

**FILE**

The City of *Westlake* Ohio

DENNIS M. CLOUGH, MAYOR



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[www.cityofwestlake.org](http://www.cityofwestlake.org)

**LAW DEPARTMENT  
JOHN WHEELER, DIRECTOR**

27700 Hilliard Blvd.  
Westlake, OH 44145

Phone 440.871.3300  
Fax 440.617.4249

April 9, 2009

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

RECEIVED-DOCKETING DIV  
2009 APR 27 PM 1:57  
PUCO

Re: **Renewal Certification Application  
Ohio Natural gas Governmental Aggregators**

Dear Sir/Madam:

Enclosed herewith please find one (1) original and eleven (11) copies of the Renewal Certification Application for filing.

Please return a time stamped copy to me in the enclosed envelope.

Respectfully submitted,

Robin R. Leasure, Esq.  
Assistant Director of Law

RRL/vrg  
Enclosures

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 \_\_\_\_\_ Date Processed **APR 27 2009**



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2009 APR 27 PM 1:58

PUCO FORM 100-1-01-01		
Date Received	Renewal Certification Number	ORIGINAL GAG Case Number
		03 - 1085 - 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**

**A-1 Renewal Applicant information:**

Legal Name The City of Westlake  
Address 27700 Hilliard Blvd., Westlake, Ohio 44145  
Telephone No. 440-871-3300 Web site address [www.cityofwestlake.org](http://www.cityofwestlake.org)  
Current PUCO Certificate Number 03-050(3) Effective Dates May 28, 2007 - May 28, 2009

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

Name Robin R. Leasure, Esq. Title Assistant Director of Law  
Business Address 27700 Hilliard Blvd., Westlake, Ohio 44145  
Telephone No. 440-871-3300 Fax No. 440-617-4249 Email Address [rleasure@cityofwestlake.org](mailto:rleasure@cityofwestlake.org)

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

Name Robin R. Leasure, Esq. Title Assistant Director of Law  
Business address 27700 Hilliard Blvd., Westlake, Ohio 44145  
Telephone No. 440-871-3300 Fax No. 440-617-4249 Email Address [rleasure@cityofwestlake.org](mailto:rleasure@cityofwestlake.org)

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

Customer service address City of Westlake, 27700 Hilliard Blvd., Westlake, Ohio 44145  
Toll-Free Telephone No. 440-617-4230 Fax No. 440-617-4249 Email Address [council@cityofwestlake.org](mailto:council@cityofwestlake.org)

## 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

*Robin R. Leasure, Asst. Dir. of Law*  
Sworn and subscribed before me this *21st* day of *April* Month *2009* Year

Robin R. Leasure, Assistant Director of Law

Signature of official administering oath

Print Name and Title

*Gayle Hill*

My commission expires on

GAYLE HILL  
Notary Public, State of Ohio  
My Commission Expires 12/5/2011



# The Public Utilities Commission of Ohio

Ohio Natural Gas Governmental Aggregation  
Affidavit Form  
(Version 1.07)

In the Matter of the Application of )  
The City of Westlake )  
for a Certificate or Renewal Certificate to Provide )  
Natural Gas Governmental Aggregation Service in )  
Ohio. )

Case No. 03-1085 -GA-GAG

County of Cuyahoga  
State of Ohio

Robin R. Leasure

[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

*Robin R. Leasure, Asst. Dir. of Law*

Sworn and subscribed before me this

21<sup>st</sup>

day of

April

Month

2009

Year

*Robin R. Leasure, Asst. Dir. of Law*

Signature of Official Administering Oath

Print Name and Title

*Gayle Hill*

My commission expires on

GAYLE HILL

Notary Public, State of Ohio

My Commission Expires 12/5/2011  
(Ohio Natural Gas Governmental Aggregation or Renewal) Page 3 of 3

**Exhibit B-1 "Authorizing Ordinance"**

A copy of the ordinance authorizing the formation of a governmental aggregation program adopted pursuant to Section 4929.26 of the Revised Code is attached.

**CITY OF WESTLAKE, OHIO  
ORDINANCE NO. 2003-112**

**AN ORDINANCE APPROVING THE  
CITY OF WESTLAKE GAS  
AGGREGATION PLAN OF  
OPERATION AND GOVERNANCE,  
AND DECLARING AN EMERGENCY.**

**WHEREAS**, on November 5, 2002, the City of Westlake voters approved the development of a form of government gas aggregation known as an "Opt-Out" aggregation; and

**WHEREAS**, under this plan, Columbia Gas residential and business customers are automatically included as participants in the program unless they opt-out; and

**WHEREAS**, the City must file an application with the PUCO for certification; and

**WHEREAS**, two (2) public hearings were held on May 14, 2003 to discuss the plan as required by law.

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE  
CITY OF WESTLAKE, COUNTY OF CUYAHOGA AND STATE OF OHIO:**

**Section 1:** That Council hereby approves the City of Westlake Gas Power Aggregation Plan of operation and governance, a copy of which is attached hereto as Exhibit "A" with such revisions which may be made by the Director of Law without changing the substance thereof.

**Section 2:** That it is found and determined that all formal actions of this Council concerning and relating to this legislation 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 were in meetings open to the public in compliance with all legal requirements including Section 10, Article XI of the Charter of the City of Westlake.

**Section 3:** That this legislation is hereby declared to be an emergency measure immediately necessary for the preservation of the public health, safety and welfare, and for the further reason that it is immediately necessary to conclude the certification procedure with the PUCO as soon as possible, and further provided it

**Exhibit B-2 "Operation and Governance Plan"**

A draft copy of the City of Westlake's Plan of Operation and Governance is attached. The City of Westlake will provide the Public Utilities Commission with a final version of its Plan of Operation and Governance before it initiates its opt-out procedures.

The City of Westlake also attaches an affidavit in which it commits to provide final versions of its Plan of Operation and Governance and opt-out notice to the Public Utilities Commission of Ohio no later than ten (10) calendar days before such opt-out notice is mailed to its residents.

# **City of Westlake, Ohio**

## **Plan of Operation and Governance**

**Adopted by the City of Westlake on April 15<sup>th</sup>, 2003**

### **Governmental Natural Gas Aggregation Program**



## 1. Overview

At the November 2002 general election, local residents authorized the City of Westlake, Ohio (the "City") to create a municipal opt-out natural gas aggregation program (the "Aggregation Program") as provided under Section 4929.26 of the Ohio Revised Code ("O.R.C."). Under the opt-out natural gas Aggregation Program, all eligible natural gas consumers within the City's corporation limits initially will be automatically included in the Aggregation Program. However, all consumers will also be given the opportunity to opt-out of or decline participation in the Aggregation Program as detailed herein.

