

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

January 6, 2011

IN RE:)	
)	
PETITION OF PIEDMONT NATURAL GAS)	
COMPANY, INC. FOR APPROVAL, <i>NUNC</i>)	DOCKET NO.
<i>PRO TUNC</i>, OF NEGOTIATED)	10-00210
FRANCHISE AGREEMENT WITH THE)	
CITY OF FAIRVIEW, TENNESSEE)	

ORDER APPROVING FRANCHISE AGREEMENT

This matter came before Director Eddie Roberson, 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 December 13, 2010 for consideration of the *Petition of Piedmont Natural Gas Company, Inc. for Approval, Nunc Pro Tunc, of Negotiated Franchise Agreement with the City of Fairview, Tennessee Pursuant to Tennessee Code Annotated § 65-4-107* (the "*Petition*") filed by Piedmont Natural Gas Company, Inc. ("Piedmont" or "Company") on November 4, 2010. Also, Piedmont filed the Pre-Filed Direct Testimony of Eddie Davidson, Senior Manager, Legislative and Community Affairs for Piedmont's Tennessee Region, and the Agreement between Piedmont and the City of Fairview ("Fairview" or "the City"), as required by Tenn. Code Ann. § 65-4-107.

THE *PETITION*

Piedmont provided service to Fairview until February 2009 pursuant to a twenty-five year franchise agreement between the Company and Fairview, as approved by the City and accepted by Piedmont. Negotiations on a new franchise agreement between the Company and the City

began in 2010.¹ The resulting agreement (Bill Number 2010-04) was passed by the City of Fairview's Board of Commissioners on August 19, 2010 after the second reading and was subsequently accepted by Piedmont.² The new agreement has a twenty-year term that began February 17, 2009.³ Under the new agreement, the Company continues to pay the City, on a quarterly basis, five percent of the annual gross revenues from all customers who are located within the city limits for the right to serve those customers.

Piedmont states that its request for *nunc pro tunc* treatment of its *Petition* is the result of several timing issues the Company has previously identified. The franchise agreements were inadvertently allowed to expire due to some inconsistencies in Piedmont's administrative staff, as well as delays in completing negotiations with the municipalities involved in those agreements.⁴ The Company states that despite its failure to file this 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.⁵ The Company expresses regret for the oversight and has implemented new processes and procedures to timely file future franchise agreements.⁶

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.

¹ *Petition*, p. 2.

² Eddie Davidson, Pre-Filed Direct Testimony, p. 4 (November 4, 2010).

³ *Petition*, Exhibit 1, Bill #2010-04, Section 2.05.

⁴ *Petition*, p. 4.

⁵ *Id.*

⁶ *Id.*

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

PRE-FILED DIRECT TESTIMONY OF EDDIE DAVIDSON

In his Pre-Filed Direct Testimony, Mr. Davidson 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. Davidson listed the following five reasons that the new franchise is in the public interest:⁷

1. It maintains availability of high quality natural gas to residents, businesses and governmental entities located within Fairview.
2. It ensures 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. It provides adequate and proper access to public rights-of-way in order to ensure Piedmont is able to provide adequate, efficient and safe service.
4. It provides an incentive for Piedmont to invest in infrastructure needed to improve and expand service within Fairview.
5. It includes a provision to offset long-term road maintenance expenses for Fairview 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 December 3, 2010. On December 13, 2010, a Hearing was held before the voting panel at a regularly scheduled Authority Conference.

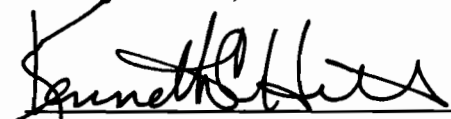
⁷ Eddie Davidson, Pre-Filed Direct Testimony, pp. 4-5 (November 4, 2010).

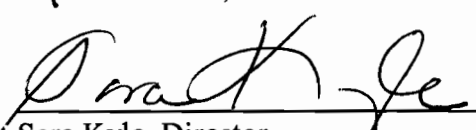
Appearing for the Company were Jim Jeffries, Esq., and Eddie Davidson, Senior Manager, Legislative and Community Affairs for Piedmont's Tennessee Region. Larry Cantrell, Esq., appeared for Fairview. At the Hearing, Mr. Davidson adopted his pre-filed testimony as his testimony before the panel. No person 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 Fairview was necessary and proper for the public convenience and conserves the public interest. Therefore, the panel voted unanimously to approve Piedmont's *Petition* to enter into a Franchise Agreement with Fairview, *nunc pro tunc*, with an effective date of February 17, 2009.

IT IS THEREFORE ORDERED THAT:

The Petition of Piedmont Natural Gas Company, Inc. for Approval, Nunc Pro Tunc, of Negotiated Franchise Agreement with the City of Fairview, Tennessee Pursuant to Tennessee Code Annotated § 65-4-107 is approved, with an effective date of February 17, 2009.


Eddie Roberson, Director


Kenneth C. Hill, Director


Sara Kyle, Director