

FRANCHISE AGREEMENT

THIS FRANCHISE AGREEMENT made and entered into this 17 day of August, 2015, by and between the **CITY OF FORT THOMAS**, a municipal corporation and political subdivision of the Commonwealth of Kentucky (hereinafter "Fort Thomas"), **DUKE ENERGY KENTUCKY, INC.**, a corporation created and existing under and by virtue of the laws of the Commonwealth of Kentucky (hereinafter "Duke Energy Kentucky").

WITNESSETH:

WHEREAS, by Ordinance No. O-05-2015 adopted May 18, 2015, Fort Thomas provided for the creation and sale of a non-exclusive franchise, for a term of ten (10) years, to enter upon, lay, acquire, construct, operate, maintain, install, use and repair, in the public right-of-way of Fort Thomas, a system or works for the transmission, distribution and sale of natural gas from points either within or without the corporate limits of Fort Thomas, to Fort Thomas and the inhabitants thereof, and from and through Fort Thomas to persons, corporations and municipalities beyond the limits thereof, and for the sale of same for light, heat, power and other purposes; and

WHEREAS, Ordinance No. O-05-2015 authorized the advertising for bids on said franchise, and Duke Energy Kentucky submitted a timely bid to acquire said franchise; and

WHEREAS, by Ordinance No. O-13-2015, Fort Thomas accepted the bid of Duke Energy Kentucky to acquire said franchise; and

WHEREAS, Fort Thomas and Duke Energy Kentucky have entered into this Franchise Agreement to memorialize the sale by Fort Thomas to Duke Energy Kentucky of said franchise subject to the terms and conditions reflected in Ordinance Nos. O-05-2015 and O-13-2015 (collectively, the "Ordinances").



NOW THEREFORE, for and in consideration of the mutual covenants and agreements contained herein the receipt and sufficiency of which are hereby acknowledged, Fort Thomas and Duke Energy Kentucky hereby agree to incorporate the foregoing recitals as if fully set forth herein and further agree as follows:

1. Ordinance No. O-05-2015, which is attached hereto as Exhibit "A", is incorporated herein by reference in its entirety and shall apply as if fully set forth herein.

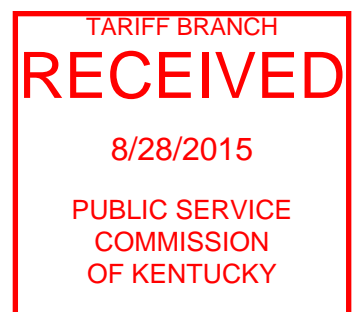
2. The bid of Duke Energy Kentucky for said franchise, which is attached hereto as Exhibit "B", is incorporated herein by reference in its entirety and shall apply as if fully set forth herein.

3. Ordinance No. O-13-2015, which is attached hereto as Exhibit "C", is incorporated herein by reference in its entirety and shall apply as if fully set forth herein.

4. Fort Thomas has granted unto Duke Energy Kentucky a non-exclusive franchise, for a term of ten (10) years, to enter upon, lay, acquire, construct, operate, maintain, install, use and repair, in the public right-of-way of Fort Thomas, a system or works for the sale, transmission and distribution of natural gas within or without the corporate boundaries of Fort Thomas subject to the provisions of the Ordinances.

5. The franchise memorialized in this Franchise Agreement shall commence *September 1,* 2015, and shall expire as provided in the terms and provisions of Ordinance No. O-05-2015.

6. Duke Energy Kentucky does hereby bind itself, its successors and assigns, to faithfully and fully perform each and every condition of said franchise as memorialized in this Agreement, and further to faithfully perform all acts required of it as the purchaser of said franchise.



7. This Franchise Agreement memorializes the agreement between the parties contained and embodied in the Ordinances and shall be binding upon and inure to the benefit of the respective successors in interest to the parties hereto.

IN WITNESS WHEREOF, Fort Thomas and Duke Energy Kentucky have executed this Franchise Agreement as their free and voluntary act and deed effective as of the day and year first above written.

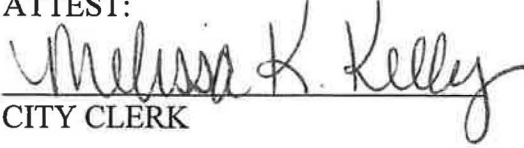
[Signatures on following page]



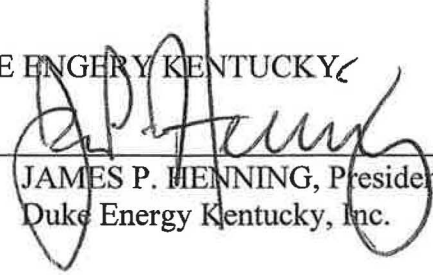
CITY OF FORT THOMAS

BY: 
MAYOR

ATTEST:


CITY CLERK

DUKE ENERGY KENTUCKY 

BY: 
JAMES P. HENNING, President
Duke Energy Kentucky, Inc.

