

BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION

NASHVILLE, TENNESSEE

September 28, 2020

IN RE:)	
)	
PETITION OF PIEDMONT NATURAL)	DOCKET NO.
GAS COMPANY, INC. FOR APPROVAL)	20-00078
OF NEGOTIATED FRANCHISE AGREEMENT)	
WITH FRANKLIN, TENNESSEE PURSUANT)	
TO TENNESSEE CODE ANNOTATED)	
§ 65-4-107)	

ORDER APPROVING FRANCHISE AGREEMENT

This matter came before Chairman Kenneth C. Hill, Vice Chair 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, during a regularly scheduled Commission Conference held on August 10, 2020,¹ for hearing and consideration of the *Petition of Piedmont Natural Gas Company, Inc. for Approval of Negotiated Franchise Agreement with Franklin, Tennessee Pursuant to Tennessee Code Annotated § 65-4-107* (“*Petition*”) filed on June 2, 2020, by Piedmont Natural Gas Company, Inc. (“Piedmont” or the “Company”).

THE PETITION

Piedmont is incorporated under the laws of the state of North Carolina with its principal place of business in Nashville, Tennessee and is engaged in the business of furnishing natural gas to customers located in Nashville and the remainder of Davidson County, as well as portions of the

¹ Due to the state of emergency declared by Governor Bill Lee relative to the Coronavirus Disease 2019 (“COVID-19”) pandemic in Tenn. Exec. Order No. 14 on March 12, 2020, (superseded by Tenn. Exec. Order No. 15 on March 19, 2020 which was extended until June 30, 2020 in Tenn. Exec. Order No. 36 on May 12, 2020), the Commission Conference was held electronically via WebEx. The public health emergency places limitations on public gatherings and meetings in order to prevent the spread of COVID-19. In convening the Commission Conference electronically, the Commission relied upon Tenn. Exec. Order No. 16 (March 20, 2020), which was extended until June 30, 2020 by Tenn. Exec. Order No. 34 (May 6, 2020), and affirmed on the record that the electronic meeting was necessary to conduct the essential business of the agency and to protect the health, safety, and welfare of Tennesseans.

counties of Cheatham, Dickson, Robertson, Rutherford, Sumner, Trousdale, Williamson, and Wilson and in certain incorporated towns and cities in those counties.²

Among the areas served is the City of Franklin, Tennessee.³ On June 2, 2020, Piedmont filed a *Petition* requesting approval of a negotiated franchise agreement between Piedmont and the City of Franklin, Tennessee (“City” or “Franklin”). Along with its *Petition*, Piedmont submitted a copy of Ordinance 2019-54, an ordinance which provides Piedmont the right to construct, operate, and maintain a gas utility system within the City for production, transmission, distribution, and sale of gas to consumers and users within the City and to the City and all agencies and departments thereof.⁴

Piedmont currently provides natural gas service to the City of Franklin pursuant to a twenty-five year franchise agreement incorporated into City Ordinance 94-37, approved by the City and accepted by Piedmont in 1994, and which expired on December 13, 2019.⁵ Prior to the expiration of the pre-existing franchise agreement, Piedmont commenced negotiations with the City for renewal of its franchise authority. The resulting new franchise agreement passed second and final reading on May 12, 2020 and was incorporated as City Ordinance 2019-54.⁶ The negotiated franchise agreement extends the term of the existing agreement for twenty years.⁷ The franchise fee rate under the prior agreement was 3%; the renewed franchise is asking for a five percent (5%) franchise fee of the annual gross revenues collected from all customers who are located and provided service by the Company within the geographical areas identified in the ordinance.⁸

² *Petition* (June 2, 2020).

³ *Petition*, p. 2 (June 2, 2020).

⁴ *Id.* at p.1, Exhibit A.

⁵ *Id.* at p. 2.

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

Piedmont 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

On June 8, 2020, Piedmont submitted the Pre-Filed Direct Testimony of Mr. Eddie Davidson, Senior Manager, Government Relations for Piedmont's Tennessee region.¹⁰ The Company in its *Petition* 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 agreement establishes a twenty (20) year arrangement, beginning on April 1, 2020, which secures the provision of natural gas service to citizens, businesses and governmental institutions within Franklin.

Second, the new franchise agreement ensures the continued and uninterrupted provision of high quality natural gas service by an established provider of such service to existing customers, as well as the availability of such service to new customers within Franklin.

Third, the new franchise arrangement establishes adequate and proper mechanisms for access to public rights-of-way, new and existing customers, and existing service lines, transmission and distribution facilities and thereby ensures the protection of the property and citizenry of Franklin.

Fourth, the new franchise agreement provides an incentive to Piedmont to make appropriate investments in infrastructure to provide improved and expanded natural gas service within the limits of Franklin; and

Fifth, Piedmont shall pay franchise fees to the City in the amount of five percent (5%) of the annual gross revenues collected from all customers who are located and provided service by the Company within the geographical areas of the City.¹¹

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

⁹ *Petition*, p. 4 (June 2, 2020).

¹⁰ Eddie Davidson, Pre-Filed Direct Testimony, p. 4 (June 8, 2020).

¹¹ *Petition*, p. 3 (June 2, 2020).

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 Held Electronically Via WebEx* on July 31, 2020. On August 10, 2020, a Hearing was held before the voting panel during a regularly scheduled Commission Conference.

Participating in the Hearing were:

Piedmont Natural Gas Company, Inc. – Paul S. Davidson, Waller Lansden Dortch & Davis, 511 Union Street, Suite 2700, Nashville, Tennessee 37219, James H. Jeffries IV, Esq., McGuire Woods, 201 North Tryon Street, Suite 3000, Charlotte, North Carolina 28202; and Eddie Davidson, Senior Manager, Government Relations for the Tennessee Region, 83 Century Boulevard, Nashville, Tennessee 37214

During the Hearing, Mr. Davidson ratified, then summarized his pre-filed testimony and was subject to questioning before the panel. Mr. Vernon Gerth, representative for the City of Franklin, was available for questions. 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 Piedmont’s new franchise agreement with the City of Franklin 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 Piedmont’s *Petition* for approval of its franchise agreement with the City of Franklin.

IT IS THEREFORE ORDERED THAT:

1. The *Petition of Piedmont Natural Gas Company, Inc. for Approval of Negotiated Franchise Agreement with Franklin, Tennessee Pursuant to Tennessee Code Annotated § 65-4-107* 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.

FOR THE TENNESSEE PUBLIC UTILITY COMMISSION:

**Chairman Kenneth C. Hill,
Vice Chair Herbert H. Hilliard, and
Commissioner David F. Jones concur.**

None dissenting.

ATTEST:



Earl R. Taylor, Executive Director