

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)	CASE NO. 2023-00048
AND NECESSITY TO BID ON A FRANCHISE)	
TO SERVE THE CITY OF WALTON,)	
KENTUCKY)	

APPLICATION

Comes now Duke Energy Kentucky, Inc. (“Duke Energy Kentucky” or “Company”), by counsel, pursuant to KRS 278.020(4), 807 KAR 5:001, Section 15(1), 807 KAR 5:001 Section 14 and other applicable law, and tenders hereby its application for a certificate of public convenience and necessity to apply for and obtain franchises from the city of Walton, in Boone and Kenton County, Kentucky (“Walton”), to provide electricity and natural gas transmission and distribution services, respectfully stating as follows:

1. Duke Energy Kentucky is a Kentucky corporation, originally incorporated on March 20, 1901, that is in good standing and operating as a combined electric and natural gas utility serving approximately 240,000 customers in six Kentucky counties. Duke Energy Kentucky’s business address is 139 East Fourth Street, Cincinnati, Ohio 45202 and its local address is 1262 Cox Road, Erlanger, Kentucky, 41018. The Company’s email address is KyFilings@duke-energy.com. Duke Energy Kentucky held a franchise for the use of the City streets, alleys and public grounds to provide electricity and natural gas

transmission and distribution facilities and services within the territorial limits of Walton. However, that franchise has expired.

2. Duke Energy Kentucky proposes to bid upon a new municipal franchise to place electricity and natural gas transmission and distribution facilities in public streets and places of Walton and to provide related service to Walton. The new franchise will be awarded by the Walton City Council.
3. The Walton City Council has passed Ordinances setting forth the requirements and deadlines for submitting a bid to secure new franchises. Walton has directed that bids shall be received by 12:00 p.m. on April 4, 2023. A copy of each of the Ordinances for the electric and natural gas franchise is attached hereto as Exhibits A and B and incorporated herein by reference. A copy of the Legal Notice that was published by Walton regarding said new franchises is attached hereto as Exhibit C and incorporated herein by reference.
4. As evidenced by the Ordinance, there is, and will continue to be, a demand and need for the facilities and services sought to be rendered by Duke Energy Kentucky pursuant to the franchise.
5. Upon obtaining a franchise from Walton, Duke Energy Kentucky will file a true and correct copy of same with the Commission.

WHEREFORE, on the basis of the foregoing, Duke Energy Kentucky respectfully requests the Commission to approve this application and to issue to Duke Energy Kentucky a certificate of public convenience and necessity authorizing it to apply for and obtain franchises from Walton, as set forth herein.

This the 8th day of February, 2023.

Respectfully Submitted,



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and

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Counsel for Duke Energy Kentucky, Inc.

ORDINANCE 2022-01

AN ORDINANCE OF THE CITY OF WALTON, KENTUCKY, CREATING A NON-EXCLUSIVE FRANCHISE FOR THE ERECTION, LAYING OPERATION AND MAINTENANCE OF ELECTRIC TRANSMISSION AND DISTRIBUTION FACILITIES AND APPURTENANT EQUIPMENT IN, ALONG AND ACROSS THE PUBLIC WAYS, ROADS, STREETS, ALLEYS AND OTHER PUBLIC PLACES IN THE CITY OF WALTON, KENTUCKY: FOR FURNISHING AND SELLING ELECTRICITY BY MEANS OF SAID FACILITIES; AND PROVIDING FOR THE SALE OF SAID FRANCHISE.

WHEREAS, the City of Walton (“City”) wishes to ensure that electricity continues to be available to be furnished to its citizens in a reliable and efficient manner;

WHEREAS, the City is aware that the provision of such service requires the continued use of public streets, ways, alleys and other public places;

WHEREAS, the franchise granted to and acquired by the current franchisee under which it provides such electric service has or will expire;

WHEREAS, the City wishes to provide for the sale of a new franchise for the benefit of its citizenry, giving effect to Section 96.010 of the Kentucky Revised Statutes;

NOW, THEREFORE, BE IT ORDAINED as follows:

SECTION 1: A competitive non-exclusive franchise (“Franchise”) to use the City’s public rights-of-way, public streets, ways, alleys and other public places for the purpose of the erection, laying, operation and maintenance of electric transmission and distribution facilities and appurtenant equipment is hereby created.

