

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Complaint of)	
Larry Sturgill and Patricia Gilgenbach,)	
)	
Complainants,)	
)	Case No. 17-2127-GA-CSS
v.)	
)	
Northeast Ohio Public Energy Council,)	
)	
Respondent.)	

**MOTION TO DISMISS OF
NORTHEAST OHIO PUBLIC ENERGY COUNCIL**

Pursuant to Ohio Administrative Code (“O.A.C.”) Rule 4901-9-01, the Northeast Ohio Public Energy Council (“NOPEC”) moves to dismiss the Complaint filed by Larry Sturgill and Patricia Gilgenbach (“Complainants”) on October 16, 2017 with the Public Utilities Commission of Ohio (the “Commission” or “PUCO”). The reasons supporting this motion are stated in the accompanying memorandum in support.

Respectfully submitted,



Glenn S. Krassen (007610)
BRICKER & ECKLER LLP
1001 Lakeside Avenue East, Suite 1350
Cleveland, Ohio 44114
Telephone: (216) 523-5405
Facsimile: (216) 523-7071
E-mails: gkrassen@bricker.com;

Devin D. Parram (0082507)
BRICKER & ECKLER, LLP
100 South Third Street
Columbus, OH 43215-4291
Telephone: (614) 227-2300
Facsimile: (614) 227-2390
Email: dparram@bricker.com

*Attorneys for the Northeast Ohio Public Energy
Council*

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I. INTRODUCTION

Complainants Larry Sturgill and Patricia Gilgenbach failed to set forth reasonable grounds for their Complaint against the Northeast Ohio Pubic Energy Council (“NOPEC”). Rather, the Complaint contains vague allegations about the Complainants’ general disapproval of opt-out governmental aggregation. The Complainants’ unclear and undefined assertions are not a sufficient basis for a complaint under R.C. 4905.26. As the Commission has previously stated, “[b]road, unspecific allegations [within a complaint] are not sufficient to trigger a whole process of discovery and testimony.” *In re OCC*, Case No. 88-1085-EL-CSS, Entry (Sept. 27, 1988) (granting a motion to dismiss Ohio Consumer Counsel’s complaint).

NOPEC complied with all applicable statutes and Commission rules regarding implementation of its natural gas aggregation program and the Complaint does not contain any factual allegations which suggest otherwise. Because the Complaint does not contain allegations

which support a finding that NOPEC violated any statute, rule, or Commission order, the Complaint should be dismissed.

II. STATEMENT OF FACTS

NOPEC is certified by the Commission to provide natural gas governmental aggregation services and is authorized to provide opt-out natural gas aggregation programs pursuant to R.C. 4929.20(A) and R.C. 4929.26(A)(1). (*See* NOPEC Renewal Certificate No. 02-012G(8)¹; and NOPEC Answer at ¶ 4.) After approval of a majority of its electors, the City of Sheffield Lake, Ohio (“Sheffield Lake” or the “City”) joined NOPEC’s natural gas aggregation program and authorized NOPEC to provide opt-out natural gas aggregation services to the citizens of the City. (*See* July 11, 2015 Renewal Application of NOPEC Part 2, Application Exhibit B-1 at Sheffield Lake Ordinance 08-02 [Lorain County Ordinances].) Complainants Sturgill² and Gilgenbach reside at 814 Lake Breeze, Sheffield Lake, Ohio (the “Residence”). (Complaint at pg. 1.)

On or about January 13, 2014, anniversary opt-out materials were mailed to the Residence regarding NOPEC’s natural gas aggregation program for certain communities located in Columbia Gas of Ohio, Inc.’s (“Columbia”) territory. (*See* Affidavit of Ms. Dana Coulter (“Coulter Aff.”) at ¶ 6 (attached hereto as **Exhibit A**); Coulter Aff. Attachment 1.) NOPEC sent these anniversary opt-out materials in coordination with its natural gas aggregation supplier, NextEra Energy Services, LLC (“NextEra”). (Coulter Aff. at ¶¶ 3-4.) These opt-out materials notified the customer(s) who resided at the Residence that they had twenty-one (21) days—until February 4, 2014—to opt-out of NOPEC’s natural gas aggregation program. (Coulter Aff.

¹ NOPEC’s Renewal Certificate was last issued on September 22, 2016 in Case No. 02-1688-GA-GAG and can be accessed at <http://dis.puc.state.oh.us/TiffToPDF/A1001001A16122B35143F03504.pdf>

² The relationship between Mr. Sturgill and Ms. Gilgenbach is unclear from the Complaint. NOPEC reserves the right to seek the dismissal of either of the Complainants’ claims due to lack of standing or unauthorized practice of law.

