

ORDINANCE NO. 2, 2019

An Ordinance of the City Commission of the City of Wurtland, Kentucky, Granting to Kentucky Power Company, Its Successors and Assigns, a Twenty (20) Year 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 of the City of Wurtland, Kentucky, and Its Successors and Assigns, Lines, Poles and Equipment for the Transportation, Transmission and Distribution of Electric Energy to the City of Wurtland and the Inhabitants thereof and Persons and Corporations beyond the Limits thereof for Light, Heat, Power and Other Purposes and for the Transmission, Transportation and Distribution of Same Within, Through or Across Said City.

BE IT ORDAINED BY THE CITY OF Wurtland, GREENUP COUNTY, KENTUCKY, AS FOLLOWS:

SECTION 1

Kentucky Power Company, its successors and assigns, hereinafter called grantee, is granted 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 Wurtland, Greenup 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 and distribution 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, 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 twenty (20) years from the date of passage of this Ordinance.



SECTION 4. The grantee of this franchise shall save the City harmless from any and all liability arising in any way from negligence of the grantee 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 other public places of the City of Wurtland 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, sidewalks, bridges, public ways and other public places where such work is done in as good condition of repair as before such work was commenced.

SECTION 6. Wherever in this franchise either the City of Wurtland 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 the 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 electric 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. The consideration paid and agreed to be paid in its bid by the grantee 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 streets.

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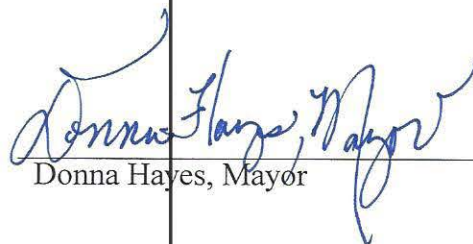
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OF KENTUCKY

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

SECTION 9. The Ordinance granting this franchise shall be accepted by the grantee thereof within sixty (60) days from the date of its passage.

SECTION 10. All Ordinances and parts of Ordinances in conflict herewith, to the extent of such conflict only, are hereby repealed.

SECTION 11. This Ordinance shall be in full force and effect upon its passage by the City Commission.



Donna Hayes, Mayor

ATTEST:



Deborah Scythes, Clerk

Introduction and First Reading: March 12, 2019.

Second Reading: April 9, 2019.

Adopted by the City Council of the City of
Wurtland, Kentucky

the _____ day of _____, 2019.

Published: _____, 2019

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The Honorable Donna Hayes, Mayor
Wurtland City Commission
City of Wurtland
500 Wurtland Ave.
Wurtland, Kentucky 41144

Mayor Hayes and Commission Members:

I, James W. Lyon, Jr., City Attorney, City of Wurtland, Kentucky, do hereby respectfully report to the MAYOR and CITY COMMISSION that, as directed by ORDINANCE NO. 1, 2019 adopted on February 12, 2019, NOTICE OF SALE OF ELECTRIC FRANCHISE to be granted by the City of Wurtland was duly advertised by notice published in the February 28, 2019 issue of *The Greenup County News-Times*.

On the 5th day of March, 2019 at the hour of 1:00 p.m., as directed by ORDINANCE NO. 1, 2019 and as advertised in the NOTICE OF SALE, and at the front door of the offices of Lyon and Lyon, located at 302 Main Street, Greenup, Kentucky, the franchise was offered for public sale in accordance with the terms of ORDINANCE NO. 1, 2019.

At said time and place, Kentucky Power Company, known to me to be the owner of a plant and equipment sufficient to render the service required by ORDINANCE NO. 1, 2019, presented to me a true copy of an ORDER OF CERTIFICATION OF CONVENIENCE AND NECESSITY by the Public Service Commission of the Commonwealth of Kentucky, authorizing Kentucky Power Company to bid on said franchise, and upon said franchise being offered for public sale, said Kentucky Power Company did therefore submit the following bid in writing dated March 5, 2019:

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Kentucky Power Company
855 Central Avenue
Suite 200
Ashland, KY 41101
606-327-2600

To: The Honorable Donna Hayes, Mayor
Wurtland City Commission
City of Wurtland
500 Wurtland Ave.
Wurtland, Kentucky 41144

Dear Mayor Hayes and Commission Members:

Kentucky Power Company, a corporation organized and existing under the laws of the Commonwealth of Kentucky, hereby offers to purchase the right, privilege, franchise and authority to erect and operate an electric light and power system in the City of Wurtland, Greenup County, Kentucky, such franchise to run for a period of twenty (20) years and to contain all rights and privileges and to be subject to all conditions prescribed by the Ordinance directing the sale of the same and adopted by the City Commission on the 12th day of February, 2019.

