

CITY OF GEORGETOWN, KENTUCKY  
ORDINANCE NO. 97- 026

AN ORDINANCE RELATED TO THE GRANTING OF  
A FRANCHISE FOR THE PROVISION OF ELECTRICAL SERVICE  
WITHIN THE CITY LIMITS OF GEORGETOWN, KENTUCKY

**WHEREAS:** The State Constitution provides the authority for Cities to grant franchises for the use of a city's streets and rights-of-way of the City of Georgetown. The provision of electrical service to the City requires the use of streets and rights-of-way otherwise envisioned by the framers of the Constitution as requiring a franchise; and

**WHEREAS:** The terms under which the utilities can provide electrical service within the City are mandated by the Public Service Commission, limiting the scope of the terms upon which the City can grant a franchise for the provision of electrical service. An advertisement offering the grant of a franchise for that service was published and responsive bids received.

**BE IT ORDAINED BY THE CITY OF GEORGETOWN, SCOTT COUNTY, KENTUCKY:**

**SECTION 1.** Pursuant to the orders of the Public Service Commission, there are two service areas for the provision of electrical service in the City. The two service providers are Kentucky Utilities and Owen Rural Electric. Both utilities responded to the city's request for bids for a franchise in the City to provide electrical service. Each bid was responsive. The best interests of the City mandate the granting of franchises to both bidders within their respective service areas.

**SECTION 2.** That Kentucky Utilities and Owen Rural Electric, the purchasers and grantees of this franchise, or their legal representatives, successors, and assigns, (all to be referred to as the "purchaser"), be, and are, subject to the conditions contained in this Ordinance, authorized and empowered to acquire, purchase, construct, maintain and operate in and through this City, a system of works for the generation, transmission and distribution of electrical energy from points within or without the corporate limits of this City, to all areas and parts of this City and its inhabitants, as the City's corporate limits now or hereafter exist. There is excepted from the grant of this franchise to each successful bidder only those areas included within a franchise granted by the City to the other as previously or subsequently determined by the Public Service Commission.

This franchise includes the authority to: a. provide electrical service from and through this City to persons, corporations and municipalities beyond the limits of this City; b. for the sale of that service for light, heat, power and all other legitimate purposes. c. to erect and maintain poles and other structures, wires and other apparatus necessary or convenient for the operation of their systems in, upon, across, under, and along each and all of the streets, alleys and public grounds, within the present and future corporate limits of this City; d. to have and hold, as by law authorized, any and all real estate, easements, water and other rights necessary to the proper purpose of this franchise; e. to use any and all such streets, alleys and public grounds while constructing or operating said electric system or works; f. to cross any and all streets and streams in this City for the purpose of constructing, maintaining or extending such poles, wires and other apparatus as may be necessary or convenient for the property distribution of electric energy in and through this City. Such right to maintain shall include the right to remove and/or trim trees in accordance with the Grantees' customary procedures. If, after any pole or other structure or facility has once been erected or placed, in exercise of the authority granted, the City Council



order the removal of said pole structure or facility to another location, the Grantee shall pay the cost of making such relocation. If the relocation, however, is made necessary due to widening, regrading or reconstruction of a street or highway, the pole was originally erected in a public right-of-way and is in public right-of-way immediately prior to the relocation, the Grantee will pay the cost of the relocation.

SECTION 3. The Grantee shall indemnify, and save the City harmless from any and all damages, judgments, decrees, costs and expenses, including reasonable attorneys' fees, which the City may legally suffer or incur for or by reason of the use and occupation of any street, alley, or public ground in the City by the Grantees, pursuant to the terms of this franchise, or of any of the privileges granted by this Ordinance. If any claim shall be made or suit brought against the City for damages alleged to have been sustained by reason of the Grantees' occupation of any street, alley, or public ground or exercise of any privileges granted this Ordinance, the City shall immediately notify the Grantee in writing. The Grantee is given the right and privilege to defend or assist in defending such suit, in the name of the City.

