

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

IN RE:)	
)	
PETITION OF PIEDMONT NATURAL GAS COMPANY, INC. FOR AN ADJUSTMENT OF RATES, CHARGES, AND TARIFFS APPLICABLE TO SERVICE IN TENNESSEE)))))))	DOCKET NO. 20-00086

**PIEDMONT NATURAL GAS COMPANY, INC.’S RESPONSE TO
CONSUMER ADVOCATE FILING**

Piedmont Natural Gas Company, Inc. (“Piedmont” or “Company”), through counsel and pursuant to the Tennessee Public Utility Commission’s (“TPUC” or the “Commission”) Notice of Filing issued in this docket on December 3, 2020, hereby submits its response to the Financial Division of the Office of the Tennessee Attorney General’s (“Consumer Advocate”) Response to Piedmont’s Notice of Intent to Implement Rates Subject to Refund.

In support of this Response, the Company shows the Commission the following:

BACKGROUND

1. On July 2, 2020, pursuant to T.C.A. § 65-5-103(a), Piedmont filed its Petition For Approval Of An Adjustment Of Rates, Charges, And Tariffs Applicable To Service In Tennessee, with supporting testimony and exhibits (“Rate Case”). The relief requested in Piedmont’s Rate Case, among other things, is designed to update the Company’s rates, charges, and tariffs in conformance with the Company’s additional investment of capital to expand its natural gas system to both better serve its expanding customer base and to comply with federal pipeline safety and integrity requirements, and to adjust for changes to the Company’s capital structure and operating expenses.

2. Following the Rate Case filing, and after consideration of the Procedural Schedule in this docket, Piedmont determined that the relief requested in its Rate Case filing would not be granted within six months of its Rate Case filing.

3. On November 6, 2020, pursuant to T.C.A. § 65-5-103(b), Piedmont submitted a notice in this docket indicating that it intended to put new rates into effect subject to refund beginning January 2, 2021 (“Rate Notice”).

4. On December 3, 2020, the Consumer Advocate filed its response to Piedmont’s Rate Notice (“CAD’s Response”) in which it made the following requests of the Commission relative to Piedmont’s Rate Notice:

i. That Piedmont’s recently filed IMR annual report, and the IMR surcharge adjustments proposed therein, be made effective for bills issued beginning in January 2021;

ii. That the temporary rates proposed for implementation by Piedmont be made fully effective for bills issued during and after February, 2021 instead of January, 2021 as noticed;

iii. That refunds should be calculated on an individual customer basis and include interest at the Company’s approved rate of return; and

iv. That a bond should be required in conjunction with the implementation of temporary rates subject to notice.

5. On December 3, 2020, the Hearing Officer issued a Notice of Filing in this docket, requesting that Piedmont make a filing addressing the points raised in the CAD’s Response no later than 4:00 pm on December 8, 2020.

PIEDMONT'S COMMENTS ON THE CONSUMER ADVOCATE'S RESPONSE

6. As directed by the Hearing Officer's Notice of Filing, Piedmont hereby provides the following comments on the CAD's Response:

i. Implementation of 2020 IMR Annual Report Provisions

7. Piedmont has no objection to the adoption and implementation of the Consumer Advocate's request that Piedmont's 2020 annual report filing under its Service Schedule No. 317 be implemented simultaneously with the implementation of new temporary rates anticipated under the Rate Notice in January, 2021. Piedmont's Service Schedule No. 317 calls for such implementation to be effective for billing purposes in the January following the filing of each annual report. Despite the fact that the Consumer Advocate has challenged aspects of prior IMR annual report filings resulting in substantially delayed implementation of surcharge changes in prior years, Piedmont has no objection to implementation of its proposed IMR surcharge changes consistent with the timeframe anticipated by its tariff this year.

ii. Effective Date of New Rates

8. Piedmont opposes the Consumer Advocate's proposal to make new rates *applicable to service rendered* on and after January 2, 2021, instead of for *bills rendered* on and after January 2, 2021, for several reasons.

