

**BYLAWS**  
**GOVERNING THE**  
**NORTHEAST OHIO PUBLIC ENERGY COUNCIL**

WHEREAS, certain municipal corporations, counties, townships and regional councils of governments of the State of Ohio (each, a “Member”) entered into an Agreement Establishing the Northeast Ohio Public Energy Council (the “Agreement”) pursuant to Revised Code Chapter 167, for the purpose of carrying out the Aggregation Program pursuant to Revised Code Section 4928.20 and any Additional Programs which the Members of the Council may approve, from time to time, and which are authorized under the laws of the State; and

WHEREAS, Revised Code Section 167.04 requires and the Agreement provides that the Council shall adopt Bylaws designating the officers of the Council and the method of selection thereof, creating a governing board to act for the Council, appointing a fiscal officer and providing for the conduct of the Council’s business; and

WHEREAS, each Member has by duly adopted legislation authorized its representative to approve these Bylaws, and the representatives of the Members have met for the purpose of adopting these Bylaws in accordance with Revised Code Section 167.40 and Section 4 of the Agreement;

NOW, THEREFORE, the following provisions shall constitute the Bylaws of the Council:

Section 1.     Definitions.

Any capitalized word or phrase used in these Bylaws and not otherwise defined herein, shall have the meaning given in Section 1 of the Agreement as the Agreement may, from time to time, be amended, modified, or supplemented in accordance with Section 8 thereof.

Section 2.     Assembly.

The Assembly shall be the legislative body of the Council. The Assembly shall be composed of the representatives of the Members, who have been appointed pursuant to Section 3 of the Agreement. All representatives to the Assembly (exclusive of ex-officio members) shall serve without compensation.

An Assembly representative may designate another Assembly representative as a proxy at any meeting by delivering to the Chairman of the Council a written designation of that proxy.

- (A)     Officers. The officers of the Board of Directors shall be the officers of the Council and its Assembly and shall consist of a Chairman and Vice-Chairman who each shall be selected pursuant to Section 3 hereof. The Chairman (and in the Chairman’s absence, the Vice-Chairman) shall preside at Assembly meetings.

If for any reason the offices of the Chairman and Vice-Chairman are vacant, the person serving as Executive Director, if any, shall preside as temporary Chairman until a Chairman is elected by the Board of Directors.

- (B) Resolutions. A majority of all representatives to the Assembly (including proxies correctly presented to the Chairman) shall constitute a quorum to transact business except as otherwise provided in the Agreement or these Bylaws. Each representative (including the Chairman and Vice-Chairman) shall have one vote; provided, however, that when a matter is to be voted upon which is of concern to only one or more but not all Programs of the Council, only representatives of participating Members of those Programs shall be entitled to vote on that matter and only those representatives shall be counted for purposes of determining whether a quorum is present. All legislative action of the Assembly shall be by resolutions entered on its records. Except as otherwise provided in the Agreement, the affirmative vote of at least a majority of all of the representatives to the Assembly eligible to vote on a matter (not counting vacancies) shall be required for the enactment of every resolution. Unless otherwise specifically stated in the resolution, all resolutions shall be effective immediately upon enactment, subject to any authorizations or certifications required by the Revised Code to be made by the Fiscal Agent or the Members.
- (C) Meetings. The Assembly shall meet on a day of each November designated by the Board of Directors and at such other times as may be required by the Chairman or as may be requested, in writing to the Executive Director, by any two (2) or more Directors. Written notice of each meeting shall be served by the Executive Director upon each Assembly representative not less than twenty-four (24) hours preceding the time for the meeting, and shall state the date, time, and place of the meeting and subject or subjects to be considered at the meeting. The requirements of and procedures for notice may be waived in writing by each representative and any representative shall be deemed conclusively to have waived such notice with respect to a meeting by his or her attendance at that meeting. At the request of the Chairman and with the approval of a majority of the members of the Board of Directors, the annual meeting of the Assembly may be rescheduled to such other dates as may be so approved by the Board of Directors; provided, however, that actions required by this Agreement to be taken by the Assembly at its annual meeting are taken by the Assembly within thirty (30) days of the scheduled annual meeting date in November.

