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COMMONWEALTH OF PENNSYLVANIA  
HOUSE OF REPRESENTATIVES  
CONSUMER AFFAIRS COMMITTEE

\* \* \* \* \*

PUBLIC HEARING IN RE: HOUSE BILL 2619

\* \* \* \* \*

BEFORE: JOSEPH PRESTON, JR., Chairman  
ROBERT W. GODSHALL, Chairman  
Bryan Barbin, Dave Reed, Karen D. Beyer,  
Members  
Colin Fitzsimmons, Executive Director  
Gail M. Davis, Executive Director

HEARING: Tuesday, August 31, 2010  
Commencing at 9:38 a.m.

LOCATION: The University of Pittsburgh at Johnstown  
Heritage Hall Living - Learning Center  
450 Schoolhouse Road  
Johnstown, PA 15904

WITNESSES: Richard J. Hudson, Jr., Tony C. Banks,  
Brenda Fargo, Teresa L. Ringenbach

Reporter: Lacey C. Gray

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CHAIRMAN PRESTON:

Good morning. We are at 9:30, and I would like to be able to call the meeting together for purposes of a public hearing for the Consumer Affairs Committee. First so that we can introduce ourselves, if I can start to my right, to the audience's left, introduce yourself and tell us where you're from.

REPRESENTATIVE REED:

Representative Dave Reed, Indiana County.

CHAIRMAN GODSHALL:

Representative Robert Godshall from Montgomery County.

CHAIRMAN PRESTON:

Representative Joe Preston from Allegheny County.

REPRESENTATIVE BARBIN:

Representative Bryan Barbin from Cambria County.

CHAIRMAN PRESTON:

We have a court reporter. And I would ask the people who testify or members of the

1 audience's courtesy, if you could set your cell  
2 phones to buzz, if you have to answer phones, please  
3 leave in the hallway so that you can conduct your  
4 business. I don't want to get involved with the  
5 interruption of anybody who is a taxpayer.

6                   The other thing is we're here  
7 today to discuss House Bill 2619. Not only that, but  
8 we're also in the proximity --- and I'd like to get a  
9 few words from the representative whose district  
10 we're in, Representative Barbin.

11                   REPRESENTATIVE BARBIN:

12                   Thank you, Mr. Chairman, and  
13 thank you all for coming today. House Bill 2619 is a  
14 bill sponsored by the Chairman of Consumers Affairs  
15 Committee, Chairman Preston, which will allow an  
16 additional tool for municipalities to use as the ---  
17 as all the rate caps are finally eliminated in  
18 Pennsylvania. The idea in '96, I think, was that we  
19 were going to deregulate the electric generation  
20 industry. This is the last step in the deregulation,  
21 and what it does is it allows the electric utility  
22 companies to recover some of those costs that were  
23 capped over the last ten years.

24                   Now, because we're now at the  
25 point where all of the caps will be off across the

1 state, this particular Bill allows municipalities one  
2 additional option to lower their electric costs, if  
3 they choose to have a program which uses all of the  
4 residents in their own municipality or in an  
5 adjoining municipality to buy in their bulk, thereby  
6 reducing the rate of electricities. Some  
7 municipalities like Johnstown and Portage have that  
8 right today, but this would allow other  
9 municipalities to do the same thing. And anything  
10 that can be done to push down the cost of the  
11 electricity increases is a good thing, and I thank  
12 the Chairman for bringing this issue to the attention  
13 of the public and conducting this public hearing here  
14 today in Johnstown.

15 CHAIRMAN PRESTON:

16 Also, I guess for the record  
17 before the Bill was printed, we had a hearing on the  
18 draft several months ago. I'm going to ask all of  
19 the principals, those people who are interested, to  
20 submit their comments to be made. Then when we  
21 printed it, we also had comments. We tried to meet  
22 with everybody. This is a hearing on the Bill  
23 itself, and we do plan on going out to the southeast,  
24 out in Lehigh County in another week or two, and we  
25 will look and see if --- whatever changes, that we're

1 going to have every anticipation to having this Bill  
2 voted in a proper manner that we see fit in a  
3 reasonable amount of time. And I'm saying that  
4 because there's a lot of people here that want to  
5 know if, when and where. So I wanted to deal with  
6 that.

7 As you come to testify, I would  
8 appreciate it if you --- so the court reporter ---  
9 we're not in court, but the stenographer would be  
10 able to identify yourself, your name and come  
11 forward. The first person to present is Richard  
12 Hudson, Director of Regulatory and Legislative  
13 Affairs for ConEdison Solutions. Glad to see you  
14 again.

15 MR. HUDSON:

16 Good to see you.

17 CHAIRMAN PRESTON:

18 I guess we go back a lot of  
19 year, and if I remember right, maybe eight or  
20 nine years ago, I was explaining to the audience then  
21 that this will be a new form and the whole industry  
22 was about to change. If you will hit that button  
23 until it gets green.

24 MR. HUDSON:

25 Good morning. As you

1 mentioned, my name is Richard Hudson, and I'm with  
2 Consolidated Edison Solutions. We appreciate the  
3 opportunity to be here today to present our views on  
4 this important topic.

5                   As you mentioned, Chairman  
6 Preston, we've been engaged in electricity issues,  
7 involved with the transition to a fully competitive  
8 retail market here in Pennsylvania for a while. I've  
9 had the benefit of appearing before this committee  
10 several years ago with another employer and in my  
11 capacity as the Pennsylvania state chairman of a  
12 trade group of competitive retail energy suppliers.  
13 Just to be clear, my testimony today is on behalf of  
14 the individual company that I work for, which is  
15 ConEdison Solutions.

16                   We are a competitive  
17 electricity provider providing electric generation  
18 service to retail customers here in Pennsylvania  
19 including residential customers, small business  
20 customers and medium and large business customers as  
21 well. We have an affiliated company in development  
22 that is actively engaged in investing in solar  
23 energy.

24                   CHAIRMAN PRESTON:

25                   Could you move that closer to

1 you?

