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December 22, 2014



**Via Hand-Delivery**

The Honorable Earl Taylor  
Executive Director  
Tennessee Regulatory Authority  
c/o Sharla Dillon  
502 Deaderick Street, Fourth Floor  
Nashville, Tennessee 37243

**Re: *Petition of Piedmont Natural Gas, Inc. for Approval of a CNG Infrastructure Rider to Its Approved Rate Schedules and Service Regulations***  
**Dockets No. 14-00086 and 14-00087**

Dear Mr. Taylor:

Enclosed please find an original and five (5) copies of Piedmont Natural Gas Company Inc.'s ("Piedmont" or "Company") Rebuttal Testimony of Pia K. Powers and Ken Valentine.

This material is also being filed today by way of email to the Tennessee Regulatory Authority docket manager, Sharla Dillon. Please file the original and four copies and stamp the additional copy as "filed." Then please return the stamped copy to me by way of our courier.

Should you have any questions concerning this matter, please do not hesitate to contact me at the email address or telephone number listed above.

With kindest regards, I remain

Very truly yours,

R. Dale Grimes

Enclosures

cc: Melvin Malone, Esq.  
Wayne Irvin, Esq.  
Sharla Dillon (via email)

**Before the  
Tennessee Regulatory Authority**

**Docket No. 14-00086**

**Petition of Piedmont Natural Gas Company, Inc.  
for Approval of a CNG Infrastructure Rider  
to Its Approved Rate Schedules and Service Regulations**

**Rebuttal Testimony  
of  
Pia K. Powers**

**On Behalf of  
Piedmont Natural Gas Company, Inc.**



**December 22, 2014**

1 **Q. Please state your name and your business address.**

2 A. My name is Pia K. Powers. My business address is 4720 Piedmont Row  
3 Drive, Charlotte, North Carolina.

4 **Q. What is your position with Piedmont Natural Gas Company, Inc.**  
5 **(“Piedmont”)?**

6 A. I am employed as Director - Regulatory Affairs.

7 **Q. Have you previously testified in this proceeding?**

8 A. Yes. I prefiled testimony in this proceeding on October 7, 2014.

9 **Q. What is the purpose of your rebuttal testimony in this proceeding?**

10 A. The purpose of my rebuttal testimony is to respond to several matters raised  
11 and positions taken by witnesses for the Consumer Advocate and Tennessee  
12 Fuel and Convenience Store Association (“TFCA”) in this docket.  
13 Specifically, I will address concerns raised by those witnesses in the  
14 following areas: (1) potential subsidization of CNG sales by other Piedmont  
15 customers; (2) alleged non-compliance of Piedmont’s proposals with  
16 Tennessee law; (3) the potential for antitrust concerns over Piedmont’s  
17 proposals; and (4) the asserted non-compliance of Piedmont’s proposals  
18 with T.C.A. § 65-5-103(d).

19 **Q. Before addressing these points, do you have any general reactions to the**  
20 **direct testimony of the Consumer Advocate witnesses Novak and Klein**  
21 **and TFCA witnesses Jones and Carr?**

1 A. Yes. I was somewhat surprised by the positions taken in this proceeding by  
2 these witnesses because they raise entirely different issues than were  
3 presented by Piedmont's petitions in this docket. In our petitions we simply  
4 requested: (1) adjustments of our previously approved CNG vehicular fuel  
5 rate schedule in order to facilitate the broader availability of natural gas to  
6 the public within our service territory (including the availability of natural  
7 gas to potential CNG sales competitors that might want to transport natural  
8 gas over our system in order to then resell to the public in compressed form  
9 as CNG); and (2) to implement an alternative ratemaking mechanism under  
10 T.C.A. § 65-5-103(d) to accelerate Piedmont's recovery of capital related  
11 expenses associated with investment in natural gas fueling equipment for  
12 motor vehicles. While some of the Consumer Advocate's and TFCA's  
13 testimony addresses these issues, a significant part of their testimony is  
14 focused on a single question that the TRA has previously answered – which  
15 is whether Piedmont's CNG sales for motor vehicle fuel use should be a  
16 regulated service.

17 **Q. What is your reaction to this approach by the Consumer Advocate and**  
18 **the TFCA?**

19 A. I am disappointed in this approach for a number of reasons. This threshold  
20 question was answered affirmatively by the TRA in approving the  
21 Stipulation between Piedmont and the Consumer Advocate in Piedmont's  
22 last general rate case proceeding. The TFCA was not a party to that

1 proceeding, even though Piedmont's Rate Schedule 342 providing for CNG  
2 motor fuel sales was a part of that proceeding from Piedmont's initial filing.  
3 The Consumer Advocate, on the other hand, was an active party to that  
4 proceeding and expressly agreed to the approval of Rate Schedule 342 as  
5 part of the Stipulation. What's more, Consumer Advocate witness Novak,  
6 who now recommends that CNG service be deregulated, expressly  
7 supported the provision of CNG sales service by Piedmont as a regulated  
8 service in his testimony in that rate case docket.

