



DIS Case Number: 16-2389-GA-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: Newberry Township, Miami County, OH Country: United States
Phone: 9374733778 Extension (if applicable): Street: 7835 Ingle Road
Website (if any): City: Covington Province/State: OH
Postal Code: 45318

A-2. Contact person for regulatory matters

Ross Calliott
10749 E Garden Rd
Mt Vernon, IL 62864
US
rcalliott@agellc.com
6363992501

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

Ross Calliott
10749 E Garden Rd
Mt Vernon, IL 62864
US
rcalliott@agellc.com
6363992501

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



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 SATORI ENTERPRISES LLC DBA SATORI ENERGY (Cert #11-359E and Cert #13-320G) for the

purposes of managing its governmental aggregation program, including the 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

BOARD OF TRUSTEES
NEWBERRY TOWNSHIP, MIAMI COUNTY, OHIO
RESOLUTION NO. 2016-07

The Board of Trustees of Newberry Township, Miami County, Ohio, met during their regular meeting on the 12th day of July 2016 at the office of the trustees with the following members present:

George A. Furrow, Jr.

Dwane I. Runyan

J. Jason Sargent

Mr. George A Furrow Jr. moved to adopt the following:

A RESOLUTION AUTHORIZING ALL ACTIONS NECESSARY TO EFFECTUATE AN OPT-OUT NATURAL GAS SERVICE AGGREGATION PROGRAM PURSUANT TO OHIO REVISED CODE SECTION 4929.26; AND DIRECTING THE MIAMI COUNTY BOARD OF ELECTIONS TO SUBMIT THE BALLOT QUESTION TO THE ELECTORS OF THE UNINCORPORATED AREA OF NEWBERRY TOWNSHIP; AND AUTHORIZING AN AGREEMENT WITH AN AGENT FOR SUCH PURPOSES.

WHEREAS, pursuant to Ohio Revised Code Section 4929.26, the Board of Trustees of Newberry Township ("Board") is authorized to act as an aggregator by establishing an automatic opt-out governmental aggregation program for the provision of competitive retail natural gas service for the benefit of certain natural gas customers within the unincorporated area of Newberry Township so that consumers may realize lower cost natural gas supplies and other benefits from the aggregation and combined purchasing of natural gas supplies that they would not otherwise be able to have individually; and

WHEREAS, pursuant to Ohio Revised Code Section 4929.26 the Board may exercise such authority jointly with any other board of township trustees, board of county commissioners or legislative authority of a municipal corporation and further, it is the Board's understanding that the legislative authority of the Village of Covington, which is located within the territorial limits of Newberry Township, is seeking authority to act as an aggregator of retail natural gas service for the Village of Covington's residents; and

WHEREAS, in the public interest, and as the legislative authority of the Village of Covington is contemporaneously seeking authority to act as a natural gas services aggregator on behalf of the Village of Covington's residents, the Board desires to submit to the electors of the unincorporated area of Newberry Township the question of whether the Board should create a Natural Gas Aggregation program to facilitate competitive retail natural gas service to promote natural gas savings, lower natural gas supplies, and obtain other benefits in accordance with Ohio Revised Code Section 4929.26; and

WHEREAS, the Board has adopted this Resolution pursuant to the authority conferred by Ohio Revised Code Section 4929.26.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF NEWBERRY TOWNSHIP, MIAMI COUNTY, OHIO, THAT:

Section 1. The Board of Trustees (the "Board") determines that it is in the best interest of the unincorporated area of Newberry Township and certain natural gas service consumers located within the unincorporated area of Newberry Township to establish an opt-out natural gas service aggregation program (the "Program").

Section 2. That, provided that the ballot measure regarding the Program is approved by the electors of the unincorporated area of Newberry Township pursuant to Section 9 of this Resolution, the Board is hereby authorized to aggregate, in accordance with Ohio Revised Code 4929.26, the retail natural gas service loads located within the boundaries of the unincorporated area of Newberry Township.

Section 3. That for the Program, a duly designated authority or consultant is hereby authorized to on behalf of the Board enter into service agreements to facilitate the sale and purchase of service for natural gas loads.

Section 4. That the duly designated authority or consultant may on behalf of the Board exercise such authority jointly with any other board of township trustees, board of county commissioners or legislative authority of a municipal corporation to the full extent permitted by law, and for such purpose, the duly designated authority or consultant is hereby authorized to execute and deliver any necessary agreement(s) with such other board of township trustees, board of county commissioners or legislative authority of a municipal corporation, if any, in order to establish such Program.

Section 5. That the Program does not apply to persons meeting any of the following criteria:

1. A customer who has opted out of the aggregation;
2. A customer in contract with a certified gas service company;
3. A customer that has a special contract with an gas distribution utility;
4. A customer that is not located within the governmental aggregator's governmental boundaries;
5. A customer is not eligible for the aggregation by utility or Public Utilities Commission of Ohio rules.

Section 6. That the Program authorized by this Resolution shall not aggregate the retail natural gas loads of mercantile customers, as those customers are defined in Ohio Revised Code 4929.01, without prior, affirmative consent of each such customer within the unincorporated area of Newberry Township subject to the Program

Section 7. That the Board of Elections of Miami County is hereby directed to submit the following question to the electors of the unincorporated area of Newberry Township at the election to be held on **November 8, 2016:**

Shall the Board of Trustees of Newberry Township have the authority to aggregate retail natural gas loads located within the boundaries of the unincorporated area of Newberry Township, Miami County, Ohio and enter into service agreements for the sale and purchase of natural gas, such aggregation to occur automatically except where any person elects to opt out?

Yes _____ No _____

Section 8. That the Newberry Township Fiscal Officer is hereby directed to file this authorizing Resolution and other related matters with the Miami County Board of Elections no later than ninety (90) days prior to the November 8, 2016 election as required by Ohio Revised Code 4929.26. The Program shall not take effect unless approved by the majority of the electors voting upon the proposed ballot question at the election held pursuant to this section and Ohio Revised Code 4929.26.

Section 9. That, upon approval by a majority of electors within the unincorporated area of Newberry Township voting at the election provided for in Section 8 of this Resolution, the duly designated authority or consultant acting on behalf of the Board is hereby authorized to, individually or jointly with another board of township trustees, board of county commissioners or legislative authority of a municipal corporation, develop a plan of operation and governance for the Program.

Section 10. That at least two public hearings on the plan of operation and governance shall be held prior to taking a vote on adoption of the plan. Notice of the hearings shall be published once a week for two consecutive weeks in a newspaper of general circulation within the unincorporated area of Newberry Township. The notice shall summarize the plan and state the date, time, and location of each hearing.

Section 11. No plan adopted by the Board of Trustees of Newberry Township shall aggregate any retail customers in the unincorporated area of Newberry Township unless it in advance clearly discloses to the person whose retail natural gas service is to be so aggregated that the person will be enrolled automatically in the 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 the enrollment. The stated procedure shall allow any person enrolled in the Program to opt out of the Program once every 24 months without paying a switching fee. Any such person that opts out of the Program pursuant to the stated procedure shall default to the natural gas distribution utility providing distribution service for the person's retail natural gas service load, until the person chooses an alternative supplier.

Section 12: That this Resolution shall become effective immediately following its passage.

Mr. Dwane I. Runyan seconded the motion and the roll was called on its adoption. The vote was as follows:

	Vote
Mr. George A. Furrow, Jr.	<u>yes</u>
Mr. Dwane I. Runyan	<u>yes</u>
Mr. J. Jason Sargent	<u>yes</u>

Dated this 12th day of July 2016.

