

**CASE**

**NUMBER:**

99-368

HISTORY INDEX FOR CASE: 1999-368  
WESTERN KENTUCKY GAS COMPANY

Franchises  
THE CITY OF ELKTON, TODD COUNTY, KENTUCKY

IN THE MATTER OF THE APPLICATION OF WESTERN KENTUCKY GAS  
COMPANY, A DIVISION OF ATMOS ENERGY COPPORATION, OWENSBORO,  
KENTUCKY FOR A CERTICATE OF PUBLIC CONVENIENCE AND NECESSITY  
AUTHORIZING IT TO BID ON FRANCHISE ESTABLISHED AND TO BE  
OFFERED FOR SALE BY THE CITY OF ELKTON, TODD COUNTY,  
KENTUCKY

SEQ NBR	ENTRY DATE	REMARKS
0001	09/07/1999	Application.
0002	09/09/1999	Acknowledgement letter.
0003	09/15/1999	Final Order granting a C/N to bid on a gas franchise.
M0001	06/09/2000	WILLIAM SENTER/WKG-NOTIFICATION OF WKG
M0002	06/09/2000	WILLIAM SENTER/WKG-NOTIFICATION OF WKG'S SUCCESSFUL BID FOR NATURAL GAS FRANCHISE

*Western Kentucky Gas Company*



June 6, 2000

Mr. Martin J. Huelsmann, Executive Director  
Public Service Commission  
Post Office Box 615  
211 Sower Boulevard  
Frankfort, KY 40602

Dear Mr. Huelsmann:

**SUBJECT: Case No. 99-368 - Elkton Franchise  
Western Kentucky Gas Company**

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JUN 09 2000  
PUBLIC SERVICE  
COMMISSION

In accordance with the above case application, I have enclosed two (2) copies of documents for your file as notification of Western Kentucky Gas Company's successful bid for natural gas franchise in the City of Elkton, Todd County, Kentucky.

Sincerely yours,

A handwritten signature in cursive script that reads "William J. Senter".

William J. Senter  
Vice President - Rates & Regulatory Affairs

Enclosures

KENTUCKY FRANCHISE BID LETTER (GROSS RECEIPTS)

September 3, 1999

Dear Mayor Walton:

Western Kentucky Gas Company, a division of Atmos Energy Corporation ("WKG"), hereby submits the following bid to acquire the franchise and rights created by Ordinance No. 1999-16 of the City of ELKTON, Kentucky (the "City"):

1. In consideration for the granting by the City of the franchise and rights created by Ordinance No. 1999-16 to WKG, WKG will pay to the City, within thirty (30) days after the end of each calendar quarter during the term of the franchise, commencing with the first full calendar quarter after the effective date of the franchise and after WKG has deducted the amount described in Subparagraph (c) below from all of its customers within the City, a franchise fee equal to one percent (1%) of WKG's gross revenues derived from the sale and transportation by WKG of natural gas within the municipal boundaries of the City during the preceding calendar quarter, subject, however, to the following conditions:

(a) WKG may add a line-item surcharge to the monthly bills of each of its customer located within the City, which surcharge may be designated as a city franchise fee, in an amount that is sufficient to recover the portion of the franchise fee paid by WKG to the City that is attributable to the gross revenue derived by WKG from such customer.

(b) WKG may retain two percent (2%) of the total franchise fee that becomes due and payable hereunder in order to recover WKG's costs and expenses for the ongoing administration of the payment of the franchise fee.

(c) WKG may also retain an amount equal to \$2.00 per each customer served by WKG as of the date that this bid is accepted by the City in order to recover WKG's costs and expenses for preparing such customer's accounts to be handled in the manner required to calculate and surcharge each customer's portion of the total franchise fee that becomes due pursuant to this bid. Such \$2.00 per customer charge may be deducted from the first quarterly franchise fee payment and each subsequent quarterly payment thereof until the total amount that may be retained by WKG has been collected.

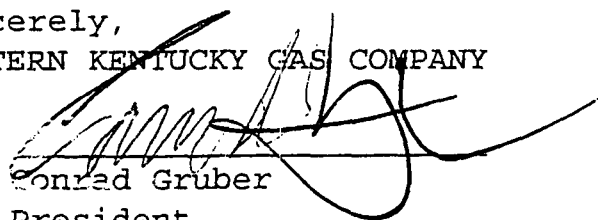
2. The franchise fee payable pursuant to this bid shall be in lieu of any and all costs, levies, assessments, fees, or other amounts, of any kind whatsoever, that the City, currently or in the future, may charge WKG or assess against WKG's property, except for charges for water, sewage, garbage, and any other utility services provided by the City to WKG, any city occupational license fees, any and all sales taxes collected by WKG, and any and all ad valorem taxes assessed by the City against WKG's property.

3. WKG agrees to and accepts all of the terms and conditions of Ordinance No. 1999-16, subject to the City's acceptance of this bid and the awarding of the franchise to WKG.

4. The City agrees to forward to WKG's Bowling Green Office, P.O. 598, Bowling Green, KY 42101, within 30 days after any annexation, the address of all structures within the annexed area so they can be included in future franchise fees.

