

BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION

NASHVILLE, TENNESSEE

August 28, 2018

IN RE:

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

**DOCKET NO.
17-00138**

**AMENDED ORDER APPROVING 2017 INTEGRITY MANAGEMENT
RIDER ANNUAL REPORT AND TARIFF**

This matter came before Chairman David F. Jones, Commissioner Kenneth C. Hill and Commissioner Keith Jordan 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 May 14, 2018, for hearing and consideration of the 2017 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),¹ in TPUC Docket No. 13-00118, the Commission 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

¹ 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, 2014.² 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.³ 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.⁴ Additionally, Piedmont must verify the maximum operating parameters of its pipelines and implement new record keeping for transmission piping.⁵

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

² 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).

³ *Id.* at 3.

⁴ *Id.*

⁵ *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.⁶

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.⁷ The Company has made annual report filings in TPUC Docket Nos. 14-00147, 15-00116 and 16-00140. On November 30, 2017, consistent with the Commission's Order in Docket No. 13-00118, Piedmont filed its 2017 IMR Annual Report ("Annual Report"). On December 13, 2017, the Consumer Advocate filed a *Petition to Intervene*. The Consumer Advocate's intervention was granted by the Hearing Officer on January 8, 2018. On January 17, 2018, Piedmont submitted the pre-filed direct testimony of Pia K. Powers. Ms. Powers' pre-filed testimony amended aspects of the 2017 IMR report due to the impact of federal tax changes which became effective on January 1, 2018.⁸

2017 IMR ANNUAL REPORT

The Annual Report filed by Piedmont on November 30, 2017, 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

⁶ *Id.* at 4-5.

⁷ The IMR monthly reports are filed by Piedmont in TPUC Docket No. 13-00118.

⁸ Pia K. Powers, Pre-filed Direct Testimony, pp. 7-9 (January 17, 2018).

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.”⁹

The Annual Report, as revised, estimates recoverable costs related to capital expenses resulting from compliance with state and federal pipeline safety requirements for 2018 to be \$23,389,748. In addition, the balance in the deferred IMR account as of October 31, 2017 was an under-collected \$6,573,862 for prior periods. Added to the current period costs, an estimated total IMR recovery amount of \$29,963,610 would be billed to customers during 2018.¹⁰ If approved, the IMR rate will increase from \$0.13124 to \$0.16057 per Therm for residential customers, resulting in an average monthly increase of \$1.80.¹¹

POSITION OF THE CONSUMER ADVOCATE

Following discovery and exchanges of information with Piedmont, on February 22, 2018, Mr. David Dittmore submitted pre-filed testimony on behalf of the Consumer Advocate. Mr. Dittmore asserted that the proposed residential rate translates to an annual charge of \$118.02 for an average customer using 735 therms a year. As such, the IMR has become a significant component of customers’ bills.¹² Specifically, the Consumer Advocate proposes the following changes with respect to calculating the IMR:

(1) The Company should separate and label IMR plant by Federal Energy Regulatory Commission (“FERC”) account and then apply the TPUC approved depreciation rates to each group instead of using one depreciation rate for all IMR assets;¹³

⁹ 2017 Integrity Management Rider Annual Report, Schedule 13 (November 30, 2017).

¹⁰ Pia K. Powers, Pre-filed Direct Testimony, Exhibit A (January 17, 2018).

¹¹ *Id.* at 11.

¹² David N. Dittmore, Pre-filed Direct Testimony, p. 6 (February 22, 2018).

¹³ *Id.* at 11, 13-16.

