

# PART FIVE — MUNICIPAL UTILITIES AND SERVICES CODE

## Title III — Electricity

### Chapter 523 — Rules and Rates

Complete to June 30, 2006

#### CROSS REFERENCES

Power to establish light and power rates, RC 715.03, 715.06

Restrictions on electrical wire and cable placement, [CO Ch 521](#)

#### 523.01 Provisions for Sale of Electricity

The rates, rules and regulations governing the sale of the product of electric current furnished by the Department of Public Utilities, Division of Light and Power, are hereby established as set forth in the following Sections.

(Ord. No. 1090-39. Passed 7-17-39)

#### 523.02 Residential Rate Schedule

The following schedule is applicable to private single residences or to any individually metered family accommodation when service is used primarily for domestic and household purposes, as distinguished from commercial, professional or industrial purposes:

(a) *Kilowatt Hour Charge.*

KWH Per Month	Summer Rate (per KWH)	Winter Rate (per KWH)
First 1,000	\$0.0774	\$0.0655
All over 1,000	0.0752	0.0353

(b) *Definition of Seasonal Rate.* For the purpose of this rate schedule, the summer rate shall be in effect during the months of June, July, August, September and October. The winter rate shall be in effect during the months of November, December, January, February, March, April and May.

(c) *Energy Adjustment Charge.* In accordance with Section 523.21, an incremental charge or credit for energy may be determined on a monthly basis by the Division of Light and Power. Such incremental charge may be made in addition to the rates established in this

Section, but in no case shall such charge exceed the amount calculated by using the formula established in Section 523.21.

(d) *Environmental And Ecological Adjustment.* An environmental and ecological adjustment shall be applied to this rate as set forth and described in Section 523.17. (Ord. No. 1027-83. Passed 5-6-83, eff. 5-10-83)

### **523.03 Small Commercial Rate Schedule**

The following schedule is applicable to all commercial installations during any month in which such installation has a demand of less than thirty kilowatts (30 KWD):

(a) *Kilowatt Hour Charge.*

KWH Per Month	Summer Rate (per KWH)	Winter Rate (per KWH)
First 7,500	\$0.0679	\$0.0588
All over 7,500	0.0398	0.0309

(b) *Definition of Seasonal Rate.* For the purpose of this rate schedule, the summer rate shall be in effect during the months of June, July, August, September and October. The winter rate shall be in effect during the months of November, December, January, February, March, April and May.

(c) *Special Service.* Standby, temporary, special, welding, intermittent or extremely low load factor service is not included in this schedule and shall be subject to special rates based upon cost as computed by the Division of Light and Power.

Applicants for these services may be charged with the cost of installing and furnishing such services as well as the cost of removal of such services at the discretion of the Division.

(d) *Combined Billing.* At the option of the Division, commercial installations on the same premises may be combined on one meter and billed under this schedule with the number of kilowatt hours in each block of the rate and the minimum charge multiplied by the number of commercial installations.

(e) *Plural Service Connections.* Where plural service connections supply a customer on the same premises, meter readings on one commercial light service connection and on one commercial power service connection may, at the option of the Division, be added for billing purposes, and meter readings on two or more commercial connections supplying a customer on the same premises may be added for billing purposes at the option of the Division.

(f) *Environmental and Ecological Adjustment.* An environmental and ecological adjustment shall be applied to this rate as set forth and described in Section 523.17.

(g) *Energy Adjustment Charge.* In accordance with Section 523.21, an incremental charge or credit for excess energy costs may be determined on a monthly basis by the Division. Such incremental charge may be made in addition to the rates established in this Section, but in no case shall such charge exceed the amount calculated using the formula established in Section 523.21.

(h) *Determination of Applicable Schedule.* In any month that the kilowatt demand (KWD) equals or exceeds thirty, the billing for that month shall be calculated using the Large Commercial Rate Schedule set forth in Section 523.04.  
(Ord. No. 1027-83. Passed 5-6-83, eff. 5-10-83)

**523.04 Large Commercial Rate Schedule**

The following schedule is applicable to all commercial installations during any month in which such installation has a demand equal to or greater than thirty kilowatts (30 KWD) and less than 10,000 kilowatts (10,000 KWD) and a kilowatt hour consumption of less than or equal to 500,000.

(a) *Demand Charge.*

Kilowatt Per Month	Summer Rate KWD	Winter Rate KWD
First 50	\$7.99	\$7.28
All over 50	6.92	\6.33

(b) *Reactive Charge.*

Kilovar Per Month	KVAR	KVAR
For KVAR in excess of 30	\$0.20	\$0.20

(c) *Kilowatt Hour Charge.*

Kilowatt Per Month	KWH	KWH
First 40,000	\$0.0331	\$0.0288
Next 60,000	0.0207	0.0173
All over 100,000	0.0166	0.0140

(d) *Minimum Charge.* The monthly minimum charge shall be twelve dollars and twenty-five cents (\$12.25), plus the energy adjustment charge.

(e) *Maximum Charge.* The monthly maximum charge shall be \$0.165/KWH, plus the energy adjustment charge.

(f) *Definition of Seasonal Rate.* For the purpose of this rate schedule, the summer rate shall be in effect during the months of June, July, August, September and October. The winter rate shall be in effect during the months of November, December, January, February, March, April and May.

(g) *Determination of Demand.* The kilowatt demand shall be determined monthly by demand measurements and shall be the maximum thirty-minute kilowatt demand during the month.

(h) *Determination of Reactive Demand.* For all three-phase installations where the kilowatt demand is sixty-five or greater, and all single-phase installations where the kilowatt demand is seventy-five or greater, the reactive billing demand shall be determined by multiplying the monthly kilowatt demand by the ratio of the monthly lagging reactive kilovolt ampere hours to the monthly kilowatt hours.

For all three-phase installations where the kilowatt demand is less than sixty-five, and all single-phase installations where the kilowatt demand is less than seventy-five, the reactive billing demand shall be zero.

(i) *Discount for Primary Metering.* Where the electric energy is metered on the primary (2,300 volts or higher) side of the service transformers, a discount of two percent of the gross primary metered kilowatt hours may be allowed.

(j) *Voltage Supply Discount.* Where the electric energy is provided entirely from an 11,000 volt circuit, a discount of five cents (\$.05) per kilowatt of demand billed may be allowed.

(k) *Substation Ownership Discount.* A discount of thirty cents (\$.30) per kilowatt of demand billed may be allowed when a customer owns, installs and maintains transformation and substation apparatus, thereby relieving the Division of these costs.

(l) *Off-Peak Demand Allowance.* At the option of the Division, the billing demand may be the greater of the regularly incurred demand or eighty-five percent of the maximum demand incurred during off-peak periods.

The cost of special metering to determine such demand shall be charged to the customer.

Off-peak periods shall be from 12:00 a.m. until 8:00 a.m., Tuesday through Saturday, and from 4:00 p.m. Saturday through 8:00 a.m. Monday.

(m) *Special Service.* Direct current, standby, temporary, special, welding, intermittent or extremely low load and extremely low load factor service is not included in this schedule and shall be subject to special rates based upon cost as computed by the Division of Light and Power.

Applicants for these services may be charged with the cost of installing and furnishing such services as well as the cost of removal of such services at the discretion of the Division.

The monthly minimum charge shall be applied in the case of all special services.

