

# HOUSE BILL 676

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CF SB 34

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By: **Delegates Rudolph, Barkley, Barnes, Benson, Bobo, Bronrott, Cane, Elmore, Frush, Gaines, Gutierrez, Healey, Holmes, Hubbard, N. King, Lawton, Montgomery, Morhaim, Niemann, Pena-Melnyk, Pendergrass, Ross, Simmons, Sossi, and Weldon**

Introduced and read first time: February 8, 2007

Assigned to: Economic Matters

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## A BILL ENTITLED

1 AN ACT concerning

2 **Electric Industry - Local Aggregation**

3 FOR the purpose of repealing a provision that prohibits a county or municipal  
4 corporation from acting as an aggregator under certain circumstances;  
5 establishing a process by which a county or municipal corporation or group of  
6 counties and municipal corporations may become a local aggregator; providing  
7 that a local aggregator may not initiate aggregation exceeding a certain  
8 percentage of the historic demand in a certain service territory in a year;  
9 establishing a process under which certain customers shall be deemed to have  
10 given permission to a certain county or municipal corporation to act as its local  
11 aggregator; providing that certain customers may refuse to participate in  
12 certain aggregation activities under certain circumstances; requiring a county  
13 or municipal corporation to give or provide for certain notices to certain persons  
14 and to the Public Service Commission under certain circumstances; providing  
15 for the contents of certain notices; prohibiting a county or municipal corporation  
16 from excluding certain customers from the ability to participate in certain  
17 aggregation activities under certain circumstances; requiring the Commission to  
18 notify a certain county or municipal corporation as to its compliance with  
19 certain requirements; providing that a local aggregator may award contracts for  
20 competitive generation service supply only at certain times; requiring the  
21 Commission to make a certain determination as to when a local aggregator may  
22 award contracts for competitive generation service supply; providing that a  
23 certain county or municipal corporation is deemed to have obtained certain

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 customer authorization to retrieve certain data; requiring the Commission to  
2 review certain fees, request formats, and the format of certain data provided to  
3 facilitate the intent of certain provisions of law; prohibiting a local aggregator  
4 from assessing certain new fees, taxes, or charges in the aggregation charges or  
5 rates under certain circumstances; limiting the amount of a certain fee;  
6 requiring the Commission to adopt certain regulations and establish certain  
7 procedures; requiring the Commission to consider certain factors; defining  
8 certain terms; altering certain terms; providing for the effective dates of certain  
9 provisions of this Act; and generally relating to the ability of a county or  
10 municipal corporation to aggregate demand for electricity within the county or  
11 municipal corporation.

12 BY renumbering

13 Article – Public Utility Companies  
14 Section 1–101(p) through (pp), respectively  
15 to be Section 1–101(q) through (qq), respectively  
16 Annotated Code of Maryland  
17 (1998 Volume and 2006 Supplement)

18 BY repealing and reenacting, with amendments,

19 Article – Public Utility Companies  
20 Section 1–101(b)  
21 Annotated Code of Maryland  
22 (1998 Volume and 2006 Supplement)

23 BY adding to

24 Article – Public Utility Companies  
25 Section 1–101(p) and 7–510.1  
26 Annotated Code of Maryland  
27 (1998 Volume and 2006 Supplement)

28 BY repealing

29 Article – Public Utility Companies  
30 Section 7–510(f)  
31 Annotated Code of Maryland  
32 (1998 Volume and 2006 Supplement)

33 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
34 MARYLAND, That Section(s) 1–101(p) through (pp), respectively, of Article – Public  
35 Utility Companies of the Annotated Code of Maryland be renumbered to be Section(s)  
36 1–101(q) through (qq), respectively.

1 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland  
2 read as follows:

3 **Article – Public Utility Companies**

4 1–101.

5 (b) (1) “Aggregator” means an entity or an individual that acts on behalf  
6 of a customer to purchase electricity or gas.

7 (2) “Aggregator” does not include:

8 (i) an entity or individual that purchases electricity or gas  
9 **ONLY** for its own use or for the use of its subsidiaries or affiliates;

10 (ii) a municipal electric utility or a municipal gas utility serving  
11 only in its distribution territory; or

12 (iii) a combination of governmental units that purchases  
13 electricity or gas **ONLY** for use by the governmental units **OR LOCAL AGGREGATORS.**

14 **(P) “LOCAL AGGREGATOR” MEANS A COUNTY OR MUNICIPAL**  
15 **CORPORATION OR A GROUP OF COUNTIES, MUNICIPAL CORPORATIONS, OR**  
16 **BOTH THAT SERVE AS AN ELECTRIC AGGREGATOR FOR THE PURPOSE OF**  
17 **NEGOTIATING THE PURCHASE OF ELECTRIC GENERATION SERVICES FROM AN**  
18 **ELECTRICITY SUPPLIER FOR ALL RESIDENTIAL ELECTRIC CUSTOMERS:**

