ALM GL ch. 164, § 134

Current through Act 85 of the 2015 Legislative Session

Annotated Laws of Massachusetts > *PART I ADMINISTRATION OF THE GOVERNMENT [Chapters 1 - 182]* > *TITLE XXII CORPORATIONS [Chapters 155 - 182]* > *Chapter 164 Manufacture and Sale of Gas and Electricity*

§ 134. Aggregation of Electrical Load by Municipalities.

(a) Any municipality or any group of municipalities acting together within the commonwealth is hereby authorized to aggregate the electrical load of interested electricity consumers within its boundaries; provided, however, that such municipality or group of municipalities shall not aggregate electrical load if such are served by an existing municipal lighting plant. Such municipality or group of municipalities may group retail electricity customers to solicit bids, broker, and contract for electric power and energy services for such customers. Such municipality or group of municipalities may enter into agreements for services to facilitate the sale and purchase of electric energy and other related services. Such service agreements may be entered into by a single city, town, county, or by a group of cities, towns, or counties.

A municipality or group of municipalities which aggregates its electrical load and operates pursuant to the provisions of this section shall not be considered a utility engaging in the wholesale purchase and resale of electric power. Providing electric power or energy services to aggregated customers within a municipality or group of municipalities shall not be considered a wholesale utility transaction. The provision of aggregated electric power and energy services as authorized by this section shall be regulated by any applicable laws or regulations which govern aggregated electric power and energy services in competitive markets.

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

Upon an affirmative vote to initiate said process, a municipality or group of municipalities establishing load aggregation pursuant to this section shall, in consultation with the department of energy resources, pursuant to *section 6 of chapter 25A*, develop a plan, for review by its citizens, detailing the process and consequences of aggregation. Any municipal load aggregation plan established pursuant to this section shall provide for universal access, reliability, and equitable treatment of all classes of customers and shall meet any requirements established by law or the department concerning aggregated service. Said plan shall be filed with the department, for its final review and approval, and shall include, without limitation, an organizational structure of the program, its operations, and its funding; rate setting and other costs to participants; the methods for entering and terminating agreements with other entities; the rights and responsibilities of program participants; and termination of the program. Prior to its decision, the department shall conduct a public hearing. The department shall not approve any such plan if the price for energy would initially exceed the price of the standard offer, as established pursuant to section 1B of this chapter, for such citizens in the municipality or group of municipalities, unless the applicant can demonstrate that the price for energy under the aggregation plan will be lower than the standard offer in the subsequent years or the applicant can demonstrate that such excess price is due to the purchase of renewable energy as described by the department of energy resources pursuant to chapter 25A.

Participation by any retail customer in a municipal or group aggregation program shall be voluntary. If such aggregated entity is not fully operational on the retail access date, any ratepayer to be automatically enrolled therein shall receive basic service unless affirmatively electing not to do so. Within 30 days of the date the aggregated entity is fully operational, such ratepayers shall be transferred to the aggregated entity according to an opt–out provision herein. Following adoption of aggregation through the votes specified above, such program shall allow any retail customer to opt–out and choose any supplier or provider such retail customer wishes. Once enrolled in the aggregated entity, any ratepayer choosing to opt–out within 180 days shall do so without penalty and shall be entitled to receive basic service as if he was originally enrolled therein. Nothing in this section shall be construed as authorizing any city or town or any municipal retail load aggregator to restrict the ability of retail electric customers to obtain or receive service from any authorized provider thereof.

It shall be the duty of the aggregated entity to fully inform participating ratepayers in advance of automatic enrollment that they are to be automatically enrolled and that they have the right to opt–out of the aggregated entity without penalty. In addition, such disclosure shall prominently state all charges to be made and shall include full disclosure of the basic service rate, how to access it, and the fact that it is available to them without penalty. The department of energy resources shall furnish, without charge, to any citizen a list of all other supply options available to them in a meaningful format that shall enable comparison of price and product.

