

2/12/10

First Reading: \_\_\_\_\_  
Second Reading: \_\_\_\_\_  
Third Reading: 02/16/10  
Sponsor: \_\_\_\_\_  
Ord. No.: 009-10

**AN ORDINANCE TO AMEND THE CODE OF THE TOWN OF SMRYNA BY REVISING CHAPTER 70 "UTILITIES" TO MAKE PROVISION WITH RESPECT TO THE AGGREGATION OF DEMAND RESPONSE ON BEHALF OF RETAIL CUSTOMERS IN THE TOWN OF SMRYNA.**

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

WHEREAS pursuant to Order No. 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 pursuant to 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, pursuant to Section 23 of the Town Charter, the Town Council of the Town of Smyrna is authorized to enact ordinances governing the provision of electric power to retail customers served by the Town of Smyrna.

WHEREAS, the Town Council of the Town of Smyrna as the electric retail regulatory authority has determined that it would be harmful to demand response in the Town of Smyrna, and the collective interests of the Town of Smyrna, as a load-serving entity with an obligation to serve at retail, and the Town of Smyrna's retail customers to permit demand response aggregation by any entity other than the Town of Smyrna or its authorized designee.

WHEREAS the Town Council of the Town of Smyrna, as the electric retail regulatory authority for the Town of Smyrna, has determined to prohibit the aggregation of demand response on behalf of retail customers served by the Town of Smyrna to be bid directly into the organized electric and ancillary services markets administered by PJM Interconnection, LLC (or any successor thereto) unless such aggregation is performed solely by the Town of Smyrna or its authorized designee.

BE IT HEREBY ENACTED by the Town Council of the Town of Smyrna, a majority thereof concurring in Council duly met, that Chapter 70 ("Utilities") of the Town Code of the Town of Smyrna be and hereby is amended as follows:

**Section 1.** Amend Chapter 70 by adding a new Section 70-174 AGGREGATION OF RETAIL CUSTOMER DEMAND RESPONSE, as follows:

**Sec. 70-174. Aggregation of Retail Customer Demand Response.**

(a) *Aggregation of Retail Customer Demand Response.*

(1) The Town of Smyrna or its authorized designee is the sole entity permitted to bid demand response on behalf of retail customers served by the Town of Smyrna directly into any Commission-approved independent system operator's or regional transmission organization's organized electric markets. Any other demand response aggregation of retail customers is

prohibited. Retail customers served by the Town of Smyrna may not bid their demand response into any Commission-approved independent system operator's or regional transmission organization's organized electric markets except as part of a program provided by the Town of Smyrna or its authorized designee. The Town of Smyrna is not required to have a retail demand response aggregation program.

(2) Retail customers served by the Town of Smyrna 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 only by participating in a program established by the Town of Smyrna or its authorized designee.

*(b) Ancillary Services Provided by Demand Response Resources.*

(1) The Town of Smyrna or its authorized designee is the sole entity permitted to bid demand response on behalf of retail customers served by Town of Smyrna 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). Retail customers served by the Town of Smyrna may not bid demand response 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) except as part of a program provided by the Town of Smyrna or its authorized designee.

(2) Retail customers served by the Town of Smyrna 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 only do so by participating in a program, if any, established by the Town of Smyrna or its authorized designee.

### **SYNOPSIS**

Under this ordinance, only the Town of Smyrna or its authorized designee may bid demand response directly into any Commission-approved independent system operator's or regional transmission organization's organized electric markets on behalf of retail customers served by the Town of Smyrna. Any other demand response aggregation of retail customers is prohibited, and retail customers served by the Town of Smyrna may only bid their demand response as part of a program provided by the Town of Smyrna or its authorized agent. The Town of Smyrna is not required to have a retail demand response aggregation program.

Under this ordinance, only the Town of Smyrna or its authorized designee may bid demand response 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), and retail customers may only bid demand response for these purposes as part of a program provided by the Town of Smyrna or its authorized designee.

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This will certify that this is a true and correct copy of the Ordinance duly adopted by the Town Council of the Town of Smyrna at its regular Council meeting on \_\_\_\_\_, 2010.

ATTEST:

\_\_\_\_\_  
Council Secretary

\_\_\_\_\_  
Mayor

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This shall certify that the title and synopsis of this Ordinance was published in "The Smyrna/Clayton Sun Times" on \_\_\_\_\_, 2010 and posted at the Town Hall on \_\_\_\_\_, 2010.

So Certifies:

\_\_\_\_\_  
Town Clerk

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This shall certify that the title, effective date and synopsis of this Ordinance was published in "The Smyrna/Clayton Sun Times" on \_\_\_\_\_, 2010 and posted at the Town Hall on \_\_\_\_\_, 2010.

So Certifies:

\_\_\_\_\_  
Town Manager