

SENATE No. 2145

The Commonwealth of Massachusetts

PRESENTED BY:

Jason M. Lewis

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act supporting load aggregation programs in the Commonwealth.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>	
<i>John F. Keenan</i>	<i>Norfolk and Plymouth</i>	<i>2/2/2023</i>
<i>Pavel M. Payano</i>	<i>First Essex</i>	<i>2/3/2023</i>
<i>Michael O. Moore</i>	<i>Second Worcester</i>	<i>2/15/2023</i>
<i>Bruce J. Ayers</i>	<i>1st Norfolk</i>	<i>2/23/2023</i>

SENATE No. 2145

By Mr. Lewis, a petition (accompanied by bill, Senate, No. 2145) of Jason M. Lewis, John F. Keenan, Pavel M. Payano, Michael O. Moore and others for legislation to support load aggregation programs in the Commonwealth. Telecommunications, Utilities and Energy.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Third General Court
(2023-2024)**

An Act supporting load aggregation programs in the Commonwealth.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. It is hereby found and declared that electrical load aggregation programs
2 empower municipalities to create new electricity supply offerings that provide customized
3 solutions addressing their consumers’ needs and reflecting the municipality’s capabilities. Such
4 solutions may provide benefits including, but not limited to, electricity cost control, reduction of
5 greenhouse gas emissions, support for renewable energy development and facilitation of
6 beneficial electrification. Further, load aggregation programs may provide residential and small
7 business consumers access to solutions that they could not find otherwise. For municipalities to
8 effectively offer such solutions, they must be empowered both to create and adapt their load
9 aggregation programs in a timely manner and to communicate with the electricity consumers
10 within their community using methods that reflect local needs and preferences. Therefore, it is
11 found that it is in the public interest to promote load aggregation programs through enactment of
12 the following statutory changes.

13 SECTION 2. Section 2 of chapter 164 of the General Laws, as appearing in the 2022
14 official edition, is hereby amended by inserting the following definition:

15 "Public Aggregator" means a municipality or group of municipalities that groups
16 interested electricity consumers within its municipal boundaries to facilitate or otherwise arrange
17 the purchase and sale of electricity as set forth in section 134.

18 SECTION 3. Section 134 of chapter 164 of the General Laws, as appearing in the 2022
19 official edition, is hereby amended by striking out subsection (a) and inserting in place thereof
20 the following:

21 (a) Any municipality or any group of municipalities acting together within the
22 commonwealth is hereby authorized to aggregate the electrical load of interested electricity
23 consumers within its boundaries on an opt-out basis; provided, however, that such municipality
24 or group of municipalities shall not aggregate electrical load if such are served by an existing
25 municipal lighting plant. Such public aggregator may group retail electricity consumers to solicit
26 bids, broker, and contract for electric energy and energy-related services for such consumers.
27 Such public aggregator may enter into agreements for services to facilitate the sale and purchase
28 of electric energy and energy-related services including renewable energy certificates, which
29 may be considered contracts for energy or energy-related services under clause (33) of
30 subsection (b) of section 1 of chapter 30B. Such service agreements may be entered into by a
31 single city, town, county, or by a group of cities, towns, or counties. A public aggregator shall
32 not be considered a utility engaging in the wholesale purchase and resale of electric power.
33 Providing electric energy or energy-related services to aggregated consumers within a
34 municipality or group of municipalities shall not be considered a wholesale utility transaction.

35 A town may initiate a process to aggregate electrical load upon authorization by a
36 majority vote of town meeting or town council. A city may initiate a process to authorize load
37 aggregation by a majority vote of the city council, with the approval of the mayor, or the city
38 manager in a Plan D or Plan E city. Two or more municipalities may as a group initiate a process
39 jointly to authorize load aggregation by a majority vote of each particular municipality as herein
40 required.

41 Upon an affirmative vote to initiate said process, a public aggregator establishing load
42 aggregation on an opt-out basis pursuant to this subsection shall develop a plan for review by its
43 citizens detailing the process and consequences of load aggregation in consultation with the
44 department of energy resources, pursuant to section 6 of chapter 25A. Any municipal load
45 aggregation plan established pursuant to this subsection shall be filed with the department by the
46 public aggregator or an entity acting on its behalf. Said plan shall include, without limitation, the
47 following structural elements: the provision of universal access; the provision of reliability; the
48 provision of equitable treatment of all classes of consumers; an organizational structure of the
49 program; plans for providing notices and program information to consumers; its method of
50 setting and providing funding for program services and administration; description of how
51 program rates will be set and structured; the rights and responsibilities of program participants;
52 its intent to offer optional opt-in products or services; and its method for suspending or
53 terminating the program. Said plan shall also include a general description of planned program
54 implementation, however the public aggregator may thereafter establish the specific practices,
55 terms and conditions of the offerings and services to be provided from time to time including,
56 but not limited to: rates to support the provision of electric energy and program and energy-
57 related services (provided that all funds collected are used solely for the benefit of program

58 participants); supply terms; timing of program start; product offerings, including any periodic
59 changes in the price or composition of such product offerings; contract terms and conditions for
60 electric energy and energy-related services; the format and mechanisms for delivering all notices
61 to consumers; maintaining a website location dedicated to current program information; and
62 accommodating consumers with limited English proficiency. The public aggregator may change
63 any specifics of program implementation without being required to revise, amend or refile the
64 approved load aggregation plan with the department for approval; provided, however, that
65 program implementation shall be consistent with the approved load aggregation plan, the
66 requirements for load aggregation set forth in this subsection, and shall not otherwise violate any
67 other law of the commonwealth. The public aggregator shall submit to the department for
68 approval any revision that the public aggregator seeks to make to the structural elements of an
69 approved plan, following the approval process described below.

