

ORDINANCE NO 09-011

AN ORDINANCE RELATING TO THE GRANTING OF A FRANCHISE FOR THE PROVISION OF ELECTRICAL SERVICE WITHIN THE CITY LIMITS OF THE CITY OF GEORGETOWN

WHEREAS, the State Constitution provides the authority for City to grant franchises for the use of a city's streets and rights-of-way of the City of Georgetown and the provisions of electrical service to the City requires the use of streets and rights-of-way otherwise envisioned by the framers of the Constitution as requiring a franchise; and

WHEREAS, the terms under which the utilities can provide electrical service within the City are mandated by the Public Service Commission, limiting the scope of the terms upon which the City can grant a franchise for the provision of electrical service. An advertisement offering the grant of a franchise for that service was published and responsive bids received.

WHEREAS, certain parties are desirous of obtaining a franchise for the right to use certain of the streets, alleys and public grounds in this City for the construction, maintenance and operation, as hereinafter described, of facilities for use in the transmission and distribution of electrical energy in certain parts of this City; and

WHEREAS, it is the opinion of this body that it is to the best interest of this City that such franchise be advertised, sold, and granted according to law;

THEREFORE, BE IT RESOLVED that such franchise be, and the same is, hereby defined and the terms and conditions upon which same is to be granted and enjoyed are specified, all as set forth in the Ordinance introduced herewith; that the City Clerk be, and is hereby, authorized and directed to offer said franchise for sale at public outcry to the highest and best eligible bidder under the terms of KRS 278.016, 278.017, and 278.018 and related statutes (hereinafter called "best eligible bidder") in accordance with the terms and conditions set forth in



said franchise; and that the City Clerk, after having advertised for sale and sold said franchise be, and is, hereby directed to report this action to a subsequent meeting of this body.

NOW THEREFORE BE IT ENACTED BY THE CITY OF GEORGETOWN CITY COUNCIL AS FOLLOWS:

SECTION 1. That _____, the purchaser and grantee of this franchise, his or its legal representatives, successors, and assigns, hereinafter called the "purchaser", be, and is, subject to the conditions hereinafter contained, hereby authorized and empowered to acquire, purchase, construct, maintain and operate in and through this City, a system or works for the generation, distribution and transmission of electrical energy from points either within or without the corporate limits of this City, to this City and the inhabitants thereof, and from and through this City 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, wires and other apparatus necessary or convenient for the operation of said system in, upon, across and along each and all of the streets, avenues, alleys and public places, within the present and future corporate limits of this City; to have and hold, as by law authorized, any and all real estate, easements, water and other rights necessary or convenient for said purpose; to use any and all such streets, avenues, alleys and public places while constructing or operating said electric system or works; and to cross any and all streets and streams in this City for the purpose of constructing, maintaining or extending such poles, wires and other apparatus as may be necessary or convenient for the proper distribution of electric energy in and through this City. If, after any pole has once been erected, the City Council shall order the removal of said pole to another location, the City shall pay the cost of making such relocation, unless due to widening, regrading or reconstruction of the street or highway, in which case the purchaser will relocate at its expense. In any extensions of the present distribution system, additional poles shall be placed under the supervision of the City Council.

SECTION 2. The purchaser shall indemnify, and save harmless the City from any and all damages, judgments, decrees, costs and expenses, including a reasonable attorney's fee, which the City may legally suffer or incur or which maybe legally obtained against the City for or by reason of the use and occupation of any street, avenue, alley, or other public place in the City by the purchaser, pursuant to the terms of this franchise, or legally resulting from the exercise by the purchaser of any of the privileges herein granted; and, if any claim shall be made or suit brought against the City for damages alleged to have been sustained by reason of the occupation of any street, avenue, alley or public place or the exercise of any privileges herein granted, by the purchaser, the City shall immediately notify the purchaser in writing thereof, and the purchaser is hereby given the right and privilege to defend or assist in defending such suit, in the name of the City.

SECTION 3. The purchaser may furnish electricity for light, heat, power and any other purpose to any person or persons residing along or near the aforesaid streets, avenues, alleys and public places, and may make such lawful contracts for the use thereof as may be agreed upon between the purchaser and the said person or persons.



SECTION 4. The purchaser shall extend its electric light or power lines and install additional equipment whenever there is assured to it from additional business to be derived therefrom a reasonable return upon the investment required to install such extension.

SECTION 5. The purchaser shall have the right to make and enforce reasonable rules and regulations necessary to the proper conduct of its business and protection of its property.

SECTION 6. The purchaser shall have the right to charge for electrical energy supplied within the City, rates that are reasonable and that are subject to regulation by the Public Service Commission of Kentucky.

SECTION 7. This franchise and all rights and privileges granted hereunder shall be in full force and effect until September 17, 2017.

SECTION 8. This franchise may be transferred by the purchaser and the word "purchaser" whenever used in this franchise shall include and be taken to mean and apply also to all successors and assigns of the purchaser.

SECTION 9. As additional consideration for the grant of this franchise, the purchaser will pay to the City a Sum equal to 3% of the gross revenue received by the purchaser, on or after January 1, 1960, or on and after the date when the grant of this franchise becomes effective, whichever is later, from electric service rendered within the corporate limits of the City to customers supplied under residential and commercial revenue classifications, as now defined in the Company's system of accounts and reported to the Public Service Commission of Kentucky. The amount payable to the City for each full calendar year during which this franchise is in effect, shall be computed on the basis of revenues received between January 1st and December 31st of such year, and payments shall be made quarterly on or before April 1st, July 1st, October 1st, and January 1st; the amount which may be payable to the City for a portion of a calendar year at the commencement or termination of the term of this franchise shall be computed on the basis of revenues received during such portion of a calendar year, and shall be payable not more than 60 days after the termination of the period for which payment is made. Should any license tax, occupational tax or any other tax, charge or fee except ad valorem taxes be now or hereafter imposed, the amount payable under this section shall be payable only to the extent that it exceeds the sum of all such taxes, charges or fees.

SECTION 10. It shall be the duty of the city Clerk, as soon as practicable after the introduction of this ordinance, to sell at public auction, to the highest and best eligible bidder, the within franchise at the City Hall on some day to be fixed by him after advertising the proposed ordinance and the time and place of sale thereof once a week for three consecutive weeks, in Georgetown News Graphic, and in making said sale he shall receive no bid for less amount than the total expense connected with the making of said sale including the cost of advertising, and he shall report his actions hereunder at a subsequent meeting of the Council. The Council reserves the right to reject any and all bids.

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The foregoing Ordinance was introduced and read for the first time at the Council's regular meeting of March 23, 2009 read for the second time, adopted and approved, at its regular meeting April 13, 2009.

This Ordinance shall take effect upon passage and publication.

Karen J. Danks
MAYOR

ATTEST
Sue Lewis
CITY CLERK

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