

ORDINANCE NO. 130-2017 (MS),
Second Reading

By Council Member Yasinow

An Ordinance approving the Plan of Operation and Governance for the Northeast Ohio Public Energy Council (“NOPEC”) Gas Aggregation Program for the purpose of jointly establishing and implementing a gas aggregation program; and declaring an emergency.

WHEREAS, this Council previously enacted legislation authorizing the City of Cleveland Heights (the “City”) to establish a Gas Aggregation Program pursuant to Section 4929.26, Ohio Revised Code (the “Gas Aggregation Program”), for the eligible residents, businesses and other gas consumers in the City, and for that purpose, to act jointly with any other municipal corporation, city, county or other political subdivision of the State of Ohio, as permitted by law; and

WHEREAS, this Council previously enacted legislation authorizing the City to join the Northeast Ohio Public Energy Council so that the City will be able to act jointly with other member political subdivisions and thereby maximize the potential benefits of gas deregulation through group purchasing efforts; and

WHEREAS, on behalf of this Council pursuant to Section 4929.26, Ohio Revised Code, two (2) public hearings have been held on the Plan of Operation and Governance for the NOPEC Gas Aggregation Program.

BE IT ORDAINED by the Council of the City of Cleveland Heights, Ohio, that:

SECTION 1. This Council hereby finds and determines that it is in the best interest of the City and its residents, including the gas consumers located within the City, to adopt the Plan of Operation and Governance of the Northeast Ohio Public Energy Council (“NOPEC”) Gas Aggregation Program, attached hereto as Exhibit A, for the purpose of establishing and implementing the Gas Aggregation Program in the City.

SECTION 2. Notice of the passage of this Ordinance shall be given by publishing the title and abstract of its contents, prepared by the Director of Law, once in one newspaper of general circulation in the City of Cleveland Heights.

SECTION 3. This Ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health and safety of the inhabitants of the City of Cleveland Heights, such emergency being to maximize the potential benefits of gas deregulation through the Gas Aggregation Program of NOPEC, as provided herein. Wherefore, provided it receives the affirmative vote of five (5) or more of the members elected or appointed to this Council, this Ordinance shall take effect and be in force immediately upon its passage; otherwise, it shall take effect and be in force from and after the earliest time allowed by law.

ORDINANCE NO. 130-2017 (MS)

CAROL ANN ROE, Mayor
President of Council

LAURIE SABIN
Clerk of Council

PASSED: January 2, 2018

EXHIBIT A

Northeast Ohio Public Energy Council
NATURAL GAS AGGREGATION PROGRAM
PLAN OF OPERATION & GOVERNANCE
For Member Communities

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Purpose of the Plan of Operation and Governance

This Natural Gas Aggregation Program Plan of Operation and Governance (“Natural Gas Plan”) has been prepared by the Northeast Ohio Public Energy Council (“NOPEC”) on behalf of its approximately 131 member communities in compliance with Ohio law regarding government aggregation of natural gas customers (the “Natural Gas Aggregation Program”). The Natural Gas Plan contains information on the structure, governance, operations, management, funding, and policies of the Natural Gas Aggregation Program to be utilized for participating customers in member communities.

NOPEC’s purpose in preparing this Natural Gas Plan is to describe the uniform approach to a customer Natural Gas Aggregation Program undertaken by its member communities. Through NOPEC, the member communities seek to represent customer interests in competitive markets for natural gas. NOPEC seeks to aggregate customers to negotiate the best rates available for the supply and distribution of natural gas and to advance customer protection for all eligible residents, schools, churches, businesses and industries, and governmental entities. NOPEC acts as agent for its member communities and oversees managerial, technical, and financial resources to acquire service and financial guarantees sufficient to protect customers and the natural gas distribution utility.

Combining customer interests of the NOPEC member communities increases leverage, resources, and buying power of participating customers in member communities. Under the proposed opt-out Natural Gas Aggregation Program, participation is voluntary for each individual customer in a member community. Any individual customer will have the opportunity to decline service provided through the Natural Gas Aggregation Program and choose any natural gas supplier they wish at the outset of the program and every two years thereafter. New member communities shall have the opportunity to join NOPEC.

The Natural Gas Plan was adopted after public hearings were held in accordance with Section 4929.26(C) of the Ohio Revised Code.

1. Overview

1.1. Ohio Law

Ohio law enacted in 2001 allows for competitive purchase of retail natural gas supply. Section 4929.26 of the Ohio Revised Code (“R.C.”) allows municipalities, townships, and/or counties to develop governmental natural gas aggregation programs providing options for customers in those communities to join together and utilize their combined purchasing power to competitively acquire firm all-requirements retail natural gas supply. Communities undertaking development of this option are known as “government aggregators”. The law allows communities acting as government aggregators to join together and combine their resources for development and implementation of a Natural Gas Aggregation Program.

