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CARLYLE  
SANDRIDGE  
& RICE  
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LIABILITY COMPANY

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September 23, 2008

**Via Hand Delivery**

Ms. Renne Vance, Chief Clerk  
North Carolina Utilities Commission  
430 North Salisbury Street  
Raleigh, North Carolina 27603-5918

Re: G-5, Sub 495

Dear Ms. Vance:

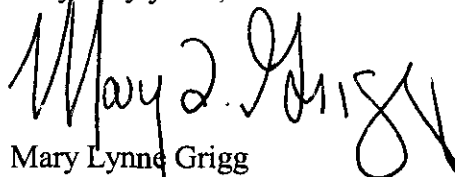
**FILED**  
SEP 23 2008  
Clerk's Office  
N.C. Utilities Commission

**OFFICIAL COPY**

Enclosed for filing please find an original and 31 copies of Public Service Company of North Carolina, Inc.'s Objection and Motion to Strike in reference to the above-captioned docket.

Also enclosed is one copy to be file-stamped and returned with our courier. Should you have any questions, please do not hesitate to contact me. Thank you for your assistance in this matter.

Very truly yours,

  
Mary Lynne Grigg

MLG:ajt

Enclosures

Clene  
AG  
ncomm  
Bennink  
Kirby  
Watson  
Hoover  
Wife  
Hilburn  
Gilmore  
Bum S

Gruber  
2 PSeco  
3 PS Legal  
3 PS ACCTS  
5 PS GAS

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

DOCKET NO. G-5, SUB 495

**FILED**  
SEP 23 2008

Clerk's Office  
N.C. Utilities Commission

In the Matter of: )  
 )  
Application of Public Service Company of )  
North Carolina, Inc. for a General Increase in )  
its Rates and Charges )

**PUBLIC SERVICE COMPANY OF NORTH  
CAROLINA, INC.'S OBJECTION AND  
MOTION TO STRIKE**

**OFFICIAL COPY**

Responding to the Motion for Admission of Late-Filed Exhibits filed by Assistant Attorney General Margaret A. Force on behalf of Attorney General Roy Cooper ("Attorney General") on September 19, 2008, Public Service Company of North Carolina, Inc. ("PSNC") objects to admission into the record of new information related to the earnings of Piedmont Natural Gas Company ("Piedmont") during the period it was authorized to implement a customer usage tracker ("CUT") mechanism and moves to strike from the record similar information submitted at the hearing in this matter on August 26, 2008. The basis for PSNC's objection and motion to strike is that the late-filed exhibits the Attorney General is now offering for the purpose of updating and clarifying the record pertain to information regarding Piedmont's earnings that, when offered into evidence at the hearing by the Assistant Attorney General, was known by the Assistant Attorney General to be inaccurate. PSNC submits that fairness dictates that the Attorney General not be permitted to use either the original evidence presented at the hearing or the new evidence contained in the proposed late-filed exhibits. In support of its objection and motion to strike, PSNC would respectfully show as follows:

1. Attorney General Late-Filed Exhibit 1 consists of pages from the Commission's Quarterly Review showing Piedmont's earnings for the twelve months ended December 31, 2007, and corrected pages from Quarterly Reviews showing Piedmont's earnings for the twelve months ended June 30, 2007, and September 30, 2007. Attorney General Late-Filed Exhibit 2 is

a summary prepared by the Assistant Attorney General of Piedmont's earnings as taken from the Quarterly Review reports offered by the Assistant Attorney General at the hearing and from the reports in Attorney General Late-Filed Exhibit 1.

2. The corrected Quarterly Review pages in Attorney General Late-Filed Exhibit 1 show Piedmont's estimated overall rate of return for the periods June 30, 2007, and September 30, 2007, to be 8.54% and 8.01% rather than the 9.31% and 9.11% shown on the reports the Assistant Attorney General presented at the hearing. Piedmont's authorized overall rate of return during these periods was, and currently still is, 9.04%. Thus, instead of exceeding the authorized overall rate of return for these periods as the Assistant Attorney General contended during the hearing, Piedmont's estimated rate of return was shown on the revised reports to be well below that authorized by the Commission.

