

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION OF KENTUCKY

In the Matter of:

Electronic Application Of Kentucky Power Company)
For A Certificate of Public Convenience And)
Necessity Authorizing The Applicant To Apply For) Case No. 2023-00136
And Obtain A Franchise From The City Of Martin In)
Floyd County, Kentucky)

APPLICATION

Kentucky Power Company applies to the Public Service Commission of Kentucky pursuant to KRS 278.020(4) and 807 KAR 5:001, Section 15(1) for an Order **to be issued on or before July 20, 2023** for a Certificate of Public Convenience and Necessity authorizing the Company to apply for and obtain a franchise to use the streets and rights-of-way of the City of Martin, located in Floyd County, Kentucky, for the provision of retail electric service, and in support thereof states:

APPLICANT

1. Kentucky Power was incorporated in 1919 under the laws of the Commonwealth of Kentucky and is in good standing in the Commonwealth.¹ The Company's mailing address is 1645 Winchester Avenue, Ashland, Kentucky 41101. Its electronic mail address is kentucky_regulatory_services@aep.com. Kentucky Power is engaged in the generation, purchase, transmission, distribution and sale of electric power.

¹ A certified copy of the Company's Articles of Incorporation and all amendments thereto was attached to the Joint Application in *In the Matter Of: The Joint Application Of Kentucky Power Company, American Electric Power Company, Inc. And Central And South West Corporation Regarding A Proposed Merger*, P.S.C. Case No. 99-149. The Company's May 25, 2023 Certificate of Existence is attached as **EXHIBIT 1**.

2. The Company serves approximately 163,000 retail customers in the following 20 counties of eastern Kentucky: Boyd, Breathitt, Carter, Clay, Elliott, Floyd, Johnson, Knott, Lawrence, Leslie, Letcher, Lewis, Magoffin, Martin, Morgan, Owsley, Perry, Pike, and Rowan. In addition, the Company also supplies electric power at wholesale to other utilities and municipalities in Kentucky for resale. Kentucky Power is a utility as that term is defined at KRS 278.010.

Public Convenience And Necessity

3. The Company currently is rendering, and for a number of years has been rendering, retail electric service in and to the City of Martin in Floyd County, Kentucky.

4. The provision of retail electric service in and to the City of Martin requires that Kentucky Power place its facilities on, under, above, and along the streets, alleys, public grounds, and rights of way, or otherwise make use of the streets, alleys, public grounds, and rights of way, of the City of Martin.

5. The public convenience and necessity requires that Kentucky Power continue to provide retail electric service to and in the City of Martin. The City of Martin lies within the certified territory of Kentucky Power, as that term is defined in Chapter 278 of the Kentucky Revised Statutes, and such as Kentucky Power possesses the exclusive right to provide retail electric service in and to the City of Martin. KRS 278.018(1).

6. Kentucky Power's existing franchise to place its facilities on, under, above, and along the streets, alleys, public grounds, and rights of way, or otherwise make use of the streets,

alleys, public grounds, and rights of way, of the City of Martin for the purpose of providing retail electric service expired April 21, 2023.

7. The Company desires to bid for a franchise to use the streets, alleys, public grounds, and rights of way of the City of Martin for the provision of retail electric service to and in the City of Martin. Kentucky Power respectfully requests the Commission issue its Order on or before July 20, 2023 granting the Company a certificate of public convenience and necessity so that it may bid for the required franchise on July 24, 2023.

8. A copy of the ordinance providing for the advertisement and sale of the City of Martin franchise is attached hereto as **EXHIBIT 2**.

9. Upon information and belief, the advertisement to receive bids on the City of Martin franchise is expected to be published in a newspaper of general circulation in Floyd County in mid-July, 2023. Kentucky Power will supplement the record with a copy of the advertisement as soon as is practicable after it has been published.

10. If successful in obtaining a franchise from the City of Martin, Kentucky Power will file a copy of the franchise with the Commission using the Commission's electronic tariff filing system.

Communications

11. Kentucky Power respectfully requests that communications in this matter be delivered to:

Katie M. Glass
Stites & Harbison PLLC
kglass@stites.com

Hector Garcia Santana
hgarcia1@aep.com

Kentucky Power Company
Kentucky_regulatory_services@aep.com

Kentucky Power and the persons indicated above possess the facilities to receive electronic transmissions. Kentucky Power waives service by United States mail.

WHEREFORE, Kentucky Power Company respectfully requests that the Public Service Commission of Kentucky issue an Order on or before July 20, 2023:

(a) Granting the Company a certificate of public convenience and necessity authorizing Kentucky Power to bid upon and obtain a franchise from the City of Martin, Floyd County, Kentucky to use the streets, alleys, public grounds and rights of way to provide retail electric service in the city; and

(b) Granting the Company all further relief to which it may appear entitled.

Respectfully submitted,



Katie M. Glass
STITES & HARBISON PLLC
421 West Main Street
P.O. Box 634
Frankfort, Kentucky 40602-0634
Telephone: (502) 223-3477
kglass@stites.com

COUNSEL FOR
KENTUCKY POWER COMPANY

Exhibit 1

Commonwealth of Kentucky
Michael G. Adams, Secretary of State

Michael G. Adams
Secretary of State
P. O. Box 718
Frankfort, KY 40602-0718
(502) 564-3490
<http://www.sos.ky.gov>

Certificate of Existence

Authentication number: 291736

Visit <https://web.sos.ky.gov/ftshow/certvalidate.aspx> to authenticate this certificate.