2 MR. HUDSON:

3 Sure. Is that better?

4 CHAIRMAN PRESTON:

5 Slide it towards you.

6 MR. HUDSON:

7 Okay. Is that better? Is this  
8 not working? Hello.

9 OFF RECORD DISCUSSION

10 CHAIRMAN PRESTON:

11 One thing you're not a  
12 politician, that's for sure.

13 MR. HUDSON:

14 Okay. Sorry about that. Okay.  
15 Very good. So we have an affiliated company,  
16 ConEdison Development, that's engaged in investing in  
17 solar facilities. We have about \$300 million to  
18 invest in states like Pennsylvania and elsewhere  
19 across the country who have made renewable energy a  
20 major part of the state's future energy policy goals.

21 The topic of today's hearing,  
22 as you mentioned, is municipal aggregation, and I  
23 testified on this topic back in February before the  
24 Bill was actually introduced. And at that time, I  
25 stated our company's strong support for opt-out



1 municipal aggregation and concept, but mentioned a  
2 few areas of consumer protections that needed to be  
3 considered before, you know, embarking in this new  
4 policy direction. After reviewing the Bill, House  
5 Bill 2619 that has come out, there are a number of  
6 areas in the Bill that have been improved, and I  
7 commend all the stakeholders and the committee for  
8 working in a manner to improve this policy direction.

9                   But there is one critical area  
10 that I'd like to touch on that we think still needs  
11 some improvement, and this goes to the structure of  
12 the opt-out nature of the municipal aggregation  
13 program. When I testified back in February, I  
14 discussed that municipal aggregation can take the  
15 form of either an opt-in program where the  
16 municipality sends out notices to its residence and  
17 asks them to affirmatively opt-in to a program where  
18 a competitive electric generation supplier will  
19 provide a competitive retail service for a generation  
20 service. Under the opt-in program, the customer has  
21 affirmative action to take service under the  
22 municipal aggregation program. The alternative  
23 approach is the opt-out approach where a municipality  
24 enters into contract with an electric generation  
25 service provider and all of the residents and small



1 provision of generation service. And opt-out  
2 municipal aggregation is one tool to help overcome  
3 that status quo bias.

4                   So with that said, I'd like to  
5 turn the focus on the area of the Bill that we do  
6 have concerns with, and that is, although the opt-out  
7 structure of the program provides great benefit for  
8 suppliers, great benefit for customers, along with  
9 those benefits comes the responsibility to ensure  
10 that customers are not harmed by this new policy  
11 direction. And as the Bill is currently written, a  
12 municipal aggregation provider would be able to lock  
13 customers in to a contract, a long-term contract, for  
14 electric generation service despite the fact that a  
15 customer may have no knowledge or may not have been  
16 aware that they were being enrolled in this program.  
17 Now, we already talked about the benefits of the  
18 opt-out structure of the program, but the problem  
19 with this approach is that what has essentially  
20 happened is customers are locked into taking service  
21 from this municipal aggregation provider and they're  
22 barred from receiving the benefits of potentially  
23 lower price offers and more innovative value and  
24 product and services that they may become aware of at  
25 a later date.

1                   Just to give you an example of  
2 a real world scenario to put this in context. Assume  
3 you're taking service from a cell phone provider,  
4 Verizon Wireless, for example, and you purposely  
5 chose not to sign up for a one-year contract or a  
6 two-year contract so you would have the flexibility  
7 to shop around as you see fit. Six months goes by or  
8 a year goes by and you see a great ad for T Mobile.  
9 They've got the latest Smart phone and they're  
10 offering service plan that would allow you to save 20  
11 percent off of your cell phone service bill, sounds  
12 great. So you call up T Mobile to sign up for this  
13 great product, and the customer service rep tells  
14 you, you know, I'm sorry, but it looks like you're  
15 under contract with Verizon, and if you enroll with  
16 us, you may be subject to a significant early  
17 termination fee. So you hang up the phone and you  
18 call Verizon, find out what's going on. And the rep  
19 tells you that three months ago someone sent a notice  
20 in the mail giving you an opt out of this contract  
21 with Verizon Wireless. And you're like what is going  
22 on here? I never agreed to a contract. I thought I  
23 was able to leave at any time. This is exactly the  
24 type of scenario that will happen under House Bill  
25 2619 as it is currently trafficked.

1                   Now, I recognize the fact that  
2 the Bill requires municipal aggregation providers to  
3 provide specific opt-out notices to customers and to  
4 fully explain the terms and conditions of the  
5 municipal opt-out aggregation program. But despite  
6 those well intended notice requirements, we all know  
7 what happens with all those mandatory notices that  
8 show up in the mail. They often go straight into the  
9 recycle bin or the trash can along with the credit  
10 card offers, along with the pizza coupons and  
11 everything else that litters your mailbox on a daily  
12 basis. So the fact is most customers aren't going to  
13 pay attention to the opt-out notice, and they are  
14 going to be inadvertently locked in, taking service  
15 from this municipal aggregation provider.

16                   So we're proposing language  
17 that would ensure that customers under a municipal  
18 aggregation opt-out plan retain all of the rights and  
19 benefits they have today with respect to default  
20 service. We're proposing language that would prevent  
21 the municipal aggregation program from locking a  
22 customer into a contract or imposing early  
23 termination fees or earlier cancellation penalties if  
24 a customer chooses to leave the program and take  
25 service from another competitive electricity

1 provider. And that's the real critical change that  
2 we think is necessary in 2619 to make this a  
3 successful Bill.

4                   There are a couple of other  
5 issues that we focused on in my testimony. I  
6 recommend some language that would tweak the  
7 definition of what the price-to-compare is. I'd like  
8 to talk about that just briefly. The  
9 price-to-compare is essentially the apples to apples  
10 price that you have to compare to the utility. The  
11 utility provides what's known as default service or  
12 electric generation service to customers that choose  
13 not to shop in the competitive market, and that  
14 generation service is comprised of a variety of  
15 components, the generation costs that the utility  
16 incurs in the open market, the transmission cost that  
17 the utility incurs to load their electricity on the  
18 wholesale transmission lines to the customer's  
19 residence or facility, and there are other tariff  
20 structures like automatic adjustment clauses and  
21 things like this that are regulated by the Public  
22 Utility Commission.

