



Waller Lansden Dortch & Davis, LLP
511 Union Street, Suite 2700
P.O. Box 198966
Nashville, TN 37219-8966

615.244.6380 main
615.244.6804 fax
wallerlaw.com

Paul S. Davidson
615.850.8942 direct
paul.davidson@wallerlaw.com

Filed Electronically in TPUC Docket Room on 2/15/2019 at 12:39 p.m.

February 15, 2019

Via Hand Delivery

Executive Director Earl Taylor
c/o Tory Lawless
Tennessee Public Utility Commission
502 Deaderick Street, Fourth Floor
Nashville, Tennessee 37243

Re: ***Compliance Filing of Piedmont Natural Gas Company, Inc. Regarding the
Impact of Federal Tax Reform on Public Utility Revenue Requirements
Docket No. 18-00040***

Dear Mr. Taylor:

Enclosed please find an original and five (5) copies of Piedmont Natural Gas Company, Inc.'s ("Piedmont") Settlement and Rebuttal Testimony of Pia K. Powers in the above captioned matter.

This material is also being filed today by way of email to the Tennessee Public Utility Commission docket manager, Tory Lawless. 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.

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

Very truly yours,

Paul S. Davidson

Enclosure

**Before the
Tennessee Public Utility Commission**

Docket No. 18-00040

**Compliance Filing of Piedmont Natural
Gas Company, Inc. Regarding the
Impact of Federal Tax Reform on Public
Utility Revenue Requirements**

**Settlement and
Rebuttal Testimony
of
Pia K. Powers**

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



February 15, 2019

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

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

4 **Q. By whom and in what capacity are you employed?**

5 A. I am the Director – Gas Rates & Regulatory Affairs for Piedmont Natural Gas
6 Company, Inc., (“Piedmont” or the “Company”).

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

8 A. Yes. I filed direct testimony in this proceeding on October 5, 2018.

9 **Q. What is the purpose of your Settlement and Rebuttal testimony in this**
10 **proceeding?**

11 A. The purpose of my Settlement and Rebuttal testimony is to support the partial
12 settlement reached between Piedmont and the Consumer Advocate Unit of the
13 Financial Division of the Office of the Tennessee Attorney General
14 (“Consumer Advocate”) in this proceeding and to respond to the testimony of
15 Consumer Advocate witness Dittmore on the two unresolved issues remaining
16 in this docket.

17 **Q. Can you explain the context for your testimony?**

18 A. Yes. On January 15, 2019, David Dittmore filed testimony on behalf of the
19 Consumer Advocate in this proceeding taking issue with a number of
20 Piedmont’s proposals regarding how to flow-through the impacts of the 2017
21 Tax Cuts and Jobs Act (“Tax Act”) to Piedmont’s Tennessee customers.
22 Piedmont’s proposals generally related to: (i) when to implement the reduction

1 from a 35% federal corporate income tax rate to a 21% federal corporate
2 income tax rate in Piedmont's customer rates and charges; (ii) how and when to
3 refund to customers the deferred amounts reflecting this corporate income tax
4 rate reduction from January 1, 2018 as ordered by the Commission in its
5 February 6, 2018 *Order Opening an Investigation and Requiring Deferred*
6 *Accounting Treatment* ("February 6 Order"); and (iii) how and when to refund
7 to customers any excess Accumulated Deferred Income Taxes ("ADIT")
8 resulting from the lower federal corporate income tax rate. The Consumer
9 Advocate's positions on these issues, as set forth in Mr. Dittmore's testimony,
10 varied significantly from those proposed by Piedmont.

11 Following receipt and review of Mr. Dittmore's testimony, Piedmont and the
12 Consumer Advocate had several discussions regarding the possibility of
13 attempting to settle at least some of the issues in contention between Piedmont
14 and the Consumer Advocate in this proceeding.

15 **Q. Were those discussions fruitful?**

16 A. Yes. Piedmont and the Consumer Advocate were successful in reaching
17 agreement on several aspects of implementation of the Tax Act in terms of its
18 impacts on Piedmont's customers. Specifically, Piedmont and the Consumer
19 Advocate reached agreement on the following terms for flow-through of the
20 benefits of the Tax Act to Piedmont's customers: (i) Piedmont's base rates are
21 to be modified to incorporate the cost of service impact of the decrease in the

1 federal corporate income tax rate from 35% to 21%, and such base rate changes
2 should become effective concurrent with the effective date of the Company's
3 forthcoming billing rate changes in Docket No. 18-00126 (Piedmont's currently
4 pending annual IMR proceeding); (ii) the tax savings accrued from January 1,
5 2018 through the effective date of Piedmont's base rate changes discussed
6 immediately above, are to be amortized and returned to Piedmont's customers
7 over a three-year period through a temporary decrement to base rates effective
8 concurrent with the effective date of the Company's forthcoming billing rate
9 changes in Docket No. 18-00126 ; and (iii) Piedmont is to notify its customers
10 of the rate reductions described above through a customer bill notice.

