



DIS Case Number: 17-2481-EL-GAG

## Section A: Application Information

### A-1. Applicant's legal name, address, telephone number, and web site address

the applicant's legal name, address, telephone number, and web address.

Legal Name: City of Franklin	Country: United States
Phone: 9377469921	Extension (if applicable):
Street: 1 Benjamin Franklin Way	
Website (if any):	City: Franklin Province/State: OH
	Postal Code: 45005

### A-2. Contact person for regulatory matters

Jordan Haarmann  
9435 Waterstone Boulevard, Suite 140  
Cincinnati, OH 45249  
US  
jordan.h@agellc.com  
6182038328

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

Jordan Haarmann  
9435 Waterstone Boulevard, Suite 140  
Cincinnati, OH 45249  
US  
jordan.h@agellc.com  
6182038328

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

Phone: 618-203-8328	Extension (if applicable):	Country: United States
Fax: 618-205-5069	Extension (if applicable):	Street: 10749 E Garden Rd
Email: info@agellc.com		City: Mount Vernon Province/State: IL



**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.

File(s) attached.

**B-2. Operation and governance plans**

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.

Files(s) attached.

**B-3. Opt-out disclosure notice**

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.

File(s) uploaded

**B-4. Experience and Plans**

Provide a description of the applicant's experience in providing the service(s) for which it is applying (e.g. number and type of customers served, utility service areas, amount of load, etc.). Also provide the 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 4928.10 of the Revised Code.

Application Experience and Plan Description: The Applicant uses the consulting services of Supernova Partners, LLC, Affordable Gas & Electric Company, LLC (Cert #13-709E and Cert #13-320G) for the purposes of managing its governmental aggregation program, including the



**Public Utilities  
Commission**

facilitation of contract execution with CRES/CRNG suppliers, responding to customer inquiries and complaints, and complying with all applicable provisions of Commission rules adopted pursuant to Section 4929.22 and/or 4928.20 of the Ohio Revised Code.

# Application Attachments

**PLAN OF OPERATION AND GOVERNANCE**  
**OF**  
**THE CITY OF FRANKLIN, OHIO, WARREN COUNTY**

**(THIS PLAN SHALL BE RE-SUBMITTED AFTER A CRES HAS BEEN  
SELECTED FOR ELECTRIC SUPPLY PURPOSES.)**

For Additional Information Contact:

Donald I. Marshall  
Eagle Energy, LLC  
6566 Glenway Avenue  
Cincinnati, Ohio 45211

Telephone: (513) 251-7283  
E-mail: [eagleenergy@fuse.net](mailto:eagleenergy@fuse.net)

Introduction. City of Franklin (Franklin or City) obtained voter approval to offer an electric aggregation program pursuant to §4928.20, Ohio Revised Code (ORC) on November 7, 2000. As a result of the voter's affirmative vote, Franklin has established an "opt-out" electric aggregation program to all eligible customers<sup>1</sup>; i.e., all residential customers and non-mercantile commercial, industrial and other public authority customers within the City. The plan will be available to approximately 5,000 customers and those customers shall automatically be enrolled in the program as further explained herein. A Competitive Retail Electric Supplier (CRES), for the purpose of implementing an aggregation program, has not been selected at this time.

The aggregation program has been developed in accordance with §4928.20, ORC, in the following manner:

1. §4928.20(A) specifies the requirement of a municipal authority to adopt an ordinance. Exhibit A-2 is a copy of Ordinance No. 2000-48 adopted by the elected officials of the City specifying that aggregation shall occur automatically.
2. §4928.20(B) requires that the Ordinance be submitted to the electorate. Also included in Exhibit A-2 is the certification by the Warren County Board of Elections that Ordinance No. 2000-48 was passed on November 7, 2000 by a majority affirmative vote.
3. §4928.20(C) requires two public hearings on this Plan of Operation and Governance (Plan) to be conducted. Those hearings were held on November 20, 2017 at 6:00 PM and December 6, 2017 at 1:00 PM after appropriate public notice was provided for two consecutive weeks<sup>2</sup>.
4. §4928.20(D) requires appropriate notice be provided to customers being automatically enrolled in the aggregation program. A draft notice, including terms and conditions, is attached as Exhibit A-4 and shall be timely provided to the Commission Staff by the CRES at least ten (10) days prior to mailing.

The Plan has been developed in accordance with the Commission's rules and regulations, specifically rule 4901:1-21-16(B) of the Administrative Code, in the following manner:

1. Services to be Provided. The City will enter into a contract with a CRES to provide generation and transmission services. The CRES contract shall include all terms and conditions that make it clear that the CRES has ultimate responsibility to deliver firm power to the distribution system of the local Electric Distribution Utility (EDU), Duke Energy-Ohio (Duke). Duke, in turn, shall utilize its distribution system, as it currently uses, and deliver the power to the customer's

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<sup>1</sup> As further defined herein. Certain customers may not be eligible to participate.

<sup>2</sup> Legal notice was provided on November 3 and 10, 2017.

end-use facilities. The City does not intend to re-sell any power as a result of this program and, in fact, is not authorized to do so.