The law contains several requirements for government aggregators. One general requirement is to develop a plan of operation and governance for the Natural Gas Aggregation Program. The plan of operation and governance is subject to approval and certification by the Public Utilities Commission of Ohio (“PUCO”). The Natural Gas Plan describes the Natural Gas Aggregation Program to be utilized for participating customers in NOPEC communities.

1.2. Description of the Natural Gas Aggregation Program

The Natural Gas Aggregation Program involves the acquisition of competitive retail natural gas supply. Distribution services (metering, billing, maintenance of the gas transmission and distribution system) will continue as the function of the local distribution company. The local distribution company shall also be the “provider of last resort” for customers not participating in the Natural Gas Aggregation Program who have no other competitive supplier. The NOPEC Natural Gas Aggregation Program has been undertaken as an “opt-out” program that requires authorization of communities and their constituents in a public process. All eligible customers will be included in the Natural Gas Aggregation Program unless they choose to “opt-out” as described in section 2.4.1 of this Natural Gas Plan.

The Natural Gas Aggregation Program has been undertaken at two levels. At the local level, communities wishing to be government aggregators have authorized the opt-out Natural Gas Aggregation Program in a public process as required by law and outlined below in Section 1.3 of the Natural Gas Plan. At the regional level, communities wishing to proceed jointly with a Natural Gas Aggregation Program have formed NOPEC as a regional council of governments under Chapter 167 of the Ohio Revised Code, which the communities have authorized to perform as their agent for development and implementation of the Natural Gas Aggregation Program. The operations of the Natural Gas Aggregation Program are described in Section 2 of the Natural Gas Plan, and the governance of the program is described in Section 3 of the Natural Gas Plan.

1.3. Steps Required by the Law

The process of establishing government aggregation involves a multi-step public process undertaken by the member communities or jointly through NOPEC on their behalf:

- 1.3.1.** Local legislative body passes ordinance or resolution authorizing Natural Gas Aggregation Program for customers;
- 1.3.2.** The ordinance or resolution must authorize the local board of elections to submit the question of whether to aggregate to the electors at a special election on the day of the next primary or general election, and be submitted to the local Board of Elections not less than 90 days before the day of the special election;

- 1.3.3. The ordinance or resolution authorizing opt-out aggregation is placed before voters at a special election, or in a referendum petition; approval of a majority of electors voting on the ordinance or resolution is required; or if by petition, signatures of not less than ten percent of the total number of electors in the respective community who voted for the office of Governor in the preceding general election;
- 1.3.4. Develop a plan of operation and governance and submit the plan of operation and governance to the PUCO for certification;
- 1.3.5. Publish notice of public hearing on the plan of operation and governance once a week for two consecutive weeks before the first public hearing on the plan of operation and governance (providing a summary of the plan of operation and governance and the date, time, and location of each hearing);
- 1.3.6. Hold two public hearings on the initial plan of operation and governance;
- 1.3.7. Adopt plan of operation and governance;
- 1.3.8. Notify eligible customers of automatic enrollment and opt-out period prior to service under the Natural Gas Aggregation Program (notification is to state the rates, charges, and other terms and conditions of enrollment);
- 1.3.9. Any enrolled customer participating in the Natural Gas Aggregation Program will have the opportunity to opt-out of the Natural Gas Aggregation Program every two years, without paying a switching fee.

1.4. Practical Steps and Requirements of the Competitive Market

Practical steps and requirements of acquiring natural gas supply in the competitive market include the following activities to be undertaken by NOPEC acting as agent for member communities, and the contracted NOPEC Natural Gas Aggregation Program supplier(s) (the “Supplier(s)”):

- 1.4.1. Proposals submitted by Suppliers and negotiations undertaken with Suppliers by NOPEC and legal and technical advisors;
- 1.4.2. NOPEC selection of Supplier(s) and execution of Supply Contract(s);
- 1.4.3. Acquisition of electronic list of eligible customers in member communities from the natural gas distribution utility;

- 1.4.4. Notification of opt-out process undertaken by NOPEC and selected Supplier(s) via U.S. mail and utilizing electronic customer list addresses;
- 1.4.5. Electronic customer list revised by NOPEC Supplier(s) who remove responding opt-out customers from the list;
- 1.4.6. Revised electronic customer list transmitted back to the natural gas distribution utility for customer transfer;
- 1.4.7. The natural gas distribution utility completes administrative transfer of participating customers (via revised electronic list) to NOPEC Supplier(s);
- 1.4.8. Firm all-requirements retail natural gas supply service initiated to participating customers based on terms and conditions of Supply Contract(s);
- 1.4.9. NOPEC and legal and technical advisors monitor contract for compliance;
- 1.4.10. NOPEC acts to protect interests of participating customers in member communities.

