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14-0639-BA-AGG 21

## DAYBREAK ENERGY LLC

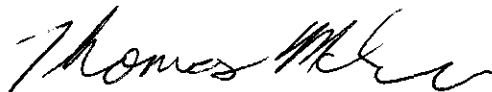
April 11, 2014

Public Utilities Commission of Ohio  
Docketing Division  
180 East Broad Street  
Columbus, OH 43215-3793

To Whom It May Concern:

Enclosed are one original and three copies of the Certification Application for Competitive Retail Natural Gas Broker/Aggregators license, along with the corresponding attachments for Daybreak Energy LLC. Please contact me if you have any questions or need additional information.

Sincerely,



Thomas McCune  
Daybreak Energy LLC  
11096 Bandy Road  
Alliance, OH 44601  
(330)584-2006

PUCO

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2014 APR 14 PM 2:26

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14-0639-GA-AGG

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Date Received	Case Number	Certification Number
	14-0639-GA-AGG	

## CERTIFICATION APPLICATION COMPETITIVE RETAIL NATURAL GAS BROKERS /AGGREGATORS

Please type or print all required information. Identify all attachments with an exhibit label and title (*Example: Exhibit A-16 - Company History*). 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, 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 AND SERVICES

**A-1 Applicant intends to be certified as: (check all that apply)**

☐ Retail Natural Gas Aggregator ☒ Retail Natural Gas Broker

**A-2 Applicant information:**

Legal Name Daybreak Energy LLC  
Address 11096 Bandy Road, Alliance, OH 44601  
Telephone No. 330-584-2006 Web site Address

**A-3 Applicant information under which applicant will do business in Ohio:**

Name Daybreak Energy LLC  
Address 11096 Bandy Road, Alliance, OH 44601  
Web site Address Telephone No. 330-584-2006

**A-4 List all names under which the applicant does business in North America:**

Daybreak Energy LLC

**A-5 Contact person for regulatory or emergency matters:**

Name Thomas McCune Title Member  
Business Address 11096 Bandy Road, Alliance, OH 44601  
Telephone No. 330-584-2006 Fax No. 330-584-1709 Email Address thomasmccune55@gmail.com

**A-6 Contact person for Commission Staff use in investigating customer complaints:**

Name Thomas McCune Title Member  
Business address 11096 Bandy Road, Alliance, OH 44601  
Telephone No. 330-584-2006 Fax No. 330-584-1709 Email Address thomasmccune55@gmail.com

**A-7 Applicant's address and toll-free number for customer service and complaints**

Customer service address 11096 Bandy Road, Alliance, OH 44601  
Toll-Free Telephone No. 844-621-7787 Fax No. 330-584-1709 Email Address thomasmccune55@gmail.com

**A-8 Provide "Proof of an Ohio Office and Employee," in accordance with Section 4929.22 of the Ohio Revised Code, by listing name, Ohio office address, telephone number, and Web site address of the designated Ohio Employee**

Name Thomas McCune Title Member  
Business address 11096 Bandy Road, Alliance, OH 44601  
Telephone No. 330-584-2006 Fax No. 330-584-1709 Email Address thomasmccune55@gmail.com

**A-9 Applicant's federal employer identification number 46-5327662**

**A-10 Applicant's form of ownership: (Check one)**

- |  |   |
|--|---|
| <input type="checkbox"/> Sole Proprietorship                 | <input type="checkbox"/> Partnership                                |
| <input type="checkbox"/> Limited Liability Partnership (LLP) | <input checked="" type="checkbox"/> Limited Liability Company (LLC) |
| <input type="checkbox"/> Corporation                         | <input type="checkbox"/> Other                                      |

**A-11 (Check all that apply) Identify each natural gas company service area in which the applicant is currently providing service or intends to provide service, including identification of each customer class that the applicant is currently serving or intends to serve, for example: *residential, small commercial, and/or large commercial/industrial (mercantile) customers*. (A mercantile customer, as defined in Section 4929.01(L)(1) of the Ohio Revised Code, means a customer that consumes, other than for residential use, more than 500,000 cubic feet of natural gas per year at a single location within the state or consumes natural gas, other than for residential use, as part of an undertaking having more than three locations within or outside of this state. In accordance with Section 4929.01(L)(2) of the Ohio Revised Code, "Mercantile customer" excludes a not-for-profit customer that consumes, other than for residential use, more than 500,000 cubic feet of natural gas per year at a single location within this state or consumes natural gas, other than for residential use, as part of an undertaking having more than three locations within or outside this state that has filed the necessary declaration with the Public Utilities Commission.)**

