

RESOLUTION NO. 59-2022

Introduced by Mark Claus


A RESOLUTION RATIFYING THE CITY MANAGER'S EXECUTION OF AN AGREEMENT WITH OHIO EDISON RELATING TO ITS STREET LIGHTING SERVICE RATE-EFFICIENCY SAFETY INCENTIVE PROGRAM ("STL-ESIP") IN THE AMOUNT OF SEVENTY-FIVE THOUSAND SEVEN HUNDRED FORTY-THREE AND 06/100 DOLLARS (\$75,743.06)

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF HURON, OHIO:

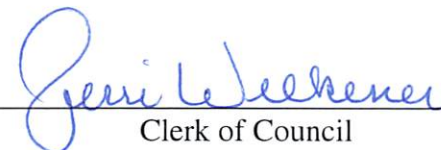
SECTION 1. That the Council hereby ratifies the City Manager's execution of an agreement with Ohio Edison to resolve a dispute relating to its Street Lighting Service Rate-Efficiency Safety Incentive Program ("STL-ESIP") in the amount of Seventy-Five Thousand Seven Hundred Forty-Three and 06/100 Dollars (\$75,743.06), which agreement is attached hereto as Exhibit "A" and made a part hereof.

SECTION 2. That this Council hereby finds and determines that all formal actions relative to the adoption of this Resolution were taken in an open meeting of this Council and that all deliberations of this Council and of its Committees, if any, which resulted in formal action, were taken in meetings open to the public in full compliance with applicable legal requirements, including O.R.C. §121.22

SECTION 3. That this Resolution shall be in full force and effect immediately upon its adoption.



Monty Tapp, Mayor

ATTEST: 

Clerk of Council

ADOPTED: 14 JUN 2022

SETTLEMENT AGREEMENT AND MUTUAL RELEASE

This Settlement Agreement and Mutual Release (“Agreement”) is made and entered into by and between Ohio Edison Company (“Ohio Edison”) and the City of Huron (“Huron”), who are collectively referred to as the “Parties” and singularly referred to as “Party” for purposes of the following:

WHEREAS, there is an existing dispute between Ohio Edison and Huron, regarding Huron’s Street Lighting Account, Account Number 110 140 627 917 and Collective Account, Account Number 210 001 266 001 related to Ohio Edison’s Street Lighting Service (“STL”) Rate-Efficiency Safety Incentive Program (“STL-ESIP”);

WHEREAS, fixtures related to Huron’s Street Lighting Account have historically qualified for and been served under the STL-ESIP tariff;

WHEREAS, in 2020, Huron contracted with a competitive retail electric service (“CRES”) provider to provide generation service for Huron’s street lights. Before contracting with the CRES, Huron’s streetlights were served under Ohio Edison’s standard service offer price.

WHEREAS, Ohio Edison considered Huron no longer eligible for the STL-ESIP rate because Huron’s street lights were receiving generation service from a CRES provider and, therefore, ceased charging Huron under the STL-ESIP rate;

WHEREAS, Huron disputed Ohio Edison’s determination that Huron no longer qualified for the STL-ESIP rate (the “Dispute”);

WHEREAS, Ohio Edison maintains its charges for electric distribution service to Huron’s Street Lighting Account and removal of Huron’s from the STL-ESIP rate was correct;

WHEREAS, Huron and Ohio Edison have engaged in arm’s length negotiations concerning the settlement of the Dispute;

WHEREAS, the Parties intend to adopt, by way of compromise, without any admission of liability or responsibility by either Party, a full and final settlement of the Dispute; and

NOW, THEREFORE, in consideration of the mutual obligations and covenants set forth herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. **Settlement Amount.** Upon execution of this Agreement by the Parties, Ohio Edison will issue to Huron a bill credit of \$75,743.06, to be applied to Huron’s Street Lighting Account. Any bill credit remaining following application to Huron’s Street Lighting Account will be applied to any open balances on Huron’s Collective Account following the June 2022 invoice. Any bill credit remaining following application to Huron’s Collective Account will be refunded to Huron via wire transfer using the bank account information provided by Huron.

If the bank identified by Huron charges a fee for wire transfers, Huron will notify Ohio Edison of that fee prior to the wire transfer and Ohio Edison will add that amount to the wire transfer.

