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AMEP/Z.90208

April 5, 2016

VIA EMAIL & FEDEX:

Mr. Herb Hilliard, Chairman
c/o Sharla Dillon, Docket Manager
Tennessee Regulatory Authority
502 Deaderick Street, 4th Floor
Nashville, TN 37243

Docket No. 16-00033

Re: Petition of Kingsport Power Company d/b/a AEP Appalachian Power for
Approval of Franchise Agreement with the City of Kingsport, Tennessee,
Pursuant to T.C.A. § 65-4-107


Dear Chairman Hilliard:

Enclosed herewith is the original and four (4) copies of the Petition for Approval of Franchise Agreement with the City of Kingsport, Tennessee, Pursuant to T.C.A. § 65-4-107, for filing in the captioned matter.

Also enclosed is a check in the amount of \$25.00 to cover the filing fees. If you have any questions, please feel free to contact our office.

Very sincerely yours,

HUNTER, SMITH & DAVIS, LLP



William C. Bovender

Enclosures

Mr. Herb Hilliard, Chairman

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April 5, 2016

c: David Foster, Chief-Utilities Division
Charles Patton
James R. Bacha, Esq.
Thomas G. St. Pierre, Esq.
William Castle
Mark Dempsey
Isaac Webb
Joseph B. Harvey, Esq.

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

IN RE: PETITION OF KINGSPORT POWER COMPANY d/b/a AEP APPALACHIAN POWER FOR APPROVAL OF FRANCHISE AGREEMENT WITH THE CITY OF KINGSPORT, TENNESSEE, PURSUANT TO T.C.A. § 65-4-107	DOCKET NO.: 16-_____
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**PETITION OF KINGSPORT POWER COMPANY d/b/a AEP APPALACHIAN POWER
FOR APPROVAL OF FRANCHISE AGREEMENT WITH THE CITY OF KINGSPORT,
TENNESSEE , PURSUANT TO T.C.A. § 65-4-107**

Kingsport Power Company d/b/a AEP Appalachian Power (“Kingsport Power”), pursuant to T.C.A. § 65-4-107, hereby requests approval by the Tennessee Regulatory Authority (“TRA”) of the negotiated franchise agreement between Kingsport Power and the City of Kingsport, Tennessee (“City”), as well as the franchise fee enacted by the City pursuant to the negotiated franchise agreement, said franchise agreement and franchise fee, having been approved by Ordinances by the Board of Mayor and Aldermen of the City, as discussed more fully herein below. In support of this Petition, Kingsport Power submits the following:

1. It is represented that any notice or communication with respect to this Petition be sent to the following:

A. William K. Castle, Director, Regulatory Services VA/TN
Appalachian Power Company
Three James Center
Suite 1100 1051 E. Cary Street
Richmond, VA 23219-4029
Ph: (804) 698-5540
Email: wkcastle@aep.com

B. Thomas G. St. Pierre, Esq.
James R. Bacha, Esq.
American Electric Power Service Corporation
P. O. Box 16637
Columbus, Ohio 43216
Ph: (614) 716-1615
Email: jrbacha@aep.com
Email: tgstpierre@aep.com

C. William C. Bovender, Esq.
Joseph B. Harvey, Esq.
Hunter, Smith & Davis, LLP
PO Box 3704
Kingsport, TN 37664
Ph: (423) 378-8800
Email: bovender@hsdlaw.com
Email: jharvey@hsdlaw.com

2. Kingsport Power is a Virginia corporation with its principal place of business located in Kingsport, Tennessee. It is engaged in the business of distributing electric power to approximately 47,000 customers in its service area which includes the City. The franchise Kingsport Power operates under was granted to Kingsport Electric Light and Power Company, the predecessor of Kingsport Power, on May 24, 1917, for the purpose of constructing, maintaining and operating an electric light and power system within the City. It is a 99 year franchise which expires within the next year. Currently, approximately 25,600 of Kingsport Power's customers are located within the City. Kingsport Power purchases all of its electric power requirements from Appalachian Power Company, whose rates and charges are subject to the jurisdiction of the Federal Energy Regulatory Commission.

3. Kingsport Power and the City engaged in negotiations over the renewal of a non-exclusive franchise agreement for over two (2) years and were able to agree on the terms and conditions of a renewed franchise which both Kingsport Power and the City request be approved by the TRA pursuant to T.C.A. § 65-4-107.

4. On February 2, 2016, the Board of Mayor and Aldermen of the City enacted Ordinance No.: 6541, renewing the franchise with Kingsport Power. Said Board also enacted on February 2, 2016, Ordinance No.: 6542, which required that Kingsport Power pay a franchise fee in return for the use of the City's public streets, alleys, other public places and other real property owned and controlled by the City. On March 15, 2016, Ordinance No.: 6556 was approved by said Board. It amended Ordinance No. 6542 by deleting its contents in their entirety and substituting the language contained in said Ordinance No.: 6556. Ordinance No.: 6541 is EXHIBIT 1 to this Petition. Ordinance No. 6542 is EXHIBIT 2. Ordinance No.: 6556 is EXHIBIT 3 hereto.

5. Upon approval by the TRA of the renewal of the franchise and the franchise fee, Kingsport Power accepts its responsibilities under said Ordinances.

6. The Franchise Ordinance No.: 6541 (EXHIBIT 1) grants to Kingsport Power the non-exclusive right, privilege and authority to construct, maintain, operate, upgrade, and relocate its electrical distribution and transmission lines and related appurtenances in the City's public streets, alleys, lanes, ways, utility easements, parkways, public rights-of-way, and other public grounds held or controlled by the City.

7. Kingsport Power submits that the Franchise Ordinance No.: 6541 is necessary and proper for the public convenience and properly conserves the public interest for, at least, the following reasons:

a. The Franchise Ordinance establishes a 20 year term which secures the provision of electricity to citizens, businesses, industries and governmental institutions within the corporate limits of the City, for a significant period of time;

b. The Franchise Ordinance ensures the provision of high quality electric service by an established provider of such service;

c. The Franchise Ordinance establishes adequate and proper mechanisms for access to public rights-of-way, new and existing customers, and existing service lines, transmission and distribution facilities and thereby ensures the protection of the property and citizenry of the City; and

d. For the additional reasons set forth in the testimony of Isaac J. Webb submitted herewith.

8. Pursuant to T.C.A. § 65-4-107, the Franchise Agreement between Kingsport Power and the City must be approved by the Authority in order to be valid. Such approval is proper where, as here, the franchise is necessary and proper for the public convenience and properly conserves the public interest.

9. As discussed hereinabove, Ordinance No.: 6542 (EXHIBIT 2) was approved by the Board of Mayor and Aldermen of the City on February 2, 2016. Thereafter, on March 15, 2016, said Board saw fit to amend Ordinance No.: 6542 by deleting its contents in their entirety and substituting the language contained in Ordinance No.: 6556. Said Ordinance No.: 6556 imposes a franchise fee on Kingsport Power to be passed through to Kingsport's customers residing within the corporate limits of the City.

10. In return for the use of the public streets, alleys, other public places and other real property owned and controlled by the City and for the expense for the administration of the franchise, the City would impose a franchise fee on Kingsport Power, in Ordinance No.: 6556 (EXHIBIT 3), equal to the aggregate of the following:

- A. Five percent (5%) of Kingsport Power's "...gross receipts derived from retail electrical power and energy sales within the corporate limits of the City for all kilowatt hours per customers per month from 0 to 500,000;" and
- B. One and one-half percent (1-1/2%) of Kingsport Power's "...gross receipts derived from retail electric power and energy sales within the corporate limits of the City for all kilowatt hours per customers per month over 500,000..."

(EXHIBIT 3).