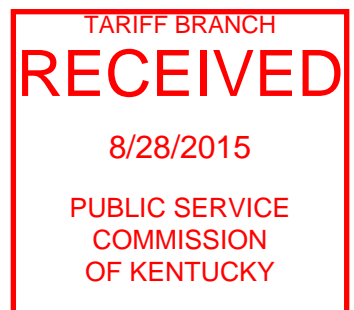
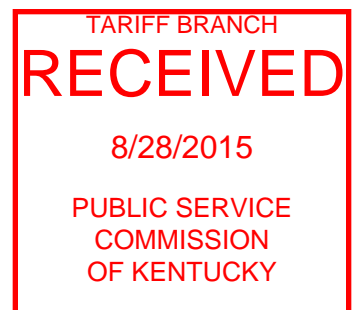


Exhibit List

- A Ordinance No. O-05-2015
- B Bid
- C Ordinance No. O-13-2015





64-2014

James P. Henning
President
Duke Energy Kentucky

139 E. 4th Street
Room 1409-M
Cincinnati, OH 45202

513.287.4078
jim.henning@duke-energy.com

VIA HAND DELIVERY

June 23, 2015

City of Fort Thomas, Kentucky
Attn: Melissa Kelley, City Clerk
130 N. Fort Thomas Ave.
Fort Thomas, Kentucky 41075

ADDENDUM TO BID FOR NATURAL GAS FRANCHISE DATED JUNE 11, 2015

Duke Energy Kentucky, Inc. submitted its original bid for natural gas and electric franchise on June 11, 2015. Please accept this as an Addendum to that bid.

In response to your offer contained in Ordinance No. O-05-2015 passed by you on May 18, 2015, as amended (the "Ordinances") titled:

AN ORDINANCE CREATING AND ESTABLISHING FOR BID A NON-EXCLUSIVE NATURAL GAS FRANCHISE FOR THE PLACEMENT OF FACILITIES FOR THE TRANSMISSION, DISTRIBUTION AND SALE OF NATURAL GAS WITHIN THE PUBLIC RIGHT-OF-WAY OF THE CITY OF FORT THOMAS FOR A TEN (10) YEAR DURATION, RESERVING THE RIGHT TO IMPOSE A FRANCHISE FEE IN OF THE SUM OF UP TO FIVE PERCENT (5%) OF FRANCHISEE'S GROSS RECEIPTS PER YEAR FROM THE FRANCHISEE'S SALE OF NATURAL GAS TO GAS-CONSUMING ENTITIES INSIDE THE CITY OF FORT THOMAS' CORPORATE LIMITS AND FURTHER PROVIDING FOR COMPLIANCE WITH RELEVANT LAWS, REGULATIONS AND STANDARDS; INDEMNIFICATION; INSURANCE; CANCELLATION OR TERMINATION; AND BID REQUIREMENTS; ALL EFFECTIVE ON DATE OF PASSAGE.

THE UNDERSIGNED, Duke Energy Kentucky, Inc., for itself, its successors and assigns, hereinafter "Duke Energy Kentucky" or "Company," submits its Addendum bid and requests that such natural gas franchise be awarded to it in consideration of which the Company shall: (1) pay to the City of Ft. Thomas, hereinafter called "City," the franchise fee of the sum of Thirty Eight Thousand, Four Hundred Dollars (\$38,400.00) for each year of the Natural Gas Franchise Agreement paid to the City in equal monthly installments of Three Thousand, Two Hundred Dollars (\$3,200.00) on the first day of each month of the Natural Gas Franchise Agreement; and, (2) all publication costs and attorney's fees, up to a maximum amount of \$3,000.00, the City incurs in the granting of this Natural Gas Franchise Agreement within thirty (30) days of receipt of the invoice.

RECEIVED
8/28/2015
PUBLIC SERVICE
COMMISSION
OF KENTUCKY

Duke Energy Kentucky is a Kentucky corporation with its principal office and principal place of business at 139 East Fourth Street, Cincinnati, Ohio 45202. The Company's local office in Kentucky is Duke Energy Envision Center, 4580 Olympic Boulevard, Erlanger, Kentucky 41018. Duke Energy Kentucky is a utility engaged in the natural gas and electric business. Duke Energy Kentucky purchases, sells, stores and transports natural gas in Boone, Bracken, Campbell, Gallatin, Grant, Kenton and Pendleton Counties, Kentucky. Duke Energy Kentucky also generates electricity, which it distributes and sells in Boone, Campbell, Grant, Kenton and Pendleton Counties.

