

**STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH**

DOCKET NO. G-9, SUB 743

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of  
Application of Piedmont Natural Gas Company, Inc., for an Adjustment of Rates, Charges, and Tariffs Applicable to Service in North Carolina, Continuation of its IMR Mechanism, Adoption of an EDIT Rider, and Other Relief ) ORDER APPROVING STIPULATION, GRANTING PARTIAL RATE INCREASE, LINE 434 REVENUE RIDER, EDIT RIDERS, PROVISIONAL REVENUES RIDER, AND REQUIRING CUSTOMER NOTICE

HEARD: Tuesday, July 9, 2019, in High Point Courthouse, Courtroom 434, 505 East Green Drive, High Point, North Carolina

Wednesday, July 10, 2019, in Mecklenburg County Courthouse, Courtroom 5350, 832 East 4th Street, Charlotte, North Carolina

Wednesday, July 17, 2019, in New Hanover County Courthouse, Courtroom 317, 316 Princess Street, Wilmington, North Carolina

Monday, August 19, 2019, in Commission Hearing Room 2115, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina

BEFORE: Commissioner ToNola D. Brown-Bland, Presiding; Chair Charlotte A. Mitchell, Commissioner Lyons Gray, and Commissioner Daniel G. Clodfelter

APPEARANCES:

For Piedmont Natural Gas Company, Inc.:

James H. Jeffries, IV, McGuireWoods LLP, 201 North Tryon Street, Suite 3000, Charlotte, North Carolina 28202, and Brian S. Heslin, Duke Energy Corporation, 550 South Tryon Street, Charlotte, North Carolina 28202

For Carolina Industrial Group for Fair Utility Rates IV:

Warren K. Hicks, Bailey & Dixon, LLP, Post Office Box 1351, Raleigh, North Carolina 27602

For Carolina Utility Customers Association, Inc.:

Robert F. Page, Crisp & Page, PLLC, 4010 Barrett Drive, Suite 205,  
Raleigh, North Carolina 27609

For Fayetteville Public Works Commission:

James P. West, Chief Legal Officer, Post Office Box 1089, Fayetteville,  
North Carolina 28302

For Nucor Steel-Hertford:

Joseph W. Eason, Nelson, Mullins, Riley & Scarborough, LLP, GlenLake  
One, Suite 200, 4140 Parklake Avenue, Raleigh, North Carolina 27612

For the Using and Consuming Public:

Elizabeth Culpepper, Megan Jost, William E.H. Creech, and John Little,  
Staff Attorneys, Public Staff – North Carolina Utilities Commission,  
4326 Mail Service Center, Raleigh, North Carolina 27699

Margaret A. Force, Assistant Attorney General, and Jennifer T. Harrod and  
Teresa L. Townsend, Special Deputy Attorney Generals, North Carolina  
Department of Justice, 114 West Edenton Street, Raleigh, North Carolina  
27603

BY THE COMMISSION: On February 27, 2019, Piedmont Natural Gas Company, Inc. (Piedmont or the Company) gave notice pursuant to Commission Rule R1-17(a) of its intent to file a general rate case.

On March 6, 2019, Carolina Utility Customers Association, Inc. (CUCA) filed a Petition to Intervene, which was allowed by Commission Order issued March 20, 2019.

On March 12, 2019, Fayetteville Public Works Commission (FPWC) filed a Petition to Intervene which was allowed by Commission Order issued on March 20, 2019.

On April 1, 2019, Piedmont filed an application (Application) seeking (1) a general increase in and revisions to the rates and charges for customers served by the Company; (2) continuation of its Integrity Management Rider (IMR) mechanism contained in Appendix E to its approved service regulations; (3) regulatory asset treatment for certain incremental Distribution Integrity Management Program (DIMP) Operations and Maintenance (O&M) expenses; (4) adoption of revised and updated depreciation rates for the Company's North Carolina and joint property assets; (5) updates and revisions to its rate schedules and service regulations; (6) revised and updated amortizations and recovery of certain regulatory assets accrued since its last general rate case proceeding; (7) approval of expanded energy efficiency and conservation program spending; and

(8) adoption of an Excess Deferred Income Taxes (EDIT) Rider mechanism to manage the flowback to customers of deferrals and excess deferred income taxes created by changes to State and federal income tax rates. With its Application, the Company also filed: (1) the direct testimony and exhibits of Frank Yoho, Executive Vice President and President, Natural Gas Business of Duke Energy Corporation (Duke Energy); Victor M. Gaglio, Senior Vice President and Chief Utility Operations Officer, Natural Gas Business for Duke Energy; Jack L. Sullivan, III, Director, Corporate Finance and Assistant Treasurer of Duke Energy Business Services, LLC (DEBS) and Assistant Treasurer for Piedmont; Bruce P. Barkley, Vice President – Regulatory and Community Relations for Piedmont; Pia K. Powers, Director – Gas Rates & Regulatory Affairs for Piedmont; Kally A. Couzens, Rates & Regulatory Strategy Manager for Piedmont; Robert B. Hevert, Chartered Financial Analyst and Partner of ScottMadden, Inc.; Daniel P. Yardley, Principal, Yardley Associates; Dane A. Watson, Partner of Alliance Consulting Group; and Paul M. Normand, President and Management Consultant, Management Applications Consulting, Inc., and (2) the NCUC Form G-1 information required by Commission Rule R1-17(b)(12) (Form G-1).

On April 22, 2019, the Commission issued Order Establishing General Rate Case and Suspending Rates, which declared the Company's application to be a general rate case pursuant to N.C. Gen. Stat. § 62-133 and Commission Rule R1-17, and suspended the proposed rates for a period of up to 270 days from and after May 1, 2019.

On April 22, 2019, in response to a letter dated April 15, 2019, in which the Public Staff notified the Company that it had identified two Form G-1 items that, in the opinion of the Public Staff, required supplementation, Piedmont filed information supplementing its Form G-1 filing for Item Nos. 4 and 19. In addition, Piedmont also provided supplemental information for Item No. 4.a (p.103A) and revisions to Item Nos. 4.a (p.127) and 28 (page 1 of 19) of its Form G-1.

On April 23, 2019, Nucor Steele-Hertford (Nucor) filed a Petition to Intervene which was allowed by Commission Order issued May 7, 2019.

On May 16, 2019 the Commission issued Order Scheduling Investigation and Hearings, Establishing Intervention and Testimony Due Dates and Discovery Guidelines, and Requiring Public Notice.

On June 10, 2019, Carolina Industrial Group for Fair Utility Rates IV (CIGFUR IV) filed a Petition to Intervene which was allowed by Commission Order issued June 20, 2019.

On June 10, 2019, pursuant to N.C. Gen. Stat. § 62-20, the North Carolina Attorney General's Office (AGO) filed a Notice of Intervention on behalf of the using and consuming public.

Three public hearings were held as scheduled. The following public witnesses appeared and testified:

High Point: William Gay, Jamique Chestnut, George Dimock, John Wigodsky, Gayle Tuch, Gus Preschle, Virginia Dancy, Kay Stuart, Sam Astuto, and Henry Ripp.

Charlotte: Steve Copulsky, Nancy Carter, Margaret Peeples, Ridge Graham, Luis Rodriguez, Rev. Dr. Rodney Sadler, Sally Kneidel, Fotini Katsanos, Leo Amon, Rev. Mac Legerton, Michael Merinstein, David Rosen, Kendall Hale, Dr. Steven Norris, Constance Williams, Steve Rundle, and Jerome Wagner.

Wilmington: Lynn McIntyre, Donna Chavis, Nita Dukes, Amanda Robertson, Andy McGlenn, and Jefferson Currie.

On July 19, 2019, the Public Staff filed the direct testimony and exhibits of R. Tyler Allison, Mary A. Coleman, Lynn Feasel, Geoffrey M. Gilbert, John R. Hinton, Poornima Jayasheela, Jan A. Larsen, Zarka H. Naba, Neha Patel, and Julie G. Perry. The testimony and exhibits of Public Staff witness Allison as initially filed were withdrawn and replaced by public and confidential versions filed on July 29, 2019.

Also, on July 19, 2019, CIGFUR IV filed the direct testimony and exhibits of Nicholas Phillips, Jr.; the AGO filed the direct testimony and exhibits of Randall J. Woolridge, Ph.D.; and CUCA filed the direct testimony and exhibits of Kevin W. O'Donnell.

On July 26, 2019, the Public Staff filed the revised exhibits of its witnesses Feasel, Jayasheela, and Perry.

On July 29, 2019, pursuant to the reservation of its right to do so in its Application as permitted by N.C. Gen. Stat. § 62-133(c), Piedmont filed updated versions of its schedules reflecting updates to its rates, revenues, plant, depreciation expense, accumulated depreciation, and expenses as of June 30, 2019 (June Updates). Piedmont also filed the supporting supplemental testimony and exhibits of its witnesses Couzens and Powers.

On July 30, August 2, and August 15, 2019, Piedmont filed affidavits attesting to the required publication of notice of this matter.

On July 31, 2019, Piedmont filed a motion for a seven-day extension of time to file its rebuttal testimony, and on August 1, 2019, the Commission granted the motion for the extension of time.

On August 9, 2019, Piedmont filed the rebuttal testimony and exhibits of its witnesses Hevert and Barkley.

On August 12, 2019, Piedmont supplemented its filing of witness Hevert's rebuttal testimony to include exhibits inadvertently omitted from the original filing, and the Public Staff filed the settlement testimony of its witness Hinton.

On August 13, 2019, Piedmont, the Public Staff, CUCA, and CIGFUR IV (Stipulating Parties) filed a Stipulation and exhibits along with the supporting testimony and exhibits of witnesses Hevert and Powers.

On August 14, 2019, Piedmont filed a Motion to Excuse Witnesses Yardley, Norman, Watson, and Phillips from the hearing, which was allowed by Order of the Commission issued August 16, 2019.

On August 16, 2019, the Commission issued an Order Providing Notice of Commission Questions. On the same day, Piedmont filed verification of the mailing of Notice of Hearings to its customers.

Prior to the expert witness hearing, between April 3, 2019 and August 19, 2019, the Commission received approximately 981 consumer statements of position regarding and generally opposing Piedmont's Application for a rate increase.

On August 19, 2019, the matter came on for the expert witness hearing. Piedmont presented the testimony of witnesses Yoho, Gaglio, Sullivan, Couzens, Hevert, Barkley, and Powers. The AGO presented the testimony of witness Woolridge. The Public Staff presented the testimony of witnesses Hinton, Perry, Allison, Jayasheela, and Patel. At the evidentiary hearing, the parties waived cross-examination of CUCA witness O'Donnell and Public Staff witnesses Coleman, Feasel, Larsen, Gilbert, and Naba. The parties previously waived cross-examination of Company witnesses Yardley, Norman, and Watson, and CIGFUR IV witness Phillips, and, by Commission Order, their appearance at the evidentiary hearing was excused. The prefiled testimony of each of these witnesses was copied into the record as if given orally from the stand and their exhibits were entered into evidence at the hearing.

On September 11, 2019, the Public Staff filed a Motion to Supplement the Record to correct errors it identified in AGO Powers Cross Exhibit 5. The exhibit was prepared by the Public Staff as a response to a data request and the Public Staff represented that no party objected to the Motion. By Order issued September 23, 2019, the Commission identified and received into evidence the corrected AGO Powers Cross Exhibit 5 as Public Staff Revised AGO Powers Late-Filed Exhibit 1.

On September 23, 2019, the Public Staff filed Public Staff Late-Filed Exhibit 2 in response to the Commission's request made at the expert witness hearing.

The parties filed briefs and/or proposed orders on September 25, 2019.

Based upon the verified Application, the testimony and exhibits received into evidence at the hearings, the Stipulation, and the record as a whole, the Commission makes the following:

## FINDINGS OF FACT

### Jurisdiction

1. Piedmont is a wholly-owned subsidiary of Duke Energy, duly authorized to do business in and engaged in the business of transporting, distributing, and selling natural gas within the states of North Carolina, South Carolina, and Tennessee. Piedmont's principal place of business is located in Charlotte, North Carolina.

2. Piedmont is a public utility within the meaning of N.C. Gen. Stat. § 62-3(23).

3. The Commission has jurisdiction over, among other things, the rates and charges, rate schedules, classifications, and practices of Piedmont in its capacity as a North Carolina public utility.

4. Piedmont is lawfully before the Commission pursuant to N.C. Gen. Stat. § 62-133 and Commission Rule R1-17 for a determination on its Application in this proceeding.

### Piedmont's Application

5. Piedmont's Application sought approval of a general increase in and revisions to the rates and charges for customers served by the Company; continuation of the Company's IMR mechanism; regulatory asset treatment for certain incremental DIMP O&M expenses; adoption of revised and updated depreciation rates for the Company's North Carolina and joint property assets; updates and revisions to Piedmont's rate schedules and service regulations; revised and updated amortizations and recovery of certain regulatory assets accrued since Piedmont's last general rate case proceeding; approval of expanded energy efficiency and conservation program spending; and adoption of an EDIT Rider mechanism to manage the flowback to customers of deferrals and excess deferred income taxes created by changes to State and federal corporate income tax rates.

6. The Application included information and data required by NCUC Form G-1, and was supported by the direct prefiled testimony and exhibits of Company witnesses.

### Test Period

7. The only parties submitting evidence in this case with respect to revenue, expenses, and rate base levels used a test period of the 12 months ended December 31, 2018, adjusted for certain known and measurable changes through June 30, 2019, and the Stipulation is based upon the same test period.

8. The appropriate test period for use in this proceeding is the 12 months ended December 31, 2018, updated for certain known and measurable changes through June 30, 2019.

## Stipulation

9. The Stipulation executed by Piedmont, the Public Staff, CUCA, and CIGFUR IV is supported by those parties and is not opposed by Nucor.

10. The Stipulation is comprehensive in nature and settles all matters in this docket as between the Stipulating Parties.

11. The revenue impact of the Stipulation is reflected in the provisions of the Stipulation and in Schedule 2 attached hereto.

12. The Stipulation is the product of give-and-take settlement negotiations between the Stipulating Parties, is material evidence as to the appropriate outcome of this proceeding, and is entitled to be given appropriate weight in this proceeding along with the other evidence provided by the Company, the Public Staff, the AGO, intervenor parties, and the public.

13. The only parties opposing portions of the Stipulation in this proceeding are the AGO and FPWC.

## Revenue Increase

14. The Application sought an increase in annual margin revenues for the Company of \$118,116,597.

15. Pursuant to Piedmont's June Updates this margin revenue request increased to \$143,635,886.

16. The Stipulation provides for an increase in annual margin revenues of \$108,796,788.

17. Due to the amortizations of regulatory liabilities associated with the EDIT Riders and the deferral of revenues associated with the change in the federal corporate income tax rates provided for by the Stipulation, the effective annual net revenue requirement increases applicable to Piedmont's customers resulting from the Stipulation and reflected in Public Staff Late-Filed Exhibit 2 are as follows:

Year 1	\$28,059,329
Years 2-3	\$64,758,145
Years 4+	\$82,820,089 <sup>1</sup>

18. Through the rates and charges approved in this case, the Company should be authorized to increase its annual level of operating revenues (in each instance compared to the current level of such revenues), by the amounts identified above as provided by the Stipulation.

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<sup>1</sup> The Stipulation caps the aggregate rate increases provided for in years beyond Year 3 at \$82,820,089 in order to be consistent with the notice of rate increase provided to the public in this docket.

19. The stipulated annual revenue increases shown above are just, reasonable, and appropriate for use in this proceeding.

### Rate Base

20. The Company's rate base, as of June 30, 2019, is \$3,450,610,950, which includes the original cost of the Company's property used and useful, or to be used and useful within a reasonable time after the test period, in providing natural gas utility service to the Company's customers within North Carolina, including gas plant in service of \$5,516,373,281, cash working capital of \$52,447,941, and deferred regulatory assets of \$135,551,187, reduced by accumulated depreciation of \$1,520,637,505, other working capital of \$6,264,000, and accumulated deferred income taxes of \$726,859,954, all as described and set forth in Paragraph 5 and Exhibit A of the Stipulation and reflected in Schedule 1 attached hereto, are reasonable and appropriate for use in this docket.

### Revenues and Operating Expenses

21. The Company's end-of-period pro forma revenues under present rates of \$902,043,536, as set forth in Paragraph 6 and Exhibit A of the Stipulation and reflected in Schedule 1 attached hereto, is reasonable and appropriate for use in this docket.

22. The Company's total annual operating expenses of \$403,279,191, under present rates, including the settlement adjustments, and the interest on customers' deposits of \$796,448, that are subtracted from margin revenues to arrive at net operating income for return under present rates, as set forth in Paragraph 6 and Exhibit A of the Stipulation and reflected in Schedule 1 attached hereto, are reasonable and appropriate for use in this docket.

23. The various adjustments to annual operating expenses reflected in the Stipulation in Paragraphs 12-15 and 18-20, encompassing non-utility adjustments, Board of Directors expense, compensation adjustments, miscellaneous expense adjustments, uncollectibles expense, regulatory fee adjustments, and rate case expense, are reasonable and appropriate for use in this docket.

### Capital Structure

24. The capital structure set forth in Paragraph 6 and Exhibit B of the Stipulation and attached hereto as Settlement Exhibit B, consisting of 52.00% common equity, 47.15% long-term debt at a cost of 4.41%, and 0.85% short-term debt at a cost of 2.72%, is reasonable and appropriate for use in this docket.



## Return on Equity

25. The overall rate of return that the Company should be allowed the opportunity to earn on the cost of the Company's used and useful property is 7.14%, as set forth in Paragraph 6 and Exhibit A of the Stipulation and reflected in Schedule 1 attached hereto, and is reasonable and appropriate for use in this docket. This also is the rate to be used by the Company as its Allowance for Funds Used During Construction (AFUDC) rate effective November 1, 2019.

26. The rate of return on common equity that the Company should be allowed the opportunity to earn in this docket is 9.70%, as set forth in Paragraph 6 and Exhibit B of the Stipulation, and is reasonable and appropriate for use in this docket.

27. The authorized levels of overall return and rate of return on common equity set forth above are supported by competent, material, and substantial record evidence, are consistent with the requirements of N.C. Gen. Stat. § 62-133 in light of changing economic conditions, and will allow the Company to maintain its facilities and services in accordance with the reasonable requirements of the Company's customers.

28. With respect to the foregoing findings on the appropriate overall rate of return on rate base and allowed rate of return on common equity for use in this proceeding, the Commission makes the following more specific findings of fact:

a. The overall rate of return on rate base and allowed rate of return on common equity underlying Piedmont's current base rates are 7.51% and 10.00%, respectively.

b. Piedmont's current base rates became effective for service rendered on and after January 1, 2014, and have been in effect since that date.

c. In its Application, Piedmont sought approval for rates which were based on an overall rate of return on rate base of 7.68% and an allowed rate of return on common equity of 10.60%.

d. In the Stipulation, the Stipulating Parties seek approval of an overall rate of return on rate base of 7.14% and an allowed rate of return on common equity of 9.70%.

e. The reduction in overall return and return on equity from both Piedmont's existing base rates and the Application, as reflected in the Stipulation, is a substantial economic benefit to Piedmont's customers.

f. As reported by S&P Global Market Intelligence, the average litigated rate of return on common equity for US natural gas distribution companies during the first half of 2019 was 9.70% (compared to 9.57% in 2018) and the average allowed return on equity in all natural gas distribution rate cases was 9.63%

(compared to 9.59% in 2018). Also as reported by S&P Global Market Intelligence, the median authorized rate of return on common equity for US natural gas companies during the first half of 2019 was 9.70% (compared to 9.60% in 2018).

g. The stipulated rate of return on common equity of 9.70% is equal to the lowest rate of return on common equity granted by the Commission for a major natural gas or electric utility in the last 10 years.

h. The currently authorized allowed rate of return on common equity underlying the base rates of Public Service Company of North Carolina, Inc. (PSNC) is 9.70%.<sup>2</sup>

i. The currently authorized allowed rate of return on common equity for Duke Energy Carolinas, LLC (DEC), Duke Energy Progress, LLC (DEP), and Dominion Energy North Carolina is 9.90%.<sup>3</sup>

j. The stipulated allowed rate of return on common equity of 9.70% is consistent with the allowed rates of return on common equity identified above.

k. The stipulated overall rate of return on rate base of 7.14% and allowed rate of return on common equity of 9.70% are supported by competent, material, and substantial evidence and, based on the facts and circumstances of this particular case, are more appropriate than the recommendations of AGO witness Woolridge, the only witness for a party contesting the Stipulation in this regard.

l. The relative impact of the stipulated Year 1 rates on each Piedmont customer class is reflected in Exhibit J of the Stipulation.

m. The stipulated billing rates will produce average annual residential winter heating bills of \$508 for Piedmont's customers in Year 1 as compared to \$532 experienced in the winter of 2018/2019.

n. Unchallenged evidence presented at the hearing of this matter indicates that the overall economic climate in North Carolina (and nationally) remains strong, including data and projections from reliable sources that demonstrate: (i) job growth in North Carolina as reported by the North Carolina Department of Commerce has risen for 11 straight months; (ii) job growth in North Carolina has outpaced national job growth according to a July 2019 US Bureau of

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<sup>2</sup> Order Approving Rate Increase and Integrity Management Tracker, Docket No. G-5, Sub 565 (October 28, 2016).

<sup>3</sup> Order Accepting Stipulation, Deciding Contested Issues, and Requiring Revenue Reduction, Docket No. E-7, Sub 1146 (June 22, 2018); Order Accepting Stipulations, Deciding Contested Issues and Granting Partial Rate Increase, Docket No. E-2, Sub 1142 (Feb. 23, 2018); and Order Approving Rate Increase and Cost Deferrals and Revising PJM Regulatory Conditions, Docket No. E-22, Sub 532 (Dec. 22, 2016).

Labor Statistics report; (iii) job postings in North Carolina have increased by 10.40% year over year; (iv) gross domestic product (GDP) is increasing in all 50 states; (v) according to the Bureau of Economic Analysis individual real disposable income is increasing as are personal consumption expenditures; (vi) according to the same source wages, salaries, and personal savings are all increasing; (vii) exports, housing starts, and new orders for manufactured goods are all increasing; (viii) major metropolitan areas in North Carolina continue to be ranked among the highest in the nation in terms of being best for business and careers; and (ix) new business project announcements indicate that several new major employers are relocating to North Carolina.

o. Irrespective of the economic conditions being experienced in North Carolina at this time, which are uniformly positive, some customers of Piedmont will struggle to pay their utility bills under the rate increases authorized herein.

29. The capital structure and rates of return on rate base and common equity set forth in the Stipulation and approved by the Commission herein result in a cost of capital which appropriately balances Piedmont's interest in maintaining both its credit ratings and its ability to obtain equity financing on reasonable terms, and its customers' interest in receiving natural gas service at the lowest possible ratio.

#### Throughput

30. For the purpose of this proceeding, as set forth in Paragraph 3 of the Stipulation, the appropriate level of adjusted sales and transportation volumes is 136,415,626 dekatherms (dts), which is comprised of 74,815,358 dts of sales quantities and 61,600,268 dts of transportation quantities. The total throughput, which reflects the total gas sales and transportation quantities plus electric generation and other special contract quantities, is 483,305,524 dts. The appropriate level for Company use and lost and unaccounted for gas is 2,594,219 dts.

#### Cost of Gas

31. The total cost of gas reasonable and appropriate for use in this proceeding is \$334,653,470, as described in Paragraph 4 and on Exhibit A to the Stipulation consisting of \$215,392,832 in commodity cost of gas<sup>4</sup> and \$119,260,638 in fixed costs of gas.

32. The Benchmark Cost of Gas (Benchmark) reasonable and appropriate for use in this proceeding is \$2.75 per dekatherm (dt).

33. The fixed cost of gas embedded in the proposed rates and used in future true-ups of fixed gas costs for periods subsequent to November 1, 2019, in proceedings under Commission Rule R1-17(k), subject to any filed changes in such costs prior to

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<sup>4</sup> Of this total amount of commodity cost of gas, \$7,134,102 is the commodity cost of gas for company use and lost and unaccounted for gas quantities.

November 1, 2019, are those derived from the fixed gas cost apportionment percentages discussed in Paragraph 8 and set forth in Exhibit D to the Stipulation until the resolution of Piedmont's next general rate case proceeding.

#### Rate Design

34. The rate schedules reflecting new volumetric rates, monthly charges, and demand charges, as discussed in Paragraph 7 of the Stipulation and reflected in Exhibit C of the Stipulation, as well as the rate elements comprising such rates, as discussed in Paragraph 24 and reflected in Exhibits K and L of the Stipulation, are just and reasonable and appropriate for use in this docket. Furthermore, it is appropriate to adjust rates to reflect any Commission-approved: (1) changes in the Company's Benchmark on or before the date that the rates approved in this docket become effective; and (2) changes in the gas demand and storage charges (components of the fixed cost of gas shown in Exhibit D to the Stipulation) that occur between the date of this Stipulation and the date that the rates approved in this docket become effective. The percentage increases by customer class that result from the aforementioned rate design as shown on Exhibit J of the Stipulation are just and reasonable.

#### Integrity Management Rider

35. Continuation of the IMR in the form set forth in in Exhibit F to the Stipulation and in Appendix E to Piedmont's current North Carolina Service Regulations, subject to the clarifications set forth in Paragraph 9 of the Stipulation, is reasonable and appropriate and consistent with N.C. Gen. Stat. § 62-133.7A, and should be approved and implemented as provided in Paragraph 9 of the Stipulation.

#### Margin Decoupling Factors

36. The "R" values, heat load factors, and base load factors set forth on Exhibit E to the Stipulation and incorporated by reference in Paragraph 10 of the Stipulation are reasonable and appropriate for use with the Company's Margin Decoupling Tracker (MDT) mechanism and should be approved.

