

**BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION**

**NASHVILLE, TENNESSEE**

**June 20, 2017**

<b>IN RE:</b>	)	
	)	
<b>PETITION OF PIEDMONT NATURAL GAS</b>	)	<b>DOCKET NO.</b>
<b>COMPANY FOR APPROVAL OF AN INTEGRITY</b>	)	<b>16-00140</b>
<b>MANAGEMENT RIDER TO ITS APPROVED RATE</b>	)	
<b>SCHEDULES AND SERVICE REGULATIONS</b>	)	

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**ORDER APPROVING 2016 INTEGRITY MANAGEMENT  
RIDER ANNUAL REPORT AND TARIFF**

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This matter came before Chairman David F. Jones, Vice-Chairman Robin Morrison and Commissioner Kenneth C. Hill of the Tennessee Public Utility Commission (the “Commission” or “TPUC”), the voting panel assigned to this docket, at the regularly scheduled Commission Conference held on April 10, 2017, for hearing and consideration of the 2016 Annual Report for the Integrity Management Rider (“IMR”) and revised tariff filed by Piedmont Natural Gas Company, Inc. (“Piedmont” or the “Company”).

**BACKGROUND**

Pursuant to Tenn. Code Ann. § 65-5-103(d),<sup>1</sup> in TPUC Docket No. 13-00118, the Authority previously approved Piedmont’s 2013 Annual Report and IMR, as amended by the *Stipulation of Piedmont Natural Gas Company* entered into by Piedmont and the Consumer Protection and Advocate Division of the Office of the Attorney General (“Consumer

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<sup>1</sup> Tenn. Code Ann. § 65-5-103(d) went into effect April 19, 2013 and authorizes the Commission to implement alternative regulatory methods. Tenn. Code Ann. § 65-5-103(d)(2)(A) provides: “A public utility may request and the authority may authorize a mechanism to recover the operational expenses, capital costs or both, if such expenses or costs are found by the authority to be in the public interest, related to ... [s]afety requirements imposed by state or federal government...”

Advocate”), and its associated tariff with an effective date of January 1, 2014.<sup>2</sup> The IMR is designed to recover costs associated with complying with Subparts O and P of Part 192 of the United States Department of Transportation (“USDOT”) regulations, which establish a mandatory regimen of inspection, assessment, analysis, testing, and remediation applicable to natural gas transmission and distribution facilities in the United States, including those operated by Piedmont in Tennessee.<sup>3</sup> The regimen for transmission integrity management planning is referred to as “TIMP,” and the regimen applicable to distribution lines is referred to as “DIMP.” USDOT regulations require an ongoing seven (7) year rotating inspection and assessment of High Consequence Areas for compliance with TIMP and DIMP requirements.<sup>4</sup> Additionally, Piedmont must verify the maximum operating parameters of its pipelines and implement new record keeping for transmission piping.<sup>5</sup>

Under the provisions of the IMR approved in TPUC Docket No. 13-00118, recovery of costs by Piedmont will be limited to those costs solely incurred to comply with Part 192 USDOT regulations, Subparts O and P. The IMR will be a volumetric charge based on the billing determinants from the Company’s most recent rate case. A comparison of the amount collected to the costs actually incurred will be used to determine any over- or under-recovery of costs. Any over- or under-recovery will be recorded in an Integrity Management Deferred Account and adjusted for interest. The amount in the Deferred Account will be used in the following year’s calculation of any needed revenue requirement. Interest on any over- or under-recovery will be applied to the average beginning and ending monthly balance and based

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<sup>2</sup> See *In re: Petition of Piedmont Natural Gas Company, Inc. for Approval of an Integrity Management Rider to Its Approved Rate Schedules and Service Regulations*, Docket No. 13-00118, *Order Granting Petition*, p. 10 (May 13, 2014).

<sup>3</sup> *Id.* at 3.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

on the interest rate as defined in the TPUC's Purchased Gas Adjustment Rule, Rule 1220-04-07-.03. Costs, collections and interest will be recorded monthly to the Integrity Management Deferred Account, and the specific journal entries to be made are specified. Annual filings will contain information to assist the TPUC in determining the prudence and necessity of the costs submitted for recovery. Piedmont is required to submit its annual filing fourteen (14) days before the IMR is implemented and must file notice thirty (30) days prior to implementation of the IMR.<sup>6</sup> Since approval of the initial IMR, Piedmont has filed monthly reports with the Commission outlining the capital expenses resulting from compliance with state and federal pipeline safety requirements.<sup>7</sup>

On November 30, 2016, consistent with the Commission's Order in Docket No. 13-00118, Piedmont filed its 2016 IMR Annual Report ("Annual Report"). On December 29, 2016, the Consumer Advocate filed a *Petition to Intervene*. The Consumer Advocate's intervention was granted by the Hearing Officer on January 10, 2017.

