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By: **Delegates Hubbard, Barve, Morhaim, Bobo, Bromwell, Cane, Conroy,  
and Pendergrass**

Rules suspended

Introduced and read first time: March 15, 2006

Assigned to: Rules and Executive Nominations

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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  
29 provisions of this Act; and generally relating to the ability of a county or  
30 municipal corporation to aggregate demand for electricity within the county or  
31 municipal corporation.

32 BY repealing and reenacting, with amendments,

1 Article - Public Utility Companies  
2 Section 1-101(b)  
3 Annotated Code of Maryland  
4 (1998 Volume and 2005 Supplement)

5 BY adding to  
6 Article - Public Utility Companies  
7 Section 1-101(o-1) and 7-510.1  
8 Annotated Code of Maryland  
9 (1998 Volume and 2005 Supplement)

10 BY repealing  
11 Article - Public Utility Companies  
12 Section 7-510(f)  
13 Annotated Code of Maryland  
14 (1998 Volume and 2005 Supplement)

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

17 **Article - Public Utility Companies**

18 1-101.

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

21 (2) "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 OR LOCAL AGGREGATORS.

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

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

35 (2) THAT HAVE NOT:

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

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

5 7-510.

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

9 7-510.1.

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

14 (2) THE COMMISSION SHALL MAKE A DETERMINATION OF THE  
15 HISTORIC DEMAND IN A JURISDICTION WHEN THE COUNTY OR MUNICIPAL  
16 CORPORATION REGISTERS TO BECOME AN AGGREGATOR UNDER SUBSECTION (B) OF  
17 THIS SECTION.

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

21 (I) A NOTICE OF INTENT TO BECOME OR JOIN A LOCAL  
22 AGGREGATOR; AND

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

25 (2) THE NOTICE OF INTENT SHALL INCLUDE:

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

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

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

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

35 (I) AFTER SUBMITTING THE NOTICE OF INTENT REQUIRED BY  
36 THIS SUBSECTION; AND

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

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

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

9 (I) THE IDENTITY OF THE SELECTED SUPPLIER;

10 (II) TERMS AND CONDITIONS OF SERVICE;

11 (III) NEW RATES FOR SERVICE;

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

14 (V) THE TOTAL RENEWABLE COMPONENT OF THE PORTFOLIO OF  
15 THE SELECTED ELECTRICITY SUPPLIER THAT EXCEEDS THE REQUIREMENTS OF  
16 STATUTE, IF ANY.

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

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

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

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

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

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

35 (E) THIS SECTION MAY NOT BE CONSTRUED TO PREVENT A RESIDENTIAL  
36 ELECTRIC CUSTOMER IN THE JURISDICTION OF THE COUNTY OR MUNICIPAL

1 CORPORATION FROM PARTICIPATING IN THE AGGREGATION ACTIVITIES OF THE  
2 COUNTY OR MUNICIPAL CORPORATION AFTER THE CUSTOMER HAS CHOSEN TO  
3 DISCONTINUE SERVICE WITH AN ELECTRICITY SUPPLIER OTHER THAN THE  
4 STANDARD OFFER SERVICE SUPPLIER.

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

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

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

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

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

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

23 SECTION 2. AND BE IT FURTHER ENACTED, That, on or before October 1,  
24 2006, the Public Service Commission shall adopt regulations to establish standards  
25 and procedures to implement this Act. In adopting these regulations, the Commission  
26 shall consider: (1) whether to require a code of conduct for counties and municipal  
27 corporations that are aggregators to maintain separation between the county or  
28 municipal corporation's aggregator activities and its other activities to assure that  
29 aggregation results in benefits being passed on to ratepayers; and (2) whether to  
30 establish a priority system among a county and the municipal corporations within the  
31 county that would define which entity has the first opportunity to aggregate for  
32 customers within the jurisdiction of both the county and the municipal corporation.

33 SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act  
34 shall take effect October 1, 2006.

35 SECTION 4. AND BE IT FURTHER ENACTED, That, except as provided in  
36 Section 3 of this Act, this Act shall take effect June 1, 2006.