BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of The Cleveland Electric Illuminating Company for Approval of an Electric Service Agreement with North East Chemical.	)))))	Case No. 93-336-EL-AEC
In the Matter of the Application of The Cleveland Electric Illuminating Company for Approval of an Electric Service Agreement with W. 78 St. Partners.	)))))	Case No. 93-532-EL-AEC
In the Matter of the Application of The Cleveland Electric Illuminating Company for Approval of an Electric Service Agreement with Guaranteed Finishing Inc.	)))))	Case No. 93-725-EL-AEC
In the Matter of the Application of The Cleveland Electric Illuminating Company for Approval of an Electric Service Agreement with Burger King #1194.	)))))	Case No. 93-1159-EL-AEC
In the Matter of the Application of The Cleveland Electric Illuminating Company for Approval of an Electric Service Agreement with Fast Food Operations Inc.	)))))	Case No. 93-1162-EL-AEC
In the Matter of the Application of The Cleveland Electric Illuminating Company for Approval of an Electric Service Agreement with Burger King.	))))	Case No. 93-1163-EL-AEC
In the Matter of the Application of The Cleveland Electric Illuminating Company for Approval of an Electric Service Agreement with Franchise Operations.	)))))	Case No. 93-1164-EL-AEC

This is to certify that the images appearing are an accurate and complete reproduction of a case file document delivered in the regular course of business.
Technician [illegible] Date Processed April 11, 1997

In the Matter of the Application of The Cleveland Electric Illuminating Company for Approval of an Electric Service Agreement with Memphis Burger Inc.	)))))	Case No. 93-1166-EL-AEC
In the Matter of the Application of The Cleveland Electric Illuminating Company for Approval of an Electric Service Agreement with Our Lady of Good Counsel.	)))))	Case No. 93-1168-EL-AEC
In the Matter of the Application of The Cleveland Electric Illuminating Company for Approval of an Electric Service Agreement with Bassichis Co.	))))	Case No. 93-1210-EL-AEC
In the Matter of the Application of The Cleveland Electric Illuminating Company for Approval of an Electric Service Agreement with Dickey Grabler Co.	)))))	Case No. 93-1657-EL-AEC

FINDING AND ORDER

The Commission finds:

(1) The Applicant, The Cleveland Electric Illuminating Company, is a public utility as defined in Section 4905.02, Revised Code, and, as such, is subject to the jurisdiction of this Commission.

(2) The Applicant now petitions this Commission for approval of Electric Service Agreements with several of its customers (See Attachment).

(3) The contracts are competitive response contracts entered into to encourage the retention of the customers' load on the Applicant's system. The Agreements are being considered for approval based on Staff's investigation into the competitive situation in the City of Cleveland as outlined in the Finding and Order in Case No. 95-159-EL-AEC approved by this Commission on March 27, 1997. Nevertheless, in the future the Commission's findings in Case No. 95-159-EL-AEC will

control the Commission's decision on special rate contracts in the City of Cleveland.

(4) The contracts either provide for similar terms and conditions as those contained in the Applicant's Competitive Pilot Program filed under Case Nos. 92-1743-EL-AEC and 93-142-EL-AEC or contain provisions which provide for discounts on non-fuel revenue.

(5) The filing dates and terms of the Agreements are contained in Attachment 1.

(6) The Applicant shall be the sole source supplier of all electric power to the facilities. In the event the Applicant is not the sole source supplier of all electrical power, the Customers may be billed for all incentives received as a result of these contracts. The Applicant may pursue other remedies available to it for the Customer's breach, including specific performance, consequential and incidental damages.

We note that some contracts contain a provision reserving to the Applicant the right to pursue remedies other than rebilling including specific performance and consequential and incidental damages. The parties are hereby put on notice that the Commission by approving these contracts is not making any determination on the Applicant's right to seek such recovery outside of the rebilling provision. Nothing in this Entry shall constitute approval of the Applicant's ability to obtain such damages or specific performance.