#### **2016 IMR ANNUAL REPORT**

The Annual Report filed by Piedmont on November 30, 2016, included a schedule of all journal entries made related to the IMR for the previous 12 months, billing determinants used to compute the Integrity Management Deferred Account Adjustment, and computations calculating the IMR with supporting schedules. The Company also included the following statement: "Piedmont is not aware of any changes in the market conditions or other factors that affect whether this Rider is still in the public interest."<sup>8</sup>

The Annual Report estimates recoverable costs for 2017 to be \$23,047,956. In addition, during the period of November 1, 2015 to October 31, 2016, Piedmont under-collected

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<sup>6</sup> *Id.* at 4-5.

<sup>7</sup> The IMR monthly reports were filed by Piedmont in TRA Docket No. 13-00118.

<sup>8</sup> 2016 Integrity Management Rider Annual Report, Schedule 11 (November 30, 2015).

\$1,443,289 in IMR costs from customers due to lower gas usage than was previously projected. Therefore, with an adjustment amount for the previously under-collected \$1,443,289 amount, the estimated total recovery in 2017 is \$24,491,245.<sup>9</sup> As a result, the Annual Report calculates that the IMR rate will increase from \$0.10144 to \$0.13124 per Therm for residential customers.<sup>10</sup> The Company sought an effective date of January 1, 2017, for the rate changes.

Following the intervention of the Consumer Advocate, Pia K. Powers submitted pre-filed testimony in support of the Annual Report and the IMR mechanism on January 30, 2017.

#### **POSITION OF THE CONSUMER ADVOCATE**

Following discovery and exchanges of information with Piedmont, on March 20, 2017, Mr. Hal Novak submitted pre-filed testimony on behalf of the Consumer Advocate. Mr. Novak found that Piedmont's IMR filing appropriately reflected the actual revenues, expenses and net investment as recorded on Piedmont's ledger and generally reflected the methodologies established in rate case Docket No. 13-00118. Additionally, the Consumer Advocate does not dispute the bonus depreciation included by the Piedmont in order to avoid a deferred tax normalization violation.<sup>11</sup>

While asserting the IMR has increased approximately 87% since its inception, Mr. Novak raised four concerns in his testimony. First, he is concerned that some costs included for recovery in this docket may have been included in the last rate case. With respect to his concerns, Mr. Novak specifically refers to approximately \$600,000 in payroll costs for Operations Assets and System Integrity Solutions ("OASIS") being capitalized, and that the Company's recovery sought in the current docket contains no documentation that these costs are incremental and not already covered in base rates. Mr. Novak's second concern relates to

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<sup>9</sup> *Id.* at Schedules 5 and 3.

<sup>10</sup> *Id.*

<sup>11</sup> William H. Novak, Pre-Filed Direct Testimony, p. 6 (March 3, 2017).

the pipeline infrastructure having a 20-year tax life on Piedmont's books, while showing a 15-year tax life in the IMR filing. Thirdly, Mr. Novak addresses the exclusion of Rate Class 343-Experimental Motor Vehicle and Rate Class 373-Special Contracts from the IMR rider calculations. Finally, Mr. Novak points out there has not been any prudency review to determine if the IMR costs are prudent.<sup>12</sup>

The Consumer Advocate states that it does not wish to delay this proceeding and therefore recommends this filing be approved contingent upon the following four recommendations in order to alleviate the concerns the Consumer Advocate has identified.<sup>13</sup> First, to clarify whether there is a double recovery of payroll costs, the Consumer Advocate requests that the Commission direct Piedmont to undertake a comprehensive study of (a) all prior IMR Rider filings, (b) the most recent rate case and (c) all of the underlying accounting support for the IMR Rider filings. In order to allow time for review by interested parties, this study should be completed sixty (60) days prior to the next IMR filing.

