TITLE 83: PUBLIC UTILITIES
CHAPTER I: ILLINOIS COMMERCE COMMISSION
SUBCHAPTER c: ELECTRIC UTILITIES

PART 470
GOVERNMENTAL ELECTRIC AGGREGATION

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SOURCE: Adopted at 37 Ill. Reg. _______, effective _______.

SUBPART A: GENERAL

Section 470.10 Definitions

"Aggregate Area" means the area within the geographic boundaries of a municipality, a
township, or the unincorporated areas of a county that has adopted an ordinance to aggregate residential and/or small commercial retail electric loads.

"Aggregation Customer" means a residential or small commercial retail customer receiving retail electric supplier (RES) service pursuant to an Aggregation Program.

"Aggregation Program" means a program offered by a municipality, township, or county, individually or collectively, pursuant to Section 1-92 of the Illinois Power Agency Act and Section 16-104(b) of the Public Utilities Act (PUA).

"Aggregation Supplier" means the retail electric supplier chosen by the Governmental Aggregator that provides electric supply service to the aggregated residential and small commercial retail electrical loads located within the Aggregate Area.

"Commission" means the Illinois Commerce Commission.

"Electric utility" means an electric utility, as defined in Section 16-102 of the Public Utilities Act.

"Governmental Aggregator" means the corporate authorities of a municipality, a township board, or a county board in the Aggregate Area; "Governmental Aggregator" shall have the same meaning as "aggregated entity" as used in Section 1-92 of the Illinois Power Agency Act.

"Incumbent Aggregation Supplier" means the Aggregation Supplier currently providing retail electric supply service pursuant to an Aggregation Program.

"IPA Act" means the Illinois Power Agency Act [20 ILCS 3855].

"Office of Retail Market Development" or "ORMD" means the same as that term is used in Section 5/20-110 of the PUA [220 ILCS 5/20-110].

"Opt-in Aggregation Program" means an Aggregation Program offered in accordance with
Section 1-92 of the IPA Act and Section 16-104(b) of the PUA, whereby the corporate authorities of a municipality, township board, or county board adopt an ordinance to aggregate the electric loads of residential and small commercial retail customers, provided, however, that only those residential and small commercial retail customers that affirmatively elect to participate in the Opt-in Aggregation Program will have their electric load included in the Opt-in Aggregation Program.

"Opt-out Aggregation Program" means an Aggregation Program offered in accordance with Section 1-92 of the IPA Act and Section 16-104(b) of the PUA, whereby the corporate authorities of a municipality, township board, or county board adopt an ordinance to aggregate the electric loads of residential and small commercial retail customers, where the voters of the municipality, township, or county previously passed, by a majority of electors voting on the question, a referendum granting the municipality, township or county the authority to arrange for the supply of electricity for its residential and small commercial retail customers except for those customers who affirmatively elect not to participate in the Opt-out Aggregation Program.

"Retail Electric Supplier" or "RES" means either: an alternative retail electric supplier ("ARES") as defined in Section 16-102 of the PUA and certified by the Commission pursuant to Section 16-115 of the PUA, meeting all obligations of an ARES pursuant to Section 16-115A of the PUA, and authorized to provide electric power and energy supply services in an Illinois electric utility’s service territory; or an Illinois electric utility as defined in Section 16-102 of the PUA providing service pursuant to Section 16-116 of the PUA and meeting all obligations provided in Section 16-115A and Section 16-116 of the PUA.

“RES customer” means a retail customer receiving RES Service who is not an Aggregation Customer.

"RES Service" means electric supply service provided by a RES to retail electric customers.

"Retail customer" shall have the same meaning as set forth in Section 16-102 of the PUA.

"Small commercial retail customer" shall have the same meaning as set forth in Section 16-102 of the PUA.

"Utility Fixed-Price Service" means electric supply service provided by the electric utility to retail customers under fixed-price service tariffs.
"Utility Hourly Service" means electric supply service provided by the electric utility to retail customers, pursuant to tariff, that is not under fixed-price service tariffs.

Section 470.20  Construction of this Part

In the event of any conflict between this Part and the requirements provided in electric utility tariffs on file with the Commission as of the effective date of this Part, this Part shall control.

SUBPART B: CUSTOMER INFORMATION

Section 470.100  Transfer of Customer Information

a) Upon request of a Governmental Aggregator and receipt of a verification from the Governmental Aggregator that either an ordinance has been adopted authorizing an Opt-in Aggregation Program, pursuant to Section 1-92 of the IPA Act, or an ordinance has been adopted and a referendum passed authorizing an Opt-out Aggregation Program, pursuant to Section 1-92 of the IPA Act, the electric utility shall provide the information required in this subsection. If, however, the Governmental Aggregator is a township board, then the electric utility’s obligation to provide customer account numbers is contingent upon the township board first providing an accurate customer list to the electric utility. The electric utility shall provide to the Governmental Aggregator, in electronic format, the following:

1) the account numbers, names, and addresses of all residential and small commercial retail customers on utility fixed price service in the Aggregate Area that are reflected in the electric utility’s records at the time of the request;

2) the account numbers, names, and addresses of all residential and small commercial retail customers that receive RES Service in the Aggregate Area that are reflected in the electric utility’s records at the time of the request. The identification of customers that receive RES service shall not include the name of the RES providing such services; and

3) the account numbers, names, and addresses of all residential and small commercial retail customers that receive utility hourly service in the Aggregate Area that are reflected in the electric utility’s records at the time of the request.
b) If requested by the Governmental Aggregator, the Incumbent Aggregation Supplier shall provide the Governmental Aggregator with information that allows the Governmental Aggregator to identify Aggregation Customers. Unless otherwise agreed upon between the Governmental Aggregator and the Incumbent Aggregation Supplier, the identifying information shall be provided within 10 business days after the request.

