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BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of :
Akron Thermal, Limited Partnership : Case No. 09-453-HT-AEM
for an Emergency Increase in its Rates :
and Charges for Steam and Hot Water :
Service. :

APPLICATION FOR EMERGENCY RATE INCREASE

Akron Thermal, Limited Partnership ("Akron Thermal"), pursuant to Section 4909.16, Revised Code, hereby submits this application for an emergency increase in its rates and charges for steam and hot water service provided throughout its service area.

In support of its application, Akron Thermal states as follows:

1. Akron Thermal is a limited partnership duly organized and existing under the laws of the State of Delaware for the purpose of engaging in the business of providing steam and hot water through pipes or tubing to consumers within the central business district in downtown Akron, Ohio. Akron Thermal's limited partner is Thermal Ventures II, L.P., a Delaware limited partnership, and its general partner is Opportunity Parkway, LLC, an Ohio limited liability company.

2. Akron Thermal is a public utility and a heating company as defined in Sections 4905.02 and 4905.03(A)(9), Revised Code, and, as such, is subject to the jurisdiction of this Commission pursuant to Sections 4905.04, 4905.05, and 4905.06, Revised Code. Akron Thermal currently provides service to 52 steam customers and 96 hot water customers.

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3. The steam system now operated by Akron Thermal was originally developed by the City of Akron ("City") as a combination trash burning and steam producing facility, and was operated by the City from 1974 to November 1995. Over this period, the only rate increase the City implemented was in 1995.

4. Akron Thermal began operating the steam system in November 1995 under an interim operating agreement while negotiating a long-term lease with the City. Under the lease arrangement, which was ultimately executed in 1997, Akron Thermal was obligated to charge the City's rates until November 1998. The City-developed rates never produced revenues for Akron Thermal sufficient to cover the costs of operating the steam system.

5. On September 28, 1998, Akron Thermal filed an application in Case No. 98-1360-HT-ATA to establish its own tariffed rates for steam and hot water service. The Commission granted Akron Thermal's application as a first filing by its order in that docket of April 1, 1999. The new rates, while higher than the City-ordained rates, recognized the principle of gradualism and were based on 1997 calendar year sales data. As a result, Akron Thermal continued to sustain annual operating losses, and by its November 17, 2000 application in Case No. 00-2260-HT-AEM, sought emergency rate relief from the Commission. The Commission granted Akron Thermal's application, in substantial part, by its order in that case of January 25, 2001.

6. On March 4, 2005, Akron Thermal filed a Section 4909.18, Revised Code, general rate increase application with the Commission in Case No. 05-5-HT-AIR. Akron Thermal's current tariffed steam and hot water rates were approved by the Commission's order in that case of September 28, 2005. A copy of the current rates are attached hereto as Exhibit 1.

7. On June 18, 2007, Akron Thermal filed a Chapter 11 petition in the United States Bankruptcy Court for the Northern District of Ohio (the “Bankruptcy Court”), denominated as Case No. 07-51884 (the “Bankruptcy Case”). The Bankruptcy Court approved a Plan of Reorganization of the Borrower, and Akron Thermal emerged from bankruptcy in February 2009.

8. On April 30, 2009, Akron Thermal’s contract with its largest steam customer, the University of Akron (“UA”), expired. UA elected not to renew or extend its contract with Akron Thermal and left the system. In 2008, sales to UA accounted for 29.9% of Akron Thermal’s total steam sales volume. Total revenues from UA in 2008 were \$4,018,854.

9. Attached hereto as Exhibit 2 are Akron Thermal’s December 31, 2008 balance sheet and an income statement showing Akron Thermal’s operating results for calendar 2008, adjusted to reflect the impact of the loss of the UA load. As is evident from this exhibit, the loss of its largest customer will have a devastating effect on Akron Thermal’s financial condition.

10. In response to the announcement that the UA was leaving the system, Akron Thermal developed a series of measures to mitigate the financial consequences of the loss of the UA load. These measures include (a) reducing steam generation capacity by closing down the BF Goodrich Plant; (b) proposing to settle the Notice of Violation (NOV) issued by the United States Environmental Protection Agency (“US EPA”) by discontinuing the current use of Boiler 32; (c) serving remaining steam customers with the Akron Plant and the three remaining boilers using a combination of wood waste, tire-derived fuel, and natural gas as fuels; (d) renting a natural gas-fired package boiler during the heating season for peak and backup needs; and (e) terminating the employment of a substantial segment of Akron Thermal’s workforce.