The City's purpose in creating the Aggregation Program is to represent local consumer interests in emerging competitive natural gas markets by aggregating natural gas loads within the City's corporation limits (including municipal facilities) and negotiating affordable, reliable natural gas supplies and other related services on behalf of local consumers. The City may pursue this purpose individually or in cooperation with other entities. As part of being a Governmental aggregator, the City will become certified by the Public Utility Commission of Ohio and operate under the Rules for Competitive Retail Natural Gas Service. "Competitive Retail Natural Gas Service" means a component of retail natural gas service that is deemed competitive under the Ohio Revised Code or pursuant to an order of the PUCO.

Many small commercial and residential natural gas consumers lack the knowledge and leverage to effectively negotiate natural gas rates and services. A governmental aggregation program provides them with an option for professional representation and the bargaining power of a larger, more diverse consumer group that may be more attractive to suppliers, allowing them to effectively participate in the competitive process and achieve benefits.

The Aggregation Program is designed to reduce the amount a consumer pays for natural gas, and to gain other favorable economic and non-economic terms in service contracts. The City will not buy and resell natural gas, but will represent collective consumer interests to set terms and conditions for service. Through a negotiation process, the City will develop a contract with one or more Competitive Retail Natural Gas Services Provider (collectively "CRNGS Provider") for firm all-requirements natural gas service. The contract will run for a fixed term and may be extended upon the mutual agreement of the City and the CRNGS Provider. Once the contract has been finalized, it will be submitted to the City Council ("City Council") for approval.

Initially, each Eligible Consumer (as defined in §4901:1-28-01.01 of the Ohio Administrative Code and the service agreement with the CRNGS Provider) within the City's corporation limits will be included automatically in the Aggregation Program on a non-discriminatory basis. However, prior to actual enrollment, each consumer will receive a notice from the City detailing the Aggregation Program's rates, terms and conditions.

Each Eligible Consumer will then have a 21-day period to opt-out of or decline to participate in the Aggregation Program without charge. Eligible Consumers opting out of the program will continue to take service under Columbia Gas of Ohio ("CGO") standard commodity service offer until such time as they select an approved CRNGS Provider. In the event that the City and the CRNGS Provider mutually agree to extend the term of the contract, each consumer will be allowed the opportunity to opt-out of any extension. Eligible Consumers that do not opt-out of the Aggregation Program during the 21-day opt-out period shall be deemed participants of the Aggregation Group ("Participants"). "Aggregation Group" means: (a) those Eligible Consumers of CGO within the corporate limits of the City who do not "opt-out" of the City's Aggregation Program; and (b) those Eligible Consumers of CGO within the corporate limits of the City who otherwise become Participants.

After the initial 21-day opt-out period, Eligible Consumers, including previous Participants that have since left the Aggregation Program, may join the Aggregation Group during a subsequent enrollment period to be determined by mutual agreement between the City and the CRNGS Provider ("Open Enrollment Period"). Once such Eligible Consumers join the Aggregation Program they shall be deemed Participants. Such Eligible Consumers shall be served by the CRNGS Provider for the remaining duration of the City's contract with the CRNGS Provider at the then applicable price as determined by the City and the CRNGS Provider.

During non-Open Enrollment Periods, any CRNGS Provider may, in its sole discretion, accept Eligible Consumers on an individual basis into the Aggregation Group. If an Eligible Consumer is accepted by the CRNGS Provider, that consumer shall be served at a price to be determined by the CRNGS Provider in its sole discretion. Once such Eligible Consumers join the Aggregation Program they shall be deemed Participants.

Participants who relocate within the City limits will be allowed to continue in the Aggregation Program at their new locations under the same terms and conditions as at their former locations, provided the Participant provides written or telephonic notice to the appropriate CRNGS Provider at least thirty (30) calendar days prior to the actual change of address.

The City will enter into a Master Service Agreement ("MSA") with the CRNGS Provider to implement and operate the Aggregation Program. Contracts for natural gas supply and other related services will be negotiated, recommended and monitored for compliance by the City on behalf of local consumers.

The Aggregation Program covers only the commodity portion of a Participant's natural gas bill and the price charged by the CRNGS Provider is exclusive of CGO charges and applicable taxes. CGO will continue to deliver natural gas to Participants' homes and businesses through its natural gas distribution system as a monopoly function regulated by the Public Utilities Commission of Ohio ("PUCO"). CGO also will continue to install, operate and maintain its system, pipelines and other natural gas distribution components. Participants should continue to call CGO if the

supply of their natural gas is interrupted or if they have general billing questions. Participants should contact the appropriate CRNGS Provider should they have questions regarding charges for the supply of natural gas. The PUCO will continue to oversee CGO's natural gas safety and reliability service standards.

The City developed this Plan of Operation and Governance in compliance with Ohio law regarding municipal opt-out aggregation of natural gas consumers, including at least two public hearings prior to its adoption.

## **2. Plan of Operation and Governance**

The City Council shall approve by resolution this Plan of Operation and Governance in accordance with Ohio Revised Code Section 4929.26. Amendments to the Plan of Operation and Governance may be subject to City Council approval and filing with the PUCO.

## **3. Aggregation Program Structure and Management**

### ***Mayoral Oversight***

Oversight of the Aggregation Program will be the responsibility of the Mayor. The Mayor will have the authority to develop specifications for the Aggregation Program, to appoint an Aggregation Program Manager, and to select the CRNGS Provider.

The CRNGS Provider and the Aggregation Program Manager, if any, will work under the direction of the Mayor with the advice and counsel of the City Attorney.

Due to the complexity of the natural gas industry and the uncertainties of its associated restructuring activities, the Mayor may contract with a consultant or consultants to provide the necessary expertise to represent the City's interest in legislative and regulatory matters and/or to serve as the Aggregation Program Manager. Such services may include, but are not limited to, facilitating consumer enrollment and opt-out, assisting with consumer education, addressing consumer questions and concerns, providing reports on program operation, enrollment and savings, negotiating future CRNGS Provider contracts, and representing the City in dealings with the CRNGS Provider, CGO, the Ohio Legislature, the PUCO and the Ohio Consumer Counsel ("OCC").

### ***Selection of the CRNGS Provider***

The City will not buy and resell natural gas to Participants. The City will negotiate with potential CRNGS Providers to provide affordable, reliable natural gas supplies and other related natural gas services on behalf of local consumers. The City will consider cooperating with other governmental aggregators if it appears beneficial to do so. Once the City contracts with the CRNGS Provider, the City shall work exclusively with such Provider and actively support the opt-out offer.

Through a negotiation process, the City will develop a MSA with the CRNGS Provider for firm, all-requirements service. The initial term of the MSA may be up to two (2) years.

