

BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION

NASHVILLE, TENNESSEE

January 7, 2025

IN RE:

PETITION OF CHATTANOOGA GAS COMPANY
FOR APPROVAL OF NEGOTIATED FRANCHISE
AGREEMENT WITH THE CITY OF CLEVELAND,
TENNESSEE PURSUANT TO TENNESSEE CODE
ANNOTATED § 65-4-107

)
)
)
)
)
)

DOCKET NO.
24-00066

ORDER APPROVING FRANCHISE AGREEMENT

This matter came before Chairman David F. Jones, Vice Chairman John Hie, Commissioner Herbert H. Hilliard, Commissioner Clay R. Good, and Commissioner David Crowell 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 November 18, 2024, for hearing and consideration of the *Petition of Chattanooga Gas Company for Approval of Negotiated Franchise Agreement with the City of Cleveland, Tennessee Pursuant to Tennessee Code Annotated § 65-4-107* (“*Petition*”) filed on September 11, 2024, by Chattanooga Gas Company (“CGC” or “Company”).

THE PETITION

A wholly owned subsidiary of Southern Company Gas and with a principal office and place of business located at 2207 Olan Mills Drive, Chattanooga, Tennessee, CGC provides service to its customers in Cleveland, Tennessee (the “City” or “Cleveland”) pursuant to a franchise agreement (the “Current Agreement”) approved by the City on April 2, 2004, and approved by the Commission in Docket No. 04-00231, which expired on April 2, 2024.¹ Along with the *Petition* filed on September

¹ *Petition*, p. 2 (September 11, 2024).

11, 2024, CGC attached a copy of Cleveland City Ordinance 2024-33, and concurrently submitted the Pre-Filed Testimony of Ashley K. Vette, Manager, Rates, Southern Company Gas.²

In May 2024, the Company and City commenced negotiations for a new agreement. The resulting franchise agreement passed the second and final reading on July 22, 2024. The franchise agreement extension and fee are set forth in Ordinance 2024-33.³ In its *Petition*, CGC asserts that the 2024 Franchise Agreement is necessary and proper for the public convenience and properly conserves the public interest for the following reasons:

- (a) The 2024 Franchise Agreement establishes a twenty (20) year term that becomes effective the date of the written Commission order approving it, and it shall remain in full force and effect to the extent then permitted by law until a successor franchise takes effect;
- (b) The 2024 Franchise Agreement secures the provisions of high-quality natural gas services to the citizens, businesses, and governmental institutions within the city limits of Cleveland by an established provider of such service with the obligation to maintain all service lines to its customers up to and including the meters and the further obligation to repair, renew, or replace service lines when necessary;
- (c) The 2024 Franchise Agreement establishes adequate and proper mechanisms for access to public rights-of-way for service to new and existing customers, and thereby ensures the protection of the property and citizenry of Cleveland; and
- (d) The Company shall pay franchise fees to the City on a quarterly basis in an amount equal to five percent (5%) of the gross receipts received from sales of any type of gas to the Company's customers within the city limits of Cleveland.⁴

Ms. Vette also testified that the 2024 Franchise Agreement exchanges the right to provide services to customers and access to the streets and public rights-of-way within the City, provided CGC pays a quarterly franchise fee of five percent (5%) of the gross revenues it collects from

² *Id.* at 3.

³ *Id.* at 3-4, Exh. A.

⁴ *Id.* at 3.

customers who are located and provided service within the City.⁵ Ms. Vette further testified that the franchise fee percentage is equal to the current percentage collected.⁶

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 Commission, after the Commission hears, that “such privilege or franchise is necessary and proper for the public convenience and properly conserves the public interests.” 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.”⁷

FINDINGS AND CONCLUSIONS

The Commission issued a *Notice of Hearing* on November 8, 2024. On November 18, 2024, the hearing was held before a voting panel during a regularly scheduled Commission Conference.

Appearing for CGC were:

Mr. Floyd R. Self, Esq., Berger Singerman, LLP, 313 North Monroe Street, Suite 301, Tallahassee, Florida 32301 and Ashley K. Vette, Manager, Rates, Southern Company Gas.

During the hearing, Ms. Vette ratified their Pre-Filed Testimony, answered questions from Mr. Self concerning the franchise agreement, and was subject to questioning before the panel. Mr. Joe Fivas, City Manager for Cleveland, attended the Commission Conference telephonically, and had no questions or comments during the hearing. No person(s) commented nor sought intervention during the hearing.

⁵ Ashley K. Vette, Pre-Filed Testimony, p. 3 (September 11, 2024).

⁶ *Id.*

⁷ Tenn. Code Ann. § 65-4-107 (2023).

Thereafter, based upon the testimony and the administrative record, the voting panel deemed the 2024 Franchise Agreement between CGC and Cleveland 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 CGC's *Petition*.

IT IS THEREFORE ORDERED THAT:

1. The *Petition of Chattanooga Gas Company for Approval of Negotiated Franchise Agreement with the City of Cleveland, Tennessee Pursuant to Tennessee Code Annotated § 65-4-107* is approved.

2. Any person(s) 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.

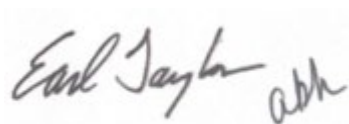
3. Any person(s) aggrieved by the Commission's decision in this matter has the right to judicial review by filing a Petition for Review in the Tennessee Court of Appeals, Middle Section, within sixty (60) days from the date of this Order.

FOR THE TENNESSEE PUBLIC UTILITY COMMISSION:

**Chairman David F. Jones,
Vice Chairman John Hie,
Commissioner Herbert H. Hilliard,
Commissioner Clay R. Good, and
Commissioner David Crowell concurring.**

None dissenting.

ATTEST:

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

Earl R. Taylor, Executive Director