



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

SB3015

Introduced 2/18/2016, by Sen. Chris Nybo

SYNOPSIS AS INTRODUCED:

220 ILCS 5/19-150 new

Amends the Public Utilities Act. Creates a provision that provides that corporate authorities of a municipality or county board of a county may adopt an ordinance under which it may aggregate residential customers and small commercial customer natural gas loads located, respectively, within the municipality or the unincorporated areas of the county and may solicit bids and enter into service agreements to facilitate for those loads the sale and purchase of natural gas and related services and equipment. Requires the corporate authority or county board to develop a plan of operation and governance for the aggregation program. Sets forth provisions concerning the establishment of a process for selecting a natural gas supplier and awarding a proposed agreement, compliance requirements if the program the corporate authorities or county board operates under is an opt-in program, and disclosure requirements for an opt-out program. Provides that the Illinois Commerce Commission shall adopt rules. Provides that no municipality or county shall implement, in its plan of operation and governance, an opt-out program that automatically enrolls a customer that is currently under contract with an alternative retail gas supplier or an entity that provides services in competition with and similar to an alternative retail gas supplier into its municipal or county opt-out program. Provides that the Commission shall not require a natural gas public utility without a Commission-approved small volume transportation program to accommodate aggregated load switching for any natural gas customers. Effective immediately.

LRB099 19650 EGJ 44047 b

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 Section 19-150 as follows:

6 (220 ILCS 5/19-150 new)

7 Sec. 19-150. Aggregation of natural gas load by
8 municipalities and counties.

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

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

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

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

22 The election authority must submit the question in
23 substantially the following form:

24 "Shall the (municipality or county in which the
25 question is being voted upon) have the authority to arrange
26 for the supply of natural gas for its residential customers

1 and small commercial customers who have not opted out of
2 such program?"

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

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

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

15 An ordinance under this Section shall specify whether the
16 aggregation shall occur only with the prior consent of each
17 person owning, occupying, controlling, or using a natural gas
18 load center proposed to be aggregated. Nothing in this Section,
19 however, authorizes the aggregation of natural gas loads that
20 are served or authorized to be served by a municipality that
21 owns and operates its own gas distribution system. No
22 aggregation shall take effect unless approved by a majority of
23 the members of the corporate authority or county board voting
24 upon the ordinance. A governmental aggregator under this
25 Section is not a public utility, agent, broker, consultant or
26 an alternative retail gas supplier.

1 (b) Upon the applicable requisite authority under this
2 Section, the corporate authorities or the county board shall
3 develop a plan of operation and governance for the aggregation
4 program so authorized. Before adopting a plan under this
5 Section, the corporate authorities or county board shall hold
6 at least 2 public hearings on the plan. Before the first
7 hearing, the corporate authorities or county board shall
8 publish notice of the hearings once a week for 2 consecutive
9 weeks in a newspaper of general circulation in the
10 jurisdiction. The notice shall summarize the plan and state the
11 date, time, and location of each hearing. Any load aggregation
12 plan established pursuant to this Section shall:

13 (1) provide for universal access to all applicable
14 residential customers and equitable treatment of
15 applicable residential customers;

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

18 (3) meet any requirements established by law
19 concerning aggregated service offered pursuant to this
20 Section.

21 (c) The process for selecting a natural gas supplier and
22 awarding proposed agreements for the purchase of natural gas
23 and other related services shall be conducted in the following
24 order:

25 (1) First, the corporate authorities or county board
26 may solicit bids for natural gas and other related

1 services.

2 (2) Then, notwithstanding Section 19-115 of this Act
3 and Section 2FFF of the Consumer Fraud and Deceptive
4 Business Practices Act, a natural gas utility that provides
5 residential customers and small commercial customers
6 natural gas service in the aggregate area must, upon
7 request of the corporate authorities or the county board in
8 the aggregate area, submit to the requesting party, in an
9 electronic format, those account numbers, names, and
10 addresses of residential customers and small commercial
11 customers in the aggregate area that are reflected in the
12 natural gas utility's records at the time of the request.
13 Any corporate authority or county board receiving customer
14 information from a natural gas utility shall be subject to
15 the limitations on the disclosure of the information
16 described in Section 19-115 of this Act and Section 2FFF of
17 the Consumer Fraud and Deceptive Business Practices Act,
18 and a natural gas utility shall not be held liable for any
19 claims arising out of the provision of information pursuant
20 to this item (2).