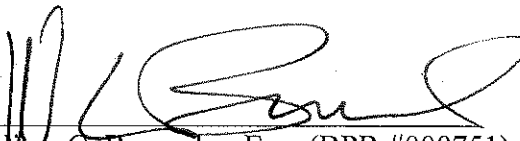
11. Kingsport Power hereby advises the TRA that, pursuant to T.C.A. § 65-4-105(e), it intends, insofar as practicable, to bill its customers in the City, subject to the Franchise Agreement, at the percentages set forth in Ordinance No.: 6556 for any "franchise payment or other payment for the use of public streets, alleys, or other public places or any license, privilege, occupation or excise tax payment." The franchise fee charge will be shown as a line item charge on Kingsport Power's bills to its customers served within the corporate limits of the City.

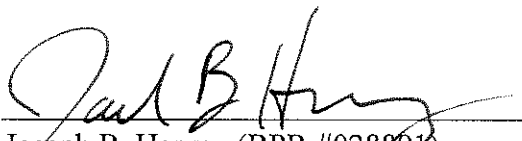
12. Kingsport Power respectfully requests approval of the Franchise Agreement (EXHIBIT 1) with the City to be effective within its terms. Kingsport Power also requests approval of the Franchise Fee set forth in Ordinance No.: 6556 (EXHIBIT 3), to be passed along to Kingsport Power customers pursuant to § 65-4-105(e).

WHEREFORE, Kingsport Power Company d/b/a AEP Appalachian Power respectfully requests the approval of the items contained in this Petition. In addition to EXHIBITS 1, 2 and 3, which are signed, certified copies of said Ordinance, Kingsport Power Company also submits the pre-filed testimony of Isaac Webb.

Respectfully submitted this 5th day of April, 2016.

**KINGSPORT POWER COMPANY d/b/a AEP
APPALACHIAN POWER**

By: 
William C. Bovender, Esq. (BPR #000751)

By: 
Joseph B. Harvey (BPR #028891)
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Email: jrbacha@aep.com

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*Attorneys for Kingsport Power Company
d/b/a AEP Appalachian Power*

VERIFICATION

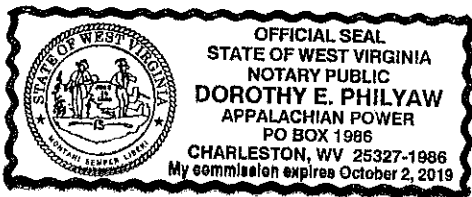
I, **CHARLES PATTON**, on behalf of Kingsport Power Company d/b/a AEP Appalachian Power ("Kingsport"), being duly sworn, state that: I am **President & COO** of Kingsport; the facts and allegations contained in the foregoing application are true, except so far as they are therein stated to be upon information, and that so far as they are therein stated to be upon information, I believe them to be true; and, as representative of Kingsport, I am signing on behalf thereof.



STATE OF WEST VIRGINIA)

CITY/COUNTY OF KANAWHA)

Before me, a Notary Public in and for the aforesaid jurisdiction, personally appeared **CHARLES PATTON**, who, being by me first duly sworn, did depose and say that he/she is a **President & COO** of Kingsport Power Company d/b/a AEP Appalachian Power, that he/she has read the foregoing Application and knows the contents thereof and that the facts therein stated are true to the best of his/her knowledge and belief. Subscribed and sworn to before me this 4th day of April, 2016.




NOTARY PUBLIC

My Commission Expires: October 2, 2019

DIRECT TESTIMONY
OF
ISAAC J. WEBB
ON BEHALF OF KINGSPORT POWER COMPANY D/B/A
AEP APPALACHIAN POWER
BEFORE THE
TENNESSEE REGULATORY AUTHORITY
DOCKET NO. 16-_____

1 **Q. PLEASE STATE YOUR NAME, BUSINESS ADDRESS AND POSITION.**

2 A. My name is Isaac J. Webb. My business address is 420 Riverport Road, Kingsport,
3 Tennessee 37660. My title is Manager - Distribution System for Kingsport Power
4 Company (Kingsport, KgPCo or Company) which is registered to do business in the State
5 of Tennessee as AEP Appalachian Power. KgPCo purchases all of its electric power
6 requirements from Appalachian Power Company (APCo) at wholesale rates that are
7 subject to the jurisdiction of the Federal Energy Regulatory Commission.

8 **Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND AND**
9 **PROFESSIONAL EXPERIENCE.**

10 A. I earned a Bachelor of Science degree in Electrical Engineering from Virginia
11 Polytechnic Institute and State University and I am a registered Professional Engineer in
12 the Commonwealth of Virginia. I have been employed in the electrical power industry
13 for 39 years, where the last 36 years have been with AEP in increasing roles of
14 responsibility throughout the distribution organization in Roanoke, VA; Gate City, VA;
15 Bluefield, WV; Logan WV; and for the last 20 years, Kingsport, TN.

16 **Q. PLEASE DESCRIBE YOUR CURRENT RESPONSIBILITIES.**

1 A. I manage the Kingsport District, which constructs, maintains, and operates distribution
2 facilities serving approximately 47,000 customers in Tennessee.

3 Q. **HAVE YOU PREVIOUSLY SUBMITTED TESTIMONY AS A WITNESS**
4 **BEFORE ANY REGULATORY COMMISSION?**

5 A. Yes. I previously presented testimony on behalf of KgPCo in Tennessee Regulatory
6 Authority (TRA) Docket Nos.: 10-00144, 16-00024, and 16-00001.

7 Q. **WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS PROCEEDING?**

8 A. The purpose of my testimony is to present information to the Authority relating to the
9 Franchise Agreement, including the franchise fee component, entered into between
10 KgPCo and the City of Kingsport, Tennessee ("City").

11 Q. **PLEASE EXPLAIN THE CIRCUMSTANCES WHICH CAUSED A NEED FOR A**
12 **NEW FRANCHISE AGREEMENT BETWEEN KgPCo AND THE CITY.**

13 A. As discussed in the Petition of KgPCo, the ninety-nine (99) year franchise which KgPCo
14 has operated under expires within the next year. KgPCo and the City have engaged in
15 negotiations for over 2 years to replace the expiring Franchise Agreement. Pursuant to
16 TCA § 65-4-107, KgPCo must receive the approval of the TRA for a new franchise
17 agreement between KgPCo and the City become effective. KgPCo desires to continue to
18 serve its customers located within the corporate limits of the City. The non-exclusive
19 Franchise Agreement which has been agreed to by KgPCo and the City, as embodied in
20 Ordinance No.: 6541, covers a term of twenty (20) years from the date of KgPCo's
21 acceptance, subject to approval of the TRA.

1 **Q. WHAT ARE THE SIGNIFICANT DIFFERENCES BETWEEN THE OLD**
2 **AGREEMENT WITH THE CITY AND THE NEW ONE WHICH KgPCo**
3 **HEREBY BRINGS BEFORE THE TRA?**

4 A. The new Franchise Agreement brings the contractual relationship between KgPCo and
5 the City into the 21st Century. The new Agreement, as mentioned, contains a twenty (20)
6 year term as opposed to the ninety-nine (99) year term in the 1917 Agreement. The new
7 Agreement incorporates applicable laws, rules, regulations, and practices which have
8 come into existence over the last ninety-nine (99) years. It offers to the City in
9 SECTION XXI of EXHIBIT 1, an option to purchase not only that portion of the KgPCo
10 system which lies within the corporate limits of Kingsport, but also the remaining
11 portions of the system. It permits the City to impose a franchise fee on KgPCo, which, in
12 turn, will be passed along to the City customers pursuant to TCA § 65-4-105(e), as
13 discussed more fully herein below.

14 **Q. WHAT IS THE STANDARD TO BE UTILIZED BY THE TRA IN**
15 **DETERMINING WHETHER TO APPROVE THIS FRANCHISE AGREEMENT?**

16 A. Under the statute, the TRA is authorized to approve the agreement/ordinance if it finds it
17 "...is necessary and proper for the public convenience and properly conserves the public
18 interest..." TCA § 65-4-107.