Duke Energy Kentucky currently owns natural gas plant and equipment in the City that is sufficient to render service as required under the franchise established by the City. As such, pursuant to KRS 96.020(2) and Section 10 of the Ordinance, this bid is tendered with the understanding that no bond is required with the submission of this bid. Moreover, the Company's gives notice that it is a self-insured entity as contemplated in Section 20 of the Ordinance. Duke Energy Kentucky respectfully requests that these items be included in any subsequent ordinance or resolution accepting this bid and made a part of the Natural Gas Franchise Agreement.

Duke Energy Kentucky acknowledges the City reserves the right to increase the franchise fee at any time upon prior ninety (90) days written notice to Duke Energy Kentucky. Should the City exercise said right to increase the franchise fee, the City shall receive a monthly payment of up to five (5) percent of gross receipts per month from Duke Energy Kentucky's sale of natural gas to gas-consuming entities (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.

Duke Energy Kentucky agrees to comply with all of the terms contained in the Natural Gas Franchise Ordinance.

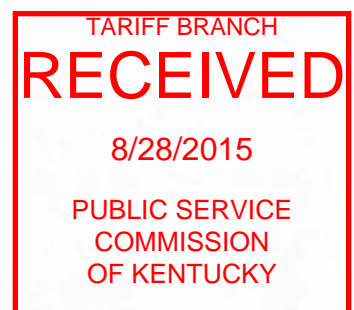
Duke Energy Kentucky is reattaching the gas tariffs, which were previously submitted with the June 11, 2015, bid. In compliance with the Ordinance, the attached tariffs, which are made a part hereof, shall upon acceptance hereof and due filing, be applicable to service rendered within the City, until lawfully changed.

If this bid is acceptable to the City, Duke Energy Kentucky does respectfully request that its terms be set forth in a Natural Gas Franchise Agreement to be made and entered into between the City and the Company:

Respectfully submitted,

James P. Henning

enclosure





"Founded in 1867"

CERTIFICATION

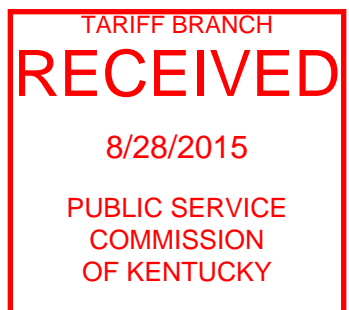
I, Melissa K. Kelly, City Clerk of the City of Fort Thomas, Campbell County, Kentucky, do hereby certify that the attached is a true copy of Ordinance O-13-2015 of the City of Fort Thomas confirming the sale and awarding a non-exclusive franchise to Duke Energy Kentucky for a term of 10 years for a natural gas franchise. This Ordinance was adopted on August 17, 2015 at a regular meeting of the Board of Council, where a quorum was present and voting.

Further, I hereby certify that the original document is on file as a part of the Official Records of the City of Fort Thomas and may be reviewed and proved by the files of my Office, at the City of Fort Thomas, 130 North Fort Thomas Avenue, Fort Thomas, Kentucky 41075.

Ordinance O-13-2015

Signed this 18th day of August, 2015


Melissa Kelly, City Clerk
City of Fort Thomas, Kentucky



ORDINANCE O-13-2015

AN ORDINANCE CONFIRMING THE SALE AND AWARDING A NON-EXCLUSIVE FRANCHISE TO DUKE ENERGY KENTUCKY FOR A TERM OF TEN (10) YEARS FOR A NATURAL GAS FRANCHISE AND FOR THE PLACEMENT OF FACILITIES FOR THE TRANSMISSION, DISTRIBUTION AND SALE OF NATURAL GAS ALONG AND UNDER PUBLIC RIGHT-OF-WAY WITHIN THE CITY OF FORT THOMAS, KENTUCKY.

WHEREAS, Ordinance No. O-05-2015, adopted by the Fort Thomas City Council, on May 18, 2015, provided for the creation and sale of a non-exclusive franchise, for a term of ten (10) years, to acquire, lay, maintain, operate, enter upon, construct, install, use and repair, in the public right-of-way of the City a system or works for the transmission and distribution of natural gas 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; and

WHEREAS, said ordinance also established a sealed bid process which includes advertising the invitation for bids, and awarding the franchise to the successful bidder(s); and

WHEREAS, after publication of said advertisement on June 11, 2015, the City received a bid from Duke Energy Kentucky ("Duke").