#### Amortization of Certain Regulatory Deferred Assets/Liabilities

37. The quantification and amortization of certain regulatory deferred assets/liabilities, including Transmission Integrity Management Program (TIMP) operating and maintenance (O&M) costs, EasternNC O&M costs, environmental compliance assessment and clean-up O&M costs, and undercollected regulatory fee payments, all as set forth and described in Paragraph 11 of the Stipulation, are reasonable and appropriate and should be approved.

## The Federal Tax Cuts and Jobs Act and State EDIT

38. The Stipulating Parties reached agreement regarding the appropriate ratemaking treatment in this proceeding to reflect the provisions of the Federal Tax Cuts and Jobs Act (the Tax Act) in addition to the appropriate treatment for the State EDIT, as outlined in Paragraph 16 of the Stipulation filed on August 13, 2019. The agreements regarding the applicable provisions of the Tax Act and the State EDIT reached jointly by the Company, the Public Staff, CUCA, and CIGFUR IV are appropriate.

39. The Company's revenue requirement appropriately reflects the reduction in the federal corporate income tax rate from 35.00% to 21.00%, on the Company's ongoing federal income tax expense.

40. The Company's revenue requirement appropriately reflects the reduction in the State corporate income tax rate from 3.00% to 2.50% that was effective on January 1, 2019, on the Company's ongoing State income tax expense.

41. The Company's federal protected EDIT should be flowed back to customers through base rates by amortizing the federal protected EDIT over a period of time equal to the remaining lives of the property giving rise to the EDIT obligation utilizing the Internal Revenue Service's (IRS's) average rate assumption method (ARAM), in accordance with the normalization rules of the IRS.

42. The Company's federal unprotected EDIT should be returned to ratepayers through a levelized rider over a period of five years beginning with the effective date of rates in this proceeding.

43. The Company's overcollection of federal income taxes related to the decrease in the federal corporate income tax rate for the period beginning January 1, 2018, and ending April 30, 2019, including interest, which is projected to be \$36,699,240 as of October 31, 2019, should be returned to customers through a rider mechanism over a period of one year beginning with the effective date of rates in this proceeding.

44. The Company's State EDIT recorded pursuant to the Commission's Order Addressing the Impacts of HB 998 on North Carolina Public Utilities issued May 13, 2014, in Docket No. M-100, Sub 138 should be returned to ratepayers through a levelized rider that will expire at the end of a three-year period beginning with the effective date of rates in this proceeding.

## Depreciation Rates

45. The change in depreciation rates for the Company reflected in the depreciation study attached to the prefiled direct testimony of Piedmont witness Watson and agreed to in Paragraph 21 of the Stipulation is reasonable and appropriate and should be approved effective November 1, 2019. The depreciation study satisfies the

requirement of Commission Rule R6-80 that utilities file depreciation studies at least once every five years, and that all such studies, including any proposed changes in depreciation rates, shall be submitted to the Commission for approval. It is also appropriate to reduce depreciation expense to reflect the impacts of the reallocation of the reserve accounts related to the NC direct and corporate allocated general plant accounts.

#### Changes to Tariffs and Service Regulations

46. The changes to the Company's Tariffs and Service Regulations as specified in Paragraph 22 of the Stipulation and set forth in Exhibits G and H to the Stipulation, respectively, are reasonable and appropriate and should be approved.

#### Gas Technology Institute (GTI) Funding

47. The proposed funding for the Operations Technology Development (OTD) Program operated by GTI, in the amount of \$375,000, which is included in Piedmont's annual revenue requirement, as discussed in Paragraph 23 of the Stipulation, is reasonable and appropriate and should be approved.

#### Creation of Line 434 Revenue Rider

48. The creation of a Line 434 Revenue Rider, and the associated filing and consultation requirements, as discussed in Paragraph 31 of the Stipulation, are reasonable and appropriate and should be approved.

#### Rates for Special and Electric Generation Contracts

49. The agreement between the Company, the Public Staff, CUCA, and CIGFUR IV reflected in Paragraph 32 of the Stipulation as to the implementation of a system support volumetric rate component in all special and electric generation contract sales or transportation service arrangements is reasonable and appropriate and should be approved. FPWC's request regarding Paragraph 32 of the Stipulation is rejected.

#### Miscellaneous Matters

50. The various agreements between the Company, the Public Staff, CUCA, and CIGFUR IV reflected in Paragraphs 25 through 30 of the Stipulation as to accounting conventions and practices relative to the following matters are each reasonable and appropriate and should be approved: (1) the treatment for O&M expenses arising out of activities required to comply with federal DIMP requirements; (2) reporting practices related to O&M expenses incurred and deferred in relation to federal TIMP and DIMP requirements; (3) the consolidation of common gas areas (CGAs) for purposes of measuring heat content; (4) methods to improve transparency for cost allocations among Piedmont and Duke Energy subsidiaries; and (5) the amount of conservation program spending and line locate expense amounts included in the annual revenue requirement.

## Stipulation as a Whole

51. All of the provisions of the Stipulation are just and reasonable to all parties to this proceeding, serve the public interest, and should be approved.

## Consumer, Infrastructure, Environmental, and Global Warming Concerns

52. As of the date of filing its Application for a rate increase, Piedmont provided utility service to approximately 752,000 customers in the state of North Carolina.

53. A total of 33 individuals testified at the three public hearings in High Point, Charlotte, and Wilmington. Not all of the witnesses are Piedmont customers. Piedmont asked to speak with any customers who identified that they either had a service or billing problem.

54. Approximately 981 individuals filed consumer statements of position with the Commission. The majority of statements express opposition to an increase in rates for Piedmont. A number of individuals also express concern with Piedmont's use of fossil fuels which contribute to climate change.

### **EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 1-6**

The evidence supporting these findings of fact and conclusions is contained in the Company's verified Application, the testimony and exhibits of the Company's witnesses, the Form G-1 that was filed with the Application, and the entire record in this proceeding. These findings and conclusions are informational, jurisdictional, and procedural in nature and are not contested by any party.

### **EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 7-8**

The evidence supporting these findings of fact and conclusions is contained in the Application, the direct testimony of Piedmont witness Powers, the direct testimony and exhibits of the witnesses, the Stipulation, and the entire record in this proceeding.

In its Application, the Company utilized a test period of the 12 months ended December 31, 2018, in presenting its Application and exhibits for the requested rate increase. This test period was confirmed in the direct testimony of Piedmont witness Powers who indicated that the Company had based its Application on the 12 month period ended December 31, 2018. In its May 16, 2019 Order, the Commission ordered the parties to use a test period consisting of the 12 months ended December 31, 2018, with appropriate adjustments.

The Stipulation reflects that the test period for this rate case is the 12 months ending December 31, 2018, adjusted for certain changes in plant, throughput, and costs that were not known at the time the case was filed but are based upon circumstances

occurring or becoming known through June 30, 2019. This test period was not contested by any party.

Based upon the unopposed evidence, the Commission concludes that the 12 months ended December 31, 2018, adjusted for certain changes in plant, throughput, and costs that were not known at the time the case was filed but are based upon circumstances occurring or becoming known through June 30, 2019, is the appropriate test period for use in this proceeding.

### **EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 9-13**

The evidence for these findings of fact and conclusions is contained in the Stipulation, the Application, the direct testimony and exhibits of the witnesses, the settlement testimony of Piedmont witnesses Powers and Hevert, the settlement testimony of Public Staff witness Hinton, and the entire record in this proceeding.

In her settlement testimony, Piedmont witness Powers describes an extensive audit and negotiation process between the Company and the Public Staff, in which the Company responded to more than 600 discrete questions (not including parts and subparts) of 95 sets of discovery requests, participated in two on-site audits by the Public Staff totaling five days, and then engaged in multiple days of meetings with the Stipulating Parties in an effort to reach an agreed resolution of this proceeding. According to witness Powers, as supported by the record in this proceeding, the Stipulating Parties were able to reach agreement on all issues between the Stipulating Parties, which is reflected in the Stipulation filed in this matter. The Stipulation is binding as between Piedmont, the Public Staff, CUCA, and CIGFUR IV and conditionally resolves all matters in this case as between those parties.

Piedmont witness Hevert and Public Staff witness Hinton also filed testimony supporting the stipulated capital structure and return agreed to in the Stipulation.

According to witness Powers, the AGO was represented at the settlement negotiations with the Public Staff, but did not join in the Stipulation. While no party filed comments or testimony expressly opposing the Stipulation, the Commission determines the AGO's decision not to join the Stipulation and its position at the hearing of this matter as indication of its opposition to the Stipulation, at least with respect to the issues of capital structure and rate of return on equity on which its witness Woolridge provided testimony and with respect to the appropriate amortization period for unprotected EDIT. The Commission similarly determines that FPWC's questioning of Public Staff witness Perry on Paragraph 32 (Electric Generation Contract and Other Special Contract Customer Contributions to Overall Systems Support) of the Stipulation as an indication of its opposition to that provision.

Nucor did not join in the Stipulation nor did it oppose the Stipulation in any filing or at the hearing of this matter. Nucor also did not file a post-hearing brief. The Commission concludes that these actions indicate that Nucor neither supports nor opposes the Stipulation.



Under North Carolina law, a stipulation entered into by less than all parties in a contested case proceeding under Chapter 62 “should be accorded full consideration and weighed by the Commission with all other evidence presented by any of the parties in the proceeding.” State ex rel. Utilities Commission v. Carolina Utility Customers Association, Inc., 348 N.C. 452, 466, 500 S.E.2d 693, 703 (1998). Further, “[t]he Commission may even adopt the recommendations or provisions of the nonunanimous stipulation as long as the Commission sets forth its reasoning and makes ‘its own independent conclusion’ supported by substantial evidence on the record that the proposal is just and reasonable to all parties in light of all the evidence presented.” Id.

The Commission concludes based upon all of the evidence presented that the Stipulation was entered into by the Stipulating Parties after full discovery and extensive negotiations and represents a reasonable and appropriate proposed negotiated resolution of the matters in dispute in this docket that is supported, or not opposed, by all parties except the AGO and FPWC. Accordingly, the Stipulation constitutes material evidence of the appropriate resolution of this proceeding and will be treated as such by the Commission.

#### **EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 14-19**

The evidence for these findings of fact and conclusions is set forth in the Application, the June Updates, the Stipulation, the prefiled direct and settlement testimony of Piedmont witness Powers, the prefiled testimony and revised exhibit of Public Staff witness Jayasheela, and Public Staff Late-Filed Exhibit 2.

In its Application, as supported by the prefiled direct testimony and exhibits of Piedmont witness Powers, Piedmont sought a margin revenue increase in this case of \$118,116,597. As reflected in the prefiled testimony and exhibits of Public Staff witness Jayasheela, the Public Staff’s initial recommendation was for a margin revenue increase of \$63,877,506.

In the June Updates, as supported by the supplemental testimony of Piedmont witness Powers, the proposed margin revenue increased to \$143,635,886. According to witness Powers, this increase from Piedmont’s original request was due principally to significant amounts of new capital investment closed to plant between the filing of the rate case Application and June 30, 2019 (the end of the update period).

In the Stipulation, and as reflected on Schedule 2 attached hereto, the Stipulating Parties agreed to a margin revenue increase of \$108,796,788 – a \$34.8 million reduction from Piedmont’s updated margin revenue request. This level of margin revenue increase incorporates both increased capital investment reflected in the June Updates and offsetting reductions in costs agreed to in the Stipulation.

Because of the structure of the Stipulation, and in particular the impact of negotiated amortizations of regulatory liabilities arising principally from the Tax Act, the actual rate impact on customers of the stipulated margin revenue increase is much

reduced and spread out over time. As is illustrated in Public Staff Late-Filed Exhibit 2, the Year 1 impact of the agreed annual margin revenue increase on customers (exclusive of electric generation and other special contracts) is \$28,059,329 (approximately a 3.5% increase from existing rates). The aggregate annual rate increase to customers in Years 2 and 3 is \$64,758,145 (approximately an 8.2% increase from existing rates), and the aggregate annual rate increase for Year 4 and beyond is capped at \$82,820,089 (approximately a 10.4% increase from existing rates).

In her settlement testimony, Piedmont witness Powers stated that the Stipulation provides for a more accelerated refund to customers of the tax savings associated with recent federal and state tax reform as compared to that proposed by the Company in its Application and the June Updates. Piedmont witness Powers further stated that Piedmont's customers would be assigned only a \$28.1 million annual increase in revenues in Year 1, which is a substantial benefit to customers. She also stated that in Years 2 and 3 customers would be exposed to only a \$64.8 million annual increase in revenues and that in Year 4 (when two of the three tax riders have been fully amortized), the impact of the settled increase in the margin revenues net of the tax rider adjustments would be a total annual revenue requirement increase of approximately \$85.5 million. She stated that starting in Year 6 (when all three riders have been fully amortized), the net impact of the full settled increase in the margin revenues net of the tax rider adjustments would be a total revenue requirement increase of approximately \$108.8 million.

Witness Powers further explained that the Stipulation articulates that the rates and charges approved in this case yield a revenue increase not to exceed \$82,820,089, which is the exact amount of the revenue increase requested in the Company's Application and cited in the Notice of Hearings in this case. She stated that starting in Year 4 (when two of the three tax riders have been fully amortized), the impact of the settled rate increase in the Company's margin revenues net of the tax rider adjustments will be a total annual revenue requirement increase of \$82.8 million (not \$85.5 million) due to the revenue cap, which is a benefit to ratepayers. And starting in Year 6 (when all three riders have been fully amortized), the impact of the settled increase in annual margin revenue net of the tax rider adjustments will remain at \$82.8 million (not \$108.8 million) due to the revenue cap, which is also a substantial benefit to ratepayers.

No other party filed testimony as to the appropriate level of revenues for this proceeding.

Based on the Stipulation and related evidence recited above and the cumulative testimony and exhibits supporting individual components of the stipulated revenue requirement increase discussed throughout this Order and reflected on Schedule 2 attached hereto, including the discussion and analysis related to the proper rate of overall return and return on equity for use in this proceeding, the Commission finds, in the exercise of its independent judgment, that the stipulated revenue requirement increase in this case is just, reasonable, and fair to all parties.

## EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 20

The evidence for this finding of fact and conclusions is contained in the Application, the June Updates, the prefiled testimony and exhibits and settlement testimony of Piedmont witness Powers, the supplemental testimony of Piedmont witnesses Powers and Couzens, the prefiled testimony and revised exhibits of Public Staff witnesses Jayasheela and Feasel, and the Stipulation.

In its Application, Piedmont sought a net annual revenue increase of approximately \$82.8 million based, in part, on increases in rate base since its last general rate case proceeding in 2013, in Docket No. G-9, Sub 631. In its Application, the Company also reserved its rights pursuant to N.C. Gen. Stat. § 62-133(c) to update its projected plant up to the time the hearing was closed in this matter.

In her prefiled direct testimony, on Exhibit\_(PKP-1), Piedmont witness Powers indicates that the end of test period rate base for Piedmont, consisting of plant in service plus an allowance for working capital less accumulated depreciation and accumulated deferred income taxes, was \$3,108,633,631. In that same testimony, witness Powers projected rate base as of June 30, 2019, at \$3,299,177,177.

In Revised Jayasheela Exhibit I, Schedule 2, and based in part on the testimony of Public Staff witness Feasel and Revised Feasel Exhibit I, Public Staff witness Jayasheela indicates that the Public Staff's projected rate base as of May 31, 2019, was \$3,319,953,794.

On July 29, 2019, and consistent with the reservation reflected in its Application, Piedmont filed its June Updates. These June Updates were supported by concurrently filed supplemental testimony of Piedmont witnesses Powers and Couzens. In the supplemental testimony of witness Powers on Exhibit\_(PKP-1 Updated), she testified that Piedmont's actual rate base at June 30, 2019, was \$3,364,074,164, consisting of plant in service of \$5,524,939,964, plus an allowance for working capital of \$197,312,173, less accumulated depreciation of (\$1,508,506,101) and accumulated deferred income taxes of (\$849,671,872).

In the Stipulation, as reflected on Exhibit A and in Paragraph 5 thereof, the Stipulating Parties agreed that the Company's rate base for purposes of this proceeding should be \$3,450,610,950, consisting of plant in service of \$5,516,373,281, plus an allowance for working capital of \$52,477,941 and deferred regulatory assets of \$135,551,187, less accumulated depreciation of (\$1,520,637,505), other working capital of (\$6,264,000), and accumulated deferred income taxes of (\$726,859,954).

In her settlement testimony, witness Powers testified that the primary adjustments impacting rate base reflected in the Stipulation are an increase to accumulated depreciation that aligns with the stipulated going-level of depreciation expense associated with plant in service as of June 30, 2019, adjustments to working capital to align with the stipulated treatment of regulatory assets and liabilities, and adjustments to accumulated

deferred income taxes to align with the stipulated flowback of EDIT, which impacts both rate base and EDIT as a regulatory liability. Witness Powers also testified that the stipulated rate base was adjusted to address the updated depreciation expense and to adopt the revised depreciation rates and reallocations of book reserves reflected in the depreciation study while also reflecting the cost of service impacts of the reallocation of the reserve accounts related to the NC direct and corporate allocated general plant accounts.

The only other party that presented evidence on Piedmont's rate base was the Public Staff through its witnesses Feasel and Jayasheela in direct testimony filed on July 19, 2019, prior to entering the Stipulation on August 12, 2019.

The amounts shown on Schedule I attached hereto are the result of negotiated adjustments to the Company's June Updates position and were agreed to by the Stipulating Parties in this docket, as described in the Stipulation and the supplemental testimony and settlement testimony of witness Powers. The primary difference between Piedmont's June Updates rate base numbers and the Stipulation relate to the treatment of regulatory assets and liabilities, including liabilities arising out of the Tax Act, and changes to State corporate income tax rates. Under the Stipulation, the Stipulating Parties agreed to a substantially accelerated flowback of amounts owed to customers under the Tax Act and State EDIT and a slower recovery of regulatory assets as compared to the Company's original proposal. These are both tangible benefits to Piedmont's customers though they also have the incidental effect of increasing Piedmont's rate base.

The Commission has carefully reviewed these amounts and all record evidence relating to the Company's rate base. The Commission has considered the benefits of the Stipulation as a whole to customers in its treatment of rate base, deferred regulatory assets, and regulatory liabilities. In light of the support for the Stipulation by the majority of parties to this proceeding, and the absence of any evidence challenging the stipulated rate base or any of the respective components thereof, the Commission concludes that the stipulated rate base and components thereof are just and reasonable and appropriate for use in this proceeding.

### **EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 21-23**

The evidence supporting these findings of fact and conclusions is set forth in the Stipulation, the Company's Application, the Company testimony and exhibits of the witnesses including the settlement testimony of Piedmont witness Powers, the Public Staff testimony and exhibits of its witnesses, and the entire record in this proceeding.

The end-of-test period annual margin revenues under the Company's present and stipulated proposed rates are set forth in Paragraph 6 and Exhibit A to the Stipulation. The amounts shown on Exhibit A to the Stipulation are the result of negotiations among the Stipulating Parties in this docket following an extensive audit of the Company's filed case by the Public Staff and are described in the Stipulation and the settlement testimony of Piedmont witness Powers. The stipulated margin revenues represent a reduction of

approximately \$34.8 million from the margin revenues contained in Piedmont's June Updates filing, as shown on Schedule 2 attached hereto.

Except for the positions taken by other parties on the stipulated capital structure, rate of return on equity, and the EDIT rider amortization periods that may challenge the stipulated margin revenue increase, no other party except the Public Staff submitted evidence on the Company's revenues, and the stipulated revenues.

The Company's annual operating expenses of \$403,279,191, under present rates, including the settlement adjustments which includes investment currently consumed through depreciation, plus the interest on customers' deposits of \$796,448 that are subtracted from margin revenues to arrive at net operating income for return under present rates, are set forth in Paragraph 6 and Exhibit A to the Stipulation and reflected on Schedule 1 attached hereto. This amount includes, among others, the individual adjustments described in Paragraphs 12-15 and 18-20 of the Stipulation and in the settlement testimony of Piedmont witness Powers. These adjustments as shown on Settlement Exhibit\_(PKP-1) and on Schedule 2 attached hereto, include: (a) an adjustment of (\$1,364,212) for non-utility operations; (b) an adjustment of (\$422,000) to Board of Directors expense; (c) adjustments to compensation related expenses of (\$169,581) for payroll, (\$844,683) for pension and other benefits, (\$836,922) for employee benefits, (\$1,484,492) for executive compensation, and (\$1,185,815) for incentives; (d) adjustments for miscellaneous expenses such as (\$297,937) for advertising, (\$485,760) for aviation expense, (\$156,536) for lobbying, (\$497,525) for rents, (\$119,152) for sponsorships and donations, (\$635,832) for inflation, and (\$358,102) for miscellaneous general expenses; (e) an adjustment of (\$45,603) for uncollectibles expense; (f) an adjustment to bring the regulatory fee expense to a level based on the current effective rate of 0.13%; and (g) an adjustment to rate case expense of (\$432,430).

The amounts shown on Exhibit A to the Stipulation and the adjustments reflected in Settlement Exhibit\_(PKP-1), are the result of negotiations between the Stipulating Parties in this docket as described in the settlement testimony of witness Powers.

No other party except the Public Staff submitted evidence on the Company's operating expenses or the stipulated operating expenses.

The Commission has carefully reviewed the pro forma margin revenues and operating expenses set forth in the Stipulation, as well as all record evidence relating to pro forma revenues and operating expenses, and concludes based on its own independent judgment that the stipulated pro forma margin annual revenues and operating expenses are reasonable and appropriate for use in this proceeding.

#### **EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 24**

The evidence for this finding of fact and conclusions is contained in the prefiled testimonies of Piedmont witness Sullivan, Public Staff witness Hinton, AGO witness

Woolridge, CUCA witness O'Donnell, and the Stipulation, as well as testimony and exhibits presented at the hearing of this matter.

In his prefiled direct testimony, Piedmont witness Sullivan proposed a capital structure consisting of 52.00% common equity, 47.18% long-term debt at a cost of 4.55%, and 0.82% short-term debt at a cost of 2.82%. As has been consistently the case in prior Piedmont rate cases, the short-term debt figure was calculated based upon Piedmont's gas in storage costs.

Witness Sullivan testified in his direct testimony that Piedmont's capital structure changes over time were based on a variety of factors, including issuances of debt and equity and the accumulation of retained earnings, but that the Company would manage its operations within a reasonable range of the proposed capital structure. Witness Sullivan also testified that the proposed capital structure was reasonable because it balanced risk with cost to customers, would provide Piedmont with an opportunity to compete for capital at reasonable rates, and was generally supportive of Piedmont's ability to reasonably manage its costs of capital.

Finally, witness Sullivan provided examples of Piedmont's anticipated actual capital structure<sup>5</sup> at four points in time differentiated by projected changes in that capital structure resulting from debt and equity transactions of the Company and the accumulated impacts of retained earnings over time. The four dates used by witness Sullivan for this purpose were December 31, 2018, December 31, 2019, June 30, 2020, and December 31, 2020. At the first of these dates, December 31, 2018, which was the end of the test period in this proceeding, Piedmont's actual capital structure was 53.43% equity, 45.56% long-term debt, and 1.01% short-term debt. At December 31, 2019, witness Sullivan projected a capital structure of 50.09% equity, 49.09% long-term debt, and 0.82% short-term debt. At June 30, 2020, witness Sullivan projected a capital structure of 53.31% equity, 45.87% long-term debt, and 0.82% short-term debt. And finally, at December 31, 2020, witness Sullivan projected that Piedmont's capital structure would be 51.25% equity, 47.99% long-term debt, and 0.76% short-term debt. These projections as to Piedmont's anticipated actual capital structure are set forth on Exhibit JLS-1.

At the hearing of this matter, witness Sullivan provided additional testimony concerning the reasons causing Piedmont's actual capital structure to vary over time, specifically identifying equity injections, seasonality of earnings, debt issuances, and inventories.

In his direct testimony, Public Staff witness Hinton recommended a capital structure for Piedmont consisting of 49.21% equity, 49.94% long-term debt at a cost of 4.41%, and 0.85% short-term debt at a cost of 2.72%. Witness Hinton's analysis of Piedmont's capital structure was based upon his calculation of a 13-month average of equity, long-term debt, and gas inventory costs from May, 2018 through May, 2019. His

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<sup>5</sup> Piedmont's anticipated actual capital structure includes a proxy for short-term debt as proposed in the testimony of Piedmont witness Sullivan and Public Staff witness Hinton.

projected costs of debt were based upon his calculation of Piedmont's actual long-term debt costs at May 31, 2019, and a 13-month average of Piedmont's short-term debt costs at May 31, 2019.

In his direct testimony, AGO witness Woolridge recommended a capital structure consisting of 50.00% equity, 49.15% long-term debt at a cost of 4.55%, and 0.85% short-term debt at a cost of 2.82%. Witness Woolridge relied on various inputs to calculate this capital structure, including average capital structures of comparable companies but adopted the Company's proposed debt cost rates for purposes of his testimony. In his direct testimony, witness Woolridge also proposed an alternative capital structure of 52.00% equity, 47.18% long-term debt at a cost of 4.55%, and 0.82% short-term debt at a cost of 2.82%, but recommended a lower proposed return on common equity for that structure. Witness Woolridge's proposal in this regard will be discussed later as part of the Commission's consideration of the proper rate of return on equity for Piedmont in this proceeding.

In his direct testimony, CUCA witness O'Donnell accepted Piedmont's proposed capital structure of 52.00% equity, 47.18% long-term debt, and 0.85% short-term debt.

