

SPECIAL MEETING OF THE COUNCIL OF THE VILLAGE OF SILVER LAKE

Monday, April 27, 2009

6:00 p.m.

The Village of Silver Lake Council met in a special session on Monday, April 27, 2009, at Silver Lake Village Hall, 2961 Kent Road, Silver Lake, Ohio.

With President of Council, Mr. Jerry Jones, presiding, the meeting was called to order at 6:00 p.m.

The following members were present and responded to roll call: Mr. Gerald Jones, Mrs. Janie Geis, Mr. Christopher Scott, Mrs. Karen Fuller, Mr. Richard Hite, Mrs. Carol Steiner, and Mr. James Richardson.

Roll call of Council - 7 members present

Others Present: Mayor Bernie Hovey, Solicitor Robert Heydorn, Clerk-Treasurer Teresa Spohn and Falls News Press reporter, Phil Keren.

Mr. Jones stated the purpose of the meeting was to hold discussion on the Master Agreement for Electric Aggregation distributed to Council (copy attached to original minutes). Mr. Jones asked Mr. Heydorn to lead discussion.

Mr. Heydorn stated the Master Service Agreement before Council is still under negotiation. The basic idea behind it is that on May 13<sup>th</sup> an auction will take place. First Energy will auction to any interested supplier(s) for the rate which will be then sent to the PUCO. This will be the rate that those people who are bidding would be willing to produce and sell electricity to our residents for aggregation purposes. First Energy Solutions which is a subsidiary of First Energy/Ohio Edison (First Energy is a holding company for CEI, Toledo Electric and Allegheny Power) will hold the auction which has been designed to set what rate is going to be permitted for them to charge individual customers.

The thing is, apparently, First Energy Solutions (FES) has decided that they want to corner the market as they traditionally have and enter into an agreement with those who wish to do so, to apply a discount (in this case 10%) below the rate that results from the auction. To do that, FES needs to enter into agreements with the municipalities who want to aggregate which will lock them and the aggregating body into whatever the rate is with the 10% discount. Mr. Heydorn stated he wonders what the rate setting process really does by auction. He is getting the impression that this is the procedure that must be followed. The rate, in actuality, will be a ceiling of the rates that can be applied because otherwise he doesn't see how FES, in effect, would be able to underbid the bidding. FES has produced the Master Service Agreements and the Village's energy consultant service which represents seven communities in the area are encouraging the communities to buy into the 10% discount. The Service Agreement locks the Village into a term of 35 months with FES as the Village's provider (just like Vectren Source in the Village's natural gas provider).

Mr. Jones stated that he read in the document that the average savings would be \$50 per year.

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Mayor Hovey affirmed Mr. Mark Burns from Independent Energy Consultants reported that average savings per household would be \$50 per year per household.

Mr. Heydorn stated he thought the energy portion of the electric bill was two-thirds and the transportation part is one-third. The comparison would have to be that Northern Ohio Public Energy Council (NOPEC) entered into a discount agreement with another of the competitors (a Florida based company) and the discount is 5%.

Mrs. Steiner asked for confirmation that people will be able to choose, just like with gas.

Mayor Hovey stated residents can choose to opt-out.

Mrs. Steiner asked if there were any other companies last year residents could have considered.

Mr. Heydorn stated, no, there hasn't been any competition for quite some time.

Mrs. Steiner asked if somebody else could come along and offer the Village something.

Mayor Hovey stated it is a possibility, but given the Village's size, it may or may not be beneficial for a company to deal with such a small area.

Mr. Richardson asked if there is any possibility that the aggregated bid would be higher than the current rate so the discounted rate is actually more than the current market rate.

Mr. Heydorn stated it might be a possibility. But what they're worried about is what if the rate is real low. Mr. Heydorn stated that is the part that doesn't make any sense at all. He asked the question and this is what the reply was: "Well if the rate is an auctioned rate and that's what they are willing to buy electricity for and if they, across the board, offer a 10% discount, then if they buy it at that rate and yet offer the customer a discount, and then they're always losing money. How can they do this?" The explanation given to Mr. Heydorn was a little ambiguous. It started off FES has a good relationship with Ohio Edison, or something like that. Mr. Heydorn stated he isn't sure what all that means. Basically the transmitter (First Energy holding company) is not really the generator of the power. The plants that will be involved in providing the power coming through FES are, in fact, owned by FES. That is how Mr. Heydorn concluded that the rate must be some sort of ceiling as opposed to a minimum. Otherwise, what they are going to wind up selling it at is what they can produce it for and they think they can do it for 10% less than the auctioned rate.