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF FORT THOMAS, KENTUCKY, AS FOLLOWS:

SECTION I

That a natural gas franchise created by Ordinance No. O-05-2015 be, and it hereby is, awarded to Duke, for the cost of advertising and sale of an natural gas franchise, plus annually a franchise payment of Thirty Eight Thousand, Four Hundred Dollars (\$38,400) for each year of the franchise paid to the City in equal monthly installments of Three Thousand, Two Hundred Dollars (\$3,200) on the first day of each month of the franchise agreement. The City reserves the right to increase the franchise fee at any time upon prior ninety (90) days written notice to Duke. Should the City exercise said right to increase the franchise fee, the City shall receive a monthly payment of up to five (5) percent of gross receipts per month from Duke'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 II

All prior ordinances, municipal orders, or policies or parts thereof in conflict herewith, are to the extent of such conflict, hereby repealed.

SECTION III

That the mayor of Fort Thomas is hereby authorized to sign the Franchise Agreement to memorialize the sale by Fort Thomas to Duke of said franchise subject to the terms and conditions reflected in Ordinance No. O-05-2015 and this Ordinance.

SECTION IV

That the statements set forth in the Preamble to this Ordinance are hereby incorporated in this Ordinance by reference, the same as if set forth at length herein.


SECTION V

That if any section, sentence, clause or phrase of this Ordinance is held to be unconstitutional or otherwise invalid, such infirmity shall not affect the validity of the remainder of the Ordinance.

SECTION VI

This Ordinance shall be in effect when read, passed & published according to law.

APPROVED:


Eric Haas, Mayor

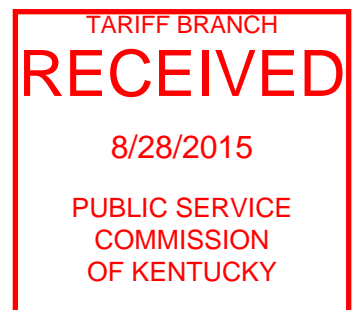
1st Reading: July 20, 2015

Adopted: 8/17/15

Publication: 8/27/15

ATTEST:


Melissa K. Kelly, City Clerk





"Founded in 1867"


CERTIFICATION

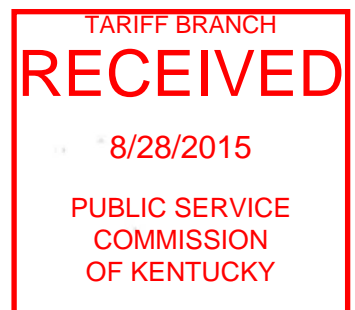
I, Melissa K. Kelly, City Clerk of the City of Fort Thomas, Campbell County, Kentucky, do hereby certify that the attached is a true copy of Ordinance O-05-2015 of the City of Fort Thomas relating to creating and establishing for bid a non-exclusive natural gas franchise. This Ordinance was adopted on May 18, 2015 at a regular meeting of the Board of Council, where a quorum was present and voting. The ordinance was published in the Campbell County Recorder on May 28, 2015.

Further, I hereby certify that the original document is on file as a part of the Official Records of the City of Fort Thomas and may be reviewed and proved by the files of my Office, at the City of Fort Thomas, 130 North Fort Thomas Avenue, Fort Thomas, Kentucky 41075.

Ordinance O-05-2015

Signed this 28th day of May, 2015


Melissa Kelly, City Clerk
City of Fort Thomas, Kentucky



ORDINANCE NO. O-05-2015

AN ORDINANCE CREATING AND ESTABLISHING FOR BID A NON-EXCLUSIVE NATURAL GAS FRANCHISE FOR THE PLACEMENT OF FACILITIES FOR THE TRANSMISSION, DISTRIBUTION AND SALE OF NATURAL GAS WITHIN THE PUBLIC RIGHT-OF-WAY OF THE CITY OF FORT THOMAS FOR A TEN (10) YEAR DURATION, RESERVING THE RIGHT TO IMPOSE A FRANCHISE FEE IN OF THE SUM OF UP TO FIVE PERCENT (5%) OF FRANCHISEE'S GROSS RECEIPTS PER YEAR FROM THE FRANCHISEE'S SALE OF NATURAL GAS TO GAS-CONSUMING ENTITIES INSIDE THE CITY OF FORT THOMAS' CORPORATE LIMITS AND FURTHER PROVIDING FOR COMPLIANCE WITH RELEVANT LAWS, REGULATIONS AND STANDARDS; INDEMNIFICATION; INSURANCE; CANCELLATION OR TERMINATION; AND BID REQUIREMENTS; ALL EFFECTIVE ON DATE OF PASSAGE.

