

BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION

NASHVILLE, TENNESSEE

August 5, 2019

IN RE:

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

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**DOCKET NO.
18-00126**

**ORDER APPROVING 2018 INTEGRITY MANAGEMENT
RIDER ANNUAL REPORT AND TARIFF**

This matter came before Chair Robin Morrison, Commissioner John Hie, and Commissioner David F. Jones 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 20, 2019, for deliberations concerning the 2018 Annual Report for the Integrity Management Rider (“IMR”) and revised tariff filed by Piedmont Natural Gas Company, Inc. (“Piedmont” or the “Company”) on November 30, 2018. A hearing was previously held on March 11, 2019, in which the Consumer Advocate Unit of the Financial Division of the Office of the Tennessee Attorney General and Reporter (“Consumer Advocate”) participated.

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

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 commission may authorize a mechanism to recover the operational expenses, capital costs or both, if such

the *Stipulation of Piedmont Natural Gas Company* (“*Stipulation*”) entered into by Piedmont and the Consumer Advocate 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

expenses or costs are found by the commission to be in the public interest, related to ... [s]afety requirements imposed by state or federal government...”

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.*

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 on the interest rate as defined in the TPUC's Purchased Gas Adjustment Rule, Tenn. Comp. R. & Regs. 1220-04-07-.03. Costs, collections and interest will be recorded monthly to the Integrity Management Deferred Account, and the applicable 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. As part of the *Stipulation* approved in Docket 03-00118, Piedmont is required to file notice thirty (30) days prior to implementation of the IMR and submit its annual filing fourteen (14) days prior to implementation of the IMR.⁶

Since approval of the initial IMR, Piedmont has filed monthly reports with the Commission outlining the Company's 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, 16-00140, and 17-00138. On November 30, 2018, consistent with the Commission's Order in Docket No. 13-00118, Piedmont filed its 2018 IMR Annual Report ("Annual Report"). On December 7, 2018, the Consumer Advocate filed a *Petition to Intervene*. The Consumer Advocate's intervention was granted by the Hearing Officer on January 8, 2019.

2018 IMR ANNUAL REPORT

The Annual Report filed by Piedmont on November 30, 2018, included a schedule of all journal entries specifically related to the IMR for the previous twelve (12) months, billing

⁶ *Id.* at 4-5.

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

determinants used to compute the Integrity Management Deferred Account Adjustment, and computations calculating the IMR with supporting schedules. The total IMR recovery amount for 2019 is \$27,254,329, an amount includes \$1,375,025.85 from the unrecovered balance in the deferred IMR account at October 31, 2018.⁸

The filing also included a revised tariff reflecting the proposed billing rates effective January 1, 2019 and the Direct Testimony of Pia K. Powers in support of Piedmont's 2018 annual filing. Ms. Powers, in her pre-filed testimony, stated that all calculations resulting in Piedmont's proposed customer rates were made using the methodologies set forth in the Company's approved tariff.⁹

If approved as filed by the Company, the IMR rate will be billed to customers during 2019 and will decrease from the current \$0.16057 per therm to \$0.14605 per therm for the typical residential customer using approximately 735 therms of natural gas per year. This equates to a decrease in a residential customer's bill of approximately \$10 per year (\$0.89 per month).¹⁰ Ms. Powers also asserts in her testimony that circumstances have not changed and the IMR tariff continues to be in the public interest in line with the reasons the Commission outlined in its order approving the IMR mechanism.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. The Consumer Advocate raises two issues with the Company's 2018 IMR filing:

⁸ 2018 Annual Filing, Schedule 1, Schedule 3 (November 30, 2018).

⁹ Pia K. Powers, Pre-filed Direct Testimony, pp. 4-5 (November 30, 2018)

¹⁰ *Id.* at 8-9.

¹¹ *Id.* at 3.

(1) the calculation of property tax expense in the IMR and (2) the cost of installing distribution mains.

