

Amendment to HB 315

1 Amend the bill by replacing all after the enacting clause with the following:

2

3 1 Aggregation of Electric Customers; Definition; Aggregation. Amend RSA 53-E:2, I to read as
4 follows:

5 I. "Aggregation" means the grouping of retail electric customers to provide, broker, or
6 contract for ~~[electric power supply and]~~ energy services for such customers.

7 2 New Paragraph; Definition; Energy Services. Amend RSA 53-E:2 by inserting after paragraph
8 V the following new paragraph:

9 V-a. "Energy services" means the provision of electric power supply solely or in combination
10 with any or all of the services specified in RSA 53-E:3.

11 3 Municipal and County Authority; Agreements. Amend RSA 53-E:3, II(a) to read as follows:

12 II.(a) Enter into agreements and provide for **energy services, specifically:**

13 (1) The supply of electric power **and capacity.**

14 (2) Demand side management.

15 (3) Conservation.

16 (4) Meter reading, **with commission approval for meters owned or controlled**
17 **by the electric distribution utilities or used for load settlement.**

18 (5) Customer service **for aggregation provided services.**

19 (6) Other related services.

20 (7) The operation of energy efficiency and clean energy districts adopted by a
21 municipality pursuant to RSA 53-F and as approved by the municipality's governing body.

22 4 Municipal Aggregators. Amend RSA 53-E:3-a to read as follows:

23 53-E:3-a Municipal Aggregators Authorized. Municipal aggregators of electricity load under
24 this chapter, and municipalities operating municipal electric utilities under RSA 38, are expressly
25 authorized to aggregate ~~[other]~~ **energy** services ~~[commonly and regularly billed to customers]~~ **as**
26 **described in RSA 53-E:3.** Municipalities may operate approved aggregation programs as self-
27 supporting enterprise funds including the use of revenue bonds pursuant to RSA 33-B and RSA 374-
28 D and loans from other municipal enterprise funds as may be approved by the governing body and
29 the legislative body of the municipality. Any such loans from other municipal enterprise funds shall
30 be used for purposes that have a clear nexus to the primary purposes of such other funds, such as
31 generation, storage, or sale of power generated from sites, facilities, or resources that might
32 otherwise be operated or produced by the other enterprise fund. Nothing in this chapter shall be

Amendment to HB 315

- Page 2 -

1 deemed to limit the capacity of customers to select any service or combination of services offered by
2 such municipal aggregators or to limit the municipality from combining billing for ~~[any or all utility]~~
3 **energy services with other municipal** services.

4 5 Regulation of Aggregators. Amend RSA 53-E:4, I to read as follows:

5 I. An aggregator operating under this chapter shall not be considered a **public** utility
6 ~~[engaging in the wholesale purchase and resale of electric power] under RSA 362:2~~ and shall not
7 be considered a municipal utility under RSA 38. ~~[Providing electric power or energy services to~~
8 ~~aggregated customers within a municipality or county shall not be considered a wholesale utility~~
9 ~~transaction. However,]~~ A municipal or county aggregation may elect to participate in the ISO New
10 England wholesale energy market as a load serving entity for the purpose of procuring or selling
11 electrical energy or capacity on behalf of its participating retail electric customers, including itself.

12 6 Regulation of Aggregators. Amend RSA 53-E:4, IV to read as follows:

13 IV. For the purpose of obtaining interval meter data for load settlement, the provision of
14 energy services, and near real-time customer access to such data, a municipal and county aggregator
15 may contribute to the cost of electric utility provided meter upgrades, jointly own revenue grade
16 meters with an electric utility, or provide its own revenue grade electric meter, which would be in
17 addition to a utility provided meter~~[.]~~. **Such metering shall only be implemented** subject to the
18 commission finding **it is** in the public good, **assuring that meters used for distribution tariff**
19 **implementation remain under the control and majority ownership of the electric**
20 **distribution utility**, and ~~[approval of]~~ **otherwise approving** the terms and conditions for such
21 arrangements, including sharing or transfer of meter data from and to the electric distribution
22 utility.

