

199625  
Article 1



# CITY OF SOMERVILLE, MASSACHUSETTS LAW DEPARTMENT

October 1, 2015

Honorable Board of Aldermen  
City Hall  
93 Highland Avenue  
Somerville, MA 02143

Re: That the City Solicitor provide an opinion on the Municipal Aggregation statute, MGL c. 164, s. 134

Dear Honorable Board Members:

You have asked this office to provide a summary of the Municipal Aggregation statute, MGL c. 164, s. 134, and the role of the Board of Aldermen. Community choice aggregation, also known as municipal electric aggregation, is a method authorized by state law which permits a city or town government to buy electric power on behalf of the consumers within their borders.

MGL c. 164, s. 134 sets out the legal requirements for a municipal aggregation program. "A city may initiate a process to authorize aggregation by a majority vote of the city council, with the approval of the mayor..." MGL c. 164, s. 134(a). Accordingly, to authorize an aggregation plan, a majority vote of the Board of Aldermen is required, with the approval of the Mayor.

Upon an affirmative vote to initiate the process, the city develops a plan for aggregation, in consultation with the Department of Energy Resources. The plan details the process and consequences of aggregation, shall provide for universal access, reliability, and equitable treatment of all classes of customers, and shall meet any requirements established by law. MGL c. 164, s. 134(a). A plan must include: (1) the organizational structure of the program, its operations, and its funding; (2) details on rate setting and other costs to its participants; (3) the method of entering and terminating agreements with other entities; (4) the rights and responsibilities of program participants; and (5) the procedure for termination of the program. *DPU, In re Town of Barre et al.*, Docket No. 14-10 (Sept. 11, 2015). Participation in a municipal aggregation plan "is voluntary and a retail electric customer has the right to opt out of plan participation...[and a municipality] must inform electric customers of (1) automatic plan enrollment and the right to opt out, and (2) other pertinent information about the plan." *Id.*

The plan must be reviewed by the city's citizens. "The statute is silent on the process that a municipality must use to satisfy the public review of a municipal aggregation plan. The



SOMERVILLE CITY HALL • 93 HIGHLAND AVENUE • SOMERVILLE, MASSACHUSETTS 02143  
(617) 625-6600, EXT. 4400 • TTY: (617) 666-0001 • FAX: (617) 776-8847

www.somervillema.gov • E-mail: Law@somervillema.gov



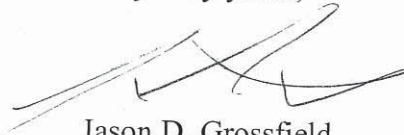
Department [of Public Utilities] encourages municipalities to allow citizens a sufficient opportunity to review the plan and provide comments to the municipality prior to filing a petition with the Department for final approval.” *Id. at 18.*

The plan is filed with the Department of Public Utilities (“DPU”) for approval. The DPU is required to determine whether a municipal aggregation plan is consistent with the requirements established in the Municipal Aggregation statute, and with the Department’s rules and regulations. *Id. at 16.*

A municipality establishing a load aggregation program pursuant to MGL c. 164, s. 134(a) may also elect to adopt an energy plan by vote of the Board of Aldermen “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...” MGL c. 164, s. 134(b).

The above is a summary of the provisions regarding a municipal electric aggregation program. Please contact this office if you have any additional questions.

Very truly yours,



Jason D. Grossfield  
Assistant City Solicitor

cc: Mayor Joseph A. Curtatone  
John Long, City Clerk  
Oliver Sellers-Garcia, Director of Sustainability and Environment