In the Stipulation, Piedmont, the Public Staff, CUCA, and CIGFUR IV agreed that the capital structure appropriate for use in this proceeding is 52.00% equity, 47.15% long-term debt at a cost of 4.41%, and 0.85% short-term debt at a cost of 2.72%.<sup>6</sup>

In his settlement testimony, filed in support of the Stipulation, Public Staff witness Hinton explained some of the factors underlying the difference between his original proposed capital structure and the capital structure reflected in the Stipulation. He also stated that in the context of settlements, parties sometimes agree to individual adjustments, structures, or costs as part of a whole agreement, when those adjustments, structures, or costs might not be acceptable to them in isolation. Witness Hinton also testified that it was his view that given the benefits of the settlement as a whole, he believed the cost of capital components of the settlement were a reasonable resolution of otherwise contentious issues. Witness Hinton also testified that the stipulated capital structure was supported by the fact that the average equity ratio approved for natural gas utilities over the period January 1, 2016, through June 30, 2019, was 51.47% nationally and that the Commission's recent rate case orders for natural gas and electric utilities were consistent with a 52.00% equity ratio for Piedmont in this rate case.

At the hearing of this matter, witness Woolridge clarified that his capital structure recommendation was based largely on the published average structures of his comparable companies and was not an attempt to calculate an actual capital structure for Piedmont. Witness Woolridge also acknowledged that he had no basis upon which to challenge witness Sullivan's representations regarding the planned issuances of debt and equity by the Company or their effect on its capital structure. Evidence presented on cross-examination by Piedmont also tended to show that the average equity ratio

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<sup>6</sup> The debt costs reflected in the Stipulation were those recommended by Public Staff witness Hinton in his direct testimony.

approved by this Commission during the last 10 years for natural gas and electric companies was slightly above 52.00% and that the most recent equity ratios approved by this Commission in 2018 for Piedmont's sister utilities, DEC and DEP, were also 52.00%. Witness Woolridge also acknowledged that the stipulated equity ratio of 52.00% was consistent with prior decisions of this Commission as reflected on Exhibit JLS-4. On cross-examination, witness Woolridge acknowledged that capital structure trends for natural gas utilities as reported by Regulatory Research Associates (RRA) for the first six months of 2019 showed increasing equity levels, and that the average allowed equity ratio in the first six months of 2019 was 54.60%.

Capital structure is one of only four contested issues in this docket, and the disagreement on capital structure, which persists only with the AGO, relates solely to the appropriate equity band for use in setting rates hereunder. In evaluating the evidence on capital structure in this proceeding, the Commission first notes that the ranges of proposed equity and debt ratios and debt costs are fairly narrow. Moreover, the equity/debt ratios reflected in the Stipulation of 52.00% equity and of 47.15% long-term debt are consistent with and well within the prior experience of the Commission. These are not determinative factors from the Commission's perspective but they do provide some context supporting the reasonableness of the stipulated capital structure.

Based upon its own review and independent analysis of the evidence, the Commission concludes that a capital structure of 52.00% equity, 47.15% long-term debt at a cost of 4.41%, and 0.85% short-term debt at a cost of 2.72%, as is reflected in the Stipulation, is just and reasonable and appropriate for use in this proceeding on several grounds.

First, this capital structure is very close to the capital structure initially proposed by the Company in this proceeding. Second, as testified to by Piedmont witness Sullivan, it is reflective of the actual experience and planned capitalization of the Company from December 31, 2018, through December 31, 2020. Third, this capital structure was accepted by CUCA witness O'Donnell in his direct testimony. Fourth, while the Commission recognizes that Public Staff witness Hinton recommended a lower equity component in his original testimony, his settlement testimony makes clear that the primary differences between his calculation of an equity band and the Company's calculation are differences in methodology. Furthermore, his settlement testimony is unequivocal in its opinion that the stipulated capital structure is reasonable for use in this proceeding. Fifth, the Commission does not find witness Woolridge's testimony on capital structure compelling primarily because it proposes what is essentially a proxy capital structure for Piedmont based upon his list of comparable companies. The Commission sees no compelling reason to rely on a complete proxy capital structure in this case. Instead, the Commission determines that it is appropriate in these circumstances to rely on the evidence attesting to Piedmont's capital structure provided by witness Sullivan and the Stipulation. Accordingly, based on the matters set forth above, and in the exercise of its independent judgment, the Commission finds that the weight of the evidence in this proceeding favors using the stipulated capital structure and that such capital structure is just, reasonable, and appropriate for use in setting rates in this docket.



## EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 25-29

The evidence for these findings is contained in the Application, the direct testimony of witnesses Hevert, Hinton, Woolridge, O'Donnell, Phillips, and Barkley, the Stipulation, the testimony of public witnesses, and the settlement and/or rebuttal testimony of witnesses Hevert, Hinton, and Barkley, and finally in the hearing testimony of witnesses Powers, Hevert, and Woolridge.

Return on equity is the second of four contested issues in this proceeding (the other three being capital structure, amortization of the Tax Act related regulatory liabilities, and the development of a volumetric based usage rate in special contracts to provide for system support). The Stipulating Parties all agree that an allowed rate of return on equity of 9.70% is reasonable for use in this proceeding. The AGO, which is the only party advocating for a different rate of return on equity, proposes two options for the Commission to consider: (1) an 8.70% rate of return on equity if the equity component of the capital structure is 52.00%, or (2) a 9.00% rate of return on equity if the equity component of the capital structure is 50.00%. The Commission's consideration of the evidence and decision on this issue is set out below and is organized into three sections. The first is a summary of the record evidence on rate of return on equity. The second is a summary of the law applicable to the Commission's decision on rate of return on equity. The third, is an application of the law to the evidence and a discussion and explanation of the Commission's ultimate decision on rate of return on equity.

### I. Summary of Record Evidence on Return on Equity

In its Application, the Company requested approval for its rates to be set using an overall rate of return of 7.68% and a rate of return on equity of 10.60%. This request was based upon and supported by the direct testimony of Piedmont witness Hevert. These rates of return compare to an overall return of 7.51% and rate of return on equity of 10.00% underlying Piedmont's current rates.<sup>7</sup> Other witnesses for the Public Staff, the AGO, CUCA, and CIGFUR IV also filed direct testimony on the appropriate rate of return on equity. This evidence was followed by the Stipulation and by rebuttal testimony filed by witness Hevert, and also settlement testimony filed by witness Hevert and Public Staff witness Hinton, and finally by testimony at the hearing of this matter. In addition to this expert testimony, the Commission received the testimony of a number of public witnesses on Piedmont's proposed rate increase as well as numerous statements of consumer position in response to which Piedmont witness Barkley provided rebuttal testimony. All of this evidence is summarized below.

#### Direct Testimony of Robert B. Hevert (Piedmont)

Company witness Hevert's direct testimony recommends a rate of return on equity within the range of 10.00% to 11.00%. In his direct testimony he indicates that because all models are subject to various assumptions and constraints, equity analysts and

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<sup>7</sup> Order Approving Partial Rate Increase and Allowing Integrity Management Rider, Docket No. G-9, Sub 631 (December 17, 2013) (rates effective January 1, 2014).

investors tend to use multiple methods to develop their return requirements. For this reason, he applied the following four accepted approaches to develop his rate of return on equity recommendation: (1) the Constant Growth form of the DCF model; (2) the Capital Asset Pricing Model (CAPM) model; (3) the Bond Yield Plus Risk Premium approach; and (4) the Expected Earnings analysis. According to witness Hevert, those analyses indicate that the Company's cost of equity is in the range of 10.00% to 11.00%.

Witness Hevert also testified that he considered factors including Piedmont's capital spending plan and regulatory recovery mechanisms; evolving capital market and business conditions, including changes in federal monetary policy; increases in current and projected government bond yields on the utility industry; and the calculated cost of issuing additional shares of common stock. Although witness Hevert did not make explicit adjustments to his return on equity estimates, he considered these factors in determining where the Company's cost of equity falls within his range of analytical results.

In his testimony, witness Hevert emphasized that his analyses recognize that estimating the cost of equity is an empirical, but not an entirely mathematical exercise; it relies on both quantitative and qualitative data and analyses, all of which are used to inform the judgment that inevitably must be applied. Thus, witness Hevert considered his analytical results in the context of Company-specific and general capital market factors such as those noted above. Based on his quantitative and qualitative analyses, he concluded that 10.60% was a reasonable and appropriate estimate of the Company's cost of equity in this proceeding.

#### Direct Testimony of John R. Hinton (Public Staff)

In his direct testimony, Public Staff witness Hinton testified as to the fair rate of return to be used in establishing Piedmont's rates. To determine the cost of common equity for Piedmont, witness Hinton used a discounted cash flow (DCF) model and a regression analysis of approved returns for LDCs to determine the cost of equity. He also used a Comparable Earnings Analysis and a CAPM as a check on the results of his DCF analysis and his Regression Analysis of Approved Equity Returns. Public Staff witness Hinton disagreed with witness Hevert's exclusive use of forecasted earnings per share in the DCF model, and his estimate of the expected market return and the market premium used in his CAPM. According to witness Hinton, the results of his DCF analysis indicated a cost of equity ranging from 9.25% using historical growth rate to 8.63% using predicted growth rates, and to 9.00% based on an average of all of the growth rates. Hinton combined these results with a Regression Analysis result that indicates a cost of equity of 9.64%. The average of the four estimates produces an average cost of equity of 9.13%, which is central to a range of cost of equity estimates ranging from 8.63% to 9.64%. He concludes that 9.13% is his "single best estimate of the Company's cost of common equity." (Tr. Vol. 6, p. 154)

In assessing the reasonableness of his recommended return, Public Staff witness Hinton also considered: 1) Piedmont's credit quality; 2) the continued role of the Company's IMR mechanism in reducing regulatory lag; 3) the role the Company's MDT

has played in stabilizing the residential and small commercial customers revenue on the Company's earnings; and 4) the impact of changing economic circumstances.

#### Direct Testimony of J. Randall Woolridge (AGO)

In his direct testimony, AGO witness Woolridge recommends authorizing a 9.00% rate of return on equity even though his analyses indicates that a return on equity of between 7.60% and 8.70% is appropriate. According to witness Woolridge, his recommendation is 30 basis points higher than his range to reflect a small increase in risk associated with his adjustment of the proposed equity capital structure. His recommendations produce an overall rate of return for debt and equity capital of 6.76%. AGO witness Woolridge also provides an alternative recommendation that would apply if Piedmont's proposed 52.00% common equity capital structure were allowed. In that case, Woolridge recommends that the rate of return on equity be fixed at 8.70%, resulting in an overall rate of return of 6.69%.

In reaching these recommendations, witness Woolridge performed two studies using the same proxy group of natural gas utilities that Piedmont's witness Hevert used. He used a traditional constant-growth discounted cash flow model, which estimates the cost of equity by assuming the stock's dividend yield and investors' expected long-run growth rate for dividends per share and a Capital Asset Pricing Model, which requires an estimate of the risk-free interest rate, the beta (reflecting the risk particular to the particular companies used as comparable investments), and the market or equity risk premium (market risk premium).

Witness Woolridge testified that the reasonableness of his recommendation is supported by historically low interest rates and costs of capital, and by declining authorized rates of return on common equity for natural gas utilities. Witness Woolridge testified that Piedmont witness Hevert recommends a much higher rate of return on common equity due to multiple errors that skew his analyses. Specifically, witness Woolridge offers the opinion that witness Hevert assumes, without support, that interest rates and the cost of capital will increase. Witness Woolridge also criticizes the fact that witness Hevert's DCF analysis relies exclusively on what witness Woolridge testifies are overly optimistic and upwardly biased earnings per share growth rate forecasts, without consideration of other measures of growth. Finally, witness Woolridge testified that Hevert's Capital Asset Pricing Model uses an excessive risk-free interest rate and a range of market risk premiums of 10.65% to 13.77% that reflect unrealistic assumptions about future long-term economic earnings growth and stock returns.

With respect to economic conditions in North Carolina and in Piedmont's service territory, witness Woolridge concluded that the higher level of natural gas residential rates in North Carolina, coupled with a lower level of household income in the State and a higher level of unemployment in Piedmont's service territory suggest that affordability can be an issue for an essential utility service such as natural gas.

#### Direct Testimony of Kevin W. O'Donnell (CUCA)

In his direct testimony, CUCA witness O'Donnell recommended that Piedmont be awarded a 9.00% rate of return on equity, which is slightly above the midpoint of the DCF results for the proxy group (7.60%-9.60%), well above the CAPM results (5.50%-7.50%), and at the low end of his Comparable Earnings results (9.00%-10.00%). O'Donnell contended that Piedmont's requested return on equity is excessive and unwarranted given the current financial market conditions, and that it does not comport with the current economic reality facing investor-owned utilities. He alleged that the models and inputs used by Company witness Hevert to determine Piedmont's cost of equity are biased to artificially inflate his return on equity results.

Witness O'Donnell also testified that Piedmont's return on equity request (10.60%) was inappropriate in light of the change in the cost of capital since the Company's last rate case. Even though the cost of debt financing has fallen over 130 basis points and the Dow has nearly doubled since the Company's last rate case, Piedmont's requested 10.60% rate of return on equity does not take into account the lower expected return on utility investments.

#### Direct Testimony of Nicholas Phillips, Jr. (CIGFUR IV)

In his direct testimony, witness Phillips offered the opinion that Piedmont's proposed return on equity of 10.60% was excessive and that its allowed return on equity in this proceeding should be capped at 9.55% because that was the average rate of return on equity approved for natural gas LDCs in the first quarter of 2019 as reported by RRA. Witness Phillips did not support this opinion with an economic and financial analysis. Witness Phillips further opined that the Commission also should consider the IMR, and any other mechanisms, which provide Piedmont with additional cost recovery outside of a base rate case in setting a reasonable rate of return on equity.

#### Rebuttal Testimony of Robert B. Hevert (Piedmont)

In his rebuttal testimony, Company witness Hevert responded to the direct testimony of witness Woolridge. His testimony also updated many of the analyses contained in his direct testimony, and provided several additional analyses developed in response to witness Woolridge. The areas in which witness Hevert disagrees with witness Woolridge include: (1) the overall reasonableness of witness Woolridge's return on equity recommendation; (2) witness Woolridge's application of the Constant Growth DCF model; (3) witness Woolridge's application of the CAPM; (4) the reasonableness of the Bond Yield Plus Risk Premium analysis; (5) witness Woolridge's position that the Expected Earnings approach is not an accurate measure of investor expectations; (6) the relevance of Market-to-Book (M/B) ratios in determining return on equity; (7) witness Woolridge's position that the Company is less risky than its peers; (8) the application of a flotation cost adjustment; and (9) the risks associated with the Company's projected capital expenditures.

Witness Hevert's rebuttal testimony also explains why, in his view, witness Woolridge's 9.00% or 8.70% rate of return on equity recommendations are not consistent with returns recently authorized in North Carolina. In this regard, witness Hevert noted that the lowest authorized return for a natural gas utility in a base rate case by this Commission was 9.70%. He noted that witness Woolridge's recommendation is 100 basis points below 9.70% and that the low end of witness Woolridge's range is 210 basis points below that level. Witness Hevert contended that witness Woolridge has provided no evidence to support the conclusion that the Company is so less risky than its peers that investors would accept a return 70 to 210 basis points below those authorized by the Commission.

Witness Hevert also noted that although he and witness Woolridge review similar data and come to similar conclusions regarding economic conditions in North Carolina, Hevert has some concerns with witness Woolridge's assessment of the effect of his return on equity recommendation on the Company's revenue requirement.

In sum, witness Hevert disagreed with witness Woolridge's reliance on the Constant Growth Discounted Cash Flow method which results in rates of return on equity that fall well below returns recently authorized for other natural gas utilities. His rebuttal testimony explains that a more robust approach is to consider multiple methods, such as the Constant Growth Discounted Cash Flow, Capital Asset Pricing Model, Risk Premium, and Expected Earnings methods. Witness Hevert's view is that the Commission's practice is to consider multiple methods, and to give less weight to models that produce unduly low (or high) results. He contended this practice should be maintained in this proceeding.

#### Stipulation

In the Stipulation, Piedmont, the Public Staff, CUCA, and CIGFUR IV all agreed that the appropriate overall rate of return and rate of return on equity for use in this proceeding were 7.14% and 9.70% respectively. This agreement represents substantial movement by the various parties from the positions on overall return and return on equity articulated in testimony. This stipulated overall return of 7.14% and return on equity of 9.70% was supported by settlement testimony filed by Public Staff witness Hinton and Company witness Hevert. The overall reasonableness of the stipulated rates of return is also addressed by Piedmont witness Powers in her settlement testimony.

#### Settlement Testimony of John R. Hinton (Public Staff)

In his settlement testimony, Public Staff witness Hinton testified that, pursuant to the Stipulation, the Stipulating Parties had agreed to an overall rate of return on investment of 7.14%, which included a return on equity of 9.70% and the long and short-term debt rates recommended in his direct testimony. After noting that settlements often contain compromises from the various parties' litigation positions, and that this settlement was the same, witness Hinton indicated his belief that the stipulated rate of return on equity of 9.70% was reasonable. In this regard, he noted that the stipulated rate of return on equity was only slightly above the top end of his range of 8.63% to 9.64%

and also noted that the gap between 9.64% and 9.70% came at a cost of only \$1.4 million whereas the move from the bottom end of Company witness Hevert's range (10.00%) to the stipulated rate of return on equity of 9.70% equated to a \$7.1 million savings to customers. Witness Hinton also testified that the stipulated rate of return on equity was consistent with the average rate of return on equity granted by State Public Service Commissions during the first half of 2019 as reported by RRA and was also consistent with existing allowed rates of return approved by the Commission for other North Carolina gas (9.70%) and electric utilities (9.90%) (including a premium on electric utility rates of return). Finally, witness Hinton testified that the stipulated rate of return on equity, and the entire stipulated capital structure, represented a reasonable compromise of the respective parties' positions on return and capital structure.

#### Settlement Testimony of Robert B. Hevert (Piedmont)

In his settlement testimony, Company witness Hevert testified in support of the stipulated rate of return on equity of 9.70%. He stated that although the stipulated 9.70% rate of return on equity is somewhat below the lower bound of his recommended range, he understands that the Stipulation reflects negotiations among the Stipulating Parties regarding multiple issues and notes that the stipulated rate of return on equity generally is within the ranges of analytical results presented in his direct and rebuttal testimonies.

Witness Hevert also testified that it remains his position that in a fully litigated proceeding, 10.00% to 11.00% represents an appropriate and defensible range of the Company's cost of equity. Nonetheless, he recognized the benefits associated with the Company's decision to enter into the Stipulation. On balance, witness Hevert testified that the stipulated rate of return on equity is a reasonable resolution of a complex, and frequently contentious issue.

#### Settlement Testimony of Pia K. Powers (Piedmont)

In her settlement testimony, Piedmont witness Powers supported the reasonableness of the stipulated rate of return on equity by comparing it to Piedmont's requested rate of return on equity of 10.60% and its current allowed rate of return on equity of 10.00%, and to PSNC's current allowed rate of return on equity of 9.70%, and finally to the most recently litigated rate of return on equity in North Carolina granted to Carolina Water Service, Inc. of 9.75%.<sup>8</sup>

#### Hearing Testimony of Randall J. Woolridge (AGO)

At the hearing of this matter, witness Woolridge responded to a number of questions on cross-examination that provided more context to his recommendations and the reasonableness of the stipulated rate of return on equity. Witness Woolridge testified that his early work experience included employment as a Professor at Penn State and work as a consultant providing economic analysis, often in the context of utility rate cases

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<sup>8</sup> Order Approving Joint Partial Settlement Agreement and Stipulation, Granting Partial Rate Increase, and Requiring Customer Notice, Docket No. W-354, Sub 360 (February 2, 2019).

and often with respect to determining the appropriate rate of return on equity for regulated utilities. Witness Woolridge testified that his current work as a consultant often involves the preparation of economic and financial models such as Discounted Cash Flow, CAPM, and Comparable Earnings analyses and that it is not unusual for other consulting experts to submit similar analyses in the cases in which he is involved. Witness Woolridge also testified that it is frequently the case that the various economic and financial models presented by consulting experts often disagree with one another and that those disagreements often involve application of varying versions of the standard economic and financial models used to analyze cost of capital, or variations in the inputs selected for those models. As witness Woolridge put it “there’s judgment in everything we do. Which models we use, what inputs we use, what are reasonable inputs.” (Tr. Vol. 5, p. 289)

Witness Woolridge also recognized that, while the economic and financial models presented to the Commission by the various consulting experts in this case are important evidence of the appropriate cost of capital for Piedmont, the matter of selecting the appropriate return on equity is a matter within the Commission’s discretion and that the Commission may rely on factors beyond the economic and financial models, including the Stipulation in this case, in making such selection.

At the hearing, witness Woolridge also clarified that based upon a stipulated equity ratio of 52.00%, his rate of return on equity recommendation to the Commission in this case was 8.70%. He also acknowledged that the four factors he stated supported his rate of return on equity recommendation in his direct testimony, consisting of historically low interest rates, low risk of the natural gas industry, consistency between Piedmont’s risk profile and the risk profile of his comparable group, and declining rates of allowed return on equity, were also applicable to his comparable group, and that the average earned return on equity for the comparable group was 9.70%.

Witness Woolridge then reviewed a summary of major natural gas and electric rate decisions by this Commission over the last 10 years. That summary, reflected in Exhibit JLS-4, revealed that a rate of return on equity of 9.70%, as agreed to in the Stipulation, was equal to the current rate of return on equity for PSNC, was the lowest rate of return on equity that had been allowed for a major North Carolina utility in the last decade, and was 30 basis points below Piedmont’s current allowed rate of return on equity of 10.00%. Witness Woolridge also acknowledged that Exhibit JLS-4 indicated that the largest single differential in rates of return on equity in sequential rate cases reflected on the Exhibit was 30 basis points but that his recommended rate of return on equity of 8.70% would represent a differential of 130 basis points from Piedmont’s current authorized rate of return on equity, which would exceed by 30 basis points the entire 100 basis point differential in returns ordered by this Commission since 2008. Upon questions from Piedmont’s counsel, witness Woolridge could not recall whether he had ever observed a state or federal regulatory commission reduce a utility’s allowed return by 130 points in a single case. Significantly, witness Woolridge did not know if such a reduction would result in a change in credit rating for Piedmont but believed that Piedmont would be in a position to compete for capital with his group of comparable companies (whose

average earned rate of return on equity was 9.70%) with an 8.70% allowed return from this Commission.

In reviewing Piedmont Woolridge Cross-Examination Exhibit 2, witness Woolridge indicated that, as reported by S&P Global Market Intelligence, the average reported allowed rate of return on equity for gas distribution companies in the first quarter of 2019 was 9.55% and that the same statistic for the second quarter of 2019 was 9.73%. Witness Woolridge also observed that none of the companies in his comparables group were represented in the first quarter results but that Atmos Energy, a member of his comparables group, was represented in second quarter results for its primary jurisdiction in Texas.

On cross-examination, witness Woolridge also acknowledged familiarity with Piedmont Woolridge Cross-Examination Exhibit 3, which was an S&P Global Market Intelligence (RRA) summary of major rate case decisions for the period January through June 2019. That report indicated that “[f]or gas utilities, the median authorized rate of return on equity in the first six months of 2019 was 9.7% versus 9.6% in 2018.” *Id.* at 320. The exhibit also indicated that the average natural gas rate of return on equity in litigated cases for the first six months of 2019 was 9.73% and that the average for all gas rate cases was 9.63%. Finally, witness Woolridge testified on cross-examination that the allowed rates of return on equity reflected in Piedmont Woolridge Cross-Examination Exhibits 1-3 and Exhibit JLS-4, were more consistent with the stipulated rate of return on equity of 9.70% than they were with his recommendation of 8.70%.

#### Hearing Testimony of Pia K. Powers (Piedmont)

At the hearing of this matter, Piedmont witness Powers testified that at Year 1 stipulated rates, Piedmont projects lower residential gas bills for the winter of 2019/2020 (\$508) than were experienced in the winter of 2018/2019 (\$532). Witness Powers also testified that in Year 6, after all of the tax regulatory liabilities have been fully amortized and assuming Piedmont has not been through another rate case by then, the average winter heating bills for residential customers would be \$553.

#### Public Witness Testimony/Statements of Consumer Position

In addition to the direct prefiled testimony of the expert witnesses for the parties, a number of public witnesses also gave testimony suggesting that Piedmont customers would experience difficulty paying the increased rates requested in the Application and opposing the rate increases proposed by Piedmont. The Commission also received numerous statements of consumer position in regards to this docket, many of which expressed concern about Piedmont’s proposed rate increase.

#### Rebuttal Testimony of Bruce P. Barkley (Piedmont)

In his rebuttal testimony, witness Barkley addressed the testimony of public witnesses to the effect that Piedmont’s customers could not afford Piedmont’s proposed



rate increase or that the proposed rate increase was unjustified. In that testimony, witness Barkley acknowledged that some percentage of Piedmont customers would undoubtedly have trouble paying the increased rates Piedmont sought in its Application. Having said that, witness Barkley went on to identify measures undertaken by Piedmont to assist customers having problems in this regard and also noted that Piedmont's annual average residential customer bill has been very stable for the last decade allowing customers to enjoy natural gas service at costs that have not risen materially in that time frame. Witness Barkley also noted that in his opinion, it was understandable that some of the public witnesses did not seem to grasp the complexities of utility ratemaking, but he pointed out that a number of the parties, including the Public Staff, who represents the interests of all the customers, had concluded that the rate increases reflected in the Stipulation were just, reasonable, and appropriate.

