

Ordinance No. 472-2022 AS AMENDED

By Council Members Kazy and Griffin
(by departmental request)

AN EMERGENCY ORDINANCE

To clarify and amend various sections of Chapter 523 of the Codified Ordinances of Cleveland, Ohio, 1976, as amended or supplemented by various ordinances; and to supplement the codified ordinances by enacting new Sections 523.115 and 523.27.

WHEREAS, the City of Cleveland owns and operates a public utility known as Cleveland Public Power through the passage of Ordinances and finances its operations through the issuance of bonds pursuant to the authority of Article XVIII, Sections 4-6 of the Ohio Constitution; and

WHEREAS, Cleveland City Council is a legislative body with the plenary power to enact legislation to authorize, clarify, ratify and validate that which it had authorized in the first instance; and

WHEREAS, the only limitations on Council's duty to set rates through Ordinance are that those rates be reasonable and not unjustly discriminatory; and

WHEREAS, when Cleveland Public Power ceased generating electricity through coal-fired facilities, it was required to install infrastructure to import and distribute power to its customers in further compliance with local, state and federal environmental regulations; and

WHEREAS, under the Indentures described below, Cleveland Public Power shall not sell or otherwise provide services at less than the total cost of service, as computed by Cleveland Public Power; and

WHEREAS, by Ordinance Nos. 1516-91 (July 24, 1991); 1133-93 (June 7, 1993); 55-94 (June 6, 1994); 1003-95 (June 19, 1995); 816-98 (June 8, 1998); 290-06 (March 20, 2006); 64-08 (February 25, 2008), as amended by 895-10 (July 14, 2010); 572-14 (May 19, 2014); 1363-17 (November 20, 2017), Council has authorized the issuance of bonds subject to the terms and conditions of up to and including the Sixth Supplemental Indenture and Fourteenth Supplemental Trust Indenture (collectively, the "Indentures"), which prohibit Cleveland Public Power from charging less than the total cost of service; and

WHEREAS, Council, in Chapter 523 of the Codified Ordinances, established various rates and rate components and authorized the assessment of other charges as calculated by Cleveland Public Power to ensure compliance with the Indentures; and

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WHEREAS, consistent with the Supreme Court of Ohio's filed rate doctrine and rule against retroactive ratemaking established in *Keco Indus., Inc. v. The Cincinnati & Suburban Bell Telephone Co.*, 168 Ohio St. 254 (1957), rates, terms and conditions set by ordinance for services provided by Cleveland Public Power as calculated and assessed by Cleveland Public Power shall be lawful until such time as they are set aside as being unreasonable or unlawful by a court of competent jurisdiction; and

WHEREAS, it is Council's intent to make this Ordinance retroactive to the fullest extent permitted by law; and

WHEREAS, this Ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CLEVELAND:

Section 1. That Council has, at all times, authorized Cleveland Public Power to calculate and assess the rates, fees, and other charges as required to meet its obligations under the Indentures, Charter, and all other applicable federal, state, and local laws, regulations, rules, and ordinances.

Section 2. That Council clarifies, finds and determines that, at all times, charges related to investment in and maintenance of a utility's distribution system, various power supply apparatuses and power from remote sources, including interconnection lines and equipment, substations, switches, transformers, duct banks, underground cables, power breakers, generators, transmission and distribution lines, transmission and distribution poles, meters, and purchase and installation of emission control equipment, operated by Cleveland Public Power have been authorized by Section 523.17.

Section 3. That Council, having the authority to construe its own ordinances, clarifies, finds and determines that Section 523.17 authorizes Cleveland Public Power to calculate and assess the amounts necessary to recover the total cost of service as necessary to comply with the Indentures.

Section 4. That the following sections of the Codified Ordinances of Cleveland, Ohio, 1976:

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Section 523.01, as enacted by Ordinance No. 1090-39, passed July 17, 1939;

Section 523.02, as amended by Ordinance No. 1027-83, passed May 6, 1983,

Section 523.021, as enacted by Ordinance No. 1586-09, passed December 7, 2009,

Sections 523.03, 523.04, 523.043, and 523.047, as amended by Ordinance No. 1027-83, passed May 6, 1983,

Section 523.048, as amended by Ordinance No. 327-95, passed February 27, 1995,

Sections 523.05 and 523.06, as amended by Ordinance No. 1027-83, passed May 6, 1983,

Section 523.061, as enacted by Ordinance No. 510-98, passed May 18, 1998,

Section 523.065, as amended by Ordinance No. 1027-83, passed May 6, 1983,

Sections 523.07, 523.08, 523.09, and 523.10, as amended by Ordinance No. 1629-73, passed January 28, 1974,

Sections 523.11 and 523.12, as enacted by Ordinance No. 940-81, passed March 8, 1982,

Section 523.13, as amended by Ordinance No. 726-57, passed April 8, 1957,

Sections 523.14, 523.15, 523.17, and 523.18, as amended by Ordinance No. 1629-73, passed January 28, 1974,

Section 523.19, as enacted by Ordinance No. 1658-93, passed November 29, 1993,

Section 523.195, as enacted by Ordinance No. 1679-85, passed April 28, 1986,

Section 523.20, as amended by Ordinance No. 1629-73, passed January 28, 1974,

Section 523.21, as amended by Ordinance No. 567-14, passed May 19, 2014,

Section 523.215, as enacted by Ordinance No. 940-81, passed March 8, 1982,

Section 523.23, as enacted by Ordinance No. 2069-87, passed September 21, 1987, and

Section 523.24, as enacted by Ordinance No. 1058-89, passed April 24, 1989;

are amended to read as follows:

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Section 523.01 Provisions for Sale of Electricity

The rates, rules and regulations governing the sale of the product of electric current furnished by the Department of Public Utilities, Division of ~~Light and Power~~ Cleveland Public Power, are hereby established as set forth in the following Sections.

Section 523.02 Residential Rate Schedule

The following schedule is applicable to private single residences or to any individually metered family accommodation when service is used primarily for domestic and household purposes, as distinguished from commercial, professional or industrial purposes:

(a) *Kilowatt Hour Charge.*

KWH Per Month	Summer Rate (per KWH)	Winter Rate (per KWH)
First 1,000	\$0.0774	\$0.0655
All over 1,000	\$0.0752	\$0.0353

(b) *Definition of Seasonal Rate.* For the purpose of this rate schedule, the summer rate shall be in effect during the months of June, July, August, September and October. The winter rate shall be in effect during the months of November, December, January, February, March, April and May.

(c) *Energy Adjustment Charge.* In accordance with Section 523.21, an incremental charge or credit for energy ~~may~~ shall be determined and applied on a monthly basis by the Division of ~~Light and Power~~ Cleveland Public Power. Such incremental charge may be made in addition to the rates established in this section, but in no case shall such charge exceed the amount calculated by using the formula established in Section 523.21.

(d) *Environmental and Ecological Adjustment.* An ~~environmental and ecological~~ adjustment to the Energy Adjustment Charge shall be applied to this rate as set forth and described in Section 523.17.

Section 523.021 Residential Incentive Rate Schedule

The following schedule is applicable to private single residences or to any individually metered family accommodation when service is used primarily for domestic and household purposes, as distinguished from commercial, professional or industrial purposes:

(a) *Kilowatt Hour Charge.*

KWH Per Month	Summer Rate (per KWH)	Winter Rate (per KWH)
First 1,000	\$0.0696	\$0.0589
All over 1,000	\$0.0676	\$0.0317

(b) *Definition of Seasonal Rate.* For the purpose of this rate schedule, the summer rate shall be in effect during the months of June, July, August, September, and October. The winter rate shall be in effect during the months of November, December, January, February, March, April and May.

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(c) *Energy Adjustment Charge.* In accordance with Section 523.21, an incremental charge or credit for energy ~~may shall~~ be determined and applied on a monthly basis by the Division of Cleveland Public Power. Such incremental charge may be made in addition to the rates established in this section, but in no case shall such charge exceed the amount calculated by using the formula established in Section 523.21.

(d) *Environmental and Ecological Adjustment.* An ~~environmental and ecological~~ adjustment to the Energy Adjustment Charge shall be applied to this rate as set forth and described in Section 523.17.

(e) *Applicability.* This rate shall be available for service installed after the effective date of this section to residential dwellings, which have not been connected to Cleveland Public Power facilities within the past six (6) months, and shall be in effect through May 31, 2011. This rate schedule shall expire on June 1, 2011, after which the customers' rates shall be determined under Section 523.02.