If it's not a ceiling, it doesn't make sense that they can do this and make money.

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Mrs. Fuller asked if it's a ceiling and we agree to 10% less than that ceiling we could possibly be stuck with a higher rate than another community who did not sign the agreement. For example if the ceiling is \$10, and we get a \$9 rate....

Mr. Heydorn interjected that would be possible if another group is in the business of giving discounts. Is the 10% going to be as good as or better than everybody else. The offers that have come out so far have not been as good as the 10% we are being offered by First Energy.

Mr. Jones stated, as a citizen, we have an opportunity to opt-out of this program.

Mayor Hovey stated there is only a certain amount of time that is given for individuals to opt out.

Mr. Jones asked if this matter has been in the works for awhile or did it just come up recently.

Mayor Hovey stated he was made aware of this program sometime late last week.

Mrs. Fuller stated there is a small window of time to make a decision.

Mayor Hovey explained First Energy is looking to lock up the market.

Mr. Scott stated he was on NOPEC's website today. There was some mention that they have temporarily suspended looking for new clients for their discount program because of an Ohio law that was pending. He asked Mr. Heydorn if he knew what that might be about.

My Heydorn stated he didn't have any knowledge of the pending law in question.

The only opt-out provision would be at the beginning of the contract period. Village residents will be included in the contract and must opt-out if they choose to do so.

First Energy is looking to come in quickly and corner the market because if this thing is hanging out there forever, then a better deal may be offered by somebody else.

Mrs. Geis asked what surrounding communities have been doing regarding electric aggregation and this agreement up for discussion.

Mayor Hovey stated Mayor Larson from Munroe Falls is eager to enter into the agreement; Aurora is doing something right now. The communities involved are thinking this is the right thing to do.

Mayor Hovey stated First Energy would have to send letters to all Village residents explaining the program and offering a period of time when the residents can opt-out of the program. The new rate could start as early as June.

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Mr. Jones stated he does not see anything in the agreement outlining the time period for opting out of the program.

Mr. Heydorn stated aggregation was set up by state statute the initial opt-out provisions are regulated by those statutes. The statutes talk about two programs: The Opt-out program which is what we are talking about (everybody's in unless they opt-out) and the Opt-in program (everybody's out unless they choose to join the program.) Procedure is regulated by statute. After that the agreement specifies the individual can opt-in and opt-out after that point in time. Mr. Heydorn stated he didn't see anything in the agreement that addresses that issue.

Mayor Hovey stated there is no provision addressing opting out during or after the initial contract period. He suggested asking that something be added to the current agreement.

Mr. Scott asked how often the auction occurs.

Mayor Hovey stated that is a question he needs to ask Mr. Burns.

Mr. Heydorn stated he had asked Mr. Burns if it was a fixed rate. Mr. Burns informed him that it was not.

Mayor Hovey stated he was under the impression the rate was set monthly.

Mr. Heydorn confirmed that the discount would be applied to the variable rate.

Mrs. Fuller asked "Do you get the discount off the variable rate or the discount off the ceiling rate?"

Mr. Hite said "If the auction sets the price at one time and they can change the rate month by month, what's that?"

Mr. Geis stated she believes electric rates are always variable.

Mrs. Fuller asked "If it's a variable rate which can drop low, are we agreeing to 10% off the fixed (auction) rate which is the ceiling? What if the variable rate drops below what residents would pay with the discount off the auction rate?"

Mr. Hite stated he feels Council is totaling guessing on the facts. There are too many questions that need to be answered.

Mr. Heydorn suggested Mr. Burns be invited to a meeting.

Mr. Jones stated there isn't much time left to do that.

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Mr. Hite asked who Mr. Burns works for.

