

HOUSE BILL 24

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C5  
HB 345/02 - ENV

2003 Regular Session  
3lr0602

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By: ~~Delegate Hubbard~~ **Delegates Hubbard, Stern, Barve, Gordon, Conroy,  
D. Davis, and Krysiak**

Introduced and read first time: January 13, 2003  
Assigned to: Economic Matters

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Committee Report: Favorable with amendments  
House action: Adopted  
Read second time: March 27, 2003

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Electric Industry - Aggregation Pilot Program - Counties and Municipal**  
3 **Corporations**

4 FOR the purpose of altering the definition of "aggregator" to include a county or  
5 municipal corporation located within Prince George's County or Montgomery  
6 County that acts on behalf of a customer to purchase electricity for customers  
7 under certain circumstances; authorizing a county or municipal corporation to  
8 act as an aggregator for certain customers unless certain circumstances exist;  
9 providing a time for the Public Service Commission to make a certain  
10 determination; establishing a process by which a certain customer will be  
11 deemed to have given permission to the county or municipal corporation to act  
12 as its aggregator; authorizing a residential or small business customer to  
13 withdraw from a county or municipal corporation aggregation program at any  
14 time; prohibiting the customer from returning to the aggregation program for a  
15 certain period of time; allowing a county to include certain municipal customers  
16 only if the municipal corporation does not adopt an aggregation program;  
17 prohibiting a county or municipal corporation from charging a lower price for  
18 electricity supplied to governmental facilities through the county's or municipal  
19 corporation's aggregation programs than is charged to certain other customers;  
20 prohibiting a county or municipal corporation from assuming or undertaking  
21 certain risk; providing for the construction of certain provisions of this Act;  
22 requiring the Public Service Commission to ~~issue a certain order or~~ adopt  
23 certain regulations by a certain date; requiring the Commission to consider  
24 certain factors; providing for the effective dates of portions of this Act; and  
25 generally relating to the ability of a county or municipal corporation located  
26 within Prince George's County or Montgomery County to aggregate electricity  
27 customers within the county or municipal corporation.

1 BY repealing and reenacting, with amendments,  
2 Article - Public Utility Companies  
3 Section 1-101(b) and 7-510(f)  
4 Annotated Code of Maryland  
5 (1998 Volume and 2002 Supplement)

6 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
7 MARYLAND, That the Laws of Maryland read as follows:

8 **Article - Public Utility Companies**

9 1-101.

10 (b) (1) "Aggregator" means an entity or an individual that acts on behalf of a  
11 customer to purchase electricity or gas.

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

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

17 (II) THAT HAVE NOT SELECTED ~~ANOTHER AGGREGATOR~~ AN  
18 ELECTRICITY SUPPLIER OTHER THAN THE STANDARD OFFER SERVICE SUPPLIER OR  
19 REFUSED TO PARTICIPATE IN THE AGGREGATION ACTIVITIES OF THE COUNTY OR  
20 MUNICIPAL CORPORATION.

21 [(2)] (3) "Aggregator" does not include:

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

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

26 (iii) a combination of governmental units that purchases electricity  
27 or gas ONLY for use by the governmental units.

28 7-510.

29 (f) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A  
30 COUNTY OR MUNICIPAL CORPORATION MAY NOT ACT AS AN AGGREGATOR UNLESS  
31 THE COMMISSION DETERMINES THAT THERE IS NOT SUFFICIENT COMPETITION  
32 WITHIN THE BOUNDARIES OF THE COUNTY OR MUNICIPAL CORPORATION.

33 (2) (I) THIS PARAGRAPH APPLIES IN MONTGOMERY COUNTY AND  
34 PRINCE GEORGE'S COUNTY.