23                   So it's important that the  
24 price-to-compare reflect all of these pricing  
25 components that make up a true apples to apples

1 comparison. And in Pennsylvania today, many  
2 utilities have complex rate structures such as  
3 declining block grades where a certain amount of  
4 electricity costs one rate. For example, the first  
5 500 kilowatt hours of usage may be eight cents while  
6 everything above that costs less or five cents. So  
7 what this means mathematically is that the  
8 price-to-compare actually changes every month based  
9 on the customer specific usage pattern, and I realize  
10 I'm getting into the weeds a bit here, but this is to  
11 provide just a bit of an explanation for why I think  
12 the definition of the price-to-compare needs to be  
13 very specific. It needs to recognize the fact that  
14 the price-to-compare changes monthly and that each  
15 individual customer effectively has their own  
16 customer specific price-to-compare, and I proposed  
17 some language in my testimony that seeks to make that  
18 clarification.

19 So there's a couple of other  
20 things that I touch on, but I'll conclude my  
21 testimony by thanking you for the opportunity to be  
22 here today. I welcome any questions that you might  
23 have.

24 CHAIRMAN PRESTON:

25 As always, I will think you for

1 your suggestions for improvement, and I know that you  
2 had time to get your testimony in until now, and I'm  
3 hoping that in the immediate future or the next week  
4 or so that you will come to the appropriate staff,  
5 and we can go over some of the options that you are  
6 looking at. I guess I would like to be able to say  
7 that you have a concern for the consumers and you put  
8 in there for the PUC monitors and contracts and so  
9 forth. And also to save time, I am concerned that  
10 you go through this notification process, all of us  
11 know that --- and I have been trying to complain for  
12 years, not just in this issues, but the PUC and the  
13 notices, have four or five entities spend 45 cents  
14 for a piece that goes into the bill, and it will seem  
15 to me that that will be a better way of outreach.  
16 And you know, even if --- whether it is on TV or  
17 whatever it is, that doesn't seem to work. So we can  
18 talk about that, but at the same time we're also  
19 trying to keep where the issue is whole that people  
20 themselves have that option, but yet at the same time  
21 be able to keep a pull in for the opt-out issue and  
22 that's one of my primary concerns.

23 First, we did learn, I think,  
24 by our member who has come the furthest --- do you  
25 want to introduce yourself and the county you



1 represent?

2

REPRESENTATIVE BEYER:

3

Good morning, Chairman Preston.

4

Hi. I'm Representative Karen Beyer from Lehigh and

5

Northampton Counties.

6

CHAIRMAN PRESTON:

7

Yesterday I had informal

8

meeting with local elected officials within this

9

region discussing the Bill and hearing some of their

10

questions, and I think that we and the staff are

11

talking about it, because we heard some different

12

opinions that also help enlighten us. Sometimes you

13

have to be able to deal with those people who are

14

going to be talking. Also, if you notice in the

15

legislation, by the ordinance they have to have

16

community's needs as well. And I'm hoping there are

17

going to be enough consumer groups --- when we go to

18

Lehigh County for the next meeting, I know there's

19

--- consumer advocates going to be there, too, and

20

we're going to hear his opinions, too, so just want

21

to let you know. Questions? Chairman Godshall?

22

CHAIRMAN GODSHALL:

23

Richard, I just want to say

24

that I totally agree with your testimony about ---

25

you mentioned Verizon, not necessarily Verizon, but

1 just as a for instance. I have had the same  
2 situation with not only TV deals, but also cell  
3 phones, so it's out there and I know that it can  
4 cause, you know, problems as you indicated. So I  
5 appreciate your testimony.

6 MR. HUDSON:

7 Thank you.

8 CHAIRMAN PRESTON:

9 Representative Barbin?

10 REPRESENTATIVE BARBIN:

11 And I'm sorry if I missed this,  
12 but do you have a preferred period of time that the  
13 municipal aggregation contract should be limited to?  
14 You know, under your theory, you want to make sure  
15 that people have the best opportunity to be --- to  
16 receive the best price possible. What is your  
17 experience and what would you suggest for the  
18 committee to include as the maximum length of time  
19 for a municipal aggregation contract?

20 ATTORNEY HUDSON:

21 That's a great question.

22 Ultimately, I think the optimal solution is to not  
23 allow a municipal aggregation provider to lock a  
24 customer into a contract. Now, if the electric  
25 generation supplier wants to enter into a three-year

1 contract or a five-year contract with the  
2 governmental entity, that's between the municipality  
3 and the electric generation supplier, and I have no  
4 opinion as to what the maximum length of time should  
5 be for that contractual agreement. But that  
6 contractual agreement should not translate into a  
7 contractual obligation for a resident or citizen of  
8 that municipality.

9                   So that's what I'm focused on  
10 is the relationship between the customer is taking  
11 serve and is participating in the aggregation program  
12 and the ultimate aggregation provider. So if the  
13 customer fails to send in the opt-out notice, and  
14 they're enrolled effective their next period with the  
15 aggregation provider and then one month later, two  
16 months later, three months later or three years later  
17 the customer decides that there's a better product  
18 and service out there for them, they should be able  
19 to switch out of the aggregation program and take  
20 service with that other provider at any time without  
21 penalty.

22                   REPRESENTATIVE BARBIN:

23                   When you say at any time, do  
24 you mean at any time once a year? Do you mean at any  
25 time once a month or once --- is there any period of

1 time, because the whole idea in municipal aggregation  
2 or any kind of bulk buy in is that you agree to a  
3 commitment and that commitment allows the supplier to  
4 go out and buy electricity at a lower cost? Now, if  
5 you're not making any commitment to buy for any  
6 length of time, I don't see how a supplier of any  
7 kind, yourself included, would be able to get the  
8 best price for electricity, and this is an idea of  
9 trying to get the best price for electricity at a  
10 time we're coming out of the recession to keep the  
11 prices the lowest.

