

**CITY OF LOVELAND  
MEMORANDUM**

**TO:** Mayor and Council

**FROM:** Tom Carroll, City Manager 

**RE:** Opt-Out Energy Aggregation Program, Memorandum 60

**DATE:** July 20, 2012

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This memorandum accompanies two emergency ordinances that, if passed, would refer the matter of opt-out energy aggregation to the Board of Elections for placement on the November 6, 2012 ballot. The memorandum offers an analysis of the costs of placing the matter on the ballot and further information on energy aggregation, supplementing City Manager Memorandum 56.

**Background**

City Manager Memorandum 56 provided City Council with information and analysis on energy aggregation programs for both retail electric and natural gas. Opt-out energy aggregation programs pool the buying power of all the accounts of a community to obtain a lower cost because collectively the accounts have greater market share. In an opt-out approach, the individual account holder has to take an affirmative action to contract with someone other than the aggregate provider.

For a government to participate in an opt-out energy aggregation program for either electric or natural gas, the issue must be placed before the voters. During discussion of opt-out energy aggregation at the July 10 City Council meeting, Council asked for information on the costs to place the issue on the ballot and details on the process that would follow voting should a majority of voters approve an energy aggregation program. These costs are outlined in the Financial Impact section of this memorandum.

**Policy Options**

Council may pass the ordinance by emergency as drafted, amend the ordinance and pass the amended ordinance by emergency, or reject the ordinance.

**Analysis**

If Council elects to place the issue of energy aggregation for retail electric and/or natural gas before the voters this November, and if a majority of voters approve it, the City would be able to begin an opt-out energy aggregation program. However, a majority vote does not mean the City is bound to create a program right away. Some municipalities have started the process to begin energy aggregation immediately after an affirmative vote, while others have waited several years.

These variances are dependent on the going rates for electric and natural gas at the time. For example, if energy aggregation would not provide rate savings for either electric or natural gas at a given time, then the City would not have to begin the program at that given time. On the other hand, if savings can be achieved, the City could then begin preparations for an aggregation program. If the issue is not put before the voters, then the City does not have such options.

Following an affirmative vote, municipalities must develop a plan addressing operation and governance for the program. In most cases, municipalities will work with a broker on these standard documents. Bigger cities, such as the City of Cincinnati, have completed the plans in-house. Before adopting such a plan, a minimum of two public hearings must be held. These public

hearings allow citizens a chance to offer their input on the plan. Following the hearings, the governing body may choose whether or not to pass the operation and governance plan.

A local government then must complete the Public Utilities Commission of Ohio (PUCO) application for governmental aggregator certification, including copies of the ordinance authorizing the formation of the governmental aggregation program, newspaper notices for public hearings on the plan of operation and governance, ordinance adopting the plan of operation and governance, the final plan of operation and governance, an opt-out notice, and the agreement between a supplier and the community.

The PUCO has 30 days to act upon the application or it is automatically approved. If approved, the PUCO will send a certificate to the community that is typically valid for two years. Recertification is required after its expiration date.

A notice specifying the rate and terms and conditions of the offer must be sent to consumers. The notice must also specify the procedure for consumers who wish to withdraw, or opt-out, from the aggregation program prior to its implementation.

These notices are not sent to those households that have individually contracted with an outside supplier on their own. If a household has a contract with another vendor, and that contract expires while the community energy aggregation program is ongoing, that household typically does not become automatically enrolled in the opt-out program. Said household could renew with its previous vendor or revert back to the regulated rate and then have an opportunity to participate in the opt-out program the next time the supplier contract is up for renewal. Some suppliers may work with these in-between cases to allow them to join the aggregation program during the life of the contract, but it depends on the supplier. Provisions about these cases, as well as those for new residents who move to the community during the life of the contract, may be negotiated between the community and the supplier.

If a household receives a notice and opts out during the established opt-out period, that household does not incur any penalties. If a household enrolls in the community aggregation program and opts out before the end date of the agreement, that household may pay a penalty. Again, these procedures depend on the supplier, and are subject to negotiation. Springfield Township was successful in negotiating with its supplier a no penalty agreement for households leaving the program early.

When an energy aggregation program contract is up for renewal—typically every two years—a local government retains the right to seek a new supplier or to suspend the program. These choices are made based on the prevailing market rates and whether or not aggregation offers savings at the time.

### **Fiscal Impact**

City Council has authorized the Board of Elections to place before the voters an income tax increase option for the November 6, 2012 election. The cost of placing this first issue on the ballot is approximately \$4,800. The cost of an additional issue is \$300 per issue. If Council elected to place both the electric and natural gas issues on the ballot at a combined cost of \$600, the City will spend \$5,400 on election expenses in 2012. The City budgeted \$7,000 for elections in 2012. The City has not incurred any election expenses since it spent \$6,955 in November of 2010.

### **Legislative Process**

If City Council wishes to place this matter before the voters on November 6, 2012, Council would have to formally refer this matter to the Board of Elections by August 7. Accordingly, Council would be required to pass one or both ordinances by emergency at the July 24 meeting, or hold a special meeting before August 7 and pass one or both ordinances by emergency at that special

meeting. An emergency ordinance shall require concurrence of six members of Council and shall be effective immediately.

**Recommendation**

Staff recommends that Council place this matter on the November 6, 2012, ballot by adopting the ordinances by emergency at the July 24 meeting as submitted.

**Attachments**

None

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