

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

|                                    |   |                            |
|------------------------------------|---|----------------------------|
| <b>IN RE:</b>                      | ) |                            |
|                                    | ) |                            |
| <b>PIEDMONT NATURAL GAS</b>        | ) | <b>Docket No. 23-00035</b> |
| <b>COMPANY, INC. PETITION FOR</b>  | ) |                            |
| <b>APPROVAL OF ITS 2023 ANNUAL</b> | ) |                            |
| <b>REVIEW OF RATES MECHANISM</b>   | ) |                            |
| <b>PURSUANT TO TENN. CODE ANN.</b> | ) |                            |
| <b>§ 65-5-103(d)(6)</b>            | ) |                            |

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**SETTLEMENT AGREEMENT**

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Piedmont Natural Gas Company, Inc. (“Piedmont” or the “Company”) and the Consumer Advocate Division of the Office of the Tennessee Attorney General (“Consumer Advocate”), (hereinafter, individually “Party” and collectively “Parties”) and in full and complete settlement of the matters at issue in this proceeding, do hereby jointly submit to the Tennessee Public Utility Commission (“Commission” or “TPUC”) for its approval this Stipulation and Settlement Agreement (“Settlement Agreement”), along with its supporting exhibits, reflecting the following stipulations and agreement of the Parties:

**I. BACKGROUND**

1. Piedmont is a public utility incorporated under the laws of the State of North Carolina and is engaged in the business of transporting, distributing, and selling natural gas in Tennessee. Piedmont is a wholly owned subsidiary of Duke Energy (“Duke”), an electric and natural gas holding company headquartered in Charlotte, North Carolina. Piedmont’s principal office and place of business in Tennessee is located at 83 Century Boulevard, Nashville,

Tennessee, 37214.

2. Piedmont is a public utility pursuant to the laws of the State of Tennessee, and its public utility operations, including its rates, terms, and conditions of service, are subject to the jurisdiction of this Commission.

3. The Consumer Advocate is authorized by Tenn. Code Ann. § 65-4-118 to represent the interests of consumers of Tennessee public utility services by intervening and participating as a party in proceedings before the Commission in accordance with the Uniform Administrative Procedures Act and Commission rules.

4. In TPUC Docket No. 21-00135, the Company requested approval to opt into an alternative regulatory method as authorized by Tennessee Code Annotated Section 65-5-103(d)(1)(a). Specifically, Piedmont sought an annual review of rates process as authorized by Tennessee Code Annotated Section 65-5-103(d)(6), with Piedmont's specific annual rate review mechanism referred to therein as an "Annual Review of Rates Mechanism", "ARRM", or "ARM." The parties to that docket ultimately had a hearing on an Amendment to the Proposed ARM Tariff.<sup>1</sup> After conducting an evidentiary proceeding, the Commission approved the Amendment by its Order Approving Amended Annual Review of Rates Mechanism dated November 1, 2022 ("2022 ARM Order"). Among other things, the approved Piedmont ARM sets forth an annual process with compliance filings on or before May 20 of each year reflecting the Company's prior calendar year or Historic Base Period ("HBP") operating results and resultant proposed rate adjustments effective October 1.

5. On May 19, 2023, Piedmont filed a petition initiating this Docket ("Petition") for its first annual rate review ("2023 Annual ARM Filing") herein to consider Piedmont's 2022 HBP

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<sup>1</sup> Order Approving Amended Annual Review of Rates Mechanism, at 7, TPUC Docket No. 21-00135 (November 1, 2022).

revenues and expenses pursuant to the 2022 ARM Order and approved ARM Tariff. In support of its Petition, Piedmont filed the schedules required by the 2022 ARM Order and approved ARM Tariff along with the direct testimony and supporting exhibits of its witnesses Pia Powers, Kally Couzens, and Keith Goley.

6. The Petition requested an increase to rates in accordance with calculated revenue deficiency for the Company's cost of service, including carrying costs, of \$11,699,131 for the HBP.<sup>2</sup> The Petition also requested a rate adjustment for the Annual Base Rate Reset Revenue Requirement Deficiency for the same period of \$29,861,596.<sup>3</sup> Taken together, these deficiencies total \$41,560,727.

7. On June 6, 2023, the Consumer Advocate filed its Petition to Intervene, which was granted by the TPUC in an order dated June 22, 2023. The Consumer Advocate is the only intervenor of record in the Docket.

8. On August 2, 2023, the Consumer Advocate submitted direct expert testimony and supporting exhibits/workpapers from its expert witness, Mr. David N. Dittmore, which focused on the review and recommended adjustments presented by the Company in its 2023 Annual ARM Filing.