12 MR. HUDSON:

13 That's a great question. And  
14 we actually are a supplier to a large scale municipal  
15 aggregation program called the Cape Light Compact in  
16 Massachusetts, about 200,000 customers. And we're  
17 able to get very good competitive wholesale prices  
18 for customers in that program, and we do not lock  
19 them into a contract and we do not charge early  
20 termination fees. So it's possible to go out and  
21 inquire supply in bulk and achieve those economies of  
22 scale and scope and still not have these harmful, you  
23 know, customer penalties associated with an  
24 aggregation program. So I think the benefit of an  
25 opt-out municipal aggregation program is avoiding

1 customer acquisition costs, achieving that initial  
2 upfront scale as a supplier. If I'm going out into  
3 the mark and picking up customers one by one by  
4 knocking on doors or sending out fliers, that has a  
5 lot of costs. Opt-out aggregation allows me to avoid  
6 those costs and gives me a large pool of customers at  
7 once. And then if customers are allowed to leave  
8 that program, there is some incremental additional  
9 risk associated with that, and I recognize that fact.  
10 But I think the overall customer benefit from  
11 allowing those customers to choose their service  
12 provider far outweighs the incremental risk involved  
13 to the supplier.

14 REPRESENTATIVE BARBIN:

15 Thank you.

16 CHAIRMAN PRESTON:

17 Any other questions? Thank you  
18 very much. We appreciate and look forward to talking  
19 with you in the next week or so. Next, we have Tony  
20 Banks, Vice President Product & Market development  
21 for FirstEnergy Solutions. You're welcome to sit  
22 down and appreciate both of you, for the reporter's  
23 benefit, if you could introduce yourselves with a  
24 name.

25 MR. BANKS:

1                   Okay. I'm Tony Banks, Vice  
2 President of FirstEnergy Solutions. FirstEnergy  
3 Solutions is a competitive energy supplier serving  
4 business and residential customers in the  
5 Commonwealth of Pennsylvania and five other states in  
6 this region.

7                   With me today is Brenda Fargo.  
8 She is our Manager of Government Aggregation Sales  
9 for FirstEnergy Solutions. And Brenda is actually  
10 one of the foremost experts on municipal aggregation,  
11 having launched governmental aggregation in Ohio ten  
12 years ago and she's been with the program --- the  
13 entire evolution of government aggregation in Ohio  
14 'til today. And she'll be available with me to  
15 answer any detailed questions you might have one on  
16 one about the program and how it's worked in Ohio and  
17 how we anticipated it would work in Pennsylvania.

18                   Chairman Preston, Chairman  
19 Godshall, Members of the Committee, good morning and  
20 thank you for the opportunity to address the  
21 committee today on legislation to create opt-out  
22 municipal aggregation in Pennsylvania, legislation  
23 that we believe is timely and will promote greater  
24 competition and savings to residential and small  
25 business customers in the Commonwealth.

1                   As you may know, FirstEnergy  
2 Solutions is a wholly owned subsidiary of FirstEnergy  
3 Corp., which announced in February a proposed merger  
4 with Allegheny Energy, an investor-owned utility  
5 based in Greensburg, Pennsylvania. FirstEnergy  
6 Solutions currently sells competitive electric  
7 generation to commercial and industrial customers in  
8 Pennsylvania, and small business customers enjoy the  
9 benefits of savings afforded larger commercial and  
10 industrial customers. Again in Pennsylvania, we'd  
11 like very much for the small customers to enjoy the  
12 savings that the larger industrial and commercial  
13 customers have enjoyed for a number of years. And  
14 the thing I want to say is I want to assure you that  
15 FirstEnergy Solutions will remain an active  
16 participant in Pennsylvania's competitive market for  
17 electricity following FirstEnergy's merger with  
18 Allegheny.

19                   We're here to talk about  
20 opt-out municipal aggregation, and we believe it's  
21 one of the most effective options to bring savings to  
22 large numbers of small business and residential  
23 customers in Pennsylvania. That's why FirstEnergy  
24 Solutions strongly supports House Bill 2619, which  
25 would make this effective rate mitigation tool a

1 reality for communities and customers throughout the  
2 Commonwealth.

3                   And we really believe that now  
4 is the time to move forward with this Bill, with rate  
5 caps having already expired for many utilities and  
6 the rate cap set to expire for Penelec, Met-Ed, West  
7 Penn Power and PECO at the end of this year, this  
8 legislation is very timely. We can look right next  
9 door to Ohio to see that customers are receiving  
10 meaningful savings on their electric bills as a  
11 result of government aggregation.

12                   In my previous testimony  
13 offered to this committee at its prior hearing on  
14 municipal aggregation in March of this year, I  
15 provided a basic explanation of what municipal  
16 aggregation is and what it is not. Let me quickly  
17 cover those points again.

18                   Opt-out municipal aggregation  
19 is a way for local communities to combine their  
20 residents and small businesses into a single, large  
21 buying group. This will attract participation from  
22 more generation suppliers and will promote greater  
23 competition in the retail electricity marketplace.  
24 The concept is pretty straight forward. Rather than  
25 compete for individual customers, which drives up



1 marketing and administrative costs, electric  
2 generation suppliers will complete to serve the  
3 larger buying groups established by the local  
4 municipalities on behalf of their citizens. And the  
5 lower cost to enroll these customers allows the  
6 supplier to pass the savings on to the customer in  
7 the form of lower prices.

8                   However, opt-out municipal  
9 aggregation does not prevent individual customers  
10 from exercising their right to choose their own  
11 generation supplier.

12                   CHAIRMAN PRESTON:

13                   Just for the record, would you  
14 please read that one sentence again?

15                   MR. BANKS:

16                   All right. Opt-out municipal  
17 aggregation does not prevent individual customers  
18 from exercising their right to choose their own  
19 electric generation supplier.

20                   CHAIRMAN PRESTON:

21                   I want to say that there are  
22 elective officials and people here from other small  
23 town --- and sometimes I just want to make sure that  
24 it's clear that we're not trying to limit people's  
25 choices. Sorry to interrupt.

1                                   MR. BANKS:

2                                   No, point well made. Even if a  
3 local government elects to provide opt-out municipal  
4 aggregation opportunities for the residents,  
5 customers will still have the ability to opt out of  
6 the municipal buying group and choose a different  
7 supplier for their electric generation. Customers  
8 who do not choose a different supplier will remain in  
9 the larger buying group and receive savings on their  
10 electric bill. Simply put, by being part of the  
11 municipal aggregation buying group, customers will  
12 save on their electric bill even if they do nothing  
13 at all.

