

ORDINANCE NO. 81-1989

Offered by Mayor Waszak

AN ORDINANCE TO PROVIDE FOR
LIGHTING BY ELECTRICITY THE
PUBLIC STREETS AND ROADS OF THE
VILLAGE OF RICHFIELD, OHIO

BE IT ORDAINED by the Council of the Village of
Richfield, State of Ohio:

Section 1. The Mayor and ^{Director of Finance}~~Clerk~~ are authorized and directed to make, on behalf of the Village, a contract with Ohio Edison Company for lighting by electricity the public streets and roads of the Village. The contract shall contain the following terms and conditions:

This Contract between the Village of Richfield, an Ohio municipal corporation (to be referred to as "the Customer" or "the Village") and Ohio Edison Company, an Ohio corporation, (to be referred to as the "Company"),

WITNESSETH:

WHEREAS, the Council of the Village of Richfield, by Ordinance No. 81-1989 adopted January 16, 19 90, authorized and directed the Mayor ^{Director of Finance} and ~~Clerk~~ to make, on behalf of the Village, a contract with

Ohio Edison Company for lighting by electricity the public streets and roads of the Village.

NOW, THEREFORE, the parties agree as follows:

1. DEFINITIONS

The following terms when used herein with initial capitalization shall have the meanings given below unless in any particular instance the context expressly indicates otherwise:

a. Contract Base is the dollar amount for which the Customer would have been billed for the month of December, 1989 had all Qualifying Lights been in operation during said month, the dollar amount being calculated under the Company's filed street lighting tariff in effect as of December 1989, less PIP and EFC charges.

b. EFC is Ohio Edison's fuel charge as reflected in the Company's then effective filed tariff applied to monthly kWh of Qualifying Lights.

c. Non-Fuel Power Production and Supply Expenses are the Customer's pro rata share of the Company's non-fuel power production and supply expenses. Such pro rata share shall be calculated by multiplying the Customer's monthly kWh usage of Qualifying Lights times a Non-Fuel Power Production and Supply O&M Factor. Such factor shall be calculated as shown in Attachment A hereto.

d. Non-Qualifying Lights are all street lights located within the Village which are not Qualifying Lights.

e. PIP is the percentage of income plan charge as reflected in the Company's then effective filed tariff applied to monthly kWh of Qualifying Lights.

f. Qualifying Lights means all mercury, high pressure sodium or metal halide energy efficient street lights located in the Village which are either Company owned or are Customer owned lights which were installed prior to December 31, 1989. Notwithstanding the above, Qualifying Lights do not include incandescent, expressway, underpass, high mast, energy-only or metered energy street lights.

g. Street Lighting O&M Expenses are the Customer's pro rata share of the Company's street lighting O&M expenses. Such pro rata share shall be calculated by multiplying the Customer's monthly kWh usage of Qualifying Lights times a Street Lighting O&M Factor. Such Street Lighting O&M Factor shall be calculated as shown in Attachment B hereto.

h. Street Lighting Unit(s) are all Qualifying Lights and Non-Qualifying Lights.

2. This Contract shall become effective as of January 1, 1990, and shall remain in force and effect for a period of ten (10) years with the Customer having the unilateral ability to renew the Contract for a five (5) year period beyond the original term.

3. It is agreed and understood that this Efficiency/Safety Incentive Program requires all Qualifying Lights to be turned on prior to December 31, 1989 or the earliest such date as is possible given the Company's operational constraints and that such lights remain on during the term of this Contract unless such lights are removed at the request of Customer and agreed to by the Company. Such removal shall be performed by the Company. The cost of such removal will be at the Company's expense during the first five years of this Contract and at the Customer's expense for the balance of the Contract. It is agreed and understood that any future Qualifying Lights, whether in present or yet to be created lighting districts, shall be made a part of this Contract and will not come under the purview of any other of the Company's filed street lighting tariffs. It is further agreed and understood that no future Non-Qualifying Lights shall be incandescent street lights.

4. The Company will operate and maintain all Qualifying Lights in the Village under the terms and conditions set forth herein. For any Qualifying Lights which were installed prior to December 31, 1989 and over which the Customer retains ownership, the Customer agrees to pay, save and hold the Company harmless from and against any and all claims, expenses or liabilities arising or in any manner growing out of the location, maintenance or condition of such

Qualifying Lights, unless initiated or proximately caused by the sole negligence of the Company.