The City will contract only with CRNGS Provider that meets the following minimum criteria. The CRNGS Provider must:

1. Be certified as a CRNGS Provider by the PUCO;
2. Be registered as a natural gas supplier with CGO;
3. Demonstrate a fully functional Electronic Data Interchange ("EDI") computer network that is capable of handling aggregation requirements;
4. Successfully complete EDI computer system testing with CGO;
5. Meet standards of creditworthiness established by the City;
6. Have a customer call center capable of effectively handling Participants' questions, concerns and disputes in a timely manner using a toll-free telephone number;
7. Hold the City harmless from any financial obligations arising from offering natural gas and/or energy-related services to Aggregation Program residential and small-commercial Participants;
8. Satisfy the State of Ohio's and CGO's credit requirements;
9. Negotiate with the City and execute the MSA;
10. Assist the City in developing detailed opt-out and/or opt-in procedures;
11. Acquire the "Eligible Consumer" list from the utility;
12. Ensure that only consumers inside the municipal boundaries are considered "Eligible Consumers" and as such enrolled in the Aggregation Program if the CRNGS does not receive an opt-out card;
13. Conduct the entire opt-out process within the rules of the PUCO;
14. Provide the City with the terms and conditions under which the citizens will receive service;
15. Provide the opt-out disclosure notice;
16. Assist the City in holding public hearings on the Plan of Operation and Governance if scheduling permits; and
17. Notify Participants of the first month of aggregation natural gas delivery.

4. **Enrollment and Termination of Aggregation Service**

***Initial Consumer Notification and Enrollment***

After approval of the MSA by the City Council, the City will work with the CRNGS Provider and CGO to identify all Eligible Consumers within the City's corporation limits. The CRNGS Provider shall be responsible for development of a list of Eligible Consumers ("Eligible Consumer List") and the City shall use reasonable efforts to assist the CRNGS Provider in its development of the Eligible Consumer List. The Eligible Consumer List may consist of separate lists, in whole or part, obtained from the CGO, the CRNGS Provider or other sources. The CRNGS Provider shall pay the fees or costs necessary to obtain or produce such lists. The City shall authorize the CRNGS Provider to act as the City's agent when requesting a list of Eligible Consumers from the

CGO. The City shall provide to the CRNGS Provider both: (a) an identification of the City's geographic boundaries; and (b) if available, any mailing lists of consumers within its boundaries that the City may have or may be able to reasonably develop. The City shall not be obligated to incur any expenses for the development of the Eligible Consumer List.

### ***Eligible Consumers***

All Eligible Consumers will be notified of the rates, charges and other terms and conditions of participation in the Aggregation Program and that they will be automatically enrolled in the Aggregation Program unless they opt-out of or decline participation in the program. Consumers will be given a 21-day period in which to notify the CRNGS Provider that they wish to opt-out of or decline participation in the Aggregation Program.

At a minimum, the opt-out notice must include the following Aggregation Program information:

1. A description of the actions taken by the City Council to authorize the Aggregation Program;
2. Services to be provided by the City pursuant to the Aggregation Program;
3. Rates and charges;
4. Terms and conditions;
5. Dates of the Aggregation Program, including an estimated service commencement date;
6. Any credit and/or deposit policies and requirements;
7. Any limitations or conditions on consumer acceptance;
8. CRNGS Provider information and contacts;
9. CRNGS Provider's toll-free number for customer service and concerns;
10. City Aggregation Program Manager's contact information (if any);
11. Consumer education information; and
12. The 21-day opt-out period and opt-out procedures.

After the initial 21-day opt-out period has elapsed, all Eligible Consumers who have not notified the CRNGS Provider of their desire to opt-out of the Aggregation Program will be enrolled by the CRNGS Provider at the earliest date practicable. Eligible Consumers will not be required to take other affirmative steps to be included in the program.

### ***Leaving the Aggregation Program***

Participants who wish to leave the Aggregation Program may do so. The terms under which a Participant may leave the Aggregation Program depend on when the Participant wishes to leave. The relevant periods are:

1. During the initial 21-day opt-out period (with no early-termination administrative fee);
2. At the end of the initial term of the MSA with the CRNGS Provider (with no early-termination administrative fee); or
3. At any other time (subject to an early-termination administrative fee).

In addition to the initial 21-day opt-out period described above, each Participant will be given an opportunity to opt-out of the Aggregation Program at the time of any extension of the term of the MSA. At a minimum, this will occur at the end of each twenty-four (24) billing period cycle after service begins. Consumers who choose to opt-out of the Aggregation Program at any time other than during the initial 21-day opt-out period or at the time of any extension of the term of the MSA may be subject to an early-termination administrative fee assessed by the CRNGS Provider.

Participants who wish to opt-out of the program after the initial 21-day opt-out period will be allowed to do so upon written or telephonic notice to the appropriate CRNGS Provider at least thirty (30) calendar days prior to the termination date. The CRNGS Provider will take all steps necessary to terminate service to the Participant at the earliest possible opportunity after the end of the thirty (30) calendar day notice period.

Any Participant who opts out of (or otherwise leaves) the Aggregation Program will be returned to service under the CGO standard commodity service offer under CGO's tariff terms until such time as they select an approved CRNGS Provider.

If a Participant relocates outside of the City's corporation limits, there will be no exit fee or early termination administrative fee and service will end under the Aggregation Program as described above.

#### *New and Returning Participants*

After the initial 21-day opt-out period, Eligible Consumers, including Participants that have left the Aggregation Program, may join the Aggregation Group during a subsequent Open Enrollment Period. Such consumers shall be served by the CRNGS Provider for the remaining duration of the contract at the then applicable price as determined by the City and the CRNGS Provider.

During non-Open Enrollment Periods, any CRNGS Provider may, in its sole discretion, accept Eligible Consumers on an individual basis into the Aggregation Group. If an Eligible Consumer is accepted by the CRNGS Provider, that customer shall be served at a price to be determined by the CRNGS Provider in its sole discretion.

The CRNGS Provider will comply with all local, state and federal rules and regulations regarding discontinuing service to Participants.

## **5. Rates, Other Costs and Billing**

### ***Natural Gas Supply Charges***

The City will aggregate natural gas loads within the City's corporation limits (including municipal facilities that meet the criteria as an "Eligible Consumer") and negotiate mutually agreeable price terms with the CRNGS Provider for affordable, reliable natural gas supplies and other related services on behalf of local consumers. The City may pursue this purpose individually or in cooperation with other entities. The CRNGS Provider will supply information on natural gas supply charges by CGO customer rate classification or other appropriate pricing categories as approved by the City. The CRNGS Provider's gas supply rates will be fully and prominently disclosed in consumer enrollment materials and will be subject to approval by the City.