Second, the Consumer Advocate requests that the Commission direct Piedmont to reconcile the difference between the 20-year and 15-year tax lives in the next IMR filing. Third, the Consumer Advocate recommends that the Commission should clarify and specifically state if the IMR Rider recovery is applicable to the 343 and 373 rate classes. Finally, the Consumer Advocate recommends the Commission direct Piedmont to undertake an independent review of the prudency of those costs included for recovery in the IMR.

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<sup>12</sup> *Id.* at. 6-7.

<sup>13</sup> *Id.* at. 8-11.

### **PIEDMONT'S REBUTTAL**

Piedmont asserts in Ms. Power's Pre-filed Rebuttal Testimony that the concerns and recommendations raised by the Consumer Advocate are not justified based on the facts in this proceeding or any past IMR proceedings.

To address the Consumer Advocate's first concern with respect to whether the IMR is capturing expenses that were previously included in rates, Ms. Powers explains that during the last general rate case the actual amount of labor was either expensed to O&M or capitalized consistent with applicable accounting practices.<sup>14</sup>

These integrity management capital costs are not duplicative of costs included in the last rate case because they are 100% attributable to, and result from, capital investment made after the rate case Attrition Period and because they are capitalized costs attributable *only to the specific project for which they are included* as compared to the going level O&M payroll expense included in Piedmont's base rates.<sup>15</sup>

Additionally, Ms. Powers states the O&M expense included in the Attrition Period is less than the annual O&M expense level Piedmont is currently incurring which should alleviate any concern regarding a double recovery of O&M expense.<sup>16</sup>

Piedmont concurs with Mr. Novak's assertion that certain pipeline infrastructure has a 20-year tax life for book purposes, while having a 15-year tax life in the IMR filing. Ms. Powers explains that different assets have different depreciation lives. For example, distribution assets have a 20-year MACRS life while transmission assets have a 15-year MACRS life. Using the different depreciation lives would complicate the IMR calculations and result in only a minor impact on the IMR revenue requirement. Therefore, since the majority of Piedmont's investment represents MACRS-15 transmission assets, and for the

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<sup>14</sup> Pia K. Powers, Pre-Filed Rebuttal Testimony, pp. 4-5 (March 20, 2017).

<sup>15</sup> *Id.* at 5.

<sup>16</sup> *Id.* at. 4-5.

sake of simplicity, Piedmont uses a 15-year life for all assets in calculating tax depreciation for the revenue requirement in the IMR filing. Ms. Powers points out this methodology has been used since the inception of the IMR and no party has objected.<sup>17</sup>

Ms. Powers concurs with Mr. Novak that customers (currently only one) served under Service Schedule No. 317 – special contracts do not pay the IMR Rider. Also, the billing determinants under this rate schedule were not included in the IMR calculations. Piedmont asserts the rates under this schedule are approved on a non-cost of service basis due to economic reasons and applying the IMR Rider to those customers could substantially render those economic assumptions invalid.<sup>18</sup> Ms. Powers, however, disagrees with Mr. Novak’s assertion that Rate Schedule 343 is not included in the IMR Rider. She testifies the three current customers in this rate class do pay the IMR Rider.<sup>19</sup>

Piedmont asserts a prudence review is not necessary. According to the Company, the monthly and annual IMR filings of Piedmont provide the opportunity for discovery by any interested party to evaluate the prudence of any investment. Because there are ample filings and time for any party to review the prudence of investments, Piedmont does not believe an independent review is necessary.<sup>20</sup>

Ms. Powers concludes that the Company’s original request in this proceeding for the approval of its annual IMR filing has not changed. However, the Company requests the rates become “effective with the first day of the bill cycle month following a ruling” from the Commission.<sup>21</sup>

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<sup>17</sup> *Id.* at 6.

<sup>18</sup> *Id.* at 7.

<sup>19</sup> *Id.* at 8.

<sup>20</sup> *Id.* at 9.

<sup>21</sup> *Id.* at 10.

#### **APRIL 19, 2017 HEARING AND APPEARANCES**

A Hearing in this matter was held before the voting panel on April 10, 2017, as noticed by the Authority on March 31, 2017. Participating in the hearing were the following parties and their respective counsel:

Piedmont - R. Dale Grimes, Esq., Bass, Berry & Sims, 150 Third Avenue South, Suite 2800, Nashville, Tennessee 37201; James H. Jefferies, IV, Esq., Moore & Van Allen, 100 North Tyron Street, Suite 4700, Charlotte, North Carolina, 28202.

