

RESOLUTION NO. 04-08-008

A RESOLUTION GRANTING ATMOS ENERGY CORPORATION, ITS SUCCESSORS AND ASSIGNS, A FRANCHISE TO PROVIDE NATURAL GAS SERVICE WITHIN THE UNINCORPORATED AREAS OF BLOUNT COUNTY, TENNESSEE, AND THE RIGHT TO CONSTRUCT, MAINTAIN, AND OPERATE A SYSTEM OF GAS MAINS AND SERVICE PIPES FOR THE PURPOSE OF TRANSMITTING AND DISTRIBUTING GAS IN, UPON, ACROSS, ALONG AND UNDER THE HIGHWAYS, STREETS, AVENUES, ROADS, ALLEYS, LANES, WAYS, UTILITY EASEMENTS, PARKWAYS AND OTHER PUBLIC GROUNDS LOCATED WITHIN THE UNINCORPORATED AREAS OF BLOUNT COUNTY, TENNESSEE.

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BE IT RESOLVED by the Board of County Commissioners of Blount County, Tennessee, meeting in regular session assembled this 19th day of August, 2004, as follows:

SECTION 1. Grant and Term. Atmos Energy Corporation, a corporation organized and existing under the laws of the State of Texas and the Commonwealth of Virginia, its successors and assigns, (hereinafter for convenience, individually and collectively referred to as the "Company") is hereby granted the right, authority, privilege, and non-exclusive franchise to provide natural gas service within the unincorporated areas of Blount County, Tennessee, (hereinafter for convenience referred to as the "County") and to the inhabitants, institutions and businesses thereof and in providing such natural gas service, to construct, maintain and operate a system of gas mains, service pipes, regulator stations and all other necessary and appropriate equipment and facilities for distributing and/or supplying gas and its by-products in, upon, under, along, across and over the highways, streets, avenues, roads, alleys, lanes, ways, utility easements, parkways and other public grounds located within the present or future unincorporated areas of the County and to provide for such other appliances, fixtures and facilities as may be necessary for the transmission, distribution and sale of gas within the unincorporated areas of the County and for such other purposes for which it is or may hereafter be used, for a period of ten (10) years from and after the passage and approval of this Resolution unless such franchise is terminated sooner pursuant to Section 14 hereof. The term of this Resolution shall be renewed for an additional five (5) years on the same terms and conditions unless such franchise is terminated sooner pursuant to Section 14 hereof or the Board of County Commissioners of Blount County, Tennessee, votes within one (1) year prior to the end of the initial ten-year term not to renew. The Company hereby agrees to provide such natural gas service within the unincorporated areas of the County and to its inhabitants in accordance with the terms of this Resolution.

SECTION 2. Construction of Facilities. All gas mains, service pipes, fixtures, facilities and other appliances so laid, constructed and maintained by virtue of this Resolution shall be so laid, constructed and maintained in accordance with good engineering principles, good workmanship and with all applicable engineering codes and in accordance with any applicable

Statutes of the State of Tennessee and the Rules and Regulations of the Tennessee Regulatory Authority (hereinafter for convenience referred to as the "TRA") or of any other governmental regulatory commission, board or agency having jurisdiction over the Company and in compliance with all applicable resolutions, rules and regulations of the County. Said facilities shall be constructed so as not to interfere with the drainage of the County or unreasonably interfere with or injure any utility or any other improvement which the County has heretofore made or may hereafter make in, upon or along any highway, street, avenue, road, alley, lane, way, utility easement, parkway, or other public ground, or unnecessarily impede or obstruct such highways, streets, avenues, roads, alleys, lanes, ways, utility easements, parkways, and other public grounds located within the unincorporated areas of the County, and shall conform to the grade as then or hereafter established. The Company agrees to attempt to utilize known rights of way whenever practical before resorting to any right of condemnation to which the Company may be entitled to utilize by law.

SECTION 3. Street Safety. When the streets, avenues, alleys and other public ways are opened, or any other opening is made by the Company within the unincorporated areas of the County, where the same is made for the purpose of laying, constructing, replacing or repairing the mains, pipes and other appliances and fixtures of the Company, the Company shall place and maintain necessary safety devices, barriers, lights and warnings to properly notify persons of any dangers resulting from such entrances, and shall comply with applicable safety regulations required by federal, state, and local laws.

