

FRANCHISE AGREEMENT

THIS AGREEMENT made and entered into this 11th day of April, 2013, by and between the **LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT**, an urban county government of the Commonwealth of Kentucky pursuant to Chapter 67A of the Kentucky Revised Statutes (hereinafter "Lexington"), and **KENTUCKY UTILITIES COMPANY, INC.**, a corporation created and existing under and by virtue of the laws of the Commonwealth of Kentucky, with its principal office at One Quality Street, Lexington, Kentucky 40507 (hereinafter "Kentucky Utilities").

WITNESSETH:

WHEREAS, by Ordinance No. 35-2013 (the "Ordinance"), enacted March 21, 2013, Lexington created a non-exclusive franchise for the privilege of constructing, erecting, operating and maintaining an electric generation, transmission and distribution system in Fayette County, Kentucky; and

WHEREAS, pursuant to the Ordinance Lexington authorized the advertising for bids on said franchise and Kentucky Utilities submitted a timely bid to acquire said franchise; and

WHEREAS, by Resolution No. 153-2013, enacted April 11, 2013, Lexington accepted the bid of Kentucky Utilities as substantially responsive to the Ordinance and in the best interest of the citizens of Lexington-Fayette Urban County; and

WHEREAS, Lexington and Kentucky Utilities have agreed to accept the following as the terms of this Agreement and as those of the franchise.

NOW THEREFORE, for and in consideration of the mutual covenants and agreements contained herein the receipt and sufficiency of all of which are hereby acknowledged, the Government and Kentucky Utilities agree as follows:

1. Ordinance No. 35-2013, which is attached hereto as Exhibit "A" (the "Ordinance"), is incorporated herein by reference in its entirety and shall apply as if fully set forth herein.

2. The bid of Kentucky Utilities for this franchise, which is attached hereto as Exhibit "B", is incorporated herein by reference in its entirety and shall apply as if fully set forth herein.

3. Lexington hereby grants unto Kentucky Utilities a non-exclusive franchise for the privilege of constructing, erecting, operating and maintaining an electrical energy distribution system upon, through, along, under and over the public streets, alleys, avenues, public roads, highways, sidewalks, and other public ways of the Lexington-Fayette Urban County Government in accordance with the terms of the Ordinance.

4. This Agreement shall commence on April 11, 2013, and shall expire as provided in the terms and provisions of the Ordinance.

5. In consideration of the granting of this franchise, Kentucky Utilities agrees to pay to the Government a sum equal to three percent (3%) of the gross annual revenues received by Kentucky Utilities from electric service within Fayette County as provided in the Ordinance, until such time as the fee may be increased by the Urban County Council pursuant to the terms and provisions of the Ordinance.

6. Kentucky Utilities, its successors and assigns, in consideration of the grant, sale and conveyance of the above franchise, does hereby bind itself, its successors and assigns, to faithfully and fully perform each and every condition of said franchise as contained in this Agreement, and further to faithfully perform all acts required of it as the purchaser of said franchise.

7. This Agreement contains and embodies the entire agreement between the parties and shall be binding upon and inure to the benefit of the respective successors in interest to the parties hereto. No changes, modifications or other deletions in this Agreement shall be effective unless and until the same are reduced to writing and approved, adopted, and executed in the same fashion as this Agreement.

IN TESTIMONY WHEREOF, the Lexington-Fayette Urban County Government has caused its name to be affixed hereto by the Mayor and Kentucky Utilities Company, Inc., has caused its name to be affixed hereto by John Malloy, its properly authorized officer.

LEXINGTON-FAYETTE URBAN COUNTY
GOVERNMENT

BY: _____


JIM GRAY, MAYOR

ATTEST:



SUSAN LAMB, COUNCIL CLERK

KENTUCKY UTILITIES COMPANY, INC.

BY: _____



JOHN MALLOY, VICE PRESIDENT
RETAIL BUSINESS

STATE OF KENTUCKY)
)
COUNTY OF Jayette)

The foregoing Agreement was subscribed, sworn to and acknowledged before me by John Malloy, as Vice President of Retail Business, Kentucky Utilities Company, Inc., on this the 9th day of April, 2013.