WHEREAS, the Constitution of the Commonwealth of Kentucky, Sections 163 and 164, and Chapter 96 of the Kentucky Revised Statutes, authorize municipal corporations to require public utilities, including providers of natural gas within their boundaries, to operate under franchise agreements and to grant utilities the right to use public right-of-way on such terms and conditions as are deemed reasonable and necessary; and further KRS 82.082 authorizes the City to exercise any and all powers within its boundaries that are not in conflict with the Kentucky Constitution or state statutes; and

WHEREAS, the City Council of the City of Fort Thomas, Kentucky, has found and determined that the construction, operation, maintenance and utilization of a natural gas franchise over, across or under public right-of-way in the City of Fort Thomas, benefits said utility and the customers it serves and the City Council has further found and determined that the construction, installation, removal, maintenance and/or repair of utility-owned facilities and other infrastructures does periodic and unavoidable disturbance that gradually results in the degradation of the City's streets and sidewalks, for which the City is entitled to reasonable



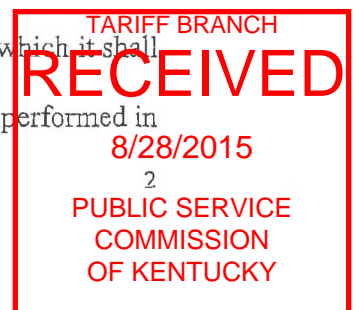
compensation in order to offset and recover the costs of reconstructing, removing, repairing or resurfacing damaged public right-of-way; and,

WHEREAS, in order to protect the health, safety and welfare of the citizens of Fort Thomas, Kentucky, to protect and preserve the City's public right-of-way and infrastructure and to provide for the orderly administration of the franchise contemplated herein, it is necessary and appropriate to require the successful franchisee to conduct its business and operations in a lawful manner in compliance with the terms and conditions set forth hereinbelow.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT THOMAS:

SECTION 1

(a) There is hereby created a non-exclusive franchise to enter upon, lay, acquire, construct, operate, maintain, install, use, and repair, in the Right-Of-Way of the City, a system or works for the, transmission, and distribution of natural gas within and through the corporate boundaries of the City as it now exists or may hereafter be constructed or extended, subject to the provisions of this Ordinance. Such system may include pipes, manholes, ducts, structures, and any other apparatus, equipment and facilities above and below the ground (collectively, "Equipment") necessary, essential, and/or used or useful to the transmission, distribution and sale of natural gas through the City or to any other town or any portion of the county or to any other jurisdiction ("Services"). Additionally, the Company shall have the right to use the streets with its service and maintenance vehicles in furtherance of this Franchise. Prior to beginning the construction or installation of any new equipment under this Franchise, the Company shall obtain any necessary governmental permits for such construction or installation, copies of which it shall provide to the City. Work performed by the Company under this Franchise shall be performed in



a workmanlike manner and in such a way as not to unnecessarily interfere with the public's use of City streets. Whenever the surface of any City street is opened, it must be restored at the expense of the Company within a reasonable time to a condition comparable to what it was prior to the opening thereof. By way of example, brick pavers must be restored with brick pavers and stamped concrete must be restored with stamped concrete. However, in the event a street is opened at the request of the City for a reason other than providing adequate, efficient and reasonable service, then the City shall bear the expense of opening and restoring the street.

SECTION 2

The following definitions apply to this Ordinance:

City Council means the legislative body of the City of Fort Thomas.

Company means the Party or Person that shall become the purchaser of said franchise, or any successor or assignee of such Party or Person.

Facility includes all property, means, and instrumentalities owned, operated, leased, licensed, used, furnished, or supplied for, by, or in connection with the business of the utility in the Right-Of-Way.

Government or *City* means the City of Fort Thomas.

Gross Receipts means those amounts of money which the Company receives from its customers within the City's geographical limits or boundaries for the retail sale of gas under rates, temporary or permanent, authorized by the Council and represents amounts billed under such rates as adjusted for refunds, the net write-off of uncollectible accounts, corrections or other regulatory adjustments. Revenues do not include miscellaneous service charges, including but not limited to turn-ons, meter sets, non sufficient funds, late fees and interest, which are related to but are not a part of the actual retail sale of gas.



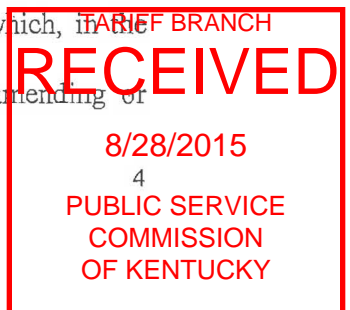
Party or Person means any natural or corporate person, business association or other business entity including, but not limited to, a partnership, a sole proprietorship, a political subdivision, a public or private agency of any kind, a Utility, a successor or assign of any of the foregoing, or any other legal entity.

Public Utility or Utility means a Party or Person that is defined in KRS Chapter 278.010 as a utility and (i) is subject to the jurisdiction of the Kentucky Public Service Commission or the Federal Energy Regulatory Commission, or (ii) is required to obtain a franchise from the Government to use and occupy the Right-Of-Way pursuant to Sections 163 and 164 of the Kentucky Constitution.

