BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION

NASHVILLE, TENNESSEE

December 4, 2024

IN RE:	)	
	)	
PETITION OF PIEDMONT NATURAL GAS COMPANY, INC. FOR APPROVAL OF ITS 2024 ANNUAL REVIEW OF RATES MECHANISM PURSUANT TO TENN. CODE ANN. § 65-5-103(d)(6)	))))	**DOCKET NO. 24-00036**

ORDER APPROVING STIPULATION & SETTLEMENT AGREEMENT AND SETTING ARRM RATES

This matter came before Vice Chairman John Hie, Commissioner Herbert H. Hillard, Commissioner Clay R. Good, Commissioner Kenneth C. Hill, and Commissioner David Crowell 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 September 9, 2024, to consider the *Stipulation and Settlement Agreement* (*Settlement Agreement*) filed on August 20, 2024, by Piedmont Natural Gas Company, Inc. ("Piedmont" or "Company") and the Consumer Advocate Division of the Office of the Tennessee Attorney General ("Consumer Advocate"). In summary, the *Settlement Agreement* was approved.

BACKGROUND

Piedmont, a wholly-owned subsidiary of Duke Energy Corporation, is a public utility operating subject to the jurisdiction of the Commission. The Company is in the business of transporting, distributing, and selling natural gas to approximately 201,000 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.[1] In Piedmont's last rate case in 2021, the Company was granted a rate increase based on a revenue deficiency of $16,250,000.[2]

On November 5, 2021, Piedmont initially filed a petition in Docket 21-00135 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). The Company's initial petition was revised following discussions with the Consumer Advocate and presented to the Commission. However, the revised proposal was denied as the Commission found the proposed ARRM tariff was not in the public interest. The Commission's order memorializing the denial outlined seven needed modifications for approval of an amended ARRM tariff while noting acceptance of several resolved issues between the Company and the Consumer Advocate.[3] On August 26, 2022, Piedmont filed an amended ARRM Tariff, Schedule 318, consistent with the findings and conclusions of the Commission's Order of July 25, 2022.[4] After a hearing on October 10, 2022, the Company's ARRM tariff was approved.[5] Under the approved tariff, Piedmont is to file its ARRM filing with the Commission no later than May 20th of each year. In Commission Docket No. 23-00035, the Commission approved a settlement agreement between the Company and the Consumer Advocate with an agreed upon overall net revenue deficiency of $40,208,694.[6]

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[1] Pia Powers, Pre-Filed Direct Testimony, pp. 3-4 (May 20, 2023).

[2] *See In re: Petition of Piedmont Natural Gas Company, Inc for Approval of an Adjustment of Rates, Charges, and Tariffs Applicable to Service in Tennessee,* Docket No. 20-00086, *Order Approving Settlement Agreement Setting Rates and Approving Procedures for Refunds to Customers*, p. 7 (May 6, 2021).

[3] *See 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)*, Docket No. 21-00135, *Order Denying Proposed Annual Review of Rates Mechanism*, pp. 20-52 (July 25, 2022).

[4] *Id.*, *Amendment to Proposed Annual Rate Mechanism Tariff Pursuant to Tennessee Code Annotated § 65-5-103(d)(1)(C)* (August 26, 2022).

[5] *Id.*, *Order Approving Amended Annual Rate Review Mechanism*, pp. 7-8 (November 1, 2022).

[6] *See In re: Petition of Piedmont Natural Gas Company, Inc. for Approval of Its 2023 Annual Review of Rates Mechanism Pursuant to Tenn. Code Ann. § 65-5-103(d)(6)*, Docket No. 23-00035, *Order Approving Settlement Agreement and Setting ARRM Rates* (December 4, 2023).