(7) The Commission puts the Applicant on notice that should certain regulatory or legislative changes occur in Ohio such that customers have substantially more choices as to the provider of their electric energy in the future, the Commission may consider allowing customers to take a "fresh look" at long term commitments. The Commission will continue to review this issue in the roundtable process.

(8) The applications should be approved pursuant to Section 4905.31, Revised Code.

(9) These Agreements are categorized as competitive response Agreements. Any delta revenue resulting from the Agreements shall be borne exclusively by the Applicant.

(10) Our approval of these contracts does not constitute state action for the purpose of the antitrust laws. It is not our intent to insulate the Applicant or any party to a contract approved by this Finding and Order from the provisions of any state or federal law which prohibit the restraint of trade.

It is, therefore,

ORDERED, That the Agreements attached to their applications are approved and shall become effective pursuant to their terms. Two copies of the Agreements as filed shall be accepted for inclusion in this docket. It is, further,

ORDERED, That the Applicant report to the Energy and Water Division of the Commission's Utilities Department semiannually, in January and July, the results of the Agreements including the increase in load and sales, the total dollar increase in revenue due to the Agreements, the total dollar difference in the billing at the appropriate tariff rates and the billing at the contract rates, and the number of jobs believed to have been created and/or saved due to the Agreements. Also, Applicant shall provide an analysis of Energy Efficiency Accounts showing the derivation of the balance and a description of projects funded. It is, further,

ORDERED, That nothing in this Finding and Order shall be binding upon this Commission in any subsequent investigation or proceeding involving the justness or reasonableness of any rate, charge, rule or regulation. It is, further,

ORDERED, That the Commission's approval of these contracts does not constitute state action for the purpose of antitrust laws. It is, further,

ORDERED, That a copy of this Finding and Order be served upon the Applicant, the Customer and all parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

Craig A. Glazer, Chairman

Jolynn Barry Butler

Richard M. Fanelly

Ronda Hartman Fergus

David W. Johnson

DLH:ct

Entered in the Journal
APR 10 1997

A True Copy

Gary E. Vigorito
Secretary

Attachment 1

Case No.	Customer	Date Filed	Term
93-336-EL-AEC	N.E. Chemical	2/26/93	5 YRS
93-532-EL-AEC	W. 78 St. Partners	3/30/93	5 YRS
93-725-EL-AEC	Guaranteed Finishing	4/30/93	5 YRS
93-1159-EL-AEC	Burger King #1194	7/13/93	5 YRS
93-1162-EL-AEC	Fast Food Operations	7/13/93	5 YRS
93-1163-EL-AEC	Burger King	7/13/93	5 YRS
93-1164-EL-AEC	Franchise Operations	7/13/93	5 YRS
93-1166-EL-AEC	Memphis Burger	7/13/93	5 YRS
93-1168-EL-AEC	Our Lady of Good Counsel	7/13/93	5 YRS
93-1210-EL-AEC	Bassichis Co.	7/26/93	5 YRS
93-1657-EL-AEC	Dickey Grabler	10/5/93	5 YRS

SERVICE NOTICE

CASE NUMBER 93-1159-EL-AEC

CASE DESCRIPTION CEI/BURGER KING #1194

DOCUMENT SIGNED ON April 10, 1997

DATE OF SERVICE APR 11 1997

PERSONS SERVED

PARTIES OF RECORD	ATTORNEYS
APPLICANT	
BURGER KING FRANCHISE OPERATIONS, INC. 14105 LORAIN AVE. CLEVELAND, OH 44111	NONE
APPLICANT	
CLEVELAND ELECTRIC ILLUMINATING CO 55 PUBLIC SQUARE P.O. BOX 5000 CLEVELAND, OH 44101	CRAIG I. SMITH ATTORNEY AT LAW 2824 COVENTRY RD. CLEVELAND, OH 44120 CHARLES V. FULLEM RATES DEPARTMENT CENTERIOR ENERGY 6200 OAK TREE BLVD INDEPENDENCE, OH 44131