

STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH

DOCKET NO. G-5, Sub 495

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FILED**

SEP 25 2008

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

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

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ATTORNEY GENERAL'S
REPLY CONCERNING
LATE-FILED EXHIBITS

Clerk's Office
N.C. Utilities Commission

Attorney General Roy Cooper, through the undersigned attorney, files this reply to Public Service Company of North Carolina, Inc.'s Objection and Motion to Strike concerning the Attorney General's Motion for Admission of Late-Filed Exhibits. PSNC has mischaracterized what occurred with respect to use of evidence by the undersigned attorney, and PSNC's proposal would not serve to clarify the record in the case.

Most questioning during PSNC's evidentiary hearing in this case concerned the proposal by PSNC to introduce a new rate adjustment mechanism called the Customer Usage Tariff (CUT). Evidence was introduced about what occurred during the period that Piedmont Natural Gas Company, Inc. (Piedmont) was authorized to employ a similar CUT mechanism on an experimental basis. In particular, evidence was admitted concerning Piedmont's earnings as reported in the Commission's *Annual Review* for annual periods ending December 31, 2005, through the then-most recent report dated September 30, 2007. See Attorney General Cross Examination Exhibit No. 6. Based on that evidence, the Attorney General's Office (AGO) showed that Piedmont was allowed to make rate adjustments under the CUT during the Piedmont experiment without review of the need for the adjustment, even though published Commission reports indicated that Piedmont was exceeding its authorized return for a sustained period of time.

On September 5, 2008, subsequent to the hearing of the PSNC case, the Commission published the *Quarterly Review* for the annual period ending December 31, 2007. That report contained as an Appendix revisions to information for Piedmont for the 12-month periods ending September 30, 2007 and June 30, 2007 based on revised NCUC GS-1 Reports for those periods that were filed by Piedmont on May 30, 2008, and on September 4, 2008, respectively. According to the Appendix, revisions were made to earlier periods "in order to reflect Piedmont's modification of its methodology utilized for extracting revenues and costs associated with its secondary market activities." The Appendix indicates that Piedmont's "incorrect methodology resulted in an understatement of its gas costs and an overstatement of margin associated with such transactions."

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The AGO has requested that the updated information about Piedmont's earnings be provided to the record in the PSNC case so that the record is updated and clarified. In addition, the AGO has provided summary information prepared by the AGO based on the updated information.

PSNC objects to the AGO's motion and asserts that the undersigned Assistant Attorney General presented information during PSNC's hearing relating to Piedmont's earnings that was known to be inaccurate. That contention mischaracterizes what occurred.

During the preparation for the hearing in Piedmont's rate case, it is correct that the undersigned attorney saw a filing by Piedmont and, as a follow-up during discovery, asked Piedmont to review any amendments that it made to Shareholder reports or to NCUC GS-1 Reports that would change the data reported on the Piedmont page in one or more *Quarterly Reviews* published between December 31, 2005 and September 30, 2007. Piedmont was also asked to specify which data concerning Piedmont would change as a result of amendments and by how much, to the best of Piedmont's ability. In response, Piedmont stated that it had provided amended reports for the 12 months ending September 30, 2007, and the annual period ending December 31, 2007 that it believed would likely change data reported in the NCUC's *Quarterly Review*. Although this answer mentioned that two periods were affected, a *Quarterly Review* had been published for only one of them at that point (i.e., the one ending September 30, 2007). Although Piedmont was asked about amendments that would apply to all periods during the CUT for which a *Quarterly Review* had been published, Piedmont's response indicated that amendments did not apply to other periods.

Based on Piedmont's response, it appeared that one of the eight published *Quarterly Review* reports was affected by the amendments, and, of the four periods during which Piedmont was reported as exceeding its authorized rate of return, only the most recent one had been amended by Piedmont. Piedmont indicated that the amendment corrected information; however, it was not apparent from Piedmont's response what bearing the amended information might have, if any, on the Commission's report regarding Piedmont's earnings during that period. Piedmont declined to specify or otherwise clarify how the *Quarterly Review* would be impacted by the amendment, saying, "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." Given Piedmont's response, it did not seem likely that it would be possible to quantify the impact or the extent of the amendment.