SECTION 4. Relocation of Facilities. In the event it becomes necessary or expedient for the County to change the course or grade of any highway, street, avenue, road, alley, way, parkway, or other public ground in which the Company is maintaining gas mains, pipes or other appliances and fixtures, then, upon the written request of the County, the Company, at its expense, will remove or change the location or depth of such mains, pipes or other appliances and fixtures, as necessary to conform to the proposed street alteration.

SECTION 5. Use of Public Ways. Whenever the Company plans to enter upon any highway, street, avenue, road, alley, lane, way, utility easement, parkway, or other public ground located within the unincorporated areas of the County for the purpose of constructing, replacing or repairing any gas mains, pipes, or other appliances, it shall notify the County of such work and shall file a plan or map of the proposed work, if practicable, before commencing same. The Company shall be responsible for payment of such fees and acquiring such permits as may be required for said work. Whenever any highway, street, avenue, road, alley, lane, way, utility easement, parkway or other public ground located within the unincorporated areas of the County shall be entered, dug up or disturbed by the Company, the Company shall, at its expense and as soon as possible after the work is completed, restore such highway, street, avenue, road, alley, lane, way, utility easement, parkway, or other public ground in as good condition as existed before the work was done. In the event the Company shall fail to fulfill its obligations under this section, the County, after giving the Company reasonable written notice, and failure of the Company to make such repairs or restoration within three (3) working days after the receipt of such notice by the Company, may make the necessary restoration or repairs, itself and the Company shall be liable and shall reimburse the County for the cost of the same or in accordance with provisions that may be contained in any prevailing resolution(s), rule(s) or regulations(s).

The provisions of this section shall not be applied nor interpreted in such a way as to prevent or delay Company work that may be required as a result of any emergency, leak or other immediate hazard or danger.

SECTION 6. Local Operating Practices. The purpose and intent of this franchise is that the Company will provide and maintain in a good state of repair a gas distribution plant and facilities, including but not limited to, mains, pipes, appliances, equipment, machinery, fixtures, meters and customer services to and for the citizens and residents of the unincorporated areas of the County. To achieve these ends, the Company will provide, but not be limited to, the following:

- A. An ample supply subject to interstate pipeline capacity and availability of natural gas for the present and future residential, commercial and industrial needs within the unincorporated areas of the County.
- B. Maintain and staff a customer service office within Blount County which is open to the public Monday through Friday during normal business hours. The Company will staff the office with a minimum of one (1) qualified employee to provide customer service, including billing and payment inquiries, acceptance of service connection/disconnection orders, and to use its best efforts to resolve customer issues. The Company shall maintain said office during the term of this Resolution unless the Company and the County mutually agree in writing that the operation of said office may be modified or closed at a later date;
- C. Maintain and staff, or by contract, provide a location or location(s) within Blount County where customers' gas bills may be paid during normal business hours at least five (5) days a week;
- D. Pay the fees as set forth in Section 11; and
- E. Maintain and staff a warehouse or repair depot in Blount County where parts, pipes, meters, tools, machinery and equipment are maintained and housed to service the company's facilities and its customers, including but not limited to, residences, businesses, and industries of the unincorporated areas of the County.

SECTION 7. Emergency Services. At a minimum, the Company shall maintain a staff of at least three (3) qualified persons, at least one (1) of whom can respond to an emergency within the unincorporated areas of the County within a reasonable amount of time. At least one (1) of the three (3) employees shall be available twenty-four (24) hours per day for performing emergency services. The Company shall provide adequate equipment and service personnel based in Blount County to respond to customer service calls from locations within the unincorporated areas of the County and shall provide the local public safety agencies, including the County Sheriff's

Office, the Blount County Fire Protection District and all volunteer fire departments operating within the unincorporated areas of the County, the Company's toll free emergency telephone number and a current listing of direct local and pager numbers of the local Company's agents or employees to contact in case of emergency. Company commits to notify the County telephonically with a follow up by telefax or telephone call of any emergency affecting its distribution facilities within the unincorporated areas of the County. The parties will endeavor to coordinate an appropriate and reasonable response to any such emergency.