My commission expires: March 17, 2015

Kimberly Denton 438599
NOTARY PUBLIC
KENTUCKY, STATE-AT-LARGE

ORDINANCE NO. 35-2013

AN ORDINANCE CREATING AND ESTABLISHING FOR BID A NON-EXCLUSIVE ELECTRIC FRANCHISE AND PROVIDING FOR THE PLACEMENT OF FACILITIES FOR THE TRANSMISSION, DISTRIBUTION AND SALE OF ELECTRICAL ENERGY WITHIN THE PUBLIC RIGHTS-OF-WAY FOR AN INITIAL PERIOD OF FIVE YEARS WITH UP TO TWO RENEWAL PERIODS OF FIVE YEARS EACH; IN RETURN FOR PAYMENT TO THE URBAN COUNTY GOVERNMENT OF THE SUM OF AT LEAST THREE PERCENT (3%) OF EACH FRANCHISEE'S GROSS ANNUAL REVENUES RECEIVED FROM ELECTRIC SERVICE PROVIDED WITHIN FAYETTE COUNTY, WITH THE ABILITY TO BE RAISED TO FIVE PERCENT (5%); AND FURTHER PROVIDING FOR COMPLIANCE WITH RELEVANT LAWS, REGULATIONS AND STANDARDS; A PERFORMANCE BOND; INDEMNIFICATION; INSURANCE; ACCESS TO PROPERTY AND INSPECTIONS; REPORTING; AUDITS; NOTICE OF FILINGS WITH THE PUBLIC SERVICE COMMISSION; CANCELLATION OR TERMINATION; PENALTIES FOR VIOLATIONS; AND BID REQUIREMENTS; ALL EFFECTIVE ON DATE OF PASSAGE.

Section 1 - There is hereby created a non-exclusive franchise to acquire, lay, maintain and operate in the public streets, alleys, avenues, public roads, highways, sidewalks and other public ways of the Lexington-Fayette Urban County Government, a system or works for the generation, transmission and distribution of electrical energy from points either within or without the corporate limits of this Urban County, to this Urban County and the inhabitants thereof, and from and through this Urban County to persons, corporations and municipalities beyond the limits thereof, and for the sale of same for light, heat, power and other purposes; to erect and maintain poles or other structures, wires and other apparatus necessary for the operation of said system in, upon, over, under, across and along each and all of the streets, avenues, alleys, rights-of-way and public places (not including parks, greenways, and other public areas not traditionally used for public egress) within the present and future corporate limits of this Urban County (the "Rights-of-way"), subject to all the provisions of this Ordinance. This Ordinance does not excuse the franchisee from complying with any and all existing and future local laws and ordinances, as may be amended, including but not limited to the terms and provisions of Chapters 17, 17B, and 17C of the Code of Ordinances, Lexington-Fayette Urban County Government (the "Code"), or the provisions of its zoning ordinance, if applicable, which are incorporated herein by reference, and which shall apply as if fully set forth herein to the extent that there is no express conflict with the terms or provisions of this Ordinance, or a direct conflict with federal or state law. This franchise does not include the right or privilege to provide for the operation of a telephone communication system, including telephone exchange service (as defined by 47 USC Section 153(47)) and exchange access (as defined by 47 USC Sec. 153 (16)), data transmission, cable service (as defined by 47 USC Section 522(6)) or open video service (as defined by 47 USC Section 76.1500(a)), unless such services are used exclusively within the Company and not for revenue.

Section 2 - The person, firm or corporation that shall become the purchaser of said franchise, or any successor or assignee of such person, shall hereinafter be referred to as the "Company". The Lexington-Fayette Urban County Government shall be referred to as "Lexington" or the "Government". The applicable definitions and terminology contained in the provisions of the Code and/or Zoning Ordinance shall apply.

Section 3 - The Company acquiring this franchise shall have the right and privilege of laying, maintaining and operating a system or works for the generation, transmission and distribution of electrical energy for the sale of same for light, heat, power and other purposes, to erect and maintain poles or other structures, wires and other apparatus necessary for the operation of said system in, along and under the Rights-of-way within the corporate boundaries of Lexington as they now exist or may hereafter be extended (referred to herein as the "System" or the "Facilities"); subject to the provisions hereof and to all powers (including police power) inherent in, conferred upon, or reserved to Lexington, including but not limited to those contained in the Code.