Witness Barkley also presented substantial evidence regarding the state of the North Carolina economy, which is strong. This evidence, gathered from a large number of sources tended to show that: (a) North Carolina is experiencing steady job growth as measured by both State and Federal authorities; (b) job postings have grown by a factor of more than 10.00% in the last year; (c) GDP increased by more than 2.00% between the first and second quarter of 2019; (d) in June of 2019, individual disposable income and personal consumption expenditures increased as reported by the Federal Bureau of Economic Analysis; (e) as reported by the same source, wages and salaries increased nationally in both May and June of 2019; (f) personal savings as a percentage of disposable income increased in both the first and second quarters of 2019 at levels above all four quarters in 2018; (g) national housing starts were 6.20% higher in June 2019 compared to June 2018; (h) business investment increased significantly in 2019 over 2018; (i) national magazines continue to rank major metropolitan areas in North Carolina on lists of the best places for business and careers and Forbes recently ranked North Carolina as having the best business climate in the United States citing its low energy, labor, and tax costs; (j) a significant number of corporate projects have been announced for North Carolina in 2019; and (k) North Carolina is enjoying record low unemployment. Witness Barkley also cited to a report published by John Connaughton on May 30, 2019. Mr. Connaughton is an economist and professor at the University of North Carolina – Charlotte, and his report indicates that for 2018 and for the next 18 months, he anticipates a strong and growing economy in North Carolina.

In his rebuttal testimony, witness Barkley also responded to several of witness Woolridge's comments on the affordability of natural gas service in North Carolina and in Piedmont's service territory in particular. Witness Barkley basically indicated that the information provided by witness Woolridge was not sufficient to undertake an evaluation as to whether Piedmont's rates were somehow unaffordable to the average customer because witness Woolridge's testimony did not undertake a comprehensive review of economic conditions facing Piedmont customers but instead focused on only two or three data points.

## Hearing Testimony of Bruce P. Barkley (Piedmont)

At the hearing of this matter, witness Barkley responded to several Commission questions that are relevant to the public witness testimony and the consideration of how the stipulated rate increase would impact Piedmont's customers in light of changing economic conditions. That testimony indicated that during the last 10 years Piedmont has experienced a significant decline in customer disconnections for non-payment.

### II. Law Governing the Commission's Decision on Return on Equity

Rate of return on equity is often one of the most contentious issues to be addressed in a rate case, even in a case such as this one in which a Stipulation between Piedmont, the Public Staff, CUCA, and CIGFUR IV has been reached. In the absence of a settlement agreed to by all the parties, the law of North Carolina requires the Commission to exercise its independent judgment and arrive at its own independent conclusion as to the proper rate of return on common equity. See, e.g., State ex rel. Utils. Comm'n v. Carolina Util. Customers Ass'n, 348 N.C. 452, 466, 500 S.E.2d 693, 707 (1998) (CUCA I). In order to reach an appropriate independent conclusion regarding the rate of return on equity, the Commission must evaluate the available evidence, particularly that presented by conflicting expert witnesses. State ex rel. Utils. Comm'n v. Cooper, 366 N.C. 484, 491-93, 739 S.E.2d 541, 546-47 (2013) (Cooper I). In this case, the expert witness evidence relating to the Company's cost of equity capital was presented by Company witness Hevert, Public Staff witness Hinton, AGO witness Woolridge, CUCA witness O'Donnell, and CIGFUR IV witness Phillips. No return on equity evidence was presented by any other party.

The baseline for establishment of an appropriate rate of return on common equity is the constitutional constraints established by the decisions of the United States Supreme Court in Bluefield Water Works & Improvement Co., v. Pub. Serv. Comm'n of W. Va., 262 U.S. 679 (1923) (Bluefield), and Fed. Power Comm'n v. Hope Natural Gas Co., 320 U.S. 591 (1944) (Hope) which establish that:

To fix rates that do not allow a utility to recover its costs, including the cost of equity capital, would be an unconstitutional taking. In assessing the impact of changing economic conditions on customers in setting an ROE [rate of return on equity], the Commission must still provide the public utility with the opportunity, by sound management, to (1) produce a fair profit for its shareholders, in view of current economic conditions, (2) maintain its facilities and service, and (3) compete in the marketplace for capital.

Order Accepting Stipulation, Deciding Contested Issues, and Requiring Revenue Reduction, Docket No. E-7, Sub 1146, p. 50 (June 22, 2018). See also State ex rel. Utils. Comm'n v. General Telephone Co. of the Southeast, 281 N.C. 318, 370, 189 S.E.2d 705, 738 (1972). As the North Carolina Supreme Court held in General Telephone, these factors constitute "the test of a fair rate of return declared" in Bluefield and Hope. Id.

It is also important for the Commission to keep in mind that the rate of return on equity is, in fact, a cost. The return that equity investors require represents the cost to the utility of equity capital. In his dissenting opinion in Missouri ex rel. Southwestern Bell Tel. Co. v. Missouri Pub. Serv. Comm'n, 262 U.S. 276 (1923), Justice Brandeis remarked upon the lack of any functional distinction between the rate of return on equity (which he referred to as a “capital charge”) and other items ordinarily viewed as business costs, including operating expenses, depreciation, and taxes:

Each is a part of the current cost of supplying the service; and each should be met from current income. When the capital charges are for interest on the floating debt paid at the current rate, this is readily seen. But it is no less true of a legal obligation to pay interest on long-term bonds. . . and it is true also of the economic obligation to pay dividends on stock, preferred or common.

Id. at 306. (Brandeis, J. dissenting) (emphasis added). Similarly, the United States Supreme Court observed in Hope, “From the investor or company point of view it is important that there be enough revenue not only for operating expenses but also for the capital costs of the business . . . [which] include service on the debt and dividends on the stock.” Hope, 320 U.S. at 591, 603.

Leading academic commentators also define rate of return on equity as the cost of equity capital. Professor Charles Phillips, for example, states that “the term ‘cost of capital’ may be defined as the annual percentage that a utility must receive to maintain its credit, to pay a return to the owners of the enterprise, and to ensure the attraction of capital in amounts adequate to meet future needs.” Phillips, Charles F., Jr., The Regulation of Public Utilities (Public Utilities Reports, Inc. 1993), at 388. Professor Roger Morin approaches the matter from the economist’s viewpoint:

While utilities enjoy varying degrees of monopoly in the sale of public utility services, they must compete with everyone else in the free open market for the input factors of production, whether it be labor, materials, machines, or capital. The prices of these inputs are set in the competitive marketplace by supply and demand, and it is these input prices which are incorporated in the cost of service computation. This is just as true for capital as for any other factor of production. Since utilities must go to the open capital market and sell their securities in competition with every other issuer, there is obviously a market price to pay for the capital they require, for example, the interest on capital debt, or the expected return on equity.

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[T]he cost of capital to the utility is synonymous with the investor’s return, and the cost of capital is the earnings which must be generated by the investment of that capital in order to pay its price, that is, in order to meet the investor’s required rate of return.

Morin, Roger A., Utilities' Cost of Capital (Public Utilities Reports, Inc. 1984), at 19-21 (emphasis added). Professor Morin adds:

The important point is that the prices of debt capital and equity capital are set by supply and demand, and both are influenced by the relationship between the risk and return expected for those securities and the risks expected from the overall menu of available securities.

Id. at 20.

In addition, the Commission is and must always be mindful of the North Carolina Supreme Court's command that the Commission's task is to set rates as low as possible consistent with the dictates of the United States and North Carolina Constitutions. State ex rel. Utils. Comm'n v. Pub. Staff-N. Carolina Utils. Comm'n, 323 N.C. 481, 490, 374 S.E.2d 361, 370 (1988) (Public Staff). Further and echoing the discussion above concerning the fact that rate of return on equity represents the cost of equity capital, the Commission must execute the Supreme Court's command "irrespective of economic conditions in which ratepayers find themselves." 2013 DEP Rate Order, at 37. The Commission noted in that Order:

The Commission always places primary emphasis on consumers' ability to pay where economic conditions are difficult. By the same token, it places the same emphasis on consumers' ability to pay when economic conditions are favorable as when the unemployment rate is low. Always there are customers facing difficulty in paying utility bills. The Commission does not grant higher rates of return on equity when the general body of ratepayers is in a better position to pay than other times, which would seem to be a logical but misguided corollary to the position the Attorney General advocates on this issue.

Id. Indeed, in Cooper I the Supreme Court emphasized "changing economic conditions" and their impact upon customers. Cooper I, 366 N.C. at 484, 739 S.E.2d at 548.

The Commission further noted in the 2013 DEP Rate Order that:

While there is no specific and discrete numerical basis for quantifying the impact of economic conditions on customers, the impact on customers of changing economic conditions is embedded in the rate of return on equity expert witnesses' analyses. The Commission noted this in the 2013 DEP Rate Order: "This impact is essentially inherent in the ranges presented by the return on equity expert witnesses whose testimony plainly recognizes economic conditions – through the use of economic models – as a factor to be considered in setting rates of return."

2013 DEP Rate Order, at 38.

Finally, under long-standing decisions of the North Carolina Supreme Court, the Commission's subjective judgment is a necessary part of determining the authorized rate of return on equity. Public Staff, 323 NC at 490, 374 S.E.2d at 369. As the Commission has previously noted:

Indeed, of all the components of a utility's cost of service that must be determined in the ratemaking process, the appropriate ROE is the one requiring the greatest degree of subjective judgment by the Commission. Setting an ROE for regulatory purposes is not simply a mathematical exercise, despite the quantitative models used by the expert witnesses. As explained in one prominent treatise,

Throughout all of its decisions, the [United States] Supreme Court has formulated no specific rules for determining a fair rate of return, but it has enumerated a number of guidelines. The Court has made it clear that confiscation of property must be avoided, that no one rate can be considered fair at all times and that regulation does not guarantee a fair return. The Court also has consistently stated that a necessary prerequisite for profitable operations is efficient and economical management. Beyond this is a list of several factors the commissions are supposed to consider in making their decisions, but no weights have been assigned.

The relevant economic criteria enunciated by the Court are three: financial integrity, capital attraction and comparable earnings. Stated another way, the rate of return allowed a public utility should be high enough: (1) to maintain the financial integrity of the enterprise, (2) to enable the utility to attract the new capital it needs to serve the public, and (3) to provide a return on common equity that is commensurate with returns on investments in other enterprises of corresponding risk. These three economic criteria are interrelated and have been used widely for many years by regulatory commissions throughout the country in determining the rate of return allowed public utilities.

In reality, the concept of a fair rate of return represents a "zone of reasonableness." As explained by the Pennsylvania commission:

There is a range of reasonableness within which earnings may properly fluctuate and still be deemed just and reasonable and not excessive or extortionate. It is bounded at one level by investor interest against confiscation and the

need for averting any threat to the security for the capital embarked upon the enterprise. At the other level it is bounded by consumer interest against excessive and unreasonable charges for service.

As long as the allowed return falls within this zone, therefore, it is just and reasonable. . . . It is the task of the commissions to translate these generalizations into quantitative terms.

Charles F. Phillips, Jr., The Regulation of Public Utilities, 3d ed. 1993, pp. 382. (notes omitted).

Order Granting General Rate Increase, Docket No. E-2, Sub 1023 (May 30, 2013) at 35-36.

Moreover, the North Carolina Supreme Court has interpreted N.C. Gen. Stat. § 62-133 as requiring the Commission to make findings regarding the impact of changing economic conditions on customers when determining the proper rate of return on equity for a public utility. Cooper I, at 495, 739 S.E.2d at 548. The Commission must exercise its subjective judgment so as to balance two competing rate of return on equity-related factors—the economic conditions facing the Company’s customers and the Company’s need to attract equity financing in order to continue providing safe and reliable service. Order Granting General Rate Increase, at 35-36.

In addition to adhering to the broad controlling legal principles on the allowed rate of return discussed above, the Commission must adhere to the multi-element formula set forth in N.C. Gen. Stat. § 62-133 when it sets rates. The rate of return on cost of property element of the formula in N.C. Gen. Stat. § 62-133(b)(4) is a significant, but not an independent element. Each element of the formula must be analyzed to determine the utility’s cost of service and revenue requirement. The Commission must make many subjective decisions with respect to each element in the formula in establishing the rates it approves in a general rate case. The Commission must approve accounting and pro forma adjustments to comply with N.C. Gen. Stat. § 62-133(b)(3) and must approve depreciation rates pursuant to N.C. Gen. Stat. § 62-133(b)(1). The subjective decisions the Commission makes as to each of these elements have multiple and varied impacts on the decisions it makes on other rate-affecting elements, such as the decision it must make on the rate of return on equity.

Pursuant to N.C. Gen. Stat. § 62-133, rates in North Carolina are set based on a modified historic test period.<sup>9</sup> A component of cost of service equally important as the return on investment component is test year revenues.<sup>10</sup> The higher the level of test year revenues the lower the need for a rate increase, all else remaining equal. Historically, and

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<sup>9</sup> N.C. Gen. Stat. § 62-133(c).

<sup>10</sup> N.C. Gen. Stat. § 62-133(b)(3).

in this case, test year revenues are established through resort to regression analysis, using historic rates of revenue growth or decline to determine end of test year revenues. Economic conditions existing during the test year, at the time of the public hearings, and at the date of this Order will affect not only the ability of Piedmont's customers to pay natural gas rates, but also the ability of Piedmont to earn the authorized rate of return during the period rates will be in effect. Thus, in accordance with the above-discussed applicable law, the Commission's duty under N.C. Gen. Stat. § 62-133 is to set rates as low as reasonably possible without impairing the Company's ability to attract investors to raise the capital needed to provide reliable natural gas service and recover its cost of providing service.

In fixing rates, the Commission is also cognizant that when a utility's costs and expenses grow at a faster pace than revenues during the period when rates will be in effect, it will experience a decline in its realized rate of return on investment to a level below its authorized rate of return. Differences exist between the authorized return and the earned, or realized, return. Components of the cost of service must be paid from the rates the utility charges before the equity investors are paid their return on equity. Operating and administrative expenses must be paid, depreciation must be funded, taxes must be paid, and the utility must pay interest on the debt it incurs. To the extent revenues are insufficient to cover the entire cost of service, the shortfall reduces the return to the equity investor, last in line to be paid. When this occurs, the utility's realized, earned return is less than the authorized return, an occurrence commonly referred to as regulatory lag. In setting the rate of return, just as the Commission is constrained to address the impact of difficult economic times on customers' ability to pay for service by establishing a lower rate of return on equity in isolation from the many subjective determinations that must be made in a general rate case, it likewise is constrained to address the effect of regulatory lag on the Company by establishing a higher rate of return on equity. Instead, the Commission sets the rate of return considering both of these negative impacts in its ultimate decision fixing a utility's rates.

It is against this backdrop of overarching principles and law that the Commission turns to the evidence present in this case.

### III. Discussion and Application of Law to the Facts of this Case Regarding the Issue of Return on Equity

The Commission has examined the Company's Application and supporting testimony and exhibits and Form G-1 filings seeking to justify its requested increase. Piedmont's updated request prior to entering into the Stipulation was a retail revenue increase of \$143.6 million in annual revenues. The Public Staff, who in this docket represents all users and consumers of the Company's natural gas service, Piedmont, CUCA, and CIGFUR IV entered into a Stipulation that resulted in reducing the retail revenue increase sought by the Company. As with all settlement agreements, each party to the Stipulation gained some benefits that it deemed important and gave some concessions for those benefits. Based on Piedmont's Application, it is apparent that the Stipulation ties the 9.70% rate of return on equity to substantial agreed upon concessions

made by Piedmont. As noted above, since the AGO, Nucor and FPWC, parties in this docket, did not agree to the settlement, the Commission is required to examine the Stipulation and exercise its independent judgment to arrive at its own independent conclusion as to the proper rate of return on common equity.

The starting point for an examination of what constitutes a reasonable rate of return on equity begins with the various economic and financial analyses provided by the parties' expert witnesses. In this proceeding, those analyses were provided in the testimonies of five different witnesses: witness Hevert for Piedmont; witness Hinton for the Public Staff; witness Woolridge for the AGO; witness O'Donnell for CUCA; and witness Phillips for CIGFUR IV. These testimonies, as summarized above, provide a relatively broad range of methods, inputs, and recommendations regarding the proper rate of return on equity determination for Piedmont. For example, witness Hevert relied in his direct testimony on four different analyses to arrive at his rate of return on equity recommendation. These analyses were a Constant Growth DCF Analysis, a Capital Asset Pricing Model analysis, a Bond Yield plus Risk Premium analysis, and an Expected Earnings analysis. By way of comparison, AGO witness Woolridge relied upon a DCF analysis and a Capital Asset Pricing Model analysis in reaching his conclusions; however, the inputs utilized by witness Woolridge in his analyses are different from those utilized by witness Hevert. Witness Hinton, in turn, used a DCF analysis and a regression analysis of allowed returns for natural gas local distribution companies to reach his conclusions and Comparable Earnings and CAPM analyses to check those results. Witness O'Donnell performed a DCF analysis, a Comparable Earnings analysis, and a CAPM analysis. Witness Phillips looked at the average allowed rates of return on equity for natural gas distribution companies for the first quarter of 2019 of 9.55% and recommended that as a cap to the allowed rate of return on equity.

These varying analyses, as is typical, produced varying results. Witness Hevert's analyses prompted him to propose a rate of return on equity range of 10.00% to 11.00% with a specific rate of return on equity recommendation of 10.60%. Witness Woolridge's analyses resulted in a recommended rate of return on equity range of 7.60% to 8.70% with a primary recommendation of 9.00% rate of return on equity with a 50.00% common equity capital structure and a secondary recommendation of 8.70% if Piedmont's proposed equity band of 52.00% was approved. Witness Hinton indicated that his DCF analysis yielded a rate of return on equity range of 8.63% to 9.25% but that his regression analysis supported a 9.64% rate of return on equity and that his ultimate recommended rate of return on equity was 9.13%. Witness O'Donnell's analyses produced a rate of return on equity ranges of 7.60% to 9.60% under his DCF analysis, 9.00% to 10.00% under his Comparable Earnings analysis, and 5.50% to 7.50% under his CAPM analysis, with an ultimate recommendation of 9.00%. Finally, witness Phillips recommended a cap on rate of return on equity of 9.55%.

The Commission finds the cost of equity analyses helpful in reaching its conclusion on an appropriate rate of return on equity for Piedmont but notes that the ranges of the various analyses span a range from 5.50% to 13.95% and the specific rate of return on



equity recommendations of the witnesses span a range from 8.70% on the low end to 10.60% on the high end.

The Commission finds the risk premium regression analysis and comparable earnings analysis of Public Staff witness Hinton, the discounted cash flow, two of the CAPM analyses, and the bond yield plus risk premium analyses of Piedmont witness Hevert, the comparable earnings analysis of CUCA witness O'Donnell, and the Stipulation are credible, probative, and entitled to substantial weight.

Public Staff witness Hinton conducted an equity risk premium regression analysis analyzing the relationship between approved returns on equity for natural gas utilities and Moody's Bond Yields for A rated utility bonds. He testified that the differential between the two rates of return is indicative of the return investors require in order to compensate for the additional risk. The results of this regression analysis are shown on Hinton Exhibit JRH-5, and produce a cost of equity of 9.64%, only six basis points below the Commission's approved 9.70% rate of return on equity. Witness Hinton's comparable earnings analysis used as a check on his overall rate of return on equity recommendation reviewed the earned returns on equity for his proxy group of comparable natural gas utilities, and produced a range of 9.00% to 10.00%. The Commission finds that witness Hinton's risk premium regression analysis and his comparable earning analysis are credible, probative, and entitled to substantial weight.

Piedmont witness Hevert in his rebuttal testimony updated his constant growth discounted cash flow analyses. His updated analyses rate of return on equity results are shown on Hevert Exhibit RBH-R-1, pages 1, 2, and 3: 30-day dividend yield mean 9.77%, median 9.68%; 90-day dividend yield mean 9.82%, median 9.75%; and 180-day dividend yield mean 9.90%, median 9.83%. Although the Commission, as stated in previous Commission general rate case orders, does not approve of witness Hevert's sole use of analysts' predicted earnings per share to determine the DCF growth rate, the Commission finds witness Hevert's constant growth DCF analyses mean and median rate of return on equity results credible, probative, and entitled to substantial weight.

Witness Hevert's updated CAPM analysis for his Proxy Group Average Bloomberg Beta Coefficient, as shown on Hevert Rebuttal Exhibit RBH-R-5, page 1, includes updated current 30-year treasury rates to calculate the risk free rate of 2.63% producing what witness Hevert describes as a Bloomberg Market DCF Derived rate of return on equity of 9.68% and a Value Line Market DCF Derived of 9.62%. The Commission approves of the use of current risk-free rates rather than predicted near-term or long-term rates. The Commission finds the above-described CAPM analyses credible, probative, and entitled to substantial weight.

In his rebuttal testimony, Piedmont witness Hevert updated his Bond Yield Plus Risk Premium, as shown on Exhibit RBH-R-12, using the current 30-year Treasury yield of 2.63% and applied it to both the approved rates of return on equity for natural gas utilities in fully litigated cases, resulting in a rate of return on equity of 9.99%, and to settled cases, resulting in a rate of return on equity of 9.72%. As previously stated, the

Commission approves the use of current interest rates, rather than projected near-term or long-term interest rates. The Commission finds witness Hevert's updated Bond Yield Plus Risk Premium analysis using the current 30-year Treasury yield to be credible, probative, and entitled to substantial weight.

The Commission also concludes that the comparable earnings analysis by CUCA witness O'Donnell is credible, probative, and entitled to substantial weight. Witness O'Donnell testified that the comparable earnings for his and witness Hevert's proxy group of natural gas utilities produced earned returns of 9.00% to 10.00% over the period 2017 through 2024 balancing historical and forecasted returns. The Commission-approved 9.70% rate of return on equity is well within that range.

The Commission has carefully evaluated the DCF analyses recommendations of witnesses Hinton, Woolridge, O'Donnell, and Hevert. As shown on Hevert settlement testimony Exhibit RBH-S-1, during 2017, 2018, and 2019, there were 69 natural gas utility decisions by public service commissions resulting in a mean approved 9.64% rate of return on equity. The mean year-to-date 2019 rate of return on equity is 9.63%, and the median rate of return on equity is 9.70%.

As shown on Hevert Exhibit RBH-S-1, during this period there were only two public service commission decisions approving a rate of return on equity below 9.00% for a natural gas utility, both by the New York Public Service Commission (8.70% in April 2017 and 8.80% in June 2018). Public Staff witness Hinton's DCF results were 9.00%, 9.25%, and 8.63% with an average of 8.96%. AGO witness Woolridge's DCF analysis produced a rate of return on equity of 8.70%, adjusted upward for a specific rate of return on equity recommendation of 9.00% with a 50.00% common equity capital structure component. CUCA witness O'Donnell's DCF range was 7.60% to 9.60%. The Commission has historically evaluated DCF analyses in determining rates of return on equity in general rate cases. However, the DCF analyses by the three witnesses described above are outliers and each is substantially below the mean allowed rate of return on equity of 9.64% in 2017 through year-to-date 2019.

The Commission concludes that witness Hevert's DCF high rate of return on equity analyses are also outliers and entitled to no weight. As shown on Hevert Rebuttal Exhibit RBH-R-1, witness Hevert's high rate of return on equity mean range runs from 13.82% to 13.95%. The lowest of his three high rate of return on equity means is 13.82%. As shown on Hevert Exhibit RBH-S-1, the 13.82% is 418 basis points above the average of the 69 rate of return on equity decisions during this 2017 to 2019 period.

The Commission concludes that witness Hevert's remaining CAPM analyses are all outliers, and the Commission gives them no weight. As shown on RBH-R-5, page 1, the Proxy Group Average Bloomberg Beta Coefficient ECAPM results in a range of 10.98% to 12.05%. The Proxy Group Average Value Line Average Beta Coefficient CAPM results in a range of 10.90% to 11.97%, and the ECAPM results in a range of 11.82% to 12.96%.

The Commission concludes that witness Hevert's Expected Earnings analysis is entitled to no weight. This analysis summarized on Hevert Exhibit RBH-R-7, page 1, is based entirely on projected earnings of the Hevert eight proxy companies for the years 2022-2024. The Commission approved rates in this general rate case will become effective in late 2019. Piedmont may or may not file another general rate case prior to 2022. In addition, the Commission has already stated that the Commission does not favor future earnings projections based solely on analysts' predictions.

The Commission gives no weight to the CAPM analyses of AGO witness Woolridge, Public Staff witness Hinton, and CUCA witness O'Donnell as these analyses produce results that are outliers. AGO witness Woolridge's CAPM indicates a 7.60% rate of return on equity, which is at the low end of his rate of return on equity range of 7.60% to 8.70%. Public Staff witness Hinton's CAPM analysis, which he utilized only as a check on his overall recommended 9.13% rate of return on equity based upon his DCF and regression analysis, produced a 7.79% rate of return on equity based upon the geometric mean of returns. CUCA witness O'Donnell used his CAPM analysis only to supplement his DCF and comparable earnings analyses. His CAPM produced a range of 5.50% to 7.50% rate of return on equity.

In summary, the Commission concludes there is substantial evidence supporting the reasonableness of a rate of return on equity of 9.70%. First, that rate of return, falls very close to the middle of the range of recommended returns by the economic experts in this docket of 8.70% to 10.60%. Second, it falls just above the 9.64% result produced by Public Staff witness Hinton's Regression Analysis. Third, it falls just above the high end of the DCF analysis result of 9.60% produced by CUCA witness O'Donnell. Fourth, it falls within the range of CUCA witness O'Donnell's Comparable Earnings analysis (9.00% to 10.00%). Fifth, it is slightly below the recommended range of Piedmont witness Hevert (10.00% to 11.00%). Sixth, it falls squarely within the range and very close to the average of recent natural gas distribution company allowed returns on equity nationally. Seventh, it is equal to the lowest rate of return on equity awarded by this Commission in general rate cases for gas and electric utilities in the last 10 years. Eighth, it is equal to the allowed rate of return for North Carolina's next largest natural gas utility, PSNC.<sup>11</sup> Ninth, it is 30 basis points lower than Piedmont's current allowed rate of return on equity. Tenth, it is supported as the appropriate rate of return on equity for Piedmont by four of the five parties filing rate of return testimony in this proceeding in lieu of the recommendations made by their respective witnesses on this subject, and the stipulated return on equity of 9.70% is supported by credible filed settlement testimony by the cost

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<sup>11</sup> The Commission determines the appropriate rate of return on equity based upon the evidence and particular circumstances of each case. However, the Commission believes that the rate of return on equity trends and decisions by other regulatory authorities, as well as other recent decisions of this Commission, deserve some weight, as (1) they provide a check or additional perspective on the case-specific circumstances, and (2) the Company must compete with other regulated utilities in the capital markets, meaning that a rate of return on equity significantly lower than that approved for other utilities of comparable risk would undermine the Company's ability to raise necessary capital, while a rate of return on equity significantly higher than other utilities of comparable risk would result in customers paying more than necessary.

of capital witnesses for two of these parties. Finally, and without expressly adopting his methodology, it is consistent with witness Phillips's notion that Piedmont's return should be capped at the average rate of return on equity approved by other state commissions for the most recent quarter.<sup>12</sup>

These factors lead the Commission to conclude that a 9.70% rate of return on equity is supported by the substantial weight of the evidence in this proceeding. However, to meet its obligation in accord with the holding in Cooper I, the Commission will next address the impact of changing economic conditions on customers.