Attachment 1.) The opt-out materials also informed the customers that they needed to opt-out by either mailing the opt-out notice to NOPEC or sending an email to NOPEC regarding their desire to opt-out of the aggregation, so long as the opt-out notification was sent by February 4, 2014. (*Id.*)

Neither Mr. Sturgill nor Ms. Gilgenbach responded regarding the January 13, 2014 opt-out materials at any time. (Coulter Aff. at ¶ 8.) As such, Mr. Sturgill (LDC Account No. 187415840010) was included in NOPEC's opt-out natural gas governmental aggregation program on or about April 1, 2014. (*Id.*) Shortly thereafter, NextEra received a drop request from Columbia which indicated that Mr. Sturgill either enrolled with another competitive retail natural gas supplier or was returning Columbia's default service. (*Id.* at ¶ 9.) On May 2, 2014, Mr. Sturgill was dropped back to Columbia. (*Id.* at ¶ 10.) This approximately one month period in 2014 (April 1, 2014 through May 2, 2014) was the only time the Mr. Sturgill was a customer of NOPEC. (*Id.*) Mr. Sturgill was not assessed any early termination fee or penalty by NextEra or NOPEC. (*Id.* at ¶ 11.)

On or about July 25, 2017, opt-out materials were mailed to the Residence as part of NOPEC's opt-out refresher mailings. (*See* Coulter Aff. Attachment 2, July 25, 2017 Opt-out Letter.) According to NextEra's records, Ms. Patricia Gilgenbach (LDC Account No. 201672090015) was the Columbia customer who lived at the Residence at this time. (Coulter Aff. at ¶ 12.) Mr. Sturgill mailed the opt-out notice to the post office box set forth on the notice which indicated that Mr. Sturgill and/or Ms. Gilgenbach wanted to opt-out of NOPEC's natural gas governmental aggregation program. (*See* Coulter Aff. Attachment 3, Opt-out Notice from Mr. Sturgill.)³ In accordance with this opt-out notice, neither of the Complainants was included

³ Although Ms. Gilgenbach was the Columbia customer at the Residence at this time, it appears from the opt-out notice that Mr. Sturgill signed the opt-out notice. (Coulter Aff. at ¶ 13.)

in NOPEC's natural gas governmental aggregation program in 2017. (Coulter Aff. at ¶ 14.) In fact, Ms. Gilgenbach has never been a customer of the NOPEC natural gas governmental opt-out aggregation program. (Coulter Aff. at ¶ 14.)

On October 16, 2017, Larry Sturgill and Patricia Gilgenbach ("Complainants") filed a Complaint with the Commission regarding natural gas aggregation services provided by NOPEC. In their Complaint, Complainants fail to state that NOPEC violated any Section of Title 49 of the Ohio Revised Code, any Commission rule, or any Commission order. Further, the Complaint does not contain any factual allegations which could support an alleged finding that NOPEC violated any Section of Title 49 of the Ohio Revised Code, any Commission rule, or any Commission order.

III. LAW AND ARGUMENT

A. Standard of Review

Under R.C. 4905.26⁴, a complaint that fails to set forth reasonable grounds must be dismissed. R.C. 4905.26 states:

Upon complaint in writing against any public utility by any person * * * that any * * * service * * * is in any respect unjust [or] unreasonable, * * * or that any * * * practice affecting or relating to any service furnished by the public utility, or in connection with such service, is, or will be, in any respect unreasonable, unjust, [or] insufficient, * * * if it appears that reasonable grounds for complaint are stated, the commission shall fix a time for hearing and shall notify complainants and the public utility thereof. * * *

The mere act of filing a complaint does not automatically trigger a hearing before the Commission. R.C. 4905.26 makes clear that, in considering a complaint, the Commission must determine whether reasonable grounds to justify a hearing have been stated. "Broad, unspecific

⁴ Because NOPEC is certified as a governmental aggregator, the Commission has jurisdiction over certain complaints regarding NOPEC's governmental aggregation services pursuant to R.C. 4928.16(A)(1) and (2), which incorporate R.C. 4905.26.

allegations are not sufficient to trigger a whole process of discovery and testimony.” *In re OCC*, Case No. 88-1085-EL-CSS, Entry (Sept. 27, 1988). Instead, “if the complaint is to meet the ‘reasonable grounds’ test, it must contain allegations, which, if true, would support the finding that the rates, practices, or services complained of are unreasonable or unlawful.” *In re OCC*., Case No. 88-1743-GA-CSS, Entry (Jan. 31, 1989). To find otherwise and “permit a complaint to proceed to hearing when complainant has failed to allege one or more elements necessary to a finding of unreasonableness or unlawfulness would improperly alter both the scope and burden of proof.” *Id.*

Furthermore, the Complainant has the burden of proving her complaint, including that she suffered some injury, in the proceeding. *Luntz Corp. v. Publ. Util. Comm.*, 79 Ohio St. 3d 509, 513, 1997-Ohio-342, 684 N.E.2d 43 (1997), citing *Grossman v. Publ. Util. Comm.* 14 Ohio St. 3d 49, 50, 471 N.E.2d 475.

B. The Complaint should be dismissed because it does not contain sufficient allegations of facts which could support a finding that NOPEC violated any Section of Title 49 of the Ohio Revised Code, any Commission rule, or any Commission order.

As the Commission is well aware, NOPEC is authorized to provide opt-out natural gas aggregation programs pursuant to R.C. 4929.26. (*See* NOPEC Renewal Certificate No. 02-012G(8); and NOPEC Answer at ¶ 4.) In addition, NOPEC is also authorized by Sheffield Lake to provide opt-out natural gas aggregation services to residents of the City. (*See* NOPEC July 11, 2014 Renewal Applications, City of Sheffield Lake, Ohio Ordinance 08-02.)

