

BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION

NASHVILLE, TENNESSEE

August 6, 2019

IN RE:)	
)	
COMPLIANCE FILING OF PIEDMONT)	DOCKET NO.
NATURAL GAS COMPANY, INC. REGARDING)	18-00040
THE IMPACT OF FEDERAL TAX REFORM ON)	
PUBLIC UTILITY REVENUE REQUIREMENTS)	

ORDER APPROVING STIPULATION AND PARTIAL SETTLEMENT AGREEMENT AND
ADJUDICATING CONTESTED ISSUES PRESENTED BY THE PARTIES

This matter came before Vice Chair Kenneth C. Hill, Commissioner Herbert H. Hilliard, and Commissioner David F. Jones of the Tennessee Public Utility Commission (“Commission” or “TPUC”), the voting panel assigned to this docket, at a regularly scheduled Commission Conference held on March 11, 2019 for consideration of the *Stipulation and Partial Settlement Agreement Between Piedmont Natural Gas Company, Inc. and the Consumer Advocate Unit of the Attorney General* (“*Partial Settlement*”), filed on February 22, 2019.¹ This matter also came before the voting panel at the regularly scheduled Commission Conference on May 20, 2019 for consideration of the remaining contested issues between the parties concerning the ultimate consequences of the change in tax rates resulting from the 2017 Tax Cuts and Jobs Act, Pub.L. No. 115-97 (“2017 Tax Act”).²

¹ On February 27, 2019, the *Partial Settlement* was re-filed along with Exhibit A, which had been inadvertently omitted from the filing of the *Partial Settlement* made on February 22, 2019.

² See *In re: Tennessee Public Utility Commission Investigation of Impacts of Federal Tax Reform on the Public Utility Revenue Requirements*, Docket No. 18-00001, *Order Opening an Investigation and Requiring Deferred Accounting Treatment*, pp. 2-3 (February 6, 2018) (hereinafter *TPUC 2018 Tax Reform Order*).

BACKGROUND AND PROCEDURAL HISTORY

Generally, the statutory rate for federal income tax expense is included as a component of the revenue requirement when utility rates are set by the Commission. On December 22, 2017, new federal tax reductions, including those for businesses, were signed into law. The primary business tax reduction impacting utilities and utility rates was the lowering of the corporate tax rate from 35% to 21%, which will significantly reduce income tax expenses that are currently recovered in utility service rates. The lower tax rates will also impact the future tax liability for utilities that have deferred income taxes because the tax deferrals were included in ratemaking calculations at 35% when in fact the rate is now 21%; this lower tax liability is not reflected in existing rates because future recovery in previous proceedings was based upon a 35% tax rate.³

Income taxes and deferred tax liabilities are major components included in establishing rates for all corporate investor-owned utilities. Many public utility commissions, including the Tennessee Public Utility Commission, require depreciation methods to recognize depreciation benefits over the life of the asset placed into service.⁴ The Internal Revenue Service (“IRS”), however, allows businesses, including utilities, to recover investment at a faster rate by utilizing accelerated depreciation methods. Accelerated depreciation lowers a utility’s income for federal tax purposes in the early years when an asset is placed in service thereby reducing income taxes owed in those early years. These tax savings are then recorded as deferred income taxes and returned to ratepayers in future years to avoid utility windfall profits.⁵

Absent an adjustment, utilities’ service rates would be unreflective of a significantly lower cost. This Commission and other state commissions have, in the past, allowed for deferring expenses and/or revenues until such time as a final decision can be made as to: (1) the

³ *Id.*

⁴ *TPUC 2018 Tax Reform Order*, pp. 2-3 (February 6, 2018).

⁵ *Id.* at 2.

proper amounts to be recovered by the utility or returned to ratepayers and (2) the method by which amounts are recovered by utilities or returned to ratepayers.⁶

On January 16, 2018, the Commission ordered Piedmont Natural Gas Company, Inc. (“Piedmont” or the “Company”) to immediately apply deferred accounting treatment with respect to the impact of the lowering of the federal corporate income tax (“FIT”) rate resulting from the 2017 Tax Act.⁷ The Commission also ordered Piedmont to provide no later than March 31, 2018, the amounts deferred as well as a proposal to reduce rates or otherwise make adjustments to account for the computed tax benefits. The Commission specifically required Piedmont to:

1. Track and accumulate monthly in a deferred account the portion of its revenue representing the difference between the cost of service approved by the Commission in its most recent rate case and the cost of service that would have resulted had the provision for federal income taxes been based on 21% rather than 35%; and
2. Calculate the excess deferred tax reserve caused by the reduction in the corporate federal income tax rate and recognize as a deferred liability the estimated reduction of the utilities’ revenue requirement resulting from the 2017 Tax Act; and
3. Calculate and defer any other tax effects resulting from the 2017 Tax Act on revenue requirement that are not included in the preceding calculations.⁸

On April 2, 2018, Piedmont filed the *Compliance Filing of Piedmont Natural Gas Company, Inc.* (“Response”) in response to the Commission’s Order in Docket No. 18-0000. In the *Response*, the Company proposed to reduce customers’ bills by flowing through the Integrity Management Rider (“IMR”) the tax rate reductions in its next rate case rather than immediately. The

⁶ *Id.* at 2-3 (citing *In re: Application to Lower the Rates and Charges for Natural Gas Service and Provide Any Refund Due to Customers of CenterPoint Energy Resources Corporation*, Oklahoma Corporation Commission, No. PUD 201700568, *Order*, (January 9, 2018); *Kentucky Industrial Utility Customers, Inc. v. Kentucky Utilities Company, et al.* Kentucky Public Service Commission, Case No. 2017-00477, *Order* (December 27, 2017); *In re: Tax Reform Act of 1986*, Mass. Dept. of Public Utilities, *Order*, D.P.U. 87-21-A, (June 1, 1987); *Pennsylvania Public Utility Commission v. ALLTEL Pennsylvania, Inc.*, M-860105, *Order Prescribing Temporary Rate Reductions in Response to the Tax Reform Act of 1986*, (June 10, 1987)).