THE PETITION

On May 20, 2024, the Company filed its 2024 Annual Rate Review Mechanism Filing with the Commission in the docket styled, *Petition of Piedmont Natural Gas Company for Approval of its 2024 Annual Review of Rates Mechanism Pursuant to Tenn. Code Ann. § 65-5-103(D)(6)* ("*Petition*"). In support of the *Petition*, Ms. Pia Powers filed pre-filed testimony on behalf of the Company. In her pre-filed testimony, Ms. Powers testified that the Company's *Petition* utilized the calendar year 2023 as the Historic Base Period ("HBP").[7] The Company sought to recover HBP revenue deficiency of $13.5 million and $1.1 million of carrying costs for a total of $14.6 million.[8] With an effective date of October 1, 2024. Piedmont sought to implement base margin rates for the computed $10.8 million Annual Base Rate Reset revenue deficiency. In addition, the Company sought to update the Weather Normalization Adjustment ("WNA") factors and new depreciation rates effective October 1, 2024.[9] In addition, Ms. Powers indicated the Company sought to amortize and recover through base rates certain deferred environmental expenses that have been incurred since the Company's last rate case.[10]

Ms. Powers testified that proposed modifications to the Company's ARRM tariff primarily encompass the transition from the Company's three-state composite income tax rate to the Tennessee statutory income tax rate. The Tennessee rate is used rather than the Company's composite tri-state income tax rate for the calculation of the amounts of state excise tax expense and Accumulated Deferred Income Tax ("ADIT") used in the development of the HBP and Annual Base Rate Reset revenue deficiency/sufficiency.[11] Ms. Powers asserted that the tax changes are necessary in order to

[7] Pia Powers, Pre-Filed Direct Testimony, p. 2-3 (May 20, 2024).
[8] *Id.* at 7.
[9] *Id.* at 7-8.
[10] *Id.* at 8.
[11] *Id.* at 8-9.

correct and improve a complex tax-related ratemaking issue and comply with the terms of its approved settlement agreement in Commission Docket No. 23-00035.[12]

Further, Ms. Powers described a proposed a modification to the tariff impacting how the ARRM Rider rates are to be computed with respect to the inherent variability of the ARRM's Regulatory Asset balance over time. Ms. Powers' proposed modification deletes the current tariff's requirement to include the March 31 balance of the ARRM's Regulatory Asset in the determination of the ARRM's Rider rates and inserts flexibility around the timing for which any remaining balance is reflected in updated Rider rates.[13]

Also on May 20, 2024, Ms. Kally Couzens filed pre-filed direct testimony in support of the *Petition*. According to Ms. Couzens, the Company's 2023 earned Return on Equity ("ROE") was less than its authorized ROE from its last rate case.[14] Based upon these assertions and the Company's calculations, Ms. Couzens testified that the Company is seeking to recover its $13,492,350 HBP revenue deficiency plus $1,087,586 associated carrying charges (both to be recovered via a volumetric "Rider" surcharge) and $10,794,329 Annual Base Rate Reset revenue deficiency (to be recovered via adjusted volumetric base rates).[15] In total, the Company's *Petition* calculates an overall revenue request $25,374,265.

Ms. Couzens testified that due to significant growth, service reliability, and compliance with federal pipeline safety and integrity, the Company's rate base grew beyond the amount on which current rates were based dating back to Piedmont's previous rate case.[16] She further avers the Company's rates established in its 2023 ARRM proceeding were based on a December 31, 2022, rate base of $1,141 million; however, the actual 13-month average rate base for 2023 in the HBP is $1.167

[12] *Id.* at 10-11.
[13] *Id.* at 13-14.
[14] Kally Couzens, Pre-Filed Direct Testimony, pp. 2-3 (May 20, 2024).
[15] *Id.* at 3.
[16] *Id.* at 4.

million and the actual rate base as of December 31, 2023 (the end of the HBP) is $1,250 million. Ms. Couzens attests the Company's growth in plant in service grew from approximately $1,678 million in its 2023 ARRM to $1,836 million in the most recent HBP. Additionally, the Company's actual Utility Plant-in-Service balance at the end of the HBP was $1,920 million compared to $1,774 at the start of the HBP, which reflected an adjusted increase of $146 million over calendar year 2023.[17]

Ms. Couzens asserted that $148 million growth resulted from funding one hundred and fifty-three (153) capital projects supporting Tennessee operations.[18] Of this amount, approximately $70 million (47%) was to accommodate system growth and continuation of service reliability and $57 million (38%) was due to federal pipeline safety and integrity requirements. The remaining $21 million (14%) was related to plant additions necessary to relocate assets pursuant to government projects.[19]