19 **Q. IN YOUR OPINION, ARE THE TERMS AND CONDITIONS OF THE NEW**
20 **FRANCHISE AGREEMENT BETWEEN KgPCo AND THE CITY NECESSARY**
21 **AND PROPER FOR THE PUBLIC CONVENIENCES AND IN THE PUBLIC**
22 **INTEREST?**

1 A. Yes, for several reasons:

2 (1) The new Franchise Agreement is a sufficiently long-term arrangement through which
3 current and future residents, businesses, industries and governmental facilities located
4 within the corporate limits of the City will be able to receive the benefits of continuing
5 electric service from KgPCo. As such, the City will receive the highest quality electric
6 service for the future.

7 (2) The new Franchise Agreement ensures electricity will continue to be provided to the
8 City and rate-payers in the City by an established and proven electric company,
9 possessing the required expertise, facilities and distribution network necessary to provide
10 continued excellent service.

11 (3) The new Franchise Agreement provides to KgPCo continued access to public rights-
12 of-way and new and existing customers. This will assure KgPCo is able to provide
13 adequate and efficient service and to comply with the requirements of the TRA, to ensure
14 the rights and protection of the residents and property within the City.

15 (4) The new Franchise Agreement allows KgPCo to invest in new infrastructure and
16 assists the City, through the implementation of the franchise fee, to make improvements
17 to the services and opportunities it offers to residences, businesses, and industries located
18 within the corporate limits of the City.

19 **Q. DISCUSS THE TERMS AND CONDITIONS OF THE PROPOSED FRANCHISE**
20 **FEE.**

1 A. Under the old ninety-nine (99) year franchise ordinance, there was no provision for a
2 franchise fee and the City has never imposed a franchise fee on KgPCo. The City is
3 entitled to benefit from the rights it grants to KgPCo to operate in the City and to utilize
4 the franchise fee which will be imposed for the overall betterment of the City. Under
5 Ordinance No.: 6556 (EXHIBIT 3), for use of the public streets, alleys, public places, and
6 other real property owned or controlled by the City, KgPCo would pay a fee equal to the
7 aggregate of the following:

8 (1) Five percent (5%) of the Company's gross receipts derived from retail electrical
9 power and energy sales within the corporate limits of the city for all kilowatt hours per
10 customer per month from 0 to 500,000; and

11 (2) One and one-half percent (1½%) of the Company's gross receipts derived from retail
12 electrical power and energy sales within the corporate limits of the city for all kilowatt
13 hours per customer per month over 500,000.

14 In turn, KgPCo will pass the fee along to its ratepayers residing within the corporate
15 limits of the City and will show the franchise fee as a line item on the bill KgPCo submits
16 to its customers on a monthly basis. KgPCo will collect the fee from its customers and
17 remit the fee to the City.

18 **Q. IS KgPCo SATISFIED WITH THE NEGOTIATED AGREEMENT REACHED**
19 **WITH THE CITY?**

20 A. Yes.

21 **Q. WHAT ARE YOU ASKING THE TRA TO DO IN THIS PROCEDURE?**

1 A. Based on the Petition, Exhibits and my Testimony in support, contained herein, we are
2 asking the TRA to approve the new Franchise Agreement, including the franchise fee
3 component, between KgPCo and the City.

4 **Q. DOES THAT CONCLUDE YOUR TESTIMONY?**

5 A. Yes.

EXHIBIT 1

This is to certify that this
is an exact & true copy.

DEPUTY CITY RECORDER

ORDINANCE NO. 6541

AN ORDINANCE GRANTING KINGSPORT POWER COMPANY D/B/A AEP APPALACHIAN POWER AN ELECTRIC UTILITY FRANCHISE TO CONSTRUCT, MAINTAIN AND OPERATE A SYSTEM OF ELECTRICITY DISTRIBUTION AND TRANSMISSION LINES AND OTHER NECESSARY EQUIPMENT AND FACILITIES FOR THE PURPOSE OF TRANSMITTING AND DISTRIBUTING ELECTRICITY IN, UPON, ACROSS, ALONG AND UNDER THE HIGHWAYS, STREETS, AVENUES, ROADS, COURTS, ALLEYS, LANES, WAYS, UTILITY EASEMENTS, PARKWAYS AND PUBLIC GROUNDS OF THE CITY OF KINGSPORT, TENNESSEE; AND TO FIX THE EFFECTIVE DATE OF THIS ORDINANCE

WHEREAS, Kingsport Power Company d/b/a AEP Appalachian Power (herein referred to collectively as the "Company"), is a regulated investor owned utility that provides electric power and energy to the citizens of the City of Kingsport (herein referred to as the "City") and other surrounding areas;

WHEREAS, providing electrical power and energy requires the installation, operation and maintenance of power poles and other related facilities to be located within the public ways of the City;

WHEREAS, the City desires to set forth the terms and conditions by which the Company shall use the public ways of the City;

WHEREAS, the City and the Company recognize that both parties benefit from economic development within the City;

NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF KINGSPORT, as follows:

SECTION I: DEFINITIONS.

That for the purposes of this ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number and words in the singular include the plural number. The word "shall" is always mandatory and not merely directory.

a) Board of Mayor and Aldermen – the Board of Mayor and Aldermen of the City of Kingsport, Tennessee.

b) City – the City of Kingsport, Tennessee, and its respective successors and assigns.

c) City Manager – the City Manager of the City of Kingsport, Tennessee as duly appointed pursuant to Charter. The term "City Manager" also includes his designee.

d) Company – Kingsport Power Company d/b/a AEP Appalachian Power, a corporation organized under the laws of the Commonwealth of Virginia and its lawful successors and assigns.

e) Construction – the installation, laying, erection, renewal, repair, replacement, extension, or removal of an electric transmission and distribution system and such activity as may be necessary to construct, maintain and operate an electric system.

f) Electricity – electricity transmitted and distributed into the City by the Company.

g) Electric System – any lines for the transmission and distribution of electric energy, either by means of overhead or underground conductors, together with all necessary or desirable appurtenant equipment, to render public service and supply electric energy for heat, light, power or any other purpose or purposes for which electric energy is now or may hereafter be used.

h) Streets — the public streets, highways, avenues, roads, courts, alleys, lanes, ways, utility easements, parkways, public rights-of-way, or other public grounds, held or controlled by the City, in the City as they now exist or as they may be established at any time during the term of this franchise in the City, but only to the extent of the City's right, title, interest or authority to grant a license or franchise to occupy and use such streets and easements for the construction and operation of a public utility system.

i) T.R.A. — the Tennessee Regulatory Authority or any successor state agency having jurisdiction over the Company.

SECTION II. GRANT OF FRANCHISE.

The City hereby grants to the Company the non-exclusive right, privilege and authority to construct, maintain, operate, upgrade, and relocate its electrical distribution and transmission lines and related appurtenances, including underground conduits and structures, poles, towers, wires, guy anchors, vaults, transformers, transmission lines, and communication lines (collectively referred to herein as "Electric Facilities") in the public streets, highways, avenues, roads, courts, alleys, lanes, ways, utility easements, parkways, public rights-of-way, or other public grounds, held or controlled by the City (collectively referred to herein as "Public Ways"), in the City as they now exist or as they

may be established at any time during the term of this franchise in the City, but only to the extent of the City's right, title, interest or authority to grant a license or franchise to occupy and use such streets and easements for the construction and operation of a public utility system for the purpose of supplying and transmitting electric power and energy to the inhabitants of the City and persons and corporations beyond the limits thereof.

SECTION III. TERM.

The term of this Franchise is for a period of twenty (20) years from the date of the Company's acceptance hereof.

SECTION IV. ACCEPTANCE BY COMPANY.

Within sixty (60) days of the approval of this Franchise Ordinance, including the Franchise Fee discussed herein, by the TRA, the Company shall file an unqualified written acceptance thereof with the City. Otherwise the ordinance and the rights granted herein shall be null and void.

SECTION V. NON-EXCLUSIVE FRANCHISE.

The right to use and occupy the Public Ways of the City shall be nonexclusive and the City reserves the right to use the Public Ways for itself or any other entity that provides service to City residences; provided, however, that such use shall not unreasonably interfere with the Company's Electric Facilities or rights as granted herein.

SECTION VI. CITY REGULATORY AUTHORITY.

