

ORDINANCE NO. 19-2023

**ADOPTING A PLAN OF OPERATION AND GOVERNANCE FOR NATURAL GAS
GOVERNMENTAL AGGREGATION, AND DECLARING AN EMERGENCY**

WHEREAS, the Council of the Village of Fairfax, Ohio (“Council”) seeks to establish a governmental aggregation program with opt-out provisions pursuant to Section 4929.26, Ohio Revised Code (the “Aggregation Program”) for the residents, businesses, and other natural gas customers in the Village of Fairfax (the “Village”), as permitted by law; and

WHEREAS, Council developed a Natural Gas Aggregation Program Plan of Operation and Governance (“Plan of Operation”) in accordance with the governmental aggregation provisions of Sections 4901 and 4929.26 of the Ohio Revised Code and the Rules for Formation and Operation of Natural Gas Governmental Aggregations; and

WHEREAS, Council now intends to file for certification as a Governmental Aggregator, which requires that Council first adopt its Plan of Operation and Governance; and

WHEREAS, Council determined that this Ordinance is in the best interest of the Village’s residents and promotes the general welfare of said citizenry; and

WHEREAS, Council held two public hearings on the proposed Plan of Operation and Governance as required by law;

NOW THEREFORE, BE IT ORDAINED by the Council of the Village of Fairfax, State of Ohio that:

SECTION I: This Council adopts and approves a Plan of Operation and Governance for Natural Gas Governmental Aggregation in the form attached hereto as Exhibit A.

SECTION II: 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 III: This Ordinance is hereby declared to be an emergency measure necessary for immediate preservation of the public peace, health, safety and general welfare and shall be effective immediately. The reason for said declaration of emergency is the immediate need to obtain all necessary approvals and certifications for the prompt implementation of the Aggregation Program.

Passed this 18th day of December, 2023.

Mayor

ATTEST:

Fiscal Officer

CERTIFICATE

I hereby certify this to be a true and correct copy of Ordinance No. 19-2023 adopted at a meeting of the Council of the Village of Fairfax, this 18th day of December, 2023.

Fiscal Officer

VILLAGE OF FAIRFAX, HAMILTON COUNTY, OHIO
PLAN OF OPERATION AND GOVERNANCE
NATURAL GAS GOVERNMENTAL AGGREGATION

For More Information Contact:

Village of Fairfax
5903 Hawthorne Ave
Fairfax, OH 45227

VILLAGE OF FAIRFAX, HAMILTON COUNTY, OHIO

PLAN OF OPERATION AND GOVERNANCE

NATURAL GAS GOVERNMENTAL AGGREGATION

Introduction. On November 7, 2023, a majority of the voters in the Village of Fairfax, Hamilton County, Ohio approved a referendum that authorized the Village of Fairfax (the “Community”) to pursue Automatic Governmental Aggregation. After the Community held two public hearings on the matter, as prescribed by Section 4929.26 (C) of the Ohio Revised Code, the Community approved a Plan of Operation and Governance prepared in accordance with Section 4901:1-28-03. Once certified as a Governmental Aggregator, the Community will be authorized to combine multiple retail natural gas customer loads within its geographic boundaries (the “Aggregation”) for the purpose of facilitating the purchase of natural gas supply in Ohio’s competitive retail natural gas market.

Governmental Aggregation Services. The Community, as a Governmental Aggregator, will serve as purchasing agent for the Aggregation. As purchasing agent, the Governmental Aggregator shall (i) select a Competitive Retail Natural Gas Supplier (“Supplier”) to supply the Aggregation, (ii) negotiate the terms of supply between the Supplier and each Aggregation participant, and (iii) oversee the enrollment procedures administered by the Supplier.

