

STATE OF TENNESSEE

Office of the Attorney General



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BY ELECTRONIC FILING

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***Re : Piedmont Natural Gas Company, Inc. Petition for an Adjustment of Rates,
Charges, and Tariffs Applicable to Service in Tennessee; Docket No. 20-00086***

Dear Ms. Smith-Ashford:

As indicated by Piedmont Natural Gas Company in its August 6 letter, the parties have engaged in discussions to reach an agreed procedural schedule for proposal to the Tennessee Public Utility Commission. Unfortunately, we have reached an impasse and need the assistance of this Commission in establishing a procedural schedule.

Piedmont's revised procedural schedule, filed contemporaneously to its letter, continues to seek an expedited review of its general rate case. Under the Company's proposal, the Consumer Advocate and Commission would be forced to analyze the voluminous filing that purportedly supports an approximately \$30 million increase in rates, retain additional witnesses, draft discovery requests, work through discovery issues as they arise, analyze discovery responses, form positions, draft testimony, analyze rebuttal testimony, and prepare for a hearing, all within a four-month period. As discussed in more detail below, such a task is not possible if a meaningful review of the Company's request is to take place.

First, while we certainly appreciate Piedmont's desire to have rates go into effect quickly, the natural implication of a shorter review period is a less substantive review. Piedmont's proposal would benefit the Company to the detriment of Commission Staff and consumers. The Consumer

Advocate has only a few months to examine a filing that the Company has prepared over many months, perhaps even years. And while we have worked to marshal a team quickly to review the filing, the experts either employed or retained by the Consumer Advocate will each need to respond to multiple sets of the Company's pre-filed direct testimony. Our proposed schedule builds in slightly more time between sets of formal discovery rounds for analysis as well as some additional time after the formal discovery phase has ended to analyze the information and provide the consumers' positions.

Next, as the Company has indicated that it intends to file an Annual Review of Rates Mechanism ("ARM") after the conclusion of its general rate case, the methodologies incorporated into this case require careful consideration. The Company has indicated that methodologies will be formed during or at the conclusion of the case. While we certainly appreciate Piedmont's stance here, developing these methodologies during the pendency of litigation will take considerable time and will require additional discovery, analysis, etc. Piedmont did not file a list of proposed methodologies with its case, so in order to present a "complete case" on behalf of consumers, the Consumer Advocate will be required to draft methodologies from scratch. And the Commission will be put in a position where it must analyze these newly created methodologies and make a determination on whether they are in the public interest as well as whether they are appropriate for use in a future ARM proceeding. Under Piedmont's proposal, there would be no time for such an undertaking.

Another new dynamic presented in this case is the fairly recent acquisition of Piedmont by Duke (the acquisition occurred in 2016, after Piedmont's last general rate case). We believe that understanding the implications of this acquisition is important to analyzing the request for a rate increase, and doing so, naturally, will take time. For instance, it appears that the filing does not contain a cost allocation manual, and therefore initial discovery is required just to get the necessary background to start the review of this admittedly complex area.

An additional factor to consider is TPUC's need to review Piedmont's filing, discovery responses, pre-filed testimony, and other submissions that may arise. And Commission Staff may need to also submit data requests to one or both parties. If the Commission is to have an opportunity to review and analyze the parties' filings, additional time must be provided in the schedule; our proposal attempts to provide it.

Alongside dividing tasks between expert witnesses, it is important to discuss why the initial review of this filing is even more time intensive. A problem presented by the Company's filing is that hard-coded numbers appear throughout the minimum filing requirements submitted in public and confidential forms and made available to the Consumer Advocate on July 20 and 22, respectively. One such example of hard-coded numbers is found in the "Revenue Requirement Summary" spreadsheet included in the Company's workpapers (MFR No. 12). When this spreadsheet is opened and the "Summary" tab is selected, one will view what should be the top-level calculation of the Company's revenue deficiency. Upon inspection it is evident that most of the critical data in this spreadsheet are hard-coded numbers without the underlying sources or calculations. Additionally, since there are no workpaper numbers or footnotes in the spreadsheet, the Consumer Advocate has been required to sift through *all* of the supporting data in order to find

the data referenced in this spreadsheet. These factors cause drafting discovery requests to be much more laborious than is usually the case.

