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January 22, 2015

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") Post-Hearing Brief.

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. (via email)
Wayne Irvin, Esq. (via email)
Sharla Dillon (via email)

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

IN RE:)	
)	
PETITION OF PIEDMONT NATURAL GAS)	
COMPANY, INC. FOR APPROVAL OF)	Docket No. 14-00086
A CNG INFRASTRUCTURE RIDER TO ITS)	
APPROVED RATE SCHEDULES AND SERVICE)	
REGULATIONS)	
)	
TARIFF TO REVISE THE NATURAL GAS)	
VEHICLE FUEL TARIFF AND INTRODUCE)	Docket No. 14-00087
AN EXPERIMENTAL MOTOR VEHICLE FUEL)	
SERVICE TARIFF)	

PIEDMONT NATURAL GAS COMPANY POST-HEARING BRIEF

Piedmont Natural Gas Company, Inc. ("Piedmont" or the "Company"), through counsel and pursuant to the January 8, 2015 Pre-Hearing Order respectfully submits its Post-Hearing Brief for consideration by the Tennessee Regulatory Authority ("TRA" or "Authority") in this proceeding.

BACKGROUND

In Piedmont's last general rate case proceeding, in Docket No. 11-00144, the Company filed for approval of a new Rate Schedule 342 designed to allow Piedmont to sell natural gas to customers at its Nashville Resource Center facility for use as a motor vehicle fuel ("CNG") and to work with larger fleet type customers to make CNG available at their operations centers. Piedmont proposed this tariff because in the process of converting its service fleet to CNG it had constructed compression and fueling facilities at its Nashville Resource Center on Century Boulevard and had received requests from citizens and local companies interested in refueling from those facilities. In addition, a number of fleet operators began to request access to Piedmont's CNG facility for fueling use and were also considering the construction of CNG

compression and metering equipment on their own property. Piedmont's proposed Rate Schedule 342 was intended to allow Piedmont to begin serving this new market and was approved by the Authority as part of a settlement between Piedmont and the Consumer Advocate in that proceeding without objection from any party. Mr. Novak, a witness for the Consumer Advocate in both this case and the general rate case, testified in support of that tariff as part of his settlement testimony in the rate case.¹

Following approval of the rate case settlement between Piedmont and the Consumer Advocate, which occurred in early 2012, Piedmont proceeded to provide service to a small but growing number of customers at its Century Boulevard location and also began discussions with various fleet customers about the provision of CNG service at their locations. In the intervening two years, demand for CNG at both Piedmont's Century Boulevard location and at individual fleet customer locations increased significantly. As retail sales of CNG began to grow, Piedmont determined that the Century Boulevard facilities were not ideally suited for large volume service to the public because Piedmont's compression and dispensing equipment were located inside its security fence and because the space around those facilities was constrained. As a result of these concerns, Piedmont designed and constructed a second public CNG station

¹ In the Order approving that settlement, the Authority specifically noted that Piedmont and the Consumer Advocate agreed "that the revised rates, tariffs, rate schedules, and service regulations...both individually, and in the aggregate, are fair and reasonable to all customer classes and will provide Piedmont with a reasonable opportunity to recover the agreed upon operating revenue requirement and a reasonable rate of return on investment." Further, the Stipulation and Settlement Agreement between Piedmont and the Consumer Advocate specifically stated that the Consumer Advocate agreed that the "revised rate schedules and service regulations...are fair and reasonable and should be approved by the Authority to be effective March 1, 2012." The adoption of those provisions, in particular Rate Schedule 342, were supported by the testimony of Consumer Advocate witness Novak:

Q27. What is the CAPD's position with respect to the Company's proposal to implement a natural gas tariff?

A27. The Company has proposed a new Rate Schedule 342 for Natural Gas Vehicle Fuel. The Company has also proposed a monthly customer charge of \$40 and a consumption charge of \$0.23109 per therm. The CAPD believes that the prospects for the natural gas fuel market are good and that this customer group may eventually develop and contribute to the recovery of the Company's common costs. The CAPD therefore supports the Company's initial proposal for this rate schedule until the next rate case.

on Spence Lane approximately 3 miles from its Century Boulevard facilities and in proximity to interstate highways. This station has seen increasing usage since it was constructed in June of last year. Piedmont continues to talk with fleet and other commercial businesses about converting to natural gas use and has tentative plans to add one other public fueling facility in the Nashville area in the next few years.

As Piedmont's capital investment in CNG infrastructure has increased – it is currently approximately \$4.7 million – Piedmont began to consider the need to start recovering costs associated with its CNG infrastructure investment. Inasmuch as these costs are not included in existing rates, Piedmont had two possible approaches to start recovering on these CNG infrastructure investments: (1) file a general rate case, or (2) seek approval of an alternative ratemaking mechanism under the provisions of T.C.A. § 65-5-103(d) authorizing such treatment for alternative motor vehicle fuel infrastructure investment. Piedmont chose the latter option and filed its Petition for alternative ratemaking with the Authority on August 29, 2014 in Docket No. 14-00086. Concurrently, in Docket No. 14-00087, Piedmont also filed proposed revisions to its existing approved Rate Schedule 342 and a new Experimental Rate Schedule 343. The proposed revisions to Rate Schedule 342 were designed to limit service under that rate schedule to customers receiving service directly from Piedmont owned compression and dispensing equipment. Piedmont's Experimental Rate Schedule 343 was designed to allow customers to receive gas for CNG purposes for their own use or for resale under the prevailing general rate schedule for which they qualified for service.

After the submission of prefilled testimony and exhibits, and an evidentiary hearing, these proposals are now before the Authority for decision. For the reasons discussed herein, Piedmont respectfully submits that the Authority should approve Piedmont's proposed tariffs and allow to Piedmont to provide continued and expanding CNG service to the public in Tennessee consistent with the public interest inherent in such service.

DISCUSSION

I. **Piedmont's Tariff Proposals are Just and Reasonable and in the Public Interest.**

A. Piedmont's Rate Schedule 342 Revisions and Proposed Experimental Rate Schedule 343 are Just and Reasonable and should be approved.

1. Piedmont's Proposed Revisions to Rate Schedule 342 are Just and Reasonable.

Under Piedmont's existing Rate Schedule 342, Piedmont is authorized to provide CNG services and to charge both a monthly and volumetric charge for service. The Company is also authorized to charge up to \$0.50 per therm in addition to the base rates in order to compensate the Company for use of Company compression equipment in providing CNG service and Rate Schedule 342 also provides for the collection of federal, state and local motor vehicle fuel taxes. Under current Rate Schedule 342, Piedmont has served CNG providers and provided direct retail CNG service to Tennessee CNG vehicle owners since 2012. Since that time, Piedmont has experienced significant and increasing public demand for CNG service and has invested approximately \$4.7 million of additional capital in CNG related infrastructure. This service has been provided and investment made without complaint from any party that Piedmont's provision of CNG service is contrary to the public interest, in violation of law, or anti-competitive.