(2) The Company should review its method of capitalizing pension costs into IMR projects in its next proceeding and assure that its method to account for these costs is consistent with methodology approved historically by the TPUC in ratemaking dockets;¹⁴

(3) With respect to the OASIS project, a work and risk management tool utilized by all three Piedmont states, the Company should allocate joint OASIS costs to Tennessee using a methodology consistent with the standard methodology historically used within a rate case; and¹⁵

(4) The Company should eliminate all Construction Work in Progress (“CWIP”) costs from the Depreciation Expense calculation since plant under construction is not subject to Depreciation Expense for financial accounting purposes.¹⁶

The Consumer Advocate made a number of proposed changes with respect to the current filing and the mechanics of the IMR. Mr. Dittmore recommended three (3) cost disallowance adjustments related to cost over-runs associated with the OASIS project, estimated cost savings from OASIS and property taxes for assets that are exempt from taxes. The total amount of the cost disallowances to the IMR proposed by the Consumer Advocate total \$2,149,877.¹⁷

The Consumer Advocate asserts that since the final costs of the OASIS project significantly exceed the original budget estimate, the Company should not be entitled to receive a return on investment on the excess costs.¹⁸ Mr. Dittmore states that he has not made a prudence review of the costs, but rather contends the cost over-runs are on their own

¹⁴ *Id.* at 16.

¹⁵ *Id.* at 17.

¹⁶ *Id.*

¹⁷ *Id.* at 3-4.

¹⁸ *Id.* at 3, 9, 17-20.

of such significance that no prudence review is necessary.¹⁹ Mr. Dittmore asserts that he proposes excluding the return on the cost overruns, not the actual costs incurred for the OASIS project itself.²⁰

Mr. Dittmore also recommends a reduction to offset estimated future Operating and Maintenance (“O&M”) expense savings that may result from the OASIS project.²¹ The Consumer Advocate states that since the consumers incur the costs of the OASIS project, they should also receive any benefit resulting from future O&M expense savings. Mr. Dittmore further proposes a reduction in the Company’s proposed IMR to eliminate the property tax calculation related to property that is exempt from property taxes such as land.²²

Mr. Dittmore recommends changing the recovery methodology from a volumetric rate based on a customer’s consumption. The fixed monthly charge is calculated by assigning the revenue requirement to the rate classes using the approved allocation percentages and dividing by the customer counts in the rate classes. The charge would be separately identified on customer bills.²³ The Consumer Advocate defends this recommendation by detailing the customer benefits that would ensue, from increasing transparency to mitigating the impact of higher winter bills. Over- and under-recoveries would continue to be tracked by customer class.²⁴

Acknowledging the new federal tax rate effective on January 1, 2018, Mr. Dittmore recommends that the Commission require the Company to record a regulatory liability for the

¹⁹ *Id.* at 20. Actual results provided by Piedmont have been deemed confidential by the Company and remain subject to a protective order issued by the Hearing Officer.

²⁰ *Id.* at 20.

²¹ *Id.* at 21-22.

²² *Id.* at 4, 24.

²³ *Id.* at 30-31. During the hearing on the merits on April 9, 2018, Mr. Dittmore withdrew his volumetric rate proposal for purposes of the current docket and reserved the right to propose such a rate design in a future docket(s). Transcript of Hearing, p. 82-83 (April 9, 2018).

²⁴ *Id.* at 4, 30-33.

tax costs in the current IMR rate for all sales volumes accrued from January 1, 2018 until the new IMR rates take effect.²⁵ The Consumer Advocate recommends that the Company should also set aside and preserve the excess Accumulated Deferred Income Taxes (“ADIT”) from the IMR investment effective December 22, 2017 until such time it is addressed in a separate docket stemming from Docket No. 18-00001²⁶ or a future IMR filing or rate case.²⁷

Mr. Dittmore recommends the Commission require the reporting of safety metrics within the annual filing, specifically two safety metrics the Consumer Advocate recommends are (1) response time to emergency odor calls and (2) identification of the number and age of leaks by grade and class.²⁸ The goal is to ensure no major change in performance from year to year.²⁹

Citing the growth in gross plant since the Company’s last depreciation study in 2009, Mr. Dittmore recommends the Commission require a depreciation study that would include the OASIS asset.³⁰ Mr. Dittmore’s proposal contemplates a collaborative process with interested stakeholders, such as the Consumer Advocate, involved in developing the scope of work of the study.³¹ Finally, the Consumer Advocate recommends, going forward, the Commission require the Company to file its Petition and the witness testimony simultaneously.³²

²⁵ *Id.* 25-27.

