

# HOUSE . . . . . No. 4500

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## The Commonwealth of Massachusetts

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HOUSE OF REPRESENTATIVES, April 4, 2024.

The committee on Telecommunications, Utilities and Energy, to whom was referred the petition (accompanied by bill, House, No. 3219) of Jeffrey N. Roy relative to electricity load aggregation programs and the petition (accompanied by bill, House, No. 3852) of Tommy Vitolo, Samantha Montañó and Francisco E. Paulino relative to electrical load aggregation programs, reports recommending that the accompanying bill (House, No. 4500) ought to pass.

For the committee,

JEFFREY N. ROY.

**HOUSE . . . . . No. 4500**

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**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. Section 1 of chapter 164 of the General Laws, as appearing in the 2022  
2 official edition, is hereby amended by inserting the following definition:

3           “Public Aggregator” means a municipality or group of municipalities that groups  
4 interested electricity customers within its municipal boundaries to facilitate or otherwise arrange  
5 the purchase and sale of electric energy and energy-related services through an electrical load  
6 aggregation program as set forth in section 134; provided, however, that public aggregator shall  
7 not mean a supplier.

8           SECTION 2. Section 134 of chapter 164 of the General Laws, as appearing in the 2022  
9 official edition, is hereby amended by striking out subsection (a) and inserting in place thereof  
10 the following:

11           (a) Any municipality or any group of municipalities acting together within the  
12 commonwealth is hereby authorized to aggregate the electrical load of interested electricity  
13 consumers within its boundaries on an opt-out basis; provided, however, that such public

14 aggregator shall not aggregate electrical load if such are served by an existing municipal lighting  
15 plant. Such public aggregator may group retail electricity customers to solicit bids, broker, and  
16 contract for electric power and energy services for such customers. Such public aggregator may  
17 enter into agreements for services to facilitate the sale and purchase of electric energy and other  
18 related services including renewable energy certificates, which may be considered contracts for  
19 energy or energy-related services under clause (33) of subsection (b) of section 1 of chapter 30B.  
20 Such service agreements may be entered into by a single city, town, county, or by a group of  
21 cities, towns, or counties.

22 A public aggregator which aggregates its electrical load and operates pursuant to the  
23 provisions of this section shall not be considered a utility engaging in the wholesale purchase and  
24 resale of electric power. Providing electric power or energy services to aggregated customers  
25 within a municipality or group of municipalities shall not be considered a wholesale utility  
26 transaction. The provision of aggregated electric power and energy services on an opt-out basis  
27 as authorized by this section shall be regulated by any applicable laws or regulations which  
28 govern aggregated electric power on an opt-out basis. Electric power or energy services offered  
29 to customers on an opt-in basis by load aggregation programs formed pursuant to this section  
30 shall not be regulated by the department.

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

37           Upon an affirmative vote to initiate said process, a public aggregator establishing load  
38 aggregation on an opt-out basis pursuant to this section shall, in consultation with the department  
39 of energy resources, pursuant to section 6 of chapter 25A, develop a plan, for review by its  
40 citizens. Said plan shall be filed with the department by the public aggregator or an entity acting  
41 on its behalf, for its final review and approval, and shall include, without limitation, the  
42 following structural elements: the provision of universal access; the provision of reliability; the  
43 provision of equitable treatment of all classes or subclasses of customers; an organizational  
44 structure for program management and decision making; the provision of customer education; its  
45 method of setting and providing funding for program administration; description of how program  
46 rates will be set and structured; municipalities acting as a group shall include the methods for  
47 entering and terminating agreements with other entities; the rights and responsibilities of  
48 program participants; its intent to offer optional opt-in products or services; and its method for  
49 suspending or terminating the program. Said plan shall also include a general description of  
50 planned program implementation, however the public aggregator shall be responsible for and  
51 shall not be required to include in its plan the specifics of municipal aggregation program  
52 implementation that the public aggregator may change from time to time including, but not  
53 limited to, program funding levels;, specific uses of program funds;, rates;, supply terms;, timing  
54 of program start;, product offerings both on an opt-out and opt-in basis (if applicable), including  
55 any periodic changes in the price or composition of such product offerings; the format and  
56 mechanisms for delivering all notices to customers; accommodating consumers with limited  
57 English proficiency;, and contract terms and conditions for electric energy and energy-related  
58 services. The public aggregator may change any specifics of program implementation without  
59 being required to revise, amend or refile the approved aggregation plan with the department for