Pursuant to Revised Code Section 121.22(F), the Assembly shall by rule, establish a reasonable method whereby any person may determine the time, place, and purpose of its meetings. All meetings of the Assembly shall be open to the public, subject to the exceptions in Revised Code Section 121.22(G). The Assembly may, but need not, adopt other rules.

(D) Powers and Duties of Assembly.

- (1) At its annual meeting, the Assembly shall review the annual report of the Council, including but not limited to, the financial status of the Council's operation, operation of the Aggregation Program, and any Additional Program being considered.
- (2) At its annual meeting, the Assembly shall consider, upon submission by the Board of Directors, and thereafter modify, if necessary, and approve the annual appropriations of the Council for the next Fiscal Year based upon the estimate of Aggregation Costs and any Additional Program Costs determined pursuant to Section 8 hereof. The Board of Directors shall have the authority to revise the appropriations between Assembly meetings.
- (3) At its annual meeting, the Assembly shall select the members of the Board of Directors for the next Fiscal Year in accordance with Section 3 hereof.
- (4) The following matters shall be submitted to the Assembly and are subject to final approval by the Assembly: the annual appropriations of the Council for each Fiscal Year; selection of the Board of Directors; and such other matters that the Board of Directors or the Assembly may, from time to time, determine to be matters requiring approval by the Assembly.

Section 3. Board of Directors.

The Board of Directors shall be the policy making body of the Council.

- (A) Composition. Subject to the provisions of Section 3(B) below, the Board of Directors shall be composed of one Director representing each county with Members in the Council, and one Director in the case of a regional council of governments having at least one member of such council of governments participating in a NOPEC electric or natural gas program, each of whom shall be an Assembly representative of each respective county and of the regional council of governments and shall be elected by the Assembly representatives of each respective county and of the regional council of governments, at the annual meeting of the Assembly, provided that the affirmative vote of at least a majority of the representatives to the Assembly of each representative county shall be required to elect any Director.
- (B) Notwithstanding anything in this Section 3 to the contrary, the maximum number of Directors shall be twenty-one (21), and shall be constituted as follows: The state of Ohio shall be divided into five (5) regions, the Northeast Ohio Region, the Northwest Ohio Region, the Central Ohio Region, the Southwest Ohio Region and the Southeast Ohio Region, defined in the attached Exhibit A to these Bylaws. There shall be a limit of seventeen (17) Directors from counties located

in the Northeast Ohio Region. There shall be a limit of (1) Director from the total number of Member counties located in each of the Northwest Ohio Region, the Central Ohio Region, the Southwest Ohio Region and the Southeast Ohio Region. Effective on and after November 15, 2016, a county or region must have one (1) or more Member(s) combined with collectively at least 2,500 electricity and/or natural gas accounts participating in NOPEC's electricity and/or natural gas program in such Members' communities in order to be eligible to elect a Director from such county or region. The rights of any Member of the Council as of November 15, 2016, shall be preserved and not be diminished, limited or abridged by the operation of this Section 3.

- (C) Terms of Office. Assembly representatives elected to serve on the Board of Directors at the first organizational meeting shall serve the following terms of office: Half of the members of the Board shall each serve a two-year term and the other half shall each serve a one-year term. Thereafter, any Assembly representative elected to serve on the Board of Directors shall serve a two (2) year term of office. If the number of members of the Board is increased as a result of an increase in the number of counties represented by the membership in the Council, then the terms of those additional Board members shall be set by the Board so that half, or as close as possible to half, of the members of the Board shall be elected every year. There shall be no limit to the number of terms to which a person may be elected or appointed. All members of the Board shall serve without compensation.

