

DORSEY, KING, GRAY, NORMENT & HOPGOOD

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RECEIVED

JUN 27 2013

PUBLIC SERVICE COMMISSION

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June 26, 2013

FEDEX

Mr. Jeff Derouen  
Kentucky Public Service Commission  
211 Sower Boulevard  
Frankfort, KY 40601

Re: Application of Kenergy Corp. for Certificate  
Of Convenience and Necessity to Apply for a  
Franchise from the City of Dixon

Dear Mr. Derouen:


Enclosed for filing please find the original and 10 copies of the above application and a motion to expedite. The City of Dixon would like to get the franchise in place without delay so the Commission's assistance in expediting this matter is requested.

Your assistance in this matter is appreciated.

Very truly yours,

DORSEY, KING, GRAY, NORMENT & HOPGOOD

By

  
J. Christopher Hopgood  
Attorney for Kenergy Corp.

JCH/cds

Encls.

COPY/w/Encls.: Kenergy Corp.

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PUBLIC SERVICE  
COMMISSION

**BEFORE THE  
PUBLIC SERVICE COMMISSION OF KENTUCKY**

**IN THE MATTER OF:**

**APPLICATION OF KENERGY CORP. FOR A )  
CERTIFICATE OF CONVENIENCE AND NECESSITY )CASE NO. \_\_\_\_\_  
TO APPLY FOR A FRANCHISE FROM THE CITY OF )  
DIXON )**

The petition of **KENERGY CORP.** ("Kenergy") respectfully shows:

(a) Kenergy is a nonprofit electric cooperative organized under KRS Chapter 279 and is engaged in the business of distributing retail electric power to member customers in the Kentucky counties of Daviess, Hancock, Henderson, Hopkins, McLean, Muhlenberg, Ohio, Webster, Breckinridge, Union, Crittenden, Caldwell, Lyon, and Livingston,

(b) The post office address of Kenergy is Post Office Box 18, Henderson, Kentucky 42419-018.

(c) Kenergy is the consolidation successor of Green River Electric Corporation and Henderson Union Electric Cooperative Corp. A copy of the articles of consolidation is filed in Case No. 99-136.

(d) Applicant seeks authority to bid for and acquire a franchise from the City of Dixon to erect along, over, under and across the public ways and grounds thereof

electric utility facilities used and owned by applicant in its distribution of retail electric service in and to Kenergy's certified territory in said city and the inhabitants thereof.

(e) A portion of the City of Dixon is located within the applicant's certified territory. Applicant has never had a franchise from the City of Dixon, and only recently learned that the City of Dixon had annexed a portion of Kenergy's certified territory into the city. On June 10, 2013, the City of Dixon gave first reading to an ordinance (Ordinance 12-001) providing for the sale of a franchise. The second reading of the ordinance will be on July 8, 2013. A copy of said ordinance is attached hereto marked "Exhibit A."

(f) The franchise being offered by the City of Dixon will have a term of five (5) years and the franchise fee will be 2.77% of revenues which will be passed along to those affected customers as a separate item on their bill. The other terms and conditions of the franchise are set forth in the aforementioned ordinance.

**WHEREFORE**, applicant asks that the Public Service Commission of the Commonwealth of Kentucky make its order granting to applicant a certificate of convenience and necessity to bid for and acquire the aforementioned franchise from the City of Dixon, and applicant further requests all proper relief.

Dated at Henderson, Kentucky, this 26<sup>th</sup> day of July,  
2013.

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By J. Christopher Hopgood  
J. Christopher Hopgood

**ORDINANCE NUMBER \_\_\_\_\_**

**An Ordinance providing for the sales of a non-exclusive franchise or privilege to construct, maintain, operate, repair and remove an electric transmission and/or distribution system together with all necessary or convenient poles, wires, anchors, and other facilities and appurtenances for the purpose of transporting, distributing, and vending electric energy for public and private uses along, over and across the streets, avenues, lanes, alleys and public grounds of the City of Dixon, Webster County, Kentucky, for a period of five years. Said sale shall be 2.77% of revenues assessed only against residents/businesses residing within the corporate limits of the City of Dixon payable quarterly.**

**NOW THEREFORE, BE IT ORDAINED by the City Commission of the City of Dixon as follows:**

That the right and privilege to use the public streets, avenues, lanes, alleys and public grounds within the city limits of the City of Dixon, Webster County, Kentucky, for the purpose of constructing, maintaining, operating, repairing and removing an electric transmission and/or distribution system, together with poles, lines, anchors and other facilities, appurtenances required thereto for transportation, distribution and sale of electric energy to serving the City of Dixon, and public and private uses therein for the period of five (5) years commencing July 1, 2013, be duly advertised for sale publically to the highest and best bidder, the City of Dixon reserving the right to reject any and all bids. Said sale shall be 2.77% of revenues assessed only against residents/ businesses residing within the corporate limits of the City of Dixon, payable quarterly, plus all cost of advertising and selling. Said sale shall be object to confirmation and ratification or rejection by the Dixon City Commission.

