

Department of Legislative Services
Maryland General Assembly
2007 Session

FISCAL AND POLICY NOTE

House Bill 5
Economic Matters

(Delegate Hubbard)

Electric Industry - Local Aggregation

This bill repeals the requirement that the Public Service Commission (PSC) determine there is insufficient competition within the boundaries of a county or municipal corporation before granting permission for that county or municipal corporation to act as an aggregator of electricity supply.

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.

Small Business Effect: None.

Analysis

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 the 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. The 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 that has applied 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: SB 1092 of 2006 specifically provided for opt-out aggregation; it was heard in the Senate Finance Committee but no further action was taken. HB 670 of

2005 provided for opt-out aggregation; it was heard in the House Economic Matters Committee but was withdrawn.

Cross File: None.

Information Source(s): City of Annapolis, City of Bowie, Elkton, Thurmont, Takoma Park, Baltimore City, Montgomery County, Prince George's County, Caroline County, Calvert County, Howard County, Maryland Municipal League, Public Service Commission, Office of People's Counsel, Department of Legislative Services

Fiscal Note History: First Reader - March 8, 2007
ncs/hlb

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