

**BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION**

**NASHVILLE, TENNESSEE**

**November 1, 2022**

**IN RE:**

**PETITION OF PIEDMONT NATURAL GAS  
COMPANY, INC. TO ADOPT AN ANNUAL  
REVIEW OF RATES MECHANISM PURSUANT  
TO TENN. CODE ANN. § 65-5-103(d)(6)**

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**DOCKET NO.  
21-00135**

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**ORDER APPROVING AMENDED ANNUAL REVIEW OF RATES MECHANISM**

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This matter came before Chairman Herbert H. Hilliard, Commissioner Robin L. Morrison, Commissioner Clay R. Good, Commissioner Kenneth C. Hill, and Commissioner John Hie of the Tennessee Public Utility Commission (the “Commission” or “TPUC”), the voting panel assigned to this docket, during a regularly scheduled Commission Conference held on October 10, 2022, to consider the *Amendment to Proposed Annual Rate Mechanism Tariff Pursuant to Tennessee Code Ann. § 65-5-103(d)(1)(C)* (“*Amendment*”) filed on August 26, 2022, by Piedmont Natural Gas Company, Inc. (“Piedmont” or “Company”).

**BACKGROUND**

Piedmont is a subsidiary of Duke Energy Corporation and is a public utility under the jurisdiction of the Commission. The Company 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. The Company provides service to Tennessee households, businesses, and

communities in Cheatham, Davidson, Robertson, Rutherford, Sumner, Trousdale, Williamson, and Wilson counties.<sup>1</sup>

On November 5, 2021, Piedmont initially filed a petition requesting approval of an Annual Review of Rates Mechanism (“ARRM”) pursuant to Tenn. Code Ann. § 65-5-103(d)(1)(a) and Tenn. Code Ann. § 65-5-103(d)(6). Piedmont asserted it had met the statutory requirements of engaging in a general rate case within the previous five (5) years and the methodologies utilized in the filing were consistent with those approved in its most recent rate case in TPUC Docket No. 20-00086. The Company submitted a proposed Service Schedule No. 318.<sup>2</sup> Piedmont proposed to make its first ARRM filing on or before May 20, 2022, using calendar year 2021 as the Historical Base Period (“HBP”), with new rates becoming effective October 1, 2022. Further, the Company proposed to withdraw its Integrity Management Rider (“IRM”) mechanism contingent upon approval of this ARRM.<sup>3</sup>

Following the intervention of the Consumer Advocate Unit in the Financial Division of the Office of the Tennessee Attorney General (“Consumer Advocate”), the taking of discovery and the filing of testimony, the Company and the Consumer Advocate reached an agreement on a revised ARRM Tariff. The revised tariff, an issues matrix outlining the resolution of forty-three issues (“Issues Matrix”), and supplemental testimony, were filed and were deemed collectively by the Commission to be a new ARRM petition (collectively “*New Petition*”).<sup>4</sup> The parties referred to the *New Petition* as a “settlement”, although as listed in detail in the *New Petition*, many issues

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<sup>1</sup> *Petition of Piedmont Natural Gas Company, Inc. to Adopt an Annual Review of Rates Mechanism Pursuant to Tenn. Code Ann. § 65-5-103(d)(6) (“Initial Petition”)*, p. 2 (November 5, 2021).

<sup>2</sup> Pia Powers, Pre-Filed Direct Testimony, Exh. PKP-1 (November 5, 2021).

<sup>3</sup> As a result of the approval of this ARRM, *In re: Petition of Piedmont Natural Gas Company, Inc. for Approval of an Integrity Management Rider to its Approved Rate Schedules and Service Regulations*, TPUC Docket No. 21-00141, shall be administrative closed.

<sup>4</sup> Order Acknowledging Filing as New Petition and Setting New Statutory Deadline, p. 3 (February 24, 2022).

lacked a final resolution and the parties retained their respective positions until they could be resolved in a future proceeding.<sup>5</sup>

After a public hearing, the hearing panel voted unanimously to deny the *New Petition* on May 9, 2022, finding that the proposed ARRM was not in the public interest. Tenn. Code Ann. § 65-5-103(d)(a)(C) states:

If the commission denies an alternative regulatory method filed by a public utility, the commission shall set forth with specificity the reasons for its denial and the public utility shall have the right to refile, without prejudice, an amended plan or amendment within sixty (60) days of the issuance of a final order. The commission shall thereafter have sixty (60) days to approve or deny the amended plan or amendment.