⁷ *TPUC 2018 Tax Reform Order*, p. 3 (February 6, 2018).

⁸ *Id.* at 4-5.

Company also proposed to establish a regulatory liability account to account for excess deferred income taxes.⁹ The Company maintained this will provide an immediate benefit to customers while maintaining the financial stability of the Company.¹⁰

At the time of the filing of the Response, Piedmont estimated total excess Accumulated Deferred Income Tax ("ADIT") to be \$64,600,248.¹¹ Of this amount, Piedmont estimates Protected ADIT to be \$50,817,283 and Unprotected ADIT \$13,782,965. The Company reported that the balance in the deferred account is \$4,877,400 as of August 31, 2018.¹² In Pre-Filed Direct Testimony, Pia K. Powers provided updated calculations establishing the annual cost of service impact (grossed-up) of \$5,581,438.¹³ The Company points to the Commission's reduction in the federal tax rate from 35% to 21% was already adopted in the Company's latest IMR filing in TPUC Docket No. 17-00138. Therefore, Piedmont asserts customers are already receiving the \$2.9 million in annual rate relief due to the lower tax rate.¹⁴

The Company contends there are negative consequences to both Piedmont and the customers by simply lowering the Company's base rates to reflect the lower tax rate. Ms. Powers opines such action would negatively impact cash flow and also points to a Moody's Investor Services report that downgraded the ratings outlook for twenty-four regulated public utilities from stable to negative as a consequence of the anticipated impacts of flowbacks to customers stemming from the 2017 Tax Act.¹⁵

The Company proposed to continue to defer the difference in the cost of service from its last rate case and the cost of service using the lower 21% tax rate until its next rate case and then

⁹ *Response of Piedmont Natural Gas Company, Inc.*, p. 3 (April 2, 2018).

¹⁰ *Id.* at 3-4.

¹¹ *Id.* at Exhibit 3.

¹² Pia K. Powers, Pre-Filed Direct Testimony, p. 2 (October 5, 2018).

¹³ *Id.* at 3.

¹⁴ *Id.* at 5-6.

¹⁵ *Id.* at 8.

use the deferral to offset any requested rate increase.¹⁶ Finally, Piedmont is proposing to establish a regulatory liability account for the excess ADIT and to then amortize that liability over an appropriate period as part of its next general rate case.¹⁷ Piedmont opposed amending its base rates outside of a rate case because this action would cause an immediate shortfall in cash flow and could possibly require the Company to incur significant amounts of new debt with associated debt carrying costs.¹⁸

CONSUMER ADVOCATE DIRECT TESTIMONY

On behalf of the Consumer Advocate Unit in the Financial Division of the Office of the Tennessee Attorney General and Reporter (“Consumer Advocate”), Mr. David Dittemore submitted Pre-Filed Direct Testimony on January 15, 2019. Mr. Dittemore testified that the 2017 Tax Act results in a negative cash flow to utilities because tax prepayments in the form of excess ADIT will be returned to customers over an extended period of time.¹⁹ Additionally, rate base will increase thereby increasing earnings because the future growth in ADIT will be smaller due to the lower tax rate.²⁰ The Consumer Advocate identifies three impacts of the 2017 Tax Act: (1) income tax expense will be reduced due to the federal income tax rate being lowered from 35% to 21%; (2) the reduction of future tax obligations referred to as excess ADIT; and (3) the amortization method applicable to the Protected and Unprotected portion of ADIT.²¹

Mr. Dittemore’s Pre-Filed Testimony discussed the distinctions between Protected and Unprotected ADIT. Protected ADIT relates to timing differences associated with depreciation and unprotected relates to all other matters. The process or method to return excess Unprotected

¹⁶ *Id.* at 6.

¹⁷ *Id.* at 7.

¹⁸ *Id.* at 7-8.

¹⁹ David Dittemore, Pre-Filed Direct Testimony, pp. 3-4 (January 15, 2019).

²⁰ *Id.*

²¹ *Id.* at 4-5.

ADIT to customers is not specified in the 2017 Tax Act. However, the 2017 Tax Act specifies the procedures for the treatment of excess Protected ADIT for ratemaking purposes, requiring the utility to use either the Average Rate Assumption Method (“ARAM”) or, in the event that a utility’s records are insufficient, the Reverse South Georgia Method (“RSGM”) may be used. Both methods require the amortization of the excess over the life of the assets with the amount of amortization varying year to year with the ARAM and remaining constant under the RSGM. Further, in order to use the ARAM methodology the utility must also have sufficient plant accounting data. The Consumer Advocate notes that Piedmont proposed to use the ARAM methodology.²²

The Consumer Advocate agrees with the Company proposal for a reduction in income tax expense through the IMR and states that the Commission should not take any action regarding this proposal.²³ Nevertheless, the Consumer Advocate expressed opposition and reservations with Piedmont’s proposal to continue to collect \$5.6 million annually from customers based on the 35% tax rate and defer the excess due to the lower tax rate until its next rate case at which time the balance will be refunded to customers over an undefined period of time.²⁴

In opposing the Company’s proposal, the Consumer Advocate points to a number of factors including a lack of certainty as to when ratepayers would receive a refund or benefit under the proposal. In essence, the proposal allows Piedmont to retain dollars at today’s value and return the dollar in the future when the dollar is worth less than it is today, thus benefiting the Company at the expense of the ratepayers.²⁵ Mr. Dittmore contends that one should consider the whole picture when considering the reduction in the tax rate from 35% to 21%; this reduces

²² David Dittmore, Pre-Filed Direct Testimony, pp. 5-6 (January 15, 2019).

²³ *Id.* at 8.