(n) *Combined Billing.* Where plural service connections supply a customer on the same premises, meter readings may, at the option of the Division, be added for billing purposes. The combined demand shall be the sum of the undiversified demands computed as for separate billing.

(o) *Environmental and Ecological Adjustment.* An environmental and ecological adjustment shall be applied to this rate as set forth and described in Section 523.17.

(p) *Energy Adjustment Charge.* In accordance with Section 523.21, an incremental charge or credit for excess energy costs may be determined on a monthly basis by the Division. Such incremental charge may be made in addition to the rates established in this Section, but in no case shall such charge exceed the amount calculated using the formula established in Section 523.21.

(q) *Determination of Applicable Schedule.* In any month that the kilowatt demand (KWD) is less than 10,000 and the kilowatt hour consumption exceeds 500,000, the billing for that month shall be calculated using the Industrial Rate Schedule set forth in Section 523.043.

In any month that the kilowatt demand (KWD) is less than thirty, the billing for that month shall be calculated using the Small Commercial Rate Schedule set forth in Section 523.03

(Ord. No. 1027-83. Passed 5-6-83, eff. 5-10-83)

### **523.043 Industrial Rate Schedule**

The following schedule is applicable to all commercial installations during any month in which such installation uses more than 500,000 kilowatt hours during the current month and has a demand of less than 10,000 kilowatts:

(a) *Demand Charge.*

Kilowatt Per Month	Summer Rate KWD	Winter Rate KWD
First 50	\$7.99	\$7.28
All over 50	6.92	6.33

(b) *Reactive Charge.*

Kilovar Per Month	KVARD	KVARD
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For KVAR in excess of 30	\$0.20	\$0.20
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(c) *Kilowatt Hour Charge.*

Kilowatt Per Month KWH	KWH	
First 40,000	\$0.0331	\$0.0288
Next 60,000	0.0207	0.0173
Next 200 KWH/KWD but not less than 400,000KWH		
	0.0166	0.0140
Next 200 KWH/KWD	0.0105	0.0084
All excess KWH	0.0056	0.0056

(d) *Determination of Demand.* The kilowatt demand shall be determined monthly by demand measurements and shall be the maximum thirty-minute kilowatt demand during the month.

(e) *Definition of Seasonal Rate.* For the purpose of this rate schedule, the summer rate shall be in effect during the months of June, July, August, September and October. The winter rate shall be in effect during the months of November, December, January, February, March, April and May.

(f) *Determination of Reactive Demand.* The reactive billing demand shall be determined by multiplying the monthly kilowatt demand by the ratio of the monthly lagging reactive kilovolt ampere hours to the monthly kilowatt hours.

(g) *Discount for Primary Metering.* Where the electric energy is metered on the primary (2,300 volts or higher) side of the service transformers, a discount of two percent of the gross primary metered kilowatt hours may be allowed.

(h) *Voltage Supply Discount.* Where the electric energy is provided entirely from an 11,000 volt circuit, a discount of five cents (\$.05) per kilowatt of demand billed may be allowed.

(i) *Substation Ownership Discount.* A discount of thirty cents (\$.30) per kilowatt of demand billed may be allowed when a customer owns, installs and maintains transformation and substation apparatus, thereby relieving the Division of these costs.

(j) *Off-Peak Demand Allowance.* At the option of the Division, the billing demand may be the greater of the regularly incurred demand or eighty-five percent of the maximum demand incurred during off-peak periods.

The cost of special metering to determine such demand shall be charged to the customer.

Off-peak periods shall be from 12:00 a.m. until 8:00 a.m., Tuesday through Saturday, and from 4:00 p.m. Saturday through 8:00 a.m. Monday.

(k) *Special Service.* Direct current, standby, temporary, special, welding, intermittent or extremely low load and extremely low load factor service is not included in this schedule and shall be subject to special rates based upon cost as computed by the Division of Light and Power.

Applicants for these services may be charged with the cost of installing and furnishing such services as well as the cost of removal of such services at the discretion of the Division.

The monthly minimum charge shall be applied in the case of all special services.

(l) *Combined Billings.* Where plural service connections supply a customer on the same premises, meter readings may, at the option of the Division, be added for billing purposes. The combined demand shall be the sum of the undiversified demands computed as for separate billing.

(m) *Environmental and Ecological Adjustment.* An environmental and ecological adjustment shall be applied to this rate as set forth and described in Section 523.17.

(n) *Energy Adjustment Charge.* In accordance with Section 523.21, an incremental charge or credit for excess energy costs may be determined on a monthly basis by the Division. Such incremental charge may be made in addition to the rates established in this Section, but in no case shall such charge exceed the amount calculated using the formula established in Section 523.21.

(o) *Determination of Applicable Schedule.* In any month that the kilowatt demand (KWD) equals or exceeds 10,000, the billing for that month shall be calculated using the Large Industrial Rate Schedule set forth in Section 523.047.

In any month that the kilowatt hour consumption is less than or equal to 500,000, and the kilowatt demand (KWD) is less than 10,000, the billing for that month shall be calculated using the Large Commercial Rate Schedule set forth in Section 523.04.

(Ord. No. 1027-83. Passed 5-6-83, eff. 5-10-83)

### **523.047 Large Industrial Rate Schedule**

The following schedule is applicable to all commercial installations during any month in which such installation has a demand of greater than 10,000 kilowatts.

(a) *Demand Charge.*

Kilowatt Hour Per Month	Summer Rate KWD	Winter Rate KWD
First 5,000	\$8.43	\$7.68

All over 5,000	7.85	7.09
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(b) *Reactive Charge.*

Kilovar Per Month	KVARD	KVARD
For KVAR in excess of 10% of kilowatt demand	0.20	0.20

(c) *Kilowatt Hour Charge.*

Kilowatt Per Month	KWH	KWH
First 115 KWH/KWD	Charges are included in the demand charge.	
Next 305 KWH/KWD	0.0115	0.0092
All excess KWH	0.0050	0.0053

(d) *Determination of Demand.* The kilowatt demand shall be determined monthly by demand measurements and shall be the maximum thirty-minute kilowatt demand during the month.

(e) *Determination of Reactive Demand.* The reactive billing demand shall be determined by multiplying the monthly kilowatt demand by the ratio of the monthly lagging reactive kilovolt ampere hours to the monthly kilowatt hours.

(f) *Definition of Seasonal Rate.* For the purpose of this rate schedule, the summer rate shall be in effect during the months of June, July, August, September and October. The winter rate shall be in effect during the months of November, December, January, February, March, April and May.

(g) *Discount for Primary Metering.* Where the electric energy is metered on the primary (2,300 volts or higher) side of the service transformers, a discount of two percent of the gross primary metered kilowatt hours may be allowed.

(h) *Voltage Supply Discount.* Where the electric energy is provided entirely from an 11,000 volt circuit, a discount of five cents (\$.05) per kilowatt of demand billed may be allowed.

(i) *Substation Ownership Discount.* A discount of thirty cents (\$.30) per kilowatt of demand billed may be allowed when a customer owns, installs and maintains transformation and substation apparatus, thereby relieving the Division of these costs.

(j) *Off-Peak Demand Allowance.* At the option of the Division, the billing demand may be the greater of the regularly incurred demand or eighty-five percent of the maximum demand incurred during off-peak periods.

