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**Buckeye Energy Brokers, Inc.**

8870 Darrow Road, #F106  
Twinsburg, Ohio 44087  
Buckeyeenergybrokers.com

May 19, 2008

VIA U.S. MAIL

Chief of Docketing  
Public Utilities Commission of Ohio  
180 East Broad St. 13<sup>th</sup> Floor  
Columbus, Ohio 43215-3793

RECEIVED-DOCKETING DIV  
2008 MAY 20 PM 3:21  
PUCO

**RE: Natural Gas Governmental Aggregator Renewal Application**  
**Case Number 06-913-GA-GAG**

The City of Marietta is pleased to submit its renewal application for natural gas governmental aggregator. The original and ten copies of the city's filing are enclosed. The original application was docketed as case number 06-913-GA-GAG.

Should you have any questions or additional needs, please call me at (330) 730-4338.

Sincerely,

Thomas M. Bellish  
President

Enclosure

This is to certify that the images appearing are an accurate and complete reproduction of a case file document delivered in the regular course of business.  
Technician TM Date Processed 5/20/2008



Date Received	Request Certificate Number	ORIGINAL GAG Case Number
		06 - 913 - GA-GAG

## RENEWAL CERTIFICATION APPLICATION OHIO NATURAL GAS GOVERNMENTAL AGGREGATORS

Please type or print all required information. Identify all attachments with an exhibit label and title (*Example: Exhibit B-1 – Authorizing Ordinance*). All attachments should bear the legal name of the Applicant. Applicants should file completed applications and all related correspondence with the Public Utilities Commission of Ohio, Docketing Division, 13<sup>th</sup> Floor, 180 East Broad Street, Columbus, Ohio 43215-3793.

This PDF form is designed so that you may directly input information onto the form. You may also download the form by saving it to your local disk.

### SECTION A - APPLICANT INFORMATION

RECEIVED-DOCKETING DIV  
2008 MAY 20 PM 3:21  
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#### A-1 Renewal Applicant information:

Legal Name City of Marietta  
Address 301 Putnam Street, Marietta, Ohio 45750  
Telephone No. 740 3731387 Web site address [www.mariettaoh.net](http://www.mariettaoh.net)  
Current PUCO Certificate Number 06-117(1) Effective Dates August 17, 2006 to August 17, 2008

#### A-2 Contact person for regulatory or emergency matters:

Name David Sands Title Service Director  
Business Address City of Marietta, 301 Putnam Street, Marietta, Ohio 45750  
Telephone No. 740 3731387 Fax No. 740 3732489 Email Address [davidsands@marietta.net](mailto:davidsands@marietta.net)

#### A-3 Contact person for Commission Staff use in investigating customer complaints:

Name Thomas M. Bellish Title President  
Business address 8870 Darrow Road, #F106, Twinsburg, Ohio 44087  
Telephone No. 866 3022237 Fax No. 216 9274500 Email Address [tmbellish@hotmail.com](mailto:tmbellish@hotmail.com)

#### A-4 Applicant's address and toll-free number for customer service and complaints:

Customer service address 8870 Darrow Road, #F106, Twinsburg, Ohio 44087  
Toll-Free Telephone No. 866 3022237 Fax No. 216 9274500 Email Address [tmbellish@hotmail.com](mailto:tmbellish@hotmail.com)

## SECTION B - APPLICANT AUTHORITY AND AGGREGATION PROGRAM INFORMATION

PROVIDE THE FOLLOWING AS SEPARATE ATTACHMENTS AND LABEL AS INDICATED

- B-1 **Exhibit B-1 "Authorizing Ordinance,"** provide a copy of the adopted ordinance or resolution that reflects voter authorization to form a governmental aggregation program pursuant to Sections 4929.26 and 4929.27 of the Ohio Revised Code.
- B-2 **Exhibit B-2 "Operation and Governance Plan,"** provide a copy of the applicant's plan for operation and governance of its aggregation program adopted pursuant to Sections 4929.26(C) or 4929.27(B) of the Revised Code. The Operation and Governance Plan should include all information pursuant to Rule 4901:1-28-03 of the Ohio Administrative Code.
- B-3 **Exhibit B-3 "Automatic Aggregation Disclosure Notification,"** if the aggregation program provides for automatic aggregation in accordance with Section 4929.26(A) of the Revised Code, provide a copy of the disclosure notification required by Section 4929.26(D) of the Revised Code,
- B-4 **Exhibit B-4 "Opt-Out Notice,"** provide a draft copy of the applicant's opt out notice that comports with the Opt-Out disclosure requirements pursuant to Rule 4901:1-28-04 of the Ohio Administrative Code. *(Ten days prior to public dissemination, the applicant shall docket with the Commission, the finalized Opt-Out notice that provides or offers natural gas aggregation service.)*
- B-5 **Exhibit B-5 "Experience,"** provide a detailed description of the applicant's experience and plan for: providing aggregation services *(including contracting with consultants, broker/aggregators, retail natural gas suppliers)*; providing billing statements; responding to customer inquiries and complaints; and complying with all applicable provisions of Commission rules adopted pursuant to Section 4929.22 of the Ohio Revised Code and contained in Chapter 4901:1-29 of the Ohio Administrative Code.

Applicant Signature and Title



Service Director

Sworn and subscribed before me this 30 day of JANUARY Month 2008 Year



Signature of official administering oath

MARY GRUBERT, NOTARY

Print Name and Title

My commission expires on

09-23-09



# The Public Utilities Commission of Ohio

Ohio Natural Gas Governmental Aggregation  
Affidavit Form  
(Version 1.07)

In the Matter of the Application of )

City of Marietta )

for a Certificate or Renewal Certificate to Provide )  
Natural Gas Governmental Aggregation Service in )  
Ohio. )

Case No. 06-913 -GA-GAG

County of Washington  
State of Ohio

David Sands

[Affiant], being duly sworn/affirmed, hereby states that:

- (1) The information provided within the certification or certification renewal application and supporting information is complete, true, and accurate to the best knowledge of affiant.
- (2) The applicant will timely file an annual report of its intrastate gross receipts and sales of hundred cubic feet of natural gas pursuant to Sections 4905.10(A), 4911.18(A), and 4929.23(B), Ohio Revised Code.
- (3) The applicant will timely pay any assessment made pursuant to Section 4905.10 or Section 4911.18(A), Ohio Revised Code.
- (4) Applicant will comply with all applicable rules and orders adopted by the Public Utilities Commission of Ohio pursuant to Title 49, Ohio Revised Code.
- (5) Applicant will cooperate with the Public Utilities Commission of Ohio and its staff in the investigation of any consumer complaint regarding any service offered or provided by the applicant.
- (6) Applicant will comply with Section 4929.21, Ohio Revised Code, regarding consent to the jurisdiction of the Ohio courts and the service of process.
- (7) Applicant will inform the Public Utilities Commission of Ohio of any material change to the information supplied in the certification or certification renewal application within 30 days of such material change, including any change in contact person for regulatory or emergency purposes or contact person for Staff use in investigating customer complaints.
- (8) Affiant further sayeth naught.

Affiant Signature & Title

*[Signature]*

Service Director

Sworn and subscribed before me this

30<sup>th</sup> day of

JANUARY

Month

2008

Year

Signature of Official Administering Oath

*[Signature]*

Print Name and Title

MARY GRUBERT, Notary Public

My commission expires on

09/23/09

(Ohio Natural Gas Governmental Aggregator Renewal) Page 3 of 3

*Exhibit B-1 "Authorizing Ordinance"*

**ORDINANCE NO. 64 (06-07)**

**An Ordinance to adopt a Natural Gas Aggregation Program Plan of Operations and Governance for the City of Marietta, Ohio, pursuant to Ohio Revised Code §4929.26, and declaring an EMERGENCY.**

**WHEREAS, pursuant to Ohio Revised Code §4929.26, municipalities may aggregate customers within their jurisdiction in order to secure lower cost natural gas services within the municipality through the collective purchasing of natural gas services; and,**

**WHEREAS, this Council seeks to establish a governmental aggregation program with opt-out provisions, according to law, for the residents, businesses and other natural gas consumers in the City who receive commodity sales service and distribution service from *Dominion East Ohio*; and,**

**WHEREAS, the ballot question, authorized by Ordinance 234 (04-05) passed October 6, 2005, has received at least a majority of the votes cast at the May, 2006 election; and,**

**WHEREAS, this Council seeks to adopt a Natural Gas Aggregation Program Plan of Operations and Governance, pursuant to Ohio Revised Code §4929.26, for the residents, businesses and other natural gas consumers in the City and in conjunction jointly with any other municipal corporation, township, county or other political subdivision of the State of Ohio, as permitted by law; now, therefore,**

ORDINANCE NO. 64 (06-07)  
PAGE TWO

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MARIETTA, OHIO:

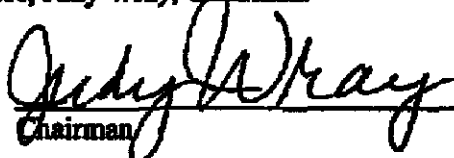
- Section 1: That this Council finds and determines that it is in the best interests of the City of Marietta, Ohio, its residents, businesses and other natural gas consumers located within the corporate limits of the City of Marietta, Ohio, and who receive commodity sales service and distribution service from Dominion East Ohio Gas to establish an opt-out Natural Gas Aggregation Program in accordance with law. The City of Marietta, Ohio is hereby authorized to aggregate in accordance with Ohio Revised Code §4929.26 or as otherwise provided by law, the retail natural gas usage located within the City of Marietta, Ohio.
- Section 2: That the Mayor is hereby authorized to enter into an agreement with the selected natural gas supplier through a request for proposal process.
- Section 3: That the Natural Gas Aggregation Program Plan of Operations and Governance, a copy of which is attached hereto and incorporated herein by reference as Exhibit A is hereby adopted as the Natural Gas Aggregation Program Plan of Operations and Governance for the City of Marietta, Ohio, pursuant to Ohio Revised Code §4929.26.
- Section 4: That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action

ORDINANCE NO. 64 (06-07)  
PAGE THREE

were in meetings open to the public, in compliance with all legal requirements including Ohio Revised Code §121.22.

Section 5: That this Ordinance shall be and is hereby declared to be an EMERGENCY measure necessary for the immediate preservation of the public peace, health and safety of the City of Marietta, Ohio, and for the further reason that immediate action is necessary in order to provide the largest possible window of opportunity within which to locate the lowest possible prices for natural gas to be supplied to consumers within the City; WHEREFORE, this Ordinance shall be in full force and effect from and immediately after its passage and approval by the Mayor.

Introduced by the Special Utilities Committee, Judy Wray, Chairman.

  
Chairman

Passed this 6<sup>th</sup> day of July, 2006.

  
President of Council Pro-Tem

ATTEST:

  
Clerk of Council

Approved this 6<sup>th</sup> day of July, 2006.

  
Mayor

ORDINANCE NO. 64 (06-07)  
PAGE FOUR

First Reading July 6, 2006  
Second Reading Suspended  
Third Reading Suspended



# **NATURAL GAS AGGREGATION PROGRAM**

## **PLAN OF OPERATION AND GOVERNANCE**

**MARIETTA, OHIO**



**Buckeye Energy Brokers, Inc.**

**For additional information contact Buckeye Energy Brokers, Inc.:**

**Thomas M. Bellish  
President  
Ph: (330) 730-4338**

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## **(A) Introduction**

This aggregation plan has been developed in compliance with Ohio Revised Code, Section 4929.26 regarding governmental automatic aggregation of Natural Gas service. The City of Marietta ("Municipality") Aggregation Program ("Program") seeks to aggregate the retail Natural Gas loads of consumers located in the Municipality to negotiate the best rates for the supply of Natural Gas. It has the potential to combine approximately 5,582 residential and commercial customers into a buying pool that will be attractive to third party suppliers ("Suppliers"). Participation in the Program is voluntary. Any individual customer ("Member") has the opportunity to decline to be a Member of the aggregation program and to return to Dominion East Ohio Gas ("Local Utility") standard offer of service or to enter into a service contract with any competitive retail Natural Gas supplier.

