

ORDINANCE NUMBER 01-03

CITY OF CENTERVILLE, OHIO

AN EMERGENCY ORDINANCE TO FACILITATE COMPETITIVE RETAIL NATURAL GAS SERVICE TO PROMOTE NATURAL GAS SAVINGS, LOWER COST NATURAL GAS SUPPLIES AND OTHER BENEFITS FOR CERTAIN NATURAL GAS CONSUMERS, AUTHORIZING ALL ACTIONS NECESSARY TO EFFECT AN OPT-OUT NATURAL GAS AGGREGATION PROGRAM PURSUANT TO SECTION 4929.26 OF THE OHIO REVISED CODE AND ARTICLE XVIII SECTION 4 OF THE OHIO CONSTITUTION; DIRECTING THE MONTGOMERY COUNTY BOARD OF ELECTIONS TO SUBMIT A BALLOT QUESTION TO THE ELECTORS; AND AUTHORIZING AN AGREEMENT WITH AN AGENT FOR SUCH PURPOSES.

WHEREAS, Article XVIII Section 4 of the Ohio Constitution grants the City of Centerville (the "Municipality") certain authority related to utility service; and

WHEREAS, Pursuant to Chapter 4929 of the Ohio Revised Code, to facilitate competitive retail natural gas service to promote natural gas savings, lower cost natural gas supplies, and other benefits, certain governmental entities may aggregate certain natural gas consumers within their jurisdictions; and

WHEREAS, Pursuant to Section 4929.26, Revised Code, the Municipality is authorized to establish an opt-out natural gas aggregation program ("Gas Aggregation") for the benefit of certain natural gas consumers within the Municipality so that the consumers may realize lower cost natural gas supplies and other benefits from the aggregation and collective purchasing of natural gas supplies; and

WHEREAS, Gas Aggregation provides an opportunity for natural gas consumers collectively to realize natural gas savings, lower cost natural gas supplies, and other benefits that the consumers may not otherwise be able to realize individually; and

WHEREAS, The Municipality desires to submit to the electors of the Municipality the question of whether the Municipality should create a Gas Aggregation program to facilitate competitive retail natural gas service to promote natural gas savings, lower cost natural gas supplies, and other benefits in accordance with Section 4929.26, Revised Code; and

WHEREAS, This Ordinance constitutes an emergency measure providing for the immediate preservation of the public peace, property, health, or safety, in that opportunities to coordinate aggregation activities with certain suppliers of natural gas may become limited; and

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

NOW THEREFORE, THE MUNICIPALITY OF CENTERVILLE HEREBY ORDAINS THAT:

SECTION 1. This Council finds and determines that to facilitate competitive retail natural gas service to promote natural gas savings, lower cost natural gas supplies, and other benefits, it is in the best interest of the Municipality and certain natural gas consumers within the jurisdiction of the Municipality to establish an opt-out natural Gas Aggregation program in the Municipality pursuant to Section 4929.26, Revised Code. Provided that this Ordinance and Gas Aggregation program is approved by the electors of the Municipality in accordance with this Ordinance, the Municipality is hereby authorized to take all actions necessary to effect a Gas Aggregation program pursuant to Section 4929.26, Revised Code. The Municipality may exercise this authority jointly with other entities to the full extent permitted by law and, for such purposes, the City Manager of the Municipality is hereby authorized to execute and deliver an agreement with a to be named agent ("Agent") to assist the Municipality as its consultant and agent to effect the Gas Aggregation program. Actions necessary to effect the Gas Aggregation program include determining and entering into service agreement(s) with natural gas suppliers to facilitate the sale and purchase of all natural gas commodity and services to serve the enrolled natural gas consumers. The Municipality shall be authorized by the electors to be the only entity authorized to act for and on behalf of the enrolled natural gas consumers to determine and select the natural gas supplier(s) to provide the commodity and all other services for the Gas Aggregation program and the enrolled consumers.

