

ORDINANCE 09-01

An Ordinance providing for the sale of a non-exclusive franchise Or privilege to construct, maintain, operate, repair and remove an electric transmission and/or distribution system together with all necessary or convenient poles, wires, anchors, and other facilities and appurtenances for the purpose of transporting, distributing and vending electric energy for public and private uses along over and across the streets, avenues, lanes, alleys and public grounds of the City of Whitesville, Daviess County, Kentucky, for a period of Five (5) years. Said sale shall be 3% of revenues assessed only against residents/businesses residing within the corporate limits of the City of Whitesville payable quarterly.

NOW, THEREFORE, BE IT ORDAINED by the City Commission of the City of Whitesville as follows:

That the right and privilege to use the public streets, avenues, lanes, alleys and public grounds within the city limits of the City of Whitesville, Daviess County, Kentucky, for the purpose of constructing, maintaining, operating, repairing and removing an electric transmission and/or distribution system, together with poles, lines, anchors and other facilities appurtenant or incident thereto for transportation, distribution and sale of electric energy to service the City of Whitesville, and public and private uses therein, for the period of five (5) years commencing March 1, 2009, be duly advertised for sale publicly to the highest and best bidder, the City of Whitesville reserving the right to reject any and all bids. Said sale shall be 3% of revenues assessed only against residents/businesses residing within the corporate limits of the City of Whitesville, payable quarterly, plus all cost of advertising and selling. Said sale shall be subject to confirmation and ratification or rejection by the Whitesville City Commission.

The sale of the franchise herein contemplated shall be made by Patricia Burch, City Clerk of the city of Whitesville, or by some one designated by her, who is hereby commissioned to make due advertisement of said sale, which advertisement shall include a description of said franchise, right and privilege in the Owensboro Messenger Inquirer, a newspaper of general circulation published in the City of Owensboro, Daviess County, Kentucky. The newspaper advertisement aforesaid shall be published in said newspaper one (1) time not less than seven (7) days nor more than twenty-one (21) days before the sale and within thirty (30) days after the final passage of this ordinance.

The said City Clerk shall submit a report of the sale in writing to the Whitesville City Commission at its next meeting after the sale. The terms and conditions of the franchise, right and privilege so to be advertised and offered for sale, and to be granted in the event the sale is confirmed by the Whitesville City Commissions shall be as follows:



Section One: The purchaser, his or its successors or assigns, shall have the non-exclusive franchise, privilege, right and power to use and occupy the streets, avenues, alleys, lanes, and public grounds within the city limits of the City of Whitesville to construct, maintain, operate, repair and remove an electric transmission and/or distribution poles, lines, wires, anchors and all other facilities and appurtenances necessary or convenient for the purpose of transporting, distributing, vending and conveying electric energy for public and private uses in the City of Whitesville during a term of five (5) years commencing March 1, 2009; Said sale shall be 3% of revenues assessed against residents/business within the corporate limits of the City of Whitesville payable quarterly; provided, however, said franchise may be terminated at the end of four years by either party mailing or delivering to the other party written notice of intent to terminate at least 120 days prior to the end of the year.

Section Two: Said construction, operation, maintenance, repair and removal shall be accomplished with the least practicable inconvenience to the public or individuals and with reasonable dispatch and diligence. All damage to the streets, sidewalks or other public property caused by such operations shall be repaired by the purchaser, his or its successors or assigns, at his or their proper cost and without necessary delay. The purchaser, his or its successors or assigns shall be responsible for all injuries or damage to persons or property occasioned by want of care or negligence in conducting such operation.

The purchaser agrees to the underground placement of power lines and/or facilities in accordance with the purchaser's under ground policy. Every reasonable effort shall be made by the purchaser to locate new power lines and/or facilities underground.

The purchaser agrees to allow the City of Whitesville to utilize its power lines and/or facilities for special events, provided said utilization does not violate purchaser's safety regulations and any applicable law.

SECTION THREE: The purchaser, his or its successors or assigns shall have the right to remove all of its property and facilities from the streets, avenues, lanes, alleys, ways and public grounds of the City of Whitesville, within a reasonable time after the expiration of other termination of this franchise.

SECTION FOUR: All franchises previously granted by the City of Whitesville, any of which is now held or may hereafter be acquired by the purchaser of this franchise, shall be hereby cancelled and revoked and the terms of any such franchise shall be considered as superseded by the franchise hereby created and defined.




SECTION FIVE: The franchise, right, privilege and power herein described, together with all the terms and conditions hereof, shall extend and apply to the successors and assigns of the purchaser, and unlimited and unrestricted power and authority to assign and transfer the same at will and without further consent thereto by the City of Whitesville, or its inhabitants, is hereby expressly given and granted to the purchaser, his or its successors and assigns.

SECTION SIX: The purchaser, his or its successors or assigns shall proceed with due diligence to obtain any required approval of applicable public regulatory bodies, to apply for and operate under this franchise.

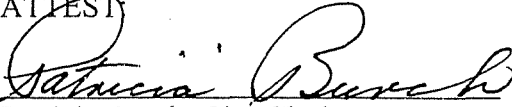
SECTION SEVEN; All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed and this ordinance shall be in full force and effect from and after its final passage and publication.

Introduced and publicly read on this the 10th day of February, 2009.

Publicly read and adopted on second reading on this the 3RD day of MARCH, 2009.


Michael L. Nugent, Mayor
City of Whitesville, KY

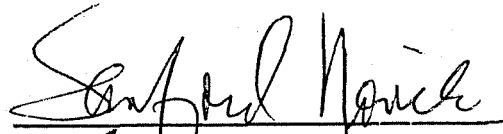
ATTEST


Patricia Burch, City Clerk
City of Whitesville, KY



BID FORM

The undersigned hereby accepts the non-exclusive franchise to construct and maintain an electric transmission and/or distribution system for the City of Whitesville for the purpose of transporting, distribution and vending electric energy as set out in the ordinance which is attached hereto and accepts the terms and conditions of said franchise as set out in the attached ordinance.


By SANFORD NOVICK
Title CEO

TARIFF BRANCH
RECEIVED
9/23/2009
PUBLIC SERVICE
COMMISSION
OF KENTUCKY

City of Whitesville
P. O. Box 51
Whitesville, Kentucky 42378
Phone: 270-233-5666
Fax: 270-233-9947

March 9, 2009

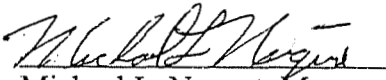
David Hamilton
Director of Member Services
Kenergy
P. O. Box 1389
Owensboro, Kentucky 42302

Dear Mr. Hamilton,

Please be advised that the City of Whitesville, at its regularly scheduled city commission meeting held on March 3, 2009, accepted Kenergy's bid of 3% of revenues assessed on all businesses and residences located within the corporate limits of the City of Whitesville payable quarterly. Said franchise shall be for a period of five (5) years effective March 1, 2009.

If you have any questions please do not hesitate to call me.

Yours truly,


Michael L. Nugent, Mayor
City of Whitesville, KY

MLN/pb