The cost of special metering to determine such demand shall be charged to the customer.

Off-peak periods shall be from 12:00 a.m. until 8:00 a.m., Tuesday through Saturday, and from 4:00 p.m. Saturday through 8:00 a.m. Monday.

(k) *Special Service.* Direct current, standby, temporary, special, welding, intermittent or extremely low load and extremely low load factor service is not included in this schedule and shall be subject to special rates based upon cost as computed by the Division of Light and Power.

Applicants for these services may be charged with the cost of installing and furnishing such services as well as the cost of removal of such services at the discretion of the Division.

The monthly minimum charge shall be applied in the case of all special services.

(l) *Combined Billings.* Where plural service connections supply a customer on the same premises, meter readings may, at the option of the Division, be added for billing purposes. The combined demand shall be the sum of the undiversified demands computed as for separate billing.

(m) *Environmental and Ecological Adjustment.* An environmental and ecological adjustment shall be applied to this rate as set forth and described in Section 523.17.

(n) *Energy Adjustment Charge.* In accordance with Section 523.21, an incremental charge or credit for excess energy costs may be determined on a monthly basis by the Division. Such incremental charge may be made in addition to the rates established in this Section, but in no case shall such charge exceed the amount calculated using the formula established in Section 523.21.

(o) *Determination of Applicable Schedule.* In any month that the demand is less than 10,000 kilowatts, the billing for that month shall be calculated using the Industrial Rate Schedule set forth in Section 523.043.

(Ord. No. 1027-83. Passed 5-6-83, eff. 5-10-83)

## **523.048 Optional Large Industrial Rate Schedule**

The following schedule is applicable to all commercial customers who contract for a demand equal to or in excess of 10,000 kilowatts for a period of not less than five (5) years and who are served at a primary voltage of 138,000 volts.

Summer

Winter

(a) Demand Charge Kilowatt Per Month

For the first 10,000 KWD	\$8.15/KWD	\$7.35/KWD
For all over 10,000 KWD	\$7.85/KWD	\$7.09/KWD

(b) Reactive Charge Kilovar Per Month

For all KVAR in excess of 10% of kilowatt demand	\$0.20/KVARD	\$0.20/KVARD
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(c) Kilowatt Hour Charge Kilowatt Per Month

For the first 115 KWH/KWD Charges are included in the demand charge		
For the next 305 KWH/KWD	\$0.0115/KWH	\$0.0092/KWH
For all excess KWH	\$0.0050/KWH	\$0.0053/KWH

(d) Determination of Demand. The kilowatt demand shall be determined monthly by demand measurements, and shall be the maximum thirty minute kilowatt demand during the month.

(e) Determination of Reactive Demand. The reactive billing demand shall be determined by multiplying the monthly kilowatt demand by the ratio of the monthly lagging reactive kilovolt ampere hours to the monthly kilowatt hours.

(f) Definition of Seasonal Rate. For the purpose of this rate schedule, the summer rate shall be in effect during the months of June, July, August, September and October. The winter rate shall be in effect during the months of November, December, January, February, March, April and May.

(g) Metering. Electric energy shall be metered on the secondary side of the service transformers.

(h) Facilities Ownership Discount. When a customer owns or constructs transmission, transformation, substation apparatus or other facilities, relieving the Division of these costs, a discount of rates and charges may be allowed based on the cost of service to such customer as determined by the Division.

(i) Combined Billing. At the option of the Division, where plural connections supply the same customer, meter readings may be added for billing purposes and the combined demand shall be the coincident demand or the sum of the undiversified demands.

(j) Environmental and Ecological Adjustment. An environmental and ecological adjustment may be applied to this rate as set forth and described in Section 523.17.

(k) Energy Adjustment Charge. An incremental charge for excess energy costs may be determined on a monthly basis by the Division and applied in addition to the rates established in this Section. The energy adjustment charge shall be determined by dividing the sum of the costs of coal, oil, gas and all costs of purchase power from a specific

source or sources purchased by the Division for distribution to the Consumer by the total kilowatt hours distributed to Consumer. From the resulting figure shall be subtracted 15 mils per kilowatt hour, which constitutes the cost of coal, oil, gas and purchase power which is imbedded in the Optional Large Industrial Rate Schedule. In the event that no specific energy source is identified for Consumer, the energy adjustment charge shall be determined pursuant to Section 523.21(c)(2).

(Ord. No. 327-95. Passed 2-27-95, eff. 3-6-95)

### **523.05 Street Lighting Schedule**

The following schedule is applicable to all electric street lighting service provided by the Division of Light and Power to governmental entities:

*(a) Nonornamental Lighting Service.*

Mercury Vapor (Watt) KWH/Lamp Monthly Rate/Lamp 175 75 \$5.55 250 105 6.46 400 165 8.40 1000 395 14.00 High Pressure Sodium (Watt) KWH/Lamp Monthly Rate/Lamp 100 52 6.20 150 71 7.66 250 112 9.94 400 174 11.28

*(b) Ornamental lighting service\_Type I (30 ft. steel pole).*

Mercury Vapor (Watt) KWH/Lamp Monthly Rate/Lamp 100 (E & M only) 46 \$6.00 175 75 14.10 175 (E & M only) 75 4.57 250 105 14.75 250 (E & M only) 105 5.15 400 165 16.50 400 (E & M only) 165 6.55 700 280 17.50 700 (E & M only) 280 8.00 1000 395 22.45 1000 (E & M only) 395 9.95 High Pressure Sodium (Watt) KWH/Lamp Monthly Rate/Lamp 100 52 10.58 100 (E & M only) 52 6.15 150 71 12.04 150 (E & M only) 71 7.55 250 112 14.62 250 (E & M only) 112 9.25 400 174 18.00 400 (E & M only) 174 12.25 Fluorescent (Watt\*) KWH/Lamp Monthly Rate/Lamp 200 101 10.45 \*Not available for new installation

*(c) Ornamental lighting service\_Type II (30 ft. concrete pole).*

Mercury (Watt) KWH/Lamp Monthly Rate/Lamp 400 165 \$22.99 High Pressure Sodium (Watt) KWH/Lamp Monthly Rate/Lamp 250 112 21.21 400 174 24.59

*(d) Ornamental lighting service\_Type III (41 ft. steel pole w/breakaway base).*

Mercury Vapor (Watt) KWH/Lamp Monthly Rate/Lamp 1000 395 \$34.45 High Pressure Sodium (Watt) KWH/Lamp Monthly Rate/Lamp 400 174 30.00

*(e) Street and highway lighting service\_energy only.*

Mercury (Watt) KWH/Lamp Monthly Rate/Lamp 100 (Controlled) 40 \$1.15 100  
 (Continuous) 96 2.40 175 (Controlled) 75 1.88 175 (Continuous) 158 3.95 250  
 (Controlled) 105 2.63 250 (Continuous) 220 5.50 400 (Controlled) 165 4.13 400  
 (Continuous) 346 8.65 700 (Controlled) 280 7.00 1000 (Controlled) 395 9.88 High  
 Pressure Sodium (Watt) KWH/Lamp Monthly Rate/Lamp 100 (Controlled) 52 \$1.30 100  
 (Continuous) 110 2.75 150 (Controlled) 71 1.78 150 (Continuous) 150 3.75 200  
 (Controlled) 88 2.20 200 (Continuous) 185 4.63 250 (Controlled) 112 2.80 250  
 (Continuous) 236 5.90 400 (Controlled) 174 4.35 400 (Continuous) 366 9.15 1000  
 (Controlled) 396 9.90 Metal Halide (Watt) KWH/Lamp Monthly Rate/Lamp 1000  
 (Controlled) 391 9.78

(f) *Terms and Conditions.*

(1) Street lights will be operated by time clock or by photoelectric control, to provide illumination from dusk to dawn, unless illumination is specified as continuous.