The City and Company recognize that under the law of the State of Tennessee, the TRA is granted "...general supervisory and regulatory power, jurisdiction and control over public utilities, and also over their property, property rights, facilities and franchise..." T.C.A. § 65-4-104. However, to the extent not preempted by Tennessee state law, the City reserves the right to adopt such additional ordinances and exercise its regulatory powers as may be deemed necessary in the exercise of its police powers for the protection of the health, safety and welfare of its citizens and their properties.

SECTION VII. COMPLIANCE WITH APPLICABLE LAWS.

The Electrical Facilities shall be constructed, maintained and operated, in good and safe condition, in accordance with standard engineering practices, and in accordance with any applicable Federal Laws and Regulations, Statutes of the State of Tennessee, the Rules and Regulations of the T.R.A., and Ordinances of the City which do not conflict with any such federal or state laws, rule or regulation, as such practices and laws, statutes, ordinances, rules and regulations now exist or as they may be from time to time amended, changed or modified.

SECTION VIII. STANDARD OF CARE.

That the Company shall at all times employ a reasonable standard of care and shall install and maintain and use industry standard or other reasonable methods and devices for preventing failure or accidents which are likely to cause damages, injuries or nuisances to the public.

SECTION IX. LOCATION OF FACILITIES.

(A) The City and the Company agree that it is beneficial to both parties to this agreement and to the citizens of Kingsport that the City and the Company work together to plan the location of utility facilities as they relate to the City's infrastructure and community planning. Towards that end, the Company and the City commit to meet at least quarterly to review upcoming utility projects and the City's ongoing planning efforts. In addition, the Company and the City agrees to jointly plan new development and redevelopment efforts to configure utilities in a way that compliments those efforts while affecting economical solutions to those desires.

(B) The Company understands that the City reserves the right, by ordinance or resolution of the Board of Mayor and Aldermen, or otherwise through proper representatives of the City, to designate specifically the location of the Electric Facilities of the Company with references to municipal facilities, such as sewer and water mains, drainage facilities, fiber optic cable, signal poles and lines and similar services, other facilities, such as public telephone utilities, public electric utilities, public cable television utilities, and railway communication and power lines, in such a manner as to protect the public safety and public and private property and to facilitate the creation of a convenient, attractive and harmonious community. Failure by the City to so designate does not relieve the Company of its responsibilities in matters of public safety as provided in this Ordinance. The Company shall construct, maintain and locate its Electric Facilities so as not to unreasonably interfere with the construction, location and maintenance of sewer, water, drainage, electrical, signal and fiber optic facilities owned or operated by the City.

The rights and privileges granted by this franchise shall not be in preference or hindrance to the rights of the City and any other lawful governmental authorities having jurisdiction to perform or carry out any public works or public improvements within the Public Ways.

SECTION X. USE OF PUBLIC WAYS.

(A) That the Company, in any opening it shall make in the Public Ways of the City, shall be subject to the provisions of this Ordinance and to all applicable ordinances, codes and regulations of the City. Specifically, in addition to the requirements contained herein, except in the cases of emergencies, the Company shall at all times comply with Chapter 90, Streets, Sidewalks and Other Public Places, of the Code of Ordinances, City of Kingsport, 2012, as amended, with respect to any opening

it shall make in the Public Ways of the City. The proposed location of any part of the Electric Facilities to be constructed by the Company in, upon, across, under or over the Public Ways of the City shall not unreasonably interfere with:

- (1) the public safety or the convenience of persons using the Public Ways;
- (2) the use of Public Ways for purpose of travel;
- (3) with any use or contemplated use of Public Ways by the City either above or below the surface of the Public Ways for which plans have been prepared or for which plans are in the course of preparation, which plans have been authorized by the City, and of which the Company has been previously notified by the City; or
- (4) personal property lawfully in, upon, along, across, under or over the Public Ways.

(B) The Company's location, construction and maintenance shall not unduly burden regular maintenance procedures of the City and shall be coordinated with the City's annual paving program through the City Manager.

(C) The Company shall submit to the City Manager a drawing of all proposed street cuts prior to performing the work except in the case of an emergency excavation.

In the case of emergency excavations made in the Public Ways, the Company shall make a report of each such excavation to the City within two (2) working days. Any inspections related to repair of excavations shall be promptly acted upon by the City so as not to unreasonably delay the Company in discharging its public service obligation.

The Company shall use its best efforts to not interfere with or injure any utility or any other public improvement which the City has heretofore made or may hereinafter make in, upon, across, along or under any Public Ways and shall not unnecessarily obstruct or impede such Public Ways of the City.

The Company shall promptly remove or correct any obstruction, damage or defect in any Street which was caused by the Company in the installation, operation, maintenance or extension of the Electric Facilities. Any such obstruction, damage, or defect which is not promptly removed, repaired or corrected by the Company after proper notice to do so, given by the City to the Company, may be removed or corrected by the City, and the cost thereof shall be charged against the Company. Any expense, cost, or damages incurred for repair, relocation, or replacement to City water, sanitary sewer, storm sewer, storm drainage, communication facilities or other property resulting from construction, operation, maintenance or extension of the Electric Facilities shall be borne by the Company and any and all expense and cost incurred in connection therewith by the City shall be fully reimbursed by the Company to the City.

D) If weather or other conditions do not permit the complete restoration required by this Section, the Company shall temporarily restore the affected Public Ways or property. Such temporary restoration shall be at the Company's sole expense

and the Company shall promptly undertake and complete the required permanent restoration when the weather or other conditions no longer prevent such permanent restoration.

(E) The Company shall not open, disturb or obstruct, at any one time, any more of the Public Ways than reasonably may be necessary to enable it to proceed in laying or repairing the Electric Facilities. Neither shall the Company permit any Street so opened, disturbed or obstructed by it in the installation, construction, repair or extension of its Electric Facilities to remain open or the Public Ways disturbed or obstructed for a longer period of time than reasonably shall be necessary.

(F) Whenever the City shall widen, reconstruct, realign, pave or repave, or otherwise work on any Public Ways, or shall change the grade or line of any Public Ways, or shall construct or reconstruct any water, sanitary sewer, storm sewer, drainage or communications facility of the City, it shall be the duty of the Company at the Company's cost and expense to move, alter or relocate its Electric Facilities originally constructed on a Public Way (that is not secured by a private easement) or any part thereof as reasonably requested by the City. Upon written notice by the City Manager of the City's intention to perform work as specified above, the Company shall within a reasonable period of time accomplish its obligation in accordance with and to conform to the plans of the City for such construction, reconstruction or improvements.

(G) All trees, landscaping and grounds removed, damaged or disturbed as a result of the construction, installation, maintenance, repair or replacement of underground Electric Facilities must, to the extent the landscaping does not interfere with the safe operation of the facilities, be replaced or restored as nearly as may be practicable, to the condition existing prior to performance of work. The City understands that vegetation growing in the vicinity of overhead power lines must be trimmed and maintained away from those lines to allow for safe operation of those lines.

(H) The Company shall give all required notices and comply with all laws, ordinances, rules and regulations bearing on the conduct of the construction being performed.

(I) Inspections during construction may be made by the City.

(J) Construction and repair shall be performed with the least practical hindrance of the Public Ways for the purpose of travel or any other public purpose. After any work has commenced by the Company, in, upon, along, across, under, or over the Public Ways of the City, the same shall be continued in good faith and with due diligence until completed. If, as determined by the City Manager, the Company refuses or fails to proceed in good faith, or any separable part thereof, with such diligence as will ensure its completion within a reasonable period of time, the City Manager will issue notice to the Company of his findings and instructions and, if after three (3) days of receipt of such notice, the Company has not commenced to re-execute the work, the City Manager will cause the construction required in said notice to be performed and

charge the Company the entire cost and expense plus ten (10%) percent of the construction.