²⁴ *Id.*

²⁵ *Id.* at 8-9.

cash flow but the Company is in a Net Operating Loss Carryforward position which results in zero taxes being paid, thereby providing a constant cash flow stream.²⁶ Further, the Tennessee portion of total gas plant is 16.33% in comparison with the Company's North Carolina operations. Given the size of the Company's operations in North Carolina, Mr. Dittmore opines that any decision in Tennessee will not make a substantial impact on the total operations of Piedmont.²⁷

The Consumer Advocate recommends a credit rider be implemented to flow back the income tax expense reduction to ratepayers, a proposal similar to the credit rider proposed by Kingsport Power Company d/b/a AEP Appalachian Power ("Kingsport") in TPUUC Docket No. 18-00038.²⁸ Specifically, Mr. Dittmore testifies to the following: the credit rider should include the annualized level of income tax expense savings of \$5,581,438; the liability balance reflecting income tax expense savings accruing from January 1, 2018 to date should be added to the annualized income tax expense savings and returned to ratepayers; the excess Unprotected ADIT should be amortized over a three-year period and returned to ratepayers (this should be based on a Tennessee specific tax rate); the methodology described by the Company's computing a rate per therm should be used to determine the appropriate rider amount; the credit per therm should be a separate line item on the customers' bill; the credit per therm should apply to all customer classes other than Special Contract customer classes; the rider filing should be made March 1 every year with an adjustment for over/under collections; and the rider should be in effect until new base rates are established using the 21% federal tax rate.²⁹

²⁶ *Id.* at 9.

²⁷ *Id.* at 7-10.

²⁸ *Id.* at 10.

²⁹ *Id.* at 10-11.

The Consumer Advocate supports identifying the credit rider on customer bills as it provides transparency and is good public policy. Based on the latest amount provided in the filing as of August 31, 2018 of \$4.88 million, Mr. Dittmore estimates the rider would result in an annual bill reduction of \$63.11 for the average residential customer, \$296.77 for Small/Medium customers, \$3,469.12 for Large General Firm customers, and \$347,000.46 for Large General Interruptible customers.³⁰ The annual impact would decline as the deferred 2018 tax savings are recovered.³¹

Should the Commission permit Piedmont to defer refunding the accrued-to-date income tax expense savings, Mr. Dittmore recommends the Company's current rate of return of 9.878% be applied to the monthly balances accruing from January 1, 2018. This will ensure that Piedmont's ratepayers are compensated for financing the operations of the Company.³² Mr. Dittmore agrees with the Company's proposal to defer amortization of its Protected ADIT of approximately \$50,817,283 until its next rate case. He disagrees, however, with the Company's proposal to defer amortization of the excess Unprotected ADIT of approximately \$13,782,965.³³ Mr. Dittmore proposes the Unprotected ADIT be flowed back to ratepayers over a three-year period resulting in an annual amortization of approximately \$6,023,720.³⁴ He contends the three-year period is to the benefit of ratepayers while more closely matching the refund to the customers that provided the excess ADIT.³⁵

In pre-filed testimony, Mr. Dittmore points out that Piedmont calculated both Protected and excess Unprotected ADIT based upon the use of a composite state tax rate. The composite

³⁰ *Id.* at Exhibit DND-2

³¹ *Id.* at 12-13.

³² *Id.* at 12.

³³ *Id.* at 13.

³⁴ *Id.* at Exhibit DND-3.

³⁵ *Id.* at 13-14.

rate of 3.455% is a weighted average state tax rate throughout the Piedmont system. The Consumer Advocate refers to the Company's previous rate case in TPUC Docket No. 11-00144 in which the Commission ordered that a Tennessee specific income tax rate of 6.5% should be used in the determination of Income Tax Expense. He explains the use of the composite rate results in an inconsistency in the development of Piedmont's ADIT balance and associated excess ADIT. Mr. Dittmore asserts that using a 6.5% state tax rate to determine earnings, and a composite rate of 3.455% to determine ADIT, results in ratepayers paying 6.5% but only receiving 3.455% back. For this reason, the same rate used to determine income tax expense should be used to determine ADIT.³⁶

Mr. Dittmore testified he does not have sufficient information to determine the appropriate adjustment to ADIT. He recommends the Commission require Piedmont to recalculate its excess Protected and Unprotected ADIT using a Tennessee specific tax rate and incorporate the Unprotected amount in the amortization ordered in this docket. He further recommends that in future ratemaking proceedings, the Commission should order Piedmont to compute the Tennessee ADIT based upon the Tennessee specific tax rate rather than a composite rate.³⁷

PIEDMONT REBUTTAL TESTIMONY

On February 15, 2019, Pia K. Powers submitted Pre-Filed Rebuttal Testimony on behalf of the Company that indicated a partial settlement, not yet filed with the Commission, had been reached with the Consumer Advocate, leaving two issues unresolved.³⁸ The Company identified the remaining issues as: (1) the appropriate treatment regarding the treatment of excess

³⁶ *Id.* at 16-17.

³⁷ *Id.* at 18.

³⁸ Pia K. Powers, Pre-Filed Settlement and Rebuttal Testimony, pp. 2-3 (February 15, 2019).

Unprotected ADIT to Piedmont's customers; and (2) the appropriate state income tax rate for use of the computation of Piedmont's Tennessee ADIT balance in this and future proceedings.³⁹

The Company's proposal in Rebuttal Testimony with respect to excess Unprotected ADIT is requiring a flowback of excess Unprotected ADIT at the earliest date of the Company's next rate case or three years from the date of the Commission's Order in this docket.⁴⁰ The Company asserts there are negative cash flow consequences associated with the 2017 Tax Act changes and a slower approach will help mitigate the negative financial impact on the Company. Further, the Company asserts a significant portion of the excess ADIT is associated with property with a useful life in excess of twenty years, justifying a longer amortization period; the Company reasons delaying the amount deferred and the flow back will provide a hedge against rate increases in the future.⁴¹

Ms. Powers indicated Piedmont was downgraded by Moody's as a result of the cash flow consequences of the 2017 Tax Act. She asserts the Company has now agreed to reduce the tax rate going forward and refund the amounts over-collected since January 2018, which will erode the Company's cash flow. For this reason, Ms. Powers does not believe the Commission should further erode the Company's cash flow by ordering a three-year amortization of the excess ADIT.⁴²

Ms. Powers points out the Commission recently approved a five-year amortization of Unprotected ADIT for Chattanooga Gas Company in their general rate proceeding. Further, Piedmont obtained longer amortization periods in other jurisdictions. Specifically, South Carolina approved a twenty-year amortization period for Piedmont's excess Unprotected ADIT

³⁹ *Id.* at 4-5.