<input checked="" type="checkbox"/> Columbia Gas of Ohio	<input type="checkbox"/> Residential	<input checked="" type="checkbox"/> Small Commercial	<input checked="" type="checkbox"/> Large Commercial / Industrial
<input checked="" type="checkbox"/> Dominion East Ohio	<input type="checkbox"/> Residential	<input checked="" type="checkbox"/> Small Commercial	<input checked="" type="checkbox"/> Large Commercial / Industrial
<input checked="" type="checkbox"/> Duke Energy Ohio	<input type="checkbox"/> Residential	<input checked="" type="checkbox"/> Small Commercial	<input checked="" type="checkbox"/> Large Commercial / Industrial
<input checked="" type="checkbox"/> Vectren Energy Delivery of Ohio	<input type="checkbox"/> Residential	<input checked="" type="checkbox"/> Small Commercial	<input checked="" type="checkbox"/> Large Commercial / Industrial

**A-12 If applicant or an affiliated interest previously participated in any of Ohio's Natural Gas Choice Programs, for each service area and customer class, provide approximate start date(s) and/or end date(s) that the applicant began delivering and/or ended services.**

☐ **Columbia Gas of Ohio**

<input type="checkbox"/> Residential	Beginning Date of Service	End Date
<input type="checkbox"/> Small Commercial	Beginning Date of Service	End Date
<input type="checkbox"/> Large Commercial	Beginning Date of Service	End Date
<input type="checkbox"/> Industrial	Beginning Date of Service	End Date

☐ **Dominion East Ohio**

<input type="checkbox"/> Residential	Beginning Date of Service	End Date
<input type="checkbox"/> Small Commercial	Beginning Date of Service	End Date
<input type="checkbox"/> Large Commercial	Beginning Date of Service	End Date
<input type="checkbox"/> Industrial	Beginning Date of Service	End Date

☐ **Duke Energy Ohio**

<input type="checkbox"/> Residential	Beginning Date of Service	End Date
<input type="checkbox"/> Small Commercial	Beginning Date of Service	End Date
<input type="checkbox"/> Large Commercial	Beginning Date of Service	End Date
<input type="checkbox"/> Industrial	Beginning Date of Service	End Date

☐ **Vectren Energy Delivery of Ohio**

<input type="checkbox"/> Residential	Beginning Date of Service	End Date
<input type="checkbox"/> Small Commercial	Beginning Date of Service	End Date
<input type="checkbox"/> Large Commercial	Beginning Date of Service	End Date
<input type="checkbox"/> Industrial	Beginning Date of Service	End Date

**A-13 If not currently participating in any of Ohio's four Natural Gas Choice Programs, provide the approximate start date that the applicant proposes to begin delivering services:**

<input checked="" type="checkbox"/>	Columbia Gas of Ohio	Intended Start Date	When license is approved
<input checked="" type="checkbox"/>	Dominion East Ohio	Intended Start Date	When license is approved
<input checked="" type="checkbox"/>	Duke Energy Ohio	Intended Start Date	When license is approved
<input checked="" type="checkbox"/>	Vectren Energy Delivery of Ohio	Intended Start Date	When license is approved

PROVIDE THE FOLLOWING AS SEPARATE ATTACHMENTS AND LABEL AS INDICATED.

- A-14 Exhibit A-14 "Principal Officers, Directors & Partners,"** provide the names, titles, addresses and telephone numbers of the applicant's principal officers, directors, partners, or other similar officials.
- A-15 Exhibit A-15 "Corporate Structure,"** provide a description of the applicant's corporate structure, including a graphical depiction of such structure, and a list of all affiliate and subsidiary companies that supply retail or wholesale natural gas or electricity to customers in North America.
- A-16 Exhibit A-16 "Company History,"** provide a concise description of the applicant's company history and principal business interests.
- A-17 Exhibit A-17 "Articles of Incorporation and Bylaws,"** if applicable, provide the articles of incorporation filed with the state or jurisdiction in which the applicant is incorporated and any amendments thereto.
- A-18 Exhibit A-18 "Secretary of State,"** provide evidence that the applicant is currently registered with the Ohio Secretary of the State.

## **SECTION B - APPLICANT MANAGERIAL CAPABILITY AND EXPERIENCE**

PROVIDE THE FOLLOWING AS SEPARATE ATTACHMENTS AND LABEL AS INDICATED

- B-1 Exhibit B-1 "Jurisdictions of Operation,"** provide a current list of all jurisdictions in which the applicant or any affiliated interest of the applicant is, at the date of filing the application, certified, licensed, registered, or otherwise authorized to provide retail natural gas service, or retail/wholesale electric services.
- B-2 Exhibit B-2 "Experience & Plans,"** provide a current description of the applicant's experience and plan for contracting with customers, providing contracted services, providing billing statements, and responding to customer inquiries and complaints in accordance with Commission rules adopted pursuant to Section 4929.22 of the Revised Code and contained in Chapter 4901:1-29 of the Ohio Administrative Code.
- B-3 Exhibit B-3 "Summary of Experience,"** provide a concise and current summary of the applicant's experience in providing the service(s) for which it is seeking to be certified to provide (e.g., number and types of customers served, utility service areas, volume of gas supplied, etc.).
- B-4 Exhibit B-4 "Disclosure of Liabilities and Investigations,"** provide a description of all existing, pending or past rulings, judgments, contingent liabilities, revocations of authority, regulatory investigations, or any other matter that could adversely impact the applicant's financial or operational

status or ability to provide the services it is seeking to be certified to provide.