Section 4 -- The Company shall conform to at least the minimum standards or requirements contained in federal or state law or regulation in the operation of its System pursuant to this franchise. In addition to complying with the requirements contained in federal or state law or regulation, and the Code (as may be amended), the Company agrees that:

(a) All working facilities and conditions used during construction, installation and maintenance of Facilities shall comply with the standards of the Occupational Safety and Health Administration;

(b) It shall construct and operate the system and related Facilities in accordance with all applicable generally accepted related industry codes and standards;

(c) All construction shall be performed in a workmanlike manner, and all materials, equipment, and/or Facilities used or installed shall be in compliance with industry standards. In case of any defect in the work, material or equipment, whether latent or patent, the Company will remedy such defects without cost to Lexington as soon as practicable under the circumstances or as otherwise provided in the Code;

(d) In the construction or reconstruction or maintenance or removal of any of said Facilities, the Company shall have due regard for the rights of Lexington and others, and shall not unduly interfere with, or in any way damage the property of Lexington or others under, on, or above the ground. The Company shall comply with all the laws of the Commonwealth of Kentucky and ordinances of the Government as to placing lights, danger signals or warning signs

and shall be liable for any and all damage that may arise by reason of its failure or neglect to comply with such ordinances and laws. Work by the Company hereunder shall be done in a workmanlike manner and so as not to unnecessarily interfere with public use of the Rights-of-way.

(e) The minimum clearance of wires and cables above the Rights-of-way and the placement of any underground facilities shall conform to accepted good engineering practices or national standards as recognized by the Kentucky Public Service Commission.

Section 5 – The Company shall comply with all of the requirements of the Code (as may be amended), and more specifically, Section 17C-19 of the Code and the provisions of the zoning ordinance, if applicable pertaining to Government construction and/or street projects.

Section 6 – In addition to any performance bond(s) required pursuant to Section 17C-23 of the Code, the Company may be required to provide a performance guarantee for significant projects with construction costs of one hundred thousand (\$100,000.00) or more involving the Rights-of-way. This performance guarantee shall be set in an amount and duration to be determined by the Chief Administrative Officer of Lexington or his or her designee upon discussing and verifying the scope of such a project with the Company, and shall be in favor of the Government to be issued by an entity subject to jurisdiction and venue in Fayette County, Kentucky. In no event shall the total cumulative amount of such performance guarantee exceed two hundred thousand dollars (\$200,000.00) in this Ordinance or by law.

Section 7 – As consideration for the granting of this franchise, the Company agrees it shall defend, indemnify, and hold harmless Lexington consistent with the indemnification and hold harmless provisions as set forth in Section 17C-17 of the Code, or as it may be amended in the future. This obligation to defend, indemnify, and hold harmless does not include defending, indemnifying and holding harmless the Government for its own negligent acts.

Section 8 - The Company shall comply with all applicable federal, state or local non-discrimination and affirmative action requirements of any laws, regulations and executive directives, and shall not discriminate in its employment practices against any employee or applicant for employment because of race, color, religion, national origin, sex, age or physical handicap.

Section 9 - The Company agrees to procure and maintain throughout the term of this franchise and any extension thereof, commercial general liability insurance in the principal amount of at least One Million Dollars (\$1,000,000) per occurrence with a Two Million Dollar (\$2,000,000.00) aggregate, with an insurance company authorized to do business in the Commonwealth of Kentucky with the provision, "it is agreed and understood that the Lexington-

Fayette Urban County Government, its agents, employees, officers and elected officials, as their interests may appear, are additional insureds, in the same manner as if a separate policy had been issued, under the provision of the policies required to be issued during the term of this franchise or as otherwise required by this Ordinance." All insurance policies shall be broad form in nature and shall be through a company with an A.M. Best Rating of "A" or better, admitted to do business in Kentucky, and the contract shall be non-cancelable without at least thirty (30) days advance written notice by registered mail to Lexington from the insurance company and shall provide Lexington with a certificate of insurance evidencing the insurance policy required by this section. The certificate shall state that the insurance policy shall not be canceled, materially changed or non-renewed until after thirty (30) days written notice has been provided to Lexington; however, insurance may be canceled and replaced with a policy that continues to meet or exceed the requirements of this section. The Company may satisfy the insurance requirements and conditions of this section under an equivalent self-insurance plan that is acceptable to Lexington.

Section 10 – (a) Lexington, through its Mayor or his designee, or through such assistants as Lexington may employ or designate, may, at all reasonable times and under reasonable conditions with prior notice and in compliance with any recognized and appropriate safety standards or guidelines, have access to all or any of the property owned or used in part or in whole by the Company in its operating and maintaining the System under this franchise and located within the Rights-of-way. In like manner, Lexington's above-mentioned officers and assistants may at all reasonable times and under reasonable conditions with prior notice, inspect, and subject to any reasonable confidentiality measures requested by the Company, examine or verify all or any of the accounts, books, records, contracts, documents or papers of the Company relating to gross revenues in Fayette County in order to audit and recompute any amounts determined to be payable under this Ordinance consistent with the provisions of Section 19(b) of this Ordinance. In the event that Lexington determines that it desires an audit of this franchise, the Company agrees to comply with all reasonable requests of Lexington pertaining to obtaining any necessary information or documentation from the Company reasonably necessary to the administration of this franchise and the provisions of Section 19(b) of this Ordinance shall apply if appropriate.

