

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

May 13, 2014

IN RE:)	
)	
PETITION OF PIEDMONT NATURAL GAS COMPANY,)	DOCKET NO.
INC. FOR APPROVAL OF AN INTEGRITY)	13-00118
MANAGEMENT RIDER TO ITS APPROVED RATE)	
SCHEDULES AND SERVICE REGULATIONS)	

ORDER GRANTING PETITION

This matter came before Vice Chairman Herbert H. Hilliard, Director Robin Bennett, and Director David F. Jones of the Tennessee Regulatory Authority (“Authority” or “TRA”), the voting panel assigned to this docket on December 18, 2013 to consider the *Petition of Piedmont Natural Gas Company, Inc. for Approval of an Integrity Management Rider to Its Approved Rate Schedules and Service Regulations* (“*Petition*”) filed on August 30, 2013, and as amended by the *Stipulation of Piedmont Natural Gas Company* (“*Joint Stipulation*”) filed on November 27, 2013.

BACKGROUND

Piedmont Natural Gas Company, Inc. (“Piedmont” or the “Company”) filed its *Petition* and an Integrity Management Rider (“IMR”) Tariff with an effective date of October 1, 2013 pursuant to Tenn. Code Ann. § 65-5-103(d).¹ Piedmont seeks to implement an IMR to recover capital costs incurred for compliance with state and federal pipeline safety requirements.

¹ Tenn. Code Ann. § 65-5-103(d) went into effect April 19, 2013 and authorizes the Authority to implement alternative regulatory methods.

Piedmont maintains that these capital costs are necessary in order to maintain the reliability of Piedmont's natural gas system in Tennessee.

During the September 9, 2013 Authority Conference, the panel convened a contested case proceeding and appointed a Hearing Officer to prepare this matter for a hearing before the panel.² On September 10, 2013, the Hearing Officer suspended the IMR Tariff until December 30, 2013.³ The Consumer Advocate and Protection Division of the Office of the Attorney General ("CAPD" or "Consumer Advocate") filed a *Petition to Intervene* on September 30, 2013, which was granted by the Hearing Officer in an order issued October 29, 2013.

On November 27, 2013, Piedmont filed a *Joint Stipulation* that provides a revised form of the IMR mechanism for consideration by the Authority and states both Piedmont and the Consumer Advocate agree that "if Piedmont's tariff for the Integrity Management Rider contains the stipulations set forth in this document," and if the Authority approves it, then the Consumer Advocate will not oppose Piedmont's *Petition*. In support of its *Petition*, Piedmont submitted its *Integrity Management Rider 2013 Annual Report* ("2013 Annual Report") on December 2, 2013, which details the Company's 2013 capital expenditures.

THE PETITION

According to Piedmont, its *Petition* "proposes to implement a new Integrity Management Rider ("IMR") mechanism in its tariffs in order to allow it to recover, on an intra-rate case basis, the costs associated with significant levels of capital expenditures incurred as the direct result of compliance with federal and state pipeline safety requirements and needed to insure the

² See *Order Convening Contested Case and Appointing Hearing Officer* (September 18, 2013).

³ See *Order Suspending Tariff through December 30, 2013* (September 10, 2013).

continuing reliability of its existing natural gas plant in service in Tennessee.”⁴ In explaining the need for the IMR, Piedmont refers to Subparts O and P of Part 192 of the United States Department of Transportation (“DOT”) regulations which “establish a mandatory regimen of inspection, assessment, analysis, testing, and remediation applicable to natural gas transmission and distribution facilities in the United States, including those operated by Piedmont in Tennessee.”⁵ The *Petition* states that DOT regulations require an ongoing seven (7) year rotating inspection and assessment of High Consequence Areas (“HCAs”) for compliance with TIMP and DIMP requirements.⁶ Additionally, Piedmont maintains that it must verify the maximum operating parameters of its pipelines and implement new record keeping for transmission piping.⁷

According to Piedmont, it has begun to transition to new testing methods for transmission lines for TIMP compliance, which has resulted in additional capital outlay of approximately \$78 million since the Company’s last rate case in 2011.⁸ Piedmont states that this capital investment is not being recovered by existing rates, nor is it producing incremental revenues.⁹ Therefore, Piedmont seeks to implement an IMR mechanism to recover the costs incurred to date and in the future as a result of meeting the obligations imposed by state and federal pipeline safety regulations.¹⁰

Piedmont maintains that if the IMR is approved, it will file monthly reports with the Authority outlining the capital expenses resulting from compliance with state and federal

⁴ *Petition*, p. 3 (August 30, 2013).