SECTION 2: The Franchise created by this Ordinance shall be bid in accordance with the applicable requirements of the Constitution of the Commonwealth of Kentucky and Chapter 424 of the Kentucky Revised Statutes, as well as any applicable City Ordinances.

SECTION 3: The Franchise created by this Ordinance shall be awarded to the highest and best bidder as shall be determined by the City in its sole discretion. In awarding the Franchise, the City shall consider the technical, managerial, and financial qualifications of the bidders to perform their obligations under the Franchise. The winning bidder shall include provisions for the collection of a franchise fee from its customers equal to 0% of the cost of the electricity, to be remitted to the City; and that the City reserves the right to increase the franchise fee at any time upon prior ninety (90) days written notice to the winning bidder. Should the City exercise said right to increase the franchise fee, the City shall receive a monthly payment of up to five percent (5%) of gross receipts per month from the winning bidder's sale of electricity (which includes businesses, industrial facilities and dwellings) inside the City's corporate limits

beginning with the first billing cycle on or after the later of ninety (90) days after the date of the written notice or the effective date of the franchise fee specified in the City's notice.

SECTION 4: The winning bidder and the City shall negotiate, execute and be bound by Franchise Agreements to contain terms that are fair and reasonable to the City, to the purchasers of the Franchise and to the patrons of the utilities, pursuant to KRS Section 96.010. Such Franchise Agreements shall take effect upon execution and according to the terms of the Agreements.

SECTION 5: All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed.

SECTION 6: If any sentence, clause, section or part of this ordinance or the application thereof to any particular situation is, for any reason, found to be unconstitutional, illegal or invalid, the invalidity of any provision of this Ordinance shall not affect the validity of any other provisions hereof, and such other provisions shall remain in full force and effect as long as they remain valid in the absence of that provision determined to be invalid.

SECTION 7: Time is of the essence in carrying out the terms and the provisions of this Ordinance and the Franchise created herein.

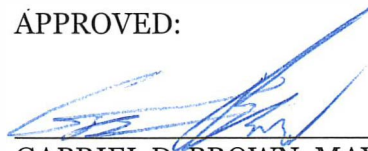
SECTION 8: This Ordinance shall become effective from and after its passage and publication.

SECTION 9: This ordinance may be read and published in summary form.

PASSED AND APPROVED ON FIRST READING BY 5 OF 6 MEMBERS OF CITY COUNCIL ON THE 11th DAY OF January, 2022.

PASSED AND APPROVED ON SECOND READING BY 6 OF 6 MEMBERS OF CITY COUNCIL ON THE 8th DAY OF February, 2022.

APPROVED:


GABRIEL D. BROWN, MAYOR

ATTEST:


GEVANA HICKS, CITY CLERK

DATE OF PUBLICATION: March 3, 2022

ORDINANCE 2022-02

AN ORDINANCE OF THE CITY OF WALTON, KENTUCKY, CREATING A NON-EXCLUSIVE FRANCHISE FOR THE ERECTION, LAYING OPERATION AND MAINTENANCE OF NATURAL GAS TRANSMISSION AND DISTRIBUTION FACILITIES AND APPURTENANT EQUIPMENT IN, ALONG AND ACROSS THE PUBLIC WAYS, ROADS, STREETS, ALLEYS AND OTHER PUBLIC PLACES IN THE CITY OF WALTON, KENTUCKY: FOR FURNISHING AND SELLING NATURAL GAS SERVICES AND PRODUCTS BY MEANS OF SAID FACILITIES; AND PROVIDING FOR THE SALE OF SAID FRANCHISE.

WHEREAS, the City of Walton (“City”) wishes to ensure that natural gas service continues to be available to be furnished to its citizens in a reliable and efficient manner;

WHEREAS, the City is aware that the provision of such service requires the continued use of public streets, ways, alleys and other public places;

WHEREAS, the franchise granted to and acquired by the current franchisee under which it provides such natural gas service has or will expire;

WHEREAS, the City wishes to provide for the sale of a new franchise for the benefit of its citizenry, giving effect to Section 96.010 of the Kentucky Revised Statutes;

NOW, THEREFORE, BE IT ORDAINED as follows:

SECTION 1: A competitive non-exclusive franchise (“Franchise”) to use the City’s public rights-of-way, public streets, ways, alleys and other public places for the purpose of the erection, laying, operation and maintenance of natural gas transmission and distribution facilities and appurtenant equipment is hereby created.