2. Determination of Rates to be Charged. All customers shall continue to receive standard distribution service under Duke's tariffs on file and approved by the Commission. Customers shall be responsible for the distribution charges and certain delivery Riders specified under Rates RS, DM or DS of the Duke tariff, P.U.C.O. No. 19<sup>3</sup>. Customers enrolled in the program shall receive relief from certain other Riders and the rates and riders associated with generation and related cost contained in Duke's tariff. The City has retained Eagle Energy to assist in the identification of potential savings for customers. Savings shall be determined by comparing the prevailing price-to-charge of Duke with the contract rate of the CRES. The rate comparison will be contained in the notice to be received by the customer. A surcharge authorized under §4928.20(I) is not applicable at the current time.
3. Standby Service. The City intends for customers to return to Duke on a full-requirements basis without penalty. The CRES contract shall exclude a switching fee provision for customers.
4. Opt-out Disclosure Notice. The City shall timely request a customer list that identifies potential customers within its geographic boundary from Duke. It has been Eagle's experience that the customer list may not be entirely accurate so a request of the CRES to sanitize the customer list will be made to improve its accuracy. The sanitized customer list shall then be used to mail the opt-out notice. Once the mailing list has been developed, the opt-out notice shall be mailed via first class U.S. mail and customers shall have twenty-one (21) days to opt-out of the program. Those customers electing **not** to opt-out shall be enrolled in the program.
5. Customer Inclusion. The following customers shall be excluded from the opt-out program:
  - (a) Customers who have opted-out of the program;
  - (b) Customers under contract with a CRES;
  - (c) Customers who may have a special contract with Duke;
  - (d) Customers outside the geographical boundary of the City;

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<sup>3</sup> The program may be available to other special rates such as Rates EH, ORH, et al.

- (e) Customers who have elected to be on the "do not aggregate" list provided by §4928.21(C);
- (f) Mercantile customers; and,
- (g) Customers with an unsatisfactory credit rating.

The City is relying on Duke to provide a concise customer list as well as identifying the above customer categories as reasonable as possible. Customers in categories (b) through (g) shall not appear in the customer list provided by Duke. Customers within these categories who may be accidentally enrolled shall be returned to Duke without charge.

The CRES shall have responsibility to monitor the enrollment of customers. Customers who elect to opt-out of the program shall be excluded and if a customer were accidentally enrolled shall also be returned to Duke without charge.

6. Opt-out Process. Customers shall receive a letter, terms and conditions and a postcard that shall be used to determine enrollment status<sup>4</sup>. Customers shall be provided twenty-one (21) days to elect to opt-out of the program. After the twenty-one day opt-out period ends customers shall be submitted to Duke for enrollment. Duke confirmed enrollment and provided the customer with an additional seven (7) days to allow the customer to cancel enrollment. Thereafter, a similar enrollment program shall be offered at intervals not to exceed three (3) years.
7. Eligible Customers. The aggregation program shall include residential and non-mercantile customers, except those identified in Section 5 above, served under the provision's of Duke's current electric tariff P.U.C.O. No. 19 as Rate RS, Rate DS and Rate DM <sup>5</sup>.
8. Billing Procedures. The contract with the CRES shall include a billing procedure but the goal of the City is to have the customer receive a single bill from Duke. The bill shall include all charges including the supply charges of the CRES. The billing interval shall be approximately thirty (30) days. If Duke does not receive timely payments, then the subsequent bill will reflect late payments fees, as authorized by the Commission, including those charges of the CRES.
9. Credit and Deposit Procedures. Collection and credit procedures shall be those authorized by the Commission and remain the responsibility of Duke, CRES and the involved customer. The City shall not be involved in any credit or collection matter.

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<sup>5</sup> See footnote 2 also.

10. Customer Service Procedures. Customers shall have multiple means of addressing customer service issues. Generally, concerns relative to service reliability or billing should be addressed to Duke and concerns regarding the Plan should be addressed to the City or Eagle Energy. If a customer is unable to resolve their concern in a satisfactory manner, then that matter should be directed to the Commission or to the Ohio Consumers' Counsel. The following telephone numbers are for customers' assistance for resolving customer service issues:

Duke Energy Ohio	(800) 544-6900
Public Utilities Commission of Ohio	(800) 686-7826 (800) 686-1750 (TDD/TTY)
City of Franklin	(937) 746-9921
Eagle Energy	(513) 251-7283
Ohio Consumers' Counsel	(877) 742-5622
CRES	"800" TBD

In addition, this Plan adopts by reference Commission rule 4901:1-21-08 of the Administrative Code as the rule pertains to customer access, slamming and complaint handling procedures.

