



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB3674

Introduced 2/28/2007, by Rep. Carolyn H. Krause

SYNOPSIS AS INTRODUCED:

220 ILCS 5/17-800 new
220 ILCS 5/17-810 new
220 ILCS 5/17-815 new
220 ILCS 5/17-820 new

Amends the Public Utilities Act. Provides that a person may not provide aggregation services in this State unless the person is registered with the Illinois Commerce Commission as an aggregator. Provides registration requirements for aggregators. Provides for approval of aggregation by the voters. Provides that the Commission may adopt rules necessary for implementation of the provisions and provides that the Commission may levy penalties for certain violations. Effective immediately.

LRB095 11265 MJR 31783 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning regulation.

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

4 Section 5. The Public Utilities Act is amended by adding
5 Sections 17-800, 17-810, 17-815, and 17-820 as follows:

6 (220 ILCS 5/17-800 new)

7 Sec. 17-800. Registration of aggregators.

8 (a) A person may not provide aggregation services in this
9 State unless the person is registered with the Commission as an
10 aggregator.

11 (b) For purposes of this Article, "aggregator" means a
12 person joining 2 or more customers, other than municipalities
13 and corporations, into a single purchasing unit to negotiate
14 the purchase of electricity from retail electric providers.
15 Aggregators may not sell or take title to electricity. Retail
16 electric providers are not aggregators.

17 (c) A person registering under this Section shall comply
18 with all customer protection provisions, all disclosure
19 requirements, and all marketing guidelines established by the
20 Commission and by this Act.

21 (d) The Commission shall establish terms and conditions it
22 determines necessary to regulate the reliability and integrity
23 of aggregators in this State on or before June 1, 2008.

1 (e) An aggregator may register any time after September 1,
2 2008.

3 (f) The Commission shall have up to 60 days to process
4 applications for registration filed by aggregators.

5 (g) Registration is not required of a customer that is
6 aggregating loads from its own location or facilities.

7 (h) The Commission shall work with the Department of
8 Commerce and Economic Opportunity to communicate information
9 about opportunities for operation as aggregators to potential
10 new aggregators, including small and historically
11 underutilized businesses.

12 (220 ILCS 5/17-810 new)

13 Sec. 17-810. Registration of municipal or county
14 aggregators.

15 (a) The corporate authorities of a municipality or county
16 board of a county may adopt an ordinance, under which it may
17 aggregate in accordance with this Section one or more classes
18 of the retail electrical loads located, respectively, within
19 the municipality or county and, for that purpose, may solicit
20 bids and enter into service agreements to facilitate for those
21 loads the sale and purchase of electricity and related services
22 and equipment. The corporate authorities or county board also
23 may exercise such authority jointly with any other municipality
24 or county. An ordinance under this Section shall specify
25 whether the aggregation will occur only with the prior consent

1 of each person owning, occupying, controlling, or using an
2 electric load center proposed to be aggregated or will occur
3 automatically for all such persons pursuant to the opt-out
4 requirements of this Section. Nothing in this Section, however,
5 authorizes the aggregation of retail electric loads of an
6 electric load center that is located in the certified territory
7 of a nonprofit electric supplier or an electric load center
8 served by distribution facilities of a municipal electric
9 utility. If an ordinance adopted under this Section specifies
10 that aggregation will occur automatically, the corporate
11 authorities or county board shall certify the question of the
12 authority to aggregate in accordance with the Election Code to
13 the election authority for submission to the voters at the next
14 election. No aggregation pursuant to an ordinance adopted under
15 this Section that provides for an election under this Section
16 shall take effect unless approved by a majority of the electors
17 voting upon the ordinance at the election held pursuant to this
18 Section.

19 No corporate authority or county board acting pursuant to
20 an ordinance under this Section that provides for automatic
21 aggregation shall aggregate the electrical load of any electric
22 load center located within its jurisdiction unless it clearly
23 discloses to the person owning, occupying, controlling, or
24 using the load center that the person will be enrolled
25 automatically in the aggregation program and will remain so
26 enrolled unless the person affirmatively elects by a stated

1 procedure not to be so enrolled. The disclosure shall state
2 prominently the rates, charges, and other terms and conditions
3 of enrollment. The stated procedure shall allow any person
4 enrolled in the aggregation program the opportunity to opt out
5 of the program every 3 years, without paying an exit fee. Any
6 such person that leaves the aggregation program pursuant to the
7 stated procedure shall default to the bundled utility service
8 until the person chooses an alternative supplier or returns to
9 the aggregation program.

10 A governmental aggregator under this Section is not a
11 public utility or an alternative retail electric supplier and
12 shall be subject to supervision and regulation by the
13 Commission only to the extent provided in this Section.

14 A municipality may initiate a process to authorize
15 aggregation by a majority vote of the municipal council, with
16 the approval of the mayor. A county may initiate the process to
17 authorize aggregation by a majority vote of the county board.
18 Two or more municipalities or counties, or a combination of
19 both, may initiate a process jointly to authorize aggregation
20 by a majority vote of each particular municipality or county as
21 herein required.