Right-Of-Way means the surface of and the space above and below a public roadway, highway, street, freeway, lane, path, sidewalk, alley, court, boulevard, avenue, parkway, cartway, bicycle lane or path, public sidewalk, or easement held by the Government for the purpose of public travel and shall include Rights-Of-Way as shall be now held or hereafter held by the Government.

SECTION 3

The Franchise created herein shall be non-exclusive and shall continue for a period of ten (10) years from and after the effective date of this Ordinance, as set forth in Section 5. The Company may, at its option, terminate this Franchise upon one hundred eighty (180) days' written notice if (a) the City breaches any of its obligations hereunder and such breach is not cured within ninety (90) days of the Company's notice to the City of such breach; (b) the Company is not permitted to pass through to affected customers all fees payable by it under Section 9 herein; or (c) the City creates or amends any ordinance or regulation which, in the Company's sole discretion, would have the effect of (i) substantially altering, amending or



adding to the terms of this Ordinance, (ii) substantially impairing the Company's ability to perform its obligations under the Franchise in an efficient, unencumbered and profitable way; or (iii) preventing the Company from complying with applicable statutes or regulations, rules or orders issued by the Kentucky Public Service Commission. Without diminishing the Company's rights under this Section 3, the City agrees that to the extent it desires to pass or amend an ordinance or regulation which could have the effect of substantially (i) altering, amending, or adding to the terms of this Ordinance; (ii) impairing the Company's ability to perform its obligations under this Franchise in an efficient, unencumbered and profitable way; or (iii) preventing the Company from complying with applicable statutes or regulations, rules or orders issued by the Kentucky Public Service Commission, that it will first discuss such proposed ordinance or regulation with the Company and the parties shall negotiate in good faith regarding the same.

SECTION 4

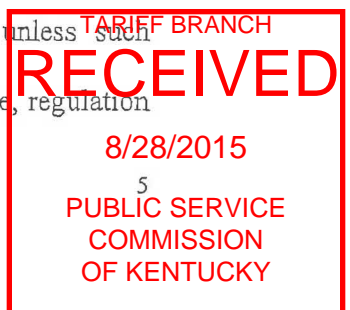
The Company is authorized to operate throughout all the territory within the corporate limits of the City for which it is authorized under state or federal law.

SECTION 5

This Ordinance shall become effective on the date of its passage and publication as required by law. The Franchise created by this Ordinance shall take effect no earlier than thirty (30) days after the City Council accepts the bid(s).

SECTION 6

Subject to Section 3 hereof, the Company will comply with all applicable provisions of lawful City ordinances and regulations (including any amendments thereto), unless such provisions (i) conflict with or impair the Company's ability to comply with any rule, regulation



or order issued by the Kentucky Public Service Commission related to the Company's rates or services, or otherwise (ii) are preempted by the action of any state or federal authority with jurisdiction over the Company.

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 anyone or more of such terms or conditions.

SECTION 7

Rights Reserved by City. Subject to the above provisions, the Franchise created by this Ordinance is expressly subject to the right of the City: (i) to repeal the same for misuse, nonuse, or the Company's failure to comply with applicable local, state or federal laws; (ii) to impose such other regulations as may be determined by the City to be conducive to the safety, welfare and morals of the public; and/or (iii) to control and regulate the use of its Right-Of-Way as permitted by law.

SECTION 8

As consideration for the granting of the Franchise created by this Ordinance, the Company agrees it shall defend, indemnify, and hold harmless the Government from and against claims, suits, causes of action, proceedings, judgments for damages or equitable relief, and costs and expenses asserted against the Government that the Company's use of the Right-Of-Way or the presence or operation of the Company's equipment on or along said Right-Of-Way has caused damage to tangible property or bodily injury, if and to the extent such damage or injury is not caused by the Government's negligence, gross negligence or willful conduct. The

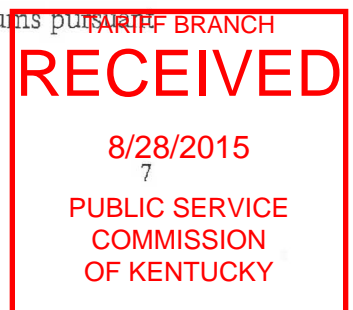


Government shall notify the Company in writing within a reasonable time of receiving notice of any issue it determines may require indemnification

SECTION 9

Franchise Fees. For the privilege of utilizing said public streets and rights of ways, the Company, its successors and assigns, shall be required to pay to the Government annually a franchise payment of Thirty Eight Thousand, Four Hundred Dollars (\$38,400) for each year of the franchise agreement paid to the City in equal monthly installments of Three Thousand, Two Hundred Dollars (\$3,200) on the first day of each month of the franchise agreement. The City reserves the right to increase the franchise fee at any time upon prior ninety (90) days written notice to the Company. Should the City exercise said right to increase the franchise fee, the City shall receive payment monthly of up to five (5) percent of gross receipts per month from the Company's sale of natural gas to gas-consuming entities (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; *provided, however*, the City shall notify the Company, at least thirty (30) days prior to the effective date, of any annexations or other changes in the City's boundaries and provide the Company a list, in electronic format, of all addresses within the territory annexed or added to or de-annexed or otherwise removed from the Government's limits that are to be served by the Company.