- B-5 Exhibit B-5 "Disclosure of Consumer Protection Violations,"** disclose whether the applicant, affiliate, predecessor of the applicant, or any principal officer of the applicant has been convicted or held liable for fraud or for violation of any consumer protection or antitrust laws within the past five years.

☒ No ☐ Yes

If Yes, provide a separate attachment labeled as Exhibit B-5 "Disclosure of Consumer Protection Violations," detailing such violation(s) and providing all relevant documents.

- B-6 Exhibit B-6 "Disclosure of Certification Denial, Curtailment, Suspension, or Revocation,"** disclose whether the applicant or a predecessor of the applicant has had any certification, license, or application to provide retail natural gas or retail/wholesale electric service denied, curtailed, suspended, or revoked, or whether the applicant or predecessor has been terminated from any of Ohio's Natural Gas Choice programs, or been in default for failure to deliver natural gas.

☒ No ☐ Yes

If Yes, provide a separate attachment, labeled as Exhibit B-6 "Disclosure of Certification Denial, Curtailment, Suspension, or Revocation," detailing such action(s) and providing all relevant documents.

## **SECTION C - APPLICANT FINANCIAL CAPABILITY AND EXPERIENCE**

**PROVIDE THE FOLLOWING AS SEPARATE ATTACHMENTS AND LABEL AS INDICATED**

- C-1 Exhibit C-1 "Annual Reports,"** provide the two most recent Annual Reports to Shareholders. If applicant does not have annual reports, the applicant should provide similar information, labeled as Exhibit C-1, or indicate that Exhibit C-1 is not applicable and why.
- C-2 Exhibit C-2 "SEC Filings,"** provide the most recent 10-K/8-K Filings with the SEC. If applicant does not have such filings, it may submit those of its parent company. If the applicant does not have such filings, then the applicant may indicate in Exhibit C-2 whether the applicant is not required to file with the SEC and why.
- C-3 Exhibit C-3 "Financial Statements,"** provide copies of the applicant's two most recent years of audited financial statements (balance sheet, income statement, and cash flow statement). If audited financial statements are not available, provide officer-certified financial statements. If the applicant has not been in business long enough to satisfy this requirement, it shall file audited or officer-certified financial statements covering the life of the business.
- C-4 Exhibit C-4 "Financial Arrangements,"** provide copies of the applicant's current financial arrangements to conduct competitive retail natural gas service (CRNGS) as a business activity (e.g., guarantees, bank commitments, contractual arrangements, credit agreements, etc.)
- C-5 Exhibit C-5 "Forecasted Financial Statements,"** provide two years of forecasted financial statements (balance sheet, income statement, and cash flow statement) for the applicant's CRNGS operation, along with a list of assumptions, and the name, address, email address, and telephone number of the preparer.

- C-6 Exhibit C-6 "Credit Rating,"** provide a statement disclosing the applicant's current credit rating as reported by two of the following organizations: Duff & Phelps, Dun and Bradstreet Information Services, Fitch IBCA, Moody's Investors Service, Standard & Poors, or a similar organization. In instances where an applicant does not have its own credit ratings, it may substitute the credit ratings of a parent or affiliate organization, provided the applicant submits a statement signed by a principal officer of the applicant's parent or affiliate organization that guarantees the obligations of the applicant.
- C-7 Exhibit C-7 "Credit Report,"** provide a copy of the applicant's current credit report from Experian, Dun and Bradstreet, or a similar organization.
- C-8 Exhibit C-8 "Bankruptcy Information,"** provide a list and description of any reorganizations, protection from creditors, or any other form of bankruptcy filings made by the applicant, a parent or affiliate organization that guarantees the obligations of the applicant or any officer of the applicant in the current year or since applicant last filed for certification.
- C-9 Exhibit C-9 "Merger Information,"** provide a statement describing any dissolution or merger or acquisition of the applicant since applicant last filed for certification.

