

2017 -- H 5536 SUBSTITUTE A

LC001613/SUB A

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

A N A C T

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

Introduced By: Representatives Ruggiero, Edwards, Carson, Casimiro, and Regunberg

Date Introduced: February 16, 2017

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. ~~If an ordinance or resolution adopted under this section  
16 specifies that aggregation will occur automatically as described in this section, the ordinance or  
17 resolution shall direct the board of canvassers to submit the question of the authority to aggregate  
18 to the electors of the respective municipality or town at a special election on the day of the next~~

1 ~~primary or general election in the municipality or town. The legislative authority shall certify a~~  
2 ~~copy of the ordinance or resolution to the board of canvassers not less than seventy five (75) days~~  
3 ~~before the day of the special election. No ordinance or resolution adopted under this section that~~  
4 ~~provides for an election under this section shall take effect unless approved by a majority of the~~  
5 ~~electors voting 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 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 to the extent of any competitive retail electric service it provides and  
21 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 once a week for two (2) consecutive weeks in a newspaper of general circulation  
32 in the jurisdiction. The notice shall summarize the plan and state the date, time, and location of  
33 ~~each~~ any hearing. A municipality or group of municipalities establishing load aggregation  
34 pursuant to this section shall, ~~in consultation with the commission,~~ develop a plan, for review by

1 its citizens, detailing the process and consequences of aggregation. The plan shall identify which  
2 classes of customers may participate, based on their applicable electric distribution company  
3 tariff or rate schedule. Any municipal load aggregation plan established pursuant to this section  
4 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~~ the process for establishing rates and  
9 allocating costs among participants; the methods for entering and terminating agreements with  
10 other entities; the rights and responsibilities of program participants; and termination of the  
11 program. The plan must also include the terms and conditions under which retail customers who  
12 have chosen to opt-out of the aggregated service may take service from the aggregated entity. At  
13 the time of the legislative authority's filing of the plan with the commission, a copy of the  
14 proposed plan filing shall be provided to the electric distribution company whose customers  
15 would be included in the plan. Prior to its decision, the commission shall conduct a public  
16 hearing. Following approval of the plan, the legislative authority may solicit bids from  
17 nonregulated power producers pursuant to the methods established by the plan. The legislative  
18 authority shall report the results of this solicitation and proposed agreement awards to the  
19 commission, ~~which shall have five (5) business days in which it may suspend such awards if the~~  
20 ~~solicitation or awards are not in conformance with the plan or if the cost for energy would in the~~  
21 ~~first year exceed the cost of that energy on the standard offer, as established pursuant to this~~  
22 ~~chapter, for citizens in the municipality or group of municipalities, unless the applicant can~~  
23 ~~demonstrate that the cost for energy under the aggregation plan will be lower than the standard~~  
24 ~~offer in the subsequent years or the applicant can demonstrate that the excess cost is due to the~~  
25 ~~purchase of renewable energy as described by the commission. If the commission does not~~  
26 ~~suspend the proposed contract awards within five (5) business days of filing, the legislative~~  
27 ~~authority shall have the right to award the proposed agreements.~~ The legislative authority shall  
28 have the right to terminate the operation of the plan by placing its customers on last resort service.  
29 If the legislative authority terminates the operation of the plan and places customers on last resort  
30 service, a municipality seeking to form a new municipal aggregation load must submit a new plan  
31 to the commission for approval, in accordance with this section, before the customers may enroll  
32 in a new aggregation program.

33 Any retail customer in a municipality with an approved aggregation plan may elect  
34 instead to receive retail supply from another licensed retail supplier or from the local distribution

1 company. Within thirty (30) days of the date the aggregated entity is fully operational, ratepayers  
2 who have not affirmatively elected an alternative authorized supplier shall be transferred to the  
3 aggregated entity subject to the opt-out provision in this section. Following adoption of  
4 aggregation as specified above, the program shall allow any retail customer to opt-out and choose  
5 any supplier or provider that the retail customer wishes. Nothing in this section shall be construed  
6 as authorizing any city or town or any municipal retail load aggregator to restrict the ability of  
7 retail electric customers to obtain or receive service from any authorized provider of it.

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

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

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

27 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 amend the provisions of the general laws regulating the aggregation of  
2 electrical loads by a municipality or group of municipalities, and would require at least one public  
3 hearing be held, for review by its residents, prior to adopting any plan, which must then be  
4 approved by the public utilities commission.

5           This act would take effect upon passage.

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