If the foregoing is acceptable to the City, please execute the enclosed duplicate original of this bid letter in the space provided below and return it, together with a copy of the minutes of the City Council meeting relating to the adoption of this bid. to Mr. Doug Stearns of WKG at 2401 New Hartford Road, Owensboro, Kentucky 42303. WKG hopes the City will find this bid acceptable and looks forward to working with the City in providing natural gas service to its citizens.

Sincerely,  
WESTERN KENTUCKY GAS COMPANY

BY:   
Conrad Gruber  
President

This bid is hereby accepted and the franchise created by Ordinance No. \_\_\_\_\_1999-16 is hereby awarded to Western Kentucky Gas Company by the City Council of the City of \_\_\_\_\_ELKTON, Kentucky at a meeting of the City Council, with a quorum duly assembled and voting, held on 10-11, 1999. A copy of the minutes of the City Council meeting relating to the acceptance of this bid and the awarding of the franchise is attached hereto.

ATTEST:  
KENTUCKY

Laura M. Brad  
City Clerk

CITY OF \_\_\_\_\_ELKTON,

By: John E. Walton  
Mayor

KENTUCKY FRANCHISE BID LETTER (GROSS RECEIPTS)

September 3, 1999

Dear Mayor Walton:

Western Kentucky Gas Company, a division of Atmos Energy Corporation ("WKG"), hereby submits the following bid to acquire the franchise and rights created by Ordinance No. 1999-16 of the City of ELKTON, Kentucky (the "City"):

1. In consideration for the granting by the City of the franchise and rights created by Ordinance No. 1999-16 to WKG, WKG will pay to the City, within thirty (30) days after the end of each calendar quarter during the term of the franchise, commencing with the first full calendar quarter after the effective date of the franchise and after WKG has deducted the amount described in Subparagraph (c) below from all of its customers within the City, a franchise fee equal to one percent (1%) of WKG's gross revenues derived from the sale and transportation by WKG of natural gas within the municipal boundaries of the City during the preceding calendar quarter, subject, however, to the following conditions:

(a) WKG may add a line-item surcharge to the monthly bills of each of its customer located within the City, which surcharge may be designated as a city franchise fee, in an amount that is sufficient to recover the portion of the franchise fee paid by WKG to the City that is attributable to the gross revenue derived by WKG from such customer.

(b) WKG may retain two percent (2%) of the total franchise fee that becomes due and payable hereunder in order to recover WKG's costs and expenses for the ongoing administration of the payment of the franchise fee.

(c) WKG may also retain an amount equal to \$2.00 per each customer served by WKG as of the date that this bid is accepted by the City in order to recover WKG's costs and expenses for preparing such customer's accounts to be handled in the manner required to calculate and surcharge each customer's portion of the total franchise fee that becomes due pursuant to this bid. Such \$2.00 per customer charge may be deducted from the first quarterly franchise fee payment and each subsequent quarterly payment thereof until the total amount that may be retained by WKG has been collected.

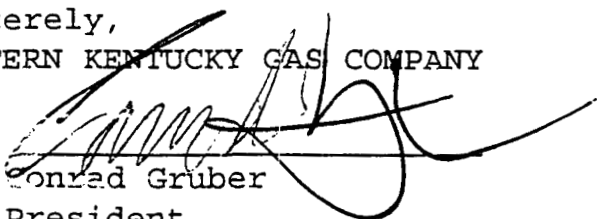
2. The franchise fee payable pursuant to this bid shall be in lieu of any and all costs, levies, assessments, fees, or other amounts, of any kind whatsoever, that the City, currently or in the future, may charge WKG or assess against WKG's property, except for charges for water, sewage, garbage, and any other utility services provided by the City to WKG, any city occupational license fees, any and all sales taxes collected by WKG, and any and all ad valorem taxes assessed by the City against WKG's property.

3. WKG agrees to and accepts all of the terms and conditions of Ordinance No.           1999-16          , subject to the City's acceptance of this bid and the awarding of the franchise to WKG.

4. The City agrees to forward to WKG's           Bowling Green Office          ,           P.O. 598          ,           Bowling Green, KY          ,           42101          , within 30 days after any annexation, the address of all structures within the annexed area so they can be included in future franchise fees.

If the foregoing is acceptable to the City, please execute the enclosed duplicate original of this bid letter in the space provided below and return it, together with a copy of the minutes of the City Council meeting relating to the adoption of this bid. to Mr. Doug Stearns of WKG at 2401 New Hartford Road, Owensboro, Kentucky 42303. WKG hopes the City will find this bid acceptable and looks forward to working with the City in providing natural gas service to its citizens.

Sincerely,  
WESTERN KENTUCKY GAS COMPANY

BY:   
Conrad Gruber  
President



This bid is hereby accepted and the franchise created by Ordinance No. \_\_\_\_\_1999-16 is hereby awarded to Western Kentucky Gas Company by the City Council of the City of \_\_\_\_\_, ELKTON, Kentucky at a meeting of the City Council, with a quorum duly assembled and voting, held on 10-11, 1999. A copy of the minutes of the City Council meeting relating to the acceptance of this bid and the awarding of the franchise is attached hereto.

