

ORDINANCE NO. 2020-08-19
ELECTRIC FRANCHISE ORDINANCE

AN ORDINANCE AWARDDING A FRANCHISE CREATED BY THE CITY OF ALBANY, KENTUCKY, AUTHORIZING THE SALE OF ELECTRIC SERVICES IN ALL AREAS OF THE CURRENT AND FUTURE CORPORATE LIMITS OF THE CITY

WHEREAS, THE CITY COUNCIL HAS DECLARED AN EMERGENCY FOR ADOPTION OF SAID ORDINANCE DUE TO LIKELY FINANCIAL LOSS.

NOW THEREFORE, BE IT ORDAINED BY COUNCIL OF THE CITY OF ALBANY, KENTUCKY THAT:

SECTION I. AUTHORIZATION OF FRANCHISE.

The Council of the City of Albany, Kentucky, does hereby grant an electric services franchise to South Kentucky Rural Electric Co-operative Corporation (hereinafter, "South Kentucky RECC and/or "the Grantee").

The Franchise created by this ordinance authorizes and empowers South Kentucky RECC with the right, authority, privilege and franchise to erect, construct, operate, use and maintain a system of electric lines and to maintain any necessary and appropriate equipment and facilities for the transmission and distribution of electric services upon, across, and along highways, streets, avenues, road, alleys, lanes, ways utility easements, parkways and other public grounds in the present or future corporate limits of the City of Albany, Kentucky.

SECTION II. REQUIREMENTS OF THE FRANCHISE.

South Kentucky RECC shall pay to the City of Albany, Kentucky Five (5%) Percent per month per meter for customers being served within the corporate limits of the City of Albany beginning on or about July 1, 2020, for the period of fifteen (15) years.

SECTION III. TERM OF FRANCHISE.

The Franchise, and the rights thereunder, shall be granted, take effect and be enforced from and after the effective date, and shall continue in full force and effect for a term of fifteen (15) years, subject, however, to the requirements that South Kentucky RECC, its heirs and assigns, shall conform to the provisions of said Franchise contained herein.

RECEIVED
10/15/2020
PUBLIC SERVICE
COMMISSION
OF KENTUCKY

In the event that any provision of the Franchise shall be violated, or there shall exist a noncompliance for a continuous period of six (6) months, the City at its option may declare said Franchise null and void and of no force and effect.

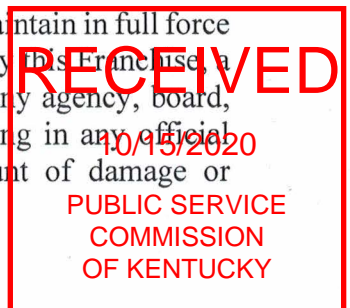
SECTION IV. EXERCISE OF FRANCHISE.

All electric lines, necessary facilities and equipment constructed, maintained and operated by virtue of the Franchise shall be constructed, maintained and operated with all applicable engineering practices, and in full accord with any and all applicable engineering codes governing engineering professions, and in accordance with any applicable Statutes of the Commonwealth of Kentucky and the Rules and Regulations of the Kentucky Public Service Commission or any other governmental regulatory agency having jurisdiction over South Kentucky RECC. Said facilities shall be so constructed as not to interfere with the drainage; interfere with or injure any street, sewer or other public improvement which said City has heretofore made or may hereafter make in, upon, along or under any highway, street, avenue, road, lane, way, utility easement, parkway or other public grounds; or unnecessarily obstruct or impede such highway, street, avenue, road, lane, way, utility easement, parkway or other public ground of the City.

SECTION V. CONDITIONS OF FRANCHISE.

The Franchise shall be subject to the following terms and conditions, in addition to other applicable terms and conditions, as follows:

- (1) The Grantee of said franchise shall become and remain liable to the City of Albany, Kentucky, or any agency, commission or board thereof, for loss or damage which may result from a failure of the Grantee to exercise ordinary care in installing, maintaining and operating the electric distribution system or other facilities used in connection with said system. Said Grantee shall likewise be liable to any person or persons who may sustain damages as a result of any injury to the property or person of said person or persons by a failure of the Grantee to exercise ordinary care such construction, maintenance or operation or other activities incidental to the business of said Grantee when using any public thoroughfares, streets, alleys or other public places.
- (2) Grantee shall indemnify, protect, save and hold harmless the City of Albany, Kentucky, or any of its agencies, commissions, boards or officers while acting in an official capacity, against any claim or claims for damages to property and injury or death to persons, including employees of Grantee, for any personal injury as fixed and defined by the Worker's Compensation Law of the State of Kentucky resulting from such failure of Grantee to exercise ordinary care in such construction, maintenance or operation of such electric distribution system.
- (3) As a means of providing such indemnity, Grantee shall secure and maintain in full force and effect at all times while operating under any powers conferred by this Franchise, a policy or policies of liability insurance indemnifying the City, or any agency, board, commission or private employee or official of the City while acting in any official capacity, against all loss, damage or liability therefor on account of damage or



destruction of property to the extent of \$1,000,000.00 (One Million Dollars), and as to any single person in an amount not less than \$1,000,000.00 (One Million Dollars), and as to any one accident resulting in liability on account of injury or death of one or more person, and including destruction of property by reason thereof, in an amount not less than \$5,000,000.00 (Five Million Dollars). In addition, and in like manner, Grantee shall secure and maintain in full force and effect at all times while operating under any powers conferred by such Franchise, full benefits to all employees of Grantee, to the extent fixed and provided by the Worker's Compensation Law of the State of Kentucky.

- (4) The yearly Franchise fees shall be a minimum of Five (5%) Percent per month per meter for customers being served within the corporate limits of the City of Albany, and shall be paid on a quarterly basis at the least.
- (5) The said Grantee shall be required to submit an annual audit or review of financial records as they relate to the Franchise, conducted by a Certified Public Accountant. The audit or review shall be due within 150 days of Grantee's year-end.
- (6) The said Grantee shall submit a copy of Public Service Commission (PSC) regulations as related to interruptions in service, as well as a copy of a curtailment plan as required and approved by the PSC.

SECTION VI. USE OF PUBLIC PROPERTY.

The Franchise shall authorize and empower the Grantee thereof to make such further use of public streets, thoroughfares and other public ways of the City as may be required or necessary from time to time in providing construction, maintenance and operation of the electric distribution system.

SECTION VII. USE OF FRANCHISE FEES.

Proceeds derived from the franchise fee imposed hereunder shall be used to benefit the citizens of the City of Albany, Kentucky, by means of the City's depositing same into its General Fund account, said proceeds to be expended upon programs, equipment, personnel or services which benefit the health, safety and welfare of the citizens of the City of Albany, Kentucky as related to City rights-of-way.

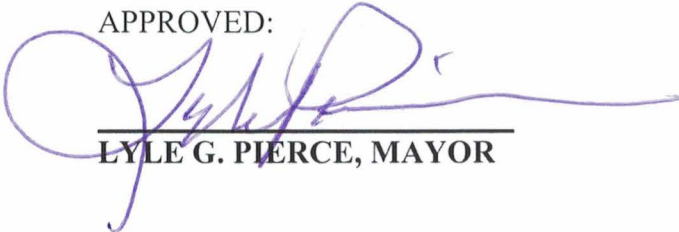
SECTION VIII. EFFECTIVE DATE OF ORDINANCE.

This ordinance shall be effective retroactive to July 1, 2020, and be in full force and effect when signed by the Mayor, or when not signed by the Mayor within ten (10) days of adoption and attested by the City Clerk/Treasurer of the City of Albany, Kentucky.



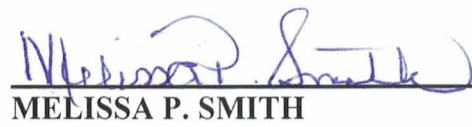
ADOPTED BY THE CITY COUNCIL OF THE CITY OF ALBANY, KENTUCKY
AT A REGULAR AND DULY CONVENED MEETING THEREOF HELD AT CITY
HALL ON THIS THE 1ST DAY OF SEPTEMBER, 2020.

APPROVED:



LYLE G. PIERCE, MAYOR

ATTEST:



MELISSA P. SMITH

City Clerk/Treasurer

FIRST READING: August 19, 2020

SECOND READING: September 1, 2020

PUBLICATION: _____

RECEIVED

10/15/2020

PUBLIC SERVICE
COMMISSION
OF KENTUCKY