### ***CGO's Regulated Customer Classifications and Rates***

CGO assigns customer rate classifications, character of service and associated regulated rates subject to PUCO approved tariffs. In addition to the CRNGS Provider's natural gas supply charges, customers will continue to be billed for CGO's service and delivery charges and taxes. Although the City may participate in regulatory proceedings and represent the interests of consumers regarding these regulated rates, it cannot assign or alter customer rate classifications.

### ***Other Costs***

Participants may be assessed a switching fee by CGO. In the event this fee cannot be waived, the Participants must pay the fee. Neither the City nor the CRNGS Provider will be responsible for paying the switching fee.

### ***Customer Billing***

The CRNGS Provider will comply with the customer billing requirements of the O.R.C. and all applicable PUCO rules and regulations. The CRNGS Provider initially will use CGO's utility consolidated billing option in which each Participant's account receives one bill from CGO that itemizes the CRNGS Provider's natural gas supply charges along with CGO's delivery, transition and other PUCO-approved charges. The CRNGS Provider may, at its option, provide dual billing or supplier consolidated billing, if offered by CGO. Under the dual billing option, each Participant will receive two invoices - one from CGO (containing CGO's charges) and one from the CRNGS Provider (containing its natural gas charges). The supplier consolidated billing option is similar to the utility consolidated billing option except the CRNGS Provider provides the single, consolidated bill rather than CGO. The CRNGS Provider may, at its sole discretion, offer a budget billing option to Participants.

Initially, as described above, CGO shall provide monthly billing, collection and certain other customer services ("Billing Services") to Participants. The MSA shall set forth the CRNGS Provider's options that will arise upon the occurrence of

one or more of the following: if CGO (a) ceases to provide Billing Services, in whole or in part; or (b) otherwise materially increases the costs that the CRNGS Provider must pay for Billing Services (including the level of Receivables for which the CRNGS Provider is responsible and must recover from the Participants through the price). "Receivables" means the amounts charged by the CRNGS Provider to Participants for natural gas but for which the CRNGS Provider does not receive payment from CGO (if CGO is providing utility consolidated billing) or from the consumer (if the CRNGS Provider is providing an invoice for natural gas supply directly to the consumer).

6. Consumer Education

The CRNGS Provider will work with the City to develop an education plan for retail natural gas consumers in the City. The City and the CRNGS Provider will, where practicable, provide consumer education messages that are consistent with the messages of CGO's local campaign, and the statewide natural gas consumer education program.

7. Reliability and Customer Service

For the protection of retail natural gas consumers in Ohio, the PUCO has adopted rules governing minimum service, quality, safety and reliability practices for local utilities like CGO. The rules provide standards for inspection, maintenance, repair and replacement of the distribution lines of CGO. The rules also impose standards on utilities for system operation, reliability and safety during emergencies and disasters.

CGO will continue to maintain and service its natural gas distribution facilities in the City. Accordingly, the only thing that changes for the CGO consumers in the City who participate in the Aggregation Program is the natural gas supplier. For the Participants, the natural gas supplier will be the CRNGS Provider.

The CRNGS Provider will provide a toll free telephone number and Internet web page for consumer questions and concerns. Customer service protocol will be developed with the CRNGS Provider and shall be in accordance with the following procedures. In the event that a customer may have a concern regarding the CRNGS Provider's charges, the customer may call or write to the CRNGS Provider at the contact information that will be provided. The CRNGS Provider will investigate the customer's concerns and provide the customer with a status update promptly (and in no event in excess of three (3) business days of receiving the customer's concern). The CRNGS Provider will provide other reports and updates that are required by PUCO, if any. If the customer's questions are not resolved after contacting the CRNGS Provider, the customer may contact PUCO by calling toll free at 1-800-686-7826 or 1-614-466-3292, or for TDD/TTY toll free at 1-800-686-1570 or 1-614-466-3292, from 8:00 a.m. to 5:00 p.m. weekdays, by visiting the PUCO website at [www.puco.ohio.gov](http://www.puco.ohio.gov) or as otherwise specified by PUCO.



## **8. Reliability and Indemnification of Consumers**

Natural gas service reliability is essential to Participants. The City will strive to provide high-quality service and reliability through provisions of the CRNGS Provider contract, through traditional proceedings related to CGO's regulated distribution services; and through direct discussions with CGO concerning specific or general problems related to quality and reliability of its distribution system.

If for any reason the CRNGS Provider fails to provide uninterrupted service, the City will attempt to acquire an alternative natural gas supply. If this attempt fails, Participants will default to service under the CGO standard commodity service offer. The City will seek to minimize this risk by contracting only with reputable CRNGS Providers that demonstrate reliable service. Regardless, in no case will Participants be without natural gas as the result of the CRNGS Provider's failure to provide uninterrupted service.

## **9. Participant Rights**

All Participants shall enjoy the protections of law afforded to consumers as they currently exist or as they may be amended from time to time. These include rights to question billings or service quality or service practices. All Participants also shall enjoy the individual right to decline participation in the Aggregation Program subject to the terms and conditions contained herein.

All Participants will be treated equitably. Participants are guaranteed the right to raise and resolve disputes with the CRNGS Provider and will be provided all required notices and information. Furthermore, Participants always retain the right to opt-out of the Aggregation Program or switch suppliers subject to the terms and conditions contained herein.

All Eligible Consumers within the City's corporation limits shall be eligible to participate in the Aggregation Program on a non-discriminatory basis subject to the terms and conditions described herein, Ohio law, PUCO rules and regulation governing natural gas service and CGO's approved tariffs.

Service under the Aggregation Program shall include all eligible customer classes in adherence with universal service principles and requirements, and the traditional non-discriminatory practices of local government. CRNGS Provider contracts shall contain provisions to maintain these principles and equitable treatment of all customer classes.

PIPP customers shall remain subject to all provisions of Ohio law and PUCO rules and regulations, but are not allowed at this time to participate in the Aggregation Program. "PIPP" means Percentage of Income Payment Plan Program as

prescribed in PUCO Rules 4901:1-18-02(B)-(G) and 4901:1-18-04(B) of the Ohio Administrative Code.

**10. Participant Responsibilities**

Participants are subject to the same standards and responsibilities as other natural gas consumers, including payment of billings and access to metering and other equipment necessary to carry out utility operations.

**11. Termination of the Aggregation Program**

The Aggregation Program may be discontinued upon the termination or expiration of the CRNGS Provider contract without any extension, renewal or subsequent contract being executed. In the event of Aggregation Program termination, each Participant will receive notice prior to such program termination and can return to service under the CGO standard commodity service offer or select another approved CRNGS Provider.

**12. Creditworthiness/Deposits of Participants/Failure to Pay Bill**

The City may allow the CRNGS Provider to impose reasonable credit requirements upon or require a deposit from Participants.