9 Having received approval of the TRA, with the support of the Consumer  
10 Advocate, for the provision of CNG sales as a regulated utility service in the  
11 last rate case proceeding, Piedmont proceeded to work to develop the CNG  
12 market as a part of its regulated utility activities. In doing so, Piedmont  
13 invested significant capital in that effort. Our decision to invest that capital  
14 was very much dependent upon the presumption of rate base treatment for  
15 the investment. Only now, after several years of Piedmont providing  
16 regulated CNG sales service to the public pursuant to an approved tariff and  
17 investing almost \$5 million in new capital to facilitate customer growth for  
18 that service, do the Consumer Advocate and TFCA challenge the legal basis  
19 for such service.

20 **Q. Is their approach fair and reasonable?**

21 A. No, it is not. In fact, it is highly prejudicial. Piedmont should have the right  
22 to rely on Authority determinations as to the regulated or non-regulated

1 nature of the services it offers unless and until that determination is changed  
2 on a prospective basis. Piedmont should not be faced with the potential for  
3 reclassification of prior investments made in reliance on a valid Authority  
4 determination that a service is properly provided as a utility service.

5 **Q. Could you please address the contention raised by both the Consumer**  
6 **Advocate and TFCA witnesses that Piedmont's CNG sales service is**  
7 **"subsidized?"**

8 A. Yes. In my opinion this contention is based upon an incomplete view of the  
9 nature of regulated CNG sales service and the various factors that go into  
10 establishing utility rate structures for Piedmont. It is not a compelling basis  
11 upon which to either reject Piedmont's proposals in the dockets at hand or to  
12 deregulate CNG sales service.

13 **Q. Please explain.**

14 A. The TFCA and Consumer Advocate witnesses appear to conclude that  
15 Piedmont's CNG rates will be "subsidized" because the proposed IR  
16 mechanism calls for interim recovery of capital-related costs from  
17 Piedmont's broader customer base. This conclusion, however, is too  
18 simplistic. If the Authority is inclined to examine potential issues of  
19 subsidization with respect to CNG (or any other natural gas service provided  
20 by Piedmont), it would need to review the totality of Piedmont's cost  
21 structures and revenue collections for each of Piedmont's customer classes,  
22 like it does in a general rate case proceeding. Only then can a conclusion be

1 reached as to whether one class of customers may be subsidizing other  
2 classes of customers. None of that analysis, or the evidence which is  
3 required to support it, has been provided by the TFCA and Consumer  
4 Advocate witnesses.

5 Piedmont's regulated utility rates are established primarily on the basis of  
6 two factors. The first is a customer class allocation of Piedmont's "revenue  
7 requirement" determined by the Authority to be just and reasonable in the  
8 context of a general rate case proceeding, and the second is an allocation of  
9 upstream transportation and commodity supply costs. In determining the  
10 appropriate allocation of Piedmont's revenue requirement by customer class,  
11 a multitude of factors are examined, only one of which is an assigned "cost"  
12 of providing service to each particular customer class. This "cost" by  
13 customer class is typically determined through the use of class cost-of-  
14 service analyses which can, and typically do, result in varying results when  
15 put forth for varying entities. The Authority has never, to the best of  
16 Piedmont's knowledge, adopted a specific class cost-of-service study in  
17 approving rates and has never found a specific cost of providing service to  
18 various customer classes. Instead, the various class cost-of-service studies  
19 presented to the Authority are simply treated as some evidence of the  
20 appropriate allocation of the approved revenue requirement to Piedmont's  
21 various customer classes.

1       To further complicate matters, it is not true that even the imputed cost-of-  
2       service for any customer class that may result from a specific class cost-of-  
3       service study applies evenly across customers in that class. To the contrary,  
4       the incremental cost of providing service to any discrete individual customer  
5       depends on a number of factors including usage characteristics, location, age  
6       and size of facilities used to provide service, etc. In setting rates though, it  
7       is neither possible nor practical to determine cost allocation below a  
8       customer class level.

