

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

May 2, 2016

IN RE:

PETITION OF PIEDMONT NATURAL GAS COMPANY,
INC. FOR APPROVAL OF NEGOTIATED FRANCHISE
WITH MOUNT JULIET, TENNESSEE PURSUANT
TO TENNESSEE CODE ANNOTATED 65-4-107

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DOCKET NO.
16-00031

ORDER APPROVING FRANCHISE AGREEMENT

This matter came before Chairman Herbert H. Hilliard, Vice Chairman David F. Jones 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 April 15, 2016, for hearing and consideration of the *Petition of Piedmont Natural Gas Company, Inc. for Approval of Negotiated Franchise Agreement with Mount Juliet, Tennessee Pursuant to Tennessee Code Annotated § 65-4-107* (“*Petition*”) filed on March 22, 2016.

THE PETITION

Piedmont Natural Gas Company, Inc. (“Piedmont” or the “Company”) 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.¹ 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,

¹ *Petition*, p. 1 (March 22, 2016).

Robertson, Rutherford, Sumner, Trousdale, Williamson and Wilson and in certain incorporated towns and cities in those counties.²

On March 22, 2016, Piedmont filed the *Petition* requesting approval of a renewal of a negotiated franchise agreement between Piedmont and the city of Mount Juliet, Tennessee (“Mt. Juliet”). With its *Petition*, Piedmont submitted a copy of Mt. Juliet City Ordinance 2016-08, granting a franchise to Piedmont from Mt. Juliet (“franchise agreement”), 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.”³ The franchise agreement also has a twenty (20) year term beginning March 13, 2016 and ending at midnight on March 13, 2036.⁴ 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.⁵

In its *Petition*, Piedmont states that pursuant to Tenn. Code Ann. § 65-4-105(e), it “intends in the future, 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.’”⁶ According to Piedmont, the

² *Id.*

³ Mt. Juliet City Ordinance 2016-08, Exhibit A to *Petition*, p. 1 (March 22, 2016).

⁴ *Id.* at 2.

⁵ *Id.* at 3 and Exhibit A to Mt. Juliet City Ordinance 2016-08.

⁶ *Petition*, p. 3-4 (March 22, 2016).

franchise is necessary and proper for the public convenience and properly conserves the public interest for the following reasons:

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

2. The franchise agreement ensures the provision of high quality natural gas service to existing customers, as well as the availability of such service to new customers within Mt. Juliet;

3. The franchise agreement 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 Mt. Juliet; and

4. The franchise agreement provides an incentive to Piedmont to make appropriate investments in infrastructure to provide improved and expanded natural gas service in Mt. Juliet.⁷

REQUIREMENT OF AND STANDARDS FOR AUTHORITY APPROVAL

Tenn. Code Ann. § 65-4-107 (2015) 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,

⁷ *Id.* at 3.

maintenance, service or operation as the public convenience and interest may reasonably require.”

THE HEARING

The Hearing in this matter was held before the voting panel during the regularly scheduled Authority Conference on April 15, 2016, as noticed by the Authority on April 4, 2016.

Participating in the Hearing were:

Piedmont Natural Gas Company, Inc. – R. Dale Grimes, Esq., Bass, Berry & Sims PLC, 150 Third Avenue South, Suite 2800, Nashville, Tennessee 37201; James H. Jeffries IV, Esq., Moore & Van Allen, 100 North Tryon Street, Suite 4700, Charlotte, North Carolina 28202; and Eddie Davidson, Senior Manager, Government Relations for the Tennessee Region, 83 Century Boulevard, Nashville, Tennessee 37214.

During the Hearing, Mr. Davidson ratified, then summarized his pre-filed testimony and was subject to questioning before the panel. There were no intervening parties to the Docket. Members of the public were given an opportunity to offer comments, but no one sought recognition to do so.

FINDINGS AND CONCLUSIONS

Thereafter, based upon the testimony and the administrative record as a whole, the panel found that the terms of the new franchise agreement between Piedmont and Mt. Juliet are fair and reasonable and the agreement is necessary and proper for the public convenience of furnishing natural gas service and properly conserves the public interest. Therefore, the panel voted unanimously to approve Piedmont’s *Petition* for approval of its franchise agreement with Mt. Juliet.

IT IS THEREFORE ORDERED THAT:

1. The *Petition of Piedmont Natural Gas Company, Inc. for Approval of Negotiated Franchise Agreement with Mount Juliet, Tennessee Pursuant to Tennessee Code Annotated § 65-*

4-107, filed on March 22, 2016, 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, Vice Chairman David F. Jones and Director Robin L. Morrison concur.

ATTEST:



Earl R. Taylor, Executive Director