Piedmont references in its August 6 letter that it has been nine years since its last general rate case. While this may be the case, it has certainly not been nine years since the Company has been authorized to increase its rates. In fact, under its Integrity Management Rider, the Company has submitted a filing annually and benefitted from large annual rate increases since its 2011 rate case tariff went into effect. These increases amount to millions of dollars annually, thereby negating any harm to the Company if it must wait an additional two or three months for new rates. It should also be noted that Piedmont is in total control of when it files for an increase to rates. Piedmont made the affirmative decision to file its case in July; if the case had been filed earlier, rates would have gone into effect earlier.

The Company also references its ability to put rates into effect under bond after six months pursuant to Tenn. Code Ann. § 65-5-103(b)(1). The Company thus acknowledges that, if it truly feels that it must have higher rates put into effect by January 1, 2021, there is a statutory vehicle allowing it to do so. But ignoring this available remedy – even if it will take careful consideration – should not be used to bolster the case for an expedited review.

Because this is a comprehensive rate case, it is likely that post-hearing briefs will be required (both the Consumer Advocate's proposal and Piedmont's proposal contemplate them). To incorporate time to receive the transcript of the hearing and draft what will likely be very lengthy documents, we have added time after the target hearing date to account for post-hearing briefs. In a recent communication with a court reporter retained for a civil case this Office is litigating, the court reporter indicated that – absent a costly request for expedited transcripts – we should expect transcripts of that multi-day proceeding to be ready in around two weeks. At this time, due to the budget crisis caused by the pandemic, the Consumer Advocate does not have the authority to authorize costly expedited transcripts, so a large portion of the time for drafting briefs will be spent waiting for transcripts to arrive.


At this time, the Consumer Advocate and Piedmont have been unable to reach an agreement on the informal, rolling production of discovery. We believe that this is beneficial to both the Company and Consumer Advocate because as discovery requests can be submitted as they are drafted, thereby eliminating lag time and allowing both parties to work more quickly through the discovery phase. Without such an agreement concerning rolling discovery, the parties will be limited to formal rounds, and this will create a longer schedule. While this is not the only barrier to an expedited review, it is perhaps the largest.

For context, in the Chattanooga Gas Company general rate case (TPUC Docket No. 18-00017), the parties had multiple “formal” and “informal” rounds of discovery. This allowed for expedited review by the Consumer Advocate of information as it could be provided, and it allowed that company to provide answers to requests as they were drafted rather than having to wait for a sudden, large clump of requests. While new rates were not approved for entry in that case within six months (as Piedmont has requested in this filing), rolling discovery certainly avoided each party having lag time between projects and allowed for more expedited review.

For your consideration, the Consumer Advocate's proposed procedural schedule is copied below:

Deadline	Filing
Thursday, July 2, 2020	Piedmont Filed Petition
Saturday, July 11, 2020	Piedmont MFR Responses
Thursday, July 30, 2020	CA Petition to Intervene
Monday, August 3, 2020	Kickoff Meeting between parties
Monday, August 17, 2020	CA First Discovery Requests
Monday, August 31, 2020	Piedmont First Discovery Responses
Monday, September 21, 2020	CA Second Discovery Requests
Monday, October 5, 2020	Piedmont Second Discovery Responses
Monday, October 19, 2020	CA Third Discovery Requests
Monday, October 26, 2020	Piedmont Third Discovery Responses
Monday, November 30, 2020	CA Pre-filed Direct Testimony
Monday, December 14, 2020	Piedmont Pre-filed Rebuttal Testimony
January 11 - 15, 2021	Target Hearing Date
Monday, February 8, 2021	Post-Hearing Briefs
TBD	Commission Deliberations
Thursday, April 1, 2021	Anticipated date for rates to go into effect

Thank you for your time and attention to this matter.

Sincerely,

Daniel P. Whitaker, III
Assistant Attorney General

cc: James H. Jeffries, IV, Esq.
Paul S. Davidson, Esq.
Brian S. Heslin, Esq.
David Foster