

ORDINANCE NO. 2009 - 06

AN ORDINANCE TO AUTHORIZE ALL ACTION NECESSARY TO AFFECT AN OPT-OUT NATURAL GAS AGGREGATION PROGRAM PURSUANT TO SECTION 4929.26 OF THE REVISED CODE AND DECLARING AN EMERGENCY

WHEREAS, pursuant to Ohio Revised Code Section 4929.26, municipalities are authorized to establish an opt-out natural gas aggregation program (“Gas Aggregation”) for the benefit of certain gas consumers within the municipality for that the consumers may realize lower cost natural gas supplied 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 costs natural gas supplies, and other benefits that the consumers may not otherwise be able to realize individually; and

WHEREAS, the Village of Warsaw desires to submit an ordinance to the Board of Elections to submit to the electors of the Village of Warsaw the question of whether the Village should create a gas aggregation program in accordance with Ohio Revised Code Section 4929.26; and

NOW, THEREFORE BE IT ORDAINED by the Council of the Village of Warsaw, a majority of its members concurring:

Section 1. The Village 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 Village and certain natural gas consumers within the jurisdiction of the Village to establish an opt-out natural Gas Aggregation program in the Village pursuant to Section 4929.26, Revised Code. Provided that this Ordinance and the Gas Aggregation program is approved by the electors of the Village in accordance with this Ordinance, the Village is hereby authorized to take all actions necessary to affect a Gas Aggregation program pursuant to Section 4929.26, Revised Code. The Village may exercise this authority jointly with other entities to the full extent permitted by law, and for such purposes. Actions necessary to affect 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 Village 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) of the Ohio 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. That this Council hereby authorizes and directs the County Board of Elections to submit to the electors of the Village of at an election to be held at the usual places of voting of said Village on Tuesday, November 3, 2009, the following question: To facilitate competitive retail natural gas service to promote natural gas savings, lower cost natural gas supplies, and other benefits, shall the Village of Warsaw have the authority to aggregate retail natural gas loads located in the Village of Warsaw 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 so enrolled by a stated procedure?

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

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

Section 4. That the Fiscal Officer is authorized and directed to file a certified copy of this Ordinance with the Coshocton County Board of Elections not later than August 1, 2009. 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 of the Ohio Revised Code. Upon approval, the Gas Aggregation shall take effect at the earliest permissible point in time and continue thereafter in accordance with the requirements of Chapter 4929.26 of the Ohio Revised Code.

Section 5. That the Board of Elections of Coshocton County shall cause an appropriate notice to be duly given of the election to be held on Tuesday, November 3, 2009, on the foregoing proposal and otherwise to provide for such election in the manner provided by the general laws of the State of Ohio.

Section 6. Upon approval by a majority of the electors voting at the election provided for in this Ordinance, the Village 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 Village, 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 Village. The Village 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 suppliers) 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 Village. The notice shall summarize the Plan and state the date, time, and location of each hearing.

Section 7. The adopted Plan shall not aggregate any retail natural gas load within the Village, 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 8. That the Council declares this to be an emergency measure immediately necessary for the preservation of the public peace, health, safety, and welfare; wherefore, this Ordinance take effect and be in full force from and after its passage and approval by the Mayor.

PASSED: March 18, 2009

Ronald Davis
Mayor Ronald Davis

ATTEST: Cheryl Jones
Fiscal Officer

This instrument prepared by:
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