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**BEFORE**

**THE PUBLIC UTILITIES COMMISSION OF OHIO**

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IN THE MATTER OF THE APPLICATION )  
OF THE CLEVELAND BOARD OF )  
EDUCATION FOR THE CLEVELAND )  
MUNICIPAL SCHOOL DISTRICT TO )  
ESTABLISH A REASONABLE )  
ARRANGEMENT WITH THE )  
CLEVELAND ELECTRIC )  
ILLUMINATING COMPANY FOR )  
ELECTRICAL SERVICE )  
)  
)  
)  
)

**CASE NO. 08-1238-ELAEC**

**APPLICATION TO ESTABLISH A REASONABLE ARRANGEMENT**

**PREAMBLE**

The current electric rate for the schools and administrative buildings of the Cleveland Municipal School District ("CMSD") was established under an Electric Service Agreement ("Agreement") with Cleveland Electric Illuminating Co. ("CEI"), which terminates in December, 2008. Unless the Agreement is extended, the rate will be overwhelmingly increased beginning in January, 2009 by existing School rates or by rates currently proposed by CEI, all of which would cause an increase in rates from 49% to 94%. CMSD is seeking this Commission's authorization to resolve CMSD's problem by utilizing a multitude of statutory authorities.

This Application to Establish a Reasonable Arrangement is a filing of proposed rates based on a gradual increase in rates beginning May 1, 2009 through 2011 using those percent increases proposed by FirstEnergy in its pending rate cases. Concurrent with the filing of this Application, CMSD is filing two other pleadings—a Complaint and an Application for Emergency Rate Relief. The Complaint argues that CEI's existing School rate and proposed rates which would go into effect in January, 2009 are oppressive, unjust and unreasonable, and

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that CEI should be ordered to negotiate in good faith with CMSD to continue the Agreement or establish a new agreement. The Application for Emergency Rate Relief seeks to continue the Agreement in the future until a new agreement tolerable for CMSD can be negotiated between CMSD and CEI or until the Reasonable Arrangement proposed by CMSD is approved by the Commission.

### **PARTIES AND JURISDICTION**

1. Cleveland Municipal School District is a political subdivision of the State of Ohio responsible for the operation of the public school system in the city of Cleveland, Ohio. CMSD operates approximately 120 schools and administrative buildings wherein it educates approximately 50,000 students.

2. CMSD obtains electrical service for its schools and administrative buildings from CEI. CEI is an electric light company as defined by R.C. § 4905.03, a public utility as defined in R.C. § 4905.02, and an electric utility as defined by R.C. § 4928.01(A)(11).

3. Beginning in January 2002, CMSD and CEI entered into the Agreement. In 2005, the term of the Agreement was extended to “terminate with the electric bill rendered for the month of December 2008.”<sup>1</sup>

4. In mid-2007, in Case No. 07-551, FirstEnergy Corp. (“FirstEnergy”), the holding company of CEI, proposed to increase CEI’s distribution rates and eliminate or discontinue school specific rates. On July 31, 2008, in Case No. 08-935, FirstEnergy submitted an Application for authority to establish a Standard Service Offer for CEI.

5. In combination, the rate proposals in these cases will result in a severe and unreasonable increase in electric costs for CMSD when the existing Agreement expires. The

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<sup>1</sup>Because of restrictions within the Agreement, a copy of the Electric Service Agreement and Amendment No. 1 to the Agreement have been filed with the Commission under seal pursuant to a motion for a protective order.

Commission has before it a multitude of proposed rates for CEI which vary depending on the premise for each rate. The proposed increases to begin January 1, 2009 range from 59% to 94%. If the largest proposed increase goes into effect, it will amount to a rate increase for CMSD of approximately 94%, costing CMSD an additional \$4 million annually. Even if these proposed rates do not go into effect on January 1, 2009, and if the Agreement is not extended, CEI's existing School rates will become applicable for CMSD's energy consumption, resulting in an immediate and substantial increase for CMSD of 49%. (Attached as Exhibit A is the CMSD Potential Cost Summary confirming the percentage increases.)