Mary E. Benedict

Mary E. Benedict, Fiscal Officer

Newberry Township, Miami County, Ohio

CERTIFICATION

State Of Ohio, County of Miami:

I hereby certify that the foregoing is a true and accurate copy of the Resolution of the Board of Trustees of Newberry Township, Miami County, Ohio, adopted on the 12th day of July 2016 at its regular meeting.

Dated this 12th day of July, 2016.

Mary E. Benedict

Mary E. Benedict, Fiscal Officer

Newberry Township, Miami County, Ohio

2016 JUL 14 PM 1:24
NEWBERRY TOWNSHIP
MIAMI COUNTY
OHIO

DO NOT DISCARD:
Important Natural Gas Aggregation
Information Enclosed.

**Welcome to the Newberry
Township Natural Gas
Aggregation Program.**



John Sample
123 Any Street
Any Place, US 12345-6789

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

123 Any Street
Any Place, US 12345-6789

August 23, 2022

Dear John Sample,

In July 2016, Newberry Township authorized the creation of a natural gas aggregation program. Your community has now selected Constellation New Energy - Gas Division, LLC (Constellation) as the program supplier. The Township has worked with Constellation to secure a competitive rate for the program. From October 2022 (November 2022 billing) through September 2024 (October 2024 billing), your price will be a fixed rate of \$0.756 per Ccf. You will not need to take any action to accept this offer.

You're Automatically Enrolled

There is no cost to enroll. Enrollment is automatic for those who are eligible, but participation is voluntary. You may opt-out of this program without penalty at any time for any reason by providing notice to Constellation. Please see the enclosed terms and conditions for full details of the program.

How To Opt-Out

If you do not want to be automatically enrolled in the aggregation program, please respond with one of the options below by September 13, 2022:

1. **Mail:** Return the form below in the pre-addressed stamped envelope

2. **Phone:** Call Constellation at 833-997-0677

3. **Web:** Visit www.constellation.com/oh-newberry



To learn more:
Visit us online at
constellation.com/oh-newberry



Call 833-997-0677
24 hours a day, 365 days a year

We look forward to providing this program.

Sincerely,

Newberry Township

Kevin Klages
SVP Mass Markets
Constellation

The rate offered does not include taxes, Vectren Energy Delivery of Ohio distribution or other Vectren fees, charges or credits. If you are already enrolled with another natural gas supplier, a cancellation fee may apply to end your agreement with that supplier. 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. Ohio Supplier License #09-153G(6).



John Sample
123 Any Street
Any Place, US 12345-6789

I do not want to participate in the Newberry Township Natural Gas Aggregation Program.

Phone Number

☐ Cell ☐ Work ☐ Home

Service Address:

123 Any Street
Any Place, US 12345-6789

XXXXXX

Opt-Out Code

Vectren Gas Account Number

Signature

Date

XXXXXX_NEWBERRYTOWNSHIP082022_20220823_OUT

Natural Gas 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 natural gas from a retail natural gas supplier.

Q: How is my community able to choose a certified natural gas supplier on my behalf?

A: Residents voted to allow the community to negotiate a contract with a natural gas supplier on their behalf.

Q: How do I enroll?

A: Enrollment is free and eligible residential and 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 natural gas from the local utility are eligible.

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.
- Percentage of Income Payment Program (PIPP) customers.
- A customer who is under contract with another natural gas provider.
- A customer who has a special contract with the natural gas 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 natural gas consumed is for non-residential use and the customer consumes more than 500 Mcf per year or is part of a national account involving multiple facilities in one or more states.

Q: When will I see my new rate?

A: You 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 natural gas?

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

Q: What if my business qualifies for tax exemption status?

A: Tax exempt customers should send their most recent tax exempt certificate to Constellation NewEnergy-Gas Division, LLC, 1001 Louisiana Street, Suite 2300, Houston, TX 77002 or via email to CNETaxForms@Constellation.com, or fax to 877-243-4968, to avoid sales tax charges.

Q: Can I still have my payment automatically deducted from my checking account as I do now?

A: Yes, how you pay your natural gas bill will not change.

Q: Who do I call if I have a problem with my natural gas service?

A: To report service problems, a gas leak and for billing questions, contact your local utility company.

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.

GENERAL TERMS AND CONDITIONS

Generally the words "you" and "your" refer to the Customer and the words "we" and "us" refer to Constellation, unless the context clearly requires otherwise.

1. Purchase and Sale of Natural Gas. If you do not "opt-out" by September 13, 2022 pursuant to these General Terms and Conditions (the "Agreement"), you will purchase from us on an exclusive basis, and we will take all reasonable action to supply or cause to be supplied, all of your natural gas requirements at the price and for your accounts ("Account(s)"). Pursuant to the Agreement, you authorize us to (i) enroll your Account(s) with your Utility so that we can supply the Account(s), (ii) aggregate your Account(s) with those of other customers of Constellation or its affiliates, (iii) request and receive usage and other information from your Utility with respect to the Account(s) and (iv) enter into agreements with your Utility as necessary under the Utility's tariff to facilitate supply of the Account(s). You agree to cooperate with Constellation to ensure enrollment of your Account(s) in a timely manner. You give us the authority to choose the source of your natural gas supply. Your Utility will continue to deliver your natural gas and provide billing and other services to you. You acknowledge that such transportation service is subject to regulations set forth in your Utility's tariff. **Supply of natural gas under this Agreement is conditioned upon (1) our verification of the accuracy of all information that you provide to us, including information regarding your natural gas usage and the Account(s) and (2) acceptance of enrollment of your Account(s) by the Utility.**

2. Term. This term of the Agreement is effective when enrollment occurs with the Utility with Constellation as your natural gas supplier, subject to your rescission right set forth under "Customer's Rescission Right" below. Subject to successful enrollment of your Account(s), we will supply the Account(s) with natural gas from the first regularly scheduled Utility meter read date after your Utility switches you to Constellation ("Start Date"), which we estimate will be in the month of October 2022 meter read (November 2022 billing cycle). We will supply your Account(s) through the month of September 2024 meter read (October 2024 billing cycle). If the Newberry Township Natural Gas Pricing Program continues beyond September 2024 meter read (October 2024 billing cycle) with Constellation as the supplier, Constellation will send you a notice of renewal including, but not limited to, notice of the new Newberry Township Natural Gas Pricing Program, notice of your right to opt-out of the Newberry Township Natural Gas Pricing Program, and any other changes. The opt-out mailing shall include a provision for return of a post card or similar notice to Constellation, to be returned no later than twenty-one (21) days from the post-marked date, and receipt of the opt-out mailing post-marked before the opt-out deadline has elapsed shall count as timely sent. You are entitled to opt-out of Newberry Township Natural Gas Pricing Program at least every two years from the Start Date of the Newberry Township Natural Gas Pricing Program, without a penalty. If for any reason you do not wish to continue, you may cancel this Agreement as provided in Section 4 below. If you do not cancel, this Agreement will renew, and any changes to the General Terms and Conditions will become effective for the term provided in the renewal notice.

3. Price. Newberry Township Natural Gas Pricing Program. Through September 2024 meter read (October 2024 billing cycle), your price will be a fixed rate of \$0.756 per Ccf. **IN THIS PROGRAM, YOU HEREBY APPOINT THE NEWBERRY TOWNSHIP AS YOUR AGENT FOR NATURAL GAS SUPPLY PRICING DECISIONS AND AGREE THAT NEWBERRY TOWNSHIP HAS THE EXCLUSIVE RIGHT TO MAKE NATURAL GAS SUPPLY PRICING DECISIONS ON YOUR BEHALF WHILE THIS AGREEMENT REMAINS IN EFFECT.**

Note: The fixed or variable price includes (i) all related interstate pipeline charges required to deliver gas to the Delivery Point, plus (ii) administrative costs and fees. In addition to the fixed or variable price, you will also pay the Utility's service charges.

