

BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION

NASHVILLE, TENNESSEE

December 2, 2021

IN RE:	)	
	)	
PETITION OF PIEDMONT NATURAL GAS	)	DOCKET NO.
COMPANY, INC. FOR APPROVAL OF	)	21-00074
NEGOTIATED FRANCHISE AGREEMENT WITH	)	
BRENTWOOD, TENNESSEE PURSUANT TO	)	
TENNESSEE CODE ANNOTATED § 65-4-107	)	

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ORDER APPROVING FRANCHISE AGREEMENT

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This matter came before Chairman Kenneth C. Hill, Vice Chairman Herbert H. Hilliard, Commissioner Robin L. Morrison, Commissioner John Hie, and Commissioner David F. Jones of the Tennessee Public Utility Commission (the “Commission” or “TPUC”), the voting panel assigned to this docket, during the regularly scheduled Commission Conference held on November 1, 2021, for hearing and consideration of the *Petition for Approval of Negotiated Franchise Agreement with Brentwood, Tennessee Pursuant to Tennessee Code Annotated § 65-4-107* (“*Petition*”) filed on June 23, 2021 by Piedmont Natural Gas Company, Inc. (“Piedmont” or “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 Cheatham, Dickson, Robertson, Rutherford, Sumner, Trousdale, Williamson and Wilson Counties and in certain incorporated towns and cities in those counties.<sup>1</sup> Among the areas served is the City

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<sup>1</sup> *Petition*, p. 1 (June 23, 2021).

of Brentwood, Tennessee.<sup>2</sup> On June 23, 2021, Piedmont filed a *Petition* requesting approval of a negotiated franchise agreement between Piedmont and the City of Brentwood, Tennessee (“City” or “Brentwood”). Along with its *Petition*, Piedmont submitted a copy of Ordinance No. 2020-10, 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 within the City and to the City and all agencies and departments thereof.<sup>3</sup>

Piedmont currently provides natural gas service to the City of Brentwood pursuant to a twenty-five-year franchise agreement approved by the City and accepted by Piedmont in 1995, which expired on December 11, 2020.<sup>4</sup> Piedmont also submitted the Pre-Filed Testimony of Eddie Davidson, Director of Government Affairs for the Tennessee region. Mr. Davidson testifies that prior to the expiration of the 1995 franchise agreement, Piedmont began negotiations with the City for renewal of its franchise authority in the spring of 2020. Those negotiations were slowed somewhat due to the COVID-19 pandemic.<sup>5</sup> Finally, Piedmont submitted a copy of the notice published by Piedmont in the news publication, *The Tennessean*, as required by TPUC rule, found at Tenn. Comp. R. & Regs. 1220-04-01-.05.<sup>6</sup>

The resulting new franchise agreement passed first reading on December 14, 2020, second and final reading on January 12, 2021, and was incorporated as City Ordinance 2020-10. The negotiated franchise agreement extends the term of the existing agreement for twenty-five years.<sup>7</sup>

In its *Petition*, the Company states that the franchise agreement is necessary and proper for the public convenience and properly conserves the public interest for the following reasons:

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<sup>2</sup> *Id.* at 2.

<sup>3</sup> *Id.* at 2, Exh. A.

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

<sup>5</sup> Eddie Davidson, Pre-Filed Direct Testimony, p. 3 (June 23, 2021).

<sup>6</sup> *Notice of Compliance with TPUC Rule 1220-04-01-.05* (October 28, 2021).

<sup>7</sup> *Petition*, pp. 2-3, Exh. A (June 23, 2021).

- a. The new franchise agreement establishes a twenty-five (25) year arrangement, effective December 11, 2020, which secures the provision of natural gas service to citizens, businesses, and governmental institutions within Brentwood.
- b. 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 Brentwood.
- c. The new franchise agreement 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 Brentwood; and.
- d. Piedmont shall pay franchise fees to the City in the amount of up to, but not more than 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 if, during the term of the franchise, the City passes a resolution that calls for the payment of such franchise fee.<sup>8</sup>

#### **REQUIREMENTS 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>9</sup>

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<sup>8</sup> *Id.* at 2-3.

<sup>9</sup> Tenn. Code Ann. § 65-4-107 (Supp. 2019).

## **FINDINGS AND CONCLUSIONS**

The Commission issued a *Notice of Hearing* on October 22, 2021. On November 1, 2021, 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, Esq. Waller Lansden Dortch & Davis, 511 Union Street, Suite 2700, Nashville, Tennessee 37219 and Eddie Davidson, Director, Government Affairs for the Tennessee Region.

During the Hearing, Mr. Eddie Davidson ratified his Pre-Filed Testimony, answered questions from Mr. Paul Davidson concerning the franchise agreement, and was subject to questioning before the panel. Mrs. Kristen Corn, City Attorney for Brentwood, attended the Commission Conference telephonically and 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 Piedmont's new franchise agreement with Brentwood 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 Brentwood.

### **IT IS THEREFORE ORDERED THAT:**

1. The *Petition for Approval of Negotiated Franchise Agreement* with *Brentwood, 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 (15) 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 (60) days from the date of this Order.

**FOR THE TENNESSEE PUBLIC UTILITY COMMISSION:**

**Chairman Kenneth C. Hill,  
Vice Chairman Herbert H. Hilliard,  
Commissioner Robin L. Morrison,  
Commissioner John Hie, and  
Commissioner David F. Jones concurring.**

None dissenting

**ATTEST:**



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**Earl R. Taylor, Executive Director**