(2) The Division of Light and Power pays for the entire installation and amortizes the costs through the monthly rate.

If the installation is paid for by an outside party (Federal, State, County or private) and the Division maintains the installation, the Division shall charge the appropriate "energy and maintenance only" (E & M only) rate.

If the installation is paid for and maintained by an outside party (Federal, State, County or private), the Division shall charge the appropriate "energy only" rate.

(3) The Division may, at its discretion, meter "energy only" installations. If such an installation is metered, the energy shall be billed at \$0.025 per kilowatt hour.

(4) "Nonornamental lighting service" means lights of an overhead-type construction where the supply circuits are overhead wires and the lights are attached or suspended from wooden poles, trolley poles or are wall-mounted.

(5) "Ornamental lighting service" means all lights other than nonornamental including lights of an underground-type construction where the supply circuits are underground cables and lights are attached to ornamental standards; lights of an overhead construction where the supply circuits are overhead and the lights are attached to ornamental steel or concrete poles; and the lights that are wall-mounted in which the supply circuit is enclosed in conduit.

(g) *Environmental and Ecological Adjustment.* An environmental and ecological adjustment may be applied to this rate as set forth and described in Section 523.17.

(h) *Energy Adjustment Charge.* In accordance with Section 523.21, an incremental charge or credit for excess energy costs may be determined on a monthly basis by the Division.

Such incremental charge may be made in addition to the rates established in this Section, but in no case shall such charge exceed the amount calculated using the formula established in Section 523.21.

(Ord. No. 1027-83. Passed 5-6-83, eff. 5-10-83)

### **523.06 Protective Lighting Schedule**

(a) The following schedule is applicable to all protective lighting service provided by the Division of Light and Power. Such service shall include installation and full maintenance.

Area Lighting KWH/Lamp Monthly Rate/Lamp 100 Watt High Pressure Sodium 52 \$12.67 175 Watt Mercury Vapor 75 8.32 250 Watt Mercury Vapor 105 9.41 250 Watt High Pressure Sodium 112 15.16 400 Watt Mercury Vapor 165 13.39 400 Watt High Pressure Sodium 174 19.14 1000 Watt Mercury Vapor 395 20.40 1000 Watt Metal Halide 391 27.85 Flood Lighting KWH/Lamp Monthly Rate/Lamp 250 Watt Mercury Vapor 105 \$10.61 250 Watt High Pressure Sodium 112 14.41 400 Watt Mercury Vapor 165 16.69 400 Watt High Pressure 174 20.45 1000 Watt Mercury Vapor 395 22.03 1000 Watt Metal Halide 391 29.05 1000 Watt Quartz 348 23.70 1500 Watt Quartz 522 25.27

(b) *Environmental and Ecological Adjustment.* An environmental and ecological adjustment may be applied to this rate as set forth and described in Section 523.17.

(c) *Energy Adjustment Charge.* In accordance with Section 523.21, an incremental charge or credit for excess energy costs may be determined on a monthly basis by the Division. Such incremental charge may be made in addition to the rates established in this Section, but in no case shall such charge exceed the amount calculated using the formula established in Section 523.21.

(Ord. No. 1027-83. Passed 5-6-83, eff. 5-10-83)

### **523.061 Charge for Outdoor Residential Lighting**

The charge for outdoor residential lighting equipment provided by Cleveland Public Power shall be established in accordance with the cost of service as computed by the division. The division may allow a customer to pay such charges under a payment plan through installments included in the customer's bill, for a period of twelve (12) months commencing with the first billing period after installation, provided such customer has a good account history, as determined by the division.

(Ord. No. 510-98. Passed 5-18-98, eff. 5-25-98)

### **523.062 Homestead Discount for Outdoor Residential Lighting**

The charges for outdoor residential lighting established pursuant to Section 523.061 shall be discounted by ten percent (10%) for any customer who has obtained a certificate of reduction of taxes pursuant to the Homestead Exemption provisions of Sections 323.151

through 323.157 of the Revised Code.  
(Ord. No. 1277-98. Passed 7-29-98, eff. 8-5-98)

### **523.065 Traffic Signal Service Rate Schedule**

The following schedule is applicable to all energy sold to governmental entities for the purpose of traffic signal service:

(a) *Kilowatt Hour Charge.*

Summer Rate Winter Rate \$.023 \$.023

(b) *Definition of Seasonal Rates.* For the purpose of this rate schedule, the summer rate shall be in effect during the months of June, July, August, September and October. The winter rate shall be in effect during the months of November, December, January, February, March, April and May.

(c) *Environmental and Ecological Adjustment.* An environmental and ecological adjustment may be applied to this rate as set forth and described in Section 523.17.

(d) *Energy Adjustment Charge.* In accordance with Section 523.21, an incremental charge or credit for excess energy costs may be determined on a monthly basis by the Division of Light and Power. Such incremental charge may be made in addition to the rates established in this Section, but in no case shall such charge exceed the amount calculated using the formula established in Section 523.21.

(Ord. No. 1027-83. Passed 5-6-83, eff. 5-10-83)

### **523.07 Regulations for Applicants for Electrical Service**

(a) All applicants for electrical service supplied by the Division of Light and Power shall agree to abide by all of the rules and regulations hereinafter set forth and all other rules and regulations as may be contained in other City ordinances relating to electrical service supplied by the Division.

(b) The consumer hereby agrees not to resell, sublet or divert any of the electric service herein contracted for, except with the written consent of the City.

(c) The consumer agrees not to allow the City's wires or meters to be interfered with in any way.

(d) In case of loss or damage to the property of the City from an act of negligence of the consumer or its agents or servants, or of failure to return equipment supplied by the City, the consumer shall pay to the City the value of such property.

(e) No other electric service shall be used by the consumer in conjunction with the City's service, either by means of an automatic or manually operated switch, or by any other device, connection or arrangement, without the express consent of the City especially obtained for that purpose. Any violation of this rule shall authorize the City to discontinue its service entirely and remove its property.

(f) The City will furnish the electric meter, metering equipment and the necessary service drop to connect the City's mains with the consumer's system at the service entrance. All wiring, meters, equipment, appurtenances and material of any nature furnished by the City shall remain its property, and may be removed by it at any time after the termination of this agreement or the discontinuance of the service.

(g) It is further expressly agreed that the undertaking of the City shall be completed by the supplying of the electric service at the conditions stated to the wire entrance of the consumer's premises, and that any appliances or equipment required to transform, control, regulate or utilize energy shall be furnished and maintained by the consumer, and particularly that the City shall not be under any requirements to furnish lamps of any kind, nor maintenance or renewals of the same, nor fuses, nor the service of repairmen or inspectors for the consumer's property.

