

BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION

NASHVILLE, TENNESSEE

December 13, 2019

IN RE:)	
)	
DOCKET TO EXAMINE PROPOSALS MADE)	
BY THE CONSUMER ADVOCATE TO MODIFY)	DOCKET NO.
PIEDMONT NATURAL GAS COMPANY'S)	19-00007
INTEGRITY MANAGEMENT RIDER TARIFF)	
AND OTHER POTENTIAL ISSUES RELATED)	
TO THE IMR TARIFF)	

ORDER

This matter came before Vice Chair Kenneth C. Hill, Commissioner Herbert H. Hilliard, and Commissioner David F. Jones of the Tennessee Public Utility Commission (the "Commission" or "TPUC"), the voting panel assigned to this docket, during the regularly scheduled Commission Conference held on October 14, 2019, for deliberations on issues related to the Integrity Management Rider ("IMR") tariff of Piedmont Natural Gas Company, Inc. ("Piedmont" or the "Company").¹

I. BACKGROUND

Pursuant to Tenn. Code Ann. § 65-5-103(d),² in TPUC Docket No. 13-00118, the Commission previously approved Piedmont's 2013 Annual Report and IMR, as amended by

¹ The Commission ordered the opening of this docket for the purpose of addressing proposals made by the Consumer Advocate in Docket No. 17-00138 and any other potential issues relative to Piedmont's IMR tariff. *See In re: Petition of Piedmont Natural Gas Company for Approval of an Integrity Management Rider to Its Approved Rate Schedules and Service Regulations* ("2017 IMR Case"), Docket No. 17-00138, *Amended Order Approving 2017 Integrity Management Rider Annual Report and Tariff* ("2017 IMR Order"), p. 12 (August 28, 2018).

² Tenn. Code Ann. § 65-5-103(d) went into effect April 19, 2013 and authorizes the Commission to implement alternative regulatory methods. Specifically, the section 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

the *Stipulation of Piedmont Natural Gas Company* entered into by Piedmont and the Consumer Advocate Unit in the Financial Division of the Office of the Tennessee Attorney General³ (“Consumer Advocate”), and its associated tariff with an effective date of January 1, 2014.⁴ The IMR requires monthly reports outlining capital expenses resulting from compliance with state and federal pipeline safety requirements⁵ and annual filings⁶ that contain information to assist the TPUC in determining the prudence and necessity of the costs submitted for recovery.⁷

On May 14, 2018, the Commission deliberated the merits of Piedmont’s 2017 IMR filing in Docket No. 17-00138, *Petition of Piedmont Natural Gas Company for Approval of an Integrity Management Rider to its Approved Rate Schedules and Service Regulations*. During its deliberations, the voting panel of the Commission assigned to that docket found that a separate docket should be opened in which the Commission could consider and address issues that were identified by the Consumer Advocate, and any other potential issues, relative to Piedmont’s IMR Tariff.⁸ Subsequently, this docket was opened for the purposes ordered in TPUC Docket No. 17-00138.

The Hearing Officer issued an *Order Establishing Procedural Schedule* on May 22, 2019 to provide for the orderly administration of proceedings in this docket. Upon completion of the exchange of discovery requests and responses, the Consumer Advocate submitted the Pre-Filed Direct Testimony of its witness, David N. Dittmore, on July 11, 2019. The Pre-Filed

found by the authority to be in the public interest, related to ... [s]afety requirements imposed by the state or federal government....” Tenn. Code Ann. § 65-5-103(d)(2)(A) (Supp. 2019).

³ The Consumer Advocate was known as the Consumer Protection and Advocate Division of the Office of the Tennessee Attorney General at the time of the *Stipulation of Piedmont Natural Gas Company*.

⁴ 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) (“2013 IMR Order”).

⁵ The IMR Monthly Reports are filed by Piedmont in TPUC Docket No. 13-00118.

⁶ Piedmont has submitted Annual Report Filings in TPUC Docket Nos. 14-00147, 15-00116, 16-00140, and 17-00138 and 18-00126.

⁷ 2013 IMR Order, pp. 4-5 (May 13, 2014).

