

BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION

NASHVILLE, TENNESSEE

November 4, 2019

IN RE:

PETITION OF ATMOS ENERGY  
CORPORATION FOR APPROVAL  
OF AN EXTENSION OF A FRANCHISE  
AGREEMENT WITH THE CITY OF  
MARYVILLE, TENNESSEE

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DOCKET NO.  
19-00088

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ORDER APPROVING FRANCHISE AGREEMENT

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This matter came before Chair Robin L. Morrison, Vice Chair Kenneth C. Hill, and Commissioner David 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 October 14, 2019, for hearing and consideration of the *Petition for Approval of Extension of Franchise Agreement with the City of Maryville, Tennessee* (“*Petition*”) filed on September 19, 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.<sup>1</sup> Among its Tennessee customers, Atmos serves the City of Maryville in Blount County, Tennessee, providing natural gas service to 8,400 customers within the city limits. These customers, served by approximately 311 miles of pipe within the Maryville city limits, are approximately 90% residential and 10% in

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<sup>1</sup> *Petition*, p. 2 (September 19, 2019).

other classes, such as commercial and industrial.<sup>2</sup> Service has been provided in Maryville pursuant to a franchise agreement incorporated into an ordinance dated August 3, 2004. Said franchise agreement expired on August 3, 2019.<sup>3</sup>

On September 19, 2019, Atmos filed a *Petition* requesting approval of a negotiated franchise agreement between Atmos and the City of Maryville, Tennessee (“City” or “Maryville”). Along with its *Petition*, Atmos submitted a copy of Maryville Ordinance No. 2019-020, extending the non-exclusive franchise agreement with Atmos, initially granted in Maryville Ordinance No. 2004-34, for a twenty (20) year term.<sup>4</sup> Atmos also submitted the Pre-Filed Testimony of Travis Greenwood, Operations Supervisor for the Maryville and Alcoa, Tennessee area of operations and a sixteen (16) year employee of Atmos.<sup>5</sup> Subsequently, Atmos submitted the Pre-Filed Testimony of Bernie Anderson,<sup>6</sup> a twelve (12) year employee of Atmos, currently serving as Operations Manager for the East Tennessee and Virginia area of operations.<sup>7</sup> Finally, Atmos submitted a copy of the notice published by Atmos in the Maryville/Blount County publication, *The Daily Times*, as required by TPUC rule, found at Tenn. Comp. R. & Regs. 1220-04-01-.05.<sup>8</sup>

Atmos and Maryville commenced negotiations for extension of the franchise authority during the summer of 2018. The resulting franchise agreement extension passed first reading on August 6, 2019 and passed the second and final reading on September 3, 2019. The franchise agreement extension is set forth in Maryville Ordinance 2019-20.<sup>9</sup>

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<sup>2</sup> Travis Greenwood, Pre-Filed Direct Testimony, p. 2 (September 19, 2019).

<sup>3</sup> *Petition*, p. 2, Exh. 1 & 2 (September 19, 2019).

<sup>4</sup> *Id.* at Exh. 1.

<sup>5</sup> Travis Greenwood, Pre-Filed Direct Testimony (September 19, 2019).

<sup>6</sup> Mr. Anderson’s Pre-Filed Testimony indicates the adoption of Mr. Greenwood’s testimony as his own. He further states his familiarity with the operations of Atmos serving Maryville and the surrounding communities and the negotiation of the franchise agreement extension for which approval is sought.

<sup>7</sup> Bernie Anderson, Pre-Filed Direct Testimony (October 1, 2019).

<sup>8</sup> *Notice of Compliance with TPUC Rule 1220-4-1-.05* (October 8, 2019).

<sup>9</sup> *Petition*, pp. 2-3 (September 19, 2019).

Travis Greenwood states in his Pre-Filed Testimony, subsequently adopted by Bernie Anderson, 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 Maryville 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 Maryville for the foreseeable future.

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

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

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 Maryville 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.<sup>10</sup>

Mr. Greenwood also testified that the franchise fee will remain the same as set forth in the previous agreement at 5% of Atmos's gross receipts derived from retail natural gas sales within the City of Maryville. Further, transport volumes per CCF rate will be \$0.005.<sup>11</sup>

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<sup>10</sup> Travis Greenwood, Pre-Filed Direct Testimony, pp. 4-6 (September 19, 2019).

<sup>11</sup> *Id.* at 4.

## **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.” In addition, the Commission, in considering such privilege or franchise, “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.”<sup>12</sup>

## **FINDINGS AND CONCLUSIONS**

The Commission issued a *Notice of Hearing* on October 4, 2019. On October 14, 2019, a Hearing was held before the voting panel at a regularly scheduled Commission Conference. Appearing for Atmos were Mr. Scott Ross, Esq. and Mr. Bernie Anderson, Director of Operations for Atmos’s East Tennessee area of operations. At the Hearing, Mr. Anderson ratified his Pre-Filed Testimony, corrected his Pre-Filed Testimony to indicate his previous testimony in TPUC Docket No. 18-00114, answered questions from Mr. Ross concerning the franchise agreement, and was subject to questioning before the panel. Ms. Sherri Phillips, Finance Administrator and Recorder for the City of Maryville, attended the Commission Conference telephonically, but had no questions or comments during the Hearing. 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’s new franchise agreement with Maryville was necessary and proper for the public convenience and properly conserves the public interest and that the terms of the franchise are fair and reasonable. Therefore, the panel voted unanimously to approve Atmos’s *Petition* for

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<sup>12</sup> Tenn. Code Ann. § 65-4-107 (Supp. 2019).

approval of its franchise agreement with Maryville.

**IT IS THEREFORE ORDERED THAT:**

1. The *Petition for Approval of Extension of Franchise Agreement with the City of Maryville, 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 David Jones concur. None dissent.**

**ATTEST:**



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**Earl R. Taylor, Executive Director**