(h) In case the City is prevented from delivering or the consumer prevented from receiving electric service for any cause reasonably beyond their control, then the City shall not be obligated to deliver nor the consumer to receive electric service during such interruptions, but both parties shall be prompt and diligent in removing or overcoming the causes of the interruptions, and nothing contained herein shall be construed as permitting the City to refuse to deliver or the consumer to decline to receive the aforesaid service after the cause of interruption is removed.

(i) If meter readings are for a period of two or more months, interim monthly bills may be rendered based on estimated use.

(j) As used in this section:

(1) "Service connection" means a metered supply of electrical energy.

(2) "Premises" means a building or contiguous buildings occupied by the customer.

(3) "Commercial light service connection" means a supply where the principal use is for lighting purposes.

(4) "Load factor" means the ratio of the actual kilowatt hours used to the product of the monthly measured or metered demand and the total number of hours in the billing period.

(5) "Low load factor service connection" means special, temporary, welding or intermittent service.

(6) "Demand" means the maximum thirty minute kilowatt demand registered during the billing period.

(7) "Combined demand" means the sum of the undiversified demands computed as for separate billings, except that the combined demand may be the diversified demand at the option of the Division of Light and Power.

(Ord. No. 1629-73. Passed 1-28-74, eff. 1-28-74)

### **523.08 Provisions Governing Advance Deposits**

(a) A cash deposit equal to one month's estimated bill may be required as security for the payment of services rendered. The applicant and/or consumer may, however, file a satisfactory guarantee with the Division of Light and Power that will serve to insure payment of bills. All such guarantees, written or otherwise, shall be subject to the approval of the Division. If a deposit is required, it shall be billed at the time of application for service.

(b) A cash deposit may be required to cover the entire cost of line extensions or service connections which do not form a part of the permanent distribution system or in such cases where the revenue received by the Division will not be sufficient to cover the carrying charges thereof.

(c) Failure of the consumer to give advance notice of termination of service may result in forfeiture of the security deposit.

(d) No cash or guaranteed deposit shall be refunded or released until termination of service is complete and after all unpaid bills or other indebtedness to the Division have been paid in full. A cash deposit may be refunded, however, if the consumer files a satisfactory guarantee with the Division in lieu thereof.

(e) No cash deposit will be refunded except where sufficient revenue either has been collected or is anticipated to cover carrying charges for line extensions and service connections, as hereinbefore described.

(Ord. No. 1629-73. Passed 1-28-74, eff. 1-28-74)

### **523.09 Accounting System**

In order to satisfy the requirements of the mortgage indenture and provide for the proper operation of the Division of Light and Power, accounting methods and procedures shall conform to the requirements of the uniform system of accounts prescribed for public utilities and licensees by the Federal Power Commission.

(Ord. No. 1629-73. Passed 1-28-74, eff. 1-28-74)

### **523.10 Statements for Service Supplied**

(a) Statements for electrical service supplied shall be computed and billed on a monthly basis. At the discretion of the Division of Light and Power, budget billing may be allowed for consumers having established a satisfactory payment record.

In the event that an incorrect billing should be rendered to the consumer, it shall be subject to adjustment.

(b) Statements for service supplied shall carry an account number assigned on the basis of service location. Such account number once assigned shall be not changed and shall be reassigned to each new occupant of the premises served.

(Ord. No. 1629-73. Passed 1-28-74, eff. 1-28-74)

### **523.11 Delinquent Accounts**

(a) If a statement rendered to a consumer is not paid on or before the due date stated thereon, the consumer's account shall be termed "delinquent" and shall be subject to discontinuation of service.

(b) The Division of Light and Power shall give notice to the consumer prior to termination of service. The first notice shall be sent by first class mail at least ten calendar days prior to the date after which termination could occur. If the Division receives no response from the consumer within five days after the date of mailing of the first notice, then a second notice shall be sent by first class mail, or personal contact shall be made with an adult on the premises (telephone or physical visitation). All notices shall be provided to the account name and address and, if different, to the address where service is provided, as well as any other party previously designated by a residential customer to receive a copy of a termination notice. The termination notice shall be provided to residential customers in alternate languages where appropriate.

(c) When terminating service to elderly or handicapped residential customers, the Division's final notice shall be by personal contact with an adult on the premises (telephone or physical visitation). If personal contact cannot be made, the notice of termination shall be posted in a conspicuous location at the service address at least forty-eight hours (two working days) before the date after which termination could occur.

For the purpose of this section, "elderly" means any residential customer, sixty-two years of age or older, who resides at the service address and who has notified the Division of his or her status. For the purpose of this section, "handicapped" means any residential customer who resides at the service address and has any physical or mental impairment which substantially limits one or more of such person's life activities, and such person:

(1) Is certified as being physically disabled by a licensed physician;

(2) Is certified as being mentally disabled by a licensed psychiatrist, registered psychologist, Veterans Administration, Social Security Administration or local board of health; and

(3) Has notified the Division of his or her status.

(d) Tenants who pay for electric service as part of their rent in master-metered buildings, shall be individually notified, when practical, of any proposed termination. Tenants shall be collectively notified by posting a termination notice in a conspicuous location, such as near mailboxes, building entrances and exits or other areas of common usage. Tenants may collectively pay the delinquent amount in order to avoid termination of service.

(e) A notice of termination of service shall include the following information:

(1) The name, address and account number of the customer to be terminated;

(2) A statement of the reasons for termination;

(3) The date after which the termination could occur;

(4) The charge for service reconnection;

(5) A statement that the consumer has the right to appear before a Board of Review to present objections and to examine all data related to his or her account; and

(6) In cases where termination is based on failure to pay, the amount owed, the time period over which the amount was incurred and whether the amount was based on actual meter readings or on an estimated consumption.

(f) The Division shall determine when termination of service to a customer would be especially dangerous to health because of extreme environmental conditions or because a residential customer or party residing at the customer's address has provided the Division with certification by a licensed physician that he or she is likely to become seriously ill or more seriously ill if such service is terminated. The Division shall not terminate service during the time any such condition exists, provided that the customer furnishes sufficient information to the Division's customer service representative to establish, to the satisfaction of the Division, that:

(1) He or she is unable to pay for such service; or

(2) He or she is able to pay for such service but only in installments.

All disputes regarding any of the provisions of this section shall be resolved by the Board of Review. Upon establishment of the customer's eligibility for relief under this section, the Division shall refrain from terminating service so long as the conditions established prevail. The Division may, from time to time, require recertification of serious illness, if applicable. The Division shall make arrangements with the customer for the payment of delinquent bills in installments, taking into consideration the amount of money owed, the customer's ability to pay, the customer's payment history, the time that the debt has been outstanding, the reasons why the debt has been outstanding and any other relevant factor.

If a customer does not meet the requirements of such installment plan, service shall be subject to termination upon notice given after such failure to pay, in accordance with subsections (a) through (c) hereof.

(Ord. No. 940-81. Passed 3-8-82, eff. 3-10-82)

### **523.12 Special Charges**

The following service charges may be charged by the Division of Light and Power:

Service Charge Temporary Construction Power-50 amp Actual Cost (\$45.00 min.) Power-100 amp Actual Cost (\$60.00 min.) Loosen service pipe for construction \$20.00 Refasten service pipe after construction 20.00 Reconnection after disconnection for nonpayment 8.00 Pick up delinquent payment 5.00 Relocate service Actual Cost (\$30.00 min.) Standby service \$1.75/KVA of transformer capacity Relocation of pole or other facilities Actual Cost Penalty for late payment of Large Commercial, Industrial, Large Industrial, Street Lighting and Traffic Signal Invoices 1% per month on unpaid balance.