22 Upon the applicable requisite authority under this
23 Section, the corporate authorities or the county board shall
24 develop a plan of operation and governance for the aggregation
25 program so authorized. Before adopting a plan under this
26 Section, the corporate authorities or county board shall hold

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

8 (1) provide for universal access to all applicable
9 customers and equitable treatment of applicable classes of
10 customers;

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

13 (3) meet any requirements established by law or the
14 Commission concerning aggregated service offered pursuant
15 to this Section.

16 The plan shall be filed with the Commission for review and
17 approval and shall include, without limitation, an
18 organizational structure of the program, its operations, and
19 funding; the methods of establishing rates and allocating costs
20 among participants; the methods for entering and terminating
21 agreements with other entities; the rights and
22 responsibilities of program participants, including the terms
23 and conditions under which retail customers who have chosen to
24 opt out of the aggregated service may take service from the
25 aggregated entity; and procedures for termination of the
26 program. Within 120 days after receipt of the plan, the

1 Commission shall issue an order either approving or rejecting
2 the plan. If the Commission rejects the plan, it shall state
3 detailed reasons for rejecting the plan in its order. Upon
4 approval of the plan, the corporate authorities or county board
5 may solicit bids for electricity and other related services
6 pursuant to the methods established in the plan. The corporate
7 authorities or county board shall report the results of this
8 solicitation and proposed agreement awards to the Commission,
9 which shall have 15 business days to suspend such awards if the
10 solicitation or awards are not in conformance with the plan or
11 if the cost for energy would in the first year exceed the cost
12 of that energy if that energy was obtained from an electric
13 utility under Section 16-103 of this Act by citizens in the
14 municipality or county or group of municipalities and counties,
15 unless the applicant can demonstrate that the cost for energy
16 under the aggregation plan will be lower in the subsequent
17 years or the applicant can demonstrate that such excess cost is
18 due to the purchase of renewable energy. If the Commission does
19 not suspend the proposed contract awards within 15 business
20 days after filing, the corporate authorities or county board
21 shall have the right to award the proposed agreements.

22 It shall be the duty of the aggregated entity to fully
23 inform retail customers in advance of automatic enrollment that
24 they are to be automatically enrolled and that they have the
25 right to opt out of the aggregated entity without penalty. The
26 disclosure shall prominently state all charges to be made and

1 shall include full disclosure of the cost to obtain service
2 pursuant to Section 16-103 of this Act, how to access it, and
3 the fact that it is available to them without penalty, if they
4 are currently receiving service under that Section. The
5 Commission shall furnish, without charge, to any citizen a list
6 of all supply options available to them in a format that allows
7 comparison of prices and products.

8 (b) A municipal or county aggregator may not provide
9 aggregation services in this State unless the municipal or
10 county aggregator registers with the Commission.

11 (c) In this Section, "municipal or county aggregator" means
12 a person authorized by 2 or more municipal or county governing
13 bodies to join the bodies into a single purchasing unit to
14 negotiate the purchase of electricity from retail electric
15 providers or aggregation by a municipality or county under the
16 Illinois Municipal Code.

17 (d) A municipal or county aggregator may register any time
18 after September 1, 2008.

19 (220 ILCS 5/17-815 new)

20 Sec. 17-815. Registration of private corporation or
21 organization aggregators.

22 (a) A private corporation or organization aggregator may
23 not provide aggregation services in this State unless the
24 private corporations or organization aggregator registers with
25 the Commission.

1 (b) In this Section, "private corporation or organization
2 aggregator" means a person, private corporation, or
3 organization authorized by 2 or more private corporation or
4 organization bodies to join the bodies into a single purchasing
5 unit or multiple purchasing units to negotiate the purchase of
6 electricity from retail electric providers for the facilities
7 of the aggregated private corporations or organization or
8 aggregation by a person, private corporation, or organization.

9 (c) A private corporation or organization aggregator may
10 register any time after September 1, 2008.

11 (220 ILCS 5/17-820 new)

12 Sec. 17-820. Rules and revocation of certification.

13 (a) The Commission may suspend, revoke, or amend a retail
14 certification for significant violations of this Article or the
15 rules adopted under this title or of any reliability standard
16 adopted by an independent organization certified by the
17 Commission to ensure the reliability of a power region's
18 electrical network, including the failure to observe any
19 scheduling, operating, planning, reliability, or settlement
20 protocols established by the independent organization. The
21 Commission may also suspend or revoke a retail electric
22 provider's certificate if the provider no longer has the
23 financial or technical capability to provide continuous and
24 reliable electric service.

25 (b) The Commission may suspend or revoke a power generation

1 company's registration for significant violations of this
2 Article or the rules adopted under this Article or of the
3 reliability standards adopted by an independent organization
4 certified by the Commission to ensure the reliability of a
5 power region's electrical network, including the failure to
6 observe any scheduling, operating, planning, reliability, or
7 settlement protocols established by the independent
8 organization.

9 (c) The Commission may suspend or revoke an aggregator's
10 registration for significant violations of this Article or of
11 the rules adopted under this Article.

12 (d) The Commission may adopt rules necessary to implement
13 the provisions of this amendatory Act of the 95th General
14 Assembly.

15 Section 99. Effective date. This Act takes effect upon
16 becoming law.