The Contract. The supply contract negotiated by the Governmental Aggregator for the Aggregation (the “Contract”) shall be for firm, all-requirements supply. Each Aggregation participant will be individually bound to the Supplier by the Contract and will be solely responsible for payment and performance. The natural gas supply charges for the Aggregation will be included in the Contract that will be negotiated by the Governmental Aggregator. The natural gas supply charges will take the form of either a fixed price or a variable price. All natural gas supply charges will be fully and prominently disclosed in consumer enrollment materials (such as the Opt-out Notice), available on the Supplier’s website, and available by calling the Supplier’s toll-free customer service telephone number. Participants may terminate the Contract with the Provider without penalty at any time for any reason by providing notice to the Provider.

Eligibility, Opt-out Disclosures, and Pooling Accounts. Section 4901:1-28-05 of the Ohio Administrative Code requires the local natural gas distribution utility (the “Utility”) to use its best efforts to provide the Governmental Aggregator with an account list of eligible customers, including the names, account numbers, and service and mailing addresses for all eligible customers residing within the Governmental Aggregator’s boundaries. The following customers are not eligible: customers on the Percentage of Income Payment Plan (PIPP), customers that have past due amounts owing to the Utility, customers that are already under contract with a competitive retail natural gas supplier, and mercantile customers. Using this list of eligible accounts, the Supplier, with the assistance of the Governmental Aggregator, will review the list to verify that the eligible accounts are located within the geographic boundaries of the Community and that an area within the Community boundaries has not been inadvertently filtered from the list.

The Supplier, with assistance from the Governmental Aggregator, will prepare and mail an “Opt-out Notice” to each account identified as (i) eligible by the Utility and (ii) within the geographic limits of the Community by the Governmental Aggregator and the Supplier, within thirty (30) days of receipt of the list

from the Utility. The Opt-out Notice will inform the eligible account holder that the Governmental Aggregator has formed an automatic (or “Opt-out”) aggregation, provide the price for natural gas supply to the Aggregation and other terms and conditions of service, and explain how the account holder can decline participation in the Aggregation. As required by 4901:1-28-04 of the Ohio Administrative Code, the Opt-out Notice will indicate that the account holder has twenty-one (21) days to affirmatively respond by telephoning a toll-free number, using a website, or returning a postcard to the Supplier that is included in the Opt-out Notice.

The Supplier will receive all Opt-out requests and adjust the eligible account list accordingly. In addition, if any Opt-out Notices are returned by mail to Supplier marked as undeliverable, those accounts will be removed from the eligible account list as well. Upon completion of the twenty-one (21) day Opt-out period, the Supplier will notify the Utility of the remaining accounts that will form the Aggregation, and through an electronic data interchange transaction, enroll the Aggregation. Upon enrollment, each participant will receive an enrollment notice from the Utility that will indicate that the enrollee may rescind its participation in the Aggregation by contacting the Utility within seven (7) business days.

In addition to the initial twenty-one (21) day Opt-out period, each participant will be provided an opportunity to opt-out at least every two years without paying an early termination fee.

Billing. Aggregation participants will receive a single, monthly bill from the Utility, which will include charges from the Supplier for its natural gas supply, as well as the Utility distribution charges. Aggregation participants will be billed according to their Utility billing cycle.

Credit, Collections and Deposits. The Utility’s credit and collection policy and policies regarding deposits will apply to the Aggregation participants and shall be administered by the Utility. Neither the Governmental Aggregator, nor the Supplier will implement additional policies with respect to credit, deposits, and collections.

Concerns and Complaints. Aggregation participants will have multiple means of expressing concerns and reporting complaints. As a general rule, concerns regarding service reliability and billing should be directed to the Utility. The Utility will continue to read meters, handle billing, and generally have the most information about the physical service to a location or account. Questions regarding the administration of the Aggregation should be directed to the Supplier. The Supplier’s customer service center will, at a minimum, be available by telephone Monday through Friday between the hours of 8:00 am to 7:00 pm ET. Any unresolved disputes should be directed to the Public Utilities Commission of Ohio and/or the Ohio Consumers Council. As a convenience, below is a list of helpful toll-free telephone numbers.