In the event that a Participant fails to pay for the natural gas supplied by the CRNGS Provider by the due date shown on the CGO natural gas bill or if a Participant otherwise fails to meet any other agreed upon payment arrangements with the CRNGS Provider, the CRNGS Provider may terminate the Participant from the Aggregation Group. When applicable, the CRNGS Provider will provide a Participant with at least fourteen (14) calendar days prior written notice of its intent to drop the Participant from the Aggregation Group. The CGO shall provide notice to the Participant pursuant to the applicable regulations when it is dropping the Participant from the Aggregation Group.

**Attestation  
of  
Dennis M. Clough, Mayor  
Westlake, Ohio**

In its application for certification by the Public Utilities Commission of Ohio ("Commission") as a natural gas governmental aggregator, the City of Westlake (the "City") provided draft versions of its Plan of Operation and Governance and its opt-out notice.

The City hereby attests that it will provide copies of the final Plan of Operation and Governance and opt-out notice to the Commission at least ten (10) calendar days prior the day on which the City (or its selected natural gas supplier) will mail the opt-out notice to the City's residents.

Dennis M. Clough  
Dennis M. Clough, Mayor

4-25-03  
Date

Sworn and subscribed before me this 25 day of April, 2003

Randy Hill  
Signature of official  
Administering Oath

GAYLE HILL - Notary  
Print Name and Title

My commission expires on 11-28-2006

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

A draft copy of the City of Westlake's opt-out notice is attached as Exhibit B-4. See Exhibit B-4 for more information.

**Exhibit B-4 "Opt-Out Notice"**

A copy of the City of Westlake's draft opt-out notice is attached. The only information to be completed on the notice is the price, which is shown on the copy as \$0.XXXXXX per Ccf. and the name, website and phone number of the potential future supplier. The plan type detailed in the draft was previously used by the City from 2003 – 2007 and is subject to change with a future supplier, notice of which will be forwarded to the PUCO as required.



June 10, 20\_\_.

«FULLNAME»

«MAILINGADDR»

«MAILINGCITY» «MAILINGSTATE» «MAILINGZIP»

**You Qualify for the CITY OF WESTLAKE  
Natural Gas Governmental Aggregation Program**

As a citizen of the City of Westlake you can participate in a natural gas aggregation program that has been organized by your City. In today's open, competitive natural gas market we have the opportunity to collectively pull together our individual natural gas needs and negotiate a supply plan that benefits all of us. The residents of Westlake authorized the creation of a purchasing group with a vote in November 2002. In response to this action, the City reviewed proposals from a number of providers and has negotiated a natural gas supply agreement with \_\_\_\_\_ in which citizens of Westlake automatically qualify to participate.\* Please refer to page 2 of this letter for important information concerning participation in this program. Shell Energy will supply your natural gas and Columbia Gas of Ohio (CGO) will maintain the distribution system, read your meter and provide a bill containing CGO and \_\_\_\_\_ charges.

**Here's How the Westlake Plan Works**

\_\_\_\_\_ will deliver a unique rate combination that is called the "Best of Both Worlds". The plan combines the benefits of a variable rate during warm weather months and a fixed rate during the winter heating season. Here's how the plan works:

<u>CGO Bill Cycles</u>	<u>Rate Structure<sup>1</sup></u>
August 20__.	\$0.XXXXX per Ccf
September - October 20__.	Variable (price changes monthly as the natural gas market moves) During the spring and summer, when you use less gas due to warmer weather, you'll have a variable rate so you can take advantage of market-based pricing (prices are historically lower during the summer due to reduced gas demand)
Nov 20__ - Mar 20__.	Fixed (guaranteed winter rate set by the city before October 10, 20__.) During the winter, when your gas consumption typically goes up, you'll get a fixed rate. This assures you of predictable, reliable pricing and protects you from surprises on your gas bill. The utility historically adjusts its rate twice during the winter heating season.
Apr - October 20__.	Variable (price changes monthly as the natural gas market moves)
Nov 20__ - Mar 20__.	Fixed (guaranteed winter rate set by the city before October 10, 20__.)
April - July 20__.	Variable (price changes monthly as the natural gas market moves)

<sup>1</sup>See enclosed Terms & Conditions for details regarding prices, other charges, and important limitations.

## **Bonus Incentives - \$10 Free      Gift Card**

The City has made an arrangement with \_\_\_\_\_ to provide you with \$10 of free \_\_\_\_\_ gasoline or merchandise. After your enrollment is approved by CGO, and you remain on this city-endorsed program through March 20\_\_\_\_, \_\_\_\_\_ will send you a \$10 gift card good for any purchase made at a participating \_\_\_\_\_ station nationwide.

### **How Do I Participate?**

As a citizen of Westlake you automatically qualify to participate (\*see details below) in this natural gas program, so you don't have to do anything. After your enrollment is approved by CGO, your gas flow from \_\_\_\_\_ will begin in August and this new plan will be reflected in your August CGO bill cycle. You may be charged a \$25.00 Early Termination Fee if you leave the program any time during the November – March bill cycles. Under our agreement, \_\_\_\_\_ will provide your natural gas service through your July 20\_\_\_\_ billing cycle. At that time, you may leave the program without penalty.

### **How Do I Choose Not to Participate?**

If you don't want to participate, complete the enclosed Opt-Out Election Form indicating you do not want to join this city-endorsed aggregation group and mail it to \_\_\_\_\_ by July 2, 20\_\_\_\_. If you choose to not participate in the Westlake natural gas program you will continue to get your natural gas from CGO at their established rate.

### **How Can I Get More Information?**

You can get more details about the City of Westlake natural gas program by visiting \_\_\_\_\_, or calling toll-free \_\_\_\_\_ (7:00 a.m. – 7:00 p.m. EST weekdays and 9:00 a.m. – 2:00 p.m. Saturdays) and a Customer Service Representative will be ready to help you. City Hall will not be able to assist with this program, so please don't call them. We recognize that most people are looking for ways to better manage their costs and we believe this plan will help you get the most value from your natural gas.

Regards,

The City of Westlake

\* Participants must be eligible for the Columbia Gas Energy Choice program, have a service address located within the city limits of Westlake and cannot be a Percentage of Income Payment Plan program participant or have a mercantile account with CGO.

