

DATE: NOVEMBER 16, 2009

CLERK: MARY BETH BAILEY

MASSILLON CITY COUNCIL
CITY OF MASSILLON, OHIO
GLENN E. GAMBER, PRESIDENT

COUNCIL CHAMBERS

LEGISLATIVE DEPARTMENT

RESOLUTION NO. 20 - 2009

BY: PUBLIC UTILITIES COMMITTEE

A Resolution acknowledging the authorization establishment of a government aggregation program with opt-out provisions pursuant to Section 4928 of the Ohio Revised Code (the "Aggregation Program") for the residents, businesses and other electric consumers in the City of Massillon.

WHEREAS, on November 3, 2009, Massillon residents voted in favor of the City having the authority to aggregate the retail electric loads located in the City and to enter into service agreements to facilitate for those loads the sale and purchase of electric pursuant to Sections 4928 of the Ohio Revised Code; and

WHEREAS, after the passage of the ballot, the Council held two public hearings as required by Revised Code 4928.20(c) to explain customer rights in an "opt-out" aggregation and to adopt a Plan of Operations and Governance for its electric governmental aggregation program.

NOW, THEREFORE, be it ordained by the Council of the City of Massillon, County of Stark, State of Ohio:

Section 1: That the Council of the City of Massillon acknowledge the affirmative vote of the electorate on November 3, 2009, thereby granting authority to the City of Massillon to establish an electric aggregation program.

Section 2: That this Council hereby adopts the City of Massillon's Plan of Operation and Governance, (attached hereto and incorporated herein by reference as Exhibit A) for the implementation and administration of the City's electric aggregation program in accordance with Revised Code 4928.20(c).

Section 3: That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Resolution were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements, including section 121.22 of the Ohio Revised Code.

Section 4: That this Resolution shall be in full force and effect from and after the earliest period allowed by law.

PASSED IN COUNCIL THIS 11th DAY OF November 2009

APPROVED

MARY BETH BAILEY, CLERK OF COUNCIL

GLENN E. GAMBER, PRESIDENT

APPROVED

November 17, 2009

FRANCIS H. CICCHINELLI, JR., MAYOR

I hereby certify that the foregoing ordinance is a true copy of the original, as passed by the Council of the City of Massillon, Ohio, and approved as noted thereon:

Clerk of Council

Date 11/16/09

CITY OF MASSILLON ELECTRIC AGGREGATION PROGRAM

Plan of Operations and Governance

For additional information contact:
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1. Purpose of Electric Aggregation Program & Services

This aggregation plan has been developed in compliance with Ohio Revised Code, Section 4928.20 regarding governmental aggregation of electric service. That section of the Code defines two different types of aggregation that may be enacted by a governmental entity; opt-in aggregation and opt-out aggregation. The City of Massillon ("the City") will administer an opt-out aggregation program that will automatically include all eligible electric accounts receiving a beneficial offer from a Competitive Retail Electric Service Supplier (CRES Supplier). Those customers will be given prior notice entitling them to affirmatively elect not to be part of the Program.

The City passed the necessary resolution to place the issue of Opt-out Governmental Aggregation of electricity on the 11/3/2009 ballot. The ballot issue subsequently passed. The City will follow the Plan of Operation and Governance ("Plan") outlined below. This Plan was adopted after two public hearings were held in accordance with section 4928.20 (C) of the Ohio Revised Code.

The City's Aggregation Program ("Program") seeks to aggregate the retail electric loads of consumers located in the City to negotiate the best rates for the generation supply of electric power. With a City population of approximately 32600 the Program has the potential to combine residential accounts and small commercial accounts into a buying group that will be attractive to a Competitive Retail Electric Service Supplier (CRES Supplier). Participation in the Program is voluntary. Any individual customer (Member) has the opportunity to decline to be a Member of the aggregation program and to return to the local utility (Ohio Edison) standard offer of service or to enter into a power supply contract with any CRES Supplier.

Residential and small commercial electric customers often lack the ability to effectively negotiate electric supply services. The City's Program provides them an opportunity to benefit from professional representation and bargaining power achieved through an aggregation program.

The aggregation program is designed to reduce the amount Members pay for electric energy and to gain other favorable terms of service. The City will not buy and resell the power to the Program Members. Instead, the City will competitively bid and negotiate a contract with a CRES Supplier to provide firm, full-requirements generation service to the Members of the aggregation program.

