

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

IN RE:

**PETITION OF PIEDMONT
NATURAL GAS, INC. FOR
APPROVAL OF AN INTEGRITY
MANAGEMENT RIDER TO ITS
APPROVED RATE SCHEDULES
AND SERVICE REGULATIONS**

DOCKET NO. 16-00140

**RESPONSE TO PETITIONER'S MOTION TO ADOPT PROCEDURAL SCHEDULE
AND
MOTION BY THE CONSUMER ADVOCATE
TO ADOPT ITS PROPOSED PROCEDURAL SCHEDULE
ATTACHED HEREWITH**

Comes the Consumer Protection and Advocate Division of the Office of the Attorney General (Consumer Advocate) and respectfully moves that the Hearing Officer deny the Procedural Schedule proposed and filed by Piedmont Natural Gas, Inc. (Piedmont) on January 27, 2016, in this TRA Docket 16-00140 for the reasons set forth below. The Consumer Advocate also respectfully moves that the Hearing Officer approve the Proposed Procedural Schedule attached herewith as Exhibit A for the reasons set forth below.

BACKGROUND

The Record in this Docket reflects:

1. Piedmont filed its IMR Mechanism Annual Filing on November 30, 2016;
2. The Consumer Advocate's Petition to Intervene was granted on December 29, 2016;
3. On January 18, 2017, the Hearing Officer requested that the Parties work out a procedural schedule, including a request that the Parties strive for a March 13 target hearing date;

4. On January 13, 2017, the Consumer Advocate sent informal discovery requests to Piedmont. The informal discovery requests were sent to Piedmont for the purpose of obtaining more information regarding the filing, and with the intent that the Consumer Advocate would file supplemental discovery to obtain more detailed discovery.
5. On January 25, 2017, Piedmont provided the Consumer Advocate with responses to the informal discovery requests. Piedmont indicated that many of these responses included confidential information that would arrive by mail. As of the filing of this motion, the Consumer Advocate has not received the confidential material by mail and thus has not had an opportunity to review a significant portion of the discovery responses.
6. On January 25, 2017, Piedmont provided a procedural schedule to the Consumer Advocate that fails to allow for additional discovery, fails to provide adequate time to analyze the discovery responses received, fails to allow for settlement negotiations, and fails to allow adequate time to prepare testimony;
7. Prior to the filing of Piedmont's Proposed Procedural Schedule, the Parties exchanged a number of e-mails and on January 26, 2017, the Parties discussed the Procedural Schedule via a telephone conference. Despite the Consumer Advocate discussing with Piedmont the untenable procedural schedule, the Parties were unfortunately unable to reach an agreement. On January 27, 2017, the Parties agreed that they would need to file competing procedural schedules;
8. While the Consumer Advocate has done its best to create a Procedural Schedule that includes a target hearing date in March 2017, the Consumer Advocate believes that given the requirements of this case and the lack of access to a complete first discovery

response, an April 2017 hearing date is the only practicable way that this case can proceed with reasonable timelines and opportunity for analysis.

ARGUMENT

I. Piedmont's Proposed Procedural Schedule Is Unworkable and Should Not be Adopted.

The Procedural Schedule proposed by Piedmont is unworkable and should not be adopted because it fails to allow for adequate discovery and analysis of that discovery, it fails to allow for time to engage in settlement discussions, and it fails to allow adequate time to prepare testimony. Each of these points will be addressed below.

A. Piedmont's Proposed Procedural Schedule is unworkable and should not be adopted because it does not permit the Consumer Advocate to review the first round of discovery before submitting the Consumer Advocate's supplemental discovery requests.

In order to expedite this filing to the highest extent practicable, the Consumer Advocate began to organize informal discovery before the TRA granted the Consumer Advocate's intervention. On January 10, 2017, the TRA granted the Consumer Advocate's Petition to Intervene, and on January 13, 2017, the Consumer Advocate sent its first informal discovery requests to Piedmont. On January 25, 2017, Piedmont sent its discovery responses to the Consumer Advocate, marking many of the responses as confidential and sending these confidential responses by mail.