The Municipality has passed the necessary ordinance to place the issue of governmental aggregation of natural gas on the May, 2006 ballot. The issue passed and the Municipality will follow the Plan of Operation and Governance ("Plan") outlined below. This Plan will not be adopted until two public hearings are held in accordance with section 4929.26 (C) of the Ohio Revised Code.

## **(B) Operation and Governance Plan Detail**

### **(1) Description of Services and Professional Assistance**

The process of governmental aggregation is set forth in Ohio Revised Code Chapter 4929. The chapter defines two different types of aggregation that may be enacted by a governmental entity opt-in aggregation and opt-out aggregation. Opt-in aggregation can occur only with the prior consent of each Natural Gas consumer. That is, the consumer must give its consent to be included in the Program. Under the opt-out aggregation provisions, all Natural Gas consumers within the Municipality will be automatically included in the Program. However, such customers will be given prior notice entitling them to affirmatively elect not to be part of the Program. These customers can opt-out during a 21-day period. A similar opt-out period will be offered at least every two years during which Members can leave the Municipality's aggregation pool without paying a switching fee.

Due to the complexity of deregulation of the Natural Gas utility industry, the Municipality will consult with and obtain the necessary expertise to represent and help administer the Program. The Municipality has passed an ordinance to contract with Buckeye Energy Brokers, Inc., a PUCO certified electric broker and aggregator with mailing address of 8870 Darrow Road #F106 Twinsburg, Ohio 44087 to provide the following energy-consulting services:

- Handle day-to-day administration of program (problem resolution, press releases, PUCO compliance, supplier & local utility liaison, tariff analysis, contract review, etc.)
- File for PUCO Certification so the Municipality can work with any supplier

- Administer the Request for Proposal process, analyze responses and provide deal structuring services
- Write and maintain the Plan of Operation and Governance
- Hold the required Public Hearings and attend Council meetings
- Review customer data from Local Utility
- Write reports on a quarterly/annual basis to the Municipality and the PUCO

The Municipality through its consultant, Buckeye Energy Brokers (Buckeye), will seek bids and negotiate with Certified Natural Gas Suppliers. The Municipality will not assume title to Natural Gas. It will not buy and resell natural gas to the participants of the program. Instead, the Municipality will competitively bid and negotiate a contract with a competitive retail Natural Gas supplier to provide natural gas supply to the members of the aggregation program. Similarly, the Municipality will not handle billing or scheduling of natural gas. Those responsibilities rest with the selected Supplier and Local Utility.

Only Suppliers meeting strict criteria will be considered. Suppliers will need to be certified by the Public Utilities Commission of Ohio and registered with the Local Utility to do business in their service territory. Both the certification and registration ensure that Suppliers are managerially, technically, and financially competent to perform the services they offer.

The successful bidder shall also demonstrate its creditworthiness by possessing an investment grade long-term bond ratings from at least two of the following rating agencies:

Standard & Poors	BBB or Higher
Moody's Investors' Services	Baa3 or Higher
Fitch ICBA	BBB or Higher

If the bidder is unable to demonstrate its creditworthiness, the bidder will provide: a Letter of Credit; or a Parental Guaranty from a company that is deemed creditworthy or a Surety Bond. Details of the credit type and amount will be subject to negotiation.

The Municipality will rely on its consultant Buckeye Energy Brokers, Inc. to monitor and report on a quarterly basis. Buckeye Energy will track the performance of the selected Supplier, report on estimated savings and provide an analysis of current and future market conditions. Reports will be provided to the Mayor and Council. Members wishing to view the reports should make arrangements to do so by contacting the Municipality during normal working hours.

## **(2) Determination of Rates**

The Municipality shall receive proposals from Natural Gas suppliers using a competitive selection process. The Request For Proposal ("RFP") shall require the suppliers to offer a natural gas rate for each customer class, load grouping or other appropriate category. It is the responsibility of each Member to compare the rate with others and decide

accordingly. The prices to be charged to Members in the Program will be set by the Municipality after negotiations with the selected Supplier. Members will be notified of the rates and terms of the Program as part of the opt-out process, through a direct mailing sent to each resident and business within the Municipality limits. The following rate comparison will be completed once the Municipality has selected a supplier.

Customer Class	Rate Class	Supplier Offer (\$/Mcf)	Term
Resid./Commercial	"Energy Choice"		
Resid./Commercial	"Energy Choice"		

Members will be responsible for all other billable charges, such as, taxes, transportation charges, monthly service charge, etc. The contract negotiated with the selected supplier will fall somewhere in the range of 1-4 years commencing on the first possible meter read date.

### **(3) Plan for Providing Opt-out Notice**

The Opt-out notice will be drafted in conjunction with the Municipality, the selected Supplier and Buckeye. Buckeye will also verify the accuracy of the list by using several means, such as, maps, 9-1-1 records, Municipality records, electric service lists, etc. Members will have a 21-day period to opt-out by returning a post card to the selected supplier or calling their toll-free number.

### **(4) Process for Determining the Pool of Customers**

The Municipality will provide a letter to the supplier authorizing the supplier to obtain the list of Eligible Customers from the Local Utility and will be relying on the Local Utility to provide an accurate list of eligible customers. Buckeye and the selected supplier will use that list and remove customer records that have returned opt-out forms or are PIPP customers or are non-"Energy Choice" customers. This data would be the final basis for the Municipality's pool of customers and would be turned over to the selected supplier to facilitate switching.

The Local Utility shall notify each affected Member of the pending transfer through a 7-day right of rescission letter. Service under the new Supplier shall begin at the start of the billing period following the transfer. Service under the Program shall include all customer classes in adherence with universal service principles and requirements, and the traditional non-discriminatory practices of local government. Contracts with all Suppliers shall contain provisions to maintain these principles and equitable treatment of all customer classes. Existing customers in the Municipality currently receiving natural gas through an alternate supplier will become eligible upon contract expiration only.

