

1 AN ACT concerning utilities.

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, the township board,
8 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.

24 (2) Notwithstanding Section 16-122 of the Public
25 Utilities Act and Section 2HH of the Consumer Fraud and
26 Deceptive Business Practices Act, an electric utility that

1 provides residential and small commercial retail electric
2 service in the aggregate area must: 7

3 (A) upon request of the corporate authorities or
4 the county board in the aggregate area, submit to the
5 requesting party, in an electronic format, those
6 account numbers, names, and addresses of residential
7 and small commercial retail customers in the aggregate
8 area that are reflected in the electric utility's
9 records at the time of the request; and

10 (B) following the township board's submission to
11 the electric utility of those zip codes included in the
12 aggregate area, submit to the township board, in an
13 electronic format or other means selected by the
14 electric utility, those names and addresses of
15 residential and small commercial retail customers that
16 are located in such zip codes as reflected in the
17 electric utility's records at the time of the request;
18 upon the township board's receipt of the information
19 provided by the electric utility, the township board
20 shall review the information and submit to the electric
21 utility, in an electronic format or other means
22 selected by the utility, either confirmation that the
23 information is accurate or corrections to the
24 information.

25 Any corporate authority, township board, or county board
26 receiving customer information from an electric utility shall

1 be subject to the limitations on the disclosure of the
2 information described in Section 16-122 of the Public Utilities
3 Act and Section 2HH of the Consumer Fraud and Deceptive
4 Business Practices Act, and an electric utility shall not be
5 held liable for any claims arising out of the provision of
6 information pursuant to this item (2).

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

12 (1) Within 60 days after receiving the bids, the
13 corporate authorities, township board, or county board
14 shall allow residential and small commercial retail
15 customers to commit to the terms and conditions of a bid
16 that has been selected by the corporate authorities, township board,
17 township board, or county board.

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

26 (e) If the corporate authorities, township board, or county

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

14 The Illinois Power Agency shall provide assistance to
15 municipalities, townships, counties, or associations working
16 with municipalities to help complete the plan and bidding
17 process.

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

21 (Source: P.A. 96-176, eff. 1-1-10; 97-338, eff. 8-12-11.)

22 Section 99. Effective date. This Act takes effect upon
23 becoming law.