

ORDINANCE NO. 17-459

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 TOWN OF MT. CARMEL, 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 Town of Mt. Carmel (the "Town") 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 Town;

WHEREAS, the parties are working to obtain approval of a new franchise to replace the franchise agreement previously entered into by them;

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

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

BE IT ORDAINED BY THE TOWN OF MT. CARMEL, 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 Town to sell electrical power in the corporate limits of the Town.
2. That the Company uses the public streets, alleys, other public places and other real property owned or controlled by the Town to transmit electrical power for sale and should remit a fee to the Town for the use of the public streets, alleys or other public places and for the expenses for the administration of the franchise.
3. 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 Town and for the expenses for the administration of the franchise shall pay to the Town a fee as follows:

Five percent (5%) of Company's gross receipts derived from retail electrical power and energy sales in the corporate limits of the Town to all 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 Town 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 Town.

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 Town 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 Town hereto as a line item charge on the bills of the Company's customers served by the Company within the corporate limits of the Town. The Company shall pay to the Town 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 Town will promptly notify the Company in writing of any geographic areas annexed by the Town. 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, and to the extent permitted by law, the gross receipts 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, following approval by the Tennessee Public Utility Commission, the public welfare of the citizens of Mt. Carmel requiring it.

CHRISTOPHER JONES, Mayor

ATTEST:

MARIAN SANDIDGE, Recorder

APPROVED AS TO FORM:

JOHN PEVY, ATTORNEY

FIRST READING	AYES	NAYS	OTHER
Alderman Diane Adams	✓		
Alderman Margaret Christian		✓	
Alderman Eugene Christian		✓	
Alderman Wanda Davidson		✓	
Alderman Jennifer Williams	✓		
Vice-Mayor Carl Wolfe		✓	
Mayor Christopher Jones		✓	
TOTALS	2	5	

~~PASSED~~ FIRST READING: August 15, 2017

Failed

SECOND READING	AYES	NAYS	OTHER
Alderman Diane Adams			
Alderman Margaret Christian			
Alderman Eugene Christian			
Alderman Wanda Davidson			
Alderman Jennifer Williams			
Vice-Mayor Carl Wolfe			
Mayor Christopher Jones			
TOTALS			

PASSED SECOND READING: August 22, 2017

PUBLISHED DATE: August __, 2017
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