

PUBLIC PROPERTY COMMITTEE MEETING MINUTES
December 7, 2010 – 6:30 P.M.

Chairman Ulmer called the meeting to order at 6:30 p.m. Committee members present were Aldermen Ulmer, Marzahl and Perkins. Committee member Alderman Adams was absent. Also present were City Administrator Nelson, Alderman Logan, Alderman Opper, City Attorney Carlos Arévalo, Randy Donley, David Hoover and members of the press.

Illinois Power Agency Act

City Attorney Carlos Arévalo reviewed his research into the Illinois Power Agency Act and the steps necessary for the City to take in order to implement an aggregate program. The statute requires the City to: (1) submit a referendum; (2) have the referendum voted on; (3) adopt an ordinance implementing an aggregate program; (4) develop the aggregate plan; (5) adopt the plan and (6) solicit bids from electricity providers.

Administrator Nelson introduced David Hoover from the Northern Illinois Municipal Cooperative (NIMEC) who further explained the program for NIMEC to act as a broker to provide for a competitive rate offering. NIMEC would get a large pool of municipalities together and leveraging that with power suppliers. Currently, there are between 10-20 communities interested in the concept. The City is already working with NIMEC on some of our larger accounts with an approximate 15% savings. If a resolution is approved, two public hearings must be held after the April 5th election. NIMEC would then solicit bids from suppliers and compare them to ComEd's rates, which are fixed from May 2011 to May 2012. The City Council would then choose to either move forward and change suppliers or elect to stay with ComEd for another year. If the City changed suppliers, ComEd would continue to bill all residents on behalf of the municipal supplier and payments would continue to be paid to ComEd. The City would make a decision each year based on supplier's bids. The only change residential users would see is possibly a lower rate. NIMEC will assist in the public education process.

Moved by Perkins, seconded by Marzahl to recommend to the City Council approval of an ordinance Authorizing a Referendum on the April 5, 2011, Ballot regarding the Illinois Power Agency Act. All ayes. Motion carried.

At 7:35 p.m., moved by Marzahl, seconded by Perkins to adjourn the meeting. All ayes. Motion carried.

Submitted by:
Chairman Ulmer

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November 2, 2010

Via E-Mail

Administrator Dave Nelson
201 W. Diggins Street
P.O. Box 310
Harvard, Illinois 60033

Re: Illinois Power Agency Act

Dear Dave:

Pursuant to your request, we researched the electrical aggregation statute passed in August 2009. This letter lays out the specific steps the City needs to take in order to implement an aggregate program. Implementing such a program is a drawn out process, but the statute does provide specific steps the City will need to follow. In summary, the statute requires the City to: (1) submit a referendum; (2) have the referendum voted on; (3) adopt an ordinance implementing an aggregate program; (4) develop the aggregate plan; (5) adopt the plan; and (6) solicit bids from electricity providers.

First, the City will need to submit a referendum to determine whether the program will operate as an opt-out program. To submit the referendum, the City will need to pass a resolution or ordinance initiating the public question. Such a resolution or ordinance must be passed by **January 18, 2011** in order for the question to be presented to voters on the April 5, 2011 ballot. The question submitted needs to be in the following form: "Shall the City of Harvard have the authority to arrange for the supply of electricity for its residential and small commercial retail customers who have not opted out of such program?" The answers are to be recorded as "Yes" or "No."

If a majority of voters vote in favor of the referendum, then the City may implement an opt-out aggregation program. With an opt-out program, all residents and small retailers are automatically included in the program unless they opt-out. The City has the duty to fully inform the residents and retailers in advance that they have the right to opt-out of the program. If the referendum does not pass, the City can then only implement an opt-in program. With an opt-in program, the City is required to: (1) allow the customers to commit to the terms and conditions of the City's selected bid within 60 days after receiving the bids and (2) if the City enters an agreement based on the selected bid then customers who committed to the terms and conditions of that bid are required to commit to the program.

Upon passage of the referendum, a majority of the City's corporate authority must approve an ordinance implementing the aggregation program.

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After approval of such an ordinance, the City, with assistance from the Illinois Power Agency, needs to develop a plan of operation and governance for the aggregation program. Prior to adopting a plan, the City will need to hold at least two public hearings on the plan. Before the first hearing, the City is required to publish notice of the hearings once a week for two consecutive weeks in a newspaper of general circulation in Harvard. The notice needs to provide a summary of the potential plan and state the date, time and location of the public hearings.

