

BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION

NASHVILLE, TENNESSEE

January 24, 2019

IN RE:)	
)	
PETITION OF ATMOS ENERGY CORPORATION)	DOCKET NO.
FOR APPROVAL OF NEGOTIATED FRANCHISE)	18-00114
AGREEMENT WITH CITY OF MORRISTOWN,)	
TENNESSEE)	

ORDER APPROVING FRANCHISE AGREEMENT

This matter came before Chair Robin L. Morrison, Vice Chair Kenneth C. Hill and Commissioner John Hie of the Tennessee Public Utility Commission (the “Commission” or “TPUC”), the voting panel assigned to this docket, at the regularly scheduled Commission Conference held on December 17, 2018, for hearing and consideration of the *Petition for Approval of Franchise Agreement with the City of Morristown, Tennessee* (“*Petition*”) filed on November 1, 2018, by Atmos Energy Corporation (“Atmos” or the “Company”).

THE PETITION

Atmos is incorporated under the laws of the state of Texas with its principal place of business in Dallas, Texas. Atmos provides natural gas service to approximately 132,000 residential, commercial and industrial customers in Tennessee. Among the areas served is the City of Morristown, Hamblen County, Tennessee.¹ On November 1, 2018, Atmos filed a *Petition* requesting approval of a negotiated franchise agreement between Atmos and the City of Morristown, Tennessee (“City” or “Morristown”). Along with its *Petition*, Atmos submitted a

¹ *Petition*, p. 2 (November 1, 2018).

copy of Ordinance No.3618 granting a non-exclusive franchise to Atmos from Morristown for a twenty (20) year term and the pre-filed direct testimony of Bernie Anderson, Operations Manager for the Eastern Tennessee and Virginia area and 11 year employee of Atmos Energy.

Atmos currently provides natural gas service to Morristown pursuant to a franchise agreement incorporated into City Ordinance No.3022 dated January 4, 2000, approved by this Commission in Docket No. 00-00562.² Said franchise agreement will expire on January 30, 2020.³ Approximately 3,919 customers within the city limits consisting of 72% residential customers and 28% customers of other classes such as commercial and industrial, are served within the city limits of Morristown, by the natural gas distribution system owned and operated by Atmos.⁴

On December 3, 2018, Atmos filed a copy of the notice that it published in the Morristown-Citizen Tribune newspaper in compliance with TPUC Rule 1220-4-1-.05.⁵ In anticipation of the expiration of the existing franchise agreement, Atmos and Morristown commenced negotiations for renewal of the franchise authority in the summer of 2018.⁶

The resulting new franchise agreement passed second and final reading by the City Council of Morristown on October 2, 2018 and was incorporated as Ordinance No. 3618.⁷ The franchise fee in the new agreement remains the same as under the existing agreement and is equal to 5% gross receipts derived from the sale and distribution by Atmos of natural gas within the city limits of Morristown.⁸

² *Petition*, p. 2 (November 1, 2018); *see also* Exhibit 1.

³ The current franchise agreement between Atmos Energy and the City of Morristown is incorporated into City of Morristown Ordinance No. 3022. *Petition*, p. 2 (November 1, 2018).

⁴ Bernie Anderson, Pre-filed Direct Testimony, p. 2 (November 1, 2018).

⁵ *Notice of Compliance with TPUC Rule 1220-4-1-.05* (November 1, 2018).

⁶ *Petition*, p. 2 (November 1, 2018).

⁷ *Id.* *see also* Exhibit 2.

⁸ Bernie Anderson, Pre-filed Direct Testimony, p. 4 (November 1, 2018).

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).⁹

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

First, the new franchise terms reflected in the new agreement will establish a long-term arrangement through which the current and future residents, business enterprises and governmental facilities located with the City of Morristown will be able to receive, under the supervisory jurisdiction of the Commission, the benefits of continuing natural gas service provided by Atmos Energy for an extended period. This arrangement will help ensure the continuing availability of high-quality natural gas service to the City of Morristown for the foreseeable future.

Second, the new franchise facilitates the provision of such natural gas service to the City of Morristown and this Commission and possessing the requisite expertise, facilities, systems and gas supply and transportation assets necessary to provide such service.

Third, the new franchise arrangement establishes adequate and proper mechanisms for access by the Company to public rights-of-way, new and existing customers, and its distribution facilities. These mechanisms help to ensure that Atmos Energy is able to provide both adequate and efficient service and to comply with the requirements of this Commission to ensure the safety and protection of residents and property within the City of Morristown.

Fourth, the various other protective provisions set forth in the new franchise arrangement provide useful and improvement tools for the City of Morristown to ensure that its citizens are benefited and not economically harmed by the activities of Atmos Energy within the City of Morristown.

Fifth, the new franchise arrangement provides an incentive for Atmos Energy to invest in infrastructure needed to provide improved and expanded service within the City of Morristown by ensuring that Atmos Energy will have the right to provide service within these areas for a sufficient period in order to permit Atmos Energy the opportunity to recover the capital investment in such facilities under the rates approved by the Commission.¹⁰

⁹ Bernie Anderson, Pre-filed Direct Testimony, p. 4 (November 1, 2018).

¹⁰ *Id.* at 5-6.

REQUIREMENT OF AND STANDARDS FOR COMMISSION APPROVAL

Tenn. Code Ann. § 65-4-107 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 Commission. Approval pursuant to Tenn. Code Ann. § 65-4-107 requires a determination by the Commission, 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 Commission “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 Commission issued a *Notice of Hearing* on December 7, 2018. On December 17, 2018, a Hearing was held before the voting panel during a regularly scheduled Commission Conference. Appearing for Atmos were Mr. Scott Ross, Esq. and Bernie Anderson, Atmos Operations Manager for the Eastern Tennessee and Virginia area of operations.

During the Hearing, Mr. Anderson adopted and ratified his pre-filed testimony and was subject to questioning before the panel. 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 Morristown was necessary and proper for the public convenience, properly conserves the public interest, and that the terms of the franchise are fair and reasonable. Therefore, the panel voted unanimously to approve Atmos’ *Petition* for approval of its franchise agreement with Morristown.

IT IS THEREFORE ORDERED THAT:

1. The *Petition for Approval of Franchise Agreement with the City of Morristown, Tennessee* is approved.

2. Any person who is aggrieved by the Commission's decision in this matter may file a Petition for Reconsideration with the Commission within fifteen days from the date of this Order.

3. Any person who is aggrieved by the Commission'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.

Chair Robin L. Morrison, Vice Chair Kenneth C. Hill and Commissioner John Hie concur.

ATTEST:

A handwritten signature in cursive script, appearing to read "Earl Taylor", is written above a horizontal line.

Earl R. Taylor, Executive Director