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June 18, 2012

RECEIVED

JUN 18 2012

PUBLIC SERVICE
COMMISSION

Mr. Jeff Derouen
Kentucky Public Service Commission
211 Sower Boulevard
P.O. Box 615
Frankfort, KY 40602

Re: Blue Grass Energy
Application for Certificate of
Convenience & Necessity

Dear Mr. Derouen:

Enclosed are original and 10 copies of the application of Blue Grass Energy for a certificate of convenience and necessity to bid on the electrical franchise of Lexington Fayette Urban Government. This application is similar to Case No. 2011-00237 (copy of the order in that case is attached).

The bid time is July 2, 2012 at 2:00 P.M. Approval **BEFORE** that time would be appreciated.

Yours truly,



Howard Downing, Attorney
Blue Grass Energy Cooperative Corporation

**BEFORE THE
PUBLIC SERVICE COMMISSION OF KENTUCKY**

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PUBLIC SERVICE
COMMISSION

**IN THE MATTER OF THE APPLICATION)
OF BLUE GRASS ENERGY COOPERATIVE)
CORPORATION FOR A CERTIFICATE OF)
CONVENIENCE AND NECESSITY TO APPLY)
FOR AND OBTAIN A FRANCHISE IN THE)
TERRITORIAL LIMITS OF)
LEXINGTON - FAYETTE URBAN COUNTY)
GOVERNMENT OF FAYETTE COUNTY)
KENTUCKY FOR ELECTRIC UTILITY SERVICE)**

CASE NO. 2012-_____

Applicant, Blue Grass Energy Cooperative Corporation, respectfully submits the following application pursuant to KRS 278.020 (3) and 807 KAR Chapter 5, as follows:

1. That applicant is an electric cooperative engaging in the business of retail electric service in portions of the City of Lexington and Fayette County, Kentucky and other areas in Kentucky with mailing address being P.O. Box 990, 1201 Lexington Road, Nicholasville, Kentucky 40340-0990.

2. That the articles of consolidation of applicant have been previously filed with the Public Service Commission of Kentucky and is incorporated by reference herein and by reference to previous application of applicant in case no. 2002-00351 (Kentucky PSC).

3. That the name of the governmental agency offering the franchise is the Lexington - Fayette Urban County Government of Lexington, Fayette County, Kentucky. A copy of the proposed franchise ordinance is attached as Exhibit A and incorporated by reference herein. Bids are due July 2, 2012. Applicant received an e-mail from Hon. David Barberie stating the franchise will be given

a second reading on June 21, 2012, advertised in the Lexington Herald Leader on June 22, 2012 with bid response date of Monday, July 2, 2012.

4. That the franchise offered for bid is for electric service within the territorial area now served by applicant within the limits of Lexington - Fayette Urban County Government in Fayette County, Kentucky. The need and demand exists for retail electric service in the franchise area.

5. That applicant has certified territory pursuant to KRS 278.017 which is located within the boundary of Lexington - Fayette Urban County Government in Fayette County, Kentucky and which territory applicant is currently providing retail electric service to any and all customers who require electric energy. The map or maps of the certified territory of applicant are filed with the Public Service Commission as required by KRS 278.017. The need and demand for retail electric service exists in the franchised area because applicant has provided retail electric service to existing consumers for many years and will provide retail service for new development within the certified territory of applicant in Fayette County, Kentucky.


6. That the franchise ordinance permits Lexington - Fayette Urban County Government to assess a franchise fee of at least 3% of the gross annual revenues received by the applicant from electric service provided within Fayette County, Kentucky.

7. That applicant desires to apply for, bid and obtain the hereinbefore mentioned franchise for its duly certified territory conditioned upon this Commission issuing a certificate of convenience and necessity showing there is a demand and need for the electric service sought to be rendered pursuant to KRS 278.020(3).

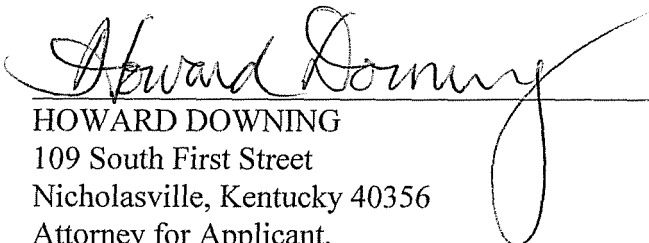
WHEREFORE, applicant, Blue Grass Energy Cooperative Corporation, respectfully requests that the Public Service Commission of Kentucky grant a certificate of convenience and

necessity authorizing this applicant to apply for and obtain the electric utility franchise for the territory in Fayette County, Kentucky and a determination that there is a demand and need for the electric service sought to rendered. This certificate is requested before the bid due date of July 2, 2012.