Customers who meet the following criteria will become members of the aggregation program:

- Are up to date with their bill payment;

- Have not opted-out of the program;
- Are currently with the Local Utility;
- Are classified as non-mercantile;
- Have not exercised their right of rescission;
- Are not on the Percentage of Income Payment Plan (PIPP); and
- New Members may opt-in to the Program upon contract expiration with an alternate supplier. These Members will need to contact the Program Supplier for enrollment information. The Program Supplier has a right of refusal in accordance with Section 8 of this plan.

#### **(5) Customer Billing Procedures**

The Municipality will utilize the coordinated billing services of the Local Utility and the selected Supplier. It is anticipated that all Members will receive a single bill from the Local Utility. Members will maintain or choose options that include: budget billing, automatic payments and Internet payment.

#### **(6) Credit and Deposit Policies**

Collection and credit procedures remain the responsibility of the Local Utility, the selected Supplier and the individual Member. Members are required to remit and comply with the payment terms of the Local Utility. This Program will not be responsible for late or no payment on the part of any of its members. The Municipality will have no separate credit or deposit policy.

#### **(7) Governmental Aggregator's Customer Service Procedures & Dispute Resolution**

Members will have multiple means of addressing complaints. As a general rule, concerns regarding service reliability and billing should be directed to the Local Utility. They continue to read meters handle billing and generally have the most information about a customer's account. Questions regarding the Program administration should go to Buckeye, and any unresolved disputes should be directed to the Public Utilities Commission of Ohio. Listed below is a table of toll-free numbers for members to call for assistance.

<b>Nature of Complaint</b>	<b>Contact</b>	<b>Phone Number</b>
Service interruptions or emergencies	Dominion East Ohio	1-800-362-7557
Service turn on/off	Dominion East Ohio	1-800-362-7557
Billing disputes	Dominion East Ohio	1-800-362-7557
Joining/Leaving Program	(Supplier)	
Aggregation Program Questions	Buckeye Energy Brokers	1-866-302-2237
Unresolved Disputes	Public Utilities Commission	1-800-686-7826
Unresolved Disputes	Public Utilities Comm. TDD/TTY	1-800-686-1570

If a dispute cannot be resolved, legal action involving any and all disputes arising under or relating to this Program may be brought in a court of the State of Ohio or a Federal

District Court. This program shall be interpreted according to the laws of the State of Ohio.

**(8) Members Moving Into/Within the Aggregation (New Account Number)**

Residents and/or businesses that move into the Municipality will not be automatically included in the program. If this policy changes, residents and/or businesses will be provided an opportunity to opt-out. They may also contact the Municipality or its Supplier at any time to obtain enrollment information. There is however, no guarantee that customers opting-in at a later date will receive the same price, terms and conditions as did the initial participants. Suppliers are unable to hold price offerings for an unlimited amount of time.

Members moving within the aggregation area with new account numbers may cancel the agreement. If the member does not cancel the agreement, the supplier, is required to automatically continue the offer under a new account number. In addition, Members should request that their local utility transfer their same supplier and offer to their new address.

**(9) Members Moving Within the Aggregation (Same Account Number)**

Members moving within the aggregation area with the same account number may cancel the agreement without penalty, pursuant to the procedures set forth in rule 4901:1-28-04 of the Administrative Code. If the member does not cancel the agreement, the supplier shall automatically continue the offer under the same account number.

**(10) Joining the Program at a Later Date (Opting-in)**

Residents desiring to join the program at a later date will be treated similar to residents moving into the Municipality. They will need to contact the Municipality or its Supplier to obtain enrollment information. They will follow an opt-in approach. There is however, no guarantee that customers opting-in at a later date will receive the same price, terms and conditions as did the initial participants. Suppliers are unable to hold price offerings for an unlimited amount of time, and if Municipality asks for such a requirement, the price offering received from suppliers will be higher to reflect the greater risk. Residents opting-in to the Municipality's program will be responsible for knowing if there is a switching fee for leaving their current supplier.

**(C) Availability of Plan of Operation and Governance**

This Plan shall be kept available for public inspection and shall, upon request, be copied for any existing or potential customers of the aggregation.

#### **(D) Altering the Plan of Operation and Governance**

A governmental aggregator shall not alter its operation and governance plan in any way that would materially affect the customers of the aggregation without first providing notice to all affected customers and providing these customers the opportunity to opt-out of the aggregation according to the procedures established for the initial opt-out disclosure notice set forth in rule 4901:1-28-04 of the Administrative Code. The notice shall set forth the changes to the plan, inform the customer of its right to opt-out of the aggregation without penalty, and identify the method and time frame for the customer to opt-out.

#### **(E) Certification Prior To Sending Opt-out Notices**

No governmental aggregator shall send an opt-out disclosure notice to potential customers of an aggregation prior to the governmental aggregator being certified by the commission.

#### **(F) Opt-out Disclosure Policies**

- (1) Prior to including a customer's natural gas account or accounts in an aggregation, the Municipality shall provide each eligible customer written notice that the customer's account(s) will be automatically included in the aggregation unless the customer affirmatively opts out of the aggregation. The notice shall, at a minimum, include:
  - (A) A summary of the actions that the Municipality took to authorize the aggregation.
  - (B) A description of the services that the Municipality will be provide under the aggregation.
  - (C) Disclosure of the price that the Supplier will charge customers for competitive retail natural gas service. The price shall be expressed in dollars and/or cents per hundred cubic feet of gas ("Ccf") or thousand cubic feet of gas ("Mcf"), depending on the unit that is used by the natural gas company that serves the customer. If a variable rate is offered, it shall be accompanied by an understandable description of the factors that will cause the price to vary (including any associated indices) and disclosure of how frequently the rate will change. If different rates will be charged to different rate classes within the aggregation, the Municipality shall disclose the applicable rate(s) to customers within the various rate classes.
  - (D) An itemized list and explanation of all fees and charges that are not incorporated into the rates charged for natural gas that the Municipality or Supplier will charge the customer for participating in the aggregation, including any applicable switching fees or early termination penalties. These switching fees and/or early termination penalties shall not apply to a customer that moves out of the governmental aggregator's territory.
  - (E) Disclosure of the dates covered by the aggregation, including an estimated service commencement date and notice that the customer may opt-out of the aggregation at least every two years without penalty.



