

**CITY COUNCIL
COMMITTEE-OF-THE-WHOLE
Public Hearing**

**AGENDA
March 26, 2012
6:30 P.M.
City Council Chambers**

- 1. CALL TO ORDER**
- 2. ESTABLISH A QUORUM**
- 3. [ELECTRIC AGGREGATION PLAN OF GOVERNANCE](#)**
- 4. PUBLIC COMMENT**
- 5. ADJOURNMENT**

CITY OF DARIEN

**ELECTRIC POWER
AGGREGATION
PLAN OF OPERATION
AND GOVERNANCE**

April 2, 2012

CITY OF DARIEN

Electric Power Aggregation

Plan of Operation and Governance

I. INTRODUCTION

Public Act 96-1076 amended the Illinois Power Agreement Act by adding Section 1-92 to Chapter 20, Act 3855 of the Illinois Compiled Statutes ("the Act") and allowed the Corporate Authorities of a municipality to adopt an ordinance in accordance with the Act to aggregate electrical loads for residential and small commercial retail customers within the corporate limits of the City on an opt-out or opt-in program. The Act further authorized a municipality to select suppliers of retail electric supply, solicit bids and enter into service agreements to facilitate the sale and purchase of electricity and related services. The legislation authorized the Illinois Power Agency ("IPA") to assist a municipality in developing a plan of operation and governance.

Large industrial and commercial consumers with sophisticated electric operations use their size and expertise to obtain lower electric power rates. Individual residential and small commercial retail consumers are typically unable to obtain significant price reductions since they lack the same bargaining power, expertise and the economies of scale enjoyed by larger consumers. Aggregation, the combining of multiple electric loads, provides the benefits of retail electric competition for consumers with lower electric usage.

Municipal aggregation, the combining of multiple retail electric loads of customers by a municipality, provides the means through which municipal residential and small commercial retail customers may obtain economic benefits of Illinois' competitive retail electric market. The City of Darien Aggregation Program combines the electric loads of residential and small commercial retail customers to form a buying group ("Aggregation Group"). The City of Darien will act as purchasing agent for the Aggregation Group. Therefore, the City of Darien will be a Municipal or Governmental Aggregator, as described by Illinois law and the rules established by authorized agencies, and shall act on behalf of Commonwealth Edison Company, an affiliate of Exelon Corporation (herein referred to as "ComEd" or "Commonwealth Edison") in the City to obtain the best Aggregation Program for the Members of the Aggregation Group.

II. PROCESS

On March 20, 2012, in accordance with the requirements of the Act, City of Darien voters approved a referendum to operate an Aggregation Program as an "opt-out" program. Under the opt-out program, all ComEd residential and small commercial retail customers in the City are automatically included as participants in the Program unless they opt-out of the Program by providing written notice of their intention not to participate as a part of the Aggregation Group. As required by state law, the Corporate Authorities of the City duly passed an Ordinance which authorized submitting to the City's electorate the determination whether or not the Aggregation Program shall operate as an opt-out program. Following

the approval of the referendum by the electorate, the City passed an Ordinance on April 2, 2012 authorizing the City to aggregate electric loads for residential and small commercial retail customers in the City and implement an opt-out program.

In addition to passing the required ordinances by the Corporate Authorities, the City may also be required to comply with various rules and regulations established by authorized agencies of the State of Illinois. The City will promptly file any application and comply with any applicable rules and regulations that may be required by Illinois law for certification as a Municipal Aggregator and to operate the Aggregation Program under the Act. As required by the Act, the Corporate Authorities developed and approved this Aggregation Plan of Operation and Governance ("Plan"). Before adopting this Plan and as required by the Act, the Corporate Authorities duly published a notice in the Suburban Life a newspaper of general circulation in the City, of public hearings to be held on March 26, 2012 at 6:30 P.M. and April 2nd at 7:00 o'clock P.M. The public hearings were held by the Corporate Authorities at City Hall and provided the residents of the Village/City a meaningful opportunity to be heard regarding the Aggregation Program and this Plan. The Corporate Authorities considered the concerns of the residents and information disclosed at the hearings in the development of this Plan. The opt-out notice for the Aggregation Program shall be provided in advance to all eligible electric customers in the Village/City upon approval of this Plan according to the opt-out disclosure program developed by the Village/City. The opt-out notice and disclosures shall comply with the Act and all applicable rules and regulations of any authorized agency in the State of Illinois and shall fully inform such customers in advance that they have the right to opt-out of the Aggregation Program. The opt-out notice shall disclose all required information including but not limited to the rates, terms and conditions of the Program and the specific method to opt-out of the Program.

