

Ordinance No. 621-2026

By Council Members Kazy and Griffin
(by departmental request)

AN EMERGENCY ORDINANCE

To enact new Section 523.252 of the Codified Ordinances of Cleveland, Ohio, 1976, relating to interconnection into the Division of Cleveland Public Power's electric system by qualifying facilities, eligible large commercial customers, and eligible large industrial customers; and authorizing related agreements.

WHEREAS, interconnections to the City of Cleveland's, Division of Cleveland Public Power ("CPP") electric system by qualifying facilities under the Public Utility Regulatory Policies Act of 1978 ("PURPA") and from eligible large commercial or eligible large industrial customers can provide, critical services and benefits by ensuring the efficient transfer of electricity and managing peak demand; and

WHEREAS, interconnections are also essential to allow for energy from eligible renewable sources to be integrated into CPP's electric system and existing grid, thus increasing the security of energy supply and providing an overall reliable energy supply chain; and

WHEREAS, CPP is required to ensure that all interconnections are made in a manner that maintains the safety, reliability, and integrity of its electric system and the existing grid; and

WHEREAS, it is the desire of the City of Cleveland (or "City") to enable qualifying facilities under PURPA and eligible large commercial or eligible large industrial customers to pursue interconnections quickly and efficiently by identifying and streamlining the City of Cleveland's interconnection process; 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 the Codified Ordinances of Cleveland, Ohio, 1976, are supplemented by enacting new Section 523.252 to read as follows:

Section 523.252 Interconnection by Qualifying Facility, Eligible Large Commercial Customer, and Eligible Large Industrial Customer; and Authorizing Related Agreements

(a) *Definitions.* For purposes of this section:

(1) "Commissioner" means the Commissioner of the Division of Cleveland Public Power under the Department of Public Utilities.

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(2) “Director” or “Director of Public Utilities” means the Director of the Department of Public Utilities of the City of Cleveland.

(3) “Eligible Large Commercial” or “Eligible Large Industrial Customer” means:

A. Any Eligible Large Commercial Customer that has the same demand as those commercial installations listed in Section 523.04 of these codified ordinances; or

B. Any Eligible Large Industrial Customer that has the same demand as those commercial installations listed in Section 523.047 of these codified ordinances; and

C. The Eligible Large Customer or Eligible Large Industrial Customer demonstrates to the Director’s satisfaction that interconnection with CPP’s electric system is appropriate and in accordance with this Section 523.252 if and when:

1. In the Director’s sole discretion is not authorized by any other codified ordinance;

2. Is necessary for the efficient operation of the customer’s business;

3. Is not harmful to the reliability, resilience, or integrity of CPP’s electric system;

4. Will not result in the customer’s delivery of electric service directly or indirectly to any customer in CPP’s municipal boundaries; and

5. Is beneficial to CPP and its customers.

(4) “Interconnection Agreement” or “Interconnection Agreements” means one or more agreements between the City of Cleveland, Department of Public Utilities, Division of Cleveland Public Power and the Interconnector for implementation and governance of an approved Interconnection Project, entered into after the feasibility study is conducted under a Preliminary Agreement and has been accepted by all parties, which may require reimbursement of CPP’s costs and the means for CPP to accept the reimbursements.

(5) “Interconnection Project” or “Interconnection Projects” means one or more energy-related project or projects identified in the Interconnection Agreement.

(6) “Interconnector” means the Qualifying Facility or the Eligible Large Commercial Customer or Eligible Large Industrial Customer that has entered into the Interconnection Agreement.

(7) “Preliminary Agreement” or “Preliminary Agreements” means one or more agreements entered into with a Qualifying Facility or Eligible Large Commercial Customer or Eligible Large Industrial Customer for purposes of

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obtaining a feasibility study for an eligible proposed Interconnection Project plan. This agreement is entered into after the Director declares the proposed Interconnection Project plan eligible for interconnection and before the Interconnection Agreement.

(8) “Qualifying Facility” or “Qualifying Facilities” means one or more facilities designated as such under the Public Utility Regulatory Policies Act of 1978 (“PURPA”).