11. The foregoing cost-cutting measures will reduce annual operating expenses by a significant amount and will also eliminate the need for the large capital investment in pollution control equipment that U.S. EPA has demanded as a condition of continuing to operate Boiler 32. However, despite the significant reduction in operating expenses that will be achieved by these measures, the loss of the UA load will mean that Akron Thermal's current rates will not provide sufficient revenues to cover the cost of its operations, and that Akron Thermal will continue to suffer severe financial losses in connection with its efforts to provide quality steam and hot water service to its customers. As shown in Exhibit 2, under its current rates, Akron Thermal will not be able to meet its current operating expenses and is projected to have a negative cash balance by August 2009. Thus, without immediate emergency rate relief, Akron Thermal's will be unable to meet its obligation to provide steam and hot water service to its customers.

12. Although closing the BF Goodrich Plant and discontinuing the use of Boiler 32 will contribute to a significant reduction in near-term capital requirements,¹ the associated elimination of coal as a fuel source will result in an overall increase in fuel costs, notwithstanding that Akron Thermal will no longer be required to generate steam to serve the UA load. Thus, the determination of the revenue deficiency resulting from the loss of the UA load is not limited to the \$4,018,845 in annual sales that will disappear as a result of UA leaving the system, but must also take into account the net impact of combining the projected savings in labor and other expenses with the increase in fuel expense. As shown in Exhibit 3 attached hereto, an increase in annual revenues of approximately \$4,195,561 will be necessary to fully

¹ In the Bankruptcy Case, Akron Thermal's expert testified that if the US EPA accepted Akron Thermal's position regarding the air pollution control technology that would be required for Boiler 32 – a dry scrubber to reduce sulfur dioxide emissions and flue gas recirculation to reduce nitrogen oxides – the capital cost for the equipment would be approximately \$1.8 million. Annual operating costs for that equipment would be approximately \$500,000.

offset the revenue shortfall resulting from the loss of the UA load. Accordingly, by this application, Akron Thermal seeks approval of a temporary emergency rate increase in this amount.

13. Akron Thermal has exhausted all other available options to increase its revenue stream. As a review of the Commission's order in Case No. 05-5-HT-AIR will show, the rates approved in that proceeding were not designed to recovery the total-company revenue requirement.² Rather, the increase was limited to Akron Thermal's tariff customers, which accounted for something less than 40 percent of Akron Thermal's total revenues.³ Thereafter, Akron Thermal renegotiated its contracts with two of its largest remaining customers, Children's Hospital Medical Center of Akron and Canal Place, and has recently submitted new contracts with these entities for Commission approval.⁴ In addition, Akron Thermal did not extended its contract with Akron General Medical Center, which means that customer is now being served at tariff rates.⁵

14. Akron Thermal has also done everything in its power to control costs. Since December 2004, Akron Thermal has increased its steam system's energy efficiency from 54.4% to 61.9%. This significant improvement in the system's energy efficiency means that Akron Thermal can now produce the same energy output with 7.5% less fuel input, which equates to about \$450,000 per year in savings based on 2008 results. Although Akron Thermal has identified certain other capital projects that will produce savings, Akron Thermal's current

² Case No. 05-5-HT-AIR (Opinion and Order dated September 25, 2005), at 4.

³ See *Staff Report of Investigation*, Case No. 05-5-HT-AIR, at 18.

⁴ See Case Nos. 09-441-HT-AEC and 09-442-HC-AEC.

⁵ Akron Thermal's other large contract customer, Summa Hospital, has an alternative energy system in place, which precludes Akron Thermal from seeking to increase its rates. However, Akron Thermal has attempted to maintain revenues from Summa Hospital under a month-to-month agreement.

financial posture will not permit it to proceed with these projects. In addition, Akron Thermal will, to the extent possible, defer payments to its vendors, although this is obviously not a viable strategy over the long term.

15. Despite the foregoing efforts to increase revenues, control costs, and increase system efficiencies, the loss of the UA load will place Akron Thermal in a negative cash flow situation by August 2009.