9. First, the Consumer Advocate's proposal is contrary to the plain language of the statute upon which Piedmont's Rate Notice is based. That statute provides as follows:

If the investigation has not been concluded and a final order made at the expiration of six (6) months from the date filed of any such increase, change or alteration, the utility may place the proposed increase, change or alteration, or any portion thereof, in effect at any time thereafter prior to the final authority decision thereon upon notifying the authority, in writing, of its intention so to do; provided, that the Authority may require the utility to file with the authority a bond equal to the proposed annual increase conditioned upon making any refund ordered by the authority as provided in subdivision (b)(2).

T.C.A. § 65-5-103(b). Inasmuch as the six month period mentioned in the statute will expire on January 2, 2021, and there appears to be no reasonable probability that the TPUC's examination and investigation of Piedmont's Rate Case will be concluded by then, T.C.A. § 65-5-103(b) gives Piedmont the clear and unequivocal right under the statute to "place the proposed increase, change or alteration, or any portion thereof, in effect at any time thereafter. . ." Placing the proposed rates into effect means using the proposed rates to bill customers. As worded, the statute cannot credibly mean anything else because rates cannot reasonably be said to be "in effect" if they are not being used to bill customers. That is the entire function of rates and they have no independent significance outside of the billing process. Stated differently, rates which are not being used to bill customers are not "in effect."

10. Second, under the Consumer Advocate's construct and proposal, the rates being billed to customers for January 2021 would be the existing base rates and the effectiveness of Piedmont's proposed new rates would not occur until February 2021 (7 months after the new rates were filed). The statute in this case is unambiguous; it says six months (not seven). Six months expires on January 2, 2021, not February 2, 2021. Therefore, it is simply contrary to the plain meaning of the statute to artificially characterize rates that are not being used to bill customers as "in effect," particularly given that the obvious purpose of this statutory provision is to allow a utility some relief from existing rates in the event a general rate case proceeding before the Commission is not completed within six (6) months of filing new rates with the Commission.

11. Third, Piedmont disagrees with the Consumer Advocate's statement that proration of bills is "standard in the industry." This assertion is incorrect. Piedmont has never pro-rated

bills in Tennessee based upon a partial billing period's service at one rate and then the rest of the billing period at another rate. In fact, the Company's billing system is not currently capable of prorating Tennessee bills. Piedmont is informed and believes that pro ration of bills as recommended by the Consumer Advocate in this instance is also not consistent with the manner in which Atmos Energy bills their customers either.

12. Finally, the manner of implementing rates suggested by the Consumer Advocate in this proceeding is directly at odds with every prior rate change approved by the Commission (and before the Commission, the Tennessee Regulatory Authority) since Piedmont has been operating in Tennessee. In other words, the Consumer Advocate's proposal to implement rates for *service rendered* as opposed to *bills rendered* in this instance would be inconsistent with every other prior rate change made by Piedmont and authorized by the Commission in this State and the Consumer Advocate has provided no justification for implementing a change to that practice in this unique circumstance.

13. Based upon these factors, Piedmont strongly opposes the Consumer Advocate's proposal to delay the effectiveness of Piedmont's new rates for a month beyond the period specified in T.C.A. § 65-5-103(b).

iii. Provisions to keep customers whole on refunds.

14. With regard to keeping customers whole, Piedmont agrees that interest on refunds is appropriate and that refunds should be made on a per customer basis rather than on a customer class basis. However, Piedmont does not agree that the appropriate interest rate to apply to customer refunds is the "Company's approved rate of return." The relevant statute requires interest on refunds at the "legal rate" but that term is not further defined. T.C.A. § 65-5-103(c). Piedmont construes the term to mean a rate established by the Commission as lawful. In this

regard, Piedmont would note that the Commission has approved a rate for accruing interest in two other circumstances where Piedmont may owe money to its customers from time-to-time. These two circumstances are interest paid on balances owed to customers in Piedmont's deferred gas costs accounts and monies owed to customers in its IMR deferred account. In both of those instances, the interest obligation on amounts owed to customers is calculated pursuant to Commission Rule 1220-4-7-.03 and Piedmont submits that there is nothing unique about the refunds anticipated in this proceeding that would support applying a different interest rate than that specified in Commission Rule 1220-4-7-.03. Accordingly, Piedmont submits that interest on any refunds due to customers in this docket be calculated in accordance with the treatment of interest on the "Refund Due Customers' Account" prescribed by Commission Rule 1220-4-7-.03.

iv. Requirement to post a Bond.

