

**VILLAGE OF YELLOW SPRINGS  
ORDINANCE 2005-08**

**AN ORDINANCE AMENDING APPROVAL OF THE PLAN TO OPERATE AND GOVERN THE VILLAGE OF YELLOW SPRINGS' NATURAL GAS AGGREGATION PROGRAM**

**WHEREAS**, on May 6, 2003, the electors of the Village of Yellow Springs approved of the Village's plan to create an aggregation program for customers located within the boundaries of the Village of Yellow Springs; and

**WHEREAS**, on July 7, 2003, the Village Council adopted Ordinance 2003-10, which implemented a plan to operate and govern the Natural Gas Aggregation Program for the Village of Yellow Springs, pursuant to Chapter 4929 of the Ohio Revised Code; and

**WHEREAS**, Revised Code 4929.26(C) requires a governmental entity interested in the automatic registration of customers under governmental aggregation, subject to customer rights to "opt-out" of such an aggregation, to adopt a plan of operation and governance for its aggregation program; and

**WHEREAS**, minor changes are being recommended by Amp-Ohio for the Natural Gas Aggregation Program, to be submitted to the State of Ohio in July, 2005.

**NOW, THEREFORE, THE COUNCIL OF THE VILLAGE OF YELLOW SPRINGS, OHIO HEREBY ORDAINS THAT:**

**Section 1.** That this Council hereby adopts the amended Village of Yellow Springs Plan of Operation and Governance, (attached hereto and incorporated herein by reference as Exhibit A) for the implementation and administration of the Village's municipal gas aggregation program in accordance with Revised Code 4929.26(C).

**Section 2.** That the Village Manager is authorized to sign documents on behalf of the Village of Yellow Springs, and that the Village's aggregation program shall thereafter commence in accordance with the adopted Plan of Operation and Governance that has been established pursuant to Revised Code Chapter 4929.

\_\_\_\_\_  
Tony Arnett, President of Council

Passed:

Attest: \_\_\_\_\_  
Deborah Benning, Clerk of Council

ROLL CALL:

Arnett \_\_\_\_\_ Rickenbach \_\_\_\_\_ Alexander \_\_\_\_\_ Hardman \_\_\_\_\_ Swinger \_\_\_\_\_

Exhibit A

# VILLAGE OF YELLOW SPRINGS

## PLAN OF OPERATION AND GOVERNANCE FOR MUNICIPAL OPT-OUT NATURAL GAS AGGREGATION

ADOPTED BY VILLAGE COUNCIL  
(July 7, 2003)

## **Overview**

At the May 6, 2003 general election, local residents authorized the Village of Yellow Springs (the Village) to create a municipal opt-out natural gas aggregation program (the Aggregation Program) in compliance with Section 4929.26 of the Ohio Revised Code. Under the opt-out natural gas aggregation program, all eligible natural gas consumers within the Village's corporation limits will be automatically included in the Aggregation Program initially. However, all consumers will also be given the opportunity to opt-out or decline participation in the Aggregation Program as detailed herein.

The Village's purpose in creating the Aggregation Program is to represent local consumer interests in emerging competitive natural gas markets by aggregating natural gas loads within the Village's corporation limits (including municipal facilities) and negotiating affordable, reliable natural gas supplies and other related services on behalf of local consumers. The Village may pursue this purpose individually or in cooperation with other entities.

Many small commercial and residential natural gas consumers lack the leverage to effectively negotiate natural gas supply rates and services. A governmental aggregation program provides them with an option for professional representation and the bargaining power of a larger, more diverse consumer group that may be more attractive to suppliers, allowing them to effectively participate in the competitive process and achieve benefits.

### **1. Description of Services**

The Aggregation Program is designed to reduce the amount a consumer pays for natural gas energy, and to gain other favorable economic and non-economic terms in service contracts. The Village will not buy and resell natural gas, but will represent collective consumer interests to set terms and conditions for service. Through a negotiation process, the Village will develop a contract with a Competitive Retail Natural Gas Services Provider (CRNGS Provider) or Providers for firm all-requirements natural gas service. Once the contract has been finalized, it will be submitted to the Yellow Springs Village Council for approval.

The Aggregation Program covers the natural gas supply portion only of a participant's natural gas bill. Vectren Energy Delivery of Ohio (VEDO) will continue to deliver natural gas to Aggregation Program participants' homes and businesses through its natural gas distribution system as a monopoly function regulated by the Public Utilities Commission of Ohio (PUCO). VEDO will also continue to install, operate and maintain its system of pipelines, Rights of Way, meters and other natural gas distribution components. Aggregation Program participants should continue to call VEDO if their natural gas is interrupted or if they have billing questions. The PUCO will continue to oversee VEDO natural gas safety and reliability service standards.