⁵ *Id.* The regimen which refers to transmission integrity management planning is referred to as (“TIMP”), and the regimen applicable to distribution lines is referred to as (“DIMP”).

⁶ *Id.*

⁷ *Id.* at 4.

⁸ *Id.*

⁹ *Id.* at 5.

¹⁰ *Id.*

pipeline safety requirements and such costs will be recorded in a deferred account.¹¹ The IMR mechanism, Piedmont explains, will be volumetric and updated annually to allow recovery of depreciation and taxes associated with the capital outlay.¹² The recovery of these costs through the IMR will be allocated between customer classes based on the revenue allocations in Piedmont's last general rate proceeding.¹³ According to Piedmont, all of these deferred costs will be included in Piedmont's next general rate case, and the IMR mechanism will be reset to zero.¹⁴

Piedmont avers that the proposed IMR mechanism is in the public interest because "it creates a partial and interim bridge to recover the costs of new capital investment by the Company required to comply with state and federal pipeline safety and reliability regulations between rate case filings."¹⁵

JOINT STIPULATION

Piedmont and the Consumer Advocate filed a *Joint Stipulation* on November 27, 2013. The *Joint Stipulation* states that the Consumer Advocate will not oppose Piedmont's *Petition*, if the revised IMR tariff includes the provisions set forth in the *Stipulation* and if the Authority approves the IMR tariff.¹⁶

In his Supplemental Testimony, Piedmont witness, David R. Carpenter, summarized the provisions of the *Joint Stipulation* as follows:

1. Recovery of costs shall be limited to those solely incurred to comply with Part 192 US DOT regulations, Subparts O and P.

¹¹ *Id.* at 6.

¹² *Id.* at 6-7.

¹³ *Id.*

¹⁴ *Id.* at 7.

¹⁵ *Id.*

¹⁶ The Consumer Advocate stated its lack of opposition does not infer CAPD's acceptance of the IMR tariff being in the public interest, and CAPD takes no position on this issue.

2. The IMR will be a volumetric charge based on the billing determinants from the Company's most recent rate case. A comparison of the amount collected to the costs actually incurred will be used to determine any over or under-recovery of costs. Any over or under-recovery will be recorded in an Integrity Management Deferred Account and adjusted for interest. The amount in the Deferred Account will be used in the following year's calculation of any needed revenue requirement.
3. Interest on any over or under-recovery will be applied to the average beginning and ending monthly balance and based on the interest rate as defined in the TRA's Purchased Gas Adjustment Rule, Rule 1220-04-07-.03.
4. Factors for depreciation, property taxes, pre-tax return and uncollectibles gross-up will be those approved in the most recent rate case. Deferred income taxes will be based on an average of the beginning and end-of-the-year balances.
5. Sets forth the exact calculation methodology to be used in determining the IMR.
6. Provides that costs, collections and interest will be recorded monthly to the Integrity Management Deferred Account, and includes the specific journal entries to be made.
7. Requires that annual filings be made containing information to assist the TRA in determining the prudence and necessity of the costs submitted for recovery.
8. States that Piedmont will submit its annual filing fourteen (14) days before the IMR is implemented and will file notice thirty (30) days prior to implementation of the IMR.
9. After three (3) years from the effective date of the initial IMR, provides that any interested party may petition the TRA to reconsider the public interest aspect of the IMR.