4. Termination. You may terminate this Agreement without penalty at any time for any reason by providing notice to Constellation. Please note that once enrolled, it may take one to two billing cycles beyond the current billing cycle for the cancellation to be effective, as the effective date of all cancellations are subject to your Utility's guidelines. Should you fail to pay any Utility invoice or fail to meet any agreed-upon payment arrangement, your service and this Agreement may be automatically terminated in accordance with the Utility's tariffs. In addition, this Agreement will terminate if (i) the requested service location is not served by the Utility, (ii) you move outside the Utility's service area or to an area not served by Constellation, (iii) we return you to the Utility's sales service pursuant to any termination of this agreement by us, or (iv) you cancel your enrollment with us pursuant to your rescission right provided below. You may terminate this Agreement without penalty if you relocate outside the service territory of the Utility.

5. Customer's Rescission Right. Upon processing your enrollment, the Utility will send you a confirmation letter, which is notice of the transfer of your supply to Constellation. You have a seven (7) business day period from the postmark date of the Utility's confirmation letter during which time you may cancel your enrollment, without penalty, by calling the Utility's toll-free number provided in the confirmation letter or by providing written notice to the Utility, which will be effective as of the postmark date.

6. Your Invoice. You will be invoiced by the Utility monthly for all charges applicable to your natural gas usage, including the rates set forth herein, applicable Taxes (which are passed through to you) and all applicable Utility customer charges and franchise fees. You authorize us to act as your payment agent if deemed necessary by us to facilitate consolidated billing. You have the right to request up to twenty-four (24) months of your payment history for services rendered by Constellation without charge.

7. Switching. The Utility may charge a switching fee in accordance with its tariff when you change your natural gas supplier to Constellation. If the Utility charges a switching fee when you change your natural gas supplier to Constellation in accordance with this Agreement, Constellation agrees to pay such switching fee. Constellation will not separately charge a switching fee. If you voluntarily return to the Utility after switching to a competitive supplier, you may be charged a price other than the Utility's regulated sales service rate.

8. Customer Service. For questions or complaints about our services, contact us at our Customer Care department by calling toll-free (833) 997-0677, 24 hours a day, seven days a week, by e-mail at VST@constellation.com, online at www.constellation.com, or in writing at Constellation NewEnergy – Gas Division, LLC, 1716 Lawrence Drive, De Pere WI, 54115. If your complaint is not resolved after you have called Constellation, or for general utility information, you may contact the Public Utilities Commission of Ohio (“PUCO”) for assistance at (800) 686-7826 (toll free) or for TTY at (800) 686-1570 (toll free) from 8:00 a.m. to 5:00 p.m. weekdays, or at www.puco.ohio.gov. Residential customers may also contact the Ohio Consumers’ Counsel for assistance with complaints and utility issues at (877) 742-5622 (toll free) from 8:00 a.m. to 5:00 p.m. weekdays, or at www.pickocc.org.

9. Definitions. “**Delivery Point**” means any existing and future points of interconnection between your Utility transmission and/or distribution system and those of a third party pipeline supplying natural gas to the Utility. “**Taxes**” means all taxes, duties, fees, levies, premiums or any other charges of any kind, whether direct or indirect, relating to the sale, purchase or delivery of natural gas, together with all interest, penalties or other additional amounts imposed, including but not limited to gross receipts, sales, consumption, use, value added, per Mcf, commercial activity or other privilege tax, and any other tax (whether in effect as of the effective date of this agreement or thereafter) imposed by any governmental entity. “**Utility**” means your local natural gas distribution utility owning and/or controlling and maintaining the distribution system required for delivery of natural gas to the Account(s). “**Market Price**” means the current price at which natural gas can be bought or sold by suppliers. “**Market Trend**” means the tendency of natural gas market prices to move in a particular direction over time.

10. Notices. All notices will be in writing and delivered by hand, first class mail, or by express carrier to our respective business addresses. Either of us can change our address by notice to the other pursuant to this paragraph.

11. Changes in law, market structure, and/or your natural gas needs or classifications. If a change in or implementation of law, rule, regulation, ordinance, statute, judicial decision, administrative order, Utility tariffs, or the like causes our costs under this Agreement to increase, we will have the right to pass such increased costs on to you. The changes described in this Section may change any or all the charges described in this Agreement.

12. Events beyond either of our reasonable control. If something happens that is beyond either of our reasonable control that prevents either of us from performing our respective obligations under this Agreement, then whichever one of us cannot perform will be relieved from performance until the situation is resolved. Examples of such events include: acts of God, fire, flood, hurricane, war, terrorism; labor disputes; declaration of emergency by a governmental entity or the Utility; curtailment, disruption or interruption of natural gas transmission, distribution or supply; regulatory, administrative, or legislative action, or action or restraint by court order or other governmental entity; and actions taken by third parties not under your or our control, such as the Utility. However, such events shall not in any event excuse any failure to make payments due in a timely manner for natural gas supplied to you. The parties shall notify each other immediately of an operational flow or curtailment order from the applicable pipelines or Utility and shall take all required steps to comply with such orders.

13. Delivery Point and indemnification obligations. We will deliver natural gas to the Delivery Point. Title and risk of loss related to the natural gas transfer to you at the Delivery Point, and you are responsible for all transmission, distribution, and other costs (including Taxes and other fees) related to the final delivery to the facilities to which the Account(s) relate as well as your use of the natural gas. While we will arrange for the delivery of natural gas to you by your Utility, we will have no liability or responsibility for matters within the control of the Utility, which include maintenance of pipelines and systems, service interruptions, loss of service, quality of the natural gas, deterioration of services, or meter readings. EACH PARTY (THE “INDEMNIFYING PARTY”) WILL DEFEND, INDEMNIFY AND HOLD THE OTHER PARTY HARMLESS FROM ANY AND ALL CLAIMS (INCLUDING CLAIMS FOR PERSONAL INJURY, DEATH, OR PROPERTY DAMAGE), LOSSES, EXPENSES (INCLUDING REASONABLE ATTORNEYS’ FEES), DAMAGES, SUITS, CAUSES OF ACTION AND JUDGMENTS OF ANY KIND ARISING HEREUNDER WHILE TITLE AND RISK OF LOSS ARE VESTED IN THE INDEMNIFYING PARTY.

14. Limitation on Liability. IN NO EVENT WILL EITHER PARTY OR ITS AFFILIATES, OWNERS, OFFICERS OR DIRECTORS BE LIABLE FOR ANY CONSEQUENTIAL, EXEMPLARY, SPECIAL, INCIDENTAL OR PUNITIVE DAMAGES, INCLUDING, WITHOUT LIMITATION, LOST OPPORTUNITIES OR LOST PROFITS. Each party’s total liability related to this Agreement, whether arising under breach of contract, tort, strict liability or otherwise, will be limited to direct, actual damages. Each party agrees to use commercially reasonable efforts to mitigate the damages it may incur. NO WARRANTY, DUTY, OR REMEDY, WHETHER EXPRESSED, IMPLIED OR STATUTORY, ON CONSTELLATION’S PART IS GIVEN OR INTENDED TO ARISE OUT OF THIS AGREEMENT, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A GENERAL OR SPECIFIC PURPOSE OR USE.