60 approval; provided, however, that program implementation shall be consistent with the approved  
61 aggregation plan, the requirements for load aggregation set forth in this subsection, and shall not  
62 otherwise violate any other law of the commonwealth.

63         The department shall approve any plan submitted that complies with and is consistent  
64 with this subsection. The department shall confirm that the plan includes the structural elements  
65 described above and that the plan includes: a sample customer opt-out notice; a description of the  
66 manner in which customers will be provided notice of changes in price or product; a  
67 commitment to develop and continually maintain a website location dedicated specifically to  
68 information pertaining to the program; the process for notifying consumers of operational  
69 changes; plans for continuing to provide customers with information regarding ongoing program  
70 operations; and plans for communicating with customers with limited English proficiency. Prior  
71 to the department's decision, the department shall conduct a public hearing. Failure by the  
72 department to approve a plan submitted under this section within 90 days of its submission date  
73 shall constitute approval of the plan. Such constructive approval shall not exempt the public  
74 aggregator from complying with all laws and regulations governing municipal aggregations and  
75 the provision of electric power and energy services on an opt-out basis. If after review, the  
76 department chooses to reject a plan, the department shall send to the public aggregator a denial  
77 order containing the reason for the rejection. The public aggregator may revise the plan to  
78 address such reasons and, if such revised plan is submitted not more than 30 days after the  
79 department's denial order is issued, the department shall waive the requirement that the public  
80 aggregator consult with the department of energy resources regarding the revised plan and  
81 submit the revised plan for public review. The department shall review and approve, approve

82 subject to modification, or reject any such revised plan not more than 30 days after receipt of the  
83 revised plan.

84 Notwithstanding any provision of this section to the contrary, the department shall not  
85 direct or otherwise require revisions to, or impose new requirements on, an approved plan  
86 without first providing the public aggregator with notice and opportunity for an adjudication  
87 pursuant to section 10 of chapter 30A. The public aggregator shall submit to the department for  
88 approval any revision that the public aggregator seeks to make to the structural elements of an  
89 approved plan, as described above, if affecting the product offered to consumers on an opt-out  
90 basis; provided, however, that the department shall review and approve any such revisions to the  
91 approved plan not more than 45 days after the receipt of the proposed revision.

92 The competitive supplier providing generation service to retail customers of an  
93 aggregation shall be exempt from (i) the quarterly information disclosure requirements set forth  
94 in 220 CMR 11.06(4)(c) or any successor regulation, and (ii) customer education, customer  
95 notification, and contract summary form requirements, each as pertaining to engagements  
96 directly between competitive suppliers and individual consumers, provided that the plan includes  
97 reasonable alternative means for providing customers with the same information as applicable to  
98 the program. The department shall waive department rules, regulations and directives concerning  
99 suppliers, brokers, and the provision of competitive supply that otherwise conflict or overlap  
100 with the duties of public aggregators established in this subsection.

101 After obtaining approval of its plan, the public aggregator may mail information and  
102 educational materials regarding its plan to each customer within the municipality; provided,  
103 however, that the informational materials shall be consistent with any law or regulation

104 governing municipal aggregation. To enable such mailing, the electric distribution company shall  
105 provide to such municipality a current list of the names, mailing addresses, email address, and  
106 service addresses of all electric customers taking distribution service within the municipality.

