

McGuireWoods LLP
201 North Tryon Street
Suite 3000
Charlotte, NC 28202-2146
Phone: 704.343.2000
Fax: 704.343.2300
www.mcguirewoods.com

James H. Jeffries IV
Direct: 704.343.2348

McGUIREWOODS

jjeffries@mcguirewoods.com

October 25, 2021

VIA ELECTRONIC FILING

Ms. Antonia Dunston
Interim Chief Clerk
North Carolina Utilities Commission
430 N. Salisbury Street, Dobbs Building
Raleigh, North Carolina 27603

**Re: Docket No. G-9, Sub 781
Docket No. G-9, Sub 786
Docket No. G-9, Sub 722**

Dear Ms. Dunston:

Piedmont Natural Gas Company, Inc. ("Piedmont") respectfully submits for filing with the Commission the enclosed Proposed Findings, Evidence, and Conclusions of Piedmont in the above-referenced dockets related to the issues raised in Docket No. G-9, Sub 722. Piedmont will also email a Word-formatted copy of this document to briefs@ncuc.net.

Portions of the attached document disclose certain information that is confidential in nature, Piedmont hereby designates it as the confidential and proprietary trade secret of Piedmont pursuant to N.C. Gen. Stat. § 132-1.2 and requests that the Commission treat it in a manner consistent with this designation. Piedmont has also attached to this letter redacted public versions of its Proposed Findings, Evidence and Conclusions.

Thank you for your assistance with this matter. If you have any questions regarding this filing, you may reach me at the number shown above.

Sincerely,

/s/ James H. Jeffries IV
James H. Jeffries IV

JHJ/rkg

Enclosure

cc: Lucy Edmondson
Elizabeth Culpepper
Bruce Barkley
Pia Powers
Parties of Record

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the attached is being served this date upon all of the parties to this docket electronically or 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 25th day of October, 2021.

/s/ Richard K. Goley
Richard K. Goley

STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH

DOCKET NO. G-9, SUB 722
DOCKET NO. G-9, SUB 781
DOCKET NO. G-9, SUB 786

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of)	
)	
Docket No. G-9, Sub 722)	
)	
Consolidated Natural Gas)	
Construction and Redelivery Services)	
Agreement Between Piedmont)	
Natural Gas Company, Inc., and)	
Duke Energy Carolinas, LLC)	
)	
Docket No. G-9, Sub 781)	PROPOSED FINDINGS OF
)	FACT, EVIDENCE, AND
Application of Piedmont Natural Gas)	CONCLUSIONS SPECIFIC TO
Company, Inc., for an Adjustment of)	ISSUES IN DOCKET NO. G-9,
Rates, Charges, and Tariffs)	SUB 722 OF PIEDMONT
Applicable to Service in North)	NATURAL GAS COMPANY, INC.
Carolina)	
)	
Docket No. G-9, Sub 786)	
)	
Application of Piedmont Natural Gas)	
Company, Inc. for Modifications to)	
Existing Energy Efficiency Programs)	
and Approval of New Energy)	
Efficiency Programs)	

PROPOSED FINDING OF FACT

49. The volumetric system support surcharge set forth in the Duke Lincoln Second Revised Agreement is reasonable and appropriate for use in providing service to the incremental gas-fired electric generation equipment that is the subject of that agreement.

PROPOSED EVIDENCE AND CONCLUSIONS

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 49

The evidence supporting this Finding is set forth in the direct prefiled testimonies of Piedmont witnesses Barkley and Sosnick, Public Staff witness Perry, DEC witness Mitchell, and in the various filings of the parties made in Docket No. G-9, Sub 722 prior to its consolidation with the rate case, as well as the testimony of Piedmont witnesses Barkley and Sosnick, DEC witness Mitchell, and Public Staff witness Perry at the hearing of this matter, and in Public Staff late-filed Exhibit No. 2.

The issue underlying this finding of fact is whether the system support volumetric surcharge reflected in the Second Revised Agreement for service to the incremental facilities at DEC's Lincoln generation facility is just and reasonable. The issue was raised by the Company's filing of the Revised Agreement in 2018 which restated the terms of the original 2004 Agreement for service to the Lincoln Plant and added additional terms relevant to service to be provided to new incremental gas-fired generation facilities being constructed by DEC. As is Piedmont's historic approach to service agreements of this type, the Revised Agreement reflected a fixed demand charge calculated on the basis of the incremental cost (including O&M expense, overheads and return) to provide service to the new Lincoln gas-fired equipment. The fixed demand charge was calculated using Piedmont's standard cost-of-service model, which has formed the basis for special contract rates accepted by the Public Staff and approved by the Commission in many prior instances.