(b) The Company agrees further to furnish the Mayor or his designee timely written notice of its filing an application with the Public Service Commission for an increase in general base rates concurrent with said filing. Should Lexington choose to intervene in such

Commission action, the Company shall not oppose such intervention, and Lexington shall be given access to records related to said application, as required by the Commission.

(c) The Company agrees to provide Lexington and/or its Council with information pertaining to its provision of services pursuant to this franchise upon reasonable request. This shall include, but is not necessarily limited to, attending public meeting(s) at which some or all the Councilmembers are in attendance (in order to provide such information upon reasonable advanced notice) and providing an annual update to the Council upon its request.

Section 11 - (a) The franchise hereby created shall be for an initial period of five (5) years from the date of acceptance by the Urban County Council.

(b) This franchise may be renewed for up to two (2) additional terms not to exceed five (5) years each upon the request of the Company and the approval of the request by the Urban County Council. The request for a renewal shall be made in writing to Lexington's Mayor and Vice-Mayor at least one hundred eighty (180) days, but no earlier than one (1) year, in advance of the termination date of the Company's franchise agreement. The ultimate decision of whether to grant an additional franchise term shall solely be that of the Government.

(c) In addition, the term of the franchise may be extended up to twelve (12) months by agreement of the parties in order to provide for the good faith negotiation of a new franchise.

(d) This franchise is not exclusive, and the Government reserves the right to grant similar franchises to more than one Company. All franchises awarded pursuant to this Ordinance are intended to terminate at the same time. Therefore any Company awarded a franchise pursuant to this Ordinance shall only be awarded a franchise that is equal in duration to the remaining term of the initial franchise(s).

(e) This franchise creates no vested rights in the Company and any installation or emplacement of Facilities by the Company in the Rights-of-way is at the Company's risk. If the Company is not granted a new franchise upon the expiration of the term for which the franchise is granted, or if the Company's franchise is terminated or cancelled, as provided for herein, Lexington shall have the right to require the Company to remove at its own expense all portions of the system from all Rights-of-way within the confines of Fayette County.

(f) No assignment of this franchise or the System subject to this franchise shall take place without at least sixty (60) days advance written to Lexington, and consent by Lexington, which consent shall not be unreasonably withheld. The Company must obtain Public Service Commission approval when necessary and at a minimum the assignee must show that it

has met any and applicable statutory or regulatory standards or requirements pertaining to such an assignment.

(g) The Company shall not object to the Government's intervention and participation in any action before the Public Service Commission involving the transfer of control of the Company.

Section 12 - (a) If, after the Company is provided the opportunity to appear and present evidence before Lexington's Chief Administrative Officer or his designee, Lexington determines that the Company has violated any of the following provisions of this Ordinance, the following penalties shall be recoverable. The above-determination, which must be in writing and provide the basis for the decision, shall be the final administrative decision, which may be appealed to a court of competent jurisdiction.

(1) For failure to commence removal of any pending construction project within thirty (30) days of receiving notice from Lexington that the franchise has expired and will not be renewed, the Company shall forfeit five hundred dollars (\$500.00) per day or part thereof that the violation continues;

(2) For failure to provide data and reports requested by the Government and as required by this Ordinance, the Company shall forfeit one hundred dollars (\$100.00) per day or part thereof that the violation continues;

(3) For failure to pay the franchise fee when due pursuant to Section 18 of this Ordinance, or any itemized bill presented by the Government pursuant to Section 5 of this Ordinance or this section, the Company shall forfeit one hundred dollars (\$100.00) per day or part thereof that the violation continues. However, this provision shall not apply if interest is assessed by the Government pursuant to Section 19(c).

(b) If the Company fails to comply within thirty (30) days of any Council resolution directing compliance with any other provisions of this Ordinance, the Company shall forfeit one hundred dollars (\$100.00) per day or part thereof that the violation continues. The decision of the Council may be appealed to a court of competent jurisdiction.