(K) When any construction opening or excavation, disturbance, cut or damage is made in, along, upon, across, under or over the Public Ways for any purpose whatsoever by the Company, any portion of said Public Ways affected or damaged thereby shall be restored, as promptly as possible to as useful, safe, durable, in as good condition as existed prior to making of such opening or such excavation or such damage. If the company is unable to comply with the provisions of this section by reason of strikes, riots, acts of God, or acts of public enemies or other factors beyond its control, restorative work of a temporary nature allowing for such requirements as trench and backfill consolidation and fine grading and vegetative stabilization will be performed. The temporary restorative work shall be accomplished immediately in accordance with best acceptable construction procedures and shall be continuously maintained in a useful and safe condition pending permanent restoration, as per detail attached as Exhibit 1. Where a cut or disturbance is made in a section of sidewalk rather than replacing only the area actually cut, the Company shall replace the full width of the existing sidewalk as determined by the City Manager and the full length of the section or sections cut, a section being defined as that area marked by expansion joints or scoring. Where a cut or disturbance is made by the Company in a section of pavement, rather than repaving only the actual area cut the Company shall, if requested by the City Manager, repave the area between the street cuts when there are two or more street cuts made by the Company within twenty (20) feet of each other. The width of the repavement shall correspond to the width of the street cut made by the Company. If the Company fails to timely perform said restoration and repair within a reasonable time, the City Manager may issue notice to the Company of his findings and instructions and, if after three (3) days the Company has not commenced the restoration and/or repair, the City Manager will cause the work required in said notice to be done and performed and charge the Company the entire cost and expense of restoration or repair plus ten (10%) percent.

(L) After the work of restoring such portion of the Street has been completed as provided herein, the Company shall keep such portion of such Street repaired or restored in as useful, safe, durable, and good condition as it existed prior to the making of such opening, excavation or damage, ordinary wear and tear excepted, for a period of eighteen (18) months from the completion of repair or restoration, if the City Manager determines that such portion of the Street was affected or damaged by the work of the Company.

(M) When Public Ways are opened, excavated, disturbed, obstructed or any other construction activity is required in the Public Ways by the Company, said Company, or other person acting on its behalf, shall place and maintain all necessary safety devices, barriers, lights, and warnings to properly notify all persons of any dangers resulting from such construction entrances, and to prevent injury or damage to any person, vehicle or property by reason of such work in or affecting the Street and shall comply with all federal, state and local laws and regulations, including the Manual

of Uniform Traffic Control Devices flagging requirements, the Manual for Streets and Highways, as approved by the Federal Highway Administrator and as may be amended from time to time shall be the standard used in determining the necessary placement of such devices, barrier, lights and warnings.

(N) The Company shall provide the City with a master set "as built" drawings and/or maps in an electronic form agreed to by City and the Company showing the location of all its underground Electric Facilities within the City. To the extent City and the Company cannot agree on an appropriate electronic form for the above referenced map or maps, the Company agrees to provide City with such information in hard copy or paper format. The Company shall also provide the City with a list of Public Ways along which its above ground Electric Facilities is located. The Company shall provide updated maps in accordance with this Section on an annual basis if changes have occurred. The Company also agrees to cooperate with and participate in Tennessee One Call. On at least an annual basis the Company shall meet with the City Manager to discuss its plans for construction and/or maintenance of its Electric Facilities for the following year.

(O) In addition to the installation of underground electric distribution lines as provided by applicable state law and regulations, the Company, upon payment of all charges provided in its tariffs or their equivalent, place newly constructed electric distribution lines underground as may be required by City ordinance. The Company and the City agree to work together to jointly plan new facilities so the new facilities are operationally appropriate for the Company while providing the aesthetics desired by the City and accomplishing the desired goal at the least cost to the Company's customers and the City's citizens.

(P) The City shall have the right without cost to use all poles and suitable overhead structures owned by the Company within Public Ways for City wires used in connection with its governmental purposes; provided, however, any such uses shall be for activities owned, operated or used by the City for a public purpose. Provided, that the Company shall assume no liability nor shall it incur, directly or indirectly, any additional expense in connection therewith, and the use of said poles and structures by the City shall be in such a manner as to prevent safety hazards or interferences with the Company's use of the same. Nothing herein shall be construed to require the Company to increase pole size, or alter the manner in which the Company attaches its equipment to poles, or alter the manner in which it operates and maintains its Electric Facilities. City attachments shall be installed and maintained in accordance with the reasonable requirements of the Company and the current edition of the National Electrical Safety Code pertaining to such construction. Further, City attachments shall be attached or installed only after written approval by the Company in conjunction with the Company's standard pole attachment application process. The Company shall have the right to inspect such attachments to ensure compliance with this Section and to require the City to remedy any defective attachments.

(Q) If the Company is dissatisfied with any determination of the City Manager permitted by the foregoing sections thereof, it may petition the Board of Mayor and Aldermen within ten (10) days after such determination to review the same, which review shall be taken up by the Board of Mayor and Aldermen in the normal course of business.

SECTION XI. INSURANCE.

The Company hereby agrees, upon official request of the City, to furnish to the City evidence of insurance on such amounts as may be reasonably necessary to protect the City. However, the coverage shall, at a minimum, include Workers' Compensation insurance covering the Company's statutory obligation under the laws of the State of Tennessee and Employer's Liability insurance for all its employees engaged in work under the franchise. Minimum limits of liability for Employer's Liability insurance shall be \$100,000 bodily injury each occurrence; \$500,000 bodily injury by disease (policy limit); and \$100,000 bodily injury by disease (each employee).

SECTION XII. HAZARDOUS WASTE.

The Company shall not transport, dispose of or release any hazardous waste within the Streets. If utilizing any hazardous material in the ordinary course of its business, the Company shall comply with all federal, state, and local laws, rules, regulations, and ordinances controlling air, water, noise, solid wastes, and other pollution, and relating to the storage, transport, release, or disposal of hazardous material, substances or waste. Regardless of the City's acquiescence, the Company shall indemnify and hold City, its officers, agents, employees and volunteers harmless from all costs, claims, damages, causes of action, liabilities, fines or penalties, including reasonable attorney's fees, resulting from the Company's, its agents, assigns, violation of this paragraph and Company agrees to reimburse City for all costs and expenses incurred by City in eliminating or remedying such violations, including all remediation and cleanup costs. This provision shall survive the expiration, revocation or termination of this franchise.

SECTION XIII. INDEMNIFICATION.

(A) The Company shall at all times defend, indemnify and hold harmless the City and any of the City's representatives from and against all loss sustained by the City on account of any suit, judgment, execution, claim or demand whatsoever resulting fully or in part from the failure of the Company or its employees to exercise due care and diligence in the construction, operation, and maintenance of its Electric Facilities in the City provided the Company shall have been notified in writing of any claim against the City on account thereof and shall have been given ample opportunity to defend same. The Company shall indemnify, defend and hold harmless the City from any and all demands for fees, claims, suits, actions, causes of action, or judgments based on the alleged infringement or violation of any patent, invention, article, arrangement, or other

apparatus that may be used in the performance of any work or activity arising out of the use of any Electric Facilities or the provision of electric service.

(B) The right of indemnification shall include and extend to reasonable attorney fees and trial preparation expenses and other litigation expenses reasonably incurred in defending a claim arising from the operation of the Electric Facilities by the Company, whether or not the claim be proved to be without merit. This provision shall survive the expiration, revocation or termination of this franchise.

SECTION XIV. ANNEXATION.

Upon the annexation of any territory to the City, the rights granted herein shall extend to the annexed territory to the extent the City has such authority. All Electrical Facilities owned, maintained, or operated by the Company located within any public ways of the annexed territory shall thereafter be subject to all of the terms hereof.

SECTION XV. VEGETATION MANAGEMENT.

The Company or its contractors may prune all trees and vegetation which encroach upon the Public Ways, whether such trees or vegetation originate within or outside the Public Ways to prevent the branches or limbs of other part of such trees or vegetation from interfering with the Company's Electrical Facilities. Such pruning shall comply with *the American National Standard for Tree Care Operation (ANSI A300)* and be conducted under the direction of an arborist certified with the International Society of Arboriculture. A growth inhibitor treatment may be used for trees and vegetation species that are fast-growing and / or problematic. Nothing contained in this Section shall prevent the Company, when necessary and with the approval of the owner of the property on which they may be located, from cutting down and removing any trees which overhang Public Ways.

