

ORDINANCE NO. 84, 2011

AN ORDINANCE OF THE CITY OF ASHLAND, KENTUCKY, GRANTING FOR A TERM OF TEN (10) YEARS TO KENTUCKY POWER COMPANY, A DIVISION OF AMERICAN ELECTRIC POWER, ITS SUCCESSORS AND ASSIGNS, A FRANCHISE, PRIVILEGE, RIGHT AND AUTHORITY TO ACQUIRE, MAINTAIN, CONSTRUCT AND OPERATE IN, ABOVE, UNDER, ACROSS AND ALONG THE STREETS, THOROUGHFARES, ALLEYS, BRIDGES AND PUBLIC PLACES OF THE CITY OF ASHLAND, KENTUCKY AND ITS SUCCESSORS AND ASSIGNS, LINES, POLES AND EQUIPMENT FOR THE TRANSPORTATION, TRANSMISSION AND DISTRIBUTION OF ELECTRIC ENERGY TO THE CITY OF ASHLAND AND THE INHABITANTS THEREOF, AND THE PERSONS AND CORPORATIONS BEYOND THE LIMITS THEREOF FOR LIGHT, HEAT, POWER AND ANY OTHER PURPOSES, AND FOR THE TRANSMISSION, TRANSPORTATION AND DISTRIBUTION OF SAME WITHIN, THROUGH OR ACROSS SAID CITY AND REPEALING ORDINANCE NO., 69, SERIES OF 2002.

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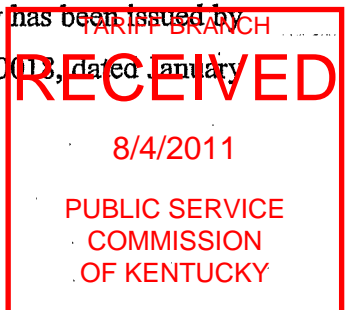
WHEREAS, there is now existing a franchise for an electric power company to own, maintain and operate its electric power lines upon, along, over and under the streets, alley, sidewalks and public ways of the City of Ashland, Kentucky, which present franchise expires on July 10, 2011, and

WHEREAS, there is a continuing public necessity for adequate service of electric power and energy to the citizens of the City of Ashland, Kentucky, and

WHEREAS, it appears that it is to the interest of the public that a franchise be advertised and sold granting and entitling the grantee to use the public ways, streets, alleys and other public places for the erection, operation and maintenance of lines for the transmission and distribution of electric power to the citizens and to persons, firms and corporations beyond the limits of the City of Ashland, Kentucky, and

WHEREAS, Kentucky Power Company, a division of American Electric Power, a corporation organized and existing under the laws of the State of Kentucky, offers to purchase the right, privilege, franchise and authority to erect and operate an electric light and power system in the City of Ashland, Kentucky, and

WHEREAS, a copy of the Certificate of Convenience and Necessity has been issued by the order of the Public Service Commission of Kentucky, Case No. 2011-00013, dated January



18, 2011, authorizing Kentucky Power Company, a division of American Electric Power to bid, and

WHEREAS, Kentucky Power Company, a division of American Electric Power, owns and operates in the City of Ashland, plant and equipment sufficient to render the services required, and is now furnishing adequate service to the City and its inhabitants.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF ASHLAND, KENTUCKY:

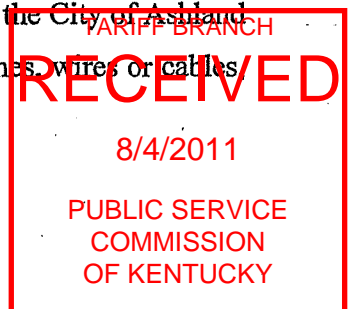
SECTION 1. The Kentucky Power Company, a division of American Electric Power, its successors and assigns, hereinafter called the "GRANTEE", are granted the right, privilege and authority to acquire, maintain, construct and operate in, above, under, across and along the streets, thoroughfares, alleys, bridges and public places (as the same now exist or may hereafter be laid out) of the City of Ashland, Boyd County, Kentucky, lines, poles and equipment for the transportation, transmission and distribution of electric energy, either by means of overhead or underground conductors, with all the necessary or desirable appurtenances for the purpose of supplying electric energy to said City and the inhabitants thereof and persons and corporations beyond the limits thereof for light, heat, power and any other purpose or purposes for which electric energy is now or may hereafter be used, and for the transmission of the same within, through or across said City.

