

1 Introduced February 14, 2012, by
2 Councilwoman Harbison, seconded by
3 Councilman Borchert, (by request of
4 Administration)

5 **Item No. 12-02-2939**

6
7 **ORDINANCE NO. 3646**

8 An ordinance granting a franchise to CLECO POWER LLC ("Company"), its
9 successors and assigns, for a period of thirty-three (33) years for the construction,
10 maintenance and operation of electric utilities, electric generating facilities and/or
11 transmission and distribution systems in, through and across the City of Slidell
12 ("Municipality"), and for the use of the streets, alleys and public places of said
13 Municipality, in connection therewith, for the generation, transmission, distribution and
14 sale of electric energy, fixing the terms, considerations and limitations thereof and
15 providing for payment by Company (its successors and assigns) of a sum equal to four
16 percent (4%) of amounts received by said Company for the sale and/or delivery of
17 Kilowatt hours of electric energy at retail for residential and commercial purposes based
18 on residential and commercial net rates (unbundled rates in the event of deregulation)
19 billed for service within the limits of said Municipality (exclusive of taxes and all
20 governmental fees and impositions shown on such bills), as said limits may now or
21 hereafter lawfully exist, and repealing all ordinances in conflict herewith.

22 BE IT ORDAINED by the governing body of the City of Slidell, Louisiana
23 ("Municipality"), in regular session duly and legally convened:

24 SECTION 1. That Cleco Power LLC ("Company"), a Louisiana limited liability
25 company, domiciled and doing business in the State of Louisiana, its successors and
26 assigns, is hereby granted the right, privilege and franchise of producing (including the
27 right to construct, maintain and operate electric power plants) and/or otherwise acquiring,
28 transmitting, distributing and selling electricity (for light, heat, power and other purposes)
29 to the Municipality and the inhabitants thereof, which right, privilege and franchise shall
30 be deemed to include the right, authority and privilege to construct, maintain and operate
31 in, along, under and upon the present and future streets, alleys, bridges and public ways
32 and places of said Municipality, lines with all necessary or desirable appurtenances
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4 (including poles, wires, transformers, street and other lights, towers, aerial and
5 underground transmission and distribution lines, conduits and apparatus) for the purpose
6 of supplying and/or selling electricity for light, heat, power and other purposes to the said
7 Municipality and the inhabitants thereof.
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10 SECTION 2. That the Company, its successors and assigns, shall at all times
11 maintain its electric transmission and distribution systems in a safe and good condition
12 and shall comply with all necessary and reasonable safety regulations in the operation
13 thereof, and shall protect and save harmless the Municipality from all claims and
14 damages due to the Company's negligence, or the Company's failure to comply with any
15 obligations of this franchise; and the Company, its successors and assigns, shall extend
16 said electric aerial transmission and distribution systems, from time to time, as may be
17 necessary to the end that the said Municipality and the inhabitants thereof shall be
18 afforded adequate service, commensurate with the demands therefor, whenever the
19 estimated earnings from any extension shall be sufficient to pay the cost of giving aerial
20 service thereon, including depreciation and a fair return on the property used and useful in
21 giving such service.
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30 SECTION 3. That all changes made necessary in the Company's transmission
31 and distribution lines in connection with the improvements by the Municipality of streets,
32 roads, bridges, alleys or other public places shall be made by the Company, its
33 successors or assigns, who shall likewise repair all damage to the streets, roads,
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4 bridges, alleys or other public places caused by the construction or maintenance of said
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6 transmission and distribution lines.

7 SECTION 4. That the Company, its successors and assigns, shall have the right
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9 to formulate and publish rules and regulations under which service will be furnished
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11 subject to the approval of the legally constituted authorities having jurisdiction over such
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13 matters; which regulations may provide for the payment, on or before a specified day
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15 each month, for all service furnished for the preceding month, with the right to disconnect
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17 and discontinue service to all delinquents.

18 SECTION 5. That this franchise and the rights, authorities and privileges herein
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20 granted are not exclusive and are granted for a period of thirty-three (33) years from and
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22 after the date the ordinance becomes effective.