As part of NOPEC’s natural gas aggregation program, NOPEC is authorized to send opt-out materials to customers who reside in the City. On or about January 13, 2014, anniversary opt-out materials were mailed to the Residence. (Coulter Aff. at ¶ 6; Coulter Aff. Attachment 1.) Neither Mr. Sturgill nor Ms. Gilgenbach responded regarding the January 13, 2014 opt-out

materials at any time. (*Id.* at ¶ 8.) Therefore, in accordance with O.A.C. 4901:1-28-04, NOPEC was authorized to include Mr. Sturgill in NOPEC's natural gas governmental aggregation program. Mr. Sturgill was included in NOPEC's natural gas aggregation on or about April 1, 2014, but was subsequently dropped back to Columbia on May 2, 2014 after NOPEC received the drop request. (*Id.* at ¶¶ 9-10.) This means Mr. Sturgill, who was properly included in NOPEC's natural gas aggregation, was a NOPEC customer for only approximately one month period in 2014. (*Id.* at ¶ 10.)

The Complaint does not contain any factual allegations which demonstrate that NOPEC failed to comply with any statute or rule when it included Mr. Sturgill in the natural gas aggregation program in 2014. Rather, the Complaint contains broad and unspecific allegations regarding whether NOPEC has the authority to implement an opt-out governmental aggregation program. These vague allegations do not constitute reasonable grounds for a complaint under R.C. 4905.26.

Further, the Complaint lacks any factual allegations which support a finding that NOPEC failed to comply with any statute, rule, or Commission order when it mailed opt-out materials to the Complainants in 2017. NOPEC mailed opt-out refresher materials to the Residence on or about July 25, 2017, which was consistent with the opt-out notification requirements of O.A.C. 4901:1-28-04. (Coulter Aff. at ¶ 12; Coulter Aff. Attachment 2.) Mr. Sturgill mailed the opt-out notice to NOPEC on or about July 31, 2017. (Coulter Aff. at ¶ 12; Coulter Aff. Attachment 3.) As such, neither of the Complainants was included in NOPEC's natural gas governmental aggregation program in 2017. (Coulter Aff. at ¶ 14.) In fact, Ms. Gilgenbach has **never** been a customer of the NOPEC natural gas governmental opt-out aggregation program. (*Id.*) Because

NOPEC's action was entirely consistent with the requirements of R.C. 4929.26 and O.A.C. 4901:1-28-04, the Complaint has no basis and should be dismissed.

In addition, the Complaint should be dismissed because the Complainants failed to state that they were harmed by any action of NOPEC. Mr. Sturgill was not assessed any early termination fee or penalty by NextEra or NOPEC when he was dropped from NOPEC's program in 2014. (Coulter Aff. at ¶ 11.) Ms. Gilgenbach was not harmed because she was never NOPEC natural gas governmental aggregation customer. (Coulter Aff. at ¶ 14.) These facts demonstrate that the Complainants suffered no harm and, thus, the Complaint and should be dismissed.

IV. CONCLUSION

Based in the foregoing, Complainants Larry Sturgill and Patricia Gilgenbach failed it set forth reasonable grounds for their Complaint as required by R.C. 4905.26. As such, the Complaint should be dismissed with prejudice.

Respectfully submitted,



Glenn S. Krassen (007610)
BRICKER & ECKLER LLP
1001 Lakeside Avenue East, Suite 1350
Cleveland, Ohio 44114
Telephone: (216) 523-5405
Facsimile: (216) 523-7071
E-mail: gkrassen@bricker.com

Devin D. Parram (0082507)
BRICKER & ECKLER, LLP
100 South Third Street
Columbus, OH 43215
Telephone: (614) 227-2300
Facsimile: (614) 227-2390
Email: dparram@bricker.com

*Attorneys for the Northeast Ohio Public Energy
Council*

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion to Dismiss of NOPEC was served upon Complainants Larry Sturgill and Patricia Gilgenbach at the below address *via* regular U.S. mail on December 11, 2017.



Devin D. Parram

Larry Sturgill
814 Lake Breeze Road
Sheffield Lake, OH 44054

Patricia Gilgenbach
814 Lake Breeze Road
Sheffield Lake, OH 44054

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Larry Sturgill and Patricia Gilgenbach,)	
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Northeast Ohio Public Energy Council,)	
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Respondent.)	

AFFIDAVIT OF DANA COULTER

STATE OF TEXAS)
) SS:
COUNTY OF HARRIS)

Affiant Dana Coulter, being first duly sworn on oath, deposes and states as follows:

1. The statements made in this Affidavit are based upon my personal knowledge.
2. I am over the age of 18 and competent to testify as to the matters contained herein.
3. I am employed by Gexa Energy, L.P. ("Gexa Energy") I am a Principal Regulatory Analyst for Gexa Energy, and in that position, I support NextEra Energy Services Ohio, LLC ("NextEra"), an affiliate of Gexa Energy and am familiar with the NOPEC natural gas aggregation program's opt-out process.
4. NextEra is Northeast Ohio Public Energy Council's ("NOPEC") supplier for NOPEC's natural gas aggregation program in Columbia Gas of Ohio's ("Columbia") service territory.