16. The Commission's authority to grant emergency rate relief arises under Section 4909.16, Revised Code, which provides as follows:

When the public utilities commission deems it necessary to prevent injury to the business or interests of the public or of any public utility of this state in case of any emergency to be judged by the commission, it may temporarily alter, amend, or, with the consent of the public utility concerned, suspend any existing rates, schedules, or order relating to or affecting any public utility or part of any public utility in this state. Rates so made by the commission shall apply to one or more of the public utilities in this state, or to any portion thereof, as is directed by the commission, and shall take effect at such time and remain in force for such length of time as the commission prescribes.

17. The Supreme Court of Ohio has consistently construed this statute as vesting the Commission with broad discretionary powers in determining when an emergency exists and in tailoring a remedy which will enable the applicant public utility to meet that emergency.⁶ The Commission has established several criteria by which it is guided in exercising the discretion conferred by the statute.⁷ First, the existence of an emergency is a condition precedent to any

⁶ See, e.g., *Cambridge v. Pub. Util. Comm.*, 159 Ohio St. 88 (1953); *Manufacturer's Light and Heat Co.*, 163 Ohio St. 570 (1955).

⁷ See, e.g., *Akron Thermal, Limited Partnership*, Case No. 00-2260-HT-AIR (Opinion and Order dated January 25, 2001), at 3.

grant of temporary rate relief.⁸ Second, the applicant utility must clearly and convincingly demonstrated the presence of extraordinary circumstances that constitute a genuine emergency situation.⁹ Next, emergency rate relief will not be granted pursuant to Section 4909.16, Revised Code, if the emergency request was filed merely to circumvent, and as a substitute for permanent rate relief under Section 4909.18, Revised Code.¹⁰ Finally, the Commission will grant, temporary rate relief only at the minimum level necessary to avert or relieve the emergency.¹¹ Further, the Commission has characterized the ultimate question in emergency rate proceedings as being whether, absent emergency relief, the utility will be financially imperiled or its ability to render service will be impaired.¹²

18. Akron Thermal respectfully submits that its application satisfies the above standards. The loss of Akron Thermal's largest customer – a customer that accounted for some 30% of its 2008 sales volume – is an extraordinary circumstance that has created a genuine financial emergency for Akron Thermal. Indeed, in the absence of emergency rate relief, Akron Thermal will be unable to avert the cash flow crisis that will soon exist, a circumstance that will impair Akron Thermal's ability to render service to its customers and will cause it to be financially imperiled. Further, this application has not been filed a substitute for a general rate increase application under Section 4909.18, Revised Code. Although Akron Thermal will submit its notice of intent to file a traditional rate case by September 1, 2009, the purpose of this application for a temporary rate increase is simply to avert the cash flow crisis it will otherwise face in the near future so as to permit it continue to render service to its customers, not to

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*, citing *Toledo Edison Co.*, Case No. 84-1286-EL-AEM (Opinion and Order dated February 19, 2005).

generate the revenue to which it would be entitled under the statutory ratemaking formula. Moreover, as previously described, Akron Thermal has exhausted all other options to increase revenues and reduce costs to address the financial emergency it now faces. Thus, the annual increase of \$4,195,561 requested herein is the minimum amount of rate relief required to avert the emergency.

19. As shown in the proposed tariff sheets attached hereto as Exhibit 4, Akron Thermal proposes that it be authorized to recover the temporary increase in revenues requested herein through an adder to the monthly demand charge component of its current rates. As shown in Exhibit 3, if the adder is applied to all tariff customers and to the Children's Hospital Medical Center of Akron and Canal Place contract rates, the amount of the temporary adder would be \$54.78 per Mlb, which would represent an overall rate increase to customers of 47.8 percent. However, if the Commission determines that only steam and hot water tariff customers should bear the emergency rate increase, the amount of the temporary adder would be \$81.49 per Mlb, or an overall increase of 71.6 percent. Under either scenario, the respective adders would produce the \$4,195,561 in additional annual revenues necessary to avert the emergency.

20. Because of the urgent financial emergency, Akron Thermal respectfully requests that the Commission issue an entry establishing a procedural schedule and setting this matter for hearing as soon as possible, and that the emergency rate relief ultimately authorized be applied on a bills-rendered basis.