15. Governing Law/Venue. THIS AGREEMENT WILL BE GOVERNED BY AND INTERPRETED IN ACCORDANCE WITH THE LAWS OF THE STATE OF OHIO WITHOUT GIVING EFFECT TO ANY CONFLICTS OF LAW PROVISIONS. WE ALSO BOTH AGREE IRREVOCABLY AND UNCONDITIONALLY TO WAIVE ANY RIGHT TO A TRIAL BY JURY OR TO INITIATE OR BECOME A PARTY TO ANY CLASS ACTION CLAIMS WITH RESPECT TO ANY ACTION, SUIT OR PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT.

16. Relationship of Parties. We are an independent contractor, and nothing in this Agreement establishes a joint venture, fiduciary relationship, partnership or other joint undertaking. You will **not rely, and have not relied**, on us in evaluating the advantages or disadvantages of any specific product or service, predictions about future energy prices, or any other matter under this Agreement. Your decision to enter into this Agreement and any other decisions or actions you may take are and will be based solely upon your own analysis (or that of your advisors) and not on information or statements from us. There is no guarantee that the program you chose will guarantee any price advantage or savings.

17. Confidentiality. Consistent with applicable regulatory requirements, we will hold in confidence all information obtained by us from you related to the provision of services under this Agreement and which concern your energy characteristics and use patterns, except that we may disclose such information to our affiliates (excluding Baltimore Gas & Electric, a regulated utility) and such affiliates' employees, agents, advisors, and independent contractors. Other than for operation, maintenance, assignment and transfer of your Account(s), pursuant to a court or PUCO order or pursuant to a PUCO rule, we will not release your account number or, other than for credit checking and credit reporting, if applicable, your social security number, without your prior written consent.

18. Miscellaneous Provisions. If in any circumstance we do not provide notice of, or object to, any default on your part, such situation will not constitute a waiver of such default or any future default of any kind. If any of this Agreement is held legally invalid, the remainder will not be affected and will be valid and enforced to the fullest extent permitted by law and equity, and there will be deemed substituted for the invalid provisions such provisions as will most nearly carry out our mutual intent as expressed in this agreement. You may not assign or otherwise transfer any of your rights or obligations under this Agreement without our prior written consent and any such attempted transfer will be void. We may assign our rights and obligations under this Agreement to a qualified natural gas supplier and will provide you with prior written notice of any such assignment. This Agreement contains the entire agreement between both of us, supersedes any other agreements, discussions or understandings (whether oral or written) regarding the subject matter of this agreement, and may not be contradicted by any prior or contemporaneous oral or written agreement. A facsimile copy with your signature will be considered an original for all purposes. No amendment to this Agreement will be valid or given any effect unless signed by both of us. Applicable provisions of this Agreement will continue in effect after termination or expiration of this Agreement to the extent necessary, including those for billing adjustments and payments, indemnification, limitations of liability, and dispute resolution. Constellation shall have the right to set-off and net any amounts owed to Customer against any amounts owed to it by Customer under this Agreement or any other agreement. This Agreement is a "forward contract" and Constellation is a "forward contract merchant" under the U.S. Bankruptcy Code, as amended. Further, we are not providing advice regarding "commodity interests", including futures contracts and commodity options or any other matter, which would cause us to be a commodity trading advisor under the U.S. Commodity Exchange Act, as amended ("CEA"). Customer's purpose in entering into this Agreement is not speculation, but rather price volatility control and/or budget management for procurement of natural gas for one or more of its facilities. Customer represents that it qualifies as an "eligible contract participant" as the same is defined under the CEA. The terms of any purchase order (PO) you send to us or any alterations, additions, or modifications you make to the preprinted terms of this Agreement shall be void and without any effect unless and only to the extent we agree in writing to such alterations, additions, or modifications.

IN THE EVENT OF AN EMERGENCY OR SERVICE INTERRUPTION, CONTACT YOUR UTILITY AT:

Utility Name	Utility Abbreviation	Contact Number
Vectren Energy Delivery of Ohio	VEDO	(800) 227-1376

Plan of Operation and Governance

Municipal Opt-Out Natural Gas Aggregation Program

Newberry Township

12/9/2018

1.) Background

The Law – Ohio Revised Code (“ORC”) Section 4929.26 (A1) states in part the following:

“The legislative authority of a municipal corporation may adopt an ordinance, or the board of township trustees of a township or the board of county commissioners of a county may adopt a resolution, under which, in accordance with this section and except as otherwise provided in division (A)(2) of this section, the legislative authority or board may aggregate automatically, subject to the opt-out requirements of division (D) of this section, competitive retail natural gas service for the retail natural gas loads that are located, respectively, within the municipal corporation, township, or unincorporated area of the county and for which there is a choice of supplier of that service as a result of revised schedules approved under division (C) of section 4929.29 of the Revised Code...”

Source: <http://codes.ohio.gov/orc/4929.26>

ORC Section 4929.26 (C) requires that the corporate authorities or county board “shall develop a plan of operation and governance for the aggregation program so authorized.” The subject Section goes on to describe that, at least two public meetings shall be held for public input, questions and comments regarding the Plan of Operation and Governance (“Plan of Operation and Governance” or “Plan”). Notice of such meeting is required. Before the first hearing, notice shall be published “once a week for two consecutive weeks in a newspaper of general circulation in the jurisdiction...” The notice shall “summarize the plan and state the date, time, and location of each hearing.”

(See also, 4901:1-27 Certification of Governmental Aggregators and Retail Natural Gas Suppliers et seq.; 4901:1-28 Aggregation with Prior Consent. et seq.; and 4901:1-29-13 Coordination between natural gas companies and retail natural gas suppliers and governmental aggregators. et seq.)

Definitions:

“Ccf”: means one hundred cubic feet; a unit used to measure natural gas usage.

“Commission” or “PUCO”: means the public utilities commission of Ohio.

“Competitive retail natural gas aggregation service”: means combining the natural gas load of multiple retail residential customers or small commercial customers via an agreement with the customers for the purpose of purchasing retail natural gas service on an aggregated basis.

“Competitive retail natural gas marketing service” : means assuming the contractual and legal responsibility for the sale and provision of CRNGS to a retail natural gas customer in this state and having title to natural gas at some point during the transaction.

Competitive retail natural gas service supplier (“Retail Natural Gas Supplier “ “Supplier” or “CRNGS”): means a person that is engaged in a for-profit or not-for-profit basis in the business of supplying or arranging for the supply of a CRNGS to consumers in this state that are not mercantile customers. “Retail natural gas supplier” includes a marketer, broker or aggregator, but excludes a natural gas company, a governmental aggregator, a billing or collection agent, and a producer or gatherer of gas that is not a natural gas company.

Contract or Terms and Conditions (Terms and Conditions” or “T&Cs”): means an agreement between a customer and retail natural gas supplier or governmental aggregator that specifies the terms and conditions for provision of competitive retail natural gas service.

“Fixed rate plan”: means a constant rate for the contracted period.

“Mcf” : means one thousand cubic feet; a unit used to measure natural gas usage.

“Mercantile customer” - means a mercantile customer, as defined in Section 4929.01(L)(1) of the Ohio Revised Code, means a customer that consumes, other than for residential use, more than 500,000 cubic feet of natural gas per year at a single location within the state or consumes natural gas, other than for residential use, as part of an undertaking having more than three locations within or outside of this state. In accordance with Section 4929.01(L)(2) of the Ohio Revised Code, “Mercantile customer” excludes a not-for-profit customer that consumes, other than for residential use, more than 500,000 cubic feet of natural gas per year at a single location within this state or consumes natural gas, other than for residential use, as part of an undertaking having more than three locations within or outside this state that has filed the necessary declaration with the Public Utilities Commission.