11. New Customer Policy. During the Plan's term, customers who have either left the Plan or who moved into the governmental boundaries of the City, may contact the City, Eagle Energy or the CRES at any time to obtain enrollment<sup>6</sup> information. The CRES shall have sole discretion to permit new customers to enroll into the Plan at no charge. The CRES may periodically provide a re-fresh opt-out enrollment opportunity to eligible customers upon authorization of the City and proper notification to the Commission Staff.
12. Customer Who Move. Enrolled customers who move from one location to another within the geographical boundaries of the City shall be permitted to maintain their enrollment status at their new location.
13. Customers Who Opt-out. Customers who provided the required opt-out notice shall remain a customer of the EDU, Duke, or their selected CRES. Customers may request the Plan's CRES to permit enrollment and in that instance the CRES shall have sole discretion as to allow the enrollment at no charge. Customers being served by an existing CRES shall be cautioned about any cancellation charges associated with their current enrollment status. A new enrollment period

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<sup>6</sup> Enrollment must be authorized by Duke.



shall be offered, at a minimum, every three (3) years without any charge to the customer.

14. Other Matters. A copy of this Plan shall be available at the City offices, One Benjamin Franklin Way, for public inspection and shall be made available to any customer upon request. The City shall be precluded from altering this Plan in any way that materially affects enrolled customers. If a change to the Plan is made, affected customers shall be provided notice of the change and shall be given an opportunity to opt-out of the aggregation.

**CITY OF FRANKLIN, OHIO  
ORDINANCE NUMBER 2000-48**

**AN ORDINANCE AUTHORIZING ALL ACTIONS NECESSARY TO EFFECT A  
GOVERNMENTAL ELECTRICITY AGGREGATION PROGRAM WITH OPT-OUT  
PROVISIONS PURSUANT TO SECTION 4928.20, OHIO REVISED CODE, DIRECTING  
THE WARREN COUNTY BOARD OF ELECTIONS TO SUBMIT A BALLOT QUESTION TO  
THE ELECTORS AND DECLARING AN EMERGENCY**

**WHEREAS**, the Ohio Legislature has enacted electric deregulation legislation ("Am. Sub. S.B. No. 3") which authorizes the legislative authorities of municipal corporations, townships and counties to aggregate the retail electrical loads located in the respective jurisdictions and to enter into service agreements to facilitate for those loads the purchase and sale of electricity;

**WHEREAS**, such legislative authorities may exercise such authority jointly with any other legislative authorities;

**WHEREAS**, governmental aggregation provides an opportunity for residential and small business customers collectively to participate in the potential benefits of electricity deregulation through lower electric rates which they would not otherwise be able to have individually;

**WHEREAS**, this Council seeks to establish a governmental aggregation program with opt-out provisions pursuant to Section 4928.20, Ohio Revised Code (the "Aggregation Program"), for the residents, businesses and other electric consumers in the City and in conjunction jointly with any other municipal corporation, township, county or other political subdivision of the State of Ohio, as permitted by law.

**THE CITY OF FRANKLIN HEREBY ORDAINS**, five members of council present thereof concurring:

**SECTION 1.** This Council finds and determines that it is in the best interest of the City, its residents, businesses and other electric consumers located within the corporate limits of the City to establish the Aggregation Program in the City. Provided that this Ordinance and the Aggregation Program is approved by the electors of the City pursuant to Section 2 of this Ordinance, the City is hereby authorized to aggregate in accordance with Section 4928.20, Ohio Revised Code, the retail electrical loads located within the City, and, for that purpose, to enter into service agreements to facilitate for those loads the sale and purchase of electricity. The City may exercise such authority jointly with any other municipal corporation, township or county or other political subdivision of the State of Ohio to the full extent permitted by law. The aggregation will occur automatically for each person owning, occupying, controlling, or using an electric load center proposed to be aggregated and will provide for the opt-out rights described in Section 3 of this Ordinance.

**SECTION 2.** The Board of Elections of Warren County is hereby directed to submit the following question to the electors of the City at the general election on November 7, 2000:

"Shall the City of Franklin have the authority to aggregate the retail electric loads located in the City, and for that purpose, enter into service agreements to facilitate for those loads the sale and purchase of electricity, such aggregation to occur automatically except where any person elects to opt out, all in accordance with Section 4928.20 of the Ohio Revised Code and Ordinance No. 2000-48 adopted by the City Council?"

**Section 3.** The Clerk of this Council is instructed immediately to file a certified copy of this Ordinance and the proposed form of the ballot question with the County Board of Elections not less than seventy-five (75) days prior to November 7, 2000. The Aggregation Program shall not take effect unless approved by a majority of the electors voting upon this Ordinance and the Aggregation Program provided for herein at the election held

pursuant to this Section 2 and Section 4928.20, Ohio Revised Code.

**SECTION 4.** Upon the approval of a majority of the electors voting at the special election provided for in Section 2 of this Ordinance, this Council individually or jointly with any other political subdivision, shall develop a plan of operation and governance for the Aggregation Program. Before adopting such plan, this Council shall hold at least two public hearings on the plan. Before the first hearing, notice of the hearings shall be published once a week for two consecutive weeks in a newspaper of general circulation in the City. The notice shall summarize the plan and state the date, time, and location of each hearing. No plan adopted by this Council shall aggregate the electrical load of any electric load center within the City unless it in advance clearly discloses to the person owning, occupying, controlling, or using the load center that the person will be enrolled automatically in the Aggregation Program and will remain so enrolled unless the person affirmatively elects by a stated procedure not to be so enrolled. The disclosure shall state prominently the rates, charges, and other terms and conditions of enrollment. The stated procedure shall allow any person enrolled in the Aggregation Program the opportunity to opt out of the program every two years, without paying a switching fee. Any such person that opts out of the Aggregation Program pursuant to the stated procedure shall default to the standard service offer provided under division (a) of Section 4928.14 or division (d) of Section 4928.35, Ohio Revised Code until the person chooses an alternative supplier.