With respect to the property tax component of the IMR, Mr. Dittemore addresses the same issue that the Consumer Advocate brought forth in Piedmont's last IMR filing, Docket No. 17-00138, concerning the inclusion of Ad-Valorem tax expense calculated on tax exempt property. In this review period, Mr. Dittemore identified certain tax exempt property associated with the OASIS asset. Piedmont included this property in the calculation of Ad-Valorem taxes. Mr. Dittemore calculated the amount related to the tax exempt property and is recommending that the Commission accept his adjustment of \$171,809, which reduces the Company IMR revenue requirement by this amount.¹² Under the Consumer Advocate's proposal, the IMR revenue requirement would be \$27,082,520 and a typical residential customer would be charged \$0.14513 per therm. This rate is \$0.00092 less than the Company's calculation (or less than \$1.00 per year difference for an average residential bill).¹³

Mr. Dittemore next addressed the Consumer Advocate's characterizations of significant cost overruns in Piedmont's last IMR filing in Docket No. 17-00138. Similarly, in the current filing, he points out the wide variation in costs over the last five years for distribution mains, from a high of \$1,963,235 in FY 2016 to a low of \$945,086 in FY 2018.¹⁴ When Mr. Dittemore asked the Company for an explanation for the significant difference in cost per mile from 2016 to 2018, Piedmont responded it did not have an explanation. While there is not enough data at this time to draw any conclusions regarding Piedmont's cost control efforts, Mr.

¹² Direct Testimony of David Dittemore, pp. 3-4; Exhibit DND-2, (February 19, 2019).

¹³ *Id.* at Exhibit DND-3.

¹⁴ *Id.* at 6-7.

Dittemore is concerned that Piedmont may not be maintaining sufficient cost controls on capital expenditures.¹⁵

PIEDMONT'S REBUTTAL

Ms. Powers, in her Rebuttal Testimony, testifies that the Company calculates property tax expense using a “composite” tax rate of 0.73% developed in the last rate case. Simply put, it is the ratio of annual property tax expense approved by the Commission in the last rate case to the amount of gross plant investment approved in the last rate case. She asserts this ratio takes into account that not all property in Piedmont’s rate base is subject to Ad Valorem tax. To now exclude some property from the property tax calculation would be inappropriate and would circumvent the purpose of using a “composite” rate.¹⁶

Piedmont asserts the Company’s methodology for calculating property tax expense in this docket is consistent with its IMR tariff (Service Schedule No. 317), and has been used in all of Piedmont’s IMR filings and approved by the Commission. The Company argues Mr. Dittemore’s recommendation to change established methodology would be more appropriately addressed in the recently opened Commission Docket No. 19-00007, which was established for the purpose of addressing potential changes to the IMR mechanism.¹⁷

Ms. Powers, in her Rebuttal Testimony, notes that the Consumer Advocate is not recommending any cost disallowance, but rather expresses concerns that Piedmont is not appropriately managing its main installation costs. Ms. Powers testifies that there is no simple explanation for the variances identified from year to year, but after consulting with Piedmont’s engineers, she is confident the Company is properly managing its costs.¹⁸ Ms. Powers explains

¹⁵ *Id.* at 5-8.

¹⁶ Pia K. Powers, Pre-filed Rebuttal Testimony, pp. 2-3 (February 25, 2019).

¹⁷ *Id.* at 3-4.

¹⁸ *Id.* at 4-5.

that each project is “unique” and has different variables that can significantly affect the cost per mile of installed pipe and that these include verifiable factors.¹⁹

Ms. Powers further details the procedures Piedmont must perform to complete a project. She opines that while the competitive bid process ensures the lowest costs, market demand for qualified contractors can drive up these costs.²⁰ Ms. Powers notes that the Consumer Advocate had similar concerns in the previous IMR filing that Piedmont improperly managed a number of OASIS projects; the Company asserts Mr. Victor Gaglio filed testimony in the previous IMR docket to explain the Company’s process and refute allegations that the Company poorly managed costs. Ms. Powers concludes her testimony by stating that Piedmont strongly rejects insinuations made by Mr. Dittermore in this docket that imply Piedmont is ineffective in project or cost management of its integrity management related projects.²¹