In the event that a vacancy occurs on the Board of Directors, the remaining members of the Board of Directors shall meet and appoint an Assembly representative to fill the vacancy until the next meeting of the Assembly at which elections of Directors are held.

- (D) Meetings. The Board of Directors shall hold regular meetings not less than once per calendar quarter at such times as may be determined by the Board or the Chairman. Special meetings shall be held at such other times as may be requested by the Chairman. Written notice of each meeting shall be served by the Executive Director upon each Director not less than twenty-four (24) hours preceding the time for the meeting, and shall state the date, time, and place of the meeting and subject to be considered at the meeting. The requirements of and procedures for notice may be waived in writing by each Director and any Director shall be deemed conclusively to have waived such notice with respect to a meeting by his or her attendance at that meeting.
- (E) Attendance. Directors are expected to attend Board meetings. Any Director who is absent from three Board meetings without excuse during a twelve month period is automatically removed from the Board. The remaining Directors shall meet and appoint a person to fill the vacated seat until the next meeting of the General Assembly at which elections of Directors are held.

- (F) Officers. At its first meeting in each Fiscal Year, the Board of Directors shall convene and organize. The Chairman of the Board shall be elected to serve a one-year term by the Board of Directors from its members by majority vote of all its members. The Chairman whose term has expired shall preside as temporary Chairman until the Chairman is elected. In the absence of the prior Chairman, the prior Vice-Chairman shall be elected to serve a one year term by the Board of Directors by a majority vote of its members.
- (1) Chairman. The Chairman shall preside at all meetings of the Board of Directors and the Assembly. The Chairman's duties shall also include, but not be limited to: preparing agendas for each meeting of the Board of Directors and arranging for distribution of such agendas so that each Board member receives an agenda at least seven (7) days in advance of each regularly scheduled Board meeting and as soon as practical before any specially scheduled Board meeting; and presenting an annual report to the Assembly at its annual meeting, or distribution of such report to the Members, concerning the activities and operations of the Council. Such duties of the Chairman described in the preceding sentence may be delegated to the Executive Director. In the event of a tie on matters subject to a vote of the Board, the Chairman shall cast the tie-breaking vote.
- (2) Vice-Chairman. In the absence of the Chairman, the Vice-Chairman shall preside at meetings of the Board of Directors and the Assembly. The Vice-Chairman shall succeed to the office of the Chairman, should that office be vacated before the end of a term, and shall assist the Chairman in the discharge of his duties.
- (3) Executive Director. The Executive Director shall provide written notice to all members of the Board of Directors of all meetings of the Board in accordance with paragraph (D) of this Section. Minutes of all meetings of the Board shall be kept by the Executive Director and distributed to each member of the Board within thirty (30) days following each Board meeting. The Executive Director shall provide Assembly members with written notice of all Assembly meetings in accordance with Section 2 hereof. The Executive Director shall perform such other duties as the Chairman may request. If the Board of Directors decides to hire a chief executive officer for the Council, then this person will be titled the Executive Director. The Board of Directors shall provide a job description for this position.
- (4) Fiscal Agent. The Board of Directors shall provide for the employment of a Fiscal Agent either by:
- (a) contracting with a Member, or

- (b) hiring a person to perform the duties of the Fiscal Agent, who shall be the Treasurer. Separate Fiscal Agents may be hired to handle specific Programs or assigned to the Treasurer if such employee is hired. The Fiscal Agent shall receive and disburse all funds of the Council, prepare all necessary fiscal reports for the Board of Directors and the Assembly, and undertake all other financial transactions necessary to the work of the Council.

The Fiscal Agent of the Council shall obtain and keep in force a fidelity bond, in an amount determined by the Board of Directors and with a surety company approved by the Board of Directors, or, in lieu of a separate fidelity bond, the Board of Directors may direct the Fiscal Agent to continue and keep in force any existing fidelity bond the Fiscal Agent may have which the Board of Directors determines to be adequate. In either case, the Council shall be named as an insured on such bond and the amount thereof shall not be reduced without prior written consent of the Board of Directors.