⁸ 2017 IMR Order, pp. 11-12 (August 28, 2018).

Rebuttal Testimony of Pia K. Powers was filed by Piedmont on July 29, 2019. A hearing on this matter was conducted, as noticed, on September 9, 2019.

II. ISSUES

A. ISSUES IDENTIFIED IN 2017 IMR DOCKET

In the 2017 IMR Docket, the Consumer Advocate identified several issues that would modify Piedmont's IMR. The Commission deferred consideration on those issues to a new docket to be opened for the purpose of considering those and other potential issues that would modify Piedmont's IMR Tariff. The Consumer Advocate recommended three (3) adjustments from disallowance of costs. First, the Consumer Advocate asserted that Piedmont should not be entitled to receive a return on investment on the excess costs of the OASIS project, since the final costs significantly exceed the original budget estimate. The Consumer Advocate's witness in the 2017 IMR Docket, David Dittmore, made it clear that the recommendation is to exclude the return on the OASIS cost overruns, not the actual costs of the OASIS project itself.⁹ In addition, Mr. Dittmore raised and recommended a reduction to offset estimated future Operating and Maintenance ("O&M") cost savings associated with the OASIS project.¹⁰ Finally, the Consumer Advocate also recommended a modification to the property tax calculation to exclude from the calculation the property tax for certain properties that are exempt from property tax.¹¹

In addition to the cost disallowance adjustments, the Consumer Advocate identified other issues and potential modifications to the IMR unrelated to OASIS and/or costs. Mr. Dittmore recommended a change to the recovery methodology from a fixed monthly charge

⁹ 2017 IMR Order, pp. 5-6 (August 28, 2018).

¹⁰ *Id.* at 6.

¹¹ *Id.*

to a volumetric rate based on customer consumption.¹² In addition, Mr. Dittmore recommended Piedmont be required to record a regulatory liability for tax costs in the IMR for sales volumes accrued from January 1, 2018 until the next IMR rates become effective, due to the adjustment of federal tax rates by the 2017 Tax Cuts and Jobs Act (“2017 Tax Act”).¹³ With regard to excess Accumulated Deferred Income Taxes (“ADIT”) that may result from the 2017 Tax Act, the Consumer Advocate recommended that such funds be set aside and preserved from IMR investment from December 22, 2017 until the same can be addressed in a future docket addressing the issue.¹⁴ In addition, Mr. Dittmore advocated for a required addition to the annual IMR report to include reporting of safety metrics in order to ensure no major change to Company performance from year to year.¹⁵ Finally, the Consumer Advocate recommended that the Commission require that a depreciation study be conducted to include the OASIS asset and that for future IMR filings, Piedmont file its Petition and witness testimony simultaneously.¹⁶

B. ISSUES PRESENTED IN THE CURRENT DOCKET

As the Commission ordered in the *2017 IMR Order*, this docket was opened for the purpose of addressing the issues identified by the Consumer Advocate in Docket No. 17-00138, as well as any other issues related to Piedmont’s IMR. The Consumer Advocate filed testimony, identifying eight (8) areas of concern.¹⁷ Piedmont submitted testimony addressing

¹² *Id.* During the hearing on the merits in Docket No. 17-00138, held on April 9, 2018, Mr. Dittmore withdrew his recommendation concerning a volumetric IMR rate from consideration in that docket. He did, however, reserve the right to propose a volumetric based IMR rate design in future dockets. *2017 IMR Case*, Docket No. 17-00138, Transcript of Hearing, pp. 82-83 (April 9, 2018).

¹³ *Id.* at 7.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ David N. Dittmore, Pre-Filed Direct Testimony (July 11, 2019).

the eight (8) issues raised by the Consumer Advocate, but neither raised any additional issues or proposed any additional modifications to the Company's IMR.¹⁸

Therefore, the issues before the Commission for consideration in this docket, as presented by the Consumer Advocate in Pre-Filed Direct Testimony, are as follows:

