

**BEFORE THE
PUBLIC SERVICE COMMISSION OF KENTUCKY**

IN THE MATTER OF:

**APPLICATION OF KENERGY CORP. FOR A
CERTIFICATE OF PUBLIC CONVENIENCE
AND NECESSITY TO APPLY FOR A
FRANCHISE FROM THE CITY OF HAWESVILLE**

CASE NO. 2023-00044

NOTICE OF FILING

KENERGY CORP. (“Kenergy”) files herewith as Exhibit A the Hawesville Ordinance 01-23 that has now had its second reading. Attached as Exhibit B is the proposed franchise agreement and attached as Exhibit C is the bid form for which Kenergy seeks approval from the Commission to submit to Hawesville. Attached hereto as Exhibit D is the advertisement by the City of Hawesville in the Hancock Clarion.

Dated at Henderson, Kentucky, this 12th day of April, 2023.

DORSEY, GRAY, NORMENT & HOPGOOD
318 Second Street
Henderson, Kentucky 42420
(270) 826-3965 Telephone
(270) 826-6672 Telefax
chopgood@dkgnlaw.com
Attorneys for Kenergy Corp.

By _____


J. Christopher Hopgood

Ordinance # 01-23

AN ORDINANCE providing for the sale 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, lines, 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 Hawesville, Hancock County, Kentucky, for a period of five (5) years.

BE IT ORDAINED BY THE CITY OF HAWESVILLE AS FOLLOWS:

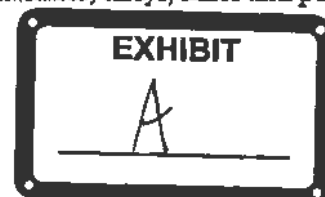
That the right and privilege to use the public streets, avenues, lanes, alleys and public grounds within the city limits of the City of Hawesville, Hancock County, Kentucky, for the purpose of constructing, maintaining, operating, repairing and removing an electric transmission and/or distribution system, together with poles, lines, wires, anchors and other facilities appurtenant or incident thereto for the transportation, distribution and sale of electric energy to service the City of Hawesville, and public and private uses therein, including adjoining rural area, for a period of five (5) years commencing the 14th day of March, 2023, be duly advertised for sale publicly to the highest and best bidder, the City of Hawesville reserving the right to reject any and all bids.

Said sale shall be made for cash in hand at the time of sale or for annual payments, plus all costs of advertising and selling. Said sale shall be subject to confirmation and ratification or rejection by the Hawesville City Council and if the sale shall not be so confirmed and ratified, the amount paid shall be returned to the successful bidder.

The sale of the franchise herein contemplated shall be made by the City Clerk of the City of Hawesville, or by some one designated by the Clerk, who is hereby commissioned to make due advertisement of said sale, which advertisement shall include a description of the franchise, right and privilege in the Hancock County Clarion, a newspaper of general circulation published in the City of Hawesville, Hancock County, Kentucky. The newspaper advertisement aforesaid shall be published in said newspaper 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 Hawesville City Council at its next regular 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 Hawesville City Council shall be as follows:

Section 1: The purchaser, his/her 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 Hawesville to construct, maintain, operate, repair and remove an electric transmission and/or distribution system consisting of transmission and/or distribution poles, lines, wire, 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 Hawesville and adjoining rural areas, during a term of five (5) years commencing on the 14th day of March, 2023; provided, however, said franchise may be terminated at the end of four (4) years by either party mailing or delivering to the other party written notice of intent to terminate at least 120 days prior to the end of the fourth year.

The franchise fee shall be an annual lump sum fee of \$5,000.00, payable on or before July 1st of each year.

Section 2: 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/her or its successors or assigns, at his/her or their proper cost and without necessary delay. The purchaser, his/her or its successors or assigns shall be responsible for all injuries or damage 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 Hawesville 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 3: The purchaser, his/her 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 Hawesville, within a reasonable time after the expiration or other termination of this franchise.

Section 4: The franchise, right and 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 further consent thereto by the City of Hawesville, or its inhabitants, is hereby expressly given and granted to the purchaser, his or its successors and assigns.

Section 5: 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 6: 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.

INTRODUCED, PUBLICLY READ, and APPROVED on FIRST READING this the 14th
day of February, 2023.

PUBLICLY READ and APPROVED on SECOND READING this the 14th day of
March, 2023.



3-14-2023

Rob McCormick, Mayor

Date

ATTEST:



City Clerk

Prepared by:



Jamie Stephens, City Attorney
STEPHENS LAW, LLC
480 Jennings Street
Hawesville, Kentucky 42348
(270) 927-8888
Js.stephenslaw@gmail.com

Franchise Agreement

THIS FRANCHISE AGREEMENT entered into effective April 1, 2023, by and between the CITY OF HAWESVILLE, KENTUCKY ("Franchisor") and KENERGY CORP., Post Office Box 18, Henderson, KY 42418 ("Franchisee");

WHEREAS, the City of Hawesville advertised for bids for a non-exclusive franchise to construct, maintain, operate, repair and remove an electric transmission and/or distribution system;

WHEREAS, Kenergy Corp. was a successful bidder for the franchise; and

WHEREAS, the terms and conditions of the franchise are stated in Ordinance 01-23 of the City of Hawesville, KY;

NOW, therefore, the parties hereby AGREE that Kenergy Corp. is awarded a non-exclusive franchise to construct, maintain, operate, repair and remove an electric transmission and/or distribution system for a period of five (5) years commencing April 1, 2023, and continuing thereafter until expiration. The annual fee for the franchise is \$5,000.00 payable on or before April 1, 2023. In addition, Kenergy agrees to pay franchise fees for the years between 2017 and 2023 in which Kenergy operated under a verbal holdover franchise agreement. The terms and conditions of the franchise are as set forth in Ordinance 01-23 which is incorporated by reference herein.