**City of Westlake**  
**Natural Gas Aggregation Program**  
**Opt-Out Election Form**

☐ I elect not to participate in the City of Westlake Natural Gas Aggregation Program and understand that I will not be served by \_\_\_\_\_.  
(please check box to make election)

CGO Account Holders Signature: \_\_\_\_\_

Date of Execution: \_\_\_\_\_

**Important Notice:** By returning this signed Opt-Out Election form, I affirmatively elect not to participate in the City of Westlake Natural Gas Aggregation Program. By electing not to participate, I understand that I will forego the benefits of the program that include receiving natural gas from \_\_\_\_\_. I understand that if I choose to opt-out of the City of Westlake Natural Gas Aggregation Program, I must fully complete this Opt-Out Election form and mail it to \_\_\_\_\_ within 21 days of the postmark of the letter accompanying this form. My Opt-Out Election form must be postmarked by this date for my opt-out election to be effective. If my Opt-Out Election form is not postmarked by this date or is incomplete, I understand that the natural gas service to the service address shown below will be automatically enrolled in the City of Westlake Natural Gas Aggregation Program.

I assume all responsibility to send the Opt-Out Election form to:  
attn: City of Westlake Natural Gas Program.

**Please note:** For your election to be effective, the information provided below must match the information contained in the CGO bill for the account tied to the natural gas service that you receive in the City of Westlake. Please write in any corrections to the information shown below, if necessary.

NAME on Natural Gas Utility Account:

«FULLNAME»

SERVICE ADDRESS on Natural Gas Utility Account (Street address, City, State & Zip code):

«SrvAddr», «SrvCity», «SrvState», «ServiceZip»

MAILING ADDRESS (if different from Service Address) (Street address, City, State & Zip code):

«MailingAddr», «MailingCity», «MailingState», «MailingZip»

Please fill in the phone number below in the event we need to contact you regarding information on this form.  
(NOTE: Your telephone number will not be shared with others or be used for direct solicitation).

Account Holder's telephone  
number (OPTIONAL):

() -  -

If you wish to Opt-Out of the City of Westlake  
Natural Gas Aggregation Program,  
Please complete this Opt-Out Election form and mail to:  
ATTN: City of Westlake Natural Gas Program

«ReferenceID»

«Promo»

\*«ReferenceID»\*



GOVERNMENTAL AGGREGATION PROGRAM  
TERMS AND CONDITIONS - CGO SERVICE AREA  
("T&C")

EXAMPLE

1. Terms and Conditions

The City of Westlake (the "City") provide the following Terms and Conditions ("T&C") to customers served by Columbia Gas of Ohio ("CGO") that are eligible to be served by the City's opt-out governmental aggregation program ("Opt-Out Program"). This T&C along with the City's Plan of Operation and Governance set out your rights and obligations under the Opt-Out Program. We ask that you please take a moment to familiarize yourself with this document. The City of Westlake entered an agreement ("Agreement") with Shell Energy Services Company, L.L.C. ("Shell Energy") regarding the sale of natural gas to members of our Opt-Out Program. The Agreement is available for your review at our offices.

The terms "we," "us," "our" and any derivations thereof refer to the City. The terms "you," "your" and any derivations thereof refer to the retail natural gas customer in the CGO service territory that is a member of our Opt-Out Program and is successfully enrolled by Shell Energy with CGO.

2. Term

Shell Energy's service to you is expected to begin with your August 2003 Bill Cycle. Shell Energy will continue to provide your natural gas through your July 2005 Bill Cycle, subject to certain conditions set forth in this T&C. Subject to CGO's Tariff, Shell Energy Supply to you shall begin on the first available meter reading cycle after CGO processes your switch request and shall end on the last day of the twenty-fourth (24th) following Bill Cycle.

3. Supply of Natural Gas

For the duration of this Agreement, through the Opt-Out Program, with the Participating Communities acting as your agent, Shell Energy has agreed with us to sell to you and you agree to buy from Shell Energy the natural gas that you consume to meet all of your residential and/or commercial natural gas needs for the natural gas accounts listed in the "Opt-Out Notice" ("Notice") accompanying this T&C ("Supply"). Shell Energy will only supply the natural gas commodity. CGO will continue to be responsible for the delivery of natural gas to you and for other related services ("Service").

4. Price

Depending on your Bill Cycle, Shell Energy will charge you a different price for the Supply. A bill cycle contains beginning and ending meter readings and is determined by CGO ("Bill Cycle"). These prices shown below are exclusive of any applicable state or local taxes and CGO's service and delivery charges. Your delivered price will also include all applicable taxes and CGO charges.

- a. For the August 2003 Bill Cycle. Shell Energy will charge you \$0.xxxxx/Ccf for the natural gas for which you are billed in your August 2003 Bill Cycle.
- b. For September and October 2003 Bill Cycles. For each Bill Cycle, Shell Energy will charge you a variable price for the natural gas for which you are billed in your September through October 2003 Bill Cycles, inclusive. For each Bill Cycle Shell Energy will calculate the variable price for natural gas based on the applicable NYMEX natural gas futures contract settlement prices plus a fixed amount of \$2.03 per Dth and convert that sum to a price per Ccf. The methodology, which will be used to calculate the variable price, is described more fully in Exhibit D of the Agreement. An example of this calculation follows: for July bill cycles, Shell Energy will set the price to be equal to the Consumption Weighted Average of the NYMEX natural gas futures settlement prices for June and July on the last day that these contracts are traded in May.
- c. For November 2003 through March 2004 Bill Cycles. Shell Energy will charge you a stable price per unit of measure for natural gas for which you are billed in your November 2003 through March 2004 Bill Cycles. Your price for natural gas per unit of measure will remain constant during that period. Before October 10, 2003, representatives of the City, will choose the day on which the November 2003 through March 2004 price is set. As more fully set out in the Exhibit D to the Agreement, Shell Energy will set this single price on the day chosen by the City based on the NYMEX natural gas futures contract settlement prices plus a fixed amount of \$2.03 per Dth and convert that sum to a price per Ccf.
- d. For April 2004 through October 2004 Bill Cycles. For each Bill Cycle, Shell Energy will charge you a variable price for the natural gas for which you are billed in your April 2004 through October 2004 Bill Cycles, inclusive. The variable price will be calculated under the same methodology as discussed in 4 (b) above. An example of this calculation follows: for July 2004 bill cycles, Shell Energy will set the price to be equal to the Consumption Weighted Average of the NYMEX natural gas futures settlement prices for June 2004 and July 2004 on the last day that these contracts are traded in May 2004.
- e. For November 2004 through March 2005 Bill Cycles. Shell Energy will charge you a stable price per unit of measure for natural gas for which you are billed in your November 2004 through March 2005 Bill Cycles. Your price for natural gas per unit of measure will remain constant during that period. Between July 15, 2004 and October 10, 2004, representatives of the City, will choose the day on which the November 2004 through March 2005 price is set. As more fully set out in the Exhibit D to the Agreement, Shell Energy will set this single price on the day chosen by the City based on the NYMEX natural gas futures contract settlement prices plus a fixed amount of \$2.03 per Dth and convert that sum to a price per Ccf.

for April through July 2005 Shell Energy will charge you a variable price for the natural gas for which you are billed in your April through July 2005 Bill Cycle. The variable price will be calculated under the same methodology as discussed in 4 (d) above. An example of this calculation follows: for April 2005 bill cycles, Shell Energy will set the price to be equal to the Consumption Weighted Average of the NYMEX natural gas futures settlement prices for March 2005 and April 2005 on the last day that these contracts are traded in February 2005.