<u>Nature of Complaint</u>	<u>Contact</u>	<u>Phone Number</u>
Outages/Emergencies	Duke Energy Ohio	1-800-544-6900
Service turn on/off	Duke Energy Ohio	1-800-544-6900
Billing Disputes	Duke Energy Ohio	1-800-544-6900
Price/Joining/Leaving Program	Provider Customer Service	TBD
Program Regulatory Questions	Provider Customer Service	TBD
Unresolved Disputes	Public Utilities Commission	1-800-686-7826
Unresolved Disputes	Ohio Consumers Council	1-877-742-5622

The Supplier will attempt to resolve all customer complaints in a timely and good faith manner. The Supplier shall investigate and provide a status report to the customer when the complaint is made directly to them and/or the Community within three (3) business days following receipt of the complaint. Or in the case of a Public Utilities Commission of Ohio (“PUCO”) complaint the Supplier will investigate and provide a status report to the customer and PUCO staff within three (3) business days following receipt of the complaint. If an investigation into a complaint received from the customer or a complaint referred to by the PUCO is not completed within ten (10) business days, then a status report will be given to the customer, and, if applicable, the PUCO. These status reports will be given every three (3) business days until the investigation is complete, unless the action that must be taken takes longer than three (3) business days and the customer has been notified. Final results of a Commission-referred complaint will be provided to the PUCO either orally (phone) or in writing (e-mail, written correspondence), no later than three (3) business days after the investigation is completed. The final results will be provided in writing to the customer no later than three (3) business days after the investigation is completed. Customers retain the right to contact the PUCO regarding complaints and disputes. All customers have the right to contact the PUCO by writing to Public Utilities Commission of Ohio, ATTN: IAD, 180 E. Broad St., Columbus, OH 43215-3793; by fax to (614) 752-8351; through their website at <http://www.puco.ohio.gov/> or by calling toll-free (800) 686-7826 (VOICE) or 7-1-1 (TTY-TDD). Records of customer complaints will be retained for two (2) years after the occurrence of the complaint. A copy of the complaint record will be provided to the PUCO within three (3) business days, if requested.

Moving Within the Community. Aggregation participants who move from one location to another within the Community boundaries and retain the same account number, will remain an Aggregation participant and will receive the same price they would have received if their location had not moved.

Aggregation participants who move from one location to another within the Community boundaries and are assigned a new account number may enroll their new account in the Aggregation and receive the same price as they would have received if their location had not moved, provided the new account is eligible for Aggregation. Participants who move and receive a new account number may be dropped from the Aggregation by the Utility, but they will not be charged an early termination fee from the Supplier. If a participant is dropped from the Aggregation due to a move within the Community, the participant must contact the Supplier to be re-enrolled.

Moving Outside of the Community. Aggregation participants who move out of the Community boundaries will no longer be eligible to participate in the Aggregation, but they will not be charged an early termination fee from the Supplier.

Enrolling after the Opt-out Period. Residential and small business accounts located within the Community’s boundaries that are eligible to join the Aggregation but initially chose to opt-out of the Aggregation, or otherwise weren’t included in the Aggregation, may join the Aggregation after the expiration of the applicable Opt-Out Period by contacting the Supplier. The rate for those joining the Aggregation after the expiration of the Opt-out Period may be different from the rate negotiated for the Aggregation by the Government Aggregator.

In the event that the Supplier is able to offer to newly eligible customers the same price that is provided to the current Aggregation participants, the Supplier may refresh the Aggregation by providing those

who move into the Community the opportunity to be included automatically, rather than waiting until the next pricing term of the Contract. The process for refreshing the Aggregation with new enrollments would follow the process noted above for determining eligibility, providing Opt-out Notices, and pooling the accounts. (Current Aggregation participants and those who previously declined participation would not receive the Opt-out Notice intended only for newly eligible customers.)