In accordance with legislative requirements and with specific reference to the *New Petition* and the *Issues Matrix*, the Commission's order denying the proposed ARRM enumerated the reasons for the denial and outlined the proposed changes and resolutions that were acceptable and those that the Commission did not find acceptable.<sup>6</sup> In summary, the Commission listed seven conditions for the approval of an amended ARRM should Piedmont seek to refile an amended tariff:

1. The Weather Normalization Adjustment ("WNA") methodology for computing and updating base load and heat sensitive factors shall be the simple linear regression analysis methodology ordered by the Commission for Atmos Energy Corporation in Docket No. 14-00146 and Chattanooga Gas Company in Docket No. 18-00017.

2. The HomeServe Warranty Program net margins shall be included as other regulated revenues for computing the Historic Base Period ("HBP") Reconciliation and Annual Base Rate Reset.

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<sup>5</sup> *Id.* at 1.

<sup>6</sup> *Order Denying Proposed Annual Review of Rates Mechanism*, pp. 20-54 (July 25, 2022).

3. Pension and other post-employment benefits (“OPEB”) expenses included in the HBP Reconciliation and Annual Base Rate Reset shall be based on the Tennessee jurisdictional portion of the actuarially-determined minimum contribution requirement.

4. Pension and OPEB loadings to construction projects accounted for in Construction Work in Progress (“CWIP”) shall be accounted for in a manner consistent with the way expenses are recoverable in the HBP, as previously set forth.

5. The unamortized portion of previously-approved deferred pension contributions and environmental costs shall be recoverable under the annual rate review mechanism (“ARRM”) through amortization expense in accordance with the previously-approved amortization period. Notwithstanding any prior rate or accounting orders issued by the Commission or its predecessor agencies, Piedmont must seek and obtain express approval to defer pension contributions, environmental costs, or any other deferred debit into a regulatory asset for ratemaking purposes.

6. Other operating and maintenance (“O&M”) expenses for computing the HBP Reconciliation and Annual Base Rate Reset shall exclude lobbying expenses and promotional and advertising expenses in accordance with the Commission’s rules.

7. While the hearing panel found the initial rate design proposed in the revised ARRM tariff reasonable, the annual rate review mechanism shall contain a provision providing for the reasonable exercise of discretion in designing customer rates in each annual filing based on attendant circumstances. Such provision shall authorize Piedmont to make a proposal for how to allocate any revenue excess or deficiency among rate classes and the specific design for how rates are to be decreased or increased for each class. The provision shall also authorize any intervenor party to make its own alternative rate design proposal. Based upon a final determination that rates need to be increased or decreased, the Commission shall order such rate adjustments based upon

the proposals of the parties or such other revenue allocation and rate design decision as the Commission may find to be in the public interest.<sup>7</sup>

With respect to numerous other issues contained in the *New Petition* in which the parties had agreed, the Commission enumerated those deemed reasonable and appropriate for inclusion in any new proposed ARRM tariff filed by the Company.<sup>8</sup>

#### **COMPANY'S AMENDMENT TO ARRM TARIFF**

Piedmont timely refiled a proposed ARRM tariff in the *Amendment* on August 26, 2022. The *Amendment* also included the Second Supplemental Pre-Filed Testimony of Mr. Bruce P. Barkley. Mr. Barkley's testimony affirmed that the proposed amended ARRM tariff is consistent with the findings and conclusions of the Commission's *Order Denying Proposed Annual Rate Review of Rates Mechanism* issued on July 25, 2022.<sup>9</sup>

According to Mr. Barkley, the Company incorporated the use of simple linear regression analysis for weather-normalizing the HBP revenues and the weather-normalization methodology outlined in the Annual Base Rate Reset section is consistent with that of Atmos Energy Corporation and Chattanooga Gas Company as ordered by the Commission.<sup>10</sup> In addition, Mr. Barkley testified that the amended ARRM tariff explicitly includes HomeServe Warranty Program revenues included as other regulated revenues and HomeServe Warranty Program expenses as a type of other O&M expense.<sup>11</sup> Additionally, Mr. Barkley affirmed the Company will comply with the four directives related to the HomeServe Warranty Program, as stated in the Commission's July 25th Order.<sup>12</sup>

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<sup>7</sup> *Id.* at 4-5, 20-41.

<sup>8</sup> *Id.* at 42-54.

<sup>9</sup> Bruce P. Barkley, Second Pre-Filed Supplemental Testimony, pp. 2-3; 4-15 (August 26, 2022).

<sup>10</sup> *Id.* at 5.

<sup>11</sup> *Id.* at 6.

<sup>12</sup> *Id.* at 7.