- (F) Disclosure of any credit and/or deposit policies and requirements.
- (G) Disclosure of any limitations or conditions on customer acceptance into the aggregation.
- (H) A description of the process and associated time period for customers to opt-out of the aggregation. The process shall include provisions for customers to return a post card or similar notice to the governmental aggregator or its agent. The process may include, in addition, other opt-out methods, such as telephonic or Internet notice, provided that these methods provide for verification of a customer's election to opt-out of the aggregation. The time period for a customer to choose to opt-out of the aggregation shall extend at least twenty-one days from the date of the post mark on the written notice. A customer's return post card or notice that is post marked before the opt-out deadline has elapsed shall be deemed to have opted out.
- (I) A local or toll-free telephone number that customers can call with questions regarding the formation or operation of the aggregation, including associated calling hours.
- (2) At least every two years from the establishment of its initial aggregation pool, a governmental aggregator shall provide notice to all customers served by the aggregation of their right to opt-out of the aggregation without penalty. This notice shall follow the procedures established for the initial opt-out notice set forth in this rule and shall prominently disclose to customers all changes to the terms and conditions associated with the aggregation.
- (3) No governmental aggregator or retail natural gas supplier serving a governmental aggregation shall impose any terms, conditions, fees, or charges on any customer served by a governmental aggregation unless the particular term, condition, fee, or charge was clearly disclosed to the customer at the time the customer chose not to opt-out of the aggregation.
- (4) To assist its preparation and dissemination of required opt-out notices, the Municipality will provide a letter to the supplier authorizing the supplier to obtain the list of Eligible Customers from the Local Utility and will be relying on the Local Utility to provide an accurate list of eligible customers consistent with division (A) of rule 4901:1-28-05 of the Administrative Code. The governmental aggregator shall not, without the customer's express written consent, disclose or use for any purpose other than formation and operation of its aggregation a customer's account number or social security number or any customer information regarding customers who had opted-off of a natural gas company's pre-enrollment list. Before a governmental aggregator releases any customer account number, social security number, or any information related to a customer who has opted off of a natural gas company's pre-enrollment list, the governmental aggregator shall obtain the customer's signature on a release. The release shall be on a separate piece of paper. The release shall be clearly identified on its face as a release of personal information and all text on the release shall be in at least 16-point type. The following statements shall appear prominently on the release, just prior to the signature, in type larger and darker than the type in the surrounding sentences: I realize that, under the rules and regulations of the Public Utilities Commission of Ohio, I may refuse to allow (name of aggregator) to release the information set forth above. By my signature, I freely give (name of aggregator) permission to release the information designated above. The information that the

governmental aggregator seeks to release shall be specified on the form. Forms requiring a customer to circle or to check off preprinted types of information to be released may not be used.

- (5) The Municipality shall use its best efforts to ensure that only eligible customer accounts within its governmental boundaries and customers who have not opted-out are included in its aggregation. If ineligible accounts, accounts from outside of the governmental aggregator's governmental boundaries, or accounts for customers who opted-out of the aggregation are switched to the governmental aggregation, the governmental aggregator upon notification of such a switch shall promptly contact the natural gas company to have the customer switched back to the customer's former supplier. The governmental aggregator shall reimburse the customer for any switching fees that were paid by the customer as a result of the switch. In addition, if the customer's former rate was less than the rate charged by the governmental aggregator, then the governmental aggregator shall reimburse the customer the difference between the customer's former rate and the governmental aggregator's rate multiplied by the customer's usage during the time that the customer was served by the governmental aggregator.

#### **(G) Cooperation Between Natural Gas Companies and Governmental Aggregators**

- (1) Pursuant to O.A.C. section 4901:1-28-05, it is expected natural gas company shall cooperate with governmental aggregators to facilitate the proper formation and functioning of governmental aggregations. To assist a certified governmental aggregator's compliance with the opt-out disclosure notice requirements established in division (D) of section 4929.26 of the Revised Code, upon request, the natural gas company shall provide, on a best efforts basis, an updated list of names, account numbers, service and mailing address, rate schedules (class and subclass), applicable riders, load profile reference category, meter type, interval meter data indicator, budget bill indicator, meter read date or schedule, and historical consumption data for each of the most recent twelve months for all customers residing within the governmental aggregator's boundaries. Except for inclusion of information for customers who have opted-off and account numbers, the customer information contained in such list shall be consistent with any pre-enrollment list that is provided to retail natural gas suppliers.
- (2) Charges and/or fees for services and information provided to governmental aggregators by natural gas companies shall be published in an approved tariff filed with the commission.
- (3) Unless the customer notifies the natural gas company of the customer's intent to not join a governmental aggregation by returning a confirmation notice or providing some other notice as provided by the natural gas company's tariffs, a natural gas company shall switch customer accounts to or from a governmental aggregation under the same processes and time frames provided in published tariffs for switching other customer accounts.

**Exhibit B-3 "Automatic Aggregation Disclosure"**

The Opt-out notice will be drafted in conjunction with the Municipality, the selected Supplier and Buckeye. Buckeye will also verify the accuracy of the list by using several means, such as, maps, 9-1-1 records, Municipality records, electric service lists, etc. Members will have a 21-day period to opt-out by returning a post card to the selected supplier or calling their toll-free number.

The Municipality will provide a letter to the supplier authorizing the supplier to obtain the list of Eligible Customers from the Local Utility and will be relying on the Local Utility to provide an accurate list of eligible customers. Buckeye and the selected supplier will use that list and remove customer records that have returned opt-out forms or are PIPP customers or are non-"Energy Choice" customers. This data would be the final basis for the Municipality's pool of customers and would be turned over to the selected supplier to facilitate switching.

The Local Utility shall notify each affected Member of the pending transfer through a 7-day right of rescission letter. Service under the new Supplier shall begin at the start of the billing period following the transfer. Service under the Program shall include all customer classes in adherence with universal service principles and requirements, and the traditional non-discriminatory practices of local government. Contracts with all Suppliers shall contain provisions to maintain these principles and equitable treatment of all customer classes. Existing customers in the Municipality currently receiving natural gas through an alternate supplier will become eligible upon contract expiration only.