2. **Participation in Efficiency Safety Incentive Program.** Effective July 2022, Huron may purchase retail electric generation service from a competitive retail electric service provider while participating in STL-ESIP. If this paragraph cannot be implemented in July 2022 because Ohio Edison is unable to implement it before the July 2022 billing cycle, and through no fault of Huron, Ohio Edison will provide additional bill credits of \$3,292.44 per month to Huron's Street Lighting Account until Ohio Edison implements this Section.

3. **Release.** Except for the agreements and obligations set forth herein, each of the Parties, for themselves and on behalf of their agents, advisers, attorneys, insurers, successors, parents, subsidiaries, affiliates, officers, directors, shareholders, members and assigns hereby release and forever discharge the other Party and its respective agents, advisers, attorneys, insurers, successors, parents, subsidiaries, affiliates, officers, directors, shareholders, members and assigns from any and all claims, controversies, actions, demands, causes of action, debts, obligations, damages or liabilities of every kind and description, whether known or unknown, and whether at law or in equity, which they now have, have had, or hereafter may have against the other arising out of or relating to the Dispute.

4. **Legal Advice.** Ohio Edison and Huron have received independent legal advice with respect to the advisability of making the settlement provided herein and with respect to the advisability of executing this Agreement. Further, Ohio Edison and Huron have carefully read and reviewed the Agreement with their attorneys and know and understand the full contents of this Agreement, and each Party is voluntarily executing this Agreement upon the advice of that Party's attorney(s).

5. **Authority.** Each of the Parties represents and warrants to the other Party that such Party has taken all legal and corporate steps, as applicable, necessary to enter into this Agreement and to bind such Party, to all of the provisions herein and to take the actions required to be performed by such Party in fulfillment of the undertakings contained herein and all consents or approvals required for the execution, delivery and performance of this Agreement by such Party have been obtained and are in full force and effect.

6. **No Reliance.** Neither Party has relied on any statement, representation, admission, inducement, or promise of the other Party, or any officer, agent, employee, representative or attorney for the other Party in executing this Agreement or in making the settlement provided for herein except as expressly stated in this Agreement.

7. **Ohio Law to Apply.** The rights and obligations of the Parties to this Agreement shall be construed in accordance with the governing laws of the State of Ohio, without regard for conflicts of laws principles.

8. **Entire Agreement.** This Agreement constitutes the entire agreement of the Parties. No representation, promise, inducement, or statement of intention, whether written or oral, has been made by or on behalf of any Party concerning the subject matter hereof which is not set

forth in this Agreement. This Agreement supersedes all prior and contemporaneous oral and written agreements and discussions.

9. **No Prior Assignment.** Each of the Parties expressly warrants and represents to the other Party that, prior to and including the effective date of this Agreement, no claim, demand, right of subrogation, cause of action, or obligation related to or arising out of the Agreement has been assigned or transferred by such Party to any other person or entity, and that no other person or entity has or has had any interest in said claims, demands, causes of action, or obligations, and that such Party has the right to execute this document. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective successors, estates, heirs, legatees, executors, administrators, employees, officers, directors, and other personal representatives and may be amended only by an agreement in writing signed by all Parties.

10. **Enforceability.** Should any provisions of this Agreement be held invalid or unenforceable, all other provisions shall nevertheless continue in full force and effect; except that the provisions of paragraphs 1 and 2 are deemed by the Parties to be material to this Agreement and, should any portion of these paragraphs be held invalid or unenforceable, then this Agreement shall be deemed null and void at the election of any Party hereto.

11. **Execution.** This Agreement may be executed by the Parties in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument. Delivery of this Agreement by facsimile transmission or electronic transmission in .PDF format shall constitute valid and effective delivery.

12. **Assignment of Agreement.** No Party may assign any rights, obligations, or interest under this Agreement without the prior written consent of the other Party.

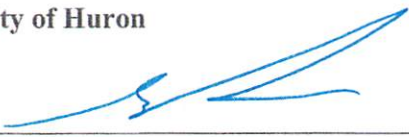
13. **Effective Date.** This Agreement is effective on the date that the signatures of all Parties first appear. All signatories to this Agreement expressly warrant and represent that they have the authority to sign this Agreement on their own behalf and on behalf of the Party for which they are signing.

IN WITNESS WHEREOF, the undersigned have signed and executed this Agreement on the dates set forth in the acknowledgments below as an expression of their intent to be bound by the foregoing terms of this Agreement.

Ohio Edison Company

The City of Huron

By:  _____

By:  _____

Printed Name: Edward L. Shuttleworth

Printed Name: MATT LASKO

Title: President, Ohio Operations

Title: CITY MANAGER

Date: 6/2/2022

Date: 6/2/22