9. Piedmont has responded to both formal and informal discovery requests from the Consumer Advocate, with the Parties' witnesses and other representatives meeting multiple times by video conference and phone call to discuss the issues and documentation presented in the Docket. As the present Docket is the Company's first annual rate review filing, additional discovery requests and discussions were necessary to facilitate the Consumer Advocate's

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<sup>2</sup> See Column [A] Line 8 of 2023 ARM Filing Schedule No. 12, Carrying Cost and ARM Reconciliation Deferred Account. (May 19, 2023).

<sup>3</sup> See Column [B] Line 8 of 2023 ARM Filing Schedule No. 1, Results of Operations. (May 19, 2023).

investigation into the underlying supporting documentation that backs up Piedmont's request. Thus, Piedmont agreed to several sets of additional, informal discovery over and above that authorized by the Commission's scheduling order.

10. The Parties have engaged in extensive settlement discussions in this matter and have resolved all issues raised by the Parties in this Docket.

11. This Settlement Agreement, detailed below, calls for recovery of the HBP Reconciliation cost of service of \$10,996,205 (inclusive of carrying costs) and an increase in the Company's base rates of \$29,212,489 for the Annual Base Rate Reset component of the ARM. Taken together these amounts result in a total increase of \$40,208,694. This represents an overall increase of 24.4% in the Company's rates and charges. This is less than the overall increase of 25.2% in the Company's rates and charges resulting from the total \$41,560,726 increase from the Company's May 19, 2023 filing.

12. For the purpose of avoiding further litigation and resolving this proceeding upon acceptable terms, the Parties have agreed to the settlement terms set forth below, subject to TPUC approval, which the Parties jointly request.

## **II. SETTLEMENT SPECIFIC TERMS**

13. The Parties agree to a Settlement Revenue Requirements Adjustments included as Exhibit A to this Agreement that has been approved by the Parties. These adjustments have been agreed to solely for purposes of resolving this matter without litigation, and inclusion of this provision does not reflect the adoption of any methodology regarding the recoverability of such costs by the Parties in future ARM filings, except as otherwise specified. Notwithstanding the inclusion of this provision in this Settlement Agreement, the Parties reserve their respective rights regarding this issue in future ARM proceedings.

14. The Parties agree to total HBP Reconciliation and Annual Rate Reset Operating Expense Adjustment reducing depreciation expenses for certain vehicles to be jurisdictionally appropriate by \$91,106. This reduction has been agreed to solely for purposes of resolving this matter without litigation, and inclusion of this provision does not reflect the adoption of any methodology regarding the recoverability of such depreciation expense by the Parties in future ARM filings. Notwithstanding the inclusion of this provision in this Settlement Agreement, the Parties reserve their respective rights regarding this issue in future ARM proceedings.

15. The Parties agree to total HBP Reconciliation and Annual Rate Reset Operating Expense Adjustment reducing the non-utility patrol aviation costs by \$479,604. This adjustment excludes corporate-owned aircraft charges, offsetting such amounts by utility patrol costs, and imputes commercial airline costs applied to flights taken in the HBP by Piedmont employees.

16. The Parties agree to an adjustment regarding the reclassification of labor and related expenses to direct lobbying expenses. The Parties have agreed to a seventy-five percent (75%) exclusion of labor expenses. This percentage is inclusive of corrected calculations provided by the Company during informal discussion and discovery. The Parties also agree to a seventy-five percent (75%) exclusion of the Company's leased downtown office costs and employment taxes and benefits. This percentage is inclusive of TPUC adopted recovery of incentive compensation costs. Specifically, the Parties agree that this percentage applies to the revenue requirement computation in this Docket and to future Piedmont ARM proceedings.

17. The Parties agree to an adjustment regarding the reclassification of labor and related expenses to indirect lobbying expenses. The Parties have agreed to a five percent (5%) exclusion of supervisory labor expenses allocated to Piedmont-TN and employment taxes and benefits. This percentage is inclusive of TPUC recovery of incentive compensation costs. Specifically, the

Parties agree that this percentage applies to the revenue requirement computation in this Docket and to future Piedmont ARM proceedings.

