

BY: Economic Matters Committee

AMENDMENTS TO SENATE BILL NO. 37

(Third Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 2, strike “Retail”; in the same line, strike “and Gas Industries” and substitute “Industry”; in the same line, strike “Aggregators” and substitute “Aggregation Pilot Program”; strike beginning with “repealing” in line 4 down through “circumstances” in line 8 and substitute “altering the definition of “aggregator” to include a county or municipal corporation located within Prince George’s County or Montgomery County that acts on behalf of a customer to purchase electricity for customers under certain circumstances; authorizing a county or municipal corporation to act as an aggregator for certain customers unless certain circumstances exist; providing a time for the Public Service Commission to make a certain determination; establishing a process by which a certain customer will be deemed to have given permission to the county or municipal corporation to act as its aggregator; authorizing a residential or small business customer to withdraw from a county or municipal corporation aggregation program at any time; prohibiting the customer from returning to the aggregation program for a certain period of time; allowing a county to include certain municipal customers only if the municipal corporation does not adopt an aggregation program; prohibiting a county or municipal corporation from charging a lower price for electricity supplied to governmental facilities through the county’s or municipal corporation’s aggregation programs than is charged to certain other customers; prohibiting a county or municipal corporation from assuming or undertaking certain risk; providing for the construction of certain provisions of this Act; requiring the Public Service Commission to adopt certain standards by a certain date; requiring the Commission to consider certain factors; providing for the effective dates of portions of this Act”; strike beginning with “counties” in line 8 down through “industries” in line 10 and substitute “a county or municipal corporation located within Prince George’s County or Montgomery County to aggregate electricity customers within the county or municipal corporation”; and in line 13, after “1-101(b)” insert “and 7-510(f)”.

On pages 1 and 2, strike in their entirety the lines beginning with line 16 on page 1 down through line 2 on page 2, inclusive.

(Over)

AMENDMENT NO. 2

On page 2, strike beginning with the comma in line 7 down through the comma in line 8; after line 9, insert:

“(2) “AGGREGATOR” INCLUDES A COUNTY OR MUNICIPAL CORPORATION THAT ACTS ON BEHALF OF A CUSTOMER TO PURCHASE ELECTRICITY FOR RETAIL RESIDENTIAL AND SMALL COMMERCIAL ELECTRIC CUSTOMERS:

(I) LOCATED WITHIN THE COUNTY OR MUNICIPAL CORPORATION; AND

(II) THAT HAVE NOT SELECTED AN ELECTRICITY SUPPLIER OTHER THAN THE STANDARD OFFER SERVICE SUPPLIER OR REFUSED TO PARTICIPATE IN THE AGGREGATION ACTIVITIES OF THE COUNTY OR MUNICIPAL CORPORATION.”;

in line 10, strike “(2)” and substitute “(3)”; and in lines 11 and 16, in each instance, after “gas” insert “ONLY”.

AMENDMENT NO. 3

On page 2, in lines 18 and 20, in each instance, strike the bracket; in line 18, strike “A” and substitute “(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A”; in line 19, after “determines” insert “THAT”; and strike in their entirety lines 21 through 28 and substitute:

“(2) (I) THIS PARAGRAPH APPLIES IN MONTGOMERY COUNTY AND PRINCE GEORGE’S COUNTY.

(II) A COUNTY OR MUNICIPAL CORPORATION MAY ACT AS AN AGGREGATOR FOR ELECTRICITY UNLESS THE COMMISSION DETERMINES THAT MORE THAN 20% OF THE RETAIL RESIDENTIAL AND SMALL COMMERCIAL ELECTRIC CUSTOMERS WITHIN THE BOUNDARIES OF THE COUNTY OR MUNICIPAL CORPORATION HAVE SELECTED AN ELECTRICITY SUPPLIER OTHER THAN THE STANDARD OFFER SERVICE SUPPLIER.

(III) THE COMMISSION SHALL MAKE ITS DETERMINATION

UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH AT THE TIME THE COUNTY OR MUNICIPAL CORPORATION APPLIES FOR A LICENSE TO BECOME AN AGGREGATOR UNDER § 7-507 OF THIS SUBTITLE.

(IV) 1. IF A COUNTY OR MUNICIPAL CORPORATION CHOOSES TO ACT AS AN AGGREGATOR UNDER THIS PARAGRAPH, THE COUNTY OR MUNICIPAL CORPORATION SHALL PROVIDE A WRITTEN NOTICE TO ALL RESIDENTIAL AND SMALL COMMERCIAL ELECTRIC CUSTOMERS WITHIN ITS BOUNDARIES, OTHER THAN CUSTOMERS OF AN ELECTRIC COOPERATIVE, THAT HAVE NOT CHOSEN AN ELECTRICITY SUPPLIER OTHER THAN THE STANDARD OFFER SERVICE SUPPLIER OF ITS INTENTIONS TO ACT AS AN AGGREGATOR.