Piedmont's proposed revisions to Rate Schedule 342 do not, in any way, expand the scope of CNG services currently being provided by the Company. Current Rate Schedule 342 allows the Company to provide retail CNG services with specific provisions that include a charge for compression and the assessment of a highway motor vehicle tax charge if applicable. Revised Rate Schedule 342 and the accompanying proposed Experimental Rate Schedule 343 merely serve to bifurcate Piedmont's provision of CNG service into "sales service provided through Piedmont-owned compression facilities" and "sales/transportation service to third-parties who will provide their own compression." Accordingly, Revised Rate Schedule 342 does not expand the jurisdictional status of current services and is, in fact, narrower in scope

than current Rate Schedule 342. Revised Rate Schedule 342 also reflects the exact same rates and service charges approved in Piedmont's last rate case. Inasmuch as revised proposed Rate Schedule 342 reflects a narrower definition of CNG service (at the same rates) compared to existing Rate Schedule 342, the Authority's approval should follow as a matter of course.

2. Experimental Rate Schedule 343 is Just and Reasonable.

Similar to Revised Rate Schedule 342, Experimental Rate Schedule 343 falls within the scope of Piedmont's currently approved provision of natural gas CNG related services. The proposed experimental tariff is designed to make natural gas available to customers at their premises under approved general residential, commercial and industrial service schedules, the only distinction being that the end use of the gas is CNG. Piedmont proposed this rate schedule in part to allow high-volume customers to transport natural gas on the Company's system for CNG use and in part to facilitate sales-for-resale by such customers.² Experimental Rate Schedule 343 was designed to respond to customer demand and to facilitate growth in the Nashville CNG market, which as is explained by Mr. Valentine, depends upon fostering growth in the number of publicly accessible CNG fueling facilities.³ Individual and large-scale motor fleet operators are reluctant to transition to CNG without assurances that there will be sufficient numbers of accessible and convenient filling locations. Proposed Experimental Rate Schedule 343 will help satisfy that need by making CNG more widely available at lower cost transportation rates, particularly to third-party providers.⁴

² Sales for resale are generally otherwise prohibited by Piedmont's tariffs.

³ Valentine Supplemental Test. p. 9., ll. 13-20.

⁴ Good examples of this phenomenon are Trillium CNG ("Trillium") and Waste Management, Inc. ("Waste Management"). Both companies regularly used Piedmont's Nashville CNG stations for their CNG fleet requirements until their own stations were constructed. Presently, Piedmont provides natural gas services to the Trillium and Waste Management facilities where the companies compress the gas utilizing their own equipment. Although both companies have been open less than a year, those stations have dispensed over 476,000 therms of gas. Both of the stations are open to the public, which has increased the number of available CNG filling stations in the Nashville area.

In this docket, both Consumer Advocate witnesses recommended approval of Experimental Rate Schedule 343 without any proposed revisions.⁵ Consumer Advocate witness Dr. Klein specifically noted that Rate Schedule 343 "will promote the development of the retail CNG vehicle fuel market."⁶ Based on the foregoing evidence, the Authority should approve proposed Experimental Rate Schedule 343.

3. The Authority Should Approve Piedmont's Revised Rate Schedule 342 and its Experimental Rate Schedule 343.

Increasing public access to CNG services clearly is in the public interest. Piedmont has contributed to the growth of CNG use within its territory through its provision of regulated CNG services under its current Rate Schedule 342. The Company has not proposed to fundamentally change the nature of the CNG services it currently provides under Rate Schedule 342. Instead, it has restructured that service into two rate schedules and has added a transportation option and authorized sales for resale, both of which facilitate competitive retail service by third-party providers. Neither the Tennessee Fuel and Convenience Store Association ("TFCA") nor the Consumer Advocate have identified any aspect of the manner in which Piedmont provides CNG service, either currently or as proposed, that would render such service or the terms under which it is offered, unjust or unreasonable.⁷ Accordingly, Piedmont requests that the TRA approve its proposed revisions to Rate Schedule 342 and its proposed Experimental Rate Schedule 343 as filed.

B. Piedmont's Proposed Rate Schedule 318 is in the Public Interest.

In Docket No. 14-00086, Piedmont filed a proposed new Rate Schedule 318 which, if approved by the Authority, will implement a new alternative ratemaking mechanism designed to allow Piedmont to recover, on an intra-rate case basis, the capital related costs associated with

⁵ Piedmont addresses the objections by TFCA witness Jones to the lawfulness of its proposed rate schedules later in this Brief.

⁶ Klein. Direct Test. P 12, ll. 17-18.

⁷ Piedmont addresses the various specific criticisms and concerns raised by the TFCA and Consumer Advocate witnesses below in Section II of this Brief.

investment in new CNG infrastructure. This filing, which was made under the authority provided by T.C.A. § 65-5-103, is designed to facilitate recovery of capital related costs incurred by Piedmont since the end of the attrition period in its last general rate case and any additional CNG related capital costs incurred prior to its next general rate case. This alternative regulation mechanism will allow Piedmont an opportunity to recover some (but not all) of the costs of investments in new CNG fueling equipment which Piedmont is not currently recovering in its rates. It will also reduce pressure on the need for Piedmont to file a new rate case in order to place these CNG related capital investments into rate base and rates. As is explained in detail below, Piedmont's request to implement an alternative ratemaking mechanism to address new CNG fueling related capital investment is fully consistent (and compliant) with the provisions of T.C.A. § 65-5-103, is in the public interest, and should be approved by the Authority on that basis.

Section 65-5-103 of the Tennessee Code is entitled "Changes in utility rates, fares, and schedules – Implementation of alternative regulatory methods to allow for public utility rate reviews and cost recovery in lieu of a general rate case proceeding" and sets forth in subsection (d)(3) thereof, a statutory regimen for the approval of alternative ratemaking mechanisms relating to a number of specified types of utility projects. That subsection of the Tennessee Code provides, in part, that:

A public utility may request and the authority may authorize a mechanism to recover the operational expenses, capital costs or both related to the expansion of infrastructure for the purpose of economic development, if such expenses or costs are found by the authority to be in the public interest.

T.C.A. § 65-5-103(d)(3)(A). This subsection further provides, with respect to what kinds of infrastructure projects may be eligible for alternative ratemaking mechanisms, that:

Expansion of economic development infrastructure may include, but is not limited to, . . . [i]nfrastructure and equipment associated with alternative motor vehicle transportation fuel.

T.C.A. § 65-5-103(d)(3)(A)(i). Finally, this section of the Tennessee Code provides that:

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 economic development facilities, including the return on such economic development investments at the rate of return approved by the authority at the public utility's most recent rate case . . . upon a finding that such mechanism or adjustment is in the public interest.