18. The Parties agree to total HBP Reconciliation and Annual Rate Reset Operating Expense Adjustment modifying the ADIT for capitalized pension/OPEB, incentive compensation, and deferred environmental costs by \$8,175. The Company provided attestation regarding its efforts to seek insurance coverage regarding this issue as requested by the Consumer Advocate.<sup>4</sup>

19. The Parties agree to a total HBP Reconciliation and Annual Rate Reset Rate Base Adjustment regarding Cash Working Capital. This adjustment excludes the impacts of Return on Equity and Depreciation Expenses from the Cash Working Capital calculation and reduces the total HBP and Annual Rate Reset amount by \$583,627. Additionally, the Parties agree that the proposed methodology stated in the direct testimony of David N. Dittmore shall be implemented in this Docket and in future Piedmont ARM proceedings.<sup>5</sup>

20. The Parties agree that the Company shall demonstrate specific steps it has taken to control costs in its next ARM filing should the Company seek an overall revenue increase of 10% or more in its next ARM filing.

21. The Parties agree the Company should quantify the annualized level and timing of revenue generated associated with capital expenditures related to “growth” incurred in this 2023 Docket in its next ARM filing.

22. The Parties agree to meet with regard to the issue of assigning a reasonable pro-rata level of marketing related labor associated with non-recoverable advertising in its ARM filing. This meeting shall occur within three (3) calendar months after the approval of this Settlement

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<sup>4</sup> See Rebuttal Testimony of Kally Couzens, at 6, lines 15-21, TPUC Docket No. 23-00035 (August 18, 2023).

<sup>5</sup> Direct Testimony of David N. Dittmore, at 6, lines 12-22, TPUC Docket No. 23-00035 (August 2, 2023).

Agreement by the Commission.

23. The Parties agree that the Company should address implications of state tax rate changes on the balance of ADIT assigned to Tennessee operations in its next ARM filing. The Parties specifically agree that Tennessee customers shall be held harmless from any such accounting entries made in 2022 and 2023 to date, associated with this issue.

### **III. SETTLEMENT GENERAL TERMS**

24. The Settlement Agreement does not address any other issues or adjustments raised by the Consumer Advocate's testimony except those expressly agreed upon within this Settlement Agreement. Any issues or adjustments not expressly addressed in this Settlement Agreement are reserved by both Parties to be raised in future ARM proceedings.

25. All schedules, pre-filed testimony and exhibits, discovery responses, and other documents filed with the Commission in this Docket are requested to be admitted into evidence without objection, and the Parties waive their right to cross-examine all witnesses with respect to all such pre-filed testimony, exhibits, and schedules. If the Commission requires the presence of witnesses for the final hearing and if the Commissioners desire to question any witness regarding their testimony or this settlement, any Party may present testimony and exhibits to respond to such questions and may cross-examine any witnesses with respect to such testimony and exhibits. The Parties hereby request approval from TPUC for any out-of-town witnesses participate by telephone or video conference to reduce the costs associated with appearing physically for the hearing.

26. The Parties agree to support this Settlement Agreement before the Commission and in any testimony, hearing, proposed order, or brief conducted or filed in this proceeding. The provisions of this Settlement Agreement reflect compromises and acceptance of actions, positions, or policies done solely for the purposes of settlement of this matter. The provisions in

this Settlement Agreement do not necessarily reflect the positions asserted by any Party. None of the Parties to this Settlement Agreement shall be deemed to have acquiesced in or agreed to any ratemaking or accounting methodology or procedural principle, including without limitation, any cost-of-service determination or cost-allocation or revenue-related methodology, except to the limited extent necessary to implement the provisions hereof.

27. This Settlement Agreement shall not have any precedential effect in any future proceeding or be binding on any of the Parties in this or any other jurisdiction except to the limited extent necessary to implement the provisions hereof, such as any new or updated schedules to be filed in future ARM docket proceedings. The Parties are free to take different positions in future proceedings as each Party deems appropriate for that proceeding, including the ability to advocate for new or revised schedules for future ARM dockets.

28. The Settlement Agreement does not address any other issues or adjustments raised by the Consumer Advocate's testimony except those expressly agreed upon within this Settlement Agreement. Any issues or adjustments not expressly addressed in this Settlement Agreement are reserved by both Parties to be raised in future ARM proceedings.

29. The terms of this Settlement Agreement have resulted from extensive negotiations between the signatories, and the terms hereof are interdependent. The Parties jointly recommend that the Commission issue an order adopting this Settlement Agreement in its entirety without modification.

30. If the Commission does not accept the settlement in whole, the Parties are not bound by any position or term set forth in this Settlement Agreement. In the event that the Commission does not approve this Settlement Agreement in its entirety, each of the signatories to this Settlement Agreement will retain the right to terminate this Settlement Agreement by



giving notice of the exercise of such right within ten (10) business days of the date of such non-approval; provided, however, that the signatories to this Settlement Agreement could, by unanimous consent, elect to modify this Settlement Agreement to address any modification required by, or issues raised by, the Commission within the same time frame. Should this Settlement Agreement terminate, it would be considered void and have no binding precedential effect, and the signatories to this Settlement Agreement would reserve their rights to resume and advocate for their prior positions and to fully participate in all relevant proceedings notwithstanding their agreement to the terms of this Settlement Agreement.