In this case, all parties had the opportunity to present the Commission with evidence concerning changing economic conditions as they affect customers. The testimony of witnesses Hevert and Barkley, which the Commission finds entitled to substantial weight, address changing economic conditions at some length. Witness Hevert provided detailed data concerning changing economic conditions in North Carolina, as well as nationally, and concluded that the North Carolina-specific conditions are "highly correlated" with conditions in the broader nationwide economy. As such, witness Hevert testified that changing economic conditions, both nationally and specific to North Carolina, are reflected in his rate of return on equity estimates. In his rebuttal testimony, Piedmont witness Barkley provided significant evidence of the overall state of the economy in North Carolina to include numerous statistics indicating, among other things, low unemployment, increasing wages, expanding business development in North Carolina, and job growth throughout the State. In general, witness Barkley's testimony indicated that the economy in North Carolina is strong, particularly by historical standards. Notwithstanding this evidence, witness Barkley conceded that no matter how strong the economy, some of Piedmont's customers would always struggle to pay their utility bills. Witness Barkley also pointed out, however, that even with the rate increase proposed in the Stipulation, customer annual bills in the early years would compare favorably with annual bills from as much as a decade ago.

A late-filed exhibit filed by the Public Staff and received into evidence also supports the conclusion that the proposed rate increase in this proceeding is reasonable and not unreasonably harmful to Piedmont's customers. This late-filed evidence is the Public Staff's Late-Filed Exhibit 2 which is basically an update of Public Staff witness Patel Exhibit III. This exhibit shows that the overall increase in rates to Piedmont's customers (exclusive of electric generation contracts and other special contracts) in Year 1 is 3.50%; in Years 2-3 it is 8.20%; and in Years 4 and after, it is capped at 10.40%. In analyzing these figures, as testified to by Piedmont witness Powers at the hearing of this matter, it is important to keep in mind that in Year 4 and beyond, 10 years will have passed since

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<sup>12</sup> Witness Phillips' proposal was a cap at 9.55% based on first quarter average rates of return reported by RRA. The evidence at hearing demonstrated that this average is now higher because of rising allowed rates of return on equity in the second quarter of 2019.

the rate case that established Piedmont's current rates.<sup>13</sup> This means that Piedmont's rates will have increased by roughly 1% a year in the intervening 10 years which is likely to be well below the rate of inflation during that same period. Continuing low commodity gas prices also have preserved annual customer bills at historically reasonable prices and even in Year 4 and beyond, the annual bills will still be well below the annual bills paid by Piedmont's customers in 2008 as was illustrated on Piedmont Powers Redirect Exhibit 1. More currently, as testified to by witness Powers, at Year 1 stipulated rates, Piedmont projects lower residential gas bills for the winter of 2019/2020 (\$508) than were experienced in the winter of 2018/2019 (\$532). In Year 6, after all of the tax regulatory liabilities are fully amortized and assuming Piedmont has not been through another rate case by then, the average winter heating bills for residential customers would be \$553. Customers' bills will still be well below the annual bills paid by Piedmont's customers in 2008.

Based upon the general state of the economy, the phased in nature of the margin rate increase provided for in the Stipulation, and the continuing affordability of natural gas service, and after weighing and balancing factors affected by the changing economic conditions in making the subjective decisions required, the Commission concludes that the stipulated rate of return on equity of 9.70% will not cause undue hardship to customers even though some will struggle to pay the increased rates resulting from the Stipulation. When the Commission's decisions are viewed as a whole, including the decision to establish the rate of return on equity at 9.70%, the Commission's overall decision fixing rates in this general rate case results in lower rates to consumers in the existing economic environment.<sup>14</sup>

The many Commission-approved adjustments as shown on Schedule 2 attached hereto, reduced the revenues to be recovered from customers and the return to be paid to equity investors. Some adjustments reduced the authorized rate of return on investment financed by equity investors. These adjustments have the effect of reducing rates and providing rate stability to consumers (and return to equity investors) in recognition of the difficulty some consumers will have paying increased rates in the current economic environment. While the equity investor's cost was calculated by resort to a rate of return on equity of 9.70% instead of 10.60%, this is only one approved adjustment that reduced ratepayer responsibility and equity investor reward. Many other adjustments reduced the dollars the investors actually have the opportunity to receive. Therefore, nearly all of the adjustments, as shown on Schedule 2 attached hereto, reduce ratepayer responsibility and equity investor returns in compliance with the Commission's

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<sup>13</sup> Whether we will actually ever get to Year 4 is not a certainty as witness Powers testified that the Company expects to be back before the Commission with a new rate case upon the completion of the Robeson LNG project, which is now under construction.

<sup>14</sup> The Commission notes that consumers pay "rates," a charge in cents per dt for the natural gas they consume. They do not pay a "rate of return on equity," though it is a component of the Company's cost of providing service which is built into the charge per dt. Investors are compensated by earning a return on the capital they invest in the business. Per the Commission determination of the rate of return on equity in this matter, investors will have the opportunity to be paid in dollars for the dollars they invested at the rate of 9.70%.

responsibility to establish rates as low as reasonably permissible without transgressing constitutional constraints, and thus, inure to the benefit of consumers' ability to pay their bills in this economic environment.

For example, to the extent the Commission made downward adjustments to rate base, or disallowed test year expenses, or increased test year revenues, or reduced the equity capital structure component, the Commission reduced the rates consumers will pay during the future period when rates will be in effect. Because the compensation owed to investors for investing in the Company's provision of service to consumers takes the form of return on investment, downward adjustments to rate base or disallowances of test year expenses or increases to test year revenues, or reduction in the equity capital structure component, will reduce investors' return on investment irrespective of the determination of rate of return on equity.

Considering the changing economic conditions and their effects on Piedmont's customers, the Commission recognizes the financial difficulty that an increase in Piedmont's rates may create for some of Piedmont's customers, especially low-income customers. As shown by the evidence, relatively small changes in the rate of return on equity have a substantial impact on a utility's base rates. Therefore, the Commission has carefully considered changing economic conditions and their effects on Piedmont's customers in reaching its decision regarding Piedmont's approved rate of return on equity.

The Commission also recognizes that the Company is in a significant construction mode, and much of the associated investment is responsive to safety related regulatory requirements. The need to invest significant sums in safety improvements to serve its customers requires the Company to maintain its creditworthiness in order to compete for large sums of capital on reasonable terms. The Commission must weigh the impact of changing economic conditions on Piedmont's customers against the benefits that those customers derive from the Company's ability to provide safe, adequate, and reliable natural gas service. Safe, adequate, and reliable natural gas service is essential to the well-being of the people, businesses, institutions, and economy of North Carolina. Thus, the Commission finds and concludes that such capital investments by the Company provide significant benefits to all of Piedmont's customers.

The Commission concludes in the exercise of its independent judgment and discretion that a 9.70% rate of return on equity is supported by the evidence and should be adopted. The hereby approved rate of return on equity appropriately balances the benefits received by Piedmont's customers from Piedmont's provision of safe, adequate, and reliable natural gas service in support of the well-being of the people, businesses, institutions, and economy of North Carolina (which benefits are symbiotically linked to the Company's ability to compete in the equity capital market to access capital on reasonable terms that will be fair to ratepayers) with the difficulties that some of Piedmont's customers will experience in paying Piedmont's adjusted rates. The Commission further concludes that a 9.70% rate of return on equity will allow Piedmont to compete in the market for equity capital, providing a fair return on investment to its investor-owners and, the lowering of the rate from the requested 10.60% to 9.70% has the effect of lowering the

cost of service which forms the basis the rates the ratepayers must pay for service. Accordingly, the Commission concludes, taking into account changing economic conditions and their impact on customers that the approved rate of return on equity will result in the lowest rates constitutionally permissible in this proceeding.

Finally, in approving the 9.70% rate of return on equity, the Commission gives significant weight to the Stipulation and the benefits that it provides to Piedmont's customers, which the Commission is obliged to consider as an independent piece of evidence under the Supreme Court's holding in CUCA I.

### **EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 30**

The evidence supporting this finding of fact and conclusions is contained in the Company's Application, the direct testimony and exhibits of the Company witnesses including the supplemental testimony of Company witness Couzens and the settlement testimony of witness Powers, the direct testimony and exhibits of the Public Staff witnesses, the Stipulation, and the entire record in this proceeding.

Paragraph 3 and Exhibit C to the Stipulation set forth the agreed throughput volumes and the level for use and lost and unaccounted for gas established by the Stipulating Parties. The level of use and lost and unaccounted for gas used in the Stipulation is 2,594,219 dts. The level of adjusted sales and transportation volumes used in the Stipulation is 136,415,626 dts. Total throughput, which reflects the total gas sales and transportation quantities plus electric generation and special contract quantities, is 483,305,524 dts. The sales and transportation throughput volume level is derived as follows:

<u>Item</u>	<u>Amount (dts)</u>
Sales	74,815,358
Transportation	<u>61,600,268</u>
Total Sales and Transportation	136,415,626

These levels for throughput volume and use and lost and unaccounted for gas are the result of negotiations among the Stipulating Parties, as described in the Stipulation and the settlement testimony of Company witness Powers, and are not opposed by any party. No other party submitted evidence on the Company's throughput or use and lost and unaccounted for gas.

The Commission has carefully reviewed the evidence regarding the appropriate throughput level and the level for use and lost and unaccounted for gas in this docket and concludes that the stipulated throughput levels, which include total gas sales and transportation quantities plus electric generation and other special contract quantities, and that the stipulated use and lost and unaccounted for gas are fair and reasonable and should be approved.

## EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 31-33

The evidence for these findings of fact and conclusions is contained in the Company's Application, the direct testimony of Company witness Couzens, Public Staff witness Patel, supplemental testimony of Company witnesses Powers and Couzens, and the Stipulation.

The appropriate level for the total cost of gas for use in this proceeding is \$334,653,470, as determined and reflected in Paragraph 4 and Exhibit A to the Stipulation and on Schedule 1 attached hereto. The Stipulation is the result of negotiations among the Stipulating Parties in this docket and reflects the encompassing commodity gas costs and fixed gas costs as follows:

<u>Item</u>	<u>Amount (dts)</u>
Commodity Costs <sup>15</sup>	\$215,392,832
Fixed Costs	<u>\$119,260,638</u>
Total Cost of Gas	<u>\$334,653,470</u>

The stipulated cost of gas is not contested by any party to this proceeding. The Commission has carefully reviewed these amounts, as well as all record evidence relating to the total cost of gas for use in this proceeding, and concludes that the stipulated cost of gas is reasonable and appropriate for use in this docket.

Under the Commission's procedures for truing-up fixed gas costs in proceedings under Commission Rule R1-17(k)<sup>16</sup>, it is necessary and appropriate to determine the amount of fixed gas costs that are embedded in the rates approved herein. In Paragraph 8 to the Stipulation, the Stipulating Parties agree that for the purpose of this proceeding and future proceedings under Rule R1-17(k) during the effective period of rates approved in this proceeding, the appropriate amount of fixed gas costs to be allocated to each rate schedule is as set forth in Exhibit D to the Stipulation. No party contests this allocation and no other party submitted evidence supporting a different allocation.

The Commission has carefully examined these amounts, as well as all record evidence on fixed gas cost allocations, and concludes that the stipulated allocations of fixed gas costs are fair and reasonable.

Under the Commission's procedures for establishing rates and truing-up commodity gas costs, it is necessary to establish a Benchmark embedded in sales customer rates. Paragraph 4, Subparagraph A of the Stipulation provides that in establishing rates for this proceeding, the Stipulating Parties have agreed to use

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<sup>15</sup> Of this total amount of commodity cost of gas, \$7,134,102 is the commodity cost of gas for company use and lost and unaccounted for gas quantities.

<sup>16</sup> Section (k) of Rule 1-17 sets forth the procedures by which local distribution companies can file to adjust their rates pursuant to N.C. Gen. Stat. § 62-133.4.



Piedmont's current Benchmark of \$2.75 per dt. No party contests the use of a \$2.75 per dt Benchmark in establishing rates for this proceeding, and no other party submitted evidence on this issue. The Commission has carefully examined this proposal and concludes that the use of a \$2.75 per dt Benchmark for purposes of establishing rates in this proceeding is fair and reasonable.

### **EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 34**

The evidence for this finding of fact and conclusions is set forth in the direct testimony of Company witnesses Yoho, Yardley, and Couzens, the direct testimony of Public Staff witness Patel, the direct testimony of CUCA witness O'Donnell, the direct testimony of CIGFUR IV witness Phillips, the Stipulation, and the settlement testimony of Piedmont witness Powers.

In Company witness Yoho's direct testimony, he indicates that Piedmont is seeking a 9.00% rate increase in this proceeding. Company witnesses Yardley and Couzens, in their direct testimonies, indicate that the Company's initial proposal on cost allocation and rate design was to preserve the basic rate structure approved in Piedmont's last rate case but to spread any increase in costs across rate classes on a proportional basis and to include those additional costs in the revised volumetric rate component of Piedmont's rates. Witness Yardley's direct testimony indicates that this approach would result in varying rates of return on rate base by Piedmont's various customer classes ranging from a high of 43.74% for large interruptible general service customers to a low of 2.30% for military customers.

In her direct testimony, Public Staff witness Patel recommended a different and much flatter allocation of proposed rate increases across Piedmont's customer classes. As is reflected in Patel Exhibit III, witness Patel's recommended rate structure also resulted in varying rates of return on investment for Piedmont's customers ranging from a high of 8.29% for Small General Sales Service Customers (Rate Schedule 102) to a low of 3.00% for Interruptible Large General Transportation Customers (Rate Schedule 114).

In his direct testimony, CIGFUR IV witness Phillips provided an extensive critique of Piedmont's proposed rate structure. This critique included pointing out a number of factors which witness Phillips testified indicated flaws in Piedmont's original proposed rate design. These factors included, among others: (a) the assertion that Piedmont's rates should be based on costs and that the proposed rate structure was not based on costs; (b) the observation that even according to Piedmont the disparity between the respective customer class rates of return produced by Piedmont's proportional rate increase proposal were large; and (c) the assertion that rates for large interruptible customers should be decreased rather than increased.

In CUCA witness O'Donnell's direct testimony, he also took issue with Piedmont's proposed rate design. Witness O'Donnell discussed the relative impacts of utilizing a peak and average cost allocation methodology versus a peak day allocation approach in

conducting cost of service studies for Piedmont's proposed rate increase. Based on his analysis of the propriety of use and results of each of these two allocation methodologies, witness O'Donnell contended that a proportional allocation of the proposed rate increase would lead to unreasonable cost of service study rates of return for Interruptible Large General Sales Service (Rate Schedule 104) and Interruptible Large General Transportation Service (Rate Schedule 114) customers.

In the Stipulation, in Paragraph 7, the Stipulating Parties agreed to rates and allocations of the stipulated revenue requirement to Piedmont's customer classes that were acceptable to all of the Stipulating Parties, which included all of the parties who filed rate design or cost allocation testimony in this docket. Those rates and allocated revenue responsibilities are reflected in Exhibit C to the Stipulation. In Paragraph 24 of the Stipulation, the Stipulating Parties agreed that the rates reflected on Exhibit C are comprised of the rate elements reflected on Exhibit K, Rate Elements, and Exhibit L, Stipulated Tax Rider Elements. Exhibit J to the Stipulation sets out the relative impact on Piedmont's various customer classes of the stipulated cost allocation and rate design and shows slight decreases in the rates of Piedmont's Large General customers.

Witness Powers, in her settlement testimony, explained that the stipulated rates and rate design were the result of give and take negotiations and that ultimately they were acceptable to each of the parties to the Stipulation. Witness Powers further testified that the rates agreed to were highly beneficial to Piedmont's customers in comparison to the rates originally proposed in this proceeding.

No party has contested the use of the rates, cost allocations, or rate design elements reflected in Paragraphs 7 and 24 of the Stipulation and no other party has submitted evidence in this proceeding regarding rate design and cost allocations pertaining to Paragraph 7 and 24 of the Stipulation except those discussed above.

Based on the evidence in this proceeding, the Commission concludes upon its own independent judgment that the stipulated rate design reflected in Exhibits C and J of the Stipulation is just, reasonable, and appropriate for use in this proceeding.

### **EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 35**

The evidence supporting this finding of fact and conclusions is contained in the Application, the direct testimony of Company witnesses Yoho, Gaglio, and Barkley, the direct testimony of Public Staff witness Perry, and the Stipulation.

In its Application, Piedmont indicated that it was incurring substantial and ongoing capital investments associated with efforts to comply with federal pipeline safety and integrity management requirements. In his direct testimony, witness Yoho testified that Piedmont had invested approximately \$1.1 billion in capital to meet federal pipeline safety regulations since its last rate case. In order to facilitate Piedmont's continued compliance with transmission and distribution integrity regulations issued by federal authorities, and as authorized by N.C. Gen. Stat. § 62-133.7A, Piedmont proposed to continue the

Company's IMR mechanism in its tariffs. According to Piedmont, this mechanism has been highly effective in facilitating compliance with federal pipeline safety and integrity regulations and avoiding regular and recurring rate cases that would have otherwise occurred on a 12-18 month basis since its last general rate case filing.

In his direct testimony, Piedmont's Senior Vice President and Chief Operations Officer, Victor Gaglio, who is responsible for the Company's efforts to comply with federal pipeline safety and integrity requirements, testified as to the requirements of federal pipeline safety and integrity regulations and the Company's incurred and projected costs of compliance with those regulations along with major system enhancements needed to provide reliable service to Piedmont's growing customer base. Witness Gaglio explained that the \$1.18 billion spent by Piedmont during the period of 2014-2018, was to ensure that Piedmont was in compliance with the Pipeline and Hazardous Materials Safety Administration (PHMSA) integrity regulations on a wide variety of O&M and capital projects and to ensure that Piedmont's system remained safe and fully compliant with applicable regulatory requirements. Piedmont witness Gaglio testified that the Company estimates that an additional \$173 million per year will be needed over the next three years, based on existing regulations. However, he described proposed rules that are under consideration by PHMSA, which are collectively referred to as the "Mega-Rule." If implemented by PHMSA, witness Gaglio stated that the Mega-Rule will substantially expand obligations currently in effect and applicable to transmission providers, will implement new Integrity Verification Process requirements, and will expand many of the existing PHMSA requirements applicable to High Consequence Areas to Moderate Consequence Areas, which will effectively expand the geographic scope of the existing PHMSA obligations. Witness Gaglio stated that, "it is a foregone conclusion that federal pipeline safety and integrity requirements will be increased as a result of the Mega-Rule." (Tr. Vol. 4, p. 62)

In response to Commission inquiries at the expert witness hearing, witness Gaglio described Piedmont's actions before PHMSA concerning the Mega-Rule. He stated that Piedmont had filed comments, and had participated with industry trade groups. He testified that, "In just June of 2018, they submitted 190 pages of comments to PHMSA" regarding the Mega-Rule. *Id.* at 74. He further testified that Piedmont participates in "a Gas Pipeline Advisory Committee" which he described as "a group of industry people, regulators, and members of the public, to come up with reasonableness around these upcoming regulations." He stated that "we've seen benefits. This was coming out as one major rule" called the Mega-Rule. "Through these efforts it's now coming out as three separate rules that will be spread out over time and be more manageable and practical to implement." *Id.* at 75.

When witness Gaglio was asked if Piedmont raised the issue of the cost effectiveness of proposals and measures in the Mega-Rule, witness Gaglio referenced a proposal on materials testing. He stated that the National Transportation Safety Board had recommended that pipeline operators be required, "to take cutouts of sections of pipe for every 100 feet you're doing repair work, and that would mean taking the pipeline out of service, making repairs on what could probably be a perfectly good

pipeline.” Id. at 76. He testified that “since then we've come up with better approaches. It's much more cost effective and it meets the ultimate goal of safety, which is ... our mutual goal by all the parties.” Id.

In his direct testimony, witness Barkley testified about the public benefits inherent in the continued operation of the Company's IMR mechanism and discussed how the Company expects to continue to experience significant amounts of capital investment related to PHMSA compliance. Witness Barkley also testified as to Piedmont's proposal to modify Appendix E to the Company's Service Regulations to include updated percentages and throughput and eliminate the special contract credit provisions in the calculation of Piedmont's annual Integrity Management Revenue Requirement (IMRR).

In her direct testimony, Public Staff witness Perry recommended that revisions be made to the IMR spreadsheet model so that it would more closely mirrors the way plant, accumulated depreciation, and accumulated deferred income taxes (ADIT) are handled in a general rate case, and would also be consistent with the Integrity Management Tracker mechanism approved for PSNC in its last general rate case, Docket No. G-5, Sub 565. Witness Perry also testified that she disagreed with Company witness Barkley's modifications to Appendix E to the Service Regulations to eliminate the special contract credit provisions to the calculation of the annual IMRR.

As discussed in Paragraph 9 of the Stipulation, and as authorized by N.C. Gen. Stat. § 62-133.7A, the Stipulating Parties agreed that it is appropriate to continue the Company's IMR mechanism in the form attached as Appendix E to Piedmont's current North Carolina Service Regulations subject to the following clarifications: (a) in updating the rate base computation for the IMRR, Piedmont will use end of period numbers on a consistent basis; and (b) the IMRR shall be reduced by a Special Contract Credit to compute the net IMRR that forms the basis for determining the Integrity Management Adjustment (the Special Contract Credit represents the amount provided by the Special Contracts towards the Integrity Management Plant Investment). The Stipulating Parties support the continuation of Piedmont's IMR mechanism in the form attached as Exhibit F to the Stipulation along with the modifications to the calculations of the IMRR agreed to in the Stipulation.

No party other than the Public Staff submitted evidence on the issue of the continuation of the IMR mechanism.

The Commission has carefully considered the evidence in this proceeding related to the continuation of Piedmont's IMR mechanism and has reached the following conclusions. First, the Commission concludes that the form of IMR mechanism attached as Exhibit F to the Stipulation is consistent with N.C. Gen. Stat. § 62-133.7A, which authorizes the Commission to adopt “a rate adjustment mechanism to enable the company to recover the prudently incurred capital investment and associated costs of complying with federal gas pipeline safety requirements, including a return based on the company's then authorized return.” In this case, the proposed form of IMR attached to the Stipulation, along with the modifications to the calculations to the IMRR agreed to in the

Stipulation, provides for the recovery of a return, taxes, and depreciation on capital investment associated with federal gas pipeline safety requirements in a manner consistent with the statute and in the same fundamental manner that Piedmont is permitted to recover those items of its cost of service in a general rate case proceeding. This approach to IMR cost recovery is reasonable and consistent with statutory requirements and normal regulatory practices.

The Commission concludes that continuation of the IMR mechanism is favorable to customers because it provides for biannual adjustments to rates rather than subjecting customers to frequent rate cases associated with the Company's recovery of the costs of investment to be in compliance with federal safety and integrity requirements. Further, according to Exhibit F of the Stipulation, Appendix E – Revised Integrity Management Rider, the IMR mechanism expressly provides for Commission review of the mechanism at the earlier of Piedmont's next general rate case proceeding or four years from the effective date of the revised IMR mechanism and also specifically grants any party the right to petition the Commission to terminate or modify the mechanism at any time on the grounds that the rider mechanism, as approved by the Commission, is no longer in the public interest.

Consistent with the requirements of N.C. Gen. Stat. § 62-133.7A, the Commission finds the uncontested evidence of Piedmont's required capital expenditures on TIMP/DIMP compliance convincing. It is equally persuaded that regular and repeated general rate case proceedings, otherwise necessary to roll such investments into Piedmont's rate base, would be a detriment to Piedmont, its customers, and the Public Staff and would serve no purpose other than to increase regulatory costs paid by ratepayers and the regulatory burden on all parties who participate in Piedmont's general rate proceedings, including the Commission. The Commission recognizes that separately accounting for TIMP/DIMP compliance costs and addressing them through the rider mechanism outside of a general rate case effectively isolates those costs from other aspects of Piedmont's cost of service, but the Commission is satisfied that the public interest is protected from any potentially adverse impacts through a variety of means, including the limited nature of the costs recoverable through the rider mechanism, the special contract crediting provision contained therein, the mandatory and permissive review provisions contained in the rider, and the Commission's general and continuing oversight of the Company's earnings.

The Commission concludes that continuation of the stipulated IMR mechanism will promote public safety by supporting the timely recovery of costs associated with pipeline safety and integrity expenditures by the Company. The safety and reliability of utility infrastructure is of critical importance to the State and this Commission, and this mechanism facilitates the accomplishment of that goal.