T.C.A. § 65-5-103(d)(3)(B). As is discussed below, Piedmont's proposed CNG Infrastructure Rider mechanism meets all of the criteria set forth in Section 65-5-103(d)(3) and is, therefore, properly before the Authority for a determination of the public interest inherent in that mechanism.⁸

Piedmont's proposed CNG IR mechanism, as reflected in Rate Schedule 318 and explained by Piedmont witness Powers, is designed to recover capital related expenses associated with Piedmont investment in new CNG fueling equipment and infrastructure.⁹ As such, Piedmont's application in this docket plainly complies with Section 65-5-103(d)(3)(A). CNG is also indisputably an "alternative motor vehicle transportation fuel" and no party has contended otherwise. This satisfies the criteria of Section 65-5-103(d)(3)(A)(i). Thus, the only question remaining under the statute is whether the types of costs incurred by Piedmont which it seeks to recover through its CNG IR mechanism, and the IR mechanism itself, are "in the public interest." Piedmont respectfully submits that they are both in the public interest based upon the evidence presented at the hearing of this docket as described below.

Evidence presented by Piedmont witnesses Valentine and Powers clearly indicates that existing CNG costs proposed for inclusion in the CNG IR mechanism include the costs of upgrading Piedmont's Century Boulevard Resource Center CNG fueling facilities and the costs of constructing a new public CNG fueling station on Spence Lane, in both instances, to

⁸ TFCA witness Jones contends that 65-5-103(d) does not "specifically permit a regulated utility to offer competing CNG motor fuel services and recover its investment and costs of operations from captive ratepayers" but he neither explains his conclusion – which flies in the face of the plain statutory language – nor cites any legal support for it. Jones Direct Test. p 6., ll. 6-8.

⁹ This amount is referred to as the "CNG Infrastructure Investment Amount" in Service Schedule No. 318 and is defined as "the approved amount of actual capital investment of the Company resulting from the expansion of economic development infrastructure associated with compressed natural gas motor vehicle transportation and not otherwise included in current rate base." Powers Supplemental Test. p. 2., ll. 14-20.

accommodate increased and growing CNG demand and to serve it safely and efficiently.¹⁰ These costs, which total approximately \$4.7 million dollars, were prudently incurred by Piedmont in order to meet public demand for increased access to CNG fueling facilities operated by the Company consistent with Piedmont's approved Rate Schedule 342 service obligations. Piedmont submits that the context (its approved Rate Schedule 342 service obligations), the cause (growing public demand for CNG service), and its response (upgrades/construction of CNG fueling facilities to safely serve the public under Rate Schedule 342), all support the prudence and reasonableness of its actions and the underlying public interest in the costs incurred to provide this service. No party has contended otherwise or presented evidence challenging the prudence, reasonableness or public interest associated with Piedmont's construction of CNG fueling facilities needed to serve the public under its Rate Schedule 342.

All then that is necessary for the Authority to find Piedmont's proposed CNG IR mechanism fully compliant with Section 65-5-103(d)(3), and to approve it, is the conclusion that Piedmont's proposed mechanism is "in the public interest."¹¹ In this case, there is substantial uncontroverted evidence supporting the public interest inherent in Piedmont's proposed mechanism. The initial evidence of the public benefits inherent in expanded CNG usage as a motor fuel is provided in the direct and rebuttal testimony of Piedmont witnesses Valentine and Powers. These benefits include lower greenhouse gas emissions,¹² lowered reliance on foreign oil as a result of the domestic nature of CNG supplies,¹³ direct and ancillary economic development benefits from the production, transportation, compression and sale of this

¹⁰ Witness Valentine made clear in his testimony that the proximate cause for the construction of the Spence Lane facility was the fact that growing demand at Century Boulevard – an active Piedmont Resource Center - was causing space and security issues. Valentine Direct Test. p. 15., ll. 5-21.

¹¹ Significantly, the statute is directive in nature with regard to approval of alternative ratemaking mechanisms. If the Authority concludes that the proposed mechanism is "in the public interest," the Authority "shall" authorize it.

¹² Mr. Valentine testified that "CNG emits 25% less CO2 emissions than gasoline and diesel, 70% less carbon monoxide, and 87% less nitrogen oxides." Valentine Direct Test. p.4., ll. 15-17.

¹³ Valentine Rebuttal Test. p. 11., ll. 11-12.

alternative motor vehicle fuel which accrue all along the production/supply chain,¹⁴ and lowered customer costs for transportation fuel and maintenance.¹⁵ The expansion of the CNG market in Tennessee will also have the ancillary benefit of reducing Piedmont ratepayers' costs associated with the allocation of Company overhead and common expenses between classes of customers.¹⁶ Therefore, a growing CNG customer class will absorb larger and larger shares of Piedmont's common and overhead costs to the benefit of all of its other customer classes. Given the enormous potential of the CNG market and the fact that Piedmont is the only entity well-positioned to supply natural gas to this market (irrespective of who is actually selling it at the retail level) the scope and scale of this potential benefit is very significant.¹⁷

Substantial additional evidence of the public interest inherent in promoting increased CNG usage comes from the Tennessee General Assembly, in the form of Public Chapter No. 423 enacted in 2013 ("Energy Independence Act of 2013" or "EIA"). The EIA, which is entitled "An Act to amend Tennessee Code Annotated, Title 4, Title 67 and Title 68, relative to alternative fuel vehicles and fueling infrastructure" makes a number of changes to various Tennessee statutes to promote and encourage the use of CNG vehicles and the expansion of CNG fueling stations. In adopting these provisions, the General Assembly made a series of findings regarding the benefits of natural gas as a motor fuel and additional conclusory findings that "energy independence is a worthy public policy goal," and that "the advantages of natural gas as an alternative fuel include its domestic availability, widespread distribution infrastructure, low cost when compared with gasoline and diesel fuels, and clean-burning qualities."

¹⁴ Valentine Rebuttal Test. p. 11., ll. 11-27.

¹⁵ Valentine Rebuttal Test. p. 11., ll. 18-20.

¹⁶ Powers Rebuttal Test. p. 10-11., ll. 22, 1-5.

¹⁷ Interestingly, in an analogous situation, the preservation of a customer's contribution to common and overhead costs is the rationale supporting discount rate treatment for large commercial/industrial customers who have alternative fuel options. Under this treatment, other customers keep Piedmont whole for the revenue loss associated with a rate discount on the theory that these customers are better off because the rate discount preserves overhead and common cost-sharing by the customer subject to the rate discount. This could be construed as a type of subsidization of the discount rate customer but it is indisputably in the best interests of all customers and is routinely authorized by the Authority.

Based on these findings, the General Assembly then adopted revisions to the law of the State of Tennessee designed to (1) increase the number of CNG vehicles in state fleets, (2) promote the development of natural gas fueling infrastructure “throughout the interstate highway corridors in Tennessee,” (3) to promote the construction of CNG fueling infrastructure by reducing the taxes associated with owning such equipment (including taxes on utility owned CNG fueling infrastructure),¹⁸ and (4) changing the definition of “energy-efficient motor vehicle” under state law to include “a vehicle powered by natural gas.”¹⁹ These statutory provisions, as well as the express legislative findings upon which they are based, as included in the Energy Independence Act of 2013, provide irrefutable evidence that the State of Tennessee believes that the promotion of expanded CNG usage as a motor fuel is in the public interest.²⁰

Finally, the conclusion that expanded CNG use has been deemed by the Tennessee General Assembly to be in the public interest is supported and ratified by the action of Governor Haslam in signing a multistate Memorandum of Understanding (“MOU”) promoting the expansion of CNG vehicle use and fueling infrastructure. This MOU, a copy of which is attached hereto as Appendix B, is a sweeping statement of policy and position relating to the promotion of CNG vehicle use and the construction of expanded CNG fueling facilities:

The States recognize the benefits and unique attributes of clean burning natural gas and understand the significant opportunity compressed natural gas (CNG) presents to save State and taxpayer dollars by encouraging an energy future that utilizes domestic energy resources to fuel our nation’s transportation needs . . . Simultaneously, the States understand the need for continued development and expansion of CNG fueling infrastructure and should endeavor to encourage private investment, predicated on demonstrating an anticipated increase in State NGVs, to meet growing demand.