14                                   Opt-out municipal aggregation  
15 is the most efficient method to provide greater  
16 retail choice to residential and small business  
17 customers within the existing structure already in  
18 place today in Pennsylvania for default service.  
19 Today, if customers take no action to shop for  
20 electric generation service, they automatically  
21 receive the default service from their local electric  
22 utility. Similarly, under opt-out municipal  
23 aggregation, customers who take no action will  
24 automatically default to the electric generation  
25 supplier with whom their municipality has negotiated

1 a price, a price presumably lower than the default  
2 price of their local utility. In both cases, the  
3 prices are established through a competitive process.  
4 Also, under the current default service structure and  
5 with opt-out municipal aggregation, customers have  
6 the ability to shop with an electric generation  
7 supplier of their choice or take service from their  
8 local utility. The point here is that very similar  
9 to what has happened today, it just provides another  
10 option. So opt-out municipal aggregation does not  
11 take away choice from a consumer. It simply  
12 establishes an additional option that should result  
13 in receiving electric generation service at a lower  
14 price than a utility default service even if the  
15 customer takes no action at all.

16 With opt-out municipal  
17 aggregation, the average customer have the same  
18 buying power and opportunity to save as a group of  
19 larger businesses and industries. And again, for  
20 those residential customers and small businesses who  
21 don't have the time, expertise or desire to shop for  
22 electric generation themselves, they will benefit  
23 from being part of a buying group that weighs various  
24 offers and makes the buying decision that benefits  
25 the entire group.

1                   Another important point about  
2 opt-out municipal aggregation is that a municipality  
3 is not obligated to buy on behalf of its citizens.  
4 Under the proposed litigation, the municipality is  
5 merely provided an opportunity to make an opt-out  
6 electric aggregation option for citizens if there is  
7 a benefit in doing so. Presumably, a municipality  
8 would aggregate on behalf of the citizens only if  
9 there is an opportunity to reduce their electric  
10 bill.

11                   Here's how opt-out municipal  
12 aggregation would work in Pennsylvania under House  
13 Bill 2619. First, municipalities would adopt an  
14 ordinance in order to apply for an electric supplier  
15 license with the Pennsylvania Public Utility  
16 Commission. This license would enable that entity to  
17 act as a municipal aggregator of electric generation  
18 supply service on behalf of its citizen.

19                   The aggregator would then  
20 negotiate with various electric generation suppliers  
21 and eventually enter into a contract with the  
22 supplier with the most attractive offer. Once a  
23 contract is signed by the municipality and the  
24 winning supplier, all eligible residential and small  
25 commercial customers within the municipality's



1 than one million customers served by those  
2 aggregation groups receive savings every month from a  
3 variety of qualified suppliers.

4                   The Ohio Consumers' Counsel  
5 estimates that a residential customer using 850  
6 kilowatt hours of electricity is saving up to \$110  
7 annually through governmental aggregation. And  
8 Ohio's two largest governmental aggregators report  
9 that residential and small businesses in their member  
10 communities have saved more than \$100 million through  
11 these programs. In fact, governmental aggregation is  
12 responsible for about 90 percent of the shopping  
13 activity among residential customers as well as  
14 70 percent of commercial customers switching to  
15 competitive generation suppliers in Ohio. It's safe  
16 to say that this level of shopping and savings for  
17 residential and small business customers would not  
18 occur without opt-out municipal aggregation.

19                   So to summarize, I'm convinced  
20 that opt-out municipal aggregation, as proposed in  
21 House Bill 2619, will provide significant energy  
22 savings to residential and small business customers  
23 here in the Commonwealth through increased customer  
24 shopping with variety of generation suppliers. And  
25 I'd like to reiterate the very important fact that

1 the proposed legislation would simply give local  
2 officials the opportunity, not the obligation, to  
3 decide whether municipal aggregation is the right  
4 choice for their community. Nothing in the Bill  
5 would mandate the municipalities pursue aggregation.

6                   So we commend Chairman Preston  
7 for his leadership on this issue and urge timely  
8 casting of this legislation so that the benefits of  
9 electric competition in Pennsylvania can be more  
10 fully realized. FirstEnergy Solutions looks forward  
11 to working closely with the committee, the General  
12 Assembly and the Commission to make municipal  
13 aggregation a reality in Pennsylvania.

14                   So thank you again for the  
15 opportunity to testify today. My colleague, Brenda  
16 Fargo, and I are available to answer any questions  
17 you may have. Thank you.

18                   CHAIRMAN PRESTON:

19                   Representative Barbin?

20                   REPRESENTATIVE BARBIN:

21                   Thank you, Mr. Chairman. Thank  
22 you, Mr. Banks, for your testimony. One of the  
23 questions that was raised yesterday in our  
24 informational meeting was whether or not school  
25 districts would have the ability under this statute

1 as currently drafted to be able to enter into a  
2 contract for aggregation with municipalities. Is it  
3 your experience in Ohio that in school districts have  
4 also used governmental aggregation for the purposes  
5 of entering into contracts?

6 MR. BANKS:

7 Well, in Ohio, school districts  
8 typically ban together. We have an Ohio School Pool,  
9 which is maybe 100 or so school districts, and the  
10 Ohio School Council, they ban together and they will  
11 buy electricity on their own. So in Ohio, they are  
12 not part of the aggregation.

13 REPRESENTATIVE BARBIN:

14 So the definition in Ohio under  
15 government aggregation is solely municipal. Is that  
16 your recommendation for Pennsylvania's Bill if they  
17 choose to move forward with municipal aggregation?

18 MR. BANKS:

19 Yeah. Our recommendation is  
20 residents and small business customers confine in  
21 ---. Other large organizations typically have  
22 affinity groups and other things where they can  
23 negotiate contracts that are at least competitive  
24 with what a municipal aggregator might be able to  
25 get. So, yes, I would recommend that ---.



1                                   REPRESENTATIVE BARBIN:

2                                   One last question. It is the  
3 history in Pennsylvania that most people when faced  
4 with choosing do not choose. I mean, that's the big  
5 problem is that most people even though they know  
6 they can reduce their cost of electricity by shopping  
7 have gotten so used to a bill --- you know, counting  
8 one bill for all three parts of your electric, which  
9 is generation, distribution and transmission, just  
10 don't want to go out and shop themselves. So what  
11 this Bill really does is to try and make it easier  
12 for those customers. They might be more elderly  
13 people that they should just know that if we pass  
14 this Bill, they'll have an option to choose a  
15 supplier and still have the same unitary bill being  
16 sent out to them. Is that accurate, that no matter  
17 who you choose, you're still going to have one bill?