However, the Commission notes that current federal pipeline safety regulations are proving to be increasingly expensive. Witness Gaglio stated that the capital cost projection for the IMR mechanism will average approximately \$173 million per year for the next three years and is based upon the existing PHMSA compliance commitments,

which do not include any costs for compliance with the Mega-Rule requirements. Witness Gaglio stated that, “we would anticipate material increases to this forecast if the Mega Rule becomes applicable to Piedmont during this period, but are currently unable to provide specific projections about how large those increases might be.” (Tr. Vol. 4, p. 62) The Commission notes that on October 1, 2019, PHMSA issued final rules that amend 49 CFR Sections 191 and 192 and are effective July 1, 2020. The new rules apply to gas transmission pipelines. According to PHMSA, the final rule makes improvements in IM, increases the ability of operators to engage in a long-range review of risk management, and accounts for changes in the gas industry and in the population. The increased cost is primarily for additional integrity assessments, maximum allowable operating pressure (MAOP) confirmation, and in-line inspection tool launcher and receiver upgrades. PHMSA did not attempt to quantify the benefits produced by the new rules, but maintains that the cost will be fully justified by qualitative improvements in pipeline safety. See 84 Fed. Reg. 52180.

Both the Commission and the Company understand that complacency is not an option. The Commission supports Piedmont’s commitment to safety. Witness Yoho stated that safety was critical to everything that the Company does. However, both the Commission and Piedmont must be aware of the impact on ratepayers of any expensive capital investment. With regard to witness Gaglio’s testimony on PHMSA’s Mega-Rule, the Commission, on July 6, 2016, commented in the PHMSA Notice of Proposed Rulemaking Docket No. PHMSA-2011-0023. The Commission stated in its comments that, “The NCUC is concerned that some parties may have made safety recommendations without considering the balance between benefits and costs.” It is imperative that pipeline safety regulations promulgated by the federal government be cost-effective and take into consideration the very real impact that cost increases have on customers. Federal regulations apply to all operators nationwide. The federal rulemaking process includes the issuance of a notice of proposed rulemaking prior to establishing new regulations. The existence of an Integrity Management Rider should not impact Piedmont’s participation in the process of writing new federal regulations. The Commission expects Piedmont to continue taking a pro-active role in ensuring that new federal pipeline safety regulations are reasonable for Piedmont’s ratepayers and the general public in North Carolina.

Due to the increased spending projected with the new IMR rules and Piedmont’s current projected IMR mechanism spending, the Commission shall continue to carefully monitor the amount spent on the IMR mechanism biannually and shall take any appropriate action necessary to protect against adverse rate impact.

Based on the foregoing, and in the absence of any evidence to the contrary, the Commission finds the IMR mechanism attached as Exhibit F to the Stipulation to be fair, reasonable, in the public interest, and appropriate for adoption in this proceeding.

### **EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 36**

The evidence for this finding of fact and conclusions is contained in the Stipulation at Paragraph 10 and Exhibit E, the Company's Application, the testimony and exhibits of the witnesses, and the entire record in this proceeding.

Under Piedmont's MDT mechanism, certain base load and heat load factors, as well as "R" values (winter and summer), are needed in order to make the calculations periodically required under that mechanism. These values are established and updated in general rate proceedings. The Stipulating Parties have provided updated factors in this proceeding as reflected in Paragraph 10 and Exhibit E of the Stipulation. These values are not contested and no other party has offered evidence supporting other factors. Based on the Stipulation, and the other record evidence in this proceeding, the Commission concludes that the updated MDT factors identified on Exhibit E to the Stipulation are reasonable and appropriate and should be approved.

### **EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 37**

The evidence for this finding of fact and conclusions is contained in the Company's Application, the direct testimony of Company witness Powers, the direct testimony of Public Staff witness Jayasheela, the Stipulation, and in the settlement testimony of Company witness Powers.

In Piedmont's Application, supported by the direct testimony of Company witness Powers, the Company proposed to amortize and recover a number of previously deferred regulatory assets including environmental assessment and clean-up costs. According to witness Powers, "Piedmont has routinely deferred its environmental assessment and clean-up costs pursuant to the authority granted by the Commission in Docket No. G-9, Sub 333 and has filed for and been granted amortization of such costs in rate case proceedings since 1992." (Tr. Vol. 5, p. 355)

In Public Staff witness Jayasheela's testimony, she addressed the level of costs to be recovered, the amortization period over which to allow recovery, the determination of whether or not the deferred balance should be allowed in rate base for each deferred regulatory asset proposed, as well as the continued regulatory asset treatment for TIMP O&M costs and certain environmental compliance assessment and clean-up costs. Witness Jayasheela recommended that it is appropriate to continue regulatory asset treatment for TIMP O&M costs and for environmental costs and to defer and treat such costs as a regulatory asset until the resolution of the Company's next general rate proceeding. Witness Jayasheela testified that she disagreed with the Company's proposal of deferred treatment for rate case expenses and removed the deferred rate case expense amount from rate base.

Specifically, in Paragraph 11 of the Stipulation, the Stipulating Parties propose to address the Company's deferred regulatory assets, proposed amortizations and recovery for the following: (a) TIMP O&M costs; (b) EasternNC deferred O&M expenses;

(c) environmental compliance assessment and clean-up O&M costs; and  
(d) undercollected regulatory fee payments.

Pursuant to the Stipulation, the TIMP O&M costs subject to amortization over a four-year period, beginning November 1, 2019, are \$54,449,944 and represent the unrecovered costs accumulated by the Company through June 30, 2019, net of regulatory amortizations through October 31, 2019. The Stipulating Parties agree that it is also appropriate to continue regulatory asset treatment for TIMP O&M costs and to defer and treat such costs as a regulatory asset until the resolution of the Company's next general rate proceeding. The EasternNC deferred O&M expenses subject to amortization are the remaining balance of \$1,191,036 amortized over a four-year period, on a levelized basis that includes the accrual of interest at the net-of-tax overall rate of return, beginning on November 1, 2019. The Stipulating Parties also agreed that it is appropriate to amortize and allow recovery of (\$55,817) in environmental compliance assessment and clean-up costs over a four-year period, beginning November 1, 2019, which reflects actual deferred expenses through June 30, 2019, net of regulatory amortizations through October 31, 2019. The Stipulating Parties also agreed that it is appropriate for Piedmont to amortize and collect over a four-year period, \$443,793 in undercollected regulatory fee payments made to the Commission as of June 30, 2019, beginning on November 1, 2019.

The Stipulating Parties support the amortization periods set forth in Paragraph 11 of the Stipulation. No party has opposed the proposals contained in Paragraph 11 of the Stipulation and no other evidence has been submitted regarding these issues.

The Commission has carefully considered the proposed amortization periods and related matters set forth in Paragraph 11 of the Stipulation, as well as all record evidence on the amortization of these regulatory assets, and concludes that the stipulated amortization treatment and specified amortization periods are consistent with the Commission's prior treatment of similar costs and are otherwise fair and reasonable and should be approved. The Commission further finds that it is appropriate to continue regulatory asset treatment for TIMP O&M costs and the environmental compliance assessment and clean-up costs as a regulatory asset until the resolution of the Company's next general rate proceeding.

#### **EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 38-44**

The evidence in support of these findings of fact is contained in the testimony of Piedmont witness Barkley, the testimony of Public Staff witness Perry, the Stipulation filed in this docket, the settlement testimony of Piedmont witness Powers, and the entire record in this proceeding.

On December 22, 2017, the Tax Act was signed into law. Among other provisions, the Tax Act reduced the federal corporate income tax rate from 35.00% to 21.00%,



effective January 1, 2018.<sup>17</sup> It also repealed the manufacturing tax deduction and eliminated bonus depreciation.

When the federal corporate income tax rate is reduced, as it was in the Tax Act, a portion of the accumulated deferred income tax (ADIT) that the utility has accumulated from the ratepayers will never be needed by the utility for the payment of taxes. This portion is classified as federal EDIT. The IRS requires that certain EDIT must be normalized and flowed back subject to certain limitations. Federal EDIT that is subject to this limitation is classified as federal protected EDIT. All other types of federal EDIT are termed unprotected, in that there are no limitations placed upon them by the IRS with regard to the length of time over which they may be returned to ratepayers.

In its Application, the Company indicated that as part of its rate case filing it was seeking Commission approval for the amortization and return to customers of certain regulatory liabilities associated with the Tax Act and recent State corporate income tax rate adjustments. In his direct testimony, Piedmont witness Barkley explained that the Company proposed to create a single consolidated rider mechanism to handle the amortization and return of various regulatory liabilities created by the Tax Act to customers. Specifically, the Company proposed: (1) to return approximately \$279 million in federal protected EDIT to customers using the ARAM; (2) to amortize and return to customers approximately \$74 million of property, plant, and equipment (PP&E)-related federal unprotected EDIT over a period of 20 years; (3) to amortize and return to customers approximately \$25 million of non-PP&E related federal unprotected EDIT over a period of five years; (4) to amortize and return to customers over a three-year period the excess revenues (or provisional revenues) projected to be approximately \$37 million as of October 31, 2019, collected by the Company and deferred pursuant to the Commission's January 3, 2018 Order Ruling that Certain Components of Certain Public Utility Rates are Provisional as of January 1, 2018, Initiating a Generic Proceeding, and Requesting Comments in Docket No. M-100, Sub 148; and (5) to amortize and return to customers over a five-year period approximately \$56 million in EDIT created by prior reductions in the North Carolina corporate income tax rate.

In her direct testimony, Public Staff witness Perry recommended that the amortization and return of various categories of tax-related regulatory liabilities identified by Piedmont be handled separately rather than through a single consolidated rider mechanism. Witness Perry also recommended different amortization periods for these regulatory liabilities to include: (1) a 52.91-year amortization of federal protected EDIT in accordance with ARAM; (2) a five-year levelized amortization with carrying costs of all federal unprotected EDIT (with no PP&E-related/non-PP&E related distinction); (3) a one-year amortization of overcollected (provisional) tax revenues attributable to the

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<sup>17</sup> In response to the enactment of the Tax Act, on January 3, 2018, the Commission opened a rulemaking docket (Docket No. M-100, Sub 148, i.e., the Tax Docket) for the purpose of determining how the Commission should proceed. In the Order establishing the Tax Docket, the Commission placed certain public utilities, including Piedmont, on notice that the federal corporate income tax expense component of all existing rates and charges, effective January 1, 2018, would be billed and collected on a provisional rate basis.

federal corporate income tax rate decrease; and (4) a two-year levelized rider with carrying costs of North Carolina corporate income tax rate-related EDIT.

In the Stipulation, at Paragraph 16, the Stipulating Parties noted that, first, pursuant to the Commission's March 25, 2019 Order in Docket Nos. M-100, Sub 148, G-9, Sub 731, and G-9, Sub 737, Piedmont implemented a change in customer billing rates to reflect the reduction in the federal corporate income tax rate from 35.00% to 21.00% and in the State corporate income tax rate from 3.00% to 2.50%. The Stipulation noted that those rate reductions became effective on May 1, 2019. The Stipulating Parties further agreed that the federal protected EDIT should be amortized and returned to customers, through base rates, over the remaining lives of the property giving rise to the EDIT obligation utilizing the IRS's ARAM beginning on the effective date of rates in this proceeding. For federal unprotected EDIT which is not subject to the IRS's normalization rules, the Stipulating Parties agreed that such EDIT amounts (with no distinction between PP&E-related and non-PP&E related) should be amortized and returned to customers on a levelized basis through a rider mechanism over a five-year period, beginning with the effective date of rates in this proceeding. Next, the Stipulating Parties agreed that the deferred provisionally-collected tax revenues attributable to the federal corporate income tax rate decrease, including accrued interest, accumulated between January 1, 2018, and April 30, 2019, projected to be \$36,699,240 as of October 31, 2019, should be returned to customers through a rider mechanism over a period of one year beginning with the effective date of rates in this proceeding. In addition, Piedmont has an existing regulatory liability on its books consisting of EDIT associated with the North Carolina State corporate income tax rate reductions since 2014. The Stipulating Parties agreed that this regulatory liability should be amortized and returned to customers on a levelized basis through a rider mechanism over a three-year period beginning with the effective date of rates in this proceeding. Consistent with the approach to amortize and return state and federal unprotected EDIT balances reflected above, the Stipulating Parties agreed to remove these regulatory liability balances from Piedmont's ADIT balance used to determine rate base in this proceeding. Finally, the Stipulating Parties recognized that upon the expiration of the amortizations (riders) set forth in the Stipulation, the revenues produced by Piedmont's base rates will effectively increase by an offsetting amount (subject to the stipulated regulatory cap). The Stipulation therefore states that in recognition of this fact, Piedmont agrees to cap its base rates during the effective period of rates in this proceeding at an amount equal to the noticed requested revenue increase in this proceeding.

Piedmont witness Powers discussed in her settlement testimony each of the amortizations related to regulatory liabilities associated with the Tax Act and previous North Carolina legislation lowering the State corporate income tax rate for Piedmont. She further testified that the stipulated amortizations would provide for a more accelerated refund via rate rider to customers of the tax savings and will mitigate the impact of Piedmont's proposed margin revenue increase on customer rates while the amortizations are in place.

No other party filed testimony as to the appropriate ratemaking treatment for the regulatory liabilities arising from changes in State and federal corporate income tax rates in this docket,<sup>18</sup> although the AGO conducted cross-examination of Company witness Barkley suggesting that a shorter amortization period for unprotected EDIT would be beneficial to customers.

The AGO stated in its post-hearing brief that Piedmont should promptly return to ratepayers \$155 million it is holding in EDIT.<sup>19</sup> The AGO noted that reductions in federal and state corporate income tax rates over the last six years have lowered operating expenses for utilities.<sup>20</sup> The AGO asserted that as a result, Piedmont has accrued a large sum in federal deferred taxes that it no longer needs to meet its future tax liabilities. The AGO stated that it supports rate adjustments that promptly return the benefits of these tax changes to ratepayers.

The AGO maintained that Piedmont's federal unprotected EDIT should be returned to ratepayers within two years. The AGO noted that Piedmont has large balances of federal EDIT because the Tax Act changed both the federal income tax rate and the treatment of depreciation expenses. The AGO stated that EDIT represents monies Piedmont previously collected in rates to meet future tax liabilities that Piedmont will no longer owe.

The AGO stated that at the end of 2018, Piedmont had a total of \$378 million of federal EDIT on its books. The AGO noted that the great majority of this amount (\$279 million) is protected EDIT for which the Tax Act dictates the flowback to ratepayers. The AGO maintained that federal protected EDIT is associated with changes in depreciation deductions for property, and the federal tax code prescribes its return over a time period that mimics the life of the underlying assets. The AGO stated that Piedmont will return the federal protected EDIT over approximately 50 years. The AGO stated that it does not contest this approach.

The AGO asserted that, in contrast, the Commission has sole discretion to determine how quickly Piedmont returns the approximately \$99 million in federal

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<sup>18</sup> CIGFUR IV witness Phillips did state in his direct testimony at page 16, "Piedmont proposes an approximate \$36 million credit mechanism for excess deferred income taxes. The credit mechanism is an offset to the base rate increase but is not done on an equal percentage basis, similar to the proposed base rate increase, but on a net plant allocation to non-contract customer classes. While Piedmont's method has merit in isolation, it is inconsistent with the proposed increase and does not adequately move rates toward cost. The Commission should return EDIT to ratepayers in a manner that makes the overall net increase as cost based as possible." However, CIGFUR IV did join in the Stipulation.

<sup>19</sup> According to the AGO, the \$155 million amount can be broken down to \$99 million in federal unprotected EDIT and \$56 million in State EDIT.

<sup>20</sup> The AGO noted that the Commission previously ruled that this general rate case (since it was filed before the end of the three-year period allowed by the Commission, or specifically by October 5, 2021) would determine how Piedmont would reflect the appropriate regulatory treatment for federal EDIT. See Order Addressing the Impacts of the Federal Tax Cuts and Jobs Act on Public Utilities in Docket No. M-100, Sub 148, issued October 5, 2018, at p. 69.

unprotected EDIT to ratepayers. The AGO noted that under the Stipulation, all of the federal unprotected EDIT would be amortized and returned to customers on a levelized basis through a rider over five years.

The AGO urged the Commission to return the unprotected EDIT to ratepayers over no more than two years. The AGO asserted that the parties do not dispute that the ratepayers are entitled to these monies. The AGO noted that Piedmont witness Barkley testified, “[i]nstead of having an obligation to pay this money to the IRS in the future, the Company now has an obligation to pay it to customers.” Further, the AGO noted that Public Staff witness Perry stated, “[t]hese funds rightfully belong to the ratepayers and should be returned to them as soon as reasonably possible.” (Tr. Vol. 5, pp. 102-103) The AGO argued that, however, the Stipulation would return State and federal EDIT to ratepayers many years later than the fastest reasonably possible time.

The AGO noted that initially Piedmont wanted to divide the approximately \$99 million of unprotected EDIT into two buckets: \$74 million related to Piedmont’s investment in PP&E, and approximately \$25 million that was not. The AGO maintained that Piedmont proposed to return the \$74 million bucket to ratepayers over 20 years and the \$25 million bucket over five years.

The AGO noted that the Public Staff disagreed with Piedmont’s proposed treatment of the unprotected EDIT. The AGO stated that Public Staff witness Perry testified as follows:

I do not agree with the Company’s characterization of its unprotected federal EDIT as “unprotected, PP&E related” and “unprotected, non PP&E related.” The IRS tax normalization rules are very clear—EDIT is either protected, or it is not. The EDIT that the Company designates as “unprotected, PP&E related” is clearly still unprotected under IRS rules, a fact conceded by the Company.

The AGO stated that witness Perry testified that Piedmont’s position on the unprotected EDIT was not supported by any accounting or ratemaking principle.

The AGO noted that the Public Staff recommended the return of the federal unprotected EDIT over five years, consistent with its position in the recent DEC rate case. The AGO maintained that in that rate case, which was filed before the Tax Act passed, the Commission did not make a decision on the EDIT flowback issue in the context of that rate case proceeding.

The AGO argued that no other utility has been granted five years to flowback the EDIT. The AGO maintained that if the Commission adopts the positions reflected in the Stipulation, Piedmont will be an outlier regarding EDIT, both in the length of the flow back period and in the overall time the Company will have to use ratepayers’ money. The AGO noted that in the last general rate case of Aqua North Carolina, Inc. (Aqua NC), the Commission ordered the utility to return the unprotected EDIT to ratepayers in a rider to

rates over three years, as stipulated to by Aqua NC and the Public Staff.<sup>21</sup> The AGO asserted that when the Commission entered the Order, the new lower federal tax rates had been in place for nearly a year, giving Aqua NC four years of access to the funds and time to plan for their replacement.

Further, the AGO noted that in the most recent general rate case brought by Carolina Water Service, Inc. of North Carolina (CWSNC), the Commission ordered the utility to return the unprotected EDIT to ratepayers through a levelized rider to rates over four years.<sup>22</sup> The AGO maintained that because the Commission entered the Order in February 2019, CWSNC had the use of the EDIT for over five years.

The AGO argued that, in contrast, if the Commission accepts the proposed treatment of unprotected EDIT in the Stipulation, Piedmont will have the use of the federal EDIT for nearly seven years after the Tax Act came into effect. The AGO maintained that this disparity between the Stipulation and the recent Aqua NC and CWSNC Orders can be seen clearly in one of the AGO’s exhibits, as shown below:

	2018	2019	2020	2021	2022	2023	2024
Aqua	Full use of EDIT	Return of Unprotected EDIT over 3 Years					
Carolina Water	Full use of EDIT	Return of Unprotected EDIT over 4 Years					
Piedmont Stipulation	Full use of EDIT	Return of Unprotected EDIT over 5 Years					

(AGO Barkley Cross Ex. 3, Off. Ex. Vol. 5, p. 609)

The AGO asserted that the best interest of ratepayers requires that Piedmont return the federal unprotected EDIT within two years. The AGO noted that Piedmont argued that it was in ratepayers’ interest for Piedmont to take 20 years to return all of the unprotected EDIT on its books. The AGO stated that Piedmont suggested, “[i]nasmuch as credit quality drives access to affordable capital, it is also important, and in the best interest of

<sup>21</sup> Order Approving Partial Settlement Agreement and Settlement, Granting Partial Rate Increase, and Requiring Customer Notice (Dec. 18, 2018), Docket No. W-218, Sub 497, introduced during the hearing by the AGO as AGO Barkley Cross Ex. 1.

<sup>22</sup> Order Approving Joint Partial Settlement Agreement and Settlement, Granting Partial Rate Increase, and Requiring Customer Notice (Feb. 21, 2019), Docket No. W-354, Sub 360, introduced during the hearing by the AGO as AGO Barkley Cross Ex. 2.

customers, to prevent weakening of the Company's cash flow and credit quality.” (Tr. Vol. 5, p. 99)

The AGO noted that the Public Staff did not agree that Piedmont’s concerns about credit quality should govern the length of the EDIT return period. The AGO stated that witness Perry testified that “the Public Staff does not agree that the Commission should allow those concerns [regarding cash flow and credit metrics] to determine its actions in this case, given the lack of specific evidence of likely harm to the ratepayers presented by the Company. . . .” (Tr. Vol. 6, p. 202)

The AGO asserted that Piedmont did not support its assertion about cash flow and credit quality with evidence and that Piedmont is having great success accessing the capital markets, receiving equity investments from its parent corporation and successfully issuing its largest ever long-term debt offering.

The AGO noted that Piedmont witness Barkley acknowledged that Piedmont is a sophisticated company that had considerable time to plan to return excess funds to ratepayers. The AGO argued that, moreover, in passing the Tax Act, Congress already protected utilities from the cash flow consequences of the lower tax rates and loss of full bonus depreciation. The AGO noted that the Tax Act protects approximately 75.00% of the federal EDIT such that Piedmont will return it to ratepayers over 50 years.

The AGO maintained that Piedmont’s statement about ratepayers’ best interests ignores that ratepayers will have other uses for that money, uses that they choose instead of a forced investment in Piedmont. The AGO noted that, further, the longer Piedmont holds the tax-related funds, the less likely it becomes that they will be returned to the same ratepayers who paid for them in rates.

The AGO further noted that the Public Staff cites concerns about having natural gas bills go up abruptly in the future; as a result, the Public Staff suggests that federal EDIT should be returned over a longer period of time rather than the shortest reasonably possible time. The AGO stated that witness Perry testified that a jump in rates would be “very upsetting to customers.” The AGO asserted that increasing rate stability is the sole justification the Public Staff offers for its proposal to return federal unprotected EDIT over five years. (Tr. Vol 6, p. 202)<sup>23</sup>

The AGO maintained that the Public Staff based its position in this case on supplemental testimony it provided in the most recent DEC rate case. The AGO stated that the Public Staff’s initial recommendation in the DEC case had been for the excess deferred taxes to be returned to ratepayers over two years. (Tr. Vol. 6, p. 259) The AGO

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<sup>23</sup> The full paragraph in witness Perry’s testimony, page 11, is as follows: “The Company has raised concerns regarding impact of the flowback on its cash flow, which it speculates could negatively impact its credit metrics. While the Public Staff does not agree that the Commission should allow those concerns to determine its actions in this case, given the lack of specific evidence of likely harm to the ratepayers presented by the Company, a five-year rider would give the Company additional time over which to manage any cash flow issues. . . .”

noted that in revising the Public Staff's position in the DEC matter to a five-year flowback period, Public Staff witness Boswell testified that it was as a result of the utility's concerns about the impact on its cash flow. *Id.* The AGO maintained that in the present case, no record evidence shows that the Public Staff has concerns about Piedmont's cash flow.

The AGO asserted that if the Commission concludes customers need information for budgeting purposes or to reduce confusion, the Commission could order Piedmont to give customers information about the temporary nature of the tax flowback. The AGO stated that the Commission has ordered similar customer notices for many utilities in Docket No. M-100, Sub 138, Implementation of House Bill 998-An Act to Simplify North Carolina Tax Structure and to Reduce Individual and Business Tax Rates.

The AGO maintained that this matter falls within the Commission's discretion. The AGO noted that Piedmont acknowledges that the Commission has the discretion to flowback all of the unprotected EDIT over any time period it deems appropriate. The AGO urged the Commission to exercise its discretion to require Piedmont to return federal EDIT to ratepayers within two years of the order in this case.

The AGO further noted that Piedmont has EDIT balances resulting from the multiple reductions in the North Carolina State corporate income tax rate over the last several years. The AGO stated that the North Carolina corporate income tax rate stepped down from 6.90% at the time of Piedmont's last rate case in 2013 to 2.50% effective January 1, 2019. The AGO maintained that the balance of Piedmont's State EDIT is \$56,190,417. (Tr. Vol. 5, p. 106) The AGO noted that in the Stipulation, the parties have agreed that Piedmont will return these funds to ratepayers over three years. (Stipulation at 16) The AGO argued that the Commission should return these State EDIT funds to ratepayers within two years from the date of the order in this matter.

The AGO noted that Piedmont originally proposed to return the State EDIT to customers over five years. (Tr. Vol. 5, p. 106) The AGO stated that the Public Staff recommended a two-year flow back. (Tr. Vol. 6, p. 204) The AGO maintained that in the Stipulation, the Public Staff and Piedmont agreed to have Piedmont return these funds to ratepayers over three years. (Stipulation at 16)

The AGO argued that as with the federal unprotected EDIT, no party has advanced a prudent reason or evidence-based justification for such a lengthy period for Piedmont to hold the State EDIT. The AGO maintained that the State EDIT funds have been accumulating since 2014, when State corporate income tax rates fell.<sup>24</sup> The AGO asserted that ratepayers should not wait three more years for a full return of these funds. The AGO maintained that after five years, the disconnect between the customers whose rate payments contributed to the deferred tax balances and the ratepayers who will receive a credit for the excess funds is even greater than with respect to the federal EDIT. The AGO asserted that, moreover, Piedmont has had even more time to replace the State EDIT as

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<sup>24</sup> The Commission notes that the decreases in the State corporate income tax rate have occurred over several years with the most recent decrease from 3.00% to 2.50% effective January 1, 2019.

a source of capital than it has with the federal EDIT. Finally, the AGO noted that a three-year flowback period is inconsistent with two recent dockets in which the Commission approved flowback over one-year and two-year periods.<sup>25</sup> (Tr. Vol. 6, p. 205, citing the Orders in Public Service Company of North Carolina, Inc., Docket No. G-5, Sub 565 (one-year flowback period), and Dominion Energy North Carolina, Docket No. E-22, Sub 532 (two-year flowback period)).

