

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

November 13, 2013

IN RE:

**PETITION OF ATMOS ENERGY
CORPORATION FOR APPROVAL OF
FRANCHISE AGREEMENT WITH THE
CITY OF FRANKLIN, TENNESSEE**

)
)
)
)
)
)

**DOCKET NO.
13-00129**

ORDER APPROVING FRANCHISE AGREEMENT

This matter came before Vice Chairman Herbert H. Hilliard, 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 for Approval of Franchise Agreement with City of Franklin, Tennessee* (the “*Petition*”) filed by Atmos Energy Corporation (“Atmos” or the “Company”) on October 1, 2013.

BACKGROUND

Atmos serves approximately 132,000 residential, commercial and industrial customers in Tennessee, including approximately 19,000 customers in the City of Franklin, Tennessee (“Franklin” or the “City”).¹ Atmos and its predecessor entity have operated for many years in Franklin under franchise agreements with the City.² Most recently, Atmos has provided natural gas service to Franklin pursuant to a franchise agreement incorporated into City Ordinance No.

¹ See Kenneth Hay, Pre-Filed Direct Testimony, p. 2 (October 1, 2013).

² *Id.* at 3.

2008-42, dated November 25, 2008, which was approved by the Authority in Docket No. 08-00211.³ The current franchise agreement will expire by its terms on February 10, 2014.⁴

THE PETITION

On October 1, 2013, Atmos filed the *Petition* requesting approval of a new franchise agreement negotiated with Franklin. In support of its *Petition*, the Company submitted the pre-filed direct testimony of Kenneth Hay, Operations Supervisor for the Franklin area. Atmos also provided a copy of Ordinance 2013-50, inclusive of the franchise agreement, which provides that gas service shall be furnished for the municipality and its inhabitants under such franchise. On October 10, 2013, the Company filed a final signed copy of Ordinance 2013-50.

The new franchise agreement in Ordinance 2013-50 is for a term of five years.⁵ The franchise fees under the new agreement are based on sales volumes and transport volumes, both of which are fixed for the five-year term. Sales volume per CCF (100 cubic feet) rate will be at \$0.06, while transport volumes per CCF rate will be at \$0.0075.⁶ Therefore, rates will be identical to the franchise fees that are now in effect. Atmos states it will bill the franchise fee pro rata to customers, insofar as practicable, pursuant to Tenn. Code Ann. § 65-4-105(e).⁷ The franchise agreement is effective upon final approval by the Authority.⁸

In his pre-filed direct testimony, Mr. Hay states that the franchise agreement is necessary and proper for the public convenience and in the public interest.⁹ Mr. Hay listed the following five reasons that the new franchise agreement is in the public interest:

1. Maintains availability of high quality natural gas service for the City;

³ See *In re: Petition of Atmos Energy Corporation for Approval of Negotiated Franchise Agreement with City of Franklin, Tennessee*, Docket No. 08-00211, *Order Approving Franchise Agreement* (February 10, 2009).

⁴ *Petition*, p. 2 (October 1, 2013).

⁵ See *Atmos Energy Corporation Franchise Ordinance (No. 2013-50)*, p. 4 (October 1, 2013).

⁶ *Id.* at 8.

⁷ Kenneth Hay, Pre-Filed Direct Testimony, p. 7 (October 1, 2013).

⁸ See *Atmos Energy Corporation Franchise Ordinance (No. 2013-50)*, p. 2 (October 1, 2013).

⁹ Kenneth Hay, Pre-Filed Direct Testimony, p. 5 (October 1, 2013).

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;
4. Includes protective provisions to ensure the citizens of Franklin 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.¹⁰

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 17, 2013, Atmos filed Affidavits of Publication and tear sheets demonstrating that it had published notice of the Hearing in the *Tennessean* and *Williamson Herald* newspapers on October 10 and October 17, 2013, respectively.

¹⁰ Kenneth Hay, Pre-Filed Direct Testimony, pp. 5-6 (October 1, 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. A. Scott Ross, Esq., and Mr. Kenneth Hay, Operations Manager for the Franklin area. At the Hearing, Mr. Hay ratified and summarized his pre-filed testimony and was subject to questioning before the panel. Mr. Russell Truell, Chief Financial Officer for the City, was also available for questions. 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 Atmos' new franchise agreement with Franklin was necessary and proper for the public convenience and conserves the public interest. Therefore, the panel voted unanimously to approve Atmos' *Petition*.

IT IS THEREFORE ORDERED THAT:

The *Petition for Approval of Franchise Agreement with City of Franklin, Tennessee* is approved.

Vice Chairman Herbert H. Hilliard, Director Kenneth C. Hill and Director David F. Jones concur.

ATTEST:



Earl R. Taylor, Executive Director