

BY: Senator Green

AMENDMENTS TO HOUSE BILL NO. 215

(Third Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 2, strike “Restructuring” and substitute “Industry”; in the same line, after “Metering” insert “and Local Aggregation”; in line 3, after “of” insert “repealing a provision that prohibits a county or municipal corporation from acting as an aggregator under certain circumstances; establishing a process by which a county or municipal corporation may become a local aggregator; providing that a local aggregator may not initiate aggregation exceeding a certain percentage of the historic demand in a certain service territory in a year; establishing a process by which a certain customer shall be deemed to have given permission to a certain county or municipal corporation to act as its local aggregator; providing that certain customers may refuse to participate in certain aggregation activities under certain circumstances; requiring a county or municipal corporation to give or provide for certain notices to certain persons and to the Public Service Commission under certain circumstances; providing for the contents of certain notices; requiring the Commission to notify a certain county or municipal corporation as to its compliance with certain requirements; providing that a local aggregator may award contracts for competitive generation service supply only at certain times; requiring the Commission to make a certain determination as to when a local aggregator may award contracts for competitive generation service supply; providing that a certain county or municipal corporation is deemed to have obtained certain customer authorization to retrieve certain data; requiring the Commission to review certain fees, request formats, and the format of certain data provided to facilitate the intent of certain provisions of law; prohibiting a local aggregator from assessing certain new fees, taxes, or charges in the aggregation charges or rates under certain circumstances; limiting the amount of a certain fee; requiring the Commission to adopt certain regulations and establish certain procedures; requiring the Commission to consider certain factors; defining certain terms; altering certain definitions;”; and strike beginning with “and” in line 4 down through “supplier” in line 5 and substitute “and generally relating to the electric industry”.

AMENDMENT NO. 2

(Over)

On page 1, in line 8, after “Section” insert “1-101(b),”; in the same line, after “1-101(j)(1)” insert a comma; and after line 10, insert:

“BY adding to

Article - Public Utility Companies
Section 1-101(o-1) and 7-510.1
Annotated Code of Maryland
(1998 Volume and 2004 Supplement)

BY repealing

Article - Public Utility Companies
Section 7-510(f)
Annotated Code of Maryland
(1998 Volume and 2004 Supplement)”.

AMENDMENT NO. 3

On page 2, after line 11, insert:

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

Article - Public Utility Companies

1-101.

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

(2) “Aggregator” does not include:

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

(ii) a municipal electric utility or a municipal gas utility serving only in its

distribution territory; or

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

(O-1) "LOCAL AGGREGATOR" MEANS A COUNTY OR MUNICIPAL CORPORATION OR A GROUP OF COUNTIES OR A GROUP OF MUNICIPAL CORPORATIONS THAT SERVES AS AN ELECTRIC AGGREGATOR FOR THE PURPOSE OF NEGOTIATING THE PURCHASE OF ELECTRIC GENERATION SERVICES FROM AN ELECTRICITY SUPPLIER FOR ALL RESIDENTIAL ELECTRIC CUSTOMERS:

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

(2) THAT HAVE NOT:

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

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

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

7-510.

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

(Over)

7-510.1.

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

(2) THE COMMISSION SHALL MAKE A DETERMINATION OF THE TOTAL HISTORIC DEMAND IN THE AGGREGATION AREA WHEN A COUNTY OR MUNICIPAL CORPORATION OR A GROUP OF COUNTIES OR A GROUP OF MUNICIPAL CORPORATIONS REGISTERS TO BECOME AN AGGREGATOR UNDER SUBSECTION (B) OF THIS SECTION.

(B) (1) A COUNTY OR MUNICIPAL CORPORATION OR A GROUP OF COUNTIES OR A GROUP OF MUNICIPAL CORPORATIONS MAY INITIATE THE PROCESS OF FORMING OR JOINING A LOCAL AGGREGATOR BY FILING WITH THE COMMISSION BY REGISTERED MAIL:

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

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

(2) THE NOTICE OF INTENT SHALL INCLUDE:

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

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

(3) WITHIN 45 DAYS AFTER RECEIVING THE NOTICE OF INTENT REQUIRED UNDER THIS SUBSECTION, THE COMMISSION SHALL NOTIFY THE COUNTY

OR MUNICIPAL CORPORATION AS TO ITS DETERMINATION OF THE TOTAL HISTORIC DEMAND IN THE AGGREGATION AREA UNDER SUBSECTION (A)(2) OF THIS SECTION.