The AGO asserted that the Commission should require Piedmont to return the State EDIT to ratepayers over no more than two years.

Based upon all of the evidence of record in this case, the Commission finds that it is reasonable and appropriate to accept the Stipulation by the Company, the Public Staff, CUCA, and CIGFUR IV concerning the tax issues. Therefore, the following will be accepted and approved by the Commission in this proceeding:

1. The Company's revenue requirement appropriately reflects the reduction in the federal corporate income tax rate from 35.00% to 21.00%, on the Company's ongoing federal income tax expense.

2. The Company's revenue requirement appropriately reflects the reduction in the State corporate income tax rate from 3.00% to 2.50%, on the Company's ongoing State income tax expense.

3. The Company's protected federal EDIT shall be flowed back to customers following the tax normalization rules utilizing the ARAM as required by the rules of the IRS.

4. All of the Company's unprotected federal EDIT shall be returned to ratepayers through a levelized rider over a period of five years.

5. The Company shall refund to its ratepayers the overcollection of federal income taxes (the provisional revenues) related to the decrease in the federal corporate income tax rate for the period beginning January 1, 2018, and ending April 30, 2019, including corresponding interest, through a rider for a one-year period beginning when the new base rates become effective in the current docket.

6. The Company's State EDIT recorded pursuant to the Commission's Order Addressing the Impacts of HB 998 on North Carolina Public Utilities issued May 13, 2014, in Docket No. M-100, Sub 138 shall be returned to ratepayers through a levelized rider that will expire at the end of a three-year period.

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<sup>25</sup> The Commission notes other recent dockets as well. In DEC's most recent rate case, the Public Staff and DEC stipulated to return the State EDIT using a four-year rider (and the Commission accepted the stipulation). In the most recent Aqua NC rate case, Aqua NC and the Public Staff stipulated to a three-year State EDIT rider (and the Commission accepted the stipulation). And finally, in Carolina Water Service, Inc. of North Carolina's 2017 rate case proceeding (Docket No. W-354, Sub 356), the Commission accepted the stipulation of Carolina Water Service, Inc. of North Carolina and the Public Staff for a three-year flow back of State EDIT.



The Commission acknowledges that there has not been complete consistency in the time periods used to address each of the issues created by the Tax Act. However, the Commission fully understood that this would be the case in making its decision in the generic federal Tax Act docket (Docket No. M-100, Sub 148) wherein the Commission concluded in its October 5, 2018 Order that the federal EDIT would be addressed and an appropriate methodology adopted either in each utility's next general rate case proceeding or three years (i.e., October 5, 2021), whichever was sooner.

Specifically, the Commission stated in its October 5, 2018 Order, in pertinent parts, as follows:

Therefore, the Commission concludes that the appropriate balancing includes a base rate adjustment now for the expense piece as discussed above in Issue No. 1 and a reasonable delay. . . in the adjustments required to reflect the EDIT generated due to the Tax Act.

Further, the Commission concludes, based on the concerns expressed by DEC, DEP, and Piedmont, that a reasonable delay in the return of the EDIT will help minimize any potential unfavorable credit quality impacts of the Tax Act on the utilities.

Therefore, based on the precedent set in both Docket No. M-100, Sub 113, which precedent includes a review and opinion by the North Carolina Supreme Court in Nantahala, and Docket No. M-100, Sub 138, and the current uncertainty of the ultimate EDIT balances due to the Tax Act, and in an effort to minimize rate volatility and potential adverse credit quality impacts, the Commission finds that it is reasonable and appropriate to address the ratemaking treatment of EDIT in each utility's next general rate case proceeding or three years from the date of this Order, whichever is sooner. . . (October 5, 2018 Order in Docket No. M-100, Sub 148, p. 66)

Therefore, the Commission concludes that if Cardinal, DENC, DEP, Piedmont or PSNC have not filed an application for a general rate case proceeding by October 5, 2021, each Company shall file its proposal by that date to flow back to its ratepayers both the protected and the unprotected EDIT generated due to the Tax Act. . . Id. at 70.

Further, the Commission has made decisions on flowback time periods within the context of several rate case proceedings after the Tax Act. In the DEC rate case proceeding (Docket No. E-7, Sub 1146), the Commission allowed DEC to retain the federal EDIT until its next rate case<sup>26</sup> or three years (i.e., June 22, 2021), whichever was sooner because DEC had filed its rate case proceeding four months before the enactment of the Tax Act. The other utilities that have been in for rate case proceedings since the Tax Act including Aqua NC and CWSNC have had different Commission decisions on appropriate time frames for returning federal EDIT due to a partial stipulation in the Aqua

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<sup>26</sup> On September 30, 2019, DEC filed a general rate case application in Docket No. E-7, Sub 1214.

NC rate case (including a stipulation on the Tax Act items) and a litigated decision reached by the Commission in the CWSNC rate case proceeding based on the evidence presented to the Commission in that docket.

In addition, the Commission places great weight on the testimony of Public Staff witness Perry that a reasonable flowback period of five years would smooth out any possible rate volatility. At the hearing, the AGO conducted cross-examination of witness Perry where she explained that the amortization periods reflected in the Stipulation are flowing back the refunds due to ratepayers more quickly than the Company had first proposed. Furthermore, witness Perry testified that the Public Staff typically looks at a range of amortization periods and in this case, is attempting to smooth out the rate impacts to customers with the different amortization periods (one one-year rider; one three-year rider; and one five-year rider) so that ratepayers are not harmed by experiencing huge rate increases after having lower rates if a two-year amortization period had been used as suggested by the AGO.

The Commission has reviewed the effects of the federal and State corporate income tax changes on a case-by-case basis and has reached its decisions on these issues based on the specific facts of each case. In this proceeding, the Commission has examined all of the implications of the federal and State tax changes and is mindful of potential harm to ratepayers. The Commission agrees with witness Perry that the Stipulation protects ratepayers from the potential harm of facing significant rate increases at the end of a two-year amortization period as proposed by the AGO for both federal unprotected EDIT and State EDIT. The Commission finds that the Stipulation provides that the three riders expire on a graduated basis which will help mitigate rate shock for ratepayers.

The Commission also notes that Piedmont presented evidence in its witness Sullivan's direct testimony of a recent credit downgrade in Piedmont's credit rating by Moody's Investors Services in which the impact of federal tax reform on its cash flows was cited.

As all of the parties have acknowledged, the decisions on appropriate flowback timeframes, with the exception of federal protected EDIT, are matters that fall within the Commission's sole discretion. And the Commission, in its discretion, agrees with the Stipulating Parties that the Stipulation provides for reasonable and appropriate treatment of the Tax Act and State EDIT. The Commission concludes that the Stipulation reflects undeniable compromise on the tax issues by both the Company and the Public Staff. For federal unprotected EDIT, Piedmont had proposed that federal PP&E-related unprotected EDIT be amortized over 20 years and that federal non-PP&E related unprotected EDIT be amortized over five years. The Public Staff recommended no distinction between PP&E-related unprotected EDIT and non-PP&E related unprotected EDIT and a five-year amortization for all federal unprotected EDIT through a rider. The Stipulation reflects the Public Staff's position with no distinction between PP&E-related and non-PP&E related federal unprotected EDIT and a five-year rider. For the provisional revenues collected between January 1, 2018, and April 30, 2019, Piedmont proposed a three-year

amortization and the Public Staff recommended a one-year amortization. The Stipulation provides for a one-year rider as proposed by the Public Staff. And, finally, for the State EDIT, Piedmont recommended a five-year rider while the Public Staff proposed a two-year rider. The Stipulation provides for a three-year rider to return the State EDIT to Piedmont's ratepayers. The Commission concludes that, as a whole, the Stipulation reflects reasonable and appropriate regulatory treatment for the Tax Act issues and State EDIT.

#### **EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 45**

The evidence for this finding of fact and conclusions is set forth in the depreciation study attached to the prefiled direct testimony of Piedmont witness Watson, in the Company's previous filings in Docket No. G-9, Sub 77G and 77H, direct testimonies of Public Staff witnesses Gilbert and Feasel, and in the Stipulation.

The depreciation rates currently in effect for Piedmont are from a depreciation study filed in 2011 based on the estimated remaining service lives of depreciable property in service as of October 31, 2009. Piedmont adopted these depreciation rates effective January 1, 2014, as approved by the Commission in Piedmont's previous general rate case, Docket No. G-9, Sub 631. In 2016, Piedmont filed a depreciation study in Docket No. G-9, Sub 77H, based on the estimated remaining service lives of depreciable property in service as of October 31, 2014.

In this general rate case proceeding, Piedmont filed a new depreciation study based on the estimated remaining service lives of depreciable property in service as of September 30, 2018. Piedmont requested approval from the Commission to begin using these new depreciation rates concurrent with the month that new billing rates take effect from this general rate case proceeding.

Public Staff witness Gilbert testified that he recommended that the depreciation study as filed be accepted as being in compliance with Commission Rule R6-80. Public Staff witness Feasel testified that she had reflected the proposed depreciation rates in her calculation of the annualized depreciation expense level, but had also made an adjustment to reduce depreciation expense to reflect the impact of reallocation of the reserve account.

In Paragraph 21 of the Stipulation, the Stipulating Parties agreed that it is appropriate to adopt the revised depreciation rates and reallocations of book reserves reflected in the depreciation study attached to the prefiled direct testimony of Piedmont witness Watson, effective November 1, 2019, in order to coincide with the requested effective date of rates in this proceeding. The Stipulating Parties also agreed that it is appropriate to reduce depreciation expense to reflect the impacts of the reallocation of the reserve accounts related to the NC direct and corporate allocated general plant accounts. The Stipulating Parties agreed that the filing of the depreciation study attached to witness Watson's testimony satisfies the five-year depreciation study filing requirement of Commission Rule R6-80.

No party contested the implementation of Piedmont's revised depreciation rates as proposed in the Stipulation and no other party submitted evidence on this issue.

Based upon the direct testimony of Company witness Watson, and the Stipulation, the Commission concludes that implementation of the revised depreciation rates, effective November 1, 2019, as proposed in the Stipulation, is just and reasonable and should be approved. The Commission further concludes that the depreciation study filed in this docket satisfies the five-year depreciation study filing requirement of Commission Rule R6-80.

#### **EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 46**

The evidence for this finding of fact and conclusions is contained in the direct testimony of Company witness Barkley and the Stipulation.

In his direct testimony, Company witness Barkley proposed various changes to Piedmont's rate schedules and Service Regulations. Specifically, witness Barkley testified that Piedmont is proposing to eliminate one category of optional standby sales service currently offered to its customers under Rate Schedules 113, T-12, and ST-1 and that it also is proposing to make minor corrective adjustments to a number of other provisions of its Rate Schedules and Service Regulations.

With regard to Piedmont's proposal to eliminate one category of optional standby sales service currently offered to its customers under Rate Schedules 113, T-12, and ST-1, Company witness Barkley testified that Piedmont currently offers customers the right to subscribe to a winter only standby sales service. However, according to witness Barkley, Piedmont's experience in recent years, largely due to the abundant sources of supply feeding into the interstate pipeline systems that serve North Carolina, is that customers have no need for, and are not subscribing to standby sales service. Since Piedmont does not anticipate that customers will have a need for this service in the future, and since eliminating the service will simplify Piedmont's gas cost acquisition planning and strategies, it proposes to eliminate it.

With respect to the less significant tariff changes discussed in witness Barkley's testimony, he explained that Piedmont is proposing minor changes in the tolerances used in its annual customer classification process under Sections 34 and 35 of the Company's Service Regulations. Witness Barkley also testified as to Piedmont's proposal to modify Appendix E to the Company's Service Regulations as discussed previously in this Order.

In Paragraph 22 of the Stipulation, and in Exhibits G and H, the Stipulating Parties agreed to adopt the Company's proposed tariff changes described by witness Barkley in his direct testimony, with the exception of Appendix E.

No party contests the proposed tariff changes discussed above and no other party has submitted evidence supporting a different disposition of these proposed tariff changes.

Based upon the testimony of Company witness Barkley and the Stipulation, the Commission finds that the proposed rate schedule and service regulation changes reflected in Exhibits G and H to the Stipulation, excluding Appendix E discussed above, are just and reasonable and should be approved.

#### **EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 47**

The evidence for this finding of fact and conclusions is contained in the prefiled direct testimony of Company witness Powers and Public Staff witness Jayasheela, the settlement testimony of Company witness Powers, and the Stipulation.

The Company proposed to increase the funding for two programs offered by GTI: (1) the OTD Program, and (2) the Utilization Technology Development (UTD) Program. The OTD Program focuses its technology development efforts on distribution and transmission activities including pipe and leak location; pipe materials, repair and rehabilitation; excavation and site restoration; pipeline integrity management and automation; operations infrastructure support; and environmental, renewables and gas quality. The UTD Program enhances the use, reliability, and efficiency of natural gas appliances and technologies.

Public Staff witness Jayasheela agreed with the Company's proposed increase for the OTD Program expense since the OTD projects are designed mainly to enhance safety, increase operating efficiency, reduce operating costs and help maintain system reliability and integrity. Witness Jayasheela testified that she did not agree with the UTD Program funding because she believes that ratepayers should not be required to fund a program which is targeted towards research and development for natural gas appliances.

In the Stipulation, the Stipulating Parties agreed, in Paragraph 23, "that the Company's proposed funding for the Utilization Technology Development Program operated by GTI is not included in the annual revenue requirement reflected herein, but that the proposed funding for the Operations Technology Development Program, in the amount of \$375,000, is included in the annual revenue requirement reflected herein."

No party has contested the inclusion of funding for the OTD Program, in the amount of \$375,000, in the annual revenue requirement as agreed to in the Stipulation and no other party has presented evidence on this issue.

The Commission has carefully considered the GTI funding proposed in the Stipulation, and concludes that inclusion of \$375,000 for the OTD Program in the Company's annual revenue requirement to enhance safety, increase operating efficiency, reduce operating costs, and help maintain system reliability and integrity is in the public interest and is also fair and reasonable and should be approved.

## EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 48

The evidence for this finding of fact and conclusions is contained in the direct testimony of Public Staff witness Perry, in the Stipulation, in the settlement testimony of Company witness Powers, and in the hearing testimony of Company witness Gaglio.

In her direct testimony, Public Staff witness Perry explained that DEC and DEP are subscribing to 725,000 dekatherms per day of natural gas transportation capacity on the Atlantic Coast Pipeline (ACP) project and that in order to allow for the redelivery of these volumes from ACP, DEP requires additional transportation/redelivery rights. According to witness Perry, as a result of these additional transportation/redelivery rights to DEP from Piedmont, Piedmont will be required to reconfigure portions of its system and construct limited new facilities. Witness Perry stated that as soon as ACP is in service that the cost of most of these assets will be paid by DEP, which recognizes that current ratepayers will not be paying for assets that will be paid by DEP. Witness Perry recommended crediting the revenue requirement in order to remove the cost of a portion of the ACP-related facilities constructed by Piedmont and in order to establish a regulatory asset to provide for the future collection of these costs from DEP. Witness Perry explained that once ACP is online and DEP is making payments to Piedmont that a portion of the revenue received would reduce the regulatory asset, which would be amortized over the life of the three transportation/redelivery agreements with DEP. Witness Perry's rationale for this proposal was that most of the cost, as originally conceived, was intended to be paid by DEP, beginning as soon as ACP was placed into service.

In Paragraph 31 of the Stipulation, Piedmont and the other Stipulating Parties agreed that instead of adopting witness Perry's initial approach, Piedmont would establish a separate rate rider mechanism, called the Line 434 Revenue Rider, that would effectively begin contemporaneously flowing through such revenues to reduce the rates of its customers associated with any demand charges paid by DEP relative to the ACP related transportation/redelivery agreements, subsequent to the effective date of the rates approved in this case but before the effective date of the next general rate case proceeding. According to the Stipulation, Piedmont will make a filing with the Commission that sets forth and requests approval of the Line 434 Revenue Rider rates that it proposes to put in place to flow through such revenues to its customers. Further, the Stipulation states that the Line 434 Revenue Rider rates will be based on the rate class margin percentages approved in the IMR mechanism and that Piedmont and the Public Staff will "consult with each other regarding the calculation and determination of the Line 434 Revenue Rider billing factors prior to and at the times Piedmont files for any changes to those factors." Further, the Stipulation states that at the next general rate case proceeding, the appropriateness and necessity of continuing, modifying, replacing, or eliminating the Line 434 Revenue Rider will be considered.

In her settlement testimony, Company witness Powers supported the Line 434 Revenue Rider and noted that Line 434 was currently used and useful and had been providing gas service to Piedmont's customers since November of 2018, notwithstanding the fact that ACP has not begun providing service at this time.

In his testimony at the hearing of this matter, Piedmont witness Gaglio provided more details about the sequence and process that resulted in the construction of Line 434, which was placed in service in 2018, and confirmed that it was critical in providing service to Piedmont's existing customers last winter. (Tr. Vol. 4, p. 89) Witness Gaglio explained that Line 434 is a 35-mile, 30-inch pipeline, which connects Piedmont's existing transmission infrastructure in Richmond County to the existing infrastructure in Robeson County, and that Line 434 parallels the existing west to east pipeline. Witness Gaglio stated that Line 434 was a critical asset for Piedmont's firm customers last winter and that Line 434 was the lowest cost mitigant and was constructed to meet the requirements of Piedmont's firm customers in the winter of 2018, 2019, and beyond, until ACP is available. Witness Gaglio explained that if ACP is continually delayed that Piedmont will have to continue to look at modifications to its system to meet its firm customer demands. Witness Gaglio further stated that "with or without ACP, Line 434 is going to be used and useful. It was last year, and it will continue to be in the future." Id. at 91.

No party, other than Public Staff witness Perry, submitted evidence on this issue.

The Commission has carefully reviewed the evidence on this issue and concludes that the Line 434 Revenue Rider proposed with regard to Piedmont's Line 434 is just, reasonable, and appropriate for utilization in this docket. These facilities are used and useful in providing service to Piedmont's customers and, therefore, qualify as rate base. The Commission further concludes that the Line 434 Revenue Rider will benefit Piedmont's customers once service through ACP begins by flowing through revenues associated with demand charges paid by DEP to Piedmont's customers. For purposes of the rates made effective as part of this proceeding, the Line 434 Revenue Rider (including all related billing factors) will be initially set at \$0.0000 per dt. Piedmont shall make a filing with the Commission that sets forth and requests approval of the Line 434 Revenue Rider rates that it proposes to put in place to flow through such revenues to its customers. As provided in the Stipulation, these rates shall be based on the rate class margin percentages approved in the IMR mechanism.

#### **EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 49**

The evidence for this finding of fact and conclusion is contained in the Stipulation and the settlement testimony of Piedmont witness Powers.

In Paragraph 32 of the Stipulation, the Stipulating Parties agreed that Piedmont would implement a system support volumetric rate component in all future special and electric generation contracts filed with the Commission following the effective date of rates in this docket. The purpose of this special and electric generation contract volumetric rate component is to ensure that special and electric generation contract customers provide adequate system support for Piedmont's infrastructure and operations and are not subsidized by Piedmont's other customers. This agreement was subject to a possible exception to the extent that Piedmont and the Public Staff agree and the Commission ultimately concludes, that it is just and reasonable and not unduly discriminatory to

exclude such rate component from a special or electric generation contract arrangement in discrete circumstances. The Stipulation provides that, if Piedmont and the Public Staff are unable to agree to the nature and design of such a volumetric rate component, Piedmont and the Public Staff will bring the matter to the Commission for resolution. No party presented prefiled testimony on this issue, however, it was supported in Piedmont witness Powers' testimony, and FPWC cross-examined Public Staff witness Perry about it. FPWC, through cross-examination, raised concerns about whether a competitive disadvantage might result from this provision of the Stipulation. Public Staff witness Perry explained at the hearing that the special and electric generation contract volumetric rate component is to ensure that the electric generation and special contracts are providing system support, that there is no unfair advantage, and that there is no way to unduly discriminate between different customers, especially now that there are so many affiliated agreements. Witness Perry further clarified that currently all contracts provide a system benefit and contribution, and that the Public Staff's changes merely represent an attempt to fine tune the contract structure to be more consistent going forward.

FPWC filed a brief in this docket requesting that the Commission reject Stipulation Paragraph 32 on the basis that it is unnecessary, legally unwarranted, overbroad, and potentially unduly discriminatory in its application. In its brief, FPWC contends that the Public Staff is using Paragraph 32 of the Stipulation to ask the Commission to (1) issue a general declaratory order about the inclusion of volumetric rate components in special contracts that are themselves the subject of a case-specific declaratory order proceedings; and (2) include in the general declaratory order an exception to the volumetric rate component requirement whenever such an exception is "just and reasonable and not unduly discriminatory." FPWC explained that such a general declaratory ruling is unnecessary as evidenced by the Commission's current practices regarding the handling of special contracts. FPWC states that the Public Staff has the opportunity to review and make discovery of special contracts when they are filed under seal by the LDCs. Further, FPWC states that once this review has taken place, the Public Staff has the option to contest the special contract or present to the Commission at the weekly staff conference for approval. FPWC notes in pages 2-3 of its post-hearing brief that when the Commission approves the special contract, the Commission's standard practice has been in the Dockets to issue an order that "for ratemaking purposes . . . neither constitutes approval of the amount of any compensation paid pursuant to the Agreement, nor prejudices the right of any party to take issue with any provision of the Agreement in a future proceeding." FPWC contends that this current practice affords the Public Staff (and other interested intervenors) at least three chances to address any concerns it may have with the special contract. In FPWC's view, neither the Public Staff nor any other party to the Stipulation has articulated a valid reason why a fourth bite at the apple in the form of a general declaratory order about special contracts set forth in Stipulation Paragraph 32 is necessary or appropriate.

FPWC further argues on page 5 of its post-hearing brief that the Public Staff is "effectively seeking to impose through Stipulation Paragraph 32 a general declaratory order about the special contracts to be addressed in case-specific declaratory orders



despite the absence of any existing general dispute between Piedmont and the Public Staff or any other party about the special contracts.”

Finally, FPWC opines that as a result of Paragraph 32 of the Stipulation being implemented on a prospective basis that this creates a risk of discrimination by treating special contracts negotiated before 2019 differently than those special contracts negotiated after 2020. FPWC further notes in its post-hearing brief on page 7 that “in light of the fact that the Atlantic Coast Pipeline is expected to be built in the near future and presents significant economically beneficial opportunities to eastern North Carolina, the proposed change in the rules of the game represented by Stipulation Paragraph 32 has the potential to unduly and harshly penalize eastern North Carolina once the pipeline is built and is therefore unjustified.”

The Commission has carefully reviewed the evidence on this issue and considered the public interest inherent in the matters raised in Paragraph 32 of the Stipulation. With respect to the matters raised in Paragraph 32, the Commission finds that the concerns raised by FPWC are premature and not ripe for decision making at this time. Paragraph 32 provides only for a process for Piedmont and the Public Staff to attempt to reach agreement on a volumetric system support component of special contract or electric generation contract rates going forward. There is nothing prejudicial about this process and whether it is successful or not, the determination of whether such charges are just and reasonable and appropriate for use is ultimately a question for this Commission to resolve. To the extent FPWC has concerns about actual (or prospective) special contract charges that result from the process specified in Paragraph 32, FPWC may raise those concerns in any proceeding where approval by the Commission of such rates is sought. The Commission, therefore, denies FPWC’s request to reject Paragraph 32 of the Stipulation.

#### **EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 50**

The evidence for this finding of fact and conclusions is contained in the Petition, the prefiled direct testimony of Piedmont witnesses Yoho, Gaglio, Barkley, and Powers, the direct testimony of Public Staff witnesses Larsen, Allison, Gilbert, and Jayasheela, the Stipulation, and the settlement testimony of Piedmont witness Powers.

In the Application, Piedmont sought approval for regulatory asset treatment of O&M costs associated with PHMSA Distribution Integrity Management Program (DIMP) compliance costs similar to treatment previously authorized by the Commission for PSNC in Docket No. G-5, Sub 565. This request was supported in the direct testimony of Piedmont witnesses Gaglio and Barkley. Public Staff witness Larsen provided testimony supporting the DIMP compliance costs. Public Staff witness Jayasheela also testified regarding the proposed regulatory asset accounting treatment for certain O&M expenses incurred due to the Company’s DIMP. She testified that Piedmont should treat such costs as regulatory assets and to defer such costs and reflect the approved annual amortization of DIMP costs until the resolution of the Company’s next general rate case proceeding.

In the Stipulation, the Stipulating Parties agreed to the regulatory asset treatment of O&M costs associated with DIMP compliance costs as shown in Paragraph 25 of the Stipulation. In connection with the agreement of the Stipulating Parties regarding the adoption of regulatory asset treatment for DIMP O&M costs, Piedmont also agreed, in Paragraph 26 of the Stipulation to provide annual reports to the Public Staff providing transactional details showing allocated or directly assigned NC amounts, a description of the nature of the expense, and supporting documentation (i.e., invoices) for the O&M expenses incurred and deferred in relation to federal TAMP and DIMP requirements and treated by Piedmont as regulatory assets. This report will be filed annually, beginning on January 31, 2020, for the 12-month period ending on November 30 of each year.

In the direct testimony of Piedmont witness Barkley, Piedmont proposed to reduce the number of CGAs on its system from 11 to two both for administrative efficiency and because, based on its experience with its current CGA measurements, the variations in heat content across its system were not material enough to justify the need for maintaining such a large number of CGAs. This proposal was supported by the direct testimony of Public Staff witness Larsen, the settlement testimony of witness Powers, and was adopted in the Stipulation in Paragraph 27.