Section 523.03 Small Commercial Rate Schedule

The following following schedule is applicable to all commercial installations during any month in which such installation has a demand of less than thirty (30) kilowatts (KWD):

(a) *Kilowatt Hour Charge.*

KWH Per Month	Summer Rate (per KWH)	Winter Rate (per KWH)
First 7,500	\$0.0679	\$0.0588
All over 7,500	\$0.0398	\$0.0309

(b) *Definition of Seasonal Rate.* For the purpose of this rate schedule, the summer rate shall be in effect during the months of June, July, August, September and October. The winter rate shall be in effect during the months of November, December, January, February, March, April and May.

(c) *Special Service.* Standby, temporary, special, welding, intermittent or extremely low load factor service is not included in this schedule and shall be subject to special rates based upon cost as computed by the Division of ~~Light and Power~~ Cleveland Public Power.

Applicants for these services may be charged with the cost of installing and furnishing such services as well as the cost of removal of such services at the discretion of the Division.

(d) *Combined Billing.* At the option of the Division, commercial installations on the same premises may be combined on one (1) meter and billed under this schedule with the number of kilowatt hours in each block of the rate and the minimum charge multiplied by the number of commercial installations.

(e) *Plural Service Connections.* Where plural service connections supply a customer on the same premises, meter readings on one (1) commercial light service connection and on one (1) commercial power service connection may, at the option of the Division, be added for billing purposes, and meter readings on two (2) or more commercial connections supplying a customer on the same premises may be added for billing purposes at the option of the Division.

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(f) *Environmental and Ecological Adjustment.* An ~~environmental and ecological adjustment to the Energy Adjustment Charge~~ shall be applied to this rate as set forth and described in Section 523.17.

(g) *Energy Adjustment Charge.* In accordance with Section 523.21, an incremental charge or credit for excess energy costs ~~may~~ shall be determined and applied on a monthly basis by the Division. Such incremental charge may be made in addition to the rates established in this section, but in no case shall such charge exceed the amount calculated using the formula established in Section 523.21.

(h) *Determination of Applicable Schedule.* In any month that the kilowatt demand (KWD) equals or exceeds thirty (30), the billing for that month shall be calculated using the Large Commercial Rate Schedule set forth in Section 523.04.

Section 523.04 Large Commercial Rate Schedule

The following schedule is applicable to all commercial installations during any month in which such installation has a demand equal to or greater than thirty (30) kilowatts (KWD) and less than ten thousand (10,000) kilowatts (KWD) and a kilowatt hour consumption of less than or equal to five hundred thousand (500,000).

(a) *Demand Charge.*

Kilowatt Per Month	Summer Rate KWD	Winter Rate KWD
First 50	\$7.99	\$7.28
All over 50	\$6.92	\$6.33

(b) *Reactive Charge.*

Kilovar Per Month	KVAR	KVAR
For KVAR in excess of 30	\$0.20	\$0.20

(c) *Kilowatt Hour Charge.*

Kilowatt Per Month	KWH	KWH
First 40,000	\$0.0331	\$0.0288
Next 60,000	\$0.0207	\$0.0173
All over 100,000	\$0.0166	\$0.0140

(d) *Minimum Charge.* The monthly minimum charge shall be twelve dollars and twenty-five cents (\$12.25), plus the energy adjustment charge.

(e) *Maximum Charge.* The monthly maximum charge shall be sixteen and one-half cents (\$0.165)/KWH, plus the energy adjustment charge.

(f) *Definition of Seasonal Rate.* For the purpose of this rate schedule, the summer rate shall be in effect during the months of June, July, August, September and October. The winter rate shall be in effect during the months of November, December, January, February, March, April and May.

(g) *Determination of Demand.* The kilowatt demand shall be determined monthly by demand measurements and shall be the maximum thirty (30) minute kilowatt demand during the month.

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(h) *Determination of Reactive Demand.* For all three (3) phase installations where the kilowatt demand is sixty-five (65) or greater, and all single-phase installations where the kilowatt demand is seventy-five (75) or greater, the reactive billing demand shall be determined by multiplying the monthly kilowatt demand by the ratio of the monthly lagging reactive kilovolt ampere hours to the monthly kilowatt hours.

For all three (3) phase installations where the kilowatt demand is less than sixty-five (65), and all single-phase installations where the kilowatt demand is less than seventy-five (75), the reactive billing demand shall be zero.

(i) *Discount for Primary Metering.* Where the electric energy is metered on the primary (2,300 volts or higher) side of the service transformers, a discount of two percent (2%) of the gross primary metered kilowatt hours may be allowed.

(j) *Voltage Supply Discount.* Where the electric energy is provided entirely from an eleven thousand (11,000) volt circuit, a discount of five cents (\$0.05) per kilowatt of demand billed may be allowed.

(k) *Substation Ownership Discount.* A discount of thirty cents (\$0.30) per kilowatt of demand billed may be allowed when a customer owns, installs and maintains transformation and substation apparatus, thereby relieving the Division of these costs.

(l) *Off-Peak Demand Allowance.* At the option of the Division, the billing demand may be the greater of the regularly incurred demand or eighty-five percent (85%) of the maximum demand incurred during off-peak periods.

The cost of special metering to determine such demand shall be charged to the customer.

Off-peak periods shall be from 12:00 a.m. until 8:00 a.m., Tuesday through Saturday, and from 4:00 p.m. Saturday through 8:00 a.m. Monday.

(m) *Special Service.* Direct current, standby, temporary, special, welding, intermittent or extremely low load and extremely low load factor service is not included in this schedule and shall be subject to special rates based upon cost as computed by the Division of ~~Light and Power~~ Cleveland Public Power.

Applicants for these services may be charged with the cost of installing and furnishing such services as well as the cost of removal of such services at the discretion of the Division.

The monthly minimum charge shall be applied in the case of all special services.

(n) *Combined Billing.* Where plural service connections supply a customer on the same premises, meter readings may, at the option of the Division, be added for billing purposes. The combined demand shall be the sum of the undiversified demands computed as for separate billing.

(o) *Environmental and Ecological Adjustment.* An ~~environmental and ecological adjustment to the Energy Adjustment Charge~~ shall be applied to this rate as set forth and described in Section 523.17.

(p) *Energy Adjustment Charge.* In accordance with Section 523.21, an incremental charge or credit for excess energy costs ~~may~~ shall be determined and applied on a monthly basis by the Division. Such incremental charge may be made in addition to the rates established in this section, but in no case shall such charge exceed the amount calculated using the formula established in Section 523.21.

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(q) *Determination of Applicable Schedule.* In any month that the kilowatt demand (KWD) is less than ten thousand (10,000) and the kilowatt hour consumption exceeds five hundred thousand (500,000), the billing for that month shall be calculated using the Industrial Rate Schedule set forth in Section 523.043.

In any month that the kilowatt demand (KWD) is less than thirty (30), the billing for that month shall be calculated using the Small Commercial Rate Schedule set forth in Section 523.03.

Section 523.043 Industrial Rate Schedule

The following schedule is applicable to all commercial installations during any month in which such installation uses more than five hundred thousand (500,000) kilowatt hours during the current month and has a demand of less than ten thousand (10,000) kilowatts:

(a) *Demand Charge.*

Kilowatt Per Month	Summer Rate KWD	Winter Rate KWD
First 50	\$7.99	\$7.28
All over 50	\$6.92	\$6.33

(b) *Reactive Charge.*

Kilovar Per Month	KVAR	KVAR
For KVAR in excess of 30	\$0.20	\$0.20

(c) *Kilowatt Hour Charge.*

Kilowatt Per Month	KWH	KWH
First 40,000	\$0.0331	\$0.0288
Next 60,000	\$0.0207	\$0.0173
Next 200 KWH/KWD but not less than 400,000 KWH	\$0.0166	\$0.0140
Next 200 KWH/KWD	\$0.0105	\$0.0084
All excess KWH	\$0.0056	\$0.0056

(d) *Determination of Demand.* The kilowatt demand shall be determined monthly by demand measurements and shall be the maximum thirty (30) minute kilowatt demand during the month.

(e) *Definition of Seasonal Rate.* For the purpose of this rate schedule, the summer rate shall be in effect during the months of June, July, August, September and October. The winter rate shall be in effect during the months of November, December, January, February, March, April and May.

(f) *Determination of Reactive Demand.* The reactive billing demand shall be determined by multiplying the monthly kilowatt demand by the ratio of the monthly lagging reactive kilovolt ampere hours to the monthly kilowatt hours.

(g) *Discount for Primary Metering.* Where the electric energy is metered on the primary (two thousand three hundred (2,300) volts or higher) side of the service transformers, a discount of two percent (2%) of the gross primary metered kilowatt hours may be allowed.

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(h) *Voltage Supply Discount.* Where the electric energy is provided entirely from an eleven thousand (11,000) volt circuit, a discount of five cents (\$0.05) per kilowatt of demand billed may be allowed.