5. The City of Sheffield Lake, Ohio (the "City") is one of the communities in Columbia's territory in which NOPEC provides opt-out natural gas aggregation services.

6. On or about January 13, 2014, anniversary opt-out materials were mailed to 814 Lake Breeze, Sheffield Lake, Ohio (the "Residence") regarding NOPEC's natural gas aggregation program. (See Attachment 1, January 13, 2014 NOPEC Opt-out Letter.) These materials notified the customer(s) who resided at the Residence that they had twenty-one (21) days - until February 4, 2014 - to opt-out of NOPEC's natural gas aggregation program.

7. The opt-out materials also informed the customers that they could opt-out by either mailing the opt-out notice to a post office box set forth on the notice or by sending an email to an email address set forth on the notice regarding their desire to opt-out of the aggregation, so long as the opt-out notification was sent by February 4, 2014.

8. Neither Mr. Sturgill nor Ms. Gilgenbach responded regarding the January 13, 2014 opt-out materials at any time. As such, Mr. Sturgill (LDC Account No. 187415840010) was included in NOPEC's opt-out natural gas governmental aggregation program on or about April 1, 2014.

9. Shortly thereafter, NextEra received a drop request from Columbia which indicated that Mr. Sturgill either enrolled with another competitive retail natural gas supplier or was returning Columbia's default service.

10. On May 2, 2014, Mr. Sturgill was dropped back to Columbia. Mr. Sturgill was a customer of NOPEC for an approximately one month period in 2014 (April 1, 2014 through May 2, 2014).

11. Mr. Sturgill was not assessed any early termination fee or penalty by NextEra or NOPEC when he was dropped back to Columbia.

12. On or about July 25, 2017, opt-out materials were mailed to the Residence as part of NOPEC's opt-out refresher mailings. (See Attachment 2, July 25, 2017 Opt-out Letter.) According to NextEra's records, Ms. Patricia Gilgenbach (LDC Account No. 201672090015) was the Columbia customer who lived at the Residence at this time. Mr. Sturgill mailed the opt-out notice to the post office box set forth on the notice which indicated that Mr. Sturgill and/or Ms. Gilgenbach wanted to opt-out of NOPEC's natural gas governmental aggregation program. (See Attachment 3, Opt-out Notice from Mr. Sturgill.)

13. Although Ms. Gilgenbach was the Columbia customer at the Residence at this time, it appears from the opt-out notice that Mr. Sturgill signed the opt-out notice.

14. In accordance with Mr. Sturgill's opt-out notice, neither of the Complainants was included in NOPEC's natural gas governmental aggregation program in 2017. In fact, Ms. Gilgenbach has never been a customer of the NOPEC natural gas governmental opt-out aggregation program.

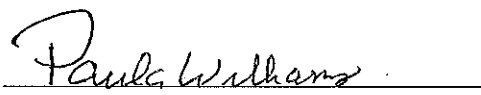
15. All attachments to this Affidavit are true and accurate copies.

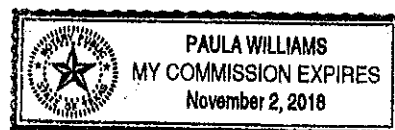
Further affiant sayeth naught.

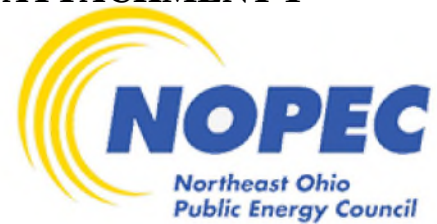
By:


Dana Coulter

Sworn to and subscribed before me this 8th day of December, 2017.


Notary Public





January 13, 2014

Joseph Migliorini
Chairman

Chuck Keiper
Executive Director

Board of Directors

Ron McVoy
Ashtabula County

Georgine Welo
Cuyahoga County

James Flaiz
Geauga County

Rob Duncan
Huron County

Daniel Troy
Lake County

David Gillock
Lorain County

Pat McNamara
Medina County

Mickey Marozzi
Portage County

Jack Haney
Trumbull County

www.nopecinfo.org
855-NOPEC-01
(855-667-3201)

Dear Natural Gas Customer,

The Northeast Ohio Public Energy Council (NOPEC) is the largest governmental public retail energy aggregation in the nation. Our aggregation currently has 134 members, serving 174 communities in ten counties. We negotiate on the behalf of our members with gas and electric suppliers to find favorable rates and terms for you. We even help you learn how to save on your utility usage and buy energy saving products at a discount with our newest product, MyEnergyMyWay™.

As Chairman of NOPEC, I am pleased to tell you about our natural gas program and your options. This offer, available from our chosen supplier NextEra Energy Services Ohio, LLC, is exclusively for eligible customers in participating NOPEC communities served by Columbia Gas of Ohio, Inc. Your account will automatically be included in the NOPEC program unless you opt-out of the aggregation by notifying us on or before February 4, 2014. Gas service is expected to begin with your March 2014 meter reading date, and will continue until your March 2016 meter reading date. You have the following two options, both of which can be canceled at any time with no penalty:

Option 1: Your price will be \$0.54404 per Ccf* beginning with your March 2014 meter read date. The price will stay in effect until your June 2014 meter read date, and then your price may be fixed or variable, as determined by NOPEC and NextEra Energy Services Ohio, for one or more billing cycles. If you chose Option 1, you need to take no action at all. In several weeks you will receive a letter from your utility confirming your enrollment in NOPEC's governmental aggregation program.