SECTION 4. The City may not impose upon or exact from the Grantees any fee, compensation or remuneration of any kind other than those provided for in this Ordinance. The City may not impose upon the Grantees any obligation other than those provided for in this Ordinance. The Grantees' payments provided for in Section 10 are the total consideration for the rights and privileges granted in this Ordinance, including those with respect to the streets, alleys and public grounds with the City.

SECTION 5. The Grantees shall extend their electric light or power lines and install additional equipment whenever they are assured a reasonable return upon the investment required to install such extension.

SECTION 6. The Grantees shall have the right to make and enforce reasonable rules and regulations necessary to the proper conduct of their business and protection of its property.

SECTION 7. The Grantees shall have the right to charge for electrical energy supplied within the City, rates that are reasonable and subject to regulation by the Kentucky Public Service Commission.

SECTION 8. These Franchisees and all rights, and privileges granted by this Ordinance, shall be in full force and effect for a period of twenty (20) years from and after the date this franchise is granted to the purchasers.

SECTION 9. This franchise may be transferred by the Grantees and the word "Grantee" whenever used in this franchise shall include and be taken to mean and apply to all the successors and assigns of the purchaser.

SECTION 10. As additional consideration for the grant of this franchise, on and after the date this franchise becomes effective, the Grantees will pay to the City a sum equal to 3% of the gross revenue received by the Grantees, from electric service rendered within the corporate limits of the City to customers supplied under residential and commercial revenue classifications, as now defined in the Grantees system of accounts and reported to the Kentucky Public Service Commission. The amount payable to the City for each full calendar quarter during which this franchise is in effect shall be computed on the basis of revenues received during such quarter. Payment shall be made within 60 days after close of the quarter. The amount which may be payable to the City for a portion of a calendar quarter at the commencement or termination of the term of this franchise shall be computed on the basis of revenues received during such portion of a calendar quarter, and shall be payable not more than 60 days after the termination of the quarter which includes the period for which payment is made.



If any amount paid pursuant to the provisions of this Section 10 is stated by Grantees, at the time of such payment, to be based in whole or in part on revenues which are subject to refund by purchaser to customers, and if any part of such revenues are thereafter required to be refunded by purchaser, the City shall repay to purchaser that part of the payment made which was based upon such revenues required to be refunded. Any such repayment shall be made, at Grantees' option, upon demand or by credit against the payment or payments otherwise next becoming due.

Should any license tax, occupational tax or any other tax, charge or fee except ad valorem taxes be now or hereafter imposed, the amount payable under this section shall be payable only to the extent that it exceeds the sum of all such taxes, charges or fees.

The Public Service Commission of Kentucky has directed that if payments, such as those to the City, provided above, are to be recovered as charges to customers served within the involved franchise area, such charges are to be listed as separate items on such customers' bills. The City recognizes that the Grantees are subject to the provisions of statutes enacted by the General Assembly of the Commonwealth of Kentucky, including statutes prescribing the regulatory jurisdiction of the Kentucky Public Service Commission and the exercise of that jurisdiction. The city further recognizes the authority under which the Grantees could become subject to regulatory jurisdiction of other governmental agencies relative, among other subjects, to the making of the its payments, the Grantees' rates or other treatment.

If the charging, payment, or collection of sums specified in this Section to be payable to the City should be made unlawful or prohibited by law or regulation, the provisions of this Section shall be deemed separable from the remainder of this Ordinance and the franchise. The remaining provisions of the franchise shall continue to be of full force and effect. If, at any time, the Grantees shall not be permitted to fully recover in its charges to its customers, the Grantees' payments to the City required by this section, the Grantees shall have the option to terminate this franchise, as of the effective date of the law, regulation or regulatory order denying such permission.

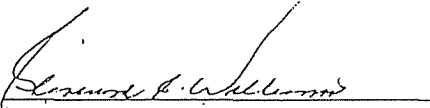
**SECTION 11.** If the Grantees of this franchise are the holders of a franchise previously granted by the City of Georgetown, then, unless the Grantee, as a part of its bid for this franchise, expressly reserves its rights under such prior franchise, the prior franchise shall be deemed terminated upon the effective date of this franchise.