(i) *Substation Ownership Discount.* A discount of thirty cents (\$0.30) per kilowatt of demand billed may be allowed when a customer owns, installs and maintains transformation and substation apparatus, thereby relieving the Division of these costs.

(j) *Off-Peak Demand Allowance.* At the option of the Division, the billing demand may be the greater of the regularly incurred demand or eighty-five percent (85%) of the maximum demand incurred during off- peak periods.

The cost of special metering to determine such demand shall be charged to the customer.

Off-peak periods shall be from 12:00 a.m. until 8:00 a.m., Tuesday through Saturday, and from 4:00 p.m. Saturday through 8:00 a.m. Monday.

(k) *Special Service.* Direct current, standby, temporary, special, welding, intermittent or extremely low load and extremely low load factor service is not included in this schedule and shall be subject to special rates based upon cost as computed by the Division of ~~Light and Power~~ Cleveland Public Power.

Applicants for these services may be charged with the cost of installing and furnishing such services as well as the cost of removal of such services at the discretion of the Division.

The monthly minimum charge shall be applied in the case of all special services.

(l) *Combined Billings.* Where plural service connections supply a customer on the same premises, meter readings may, at the option of the Division, be added for billing purposes. The combined demand shall be the sum of the undiversified demands computed as for separate billing.

(m) *Environmental and Ecological Adjustment.* An ~~environmental and ecological~~ adjustment to the Energy Adjustment Charge shall be applied to this rate as set forth and described in Section 523.17.

(n) *Energy Adjustment Charge.* In accordance with Section 523.21, an incremental charge or credit for excess energy costs ~~may~~ shall be determined and applied on a monthly basis by the Division. Such incremental charge may be made in addition to the rates established in this section, but in no case shall such charge exceed the amount calculated using the formula established in Section 523.21.

(o) *Determination of Applicable Schedule.* In any month that the kilowatt demand (KWD) equals or exceeds ten thousand (10,000), the billing for that month shall be calculated using the Large Industrial Rate Schedule set forth in Section 523.047.

In any month that the kilowatt hour consumption is less than or equal to five hundred thousand (500,000), and the kilowatt demand (KWD) is less than ten thousand (10,000), the billing for that month shall be calculated using the Large Commercial Rate Schedule set forth in Section 523.04.

Section 523.047 Large Industrial Rate Schedule

The following schedule is applicable to all commercial installations during any month in which such installation has a demand of greater than ten thousand (10,000) kilowatts.

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(a) *Demand Charge.*

Kilowatt Hour PerMonth	Summer Rate KWD	Winter Rate KWD
First 5,000	\$8.43	\$7.68
All over 5,000	\$7.85	\$7.09

(b) *Reactive Charge.*

Kilovar Per Month	KVAR	KVAR
For KVAR in excess of 10% of kilowatt demand	\$0.20	\$0.20

(c) *Kilowatt Hour Charge.*

Kilowatt Per Month	KWH	KWH
First 115 KWH/ KWD	Charges are included in the demand charge	
Next 305 KWH/ KWD	\$0.0115	\$0.0092
All excess KWH	\$0.0050	\$0.0053

(d) *Determination of Demand.* The kilowatt demand shall be determined monthly by demand measurements and shall be the maximum thirty (30) minute kilowatt demand during the month.

(e) *Determination of Reactive Demand.* The reactive billing demand shall be determined by multiplying the monthly kilowatt demand by the ratio of the monthly lagging reactive kilovolt ampere hours to the monthly kilowatt hours.

(f) *Definition of Seasonal Rate.* For the purpose of this rate schedule, the summer rate shall be in effect during the months of June, July, August, September and October. The winter rate shall be in effect during the months of November, December, January, February, March, April and May.

(g) *Discount for Primary Metering.* Where the electric energy is metered on the primary (two thousand three hundred (2,300) volts or higher) side of the service transformers, a discount of two percent (2%) of the gross primary metered kilowatt hours may be allowed.

(h) *Voltage Supply Discount.* Where the electric energy is provided entirely from an eleven thousand (11,000) volt circuit, a discount of five cents (\$0.05) per kilowatt of demand billed may be allowed.

(i) *Substation Ownership Discount.* A discount of thirty cents (\$0.30) per kilowatt of demand billed may be allowed when a customer owns, installs and maintains transformation and substation apparatus, thereby relieving the Division of these costs.

(j) *Off-Peak Demand Allowance.* At the option of the Division, the billing demand may be the greater of the regularly incurred demand or eighty-five percent (85%) of the maximum demand incurred during off- peak periods.

The cost of special metering to determine such demand shall be charged to the customer.

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Off-peak periods shall be from 12:00 a.m. until 8:00 a.m., Tuesday through Saturday, and from 4:00 p.m. Saturday through 8:00 a.m. Monday.

(k) *Special Service.* Direct current, standby, temporary, special, welding, intermittent or extremely low load and extremely low load factor service is not included in this schedule and shall be subject to special rates based upon cost as computed by the Division of ~~Light and Power~~ Cleveland Public Power.

Applicants for these services may be charged with the cost of installing and furnishing such services as well as the cost of removal of such services at the discretion of the Division.

The monthly minimum charge shall be applied in the case of all special services.

(l) *Combined Billings.* Where plural service connections supply a customer on the same premises, meter readings may, at the option of the Division, be added for billing purposes. The combined demand shall be the sum of the undiversified demands computed as for separate billing.

(m) *Environmental and Ecological Adjustment.* An ~~environmental and ecological adjustment to the Energy Adjustment Charge~~ shall be applied to this rate as set forth and described in Section 523.17.

(n) *Energy Adjustment Charge.* In accordance with Section 523.21, an incremental charge or credit for excess energy costs ~~may~~ shall be determined and applied on a monthly basis by the Division. Such incremental charge may be made in addition to the rates established in this section, but in no case shall such charge exceed the amount calculated using the formula established in Section 523.21.

(o) *Determination of Applicable Schedule.* In any month that the demand is less than ten thousand (10,000) kilowatts, the billing for that month shall be calculated using the Industrial Rate Schedule set forth in Section 523.043.

Section 523.048 Optional Large Industrial Rate Schedule

The following schedule is applicable to all commercial customers who contract for a demand equal to or in excess of ten thousand (10,000) kilowatts for a period of not less than five (5) years and who are served at a primary voltage of 138,000 volts.

(a) *Demand Charge.*

Kilowatt Per Month	Summer	Winter
For the first 10,000 KWD	\$8.15/ KWD	\$7.35/ KWD
For all over 10,000 KWD	\$7.85/ KWD	\$7.09/ KWD

(b) *Reactive Charge.*

Kilovar Per Month	Summer	Winter
For all KVAR in excess of 10% of kilowatt demand	\$0.20/ KVAR	\$0.20/ KVAR

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(c) *Kilowatt Hour Charge.*

Kilowatt Per Month	Summer	Winter
For the first 115 KWH/KWD	Charges are included in the demand charge	
For the next 305 KWH/KWD	\$0.0115/ KWH	\$0.0092/ KWH
For all excess KWH	\$0.0050/ KWH	\$0.0053/ KWH

(d) *Determination of Demand.* The kilowatt demand shall be determined monthly by demand measurements, and shall be the maximum thirty (30) minute kilowatt demand during the month.

(e) *Determination of Reactive Demand.* The reactive billing demand shall be determined by multiplying the monthly kilowatt demand by the ratio of the monthly lagging reactive kilovolt ampere hours to the monthly kilowatt hours.

(f) *Definition of Seasonal Rate.* For the purpose of this rate schedule, the summer rate shall be in effect during the months of June, July, August, September and October. The winter rate shall be in effect during the months of November, December, January, February, March, April and May.

(g) *Metering.* Electric energy shall be metered on the secondary side of the service transformers.

(h) *Facilities Ownership Discount.* When a customer owns or constructs transmission, transformation, substation apparatus or other facilities, relieving the Division of these costs, a discount of rates and charges may be allowed based on the cost of service to such customer as determined by the Division.

(i) *Combined Billing.* At the option of the Division, where plural connections supply the same customer, meter readings may be added for billing purposes and the combined demand shall be the coincident demand or the sum of the undiversified demands.

(j) *Environmental and Ecological Adjustment.* ~~An environmental and ecological adjustment to the Energy Adjustment Charge may~~ shall be applied to this rate as set forth and described in Section 523.17.

