

ACCEPTANCE

TO THE MAYOR AND CITY COUNCIL OF
THE CITY OF FLEMING-NEON, KENTUCKY

WHEREAS, on December 14, 2020, the CITY COUNCIL OF THE CITY OF
FLEMING-NEON, KENTUCKY adopted ORDINANCE NO 1109, 2020, entitled:

ORDINANCE No. 1109, 2020

An Ordinance of the City Council of the City of Fleming-Neon, Kentucky, Granting to Kentucky Power Company, Its Successors and Assigns, a Twenty (20) Year Franchise, Privilege, Right and Authority to Acquire, Maintain, Construct and Operate In, Above, Under, Across and Along the Streets, Thoroughfares, Alleys, Sidewalks, Bridges, Public Ways and Other Public Places of the City of Fleming-Neon, Kentucky, and Its Successors and Assigns, Lines, Poles and Equipment for the Transportation, Transmission and Distribution of Electric Energy to the City of Fleming-Neon and the Inhabitants thereof and Persons and Corporations beyond the Limits thereof for Light, Heat, Power and Other Purposes and for the Transmission, Transportation and Distribution of Same Within, Through or Across Said City.

WHEREAS, the undersigned, KENTUCKY POWER COMPANY, is willing to accept said Ordinance granting said franchise in accordance with the terms and conditions therein set forth.

NOW, THEREFORE, KENTUCKY POWER COMPANY hereby accepts the terms and provisions of said Ordinance and agrees to be bound and abide by said terms and provisions as set forth in said Ordinance.


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IN WITNESS WHEREOF, KENTUCKY POWER COMPANY, a Kentucky corporation, has caused its name to be hereunto affixed by Brian K. West, Director of Regulatory Services, on this 17th day of December, 2020.

KENTUCKY POWER COMPANY

By 
Brian K. West
Director of Regulatory Services

STATE OF KENTUCKY

COUNTY OF BOYD

I, a Notary Public in and for the County and State aforesaid, do hereby certify that the foregoing Acceptance was this day acknowledged before me by Brian K. West, as Director of Regulatory Services for Kentucky Power Company, to be his free act and deed in said capacity and the free act and deed of Kentucky Power Company, this 17th day of December, 2020.

My Commission expires: 09/26/2023


Notary Public, State-at-Large, Kentucky



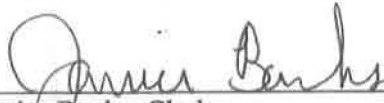
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I, Janice Banks, Clerk of the City of Fleming-Neon, Kentucky, do hereby certify that the above is a true copy of the Acceptance by KENTUCKY POWER COMPANY of an electric franchise Ordinance passed by the CITY COUNCIL of said City on December 14, 2020.

Received and filed this 14 day of December, 2020.



Janice Banks, Clerk
City of Fleming-Neon, Kentucky

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ORDINANCE NO 1109, 2020

An Ordinance of the City Council of the City of Fleming-Neon, Kentucky, Granting to Kentucky Power Company, Its Successors and Assigns, a Twenty (20) Year Franchise, Privilege, Right and Authority to Acquire, Maintain, Construct and Operate In, Above, Under, Across and Along the Streets, Thoroughfares, Alleys, Sidewalks, Bridges, Public Ways and Other Public Places of the City of Fleming-Neon, Kentucky, and Its Successors and Assigns, Lines, Poles and Equipment for the Transportation, Transmission and Distribution of Electric Energy to the City of Fleming-Neon and the Inhabitants thereof and Persons and Corporations beyond the Limits thereof for Light, Heat, Power and Other Purposes and for the Transmission, Transportation and Distribution of Same Within, Through or Across Said City.