**SECTION 5.** This Council finds and determines that all formal actions of this Council concerning and relating to the adoption of this Ordinance were taken in an open meeting of this Council and that all deliberations of this Council and of any committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

**SECTION 6.** This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public health, safety and welfare of the City, and for the further reason that this Ordinance is required to be immediately effective in order to file a certified copy of this Ordinance and the proposed form of the ballot question with the Board of Elections of Warren County not later than seventy-five (75) days prior to the November 7, 2000 election, as provided herein; wherefore, this Ordinance shall be in full force and effect immediately upon its adoption.


Passed: August 21, 2000

  
City Clerk

  
Mayor

#### CERTIFICATE

I, the undersigned Clerk of Council for the Franklin City Council, do hereby certify that the foregoing is a true and correct copy of an ordinance passed by that body on August 21, 2000 and published in the Middletown Journal on August 29, 2000.

  
City Clerk

OFFICE / ISSUE RESULTS BY PRECINCT  
11/21/00  
12:01 PM

GENERAL ELECTION  
WARREN COUNTY, OHIO  
NOVEMBER 7, 2000  
142 PRECINCTS

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FOR JUDGE OF THE COURT OF COMMON PLEAS  
PROBATE/JUVENILE DIVISION

UNEXPIRED TERM ENDING 2/8/03

==069: MIKE POWELL

FOR JUDGE OF THE COUNTY COURT

FULL TERM COMMENCING 1/1/01

==070: DALLAS P. POWERS

1 - PROPOSED CONSTITUTIONAL AMENDMENT

AUTHORIZE THE STATE TO ISSUE BONDS AND OTHER OBLIGATIONS

TO PAY THE COSTS OF PROJECTS FOR ENVIRONMENTAL

CONSERVATION AND REVITALIZATION PURPOSES.

==071: YES

==072: NO

2 - PROPOSED ORDINANCE - CITY OF FRANKLIN  
AUTHORIZATION TO AGGREGATE THE RETAIL ELECTRIC LOADS  
LOCATED IN THE CITY AND ENTER INTO SERVICE AGREEMENTS  
TO FACILITATE FOR THOSE LOADS

==073: YES

==074: NO

3 - PROPOSED CHARTER AMENDMENT - CITY OF SPRINGBORO  
AMEND SECTIONS OF CITY CHARTER

==075: YES

==076: NO

4 - PROPOSED TAX LEVY - VILLAGE OF HARVEYSBURG

REPLACEMENT - 1 MILL - 3 YRS - POLICE SERVICES

==077: FOR THE TAX LEVY

==078: AGAINST THE TAX LEVY

PRECINCT/DISTRICT ==: ==069: ==070: ==071: ==072: ==073: ==074: ==075: ==076: ==077: ==078

COUNTY WIDE	46,325	16,817	33,095	24,508	2,116	1,162	2,818	1,953	119	91
6TH CONGRESS	23,282	7,572	16,207	12,079	0	0	0	0	0	0
2ND CONGRESS	25,171	9,718	18,242	13,580	2,116	1,162	2,818	1,953	119	91
2ND STATE REP	46,325	16,817	33,095	24,508	2,116	1,162	2,818	1,953	119	91
FRANKLIN CITY	2,224		1,605	1,370	2,116	1,162				

**DO NOT DISCARD:**

Important Notice Regarding Your Electric Service



Sample Customer  
Sample Address  
Sample City, OH 0000

**This notification is in regards  
to your electric service at:**

Sample Address  
Sample City, OH 0000

March 8, 2021

Dear Sample Customer,

In November of 2000, City of Franklin voters authorized the creation of an electric aggregation program. City of Franklin officials have selected Constellation NewEnergy, Inc. ("Constellation") as the preferred supplier for the new program term. The program term offers a fixed rate of \$0.04790 per kWh starting with your meter read in May 2021, subject to enrollment by the Utility, and shall remain in effect through your May 2024 meter read. A 100% renewable energy option (renewable energy certificates sourced from nationally-sited wind power generators ("RECs")) is also available at a fixed rate of \$0.04890 per kWh by calling Constellation at 833-969-2857.

**You're Automatically Enrolled**

There is no cost to enroll. Enrollment is automatic, but participation is voluntary. You may opt-out of this program without penalty at any time for any reason by providing notice to Constellation (see instructions below). If you choose to opt-out, you will be served by the standard service offer of Duke (the "Utility") or until you choose an alternative supplier of electric service. If you switch back to the Utility, you may not be served under the same rates, terms, and conditions that apply to other customers served by the Utility. Please see the enclosed FAQs and Terms and Conditions and REC Rider for full details regarding the program.