WHEREFORE, Akron Thermal respectfully requests that the Commission find:

(a) That this application is properly before the Commission pursuant to Section 4909.16, Revised Code;

(b) That Akron Thermal's loss of its largest customer is an extraordinary circumstance that constitutes a genuine emergency situation;

(c) That, in the absence of the temporary rate relief requested herein, Akron Thermal's ability to render service to its customers will be impaired and that it will be financially imperiled;

(d) That to prevent further and continuing injury to Akron Thermal's business and the public interest, the temporary adder to the monthly demand charge proposed in Exhibit 4 should be approved and remain in effect until such time as permanent rate relief is granted; and

(E) That such other relief as the Commission finds to be fair and reasonable under the circumstances should be granted.

Respectfully submitted,



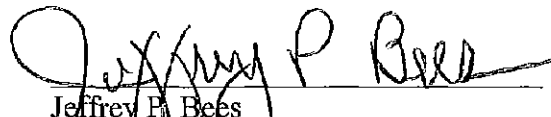
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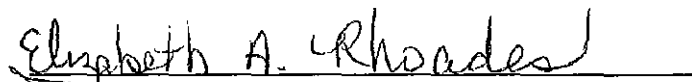
VERIFICATION

STATE OF OHIO)
) ss:
COUNTY OF SUMMIT)

I, Jeffrey P. Bees, being first duly sworn, verify that I am President of Opportunity Parkway, LLC, the general partner of Akron Thermal, Limited Partnership, that I have reviewed the foregoing Application and attached Exhibits, and that the statements contained in the Application and Exhibits are true and accurate to the best of my knowledge and belief.


Jeffrey P. Bees
President, Opportunity Parkway, LLC

Sworn to and subscribed before me, a Notary Public, this 27th day of May 2009.


Notary Public

My commission expires September 24, 2010.

ELIZABETH A. RHOADES, Notary Public
Residence - Summit County
Statewide Jurisdiction, Ohio
My Commission Expires Sept. 24, 2010

EXHIBIT 1

RULES, REGULATIONS, AND RATES GOVERNING THE SUPPLY OF
STEAM AND HOT WATER SERVICE

AKRON THERMAL LIMITED PARTNERSHIP

Rate 1: General Steam Service Rate Schedule

Availability:

This General Steam Service Rate Schedule is available to all customers served by ATLP.

Each General Steam Service Rate Schedule Customer will be subject to a monthly consumption charge, monthly demand charge, monthly minimum charge, and a multiplier (except for federal agencies who may be customers); depending on the applicable circumstances, each General Steam Service Rate Schedule Customer may be subject to the return meter charge, a condensate return reduction, Gross Amount, the Delayed Payment Charge, and the Returned Check Charge.

<u>Block</u>		<u>Charge</u>
<u>Thousand Pounds of Steam</u>		<u>Per Thousand Pounds</u>
First	100 per month	\$ 20.59
Next	200 per month	\$ 19.40
Next	300 per month	\$ 18.22
Next	400 per month	\$ 16.63
Next	1,000 per month	\$ 14.65
Next	5,000 per month	\$ 11.48
Next	5,000 per month	\$ 10.30
Over	12,000 per month	\$ 8.71

Monthly Demand Charge:

Each General Steam Service customer will be subject to a Monthly Demand Charge calculated by multiplying \$33.65 per thousand pounds times the demand (highest monthly steam usage in Mlbs during the twelve prior months) and dividing that product by 12. A new customer's initial demand will be agreed upon by the customer before executing a

Issued: August 24, 2005

Effective for service rendered on and
after: September 28, 2005

Filed in accordance with the September 28, 2005 Opinion and Order of the
Commission

in Case No. 05-0005-HT-AIR

Issued By

AKRON THERMAL LIMITED PARTNERSHIP

RATES GOVERNING THE SUPPLY OF
STEAM AND HOT WATER SERVICE

contract. The contract demand will be in effect for the following 12 full months of service. After 12 months of service, a new demand (highest monthly steam consumption expressed in MLBs in the prior 12 months) will be determined in order to calculate the monthly demand charge. Each month the demand will be redetermined. Each new demand will remain in effect until superseded. The Monthly Demand Charge is a year around charge. Customers desiring a seasonal shut-off shall continue to pay the Monthly Demand Charge.

Monthly Minimum Charge:

The Monthly Minimum Charge will be the Monthly Demand Charge.