⁴⁰ *Id.* at 6.

⁴¹ *Id.* at 6-7.

⁴² *Id.* at 8.

for property, plant, and equipment in recognition of the remaining useful asset life and approved a five-year amortization period for the portion of excess Unprotected ADIT related to other book tax depreciation differences. The Company points to the action of the North Carolina Public Service Commission that required a rate reduction to recognize the lower tax rates going forward and all amounts over-collected since January 2018 and permitted excess ADIT to be addressed in the Company's next general rate case or three years from the date of the commission's order concerning these matters.⁴³

With respect to the Consumer Advocate's recommendation that Piedmont change its methodology of using a composite state tax rate for calculating ADIT, the Company asserts the Commission has approved this methodology in multiple prior rate cases and is consistent with Generally Accepted Accounting Principles ("GAAP") accounting requirements. The Company contends the use of the method recommended by the Consumer Advocate would result in a computation that does not align with the ADIT rate base component approved by the Commission in the Company's last rate case. Finally, the Company asserts the Consumer Advocate should raise such a proposal in the Company's next rate case rather than in this docket.⁴⁴

THE FILING OF THE *PARTIAL SETTLEMENT*

On February 27, 2019, the *Partial Settlement* was filed by the Consumer Advocate and the Company. In the *Partial Settlement*, the parties have agreed: (1) to reduce base rates to recognize the lower federal tax rate of 21% as of the effective date of Piedmont's billing rate changes in the Company's IMR in TPUC Docket No. 18-00126; (2) to amortize over a three-year period through a temporary rate adjustment in the federal tax savings from January 1, 2018 to the

⁴³ *Id.* at 8-9.

⁴⁴ *Id.* at 9-10.

effective date of the reduction in customer's base rates as described above, with any over-payment or under-payment of the deferred tax savings to be determined and either debited or credited to Piedmont's Annual Cost Adjustment Account as appropriate; and (3) to provide a customer bill message during the first month of the rate changes explaining the basis and impact of the rate adjustments.⁴⁵

The *Partial Settlement* provides that an additional exhibit to the settlement, Exhibit B, shall be filed with the Commission once TPUC Docket No. 18-00126 is resolved and the resulting calculations can be added to the Agreement.⁴⁶ This exhibit will demonstrate the calculation of the deferral and the effect of the deferral and the tax reduction going forward on customer's rates. The Parties state that if the *Partial Settlement* is approved as filed, the Parties agree that the only remaining issues are as follows:

1. The appropriate treatment for return of unprotected excess ADIT to Piedmont's customers; and
2. The appropriate state income tax rate for use in the computation of Piedmont's Tennessee ADIT balance in this and future proceedings.⁴⁷

MARCH 11, 2019 HEARING AND APPEARANCES

A Hearing concerning the *Partial Settlement* was held before the voting panel on March 11, 2019, as noticed by the Commission on March 1, 2019. Participating in the Hearing were the following parties and their respective counsel:

Piedmont - James H. Jefferies, IV, Esq., McGuire Woods, LLP, 201 North Tyron Street, Suite 3000, Charlotte, North Carolina, 28202; Paul S. Davidson, Esq., Waller, Lansden Dortch & Davis, LLP, 511 Union Street, Suite 2700, Nashville, Tennessee 37219.

⁴⁵ *Partial Settlement*, pp. 3-4 (February 27, 2019)

⁴⁶ Exhibit B to the *Partial Settlement* was filed with the Commission on May 30, 2019; *Piedmont's Supplemental Exhibit B Pursuant to Paragraph 12b of the Partial Settlement* (May 30, 2019).

⁴⁷ *Partial Settlement*, p. 5 (February 27, 2019).

Consumer Advocate – Daniel P. Whitaker, III, Esq., and Vance Broemel, Esq., Office of the Tennessee Attorney General, P.O. Box 20207, Nashville, Tennessee 37202.

The voting panel heard Ms. Pia Powers's testimony in support of the *Partial Settlement*. Mr. David Dittmore, the expert witness of the Consumer Advocate, was available for questions from the panel and Commission Staff. During the Hearing, the public was given an opportunity to offer comment, but no member of the public sought to comment.

COMMISSION APPROVAL OF THE *PARTIAL SETTLEMENT*

Following the presentation of the *Partial Settlement* at the Hearing on March 11, 2019, and based on the record before it, the Hearing Panel voted unanimously to approve the *Partial Settlement*.

MAY 20, 2019 HEARING AND APPEARANCES

A Hearing was held before the voting panel concerning the remaining contested issues on May 20, 2019, as noticed by the Commission on May 10, 2019. Participating in the Hearing were the following parties and their respective counsel:

Piedmont - James H. Jefferies, IV, Esq., McGuire Woods, LLP, 201 North Tyron Street, Suite 3000, Charlotte, North Carolina, 28202; Paul S. Davidson, Esq., Waller, Lansden Dortch & Davis, LLP, 511 Union Street, Suite 2700, Nashville, Tennessee 37219.

Consumer Advocate – Daniel P. Whitaker, III, Esq., and Vance Broemel, Esq., Office of the Tennessee Attorney General, P.O. Box 20207, Nashville, Tennessee 37202.

The panel heard testimony from Ms. Pia Powers on behalf of the Company and Mr. David Dittmore, the expert witness of the Consumer Advocate. Both witnesses were available for cross-examination and questions by the Commissioners and Commission Staff. During the Hearing, the public was given an opportunity to offer comment, but no member of the public sought to comment.

