

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

**NASHVILLE, TENNESSEE**

**November 6, 2013**

<b>IN RE:</b>	)	
	)	
<b>PETITION OF PIEDMONT NATURAL GAS</b>	)	<b>DOCKET NO.</b>
<b>COMPANY, INC. FOR APPROVAL OF</b>	)	<b>13-00127</b>
<b>FRANCHISE AGREEMENT WITH THE</b>	)	
<b>CITY OF WHITE HOUSE, TENNESSEE</b>	)	

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**ORDER APPROVING FRANCHISE AGREEMENT**

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This matter came before Chairman James M. Allison, Director Kenneth C. Hill and Director David F. Jones of the Tennessee Regulatory Authority (the "Authority" or "TRA"), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on October 21, 2013, to hear and consider the *Petition of Piedmont Natural Gas Company, Inc. for Approval of Franchise Agreement with the City of White House, Tennessee Pursuant to Tennessee Code Annotated § 65-4-107* (the "*Petition*") filed by Piedmont Natural Gas Company, Inc. ("Piedmont" or the "Company") on September 26, 2013.

**BACKGROUND**

Piedmont is incorporated under the laws of the state of North Carolina and is engaged in the business of transporting, distributing and selling natural gas in the states of Tennessee, North Carolina and South Carolina. In Tennessee, Piedmont furnishes natural gas to customers located in Nashville and the remainder of Davidson County, as well as portions of the counties of Cheatham, Dickson, Robertson, Rutherford, Sumner, Trousdale, Williamson and Wilson and in certain incorporated towns and cities in those counties.<sup>1</sup>

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<sup>1</sup> *Petition*, p. 1 (September 26, 2013).

Piedmont has previously provided service to the City of White House, Tennessee (“White House” or “City”) pursuant to a franchise agreement approved February 16, 1984 by the Tennessee Public Service Commission (“PSC”) in Docket No. U-83-7276. The franchise agreement was approved by White House, Ordinance No. 83-17, granting the Company the “right, privilege, authority and franchise to place, construct, maintain, etc. its gas lines, works, mains, apparatus and all necessary fixtures under, through, over, along and across any of the streets, roads, alleys, bridges, etc. within the City of White House for a period of 30 years from the date of acceptance” of the franchise.<sup>2</sup> The franchise ordinance further provided for a franchise fee of \$10,000 per year for the first five years, changing in the sixth year to an annual franchise fee equal to five percent of the gross receipts of natural gas sold within the limits of the City.<sup>3</sup>

#### **THE PETITION**

On September 26, 2013, Piedmont filed the *Petition* requesting approval of a new franchise agreement negotiated with the City of White House. With its *Petition*, Piedmont submitted the following: a copy of City Ordinance 19-101, providing that gas service shall be furnished for the municipality and its inhabitants under a franchise; a copy of the certified minutes of the August 15, 2013 City Board of Mayor and Alderman meeting approving the new franchise agreement; a copy the new franchise agreement; and the pre-filed testimony of Eddie Davidson, Senior Manager, Government Relations for Piedmont’s Tennessee region.

The new franchise agreement grants Piedmont the right to construct, operate and maintain a gas utilities system within the City for the production, transmission, distribution, and sale of gas to consumers and users within the City and to the City and its agencies and

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<sup>2</sup> See *In re: Petition of Nashville Gas Company for Approval of Franchise Granted By Ordinance of the City of White House, Tennessee Amended and Supplemental Petition of Nashville Gas Company for Approval of Franchise Resolution of Robertson County*, Docket No. U-83-7276, Order, p. 2 (February 16, 1984).

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

departments. The new franchise agreement also has a twenty-five year term effective November 11, 2013, and establishes adequate and proper mechanisms for access to public rights-of-way, new and existing customers and existing service lines, transmission and distribution facilities. In addition, the new franchise agreement provides for Piedmont, at the election of White House, to pay annual franchise fees to the City in the amount of up to five percent of the annual gross revenues collected from all customers located and provided service by the Company in the geographical limits of White House.<sup>4</sup>

In his pre-filed direct testimony, Mr. Davidson states that both parties were ultimately able to agree to the terms negotiated in the franchise agreement, that the franchise agreement is necessary and proper for the public convenience, and that it is in the public interest.<sup>5</sup> 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 service to current and future residents, business enterprises and governmental facilities located within White House 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;

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<sup>4</sup> *Petition*, pp. 2-3 (September 26, 2013).

<sup>5</sup> Eddie Davidson, Pre-Filed Direct Testimony, p. 4 (September 26, 2013).

4. Provides an incentive for Piedmont to invest in infrastructure needed to improve and expand service within White House 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 White House and help support the provision of municipal services by White House to its citizens.<sup>6</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."

#### **FINDINGS AND CONCLUSIONS**

The Authority issued a *Notice of Hearing* on October 4, 2013. On October 21, 2013, 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 October 8, 2013.

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<sup>6</sup> Eddie Davidson, Pre-Filed Direct Testimony, pp. 4-5 (September 26, 2013).

On October 21, 2013, a Hearing was held before the voting panel at a regularly scheduled Authority Conference. Appearing for the Company were Mr. Dale Grimes, Esq., Mr. Brian Heslin, Esq., and Mr. Eddie Davidson, Senior Manager, Government Relations 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. No person commented or sought intervention during the Hearing.

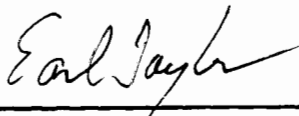
Thereafter, based upon the testimony and the administrative record as a whole, the panel found that Piedmont's new franchise agreement with White House was necessary and proper for the public convenience and conserves the public interest. Therefore, the panel voted unanimously to approve Piedmont's *Petition* for approval of its new franchise agreement with White House.

**IT IS THEREFORE ORDERED THAT:**

*The Petition of Piedmont Natural Gas Company, Inc. for Approval of Franchise Agreement with the City of White House, Tennessee Pursuant to Tennessee Code Annotated § 65-4-107 is approved.*

**Chairman James M. Allison, Director Kenneth C. Hill and Director David F. Jones concur.**

**ATTEST:**



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**Earl R. Taylor, Executive Director**