23 SECTION 6. In consideration of the grant of this franchise:

- 24 (a) The Company agrees to pay to the Municipality during the effective period of
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26 this franchise, a sum of money equal to four percent (4%) of the amounts
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28 received by the Company from the sale and delivery of Kilowatt hours of
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30 electric energy at retail for residential and commercial purposes based on
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32 residential and commercial net rates approved by the Louisiana Public
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34 Service Commission billed for service within the limits of said Municipality,
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36 exclusive of taxes and all governmental fees and impositions shown on such
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38 bills. It is understood and agreed that no payment shall be due to the
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4 Municipality by the Company on amounts received from the following
5 classifications of sales and service:
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- 7 (1) Sales or distribution of electricity for resale.
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9 (2) Sales or distribution of electricity to the Municipality and to other public
10 authorities, including, but not limited to, the United States of America, the
11 State of Louisiana and its political subdivisions, including parishes and
12 other municipalities, and all divisions and agencies of any of the
13 foregoing.
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15 (3) Sales or distribution of electricity to industrial customers who are
16 identified as those who engage in the business of working raw materials
17 into wares suitable for use or which gives new shapes, qualities or
18 combinations to matter which already has gone through some artificial
19 process and who are billed on or the equivalent of rate schedules GS or
20 LPS on file with the Louisiana Public Service Commission or any rate
21 schedules amending or superseding those rate schedules or any rate
22 schedules filed with the Louisiana Public Service Commission having
23 application to industrial use.
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32 The period for which the amount payable under this Section shall be
33 computed will commence when this ordinance becomes effective, and the
34 amount shall be paid quarterly, the quarterly periods being fixed on a
35 calendar year basis, and the payments on a quarterly basis shall be made not
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4 later than thirty (30) days after the end of each quarter, that is, on or before
5 April 30, July 31, October 31 and January 31 of each year, and on the
6 payment date the Company shall furnish to the Municipality a statement
7 showing the total of such amounts received by the Company for the
8 preceding quarterly period to which payment of four percent (4%) is
9 applicable. The payments herein provided to be made by the Company to the
10 Municipality will be reduced in an amount equal to the sum of any new or
11 increased taxes of any nature whatsoever levied by the Municipality and
12 payable by the Company, subsequent to the date this ordinance is adopted
13 (except uniform ad valorem taxes, that is, any uniform taxes based on
14 property values).
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22 (b) The Company shall be obligated during the term of this franchise to furnish,
23 operate and maintain a system for lighting the streets of the Municipality, and
24 to furnish electric energy for other requirements of the Municipality for
25 facilities owned and operated by the Municipality, all at costs to the
26 Municipality, as agreed upon by the Municipality and the Company under
27 existing contracts or contracts to be entered into hereafter; provided,
28 however, that the validity of this franchise shall not in any way be contingent
29 upon the existence or validity of any such contracts.
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35 SECTION 7. Notwithstanding any other provisions of this Ordinance to the
36 contrary, including without limitation, Section 6 hereof, in the event of: (1) deregulation
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4 of the electric utility industry in Louisiana as the result of any applicable law or any order,
5 rule or regulation of the Louisiana Public Service Commission or any regulatory body
6 having jurisdiction over the Company; and (2) Company ceases to generate electric
7 energy as a regulated electric public utility for sale to the public; and (3) Company
8 distributes Kilowatt hours of electric energy to customers in the Municipality which has
9 been generated by Company or others, then the provisions of Section 6, paragraph (a),
10 subparagraphs (1)-(3) hereof, shall no longer apply, and in that event, Company shall
11 thereafter pay to Municipality four percent (4%) of only those amounts received by
12 Company from its customers solely for the distribution of Kilowatt hours of electric energy
13 to its customers located within the Municipality, based on residential and commercial net
14 rates approved by the Louisiana Public Commission, exclusive of taxes and all
15 governmental fees and impositions shown on the bills for such service; and, without
16 limitation of the foregoing, there shall be excluded from those amounts: (a) all charges
17 made to said customers by the party who generated and/or supplied and/or sold said
18 Kilowatt hours of electric energy which was distributed to said customers by Company;
19 (b) all charges made by Company to any customer for Kilowatt hours of electric energy
20 purchased by Company from an electric generator or supplier because such customer
21 had not purchased electric energy from an electric generator or supplier; and (c) all
22 charges and amounts received by Company from customers on behalf of any electric
23 generator or supplier for the sale of Kilowatt hours of electric energy to said customers
24 by said electric generator or supplier; it being the intention of this provision that the four
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4 percent (4%) payment provided for in Section 6 shall apply only to amounts received by
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6 Company solely for the distribution of Kilowatt hours of electric energy to said customers
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8 in the Municipality and not to amounts received by Company from the sale of Kilowatt
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10 hours of electric energy to said customers by anyone, including Company; and the
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12 paragraph following subparagraph (3) of paragraph (a) of Section 6 shall be considered
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14 modified to reflect the foregoing.