2. Description of Natural Gas Aggregation Program Goals and Operation

2.1. Natural Gas Aggregation Program Goals

The NOPEC member community goals for the Natural Gas Aggregation Program are stated below. These goals guide the decisions of the NOPEC Assembly and Board of Directors:

- To provide an option for aggregation of all eligible customers on a non-discriminatory basis;
- To allow those eligible customers who choose not to participate to opt-out;
- To acquire the best market rate available for natural gas supply;
- To provide customer education and enhance customer protection and options for service under contract provisions;
- To provide managerial, technical, and financial resources to acquire service and financial guarantees sufficient to protect customers and the natural gas distribution utility;

- To improve quality and reliability of service;
- To utilize and encourage demand-side management and other forms of energy efficiency through contract provisions and organizational policies;
- To advance specific community goals that may be selected from time to time;
- To provide full public accountability to customers, and;
- To utilize local government powers and authorities to achieve these goals.

2.2. Natural Gas Aggregation Program Operations

The Natural Gas Aggregation Program is designed to reduce the amount participating customers pay for natural gas, and to gain other favorable economic and non-economic terms in service contracts, including financial guarantees to protect customers and the distribution utility. NOPEC shall seek fixed and/or variable energy prices for each class of customers that may be lower than the comparable price available from the local distribution company or other suppliers. Large commercial and industrial customers, due to the varying characteristics of their gas consumption, may receive individual prices from the selected Supplier(s).

As agent for its members, NOPEC does not buy and resell natural gas, but represents customer interests as a master purchasing agent to set the terms for natural gas supply and service from a competitive Supplier(s). Through a negotiation process, NOPEC develops a contract with a competitive Supplier for firm, all-requirements retail natural gas supply service. The contract is expected to be for a fixed term. NOPEC may contract with one or more Suppliers to meet the needs of participating customers in member communities.

2.3. Natural Gas Aggregation Program Funding

NOPEC offers member communities the opportunity to gain market leverage, share resources, and reduce administrative and other costs for developing; implementing and providing oversight for the Natural Gas Aggregation Program. Funding for these activities is anticipated to be provided by the selected Supplier(s) with an appropriate per mcf (or ccf) NOPEC administrative fee, depending on the unit that is used by the gas distribution company that serves the customer, to cover costs of the Natural Gas Aggregation Program. Such funds will be collected by the Supplier(s) and paid to NOPEC. In the event additional funding for NOPEC is required, each NOPEC member may be assessed an annual fee pursuant to the agreement establishing NOPEC. The funding will be utilized for all Natural Gas Aggregation Program operations.

2.4. Consumer Participation

An “eligible customer” shall be a customer that is eligible to participate in a governmental aggregation in accordance with R.C. 4929.26 and R.C. 4929.27 and Rule

4901:1-28-01 of the Ohio Administrative Code. Persons ineligible for governmental aggregation include:

- A person that is both a distribution service customer and a mercantile customer at the start of the service to the governmental aggregation;
- A mercantile customer that becomes a distribution service customer after the start of service to the governmental aggregation;
- A person under contract with a retail natural gas supplier in effect on the effective date of the ordinance or resolution authorizing opt-out aggregation; and
- A person already being supplied with natural gas commodity sales service as part of another governmental aggregation.

Eligible customers shall be notified of the Natural Gas Aggregation Program and terms and conditions of participation prior to initiation of services and be provided an opportunity to “opt-out” at no cost during a 21 day period specified in the terms and conditions of the Supply Contract(s). During this 21 day opt-out period, customers may choose another competing supplier, or receive service from their local distribution company. Participating customers will be given the opportunity every two years after the initiation of service to opt-out. Participating customers who choose to opt-out of the Natural Gas Aggregation Program after the initial 21 day period, but prior to the next two-year opt-out opportunity, may face an exit charge which will be described in the opt-out notification.

Consumers who move to a NOPEC member community (including those who move from another NOPEC member community), and are considered by the local distribution company to be new eligible gas customers, may participate in the Natural Gas Aggregation Program at the existing price and terms offered for that customer class, or other terms specified under the Supply Contract. Such new gas customer can also choose to opt-out of the Natural Gas Aggregation Program at no charge during the initial 21 day period after the relocation and at subsequent opt-out periods every two years.

New member communities may also join the NOPEC Natural Gas Aggregation Program under prices and terms contained in an existing Supply Contract, however such prices may be higher than for those communities which have joined at the outset of the contract.