ATTEST:  
KENTUCKY

Laura M. Brad  
City Clerk

CITY OF \_\_\_\_\_, ELKTON,

By: John E. Walton  
Mayor

Mr. Joseph Franklin  
8307 Damascus Circle  
Louisville, Kentucky 40228

April 6, 2000

Mr. Martin J. Huelsmann  
Executive Director  
Public Service Commission  
Post Office Box 615  
Frankfort, Kentucky 40606-0615

RE: Case No. 99-310, Joseph L. Franklin v. Bellsouth Telecommunications and GTE South, Inc.

Dear Mr. Huelsmann:

Your letter of March 22, 2000 indicates that a final order has been issued in this matter. I have never received a copy of a final order. Because I have not received a final order I wrote on March 11, 2000 suggesting that the parties compile a list of the calls that come into my home phone from callers who are trying to reach the Marriott Inn in Lexington.

I thought the best thing to do in this matter was to track the calls for six weeks, provide the dates and number of calls to the PSC and then the Commission could accurately determine if there were only a few occasional mis-dials or if there were numerous calls which would constitute a nuisance.

I feel this complaint have not been treated fairly by the Commission because the commission did not establish the volume and frequency of the calls, which would allow the Commission to determine if the frequency and pattern of the calls constituted an annoyance or nuisance, nor did the Commission hear any testimony or examine any documents that I would have presented if given an opportunity. For several years there have been hundreds of calls reaching my home which come from people who have been given my number and area code incorrectly. These calls are continuing.

The proper thing to do is to reopen the complaint, establish the number of calls that are coming into my home, and if there is more than an occasional misdial, order the Companies to reach an agreement with me to remedy the situation.

For the next several weeks I will maintain a log of the calls. I will provide a copy of the log to the Commission and the parties.

I have always expressed a willingness to talk with the parties to try to resolve this matter, however none of the parties have contacted me since the filing of the complaint. I

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COMMISSION

know the PSC has much more important matters to deal with than this one problem. However the PSC is the state agency that must address such unresolved complaints. If the utilities refuse to meet with complainants and discuss solutions to problems such as this easily solvable problem, then the next step is to file informal or formal complaints with your agency. I am certain the lawyers for the defendants have been already paid far in excess of the costs that the defendants could have spent to offset the costs of solving this problem in the proper manner.

The solution is very simple. These calls have gone on for several years. There have been thousands of unnecessary calls coming into my home at all hours of the day and night. The problem calls are well documented. A "quick fix" from one of the defendants is promised in writing and is in the file. Whoever has this number will continue to receive these calls until the defendants are ordered by the PSC to deal with this problem and solve it to the satisfaction of all parties. Sometimes it is necessary to do more than just offer to change a number free of charge. In a case were a number is known to be a nuisance number, the party receiving such a number, unknowingly, should be allowed to recover costs associated with getting rid of the nuisance number. Perhaps if the commission would include such language in future agreements, situations like mine would not drag on for years and become a continuing harassment and annoyance.

At this time I am offering the following solution to this unresolved complaint. I am willing to have my home phone number 502-231-5100 changed to another number if the Defendants will provide a new similar phone service and number, on a complimentary basis, for a period of time equal to the time I have had this nuisance number. I believe this is a very fair offer for all the parties and it is the most reasonable and inexpensive means of bringing this annoying situation to an end. If this offer is accepted, I will sign a release for all matters dealing with the number 502-231-5100.

If you decide not to reopen the complaint and the Defendants do not accept my offer contained herein then I have no other choice than to continue to ask your agency to resolve the matter in a way than does solve the problem and stop the calls. My offer should convince the commission that I am willing to solve this matter quickly and the real costs to the Defendants to settle all issues are minimal.

Yours truly,

Joseph Franklin

cc: Parties of Record 99-301

*Western Kentucky Gas Company*

RECEIVED  
JUN 7 2000  
PUBLIC SERVICE  
COMMISSION



June 6, 2000

Mr. Martin J. Huelsmann, Executive Director  
Public Service Commission  
Post Office Box 615  
211 Sower Boulevard  
Frankfort, K.Y. 40602

Dear Mr. Huelsmann:

**SUBJECT: Case No. 99-368 - Horse Cave Franchise  
Western Kentucky Gas Company**

In accordance with the above case application, I have enclosed two (2) copies of documents for your file as notification of Western Kentucky Gas Company's successful bid for natural gas franchise in the City of Horse Cave, Hart County, Kentucky.

Sincerely yours,

A handwritten signature in cursive script that reads "William J. Senter".

William J. Senter  
Vice President - Rates & Regulatory Affairs

Enclosures

KENTUCKY FRANCHISE BID LETTER (GROSS RECEIPTS)

September 14, 1999

Dear Mayor Smith:

Western Kentucky Gas Company, a division of Atmos Energy Corporation ("WKG"), hereby submits the following bid to acquire the franchise and rights created by Ordinance No. 99-9 of the City of HORSE CAVE, Kentucky (the "City"):

1. In consideration for the granting by the City of the franchise and rights created by Ordinance No. 99-9 to WKG, WKG will pay to the City, within thirty (30) days after the end of each calendar quarter during the term of the franchise, commencing with the first full calendar quarter after the effective date of the franchise and after WKG has deducted the amount described in Subparagraph (c) below from all of its customers within the City, a franchise fee equal to one percent (1%) of WKG's gross revenues derived from the sale and transportation by WKG of natural gas within the municipal boundaries of the City during the preceding calendar quarter, subject, however, to the following conditions:

(a) WKG may add a line-item surcharge to the monthly bills of each of its customer located within the City, which surcharge may be designated as a city franchise fee, in an amount that is sufficient to recover the portion of the franchise fee paid by WKG to the City that is attributable to the gross revenue derived by WKG from such customer.

