

**BOROUGH OF TARENTUM
ALLEGHENY COUNTY, PENNSYLVANIA
ORDINANCE NO. 09-02**

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE BOROUGH OF TARENTUM, ALLEGHENY COUNTY, PENNSYLVANIA, CHAPTER 111 THEREOF, ARTICLE I, SECTION 111.5, ET SEQ., BY MAKING PROVISIONS WITH RESPECT TO THE AGGREGATION OF DEMAND RESPONSE ON BEHALF OF RETAIL CUSTOMERS IN THE BOROUGH OF TARENTUM.

BE IT AND IT IS HEREBY ORDAINED AND ENACTED by the Borough Council of the Borough of TARENTUM, Allegheny County, Pennsylvania, as follows:

Section 1. Legislative Findings.

Whereas, the Federal Energy Regulatory Commission has issued Order No. 719, 125 FERC (October 28, 2008).

Whereas pursuant to Order No. 719, 18 C.F.R.: - 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 Organization markets, unless the laws and regulations of the relevant electric retail regulatory authority expressly do not permit a retail customer to participate.

Whereas pursuant to Order No. 719, 18 C.F.R. 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 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 regional transmission organization-clearing price, unless not permitted by the laws or regulations of the relevant electric retail regulatory authority.

Whereas, pursuant to Article XXIV (b) of the act of February 1, 1966 (1965 P.L. 1656, No.581) as amended, the Borough of TARENTUM is authorized to regulate the provision of electric power to retail customers served by the Borough of TARENTUM's power system.

Whereas, the council of the Borough of TARENTUM has determined that it would be harmful to the demand response in the Borough of TARENTUM's power system, and the collective interests of the Borough of TARENTUM's power system, as a load-serving entity with an obligation to serve at retail, and the Borough of TARENTUM's power system any entity other than the Borough of TARENTUM's power system itself or its authorized designee to aggregate demand response on behalf of its retail customers.

Whereas the council of the Borough of TARENTUM as electric retail regulatory authority for the Borough of TARENTUM's power system, has determined it to be desirable that the aggregation of demand response on behalf of retail customers served by the Borough of TARENTUM's power system to be bid directly into the organized electric and ancillary services markets administered by the PJM Interconnection (or any successor independent system operator or regional transmission organization to which the Borough of TARENTUM's power system is a member) be performed by the Borough of TARENTUM or its authorized designee, the following amendments to the Code of the Borough of TARENTUM are hereby adopted.

Section 2. The Code of Ordinances of the Borough of TARENTUM, Chapter 111 thereof, Article I is amended by adding a new Section 111.5 to read as follows:

§ 111.5. Prohibition and/or Restriction of Aggregation of Retail Customer Demand Response

- A. The Borough of TARENTUM or its authorized designee is the sole entity permitted to bid demand response on behalf of retail customers served by the Borough of TARENTUM's power system directly into any Commission-approved independent system operator's or regional transmission organization's organized electric markets.
- B. Retail customers served by the Borough of TARENTUM's power system wishing to bid their demand response into a Commission-approved independent system operator's or regional transmission organization's organized electric markets may do so by participating in the program established by the Borough of TARENTUM or its authorized designee. Retail customers are not permitted to participate in the demand response program of any other entity without the express prior authorization of the Borough of TARENTUM.

Section 3. The Code of Ordinances of the Borough of TARENTUM, Chapter 111 thereof, Article 1 is amended by adding a new Section 111.6 to read as follows:

§ 111.6. Ancillary Services Provided by Demand Response Resources

- A. The Borough of TARENTUM or its authorized designee is the sole entity permitted to bid demand response on behalf of retail customers served by the Borough of TARENTUM's power system directly into any Commission-approved independent system operator organization 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).
- B. Retail customers served by the Borough of TARENTUM's power system wishing 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 by

participating in the program established by the Borough of TARENTUM or its authorized designee. Retail customers are not permitted to participate in the demand response program of any other entity without the express prior authorization of the Borough of TARENTUM.

Section 4. The Code of Ordinances of the Borough of TARENTUM, Chapter 111 thereof, Article 1 is amended by adding a new Section 111.7 to read as follows:

§ 111.7. Violations and Penalties.

- A. Any person, firm, partnership, or corporation who or which shall violate any provision of this chapter shall, upon conviction thereof, be sentenced to pay a fine of not more than six hundred dollars (\$600.00), plus the costs of prosecution, and in default of payment thereof, shall be imprisoned for a term not to exceed thirty (30) days. Every day that a violation of this chapter continues shall constitute a separate offense.
- B. Injunctive Relief. When any person, firm, partnership, or corporation has violated, or continues to violate, any provision of this chapter, the Borough may petition the Court of Common Pleas of Allegheny County through the Borough's Attorney for the issuance of a preliminary or permanent injunction, or both, as appropriate, which restrains or compels the specific performance of the provisions of this chapter. The Borough may also seek such other action as is appropriate for legal and/or equitable relief. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a person in violation of the provisions of this chapter.
- C. Remedies Nonexclusive. The remedies provided for in this section are not exclusive. The Borough may take any, all or any combination of these actions against any person, firm, partnership, or corporation that has violated, or continues to violate, any provision of this chapter

Section 5. The Code of Ordinances of the Borough of TARENTUM, Chapter 111, thereof, Article 1 is amended by redesignating former Section 111.5, Short File, as Section 111.8.

Section 6. The provisions of this Ordinance are severable, and if any section, sentence, clause, part or provision hereof shall be held to be illegal, invalid or unconstitutional by any court of competent jurisdiction, such decision of the court shall not affect or impair the remaining sections, clauses, parts or provisions of this Ordinance. It is hereby declared to be the intent of Borough Council that this ordinance would have been adopted if such illegal, invalid or unconstitutional section, sentence, clause, part or provision hereof had not been included herein.

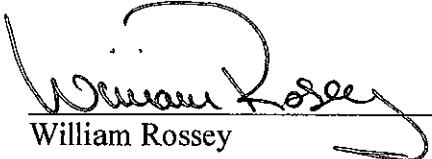
Section 7. All other sections, parts and provisions of the Code of Ordinances of the Borough of TARENTUM shall remain in full force and effect as heretofore enacted and amended.

Section 8. This Ordinance shall take effect and be in force at the earliest date permitted by law.

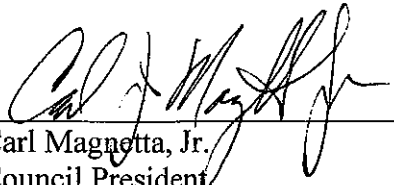
DULY ORDAINED AND ENACTED this 16th day of February, 2009.

ATTESTED:

BOROUGH OF TARENTUM:

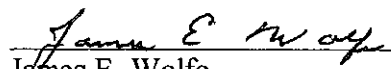


William Rossey
Borough Manager




Carl Magnetta, Jr.
Council President

APPROVED by me this 16th day of February, 2009.



James E. Wolfe
Mayor of Tarentum



David P. Strellec
Solicitor