23 7 Financial Responsibility. Amend RSA 53-E:5 to read as follows:

24 53-E:5 Financial Responsibility. Retail electric customers who choose not to participate in an
25 aggregation program adopted under RSA 53-E:7 shall not be responsible for, and no entity shall
26 require them to pay, any costs associated with such program, through taxes or otherwise except for
27 electric power supply or energy services consumed directly by the municipality or county, or
28 incidental costs, which may include costs necessary to comply with the provisions of this chapter up
29 to the time that the aggregation starts to produce revenue from participating customers, **but shall**
30 **not include any capitalized or operating costs of an aggregation program.**

31 8 Electric Aggregation Plan. Amend RSA 53-E:6, I to read as follows:

32 I. The governing body of a municipality or county may form an electric aggregation
33 committee to develop a plan for an aggregation program for its citizens. A municipality or county
34 may join other municipalities or counties in developing such plans. **A county plan may provide an**
35 **aggregation program for all or a subset of municipalities within the county that request to**
36 **participate by a majority vote of their respective governing bodies.**

37 9 Aggregation Program. RSA 53-E:7 is repealed and reenacted to read as follows:

Amendment to HB 315
- Page 3 -

1 53-E:7 Aggregation Program.

2 I. The governing body of a municipality or county may submit to its legislative body for
3 adoption a final plan for an aggregation program or any revision to include an opt-out aggregation
4 program, to be approved by a majority of those present and voting.

5 II. Every electric aggregation plan and any revision of a plan to include an opt-out default
6 service program shall be submitted to the commission, either before or after being submitted by the
7 governing body to the legislative body for approval, to determine whether the plan conforms to the
8 requirements of this chapter and applicable rules of the commission. The commission shall approve
9 any plan submitted to it unless it finds that it does not meet the requirements of this chapter and
10 other applicable rules and shall detail in writing addressed to the governing bodies of the
11 municipalities or counties concerned, the specific respects in which the proposed plan substantially
12 fails to meet the requirements of this chapter and applicable rules. Failure to disapprove a plan
13 submitted hereunder within 60 days of its submission shall constitute approval thereof. A
14 municipality or county may submit a plan that is revised to comply with applicable requirements at
15 any time and start the review process over. Any plan submitted to the commission under this
16 paragraph shall also be submitted on the same date to the office of the consumer advocate under
17 RSA 363:28 and any electric distribution utility providing service within the jurisdiction of the
18 municipality or county. The consumer advocate, utilities, and members of the public may file
19 comments about such plans within the first 21 days of their submission. Commission review and
20 approval of electric aggregation plans shall not require a contested case but shall allow time for
21 submission and consideration of any such comments.

22 III. If the plan is adopted or once adopted is revised to include an opt-out service, the
23 municipality or county shall mail written notification to each retail electric customer within the
24 municipality or county service area. To enable such mailed notification and notwithstanding RSA
25 363:38, after an aggregation plan is duly approved the electric distribution utility or utilities serving
26 an adopting municipality or county shall provide to such municipality or county a current list of the
27 names and mailing addresses of all electric customers taking distribution service within the
28 municipality or county service area, and for such customers on utility provided default service, the
29 account numbers and any other information necessary for successful enrollment in the aggregation.
30 Notification shall include a description of the aggregation program, the implications to the
31 municipality or county, and the rights and responsibilities that the participants will have under the
32 program, and if provided on an opt-out basis, the fixed rate or charges that will apply. No retail
33 electric customer shall be included in a program in which the customer does not know all of the rates
34 or charges the customer may be subject to at least 30 days in advance and has the option, for a
35 period of not less than 30 days from the date of the mailing, to opt out of being enrolled in such
36 program, unless the customer affirmatively responds to the notification or requests in writing to be
37 included in the program.

Amendment to HB 315

- Page 4 -

1 IV. Within 15 days after notification of the plan has been sent to retail electric customers in
2 the service area, a public information meeting to answer questions on the program shall be held.

3 V. Services proposed to be offered by or through the aggregation shall be on an opt-in basis
4 unless the adopted aggregation plan explicitly creates an opt-out alternative default energy service
5 program where the rate or price is known at least 30 days in advance of its application and, for a
6 period of not less than 30 days from the date notification is mailed, the customer has the opportunity
7 to opt out of being enrolled in such program, by return postcard, website, or such additional means
8 as may be provided. Customers who are on default service provided by an electric distribution utility
9 shall be enrolled by the aggregator in an aggregation provided alternative default service if they do
10 not elect to opt out. Customers opting out will instead remain on utility provided default service.
11 Customers taking energy service from a competitive electricity supplier shall not be enrolled in any
12 aggregation program, unless they voluntarily opt in.

