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February 10, 2020

Tanowa Troupe,  
Secretary  
Public Utilities Commission of Ohio  
180 E. Broad Street, 13<sup>th</sup> Floor  
Columbus, Ohio 43215

Re: *In the Matter of the Application for Establishment of an Reasonable Arrangement  
between Earth 'N Wood Company and Ohio Power Company, Case No. 19-2098-EL-AEC*

Dear Secretary Troup:

On January 29, 2020, the Public Utilities Commission of Ohio ("Commission") issued an Finding and Order ("Order") in the above referenced case that approved a reasonable arrangement with the Ohio Power Company ("OP") filed by Earth 'N Wood Company ("Earth 'N Wood"). The Commission directed that Applicants file an executed contract implementing the arrangement.

Pursuant to the Commission's direction to file the contract in the above referenced case, please find the final executed contract attached hereto.

If you have any questions regarding this matter, please feel free to contact me at 614-719-2842.

Sincerely,

McNEES WALLACE & NURICK LLC

By

A handwritten signature in blue ink that reads 'Matt Pritchard'.

Matthew Pritchard

MP/lrg  
Attachment

## REASONABLE ARRANGEMENT AGREEMENT

THIS AGREEMENT is entered into on this 10<sup>th</sup> day of February 2020, by and between Ohio Power Company, its successors and assigns ("Company"), and Earth N' Wood Company, its permitted successors and assigns ("Customer"), and is effective as set forth below ("Effective Date").

### WITNESSETH

**WHEREAS**, the Company currently provides distribution and retail electric service to the Customer at the facilities, plant, and equipment directly associated with the operations identified in Customer's application filed with the Public Utilities Commission of Ohio ("Commission") in Case No. 19-2098-EL-AEC. The address of the facility subject to this Agreement is 5335 Strausser Street, NW, North Canton, Ohio 44720; and

**WHEREAS**, the Customer asserts that it wishes to continue to operate its large grinder in order to support local yard waste recycling programs, including those of local units of government which materials would otherwise be disposed of in the trash and make its way to landfills, that its grinder operates intermittently and accounts for the vast majority of Customer's overall electricity demand, and that Customer has explored and exhausted viable alternatives to remain competitive and avoid the consequences of Company's Monthly Billing Demand, which prevents Customer from managing its demand charges by shifting demand to off-peak; and

**WHEREAS**, in order to continue to obtain its required supply of electricity, the Customer submitted to the Commission an Application dated November 27, 2019; and

**WHEREAS**, the Commission has approved the Company and the Customer to execute an agreement based on its January 29, 2020 Opinion and Order; and

**NOW, THEREFORE**, in consideration of the Commission's Order approving the Application, the Company and the Customer enter into this Agreement, and do hereby agree as follows:

- **Effective Date and Term.** The Effective Date of this Agreement shall be the date upon which the Customer files this Agreement, following Commission approval. The term of this Agreement shall be from the Effective Date through May 31, 2024, or until the end of the authorization period of Company's Basic Transmission Cost Rider ("BTCR") pilot program or any successor program, if the Commission extends the current program or authorizes a successor program. Additionally, if, after notice and opportunity for a hearing, the Commission determines that the Customer has not substantially met the approved terms, the Commission may terminate the Agreement on the date specified by the Commission.

