

BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION

NASHVILLE, TENNESSEE

IN RE:	April 5, 2019)	
)	
PETITION OF ATMOS ENERGY CORPORATION)	DOCKET NO.
FOR APPROVAL OF NEGOTIATED FRANCHISE)	19-00004
AGREEMENT WITH THE CITY OF WOODLAND)	
MILLS, TENNESSEE)	

ORDER APPROVING FRANCHISE AGREEMENT

This matter came before Chair Robin L. Morrison, Commissioner Herbert H. Hilliard and Commissioner David F. Jones 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 February 19, 2019 for hearing and consideration of the *Petition for Approval of Franchise Agreement with City of Woodland Mills, Tennessee* (“*Petition*”) filed on January 7, 2019 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.¹ Among the areas served is the City of Woodland Mills, Obion County, Tennessee. On January 7, 2019, Atmos filed a *Petition* requesting approval of a negotiated franchise agreement between Atmos and the City of Woodland Mills, Tennessee (the “City” or “Woodland Mills”). Along with its *Petition*, Atmos submitted a copy of Ordinance No. 2018-3 granting a non-exclusive franchise to Atmos from Woodland Mills for a twenty (20) year term and the pre-filed direct testimony of Patrick

¹ *Petition*, p. 2 (January 7, 2019).

Mattingly, Supervisor of Operations for the Paducah, Kentucky area of operations which includes the City of Woodland Mills, Tennessee, and 29-year employee of Atmos Energy.

Atmos currently provides natural gas service to Woodland Mills pursuant to a franchise agreement incorporated into City Ordinance No. 5 dated June 14, 1999.² The franchise agreement will expire June 13, 2019.³ Approximately 133 customers within the city limits consisting of 93% residential customers and 7% customers of other classes such as commercial and industrial, are served within the city limits of Woodland Mills, by the natural gas distribution system owned and operated by Atmos.⁴

On February 4, 2019, Atmos filed a copy of the notice that it published in the Union City Daily Messenger newspaper in compliance with TPUC Rule 1220-04-01-.05.⁵ Atmos and Woodland Mills commenced negotiations for renewal of the franchise authority in the fall of 2018. The resulting new franchise agreement passed second and final reading by the Board of Alderman of Woodland Mills on December 11, 2018 and was incorporated as Ordinance 2018-3.⁶ In his pre-filed testimony, Mr. Mattingly 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 Woodland Mills will be able to receive, under the supervisory jurisdiction of the Commission, the

² *Petition*, p. 2 (January 7, 2019); *see also* Exhibit 1.

³ The current franchise agreement between Atmos Energy and the City of Woodland Mills is incorporated into City of Woodland Mills Ordinance No. 5. *Petition*, p. 2 (January 7, 2019).

⁴ Patrick Mattingly, Pre-filed Direct Testimony, p. 2 (January 7, 2019).

⁵ Notice of Compliance with TPUC Rule 1220-04-01-.05 (February 4, 2019).

⁶ *Petition*, p. 2 (January 7, 2019); *see also* Exhibit 1.

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 Woodland Mills for the foreseeable future.

Second, the new franchise facilitates the provision of such natural gas service to the City of Woodland Mills by an established and proven provider of that service well-known to both the City of Woodland Mills 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 Atmos Energy 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 Woodland Mills.

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

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 Woodland Mills 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.⁷

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 power, if it so approves, to impose such conditions as to construction, equipment, maintenance, service or operation as the public convenience and interest may reasonably require.”

⁷ Patrick Mattingly, Pre-filed Direct Testimony, pp.4-6 (January 7, 2019).

FINDINGS AND CONCLUSIONS

The Commission issued a *Notice of Hearing* on February 8, 2019. On February 19, 2019, a Hearing was held before the voting panel during a regularly scheduled Commission Conference. Appearing for Atmos were Mr. Scott Ross, Esq. and Patrick Mattingly, Atmos Operations Supervisor for Woodland Mills, Tennessee. During the Hearing, Mr. Mattingly 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 Woodland Mills 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 Woodland Mills.

IT IS THEREFORE ORDERED THAT:

1. The *Petition for Approval of Franchise Agreement with City of Woodland Mills, 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, Commissioner Herbert H. Hilliard and Commissioner David F. Jones concur.

ATTEST:



Earl R. Taylor, Executive Director