1. The IMR should be limited to a five-year window, after which the Company can only reinstate and implement the IMR by the filing of a general rate case ("Mandatory Five-Year Cycle");
 2. The current IMR having been in place for more than five (5) years, the Commission should allow two (2) additional IMR filings, after which the Company must pursue a general rate case ("Current IMR Cycle");
 3. The Company's future IMR filings should include testimony and details concerning the Company's anticipated IMR expenditures for the upcoming year ("Budgeted IMR Expenditures");
 4. The Company should provide rationale concerning whether the Commission should adopt the OASIS cost exclusions adopted by North Carolina ("OASIS Cost Review");
 5. The Company's property tax expense should be modified to reflect actual property tax incurred on IMR property ("Property Tax Expense");
 6. The IMR revenue requirement should be reduced to reflect O&M expense savings relative to the OASIS project ("O&M Expense Savings");
 7. The Company's IMR filings should include safety metrics to allow the parties to assess Piedmont's quality of service related to the IMR surcharge increases ("Safety Metrics");
- and,

¹⁸ Pia K. Powers, Pre-Filed Rebuttal Testimony (July 29, 2019).

8. Piedmont should be required to provide an annual customer bill insert that gives an explanation of each individual rate component on customer bills (“Customer Bill Inserts”).¹⁹

III. POSITIONS OF THE PARTIES

A. POSITION OF THE CONSUMER ADVOCATE

The position of the Consumer Advocate is presented through the Pre-Filed Direct Testimony of David Dittemore.²⁰ In general, the Consumer Advocate asserts that their proposed recommendations are necessitated by the IMR becoming a large portion of the customer’s bill due to the IMR expenditures exceeding originally anticipated spending. In addition, since the IMR was instituted, Piedmont has been acquired by Duke Energy and has not had a general rate case since prior to the acquisition.²¹

With regard to the Mandatory Five-Year Cycle, Mr. Dittemore states Piedmont has indicated that it has no immediate plans to submit a rate case in the near future, and that the Company’s most recent rate case was in 2011. He asserts that the monthly financial information submitted to the Commission is a starting point that requires a thorough review of the regulatory operations of the Company in order to obtain an accurate regulatory return on equity (“ROE”). Because Piedmont has not had a general rate case, it is presumed that the Company believes its earnings are at least sufficient and potentially in excess of the Company’s authorized ROE. Therefore, the IMR should not have an indefinite life but should be limited to a five-year time period, after which the IMR capital expenses should be submitted as part of a base rate case filing and rolled into the base rates.²²

¹⁹ David N. Dittemore, Pre-Filed Direct Testimony, pp. 2-3 (July 11, 2019).

²⁰ *Id.*

²¹ *Id.* at 3-4.

²² *Id.* at 9-11.

Mr. Dittmore also states that, even though the IMR has been in existence for more than five (5) years, it would be inequitable to apply the Mandatory Five-Year Cycle and as a result, immediately terminate the IMR. In order to be more equitable, the Consumer Advocate asserts in the Current IMR Cycle, that the Company be permitted to submit two (2) additional IMR filings before being required to submit a general rate case.²³

Based upon a statement by Piedmont in its discovery responses in Docket No. 18-00126, suggesting that prudence evaluations should not be a hindsight review but rather should proceed in a similar manner to such reviews in general rate cases, the Consumer Advocate testified that Piedmont's annual IMR filing should include information necessary to conduct such a review. The Budgeted IMR Expenditures should be delineated through testimony and details of anticipated IMR expenditures included in the IMR filing so that the parties can engage in an evaluation of these costs ensuring satisfactory cost performance.²⁴

Concerning the OASIS Cost Review, the Consumer Advocate points out that the OASIS asset is used in North Carolina, South Carolina, and Tennessee. Therefore, OASIS costs are allocated among the three (3) states for ratemaking purposes. Providing a copy of a Stipulation and Settlement Agreement between North Carolina Public Staff and Piedmont as an Exhibit to his testimony, Mr. Dittmore points out that both Tennessee and North Carolina permit recovery of federal pipeline safety costs in the respective IMRs. However, North Carolina excludes approximately thirty percent (30%) of OASIS costs from the IMR mechanism. The Consumer Advocate argues that the Commission should investigate whether the North Carolina cost exclusions should be adopted in Tennessee, requiring Piedmont to file

²³ *Id.* at 11-12.

