

CITY OF GREENUP, KENTUCKY

FRANCHISE AGREEMENT

THIS FRANCHISE AGREEMENT, made and entered into on this the 28 day of August, 2003, by and between the CITY OF GREENUP, KENTUCKY, hereinafter "City," and COLUMBIA GAS OF KENTUCKY, INC., hereinafter "Company;"

WITNESSETH: WHEREAS, in its Regular Council Meeting on June 11, 2002 the City created a gas distribution franchise and provided for bidding procedures, and

WHEREAS, after due advertisement as required by law, the Company submitted a bid dated July 9, 2002, wherein it expressly stated the terms of said franchise, which terms include the payment of the consideration for said franchise, and

WHEREAS, the Company and City engaged in negotiations concerning elements of the Company's bid which resulted in the terms set forth in the attached Revised and Substituted Bid to acquire said franchise, which is annexed hereto as Exhibit A and incorporated herein by reference; and

WHEREAS, on July 29 2003 City accepted the negotiated terms set forth in Exhibit A, hereinafter "Franchise," and authorized the execution of this Franchise Agreement by the Mayor of the City;

NOW, THEREFORE, in consideration of the premises and mutual rights and obligations contained in the Franchise which is adopted and made a part hereof, the parties agree and bind themselves, their successors and assigns, as follows:

1. Pursuant to action of City Council on June 11, 2002, creating a gas distribution franchise and action of City Council on August 28 2003, awarding said franchise to the Company, the City herewith grants to the Company a gas distribution franchise, governed by the provisions of Exhibit A for a period of seven (7) years from the effective date hereof.
2. This Franchise Agreement and the provisions of Exhibit A shall inure to the benefit of and be binding upon the parties hereto, their successor and assigns
3. This Agreement shall become effective on the 28 day of August, 2003.



IN WITNESS WHEREOF, this Agreement has been executed on behalf of the City of Greenup, Kentucky, acting by and through its Mayor, Charlie Veach, pursuant to the authority duly granted, and on behalf of Columbia Gas of Kentucky, Inc., acting by and through its Vice President, Joseph W. Kelly, pursuant to authority duly granted.

CITY OF GREENUP, KENTUCKY

By Charlie Veach
Mayor

ATTEST:

Dick Haneman
City Clerk

COLUMBIA GAS OF KENTUCKY, INC.

By Joseph W. Kelly
Vice President



**REVISED AND SUBSTITUTED BID
OF
COLUMBIA GAS OF KENTUCKY, INC.**

To the Mayor and City Council of Greenup, Kentucky:

Upon the terms and conditions hereinafter set forth, Columbia Gas of Kentucky, Inc., ("Columbia") submits the following Revised and Substituted Bid for the gas distribution franchise authorized by the City of Greenup on June 11, 2002 and advertised in *The Greenup County News-Times*.

SECTION 1: Columbia Gas of Kentucky, Inc., shall possess the franchise, privilege, right and authority to acquire, maintain, construct and operate in, above, under, across and along the streets, thoroughfares, alleys, sidewalks, bridges, public ways and other public places (as the same now exist or may hereafter be laid out) of the City of Greenup, Kentucky, mains, pipes and connections, with all the necessary or desirable appurtenances, for the purpose of transporting, distributing and vending natural and artificial gas to said City and the inhabitants thereof, and persons and corporations beyond the limits thereof, and any other purpose or purposes for which natural and artificial gas is now or may hereafter be used, and for the distribution of the same within, through or across said City.

SECTION 2: Said mains, pipes and connections shall be constructed so as to interfere as little as possible with the traveling public in its use of the streets, thoroughfares, alleys, sidewalks, bridges, public ways and other public places.

SECTION 3: The franchise, privilege, right and authority shall be in full force and effect for a period of seven (7) years from the date of acceptance, approval and publication according to law.

SECTION 4: Columbia shall save the City from any and all liability arising in any way from Columbia's negligence in the construction, maintenance or operation of said mains, pipes, connections and appurtenances. If any claim shall be made or suit brought against the City for damages alleged to have been sustained by reason of the negligent construction, maintenance or operation of its facilities by Columbia, the City shall immediately notify Columbia in writing thereof, and Columbia is hereby given the right and privilege to defend or assist in defending such suit in the name of the City.