¹⁸ The EIA revisions to Section 67-5-601 specifically anticipate utility owned CNG fueling infrastructure - a clear indication of the General Assembly’s anticipation that such infrastructure would be owned by public utilizes. See T.C.A. § 67-5-601(f).

¹⁹ T.C.A. § 4-22-101(d)(2)(F).

²⁰ A copy of the Energy Independence Act of 2013 is attached to this Brief as Appendix A.

MOU, Appendix B, p.1. The signature of Governor Haslam on this MOU represents compelling evidence of the strong public interest of the State of Tennessee in the promotion of CNG vehicle usage and the expansion of CNG fueling infrastructure.

Based on the foregoing laws and evidence, it is beyond reasonable dispute that Piedmont's proposed Service Schedule No. 318 is both compliant with the express provisions of T.C.A. § 65-5-103(d)(3) and in the public interest. Significantly, there has been no evidence presented that undercuts the public benefits of CNG usage presented by Piedmont and confirmed by the State of Tennessee in its statutes and commitments to other States.²¹ The public interest associated with Piedmont's alternative ratemaking mechanism strongly supports approval by the TRA. This public interest is manifest in the multiple benefits to the public of utilization of CNG as a motor fuel, the strong support for expanded CNG usage evidenced in multiple acts of the Tennessee General Assembly (including T.C.A. § 65-5-103), and by the multistate MOU entered into by the State of Tennessee to promote expanded CNG vehicle usage by and within the State of Tennessee. Based upon these facts, the Authority should approve Piedmont's CNG IR mechanism as in the public interest.

II. The Objections to Piedmont's Proposals Raised by the Consumer Advocate and TFCA are speculative, hypothetical and otherwise without merit.

A. Jurisdictional status of CNG service.

The Authority currently regulates CNG services provided by public utilities in Tennessee. Despite the current objections by TFCA and Consumer Advocate witnesses, this fact is not in doubt. Any examination of the jurisdictional status of CNG sales and transportation service must start with the recognition that the Authority has already exercised jurisdiction over these activities to the extent they are offered by a public utility. Notably, neither the Consumer Advocate nor the TFCA challenged this assertion of jurisdiction until Piedmont made its filings in

²¹ The TFCA and the Consumer Advocate have raised other issues with Piedmont's proposed CNG IR mechanism, which are discussed later in this brief but none of their objections in any way undermines the clear statements of public interest contained in the MOU and the Energy Independence Act of 2013.

this proceeding. To the contrary, the Consumer Advocate actively supported the Authority's jurisdiction over CNG sales by Piedmont in Piedmont's last rate case.

In addition to this precedent, and the related fact that Piedmont is now and has for two years been offering CNG service to the public as a regulated utility service, there is also ample additional evidence of the propriety of the Authority's exercise of jurisdiction over Piedmont's provision of CNG service. This evidence consists of both multiple statutory provisions that anticipate such service as well as the similarity and consistency of CNG service with Piedmont's other regulated tariff offerings.

With respect to statutory references supporting this Authority's jurisdiction over Piedmont's CNG service, the Directors need look no further than T.C.A. § 65-5-103(d)(3) which expressly permits a public utility like Piedmont to propose alternative ratemaking mechanisms related to cost recovery for investments in alternative motor vehicle fuel infrastructure. CNG is plainly such an alternative motor fuel. As such, it is clear that the legislature anticipated just the scenario presented in this case when enacting Section 65-5-103(d). The same conclusion is supported by various provisions of the Energy Independence Act of 2013, where the General Assembly adopted provisions meant to incent and support utility construction of CNG fueling infrastructure.

With respect to the similarities of CNG service to other natural gas service provided by Piedmont, Piedmont's witnesses testified that CNG service currently is offered as a regulated utility service, that Piedmont's CNG service in North Carolina and South Carolina is offered as regulated utility service, that natural gas is regulated at a large variety of pressures and even varying physical states (liquid and gaseous) throughout the production and delivery chain but that none of these variations cause it to be regulated differently or deregulated, and that the steps Piedmont takes to make CNG available to the public are essentially identical to the steps it takes to make other types of natural gas service available to the public, save and except for the need to physically place it in the fuel tank of a CNG vehicle. Tellingly, it should be noted

that other customers, namely industrial and power generation customers, also require natural gas to be provided under different pressures in order to allow consumption. Furthermore, all natural gas delivered by Piedmont is compressed at some point in order to move it along transmission lines. Hence, there is nothing unique about compressing natural gas as part of the overall delivery chain for end users.

Consumer Advocate witnesses Klein and Novak argue that the lack of a monopoly with respect to the retail provision of CNG service by Piedmont precludes Authority jurisdiction over Piedmont's offering of that service.²² As testified to by Piedmont witness Powers, however, Chapter 65 has no such requirement when discussing the extent of the Authority's jurisdiction over Piedmont or its services to the public. To the contrary, the scope of the Authority's jurisdiction over Piedmont's service offerings has been described as nearly plenary in nature under Chapter 65. As such, it is clear that the Authority may regulate Piedmont's CNG service to the public -- a conclusion consistent with the Consumer Advocate's position in Piedmont's last rate case where it urged the Commission to do just that.

Consumer Advocate witnesses Novak and Klein also claim that compressed natural gas is a fundamentally different product than regulated natural gas services used by homes and businesses but that contention defies common sense given the variety of pressures and physical states natural gas is subjected to while being continuously regulated by federal and state commissions from the production fields to consumer burner tips.²³

Piedmont recognizes and has acknowledged in its filings in this case, that it is at least possible that the retail CNG market could become sufficiently competitive at some point in the future to justify deregulating Piedmont's provision of that service but no evidence in this case supports the notion that this time is now. To the contrary, the evidence establishes that there are only two competitive providers of retail CNG service in Nashville at this time which clearly

²² Klein Direct Test. p 10., ll. 14-18. Novak Direct Test. p. 7., ll 2-6.

²³ Novak Direct Test. p 4., ll. 12-15.

does not establish a competitive market. In this circumstance, it would seem desirable for CNG customers, who have made large investments in CNG vehicles, to have the option to utilize an Authority approved and supervised CNG service provider to ensure that the market remains open for competition.

Based on the foregoing, Piedmont respectfully submits that the Authority has ample jurisdiction to continue to regulate Piedmont's provision of CNG service to the public and that it should exercise that jurisdiction in order to protect the public interest.