18                                   MR. BANKS:

19                                   Yeah, from a billing  
20 perspective, everything looks the same. It typically  
21 will identify the supplier that you negotiate a  
22 better rate with. But the customer generally won't  
23 see a lot of difference in their interaction with the  
24 utility other than having that supplier identified  
25 and presumably at a lower rate than they were

1 receiving from the default supplier.

2 REPRESENTATIVE BARBIN:

3 So really what this is about is  
4 if you don't do anything, you become a default ---  
5 you get the rate of the default provider. But if you  
6 choose to either shop yourself or if we pass this law  
7 and municipalities have the right to go out and shop  
8 for their residents of their municipality, there is a  
9 possibility of lowering that price because you're  
10 lowering the cost in aggregating the customers. Is  
11 that a fair statement?

12 MR. BANKS:

13 I think it is fair. We look at  
14 it as another default option for you.

15 REPRESENTATIVE BARBIN:

16 And how many people in Ohio are  
17 getting a lower rate by receiving, you know, the  
18 benefit through government aggregation which would be  
19 our municipal aggregation?

20 MS. FARGO:

21 Over a million customers  
22 currently are being served through multiple municipal  
23 aggregation programs in Ohio. And I want to make an  
24 important distinction, too. Not only do the  
25 customers have the opportunity to opt out, so the



1                                   REPRESENTATIVE BARBIN:

2                                   Thank you for your testimony.

3 I just wanted to make sure we emphasize the fact Ohio  
4 is about the same size as Pennsylvania. A million  
5 people have saved money because the State of Ohio has  
6 allowed the government entities an additional option,  
7 and most people won't choose a supplier, but in Ohio  
8 because they had this law, a million people were  
9 benefiting and that means a million people had lower  
10 electric bills.

11                                   CHAIRMAN PRESTON:

12                                   Representative Beyer?

13                                   REPRESENTATIVE BEYER:

14                                   Thank you, Mr. Chairman. Just  
15 really quickly. I like Representative Barbin's line  
16 of questioning related to school districts having  
17 been a former school board president and know that  
18 oftentimes through intermediate units, kind of a  
19 flagship of them, but they enter into consortiums and  
20 they're doing it with healthcare insurance for their  
21 employees, that sort of thing. I would love to see  
22 this opportunity extended to school districts who are  
23 heavy energy users.

24                                   But I just wanted to answer ---  
25 get an answer, just two quick questions. Why a

1 30-day opt-out period? What made you --- why  
2 30 days? Why not 60? Why not 90? Why 30? That's  
3 just the magic number?

4 MS. FARGO:

5 In Ohio, it's actually 21 days.  
6 There's no magic to it. The idea is to give the  
7 customer long enough time to review the materials  
8 that's reasonable but not so long that they forget,  
9 it becomes --- you know, put aside. You need to do  
10 something with it, and it's just long period of time.  
11 It also allows for those savings to get to those  
12 customers quicker. If you're contracting with a  
13 supplier and they have to hold their price for  
14 60 days or 90 days, that may become problematic in  
15 getting the best price possible. So you need a  
16 shorter period of time, and the thought was 30 days  
17 was a reasonable amount of time for folks to really  
18 review the materials.

19 MR. BANKS:

20 And people who are going to act  
21 will act within the 30-day, and typically that's what  
22 you found and just thought that was a reasonable  
23 number. Longer than Ohio, but ---.

24 REPRESENTATIVE BEYER:

25 I just want you to know. I

1 bought a pair of glasses at Lens Crafters, and I had  
2 30 days to take them back and something happened and  
3 I went beyond the age of 45, where days go like this  
4 now. I'm 48, and the days are not just --- and  
5 before I knew it, 30 days had lapsed and I couldn't  
6 take the glasses back. But I mean, I think 30 days  
7 is a short period of time, and I tell you why.  
8 They're really only getting one bill, so they're  
9 really not feeling the savings that is suggested  
10 here. So can I --- I'm not seeing any numbers. Can  
11 I just ask you what the average kilowatt hour in Ohio  
12 is for a customer in aggregated system versus the  
13 average price, that is, of the kilowatt hour in  
14 Pennsylvania, say in my market, which is PPL in the  
15 City of Allentown? And we just went through the caps  
16 coming off at the beginning part of this year, and I  
17 think that I just received --- my average bill was  
18 around \$200 to \$250 a month, my average electric  
19 bill, because my family is consumer of electronics,  
20 not me though. I just got an electric bill for \$625  
21 I think it was. No, it's true that we use more  
22 energy during summer in my home, but the price of  
23 electricity for every consumer in the Allentown area  
24 is extraordinarily high. It's from 30 to 50 percent  
25 higher. Mine is a little better than 50 percent. So

1 do you have a price difference? Do you have the  
2 actual numbers banks ?

3 MR. BANKS:

4 Well, first of all, it's hard  
5 to compare Allentown to Ohio because a lot of things  
6 go into the price of getting the power from the  
7 central part of the United States to the east, have  
8 congestion and other things. If you put that aside,  
9 in Ohio in our service territories, for example, the  
10 typical offer is six percent off for residential  
11 customers and four percent off for commercial  
12 customers. However, in some of the other service  
13 territories like Duke, we've seen savings as high as  
14 20 plus percent off of the default service price. So  
15 again, it will vary depending upon the market. It  
16 will vary depending upon the cost of getting  
17 generation supply to that market. And so we  
18 typically look at it in terms of what is the savings  
19 percentage off of the default service price, and  
20 again, it has varied from a low of four and six  
21 percent to a high of 20 plus percent depending on the  
22 market.

23 REPRESENTATIVE BEYER:

24 Okay. Just one final question.  
25 You know, you have in here aggregated customers would

1 receive additional notices every three years  
2 regarding their right to opt out. So does that mean  
3 that you enter into this kind of municipal  
4 aggregation set up, that the municipalities engage in  
5 a contract with the energy supplier over a three-year  
6 period, that the contract lasts for three years?