²⁴ *Id.* at 13.

testimony in a separate docket to address the North Carolina IMR cost exclusions, providing reasons why such cost exclusions should not be adopted in Tennessee.²⁵

With regard to the Property Tax Expense, the Consumer Advocate recommends that the mechanics of the ad valorem tax calculation set forth in the tariff be updated. Piedmont has experienced a substantial increase in tax exempt property since the Company's last rate case according to Mr. Dittmore. He asserts that as a result of this increase, the property tax ratio used in the IMR requires modification to eliminate the application of the tax rate to tax exempt property.²⁶

In addition, Mr. Dittmore advocates for the principle of matching, which "requires the recognition of O&M savings arising as a result of the OASIS asset be included as a reduction in the IMR revenue requirement."²⁷ The O&M Expense Savings issue, if unchanged from the current IMR, yields an inequitable result for ratepayers, as the Company earns a return on OASIS and recovers depreciation and property tax expenses associated with OASIS, but retains all O&M Expense Savings associated with OASIS without sharing the benefit with its ratepayers.²⁸

The Consumer Advocate also addressed the issue of Safety Metrics, calling for accountability in the IMR investment. Mr. Dittmore testifies that the ratepayers are incurring significant costs to fund the IMR investment, while the Company benefits from the revenue stream and reduced regulatory lag resulting from the IMR mechanism. Mr. Dittmore argues that it is important to measure the effectiveness of the safety features funded and implemented through the IMR to ensure ratepayers are obtaining commensurate quality of service. To

²⁵ *Id.* at 14-16.

²⁶ *Id.* at 16-17.

²⁷ *Id.* at 18.

²⁸ *Id.*

provide this type of accountability, the Consumer Advocate recommends that Piedmont produce reports indicating the response time to emergency odor calls and identifying the number and age of leaks within the system sorted by grade and class. These reports should be filed annually within the IMR docket.²⁹

Finally, the Consumer Advocate describes the Customer Bill Inserts issue, as a need for additional billing transparency by Piedmont to its customers. Mr. Dittmore testifies that Piedmont's current customer bill provides no breakdown of separately identified components to the customer bill total. As a remedy to the lack of transparency, the Consumer Advocate recommends an annual bill insert that identifies and defines approved rates. The insert would include a breakdown of the various components to the amount a customer is billed, along with information referencing the various tax types and taxing jurisdiction incorporated into the bill.³⁰

At the Hearing on this matter on September 9, 2019, Mr. Dittmore summarized his Pre-Filed Testimony, focusing on the Property Tax Expense, Mandatory Five-Year Cycle, and O&M Expense Savings.³¹ In addition, the Consumer Advocate elicited the agreement of Piedmont through its witness, Pia K. Powers, as to Safety Metrics,³² Customer Bill Inserts,³³ and information on Budgeted IMR Expenditures.³⁴

B. POSITION OF PIEDMONT

The position of Piedmont is presented through the Pre-Filed Rebuttal Testimony of Pia K. Powers, Director – Gas Rates & Regulatory Affairs for Piedmont.³⁵ In general, Piedmont

²⁹ *Id.* at 22-24.

³⁰ *Id.* at 24-25.

³¹ Transcript of Commission Conference, pp. 21-22 (September 9, 2019).

³² *Id.* at 39. *See also* Pia K. Powers, Pre-Filed Rebuttal Testimony, p. 15 (July 29, 2019).

³³ *Id.* at 39-40. *See also* Pia K. Powers, Pre-Filed Rebuttal Testimony, p. 16 (July 29, 2019).

³⁴ *Id.* at 40-41. *See also* Pia K. Powers, Pre-Filed Rebuttal Testimony, p. 6 (July 29, 2019).

