner of the Smyrna Airport and Highway 41A, Woodland Hills Drive near Charter Place, and Paul Road near Waldron Road."

5. Revised Section 3.2. Section 3.2 of the Agreement is hereby amended by removing "at one hundred (100) pounds per square inch gauge" and replacing it with "determined by mutual agreement".
6. Revised Section 5.1. Section 5.1 of the Agreement is hereby amended by deleting the reference to "TPSC Rate Schedule No. 10, Resale Service Tariff" and replacing it with "TRA Rate Schedule No. 310, Resale Service Tariff". Also, anywhere in the Agreement where the term "Schedule No. 10 is used, it shall be replaced with "Rate Schedule 310".
7. Revised Sections 5.4 and 6.2. Sections 5.4 and 6.2 of the Agreement are hereby amended by deleting the reference to "TPSC Schedule No. 6" and replacing it with "TRA Rate Schedule No. 306".
8. Revised Section 9.1. Section 9.1 of the Agreement is hereby amended .....  
by deleting:

"Nashville Gas Company  
Attention: Leslie B. Enoch, II  
814 Church Street  
Nashville, Tennessee 37203"

It shall be replaced with:

"Piedmont Natural Gas  
Managing Director, Power Generation, MAS, KAS & Commercial  
Support  
P. O. Box 33068  
Charlotte, NC 28233"

This Amendment shall go into effect the later of January 1, 2011 or the first day of the month following the approval of this amendment by the TRA.

No other or further modifications of the Agreement are contemplated or effected hereby and the undersigned Parties hereby affirm the binding and continuing nature of their obligations under this Amendment and the Agreement.

IN WITNESS WHEREOF, the Parties have executed this Amendment through their duly appointed representatives.

Piedmont Natural Gas Company, Inc.

By: Aaron K. Briggs  
Title: MANAGER - MAJOR + KEY ACCOUNTS

Town of Smyrna, Tennessee

By: Jack E. Reinhard  
Title: Utilities Director