(k) *Energy Adjustment Charge.* An incremental charge for excess energy costs ~~may shall~~ be determined and applied on a monthly basis by the Division and applied in addition to the rates established in this section. The energy adjustment charge shall be determined by dividing the sum of the costs of coal, oil, gas and all costs of purchase power from a specific source or sources purchased by the Division for distribution to the Consumer by the total kilowatt hours distributed to Consumer. From the resulting figure shall be subtracted fifteen (15) mils per kilowatt hour, which constitutes the cost of coal, oil, gas and purchase power which is imbedded in the Optional Large Industrial Rate Schedule. In the event that no specific energy source is identified for Consumer, the energy adjustment charge shall be determined pursuant to Section 523.21(c)(2).

Section 523.05 Street Lighting Schedule

The following schedule is applicable to all electric street lighting service provided by the Division of ~~Light and Power~~ Cleveland Public Power to governmental entities:

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(a) *Non-ornamental Lighting Service.*

Mercury Vapor (Watt)	KWH/Lamp	Monthly Rate/Lamp
175	75	\$5.55
250	105	\$6.46
400	165	\$8.40
1000	395	\$14.00

High Pressure Sodium (Watt)	KWH/Lamp	Monthly Rate/Lamp
100	52	\$6.20
150	71	\$7.66
250	112	\$9.94
400	174	\$11.28

(b) *Ornamental Lighting Service – Type I (thirty (30) ft. Steel Pole).*

Mercury Vapor (Watt)	KWH/Lamp	Monthly Rate/Lamp
100 (E & M only)	46	\$6.00
175	75	\$14.10
175 (E & M only)	75	\$4.57
250	105	\$14.75
250 (E & M only)	105	\$5.15
400	165	\$16.50
400 (E & M only)	165	\$6.55
700	280	\$17.50
700 (E & M only)	280	\$8.00
1000	395	\$22.45
1000 (E & M only)	395	\$9.95

High Pressure Sodium (Watt)	KWH/Lamp	Monthly Rate/Lamp
100	52	\$10.58
100 (E & M only)	52	\$6.15
150	71	\$12.04
150 (E & M only)	71	\$7.55
250	112	\$14.62
250 (E & M only)	112	\$9.25
400	174	\$18.00
400 (E & M only)	174	\$12.25

Fluorescent (Watt*)	KWH/Lamp	Monthly Rate/Lamp
200	101	\$10.45

* Not available for new installation

(c) *Ornamental Lighting Service – Type II (thirty (30) ft. Concrete Pole).*

Mercury (Watt)	KWH/Lamp	Monthly Rate/Lamp
400	165	\$22.99

High Pressure Sodium (Watt)	KWH/Lamp	Monthly Rate/Lamp
250	112	\$21.21
400	174	\$24.59

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(d) *Ornamental Lighting Service – Type III (forty-one (41) ft. Steel Pole w/Breakaway Base).*

Mercury Vapor (Watt)	KWH/Lamp	Monthly Rate/Lamp
1000	395	\$34.45

High Pressure Sodium (Watt)	KWH/Lamp	Monthly Rate/Lamp
400	174	\$30.00

(e) *Street and Highway Lighting Service – Energy Only.*

Mercury (Watt)	KWH/Lamp	Monthly Rate/Lamp
100 (Controlled)	40	\$1.15
100 (Continuous)	96	\$2.40
175 (Controlled)	75	\$1.88
175 (Continuous)	158	\$3.95
250 (Controlled)	105	\$2.63
Mercury (Watt)	KWH/Lamp	Monthly Rate/Lamp
250 (Continuous)	220	\$5.50
400 (Controlled)	165	\$4.13
400 (Continuous)	346	\$8.65
700 (Controlled)	280	\$7.00
1000 (Controlled)	395	\$9.88

High Pressure Sodium (Watt)	KWH/Lamp	Monthly Rate/Lamp
100 (Controlled)	52	\$1.30
100 (Continuous)	110	\$2.75
150 (Controlled)	71	\$1.78
150 (Continuous)	150	\$3.75
200 (Controlled)	88	\$2.20
200 (Continuous)	185	\$4.63

High Pressure Sodium (Watt)	KWH/Lamp	Monthly Rate/Lamp
250 (Controlled)	112	\$2.80
250 (Continuous)	236	\$5.90
400 (Controlled)	174	\$4.35
400 (Continuous)	366	\$9.15
1000 (Controlled)	396	\$9.90
Metal Halide (Watt)	KWH/Lamp	Monthly Rate/Lamp
1000 (Controlled)	391	\$9.78

(f) *Terms and Conditions.*

(1) Street lights will be operated by time clock or by photoelectric control, to provide illumination from dusk to dawn, unless illumination is specified as continuous.

(2) The Division of ~~Light and Power~~ Cleveland Public Power pays for the entire installation and amortizes the costs through the monthly rate.

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If the installation is paid for by an outside party (Federal, State, County or private) and the Division maintains the installation, the Division shall charge the appropriate “energy and maintenance only” (E & M only) rate.

If the installation is paid for and maintained by an outside party (Federal, State, County or private), the Division shall charge the appropriate “energy only” rate.

(3) The Division may, at its discretion, meter “energy only” installations. If such an installation is metered, the energy shall be billed at two and one-half cents (\$0.025) per kilowatt hour.

(4) “Non-ornamental lighting service” means lights of an overhead-type construction where the supply circuits are overhead wires and the lights are attached or suspended from wooden poles, trolley poles or are wall-mounted.

(5) “Ornamental lighting service” means all lights other than non-ornamental including lights of an underground-type construction where the supply circuits are underground cables and lights are attached to ornamental standards; lights of an overhead construction where the supply circuits are overhead and the lights are attached to ornamental steel or concrete poles; and the lights that are wall-mounted in which the supply circuit is enclosed in conduit.

(g) *Environmental and Ecological Adjustment.* ~~An environmental and ecological adjustment to the Energy Adjustment Charge may shall~~ be applied to this rate as set forth and described in Section 523.17.

(h) *Energy Adjustment Charge.* In accordance with Section 523.21, an incremental charge or credit for excess energy costs ~~may shall~~ be determined and applied on a monthly basis by the Division. Such incremental charge may be made in addition to the rates established in this section, but in no case shall such charge exceed the amount calculated using the formula established in Section 523.21.

Section 523.06 Protective Lighting Schedule

(a) The following schedule is applicable to all protective lighting service provided by the Division of ~~Light and Power~~ Cleveland Public Power. Such service shall include installation and full maintenance.

Area Lighting	KWH/ Lamp	Monthly Rate/Lamp
100 Watt High Pressure Sodium	52	\$12.67
175 Watt Mercury Vapor	75	\$8.32
250 Watt Mercury Vapor	105	\$9.41
250 Watt High Pressure Sodium	112	\$15.16
400 Watt Mercury Vapor	165	\$13.39
400 Watt High Pressure Sodium	174	\$19.14
1000 Watt Mercury	395	\$20.40
1000 Watt Metal Halide	391	\$27.85

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Flood Lighting	KWH/ Lamp	Monthly Rate/Lamp
250 Watt Mercury Vapor	105	\$10.61
250 Watt High Pressure Sodium	112	\$14.41
400 Watt Mercury Vapor	165	\$16.69
400 Watt High Pressure	174	\$20.45
1000 Watt Mercury Vapor	395	\$22.03
1000 Watt Metal Halide	391	\$29.05
1000 Watt Quartz	348	\$23.70
1500 Watt Quartz	522	\$25.27

(b) *Environmental and Ecological Adjustment.* An ~~environmental and ecological adjustment to the Energy Adjustment Charge~~ may shall be applied to this rate as set forth and described in Section 523.17.

(c) *Energy Adjustment Charge.* In accordance with Section 523.21, an incremental charge or credit for excess energy costs ~~may~~ shall be determined and applied on a monthly basis by the Division. Such incremental charge may be made in addition to the rates established in this section, but in no case shall such charge exceed the amount calculated using the formula established in Section 523.21.

Section 523.061 Charge for Outdoor Residential Lighting

The charge for outdoor residential lighting equipment provided by the Division of Cleveland Public Power shall be established in accordance with the cost of service as computed by the Division. The Division may allow a customer to pay such charges under a payment plan through installments included in the customer’s bill, for a period of twelve (12) months commencing with the first billing period after installation, provided such customer has a good account history, as determined by the division.

Section 523.065 Traffic Signal Service Rate Schedule

The following schedule is applicable to all energy sold to governmental entities for the purpose of traffic signal service:

(a) *Kilowatt Hour Charge.*

Summer Rate	Winter Rate
\$0.023	\$0.023

(b) *Definition of Seasonal Rates.* For the purpose of this rate schedule, the summer rate shall be in effect during the months of June, July, August, September and October. The winter rate shall be in effect during the months of November, December, January, February, March, April and May.

(c) *Environmental and Ecological Adjustment.* An ~~environmental and ecological adjustment to the Energy Adjustment Charge~~ may shall be applied to this rate as set forth and described in Section 523.17.