Finally, an aggregation plan can be adopted. The plan must: (1) provide for universal access and equitable treatment to all applicable residential customers; (2) provide each class of customers with information describing electricity demand management and energy efficiency; and (3) meet any additional requirements established by law concerning aggregated service.

Once a plan is adopted, the City will need to solicit bids and award proposed agreements. Upon the City's request, any electric utility that provides residents and retailers electric service in the City of Harvard must submit to the City the names and addresses of customers in Harvard that are in the utility's records at the time of such a request. The final step is entering into agreements based upon the bids and starting the aggregate plan.

Clearly, NIMEC's involvement here plays an important role. The statute assumes that a municipality will implement this program on its own. It also allows municipalities and counties to enter into intergovernmental agreements. The question therefore becomes the extent of NIMEC's assistance in formulating the aggregation plan, its assistance to the City with the Illinois Power Agency, joining with other NIMEC members to increase buying power and ultimately NIMEC's handling of the bidding process.

After you get a chance to review this please call and we can discuss this matter further. Do note that we will need to have a resolution or ordinance passed by January 18th in order to get the question on the April ballot, which would require action by City Council at the December meeting. Also, please be aware that only three public questions per political subdivision are allowed on the ballot, so the earlier we can submit our question the better.

Let me know if you have any questions.

Very truly yours,



Carlos S. Arévalo

CSA:cw

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Electric Choice to Come To Residents Soon

Since the State of Illinois deregulated the electric market, nearly all of the change has been limited to the commercial market. To date, 76% of the commercial market has moved from ComEd to take advantage of lower cost suppliers.

However, the number of residential households that has moved from ComEd to these lower cost suppliers has been negligible. Suppliers could only offer an "Opt In" program, where each resident had to individually initiate the change to another supplier.

Most residents are not sufficiently informed about deregulation or the various supplier options to make an informed choice.

Therefore, the State of Illinois recently changed the current legislation to allow municipalities to enact an "Opt Out" program. Under this option, a municipality could move all ComEd accounts within the city limits to a

supplier of their choice, much like municipal contracts for cable or trash. If a resident did not want to move, they could "Opt Out" of the municipal choice and move back to ComEd.

A municipality would only consider an "Opt Out" program if they could offer residential rates lower than those of ComEd. Currently, those lower rates are available in the marketplace.

The first step toward implementation of an "Opt Out" program would call for the municipality to pass a resolution to place the measure on an upcoming ballot. At least two public hearings and/or informational meetings would be required to educate the voting public.

Ohio is ahead of Illinois, and has previously enacted a similar program. Nearly all of the ballot initiatives have passed easily, when brought to a vote.

Should the measure be passed, the municipality would then entertain bids from various suppliers for power for the entire community. NIMEC will be available to help the city select the most aggressive supplier for the municipality.

NIMEC would then aggregate all municipal members to buy power together. Aggregating the residents' load of all NIMEC members would enable us to negotiate more aggressive pricing compared to each municipality bidding alone.

ComEd would continue to bill all residents on behalf of the municipal supplier and payments would continue to be paid to ComEd. From an operational perspective, the residential user would hardly notice any change to their billing, except for the lower rates.

Municipal Aggregation

Illinois Public Act 096-0176, Section 1-92 "Aggregation of electrical load by municipalities and counties" amends the original Illinois electric deregulation legislation. It allows village boards to move all of their residents' electric accounts to alternative electric suppliers.

Timing is of the essence. Municipalities need to pass ordinances by January 18 to place a referendum on the April 5 ballot. If no referendum is passed by mid January, then the municipality will need to wait a year before they can entertain this option again.

The December resolution is analogous to a hunting license. The Village is not committed to moving their residents' power, but they would be prohibited from taking advantage of this for another year if they do not pass the resolution. The municipality would only be reserving the right to move forward.

If the filing deadline for resolutions to be placed upon the April ballot (January 18, 2011) is missed, then the municipality must wait until 2012 to reconsider this initiative.

If the resolution were approved at the April 5 election, then two public hearings would need to be held while NIMEC solicited bids for the municipality. These bid rates would be compared to ComEd's rates and the municipality would only move forward if the Village chose to do so.

ComEd resets its rates every May. If NIMEC could not beat the ComEd rates at the end of each contract, we would move the residents back to ComEd.