(c) The Company shall not be excused from complying with any of the terms and conditions of this Ordinance by any failure of Lexington, upon any one or more occasions, to insist upon the Company's performance or to seek the Company's compliance with any one or more of such terms or conditions. Payment of penalties shall not excuse non-performance under this Ordinance. The right of the Government to seek and collect penalties as set forth in

this section is in addition to its right to terminate and cancel as set forth in Section 14 of this Ordinance.

Section 13 – Lexington reserves all rights it might presently have, or which it may hereafter acquire, to regulate the Company's rates and services. The parties acknowledge the [current] general regulatory authority that the Kentucky Public Service Commission has been provided in this area. The rights of all subscribers are defined by the Customer Bill of Rights, which is contained in the Company's tariffs. The Company will abide by any all Commission orders and/or tariffs pertaining to service and operations in Fayette County. As further consideration for the granting of this franchise, the Company shall work with the Government to improve the identification and replacement or repair of nonfunctioning street lights.

Section 14 - (a) In addition to all other rights and powers pertaining to the Government by virtue of the franchise or otherwise, Lexington, by and through its Council, reserves the right to terminate and cancel any franchise awarded pursuant to this Ordinance and all rights and privileges of the Company hereunder in the event that the Company:

(1) Willfully violates any material provision of the franchise or any material rule, order, or determination of the Government made pursuant to the franchise, except where such violation is without fault or through excusable neglect;

(2) Willfully attempts to evade any material provision of the franchise or practices any fraud or deceit upon the Government;

(3) Knowingly makes a material misrepresentation of any fact in the application, proposal for renewal, or negotiation of the franchise;

(4) Is experiencing a foreclosure or other judicial sale of all or a substantial part of the Company's Facilities located within Fayette County. The Company shall provide the Government at least thirty (30) days advance written notice of such foreclosure or sale;

(5) Is no longer able to provide regular and customary uninterrupted service to its customers in the franchise area.

(b) Prior to attempting to terminate or cancel this franchise pursuant to this section, the Mayor or his designee, or the Urban County Council shall make a written demand that the Company do or comply with any such provision, rule, order or determination. If the violation of Section 14(a) by the Company continues for a period of thirty (30) days following such written demand without written proof that the corrective action has been taken or is being actively and expeditiously pursued, Lexington may place its request for termination of the franchise as early as the next regular Council meeting agenda. Lexington shall cause to be served upon Company, at

least ten (10) days prior to the date of such Council meeting, a written notice of intent to request such termination and the time and place of the meeting, legal notice of which shall be published in accordance with any applicable laws.

(1) It shall be a defense to any attempt to terminate and cancel the franchise that the Company was relying on federal law, state law, or a valid tariff in acting or not acting on the issue in dispute.

(2) The Council shall consider the request of the Government and shall hear any person interested therein, and shall determine in its discretion, whether or not any violation by the Company was with just cause.

(3) If such violation by the Company is found to have been with just cause, the Council shall direct the Company to comply therewith within such time and manner and upon such terms and conditions as are just and reasonable.

(4) If the Council determines such violation by the Company was without just cause, then the Council may, by resolution, declare that the franchise of the Company shall be terminated and forfeited unless there is compliance by the Company within such period as the Council may fix.

Section 15 – The Council shall have the right to cancel this franchise thirty (30) days after the appointment of a receiver, or trustee, to take over and conduct the business of the Company, whether in receivership, reorganization, bankruptcy, or other action or proceeding, unless such receivership or trusteeship shall have been vacated prior to the expiration of said thirty (30) days, unless:

(a) Within thirty (30) days after his election or appointment, such receiver or trustee shall have fully complied with all the provisions of this Ordinance and remedied all defaults thereunder; and,

(b) Such receiver or trustee, within said thirty (30) days shall have executed an agreement, duly approved by the court having jurisdiction in the premises, whereby such receiver or trustee assumes and agrees to be bound by each and every provision of this Ordinance and the franchise granted to the Company.

Section 16 - It shall be the duty of the Mayor or his designee as soon as practicable after the passage of this Ordinance to offer for sale at public auction said franchise and privilege. In the event that additional interested bidders are identified or express an interest in obtaining a franchise after this initial offering, the additional offering and advertisement to accommodate such bidders is hereby authorized where not precluded by law. Said franchise and privilege shall be

sold to the highest and best bidder or bidders at a time and place fixed by the Mayor after he or she has given due notice thereof by publication or advertisement as required by law.