107         After obtaining approval of its plan, the public aggregator may enroll customers in the  
108 electrical load aggregation program. Participation by any retail customer in a municipal or group  
109 aggregation program shall be voluntary. Customers that are receiving generation service from  
110 basic service shall be eligible for automatic enrollment in the opt-out product of the electrical  
111 load aggregation program. Following adoption of aggregation through the votes specified above,  
112 such program shall allow any retail customer to opt-out and choose any supplier or provider such  
113 retail customer wishes. Once enrolled in the program, any customer choosing to opt-out within  
114 180 days shall do so without penalty and shall be entitled to receive basic service as if the  
115 customer was originally enrolled therein. After the initial automatic enrollment of customers  
116 upon the establishment of a load aggregation program in accordance with this subsection, the  
117 subsequent enrollment of new customers or accounts in the service territory of the aggregator  
118 shall be governed by the terms for enrollment set forth in the aggregator's plan; provided,  
119 however, that the terms are consistent with the law or any regulations established by the  
120 department concerning aggregated service provided to customers on an opt-out basis. Nothing in  
121 this section shall be construed as authorizing any city or town or any municipal retail load  
122 aggregator to restrict the ability of retail electric customers to obtain or receive service from any  
123 authorized provider thereof.

124         It shall be the duty of the public aggregator to fully inform eligible customers in advance  
125 of automatic enrollment that they are to be automatically enrolled and that they have the right to  
126 opt-out of the program without penalty. In addition, such disclosure shall prominently state all

127 charges to be made and shall include full disclosure of the basic service rate, how to access it,  
128 and the fact that it is available to them without penalty. Participating customers shall continue to  
129 be enrolled in the program unless they opt-out, provided however the public aggregator shall  
130 notify participating customers of any change in program rate or product and that they have the  
131 right to opt-out of the program without penalty. Consumers may also affirmatively elect to enroll  
132 in a product offered by the electrical load aggregation plan. The public aggregator shall provide  
133 copies of any such customer notices to the department's consumer services division.

134         The public aggregator shall provide public notice 30 days, or as soon as the rate is  
135 finalized, in advance of any changes in program product, price, or content affecting participating  
136 consumers. Such notice shall include the new combination(s) of product(s) and price(s) to be  
137 offered by the program, and that participating consumers have the right to opt-out of the  
138 program. In the event of such changes, participating consumers shall continue to be enrolled in  
139 the program unless they opt-out.

140         Except as otherwise provided in this subsection, the public aggregator may deliver  
141 consumer disclosures and other communications about the electrical load aggregation program  
142 using one or more methods deemed most effective by the public aggregator. Each public  
143 aggregator shall file an annual report with the department that shall be limited to the average  
144 number of program participants and energy sales by month. The department of energy resources  
145 shall furnish, without charge, to any citizen a list of all other supply options available to them in  
146 a meaningful format that shall enable comparison of price and product. To facilitate the  
147 automatic enrollment and customer notification, the electric distribution company shall provide  
148 to each municipality the name, mailing address, and email address of all electric accounts within  
149 the municipality that are not otherwise receiving generation service from a competitive supplier.



150 To facilitate the on-going management of the program, the electric distribution company shall  
151 provide to each municipality, upon request, account-specific usage data and contact information  
152 for customers currently enrolled in the municipality's load aggregation program.

153 SECTION 3. The terms of Sections 1 and 2 shall be applicable to all plans pending  
154 before the department as of the effective date and the department's failure to approve such plans  
155 within 90 days of the effective date shall constitute approval of said plans. Public aggregators  
156 with plans approved by or pending before the department as of the effective date shall be subject  
157 to the terms of Sections 1 and 2 but shall not be required to file amendments to said plans for  
158 department review and approval.

159 SECTION 4. The department shall, within 60 days of the effective date of this act, issue  
160 an order directing that each electric distribution company shall, upon request of a public  
161 aggregator with an approved plan, provide to such public aggregator a list of the names, mailing  
162 addresses, email addresses, and service addresses of all electric consumers taking distribution  
163 service within the municipality or municipalities.