BE IT ORDAINED BY THE CITY OF Fleming-Neon, LETCHER COUNTY, KENTUCKY, AS FOLLOWS:

SECTION 1

Kentucky Power Company, its successors and assigns, hereinafter called grantee, is granted the franchise, privilege, right and authority to acquire, maintain, construct and operate in, above, under, across and along the streets, thoroughfares, alleys, sidewalks, bridges, public ways and other public places (as the same now exist or may hereafter be laid out) of the City of Fleming-Neon, Letcher County, Kentucky, lines, poles and equipment for the transportation, transmission and distribution of electric energy, either by means of overhead or underground conductors, with all the necessary or desirable appurtenances, for the purpose of supplying electric energy to said City and the inhabitants thereof, and persons and corporations beyond the limits thereof, for light, heat, power and any other purpose or purposes for which electric energy is now or may hereafter be used, and for the transmission and distribution of the same within, through or across said City.

SECTION 2. Said lines and appurtenances shall be constructed so as to interfere as little as possible with the traveling public in its use of the streets, thoroughfares, alleys, sidewalks, bridges, public ways and other public places.

SECTION 3. The franchise, privilege, right and authority shall be in full force and effect for a period of twenty (20) years from the date of passage of this Ordinance.

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SECTION 4. The grantee of this franchise shall save the City harmless from any and all liability arising in any way from negligence of the grantee in the erection, maintenance or operation of said lines and appurtenances.

SECTION 5. The grantee of this franchise shall have the right and privilege to take up such portion or part of any pavement and make such excavation in the streets, thoroughfares, alleys, sidewalks, bridges, public ways and other public places of the City of Fleming-Neon as may be deemed necessary for the construction and maintenance of its lines, wires or cables, but, whenever the grantee of this franchise shall begin the erection of any lines or other equipment, it shall promptly and diligently prosecute the work to completion, and leave the streets, thoroughfares, alleys, sidewalks, bridges, public ways and other public places where such work is done in as good condition of repair as before such work was commenced.

SECTION 6. Wherever in this franchise either the City of Fleming-Neon or the grantee thereof is referred to, it shall be deemed to include the respective successors and assigns, of either, and all rights, privileges and obligations contained in this franchise shall be binding upon, and inure to the benefit of, the respective successors and assigns, of the City and said grantee, whether so expressed or not.

SECTION 7. The grantee of this franchise may make such rules and regulations covering the furnishing of said electric energy as may be fair and reasonable and consistent with the standard practice of the grantee. Said grantee may charge such rates for electric service as shall be fair and reasonable. The said grantee shall render service under said franchise of like quality, that is, adequate, efficient and reasonable, to that now being rendered to said City.

SECTION 8. The consideration paid and agreed to be paid by the grantee in its bid letter dated November 5, 2020, for the franchise, privilege, right and authority provided for herein, shall be complete compensation and consideration for said franchise, privilege, right and authority, and for the use and occupancy of the streets, thoroughfares, alleys, sidewalks, bridges, public ways and other public places of the City, in lieu of any street or alley rental or of any charge for the use

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or occupancy of said streets, thoroughfares, alleys, sidewalks, bridges, public ways and other public places of said City, and in lieu of any pole tax or meter tax.

SECTION 9. The Ordinance granting this franchise shall be accepted by the grantee thereof within sixty (60) days from the date of its passage.

SECTION 10. All Ordinances and parts of Ordinances in conflict herewith, to the extent of such conflict only, are hereby repealed.

SECTION 11. This Ordinance shall be in full force and effect upon its passage by the City Council.


Susan Polis, Mayor

ATTEST:


Janice Banks, Clerk

Introduction and First Reading: November 9th, 2020.

Second Reading: December 14, 2020.

Adopted by the City Council of the City of
Fleming-Neon, Kentucky

the 14 day of December, 2020.

Published: 12-23-2020, 2020

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BOUNDLESS ENERGY

Kentucky Power Company
1645 Winchester Avenue
Ashland, KY 41101
606-327-2600

To: The Honorable Susan Polis, Mayor
Fleming-Neon City Council
City of Fleming-Neon
955 Highway 317
Fleming-Neon, Kentucky 41840

Dear Mayor Polis and Council Members:

Kentucky Power Company, a corporation organized and existing under the laws of the Commonwealth of Kentucky, hereby offers to purchase the right, privilege, franchise and authority to erect and operate an electric light and power system in the City of Fleming-Neon, Letcher County, Kentucky, such franchise to contain all rights and privileges, and to be subject to all conditions prescribed by Ordinance No. 1013, 2020 directing the sale of the same and adopted by the City Council on October 13, 2020.