Option 2: You can also opt-in to a monthly variable price* option. Details can be found in the Terms and Conditions located on the back of this letter. To participate under this option you must call us at 855-NOPEC-01 (855-667-3201). Offer subject to availability.

If you do not want to participate, you must notify us by one of the following methods: a) sign, date and return the attached reply card, b) email us at nopecoptout@nexteraenergyservices.com – please be sure to include your name, address, phone number and utility account number, or c) fax us at 800-238-5679. Whichever method you choose, you must do so on or before February 4, 2014.

Same Reliable Service: Only the supplier of your natural gas will change. All other functions, delivery, repair, billing, and customer service, will continue to be provided by Columbia Gas of Ohio, LLC. You will continue to receive only one bill.

Please review all materials, including the Terms and Conditions located on the back of this letter, and decide which option is best for you. We look forward to serving you.

Sincerely,

Joseph Migliorini
Chairman, NOPEC Board of Directors

You are receiving this notice today, because you have the right to opt-out of the NOPEC's Natural Gas Aggregation Program every two years without penalty.

*All prices are exclusive of sales and other applicable taxes and utility charges.

NOPEC Contact Information

Customer Service: 855-NOPEC-01 (855-667-3201)

Available 24 hours a day; 7 days a week

P.O. Box 7016, De Pere, WI 54115-7016

All eligible customers in member communities are automatically included in the program unless you opt-out on or before February 4, 2014.

Terms and Conditions

1. **What We Agree To Do:** NextEra Energy Services Ohio, LLC (Supplier) will supply all your gas needs, and Columbia Gas of Ohio (Utility), your natural gas utility company, will deliver the gas you buy under this agreement to your home or place of business.

2. **What You Agree To Do:** You agree to pay in full the bill for natural gas and for the Utility's charges on or before the due date on the bill. You will receive a single monthly bill from the Utility that will include its charges as well as the Supplier's charges. The Utility's normal billing standards apply, including budget billing.

3. **Price:** If you choose Option 1, you agree to pay a price of \$0.54404 per Ccf from your March 2014 meter reading date until the June 2014 meter reading date. For the remainder of the term, your price will be fixed or variable, as determined by NOPEC and Supplier, for one or more periods of time. If you choose Option 2, the monthly variable price option (reference paragraph 14 for certain limitations), you will receive a market variable price that will change each month; the price will be \$0.002/Ccf less than the monthly Utility Standard Choice Offer price. Enrollment in Option 2 is limited. For all service provided under this agreement, the price does not include applicable Ohio taxes and you will continue to be responsible for all charges assessed by the Utility, including any fees, surcharges or taxes associated with providing your service. If your business is exempt from Ohio sales tax, and we do not already have a copy of your exemption form, please mail us your exemption form. Without the form, we are required to collect sales tax and the Utility will add applicable taxes to your bill. In the event that any tax included in the price, or related expense, is modified due to legislation or regulation applicable to Ohio natural gas choice, we shall include such modification in our price.

4. **Switching Fee:** You pay no charge to switch your supply to us pursuant to this agreement because the Supplier shall pay any applicable initial switching fees as charged by the Utility.

5. **Term:** The Term of this agreement will begin with your March 2014 meter reading date, and will continue until your March 2016 meter reading. You have the right to request up to twenty-four (24) months of payment history for services provided by Supplier.

6. **Rescission:** Utility will send you a written notice confirming your decision to enroll with Supplier. You have the right to rescind this agreement without penalty within seven (7) business days of receiving the confirmation letter from the Utility by calling them at 1-800-344-4077.

7. **Eligibility:** This agreement is for residential and small commercial Utility "choice" accounts consuming less than 500 Mcf per year. Customers in the Percentage of Income Payment Plan, with certain arrearages or served by a competitive supplier are not eligible. The Supplier reserves the right to void this agreement, without liability, if your account does not meet these eligibility requirements.

8. **Cancellation/Amendments:** You may terminate this agreement one time without penalty, by written notice to the Supplier or by telephone to the Supplier at the address and telephone number for them listed in paragraph 13, but you will not be relieved of your obligation to pay for your supply from us through the date you move. You also have the right to opt-out of the NOPEC aggregation program at least every two years without penalty. Upon 30 (thirty) days written notice to you, the Supplier may amend this agreement due to any material regulatory, tariff, or procedural change that adversely affects its ability to serve you under this agreement. Upon cancellation or expiration of this agreement, you may choose to receive natural gas from the Utility, or enroll with another supplier. This agreement automatically terminates if the requested service location is not served by the incumbent natural gas company, or if the Supplier returns you to your incumbent natural gas company's sales service. Should you fail to pay the bill or fail to meet any agreed-upon

payment arrangement, your contract may be terminated by the Supplier and your service may be terminated in accordance with the Utility's tariff on file with the Public Utilities Commission of Ohio with at least fourteen (14) days written notice, but such termination will not relieve you of your obligation to pay for supply through the date of such termination.