(Ord. No. 940-81. Passed 3-8-82, eff. 3-10-82)

### **523.13 Access to Consumer's Property**

Representatives of the Division of Light and Power shall have access at all reasonable times, to all electrical equipment, appliances, etc., belonging to or owned by the Division erected upon the consumer's premises.

(Ord. No. 726-57. Passed 4-8-57, eff. 4-9-57)

### **523.14 Changes of Electrical Service**

Notice of intention to make any material change in the connected electrical load shall be made to the office of the Division of Light and Power at least ten days prior to the date of such change. In the absence of such notice, the consumer making the change shall be responsible for any damages to transformers, meters or other equipment belonging to or owned by the Division. Material changes in the connected electrical load may not be made without approval of the Division.

(Ord. No. 1629-73. Passed 1-28-74, eff. 1-28-74)

### **523.15 Provisions Governing Electrical Construction and Apparatus**

(a) All electrical construction and apparatus that are to be connected to the distribution system of the Division of Light and Power shall be subject to the approval of the Division, and in accordance with the regulations of the National Electrical Code and such City ordinances that may apply to the same. The consumer agrees not to connect any motors or other devices to the City's system which, because of excessive starting currents or other objectionable intermittent demands, may cause a disturbance in the electric service unless the motor or devices are equipped with current-limiting accessories

satisfactory to and approved by the City. The Division reserves the right to refuse to install or connect to any wiring such appliances, apparatus, etc., that do not conform with the requirements.

(b) In the event that appliances, apparatus, etc., are found to be installed upon the consumer's premises that do not conform with the rules and regulations contained herein, the Division reserves the right to remove all appliances, appurtenances, etc. belonging to or owned by the Division from the consumer's premises without notice. Electrical service thus discontinued may be restored after the consumer has corrected the unsatisfactory condition that existed theretofore. Such consumer shall be charged a reconnecting fee as provided in Section 523.12 and all costs incident to restoring the electrical service.  
(Ord. No. 1629-73. Passed 1-28-74, eff. 1-28-74)

### **523.16 Faulty Meters**

Whenever a meter has failed to register correctly, the bill for such period shall be adjusted on the basis of the estimated amount of electricity used. In the event that a meter should be found to be registering incorrectly due to any illegal device attached thereto, electrical service will be discontinued immediately without notice and the consumer will be billed for the estimated amount of electricity used, plus a reconnecting charge as stated in Section 523.12.

(Ord. No. 726-57. Passed 4-8-57, eff. 4-9-57)

### **523.17 Environmental and Ecological Adjustment**

(a) The costs of special apparatus and equipment required for compliance with Federal, State or City environmental protection laws and directives as have been or may be installed and operated from time to time or on a continuing basis shall be prorated on a ¢/KW.-hr. basis and assessed against the appropriate rate schedule. The provisions of this section may be applied to rate schedules described in Sections 523.02 to 523.06 or any other rate schedules as may later be enacted and approved.

(b) The costs for which an adjustment can be incurred shall include but are not limited to voluntary or involuntary research and development charges, purchase and installation of emission control equipment for sulphur, nitrogen and particulate emissions, purchase and installation of control equipment for protection of the natural water supply, purchase and installation of power supply apparatus and power from remote sources and any other charges levied on the Division of Light and Power in lieu of precise compliance with statutes and directives.

(Ord. No. 1629-73. Passed 1-28-74, eff. 1-28-74)

### **523.18 Liability for Damages**

The Division of Light and Power shall not be liable for any damages caused by an interruption or discontinuance of the supply of electricity, variations in service characteristics, high or low voltage, the single phasing of three-phase service, phase

reversals, the use of electrical appliances or attachments. Protective devices, mechanisms or regulators designed to prevent appliances, motors, generators and other equipment receiving electric current from incurring damage caused by interruptions in service, variations in service characteristics, high or low voltage, the single phasing of three-phase service and phase reversals are commercially available and shall be provided by the consumer.

(Ord. No. 1629-73. Passed 1-28-74, eff. 1-28-74)

### **523.19 Electric Service Agreement**

(a) By application for and receipt of electric service, each consumer shall be deemed to have entered into an electric service agreement in the form prescribed in division (b) of this Section. At the option of the Division of Cleveland Public Power, application for residential or small commercial service may be accepted by telephone, or by using a preprinted mail-in type card contract.

(b) The general form of service agreement is as shown in the example below:

Division of Cleveland Public Power 1201 Lakeside Avenue Cleveland, Ohio 44114

THIS AGREEMENT, made and entered into by and between the City of Cleveland, Ohio ("the City"), acting by and through its Director of Public Utilities or his authorized representative, and

---

\_\_\_\_\_

("the Consumer").

WITNESSETH: In consideration of the agreements, promises, and undertakings herein set forth, the City, for itself, its successors and assigns and the Consumer for \_\_\_\_\_ self, heirs, executors, administrators, successors and assigns, do hereby mutually agree as follows:

ART. 1: The City will supply nominal 60 cycle, \_\_\_\_\_ volts, phase, \_\_\_\_\_ wire, alternating current from its electric system to the Consumer's premises located at \_\_\_\_\_.

ART. 2: The Consumer states that the maximum demand or capacity required from the City's electric system is \_\_\_\_\_ kW and in the event that said maximum demand is changed, the Consumer will promptly notify the City in writing of the increase or decrease in required capacity.

ART. 3: For the electric service furnished under this contract, the Consumer agrees to pay the City in accordance with the terms, conditions and applicable rate schedule established by or as may be amended from time to time by the City and approved by City Council,

and said rates, terms and conditions are hereby made a part of this contract the same as if incorporated herein.

ART. 4: The Consumer agrees to comply with all the rules and regulations as may be established by the City, all of which are by reference made a part of this agreement.

ART. 5: The City will furnish the equipment necessary to bring electric service to the Consumer which shall remain the property of the City and the City shall be permitted to remove the same at the termination of the contract.

ART. 6: The Consumer agrees that the City shall have the convenient and practical access, location and right-of-way to and upon the Consumer's property as may be necessary to properly furnish and maintain the electric equipment required to serve the Consumer.

ART. 7: The Consumer agrees to pay the City monthly for electric service supplied.

ART. 8: The City shall not be liable to the Consumer for any loss, injury, or damage resulting from the Consumer's use of this electric service, the Consumer's connection to the City's system, interruption of service, consequential damage, or any cause reasonably beyond the City's control.

ART. 9: This agreement shall be in force beginning on the date hereof and continuing for a period of \_\_\_\_\_ (\_\_\_\_\_) years from the date electric service is initially provided and shall continue in force thereafter until cancelled by thirty (30) days written notice given by either party. The Consumer shall not contract with any other electric utility for electric service to be supplied during the term of this agreement.

IN WITNESS WHEREOF, said parties have hereunto set their hands this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_.