SECTION 2. Said lines and appurtenances shall be constructed so as to interfere as little as possible with the traveling public in its use of the streets, thoroughfares, alleys, bridges and public places. The location of all poles and conduits shall be made under the supervision of the City government.

SECTION 3. The right, privilege and franchise shall be in full force and effect for a period of ten (10) years from the effective date of this ordinance.

SECTION 4. The GRANTEE of this franchise shall save the City harmless from any and all liability rising in any way from negligence in the erection, maintenance or operation of said lines and appurtenances.

SECTION 5. The GRANTEE of this franchise 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 public places of the City of Ashland as may be deemed necessary for the construction and maintenance of its lines, wires or cables.



but whenever the GRANTEE of this franchise shall begin the erection of any lines or other equipment, it shall promptly and diligently prosecute the work to completion and leave the streets, thoroughfares, alleys, bridges and public places where such work is done in as good condition of repair as before such work was commenced and consistent with the then current standards of the City of Ashland.

SECTION 6. Wherever in this franchise either the City of Ashland or the GRANTEE thereof 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 said City and said GRANTEE, whether so expressed or not.

SECTION 7. The GRANTEE of this franchise may make such rules and regulations covering the furnishing of said electric energy as may be fair and reasonable and consistent with the standard practice of the GRANTEE. Said GRANTEE may charge such rates for electrical service as shall be fair and reasonable. The said GRANTEE shall render service under said franchise of like quality, that is adequate, efficient and reasonable, to that now being rendered to said City.

SECTION 8. As consideration for the rights conferred by the granting of this franchise, and to compensate the City for its superintendence of the franchise, the successful bidder shall pay to the City a fee, the minimum of which shall be equal 3% of revenues collected within Ashland city limits. The successful bidder shall not collect, as a separate item on the periodic bills of its customers, an amount equal to the total of each customer's proportionate part of the franchise fee set forth above. Any effort to collect the 3% from the GRANTEE's Ashland customers will result in the filing of a declaration of rights in Boyd Circuit Court by the City.

The Company shall remit to the City, quarterly, all amounts due under this franchise within forty-five (45) days after each three (3) month period.

SECTION 9. The consideration paid by the successful bidder for the franchise, privilege, right and authority provided for herein, shall be complete compensation and consideration for said franchise, privilege, right and authority, and for the use and occupancy of the streets, thoroughfares, alleys, sidewalks, bridges, public ways and other public places of the City, in lieu of any street or alley rental or of any charge for the use or occupancy of said

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streets, thoroughfares, alleys, sidewalks, bridges, public ways and other public places of said City, and in lieu of any pole tax or meter tax.

SECTION 10. The City shall have the right, during the life of this franchise, to use, at its own risk and cost for the purpose of fire alarm and traffic control systems, sufficient room upon the poles and sufficient room on the conduits hereafter constructed in underground work to carry the necessary wires for the above purposes and it shall use the same so as not to interfere with the use thereof by the purchaser and the City agrees to indemnify the purchaser against any liability or damage to any person or property for which it may become liable or which it may sustain by reason of any such use of said poles or conduits.

SECTION 11. That Ordinance No. 69, series of 2002, is hereby repealed.

SECTION 12. All ordinances and parts of ordinances in conflict herewith, to the extent of such conflict only, are hereby repealed.

SECTION 13. This ordinance shall be in full force and effect from and after its adoption, readoption and publication, as required by law.

SECTION 14. It is hereby authorized that publication of this ordinance shall be in summary form.

*Thomas E. Kelly*

MAYOR

ATTEST:

*Deborah Nasser*

CITY CLERK

ADOPTED BY THE BOARD OF COMMISSIONERS:

READOPTED BY THE BOARD OF COMMISSIONERS:

PUBLISHED:

JUN 16 2011

JUL 21 2011

REQUESTED/SPONSORED BY: STEPHEN W. CORBITT, CITY MANAGER

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