²⁶ Docket No. 18-00001, *Tennessee Public Utility Commission Investigation of Impacts of Federal Tax Reform on Public Utility Revenue Requirements*.

²⁷ David N. Dittmore, Pre-filed Direct Testimony, pp. 4, 26-27, 29 (February 22, 2018).

²⁸ *Id.* 33-34.

²⁹ *Id.*

³⁰ *Id.* 35-36.

³¹ *Id.* at 36-37.

³² *Id.* at 37.

On February 28, 2018, Mr. Dittmore submitted supplemental pre-filed testimony centered on late filed Company discovery responses which he represented had heightened his concerns regarding the OASIS project cost over-runs.³³

PIEDMONT'S REBUTTAL

Piedmont asserts in Ms. Power's Pre-filed Rebuttal Testimony that the changes, ranging from accounting to rate design, proposed by the Consumer Advocate represent a departure from the manner this tariff has operated in the past.³⁴ The Company maintains its proposed rate adjustments in this docket were calculated in accordance with the terms of its approved Service Schedule No. 317 and are consistent with the methodologies utilized and approved in the previous four (4) annual filings. The Company also asserts that the tariff provides a mechanism in Paragraph 11, whereby proposed changes to the tariff can be addressed by the filing of a petition for consideration by the Commission in a separate proceeding.³⁵

With respect to the Consumer Advocate proposed disallowances, Piedmont asserts that the disallowance of cost recovery for qualified integrity management capital investment would be a "significant departure" from the Service Schedule No. 317, which has no provision for the possibility of an adjustment for alleged "cost over-runs" other than imprudent costs.³⁶ Ms. Powers testified that while Mr. Dittmore's supplemental testimony implies impropriety in the occurrence of costs incurred prior to November of 2015, he failed to provide evidence that management's concerns with adequacy of risk analysis was related to cost incurrence under the OASIS project.³⁷ Ms. Powers, citing Mr. Victor M. Gaglio's pre-filed rebuttal testimony,

³³ David N. Dittmore, Pre-filed Supplemental Testimony (February 28, 2018); the bulk of the supplemental testimony relies on information the Company deemed "confidential" subject to the terms of the protective order entered by the Hearing Officer.

³⁴ Pia K. Powers, Pre-filed Rebuttal Testimony, pp. 3-4;16-17 (March 7, 2018).

³⁵ *Id.*

³⁶ *Id.* at 8-11.

³⁷ *Id.* at 10.

claims that the the scope of the OASIS project significantly changed after the initial cost was estimated in response to directives and desires expressed by State and federal authorities and were not purported cost over-runs.³⁸

Mr. Victor Gaglio, the senior management officer for Piedmont who was directly responsible for the planning and execution of the OASIS project testified in pre-filed rebuttal testimony regarding the time line, facts and reasons for the expansion of scope of the OASIS project and the installation of transmission lines in South Nashville, including in the Radnor Lake area.³⁹ Mr. Gaglio claimed there was no mismanagement by Piedmont and that the costs incurred were necessary and unavoidable.⁴⁰

With respect to Mr. Dittmore's proposal to allow ratepayers to benefit from cost savings from the OASIS project, Ms. Powers asserted that an O&M credit mechanism would add a new provision to a tariff designed to provide for the recovery of capital investment for mandatory integrity projects.⁴¹ Moreover, she asserted such savings are not definitively measurable. Ms. Powers testified that the customers will receive the benefit of any O&M expense savings at the time of the next general rate case filing. Ms. Powers also cites Mr. Dittmore's previous testimony before the Kansas Corporation Commission which the Company claims is in direct contradiction to his recommendation in the present docket.⁴²

With respect to Mr. Dittmore's recommendation to disallow \$135,908 as a representation of property taxes for non-taxable assets, the Company disagrees with deviating from the IMR's approved methodology. Ms. Powers asserts that the method used in the filing was approved by the Commission in Piedmont's last general rate case and is consistent with its

³⁸ *Id.* at 11.

³⁹ Victor M. Gaglio, Pre-filed Rebuttal Testimony (March 7, 2018).