SECTION 2: The Franchise created by this Ordinance shall be bid in accordance with the applicable requirements of the Constitution of the Commonwealth of Kentucky and Chapter 424 of the Kentucky Revised Statutes, as well as any applicable City Ordinances.

SECTION 3: The Franchise created by this Ordinance shall be awarded to the highest and best bidder as shall be determined by the City in its sole discretion. In awarding the Franchise, the City shall consider the technical, managerial, and financial qualifications of the bidders to perform their obligations under the Franchise. The winning bidder shall include provisions for the collection of a franchise fee from its customers equal to zero percent (0%) of the cost of the gas, to be remitted to the city, and that the City reserves the right to increase the franchise fee at any time upon prior ninety (90) days written notice to the winning bidder. Should the City exercise said right to increase the franchise fee, the City shall receive a monthly payment of up to five percent (5%) of gross receipts per month from the winning bidder’s sale of natural gas (which includes businesses, industrial facilities and dwellings) inside the City’s corporate

limits beginning with the first billing cycle on or after the later of ninety (90) days after the date of the written notice or the effective date of the franchise fee specified in the City's notice.

SECTION 4: The winning bidder and the City shall negotiate, execute and be bound by Franchise Agreements to contain terms that are fair and reasonable to the City, to the purchasers of the Franchise and to the patrons of the utilities, pursuant to KRS Section 96.010. Such Franchise Agreements shall take effect upon execution and according to the terms of the Agreements.

SECTION 5: All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed.

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SECTION 7: Time is of the essence in carrying out the terms and the provisions of this Ordinance and the Franchise created herein.

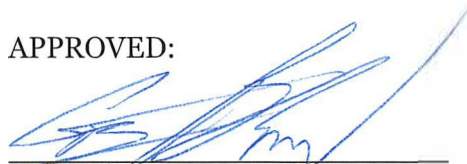
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APPROVED:


GABRIEL D. BROWN, MAYOR

ATTEST:


GEVANA HICKS, CITY CLERK

DATE OF PUBLICATION: March 3, 2022



Advertiser:

CITY OF WALTON
40 N MAIN ST

WALTON KY 41094

**LEGAL NOTICE
ATTACHED**

This is not an invoice
Account #: CIN-342532
Total Cost of the Ad \$27.28
Last Run Date: 03/03/2022

of Affidavits 1

AFFIDAVIT OF PUBLICATION

Newspaper: CIN-CR KY Boone Enq Bundle

State of Wisconsin

RE: Order # 0005147963

I, Nicole Jacobs
of the The Enquirer, a newspaper printed in Cincinnati, Ohio and published in Cincinnati, in said County and State, and of general circulation in said county, and as to the Kentucky Enquirer published in Ft. Mitchell, Kenton County, Kentucky, who being duly sworn, depose and saith that the advertisement of which the annexed is a true copy, has been published in the said newspaper times, once in each issue dated as follows:

03/03/2022

**CITY OF WALTON
NOTICE OF INTERNET WEBSITE
PUBLICATION
ORDINANCES ADOPTION
LEGAL AD**

On February 8, 2022, the City of Walton adopted the following Ordinances: Ordinance 2022-01 to adopt an Electric Franchise for the City; and Ordinance 2022-02 to adopt a Gas Franchise for the City. You may read the full Ordinances on the City's website at: <https://cityofwalton.org>. The public has the right to inspect and obtain a copy of any document associated with the posting by contacting the Walton City Clerk at 40 N. Main St., Walton, KY 41094, telephone # 859-485-4383. This advertisement was paid for by the City of Walton, Kentucky, using taxpayer dollars in the amount of \$ 27.28. /s/Gevana Hicks
Gevana Hicks, City Clerk
BCR, March 3, '22# 5147963

Nicole Jacobs
Subscribed and sworn to before me this
3th day of March, 2022

Nancy Heyrman
Notary Public

5.15.23

Commission expires

**NANCY HEYRMAN
Notary Public
State of Wisconsin**

EXHIBIT C