15. Piedmont acknowledges that the Commission has the right to require Piedmont to post a bond to secure repayment of refunds to customers should refunds ultimately be ordered by the Commission. Piedmont contends that there are several reasons why such security is not needed in this instance.

16. First, Piedmont is a stable and financially sound public utility with more than adequate assets available to it to fund any refunds that may be ordered in this proceeding. The Company's total capitalization exceeds \$5.7 billion and its annual revenues attributable to operations in Tennessee (before the increase requested in this Rate Case) are approximately \$204 million. The depreciated value of its rate base in Tennessee is approximately \$917 million.

17. Second, Piedmont is an investment grade rated utility by both Moody's and Standard and Poor's. It currently has more than \$2.6 billion dollars in currently outstanding

unsecured long term debt (all of which it is current on). These facts mean that sophisticated experts in rating creditworthiness have concluded that Piedmont is a creditworthy borrower and sophisticated investors are, and have been, willing to lend money to Piedmont on an unsecured and long-term basis in amounts that vastly outweigh any possible refund obligations that Piedmont might incur in this docket. In addition, Piedmont has never defaulted on any of its loan obligations.

18. Third, based upon the filing date of this Rate Case of July 2, 2020, T.C.A. § 65-5-103(a) requires that this Commission issue an order in this docket resolving Piedmont's proposed rate increase request no later than April 2, 2021. This means that Piedmont's proposed new rates will be in effect for no more than three (3) months prior to the Commission issuing an order in this proceeding. This means that even if the Commission waits until the very last permissible moment to issue an order in this docket and completely rejects Piedmont's \$29.9 million proposed rate increase, the maximum amount of over-collected rates Piedmont would be obligated to refund customers would be approximately \$12 million as Piedmont typically collects approximately 40% of its annual margin revenues during the first calendar quarter. While Piedmont's proposed annual rate increase of \$29.9 million is important to the Company and is critical to its ability to sustain a level of return on invested capital in Tennessee consistent with the constitutional standards established by the United States Supreme Court in the Hope and Bluefield decisions, it is not a large enough number to create a meaningful risk that Piedmont could not repay the increased rates charged over the maximum 3-month period those rates will be in place.

19. Fourth, Piedmont is under the direct supervisory authority of this Commission with regard to its rates and that authority provides a safeguard with respect to customer refunds.

For example, if Piedmont were unable to pay any ordered refunds to its customers (which is not a reasonable probability in any event as explained above), the Commission could order Piedmont to reduce its rates going forward to effectuate the refunds in that manner.

20. Finally, Piedmont wishes to make clear that it is seeking a waiver of the bond obligation in this case simply because the utilization of a third-party bond has both administrative and actual costs associated with it, and in the absence of any realistic insecurity regarding Piedmont's ability to pay refunds to its customers, a bond is simply unnecessary in this case and the Consumer Advocate has not demonstrated otherwise.

WHEREFORE, Piedmont Natural Gas Company Inc. respectfully requests that the Commission: (1) authorize the simultaneous implementation of proposed rate changes in this docket and those proposed in Piedmont's recent IMR annual report filed in Docket No. 20-00130, and (2) reject all other suggestions in the CAD Response that relate to Piedmont's intent to implement new rates for bills rendered on and after January 2, 2021, except where Piedmont has agreed to such measures herein.

DATED: December 8, 2020.

PIEDMONT NATURAL GAS COMPANY, INC.



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Certificate of Service

I hereby certify that a true and exact copy of the foregoing Response has been sent via email, and first class U.S. Mail, to the following:

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this 8th day of December, 2020.



Paul S. Davidson