SECTION 8. Indemnification. The Company shall at all times indemnify and hold harmless the County from and against any and all lawful judgments and/or claims for injury to any person or property due to the failure to exercise due care and diligence of the Company, its employees, agents, servants, and contractors in the construction, maintenance, repair, installation, and/or operation of the system and its extensions, alterations, relocation, replacement of parts of the system and/or the failure of the Company to provide services or the negligence of the Company in providing services to citizens and residents of the unincorporated areas of the County or within the unincorporated areas of the County. The County shall not be liable for the failure of the Company to perform any of its obligations under this franchise irrespective of whether the County's personnel have notice or information of any condition caused or contributed to by the Company which does harm to persons or property. However, any written notice of demand received by the County Mayor against the County on account of the Company's services, facilities, installations, repair work, or any other action of the Company or the inaction of the Company required by this franchise will be forwarded to the Company within twenty (20) days after its receipt.

SECTION 9. TRA Rules and Regulations. The County and the Company hereby agree that this Resolution shall from time to time be subject to rules and regulations adopted by the Company if approved by the TRA or any other regulatory body having jurisdiction thereof during the term of this Resolution, and shall also be subject to all rules and regulations adopted and approved by the TRA or any other regulatory body and that all such rules and regulations shall be and become a part of this Resolution to the same extent and with the same effect as if said rules and regulations were herein set out in full. The Company shall not be obligated or required to make any extension of distribution mains or service lines except in accordance with the provisions relating thereto adopted or approved by the TRA, or any other regulatory body having jurisdiction thereof during the term of this Resolution.

SECTION 10. Company Rights. Nothing herein contained shall be construed as preventing the Company from installing, placing, replacing, taking up, repairing or removing gas pipes, mains, service pipes or other devices for furnishing gas services, from using any easements for gas service which are shown on any plats of any portion of the unincorporated areas of the County heretofore or hereafter platted or recorded or any such easement which may hereafter be created, granted or dedicated for any such utility purposes by any person, firm or corporation whatsoever.

SECTION 11. Franchise Fee. As consideration for the franchise and rights herein granted to the Company and for the use by the Company of the streets, roads, highways, alleys,

public ways and other real property owned or controlled by the County, the Company shall pay to the County a franchise fee equal to the aggregate of the following:

- A. Five percent (5%) of the Company's gross receipts derived from retail natural gas sales within the unincorporated areas of the County;
- B. One half of one cent per one hundred cubic feet (\$.005/ccf) of natural gas transported by Company within the unincorporated areas of the County during the preceding calendar year to each customer of the Company who has elected to receive only gas transportation service from the Company.

The franchise fee shall be paid to the County quarterly within sixty (60) days of the end of each quarter. The Company shall furnish to the County a report showing the monthly amount of gross revenues and commodity volumes by rate class for the Company's sale of gas within the unincorporated areas of the County on a quarterly basis.

Pursuant to Tenn. Code Ann. § 65-4-105(e), the Company shall pass all franchise fees paid to the County hereunder through as a line item charge on the bills of the Company's customers within the unincorporated areas of the County. The Company shall pay to the County the gross receipts of the franchise fee with a reduction only for bad debt not actually collected by the Company for the franchise fees. The Company shall not be liable for any franchise fees not collected from customers served by the Company within the unincorporated areas of the County who have failed or refused to pay the franchise fee. However, failure of payment of the franchise fee by any customer shall subject the customer to collection procedures, including potential cessation of service, if the franchise fee remains unpaid, in accordance with the usual collection procedures of the Company for customers who have not paid their bill in full. The County and the Company also acknowledge that this franchise, including the fees to be paid hereunder to the County, is subject to the approval of the TRA. In the event that this franchise or any portion hereof is not approved by the TRA or declared by any court of competent jurisdiction to be invalid or the franchise fees hereunder uncollectible by the Company or the County, then the parties agree to amend this franchise to provide an alternative measure of compensation to the County which yields an equivalent or approximate equivalent amount of compensation to the County, and that the County shall be solely responsible for refunding any franchise fees, or portion thereof, which are not approved by the TRA or declared invalid or uncollectible by any court of competent jurisdiction.

SECTION 12. Books and Records. Upon the request of the County, the books of the Company, including customer account numbers shall be produced at a mutually agreeable office of the Company in Tennessee for a franchise fee audit by the County during normal business hours and upon reasonable notice at a mutually agreeable time. Except as stated above, no specific customer identity information such as name or address shall be required to be provided by the Company to the County except for those customers who have failed to pay any franchise fees which may be due to the County. In addition to the books and records produced by the Company, the County may require additional records from the Company as it may deem appropriated to conduct its audit.