Due to the complexity of deregulation of the electric utility industry, the City has entered into contract with Independent Energy Consultants, Inc. (Independent Energy Consultants), a PUCO certified broker and aggregator of natural gas and electricity. Among other things, Independent Energy Consultants will provide professional assistance which includes these consulting services:

- Draft and assist in maintaining this Plan of Operation and Governance
- Lead the required Public Hearings and attend Council meetings
- Assist the City in the day-to-day administration of program (problem resolution, press releases, PUCO compliance, supplier liaison, contract review, etc.)

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- Administer the Request for Proposal process, analyze supplier responses and provide recommendations for the supply agreement
- To review customer data provided by Ohio Edison that would serve as the basis for an opt-out notice
- To write/prepare reports on a quarterly/annual basis to the City, PUCO, PUCO's Market Monitoring division, and the Ohio Consumers' Counsel.

2. Determination of Rates and Other Charges

2.1. Rates

Through the efforts of its consultant, Independent Energy Consultants, Inc., the City will seek proposals from CRES suppliers. The request for proposals shall require the suppliers to offer a generation charge for firm, full-requirements supply. CRES Providers will bid by Ohio Edison customer rate classification or customer class. CRES Providers will be encouraged to bid on as many electric accounts as possible, but it is recognized that from a practical standpoint it is not likely that bids will be received for larger commercial and industrial accounts that require interval metering and individual price analysis. Furthermore, a CRES Provider may not be able to beat Ohio Edison's tariff rates for all customer classes and/or rate schedules. The prices to be charged to Members in the Program will be set by City Council, or their designee, after negotiations with the selected CRES Supplier. Members will be notified of the rates and terms of the Program through a direct mailing sent to each eligible resident and business within the City limits. Once offers are found a table similar to the one shown below will be populated to reflect the offer rates.

Ohio Edison Rate Schedule	CRES Supplier Offer – percent discount off the generation, generation related and transmission charge (Rider Gen) as set forth in the Ohio Edison applicable tariff
RS – Residential Service	6% – 2010 through April 2018
RSG – Residential Water Heating	4% – 2010 through April 2018
RSH – Residential Space Heating	4% – 2010 through April 2018
GS – General Service	3% – 2010 through April 2018
Other	

2.2 Charges

Neither the City nor the selected Supplier will impose any terms, conditions, fees, or charges on any Member served by the governmental aggregation unless the particular term, condition, fee, or charge is clearly disclosed to the Member at the time the Member chose not to opt-out of the aggregation

Ohio Edison will continue to bill for Late Payment, Delivery Charges and Monthly Service Fee, etc. These charges apply whether or not a Member switches to the Program's CRES supplier. Switching generation suppliers will not result in any new charges billed to the Member.

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2.3 Switching Fees

Should Ohio Edison assess a switching fee for Members voluntarily remaining in the aggregation program; the Request for Proposal will be written to require the selected supplier to pay the switching fee.

2.4 Early Termination Fee

Members may terminate their agreement without penalty if they relocate outside of the City. Members that leave for other reasons may be assessed an early termination fee by CRES supplier. Early termination fees are standard in most electric contracts. The City will negotiate with the CRES supplier to ensure that any early termination fee assessed is reasonable and clearly stated in the opt-out disclosure notice.

3. Process for Providing Opt-Out Disclosure Notices

When a successful supply offer is found the City shall order the eligible customer list from Ohio Edison. Ohio Edison shall turn over the list to the City or its consultant upon request. Once the list is obtained, it will be shared with the selected CRES supplier and they will have 30 days from the City's receipt of the data to mail the opt-out notices to all eligible Members receiving an offer.

The selected CRES supplier will be required to pay for printing and mailing of opt-out disclosure notices. The notices will be mailed to the owner or occupant residing at the electric account mailing address shown on Ohio Edison's customer list. The notice will contain the City's name and logo to clearly indicate to the recipient that it is a notice from the City.

Prior to mailing opt-out notices a thorough review will be performed to see that all eligible Members receiving an offer are sent the notice. The review process will include the efforts of numerous parties and utilize a number of resources as specified in section four of this plan.

Following acceptance of an offer by the City, the CRES supplier will mail opt-out notices to eligible Members. Members will have 21 days from the postmark date on the notice to postmark the return opt-out card if they do not wish to participate in the City's program.

In the event that an eligible Member is inadvertently not sent an opt-out notice and is omitted from the Program, the CRES supplier shall, upon request, enroll the eligible Member at the group rate for the remaining term.