While the Consumer Advocate has attempted to review the responses that it does have in its possession as rapidly as possible, the absence of a significant part of the responses and the lack of adequate time to prepare more detailed requests – that could be incorporated into more detailed supplemental discovery responses – severely constrains the Consumer Advocate at this phase of the case. This is a crucial phase of the Consumer Advocate's case. Even if the

responses marked as confidential are in the Consumer Advocate's possession on the next working day – Monday, January 30 --- Piedmont's Proposed Schedule would force the Consumer Advocate and its expert witness to review these responses and have supplemental discovery ready for filing within two days.

Additionally, Piedmont's pre-filed testimony is also due on January 30, 2017. The Consumer Advocate, along with reviewing the confidential discovery responses, would also be forced to review Piedmont's pre-filed testimony and address this in the supplemental discovery. No matter how willing Piedmont is to facilitate open and responsive discovery, the issue becomes one of time – and in particular the severe time constraints that Piedmont's proposed schedule would impose on the Consumer Advocate. This is not only an unfair burden to the Consumer Advocate, but it is an impossible predicament.

It is worth emphasizing that it takes time to analyze thoroughly and fairly the documents and testimony in order to produce appropriate discovery questions. Piedmont apparently fails to recognize, however, that analyzing the responses to those questions will also require substantial time. Even if the Consumer Advocate had time to file supplemental discovery, it would have only another two days to prepare a motion to compel after the company's submission. By any measure, two days to review what is expected to be a substantial amount of discovery responses by Piedmont, while simultaneously needing to continue analysis of the first discovery responses for accuracy, completeness, and reasonableness, is inadequate.

While Piedmont contends that the data is available on a monthly basis, this does not reflect the ability of the Consumer Advocate to analyze and keep track of the IMR data. Monthly data is filed with hard-coded numbers. The Consumer Advocate does not have access during these monthly off-periods to access the source and support for these numbers and to

question Piedmont via the discovery process. The Consumer Advocate relies on its admission as an intervenor to gather the necessary information, including but not limited to the spreadsheets, work papers, other documents, and testimony, in order to advocate on behalf of ratepayers. The monthly filings, while one component of the information utilized by the Consumer Advocate, are not substantial enough for the Consumer Advocate to proceed with alone.

If Piedmont's Procedural Schedule is approved, even assuming that Piedmont's responses were totally accurate, complete, and forthcoming, the Consumer Advocate would have no time for follow-up via supplemental discovery. It is worthwhile to note that even though some informal discovery has taken place in the past, this is the first opportunity since the IMR's inception for the Consumer Advocate to analyze the IMR, request discovery with a thorough review in mind, and participate as an intervenor. In the initial stipulation that set requirements and proper procedure for the IMR, the Consumer Advocate agreed to a three-year grace period before it would intervene and potentially challenge the public interest of the IMR. That three-year grace period has ended, and an in-depth analysis of the IMR on behalf of rate-payers is not only highly appropriate, but would be prudent and virtually required in the context of such a significant docket. Ratepayers' rights and interests will be adversely affected by Piedmont's Proposed Procedural Schedule.

B. Piedmont's Proposed Procedural Schedule fails to allow for the Parties to engage in any meaningful settlement negotiations.

Settlement negotiations are important in general rate cases as well as alternative regulation cases. The Consumer Advocate has a proven track record of working with companies to achieve settlements amicably and efficiently; this is oftentimes in the best interests of ratepayers, utilities, and the TRA. Unfortunately, Piedmont's Proposed Procedural Schedule --

while Piedmont has agreed to work as closely as possible with the Consumer Advocate in furtherance of a potential settlement – leaves little to no time to do so. Piedmont leaves only six days for filing its rebuttal testimony from its discovery requests – and includes no due date for the Consumer Advocate’s responses to these requests. After this period, pre-hearing motions are scheduled under Piedmont’s proposal merely two days from Piedmont’s rebuttal testimony, leaving no time for analysis of the rebuttal testimony, and the pre-hearing conference is scheduled for one week later.

