

**STATUTORY RESOLUTION NO. 01-2016**

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**RESOLUTION ADOPTING THE TOWNSHIP'S PLAN OF OPERATION AND GOVERNANCE FOR ELECTRIC GOVERNMENTAL AGGREGATION**

**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 Electric Aggregation Program for the purchase of electric on behalf of West Chester residents and businesses; and,

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

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

**WHEREAS**, this Board of Trustees established a governmental aggregation program with opt-out provisions pursuant to Section 4928.20 of the Ohio Revised Code for the residents, businesses and other electric consumers in the Township, as permitted by law; and

**WHEREAS**, the Board of Trustees for West Chester Township, Butler County, Ohio ("Board") desires to re-adopt a Plan of Operation and Governance for purposes of Electric Governmental Aggregation; and

**WHEREAS**, the Board has determined this resolution is in the best interest of West Chester Township's residents and eligible businesses and promotes the general welfare of said citizenry.


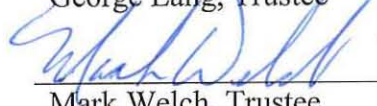
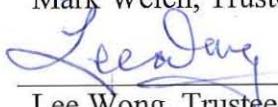
**NOW THEREFORE, BE IT RESOLVED** that the West Chester Township Board of Trustees hereby agrees to:

**SECTION 1.** Adopt and approve a Plan of Operations and Governance for Electric Governmental Aggregation as attached hereto (Exhibit A).

**SECTION 2.** Determine all prior resolutions and parts of resolutions which conflict with the provisions of this resolution are hereby repealed to the extent they are in conflict herewith.

**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 12th day of January, 2016.

 George Lang, Trustee	<u>YES</u> Yes/No
 Mark Welch, Trustee	<u>YES</u> Yes/No
 Lee Wong, Trustee	<u>Yes</u> Yes/No

**ATTEST:**

  
Bruce Jones, Fiscal Officer

**APPROVED AS TO FORM:**

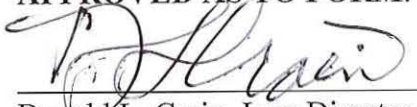
  
Donald L. Crain, Law Director

Exhibit A  
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# WEST CHESTER TOWNSHIP ELECTRIC AGGREGATION PROGRAM

## PLAN OF OPERATION AND GOVERNANCE

Exhibit A  
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**Purpose of Electric Aggregation Program and Services**

This aggregation plan has been developed in compliance with Ohio Revised Code, Section 4928.20 regarding governmental aggregation of electric service. That section of the Code defines two different types of aggregation that may be enacted by a governmental entity; opt-in aggregation and opt-out aggregation. The Township of West Chester ("the Township") will administer an opt-out aggregation program that will automatically include all eligible electric accounts receiving a beneficial offer from a Competitive Retail Electric Service Supplier (CRES Supplier). Those customers will be given prior notice entitling them to affirmatively elect not to be part of the Program.

The Township passed the necessary resolution to place the issue of Opt-out Governmental Aggregation of electricity on the November 8, 2005 ballot. The ballot issue subsequently passed by wide margin, receiving approximately 58 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 4928.20 (C) of the Ohio Revised Code.

The Township's Aggregation Program ("Program") seeks to aggregate the retail electric loads of consumers located in the Township to negotiate the best rates for the generation supply of electric power. With a Township population of approximately 60,000 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 a Competitive Retail Electric Service Supplier (CRES Supplier). Participation in the Program is voluntary. Any individual customer (Member) has the opportunity to decline to be a member of the aggregation program and to return to the Duke Energy standard offer of service or to enter into a power supply contract with any CRES Supplier.

Residential and small commercial electric customers often lack the ability to effectively negotiate electric 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 electric energy and to gain other favorable terms of service. The Township will not buy and resell the power to the Program Members. Instead, the Township will competitively bid and negotiate a contract with a CRES Supplier to provide firm, all-requirements generation service to the Members of the aggregation program.

Due to the complexity of deregulation of the electric utility industry, the Township has entered into a contract with Energy Alliances, Inc., 8469 Blue Ash Road, Suite 1, Cincinnati, Ohio 45236, (its "Consultant") a PUCO certified broker and aggregator of natural gas and electricity. Among other things, Energy Alliances, the certified broker, will provide these consulting services:

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

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- Administer the Request for Proposal process, analyze supplier responses and provide recommendations for the supply agreement
- Review customer data provided by Duke Energy that would serve as the basis for an opt-out notice
- Write/prepare reports on a quarterly/annual basis to the Township, PUCO, PUCO's Market Monitoring division, and the Ohio Consumers' Counsel.