**How To Opt-Out**

The program is under the ongoing jurisdiction of the PUCO. If you return to utility supply after the beginning of the aggregation program, you will pay the Utility's market price of power plus its costs for alternative energy resources, unless you are exempt from those costs or you move and the utility considers you to be a new customer. If you do not want to be automatically enrolled in the aggregation program, please respond with one of the options below by March 29, 2021:

1. **Mail:** Return the form below in the pre-addressed stamped envelope
2. **Phone:** Call Constellation at 833-969-2857
3. **Web:** Visit [www.constellation.com/oh-franklin](http://www.constellation.com/oh-franklin)

We look forward to providing this program.

Sincerely,

City of Franklin

Kevin Klages  
SVP Mass Markets  
Constellation

**To learn more:**



**Visit us online at**  
[constellation.com/oh-franklin](http://constellation.com/oh-franklin)



**Call 833-969-2857**  
24 hours a day, 365 days a year

The fixed rate offered does not include taxes, utility distribution or other fees, charges or credits. The General Terms and Conditions govern your participation in the Program. Please do not contact the community. If you have additional questions about this offer, contact Constellation.

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Sample Customer  
Sample Address  
Sample City, OH 0000



**Constellation**  
An Exelon Company

**I do not want to participate in the City of Franklin Electric Aggregation Program.**

Phone Number

☐ Cell ☐ Work ☐ Home

Opt-Out Code

Service Address:

Duke Account Number



## Electricity Purchase and Sale Terms and Conditions – Opt-Out Aggregation

The City of Franklin, Warren County, Ohio (“Municipality”), pursuant to the aggregation authority conferred upon it by electorate vote, which passed by a majority vote on November 7, 2000 and ordinance establishing the program, selected Constellation NewEnergy, Inc. (“Seller”) to supply the aggregation and to administer enrollments as described below. You, the account holder (also referred to as “Buyer”) for the eligible account associated with the service address referenced on the letter accompanying these Electricity Purchase and Sale Terms and Conditions (the “Account”), and Seller agree to the following terms and conditions. Seller and Buyer (individually referred to as “Party” and collectively as “Parties”) agree to the following Electricity Purchase and Sale Terms and Conditions (“Agreement”), as of March 30, 2021 (the “Effective Date”).

**1. Opt-Out Enrollment:** Enrollment is automatic for those who are eligible, but participation is voluntary. **IF YOU DO NOT WISH TO PARTICIPATE, YOU MUST OPT-OUT BY (1) DETACHING AND RETURNING THE OPT OUT CARD ATTACHED TO THE ENROLLMENT NOTICE POSTMARKED NO LATER THAN March 29, 2021, (2) BY CALLING 833-969-2857 BY March 29, 2021 OR (3) BY OPTING-OUT ON SELLER’S WEBSITE AT [www.constellation.com/oh-franklin](http://www.constellation.com/oh-franklin).** If you choose to opt-out, you will be served by the standard service offer of Duke (the “Utility”) or until you choose an alternative supplier of electric service.

**2. Eligibility:** To be eligible for opt-out aggregation, Buyer and the Accounts to be served (i) must be located within the Municipality’s jurisdictional boundaries, (ii) must be served by the Utility, (iii) may not be under contract with another competitive supplier, (iv) may not be on the Public Utilities Commission of Ohio (“PUCO”) “do not aggregate” list, (v) must be in good standing with the Utility (including payment history), and (vi) may not be under a Utility special arrangement or percentage of income payment plan (PIPP).

**3. Term and Renewal:** This Agreement shall become binding on the Effective Date, provided however, the obligation of Seller to sell and schedule electricity for delivery to Buyer and the obligation of Buyer to purchase, take and pay for electricity is contingent upon: (a) eligibility of Buyer and the Accounts, (b) successful enrollment by the Utility, and (c) passage of the Rescission Period without effective cancellation by Buyer. Successful enrollment by the Utility is dependent upon (i) the eligibility of the Accounts, as set forth above and as determined by the Utility, to take from a retail electric supplier and (ii) the accuracy and completeness of any information submitted by Buyer and the Municipality. Service will commence on meter read dates in May 2021, subject to enrollment by the Utility, and shall remain in effect through the May 2024 meter read (“Initial Term”), unless terminated pursuant to the terms of this Agreement. In the event ineligibility is not ascertained until after service commences, Seller shall provide notice of the same to Buyer and return Buyer to the Utility. Buyer shall have the opportunity to opt-out of the Aggregation at least every three years without penalty.

**4. Rescission Period:** The Utility will send Buyer a letter confirming transfer of service upon processing of Buyer’s enrollment and Buyer will have 7 days from the postmark date of that letter to cancel its enrollment, without penalty, (“Rescission Period”) by calling the Utility on the toll-free number provided in the letter or by providing written notice to the Utility.

**5. Price:** For each billing cycle of Initial Term, Buyer shall pay a Fixed Rate of \$0.04790 per kWh, multiplied by the billing cycle usage for the Accounts. The Parties acknowledge that the Municipality hired a third party intermediary (“Broker”) for this transaction and a per kWh Broker fee has been included in the Fixed Rate. Buyer will also incur delivery and other additional service charges from the Utility. Switching fees may apply when service is established with Seller, but Buyer will not be charged separately by Seller for a switching fee.

