

ORDINANCE NO. 2012-06

AN ORDINANCE AUTHORIZING AN ELECTRICITY AGGREGATION PROGRAM FOR THE VILLAGE OF WINNEBAGO

WHEREAS, the Illinois Power Agency Act, 20 ILCS 3855/1-92 (the “Act”), authorizes municipalities to adopt programs for the aggregation of residential and small commercial retail electrical loads located within the municipality (“Electricity Aggregation Program”) and to solicit bids and enter into service agreements to facilitate for those loads the sale and purchase of electricity and related services and equipment pursuant to the Act; and

WHEREAS, under the Act, the Village may operate an Electricity Aggregation Program under the Act as an “opt-out” program, whereby residential and small commercial retail customers may choose not to participate in the program, if authorized by referendum pursuant to the requirements of the Act; and

WHEREAS, the Village submitted the public question of whether the Village should operate the Electricity Aggregation Program as an opt-out program in a referendum on March 20, 2012, and the referendum passed by a majority vote of the electors voting on the public question; and

WHEREAS, the Village Board hereby finds that it is in the best interest of the Village to authorize the operation of the Electricity Aggregation Program as an opt-out program and to provide for the implementation of the Electricity Aggregation Program according to the terms of the Act;

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND THE BOARD OF TRUSTEES OF THE VILLAGE OF WINNEBAGO, WINNEBAGO COUNTY, ILLINOIS, AS FOLLOWS:

SECTION 1. RECITALS

The foregoing recitals are incorporated and made a part of this Ordinance as if fully set forth in this Section.

SECTION 2. FINDINGS AND DETERMINATIONS

The Village Board finds and determines that it is in the best interest of the Village of Winnebago to implement the Electricity Aggregation Program as an opt-out program pursuant to the terms of the Act and this Ordinance.

SECTION 3. AUTHORIZATION FOR ELECTRICITY AGGREGATION PROGRAM

A. Definitions. For the purposes of this Ordinance 2012-06, the following terms shall have the following definitions:

1. "Act" shall mean the Illinois Power Agency Act, 20 ILCS 3855/1-92, as may be amended from time to time.
2. "Customer" shall mean recipients of residential and small commercial retail electric loads as provided in the Act.
3. "Electricity Aggregation Program" shall mean a program pursuant to the Act for the aggregation of residential and small commercial retail electric loads located within the corporate limits of the Village that provides customers with the opportunity to opt out of participating in that program as provided in the Act.

B. Aggregation of Electrical Load.

1. The Corporate Authorities of the Village are authorized to operate an Electricity Aggregation Program pursuant to the Act and for that purpose may solicit bids and enter into service agreements to facilitate the sale and purchase of electricity and related services and equipment for those loads aggregated pursuant to the Electricity Aggregation Program as provided in the Act.
2. The Corporate Authorities of the Village may exercise the authority to operate the Electricity Aggregation Program jointly with any other municipality or county and, in combination with two or more municipalities or counties, may initiate a process to jointly authorize the Electricity Aggregation Program by a majority vote of each particular municipality or county as required by the Act.

C. Opt-Out Program.

1. The Electricity Aggregation Program shall operate as an opt-out program whereby Customers who do not wish to participate in the Electricity Aggregation Program may opt out pursuant to the Act.
2. The Village President or his designee, on behalf of the Village, shall fully inform customers in advance, as provided in the Act, that Customers have the right to opt-out of the Electricity Aggregation Program. The disclosure provided to the Customers shall comply with the requirements of the Act and shall prominently state all charges to be made and shall include full disclosure of the cost to obtain service pursuant to Section 16-603 of the Public Utilities Act, how to access service, and the fact that service under Section 16-603 of the Public Utilities Act is available to Customers without penalty if they are currently receiving service under Section 16-603 of the Public Utilities Act.

3. Upon notification from any Customer that the Customer wishes to opt out of the Electricity Aggregation Program, that Customer shall be excluded from the Electricity Aggregation Program.
4. Except for those Customers who opt out of the Electricity Aggregation Program pursuant to this Section 3 and the Act, the Electricity Aggregation Program shall automatically apply for each person owning, occupying, controlling, or using an electrical load center proposed to be aggregated in the corporate limits of the Village.

D. Adoption of Plan of Operation and Governance for the Electricity Aggregation Program.

1. The Corporate Authorities of the Village, with the assistance from the Illinois Power Agency as required pursuant to the Act, shall develop and approve a plan of operation and governance for the Electricity Aggregation Program.
2. Before adopting the plan of operation required under this Section 3, Paragraph D and the Act, the corporate authorities shall hold at least two public hearings on the proposed plan. Before the first public hearing, the corporate authorities shall publish notice of the hearings once a week for two consecutive weeks in a newspaper of general circulation in the Village. The notice shall summarize the plan of operation and state the date, time, and location of each hearing.
3. The plan of operation and governance for the Electricity Aggregation Program 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, and
 - c. meet any requirements established by law concerning aggregated service offered pursuant to the Act.

E. Solicitation of Bids.

The process for soliciting bids for electricity and other related services and awarding proposed agreements for the purchase of electricity and other related services for the Electricity Aggregation Program shall be conducted pursuant to the Act.

SECTION 4. SEVERABILITY

If any provision of this Ordinance, or the applications of any provision of this Ordinance, is held unconstitutional or otherwise invalid, such occurrence shall not affect other provisions of this Ordinance, or their application, that can be given effect without the unconstitutional or invalid provision or its application. Each unconstitutional or invalid provision, or application of such provision, is severable, unless otherwise provided by this Ordinance.

SECTION 5. EFFECTIVE DATE

This Ordinance shall be in full force and effect from and after its passage and approval and publication as required by law.

PASSED AND ADOPTED this 21st day of April, 2012.

APPROVED:

Franklin J. Eubank, Jr., President of the Board of
Trustees of the Village of Winnebago, Illinois

ATTEST:

Sally Jo Huggins, Village Clerk

AYES: 6 **NAYS:** 0 **ABSENT:** 0

Trustees Voting Aye:

ELSEN GAINE S KIEPER
MALIGRANDA McKINNON SMITH

Trustees Voting Nay:

NONE _____ _____

Passed: 4-21-12
Approved: 4-21-12
Published in Pamphlet Form: _____