- **Electric Service.** This Agreement shall be applicable to the distribution and retail electric service furnished by Company to the Customer's Facilities at 5335 Strausser Street, NW, North Canton, Ohio 44720.
- Customer will secure electric distribution service from Company under the Rate Schedule 841, GS-2 Primary, as those terms and conditions are modified from time to time, except that the terms of the BTCR Pilot set forth in the Joint Stipulation and Recommendation approved in Case Nos. 16-1852-EL-SSO, *et al*, ("ESP IV Stipulation") will apply.
- Upon execution of this Agreement, Customer is authorized to immediately participate in the BTCR Pilot rates, and thereafter will follow the process set forth in the ESP IV Stipulation, notifying Company by the December 1 and February 15 election deadlines. This Agreement and Customer's participation in the BTCR Pilot do not count toward the total participation MW cap and rate adjustments identified in the ESP IV Stipulation.
- **Commitments.** The Customer agrees to abide by the commitments and benefits as described in the Application and approved by the Commission's Order, including but not limited to committing not to operate its large grinder beginning 6:00 a.m. and ending 9:00 a.m. during the months of December, January, and February, thereby reducing Company's total 12 CP demand; and seeking to curtail the operation of its large grinder during Company's potential 1 CP hours to reduce Customer's Network Service Peak Load ("NSPL").
- **Assignment.** The Customer may assign this Agreement with the written consent of the Company and express approval of the Commission.
- **Notices.** Any notice required or desired by either party to be given hereunder shall be made:

If to the Company at:

Ohio Power Company  
c/o American Electric Power  
Service Corporation  
1 Riverside Plaza, 29<sup>th</sup> Floor  
Columbus, Ohio 43215  
Email: stnourse@aep.com

If to the Customer at:

Earth N' Wood Company  
Attn: John Ziss  
5335 Strausser Street, NW  
North Canton, Ohio 44720-5585  
Email: johnz@kurtz-bros.com

Either party may submit to the other party a written notice of a location, address, or title of contact person change and such notice shall serve to modify this Agreement. Any communications required to be in writing pursuant to this Agreement may be delivered by first class U.S. Mail, courier service or commonly used forms of electronic communication (e.g., fax or email) consistent with the provisions set forth in this document. Notice shall be deemed to be received upon actual receipt if delivered by

courier, fax, or email, or three (3) days after postmarked if sent by first class U.S. Mail, postage prepaid.


- **Modification.** Within the term of the Agreement, Customer is permitted to seek modification of the arrangement, with Commission approval, as circumstances and conditions warrant. No modification shall become effective without the Commission's prior approval.
- **Other Events of Default; Termination.** Upon reasonable notice to Company, Customer may terminate this reasonable arrangement before the end of the original or extended term. Notwithstanding the foregoing, the parties agree that each of the following events shall individually constitute a breach of this Agreement that allows the Company the right to cancel without liability to the Customer all or any part of this Agreement and/or pursue any further remedies available at law or in equity: (1) the Customer assigns this Agreement or any part hereof without obtaining the proper consent as provided above; or (2) the Customer becomes insolvent or makes a general assignment for the benefit of creditors or admits in writing its inability to pay debts as they mature or if a trustee or receiver of the Customer or of any substantial part of the Customer's assets is appointed by any court or proceedings instituted under any provisions of the Federal Bankruptcy Code or any state insolvency law by or against the Customer are acquiesced in or are not dismissed within thirty (30) days or result in an adjudication in bankruptcy or insolvency.
- **Force Majeure.** Except with regard to the Customer's obligation to make payment(s) then due or becoming due to the Company, the Customer shall not be liable to the Company for any expenses, loss, or damage resulting from delays or prevention of performance arising from a Force Majeure. The Company shall not be required to perform or resume performance of its obligations to the Customer corresponding to the obligations of Customer excused by Force Majeure. "Force Majeure" shall mean acts of God, riots, strikes, labor disputes, labor or material shortages, act(s) by any government, governmental body or instrumentality, or regulatory agency (including, but not limited to, delay or failure to act in the issuance of approvals, permits, or licenses), fires, explosions, floods, breakdown of or damage to plants, equipment, or facilities, or other causes of similar nature which are beyond the reasonable control of the Customer and which wholly or partially prevent the receipt or utilization of electricity by the Customer. If the Customer is affected by Force Majeure, the Customer shall give notice to the Company as promptly as practical of the nature and probable duration of such Force Majeure, with the effect of such Force Majeure eliminated insofar as possible with all reasonable dispatch. The performance by the Customer hereunder shall be excused only to the extent made necessary by the Force Majeure condition. The Customer shall make reasonable efforts to avoid the adverse impacts of a Force Majeure and to resolve the event or occurrence once it has occurred in order to resume performance, provided that the Customer shall not be required to settle a labor dispute on terms unacceptable to the Customer; and provided further, that the Customer shall not be required to rebuild all or a major portion of its facilities which are destroyed or substantially impaired by a Force Majeure Event.