FINDINGS AND CONCLUSIONS

Among the issues left unresolved by the *Partial Settlement*, the panel determined the appropriate treatment for return of excess Unprotected ADIT to Piedmont's customers. Based upon calculations provided by Piedmont, the panel found the total amount of excess Unprotected ADIT to be \$23,571,958. The panel determined the evidence contained in the record or financial reports on file with the Commission did not substantiate the Company's claim that an immediate refund of this excess Unprotected ADIT amount would result in an unbearable financial strain to the Company. Therefore, the panel voted unanimously that Piedmont should amortize the excess Unprotected ADIT over a three-year period resulting in an annual amortization of \$7,857,319, which includes the gross-up of federal income tax, Tennessee excise tax, and the uncollectible factor. This temporary adjustment should begin with the effective date of the rate changes approved in Commission Docket No. 18-00126 concerning the IMR; and customers should be notified of the adjustment in the manner agreed upon with the Consumer Advocate in the *Partial Settlement* approved at the Commission Conference on March 15, 2019.

Further, the panel voted unanimously that the amortized amount should be allocated to Piedmont customer classes as follows: 59.64% to residential, 31.20% to Small & Medium General, 9.13% to Large General and .03% to Resale classes. The panel determined any over-payment or under-payment of this refund amount should be determined at the end of the three-year period and either debited or credited to Piedmont's Annual Cost Adjustment Account as appropriate.

The Company states the amount of excess Protected ADIT is currently estimated at \$46,585,754.42. The Consumer Advocate also states that it needs Piedmont's 2019 first quarter tax return as further support for this amount and an amortization period. As set forth earlier, the

excess Unprotected ADIT of \$23,571,958 will be returned over a three-year period. In order to avoid any concern of impairment or potential impairment to Piedmont's cash flow, the panel voted unanimously that the amortization period for the excess Protected ADIT should commence at the earlier of the Company's next rate case or the expiration of the amortization period for the excess Unprotected ADIT. Further, the panel directed Piedmont to submit a proposed amortization period and its updated calculations for the excess Protected ADIT, grossed-up for federal income tax, Tennessee excise tax and an uncollectible factor, in this docket no later than September 1, 2019.

Lastly, the panel addressed the appropriate state tax rate for use in the computation of Piedmont's Tennessee excess ADIT balance in this and future proceedings. The Company argued that excess ADIT included a composite state tax rate which has been used to determine the amount of ADIT included and approved in rate base in previous rate cases. The Consumer Advocate affirms, in the course of their review, that it is apparent that the calculation of excess ADIT is based upon a composite state tax rate. Therefore, the panel voted unanimously that the use of a composite state tax rate is appropriate in determining excess ADIT amounts to be refunded to ratepayers.

IT IS THEREFORE ORDERED THAT:

1. The *Stipulation and Partial Settlement Agreement Between Piedmont Natural Gas Company, Inc. and the Consumer Advocate Unit of the Attorney General* filed on February 27, 2019, and attached herein as Exhibit A, is approved. A copy of the late filed" Exhibit B" to the *Stipulation and Partial Settlement Agreement Between Piedmont Natural Gas Company, Inc. and the Consumer Advocate Unit of the Attorney General* and filed with the Tennessee Public Utility Commission on May 30, 2019, is attached herein as Exhibit B.

2. The excess Unprotected Accumulated Deferred Income Taxes shall be returned to customers over a three-year period resulting in an annual amortization of \$7,857,319, which includes the gross-up of federal income tax, Tennessee excise tax, and the uncollectible factor. The effective date of this adjustment shall be the same approved in Tennessee Public Utility Commission Docket No. 18-00126. Customers should be notified of this adjustment in the same manner agreed upon with the Consumer Advocate Unit in the Financial Division of the Office of the Tennessee Attorney General and Reporter in the *Stipulation and Partial Settlement Agreement Between Piedmont Natural Gas Company, Inc. and the Consumer Advocate Unit of the Attorney General* approved herein.

3. The excess Protected Accumulated Deferred Income Taxes shall be returned to customers over the course of an amortization period beginning at the earlier of the Piedmont Natural Gas Company, Inc.'s next rate case or the expiration of the amortization period for the excess Unprotected Accumulated Deferred Income Taxes. Piedmont Natural Gas Company, Inc. shall submit a proposed amortization period and its updated calculations for the excess Protected Accumulated Deferred Income Taxes, grossed-up for federal income tax, Tennessee excise tax and an uncollectible factor, in this docket no later than September 1, 2019.

4. At this time, the Piedmont Natural Gas Company, Inc.'s use of a composite state tax rate is appropriate in determining excess Accumulated Deferred Income Taxes amounts to be refunded to ratepayers.

5. Any person who is aggrieved by the Commission's decision in this matter may file a Petition for Reconsideration with the Commission within fifteen (15) days from the date of this Order.

6. Any person who is aggrieved by the Commission's decision in this matter has the right to judicial review by filing a Petition for Review in the Tennessee Court of Appeals, Middle Section, within sixty (60) days from the date of this Order.

Vice Chair Kenneth C. Hill, Commissioner Herbert H. Hilliard, and Commissioner David Jones concur.

ATTEST:



Earl R. Taylor, Executive Director

Tennessee Public Utility Commission

Docket 18-00040

**ORDER APPROVING STIPULATION AND PARTIAL
SETTLEMENT AGREEMENT AND ADJUDICATING
CONTESTED ISSUES PRESENTED BY THE PARTIES**

Exhibit A

**BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION
AT NASHVILLE, TENNESSEE**

IN RE:

COMPLIANCE FILING OF PIEDMONT
NATURAL GAS COMPANY, INC.
REGARDING THE IMPACT OF FEDERAL
TAX REFORM ON PUBLIC UTILITY
REVENUE REQUIREMENTS

DOCKET NO. 18-00040

**STIPULATION AND PARTIAL SETTLEMENT AGREEMENT BETWEEN
PIEDMONT NATURAL GAS COMPANY, INC. AND THE CONSUMER
ADVOCATE UNIT OF THE ATTORNEY GENERAL**

Piedmont Natural Gas Company, Inc. ("Piedmont" or "Company") and the Consumer Advocate Unit of the Financial Division of the Office of the Tennessee Attorney General ("Consumer Advocate") (collectively the "Parties"), constituting all of the parties of record to the above-captioned docket and in partial settlement of the matters at issue in this proceeding, do hereby stipulate and agree as follows:

BACKGROUND

1. Piedmont is a subsidiary of Duke Energy Corporation and is engaged in the business of transporting, distributing and selling natural gas in the States of Tennessee, North Carolina and South Carolina. Piedmont's principal office and place of business is located at 4720 Piedmont Row Drive, Charlotte, North Carolina.