#### **SECTION D – APPLICANT TECHNICAL CAPABILITY**

**PROVIDE THE FOLLOWING AS SEPARATE ATTACHMENTS AND LABEL AS INDICATED.**

- D-1 Exhibit D-1 "Operations,"** provide a current written description of the operational nature of the applicant's business functions.
- D-2 Exhibit D-2 "Operations Expertise,"** given the operational nature of the applicant's business, provide evidence of the applicant's current experience and technical expertise in performing such operations.
- D-3 Exhibit D-3 "Key Technical Personnel,"** provide the names, titles, email addresses, telephone numbers, and background of key personnel involved in the operational aspects of the applicant's current business.

Applicant Signature and Title

*Thomas McEuen*

*Member*

Sworn and subscribed before me this

*11<sup>th</sup>* day of *Apr*

Month

*2014*

Year

Signature of official administering oath

*Julie Schlemmer*

Print Name and Title



JULIE SCHLEMMER  
Notary Public, State of Ohio  
My Commission Expires

My commission expires on

*5/18/2014*



# The Public Utilities Commission of Ohio

Competitive Retail Natural Gas Service  
Affidavit Form  
(Version 1.07)

In the Matter of the Application of )

for a Certificate or Renewal Certificate to Provide )  
Competitive Retail Natural Gas Service in Ohio. )

Case No. -GA-AGG

County of Mahoning  
State of Ohio

Thomas McCune

[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

*Thomas McCune* Member

Sworn and subscribed before me this

11th day of

Apr

Month

2014

Year

*Julie Schlemmer*  
Signature of Official Administering Oath

Print Name and Title



JULIE SCHLEMMER  
Notary Public, State of Ohio  
My Commission Expires

My commission expires on

5/18/2014

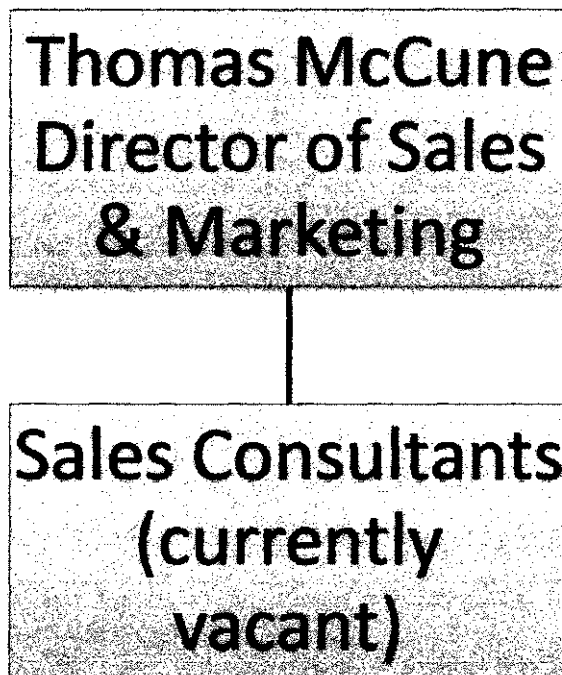


#### **Exhibit A-14 Principal Officers Directors and Partners**

Thomas McCune Member  
11096 Bandy Road  
Alliance, OH 44601  
330-584-2006

#### **Exhibit A-15 Corporate Structure**

Daybreak Energy LLC is a Limited Liability Company, 100% owned by Thomas McCune. There are no affiliated or subsidiary companies that supply retail or wholesale natural gas or electricity to customers.



#### **Exhibit A-16 Company History**

Daybreak Energy LLC is a start up entity created by Thomas McCune to leverage his more than 8 years of experience as a business to business/commercial & industrial account manager for 3 of Ohio's energy marketers, Direct Energy, Delta Energy and Hess Corporation.

**Exhibit A-17 Articles of Incorporation**

Daybreak Energy LLC is a one member Limited Liability Company, 100% owned by Thomas McCune.

**LIMITED LIABILITY COMPANY OPERATING AGREEMENT**

**FOR**

**Daybreak Energy LLC**

*A Single Member-Managed Limited Liability Company*

**ARTICLE I**

**Company Formation**

**1.1 FORMATION.** Thomas McCune (hereinafter referred to as "the Member") hereby does form a Limited Liability Company, organized under the provisions of Chapter 1705 of the Ohio Revised Code as currently in effect as of this date. Articles of Organization have been filed with the Secretary of State of Ohio.

**1.2 NAME.** The name of the Company shall be: Daybreak Energy LLC ("Company"). However, the Company may do business under a different name by complying with the fictitious or assumed business name statutes and procedures of the state of Ohio.

