
By: **Senators Green, Astle, Britt, Brochin, Colburn, Conway, Currie, DeGrange, Della, Dyson, Forehand, Frosh, Garagiola, Giannetti, Grosfeld, Hafer, Haines, Hogan, Hollinger, Hooper, Hughes, Jacobs, Jimeno, Jones, Kasemeyer, Kelley, Klausmeier, Lawlah, McFadden, Middleton, Mooney, Munson, Pinsky, Ruben, Stone, and Teitelbaum**

Constitutional Requirements Complied with for Introduction in the last 35 Days of Session

Introduced and read first time: March 16, 2006

Rules suspended

Assigned to: Finance

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; prohibiting a county
 15 or municipal corporation from excluding certain customers from the ability to
 16 participate in certain aggregation activities under certain circumstances;
 17 requiring the Commission to notify a certain county or municipal corporation as
 18 to its compliance with certain requirements; providing that a local aggregator
 19 may award contracts for competitive generation service supply only at certain
 20 times; requiring the Commission to make a certain determination as to when a
 21 local aggregator may award contracts for competitive generation service supply;
 22 providing that a certain county or municipal corporation is deemed to have
 23 obtained certain customer authorization to retrieve certain data; requiring the
 24 Commission to review certain fees, request formats, and the format of certain
 25 data provided to facilitate the intent of certain provisions of law; prohibiting a
 26 local aggregator from assessing certain new fees, taxes, or charges in the
 27 aggregation charges or rates under certain circumstances; limiting the amount
 28 of a certain fee; requiring the Commission to adopt certain regulations and

1 establish certain procedures; requiring the Commission to consider certain
2 factors; defining certain terms; altering certain terms; providing for the effective
3 dates of certain provisions of this Act; and generally relating to the ability of a
4 county or municipal corporation to aggregate demand for electricity within the
5 county or municipal corporation.

6 BY repealing and reenacting, with amendments,
7 Article - Public Utility Companies
8 Section 1-101(b)
9 Annotated Code of Maryland
10 (1998 Volume and 2005 Supplement)

11 BY adding to
12 Article - Public Utility Companies
13 Section 1-101(o-1) and 7-510.1
14 Annotated Code of Maryland
15 (1998 Volume and 2005 Supplement)

16 BY repealing
17 Article - Public Utility Companies
18 Section 7-510(f)
19 Annotated Code of Maryland
20 (1998 Volume and 2005 Supplement)

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

23 **Article - Public Utility Companies**

24 1-101.

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

27 (2) "Aggregator" does not include:

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

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

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

34 (O-1) "LOCAL AGGREGATOR" MEANS A COUNTY OR MUNICIPAL CORPORATION
35 OR A GROUP OF COUNTIES OR A GROUP OF MUNICIPAL CORPORATIONS THAT SERVES

1 AS AN ELECTRIC AGGREGATOR FOR THE PURPOSE OF NEGOTIATING THE PURCHASE
2 OF ELECTRIC GENERATION SERVICES FROM AN ELECTRICITY SUPPLIER FOR ALL
3 RESIDENTIAL ELECTRIC CUSTOMERS:

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

7 (2) THAT HAVE NOT:

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

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

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

15 7-510.

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

19 7-510.1.

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

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

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

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

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

1 (2) THE NOTICE OF INTENT SHALL INCLUDE:

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

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

6 (3) WITHIN 45 DAYS AFTER RECEIVING THE NOTICE OF INTENT
7 REQUIRED BY THIS SUBSECTION, THE COMMISSION SHALL NOTIFY THE COUNTY OR
8 MUNICIPAL CORPORATION AS TO ITS DETERMINATION OF THE TOTAL HISTORIC
9 DEMAND IN THE AGGREGATION AREA UNDER SUBSECTION (A)(2) OF THIS SECTION.

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

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

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

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

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

22 (I) THE IDENTITY OF THE SELECTED ELECTRICITY SUPPLIER;

23 (II) TERMS AND CONDITIONS OF SERVICE;

24 (III) NEW RATES FOR SERVICE;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 SECTION 2. AND BE IT FURTHER ENACTED, That, on or before October 1,
19 2006, in addition to the regulations adopted in accordance with § 7-501.1(k) of the
20 Public Utility Companies Article, as enacted by Section 1 of this Act, the Public
21 Service Commission shall adopt regulations to establish standards and procedures to
22 implement this Act. In adopting these regulations, the Commission shall consider: (1)
23 whether to require a code of conduct for counties and municipal corporations that are
24 local aggregators to maintain separation between the county or municipal
25 corporation's aggregator activities and its other activities to ensure that aggregation
26 results in benefits being passed on to ratepayers; and (2) whether to establish a
27 priority system among a county and the municipal corporations within the county
28 that would define which entity has the first opportunity to aggregate for customers
29 within the jurisdiction of both the county and the municipal corporation.

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

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