

RESOLUTION NO. 36 - 2005

RESOLUTION AUTHORIZING ALL ACTIONS NECESSARY TO EFFECT A GOVERNMENTAL NATURAL GAS AGGREGATION PROGRAM WITH OPT-OUT PROVISIONS PURSUANT TO SECTION 4929.26, OHIO REVISED CODE, ADOPTING THE TOWNSHIP'S PLAN OF OPERATION AND GOVERNANCE AND AUTHORIZING THE TOWNSHIP ADMINISTRATOR TO ENTER INTO AN AGREEMENT WITH THE SELECTED NATURAL GAS SUPPLIER THROUGH APPLICABLE STATUTORY REQUIREMENTS

WHEREAS, the electors of West Chester Township, Butler County, Ohio, determined on the 8th day of November 2005 that the Board of Trustees shall form a Governmental Natural Gas Aggregation Program for the purchase of natural gas on behalf of West Chester residents and businesses; and,

WHEREAS, the Ohio Legislature has enacted natural gas deregulation legislation ("HB No 9") which authorizes the legislative authorities of townships to aggregate the retail natural gas loads located in their respective jurisdictions and to enter into service agreements to facilitate for those loads the purchase and sale of natural gas; and,

WHEREAS, governmental aggregation provides an opportunity for residential and small business customers collectively to participate in the potential benefits of natural gas deregulation through lower natural gas rates which they would not otherwise be able to have individually; and,

WHEREAS, this Board of Trustees seeks to establish a governmental aggregation program with opt-out provisions pursuant to Section 4929.26 of the Ohio Revised Code (the "Aggregation Program") for the residents, businesses and other natural gas consumers in the Township, as permitted by law.

NOW THEREFORE, BE IT RESOLVED that the West Chester Township Board of Trustees does hereby agree to:

SECTION 1. Find and determine that it is in the best interest of the Township, its residents, businesses and other natural gas consumers located within the boundaries of the Township to adopt a Natural Gas Aggregation Program Plan of Operation and Governance attached hereto and incorporated herein as if fully reappearing, pursuant to Section 4929.26, Ohio Revised Code.

SECTION 2. Authorize and direct the Township Administrator to enter into an agreement with the selected natural gas supplier through applicable statutory requirements.

SECTION 3. Find and determine that all formal actions of this Board of Trustees concerning and relating to the adoption of this Resolution were taken in an open meeting of this Board of Trustees and that all deliberations of this Board of Trustees and of any committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

Adopted this 22nd day of November, 2005.

<u>Jose Alvarez</u> Jose Alvarez, President	<u>Yes</u> Yes / No
<u>George Lang</u> George Lang, Vice President	<u>Yes</u> Yes / No
<u>Catherine Stoker</u> Catherine Stoker, Trustee	<u>YES</u> Yes / No

ATTEST:

Patricia Williams
Patricia Williams, Township Clerk

APPROVED AS TO FORM:

D. Crain
Donald L. Crain, Law Director

WEST CHESTER TOWNSHIP NATURAL GAS AGGREGATION PROGRAM

PLAN OF OPERATION AND GOVERNANCE

For additional information contact:
Mark R. Burns, President
Independent Energy Consultants, Inc.
Ph: (330) 995-2675



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(A) Introduction

This aggregation plan has been developed in compliance with Ohio Revised Code, Section 4929.26 regarding governmental aggregation of natural gas service.

The Township passed the necessary resolution to place the issue of Opt-out Governmental Aggregation of natural gas on the November 8, 2005 ballot. The ballot issue subsequently passed by wide margin, receiving approximately 59 percent of the votes. The Township will follow the Plan of Operation and Governance ("Plan") outlined below. This Plan was adopted after two public hearings were held in accordance with section 4929.26 (C) of the Ohio Revised Code.

(B) Operation and Governance Plan Detail

(1) Description of Services and Professional Assistance

The Township of West Chester ("Township") Aggregation Program ("Program") seeks to aggregate the retail natural gas loads of consumers located in the Township to negotiate favorable rates for the supply of Natural Gas. Favorable shall mean rates lower than the Cinergy Gas Cost Recovery (GCR) rate in effect at the time. The Township may also select an offer based on beneficial terms and conditions not available through the regulated utility. Fixed-rate pricing that would provide stability, particularly during the heating season, would be an example of a beneficial condition.

With a Township population of approximately 59,000 the Program has the potential to combine approximately 26,000 residential accounts and small commercial accounts into a buying group that will be attractive to Certified Retail Natural Gas Service (CRNGS) suppliers. Participation in the Program is voluntary. Any individual customer ("Member") has the opportunity to decline to participate in the Program and to return to Cinergy ("Cinergy") supply or to enter into a service contract with any CRNGS supplier.

