

**IN THE TENNESSEE PUBLIC UTILITY COMMISSION
AT NASHVILLE, TENNESSEE**

IN RE:

**COMPLIANCE FILING OF
PIEDMONT NATURAL GAS
COMPANY, INC. REGARDING
THE IMPACT OF FEDERAL TAX
REFORM ON PUBLIC UTILITY
REVENUE REQUIREMENTS**

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**DOCKET NO.
18-00040**

**CONSUMER ADVOCATE'S RESPONSE TO THE TENNESSEE PUBLIC UTILITY
COMMISSION'S FIRST DATA REQUEST**

Comes the Consumer Advocate Unit in the Financial Division of the Office of the Attorney General (Consumer Advocate) and hereby responds to the First Data Requests of the Tennessee Public Utility Commission (TPUC or Commission) to the Consumer Advocate filed on February 27, 2019.

1-1. Based upon the closing of the Company's books, what is the final amount of Protected and Unprotected excess ADIT to be amortized?

RESPONSE:

The Consumer Advocate testimony of David Dittmore identifies Protected and Unprotected balances of ADIT as \$50,827,384 and \$13,782,965 respectively. These amounts were supported by a combination of information provided in the Company's Appendix 3 and in response to Consumer Advocate Request No. 1-17. These amounts need to be grossed-up to properly identify the amount which should flow to ratepayers – see response number two below.

These amounts differ from those contained in the rebuttal testimony of Piedmont Gas witness Pia Powers. Purportedly, the difference stems from adjustment to estimated data recorded in

the first quarter, 2019. The Consumer Advocate did not receive updates to its discovery responses (specifically Nos. 1-16 and 2-17). As set out in the Consumer Advocate's Preliminary Matters and Definitions of its discovery request, the requests were to be considered "continuing in nature and are to be supplemented from time to time as information is received by the Production Party and any of its affiliates which would make a prior response inaccurate, incomplete or incorrect." Therefore, the Consumer Advocate does not have information that would readily reconcile the two sets of information at this time. In summary, the Consumer Advocate does not have access to information contained in the Company's 'closed' books.

- 1-2. What is the appropriate amortization treatment for the return of Unprotected excess ADIT including the time frame and amount? Provide rationale for an immediate amortization of the Unprotected amount or postponement until the Company's next rate case.**

RESPONSE:

In pre-filed testimony, the Consumer Advocate proposed a three-year amortization of Unprotected ADIT, resulting in an annual amortization of \$6,023,720 gross of tax. This amount was based upon information provided in discovery, which as discussed above, now differs from Piedmont's rebuttal testimony. As described in the Consumer Advocate's Response to TPUC DR No. 1-1 above, the Consumer Advocate does not have access to support for the updated Unprotected ADIT number. Therefore, we cannot respond to this portion of the request at this time.

While there is a rationale for the immediate return of Unprotected excess ADIT, the Consumer Advocate has proposed a three-year amortization to moderate any financial impact

on Piedmont. These funds were provided by ratepayers for the future payment of taxes. In light of the cancellation of that obligation, these ratepayer funds should be returned to them as soon as reasonably possible.

The Consumer Advocate recommends the Commission reject arguments that; (a) the balance of Unprotected ADIT should be further split between plant and non-plant related for purposes of determining the appropriate amortization period, (b) intergenerational equity supports the long amortization period in light of the estimated useful life of the underlying assets and (c) a short amortization period will have significant cash flow problems for the Company, thus supporting a longer amortization period.

First, there is no theoretical support or requirement to split Unprotected ADIT between plant and non-plant related items. This distinction identified by Piedmont is a strategic one but is not one that is set forth in the applicable sections of the Internal Revenue Code.

Secondly, the Commission should reject assertions that the Piedmont-defined plant related excess ADIT should be amortized over the remaining life of the underlying plant. While on the surface this may seem to have some merit, a closer examination indicates there truly is no linkage between these two periods. This excess ADIT represents over-payment of historic taxes and are not owing to future ratepayers, but rather historic ratepayers. In this situation the historic ratepayers provided pre-funding for Income Taxes which have been cancelled. While it is not possible to identify and refund these over-payments to the customers providing the excess funding, the next best option is to return the excess funds to existing ratepayers as quickly as possible. A shorter refund period would more closely align refunds with those

customers who over-paid Income Taxes contrasted with a longer amortization period supported by the Company.

Finally, the Commission should reject arguments by the Company that suggest a longer amortization is warranted given cash flow impacts to the Company. The Consumer Advocate notes that the Company has a consistent track record of spending significant capital in excess of its budget (See Dittmore Direct Testimony in TPUC Docket No. 17-00138). The lack of focus on ongoing costs of main installation was also noted in the Consumer Advocate's testimony in TPUC Docket No. 18-00126. The Consumer Advocate, therefore, suggests that if the Company is having cash flow issues it should focus on gaining internal efficiencies related to its capital expenditures and not otherwise delaying refunds that are owed to customers.

1-3. What is the appropriate Tennessee state income tax rate to be used in the computation of Piedmont's excess ADIT?

RESPONSE:

The appropriate state income tax rate to be used in the computation of Piedmont's excess ADIT is 6.5%, the Tennessee specific tax rate. This is the rate that was adopted by the Commission in the computation of Income Tax Expense in Piedmont's most recent rate proceeding, TPUC Docket No. 11-00144. Standard ratemaking theory requires the consistent use of a state tax rate within the calculation of Income Tax Expense and the computation of ADIT.

1-4. Provide a specific recommendation on the amount of Protected excess ADIT and the time frame in which it should be refunded to customers calculated consistent with the

ARAM, including an option for the immediate amortization.

RESPONSE:

The response to Consumer Advocate Request No. 1-23 indicates that no workpapers exist which support the amortization period for Protected ADIT. Supplemental information related to Request No. 1-23 that may be available as a result of finalizing Piedmont's tax return in the first quarter of 2019 necessary to support the ARAM amortization period has not been provided.

- 1-5. If amortization of Unprotected and/or Protected excess ADIT is deferred until the Company's next rate case, should interest be applied to recognize the time delay? If so, what interest rate should be utilized?**

RESPONSE:

No. With respect to the excess ADIT balances, existing base rates include the total ADIT balance at the time of the last rate case, a portion of which is now considered excess ADIT. Therefore, ratepayers are effectively earning an avoided cost reduction in the revenue requirement due to the recognition of pre-TCJA balances of total ADIT as a rate base deduction.

The Consumer Advocate believes that it may be appropriate to apply interest on the deferred balance of accrued Income Tax Expense savings in certain circumstances in those cases where there have been delays in providing customer refunds. The application of interest to accrued Income Tax savings was not adopted in the Settlement Agreement due to the normal give and take in achieving a Settlement Agreement.

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 5th day of March, 2019.


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