**1.3 REGISTERED AGENT.** The name and location of the registered agent of the Company shall be:

Thomas McCune  
11096 Bandy Road  
Alliance, OH 44601

**1.4 TERM.** The Company shall continue for a perpetual period unless,

- (a) The Member votes for dissolution; or
- (b) Any event which makes it unlawful for the business of the Company to be carried on by the Member; or
- (c) Any other event causing dissolution of this Limited Liability Company under the laws of the State of Ohio

**1.5 CONTINUANCE OF COMPANY.** Notwithstanding the provisions of ARTICLE 1.4, in the event of an occurrence described in ARTICLE 1.4(c), if there is at least one remaining Member, said remaining Member shall have the right to continue the business of the Company. Such right can be exercised by the written vote of the remaining Member within ninety (90) days after the occurrence of an event described in ARTICLE 1.4(c). If not so exercised, the right of the Member to continue the business of the Company may expire if that member desires.

**1.6 BUSINESS PURPOSE.** The purpose of the Company is to conduct business for any purpose permitted by law.

**1.7 PRINCIPAL PLACE OF BUSINESS.** The location of the principal place of business of the Company shall be:

11096 Bandy Road  
Alliance, OH 44601

The principal place of business may be changed to a location the Member may select. The Member may also choose to store company documents at any address the Member chooses.

**1.8 MEMBER.** The name and place of residence of the member are.

Thomas McCune  
11096 Bandy Road  
Alliance, OH 44601

**1.9 ADMISSION OF ADDITIONAL MEMBERS.** Except as otherwise expressly provided in the Agreement, additional members may be admitted to the Company through issuance by the company of a new interest in the Company or a sale of current percent of current Member's interest.

## **ARTICLE II**

### **Capital Contributions**

**2.1 INITIAL CONTRIBUTIONS.** The Member initially shall contribute to the Company capital as described in Exhibit 1 attached to this Agreement. The total value of such property and cash is 100% of Company's assets.

**2.2 ADDITIONAL CONTRIBUTIONS.** Except as provided in ARTICLE 6.2, no Member shall be obligated to make any additional contribution to the Company's capital.

## **ARTICLE III**

### **Profits, Losses and Distributions**

**3.1 PROFITS/LOSSES.** For financial accounting and tax purposes the Company's net profits or net losses shall be determined on an annual basis and shall be allocated to the Members in proportion to each Member's relative capital interest in the Company as set forth in Exhibit 2 as amended from time to time in accordance with Treasury Regulation 1.704-1.

**3.2 DISTRIBUTIONS.** The Member shall determine and distribute available funds on a monthly basis or at more frequent intervals as the Member sees fit. Available funds, as referred to herein, shall mean the net cash of the Company available after appropriate provision for expenses and liabilities, as determined by the Member. Distributions in liquidation of the Company or in liquidation of a Member's interest shall be made in accordance with the positive capital account balances pursuant to Treasury Regulation 1.704-1(b)(2)(ii)(b)(2). To the extent a Member shall have a negative capital account balance, there shall be a qualified income offset, as set forth in Treasury Regulation 1.704-1(b)(2)(ii)(d).

**3.3 TAX CLASSIFICATION.** The Member intends that the Company be initially classified as a sole proprietorship for federal and state income tax purposes. Member may elect to be treated as a C corporation at any time to keep the profits of the LLC at the company level and not be forced to distribute profits to the Member.

## **ARTICLE IV**

### **Management**

**4.1 MANAGEMENT OF THE BUSINESS.** The management of the business is invested in the Member.

**4.2 MEMBER.** The liability of the Member shall be limited as provided pursuant to applicable law. The Member is in control, management, direction, and operation of the Company's affairs and shall have powers to bind the Company with any legally binding agreement, including setting up and operating a LLC company bank account.

**4.3 POWERS OF THE MEMBER.** The Member is authorized on the Company's behalf to make all decisions in accordance with ARTICLE 4.2 as to (a) the sale, development lease or other disposition of the Company's assets; (b) the purchase or other acquisition of other assets of all kinds; (c) the management of all or any part of the Company's assets; (d) the borrowing of money and the granting of security interests in the Company's assets; (e) the pre-payment, refinancing or extension of any loan affecting the Company's assets; (f) the compromise or release of any of the Company's claims or debts; and, (g) the employment of persons, firms or corporations for the operation and management of the company's business. In the exercise of its management powers, the Member is authorized to execute and deliver (a) all contracts, conveyances, assignments leases, sub-leases, franchise agreements, licensing agreements, management contracts and maintenance contracts covering or affecting the Company's assets; (b) all

checks, drafts and other orders for the payment of the Company's funds; (c) all promissory notes, loans, security agreements and other similar documents; and, (d) all other instruments of any other kind relating to the Company's affairs, whether like or unlike the foregoing. The Member is authorized to make changes and amendments to this operating agreement as he sees fit.

**4.4 NONLIABILITY OF MEMBERS.** No member of the Company shall be personally liable for the expenses, debts, obligations, or liabilities of the Company or for claims made against it.

