

2020 -- H 7276

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LC003167
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2020

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A N A C T

RELATING TO PUBLIC UTILITIES AND CARRIERS -- REGULATORY POWERS OF
ADMINISTRATION

Introduced By: Representatives Place, Chippendale, Quattrocchi, and Lyle

Date Introduced: January 23, 2020

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

16 No legislative authority pursuant to an ordinance or resolution under this section that
17 provides for automatic aggregation as described in this section, shall aggregate the electrical load
18 of any electric load center located within its jurisdiction unless it in advance clearly discloses to

1 the person owning, occupying, controlling, or using the load center that the person will be
2 enrolled automatically in the aggregation program and will remain so enrolled unless the person
3 affirmatively elects by a stated procedure not to be so enrolled. The disclosure shall state
4 prominently the rates, charges, and other terms and conditions of enrollment. The stated
5 procedure shall allow any person enrolled in the aggregation program the opportunity, at a
6 minimum, to opt-out of the program every two (2) years, without paying a switching fee. Any
7 person that leaves the aggregation program pursuant to the stated procedure shall default to the
8 last resort service until the person chooses an alternative supplier.

9 A governmental aggregator under this section is not a public utility engaging in the
10 wholesale purchase and resale of electricity, and the aggregated service is not a wholesale utility
11 transaction. A governmental aggregator shall be subject to supervision and regulation by the
12 commission only to the extent of any competitive retail electric service it provides and
13 commission authority.

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

19 Upon the applicable requisite authority under this section, the legislative authority shall
20 develop a plan of operation and governance for the aggregation program so authorized. Before
21 adopting a plan under this section, the legislative authority shall hold at least one public hearing
22 on the plan. Before the hearing, the legislative authority shall publish notice of the hearing once a
23 week for two (2) consecutive weeks in a newspaper of general circulation in the jurisdiction. The
24 notice shall summarize the plan and state the date, time, and location of any hearing. A
25 municipality or group of municipalities establishing load aggregation pursuant to this section
26 shall develop a plan, for review by its citizens, detailing the process and consequences of
27 aggregation. The plan shall identify which classes of customers may participate, based on their
28 applicable electric distribution company tariff or rate schedule. Any municipal load aggregation
29 plan established pursuant to this section shall provide for universal access to all applicable
30 customers and equitable treatment of applicable classes of customers and shall meet any
31 requirements established by law or the commission concerning aggregated service. The plan shall
32 be filed with the commission, for its final review and approval, and shall include, without
33 limitation, an organizational structure of the program, its operations, and its funding; the process
34 for establishing rates and allocating costs among participants; the methods for entering and

1 terminating agreements with other entities; the rights and responsibilities of program participants;
2 and termination of the program. The plan must also include the terms and conditions under which
3 retail customers who have chosen to opt-out of the aggregated service may take service from the
4 aggregated entity. Prior to approval of the plan, the commission must make a finding that entry
5 into such a program will result in a cost-efficient system for customers affected by the program
6 over a twenty (20) year period. Absent such a finding, the plan shall be rejected. At the time of
7 the legislative authority's filing of the plan with the commission, a copy of the proposed plan
8 filing shall be provided to the electric distribution company whose customers would be included
9 in the plan. Prior to its decision, the commission shall conduct a public hearing. Following
10 approval of the plan, the legislative authority may solicit bids from nonregulated power producers
11 pursuant to the methods established by the plan. The legislative authority shall report the results
12 of this solicitation and proposed agreement awards to the commission. The legislative authority
13 shall have the right to terminate the operation of the plan by placing its customers on last-resort
14 service. If the legislative authority terminates the operation of the plan and places customers on
15 last-resort service, a municipality seeking to form a new municipal aggregation load must submit
16 a new plan to the commission for approval, in accordance with this section, before the customers
17 may enroll in a new aggregation program.

18 Any retail customer in a municipality with an approved aggregation plan may elect
19 instead to receive retail supply from another licensed retail supplier or from the local distribution
20 company. Within thirty (30) days of the date the aggregated entity is fully operational, ratepayers
21 who have not affirmatively elected an alternative authorized supplier shall be transferred to the
22 aggregated entity subject to the opt-out provision in this section. Following adoption of
23 aggregation as specified above, the program shall allow any retail customer to opt-out and choose
24 any supplier or provider that the retail customer wishes. Nothing in this section shall be construed
25 as authorizing any city or town or any municipal retail load aggregator to restrict the ability of
26 retail electric customers to obtain or receive service from any authorized provider of it.

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

1 The municipality or group of municipalities shall, within two (2) years of approval of its
2 plan, or such further time as the commission may allow, provide written notice to the commission
3 that its plan is implemented. The commission may revoke certification of the aggregation plan if
4 the municipality or group of municipalities fails to substantially implement the plan.

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

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

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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1 This act would require the public utilities commission (PUC) make a finding that any
2 aggregation plan of electrical load submitted by a municipality or group of municipalities would
3 result in a cost efficient system for affected customers over a twenty (20) year period, prior to
4 granting its approval.

5 This act would take effect upon passage.

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