**6. Billing and Payment:** Buyer will be invoiced by the Utility for both Seller’s charges and the Utility’s delivery charges. Such billing and payment (including fees associated with late payments) shall be subject to the applicable Utility rules regarding billing and payment procedures. Seller may cause the Utility to correct previous invoices in the event of invoicing errors. Seller’s charges or credits not invoiced through the Utility shall be invoiced or credited, respectively, directly by Seller. Any such charges shall be due within 21 days following the invoice date and payments not received by the due date will be deemed past due and shall accrue interest on the unpaid balance from the due date until payment is received at a rate of 1.5% per month of the unpaid balance, provided that such percentage does not exceed the maximum amount allowable by law. Seller offers budget billing for generation charges (except in Duke territory) and Buyer should contact Seller at the phone number identified in Section 10 to elect budget billing. Seller does not offer budget billing for generation charges in Duke territory, but Buyer may contact the Utility for information on whether the Utility offers budget billing for Seller’s charges.

**7. Taxes:** Any tax levied against Seller by any governmental entity, exclusive of Seller’s income tax or taxes levied on Seller’s real or personal property, that must be paid by Seller shall be passed through to and borne and reimbursed by Buyer. Buyer must provide Seller with any applicable exemption certificates. Buyer shall pay any such taxes unless Seller is required by law to collect and remit such taxes, in which case Buyer shall reimburse Seller for all amounts so paid.

**8. Limitations: ALL ELECTRICITY SOLD HEREUNDER IS PROVIDED “AS IS”, AND SELLER EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE. IN NO EVENT WILL EITHER PARTY BE LIABLE UNDER THIS AGREEMENT, WHETHER IN AGREEMENT, IN TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY), OR OTHERWISE, FOR INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, OR PUNITIVE DAMAGES AND, FURTHER, IN NO CASE SHALL SELLER’S LIABILITY EXCEED THE AMOUNT OF BUYER’S SINGLE LARGEST MONTHLY INVOICE DURING THE PRECEDING 12 MONTHS.**

**9. Environmental Disclosure:** Seller’s environmental disclosure label, which will be updated from time to time, is available on Seller’s website.

**10. Termination; Remedies:** Seller may terminate Buyer's service under this Agreement for non-payment with at least 14 days written notice. Failure to pay Utility invoices may result in Buyer being disconnected in accordance with the Utility tariff. Buyer may terminate at any time without an early termination fees, including if Buyer moves outside of Seller's service area or into an area where the Seller charges a different price. If Buyer switches back to the Utility, Buyer may not be served under the same rates, terms, and conditions that apply to other customers served by the Utility. The Choice program is under the ongoing jurisdiction of the PUCO. If Buyer returns to utility supply after the beginning of the aggregation program, Buyer will pay the utility's market price of power plus its costs for alternative energy resources, unless Buyer is exempt from those costs or Buyer moves and the utility considers Buyer to be a new customer.

**11. Force Majeure:** Except for Buyer's obligation to pay Seller timely, neither Party shall be liable to the other for failure to perform an obligation if the non-performing Party was prevented from performing due to an event beyond the reasonable control, that could not be remedied by the exercise of due diligence and that was not reasonably foreseeable, including without limitation, acts of God, a condition resulting in the curtailment of electricity supply or interruption or curtailment of transmission on the electric transmission and/or distribution system, interruption of Utility service, terrorist acts or wars, and force majeure events of the Utility or RTO/ISO.

**12. Questions, Complaints and Concerns:** Buyer may contact Seller 24 hours per day, 7 days per week at 833-969-2857. Seller's mailing address is 1716 Lawrence Drive, DePere, WI 54115, and its website is [www.constellation.com](http://www.constellation.com). Seller will attempt to resolve all customer complaints in a timely manner and will respond to all complaints within 3 business days of receipt. If Buyer's complaint is not resolved after Buyer has called Seller and/or the Utility, or for general utility information, residential and business customers may contact the PUCO for assistance at 1-800-686-7826 (toll-free) from 8a.m. to 5p.m. weekdays, or at [www.PUCO.ohio.gov](http://www.PUCO.ohio.gov). Hearing or speech impaired customers may contact the PUCO via 7-1-1 (Ohio relay service). 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 a.m. to 5 p.m. weekdays, or at [www.pickocc.org](http://www.pickocc.org).