Piedmont filed its Second Revised Agreement several months later following expressions of dissatisfaction by the Public Staff with respect to the lack of a volumetric system support charge in the Revised Agreement rate structure. According to Piedmont, while the Public Staff opposed the lack of such charge, they provided no suggested methodology or proposed an actual charge to cure their concerns. In the face of the Public Staff's failure to move forward with the Revised Agreement, Piedmont and DEC negotiated the Second Revised Agreement which added a volumetric system support charge, calculated as a capped percentage of the demand charge for the incremental service to the DEC Lincoln plant, deemed by the parties to be commercially reasonable. The agreed volumetric system support surcharge provided for the recovery of revenues by Piedmont in excess of its costs of providing incremental service to DEC at the Lincoln plant. According to Piedmont and DEC, DEC was not enthusiastic about the additional volumetric charge but was willing to agree to it in order to satisfy Public Staff concerns.

As became apparent from the Public Staff's June 1, 2020 Recommendations and proposed Order (which were corrected on June 24, 2020), the Public Staff remained unsatisfied with the volumetric system support charge agreed to in the Second Revised Agreement. The Public Staff's objection to that charge was based on its opinion that the system support charge agreed to by DEC and Piedmont "does not provide a reasonable level of system contribution in this case." The Public Staff then discussed possible differences in the way a volumetric system support surcharge could be calculated, how the nature of the equipment using the incremental service might impact the charge, and how that charge might

compare to other existing special contract arrangements approved by the Commission and ultimately recommended a volumetric system support surcharge that was equal to [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] – roughly 15 times larger than the [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] charge agreed to between DEC and Piedmont. As part of the Public Staff's analysis, they also calculated the O&M per dekatherm allocated to Piedmont's Rate Schedule 113 customers and converted that to an estimated O&M per dekatherm cost for service to the Lincoln incremental facilities of \$0.09 to \$0.05 per dekatherm. The Public Staff did not provide the details of their analysis.

In response to the Public Staff's proposal both DEC and Piedmont filed comments on June 26, 2020. In its comments, DEC asserted that the Public Staff's proposed surcharge was unreasonable and arbitrary and would result in Piedmont substantially over-earning its cost of service for the DEC incremental facilities and subsidization of Piedmont's natural gas customers by DEC's electric customers. In support of its position, DEC asserted that special contracts like the one at issue in this docket should allow Piedmont to recover its cost of providing service plus a reasonable return and should avoid cross-subsidization. DEC also pointed out that a system support charge in the case of DEC Lincoln was inappropriate because transportation to the DEC Lincoln plant occurred over dedicated facilities that DEC was paying the entire cost for in its demand charge – in other words there was no support being provided by Piedmont's general system to gas delivered to DEC Lincoln in this case and there were no costs being incurred by Piedmont's other customers as a result of incremental service to the Lincoln plant. DEC also

reasonable system support charge, consisting of a [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL]. Piedmont indicated that it did not oppose a system support charge as a general matter but that any such charge needed to be based on a rational and transparent methodology recognizing that the result of such surcharge would be to increase Piedmont's return on the incremental service being provided above the levels utilized in Piedmont's standard cost model. Piedmont also pointed out that rate design for recovery of costs can vary and the fact that some costs might be collected volumetrically does not necessarily mean that they are incurred on a variable basis. Piedmont also criticized the Public Staff's analysis by noting that the Public Staff did not provide the details of its purported Rate Schedule 113 analysis to either Piedmont or the Commission, thereby preventing any scrutiny of the reasonableness of that analysis. Piedmont also criticized the Public Staff's surcharge proposal because it was not cost-based, would dramatically increase the cost of service to DEC, and was not based on a "rational, reasonable, and repeatable" methodology.

On April 19, 2021, Piedmont filed the testimony of Bruce Barkley and Matthew DeCoursey (a consultant from FTI Consulting, Inc.) in support of its position supporting the Second Revised Agreement for service to DEC's Lincoln plant and in opposition to the Public Staff's [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] surcharge recommendation. Mr. DeCoursey's testimony was subsequently adopted by Mr. Ken Sosnick, with leave of the Commission, as a result of a change in employment by Mr. DeCoursey. Mr. Sosnick testified that Piedmont's approach to recovering costs from DEC for the

for Piedmont's customers and the unreasonableness of the Public Staff's volumetric charge proposal.

