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February 5, 1997

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PUCO

Gary E. Vigorito
Secretary
Public Utilities Commission of Ohio
180 East Broad Street
Columbus, Ohio 43266-0573

Re: Case No. 89-362-HT-AEC
Cleveland Thermal Energy Corporation/
The Plain Dealer Publishing Company

Dear Mr. Vigorito:

In its July 18, 1989 Finding and Order in Case No. 89-362-HT-AEC, the Commission approved four Alternative Energy Rate Service Agreements between Cleveland Thermal Energy Corporation and four customers. The Commission also approved Cleveland Thermal Energy Corporation's request for pre-granted approval of similar arrangements. The Commission indicated that such arrangements should be filed under Case No. 89-362-HT-AEC for Commission review and be subject to future rulings by the Commission within thirty (30) days of the filing date.

Pursuant to the pregranted approval provisions of the July 18, 1989 Finding and Order in Case No. 89-362-HT-AEC, Cleveland Thermal Energy Corporation d/b/a Cleveland Energy Resources ("CER") submits for Commission review an attached copy of another "Alternate Energy Steam Service Agreement" which is similar to the form of the contract approved in that case. This agreement, dated October 31, 1996, is between CER and The Plain Dealer Publishing Company ("the Plain Dealer") located at 1801 Superior Avenue, Cleveland, Ohio.

This is to certify that the images appearing are an
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document delivered in the regular course of business.
Technician *Don M. Ryan* Date Processed *Feb 6, 1997*

The Plain Dealer agreement is similar to the agreement between CER and the Heitman Ohio Management, Inc. on behalf of Carlisle/National City Associates ("National City") which was submitted on July 25, 1996. The differences between the Plain Dealer agreement and the National City agreement are summarized below.

Under Section 1, the steam utility service provided by CER can be used for the Plain Dealer's heating and/or cooling purposes whereas National City is to use such steam utility service for heating purposes.

Under Section 2, "Term", the Plain Dealer agreement runs for three (3) years from October 31, 1996 until October 31, 1999 with the possibility of a five (5) year extension. The National City agreement is a five (5) year agreement running from July 1, 1996 until July 1, 2001.

Under Section 5, "Charges", the Plain Dealer agreement provides for a \$2.00 per Mlb. rate, a fuel adjustment charge which is limited to \$6.00 per Mlb. throughout the first year of the agreement, and an inflation indexing adjustment which is adjusted annually and applies to both the steam heating service base rate and the fuel adjustment charge.

On the other hand, the National City agreement provides for a base rate charge of \$2.12 per Mlbs. of steam, a fuel adjustment charge which is identical to the Plain Dealer agreement except that it does not contain the limitation of \$6.00 per Mlb. for the first year, and an inflation indexing adjustment which is applied each year to the base rate. In addition, the National City agreement provides for a conditional base rate increase of \$.13 per Mlb. effective January 1, 1998, conditional upon CER demonstrating to the satisfaction of the customer that the pH levels of steam supplied are acceptable. The Plain Dealer agreement does not contain this conditional base rate increase provision.

Under Section 6, "Termination" of the Plain Dealer agreement, there is no termination permitted prior to the completion of the initial three (3) year term. In subsequent years, the customer may terminate the agreement upon sixty (60) days prior written notice to CER and payment of certain termination charges. Under the National City agreement, the customer may terminate at no charge (except for the disconnect charge) with one hundred and eighty (180) days prior written notice or with payment of certain termination charges upon thirty (30) days prior written notice to CER.

Under Section 7, "Termination Charges", if the Plain Dealer does terminate the agreement during the extended term beyond the initial three years, it must pay a lump sum determined by multiplying the sum of the last twelve (12) months invoiced steam usage in Mlbs. by \$1.00 per Mlb. plus a disconnect charge equal to the sum of all costs incurred by CER in disconnecting its central system from the customer's steam system.

Mr. Gary E. Vigorito
February 5, 1997
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Vorys, Sater, Seymour and Pease

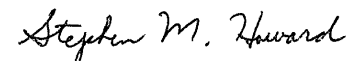
Under the National City agreement, the termination charges to be paid by the customer upon thirty (30) days prior written notice consists of a lump sum intended to compensate CER for loss of revenues resulting from termination. The termination charges are determined by multiplying i) eighty percent (80%) of the aggregate amount of the last twelve (12) monthly billings to the customer immediately prior to the date of the notice of termination by ii) the quotient derived by dividing the number of months between the date of the notice of termination and July 1, 2001 by sixty (60) months and adding a disconnect charge equal to the sum of all costs incurred by CER in disconnecting its central system from the customer's steam system.