Condensate Return Reduction and Return Meter Charge

Where applicable, a reduction of \$1.50 per thousand pounds of measured condensate returned will be applied to the bill. Where the primary meter is not a condensate meter, a return meter may be provided and maintained by ATL P for a monthly charge of \$50.00

Delayed Payment Charge

Payment is due within twenty-one (21) days of the date of the bill. If the Customer does not pay by the twenty-first (21st) day an additional amount equal to one and one half percent (1.5%) per month of the total unpaid balance, or \$2.00, whichever is higher, shall also become due and payable. This charge is not applicable to unpaid balances of Customers enrolled in Company approved payment plan arrangements.

Total Charges Subject to Multiplier

The total of all charges will be multiplied by 1.0498.

Returned Check Charge

A charge of \$25.00 will be added to the customer's account for each returned check.

Issued: November 9, 2001

Effective for service rendered on and
after: January 25, 2002

Piled in accordance with the January 24, 2002 Finding and Order of the
Commission
in Case No. 01-2922-HC-ATA

Issued By
AKRON THERMAL LIMITED PARTNERSHIP

RATES GOVERNING THE SUPPLY OF
STEAM AND HOT WATER SERVICE

Rate 2: Steam for Air Conditioning Rate Schedule

Availability:

This Steam for Air Conditioning Rate Schedule is available to all customers served by ATLP who use steam for essentially all of their cooling needs as well as for essentially all of their heating needs and who have minimal non-cooling use of steam in the cooling season.

Each Steam for Air Conditioning customer will be subject to a monthly consumption charge, monthly demand charge, monthly minimum charge, and a multiplier (except for federal agencies who may be customers); depending on the applicable circumstances, each customer may be subject to the return meter charge, a condensate return reduction, the Gross Amount, the Delayed Payment Charge, and the Returned Check Charge.

Monthly Consumption Charge:

Heating Season (November through April)

	<u>Block</u>	<u>Charge</u>
	<u>Thousand Pounds of Steam</u>	<u>Per Thousand Pounds</u>
First	100 per month	\$ 20.59
Next	200 per month	\$ 19.40
Next	300 per month	\$ 18.22
Next	400 per month	\$ 16.63
Next	1,000 per month	\$ 14.65
Next	5,000 per month	\$ 11.48
Next	5,000 per month	\$ 10.30
Over	12,000 per month	\$ 8.71

Cooling Season (May through October)

\$7.52 per thousand pounds per month for all usage during the months of May through October.

Issued: August 24, 2005

Effective for service rendered on and
after: September 28, 2005

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Commission

in Case No. 05-0005-HT-AIR

Issued By

AKRON THERMAL LIMITED PARTNERSHIP

**RATES GOVERNING THE SUPPLY OF
STEAM AND HOT WATER SERVICE**

Monthly Demand Charge

Customers to whom this rate applies cannot set a demand during the Cooling Season.

Each Steam for Air Conditioning Rate Schedule customer will be subject to a Monthly Demand Charge calculated by multiplying \$33.66 per thousand pounds times the demand (the highest monthly steam usage in MLBs, among the months of January, February, March, April, November, and December during the prior twelve months) and dividing that product by 12. A new customer's demand initially will be based on a contract demand agreed upon by the customer before executing a contract. The contract demand will be in effect for the following 12 full months of service. After the 12 full months of service, a new demand (the highest monthly steam consumption among the prior months of January, February, March, April, November, and December) will be determined in order to calculate the monthly demand charge. Each month the demand charge will be redetermined. Each new demand will remain in effect until superseded. The Monthly Demand Charge is a year round charge. Customer desiring seasonal shut-off shall continue to pay the Monthly Demand Charge.

Monthly Minimum Charge:

The Monthly Minimum Charge will be the Monthly Demand Charge.

Condensate Return Reduction and Return Meter Charge

Where applicable, a reduction of \$1.50 per thousand pounds of measured condensate returned will be applied to the bill. Where the primary meter is not a condensate meter, a return meter may be provided and maintained by ATLTP for a monthly charge of \$50.00.

Delayed Payment Charge

Payment is due within twenty-one (21) days of the date of the bill. If the Customer does not pay by the twenty-first (21st) day an additional amount equal to one and one-half percent (1.5%) per month of the total unpaid balance, or \$2.00, whichever is higher, shall also become due and payable. This charge is not applicable to unpaid balances of Customers enrolled in Company approved payment plan arrangements.