Section 17 – Bids and proposals for the purchase and acquisition of the franchise and privileges hereby created shall be in writing and shall be delivered to the Mayor or his designee upon the date and at the time fixed by him or her in said publication or advertisement for receiving same. Thereafter, the Mayor shall report and submit to the Urban County Council, at the time of its next regular meeting or as soon as practicable thereafter, said bids and proposals for its approval. The Urban County Council reserves the right, for and on behalf of the Government, to reject any and all bids for said franchise and privileges; and, in case the bids reported by the Mayor shall be rejected by the Urban County Council, it may direct, by resolution or ordinance, said franchise and privilege to be again offered for sale, from time to time, until a satisfactory bid therefore shall be received and approved.

(a) Each bid shall be accompanied by a non-refundable payment to Lexington in the amount of five hundred dollars (\$500.00) to cover its cost of advertising and other administrative expenses incurred.

(b) In addition, any bid submitted by an entity or person not already owning within the territorial limits of Fayette County a plant, equipment, and/or Facilities sufficient to render the service required by this Ordinance must be accompanied by cash or a certified check drawn on a bank of the Commonwealth of Kentucky, or a national bank, equal to five percent (5%) of the fair estimated cost of the system required to render the service, which check or cash shall be forfeited to the Government in case the bid should be accepted and the bidder should fail, for thirty (30) days after the confirmation of the sale, to pay the price and to give a good and sufficient bond in a sum equal to one-fourth (1/4) of the fair estimated cost of the system to be erected, conditioned that it shall be enforceable in case the purchaser should fail, within sixty (60) days, to establish and begin rendering the service in the manner set forth in this Ordinance. Bids shall include such documentation as is necessary to support the bidder's determination of the fair estimated cost of the system required to render the service. Lexington reserves the right to review any of bidder's supporting documentation which justifies bidder's determination of said estimated cost.

Section 18 - (a) In consideration for the granting of the franchise the Company agrees to pay the franchise fee as provided herein, which shall automatically be established in an amount of three percent (3%) of the gross annual revenues received by the Company within Fayette County including any fees charged directly to customers related to the receipt of services, unless

Lexington establishes the franchise fee in a different amount pursuant to this section. Lexington reserves the right at any time during the effective period of the franchise to be awarded hereby to impose upon the Company a franchise fee in an amount not to exceed five percent (5%), inclusive of the permitting fees provided in subsection 18(f), below, of the gross annual revenues received by the Company from electric service provided by the Company within Fayette County including any fees charged directly to customers related to the receipt of services. The Company may choose to assess the permitting fees provided in subsection 18(f), below, in addition to and as a part of the franchise fee amount. The term gross annual revenues is intended to include revenue received from customers within Fayette County supplied under residential, commercial, industrial, public street and highway lighting, and other public authorities classifications. At a minimum, the franchise fee is intended to apply to gross revenues related to those services which include the franchise fee as part of the tariff filed with the Public Service Commission as of the date of the adoption of this Ordinance, and the Company expressly agrees that it will continue to pay franchise fees on the gross revenues derived from these services for the duration of this franchise with the exception of those public street lights for which Lexington is the customer. The Company further agrees to include the franchise fee tariff on any revised or additional tariffs for services in Fayette County unless Lexington specifically indicates that it does not want the fee to apply. The Company agrees that the franchise fee shall not be applied to those public street lights for which Lexington is the customer subject to any required approval by the Kentucky Public Service Commission. No later than ten (10) working days after final acceptance of its bid by Lexington, or any subsequent notification of any change in the amount of the fees in this Section 18, the Company shall make any necessary filings with the Kentucky Public Service Commission to provide for prompt and satisfactory cost recovery of the amount(s) payable under this Ordinance and any franchise awarded pursuant to its terms for any amounts for which it desires recovery. In the event that a new or modified tariff or special contract is necessary to comply with the franchise or to seek cost recovery, such filing shall be made within forty-five (45) days. The Company shall provide Lexington with copies of any filings it makes with the Kentucky Public Service Commission related to the franchise in order to satisfy the obligations created herein. The Company is otherwise required to continue submitting payments to the Government under the terms of its existing tariff(s) and/or franchise until such time as any necessary approvals are obtained.

(b) As further consideration for the granting of this franchise, the Company shall work with the Government to provide of redundant power feeds/lines sufficient to meet

operational needs from separate power substations to all Government facilities housing security, communications, and or information technology services in accordance with any applicable tariff.

(c) As further consideration for the granting of this franchise, the Company shall permit the Government to utilize its pole, conduit, or raceway space at no charge when such space is vacant or available for public safety or governmental purposes. If such space is not available, then the Company shall make such space available on the most favorable terms extended to any other customer. This provision shall not supersede any existing or future agreement that the Government has with the Company pertaining to the use of the Company's space.