4. Determination of Eligible Customer Pool

Under the opt-out aggregation provisions, all eligible electric consumers within the City will be automatically included in the Program. However, such customers will be given prior notice entitling them to affirmatively elect not to be part of the Program.

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Prior to mailing opt-out notices a thorough review will be performed to see that all ineligible customers are excluded. The review process will include the efforts of numerous parties and utilize a number of resources:

- Ohio Edison will query their customer database using best efforts to capture all accounts within the City limits.
- The City's consultant working with the CRES supplier, available City resources and publicly available material shall screen out customers who are not located within the City limits. Those resources may include any or all of the following: Property records, water and/or sewer records, fire and/or police department address records, 911 address records, street listings, City maps, internet maps, county parcel mapping databases, and geographical information systems (GIS).
- Ineligible accounts will be screened out based on codes provided in the Ohio Edison data.
- The data shall be reviewed to see that all zip codes have been included, all streets included, all customer classes, all customer rate schedules, and finally that an expected total for a community of this population was turned over.
- Any suspected omissions will be reported to Ohio Edison along with a request to furnish that data.
- Eligibility may be limited by a supplier's offer. For example, a fixed rate might not be offered to an account if their Price-to-Compare indicates they would not save.

5. Opt-Out Process

The City is using an Opt-Out form of Governmental Aggregation pursuant to section 4928.20 of the Ohio Revised Code. Any such person that opts-out of the aggregation program pursuant to stated procedure will default to the standard service offer provided by Ohio Edison until the person chooses an alternative supplier.

When a successful supply offer is found the City shall order the eligible customer list from Ohio Edison. Ohio Edison shall turn over the list to the City or its consultant upon request. Once the list is obtained, it will be shared with the selected CRES supplier and they will have 30 days from the City's receipt of the data to mail the opt-out notices to all eligible Members receiving an offer.

The selected CRES supplier and the City will agree upon the format of the opt-out notice and will docket a sample with the PUCO at least ten days prior to mailing it to eligible Members.

The selected CRES supplier will be required to pay for printing and mailing of opt-out disclosure notices. The notices will be mailed to the owner or occupant residing at the electric account mailing address shown on Ohio Edison's customer list. A City official will sign the notice and it will contain the City's name and logo on the outside to clearly indicate to the recipient that it is a notice from the City.

Prior to mailing opt-out notices a thorough review will be performed to see that all eligible Members receiving an offer are sent the notice. The review process will include the efforts

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of numerous parties and utilize a number of resources as specified in section four of this plan.

Following acceptance of an offer by the City, the CRES supplier will mail opt-out notices to eligible Members receiving an offer. Members will have 21 days from the postmark date on the notice to postmark the return opt-out card if they do not wish to participate in the City's program. If available, Members may also call the CRES supplier's toll-free recorded phone number to opt-out. The selected CRES supplier will not enroll those accounts opting out from the Program.

In the event that an eligible Member is inadvertently not sent an opt-out notice and is omitted from the Program, the CRES supplier shall, upon request, enroll the eligible Member at the group rate for the remaining term.

All members of the Program will also be given an opportunity to opt-out without penalty at least once every three years.

Procedure Steps:

1. The selected CRES supplier and the City will agree upon the format of the opt-out notice and will docket a sample with the PUCO at least ten days prior to mailing it to eligible Members.
2. The selected supplier will distribute an Opt-Out Form to all eligible Members via first class U.S. Mail;
3. Recipients will have 21 days from the postmark on the notice to notify the selected CRES supplier if they do not want to be part of the program;
4. Members will be able to opt out by returning an opt-out card via U.S. Mail to the selected CRES supplier. The supplier may offer additional means of opting out, such as, making a toll-free recorded phone call to the CRES supplier, email notification or fax.
5. Additionally, Members who do not opt-out per step 4 above will receive written notification from Ohio Edison stating that they are about to be switched. That notice will inform them that they have 7 days to rescind the contract by contacting Ohio Edison; and
6. The selected CRES supplier will not enroll those accounts opting out from the Program.

The opt-out notice will clearly notify the Program Members of the rates to be charged for electricity and other terms of the contract with the selected supplier. The notice will also satisfy the requirements for disclosing the environmental impact of the generation sources used to supply the program.