Issued: August 24, 2005

Effective for service rendered on and
after: September 28, 2005

Filed in accordance with the September 28, 2005 Opinion and Order of the
Commission

in Case No. 05-0005-HTT-AIR

Issued By

AKRON THERMAL LIMITED PARTNERSHIP

P.U.C.O. No. 2

**RATES GOVERNING THE SUPPLY OF
STEAM AND HOT WATER SERVICE**

Total Charges Subject to Multiplier

The total of all charges will be multiplied by 1.0498.

Returned Check Charge

A charge of \$25.00 will be added to the customer's account for each returned check.

Issued: November 9, 2001

Effective for service rendered on and
after: January 25, 2002

Filed in accordance with the January 24, 2002 Finding and Order of the
Commission

In Case No. 01-2922-HC-ATA

Issued By

AKRON THERMAL LIMITED PARTNERSHIP

P.U.C.O. No. 2

**RATES GOVERNING THE SUPPLY OF
STEAM AND HOT WATER SERVICE****Rate 3: General Hot Water Service Rate Schedule****Availability:**

Available to customers served hot water for heating and/or domestic hot water heating directly from either the Akron Plant, the BFG Plant or the Canal Park Plant.

Each General Hot Water Service Customer Rate Schedule will be subject to a monthly consumption charge, a monthly demand charge, monthly minimum charge, and a multiplier (except for federal agencies who may be customers); depending on the applicable circumstances, each customer may be subject to the Gross Amount, the Delayed Payment Charge, and the returned Check Charge.

Monthly Consumption Charge:

	<u>MMBTU</u>	<u>Charge Per MMBTU</u>
First	100 per month	\$ 17.62
Next	200 per month	\$ 16.43
Next	300 per month	\$ 15.25
Next	400 per month	\$ 13.66
Next	1,000 per month	\$ 11.68
Next	5,000 per month	\$ 8.51
Next	5,000 per month	\$ 7.33
Over	12,000 per month	\$ 5.74

Monthly Demand Charge

Each General Hot Water Service Customer Rate Schedule customer will be subject to a Monthly Demand Charge calculated by multiplying \$17.62 per MMBTU times the demand (the highest monthly steam usage expressed in MMBTUs during the twelve prior months) and dividing that product by 12. A new customer's initial demand will be based on a contract demand agreed upon by the customer before executing a contract. The contract demand will be in effect for the following 12 full months of service. After twelve months of service, a new demand (highest monthly hot water usage in the prior 12 months) will be determined in order to calculate the monthly demand charge. Each month the demand

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P.U.C.O. No. 2

**RATES GOVERNING THE SUPPLY OF
STEAM AND HOT WATER SERVICE**

will be redetermined. Each new demand will remain in effect until superseded. The Monthly Demand Charge is a year around charge. Customers desiring a seasonal shut-off shall continue to pay the Monthly Demand Charge.

Monthly Minimum Charge:

The Monthly Minimum Charge will be the Monthly Demand Charge.

Delayed Payment Charge

Payment is due within twenty-one (21) days of the date of the bill. If the Customer does not pay by the twenty-first (21st) day an additional amount equal to one and one-half percent (1.5%) per month of the total unpaid balance, or \$2.00, whichever is higher, shall also become due and payable. This charge is not applicable to unpaid balances of Customers enrolled in Company approved payment plan arrangements.

Total Charges Subject to Multiplier

The total of all charges will be multiplied by 1.0498.

Returned Check Charge

A charge of \$25.00 will be added to the customer's account for each returned check.

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AKRON THERMAL LIMITED PARTNERSHIP

EXHIBIT 2

AKRON THERMAL, LIMITED PARTNERSHIP
BALANCE SHEET
December 31, 2008

ASSETS

CURRENT ASSETS

Cash		\$ 350,161.06
Accounts Receivable - Trade, net of Allowance for Doubtful Accounts of \$ 211,822.72		1,077,497.63
Accounts Receivable - Other		202,545.29
Accounts Receivable - Affiliates		44,364.25
Inventories		66,055.70
Prepaid Expenses and Deposits		184,930.90
Total Current Assets		<u>1,925,554.83</u>