³⁵ Pia K. Powers, Pre-Filed Rebuttal Testimony (July 29, 2019).

identifies three issues on which the Company agrees to provide information as recommended by the Consumer Advocate, and disagrees that any of the Consumer Advocate's remaining recommendations on modifications to the IMR are needed and/or are in the public interest.³⁶

Ms. Powers testifies that a Mandatory Five-Year Cycle, requiring a general rate case five (5) years after an IMR has been established, is not justified. The IMR mechanism has served its explicit purpose, which is to avoid the necessity of filing regular, repeated general rate cases, at the customers' expense, due to federal regulations in integrity management. Ms. Powers states that the evidence that the IMR mechanism is successful is found in the fact that Piedmont has not filed a rate case in more than five years. In addition, Ms. Powers questions the authority of the Commission to order the commencement of a rate case without first commencing a show cause proceeding alleging that the Company is over-earning. In addition, historically more frequent rate cases lead to higher customer rates. For these reasons, Ms. Powers argues that the Mandatory Five-Year Cycle is not in the public interest.³⁷

Similarly, Piedmont opposes the Consumer Advocate's proposal on the Current IMR Cycle, asserting that it is a short-term modification of the Mandatory Five-Year Cycle. Ms. Powers testifies that the proposal is an attempt to compel the Company to file a general rate case. She further states that the Commission is able to observe Piedmont's earnings through monthly observation reports filed by the Company and has the ability to address any over-earning issue these monthly reports may indicate through a show cause matter. IMR only allows recovery of costs associated with integrity management, but does not allow recovery of

³⁶ *Id.*

³⁷ *Id.* at 3-4.

O&M costs resulting from growth and inflation. Based upon these mitigating factors, Ms. Powers argues that the Current IMR Cycle seeks to resolve a non-existent problem.³⁸

Ms. Powers testified that Piedmont does not object to providing information on its integrity management capital expenditures budget or proposed future IMR projects for the purpose of administration of the IMR mechanism as proposed in the Consumer Advocate's Budgeted IMR Expenditures issue. However, Piedmont asserts that such information should not be utilized by the Commission or the Consumer Advocate to directly or actively engage in the Company's administration of its transmission or distribution integrity management activities.³⁹

With regard to the OASIS Cost Review proposed by the Consumer Advocate, Piedmont asserts that the OASIS exclusions adopted by North Carolina should not be adopted by Tennessee. In support of this position, Ms. Powers points out differences between the two states' IMR mechanisms and the processes by which they were established. The mechanisms in each state have different terms that resulted from agreements between the Company and the Consumer Advocate in Tennessee and Public Staff in North Carolina. Ms. Powers identifies three elements in the North Carolina IMR mechanism that make comparison with the Tennessee IMR mechanism difficult. Those elements of the North Carolina IMR are: 1.) two (2) IMR filings and rate adjustments per year; 2.) exclusion of a small percentage of select categories of IMR-related capital investment as mitigation to allow for more timely auditing of the semi-annual IMR expense filings; and, 3.) the excluded portions of IMR expenditures contributed to the Company's need to file a general rate case in North Carolina. Finally,

³⁸ *Id.* at 4-5.

³⁹ *Id.* at 6.

Piedmont asserts that neither Commission Staff nor the Consumer Advocate has articulated that the Tennessee IMR process does not provide an opportunity for an adequate audit.⁴⁰

Concerning the Property Tax Expense, Ms. Powers testifies that Piedmont calculates the property tax for the IMR based upon a composite ratio that was adopted in the Company's last rate case. The adopted composite ratio includes the recognition that not all property in Piedmont's rate base is subject to ad valorem tax and is required to be utilized by the tariff. Ms. Powers asserts that exclusion of the some property from the application of the composite rate to the IMR computation of property tax expense would be inappropriate and redundant.⁴¹

With regard to the Consumer Advocate's recommendation on the issue of O&M Expense Savings, Piedmont asserts a number of reasons in support of rejecting the recommendation. First, Ms. Powers states that O&M savings resulting from the IMR are not "individually and discretely identifiable ... since they are not directly reflected in Piedmont's books as individual items of cost (or cost-savings)."⁴² Second, the IMR mechanism terms, which are consistent with the agreement between Piedmont and the Consumer Advocate, do not address or anticipate adopting an O&M crediting mechanism. Third, Ms. Powers points out that the related O&M expenses and any savings on these expenses will be considered in any future rate case. Finally, Ms. Powers states that Mr. Dittmore's testimony contradicts testimony he gave on behalf of Kansas Gas Service in a Kansas docket⁴³ concerning O&M savings resulting from integrity management projects. In his Kansas testimony, Mr. Dittmore stated that calculating an O&M credit would be virtually impossible and impractical.⁴⁴

⁴⁰ *Id.* at 7-9.