1                   (II)       A county or municipal corporation may [not] act as an  
 2 aggregator FOR ELECTRICITY unless the Commission determines [there is not  
 3 sufficient competition] THAT MORE THAN 20% OF THE RETAIL RESIDENTIAL AND  
 4 SMALL COMMERCIAL ELECTRIC CUSTOMERS within the boundaries of the county or  
 5 municipal corporation HAVE SELECTED AN ~~AGGREGATOR~~ ELECTRICITY SUPPLIER  
 6 OTHER THAN THE STANDARD OFFER SERVICE SUPPLIER.

7                   ~~(I)~~       (III)       THE COMMISSION SHALL MAKE ITS DETERMINATION UNDER  
 8 ~~PARAGRAPH (I) OF THIS SUBSECTION~~ SUBPARAGRAPH (II) OF THIS PARAGRAPH AT  
 9 THE TIME THE COUNTY OR MUNICIPAL CORPORATION APPLIES FOR A LICENSE TO  
 10 BECOME AN AGGREGATOR UNDER § 7-507 OF THIS SUBTITLE.

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

19                   ~~(II)~~       2.       IN THE NOTICE REQUIRED UNDER THIS ~~PARAGRAPH~~  
 20 SUBPARAGRAPH, THE COUNTY OR MUNICIPAL CORPORATION SHALL PROVIDE THE  
 21 RESIDENTIAL AND SMALL COMMERCIAL CUSTOMERS, OTHER THAN CUSTOMERS OF  
 22 AN ELECTRIC COOPERATIVE, WITH THE OPPORTUNITY TO REFUSE TO PARTICIPATE  
 23 IN THE AGGREGATION ~~ACTIVITIES~~ PROGRAM OF THE COUNTY OR MUNICIPAL  
 24 CORPORATION.

25                   ~~(III)~~       3.       A RESIDENTIAL OR SMALL COMMERCIAL CUSTOMER,  
 26 OTHER THAN A CUSTOMER OF AN ELECTRIC COOPERATIVE, IS DEEMED TO HAVE  
 27 GIVEN PERMISSION TO THE COUNTY OR MUNICIPAL CORPORATION TO ACT AS ITS  
 28 AGGREGATOR:

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

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

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

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

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

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

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

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

19 ~~(4)~~ 2. THIS SUBSECTION PARAGRAPH MAY NOT BE CONSTRUED TO  
20 PREVENT A RESIDENTIAL OR SMALL COMMERCIAL CUSTOMER WITHIN THE  
21 BOUNDARIES OF THE COUNTY OR MUNICIPAL CORPORATION FROM OPTING INTO  
22 THE COUNTY COUNTY'S OR MUNICIPAL CORPORATION'S AGGREGATION ACTIVITIES  
23 PROGRAM AFTER THE CUSTOMER HAS CHOSEN TO DISCONTINUE SERVICE WITH  
24 ANOTHER AGGREGATOR.

25 SECTION 2. AND BE IT FURTHER ENACTED, That, on or before October 1,  
26 2003, the Public Service Commission shall ~~issue an order or adopt regulations to~~  
27 establish standards and procedures to implement this Act. ~~If the Commission issues~~  
28 ~~an order that establishes standards and procedures to implement this Act, the~~  
29 ~~Commission is not required to comply with the procedures of Title 10, Subtitle 1 of the~~  
30 ~~State Government Article.~~ In adopting these regulations establishing these standards  
31 and procedures, the Commission shall consider: (1) whether to require a code of  
32 conduct for counties and municipal corporations that are aggregators to maintain  
33 separation between the county or municipal corporation's aggregator activities and its  
34 other activities to assure that aggregation results in benefits being passed on to  
35 ratepayers; and (2) whether to establish a priority system among a county and the  
36 municipal corporations within the county that would define which entity has the first  
37 opportunity to aggregate for customers within the jurisdiction of both the county and  
38 the municipal corporation.

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

41 SECTION 4. AND BE IT FURTHER ENACTED, That, except as provided in  
42 Section 3 of this Act, this Act shall take effect June 1, 2003.