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 paid pursuant to



to this Franchise. Any additional amount due to the Government shall be paid within ten (10) days following written notice to the Company by the Government.

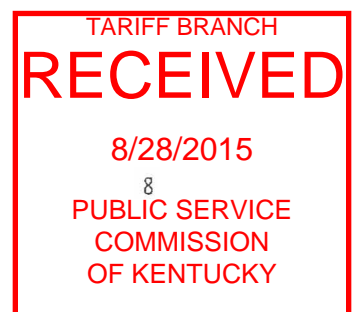
As further consideration for the granting of this Franchise, the Company agrees to pay all publication costs and attorney's fees, up to a maximum of \$3,000, the City incurs in the granting of this Franchise. The above-mentioned costs shall be invoiced by the City to the Company and the Company shall pay said costs within thirty (30) days of receipt of said invoice.

Any other fees assessed to the Company in connection with the Company's use of the City's public ways, including fees associated with permits and licenses of whatever nature, shall be payable by the Company only if and to the extent the Company is authorized by the Kentucky Public Service Commission (or its successor) to pass through such fees to the entities served by it inside the City's corporate limits.

To the extent the Company actually incurs other reasonable incremental costs in connection with its compliance with the Government's ordinances, the Government agrees that the Company may recover such amounts from its customers pursuant to the terms of a tariff filed with and approved by the Kentucky Public Service Commission, if otherwise permitted by law.

SECTION 10

The Company shall maintain in force through the term of the Franchise insurance coverage for general liability insurance, auto liability and workers compensation, in accordance with all applicable laws and regulations. The Company shall maintain a general liability and auto liability coverage minimum limit of \$2,000,000 per occurrence. The Company may elect to self-insure all or part of this requirement.



SECTION 11

The Company agrees to charge such rate or rates as may from time to time be fixed by the Public Service Commission of Kentucky or any successor regulatory body.

SECTION 12

(a) In addition to all other rights and powers pertaining to the Government by virtue of the Franchise created by this Ordinance or otherwise, the Government, by and through its City Council, reserves the right to terminate and cancel this Franchise and all rights and privileges of the Company hereunder in the event that the Company:

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

(2) Willfully attempts to evade any material provision of this Franchise or practices any fraud or deceit upon the Government;

(3) Knowingly makes a material misrepresentation of any fact in the application, proposal for renewal, or negotiation of this Franchise; or

(4) Is no longer able to provide regular and customary uninterrupted service to its customers in the franchise area.

(b) Prior to attempting to terminate or cancel this Franchise pursuant to this section, the City's Mayor or his or her designee, or the City Council shall make a written demand that the Company do or comply with any such provision, rule, order or determination. If the violation, found in Section 12(a), by the Company continues for a period of thirty (30) days following such written demand without written proof that corrective action has been taken or is being actively



and expeditiously pursued, the Government may place its request for termination of this Franchise as early as the next regular City Council meeting agenda. The Government shall cause to be served upon Company, at least ten (10) days prior to the date of such City Council meeting, a written notice of intent to request such termination and the time and place of the meeting, legal notice of which shall be published in accordance with any applicable laws.

(c) Any violation by the Company or its successor of the material provisions of this Franchise, or the failure promptly to perform any of the provisions thereof, shall be cause for the forfeiture of this Franchise and all rights hereunder if, after written notice to the Company and a reasonable opportunity to cure, such violations, failure or default continue as set forth in Section 12(a).

SECTION 13

Right to Cancel. The City Council shall have the right to cancel the Franchise created by this Ordinance 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:

1. 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,
2. 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 14

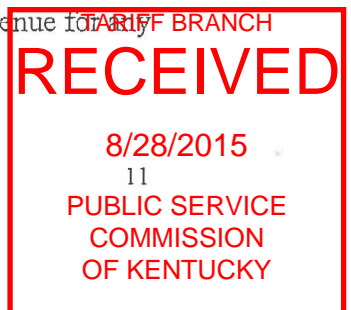
In the event of a change of Kentucky law whereby retail rates of natural gas customers are no longer regulated by the Public Service Commission, the Government shall have the option of terminating this Franchise with the Company. If this Franchise is terminated by the Government pursuant to this provision, the Government and the Company shall have a duty to negotiate in good faith with respect to offering a mutually acceptable franchise to the Company.