(b) A municipality or group of municipalities establishing a load aggregation program pursuant to subsection (a) may, by a vote of its town meeting or legislative body, whichever is applicable, adopt an energy plan which shall define the manner in which the municipality or municipalities may implement demand side management programs and renewable energy programs that are consistent with any state energy conservation goals developed pursuant to chapter 25A or chapter 164. After adoption of the energy plan by such town meeting or other legislative body, the city or town clerk shall submit the plan to the department to certify that it is consistent with any such state energy conservation goals. If the plan is certified by the department, the municipality or group of municipalities may apply to the Massachusetts clean energy technology center for monies from the Massachusetts Renewable Energy Trust Fund, established pursuant to *section 9 of chapter 23J*, and receive, and if approved, expend moneys from the demand side management system benefit charges or line charges in an amount not to exceed that contributed by retail customers within said municipality or group municipalities. This will not prevent said municipality or municipalities from applying to the Massachusetts clean energy technology center for additional funds. If the department determines that the energy plan is not consistent with any such state–wide goals, it shall inform the municipality or group of municipalities within six months by written notice the reasons why it is not consistent with any such state–wide goals. The municipality or group of municipalities may re–apply at anytime with an amended version of the energy plan.

The municipality or group of municipalities shall not be prohibited from proposing for certification an energy plan which is more specific, detailed, or comprehensive or which covers additional subject areas than any such state–wide conservation goals. This subsection shall not prohibit a municipality or group of municipalities from considering, adopting, enforcing, or in any other way administering an energy plan which does not comply with any such state–wide conservation goals so long as it does not violate the laws of the commonwealth.

The municipality or group of municipalities shall, within two years of approval of its plan or such further time as the department may allow, provide written notice to the department that its plan is implemented. The department may revoke certification of the energy plan if the municipality or group of municipalities fails to substantially implement the plan or if it is determined by independent audit that the funds were misspent within the time allowed under this subsection.

History

HISTORY:

1997, 164, § 247; *2008, 169, §§ 74-77*; *2009, 158, §§ 23, 24*.

Annotations

Notes

Editorial Note—

Codification—

Acts 1997, 164, § 247, effective Nov 25, 1997, enacted this section. effective Nov 25, 1997, enacted this section.

For the text of Section 1 of the inserting act, see 1997 note under *ALM GL c 164, § 1*.

The 2008 amendment, effective July 2, 2008, by § 74, in the fourth and sixth paragraphs of subsection (a), substituted "department" for "division"; by § 75, in the fourth paragraph of subsection (a), deleted the last sentence which read: "Nothing in this section shall be construed as authorizing any city or town or any municipal retail load aggregator to restrict the ability of retail electric customers to obtain or receive service from any authorized provider thereof; by § 76, in the fifth paragraph, substituted "basic" for "standard offer" twice; and by § 77, in the sixth paragraph, substituted "basic service" for "standard offer". effective July 2, 2008, by § 74, in the fourth and sixth paragraphs of subsection (a), substituted "department" for "division"; by § 75, in the fourth paragraph of subsection (a), deleted the last sentence which read: "Nothing in this section shall be construed as authorizing any city or town or any municipal retail load aggregator to restrict the ability of retail electric customers to obtain or receive service from any authorized provider thereof; by § 76, in the fifth paragraph, substituted "basic" for "standard offer" twice; and by § 77, in the sixth paragraph, substituted "basic service" for "standard offer".

The 2009 amendment, effective Nov 23, 2009, by § 23, substituted "Massachusetts clean energy technology center for monies from the Massachusetts Renewable Energy Trust Fund, established pursuant to *section 9 of chapter 23J*" for "Massachusetts Technology Park Corporation for monies from the Massachusetts Renewable Energy Trust Fund, established pursuant to subsection (a) of chapter 40J" in the third sentence and by § 24, substituted "Massachusetts clean energy technology center" for "Massachusetts Technology Park Corporation" in the fourth sentence of (b).

Research References & Practice Aids

Cross References—

Massachusetts Wholesale Electric Company, see ALM Spec L c S13, §§ 1 et seq.

Massachusetts Residential Conservation Service, see ALM Spec L c S61, §§ 1, et seq.

Nuclear Power and Waste Disposal Voter Approval and Legislative Certification Act, see ALM Spec L c S63, §§ 1, et seq.

Code of Massachusetts Regulations—

The unbundling of services related to the provision of the natural gas industry. *220 CMR 14.01* et seq.

Residential conservation service (RCS) program. *225 CMR 4.01*.

Hierarchy Notes:

ALM GL Pt. I, Title XXII, Ch. 164

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