5. For service rendered during the period January 1, 1990 through December 31, 1994, the Customer will be billed monthly for the day to day operation of Qualifying Lights under the following terms and schedule:

For Service Rendered

- 1/1/90 - 12/31/90 - The Customer will pay EFC and PIP charges plus 90% of the Contract Base.
- 1/1/91 - 12/31/91 - The Customer will pay EFC and PIP charges plus 80% of the Contract Base.
- 1/1/92 - 12/31/92 - The Customer will pay EFC and PIP charges plus 70% of the Contract Base.
- 1/1/93 - 12/31/93 - The Customer will pay EFC and PIP charges plus 60% of the Contract Base.
- 1/1/94 - 12/31/94 - The Customer will pay EFC and PIP charges plus 50% of the Contract Base.

6. Commencing on January 1, 1995 through the remaining term of this Contract, including any renewal period, the Customer shall pay the following for the day to day operation of Qualifying Lights on a monthly basis: Street Lighting O&M Expenses, plus Non-Fuel Power Production and Supply Expenses, plus EFC and PIP charges.

7. In addition to the charges provided for in Sections 5 and 6 herein, the Village shall pay for any removal, relocation, capital repair, conversion, change or addition charges as specified herein. Notwithstanding any provision herein to the contrary, any Non-Qualifying Lights which are operating at the request of the Customer shall be subject to the terms and conditions of and be billed under the Company's appropriate, filed street lighting tariff, as it may be modified from time to time.

8. On or about the first day of each month the Company will present to the Customer a bill for the Street Lighting Units operated and maintained under this Contract during the preceding month. The bill shall be due and payable on or before the date shown on the bill. An additional amount equal to 1.5% shall be charged on any unpaid balance existing after this date.

9. The Customer may, by written order, make a change in the location of any Street Lighting Unit. Such work shall be performed by the Company. The total cost of making any such change shall be paid by the Customer.

10. The Customer shall pay all capital costs associated with the repair of Qualifying Lights, such costs being all capitalized costs associated with the maintenance of Qualifying Lights. The Customer will be billed for these

costs as they are incurred. Notwithstanding the above, any Qualifying Light luminaire which fails due to normal operating causes and which is replaced in lieu of in-the-field maintenance will not be billed to the Customer as a capital cost. Rather, such cost will be included in the calculation of the Street Lighting O&M Factor as shown in Attachment B hereto. Should a Qualifying Light which was installed prior to December 31, 1989 and over which the Customer retains ownership have to be replaced, the removal and replacement of such shall be deemed to be a capital cost. Ownership of the replacement Qualifying Light shall be and remain in the Company.

11. If the Customer desires to have any of the Qualifying Lights converted to another type of light, the Customer shall pay all costs associated with such conversion. Such conversion shall not affect the Contract Base. Any new lights shall be Ohio Edison approved street lights and shall be owned by the Company.

12. Additional Qualifying Lights may be added at the request of the Customer. The Company will obtain and install such new lights which shall be Ohio Edison approved street lights. The cost of any such new Qualifying Lights, including installation, shall be borne by the Customer and billed upon completion of the installation. Ownership shall at all times remain with the Company. In the event that the Customer

desires to obtain and/or install any new Street Lighting Unit, or portion thereof, or desires to have an independent contractor or developer obtain and/or install any new Street Lighting Unit, or portion thereof, such shall only be allowed in the installation of an underground fed system and with the prior written approval of the Company. The Company shall make all connections to its electrical system. It is further agreed and understood that the Customer, independent contractor and/or developer must follow any safety standards regarding such work imposed by Company and utilize only Company approved street lights. The Village shall pay the total cost of such installation and shall reimburse the Company for any and all costs it incurs in association with such work. Upon completion of such work, the Customer shall insure, except where prohibited by state or federal law, that ownership of potential Qualifying Lights is in the Company. Unless and until the Company takes ownership, such Street Lighting Units shall be deemed Non-Qualifying Lights.

13. The Customer shall be billed monthly for the day to day operation of such new Qualifying Lights for the following: Street Lighting O&M Expenses, plus Non-Fuel Power Production and Supply Expenses, plus EFC and PIP charges.

14. Except for the Qualifying Lights which were installed prior to December 31, 1989 and over which the Customer retains ownership, all of the poles, wires, lamps,

fixtures and appurtenances of Qualifying Lights shall at all times be and remain the exclusive property of the Company.