**4.5 NOMINEE.** Title to the Company's assets shall be held in the Company's name or in the name of any nominee that the Member may designate. The Member shall have power to enter into a nominee agreement with any such person, and such agreement may contain provisions indemnifying the nominee, except for his willful misconduct.

**4.6 COMPANY INFORMATION.** Upon request, the Chief Executive Member shall supply to any member information regarding the Company or its activities. Each Member or his authorized representative shall have access to and may inspect and copy all books, records and materials in the Chief Executive Member's possession regarding the Company or its activities.

**4.7 EXCULPATION.** Any act or omission of the Member, the effect of which may cause or result in loss or damage to the Company or the Member if done in good faith to promote the best interests of the Company, shall not subject the Member to any liability to the Member.

**4.8 INDEMNIFICATION.** The Company shall indemnify any person who was or is a party defendant or is threatened to be made a party defendant, pending or completed action, suit or proceeding, whether civil, criminal, administrative, or investigative (other than an action by or in the right of the Company) by reason of the fact that he is or was a Member of the Company, Manager, employee or agent of the Company, or is or was serving at the request of the Company, for instant expenses (including attorney's fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred in connection with such action, suit or proceeding if the Member acted in good faith and in a manner he/she reasonably believed to be in or not opposed to the best interest of the Company, and with respect to any criminal action proceeding, has no reasonable cause to believe his/her conduct was unlawful. The termination of any action, suit, or proceeding by judgment, order, settlement, conviction, or upon a plea of "no lo Contendere" or its equivalent, shall not in itself create a presumption that the person did or did not act in good faith and in a manner which he/she reasonably believed to be in the best interest of the Company, and, with respect to any criminal action or proceeding, had reasonable cause to believe that his/her conduct was lawful.

**4.9 RECORDS.** The Member shall cause the Company to keep at its principal place of business or other location the following:

- (a) A copy of the Certificate of Formation and the Company Operating Agreement and all amendments;
- (b) Copies of the Company's federal, state and local income tax returns and reports, if any, for the three most recent years;
- (c) Copies of any financial statements of the limited liability company for the three most recent years.

## **ARTICLE V**

### **Compensation**

**5.1 MEMBER MANAGEMENT FEE.** Any Member rendering services to the Company shall be entitled to compensation commensurate with the value of such services.

**5.2 REIMBURSEMENT.** The Company shall reimburse the Member for all direct out-of-pocket expenses incurred by the Member in managing the Company.

## **ARTICLE VI**

### **Bookkeeping**

**6.1 BOOKS.** The Member shall maintain complete and accurate books of account of the Company's affairs at the Company's principal place of business or other agreed location. Such books shall be kept on such method of accounting as the Member shall select. The company's accounting period shall be the calendar year.

**6.2 MEMBER'S ACCOUNTS.** The Member shall maintain separate capital and distribution accounts for each member. Each member's capital account shall be determined and maintained in the manner set forth in Treasury Regulation 1.704-1(b)(2)(iv) and shall consist of his initial capital contribution increased by:

- (a) Any additional capital contribution made by him/her;
- (b) Credit balances transferred from his distribution account to his capital account;  
and decreased by:
  - (a) Distributions to him/her in reduction of Company capital;
  - (b) The Member's share of Company losses if charged to his/her capital account.

**6.3 REPORTS.** The Member shall close the books of account after the close of each calendar year, and shall prepare and send to each member a statement of such Member's distributive share of income and expense for income tax reporting purposes.

## **ARTICLE VII**

### **Transfers**

**7.1 ASSIGNMENT.** According to the appropriate Court, should the Member have a creditor with a judgment that was issued an assignment of the membership interest, the creditor shall only obtain an assignment of the membership interest, not the actual transfer of Membership in the LLC. The new assignee does not have any rights of the Member or have the ability to be involved in management of the LLC or the right to dissolve the LLC. The new assignee is only granted rights of the distributions of the Member's interests, if the Member decides to distribute at all, not the rights of membership. The assignee must release the Member's interests back to Member upon payment of the judgment in accordance with the appropriate Court.

## **ARTICLE VIII**

### **Dissolution**

**8.1 DISSOLUTION.** The Member may dissolve the LLC at any time. The Member may NOT dissolve the LLC for a loss of membership interests. Upon dissolution the LLC must pay its debts first before distributing cash, assets, and/or initial capital to the Member or the Members interests. The dissolution may only be ordered by the Member, not by the owner of the Members interests.

### CERTIFICATE OF FORMATION

This Company Operating Agreement is entered into and shall become effective as of the Effective Date by and among the Company and the person executing this Agreement as Member. It is the Member's express intention to create a limited liability company in accordance with applicable law, as currently written or subsequently amended or redrafted.