- **Reporting.** Subject to such confidentiality requirements as may be appropriate, the Customer shall, in accordance with Rule 4901:1-38-06, Ohio Administrative Code, provide the Company and Commission Staff no later than April 30 of each year with an annual report that demonstrates the Customer's compliance with the eligibility criteria and commitments, the value of any incentives received by the Customer and such other information as the Commission may request for purposes of monitoring compliance with this Agreement. The reports described herein shall not be filed with the Commission unless otherwise directed by the Commission.
- **Dispute Resolution.** If a dispute arises out of this Agreement, and if the dispute relates to a subject matter which is within the Commission's exclusive or primary jurisdiction, the parties agree first to try in good faith to settle the dispute. Nothing herein shall be construed or implied to preclude either party from initiating litigation on questions outside of the Commission's jurisdiction if they are unable to resolve such dispute through negotiations.
- **Mutual Cooperation.** The parties agree to provide mutual and timely support for purposes of effectively administering this Agreement. Such support shall include, without limitation, reasonable and timely access to documents and personnel of the other party.
- **Governing Law and Continuing Jurisdiction.** The validity, construction and performance of this Agreement shall be determined in accordance with the laws of the State of Ohio not taking into account any conflict of law provisions. The parties understand and agree that the Commission shall have continuing jurisdiction, for good cause shown, to modify, amend or terminate this Agreement and that good cause will be presumed in the event that the Customer has not complied with the commitments set forth in the Application as approved by the Commission in Case No. 19-2098-EL-AEC on January 29, 2020.
- **Interpretation.** This Agreement and the Company's standard tariff (including the terms and conditions of service), as applicable and as amended from time to time by the Commission, including any contract(s) required by the Company's standard tariff, sets forth the entire agreement between the parties. **THE PARTIES EXPRESSLY ACKNOWLEDGE THAT NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, WRITTEN OR ORAL, HAVE BEEN MADE BY EITHER PARTY TO THE OTHER.** In the event of any conflict between the Company's standard tariff and this Agreement, the Agreement shall control. In the event of any conflict between the terms and conditions set forth in this Agreement and the Commission's Order, the Commission's Order shall control. This Agreement remains subject to the Company's standard tariff as applicable and as amended from time to time, unless and to the extent otherwise expressly stated herein.
- **Reservation of Rehearing and Appeal Rights.** The Company and the Customer reserve their rights to apply for rehearing before the Commission and to pursue an appeal before the Supreme Court of Ohio and the Agreement remains subject to modification or termination based on the outcome of any such proceedings.

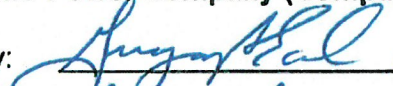
IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers or representatives as of the day and year first above written.

Earth N' Wood Company (Customer)

By:  2/10/20  
John Ziso, Sr.

Title: Executive Vice President

Ohio Power Company (Company)

By:  2/7/2020  
GREGORY A. EARL

Title: Mgr. Customer Experience

**This foregoing document was electronically filed with the Public Utilities**

**Commission of Ohio Docketing Information System on**

**2/10/2020 4:48:24 PM**

**in**

**Case No(s). 19-2098-EL-AEC**

Summary: Agreement for Establishment of an Reasonable Arrangement electronically filed by Mr. Matthew R. Pritchard on behalf of Earth 'N Wood Company