Customers who meet the following criteria will become members of the aggregation program:

- Are up to date with their bill payment;
- Have not opted-out of the program;
- Are currently with the Local Utility;
- Are classified as non-mercantile;
- Have not exercised their right of rescission;
- Are not on the Percentage of Income Payment Plan (PIPP); and
- New Members may opt-in to the Program upon contract expiration with an alternate supplier. These Members will need to contact the Program Supplier for enrollment information. The Program Supplier has a right of refusal in accordance with Section 8 of this plan.



Exhibit B-4 "Opt-out Notice"



Direct Energy

August, 2007

[First] [Middle] [Last]  
[Mailing Address]  
[Mailing City], [Mailing State] [Mailing Zip]

**IMPORTANT INFORMATION**  
From the City of Marietta & Direct Energy  
Regarding your Natural Gas Commodity Service

Premise Address: [Premise Address]  
Account Number <Account Number>

Dear [First] [Last]:

**The City of Marietta and Direct Energy Offer Price Protection and Peace of Mind –  
With a Fixed Rate of \$9.90 per MCF through the October 2008 billing cycle, excluding taxes and utility charges!**

We are pleased to announce that the City of Marietta is providing another opportunity to residential and small commercial customers to join the Natural Gas Aggregation program. Under this arrangement, Direct Energy will continue to be the preferred natural gas supplier and serve the City of Marietta's citizens with an exclusive offer for the second year of the two year arrangement. The second year's price is 17% lower than the first year price that was established by the City of Marietta.

Since you are not currently a member of the City of Marietta's Natural Gas Aggregation Program, this is your chance to be enrolled. Through the City of Marietta Natural Gas Aggregation Program, eligible citizens will receive an exclusive rate of \$9.90 per MCF starting with your November 2007 billing cycle and ending with the October 2008 billing cycle. This Natural Gas Aggregation program is effective through the October 2008 billing cycle.

You will be **automatically enrolled** in the City of Marietta's Natural Gas Aggregation Program unless you choose **NOT** to participate by "opting out." Please remember the utility gas rate can change on a monthly basis. The eligibility requirements for this exclusive offer are outlined below.<sup>1</sup> If you do **NOT** wish to participate in this program, you must "opt out" by using the instructions below in this letter.

**The City of Marietta's Natural Gas Aggregation Program is a Smart Choice:**

- **It's Easy to Participate.** You don't have to do anything to enroll. All eligible citizens will be **automatically enrolled** in the program unless you choose to "Opt out."
- **You'll Receive a Fixed Supply Rate.<sup>2</sup>** The City of Marietta has ensured that you will receive a natural gas commodity rate of \$9.90 per Mcf for your gas supply beginning with your November 2007 billing cycle. After your October 2008 billing cycle, you will be given the opportunity to renew your agreement under a new price offer. This Aggregation program is effective through the October 2008 billing cycle. There is no additional cost to enroll in this exclusive program.
- **You'll Receive One Bill.** Your local utility will continue to send your monthly gas bill and you will continue to remit one payment to the local utility for their charges and Direct Energy's charges. Also your local utility will still provide service for any emergency or maintenance issues.

<sup>1</sup> Service is subject to enrollment processing timelines as determined by your local utility and Direct Energy Terms and Conditions of Service. To be eligible to participate in the Natural Gas Aggregation Program, you must have a residence or business located in the City of Marietta, be eligible to receive natural gas from Dominion East Ohio (DEO), meet Ohio non-mercantile requirements, be current with your natural gas payments, and not be enrolled in the PIPP program. If you believe you received this letter in error as you are not located in the City of Marietta or served by DEO, please disregard this letter.

<sup>2</sup> Direct Energy's rate excludes the utility charges and taxes. Please note that transportation costs may vary depending on the utility's commodity rate.

Again, you will be **automatically enrolled** in the City of Marietta's Natural Gas Aggregation Program unless you choose **NOT** to participate by "opting out". If you do **NOT** wish to participate in this program, you must "opt out" by calling Direct Energy Customer Care team at 1-866-760-6040 or completing the "Opt-Out" Election Form below by September 28, 2007. The Opt-Out Election Form must be returned at least 21 days from the postmark date of this letter. If you "opt out" of the aggregation program, your natural gas service will continue to be supplied by your local utility.

You will find additional details of the Natural Gas Aggregation Program in the Frequently Asked Questions & Terms and Conditions within this mailer. Please read them carefully. If you have additional questions about this offer, please contact Direct Energy's Customer Care team at 1-866-760-6040, Monday – Friday from 8:00 am to 8:00 pm EST and Saturday from 8:00 am to 5:00 pm EST. You may also visit our web site at [www.directenergy.com](http://www.directenergy.com).

Respectfully,

The City of Marietta and Direct Energy

**The City of Marietta's Natural Gas Aggregation Opt-Out Election Form**

☐ I elect **NOT** to participate in the City of Marietta's Natural Gas Aggregation with Direct Energy.

Account Holder's Name: (Print) \_\_\_\_\_

Dominion East Ohio Account Number: < Account Number >

Service Address: \_\_\_\_\_ City: \_\_\_\_\_

State: OHIO Zip Code: \_\_\_\_\_

Telephone Number: (\_\_\_\_\_) \_\_\_\_\_ -- \_\_\_\_\_

Account Holder's Signature: \_\_\_\_\_

Date: \_\_\_\_\_

This form must be postmarked no later than 21 days from the postmark on the notification letter for your opt out to be effective.

Please mail to:

Direct Energy

Attn: The City of Marietta's Aggregation Program

PO Box 642156

Omaha, NE 68164

**IMPORTANT NOTICE:** By returning this signed form, I affirmatively elect NOT to participate in the City of Marietta's Natural Gas Aggregation Program. By electing not to participate, I understand from the accompanying materials that I will forego the benefits of this program. I understand that if I choose to "Opt-out" of the City of Marietta's Natural Gas Aggregation Program, I must complete this form and mail it to Direct Energy or call Direct Energy at 1-866-760-6040, to opt out no later than 21 days from postmark on the notification letter (CHANGE MADE PURSUANT TO 4901:1-28-04(A)(8)) accompanying this form. This form must be postmarked by the given date on this letter to be effective. If this form is not postmarked by this date or I do not call by the specified date, I understand that I will be automatically enrolled in the City of Marietta's Natural Gas Aggregation Program. I assume all responsibility to send the "Opt-out" Election Form or to call Direct Energy.