“Natural gas governmental aggregator”, Governmental Aggregator”, or “GA”: means the legislative authority of a municipal corporation, the board of township trustees or a board of county commissioners acting exclusively under Section 4929.26 or 4929.27 of the Ohio Revised Code as an aggregator for the provision of CRNGS. For the purposes of this definition, “governmental aggregator” specifically excludes a municipal corporation acting exclusively under Section 4 of Article XVIII, Ohio Constitution, as an aggregator for the provision of CRNGS. Natural gas governmental aggregator filing instructions and application available from the Commission’s Web site.

“Residential” customer: means a customer of a competitive retail natural gas service for residential purposes.

“Residential gas service”: means a gas or natural gas service provided to any location where the use is primarily of a domestic nature.

“Small Commercial” customer: means a commercial customer which is not a mercantile customer.

“Standard Choice Offer” or “SCO” rate (Columbia Gas of Ohio, Dominion East Ohio, Vectren Energy Delivery of Ohio): means a rate that varies each month and represents costs associated with securing natural gas for certain customers. These customers are assigned to an alternative supplier at the SCO rate, and the supplier’s name appears on their bill. The rate is based on the New York Mercantile Exchange month-end settlement price, plus a retail price adjustment.

“Variable rate plan” : means a fluctuating rate within the contracted period.

Any load aggregation plan established shall provide for the following:

- Universal access to all applicable Residential and Small Commercial (non-Mercantile; customer under 500 Mcf annual load) customers and equitable treatment of applicable Residential and Small Commercial customers.
- Describe demand management and energy efficiency services to be provided to each class of customers.
- Meet any requirements established by law concerning aggregated service.

If the Newberry Township Municipal Opt-Out Natural Gas Aggregation Program ("Program" or "Opt-Out Program") is approved for eligible Residential and Small Commercial customers, then:

- If (A) the corporate authorities or county board award proposed agreements for the purchase of natural gas and other related services and (B) an agreement is reached between the corporate authorities or county board for those services, then eligible customers accept and are committed, or obligated under the Terms and Conditions, unless the eligible customer affirmatively opts-out out of the Program.
- If the corporate authorities or county board operate as an Opt-Out Program for eligible Residential and Small commercial customers, then it shall be the duty of the selected Supplier to fully inform those customers in advance that they have the right to opt- out of the Program.
- On 7/12/2016 and in accordance with the requirements of ORC 4929.26, the corporate authorities or county board approved a resolution allowing a referendum question to be placed on the November 8, 2016, ballot to operate an Aggregation Program as an "Opt-Out" Program. Under the Opt-Out Program, Vectren Energy Delivery of Ohio (VEDO) eligible Residential and Small Commercial natural gas customers in city/village/township/county's jurisdiction are automatically included as participants in the Program unless they affirmatively Opt-Out of the Program by providing written notice (or other possible notice, as described in the applicable Opt-Out letters) of their intention not to participate in the Program. On November 8, 2016, the electorate will be asked to allow the corporate authority or county board to arrange for the supply of natural gas on behalf of the residents and small businesses in the jurisdiction. Upon approval of the ballot question by the electorate, the corporate authority or county board will adopt the Plan of Operation and Governance as the rules for the implementation and operation of an Opt-Out Program. Upon approval of the Plan, the corporate authority or county board will file an application with the PUCO for certification as a Governmental Aggregator.
- The corporate authority or county board has retained Supernova Partners, LLC, Affordable Gas and Electric Company, LLC ("Consultant") to assist with administering the Program, the Opt-Out process, managing the competitive bidding process, writing the Request for Proposal ("RFP") to help the corporate authority or county board officials select the most suitable Retail Natural Gas Supplier and commodity product, or service for participating Residential and Small Commercial customers. Additionally, Consultant shall assist the corporate authority or county board in completing and filing all reporting and documentation for Newberry Township as Governmental Aggregator as required by the PUCO.

2.) Municipal Opt-Out Aggregation

The purpose of municipal opt-out aggregation is to reduce the natural gas supply costs which the corporate authority or county board's residents and small businesses pay for natural gas, taking advantage of certain economies of scale to negotiate favorable rates. The corporate authority or county board shall seek fixed natural gas prices for each eligible class of customers that may be lower than the comparable price available from the Local Distribution Company ("LDC"), in this case VEDO. Individual Residential and Small Commercial consumers are unable to obtain significant price discounts since they

lack the bargaining power, expertise and the economies of scale enjoyed by larger industrial consumers. The Program will band together numerous natural gas accounts, providing the benefits of economies of scale that work to benefit the smaller consumer.

As a Governmental Aggregator, the corporate authority or county board does not own natural gas assets and will not purchase and resell natural gas, but represents consumer interests to set the terms for natural gas supply and service from competing Retail Natural Gas Suppliers licensed with the PUCO. Through a competitive bid process operated and managed by Consultant, the corporate authority or county board will enter into a contract with a Supplier for full-requirements retail natural gas supply service. The contract is expected to be for a fixed price for a specified term, but a different pricing mechanism, such as a guaranteed savings rate (based upon the respective utility rate), shall be considered. The corporate authority or county board may contract with one or more Suppliers if necessary to meet the needs of participating Residential and Small Commercial customers.

The corporate authority or county board will serve as governmental aggregator and in cooperation with Supernova Partners, LLC, Affordable Gas and Electric Company, LLC, will collect all residential and small business natural gas load within the corporate authority or county board's municipal boundaries and seek bids from qualified and PUCO licensed Suppliers.

This Plan has been prepared by the corporate authority or county board officials in cooperation with Supernova Partners, LLC, Affordable Gas and Electric Company, LLC, the "Consultant", to provide an understanding of structure, governance, operations, management, and policies of the Program to be utilized for Residential and Small Commercial Customers participating in the Program.

3.) Eligible Customers

Eligible customers under the Program include LDC customers who are located within the municipality's geographical boundaries and are either:

- Residential customers receiving natural gas service from the LDC
- Non-Mercantile Small Commercial customers consuming 500 Mcf or less annually on a calendar basis, receiving natural gas service from the LDC.

The corporate authority or county board will work with the winning Supplier to remove any customers determined to be ineligible due to one or more of the following:

- Customer is not located within the municipal territory limits;
- Customer appears on the PUCO's "do not aggregate" list.
- Customer has opted out of the Program.
- Customer is in an existing natural supply agreement with a Supplier other than the current Supplier of the Program;
- Customer is both a distribution service customer and a mercantile customer on the date of commencement of service to the aggregated load, or the person becomes a distribution service customer after that date and also is a mercantile customer;

- Customer is supplied with commodity sales service as part of a retail natural gas load aggregation provided for pursuant to a rule or order adopted or issued by the commission under this chapter or Chapter 4905 of the ORC;
- Customer has a special arrangement with the LDC;
- A Mercantile customer that has not provided affirmative consent (opted-in) to join the Program;
- Customer is enrolled in a percentage of income payment plan (PIPP).

Customers who are not eligible under the “Opt-out” Program, but may see a savings due to rates negotiated and secured, will be offered an opportunity to opt-in, if appropriate and allowed under ORC 4929.26.

The Retail Customer Identification information provided by the LDC will remain the property of the municipality, and Supplier will handle data in a manner consistent with the provisions of all applicable Federal and Ohio Law, PUCO regulations, etc.

The Supplier shall treat all customers equally and shall not deny service to any customer in the Program, or alter rates for different classes of customers unless authorized by Ohio State Law or administrative code.