**13. Miscellaneous:** Buyer hereby authorizes the Utility to release data to Seller regarding Buyer's historical or current billing and usage data. This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio and any applicable Utility tariffs. Buyer appoints Seller as its agent for the purposes of effectuating delivery, including for receipt of billing and usage data from the Utility. Title, possession, control of the electricity, and risk of loss will pass from Seller to Buyer at the interconnect between the applicable ISO's transmission system and the Utility's distribution system. Subject to regulatory approvals and notice from Seller, Seller may assign this Agreement without Buyer's consent. Buyer may assign this Agreement only with Seller's prior written consent. This Agreement constitutes the entire agreement between the Parties, superseding all verbal and written understandings. The Parties acknowledge and agree that (a) this Agreement constitutes a "forward contract" and/or "forward agreement" within the meaning of title 11 of the United States Code (the "Bankruptcy Code"), (b) each Party is a "forward contract merchant" within the meaning of the Bankruptcy Code, (c) for purposes of this Agreement, each Party is not a "utility" within the meaning of Section 366 of the Bankruptcy Code, and (d) each Party agrees to waive and not to assert the applicability of Section 366 of the Bankruptcy Code in any bankruptcy proceeding wherein such Party is a debtor, and (e) each Party further agrees to waive the right to assert that the other Party is a provider of last resort. This Agreement shall only be amended in a writing signed by both Parties or pursuant to Section 4 hereof. By agreeing to the terms and conditions herein, Buyer warrants the he or she is authorized to enter into this Agreement on behalf of the Party and Accounts for which it was made. Buyer should contact the Utility in the event of an electricity emergency. Seller is prohibited from disclosing Buyer's social security number and/or account number(s) without Buyer's affirmative written consent, except for the purpose of (i) Seller's collections and credit reporting, (ii) participation in programs funded by the universal service fund, (iii) pursuant to section 4928.54 of the Ohio Revised Code, or (iv) assigning this Agreement to another certified retail electric provider. Buyer may request from Seller, twice within a 12-month period, up to 24 months of Buyer's payment history without charge.

**14. Disputes:** For questions about this Agreement you may call Constellation using the contact information provided in the Disclosure Statement. Constellation will refer all issues to a representative who in good faith will use reasonable efforts to reach a mutually satisfactory solution. If your complaint is not resolved after you have called Constellation, or for general utility information, as a residential or business customer you may contact the public utilities commission of Ohio ("PUCO") using the contact information provided in the Disclosure Statement. **BOTH YOU AND CONSTELLATION AGREE IRREVOCABLY AND UNCONDITIONALLY TO WAIVE ANY RIGHT TO TRIAL BY JURY OR TO INITIATE OR BECOME A PARTY TO ANY CLASS ACTION CLAIMS IN RESPECT OF ANY ACTION, SUIT OR PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS CONTRACT.** Nothing in this Agreement shall impair your right to make an informal or a formal complaint to the PUCO.

**15. Enhanced Renewable Energy Certificate ("Enhanced REC") Option:** As part of this Program, Buyer has the opportunity to purchase renewable energy certificates through the Enhanced REC option. For Buyer to opt into the Enhanced REC product option, Buyer must call Seller at 833-969-2857 to affirmatively enroll into this option (the "Enhanced REC Effective Date"). Commencing with the first available meter read following the Enhanced REC Effective Date and for the remainder of the Initial Term, the Price shall be increased to \$0.04890 per kWh; and (ii) the electricity supply service will include renewable energy certificates sourced from nationally-sited wind power generators ("RECs") in an amount equal to **100%** of the Accounts' electricity usage, over and above any then-current renewable portfolio standard requirements for Ohio applicable to certified retail electric suppliers ("RPS"). The renewable energy via the Enhanced REC option is provided to you for your residential use only, and will not make you eligible for any tax credits or other third party subsidies.

## Electric Aggregation Opt-Out Frequently Asked Questions

**Q: What is aggregation?**

**A:** Under governmental aggregation, local officials bring the community together for group purchasing power. The community benefits by receiving competitively-priced electric from a retail supplier certified by the Public Utilities Commission of Ohio.

**Q: How is my community able to choose a certified electric supplier on my behalf?**

**A:** Residents voted to allow the community to negotiate a contract with an electric supplier on their behalf.

**Q: How do I enroll?**

**A:** Eligible residential or small business customers will be automatically enrolled.

**Q: Who is eligible for the aggregation program?**

**A:** Most residential and small business customers residing within the community receiving electricity from the local utility are eligible (local utilities include: AEP Ohio, Duke Energy Ohio, First Energy, and DP&L).

**Q: Who is not eligible?**

**A:** Residential and business customers who are not eligible for automatic enrollment in the program include:

- A customer that is not located within community boundaries
- A customer who appears on the PUCO's "do not aggregate" list
- A customer who is in contract with another electric provider
- A customer who has a special contract with the electric utility company
- Customers who are behind on their payments to the utility
- A mercantile customer that has not provided consent to join the program. "Mercantile customer" means a commercial or industrial customer if the electricity consumed is for nonresidential use and the customer consumes more than 700,000 kWh/ year or is part of a national account involving multiple facilities in one or more states.

**Q: Are the rates fixed or variable?**

**A:** The rates are fixed. Please see the Terms and Conditions for details.

**Q: When will I see my new rate?**

**A:** Customers can expect to see the new rate one to two billing cycles following your enrollment in the program. Please note: supply rates do not include taxes, delivery service charges or other utility fees.

**Q: Who will bill me for electricity?**

**A:** You will continue to receive one monthly bill from your local utility company.

**Q: Can I still have my payment automatically deducted from my checking account as I do now?** **A:** Yes. How you pay your electric bill will not change.

**Q: Who do I call to report a power outage or problems with my electric service?**

**A:** You will contact your local utility company to report a power outage or problems with your electric service, including billing questions.

