

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

<b>IN RE:</b>	)	
	)	
<b>PIEDMONT NATURAL GAS COMPANY,</b>	)	<b>Docket No. 21-00102</b>
<b>INC. ANNUAL PERFORMANCE INCENTIVE )</b>		
<b>PLAN FILING FOR THE PERIOD )</b>		
<b>JULY 1, 2020 THROUGH JUNE 30, 2021 )</b>		

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**PETITION TO INTERVENE**

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The Consumer Advocate Unit in the Financial Division of the Office of the Tennessee Attorney General (“Consumer Advocate”), by and through counsel, pursuant to Tenn. Code Ann. § 65-4-118, respectfully petitions the Tennessee Public Utility Commission (“TPUC” or the “Commission”) to grant the Consumer Advocate’s intervention into this proceeding because consumers’ interests, rights, duties, or privileges may be determined or affected by the *Piedmont Natural Gas Company, Inc. Annual Performance Incentive Plan Filing For The Period July 1, 2020 Through June 30, 2021* (“*Incentive Plan Filing*”) filed by Piedmont Natural Gas Company, Inc. (“Piedmont” or the “Company”) in this Docket. For cause, the Consumer Advocate would show as follows:

1. The Consumer Advocate is authorized by Tenn. Code Ann. § 65-4-118 to represent the interests of Tennessee consumers of public utility services by initiating and intervening as a party in any matter or proceeding before TPUC in accordance with the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-101, *et seq.*, and TPUC rules.

2. Piedmont, a subsidiary of Duke Energy Corporation, is a public utility regulated by TPUC and is in the business of transporting, distributing, and selling natural gas to approximately 191,000 residential, commercial, and industrial customers in the State of Tennessee.

3. On May 31, 1996, the Tennessee Public Service Commission<sup>1</sup> approved, on an experimental basis, an Incentive Plan to Nashville Gas Service, Piedmont's predecessor.<sup>2</sup> "The Incentive Plan replaces the reasonableness or prudence review of Nashville's gas purchasing activities overseen by the [Commission] and is designed to produce rewards for Nashville's customers and its shareholders and to produce improvements in Nashville's gas procurement activities."<sup>3</sup> After the experimental time period, Piedmont's predecessor filed an *Application for Extension of the Performance Incentive Plan*, which would allow the plan to continue on an annual basis. On March 11, 1999, the Commission issued an Order<sup>4</sup> authorizing a modified Incentive Plan which consists of two mechanisms: (1) the Gas Procurement Mechanism; and (2) the Capacity Management Plan.<sup>5</sup> Also, the Incentive Plan provides for recovery of hedging costs in the Actual Cost Adjustment ("ACA").<sup>6</sup>

4. Commission Staff have previously explained that while the goal of its audit of the Company's Incentive Plan "is to verify the Company's calculations of incentive gains and losses are materially correct," the audit also includes Piedmont's Purchased Gas Adjustment ("PGA") "tariff filing to implement a customer surcharge to recover the balance of the Incentive Plan account" for the specified time period at issue.<sup>7</sup>

5. On August 31, 2021, Piedmont filed its *Incentive Plan Filing*. In this filing Piedmont stated that "all enclosures provided in this filing, with the exception for the Gain/Loss

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<sup>1</sup> The Tennessee Public Service Commission predated the Regulatory Authority, or TRA. The TRA is the predecessor agency to the Commission, or TPUC. While the nomenclature has changed, the scope and function of these entities has remained essentially the same.

<sup>2</sup> *Notice of Filing by Utilities Division of the Tennessee Public Utility Commission*, Exhibit A, p. 1, TPUC Docket No. 20-00106 (March 23, 2021).

<sup>3</sup> *Order Approving Performance Incentive Plan*, pp. 1-2, TRA Docket No. 96-00805 (March 11, 1999).

<sup>4</sup> *Id.*

<sup>5</sup> *Notice of Filing by Utilities Division of the Tennessee Public Utility Commission*, Exhibit A at p. 1.

<sup>6</sup> *Id.* at p. 4.

<sup>7</sup> *Id.* at p. 3.