3. When she offered the reports into evidence at the hearing, the Assistant Attorney General knew that the Quarterly Review for the twelve months ended September 30, 2007, overstated Piedmont's earnings. After that report had been prepared, Piedmont sent the Commission a letter, dated May 13, 2008, in which Piedmont provided amended and restated margin reports for the quarters ended September 30, 2007, and December 31, 2007. The letter explained that there was "an incorrect methodology for extracting revenues and costs associated with its secondary market activities" and that the effect of this flaw was "to overstate Piedmont's margin recovery for the periods covered by the reports." The Assistant Attorney General was shown as receiving a copy of the May 13<sup>th</sup> letter.

4. In addition, the Assistant Attorney General received another copy of the May 13<sup>th</sup> letter in response to her data request to Piedmont in Docket No. G-9, Sub 550 in which she specifically asked about any changes to the same Quarterly Reviews she introduced into the

record in this rate case. Piedmont's response dated July 21, 2008 is attached and includes the May 13<sup>th</sup> letter.

5. PSNC did not become aware of the May 13<sup>th</sup> letter until its representatives attended Piedmont's rate case hearing in Docket No. G-9, Sub 550, held on September 9, 2008. At that hearing, cross-examination of Piedmont's panel of witnesses by the Assistant Attorney General brought out the inaccuracy of the reports that had been corrected in the Quarterly Review for the period ended December 31, 2007, which was issued on September 5, 2008. Subsequently, counsel for PSNC contacted the Attorney General's office about the errors in Piedmont's reports. The Assistant Attorney General indicated that she had been aware of errors in the reports prior to PSNC's rate case hearing, but had not been able to quantify the impact on Piedmont's earnings.

6. Despite the fact that the Quarterly Reviews were introduced into the record of this case for the stated purpose of showing the level of Piedmont's reported earnings, the Assistant Attorney General failed to disclose at the hearing that at least one of the reports contained inaccurate information concerning those earnings. Regardless of any purpose for which the Assistant Attorney General may want to use the exhibits at issue, PSNC submits that introducing evidence known to be incorrect should not be tolerated. Rather than allowing the Attorney General to supplement the record with additional reports, the Commission should strike from the record the evidence relating to the reports submitted at the hearing.

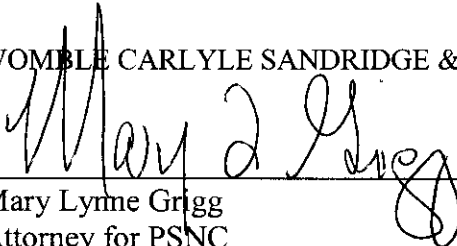
7. In addition, the level of Piedmont's earnings is irrelevant to whether a margin adjustment should be made using Piedmont's CUT mechanism just as PSNC's earnings would be irrelevant to any margin adjustment under PSNC's proposed CUT mechanism. Under General Statute Section 62-133.7, the purpose of the CUT is to make rate adjustments to "track

and true-up variations in average per customer usage,” not to address variations in the utility’s earnings.

WHEREFORE, based on the foregoing, PSNC respectfully requests that the Commission issue an order denying the Attorney General’s motion for admission of the proposed late-filed exhibits and grant PSNC’s motion to strike similar evidence from the record.

Respectfully submitted this 23<sup>rd</sup> day of September, 2008.

WOMBLE CARLYLE SANDRIDGE & RICE, PLLC



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Mary Lynne Grigg  
Attorney for PSNC

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150 Fayetteville Street, Suite 2100  
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Facsimile: (919) 755-6085

**Piedmont Natural Gas Company**  
**Docket No. G-9, Sub 550**  
**Attorney General Data Request No. 3**  
**July 21, 2008**

3-24. Please refer to Attachment C, which provides the cover page, the Summary Statement, and the Piedmont Natural Gas page (usually labeled page 19) from each "Quarterly Review" prepared by the NCUC Operations Division for the Quarters Ending December 31, 2005 through September 30, 2007. According to note 3 on the Piedmont Natural Gas page of each report, the sources of the data on that page are Shareholder reports and the NCUC GS-1 Reports.

a. Please identify and provide any amendments to Shareholder reports or to NCUC GS-1 Reports that would change the data reported on the Piedmont Natural Gas page in one or more Quarterly Review.

b. For each occasion that data would change in the Quarterly Review as a result of an amendment, please specify which reported data on the Piedmont Natural Gas page would change and specify by how much to the best of your ability.

**Response:**

a. On May 13, 2008, Piedmont provided amended GS-1 reports for the twelve months ended 9/30/07 and 12/31/07 to the Commission. Copies of the amended GS-1 reports are attached. The amended information in these reports would change the data reported by the NCUC in its Quarterly Review.

b. Piedmont believes that the information provided in its May 13<sup>th</sup> amended reports mentioned above would likely change data reported in the NCUC's Quarterly Review. However, Piedmont cannot attest to all of the changes that would occur in the NCUC's Quarterly Review as a result of the amended reports, since Piedmont does not have full knowledge of the NCUC's methodology for producing the information presented in that report.