**Q: What if I have already selected another supplier?**

**A:** Based on the records provided by the utility, we assumed you are not with another supplier. However, if you recently signed up with a new supplier, carefully review the terms and conditions of that agreement before proceeding as your ability to terminate early with that supplier may be restricted.

**Q: Is there an early termination fee for leaving the program outside of the 21 day opt-out period?**

**A:** No, there is no early termination fee.

**Q: Who do I contact if I have additional questions about this offer?**

**A:** If you have additional questions about the program, please contact Constellation.



**City of Franklin, OH**  
**Enhanced Renewable Energy Certificate ("REC") Rider**

Effective as of the date Buyer affirmatively requests an enhanced REC product electronically via Seller's website or telephonically during the telephonic request process ("Rider Effective Date"), Buyer and Seller agree to supplement and amend the Electricity Purchase and Sale Terms and Conditions between Buyer and Seller ("Agreement") to memorialize the increased percentage of RECs and the corresponding increase to the Fixed Rate. Except as amended and supplemented herein, the Agreement remains in full force and effect. The Parties agree to amend and to supplement the Agreement as follows:

1. Commencing with the first available meter read following the Rider Effective Date, Section 5. Pricing, the Price for the Initial Term therein is modified to **\$0.04890** per kWh.
2. A new section 15 is hereby inserted as follows: "**Constellation Renewable Product:** For the Initial Term of this Agreement, the electricity supply service includes renewable energy certificates sourced from nationally-sited wind power generators ("RECs") in an amount equal to **100%** of the Accounts' electricity usage, over and above any then-current renewable portfolio standard requirements for Ohio applicable to certified retail electric suppliers ("RPS"). The renewable energy is provided to you for your residential use only, and will not make you eligible for any tax credits or other third party subsidies."

# **Competitive Retail Electric Service Affidavit**

County of St Louis :

State of Missouri :

Ross Calliott, 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, and that it will amend its application while it is pending if any substantial changes occur regarding the information provided.
2. The applicant will timely file an annual report of its intrastate gross receipts, gross earnings, and sales of kilowatt-hours of electricity pursuant to Sections 4905.10(A), 4911.18(A), and 4928.06(F), Ohio Revised Code.
3. The applicant will timely pay any assessment made pursuant to Sections 4905.10, 4911.18, and 4928.06(F), Ohio Revised Code.
4. The 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. The applicant will cooperate fully with the Public Utilities Commission of Ohio, and its Staff on any utility matter including the investigation of any consumer complaint regarding any service offered or provided by the applicant.
6. The applicant will fully comply with Section 4928.09, Ohio Revised Code regarding consent to the jurisdiction of Ohio Courts and the service of process.
7. The applicant will comply with all state and/or federal rules and regulations concerning consumer protection, the environment, and advertising/promotions.
8. The applicant will use its best efforts to verify that any entity with whom it has a contractual relationship to purchase power is in compliance with all applicable licensing requirements of the Federal Energy Regulatory Commission and the Public Utilities Commission of Ohio.
9. The applicant will cooperate fully with the Public Utilities Commission of Ohio, the electric distribution companies, the regional transmission entities, and other electric suppliers in the event of an emergency condition that may jeopardize the safety and reliability of the electric service in accordance with the emergency plans and other procedures as may be determined appropriate by the Commission.
10. If applicable to the service(s) the applicant will provide, it will adhere to the reliability standards of (1) the North American Electric Reliability Council (NERC), (2) the appropriate regional reliability council(s), and (3) the Public Utilities Commission of Ohio.
11. The Applicant will inform the Public Utilities Commission of Ohio of any material change to the information supplied in the application within 30 days of such material change, including any change in contact person for regulatory purposes or contact person for Staff use in investigating consumer complaints.

12. The facts set forth above are true and accurate to the best of his/her knowledge, information, and belief and that he/she expects said applicant to be able to prove the same at any hearing hereof.

13. Affiant further sayeth naught.

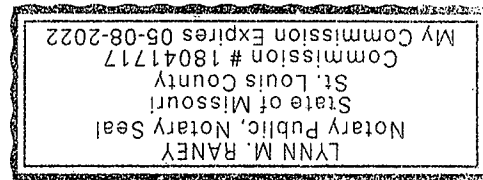
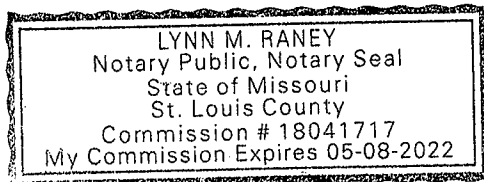
Ross M. J. Consultant  
Signature of Affiant & Title

Sworn and subscribed before me this 29<sup>th</sup> day of November, 2021  
Month Year

Lynn M. Raney  
Signature of official administering oath

Lynn M. Raney, Notary Public  
Print Name and Title

My commission expires on 05/08/2022



**This foregoing document was electronically filed with the Public Utilities  
Commission of Ohio Docketing Information System on  
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**in**

**Case No(s). 17-2481-EL-GAG**

Summary: In the Matter of the Application of City of Franklin