The Fiscal Agent and the Executive Director may be held by the same person or by two different persons.

(G) Powers and Duties of the Board of Directors. The Board of Directors shall have the authority to:

- (1) Consider and approve any purchases of equipment, facilities, or services for the Council; provided that the cost thereof is within the Aggregation Costs approved by the Assembly pursuant to Section 8 hereof.
  - (a) Make recommendations to the Assembly concerning any matter relating to the Council and its Programs, including but not limited to:
    - (b) amendments to or modifications of the Agreement and Bylaws,
    - (c) appropriations of the Council,
    - (d) each Member's share of Aggregation Costs or any Additional Program Costs, and
    - (e) disqualification of Members.
- (2) Direct the Fiscal Agent concerning any disbursements from the Aggregation Fund.
- (3) By affirmative vote of a majority of Board members and upon certification to the Board by the Fiscal Agent that the proposal is within the limits of

the Council's resources, amend the budget and appropriations of the Council.

- (4) Approve the inclusion of additional Members into the Council.
- (5) Enter into any and all necessary and incidental contracts to facilitate the aggregation of the retail electric and natural gas loads within the jurisdiction(s) of the Members.
- (6) Enter into any and all necessary and incidental contracts to carry out all Programs of the Council.
- (7) Enter into any and all necessary and incidental contracts to carry out all Programs of the Council.

#### Section 4. Advisory Committees.

One or more Advisory Committees may be appointed by the Board of Directors to assist the Board of Directors in the management of any Program of the Council. The members of an Advisory Committee shall be appointed by and shall serve at the pleasure of the Board of Directors. Each Advisory Committee shall perform the duties directed by the Board of Directors.

Each Advisory Committee shall elect from its membership a chairman and vice-chairman, who shall each serve for a term of one year or such shorter period of time as the Advisory Committee may be in existence. The Committee chairman shall preside at all Committee meetings and prepare the agenda for each meeting following consultation with the Executive Director or Board of Directors. Such duties of the Committee chairman described in the preceding sentence may be delegated to the Executive Director. In the absence of the Committee chairman, the Committee vice-chairman shall preside at Committee meetings. The Committee vice-chairman shall succeed to the office of the Committee chairman, should it be vacated before the end of a term, and shall assist the Committee chairman in the discharge of the Committee chairman's duties.

Each Advisory Committee shall make recommendations to the Board of Directors concerning any matter referred to it by the Board of Directors.

#### Section 5. Employees and Consultants.

The Board of Directors may employ the Fiscal Agent and the Executive Director for the Council. In addition, the Board of Directors may employ other persons and may contract for the services of independent contractors, consultants, legal counsel, or experts as the Board of Directors deems necessary or appropriate for the proper operation and administration of the Council and its Programs. Any staff employed by the Council shall be determined by the Board of Directors to have the educational background and work experience necessary to discharge the duties assigned to that person by the Board of Directors. The Board of Directors shall establish

the salaries, benefits, and work and disciplinary rules for the Council's staff and shall direct the hiring and discharge of that staff. The Board of Directors of the Council may designate the Executive Director to be responsible for the supervision of the Council's staff. The salaries and independent contractors, consultants, legal counsel, or experts shall be paid either as Aggregation Costs or Additional Program Costs from their respective accounts as determined by the Board of Directors.

Section 6.     Equipment and Facilities.

The Council may purchase, lease, or otherwise provide supplies, materials, equipment, and facilities as it deems necessary and appropriate to carry out the Programs of the Council. The Council shall comply, to the extent applicable, with the provisions of the Ohio Revised Code with respect to the procedures for bidding and letting of contracts for the acquisition, repair, or improvement of its facilities, equipment, and supplies. The Fiscal Agent of the Council shall, at the direction of and on behalf of the Board of Directors, enter into all contracts or leases for supplies, materials, equipment, or facilities of the Council.

