

2015 -- H 5375

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2015

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A N A C T

RELATING TO PUBLIC UTILITIES AND CARRIERS - REGULATORY POWERS OF
ADMINISTRATION

Introduced By: Representatives Carnevale, McLaughlin, Nardolillo, Lancia, and
O'Brien

Date Introduced: February 11, 2015

Referred To: House Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 39-3-1.2 of the General Laws in Chapter 39-3 entitled "Regulatory
2 Powers of Administration" is hereby amended to read as follows:

3 **39-3-1.2. Aggregation of electrical load by municipality or group of municipalities. --**

4 (a) The legislative authority of a municipality may adopt an ordinance or resolution, under which
5 it may aggregate in accordance with this section one or more classes of the retail electrical loads
6 located, respectively, within the municipality or town and, for that purpose, may enter into service
7 agreements to facilitate for those loads the sale and purchase of electricity. The legislative
8 authority also may exercise this authority jointly with any other legislative authority. An
9 ordinance or resolution under this section shall specify whether the aggregation will occur only
10 with the prior consent of each person owning, occupying, controlling, or using an electric load
11 center proposed to be aggregated or will occur automatically for all persons pursuant to the opt-
12 out requirements of this section. Nothing in this section, however, authorizes the aggregation of
13 retail electric loads of an electric load center that is located in the certified territory of a nonprofit
14 electric supplier or an electric load center served by transmission or distribution facilities of a
15 municipal electric utility. ~~If an ordinance or resolution adopted under this section specifies that~~
16 ~~aggregation will occur automatically as described in this section, the ordinance or resolution shall~~
17 ~~direct the board of canvassers to submit the question of the authority to aggregate to the electors~~
18 ~~of the respective municipality or town at a special election on the day of the next primary or~~

1 ~~general election in the municipality or town. The legislative authority shall certify a copy of the~~
2 ~~ordinance or resolution to the board of canvassers not less than seventy five (75) days before the~~
3 ~~day of the special election. No ordinance or resolution adopted under this section that provides for~~
4 ~~an election under this section shall take effect unless approved by a majority of the electors voting~~
5 ~~upon the ordinance or resolution at the election held pursuant to this section.~~

6 No legislative authority pursuant to an ordinance or resolution under this section that
7 provides for automatic aggregation as described in this section, shall aggregate the electrical load
8 of any electric load center located within its jurisdiction unless it in advance clearly discloses to
9 the person owning, occupying, controlling, or using the load center that the person will be
10 enrolled automatically in the aggregation program and will remain so enrolled unless the person
11 affirmatively elects by a stated procedure not to be so enrolled. The disclosure shall state
12 prominently the rates, charges, and other terms and conditions of enrollment. The stated
13 procedure shall allow any person enrolled in the aggregation program the opportunity at a
14 minimum to opt-out of the program every two (2) years, without paying a switching fee. Any
15 person that leaves the aggregation program pursuant to the stated procedure shall default to the
16 ~~last resort service~~ standard offer service until the person chooses an alternative supplier.

17 A governmental aggregator under this section is not a public utility engaging in the
18 wholesale purchase and resale of electricity, and the aggregated service is not a wholesale utility
19 transaction. A governmental aggregator shall be subject to supervision and regulation by the
20 commission only as described herein to the extent of any competitive retail electric service it
21 provides and commission authority.

22 A town may initiate a process to authorize aggregation by a majority vote of a town
23 meeting or of the town council. A city may initiate a process to authorize aggregation by a
24 majority vote of the city council, with the approval of the mayor, or the city manager. Two (2) or
25 more municipalities, as a group, initiate a process jointly to authorize aggregation by a majority
26 vote of each particular municipality as required in this section.