B. Alleged subsidization of CNG customers.

Several of the Intervenor witnesses contend that approval of Piedmont's Service Schedule 318 CNG IR mechanism is precluded because of alleged subsidization that would result from its application. This argument is premised primarily on two factors. The first is that the CNG IR mechanism would initially allocate CNG infrastructure costs to all of Piedmont's customers for recovery until the underlying CNG infrastructure is included in rate base in Piedmont's next general rate proceeding. The second is the answers given by then Chairman Allison to questions in two legislative subcommittee hearings considering the legislation that would later become T.C.A. § 65-5-103(d). As is explained below, neither of these factors provides a reasonable basis for the conclusion that a subsidy of CNG customers exists in this circumstance or that its alleged existence bars approval of Service Schedule 318 on the basis that it is contrary to legislative intent.

The issue of whether one rate class (or one type of customer) is subsidizing another rate class (or other type of customer) in utility ratemaking is a complicated and highly fact specific subject. The reason for this complexity is that the costs to serve individual customers are not uniform across rate classes or even within rate classes. This complexity is further exacerbated by the additional fact that utility rates are not typically set solely on the basis of cost. As an example of these complexities, consider the following factors relative to Piedmont's general service offerings: (1) new residential customers cost more to serve than existing residential

customers; (2) residential customers living in high-density urban areas cost less to serve than residential customers living in lower density rural communities; (3) residential customers who live close to existing high pressure mains cost less to serve than customers who are remote from such facilities; and (4) residential customers who have multiple pieces of gas-burning equipment cost less to serve than do residential customers who only utilize natural gas for space-heating purposes. Despite these known and demonstrable differences in the cost profiles of various residential customers, they all pay the same rate for service from Piedmont. The same dynamic of varying costs of service also exist between Piedmont's rate classes. For example, high volume industrial customers typically cost less to serve than residential customers on a per therm basis but typically pay higher rates for that service.

When rates are set for these various customers, relative costs are examined but do not determine rates. In fact, it is the norm that differing customer classes produce varying rates of return for the Company under Authority approved rates. Typically, residential customers produce returns that are below Piedmont's overall allowed rate of return while commercial and industrial customers produce higher rates. These rates of return are determined through class cost-of-service studies which contain various assumptions. As a result, relative rates of return can vary considerably in competing cost-of-service studies prepared by different analysts. Further, calculated rates of return by customer class vary as usage and customer counts change over time. Finally, all customer class rates of return tend to decline over time between rate cases as Piedmont invests new capital in the facilities needed to serve those customers.

In this case, no witness has presented any evidence of the relative rates of return associated with Piedmont's current provision of service to its various customer classes which is necessary to determine if a subsidy exists with respect to Piedmont's proposed IR mechanism.²⁴ Under Authority Rule 1220-1-2-.16(2)²⁵ that burden is clearly on the TFCA and

²⁴ It is not enough to show that Piedmont's non-CNG customers will pay some of the costs of CNG service on an interim basis through the CNG IR mechanism. That fact only reveals something about

the Consumer Advocate inasmuch as they contend that Piedmont's IR mechanism will result in subsidization of CNG service. Without this evidence, it is not possible to reach any determination as to whether any one class of customers is subsidizing any other class. The fact that some level of CNG costs will be recovered from other customers on an interim basis under the CNG IR mechanism does not change that fact but is simply one piece of a puzzle where all the other pieces are missing. Based on the foregoing discussion, it is simply not possible to determine whether or not a subsidy exists with respect to the provision of service to Piedmont's CNG customers on the evidence presented in this case and the TFCA and the Consumer Advocate have failed to meet their burden of proof on that issue.

With respect to the question of whether "legislative intent" precludes approval of Piedmont's CNG IR mechanism, Piedmont contends that the answer to that question is a clear "no" for several reasons. The first is that legislative intent cannot reasonably be derived from a single question asked by only two legislators in two subcommittee hearings. The second is that the statute under consideration in this docket is not ambiguous and in the absence of ambiguity, legislative intent is to be derived from the plain language of the statute in question.

The Tennessee General Assembly, when fully convened, has 33 Senators and 99 Representatives. The evidence of "legislative intent" that the TFCA and the Consumer Advocate rely upon in opposing Piedmont's CNG IR mechanism consists of questions from two Representatives, one of whom expressly identified the TFCA as the source of the question. While this evidence may support an argument that one (and maybe two) Representatives had concerns over possible subsidization of utility offered alternative motor vehicle fuel service, it reveals nothing about how the other 97 Representatives and 33 Senators in the General

Piedmont's cash-flow but it does not answer the much broader question of whether a subsidy between customer classes exists. The broader question requires substantially more information and analysis than has been presented in this docket.

²⁵ Authority Rule 1220-1-2-.16(2) provides that "[t]he burden of proof shall be on the party asserting the affirmative of an issue . . ." In this case, the affirmative of the issue is the assertion that CNG service/rates will be subsidized by operation of the CNG IR mechanism.

Assembly felt about the issue. One could imply a different intent of those legislators, however, based upon the simple fact that the subsequent passage of the act did not mention “subsidization” or otherwise limit the Authority’s power to approve an alternative motor vehicle fuels tracker mechanism. Because of these facts, the reliance of the TFCA and the Consumer Advocate on these questions is misplaced.²⁶

Moreover, reliance on subcommittee questioning of Chairman Allison as evidence of legislative intent is improper under Tennessee law in any event. The law of Tennessee is quite clear on this point. When a statute is clear, the courts must apply its plain meaning. See e.g. Walker v. Sunrise Pontiac-GMC Truck, Inc., 249 S.W.3d 301 (Tenn. 2008); Town of Middleton v. City of Bolivar, 2012 Tenn. App. Lexis 464, 2012, WL 2865960 (Tenn. Ct. App. July 13, 2012). In this case, the statute at issue is clear. T.C.A. § 65-5-103(d) plainly permits the TRA to approve an alternative ratemaking mechanism for recovery of costs associated with investment in alternative motor vehicle fuel infrastructure and the only requirement of such approval is that the Authority find that the costs sought to be recovered and the mechanism through which the costs are to be recovered are in the public interest. There is no subsidization qualification to this standard and no ambiguity in the statute. Accordingly, no additional evidence of legislative intent is permissible.

Based on the foregoing, it is clear in this case that no subsidization has been shown to underlay Piedmont’s proposed CNG IR mechanism and that, even if it were possible to surmise that such subsidization existed, there is no bar to approval of the mechanism created by questions posed to Chairman Allison during the legislative subcommittee process that preceded approval of T.C.A. § 65-5-103(d). As such, the Authority should not withhold approval of Piedmont’s CNG IR mechanism on the grounds of alleged subsidization of CNG service if Piedmont’s mechanism is otherwise found to be in the public interest.

²⁶ To state the obvious, only the questions to Chairman Allison can be considered evidence of legislative intent as his answers reveal nothing about the mental state of the minds of the legislators considering enactment of T.C.A. § 65-5-103(d).