SECTION XVI. FRANCHISE FEE.

(A) The City may impose upon Company the requirement that Company pay a franchise fee to the City. The TRA, as with its jurisdictional obligation to approve this Franchise Ordinance, also must approve the amount of the franchise fee before its imposition. If approved by the TRA, Company shall pass the imposed franchise fee on to its customers for payment, with same being shown as a separate line item of the customer's electric bill from Company. Should the TRA approve the Franchise Agreement but not the amount of the franchise fee, the Agreement shall become effective and the parties may, thereafter, petition the TRA for approval of a different franchise fee. Any franchise fee will be collected by Company and distributed to the City on a monthly basis as soon as practical.

(B) The franchise fee shall be the maximum tax collected by the City other than ad valorem taxes on property and any other fees set forth in this document with respect to the Company's electric business or the exercise of this franchise within the

corporate limits of the City and the amount due to the City under any such other license, occupation, franchise or excise taxes or other charges for corresponding periods shall be reduced by deducting therefrom the amount of said franchise fee paid hereunder.

(C) The City may inspect the Company books of account for the City of Kingsport at any time during business hours and may audit such books from time to time, provided that only franchise payments which occurred during a period of 36 months prior to the date the City notifies the Company of its intent to conduct an inspection shall be subject to such review. The City may also request the Company to provide an audit report of franchise fees calculated and remitted from the gross revenues derived from its sale of electricity within the city limits at the company's expense or an audit report prepared by an approved independent accounting firm at the City's expense, but not more than once per calendar year.

SECTION XVII: ABANDONMENT OF FACILITIES.

Upon abandonment of any of the facilities or equipment of the Company located above or below the surface of the Public Ways, the Company shall notify the City Manager in writing of such abandonment within a reasonable time thereafter and if such abandoned facilities or equipment will then interfere with the use of the Public Ways by the City, the City Manager shall give written notice thereof to the Company and the Company shall commence to remove the same within twenty (20) days following the date of the written notice and continue the work to completion with reasonable diligence and at its own cost and expense.

All rights and privileges granted hereby are subject to the lawful exercise of the police power of the City to adopt and enforce local laws, rules and regulations necessary to the health, safety and general welfare of the public. Expressly reserved to the City is the right to adopt such additional ordinances and regulations as are necessary for the lawful exercise of its police power for the benefit and safety of the public. Further the City hereby reserves:

(1) The right to grade, widen, relocate, sewer, pave, macadamize, lay conduits and pipe and to install manholes, poles or other structures therein, or to alter, repair or otherwise provide for the making of local improvements in the Street;

(2) The right to make and enforce all such local police, sanitary or other regulations by ordinance in the exercise of its police power;

(3) The right to make and provide for the making of local improvements by special assessment.

The enumeration herein of specific rights reserved shall not be taken as exclusive, or as limiting the reservation made herein.

SECTION XVIII. TRANSFER OF ASSETS.

In the event the Company desires to sell, transfer, or lease the entire assets of the Electric System, which is the subject of this Ordinance, the following conditions shall apply:

(A) A statutory merger, consolidation, recapitalization or sale and transfer of common stock of the Company does not constitute a sale or transfer of assets for purposes of this Section.

(B) Any transfer of assets, whether by sale, assignment or lease by the Company shall first be subject to approval by the TRA. Thereafter, same shall be subject to approval by the City.

(C) To effect the transfer of assets, the Company shall have duly executed a good and sufficient instrument making such sale, transfer, or lease; and, a duplicate original of said instrument shall be filed with the City.

(D) The purchaser, transferee, or leasee shall have duly executed a good and sufficient instrument accepting said purchase, transfer or lease and assuming all obligations of Company under this Ordinance; and, a duplicate original of the instrument shall be filed with the City.

SECTION XIX. T.R.A. RULES AND REGULATIONS.

(A) The City and the Company hereby agree that this Ordinance is subject to the approval of the T.R.A. and that the Ordinance shall also be subject to the rules and regulations of the State of Tennessee as they may from time to time be changed and that all such rules and regulations become part of this Ordinance to the same extent and with the same effect as if said rules and regulations were herein set out in full.

(B) The Company shall make every reasonable effort to furnish an ample and uninterrupted supply of electricity to all customers throughout its entire system within the City and on any enlargements and extensions thereof within the City. The Company shall not unreasonably or arbitrarily refuse to make an extension thereof within the City. At the time each and every annexation ordinance of the City becomes operative the City Planning Department shall provide the Company with a copy of the ordinance and its accompanying map precisely describing said annexed territory. The Company shall not unreasonably or arbitrarily refuse to make an extension for the purpose of giving Electric Service to the City, the inhabitants, institutions and businesses thereof. The Company shall also file with the City its extension policy and any changes as may from time to time be adopted, as filed with and approved by the T.R.A.

(C) The Company shall at all times keep the City Manager apprised of its current electrical rates, charges, and pricing policies charged to City residents and changes to such rates, charges, and pricing policies whether changes are initiated by

the Company or by a third party. In the event the Company files a rate change request with the Tennessee regulatory authority, it shall provide the City Manager with a copy of the request at the time of filing.

SECTION XX. ANNUAL REPORT.

The Company shall, upon request by the City, file with the City Manager a duplicate original of the Annual Report of the Company's operations in the City filed with the T.R.A., as now required by the Public Utility Act, or as may be required by any other act of legislature of the State of Tennessee, as soon as practical after one duplicate original of said report has been filed with said authority or its successors.

SECTION XXI. OPTION TO PURCHASE.

During the term of this Franchise, and during any renewal period thereof, the City is granted the option to purchase the Company's entire system, including those portions of the system located outside the City's boundaries. The City must provide eighteen (18) months prior written notice of its decision to exercise its option and the City must pay Company the fair market value of the system, for both real and personal property, easements and all other property. "Fair Market Value" is the value which might be derived if one party is willing to sell but does not have to sell, and another party is willing to buy but does not have to buy. If the Company and the City are unable to arrive at an agreed upon price and the City still desires to exercise its option to purchase, the City shall file a declaratory judgment action in the Circuit Court for the Second Judicial District requesting the Court determine the fair market value to be paid to the Company for the Company's entire system.

SECTION XXII. RENEWAL.

At least 120 days prior to the expiration of this Franchise, the Company and the City either shall agree to extend the term of this Franchise for a mutually acceptable period of time or the parties shall use best faith efforts to renegotiate a replacement Franchise. The Company shall have the continued right to use the Public Ways of the City as set forth herein in the event an extension or replacement Franchise is not entered into upon expiration of this Franchise. The City shall continue to receive any and all fees and payments due in the event an extension or replacement Franchise is not entered into upon expiration of this Franchise.

SECTION XXIII. DEFAULT AND CURE.

Both the Company and the City recognize there may be circumstances whereby compliance with the provisions of this Ordinance is impossible or is delayed because of circumstances beyond the Company's control. In this instance, the Company shall use its best efforts to comply in a timely manner and to the extent possible. In the event of a substantial breach by Company of any material provision of this Ordinance, the City, acting by and through its Board of Mayor and Aldermen, may terminate the franchise

and rights granted to Company hereunder, provided, however, that such termination shall not be effective unless and until the procedures described below have been followed:

(1) The City must deliver to Company, by certified or registered mail, a written notice. Such notice must (i) fairly and fully set forth in detail each of the alleged acts or omissions of Company that the City contends constitutes a substantial breach of any material provision hereof within 60 days of the alleged breach or within 60 days of the City's actual or constructive notice of the alleged breach whichever is later; and (ii) designate which of the terms and conditions hereof the City contends Company breached.

(2) The City shall permit Company the opportunity to substantially correct and cure all of the breaches hereof set forth in the written notice described in subsection (1) above within sixty (60) days after Company's receipt of such notice before termination may occur.