SECTION 2. The Gas Aggregation program shall not apply to persons meeting any of the following criteria, as more specifically described in Section 4929.26(A)(2), Revised Code: (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 an existing commodity sales service as part of a retail natural gas aggregation pursuant to Rules and Orders of the Public Utilities Commission of Ohio ("Commission"), or (iv) such other persons that are not eligible pursuant to Rules and Orders of the Commission or the plan of operations and governance (the "Plan") for the Gas Aggregation program.

SECTION 3. The Board of Elections of Montgomery County is hereby directed to submit the following question to the electors of the Municipality at the primary election on May 6, 2003:

To facilitate competitive retail natural gas service to promote natural gas savings, lower cost natural gas supplies, and other benefits, shall the City of Centerville have the authority to aggregate retail natural gas loads and enter into service agreements for the sale and purchase of natural gas commodity and other services, such aggregation to occur automatically except where any person affirmatively elects not to be enrolled by a stated procedure?

FOR, the City of Centerville to facilitate competitive retail natural gas service to promote natural gas savings and other benefits by acting as an aggregator.

NOT FOR, the City of Centerville to facilitate competitive retail natural gas service to promote natural gas savings and other benefits by acting as an aggregator.

The Clerk of this Council is instructed to file a certified copy of this Ordinance and the proposed form of the ballot question with the Montgomery County Board of Elections not later than February 20, 2003, which is seventy-five (75) days prior to May 6, 2003. 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 in accordance with this Ordinance and Section 4929.26, Revised Code. Upon approval, the Gas Aggregation shall take effect at the earliest permissible point in time and continue thereafter in accordance with Section 4929.26, Revised Code, and other requirements of Chapter 4929, Revised Code.

SECTION 4. Upon approval by a majority of the electors voting at the election provided for in this Ordinance, the Municipality shall develop and adopt a Plan of operations and governance for the Gas Aggregation program. Consumers enrolled in the Gas Aggregation program shall be supplied their natural gas requirements and other services in accordance with supply agreement(s) determined and arranged by the Municipality, as opportunities become available to provide benefits on behalf of the natural gas consumers enrolled in the Gas Aggregation program and the consumers located within the jurisdiction of the Municipality. The Municipality shall be authorized by the electors to be the only entity authorized to act for and on behalf of the natural gas consumers that have enrolled in the Gas Aggregation program to determine and select the natural gas supplier(s) to provide the commodity and all other services for the Gas Aggregation program and the enrolled consumers. Before adopting such Plan, at least two public hearings on the Plan shall be held. Before the first hearing, notice of the first hearing 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 5. The adopted Plan shall not aggregate any retail natural gas load within the Municipality, unless the person whose retail natural gas load is to be so aggregated is notified in advance that the person will be enrolled automatically in the Gas Aggregation program and shall remain so enrolled, unless the person affirmatively elects not to be so enrolled by a stated procedure. The disclosure shall state the rates, charges, and other terms

and conditions of the enrollment. Once enrolled the consumer may only opt-out of the Gas Aggregation program every two years without paying a switching fee. Any such person that opts-out of the Gas Aggregation program 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 6. That the Montgomery County Board of Elections shall cause an appropriate notice to be duly given of the election to be held on May 6, 2003 on the foregoing proposal and otherwise to provide for such election in the manner provided by the laws of the State of Ohio.

SECTION 7. 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 any of its committees that resulted in those formal actions were in compliance with the law.

SECTION 8. That this Ordinance is hereby declared to be an emergency measure, and provided it receives the affirmative vote of at least five members elected to Council, it shall take effect and be in force immediately and continuing thereafter upon its passage and approval by the Mayor; otherwise, it shall take effect and be in force from and continuing thereafter upon the earliest time allowed by law.

PASSED this 27th day of January, 2003.

Approved: _____

Sally D. Beals
Mayor

ATTEST: _____

Maurel J. Slaughter
Clerk of Council

CERTIFICATE

The undersigned, Clerk of the Council of the City of Centerville, Ohio, hereby certifies that the foregoing is a true and correct copy of Ordinance Number 01-03, passed by the Council of the City of Centerville, Ohio, on the 27th day of January, 2003.


Clerk of Council

Approved as to form, consistency
with existing Ordinances, the Charter
and Constitutional Provisions.

Department of Law
Robert N. Farquhar
Municipal Attorney