

**BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION
NASHVILLE, TENNESSEE**

IN RE:)
)
PETITION OF ATMOS ENERGY)
CORPORATION FOR APPROVAL)
OF NEGOTIATED FRANCHISE) **Docket No. 19- 00004**
AGREEMENT WITH THE CITY OF)
WOODLAND MILLS, TENNESSEE)

**PETITION FOR APPROVAL OF FRANCHISE
AGREEMENT WITH CITY OF WOODLAND MILLS, TENNESSEE**

Pursuant to Tennessee Code Annotated § 65-4-107, Atmos Energy Corporation (“Atmos Energy” or “Company”) respectfully requests that the Tennessee Public Utility Commission (“Commission”) approve a negotiated franchise agreement between Atmos Energy and the City of Woodland Mills, Tennessee.

In support of this Petition, Atmos Energy respectfully submits the following:

1. Full name and address of the principal place of business of the company are:

Atmos Energy Corporation
5430 LBJ Freeway S 1800
Dallas, TX 75240

2. All correspondence and communications with respect to this Petition should be sent to the following:

Mark A. Martin
Vice President, Rates & Regulatory Affairs
KY/Mid-States Division
Atmos Energy Corporation
3275 Highland Pointe Dr.
Owensboro, KY 42303
(270) 685-8052 – Facsimile

A. Scott Ross, Esq.
Neal & Harwell, PLC
2000 One Nashville Place
150 Fourth Avenue, North
Nashville, TN 37219-2498
(615) 726-0573 – Facsimile

Douglas C. Walther, Esq.
Associate General Counsel
Atmos Energy Corporation
P. O. Box 650205
Dallas, TX 75265-0205
(972) 855-3080 – Facsimile

3. Atmos Energy serves approximately 132,000 residential, commercial, and industrial customers in Tennessee. Among the areas served is the City of Woodland Mills, Obion County, Tennessee.

4. Atmos Energy currently provides natural gas service to the City of Woodland Mills pursuant to a franchise agreement incorporated into City Ordinance No. 5, dated June 14, 1999.

5. That franchise agreement will expire by its terms on June 13, 2019.

6. In anticipation of the expiration of the existing franchise agreement, the Company began negotiations with the City of Woodland Mills for renewal of the franchise authority in the fall of 2018. These negotiations recently concluded, and a new franchise agreement was submitted for first reading and incorporated as Ordinance No. 2018-3. The Ordinance passed first reading on November 12, 2018.

7. The Ordinance incorporating the new franchise agreement passed second and final reading by the Board of Aldermen of Woodland Mills on December 11, 2018. A true and correct copy of this franchise agreement incorporated as an Ordinance is attached hereto as Exhibit 1. In accordance with the terms of the Ordinance, specifically Article III(B), the new

franchise agreement will become effective upon final approval by the Board of Aldermen of the City of Woodland Mills, acceptance by Atmos Energy, and final approval by the Tennessee Public Utility Commission.

8. The new franchise agreement with the City of Woodland Mills is necessary and proper for the public convenience and properly conserves the public interest.

WHEREFORE, Atmos Energy respectfully requests that the Commission approve the new franchise agreement with the City of Woodland Mills attached hereto as Exhibit 1 pursuant to Tennessee Code Annotated § 65-4-107.

Respectfully submitted,

NEAL & HARWELL, PLC

By: 

A. Scott Ross, #15634

1201 Demonbreun Street, Suite 1000

Nashville, TN 37203

(615) 244-1713 – Telephone

(615) 726-0573 – Facsimile

sross@nealharwell.com

Counsel for Atmos Energy Corporation

EXHIBIT 1

ORDINANCE NO. 3 2018-3

AN ORDINANCE GRANTING A FRANCHISE TO ATMOS ENERGY CORPORATION, ITS SUCCESSORS AND ASSIGNS FOR PERIOD OF TWENTY (20) YEARS TO ERECT, CONSTRUCT, RECONSTRUCT, MAINTAIN AND OPERATE A NATURAL GAS PLANT OR PLANTS FOR THE MANUFACTURING AND PROCESSING OF ANY AND ALL KINDS OF GAS AND FOR THE DISTRIBUTION AND TRANSMISSION OF NATURAL GAS AND FOR THE INSTALLATION AND MAINTENANCE OF MAINS, PIPES, PIPELINES, DISTRIBUTION LINES, AND OTHER EQUIPMENT NECESSARY OR INCIDENTAL TO DISTRIBUTION AND TRANSMISSION OF SAID GAS UPON, ACROSS, ALONG AND UNDER THE HIGHWAYS, STREETS, AVENUES, ROADS, ALLEYS, LANES AND OTHER PUBLIC GROUNDS OF THE CITY OF WOODLAND MILLS, OBION COUNTY, TENNESSEE.

