

ICCDOCKETNO.13-0506

**Illinois Competitive Energy Association's ("ICEA") Response to
Commonwealth Edison Company's ("ComEd") First Set of Data Requests
ComEd 1.01**

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ComEd→ICEA 1.01. Referring to ICEA's Verified Reply Comments, page 2, lines 11-13, where ICEA asserts that "if an ARES has proper authorization from the customer in the form of the customer's account number or a signed contract," is it ICEA's position that a signed government aggregation contract is the same as a Letter of Agency (LOA) signed by a customer and provides "proper authorization from the customer"? If so, please explain the basis for such an opinion. If not, please explain how customer authorization may be obtained from a customer served under a government aggregation program under ICEA's proposal.

Response:

No. It is not the Illinois Competitive Energy Association's ("ICEA") position that a government aggregation contract signed by a municipality is the same as a Letter of Agency authorizing the release of customer specific information signed by a customer.

Illinois' opt-out government aggregation law, by the very nature of the opt-out process, relies on the transfer of customer-specific information without reliance on receipt of the written, electronic, or telephonically obtained and recorded consent of the customer. Section 1-92 of the IPA Act authorizes the Government Aggregator to request from the utility account numbers, names and addresses of all residential and small commercial customers in the aggregated area. This statutory framework provides customer-specific account numbers, names and addresses and does not change with the introduction of interval data into the mix.

In addition, the IPA Act specifically provides for the valid and legally binding consent to the ARES contract through the opt-out process. In an Opt-out Aggregation Program, the ARES or the particular community sends an opt-out package to every resident in the municipal aggregation area. This package includes, among other materials, a copy of the ARES supply contract. While the wording in an ARES supply contract will understandably vary, it is ICEA's general understanding that such contracts typically contain a paragraph that states something along the lines of the following:

You appoint [ARES] as your exclusive Alternative Retail Energy Supplier (ARES). [ARES] agrees to sell and you agree to buy all of your electric power and energy service at the price and subject to the terms in this Agreement. You authorize [ARES] to obtain all data necessary so that [ARES] can enroll your account(s) and you authorize us to take such actions as necessary and reasonable to perform this Agreement, including but not

limited to: accessing and using account information from the Utility, enrolling account(s), procuring supply, scheduling and causing electricity to be delivered to each account.

Indeed, the ICC in its recently released First Notice Order Rule in the Government Aggregation Rulemaking Docket (12-0456), required ARES to inform customers that if they do not opt-out of the Opt-Out Aggregation Program they “will have been deemed to have authorized and agreed to being enrolled in the Opt-Out Aggregation Program and to having their electric supply service switched to the Aggregation Supplier under the terms and conditions applicable to the opt-out aggregation program.” See, FNO Proposed Rule Section 470.220(a)(2).

By accepting an Aggregation Supplier’s terms and conditions as stated above, the customer has provided their consent for an ARES to access the customer’s usage.

Prepared by: Illinois Competitive Energy Association Membership.

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Respectfully submitted,

ILLINOIS COMPETITIVE ENERGY ASSOCIATION

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