**2. Determination of Rates and Other Charges**

2.1. Rates

Through the efforts of its Consultant, the Township will seek proposals from CRES suppliers. The request for proposals shall require the suppliers to offer a generation charge for firm, full-requirements supply. CRES Providers will bid by Duke Energy customer rate classification or customer class. CRES Providers will be encouraged to bid on as many electric 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 interval metering and individual price analysis. Furthermore, a CRES Provider may not be able to beat Duke Energy's tariff rates for all customer classes and/or rate schedules. The prices to be charged to Members in the Program will be set by Township Trustees after negotiations with the selected CRES Supplier. 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.

<b>Duke Energy Rate Schedule</b>	<b>CRES Supplier Offer Cents/kWh</b>
RS – Residential Service	
DM01– Secondary Distribution Service	
Other	

2.2 Charges

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.

Duke Energy will continue to bill for Late Payment, Delivery Charges, Transition Charges and Monthly Service Fee, etc. These charges apply whether or not a Member switches to the Program's CRES supplier. Switching generation suppliers will not result in any new charges billed to the Member.

2.3 Switching Fees

Should Duke Energy assess a switching fee for Members voluntarily remaining in the aggregation Program; the Request for Proposal will be written to require the selected supplier to pay the switching fee.

2.4 Early Termination Fee

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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 CRES supplier. Early termination fees are standard in most electric contracts. The Township will negotiate with the CRES supplier to ensure that any early termination fee assessed is reasonable and clearly stated in the opt-out disclosure notice.

### **3. Process for Providing Opt-Out Disclosure Notices**

When a successful supply offer is found the Township shall order the eligible customer list from Duke Energy. Duke Energy 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 CRES 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.

Prior to including a customer's electric account or accounts in an aggregation, the Township, in cooperation with the selected CRES 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 selected CRES 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 electric account mailing address shown on Duke Energy 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 (4) of Plan.

Following acceptance of an offer by the Township, the CRES supplier will mail Opt-Out Notices to eligible Members. 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.

In the event that an eligible Member is inadvertently not sent an Opt-Out Notice and is omitted from the Program, the CRES supplier shall, upon request, enroll the eligible Member at the group rate for the remaining term.

### **4. Determination of Eligible Customer Pool**

Under the opt-out aggregation provisions, all eligible electric 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:

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

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Duke Energy 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 CRES 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 Duke Energy data. The data shall be reviewed to see that all zip codes have been included, all streets included, all customer classes, all customer rate schedules, and finally that an expected total for a community of this population was turned over.
- Any suspected omissions will be reported to Duke Energy along with a request to furnish that data.

### **5. Opt-Out Process**

The Township is using an Opt-Out form of Governmental Aggregation pursuant to section 4928.20 of the Ohio Revised Code. Any such person that opts out of the aggregation program pursuant to stated procedure will default to the standard service offer provided by Duke Energy until the person chooses an alternative supplier.

When a successful supply offer is found the Township shall order the eligible customer list from Duke Energy. Duke Energy 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 CRES 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 CRES 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 CRES 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 electric account mailing address shown on Duke Energy'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 CRES supplier will mail opt-out notices to eligible Members receiving an 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 CRES supplier's toll-free recorded phone number to opt-out. The selected CRES supplier will not enroll those accounts opting out from the Program.



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In the event that an eligible Member is inadvertently not sent an Opt-Out Notice and is omitted from the Program, the CRES 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 three years.

Procedure Steps:

1. The selected CRES 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.
2. The selected supplier will distribute an Opt-Out Form to all eligible Members via first class U.S. Mail;
3. Recipients will have 21 days from the postmark on the notice to notify the selected CRES supplier if they do not want to be part of the Program;
4. Members will be able to opt out by (i) returning an opt-out card via U.S. Mail to the selected CRES supplier, and by (ii) making a toll-free recorded phone call to the CRES supplier informing them of their intention to opt-out
5. Additionally, Members who do not opt-out per step 4 above will receive written notification from Duke Energy stating that they are about to be switched. That notice will inform them that they have 7 days to rescind the contract by contacting Duke Energy; and
6. The selected CRES supplier will not enroll those accounts opting out from the Program.

The Opt-Out Notice will clearly notify the Program Members of the rates to be charged for electricity and other terms of the contract with the selected supplier. The notice will also satisfy the requirements for disclosing the environmental impact of the generation sources used to supply the program.

## 6. Customer Classes Included

All eligible Members are included in the Program but the selected CRES supplier's offer will determine which groups receive an offer and Opt-Out Notice. It is envisioned that residential and small commercial customers supplied by Duke Energy within the Township limits are the most likely to receive an offer. The specific rate schedules will be identified in Section 2 of this Plan of Operation. In addition to having a rate schedule listed in Section 2, the following eligibility requirements apply.