Section 470.110 Protection of Customer Information

a) To protect the customer-specific information described in Section 470.100 and to ensure compliance with Section 1-92 of the IPA Act, the Aggregation Supplier shall establish and follow appropriate protocols to preserve the confidentiality of customer-specific information, and limit the use of such customer-specific information strictly and only to effectuate the provisions of Section 1-92 of theIPA Act. The Aggregation Supplier shall ensure that these protocols:

1) provide that the Aggregation Supplier shall not disclose, use, sell, or provide customer-specific information to any person, firm, or entity for any purpose outside of the Aggregation Program;

2) provide that the Aggregation Supplier shall not use the customer-specific information to market products other than the service the Aggregation Supplier has contracted to provide the Governmental Aggregator under the applicable Aggregation Program consistent with Section 1-92 of the IPA Act; and,

3) except as otherwise required by record retention obligations imposed by applicable law, within 30 days following: a customer’s opt-out of the Aggregation Program, a customer’s exit from the Aggregation Program, or the end of the term during which the Aggregation Supplier is providing service to the Aggregation Program, the Aggregation Supplier must dispose of, delete, and/or destroy all customer-specific information in whatever format that is in its possession as a result of having been the Aggregation Supplier to an Aggregation Program. The Aggregation Supplier may not use customer-specific information retained due to record retention obligations to market to customers.

b) Breaches of these confidentiality provisions by the Aggregation Supplier will be subject to the imposition of financial penalties by the Commission as described in Section 16-
115B(b) of the PUA.

SUBPART C: OBLIGATIONS OF AGGREGATION SUPPLIERS

Section 470.200 Notification to the Commission

a) Aggregation Suppliers shall provide the following Aggregation Program information to the Commission’s ORMD for posting on the Commission’s public website:

1) the end date (expressed in month/year) of the aggregation contract and, if different, the end date (expressed in month/year) of the aggregation rate or rates;

2) the aggregation rate or rates (expressed in cents per kWh);

3) any fees for early termination of the contract by the customer;

4) whether the Aggregation Supplier is providing a green or clean energy product and a description of the product; and the clean energy or renewable requirement set by the Governmental Aggregator, if any; and

5) a copy of the Aggregation Supplier’s disclosure required by Section 1-92(f) of the IPA Act and any payments, inducements or donations, including civic contributions and consulting fees made by the Aggregation Supplier, either directly or indirectly, to the Governmental Aggregator.

b) The information required in subsection (a) shall be provided within three business days after the Governmental Aggregator and the Aggregation Supplier have determined this information to be final and this information has been made public, but no later than three business days after the customer disclosures required under Section 470.210 are sent.

c) No penalties shall be levied against an Aggregation Supplier pursuant to Section 16-115B(b) of the PUA for failure to comply with this Section unless:
1) Commission Staff has provided a notice to the Aggregation Supplier regarding its failure to comply with this Section informing the Aggregation Supplier that it has one business day to remedy the failure, and the Aggregation Supplier fails to provide the information within one business day; or

2) the Aggregation Supplier failed to provide the information to ORMD within the timeframe specified in Section 470.200 (b) three or more times in a calendar year.

Section 470.210 Customer Disclosures

a) Prior to enrolling or re-enrolling retail customers in an Opt-in or Opt-out Aggregation Program or whenever there is a change in the rates, end date or choice of Aggregation Supplier of the Aggregation Program, the Aggregation Supplier shall verify that retail customers have been sent disclosures as required by Section 1-92 of the IPA Act evidenced by:

1) a written verification from the Governmental Aggregator that the required disclosure has been sent; or

2) the Aggregation Supplier has sent the required disclosures in compliance with Section 470.210(b), 470.220 and 470.230.

b) If the Aggregation Supplier sends the required disclosure to retail customers, then the disclosure shall state:

1) the legal name of the Aggregation Supplier, the name under which the Aggregation Supplier will market its products, if different, and its business address;

2) the Governmental Aggregator’s name and, if available, the Governmental Aggregator’s logo to be included on the envelope and first page of any disclosures, and the statement “Important Electricity Aggregation Information Enclosed” must be printed conspicuously on the envelope;
3) that customers may purchase their electricity supply from a RES (without providing a price comparison) or the electric utility (either utility fixed-price or hourly service) and the PlugInIllinois.org Internet address;

4) that customers may request from the Illinois Power Agency, without charge, a list of all supply options available to them in a format that allows comparison of prices and products;