Mr. Barkley testified the Annual Base Rate Reset in the amended ARRM tariff states that Pension Expenses and OPEB Expenses shall be the Company's Tennessee jurisdictional portion of the actuarially determined minimum contribution requirement and that any Pension and OPEB expenses computed and recorded in accordance with GAAP during the HBP are excluded.<sup>13</sup> Mr. Barkley affirmed that the amended ARRM tariff states that Pension and OPEB cost loadings to construction projects are to be accounted for in CWIP. Further, this accounting is consistent with how such expenses are recoverable in the HBP.<sup>14</sup>

Mr. Barkley testified that the amended ARRM tariff includes language regarding the HBP Reconciliation and the Annual Base Rate Reset, clarifying that Amortization Expenses for deferred Pension Costs reflect the annual expense for the unamortized balance of the pension regulatory asset included in the agreed-upon rate base in the Company's last rate case. Additionally, the Company included a clarification in the Rate Base component of the HBP Reconciliation and the Annual Base Rate Reset of the ARRM, which states that Piedmont is allowed to recover through the ARRM the unamortized balance of the pension regulatory asset included in the agreed-upon rate base in the Company's last rate case.<sup>15</sup>

According to Mr. Barkley, the amended ARRM tariff complies with the requirements regarding allowable promotion and advertising expenses and excludes expenses related to lobbying.<sup>16</sup> Mr. Barkley stated that the Commission did not specifically require a modification to the ARRM tariff to address environmental costs. The Company, however, amended the tariff in the HBP Reconciliation and Annual Base Rate Reset sections to state that amortization of deferred

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<sup>13</sup> *Id.* at 10.

<sup>14</sup> *Id.*

<sup>15</sup> *Id.* at 10-11.

<sup>16</sup> *Id.* at 12.

environmental expenses will be in accordance with the previously approved amortization period.<sup>17</sup>

Finally, Mr. Barkley testified that the Company inserted rate design language similar to that of the Commission's Order, page 38.<sup>18</sup>

#### **POSITION OF THE CONSUMER ADVOCATE**

Following a round of discovery, the Consumer Advocate filed a letter on September 16, 2022 that stated that it had conducted a review of the *Amendment* and related filings and had no opposition to the proposed amended ARRM tariff.<sup>19</sup>

#### **THE HEARING**

The hearing on the *Amendment* was noticed by the Commission on September 30, 2022 and held during the regularly scheduled Commission Conference on October 10, 2022.

Appearances were made by the following:

Piedmont Natural Gas Company, Inc.— James Jeffries IV, Esq., McGuire Woods, LLP, 201 N. Tyron Street, Suite 3000, Charlotte, NC 28202; Paul S. Davidson, Esq., Waller Lansden Dortch & Davis, 511 Union Street, Suite 2700 Nashville, Tennessee 37219-2498.

Consumer Advocate Unit—Karen Stachowski, Esq., Vance Broemel, Esq., Financial Division of the Office of the Tennessee Attorney General and Reporter, Post Office Box 20207, Nashville, Tennessee, 37219.

The *Amendment* was presented to the hearing panel and summarized by Mr. Bruce P. Barkley. Members of the public were given an opportunity to offer comments, but no one sought recognition to do so.

#### **FINDINGS AND CONCLUSIONS**

Based on the record in this docket, the hearing panel found that the *Amendment* submitted on August 26, 2022, was timely filed and complies with the requirements for filing an amended

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<sup>17</sup> *Id.* at 15.

<sup>18</sup> *Id.* at 13.

<sup>19</sup> *Letter of the Consumer Advocate* (September 16, 2022).

mechanism set forth in the Commission's *Order Denying Proposed Annual Review of Rates Mechanism* issued on July 25, 2022. Accordingly, the hearing panel voted unanimously to approve the *Amendment* and determined that it is in the public interest at this time.

**IT IS THEREFORE ORDERED THAT:**

1. The *Amendment to Proposed Annual Rate Mechanism Tariff Pursuant to Tennessee Code Ann. § 65-5-103(d)(1)(C)* filed by Piedmont Natural Gas Company, Inc. on August 26, 2022, is APPROVED.

2. Any party 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.

3. Any party 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.

**FOR THE TENNESSEE PUBLIC UTILITY COMMISSION:**

**Chairman Herbert H. Hilliard,  
Commissioner Robin L. Morrison,  
Commissioner Clay R. Good,  
Commissioner Kenneth C. Hill, and  
Commissioner John Hie concurring.**

None dissenting.

**ATTEST:**



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**Earl R. Taylor, Executive Director**