

SENATE BILL 34

C5
SB 1092/06 – FIN

71r0497

By: **Senators Frosh, Britt, Brochin, Forehand, Gladden, Kelley, Munson,
Pinsky, Pugh, Rosapepe, and Stone**

Introduced and read first time: January 16, 2007

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 or group of
6 counties and municipal corporations may become a local aggregator; providing
7 that a local aggregator may not initiate aggregation exceeding a certain
8 percentage of the historic demand in a certain service territory in a year;
9 establishing a process under which certain customers shall be deemed to have
10 given permission to a certain county or municipal corporation to act as its local
11 aggregator; providing that certain customers may refuse to participate in
12 certain aggregation activities under certain circumstances; requiring a county
13 or municipal corporation to give or provide for certain notices to certain persons
14 and to the Public Service Commission under certain circumstances; providing
15 for the contents of certain notices; prohibiting a county or municipal corporation
16 from excluding certain customers from the ability to participate in certain
17 aggregation activities under certain circumstances; requiring the Commission to
18 notify a certain county or municipal corporation as to its compliance with
19 certain requirements; providing that a local aggregator may award contracts for
20 competitive generation service supply only at certain times; requiring the
21 Commission to make a certain determination as to when a local aggregator may
22 award contracts for competitive generation service supply; providing that a
23 certain county or municipal corporation is deemed to have obtained certain
24 customer authorization to retrieve certain data; requiring the Commission to
25 review certain fees, request formats, and the format of certain data provided to

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 facilitate the intent of certain provisions of law; prohibiting a local aggregator
2 from assessing certain new fees, taxes, or charges in the aggregation charges or
3 rates under certain circumstances; limiting the amount of a certain fee;
4 requiring the Commission to adopt certain regulations and establish certain
5 procedures; requiring the Commission to consider certain factors; defining
6 certain terms; altering certain terms; providing for the effective dates of certain
7 provisions of this Act; and generally relating to the ability of a county or
8 municipal corporation to aggregate demand for electricity within the county or
9 municipal corporation.

10 BY renumbering

11 Article – Public Utility Companies
12 Section 1–101(p) through (pp), respectively
13 to be Section 1–101(q) through (qq), respectively
14 Annotated Code of Maryland
15 (1998 Volume and 2006 Supplement)

16 BY repealing and reenacting, with amendments,

17 Article – Public Utility Companies
18 Section 1–101(b)
19 Annotated Code of Maryland
20 (1998 Volume and 2006 Supplement)

21 BY adding to

22 Article – Public Utility Companies
23 Section 1–101(p) and 7–510.1
24 Annotated Code of Maryland
25 (1998 Volume and 2006 Supplement)

26 BY repealing

27 Article – Public Utility Companies
28 Section 7–510(f)
29 Annotated Code of Maryland
30 (1998 Volume and 2006 Supplement)

31 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
32 MARYLAND, That Section(s) 1–101(p) through (pp), respectively, of Article – Public
33 Utility Companies of the Annotated Code of Maryland be renumbered to be Section(s)
34 1–101(q) through (qq), respectively.

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

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

4 **7-510.1.**

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

10 (2) THE COMMISSION SHALL DETERMINE THE TOTAL HISTORIC
11 DEMAND IN THE AGGREGATION AREA WHEN A COUNTY OR MUNICIPAL
12 CORPORATION OR A GROUP OF COUNTIES OR MUNICIPAL CORPORATIONS
13 REGISTERS TO BECOME A LOCAL AGGREGATOR UNDER SUBSECTION (B) OF THIS
14 SECTION.

15 (B) (1) A COUNTY OR MUNICIPAL CORPORATION OR A GROUP OF
16 COUNTIES OR MUNICIPAL CORPORATIONS INITIATES THE PROCESS OF FORMING
17 OR JOINING A LOCAL AGGREGATOR BY FILING WITH THE COMMISSION BY
18 REGISTERED MAIL:

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

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

23 (2) THE NOTICE OF INTENT SHALL INCLUDE:

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

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

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

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

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

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

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

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

19 **(I) THE IDENTITY OF THE SELECTED ELECTRICITY**
20 **SUPPLIER;**

21 **(II) TERMS AND CONDITIONS OF SERVICE;**

22 **(III) NEW RATES FOR SERVICE;**

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

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

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

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

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

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

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

20 **(1) WHEN THE COUNTY OR MUNICIPAL CORPORATION RECEIVES A**
21 **RETURNED NOTICE FROM THE CUSTOMER EXPLICITLY GRANTING THAT**
22 **PERMISSION; OR**

23 **(2) IN THE CASE OF A CUSTOMER RECEIVING STANDARD OFFER**
24 **SERVICES, WITHIN 21 DAYS AFTER THE NOTICE IS GIVEN IF THE COUNTY OR**
25 **MUNICIPAL CORPORATION HAS NOT RECEIVED A RETURNED NOTICE BY THAT**
26 **DATE.**

27 **(E) THIS SECTION MAY NOT BE CONSTRUED TO PREVENT A**
28 **RESIDENTIAL ELECTRIC CUSTOMER IN THE JURISDICTION OF THE COUNTY OR**
29 **MUNICIPAL CORPORATION FROM PARTICIPATING IN THE AGGREGATION**
30 **ACTIVITIES OF THE COUNTY OR MUNICIPAL CORPORATION AFTER THE**
31 **CUSTOMER HAS CHOSEN TO DISCONTINUE SERVICE WITH AN ELECTRICITY**
32 **SUPPLIER OTHER THAN THE STANDARD OFFER SERVICE SUPPLIER.**

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

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

7 **(G) (1) BASED ON A DETERMINATION OF THE MITIGATION OF**
8 **VOLUMETRIC RISK, THE COMMISSION SHALL IDENTIFY AT LEAST ONE 2-MONTH**
9 **PERIOD IN THE CALENDAR YEAR WITHIN WHICH A LOCAL AGGREGATOR MAY**
10 **AWARD CONTRACTS FOR COMPETITIVE GENERATION SERVICE SUPPLY.**

11 **(2) A LOCAL AGGREGATOR MAY AWARD CONTRACTS FOR**
12 **COMPETITIVE GENERATION SERVICE SUPPLY ONLY WITHIN A 2-MONTH PERIOD**
13 **IDENTIFIED BY THE COMMISSION UNDER THIS SUBSECTION.**

14 **(H) A LOCAL AGGREGATOR IS DEEMED TO HAVE OBTAINED**
15 **RESIDENTIAL ELECTRIC CUSTOMER AUTHORIZATION TO RETRIEVE**
16 **PRE-ENROLLMENT USAGE DATA FOR CUSTOMERS IN THE LOCAL AGGREGATION**
17 **AREA.**

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

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

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

1 **(K) (1) THE COMMISSION SHALL BY REGULATION ESTABLISH**
2 **STANDARDS AND PROCEDURES TO PROTECT THE CONSUMER RIGHTS OF**
3 **RESIDENTIAL CUSTOMERS WHO RECEIVE ELECTRIC GENERATION SERVICES**
4 **FROM AN ELECTRICITY SUPPLIER SELECTED BY A LOCAL AGGREGATOR.**

5 **(2) THE REGULATIONS SHALL PROHIBIT DISCRIMINATION**
6 **AGAINST A CUSTOMER OR ON THE BASIS OF THE LOCATION OF THE CUSTOMER.**

7 SECTION 3. AND BE IT FURTHER ENACTED, That, on or before October 1,
8 2007, in addition to the regulations adopted in accordance with § 7-510.1(k) of the
9 Public Utility Companies Article, as enacted by Section 2 of this Act, the Public
10 Service Commission shall adopt regulations to establish standards and procedures to
11 implement this Act. In adopting these regulations, the Commission shall consider: (1)
12 whether to require a code of conduct for counties and municipal corporations that are
13 local aggregators to maintain separation between the county or municipal
14 corporation's aggregation activities and its other activities to ensure that aggregation
15 benefits ratepayers; and (2) whether to establish a priority system between a county
16 and the municipal corporations within the county to define which local government
17 has the first opportunity to aggregate for customers within the jurisdiction of both the
18 county and the municipal corporation.

19 SECTION 4. AND BE IT FURTHER ENACTED, That Sections 1 and 2 of this
20 Act shall take effect October 1, 2007.

21 SECTION 5. AND BE IT FURTHER ENACTED, That, except as provided in
22 Section 4 of this Act, this Act shall take effect June 1, 2007.