SECTION 13. Annual System Report. The Company shall submit a written report and, at the County's request, appear before the Board of County Commissioners of Blount County, Tennessee, at least on an annual basis to report on planned capital investments, extensions, system expansion, customer satisfaction and/or public safety response experience. The annual system report will include a comparison of rates and system performance measures (revenues, commodity sales, number of customers, etc.) for regional natural gas systems including but not limited to other systems operated by the Company and the systems operated by regional gas utilities. In addition, the County and the Company will endeavor to coordinate Company expansion and repair activities with the County's public works projects.

SECTION 14. Default and Cure. Both the Company and the County recognize there may be circumstances whereby compliance with the provisions of this Resolution is impossible or is delayed because of circumstances beyond the Company's control. In this instance, the Company shall use its best efforts to comply in a timely manner and to the extent possible. In the event of a substantial breach by Company of any material provision of this Resolution, the County, acting by and through its Board of County Commissioners, may terminate the franchise and rights granted to Company hereunder, provided, however, that such termination shall not be effective unless and until the procedures described below have been followed:

- A. The County must deliver to the Company, by certified mail, a written notice. Such notice must (i) fairly and fully set forth in detail each of the alleged acts or omissions of the Company that the County contends constitutes a substantial breach of any material provision hereof within thirty (30) days of the County's actual or constructive notice of the alleged breach, whichever is later; and (ii) designate which of the terms and conditions hereof the County contends the Company breached.
- B. The County shall permit the Company the opportunity to substantially correct and cure all of the breaches hereof set forth in the written notice described in subsection A above within thirty (30) days after the Company's receipt of such notice before termination may occur.
- C. If the Company objects and disagrees with the County's determination that a substantial breach of a material provision has occurred, the Company may submit the issue to the Board of County Commissioners of Blount County, Tennessee, for review within thirty (30) days of receipt of the written notice described in subsection A above. Termination of this Resolution shall be stayed during the course of any such review or subsequent litigation on the issue until the matter is either resolved by agreement between the parties or upon entry of a final order of a court authorizing termination by the County.

In the event this Resolution is properly terminated pursuant to the terms of this section prior to the expiration of the ten-year period or any renewal period thereafter, the Company shall not be entitled to claim lost profits against the County for the balance of time remaining under the ten-year period or any renewal period thereafter in a sale of assets to the County or any condemnation action. In the event of termination and/or expiration of this Resolution, the Company may continue to operate on the same terms and conditions pending either a negotiated sale of its assets, negotiation of a new franchise or condemnation, whichever first occurs, with a minimum period of six (6) months and a maximum period of twenty four (24) months, absent agreement of the parties.

SECTION 15. Entire Agreement. If any section or portion of any section of this Resolution shall hereafter be determined by any court of competent authority to be invalid, the Company and the County, at their election, may ratify or confirm the remaining portions of this Resolution and upon such ratification or confirmation the remaining portions of this Resolution shall remain in full force and effect.

SECTION 16. Company Acceptance. The Company shall, within sixty (60) days after adoption of this Resolution, file with the County Clerk or other appropriate officials of the County its unconditional acceptance signed by its President or Vice-President of the terms and conditions of this Resolution and after filing of this acceptance, this Resolution shall constitute a contract between the parties thereto and shall, subject to the rights and powers vested in the TRA or such other regulatory body of the State of Tennessee as may hereafter succeed to the rights and powers of the TRA or which may exercise statutory jurisdiction of gas companies furnishing gas service in the State of Tennessee, be the measure of the rights, powers, obligations, privileges and liabilities of the County and the Company.

SECTION 17. Notices. All notices required by this franchise shall be given in writing and forwarded to the addressee by certified mail of the United States. All notices to the County shall be addressed to:

County Mayor
341 Court Street
Maryville, TN 37804-5906

All notices to the Company shall be addressed to:

Manager
Atmos Energy
Maryville, Tennessee

The return receipt of the certified mail shall be conclusive evidence of the receipt of the mail by the addressee.

SECTION 18. Assignment.

- A. The Company shall not sell or assign its rights and privileges under this franchise without the prior written consent of the County, which consent shall not be unreasonably withheld. A merger, consolidation or reorganization involving Company shall not constitute an assignment for purposes hereof.
- B. Nothing in this Section shall be deemed to prohibit a mortgage or pledge of the franchise or of its properties for financing purposes.

