

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE

House Bill 987
Economic Matters

(Delegate Hubbard, *et al.*)

Electric Industry - Local Aggregation

This bill repeals the requirement that the Public Service Commission (PSC) determine there is insufficient competition within the boundaries of a county or municipal corporation before granting permission for that county or municipal corporation to act as an aggregator of electricity supply.

The bill takes effect July 1, 2011.

Fiscal Summary

State Effect: The bill does not materially affect State operations or finances.

Local Effect: Potential meaningful. A county or municipality may incur expenses associated with assessing the feasibility of an aggregation. It is assumed that counties or municipalities that choose to act as aggregators of electricity supply would contract with a third party for procurement of electric supply and any administrative, legal, and technical assistance required.

Small Business Effect: Minimal.

Analysis

Current Law: Counties and municipalities may not act as aggregators for electricity supply unless licensed by PSC. PSC may not license a county or municipality to act as an electricity supplier unless it determines there is insufficient competition within the boundaries of the county or municipality.

Counties and municipalities are also subject to the same licensing requirements as other electricity suppliers. These licensing requirements include; proof of managerial competence and proof of financial integrity. An electricity supplier, a person, or a governmental unit may not make a change in the electricity supplier for a customer without the customer's permission. Therefore, a local government that is licensed by PSC for aggregation of electricity supply may only implement opt-in aggregation.

Background:

Municipal Aggregation

At this time, 15 states and the District of Columbia have fully implemented legislation and commission orders to allow full retail access for all consumer groups. Of these states, most, including Maryland, allow for municipal aggregation. In general, two program options are available: opt-in or opt-out. The opt-in program (which applies in Maryland) requires a resident to specifically choose to participate in the program. The opt-out program requires a resident to specifically choose *not to* participate; otherwise, the resident is automatically included in the aggregation. Only a few states allow for opt-out aggregation.

Chapter 5 of the 2006 special session required PSC to consider the implications of allowing opt-out aggregation in the service territories of investor-owned companies prior to December 31, 2006. PSC received testimony and issued a report advising against allowing opt-out aggregation due to the potential adverse affects it may have on the procurement of standard offer service (SOS) supply.

Howard County is the only local government that has applied to become an aggregator of electricity supply. On August 16, 2006, PSC declared there was not sufficient competition for customer choice and gave the county authority to act as an aggregator of electric service. In this ruling, PSC indicated that until legislation is enacted that permits opt-out aggregation, Howard County may only aggregate on behalf of those customers that affirmatively consent (opt-in) to such an arrangement. Howard County has taken no further action on local aggregation.

Electric Customer Choice

Under current law, PSC may not allow a local government to act as an aggregator unless it determines there is insufficient competition within the boundaries of the county or municipality.

Exhibit 1 shows the number of competitive electricity suppliers in each service territory, the current price to compare, and the number of offers. Within the State's largest distribution territories, residential customers have many choices for energy supply.

Exhibit 1
Residential Electric Choice
February 2011 Survey

<u>Service Area</u>	<u>SOS Price (per kWh) to Compare</u>	<u>Competitive Suppliers</u>	<u>Number of Offers</u>
BGE	\$0.1003	12	25
Delmarva	0.0952	4	9
PEPCO	0.1035	6	14
Allegheny Power	0.0747	3	8
SMECO	0.0946	0	0
Choptank	0.0891	0	0

Source: Office of the People's Counsel

Additional Information

Prior Introductions: HB 5 of 2007 received a hearing in the House Economic Matters Committee, but no further action was taken. SB 1092 of 2006 specifically provided for opt-out aggregation; it was heard in the Senate Finance Committee, but no further action was taken. HB 670 of 2005 provided for opt-out aggregation; it was heard in the House Economic Matters Committee but was withdrawn.

Cross File: None.

Information Source(s): Town of Leonardtown; City of Salisbury; Harford, Montgomery, and St. Mary's counties; Office of People's Counsel; Public Service Commission; Department of Legislative Services

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mc/lgc

Analysis by: Erik P. Timme

Direct Inquiries to:
(410) 946-5510
(301) 970-5510