The Township of West Chester ("the Township") will administer an opt-out aggregation program that will automatically include all eligible natural gas accounts within the Township boundaries. However, only those receiving a favorable offer from a CRNGS supplier will be considered for switching and will be given notice entitling them to affirmatively elect not to be part of the Program. Those eligible Members not receiving a favorable offer will remain supplied by Cinergy until a favorable offer is found.

Residential and small commercial natural gas customers often lack the ability to effectively negotiate natural gas supply services. The Township's Program provides them an opportunity to benefit from professional representation and bargaining power achieved through an aggregation program. The aggregation Program is designed to reduce the amount Members pay for natural gas and to gain other favorable terms of service such as price stability.

Due to the complexity of deregulation of the Natural Gas utility industry, the Township has entered into contract with Independent Energy Consultants, Inc. (Independent Energy Consultants), a PUCO certified broker and aggregator of natural gas and electricity. Among other things, Independent Energy Consultants will provide these consulting services:

- Draft and assist in maintaining this Plan of Operation and Governance

West Chester Township Exhibit B-2 "Operation and Governance Plan"

- Lead the required Public Hearings and attend Board of Trustees meetings
- Assist the Township in the day-to-day administration of program (problem resolution, press releases, PUCO compliance, supplier liaison, contract review, etc.)
- Administer the Request for Proposal process, analyze supplier responses and provide recommendations for the supply agreement
- To review customer data provided by Cinergy that would serve as the basis for an opt-out notice
- Track the performance of the selected supplier, report on program participation and provide an analysis of current and future market conditions
- To write/prepare reports on a quarterly/annual basis to the Township, PUCO and Ohio Consumers' Counsel.

The Township through its consultant, Independent Energy Consultants, will seek bids and negotiate with CRNGS suppliers. The Township will not assume title to natural gas. It will not buy and resell natural gas to the Members of the program. Instead, the Township will competitively bid and negotiate a contract with a Competitive Retail Natural Gas supplier to provide natural gas supply to the Members of the aggregation program. Similarly, the Township will not handle billing or scheduling of natural gas. Those responsibilities rest with the Cinergy and selected supplier.

Only Suppliers meeting strict criteria will be considered.

- Suppliers will need to be certified by the Public Utilities Commission of Ohio
- Registered with Cinergy Corporation to do business in their service territory. Both the certification and registration ensure that Suppliers possess the managerial, technical, and financial competence to perform the services they offer.
- Successfully completed Electronic Data Interchange (EDI) computer system testing with Cinergy to support Governmental Aggregation Program transactions.
- Agree to hold harmless the Township from any financial obligations arising from the Program.
- The selected CRNGS suppliers will need to agree to notify the Township and negotiate with the Township at least 60 days in advance of attempting to terminate the agreement for any reasons other than (i) the scheduled end date or (ii) Force Majeure.
- The selected CRNGS supplier shall demonstrate its creditworthiness by possessing an investment grade long-term bond ratings from at least two of the following rating agencies:

Standard & Poors	BBB or Higher
Moody's Investors' Services	Baa3 or Higher
Fitch ICBA	BBB or Higher
Duff & Phelps	BBB or Higher

Should the CRNGS supplier be unable to demonstrate its creditworthiness, the supplier will be required to provide:

- a Letter of Credit; or
- a Parental Guaranty from a company that is deemed creditworthy; or
- a Surety Bond.
- Details of the credit type and amount will be subject to negotiation.

(2) Determination of Rates

Through the efforts of its consultant, Independent Energy Consultants, Inc., the Township will seek proposals from CRNGS suppliers. The request for proposals shall require the CRNGS suppliers to offer firm, full-requirements natural gas supply. CRNGS suppliers will bid by Cinergy customer rate schedule or customer class. CRNGS suppliers will be encouraged to bid on as many natural gas accounts as possible, but it is recognized that from a practical standpoint it is not likely that bids will be received for larger commercial and industrial accounts that require individual price analysis. Furthermore, commercial and industrial customers consuming more than 500 Mcf/year are classified as mercantile customers and are ineligible to participate in a governmental aggregation program.

The prices to be charged to Members in the Program will be set by the Township Administrator with prior authorization from the Township Trustees. The Administrator will set prices following negotiations with the selected CRNGS supplier and receipt of a favorable offer. Members will be notified of the rates and terms of the Program through a direct mailing sent to each eligible resident and business within the Township limits. Once offers are found a table similar to the one shown below will be populated to reflect the offer rates.