15 SECTION 8. That all of the franchise rights and obligations created hereunder
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17 shall be applicable to sales and/or distribution of electric energy by the Company within
18
19 the corporate limits of the Municipality as same may now or hereafter lawfully exist. The
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21 Municipality shall provide to the Company in writing a legal description of said corporate
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23 limits as of the effective date of this franchise and shall immediately provide to the
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25 Company in writing all changes therein. All obligations of the Company under Sections 6
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27 and 7 of this franchise shall be based upon the last designation of the corporate limits
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29 made by the Municipality to the Company pursuant to this Section.

30 SECTION 9. That all ordinances or parts of ordinances contrary to or in conflict
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32 with the provisions of this ordinance be and the same are hereby repealed, and this
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34 ordinance shall take effect from and after its promulgation in full and its acceptance in
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36 writing by the Company for itself, its successors and assigns.

37 This ordinance introduced in regular session on the 14th day of February,
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39 2012.

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4 This ordinance scheduled for public hearing on the 13th day of March, 2012.

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6 The foregoing was then read and considered, section by section, and as a
7 whole, and thereupon, on motion of Councilman Borchert, seconded by Councilman
8 Cusimano, the ordinance was adopted, section by section, and as a whole, by the
9 following vote:
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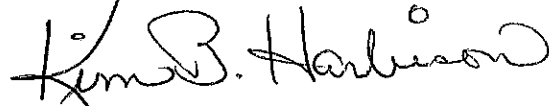
11
12 YEAS: 8

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14 NAYS: 0

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16 ABSTAIN: 0

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18 ABSENT: 1

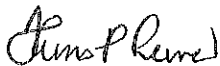
19 **ADOPTED** this 13th day of March, 2012.

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22 Kim Harbison
23 President of the Council
24 Councilwoman-at-Large

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28 Freddy Drennan
29 Mayor

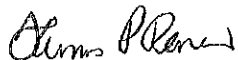
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31 Thomas P. Reeves
32 Council Administrator


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4 Attest:

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7 Thomas P. Reeves
8 Council Administrator

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12 Freddy Drennan
13 Mayor

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15 Accepted:

16 April 9, 2012

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18 Cleco Power LLC

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20 By: Keith Crump

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22 Name: Keith Crump

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24 Title: Senior Vice President

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26 **CERTIFICATE**

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28 I, Thomas P. Reeves, hereby certify I am the Clerk of the Council of the City of

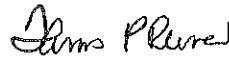
29 Slidell

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31 and that the above and foregoing Ordinance No. 3646 is a true and correct copy thereof
32 which was adopted by the Mayor and governing body of the City of Slidell at a regular
33 meeting thereof on March 13, 2012, at which a quorum was present and voted in favor
34 of the adoption thereof.
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IN TESTIMONY WHEREOF witness my official hand and the seal of the City
of Slidell on this 13th day of March, 2012.


Thomas P. Reeves
Council Administrator