6. Customer Classes Included

All eligible Members are included in the Program but the selected CRES supplier's offer will determine which groups receive an offer and opt-out notice. It is envisioned that residential and small commercial customers supplied by Ohio Edison within the City limits are the most likely to receive an offer. The specific rate schedules will be identified

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in Section 2 of this Plan of Operation. In addition to having a rate schedule listed in Section 2, the following eligibility requirements apply.

- Customers must be up to date with their bill payment;
- Customers must not have Opted-out of the Program;
- Customers must not be on the Do Not Aggregate list;
- Customers must not be supplied generation service from another CRES provider;
- Customer must not be on a special contract with Ohio Edison;
- Customers must not be in the Percentage of Income Payment Program (PIPP);
- Commercial Customers must have a Peak Demand of ≤ 399 kW; and
- Commercial Customers must not have interval metering.
- Customer must not be classified as mercantile.
- Eligibility may be further limited by a supplier's offer. For example, a fixed rate might not be offered to an account if their Price-to-Compare indicates they would not save.

7. Billing Procedures

The City will utilize the coordinated billing services of Ohio Edison and the selected CRES supplier. Most customers are expected to receive a single bill from Ohio Edison that itemizes among other things, the cost of generation provided by the CRES supplier. In some instances, particularly for commercial accounts, the CRES supplier may request that dual billing be used. In this case the supplier would issue a bill for their supply service and Ohio Edison would issue a bill for their delivery services.

Members currently on budget billing will continue to be budget billed. Ohio Edison's process will remain the same. Members wishing to start budget billing should contact Ohio Edison. The process will take place in accordance with Ohio Edison's policy and is not unique to the City's Program. Ohio Edison's policies will dictate what portions of a Member's bill are budgeted and how the budget amount is calculated.

Members are required to remit and comply with the payment terms of Ohio Edison and/or their supplier if dual billing is used. This Program will not be responsible for late or no payment on the part of any of its members. Furthermore, slow or no payment on the part of some Members will not adversely impact the rates charged to other Members. The selected Supplier shall not charge more than 1 ½ percent per month for overdue balances owed to the selected Supplier.

8. Credit/Deposit Requirements

Collection and credit procedures remain the responsibility of Ohio Edison, the selected Supplier and the individual Member. Members are required to remit and comply with the payment terms of Ohio Edison. This Program will not be responsible for late or no payment on the part of any of its Members. The City will have no separate credit or deposit policy.

9. Procedures for Handling Customer Complaints and Dispute Resolution

Members have multiple means of addressing complaints. As a general rule, concerns regarding service reliability should be directed to Ohio Edison, questions regarding the Program administration should go to the City, billing questions should be directed to Ohio Edison or the selected supplier and any unresolved disputes should be directed to the Public Utilities Commission of Ohio and/or The Ohio Consumers' Counsel. Listed below is a table of toll-free numbers for members to call for assistance.

Nature of Complaint	Contact	Phone Number
Service interruptions or emergencies	Ohio Edison	1-888-544-4877
Service turn on/off	Ohio Edison	1-800-633-4766
Billing disputes – Delivery charges	Ohio Edison	1-800-633-4766
Billing disputes – Supplier charges	FirstEnergy Solution	1-866-636-3749
Joining/Leaving Program	FirstEnergy Solution	1-866-636-3749
Aggregation Program questions	City of Massillon Independent Energy Consultants	(330) 830-1701 1-888-862-6060
Unresolved disputes	Public Utilities Comm. (voice)	1-800-686-7826
Unresolved disputes	Public Utilities Comm. TDD/TTY	1-800-686-1570
General information – residential	Ohio Consumers' Counsel	1-877-742-5622

10. Moving Into/Within the City

Utility rules require that people moving into a different residence, new construction or otherwise, be assigned a new account number and be served for at least one month by the local utility before they can switch to a new supplier. The above-mentioned are examples of utility rules approved by the PUCO that will impact the operation of Massillon's aggregation program.

Residents and businesses that move into the City will not be automatically included in the City's Program. The City cannot guarantee the rates, terms and conditions to Members enrolling after the 21-day opt-out period of the initial enrollees. Members wishing to opt-in to the Program may contact the City or the CRES supplier to obtain enrollment information. There is, however, no guarantee that customers opting-in at a later date will receive the same price, terms and conditions as did the initial participants. The selected CRES supplier's decision whether or not to extend an offer will be based, in part, on the market prices at the time of request.