Customer Class	Rate Schedule	Supplier Offer (\$/Ccf)	Term
Residential Sales Service	RS		
General Sales Service	GS		

Neither the Township nor the selected supplier will impose any terms, conditions, fees, or charges on any Member served by the governmental aggregation unless the particular term, condition, fee, or charge is clearly disclosed to the Member at the time the Member chose not to opt-out of the aggregation

Members may terminate their agreement without penalty if they relocate outside of the Township. Members that leave for other reasons may be assessed an early termination fee by CRNGS supplier. Early termination fees are standard in most natural gas contracts. The Township will negotiate with the CRNGS supplier to ensure that any early termination fee assessed is reasonable and clearly stated in the opt-out disclosure notice.

There is no switching fee for Members leaving Cinergy supply service to select a CRNGS supplier. Any Member that returns to Cinergy or switches from one CRNGS supplier to another may be subject to a \$5 switching fee from Cinergy. If a Member returns to Cinergy supply service due to a supplier default the switching fee does not apply.

If a \$5 switching fee is charged as a result of the Township selecting a new CRNGS supplier in a subsequent supply agreement, the new supplier will be required to pay for or reimburse the switching fee.

Members will remain responsible for all other billable charges, such as, taxes, Cinergy transportation charges, monthly service charge, etc.

The Township Administrator will not accept a CRNGS supplier offer that is not favorable for the majority of Members of a given customer class or rate schedule. It is, however, the individual

Member's responsibility to carefully review the price, terms and conditions of an offer to determine if the offer is in their best interest. The Township will not be responsible for any Member's decision to remain in or opt-out of the Program.

(3) Plan for Providing Opt-out Notice

When a successful supply offer is found the Township shall order the eligible customer list from Cinergy. Cinergy shall turn over the list to the Township or its consultant upon request. Once the list is obtained, it will be shared with the selected CRNGS supplier and they will have 30 days from the Township's receipt of the data to mail the opt-out notices to all eligible Members receiving an offer.

The selected CRNGS supplier and the Township will agree upon the format of the opt-out notice and will docket a sample with the PUCO at least ten days prior to mailing it to eligible Members.

The selected CRNGS supplier will be required to pay for printing and mailing of opt-out disclosure notices. The notices will be mailed to the owner or occupant residing at the natural gas account mailing address shown on Cinergy's customer list. A Township official will sign the notice and it will contain the Township's name and logo on the outside to clearly indicate to the recipient that it is a notice from the Township.

Prior to mailing opt-out notices a thorough review will be performed to see that all eligible Members receiving an offer are sent the notice. The review process will include the efforts of numerous parties and utilize a number of resources as specified in section four of this plan.

Following acceptance of an offer by the Township, the CRNGS supplier will mail opt-out notices to eligible Members receiving a favorable offer. Members will have 21 days from the postmark date on the notice to postmark the return opt-out card if they do not wish to participate in the Township's program. Members may also call the CRNGS supplier's toll-free recorded phone number to opt-out. The selected CRNGS supplier will not enroll those accounts opting out from the Program.

In the event that an eligible Member is inadvertently not sent an opt-out notice and is omitted from the Program, the CRNGS supplier shall, upon request, enroll the eligible Member at the group rate for the remaining term.

All members of the Program will also be given an opportunity to opt-out without penalty at least once every two years.

(4) Process for Determining the Pool of Customers

Under the opt-out aggregation provisions, all eligible natural gas consumers within the Township will be automatically included in the Program. However, such customers will be given prior notice entitling them to affirmatively elect not to be part of the Program.

Prior to mailing opt-out notices a thorough review will be performed to see that all ineligible customers are excluded. The review process will include the efforts of numerous parties and utilize a number of resources:

- Cinergy will query their customer database using best efforts to capture all accounts within the Township limits. If desired, the Township is entitled to request Cinergy to analyze the

- data, for an additional fee, to ensure that no one outside Township limits appears in the data;
- The Township's consultant working with the CRNGS supplier, available Township resources and publicly available material shall screen out customers who are not located within the Township limits. Those resources may include any or all of the following: Property records, water and/or sewer records, fire and/or police department address records, 911 address records, street listings, Township maps, internet maps, county parcel mapping databases, and outside consulting services specializing in geographical information systems (GIS).
- Ineligible accounts will be screened out based on codes provided in the Cinergy data.
- The data shall be reviewed to see that all zip codes have been included, all streets included, all customer classes, all customer rate codes, and finally that an expected total for a community of this population was turned over.