⁴¹ *Id.* at 9-11.

⁴² *Id.* at 12.

⁴³ See *In the Matter of a General Investigation Regarding the Acceleration of Replacement of Natural Gas Pipelines Constructed of Obsolete Materials Considered to be a Safety Risk*, Kan.S.C.C. Docket No. 15-GIMG-343-GIG, *Testimony of David Dittmore for Kansas Gas Service*, pp. 8-9 (October 9, 2015).

⁴⁴ Pia K. Powers, Pre-Filed Rebuttal Testimony, p. 14 (July 29, 2019).

Piedmont states, in response to the Consumer Advocate's recommendation on Safety Metrics, that it is willing to provide to the Commission's Gas Pipeline Safety Division any safety metrics in its possession. Ms. Powers notes in her testimony that, "there is no rational nexus between Piedmont's IMR-related activities and the safety metrics requested in this docket as the requested metrics relate to reactive Company responses to emergencies and/or physical system failures which are not directly addressed or impacted by the proactive system integrity projects recovered under the IMR mechanism."⁴⁵

Finally, Ms. Powers testifies that Piedmont has no objection to the recommendations on Customer Bill Inserts. She does point out that providing these bill inserts will increase the Company's cost and eventually, the Company's rates. Ms. Powers also states that the Company will commit to consideration of all costs and benefits in the development of its next generation billing system recognizing the limitations of its current system with regard to various rates and components of the customer's bill.⁴⁶

In closing her testimony, Ms. Powers concludes that the IMR is operating effectively and efficiently and that the suggestions submitted by Mr. Dittmore will not provide improvements to the mechanism. She offers that Mr. Dittmore's suggestions appear to be preferences that differ from the concepts embraced by the Consumer Advocate at the time of the agreement on the current IMR mechanism and that such differences do not constitute a compelling reason to implement changes to the current IMR mechanism.⁴⁷

At the Hearing on this matter on September 9, 2019, Mr. Powers summarized her Pre-Filed Testimony, addressing each of the eight (8) issues on which the Consumer Advocate

⁴⁵ *Id.* at 15.

⁴⁶ *Id.* at 16.

⁴⁷ *Id.* at 16-17.

submitted recommendations in Mr. Dittmore's Pre-Filed Testimony.⁴⁸ In addition, Piedmont elicited the agreement of the Consumer Advocate that the filing of any future rate case would incur rate case expenses that are recoverable from ratepayers.⁴⁹

IV. SEPTEMBER 9, 2019 HEARING AND APPEARANCES

A Hearing in this matter was held before the voting panel on September 9, 2019, as noticed by the Commission on August 30, 2019. Participating in the hearing were the following parties and their respective counsel:

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

Consumer Advocate – Daniel P. Whitaker, III, Esq., and Karen Stachowski, Esq., Office of the Tennessee Attorney General, P.O. Box 20207, Nashville, Tennessee 37202.

The voting panel heard testimony of both Ms. Pia Powers, on behalf of the Company, and Mr. David Dittmore, on behalf of the Consumer Advocate, both of which were subject to questions from the Commission. In addition, the public was given an opportunity to offer comment during the Hearing, but no member of the public sought to comment. Following the conclusion of the witness testimonies, cross-examinations, redirect examinations, and the parties' closing statements, the voting panel deliberated and unanimously voted to approve the agreements reached by the parties with regard to Budgeted IMR Expenditures, Safety Metrics, and Customer Bill Inserts, and to deny the remaining proposed modifications to the IMR Tariff.

V. FINDINGS AND CONCLUSIONS

Upon review and due consideration of the testimony of witnesses and the entire record, the panel made the following findings and conclusions:

⁴⁸ Transcript of Commission Conference, pp. 31-39 (September 9, 2019).

⁴⁹ *Id.* at 30.