(b) *Proposed Interconnection Project Plan Evaluated for Eligibility, Preliminary Agreement, and Interconnection Agreement.* A proposed Interconnection Project plan shall be submitted by a Qualifying Facility or an Eligible Large Commercial Customer or a Large Industrial Customer to the Commissioner. The Commissioner shall evaluate the proposed Interconnection Project plan to determine if the project is eligible for interconnection to CPP’s electrical system, complies with all relevant State and Federal law, and meets applicable regulatory requirements and will make a recommendation to the Director regarding its eligibility. A proposed Interconnection Project plan shall demonstrate to the Director’s satisfaction that the proposed interconnection: (i) will not be harmful to the reliability, resilience, or integrity of CPP’s electric system; (ii) will not result in the Interconnector’s delivery of electric service directly or indirectly to any customer in CPP’s municipal boundaries; and (iii) is beneficial to CPP and its customers.

(1) *Proposed Interconnection Plan Is Eligible.* If the Director determines that the proposed Interconnection Project plan is eligible for interconnection and meets the applicable statutory and regulatory requirements, then the Director may enter into a Preliminary Agreement with the Qualifying Facility or an Eligible Large Commercial Customer or an Eligible Large Industrial Customer.

A. *Preliminary Agreement.* The Preliminary Agreement will authorize the Director to employ one or more consultants to conduct a feasibility study, paid for by the Qualifying Facility or Eligible Large Commercial Customer or Eligible Large Industrial Customer, of the proposed Interconnection Project plan, including the cost, improvements and modifications needed, and other components deemed necessary by the Director to ensure that the interconnection does not interfere with, reduce, or adversely impact CPP’s electric system or its customers.

B. *Interconnection Agreement Authorized.* After the feasibility study has been completed, evaluated and the study’s recommendations have been accepted by all parties, the Director is authorized to enter into an Interconnection Agreement with the Qualifying Facility or an Eligible Large Commercial Customer or an Eligible Large Industrial Customer for implementation of the Interconnection Project.

(2) *Proposed Interconnection Project Plan Is Not Eligible.* If the Director finds that the proposed Interconnection Project plan is not eligible or is deficient, then the Director shall provide written notice of the determination to the Qualifying Facility or the Eligible Large Commercial Customer or Eligible Large Industrial Customer. The notice shall include a statement of the reason or reasons why the proposed Interconnection Project plan was determined not to be eligible. The notice may be delivered by first-class mail or electronic mail.

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(c) The Director is authorized to enter into any of the following agreements to implement this section, when applicable:

(1) *Professional Services, Purchases, and Public Improvement Contracts.*

A. *Professional Services.* The Director of Public Utilities is authorized to employ by contract one or more consultants or one or more firms of consultants to provide professional services for an Interconnection Project. The necessary professional services may include, but are not limited to, feasibility study consultants, engineers, architects, construction managers, site surveyors, rate consultants, technical consultants, and other related services, for the purpose of supplementing the regularly employed staff of several departments of the City of Cleveland as necessary for the Interconnection Project.

The selection of the consultants or firms of consultants for the services shall be made by the Board of Control on the nomination of the Director of Public Utilities from a list of qualified consultants or firms of consultants available for employment as may be determined after a full and complete canvass by the Director of Public Utilities for the purpose of compiling a list. The compensation to be paid for the services shall be fixed by the Board of Control. The contract or contracts authorized shall be prepared by the Director of Law, approved by the Director of Public Utilities, and certified by the Director of Finance.

All costs incurred by CPP in connection with the feasibility study and subsequent Interconnection Project, including but not limited to the costs of any contracts, consulting fees, system evaluations, transmission analyses, capacity studies, substation upgrades, system rebuilds, infrastructure improvements, staff time, equipment, labor, inspection, and testing activities shall be paid by the Interconnector. The costs of the contract or contracts may be paid from funds approved by the Director of Finance, which may include the fund or funds to which are credited any reimbursements paid to the City under the Interconnection Agreement.

Under Section 108(b) of the Charter, the purchases and/or services authorized by this section may be made through cooperative arrangements with other governmental agencies. The Director of Public Utilities may sign all documents that are necessary to make the purchases and/or obtain the services, and may enter into one or more contracts with the vendors and/or consultants selected through that cooperative process.

B. *Requirement and Standard contracts.* The Director of Public Utilities is authorized to enter into one or more standard purchase or requirement contracts duly let to the lowest and best bidder after competitive bidding needed for materials, equipment, supplies or services needed for an Interconnection Project, including but not limited to, transformers, structures and foundations, circuit breakers, relays, control equipment, switches and meters. Any purchase made under this section shall be made by the Commissioner of Purchases and Supplies and paid from the annual appropriations made for such purpose, including the fund

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or funds to which are credited any reimbursements paid to the City under the Interconnection Agreement.