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

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

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

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

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

(I) THE IDENTITY OF THE SELECTED ELECTRICITY SUPPLIER;

(II) TERMS AND CONDITIONS OF SERVICE;

(III) NEW RATES FOR SERVICE;

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

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

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

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

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

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

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

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

(2) IF THE COUNTY OR MUNICIPAL CORPORATION HAS NOT RECEIVED A RETURNED NOTICE WITHIN 21 DAYS AFTER THE NOTICE IS GIVEN.

(E) THIS SECTION MAY NOT BE CONSTRUED TO PREVENT A RESIDENTIAL ELECTRIC CUSTOMER IN THE JURISDICTION OF THE COUNTY OR MUNICIPAL CORPORATION FROM PARTICIPATING IN THE AGGREGATION ACTIVITIES OF THE COUNTY OR MUNICIPAL CORPORATION AFTER THE CUSTOMER HAS CHOSEN TO DISCONTINUE SERVICE WITH AN ELECTRICITY SUPPLIER OTHER THAN THE

STANDARD OFFER SERVICE SUPPLIER.

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

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

(G) (1) BASED ON A DETERMINATION OF THE MITIGATION OF VOLUMETRIC RISK, THE COMMISSION SHALL IDENTIFY A 2-MONTH PERIOD IN THE CALENDAR YEAR WITHIN WHICH A LOCAL AGGREGATOR MAY AWARD CONTRACTS FOR COMPETITIVE ELECTRIC GENERATION SERVICES SUPPLY.

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

(H) A LOCAL AGGREGATOR IS DEEMED TO HAVE OBTAINED RESIDENTIAL ELECTRIC CUSTOMER AUTHORIZATION TO RETRIEVE PREENROLLMENT USAGE DATA FOR CUSTOMERS IN THE LOCAL AGGREGATION.

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

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

(2) AN ELECTRICITY SUPPLIER SELECTED BY A LOCAL AGGREGATOR SHALL REFER RESIDENTIAL CUSTOMERS WITH ACCOUNTS DEEMED DELINQUENT UNDER THE TERMS AND CONDITIONS ADOPTED BY THE ELECTRICITY SUPPLIER TO THE STANDARD OFFER SERVICE IN ACCORDANCE WITH THE PROCEDURES ADOPTED BY THE COMMISSION UNDER §§ 7-507(E)(6) AND 7-510(C)(2)(VI) OF THIS SUBTITLE.

(K) (1) THE COMMISSION SHALL ADOPT REGULATIONS TO ESTABLISH STANDARDS AND PROCEDURES TO PROTECT THE CONSUMER RIGHTS OF RESIDENTIAL CUSTOMERS RECEIVING ELECTRIC GENERATION SERVICES FROM AN ELECTRICITY SUPPLIER SELECTED BY A LOCAL AGGREGATOR.

(2) THE REGULATIONS SHALL INCLUDE PROVISIONS TO PROHIBIT DISCRIMINATION AGAINST A CUSTOMER OR ON THE BASIS OF THE LOCATION OF THE CUSTOMER.

SECTION 3. AND BE IT FURTHER ENACTED, That, on or before October 1, 2005, in addition to the regulations adopted in accordance with § 7-501.1(k) of the Public Utility Companies Article, as enacted by Section 2 of this Act, the Public Service Commission shall adopt regulations to establish standards and procedures to implement this Act. In adopting these regulations, the Commission shall consider: (1) whether to require a code of conduct for counties and municipal corporations that are local aggregators to maintain separation between the county or municipal corporation's aggregator activities and its other activities to ensure 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."

AMENDMENT NO. 5

On page 2, before line 12, insert:

"SECTION 4. AND BE IT FURTHER ENACTED, That Section 3 of this Act shall take effect June 1, 2005."

in line 12, strike "2." and substitute "5."; and in the same line, after "That" insert ", except as

provided in Section 4 of this Act.”.