

Department of Legislative Services
Maryland General Assembly
2007 Session

FISCAL AND POLICY NOTE

Senate Bill 34
Finance

(Senator Frosh, *et al.*)

Electric Industry - Local Aggregation

This bill authorizes a county, a municipal corporation, or a group of counties or municipal corporations to act as an aggregator that purchases electricity on behalf of customers under specified conditions on an opt-out basis.

Uncodified language that directs the Public Service Commission (PSC) to establish standards and procedures to implement the bill by October 1, 2007 is effective June 1, 2007. The remainder of the bill is effective October 1, 2007.

Fiscal Summary

State Effect: None. PSC does not charge an application fee to counties and municipal corporations applying to act as an aggregator. PSC could handle any additional work resulting from the bill's provisions with existing budgeted resources.

Local Effect: Potential meaningful. A county or municipal corporation would incur expenses associated with assessing the feasibility of an aggregation. These expenses would not be recovered if aggregation efforts were unsuccessful. Any aggregator would be responsible for the expense of holding hearings, advertising, and hiring consultants for legal and technical assistance.

The bill is not expected to have a net effect on ongoing expenditures or revenues for counties or municipal corporations that become aggregators. It is assumed that aggregation would generally be performed on a cost-recovery basis, including administrative costs.

Small Business Effect: None.

Analysis

Bill Summary: *An electric aggregator is an entity or individual that purchases electricity from an electricity supplier on behalf of customers.* A county or municipal corporation (local aggregator) that chooses to act as an aggregator may initiate the aggregation of up to 25% of the historic demand annually, as determined by PSC, in the service area of the existing electric company providing distribution services. The county or municipal corporation must first notify PSC of its intent to become or join a local aggregator and submit a draft ordinance forming or joining a local aggregator.

A local aggregator must give, or cause the electricity supplier to give, a written notice to all residential customers in the jurisdiction which includes:

- the identity of the selected supplier;
- terms and conditions of service;
- new rates for service;
- comparison of the new rates and the rates under the current standard offer of service; and
- the total renewable component of the portfolio of the electricity supplier that exceeds the requirements of statute, if any.

The notice must provide the customer the opportunity to refuse participation by return mailing and may offer customers who have previously selected another supplier the ability to participate in the aggregation.

A customer is deemed to have given permission to the county or municipal corporation to act as its aggregator if the customer explicitly grants permission by returned notice, or if the customer fails to return notice within 21 days of receipt. An eligible customer may opt into a county's or municipal corporation's aggregation activities at any time it chooses to discontinue services with another electric supplier even if it previously refused to participate.

A local aggregator may not assess any new fee, tax, or other charge in the aggregation charges or rates that is not related to the cost of providing the aggregation service. The aggregation fee may not exceed the cost of transmission of the electricity provided. PSC must identify a two-month period within which local aggregators may award contracts for competitive generation service. PSC is to review applicable fees, request formats, and data provided to facilitate the bill's provisions. An electric supplier selected by a local

aggregator may refer residential customers with accounts deemed delinquent to the standard offer service provider as stated in current regulations.

PSC must establish a procedure by which any bill assistance credit that a customer is entitled to under the Electric Universal Service Program is received and establish regulations to protect the consumer rights of a residential customer participating in a local aggregation service. PSC must establish standards and procedures to implement the bill by October 1, 2007. In adopting regulations, PSC must consider: (1) whether to require a code of conduct for counties and municipalities to maintain separation between aggregation activities and other governmental activities so that benefits of aggregation are passed on to ratepayers; and (2) whether to define a priority system to determine which governmental entity has the first opportunity to act as aggregator for a shared customer base.

Current Law: Counties and municipal corporations may not act as aggregators for electricity supply unless licensed by PSC. PSC may not license a county or municipal corporation to act as an electricity supplier unless it determines there is insufficient competition within the boundaries of the county or municipal corporation.

Counties and municipalities are also subject to the same licensing requirements as other electricity suppliers. These licensing requirements include; proof of managerial competence and proof of financial integrity. An electricity supplier, a person, or a governmental unit may not make a change in the electricity supplier for a customer without the customer's permission.

Background: The national status of retail access to electricity supply has been relatively unchanged for several years. At this time, 16 states and the District of Columbia have fully implemented legislation and commission orders to allow full retail access for all consumer groups. Of these states most allow for municipal aggregation. Two program options are available: opt-in or opt-out. The opt-in program requires a resident to specifically choose to participate in the program, and the opt-out program requires a resident to specifically choose *not to* participate; otherwise, the resident is automatically included in the aggregation. According to National Conference of State Legislatures, only five states authorize opt-out programs: California, Ohio, Massachusetts, New Jersey, and Rhode Island. Ohio and Massachusetts are the only states with any current local government aggregation activity. Maryland Municipal League has supported legislation that would allow municipalities and counties to aggregate electricity supply on behalf of their residents since 1999.

Chapter 5 of the 2006 special session required PSC to consider the implications of allowing opt-out aggregation in the service territories of investor-owned companies prior

to December 31, 2006. PSC has received testimony regarding the implications of opt-out aggregation but has not yet issued a formal report addressing these issues.

Howard County is the only local government to apply to become an aggregator of electricity supply. On August 16, 2006, PSC declared there was not sufficient competition for customer choice and gave the county authority to act as an aggregator of electric service. In this ruling, PSC indicated that until legislation is enacted that permits opt-out aggregation, Howard County may only aggregate on behalf of those customers that affirmatively consent (opt-in) to such an arrangement. Howard County has taken no further action on local aggregation. Baltimore City has budgeted \$160,000 to consider developing a municipal electric corporation to serve the city.

Additional Information

Prior Introductions: Similar bills were introduced at the 2006 and 2005 legislative sessions. SB 1092 of 2006 was heard in the Senate Finance Committee but no further action was taken. HB 670 of 2005 was heard in the House Economic Matters Committee but was withdrawn.

Cross File: HB 676 (Delegate Rudolph, *et al.*) – Economic Matters.

Information Source(s): Baltimore City, Howard County, Montgomery County, Maryland Municipal League, Maryland Association of Counties, Public Service Commission, Office of People’s Counsel, Department of Legislative Services

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