(3) If the Company objects and disagrees with the City's determination that a substantial breach of a material provision has occurred, the Company may submit the issue to the Board of Mayor and Aldermen for review within thirty (30) days of receipt of the written notice described in subsection (1) above. Termination of this Ordinance shall be stayed during the course of any such review or subsequent litigation on the issue until the matter is either resolved by agreement between the parties or upon entry of a final order of a court authorizing termination by the City.

In the event the Ordinance is properly terminated pursuant to the terms of this section prior to the expiration of the twenty five year period or any renewal period thereafter, the Company shall not be entitled to claim lost profits against the City for the balance of time remaining under the twenty five year period or any renewal period thereafter in a sale of assets to the City or any condemnation action. In the event of termination and/or expiration of this Ordinance, the Company may continue to operate on the same terms and conditions pending either a negotiated sale of its assets, negotiation of a new franchise or condemnation, whichever first occurs, with a minimum period of six months and a maximum period of 24 months, absent agreement of the parties.

SECTION XXIV. NO WAIVER.

Neither the City nor the Company shall be excused from complying with any of the terms and conditions of this Franchise by any failure of the other, or any of its officers, employees, or agents, upon any one or more occasions to insist upon or to seek compliance with any such terms and conditions.

SECTION XXV. AMENDMENT.

At any time during the term of this Franchise, the City through its Board of Mayor and Aldermen, or the Company may propose amendments to this Franchise by giving thirty (30) days written notice to the other party of the proposed amendment(s) desired, and both parties thereafter, through their designated representatives, will, within a reasonable time, negotiate in good faith in an effort to agree upon mutually satisfactory amendment(s). No amendment or amendments to this Franchise shall be effective until mutually agreed upon by the City and the Company and formally adopted as an ordinance amendment, which is accepted in writing by the Company and approval by T.R.A. Notwithstanding anything in this ordinance to the contrary this ordinance is subject to any ordinance that may be adopted by the City establishing reasonable uniform rules, procedures and obligations concerning the use of streets for construction and operation of utility systems.

SECTION XXVI. NOTICES.

Unless otherwise specified herein, all notices from the Company to the City pursuant to or concerning this Franchise shall be delivered to the City Manager with a copy to the City Attorney. Unless otherwise specified herein, all notices from the City to the Company pursuant to or concerning this Franchise shall be delivered to William K. Castle, Director, Regulatory Services VA/TN, Appalachian Power Company, Three James Center, Suite 1100 1051 E. Cary Street, Richmond, VA 23219-4029, with a copy to William C. Bovender/Joseph B. Harvey, Hunter, Smith & Davis, LLP, PO Box 3740, 1212 North Eastman Road, Kingsport, TN 37664, 423-378-8800.

SECTION XXVII. SEVERABILITY.

If any section, sentence, paragraph, term or provision hereof is for any reason determined to be illegal, invalid, or superseded by other lawful authority including any state or federal regulatory authority having jurisdiction thereof or unconstitutional, illegal or invalid by any court of common jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such determination shall have no effect on the validity of any other section, sentence, paragraph, term or provision hereof, all of which will remain in full force and effect for the term of the Franchise or any renewal or renewals thereof.

SECTION XXVIII. GOVERNING LAW.

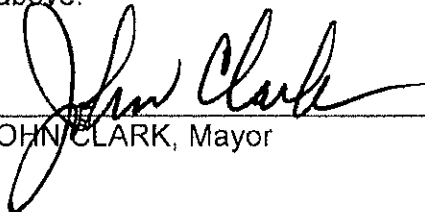
The Agreement and the rights and obligations of the parties are governed by the laws of the State of Tennessee, without regard to its conflict of laws principles.

SECTION XXIX. NO ARBITRATION, JURISDICTION, WAIVER OF JURY TRIAL, VENUE.

Notwithstanding any other provision in the Agreement to the contrary, arbitration is not permitted and if a dispute arises between the parties concerning any aspect of the Agreement, and it cannot be resolved by mutual agreement, any party may resort to resolution of the dispute by litigation in the state or federal courts for Kingsport, Sullivan County, Tennessee. The parties waive their right to a jury trial. Mandatory and exclusive venue and jurisdiction for any disputes shall be in state courts or federal for Kingsport, Sullivan County, Tennessee.

SECTION XXX. EFFECTIVE DATE.

The franchise granted by this Ordinance shall become effective when the Company files its unqualified written acceptance thereof with the City, pursuant to the procedure set forth in SECTION IV hereinabove.



JOHN CLARK, Mayor

ATTEST:



ANGEL MARSHALL
Deputy City Recorder

APPROVED AS TO FORM:



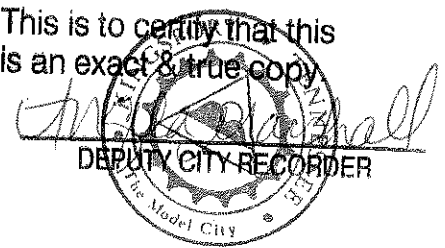
J. MICHAEL BILLINGSLEY, City Attorney

PASSED ON 1ST READING: January 19, 2016

PASSED ON 2ND READING: February 2, 2016

EXHIBIT 2

This is to certify that this
is an exact & true copy



ORDINANCE NO. 6542

AN ORDINANCE ENACTING A FRANCHISE FEE FOR THE USE BY KINGSPORT POWER COMPANY D/B/A AEP APPALACHIAN POWER OF THE PUBLIC STREETS, ALLEYS, OTHER PUBLIC PLACES FOR ITS FRANCHISE FOR A SYSTEM OF ELECTRICITY DISTRIBUTION AND TRANSMISSION LINES AND OTHER NECESSARY EQUIPMENT AND FACILITIES FOR THE PURPOSE OF TRANSMITTING AND DISTRIBUTING ELECTRICITY IN, UPON, ACROSS, ALONG AND UNDER THE HIGHWAYS, STREETS, AVENUES, ROADS, COURTS, ALLEYS, LANES, WAYS, UTILITY EASEMENTS, PARKWAYS AND PUBLIC GROUNDS OF THE CITY OF KINGSPORT, TENNESSEE; AND TO FIX THE EFFECTIVE DATE OF THIS ORDINANCE

WHEREAS, Kingsport Power Company d/b/a AEP Appalachian Power (the Company) is a regulated investor owned utility that provides electric power and energy to the citizens of the city of Kingsport and other surrounding areas;

WHEREAS, providing electrical power and energy requires the installation, operation and maintenance of power poles and other related facilities to be located within the public ways of the city;

WHEREAS, the parties are working to obtain approval of a new franchise to replace the franchise agreement that will expire this year;

WHEREAS, the franchise allows the city impose a franchise fee; and

WHEREAS, the city and the Company recognize that both parties benefit from economic development in the city.

BE IT ORDAINED BY THE CITY OF KINGSPORT, as follows:

SECTION I. The board makes the following findings:

1. That Kingsport Power d/b/a Appalachian Power, hereinafter Company, has a franchise with the city to sell electrical power in the corporate limits of the city.
2. That the Company uses the public streets, alleys, other public places and other real property owned or controlled by the city to transmit electrical power for sale and should remit a fee to the city for the use of the public streets, alleys or other public places and for the expenses for the administration of the franchise.

3. That industrial power customers of a grantee are determined by the kilowatt hours sold to such customers as set out in the then current tariff approved by the Tennessee Regulatory Authority; that such customers are very few, approximately 98 out of approximately 25,650 customers, requiring a use of only a small percentage of the public streets, alleys, other public places and other real property owned or controlled by the city; that as purchasers of large amounts of electricity if the fee imposed is the same as other customers, it will result in a significantly higher percentage of all the fees paid, estimated to be more than one-half, when compared to the number of customers in all customer classes set out in the approved tariff; and accordingly, a lower percentage fee should be imposed on industrial power users.
4. That the actions authorized by this ordinance are in the public interest and will promote the health, comfort and prosperity of the public.

SECTION II. That the Company for its use of the public streets, alleys, other public places and other real property owned or controlled by the city and for the expenses for the administration of the franchise shall pay to the city a fee equal to the aggregate of the following:

1. One and one-half percent (1 1/2%) of the Company's gross receipts derived from the retail electrical power and energy sales within the corporate limits of the city to industrial power customers as determined by the then most recent tariff for the company approved by the Tennessee Regulatory Authority or its successor;
2. Five percent (5%) of Company's gross receipts derived from retail electrical power and energy sales in the corporate limits of the city to all other classes of customers.