(b) WKG may retain two percent (2%) of the total franchise fee that becomes due and payable hereunder in order to recover WKG's costs and expenses for the ongoing administration of the payment of the franchise fee.

(c) WKG may also retain an amount equal to \$2.00 per each customer served by WKG as of the date that this bid is accepted by the City in order to recover WKG's costs and expenses for preparing such customer's accounts to be handled in the manner required to calculate and surcharge each customer's portion of the total franchise fee that becomes due pursuant to this bid. Such \$2.00 per customer charge may be deducted from the first quarterly franchise fee payment and each subsequent quarterly payment thereof until the total amount that may be retained by WKG has been collected.

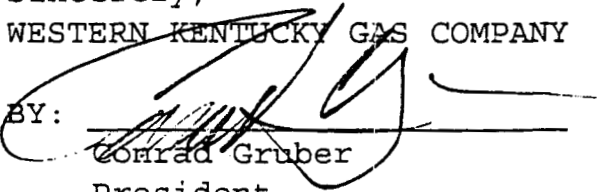
2. The franchise fee payable pursuant to this bid shall be in lieu of any and all costs, levies, assessments, fees, or other amounts, of any kind whatsoever, that the City, currently or in the future, may charge WKG or assess against WKG's property, except for charges for water, sewage, garbage, and any other utility services provided by the City to WKG, any city occupational license fees, any and all sales taxes collected by WKG, and any and all ad valorem taxes assessed by the City against WKG's property.

3. WKG agrees to and accepts all of the terms and conditions of Ordinance No.           99-9          , subject to the City's acceptance of this bid and the awarding of the franchise to WKG.

4. The City agrees to forward to WKG's           Bowling Green Office          ,           P.O. 598          ,           Bowling Green, KY          ,           42101          , within 30 days after any annexation, the address of all structures within the annexed area so they can be included in future franchise fees.

If the foregoing is acceptable to the City, please execute the enclosed duplicate original of this bid letter in the space provided below and return it, together with a copy of the minutes of the City Council meeting relating to the adoption of this bid. to Mr. Doug Stearns of WKG at 2401 New Hartford Road, Owensboro, Kentucky 42303. WKG hopes the City will find this bid acceptable and looks forward to working with the City in providing natural gas service to its citizens.

Sincerely,  
WESTERN KENTUCKY GAS COMPANY

BY:   
Conrad Gruber  
President

This bid is hereby accepted and the franchise created by Ordinance No. \_\_\_\_\_99-9 is hereby awarded to Western Kentucky Gas Company by the City Council of the City of \_\_\_\_\_, HORSE CAVE, Kentucky at a meeting of the City Council, with a quorum duly assembled and voting, held on \_\_\_\_\_,

. A copy of the minutes of the City Council meeting relating to the acceptance of this bid and the awarding of the franchise is attached hereto.

ATTEST:  
CAVE, KENTUCKY

CITY OF \_\_\_\_\_, HORSE

Elizabeth C. Waters  
City Clerk

By: Johanne Smith  
Mayor

KENTUCKY FRANCHISE BID LETTER (GROSS RECEIPTS)

September 14, 1999

Dear Mayor Smith:

Western Kentucky Gas Company, a division of Atmos Energy Corporation ("WKG"), hereby submits the following bid to acquire the franchise and rights created by Ordinance No. 99-9 of the City of HORSE CAVE, Kentucky (the "City"):

1. In consideration for the granting by the City of the franchise and rights created by Ordinance No. 99-9 to WKG, WKG will pay to the City, within thirty (30) days after the end of each calendar quarter during the term of the franchise, commencing with the first full calendar quarter after the effective date of the franchise and after WKG has deducted the amount described in Subparagraph (c) below from all of its customers within the City, a franchise fee equal to one percent (1%) of WKG's gross revenues derived from the sale and transportation by WKG of natural gas within the municipal boundaries of the City during the preceding calendar quarter, subject, however, to the following conditions:

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(b) WKG may retain two percent (2%) of the total franchise fee that becomes due and payable hereunder in order to recover WKG's costs and expenses for the ongoing administration of the payment of the franchise fee.



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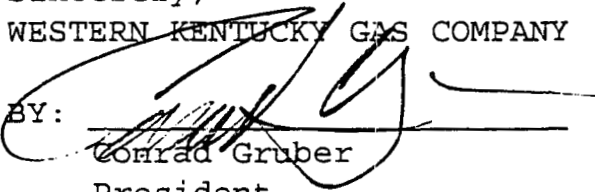
2. The franchise fee payable pursuant to this bid shall be in lieu of any and all costs, levies, assessments, fees, or other amounts, of any kind whatsoever, that the City, currently or in the future, may charge WKG or assess against WKG's property, except for charges for water, sewage, garbage, and any other utility services provided by the City to WKG, any city occupational license fees, any and all sales taxes collected by WKG, and any and all ad valorem taxes assessed by the City against WKG's property.