19 **(1) LOCATED, FOR A MUNICIPAL CORPORATION, IN THE**  
20 **MUNICIPAL CORPORATION OR, FOR A COUNTY, IN ANY AREA IN THE COUNTY**  
21 **OUTSIDE OF A MUNICIPAL CORPORATION;**

22 **(2) THAT HAVE NOT:**

23 **(I) SELECTED AN ELECTRICITY SUPPLIER OTHER THAN**  
24 **THE STANDARD OFFER SERVICE SUPPLIER; OR**

25 **(II) REFUSED TO PARTICIPATE IN THE AGGREGATION**  
26 **ACTIVITIES OF THE COUNTY, MUNICIPAL CORPORATION, OR THE GROUP OF**  
27 **COUNTIES OR GROUP OF MUNICIPAL CORPORATIONS; AND**

1           **(3) THAT ARE NOT LOCATED IN THE SERVICE TERRITORY OF AN**  
2 **ELECTRIC COOPERATIVE.**

3 7-510.

4           [(f) A county or municipal corporation may not act as an aggregator unless  
5 the Commission determines there is not sufficient competition within the boundaries  
6 of the county or municipal corporation.]

7 **7-510.1.**

8           **(A) (1) A LOCAL AGGREGATOR OR A GROUP OF LOCAL AGGREGATORS**  
9 **MAY INITIATE THE AGGREGATION OF UP TO 25% OF THE TOTAL HISTORIC**  
10 **DEMAND IN THE SERVICE TERRITORY OF THE ELECTRIC COMPANY THAT**  
11 **PROVIDES DISTRIBUTION SERVICES IN THE AGGREGATION AREA IN A CALENDAR**  
12 **YEAR.**

13           **(2) THE COMMISSION SHALL DETERMINE THE TOTAL HISTORIC**  
14 **DEMAND IN THE AGGREGATION AREA WHEN A COUNTY OR MUNICIPAL**  
15 **CORPORATION OR A GROUP OF COUNTIES OR MUNICIPAL CORPORATIONS**  
16 **REGISTERS TO BECOME A LOCAL AGGREGATOR UNDER SUBSECTION (B) OF THIS**  
17 **SECTION.**

18           **(B) (1) A COUNTY OR MUNICIPAL CORPORATION OR A GROUP OF**  
19 **COUNTIES OR MUNICIPAL CORPORATIONS INITIATES THE PROCESS OF FORMING**  
20 **OR JOINING A LOCAL AGGREGATOR BY FILING WITH THE COMMISSION BY**  
21 **REGISTERED MAIL:**

22                   **(I) A NOTICE OF INTENT TO FORM OR JOIN A LOCAL**  
23 **AGGREGATOR; AND**

24                   **(II) A DRAFT ORDINANCE FORMING OR JOINING A LOCAL**  
25 **AGGREGATOR.**

26           **(2) THE NOTICE OF INTENT SHALL INCLUDE:**

27                   **(I) THE NAME OF EACH COUNTY OR MUNICIPAL**  
28 **CORPORATION IN THE LOCAL AGGREGATOR; AND**

1                   **(II) WHETHER THE COUNTY OR MUNICIPAL CORPORATION**  
2 **IS FORMING A LOCAL AGGREGATOR OR JOINING AN EXISTING LOCAL**  
3 **AGGREGATOR.**

4                   **(3) WITHIN 45 DAYS AFTER RECEIVING THE NOTICE OF INTENT**  
5 **REQUIRED BY THIS SUBSECTION, THE COMMISSION SHALL NOTIFY THE COUNTY**  
6 **OR MUNICIPAL CORPORATION OF ITS DETERMINATION OF THE TOTAL HISTORIC**  
7 **DEMAND IN THE AGGREGATION AREA UNDER SUBSECTION (A)(2) OF THIS**  
8 **SECTION.**

9                   **(4) A COUNTY OR MUNICIPAL CORPORATION IS A LOCAL**  
10 **AGGREGATOR AFTER:**

11                   **(I) SUBMITTING THE NOTICE OF INTENT REQUIRED UNDER**  
12 **THIS SUBSECTION; AND**

13                   **(II) ENACTING AN ORDINANCE THAT PROVIDES THAT THE**  
14 **COUNTY OR MUNICIPAL CORPORATION SHALL ACT AS A LOCAL AGGREGATOR.**