9. **If You Move:** You have the right to terminate this agreement without penalty if you move, but you must pay for your supply from us through the date you move. If you move outside the Utility's service territory, this agreement will terminate automatically at no cost to you. If you move to a new address in a NOPEC member community within the Utility's service territory, you may contact the Utility and Supplier and request that, at Supplier's discretion, your new address be substituted for your old address under this agreement.

10. **Assignment:** The Supplier may assign this agreement to an affiliate or third party, in whole or in part, upon thirty (30) days written notice to you subject to any regulatory approvals and NOPEC's consent, if applicable.

11. **Program Termination:** In the event the Columbia Gas of Ohio Choice Program is terminated prior to the end of this agreement, this agreement shall automatically terminate.

12. **Authorization:** You authorize the Utility to release to the Supplier all information relating to your historical and current gas usage, account number, address, phone number, historical usage information, billing and payment history. No other information shall be released. Supplier will not release your account number(s) without your written consent, unless ordered by the Public Utilities Commission of Ohio or a court of competent jurisdiction. Supplier will not release your social security number unless ordered by a court of competent jurisdiction.

13. **Customer Inquiries And Disputes:** The Supplier's hours of operation are 24 hours a day. If you wish to speak with us concerning your bill or any issue you dispute, please call toll-free 855-667-3201. You can also write to NextEra Energy Services Ohio, LLC 20455 State Highway 249, Suite 200, Houston, TX 77070 or email at nopeccare@nexteraenergyservices.com or fax to toll-free 800-238-5679. Please remember to include your account number. Visit us at our website at www.nexteraenergyservices.com. We will investigate and attempt to resolve the matter within five (5) business days. If your complaint is not resolved after you have called NextEra Energy Services Ohio, LLC, or for general utility information, residential and business customers may call the Public Utilities Commission of Ohio (PUCO) toll-free at 1-800-686-7826 or for TDD/TTY toll-free at 1-800-686-1570, from 8:00 a.m. to 5:00 p.m. weekdays or visit www.PUCO.ohio.gov. Residential customers may also contact the Ohio Consumers' Counsel for assistance with complaints and utility issues at 1-877-742-5622 (toll-free) from 8:00 a.m. to 5:00 p.m. weekdays, or at www.pickocc.org. You may also call NOPEC toll-free at 1-888-848-7914, weekdays from 9 a.m. to 6 p.m. You may also visit NOPEC's website at www.nopecinfo.org.

14. **Monthly Variable Price Option Limit:** The Option 2 monthly variable price plan is limited in availability to approximately 4,000 NOPEC customers in the Columbia Gas of Ohio service territory. Once there is no longer availability, customers choosing the Option 2 plan will be placed on the Option 1 plan, but these customers may cancel without penalty anytime by providing notice to us.

15. **Liability Limit.** THE REMEDY IN ANY CLAIM OR SUIT BY YOU AGAINST US WILL BE LIMITED TO DIRECT, ACTUAL DAMAGES, AND NEITHER NEXTERA ENERGY SERVICES, LLC NOR ANY OF ITS AFFILIATES WILL BE LIABLE FOR CONSEQUENTIAL, SPECIAL, INCIDENTAL, INDIRECT (INCLUDING LOSS OF PROFITS) OR PUNITIVE DAMAGES.



July 25, 2017

Ron McVoy
Chairman

Chuck Keiper
Executive Director

Board of Directors

Ron McVoy
Ashtabula County

John Zehentbauer
Columbiana County

Georgine Welo
Cuyahoga County

James Flaiz
Geauga County

Rob Duncan
Huron County

Daniel Troy
Lake County

David Gillock
Lorain County

Robert McCracken
Mahoning County

Patricia Hanek
Medina County

Mickey Marozzi
Portage County

Aaron Montz
Seneca County

Jan Tulley
Summit County

Jack Haney
Trumbull County

www.nopecinfo.org

1-855-NOPEC-01
(1-855-667-3201)

Dear Natural Gas Customer,

The Northeast Ohio Public Energy Council (NOPEC) is the largest governmental public retail energy aggregation in the nation. Our aggregation is authorized by voters through ballot initiatives and currently serves over 200 communities in thirteen counties. We negotiate on the behalf of our members with gas and electric suppliers to find favorable rates and terms for you. We even help you learn how to save on your utility usage and buy energy saving products at a discount with our newest product, MyNOPEC™.

As Chairman of NOPEC, I am pleased to tell you about our natural gas program and your options. This offer, available from our chosen supplier NextEra Energy Services Ohio, LLC ("Supplier"), is exclusively for eligible customers in participating NOPEC communities served by Columbia Gas of Ohio, Inc. Your account will automatically be included in the NOPEC program unless you opt-out of the aggregation by notifying us on or before August 15, 2017. Your service is estimated to begin with your September 2017 meter read date, and will continue until your March 2018 meter read date. This is an estimate only and will depend upon your meter read cycle and when your local utility accepts your enrollment. Please note that initial rates vary based on enrollment dates and may differ from the current NOPEC rate. You have the following two options, both of which can be canceled at any time with no penalty:

Option 1: As a valued NOPEC customer, your price will be \$0.4750 per Ccf* for your September 2017 billing period and \$0.4480 per Ccf* for your October and November 2017 billing periods. After that time, your price may vary and change at any time, but not more than once in a 30 day period. Supplier and NOPEC will determine this price based on various factors including, without limitation, competitor's prices, applicable industry charges, wholesale market conditions and natural gas supply sources. If you choose Option 1, you need to take no action at all. In several weeks you may receive a letter from your utility confirming your enrollment in NOPEC's governmental aggregation program.

