

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

April 20, 2017

IN RE:

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

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**DOCKET NO.
17-00016**

ORDER APPROVING FRANCHISE AGREEMENT

This matter came before Vice Chairman Robin L. Morrison, Director Herbert H. Hilliard and Director Kenneth C. Hill of the Tennessee Regulatory Authority (the “Authority” or “TRA”), the voting panel assigned to this docket, at the regularly scheduled Authority Conference held on March 13, 2017, for hearing and consideration of the *Petition for Approval of Franchise Agreement with City of Murfreesboro, Tennessee* (“*Petition*”) filed on February 9, 2017, by Atmos Energy Corporation (“Atmos” or the “Company”).

THE *PETITION*

Atmos is incorporated under the laws of the state of Texas and is engaged in the business of transporting, distributing and selling natural gas in the states of Tennessee, Colorado, Kansas, Kentucky, Louisiana, Mississippi, Texas and Virginia. In Tennessee, Atmos provides natural gas service to approximately 132,000 residential, commercial and industrial customers in various locations throughout the state.¹

¹ *Petition*, p. 2 (February 9, 2017).

On February 9, 2017, Atmos filed a *Petition* requesting approval of a renewal of a franchise agreement between Atmos and the City of Murfreesboro, Tennessee (“City” or “Murfreesboro”). Along with its *Petition*, Atmos submitted a copy of Murfreesboro City Ordinance 16-O-68, granting a franchise to Atmos from Murfreesboro, and the pre-filed testimony of Mr. Wayne Turner, Operations Manager for Atmos’ Middle Tennessee area of operations.

Atmos currently provides natural gas service to the City of Murfreesboro pursuant to an existing franchise agreement, dated June 8, 2000, which will expire by its terms on June 8, 2017.² Approximately 18,933 customers, consisting of 85% residential customers and 15% customers of other classes such as commercial and industrial, are served within the city limits of Murfreesboro by the natural gas distribution system owned and operated by Atmos.³ In anticipation of the expiration of the existing franchise agreement, Atmos began negotiations for the renewal of franchise authority in the summer of 2016.⁴ The new franchise agreement was submitted to the Murfreesboro City Council, passing first reading on January 5, 2017 and second and final reading on January 12, 2017.⁵

The negotiated franchise agreement extends the term of the existing franchise agreement for ten years with two subsequent renewals of five years each which are exercised unless the City gives notice of termination prior to the renewal term.⁶ The franchise fee in the new agreement remains the same as under the existing agreement and is equal to 5% of Atmos’ gross receipts derived from the sale and distribution by Atmos of natural gas within the city limits of

² The current franchise agreement between Atmos Energy and the City of Murfreesboro is incorporated into Murfreesboro City Ordinance No. 00-O-04. *Id.* at 2.

³ Wayne Turner, Pre-Filed Direct Testimony, p. 2 (February 9, 2017).

⁴ *Petition*, p. 2. (February 9, 2017).

⁵ *Id.*

⁶ *Petition, Exhibit 1*, p. 3 (February 9, 2017).

Murfreesboro and \$0.017 per Ccf of natural gas transported by Atmos Energy within the city limits of Murfreesboro during the preceding calendar year.⁷ Atmos states that it will bill the franchise fee pro rata to customers, insofar as practicable, pursuant to Tenn. Code Ann. § 65-4-105(e).⁸

In his pre-filed testimony, Wayne Turner states that the franchise agreement is necessary and proper for the public convenience and properly conserves the public interest for the following reasons:⁹

1. The franchise establishes and maintains availability of high quality natural gas service for Murfreesboro;

2. The franchise 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. The franchise 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. The franchise includes protective provisions to ensure the citizens of Murfreesboro are benefitted and not economically harmed by the activities of Atmos; and

5. The franchise provides an incentive for Atmos to invest in infrastructure needed to improve and expand service within Murfreesboro.

On March 2, 2017, Atmos filed a Notice of Compliance with TRA Rule 1220-4-1-.05, which requires proof of publication of public notice of its *Petition*.¹⁰ The Notice includes a copy

⁷ Wayne Turner, Pre-Filed Direct Testimony, p. 4 (February 9, 2017).

⁸ *Id.* at 5.

⁹ *Id.* at 5-6.

¹⁰ *Notice of Compliance with TRA Rule 1220-4-1-.05* (March 2, 2017).

of the publication of the public notice, appearing by newspaper publication on February 27, 2017.¹¹

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

FINDINGS AND CONCLUSIONS

The Authority issued a *Notice of Hearing* on March 3, 2017. On March 13, 2017, a Hearing was held before the voting panel at a regularly scheduled Authority Conference. Appearing for Atmos were Mr. Blind Akwrai, Esq. and Mr. Wayne Turner, Operations Manager for Middle Tennessee area of operations. At the Hearing, Mr. Turner ratified, then summarized his pre-filed testimony and was subject to questioning before the panel. Mr. Jim Crumley, Assistant City Manager, appeared on behalf of the City of Murfreesboro. 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 Murfreesboro was necessary and proper for the public convenience and properly conserves the public interest and that the terms of the franchise

¹¹ *Id.*

are fair and reasonable. Therefore, the panel voted unanimously to approve Atmos' *Petition* for approval of its franchise agreement with Murfreesboro.

IT IS THEREFORE ORDERED THAT:

1. The *Petition for Approval of Franchise Agreement with City of Murfreesboro, Tennessee* 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.

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

ATTEST:



Earl R. Taylor, Executive Director