By majority vote of the Corporate Authorities, the City may select a Retail Electric Supplier ("RES" or "Provider") to provide the electric power for the City of Darien Aggregation Program according to the terms of a written service agreement entered into by and between the Provider and the City. By majority vote of the Corporate Authorities, the City may determine not to enter into a service agreement with any Provider and in such event the Aggregation Group shall continue to purchase electric power through Commonwealth Edison. If the Corporate Authorities enter into a service agreement with a Provider, Commonwealth Edison will continue to provide and service delivery of the electricity purchased from the Provider, and metering, repairs and emergency service will continue to be provided by Commonwealth Edison. The Corporate Authorities shall determine if each participant in the Aggregation Group shall receive a single monthly bill from Commonwealth Edison under applicable tariffs or a separate monthly bill from the Provider for electric power service and a separate monthly bill from Commonwealth Edison for delivery service, or a single monthly bill from the Provider.

III. DEFINITIONS

In order to clarify certain terminology, the following terms as used in this Plan shall have the meanings set forth below:

“Aggregation Group” shall mean all the residential and small commercial retail customers of ComEd in the corporate limits of the City that have not opted out of the Program and are permitted under the terms of the Act to participate in the Program.

"Aggregation Program" or “Program” means the program developed and implemented by the City of Darien, as a Municipal Aggregator under the Act, to provide ComEd residential and small commercial retail customers in the City with retail electric generation services.

"Municipal Aggregator" means the City operating an Aggregation Program under the legislative authority granted the City to act as an aggregator to provide a competitive retail electric service to residential and small commercial retail customers of ComEd in the City. Pursuant to the Act, an Aggregator is not a public utility or an alternative retail electric supplier.

"Member" means a person or legal entity enrolled in the City of Darien Municipal Aggregation Program for competitive retail electric services and a member of the Aggregation Group.

"Retail Electric Supplier" (“RES” or "Provider") means an entity certified by all required authorities of the State of Illinois to provide competitive retail electric supply services, and which is duly selected by the City to be the entity responsible to provide the required retail electrical supply service related to an Aggregation Program as defined in the Act, City Ordinances and applicable rules and regulations of any authorized agency of the State of Illinois and has duly executed a Power Supply Agreement with the City.

IV. OPERATIONAL PLAN:

A. Aggregation Services

1. Provider: The City of Darien will use a competent entity as a Provider to perform and manage aggregation services for Members of the Aggregation Program. The Provider shall provide adequate, accurate, and understandable pricing, terms and conditions of service, including but not limited to no switching fees and the conditions under which a Member may opt-out without penalty. The Provider must provide the City, upon request, an electronic file containing the Members usage, charges for retail supply service and such other information reasonably requested by the City.

2. Database: The Retail Electric Supplier shall create and maintain a secure database of all Members. The database will include the name, address, Commonwealth Edison account number, and Retail Electric Suppliers’ account number of each active Member, and other pertinent information such as rate code, rider code (if applicable), most recent 12 months of usage and demand, and meter reading cycle. The database will be updated at least quarterly. Accordingly, the Provider will develop and implement a program to accommodate Members who (i) leave the Aggregation Group due to relocation, opting out, etc. (ii) decide to join the Aggregation Group; (iii) relocate anywhere within the corporate

limits of the City, or (iv) move into the City and elect to join the Aggregation Group. This database shall also be capable of removing a Member from the Aggregation Group who has duly opted out of the Program. The Provider will use this database to perform audits for clerical and mathematical accuracy of Member electric supply bills.