Members who move within the City limits and are assigned a new account number by Ohio Edison will be treated in the same manner as a new resident. They will not be automatically enrolled, but may contact the CRES supplier concerning re-enrollment. Once again, there is no guarantee that the CRES Supplier will extend an offer, or an offer that is the same as that of the initial enrollees.

11. Moving Within the City and Maintaining the Same Account Number

The selected CRES Supplier shall continue service at the same rate and under the same terms and conditions for any Member who relocates within the City prior to the expiration of the contract term, providing that the Member notifies the CRES Supplier of their desire to do so with thirty (30) days written notice. Moving within the City may cause the Member to be served for a brief period of time by the local utility. The CRES supplier shall have the right to bill the participant for any associated switching fee imposed by Ohio Edison. Members may also opt-out without penalty under these circumstances.

12. Joining the Aggregation Group after Opting-Out

Members who have left the aggregation group and wish to rejoin at a later date are treated in the same manner as new residents moving into Massillon. These customers may contact the City or the CRES supplier at any time to obtain enrollment information. There is however, no guarantee that customers opting-in at a later date will receive the same price, terms and conditions as did the initial participants.

13. Reliability of Power Supply

The Program will only affect the generation source of power. Ohio Edison will continue to deliver power through their transmission and distribution systems. Responsibility for maintaining system reliability continues to rest with Ohio Edison. If Members have service reliability problems they should contact Ohio Edison for repairs. The PUCO has established "Minimum Reliability Standards" for all utilities operating distribution systems in Ohio. Customer outages, duration of outages, interruptions, etc., are monitored to ensure reliability remains at satisfactory levels.

In addition to maintaining the "wires" system, Ohio Edison is required to be the "Provider of Last Resort." This means, should the selected CRES supplier fail for any reason to deliver any or all of the electricity needed to serve the Members needs, Ohio Edison will immediately provide for the shortfall. Ohio Edison would then bill the supplier for the power provided on their behalf. The Members would incur no additional cost.

14. Supplier Qualification Selection Criteria

Only Suppliers meeting strict criteria will be considered.

- Suppliers will need to be certified by the Public Utilities Commission of Ohio
- Registered with Ohio Edison to do business in their service territory. Both the certification and registration ensure that Suppliers possess the managerial, technical, and financial competence to perform the services they offer.
- Successfully completed Electronic data Interchange (EDI) computer system testing with Ohio Edison to support Governmental Aggregation Program transactions.
- Agree to hold harmless the City from any financial obligations arising from the Program.
- The selected CRES supplier will need to agree to notify the City and negotiate with the City at least 60 days in advance of attempting to terminate the agreement for any reasons other than (i) the scheduled end date or (ii) Force

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- The selected CRES supplier shall demonstrate its creditworthiness by possessing an investment grade long-term bond ratings from at least two of the following rating agencies:

Standard & Poors
Moody's Investors' Services
Fitch ICBA
Duff & Phelps

BBB or Higher
Baa3 or Higher
BBB or Higher
BBB or Higher

Should the CRES supplier be unable to demonstrate its creditworthiness, the supplier will be required to provide:

- a Letter of Credit; or
- a Parental Guaranty from a company that is deemed creditworthy; or
- a Surety Bond.
- Details of the credit type and amount will be subject to negotiation.

15. Miscellaneous

The City will maintain a copy of this Plan of Operation and Governance on file at its Administrative office. This Plan will be kept available for public inspection. It will, upon request, be copied for any existing or potential Members of the aggregation in accordance with the City rules for copying public documents.

The City will not materially alter this Plan of Operation and Governance without first notifying its Members.

The City or the selected CRES supplier will not issue an opt-out notice before the City has obtained its certification as a Governmental Aggregator of electricity from the Public Utilities Commission of Ohio.

The success of the City's Aggregation Program relies in part to the cooperation it receives from Ohio Edison. In addition to other tasks, Ohio Edison must turn over accurate customer data and perform the customer switching process in a timely manner. The City will comply with PUCO rules, and will hold Ohio Edison to its obligations under the same.

The Electric Aggregation Program may be terminated upon the termination or expiration of the supply contract without any extension, renewal or subsequent supply contract being negotiated. Each individual Member receiving electric supply service under the Program will receive notification 45-90 days prior to termination of the Program. In the event of termination, Members in the City aggregation program would either return to Ohio Edison supply service or choose a CRES supplier on their own.

If the City is unable to find a satisfactory offer at the end of an existing supply agreement, they have the option of maintaining their status as a Governmental Aggregator while they continue to seek offers for their Members.