DATED: June 18, 2012.



DONALD SMOTHERS - VICE PRESIDENT
BLUE GRASS ENERGY COOPERATIVE CORPORATION
P.O. Box 990
Nicholasville, Kentucky 40340-0990



HOWARD DOWNING
109 South First Street
Nicholasville, Kentucky 40356
Attorney for Applicant,
Blue Grass Energy Cooperative Corporation

ORDINANCE NO. ____-2012

AN ORDINANCE CREATING AND ESTABLISHING FOR BID A NON-EXCLUSIVE ELECTRIC FRANCHISE FOR THE PLACEMENT OF FACILITIES FOR THE TRANSMISSION, DISTRIBUTION AND SALE OF ELECTRICAL ENERGY WITHIN THE PUBLIC RIGHTS-OF-WAY OF FAYETTE COUNTY FOR A THREE (3) MONTH DURATION, WITH ADDITIONAL EXTENSIONS OF TIME NOT TO EXCEED SIX (6) MONTHS IF A LONG TERM FRANCHISE IS NOT OFFERED PRIOR TO EXPIRATION, IN RETURN FOR PAYMENT TO THE URBAN COUNTY GOVERNMENT OF THE SUM OF AT LEAST THREE PERCENT (3%) OF EACH FRANCHISEE'S GROSS ANNUAL REVENUES RECEIVED FROM ELECTRIC SERVICE PROVIDED WITHIN FAYETTE COUNTY; AND FURTHER PROVIDING FOR COMPLIANCE WITH RELEVANT LAWS, REGULATIONS AND STANDARDS; A PERFORMANCE BOND; INDEMNIFICATION; INSURANCE; ACCESS TO PROPERTY AND INSPECTIONS; REPORTING; AUDITS; NOTICE OF FILINGS WITH THE PUBLIC SERVICE COMMISSION; CANCELLATION OR TERMINATION; PENALTIES FOR VIOLATIONS; AND BID REQUIREMENTS; ALL EFFECTIVE ON DATE OF PASSAGE.

BE IT ORDAINED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 - There is hereby created a non-exclusive franchise to acquire, lay, maintain and operate in the public streets, alleys, avenues, public roads, highways, sidewalks and other public ways of the Lexington-Fayette Urban County Government, a system or works for the generation, transmission and distribution of electrical energy from points either within or without the corporate limits of this Urban County, to this Urban County and the inhabitants thereof, and from and through this Urban County to persons, corporations and municipalities beyond the limits thereof, and for the sale of same for light, heat, power and other purposes; to erect and maintain poles or other structures, wires and other apparatus necessary for the operation of said system in, upon, over, under, across and along each and all of the streets, avenues, alleys, rights-of-way and public places (not including parks, greenways, and other public areas not traditionally used for public egress) within the present and future corporate limits of this Urban County (the "Rights-of-way"), subject to all the provisions of this Ordinance. This Ordinance does not excuse the franchisee from complying with any and all existing and future local laws and ordinances, as may be amended, including but not limited to the terms and provisions of Chapters 17, 17B, and 17C of the Code of Ordinances, Lexington-Fayette Urban County Government (the "Code"), or the provisions of its zoning ordinance, if applicable, which are incorporated herein by reference, and shall apply as if fully set forth herein to the extent that there is no express conflict with the terms or provisions of this Ordinance, or a direct conflict with federal or state law. This franchise does not include the right or privilege to

(d) In the construction or reconstruction or maintenance or removal of any of said Facilities, the Company shall have due regard for the rights of the Government and others, and shall not unduly interfere with, or in any way damage the property of the Government or others under, on, or above the ground. The Company shall comply with all the laws of the Commonwealth of Kentucky and ordinances of the Government as to placing lights, danger signals or warning signs and shall be liable for any and all damage that may arise by reason of its failure or neglect to comply with such ordinances and laws. Work by the Company hereunder shall be done in a workmanlike manner and so as not to unnecessarily interfere with public use of the Rights-of-way.

(e) The minimum clearance of wires and cables above the Rights-of-way and the placement of any underground facilities shall conform to accepted good engineering practices or national standards as recognized by the Kentucky Public Service Commission.

Section 5 – The Company shall comply with all of the requirements of the Code, and more specifically, Section 17C-19 of the Code and the provisions of the zoning ordinance, if applicable pertaining to Government construction and/or street projects.

Section 6 – In addition to any performance bond(s) required pursuant to Section 17C-23 of the Code, the Company may be required to provide a performance guarantee for significant projects with construction costs of one hundred thousand (\$100,000.00) or more involving the Rights-of-way. This performance guarantee shall be set in an amount and duration to be determined by the Director upon discussing and verifying the scope of such a project with the Company, and shall be in favor of the Government to be issued by an entity subject to jurisdiction and venue in Fayette County, Kentucky. In no event shall the total cumulative amount of such performance guarantee exceed two hundred thousand dollars (\$200,000.00).