9       Finally, the concept of “subsidization” is not a static proposition. Because  
10      Piedmont collects much of its allowed margin on a per therm basis, the  
11      usage characteristics of a particular customer class, particularly if that  
12      customer class’ usage is growing, relative to the usage patterns of other  
13      customer classes, can have a profound impact on the contribution of any  
14      customer class to the Company’s overall revenue. As was testified to by  
15      Mr. Valentine in his direct testimony, CNG sales for vehicular use are a  
16      rapidly expanding market and even if the total costs of providing retail CNG  
17      service are not collected wholly from CNG retail customers currently, which  
18      has not been shown, it does not mean that this will remain the case. With  
19      the recent and projected growth in this market, it could easily be the case  
20      that CNG service will end up “subsidizing” other customer services in the  
21      relatively near term. However, there is not enough evidence in this case to



1 reach any conclusions about what services may be subsidizing other services  
2 on Piedmont's system.

3 The logical result of these unavoidable realities in setting utility rates is  
4 that (i) utility rates are not established upon or reflective of the actual costs  
5 of providing service to any single customer or even to any group of  
6 customers, (ii) "subsidization" between varying customer classes and even  
7 within customer classes is therefore endemic to the ratemaking process, (iii)  
8 the relative contributions to Piedmont's overall revenue requirement by  
9 distinct customer classes can change over time; and (iv) there is no evidence  
10 in this case that would allow any of the participants to reasonably conclude  
11 that CNG service will be subsidized by other customers. These are not  
12 flaws in the ratemaking process, they are simply the practical reality of what  
13 is reasonably achievable in the area of cost allocation and the application of  
14 sound and long-established rate-making principles that treat purported costs  
15 of service as one of many factors to be considered in establishing utility  
16 rates recognizing that costs and revenue contributions by distinct customer  
17 classes can change over time.

18 In this context, it is not particularly meaningful to simply contend that  
19 CNG sales service rates will be subsidized by other customers if Piedmont's  
20 proposals in the dockets at hand are accepted.

21 **Q. So, are you saying that alleged subsidization could never be a basis for**  
22 **rejecting utility proposed rates?**

1 A. No. We frequently hear arguments in rate cases that one class of customers  
2 is unfairly being required to subsidize another class of customers, typically  
3 in the context of varying rates of return for individual customer classes  
4 reflected in class cost-of-service studies, and those arguments may be  
5 considered but they can only be considered in a meaningful way if all of the  
6 factors involved in determining rates are presented and examined. The mere  
7 unsupported allegation of subsidization, as presented by the Consumer  
8 Advocate and TFCA in this case, does not establish any impropriety in  
9 Piedmont's proposed interim rate recovery mechanism for CNG related  
10 capital costs.

11 **Q. What do you say to the Consumer Advocate and TFCA arguments that**  
12 **alleged subsidization by non-CNG customers is either substantively**  
13 **unfair or represents a barrier to entry for competitors?**

14 A. The existence of a regulated utility CNG sales service may have the  
15 potential to be unfair and/or a barrier to entry to third-parties that desire to  
16 sell CNG as a motor vehicle fuel in competition with Piedmont. I strongly  
17 dispute that this potential risk has been shown to exist in this case and there  
18 are several reasons to feel confident that it will not manifest in the future.

19 **Q. Please explain.**

20 A. First, I would note that having identified alleged subsidization as a potential  
21 threat to competitors, the TFCA and the Consumer Advocate have not  
22 presented even a single fact to suggest that such a threat is real. Second,

1 let's examine the actual situation on the ground in Tennessee. For this  
2 purpose, let me point to the example of two existing Piedmont customers  
3 who sell CNG in purported competition with Piedmont. I say purported  
4 competition because the nascent CNG sales market in Tennessee has so few  
5 service providers at this point that it is not truly competitive in any  
6 meaningful sense.

7 The two customers I am referring to are Waste Management and Trillium,  
8 both of whom provide CNG sales service in the greater Nashville area.  
9 Waste Management sells CNG to the public as an ancillary service to its use  
10 of its own compression facilities to fuel its own fleet of waste collection  
11 vehicles. In this regard, any revenues received by Waste Management  
12 above the incremental cost of the product delivered to public customers  
13 represents profit because all of the other costs of making CNG available for  
14 public purchase were incurred by Waste Management to fuel its own fleet.  
15 One could attempt the argument that Waste Management's public sale of  
16 CNG is subsidized by its waste removal and disposal business but no one  
17 would contend that such a fact – assuming it is true – is either unfair or an  
18 illegal barrier to competitive entry.

19 **Q. So what is the point you are making?**

20 **A.** My point is that the cost structures of any provider of CNG sales service are  
21 likely to be different. Because of this circumstance, it is not unlikely that

1       some aspects of a provider's business structure may be more profitable, and  
2       therefore subsidize, other aspects of its business structure.