PROPERTY AND EQUIPMENT

Leasehold Improvements		2,707,553.98
Yard Equipment		23,827.25
Light Vehicles		12,096.00
Computers & Office Equipment		48,678.93
Furniture & Fixtures		945.84
Communication Equipment		16,995.96
Total Property and Equipment		<u>2,810,097.96</u>
Accumulated Depreciation		<u>(933,252.51)</u>
Net Property and Equipment		<u>1,876,845.45</u>

OTHER ASSETS

Intangibles, Net of Accumulated Amortization of	\$ 273,742.27	<u>556,420.27</u>
Total Other Assets		<u>556,420.27</u>

TOTAL ASSETS		<u><u>\$ 4,358,820.55</u></u>
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AKRON THERMAL, LIMITED PARTNERSHIP
BALANCE SHEET
December 31, 2008

LIABILITIES AND PARTNERS' DEFICIT

CURRENT LIABILITIES

Accounts Payable - Trade	\$ 2,235,336.97
Deferred Revenue	366,851.42
Accrued Expenses	994,928.62
Accrued Payroll	<u>30,022.30</u>
Total Current Liabilities	<u>3,627,139.31</u>

PREPETITION LIABILITIES

Prepetition Liabilities	<u>35,593,955.69</u>
Total Prepetition Liabilities	<u>35,593,955.69</u>

TOTAL LIABILITIES	<u>39,221,095.00</u>
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TOTAL PARTNERS' DEFICIT	<u>(34,862,274.45)</u>
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TOTAL LIABILITIES AND PARTNERS' DEFICIT	<u><u>\$ 4,358,820.55</u></u>
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STATEMENT OF OPERATIONS
AKRON THERMAL, LIMITED PARTNERSHIP
For the 12 Months Ended December 31, 2008

	2008 Actual	Adjustments Loss of UA	2008 Proforma
REVENUE			
Steam	\$ 15,195,514	(4,018,854)	\$ 11,176,660
Hot Water	154,818		154,818
Electricity	169,911		169,911
Other Revenue	12,920		12,920
Total Revenue	<u>15,533,163</u>	<u>(4,018,854)</u>	<u>11,514,309</u>
COST OF REVENUE			
Fuel	6,017,603	1,533,088	7,550,691
Utilities	1,864,772	(22,000)	1,842,772
Ash Disposal	333,207	142,714	475,921
Chemicals	122,146		122,146
Total Cost of Revenue	<u>8,337,728</u>	<u>1,653,802</u>	<u>9,991,530</u>
GROSS PROFIT	7,195,435	(5,672,656)	1,522,779
OPERATING EXPENSES			
Labor and Employee Benefits	2,562,678	(600,000)	1,962,678
Service and Subcontractors	505,674	(20,000)	485,674
Supplies and Materials	308,051	(56,200)	251,851
Lease and Rentals	180,256		180,256
Insurance	284,840	(70,000)	214,840
Other Operating Expenses	675,971	(90,000)	585,971
Gross Receipts Tax	684,108	(190,896)	493,212
Depreciation and Amortization	356,687		356,687
Bad Debt Expense	47,226		47,226
Project Maintenance - Major	341,101	(150,000)	191,101
Total Operating Expenses	<u>5,946,592</u>	<u>(1,177,096)</u>	<u>4,769,496</u>
OPERATING INCOME/(LOSS)	1,248,843	(4,495,561)	(3,246,718)
OTHER INCOME/(EXPENSE)			
Interest Expense	-		-
Project Management Fees	(300,000)		(300,000)
Chapter 11 Costs	(2,290,099)		(2,290,099)
Miscellaneous Other Income/(Expense)	9,621		9,621
Total Other Income/(Expense)	<u>(2,580,478)</u>	<u>-</u>	<u>(2,580,478)</u>
NET INCOME/(LOSS)	<u>\$ (1,331,635)</u>	<u>\$ (4,495,561)</u>	<u>\$ (5,827,196)</u>
Net Income/(Loss) excluding Chapter 11 Costs	\$ 958,464	\$ (4,495,561)	\$ (3,537,097)

4/16/09

EXHIBIT 3

Summary Impact of the Loss of the University of Akron Close BFG Plant

Revenue Loss 4,018,854

Steam sales w/U of A	1,027,204	Steam production w/U of A	1,528,598
Lost sales volume	(307,126)	Reduction in steam production	(317,248)
Revised steam sales	720,078	Revised steam production	1,211,350
% Reduction	29.9%	% Reduction	20.8%

