

ORDINANCE NO. 2431

AN ORDINANCE OF THE CITY OF ERLANGER IN KENTON COUNTY KENTUCKY ACCEPTING THE BID OF AND GRANTING TO DUKE ENERGY KENTUCKY, INC. 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 BOTH NATURAL GAS AND ELECTRICITY THROUGH AND FOR CONSUMPTION WITHIN THE CITY FOR THE PERIOD OF JULY 1, 2016 THROUGH JUNE 30, 2019.

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, Erlanger Ordinance 2378 establishes a non-exclusive three (3) 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, a franchise pursuant to Erlanger Ordinance 2378 for the period of July 1, 2013 through June 30, 2016 was granted to Duke Energy by Erlanger Ordinance 2383; and

WHEREAS, pursuant to the requirements of Section 164 of the Kentucky Constitution and KRS Chapter 424, Erlanger advertised for bids for a franchise pursuant to Erlanger ordinance 2378 for the period of July 1, 2016 through June 30, 2019 and received the attached bid therefor from Duke Energy for the territory within Erlanger for which it has been certified by the Public Service Commission of Kentucky pursuant to K.R.S. Chapter 278

NOW, THEREFOR, BE IT ORDAINED BY THE CITY OF ERLANGER, IN KENTON COUNTY, KENTUCKY, AS FOLLOWS:

Section 1.0 – Acceptance of Bid

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 has been certified by the

Public Service Commission of Kentucky pursuant 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 Erlanger Ordinance 2378, as amended, and subject to the provisions thereof, Duke Energy is hereby granted a non-exclusive three (3) 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 that portion of the City for which Duke Energy has been certified by the Public Service Commission of Kentucky, for the period from and including July 1, 2016 through and including June 30, 2019.

Section 3.0 – Provisions Severable

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).

TYSON HERMES, Mayor