3       **Q.   Could Piedmont potentially unfairly benefit from its proposed cost**  
4       **structures in providing CNG sales service or inadvertently create a**  
5       **barrier to entry?**

6       A.   Piedmont is probably the least likely party to be in a position to do that  
7       because its rates are fully regulated by the Authority, it is subject to laws  
8       and regulations that prohibit it from charging unduly discriminatory rates,  
9       and because the critical element in any competition for service in a fully  
10      competitive market is price, not internal cost structures.

11      **Q.   Well isn't it true that Piedmont could price its CNG sales service at an**  
12      **artificially low level to inhibit competition or create a barrier to entry?**

13      A.   I don't think so.

14      **Q.   Why not?**

15      A.   Such action would be directly contrary to Piedmont's stated goal (and  
16      demonstrated practice) of expanding the availability and adoption of CNG  
17      as a motor fuel in our service territory. Our long term best interests are for  
18      this market to develop and grow. To that end, we have provided education  
19      and support to early adopters of this alternative fuel technology and are now  
20      petitioning for approval of an experimental Rate Schedule 343 which  
21      provides the option for transportation service for large volume natural gas  
22      customers such as Trillium and Waste Management. It is important to

1 recognize that Piedmont is the certificated provider of natural gas within our  
2 service territory, and the proliferation of stations that sell CNG to the public  
3 will directly benefit us (and through periodic rate cases, benefit all of our  
4 customers) as we will be the provider of the underlying natural gas sales  
5 and/or transportation service to those CNG sales competitors. Therefore,  
6 any action we take to inhibit the development of the CNG sales market, such  
7 as trying to eliminate competition in the provision of retail CNG sales  
8 service, would be contrary to our demonstrated support for this market and  
9 our own long-term economic best interests.

10 As a regulated utility we are subject to full regulation of our rates by the  
11 Authority and are prohibited from engaging in unduly discriminatory  
12 conduct with respect to our pricing. In order to obtain approval to put rates  
13 into effect, the Authority must find that they are just and reasonable and  
14 consistent with the public interest. In order to believe the Consumer  
15 Advocate's and the TFCA's subsidization arguments, you would have to  
16 accept that the TRA would go along with unjust and unreasonable rates and  
17 that simply is not an assumption Piedmont is willing to make. I would also  
18 submit that neither the TFCA nor the Consumer Advocate have presented  
19 any evidence that Piedmont's CNG sales rates, which have been public  
20 record for more than two years, are unjust or unreasonable or are otherwise  
21 substantively unfair to potential third-party providers of CNG service.

1   **Q.   What do you say to the arguments that the legislative history of T.C.A.**  
2       **§ 65-5-103(d) prohibits the subsidization alleged to exist by the TFCA**  
3       **and Consumer Advocate witnesses?**

4   A.   My first response would be to refer to the discussion of alleged  
5       subsidization issue set forth above. Second, I would say that my reading of  
6       the legislative committee testimony is that Chairman Allison was simply  
7       and accurately responding to the question of whether the legislation that was  
8       codified as T.C.A. § 65-5-103 would create subsidization of CNG service.  
9       His response, which was entirely accurate in my view, was that the  
10      legislation would not do that because it was procedural in nature. This  
11      response did not preclude or limit any future action by the TRA under the  
12      statute (which could have been easily done by the legislature) which is only  
13      required to find that a proposed mechanism under the statute is in the public  
14      interest.

15   **Q.   In his direct testimony, TFCA witness Jones argues that Piedmont's**  
16       **CNG proposals are contrary to a number of Tennessee statutes**  
17       **governing Piedmont's rates and rate recovery mechanisms, do you**  
18       **agree?**

19   A.   No, I do not. I am not a lawyer and, therefore, I am somewhat hesitant to  
20       give testimony on the import of statutes, but my review of those statutes  
21       leads me to conclude that Mr. Jones is over-stating the risk that Piedmont's  
22       proposals would violate those statutes.

1 **Q. Can you explain?**

2 A. Yes. Mr. Jones contends that Piedmont's proposed CNG IR mechanism is  
3 not expressly allowed by T.C.A. § 65-5-103. I find this assertion strange in  
4 that this statute merely establishes procedures for consideration of a variety  
5 of, only generally described, alternative ratemaking mechanisms. In that  
6 regard, I think it would be fair to say that the statute doesn't expressly allow  
7 any individual alternative ratemaking mechanism, but that it does provide a  
8 framework for public utilities to propose such mechanisms and to have those  
9 proposals evaluated by the TRA. Piedmont's proposal in this docket to  
10 implement a CNG infrastructure rider mechanism falls squarely within the  
11 described categories of alternative ratemaking mechanisms in the statute and  
12 in my opinion is fully appropriate for consideration by the Authority in this  
13 docket.