CONSUMER \_\_\_\_\_  
\_\_\_\_\_

ACCOUNT NO. \_\_\_\_\_  
\_\_\_\_\_

METER NO. \_\_\_\_\_  
\_\_\_\_\_

MAIL BILLS TO:

REMARKS:

CITY OF CLEVELAND

APPROVED

COMMISSIONER, DIVISION OF

CLEVELAND PUBLIC POWER

DATE SERVICE STARTS

CONTRACT NO. \_\_\_\_\_  
\_\_\_\_\_

DATE METER

INSTALLED \_\_\_\_\_  
\_\_\_\_\_

SECURITY DEPOSIT \_\_\_\_\_  
\_\_\_\_\_

(c) Service contracts may include an agreement for the direct purchase of primary service installations owned by the consumer owner of the premises or by any utility, provided such installation complies with the City's construction standards and such purchase is economically feasible.

(Ord. No. 1658-93. Passed 11-29-93, eff. 12-7-93)

**523.195 Electrical Service Agreements with Government and Charitable Entities**

Notwithstanding any other provision of this Chapter, rates and other charges to the United States, to the State of Ohio, to any political subdivision of the State of Ohio, or to any entity engaged in charitable functions, fairs or expositions may be established in accordance with the cost of service to each such customer as computed by the Division of Light and Power. All contracts and agreements made or entered into by the Commissioner pursuant to this section are valid and enforceable at law.

(Ord. No. 1679-85. Passed 4-28-86, eff. 4-30-86)

**523.20 Refusal of Electrical Service**

Electrical service may be refused to any applicant who is indebted to the Division of Light and Power for service previously supplied. Electrical service may also be refused to any applicant wherever the facilities of the Municipal Light Plant prove inadequate to take on new consumers.

(Ord. No. 1629-73. Passed 1-28-74, eff. 1-28-74)

**523.21 Energy Adjustment Charge**

(a) An additional incremental charge for excess fuel and power production and purchase power costs may be applied to the rates prescribed in Sections 523.02 to 523.065 and any other rate schedule as may be adopted by the City.

(b) The incremental charge shall be based on the fuel and purchase power cost per kilowatt hour delivered calculated under divisions (c)(1) and (2) of this section, and shall not be less than the charge calculated under the divisions on October 1, 1997.

(c)(1) The fuel and purchase power cost per kilowatt hour sold to residential ratepayers shall be determined by dividing the sum of the cost of the kilowatt hours purchased from the Power Authority of the State of New York and the average cost of kilowatt hours purchased from other sources needed to supply the residential customers by the total kilowatt hours distributed to residential customers. For the period ending December 31, 2008, the incremental charge calculated herein shall be adjusted by subtracting 15 mils per kilowatt hour for residential customers who provide the Division of Cleveland Public Power with a certificate of reduction of taxes obtained pursuant to the Homestead Exemption provisions of Sections 323.151 through 323.157 of the Revised Code, and 9.75 mils per kilowatt hour for all other residential customers. Beginning on January 1, 2009, the incremental charge for all residential customers shall be adjusted by subtracting 15 mils per kilowatt hour.

(2) Except as provided in Section 523.048, the fuel and purchase power cost per kilowatt hour sold to all ratepayers, other than residential ratepayers, during the twelve months of the year, shall be determined by dividing the sum of the total cost of coal, oil, gas and purchase power by the total kilowatt hours distributed, except that the computation shall exclude the cost of PASNY power and the amount of PASNY power allocable to kilowatt hours distributed, and shall exclude the costs of all purchase power from a specific source or sources purchased by the Division for distribution to ratepayers pursuant to Section 523.048. For the period ending December 31, 2008, the incremental charge calculated herein shall be adjusted by subtracting 3.0 mils per kilowatt hour. Beginning on January 1, 2009, such incremental charge shall be adjusted by subtracting 15 mils per kilowatt hour.

(d) At the end of each month, the Division of Cleveland Public Power shall determine the excess fuel and power charge during such month as herein provided.

(Ord. No. 2068-05. Passed 11-21-05, eff. 11-22-05)

*Note: Sections 4 through 8 of Ordinance No. 910-98, passed February 14, 2000, effective February 22, 2000, read as follows:*

**Section 4.** *That the revenue resulting from the increase in the incremental charge provided for herein shall be applied exclusively to the repayment of any bond obligations of Cleveland Public Power.*

**Section 5.** *That during the annual budget review, the Director of Public Utilities shall submit a written report to all members of City Council and present such report orally to the Public Utilities Committee of Cleveland City Council which indicates the status of the repayment of Cleveland Public Power's bond obligations.*

**Section 6.** *That by the end of each calendar year Cleveland Public Power shall receive from the general fund an amount equal to eighty-five percent (85%) of the excise tax*

*imposed by Section 5727.81(A) of the Ohio Revised Code and collected by the City of Cleveland during that year to be applied exclusively to the repayment of any bond obligations of Cleveland Public Power.*

***Section 7.** That at least every three months beginning April 1, 2000, the Director of Public Utilities shall submit a written report to all members of City Council which indicates Cleveland Public Power's readiness for a competitive marketplace, system upgrades, and financing.*

***Section 8.** That, within two (2) years from the date of passage of this ordinance, the Division of Cleveland Public Power shall create an operative Cleveland Public Power maintenance facility located on the east side of Cleveland.*

## **523.215 Customer Information**

(a) Pursuant to the Public Utilities Regulatory Policies Act of 1978, the Division of Light and Power shall send to each of its customers a clear and concise explanation of the existing rate schedule applicable to such customer. Such statement shall be transmitted to each customer not more than sixty days after commencement of service to such customer, or ninety days after the passage of this section (Ord. No. 940-81, passed 3-8-82), whichever last occurs.

(b) The Division shall send to each of its customers, not less frequently than once each year, a clear and concise summary of the existing rate schedules applicable to each of the major classes of customers for which there is a separate rate. The Division shall also identify any classes whose rates are not summarized.

(c) Upon customer request, the Division shall provide a clear and concise statement of the actual consumption of electric energy by such customer for each billing period during the prior year (unless such consumption data is not reasonably ascertainable by the Division).

(d) A current general policy statement regarding termination of service shall be sent to all existing customers and to all new customers when they initiate service.

(e) All rate summaries and policy statements may be transmitted together with a customer's bill. Failure by the Division, for any reason, to comply with any provision of this section shall not in any way excuse, waive, alter, modify or otherwise affect any customer's obligation to timely pay in full any bill rendered by the Division.

(Ord. No. 940-81. Passed 3-8-82, eff. 3-10-82)

## **523.22 Further Rules and Regulations**

(a) The Director of Public Utilities is hereby authorized to make such further rules and regulations not in conflict with the foregoing rules and which he may deem necessary for carrying the aforementioned rules into effect and for the safe, economical management and protection of the Municipal Electric Power System.

(b) Such rules and regulations, when published in the City Record as required for ordinances after passage, shall have the same force and effect as ordinances of the City when not repugnant thereto or to the Constitution or laws of the State.

(Ord. No. 1629-73. Passed 1-28-74, eff. 1-28-74)

### **523.23 Pole and Anchor Attachments**

The following schedule is applicable to any attachment of communication facilities to poles owned by the Division of Light and Power ("attachments") by any person or entity ("permittee") other than a joint owner of such pole or a party to any joint use agreement.