10. Provides that the IMR will not seek recovery of any legal fees associated with obtaining its approval.

PIEDMONT'S 2013 ANNUAL REPORT

Piedmont filed its *2013 Annual Report* on December 2, 2013. The filing outlines the capital expenditures of March 2013 through October 2013 to be included in the IMR calculation and indicates that the total capital expenditures for the period are \$133,206,283.¹⁷ The *2013 Annual Report* shows that after deducting the \$32.9 million that was included in the attrition period rate base in the last rate case (TRA Docket No. 11-00144),¹⁸ there is a balance of \$100,306,283.¹⁹ Piedmont deducted depreciation and deferred income taxes to result in a net investment of \$95,274,242.²⁰ After applying the pre-tax rate of return, adding depreciation expense, property tax expense and applying the uncollectibles gross-up factor, the *2013 Annual Report* indicates that the total revenue requirement for the IMR in year one is \$13,095,492.²¹

Piedmont apportions the revenue requirement to each customer class based on revenue margins. The amount to be collected from each customer class is then divided by the dekatherms for that class, for the same period of time, to result in the proposed Integrity Management Adjustment per therm. According to the *2013 Annual Report*, the factor per class is \$0.07018 Residential, \$0.06130 Commercial, \$0.02723 Large General Firm and \$0.00681 Large General Interruptible.²²

¹⁷ See *2013 Annual Report*, p. 5 (December 2, 2013).

¹⁸ See *In re: Petition of Piedmont Natural Gas Company, Inc. for an Adjustment to its Rates, Approval of Changes to Its Rate Design, Amortization of Certain Deferred Assets, Approval of New Depreciation Rates, Approval of Revised Tariffs and Service Regulations and Approval of a New Energy Efficiency Program and GTI Funding*, Docket No. 11-00144, *Order Approving Settlement Agreement* (April 18, 2012).

¹⁹ See *2013 Annual Report*, p. 5 (December 2, 2013).

²⁰ *Id.* at 4a.

²¹ *Id.*

²² *Id.* at 1.

DECEMBER 18, 2013 HEARING AND APPEARANCES

A Hearing in this matter was held before the voting panel on December 18, 2013.

Participating in the hearing were the following parties and their respective counsel:

Piedmont Natural Gas Company, Inc. – James H. Jeffries, IV, Moore & Van Allen, PLLC, 100 North Tryon Street, Suite 4700 Charlotte, NC 20202-4003.

Consumer Advocate – Joe Shirley, Office of the Attorney General, 425 Fifth Avenue North, Fourth Floor, John Sevier Building, P.O. Box 20207, Nashville, TN 37202.

Victor M. Gaglio and David R. Carpenter appeared as witnesses for Piedmont. The Consumer Advocate did not present any witnesses. The witnesses were subject to cross-examination by the other parties and questions from the panel. In addition, at the start of the Hearing, members of the public were given an opportunity to present comments to the panel. The panel deliberated the matter following the Hearing.

FINDINGS AND CONCLUSIONS

Tenn. Code Ann. § 65-5-103(d)(1)(A) reads “[t]he authority is authorized to implement alternative regulatory methods to allow for public utility rate reviews and cost recovery in lieu of a general rate case proceeding before the authority.”

Further, Tenn. Code Ann. § 65-5-103(d)(2) provides:

A public utility may request and the authority may authorize a mechanism to recover the operational expenses, capital costs or both, if such expenses or costs are found by the authority to be in the public interest, related to any one (1) of the following:

- (i) Safety requirements imposed by state or federal government;
- (ii) Ensuring the reliability of the public utility plant in service; or
- (iii) Weather-related natural disasters.

(B) The authority shall grant recovery and shall authorize a separate recovery mechanism or adjust rates to recover operational expenses, capital costs or both associated with the investment in such safety and reliability facilities, including the return on safety and reliability investments at the rate of return approved by

the authority at the public utility's most recent general rate case pursuant to § 65-5-101 and subsection (a), upon a finding that such mechanism or adjustment is in the public interest.

On December 18, 2013, the panel considered Piedmont's *Petition*. The panel found that Piedmont's *Petition* complies with Tenn. Code Ann. § 65-5-103(d)(2)(i) and (ii), and the record clearly establishes that its capital expenditures related to TIMP and DIMP compliance are mandatory safety requirements imposed by the federal government.

