



LEGISLATIVE COVER MEMO

Introduction: May 1, 2023

Public Hearing: May 15, 2023

Effective Date: May 15, 2023

Agenda Item: **Ordinance 2023-17**

AN ORDINANCE AUTHORIZING ALL ACTIONS NECESSARY TO EFFECTUATE AN OPT-OUT GAS SERVICE AGGREGATION PROGRAM PURSUANT TO OHIO REVISED CODE 4929.26; AND DIRECTING THE WARREN COUNTY BOARD OF ELECTIONS TO SUBMIT THE QUESTION OF THE CITY'S AUTHORITY TO AGGREGATE TO THE CITY'S ELECTORS AT THE NOVEMBER 7, 2023 GENERAL ELECTION.

Submitted by: Khristi Dunn, Clerk of Council

Scope/Description: The City currently has an "Opt-Out" Governmental Aggregation Program for electricity, approved by the voters in November 2000. There is an average of 85% participation by those with eligible accounts.

If passed, this Ordinance would give voters the same option with Natural Gas. The issue would be placed on the November 7, 2023 General Election.

Vote Required for Passage: Per Section 4.03(b) of the City's Charter, the passage of this Ordinance requires the affirmative vote of a majority of members of Council present.

Budgetary Impact: None.

Recommendation: Approval

CITY OF FRANKLIN, OHIO
ORDINANCE 2023-17

AN ORDINANCE AUTHORIZING ALL ACTIONS NECESSARY TO EFFECTUATE AN OPT-OUT GAS SERVICE AGGREGATION PROGRAM PURSUANT TO OHIO REVISED CODE 4929.26; AND DIRECTING THE WARREN COUNTY BOARD OF ELECTIONS TO SUBMIT THE QUESTION OF THE CITY'S AUTHORITY TO AGGREGATE TO THE CITY'S ELECTORS AT THE NOVEMBER 7, 2023 GENERAL ELECTION.

WHEREAS, Ohio Revised Code 4929.26 authorizes the City of Franklin, Ohio to establish a program through which it may aggregate retail natural gas service for retail natural gas loads benefitting consumers located within the City's corporate boundaries, and for which there is a choice of supplier of that service as a result of revised schedules approved under R.C. 4929.29(C), rule or order adopted or issued by the public utilities commission (the "Commission") under R.C. Chapter 4905, or an exemption granted by the Commission under R.C. 4929.04 or 4929.08. For that purpose, the statute further authorizes the City to enter into service agreements to facilitate for those loads the sale and purchase of the service for the retail natural gas loads; and

WHEREAS, certain gas customers within the City may realize lower cost gas costs and other benefits from the aggregation and combined purchasing of gas supplies that they would not otherwise be able to have individually; and

WHEREAS, the City of Franklin desires to establish a retail natural gas aggregation program whereby natural gas load consumers located within the City shall be automatically enrolled therein, but shall have the opportunity to opt out of the program (the "Natural Gas Aggregation Program" or the "Program"); provided, however, no aggregation under the Program shall include the retail natural gas load of any person that meets any of the following criteria: (i) the person is both a distribution service customer and a mercantile customer on the date of commencement of service to the aggregated load, or the person becomes a distribution service customer after that date and also is a mercantile customer; (ii) the person is supplied with commodity sales service pursuant to a contract with a retail natural gas supplier that is in effect on the effective date of this Ordinance; or (iii) the person is supplied with commodity sales service as part of a retail natural gas load aggregation provided for pursuant to a rule or order adopted or issued by the Commission under R.C. Chapter 4929 or Chapter 4905; and

WHEREAS, the question of the City's authority to aggregate natural gas service in the manner provided in this Ordinance shall be submitted to City of Franklin electors on the November 7, 2023 ballot.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF FRANKLIN, OHIO, AS FOLLOWS:

Section 1. City Council finds and determines that it is in the best interests of the City and its residents to establish a Natural Gas Aggregation Program whereby natural gas load consumers located within the City shall be automatically enrolled therein, but shall have the opportunity to opt out of the program; provided, however, no aggregation under the Program shall include the retail natural gas load of any person that meets any of the following criteria: (i) the person is both a distribution service customer and a mercantile customer on the date of commencement of service to the aggregated load, or the person becomes a distribution service customer after that date and also is a mercantile customer; (ii) the person is supplied with commodity sales service pursuant to a contract with a retail natural gas supplier that is in effect on the effective date of this Ordinance; or (iii) the person is supplied with commodity sales service as part of a retail natural gas load aggregation provided for pursuant to a rule or order adopted or issued by the Commission under R.C. Chapter 4929 or Chapter 4905.

Section 2. Where a person's retail natural gas load is precluded from aggregation under the Program pursuant to Section 1 of this Ordinance, and circumstances change, such that the person is no longer

both a distribution service customer and a mercantile customer, or the commodity sales service contract or aggregation originally prohibiting participation in the Program expires, as applicable, such person's retail natural gas load may be included in aggregation under the Program.

Section 3. The question of the City's authority to aggregate natural gas service, as stated herein, shall be submitted to City of Franklin electors at the November 7, 2023 General Election. The City of Franklin Clerk of Council is hereby directed to deliver and file a certified copy of this Ordinance and the proposed form of the ballot question to the Warren County Board of Elections not later than ninety (90) days prior to the November 7, 2023 election day. The City shall not proceed with creating the Program unless the ballot question receives the approval of a majority of voting electors on November 7, 2023. The proposed form of the ballot question shall be:

Shall the City of Franklin have the authority to aggregate retail natural gas loads within the incorporated areas of the City, and establish a natural gas aggregation program, within which eligible consumers will be automatically enrolled unless such a consumer elects to opt out of the program?

Section 4. If a majority of voting electors approves the City's authority to establish the Natural Gas Aggregation Program, the City Manager and other appropriate City staff shall thereafter be authorized to take all necessary steps, and execute all necessary documents, to aggregate retail natural gas loads within the City's corporate boundaries in accordance with R.C. 4929.26, including but not limited to entering into service agreements to facilitate for those loads the sale and purchase of natural gas, alone or jointly with other political subdivisions of the State of Ohio.

Section 5. If a majority of voting electors approves the City's authority to establish the Natural Gas Aggregation Program, City Council shall develop a plan of operation and governance for the Program so authorized in accordance with R.C. 4929.26. Council shall hold at least two public hearings on the plan. Prior to the first public hearing, notice of the hearings shall be published once a week for two consecutive weeks in a newspaper of general circulation in the City, or as otherwise provided in R.C. 7.16. The public notice shall summarize Council's proposed plan of operation and governance for the Program; state the date, time, and location of each hearing thereon; and inform persons subject to automatic enrollment in the Program of their right to opt out of the Program.

Section 6. It is found that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council that resulted in this formal action were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code, and the Rules of Council.

Section 7. That this Ordinance shall become effective immediately following its passage.

INTRODUCED: May 1, 2023

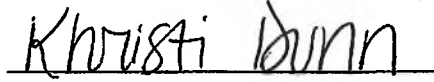
ADOPTED: May 15, 2023

ATTEST: Khristi Dunn
Khristi Dunn, Clerk of Council

APPROVED: Brent Centers
Brent Centers, Mayor

CERTIFICATE

I, the undersigned Clerk of Council for the Franklin City Council, do hereby certify that the foregoing is a true and correct copy of Ordinance 2023-17 passed by that body on May 15, 2023.



Khristi Dunn, Clerk of Council

APPROVED AS TO FORM:



Ben Yoder, Law Director