6. Any of the potential rate increases identified in Paragraph 5 will have a catastrophic financial impact on CMSD. A severe increase in electric rates will have a detrimental impact on the ability of CMSD to provide a quality education to the children of Cleveland. In order to cope with CEI's proposed electrical rates, CMSD will be forced to lay off teachers and other staff, close schools for tutoring and other extracurricular activities, and reduce and/or eliminate educational programs.

7. CMSD has sought to renegotiate its agreement with CEI through FirstEnergy in an effort to avoid the devastating budgetary effects of CEI's rate proposals, but FirstEnergy and CEI have refused CMSD's efforts.

8. Newly enacted R.C. § 4905.31 permits a customer of an electric utility to apply to the Commission for a Reasonable Arrangement with an electric utility.<sup>2</sup> Accordingly, CMSD submits this application requesting that the Commission approve its proposed Reasonable Arrangement with CEI.

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<sup>2</sup> R.C. § 4905.31 was recently amended by Am. Sub. S.B. No. 221 to explicitly allow a customer to submit an application for a reasonable arrangement to the Commission. In Case No. 08-777-EL-ORD, the Commission has proposed a new rule to implement the new § 4905.31. That rule, O.A.C. § 4901:1-38-05(B), authorizes a customer of an electric utility to apply to the Commission for a "unique" arrangement.

### **REASONABLE ARRANGEMENT**

9. CMSD and CEI are currently parties to an Electric Service Agreement. Pursuant to the Agreement, CMSD and CEI agreed that CEI would supply electricity to CMSD's schools and administrative buildings under a set schedule of rates and charges. The Agreement is set to "terminate with the electric bill rendered for the month of December 2008."

10. CMSD requests that the Commission approve a Reasonable Arrangement between CMSD and CEI. For the terms of the arrangement, CMSD proposes the following.

- a. The rates in the existing Electric Service Agreement would remain in effect until May 1, 2009.
- b. From May 1, 2009 until December 31, 2009, CMSD will pay rates for electric service on a schedule that constitutes a 5.32% increase in the rates provided in the existing Electric Service Agreement schedule.
- c. For the year 2010, CMSD will pay rates for electric service on a schedule that constitutes a 4.01% increase in the rates for the period from May 1, 2009 to December 31, 2009.
- d. For the year 2011, CMSD will pay rates for electric service on a schedule that constitutes a 5.99% increase in the rates in the year 2010.
- e. Prior to the end of the year 2011, CMSD will submit a new reasonable arrangement for subsequent years.

Upon approval, CMSD will submit the above percentage increases in tariff form for filing with the Commission.

11. The proposed 5.32%, 4.01%, and 5.99% increases in rates for the years 2009, 2010, and 2011, respectively, must be reasonable because they are the average increases in total customer rates that CEI itself has proposed in Case No. 08-935-EL-SSO.<sup>3</sup> In that case, CEI stated in its Application to the Commission that under its proposed plan "increases in total

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<sup>3</sup>See In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company for Authority to Establish a Standard Service Offer Pursuant to R.C. § 4928.143 in the Form of an Electric Security Plan, Case No. 08-935-EL-SSO, Application, at 5 (filed July 31, 2008).

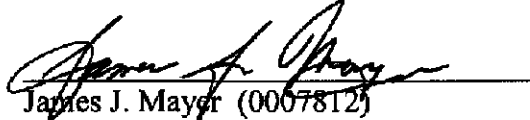
customer rates—including generation, transmission and distribution—would be moderated to an average of 5.32% in 2009, 4.01% in 2010 and 5.99% in 2011.” Moreover, this proposal demonstrates CMSD’s good faith willingness to accept a reasonable increase in electric rates.