Oversight of the Aggregation Program will be the responsibility of the Village Manager, who shall report to the Village Council. The Village Manager, subject to Village Council approval, will have the authority to develop specifications for the Aggregation Program, to appoint an

Aggregation Program Manager, and to select, hire and manage the CRNGS Provider. The CRNGS Provider and the Aggregation Program Manager will work under the direction of the Village Manager with the advice and counsel of the Village Attorney.

Due to the complexity of the natural gas utility industry and the uncertainties of its associated restructuring activities, the Village of Yellow Springs may contract with a consultant or consultants to provide the necessary expertise to represent the Village's interest in legislative and regulatory matters and/or to serve as the Aggregation Program Manager. Such services may include, but are not limited to, facilitating consumer enrollment and opt-out, assisting with consumer education, addressing consumer questions and concerns, providing reports on program operation, enrollment and savings, negotiating future CRNGS Provider contracts, and representing the Village in dealings with CRNGS Providers, VEDO, the Ohio Legislature, the PUCO and the Ohio Consumer's Counsel (OCC).

The Village deems any and all information related to an eligible customer to be confidential and proprietary trade secret information. The CRNGS Provider shall keep all eligible customer information provided to it by the Village or VEDO in supplying eligible customers within the Village's corporation limit confidential and shall not disclose such information to any third party, unless such disclosure is required to serve any eligible customer, the third party agrees to keep such eligible customer information confidential, and the Village consents to the disclosure of such information to the third party.

The Village will require any CRNGS Provider to disclose any subcontractors that it uses in fulfillment of the services described herein.

The CRNGS Provider will provide a local or toll free telephone number for participant questions and concerns about enrollment, opt-out provisions, billing and other Aggregation Program issues.

The CRNGS Provider will develop internal controls and processes to help ensure that the Village remains in good standing as a governmental aggregator that complies with all laws, rules and regulations regarding the same as they may be periodically amended.

Natural gas service reliability is an essential to Aggregation Program participants. The Village will strive to provide high-quality service and reliability through provisions of the CRNGS Provider contract, through traditional proceedings related to VEDO distribution services; and through direct discussions with VEDO concerning specific or general problems related to quality and reliability of its distribution system.

If for any reason a CRNGS Provider fails to provide uninterrupted service, the Village will attempt to acquire an alternative natural gas supply. If this attempt fails, participants will default to VEDO established tariff rates. In no case will participants be without natural gas as the result of the CRNGS Provider's failure to provide uninterrupted service. The Village will seek to minimize this risk by contracting only with reputable CRNGS Providers that demonstrate reliable service. The Village also intends to include conditions in its CRNGS Provider contract that will indemnify participants against risks or problems with natural gas supply service and price.

All Aggregation Program participants shall enjoy the protections of law afforded to consumers as they currently exist or as they may be amended from time to time. These include rights to question billings or service quality or service practices. All program participants shall also enjoy the individual right to decline participation in the Aggregation Program subject to the terms and conditions contained herein.

All Aggregation Program participants will be treated equitably. They will be guaranteed the right to raise and resolve disputes with the CRNGS Provider, be provided all required notices and information; and always retain the right to opt-out of the Aggregation Program or switch suppliers subject to the terms and conditions contained herein.

All consumers within the Village's corporation limits shall be eligible to participate in the Aggregation Program subject to the terms and conditions described herein, Ohio law, PUCO rules and regulation governing natural gas service, and VEDO approved tariffs.

Service under the Aggregation Program shall include all eligible customer classes in adherence with universal service principles and requirements, and the traditional non-discriminatory practices of local government. CRNGS Provider contracts shall contain provisions to maintain these principles and equitable treatment of all customer classes.

Low-income consumers shall remain subject to all provisions of Ohio law and PUCO rules and regulations as they may be amended from time to time regarding their rights to return to VEDO General Service and participation in the Aggregation Program.

The Village developed this Plan of Operation and Governance in compliance with Ohio law regarding municipal opt-out aggregation of natural gas consumers, including two public hearings prior to its adoption.

The Yellow Springs Village Council shall approve through resolution or ordinance the Aggregation Program's Plan of Operation and Governance in accordance with Ohio Revised Code Section 4929.26. Amendments to the Plan of Operation and Governance may be subject to Yellow Springs Village Council approval and filing with the PUCO.