BE IT ORDAINED BY THE MAYOR AND THE BOARD OF ALDERMEN OF THE CITY OF WOODLAND MILLS, OBION COUNTY, TENNESSEE:

Article I

DEFINITIONS:

As used in this Agreement, the following words and phrases shall have the following meanings:

- (A) "Agency" refers to and is the Tennessee Public Utility Commission the state utility regulatory agency having jurisdiction over the rates, services and operations of Grantee within the State of Tennessee or other administrative or regulatory authority succeeding to the regulatory powers of the Agency.
- (B) "Board" refers to and is the governing body of the City of Woodland Mills, Obion County, Tennessee.
- (C) "City" refers to and is the City of Woodland Mills, Obion County, Tennessee, and includes territory as currently is or may in the future be included within the boundaries of the City of Woodland Mills.
- (D) "Force Majeure" shall mean any and all causes beyond the control and without the fault or negligence of Grantee. Such causes shall include but not be limited to acts of God, acts of the public enemy, insurrections, terrorism, riots, labor disputes, boycotts, labor and material shortages, fires, explosions, flood, breakdowns of or damage to equipment of facilities, interruptions to transportation, embargoes, acts of military authorities, or other causes of a similar nature whether or not foreseen or foreseeable which wholly or partly prevent Grantee from performing one or more of its obligations hereunder.
- (E) "Franchise" shall mean the rights and privileges granted by the Grantor to

Grantee under the terms and provisions of this franchise ordinance.

(F) "Grantee" shall mean Atmos Energy Corporation.

(G) "Grantor" shall mean City of Woodland Mills, Obion County, Tennessee.

(H) "Public Right-of-Way" shall mean the surface, the airspace above the surface and area below the surface of any street, highway, alley, avenue, boulevard, sidewalk, pedestrian/bicycle lane or trail, driveway, bridge, utility easement or any other public ways owned, dedicated by plat, occupied or used by the public and within the Grantor's geographical limits or boundaries established by applicable law.

(I) "System" shall mean the system of works, pipes, pipelines, facilities, fixtures, apparatus, lines, machinery, equipment, structures, appliances, appurtenances or other infrastructure reasonably necessary for the storage, transportation, distribution or sale of natural, artificial or mixed gas to residential and commercial customers and the public generally, within the geographical limits or boundaries of the Grantor.

Article II

GRANT OF FRANCHISE:

(A) There is hereby created and granted unto Grantee a non-exclusive franchise to enter upon, acquire, construct, operate, maintain and repair in the Public Right-of-Way the System, subject to the provisions of this Agreement. The franchise granted hereunder shall be extended to territories that are annexed by Grantor upon the same terms and conditions herein, subject to the approval of the Agency, if any such approval is required.

(B) The franchise granted to Grantee by the Grantor shall not be exclusive and the Grantor reserves the right to grant a similar franchise to any other person or entity at any time. In the event the Grantor shall grant to another person or entity during the term hereof a franchise for a gas distribution system within the geographical boundaries or limits of Grantor similar to the one herein granted to Grantee, it is agreed that the terms of any such franchise agreement shall be no more favorable to such new additional grantee than those terms contained herein. Additionally, it is agreed that any such new/additional grantee shall have no right to use any portion of the System without Grantee's written consent.

Article III

TERM, EFFECTIVE DATE, AND ACCEPTANCE OF FRANCHISE:

(A) The term of this Franchise shall be for a term of twenty (20) years.

(B) The franchise created hereby shall become effective upon its final passage and approval by the City, in accordance with applicable laws and regulations, upon approval by the Agency, and upon acceptance by the Grantee by written instrument within sixty (60) days of passage by the governing body, and filed with the Clerk of the Grantor. If the Grantee does not, within sixty (60) days following passage of this Ordinance, express in writing its objections to any terms or provisions contained therein, or reject this Ordinance in its entirety, the Grantee shall be deemed to have accepted this Ordinance and all of its terms and conditions.