3. Member Education: The Provider shall develop and implement, with the assistance of the City, as the City may determine in its sole discretion, an educational program that generally explains the Aggregation Program to all residential and small commercial retail customers in the City and the Aggregation Group, provides updates and disclosures mandated by Illinois law and applicable rules and regulations, and implements a process to allow any Member the opportunity to opt out of the Aggregation Program according to the terms of the Power Supply Agreement. See Appendix A for further details.

4. Customer Service: Provider shall hire and maintain an adequate customer service staff and develop and administer a written customer service process that will accommodate Member inquiries and complaints about billing and answer questions regarding the Aggregation Program in general. This process will include a description of how telephone inquiries will be handled, either internally or externally, how invoices will be prepared, how Members may remit remittance payment, and how collection of delinquent accounts will be addressed. The Provider and the City will enter into a separate customer service plan agreement or the terms shall be included in the Power Supply Agreement.

5. Billing: Commonwealth Edison or the Provider will provide a monthly billing statement to each Member which shall include the charges of the Provider, and the Provider will not charge any additional administrative fee.

6. Compliance Process: The Provider shall develop internal controls and processes to ensure that the City remains in good standing as a Municipal Aggregator and ensure that the City and the Program complies with the Act and all applicable laws, rules and regulations, as they may be amended from time to time. It will be the Provider's responsibility to timely deliver reports at the request of the City that will include (i) the number of Members participating in the Program; (ii) a savings estimate or increase from the previous year's baseline; (iii) such other information reasonably requested by the City; (iv) comparison of the Members' charge for the supply of electricity from one designated period to another identified by the City. The Provider shall also develop a process to monitor and shall promptly notify the City in writing of any changes or amendments to the Act or any laws, rules or regulations applicable to the Aggregation Program.

7. Notification to Commonwealth Edison: The residential and small commercial retail customers of ComEd in the City that do not opt-out of the Aggregation Program will be enrolled automatically in the Aggregation Program by a Provider. Members of the Aggregation Group will not be asked to take affirmative steps to be included in the Aggregation Group. To the extent that ComEd requires notification of participation; the Provider shall provide such notice to ComEd. The Provider will inform ComEd from time to time through electronic means any new members that it is enrolling into the Aggregation Group.

8. Plan Requirements: Pursuant to the Act, the Provider selected by the City and the City shall:

a. Provide for universal access to all applicable residential customers and equitable treatment of applicable residential customers;

b. Describe demand management and energy efficiency services to be provided to each class of customers;

c. Meet any requirements established by law concerning aggregated service offered pursuant to the Act.

9. Solicitation of Bids: Pursuant to the requirements of the Act, the process of soliciting bids for electricity and related services and awarding power supply agreements for the purchase of electricity and other related services by the City, shall be conducted in the following manner:

a. The Corporate Authorities of the City may solicit bids for electricity and other related services.

b. 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 City must, upon request of the Corporate Authorities of the City, submit to the requesting party, in an electronic format, those names and addresses of residential and small commercial retail electrical retail customers in the City that are reflected in the electrical utilities records at the time of the request and such other information required by the Act or any applicable rule or regulation of an authorized Illinois agency.

c. The City, upon receiving customer information from an electric utility shall be subject to the limitations on the disclosure of that information described in Section 16-122 of the Public Utilities Act and Section 2HH of the Consumer Fraud and Deceptive Practices Act, and an electric utility providing such information shall not be held liable for any claims arising out of the provision of information pursuant to this Section and the Act.

B. Power Supply Agreement

The Corporate Authorities of the City and the Provider shall duly execute and enter into a Power Supply Agreement to serve the Aggregation Group.