Under Section 8E, there is different language in the two agreements regarding CER's rights to install a service valve, install additional service pipes, and to remove such service pipes or cut and cap service lines.

Finally, under Section 8I of its agreement, the Plain Dealer grants CER permission to enter the premises upon reasonable notice during normal business hours for the purpose of inspecting and keeping in repair or removing any or all of its apparatus used in connection with the supply of steam, except in case of emergency. No such limitation is contained in Section 8I of the National City agreement.

The rest of the provisions contained in the two contracts are virtually identical. Please call me with any questions. If there are no Commission rulings in the next thirty (30) days, we will assume that the contract with the Plain Dealer has been approved. Thank you for your cooperation.

Sincerely yours,


Stephen M. Howard
Attorney for Cleveland Thermal
Energy Corporation

SMH/wls

cc: Don Howard
Artha Woods
Sharon Sobol Jordan
Karen Jenkins

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PUCO

ALTERNATE ENERGY STEAM SERVICE AGREEMENT

This Alternate Energy Service Agreement (the "Agreement") is made and entered into this ____ day of _____, 1996 between CLEVELAND THERMAL ENERGY CORPORATION, doing business as CLEVELAND ENERGY RESOURCES ("CER") and The Plain Dealer ("Customer"), and sets forth the terms and conditions pursuant to which CLEVTEC will provide steam utility service to Customer and Customer will use that service for space heating and/or cooling purposes in the premises known generally as The Plain Dealer Publishing Company located at 1801 Superior Avenue, Cleveland, Ohio (the "Premises").

WHEREAS, CLEVTEC is a public utility steam company providing utility steam service to premises located within the City of Cleveland, Ohio, under contracts and approved schedules filed with the Public Utilities Commission of Ohio ("PUCO");

WHEREAS, Customer desires to use CLEVTEC's steam utility service for Customer's heating and/or cooling purposes at the Premises and CLEVTEC intends to provide such service for such purposes to Customer;

WHEREAS, CLEVTEC and Customer recognize the benefits of having customers committed to the steam utility and Customer is willing to use and pay for steam utility service in accordance with the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the premises and the mutual promises hereinafter set forth, the parties agree as follows:

1. Service. CLEVTEC will provide to Customer, and Customer will use, CLEVTEC's steam utility service for Customer's heating and/or cooling purposes at the Premises throughout the term specified in Paragraph 2.

2. Term. The term during which CLEVTEC will provide and Customer will use steam utility service for the Premises under this Agreement shall commence on or around October 31, 1996 (the "Effective Date") and, unless earlier terminated by either party pursuant to Paragraph 6 hereof, shall continue thereafter until October 31, 1999. This agreement may be renewed and extended for an additional term of five (5) years, subject to review and adjustment of Paragraph 5 below.

3. Premises. This Agreement relates to the provision of steam utility service to the Premises identified in the initial paragraph hereof. Those Premises may be added to by mutual agreement of the parties. Any such addition shall be set forth in a new schedule to be executed by both parties and attached to this Agreement.

4. Sole Source of Heating Energy and Steam Service. The utility steam service provided by CLEVTEC shall be the primary source of Customer's heating energy requirements for the Premises and the sole source of steam service to the Premises throughout the term of this Agreement.

5. Charges. Customer shall pay CLEVTEC an amount per 1000 pounds of steam ("Mlb.") delivered under this Agreement equal to the sum of:

(a) the "Base Rate for Steam Heating Service" (set forth in Paragraph 5.A) as the case may be, plus

(b) the "Fuel Adjustment Charge" (set forth in Paragraph 5.B), plus

(c) both Base Rate and Fuel Adjustment Charge shall be indexed annually pursuant to the "Inflation Indexing Adjustment" (set forth in Paragraph 5.C), plus

(d) the "Tax Rider" (set forth in Paragraph 5.D).

A. Base Rate - Steam Heating Service. The Base Rate for Steam Heating Service shall be \$2.00 per Mlb of steam based on the amount of steam utility service used by Customer during each billing month.