A. UNCONTESTED ISSUES

The panel found that three (3) of the eight (8) issues raised and addressed by the parties are uncontested and that Piedmont has stated it has no opposition to these three (3) uncontested issues.

First, Piedmont expressed no opposition to the Consumer Advocate's Safety Metrics proposal to require the inclusion of safety metrics concerning the response time to emergency odor calls and identifying the number and age of leaks within the system sorted by grade. The Company also agreed to provide the Consumer Advocate with any information provided to the Commission.

In addition, Piedmont indicated it did not oppose providing detail on the individual components of charges by providing an annual Customer Bill Insert. Ms. Powers confirmed in her testimony during the Hearing that Piedmont has used bill inserts in the past and is willing to include an annual insert with explanations of billing components.

Finally, Piedmont agreed to provide information on Budgeted IMR Expenditures along with its annual IMR filing. Ms. Powers did qualify that the information should only be used for IMR evaluation rather than for direct involvement into the Company's administration of integrity management activities by the Commission or the Consumer Advocate.

The panel found that the agreements on Safety Metrics and Budgeted IMR Expenditures will provide additional information for consideration during the IMR process, allowing for a more thorough evaluation. The panel concluded that neither of these would impose an undue burden on the Company and that both are fair and reasonable. Further, the

panel found that the agreement with regard to Customer Bill Inserts provides additional information and transparency on billings charges and will enhance the customers' understanding of their bills. The panel concluded that providing this information to customers does not impose an undue burden on the Company. Therefore, the panel voted unanimously to approve the agreements reached between the parties for the provision of additional information by Piedmont on Safety Metrics, Budgeted IMR Expenditures and Customer Bill Inserts.

B. CONTESTED ISSUES

The panel considered the five (5) issues that remained contested after the parties' respective testimony. The voting panel concluded that the IMR mechanism remains in the public interest and made specific findings as to each of the remaining contested issues that generally favored maintaining the current IMR.

With regard to the proposed Mandatory Five-Year Cycle, the panel found that the current mechanism is working properly and in accordance with Piedmont's tariff, evidenced by Piedmont's ability to avoid filing a rate case for eight (8) years. This avoidance of a rate case is not proof that Piedmont is overearning, but rather shows that the alternative regulatory mechanism is operating as intended by statute. The IMR mechanism has allowed the company to recover capital costs, including a return on investment for approved integrity management projects required to comply with federal safety requirements while maintaining a stable base rate for ratepayers with an added surcharge to reimburse the Company for their allocated share of the calculated revenue requirement for integrity management projects under the tariff. The panel found that the IMR mechanism, has therefore allowed ratepayers to avoid the added costs of preparing and litigating a general rate case, in which a full investigation of all

categories of costs will occur, including increased O&M expenses and capital costs related to normal system maintenance and expansion, estimated to be about fifty percent (50%) of the total rate base by the Company. Therefore, the panel found that if the IMR mechanism, among other factors, allows Piedmont to successfully manage its total costs and postpone filing a general rate case, then the IMR mechanism remains in the public's best interest. Further, the Commission maintains authority to require additional information to that which is filed in Piedmont's monthly surveillance and annual reports, in addition to the authority to initiate an investigation to determine whether the Company is overearning the authorized rate of return and order a rate modification if found to be overearning in a show cause proceeding. Based upon these findings, the panel voted unanimously that the Consumer Advocate's recommendation to implement a Mandatory Five-Year Cycle on the IMR, after which a general rate case must be filed, should be denied. Similarly, the panel voted unanimously that the Consumer Advocate's recommendation on the Current IMR Cycle, to require a general rate case to be filed after two additional IMR filings, should also be denied.