12. The Arrangement set forth herein furthers the policy of the State of Ohio embodied in R.C. § 4928.02. The Arrangement ensures that CMSD receives reasonably priced and nondiscriminatory electric service, as contemplated in R.C. § 4928.02(A). The Arrangement also facilitates Ohio’s effectiveness in the global economy. Any drastic increase in electric rates will undoubtedly place a significant burden on CMSD’s ability to adequately educate the 50,000 children in the school district. Any of the percentage increases proposed will force CMSD to cut back on important programs and resources designed to prepare CMSD’s students for future challenges. Because these students represent the future of the City of Cleveland and the State of Ohio, any threat to the quality of their education constitutes a threat to Ohio’s future effectiveness in the global economy. In providing for reasonable rate increases over the coming years, the Arrangement ensures that CMSD will retain the resources needed to adequately educate the children of the City of Cleveland and the State of Ohio.

#### **RELIEF REQUESTED**

13. WHEREFORE CMSD requests that the Commission approve the foregoing proposed Arrangement.

Respectfully submitted,



James J. Mayer (0007812)

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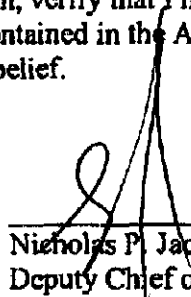
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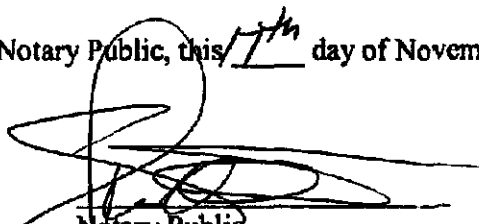
**AFFIDAVIT**

State of Ohio                     )  
  )     ss:  
County of Cuyahoga            )

I, Nicholas P. Jackson, being first duly sworn, verify that I have reviewed the foregoing Application and Exhibits and that the allegations contained in the Application and Exhibits are true and accurate to the best of my knowledge and belief.

  
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Nicholas P. Jackson  
Deputy Chief of Business Operations  
Cleveland Municipal School District

Sworn to and subscribed before me, a Notary Public, this 17<sup>th</sup> day of November, 2008.

  
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Notary Public



SHENE'E MCCOY-GIBBONS  
NOTARY PUBLIC  
STATE OF OHIO  
Comm. Expires  
March 17, 2010

# EXHIBIT A



## CMSD Potential Future Cost Summary

Scenario	Est. Monthly Expense	% Increase	Term Possible	Calculation Explanation
Estimated Current Monthly Avg. Cost	\$ 471,000		current agreement expires 12/31/08	Est. monthly use multiplied through special agreement pricing plus fuel charges.
Est. Current 2008 Tariff Cost	\$ 703,000	49%	unknown	current tariffs with avg '08 fuel cost
Short Term Electric Security Plan proposed by FirstEnergy	\$ 915,000	94%	Jan 09 thru Apr 09	Small School Rate under FE short term plan
FirstEnergy Electric Security Plan Implemented before May '09	\$ 747,000	59%	no later than Apr 09	Small School Rate + FE 2009 plan pricing
FirstEnergy Electric Security Plan Implemented after April '09	\$ 758,000	61%	May 09 thru Dec '09	Est new distribution rates + FE 2009 plan pricing
FirstEnergy Electric Security Plan Implemented for 2010	\$ 784,000	66%	2010	Est new distribution rates + FE 2010 plan pricing
FirstEnergy Electric Security Plan Implemented for 2011	\$ 809,000	72%	2011	Est new distribution rates + FE 2011 plan pricing

### Notes:

Estimates presume consistent consumption amount and pattern.

Distribution rates after April 2009 based upon FE's ESP filing for recovery. Actual approval may be different.

2009 thru 2011 pricing does not include various charges such as capacity charge and other that are undetermined at this time.

Pricing does not include any incremental recovery for delta revenues under special agreements for industrial customers.