SECTION 19. Abandonment of Facilities. Upon abandonment of any of the facilities or equipment of the Company located above or below the surface of the highways, streets, avenues, roads, alleys, lanes, ways, utility easements, parkways and other public grounds located within the unincorporated areas of the County, the Company shall notify the County Mayor in writing of such abandonment within a reasonable time thereafter and if such abandonment facilities or equipment will then interfere with the use of the said public grounds by the County, the County Mayor within ninety (90) days of the notification by Company of the abandonment shall give written notice thereof to the Company, and the Company shall commence to remove the same within twenty (20) days following the date of the written notice and continue the work to completion with reasonable diligence and at its own cost and expense.

SECTION 20. Insurance. The Company hereby agrees, upon official request of the County, to furnish to the County evidence of insurance in such amounts as may be reasonably necessary to protect the County. The County shall be a named or additional insured party under such insurance coverage(s). However, such insurance coverage(s) shall, at a minimum, include Workers' Compensation insurance covering the Company's statutory obligation under the laws of the State of Tennessee and Employer's Liability insurance for all its employees engaged in work under the franchise. Minimum limits of liability for Employer's Liability shall be \$100,000.00 bodily injury per each occurrence; \$500,000.00 bodily injury by disease (policy limit); and \$100,000.00 bodily injury by disease (each employee).

SECTION 21. Successors and Assigns. All the privileges given and obligations created by this Resolution shall be binding upon the successors and assigns of the Company.

SECTION 22. Supersedes Prior Resolution. This Resolution, upon its taking effect, shall supersede any and all prior resolutions and/or agreements, together with any amendments thereof, by the County granting a gas franchise to the Company.

SECTION 23. Applicable Law. The Company and the County agree that in the event of litigation regarding or involving this Resolution; that such litigation shall take place in the Blount County Circuit Court and that Tennessee law shall apply.

SECTION 24. Effective Date. This Resolution shall take effect upon its adoption and acceptance, the public welfare requiring it.

Dr. Robert L. Ramsey
Chairman

Attest:

Ben Crawford
County Clerk

Resolution Sponsors:

Commissioner

Commissioner

Approved: ☒

Vetoed: _____

Beryl D. Woody
County Mayor

8-26-04
Date

**IN RE: REPORTS and
ANNUAL FINANCIAL REPORT OF CIRCUIT COURT CLERK, GENERAL SESSIONS COURT
CLERK, CLERK & MASTER AND SHERIFF..**

Commissioner Brock made a motion to approve the reports. Commissioner Neubert seconded the motion.

A voice vote was taken on the motion with Chairman Ramsey declaring the motion to have passed.

**Blount County, Tennessee
Office of the General Sessions Court
Annual Financial Report
For the Year Ended June 30, 2004**

Account No.	Description	Beginning Balance	Adjustments	Receipts	Transfers In	Disbursements	Transfers Out	Commission Transfers	Ending Balance
21900	Other Current Liabilities	1,366.35	0.00	0.00	0.00	0.00	0.00	0.00	1,366.35
23000	Due to State of Tennessee	2,732.01	-664.87	400,952.70	6,932.00	365,418.69	-1,805.13	0.00	42,567.02
24000	Due to County Trustee	6,537.56	-1,250.13	1,173,804.02	25,738.40	1,674,242.36	-3,355.78	0.00	127,342.14
25000	Due to Cities	450.00	0.00	92,684.10	4,100.50	90,502.55	-148.00	0.00	6,585.05
26000	Due to Litigants, Hens and Others	183,471.60	11,485.33	1,088,720.34	5,771.48	1,045,903.79	-41,873.03	0.00	281,559.43
28000	Fee and Commission Account	4,339.83	-333.12	1,009,067.58	7,335.13	853,361.35	-634.37	0.00	116,833.20
	Total	160,436.05	9,147.21	3,617,235.94	49,877.51	3,520,428.74	-49,877.51	0.00	496,393.49
Summary of Assets:									
	* Cash	500.00							600.00
	Cash in Bank	110,541.87							356,758.02
	Investments	78,937.21							106,639.47
	Receivables	360.00							399.00
	Total	199,438.08							496,393.49

* cash included in receivables

This report is submitted in accordance with requirements of section 5-6-505,
and/or 57-5-1902, Tennessee Code Annotated, and to the best of my knowledge,
information and belief accurately reflects transactions of this office for the
year ended June 30, 2004

Lisa Higgs
Signature

7-14-04
Date

Chief Administrator Accounting
Title

This report is to be filed
with the County Executive
and County Clerk.