Option 2: You can also choose a monthly variable price* option. Under this option, the price will be \$0.002/Ccf less than the monthly utility Standard Choice Offer. Enrollment in this option is limited. Details can be found in the Terms and Conditions located on the back of this letter. To participate under this option you must call us at 1-855-NOPEC-01 (1-855-667-3201). Offer subject to availability.

If you do not want to participate in either option, you must notify us by one of the following methods: a) sign, date and return the attached reply card, or b) fax us at 800-238-5679. You must do so on or before August 15, 2017.

Same Reliable Service: Only the supplier of your natural gas will change. All other functions, delivery, repair, billing, and customer service, will continue to be provided by Columbia Gas of Ohio. You will continue to receive only one bill.

Please review all materials, including the Terms and Conditions located on the back of this letter, and decide which option is best for you. We look forward to serving you.

Sincerely,

Ron McVoy
Chairman, NOPEC Board of Directors

You are receiving this notice today, because you have the right to opt-out of NOPEC's Natural Gas Aggregation Program every two years without penalty.

*All prices are exclusive of sales and other applicable taxes and utility charges.

NOPEC Contact Information

Customer Service: 1-855-NOPEC-01 (1-855-667-3201)

Available 24 hours a day; 7 days a week

P.O. Box 39550, Solon, OH 44139-0550

All eligible customers in member communities are automatically included in the program unless you opt-out on or before August 15, 2017.

Terms and Conditions

1. What We Agree To Do: NextEra Energy Services Ohio, LLC (Supplier) will supply all your gas needs, and Columbia Gas of Ohio (Utility), your natural gas utility company, will deliver the gas you buy under this agreement to your home or place of business.

2. What You Agree To Do: You agree to pay in full the bill for natural gas and for the Utility's charges on or before the due date on the bill. You will receive a single monthly bill from the Utility that will include its charges as well as the Supplier's charges. The Utility's normal billing standards apply, including budget billing.

3. Price: If you choose Option 1, you agree to pay a price of \$0.4750 per Ccf for your September 2017 billing period and \$0.4480 per Ccf for your October and November 2017 billing periods. This is an estimate only and will depend upon your meter read cycle and when your local utility accepts your enrollment. For the remainder of the term, your price may vary. Your variable price may change at any time, but it will not change more than once in a thirty (30) day period. Supplier and NOPEC will determine this price based on many different factors, which may include, without limitation, competitor's prices, applicable industry charges, wholesale market conditions and natural gas supply sources. Supplier's current and historical prices are not an indicator of its future prices or a guarantee of cost savings. You may visit NOPEC's website at www.nopecinfo.org for variable price information. If you choose Option 2, the monthly variable price option (reference paragraph 14 for certain limitations), you will receive a market variable price that will change each month; the price will be \$0.002/Ccf less than the monthly Utility Standard Choice Offer price. Enrollment in Option 2 is limited. Under both options, the price includes a fee for the administrative services provided by NOPEC. The price does not include applicable Ohio taxes and you will continue to be responsible for all charges assessed by the Utility, including any fees, surcharges or taxes associated with providing your service. For all service provided under this agreement, the price does not include applicable Ohio taxes and you will continue to be responsible for all charges assessed by the Utility, including any fees, surcharges or taxes associated with providing your service. If your business is exempt from Ohio sales tax, and we do not already have a copy of your exemption form, please mail us your exemption form. Without the form, we are required to collect sales tax and the Utility will add applicable taxes to your bill. In the event that any tax included in the price, or related expense, is modified due to legislation or regulation applicable to Ohio natural gas choice, we shall include such modification in our price.

4. Switching Fee: You pay no charge to switch your supply to us pursuant to this agreement because the Supplier shall pay any applicable initial switching fees as charged by the Utility.

5. Term: The Term of this agreement is expected to begin with your September 2017 meter read and will continue until your March 2018 meter reading. You have the right to request twice within a twelve (12) month period up to twenty-four (24) months of payment history for services provided by Supplier without charge.

6. Rescission: Utility will send you a written notice confirming your decision to enroll with Supplier. You have the right to rescind this agreement without penalty within seven (7) calendar days of receiving the confirmation letter from the Utility by calling them at 1-800-344-4077.

7. Eligibility: This agreement is for residential Utility 'choice' and small commercial Utility "choice" accounts consuming less than 500 Mcf per year. Customers in the Percentage of Income Payment Plan, with certain arrearages or served by a competitive supplier are not eligible. Customer represents that Customer is not currently under a contract with a retail natural gas supplier. The Supplier reserves the right to void this agreement, without liability, if your account does not meet these eligibility requirements.