Section 7 – As consideration for the granting of this franchise, the Company agrees it shall defend, indemnify, and hold harmless the Government consistent with the indemnification and hold harmless provisions as set forth in Section 17C-17 of the Code, or as it may be amended in the future. This obligation to defend, indemnify, and hold harmless does not include defending, indemnifying and holding harmless the Government for its own negligent acts.

(1) year. In the event that the Government determines that it desires an audit of this franchise, the Company agrees to comply with all reasonable requests of the Government pertaining to obtaining any necessary information or documentation from the Company. If such audit or review is performed in connection with the granting or renewal of a franchise, a sale or transfer of control, or a modification, the Company shall reimburse the Government for all of the reasonable costs associated with the audit or review including all out-of-pocket costs for attorneys, accountants and other consultants. Any additional amount due to the Government as a result of the Government's audit shall be paid within ten (10) days following written notice to the Company by the Government which notice shall include a copy of the audit report.

(b) The Company agrees further to furnish the Mayor or his designee timely written notice of its filing an application with the Public Service Commission for an increase in general base rates concurrent with said filing. Should the Government choose to intervene in such Commission action, the Company shall not oppose such intervention, and the Government shall be given access to records related to said application, as required by the Commission.

(c) The Company agrees to provide Government and/or it's Council with information pertaining to its provision of services pursuant to this franchise upon reasonable request. This may include, but is not necessarily limited to attending public meeting(s) involving some or all of the Council in order to provide such information upon reasonable advance notice.

Section 11 - (a) The franchise hereby created is being offered to allow the Government to complete audits of its incumbent franchisees and draft a longer-term franchise to be offered for bid, and shall be for a period of three (3) months from the date of acceptance by the Urban County Council, with the option on the part of the Government to extend the period of time up to two additional periods of three (3) months each as necessary in order to accommodate the above. Any franchise agreement entered into pursuant to this ordinance will automatically expire upon the offering and acceptance of a longer-term franchise of the same nature.

(b) This franchise is not exclusive and the Government reserves the right to grant similar franchises to more than one Company.

day or part thereof that the violation continues. However, this provision shall not apply if interest is assessed by the Government pursuant to Section 19(c).

(b) If the Company fails to comply within thirty (30) days of any Council resolution directing compliance with any other provisions of this Ordinance, the Company shall forfeit one hundred dollars (\$100.00) per day or part thereof that the violation continues. The decision of the Council may be appealed to a court of competent jurisdiction.

(c) The Company shall not be excused from complying with any of the terms and conditions of this Ordinance by any failure of the Government, upon any one or more occasions, to insist upon the Company's performance or to seek the Company's compliance with any one or more of such terms or conditions. Payment of penalties shall not excuse non-performance under this Ordinance. The right of the Government to seek and collect penalties as set forth in this section is in addition to its right to terminate and cancel as set forth in Section 14 of this Ordinance.

Section 13 – The Government reserves all rights it might presently have, or which it may hereafter acquire, to regulate the Company's rates and services. The parties acknowledge the general regulatory authority that the Kentucky Public Service Commission has been provided in this area. The rights of all subscribers are defined by the Customer Bill of Rights, which is contained in the Company's tariffs. The Company will abide by any all Commission orders and/or tariffs pertaining to service and operations in Fayette County. As further consideration for the granting of this franchise, the Company shall work with the Government to improve the identification and replacement or repair of nonfunctioning street lights.

Section 14 - (a) In addition to all other rights and powers pertaining to the Government by virtue of the franchise or otherwise, the Government, by and through its Council, reserves the right to terminate and cancel the franchise and all rights and privileges of the Company hereunder in the event that the Company:

(1) Willfully violates any material provision of the franchise or any material rule, order, or determination of the Government made pursuant to the franchise, except where such violation is without fault or through excusable neglect;

(4) If the Council determines such violation by the Company was without just cause, then the Council may, by resolution, declare that the franchise of the Company shall be terminated and forfeited unless there is compliance by the Company within such period as the Council may fix.

Section 15 -- The Council shall have the right to cancel this franchise thirty (30) days after the appointment of a receiver, or trustee, to take over and conduct the business of the Company, whether in receivership, reorganization, bankruptcy, or other action or proceeding, unless such receivership or trusteeship shall have been vacated prior to the expiration of said thirty (30) days, unless:

(a) Within thirty (30) days after his election of appointment, such receiver or trustee shall have fully complied with all the provisions of this Ordinance and remedied all defaults thereunder; and,

(b) Such receiver or trustee, within said thirty (30) days shall have executed an agreement, duly approved by the court having jurisdiction in the premises, whereby such receiver or trustee assumes and agrees to be bound by each and every provision of this Ordinance and the franchise granted to the Company.