NIMEC

NORTHERN ILLINOIS MUNICIPAL ELECTRIC COOPERATIVE
BANDING TOGETHER TO DRIVE DOWN PRICING

Municipal Aggregation Timeline

By Jan 18, 2011 Municipality needs to pass an Ordinance to place the Municipal Aggregation Referendum on April 5 ballot.

Jan 18, 2011 Referendum must be filed with County Clerk.

Jan 18 to April 5 Information to be disseminated to residents via meetings, newsletters, newspaper articles, advertisements, etc.

April 5 Election

After April 5 If Resolution is approved, two public hearings must then be held. NIMEC would then solicit bids from suppliers and compare to ComEd's rates, which are fixed from May 2011 to May 2012. If sufficiently favorable, the Village could choose to move forward, or elect to stay with ComEd for another year.

NIMEC

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Municipal Aggregation FAQ's

Why is ComEd indifferent if we choose another power provider?

Moving to another power supplier would have no impact upon ComEd. They currently do not produce your power, nor do they earn any income on the power they currently sell. The power is provided by a group of power companies that generate the power and deliver it to ComEd. ComEd then bills on their behalf, and passes 100% of the revenue back to the power generators.

What happens if the power goes out? Who do our residents call?

They will continue to call ComEd for any service issues with their power service.

Will MA affect the amount of Municipal Tax that we collect?

Municipal Tax is calculated on usage, not dollar amounts. Therefore, there will be no change to the amount of Municipal Tax collected.

If a resident does not want to participate in the Municipal plan, do he have any options?

If the municipality moves forward with a lower cost supplier, but a resident does not want to participate, that resident may Opt Out of the program individually. Their account will then be returned to ComEd and charged the prevailing ComEd rate.

What if ComEd's rates are lower than the power suppliers' bids?

No action is taken. Your residents will remain with ComEd for the next 12 months.

What rate savings can we expect our residents to see?

It is too early to predict the magnitude of savings. Few suppliers are currently pricing residential accounts, as they would have to price them individually. However, please note that NIMEC is currently able to offer more competitive pricing against ComEd's commercial accounts, so we are hopeful that we would be able to beat the residential rates next Spring.

One alternative available to you: to establish internally a minimum savings target that would need to be achieved before you moved forward.

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List of municipalities interested

Crest Hill*
Darien
Elburn*
Fox River Grove
Fulton**
Glenwood
Grayslake
Harvard
Hazel Crest
Morris
North Chicago*
Orland Park
Sugar Grove
Tinley Park
Wood Dale

DeKalb
Mt. Morris*
Erie
Dixon
Oregon
Polo*
County of Ogle
Nora
Oak Park

*Passed Ordinance

**Passed Referendum

ORDINANCE NO. 2010 - _____

***An Ordinance Authorizing a Referendum
on the April 5, 2011, Ballot
Regarding the Illinois Power Agency Act***

WHEREAS, Public Act 96-0176 provides that the corporate authorities of a municipality may adopt an ordinance under which it may implement an aggregation program for the purpose of soliciting bids for electricity and other related services in accordance with the provisions of the Illinois Power Agency Act (the "Ordinance"); and

WHEREAS, prior to the adoption of the Ordinance, a municipality is required to submit a referendum to its residents to determine whether or not the aggregation program shall operate as an opt-out program; and

WHEREAS, it is the desire of the corporate authorities of the City of Harvard to arrange for the Illinois Power Agency to arrange for the supply of electricity for its residential and small commercial retail electrical customers who have not opted out of an aggregation program, and in order to do so, the question must be posed to its residents by way of a referendum.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and City Council of the CITY OF HARVARD, McHenry County, Illinois, as follows:

SECTION 1: The local election official is directed to place following question on the April 5, 2011, ballot for the City of Harvard:

Shall the City of Harvard have the authority to arrange for the supply of electricity for its residential and small commercial retail customers who have not opted out of such program?	YES
	NO

SECTION 2: If any section, paragraph, subdivision, clause, sentence or provision of this Ordinance shall be adjudged by any Court of competent jurisdiction to be invalid, such judgment shall not affect, impair, invalidate or nullify the remainder thereof, which remainder shall remain and continue in full force and effect.

SECTION 3: All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 4: This Ordinance shall be in full force and effect upon its passage, approval and publication in pamphlet form (which publication is hereby authorized) as provided by law.

Aye:

Nay:

Absent:

Abstain:

APPROVED:

Mayor Jay T. Nolan

(SEAL)

ATTEST: _____
City Clerk Andy Wells

Passed: _____

Approved: _____

Published: _____
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