70 The department shall confirm that any submitted plan, or revised plan sought by the
71 public aggregator, includes the structural elements described above and the department shall
72 approve such plan or revised plan that comports with this subsection. In discharging its
73 responsibilities under this subsection, the department shall prioritize municipal decision making
74 and control. Prior to the department's decision, the department shall conduct a public hearing.
75 Failure by the department to approve a plan or revised plan submitted under this subsection
76 within 90 days of its submission date shall constitute approval of the plan. Such constructive
77 approval shall not exempt the public aggregator from complying with the provisions of this
78 subsection. If after review, the department finds it cannot approve the plan or revised plan as
79 proposed by the public aggregator, it must reject the plan, and the department shall send to the
80 public aggregator a denial order containing the reason for the rejection. The public aggregator

81 may revise the plan to address such reasons and, if such revised plan is submitted not more than
82 30 days after the department's denial order is issued, the public aggregator shall not be required
83 to consult with the department of energy resources regarding the revised plan or submit the
84 revised plan for public review. The department shall review and approve or reject any such
85 revised plan not more than 30 days after receipt of the revised plan. Notwithstanding any
86 provision of this subsection to the contrary, the department shall not direct or otherwise require
87 revisions to, or impose new requirements on, an approved plan without first providing the public
88 aggregator with notice and opportunity for an adjudication pursuant to either section 2 or section
89 10 of chapter 30A.

90 After obtaining approval of its plan, the public aggregator may deliver information and
91 educational materials regarding its program to each consumer within the municipality or
92 municipalities in a manner consistent with its plan and using one or more methods deemed most
93 effective by the public aggregator. To enable such delivery, the electric distribution company
94 shall provide to such public aggregator a current list of the names, mailing addresses, email
95 addresses, and service addresses of all electric consumers taking distribution service within the
96 municipality or municipalities. To facilitate consumer notification and automatic enrollment on
97 an opt-out basis, the electric distribution company shall identify in such data those consumers
98 that are not otherwise receiving generation service from a supplier and provide such additional
99 consumer information necessary for enrollment.

100 Participation by any retail consumer in a load aggregation program pursuant to this
101 subsection shall be voluntary. Within 30 days of the date the program is fully operational, such
102 consumers shall be transferred to the program according to an opt-out provision herein.

103 Following adoption of load aggregation through the votes specified above, such program shall

104 allow any retail consumer to opt-out and choose any supplier or provider such retail consumer
105 wishes. Once enrolled in the program via the opt-out process, any consumer choosing to opt-out
106 within 180 days shall do so without penalty and shall be entitled to receive basic service as if the
107 consumer was originally enrolled therein. After the initial automatic enrollment of consumers
108 upon the establishment of a load aggregation program in accordance with this subsection, the
109 subsequent enrollment of new consumers or accounts in the service territory of the public
110 aggregator shall be governed by the terms for enrollment set forth in the public aggregator's
111 plan. Nothing in this subsection shall be construed as authorizing any city or town or any public
112 aggregator to restrict the ability of retail electric consumers to obtain or receive service from any
113 authorized provider thereof.

114 It shall be the duty of the public aggregator to fully inform eligible consumers in advance
115 of automatic enrollment that they are to be automatically enrolled and that they have the right to
116 opt-out of the program without penalty. In addition, such disclosure shall prominently state all
117 program charges and the basic service rate, how to access it, and the fact that it is available to
118 them without penalty. The public aggregator shall notify participating consumers in advance of
119 any change in program rate or product and that they have the right to opt-out of the program
120 without penalty. In the event of such changes, participating consumers shall continue to be
121 enrolled in the program unless they opt-out. Each public aggregator shall file an annual report
122 with the department that shall be limited to the average number of program participants and
123 energy sales by month.

124 SECTION 4. The terms of Sections 2 and 3 shall be applicable to all plans pending
125 before the department as of the effective date and the department's failure to approve such plans
126 within 90 days of the effective date shall constitute approval of said plans. Public aggregators

127 with plans approved by or pending before the department as of the effective date shall not be
128 required to file amendments to said plans for department review and approval but shall
129 nonetheless be subject to the terms of Sections 2 and 3.

130 SECTION 5. The department shall, within 60 days of the effective date of this act, issue
131 an order directing that each electric distribution company shall, upon request of a public
132 aggregator with an approved plan, provide to such public aggregator a current list of the names,
133 mailing addresses, email addresses, and service addresses of all electric consumers taking
134 distribution service within the municipality or municipalities.