After adoption of the Plan of Operation and Governance, the Village will file with the PUCO for governmental aggregator certification and also register as a governmental aggregator with VEDO.

Aggregation Program participants are subject to the same standards and responsibilities as other natural gas consumers, including payment of billings and access to metering and other equipment necessary to carry out utility operations.

The Aggregation Program may be discontinued upon the termination or expiration of the CRNGS Provider contract without any extension, renewal or subsequent contract being executed. In the event of Aggregation Program termination, each participant will receive notification at least 60 days prior to such program termination and could return to VEDO General Service Rate or select another approved CRNGS Provider.

## **2. Determination of Rates**

The Village will not buy and resell natural gas to Aggregation Program participants. The Village will aggregate natural gas loads within the Village's corporation limits including municipal facilities. Through a competitive selection process, the Village will develop and negotiate a contract with a CRNGS Provider or Providers for firm, all-requirements service. The contract will contain mutually agreeable price terms for affordable, reliable natural gas supplies and other related services. The Village may pursue this purpose individually or in cooperation with other entities. Contracts will be monitored by the Village on behalf of consumers.

CRNGS Providers will supply information on natural gas supply charges by VEDO customer rate classification or other appropriate pricing category as approved by the Village. All natural gas supply charges will be fully and prominently disclosed in consumer enrollment materials and will be subject to approval by the Yellow Springs Village Council.

The Village will contract only with a CRNGS Provider or Providers that meet at a minimum the following criteria:

Certified CRNGS Provider by the PUCO

Registered with VEDO

Have a service agreement under VEDO Gas Transportation Service Tariff

Successfully completed Electronic Data Interchange (EDI) computer system testing with VEDO and that CRNGS Provider's EDI computer system is capable of effectively processing Aggregation Program EDI transactions in a timely manner

Meet standards of creditworthiness established by the Village

Have a customer call center capable of effectively handling participants' questions, concerns and disputes in a timely manner using a toll-free telephone number

Hold the Village harmless from any financial obligations arising from offering natural gas and/or energy-related services to Aggregation Program participants

The CRNGS Provider's contract will run for a fixed term (i.e., one to five years) and contain all pricing, charges, switching fees, etc. in clear and easily understood terms.

The CRNGS Provider's rates will include an administrative fee, which shall (if implemented) be collected on behalf of the Village to fund the implementation and administration of the Village's Aggregation Program. The administrative fee will be adjusted annually to cover the Village's cost of administering the program. The fee will be reviewed annually to ensure that the amounts collected do not exceed the cost of administering the aggregation program.

VEDO assigns customer rate classifications, character of service, and associated regulated rates subject to PUCO approved tariffs. In addition to the CRNGS Provider's gas service charges, consumers will continue to be billed for VEDO service and delivery charges. Although the Village may participate in regulatory proceedings and represent the interests of consumers regarding these regulated rates, it cannot assign or alter customer rate classifications.

### **3. Plan for Providing Opt-out Notice**

Initially, each eligible consumer within the Village's corporation limits will be automatically included in the Aggregation Program. However, prior to actual enrollment, each consumer will receive a notice from the Village detailing the Aggregation Program's rates, terms and conditions.

Each consumer will then have a 30-day period to opt-out of or decline to participate in the Aggregation Program without charge. Consumers opting out of the program will remain on Vectren Energy Delivery of Ohio's (VEDO) established tariff rates until such time as they select an approved CRNGS Provider. A similar opt-out period will be offered every two years during which time consumers can leave the Aggregation Program without paying **an early termination** fee.

### **4. Process for Determining the Pool of Customers**

After contract approval by the Yellow Springs Village Council, the CRNGS Provider will work with the Village and VEDO to identify all eligible consumers within the Village's corporation limits.

All eligible consumers will be notified of the rates, charges and other terms and conditions of participation in the Aggregation Program and that they will be automatically enrolled in the Aggregation Program unless they "opt out" or decline participation in the program. Consumers will be given a 30-day period in which to notify the Village that they wish to opt out or decline participation in the Aggregation Program.

After the initial 30-day opt-out period has elapsed, all eligible consumers who have not notified the Village of their desire to opt out of the Aggregation Program will be enrolled by the CRNGS Provider at the earliest date practicable.

