

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

February 23, 2016

IN RE:

**PETITION OF PIEDMONT NATURAL GAS
COMPANY, INC. FOR APPROVAL OF
FRANCHISE AGREEMENT WITH THE TOWN
OF ASHLAND CITY, TENNESSEE PURSUANT
TO TENNESSEE CODE ANNOTATED § 65-4-107**

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**DOCKET NO.
15-00128**

ORDER APPROVING FRANCHISE AGREEMENT

This matter came before Chairman Herbert H. Hilliard, Director Kenneth C. Hill and Director Robin L. Morrison of the Tennessee Regulatory Authority (the “Authority” or “TRA”), the voting panel assigned to this docket, at the regularly scheduled Authority Conference held on February 8, 2016, for hearing and consideration of the *Petition of Piedmont Natural Gas Company, Inc. for Approval of Franchise with the Town of Ashland City, Tennessee Pursuant to Tennessee Code Annotated § 65-4-107* (“*Petition*”) filed on December 21, 2015, by Piedmont Natural Gas Company, Inc. (“Piedmont” or the “Company”).

THE *PETITION*

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.¹

On December 21, 2015, Piedmont filed the *Petition* requesting approval of a renewal of a negotiated franchise agreement between Piedmont and the Town of Ashland City, Tennessee (“City” or “Ashland”). With its *Petition*, Piedmont submitted a copy of Ashland City Ordinance #440, granting a franchise to Piedmont from Ashland, and the pre-filed testimony of Mr. Eddie Davidson, Senior Manager, Government Relations for Piedmont’s Tennessee region.

The franchise agreement grants Piedmont “the exclusive right to construct, operate and maintain a gas utilities system within the City for production, transmission, distribution, and sale of gas to consumers and users within the City and to the City and any and all agencies and departments thereof.”² The franchise agreement also has a twenty (20) year term beginning January 23, 2016 and ending at midnight on January 23, 2036.³ The franchise agreement provides for a franchise fee of “five percent (5%) of the annual gross revenues collected from all customers who are located and provided service by the company” within the geographical areas identified in the ordinance.⁴

In its *Petition*, Piedmont states that pursuant to Tenn. Code Ann. § 65-4-105(e) (2004), it “intends, insofar as practicable, to bill its customers...on a pro rata basis for ‘any franchise payment or other payment for the use of public streets, alleys or other public places or any license, privilege, occupation or excise tax payment.’”⁵ According to Piedmont, the franchise is necessary and proper for the public convenience and properly conserves the public interest for the following reasons:

¹ *Petition*, p. 1 (December 21, 2015).

² Ashland City Ordinance #440, Exhibit 1 to *Petition*, p. 1 (December 21, 2015).

³ *Id.* at 3.

⁴ *Id.* at 3 and Exhibit A.

⁵ *Petition*, p. 3 (December 21, 2015).

1. The franchise establishes a twenty (20) year term arrangement, which secures the provision of natural gas service to citizens, businesses and governmental institutions within the geographical limits of Ashland;

2. The franchise ensures the availability of high quality natural gas service by an established provider of such service; and

3. The franchise 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 and thereby ensures the protection of the property and citizenry of Ashland.⁶

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 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 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 January 29, 2016. On February 8, 2016, a Hearing was held before the voting panel at a regularly scheduled Authority Conference. Appearing for the Company were Mr. Brian S. Heslin, Esq., Mr. R. Dale Grimes, Esq., and Mr.

⁶ *Petition*, p. 2 (December 21, 2015).

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. Mr. Rick Johnson, Mayor for Ashland City, appeared telephonically. 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 Ashland City 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 franchise agreement with Ashland City.

IT IS THEREFORE ORDERED THAT:

1. The *Petition of Piedmont Natural Gas Company, Inc. for Approval of Franchise with the Town of Ashland City, Tennessee Pursuant to Tennessee Code Annotated § 65-4-107* is approved.
2. Any person who is aggrieved by the Authority's decision in this matter may file a Petition for Reconsideration with the Authority within fifteen days from the date of this Order.
3. Any person who is aggrieved by the Authority's decision in this matter has the right to judicial review by filing a Petition for Review in the Tennessee Court of Appeals, Middle Section, within sixty days from the date of this Order.

Chairman Herbert H. Hilliard, Director Kenneth C. Hill and Director Robin L. Morrison concur.

ATTEST:



Earl R. Taylor, Executive Director