Ms. Couzens addressed the requirements set forth in the settlement agreement approved by the Commission in Docket No. 23-00035. First, should the Company seek an overall revenue increase of 10% or more, it will demonstrate steps it has taken to control costs; Ms. Couzens presented data indicating the Company's requested deficit is less than 10% of either total revenue (4.83%) or margin revenue (7.16%).[20] Second, in response to the Company's requirement to quantify annualized revenues generated from growth-related capital expenditures, she provides an estimate of $2.2 million from new residential and commercial customers during 2023.[21]

Mr. Keith Goley also filed pre-filed testimony to support the calculations of the revenue adjustments of the *Petition* and explain the proposed changes to the Company's rates associated with

[17] *Id.* at 4-5. *See also* footnote 2, p. 5 (The approximate $146 million increase in Piedmont's Tennessee utility plant in service balance during 2023 is comprised of approximately $148 million in utility plant additions during 2023, less approximately $2 million in utility plant retirements during 2023.)
[18] *Id.* at 5.
[19] *Id.* at 5-7.
[20] *Id.* at 8, 10-11.
[21] *Id.* at 9, 12.

the revenue requirement adjustments.[22] In his testimony, Mr. Goley stated that the Company's proposed ARRM tariff revisions will change how the Company calculates certain components of its revenue requirement. According to Mr. Goley, the Company experienced a 6.18% earned rate of return during the HBP, based on a rate base of $1,167,427,975 and the Net Operating Income during the HBP was $72,167,481.[23] Using a 9.80% Return on Equity authorized by the Commission, the computed fair rate of return pursuant to the ARRM tariff for the HBP Reconciliation is 7.04%.[24] Mr. Goley calculated that the difference between the 6.18% earned rate of return and the 7.04% fair rate of return is eighty-six (86) basis points, resulting in a $9,985,938 Net Operating Income deficiency. After grossing up for taxes and other components, the HBP revenue deficiency of $13,492,350.[25] After applying the appropriate carrying costs, Mr. Goley presented the total amount to be collected from customers as $14,579,936.[26]

Mr. Goley summarized the results of the Company's proposed Annual Base Rate Reset, which incorporated the impacts of the Company's proposed tariff revisions. When calculating this reset, the Company used a rate base of $1,125,354,721 and Net Operating Income of $80,423,796. The quotient of these yields a 6.43% earned rate of return, which is short of the Commission-approved 7.07% rate of return.[27] The difference of sixty-five (65) basis points translates to a $7,989,082 Net Operating Income deficiency. After grossing up this shortfall, the Company's proposed modified Annual Base Rate Reset revenue deficiency sums to $10,794,329.[28] For comparison, the Company's Annual Base Rate Reset deficiency under its current tariff totals $10,865,219, after grossing up for taxes and other components.[29]

[22] Keith Goley, Pre-Filed Direct Testimony, pp. 1-2 (May 20, 2024).
[23] *Id*. at 4
[24] *Id*.
[25] *Id*. at 4-5.
[26] *Id*. at 5-6.
[27] *Id*. at 5.
[28] *Id*. at 5-6.
[29] *Id*. at 10.

Mr. Goley stated that the proposed tariff revisions will not affect how the Company will recover the HBP revenue deficiency. Mr. Goley testified that the Company is proposing to collect the $14,579,936 HBP deficiency using the same margin apportionment percentages by customer class that it used to establish the base margin rates in the Annual Base Rate Reset. The Company computed the ARRM Rider rates for each customer class by dividing the margin apportioned to each customer class by the respective billing determinants used in the computation of the Gas Sales and Transportation Revenues under the Annual Base Rate Reset.[30] Mr. Goley testified the Company is proposing to use the same rate design methodology approved in the Company's last rate case.[31]

Based on the Company's Allocated Cost of Service Study ("ACOSS"), Piedmont's residential class rate of return is below the overall system rate of return of 6.43% for the Annual Base Rate Reset at existing rates. The overall system rate of return at existing rates is 6.43% and, at proposed rates, it is 7.07%.[32] Mr. Goley asserted the Company's proposed rate design meets the rate design objectives of the Company, gradually moves to more equalized rates of return from each customer class, and is consistent with previous rate designs approved by the Commission.[33]

