

**IN THE TENNESSEE REGULATORY AUTHORITY
AT NASHVILLE, TENNESSEE**

IN RE:)	
)	
PETITION OF PIEDMONT)	
NATURAL GAS COMPANY, INC.)	
FOR APPROVAL OF A CNG)	DOCKET NO. 14-00086
INFRASTRUCTURE RIDER TO)	
ITS APPROVED RATE)	
SCHEDULES AND SERVICE)	
REGULATIONS)	

**RESPONSES OF CONSUMER ADVOCATE AND PROTECTION DIVISION
TO DISCOVERY REQUEST OF PIEDMONT NATURAL GAS**

The Consumer Advocate and Protection Division of the Office of the Attorney General ("Consumer Advocate" or "CAPD"), pursuant to the Order Consolidating Dockets & Amending Procedural Schedule entered by the Tennessee Regulatory Authority ("TRA" or "Authority") Hearing Officer in this Docket on November 6, 2014, hereby submits its responses to the Discovery Request of Piedmont Natural Gas ("Piedmont") to the Consumer Advocate filed on December 16, 2014.

REQUEST NO. 1:

Reference Novak's testimony, p. 4, LL 13-15: "CNG is a completely different product than the regulated natural gas that is used in homes and businesses." Natural gas is always delivered under pressure by a utility like Piedmont; In Mr. Novak's opinion at what pressure does natural gas become a different product?

RESPONSE: The quote cited from Mr. Novak's testimony is somewhat taken out of context. The full question and first paragraph response in Mr. Novak's testimony actually reads as follows:

Q8. FROM A REGULATORY PERSPECTIVE, IS CNG THE SAME PRODUCT AS NATURAL GAS?

A8. No. In order for natural gas to become CNG it must first be compressed to a level that will facilitate its timely dispersal into motor vehicles. Therefore, CNG is a completely different product than the regulated natural gas that is used in homes and businesses. Further, the different customer bases and pricing for CNG and natural gas support this distinction.

Thus, the emphasis in the quote was more on the aspect of compression to facilitate its use as a motor vehicle fuel, along with the other distinguishing aspects, rather than the pressure referenced in the request. Without regard to this quote, it is Mr. Novak's opinion that natural gas becomes a different product at whatever pressure is required for it to become commercially feasible as CNG in order to allow it to be timely dispensed into motor vehicles.

REQUEST NO. 2:

Reference Klein's testimony, p. 10, LL 20-23. Please describe in detail how, and under what circumstances, the CNG IR mechanism would "retard the development of the retail CNG fuel market and reduce the external environmental benefits from CNG as a vehicle fuel relative to the case without the subsidy"?

RESPONSE: As Dr. Klein explained in his testimony (p. 11, lines 5-16):

"Piedmont's CNG IR subsidizes its retail CNG vehicle fuel stations by shifting the capital costs associated with these stations to regulated (non-CNG) service ratepayers. Piedmont's retail CNG vehicle fuel stations will not have to recover the associated capital costs from retail

CNG revenues. Any competing retail CNG vehicle fuel station operated by any entity other than Piedmont, however, will have to recover its capital costs from retail CNG revenues. Hence, Piedmont will have a cost advantage over all other actual or potential competitors in the retail CNG vehicle fuel market in or near Piedmont's Tennessee service territory. This will discourage and likely prevent the entry of competing retail CNG vehicle fuel stations in or near Piedmont's Tennessee service territory. Deterring entry into the retail CNG vehicle fuel market will retard the development of the market, resulting in less use of CNG as a vehicle fuel and reducing the external benefits to Tennessee residents than would occur otherwise."

Moreover, the ability of Piedmont to engage in a vertical price squeeze using the pricing flexibility in Rate Schedule 342, a price squeeze that is subsidized by regulated rate payers, will further discourage entry. Piedmont does not have to actually implement such a strategy for the potential of using it to deter entry. No potential competitor will want to enter the market to compete with Piedmont, when Piedmont can reduce its retail price such that the margin between the retail price and the cost of gas purchased from Piedmont is insufficient to repay the investment in retail CNG vehicle fueling stations. Ordinarily, such a strategy could hurt the squeezer as much as the squeezed, but Piedmont's CNG IR allows regulated ratepayers to cover Piedmont's investment in retail CNG vehicle fueling stations, such that the strategy is viable for Piedmont. However, if the development of the retail CNG market is retarded in this way, less CNG will be sold, and fewer environmental benefits from substituting CNG for gasoline or diesel fuel will be realized. In the absence of the CNG IR subsidy, the price squeeze strategy is much less viable for Piedmont. Consequently, entry is less likely to be deterred and the

market is more likely to develop, resulting in more CNG sales and greater environmental benefits.