14 **Q. Does Mr. Jones suggest that Piedmont's proposals violate any other**  
15 **Tennessee statutes?**

16 A. Yes. He contends that Piedmont's proposals violate T.C.A. § 65-4-122 and  
17 § 65-4-115, and § 65-5-104.

18 **Q. Do you agree?**

19 A. No, I do not. T.C.A. § 65-4-122 prohibits Piedmont from charging  
20 discriminatory rates to customers receiving the same services who are  
21 similarly situated. First of all, Piedmont is very aware of its statutory  
22 obligations in this regard and its proposals in this docket are not contrary to

1 this statutory prohibition. In fact, Piedmont has expressly acknowledged its  
2 obligations in this regard by proposing to adjust rates on a not unduly  
3 discriminatory basis. In the absence of any facts that would tend to  
4 demonstrate a different interpretation of the law or intent on Piedmont's  
5 part, Piedmont does not believe that this concern by Mr. Jones provides any  
6 basis for rejecting Piedmont's proposals in this docket.

7 **Q. What about T.C.A. 65-4-115?**

8 A. Mr. Jones asserts that Piedmont's proposals violate this statute but he does  
9 not discuss this alleged violation in his testimony. I have reviewed T.C.A. §  
10 65-4-115 and I do not agree that Piedmont's proposals will violate this  
11 statute. This statute prohibits Piedmont from adopting, maintaining, or  
12 enforcing any regulation, practice or measurement which is unjust,  
13 unreasonable, unduly preferential or discriminatory.

14 **Q. What about T.C.A. § 65-5-104?**

15 A. This statute prohibits Piedmont from making, imposing, or exacting any  
16 unreasonable, unjustly discriminatory or unduly preferential individual or  
17 joint rate, or special rate, toll, fare, charge or schedule for services which it  
18 provides.

19 **Q. Do the tariff modifications Piedmont has proposed in this docket violate**  
20 **either T.C.A. § 65-4-115 or T.C.A. § 65-5-104?**

21 A. No, they do not. Our proposals in this proceeding are to clarify and expand  
22 the terms upon which we will provide CNG sales or transportation service to



1 customers and to implement an alternative ratemaking mechanism for the  
2 interim and accelerated recovery of capital related expenses associated with  
3 the utility investment in CNG facilities. Nothing about those proposals is  
4 unfair, unjustly discriminatory, unreasonable, or unduly preferential either in  
5 design or intent.

6 **Q. Why do you believe Mr. Jones is making the argument that Piedmont's**  
7 **proposals violate these statutes?**

8 A. My interpretation is that he is concerned that the operation of Piedmont's  
9 CNG tariffs could somehow negatively impact a competitive market for  
10 CNG.

11 **Q. What do you think about that concern?**

12 A. I think it is a fair question to raise but there is absolutely no evidence that  
13 this will happen and, as I discussed earlier, the TRA could easily remedy the  
14 situation if Piedmont attempted to engage in unlawful behavior, which it  
15 would not do in any case.

16 **Q. Do you have any response to Consumer Advocate witness Klein's**  
17 **concerns that Piedmont's proposed tariffs will create a "price squeeze"**  
18 **for independent CNG sellers?**

19 A. I have two problems with that contention. The first is that it assumes that  
20 Piedmont will engage in illegal and anti-competitive behavior and there is  
21 absolutely no evidence to support such an assumption. Second, it also  
22 assumes that the Authority would allow such a situation to exist.

1       Piedmont's provision of CNG service to the public, if it remains a regulated  
2       utility service, will be provided under the direct supervision of the TRA and  
3       that supervision will be continuous. If Piedmont determined to engage in  
4       unlawful and anti-competitive behavior with respect to its sale of CNG of  
5       the sort forecast by Dr. Klein (which it would not do in any event) the  
6       situation could be easily remedied by this Authority.

7       **Q. Does this conclude your rebuttal testimony?**

8       **A. Yes.**

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the attached document was served upon the parties in this action by electronic mail and by depositing a copy of the same in the United States Mail, First Class Postage Prepaid, addressed as follows:

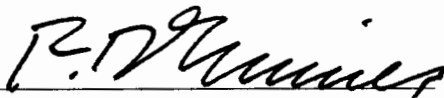
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This the 22<sup>th</sup> day of December, 2014.

  
\_\_\_\_\_