SECTION 15

The Company have shall the authority to trim trees that are located within or overhang the Right-Of-Way to maintain and operate natural gas pipelines and other Facilities of the Company. Any trimming, removal or other disturbance of trees shall conform to Chapter 98 of the Fort Thomas, Kentucky Code of Ordances, as it may be from time to time amended, and all lawful ordinances, requirements and directives of the Government, and the Company shall make available upon reasonable request of the Government, information regarding its tree-trimming practices. In the event that the Company fails to timely and sufficiently respond to a legitimate and reasonable complaint regarding its failure to trim such trees, and such complaint is made known to the Government, the Government shall contact the Company with respect to such matter and attempt to reach a satisfactory result. Notwithstanding the foregoing, this provision in no way limits any existing or future lawful rights that the Government may have with respect to such trees.

SECTION 16

This Ordinance and any Franchise awarded pursuant to it shall be governed by the laws of the Commonwealth of Kentucky, both as to interpretation and performance. The venue for any



litigation related to this Ordinance and any Franchise awarded pursuant to it shall be in a court of competent jurisdiction in Campbell County, Kentucky.

SECTION 17

This Ordinance and any Franchise awarded pursuant to it does not create a contractual relationship with or right of action in favor of a third party against either the Government or the Company.

SECTION 18

If any section, sentence, clause or phrase of this Ordinance is held unconstitutional or otherwise invalid, such infirmity shall not affect the validity of the remaining Ordinance.

SECTION 19

It shall be the duty of the City's Mayor, or his/her designee, to offer for sale at public auction the Franchise and privileges created hereunder. Said Franchise and privileges shall be sold to the highest and best bidder or bidders at a time and place fixed by the City's Mayor after he or she has given due notice thereof by publication or advertisement as required by law. In awarding the franchise, the City shall consider the technical, managerial, and financial qualifications of the bidder to perform its obligations under the franchise.

SECTION 20

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 City's Mayor, or his or her 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 City's Mayor shall report and submit to the City Council, at the time of its next regular meeting or as soon as practicable thereafter, said bids and proposals for its approval. The City 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 City's Mayor shall be rejected by the Council, it may direct, by resolution or ordinance, said franchise and privileges to be again offered for sale, from time to time, until a satisfactory bid therefore shall be received and approved.

In addition, any bid submitted by a corporation or person not already owning within the territorial limits of the City a plant, equipment, and/or Facilities sufficient to render the service required by this Ordinance must be accompanied by cash or a certified check drawn on a bank of the Commonwealth of Kentucky, or a national bank, equal to five percent (5%) of the fair estimated cost of the system required to render the service, which check or cash shall be forfeited to the Government in case the bid should be accepted and the bidder should fail, for thirty (30) days after the confirmation of the sale, to pay the price and to give a good and sufficient bond in a sum equal to one-fourth (1/4) of the fair estimated cost of the system to be erected, conditioned that it shall be enforceable in case the purchaser should fail, within sixty (60) days, to establish and begin rendering the service in the manner set forth in this Ordinance. Such deposit need not be made by a corporation or person already owning within the territorial limits of the City a plant, equipment, and/or Facilities sufficient to render the service required by this Ordinance.

SECTION 21

The Franchise shall not be assignable without the written consent of the City; however, Franchisee may assign the Franchise to any affiliate, parent, or subsidiary entity which may, during the Term of the Franchise, assume the obligation to provide natural gas throughout and for consumption within or outside the City without being required to seek the City's consent to such assignment. If the Company experiences a foreclosure or other judicial sale of all substantial part of the Company's Facilities located with the City of Fort Thomas, the Company

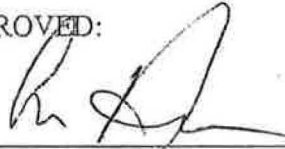
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COMMISSION
OF KENTUCKY

shall provide the Government at least thirty (30) days advance written notice such foreclosure or sale.

SECTION 22

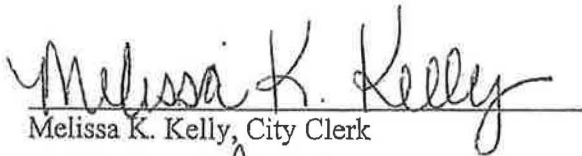
This Ordinance shall be in full force and effect from and after its reading, adoption and publication.

APPROVED:



Eric Haas, Mayor

ATTEST:


Melissa K. Kelly, City Clerk

1st Reading: April 20, 2015

Adoption: May 18, 2015

Publication: May 28, 2015