REQUEST NO. 3:

Identify all changes within the knowledge of the CAPD or its witnesses in the CNG market in Piedmont's service territory that have occurred since December 21, 2011.

RESPONSE: Dr. Klein's, Mr. Novak's, and the Consumer Advocate's knowledge of changes in the CNG market in Piedmont's service territory since December 21, 2011, is limited to the testimony of Piedmont's witnesses and Piedmont's discovery responses in this docket.

REQUEST NO. 4:

Explain in detail all facts/factors that support the reversal of the Consumer Advocate's position in this docket from its position in docket 11-00144 where it supported approval of Rate Schedule 342 for Natural Gas Vehicle Fuel.

RESPONSE: The request appears to assert that the Consumer Advocate's position has changed based on Piedmont's apparent mistaken assumption that the facts and the expectations of the parties have not changed from TRA Docket 11-00144. It should be noted that Piedmont initiated the proposed changes to decisions made in TRA Docket 11-00144 by means of this TRA Docket 14-00086. In this TRA Docket 14-00086, the facts and expectations have changed from those in TRA Docket 11-00144, and the Consumer Advocate's position in this TRA Docket 14-00086 is based on the facts in TRA Docket 14-00086. As to the specific facts and expectations that

have changed, refer to Page 8 of Mr. Novak's direct testimony on this issue which reads as follows:

[T]he TRA's approval of Rate Schedule 342 in the Company's last rate case involved no anticipated incremental rate base investment, no anticipated incremental operating expenses and no anticipated incremental revenue. Instead, my recollection, as a witness in that rate case, was that the Company's proposal only included existing facilities for its own vehicle fleet that were already included in rate base and that the natural gas vehicle tariff would only be a small sideline business. Otherwise, I would have recommended that the Consumer Advocate insist that this unregulated business activity be excluded from the rate case. *It is now apparent that the scope and scale of the Company's plans for CNG exceed that of the sideline business activity that was anticipated in their last rate case.*

REQUEST NO. 5:

Explain in detail why the CAPD's position in this docket does not constitute a breach of the settlement agreement reached in docket TRA Docket No.11-00144?

RESPONSE: Piedmont has requested the changes to Rate Schedule 342 and the addition of Rate Schedules 318 and 343, and thereby has apparently altered its position with respect to the CNG aspect of TRA Docket No. 11-00144 based on Piedmont's apparent beliefs that such changes and additions do not breach or otherwise violate the terms of the settlement agreement that Piedmont entered into and refers to in this request and, further, that such changes and additions may be considered by the Authority. The Consumer Advocate's position in this TRA Docket 14-00086 is simply responding to Piedmont's requested changes and additions.

REQUEST NO. 6:

Reference Klein's testimony, p. 7-8. Identify any and all additional support for Klein's conclusion that a subsidy is inconsistent with the intent of the legislation establishing TCA § 65-5-103(d).

RESPONSE: Dr. Klein's conclusion that a subsidy is inconsistent with the intent of the legislation establishing TCA sec. 65-5-103(d) is supported by the transcripts of meetings of subcommittees of the Tennessee General Assembly that are attached to his pre-filed direct testimony in this docket.

REQUEST NO. 7:

Reference Klein's testimony, p. 8-9. Identify all of the potential "positive externalities" analyzed by CAPD's witnesses and provide any and all studies, quantifications or data utilized for these analyses to determine their value.

RESPONSE: Dr. Klein identified positive environmental benefits associated with the use of CNG and/or LNG as a vehicle fuel in the Supplemental Testimony of Piedmont witness Ken Valentine (p. 3). Mr. Valentine claims that, relative to gasoline and diesel, "...CNG has 25% less CO₂ emissions..., 70% less carbon monoxide, and 87% less nitrogen oxides,..." Piedmont's responses to the Consumer Advocate's Supplemental Discovery Request #2 and #3 provide links to websites that generally support the figures claimed by Mr. Valentine, but provide no estimates of the value of the benefits that could be realized. These were the only "studies, quantifications or data utilized" by Dr. Klein in regard to the value of these positive environmental benefits.

REQUEST NO. 8:

Reference Klein's testimony, p. 11-12. If both wholesale and retail CNG services were regulated, as requested by Piedmont, how and under what circumstances is the potential of a "vertical price squeeze" impacted by a regulated service in which the rates for those services are set by the Authority?