Ms. Misty Lyons filed testimony supporting the adjustments made to the Company's 2023 HBP book amounts to arrive at its proposed modified ARRM revenue deficits.[34] With respect to HBP Adjustments for Rate Base and Net Operating Income, the actual 13-month balances for Construction Work-in-Progress ("CWIP") were decreased by $558,224 to reflect removal of certain incentive pay and post-employment benefits. Accumulated Deferred Income Taxes ("ADIT") were reduced by $5,068,777 to account for exclusions of post-retirement benefit costs.[35] The mechanism's Regulatory

[30] *Id.* at 6-7.
[31] *Id.* at 7.
[32] *Id.* at 8.
[33] *Id.* at 11-12.
[34] Misty Lyons, Pre-Filed Direct Testimony, pp. 1-2 (May 20, 2024).
[35] *Id.* at 3-5.

Asset was decreased by $7,006,085 for deferred carrying charges;[36] and finally, $2,428,025 in Cash Working Capital ("CWC") was added as determined by the Company's lead/lag results. The adjusted thirteen-month average HBP rate base is $1,167,427,975.[37]

In addition, Ms. Lyons testified that five major adjustments were made to the Company's 2023 HBP revenues. A reduction of $10,996,205 to exclude the 2022 HBP revenue deficiency approved in Commission Docket 23-00035.[38] Margin revenues by Purchased Gas Revenues was adjusted by $7,184,627 to offset gas purchases since these are recovered through a separate mechanism. Revenues were increased by $2,287,315 to reflect Home Protection Plan revenues.[39] Various miscellaneous adjustments were made increasing revenues by $53,442. Revenues were then reduced by $510,098 to exclude off-system sales, secondary marketing activities, and customer cash-out activities. In totality, the adjustments decreased the Company's HBP revenues by $1,980,919, resulting in adjusted HBP revenues of $268,698,048.[40]

Ms. Lyons testified concerning the Company's adjustments to O&M. Uncollectible and bad debt expense was reduced to reflect the margin portion of the actual write off during the HBP.[41] Half of short-term incentive plan ("STIP") expenses were excluded in the amount of $518,476. A complete 100% of long-term incentive plan ("LTIP") expenses were excluded in the amount of $779,846. All expense related to return on allocated parent company pension costs was excluded, totaling $194,648. Other Pension and OPEB expenses computed in accordance with GAAP was excluded in the amount of $3,173,527.[42] Lobbying, charitable contribution, and social club membership expenses in the amount of $106,612 were excluded. Advertising expense related to political or promotional

[36] *Id*. at 5-6.
[37] *Id*. at 3, Proposed Modified ARRM Schedule 2.
[38] *Id*. at 6-7.
[39] *Id*. at 7.
[40] *Id*. at 6-8, Proposed Modified ARRM Schedule 6A.
[41] *Id*. at 8-9.
[42] *Id*. at 10, Proposed Modified ARRM Schedule 5.

advertising in the amount of $29,397 was excluded.[43] Overall, the Company's HBP O&M expenses were adjusted by $2,536,762 to a revised HBP total of $51,747,581.[44]

Two adjustments were made to the Company's 2023 HBP general taxes totaling a net reduction of $62,432. The adjustment was primarily driven by the exclusions of certain payroll-related expenses as noted above and results in an adjusted HBP general taxes amount of $13,012,929.[45] According to Ms. Lyons, the Company's allowance for funds used during construction ("AFUDC") was increased by $1,346,342, as per its tariff. Ms. Lyons testified that the Company's proposed modified HBP Net Operating Income of $72,167,481 is slightly lower than its Net Operating Income of $73,647,817 as authorized under its current tariff.[46]

With respect to Annual Base Rate Reset Adjustments for Rate Base and Net Operating Income, the Company made six adjustments, which total $82,926,746, to its adjusted 13-month average HBP rate base components as per its proposed modified tariff. Utility Plant-in-Service ("UPIS") was increased $84,208,632 to reflect its balance at the end of the HBP.[47] CWIP was increased $807,069 to reflect its HBP ending balance, excluding 50% of STIP costs, 100% of actual LTIP costs, and 100% of actual post-employment costs.[48] Accumulated depreciation was increased $10,788,618 in order to reflect the accumulated depreciation balance on December 31, 2023.[49] ADIT was increased $4,893,541 to reflect the balance on December 31, 2023, as adjusted to be consistent with exclusion of expense items. CWC was increased $445,911 to incorporate the adjustments made to revenue and expenses. The ARRM Regulatory Asset was increased $13,147,294 to reflect the actual unamortized ARRM balance on December 31, 2023.[50]

