

BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION

NASHVILLE, TENNESSEE

December 2, 2021

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| IN RE: |) | |
| |) | |
| PETITION OF CHATTANOOGA GAS |) | DOCKET NO. |
| COMPANY FOR APPROVAL OF NEGOTIATED |) | 21-00093 |
| FRANCHISE AGREEMENT WITH THE CITY |) | |
| OF CHATTANOOGA, TENNESSEE PURSUANT |) | |
| TO TENNESSEE CODE ANNOTATED § 65-4-107 |) | |

ORDER APPROVING FRANCHISE AGREEMENT

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 the City of Chattanooga, Tennessee Pursuant to Tenn. Code Ann. § 65-4-107* (“*Petition*”) filed on August 23, 2021 by Chattanooga Gas Company (“CGC” or the “Company”). With the *Petition*, CGC filed a copy of City of Chattanooga Ordinance No. 13696,¹ which grants a franchise to CGC to provide service to the City of Chattanooga (“Chattanooga” or “City”), and the Pre-Filed Direct Testimony of Archie R. Hickerson, Direct of Rates and Tariff Administration at Southern Company Gas.

THE PETITION

CGC is incorporated under the laws of the State of Tennessee and is engaged in the business of transporting, distributing and selling natural gas in the Cities of Chattanooga and Cleveland,

¹ *Petition*, Exh. A (August 23, 2021).

Tennessee, and portions of Hamilton and Bradley County, Tennessee. The Company seeks Commission approval of the negotiated franchise agreement between CGC and the City as required by Tenn. Code Ann. § 65-4-107. Prior to July 1, 2021, CGC provided service to the City of Chattanooga pursuant to a ten-year franchise agreement. City Ordinance No. 12480 was approved by the City and accepted by the Company in 2011. The parties began negotiations for renewal of CGC's franchise authority prior to the expiration of the previous franchise agreement.² The resulting franchise agreement, City Ordinance No. 13696 was passed by the Chattanooga City Council on August 3, 2021, approximately one month following the expiration of the previous franchise agreement. CGC states that it has continued to operate and make franchise payments in accordance with the prior agreement.³ The new agreement initiates a ten (10) year term, effective from the date of approval of this franchise agreement by the Tennessee Public Utility Commission.⁴ Pursuant to the new franchise agreement, the Company will pay the City on a quarterly basis a percentage of the annual gross receipts from sales of any type to the Company's customers within the city limits for the right to serve those customers. The percentage will be 5.15% in 2021 and beyond.⁵

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

² *Id.* at 2.

³ *Id.* at 4.

⁴ *Id.* at Exh. A, p. 4.

⁵ *Id.* at 3.

conditions as to construction, equipment, maintenance, service or operation as the public convenience and interest may reasonably require.”⁶

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. Appearing for CGC were Mr. J.W. Luna, Esq. and Archie R. Hickerson, Director of Rates and Tariff Administration at Southern Company Gas. During the Hearing, Mr. Hickerson ratified his Pre-Filed Testimony, answered questions from Mr. Luna concerning the franchise agreement, and was subject to questioning before the panel. Mr. Phil Noblett, City Attorney for Chattanooga, attended the Commission Conference telephonically but had no questions or comments. 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 CGC’s new franchise agreement with Chattanooga 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 Chattanooga Gas Company’s *Petition* for approval of its franchise agreement with Chattanooga.

IT IS THEREFORE ORDERED THAT:

1. The *Petition of Chattanooga Gas Company for Approval of Negotiated Franchise Agreement with the City of Chattanooga, Tennessee Pursuant to Tenn. Code Ann. § 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.

⁶ Tenn. Code Ann. § 65-4-107 (Supp. 2019).

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:

A handwritten signature in cursive script, appearing to read "Earl Taylor", written in dark ink.

Earl R. Taylor, Executive Director