11 **Q. Where are these agreements reflected?**

12 A. They are set forth in paragraph 12 of the form of Stipulation and Partial
13 Settlement Agreement agreed to by the parties and pending signature which
14 will be filed in this docket shortly.

15 **Q. Please quantify the benefits that will flow to customers as achieved by the**
16 **terms of this settlement agreement.**

17 A. The going-forward reduction to base rates is derived from \$5,581,438 in pre-tax
18 annual tax savings arising from the revenue requirement adopted in Piedmont's
19 most recent general rate case proceeding. In other words, had Piedmont's
20 approved cost of service from its last general rate case been computed using a
21 21% federal income tax rate instead of the then-current 35% federal income tax

1 rate, it would have yielded an annual revenue requirement that was \$5,581,438
2 lower than that included in the stipulation approved by the Commission in
3 Docket No. 11-0144. In addition to this annual revenue requirement reduction,
4 customers will also receive, via a temporary rate decrement, all of the deferred
5 tax saving since January 1, 2018, which amounts to more than \$8.6 million as
6 of January 31, 2019. The aggregate reduction to residential customer rates
7 from these two elements of the settlement agreement will equal approximately
8 \$0.48/dekatherm, yielding a reduction of approximately \$35 to the typical
9 residential customer's annual bill.

10 **Q. What are you asking the Commission to do with regard to these**
11 **agreements?**

12 A. We are asking the Commission, consistent with the Stipulation and Partial
13 Settlement Agreement, to approve these agreed resolutions of the impacts of
14 the Tax Act.

15 **Q. Do these agreements reflect a complete settlement of the matters in this**
16 **proceeding?**

17 A. No. There are two remaining issues regarding implementation of the Tax Act
18 upon which Piedmont and the Consumer Advocate were unable to agree.

19 **Q. What are those issues?**

20 A. Those issues are: (i) the appropriate treatment for return of unprotected excess
21 ADIT to Piedmont's customers; and (ii) and the appropriate state income tax

1 rate for use in the computation of Piedmont's Tennessee ADIT balance in this
2 and future proceedings. The remainder of my testimony herein will address
3 these two issues.

4 **Q. What is unprotected excess ADIT?**

5 A. Unprotected excess ADIT is that portion of a regulated utility's excess ADIT
6 not subject to IRS tax normalization requirements. Such IRS tax normalization
7 requirements generally require that excess ADIT associated with the
8 accelerated depreciation of utility property be returned to customers on a
9 timeframe that mimics the remaining useful life of the associated utility
10 property. Excess ADIT that is not associated with accelerated depreciation of
11 utility property is considered "unprotected" by the IRS normalization
12 requirements. Therefore, unprotected excess ADIT is simply treated on the
13 utility's books as a regulatory liability and the Commission has the discretion to
14 order it be amortized as it sees fit.

15 **Q. What amount of unprotected excess ADIT was generated by the Tax Act?**

16 A. The amount of unprotected excess ADIT generated by the Tax Act is
17 \$17,406,055. Of this total unprotected excess ADIT amount, \$11,716,054 is
18 the portion related to non-accelerated book tax depreciation differences on
19 property, plant and equipment, and \$5,690,001 is the portion related to other
20 book tax depreciation differences.¹

¹ Amounts reflect true up to Piedmont's 2017 income tax return.

1 **Q. What is Piedmont's position on the amortization of unprotected excess**
2 **ADIT resulting from the Tax Act?**

3 A. Piedmont's initial position, set forth in my October 5, 2018 prefiled testimony,
4 is that the determination of the amortization period and amortization start date
5 for this class of excess ADIT should be determined in Piedmont's next general
6 rate proceeding – which is when ADIT is normally calculated and addressed for
7 ratemaking purposes.

8 **Q. Does that continue to be Piedmont's position?**

9 A. Yes, with one modification. Our modified proposal is that Piedmont be
10 required to begin flowback of unprotected excess ADIT at the earlier of its next
11 general rate case or three years from the date of the Commission's order in this
12 docket. By adopting this "earlier of" methodology, we are trying to be
13 responsive to any concerns about uncertainty associated with the timing of
14 Piedmont's next general rate case proceeding.