3. WKG agrees to and accepts all of the terms and conditions of Ordinance No.           99-9          , subject to the City's acceptance of this bid and the awarding of the franchise to WKG.

4. The City agrees to forward to WKG's           Bowling Green Office          ,           P.O. 598          ,           Bowling Green, KY                     42101          , within 30 days after any annexation, the address of all structures within the annexed area so they can be included in future franchise fees.

If the foregoing is acceptable to the City, please execute the enclosed duplicate original of this bid letter in the space provided below and return it, together with a copy of the minutes of the City Council meeting relating to the adoption of this bid. to Mr. Doug Stearns of WKG at 2401 New Hartford Road, Owensboro, Kentucky 42303. WKG hopes the City will find this bid acceptable and looks forward to working with the City in providing natural gas service to its citizens.

Sincerely,  
WESTERN KENTUCKY GAS COMPANY

BY:   
Conrad Gruber  
President

This bid is hereby accepted and the franchise created by Ordinance No. \_\_\_\_\_99-9 is hereby awarded to Western Kentucky Gas Company by the City Council of the City of \_\_\_\_\_, HORSE CAVE, Kentucky at a meeting of the City Council, with a quorum duly assembled and voting, held on \_\_\_\_\_,

. A copy of the minutes of the City Council meeting relating to the acceptance of this bid and the awarding of the franchise is attached hereto.

ATTEST:  
CAVE, KENTUCKY

Elizabeth C. Maters  
City Clerk

CITY OF \_\_\_\_\_, HORSE

By: Johanne Smith  
Mayor



COMMONWEALTH OF KENTUCKY  
**PUBLIC SERVICE COMMISSION**

730 SCHENKEL LANE  
POST OFFICE BOX 615  
FRANKFORT, KY. 40602  
(502) 564-3940

CERTIFICATE OF SERVICE

RE: Case No. 99-368  
WESTERN KENTUCKY GAS COMPANY

I, Stephanie Bell, Secretary of the Public Service Commission, hereby certify that the enclosed attested copy of the Commission's Order in the above case was served upon the following by U.S. Mail on September 15, 1999.

Parties of Record:

William J. Senter  
V.P. Rates & Regulatory Affairs  
Western Kentucky Gas Company  
2401 New Hartford Road  
Owensboro, KY. 42303 1312

Honorable Mark R. Hutchinson  
Attorney at Law  
SHEFFER HUTCHINSON KINNEY  
115 East Second Street  
Owensboro, KY. 42303

*Stephanie Bell*  
Secretary of the Commission

SB/hv  
Enclosure

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF WESTERN KENTUCKY GAS )  
COMPANY, A DIVISION OF ATMOS ENERGY )  
CORPORATION, OWENSBORO, KENTUCKY )  
FOR A CERTIFICATE OF PUBLIC CONVENIENCE ) CASE NO.  
AND NECESSITY AUTHORIZING IT TO BID ON ) 99-368  
FRANCHISE ESTABLISHED AND TO BE )  
OFFERED FOR SALE BY THE CITY OF ELKTON, )  
TODD COUNTY, KENTUCKY )

O R D E R

On September 7, 1999, Western Kentucky Gas Company ("Western") filed with the Commission its application seeking a Certificate of Convenience and Necessity to qualify it to bid on a gas franchise in the city of Elkton, Kentucky. Under the provisions of KRS 278.020(3), no utility may apply for a franchise from any governmental agency until it has obtained a Certificate of Convenience and Necessity from this Commission based on our finding that there is a need and demand for the service sought to be rendered.

The Commission determines that there is evidence of a need and demand for gas service in the above-mentioned city. Since the Commission's authority in such matters is limited by statute to finding only whether there is a need and demand for the service sought to be rendered, no finding or determination is made as to the qualifications of the bidder, the validity of any of the provisions of the franchises offered by said city, or the manner in which any franchise fee is to be treated for rate purposes.

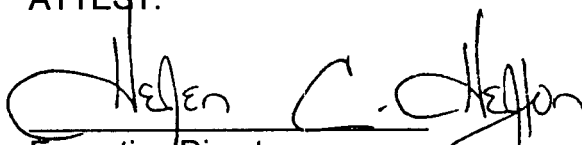
IT IS THEREFORE ORDERED that:

1. Western is granted a Certificate of Convenience and Necessity that authorizes it to bid on a gas franchise in the above-mentioned city.
2. Western, if it becomes the successful bidder, shall file with this Commission two copies of the franchise agreement.
3. This Order shall not be construed as granting a Certificate of Convenience and Necessity to construct utility facilities in said city.

Done at Frankfort, Kentucky, this 15th day of September, 1999.

By the Commission

ATTEST:

  
Executive Director



COMMONWEALTH OF KENTUCKY  
**PUBLIC SERVICE COMMISSION**

730 SCHENKEL LANE  
POST OFFICE BOX 615  
FRANKFORT, KY. 40602  
(502) 564-3940

September 9, 1999

William J. Senter  
V.P. Rates & Regulatory Affairs  
Western Kentucky Gas Company  
2401 New Hartford Road  
Owensboro, KY. 42303 1312

Honorable Mark R. Hutchinson  
Attorney at Law  
SHEFFER HUTCHINSON KINNEY  
115 East Second Street  
Owensboro, KY. 42303

RE: Case No. 99-368  
WESTERN KENTUCKY GAS COMPANY  
(Franchises) THE CITY OF ELKTON, TODD COUNTY, KENTUCKY

This letter is to acknowledge receipt of initial application in the above case. The application was date-stamped received September 7, 1999 and has been assigned Case No. 99-368. In all future correspondence or filings in connection with this case, please reference the above case number.