Any potential Member who suspects they were inadvertently omitted from the Program will likely have to contact Cinergy for an explanation. The Cinergy customer list provided to the Township will not include customers who are already served by a CRNGS supplier, participate in PIPP, are classified as mercantile, are 30-days or more in arrears of \$50 or more, or who have opted-off the standard customer information list. Because of this, the Township, its consultant, and CRNGS supplier will not be able to determine if a potential Member is ineligible or was inadvertently omitted.

Customers who have opted-off the standard customer information list are required to be included in an opt-out program assuming they meet the other eligibility requirements. The Township will request a separate list of those customers from Cinergy so they can be given an opportunity to participate in the Program.

Customers who meet the following criteria will become Members of the aggregation program:

- Are up to date with their bill payment;
- Have not opted-out of the program;
- Are currently supplied natural gas by Cinergy;
- Are not mercantile customers;
- Have not exercised their right of rescission; or
- Are not part of the Percentage of Income Payment Program (PIPP).

(5) Customer Billing Procedures

The Township will utilize the coordinated billing services of Cinergy and the selected CRNGS supplier. Most customers are expected to receive a single bill from Cinergy that itemizes among other things, the cost of natural gas provided by the CRNGS supplier. In some instances, particularly for commercial accounts, the CRNGS supplier may request that dual billing may be used. In this case the supplier would issue a bill for their supply service and Cinergy would issue a bill for their delivery services.

Members currently on budget billing will continue to be budget billed. Cinergy's process will remain the same and the new CRNGS supplier rate would be incorporated on a rolling 12-month basis. Members wishing to start budget billing should contact Cinergy. The process will take place in accordance with Cinergy's policy and is not unique to the Township's Program.

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Members are required to remit and comply with the payment terms of Cinergy and/or their supplier if dual billing is used. This Program will not be responsible for late or no payment on the part of any of its members. Furthermore, slow or no payment on the part of some Members will not adversely impact the rates charged to other Members. The selected supplier shall not charge more than 1 1/2 percent per month for overdue balances owed to the selected supplier.

(6) Credit and Deposit Policies

Collection and credit procedures remain the responsibility of the Cinergy, the selected supplier and the individual Member. Members are required to remit and comply with the payment terms of Cinergy. This Program will not be responsible for late or no payment on the part of any of its Members. The Township will have no separate credit or deposit policy.

(7) Governmental Aggregator’s Customer Service Procedures and Dispute Resolution

Members will have multiple means of addressing complaints. As a general rule, concerns regarding service reliability and billing should be directed to the Cinergy. They continue to read meters, handle billing and generally have the most information about a customer's account. Questions regarding the Program administration should go to the Township or Independent Energy Consultants. Unresolved disputes between Members and the supplier or Cinergy should be directed to the Public Utilities Commission of Ohio or the Ohio Consumers’ Counsel for residential accounts. Listed below is a table of local or toll-free numbers for Members to call for assistance.

Nature of Complaint	Contact	Phone Number
Service interruptions or emergencies	Cinergy	1-800-634-4300
Service turn on/off	Cinergy	1-800-544-6900
Billing disputes – Delivery Charges	Cinergy	1-800-544-6900
Billing disputes – Supplier charges	CRNGS Supplier	TBA
Joining/Leaving Program	CRNGS Supplier	TBA
Aggregation Program Questions	West Chester Township Independent Energy Consultants	(513) 777-5900 1-888-862-6060
Unresolved Disputes	Public Utilities Comm. (voice)	1-800-686-7826
Unresolved Disputes	Public Utilities Comm. TDD/TTY	1-800-686-1570
Unresolved Disputes – residential	Ohio Consumers’ Counsel	1-877-742-5622

(8) Members Moving Into/Within the Aggregation (New Customer)

Utility rules require that people moving into a different residence, new construction or otherwise, be assigned a new account number and be served for at least one month by the local utility before they can switch to a new supplier. The above-mentioned is an example of utility rules approved by the PUCO that will impact the operation of West Chester's aggregation program.

Residents and businesses that move into the Township will not be automatically included in the Township’s Program. The Township cannot guarantee the rates, terms and conditions to Members enrolling after the initial 21-day opt-out period. Members wishing to opt-in to the Program may

contact the Township or the CRNGS supplier to obtain enrollment information. There is, however,

no guarantee that customers opting-in at a later date will receive the same price, terms and conditions as did the initial participants. The selected CRNGS supplier's decision whether or not to extend an offer will be based, in part, on the market prices at the time of request.