Under Section 108(b) of the Charter, the purchases and/or services authorized by this section may be made through cooperative arrangements with other governmental agencies. The Director of Public Utilities may sign all documents that are necessary to make the purchases and/or obtain the services, and may enter into one or more contracts with the vendors and/or consultants selected through that cooperative process.

C. *Public Improvement Contracts.* Contracts for public improvements or for design-build public improvement contracts necessary to construct all or part of an Interconnection Project shall be authorized through additional legislation.

(2) *Agreements for Accepting Gifts, Grants, and Loans.*

The Director of Public Utilities is authorized to apply for and accept gifts or grants as they become available from the United States of America and its agencies, the State of Ohio and its agencies, other public or private entities, and/or pass-through entities approved by the entity for Interconnection Projects for the Department of Public Utilities.

The Director of Public Utilities and/or the Director of Finance, if appropriate, is authorized to apply for and accept loans as they become available from the United States of America and its agencies, the State of Ohio and its agencies, other public or private entities, and/or pass-through entities approved by the lender, for Interconnection Projects for the Department of Public Utilities. The Director of Public Utilities and/or the Director of Finance is authorized to enter into one or more loan agreements with the appropriate entity, which loan agreement or agreements shall contain additional terms that are acceptable to the Director of Law to protect the public interest. The Director of Public Utilities and/or the Director of Finance is further authorized to file all papers and execute all documents necessary to receive the funds under the loans, and appropriate the loan funds for the purposes set forth in the loan agreement or agreements. The Director of Public Utilities and/or Director of Finance is further authorized to repay the loan funds in accordance with the terms and conditions of an agreement entered into under the authority of this section from funds appropriated for the use of the appropriate division of the Department of Public Utilities, including the fund or funds to which are credited the reimbursements paid to the City under an Interconnection Agreement.

The Director of Public Utilities and/or the Director of Finance, if appropriate, is further authorized to file all papers, execute all documents, and enter into agreements necessary to apply for, accept, and receive the gift, grant and/or other funding authorized under this section, provided that the City shall follow all applicable federal or state regulations.

That any funds received under this section are appropriated for the purposes described in the grant or funding applications, or any amendments made to the applications.

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If required under an agreement that is entered into under the authority of this section, matching funds shall be paid from funds appropriated for the use of the CPP, including the fund or funds to which are credited the reimbursements paid to the City under an Interconnection Agreement, and when permitted by law and indentures, from any existing or future revenue bond funds if authorized for that purpose.

The Director of Public Utilities shall notify this Cleveland City Council, through its Clerk, of any funds accepted under the authority of this section, on receipt of each award.

(3) *Leases and Easement Acquisitions.*

A. *Leases and Easements.* Notwithstanding and as an exception to the provisions of Chapters 181 and 183 of these codified ordinances, that by and at the approval of the Director of Public Utilities and at the direction of the Board of Control, the Commissioner of Purchases and Supplies and the Director are authorized to grant leases or easements to the Interconnector as are necessary for an Interconnection Project.

B. *Easements for Right-of-Way Acquisitions.* That, notwithstanding any provision of the these codified ordinances to the contrary, the Mayor, the Director, and the Commissioner of Purchases and Supplies, as appropriate, are authorized to acquire, accept, and record for right-of-way purposes any real property including but not limited to fee simple acquisitions, temporary easements, permanent easements, and work agreements as necessary for an Interconnection Agreement. The consideration to be paid for the property and easements shall not exceed fair market value, as determined by the Board of Control.

(4) *Reimbursement of CPP's Costs.* The Director is authorized to receive reimbursement funds if incurred by the City under an Interconnection Agreement. The funds are appropriated for the purpose of reimbursing CPP for costs incurred by CPP for an Interconnector Project. The Director is authorized to file all papers and execute all documents necessary to receive the reimbursement funds. The Director shall deposit the reimbursement funds received under this section into a fund or funds designated by the Director of Finance.

(5) *Advance Invoicing.* The Director is authorized, in his or her sole discretion, to invoice the Interconnector in advance for full or partial payment for all or any portion of the CPP's costs incurred under an Interconnection Agreement. The Director is authorized to file all papers and execute all documents necessary to receive payments under advanced invoicing and shall deposit those payments into a fund or funds designated by the Director of Finance. The Director shall deposit the reimbursement funds received under this section into a fund or funds designated by the Director of Finance

(6) *Other Agreements.* The Director is authorized to enter into other agreements necessary for an Interconnection Agreement.

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Section 2. 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 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.

GB:nl
5-11-26

FOR: Director Keane