If you need further assistance, please contact my staff at 502/564-3940.

Sincerely,

A handwritten signature in cursive script that reads "Stephanie Bell".

Stephanie Bell  
Secretary of the Commission

SB/jc

RONALD G. SHEFFER  
MARK R. HUTCHINSON  
JEFFREY R. KINNEY<sup>1</sup>  
GENE E. BROOKS<sup>1</sup>  
CHARLES B. WEST  
BURKE B. TERRELL  
CARL B. BOYD, JR.<sup>2</sup>  
REBECCA T. KASHA<sup>3</sup>  
PETER B. LEWIS<sup>2</sup>  
HOWARD E. FRASIER, JR.<sup>4</sup>  
JAMES A. SIGLER  
JOHN A. SHEFFER  
EDWIN A. JONES  
MARC A. LOVELL  
C. TERRELL MILLER  
C. THOMAS MILLER  
DAWN S. KELSEY<sup>2</sup>  
TINA R. McFARLAND<sup>2</sup>  
A. J. MANION<sup>3</sup>  
DONNA M. SAUER<sup>2</sup>  
LIZBETH L. BAKER

The Law Firm Of

**sheffer·hutchinson·kinney**

115 EAST SECOND STREET  
OWENSBORO, KENTUCKY 42303  
(502) 684-3700  
FAX (502) 684-3881  
www.kylaw.com

RECEIVED

SEP 07 1999

PUBLIC SERVICE  
COMMISSION

BRIAN F. HAARA<sup>2</sup>  
SCOTT A. HOOVER  
WILLIAM H. MAY<sup>2</sup>  
KERRY SIGLER MORGAN  
CHRISTOPHER C. WISCHER<sup>2</sup>  
ANNE G. DEDMAN<sup>2</sup>  
MICHAEL L. MEYER<sup>2</sup>  
JULIE V. OVERSTREET  
JENNIFER CASTELLI<sup>1</sup>  
TARA RODNEY BECKWITH  
JOHN S. HARRISON  
AMY JO HARWOOD

OF COUNSEL

JOHN N. HUGHES

ROBERT A. MARSHALL

<sup>1</sup> ADMITTED TO IN BAR

<sup>2</sup> ADMITTED TO IN AND KY BAR

<sup>3</sup> ADMITTED TO IN AND OH BAR

<sup>4</sup> ADMITTED TO KY AND TN BAR

<sup>5</sup> ADMITTED TO IN, IL AND KY BAR  
ALL OTHERS ADMITTED IN KY ONLY

September 3, 1999

**FEDERAL EXPRESS**

Kentucky Public Service Commission  
720 Schenkel Lane  
Frankfort, Kentucky 40601

Attention: Helen Helton, Executive Director

*CASE 99-368*

RE: Application for Authority to Bid on Franchise for City of Elkton

Dear Helen:

I enclose herewith an original, plus ten (10) copies of an Application for Authority to bid on a franchise for the City of Elkton by Western Kentucky Gas Company. Please note that our bid must be delivered by no later than 4:30 p.m. on September 23, 1999. It is therefore imperative that we obtain approval from the Commission prior to that time. If that is a problem or if there is a problem with this filing, please advise at once.

Thanking you now for your assistance in this matter.

Very truly yours,

SHEFFER HUTCHINSON KINNEY



Mark R. Hutchinson

RECEIVED

SEP 07 1999

PUBLIC SERVICE  
COMMISSION

BEFORE THE  
PUBLIC SERVICE COMMISSION  
OF KENTUCKY

IN THE MATTER OF:  
APPLICATION OF WESTERN KENTUCKY  
GAS COMPANY, A DIVISION OF ATMOS  
ENERGY CORPORATION, OWENSBORO,  
KENTUCKY FOR A CERTIFICATE OF PUBLIC  
CONVENIENCE AND NECESSITY AUTHORIZING  
IT TO BID ON FRANCHISE ESTABLISHED  
AND TO BE OFFERED FOR SALE BY THE CITY  
OF ELKTON, TODD COUNTY, KENTUCKY

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CASE NO. 99-368

APPLICATION

Mark R. Hutchinson  
115 East Second Street  
Owensboro, Kentucky 42303

Attorney for Applicant



1

Applicant, Western Kentucky Gas Company (sometimes hereinafter called "Company" or "Applicant") is a division of Atmos Energy Corporation, a Texas and Virginia corporation, duly qualified under the laws of the Commonwealth of Kentucky to carry on its business in the Commonwealth.

The Company is an operating public utility engaged in the business of supplying natural gas to the public in numerous cities, towns, and communities in Western and South Central Kentucky.

2

A certified copy of Applicant's articles of incorporation and all amendments thereto are on file in the records of this Commission. See In the Matter of. Western Kentucky Gas Utility Corporation, Case #10063.