⁴⁰ *Id.* at 3-5; 7-10.

⁴¹ Pia K. Powers, Pre-filed Rebuttal Testimony, p. 12 (March 7, 2018).

⁴² *Id.* at 12-14.

IMR tariff and that changing this method would be more labor intensive and would produce different results for each annual period and may not offer any benefits to customers.⁴³

With respect to Mr. Dittimore's proposal concerning the adoption of the new federal tax rates, the Company has no objection and has already implemented such action pursuant to the Commission's Order in Docket No. 18-00001.⁴⁴ Nor does the Company object to filing pre-filed direct testimony with submission of annual IMR reports. Ms. Powers expressed that while the Company sees no relevance between safety metric reporting and the IMR filing tariff requirements subject to the current docket, Piedmont has no objection in principle to filing any safety metrics in its possession with the Commission.⁴⁵ Ms. Powers also expressed that the Company is not adverse to conducting a new depreciation study, but in Piedmont's view any such study could indicate an increase or decrease in rates and that the proper forum for implementing rate changes based on such a study is in the Company's next rate case.⁴⁶

APRIL 9, 2018 HEARING AND APPEARANCES

A Hearing in this matter was held before the voting panel on April 9, 2018, as noticed by the Commission on March 28, 2018. Participating in the hearing were the following parties and their respective counsel:

Piedmont - 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., and Vance Broemel, 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 and Mr. Victor Gaglio, on behalf of the Company, and Mr. David Dittimore, the expert witness of the Consumer Advocate. During

⁴³ *Id.* at 14-15.

⁴⁴ *Id.* at 19.

⁴⁵ *Id.*

⁴⁶ *Id.* at 19-20.

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:

1. The 2017 IMR filing of Piedmont Natural Gas Company, Inc. and the associated tariffs are in compliance with the mechanism and methodologies approved by the Commission in Docket No. 13-00118. Further, Piedmont correctly calculated the IMR Revenue Requirement in compliance with the terms of its approved Service Schedule No. 317.

2. The modifications proposed by the Consumer Advocate to the tariff represent a departure from the manner in which the tariff has been administered and approved in all previous IMR filings with the Commission. Without addressing the merits of these proposed tariff changes at this time, there is a provision outlined in the IMR tariff on Original Page 6 of 6 for a process to change the IMR terms and the panel concluded that this process would give the parties here a better opportunity and sufficient time to fully examine all suggested tariff changes and present their respective positions to the Commission for resolution. The panel voted unanimously that a docket should be opened to address the issues proposed by the Consumer Advocate and any other potential issues related to the IMR tariff.

3. The IMR mechanism remains in the public interest by allowing Piedmont the ability to recover capital expenditures, required under federal statutes, including a return on

those investments, in a timely manner without the need for filing rate cases. Therefore, The panel voted unanimously that the Commission accept and approve the 2017 IMR annual report and the associated IMR Tariff as revised in Exhibit A to the Direct Testimony of Pia Powers, effective the first day of the bill cycle month following the ruling from this Commission.

IT IS THEREFORE ORDERED THAT:

1. The 2017 Integrity Management Rider Annual Report and its associated tariff, filed by Piedmont Natural Gas Company, Inc. on November 30, 2017, and revised on January 17, 2018, are accepted and approved.

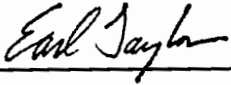
2. The effective date of the 2017 Integrity Management Rider Annual Report and its associated tariff shall be the first day of the bill cycle month following the panel's ruling at the April 9, 2018, Commission Conference.

3. A separate docket shall be opened to address the proposals made in this docket by the Consumer Protection and Advocate Division of the Office of the Attorney General and any other potential issues relative to the Integrity Management Rider tariff.

4. Any person who is aggrieved by the Commission's decision in this matter may file a Petition for Reconsideration with the Commission within fifteen days from the date of this Order.

5. Any person who is aggrieved by the Commission'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, Commissioner Kenneth C. Hill and Commissioner Keith Jordan concur.

ATTEST: 
Earl R. Taylor, Executive Director