The foregoing Ordinance was introduced and read for the first time at the City Council's regular meeting September 4, 1997, for the second time, adopted and approved, at its regular meeting September ~~27~~ 17, 1997.

APPROVED:

  
WARREN POWERS, MAYOR

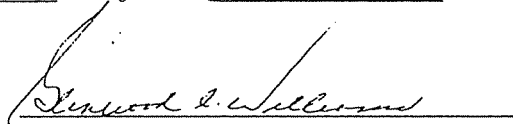
ATTESTED BY:

  
GLENWOOD WILLIAMS, CLERK



I, the undersigned City Clerk of the City of Georgetown, Kentucky, do hereby certify that this is a true and accurate copy of the ORDINANCE 97-026, AN ORDINANCE PUBLISHED IN ITS ENTIRETY BY THE GEORGETOWN NEWS GRAPHIC ON FRIDAY, OCTOBER 10, 1997.

Witness, my hand and the seal of the City of Georgetown, Kentucky, this 13<sup>th</sup> day of October 1997.



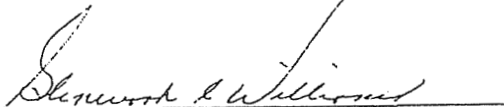
Glenwood C. Williams, CMC  
City Clerk Treasurer  
City of Georgetown, Kentucky

SEAL

TARIFF BRANCH  
**RECEIVED**  
10/15/2012  
PUBLIC SERVICE  
COMMISSION  
OF KENTUCKY

I, the undersigned City Clerk of the City of Georgetown, Kentucky, do hereby certify that this is a true and accurate copy of the ORDINANCE 97-026, AN ORDINANCE RELATED TO THE GRANTING FOR PROVISION OF ELECTRIC SERVICE WITHIN THE CITY LIMITS OF GEORGETOWN, KENTUCKY which is in the records in the Office of the City Clerk/Treasurer in City Hall, Georgetown, Kentucky.

Witness, my hand and the seal of the City of Georgetown, Kentucky, this 13<sup>th</sup> day of October 1997.



Glenwood C. Williams, CMC  
City Clerk Treasurer  
City of Georgetown, Kentucky

SEAL



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# CITY OF GEORGETOWN

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**COUNCIL MEMBERS**

JOHN FITCH  
DON HAWKINS  
DAVID LUSBY  
TERRY MAURER

WARREN POWERS  
MAYOR

**COUNCIL MEMBERS**

ROCKY McCLINTOCK  
EDWARD OVERSTREET  
STEVE ROBERTS  
BARBARA TILFORD

October 30, 1997

*Rec'd  
11/3/97*

Mr. Bill Prather  
Owen Electric  
P.O. Box 400  
510 S. Main Street  
Owenton, Kentucky 40359

Saundra Gano  
City of Georgetown  
100 Court Street  
P.O. Box 677  
Georgetown, Kentucky 40324

Mr. Prather:

I hope this map will benefit you. Let me know if I can be of further assistance.  
I can be reached at 502-867-2000.

*Saundra Gano*  
Saundra Gano

*Maps checked and  
files updated 11/3-4/97.*



CHARLES M. PERKINS  
CITY ATTORNEY  
209 EAST MAIN STREET  
GEORGETOWN, KENTUCKY 40324  
863-9809

cc: Bill P  
Gay  
File original

October 21, 1997

Frank Downing  
Owen County RECC  
510 S. Main Street  
Owenton, Kentucky 40359

re: Ordinance 97-026

Dear Mr. Parks:

Enclosed is the final adopted City Ordinance establishing the franchise for electrical service in the City of Georgetown. The effective date of that Ordinance is the publication date of this Ordinance which was October 10, 1997. All terms and conditions are effective as of that date. The franchise fees are due and payable from that date.

Sincerely,



Charles M. Perkins

CMP:mm  
cc: Mayor — 502-863-9800  
City Clerk