Production w/U of A	Tons	mmBTU	MLBS	Unit Price	\$/mmBtu	Cost
Coal	51,910	1,328,885	957,977	\$ 57.00	\$ 2.23	2,958,847
Wood	62,911	566,198	386,809	\$ 30.00	\$ 3.33	1,887,327
TDF	6,432	180,097	123,036	\$ 25.00	\$ 0.89	160,801
Natural Gas		76,932	60,777	\$ 7.09	\$ 7.09	545,711
Total		2,152,113	1,528,598		\$ 2.58	5,552,685

Production w/U of A	Tons	mmBTU	MLBS	Unit Price	\$/mmBtu	Cost
Coal	0	0	0	\$ 57.00		0
Wood	100,000	900,000	614,851	\$ 30.00	\$ 3.33	3,000,000
TDF	8,655	242,340	165,559	\$ 25.00	\$ 0.89	216,375
Natural Gas		545,493	430,940	\$ 7.09	\$ 7.09	3,869,398
Total		1,687,833	1,211,350		\$ 4.20	7,085,773

Weighted average change in price per mmBTU **62.71%**

Change in Cost of Fuel	1,533,088
Labor Savings	600,000
Reduced Gross Receipts Tax	190,896
Other Reductions	265,486
Profit Reduction - ATLP	300,000
Net Rate Request	4,195,561

	Steam Tariff	Hot Water Tariff	Children's	Canal Pl.	Total
Demand Peak	49,808	1,680	15,570	9,532	76,590
Increase in Demand Charge	\$ 81.49	\$ 81.49			\$ 54.78
Current Demand Charge	33.66	17.82			33.66
New Demand Charge	115.15	99.31			88.44

	Steam Tariff	Hot Water Tariff	Children's	Canal Pl.	Total
Revenues	5,747,765	108,293	2,084,188	838,119	8,778,366
Increase in Revenues	4,117,975	77,586			4,195,561
% Increase	71.6%	71.6%			47.8%

	Steam Tariff	Hot Water Tariff	Children's	Canal Pl.	Total
Sales	277,560	8,739	119,815	53,315	459,429
Current avg rate b4 GRT	20.71	12.39			19.11
Revised avg rate b4 GRT	35.54	21.27			28.24
Increase per MLB/mmBtu	14.84	8.88			9.13

EXHIBIT 4

P.U.C.O. No. 2

**RATES GOVERNING THE SUPPLY OF
STEAM AND HOT/CHILLED WATER SERVICE**

TEMPORARY AND EMERGENCY RATE INCREASE SURCHARGE

In addition to the monthly demand charge applied to steam tariff customers served under Rates 1 and 2, all such tariff steam customers shall be subject to a temporary emergency rate increase surcharge of \$81.49 per Mlb. In addition to the monthly demand charge applied to hot water tariff customers under Rate 3, all such tariff hot water customers shall be subject to a temporary emergency rate increase surcharge of \$81.49 per MMBTU. Such temporary and emergency surcharge revenues shall be recorded and tracked by Akron Thermal and may be subject to refund under the terms and conditions prescribed by the Public Utilities Commission of Ohio.

Issued: , 2009

Effective for bills rendered on and after:
August 1, 2009

Filed in accordance with the _____
Finding and Order of the Commission
In Case No. 09-____-HT-AEM.

Issued By
**AKRON THERMAL LIMITED PARTNERSHIP
RICHARD PUCAK, GENERAL MANAGER**

P.U.C.O. No. 2

**RATES GOVERNING THE SUPPLY OF
STEAM AND HOT/CHILLED WATER SERVICE**

TEMPORARY AND EMERGENCY RATE INCREASE SURCHARGE

In addition to the monthly demand charge applied to steam tariff customers served under Rates 1 and 2, all steam tariff customers and special steam contract customers shall be subject to a temporary emergency rate increase surcharge of \$54.78 per Mlb. In addition to the monthly demand charge applied to hot water tariff customers under Rate 3 all tariff hot water customers and special hot water contract customers shall be subject to a temporary emergency rate increase surcharge of \$54.78 per MMBTU. Such temporary and emergency surcharge revenues shall be recorded and tracked by Akron Thermal and may be subject to refund under the terms and conditions prescribed by the Public Utilities Commission of Ohio.

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