

**HOUSE . . . . . No. 3219**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

*Jeffrey N. Roy*

*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:   | DATE ADDED:      |
|-----------------------|---------------------|------------------|
| <i>Jeffrey N. Roy</i> | <i>10th Norfolk</i> | <i>1/19/2023</i> |

**HOUSE . . . . . No. 3219**

By Representative Roy of Franklin, a petition (accompanied by bill, House, No. 3219) of Jeffrey N. Roy relative to electricity load aggregation programs. 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. Section 134 of chapter 164 of the General Laws, as appearing in the 2022  
2 official edition, is hereby amended by striking out subsection (a) and inserting in place thereof  
3 the following:

4 (a) Any municipality or any group of municipalities acting together within the  
5 commonwealth is hereby authorized to aggregate the electrical load of interested electricity  
6 consumers within its boundaries on an opt-out basis; provided, however, that such municipality  
7 or group of municipalities shall not aggregate electrical load if such are served by an existing  
8 municipal lighting plant. Such municipality or group of municipalities may group retail  
9 electricity customers to solicit bids, broker, and contract for electric power and energy services  
10 for such customers. Such municipality or group of municipalities may enter into agreements for  
11 services to facilitate the sale and purchase of electric energy and other related services including  
12 renewable energy certificates, which may be considered contracts for energy or energy-related

13 services under clause (33) of subsection (b) of section 1 of chapter 30B. Such service agreements  
14 may be entered into by a single city, town, county, or by a group of cities, towns, or counties.

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

24 A town may initiate a process to aggregate electrical load upon authorization by a  
25 majority vote of town meeting or town council. A city may initiate a process to authorize  
26 aggregation by a majority vote of the city council, with the approval of the mayor, or the city  
27 manager in a Plan D or Plan E city. Two or more municipalities may as a group initiate a process  
28 jointly to authorize aggregation by a majority vote of each particular municipality as herein  
29 required.

30 Upon an affirmative vote to initiate said process, a municipality or group of  
31 municipalities establishing load aggregation on an opt-out basis pursuant to this section shall, in  
32 consultation with the department of energy resources, pursuant to section 6 of chapter 25A,  
33 develop a plan, for review by its citizens, detailing the process and consequences of aggregation.  
34 Any municipal load aggregation plan established pursuant to this section shall meet any law or

35 regulation established by the department concerning aggregated service provided to customers  
36 on an opt-out basis. Said plan shall be filed with the department, for its final review and  
37 approval, and shall include, without limitation, the following structural elements: the provision  
38 of universal access; the provision of reliability; the provision of equitable treatment of all classes  
39 of customers; an organizational structure of the program; an education plan; its method of setting  
40 and providing funding for program administration; description of how program rates will be set  
41 and structured; municipalities acting as a group shall include the methods for entering and  
42 terminating agreements with other entities; the rights and responsibilities of program  
43 participants; its intent to offer optional opt-in products or services; and its method for suspending  
44 or terminating the program. Said plan shall also include a general description of planned program  
45 implementation, however the municipality or group of municipalities shall be responsible for and  
46 shall not be required to include in its plan the specifics of municipal aggregation program  
47 implementation that the municipality or group of municipalities may change from time to time  
48 including, but not limited to, program funding levels, specific uses of program funds, rates,  
49 supply terms, timing of program start, product offerings, and contract terms and conditions for  
50 electric energy and energy-related services, and the municipality or group of municipalities may  
51 change any specifics of program implementation without being required to revise, amend or  
52 refile the approved aggregation plan with the department for approval; provided, however, that  
53 program implementation shall be consistent with the approved aggregation plan, the  
54 requirements for load aggregation set forth in this subsection, and shall not otherwise violate any  
55 other law of the commonwealth.