SECTION 5: Columbia shall have the right and privilege to take up such portion or part of any pavement and make such excavation in the streets, thoroughfares, alleys, sidewalks, bridges, public ways and other public places of the City of Greenup, Kentucky, as may be deemed necessary for the construction and maintenance of its mains, pipes and connections, but whenever Columbia shall begin the construction of said mains, pipes and connections, it shall promptly and diligently prosecute the work to



completion, and leave the streets, thoroughfares, alleys, sidewalks, bridges, public ways and other public places where such work is done in as good a condition of repair as before such work was commenced.

SECTION 6: Whenever in this franchise either the City of Greenup, Kentucky or Columbia Gas of Kentucky, Inc., is referred to, it shall be deemed to include the respective successors and assigns, of either, and all rights, privileges and obligations contained in this franchise shall be binding upon, and inure to the benefit of, the respective successors and assigns, of the City and Columbia, whether so expressed or not.

SECTION 7: Columbia Gas of Kentucky, Inc., may make such rules and regulations covering the furnishing of said natural and/or artificial gas as may be fair and reasonable and consistent with the standard practice of Columbia, and as approved by the Kentucky Public Service Commission. Columbia may charge such rates for gas service as shall be fair and reasonable, and as are approved by the Kentucky Public Service Commission. Columbia shall render service under said franchise of like quality, that is adequate, efficient and reasonable, to that now being rendered to the City.

SECTION 8: (a) In consideration of the franchise to construct, lay, maintain, operate, repair and remove mains, pipes and connections for the purpose of transporting, distributing and vending natural and artificial gas for public and private use along, over, under or across the streets, lanes, alleys or public grounds in the City of Greenup, Kentucky, Columbia shall pay an annual franchise fee equal to two percent (2%) of the annual gross service revenues received by Columbia from the sale of gas within the corporate limits of the City of Greenup, Kentucky. For purposes of this paragraph, the franchise shall be effective _____, 2003, and calculation of amounts payable hereunder shall commence with all bills rendered to Columbia's customers in the first billing period following tariff approval by the Kentucky Public Service Commission. Payment of said amount to the City of Greenup shall be made quarterly on the 15th day after the end of each quarter, without certification of the amount of gross revenues by a public accountant.

(b) No later than ten (10) working days after final acceptance of its bid by the City of Greenup, Columbia shall file an application or tariff with the Kentucky Public Service Commission to provide for prompt and satisfactory cost recovery of the amount(s) payable under Section 8(a). If Columbia fails to file its application or tariff within the specified time period, the City of Greenup may, at its option, terminate the franchise agreement upon thirty (30) days written notice to Columbia.

(c) If, after a period of sixty (60) days from the filing of Columbia's application, the Kentucky Public Service Commission shall have made no final determination concerning the prompt and satisfactory recovery of amounts payable under this Section by Columbia, then Columbia's obligation to pay the amount specified in Section 8(a) shall be suspended, provided Columbia shall first give the City of Greenup ten (10) days written notice of its intention to suspend payment pending the decision of the Commission. In the event of suspension of the Columbia's obligation as

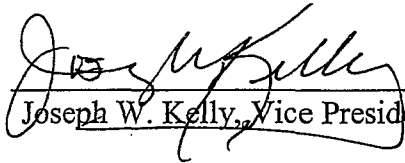


herein provided, the City of Greenup shall have the option to terminate this franchise within sixty (60) days of receipt of said written notification from Columbia.

SECTION 9: Columbia represents and warrants that it has obtained a Certificate of Public Convenience and Necessity from the Kentucky Public Service Commission dated July 9, 2002, which authorizes it to bid on the subject franchise offered by the City of Greenup, as required under KRS 278.020 (3).

SECTION 10: Columbia represents and warrants that it presently owns plant, facilities and equipment within the City of Greenup sufficient to render the service required within the City.

COLUMBIA GAS OF KENTUCKY, INC.

BY: 
Joseph W. Kelly, Vice President