**Direct Energy's Natural Gas Price Protection Program  
Residential and Commercial Terms and Conditions of Agreement  
And Appointment Of Limited Agent  
To: Direct Energy Services, LLC ("Direct Energy")**

**Term of Agreement.** Subject to Direct Energy's acceptance of this Agreement and acceptance by my Natural Gas Utility ("NGU"), I hereby appoint Direct Energy as my exclusive limited agent and supplier for natural gas service. My service under this Agreement will begin on my meter reading date as determined by the NGU tariff and will continue through the October 2008 billing cycle ("Initial Term"). If my service is not accepted by the NGU for my November 2007 billing cycle, then my service will begin on the next applicable meter reading date once accepted. The Initial Term will be reduced for each month that I am not receiving service after the November 2007 billing cycle period. I will receive the current the City of Marietta rate through my October 2008 billing cycle. My NGU will continue to deliver my natural gas, and provide billing and other services.

**Pricing, Billing and Payment Terms** Under this Agreement, I will continue to pay distribution and transportation costs to my NGU. Based on the City of Marietta's choice, each month Direct Energy will charge me for all natural gas delivered by Direct Energy to the Local Utility's city gate and billed by the Local Utility in any given billing cycle, per MCF either (a) a Variable Price equal to the sum of the following (i) \$1.62 per MCF plus (ii) the NYMEX Henry Hub Monthly Variable price. The NYMEX Monthly Variable price will be the NYMEX Settlement Price upon termination of trading for the NYMEX natural gas contract for the delivery month, consistent with the Local Utility billing cycle. The Variable Price shall be converted to MCF units using the Local Utility's applicable conversion rate. For example, the Variable Price for the October 2008 billing cycle, which will reflect consumption from customer flows commencing in September 2008, will include a NYMEX Monthly Variable price based on the NYMEX Settlement Price upon termination of trading for the NYMEX natural gas contract for October 2008 deliveries, converted to MCF units or (b) a Fixed Price for a specific number of months. The decision to set a Fixed Price and the duration of such fixed price shall be determined by the City of Marietta. Any Fixed Price shall be based in part on the expected gas consumption for each month, times the price of the applicable monthly futures contracts at the NYMEX at the time of the decision to fix the price, plus \$1.62 per MCF. The sum of each of those monthly values will be divided by the entire expected gas consumption for the Fixed Price period selected by the City of Marietta. Prior to application of the pricing process described above, all NYMEX prices shall be converted to MCF units using my NGU's conversion rate applicable at the time the price is determined. The NYMEX is the commodity exchange on which Natural Gas Futures contracts are traded and is the foundation from which natural gas transactions are priced within the United States and its market rates are available from various publications including the Wall Street Journal and various internet sites. I may obtain my monthly price by calling a Direct Energy customer service representative at 1-888-566-9988. If the City of Marietta chooses the Variable Price, my rate will not change more than once monthly and if the City of Marietta chooses the Fixed Price, my rate will not change during the term of the Fixed Price. This price is exclusive of all applicable state and local taxes and NGU charges (including my NGU's regulated commodity rate, if applicable). My NGU will send me a single monthly bill that will include my NGU's charges and Direct Energy's charges and I will continue to pay my bill in accordance with the NGU's billing and payment policies. In the event that I fail to pay my bill or fail to meet any agreed-upon payment arrangement, Direct Energy may terminate this Agreement after providing me with fourteen (14) days written notice or I may be returned to utility service by the NGU. Such termination will not relieve me of my payment obligations to Direct Energy for service to the date of such termination. I have the right to request without charge up to 24 months of payment history for services rendered by Direct Energy.

**Termination.** My Agreement will terminate without penalty if: (a) I relocate my service address within the City of Marietta and I do not contact Direct Energy with my new service location account information in a timely manner, (b) if I move or am located outside the NGU service territory or outside of the City of Marietta, or (c) Direct Energy returns my service to the NGU. If I move within the City of Marietta and contact Direct Energy to transfer my service, I understand that processing the move will be subject to utility transaction processing timelines. Further, I understand that I am responsible for any switching fees imposed by my NGU.

**Cancellation.** My NGU will send me a written notice confirming my decision to enroll with Direct Energy. I have the right to cancel this Agreement without penalty by contacting my NGU verbally at 1-877-542-2630 or in writing. Such cancellation will not relieve me of my payment obligations to Direct Energy for service to the date of cancellation. If I intend to cancel this Agreement I agree to contact Direct Energy at 1-888-566-9988 prior to initiating cancellation.

**Switching.** If I change my Natural Gas Supplier, my NGU may apply a switching fee. If I return to my NGU after switching to a competitive supplier, I may be charged a price other than the incumbent NGU's regulated commodity rate.

**Assignment.** This Agreement can be transferred or assigned by Direct Energy to another supplier upon 30 days written notice.

**Privacy of Customer Information.** My Social Security Number (if given) and NGU account number shall not be released without my affirmative written consent.

**Renewal.** If applicable, upon completion of the Initial Term this Agreement may be renewed by the City of Marietta. If this occurs, I will be notified of the renewal, receive a written notice of any proposed changes in the terms and conditions of this Agreement and have the ability to opt out of this Agreement. If the City of Marietta does not renew this Agreement, this Agreement shall terminate at the end of its term.

**Warranty.** This Agreement as written makes up my entire Agreement with Direct Energy. Direct Energy makes no representations or warranties other than those expressly set forth in these Terms and Conditions, and Direct Energy expressly disclaims all other warranties, express or implied, including merchantability and fitness for a particular use.