Section 7.     Aggregation Fund.

The Aggregation Fund shall be established and maintained by the Fiscal Agent of the Council separate and apart from all other funds of the Council which may be under the custody of the Fiscal Agent. Separate funds will be established for Additional Programs of the Council. All funds of the Council (Aggregation and Additional Program Funds) shall be subject to the laws of the State concerning the investment and management of public funds, particularly Revised Code Chapter 135, and shall be the responsibility of the Fiscal Agent.

The Fiscal Agent of the Council shall deposit in the Aggregation Fund the amounts received from the Members for Aggregation Costs of the Council and any interest earned by the Aggregation Fund. Disbursements may be made from the Aggregation Fund by the Fiscal Agent at the direction of the Board of Directors or the Assembly for any proper purpose of the Council, including but not limited to payment of Aggregation Costs, costs incurred in connection with the establishment of the Council, salaries of any persons employed to carry out the functions related to the Aggregation Program, fees and expenses of the Fiscal Agent, consultants and attorneys, and payment of other operating expenses.

The Fiscal Agent of the Council shall maintain records which identify all receipts of the Aggregation Fund by source. The Fiscal Agent shall maintain records which account for all disbursements from the Aggregation Fund. The Fiscal Agent shall make monthly reports to the Board of Directors on or before the twentieth (20<sup>th</sup>) day of each month concerning all receipts and disbursements from the Aggregation Fund.

Section 8.     Estimate of Aggregation Costs; Payments by Members.

On or before the annual meeting of the Assembly the Board of Directors shall: (a) submit to the Assembly a written estimate of the Aggregation Costs and any Additional Program Costs for the next Fiscal Year of the Council, and (b) if a fee is to be collected, provide the Assembly



and each Member with an estimate of each Member's share of the Aggregation Costs and any Additional Program Costs. Any Additional Program Costs shall be apportioned among the participating members as provided in any Additional Program Costs shall be apportioned among the participating members as provided in any Additional Program Agreement. Any Aggregation Costs of the Council shall be apportioned among the Members in the manner determined by the Board of Directors. The estimates shall be presented in enough detail so that the Assembly can determine their sufficiency.

The Assembly shall consider the estimates and accept or modify the same. If an assessment or fee is to be paid by the Members to the Aggregation Fund or any Additional Program Fund, the Fiscal Agent shall deliver to the Members, the estimated appropriation for the next Fiscal Year and each Member's share of such costs. Each Member shall include its share of the Aggregation Costs and any Additional Program Costs in its appropriations (pursuant to Chapter 5705 of the Revised Code). Each member shall thereafter remit its share of Aggregation Costs and any Additional Program Costs to the Fiscal Agent.

If the aggregate contributions made pursuant to that estimated budget prove to be insufficient to pay the Aggregation Costs and any Additional Program Costs for that Fiscal year of the Council, the Board of Directors shall direct the Fiscal Agent to promptly notify in writing each Member of any additional Aggregation Costs and Additional Program Costs, the amount of any deficiencies and each Member's share of those additional costs, all as determined by the Board of Directors, whereupon each Member shall appropriate (pursuant to Chapter 5705 of the Revised Code) the amount stated in the notice and remit the same to the Fiscal Agent within forty-five (45) days after receipt of that written notice.

Failure by a Member to appropriate and remit any of its share of the Council Costs and Additional Program Costs pursuant to these Bylaws within sixty (60) days after the same shall become due shall be deemed a withdrawal by such Member pursuant to Section 6 of the Agreement unless the Member has petitioned the Board of Directors for an extension of time for payment and the Board of Directors has, by resolution, approved an extension to a date certain and the Member has remitted at least twenty-five percent of its share of the Aggregation Costs and any Additional Program Costs to the Fiscal Agent.

