

ORDINANCE 14-7

AN ORDINANCE AUTHORIZING ALL ACTIONS NECESSARY TO EFFECTUATE AN OPT-OUT ELECTRIC SERVICE AGGREGATION PROGRAM PURSUANT TO OHIO REVISED CODE 4928.20; AND DIRECTING THE PERRY COUNTY BOARD OF ELECTIONS TO SUBMIT THE BALLOT QUESTION TO THE ELECTORS; AND AUTHORIZING AN AGREEMENT WITH AN AGENT FOR SUCH PURPOSES.

**WHEREAS**, pursuant to ORC Section 4928.20, the Municipality is authorized to act as an aggregator by establishing an automatic opt-out governmental aggregation program for the provision of competitive retail electric service for the benefit of certain electricity customers within the Municipality so that consumers may realize lower cost electricity supplies and other benefits from the aggregation and combined purchasing of electric supplies that they would not otherwise be able to have individually; and

**WHEREAS**, the Municipality may exercise such authority jointly with any other Municipality; and

**WHEREAS**, in the public interest, the Municipality desires to submit to the electors of the Municipality the question of whether the Municipality should create an Electric Aggregation program to facilitate competitive retail electric service to promote electricity savings, lower electric supplies, and other benefits in accordance with ORC Section 4928.20; and

**WHEREAS**, The Municipality has adopted this Ordinance pursuant to the authority conferred by Article XVIII Section 4 of the Ohio Constitution and ORC Section 4928.20.

**NOW THEREFORE, BE IT ORDAINED BY THE VILLAGE COUNCIL OF NEW LEXINGTON, OHIO, AS FOLLOWS:**

**Section 1.** The Village Council determines that it is in the best interest of the Village of New Lexington ("Municipality") and certain electric service consumers located within the incorporated areas of the Municipality to establish an opt-out electric service aggregation program (the "Program").

**Section 2.** That, provided that the ballot measure regarding the Program is approved by the electors of the Municipality pursuant to Section 9 of this Ordinance, the Municipality is hereby authorized to aggregated, in accordance with Ohio Revised Code 4928.20, the retail electric service loads located within the boundaries of the Municipality.

**Section 3.** That, for the Program, the City Manager or a duly designated authority or consultant is hereby authorized, on behalf of the Village Council, to enter into service agreements to facilitate the sale and purchase of service for electric loads.

**Section 4.** That the City Manager or a duly designated authority or consultant, on behalf of the Village Council may exercise such authority jointly with any other political subdivision of the State of Ohio, to the full extent permitted by law, and for such purpose, the City Manager or a duly designated authority or consultant is hereby authorized to execute and deliver any necessary agreement(s) with such other political subdivisions, if any, in order to establish such Program.

**Section 5.** That the Program does not apply to persons meeting any of the following criteria:

- A customer has opted out of the aggregation
- A customer in contract with a certified electric service company
- A customer that has a special contract with an electric distribution utility
- A customer that is not located within the governmental aggregator's governmental boundaries
- A customer is not eligible for the aggregation by utility or Public Utilities Commission of Ohio rules.

**Section 6.** That the Program authorized by this Ordinance shall not aggregate the retail electric loads of mercantile customers, as those customers are defined in ORC 4928.01, without prior, affirmative consent of each such customer within the boundaries of the Municipality subject to the Program

**Section 7.** That the Board of Elections of Perry County is hereby directed to submit the following question to the electors of the Municipality at the election to be held on **November 4, 2014:**

*Shall the Village of New Lexington have the authority to aggregate retail electric loads located within the governmental boundaries of the Village of New Lexington and enter into service agreements for the sale and purchase of electricity, such aggregation to occur automatically except where any person elects to opt out?*

Yes\_\_\_\_\_ No\_\_\_\_\_

**Section 8.** That the Village of New Lexington clerk is hereby directed to file this authorizing Ordinance and other related matters with the appropriate election officials no later than ninety (90) days prior to the **November 4, 2014** election as required by ORC 4928.20 (B). The Program shall not take effect unless approved by the majority of the electors voting upon the proposed ballot question at the election held pursuant to this section and ORC 4928.20.

**Section 9.** That, upon approval by a majority of electors voting at the election provided for in Section 8 of this Ordinance, the City Manager is hereby authorized to, individually or jointly, with any other political subdivisions in the state of Ohio, develop a plan of operation and governance for the Program.

**Section 10.** That at least two public hearings on the plan of operation and governance shall be held prior to taking a vote on adoption of the plan. Notice of the hearings 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 11.** No plan adopted by the Village Council shall aggregate any retail customers in the Municipality unless it in advance clearly discloses to the person whose retail electric service is to be so aggregated that the person will be enrolled automatically in the Program and will remain so enrolled unless the person affirmatively elects by a stated procedure not to be so enrolled. The disclosure shall state prominently the rates, charges, and other terms and conditions of the



enrollment. The stated procedure shall allow any person enrolled in the Program to opt out of the Program once every 36 months without paying a switching fee. Any such person that opts out of the Program pursuant to the stated procedure shall default to the electric distribution utility providing distribution service for the person's retail electric service load, until the person chooses an alternative supplier.

**Section 12:** That this Ordinance shall become effective immediately following its passage.

Passed:

7-7-14

Approved:

Billy Fletcher acting mayor  
Mayor/President/Chairman

Attest:

Risa Spohn