In any event, the amended information was filed by Piedmont in May 2007, *after* the Commission approved the latest rate increase relating to the CUT. Thus, at the time that the Commission approved Piedmont's rate increase relating to the CUT in April 2008, Piedmont had not yet made the amended information available. Therefore,

according to the information available in *Quarterly Reviews* at the time that the CUT increase was approved, Piedmont had exceeded its authorized rate of return during the four most recent periods for which information was available.

In hindsight, it would have been better to have provided information about Piedmont's amendments and discovery response to make the record in the PSNC case more complete, even though their significance was unclear. However, at the time, the significance was not known and the amended information did not appear to be pertinent.

It was not until September 5, 2008 (after the PSNC hearing) when the Commission published the *Quarterly Review* for the period ending December 31, 2007, that the undersigned attorney learned about the impact of Piedmont's amendments. According to that *Quarterly Review* report, amended information relating to the quarter ending September 30, 2007 resulted in a significant reduction to Piedmont's overall rate of return, reducing it from 9.11% to 8.01%. The *Quarterly Review* also revealed that, according to amended information provided by Piedmont on September 4, 2008 (one day before the report was published), Piedmont's earnings during the annual period ending June 30 2007 were also reduced substantially.

The undersigned attorney does not yet understand the basis for the large amendments to Piedmont's GS-1 reports. According to the memorandum from Donald Hoover published in the latest *Quarterly Review*, the revisions to the *Quarterly Review* for the annual period ended September 30, 2007, were necessary

in order to reflect Piedmont's modification of its methodology utilized for extracting revenues and costs associated with its secondary market activities. Piedmont's use of an incorrect methodology resulted in an understatement of its gas costs and an overstatement of margin associated with such transactions. Such methodological modification also necessitated a revision to its previously submitted GS-1 report for the 12-month period ended June 30, 2007.

Quarterly Review for the Quarter Ending December 31, 2007, Part IV - Appendix A p. 1.

Mr. Carpenter's description of the reason for amendments to GS-1 reports provided during the Piedmont rate case does not clarify the basis for them. He provided the following explanation:

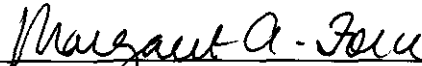
.. [D]uring preparation of the rate case and then subsequently discussions with the Public Staff, in looking at our numbers, we determined that we had an issue with the information that we had filed with the Commission that resulted from a failure to properly transfer knowledge about the jurisdictional assignment of the cost of gas between North and South Carolina.

We operate the Carolinas as one gas system and because of that there are a lot of allocations that go into determining the cost of gas assigned to each of the two states. And in the process of a transformation that began in our accounting area in 2006, we failed to properly keep the methodology correct on the jurisdictional allocation of those costs.

(Transcript of testimony in Docket No. G-9, Sub 550, pp. 312-13)

Had the information about the amendment and Piedmont's discovery response been provided when the PSNC case was heard, however, it is doubtful that the additional information would have provided adequate clarification about the issue. The information related only to the *Quarterly Review* for the period ending September 30, 2007, and did not identify how it affected Piedmont's earnings. The information that is now available in the most recent *Quarterly Review* and the summary table offered by the AGO as Attorney General Late Filed Exhibits 1 and 2 speak for themselves and serve to clarify the record.

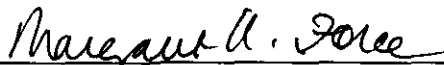
Respectfully submitted on this the 25th of September, 2008.



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CERTIFICATE OF SERVICE

The undersigned certifies that she has served a copy of the foregoing Attorney General's Reply Concerning Late-Filed Exhibits upon the parties of record in this proceeding by email or hand delivery or by depositing a copy of the same in the United States Mail, postage prepaid this the 25th day of September, 2008.



Margaret A. Force
Assistant Attorney General