(C) The terms and conditions of Ordinance No. 5 are superseded by the terms and conditions hereof.

(D) On the expiration of this franchise, in the event the same is not renewed, or on the termination of any renewal of said franchise, or on termination of said franchise for any other reason, the plant and facilities of the Grantee installed, constructed and operated hereunder shall, at the option of the City become the property of the City, upon payment to the Grantee, its successors and/or assigns, of a fair valuation thereof, such fair valuation to be determined by agreement between the City and the Grantee, its successors and/or assigns. Grantor agrees that, at the time of such transfer of facilities, it shall assume Grantee's contractual and regulatory obligations maintained in connection with the system. If the City does not exercise the option hereunder, then Grantee may exercise its rights under Article IX (B).

Article IV

GRANTEE'S RIGHTS IN AND TO PUBLIC RIGHT-OF-WAY:

The Grantee shall have the right and privilege of constructing, erecting, laying, operating, maintaining, replacing, removing and/or repairing a gas distribution system through, along, across and under the public right-of-way within the geographical boundaries or limits of the Grantor as it now exists or may hereafter be constructed or extended, subject to the inherent police powers conferred upon or reserved unto the Grantor and the provisions of this Agreement.

Article V

OPERATION OF SYSTEM; EXCAVATION OF PUBLIC RIGHT-OF-WAY:

(A) The System shall at all times be installed, operated and maintained in good working condition as will enable the Grantee to furnish adequate and continuous service to all of its residential, commercial and industrial customers. The System shall be designed, installed, constructed and replaced in locations and at depths which comply with all applicable federal and

state laws and regulations regarding minimum safety standards for design, construction, maintenance and operation of gas distribution systems.

(B) Grantee shall have the right to disturb, break, and excavate in the Public Right-of-Way as may be reasonable and necessary to provide the service authorized hereby.

(C) Grantee will repair any damage caused solely by Grantee to any part of the Public Right-of-Way and will restore, as nearly as practicable, such property to substantially its condition immediately prior to such damage.

(D) Grantee shall use reasonable care in conducting its work and activities in order to prevent injury to any person and unnecessary damage to any real or personal property.

(E) Grantee shall, when reasonably practicable, install all pipelines underground at such depth and in such manner so as not to interfere with the existing pavement, curbs, gutters, underground wires or cables or water or sewer pipes owned or controlled by the Grantor.

Article VI

DEGRADATION/RESTORATION OF PUBLIC RIGHT-OF-WAY:

(A) In the event that Grantor or any other entity acting on behalf of Grantor requests or demands that Grantee remove, move, modify, relocate, reconstruct or adjust any part of the system from their then-current locations within the streets, alleys, and public places of Grantor in connection with a public project or improvement, then Grantee shall relocate, at its expense, the system facilities affected by such project or improvement. Grantee's obligations under this paragraph shall apply without regard to whether Grantee has acquired, or claims to have acquired, an easement or other property right with respect to such system facilities and shall not affect the amounts paid or to be paid to Grantee under the provisions of this Ordinance. Notwithstanding the foregoing provisions of this paragraph, Grantee shall not be obligated to relocate, at its expense, any of the following: (i) system facilities that are located on private property at the time relocation is requested or demanded; (ii) system facilities that are relocated in connection with sidewalk improvements (unless such sidewalk improvements are related to or associated with road widening's, the creation of new turn lanes, or the addition of acceleration/deceleration lanes); (iii) streetscape projects or other projects undertaken primarily for aesthetic purposes; or (iv) system facilities that are converted from an overhead configuration or installation to an underground configuration or installation.

(B) Grantor and Grantee recognize that both parties benefit from economic development within the boundaries of Grantor. Accordingly, when it is necessary to relocate any of Grantee's facilities within the boundaries of Grantor, Grantor and Grantee shall work

cooperatively to minimize costs, delays, and inconvenience to both parties while ensuring compliance with applicable laws and regulations. In addition, Grantor and Grantee shall communicate in a timely fashion to coordinate projects included in Grantor's five-year capital improvement plan, Grantor's short-term work program, or Grantor's annual budget in an effort to minimize relocation of Grantee's facilities. Such communication may include, but is not limited to, (i) both parties' participation in a local utility's coordinating council (or any successor organization) and (ii) both parties' use of the National Joint Utility Notification System (or any alternative comparable systems or successor to such system mutually acceptable to both parties).