C. Piedmont's Tariff Proposals are Not Anti-Competitive and do not violate Tennessee Law.

Neither the Consumer Advocate nor the TFCA have identified a single instance of actual harm to the public that has occurred as a result of Piedmont's provision of regulated CNG services to the public during the last two years. In contrast, Piedmont has provided substantial evidence of public demand and benefit from its provision of CNG service and its increased plant investment in CNG infrastructure. Instead of providing evidence of actual harm, the TFCA and Consumer Advocate's witnesses have raised purely speculative concerns about possible harms that could arise if Piedmont violates the law in providing CNG service going forward. As Piedmont witnesses Valentine and Powers have testified, however, Piedmont is fully aware of the laws governing its provision of service which prohibit undue discrimination and anti-competitive behavior and has every intention of complying with those laws just as it has complied with them for many years in providing natural gas service to the public in Tennessee.²⁷ The mere possibility that Piedmont could violate them is no basis to deny Piedmont the ability to continue to serve public demand for CNG service and the intervenor witnesses have not shown otherwise.

The TFCA and Consumer Advocate witnesses also claim that Piedmont's proposals would result in unfair advantages over competitors. TFCA witness Carr discusses possible "predatory pricing" and Consumer Advocate witness Klein raises concerns about a potential "price squeeze."²⁸ While both these witnesses speculate about the possibility of such anti-competitive activity by Piedmont neither has produced a shred of evidence either that Piedmont has engaged in anti-competitive behavior in providing CNG service or that it will do so in the future. In fact, Piedmont's proposed Experimental Rate Schedule 343 allows Trillium and Waste Management more flexibility in securing gas supply, and delivery at a lower rate on

²⁷ Powers Rebuttal Test. p. 13-14., ll. 19-22, 1-3.

²⁸ Carr Direct Test. pp. 15-16., ll. 11-17, 1-2. Klein Direct Test. pp. 11-12., ll. 18-23.

Piedmont's system. Again, the mere possibility of bad behavior is no reason to deny Piedmont the ability to provide otherwise desired service to the public.

Even in making their speculative assertions about the potential for unlawful or anti-competitive conduct by Piedmont, the intervenor witnesses failed to perform any current assessment of the Tennessee CNG market or its development. The witnesses do not define the market, identify the potential competitors or evaluate how the Authority's regulation of a public utility's CNG service has impacted the market's growth. With the exception of Dr. Carr, the other three witnesses admit that they have no direct experience with the developing CNG market at all. In failing to apply their economic theories to the actual Tennessee CNG market, the intervenor witnesses have failed to provide any support for their contention that Piedmont's role in this market could be unlawful or result in unfair competition.

Intervenors have also ignored the significant evidence that Piedmont's best interests lie in developing competition in this market and that Piedmont has actively enabled at least two retail competitors in the last two years. Specifically, Piedmont has facilitated the provision of CNG to the public by both Trillium and Waste Management facilities for CNG use. As previously explained, both companies provide CNG services to the public, and in the case of Waste Management also use their facilities for their own fleet. Piedmont's own retail facilities are in competition with Trillium and Waste Management for retail sales but that did not prevent Trillium or Waste Management from constructing their facilities and offering CNG service to the public which they do today. A significant amount of discovery from the Consumer Advocate and TFCA focused on these circumstances,²⁹ yet a review of the intervenor testimony reveals no contention that Piedmont abused its role as a natural gas provider under its approved rate schedules. Instead, Piedmont's conduct under its approved tariffs is much more consistent with

²⁹ TFCA Supplemental Data Request. 22. 23. 24. 27.; TFCA First Data Request. 7.; TRA Staff First Data Request. 3.; Consumer Advocate Supplemental Data Request 12.


Ms. Powers testimony that the Company's interests are aligned with the overall increase of CNG use across the market, not merely at Piedmont-owned facilities.³⁰

The Consumer Advocate and TFCA witnesses have identified no more than speculative possibilities about bad behavior Piedmont "could" or "might" engage in under its proposed tariffs. Piedmont has clearly stated that it recognizes the unlawful nature of the possible bad behavior and has just as clearly indicated that it has no intention of engaging in such behavior. Its conduct over its long history of providing public utility service to the public as well as its conduct providing CNG service over the last two years supports this commitment. Further, even if it chose to engage in bad behavior any aggrieved party would have immediate access to the Authority to remedy that behavior. Under these circumstances, the intervenors' speculative concerns do not provide a basis to deny Piedmont's proposed tariffs in this proceeding.

CONCLUSION

For the reasons discussed above, Piedmont respectfully submits that it has demonstrated that its proposed Rate Schedules 342 revisions, its Experimental Rate Schedule 343, and new proposed Rate Schedule 318 are just and reasonable and otherwise in the public interest. Accordingly, Piedmont respectfully requests Authority approval of those rate schedules.

This the 22d day of January, 2015.



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³⁰ Powers Rebuttal Test. p. 10., ll. 17-18.

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by PDS
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Appendix A

PUBLIC CHAPTER NO. 423

PUBLIC CHAPTER NO. 423

SENATE BILL NO. 852

By Katron, Bell, Tracy

Substituted for: House Bill No. 1272

By Matheny, Sargent, Harrison, Haynes, Swann, Hawk, Dean, Eldridge, Littleton, Jernigan, Shepard, Kevin Brooks, Watson, Forgely, Sparks, Moody, Faison, Weaver, Womick

AN ACT to amend Tennessee Code Annotated, Title 4; Title 67 and Title 68, relative to alternative fuel vehicles and fueling infrastructure.

WHEREAS, the United States consumed nearly eighteen million eight hundred thousand (18,800,000) barrels of oil in 2011; and

WHEREAS, forty-five percent (45%) of the oil consumed was imported from other countries; and

WHEREAS, the petroleum market is a global market, and the price of oil is greatly affected by world events; and

WHEREAS, eighty-five percent (85%) of the natural gas consumed in the United States is produced domestically; and

WHEREAS, U.S. natural gas resources are estimated at one trillion seven hundred billion (1,700,000,000) cubic feet, enough to last one hundred (100) years or more; and

WHEREAS, the newly discovered, domestic natural gas reserves have led to low natural gas prices and price stability. Natural gas prices are unaffected by turmoil in the Middle East; and

WHEREAS, the United States leads the world in natural gas production, but lags in the usage of natural gas vehicles; and

WHEREAS, the price of compressed natural gas is nearly half the price of gasoline or diesel; and

WHEREAS, natural gas powers more than one hundred thousand (100,000) vehicles in the United States and roughly eleven million two hundred thousand (11,200,000) vehicles worldwide and is a good power choice for high-mileage fleets, such as buses and taxis, that are centrally fueled or operate within a limited area; and

WHEREAS, the advantages of natural gas as an alternative fuel include its domestic availability, widespread distribution infrastructure, low cost when compared with gasoline and diesel fuels, and clean-burning qualities; and

WHEREAS, the U.S. Department of Energy found that there are two (2) forms of natural gas which may be used in vehicles and are considered alternative fuels under the Energy Policy Act of 1992: compressed natural gases or liquefied natural gases; and

WHEREAS, the Tennessee general assembly finds that energy independence is a worthy public policy goal; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This act shall be known and may be cited as the "Energy Independence Act of 2013."