[43] *Id*. 10-11.
[44] *Id*. at 8-11, Proposed Modified ARRM Schedule 5
[45] *Id*. at 11-12, Proposed Modified ARRM Schedule 7
[46] *Id*. at 13.
[47] *Id*. at 14-15.
[48] *Id*. at 15.
[49] *Id*. at 15-16.
[50] *Id*. at 16-17.

In addition, Ms. Lyons testified that $297,910,607 of operating revenues were used for the Annual Base Rate Reset and incorporated an adjustment to sales and transportation margin revenue, purchased gas revenue, and other revenue totaling $29,212,559.[51] Piedmont also increased O&M by $182,004 to incorporate amortization associated with deferred environmental costs.[52] According to Ms. Lyons, the Company also increased depreciation expense $12,368,509 in order to align annual expenses with the HBP ending UPIS balances.[53] AFUDC was adjusted by $82,626, to reflect the overall Cost of Capital on December 31, 2023. Amortization expense was adjusted $348,501; this reflects a weighted average depreciable life of 44.76 years for the proposed 2023 ARRM Regulatory Asset.[54] Ms. Lyon summarized the Company's request to utilize its proposed Tennessee-direct and three-state joint property depreciation rates effective with this proceeding's approved rates and to allow Piedmont to recover its incremental deferred environment costs over a three-year amortization period.[55]

Mr. John R. Panizza filed pre-filed testimony supporting the tax calculations presented in the testimony of Ms. Powers.[56] According to Mr. Panizza, both current income tax expense and deferred income taxes are used in determining total income tax expense for rate setting purposes.[57] The Internal Revenue Code ("IRC") provides guidance regarding what is taxable or deductible and IRC guidance may differ from that prescribed by GAAP.[58] Mr. Panizza testified that instances where the IRC and GAAP disagree, the differences are recorded as deferred income tax liabilities.[59] The differences may be permanent or temporary. Temporary differences originate in one period and reverse in one or more

[51] *Id*. at 17-19.
[52] *Id*. at 19-20.
[53] *Id*. at 22.
[54] *Id*. at 21-23.
[55] *Id*. at 24.
[56] John R. Panizza, Pre-Filed Direct Testimony, p. 2-3 (May 20, 2024).
[57] *Id*. at 3.
[58] *Id*. at 3-4.
[59] *Id*. at 4.

subsequent periods, creating interim impacts on both the Company's income statement and balance sheet.[60]

Mr. Panizza testified that the ADIT represent a liability based on the income tax consequences of temporary differences. The ADIT recorded when temporary differences arise are available to cover the higher income tax payments in future periods when the differences reverse.[61] According to Mr. Panizza, the Company previously had not been able to use Tennessee's statutory income tax rate for computing ADIT because its systems and employee skillsets were lacking. However, software improvements and "upskilling" of the tax staff now permit the Company to use the Tennessee-specific tax rate.[62] Mr. Panizza stated that all ADIT items have been recalculated using the 6.5% deferred state tax rate and that all business units utilizing associated assets receive an allocable portion of the assets' related ADIT.[63]

POSITION OF THE CONSUMER ADVOCATE

Following discovery, the Consumer Advocate filed the pre-filed testimony of David N. Dittemore. Mr. Dittemore opposed the Company's proposal to switch from using a composite three-state tax rate to the Tennessee statutory excise tax rate when calculating income tax expense and ADIT. Simply put, ADIT is the prepayment of income taxes by ratepayers that the Company will theoretically pay later. It represents a source of cost-free capital provided by ratepayers to the Company and is used to reduce rate base.[64] In Docket No. 18-00040, Mr. Dittemore supported use of the Tennessee state excise rate over a composite rate to calculate ADIT and still supports such application generally with respect to other utilities.[65] Nevertheless, the Commission approved the use

[60] *Id*. at 5-6.
[61] *Id*. at 6-7.
[62] *Id*. at 7-8.
[63] *Id*. at 9.
[64] David N. Dittemore, Pre-Filed Direct Testimony, p. 3 (August 9, 2024).
[65] *Id*. at 4-5, 7-8.

of a composite tax rate to calculate ADIT in the Company's past two rate cases and in its TCJA proceeding. As such, Mr. Dittemore considered the issue fully litigated and resolved by the Commission.[66] Notwithstanding his position in Docket No. 18-00040, Mr. Dittemore testified that the Company's proposal to switch from a composite rate to the state rate is problematic in this proceeding.