Section 16 - It shall be the duty of the Mayor or his designee to offer for sale at public auction said franchise and privilege. Said franchise and privilege shall be sold to the highest and best bidder or bidders at a time and place fixed by the Mayor after he or she has given due notice thereof by publication or advertisement as required by law.

Section 17 -- Bids and proposals for the purchase and acquisition of the franchise and privileges hereby created shall be in writing and shall be delivered to the Mayor or his designee upon the date(s) and at the times(s) fixed by him or her in said publication(s) or advertisement(s) for receiving same. Thereafter, the Mayor shall report and submit to the Urban County Council, at the time of its next regular meeting or as soon as practicable thereafter, said bids and proposals for its approval. The Urban County Council reserves the right, for and on behalf of the Government, to reject any and all bids for said franchise and privileges; and, in case the bids reported by the Mayor shall be rejected by the Urban County Council, it may direct, by resolution or ordinance, said franchise and privilege to be again offered for sale, from time to time, until a satisfactory bid therefore shall be received and approved.

Kentucky Public Service Commission. The Company shall file all documents necessary for approval of this franchise agreement and/or its associated fees with the Kentucky Public Service Commission within ten (10) working days after the acceptance of the franchise by the Government, and shall provide the Government with copies of any such filed documents. The Company is otherwise required to continue submitting payments to the Government under the terms of its existing tariff and/or franchise until such time as this tariff approval is obtained.

(b) As further consideration for the granting of this franchise, the Company shall work with the Government to provide of redundant power feeds/lines sufficient to meet operational needs from separate power substations to all Government facilities housing security, communications, and or information technology services.

(c) As further consideration for the granting of this franchise, the Company shall permit the Government to utilize its pole, conduit, or raceway space at no charge when such space is vacant or available for public safety or governmental purposes. If such space is not available, then the Company shall make such space available on the most favorable terms extended to any other customer. This provision shall not supersede any existing or future agreement that the Government has with the Company pertaining to the use of the Company's space.

(d) If, after a period of sixty (60) days from the filing of Company's application or tariff, the Kentucky Public Service Commission has made no final determination concerning the prompt and satisfactory recovery of amounts payable under this Section by the Company, then the Company's obligation to pay the amount specified in Section 18(a) shall be suspended, provided the Company shall first give the Government ten (10) days written notice of its intention to suspend payment pending the decision of the said Commission. In the event of suspension of the Company's obligation as herein provided, the Government shall have the option to terminate this franchise within thirty (30) days of receipt of said written notification from the Company. Notwithstanding the above, any Company that had a previously existing franchise with the Government shall continue to pay the fees established pursuant to its previous franchise until the amounts payable issue is resolved.

gross income received by the Company during any such suspension period shall be excluded from the Company's annual gross revenues for the purpose of calculating amounts due under Section 18(a) herein.

(b) No acceptance of any franchise fee payment by the Government shall be construed as an accord and satisfaction that the amount paid is in fact the correct amount nor shall acceptance be deemed a release to any claim the Government may have for future or additional sums pursuant to this Ordinance. Any additional amount due to the Government as a result of the Government's audit pursuant to Section 10(a) shall be paid within ten (10) days following written notice to the Company by the Government which notice shall include a copy of the audit report. If as a result of such audit or review the Government determines that the Company has underpaid its franchise fee by five percent (5%) or more for any payment period then in addition to making full payment of the relevant obligation, the Company shall reimburse the Government for all of the reasonable costs associated with the audit or review, including all out-of-pocket costs for attorneys, accountants and other consultants.

(c) In the event that any franchise payment or recomputed amount is not made on or before the applicable dates heretofore specified, interest shall be charged from such date at the annual rate of eight percent (8%). Overpayments discovered by the Government or the Company shall be an adjustment on the next monthly payment without interest.

Section 20 – Bids offered for purchase of this franchise shall state the bidder's acceptance of the conditions set forth in this Ordinance. If any bid shall include an offer of payment over and above the terms of the franchise, then a certified check for said amount, payable to the Lexington-Fayette Urban County Government, shall be deposited with the Government. This amount shall be in addition to the provision for payments contained in Sections 18 and 19, which shall be considered as a condition of this franchise. Any check deposited by an unsuccessful bidder shall be returned when the Urban County Council shall have accepted the bid or bids, which in its judgment is or are the highest and best.

Section 21 – Any violation by the Company, its vendee, Lessee, or successor of the material provisions of this franchise or any material portions thereof, or the failure

MAYOR

ATTEST:

CLERK OF URBAN COUNTY COUNCIL

PUBLISHED:

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