13 VI. New customers to the electric distribution utility after the notification mailing required
14 by paragraph III shall initially be enrolled in utility provided default service unless the customer has
15 relocated within a single utility's service area and is continuing service with a competitive supplier
16 or a municipal or county aggregation program. Upon request of an aggregator, but not more
17 frequently than monthly and notwithstanding RSA 363:38, the utility shall make available to each
18 operating municipal aggregation, or county aggregation where there is no municipal aggregation, the
19 names, account numbers, mailing addresses, and any other information necessary for successful
20 enrollment in the aggregation of customers that are new to or then currently on electric distribution
21 utility provided default service after they have provided the customer list for the initial customer
22 mailing required by paragraph III and that are located within the aggregation service area. The
23 aggregation shall periodically mail a written notification to such new customers that have not
24 previously opted out of the aggregator's service and shall enroll them in the aggregation consistent
25 with the opt-in or opt-out requirements of this paragraph and paragraph III.

26 VII. Municipal aggregations shall take priority or precedence over any county aggregations
27 and each such aggregation shall be responsible for assuring that customers are enrolled with the
28 correct aggregation.

29 VIII Customers enrolled in a municipal- or county-provided default service shall be free to
30 elect to transfer to utility provided default service or to transfer to a competitive electricity supplier
31 with adequate notice in advance of the next regular meter reading by the distribution utility, in the
32 same manner as if they were on utility provided default service or as approved by the commission.
33 No such customer shall be required to pay any exit fee or charge for such transfer. Customers
34 requesting transfer of supply service upon dates other than on the next available regular meter
35 reading date may be charged an off-cycle meter reading and billing charge. Upon request of the
36 customer the aggregator shall transfer the customer back to utility provided default service.

Amendment to HB 315

- Page 5 -

1 IX. Once adopted, an aggregation plan and program may be amended and modified from
2 time to time as provided by the governing body of the municipality or county. In all cases the
3 establishment of an opt-out default service program shall be approved as provided in paragraphs I,
4 II, and IV.

5 X. The commission shall adopt rules, under RSA 541-A, to implement this chapter and, to
6 the extent authorities granted to municipalities and counties by this chapter materially affect the
7 interests of electric distribution utilities and their customers, to reasonably balance such interests
8 with those of municipalities and counties for the public good, which may also be done through
9 adjudicative proceedings to the extent specified or not addressed in rules. Such rules shall include
10 but not be limited to rules governing the relationship between municipal and county aggregators and
11 distribution utilities, metering, billing, access to customer data for planning and operation of
12 aggregations, notice of the commencement or termination of aggregation services and products, and
13 the reestablishment of a municipal or county aggregation that has substantially ceased to provide
14 services. Where the commission has adopted rules in conformity with this chapter, complaints to
15 and proceedings before the commission shall not be subject to RSA 541-A:29 or RSA 541-A:29-a.

16 10 New Section; Billing Arrangements. Amend RSA 53-E by inserting after section 8 the
17 following new section:

18 53-E:9 Billing Arrangements.

19 I. For purposes of this section the term “supplier” shall mean an aggregator functioning as a
20 load serving entity under this chapter or a competitive electricity supplier serving an aggregation
21 under this chapter. The term shall also include competitive electricity suppliers generally to the
22 extent and for such customer rate classes as the commission finds, after notice and hearing, that it is
23 for the public good. Such a determination shall be on a utility-specific basis, if proposed and
24 assented to by the utility.

25 II. Each electric distribution utility shall propose to the commission for review and approval
26 a program for the purchase of receivables of the supplier in which the utility shall pay in a timely
27 manner the amounts due such suppliers from customers for electricity supply and related services
28 less a discount percentage rate equal to the utility’s actual uncollectible rate, adjusted to recover
29 capitalized and operating costs specific to the implementation and operation of the purchase of
30 receivables program, including working capital. Additionally, such discount rate adjustments shall
31 include a pro rata share of the cost of administering collection efforts such that the utility’s
32 participation in the purchase of receivables program shall not require the utility or non-participating
33 consumers to assume any costs arising from its use. Such pro rata costs must include, but not be
34 limited to, any increases in the utility’s bad debt write-offs attributable to participants in the
35 purchase of receivables program, as approved by the commission. However, the allocation of costs
36 arising from different rate components and determination of the uncollectible rate shall be equitably
37 allocated between such suppliers, utility provided default service, and other utility charges that are

Amendment to HB 315

- Page 6 -

- 1 a part of consolidated billing by the utility as approved by the commission. The discount percentage
- 2 rate shall be subject to periodic adjustment as approved by the commission.
- 3 11 Effective Date. This act shall take effect 60 days after its passage.