SECTION III. Such fee shall be paid monthly not later than 30 days after the last day of each month. The fee shall be in addition to any and all taxes which are now or may be required hereafter to be paid pursuant to any federal, state or local law. On a monthly basis the Company shall furnish to the city a report showing the monthly amount of gross revenues, and commodity volumes by rate class, for the Company's sale of electricity in the corporate limits of the city.

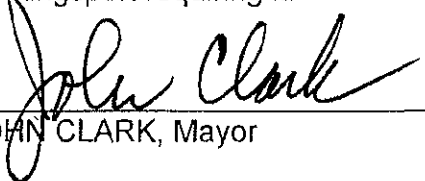
SECTION IV. Acceptance of payments of the fee shall not be construed as a release or as an accord and satisfaction of any claim the city may have for further or additional sums payable hereto.

SECTION V. As may be permitted by state law, the Company may show the fees paid to the city hereto as a line item charge on the bills of the Company's customers served by the Company within the corporate limits of the city. The Company

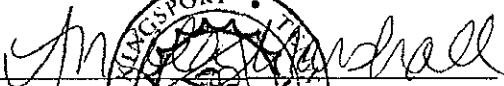
shall pay to the city the fee from the gross receipts derived from the retail electrical power and energy sales. The Company shall use its usual collection procedures, including potential cessation of service, to collect the fee from customers who have not paid their bill in full, including the fee imposed herein.

SECTION VI. The city will promptly notify the Company in writing of any geographic areas annexed by the city. Any such notice will be sent to the Company by certified mail, return receipt request, and shall contain the effective date of the annexation, maps showing the annexed area and such other information as the Company may reasonably require in order to ascertain whether there exist any customers of the Company receiving electrical service in the annexed area. To the extent there are customers of the Company therein, the gross revenues of the Company derived from the sale and distribution of electrical power and energy to such customers shall become subject to the fee provisions hereof effective on the first day of the Company's billing cycle immediately following the Company's receipt of the notice.

SECTION VII. That this ordinance shall be effective from and after the date of its passage, as the law directs, approval by the Tennessee Regulatory Authority, as needed, the public welfare of the citizens of Kingsport requiring it.


JOHN CLARK, Mayor

ATTEST:


ANGELA MARSHALL
Deputy City Recorder

APPROVED AS TO FORM:

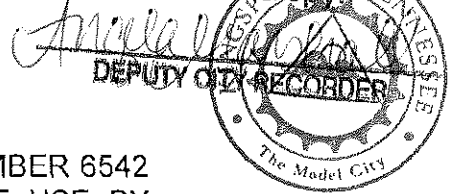

J. MICHAEL BILLINGSLEY, City Attorney

PASSED ON 1ST READING: January 19, 2016

PASSED ON 2ND READING: February 2, 2016

EXHIBIT 3

This is to certify that this
is an exact & true copy.



ORDINANCE NO. 6556

AN ORDINANCE AMENDING ORDINANCE NUMBER 6542 BY ENACTING A FRANCHISE FEE FOR THE USE BY KINGSPORT POWER COMPANY, D/B/A AEP APPALACHIAN POWER, OF THE PUBLIC STREETS, ALLEYS, OTHER PUBLIC PLACES FOR ITS FRANCHISE FOR A SYSTEM OF ELECTRICITY DISTRIBUTION AND TRANSMISSION LINES AND OTHER NECESSARY EQUIPMENT AND FACILITIES FOR THE PURPOSE OF TRANSMITTING AND DISTRIBUTING ELECTRICITY IN, UPON, ACROSS, ALONG AND UNDER THE HIGHWAYS, STREETS, AVENUES, ROADS, COURTS, ALLEYS, LANES, WAYS, UTILITY EASEMENTS, PARKWAYS AND PUBLIC GROUNDS OF THE CITY OF KINGSPORT, TENNESSEE; AND TO FIX THE EFFECTIVE DATE OF THIS ORDINANCE

BE IT ORDAINED BY THE CITY OF KINGSPORT, as follows:

That Ordinance Number 6542 approved on February 2, 2016, is amended by deleting its contents in its entirety and substituting in its place the following:

WHEREAS, Kingsport Power Company, d/b/a AEP Appalachian Power, hereinafter the Company, is a regulated investor owned utility that provides electric power and energy to the citizens of the city and other surrounding areas;

WHEREAS, providing electrical power and energy requires the Company to install, operate and maintain power poles and other related facilities to be located within the public ways of the city;

WHEREAS, the parties are working to obtain approval of a new franchise to replace the franchise agreement that will expire this year;

WHEREAS, the franchise allows the city to impose a franchise fee; and

WHEREAS, the city and the Company recognize that both parties benefit from economic development in the city.

SECTION I. The board makes the following findings:

1. The Company has a franchise with the city to sell electrical power in the corporate limits of the city.
2. The Company uses the public streets, alleys, other public places and other real property owned or controlled by the city to transmit electrical

power for sale and should remit a fee to the city for the use of the public streets, alleys or other public places and for the expenses for the administration of the franchise.

3. The use of large amounts of kilowatt hours (kWh) of electricity in a month does not require any significant additional use of the public streets, alleys, other public places and other real property owned or controlled by the city and a lower percentage fee should be imposed for all kilowatt hours over 500,000 sold to a customer on a monthly basis.

SECTION II. For its use of the public streets, alleys, other public places and other real property owned or controlled by the city and for the expenses for the administration of the franchise, the Company shall pay to the city a fee equal to the aggregate of the following:

1. Five percent (5%) of the Company's gross receipts derived from retail electrical power and energy sales within the corporate limits of the city for all kilowatt hours per customer per month from 0 to 500,000; and
2. One and one-half percent (1½%) of the Company's gross receipts derived from retail electrical power and energy sales within the corporate limits of the city for all kilowatt hours per customer per month over 500,000.

SECTION III. Such fee shall be paid monthly not later than 30 days after the last day of each month. The fee shall be in addition to any and all taxes which are now or may be required hereafter to be paid pursuant to any federal, state or local law. On a monthly basis the Company shall furnish to the city a report showing the monthly amount of gross revenues, and commodity volumes by rate class, for the Company's sale of electricity in the corporate limits of the city.

SECTION IV. Acceptance of payments of the fee shall not be construed as a release or as an accord and satisfaction of any claim the city may have for further or additional sums payable hereto.



SECTION V. As may be permitted by state law, the Company may show the fees paid to the city hereto as a line item charge on the bills of the Company's customers served by the Company within the corporate limits of the city. The Company shall pay the fee to the city from the gross receipts derived from the retail electrical power and energy sales. The Company shall use its usual collection procedures, including potential cessation of service, to collect the fee from customers who have not paid their bill in full, including the fee imposed herein.

SECTION VI. The city will promptly notify the Company in writing of any geographic areas annexed by the city. Any such notice will be sent to the Company by certified mail, return receipt request, and shall contain the effective date of the annexation, maps showing the annexed area and such other information as the

Company may reasonably require in order to ascertain whether there exist any customers of the Company receiving electrical service in the annexed area. To the extent there are customers of the Company therein, the gross revenues of the Company derived from the sale and distribution of electrical power and energy to such customers shall become subject to the fee provisions hereof effective on the first day of the Company's billing cycle immediately following the Company's receipt of the notice.

SECTION VII. That this ordinance shall be effective from and after the date of its passage, as the law directs, including approval by the Tennessee Regulatory Authority, as needed, the public welfare of the citizens of Kingsport requiring it.


JOHN CLARK, Mayor

ATTEST:


ANGELA MARSHALL
Deputy City Recorder

APPROVED AS TO FORM:


J. MICHAEL BILLINGSLEY, City Attorney

PASSED ON 1ST READING: March 1, 2016

PASSED ON 2ND READING: March 15, 2016