2.4.1. Notification of Consumers

Prior to initiation of service, all eligible customers shall be notified of the opt-out terms. The process of notification shall be as follows:

- (1) a separate mailing;

- (2) newspaper notices;
- (3) public service announcements; and
- (4) posting of prominent notice in the local government office building in each member community.

Prior to enrollment, the notification shall be mailed in a timely manner for receipt by customers prior to their start-of-service day. The opt-out period shall be 21 days from the notice's postmarked date (or, if none, the mailing date). The notification shall include:

- 1) A summary of the actions that NOPEC took to authorize the Natural Gas Aggregation Plan.
- 2) A description of the services that NOPEC will provide under the Natural Gas Aggregation Plan.
- 3) Disclosure of the price that NOPEC will charge customers for competitive retail natural gas service.
- 4) An itemized list and explanation of all fees and charges that are not incorporated into the rates and that the governmental aggregator will charge the customer for participating in the aggregation, including any applicable switching fees or early termination penalties.
- 5) Disclosure of the dates covered by the aggregation, including an estimated service commencement date and notice that the customer may opt-out of the aggregation at least every two years without penalty.
- 6) Disclosure of credit and/or deposit requirements, if any.
- 7) Disclosure of limitations or conditions on customer acceptance into the aggregation, if any.
- 8) A description of the opt-out process and statement that the opt-out period will last for 21 days from the date of the postmark on the written notice;
- 9) A local or toll-free telephone number that customers can call with questions regarding the formation or operation of the aggregation, including associated calling hours;
- 10) Language on the front cover of the envelope or postcard stating: "Important natural gas aggregation information;" and
- 11) A consumer-friendly form to check off sign, and return within 21 days to indicate a decision to opt-out of the Aggregation Program.

Consumers who do not return the opt-out form shall be automatically included in the Natural Gas Aggregation Program.

2.4.2. Activation of Customer Service in a Member Community

The process of activation is an administrative function with four parts: 1) Data preparation: On an electronic list consistent with Electronic Data Interface protocols, the natural gas distribution utility will identify all eligible customers in the member community; 2) Data verification: To the extent needed, if not inherent in data preparation, the natural gas distribution utility shall check customer meter numbers and other codes to verify proper eligible customer identification; 3) List Adjustment: Following the opt-out process, the selected Supplier(s) shall remove all customers who choose to opt-out from the electronic customer list; and 4) Automatic Enrollment: The revised electronic customer list shall be transmitted back to the natural gas distribution utility for customer transfer to the selected Supplier(s).

Eligible customers on all billing cycles will be enrolled with the selected Supplier(s) consistent with the beginning of a new billing cycle. Service under the selected Supplier(s) shall begin at the start of the billing period following transfer. Service starts that do not match the billing cycle may be requested by a customer, but may incur additional charges from the local distribution company.

2.4.3. New Individual Customers

Eligible customers who relocate to a NOPEC member community shall be included in the Natural Gas Aggregation Program, subject to their opportunity to opt-out. New customers shall be informed of this opt-out opportunity by the natural gas distribution utility when they sign-up for new service. The natural gas distribution utility shall notify the selected Supplier(s) of the new request for service, and the selected Supplier(s) shall provide standard opt-out notification materials to the new customer.

2.4.3.1. Eligible customers who relocate within NOPEC and are not assigned a new account number by the incumbent natural gas company shall maintain the rate that the customer was charged at the previous location or, if the rate at the new location is higher than the customer's previous location, the customer shall have the right to opt-out of the aggregation without penalty.

2.4.3.2. An eligible customer who had previously opted out of the aggregation may subsequently be permitted to join the National Gas Aggregation under prices and terms contained in an existing Supply Contract, however such prices may be higher than for those customers who have joined at the outset of the contract.

2.4.4. Customer Switching Fee

The selected Supplier(s) shall be responsible for payment of any customer switching fee imposed by the incumbent natural gas distribution utility.

2.4.5. Individual Customer Termination of Participation

In addition to the opportunity to opt-out of the Natural Gas Aggregation Program prior to start up of service, an individual customer will be given an opportunity to opt-out at no charge every two years after start up of service. Consumers who move from a member community will have no penalties or exit fees. However, an individual customer who chooses to opt-out during the period between start-up and the two year opportunity to opt-out may be required to pay an exit fee.

2.4.6. Service Termination by Supplier

Consistent with the requirements of Ohio law and the regulations of the PUCO, termination of service may take place for non-payment of bills. Customers whose natural gas supply is terminated by a selected Supplier will receive natural gas supply from their local distribution company, unless the local distribution company has also met state requirements to terminate service. Customers may be considered for re-enrollment in the Natural Gas Aggregation Program once they have met the requirements of law and are current on bill payment.