The undersigned hereby agree, acknowledge, and certify that the foregoing operating agreement is adopted and approved by each member, the agreement consisting of 5 pages, constitutes, together with Exhibit 1, Exhibit 2 and Exhibit 3 (if any), the Operating Agreement of Daybreak Energy LLC, adopted by the member as of March 27<sup>th</sup>, 2014.

#### Member

Thomas McCune

Printed Name Thomas McCune

Signature

Percent: 100 %

### EXHIBIT 1

#### LISTING OF MEMBERS

As of the 27th day of March, 2014 the following is a list of Members of the Company:

Name Thomas McCune Percent 100 %

Address: 11096 Bandy Road, Alliance, OH 44601

Thomas McCune

Thomas McCune

### EXHIBIT 2

#### CAPITAL CONTRIBUTIONS

Pursuant to ARTICLE 2, the Member's initial contribution to the Company capital is stated to be \$\_\_\_\_\_. The description and each individual portion of this initial contribution are as follows:

Thomas McCune - 100% of Company assets \$\_\_\_\_\_

SIGNED AND AGREED this 27<sup>th</sup> day of March 2014

Thomas McCune

Member

**Exhibit A-18 Secretary of State**

**See attached**





DATE:	DOCUMENT ID	DESCRIPTION	FILING	EXPED	PENALTY	CERT	COPY
03/31/2014	201408701256	ARTICLES OF ORGNZTN/DOM. PROFIT LIM.LIAB. CO. (LCP)	125.00	.00	.00	.00	.00

**Receipt**

This is not a bill. Please do not remit payment.

DAYBREAK ENERGY LLC  
THOMAS MCCUNE  
11096 BANDY ROAD  
ALLIANCE, OH 44601

# STATE OF OHIO CERTIFICATE

**Ohio Secretary of State, Jon Husted**

**2281811**

It is hereby certified that the Secretary of State of Ohio has custody of the business records for

**DAYBREAK ENERGY LLC**

and, that said business records show the filing and recording of:

Document(s)

**ARTICLES OF ORGNZTN/DOM. PROFIT LIM.LIAB. CO.**

Document No(s):

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**Effective Date: 03/27/2014**



United States of America  
State of Ohio  
Office of the Secretary of State

Witness my hand and the seal of  
the Secretary of State at Columbus,  
Ohio this 31st day of March, A.D.  
2014.

*Jon Husted*

Ohio Secretary of State

### **Exhibit B-1 Jurisdiction of Operation**

Daybreak Energy LLC plans to offer natural gas and electric sales in the state of Ohio.

### **Exhibit B-2 Experience & Plans**

Thomas McCune, owner of Daybreak Energy LLC has been working in Ohio's deregulated natural gas and electricity markets as an account representative for 3 major energy marketers. In a period spanning more than 8 years, Mr. McCune has established a presence in the marketplace and developed more than 150 relationships with small business, commercial and industrial customers. We plan to leverage our existing relationships and our extensive knowledge of the territory, to provide energy expertise, and brokerage services from natural gas and electricity suppliers to the business community. We will employ direct mail, phone solicitation and door to door prospecting in reaching prospective customers. As Daybreak Energy LLC grows, sales agents may be added to increase our sales efforts. Daybreak Energy LLC will not take title to the natural gas, but will simply provide energy consulting and brokering services. All contracts signed by the customer are from the certified supplier directly and not Daybreak Energy LLC. All contracted services and billing will be provided by the natural gas supplier. Daybreak Energy LLC will, however, maintain an office and toll free phone line to respond to customer inquiries, concerns or complaints, in conjunction with the certified supplier with whom the customer has contracted for natural gas or electricity service.

### **Exhibit B-3 Summary of Experience**

Thomas McCune, owner of Daybreak Energy LLC, worked as an account manager for Direct Energy Business from January 2006 to July 2008. In this role, Mr. McCune marketed natural gas services in seven counties in northeast Ohio. Mr. McCune called on small business, commercial and industrial accounts who consume 500 to 50,000 Decatherms of natural gas per year. During this time Mr. McCune worked behind both Dominion East Ohio and Columbia Gas of Ohio utilities, affording him the opportunity to become adept at working with the Customer Choice and General Transportation Service programs of both utility companies. Mr. McCune assessed individual prospects' specific needs and produced customized price quotes based on their usage and load shape. Activities included calling on energy procurement decision makers, door to door prospecting, phone sales, trade shows and mailings. From September 2008 to November of 2012 Mr. McCune assumed a similar role with Delta Energy, in the same geographic territory, pursuing the same target prospects. During that period he was also able to sell electricity in the First Energy and American Electric Power service territories due to a brokering arrangement that Delta Energy had with First energy Solutions.

In late 2012, Delta Energy was acquired by Hess Corporation and, until recently, Mr. McCune continued in a similar role with Hess as he had been in with Delta Energy. During that time he participated in Hess Corporation's 2 day Electricity Boot Camp seminar. At the end of his tenure with Hess Mr. McCune had a active book of 125 customers with an aggregate annual volume in excess of 365,000 Dth.