2. IN THE NOTICE REQUIRED UNDER THIS SUBPARAGRAPH, THE COUNTY OR MUNICIPAL CORPORATION SHALL PROVIDE THE RESIDENTIAL AND SMALL COMMERCIAL CUSTOMERS, OTHER THAN CUSTOMERS OF AN ELECTRIC COOPERATIVE, WITH THE OPPORTUNITY TO REFUSE TO PARTICIPATE IN THE AGGREGATION PROGRAM OF THE COUNTY OR MUNICIPAL CORPORATION.

3. A RESIDENTIAL OR SMALL COMMERCIAL CUSTOMER, OTHER THAN A CUSTOMER OF AN ELECTRIC COOPERATIVE, IS DEEMED TO HAVE GIVEN PERMISSION TO THE COUNTY OR MUNICIPAL CORPORATION TO ACT AS ITS AGGREGATOR:

A. ON RECEIPT BY THE COUNTY OR MUNICIPAL CORPORATION OF A RETURNED NOTICE EXPLICITLY GRANTING PERMISSION; OR

B. IF THE NOTICE IS NOT RETURNED TO THE COUNTY OR MUNICIPAL CORPORATION WITHIN 30 DAYS AFTER THE RECEIPT OF THE NOTICE BY THE CUSTOMER.

(V) 1. A RESIDENTIAL OR SMALL COMMERCIAL CUSTOMER MAY WITHDRAW FROM THE COUNTY'S OR MUNICIPAL CORPORATION'S AGGREGATION PROGRAM AT ANY TIME.

(Over)

2. A CUSTOMER THAT HAS WITHDRAWN FROM THE COUNTY'S OR MUNICIPAL CORPORATION'S AGGREGATION PROGRAM MAY NOT RETURN TO THE AGGREGATION PROGRAM FOR A PERIOD OF 1 YEAR AFTER THE CUSTOMER HAS WITHDRAWN FROM THE PROGRAM.

(VI) A COUNTY'S AGGREGATION PROGRAM MAY INCLUDE CUSTOMERS LOCATED WITHIN A MUNICIPAL CORPORATION ONLY IF THE MUNICIPAL CORPORATION DOES NOT ADOPT ITS OWN MUNICIPAL AGGREGATION PROGRAM.

(VII) A COUNTY OR MUNICIPAL CORPORATION MAY NOT CHARGE A LOWER PRICE FOR ELECTRICITY SUPPLIED TO GOVERNMENTAL FACILITIES THROUGH THE COUNTY'S OR MUNICIPAL CORPORATION'S AGGREGATION PROGRAM THAN IS CHARGED TO RESIDENTIAL AND SMALL COMMERCIAL CUSTOMERS OF A SIMILAR CLASS OR OTHERWISE ENGAGE IN A SELF-DEALING ARRANGEMENT.

(VIII) IN ACTING AS AN AGGREGATOR, A COUNTY OR MUNICIPAL CORPORATION MAY NOT ASSUME OR UNDERTAKE ANY COMMODITY PRICE RISK, COUNTER PARTY CREDIT RISK, CUSTOMER PURCHASE VOLUME RISK, OR ANY OTHER SIMILAR RISK.

(IX) 1. THIS PARAGRAPH MAY NOT BE CONSTRUED TO PREVENT A COUNTY OR MUNICIPAL CORPORATION THAT ACTS AS AN AGGREGATOR UNDER THIS PARAGRAPH FROM ACCEPTING RESIDENTIAL AND SMALL COMMERCIAL ELECTRIC CUSTOMERS THAT ARE LOCATED IN THE IMMEDIATE ENVIRONS OF THE COUNTY OR MUNICIPAL CORPORATION AND THAT REQUEST INCLUSION IN THE COUNTY'S OR MUNICIPAL CORPORATION'S AGGREGATION PROGRAM.

2. THIS PARAGRAPH MAY NOT BE CONSTRUED TO PREVENT A RESIDENTIAL OR SMALL COMMERCIAL CUSTOMER WITHIN THE BOUNDARIES OF THE COUNTY OR MUNICIPAL CORPORATION FROM OPTING INTO

THE COUNTY'S OR MUNICIPAL CORPORATION'S AGGREGATION PROGRAM AFTER THE CUSTOMER HAS CHOSEN TO DISCONTINUE SERVICE WITH ANOTHER AGGREGATOR.

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before October 1, 2003, the Public Service Commission shall establish standards and procedures to implement this Act. In establishing these standards and procedures, the Commission shall consider: (1) whether to require a code of conduct for counties and municipal corporations that are aggregators to maintain separation between the county or municipal corporation's aggregator activities and its other activities to assure that aggregation results in benefits being passed on to ratepayers; and (2) whether to establish a priority system among a county and the municipal corporations within the county that would define which entity has the first opportunity to aggregate for customers within the jurisdiction of both the county and the municipal corporation.

SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall take effect October 1, 2003.";

in line 29, strike "2." and substitute "4."; and in the same line, after "That" insert ", except as provided in Section 3 of this Act.".