B. Fuel Adjustment Rider. CLEVTEC shall ascertain the weighted average cost of fuels burned by CLEVTEC for steam utility service for each month (including all direct costs incurred by CLEVTEC to place fuel at the point of burning in the boilers at plants in which steam is generated for sale under this Agreement) and will file that cost (expressed as cents per million Btu) with PUCO on a monthly basis. The Customer's rates shall be increased each month by applying the fuel adjustment rider schedule ratio (contained in Sheet 17 of the PUCO approved tariffs of CLEVTEC) for each full 0.1¢ of the monthly cost of fuel per million Btu. The fuel adjustment charge shall be \$6.00 per Mlb throughout the initial year of the agreement.

C. Inflation Indexing Adjustment. The charges in Paragraph A "Steam Heating Service" and in Paragraph B "Fuel Adjustment Charge" shall be adjusted annually pursuant to the annual increase in the Consumer Price Index - All Urban Consumers (CPI-UA) as specified in the Monthly Labor Review, published by the U.S. Department of Labor, Bureau of Labor Statistics or its successor, not to exceed 5% annually. In December of each year the adjustment shall be determined by multiplying the Base Rate by a fraction, the numerator of which will be the CPI-UA for the quarter immediately preceding the effective date of the adjustment, and the denominator of which will be the CPI-UA for the same quarter one (1) year prior to the quarterly index included in the numerator described above.

D. Tax Rider. The current applicable Ohio gross receipts tax rate is 4.75%. The Customer's rates and charges under Paragraphs 5.A and 5.B above shall be subject to a 4.75% surcharge to recover Ohio gross receipts tax. In addition, if any other tax, fee, levy, surcharge or similar cost is imposed on CLEVTEC under this Agreement (other than taxes on the net income of CLEVTEC), the Base Rates and Fuel Adjustment Charges will be adjusted automatically to recover those costs from the Customer.

E. Rate Ceiling. Notwithstanding anything contained in paragraph 5 of this Agreement to the contrary, it is agreed that the rates charged for steam service shall in no event exceed the PUCO approved tariff rates during the term of this Agreement.

6. Termination.

A. This Agreement may not be terminated prior to the completion of the initial three (3) year term. In subsequent years, this Agreement may be terminated by Customer effective upon 60 days prior written notice to CLEVTEC and the payment by Customer to CLEVTEC of the termination charges set forth in Paragraphs 7A and B of this Agreement.

B. If Customer fails to pay any charges properly billed to Customer by CLEVTEC within the 25-day period referenced in Paragraph 8.C, or fails to perform any of Customer's obligations to CLEVTEC, CLEVTEC shall have the right to discontinue its service upon 60 days' written notice to Customer; provided, however, that in the case of a payment default, Customer may avoid termination by bringing his account current prior to the expiration of said 60 day notice period.

C. If the rights and privileges that CLEVTEC now has or may obtain, without additional cost to it, in and through any premises, streets, avenues,

alleys or places public or private, are withdrawn or are not obtained; if any governmental authority essential for the furnishing by CLEVTEC of steam service substantially as required under the provisions of this Agreement is withdrawn; if any governmental authority enforces any rule or regulation that prevents CLEVTEC from furnishing steam service substantially as required under the provisions of this Agreement; or if PUCO, any other governmental authority, or any court of competent jurisdiction disapproves or materially changes, alters, or modifies this Agreement, then CLEVTEC shall have the right to discontinue the supply of steam and terminate this Agreement forthwith. CLEVTEC will provide notice to Customer of any termination of the Agreement under this Paragraph 6.C as promptly as practicable.

D. Upon termination of the Agreement for any reason, CLEVTEC shall have the right to enter the Premises and remove all of CLEVTEC's equipment, including without limitation, all meters installed therein.

7. Termination Charges. If Customer terminates this Agreement by written notice to CLEVTEC pursuant to Paragraph 6.A before the end of the term specified in Paragraph 2, Customer shall pay to CLEVTEC, as a condition to the termination, the following termination charges.

A. A lump sum determined by multiplying the sum of the last 12 months invoiced steam usage in Mlbs. by \$1.00 per Mlb.

plus;

B. A disconnect charge equal to the sum of all costs incurred by CLEVTEC in disconnecting its central system from Customer's steam system.

8. Miscellaneous.

A. CLEVTEC's standard rules and regulations for steam service as in effect during the term of this Agreement shall be applicable to the provision of steam service under this Agreement and are incorporated herein by this reference.