4.) Opt-Out Process

Customers who wish not to be “automatically included” in the Program will be allowed to opt-out in accordance with ORC 4929.26 and OAC 4901:1-28-04, and all other applicable statutes and rules. An initial opt-out period will be held and residential and small business customers who choose to opt-out will remain on the LDC’s Standard Choice Offer.

After a service agreement with the selected Supplier has been finalized, the corporate authority or county board will provide the eligible customer list to the selected Supplier. The list will include any eligible Residential, and Small Commercial accounts that could potentially realize savings through the accepted bid price. During the Opt-Out notification period, the selected Supplier will operate an Opt-In program for customers who are currently not eligible to participate in an “Opt-Out” Program, but may otherwise provide affirmative consent to join the Program pursuant to Ohio law and PUCO regulation. This will ensure the greatest amount of participation for all customers under the Program.

Opt-Out Notices: A notice will be sent to all Residential and Small Commercial accounts that are deemed eligible by the corporate authority or county board. See “Eligible Customer” section above. A sample of the notice is provided in Appendix A of this Plan. The contents of the notice will be printed on the corporate authority or county board’s municipal letterhead so as to avoid any confusion with other offers that may exist with other Retail Natural Gas Suppliers in the state. The Opt-Out notice will clearly notify the Residential and Small Commercial customers of the rates to be charged for natural gas and other terms of the contract with the selected Supplier. The selected supplier will have thirty (30) days

from the receipt of the eligible customer list to mail the opt-out notices to all eligible Residential and Small Commercial customers included in the Program.

Distribution of Opt-Out Notices: The selected Supplier will be required to pay for all production, printing, and mailing costs associated with the distribution of Opt-Out notices. The selected Supplier and the corporate authority or county board will agree on the format of the Opt-Out notice prior to the mailing of any notices. The notices will be mailed from the selected Supplier to the owner or occupant residing at the natural gas account mailing address shown on the LDC's customer list.

Opt-Out Period: After mailing the notices, there will be an Opt-Out Period of no fewer than twenty-one (21) days. Customers not wishing to participate in the Program will have twenty-one (21) days from the date postmarked on the notice to postmark and return the Opt-Out notice to the selected Supplier in order to satisfy the Opt-Out requirement.

Customer support during Opt-Out Period: The selected Supplier will maintain a toll-free phone number and website explaining the steps for Opting-Out of the Program. If reasonably necessary, the selected Supplier will provide bilingual or multilingual customer support to explain the Opt-Out procedure to non-English speaking residents. During this period and through the initial procurement term, the Consultant will provide supplemental customer support for any issues not satisfied by Supplier customer support.

Enrollment: Once the Opt-Out Period has passed, the selected Supplier will not enroll those LDC customers opting-out of the Program. In the event that an eligible Residential or Small Commercial account is inadvertently omitted from the Program, the selected Supplier shall enroll that customer at the Program rate for the remaining term.

Opt-Out After Enrollment: Once enrolled in the Program, customers may cancel their service with the selected Supplier at any time by directly notifying the selected Supplier via a toll-free phone number that will be provided on the Opt-Out notice. In all such cases, the customer may do so without incurring any charges, penalties, or fees.

Early Cancellation Charges: There will be no charges for customers leaving the program after enrollment with the selected Supplier has occurred.

Opt-Out Steps Overview:

1. The selected Supplier and the corporate authority or county board will agree upon the format of the Opt-Out notice prior to mailing to eligible Residential and Small Commercial customers.
2. The selected Supplier will mail Opt-Out notices to all eligible customer service classes.
3. Recipients will have at least **twenty-one (21)** days from the postmark on the notice to return notice to selected Supplier if they want to be removed from the Program.
4. Recipients will be able to opt-out by returning an Opt-Out card via U.S. Mail to the selected Supplier. Additional options for opting-out may be offered by the Retail Natural Gas Supplier.

5. The Supplier will offer a toll-free phone number and website to aid recipients with the notice and the opt-out procedure. Further support will be provided by the Consultant through a link on the website <http://www.AffordableElectricRates.com>.
6. Additionally, Residential and Small Commercial customers that do not opt-out, per step 4 above, will receive written notification, called a "Letter of Rescission" or a "Switch Letter", from the LDC stating that they are about to be switched.
7. The Letter of Rescission will inform the participant that they have **seven (7)** business days to rescind the contract by contacting the LDC. The selected Supplier will not enroll those accounts that have opting-out of Program, or rescinded their enrollment.

No opt-out disclosure notices will be sent to potential customers of an aggregation prior to the prospective governmental aggregator being certified by the PUCO as a governmental aggregator by submitting the following completed form:

<http://www.puco.ohio.gov/emplibrary/files/SMED/crng/OhioNaturalGasGovernmentalAggregatorInstructionsandApplicationForm.pdf>

5.) Periodic Enrollment Updates

1. **Moving to the city, village, township or county from another municipality: Eligible** Residential and Small Business customers that move into the city, village, township or county's jurisdiction will be welcome to participate in the Program. Consultant will periodically request updated account lists from the LDC and the winning Supplier. Through a comparative scrubbing process, Consultant will then send a list of newly eligible, but currently not enrolled accounts to Supplier, whereupon Supplier will promptly send Opt-Out notices so that these account holders may be given the option to participate. These accounts will be given twenty-one (21) days from the postmark date on the notice to return the Opt-Out notice if they do not wish to participate in the Program.
2. **Moving within the city, village, township or county's jurisdiction:** Selected Supplier shall continue service at the same rate and under the same terms and conditions for Residential and Small Commercial customers that are in the Program, but move to a different premise within the city, village, township or county's jurisdiction prior to the expiration of the contract term. The subject customer described in this Section will automatically receive a new opt-out notice. If such a notice is not received the customer will have the right to contact the selected Supplier and or Consultant to obtain such a notice.

Any new accounts shall be able to enroll in the Program under the same terms, conditions, and pricing as accounts that were initially enrolled during the initial opt-out period. However, newly enrolled accounts will only have the ability to participate in the ongoing Program for the time remaining in the term of the agreement with the Supplier ("Natural Gas Supply Agreement"). Costs

(for example for printing and mailing) associated with subsequent opt-out rounds will be paid in the same manner as for the initial opt-out round.

6.) Selected Supplier Responsibilities

The corporate authority or county board will use a competent entity as a Retail Natural Gas Supplier to perform and manage aggregation services for the Program. The selected Supplier shall provide adequate, accurate, and understandable pricing, terms and conditions of service, including, but not limited to, no switching fees and the conditions under which Program participants may opt-out, or cancel their natural gas supply service under the Program without penalty at any time.

The selected Supplier must provide the corporate authority or county board and Consultant, upon request, within a reasonable period of time, an electronic file containing the Program participant's usage, charges for retail supply service and such other information reasonably requested by the corporate authority or county board or the Consultant.

Supplier shall create and maintain a secure database of all Program participants. The database will include the name, address, LDC account number or Service Delivery Identifier, and the Supplier's account number of each active Program participant, and other pertinent information such as rate code, rider code (if applicable), most recent twelve (12) months of usage and demand, and meter reading cycle. The database will be updated at least quarterly. Accordingly, the Supplier will develop and implement a program to accommodate participants who (i) leave the Program due to relocation, opting-out, etc.; (ii) decide to join the program; (iii) relocate anywhere within the corporate limits of the municipality; (iv) move into the municipality and elect to join the Program. **(See Appendix A of this Plan)**

Education: The selected Supplier shall work with Consultant to develop and implement an educational program that generally explains the Program to all Residential and Small Commercial customers.