2. Piedmont is a public utility in Tennessee and its natural gas distribution business is subject to regulation and supervision by the Tennessee Public Utility Commission ("TPUC" or "Commission") pursuant to Chapter 4 of Title 65 of the Tennessee Code Annotated.

3. On April 2, 2018, pursuant to the Commission's *Order Opening an Investigation and Requiring Deferred Accounting Treatment* in Docket No. 18-00001 ("Investigation and Deferral Order"), Piedmont made its compliance filing ("April 2 Filing") in the above-captioned docket showing the Commission its accounting data and providing Piedmont's comments and proposals related to the impacts of the 2017 Tax Cuts and Jobs Act ("Tax Act").

4. On April 24, 2018, the Consumer Advocate filed a Petition to Intervene in this proceeding which was granted by the Commission's June 11, 2018 Order Granting the Petition to Intervene Filed by the Consumer Advocate.

5. On May 18, 2018, the Commission issued an Order Convening a Contested Case Proceeding and Appointing a Hearing Officer in this proceeding.

6. On October 5, 2018, Piedmont filed the Testimony and Exhibits of Pia K. Powers in support of Piedmont's April 2, 2018 Filing.

7. On October 25, 2018, the Commission issued its Order Establishing Procedural Schedule in this proceeding.

8. Throughout the months of October and November 2018, the Consumer Advocate engaged in discovery regarding the matters at issue in this docket as provided in the procedural schedule.

9. On January 15, 2019, the Consumer Advocate filed the testimony of David Dittmore in this proceeding in which the Consumer Advocate took issue with Piedmont's proposed response to the Tax Act, as set forth in Piedmont's April 2, 2018 Filing and the Direct Testimony of Pia K. Powers.

10. Following the filing of Mr. Dittmore's testimony, the Parties have engaged in substantive discussions regarding the differences in their respective positions on the impacts of

the Tax Act and whether those differences, in whole or in part, might be resolvable through a settlement.

11. As a result of such discussions, Piedmont and the Consumer Advocate have reached a proposed resolution of all but two issues in this docket which they now recommend to the Commission in partial but substantial resolution of this proceeding as set forth herein ("Stipulation and Partial Settlement Agreement"), leaving only two issues to be decided by the Commission.

SETTLEMENT

12. In partial settlement of this proceeding, Piedmont and the Consumer Advocate hereby agree to, and ask the Commission to approve, the following proposed resolutions of pending issues in this proceeding:

a. Piedmont's base rates shall be adjusted to incorporate the impact of the reduction in the federal corporate income tax rate from 35% to 21% under the Tax Act effective as of the date of customer billing rate changes approved by the Commission in pending TPUC Docket No. 18-00126. Rate reductions are based upon \$5,581,438, which is the pre-tax annual tax savings arising from the revenue requirement adopted in Piedmont's most recent base rate proceeding. The calculation of the per therm adjustment to base rates, by rate schedule, is shown on Settlement Exhibit A attached hereto;

b. The balance of previously deferred base rate revenues, ordered by the Commission in its Investigation and Deferral Order and reflecting the difference between a 35% and 21% federal corporate income tax rate from January 1, 2018 through the effective date of rate changes under Paragraph 12.a. above, shall be amortized and returned to customers over a period of three (3) years beginning with the effective date of rate changes under Paragraph 12.a.

above. Supplemental Exhibit B shall be added to this Agreement demonstrating the calculation of the deferral through the effective date of the new rates described in 12.a. as soon as reasonably possible once the deferral period has ceased. Exhibit B shall be filed with the Commission and submitted to the Consumer Advocate contemporaneously. A temporary decrement to customer usage rates, calculated on the basis of the margin allocations and billing determinants by rate schedule approved in Piedmont's last general rate case proceeding, will be utilized by the Company to effectuate the return of the balance to customers over this three-year period. The Parties agree that it is the intent of this Stipulation and Partial Settlement Agreement that the cumulative amount refunded to customers over this three-year period be exactly the amount of previously deferred base rate revenues as of the effective date of rate changes under Paragraph 12a above. This rate decrement shall remain in place during the three-year period notwithstanding whether new base rates are approved by the Commission within this period as a result of a base rate proceeding. The Parties also recognize that the actual amount refunded to customers over this period is subject to variations in actual customer usage compared to the billing determinants used to establish the decrement. In order to ensure that the appropriate refund amount is returned to customers, the Parties agree that any under-payment or over-payment of this refund amount that exists at the end of the three-year period shall be credited or debited to Piedmont's Annual Cost Adjustment account, as appropriate;

c. Piedmont will provide a bill message to its customers, during the first month of the effective date of rate changes under paragraph 12.a. above, explaining the basis and impact of the rate changes agreed to in this Stipulation and Partial Settlement Agreement;

13. The Parties further agree that the only issues remaining to be determined by the Commission in this proceeding, and upon which the Parties were unable to reach agreement are as follows: the appropriate treatment for return of unprotected Excess Accumulated Deferred Income Taxes to Piedmont's customers, and the appropriate state income tax rate for use in the computation of Piedmont's Tennessee ADIT balance in this and future proceedings. The relative positions of the Parties with respect to these issues are as set forth in the respective testimonies of Pia K. Powers and David Dittmore, as may be amplified or explained at the hearing of this matter.

14. The settlement terms reflected in Paragraph 12 above represent a comprehensive and complete resolution of the issues set forth therein and all claims or defenses raised or that could have been raised by the Parties in this proceeding relative to such issues and represent a good faith compromise and settlement between the Parties resolving all such issues in this Docket subject to the approval by the Commission of this Stipulation and Partial Settlement Agreement and the terms and conditions of this Stipulation and Partial Settlement Agreement.