RESPONSE: Ordinarily, regulation of the prices of both natural gas at wholesale and CNG at retail would greatly reduce the potential for a vertical price squeeze, but the special characteristics of Piedmont's Rate Schedules 342 and 343 make a vertical price squeeze viable in the presence of the proposed CNG IR. First, the proposed retail margin of \$0.50 per therm above the wholesale cost of gas proposed in Rate Schedule 342 may or may not be sufficient to recover the operating cost as well as the cost of the investment in retail CNG vehicle fueling stations. Hence, a vertical price squeeze may result at the maximum proposed rate. Even if the \$0.50 per therm retail margin is sufficient, proposed Rate Schedule 342 allows Piedmont, "at its discretion" (that is, without TRA review and approval) to "...offer a rate discount on a not unduly discriminatory basis to customers, up to the [\$0.50] per therm compression charge referenced above, in order to compete with alternative fuel providers and further develop the market demand for natural gas vehicular fuel or the facilities available to serve such demand." Similar flexibility in Rate Schedule 343 applies to customers "...using Company owned and maintained compression facilities and related equipment..." This flexibility allows Piedmont to implement a vertical price squeeze without TRA review. Therefore, regulation of natural gas for

use as a vehicle fuel at both wholesale and retail levels, under the conditions proposed by Piedmont, does not prevent Piedmont from implementing a vertical price squeeze.

REQUEST NO. 9:

Reference Klein's testimony, p. 12, LL 10-18. Identify all facts and evidence supporting Klein's conclusion that a CNG IR would be consistent with TCA § 65-5-103(d) "if it covered additions to Piedmont's natural gas infrastructure and equipment, up to and including the customer's meter, that were necessary to sell natural gas at wholesale to retail CNG vehicle fuel stations."

RESPONSE: A CNG IR that "...covered additions to Piedmont's natural gas infrastructure and equipment, up to and including the customer's meter, that were necessary to sell natural gas at wholesale to retail CNG vehicle fuel stations..." does not generate a subsidy specifically for Piedmont's CNG retail sales operations. In fact, such a CNG IR would simply move natural gas network investments into rate base without a rate case, providing an incentive for Piedmont to extend its network to serve retail CNG vehicle fueling stations. While there are possible detrimental effects for rate payers from such a policy (such as unnecessarily increasing utility rates and charges), arguably there is no subsidy generated, but certainly no subsidy of Piedmont's retail CNG operations that would not also be available to competing retail CNG operations is generated. A vertical price squeeze by Piedmont also becomes much less likely because Piedmont would bear all the costs of such a strategy without having its retail CNG capital costs covered by regulated rate

payers. Therefore, the possibility of an anticompetitive cross-subsidy as discussed in the subcommittee hearing transcripts attached to Dr. Klein's testimony is largely eliminated.

REQUEST NO. 10:

Identify and describe in detail any and all experience of CAPD's witnesses with the development of alternative fuel markets in general or CNG in particular.

RESPONSE: Dr. Klein has no direct experience in alternative fuel or CNG markets prior to these dockets, but he has over 30 years' experience in energy markets, beginning with mergers and acquisitions in the petroleum industry in the 1980's and continuing experience with regulation of natural gas utilities up to the present. Mr. Novak has no direct experience in alternative fuel or CNG markets prior to these dockets, but he has over 30 years' experience with the regulation and rate setting process for natural gas utilities.

REQUEST NO. 11:

Identify and describe in detail any and all experience of CAPD's witnesses with the use of natural gas as a vehicle fuel including, but not limited to, academic, consultative or operational.

RESPONSE: Dr. Klein has no direct experience with natural gas as a vehicle fuel prior to these dockets, but he has over 30 years' experience in energy markets, beginning with mergers and acquisitions in the petroleum industry in the 1980's and continuing experience with regulation of natural gas utilities up to the present.

Mr. Novak has no direct experience with natural gas as a vehicle fuel prior to these dockets, but he has over 30 years' experience with the regulation and rate setting process for natural gas utilities.

REQUEST NO. 12:

Identify all reports, studies, data and analyses relied upon by CAPD witnesses to support the conclusion that the TRA should treat retail CNG vehicle fuel as an unregulated service.

RESPONSE: Dr. Klein and Mr. Novak relied upon Piedmont's submissions in this docket, including the testimony of Piedmont's witnesses and Piedmont's responses to discovery.

REQUEST NO. 13:

If CNG should not be a regulated service as stated by CAPD witnesses, what is the CAPD's position/explanation as to (a) the lawfulness of the Stipulation entered into in TRA Docket No. 11-00144, (b) the lawfulness of the TRA order approving that Stipulation, (c) the express reference to alternative motor fuels in T.C.A. § 65-5-103, and (d) the lack of any claim by any entity that CNG is not a regulated utility service prior to the filing of intervenor testimony in this docket.