First, the Company's current tariff requires that the composite tax rate shall be used within the ARRM calculation.[67] With respect to the implications of a North Carolina state income tax rate reduction, Mr. Dittemore asserted that the use of a composite state tax rate for ratemaking purposes results in Tennessee customers having a vested interest in any modifications in any state tax rate included in the composite tax rate.[68] Changes made in North Carolina tax rate has a material impact on the Company's revenue requirement. According to Mr. Dittemore, the Company's previous ARRM docket resulted in an agreement that Tennessee customers would be held harmless from any accounting entries made in 2022 and 2023 associated with a tax rate change.[69]

Mr. Dittemore testified that in most instances, Tennessee's jurisdictional revenue requirements should be determined using the statutory Tennessee tax rate. In this case, however, the history of this issue and its implications on revenue requirements should not be ignored. Mr. Dittemore opposed the use of the Tennessee statutory tax rate for computing the Company's HBP requirement. The Company's HBP represents a period covered by its existing tariff, which prescribes using its composite state tax rate. As such, Mr. Dittemore testified that the use of a different rate would represent retroactive ratemaking.[70] As for the Company's Annual Base Rate Reset calculation, Mr. Dittemore also recommended continued use of the composite state tax rate *unless* the Company

[66] *Id.* at 4-5.
[67] *Id.* at 4.
[68] *Id.* at 5-6.
[69] *Id.* at 6-7.
[70] *Id.* at 8-10.

affirms that it will not seek recovery from ratepayers from any claim that its ADIT balance is deficient due to switching to the higher Tennessee excise rate.[71]

Deferred taxes have been recorded at the lower composite tax rate. According to Mr. Dittemore, if the Company pays the Tennessee state excise tax in the future, it will result in collected deferred income tax expenses at a rate of 3.52% but would require the Company to pay the tax at the rate of 6.5% eventually. Mr. Dittemore asserted that ratepayers should not be required to fund any deficient ADIT balances resulting from the Company's proposed shift to the Tennessee rate.[72]

Mr. William H. Novak also filed pre-filed direct testimony on behalf of the Consumer Advocate.[73] After discussions between the parties, Mr. Novak indicated that the Company agreed to remove the depreciation study from the ARRM filing and to correct certain errors.[74] After revisions, Piedmont's revenue deficiency under both the prescribed methodology and the Company's proposed changes are below:

Piedmont Revenue Deficiency Calculations[75]			
Prescribed (Current) Methodology		**Proposed Methodology**	
HBP	**Rate Reset**	**HBP**	**Rate Reset**
$13,787,226	$5,521,351	$13,686,885	$5,451,011

Because Mr. Dittemore recommended that the Commission reject the Company's proposed modifications and methodology, Mr. Novak's focus and recommendations specifically addressed the Company's ARRM proposal under its currently prescribed methodology. Mr. Novak made eight recommendations.

First, Mr. Novak asserted the Company failed to reduce CWIP by $722,315 for capitalized incentive compensation as approved per last year's ARRM proceeding, and it correspondingly failed

[71] *Id.* at 8, 12.
[72] *Id.* at 10-11.
[73] William H. Novak, Pre-Filed Testimony (August 9, 2024).
[74] *Id.* at 6.
[75] *Id.* at 5-6.

to reduce depreciation expense by $14,753 for that associated with the 2023 CWIP adjustment.[76] Mr. Novak testified that failure to remove these amounts artificially inflates the Company's rate base and operating expenses.[77] Second, Mr. Novak asserted the Company did not properly carry out all the calculations related to ADIT. As such, Mr. Novak recommended the Company adjust ADIT for September 2023 by an increase of $31,201, November 2023 by a decrease of $122,050 and December 2023 by a decrease of $141,875.[78] Third, because the Commission previously allowed the Company to amortize deferred environmental costs, Mr. Novak recommended that the Commission allow the Company to recognize $1.2 million of deferred environment costs and approximately $401,000 in annual amortization costs.[79]

