

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

6 (20 ILCS 3855/1-92)

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

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

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

1 required by this Section.

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

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

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

26 Shall the (municipality, township, or county in which

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

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

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

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

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

1 ordinance.

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

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

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

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

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

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

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

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

21 (1) The corporate authorities, township board, or  
22 county board may solicit bids for electricity and other  
23 related services. The bid specifications may include a  
24 provision requiring the bidder to disclose the source of  
25 electricity being provided.

26 (1.5) A township board shall request from the electric

1 utility those residential and small commercial customers  
2 within their aggregate area either by zip code or zip codes  
3 or other means as determined by the electric utility. The  
4 electric utility shall then provide to the township board  
5 the residential and small commercial customers, including  
6 the names and addresses of residential and small commercial  
7 customers, electronically. The township board shall be  
8 responsible for authenticating the residential and small  
9 commercial customers contained in this listing and  
10 providing edits of the data to affirm, add, or delete the  
11 residential and small commercial customers located within  
12 its jurisdiction. The township board shall provide the  
13 edited list to the electric utility in an electronic format  
14 or other means selected by the electric utility and certify  
15 that the information is accurate.

16 (2) Notwithstanding Section 16-122 of the Public  
17 Utilities Act and Section 2HH of the Consumer Fraud and  
18 Deceptive Business Practices Act, an electric utility that  
19 provides residential and small commercial retail electric  
20 service in the aggregate area must, upon request of the  
21 corporate authorities, township board, or the county board  
22 in the aggregate area, submit to the requesting party, in  
23 an electronic format, those account numbers, names, and  
24 addresses of residential and small commercial retail  
25 customers in the aggregate area that are reflected in the  
26 electric utility's records at the time of the request;

1 provided, however, that any township board has first  
2 provided an accurate customer list to the electric utility  
3 as provided for herein.

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

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

17 (1) Within 60 days after receiving the bids, the  
18 corporate authorities, township board, or county board  
19 shall allow residential and small commercial retail  
20 customers to commit to the terms and conditions of a bid  
21 that has been selected by the corporate authorities,  
22 township board, or county board.

23 (2) If (A) the corporate authorities, township board,  
24 or county board award proposed agreements for the purchase  
25 of electricity and other related services and (B) an  
26 agreement is reached between the corporate authorities,

1 township board, or county board for those services, then  
2 customers committed to the terms and conditions according  
3 to item (1) of this subsection (d) shall be committed to  
4 the agreement.

5 (e) If the corporate authorities, township board, or county  
6 board operate as an opt-out program for residential and small  
7 commercial retail customers, then it shall be the duty of the  
8 aggregated entity to fully inform residential and small  
9 commercial retail customers in advance that they have the right  
10 to opt out of the aggregation program. The disclosure shall  
11 prominently state all charges to be made and shall include full  
12 disclosure of the cost to obtain service pursuant to Section  
13 16-103 of the Public Utilities Act, how to access it, and the  
14 fact that it is available to them without penalty, if they are  
15 currently receiving service under that Section. The Illinois  
16 Power Agency shall furnish, without charge, to any citizen a  
17 list of all supply options available to them in a format that  
18 allows comparison of prices and products.

19 (f) Any person or entity retained by a municipality or  
20 county, or jointly by more than one such unit of local  
21 government, to provide input, guidance, or advice in the  
22 selection of an electricity supplier for an aggregation program  
23 shall disclose in writing to the involved units of local  
24 government the nature of any relationship through which the  
25 person or entity may receive, either directly or indirectly,  
26 commissions or other remuneration as a result of the selection



1 of any particular electricity supplier. The written disclosure  
2 must be made prior to formal approval by the involved units of  
3 local government of any professional services agreement with  
4 the person or entity, or no later than October 1, 2012 with  
5 respect to any such professional services agreement entered  
6 into prior to the effective date of this amendatory Act of the  
7 97th General Assembly. The disclosure shall cover all direct  
8 and indirect relationships through which commissions or  
9 remuneration may result, including the pooling of commissions  
10 or remuneration among multiple persons or entities, and shall  
11 identify all involved electricity suppliers. The disclosure  
12 requirements in this subsection (f) are to be liberally  
13 construed to ensure that the nature of financial interests are  
14 fully revealed, and these disclosure requirements shall apply  
15 regardless of whether the involved person or entity is licensed  
16 under Section 16-115C of the Public Utilities Act. Any person  
17 or entity that fails to make the disclosure required under this  
18 subsection (f) is liable to the involved units of local  
19 government in an amount equal to all compensation paid to such  
20 person or entity by the units of local government for the  
21 input, guidance, or advice in the selection of an electricity  
22 supplier, plus reasonable attorneys fees and court costs  
23 incurred by the units of local government in connection with  
24 obtaining such amount.

25 (g) The Illinois Power Agency shall provide assistance to  
26 municipalities, townships, counties, or associations working

1 with municipalities to help complete the plan and bidding  
2 process.

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

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