15. The Customer agrees to reimburse the Company for any and all costs for changes in Company facilities made necessary in order to accommodate any permitted use of Company poles by the Customer. The Customer shall indemnify, pay and save harmless the Company from and against any and all claims, expenses or liabilities arising from or related to the Customer's use of the Company's facilities.

16. Lamps of Street Lighting Units shall burn on the established schedule for street lighting service, which means from approximately one-half hour after sunset to approximately one-half hour before sunrise each and every night in the year, for an annual operation of approximately four thousand hours.

17. The Company reserves and retains the right to grant to others not parties to this Contract such rights or privileges to use any poles covered by this Contract as are not in conflict with this Contract.

18. As between the Customer and the Company, the Company shall be the sole judge of its requirements for present and future use of its poles and attachments, and the present and future use of and attachments to the Company's

poles by any other licensee of the Company, and of any interference with such use or uses.

19. In case of circumstances which in the Company's sole judgment constitute an emergency, the Company reserves the right to remove and/or relocate any attachments of the Customer at the Customer's expense without notice.

20. The terms, provisions, covenants and conditions of this Contract shall extend and inure to the benefit of the successors and assigns of the Company.

21. Any other contract entered into by the Village and the Company covering the lighting by electricity of the public streets and roads of the Village is hereby revoked.

IN WITNESS WHEREOF, the parties have caused this Contract to be executed by their duly authorized officials
January 16, 19 90.

Section 2. Ordinance No. 61-1981 passed January 5, 1982,
and all other ordinances or parts thereof inconsistent with
this Ordinance are hereby repealed.

Section 3. This Ordinance shall take effect and be in force from and after the earliest period allowed by law.

Adopted January 16, ~~1989~~
1990
[Signature] 1/16/90
[Signature]
Mayor and President of Council

Attest:

[Signature]
Clerk

Contract Accepted By:

Ralph R. Waszak, Mayor

Libby Peters, Director of Finance

Attachment A

$$\begin{array}{l} \text{Non-Fuel Power Production} \\ \text{and Supply O\&M Factor} \end{array} = \frac{\begin{array}{l} \text{Company's non-fuel power production} \\ \text{and supply expenses} \end{array}}{\begin{array}{l} \text{Total Electric Sales plus} \\ \text{Net Interchanged Sales} \end{array}}$$

Company's non-fuel power production and supply expenses - Equal to the total power production and supply expenses included in FERC accounts 500 to 514, 517 to 532 and 546 to 557, or their equivalent, for the calendar year prior to the month in which the factor is to be applied, less fuel expenses for the same calendar year in FERC accounts 501, 518, and 555, or their equivalent, which are recoverable through the EFC Rule (4901:1-11 Ohio Administrative Code).

Total Electric Sales - Equal to total electric sales in kWh for the calendar year prior to the month in which the factor is to be applied.

Net Interchanged Sales - Equal to net scheduled interchanged power in kWh for the calendar year prior to the month in which the factor is to be applied.

Attachment B

$$\text{Street Lighting O\&M Factor} = \frac{\text{Company's Street Lighting O\&M Expenses}}{\text{Company's street lighting kWh}} + \frac{\text{Cost of Normal Luminaire Head Failures}}{\text{KWH associated with qualifying lights}}$$

Company's street lighting O&M expense - Equal to the Company's street lighting expenses included in FERC Accounts 585 and 596, or their equivalent, for the calendar year prior to the month in which the factor is applied.

Company's street lighting kWh - Equal to the Company's total street lighting kWh sales for the calendar year prior to the month in which the factor is applied.

Cost of normal head failures - Equal to the amount expended on luminaire failures which are due to normal operating causes, and which are capitalized to FERC Account 373, or its equivalent, for the calendar year prior to the month in which the factor is applied.

KWH associated with Qualifying Lights - Equal to the KWH sales for Qualifying Lights for the calendar year prior to the month in which the factor is applied.

Village (Council/~~Commission~~)

Village of Richfield, Ohio

Attention: Clerk of (Council/~~Commission~~)

Please be advised that Ohio Edison Company accepts the terms and conditions of Ordinance No. 81-1989, passed January 16, 1990 and agrees to enter into a contract with the Village as provided for therein.

Very truly yours,

Ohio Edison Company

By _____
Division Manager

The above acceptance of the terms and conditions of Ordinance No. 81-1989, was filed with me, Mary Hegley, Clerk of Council/~~Commission~~, Village of Richfield, Ohio, on _____, 1989.

Mary Le Hegley
Clerk