SECTION 2. Tennessee Code Annotated, Section 4-3-1109, is amended by deleting the section in its entirety and substituting the following:

4-3-1109.

(a) The commissioner shall encourage the acquisition of energy-efficient and alternative fuel motor vehicles in the fleet of state vehicles. Each year, every effort should be made to achieve a target goal that one hundred percent (100%) of newly purchased passenger motor vehicles be energy-efficient or alternative fuel motor

PUBLIC CHAPTER NO. 423 (cont'd)

vehicles. The department shall ensure that at least twenty-five percent (25%) of newly purchased passenger motor vehicles procured for use in areas designated by the United States environmental protection agency (EPA) as nonattainment areas shall be hybrid-electric vehicles or vehicles powered by natural gas; provided, that such vehicles and fueling infrastructure are available at the time of procurement and such vehicles are purchased at competitive prices. In the event that such vehicles or fueling infrastructure is not available at the time of procurement, the department may instead meet this mandate by procuring compact fuel-efficient vehicles. In areas not designated by the EPA as nonattainment areas, the department shall ensure that at least twenty-five percent (25%) of newly purchased passenger motor vehicles are hybrid-electric vehicles, vehicles powered by natural gas, or compact fuel-efficient vehicles; provided, that such vehicles are purchased at competitive prices.

(b)(1) Commencing June 30, 2013, the commissioner shall compile and maintain information on the nature of passenger motor vehicles that are owned and leased by the state, including, but not limited to:

(A) The number of passenger motor vehicles purchased during the fiscal year categorized by energy-efficiency; and

(B) The number of passenger motor vehicles owned as of June 30 of each year categorized by energy-efficiency.

(2) The commissioner shall file an annual report with the governor and the general assembly concerning such passenger motor vehicles. The report shall include at a minimum:

(A) Problems or concerns the state may have experienced in meeting the target goal set pursuant to subsection (a) relative to obtaining such energy-efficient motor vehicles;

(B) Any savings or increased expenditures to the state in the purchase of, as well as the operation and maintenance cost of, such motor vehicles;

(C) Plans for integrating energy-efficient motor vehicles identified in subdivisions (c)(1)(E) and (G) into the state passenger motor vehicle fleet;

(D) The volume of gasoline or diesel displaced by the usage of energy-efficient or alternative fuel vehicles; and

(E) The emissions reduction achieved by the usage of energy-efficient or alternative fuel vehicles.

(3) The information compiled and maintained pursuant to subdivisions (b)(1) and (2) shall be made accessible to the public on the department's website through a prominent link provided on the home page. In addition, the department shall submit an annual report containing the information compiled and maintained pursuant to subdivisions (b)(1) and (2) to the speaker of the senate and the speaker of the house of representatives and to the chairs of the committees concerning government operations and to the chair of the energy, agriculture and natural resources committee of the senate and the chair of the agriculture and natural resources committee of the house of representatives.

(c) For purposes of this section unless the context otherwise requires:

(1) "Energy-efficient motor vehicle" means a passenger motor vehicle that is:

(A) An alternative fuel vehicle as defined by the Energy Policy Act of 1992 (P.L. 102-486);

(B) A flexible fuel vehicle (FFV) utilizing ethanol, biodiesel, or any other commercially available alternative fuel approved by the United States department of energy;

(C) A hybrid-electric vehicle (HEV);

PUBLIC CHAPTER NO. 423 (cont'd)

(D) A compact fuel-efficient vehicle, defined as a vehicle powered by unleaded gasoline that has a United States EPA estimated highway gasoline mileage rating of at least twenty-five miles per gallon (25 mpg) or greater for the model year purchased;

(E) An electric vehicle (EV);

(F) A vehicle powered by natural gas; or

(G) A vehicle powered by ultra low sulfur diesel fuel that meets Bin 5, Tier II emission standards mandated by the EPA and that has an EPA-estimated highway mileage rating of at least thirty miles per gallon (30 mpg) or greater for the model year purchased; and

(2) "Passenger motor vehicle" means a motor vehicle designed for carrying six (6) or fewer adult passengers and used for the transportation of persons; provided, that vans, including cargo vans, trucks; sport utility vehicles, and police pursuit vehicles shall not be considered passenger motor vehicles.

(d) For purchases of vehicles that are not passenger motor vehicles, including cargo vans, trucks, and sport utility vehicles, the department is encouraged to make reasonable efforts to achieve a target goal that at least five percent (5%) of newly purchased vehicles are vehicles powered by natural gas, provided that such vehicles and fueling infrastructure are available at the time of procurement and such vehicles are purchased at competitive prices.

(e) In order to facilitate the development of natural gas fueling infrastructure, the department is authorized to participate in such pilot projects as may be necessary to insure the availability of natural gas fueling infrastructure throughout the interstate highway corridors in Tennessee.

4-22-101

SECTION 3. Tennessee Code Annotated, Section 4-22-101(b), is amended by inserting the following language after "hybrid electric vehicles": ", natural gas vehicles".

67-6-601

SECTION 4. Tennessee Code Annotated, Section 67-6-601, is amended by adding the following as a new, appropriately designated subsection:

(f) The general assembly finds that any public utility property or commercial and industrial property that is used to engage in the fueling of natural gas vehicles and that is a certified alternative fueling site as described in the definition of "certified green energy production facility" in § 67-4-2004, is generally capable of fueling fewer types of vehicles due to limited availability from original equipment manufacturers, that use of such alternative, domestically produced transportation fuels should be encouraged to improve air quality and to enhance our nation's energy security, and immediate economic value for all purposes under this chapter should not initially exceed thirty percent (30%) of its total installed costs. The general assembly further finds that, unless the findings are considered in the determination of the sound, intrinsic, and immediate economic value of such property for all purposes under this chapter, investment in property for fueling alternative fuel vehicles will be unreasonably discouraged, denying the citizens of this state the environmental benefits and domestic energy security associated with the use of natural gas as a transportation fuel. The assessor of property, in assessing any such commercial and industrial property, or the comptroller, in assessing any such public utility property, that engages in the fueling of motor vehicles with natural gas, shall take these findings by the general assembly into account in determining the sound, intrinsic, and immediate economic value of such property, when the property is initially appraised and each time the property is reappraised. A copy of the facility certification issued by the department of environment and conservation shall be required in order to qualify for such valuation. The valuation of personal property under this section shall also apply to machinery and equipment utilized in a natural gas vehicle fueling station. Such equipment shall include, but not be limited to: storage vessels, compressors, dryers, dispensers, piping, compressed or liquefied gas appliances, or any other item that is installed by a natural gas provider.