(a) *Application for Attachment.* Any person or entity desiring to install attachments shall make a written request for permission to install attachments on any pole owned by the Division of Light and Power. The request shall specify the location of each pole, the identifying number of each pole, the nature of the proposed attachment and the amount and location of space desired. Within thirty days after receipt of a written request, the Division shall notify the applicant whether or not it will permit the attachment and under what conditions. The Division shall have the sole right to determine whether an attachment would adversely affect its electric utility services and its ability to provide such services in an economic and safe manner, including considerations for the future needs of its customers.

(b) *Conditions of Attachment.* All attachments shall be placed on Division's poles in a manner satisfactory to the Division and shall not interfere with the present or future use of the pole by the Division. All attachments shall be installed and at all times maintained by the permittee so as to comply with the requirements of the National Electrical Safety Code and other applicable Federal, State, County, or Municipal codes, as well as operating procedures of the Division of Light and Power. The permittee shall be responsible for obtaining any right, license or permit from any governmental body, authority, or other person or persons which may be required for the construction and maintenance of the attachments of the permittee, including easements, rights-of-way, or rights of entry upon premises.

If the Division desires to replace an existing pole, or add facilities to an existing pole, to which the permittee has made attachments, the permittee shall, where required by the Division, relocate its facilities at its own expense.

In the event that a permittee fails to make or maintain any attachments in conformance to all applicable codes and procedures, the Division, after fifteen days' written notice, shall have the right to make, or cause to be made, the necessary corrections or shall have the right to remove such attachments, without liability, at the entire expense of the permittee.

In the event of any emergency which, in the opinion of the Division, affects or threatens to affect the operations of the Division, the Division shall have the right to perform such detachment, disconnection, relocation or alteration, at the permittee's expense, of such attachments as may be necessary to meet such emergency.

(c) *Attachment Rental Fee.*

\$0.25 per month for each pole attachment

\$0.50 per month for each anchor attachment

Attachment rental fees shall be billed monthly and shall be due and payable on or before twenty-one calendar days following the date on which the bill is issued. Payments received after the due date shall be subject to the same penalty as prescribed in Section 523.12. The bill for attachment rental fees will reflect the total number of attachments in place during the previous month.

Within five days following the end of each calendar month, the permittee shall notify the Division, in writing, of the completion of all attachments, or removal thereof, during the preceding month.

(d) *Reimbursement of Costs.* If attachment to the Division's poles imposes on the Division costs which would not otherwise be incurred, the party requesting attachment shall reimburse the Division for all such costs. Such costs may include, but are not necessarily limited to any change in or strengthening of poles, any rearrangement, alteration or addition, or other changes in existing facilities, which in the opinion of the Division are necessary to accommodate the attachments of the party or entity requesting an attachment. Such costs may also include billing, engineering, and any necessary evaluation of the applicant's request for attachments. The Division reserves the right to require the permittee to have all necessary work performed at the permittee's expense by a contractor engaged by the permittee and approved by the Division, performing work in construction standards of the Division.

(e) *Multiple Applicants for Attachment.* When the Division receives application from more than one applicant for permission to attach to any pole and, because of such multiple attachments, either the pole must be replaced or the facilities thereon must be rearranged to provide additional space for the attachments, the Division may apportion the additional total costs resulting from the pole replacement or rearrangement among all permittees. Such apportioned costs shall include common engineering, material and other expenses which result from the multiple applications and the multiple attachments. The permittee shall be bound by the Division's determination as to any such apportionment of costs.

(f) *Power Supplies and Amplifiers.* Power supplies and amplifiers may be mounted on the Division's poles at the sole discretion of the Division. Permittee shall request permission to mount such facilities in writing to the Division. The location and design shall be approved by the Division prior to installation.

Any electric service for power supplies and amplifiers shall be paid for by the permittee at the Division's applicable electric rate. The meter, if required, will be furnished by the Division. The meter base will be furnished by the Division and installed by the permittee

according to standards set forth by the Division. The permittee's service conductors, if required, shall be furnished and installed by the permittee with weatherhead included. Sufficient conductor shall be left to reach the Division's secondary circuit. The permittee shall ensure that all equipment is effectively grounded to an earth ground, separate and apart from any ground wire belonging to the Division, and shall observe the National Electrical Safety Code and all other applicable codes in the installation of these facilities.

Power supplies and amplifiers will not be permitted on poles which have transformers, reclosers, cut-outs, oil switches, capacitors, or other equipment of a size or type which would impair climbing or working space if an additional pole-mounted facility were installed. Power supplies and amplifiers may be prohibited in situations deemed sensitive from the standpoint of pole line appearance. The permittee shall install all of its attachments so as to not interfere with climbing space as defined by the National Electrical Safety Code or specifically defined by the Division.

(g) *Inspection of Facilities.* The Division shall have the right to inspect each installation of the permittee upon its poles and thereafter to make periodic inspections. The permittee shall reimburse the Division for the expense of such inspection, which reimbursement for any pole subject hereto, shall not exceed in any year the expense of one inspection.

The right to make such inspections and any inspection made shall not impose any obligation or liability on the Division nor shall it relieve the permittee of any responsibility, obligation, or liability.

(h) *Indemnification.* The permittee shall indemnify, hold harmless, and defend the Division from and against any and all actions or causes of actions, claims, demands, liabilities, loss, damage, or expense whatsoever, including attorney's fees, which the Division may suffer or incur by reason of the failure of the permittee to secure any right, license, permit, or easement required for the construction or maintenance of permittee's attachments to the Division's poles, by reason of interruption of permittee's service to permittee's subscribers, by reason of bodily injury, including death, to any person or persons, or by reason of damage to or destruction of any property, including the loss of use thereof, arising out of or in any manner connected with the facilities of the permittee to be installed hereunder, or the installation, maintenance, removal, rearrangement or alteration of such facilities by the Division or permittee, or which the Division may sustain or incur in connection with any litigation, investigation, or other expenditures incident thereto including any suit instituted to enforce contractual obligations whether or not due in whole or part to any act, omission, or negligence of the Division, or any of its representatives or employees.

(i) *Right of Termination.* If the permittee fails to comply with any of the provisions of this section or defaults in the performance of any of its obligations under this section and fails to correct such default or non-compliance, the Division may, at its option, remove the permittee's facilities from the Division's poles and no liability shall be incurred by the Division because of such action. The permittee shall be liable for the entire cost of removing its attachments from the Division's poles.

(j) *Unauthorized Attachments*. If equipment or facilities are attached to the Division's poles for which no attachment is authorized, the Division may require the owner of the attached facilities to remove the attachments immediately at the owner's cost, or the Division may remove the facilities at the expense of the owner of the attachments without liability to the Division.

(Ord. No. 2069-87. Passed 9-21-87, eff. 9-23-87)

### **523.24 Electric Service Policy**

The Division of Light and Power shall offer electric service to any and all residential and commercial customers in the City to the extent feasible without jeopardizing the efficient operation, economy, or planning of the electric system.

(Ord. No. 1058-89. Passed 4-24-89, eff. 5-4-89)

### **523.25 CEI Lawsuit Surcharge—Repealed**

*Note: Former section 523.25 was repealed by Ord. No. 910-98, passed 2-14-00, eff. 2-22-00.*

### **523.251 CEI Lawsuit Surcharge; Amount—Repealed**

*Note: Former section 523.251 was repealed by Ord. No. 910-98, passed 2-14-00, eff. 2-22-00*