

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

**NASHVILLE, TENNESSEE**

**October 22, 2014**

<b>IN RE:</b>	)	
	)	
<b>PETITION OF ATMOS ENERGY</b>	)	
<b>CORPORATION FOR APPROVAL OF</b>	)	<b>DOCKET NO.</b>
<b>MODIFICATION OF FRANCHISE FEE</b>	)	<b>14-00074</b>
<b>PURSUANT TO APPROVED FRANCHISE</b>	)	
<b>AGREEMENT WITH THE CITY OF</b>	)	
<b>JOHNSON CITY, TENNESSEE</b>	)	

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**ORDER APPROVING MODIFICATION OF FRANCHISE FEE**

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This matter came before Chairman Herbert H. Hilliard, Vice Chairman David F. Jones and Director Kenneth C. Hill of the Tennessee Regulatory Authority (the “Authority” or “TRA”), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on September 15, 2014, to hear and consider the *Petition for Approval of Modified Franchise Fee Pursuant to Approved Franchise Agreement with the City of Johnson City, Tennessee* (the “*Petition*”) filed by Atmos Energy Corporation (“Atmos” or the “Company”) on August 5, 2014.

**BACKGROUND**

Atmos serves approximately 132,000 residential, commercial and industrial customers in Tennessee, including approximately 10,850 customers being served by its natural gas distribution system within the City of Johnson City, Tennessee (“Johnson City” or the “City”).<sup>1</sup> Atmos and its predecessor entity have operated for many years in Johnson City under franchise

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<sup>1</sup> See *Petition*, p. 2 (March 10, 2014) and James Pugh, Pre-Filed Direct Testimony, p. 2 (August 5, 2014).

agreements with the City.<sup>2</sup> Most recently, Atmos has provided natural gas service to Johnson City pursuant to a franchise agreement under City Ordinance No. 3869-03 (the “Ordinance”) dated July 17, 2003, which was approved by the Authority in Docket No. 03-00520.<sup>3</sup> The current franchise agreement will expire by its terms on July 17, 2028.<sup>4</sup> The franchise agreement allows for annual modification of the franchise fee at the election of the City, subject to the approval by the TRA.<sup>5</sup>

### **THE PETITION**

On August 5, 2014, Atmos filed the *Petition* requesting approval of a modification to the franchise fee under the existing franchise agreement. In support of its *Petition*, the Company submitted the pre-filed direct testimony of James Pugh, Operations Supervisor for the Johnson City area, and a copy of a Resolution adopted by the City on July 17, 2014, approving the negotiations between the City and the Company resulting in an increase in the franchise fee.

The Ordinance currently sets the franchise fee at three percent (3%) of annual gross revenue of natural gas sales made, billed and collected by Atmos on all classes of customers within the city limits of Johnson City. The City has invoked its rights under the franchise agreement to modify the franchise fee, subject to the approval of the Authority. After negotiations with Atmos, an agreement was reached to raise the franchise fee to five percent (5%) of natural gas sales made, billed and collected by Atmos on all classes of customers within Johnson City. A Resolution adopted by the City on July 17, 2014, approved the negotiations between the City and the Company.<sup>6</sup>

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<sup>2</sup> James Pugh, Pre-Filed Direct Testimony, p. 3 (August 5, 2014).

<sup>3</sup> See *In re: Petition of Atmos Energy Corporation for Approval of Franchise Agreements with Williamson County and Johnson City, Tennessee*, Docket No. 03-00520, *Initial Order Approving Petition of Atmos Energy Corporation for Approval of Franchise Agreements with Williamson County and Johnson City, Tennessee* (May 9, 2005).

<sup>4</sup> *Petition*, p. 2 (August 5, 2014).

<sup>5</sup> *Id.*

<sup>6</sup> James Pugh, Pre-Filed Direct Testimony, pp. 3-4 (August 5, 2014).

In his pre-filed direct testimony, Mr. Pugh states that the modified franchise fee is necessary and proper for the public convenience and properly serves the public interest. Mr. Pugh further states that the modified franchise fee is necessary to allow the continuation of a long-term arrangement through which residents, businesses and government facilities located in Johnson City receive the benefits of continuing natural gas service. In addition, Mr. Pugh states that the TRA's approval of the modified franchise fee will ensure the continuing availability of high-quality natural gas service to Johnson City. According to Mr. Pugh, the other terms of the franchise agreement will remain unchanged from what was approved by the TRA in Docket No. 03-00520.<sup>7</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 September 5, 2014. On August 28, 2014, Atmos filed an Affidavit of Publication and tear sheet demonstrating that the Company had published notice of the Hearing in *Johnson City Press* newspaper on August 19, 2014 in

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<sup>7</sup> *Id.* at 5.

compliance with TRA Rule 1220-4-1-.05.

On September 15, 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. James Pugh, Operations Manager for the Upper East Tennessee and Southwest Virginia region, including the Johnson City area. At the Hearing, Mr. Pugh ratified and summarized his pre-filed testimony and was subject to questioning before the panel. Mr. Bob Wilson, Assistant City Manager for Johnson City, was also available telephonically for questions. No person commented or sought intervention during the Hearing.

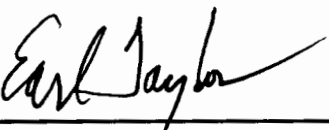
Thereafter, based upon the testimony and the administrative record as a whole, the panel found that the modification of the franchise fee from three percent (3%) to five percent (5%) is fair and reasonable, and that Atmos' franchise agreement with Johnson City continues to be necessary and proper for 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 Modified Franchise Fee Pursuant to Approved Franchise Agreement with the City of Johnson City, Tennessee is approved.*

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

**ATTEST:**

  
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**Earl R. Taylor, Executive Director**