As consideration for this franchise, Kentucky Power Company offers to pay to the City of Fleming-Neon a sum equal to four percent (4%) of the revenues received from electric service provided by Kentucky Power Company within the corporate limits of the City of Fleming-Neon excluding all state and local taxes.

Effective 30 days after the passage of the Ordinance granting the franchise to Kentucky Power Company, and throughout the term of the franchise, this additional amount will be shown on customers' bills in accordance with Kentucky Power Company's franchise tariff as presently written or as subsequently revised.

Payment of the amount due for the prior month shall be made to the City within forty-five (45) days following close of such month. Any such fees paid to the City that are included in electric bills charged off as uncollectible shall be allowed as a credit to Kentucky Power Company in the determination of the payment due the City for the month in which such charge off occurred.

The City will promptly notify Kentucky Power Company of any alterations to the boundaries of the City during the term of this franchise, and shall promptly provide Kentucky Power Company with all information required by the Company to compute and bill the franchise fee on service to the altered boundaries. Kentucky Power Company's obligation to pay the franchise fee with regard to service to the altered boundaries shall commence 30 days following its receipt of the information required to compute and bill the franchise fee and payments of the resulting amount shall be made to the City within the same forty-five (45) day period provided above.

Kentucky Power Company shall have the option to terminate the franchise agreement in the event that its rights to recoup the franchise fee are modified by statute, regulation, or judicial determination, or are otherwise modified, effective upon the effective date of such modification.





An AEP Company

BOUNDLESS ENERGY®

The Honorable Susan Polis
Fleming-Neon City Council
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We attach and file herewith, as part of this bid and purchase offer, a copy of the Certificate of Convenience and Necessity issued by the order of the Public Service Commission of Kentucky, Case No. 2020-00267, entered August 20, 2020, authorizing Kentucky Power Company to bid.

The undersigned, Kentucky Power Company already owns and operates in the City of Fleming-Neon plant and equipment sufficient to render the services required under the terms and provisions of the Ordinance directing the sale, and is now furnishing adequate service to the City and its inhabitants.

Respectfully submitted this 5TH day of NOVEMBER, 2020.

KENTUCKY POWER COMPANY

By: _____


Brian K. West
Director of Regulatory Services

Attachment

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PUBLIC SERVICE
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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)	
AUTHORIZING THE APPLICANT TO APPLY)	CASE NO.
FOR AND OBTAIN A FRANCHISE FROM THE)	2020-00267
CITY OF FLEMING-NEON IN LETCHER)	
COUNTY, KENTUCKY)	

ORDER

On August 12, 2020, 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 Fleming-Neon, Kentucky, for electric transmission and distribution service. 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 Fleming-Neon'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

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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 the Attorney General to the Commission's March 16, 2020 and March 24, 2020 Orders in Case No. 2020-00085¹ regarding filings with the Commission. The Commission expects the original documents to be filed with the Commission within 30 days of the lifting of the current state of emergency.

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 Fleming-Neon, 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. 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.

¹ Case No. 2020-00085, *Electronic Emergency Docket Related to the Novel Coronavirus COVID-19* (Ky. PSC Mar. 16, 2020), Order at 5-6. Case No. 2020-00085, *Electronic Emergency Docket Related to the Novel Coronavirus COVID-19* (Ky. PSC Mar. 24, 2020), Order at 1-3.



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.

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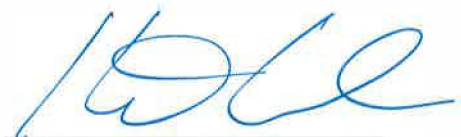
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PUBLIC SERVICE
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By the Commission

ENTERED
AUG 20 2020 CS
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:



Acting Executive Director

Case No 2020-00267

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