THE CONSUMER ADVOCATE’S LETTER TO THE COMMISSION OF MARCH 1, 2019

On March 1, 2019, the Consumer Advocate provided an update to its position in the docket with respect to the issues raised in Mr. Dittermore’s pre-filed testimony. The Consumer Advocate stated that in light of the Commission’s opening of a generic docket to address potential changes to Piedmont’s IMR, it is in “the interest of judicial economy” to address the property tax calculation and the costs of installing distribution mains in TPUC Docket No. 19-00007.²² The letter indicated the parties had discussed the matter and were in agreement.

¹⁹ *Id.* at 5-6.

²⁰ *Id.* at 6-7.

²¹ *Id.* at 7-8.

²² *Letter of the Consumer Advocate to Chair Robin Morrison*, (March 1, 2019).

MARCH 11, 2019 HEARING AND APPEARANCES

A Hearing in this matter was held before the voting panel on March 11, 2019, as noticed by the Commission on March 1, 2019. Participating in the hearing were the following parties and their respective counsel:

Piedmont - James H. Jefferies, IV, Esq., McGuire Woods, LLP, 201 North Tyron Street, Suite 3000, Charlotte, North Carolina, 28202; Paul S. Davidson, Esq., Waller, Lansden Dortch & Davis, LLP, 511 Union Street, Suite 2700, Nashville, Tennessee 37219.

Consumer Advocate – Daniel P. Whitaker, III, Esq., and Vance Broemmel, Esq., Office of the Attorney General, War Memorial Building, 301 6th Avenue North, Second Floor, P.O. Box 20207, Nashville, Tennessee 37202.

The voting panel heard the testimony of Ms. Pia Powers on behalf of the Company, and Mr. David Dittmore, the expert witness of the Consumer Advocate. Both parties waived cross-examination. Counsel for Piedmont indicated the Company agreed with the procedural approach proposed by the Consumer Advocate to move the contested issues to TPUC Docket No. 19-00007.²³ 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 presentation by the parties, the Chair announced the hearing panel would deliberate on the matter at a later date.

FINDINGS AND CONCLUSIONS

The hearing panel assigned to this matter deliberated at the Conference Commission on May 20, 2019. Based upon a review of the evidentiary record in this docket and the representations made by the Parties, the panel unanimously found that the 2018 IMR filing of Piedmont Natural Gas Company, Inc. complied with the mechanism and methodologies approved by the Commission in Docket No. 13-00118. Further, the panel found that Piedmont

²³ Transcript of Commission Conference, p. 8 (March 11, 2019).

correctly calculated the IMR revenue requirement in compliance with the terms of its approved Service Schedule No. 317.

The panel further concluded that the agreement between the Parties made at the March 11, 2019 hearing to move the two issues identified by the Consumer Advocate to Commission Docket No. 19-00007 is the correct approach, especially given that Docket No. 19-00007 was opened as a generic docket for the purpose of addressing and resolving potential changes to the IMR tariff.

Finally, the panel found that 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 to approve the 2018 IMR annual filing and revised rates to become effective the first day of the bill cycle month following the Commission Conference on May 20, 2019.

IT IS THEREFORE ORDERED THAT:

1. The 2018 Integrity Management Rider Annual Report and its associated tariff, filed by Piedmont Natural Gas Company, Inc. on November 30, 2018, are accepted and approved.
2. The effective date of the 2018 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 May 20, 2019 Commission Conference.
3. The issues identified in this docket by the Consumer Advocate Unit of the Office of the Attorney General may be raised in Commission Docket No. 19-00007.

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 (15) 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 (60) days from the date of this Order.

Chair Robin Morrison, Commissioner John Hie, and Commissioner David F. Jones concur.



ATTEST: _____

Earl R. Taylor, Executive Director