8. Cancellation/Amendments: You may terminate this agreement without penalty, by written notice to the Supplier or by telephone to the Supplier at the address and telephone number for them listed in paragraph 13, but you will not be relieved of your obligation to pay for your supply from us through the meter read date on which the Utility makes that change. You also have the right to opt-out of the NOPEC aggregation program at least every two years without

penalty. Upon 30 (thirty) days written notice to you, the Supplier may amend this agreement due to any material regulatory, tariff, or procedural change that adversely affects its ability to serve you under this agreement. Upon cancellation or expiration of this agreement, you may choose to receive natural gas from the Utility, or enroll with another supplier. This agreement automatically terminates if the requested service location is not served by the incumbent natural gas company, or if the Supplier returns you to your incumbent natural gas company's sales service. Should you fail to pay the bill or fail to meet any agreed-upon payment arrangement, your contract may be terminated by the Supplier and your service may be terminated in accordance with the Utility's tariff on file with the Public Utilities Commission of Ohio with at least fourteen (14) days written notice, but such termination will not relieve you of your obligation to pay for supply through the date of such termination.

9. If You Move: You have the right to terminate this agreement without penalty if you move, but you must pay for your supply from us through the date you move. If you move outside the Utility's service territory, this agreement will terminate automatically at no cost to you. If you move to a new address in a NOPEC member community within the Utility's service territory, you may contact the Utility and Supplier and request that, at Supplier's discretion, your new address be substituted for your old address under this agreement.

10. Assignment: The Supplier may assign this agreement to an affiliate or third party, in whole or in part, upon thirty (30) days written notice to you subject to any regulatory approvals and NOPEC's consent, if applicable.



11. Program Termination: In the event the Columbia Gas of Ohio Choice Program is terminated prior to the end of this agreement, this agreement shall automatically terminate.

12. Authorization: You authorize the Utility to release to the Supplier all information relating to your historical and current gas usage, account number, address, phone number, historical usage information, billing and payment history. No other information shall be released. Supplier will not release your account number(s) without your written consent, unless ordered by the Public Utilities Commission of Ohio or a court of competent jurisdiction. Supplier will not release your social security number unless ordered by a court of competent jurisdiction.

13. Customer Inquiries and Disputes: The Supplier's hours of operation are 24 hours a day. If you wish to speak with us concerning your bill or any issue you dispute, please call toll-free 1-855-667-3201. You can also write to NextEra Energy Services Ohio, LLC 20455 State Highway 249, Suite 200, Houston, TX 77070 or email at nopeccare@nexteraenergyservices.com or fax to toll-free 800-238-5679. Please remember to include your account number. Visit us at our website at www.nexteraenergyservices.com. We will investigate and attempt to resolve the matter within five (5) business days. If your complaint is not resolved after you have called NextEra Energy Services Ohio, LLC, or for general utility information, residential and business customers may call the Public Utilities Commission of Ohio (PUCO) toll-free at 1-800-686-7826 or for TDD/TTY toll-free at 1-800-686-1570, from 8:00 a.m. to 5:00 p.m. weekdays or visit www.PUCO.ohio.gov. Residential customers may also contact the Ohio Consumers' Counsel for assistance with complaints and utility issues at 1-877-742-5622 (toll-free) from 8:00 a.m. to 5:00 p.m. weekdays, or at www.pickocc.org. You may also call NOPEC toll-free at 1-888-848-7914, weekdays from 9 a.m. to 6 p.m. You may also visit NOPEC's website at www.nopecinfo.org.

14. Monthly Variable Price Option Limit: The Option 2 monthly variable price plan is limited in availability to approximately 4,000 NOPEC customers in the Columbia Gas of Ohio service territory. Once there is no longer availability, customers choosing the Option 2 plan will be placed on the Option 1 plan, but these customers may cancel without penalty anytime by providing notice to us.

15. Liability Limit. THE REMEDY IN ANY CLAIM OR SUIT BY YOU AGAINST US WILL BE LIMITED TO DIRECT, ACTUAL DAMAGES, AND NEITHER NEXTERA ENERGY SERVICES OHIO, LLC NOR ANY OF ITS AFFILIATES WILL BE LIABLE FOR CONSEQUENTIAL, SPECIAL, INCIDENTAL, INDIRECT (INCLUDING LOSS OF PROFITS) OR PUNITIVE DAMAGES.

NOTIFICATION OF INTENT TO OPT-OUT		
<input checked="" type="checkbox"/> I do not wish to be part of the NOPEC Community Choice Natural Gas Aggregation Program. By returning this postcard, I am officially opting-out of this program.		
Signature <u>[Signature]</u>	Date <u>30 Sept 2017</u>	
This notification is in regard to service at this address:		
<u>814 LAKE BREEZE RD SHEFFIELD LAKE OH 44054 2023</u>		
Name <u>Kerry Sturgill</u>		
Address <u>814 Lake Breeze</u>		
City/State/Zip <u>Sheffield Lake Ohio</u>		
E-mail <u>Paul@sturgill.com</u>		
Landline Phone <u>360 443 1234</u>	Cellular Phone <u>614 443 1234</u>	
		

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in

Case No(s). 17-2127-GA-CSS

Summary: Motion to Dismiss of Northeast Ohio Public Energy Council electronically filed by
Teresa Orahod on behalf of Devin D. Parram