

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF DUKE ENERGY)	
KENTUCKY, INC. FOR A CERTIFICATE OF)	
PUBLIC CONVENIENCE AND NECESSITY TO)	CASE NO.
BID ON A FRANCHISE TO SERVE THE CITY OF)	2023-00048
WALTON, KENTUCKY)	

ORDER

On February 8, 2023, Duke Energy Kentucky, Inc. (Duke Kentucky) filed its application with the Commission seeking a Certificate of Public Convenience and Necessity (CPCN) to authorize it to bid on franchises offered by the city of Walton, Kentucky, for electric and natural gas transmission and distribution service. Duke Kentucky provided a copy of Ordinance No. 2022-01 and Ordinance No. 2022-02, which respectively authorize granting a franchise for the sale and distribution of electricity and natural gas within the city of Walton boundary.¹ Ordinance No. 2022-01 and Ordinance No. 2022-02 were approved on February 8, 2022, and public notice of the adoption of the ordinances was published on March 3, 2022.² Duke Kentucky filed correspondence with the Walton City Clerk stating that there is not a bid deadline date, but requested that Duke Kentucky tender its bid by April 4, 2023.³

¹ Application, Exhibits A and B.

² Application, Exhibit C.

³ Supplement to Application, Exhibit C (filed Feb. 24, 2023).

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 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 Walton's ordinance creating franchises for electric and natural gas transmission and distribution service, the Commission determines that there is evidence of a need and demand for electric and natural gas 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 franchises offered by said city, or the manner in which any franchise fees are to be treated for rate purposes.

The Commission directs Duke Kentucky to the Commission's July 22, 2021 Order in Case No. 2020-00085⁴ regarding filings with the Commission.

⁴ 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).

IT IS THEREFORE ORDERED that:

1. Duke Kentucky is granted a CPCN that authorizes it to bid on franchises offered by the city of Walton, Kentucky, for electric and natural gas transmission and distribution service.

2. If Duke Kentucky is not the successful bidder, Duke Kentucky shall file with the Commission, within ten days of the award of the franchises at issue, a written notice stating that Duke Kentucky was not the successful bidder.

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

4. If Duke Kentucky is the successful bidder, Duke Kentucky 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 agreements, 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.

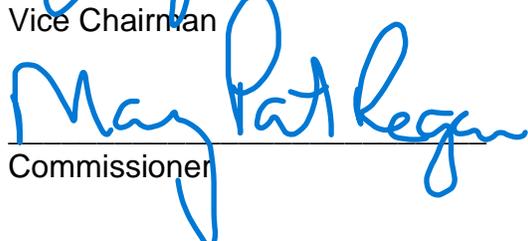
6. This Order shall not be construed as granting a CPCN to construct utility facilities in said city.

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

PUBLIC SERVICE COMMISSION

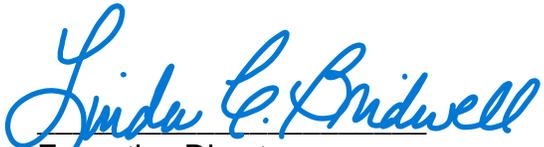

Chairman


Vice Chairman


Commissioner

ENTERED
MAR 30 2023
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KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:


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