#### 5. Historic and Current Usage Data

By accepting Supply from Shell Energy, you expressly authorize Shell Energy to obtain your historic and current natural gas usage data from CGO.

#### 6. Paying Your Bill

- a. Shell Energy will charge you once a month for the Supply. CGO will continue to provide you with monthly natural gas utility bills based on its Bill Cycles as they have in the past. Shell Energy's Supply charges will be included, and specifically identified, on the CGO bill. The CGO bill will also include additional charges from CGO for its transmission and distribution of natural gas to your service address.
- b. You must pay Shell Energy's Supply charges by the payment due date shown on your monthly CGO bill. You remain responsible for all charges accrued by you.

#### 7. Obtaining Account Information

You may obtain information concerning your Supply account with Shell Energy by contacting Shell Energy's Customer Care Department toll-free at (877) 557-4355. This number will also be displayed on your monthly bill. Shell Energy's Customer Care Department is available from 7:00 a.m. to 7:00 p.m. Eastern Time on weekdays (excluding holidays) and from 9:00 a.m. to 2:00 p.m. Eastern Time on Saturdays.

#### 8. Customer Inquiries and Disputes

If you have a concern regarding Shell Energy's Supply charges, please contact Shell Energy's Customer Care Department toll-free at (877) 557-4355 or write to P. O. Box 4911, Houston, TX 77210-4911. Shell Energy will investigate your concerns and provide you with a status update within three (3) business days of receiving your concern. Shell Energy will provide other reports and updates that are required by PUCO, if any. If your questions are not resolved after you have contacted Shell Energy, you may notify us at (330) 688-7491. You may also notify Public Utilities Commission of Ohio ("PUCO") by calling toll free 800-686-7826 or 1-614-466-3292, or for TDD/TYY toll free at 800-686-1570 or 1-614-466-3292, from 8:00 a.m. to 5:00 p.m. weekdays, by visiting the PUCO website at [www.puco.ohio.gov](http://www.puco.ohio.gov) or as they otherwise specified by PUCO. Residential customers may also contact the Ohio Consumers' Counsel ("OCC") by calling toll free at 877-742-5622 from 8:30 a.m. to 5:30 p.m. weekdays, visiting the OCC website at [www.pickocc.org](http://www.pickocc.org) or as otherwise specified by the OCC.

#### 9. Service Renewal

If our Agreement with Shell Energy is extended or we enter a new agreement with Shell Energy, we will notify you of the new terms and allow you an opportunity to opt-out of the Opt-Out Program at that time.

#### 10. Rescission

CGO is required to send you a notice confirming your decision to enroll with Shell Energy. You may rescind your enrollment with Shell Energy (without penalty or fee from Shell Energy) up to seven (7) business days after the postmark on the CGO enrollment confirmation notice by either calling or writing CGO. CGO is required to place the appropriate address and phone number on its enrollment confirmation notice.

#### 11. Termination

##### a. Automatic Termination

1. Your Supply from Shell Energy shall automatically terminate, without a fee from Shell Energy, if you change the physical address where you receive Shell Energy Supply to a location outside of the City's boundaries ("Boundaries").
2. Your Supply from Shell Energy shall automatically terminate, if you change the physical address where you receive Shell Energy Supply to a location within the CGO service territory, but you fail to provide Shell Energy with written or telephonic notice at least forty-five (45) calendar days prior to the actual change of address. If you provide written or telephonic notice to Shell Energy at least forty-five (45) calendar days prior to the actual change of address, then the obligations under this T&C shall transfer to the new address. If your natural gas Supply is transferred to the new location, Shell Energy's Supply at the new location will continue under the same terms as the original location through the duration of the Agreement. Regardless of when your service begins at the new location, Shell Energy's Supply to you as a member of the Opt-Out Program shall terminate at the end of your July 2005 Bill Cycle, unless our Agreement with Shell Energy is extended.
3. Your Supply from Shell Energy shall automatically terminate, without a fee from Shell Energy, if the location of the residence or place of business in which you desire to receive natural gas from Shell Energy is outside of our Boundaries.
4. Your Supply from Shell Energy shall automatically terminate if CGO terminates your ability to participate in this Opt-Out Program for any reason including, but not limited to, your failure to pay Service and/or Supply.

your Supply from Shell Energy shall automatically terminate if Shell Energy returns you to CGO commodity service pursuant to these T&C or the Agreement.

6. The automatic termination of your Supply pursuant to Sections 11(a)(1) - (11)(a)(4) of this T&C shall occur without any prior notice (written or otherwise) from Shell Energy.

b. **Your Rights to Terminate**

You have the right to terminate your Supply prior to the end of the your July 2005 Bill Cycle. To exercise this right, you must provide Shell Energy with written or telephonic notice at least forty-five (45) calendar days prior to the termination date. If Shell Energy receives this termination notice from you, Shell Energy will take the steps necessary to terminate your Supply at the earliest possible opportunity after the end of the forty-five (45)-calendar day notice period.

c. **Shell Energy's Rights to Terminate**

1. Shell Energy may terminate your Supply if you fail to pay the CGO bill by the due date shown on the CGO natural gas bill or if you otherwise fail to meet any other agreed upon payment arrangements. Shell Energy will give you at least fourteen- (14) calendar day's prior written notice of Shell Energy's intent to terminate Supply for non-payment.
2. Shell Energy shall terminate your Supply upon the termination of the Agreement prior to the end of the July 2005 Bill Cycles.

- d. If Shell Energy's Supply is terminated, Shell Energy will then take steps necessary to return you to CGO commodity service.

- e. Shell Energy reserves the right to charge you and you agree to pay an early termination administrative fee of \$25.00 if Shell Energy's Supply to you is terminated during any November through March Bill Cycle, inclusive, for any reason other than those set out in Sections 10, 11(a)(1) and 11(a)(3) of this T&C. At Shell Energy's option, Shell Energy may bill you directly for this early termination administrative fee rather than including it on your CGO natural gas bill.

- f. Your obligation to pay for any Supply shall survive the termination of your Supply and this T&C.

