

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF KENTUCKY)	
POWER COMPANY FOR A CERTIFICATE OF)	
PUBLIC CONVENIENCE AND NECESSITY)	CASE NO.
AUTHORIZING THE APPLICANT TO APPLY FOR)	2023-00106
AND OBTAIN A FRANCHISE FROM THE CITY)	
OF WARFIELD IN MARTIN COUNTY, KENTUCKY)	

ORDER

On March 31, 2023, Kentucky Power Company (Kentucky Power) filed its application with the Commission seeking a Certificate of Public Convenience and Necessity (CPCN) to authorize it to bid on a franchise offered by the city of Warfield, Kentucky, for electric transmission and distribution service. Kentucky Power provided a copy of Ordinance No. 001-2023, which authorized granting a franchise for the sale and distribution of electricity within the city of Warfield boundary.¹ Ordinance No. 001-2023 was approved on March 30, 2023, and public notice of the sale of franchise was published on April 12, 2023.²

Sections 163 and 164 of the Kentucky Constitution and KRS Chapter 96 authorize municipal corporations to require public utilities, including non-governmental providers of electricity within the municipal corporations' boundaries, to operate under franchise agreements and to grant utilities the right to use public right-of-way on reasonable and

¹ Ordinance (filed Apr. 13, 2023).

² Ordinance at 5-6, and attached excerpt from the Apr. 12, 2023 edition of *The Mountain Citizen* (filed Apr. 13, 2023).

necessary conditions. Under the provisions of KRS 278.020(5), no utility may apply for a franchise from any governmental agency until it has obtained a CPCN from this Commission based on our finding that there is a need and demand for the service sought to be rendered.

In light of the city of Warfield's ordinance creating a franchise for electric transmission and distribution service, the Commission determines that there is evidence of a need and demand for electric transmission and distribution 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 franchise offered by said city, or the manner in which any franchise fee is to be treated for rate purposes.

The Commission directs Kentucky Power to the Commission's July 22, 2021 Order in Case No. 2020-00085³ regarding filings with the Commission.

IT IS THEREFORE ORDERED that:

1. Kentucky Power is granted a CPCN that authorizes it to bid on a franchise offered by the city of Warfield, Kentucky, for electric transmission and distribution service.
2. If Kentucky Power is not the successful bidder, Kentucky Power shall file with the Commission, within ten days of the award of the franchise at issue, a written notice stating that Kentucky Power was not the successful bidder.

³ Case No. 2020-00085, *Electronic Emergency Docket Related to the Novel Coronavirus COVID-19* (Ky. PSC July 22, 2021), Order (in which the Commission ordered that for case filings made on and after March 16, 2020, filers are NOT required to file the original physical copies of the filings required by 807 KAR 5:001, Section 8).

3. If Kentucky Power is the successful bidder, Kentucky Power shall file with the Commission, within ten days of the award of the franchise at issue, a copy of the executed franchise agreement and a statement disclosing the amount of the initial franchise fee.

4. If Kentucky Power is the successful bidder, Kentucky Power shall file with the Commission, within ten days of an increase or decrease in the amount of the initial franchise fee set forth in the franchise agreement, documentation setting forth the revised fee.

5. Any documents filed pursuant to ordering paragraphs 2, 3, or 4 of this Order shall reference the number of this case and shall be electronically submitted via the Commission's electronic Tariff Filing System.

6. This Order shall not be construed as granting a CPCN to construct utility facilities in said city.

7. This case is closed and removed from the Commission's docket.

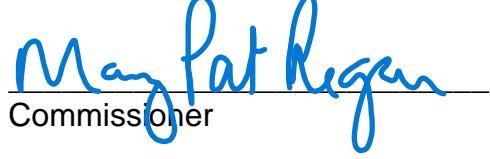
PUBLIC SERVICE COMMISSION



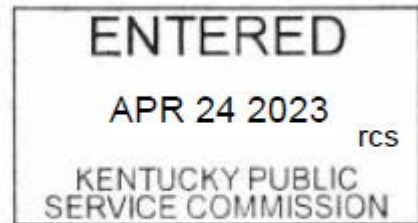
Chairman



Vice Chairman



Commissioner



ATTEST:



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