3

The City of Elkton (sometimes hereinafter called the "City") is a municipal corporation situated in Todd County, Kentucky and is in an area presently served by Applicant. Applicant has been the owner of a franchise for the operation of the natural gas system within the City immediately prior to the sale of a new franchise. Applicant is at the present time serving the City and owns and maintains a gas distribution system in such City.

4

The City Commission of the City has established a natural gas franchise for the City and has directed that bids for the sale thereof be received on or before the 23<sup>rd</sup> day of September, 1999. A copy of the resolution establishing such franchise, directing its sale, and setting forth the type and provisions of such franchise is filed herewith as a part hereof.

There is a demand and need for continued natural gas service for the City.

WHEREFORE, Applicant respectfully requests the Commission to enter a certificate of public convenience and necessity authorizing Applicant to bid on the aforesaid natural gas franchise and, if it is awarded such franchise, to operate the natural gas distribution system pursuant to such franchise. A copy of the franchise, if awarded to Applicant, will be filed with the Commission.



## ORDINANCE NO. 1999-16

AN ORDINANCE OF THE CITY OF ELKTON, KENTUCKY PROVIDING FOR THE SALE OF THE FRANCHISE AND RIGHT TO ACQUIRE, CONSTRUCT, INSTALL, LAY, OPERATE, MAINTAIN, REPAIR, REMOVE, AND REPLACE A GAS SYSTEM TO BE USED FOR THE SALE, TRANSMISSION, DISTRIBUTION, AND TRANSPORTATION OF NATURAL GAS, ARTIFICIAL GAS, OR MIXTURE OF SUCH GASES TO THE RESIDENTS AND BUSINESSES LOCATED WITHIN THE MUNICIPAL BOUNDARIES OF THE CITY FOR LIGHT, HEAT, POWER, AND OTHER USES AND THE RIGHT TO USE, FOR THE PURPOSES DESCRIBED ABOVE, THE PRESENT AND FUTURE STREETS, ROADS, HIGHWAYS, ALLEYS, PUBLIC WAYS, AND REAL PROPERTY LOCATED IN, AND OWNED OR CONTROLLED BY, THE CITY; AND PRESCRIBING THE TERMS AND CONDITIONS FOR THE FRANCHISE AND RIGHTS.

BE IT HEREBY ORDAINED by the CITY of ELKTON, KENTUCKY (hereinafter referred to as the "City") that the Mayor of the City, or such other person as the Mayor may designate, shall offer for sale, to the highest and best bidder, the non-exclusive franchise and right to acquire, construct, install, lay, operate, maintain, repair, remove, and replace a Gas System (as hereinafter defined) to be used for the sale, transmission, distribution, and transportation of Gas (as hereinafter defined) to the residents and businesses located within the municipal boundaries of the City for light, heat, power, and other uses and the right to use, for the purposes described above, the Public Ways (as hereinafter defined) of the city, subject to the terms and conditions hereinafter set forth.

#### ARTICLE I DEFINITIONS

For purposes of this ordinance, the following terms shall have the meanings set forth below:

Section 1.1. Franchisee. The term "Franchisee" shall mean the individual person, corporation, company, partnership, firm, unincorporated association, trustee, or public corporation that is awarded by the City the franchise created by this Ordinance.

Section 1.2. Gas. The term "Gas" shall mean natural gas, artificial gas, and any mixture of such gases.

Section 1.3. Gas System. The term "Gas System" shall mean any and all Pipelines (as hereinafter defined), meters, valves, compressors, anti-corrosion items, facilities, structures, machinery, equipment, and appurtenances of any kind that Franchisee, in its sole discretion, may deem necessary or advisable for the exercise of the franchise and rights granted to Franchisee pursuant to this ordinance.

**Section 1.4. Pipelines.** The term "Pipelines" shall mean any and all above-ground and below-ground pipes, including, but not limited to, mains, distribution lines, secondary lines, laterals, and other pipes, that have been, are being, or are intended to be used at any time in, or in connection with, the sale, transmission, distribution, or transportation of Gas within the City.

**Section 1.5. Public Ways.** The term "Public Ways" shall mean the present and future streets, alleys, avenues, boulevards, lanes, parkways, sidewalks, roads, highways, rights-of-way, and other public ways and real property located within the municipal boundaries of the City and owned by, or under the control of, the City.

## ARTICLE II TERM

**Section 2.1. Term.** The term of the franchise and rights created hereby shall be for a period of twenty (20) years, commencing on the later of (i) the date that Franchisee's bid to purchase this franchise is accepted by the City or (ii) the expiration of the natural gas franchise held by Western Kentucky Gas Company immediately preceding this franchise.

## ARTICLE III OBLIGATIONS OF FRANCHISEE

**Section 3.1. No obstruction of Public Property.** Franchisee shall not, unnecessarily or for any unreasonable period of time, obstruct or interfere with the public use of any of the Public Ways.

**Section 3.2. Repair of Damages.** Franchisee shall repair any and all damages caused solely by Franchisee to any of the Public Ways and shall restore, as nearly as practicable such property to substantially its condition immediately prior to the incident causing such damage. Franchisee shall commence such repairs immediately upon completion of the work or activity in which Franchisee was involved at the time the damage occurred and shall complete such repairs as promptly as possible.

