

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE
April 26, 2012

IN RE:

PETITION OF PIEDMONT NATURAL GAS
COMPANY, INC. FOR APPROVAL OF
FRANCHISE AGREEMENT WITH THE
CITY OF LA VERGNE, TENNESSEE

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DOCKET NO.
12-00013

ORDER APPROVING FRANCHISE AGREEMENT

This matter came before the Tennessee Regulatory Authority (the "Authority" or "TRA") during the regularly scheduled Authority Conference on March 26, 2012, for a Hearing on the *Petition of Piedmont Natural Gas Company, Inc. for Approval of Franchise Agreement with the City of La Vergne, Tennessee Pursuant to Tennessee Code Annotated § 65-4-107* (the "*Petition*") filed by Piedmont Natural Gas Company, Inc. ("Piedmont" or "Company") on February 9, 2012. With its *Petition*, Piedmont filed the pre-filed Testimony of Eddie Davidson, Senior Manager, Legislative and Community Affairs for Piedmont's Tennessee Region, with attached Exhibit 1, the Franchise Agreement between Piedmont and the City of La Vergne, Tennessee ("La Vergne" or "the City"), Ordinance 2011-21, as required by Tenn. Code Ann. § 65-4-107 (2004).

THE PETITION

Until 2005, Piedmont provided service to La Vergne under a twenty-five (25) year franchise agreement between the Company and La Vergne (City Ordinance 110), as approved by the City and accepted by Piedmont in 1980. Upon expiration of the franchise agreement in 2005, the Company pursued negotiations with the City for a new franchise agreement. The Company states these efforts were not successful at that time inasmuch as the City Manager for La Vergne

was uncooperative in undertaking negotiations with the Company.¹ The Company states that this situation persisted despite its periodic attempts to initiate discussions with the City Manager. In 2009, Piedmont hired Mr. Davidson and made him responsible for negotiating all franchise agreements in its Tennessee service area. Mr. Davidson states in his testimony that he also was not able to initiate negotiations with the City Manager. In May 2011, La Vergne hired a new City Manager. Unlike his predecessor, the new City Manager was responsive and willing to engage in negotiations with Piedmont. The resulting franchise agreement (Ordinance 2011-21) was passed by the City of La Vergne's Mayor and Board of Aldermen and subsequently accepted by Piedmont on December 1, 2011.²

The new agreement has a fifteen (15) year term beginning on October 1, 2011, or upon the date of approval by the Authority.³ Under the new agreement, the Company will initially pay no franchise fee to the City. The City, however, reserves an option to impose up to a three (3%) percent franchise fee based on the annual gross revenues collected from all customers who are located and provided service by the Company within the geographical limits of La Vergne. Upon its election to impose a franchise fee, the City is required to give the Company ninety (90) days prior notice before final adoption of the ordinance establishing the franchise fee. In addition, the new franchise agreement includes a provision in which the Company agrees to indemnify, defend, and hold harmless the City, its elected officials, officers, boards, commissions, and employees, against any and all claims and liabilities arising from the Company, and its assignees or licensees, activities or Gas System, including reasonable attorneys fees and court costs.⁴

¹ *Pre-filed Testimony of Eddie Davidson*, p. 3 (February 9, 2012).

² *Pre-filed Testimony of Eddie Davidson*, p. 5 (February 9, 2012).

³ *Petition*, Exhibit 1, Ordinance No. 2011-21, pp. 2-3 (February 9, 2012).

⁴ *Petition*, Exhibit 1, Ordinance No. 2011-21, p. 2 (February 9, 2012).

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 TESTIMONY OF EDDIE DAVIDSON

In his pre-filed Testimony, Mr. Davidson states that both parties were ultimately able to agree on the negotiated issues contained in the Franchise Agreement and further asserts that the Franchise Agreement is necessary and proper for the public convenience and is in the public interest. Mr. Davidson provided five reasons that the new franchise is in the public interest, which are summarized as follows:

1. Ensures the availability of high quality natural gas to residents, businesses and governmental entities located within La Vergne for the foreseeable future;
2. Facilitates the 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 mechanisms for access by Piedmont to public rights-of-way, new and existing customers, and existing service lines, transmission and

distribution facilities 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 La Vergne by ensuring that Piedmont will have the right to provide service for a sufficient period of time to permit an opportunity for Piedmont to recover such investment in its approved rates; and,

5. Includes provision for the potential payment of franchise fees that, along with Piedmont's ongoing duty to repair excavation work as it is performed, may act to offset long term road maintenance expenses that may be incurred by La Vergne and help support the provision of municipal services to citizens.⁵

FINDINGS AND CONCLUSIONS

The Authority issued a *Notice of Hearing* on March 16, 2012. On March 20, 2012, Piedmont filed an *Affidavit of Publication of Notice of Hearing* and tear sheet demonstrating that it had published notice of the Hearing in the Tennessean Newspaper on March 13, 2012. On March 26, 2012, a Hearing was held before the voting panel at a regularly scheduled Authority Conference. Appearing for the Company were Jim Jeffries, Esq., Mr. David Killion, Esq., and Eddie Davidson, Senior Manager, Legislative and Community Affairs for Piedmont's Tennessee Region. At the Hearing, Mr. Davidson ratified, then summarized, his pre-filed Testimony and was subject to questioning before the panel. Mr. Bruce Richardson appeared by telephone on behalf of the City of La Vergne, Tennessee. No person commented or sought intervention during the Hearing.

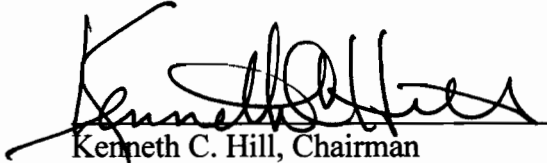
Thereafter, based upon the testimony and the administrative record as a whole, the panel found that Piedmont's Franchise Agreement with La Vergne was necessary and proper for the

⁵ *Pre-filed Testimony of Eddie Davidson*, pp. 6-7 (February 9, 2012).

public convenience and conserves the public interest. Therefore, the panel voted unanimously to approve Piedmont's *Petition* to enter into a Franchise Agreement with La Vergne, effective upon the date of approval by the Authority.

IT IS THEREFORE ORDERED THAT:


The *Petition of Piedmont Natural Gas Company, Inc. for Approval of Franchise Agreement with the City of La Vergne, Tennessee, Pursuant to Tennessee Code Annotated § 65-4-107* is approved, effective March 26, 2012.



Kenneth C. Hill, Chairman



Sara Kyle, Director



Mary W. Freeman, Director