15                   **(C) (1) IF A COUNTY OR MUNICIPAL CORPORATION CHOOSES TO ACT**  
16 **AS A LOCAL AGGREGATOR UNDER THIS SECTION, THE COUNTY OR MUNICIPAL**  
17 **CORPORATION SHALL GIVE, OR CAUSE ITS SELECTED ELECTRICITY SUPPLIER**  
18 **TO GIVE, WRITTEN NOTICE TO ALL RESIDENTIAL ELECTRIC CUSTOMERS IN ITS**  
19 **JURISDICTION.**

20                   **(2) THE NOTICE REQUIRED UNDER THIS SUBSECTION SHALL**  
21 **INCLUDE:**

22                   **(I) THE IDENTITY OF THE SELECTED ELECTRICITY**  
23 **SUPPLIER;**

24                   **(II) TERMS AND CONDITIONS OF SERVICE;**

25                   **(III) NEW RATES FOR SERVICE;**

26                   **(IV) A COMPARISON OF THE NEW RATES AND THE RATES**  
27 **UNDER THE CURRENT STANDARD OFFER SERVICE; AND**

1                   (V) THE TOTAL RENEWABLE COMPONENT OF THE  
2 PORTFOLIO OF THE SELECTED ELECTRICITY SUPPLIER THAT EXCEEDS THE  
3 REQUIREMENTS UNDER CURRENT LAW, IF ANY.

4                   (3) IN THE NOTICE REQUIRED UNDER THIS SUBSECTION, THE  
5 COUNTY OR MUNICIPAL CORPORATION:

6                   (I) SHALL PROVIDE TO THE RESIDENTIAL ELECTRIC  
7 CUSTOMERS IN ITS JURISDICTION THE OPPORTUNITY TO REFUSE TO  
8 PARTICIPATE IN THE AGGREGATION ACTIVITIES OF THE LOCAL AGGREGATOR  
9 BY RETURN MAILING OF THE NOTICE INDICATING THE CUSTOMER'S DECISION  
10 TO REFUSE TO PARTICIPATE IN THE AGGREGATION ACTIVITIES OF THE LOCAL  
11 AGGREGATOR; AND

12                   (II) MAY OFFER THE RESIDENTIAL ELECTRIC CUSTOMERS  
13 WHO HAVE PREVIOUSLY SELECTED AN ELECTRICITY SUPPLIER OTHER THAN  
14 THE STANDARD OFFER SERVICE SUPPLIER THE ABILITY TO PARTICIPATE IN THE  
15 AGGREGATION ACTIVITIES OF THE LOCAL AGGREGATOR.

16                   (4) A COUNTY OR MUNICIPAL CORPORATION THAT CHOOSES TO  
17 ACT AS A LOCAL AGGREGATOR UNDER THIS SECTION MAY NOT EXCLUDE ANY  
18 RESIDENTIAL ELECTRIC CUSTOMER IN ITS JURISDICTION FROM THE ABILITY TO  
19 PARTICIPATE IN THE AGGREGATION ACTIVITIES OF THE LOCAL AGGREGATOR.

20                   (D) A RESIDENTIAL ELECTRIC CUSTOMER IS DEEMED TO HAVE GIVEN  
21 PERMISSION TO THE COUNTY OR MUNICIPAL CORPORATION TO ACT ON THE  
22 CUSTOMER'S BEHALF:

23                   (1) WHEN THE COUNTY OR MUNICIPAL CORPORATION RECEIVES A  
24 RETURNED NOTICE FROM THE CUSTOMER EXPLICITLY GRANTING THAT  
25 PERMISSION; OR

26                   (2) IN THE CASE OF A CUSTOMER RECEIVING STANDARD OFFER  
27 SERVICES, WITHIN 21 DAYS AFTER THE NOTICE IS GIVEN IF THE COUNTY OR  
28 MUNICIPAL CORPORATION HAS NOT RECEIVED A RETURNED NOTICE BY THAT  
29 DATE.

30                   (E) THIS SECTION MAY NOT BE CONSTRUED TO PREVENT A  
31 RESIDENTIAL ELECTRIC CUSTOMER IN THE JURISDICTION OF THE COUNTY OR

1 MUNICIPAL CORPORATION FROM PARTICIPATING IN THE AGGREGATION  
2 ACTIVITIES OF THE COUNTY OR MUNICIPAL CORPORATION AFTER THE  
3 CUSTOMER HAS CHOSEN TO DISCONTINUE SERVICE WITH AN ELECTRICITY  
4 SUPPLIER OTHER THAN THE STANDARD OFFER SERVICE SUPPLIER.

5 (F) (1) A LOCAL AGGREGATOR MAY NOT ASSESS ANY NEW FEE, TAX,  
6 OR OTHER CHARGE IN THE AGGREGATION CHARGES OR RATES THAT IS NOT  
7 RELATED TO THE COST OF PROVIDING THE AGGREGATION SERVICE.