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

32. No provision of this Settlement Agreement shall be deemed an admission of any Party, and no provision of this Settlement Agreement shall be deemed a waiver of any position asserted by a Party in this Docket, except to the limited extent necessary to implement the provisions thereof.

33. The Parties agree that this Settlement Agreement constitutes the complete understanding among the Parties concerning the resolution of issues and matters under this TPUC Docket No. 23-00035, and any oral statements, representations or agreements concerning such issues and matters made prior to the execution of this Settlement Agreement have been merged into this Settlement Agreement.

34. All exhibits and schedules attached to or referenced in this Settlement Agreement are hereby incorporated by reference into this Settlement Agreement.

35. The Consumer Advocate's agreement to this Settlement Agreement is expressly

premised upon the truthfulness, accuracy, and completeness of the information provided by Piedmont 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 Settlement Agreement.

36. The acceptance of this Settlement Agreement by the Attorney General shall not be deemed as an approval by the Attorney General of any of Piedmont's acts or practices.

37. Each signatory to this 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 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 Settlement Agreement on behalf of its/his/her respecting Party.

38. This Settlement Agreement shall be governed by and construed under the laws of the State of Tennessee, Tennessee choice of law rules notwithstanding.

39. Nothing herein limits or alters the sovereign immunity of the State of Tennessee or any of its entities or subdivisions.

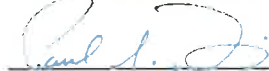
40. The Parties agree that approval of the Settlement Agreement will become effective upon the oral decision of the Commission at a noticed, public Commission conference meeting.

[signatures on the next pages]

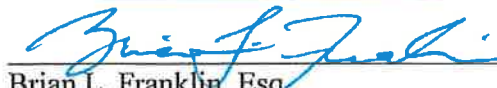
The foregoing is agreed and stipulated to this 21st day of August, 2023.

PIEDMONT NATURAL GAS COMPANY, INC.

HAVE SEEN AND AGREED



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CONSUMER ADVOCATE DIVISION

**HAVE SEEN AND AGREED**

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# Exhibit A

Piedmont Natural Gas Company, Inc.  
Docket No. 23-00035  
2023 Annual ARM Filing

## SETTLEMENT ADJUSTMENTS

| Line No. | CA Direct Testimony Adjustment Reference   | [A]                |                        | [B]                                  |             | [C] |  |
|----------|--|--------------------|------------------------|--------------------------------------|-------------|-----|--|
|          |  | HBP Reconciliation | Annual Base Rate Reset | Total HBP and Annual Base Rate Reset |             |     |  |
| 1        | TOTAL REV REQ DEFICIENCY IN 2023 ANNUAL ARM FILING (including HBP Reconciliation carrying costs) |                    | 11,699,131             | 29,861,596                           | 41,560,726  |     |  |
| 2        | Address certain vehicle depreciation expense for appropriate jurisdiction                        | OI-1               | (47,304)               | (43,802)                             | (91,106)    |     |  |
| 3        | Address McKinsey consulting expenses   | OI-2               | -                      | -                                    | -           |     |  |
| 4        | Address non-utility patrol aviation expenses   | OI-3               | (249,021)              | (230,583)                            | (479,604)   |     |  |
| 5        | Address direct lobbying expenses   | OI-4               | (98,627)               | (91,325)                             | (189,952)   |     |  |
| 6        | Address indirect lobbying expenses for supervisory labor   | OI-5               | (8,265)                | (7,653)                              | (15,918)    |     |  |
| 7        | Address incremental deferred environmental amortization expense                                  | OI-6               | -                      | -                                    | -           |     |  |
| 8        | Address ADIT for pension/OPEB, incentive compensation & deferred environmental costs             | RB-2               | 2,807                  | 5,368                                | 8,175       |     |  |
| 9        | Address UPIS for pension/OPEB costs  | RB-3               | -                      | -                                    | -           |     |  |
| 10       | Address CWC Methodology  | RB-1               | (302,515)              | (281,112)                            | (583,627)   |     |  |
| 11       | ADJUSTED TOTAL REV REQ DEFICIENCY (including HBP Reconciliation carrying costs)                  |                    | 10,996,205             | 29,212,489                           | 40,208,694  |     |  |
| 12       | Difference from Piedmont's 2023 Annual ARM Filing dated May 19, 2023                             |                    | (702,925)              | (649,107)                            | (1,352,032) |     |  |