15. The Parties agree to support this Stipulation and Partial Settlement Agreement before the Commission and in any hearing, proposed order, or brief conducted or filed in this proceeding. The resolution of issues reflected herein is the result of give and take negotiations between the Parties and does not necessarily reflect the position of any single Party on any discrete issue. None of the signatories hereto shall be deemed to have acquiesced in any ratemaking or procedural principle, including without limitation, any cost of service determination or cost allocation or revenue related methodology, and none of the Parties waives its right to take other positions with respect to matters similar to those settled herein in future proceedings before the Commission. This Stipulation and Partial Settlement Agreement shall

not have any precedential effect in any future proceeding or be binding upon either of the Parties in this or any other jurisdiction, except to the extent necessary to implement the provisions hereof and as expressly contemplated herein.

16. The provisions of this Stipulation and Partial Settlement Agreement are agreements reached in compromise and settlement and solely for the purpose of resolving this docket without the need for further litigation.

17. The stipulations agreed to in this Stipulation and Partial Settlement Agreement, which are the product of negotiations and substantial communication and compromise between the Parties, are just and reasonable and in the public interest. The Parties jointly recommend that the Commission issue an order adopting this Stipulation and Partial Settlement Agreement in its entirety without modification.

18. In the event that the Commission does not approve this Stipulation and Partial Settlement Agreement in its entirety, each of the signatories to this Stipulation and Partial Settlement Agreement will retain the right to terminate this Stipulation and Partial Settlement Agreement by written notice to the Commission and other Party within ten (10) business days of the issuance of an order by the Commission not approving this Stipulation and Partial Settlement Agreement in its entirety. Should this Stipulation and Partial Settlement Agreement terminate, it would be considered void and have no binding effect, and the signatories to this Stipulation and Partial Settlement Agreement would reserve their rights to fully participate in all relevant proceedings notwithstanding their agreement to the terms and conditions of this Stipulation and Partial Settlement Agreement.

19. The provisions of this Stipulation and Partial Settlement Agreement are not severable.

20. By agreeing to this Stipulation and Partial Settlement Agreement, no Party waives any right to continue litigating this matter should the Stipulation and Partial Settlement Agreement be rejected by the Commission in whole or in part.

21. No provision of this Stipulation and Partial Settlement Agreement shall be deemed an admission of any Party.

22. The provisions of this Stipulation and Partial Settlement Agreement do not necessarily reflect the positions asserted by any Party, and no Party waives the right to assert any position in this Docket, or in any future proceeding, except as expressly stipulated and agreed herein.

23. The acceptance of this Stipulation and Partial Settlement Agreement by the Consumer Advocate shall not be deemed approval by the Consumer Advocate of any of the Company's practices.

24. This Stipulation and Partial Settlement Agreement may only be enforced by the Parties or the Commission.

25. The Consumer Advocate's agreement to this Stipulation and Partial Settlement Agreement is expressly premised upon the truthfulness, accuracy and completeness of the information provided by the Company to the Consumer Advocate throughout the course of this docket, which information was relied upon by the Consumer Advocate in negotiating and agreeing to the terms and conditions of this Stipulation and Partial Settlement Agreement.

26. This Stipulation and Partial Settlement Agreement shall be governed by and construed under the laws of the State of Tennessee, notwithstanding the conflict of law provisions thereof.

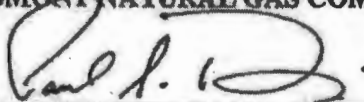
27. The Parties agree that this Stipulation and Partial Settlement Agreement constitutes the complete understanding between the Parties concerning the resolution of issues and matters under this Docket No. 18-00040 and any oral statements, representations or agreements concerning such issues and matters made prior to the execution of this Stipulation and Partial Settlement Agreement have been merged into this Stipulation and Partial Settlement Agreement.

28. Each signatory to this Stipulation and Partial Settlement Agreement represents and warrants that it/he/she has informed, advised and otherwise consulted with the Party for whom it/he/she signs regarding the contents and significance of this Stipulation and Partial Settlement Agreement and has obtained authority to sign on behalf of such Party, and based upon those communications, each signatory represents and warrants that it/he/she is authorized to execute this Stipulation and Partial Settlement Agreement on behalf of its/his/her respective Party.

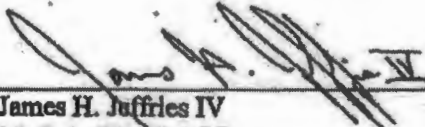
29. The Parties agree that this Stipulation and Partial Settlement Agreement may be executed in multiple counterparts and by copies provided by facsimile or in .pdf format.

The foregoing is agreed and stipulated to this 17th day of February, 2019.

PIEDMONT NATURAL GAS COMPANY, INC.

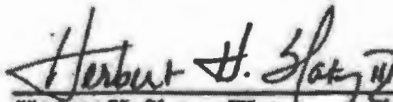


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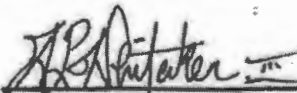


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**OFFICE OF THE TENNESSEE ATTORNEY
GENERAL**



Herbert H. Slatery III
Attorney General and Reporter



Daniel P. Whitaker III, Assistant Attorney General
Office of the Tennessee Attorney General
Financial Division, Consumer Advocate Unit
P.O. Box 20207
Nashville, Tennessee 37202-0207
Telephone: 615-532-9299

EXHIBIT A

Exhibit A

Piedmont Natural Gas Company, Inc.