(d) *Energy Adjustment Charge.* In accordance with Section 523.21, an incremental charge or credit for excess energy costs ~~may~~ shall be determined and applied on a monthly basis by the Division of ~~Light and Power~~ Cleveland Public Power. Such incremental charge may be made in addition to the rates established in this section, but in no case shall such charge exceed the amount calculated using the formula established in Section 523.21.

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Section 523.07 Regulations for Applicants for Electrical Service

- (a) All applicants for electrical service supplied by the Division of ~~Light and Power~~ Cleveland Public Power shall agree to abide by all of the rules and regulations hereinafter set forth and all other rules and regulations as may be contained in other City ordinances relating to electrical service supplied by the Division.
- (b) The consumer hereby agrees not to resell, sublet or divert any of the electric service herein contracted for, except with the written consent of the City.
- (c) The consumer agrees not to allow the City's wires or meters to be interfered with in any way.
- (d) In case of loss or damage to the property of the City from an act of negligence of the consumer or its agents or servants, or of failure to return equipment supplied by the City, the consumer shall pay to the City the value of such property.
- (e) No other electric service shall be used by the consumer in conjunction with the City's service, either by means of an automatic or manually operated switch, or by any other device, connection or arrangement, without the express consent of the City especially obtained for that purpose. Any violation of this rule shall authorize the City to discontinue its service entirely and remove its property.
- (f) The City will furnish the electric meter, metering equipment and the necessary service drop to connect the City's mains with the consumer's system at the service entrance. All wiring, meters, equipment, appurtenances and material of any nature furnished by the City shall remain its property, and may be removed by it at any time after the termination of this agreement or the discontinuance of the service.
- (g) It is further expressly agreed that the undertaking of the City shall be completed by the supplying of the electric service at the conditions stated to the wire entrance of the consumer's premises, and that any appliances or equipment required to transform, control, regulate or utilize energy shall be furnished and maintained by the consumer, and particularly that the City shall not be under any requirements to furnish lamps of any kind, nor maintenance or renewals of the same, nor fuses, nor the service of repairmen or inspectors for the consumer's property.
- (h) In case the City is prevented from delivering or the consumer prevented from receiving electric service for any cause reasonably beyond their control, then the City shall not be obligated to deliver nor the consumer to receive electric service during such interruptions, but both parties shall be prompt and diligent in removing or overcoming the causes of the interruptions, and nothing contained herein shall be construed as permitting the City to refuse to deliver or the consumer to decline to receive the aforesaid service after the cause of interruption is removed.
- (i) If meter readings are for a period of two (2) or more months, interim monthly bills may be rendered based on estimated use.
- (j) As used in this section:
- (1) "Service connection" means a metered supply of electrical energy.
 - (2) "Premises" means a building or contiguous buildings occupied by the customer.
 - (3) "Commercial light service connection" means a supply where the principal use is for lighting purposes.

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(4) “Load factor” means the ratio of the actual kilowatt hours used to the product of the monthly measured or metered demand and the total number of hours in the billing period.

(5) “Low load factor service connection” means special, temporary, welding or intermittent service.

(6) “Demand” means the maximum thirty (30) minute kilowatt demand registered during the billing period.

(7) “Combined demand” means the sum of the undiversified demands computed as for separate billings, except that the combined demand may be the diversified demand at the option of the Division of ~~Light and Power~~ Cleveland Public Power.

Section 523.08 Provisions Governing Advance Deposits

(a) A cash deposit equal to one (1) month’s estimated bill may be required as security for the payment of services rendered. The applicant and/or consumer may, however, file a satisfactory guarantee with the Division of ~~Light and Power~~ Cleveland Public Power that will serve to insure payment of bills. All such guarantees, written or otherwise, shall be subject to the approval of the Division. If a deposit is required, it shall be billed at the time of application for service.

(b) A cash deposit may be required to cover the entire cost of line extensions or service connections which do not form a part of the permanent distribution system or in such cases where the revenue received by the Division will not be sufficient to cover the carrying charges thereof.

(c) Failure of the consumer to give advance notice of termination of service may result in forfeiture of the security deposit.

(d) No cash or guaranteed deposit shall be refunded or released until termination of service is complete and after all unpaid bills or other indebtedness to the Division have been paid in full. A cash deposit may be refunded, however, if the consumer files a satisfactory guarantee with the Division in lieu thereof.

(e) No cash deposit will be refunded except where sufficient revenue either has been collected or is anticipated to cover carrying charges for line extensions and service connections, as hereinbefore described.

Section 523.09 Accounting System

In order to satisfy the requirements of the mortgage indenture and provide for the proper operation of the Division of ~~Light and Power~~ Cleveland Public Power, accounting methods and procedures shall conform to the requirements of the uniform system of accounts prescribed for public utilities and licensees by the Federal Power Commission.

Section 523.10 Statements for Service Supplied

(a) Statements for electrical service supplied shall be computed and billed on a monthly basis. At the discretion of the Division of ~~Light and Power~~ Cleveland Public Power, budget billing may be allowed for consumers having established a satisfactory payment record.

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In the event that an incorrect billing should be rendered to the consumer, it shall be subject to adjustment.

(b) Statements for service supplied shall carry an account number assigned on the basis of service location. Such account number once assigned shall be not changed and shall be reassigned to each new occupant of the premises served.

Section 523.11 Delinquent Accounts

(a) If a statement rendered to a consumer is not paid on or before the due date stated thereon, the consumer's account shall be termed "delinquent" and shall be subject to discontinuation of service.

(b) The Division of ~~Light and Power~~ Cleveland Public Power shall give notice to the consumer prior to termination of service. The first notice shall be sent by first class mail at least ten (10) calendar days prior to the date after which termination could occur. If the Division receives no response from the consumer within five (5) days after the date of mailing of the first notice, then a second notice shall be sent by first class mail, or personal contact shall be made with an adult on the premises (telephone or physical visitation). All notices shall be provided to the account name and address and, if different, to the address where service is provided, as well as any other party previously designated by a residential customer to receive a copy of a termination notice. The termination notice shall be provided to residential customers in alternate languages where appropriate.

(c) When terminating service to elderly or handicapped residential customers, the Division's final notice shall be by personal contact with an adult on the premises (telephone or physical visitation). If personal contact cannot be made, the notice of termination shall be posted in a conspicuous location at the service address at least forty-eight (48) hours (two (2) working days) before the date after which termination could occur.

For the purpose of this section, "elderly" means any residential customer, sixty-two (62) years of age or older, who resides at the service address and who has notified the Division of his or her status. For the purpose of this section, "handicapped" means any residential customer who resides at the service address and has any physical or mental impairment which substantially limits one (1) or more of such person's life activities, and such person:

(1) Is certified as being physically disabled by a licensed physician;

(2) Is certified as being mentally disabled by a licensed psychiatrist, registered psychologist, Veterans Administration, Social Security Administration or local board of health; and

(3) Has notified the Division of his or her status.

(d) Tenants who pay for electric service as part of their rent in master-metered buildings, shall be individually notified, when practical, of any proposed termination. Tenants shall be collectively notified by posting a termination notice in a conspicuous location, such as near mailboxes, building entrances and exits or other areas of common usage. Tenants may collectively pay the delinquent amount in order to avoid termination of service.

(e) A notice of termination of service shall include the following information:

(1) The name, address and account number of the customer to be terminated;

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- (2) A statement of the reasons for termination;
- (3) The date after which the termination could occur;
- (4) The charge for service reconnection;

(5) A statement that the consumer has the right to appear before an ~~Board of Review~~ Arbitration Panel as set forth in Section 523.115 to present objections and to examine all data related to his or her account; and

(6) In cases where termination is based on failure to pay, the amount owed, the time period over which the amount was incurred and whether the amount was based on actual meter readings or on an estimated consumption.

(f) The Division shall determine when termination of service to a customer would be especially dangerous to health because of extreme environmental conditions or because a residential customer or party residing at the customer's address has provided the Division with certification by a licensed physician that he or she is likely to become seriously ill or more seriously ill if such service is terminated. The Division shall not terminate service during the time any such condition exists, provided that the customer furnishes sufficient information to the Division's customer service representative to establish, to the satisfaction of the Division, that:

- (1) He or she is unable to pay for such service; or
- (2) He or she is able to pay for such service but only in installments.