The Consumer Advocate recommended that an OASIS Cost Review be conducted, in which Piedmont should justify why cost exclusions adopted in its North Carolina IMR mechanism should not be adopted in this jurisdiction. Piedmont countered that the two IMR mechanisms are not comparable, that the North Carolina IMR mechanism was the result of a Settlement Agreement in which costs excluded from the IMR remain in rate base for recovery in a general rate case, and that the cost exclusions from the IMR mechanism are not relevant in Tennessee without incorporating other elements of the North Carolina Settlement Agreement. The panel found that Tennessee law specifically allows Piedmont to recover eligible capital costs related to integrity management activities under the IMR. In addition,

Piedmont has agreed to submit its IMR expenditure budget for the upcoming year in future annual IMR filings, allowing for an evaluation of expected costs in advance of actual expenditure. Further, the mechanics of the North Carolina IMR, including the cost exclusions urged for consideration by the Consumer Advocate, were not the result of any alleged mismanagement or imprudence by Piedmont, but instead resulted from a Settlement Agreement that restructured the IMR plan which allowed the OASIS assets in question to remain in the Company's rate base and eligible for recovery in a general rate case. Therefore, the panel voted unanimously that the Consumer Advocate's request for an OASIS Cost Review should be denied.

The panel next considered the Consumer Advocate's proposal to reduce the IMR revenue requirement by an estimated amount of long term O&M Expense Savings initially presented by the Company to justify proceeding with the OASIS project. Piedmont argues that the tariff does not contain an O&M recovery mechanism, that such a mechanism was not contemplated in the Joint Stipulation to which the Consumer Advocate was a party, and that there is no reasonable method by which a calculation of savings associated with monies not spent could be accomplished. The panel found that the tariff does not contain any provisions for calculating O&M expense savings in order to offset capital expense. The IMR mechanism was established to allow for the recovery of specific, statutorily qualified capital costs in a timely manner between rate cases and that the mechanism will reset to zero (0) upon the filing of a general rate case. In addition, the IMR does not track O&M expense increase or decrease in the interim period. Further, the panel found that accurately calculating presumed savings is not reasonably possible. Therefore, the panel voted unanimously that the Consumer

Advocate's recommendation to credit the IMR account the amount of \$304,703 for O&M Expense Savings related to the OASIS project should be denied.

Finally, with regard to the Consumer Advocate's recommendation on Property Tax Expense, the panel found that the method of calculating property tax expense in the IMR, by application of a calculated composite tax rate to property in total, is the same method utilized in general rate cases and is an entirely acceptable treatment of property tax expense in the IMR. Further, the panel found that the labor required to accurately identify the property on which tax is due and to calculate the tax due on each individual property is not justified under this IMR mechanism. Therefore, the panel voted unanimously that the Consumer Advocate's recommendation to reexamine and update the methodology for property tax calculation in the IMR should be denied.

IT IS THEREFORE ORDERED THAT:

1. The parties' agreement that Piedmont Natural Gas Company, Inc. will supply Gas Pipeline Safety metrics to the Tennessee Public Utility Commission within or during future Integrity Management Rider filings and provide copies of these same metrics to the Consumer Advocate Unit in the Financial Division of the Office of the Tennessee Attorney General and Reporter is approved.
2. The parties' agreement that Piedmont Natural Gas Company, Inc. will provide budgeted expenditures under the Integrity Management Rider for the upcoming year for consideration in future Integrity Management Rider filings is approved.
3. The parties' agreement that Piedmont Natural Gas Company, Inc. will include an insert on an annual basis in its customers' bills to provide explanation of individual components of customer charges is approved.

4. The Consumer Advocate Unit in the Financial Division of the Office of the Tennessee Attorney General and Reporter's recommendation to implement a mandatory five-year cycle for filing a rate case under the Integrity Management Rider mechanism is denied.

5. The Consumer Advocate Unit in the Financial Division of the Office of the Tennessee Attorney General and Reporter's recommendation to reduce the Integrity Management Rider revenue requirement by \$304,703 to account for Operating and Maintenance cost savings related to the OASIS project is denied.


6. The Consumer Advocate Unit in the Financial Division of the Office of the Tennessee Attorney General and Reporter's recommendation to reexamine and update the property tax calculation methodology is denied.

7. The Consumer Advocate Unit in the Financial Division of the Office of the Tennessee Attorney General and Reporter's request for the Tennessee Public Utility Commission to conduct an OASIS cost review is denied.

8. 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.

9. 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.

Vice Chair Kenneth C. Hill, Commissioner Herbert H. Hilliard, and Commissioner David F. Jones concur. None dissent.

ATTEST: 
Earl R. Taylor, Executive Director

