

**ORDINANCE CM-16-20**

**AN ORDINANCE AUTHORIZING ALL ACTIONS NECESSARY TO EFFECTUATE AN OPT-OUT GAS SERVICE AGGREGATION PROGRAM PURSUANT TO OHIO REVISED CODE 4929.26; AND DIRECTING THE MIAMI COUNTY BOARD OF ELECTIONS TO SUBMIT THE BALLOT QUESTION TO THE ELECTORS; AND AUTHORIZING AN AGREEMENT WITH AN AGENT FOR SUCH PURPOSES.**

**WHEREAS**, pursuant to ORC Section 4929.26, the Municipality is authorized to act as an aggregator by establishing an automatic opt-out governmental aggregation program for the provision of competitive retail gas service for the benefit of certain gas customers within the Municipality so that consumers may realize lower cost gas supplies and other benefits from the aggregation and combined purchasing of gas supplies that they would not otherwise be able to have individually; and

**WHEREAS**, the Municipality may exercise such authority jointly with any other Municipality; and

**WHEREAS**, in the public interest, the Municipality desires to submit to the electors of the Municipality the question of whether the Municipality should create a Natural Gas Aggregation program to facilitate competitive retail gas service to promote gas savings, lower gas supplies, and other benefits in accordance with ORC Section 4929.26; and

**WHEREAS**, The Municipality has adopted this Ordinance pursuant to the authority conferred by Article XVIII Section 4 of the Ohio Constitution and ORC Section 4929.26.

**NOW THEREFORE**, be it ordained by the village council of West Milton, Ohio, as follows:

**Section I:** The Village Council determines that it is in the best interest of the Village of West Milton, OH ("Municipality") and certain gas service consumers located within the incorporated areas of the Municipality to establish an opt-out gas service aggregation program (the "Program").

**Section II:** That, provided that the ballot measure regarding the Program is approved by the electors of the Municipality pursuant to Section 9 of this Ordinance, the Municipality is hereby authorized to aggregated, in accordance with Ohio Revised Code 4929.26, the retail gas service loads located within the boundaries of the Municipality.

**Section III:** That, for the Program, the Village Manager or a duly designated authority or consultant is hereby authorized, on behalf of the Village Council, to enter into service agreements to facilitate the sale and purchase of service for gas loads.

**Section IV:** That the Village Manager or a duly designated authority or consultant, on behalf of the Village Council may exercise such authority jointly with any other political subdivision of the State of Ohio, to the full extent permitted by law, and for such purpose, the Village Manager or a duly designated authority or consultant is hereby authorized to execute and deliver any necessary agreement(s) with such other political subdivisions, if any, in order to establish such Program.

**Section V:** That the Program does not apply to persons meeting any of the following criteria:

- A customer has opted out of the aggregation
- A customer in contract with a certified gas service company
- A customer that has a special contract with an gas distribution utility
- A customer that is not located within the governmental aggregator’s governmental boundaries
- A customer is not eligible for the aggregation by utility or Public Utilities Commission of Ohio rules.

**Section VI:** That the Program authorized by this Ordinance shall not aggregate the retail gas loads of mercantile customers, as those customers are defined in ORC 4929.01, without prior, affirmative consent of each such customer within the boundaries of the Municipality subject to the Program.

**Section VII:** That the Board of Elections of Miami County is hereby directed to submit the following question to the electors of the Municipality at the election to be held on November 8, 2016:

*Shall the Village of West Milton have the authority to aggregate retail gas loads located within the governmental boundaries of the Village of West Milton and enter into service agreements for the sale and purchase of gas, such aggregation to occur automatically except where any person elects to opt out?*  
Yes \_\_\_\_\_ No \_\_\_\_\_

**Section VII:** That the Village Clerk is hereby directed to file this authorizing Ordinance and other related matters with the appropriate election officials no later than ninety (90) days prior to the November 8, 2016 election as required by ORC 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 ORC 4929.26.

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**Section IX:** That, upon approval by a majority of electors voting at the election provided for in Section 8 of this Ordinance, the Village Manager is hereby authorized to, individually or jointly, with any other political subdivisions in the state of Ohio, develop a plan of operation and governance for the Program.

**Section X:** 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 in the Municipality. The notice shall summarize the plan and state the date, time, and location of each hearing.

**Section XI:** No plan adopted by the Village Council shall aggregate any retail customers in the Municipality unless it in advance clearly discloses to the person whose retail 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 36 months without paying a switching fee. Any such person that opts out of the Program pursuant to the stated procedure shall default to the gas distribution utility providing distribution service for the person's retail gas service load, until the person chooses an alternative supplier.

**Section XII:** That this Ordinance shall become effective immediately following its passage.

Passed this \_\_\_\_\_ day of August 2015

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Fredric M. Francis, Mayor

ATTEST:

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Linda L. Cantrell, CAP/OM  
Clerk of Council

APPROVED AS TO FORM:

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Leneé M. Brosh  
Law Director