The Supplier will provide updates and disclosures mandated by Ohio law and applicable rules and regulations, and implement a process to allow any participant the opportunity to opt-out, or cancel their natural gas supply service under the Program according to the terms of the Natural Gas Supply Agreement and T&Cs.

Customer Service: the selected Supplier shall hire and maintain an adequate customer service staff and develop and administer a written customer service process that will accommodate participant inquiries and complaints about billing and answer questions regarding the Program in general. This process will include a description of how telephone inquiries will be handled, either internally or externally, how invoices will be prepared, how participants may remit payment, and how collection of delinquent accounts will be addressed. The Supplier and the corporate authority or county board will enter into a separate customer service plan agreement or the terms shall be included in the Natural Gas Supply Agreement.

Any natural gas customer, including any participant in this Program, may contact the Public Utilities Commission of Ohio (PUCO) for information, or to make a complaint against the Program, the Supplier, or the LDC. The PUCO may be reached toll free at 1-800-686-7826 or for TTY (toll free) at 1-800-686-1570 from 8:00 a.m. to 5:00 p.m. (Eastern Time) weekdays, or at www.PUCO.ohio.gov .

Billing: The LDC will provide a monthly billing statement to each Program participant which shall include Supplier charges. The Supplier will not charge any additional administrative fee(s).

Compliance Process: The Supplier may develop internal controls and processes to ensure that the corporate authority or county board remains in good standing as a Governmental Aggregator and ensure that the Program complies with ORC 4929.26 and all applicable laws, rules and regulations, as they may be periodically amended. It will be the Supplier responsibility to deliver reports at the request of the municipality or Consultant in a reasonably timely manner that will include (i) the number of participants in the Program; (ii) a savings estimate or increase from the previous year's baseline; (iii) such other information reasonably requested by the municipality or Consultant; (iv) comparison of the participants' charge for the supply of natural gas from one designated period to another identified by the municipality. The Supplier shall also develop a process to monitor, and shall attempt to promptly notify in writing, any changes or amendments to any laws, rules or regulations applicable to the Program. The Supplier, however, does not represent the Governmental Aggregator, or Consultant. The GA, or Consultant should independently seek advice, or expertise, including legal counsel to represent their interest if deemed necessary.

Notification to the LDC: The Residential and Small Commercial customers in the corporate authority or county board that do not Opt-Out of the Aggregation Program will be enrolled automatically in the Program by the selected Supplier. Eligible Residential and Small Commercial customers included in the Program will not be asked to take affirmative steps to be included in the Program. To the extent that the LDC requires notification of participation, the selected Supplier shall provide such notice to the LDC. Periodically, the Supplier will inform the LDC through electronic means, of any new members enrolling into the Program.

Customer Switching Fee: The selected Supplier shall be responsible for payment of any customer switching fees imposed by the incumbent LDC.

7.) Natural Gas Supplier Selection Criteria

Suppliers responding to the RFP will be measured on the basis of PUCO licensing and certification standards, price, program, marketing, experience, and quality of the response. The Supplier will also hold the corporate authority or county board and Consultant harmless of any financial obligations or liability that may arise as a result of the Program.

Supplier Selection Criteria

- Price per Ccf and corresponding terms;
- Natural Gas Supply Agreement flexibility;
- Proof of financial solvency and investment grade credit rating;
- Quality of response to Request for Proposal;
- Program Marketing Plan and informational outreach;
- Municipal Aggregation Experience;
- Municipal Opt-Out Experience;
- Certified as a Retail Natural Gas Supplier by the PUCO;
- Compliant procedures regarding Purchase of Receivables/Utility Consolidated Billing ("POR-UCB Program") facilitating LDC single billing to participants in the Program.
- Natural Gas Supply Agreement meets the minimum requirements of the PUCO, and common commercial practice.
- Will provide assistance, if needed, by Consultant or corporate authority in filing the any reports required by the PUCO.

8.) Consolidated Billing and Credit/Default Procedures

The LDC offers a POR-UCB Program for the benefit of retail customers and Supplier. This allows for a single bill, administered solely by the LDC, wherein the LDC will invoice the LDC regulated delivery charges and supply rate provided by the selected Supplier contained in the Natural Gas Supply Agreement.

The corporate authority or county board will utilize the POR-UCB Program with its Municipal Aggregation to streamline the billing process, and eliminate the confusion of separate bills from the LDC and the selected Supplier.

Credit policies and procedures continue to be the responsibility of the LDC and/or Supplier. The corporate authority or county board will not be responsible for late or non-payments on the parts of any of its Residential or Small Commercial customers. The LDC and/or Supplier billing practices should be consistent with all applicable guidelines issued by the PUCO. If there is a delinquent account, the LDC and/or Supplier or their agent will send collection notices to the customer's mailing address of record for service charges rendered by the LDC, following established collection policies regardless of whether the customer participates in the Program or not. In the case of a POR-CB Program, the billing method the Program will utilize, the Supplier's receivable becomes the LDC's receivable and the LDC will be responsible for those collection efforts under the LDC's policy and requirements.

Customers will continue to receive their natural gas bill from the LDC, will continue to call the LDC for service-related issues, and will continue to pay the LDC.

CUSTOMER INQUIRIES: The LDC operates a call center to assist customers with inquiries and resolve billing issues. The LDC has toll-free numbers to contact the call centers printed on natural gas account holders' bills.

9.) Request for Qualifications/Proposal-Summary

The Consultant will, on behalf of the corporate authority or county board governing body and residents, request qualifications from a number of licensed Suppliers in order to properly vet any potential bidders. To those Suppliers deemed most qualified, a Request for Proposals ("RFP") will be issued, utilizing predetermined criteria based on technical specifications, bidder requirements, bidding processes, and contract documents, to select a single Retail Natural Gas Supplier. The Consultant will evaluate the bids received and will recommend a single Supplier to serve as Supplier to all eligible Residential and Small Businesses customers within the municipal limits.

The corporate authority or county board may grant authority to a representative of the corporate authority or county board to approve the Natural Gas Supply Agreement with the selected Supplier on behalf of the corporate authority or county board.

10.) Pricing Methodology

Pricing Methodology: The corporate authority or county board intends to establish a price for the purchase of natural gas for the Program. This will be the Program Rate measured in price per thousand cubic feet of gas (Mcf). The rate will reflect various lengths of terms, contractual benefits, and possible hold premiums (Supplier holds price offer to be bound in Natural Gas Supply Agreement open for a fixed period of time beyond the standard one day to allow for municipality to review before signing off on Natural Gas Supply Agreement).

If the daily market price quote is deemed acceptable by the Consultant, the Consultant will inform the corporate authority or county board of the price and pricing components and recommend acceptance. If accepted, the corporate authority or county board will affirm acceptance of the commodity price in writing to the selected Supplier.

The Supplier invited to bid will quote rates for the following natural gas supply mixes:

- **Lowest Traditional Fixed Price** – The lowest priced fixed natural gas supply available from a Supplier using any minimum percentage of renewable energy consistent with Ohio law and/or PUCO regulation. Should the annually weighted LDC Standard Service Offer for the enrolled participants be less than the selected Supplier's retail natural gas price, Supplier will reserve the right to terminate service and return the Program participants to the LDC, or continue service at a rate equal to the LDC Standard Choice Offer.

- *Guaranteed Savings Rate* – a variable rate guaranteed to be a certain percentage below the LDC’s Standard Choice Offer, or tariff rate for a specific term. Supplier shall provide an understandable description of the factors that will cause the price to vary (including any associated indices) and disclose how frequently the rate will change.