I, Michael G. Adams, Secretary of State of the Commonwealth of Kentucky, do hereby certify that according to the records in the Office of the Secretary of State,

KENTUCKY POWER COMPANY

is a corporation duly incorporated and existing under KRS Chapter 14A and KRS Chapter 271B, whose date of incorporation is July 21, 1919 and whose period of duration is perpetual.

I further certify that all fees and penalties owed to the Secretary of State have been paid; that Articles of Dissolution have not been filed; and that the most recent annual report required by KRS 14A.6-010 has been delivered to the Secretary of State.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Official Seal at Frankfort, Kentucky, this 25th day of May, 2023, in the 231st year of the Commonwealth.



Michael G. Adams

Michael G. Adams
Secretary of State
Commonwealth of Kentucky
291736/0028317

Exhibit 2

ORDINANCE NO. 01, 2023

An Ordinance of the City Council of the City of Martin, Kentucky, Providing for the Advertisement and Sale of a Franchise Authorizing the Owner Thereof to Own, Maintain, Construct and Operate Electric Power Transmission and Distribution Lines Upon, Along, Over and Under the Streets, Thoroughfares, Alleys, Sidewalks, Bridges, Public Ways and Other Public Places of the Said City.

WHEREAS, the City of Martin, Floyd County, Kentucky is incorporated under the provisions of the Kentucky Revised Statutes, and desires to grant a franchise for an electric power company to own, maintain, construct and operate its electric power transmission and distribution lines upon, along, over and under the streets, thoroughfares, alleys, sidewalks, bridges, public ways and other public places of the City of Martin, Floyd County, Kentucky, and

WHEREAS, there exists a public necessity for adequate service of electric power and energy to the citizens of the City of Martin, Floyd County, Kentucky, and

WHEREAS, it appears that it is in the interest of the public that a franchise be advertised and sold, granting and entitling the grantee to use the streets, thoroughfares, alleys, sidewalks, bridges, public ways and public places for the erection, operation and maintenance of lines for the transmission and distribution of electric power to the citizens of the City of Martin, Floyd County, Kentucky, and to persons, firms and corporations beyond the limits of the City of Martin, Floyd County, Kentucky.

**BE IT ORDAINED BY THE CITY OF Martin, Floyd County,
KENTUCKY, AS FOLLOWS:**

SECTION 1

That there be sold at public auction to the highest and best bidder, 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 Martin, Floyd County, Kentucky, lines, poles and equipment for the 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 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 the Ordinance granting the franchise.

SECTION 4

The grantee of this franchise shall save the City harmless from any and all liability arising in any way from negligence 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 Martin 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

Whenever in this franchise either the City of Martin 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 by the successful bidder 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 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 City Clerk for the City of Martin, Floyd County, Kentucky, is hereby appointed Special Commissioner, to sell said franchise, privilege, right and authority hereby ordered sold subject to the approval of the City Council, and said Special Commissioner is directed to offer said franchise for public sale to the highest bidder on the 24th day of July, 2023, at 1:00 .m. at the front door of the Martin City Building, at 1 Randy Caudill Memorial Loop, Martin, Kentucky, after she has advertised the date, time, terms, conditions and place of sale, pursuant to law, by inserting a notice of sale in *The Floyd Chronicle & Times*, Prestonsburg, Kentucky, a newspaper of general circulation in Martin, Floyd County, Kentucky, one time, which shall be not less than seven (7) days nor more than twenty-one (21) days prior to the date of said sale, said advertisement to include this Ordinance or a summary thereof.

SECTION 10

Bids and proposals for the purchase and acquisition of the franchise, privilege, right and authority hereby granted shall be in writing and shall be delivered to the Special

Commissioner upon the date and at the time fixed by the Special Commissioner in said advertising for receiving bids. Thereafter, the Special Commissioner shall report and submit to the City Council at the time and place of its next regular meeting said bids and proposals for its approval, and said City Council reserves the right for and on behalf of the City of Martin to refuse any and all bids for said franchise, privilege, right and authority. In the event the bids reported by the Special Commissioner shall be refused by the said City Council, it may direct, by resolution or ordinance, said franchise, privilege, right and authority to be again offered for sale from time to time until a satisfactory bid therefor shall be received and approved. Each bid shall be accompanied by a deposit and each bidder shall post bond in accordance with the provisions and requirements of KRS 96.020. However, such deposit and bond need not be made by a corporation or person already owning, in or adjacent to the City of Martin, Floyd County, Kentucky, a plant and equipment sufficient to render the service required by this Ordinance.

SECTION 11

Each bidder for said franchise, privilege, right and authority shall file, as a part of its bid, a certified copy of a Certificate of Convenience and Necessity from the Public Service Council of Kentucky, issued under the authority of KRS 278.020.

SECTION 12

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

APPROVED, this 23rd day of May, 2023.

Samuel Howell
Samuel Howell, Mayor

ATTEST:

Lisa McCoy
Lisa McCoy, Clerk

Introduction and First Reading: March 28, 2023

Second Reading: May 23, 2023