

**103-O-11**

**AN ORDINANCE**

**Ordinance Providing for the Submission to the Electors of  
The City of Evanston, Cook County, the Question Whether  
The City Should Have the Authority Under  
Public Act 096-0176 to Arrange for the Supply of Electricity  
For its Residential and Small Commercial Retail Customers  
Who Have Not Opted Out of Such Program**

WHEREAS, the Illinois Power Agency Act, 20 ILCS 3855, was recently amended to add Section 1-92 entitled, "Aggregation of Electrical Load by Municipalities and Counties" (hereinafter referred to as the "Act"); and

WHEREAS, the Act allows a municipality to operate an electric aggregation program on behalf of its residents and small commercial retail customers on either an opt-in or an opt-out basis; and

WHEREAS, under the Act, if the City seeks to operate an electric aggregation program as an opt-out program for its residential and small commercial retail electric customers, then prior to the adoption of an ordinance establishing the electric aggregation program, the City must first submit a referendum to its residents to determine whether or not the City should have the authority to arrange for electricity for its residential and small commercial customers on an opt-out basis; and

WHEREAS, if the majority of the electors in the City of Evanston voting on the question vote in the affirmative, then the City Council may implement an opt-out electric aggregation program for residential and small commercial retail customers; and

**WHEREAS**, the City Council has determined that it is in the best interest of the City of Evanston to operate an electric aggregation program under the Act as an opt-out program and to submit the question to the electors of the City of Evanston via a referendum question pursuant to the Act.

**NOW BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EVANSTON, COOK COUNTY, ILLINOIS:**

**SECTION 1:** The foregoing recitals are found as fact and made a part hereof.

**SECTION 2:** The City Council further finds and determines that it is in the best interest of the City of Evanston to operate an electric aggregation program for Evanston residential and small commercial retail customers under the Act as an opt-out program.

**SECTION 3:** That upon passage and approval of this Ordinance, the City Clerk is directed to immediately certify and submit the following question to the Cook County Clerk in order for such question to be placed on the ballot for the general primary election to be held on March 20, 2012:

Shall the City of Evanston 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 4:** In the event such question is approved by a majority of the electors in the City of Evanston voting on the question at the general primary election on March 20, 2012, the City Council may solicit bids and enter into a service agreement to facilitate, for residential and small commercial retail customers, the sale and purchase of electricity and related services and equipment in accordance with the requirements of

the Illinois Power Agency Act, 20 ILCS 3855/1-92. The aggregation will occur on an opt-out basis, without the prior affirmative consent of each person owning, occupying, controlling, or using and electric load center proposed to be aggregated.

**SECTION 5:** That all ordinances or parts of ordinances in conflict herewith are hereby repealed.

**SECTION 6:** That if any provision of this ordinance or application thereof to any person or circumstance is held unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this ordinance that can be given effect without the invalid application or provision, and each invalid application of this ordinance is severable.

**SECTION 7:** That this ordinance shall be in full force and effect from and after its passage, approval, and publication in the manner provided by law.

**SECTION 8:** That the findings and recitals contained herein are declared to be prima facie evidence of the law of the City and shall be received in evidence as provided by the Illinois Compiled Statutes and the courts of the State of Illinois.

Introduced: November 29, 2011

Approved:

Adopted: November 29, 2011

December 14, 2011

Elizabeth B Tisdahl  
Elizabeth B. Tisdahl, Mayor

Attest:

Approved as to form:

Rodney Greene  
Rodney Greene, City Clerk

W. Grant Farrar  
W. Grant Farrar, Corporation Counsel