Fourth, based upon the adjustments, Mr. Novak recommended that the Commission approve a revenue deficiency of $24,028,455.[80] Fifth, Mr. Novak recommended the Commission approve the rate allocation for the HBP surcharge as summarized below:[81]

Company's Historic Base Period (HBP) Surcharge Allocation – Consumer Advocate				
Customer Class	**Margin Percentage**	**Revenue Deficiency**	**Dekatherm Throughput**	**ARRM Surcharge**
Residential	59.78%	$11,071,597	13,268,551	$0.8344
Small General	31.52%	5,839,462	8,408,826	0.6944
Large General	5.00%	925,931	2,888,970	0.3205
Interruptible	3.70%	684,527	9,083,599	0.0754
Total	100.00%	$18,521,517	33,649,946	

Sixth, Mr. Novak recommended that the Company's Base Rate Reset rate design proposal for Industrial customers be rejected based upon the Company's inability to provide a justifiable response

[76] *Id.* at 12.
[77] *Id.* at 9-12.
[78] *Id.* at 13-14.
[79] *Id.* at 15-16.
[80] *Id.* at 17.
[81] *Id.* at 20.

for proposals.[82] Seventh, Mr. Novak recommended the Commission approve the rates for the Base Rate Reset as presented below:[83]

Company's Base Rate Reset Customer Allocation – Consumer Advocate				
Customer Class	Current Margin	Revenue Deficiency	Proposed Margin	Percent Increase
Residential	$120,080,606	$3,291,877	$123,372,483	2.74%
Small General	50,753,089	1,391,340	52,144,429	2.74%
Medium General	12,580,969	344,893	12,925,862	2.74%
Large Firm	10,042,548	275,305	10,317,854	2.74%
Large Interruptible	7,424,059	203,522,	7,627,581	2.74%
Total	$200,881,275	$5,506,937	$206,388,209	2.74%

Eighth, Mr. Novak asserted the ARRM requires an update to the Company's Weather Normalization Adjustment ("WNA") factors which are calculated as prescribed in Commission Docket 21-00135.[84]

Proposed WNA Factors, per Therm. – Consumer Advocate				
Rate Schedule	Nov-Mar R Value	Oct & Apr R Value	Heat Sensitivity Factor	Base Load Factor
Residential	$0.70811	$0.58605	0.17835	11.01
Small General	0.70659	0.59021	0.66142	108.83
Medium General	0.60171	0.50261	8.03712	1,587.73

THE SETTLEMENT AGREEMENT AND SUPPORTING TESTIMONY

On August 20, 2024, the parties filed the *Settlement Agreement* asserting that all issues raised in this docket have been resolved. The parties agreed to a CWIP adjustment of $722,315 as recommended by the Consumer Advocate shall be applied, which results in an HBP CWIP of $84,500,478.[85] The Company accepted a depreciation expense adjustment of $14,573 as recommended by the Consumer Advocate is accepted resulting in an HBP depreciation expense of

[82] *Id*. at 23.
[83] *Id*. at 21.
[84] *Id*. at 25.
[85] *Settlement Agreement*, p. 4 (August 20, 2024).

$36,444,862. The Consumer Advocate accepted the Company's ADIT in the amount of $197,577,700. The Company accepted the Consumer Advocate's recommended use of the Company's composite state income tax rate for state income tax expense and ADIT in the computation of the Company's HBP revenue deficiency.[86]

The Company will transition from the composite rate to the Tennessee statutory excise tax rate when computing its state income tax and ADIT for deriving its Annual Base Rate Reset revenue deficiency. Further, the Company accepted the Consumer Advocate's recommendation and hence will not seek recovery from ratepayers regarding any claim that its ADIT balance is deficient due to this transition from a lower to higher state tax rate. Based upon the preceding agreements, the parties submit the Company's ABRR revenue deficiency is $5,451,474 and its HBP revenue deficiency (before carrying costs) is $13,755,717.[87]

The parties further stipulated to revisions of the tariff:

> ... In each Annual ARM Filing, the Company shall propose new ARM Rider Rates based on the current Annual ARM Proceeding's HBP Revenue Requirement Deficiency (Sufficiency) and Carrying Costs, plus the maximum of the ARM Deferred Account Balance at March 31 of the year after the HBP or any remaining ARM Deferred Account Balance, as appropriate.[88]

The ARRM Rider rates (HBP surcharge) rate design methodology presented by the Consumer Advocate was accepted by the parties and will be utilized for the settled revenue deficiency for the HBP to include carrying costs.[89] The Annual Base Rate Reset rate design methodology presented by the Consumer Advocate was accepted and will be utilized for the settled revenue deficiency for the

[86] *Id.* at 4-5.
[87] *Id.* at 5.
[88] *Id.*
[89] *Id.*

Annual Base Rate Reset and reflect the Consumer Advocate's rate design approach including modifications for industrial customers.[90]

Ms. Lyons filed testimony supporting and summarizing the *Settlement Agreement*. According to Ms. Lyons, under the proposed Settlement Agreement, annual bill impact to the average residential customer will be $29 (monthly $2.42), which is $17 less than the Company's initial proposal.[91]

THE HEARING

The hearing on the *Settlement Agreement* was noticed by the Commission on August 30, 2024, and held during the regularly scheduled Commission Conference on September 9, 2024. Appearances were made by the following:

> Piedmont Natural Gas Company, Inc.–Brian L. Franklin, 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 Division – Victoria Glover, Esq., Financial Division of the Office of the Tennessee Attorney General and Reporter, Post Office Box 20207, Nashville, Tennessee, 37219.

The *Settlement Agreement* was presented to the hearing panel and summarized by Ms. Misty Lyons. Members of the public were given an opportunity to offer comments, but no one sought recognition to do so.

FINDINGS AND CONCLUSIONS

Upon review of the evidentiary record, the panel voted unanimously to approve the *Settlement Agreement* filed by Piedmont Natural Gas Company and the Consumer Advocate on August 21, 2024. The panel found the settlement to be consistent with prior Commission Orders and approved methodologies, and approved the parties' agreed-upon $20,329,072 revenue deficiency as presented in the Settlement's Exhibit B. This deficiency consists of (1) unrecovered costs from the Company's

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[90] *Id.* at 6.
[91] Misty Lyons, Pre-Filed Settlement Testimony, p. 8 (August 21, 2024).

Historic Base Period of $14,877,598, including carrying charges, and (2) the revenue shortfall of $5,451,474 related to the Company's base rate reset calculation.

Also, consistent with the *Settlement Agreement*, the panel approved the Company's proposed rate design, whereby the $14,877,598 reconciliation deficiency will be recovered through volumetric *Rider* rates and the $5,451,474 rate reset shortfall will be recovered through volumetric *base* rates. As presented in the Settlement, the apportionment of the revenue for recovery by customer class shall be based on each class's relative level of weather-adjusted margin revenues and usage volumes.

Further, as prescribed in the *Settlement Agreement*, the panel approved the Company's proposed tariff revisions. These revisions include (1) modifying the Company's approved methodologies from Piedmont's composite three-state income tax rate to instead using Tennessee's statutory corporate excise tax rate and (2) adjusting tariff language that will allow more flexibility in how much of the Company's March 31st deferred Annual Rate Review Mechanism account balance to include in its calculated revenue requirement. Finally, the panel found that the Company's Annual Rate Review Mechanism allows timely recovery of reasonable and prudent expenditures by the Company for its provision of safe and reliable natural gas services, while also limiting more costly rate cases. Therefore, the panel concluded that the Company's Annual Rate Review Mechanism continues to be in the public interest.

IT IS THEREFORE ORDERED THAT:

1. The *Settlement Agreement* filed by Piedmont Natural Gas Company, Inc. and the Consumer Advocate Division of the Tennessee Office of the Attorney General filed on August 20, 2024, is approved and is attached as Exhibit 1.

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:

Vice Chairman John Hie,
Commissioner Herbert H. Hilliard,
Commissioner Clay R. Good,
Commissioner Kenneth C. Hill, and
Commissioner David Crowell concurring.

None dissenting.

ATTEST:

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Earl R. Taylor, Executive Director