This the date above written.

CITY OF HAWESVILLE, KY

By _____

Robert McCormick, Mayor

ATTEST: _____

Rona Besham

City Clerk

KENERGY CORP.

By _____

_____, President and CEO

EXHIBIT

B

**BID PROPOSAL ON FIVE (5) YEAR ELECTRIC FRANCHISE ESTABLISHED
BY ORDINANCE # 01-23
ADOPTED BY THE CITY COUNCIL OF
THE CITY OF HAWESVILLE, KENTUCKY**

In accordance with and in response to the provisions of Ordinance # 01-23, providing for the sale of a nonexclusive, five (5) year franchise for use of public rights-of-way within the city limits of Hawesville, Kentucky, for the construction, operation, maintenance and utilization of an electrical distribution system, as publicly advertised in the Hancock Clarion, Kenergy Corp., by its duly authorized representative, does hereby submit the following bid offer:

- (a) \$5,000.00 payable to the City of Hawesville, Kentucky, on an annual basis;
- (b) Bidder/Offeror acknowledges, understands, covenants and agrees to the terms and conditions set forth in Ordinance # 01-23 and the terms and conditions of the franchise award shall be incorporated into a written agreement executed by both parties and effective: 01-23.
- (c) Bidder/Offeror will reimburse City of Hawesville, or will pay directly all out-of-pocket costs incurred for publication of notices and ordinances advertising and awarding electric franchise.

Bid Submitted by:

KENERGY CORP.

By: _____

Date: _____



**FEDERAL EMERGENCY
MANAGEMENT AGENCY**
Proposed Flood Hazard Determinations
for Hancock County, Kentucky
and Incorporated Areas

The Department of Homeland Security's Federal Emergency Management Agency has issued a preliminary Flood Insurance Rate Map (FIRM) and where applicable, Flood Insurance Study (FIS) report, effecting proposed flood hazard determinations within Hancock County, Kentucky and Incorporated Areas. These flood hazard determinations may include the addition or modification of Base Flood Elevations, base flood depths, Special Flood Hazard Area boundaries or zones, designations, or the regulatory floodway. Technical information or comments are solicited on the proposed flood hazard determinations shown on the preliminary FIRM and/or FIS report for Hancock County, Kentucky and Incorporated Areas. These flood hazard determinations are the basis for the floodplain management measures that your community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program. However, before these determinations are effective for floodplain management purposes, you will be provided an opportunity to appeal the proposed information. For information on the statutory 90-day period provided for appeals, as well as a complete listing of the communities affected and the locations where copies of the FIRM are available for review, please visit FEMA's website at https://www.floodmaps.fema.gov/fhm/BFE_taus/bfe_main.asp or call the FEMA Mapping and Insurance eXchange (FMIX) toll free at 1-877-FEMA MAP (1-877-336-2627).

the highest bidder; however we do reserve the right to reject any and all bids

Call (270)927-8769 on
Monday, Wednesday,
Friday
8 am to 4 pm.

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TFNJan2023



www.homelandinc.com

**REQUEST FOR BIDS
FOR THE CITY OF HAWESVILLE, KENTUCKY
ELECTRICAL FRANCHISE**

The City of Hawesville, Kentucky is soliciting bids from parties interested in obtaining a franchise to operate and provide electric systems within the confines of the City of Hawesville, Kentucky. Franchise(s) awarded pursuant to this Request for Bids will be non-exclusive and for a term of five (5) years.

Sealed bids must be received no later than 12:00 p.m. local time on the 27th of February, 2023, at which time the bids will be opened and read aloud publicly in the office of the City Clerk for the City of Hawesville, Kentucky.

Sealed bid proposals should be sent to the attention of:

Lora Basham, City Clerk,
City of Hawesville, Kentucky,
P.O. Box 157,
Hawesville, Kentucky 42348.

The City of Hawesville reserves the right to accept any bid, to reject any and all bids, to waive any irregularities or informalities in awarding the franchise, and to accept what, in its discretion and judgement, is the best evaluated bid, which is in the best interest of, and is most advantageous to, the City.

OWI G
Fiscal Court at
Executive, 225
Hawesville, KY 42348
22, when they will
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insurance, where ap-

Large Executive's Office
Hawesville, Office hours
1 pm.

City reserves the right to
irregularities in bid and
ed on price reference shall be given
with Kentucky law.

**CONSTRUCTION
ELECTRIC INSTALLATION**
Excavating, Trenching,
General Excavating.
Call 270-927-8202

Septic Tank Pumping & Inspection
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Gary Nugent, Jr.
270-922-6492

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EXHIBIT

D