

(Published in the Miami County Republic on October 31, 2007)

ORDINANCE NO. 2959

AN ORDINANCE GRANTING KANSAS CITY POWER & LIGHT COMPANY, ITS GRANTEEES, SUCCESSORS AND ASSIGNS, THE RIGHT AND FRANCHISE TO CONSTRUCT, OPERATE AND MAINTAIN ALL WORKS AND PLANTS NECESSARY OR PROPER FOR SUPPLYING CONSUMERS WITH ELECTRIC OR OTHER ENERGY, GRANTING TO SAID COMPANY THE RIGHT TO USE THE STREETS, ALLEYS AND ALL OTHER PUBLIC PLACES, PROVIDING FOR COMPENSATION FROM SUCH COMPANY FOR SAID RIGHT AND FRANCHISE, PRESCRIBING THE TERMS OF AND RELATING TO SUCH FRANCHISE AND REPEALING INCONSISTENT ORDINANCES OR PARTS THEREOF.

WHEREAS, Kansas City Power & Light Company (herein called the Company) is a corporation duly organized and existing under and by virtue of the laws of the State of Missouri, and admitted to do business under the laws of the State of Kansas as a foreign corporation for the purpose of generating and distributing electric energy; and

WHEREAS, the Company is operating a system for the production, transmission and distribution of electric current in the State of Kansas and has heretofore built, or proposes to build, its electric facilities within and through the City of Paola, Kansas (the City); and

WHEREAS, the parties hereto desire that the Company furnish energy to consumers in said City located in the areas of the City in which the Company shall hold a Certificate of Convenience and Authority from the State Corporation Commission of the State of Kansas;

WHEREAS, the company will comply with all relevant and applicable rules and codes of local, state and national authorities with regulatory jurisdiction with respect to the operation of said system for the generation, transmission and distribution of electric energy in the State of Kansas and particularly in the City of Paola, Kansas;

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF PAOLA, KANSAS:

SECTION I. In consideration of the benefits to be derived by the City and the inhabitants thereof from the construction, operation and maintenance of an electric light and power system and the supplying of electric energy to the public, there is hereby granted to the Company and to its successors and assigns, for the term of twenty (20) years from the effective date hereof, a franchise and authority to construct, operate and maintain within the existing and any future extended corporate limits of the City for which the Company now or shall hereafter hold a Certificate of Convenience and Authority from the State Corporation Commission of the State of Kansas all appropriate facilities and plants for carrying on a power and light business and all other operations connected therewith or incident thereto for the purpose of supplying within the City and outlying areas electric or other energy in such forms as may be reasonably required for domestic, commercial, industrial, municipal and other purposes and to safely produce and supply such energy by manufacture, generating, purchase or otherwise, and to safely transmit and distribute same by means of underground or overhead facilities or otherwise, pursuant to the applicable codes of the City of Paola and the rules and regulations of the Kansas Corporation Commission, and for any or all of said purposes it is authorized to (i) safely construct, install, replace and remove conduits, poles, lamp posts, guys, anchors, wires, cables, street lights and all other related facilities in, on, under, along, across and over all streets, alleys, avenues, bridges, parking and other existing and any future public thoroughfares, (ii) safely construct, erect, maintain and remove all structures, machinery and attachments of any and every kind for any and all said purposes, and (iii) reasonably enter upon any and all of said public places within the corporate limits of the City as they now exist or may hereafter be opened, widened, extended, laid out and established, including any other territory hereafter added thereto or coming under the City's jurisdiction, and (iv) to safely trim trees upon and overhanging such places and make such excavations thereon as may be appropriate, for the construction, operation, maintenance, repair, renewal and removal of the Company's overhead and underground facilities and plants all of which shall be done in compliance with the reasonable and legal regulations lawfully promulgated for the City of Paola, the Kansas Corporation Commission, the State of Kansas and the United States of America.

SECTION II. Any pavements, sidewalks or curbing taken up or any and all excavations made shall be done under the supervision and direction of the governing body of said City under all necessary permits issued for the work, which the Company agrees to obtain at its expense,

and shall be made and done in such manner as to give the least reasonable inconvenience to the inhabitants of the City and the public generally, and pavements, sidewalks, curbing and excavations shall be replaced and repaired in as good condition as before with all convenient speed, by and at the expense of the Company, said work to comply with all lawfully promulgated safety and environmental rules and regulations pertaining thereto.

SECTION III. The Company shall at all times during the term of this franchise supply to consumers of electric energy, residing within the corporate limits of the City as certified by the City Clerk, such electric energy as they may require, and shall extend and construct its lines and services in accordance with legal requirements and rules and regulations as filed from time to time with the State Corporation Commission of the State of Kansas. Nothing contained herein shall be construed as a guarantee upon the part of the Company to furnish uninterrupted services, and interruptions due to Acts of God, fire, strikes, civil or military authority, orders of court and other causes reasonably beyond the control of the Company are specifically exempted from the terms of this Section. The Company shall at all times during the term of this agreement furnish electric service to all persons and organizations, public and private, without discrimination against any individual because of race, color, religion, sex or national origin.

SECTION IV. All facilities shall be erected in accordance with the lawful provisions of the building code of the City of Paola, Kansas, if applicable, and the rules and regulations of the State Corporation Commission of the State of Kansas as set out in Docket No. 1944 and any amendments thereto. All poles carrying said wires shall be placed in such manner as to interfere with and obstruct as little as reasonably possible, the ordinary use of the streets, alleys, lanes and highways of said City, and shall not unreasonably interfere with any gas main, water main or sewer now laid out or constructed in or under said streets, alleys, lanes or highways of said City.