Under no circumstances shall the Fiscal Agent have the power to incur obligations for Aggregation Costs and Additional Program Costs in an amount which exceeds the total unspent amount appropriated for Aggregation Costs or any Additional Program Costs, respectively, and remitted to the Fiscal Agent by the Members pursuant to this Agreement, except as may be permitted by law.

#### Section 9. Conduct of Meetings.

All meetings provided for in these Bylaws shall be conducted in accordance with the latest edition of Robert's Rules of Order, Revised unless otherwise directed by these Bylaws or by resolution of the Assembly, the Board of Directors, or any Advisory Committee with respect to the meetings of each of those bodies. The chairman of each of those bodies shall be the

parliamentary procedure officer and his or her decisions with respect to matters of parliamentary procedure shall be final.

Section 10. Amendments.

These Bylaws may be modified, amended or supplemented in any respect upon approval of the modification, amendment or supplement by at least two-thirds of the Members' representatives, and the approved amendment, modification, or supplement shall only thereupon become binding upon all Members.

Section 11. Initial Operation of the Council.

In the first Fiscal Year of the Council's operation, actions required by these Bylaws to be taken at the annual meeting of the Assembly or the first meeting of the Board of Directors shall be taken as soon as practical upon the establishment of the Council.

Section 12. Authorization of the Council to Initiate, Intervene, and Participate in Federal and State Proceedings.

Pursuant to R.C. Chapter 167, the Agreement, these Bylaws and Ohio law, the Members authorize the Council to initiate, intervene, and/or participate in any utility or other case or proceeding, federal or state, that relates to any electric or natural gas rate, charge, policy, service, regulation, rulemaking, practice or condition affecting any Council Member or Council electricity or natural gas aggregation customer, including, without limitation, those involving transmission, distribution, generation, production, commodity, market design, competition, or otherwise. The Chairman and/or the Executive Director of the Council are authorized to engage legal counsel and consultants in connection with the Council's involvement in any such case or proceeding.

ADOPTED this 29<sup>th</sup> day of November, 2000.

AMENDED this 13th day of November, 2008.

AMENDED this 10th day of November, 2015.

AMENDED this 15th day of November, 2016.

AMENDED this 12th day of November, 2019.

NORTHEAST OHIO PUBLIC ENERGY COUNCIL

## **Exhibit A**

The definition of the Northeast Ohio Region, the Northwest Ohio Region, the Central Ohio Region, the Southwest Ohio Region and the Southeast Ohio Region as used in these Bylaws shall mean the counties identified in each Region as follows on the attached map:

**Northeast Ohio Region:**

Ashtabula  
Columbiana  
Cuyahoga  
Erie  
Geauga  
Huron  
Lake  
Lorain  
Mahoning  
Medina  
Portage  
Richland  
Sandusky  
Seneca  
Stark  
Summit  
Trumbull

**Northwest Ohio Region:**

Allen  
Auglaize  
Defiance  
Fulton  
Hancock  
Hardin  
Henry  
Lucas  
Mercer  
Ottawa  
Paulding  
Putnam  
Van Wert  
Williams  
Wood

Central Ohio Region:

Ashland  
Coshocton  
Crawford  
Delaware  
Fairfield  
Franklin  
Holmes  
Knox  
Licking  
Marion  
Morrow  
Muskingum  
Perry  
Tuscarawas  
Wayne  
Wyandot

Southwest Ohio Region:

Adams  
Brown  
Butler  
Champaign  
Clark  
Clermont  
Clinton  
Darke  
Fayette  
Greene  
Hamilton  
Highland  
Logan  
Madison  
Miami  
Montgomery  
Pickaway  
Pike  
Preble  
Ross  
Shelby  
Union  
Warren

Southeast Ohio Region:

Athens  
Belmont  
Carroll  
Gallia  
Guernsey  
Harrison  
Hocking  
Jackson  
Jefferson  
Lawrence  
Meigs  
Monroe  
Morgan  
Noble  
Scioto  
Vinton  
Washington