7 MS. FARGO:

8 That's really up to the  
9 negotiations between the community and supplier. It  
10 can be less than three years. What it's saying is a  
11 maximum of three years. So let's say the community  
12 contracts for two years, 24 months, that would be the  
13 opt-out period. At the end of that opt-out period,  
14 whatever was in the notification that was originally  
15 sent to the customer, if it says two years, at the  
16 end of that two years, they would receive another  
17 notice from whatever the next cycle would be in that  
18 program. So it's not saying it's always going to be  
19 three-year. It is the minimum of three years, so at  
20 least every three years the customer is going to have  
21 to have some kind of notification.

22 REPRESENTATIVE BEYER:

23 And if there's no response by  
24 the customer, it's then assumed that they're just  
25 going to enter into --- continue to be a customer of



1 the municipal program?

2 MS. FARGO:

3 Correct. It's another complete  
4 opt out. You send an opt out to everybody just like  
5 you did the first go around and you go through the  
6 same process. I wanted to touch on your 30-day  
7 concern. Again, this is part of the negotiations  
8 that the community should have with the supplier,  
9 because the way that we function in our program, we  
10 understand, especially the first time that people get  
11 these notices, they don't know what the process is,  
12 they don't understand what this is. We're somewhat  
13 trained to send things in to join. We're used to  
14 those kind of opt-in programs. So what we do in our  
15 program, within the first couple of months, if  
16 someone calls us and says I missed the notice, I  
17 didn't know what this was, I don't want to be in the  
18 program, we let them out. Likewise, if they send the  
19 notice thinking that they were joining and they call  
20 us and say two months later we're not in the program,  
21 we're supposed to be receiving savings, what  
22 happened. We look up the record and find the  
23 postcard they sent in and say, well, yeah, you opted  
24 out. Well, no, I sent the postcard in. Yeah, you  
25 opted out. Would you like to be in the program?

1 Yes, we get them in the program. So the first few  
2 months after the program starts everyone is kind of  
3 getting where they need to get to. But that's an  
4 important part, that you need to have negotiations  
5 with the supplier to make sure there's that  
6 flexibility.

7 REPRESENTATIVE BEYER:

8 Just really quickly final  
9 question. How many municipalities does Ohio have?  
10 Do you know? I mean, you're using Ohio as an  
11 example, so I was just curious as to how many. I  
12 mean, what do we have, over 2,600 municipalities in  
13 Pennsylvania? I don't think Ohio has anywhere near  
14 that, but ---.

15 MS. FARGO:

16 It's in the thousands, but the  
17 distinction in Ohio is you have got counties and then  
18 you've got townships, so there can be 12 townships  
19 with in a county. But the way the aggregation  
20 programs are working in that scenario is the county  
21 does it on behalf of the rural townships. So they  
22 will aggregate the entire county, which is why in the  
23 legislation it allows for intergovernmental  
24 cooperation, one or more committees or through a COG  
25 or any of those kinds of things. Communities can ban

1 together.

2 REPRESENTATIVE BEYER:

3 Right. Thank you very much.

4 Thank you, Mr. Chairman.

5 CHAIRMAN PRESTON:

6 This goes off of the  
7 conversation I had with some of the local  
8 municipalities.

9 REPRESENTATIVE BEYER:

10 Sorry I missed it.

11 CHAIRMAN PRESTON:

12 Your question was right on  
13 time, and I'll give you an example. Maybe we might  
14 look at Pike County. But when we're talking to some  
15 of the local officials here from some of the  
16 different counties here, they couldn't imagine --- in  
17 my county, I have 130 municipalities in Allegheny  
18 County, but they can imagine 30 local municipal  
19 governments passing authority it on to the county,  
20 but it doesn't mean --- I think if you remember from  
21 the hearing at that time, that Representative  
22 Petrarca was concerned this didn't help little  
23 people, but this gives the opportunity for some of  
24 those communities that have 100 or 150 people to  
25 merge, calling themselves with a town of a thousand

1 or 15,000, i.e., for example, in this legislation,  
2 the people who already have the authority of the home  
3 rule ---. Let's take Johnstown for example here.  
4 Johnstown can negotiate it now without this  
5 legislation because they're home ruled, but if you  
6 pass this legislation, you create a stronger pull to  
7 negotiate things. Maybe eight or ten communities  
8 instead of forming their own might want to join  
9 Johnstown or, you know, a mixture. There are some  
10 towns for an example that --- as you know in this  
11 state, we have rivers that are the borders for  
12 counties. So maybe three or four communities on one  
13 side of the river and two or three on the other side  
14 of the river from different counties can form an  
15 aggregation team and work together and have greater  
16 pull to negotiate and that's part of the things that  
17 we were looking at.

18                   If you notice, we kept on using  
19 the word negotiate, and I want to come back to that.  
20 There were some people who were looking at, well,  
21 maybe it should be five years, maybe it should be ---  
22 well, one of the reasons why I set on it --- I said  
23 on three years, works back to the 30-day issue, is  
24 that this means that there's options, but it doesn't  
25 mean that that barrel cannot even talk to another

1 supplier. You see what I'm talking about? So the  
2 notice is not just on the utility, but it's on the  
3 elected officials of that borough that the people  
4 elect on whether or not there is another option for a  
5 better price or an --- and/or the people that are  
6 willing to deal with, if they can't come up with  
7 something that would make it appealable for them to  
8 renegotiate or maintain that relationship with that.  
9 So that three-year period wasn't arbitrarily chose,  
10 but it doesn't mean that it's a 15 or 30-year  
11 contract.

12 REPRESENTATIVE BEYER:

13 It could be less than three  
14 years, though?

15 CHAIRMAN PRESTON:

16 Yes, negotiated. But not only  
17 that, if you notice in the Bill --- and we'll be  
18 going into this a little bit more when we come up to  
19 your way, Lehigh. The PUC also goes over the  
20 contract as part of the process when the two come to  
21 an agreement. So you have this issue that they're  
22 making sure that there's protection, that both sides  
23 are protected, that they are going to do the contract  
24 just as well. The issue about the 30-day opt-out or  
25 45 days or 21 days ---.