On August 11, 2021, Public Staff witness Perry filed testimony in this docket. With regard to the Sub 722 issues, Ms. Perry fundamentally adopted the prior comments and recommendations of the Public Staff identified above without adding new discussion. In his August 25, 2021 Rebuttal testimony, Piedmont witness Barkley largely followed suit but stated that the Public Staff's Rate Schedule 113 analysis, upon which its surcharge recommendation was based in part, was flawed because it did not reflect a subsidy being provided to DEC.

At the hearing of this matter, on cross-examination, Ms. Perry was asked about what system costs the Public Staff was attempting to recover through the surcharge. Her responses made clear that these costs were neither discretely identified nor related to the actual provision of service to the DEC Lincoln plant.

The Commission has carefully considered the evidence on these issues and positions of the parties and has concluded, for the reasons set forth below, that the Second Revised Agreement is just and reasonable and should be approved and that the Public Staff's volumetric system support surcharge recommendation should be rejected.

First, the Commission notes that Piedmont's utilization of a cost of service model to calculate the incremental cost of providing service to special contract customers is both consistent with its long-standing practices (which have been accepted by the Public Staff and approved by the Commission on many prior occasions) and consistent with general tenets of ratemaking utilized by the Commission and utilized within the natural gas industry as a whole.

Second, while the Commission understands that the Public Staff has concerns regarding the allocation of system costs to special contract customers, the record in this case is simply insufficient to support Commission approval of the Public Staff's recommended surcharge. As an initial matter, the Public Staff has not shown that Piedmont's costs of providing service to the DEC Lincoln plant change with changes in throughput. In fact, the evidence provided by witness Sosnick is to the contrary. This clearly disconnects cost incurrence from cost causation with regard to the Public Staff's surcharge proposal. In addition, the Public Staff has not identified either discrete "system" facilities or discrete "system" costs that should be allocated to DEC Lincoln but are not being allocated – they simply opine as to the existence of such costs and propose what is fundamentally a subjective volumetric charge that has no methodological or mathematical foundation. At best, the Public Staff has established that it has concerns that increased amounts of systems costs should be allocated to DEC for "system support" but it has not identified those costs by either type or amount. Further, because the facilities used to provide service to DEC Lincoln are completely isolated from the rest of Piedmont's system, we find it difficult to justify the allocation of unspecified general system costs to DEC Lincoln based on the otherwise subjective conclusion of the Public Staff that more costs should be allocated to DEC in this instance.

Third, the Public Staff's derivation of its proposed surcharge is neither transparent nor compelling and the economic impacts of that surcharge on DEC and its customers are not reasonable. We do not find the Public Staff's Rate Schedule 113 O&M per dekatherm analysis convincing in that the Public Staff's

analysis does not appear to take into account the fact that O&M charges for service to the incremental DEC Lincoln facilities are included in the demand charge embedded in both the Revised Agreement and the Second Revised Agreement. As such, the underlying facts of the Rate Schedule 113 analysis and the DEC Lincoln proposed rates are not comparable. We also are unable to evaluate the details of the Public Staff's study because it was not provided to the Commission. Finally, we are also in general agreement with Piedmont's position that any methodology that allocates system costs to special contract customers should be rational, reasonable, and repeatable and the Public Staff's methodology is not. Mr. Barkley's calculation of a [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] associated with the Public Staff's proposal is also indicative of the problem here as is the fact that Piedmont would recover its investment in plant multiple times over during the course of the contract under the Public Staff's proposal. The Commission also does not find the impact of the Public Staff's proposal on DEC customers to be reasonable particularly in the absence of any definition of the exact nature of the additional Piedmont costs being shifted to those customers.

Making and approving rates is one of the most important functions performed by the Commission. It must do so based on material and substantial evidence rather than on subjective opinions. See N.C.G.S. 62-94. Further, the Commission's reasoning must be transparent in order to withstand judicial review. The Public Staff's evidence in this case does not meet these standards or the Commission's standard practices for ratemaking and, therefore, its recommendations cannot be approved in this instance.

Having rejected the Public Staff's proposals, we approve the Second Revised Agreement primarily because it represents a commercially acceptable agreement to the parties that entered into it and does provide system support beyond the actual costs of providing incremental service to the DEC Lincoln plant but not in a way that is unduly burdensome to DEC's customers. We find that the rate of return to Piedmont for service under the Second Revised Agreement is within the range of reason and provides affirmative benefits to Piedmont's other customers.