Members who move within the Township limits and are assigned a new account number by Cinergy will be treated in the same manner as a new resident. They will not be automatically enrolled, but may contact the CRNGS supplier concerning re-enrollment. Once again, there is no guarantee that the CRNGS supplier will extend an offer, or an offer that is the same as that of the initial enrollees.

(9) Members Moving Within the Aggregation (Same Account Number)

The selected CRNGS supplier shall continue service at the same rate and under the same terms and conditions for any Member who relocates within the Township prior to the expiration of the contract term, providing that the Member notifies the CRNGS supplier of their desire to do so with thirty (30) days written notice. Moving within the Township may cause the Member to be served for a brief period of time by the local utility. The CRNGS supplier shall have the right to bill the participant for any associated switching fee imposed by Cinergy.

(10) Joining the Program at a Later Date

Members desiring to join the program at a later date during the midst of an ongoing supply agreement will be treated similar to Members moving into the Township. They will need to contact the Township or its supplier to obtain enrollment information. They will follow an opt-in approach. There is however, no guarantee that customers opting-in at a later date will receive the same price, terms and conditions as did the initial Members. Suppliers are unable to hold price offerings for an unlimited amount of time, and if the community asks for such a requirement, the price offering received from suppliers will be higher to reflect the greater risk. Residents opting-in to the Township's program will be responsible for knowing if there is a switching fee for leaving their current supplier.

In the event of a high rate of attrition from the Program or population growth within the Township, the Township may request the selected CRNGS supplier to conduct a subsequent opt-out campaign during the term of a supply agreement. If this were to occur, the opt-out notice would be sent to new eligible Members and would not be sent to anyone who had previously opted-out of the current supply agreement.

(C) Availability of Plan of Operation and Governance

The Township will maintain a copy of this Plan of Operation and Governance on file at its Administrative office. This Plan will be kept available for public inspection. It will, upon request, be copied for any existing or potential Members of the aggregation in accordance with the Township rules for copying public documents.

(D) Altering the Plan of Operation and Governance

The Township will not alter its Operation and Governance Plan in any way that would materially affect the customers of the aggregation without first providing notice to all affected Members and providing these Members the opportunity to opt-out of the aggregation according to the procedures established for the initial opt-out disclosure notice set forth in rule 4901:1-28-04 of the Administrative Code. In the

event of a material change, the Township will provide a notice explaining the changes to the plan, and informing the Members of their right to opt-out of the aggregation without penalty, and identifying the method and time frame for the customer to opt-out.

(E) Certification Prior To Sending Opt-out Notices

The Township will become certified as a Governmental Aggregator of natural gas (by the PUCO) prior to sending opt-out disclosure notices to potential Members of the Aggregation Program.

(F) Opt-out Disclosure Policies

Prior to including a customer's natural gas account or accounts in an aggregation, the Township in cooperation with the selected CRNGS supplier, will provide each eligible Member a written opt-out notice conforming to the requirements of Ohio Administrative Code Section 4901:1-21-17.

The Township in cooperation with the selected CRNGS supplier will provide each Member the opportunity to leave the program, free of charge, at least once every two years. The notice will follow the format and requirements of the initial opt-out notification and will include any changes to the price or terms and conditions of the program.

(G) Cooperation Between Natural Gas Companies and Governmental Aggregators

The success of the Township's Aggregation Program relies in part to the cooperation it receives from Cinergy. In addition to other tasks, Cinergy must turn over accurate customer data and perform the customer switching process in a timely manner. The Township will comply with O.A.C. section 4901:1-28-05, and will hold Cinergy to its obligations under the same.

(H) Termination of the Aggregation Program

The Natural Gas Aggregation Program may be terminated upon the termination or expiration of the supply contract without any extension, renewal or subsequent supply contract being negotiated. Each individual Member receiving natural gas supply service under the Program will receive notification 45-90 days prior to termination of the Program. In the event of termination, Members in the Township aggregation program would either return to Cinergy supply service or choose a CRNGS supplier on their own.

If the Township is unable to find a satisfactory offer at the end of an existing supply agreement, they have the option of maintaining their status as a Governmental Aggregator while they continue to seek offers for their Members.

The selected CRNGS suppliers will need to agree to notify the Township and negotiate with the Township at least 60 days in advance of attempting to terminate the agreement for any reasons other than (i) the scheduled end date or (ii) Force Majeure.

CERTIFICATE OF PUBLICATION

November 16, 2005

Date

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Emergency Reading

Date

November 22, 2005

Date

Second Reading

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