

**ORDINANCE O-2015-7**

**NATURAL GAS OPT-OUT AGGREGATION ORDINANCE**

AN ORDINANCE AUTHORIZING ALL ACTIONS NECESSARY TO EFFECT AN OPT-OUT NATURAL GAS AGGREGATION PROGRAM PURSUANT TO SECTION 4929.26, OHIO REVISED CODE, DIRECTING THE COUNTY BOARD OF ELECTIONS TO SUBMIT A BALLOT QUESTION TO THE ELECTORS AND DECLARING AN EMERGENCY.

**WHEREAS**, under Section 4929.26, Ohio Revised Code, the Village of Windham, Ohio (the "Village") is authorized to establish an opt-out natural gas aggregation program for the benefit of natural gas consumers located within the incorporated areas of the Village; and

**WHEREAS**, under Section 4929.26, Ohio Revised Code, the Village may exercise such authority jointly with other political subdivisions in the State of Ohio; and

**WHEREAS**, governmental aggregation provides an opportunity for natural gas consumers collectively to participate in the potential benefits of natural gas deregulation through lower gas rates which they would not otherwise be able to have individually.

**NOW, THEREFORE, BE IT ORDAINED** by the Council of the Village of Windham, Ohio, that:

**SECTION 1.** This Village Council finds and determines that it is in the best interest of the Village and certain natural gas consumers located within the incorporated areas of the Village to establish an opt-out natural gas aggregation program (the "Gas Aggregation Program"). Provided that this Ordinance and the Gas Aggregation Program is approved by the electors of the Village pursuant to Section 2 of this Ordinance, the Village is hereby authorized to aggregate, in accordance with Section 4929.26, Ohio Revised Code, the retail natural gas loads located within the incorporated areas of the Village. For the Gas Aggregation Program, the Village may enter into service agreements to facilitate the sale and purchase of service for retail natural gas loads. The Village may exercise such authority jointly with any other political subdivision of the State of Ohio or through the Northeast Ohio Public Energy Council ("NOPEC"), a political subdivision of the State of Ohio, to the full extent permitted by law, and for such purpose, the Mayor and the Fiscal Officer are hereby authorized to execute and deliver a program agreement with NOPEC in order to establish the Gas Aggregation Program through NOPEC. The Gas Aggregation Program does not apply to persons meeting any of the following criteria, as more specifically described in Section 4929.26(A)(2): (i) the person is both a distribution service customer and a mercantile customer, (ii) the person has an existing commodity sales service contract with a retail natural gas supplier, (iii) the person has commodity sales service as part of a retail natural gas aggregation pursuant to rules and orders of the Public Utilities Commission of Ohio, or (iv) such other persons that are not eligible customers pursuant to rules and orders of the Public Utilities Commission of Ohio.

**SECTION 2.** The Board of Elections of County Portage County is hereby directed to submit the following question to the electors of the Village at the general election on November 3<sup>rd</sup>, 2015:

Shall the Village of Windham have the authority to aggregate the retail natural gas loads located within the incorporated areas of the Village 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?

The Fiscal Officer of this Council is instructed to file a certified copy of this Ordinance and the proposed form of the ballot question with the Portage County Board of Elections not later than August 5<sup>th</sup>, 2015, which is ninety (90) days prior to November 3<sup>rd</sup>, 2015. The Gas Aggregation Program shall not take

effect unless approved by a majority of the electors voting upon the proposed ballot question at the election held pursuant to this Section 2 and Section 4929.26, Ohio Revised Code.

**SECTION 3.** Upon the approval of a majority of the electors voting at the general election provided for in Section 2 of this Ordinance, this Council individually or jointly through NOPEC, shall develop a plan of operation and governance for the Gas Aggregation Program. Before adopting such plan, this Council or NOPEC on behalf of 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 Village. The notice shall summarize the plan and state the date, time, and location of each hearing. No plan adopted by this Council or NOPEC on behalf of this Council shall aggregate any retail natural gas customer in the Village unless it in advance clearly discloses to the person whose retail natural gas is to be so aggregated that the person will be enrolled automatically in the Gas 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 Gas Aggregation Program the opportunity to opt out of the program every two years, without paying a switching fee or other penalty imposed by the Village or NOPEC. Any such person that opts out of the Gas Aggregation Program pursuant to the stated procedure shall default to the natural gas company providing distribution service for the person's retail natural gas load, until the person chooses an alternative supplier.

**SECTION 4.** 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 5.** This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public health, safety and welfare of the Village, and for the further reason that this Ordinance is required to be immediately effective in order for the Village to file a certified copy of this Ordinance and the proposed form of the ballot question with the Portage County Board of Elections not later than August 5<sup>th</sup>, 2015, as provided herein; wherefore, this Ordinance shall be in full force and effect immediately upon its adoption and approval by the Mayor of the Village.

Passed in Council as an emergency July 28, 2015

Vote of Council:      Ayes: 6  
                                 Nays: 0

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Cheree Taylor, Fiscal Officer

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Robert Donham, Mayor

Approved as to form:

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Thomas Reitz, Solicitor