If the Supplier proposes to charge different rates to different rate classes within the aggregation (for example, a different price for Residential and Small Commercial customers), the Supplier shall disclose the applicable rate(s) to customers within each rate class.

11.) Program Education Initiative

The Supplier shall maintain an educational program for the purpose of explaining the Program to eligible Residential and Small Commercial customers. The Education Program will include updates, offer customer support during the term of the agreement, and provide information of where to Opt-Out of the Program, if a customer so desires.

Each Residential and Small Commercial customer of the LDC within the jurisdiction of the corporate authority or county board will receive a notification by mail explaining the Program, the procedure which must be followed to Opt-Out of the Program, the fixed natural gas rate (if applicable) the municipality contracted for on behalf of participants in the Program, termination policies, and the deadline to return the Opt-Out letter.

The corporate authority or county board in partnership with Consultant, along with the selected Supplier will develop an education initiative that will inform residents of the specifics of the program. The education initiative may contain, but is not limited to the following:

- Mailings
- Community Meetings
- Advertisements
- Program Website
- Toll-Free Information Line
- Informational Videos
- Calculators (web-based)

12.) Demand Management and Energy Efficiency Initiative

Reduced energy costs should in no way be considered a license for increased usage. For that reason, no plan is complete without balancing reduced supply cost for end-users with some method(s) for demand

side management and reduction. PUCO offers a website which specifies each customer's Standard Choice Offer ("SCO").

The Consultant may work with the selected Supplier to develop an "Energy Efficiency Program". The program may include resources for Residential consumers regarding energy efficiency for their home. The corporate authority or county board will work with the LDC to provide specific information about utility rebate programs.

13.) Natural Gas Supply Agreement

The corporate authority or county board will be presented with and have the option to execute a Natural Gas Supply Agreement with the selected Supplier.

Bids may contain various lengths of term. Upon recommendation of the consultant and at the discretion of the corporate authority or county board, the duration of any subsequent contract term will be determined.

The Natural Gas Supply Agreement may include, but not limited to:

- The approved rate and the supply mix for the Program, and shall disclose all additional or ancillary fees.
- Requirements that all licenses and qualifications are maintained.
- Requirements that the Supplier manage the Program consistent with the Plan of Operation and Governance as approved and amended if need be.
- Agreement not to solicit or contract directly with eligible Residential or Small Commercial customers in the Program for service or rates outside the Program.
- Agreement not to use the customer data and information for any other marketing purposes.
- Agreement to indemnify and hold the corporate authority or county board and Consultant harmless from any claims, causes of action, damages, judgments, and financial obligations arising from the Program.
- Proof of insurance and performance security as the municipality deems necessary.
- Provision that the Supplier will assist the corporate authority or county board in developing a Program Education Initiative.

Termination of Service

- End of Term: The Natural Gas Supply Agreement with the Supplier will terminate upon its expiration.
- Early Termination: The corporate authority or county board may have the right to terminate the Natural Gas Supply Agreement prior to the expiration of the term in the event the

Supplier commits any act of default. Acts of default include, but are not limited to the following:

- Breach of confidentiality regarding customer information;
 - The disqualification of the Supplier to perform the services due to the lapse or revocation of any required license or certification;
 - The LDC's termination of its relationships with the Supplier;
 - Any act or omission that constitutes deception by affirmative statement or practice, omission, fraud, misrepresentation, or bad faith practice;
 - Intentional billing in excess of the approved rates and charges;
 - Billing or attempting to collect any charge other than the approved Ccf rates and contractually approved charges;
 - Failure to perform at a minimum level of customer service that shall be reasonable and quantified by the corporate authority or county board.
- Upon termination, the corporate authority or county board will notify the LDC to return the applicable Residential and Small Commercial accounts to the Default Tariff Service. Upon termination, the corporate authority or county board shall provide at least sixty (60) days written notice of termination to each account holder participating in the Program. If the Natural Gas Supply Agreement is not extended or renewed, participants will be notified as required by law and the Supplier's rules of the PUCO in advance of the end of service. Participants will also be notified of their rights to select an alternate Supplier and of their ability to return to the LDC's Standard Choice Offer upon termination.

Changes, Extension or Renewal of Service

The initial term of the Natural Gas Supply Agreement for natural gas supply service will provide service for the specified term beginning upon activation of services. If the Natural Gas Supply Agreement is extended or renewed, Program participants will be notified as required by law and the rules of the PUCO as to any changes in rates or service conditions. At least every two years, all of the LDC customers in the municipal boundaries will be given an opportunity to opt into or out of the Program, and reasonable notice will be provided as required by law and PUCO rules. Participants will also be notified of their right to select an alternate Supplier and of their ability to return to the LDC's Standard Choice Offer.

14.) Liability

The corporate authority or county board and Consultant shall not be liable, in any instance, to Residential and Small Commercial customers for any claims arising from or due to provisions of municipal aggregation of natural gas. Any such claims should be solely directed to the selected Supplier, pursuant to the Natural Gas Supply Agreement.

15.) Miscellaneous

The Plan of Operation and Governance may be impacted by forces outside the control of the corporate authority or county board. Those items may include the following:

- Amendments or changes to applicable Ohio law.
- Federal Energy Regulatory Commission (FERC) tariffs that may be enacted or amended;
- PUCO rules and regulations as may be enacted or amended;
- LDC tariffs as approved or amended periodically by the PUCO;
- Rules, regulations, and orders approved or enacted by federal, state, or local regulatory agencies.

The Plan of Operation and Governance will be on file at the corporate authority or county board Administrative office.

Please call 937-498-2335 for a copy or to obtain additional information

Any natural gas customer, including any participant in the aforementioned Program, may contact the Public Utilities Commission of Ohio (PUCO) for information, or to make a complaint against the Program, the Supplier, or the LDC. The PUCO may be reached toll free at 1-800-686-7826 or for TTY (toll free) at 1-800-686-1570 from 8:00 a.m. to 5:00 p.m. (Eastern Time) weekdays, or at www.PUCO.ohio.gov.

Competitive Retail Natural Gas Service Affidavit

County of Lake :

State of Illinois :

DAVID C WILERS, 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 and sales of hundred cubic feet of natural gas pursuant to Sections 4905.10(A), 4911.18(A), and 4929.23(B), Ohio Revised Code.
3. The applicant will timely pay any assessment made pursuant to Sections 4905.10 and 4911.18(A), Ohio Revised Code.
4. Applicant will comply with all applicable rules and orders adopted by the Public Utilities Commission of Ohio pursuant to Title 49, Ohio Revised Code.
5. Applicant will cooperate 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. Applicant will comply with Section 4929.21, Ohio Revised Code, regarding consent to the jurisdiction of the Ohio courts and the service of process.
7. Applicant will comply with all state and/or federal rules and regulations concerning consumer protection, the environment, and advertising/promotions.
8. 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.
9. 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.
10. Affiant further sayeth naught.

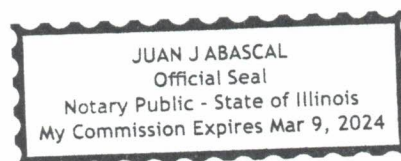
David C. Wilers
Signature of Affiant & Title

Sworn and subscribed before me this 22ND day of November, 2022
Month Year

Juan J. Abascal
Signature of official administering oath

Juan J. Abascal, Notary Public.
Print Name and Title

My commission expires on Mar 9, 2024.



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

12/1/2022 3:42:50 PM

in

Case No(s). 16-2389-GA-GAG

Summary: In the Matter of the Application of Newberry Township, Miami County,
OH