**Force Majeure.** Direct Energy will make commercially reasonable efforts to provide gas service, but does not guarantee a continuous supply of natural gas. Certain causes and events out of the control of Direct Energy ("Force Majeure Events") may result in interruptions in service. Direct Energy will not be liable for any such interruptions caused by a Force Majeure Event. Direct Energy does not transmit or distribute natural gas. Therefore, I agree that Direct Energy is not and shall not be liable for damages caused by Force Majeure Events, including acts of God, acts of any governmental authority, accidents, strikes, labor disputes or problems, required maintenance work, inability to access the local distribution utility system, non-performance by the NGU including but not limited to a facility outage on its gas distribution lines, changes in laws, rules, or regulations of any governmental authority (including but not limited to the PUCO), or any cause beyond Direct Energy's control.

The remedy in any claim or suit by me against Direct Energy will be limited to direct actual damages. By entering into this Agreement, I waive any right to any other remedy. In no event will either Direct Energy or I be liable for consequential, incidental, or punitive damages. These limitations apply without regard to the cause of any liability or damages. There are no third-party beneficiaries to this Agreement.

**Direct Energy Contact Information.** If I have a question about or disagree with the natural gas commodity portion of my bill, I may call Direct Energy's Customer Service Contact Center at 1-888-566-9988, Monday through Friday 8:00 a.m. - 8:00 p.m. EST and Saturday 8:00 a.m. - 5:00 p.m. EST (contact center hours subject to change). I may also write to Direct Energy at: P.O. Box 642156, Omaha, NE 68164. The address for the City of Marietta is 301 Putnam Street Marietta, Ohio 45750.

**Dispute Resolution.** I understand that Direct Energy will endeavor to resolve any disagreement or complaint I may have. If my questions are not resolved after I have called Direct Energy, I may call the Public Utilities Commission of Ohio (PUCO) toll free at 1-800-686-7826 or 1-614-466-3292, or for TDD/TTY toll free at 1-800-686-1570 or 1-614-466-8180, from 8:00 a.m. to 5:00 p.m. weekdays, or visit the PUCO website at [www.puco.ohio.gov](http://www.puco.ohio.gov) or as otherwise specified by the commission. Residential customers may call the Ohio Consumers' Counsel (OCC) toll free at 1-877-742-5622 from 8:00 a.m. to 5:00 p.m. weekdays, or visit the OCC website at [www.pickocc.org](http://www.pickocc.org) or as otherwise specified by the OCC.

**Emergency.** In the event of an emergency such as a gas leak, please call your NGU at 1-877-542-2630.

**Governmental Aggregation Filing**

**Exhibit B-5 "Experience"**

The City of Marietta has a wealth of experience in negotiating, contracting and providing for common services to the City residents. Some examples of experience as a service provider are:

1. Water & Sewer Service
2. Natural Gas Aggregation "Opt-In"

The Mayor, City Council and City Staff routinely negotiate for services and supplies that benefit the residents of Marietta.

However, due to the complexity of municipal aggregation, the City will rely on the services of Buckeye Energy Brokers, Inc. to assist them in designing, implementing and maintaining the Program. Buckeye Energy Brokers is a PUCO certified (00-002(1)) Electric Aggregator and Broker in the State of Ohio and has filed for natural gas aggregator/broker certification (Case number 02-1676-GA-GAG). They have experience working with over 200 buying groups in Pennsylvania, New Jersey, Maryland and Delaware.

**Contractual Arrangements for Capability Standards:** If the applicant is relying upon contractual arrangements with a third-party(ies) to meet any of the certification requirements, the applicant must provide with its application all of the following:

- Marietta is contracting with the following consultant to provide third party assistance:

Buckeye Energy Brokers, Inc.  
8870 Darrow Rd. #F106  
Twinsburg, OH 44087  
(330) 730-4338

- The City of Marietta has contracted with Buckeye Energy Brokers, Inc. to assist the City in designing, implementing and maintaining its aggregation program.
- Below is a detailed summary of services being provided:
  - Broker shall provide energy related Services, including but not limited to the following:
    - Volume data collection and verification
    - Energy savings estimates
    - Energy buying consultation
    - Write customized Request for Proposal (RFP)
    - All contact with potential energy suppliers
    - Release all necessary client information to switch energy suppliers
    - Pre-qualify any energy suppliers wishing to bid on the RFP
    - Contract negotiation and closing with selected supplier
    - Monitor energy cost savings with quarterly reports.



### **Governmental Aggregation Filing**

The Municipality will utilize the coordinated billing services of the Local Utility and the selected Supplier. It is anticipated that all Members will receive a single bill from the Local Utility. Members will maintain or choose options that include: budget billing, automatic payments and Internet payment.

### **Governmental Aggregator's Customer Service Procedures and Dispute Resolution**

Members will have multiple means of addressing complaints. As a general rule, concerns regarding service reliability and billing should be directed to the Local Utility. They continue to read meters handle billing and generally have the most information about a customer's account. Questions regarding the Program administration should go to Buckeye, and any unresolved disputes should be directed to the Public Utilities Commission of Ohio. Listed below is a table of toll-free numbers for members to call for assistance.

<b>Nature of Complaint</b>	<b>Contact</b>	<b>Phone Number</b>
Service interruptions or emergencies	Dominion East Ohio	1-800-362-7557
Service turn on/off	Dominion East Ohio	1-800-362-7557
Billing disputes	Dominion East Ohio	1-800-362-7557
Joining/Leaving Program	(Supplier)	
Aggregation Program Questions	Buckeye Energy Brokers	1-866-302-2237
Unresolved Disputes	Public Utilities Commission	1-800-686-7826
Unresolved Disputes	Public Utilities Comm. TDD/TTY	1-800-686-1570

If a dispute cannot be resolved, legal action involving any and all disputes arising under or relating to this Program may be brought in a court of the State of Ohio or a Federal District Court. This program shall be interpreted according to the laws of the State of Ohio.

The Municipality shall receive proposals from Natural Gas suppliers using a competitive selection process. The Request For Proposal ("RFP") shall require the suppliers to offer a natural gas rate for each customer class, load grouping or other appropriate category. It is the responsibility of each Member to compare the rate with others and decide accordingly. The prices to be charged to Members in the Program will be set by the Municipality after negotiations with the selected Supplier. Members will be notified of the rates and terms of the Program as part of the opt-out process, through a direct mailing sent to each resident and business within the Municipality limits in accordance with Section 4929.22 of the Revised Code and contained in Chapter 4901:1-29 of the Administrative Code.