Response provided by: David Carpenter, Managing Director Regulatory Affairs



**Piedmont  
Natural Gas**

May 13, 2008

Frieda Hilburn  
North Carolina Utilities Commission  
430 N. Salisbury Street, Dobbs Bldg.  
Raleigh, North Carolina 27603

Re: Amended and Restated Quarterly Margin Reports

Dear Ms. Hilburn :

Attached hereto are amended and restated margin reports for Piedmont Natural Gas Company, Inc. for the quarters ended September 30, 2007 and December 31, 2007.

In a recent review of the method utilized to prepare the original versions of these reports, Piedmont determined that it had been utilizing an incorrect methodology for extracting revenues and costs associated with its secondary market activities. This flaw in methodology resulted in both an understatement of its gas costs and an overstatement of margin associated with these transactions. The net effect of this anomaly was to overstate Piedmont's margin recovery for the periods covered by the reports.

The amended and restated quarterly margin reports attached hereto reflect the correct margin recovery by the Company for the quarters ended September 30, 2007 and December 31, 2007.

Piedmont regrets any confusion that may have been caused by the prior flaw in its methodology. If you have any questions about this matter, please contact Jenny Furr at 704-731-4560 or David Carpenter at 704-731-4242.

Sincerely,

Jenny Furr  
Manager Regulatory Reporting

C: Bill Gilmore, NC Commission Staff  
Julie Perry, NC Public Staff  
Margaret A. Force, Asst. Attorney General  
Robert F. Page  
Robert A. Ganton, Esq.  
Antoinette R. Wike  
Beth Szafran  
James H. Jeffries, IV, Atty.

PIEDMONT NATURAL GAS COMPANY  
 STATEMENT OF INCOME  
 NORTH CAROLINA UTILITY OPERATIONS  
 SEPTEMBER 30, 2007

Revised 04/21/2008

	<u>Month</u>	<u>Twelve Months Ended</u>
Operating Revenues	\$38,786,428	\$1,004,033,798
Cost of Gas	23,031,751	658,282,377
Margin	<u>15,754,677</u>	<u>345,751,421</u>
Operating Expenses:		
Operations and Maintenance	11,142,212	147,632,737
Depreciation	4,895,765	57,401,177
General Taxes	1,041,655	17,219,991
Income Taxes	(1,929,885)	31,638,051
Total	<u>15,149,746</u>	<u>253,891,955</u>
Operating Income	<u>\$604,932</u>	<u>\$91,859,467</u>



PIEDMONT NATURAL GAS COMPANY  
 STATEMENT OF INCOME  
 NORTH CAROLINA UTILITY OPERATIONS  
 DECEMBER 31, 2007

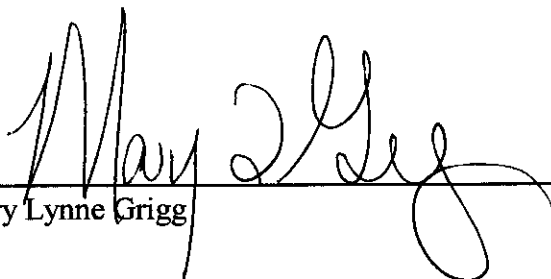
Revised 04-21-08

	<u>Month</u>	<u>Twelve Months Ended</u>
Operating Revenues	\$144,537,342	\$970,654,148
Cost of Gas	93,251,218	622,491,825
Margin	<u>51,286,124</u>	<u>348,162,323</u>
Operating Expenses:		
Operations and Maintenance	13,092,845	149,804,420
Depreciation	4,922,472	57,933,666
General Taxes	1,875,100	17,341,829
Income Taxes	10,838,798	30,996,504
Total	<u>30,729,215</u>	<u>256,076,419</u>
Operating Income	<u>\$20,556,909</u>	<u>\$92,085,904</u>
	=====	=====

### **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the attached Public Service Company of North Carolina, Inc.'s Objection and Motion to Strike is being served upon the parties to this docket by depositing a copy of the same in the United States Mail, First Class, Postage Prepaid, at the addresses contained in the official service list in this proceeding.

This the 23rd day of September, 2008.

  
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Mary Lynne Grigg