2.4.7. Termination of the NOPEC Member Natural Gas Aggregation Program

The NOPEC Natural Gas Aggregation Program may be terminated for participating customers in two ways:

- 1) Upon the termination or expiration of the natural gas supply contract for all member communities without any extension, renewal, or subsequent supply contract being negotiated; or
- 2) At the decision of an individual member community to withdraw from its membership in NOPEC.

In any event of termination, each individual customer receiving natural gas supply services under the Natural Gas Aggregation Program will receive notification of termination of the program ninety (90) days prior to such termination. Customers who are terminated from the Natural Gas Aggregation Program shall receive natural gas supply from the local distribution company unless they choose an alternative supplier.

NOPEC shall utilize appropriate processes for entering, modifying, enforcing, and terminating agreements pertinent to the Natural Gas Aggregation Program consistent with the requirements of local ordinances or resolutions, state and federal law. Other agreements shall be entered, modified, or terminated in compliance with law and according to the express provisions of any negotiated agreements.

2.5. Customer Care

2.5.1. Universal Access

“Universal access” is a term derived from the traditional regulated utility environment in which all customers desiring service receive that service. For the purpose of the NOPEC Natural Gas Aggregation Program, this will mean that all eligible customers within the borders of a member community, and all new eligible customers in a member community, shall be eligible for service from the contracted supplier under the terms and conditions of the Supply Contract.

2.5.2. Rates

Under PUCO orders, the local distribution company assigns the customer classification and corresponding character of service and associated regulated rates. These rates include a monthly customer charge, a distribution charge, and other applicable charges. Although NOPEC may participate in regulatory proceedings and represent the interests of customers regarding these regulated rates, it will not assign or alter existing customer classifications without the approval of the PUCO.

The focus of the NOPEC Natural Gas Aggregation Program, as noted above, will be acquisition of competitive prices and terms for natural gas supply. The prices will be set through a contract negotiation process, and will be indicated on the customer bill as the “natural gas supply charge”. The natural gas supply charge for each customer class, or any customer grouping by load factor or other appropriate pricing category, is expected to be

competitive with the local gas utility's and other suppliers' natural gas commodity rate(s). All Supplier charges to the customer will be fully and prominently disclosed under the notification process.

2.5.3. Costs To Consumers

Consumer bills will reflect all charges for the administrative costs of the Natural Gas Aggregation Program, if applicable. As noted in section 2.3, the program is expected to be funded by a per mcf (or ccf) administrative fee, depending on the unit that is used by the gas distribution company that serves the customer. The fee will be provided by the Supplier(s) to NOPEC. This charge will cover program costs for any necessary technical or legal assistance for the Natural Gas Aggregation Program.

Additional charges may be levied by the selected Supplier(s), the local distribution company, and PUCO-approved local distribution tariffs.

2.5.4. Consumer Protections

Regarding all issues of customer protection (including provisions relating to slamming and blocking), NOPEC will ensure that the selected Supplier(s) complies with all statutes, rules and regulations currently in place and as may be amended from time to time. NOPEC will provide on-going customer education in member communities through public service announcements, posting of information, media press releases, advertising, and direct mailing depending upon the subject and appropriate venue. NOPEC will also assist member communities with all required notifications, information, and public hearings.

2.5.4.1. Contract Disclosure

NOPEC will ensure that customers are provided with adequate, accurate and understandable pricing and terms and conditions of service, including any switching fees, opt-out opportunities, including the conditions under which a customer may rescind a contract without penalty.

2.5.4.2. Billing and Service Assistance

The selected Supplier(s) shall utilize the billing services of the local distribution company to render timely billings to each participating customer. Separate bills from the selected Supplier(s) and the local distribution company may also be requested for large commercial and industrial customers, but such separate bills may incur an additional charge from the selected Supplier(s).

All bills at a minimum shall include the following information: (1) price and total billing units for the billing period and historical annual usage; (2) to the maximum extent practicable, separate listing of each service component to enable a customer to recalculate its bill for accuracy; (3) identification of the supplier of each service; (4) statement of where and

how payment may be made and (5) a toll-free or local customer assistance and complaint number for the Supplier, as well as a customer assistance telephone numbers for state agencies, such as the PUCO, and the Office of the Consumers' Counsel, with the available hours noted.

Credit, deposit, and collection processes concerning billing will remain the sole responsibility of the selected Supplier(s) and the local distribution company as provided by state law. Under no circumstances shall NOPEC have any responsibility for payment of any bills.

Unless otherwise specified in the Supply Contract, all billing shall be based on the meter readings generated by meters of the distribution company at the customer facilities. Consumer bills shall be rendered monthly. Customers are required to remit and comply with the payment terms of the natural gas distribution utility and/or the Supplier(s). Billing may take place through the distribution company at the Supplier's option. In the event that necessary billing data is not received from the distribution company in time to prepare monthly bills, the Supplier reserves the right to issue a bill based on an estimate of the participating customer's usage for that billing period. Any over-charge or under-charge will be accounted for in the next billing period for which actual meter data is available.