The sale of the franchise herein contemplated shall be made by Peggy Poole, City Clerk of the City of Dixon, or by someone designated by her, who is hereby commissioned to make due advertisement of said sale, which advertisement shall include a description of said franchise, right and privilege in The Journal Enterprise and The Sebree Banner, newspapers of general circulation published in Webster County, Kentucky. The newspaper advertisement aforesaid shall be published in said newspapers one (1) time not less than seven (7) days nor more than twenty-one (21) days before the sale and within thirty (30) days after the final passage of this ordinance.

The said City Clerk shall submit a report of the sale in writing to the Dixon City Commission at its next meeting after the sale. The terms and conditions of the franchise, right and privilege so to be advertised and offered for sale, and to be granted in the event the sale is confirmed by the Dixon City Commission shall be as follows:

**SECTION ONE:** The purchaser, his or its successors or assigns, shall have the non-exclusive franchise, privilege, right and power to use and occupy the streets, avenues, alleys, lanes, and public grounds within the city limits of the City of Dixon to construct, maintain, operate, repair and remove an electric transmission and/or distribution poles, lines, wires, anchors and all other facilities and appurtenances necessary or convenient for the purpose of transporting, distributing, vending and conveying electric energy for public and private uses in the City of Dixon during a term of five (5) years commencing July 1, 2013. Said sale shall be 2.77 % of revenues assessed against residents/businesses within the corporate limits of the City of Dixon payable quarterly.

**SECTION TWO:** Said construction, operation, maintenance, repair and removal shall be accomplished with the least practicable inconvenience to the public or individuals and with reasonable dispatch and diligence. All damage to the streets, sidewalks, or other public property caused by such operations shall be repaired by the purchaser his or its successors or assigns, at his or its proper cost and without necessary delay. The purchaser, his or its successors or assigns shall be

responsible for all injuries or damages to persons or property occasioned by want of care or negligence in conducting such operation.

The purchaser agrees to the underground placement of power lines and/or facilities in accordance with the purchaser's underground policy. Every reasonable effort shall be made by the purchaser to locate new power lines and/or facilities underground.

The purchaser agrees to allow the City of Dixon to utilize its power lines and/or facilities for special events, provided said utilization does not violate purchaser's safety regulations and any applicable law.

**SECTION THREE:** The purchaser, his or its successors or assigns shall have the right to remove all of its property and facilities from the streets, avenues, lanes, alleys, ways and public grounds of the City of Dixon within a reasonable time after the expiration of other termination of this franchise.

**SECTION FOUR:** All franchises previously granted by the City of Dixon regarding that portion of the City of Dixon that is in Kenergy Corp.'s certified territory, any of which is now held or may hereafter be acquired by the purchaser of this franchise, shall be hereby cancelled and revoked and the terms of any such franchise shall be considered as superseded by the franchise hereby created and defined.

**SECTION FIVE:** The franchise, right, privilege and power herein described, together with all the terms and conditions hereof, shall extend and apply to the successors and assigns of the purchaser, and unlimited and unrestricted power and authority to assign and transfer the same at will and without further consent thereto by the City of Dixon, or its inhabitants, is hereby expressly given and granted to the purchaser, his or its successors and assigned.

**SECTION SIX:** The purchaser, his or its successors or assigns, shall proceed with due diligence to obtain any required approval of applicable public regulatory bodies, to apply for and operate under this franchise.

**SECTION SEVEN:** All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed and this ordinance shall be in full force and effect from and after its final passage and publication.

Introduced and publicly read on this the \_\_\_\_\_ day of June, 2013.

Publicly read and adopted of second reading on this the \_\_\_\_\_ day of \_\_\_\_\_, 2013

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Linda Frederick, Mayor

City of Dixon, Kentucky

**ATTEST:**

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Peggy Poole, City Clerk

City of Dixon, Kentucky



## **NON-EXCLUSIVE FRANCHISE BID**

**Bids providing for the sales of a non-exclusive franchise or privilege to construct, maintain, operate, repair and remove an electric transmission and/or distribution system together with all necessary or convenient poles, wires, anchors, and other facilities and appurtenances for the purpose of transporting, distributing, and vending electric energy for public and private uses along, over and across the streets, avenues, lanes, alleys and public grounds of the City of Dixon, Webster County, Kentucky, for a period of five years. Said sale shall be 2.77% of revenues assessed only against residents/businesses residing within the corporate limits of the City of Dixon that is in the Kenergy's Corp.'s certified territory.**

**SEALED BIDS WILL BE RECEIVED AT DIXON CITY BUILDING UNTIL NOON JULY 8, 2013.**

**BIDS WILL BE OPENED AT 6:15 JULY 8, 2013**