56           The department shall approve any plan submitted that complies with and is consistent  
57 with this subsection. The department shall confirm that the plan includes the structural elements

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

78 Notwithstanding any provision of this section to the contrary, the department shall not  
79 direct or otherwise require revisions to, or impose new requirements on, an approved plan  
80 without first providing the municipality or group of municipalities with notice and opportunity

81 for an adjudication pursuant to section 10 of chapter 30A. The municipality or group of  
82 municipalities shall submit to the department for approval any revision that the municipality or  
83 group of municipalities seek to make to the structural elements of an approved plan, as described  
84 above, if affecting the product offered to consumers on an opt-out basis; provided, however, that  
85 the department shall review and approve any such revisions to the approved plan not more than  
86 45 days after the receipt of the proposed revision.

87         The competitive supplier providing generation service to retail customers of an  
88 aggregation shall be exempt from (i) the quarterly information disclosure requirements set forth  
89 in 220 CMR 11.06(4)(c) or any successor regulation, provided that the same information is  
90 posted on the program website; and (ii) customer education, customer notification, and contract  
91 summary form requirements, each as pertaining to engagements directly between competitive  
92 suppliers and individual consumers, provided that the plan includes reasonable alternative means  
93 for providing customers with the same information as applicable to the program.

94         After obtaining approval of its plan, the aggregated entity may mail information and  
95 educational materials regarding its plan to each customer within the municipality; provided,  
96 however, that the informational materials shall be consistent with any law or regulation  
97 governing municipal aggregation. To enable such mailing, the electric distribution company shall  
98 provide to such municipality a current list of the names, mailing addresses, email address, and  
99 service addresses of all electric customers taking distribution service within the municipality.

100         Participation by any retail customer in a municipal or group aggregation program shall be  
101 voluntary. Within 30 days of the date the aggregated entity is fully operational, such customers  
102 shall be transferred to the aggregated entity according to an opt-out provision herein. Following

103 adoption of aggregation through the votes specified above, such program shall allow any retail  
104 customer to opt-out and choose any supplier or provider such retail customer wishes. Once  
105 enrolled in the aggregated entity, any customer choosing to opt-out within 180 days shall do so  
106 without penalty and shall be entitled to receive basic service as if the customer was originally  
107 enrolled therein. After the initial automatic enrollment of customers upon the establishment of a  
108 load aggregation program in accordance with this subsection, the subsequent enrollment of new  
109 customers or accounts in the service territory of the aggregator shall be governed by the terms for  
110 enrollment set forth in the aggregator's plan; provided, however, that the terms are consistent  
111 with the law or any regulations established by the department concerning aggregated service  
112 provided to customers on an opt-out basis. Nothing in this section shall be construed as  
113 authorizing any city or town or any municipal retail load aggregator to restrict the ability of retail  
114 electric customers to obtain or receive service from any authorized provider thereof.

115         It shall be the duty of the aggregated entity to fully inform eligible customers in advance  
116 of automatic enrollment that they are to be automatically enrolled and that they have the right to  
117 opt-out of the program without penalty. In addition, such disclosure shall prominently state all  
118 charges to be made and shall include full disclosure of the basic service rate, how to access it,  
119 and the fact that it is available to them without penalty. Participating customers shall continue to  
120 be enrolled in the program unless they opt-out, provided however the municipality or  
121 municipalities shall notify participating customers of any change in program rate or product and  
122 that they have the right to opt-out of the program without penalty. The municipality or group of  
123 municipalities shall provide copies of any such customer notices to the department's consumer  
124 services division. Each aggregated entity shall file an annual report with the department that shall  
125 be limited to the average number of program participants and energy sales by month. The

126 department of energy resources shall furnish, without charge, to any citizen a list of all other  
127 supply options available to them in a meaningful format that shall enable comparison of price  
128 and product. To facilitate the automatic enrollment and customer notification, the electric  
129 distribution company shall provide to each municipality the name, mailing address, and email  
130 address of all electric accounts within the municipality that are not otherwise receiving  
131 generation service from a competitive supplier. To facilitate the on-going management of the  
132 program, the electric distribution company shall provide to each municipality, upon request,  
133 account-specific usage data and contact information for customers currently enrolled in the  
134 municipality's load aggregation program.

135 SECTION 2. The terms of Section 1 shall be applicable to all plans pending before the  
136 department as of the effective date and the department's failure to approve such plans within 90  
137 days of the effective date shall constitute approval of said plans.