- Customers must be up to date with their bill payment;
- Customers must not have not opted out of the Program;
- Customers must not be on the Do Not Aggregate List;
- Customers must not be supplied generation service from another CRES provider;
- Customers must not be in the Percentage of Income Payment Program (PIPP);
- Commercial Customers must have a Peak Demand of less than 100 kW;
- Commercial Customers must not have interval metering; and.

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- Customers must meet eligibility requirements of a specific supplier offer, which may include a limitation based on their estimated Price to Compare from Duke Energy.

### 7. Billing Procedures

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

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

Members are required to remit and comply with the payment terms of Duke Energy 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 1½ percent per month for overdue balances owed to the selected Supplier.

### 8. Credit/Deposit Requirements

Collection and credit procedures remain the responsibility of the Duke Energy, the selected Supplier and the individual Member. Members are required to remit and comply with the payment terms of Duke Energy. 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.

### 9. Procedures for Handling Customer Complaints and Dispute Resolution

Members have multiple means of addressing complaints. As a general rule, concerns regarding service reliability should be directed to Duke Energy, questions regarding the Program administration should go to the Township, billing questions should be directed to Duke Energy/the selected supplier and any unresolved disputes should be directed to the Public Utilities Commission of Ohio and/or The Ohio Consumers' Counsel. Listed below is a table of toll-free numbers for members to call for assistance.

Nature of Complaint	Contact	Phone Number
Service interruptions or emergencies	Duke Energy	1-800-543-5599
Service turn on/off	Duke Energy	1-800-544-6900
Billing disputes – Delivery Charges	Duke Energy	1-800-544-6900
Billing disputes – Delivery Charges	Dynegy Energy Services	1-877-559-8033
Joining/Leaving Program	Dynegy Energy Services	1-877-559-8033
Aggregation Program Questions	West Chester Township Dynegy Energy Services	(513) 777-5900 1-877-559-8033

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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

**10. Moving Into/Within the Township of West Chester**

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 are examples 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 21-day opt-out period of the initial enrollees. Members wishing to opt-in to the Program may contact the Township or the CRES 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 CRES 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 Duke Energy will be treated in the same manner as a new resident. They will not be automatically enrolled, but may contact the CRES supplier concerning re-enrollment. Once again, there is no guarantee that the CRES Supplier will extend an offer, or an offer that is the same as that of the initial enrollees.

**11. Moving Within the Township and Maintaining the Same Account Number**

The selected CRES 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 CRES 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 CRES supplier shall have the right to bill the participant for any associated switching fee imposed by Duke Energy.

**12. Joining the Aggregation Group after Opting-Out**

Members who have left the aggregation group and wish to rejoin at a later date are treated in the same manner as new residents moving into West Chester. These customers may contact the Township or the CRES supplier at any time 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.

**13. Reliability of Power Supply**

The Program will only affect the generation source of power. Duke Energy will continue to deliver power through their transmission and distribution systems. Responsibility for maintaining system reliability continues to rest with Duke Energy. If Members have service reliability problems they should contact Duke Energy for repairs. The PUCO has established "Minimum Reliability Standards" for all utilities operating distribution systems in Ohio.

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Customer outages, duration of outages, interruptions, etc., are monitored to ensure reliability remains at satisfactory levels.

In addition to maintaining the "wires" system, Duke Energy is required to be the "Provider of Last Resort." This means, should the selected CRES supplier fail for any reason to deliver any or all of the electricity needed to serve the Members' needs, Duke Energy will immediately provide for the shortfall. Duke Energy would then bill the supplier for the power provided on their behalf. The Members would incur no additional cost.

#### 14. Supplier Qualification Selection Criteria

Only Suppliers meeting strict criteria will be considered.

- Suppliers will need to be certified by the Public Utilities Commission of Ohio
- Registered with Duke Energy 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 Duke Energy to support Governmental Aggregation Program transactions.
- Agree to hold harmless the Township from any financial obligations arising from the Program.
- The selected CRES supplier 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 CRES 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 CRES 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.

#### 15. Miscellaneous

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.

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The Township will not materially alter its Plan of Operation and Governance 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 4901:1-21-17 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.

The Township or the selected CRES supplier will not issue an Opt-Out Notice before the Township has obtained its certification as a Governmental Aggregator of electricity from the Public Utilities Commission of Ohio.

The success of the Township's Aggregation Program relies in part to the cooperation it receives from Duke Energy. In addition to other tasks, Duke Energy must turn over accurate customer data and perform the customer switching process in a timely manner. The Township will comply with PUCO rules, and will hold Duke Energy to its obligations under the same.

The Electric 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 electric 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 Duke Energy supply service or choose a CRES 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.