67-4-2004

SECTION 5. Tennessee Code Annotated, Section 67-4-2004(9), is amended by deleting the subsection in its entirety and replacing with the following language:

(9) "Certified green energy production facility" means:

(A) A facility certified by the department of environment and conservation as producing electricity for use and consumption off the premises using clean energy

PUBLIC CHAPTER NO. 423 (cont'd)

technology. For the purposes of this subdivision (9)(A), clean energy technology means technology used to generate energy from geothermal, hydrogen, solar, and wind sources;

(B) A facility certified by the department of environment and conservation as an alternative motor vehicle fueling station that utilizes natural gas in compressed or liquid form for the purpose of fueling motor vehicles and that is projected to displace more than six thousand (6,000) gallons of petroleum annually; or

(C) A facility which utilizes natural gas in a combined heat and power configuration (CHP) for production of heat and electricity for consumption onsite.

4-22-101

SECTION 6. Tennessee Code Annotated, Section 4-22-101, is amended by deleting the term "fuel-efficient" wherever it appears in the section and substituting the term "energy-efficient motor vehicle", and by deleting subsection (d) and substituting the following:

(d) For purposes of this section:

(1) "Motor vehicle" means a self-propelled vehicle licensed for highway use; and

(2) "Energy-efficient motor vehicle" means a passenger motor vehicle that is:

(A) An alternative fuel vehicle as defined by the Energy Policy Act of 1992 (P.L. 102-486);

(B) A flexible fuel vehicle (FFV) utilizing ethanol, biodiesel, or any other commercially available alternative fuel approved by the United States department of energy;

(C) A hybrid-electric vehicle (HEV);

(D) A compact fuel-efficient vehicle, defined as a vehicle powered by unleaded gasoline that has a United States EPA estimated highway gasoline mileage rating of at least twenty-five miles per gallon (25 mpg) or greater for the model year purchased;

(E) An electric vehicle (EV);

(F) A vehicle powered by natural gas; or

(G) A vehicle powered by ultra low sulfur diesel fuel that meets Bin 5, Tier II emission standards mandated by the EPA and that has an EPA estimated highway mileage rating of at least thirty miles per gallon (30 mpg) or greater for the model year purchased.

SECTION 7. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

Effective
date
5/16/2013

SECTION 8. This act shall take effect upon becoming a law, the public welfare requiring it.

Appendix B



Memorandum of Understanding

This Memorandum of Understanding (MOU) describes a coordinated effort between the undersigned States (States) to attract automobile manufacturers in the U.S. to develop a functional and affordable original equipment manufacturer (OEM) fleet natural gas vehicle (NGV) that will also meet public demand. The States recognize the benefits and unique attributes of clean burning natural gas and understand the significant opportunity compressed natural gas (CNG) presents to save State and taxpayer dollars by encouraging an energy future that utilizes domestic energy resources to fuel our nation's transportation needs. Through the joint solicitation of a Multi-State Request for Proposal (Joint-RFP) that aggregates annual State fleet vehicle procurements, the States will endeavor to provide a demand base sufficient to support the design, manufacture, and sale of functional and affordable OEM NGVs by automotive manufacturers in the United States.

In anticipation of soliciting a Joint-RFP, the States will endeavor to coordinate with local agencies, municipalities, and companies to determine the number of NGVs each State can commit to purchase and the required specifications necessary to meet fleet needs. The Joint-RFP shall require that the ultimate cost of an OEM NGV should be comparably priced to an equivalent gasoline powered model and that warranty and reliability concerns are not compromised. Simultaneously, the States understand the need for continued development and expansion of CNG fueling infrastructure and should endeavor to encourage private investment, predicated on demonstrating an anticipated increase in State NGVs, to meet growing demand.

Pursuant to the terms of the Joint-RFP, to be executed at a later date, the States intend, where practical, to transition new fleet vehicle acquisitions, in committed volumes, to a resulting OEM NGV. Such future acquisitions should, when economically feasible, rely on traditional distribution channels that incorporate local businesses in procurement processes. In continued recognition of the benefits of CNG, the States should also endeavor to pursue fleet vehicle conversions to CNG, where economically compelling, based on a life-cycle cost analysis. The States will also reach out to fellow Governors to determine broader interest and participation in the principles and process outlined in this MOU.

This MOU embodies the principle understandings of the States but shall not create any legal relationship, rights, duties, or obligations binding or enforceable at law or in equity. Notwithstanding the foregoing, each State shall in good faith endeavor to reach a mutually agreeable and economically beneficial Joint-RFP, as contemplated herein. This MOU does not create additional state power, enhance existing state power, or interfere with federal authority or law. This MOU shall continue to demonstrate the States' understanding until execution of the Joint-RFP, or until otherwise discontinued by either State.

Set forth by:

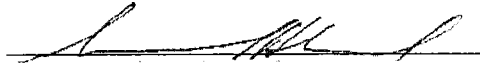
State of Oklahoma

Mary Fallin, Governor
November 9, 2011

State of Colorado

John Hickenlooper, Governor
November 9, 2011

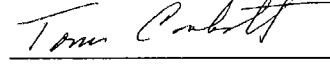
State of Wyoming



Matthew H. Mead, Governor

November 9, 2011

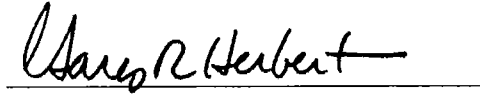
State of Pennsylvania



Tom Corbett, Governor

November 9, 2011

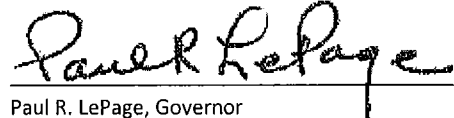
State of Utah



Gary R. Herbert, Governor

November 16, 2011

State of Maine



Paul R. LePage, Governor

December 2, 2011

State of New Mexico



Susana Martinez, Governor

December 22, 2011

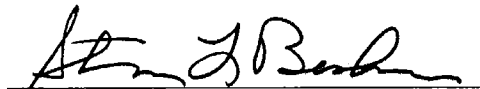
State of West Virginia



Earl Ray Tomblin, Governor

January 16, 2012

State of Kentucky



Steven L. Beshear, Governor

January 27, 2012

State of Texas



Rick Perry, Governor

February 6, 2012

State of Ohio



John R. Kasich, Governor

March 2, 2012

State of Mississippi



Phil Bryant, Governor

March 21, 2012

State of Louisiana



Bobby Jindal, Governor

April 16, 2012


State of Arkansas



Mike Beebe, Governor

July 24, 2012

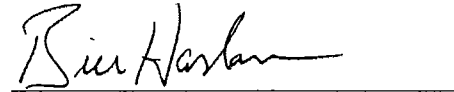
State of Virginia



Robert F. McDonnell, Governor

October 2, 2012

State of Tennessee



Bill Haslam, Governor

March 22, 2013

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of Piedmont's attached Post-Hearing Brief 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:

Counsel for Tennessee Fuel & Convenience Store Assoc. Melvin J. Malone Butler Snow Suite 1600 150 Third Avenue South Nashville, TN 37201	Counsel for the Consumer Advocate and Protection Division of the Office of the Attorney General Wayne Irvin Assistant Attorney General Office of the Tennessee Attorney General Consumer Advocate and Protection Division P. O. Box 20207 Nashville, TN 37202-0207
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This the 22nd day of January, 2015.