

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

May 25, 2011

IN RE:

PETITION OF ATMOS ENERGY CORPORATION  
FOR APPROVAL OF FRANCHISE AGREEMENT  
WITH CITY OF SHELBYVILLE, TENNESSEE

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DOCKET NO.  
11-00041

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ORDER APPROVING FRANCHISE AGREEMENT

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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 May 9, 2011 for consideration of the *Petition for Approval of Franchise Agreement with City of Shelbyville, Tennessee* (the "*Petition*") filed by Atmos Energy Corporation ("Atmos" or "Company") on March 16, 2011. Included with the *Petition* was a copy of Ordinance No. 892,<sup>1</sup> which grants a franchise to Atmos to provide service to the City of Shelbyville ("Shelbyville" or "City"). The Company seeks Authority approval of the negotiated franchise agreement as required by Tenn. Code Ann. § 65-4-107 (2004).<sup>2</sup> On March 18, 2011, the Company submitted the Pre-Filed Direct Testimony of David Roberts, Field Supervisor for the Kentucky/Mid-States Division of Atmos.

**PETITION**

Atmos currently provides natural gas service to approximately 3,890 customers in the City pursuant to a franchise agreement incorporated in City Ordinance No. 371, dated March 11, 1986, which expired March 26, 2011.<sup>3</sup> This new agreement contains an annual inspection fee of \$2,000, the same fee paid under the old franchise agreement.

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<sup>1</sup> *Petition, Exhibit 1.*

<sup>2</sup> 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."

<sup>3</sup> *Petition*, p. 2.

The *Petition* states that Tenn. Code Ann. § 65-4-105(e) (2004) requires franchise payments to be billed pro rata to the utility customers, insofar as practicable. Atmos requests, in light of the small annual payment of \$2,000 per year, that the annual inspection fee be included in the Company's fixed costs. In support of its request, the Company states the administrative costs of separate billing would far exceed the amounts to be billed.<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, maintenance, service or operation as the public convenience and interest may reasonably require."

#### **PRE-FILED DIRECT TESTIMONY OF DAVID ROBERTS**

In his Pre-Filed Direct Testimony, Mr. Roberts states that the franchise agreement is necessary and proper for the public convenience and properly serves the public interest. Mr. Roberts listed the following five reasons that the new franchise is in the public interest:<sup>5</sup>

1. Maintains availability of high quality natural gas service for the City;
2. 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. Provides adequate and proper access to public rights-of-way in order to ensure Atmos is able to provide adequate, efficient and safe service;

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<sup>4</sup> *Id.* at 3.

<sup>5</sup> David Roberts, Pre-filed Direct Testimony, pp. 3-4 (March 18, 2011).

4. Includes protective provisions to ensure the citizens of Shelbyville are benefited and not economically harmed by the activities of Atmos; and

5. Provides an incentive for Atmos to invest in infrastructure needed to improve and expand service within the City.


**FINDINGS AND CONCLUSIONS**

The Authority issued a *Notice of Hearing* on April 29, 2011. On May 9, 2011, a Hearing was held before the voting panel at a regularly scheduled Authority Conference. Appearing for the Company were Scott Ross, Esq. and David Roberts, Field Supervisor. At the Hearing, Mr. Roberts adopted his Pre-Filed Direct 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 the Franchise Agreement is necessary and proper for the public convenience and conserves the public interest. Based upon this finding, the panel voted unanimously to approve Atmos' *Petition* to enter into a Franchise Agreement with the City, to be effective immediately.

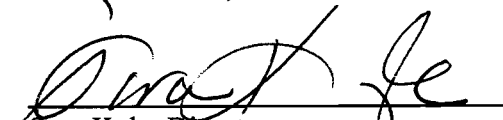
**IT IS THEREFORE ORDERED THAT:**

1. Atmos Energy Corporation's *Petition for Approval of Franchise Agreement with City of Shelbyville, Tennessee* is approved and shall be effective immediately.

2. Atmos Energy Corporation shall file an updated page 70 in its tariff to reflect the decision of the Tennessee Regulatory Authority as set out herein.

  
Eddie Roberson, Director

  
Kenneth C. Hill, Director

  
Sara Kyle, Director