Article VII

SERVICE TO NEW AREAS.

If during the term of this franchise the boundaries of the Grantor are expanded, the Grantor will promptly notify Grantee in writing of any geographic areas annexed by the Grantor during the term hereof ("Annexation Notice"). Any such Annexation Notice shall be sent to Grantee by certified mail, return receipt requested, and shall contain the effective date of the annexation, maps showing the annexed area and such other information as Grantee may reasonably require in ascertaining whether there exist any customers of Grantee receiving natural gas service in said annexed area.

Article VIII
BREACH OF FRANCHISE; REMEDIES:

In the event of a breach by Grantee of any material provision hereof, the Grantor may terminate the franchise and rights granted to Grantee hereunder, provided, however, that such termination shall not be effective unless and until the procedures described below have been followed:

(A) Grantor must deliver to Grantee, by certified or registered mail, a written notice signed by the mayor or other duly authorized member of Grantor's governing body, attested by the Grantor's secretary, and sealed with the official seal of the Grantor. Such notice must (i) fairly and fully set forth in detail each of the alleged acts or omissions of Grantee that the Grantor contends constitutes a substantial breach of any material provision hereof, (ii) designate which of the terms and conditions hereof the Grantor contends Grantee breached, and (iii) specify the date, time, and place at which a public hearing will be held by the governing body of the Grantor for the purpose of determining whether the allegations contained in the notice did in fact occur, provided, however, that the date of such hearing may not be less than thirty (30) days after the date of such notice.

(B) Within thirty (30) days following the adjournment of the public hearing described in Subsection (A) above, the Grantor must deliver to Grantee, by certified or registered mail, a written notice signed by the mayor or other duly authorized member of Grantor's governing body, attested by the Grantor's secretary, and sealed with the official seal of the Grantor, setting forth (i) the acts and omissions of Grantee described in the first notice that the governing body of the Grantor determines to have in fact occurred and (ii) the specific terms and conditions hereof listed in the first notice that the governing body of the Grantor determines to have in fact been breached by such acts or omissions of Grantee.

(C) The Grantor must permit Grantee the opportunity to substantially correct all of the breaches hereof set forth in the written notice described in Subsection (B) above within sixty (60) days after Grantee's receipt of such notice.

Article IX

ADDITIONAL REQUIREMENTS; MISCELLANEOUS PROVISIONS

(A) Grantee shall at all times indemnify and hold harmless the Grantor from and against any and all lawful claims for injury or damages to any person or property by reason of Grantee's or its employees' failure to exercise reasonable care in installing, maintaining and operating the System. Provided, however, that none of the provisions of this paragraph shall be applicable to the extent the Grantor, its officials, officers, employees, contractors, or agents, were negligent and such negligence was the sole or contributing factor in bringing about injury or damages to any person or property. In such event, any liability shall be apportioned between the Grantor and the Grantee based upon the percentage of fault assigned to each by a court of competent jurisdiction.

(B) Subject to the City's option under Article III (D), Grantee may remove all or any part of its System upon the expiration or termination of the franchise and rights granted hereby.

(C) Grantee may transfer or assign the franchise created by this agreement to any other person, proprietorship, partnership, firm or corporation with written notification to the Grantor.

(D) If any section, subsection or provision of this ordinance or any part thereof is for any reason found or held to be in conflict with any applicable statute or rule of law, or is otherwise held to be unenforceable, the invalidity of any such section, subsection or provision shall not affect any or all other remaining sections and provisions of this ordinance, which shall remain in full force and effect.

(E) This agreement shall extend to, be binding upon, and inure to the benefit of, the parties hereto, and their respective successors and assigns.

(F) To the extent that any other ordinances of the Grantor or portions thereof are in conflict or inconsistent with any of the terms or provisions hereof, then the terms of this Ordinance shall control.

IN TESTIMONY WHEREOF, witness the signatures of the parties on this 12th day of November, 2018.

CITY OF WOODLAND MILLS, TENNESSEE

BY: Wade Cantor
Mayor

ATTEST:

Nancy Beuk
City Recorder

ATMOS ENERGY CORPORATION

BY: Jay Kevin Dobbs
Jay Kevin Dobbs, President
Kentucky Mid-States Division

First Reading: 11, 12, 2018

Second and Final reading: 12, 11, 2018

City's Mailing Address and Phone Number:

P.O. Box 153
Woodland Mills TN 38271
731
777-885-8754