C. City of Darien's Retail Electric Supplier

The Power Supply Agreement shall require the Provider to satisfy each of the following requirements:

- Have sufficient sources of power to provide retail firm power to the Aggregation Group.
- Maintain a license as a Federal Power Marketer with the Federal Energy Regulatory Commission.
- Maintain a certification from the State of Illinois as a certified retail electric supplier and any and all other licenses or certifications required by Illinois law.
- Register as a retail electric supplier with ComEd.
- Maintain a Service Agreement for Network Integration Transmission Service under Open Access Transmission Tariff.
- Maintain a Service Agreement under City of Darien Market-based Rate Tariff.
- Maintain the necessary corporate structure to sell retail firm power to the ComEd residential and small commercial retail customers in the City and the Aggregation Group.
- Maintain an Electronic Data Interchange computer network that is fully functional at all times and capable of handling the ComEd residential and small commercial retail electric customers in the City and the Aggregation Group.
- Maintain the marketing ability to reach all ComEd residential and small commercial retail customers in the City to educate them on the terms of the Aggregation Program and the Act.
- Maintain a call center capable of handling calls from Members of the Aggregation Group.
- Maintain a local or toll-free telephone number for customer service and complaints related to the City's Aggregation Program.
- Agree in a binding written agreement between the City and the Provider to hold the City financially harmless and fully indemnifying the City from any and all financial obligations arising from supplying power to the Aggregation Group.
- Satisfy the credit requirements of the State of Illinois and the City.
- Have the binding authority (to the satisfaction of legal counsel for the City) to execute the Power Supply Agreement with the City and be fully bound by all of its terms and conditions.
- Assist the City in filing all reports required by the Act and any applicable law, rule or regulation, as may be amended from time to time.
- Assist the City in developing a Consumer Education Plan.
- Assist the City in developing a smart-meter program

D. Activation of Service

After a notice is mailed to all residential and small commercial retail electric customers in the City providing an opportunity to opt out of the Program within a specific period of time, all customers who do not opt out in writing will be automatically enrolled in the Program. Customer enrollment with the Provider will occur thereafter without further action by the customer on terms set forth in the Power Supply Agreement and according to the retail tariffs of Commonwealth Edison.

E. Changes, Extension or Renewal of Service

The Power Supply Agreement with the Provider will provide when service shall begin and end. If the Power Supply Agreement is extended or renewed, Members will be

notified as to any change in rates or service conditions and other information required by law. The Power Supply Agreement shall describe the terms upon which a Member or non-member will be given an opportunity to opt into or out of the Program, and reasonable notice will be provided as required by the Act or any applicable law. Members who opt-out will also be notified of their right to select an alternate retail electric supplier and of their ability to return to ComEd provided supply service.

F. Termination of Service

In the event that any Power Supply Agreement is terminated for any reason prior to the end of the scheduled term, each Member of the Aggregation Group will receive prompt written notification of termination of the Program at least sixty (60) days prior to termination of service under the Agreement. If the Agreement is not extended or renewed, Members will be notified in a manner determined by the City and any applicable law, prior to the end of any service. Members will also be notified of their right to select an alternate retail electric supplier and of their ability to return to ComEd provided supply service upon termination of the Agreement.

G. Opt-In Procedures

ComEd residential and small commercial retail customers will be automatically enrolled in the Aggregation Program after any opt-out period has expired, unless they timely return in writing a form to be provided notifying the Provider that they do not want to participate in the Aggregation Program. The Provider agrees to provide special notice directly to categories of ComEd customers as the City may direct, and inform such customers of specific potential consequences of their change from existing service from ComEd to the Program, including but not limited to (i) space heating customers, (ii) customers using an electrical supplier other than ComEd or the Provider. ComEd residential and small commercial retail customers in the City may request to join the Aggregation Group after the expiration of any enrollment period by contacting the Provider, who shall accept them into the Aggregation Program, subject to written policies mutually agreed upon between the City and the Provider in the Power Supply Agreement. The agreed upon policy shall be consistent with ComEd's supplier enrollment requirements. Members of the Aggregation Group who move from one location to another within the corporate limits of the City shall continue as a Member of the Aggregation Group.

