

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

**NASHVILLE, TENNESSEE**

**June 27 2014**

<b>IN RE:</b>	)	
	)	
<b>PETITION OF ATMOS ENERGY</b>	)	<b>DOCKET NO.</b>
<b>CORPORATION FOR APPROVAL OF</b>	)	<b>14-00023</b>
<b>NEGOTIATED FRANCHISE AGREEMENT</b>	)	
<b>WITH THE CITY OF COLUMBIA, TENNESSEE</b>	)	

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**ORDER APPROVING FRANCHISE AGREEMENT**

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This matter came before Vice Chairman Herbert H. Hilliard, Director Kenneth C. Hill and Director Robin Bennett of the Tennessee Regulatory Authority (the “Authority” or “TRA”), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on June 16, 2014, to hear and consider the *Petition for Approval of Franchise Agreement with City of Columbia, Tennessee* (the “*Petition*”) filed by Atmos Energy Corporation (“Atmos” or the “Company”) on March 10, 2014.

**BACKGROUND**

Atmos serves approximately 132,000 residential, commercial and industrial customers in Tennessee, including approximately 9,800 customers being served by its natural gas distribution system within the City of Columbia in Maury County, Tennessee (“Columbia” or the “City”).<sup>1</sup> Atmos and its predecessor entity have operated for many years in Columbia under franchise agreements with the City.<sup>2</sup> Most recently, Atmos has provided natural gas service to Columbia pursuant to a franchise agreement incorporated into City Ordinance No. 3551, which was

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<sup>1</sup> See *Petition*, p. 2 (March 10, 2014) and Steven Steiger, Pre-Filed Direct Testimony, p. 2 (March 10, 2014).

<sup>2</sup> Steven Steiger, Pre-Filed Direct Testimony, p. 3 (March 10, 2014).

approved by the Authority in Docket No. 04-00318.<sup>3</sup> The current franchise agreement will expire by its terms on July 18, 2014.<sup>4</sup>

### **THE PETITION**

On March 10, 2014, Atmos filed the *Petition* requesting approval of a new franchise agreement negotiated with Columbia. In support of its *Petition*, the Company submitted the pre-filed direct testimony of Steven Steiger, Operations Supervisor for the Columbia area, and the proposed City Ordinance granting the franchise. Atmos filed a *Notice of Filing Amended Franchise Agreement* on April 17, 2014, stating that the new franchise agreement with Columbia passed on first reading with certain amendments made to the agreement at the request of the City.<sup>5</sup> Article VII(C) was amended to avoid any unintended impact on Columbia's municipal electric utility. In addition, text changes were made to Article X and the preamble.<sup>6</sup>

On May 2, 2014, Atmos filed the direct testimony of Wayne Turner, Operations Manager for its Middle Tennessee region. In his testimony, Mr. Turner states that he is familiar with and is adopting the previous testimony of Mr. Steiger. Mr. Turner adds that he is familiar with the operations of Atmos in Columbia, Tennessee and with the franchise negotiations of the two parties. Mr. Turner also states that the City requested minor changes to the franchise agreement during the first reading; however, the changes do not affect the economic terms of the agreement. Mr. Turner requests that the Authority approve the amended franchise agreement between Atmos and the City of Columbia, filed on April 17, 2014.<sup>7</sup>

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<sup>3</sup> See *In re: Petition of Atmos Energy Corporation for Approval of Franchise Agreement with Columbia, Tennessee*, Docket No. 04-00318, *Order Approving Petition of Atmos Energy Corporation for Approval of Franchise Agreement with Columbia, Tennessee, Pursuant to Tenn. Code Ann. § 65-4-107* (April 14, 2005).

<sup>4</sup> *Petition*, p. 2 (March 10, 2014).

<sup>5</sup> *Notice of Filing Amended Franchise Agreement*, p. 1 (April 17, 2014).

<sup>6</sup> *Id.*

<sup>7</sup> Wayne Turner, Pre-Filed Direct Testimony, p. 3 (May 2, 2014).

The amended franchise agreement between Atmos and the City of Columbia passed on second reading and final reading on May 8, 2014.<sup>8</sup> The Company filed a *Notice of Filing Signed Franchise Agreement* on May 15, 2014.

The new franchise agreement incorporated into City Ordinance 3984 extends the term of the current franchise for ten years with the possibility of two automatic five-year renewals following the ten-year period. The franchise fees under the new agreement remain the same as under the old agreement, equal to 5% of Atmos' gross receipts derived from the sale and distribution by Atmos of natural gas within the city limits of Columbia during the preceding calendar year.<sup>9</sup> The new agreement provides that the franchise fee will be paid to Columbia quarterly.<sup>10</sup>

In his pre-filed direct testimony, Mr. Steiger states that the new franchise agreement is necessary and proper for the public convenience and properly serves the public interest. Mr. Steiger lists the following five reasons that the new franchise agreement is in the public interest:<sup>11</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;
4. Includes protective provisions to ensure the citizens of Columbia are benefited and not economically harmed by the activities of Atmos; and,

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<sup>8</sup> *Notice of Filing Signed Franchise Agreement*, p. 1 (May 15, 2014).

<sup>9</sup> *Notice of Filing Signed Franchise Agreement*, Ordinance 3984, p. 5 (May 15, 2014).

<sup>10</sup> *Id.* at 5-6.

<sup>11</sup> Steven Steiger, Pre-filed Direct Testimony, pp. 5-6 (March 10, 2014).

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

#### **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 June 6, 2014. On June 12, 2014, Atmos filed Affidavits of Publication and tear sheets demonstrating that it had published notice of the Hearing in *The Daily Herald* newspaper on June 4 and June 11, 2014.

On June 16, 2014, 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. Wayne Turner, Operations Manager for the Middle Tennessee region. At the Hearing, Mr. Turner ratified and summarized his pre-filed testimony and was subject to questioning before the panel. Ms. Jennifer Moody, Assistant City Manager for Columbia, 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 Columbia 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 Columbia, Tennessee* is approved.

**Vice Chairman Herbert H. Hilliard, Director Kenneth C. Hill and Director Robin Bennett concur.**

**ATTEST:**

  
Earl R. Taylor, Executive Director