

**CHAPTER 229**  
**HB 315 - FINAL VERSION**

9Apr2021... 0748h  
05/13/2021 1294s  
05/13/2021 1400s  
24Jun2021... 1987CofC  
24Jun2021... 2066EBA

2021 SESSION

21-0533  
10/08

HOUSE BILL                    ***315***

AN ACT                    relative to the aggregation of electric customers and municipal host customer generators serving political subdivisions.

SPONSORS:                Rep. Vose, Rock. 9; Rep. Cali-Pitts, Rock. 30; Rep. Harrington, Straf. 3; Rep. Thomas, Rock. 5

COMMITTEE:                Science, Technology and Energy

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AMENDED ANALYSIS

This bill revises the procedures applicable to municipal or county aggregators and municipal electric utilities for the aggregation of energy services. This bill also establishes an exemption under net energy metering for group net metered facilities that generate electricity to offset electrical requirements of a group consisting of political subdivisions.

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Explanation:                Matter added to current law appears in ***bold italics***.  
                                  Matter removed from current law appears ~~[in brackets and struckthrough.]~~  
                                  Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Twenty One*

AN ACT                   relative to the aggregation of electric customers and municipal host customer generators serving political subdivisions.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1           229:1 Aggregation of Electric Customers; Definition; Aggregation. Amend RSA 53-E:2, I to read  
2 as follows:

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

5           229:2 New Paragraph; Definition; Energy Services. Amend RSA 53-E:2 by inserting after  
6 paragraph V the following new paragraph:

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

9           229:3 Municipal and County Authority; Agreements. Amend RSA 53-E:3, II(a) to read as  
10 follows:

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

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

13                   (2) Demand side management.

14                   (3) Conservation.

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

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

18                   (6) Other related services.

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

21           229:4 Municipal Aggregators. Amend RSA 53-E:3-a to read as follows:

22           53-E:3-a Municipal Aggregators Authorized. Municipal aggregators of electricity load under  
23 this chapter, and municipalities operating municipal electric utilities under RSA 38, are expressly  
24 authorized to aggregate [~~other~~] ***energy*** services [~~commonly and regularly billed to customers~~] ***as***  
25 ***described in RSA 53-E:3.*** Municipalities may operate approved aggregation programs as self-  
26 supporting enterprise funds including the use of revenue bonds pursuant to RSA 33-B and RSA 374-  
27 D and loans from other municipal enterprise funds as may be approved by the governing body and

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1 the legislative body of the municipality. Any such loans from other municipal enterprise funds shall  
2 be used for purposes that have a clear nexus to the primary purposes of such other funds, such as  
3 generation, storage, or sale of power generated from sites, facilities, or resources that might  
4 otherwise be operated or produced by the other enterprise fund. Nothing in this chapter shall be  
5 deemed to limit the capacity of customers to select any service or combination of services offered by  
6 such municipal aggregators or to limit the municipality from combining billing for ~~[any or all utility]~~  
7 **energy services with other municipal** services.

8 229:5 Regulation of Aggregators. Amend RSA 53-E:4, I to read as follows:

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

16 229:6 Regulation of Aggregators. Amend RSA 53-E:4, IV to read as follows:

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

27 229:7 Financial Responsibility. Amend RSA 53-E:5 to read as follows:

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

35 229:8 Electric Aggregation Plan. Amend RSA 53-E:6, I to read as follows:

36 I. The governing body of a municipality or county may form an electric aggregation  
37 committee to develop a plan for an aggregation program for its citizens. A municipality or county

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1 may join other municipalities or counties in developing such plans. ***A county plan may provide an***  
2 ***aggregation program for all or a subset of municipalities within the county that request to***  
3 ***participate by a majority vote of their respective governing bodies.***

4 229:9 Aggregation Program. RSA 53-E:7 is repealed and reenacted to read as follows:

5 53-E:7 Aggregation Program.

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

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

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

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1 or charges the customer may be subject to at least 30 days in advance and has the option, for a  
2 period of not less than 30 days from the date of the mailing, to opt out of being enrolled in such  
3 program, unless the customer affirmatively responds to the notification or requests in writing to be  
4 included in the program.