2.5.4.3. Standard Terms and Conditions Pertaining to Individual Account Service

The following customer protection provisions are anticipated to be contained in a Supply Contract.

A. Title: Title to and risk of loss with respect to the natural gas will transfer from Supplier(s) to participating customers at the point-of-sale which is the customer side of the meter.

B. Initiation of Supply Service: Natural Gas deliveries pursuant to the Supply Contract will begin on the first meter reading date following the scheduled initiation of service date for each rate class or customer group, or individual customer as described in the Supply Contract, or as soon as necessary arrangements can be made with the distribution company thereafter and will end on the last meter reading date prior to the expiration date. The Supplier has the right to request a "special" meter reading by the distribution company to initiate energy delivery and agrees to accept all costs (if any) for such meter reading. The participating customer also has such a right, and similarly would bear the costs (if any) of such special meter reading.

C. Standard Limitation of Liability: Recognizing that natural gas provided under the Supply Contract shall be ultimately delivered by the distribution company, to the extent permitted by law, the Supplier shall not be liable for any damage to a participating customer's equipment or facilities, or any economic losses, resulting directly or indirectly from any

service interruption, discontinuance of service, irregular service or similar problems beyond the Supplier's reasonable control. To the extent permitted by law, except as expressly stated in the Supply Contract, the Supplier will make no representation or warranty, express or implied (including warranty of merchantability or of fitness for a particular purpose), with respect to the provision of services and natural gas.

D. Service Reliability and Related Supplier Obligations: Given the increasing interest in and need for high levels of reliability, the Supply Contract will help assure that participating customers in NOPEC member communities receive natural gas supply with reliability equal to that of firm customers of the distribution company. The Supplier is providing metered natural gas commodity services, and participating customers must rely upon the distribution company for ultimate delivery of gas. However, within the scope of natural gas supplier obligations, the Supplier shall take or adopt all reasonable steps or measures to avoid any unnecessary service interruptions, curtailments of natural gas supply, and any other interference or disruption of natural gas supply to the Point-of-Delivery. In addition to language to be included in the Supply Contract, NOPEC will help to assure reliability through participation in proceedings related to the natural gas distribution utility's regulated and distribution services and through direct discussions with the natural gas distribution utility concerning specific or general problems related to quality and reliability of distribution service.

E: Marketing and Solicitation Limitations: Participating customers will be protected from unwanted marketing solicitations by: (a) a prohibition that the selected Supplier(s) may not sell or exchange the customer's name/address/or other identifying information to third parties without NOPEC's prior written consent; (b) an opportunity for each participating customer to check off a box rejecting additional mail solicitations from the Supplier (if the solicitation is via U S mail or other printed means) or an opportunity to request removal from a telephone solicitation list.

2.5.4.4. Protection of Consumers and Risk Associated with Competitive Market

In a competitive market, it is possible that the failure of a natural gas supplier to deliver service may result in the need for customers to acquire alternative natural gas supply, or for customers to receive gas at market prices. NOPEC will seek to minimize this risk by recommending only reputable Suppliers which demonstrate financial strength and the highest probability of reliable service. NOPEC also intends to include provisions in its contract with selected Supplier(s) that will protect customers against risks or problems with natural gas supply service.

2.5.4.5. Resolution of Consumer Complaints

It is important that customer complaints be directed to the proper party. The selected Supplier(s) shall ensure that each participating customer receives a printed copy of a toll-free number to call regarding service problems or billing questions. The Supplier shall refer

reliability, repair, or service interruption, and billing issues to the local distribution company. The Supplier shall handle all complaints in accordance with applicable laws and regulations. Problems regarding the selected Supplier(s) can be directed to NOPEC or the PUCO. Customers may contact the Public Utilities Commission of Ohio for assistance at 1-800-686-7826 (toll free) or for TTY at 1-800-686-1570 (toll free) from 8:00 a.m. to 5:00 p.m. weekdays, or at www.PUCO.ohio.gov. Residential customers may also contact the Ohio Consumers' Counsel for assistance with complaints and utility issues at 1-877-742-5622 (toll free) from 8:00 a.m. to 5:00 p.m. weekdays, or at www.pickocc.org. Customers may also visit NOPEC's web site at www.nopecinfo.org. As noted below, NOPEC will continue to monitor the selected Supplier(s) for compliance with customer protection provisions in the Supply Contract and timely resolution of customer problems.