8 (2) A FEE FOR AGGREGATION MAY NOT EXCEED THE COST OF  
9 TRANSMISSION OF THE ELECTRICITY PROVIDED THROUGH THE AGGREGATION  
10 SERVICE.

11 (G) (1) BASED ON A DETERMINATION OF THE MITIGATION OF  
12 VOLUMETRIC RISK, THE COMMISSION SHALL IDENTIFY AT LEAST ONE 2-MONTH  
13 PERIOD IN THE CALENDAR YEAR WITHIN WHICH A LOCAL AGGREGATOR MAY  
14 AWARD CONTRACTS FOR COMPETITIVE GENERATION SERVICE SUPPLY.

15 (2) A LOCAL AGGREGATOR MAY AWARD CONTRACTS FOR  
16 COMPETITIVE GENERATION SERVICE SUPPLY ONLY WITHIN A 2-MONTH PERIOD  
17 IDENTIFIED BY THE COMMISSION UNDER THIS SUBSECTION.

18 (H) A LOCAL AGGREGATOR IS DEEMED TO HAVE OBTAINED  
19 RESIDENTIAL ELECTRIC CUSTOMER AUTHORIZATION TO RETRIEVE  
20 PRE-ENROLLMENT USAGE DATA FOR CUSTOMERS IN THE LOCAL AGGREGATION  
21 AREA.

22 (I) THE COMMISSION SHALL REVIEW APPLICABLE FEES, REQUEST  
23 FORMATS, AND THE FORMAT OF DATA PROVIDED TO FACILITATE THE INTENT OF  
24 THIS SECTION.

25 (J) (1) THE COMMISSION SHALL ESTABLISH PROCEDURES FOR A  
26 RESIDENTIAL ELECTRIC CUSTOMER WHO IS RECEIVING ELECTRIC GENERATION  
27 SERVICES FROM AN ELECTRICITY SUPPLIER SELECTED BY A LOCAL  
28 AGGREGATOR TO RECEIVE ANY BILL ASSISTANCE CREDIT TO WHICH THE  
29 CUSTOMER MAY BE ENTITLED UNDER § 7-512.1 OF THIS SUBTITLE.

30 (2) AN ELECTRICITY SUPPLIER SELECTED BY A LOCAL  
31 AGGREGATOR SHALL REFER RESIDENTIAL CUSTOMERS WITH ACCOUNTS

1 **DEEMED DELINQUENT UNDER THE TERMS AND CONDITIONS ADOPTED BY THE**  
2 **ELECTRICITY SUPPLIER TO THE STANDARD OFFER SERVICE IN ACCORDANCE**  
3 **WITH THE PROCEDURES ADOPTED BY THE COMMISSION UNDER §§ 7-507(E)(6)**  
4 **AND 7-510(C)(2)(VI) OF THIS SUBTITLE.**

5 **(K) (1) THE COMMISSION SHALL BY REGULATION ESTABLISH**  
6 **STANDARDS AND PROCEDURES TO PROTECT THE CONSUMER RIGHTS OF**  
7 **RESIDENTIAL CUSTOMERS WHO RECEIVE ELECTRIC GENERATION SERVICES**  
8 **FROM AN ELECTRICITY SUPPLIER SELECTED BY A LOCAL AGGREGATOR.**

9 **(2) THE REGULATIONS SHALL PROHIBIT DISCRIMINATION**  
10 **AGAINST A CUSTOMER OR ON THE BASIS OF THE LOCATION OF THE CUSTOMER.**

11 SECTION 3. AND BE IT FURTHER ENACTED, That, on or before October 1,  
12 2007, in addition to the regulations adopted in accordance with § 7-510.1(k) of the  
13 Public Utility Companies Article, as enacted by Section 2 of this Act, the Public  
14 Service Commission shall adopt regulations to establish standards and procedures to  
15 implement this Act. In adopting these regulations, the Commission shall consider: (1)  
16 whether to require a code of conduct for counties and municipal corporations that are  
17 local aggregators to maintain separation between the county or municipal  
18 corporation's aggregation activities and its other activities to ensure that aggregation  
19 benefits ratepayers; and (2) whether to establish a priority system between a county  
20 and the municipal corporations within the county to define which local government  
21 has the first opportunity to aggregate for customers within the jurisdiction of both the  
22 county and the municipal corporation.

23 SECTION 4. AND BE IT FURTHER ENACTED, That Sections 1 and 2 of this  
24 Act shall take effect October 1, 2007.

25 SECTION 5. AND BE IT FURTHER ENACTED, That, except as provided in  
26 Section 4 of this Act, this Act shall take effect June 1, 2007.