Base Rate Adjustment for Cost of Service Impact due to Decrease in FIT Rate (35% to 21%)

State of Tennessee

Docket No. 18-00040

Line No.	Notes	Small & Medium					Total
		Residential (301)	General (302, 352)	Large General (303, 304, 313, 314)	Resale Service (310)		
1	Customer Class Apportionment Percent	see table below	59.64%	31.20%	9.13%	0.03%	100.00%
2	Base Rate Adjustment for Recovery (Refund)	see table below	\$ (3,328,988)	\$ (1,741,442)	\$ (509,479)	\$ (1,528)	\$ (5,581,438)
3	Annualized Throughput from 2011 Rate Case (DTs)	Docket No. 11-00144	11,130,214	6,664,958	10,466,595	10,312	28,272,079
4	Base Rate Adjustment Per DT	[= Line 2 / Line 3]	(0.2991)	(0.2613)	(0.0487)	(0.1482)	
5	Base Rate Adjustment Per Therm	[= Line 4 / 10]	(0.02991)	(0.02613)	(0.00487)	(0.01482)	

Derivation of Customer Class Apportionment Percentage

Docket No. 11-00144: 2011 Rate Case		Annual	
<u>Margin Revenues</u>		<u>Total</u>	<u>Allocation %</u>
6	Residential (301)	\$ 62,049,925	59.64%
7	Sm & Med General Service (302, 352)	\$ 32,459,219	31.20%
8	Large General Service (303, 304, 313, 314)	\$ 9,496,322	9.13%
9	Resale Service (310)	\$ 28,481	0.03%
10	Total	\$ 104,033,947	100.00%

	Annual Revenue Requirement <u>Adjustment</u>
11	2018 Federal Tax Reform, FIT rate of 21% \$ (5,581,438)

Tennessee Public Utility Commission

Docket 18-00040

**ORDER APPROVING STIPULATION AND PARTIAL
SETTLEMENT AGREEMENT AND ADJUDICATING
CONTESTED ISSUES PRESENTED BY THE PARTIES**

Exhibit B



Waller Lansden Dortch & Davis, LLP
511 Union Street, Suite 2700
P.O. Box 198966
Nashville, TN 37219-8966

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Electronically Filed in TPUC Docket Room on May 30, 2019 at 12:32 p.m.

May 30, 2019

Via Hand Delivery and Email

Executive Director Earl Taylor
c/o Tory Lawless
Tennessee Public Utility Commission
502 Deaderick Street, Fourth Floor
Nashville, Tennessee 37243

Re: *Compliance Filing of Piedmont Natural Gas Company, Inc. Regarding the Impact of Federal Tax Reform on Public Utility Revenue Requirements Docket No. 18-00040*

Dear Mr. Taylor:

Pursuant to Paragraph 12b of the Stipulation and Partial Settlement Agreement filed on February 27, 2019 in TPUC Docket No. 18-00040, Piedmont is hereby submitting the enclosed Supplemental Exhibit B.

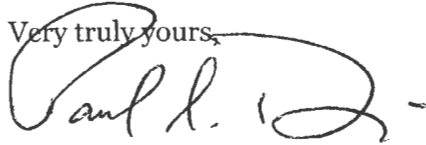
Supplemental Exhibit B reflects the Deferred Base Revenue Rate Decrements applicable to Piedmont's June 2019 billing rates. The purpose of these decrements is to refund to customers the previously deferred base revenues recorded as a result of the change in the federal income tax rate from 35% to 21% under the 2017 Tax Cuts and Jobs Act. The decrements shown in Supplemental Exhibit B are computed using the actual deferred base revenue balance from January 1, 2018 through April 30, 2019 and an estimate of May 2019 deferred base revenue activity. Piedmont is estimating the May 2019 activity, using the actual activity from May 2018, to ensure that the decrement rates can be implemented for June 2019 billing contemporaneously with the rates authorized in TPUC Docket No. 18-00126. This balance will be amortized and returned to customers over a period of three years through the decrement. The total amount to be refunded to customers will be exactly the amount of actual deferred base revenues from January 1, 2018 through May 31, 2019. Any under-payment or over-payment of this refund over the three-year period will be credited or debited to Piedmont's Annual Cost Adjustment account.

This material is also being filed by way of email to the Tennessee Public Utility Commission Docket Manager, Tory Lawless. Please file the original and four copies of this filing and stamp the additional copy as "filed." Then please return the stamped copies to me by way of our courier.

waller

Thank you for your assistance with this matter. Should you have any questions concerning this matter, please do not hesitate to contact me at the email address or telephone number listed above.

Very truly yours,

A handwritten signature in black ink, appearing to read "Paul S. Davidson", with a large, stylized flourish extending from the end of the signature.

Paul S. Davidson

Enclosure

cc: Daniel P. Whitaker, III
James H. Jeffries, IV

Line No.	[A] Notes	[B] Residential (301)	[C] Small & Medium General (302, 352)	[D] Large General (303, 304, 313, 314)	[E] Resale Service (310)	[F] Total
1	Customer Class Apportionment Percent	see table below	59.64%	31.20%	9.13%	100.00%
2	Base Rate Adjustment for Recovery (Refund)	[= Line 1 * Line 14] \$	(2,179,009) \$	(1,139,871) \$	(333,483) \$	(1,000) \$
3	Annualized Throughput from 2011 Rate Case (DTs)	Docket No. 11-00144	11,130,214	6,664,958	10,466,595	28,272,079
4	Decrement Per DT	[= Line 2 / Line 3]	(0.1958)	(0.1710)	(0.0319)	(0.0970)
5	Decrement Per Therm effective June 1, 2019	[= Line 4 / 10]	(0.01958)	(0.01710)	(0.00319)	(0.00970)

Derivation of Customer Class Apportionment Percentage

	Docket No. 11-00144: 2011 Rate Case Margin Revenues	Annual Total	Allocation %
6	Residential (301)	\$ 62,049,925	59.64%
7	Sm & Med General Service (302, 352)	\$ 32,459,219	31.20%
8	Large General Service (303, 304, 313, 314)	\$ 9,496,322	9.13%
9	Resale Service (310)	\$ 28,481	0.03%
10	Total	\$ 104,033,947	100.00%

	Deferral Amount for Ratemaking
11	Actual Deferrals: January 2018 thru April 2019 \$ 10,779,202
12	Estimated Deferral: May 2019 \$ 180,886
13	Total Deferral Amount used for computation of Rate Decrements \$ 10,960,087
14	Total as amortized over 3 years [Line 13 / 3] \$ 3,653,362