

ORDINANCE NO. 10-2024

AN ORDINANCE OF THE CITY OF FORT WRIGHT IN KENTON COUNTY, KENTUCKY ACCEPTING THE BID OF DUKE ENERGY KENTUCKY, INC. FOR A TWENTY-YEAR NON-EXCLUSIVE FRANCHISE FOR THE USE OF THE PUBLIC STREETS, ALLEYS AND OTHER PUBLIC GROUNDS OF THE CITY FOR THE TRANSMISSION AND DISTRIBUTION OF BOTH NATURAL GAS AND ELECTRICITY THROUGH AND FOR CONSUMPTION WITHIN THE CITY.

WHEREAS, Duke Energy Kentucky, Inc. ("Duke Energy") is a public utility subject to the provisions of Sections 163 and 164 of the Kentucky Constitution and K.R.S. 96.010 through 96.045 and K.R.S. Chapter 278; and

WHEREAS, Section 163 of the Kentucky Constitution prohibits public utilities from using the streets, alleys and other public grounds within a city without a franchise for that use; and

WHEREAS, Duke Energy is a successor to the Union Light, Heat and Power Company ("ULH&P"); and

WHEREAS, ULH&P had a franchise for the use of the City streets, alleys and public grounds for the transmission and distribution of electricity through and for consumption within the City; but that franchise expired pursuant to the terms thereof; and

WHEREAS, Duke Energy does not currently have a franchise for the use of streets, alleys and public grounds of the City for the transmission and distribution of either or both electricity and natural gas through and for consumption within the City; and

WHEREAS, Ordinance No. 10-2024 of the City establishes a non-exclusive twenty (20) year franchise for the use of the City streets, alleys and public grounds for the transmission and distribution of either or both electricity and natural gas through and for consumption within the City; and

WHEREAS, pursuant to the requirements of Section 164 of the Kentucky Constitution and K.R.S. Chapter 424, the City advertised for bids for the franchise established by Ordinance No. 10-2024 and publicly received a bid from Duke Energy for both an electrical and a natural gas franchise, a copy of which is attached hereto and incorporated herein by reference; and

WHEREAS, Duke Energy has been certified by the Public Service Commission of Kentucky for territories within the City pursuant to K.R.S. Chapter 278.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF FORT WRIGHT IN KENTON COUNTY, KENTUCKY, AS FOLLOWS:

Section 1.0 – Acceptance of Bids

The attached bid from Duke Energy is hereby determined to be the highest and best bid for the territory within the City for which Duke Energy serves or has been certified by the Public Service Commission of Kentucky pursuant to K.R.S. Chapter 278; and that bid is hereby accepted as tendered.

Section 2.0 – Grant of Electric and Natural Gas Franchise

Pursuant to Ordinance No. 10-2024, and subject to the provisions thereof, Duke Energy is hereby granted a non-exclusive twenty (20) year franchise for the use of the City streets, alleys and public grounds for the transmission and distribution of either or both electricity and natural gas through and for consumption within the City.

Section 3.0 – Provisions Several

The provisions of this ordinance are severable; and the invalidity of any provision of this ordinance shall not affect the validity of any other provision thereof; and such other provisions shall remain in full force and effect as long as they remain valid in the absence of those provisions determined to be invalid.

Section 4.0 – Conflicting Ordinances Repealed

All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

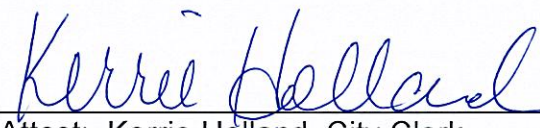
Section 5.0 – Effective Date

This ordinance shall be effective as soon as possible according to law.

Section 6.0 – Publication

This ordinance shall be published in summary pursuant to K.R.S. 83A.060(9).



Mayor Dave Hatter

Attest: Kerrie Holland, City Clerk

First Reading: 8-7-24
Second Reading: 8-21-24
Publication: _____



Amy B. Spiller
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June 14, 2024

VIA OVERNIGHT DELIVERY

City of Fort Wright
Attn: Jill Cain Bailey, CAO
409 Kyles Lane
Fort Wright, KY 41011

BID FOR ELECTRIC AND NATURAL GAS FRANCHISE

In response to your offer contained in Ordinance No. 04-2024, authorized by you on or about April 17, 2024, (the "Ordinance") titled:

AN ORDINANCE OF THE CITY OF FORT WRIGHT, IN KENTON COUNTY, KENTUCKY ESTABLISHING A NON-EXCLUSIVE FRANCHISE FOR THE USE OF THE PUBLIC STREETS, ALLEYS AND OTHER PUBLIC GROUNDS OF THE CITY FOR THE TRANSMISSION AND DISTRIBUTION OF EITHER OR BOTH NATURAL GAS AND ELECTRICITY THROUGH AND FOR CONSUMPTION WITHIN THE CITY.

THE UNDERSIGNED, Duke Energy Kentucky, Inc., for itself, its successors and assigns, hereinafter "Duke Energy Kentucky" or "Company," subject to the conditions and exceptions set forth below, hereby submits its bid and requests that such electric and natural gas franchise be awarded to it in consideration of which the Company shall render service and perform all the terms and conditions set forth in such Ordinance, which shall be set forth in a Franchise Agreement between the City and the Company.

Duke Energy Kentucky is a Kentucky corporation with its principal office and principal place of business at 139 East Fourth Street, Cincinnati, Ohio 45202. The Company's local office in Kentucky is the Erlanger Ops Center, 1262 Cox Road, Erlanger, Kentucky 41018. Duke Energy Kentucky is a utility engaged in the natural gas and electric business. Duke Energy Kentucky purchases, sells, stores, and transports natural gas in Boone, Bracken, Campbell, Gallatin, Grant, Kenton, and Pendleton Counties. Duke Energy Kentucky also generates electricity, which it distributes and sells in Boone, Campbell, Grant, Kenton, and Pendleton Counties.

Duke Energy Kentucky currently owns both electric and natural gas plant and equipment in the City that is sufficient to render service as required under the franchise established by the City. As such, pursuant to KRS 96.020(2), this bid is tendered with the understanding that no bond is required with the submission of this bid. In addition, Duke Energy Kentucky is self-insured and

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any liability insurance requirement that may be considered by the city must be waived. Moreover, the Company's bid is conditioned upon the Franchise Agreement acknowledging that the Company's service is regulated by the Kentucky Public Service Commission ("Commission") and that compliance with Commission orders, rules and regulations shall satisfy the Company's obligation to provide quality service within the City.

In compliance with the Ordinance, the attached tariffs, which are made a part hereof, shall upon acceptance hereof and due filing, be applicable to service rendered within the City, until lawfully changed.

If this bid is acceptable to the City, Duke Energy Kentucky does respectfully request that its terms be set forth in an Electric and Natural Gas Franchise Agreement to be made and entered into between the City and the Company.

Respectfully submitted,

DUKE ENERGY KENTUCKY, INC.



Amy B. Spiller, President

Enclosures