

BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION

NASHVILLE, TENNESSEE

March 3, 2022

IN RE:

PIEDMONT NATURAL GAS COMPANY, INC.
ANNUAL PERFORMANCE INCENTIVE PLAN
FILING FOR THE PERIOD JULY 1, 2020
THROUGH JUNE 30, 2021

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DOCKET NO.
21-00102

ORDER GRANTING THE PETITION TO INTERVENE FILED BY THE
CONSUMER ADVOCATE

This matter is before the Hearing Officer of the Tennessee Public Utility Commission (“Commission” or “TPUC”) to consider the *Petition to Intervene* filed by the Consumer Advocate Unit in the Financial Division of the Office of the Tennessee Attorney General (“Consumer Advocate”) on February 16, 2022.

CONSUMER ADVOCATE’S *PETITION TO INTERVENE*

On August 31, 2021, Piedmont Natural Gas Company, Inc. (“Piedmont” or the “Company”) filed its Performance Incentive Plan (“IPA”) Filing for the Period Ending June 30, 2021 (“*IPA Filing*”). On February 16, 2022, the Consumer Advocate filed a *Petition to Intervene* seeking to intervene in the docket pursuant to Tenn. Code Ann. § 65-4-118, which qualifies the Consumer Advocate to represent the interests of Tennessee consumers of public utility services in proceedings before the Commission. According to the Consumer Advocate, it filed a letter with the Commission expressing concerns regarding information provided by Piedmont in response to certain inquiries by the Consumer Advocate and recommending “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.”¹ After reviewing Piedmont’s response to its letter, the Consumer Advocate sought to review certain documents involving Piedmont’s Purchased Gas Adjustment Account (“PGA”), ACA, and Incentive Plan Account (“IPA”), which were designated confidential by Piedmont.² The Consumer Advocate asserts it “must intervene in this matter so that it may fully analyze the impact of the February price spike on its [Piedmont’s] PGA, ACA, and IPA.”³

The Consumer Advocate asserts that “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 Piedmont's documentation, financial spreadsheets, and other materials...” As such, the Consumer Advocate seeks to intervene in these proceedings to represent the interests of Tennessee consumers. Piedmont did not oppose the Consumer Advocate’s intervention in these proceedings.

FINDINGS & CONCLUSIONS

Tenn. Code Ann. § 4-5-310 establishes the following criteria for granting petitions to intervene:

- (a) The administrative judge or hearing officer shall grant one (1) or more petitions for intervention if:
 - (1) The petition is submitted in writing to the administrative judge or hearing officer, with copies mailed to all parties named in the notice of the hearing, at least seven (7) days before the hearing;
 - (2) The petition states facts demonstrating that the petitioner's legal rights, duties, privileges, immunities or other legal interest may

¹ *Petition to Intervene*, p. 3 (February 16, 2022) (quoting *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)).

² *Petition to Intervene*, p. 4 (February 16, 2022).

³ *Id.*

be determined in the proceeding or that the petitioner qualifies as an intervenor under any provision of law; and

(3) The administrative judge or hearing officer determines that the interests of justice and the orderly and prompt conduct of the proceedings shall not be impaired by allowing the intervention.

(b) The agency may grant one (1) or more petitions for intervention at any time, upon determining that the intervention sought is in the interests of justice and shall not impair the orderly and prompt conduct of the proceedings.⁴

Although it is not an automatic or absolute right to participate in proceedings before the Commission, Tenn. Code Ann. § 65-4-118(b)(1) provides a general basis for the qualification of the Consumer Advocate to be permitted to intervene as a party to represent the interests of Tennessee public utility consumers. It provides as follows:

The consumer advocate division has the duty and authority to represent the interests of Tennessee consumers of public utilities services. The division may, with the approval of the attorney general and reporter, participate or intervene as a party in any matter or proceeding before the commission or any other administrative, legislative or judicial body and initiate such proceeding, in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, and the rules of the commission.⁵

In the instant proceeding, the Consumer Advocate seeks to intervene to gain access to confidential documents to analyze to the impact of the February price spike on Piedmont's PGA, ACA, and IPA. The Hearing Officer finds that there is a sufficient factual basis to find that legal rights or interests held by those consumers may be determined in this proceeding.

Upon due consideration, the Hearing Officer concludes that the legal rights, duties, privileges, immunities or other legal interest of Piedmont's customers may be determined in this proceeding. Further, the Hearing Officer finds that the Consumer Advocate qualifies under law as an intervenor for the purpose of representing those consumer interests, there is no objection to its intervention, and

⁴ Tenn. Code Ann. § 4-5-310.

⁵ Tenn. Code Ann. § 65-4-118(b)(1).

its *Petition to Intervene* was timely-filed and should not impair the interests of justice or the orderly and prompt conduct of the proceedings. For these reasons, the Hearing Officer concludes that the Consumer Advocate's *Petition to Intervene* should be granted.

IT IS THEREFORE ORDERED THAT:

The *Petition to Intervene* filed by the Consumer Advocate Unit in the Financial Division of the Office of the Tennessee Attorney General is granted. The Consumer Advocate Unit in the Financial Division of the Office of the Tennessee Attorney General may intervene and participate as a party in this proceeding and, as such, shall receive copies of any notices, orders, or other documents filed herein.

A handwritten signature in black ink that reads "Monica Smith-Ashford". The script is cursive and fluid, with the first name "Monica" being the most prominent part of the signature.

Monica Smith-Ashford, Hearing Officer