Piedmont witness, Victor Gaglio, testified in detail to the Company's activities to comply with federal safety requirements. Mr. Gaglio, testified that Subparts O and P of Part 192 require that the Company identify high risk areas and then assess and inspect these areas.²³ Once deformities are found, Piedmont is required to engineer a plan to remedy the inadequacies.²⁴ Piedmont is required to repeat this process every seven (7) years for transmission lines and continually for distribution lines.²⁵ Additionally, the Company must establish preventive and quality assurance measures for these lines.

Piedmont expects to expend approximately \$50.4 million for system integrity and safety in the years 2014 through 2016.²⁶ This expenditure will include "(1) corrosion control, (2) casing remediation, (3) distribution integrity management, (4) integrity related development of Piedmont's OASIS work and asset management system, (5) replacement of certain existing pipeline facilities, and (6) retrofitting and pigging of certain portions of existing pipeline facilities."²⁷

Piedmont's *Joint Stipulation* sufficiently clarifies the IMR tariff by setting forth the method for determining how the cost for TIMP and DIMP compliance is determined, how this

²³ Victor M. Gaglio, Pre-filed Direct Testimony, pp. 3-4 of 16 (October 28, 2013).

²⁴ *Id.*

²⁵ *Id.* at 10 of 16.

²⁶ *Id.* at 12 of 16.

²⁷ *Id.*

cost is to be calculated, the factors applied to this cost, the specific methodology for determining the IMR, the review process, timeframe and future filings. It also outlines how any over or under-recovery will be determined and passed through to ratepayers. Further, the *Joint Stipulation* states that subsequent filings by Piedmont will allow the TRA to review the amounts spent to ensure such expenditures are prudent and documented.

The panel finds that approval of the IMR is in the public interest because it should eliminate the need for rate case filings in order to recover the costs associated with federal safety requirements. Further, eliminating frequent rate case filings will also eliminate recovery of the associated legal expenses from ratepayers, thereby lessening the financial burden to ratepayers. In addition, the IMR mechanism will allow Piedmont to recover the funds necessary to repair and replace necessary plant in a timely manner which will result in safe and reliable service to customers.

Upon review of the *2013 Annual Report*, the panel finds the description of expenditures to be included in the recovery mechanism to be appropriate and consistent with Subparts O and P of Part 192 of the United States DOT regulations. As described, these expenditures are associated with identification of HCAs, inspection, assessment, analysis, testing, and remediation applicable to Piedmont's natural gas transmission and distribution facilities. Piedmont's calculation of the IMR factor is reasonable, and its calculations appear to be accurate.

In addition, Piedmont's calculation of the rate of return incorporates the overall rate of return established in Piedmont's last rate case and is consistent with the requirements of Tenn. Code Ann. § 65-5-103(d)(2)(B) which states "... including the return on safety and reliability investments at the rate of return approved by the authority at the public utility's most recent

general rate case pursuant to § 65-5-101 and subsection (a), upon a finding that such mechanism or adjustment is in the public interest.”


Based on the record in this docket, arguments made by counsel, and witness testimony presented at the Hearing, the panel found that the revised IMR tariff of Piedmont complies with Tenn. Code Ann § 65-5-103(d)(2) and is in the public interest. Thereafter, the panel voted unanimously to approve the *Petition* and the IMR tariff as amended pursuant to the *Joint Stipulation* of Piedmont and the Consumer Advocate and as further amended at the Hearing to remove a clerical error. Further, the panel voted unanimously to approve the *2013 Annual Report* filed on December 2, 2013 and the revised IMR factors contained therein with an effective date of January 1, 2014. The panel also noted for the record that approval of the *Joint Stipulation* does not establish precedent in future proceedings before the Authority.

IT IS THEREFORE ORDERED THAT:

The *Petition of Piedmont Natural Gas Company, Inc. for Approval of an Integrity Management Rider to Its Approved Rate Schedules and Service Regulations* as amended by the *Stipulation of Piedmont Natural Gas Company* and as discussed herein is approved.

Vice Chairman Herbert H. Hilliard, Director Robin Bennett, and Director David F. Jones concur.

ATTEST:



Earl R. Taylor, Executive Director