

**STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH**

DOCKET NO. G-5, SUB 495

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Application of Public Service Company of	) ORDER ON MOTION FOR
North Carolina, Inc., for a General Increase	) ADMISSION OF LATE-FILED
In its Rates and Charges	) EXHIBITS

BY THE PRESIDING COMMISSIONER: On September 19, 2008, the Attorney General (AG) filed a Motion for Admission of Late-Filed Exhibits in this docket. The AG asserts that evidence was introduced at the August 26, 2008 hearing concerning the earnings reported for Piedmont Natural Gas Company, Inc. (Piedmont), during the time that Piedmont had a customer usage tracking (CUT) tariff in place and that this earnings information was corrected subsequent to the hearing based upon revised reports filed by Piedmont. The AG asks that the updated information about Piedmont's earnings be provided to the record in this docket "so that the record is updated and clarified." Proposed Late-Filed Exhibits 1 & 2 are attached to the motion.

Public Service Company of North Carolina, Inc. (PSNC), filed an Objection and Motion to Strike on September 23, 2008. PSNC objects to admission of the proposed late-filed exhibits regarding Piedmont's earnings and "moves to strike from the record similar information submitted" at the August 26, 2008 hearing herein. PSNC asserts that the Piedmont earnings evidence presented by the AG at the hearing was known to be inaccurate at the time it was offered and that fairness requires that the original evidence be stricken and that the new, late-filed exhibits be rejected. PSNC cites a May 13, 2008 letter sent by Piedmont to the Commission explaining that an incorrect methodology which had been used in its reporting, the effect of which was to overstate Piedmont's margin recovery. PSNC asserts that the Assistant AG had received a copy of this letter and that "introducing evidence known to be incorrect should not be tolerated." Finally, PSNC argues that the level of Piedmont's earnings is irrelevant to PSNC's proposed CUT in this case.

On September 24, 2008, PSNC filed a letter identifying the particular exhibits and testimony that it seeks to strike from the record of the August 26 hearing.

On September 25, 2008, the Assistant AG filed a Reply asserting that PSNC's motion mischaracterizes what occurred at the hearing. She acknowledges seeing a filing and discovery from Piedmont indicating that it had amended reports which would likely change data in the Commission's Quarterly Review for the quarters ending September 30, 2007, and December 31, 2007, but she states that Piedmont did not specify how the Quarterly Review would be impacted. She asserts that it was not until after the PSNC hearing, when the Commission published its new Quarterly Review on

September 5, 2008, that she learned about the impact of Piedmont's amendments. The Assistant AG acknowledges that it would have been better, in hindsight, to mention the Piedmont amendments at the PSNC hearing, but she says that, "at the time, the significance was not known and the amended information did not appear to be pertinent."

The Presiding Commissioner will allow the AG's proposed late-filed exhibits and will deny PSNC's motion to strike. The Presiding Commissioner concludes that the evidence regarding Piedmont's earnings and rate of return while it had a CUT in place has relevance for the present PSNC case, in which a CUT is proposed. Such a ruling was made at the hearing and it is reaffirmed here. Moreover, the AG asserts that the evidence is relevant because it was presented to show what was known at the time that Piedmont's various CUT adjustments were made. Given this, the Presiding Commissioner is reluctant to exclude relevant evidence. PSNC argues that the Assistant AG presented earnings information that she knew to be inaccurate and that "fairness dictates" that it be excluded. While acknowledging that it "would have been better" to have provided more information at the PSNC hearing, the Assistant AG states that she did not realize the significance of Piedmont's amended reports at the time of the hearing and that, upon realizing their significance, she filed the present motion to clarify the record. The Presiding Commissioner believes that all attorneys practicing before the Commission must take seriously their obligation to present only evidence that they believe to be accurate and complete. Further, they have an obligation to clarify the record upon discovering that such is not the case. In this instance, it was the AG who brought the clarification to the Commission's attention by the filing of the September 19, 2008 Motion. The Presiding Commissioner agrees with the Assistant AG that this matter could have been handled better at the hearing, but finds no indication here of such improper conduct as would justify the remedy sought by PSNC, which seeks the exclusion of otherwise relevant evidence from the record.

IT IS, THEREFORE, ORDERED as follows:

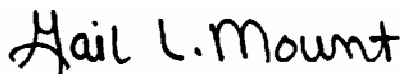
1. That the Motion for Admission of Late-Filed Exhibits filed by the AG on September 19, 2008, is allowed, and

2 That the Motion to Strike filed by PSNC on September 23, 2008, is denied.

ISSUED BY ORDER OF THE COMMISSION.

This the 26<sup>th</sup> day of September, 2008.

NORTH CAROLINA UTILITIES COMMISSION

A handwritten signature in black ink that reads "Gail L. Mount". The signature is written in a cursive, slightly stylized font.

Gail L. Mount, Deputy Clerk