12. **Performance Excused**

- a. If an event occurs, the prevention or avoidance of which is beyond Shell Energy's control (including, but not limited to, an act of God, an extraordinary weather problem, a failure on CGO's distribution system, a civil disturbance or a national emergency), that prevents Shell Energy from performing Shell Energy's obligations under this T&C, Shell Energy's performance obligations shall be considered excused for the duration of such an event. Changes in the price of natural gas will not excuse Shell Energy performance obligation.
- b. With thirty (30) calendar days prior written notice to you, Shell Energy's performance obligations shall be considered excused, if: (a) a law or interpretation of a law makes performance of this T&C illegal; or (b) a regulatory agency, court or governing organization requires a material change to this T&C or the Agreement or new taxes or other governmental charges, fees or assessments are implemented any of which adversely and materially impacts Shell Energy or Shell Energy's ability to either perform under or enjoy the benefits of this T&C or the Agreement. This excludes the impact on Shell Energy of routine utility Gas Cost Recovery ("GCR") or GCR adjustments filed before the PUCO.
- c. Shell Energy is not responsible for services provided by third parties, including the CGO.

13. **Emergencies**

In case of emergencies or if you experience problems with either CGO's natural gas distribution or metering services please contact CGO toll free at 1-800-344-4077.

14. **Assignment**

Shell Energy may assign or transfer its rights and obligations under this T&C and the Agreement to another approved supplier, in whole or in part. If such an assignment or transfer occurs, then the terms and pricing of this T&C will remain in place. By accepting service under this T&C, you agree to permit such transfers and assignments.

15. **Governing Law**

Shell Energy's Supply to you shall be governed by the laws of the State of Ohio and ongoing PUCO jurisdiction.

16. **Other**

- a. The written notices must be sent directly to Shell Energy at the address shown above in Section 8 of this T&C. Telephonic Notices to Shell Energy must be made by calling the phone number shown above in Section 8 of this T&C.
- b. Other than those limitations described elsewhere in this T&C, Shell Energy does not exclude consumers from purchasing its supply due to creditworthiness. Shell Energy may elect in the future to restrict its acceptance of new customers based on then disclosed creditworthiness standards.
- c. Shell Energy has the right to utilize any and all legal methods of collection for payments due to Shell Energy.
- d. Switching fees may apply to you under the CGO Tariff.
- e. You have the right to request Shell Energy to provide you with up to twenty-four (24) months of your payment history for services provided under this T&C. Upon your request, Shell Energy will provide this data to you at no charge.
- f. Shell Energy will not release your social security number and CGO account number without your affirmative written consent.

- g. If you voluntarily return to CGO's commodity service after Shell Energy Supply to you has begun, CGO may charge you a price other than CGO's GCR rate. You should refer to CGO's tariff and Ohio Administrative Code §4901:1-29 for further information regarding this Section.
- h. To be eligible to receive the \$10.00 gasoline card incentive, you must: (a) not opt-out of the Opt-Out Program; (b) successfully be enrolled with Shell Energy for your August 2003 Bill Cycle; and (c) remain an active Shell Energy customer until the conclusion of your March 2004 Bill Cycle. Shell Energy will use best effort to mail to all customers eligible to receive the \$10.00 gasoline card bonus within forty-five (45) calendar days after the conclusion of the March 2004 Bill Cycles.
- i. Shell Energy reserves the right to modify this T&C in accordance with the terms of the Agreement.
- j. This T&C is not your contract for service with Shell Energy. We, as your aggregator, have contracted with Shell Energy on your behalf. Each Party's rights and obligations regarding the Opt-Out Program and providing Supply to you as a member of the Opt-Out Program are expressly limited to those contained in the Agreement. If there are conflicts between this T&C and the Agreement then the terms of the Agreement shall apply.

17. Warranties

- a. You warrant that you are the customer of record or otherwise eligible to be a member of the City of Westlake Opt-Out Program and receive Supply from Shell Energy as a member.
- b. SHELL ENERGY MAKES NO EXPRESS OR IMPLIED WARRANTY OF ANY KIND REGARDING THE NATURAL GAS SUPPLIED TO YOU AS A MEMBER OF THE CITY OF WESTLAKE AGGREGATION PROGRAM. SHELL ENERGY MAKES NO REPRESENTATIONS AND WARRANTIES BEYOND THOSE EXPRESSLY STATED IN THIS STATEMENT. SHELL ENERGY EXPRESSLY DISCLAIMS ALL OTHER EXPRESS OR IMPLIED WARRANTIES, INCLUDING MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

18. Liability

IF YOU INITIATE A CLAIM OR LEGAL ACTION OF ANY TYPE AGAINST SHELL ENERGY, YOU AGREE THAT YOUR REMEDY WILL BE LIMITED TO DIRECT ACTUAL DAMAGES AND THAT YOU WAIVE YOUR RIGHT TO ANY OTHER REMEDY. NEITHER YOU NOR SHELL ENERGY SHALL BE LIABLE FOR ANY INDIRECT, SPECIAL, CONSEQUENTIAL, LOST PROFITS, INCIDENTAL OR PUNITIVE DAMAGES.

## **Exhibit B-5 "Experience"**

### **I. General Experience**

The City of Westlake ("City") has a wealth of experience in negotiating, contracting, and providing for common services to the City's residents. Some examples of its experience as a service provider are:

1. Electric Generation "Opt-out" Municipal Aggregation Program (PUCO certified);
2. Natural Gas "Opt-in" Municipal Aggregation Program;
3. Natural Gas "Opt-out" Municipal Aggregation Program;
4. Water Service;
5. Police & Fire Services; and
6. Park & Recreation.

### **II. Assistance by Shell Energy**

The Mayor, City Council, and City Staff routinely negotiate for services and supplies that benefit the City's residents. However, due to the complexity of governmental aggregation since 2003, Shell Energy Services Co., LLC ("Shell Energy") and thereafter MX Energy assisted the City in designing and implementing the natural gas governmental aggregation program ("Program") which ended in 2007. Currently the City has no offer available to its residents, but desires to be re-certified should the opportunity to aggregate present itself during the 2009 – 2011 period.

### **III. Billing Statements**

The City will utilize the coordinated billing services of Columbia Gas of Ohio ("CGO") and its natural gas supplier. It is anticipated that all residents participating in the program will receive a single bill from CGO.

### **IV. Customer Inquiries and Complaints**

Members will have multiple means to make inquiries and to address complaints. As a general rule, concerns regarding service reliability and general billing issues should be directed to CGO. CGO continues to read meters, handle billing, and generally has the most information about a customer's account. Questions about the natural gas charges from the aggregation supplier should be directed to the supplier. Questions regarding program administration should be directed to the City. Any unresolved disputes regarding any matter should be directed to the Public Utilities Commission of Ohio.

### **V. Selection of subsequent Suppliers**

Due to the instability of the gas market and economy as a whole, the City currently has no program available, but the City will use reasonable means to select another natural gas supplier to serve the members should the opportunity arise in the future.