B. CLEVTEC shall install and maintain, at its own expense, such meters as may be required to determine the quantity and rate of taking of steam which is supplied by CLEVTEC. Such meters shall be installed and maintained upon the Premises at a point or points most convenient for CLEVTEC's service. Steam meters in use may be tested at the request of the Customer in his presence if desired by him with a tested and sealed meter-tester by an officer or employee of CLEVTEC. If the meter is found to be accurate within three percent, the Customer requesting the inspection shall pay CLEVTEC for the expense of removing it for the purpose of being

tested. The fact of reinspection shall be stamped and dated upon the meter. If the meter is proved inaccurate by more than three percent, no fees or expense shall be paid by the Customer and CLEVTEC shall furnish a new meter or repair the existing meter without charge to the Customer. If CLEVTEC maintains more than one meter or set of meters for the Premises, the steam service metered through each such meter may be billed separately as CLEVTEC determines.

C. CLEVTEC shall render bills on a monthly basis unless CLEVTEC determines that a different billing period is necessary or convenient. All bills shall be due and payable upon presentation. If CLEVTEC has not received payment on any bill within 25 days from the date thereof, interest shall accrue on the unpaid balance on a daily basis at the rate of one and one half percent per month from the date of the bill until the date of payment.

D. In order to establish financial responsibility, CLEVTEC may require an applicant for steam service to pay a cash deposit in an amount not in excess of 1-12th of the estimated charges for all steam for the ensuing 12 months, plus thirty percent of the monthly estimated charge. CLEVTEC shall accrue and pay interest at the annual rate of 6% on deposits held more than 180 days and shall: (a) refund such deposit including interest accrued to date to a Customer who has paid all bills for service for 12 consecutive months without having had service discontinued for nonpayment of his bill and without having had more than two occasions on which his bill was not paid by the time specified by the regulations of CLEVTEC regarding prompt payment of bills and the Customer is not then delinquent in the payment of his bills; or (b) promptly apply the Customer's deposit, including interest accrued to date, to the final bill for service upon termination or discontinuance of service. If after 12 consecutive months the Customer has not paid its bill on time on three or more occasions, or the Customer is delinquent at any time, or the Customer's service has been discontinued for non-payment of service, CLEVTEC shall retain the deposit for another 12 months, accruing interest during that time, and shall reevaluate the Customer's status again at the end of a second 12-month period. Any remaining deposit in excess of the final bill for service shall be promptly refunded or credited to the Customer. If the Customer cannot be located, any unclaimed deposit, plus accrued interest, shall be disposed of in conformity with Chapter 169 of the Ohio Revised Code.

E. CLEVTEC shall furnish and install, at its own expense, a service valve on the Premises. Upon termination of this Agreement, CLEVTEC may elect to remove such service pipes or to cut and cap service line, at the sole discretion of CLEVTEC.

F. CLEVTEC reserves the right, upon reasonable advance notice to Customer, to interrupt the supply of steam to enable CLEVTEC to make any

necessary repairs or connections to its system or mains. In general, CLEVTEC will give Customer 24 hours advance notice. In the event of an emergency, CLEVTEC will give Customer as much advance notice as practical.

G. CLEVTEC will endeavor at all times to provide a regular and uninterrupted supply of service throughout the year on a twenty-four-hour-a-day basis except as interruptions may be required to make any necessary repairs or connections to its system or mains, but CLEVTEC does not warrant or guarantee uninterrupted service, and shall not be liable for any special, direct, indirect or consequential damages relating to or arising from an interruption in service including, without limitation, damages for lost rents or lost profits. In the event of any interruption of service, both parties shall be prompt and diligent in attempting to remove and overcome the cause of the interruption, and nothing contained herein shall be construed as permitting CLEVTEC to refuse to deliver, or Customer to refuse to accept, steam service after the cause of interruption has been removed.

H. Subject to the limitation on the liability of CLEVTEC for interruptions in the delivery of steam service as provided in Paragraph 8.G, CLEVTEC agrees to indemnify and hold Customer harmless against any loss, damage, expense (including reasonable attorney's fees), or claim for personal injury, death, property damage, or otherwise arising from or incidental to the sale and delivery of steam service to the Premises pursuant to this Agreement, to the extent such loss, damage, expense, or claim is caused by the negligence of CLEVTEC, its employees, and agents. Customer agrees to indemnify and hold CLEVTEC, its employees, or agents harmless from any loss, damage, expense (including reasonable attorney's fees), or claim for personal injury, death, property damage, or otherwise arising from or incidental to the sale and delivery of steam service pursuant to this Agreement, to the extent such loss, damage, expense, or claim is caused by the negligence of Customer, its employees, or agents. Customer agrees to pay CLEVTEC for any repairs to or loss of CLEVTEC's personal property or fixtures in the Premises when such repairs are necessitated, or loss occasioned, by negligence on the part of the Customer, its agents, tenants, employees, or invitees, or by its failure to comply with the aforementioned rules and regulations.