2.5.4.6. Periodic Reports on Consumer Complaints

NOPEC shall act to monitor and enforce customer protection provisions included in the Supply Contract. At the request of NOPEC, the selected Supplier(s) shall provide a periodic summary of the number and types of customer service issues and complaints that arose to date, and the status of resolution of those issues and complaints. If such reports indicate problems in the selected Supplier's service, NOPEC will pursue timely remedial action, or consider the Supplier in breach of Supply Contract terms.

2.5.4.7. Modifications to NOPEC's Plan

All material modifications to this Plan shall be approved by majority vote of the NOPEC Board of Directors and ratified by a majority vote of the NOPEC Assembly. By adopting this Plan, NOPEC member communities agree that future modifications to the Plan resulting from changes in law or regulations may be made by NOPEC without further action by the Assembly or Board of Directors.

2.6. Rights and Responsibilities of Program Participants

2.6.1. Rights

All Natural Gas Aggregation Program participants shall enjoy the protections of customer law as they currently exist or as they may be amended from time to time. Under protocols developed by the PUCO, problems related to billing or service shall be directed to the appropriate parties: the distribution utility or the selected Supplier(s).

2.6.2. Responsibilities

All Natural Gas Aggregation Program participants shall meet all standards and responsibilities required by the PUCO, including timely payment of billings and access to essential metering and other equipment to carry out utility operations.

2.6.2.1. Taxes

The selected Supplier(s) shall include on the participating customer's bill and remit to the appropriate authority all sales, gross receipts, or excise or similar taxes imposed with respect to the consumption of natural gas. Participating customers shall be responsible for all taxes (except for taxes on the Supplier's income). Participating customers shall be responsible for identifying and requesting any applicable exemption from the collection of any tax by providing appropriate documentation to the Supplier.

3. Organizational Structure and Governance of the Natural Gas Aggregation Program

3.1. Description of Organization and Management of Natural Gas Aggregation Program

Each NOPEC member community has one representative on the NOPEC Assembly, which serves as the legislative body for the organization. Assembly members from each county represented in the membership of NOPEC elect a member to the Board of Directors.

NOPEC acts as agent for member communities to establish the Natural Gas Aggregation Program in accordance with law and to provide managerial, technical, and financial resources to acquire service and financial guarantees sufficient to protect customers and the electric distribution utility. NOPEC has developed a firmly based organization and employed legal and technical assistance from experienced and highly reputable firms to undertake service acquisition.

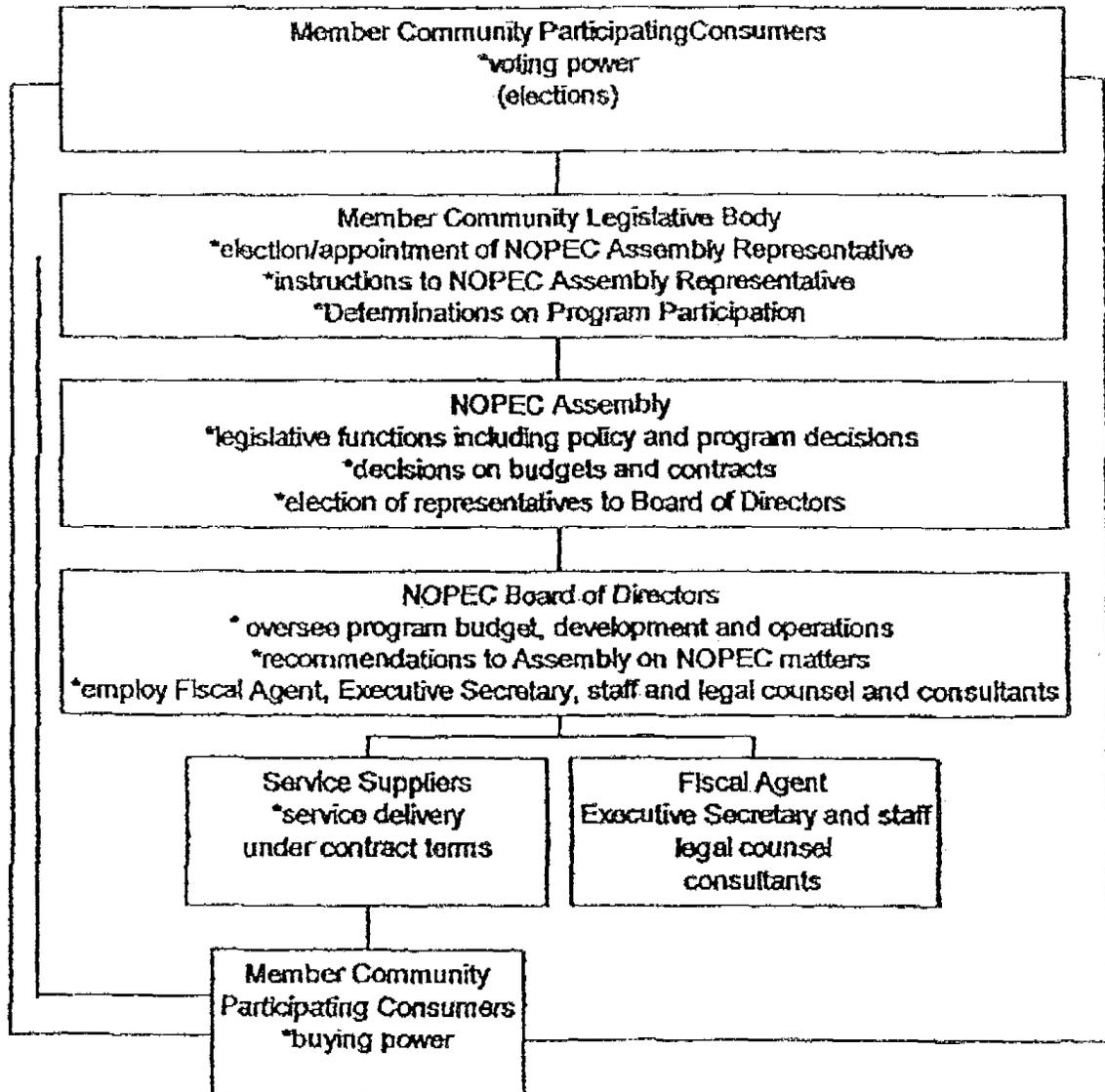
NOPEC's legal counsel, Bricker & Eckler LLP, handles the legal needs of energy producers, energy customers in both the public and the private sector, as well as new energy marketers, providing legal services ranging from representation in regulatory proceedings, to negotiating new contractual relationships, to handling the acquisition, disposition and financing of energy businesses and facilities. Bricker & Eckler LLP has advised numerous Ohio political subdivisions in connection with the deregulation of energy markets in Ohio, and developed particular expertise in issues facing governmental aggregators..