Mr. Heydorn and the Mayor stated Mr. Burns works for the benefit of the Village. Mr. Heydorn stated Mr. Burns is incredibly intimate with the process and what the Village needs. Mr. Burns is highly encouraging the Village to take this step and enter into the agreement.

Mr. Hite stated that the whole thing seems pretty fishy to him. "Why would First Energy do this?"

Mr. Scott agreed. If there's no competition happening right now, why are they offering the discount.

Mrs. Fuller stated any competition would be eliminated if the Village signs the contract.

Mr. Heydorn stated, of the seven clients, all of them are going for it.

Mrs. Fuller asked who the seven clients were.

Mr. Heydorn stated Munroe Falls, Stow, Euclid, Norton, Aurora, Boardman Township and the Village of Silver Lake are the clients.

Mayor Hovey tried to contact Mr. Burns by phone but couldn't get through to him.

Mayor Hovey stated he finds it hard to believe any firm would be able to undercut First Energy. Mr. Burns has strongly recommended the Village enter into the agreement. Mayor Hovey stated Mr. Burns has an exceptional reputation amongst the communities he represents.

Mrs. Fuller asked how much the Village pays for Mr. Burns' services.

Mayor Hovey answered that Mr. Burns is paid a percentage from whoever the energy provider is. He only makes his money if he brings forth something good the Village will benefit from and encourages people to stay in the aggregation program.

Mayor Hovey stated Mr. Burns needs to do a good job to keep his clients.

Mr. Heydorn stated there are some parts of the agreement still being negotiated. Some communities' law directors are having questions with the confidentiality provision. FES has stated the provision only applies to written press releases which must be approved before they are sent out for publication.

Mr. Jones stated the Mater Agreement is not a confidential matter for a government.

Mr. Heydorn agreed that there are no executive session privileges which apply to this matter.

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Mayor Hovey offered that electric prices are not as volatile as gas prices in the market. He does not believe electric prices will go down and bounce all around like natural gas has done in the past few years.

Mr. Heydorn stated, "While gas is totally unregulated, somehow they have gotten back into the tariff situation as far as electricity is concerned. In other words, the Public Utilities Commission of Ohio (PUCO) is taking a bigger hand in it and it becomes somewhat regulated and this auction procedure is somewhat of a halfway point for them to develop a tariff. The process was always in front of the PUCO and they said "this is what you can charge" to the public utility and there wasn't anybody else who could get into it. Sounds like the action procedure whereby the rates that are approved by the PUCO are really developed with the input from all of the potential competitors. PUCO is a heck of a lot more involved with electric than they are with gas because gas has become anybody, anytime, anywhere, or whatever. There have been a lot of hearings before the PUCO that look like they are approaching a half-way point towards regulation."

Mrs. Steiner stated the Village might lose out on the discount if Council decides the contract shouldn't be signed.

Mrs. Geis stated the question is what is it being discounted from?

Mr. Heydorn stated it will be a discount of the rate that results from the auction.

Mr. Scott stated everyone likes the idea of a discount, and if it can be guaranteed that the market rate will receive the discount, then he is for signing the agreement.

Mayor Hovey stated there is no guarantee that the Village would receive another bid should the agreement not be signed. If the Village was the only one looking for a bid, chances of getting another bid will be very slim. It's because it would not be worthwhile to bid on electricity for 1,000 homes.

Mr. Jones stated the Mayor has the authority to sign the agreement. He asked if the Mayor was looking for a consensus of Council.

Mayor Hovey stated he definitely would like to sign the agreement for reasons previously given.

Mrs. Steiner stated that Council needs to trust Mr. Heydorn and Mayor Hovey to get the questions answered and make the best decision based on those answers.

Mr. Hite stated he gives his conditional support as long as Mayor Hovey and Mr. Heydorn have a clear understanding of what rate is being discounted and if there is a possibility to opt-out if rates should become out of line.

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Mr. Jones asked other members of Council for their thoughts.

Mr. Richardson, Mrs. Fuller, Mrs. Geis, Mr. Scott and Mrs. Steiner all agreed with Mr. Hite.

There being no further business before Council, the special meeting of Council was adjourned at 6:47 p.m.

APPROVED:

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Mr. Gerald P. Jones, President of Council

ATTEST:

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Teresa M. Spohn, Clerk-Treasurer