Consumers enrolled in the Aggregation Program by the CRNGS Provider will receive a letter from VEDO notifying them of their enrollment. Consumers will have seven calendar days to notify VEDO of any objection to their enrollment in the Aggregation Program. VEDO will notify the CRNGS Provider of consumer objections or any reason that a consumer was not enrolled in the Aggregation Program.

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

- Are not currently buying gas from another supplier;
- Are up to date with their bill payments;

- Have not opted out of the program;
- Currently have service with VEDO;
- Are classified as non-mercantile;
- Have not exercised their right of rescission, or;
- Are not on the Percentage of Income Payment Plan (PIPP).

New members may opt into the Program upon contract expiration with an alternate supplier. These members will need to contact the CRNGS Provider for enrollment information. The CRNG Provider has a right of refusal in accordance with criteria described in this plan.

The CRNGS Provider will build and maintain a database of all Aggregation Program participants. The database will include the name, address and VEDO account number and may include other pertinent information as agreed upon by the Village and the CRNGS Provider. Such information may include the CRNGS Provider's account number (if different from VEDO account number), rate code, rider code (if applicable), most recent 12 months of natural gas consumption, and meter reading cycle. The Aggregation Program database will be updated at least quarterly. The Village will have the right to access information in the database for purposes of auditing.

The CRNGS Provider will report to the Village the status of Aggregation Program enrollment on at least a monthly basis.

Participants who wish to leave the Aggregation Program may do so:

- During the initial 30-day opt-out period;
- During the seven day rescission period;
- During subsequent opt-out period offered by the Village at least every two years;
- At any other time; however an early termination fee may be assessed.

In addition to the initial 30-day opt-out period described above, each participant will be given an opportunity to opt out of the Aggregation Program every two years without paying an early termination fee. Consumers who choose to opt out of the Aggregation Program at any time other than during the initial 30-day opt-out period or during subsequent opt-out periods offered by the Village may be subject to an early termination fee.

Any consumer who opts out of the Aggregation Program will be returned to VEDO established tariff rates until such time as the consumer selects another approved CRNGS Provider.

## **5. Customer Billing Procedures**

The Village plans to utilize VEDO consolidated billing service in which each consumer account receives one bill itemizing the CRNGS Provider's natural gas supply charges and VEDO delivery, transition and other PUCO-approved charges. The billing statement will be consistent with applicable PUCO rules and regulations. The Village will consider other billing options,

including CRNGS Provider consolidated billing, if and when they become available and if it appears advantageous to do so.

**6. Credit and Deposit Policies**

Collection, credit and deposit procedures remain the responsibility of the Local Utility, the selected supplier and the individual member. Members are required to remit and comply with the payment terms of the local utility. This program will not be responsible for late or no payment on the part of any of its members. The Municipality will have no separate credit or deposit policy. The selected supplier shall not charge more than 1 ½ percent per month for overdue balances owed to the selected supplier.

**7. Governmental Aggregator’s Customer Service Procedures and Dispute Resolution**

The Aggregation Program only impacts the source of natural gas supply. VEDO will continue to deliver the natural gas purchased through the Aggregation Program to participants’ homes and businesses through its natural gas distribution system. Participants with question or concerns regarding service delivery or safety, such as a natural gas outage or odor of gas should continue to contact VEDO at 800-227-1376. Meter reading or other billing questions should also be directed to VEDO at the same number. Questions regarding Aggregation Program enrollment or opting out should be directed to the CRNGS Provider. General questions and concerns should be directed to either the office of the Village Manager, Village of Yellow Springs, or Gregory Slone at AMPO, Inc. Disputes unresolved by the aforementioned parties, should be directed to either the Ohio Consumer’s Counsel or the Public Utilities Commission of Ohio. The following table gives toll-free telephone numbers for use by consumers.

Question or Concern	Contact	Telephone Number
Natural gas outage or interruption	VEDO	800-227-1376
Turn natural gas on or off	VEDO	800-227-1376
Meter reading/billing	VEDO	800-227-1376
To enroll in or opt-out of the Aggregation Program	CRNS Provider Interstate Gas Supply Hours: Mon – Fri: 8:00 AM –	800 280-4474

	5:00 PM	
Aggregation Program Questions or concerns	Village Manager	937 767-3401
Unresolved disputes (residential customers)	Ohio Consumer's Counsel	877-742-5622 occ@occ.state.oh.us
Unresolved disputes (all customers)	Public Utilities Commission of Ohio	(800)-686-7826 (voice) (800)-686-1570 (TDD)

### **8. Members Moving Into/Within the Aggregation (New Account Number)**

Consumers who move into the Village after the initial opt-out period will be not be automatically included in the Program, but will be afforded an opportunity to enroll. However, the Village cannot guarantee that the rates, terms and conditions to consumers enrolling in the Aggregation Program after the initial 30-day opt-out period will match those of the initial enrollees.