(d) If, after a period of sixty (60) days from the filing of Company's application or tariff, the Kentucky Public Service Commission has made no final determination concerning the prompt and satisfactory recovery of amounts payable under this Section by the Company, then the Company's obligation to pay the amount specified in Section 18(a) shall be suspended, provided the Company shall first give the Government ten (10) days written notice of its intention to suspend payment pending the decision of the said Commission. In the event of suspension of the Company's obligation as herein provided, the Government shall have the option to terminate this franchise within thirty (30) days of receipt of said written notification from the Company. Notwithstanding the above, any Company that had a previously existing franchise with Lexington shall continue to pay the fees established pursuant to its previous franchise.

(e) In the event the sale of electricity is deregulated within the Commonwealth of Kentucky, and deregulation results in a material shortfall of revenue to Lexington, Lexington shall have the option of terminating the franchise agreement with the Company. If the franchise agreement is terminated by Lexington pursuant to this provision, Lexington and the Company shall have a duty to negotiate in good faith with respect to offering a mutually acceptable franchise agreement to the Company.

(f) In addition to the franchise fees in Section 18(a), the Company is also required to pay Lexington an additional amount intended to adequately compensate Lexington for its permitting and inspection of the Company's construction activities in the Rights-of-way pursuant to Section 17C-22 of the Code. This amount is to be paid separately to Lexington at the time and under the terms as set forth in Chapter 17C of the Code. The Company may seek tariff approval from the Kentucky Public Service Commission for the recovery of such payments as set forth in Section 18(a). Notwithstanding the foregoing, the Company may elect to pay for its permit fees upon application for each respective permit upon approval of the person specified in Chapter

17C of the Code. These permitting fees are subject to change during the term of the franchise based upon an audit of the actual cost of permitting for the Government or a change in the amount of the respective permitting fees found in Section 17C-22 of the Code. In the event of such a change, the Company shall be provided at least sixty (60) days advance written notice.

(g) To the extent the Company actually incurs other reasonable incremental costs in connection with its compliance with Lexington's ordinances; Lexington agrees that the Company may recover such amounts from its customers pursuant to the terms of a tariff filed and approved by the Kentucky Public Service Commission, if otherwise permitted by law.

Section 19 - (a) Payment of any amount due under this Ordinance shall be made on a monthly basis within thirty (30) days of the end of the preceding calendar month. Upon request, Company shall deposit such payments electronically to an account specified by Lexington. In the event of suspension of the Company's obligation pursuant to Section 18(b) herein, said suspension shall not have application to any amount due hereunder for the preceding calendar month, and the gross income received by the Company during any such suspension period shall be excluded from the Company's annual gross revenues for the purpose of calculating amounts due under Section 18(a) herein.

(b) No acceptance of any franchise fee payment by Lexington shall be construed as an accord and satisfaction that the amount paid is in fact the correct amount nor shall acceptance be deemed a release to any claim Lexington may have for future or additional sums pursuant to this Ordinance. Lexington shall have the right to inspect the Company's income, financial, and records relating to gross revenues in order to audit, and to re-compute any amounts determined to be payable under this Ordinance. The Company shall respond to a reasonable request for information related to obtaining audit information within ten (10) business days unless agreed otherwise by the parties. This provision shall survive the term of any franchise agreement awarded pursuant to this Ordinance for a period of one (1) year. Any additional amount due to Lexington as a result of the audit shall be paid within thirty (30) days following written notice to the Company by Lexington which notice shall include a copy of the audit report. If as a result of such audit or review Lexington determines that the Company has underpaid its franchise fee by five percent (5%) or more for any six (6) month period then in addition to making full payment of the relevant obligation it shall reimburse Lexington for all of the reasonable costs associated with the audit or review. If such audit or review is performed in connection with the granting of a new franchise, and extension of the terms of this franchise, a sale or transfer of control of the Company, or a substantive modification of the terms to, or an

assignment of this franchise, the Company shall reimburse Lexington for all of the reasonable costs associated with the audit or review including all out-of-pocket costs for attorneys, accountants and other consultants.

(c) In the event that any franchise payment or recomputed amount is not made on or before the applicable dates heretofore specified, interest shall be charged from such date at the annual rate of eight percent (8%). Overpayments discovered by the Government or the Company shall be an adjustment on the next monthly payment without interest.