~~All disputes regarding any of the provisions of this section shall be resolved by the Board of Review.~~ Upon establishment of the customer's eligibility for relief under this section, the Division shall refrain from terminating service so long as the conditions established prevail. The Division may, from time to time, require recertification of serious illness, if applicable. The Division shall make arrangements with the customer for the payment of delinquent bills in installments, taking into consideration the amount of money owed, the customer's ability to pay, the customer's payment history, the time that the debt has been outstanding, the reasons why the debt has been outstanding and any other relevant factor. If a customer does not meet the requirements of such installment plan, service shall be subject to termination upon notice given after such failure to pay, in accordance with ~~subsections~~ divisions (a) through (c) hereof.

(g) All disputes regarding any of the provisions of Chapter 523 or rates charged thereunder shall be arbitrated before a Cleveland Public Power Arbitration Panel as set forth in Section 523.115.

Section 523.12 Special Charges

The following service charges may be charged by the Division of ~~Light and Power~~ Cleveland Public Power:

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Service	Charge
Temporary Construction	
Power-50 amp	Actual cost (\$45.00 min.)
Power-100 amp	Actual cost (\$60.00 min.)
Loosen service pipe for construction	\$20.00
Refasten service pipe after construction	\$20.00
Service	Charge
Reconnection after disconnection for nonpayment	\$8.00
Pick up delinquent payment	\$5.00
Relocate service	Actual Cost (\$30.00 min.)
Standby service	\$1.75/KVA of transformer capacity
Relocation of pole or other facilities	Actual cost
Penalty for late payment of large commercial, industrial, large industrial, street lighting and traffic signal invoices	1% per month on unpaid balance

Section 523.13 Access to Consumer’s Property

Representatives of the Division of ~~Light and Power~~ Cleveland Public Power shall have access at all reasonable times, to all electrical equipment, appliances, etc., belonging to or owned by the Division erected upon the consumer’s premises.

Section 523.14 Changes of Electrical Service

Notice of intention to make any material change in the connected electrical load shall be made to the office of the Division of ~~Light and Power~~ Cleveland Public Power at least ten (10) days prior to the date of such change. In the absence of such notice, the consumer making the change shall be responsible for any damages to transformers, meters or other equipment belonging to or owned by the Division. Material changes in the connected electrical load may not be made without approval of the Division.

Section 523.15 Provisions Governing Electrical Construction and Apparatus

(a) All electrical construction and apparatus that are to be connected to the distribution system of the Division of ~~Light and Power~~ Cleveland Public Power shall be subject to the approval of the Division, and in accordance with the regulations of the National Electrical Code and such City ordinances that may apply to the same. The consumer agrees not to connect any motors or other devices to the City’s system which, because of excessive starting currents or other objectionable intermittent demands, may cause a disturbance in the electric service unless the motor or devices are equipped with current-limiting accessories satisfactory to and approved by the City. The Division reserves the right to refuse to install or connect to any wiring such appliances, apparatus, etc., that do not conform with the requirements.

(b) In the event that appliances, apparatus, etc., are found to be installed upon the consumer’s premises that do not conform with the rules and regulations contained herein, the Division reserves the right to remove all appliances, appurtenances, etc. belonging to or owned by the Division from the consumer’s premises without notice. Electrical service thus discontinued may be restored after the consumer has corrected

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the unsatisfactory condition that existed theretofore. Such consumer shall be charged a reconnecting fee as provided in Section 523.12 and all costs incident to restoring the electrical service.

Section 523.17 Environmental and Ecological Adjustment

(a) The costs of special apparatus and equipment required for compliance with Federal, State or City environmental protection laws and directives as have been or may be installed and operated from time to time or on a continuing basis shall be prorated on a ¢/KW.-hr. basis and assessed against the appropriate rate schedule. The provisions of this section may be applied to rate schedules described in Sections 523.02 to 523.06 or any other rate schedules as may later be enacted and approved; or

(b) The costs for which an adjustment can be incurred shall include but are not limited to voluntary or involuntary research and development charges, purchase and installation of emission control equipment for sulphur, nitrogen and particulate emissions, purchase and installation of control equipment for protection of the natural water supply, purchase and installation of power supply apparatus and power from remote sources and any other charges levied on the Division of Light and Power Cleveland Public Power in lieu of precise compliance with statutes and directives.

Section 523.18 Liability for Damages

The Division of Light and Power Cleveland Public Power shall not be liable for any damages caused by an interruption or discontinuance of the supply of electricity, variations in service characteristics, high or low voltage, the single phasing of three (3) phase service, phase reversals, the use of electrical appliances or attachments. Protective devices, mechanisms or regulators designed to prevent appliances, motors, generators and other equipment receiving electric current from incurring damage caused by interruptions in service, variations in service characteristics, high or low voltage, the single phasing of three (3) phase service and phase reversals are commercially available and shall be provided by the consumer.

Section 523.19 Electric Service Agreement

(a) By application for and receipt of electric service, each consumer shall be deemed to have entered into an electric service agreement in the form prescribed in division (b) of this section. At the option of the Division of Cleveland Public Power, application for residential or small commercial service may be accepted by telephone, or by using a preprinted mail-in type card contract.

(b) The ~~general form of service agreement is as shown in the example below~~ follows:

<p>Division of Cleveland Public Power 1201 Lakeside Avenue Cleveland, Ohio 44114</p> <p>THIS AGREEMENT, made and entered into by and between the City of Cleveland, Ohio, <u>Division of Cleveland Public Power</u> (“the City”), acting by and through its Director of Public Utilities or his <u>or her</u> authorized representative, and</p> <hr/> <p>(“the Consumer”).</p> <p>WITNESSETH: In consideration of the agreements, promises, and undertakings herein set</p>
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forth, the City, for itself, its successors and assigns and the Consumer for _____ self, heirs, executors, administrators, successors and assigns, do hereby mutually agree as follows:

ART. 1: The City will supply nominal 60 cycle, _____ volts, phase, _____ wire, alternating current from its electric system to the Consumer's premises located at _____.

ART. 2: The Consumer states that the maximum demand or capacity required from the City's electric system is _____ kW and in the event that said maximum demand is changed, the Consumer will promptly notify the City in writing of ~~the~~ any increase or decrease in required capacity.

ART. 3: For the electric service furnished under this contract, the Consumer agrees to pay the City in accordance with the terms, conditions and applicable rate ~~schedule~~ schedule(s) established by or as may be amended from time to time by the City and approved by City Council, and said rate schedule(s), terms and conditions are hereby made a part of this ~~contract~~ agreement the same as if incorporated herein.

ART. 4: The Consumer agrees to comply with all the rules and regulations as may be established by the City, including the rules and regulations associated with all rates, terms and conditions of the applicable rate schedule(s), as may be amended from time to time by the City and approved by City Council, all of which are by reference made a part of this agreement.

ART. 5: The City will furnish the equipment necessary to bring electric service to the Consumer which shall remain the property of the City and the City shall be permitted to remove the same at the termination of the ~~contract~~ agreement.

ART. 6: The Consumer agrees that the City shall have the convenient and practical access, location and right-of-way to and upon the Consumer's property as may be necessary to properly furnish and maintain the electric equipment required to serve the Consumer.

ART. 7: The Consumer agrees to pay the City monthly for electric service supplied and shall be deemed to be in default of this agreement for non-payment. Non-receipt of bills by Customer does not release or diminish the obligation of Consumer with respect to payment.

ART. 8: The Consumer agrees that the exclusive forum for all disputes regarding rates and charges for service provided by the Division of Cleveland Public Power or other issues arising from Chapter 523 or this agreement shall be resolved by the Arbitration Panel as set forth in Section 523.115.

ART. ~~8~~ 9: The City shall not be liable to the Consumer for any loss, injury, or damage resulting from the Consumer's use of ~~this~~ its electric service, the Consumer's connection to the City's system, interruption of service, consequential damage, or any cause reasonably beyond the City's control. The Consumer acknowledges that the rates, terms and conditions established by ordinance and assessed by the Division of Cleveland Public Power are lawful and reasonable until such time as they are set aside as being discriminatory or unreasonable by a court of competent jurisdiction.

ART. ~~9~~ 10: This agreement replaces all prior agreements and shall be in force beginning on the date hereof and continuing for a period of _____ (____) years from the date electric service is initially provided and shall continue in force thereafter until cancelled by thirty (30) days written notice given by either party. The Consumer shall not contract with any other electric utility for electric service to be supplied during the term of this agreement.

IN WITNESS WHEREOF, said parties have hereunto set their hands this _____ day of _____, _____.

CONSUMER _____

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ACCOUNT NO. _____
METER NO. _____
MAIL BILLS TO: REMARKS: CITY OF CLEVELAND APPROVED
COMMISSIONER, DIVISION OF CLEVELAND PUBLIC POWER
DATE SERVICE STARTS
CONTRACT NO. _____
DATE METER INSTALLED _____
SECURITY DEPOSIT _____

(c) Service contracts may include an agreement for the direct purchase of primary service installations owned by the consumer owner of the premises or by any utility, provided such installation complies with the City’s construction standards and such purchase is economically feasible.