**Section 3.3. Conduct of Work and Activities.** Franchisee shall use reasonable care in conducting its work and activities in order to prevent injury to any person and unnecessary damage to any real or personal property.

**Section 3.4. Installation of Underground Pipelines.** Franchisee shall, when reasonably practicable, install all Pipelines underground at such depth and in such manner so as not to interfere with the existing pavement, curbs, gutters, underground wires or cables, or water or sewer pipes owned or controlled by the City.

## ARTICLE IV GENERAL PROVISIONS

**Section 4.1. Removal of Gas System.** Franchisee may remove all or any part of the Gas System upon the expiration or termination of the franchise and rights granted hereby.

**Section 4.2. Force Majeure.** Notwithstanding anything expressly or impliedly to the contrary contained herein, in the event Franchisee is prevented, wholly or partially, from complying with any obligation or undertaking contained herein by reason of any event of force majeure, then, while so prevented, compliance with such obligations or undertakings shall be suspended. The term "force majeure," as used herein, shall mean any cause not reasonably within Franchisee's control and includes, but is not limited to, acts of God; strikes; lock-outs; wars; riots; orders or decrees of any lawfully constituted federal, state, or local body; occurrences resulting from or attributable to chronological date changes from the year 1999 to the year 2000; contagious or contaminations hazardous to human life or health; fires; storms; floods; wash-outs; explosions; breakages or accidents to machinery or Pipelines; inability to obtain or delay in obtaining rights-of-way, materials, supplies, or labor permits; permanent or temporary failures of gas supply or gas transportation services; or necessary repair, maintenance, or replacement of facilities used in the performance of the obligations contained in this Ordinance. Nothing in this force majeure provision or the operation hereof shall cause or be deemed to cause the term of this franchise to extend beyond twenty (20) years as set forth in Section 2.1.

**Section 4.3. Assignment.** Franchisee is hereby given the right to assign, without the consent of the City, the franchise created by this Ordinance to any person, firm, or corporation that has received from the Kentucky Public service commission any and all required certificates of convenience and necessity for obtaining a franchise.

**Section 4.4. Binding Effect.** This Ordinance shall extend to, be binding upon, and inure to the benefit of, the parties hereto and their respective successors and assigns.

**Section 4.5. Repeal of Conflicting ordinances.** All other ordinances of the City or portions thereof that are in conflict or inconsistent with any of the terms or provisions of this Ordinance are hereby repealed to the extent of such conflict or inconsistency.

**Section 4.6. Severability.** In the event any part of this Ordinance is determined to be invalid or illegal for any reason whatsoever, such invalidity or illegality shall not affect the validity or legality of this Ordinance as a whole or of any other parts hereof.

**Section 4.7. Effectiveness of Ordinance.** This Ordinance shall be deemed effective upon its publication pursuant to Chapter 424 of the Kentucky Revised Statutes.

**Section 4.8. Section and Other Headings.** The section and other headings contained in this Ordinance are for reference purposes only and shall not affect in any way the meaning or interpretation of this Ordinance.

**ARTICLE V  
BID REQUIREMENTS**

**Section 5.1. Receipt of and Advertisement for or Bids.** The Mayor, or such other person as the Mayor may designate, shall, after due advertisement, receive bids publicly for the franchise created in this Ordinance. Such bids shall be in writing and shall be delivered to the Mayor or the Mayor's designee by 4:30 p.m. on September 23, 1999 (the "Bid Deadline"). Advertisements for such bids shall be published in a newspaper meeting the qualifications of Section 424.120 of the Kentucky Revised Statutes once a week for three successive weeks, provided that at least one of such publications shall occur not less than seven (7) nor more than twenty-one (21) days before the Bid Deadline. All costs and expenses for such advertisements shall be borne by Franchisee and shall be paid directly by Franchisee or reimbursed to the City within a reasonable time after the City's acceptance of Franchisee's bid.

**Section 5.2. Consideration of Bids.** The Mayor shall present all written bids to the City Council at its first meeting scheduled after the Bid Deadline for the City Council's consideration and approval. The City Council reserves the right to reject any and all bids received and, in such event, to direct, by resolution or ordinance, that the franchise created hereby be offered again for sale until a satisfactory bid is received and approved.

**Section 5.3. Deposit and Bond Requirements.** Each bid shall be accompanied by a deposit and bond in compliance with Section 96.020 of the Kentucky Revised Statutes, provided, however, that no deposit or bond shall be required of a bidder that already owns in the City a plant and equipment sufficient to render the service required under this Ordinance.

Read and passed by the City Council of the City of Elkton, Kentucky with a quorum of such council duly and lawfully assembled and voting, on the first (1st) reading, on the 9<sup>th</sup> day of August, 1999.

ATTEST:

CITY OF ELKTON, KENTUCKY

James M. Bond  
City Clerk

By:

John B. Walton  
Mayor

Read and passed by the City Council of the City of Elkton, Kentucky with a quorum of such council duly and lawfully assembled and voting, on the second (2nd) reading, on the 26<sup>th</sup> day of August, 1999.

ATTEST:

CITY OF ELKTON, KENTUCKY

Jan M. Boyd  
City Clerk

By: John E. Walton  
Mayor