RESPONSE: With respect to subpart (a), the Consumer Advocate believes that the Stipulation entered into in TRA Docket 11-00144 was a lawful agreement based on the understandings and agreements of the parties at that time. Also refer to the Consumer Advocate's Response to Request No. 4.

With respect to subpart (b), the Consumer Advocate believes that the TRA order was a lawful order that was based on and incorporated the Stipulation of the parties, which was based on the understandings and agreements of the parties at that time. Also refer to the Consumer Advocate's Response to Request No. 4.

With respect to subpart (c), the Consumer Advocate believes that the reference to alternative motor fuels in the context of this request is vague and requires clarification before a full and complete answer could be provided, but would generally respond that the use of the words "alternative motor vehicle transportation fuel" in the referenced statute are in the context of a public interest requirement that includes the long standing Tennessee policy against subsidies as described in TRA Chairman Jim Allison's testimony and as reflected in the testimonies of Mr. Novak and Dr. Klein.

With respect to subpart (d), the Consumer Advocate believes that the words "lack of any claim by any entity" are vague and require clarification before a full and complete answer could be provided, but would generally respond that Piedmont itself notes the existence of entities that apparently believed or claimed that CNG is not a regulated utility service prior to the filing of intervenor testimony in this docket. For example, in Piedmont's Response to the Consumer Advocate's Supplemental Discovery Request No. 5 (November 7, 2014), Piedmont stated that "[c]urrently, both regulated and non-regulated entities provide CNG to customers in Piedmont's service territory." Also, in Piedmont's Response to the Consumer Advocate's Supplemental Discovery Request No. 7 (November 7, 2014), Piedmont

“recognizes that CNG services are provided to customers through various regulated and non-regulated entities.” And in Piedmont’s Response to the Consumer Advocate’s Supplemental Discovery Request No. 12 (November 7, 2014), Piedmont states that “CNG service currently is offered to the public by various entities as a retail non-regulated service.”

REQUEST NO. 14:

If CNG should not be a regulated service as stated by CAPD witnesses, explain CAPD’s position as to why Tennessee legislators specifically passed new legislation authorizing alternative methods for regulated utilities to recover alternative fuel infrastructure equipment and costs?

RESPONSE: Initially, it is important to note the testimony of TRA Chairman Allison concerning the public interest requirement for the recovery of alternative fuel infrastructure equipment and costs, and that requirement’s prohibition of subsidies as part of passing that legislation. With that in mind, please refer to Page 7 of Mr. Novak’s direct testimony on this issue which reads as follows:

[I]t would appear that Tenn. Code Ann. § 65-5-103(d) only allows the Company to extend its infrastructure and equipment (e.g. mains, meters, meter sets) to a previously unserved area in order to make gas available for CNG and then recover the investment cost of that expansion up to the gas meter of a facility providing CNG services. *Therefore, it does not appear that Piedmont has demonstrated that Tenn. Code Ann. § 65-5-103(d) provides the TRA with the authority to approve the CNG infrastructure tariff proposed by the Company.*

REQUEST NO. 15:

Identify and produce any and all documents reviewed by CAPD witnesses in preparation for the filing of their testimony.

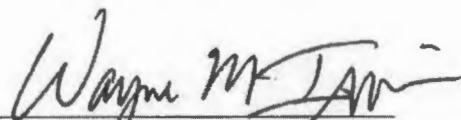
RESPONSE: All documents reviewed and relied upon by Dr. Klein and Mr. Novak consist of the petitions, testimony, and discovery responses, and other filings by Piedmont, the Consumer Advocate, and other intervenors in TRA dockets 11-00144, 14-00086, and 14-00087.

REQUEST NO. 16:

Identify and produce any and all documents constituting written work product and/or testimony by the CAPD's witnesses related to CNG.

RESPONSE: Dr. Klein and Mr. Novak have no documents or work product that they have relied upon relating to CNG that have not already been filed in these dockets.

Respectfully submitted,



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Dated: December 23, 2014.

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing was served by U.S. Mail or electronic mail upon:


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This 23rd day of December, 2014.


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December 19, 2014

VIA: EMAIL sharla.dillon@tn.gov
Chairman, Tennessee Regulatory Authority
c/o Sharla Dillon, Dockets and Records Manager
502 Deadrick Street, 4th Floor
Nashville, TN 37243

Re: Show Cause Proceeding Against King's Chapel Docket # 14-00007

Dear Ms. Dillon,

Please file the attached Response of King's Chapel Capacity To Data Request of the Tennessee Regulatory Authority on Behalf of King's Chapel Capacity, LLC in the above matter. The original and four copies have been mailed via US mail, as well.

Sincerely,



MICHELE MCGILL, ESQ.