The Board of Directors of NOPEC oversees the implementation and operation of the Natural Gas Aggregation Program consistent with the provisions of the Ohio Revised Code and the Bylaws of the NOPEC organization. The Board of Directors, with the approval of the Assembly, may also develop additional programs for members. The organization may employ a Fiscal Agent and Executive Director and staff, if such are determined to be necessary by the Board, and sufficient budget has been provided.

3.2. Outline of Structure

The following chart represents the organizational structure for the NOPEC Natural Gas Aggregation Program as indicated in the organizational chart. The function of each level is described below.

NOPEC Member Natural Gas Aggregation Program Organizational Structure



3.3. Description of Program Organizational Structure

3.4. Member Community Participating Customers

Consumers can influence their respective community and its functions. They can elect candidates to local legislative boards who may take positions regarding the government Natural Gas Aggregation Program. They can express their views to their local elected officials. They can participate in local and state meetings and hearings regarding issues related to the member community's Natural Gas Aggregation Program.

3.5. Member Community Legislative Body

Local officials may act on program and policy issues. They may individually choose to participate in additional programs of NOPEC, or terminate the community's participation in NOPEC. In addition, they may provide instructions to their representative on the NOPEC Assembly regarding specific policy or program decisions. They may also raise issues directed to them by customers for the NOPEC Assembly and Board to address.

3.6. NOPEC Assembly

The NOPEC Assembly acts as the legislative body of NOPEC including decisions on policy, budget, and other matters directed to it by the Board of Directors.

3.7. NOPEC Board of Directors

The NOPEC Board of Directors oversees the implementation and operation of all aspects of the Natural Gas Aggregation Program. The Board of Directors provides recommendations regarding contracts, the budget and other matters to the Assembly. It approves purchases of equipment, facilities, or services within the approved budget and employs and provides instruction to the Fiscal Agent, Executive Secretary, staff, legal counsel and consultants.

3.8. Fiscal Agent, Executive Director and Staff, Legal Counsel and Consultants

The Fiscal Agent, Executive Director and staff, legal counsel and consultants act upon the instructions of the Board of Directors to carry out development and implementation of programs, contract monitoring, and reporting on program status.

3.9. Service Supplier(s)

Service suppliers contract with NOPEC to provide retail natural gas supply to participating customers in member communities, or other specified services. Contractors report to NOPEC and carry out services in adherence to contract provisions.

3.10. Member Community Participating Consumers

Participating customers in member communities will benefit from the market leverage of the group, and the professional representation and customer protections provided under the negotiated service contracts. Individual customers may opt-out of participation and may also bring issues before their local legislative body.