

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

**NASHVILLE, TENNESSEE**

**October 11, 2010**

<b>IN RE:</b>	)	
	)	
<b>PETITION OF PIEDMONT NATURAL GAS</b>	)	
<b>COMPANY, INC. FOR APPROVAL, <i>NUNC PRO</i></b>	)	<b>DOCKET NO.</b>
<b><i>TUNC</i>, OF NEGOTIATED FRANCHISE</b>	)	<b>10-00127</b>
<b>AGREEMENT WITH THE CITY OF MOUNT</b>	)	
<b>JULIET, TENNESSEE PURSUANT TO T.C.A.</b>	)	
<b>SECTION 65-4-107</b>	)	

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**ORDER APPROVING FRANCHISE AGREEMENT**

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This matter came before Chairman Mary W. Freeman, Director Kenneth C. Hill and Director Sara Kyle of the Tennessee Regulatory Authority (the "Authority" or "TRA"), the voting panel assigned to this Docket, at a Hearing held on August 23, 2010 for consideration of the *Petition of Piedmont Natural Gas Company, Inc. for Approval, Nunc Pro Tunc, of Franchise Agreement with the City of Mt. Juliet, Tennessee Pursuant to Tennessee Code Annotated § 65-4-107* (the "*Petition*") filed by Piedmont Natural Gas Company, Inc. ("Piedmont" or "Company") on June 25, 2010. Also filed were the Pre-Filed Direct Testimony of David R. Carpenter and the Franchise Agreement between Piedmont and the City of Mt. Juliet ("Mt. Juliet" or "City").

**BACKGROUND AND PETITION**

Prior to March 2006, Piedmont provided service to Mt. Juliet pursuant to a ten-year franchise agreement between the Company and Mt. Juliet (City Ordinance 96-7), which was approved by the City and accepted by Piedmont in 1996. Negotiations between the Company

and the City began in 2005.<sup>1</sup> The resultant agreement (City Ordinance 2006-10) was passed by the City Council of Mt. Juliet on second reading March 13, 2006 and subsequently accepted by Piedmont.<sup>2</sup> The new agreement initiates a ten-year term from the day of acceptance, March 13, 2006. Under the new agreement, the Company continues to pay the City five percent of the annual gross revenues from all customers who are located within the limits of the City in exchange for the right to serve those customers. The payments are still due on a quarterly basis, with the first payment made on or before July 31, 2006.

Piedmont stated that the *Petition* was filed late due to an administrative oversight brought on by changes in personnel. The Company states that despite its failure to file the agreement with the Authority for approval at the time it was executed, it has acted in accordance with the terms, conditions and rates of the agreement since that time.<sup>3</sup> The Company expresses its regret for the oversight and has implemented new processes and procedures to make sure this oversight does not happen again.<sup>4</sup>

#### **REQUIREMENT OF AND STANDARDS FOR AUTHORITY APPROVAL**

Tenn. Code Ann. § 65-4-107 (2004) provides that no grant of a privilege or franchise from the State or a political subdivision of the State to a public utility shall be valid until approved by the Authority. Approval pursuant to Tenn. Code Ann. § 65-4-107 (2004) requires a determination by the Authority, after hearing, that “such privilege or franchise is necessary and proper for the public convenience and properly conserves the public interest.” Tenn. Code Ann. § 65-4-107 (2004) further provides that in considering such privilege or franchise, the Authority “shall have the power, if it so approves, to impose conditions as to construction, equipment,

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<sup>1</sup> Pre-Filed Direct Testimony of David R. Carpenter, p. 2.

<sup>2</sup> *Petition*, pp. 2-3.

<sup>3</sup> *Petition*, p. 4.

<sup>4</sup> Pre-Filed Direct Testimony of David R. Carpenter, p. 4.

maintenance, service or operation as the public convenience and interest may reasonably require.”

**PRE-FILED DIRECT TESTIMONY OF DAVID R. CARPENTER**

In his Pre-Filed Direct Testimony, Mr. Carpenter states that both parties were ultimately able to agree on the negotiated issues contained in the Franchise Agreement and that the Franchise Agreement is necessary and proper for the public convenience and is in the public interest. Mr. Carpenter listed the following five reasons that the new franchise is in the public interest:<sup>5</sup>

1. Continued availability of high quality natural gas to residents, businesses and governmental entities located within the City;
2. Provision of natural gas service by an established and proven provider that possesses the requisite expertise, facilities, gas supply and transportation assets to provide such service;
3. Establishes adequate and proper access to public rights-of-way in order to ensure Piedmont is able to provide adequate, efficient and safe service;
4. Provides an incentive for Piedmont to invest in infrastructure needed to improve and expand service within the City; and
5. Offset to long-term road maintenance expenses for the City due to Piedmont’s ongoing duty to repair excavation work as it is performed.

**FINDINGS AND CONCLUSIONS**

The Authority issued a *Notice of Hearing* on August 13, 2010. On August 23, 2010, a Hearing was held before the voting panel at a regularly scheduled Authority Conference. Appearing for the Company were Jim Jeffries Esq., Dale Grimes, Esq. and David R. Carpenter,

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<sup>5</sup> Pre-Filed Direct Testimony of David R. Carpenter, pp. 7-8.

Managing Director of Regulatory Affairs. Jason Holleman, Esq. appeared for the City. At the Hearing, Mr. Carpenter adopted his pre-filed testimony as his testimony before the panel. No person sought intervention prior to or during the Hearing. Thereafter, based upon the testimony and the administrative record as a whole, the panel found that Piedmont's Franchise Agreement with the City was in the public interest. Based upon this finding, the panel voted unanimously to approve, *nunc pro tunc*, Piedmont's *Petition* to enter into a Franchise Agreement with the City, with an effective date of March 13, 2006.

**IT IS THEREFORE ORDERED THAT:**

1. The *Petition of Piedmont Natural Gas Company, Inc. for Approval, Nunc Pro Tunc, of Franchise Agreement with the City of Mt. Juliet, Tennessee Pursuant to Tennessee Code Annotated § 65-4-107* is approved, *nunc pro tunc*, with an effective date of March 13, 2006.
2. Piedmont Natural Gas Company, Inc. shall file a revised tariff to include the new franchise fee.

  
Mary W. Freeman, Chairman

  
Kenneth C. Hill, Director

  
Sara Kyle, Director