The Company offers to pay an annual sum equal to twenty-five percent (25%) of the total amount, excluding any applicable tax, paid by the City of Wurtland to Kentucky Power Company for street lighting purposes during the preceding twelve (12) months. Each annual payment will be made within forty-five (45) days after each anniversary of the effective date of the franchise.

We attach and file herewith, as part of this bid and purchase offer, a copy of the Certificate of Convenience and Necessity issued by the order of the Public Service Commission of Kentucky, Case No. 2019-00025, entered January 24, 2019, authorizing Kentucky Power Company to bid.

The undersigned, Kentucky Power Company, already owns and operates in the City of Wurtland, plant and equipment sufficient to render the services required under the terms and provisions of the Ordinance directing the sale, and is now furnishing adequate service to the City and the inhabitants thereof.

Respectfully submitted this 5TH day of March, 2019.

KENTUCKY POWER COMPANY

By: 
Brian K. West
Director of Regulatory Services

Attachment

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COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF KENTUCKY POWER)	
COMPANY FOR A CERTIFICATE OF PUBLIC)	CASE NO.
CONVENIENCE AND NECESSITY)	2019-00025
AUTHORIZING THE APPLICANT TO APPLY)	
FOR AND OBTAIN A FRANCHISE FROM THE)	
CITY OF WURLAND, IN GREENUP COUNTY,)	
KENTUCKY)	

ORDER

On January 14, 2019, Kentucky Power Company (Kentucky Power) filed its application with the Commission seeking a Certificate of Public Convenience and Necessity (CPCN) to authorize it to bid on a franchise offered by the city of Wurland, Kentucky for electric transmission and distribution service. Under the provisions of KRS 278.020(5), no utility may apply for a franchise from any governmental agency until it has obtained a CPCN from this Commission based on our finding that there is a need and demand for the service sought to be rendered.

In light of the city of Wurland's ordinance creating a franchise for electric transmission and distribution service, the Commission determines that there is evidence of a need and demand for electric transmission and distribution service in Wurland, Kentucky. Because the Commission's authority in such matters is limited by statute to finding only whether there is a need and demand for the service sought to be rendered, no finding or determination is made as to the qualifications of the bidder, the validity of any of the provisions of the franchise offered by said city, or the manner in which any franchise fee is to be treated for rate purposes.

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IT IS THEREFORE ORDERED that:

1. Kentucky Power is granted a CPCN that authorizes it to bid on a franchise offered by the city of Wurtland, Kentucky for electric transmission and distribution service.

2. If Kentucky Power is not the successful bidder on the franchise, Kentucky Power shall, within ten days of the award of the franchise at issue, file with the Commission a written notice stating that Kentucky Power was not the successful bidder.

3. If Kentucky Power is the successful bidder on the franchise, Kentucky Power shall, within ten days of the award of the franchise, file with the Commission a copy of the executed franchise agreement and a statement disclosing the amount of the initial franchise fee.

4. If Kentucky Power is the successful bidder for the franchise, Kentucky Power shall, within ten days of an increase or decrease in the amount of the initial franchise fee set forth in the franchise agreement, file with the Commission documentation setting forth the revised fee.

5. Any documents filed pursuant to ordering paragraphs 2, 3, or 4 of this Order shall reference the number of this case and shall be electronically submitted via the Commission's electronic Tariff Filing System.

6. This Order shall not be construed as granting a CPCN to construct utility facilities in Wurtland, Kentucky.

7. This case is closed and removed from the Commission's docket.

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By the Commission

ENTERED
JAN 24 2019
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:


Executive Director

Case No. 2019-00025

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*Kentucky Power Company
855 Central Avenue, Suite 200
Ashland, KY 41101

*Honorable Mark R Overstreet
Attorney at Law
Stites & Harbison
421 West Main Street
P. O. Box 834
Frankfort, KENTUCKY 40602-0634

*Denotes Served by Email

Service List for Case 2019-00025

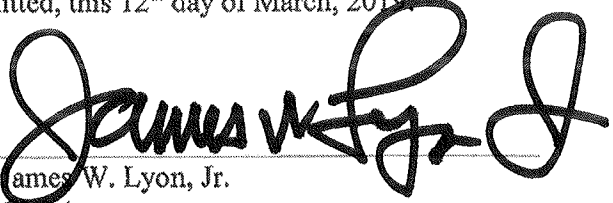
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Said bid made by Kentucky Power Company was the only bid received and the highest and best bid received; and the sale of said franchise was accordingly made to Kentucky Power Company at said price subject to acceptance by the CITY COMMISSION, City of Wurtland, Kentucky.

The written bid of Kentucky Power Company incorporated in this report and the copy of the ORDER of the PUBLIC SERVICE COMMISSION OF KENTUCKY are made a part of this report, all of which are respectfully submitted, this 12th day of March, 2019.


James W. Lyon, Jr.
City Attorney

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