(d) With respect to its billing of Lexington, Company agrees to work with Lexington toward the provision of electronic billing and information regarding energy consumption, and shall timely provide an explanation of any and all billing adjustments or credits including the account(s) impacted and any and all late payments upon reasonable request.

Section 20 – Bids offered for purchase of this franchise shall state the bidder's acceptance of the conditions set forth in this Ordinance. If any bid shall include an offer of payment over and above the terms of the franchise, then a certified check for said amount, payable to the Lexington-Fayette Urban County Government, shall be deposited with the Government. This amount shall be in addition to the provision for payments contained in Sections 18 and 19, which shall be considered as a condition of this franchise. Any check deposited by an unsuccessful bidder shall be returned when the Urban County Council shall have accepted the bid or bids, which in its judgment is or are the highest and best.

Section 21 – Any violation by the Company, its vendee, Lessee, or successor of the material provisions of this franchise or any material portions thereof, or the failure promptly to perform any of the provisions thereof, shall be cause for the forfeiture of this franchise and all rights hereunder after written notice to the Company and continuation of such violations, failure or default, as set forth in Section 14.

Section 22 - The Company shall have the authority to trim trees that are located within or overhang the Rights-of-way so as to prevent the branches of such trees from coming in contact with the wires, cables, or other Facilities of the Company. Any trimming, removal or other disturbance of trees shall conform to all lawful ordinances, requirements and directives of the Government, including but not limited to the Government's Street Tree Ordinance (Chapter 17B of the Code of Ordinances), and the Company shall make available upon reasonable request of Lexington, information regarding its tree trimming practices. In the event that the Company fails to timely and sufficiently respond to a legitimate and reasonable complaint regarding its failure to trim such trees, and such complaint is made known to Lexington, Lexington [shall contact the

Company with respect to such matter and attempt to reach a satisfactory result. Notwithstanding the foregoing, this provision in no way limits any existing or future lawful rights that Lexington may have with respect to such trees.

Section 23 -- This Ordinance and any franchise awarded pursuant to it shall be governed by the laws of the Commonwealth of Kentucky, both as to interpretation and performance. The venue for any litigation related to this Ordinance or a franchise shall be in a court of competent jurisdiction in Fayette County, Kentucky.

Section 24 - This Ordinance and any franchise awarded pursuant to it does not create a contractual relationship with or right of action in favor of a third party against either Lexington or the Company.

Section 25 - If any section, sentence, clause or phrase of the Ordinance is held unconstitutional or otherwise invalid, such infirmity shall not affect the validity of the remaining Ordinance.

Section 26 - The franchise created by this Ordinance shall become effective when the Urban County Council accepts the bid(s) for it.

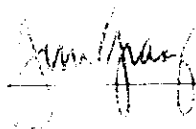
Section 27 - This Ordinance shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL: March 21, 2013

ATTEST:


CLERK OF URBAN COUNTY COUNCIL

MAYOR



PUBLISHED: March 26, 2013 -1t
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April 8, 2013

Division of Central Purchasing
Lexington-Fayette Urban County Government
200 East Main Street, Room 338
Lexington, KY 40507-1310

Dear Lexington-Fayette Urban County Government:

On behalf of Kentucky Utilities Company (KU), please consider this letter as KU's bid for an electric franchise with the Lexington-Fayette Urban County Government. This bid is in response to the Urban County Government's request as contained in the Legal Notice section of the March 26, 2013 issue of the *Lexington Herald Leader*. It is our understanding that said franchise will be for a five-year term and may be renewed for up to two (2) additional terms not to exceed five (5) years upon the request of the Company and the approval of the request the Urban County Council as authorized by Ordinance No. 35-2013, passed by the Lexington-Fayette Urban County Council on March 21, 2013.

KU agrees to the terms and conditions of the franchise created by Ordinance No. 35-2013, and encloses herewith a check in the amount of \$500.00, to be applied toward advertising and other administrative expenses incurred by the Lexington-Fayette Urban County Government, pursuant to the terms of Section 17 of said franchise.

Please be advised that KU has also filed for a Certificate of Public Convenience and Necessity from the Kentucky Public Service Commission in connection with the submission of this bid.

We appreciate the opportunity to present this bid, and welcome any questions regarding the same.

Respectfully,

A handwritten signature in black ink, appearing to read 'John P. Malloy'. The signature is fluid and cursive, with a long horizontal stroke at the end.

John P. Malloy
Vice President Customer Services

Enclosures

cc: The Honorable Jim Gray