In Paragraph 28 of the Stipulation, Piedmont agreed to work with the Public Staff in good faith to improve the transparency and reporting of costs allocated to Piedmont from DEBS or other subsidiaries of Duke Energy in order to facilitate the Public Staff's ability to efficiently audit such cost allocations in the future.

In the Application, as supported by the direct testimony of Piedmont witnesses Yoho, Powers, and Barkley, Piedmont proposed to increase the funding for conservation programs recovered from customers by \$1,225,000 annually. This proposal was opposed in the direct testimony of Public Staff witness Gilbert. In the Stipulation, at Paragraph 29, the Stipulating Parties agreed that the stipulated annual revenue requirement for Piedmont does not include any amounts for this proposed additional conservation spending, and that conservation program spending will remain at its current level of \$1,275,000.

In the Application, as supported by the direct testimony of Piedmont witnesses Gaglio and Powers, Piedmont made an adjustment to increase the test year level of line locates, based on a growth rate of more than 17.00% in 2019 compared to the same period of time in 2018. Public Staff witness Allison testified that a growth rate of 12.11% was a much more representative level of growth for the 12-month period ended May 31, 2019. In Paragraph 30 of the Stipulation, the Stipulating Parties agreed that the stipulated annual revenue requirement for Piedmont included an increase in line locate expense of 12.56% from test period levels to reflect significant increased activity in this area. The settlement testimony of Piedmont witness Powers indicates, however, that even with this stipulated increase in line locate expense, that Piedmont's proposed line locate expense was adjusted downward, for purpose of settlement by \$465,162, as reflected on Settlement Exhibit\_(PKP-1).

No other parties, except for Public Staff witnesses Larsen, Allison, Gilbert, and Jayasheela, provided evidence on any of the matters addressed in Paragraphs 25-30 of the Stipulation and no parties contested any of these provisions.

The Commission has carefully reviewed the evidence on these issues and considered the public interest inherent in each of the matters raised in Paragraphs 25-30 of the Stipulation. The Commission finds that the result of each of these stipulated issues is just, reasonable, and consistent with the public interest. Based on the foregoing, the Commission finds the specified provisions of Paragraphs 25-30 to the Stipulation to be just, reasonable, and appropriate for use in this proceeding and approves the same.

#### **EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 51**

The evidence for this finding of fact and conclusions is contained in the Stipulation, the settlement testimonies of Company witnesses Hevert and Powers, the settlement testimony of Public Staff witness Hinton, and in all of the testimony and exhibits in this proceeding.

As is fully discussed above, the provisions of the Stipulation are the product of give-and-take settlement negotiations between Piedmont, the Public Staff, CUCA, and CIGFUR IV. As a consequence, the Stipulation reflects the fact that each of the Stipulating Parties agreed to certain provisions that advanced each such party's interests. The end result is that the Stipulation strikes a fair balance between the interests of each of the Stipulating Parties. With regard to the other parties to this proceeding only four issues are contested. These are the amortization period for return of unprotected EDIT, the stipulated equity percentage and stipulated return on equity (all of which are contested by the AGO), and the agreement regarding steps to evaluate special contract usage based system contribution charges which is contested by FPWC. The Commission has independently evaluated the resolution of issues set forth in the Stipulation, including the four contested issues, and in the exercise of the Commission's independent judgment, as is set forth in detail throughout this Order, the Commission has determined that the resolution of issues in this case set forth in the Stipulation are just and reasonable to all parties to this proceeding in light of the evidence presented and serve the public interest. Therefore, the Commission approves the Stipulation in its entirety.

#### **EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 52-54**

The evidence for these findings of fact and conclusions is contained in the testimony of public witnesses and in the statements of consumer position filed with the Commission in this docket.

In its Application, Piedmont states that it provides natural gas utility service to approximately 752,000 customers in the state of North Carolina. In response to the Application, the Commission scheduled three hearings in order to accept public testimony regarding Piedmont's requested rate increase. The hearings were held in High Point, Charlotte, and Wilmington. Thirty-three public witnesses appeared, some of whom are

not Piedmont customers, to provide testimony in opposition to Piedmont's Application. Piedmont representatives attended all the hearings and were prepared to answer questions if customers expressed concerns with their service and/or had billing problems. The Commission also received approximately 981 consumer statements of position from individuals who wanted to comment on the proposed rate increase.

In both the testimony and consumer statements most individuals expressed their displeasure with a rate increase at this time, and, therefore, opposed it. Individuals raised concerns about the ability to afford an increase and fear that they would need to make hard choices to either pay for utility service or other living necessities. Moreover, they could not understand why an increase would be necessary given the abundance of natural gas supplies at the present. Commenters also called into question the wisdom or necessity of continuing to construct additional natural gas infrastructure (such as Atlantic Coast Pipeline or the Robeson LNG project). According to the comments, these facilities are unsafe and are being built in or near low-income communities, unfairly placing the burden of such infrastructure on those communities. Finally, commenters raised serious concerns with the environmental impacts of utilizing natural gas as an energy source. These commenters contended that allowing Piedmont's application for a rate increase will worsen the impacts on our environment by promoting global warming. Overall, the comments reflected a desire for Piedmont to move towards using a cleaner source of energy.

The Commission acknowledges the concerns expressed about the Atlantic Coast Pipeline (ACP) and the Robeson County LNG projects. However, approval or disapproval of the ACP is not a matter of within this Commission's jurisdiction. That project is an interstate natural gas pipeline subject to the exclusive jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act. Commenters who either support or oppose the ACP are encouraged to make their views known to the FERC in its proceedings. While the Commission does have some jurisdiction over the Robeson LNG project, this proceeding does not involve any application to approve or disapprove that project, and there are no costs of that project included in Piedmont's petition for a revenue increase in this proceeding. Thus, at this point the LNG facility is not before the Commission for any action that is within the Commission's scope of authority. The Commission expects Piedmont to comply with all applicable local and state land use, zoning, permitting, locational, and environmental rules and regulations relating to the location, construction, and operation of that project and again encourages persons interested in that project to participate in the appropriate local and state permitting proceedings relating to the project. The Commission notes that some persons offering comments were concerned that the LNG facility is being constructed to support or to enable the export of liquefied natural gas. However, the testimony presented to the Commission indicates that the facility is not export-related but is instead intended to provide reserve or contingency supplies of gas for Piedmont's local customers to offset uncertainties about the availability of sufficient interstate pipeline capacity for the bulk transport of gas to North Carolina during periods of peak local demand.

With regard to concerns about the environmental impacts of continued utilization of fossil fuels and/or global warming, these matters are also not before the Commission in this proceeding – whose purpose is solely to address the rates, terms and conditions upon which Piedmont will provide ongoing natural gas sales and transportation service for its retail residential, commercial and industrial customers who use natural gas as a fuel source. There is no authority in this proceeding, if there is any such authority in Chapter 62 at all, for the Commission to direct the retail customers of Piedmont to stop using natural gas as a fuel source and substitute some other source of fuel for cooking, heating, and industrial processes. While the Commission acknowledges that the issues raised by commenters are matters of public concern and that decisions about them are important matters of public policy, those issues are more appropriately addressed in other proceedings and before other policymaking bodies.

The Commission appreciates the public's input on these issues and acknowledges that they are important matters of national (and State) policy. These issues, however, are not properly before the Commission in this docket, therefore, the Commission will take no action regarding these issues in this Order.

IT IS, THEREFORE, ORDERED as follows:

1. That the Stipulation filed with the Commission on August 13, 2019, is hereby approved in its entirety.
2. That Piedmont is hereby authorized to adjust its rates and charges in accordance with the Stipulation and this Order (as such rates may be further adjusted for any changes in the Benchmark, and changes in Demand and Storage Charges prior to the effective date of the revised rates) effective for service rendered on and after November 1, 2019.
3. That an extension of Piedmont's IMR mechanism, in the proposed form of IMR reflected in Exhibit F of the Stipulation, along with the modifications to the calculations to the IMRR agreed to in the Stipulation, is hereby authorized from the date hereof for a period of four years at which time Piedmont may seek further extension of the mechanism through a request to the Commission seeking such relief.
4. That Piedmont's revenue requirement appropriately reflects the reduction in the federal corporate income tax rate from 35.00% to 21.00%, on the Company's ongoing federal income tax expense.
5. That Piedmont's revenue requirement appropriately reflects the reduction in the State corporate income tax rate from 3.00% to 2.50%, on the Company's ongoing State income tax expense.
6. That Piedmont's protected federal EDIT shall be flowed back to customers following the tax normalization rules utilizing the ARAM as required by the rules of the IRS.

7. That all of Piedmont's unprotected federal EDIT shall be returned to ratepayers through a levelized rider over a period of five years.

8. That Piedmont shall refund to its ratepayers the overcollection of federal income taxes (the provisional revenues) related to the decrease in the federal corporate income tax rate for the period beginning January 1, 2018, and ending April 30, 2019, including corresponding interest, through a rider for a one-year period beginning when the new base rates become effective in the current docket.

9. That Piedmont's State EDIT recorded pursuant to the Commission's Order Addressing the Impacts of HB 998 on North Carolina Public Utilities issued May 13, 2014, in Docket No. M-100, Sub 138 shall be returned to ratepayers through a levelized rider that will expire at the end of a three-year period.

10. That Piedmont is authorized to implement the changes to its Rate Schedules and Service Regulations reflected in Exhibits G and H to the Stipulation.


11. That Piedmont shall file final versions of the revised Rate Schedules and Service Regulations to comply with this Order within five days from the date of this Order.

12. That Piedmont shall send the notice attached hereto as Appendix A to its customers beginning with the billing cycle that includes the rate changes approved herein.

ISSUED BY ORDER OF THE COMMISSION.

This the 31<sup>ST</sup> day of October, 2019.

NORTH CAROLINA UTILITIES COMMISSION

Handwritten signature of Kimberley A. Campbell in black ink.

Kimberley A. Campbell, Chief Clerk

Commissioner Daniel G. Clodfelter, concurring in part and dissenting in part to this Order.

**DOCKET NO. G-9, SUB 743**

**Commissioner Daniel G. Clodfelter, concurring in part and dissenting in part:**

I join in the Commission's opinion and in the results reached on all issues save two. They both involve the time periods ordered by the Commission for returning to ratepayers two items of accumulated excess deferred income taxes (EDIT) – the five-year period for refunding federal “unprotected EDIT” and the three-year period for refunding EDIT arising from North Carolina state income tax reductions.<sup>1</sup> It is now almost two years since the effective date of the federal 2017 Tax Cuts and Jobs Act. When this already elapsed time is added to the five-year refund period proposed for the federal “protected” EDIT, seven years will have passed before ratepayers receive the final installment of the refund to which they are entitled. The North Carolina income tax cuts were enacted in 2014, some five years ago. Adding this time to the proposed three-year refund period means that it will be eight years since the General Assembly enacted these tax changes before ratepayers receive the final refund payment. I consider these time periods to be excessive and unreasonable. I would join with the position advanced in this case by the Attorney General and require that both refunds be made over a period of two years from the date of the rates approved in the Commission's order go into effect.

I acknowledge the testimony of Piedmont witness Perry that longer periods for paying these refunds will “smooth” the transition to the date when all refunds will have been paid and no credits remain to be taken against the approved base rates. She explained that this will help avoid “rate shock” when customers no longer receive bill credits on account of the EDIT refunds. But from the available evidence it appears that the effect of shortening the refund periods – aside from returning to customers sooner rather than later money that they are entitled to receive – will be a final adjustment for the typical residential customer of no more than between one and two dollars per month in the first year EDIT credits are no longer available. I do not consider this a sufficient basis for the longer refund periods proposed in the Stipulation and accepted by the Commission majority.

/s/ Daniel G. Clodfelter  
Commissioner Daniel G. Clodfelter

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<sup>1</sup> These are set forth in findings 42 and 44 in the Commission's opinion and are also embodied in Paragraph 16 of the Stipulation. I have no quarrel with the analysis, or the result, with respect to the periods allowed for refunding the federal EDIT arising after January 1, 2018 (Finding No. 43), or the return of the federal “protected” EDIT (Finding No. 41). In the case of the latter, the Commission has no discretion in the matter but must follow the provisions of the 2017 Tax Cuts and Jobs Act. In the case of the former, I agree that a refund over the next twelve months is reasonable and appropriate.

# **SCHEDULE 1**



**Piedmont Natural Gas Company, Inc.**  
Docket No. G-9, Sub 743  
**STATEMENT OF NET OPERATING INCOME FOR RETURN, RATE BASE AND OVERALL RETURN**  
For The Test Year Ended December 31, 2018

Line No.	Item	Per Company Update (a)	Settlement (b)	After Settlement Adjustments (c)	Rate Increase (d)	After Rate Increase (e)
<b>NET OPERATING INCOME FOR RETURN</b>						
<b>Operating Revenues:</b>						
1	Sales and transportation of gas	\$795,180,723	(\$5,854)	\$795,174,869	\$108,796,788	\$903,971,657
2	Other operating revenues	<u>4,343,374</u>	<u>143,469</u>	<u>4,486,843</u>		<u>4,486,843</u>
3	Operating revenues, excl special contracts	799,524,097	137,615	799,661,712	108,796,788	908,458,500
4	Electric Generation & Special Contract Revenues	<u>102,381,824</u>	<u>0</u>	<u>102,381,824</u>		<u>102,381,824</u>
5	Total operating revenues	901,905,921	137,615	902,043,536	108,796,788	1,010,840,324
6	Cost of gas	<u>334,653,470</u>	<u>0</u>	<u>334,653,470</u>		<u>334,653,470</u>
7	<b>Margin</b>	567,252,451	137,615	567,390,066	108,796,788	676,186,854
<b>Operating Expenses:</b>						
8	Operating and maintenance	229,301,103	(15,961,067)	213,340,036	737,266	\$214,077,302
9	Depreciation	136,676,708	(371,051)	136,305,657		136,305,657
10	General taxes	31,426,103	446,065	31,872,168		31,872,168
11	State income tax (2.5%)	2,461,268	357,222	2,818,490	2,696,186	5,514,676
12	Federal income tax (21%)	20,157,781	2,925,645	23,083,426	22,081,762	45,165,188
13	Amortization of investment tax credits	(79,424)	0	(79,424)		(79,424)
14	Amortization of EDIT	<u>0</u>	<u>(4,061,162)</u>	<u>(4,061,162)</u>		<u>(4,061,162)</u>
15	Total operating expenses	<u>419,943,539</u>	<u>(16,664,348)</u>	<u>403,279,191</u>	<u>25,515,213</u>	<u>428,794,405</u>
16	Interest on customer deposits	(796,448)	0	(796,448)		(796,448)
17	Net operating income for return	<u>\$146,512,464</u>	<u>\$16,801,963</u>	<u>\$163,314,427</u>	<u>\$83,281,574</u>	<u>\$246,596,002</u>
<b>RATE BASE</b>						
19	Plant in service	\$5,524,939,964	(\$8,566,684)	\$5,516,373,281	\$0	\$5,516,373,281
20	Accumulated depreciation	<u>(1,508,506,101)</u>	<u>(12,131,404)</u>	<u>(1,520,637,505)</u>	<u>0</u>	<u>(1,520,637,505)</u>
21	Net plant in service	4,016,433,863	(20,698,087)	3,995,735,776	0	3,995,735,776
22	Working Capital - Other	(6,264,000)	0	(6,264,000)	0	(6,264,000)
23	Working Capital - Lead Lag	56,088,683	(13,660,157)	42,428,526	10,019,415	52,447,941
24	Deferred Regulatory Assets	135,551,187	135,551,187	135,551,187		135,551,187
25	Deferred Income Taxes	<u>(849,671,872)</u>	<u>122,811,918</u>	<u>(726,859,954)</u>	<u>0</u>	<u>(726,859,954)</u>
26	Original cost rate base	<u>\$3,216,586,674</u>	<u>\$224,004,861</u>	<u>\$3,440,591,535</u>	<u>\$10,019,415</u>	<u>\$3,450,610,950</u>
27	Overall Rate of Return on Rate Base	4.55%		4.74%		7.14%

# **SCHEDULE 2**

**Piedmont Natural Gas Company, Inc.**  
Docket No. G-9, Sub 743  
**SUMMARY OF SETTLEMENT ADJUSTMENTS**  
For The Test Year Ended December 31, 2018

Line No.	<u>Item</u>	<u>Settlement</u>
1	<b>Original Application - Increase in Revenue Requirement filed by the Company</b>	\$118,116,597
2	Additional Increase in Revenue Requirement due to June 2019 update	<u>25,519,289</u>
3	<b>Increase in Margin Revenue Requested due to Company Update</b>	<b><u>\$143,635,886</u></b>
	<b>Settlement Adjustments:</b>	
4	Change in Equity ratio from 52% to 52%	(16,459)
5	Change in cost of long-term debt from 4.40% to 4.41%	159,698
6	Change in cost of short-term debt from 2.78% to 2.72%	(17,274)
7	Change in return on equity from 10.60% to 9.70%	(20,579,402)
8	Plant in Service Updates and Related Items at June 30, 2019	(865,491)
9	ADIT - updated to June 30, 2019	(137,715)
10	Adjustment to exclude Federal Tax EDIT	6,638,773
11	Adjustment to exclude State Tax EDIT	3,769,738
12	Adjust working capital for lead lag to reflect reclassifying lead lag adjustment from Proposed to Pro Forma	(1,189,797)
13	Adjustment to end of period revenue - weather, growth, and commodity costs	5,818
14	Adjustment to other operating revenues	(143,469)
15	Customer Conservation Program	(1,233,358)
16	Special Contract - remove PIS associated with facilities	(112,358)
17	Payroll and Related Expenses	(169,581)
18	Overtime	(234,480)
19	Employee Benefits	(836,922)
20	Board Expenses	(422,000)
21	Executive Compensation	(1,484,492)
22	Incentives	(1,185,815)
23	Rate Case Expenses - updated, 4 year amortization, no rate base	(268,917)
24	Sponsorships & Donations	(119,152)
25	Uncollectibles	(45,603)
26	Inflation Adjustment - removed certain expenses and updated rate	(635,832)
27	Nonutility Adjustment - O&M and plant	(1,364,212)
28	Pension Expense	(844,683)
29	Deferral: PIM Transmission Costs - update actual expenses @ June 30, 2019, 4 year amortization	(5,450,230)
30	Deferral: Environmental Costs - update actual expenses @ June 30, 2019, 4 year amortization	(11,359)
31	Deferral: NCNG OPEB Liability, remove balance	(829)
32	Deferral EasternNC, 4 year amortization	(846,566)
33	Undercollection of Regulatory Fee, 4 year amortization	(22,368)
34	Line Locates Expense	(465,162)
35	Regulatory Fee Expense - change to 0.13% per Commission Order	2,242
36	Advertising - remove promotional, image, competitive, & non-recurring	(297,937)
37	Miscellaneous General Expenses	(358,102)
38	Aviation Expense	(485,760)
39	Gas Technology Institute (GTI) Funding	(352,387)
40	Lobbying Expenses	(156,536)
41	Amortization of protected EDIT, net of tax	(4,954,772)
42	Rents Expense	(497,525)
43	Change in retention factor - Uncollectibles and Regulatory Fee changes	(482,492)
44	Adjust cash working capital for revenue impact of Settlement adjustments	872,742
45	Rounding	<u>929</u>
46	<b>Settlement Adjustments</b>	<b><u>(34,839,098)</u></b>
47	<b>Settlement Recommended Change in Margin Revenue</b>	<b><u>\$108,796,788</u></b>
	<b>Rider impacts on Settlement Revenue Requirement:</b>	
48	Federal Unprotected EDIT Rider, 5 year flow back	(\$23,304,269)
49	State EDIT, 3 year flow back	(20,735,154)
50	Overcollection of Revenues from Federal Tax Change, 1 year flow back	<u>(36,699,240)</u>
51	<b>Settlement Recommended Change in Revenue Requirement due to Riders (Sum of Lines 48-50)</b>	<b><u>(\$80,738,663)</u></b>
52	<b>Settlement Recommended Change in Revenue Requirement for Year 1</b>	\$28,058,125
53	Settlement Recommended Change in Revenue Requirement for Years 2 -3	\$64,757,365
54	Settlement Recommended Change in Revenue Requirement for Years 4 -5	\$85,492,519 [1]
55	Settlement Recommended Change in Revenue Requirement for Year 6	\$108,796,788 [1]

[1] The Stipulation caps the aggregate rate increases provided for in years beyond Year 3 at \$82,820,089 in order to be consistent with the notice of rate increase provided to the public in this docket.

**SETTLEMENT  
EXHIBIT B**

**Piedmont Natural Gas Company, Inc.**  
Docket No. G-9, Sub 743  
**CALCULATION OF GROSS REVENUE EFFECT FACTORS**  
For The Test Year Ended December 31, 2018

Line No.	<u>Item</u>	<u>Capital Structure</u>	<u>Cost Rates</u>	<u>Retention Factors</u>	<u>Gross Revenue Effect</u>	<u>Composite Tax Rate</u>	<u>Net of Tax Overall Rate of Return</u>
		(a)	(b)	(c)	(d)	(e)	(f)
<b><u>Rate Base Factor:</u></b>							
1	Long-term debt	47.15%	4.41%	0.9932235	0.02093502	0.77025	1.60%
2	Short-term debt	0.85%	2.72%	0.9932235	0.00023278	0.77025	0.02%
3	Common equity	<u>52.00%</u>	9.70%	0.7650304	<u>0.06593202</u>	1.00000	<u>5.04%</u>
4	Total (Sum of L1 thru L3)	<u>100.00%</u>			<u>0.08709982</u>		<u>6.66%</u>
<b><u>Net Income Factor:</u></b>							
5	Total revenue				1.0000000		
6	Uncollectibles				<u>0.0054836</u>		
7	Balance (L5 - L6)				0.9945164		
8	Regulatory fee (L7 x current regulatory fee rate)				<u>0.0012929</u>		
9	Balance (L7 - L8)				0.9932235		
10	Less: State income tax (L9 x 2.5%)				<u>0.0248306</u>		
11	Balance (L9 - L10)				0.9683929		
12	Less: Federal income tax (L11 x 21%)				<u>0.2033625</u>		
13	Gross up factor (L11 - L12)				<u>0.7650304</u>		

**STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH**

DOCKET NO. G-9, SUB 743

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of  
Application of Piedmont Natural Gas )  
Company, Inc., for an Adjustment of Rates, )  
Charges, and Tariffs Applicable to Service ) PUBLIC NOTICE  
in North Carolina, Continuation of its IMR )  
Mechanism, Adoption of an EDIT Rider, )  
and Other Relief )

The North Carolina Utilities Commission (Commission) issued an Order allowing Piedmont Natural Gas Company, Inc. (Piedmont or the Company), to increase its rates and charges by approximately \$28.1 million annually, or 3.10% overall, effective November 1, 2019; an additional \$36.7 million for a total of \$64.7 million annually, or 7.20% overall, effective November 1, 2020; and an additional \$18.1 million effective November 1, 2022, for a total of \$82.8 million annually, or 9.20% overall. The differing annual increases are due to the timing of the flowback of deferrals and Excess Deferred Income Taxes (EDIT) as a result of reductions in State and federal income tax rates.

On April 1, 2019, Piedmont filed an application seeking a general increase in and revisions to the rates and charges for customers served by the Company; continuation of Piedmont's Integrity Management Rider mechanism; regulatory asset treatment for certain incremental Distribution Integrity Management Program expenses; revised depreciation rates; updates and revisions to Piedmont's rate schedules and service regulations; revised and updated amortizations and recovery of certain regulatory assets accrued since Piedmont's last general rate case proceeding; approval of expanded energy efficiency and conservation program spending; and adoption of an EDIT Rider mechanism to manage the flowback to customers of deferrals and EDIT resulting from reductions in State and federal income tax rates.

In its Application, the Company requested an increase of approximately \$82.8 million annually, effective November 1, 2019. The Company stated that the rate increase was needed because it has added customers and made capital improvements prompted by system growth and has been required to continue to invest substantial capital in order to comply with federal pipeline safety and integrity regulations and requirements. Additional reasons cited by the Company in support of its request for a rate increase were to allow it to maintain its facilities and services in accordance with the reasonable requirements of its customers, to compete in the market for capital funds on fair and reasonable terms, and to produce a fair profit for its stockholders.

The increase approved by the Commission was the result of a stipulation entered into between the Company and other parties to the proceeding, including the Public Staff – North Carolina Utilities Commission (Stipulation). The Commission notes that the increases to specific classes of customers will vary in order that each customer class pays its fair share of the cost of providing natural gas service. For the typical residential customer, the approved rate increase effective November 1, 2019, will result in an annual increase to the customer's bill of \$22, or \$1.83 per month. These approved increases are associated with allowed expenses and return on investment and the flowback of deferrals and EDIT as a result of reductions in State and federal income tax rates only, and do not contemplate increases or decreases that may occur in association with gas cost adjustments to rates or other Commission approved riders as allowed by North Carolina law.

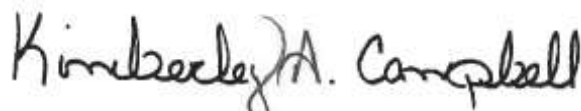
A list of approved rates can be obtained from the Company's website, [www.piedmontng.com](http://www.piedmontng.com), or from the Office of the Chief Clerk of the Commission, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina, where copies of the Commission's Order and the Stipulation are available for review by any interested party. The Commission's Order, the Stipulation, and other filings in this docket can be viewed/printed from the Commission's website at <https://www.ncuc.net/> using the Dockets drop down list and entering "G-9 Sub 743" in the Docket Search function.

IT IS, THEREFORE, SO ORDERED.

ISSUED BY ORDER OF THE COMMISSION.

This the 31<sup>ST</sup> day of October 2019.

NORTH CAROLINA UTILITIES COMMISSION

A handwritten signature in black ink that reads "Kimberley A. Campbell". The signature is written in a cursive style with a large initial "K".

Kimberley A. Campbell, Chief Clerk