15 **Q. Why does Piedmont believe that its proposal regarding the amortization of**
16 **unprotected excess ADIT is reasonable?**

17 A. There are several factors driving Piedmont to propose a slower amortization of
18 unprotected excess ADIT than is recommended by Mr. Dittmore. First, there
19 are negative consequences to Piedmont (and other utilities) from the Tax Act
20 particularly revolving around the reduction in cash-flow associated with the
21 Tax Act changes. Taking a "go slower" approach to the amortization of

1 unprotected excess ADIT will help mitigate the negative cash flow impacts of
2 the Tax Act and will also help to avoid the need to access more costly debt or
3 equity to maintain cash flow requirements. Second, a significant percentage of
4 the unprotected excess ADIT at issue in this docket is associated with property
5 with a useful remaining life of more than twenty years – which suggests that a
6 longer amortization period is appropriate for the return of those funds to
7 customers. Third, addressing the amortization of unprotected excess ADIT in
8 Piedmont's next rate proceeding (or three years from the effective date of the
9 Commission's order in this docket, whichever occurs first) will provide a form
10 of hedge against future rate increases. If unprotected excess ADIT is amortized
11 before that period in time, then the future rate increases will be higher and
12 overall rate stability in Tennessee will be negatively impacted. Finally, the
13 amount of unprotected excess ADIT will not decrease over time – i.e. the
14 benefits to customers from the unprotected excess ADIT will be preserved. For
15 all of these reasons, Piedmont believes that excess ADIT should be preserved
16 as a hedge against future rate increases and potentially increased costs of capital
17 and addressed at the sooner of Piedmont's next general rate case or three years
18 from the Commission's order in this docket.

19 **Q. Does your recommendation represent a balanced resolution of all matters**
20 **associated with the Tax Act?**

1 A. Yes. As explained in Piedmont's initial comments in this docket and my direct
2 testimony filed October 5, 2018, Piedmont was downgraded by Moody's as a
3 result of the cash flow consequences associated with the Tax Act. Piedmont
4 now agrees to reduce its base rates and refund amounts overcollected since
5 January 1, 2018, thereby negatively impacting its cash flow. I do not believe
6 the Commission should further erode Piedmont's cash flow in the near term by
7 requiring a return of unprotected excess ADIT over the next three years as
8 recommended by Mr. Dittemore. A more balanced approach is to address
9 excess ADIT in the context of a general rate case proceeding, with the caveat
10 that this matter will be addressed at the sooner of such general rate case or the
11 expiration of three years from the issuance of an order in this docket.

12 **Q. Can you provide the Commission with any information regarding how this**
13 **type of excess ADIT has been amortized in other dockets and states?**

14 A. Yes. In Docket No. 18-00017, this Commission recently approved a 5-year
15 amortization of unprotected excess ADIT for Chattanooga Gas Company as
16 incorporated into their general rate case proceeding. This is substantially
17 longer than the period recommended by Mr. Dittemore in this docket.
18 Piedmont has also experienced substantially longer amortization periods than
19 that suggested by the Consumer Advocate in other jurisdictions. Specifically,
20 the Public Service Commission of South Carolina recently approved a 20-year
21 amortization period for the portion of Piedmont's unprotected excess ADIT

1 related to property, plant and equipment in recognition of the remaining useful
2 asset life, and approved a 5-year amortization period for the portion of
3 Piedmont's unprotected excess ADIT related to other book tax depreciation
4 differences. The North Carolina Utilities Commission has required a rate
5 reduction to incorporate the lower federal income tax rates, but has ruled that
6 amounts overcollected since January 1, 2018 and all excess ADIT amounts will
7 be addressed at the sooner of the utilities' next general rate case or three years
8 from the date of its October 2018 Order concerning these matters.

9 **Q. Lastly, do you agree with Mr. Dittimore's proposal to change the rate**
10 **methodology used by Piedmont to calculate its ADIT balances as a part of**
11 **this and all future ratemaking proceedings?**

12 A. No. While we understand Mr. Dittimore's proposal, the facts are that
13 Piedmont's use of a composite tax rate for calculating ADIT in Tennessee has
14 long historical precedent and Piedmont has employed, and the Commission has
15 approved, this exact same methodology to calculate its ADIT balances in
16 multiple prior rate cases. Further, such ADIT calculations by Piedmont, which
17 utilize the Company's overall effective state income tax rate (composite rate),
18 are consistent with the standards required by GAAP accounting. Piedmont's
19 methodology for its computation of excess ADIT related to the Tax Act does
20 not deviate in this regard. To implement Mr. Dittimore's suggestion at this
21 time would yield a computation of excess ADIT that is not aligned with the

1 ADIT rate base component approved by the Commission in its last rate order
2 for Piedmont in Docket No. 11-00144. If the Consumer Advocate wants to
3 change the manner in which Piedmont has historically calculated ADIT from
4 that consistently used in the past, then Piedmont suggests that such a proposal
5 should be made in Piedmont's next general rate case proceeding.

6 For these reasons, it is Piedmont's position that this is not the appropriate
7 docket to amend such ratemaking methodologies ordered by the Commission in
8 our last rate case. Rather, the Company's next general rate case proceeding is
9 the appropriate docket for all parties to pursue their positions on such
10 ratemaking methodology changes.

11 **Q. Does this conclude your Settlement and Rebuttal Testimony?**

12 **A.** Yes.