SECTION V. The Company shall, at all times, in the construction, maintenance, and operation of its electric transmission, distribution and street lighting system, use all reasonable and proper precaution to avoid damage or injury to persons or property, and shall hold and save harmless said City from any and all damages, injury and expense caused by the sole negligence of the Company, its successors and assigns.

SECTION VI. As a further consideration for the rights, privileges and franchise hereby granted, and in lieu of all rental, license or occupation taxes, the Company shall monthly of each year in which this franchise is effective, pay to the City in cash five percent (5%) of its gross receipts charged and collected from the sale of electric energy used within the present or future boundaries of said City, as certified by the City Clerk, for domestic, commercial and industrial consumption. Such payment shall be made on or before the last day of each month, and shall be based upon said gross receipts charged and collected for the preceding month. The term “gross receipts” as applied to the sales of electricity for domestic, commercial or industrial purposes as used in this Section shall not include [1] the electrical energy sold to the United States or the State of Kansas, or to any agency or political subdivision thereof, [2] the electrical energy sold for other use which cannot be classified as domestic, commercial or industrial such as electrical energy used by public utilities, telephone, telegraph and radio communication companies, railroads, pipe line companies, educational institutions not operating for profit, churches and charitable institutions, [3] the electrical energy sold for resale, and [4] the amount paid to the City pursuant to this Section.

SECTION VII. All rates established and charges made by the Company for electric energy supplied to consumers shall be subject to valid and lawful orders of the State Corporation Commission of the State of Kansas or other competent authority having jurisdiction in the premises, and the sale of electricity to consumers shall be governed by the present operating rules and regulations as may be prescribed and approved.

SECTION VIII. That in consideration of and as compensation for the right, privilege and franchise hereby granted, the Company, its grantees, successors and assigns, shall furnish electric energy at such quality as shall be designated by the lawful orders of the State Corporation Commission of the State of Kansas, shall furnish free of cost to each consumer a recognized standard meter of other instrument for measuring electric energy sold for computation of the customer’s bills and keep same in good, safe repair at its cost, which meter shall be at all times the property of the Company, but which at all times be subject to the City’s right to request an inspection of such meter, and shall construct, operate and maintain its complete system with said City in accordance with the City Code of the City of Paola, and with lawful orders, rules and regulations of the State Corporation Commission of the State of Kansas, shall limit all

excavations of streets, alleys or public places to the necessity of efficient operation, and shall not at any one time open or encumber more of any highway or public place than shall be reasonably necessary to enable the Company to proceed with reasonable advantage in laying or repairing lines, either overhead or underground, and shall not permit such excavation to remain open longer than necessary for the purpose for which it was opened, shall provide at its own expense protection in the forms of lights, signals, barricades or railings in accordance with the Code of the City of Paola, Kansas, on all excavations made by it, shall refill all excavations and replace all pavement or surface with like material and leave the same in as good condition as when altered or removed, shall perform all work on streets, alleys, and public places under the supervision of a representative of the City of Paola, if it so desires, shall repay said City all expensed to which it has been put in the repair or replacement of streets, highways, pavements or parks in the event such work is done by said City at the neglect or refusal of the Company to perform the same within a reasonable time, shall upon request by the City lay its lines and/or service lines to the extent authorized by the rules and regulations on file with the State Corporation Commission of the State of Kansas and as required in unpaved streets or alleys about to be paved, and shall upon request by the City of Paola, for reasonable governmental purposes, at its own expense, relocate any part of its system and facilities lying on public right of way.

SECTION IX. The Company will, at its general offices in Kansas City, Missouri, make available to the City of Paola, Kansas, all books, records, contracts and documents of the Company with reference to service and the price of said electric service to consumers within the City, and shall at all reasonable times be subject to inspection and examination by the authorized representative of the City of Paola, Kansas, for the purposes of checking not only the service to electric consumers of the City of Paola and its environs but also for the purpose of verifying the gross receipts taxes paid to the City of Paola.

SECTION X. The percentage of gross receipts charged and collected from the sale of electric energy hereunder, as specified in SECTION VI above, shall be subject to a review and revision at the written request of either party on the annual anniversary of the effective date hereof. If either party desires a review and revision of said percentage of gross receipts charged and collected from the sale of electric energy hereunder at that time, it shall so notify the other

party in writing not later than sixty (60) days prior to the review date, whereupon representatives of the parties will meet and in good faith attempt to reach an agreement with respect to said percentage. In the event the parties agree to revise said percentage, such revision shall be effected by ordinance duly passed as an amendment to this Ordinance, and all expenses connected with such revision, including but not limited to costs of publication, shall be borne by the party requesting said revision.

SECTION XI. If any of the provisions of this Ordinance are held to be invalid or illegal, such illegality or invalidity shall not affect the other provisions of this Ordinance which can be given effect without the invalid provisions, and to this end the provisions of this Ordinance are declared to be severable.

SECTION XII. All provisions of this Ordinance shall be binding upon the Company from and after the date of written acceptance hereof by the Company, and shall inure to the benefit of the Company, its grantees, successors and assigns. The Company shall accept the provisions of this Ordinance by signing the Ordinance and filing same with the City Clerk within sixty (60) days after the passage and final adoption of this Ordinance.

SECTION XIII. All ordinances and parts of ordinances in conflict herewith are hereby repealed as of the effective date of this Ordinance.

SECTION XIV. This Ordinance is made under and in conformity with the laws of the State of Kansas, and shall take effect and be in force as therein provided.

PASSED AND APPROVED this 23rd day of October, 2007.

Artie Stuteville, Mayor

ATTEST: (seal)

Daniel G. Droste, City Clerk