Section 523.195 Electric Service Agreements with Government and Charitable Entities

Notwithstanding any other provision of this chapter, rates and other charges to the United States, to the State of Ohio, to any political subdivision of the State of Ohio, or to any entity engaged in charitable functions, fairs or expositions may be established in accordance with the cost of service to each such customer as computed by the Division of ~~Light and Power~~ Cleveland Public Power. All contracts and agreements made or entered into by the Commissioner pursuant to this section are valid and enforceable at law.

Section 523.20 Refusal of Electric Service

Electrical service may be refused to any applicant who is indebted to the Division of ~~Light and Power~~ Cleveland Public Power for service previously supplied. Electrical service may also be refused to any applicant wherever the facilities of ~~the Municipal Light Plant~~ Cleveland Public Power prove inadequate to take on new consumers.

Section 523.21 Energy Adjustment Charge

(a) An additional incremental charge for excess fuel and power production and purchase power costs ~~may~~ shall be applied to the rates prescribed in Sections 523.02 to 523.065 and any other rate schedule as may be adopted by the City.

(b) The incremental charge shall be based on the fuel and purchase power cost per kilowatt hour delivered calculated under divisions (c)(1) and (c)(2) of this section.

(c) (1) The fuel and purchase power cost per kilowatt hour sold to residential ratepayers shall be determined by dividing the sum of the cost of the

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kilowatt hours purchased from the Power Authority of the State of New York and the average cost of kilowatt hours purchased from other sources needed to supply the residential customers by the total kilowatt hours distributed to residential customers. The incremental charge calculated herein shall be adjusted by subtracting fifteen (15) mils per kilowatt hour for residential customers who provide the Division of Cleveland Public Power with a certificate of reduction of taxes obtained pursuant to the Homestead Exemption provisions of Sections 323.151 through 323.157 of the Revised Code, and nine and three-quarters (9.75) mils per kilowatt hour for all other residential customers.

(2) Except as provided in Section 523.048, the fuel and purchase power cost per kilowatt hour sold to all ratepayers, other than residential ratepayers, during the twelve (12) months of the year, shall be determined by dividing the sum of the total cost of coal, oil, gas and purchase power by the total kilowatt hours distributed, except that the computation shall exclude the cost of PASNY power and the amount of PASNY power allocable to kilowatt hours distributed, and shall exclude the costs of all purchase power and kilowatt hours from a specific source or sources purchased by the Division for distribution to ratepayers pursuant to Sections 523.048 and 523.049. The incremental charge calculated herein shall be adjusted by subtracting three (3.0) mils per kilowatt hour.

(d) At the end of each month, the Division of Cleveland Public Power shall determine the actual fuel and power costs during such month as herein provided and may adjust the additional incremental charge for future months to defer or over-recover the total cost of power in order to stabilize customer bills.

Section 523.215 Customer Information

(a) Pursuant to the Public Utilities Regulatory Policies Act of 1978, the Division of ~~Light and Power~~ Cleveland Public Power shall send to each of its customers a clear and concise explanation of the existing rate ~~schedule~~ schedule(s) applicable to such customer. Such statement shall be transmitted to each customer not more than sixty (60) days after commencement of service to such customer, ~~or ninety days after the passage of this section (Ordinance No. 940-81, passed 3-8-81), whichever last occurs.~~

(b) The Division shall send to each of its customers, not less frequently than once each year, a clear and concise summary of the existing rate schedules applicable to each of the major classes of customers for which there is a separate rate. The Division shall also identify any classes whose rates are not summarized.

(c) Upon customer request, the Division shall provide a clear and concise statement of the actual consumption of electric energy by such customer for each billing period during the prior year (unless such consumption data is not reasonably ascertainable by the Division).

(d) A current general policy statement regarding termination of service shall be sent to all existing customers and to all new customers when they initiate service.

(e) All rate summaries and policy statements may be transmitted together with a customer's bill. Failure by the Division, for any reason, to comply with any provision of this section shall not in any way excuse, waive, alter, modify or otherwise affect any customer's obligation to timely pay in full any bill rendered by the Division.

Section 523.23 Pole and Anchor Attachments

The following schedule is applicable to any attachment of communication facilities to poles owned by the Division of ~~Light and Power~~ Cleveland Public Power

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(“attachments”) by any person or entity (“permittee”) other than a joint owner of such pole or a party to any joint use agreement.

(a) *Application for Attachment.* Any person or entity desiring to install attachments shall make a written request for permission to install attachments on any pole owned by the Division of ~~Light and Power~~ Cleveland Public Power. The request shall specify the location of each pole, the identifying number of each pole, the nature of the proposed attachment and the amount and location of space desired. Within thirty (30) days after receipt of a written request, the Division shall notify the applicant whether or not it will permit the attachment and under what conditions. The Division shall have the sole right to determine whether an attachment would adversely affect its electric utility services and its ability to provide such services in an economic and safe manner, including considerations for the future needs of its customers.

(b) *Conditions of Attachment.* All attachments shall be placed on Division’s poles in a manner satisfactory to the Division and shall not interfere with the present or future use of the pole by the Division. All attachments shall be installed and at all times maintained by the permittee so as to comply with the requirements of the National Electrical Safety Code and other applicable Federal, State, County, or Municipal codes, as well as operating procedures of the Division of ~~Light and Power~~ Cleveland Public Power. The permittee shall be responsible for obtaining any right, license or permit from any governmental body, authority, or other person or persons which may be required for the construction and maintenance of the attachments of the permittee, including easements, rights-of-way, or rights of entry upon premises.

If the Division desires to replace an existing pole, or add facilities to an existing pole, to which the permittee has made attachments, the permittee shall, where required by the Division, relocate its facilities at its own expense.

In the event that a permittee fails to make or maintain any attachments in conformance to all applicable codes and procedures, the Division, after fifteen (15) days’ written notice, shall have the right to make, or cause to be made, the necessary corrections or shall have the right to remove such attachments, without liability, at the entire expense of the permittee.

In the event of any emergency which, in the opinion of the Division, affects or threatens to affect the operations of the Division, the Division shall have the right to perform such detachment, disconnection, relocation or alteration, at the permittee’s expense, of such attachments as may be necessary to meet such emergency.

(c) *Attachment Rental Fee.*

\$0.25 per month for each pole attachment

\$0.50 per month for each anchor attachment

Attachment rental fees shall be billed monthly and shall be due and payable on or before twenty-one (21) calendar days following the date on which the bill is issued. Payments received after the due date shall be subject to the same penalty as prescribed in Section 523.12. The bill for attachment rental fees will reflect the total number of attachments in place during the previous month.

Within five (5) days following the end of each calendar month, the permittee shall notify the Division, in writing, of the completion of all attachments, or removal thereof, during the preceding month.

(d) *Reimbursement of Costs.* If attachment to the Division’s poles imposes on the Division costs which would not otherwise be incurred, the party requesting attachment shall reimburse the Division for all such costs. Such costs may include, but

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are not necessarily limited to any change in or strengthening of poles, any rearrangement, alteration or addition, or other changes in existing facilities, which in the opinion of the Division are necessary to accommodate the attachments of the party or entity requesting an attachment. Such costs may also include billing, engineering, and any necessary evaluation of the applicant's request for attachments. The Division reserves the right to require the permittee to have all necessary work performed at the permittee's expense by a contractor engaged by the permittee and approved by the Division, performing work in construction standards of the Division.

(e) *Multiple Applicants for Attachment.* When the Division receives application from more than one (1) applicant for permission to attach to any pole and, because of such multiple attachments, either the pole must be replaced or the facilities thereon must be rearranged to provide additional space for the attachments, the Division may apportion the additional total costs resulting from the pole replacement or rearrangement among all permittees. Such apportioned costs shall include common engineering, material and other expenses which result from the multiple applications and the multiple attachments. The permittee shall be bound by the Division's determination as to any such apportionment of costs.

(f) *Power Supplies and Amplifiers.* Power supplies and amplifiers may be mounted on the Division's poles at the sole discretion of the Division. Permittee shall request permission to mount such facilities in writing to the Division. The location and design shall be approved by the Division prior to installation.

Any electric service for power supplies and amplifiers shall be paid for by the permittee at the Division's applicable electric rate. The meter, if required, will be furnished by the Division. The meter base will be furnished by the Division and installed by the permittee according to standards set forth by the Division. The permittee's service conductors, if required, shall be furnished and installed by the permittee with weatherhead included. Sufficient conductor shall be left to reach the Division's secondary circuit. The permittee shall ensure that all equipment is effectively grounded to an earth ground, separate and apart from any ground wire belonging to the Division, and shall observe the National Electrical Safety Code and all other applicable codes in the installation of these facilities.