### **Exhibit B-4 Disclosures of Liabilities and Investigations**

There are no existing, pending or past rulings that could adversely impact our ability to service the customer.

### **Exhibit C-1 Annual Reports**

Daybreak Energy LLC is a privately held company and is not required to prepare Annual Reports.

### **Exhibit C-2 SEC Filings**

Daybreak Energy LLC is not required to file with the SEC since it is not a public traded company.

### **Exhibit C-3 Financial Statements**

Daybreak Energy LLC is a start up entity that was created on 3/27/2014 and has not yet begun to do business. For this reason Daybreak Energy LLC has no financial history or statements at this time.

### **Exhibit C-4 Financial Arrangements**

Daybreak Energy LLC's application is for a Broker/aggregator, and as such, will not be conducting business as a CRNGS and therefore has no bank guarantees, commitments, contractual arrangements, or credit agreements.

### Exhibit C-5 Forecasted Financial Statements

#### **Daybreak Energy LLC**

#### **Forecasted Financial Statements**

Below forecasted financial information was prepared by Thomas McCune, Member of Daybreak Energy LLC, 11096 Bandy Road, Alliance, OH 44601. Email: thomasmccune55@gmail.com

<b>CASH FLOW</b>	<b>Year 1</b>	<b>Year 2</b>
<b>COMMISSIONS/BROKER FEES</b>		
Natural Gas	\$65,000.00	\$70,000.00
Electricity	\$5,000.00	\$25,000.00
<b>TOTAL CASH RECEIPTS</b>	<b>\$70,000.00</b>	<b>\$95,000.00</b>
<b>EXPENSES</b>		
Automobile	\$1,500.00	\$1,500.00
Insurance	\$8,000.00	\$8,000.00
Utilities	\$300.00	\$300.00
Computer	\$200.00	\$200.00
Telephone/Fax/Internet	\$3,000.00	\$3,000.00
Travel & Entertainment Expense	\$1,000.00	\$1,000.00
Advertising & Promotional Mat.	\$500.00	\$500.00
Website & Maintenance	\$200.00	\$200.00
Legal & Professional Services	\$400.00	\$400.00
Sales Commissions	\$0.00	\$500.00
Supplies	\$200.00	\$200.00
<b>TOTAL EXPENSES</b>	<b>\$15,300.00</b>	<b>\$20,300.00</b>
<b>NET PROFIT/LOSS</b>	<b>\$54,700.00</b>	<b>\$74,700.00</b>

### Exhibit C-6 Credit Rating

Daybreak Energy LLC does not subscribe to any credit rating organizations and does not have a parent company that could supply a credit rating.

### **Exhibit C-7 Credit Report**

Daybreak Energy LLC does not utilize any credit rating agency to obtain credit reports.

### **Exhibit C-8 Bankruptcy Information**

Daybreak Energy LLC has not been through any type of reorganization nor has it ever filed for bankruptcy protection.

### **Exhibit C-9 Merger Information**

Not Applicable

### **Exhibit D-1 Operations**

Daybreak Energy LLC plans only to provide brokerage services, energy consulting, planning, and management services. Our target market will be commercial customers in Ohio. We will not take title to natural gas prior to consumption by the end user. The natural gas supplier will be responsible for nominating, scheduling and billing the customer.

### **Exhibit D-2 Operations Expertise**

Thomas McCune has over 8 years of experience as a sales professional in Ohio's deregulated energy markets. During that time Mr. McCune has employed expertise in a consultative, solutions oriented approach to business, resulting in a steadily growing base of long term client relationships. Mr. McCune has focused on strategies and products that most benefit the customer and optimize their energy spend. In addition, Mr. McCune has developed a wealth of knowledge of the Ohio energy market, having been directly involved with 3 energy suppliers, and having worked behind several local utilities. Having worked with 3 of Ohio's energy marketers has also afforded him the opportunity to develop numerous relationships with energy professionals throughout the state.

Mr. McCune also has 9 years of experience, owning and operating an independent sales/fund raising company with his wife. Prior to that, He was the sales manager of a large commercial greenhouse, overseeing horticultural sales to customers in Ohio, Pennsylvania, West Virginia and Michigan. Through the years, Mr. McCune has attended numerous sales and management training seminars as well as intensive training workshops specific to the Ohio energy market and Customer Choice programs. He is a sales professional committed to high standards of integrity and delivering quality and value in business transactions.

### **Exhibit D-3 Key Technical Personnel**

Thomas McCune, Owner, Administrator, Director of Sales & Marketing  
11096 Bandy Road  
Alliance, OH 44601  
330-584-2006