Consumer Advocate – Daniel P. Whitaker, III, Esq., Office of the Attorney General, 425 Fifth Avenue North, Fourth Floor, John Sevier Building, P.O. Box 20207, Nashville, Tennessee 37202.

The voting panel heard testimony of both Ms. Pia Powers, on behalf of the Company, and Mr. William H. Novak, the expert witness of the Consumer Advocate. During the hearing, the public was given an opportunity to offer comment, but no member of the public sought to comment on the Annual Report or the proceedings in general. Following the conclusion of the testimony, cross-examination and closing statements, the voting panel considered the Annual Report.

#### **FINDINGS AND CONCLUSIONS**

Upon review and due consideration of the entire record, the panel made the following findings and conclusions: Piedmont proposed a change in its methodology when calculating the IMR. The Company used a 50% bonus with respect to depreciation for tax purposes and took into account the Company's Tennessee net operating loss ("NOL") carryover for the computation of Accumulated Deferred Income Tax ("ADIT"). This tax normalization adjustment resulted in a \$126,372 annual savings to customers. The Consumer Advocate did not dispute this adjustment based upon the Company's assertion that this adjustment was necessary in order to avoid a IRS tax normalization violation. The panel unanimously found



that Piedmont's proposed change in methodology to use a 50% bonus in depreciation within the computation of deferred income taxes is appropriate and should be accepted in order to avoid a IRS tax violation.

The Consumer Advocate has taken the position in this proceeding that a comprehensive study of all IMR filings is needed to determine whether there has been double recovery of costs and expenses which may already be accounted for in the rates previously set by the Commission. The Consumer Advocate offered no evidence that a double recovery has occurred. A theoretical possibility is not sufficient evidence at this time to require the Company to undertake a comprehensive review of all IMR filing and incur costs which may ultimately be recovered from rate-payers. Thus, the panel was unpersuaded and did not require Piedmont to undertake such a review as was requested by the Consumer Advocate.

The panel further found unanimously that the mechanism remains in the public interest in that it allows Piedmont to recover capital expenditures, which are required by federal statutes, on a timely basis without the need for filing expensive rate cases. Based upon the foregoing, the panel unanimously concluded the 2016 IMR filing of Piedmont Natural Gas Company, Inc. and the associated tariffs to be in compliance with the mechanism approved by the Authority in TPUC Docket No. 13-00118. The panel further found that the Company utilized the methodologies approved in TPUC Docket No. 13-00118, with the exception of the undisputed use of 50% bonus depreciation previously discussed and approved.

Based upon a review of the evidentiary record in the docket, the panel voted unanimously to direct Piedmont to separately identify all costs and revenues associated with Rate Class 343- Experimental Motor Vehicle in the calculations of future IMR filings. The

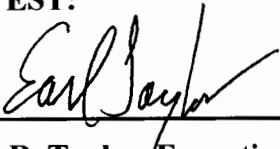
panel further ordered Piedmont to continue to exclude Rate Class 373-Special Contracts in the calculations of future IMR filings. Finally, the panel unanimously approved the 2016 IMR annual report and the IMR Tariff as contained in the Company's *Petition*, effective with the first day of the bill cycle month following the panel's ruling at the April 10, 2017, Commission Conference.

**IT IS THEREFORE ORDERED THAT:**

1. The 2016 Integrity Management Rider Annual Report and its associated tariff, filed by Piedmont Natural Gas Company, Inc. on November 30, 2016, are accepted and approved.
2. The effective date of the 2016 Integrity Management Rider Annual Report and its associated tariff shall be the first day of the bill cycle month following the panel's ruling at the April 10, 2017, Commission Conference.
3. Any person who is aggrieved by the Authority's decision in this matter may file a Petition for Reconsideration with the Authority within fifteen days from the date of this Order.
4. Any person who is aggrieved by the Authority's decision in this matter has the right to judicial review by filing a Petition for Review in the Tennessee Court of Appeals, Middle Section, within sixty days from the date of this Order.

**Chairman David F. Jones, Vice-Chairman Robin Morrison and Commissioner Kenneth C. Hill concur.**

**ATTEST:**

  
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**Earl R. Taylor, Executive Director**