H. Opt-out Procedures

ComEd residential and small commercial retail customers in the City may opt-out of the Aggregation Program at any time during the opt-out period without additional fees charged by the Provider or the City. Members of the Aggregation Group will be allowed to switch to a different electric supplier after the expiration of the opt-out period on the terms set forth in the Power Supply Agreement but at least shall be allowed to opt-out every three years. Requirements for notification of intent to opt-out of the Aggregation Group shall be set forth in the Power Supply Agreement. Consumers who opt-out of the Aggregation Group will not be switched from their current supplier or their applicable to ComEd's Standard

Service Offer, until the consumer selects an alternate generation supplier. As required by the Act, it shall be the duty of the City or the Provider if so provided in the Power Supply Agreement, to fully inform residential and small commercial retail customers in the City in advance that they have the right to opt-out of the Aggregation Program. Such disclosure shall prominently state any 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 services under that section. As further required by the Act, the IPA shall furnish, without charge, to any resident of the City, a list of all supply options available to them in a format that allows comparison of prices and products.

I. Intergovernmental Agreement

The Corporate Authorities of the City by majority vote may exercise its authority under the Act jointly with any other Municipality or County in the State of Illinois or combination thereof in accordance with the requirements of the Act. In such event, the City shall enter into an intergovernmental agreement with such other Municipalities or Counties.

V. MISCELLANEOUS GOVERNANCE GUIDELINES

- A. The Corporate Authorities of the City shall approve by an Ordinance passed by majority vote of the Corporate Authorities this Plan of Operation and Governance for the Aggregation program and any Amendments thereto.
- B. The Corporate Authorities of the City shall contract with a Provider certified by the Public Utilities Commission of Illinois for the provision of Competitive Retail Electric Service to the Aggregation Group.
- C. The Corporate Authorities of the City will require any Provider to disclose any subcontractors that it uses in fulfillment of the services described above in the Power Supply Agreement.
- D. The Corporate Authorities of the City will require the Provider to maintain either a toll-free telephone number, or a telephone number that is local to the Members.

VI. LIABILITY

THE CITY SHALL NOT BE LIABLE TO PARTICIPANTS IN OR MEMBERS OF THE AGGREGATION GROUP FOR ANY CLAIMS, HOWEVER STYLED, ARISING OUT OF THE AGGREGATION PROGRAM OR THE PROVISION OF AGGREGATION SERVICES BY THE CITY OR THE PROVIDER. PARTICIPANTS OR MEMBERS IN THE AGGREGATION GROUP SHALL ASSERT ANY SUCH CLAIMS SOLELY AGAINST THE PROVIDER PURSUANT TO THE POWER SUPPLY AGREEMENT, UNDER WHICH

SUCH PARTICIPANTS ARE EXPRESS THIRD-PARTY BENEFICIARIES.

VII. INFORMATION AND COMPLAINT NUMBERS

Copies of this Plan shall be available from the City of Darien free of charge. Members and residential and small commercial retail customers of ComEd may call Darien City Hall at 630-852-5000 for a copy of the Plan or for more information.

Appendix A -- Education Process

The Provider shall develop the educational program in conjunction with the City. Its purpose will be to explain the Aggregation Program to its members, provide updates and disclosures as mandated by State law and the rules and regulations of any applicable Illinois agency, and provide the opportunity for the Members to Opt-out of the Aggregation Program. The following are components of the education program:

1. Each residential and small commercial retail customer of ComEd within the corporate limits of the City will receive notification by U.S. Mail stating: what the municipal Aggregation Program means, the procedure which must be followed to Opt-out of the Aggregation Program, the estimated price of electricity for Member of the Aggregation Program, and the deadline for returning the Opt-out form.
2. The Provider shall cooperate with the City to provide opportunities for educating residential and small commercial retail CE customers in the City about the Program and their rights under the applicable law and rules and regulations. In addition, the Provider and City will cooperate to provide education about opportunities for energy efficiency measures to help Members reduce energy consumption.
3. The Provider will provide updates and disclosures to the City and Members as mandated by State law and applicable rules and regulations as amended from time to time.