Summary page itself, contain CONFIDENTIAL INFORMATION.”<sup>8</sup> As a result of the designation of confidential information, the Commission issued a Protective Order.<sup>9</sup>

6. During this timeframe, Piedmont provided confidential written responses<sup>10</sup> to questions set out in the *Consumer Advocate’s Petition to Obtain Information from Piedmont Natural Gas Company, Inc. Pertaining to the Potential Effects of the Price Spikes in February 2021 (“CA Petition”)*.<sup>11</sup>

7. After reviewing Piedmont’s information provided as a result of the *CA Petition*, the Consumer Advocate filed a letter expressing its concerns and recommending that “the Commission expand its review of the Piedmont PGA filing and the incentive mechanism calculations considering the February price spike and specifically the impact the volatile February prices had on the incentive mechanism of Piedmont.”<sup>12</sup> Since the February 2021 price spike may impact multiple dockets, the Consumer Advocate filed this letter in three Piedmont dockets – TPUC Docket Nos. 21-00073, 21-00101, and 21-00102.<sup>13</sup>

8. On December 22, 2021, Piedmont filed its letter<sup>14</sup> disputing not only the Consumer Advocate’s concerns raised in its November 3<sup>rd</sup> letter, but also concerns raised by Exeter<sup>15</sup> in its

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<sup>8</sup> *Piedmont Natural Gas Company, Inc. Annual Performance Plan Filing for The Period July 1, 2020 Through June 30, 2021*, TPUC Docket No. 21-00102 (August 31, 2021).

<sup>9</sup> *Protective Order*, TPUC Docket No. 21-00102 (September 15, 2021).

<sup>10</sup> *Piedmont Gas Company, Inc. Status Update Responses to the Commission Notice of Filing*, TPUC Docket No. 21-00073 (September 2, 2021).

<sup>11</sup> *Consumer Advocate’s Petition to Obtain Information from Piedmont Natural Gas Company, Inc. Pertaining to the Potential Effects of the Price Spikes in February 2021*, TPUC Docket No. 21-00073 (June 23, 2021).

<sup>12</sup> *Consumer Advocate’s Letter to Chairman Kenneth Hill Re: Piedmont Natural Gas Company Savings*, p. 3, TPUC Docket Nos. 21-00073, 21-00101, 21-00102 (November 3, 2021).

<sup>13</sup> *Id.*

<sup>14</sup> *Piedmont Natural Gas Company, Inc. Response to the Consumer Advocate Letter Filed on November 3, 2021, Re: Piedmont Natural Gas Company Savings*, TPUC Docket Nos. 21-00073, 21-00101, 21-00102 (December 22, 2021).

<sup>15</sup> *Review of Performance Incentive Plan, November 2021*, prepared by Exeter Associates, Inc., p. 38, TPUC Docket No. 05-00165 (CONFIDENTIAL).

draft Review of Performance Incentive Plan. Piedmont filed its December letter in the same three dockets as the Consumer Advocate.

9. As a result of reviewing Piedmont's December letter, the Consumer Advocate filed a Records Request with the Commission for documents involving Piedmont's PGA, ACA, and IPA.<sup>16</sup> While the Commission can provide public documents, it is prohibited from providing documents identified by Piedmont as confidential. Therefore, the Consumer Advocate must intervene in this matter so that it may fully analyze the impact of the February price spike on its PGA, AGA, and IPA.

10. The interests of consumers may be affected by determinations and orders made by TPUC with respect to: (a) the interpretation, application, and implementation of TPUC Rule 1220-04-07-.05, and other relevant statutory and regulatory provisions; and (b) the review and analysis of the Piedmont's documentation, financial spreadsheets, and other materials. As the interest of Tennessee consumers may be determined in this proceeding, the Consumer Advocate qualifies by provision of law, Tenn. Code Ann. § 65-4-118(b)(1), as an intervenor in this matter to represent these interests.


11. Only by participating as a party to this proceeding can the Consumer Advocate adequately carry out its statutory duty to represent the interests of Tennessee consumers.


Wherefore, the Consumer Advocate requests the Commission grant this Petition to Intervene and to grant the Consumer Advocate and the consumers of Tennessee such other relief as may be deemed appropriate under the circumstances.

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<sup>16</sup> *Consumer Advocate's Records Request Re: Piedmont Natural Gas Company*, TPUC Docket Nos. 21-0073, 21-00101, and 21-00102 (January 10, 2022).

RESPECTFULLY SUBMITTED,

  
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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Petition to Intervene was served U.S. Mail, postage prepaid, with a courtesy copy by email:

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This the 16<sup>th</sup> day of February, 2022.

  
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