

AN ACT concerning regulation.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Illinois Power Agency Act is amended by changing Section 1-92 as follows:

(20 ILCS 3855/1-92)

Sec. 1-92. Aggregation of electrical load by municipalities, townships, and counties.

(a) The corporate authorities of a municipality, township board, or county board of a county may adopt an ordinance under which it may aggregate in accordance with this Section residential and small commercial retail electrical loads located, respectively, within the municipality, the township, or the unincorporated areas of the county and, for that purpose, may solicit bids and enter into service agreements to facilitate for those loads the sale and purchase of electricity and related services and equipment.

The corporate authorities, township board, or county board may also exercise such authority jointly with any other municipality, township, or county. Two or more municipalities, townships, or counties, or a combination of both, may initiate a process jointly to authorize aggregation by a majority vote of each particular municipality, township, or county as

required by this Section.

If the corporate authorities, township board, or the county board seek to operate the aggregation program as an opt-out program for residential and small commercial retail customers, then prior to the adoption of an ordinance with respect to aggregation of residential and small commercial retail electric loads, the corporate authorities of a municipality, the township board, or the county board of a county shall submit a referendum to its residents to determine whether or not the aggregation program shall operate as an opt-out program for residential and small commercial retail customers.

In addition to the notice and conduct requirements of the general election law, notice of the referendum shall state briefly the purpose of the referendum. The question of whether the corporate authorities, the township board, or the county board shall adopt an opt-out aggregation program for residential and small commercial retail customers shall be submitted to the electors of the municipality, township board, or county board at a regular election and approved by a majority of the electors voting on the question. The corporate authorities, township board, or county board must certify to the proper election authority, which must submit the question at an election in accordance with the Election Code.

The election authority must submit the question in substantially the following form:

Shall the (municipality, township, or county in which

the question is being voted upon) have the authority to arrange for the supply of electricity for its residential and small commercial retail customers who have not opted out of such program?

The election authority must record the votes as "Yes" or "No".

If a majority of the electors voting on the question vote in the affirmative, then the corporate authorities, township board, or county board may implement an opt-out aggregation program for residential and small commercial retail customers.

A referendum must pass in each particular municipality, township, or county that is engaged in the aggregation program. If the referendum fails, then the corporate authorities, township board, or county board shall operate the aggregation program as an opt-in program for residential and small commercial retail customers.

An ordinance under this Section shall specify whether the aggregation will occur only with the prior consent of each person owning, occupying, controlling, or using an electric load center proposed to be aggregated. Nothing in this Section, however, authorizes the aggregation of electric loads that are served or authorized to be served by an electric cooperative as defined by and pursuant to the Electric Supplier Act or loads served by a municipality that owns and operates its own electric distribution system. No aggregation shall take effect unless approved by a majority of the members of the corporate authority, township board, or county board voting upon the

ordinance.

A governmental aggregator under this Section is not a public utility or an alternative retail electric supplier.

For purposes of this Section, "township" means the portion of a township that is an unincorporated portion of a county that is not otherwise a part of a municipality. In addition to such other limitations as are included in this Section, a township board shall only have authority to aggregate residential and small commercial customer loads in accordance with this Section if the county board of the county in which the township is located (i) is not also submitting a referendum to its residents at the same general election that the township board proposes to submit a referendum under this subsection (a), (ii) has not received authorization through passage of a referendum to operate an opt-out aggregation program for residential and small commercial retail customers under this subsection (a), and (iii) has not otherwise enacted an ordinance under this subsection (a) authorizing the operation of an opt-in aggregation program for residential and small commercial retail customers as described in this Section.

(b) Upon the applicable requisite authority under this Section, the corporate authorities, the township board, or the county board, with assistance from the Illinois Power Agency, shall develop a plan of operation and governance for the aggregation program so authorized. Before adopting a plan under this Section, the corporate authorities, township board, or

county board shall hold at least 2 public hearings on the plan. Before the first hearing, the corporate authorities, township board, or county board shall publish notice of the hearings once a week for 2 consecutive weeks in a newspaper of general circulation in the jurisdiction. The notice shall summarize the plan and state the date, time, and location of each hearing. Any load aggregation plan established pursuant to this Section shall:

(1) provide for universal access to all applicable residential customers and equitable treatment of applicable residential customers;

(2) describe demand management and energy efficiency services to be provided to each class of customers; and

(3) meet any requirements established by law concerning aggregated service offered pursuant to this Section.

(c) The process for soliciting bids for electricity and other related services and awarding proposed agreements for the purchase of electricity and other related services shall be conducted in the following order:

(1) The corporate authorities, township board, or county board may solicit bids for electricity and other related services. The bid specifications may include a provision requiring the bidder to disclose the fuel type of electricity to be procured or generated on behalf of the aggregation program customers. The corporate authorities,

township board, or county board may consider the proposed source of electricity to be procured or generated to be put into the grid on behalf of aggregation program customers in the competitive bidding process. The Agency and Commission may collaborate to issue joint guidance on voluntary uniform standards for bidder disclosures of the source of electricity to be procured or generated to be put into the grid on behalf of aggregation program customers.

