

BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION

NASHVILLE, TENNESSEE

December 19, 2023

IN RE:

PETITION OF ATMOS ENERGY CORPORATION FOR
APPROVAL OF FRANCHISE AGREEMENT WITH
GREENVILLE, TENNESSEE PURSUANT TO
TENNESSEE CODE ANNOTATED § 65-4-107

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DOCKET NO.
23-00068

ORDER APPROVING FRANCHISE AGREEMENT

This matter came before Chairman Herbert H. Hilliard, Vice Chairman David F. Jones, Commissioner Robin L. Morrison, Commissioner Kenneth C. Hill, and Commissioner David Crowell, 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 6, 2023, for hearing and consideration of the *Petition Of Atmos Energy Corporation For Approval Of Franchise Agreement With Greeneville, Tennessee Pursuant to Tennessee Code Annotated § 65-4-107* (“*Petition*”) filed on September 8, 2023 by Atmos Energy Corporation (“Atmos” or “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 162,000 residential, commercial, and industrial customers in Tennessee.¹ Among the area served is the Town of Greenville, Tennessee (“Greenville”). Atmos is currently providing natural gas service

¹ *Petition*, p. 2 (September 8, 2023).

to the Greenville pursuant to a franchise agreement incorporated in Ordinance No. 1532, which expires on November 30, 2023.² On September 8, 2023, Atmos filed a *Petition* requesting approval of a franchise agreement (the “Franchise Agreement”) between Atmos and Greenville. Along with the *Petition*, Atmos submitted a copy of Ordinance No. 1799, extending the non-exclusive franchise agreement with Atmos, for a twenty (20) year term.³ Atmos also submitted the Pre-Filed Testimony of Brannon C. Taylor, Vice President of Rates and Regulatory Affairs for the Kentucky/Mid-States Division.⁴ Finally, as required by TPUC rule within Tenn. Comp. R. & Regs. 1220-04-01-.05, Atmos submitted a copy of its notice with Greenville’s publication—the *Greeneville Sun*.⁵

Atmos and Greenville commenced negotiations for renewal of the franchise authority in the Spring of 2023. The resulting franchise agreement extension passed the second and final reading on August 15, 2023. The franchise agreement extension is set forth in Ordinance No. 1799.⁶ Brannon C. Taylor states in his Pre-Filed Testimony, 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 in Town of Greenville 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 Town of Greenville for the foreseeable future.

Second, the new franchise facilitates the provision of such natural gas service to Town of Greenville by an established and proven provider of that service well-

² *Id.* at 2.

³ *Id.* at Exh. 1.

⁴ Brannon C. Taylor, Pre-Filed Direct Testimony, (September 8, 2023).

⁵ *Notice of Compliance with TPUC Rule 1220-4-1-.05* (October 13, 2023).

⁶ *Petition*, pp. 2-3, Exh 1 (September 8, 2023).

known to both Town of Greenville 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 Town of Greenville.

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

Fifth, the new franchise arrangement provides an incentive for Atmos Energy to invest in infrastructure needed to provide improved and expanded service within Town of Greenville 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

Mr. Taylor also testified that the franchise fee is a uniform three percent (3%) fee for sales customers, compared to the old agreement of three percent (3%) for residential customers and two percent (2%) for commercial and industrial sales customers. Mr. Taylor further testified that Atmos will charge this fee directly to Greenville customers as a line item on each customer's bill that is, as required by statute, subsequently transferred to Greenville.⁸

REQUIREMENT OF AND STANDARDS FOR COMMISSION APPROVAL

Tenn. Code Ann. § 65-4-107 stipulates that no grant of a privilege nor franchise from the State or a political subdivision of the State to a public utility shall be valid until approved by the Commission. Pursuant to Tenn. Code Ann. § 65-4-107, approval requires a determination by the

⁷ Brannon C. Taylor, Pre-Filed Direct Testimony, pp. 5-6 (September 8, 2023).

⁸ *Id.* at pp. 4-6.

Commission, after the Commission hears, that “such privilege or franchise is necessary and proper for the public convenience and properly conserves the public interest.” Further, 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.”⁹

FINDINGS AND CONCLUSIONS

The Commission issued a *Notice of Hearing* on October 27, 2023. On November 6, 2023, the hearing was held before a voting panel during a regularly scheduled Commission Conference.

Appearing for Atmos were:

Mr. Eric Lybeck, Esq., SIMS|FUNK, PLC, 3322 West End Avenue, Suite 200 Nashville, Tennessee 37203 and Brannon C. Taylor, Vice President of Rates and Regulatory Affairs for the Kentucky/Mid-States Division.

During the hearing, Mr. Taylor ratified his Pre-Filed Testimony, answered questions from Mr. Lybeck concerning the franchise agreement, and was subject to questioning before the panel. Mr. Todd Smith, City Manager for Greeneville, attended the Commission Conference telephonically, and had no questions or comments during the hearing. No person commented nor sought intervention during the hearing.

Thereafter, based upon the testimony and the administrative record, the voting panel deemed the Franchise Agreement between Atmos and Greenville to be fair and reasonable in terms, necessary and proper for the public convenience, and properly conserving the public interest. Thus, the voting panel unanimously approved Atmos’s *Petition*.

IT IS THEREFORE ORDERED THAT:

1. The *Petition Of Atmos Energy Corporation For Approval Of Franchise Agreement*

⁹ Tenn. Code Ann. § 65-4-107 (Supp. 2019).

With Greeneville, 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.

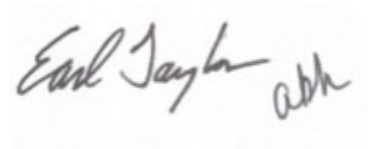
3. Any person who is aggrieved by the Commission's decision in this matter has the right to judicial review by filing a Petition for Review in the Tennessee Court of Appeals, Middle Section, within sixty days from the date of this Order.

FOR THE TENNESSEE PUBLIC UTILITY COMMISSION:

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

None dissenting

ATTEST:

A handwritten signature in dark ink, appearing to read "Earl Taylor" followed by a smaller, less legible signature or initials "abh".

Earl R. Taylor, Executive Director