5) the cost to obtain service pursuant to Section 16-103 of the PUA, how to access it, and the fact that it is available to customers without penalty if the customer is currently receiving service under that Section; the disclosure shall not contain a comparison of the proposed aggregation rate to the electric utility’s fixed-price service rate;

6) the Aggregation Supplier’s toll-free telephone number for billing questions, disputes and complaints;

7) a local or toll-free telephone number, with the available calling hours, that customers may call with any questions regarding the Aggregation Program; this number shall be provided by the Aggregation Supplier unless otherwise agreed to with the Government Aggregator and shall not be an electric utility number;

8) the prices, terms, and conditions of the products and services being offered to the customer;

9) the presence or absence of early termination fees or penalties and applicable amounts or the formula pursuant to which they are calculated; and

10) that net metering customers, pursuant to Section 16-107.5(d)(3) and (e)(3) of the PUA, may forfeit credits for electric supply service and delivery service, or both, if they switch to the Aggregation Supplier.

Section 470.220 Opt-out Aggregation Provisions

If the Aggregation Supplier sends the disclosures required by Section 1-92 of the IPA Act, then
a) the customer disclosure sent for Opt-out Aggregation Programs shall also:

1) describe the method to opt-out and the opt-out due date expressed as month, day, and year;

2) include a statement that those customers who do not opt-out of the Opt-Out Aggregation Program will have been deemed to have authorized and agreed to being enrolled in the Opt-Out Aggregation Program and to having their electric supply service switched to the Aggregation Supplier under the terms and conditions applicable to the opt-out aggregation program;

b) the opt-out due date shall be a minimum of 21 calendar days after the date of the disclosure postmark;

c) the Aggregation Supplier shall allow customers to opt-out by the following methods:

1) by returning a postage paid postcard or similar notice supplied by the Aggregation Supplier; and also

2) by at least one of the following additional methods:

   A) telephone;

   B) e-mail; or

   C) Aggregation Supplier or Governmental Aggregator website.

Section 470.230 Opt-in Aggregation Provisions

a) If the Aggregation Supplier sends the required disclosures, the disclosure shall describe the affirmative actions needed to join the Aggregation Program.
b) The Aggregation Supplier shall verify a customer’s request to join the Opt-in Aggregation Program in the same manner as an electric service provider confirms a change in a customer’s selection of a provider of electric service under Sections 505/2EE(a)-(c) of the Consumer Fraud and Deceptive Business Practices Act [815 ILCS 505/2EE(a)-(c)].

**Section 470.240 RES Customers**

a) Unless otherwise agreed to with the Governmental Aggregator, if the Aggregation Supplier sends the required disclosures, the disclosures shall be sent to customers receiving, or pending to receive, non-aggregation RES service and shall contain the following information:

1) Notification that an Aggregation Program is currently on-going in their municipality, township or unincorporated area;

2) A disclosure that adequately describes, in plain language, the prices, terms and conditions of the products and services being offered to the customer;

3) If the Aggregation Program contains a fee for the early termination of the program by customer, the amount of such a fee;

4) A description of the affirmative action necessary for the customer to join the Aggregation Program.

b) Disclosures sent to customers receiving, or pending to receive, non-aggregation RES service shall not contain a comparison of the proposed aggregation rate to the customer’s current RES rate.

c) If an Aggregation Supplier receives a request from a RES customer to join the Aggregation Program, the Aggregation Supplier shall inform the RES customer that he/she may be subject to fees for early termination pursuant to his/her current RES contract.

d) The Aggregation Supplier shall verify a RES customer’s request to join the Aggregation Program in the same manner as an electric service provider confirms a change in a customer’s selection of a provider of electric service under Sections 505/2EE(a)-(c) of the Consumer Fraud and Deceptive Business Practices Act.
Section 470.250  Customers on Utility Hourly Service

a) Unless otherwise agreed to with the Governmental Aggregator, if the Aggregation Supplier sends the required disclosures, the disclosures shall be sent to customers on Utility Hourly Service and shall contain the following information:

1) that a customer may be denied his/her/its request to join the Aggregation Program based on the terms and conditions of the electric utility’s applicable hourly service tariff;

2) that potential savings depend on the customer’s actual hourly use patterns, that savings may vary and the disclosure shall contain no comparison of rates; and

3) a description of the affirmative action necessary for the customer to join the Aggregation Program.

b) Disclosures sent to customers on Utility Hourly Service shall not contain a comparison of the proposed aggregation rate to the electric utility’s fixed-price service rate.

c) The Aggregation Supplier shall verify a Utility Hourly Service customer’s request to join the Aggregation Program in the same manner as an electric service provider confirms a change in a customer’s selection of a provider of electric service under Sections 505/2EE(a)-(c) of the Consumer Fraud and Deceptive Business Practices Act.

Section 470.260  Failure to Comply

Unless otherwise noted, a violation of this Part shall be subject to the fines and penalties set forth in the PUA, including Section 16-115B(b), applicable to Retail Electric Suppliers, and Sections 5-202 and 5-203, applicable to public utilities, including Electric Delivery Utilities.