Power supplies and amplifiers will not be permitted on poles which have transformers, reclosers, cut-outs, oil switches, capacitors, or other equipment of a size or type which would impair climbing or working space if an additional pole-mounted facility were installed. Power supplies and amplifiers may be prohibited in situations deemed sensitive from the standpoint of pole line appearance. The permittee shall install all of its attachments so as to not interfere with climbing space as defined by the National Electrical Safety Code or specifically defined by the Division.

(g) *Inspection of Facilities.* The Division shall have the right to inspect each installation of the permittee upon its poles and thereafter to make periodic inspections. The permittee shall reimburse the Division for the expense of such inspection, which reimbursement for any pole subject hereto, shall not exceed in any year the expense of one (1) inspection.

The right to make such inspections and any inspection made shall not impose any obligation or liability on the Division nor shall it relieve the permittee of any responsibility, obligation, or liability.

(h) *Indemnification.* The permittee shall indemnify, hold harmless, and defend the Division from and against any and all actions or causes of actions, claims, demands, liabilities, loss, damage, or expense whatsoever, including attorney's fees, which the Division may suffer or incur by reason of the failure of the permittee to secure any right, license, permit, or easement required for the construction or maintenance of permittee's attachments to the Division's poles, by reason of interruption of permittee's

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service to permittee's subscribers, by reason of bodily injury, including death, to any person or persons, or by reason of damage to or destruction of any property, including the loss of use thereof, arising out of or in any manner connected with the facilities of the permittee to be installed hereunder, or the installation, maintenance, removal, rearrangement or alteration of such facilities by the Division or permittee, or which the Division may sustain or incur in connection with any litigation, investigation, or other expenditures incident thereto including any suit instituted to enforce contractual obligations whether or not due in whole or part to any act, omission, or negligence of the Division, or any of its representatives or employees.

(i) *Right of Termination.* If the permittee fails to comply with any of the provisions of this section or defaults in the performance of any of its obligations under this section and fails to correct such default or non-compliance, the Division may, at its option, remove the permittee's facilities from the Division's poles and no liability shall be incurred by the Division because of such action. The permittee shall be liable for the entire cost of removing its attachments from the Division's poles.

(j) *Unauthorized Attachments.* If equipment or facilities are attached to the Division's poles for which no attachment is authorized, the Division may require the owner of the attached facilities to remove the attachments immediately at the owner's cost, or the Division may remove the facilities at the expense of the owner of the attachments without liability to the Division.

Section 523.24 Electric Service Policy

The Division of ~~Light and Power~~ Cleveland Public Power shall offer electric service to any and all residential and commercial customers in the City to the extent feasible without jeopardizing the efficient operation, economy, or planning of the electric system.

Section 4. That the following existing sections of the Codified Ordinances of Cleveland, Ohio, 1976:

Section 523.01, as enacted by Ordinance No. 1090-39, passed July 17, 1939;

Section 523.02, as amended by Ordinance No. 1027-83, passed May 6, 1983,

Section 523.021, as enacted by Ordinance No. 1586-09, passed December 7, 2009,

Sections 523.03, 523.04, 523.043, and 523.047, as amended by Ordinance No. 1027-83, passed May 6, 1983,

Section 523.048, as amended by Ordinance No. 327-95, passed February 27, 1995,

Sections 523.05 and 523.06, as amended by Ordinance No. 1027-83, passed May 6, 1983,

Section 523.061, as enacted by Ordinance No. 510-98, passed May 18, 1998,

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Section 523.065, as amended by Ordinance No. 1027-83, passed May 6, 1983,

Sections 523.07, 523.08, 523.09, and 523.10, as amended by Ordinance No. 1629-73, passed January 28, 1974,

Sections 523.11 and 523.12, as enacted by Ordinance No. 940-81, passed March 8, 1982,

Section 523.13, as amended by Ordinance No. 726-57, passed April 8, 1957,

Sections 523.14, 523.15, 523.17, and 523.18, as amended by Ordinance No. 1629-73, passed January 28, 1974,

Section 523.19, as enacted by Ordinance No. 1658-93, passed November 29, 1993,

Section 523.195, as enacted by Ordinance No. 1679-85, passed April 28, 1986,

Section 523.20, as amended by Ordinance No. 1629-73, passed January 28, 1974,

Section 523.21, as amended by Ordinance No. 567-14, passed May 19, 2014,

Section 523.215, as enacted by Ordinance No. 940-81, passed March 8, 1982,

Section 523.23, as enacted by Ordinance No. 2069-87, passed September 21, 1987, and

Section 523.24, as enacted by Ordinance No. 1058-89, passed April 24, 1989;

are repealed.

Section 5. That the Codified Ordinances of Cleveland, Ohio, 1976, are supplemented by enacting new Sections 523.115 and 523.27 to read as follows:

Section 523.115 Cleveland Public Power Arbitration Panel

~~(a) — The Cleveland Public Power Arbitration Panel shall consist of no fewer than three individuals selected by the Director of Public Utilities and serve at the Director's discretion. These individuals shall: be impartial, in that neither the person who approved the act or omission under review, nor that person's subordinates, shall participate in the matter; be knowledgeable about the operations and procedures of Cleveland Public Power; and be available to perform all of their duties in connection with the Arbitration Panel in a timely manner.~~

(a) The Cleveland Public Power Arbitration Panel shall consist of three individuals. Two shall be selected by the Director of Public Utilities and serve at the Director's discretion. One shall be selected by the Council President and serve at the Council's President's discretion.

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(1) The two individuals appointed by the Director shall be impartial, in that neither the person who approved the act or omission under review, nor that person's subordinates, shall participate in the matter; be knowledgeable about the operations and procedures of Cleveland Public Power; and be available to perform all of their duties in connection with the Arbitration Panel in a timely manner.

(2) The appointed Council Member must recuse themselves from hearing, reviewing, or making any determination for a dispute, claim, or complaint involving a resident or business owner of their Ward and be available to perform all of their duties in connection with the Arbitration Panel in a timely manner.

(b) The Arbitration Panel has the exclusive authority to review all disputes under this Chapter and to make determinations with regard to the matters presented to it. These determinations shall be binding on the City and the petitioning customer, except that the Commissioner shall have the authority to order that electric service not be terminated.

The Arbitration Panel shall have the authority to reduce amounts claimed due by Cleveland Public Power and the authority to defer payments of amounts it finds due and owing.

(c) The Arbitration Panel may prescribe installment plans for payment of amounts due and owing, and shall prescribe such a plan for any amount found due and owing when part or all of such amount is based on a meter reading reflecting a greater usage in a billing cycle than the estimated or average usage for previous billing cycles, and where the customer is deemed unable to pay upon demand.

(d) The Director of Public Utilities shall convene an Arbitration Panel upon request of the customer in accordance with the rules and regulations established by the Director.

~~(d)~~ (e) The Director of Public Utilities shall adopt rules and regulations governing procedures for applications, notice, hearing and determination of disputes submitted to the Arbitration Panel.

Section 523.27 Effect of Rates Assessed by the Division of Public Power

(a) All rates, charges, rate schedules, and classifications assessed by the Division of Cleveland Public Power shall be in force and prima-facie lawful from the day they take effect until changed or modified by City Council or by an order of a competent court finding such rates to be discriminatory or unreasonable.

(b) Nothing in this Chapter shall be interpreted as creating a right of action for damages or for the recovery of any rate, or portion thereof, upon the ground that the prior rate was discriminatory or unreasonable unless this Chapter explicitly confers such a right.

Section 6. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect retroactively to the fullest extent permitted by law and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Ord. No. 472-2022 AS AMENDED

REPORT
after second Reading

By Council Members Kazy and Griffin (by departmental request)

AN EMERGENCY ORDINANCE

To clarify and amend various sections of Chapter 523 of the Codified Ordinances of Cleveland, Ohio, 1976, as amended or supplemented by various ordinances; and to supplement the codified ordinances by enacting new Sections 523.115 and 523.27.

READ FIRST TIME on MAY 9, 2022

REPORTS

and referred to DIRECTORS of Public Utilities, Finance, Law;
COMMITTEES on Utilities, Finance Diversity Equity and Inclusion

CITY CLERK

READ SECOND TIME

CITY CLERK

READ THIRD TIME

PRESIDENT

CITY CLERK

APPROVED

MAYOR

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COMMITTEE ON
UTILITIES

FILED WITH COMMITTEE

PASSAGE RECOMMENDED BY
COMMITTEE ON
FINANCE, DIVERSITY, EQUITY
and INCLUSION

FILED WITH COMMITTEE