I. Except in case of emergency, customer hereby grants CLEVTEC permission to enter the Premises upon reasonable notice during normal business hours for the purpose of inspecting and keeping in repair or removing any or all of its apparatus used in connection with the supply of steam.

J. Customer shall not supply steam to anyone or allow anyone to take steam from its system, except for use on the Premises for space heating and cooling use.

K. Customer shall provide and connect suitable cooling coils to cool the condensate before discharging the condensate to the condensation meter or sewer if the temperature of the condensate would otherwise exceed the temperature allowed by local code.

L. This Agreement shall be binding upon and inure to the benefit of the parties' respective successors and assigns; provided, however, that neither party shall be relieved of liability in the event of an assignment of this Agreement except as set forth below. In the event Customer (i) conveys fee title to the Premises to a third party and (ii) assigns its interest in this Agreement to the same third party and if that third party executes a written agreement in a form reasonably satisfactory to CLEVTEC (wherein such third party assumes and agrees to keep and perform promptly all of the Customer's obligations under this Agreement to be kept and performed from and after the date of assignment), and provides evidence reasonably satisfactory to CLEVTEC of its financial ability to discharge the obligations of this Agreement, then Customer shall be relieved of all its obligations under this Agreement not having theretofore accrued. In the event CLEVTEC (I) conveys fee title to substantially all of its assets used in the production of steam to a third party and (II) assigns its interest in this Agreement to the same third party, and if that third party executes a written agreement reasonably satisfactory to Customer wherein such third party assumes and agrees to keep and perform promptly all of CLEVTEC's obligations under this Agreement to be kept and performed from and after the date of assignment, then CLEVTEC shall be relieved of all its obligations under this Agreement not having theretofore accrued. Notwithstanding any other provision of this Agreement, CLEVTEC and Customer agree that CLEVTEC's performance under this Agreement shall be solely for the benefit of Customer. This Agreement shall not be construed as to confer any rights of a third party beneficiary upon any person or entity.

M. No failure or delay on the part of either party hereto in exercising any right, power, or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power, or remedy preclude any other or further exercise thereof or the exercise of any other right, power, or remedy hereunder. The remedies herein are cumulative and not exclusive of any remedies provided by law.

N. Any claim or dispute involving an amount in controversy less than \$200,000 that arises out of or is related to this Agreement or any breach thereof shall be resolved by arbitration and the rules of the American Arbitration Association shall apply. Any judgment upon the award rendered by the arbitrators may be entered in any court having jurisdiction thereof. Reasonable discovery shall be permitted in any such arbitration subject to the control of the arbitrators and shall include, but not be limited to, depositions of the parties and production of documents.

Claims or disputes involving an amount in controversy in excess of \$200,000 may be resolved by arbitration only at the election of the parties at the time of the dispute.

O. This Agreement and the documents incorporated herein by reference contain the entire understanding of the parties with respect to the supply of steam by CLEVTEC to Customer for use at the Premises. No provision of this Agreement may be modified or waived by any agent of CLEVTEC, except in a writing that explicitly refers to this Agreement.

P. System changes or modifications as mandated by any governmental authority or insurance company are not a part of this service agreement. In the event that CLEVTEC must incur significant financial costs to comply with such requirements, a prorated amount of the total expense will be applied to each Mlb. of steam sold to all customers over a reasonable period of time.

Q. Notices, requests, demands, statements, billings or other matters which CLEVTEC or Customer desire or are required to provide to each other shall be in writing, where possible, and shall be considered as delivered when mailed post-paid and addressed as follows:

CLEVELAND ENERGY RESOURCES:

Cleveland Energy Resources
1801 East 12th Street
Suite 201
Cleveland, Ohio 44114
Attention: General Manager
(216) 241-3636

CUSTOMER: The Plain Dealer Publishing Company
1801 Superior Avenue
Cleveland, Ohio 44114

R. This Agreement is subject to all federal, state and local laws and to the regulations or orders of any governmental agency with jurisdiction over it, but the Agreement shall be governed by and construed in accordance with the laws of the State of Ohio.

THE PLAIN DEALER PUBLISHING COMPANY

By: Robert M. Moway (Name)

MANAGER (Title)

Date: JAN 23, 1997

CLEVELAND ENERGY RESOURCES

By: William G. Franz (Name)

President (Title)

Date: Jan 29, 1997