

ORDINANCE O-2015-8

ELECTRIC OPT-OUT AGGREGATION ORDINANCE

AN ORDINANCE AUTHORIZING ALL ACTIONS NECESSARY TO EFFECT AN OPT-OUT ELECTRIC AGGREGATION PROGRAM PURSUANT TO SECTION 4928.20, OHIO REVISED CODE, DIRECTING THE COUNTY BOARD OF ELECTIONS TO SUBMIT A BALLOT QUESTION TO THE ELECTORS AND DECLARING AN EMERGENCY.

WHEREAS, under Section 4928.20, Ohio Revised Code, the Village of Windham, Ohio (the "Village") is authorized to establish an opt-out electric aggregation program for the benefit of electric consumers located within the incorporated areas of the Village; and

WHEREAS, under Section 4928.20, 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 electric consumers collectively to participate in the potential benefits of electric deregulation through lower electric 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 electric consumers located within the incorporated areas of the Village to establish an opt-out electric aggregation program (the "Electric Aggregation Program"). Provided that this Ordinance and the Electric 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 4928.20, Ohio Revised Code, the retail electric loads located within the incorporated areas of the Village. For the Electric Aggregation Program, the Village may enter into service agreements to facilitate the sale and purchase of service for retail electric 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 council of governments agreement with NOPEC in order to establish the Electric Aggregation Program through NOPEC. The aggregation will occur automatically for each person owning, occupying, controlling or using an electric load center proposed to be aggregated and will provide for the opt-out rights described in Section 3 of this Ordinance.

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

Shall the Village of Windham have the authority to aggregate the retail electricity loads located within the incorporated areas of the Village and enter into service agreements for the sale and purchase of electricity, 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 5th, 2015, which is at least ninety (90) days prior to November 3rd, 2015. The Electric 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 4928.20, 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 Electric 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 electric customer in the Village unless it in advance clearly discloses to the person whose retail electricity is to be so aggregated that the person will be enrolled automatically in the Electric 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 Electric Aggregation Program the opportunity to opt out of the program every three years, without paying a switching fee or other penalty imposed by the Village or NOPEC. Any such person that opts out of the Electricity Aggregation Program pursuant to the stated procedure shall default to the standard service offer provided under division (a) of Section 4928.14 or division (d) of Section 4928.35 Ohio Revised Code, 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 5th, 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

Cheree Taylor, Fiscal Officer

Robert Donham, Mayor

Approved as to form:

Thomas Reitz, Solicitor