Due to these tight turnaround dates, the Parties will be forced to make their filings with unsubstantial review and analysis. Furthermore, the Parties will be so preoccupied with meeting the next deadline that no time can be afforded to meet and to discuss settlement, despite both Parties’ desire to do so. Because of the Consumer Advocate’s review and approval process for settlement offers, it is absolutely impossible for a settlement to result from Piedmont’s Proposed Procedural Schedule.

C. Piedmont’s Proposed Procedural Schedule is unworkable and should not be adopted because it fails to allow adequate time for the Consumer Advocate’s witnesses to prepare their testimony.

The proposed procedural schedule by Piedmont would allow the Consumer Advocate only thirteen (13) days from the date on which Piedmont presumably files a substantial amount of discovery to file its pre-filed testimony in this Docket. Piedmont’s proposed due date comes the day after President’s Day, when both the TRA and the Attorney General’s Office will be closed. Furthermore, Counsels for the Consumer Advocate have a mediation scheduled in East Tennessee on February 21, 2017, which has been on their calendars for months and is unmovable at this point.

Interestingly, included in that thirteen day period would be the obligation of the Consumer Advocate to file a motion to compel and evaluate Piedmont's response—leaving in practical terms likely much less than one week from the date Piedmont was compelled to provide discovery to the date that such discovery would have to be evaluated and incorporated into the testimony filed by the Consumer Advocate.

If Piedmont's procedural schedule were approved, the testimony of the Consumer Advocate's witnesses runs the risk of being superficial at best. The effect of this would be to deny to the Consumer Advocate, and the consumers it represents, the ability to provide even an adequate recommendation to assist the TRA in evaluating the IMR filing.

II. The Hearing Officer Should Approve the Consumer Advocate's Proposed Procedural Schedule Attached to This Motion Herewith.

The Proposed Procedural Schedule attached as Exhibit A allows for adequate discovery, provides adequate time to analyze discovery received, and allows adequate time for the Consumer Advocate's witnesses to prepare testimony. The Consumer Advocate's Proposed Procedural Schedule is a workable approach that accommodates the Company's apparent desire for an accelerated schedule, while balancing the need of the Consumer Advocate to investigate and develop information and data that it needs to prepare its case and represent ratepayers.

Furthermore, the Proposed Procedural Schedule establishes two dates for formal settlement negotiations, thereby ensuring that not only do the Parties have the opportunity to analyze each filing and to respond to these filings in furtherance of the case, the Parties will also have time set aside to openly and amicably discuss what would be a successful resolution to this case. In fact, these settlements discussions – while not only providing both Parties and the TRA

the ability to analyze the filings – could result in the case being settled in as timely of a manner as a contested hearing would lead to.

CONCLUSION

WHEREFORE, the Consumer Advocate respectfully moves that the Hearing Officer deny Piedmont's Proposed Procedural Schedule filed in this TRA Docket No. 16-00140 and, further, respectfully moves that the Hearing Officer approve the Consumer Advocate's Proposed Procedural Schedule.

RESPECTFULLY SUBMITTED,



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CERTIFICATE OF SERVICE

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

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This the 27 day of January, 2017.



Daniel P. Whitaker III
Assistant Attorney General

Docket 16-00140

Procedural Schedule—April Target Date

Due Date	Filing
January 30, 2017	Utility Pre-filed Testimony
February 10, 2017	Intervenor Discovery Request
February 16, 2017	Response to Intervenor Discovery Request
February 23, 2017	Motions to Compel (if needed)
	1 st Formal Settlement Meeting by February 24th (negotiations not limited to formal meetings)
March 27, 2017	Response to Motion(s) to Compel
March 12, 2017	Intervenor Pre-Filed Direct Testimony
March 15, 2017	Utility Discovery Requests
March 24, 2017	Response to Utility Discovery
	2 nd Formal Settlement Meeting by March 27th (negotiations not limited to formal meetings)
March 31, 2017	Utility Pre-Filed Rebuttal Testimony
April 3, 2017	Pre-Hearing Motions
April 5, 2017	Pre-Hearing Conference
April 10, 2017	Hearing