27 Upon the applicable requisite authority under this section, the legislative authority shall
28 develop a plan of operation and governance for the aggregation program so authorized. Before
29 adopting a plan under this section, the legislative authority shall hold at least ~~two (2)~~ one public
30 ~~hearings~~ hearing on the plan. Before the ~~first~~ hearing, the legislative authority shall publish notice
31 of the ~~hearings~~ hearing once a week for two (2) consecutive weeks in a newspaper of general
32 circulation in the jurisdiction. The notice shall summarize the plan and state the date, time, and
33 location of ~~each~~ any hearing. A municipality or group of municipalities establishing load
34 aggregation pursuant to this section shall, ~~in consultation with the commission,~~ develop a plan,

1 for review by its citizens, detailing the process and consequences of aggregation. The plan shall
2 identify which classes of customers may participate, based on their applicable electric distribution
3 company tariff or rate schedule. Any municipal load aggregation plan established pursuant to this
4 section shall provide for universal access to all applicable customers and equitable treatment of
5 applicable classes of customers and shall meet any requirements established by law or the
6 commission concerning aggregated service. The plan shall be filed with the commission, for its
7 final review and approval, and shall include, without limitation, an organizational structure of the
8 program, its operations, and its funding; methods of establishing rates and allocating costs among
9 participants; the methods for entering and terminating agreements with other entities; the rights
10 and responsibilities of program participants; and termination of the program. The plan must also
11 include the terms and conditions under which retail customers who have chosen to opt-out of the
12 aggregated service may take service from the aggregated entity. Prior to its decision, the
13 commission shall conduct a public hearing. Following approval of the plan, the legislative
14 authority may solicit bids from nonregulated power producers pursuant to the methods
15 established by the plan. The legislative authority shall report the results of this solicitation and
16 proposed agreement awards to the commission, ~~which shall have five (5) business days in which~~
17 ~~it may suspend such awards if the solicitation or awards are not in conformance with the plan or if~~
18 ~~the cost for energy would in the first year exceed the cost of that energy on the standard offer, as~~
19 ~~established pursuant to this chapter, for citizens in the municipality or group of municipalities,~~
20 ~~unless the applicant can demonstrate that the cost for energy under the aggregation plan will be~~
21 ~~lower than the standard offer in the subsequent years or the applicant can demonstrate that the~~
22 ~~excess cost is due to the purchase of renewable energy as described by the commission. If the~~
23 ~~commission does not suspend the proposed contract awards within five (5) business days of~~
24 ~~filing, the legislative authority shall have the right to award the proposed agreements. The~~
25 ~~legislative authority shall have the right to terminate or periodically suspend the operation of the~~
26 ~~plan.~~

27 Any retail customer in a municipality with an approved aggregation plan may elect
28 instead to receive retail supply from another licensed retail supplier or from the local distribution
29 company. Within thirty (30) days of the date the aggregated entity is fully operational, ratepayers
30 who have not affirmatively elected an alternative authorized supplier shall be transferred to the
31 aggregated entity subject to the opt-out provision in this section. Following adoption of
32 aggregation as specified above, the program shall allow any retail customer to opt-out and choose
33 any supplier or provider that the retail customer wishes. Nothing in this section shall be construed
34 as authorizing any city or town or any municipal retail load aggregator to restrict the ability of

1 retail electric customers to obtain or receive service from any authorized provider of it.

2 It shall be the duty of the aggregated entity to fully inform participating ratepayers in
3 advance of automatic enrollment that they are to be automatically enrolled and that they have the
4 right to opt-out of the aggregated entity without penalty. In addition, such disclosure shall
5 prominently state all charges to be made and shall include full disclosure of the standard offer
6 rate, how to access it, and the fact that it is available to them without penalty, if they are currently
7 on standard offer service. The commission shall furnish, without charge, to any citizen a list of all
8 other supply options available to them in a meaningful format that shall enable comparison of
9 price and product.

10 (b) The commission ~~shall~~ may, from time to time, promulgate rules by which the
11 legislative authority may request information from the electric distribution company or
12 companies whose customers would be included in its plan. These rules shall ensure that
13 municipalities have reasonable and timely access to information pertinent to the formation of the
14 plan and solicitation of bids to serve customers, that confidentiality of individuals is protected,
15 that charges for production of data are reasonable and not unduly burdensome to the legislative
16 authority.

17 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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RELATING TO PUBLIC UTILITIES AND CARRIERS - REGULATORY POWERS OF
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1 This act would eliminate the need for a special election to create an opt-out municipal
2 energy aggregation plan initiated by any city or town subject to public utility commission
3 approval.

4 This act would take effect upon passage.

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