21 (d) If the corporate authorities or county board operate
22 under an opt-in program for residential customers and small
23 commercial customers, then:

24 (1) within 60 days after receiving the bids, the
25 corporate authorities or county board shall allow
26 residential customers and small commercial customers to

1 commit to the terms and conditions of a bid that has been
2 selected by the corporate authorities or county board; and

3 (2) if (A) the corporate authorities or county board
4 award proposed agreements for the purchase of natural gas
5 and other related services and (B) an agreement is reached
6 between the corporate authorities or county board for those
7 services, then residential customers and small commercial
8 customers committed to the terms and conditions according
9 to item (1) of this subsection (d) shall be committed to
10 the agreement.

11 (e) If the corporate authorities or county board operate as
12 an opt-out program for residential customers and small
13 commercial customers, then it shall be the duty of the
14 aggregated entity to fully inform residential customers and
15 small commercial customers in advance that they have the right
16 to opt out of the aggregation program. The disclosure shall
17 prominently state all charges to be made and shall include full
18 disclosure of the cost to obtain service pursuant to Section
19 19-115 of this Act, how to access it, and the fact that it is
20 available to them without penalty, if they are currently
21 receiving service under that Section. Early termination fees,
22 subject to paragraph (5) of subsection (g) of Section 19-115 of
23 this Act, for consumers currently under contract with an
24 alternative retail gas supplier or an entity that provides
25 services in competition with and similar to an alternative
26 retail gas supplier, are not considered penalties under this

1 subsection.

2 (f) The Illinois Commerce Commission shall adopt rules to
3 implement this Section, including, but not limited to, the
4 protection of customers already under contract with an
5 alternative retail gas supplier, gas utility processes for
6 enrollment of opt-out customers, and minimum opt-out
7 disclosure requirements for opt-out aggregation. The rules
8 adopted under this subsection (f) shall specifically state that
9 if a customer is currently under contract with an alternative
10 retail gas supplier or an entity that provides services in
11 competition with and similar to an alternative retail gas
12 supplier, the customer shall not be automatically enrolled in
13 the relevant municipal or county opt-out program and that the
14 opt-out program shall not interfere with the existing agreement
15 between the customer and alternative retail gas supplier or an
16 entity that provides services in competition with and similar
17 to an alternative retail gas supplier. Nothing shall prohibit a
18 customer under contract with an alternative retail gas supplier
19 or an entity that provides services in competition with and
20 similar to an alternative retail gas supplier from explicitly,
21 in writing, affirmatively choosing to enter into the local
22 municipality's or county's opt-out program. The opt-out
23 disclosure rules adopted under this subsection shall, at a
24 minimum, disclose the possibility of a contract termination
25 fee, subject to the terms of paragraph (5) of subsection (g) of
26 Section 19-115 of this Act, for those customers under contract

1 with alternative retail gas suppliers or an entity that
2 provides services in competition with and similar to an
3 alternative retail gas supplier.

4 (g) No municipality or county shall implement, in its plan
5 of operation and governance, an opt-out program that
6 automatically enrolls a customer that is currently under
7 contract with an alternative retail gas supplier or an entity
8 that provides services in competition with and similar to an
9 alternative retail gas supplier into its municipal or county
10 opt-out program. A customer that is currently under contract
11 with an alternative retail gas supplier or an entity that
12 provides services in competition with and similar to an
13 alternative retail gas supplier that seeks to enroll in an
14 opt-out program shall be required by the municipality or
15 county, as applicable, to explicitly, in writing, affirm the
16 choice to enter into said opt-out program.

17 (h) Nothing in this Section shall require a natural gas
18 public utility without a Commission-approved small volume
19 transportation program to accommodate aggregated load
20 switching for any natural gas customers.

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