
By: **Delegates Hubbard, James, Barkley, Barve, Benson, Bobo, Boutin, Bronrott, Cane, Cardin, V. Clagett, Conroy, Costa, Cryor, Dumais, Feldman, Franchot, Frush, Fulton, Gaines, Goldwater, Gordon, Gutierrez, Healey, Hixson, Holmes, Jones, Kaiser, King, Levy, Madaleno, Mandel, McHale, McIntosh, Menes, Moe, Montgomery, Morhaim, Murray, Nathan-Pulliam, Niemann, Oaks, Patterson, Pendergrass, Petzold, Proctor, Ross, Rudolph, Simmons, Stern, Taylor, F. Turner, Vaughn, and Weldon**

Introduced and read first time: February 7, 2005
Assigned to: Economic Matters

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 may become a
6 local aggregator; providing that a local aggregator may not initiate aggregation
7 exceeding a certain percentage of the historic demand in a certain service
8 territory in a year; establishing a process by which a certain customer shall be
9 deemed to have given permission to a certain county or municipal corporation to
10 act as its local aggregator; providing that certain customers may refuse to
11 participate in certain aggregation activities under certain circumstances;
12 requiring a county or municipal corporation to give or provide for certain notices
13 to certain persons and to the Public Service Commission under certain
14 circumstances; providing for the contents of certain notices; requiring the
15 Commission to notify a certain county or municipal corporation as to its
16 compliance with certain requirements; providing that a local aggregator may
17 award contracts for competitive generation service supply only at certain times;
18 requiring the Commission to make a certain determination as to when a local
19 aggregator may award contracts for competitive generation service supply;
20 providing that a certain county or municipal corporation is deemed to have
21 obtained certain customer authorization to retrieve certain data; requiring the
22 Commission to review certain fees, request formats and the format of certain
23 data provided to facilitate the intent of certain provisions of law; prohibiting a
24 local aggregator from assessing certain new fees, taxes, or charges in the
25 aggregation charges or rates under certain circumstances; limiting the amount
26 of a certain fee; requiring the Commission to adopt certain regulations by a
27 certain date; requiring the Commission to consider certain factors; defining
28 certain terms; altering certain terms; providing for the effective dates of certain

1 portions of this Act; and generally relating to the ability of a county or municipal
2 corporation to aggregate demand for electricity within the county or municipal
3 corporation.

4 BY repealing and reenacting, with amendments,
5 Article - Public Utility Companies
6 Section 1-101(b)
7 Annotated Code of Maryland
8 (1998 Volume and 2004 Supplement)

9 BY adding to
10 Article - Public Utility Companies
11 Section 1-101(o-1) and 7-510.1
12 Annotated Code of Maryland
13 (1998 Volume and 2004 Supplement)

14 BY repealing
15 Article - Public Utility Companies
16 Section 7-510(f)
17 Annotated Code of Maryland
18 (1998 Volume and 2004 Supplement)

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

21 **Article - Public Utility Companies**

22 1-101.

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

25 (2) "Aggregator" does not include:

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

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

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

32 (O-1) "LOCAL AGGREGATOR" MEANS A COUNTY OR MUNICIPAL CORPORATION
33 OR GROUP OF COUNTIES OR MUNICIPAL CORPORATIONS THAT SERVE AS AN
34 ELECTRIC AGGREGATOR FOR THE PURPOSE OF NEGOTIATING THE PURCHASE OF

1 ELECTRIC GENERATION SERVICES FROM AN ELECTRIC SUPPLIER FOR ALL
2 RESIDENTIAL ELECTRIC CUSTOMERS:

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

5 (2) THAT HAVE NOT:

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

8 (II) REFUSED TO PARTICIPATE IN THE AGGREGATION ACTIVITIES
9 OF THE COUNTY, MUNICIPAL CORPORATION, OR GROUP.

10 7-510.

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

14 7-510.1.

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

19 (2) THE COMMISSION SHALL MAKE A DETERMINATION OF THE
20 HISTORIC DEMAND IN A JURISDICTION WHEN THE COUNTY OR MUNICIPAL
21 CORPORATION REGISTERS TO BECOME AN AGGREGATOR UNDER SUBSECTION (B) OF
22 THIS SECTION.

23 (B) (1) A COUNTY, MUNICIPAL CORPORATION, OR GROUP MAY INITIATE THE
24 PROCESS OF BECOMING OR JOINING A LOCAL AGGREGATOR BY FILING WITH THE
25 COMMISSION BY REGISTERED MAIL:

26 (I) A NOTICE OF INTENT TO BECOME OR JOIN A LOCAL
27 AGGREGATOR; AND

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

30 (2) THE NOTICE OF INTENT SHALL INCLUDE:

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

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

1 (3) WITHIN 45 DAYS AFTER RECEIVING THE NOTICE OF INTENT
2 REQUIRED BY THIS SUBSECTION, THE COMMISSION SHALL NOTIFY THE COUNTY OR
3 MUNICIPAL CORPORATION AS TO ITS DETERMINATION OF THE HISTORIC DEMAND IN
4 THE JURISDICTION UNDER SUBSECTION (A) OF THIS SECTION.

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

6 (I) AFTER SUBMITTING THE NOTICE OF INTENT REQUIRED BY
7 THIS SUBSECTION; AND

8 (II) BY ENACTING AN ORDINANCE THAT PROVIDES THAT THE
9 COUNTY OR MUNICIPAL CORPORATION SHALL ACT AS AN AGGREGATOR.

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

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

16 (I) THE IDENTITY OF THE SELECTED SUPPLIER;

17 (II) TERMS AND CONDITIONS OF SERVICE;

18 (III) NEW RATES FOR SERVICE;

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

21 (V) THE TOTAL RENEWABLE COMPONENT OF THE PORTFOLIO OF
22 THE SELECTED ELECTRICITY SUPPLIER THAT EXCEEDS THE REQUIREMENTS OF
23 STATUTE, IF ANY.

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

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

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

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

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

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

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

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

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

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

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

27 (H) A LOCAL AGGREGATOR IS DEEMED TO HAVE OBTAINED RESIDENTIAL
28 ELECTRIC CUSTOMER AUTHORIZATION TO RETRIEVE PRE-ENROLLMENT USAGE
29 DATA FOR CUSTOMERS IN THE LOCAL AGGREGATION.

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

32 SECTION 2. AND BE IT FURTHER ENACTED, That, on or before October 1,
33 2005, the Public Service Commission shall adopt regulations to establish standards
34 and procedures to implement this Act. In adopting these regulations, the Commission
35 shall consider: (1) whether to require a code of conduct for counties and municipal
36 corporations that are aggregators to maintain separation between the county or
37 municipal corporation's aggregator activities and its other activities to assure that
38 aggregation results in benefits being passed on to ratepayers; and (2) whether to
39 establish a priority system among a county and the municipal corporations within the

1 county that would define which entity has the first opportunity to aggregate for
2 customers within the jurisdiction of both the county and the municipal corporation.

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

5 SECTION 4. AND BE IT FURTHER ENACTED, That, except as provided in
6 Section 3 of this Act, this Act shall take effect June 1, 2005.