

(PRE-FILED)

---

By: **Senator Green**  
Requested: July 21, 2004  
Introduced and read first time: January 12, 2005  
Assigned to: Finance

---

A BILL ENTITLED

1 AN ACT concerning

2 **Electric Industry - Aggregation - Counties and Municipal Corporations**

3 FOR the purpose of altering the definition of "aggregator" to include a county or  
4 municipal corporation that acts on behalf of a customer to purchase electricity  
5 for customers under certain circumstances; authorizing a county or municipal  
6 corporation to act as an aggregator for certain customers except under certain  
7 circumstances; providing for a certain determination by the Public Service  
8 Commission; establishing a process through which certain customers are  
9 deemed to have given permission to the county or municipal corporation to act  
10 as their aggregator; requiring the Commission to adopt certain regulations by a  
11 certain date; requiring the Commission to consider certain factors; providing for  
12 the effective dates of certain portions of this Act; and generally relating to the  
13 ability of a county or municipal corporation to aggregate electricity customers  
14 within the county or municipal corporation.

15 BY repealing and reenacting, with amendments,  
16 Article - Public Utility Companies  
17 Section 1-101(b) and 7-510(f)  
18 Annotated Code of Maryland  
19 (1998 Volume and 2004 Supplement)

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

22 **Article - Public Utility Companies**

23 1-101.

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

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

1 (I) LOCATED IN THE COUNTY OR MUNICIPAL CORPORATION; AND

2 (II) THAT HAVE NOT:

3 1. SELECTED AN ELECTRICITY SUPPLIER OTHER THAN THE  
4 STANDARD OFFER SERVICE SUPPLIER; OR

5 2. REFUSED TO PARTICIPATE IN THE AGGREGATION  
6 ACTIVITIES OF THE COUNTY OR MUNICIPAL CORPORATION.

7 [(2)] (3) "Aggregator" does not include:

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

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

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

14 7-510.

15 (f) (1) A county or municipal corporation may [not] act as an aggregator  
16 FOR ELECTRICITY unless the Commission determines [there is not sufficient  
17 competition within the boundaries of] THAT MORE THAN 20% OF THE RETAIL  
18 RESIDENTIAL AND SMALL COMMERCIAL ELECTRIC CUSTOMERS IN the county or  
19 municipal corporation HAVE SELECTED AN ELECTRICITY SUPPLIER OTHER THAN  
20 THE STANDARD OFFER SERVICE SUPPLIER.

21 (2) THE COMMISSION SHALL MAKE ITS DETERMINATION UNDER  
22 PARAGRAPH (1) OF THIS SUBSECTION AT THE TIME THE COUNTY OR MUNICIPAL  
23 CORPORATION APPLIES FOR A LICENSE TO BECOME AN AGGREGATOR UNDER § 7-507  
24 OF THIS SUBTITLE.

25 (3) (I) IF A COUNTY OR MUNICIPAL CORPORATION CHOOSES TO ACT  
26 AS AN AGGREGATOR UNDER THIS SUBSECTION, THE COUNTY OR MUNICIPAL  
27 CORPORATION SHALL PROVIDE A WRITTEN NOTICE TO ALL RESIDENTIAL AND SMALL  
28 COMMERCIAL ELECTRIC CUSTOMERS WITHIN ITS BOUNDARIES THAT HAVE NOT  
29 CHOSEN AN ELECTRICITY SUPPLIER OTHER THAN THE STANDARD OFFER SERVICE  
30 SUPPLIER OF ITS INTENTION TO ACT AS AN AGGREGATOR.

31 (II) IN THE NOTICE, THE COUNTY OR MUNICIPAL CORPORATION  
32 SHALL PROVIDE THE RESIDENTIAL AND SMALL COMMERCIAL CUSTOMERS THE  
33 OPPORTUNITY TO REFUSE TO PARTICIPATE IN THE AGGREGATION ACTIVITIES OF  
34 THE COUNTY OR MUNICIPAL CORPORATION.

35 (III) A RESIDENTIAL OR SMALL COMMERCIAL CUSTOMER IS  
36 DEEMED TO HAVE GIVEN PERMISSION TO THE COUNTY OR MUNICIPAL  
37 CORPORATION TO ACT AS ITS AGGREGATOR:

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

3                                   2.           IF THE NOTICE IS NOT RETURNED TO THE COUNTY OR  
4 MUNICIPAL CORPORATION WITHIN 60 DAYS AFTER THE NOTICE IS SENT TO THE  
5 CUSTOMER.

6                   (4)           THIS SUBSECTION MAY NOT BE CONSTRUED TO PREVENT A  
7 RESIDENTIAL OR SMALL COMMERCIAL CUSTOMER IN THE COUNTY OR MUNICIPAL  
8 CORPORATION FROM PARTICIPATING IN THE COUNTY OR MUNICIPAL  
9 CORPORATION'S AGGREGATION ACTIVITIES:

10                   (I)           AFTER THE CUSTOMER HAS CHOSEN TO DISCONTINUE  
11 SERVICE WITH AN ELECTRICITY SUPPLIER OTHER THAN THE STANDARD OFFER  
12 SERVICE SUPPLIER; OR

13                   (II)           IF THE CUSTOMER HAS PREVIOUSLY REFUSED TO PARTICIPATE  
14 IN THE AGGREGATION ACTIVITIES OF THE COUNTY OR MUNICIPAL CORPORATION.

15       SECTION 2. AND BE IT FURTHER ENACTED, That, on or before October 1,  
16 2005, the Public Service Commission shall adopt regulations to establish standards  
17 and procedures to implement this Act. In adopting these regulations, the Commission  
18 shall consider: (1) whether to require a code of conduct for counties and municipal  
19 corporations that are aggregators to maintain separation between the county or  
20 municipal corporation's aggregator activities and its other activities to assure that  
21 aggregation results in benefits being passed on to ratepayers; and (2) whether to  
22 establish a priority system among a county and the municipal corporations within the  
23 county that would define which entity has the first opportunity to aggregate for  
24 customers within the jurisdiction of both the county and the municipal corporation.

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

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