The same rule will apply to participants who move within the Village after the initial opt-out period, **if** they are given a new account number by VEDO. That is, they will not be automatically include in the Program, but will be given an opportunity to re-enroll under a new set of rates, terms and conditions.

### **9. Members Moving Within the Aggregation (Same Account Number)**

Participants who relocate within the Village limits and retain the same VEDO account number, will be allowed to continue in the Aggregation Program at their new location under the same terms and conditions as at their former location, subject to any switching fees imposed by VEDO.

### **Joining the Program at a Later Date (Opting-In)**

Residents of the Village who initially choose to opt-out of the Program, for whatever reason, and wish to enroll at a later date, will be treated the same as a new resident. That is, they will not automatically become part of the existing program, but will be given an opportunity to enroll. However, the Village cannot guarantee that rates, terms and conditions to consumers enrolling in the Aggregation Program after the initial 30-day opt-out period will match those of the initial enrollees.

## **DEFINITIONS**

### *Aggregation*

Combining the natural gas loads of multiple customers for the purposes of supplying or arranging for the supply of competitive retail natural gas service to those customers.

### *Aggregation Program Manager*

The person or entity designated by the Village to oversee the operation and management of the Village of Yellow Springs's Municipal Natural gas Aggregation Program.

### *Competitive Retail Natural Gas Service (CRNGS)*

A component of retail natural gas service deemed competitive under the Ohio Revised Code or pursuant to an order of the PUCO. This includes but is not limited to the services provided by competitive retail natural gas service providers, natural gas marketers, aggregators and governmental aggregators.

### *Competitive Retail Natural gas Service Provider (CRNGS Provider)*

A person or entity certified by the PUCO and registered with VEDO who supplies or offers to supply a competitive retail natural gas service over the VEDO natural gas distribution system. This term does not apply to VEDO in its provision of standard offer natural gas service.

### *Consumer*

Any person or entity that is an end user of natural gas and is connected to any part of VEDO natural gas distribution system within the Village of Yellow Springs's corporation limits.

### *Delivery Charge*

Charge imposed by VEDO for delivering natural gas to a consumer's home or business. The charge includes meter reading, billing, transition costs, maintaining natural gas system reliability and responding during emergencies and outages (also called the distribution charge).

### *Distribution*

Delivery of natural gas to a home or business through VEDO owned pipelines, meters and other equipment. VEDO distribution system operations will remain regulated by the PUCO.

### *Governmental Aggregator*

An incorporated village or Village, township or county acting as an aggregator for the provision of a CRNGS under authority conferred under Section 4929.26 of the Ohio Revised Code.

#### *Mercantile Customer*

**A customer that consumes, other than for residential use, more than five hundred thousand cubic feet of natural gas per year at a single location within the state; or a customer that has three or more location within the state that consume natural gas, other than for residential use.**

#### *Natural Gas Related Service*

Service directly related to the consumption of natural gas at a consumer's home or business. This may include, but is not limited to, the installation of metering, remote reading indices, regulation; the maintenance, repair or replacement of appliances and other energy-consuming devices at a consumer's premises, and the provision of energy consumption measurement and billing services.

#### *Natural gas Supply Charge*

All charges related to the acquisition of natural gas by the CRNGS Provider, and its delivery to the Village's distribution system.

#### *Ohio Consumers' Counsel (OCC)*

The Ohio Consumers' Counsel (OCC), established by the Ohio Legislature in 1976, represents the interests of Ohio's four million residential utility customers served by investor-owned utilities in proceedings before the PUCO, other regulatory agencies and in the courts. The OCC also educates consumers about utility issues and resolves complaints individuals have with investor-owned utility companies.

#### *Participant*

A consumer enrolled in the Village of Yellow Springs's Municipal Natural gas Aggregation Program.

#### *Public Utilities Commission of Ohio (PUCO)*

The state agency charged with assuring all consumers (residential commercial and industrial) served by investor-owned utilities have access to adequate, safe, and reliable utility services at fair prices. The PUCO regulates a wide variety of investor-owned utilities, including natural gas, electricity, pipeline, heating/cooling, local telephone, long distance telephone, waterworks, wastewater, railroad, household goods carriers, water transportation, hazardous materials carriers, and commercial transportation carriers.