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

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

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

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

33 VIII. Customers enrolled in a municipal- or county-provided default service shall be free to  
34 elect to transfer to utility provided default service or to transfer to a competitive electricity supplier  
35 with adequate notice in advance of the next regular meter reading by the distribution utility, in the  
36 same manner as if they were on utility provided default service or as approved by the commission.  
37 No such customer shall be required to pay any exit fee or charge for such transfer. Customers

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1 requesting transfer of supply service upon dates other than on the next available regular meter  
2 reading date may be charged an off-cycle meter reading and billing charge. Upon request of the  
3 customer the aggregator shall transfer the customer back to utility provided default service.

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

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

19 229:10 New Section; Billing Arrangements. Amend RSA 53-E by inserting after section 8 the  
20 following new section:

21 53-E:9 Billing Arrangements.

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

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

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1 purchase of receivables program, as approved by the commission. However, the allocation of costs  
2 arising from different rate components and determination of the uncollectible rate shall be equitably  
3 allocated between such suppliers, utility provided default service, and other utility charges that are  
4 a part of consolidated billing by the utility as approved by the commission. The discount percentage  
5 rate shall be subject to periodic adjustment as approved by the commission.

6 229:11 Eligible Customer Generator; Exception Added for Municipal Hosts. Amend RSA 362-  
7 A:1-a, II-b through II-e to read as follows:

8 II-b. "Eligible customer-generator" or "customer-generator" means an electric utility  
9 customer who owns, operates, or purchases power from an electrical generating facility either  
10 powered by renewable energy or which employs a heat led combined heat and power system, with a  
11 total peak generating capacity of up to and including one megawatt, ***except as provided for a***  
12 ***municipal host as defined in paragraph II-c***, that is located behind a retail meter on the  
13 customer's premises, is interconnected and operates in parallel with the electric grid, and is used to  
14 offset the customer's own electricity requirements. Incremental generation added to an existing  
15 generation facility, that does not itself qualify for net metering, shall qualify if such incremental  
16 generation meets the qualifications of this paragraph and is metered separately from the  
17 nonqualifying facility.

18 II-c. ***"Municipal host" means a customer generator with a total peak generating***  
19 ***capacity of greater than one megawatt and less than 5 megawatts used to offset the***  
20 ***electricity requirements of a group consisting exclusively of one or more customers who are***  
21 ***political subdivisions, provided that all customers are located within the same utility***  
22 ***franchise service territory. A municipal host shall be located in the same municipality as***  
23 ***all group members if the facility began operation after January 1, 2021. A municipal host***  
24 ***may be owned by either a public or private entity. For this definition, "political***  
25 ***subdivision" means any city, town, county, school district, chartered public school, village***  
26 ***district, school administrative unit, or any district or entity created for a special purpose***  
27 ***administered or funded by any of the above-named governmental units.***

28 II-d. "Eligible fuel" means natural gas, propane, wood pellets, hydrogen, or heating oil when  
29 combusted with a burner, including air emission standards for the device using the approved fuel.

30 ~~II-d~~ II-e. "Heat led" means that the combined heat and power system is operated in a  
31 manner to satisfy the heat usage needs of the customer-generator.

32 ~~II-e~~ II-f. "Department" means the New Hampshire department of energy.

33 229:12 Utility Property Tax; Exclusion From Definition of Utility Property. Amend RSA 83-F:1,  
34 V(d) to read as follows:

35 (d) The electrical generation, production, ***storage***, and supply equipment of an "eligible  
36 customer-generator" as defined in RSA 362-A:1-a, II-b, ***and of a "limited producer" as defined in***

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1 *RSA 362-A:1-a, III if selling under RSA 362-A:2-a, for facilities with a rated electricity*  
2 *production capacity of up to and including one megawatt;*

3 229:13 Effective Date.

4 I. Section 1-10 of this act shall take effect 60 days after its passage.

II. The remainder of this act shall take effect upon its passage.

Approved: August 26, 2021

Effective Date:

I. Sections 1-10 effective October 25, 2021.

II. Remainder effective August 26, 2021.