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CITY OF CUYAHOGA FALLS, OHIO  
ORDINANCE NO. 102 - 2012

AN ORDINANCE ENACTING SECTION 933.123 OF TITLE FIVE, PART NINE OF THE CODIFIED ORDINANCES, RELATING TO AGGREGATION OF DEMAND RESPONSE OF RETAIL ELECTRIC CUSTOMERS OF THE CITY'S ELECTRIC DEPARTMENT, AUTHORIZING THE DIRECTOR OF PUBLIC SERVICE TO ENTER INTO DEMAND RESPONSE CUSTOMER AGREEMENTS, MAKING CERTAIN FINDINGS IN CONNECTION THEREWITH, AND DECLARING AN EMERGENCY.

WHEREAS, the City of Cuyahoga Falls ("City") 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"); and

WHEREAS, Order 719, 18 CFR §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;" and

WHEREAS, Order 719, 18 CFR §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;" and

WHEREAS, this Council hereby finds and determines that it would be harmful to the demand response program to be implemented by the City, the collective interests of the City's electric utility system, and the City's retail customers, to permit any entity other than the City to aggregate demand response on behalf of its retail customers,

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Cuyahoga Falls, County of Summit, and State of Ohio, that:

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Section 1. This Council, as the retail electric regulatory authority for the City and its retail electric consumers, finds and 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 City (or any successor independent system operator or regional transmission organization) be performed by the City or its authorized designee.

Section 2. New Section 933.123 of Title Five, Part Nine of the Codified Ordinances of the City of Cuyahoga Falls is hereby enacted to read in full as follows:

933.123 DEMAND RESPONSE AGGREGATION

(a) The City or its authorized designee shall be the sole entity permitted to aggregate retail electric customers' demand response and bid demand response on behalf of retail electric customers of the City directly into any independent system operator's or regional transmission organization's organized electric markets, as approved by the Federal Energy Regulatory Commission ("FERC").

(b) Retail electric customers on the City's electric system desiring to bid their demand response into a FERC-approved independent system operator's or regional transmission organization's organized electric markets may do so only by participating in the Demand Response Aggregation program established by the City or its authorized designee.

(c) The City or its authorized designee is the sole entity permitted to bid demand response on behalf of retail customers of the City directly into any FERC-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 FERC-approved independent system operator's or regional transmission organization's tariff).

(d) Retail customers of the City's electric system desiring to bid their demand response into a FERC-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 FERC-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.

(e) The Director of Public Service is authorized to enter into agreements with retail electric customers of the City's Electric System for the purpose of bidding such customers' load into Demand Response markets, either individually or on an aggregate basis. The Director is also authorized to promulgate any regulations necessary to implement this Section.

Section 3. 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.

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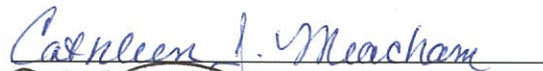
Section 4. Any ordinances or resolutions or portions of ordinances and resolutions inconsistent herewith are hereby repealed, but any ordinances and resolutions not inconsistent herewith and which have not previously been repealed are hereby ratified and confirmed.

Section 5. 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 including Chapter 107 of the Codified Ordinances.

Section 6. This ordinance is hereby declared to be an emergency measure necessary for the preservation of the public peace, health, safety, convenience and welfare of the City of Cuyahoga Falls and the inhabitants thereof, and provided it receives the affirmative vote of two-thirds of the members elected or appointed to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force at the earliest period allowed by law.

Passed: December 27, 2012

  
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Diane J. Vecchio, PRO TEM  
President of Council

  
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Catherine J. Meacham  
Clerk of Council

Approved 12/31/12

  
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J. Robert  
Mayor

12/10/12  
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