

SPONSOR: Evans/Smith

ORDINANCE NO. 8-09

AN ORDINANCE TO ALLOW ONLY THE CITY OF JACKSON, OHIO TO AGGREGATE DEMAND RESPONSE OF RETAIL CUSTOMERS IN ACCORDANCE WITH FERC ORDER 719 AND TAKING OTHER ACTIONS IN CONNECTION THEREWITH, AND DECLARING AN EMERGENCY.

WHEREAS, the City of Jackson, Ohio (hereinafter "Municipality") owns and operates an electric utility system for the sale of electric power and associated energy for the benefit of its citizens and taxpayers; and

WHEREAS, On October 28, 2008 the Federal Energy Regulatory Commission ("FERC" or "Commission") issued Order No. 719, 125 FERC ¶ 61,071, 73 Fed. Reg. 64,099 ("Order 719").

WHEREAS, Order 719, 18 C.F.R. § 35.28(g)(1)(iii) provides: "Each Commission-approved independent system operator and regional transmission organization must permit a qualified aggregator of retail customers to bid demand response on behalf of retail customers directly into the Commission-approved independent system operator's or regional transmission organization's organized markets, unless the laws and regulations of the relevant electric retail regulatory authority expressly do not permit a retail customer to participate."

WHEREAS, Order No. 719, 18 C.F.R. § 35.28(g)(1)(i)(A) provides: "Every Commission-approved independent system operator or regional transmission organization that operates organized markets based on competitive bidding for energy imbalance, spinning reserves, supplemental reserves, reactive power and voltage control, or regulation and frequency response ancillary services (or its functional equivalent in the Commission-approved independent system operator's or regional transmission organization's tariff) must accept bids from demand response resources in these markets for that product on a basis comparable to any other resources, if the demand response resource meets the necessary technical requirements under the tariff, and submits a bid under the Commission-approved independent system operator's or regional transmission organization's bidding rules at or below the market-clearing price, unless not permitted by the laws or regulations of the relevant electric retail regulatory authority."

WHEREAS, the Council of the Municipality has determined that it would be harmful to the demand response program to be implemented by the Municipality, the collective interests of the Municipality's electric utility system, and the Municipality's retail customers, to permit any entity other than the Municipality to aggregate demand response on behalf of its retail customers.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF JACKSON, STATE OF OHIO, as follows:

Section 1. The Council of the Municipality, as the retail electric regulatory authority for the Municipality and its retail electric consumers, determines it to be desirable that the aggregation of demand response on behalf of its retail customers to be bid directly into the organized electric and ancillary services markets administered by the regional transmission organization that includes the Municipality (or any successor independent system operator or regional transmission organization) be performed by the Municipality or its authorized designee.

Section 2. The Municipality or its authorized designee is the sole entity permitted to aggregate retail customers' demand response and bid demand response on behalf of retail customers of the Municipality directly into any Commission-approved independent system operator's or regional transmission organization's organized electric markets.

Section 3. Retail customers on the Municipality's electric system desiring to bid their demand response into a Commission-approved independent system operator's or regional transmission organization's organized electric markets may do so only by participating in the program established by the Municipality or its authorized designee.

Section 4. The Municipality or its authorized designee is the sole entity permitted to bid demand response on behalf of retail customers of the Municipality directly into any Commission-approved independent system operator's or regional transmission organization's organized markets for energy imbalance, spinning reserves, supplemental reserves, reactive power and voltage control, or regulation and frequency response ancillary services (or its functional equivalent in the Commission-approved independent system operator's or regional transmission organization's tariff).

Section 5. Retail customers of the Municipality's electric system desiring to bid their demand response into a Commission-approved independent system operator's or regional transmission organization's organized markets for energy imbalance, spinning reserves, supplemental reserves, reactive power and voltage control, or regulation and frequency response ancillary services (or its functional equivalent in the Commission-approved independent system operator's or regional transmission organization's tariff) may do so only by participating in the program established by the Municipality or its authorized designee

Section 6. That it is found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were taken in an open meeting of this Council and that all deliberations of this Council and of any committees that resulted in those formal actions were in meetings open to the public, in compliance with all legal requirements.

Section 7. If any section, subsection, paragraph, clause or provision or any part thereof of this Ordinance shall be finally adjudicated by a court of competent jurisdiction to be invalid, the remainder of this Ordinance shall be unaffected by such adjudication and all the remaining provisions of this Ordinance shall remain in full force and effect as though such section, subsection, paragraph, clause or provision or any part thereof so adjudicated to be invalid had not, to the extent of such invalidity, been included herein.

Section 8. That in order to assure the Municipality can enact this legislation before bids are accepted for aggregate retail load by independent system operators or regional transmission organizations, and to therefore protect the public welfare, this Ordinance is hereby declared to be an emergency measure which shall take effect at the earliest period allowed by law. Therefore, this Ordinance shall go into effect upon passage and approval by the Mayor, as provided in Ohio Revised Code Section 731.30.

Section 9. In the event this Ordinance receives a majority vote for passage but fails to receive the required number of votes to pass as an emergency, then this Ordinance shall be deemed to have passed but with no emergency clause, and shall take effect at the earliest time permitted by law.

Date: 1-26-09


PRESIDENT OF COUNCIL


CLERK OF COUNCIL

Approved:

Date: 1-26-09


MAYOR