(1.5) A township board shall request from the electric utility those residential and small commercial customers within their aggregate area either by zip code or zip codes or other means as determined by the electric utility. The electric utility shall then provide to the township board the residential and small commercial customers, including the names and addresses of residential and small commercial customers, electronically. The township board shall be responsible for authenticating the residential and small commercial customers contained in this listing and providing edits of the data to affirm, add, or delete the residential and small commercial customers located within its jurisdiction. The township board shall provide the edited list to the electric utility in an electronic format or other means selected by the electric utility and certify that the information is accurate.

(2) Notwithstanding Section 16-122 of the Public Utilities Act and Section 2HH of the Consumer Fraud and

Deceptive Business Practices Act, an electric utility that provides residential and small commercial retail electric service in the aggregate area must, upon request of the corporate authorities, township board, or the county board in the aggregate area, submit to the requesting party, in an electronic format, those account numbers, names, and addresses of residential and small commercial retail customers in the aggregate area that are reflected in the electric utility's records at the time of the request; provided, however, that any township board has first provided an accurate customer list to the electric utility as provided for herein.

Any corporate authority, township board, or county board receiving customer information from an electric utility shall be subject to the limitations on the disclosure of the information described in Section 16-122 of the Public Utilities Act and Section 2HH of the Consumer Fraud and Deceptive Business Practices Act, and an electric utility shall not be held liable for any claims arising out of the provision of information pursuant to this item (2).

(d) If the corporate authorities, township board, or county board operate under an opt-in program for residential and small commercial retail customers, then the corporate authorities, township board, or county board shall comply with all of the following:

(1) Within 60 days after receiving the bids, the

corporate authorities, township board, or county board shall allow residential and small commercial retail customers to commit to the terms and conditions of a bid that has been selected by the corporate authorities, township board, or county board.

(2) If (A) the corporate authorities, township board, or county board award proposed agreements for the purchase of electricity and other related services and (B) an agreement is reached between the corporate authorities, township board, or county board for those services, then customers committed to the terms and conditions according to item (1) of this subsection (d) shall be committed to the agreement.

(e) If the corporate authorities, township board, or county board operate as an opt-out program for residential and small commercial retail customers, then it shall be the duty of the aggregated entity to fully inform residential and small commercial retail customers in advance that they have the right to opt out of the aggregation program. The disclosure shall prominently state all charges to be made and shall include full disclosure of the cost to obtain service pursuant to Section 16-103 of the Public Utilities Act, how to access it, and the fact that it is available to them without penalty, if they are currently receiving service under that Section. The Illinois Power Agency shall furnish, without charge, to any citizen a list of all supply options available to them in a format that

allows comparison of prices and products.

(f) Any person or entity retained by a municipality or county, or jointly by more than one such unit of local government, to provide input, guidance, or advice in the selection of an electricity supplier for an aggregation program shall disclose in writing to the involved units of local government the nature of any relationship through which the person or entity may receive, either directly or indirectly, commissions or other remuneration as a result of the selection of any particular electricity supplier. The written disclosure must be made prior to formal approval by the involved units of local government of any professional services agreement with the person or entity, or no later than October 1, 2012 with respect to any such professional services agreement entered into prior to the effective date of this amendatory Act of the 97th General Assembly. The disclosure shall cover all direct and indirect relationships through which commissions or remuneration may result, including the pooling of commissions or remuneration among multiple persons or entities, and shall identify all involved electricity suppliers. The disclosure requirements in this subsection (f) are to be liberally construed to ensure that the nature of financial interests are fully revealed, and these disclosure requirements shall apply regardless of whether the involved person or entity is licensed under Section 16-115C of the Public Utilities Act. Any person or entity that fails to make the disclosure required under this

subsection (f) is liable to the involved units of local government in an amount equal to all compensation paid to such person or entity by the units of local government for the input, guidance, or advice in the selection of an electricity supplier, plus reasonable attorneys fees and court costs incurred by the units of local government in connection with obtaining such amount.

(g) The Illinois Power Agency shall provide assistance to municipalities, townships, counties, or associations working with municipalities to help complete the plan and bidding process.

(h) This Section does not prohibit municipalities or counties from entering into an intergovernmental agreement to aggregate residential and small commercial retail electric loads.

(Source: P.A. 96-176, eff. 1-1-10; 97-338, eff. 8-12-11; 97-823, eff. 7-18-12; 97-1067, eff. 8-24-12; revised 9-20-12.)