1                   REPRESENTATIVE BEYER:

2                   Or 60.

3                   CHAIRMAN PRESTON:

4                   Well, let's look at it this  
5 way, though. Before there is an ordinance, there  
6 should be two public meetings. One of the problems  
7 that we always have no matter how you look at it ---  
8 and we'll question you since you deal so much down  
9 here in the trenches. You heard previous testimony,  
10 but we've been going through this, and I see my good  
11 friend, Mike Lubb (phonetic), out there when we were  
12 talking about this in the past with notification for  
13 utility shutoffs and things. We went through the  
14 issue about phone calls. We've been through the  
15 issue of cost with also certified mail. We have met  
16 the issue of having somebody come up, posting a  
17 notice or letter, delivering it or at least knock on  
18 the door to say that that person got in touch, and  
19 still we can't really have a saturation point where  
20 there's so many people that say, well, we didn't  
21 know. And this is like, you know, building a better  
22 mouse trap. We're willing to look at it because  
23 looking at utilities themselves for what they pay the  
24 PUC for notification, so it's a big problem. Do you  
25 have any thoughts on, you know, why or how?

1                   MS. FARGO:

2                   To better notify people?

3                   CHAIRMAN PRESTON:

4                   Yes.

5                   MS. FARGO:

6                   What we have found to be  
7 successful is that we send the notifications, but we  
8 also engage the local weekly papers, the local media  
9 to get that word out that there is an opt-out  
10 notification. And frankly, it's just an education  
11 process, because we find that in a new community that  
12 has never done opt-out aggregation before, the first  
13 time they go through it, there's about an eight to  
14 ten percent opt-out rate. People don't understand it  
15 or don't want to be in it. By the time --- and we  
16 have communities that have gone through six or seven  
17 opt outs through the last ten years. By the time you  
18 get to some of those later ones, people aren't opting  
19 out. They understand it, they look at it and say,  
20 okay, I know what this is and they threw it away.  
21 We're down to two or three percent opt-out in many  
22 communities where the folks are used to it. So just  
23 like anything else, you just got to get the education  
24 out there so people are familiar with it.

25                   And also remember that this is

1 a savings program, so under the way that we do our  
2 program, it's a guaranteed savings. People can't be  
3 hurt. They can't be --- they can't pay more under  
4 the program. So the worst that can happen is they  
5 are with the program for a couple month and say, hey,  
6 I did want to be in this and they stay for two months  
7 and they go back to the utility. So it's not as if  
8 there's harm being done to them through that process.

9 CHAIRMAN PRESTON:

10 Well, thank you, because I  
11 entertained the thought of maybe putting in a course  
12 that would be public notice, but even that doesn't  
13 --- that doesn't really --- any other questions?

14 REPRESENTATIVE REED:

15 Just real quick. What is the  
16 average opt-out rate in Ohio?

17 MS. FARGO:

18 Like I said, anywhere from ten  
19 --- ten percent originally, and then it goes down to  
20 two to five percent depending upon how long you had  
21 the program.

22 REPRESENTATIVE REED:

23 How long has it been in effect  
24 in Ohio?

25 MS. FARGO:



1 We start in 2001.

2 REPRESENTATIVE REED:

3 Thank you.

4 CHAIRMAN PRESTON:

5 I want to thank you very much.  
6 Appreciate it. Before our next testifier, I do want  
7 to recognize Chairman Godshall because he has another  
8 appointment he has to go to.

9 CHAIRMAN GODSHALL:

10 I have an appointment back that  
11 I have to leave for. I just want to thank Bryan and  
12 everybody involved for their hospitality and  
13 information. I think what we gained yesterday was  
14 very knowledgeable and the same with today. And  
15 appreciate, you know, the testimony and testifiers  
16 and say thank you. And I live outside of  
17 Philadelphia, so it's a little bit of a ways back.  
18 And I did benefit from the hearings, and I can  
19 honestly appreciate the people that came out and  
20 everything that was presented. I do look forward to  
21 working with --- you know, on the bills to make sure  
22 that we get everything right and we don't make a  
23 mistake and then have to come back and correct  
24 something if we find problems out in the field. So  
25 thank you, and I will have to be leaving at this

1 time. Thank you.

2 CHAIRMAN PRESTON:

3 Chairman Godshall, have a safe  
4 trip. Next we have Theresa Ringenbach. Hope I  
5 pronounced that right. Midwest Government &  
6 Regulatory Affairs from Direct Energy. Nice to see  
7 you again.

8 MS. RINGENBACH:

9 Thank you. Nice to see you.  
10 Thank you, Chairman Preston, Representative Barbin  
11 for holding the hearings here in your area and  
12 Members of the Committee. As you said, I'm the  
13 Midwest Manager of Government & Regulatory Affairs  
14 for Direct Energy. Just a little bit of background  
15 on Direct Energy. Direct Energy is actually part of  
16 a bigger global corporation called Centrica. And in  
17 the United States, Direct Energy has six million  
18 customer relationships, and our ---.

19 CHAIRMAN PRESTON:

20 You want to pull that just a  
21 little bit closer to you?

22 MS. RIGENBACH:

23 Is it on? I just have to bend  
24 down. I'm too tall. So Direct Energy in  
25 Pennsylvania, our North American headquarters is

1 located in Pittsburgh. We have about 300 employees  
2 in our Pittsburgh office, eight of which have been  
3 added over the last six months and are actually  
4 moving them from other parts of the country to  
5 Pennsylvania. We also just recently acquired  
6 Clockwork Services, which added about another 500  
7 employees to the Direct Energy employees right here  
8 in Pennsylvania. And that side isn't just energy.  
9 That side deals with HVAC, a lot of the smart grids  
10 and things like that, so we try to cover all sides of  
11 the energy business.

12                   So I'm here today to talk about  
13 municipal aggregation, and just a little bit of my  
14 history with municipal aggregation is I started in  
15 the energy industry in 2001 selling municipal  
16 aggregation programs for another energy company in  
17 Ohio, and that was for gas and electric, so I not  
18 only was living in Ohio and participating as a  
19 consumer in these programs, I was selling them on  
20 both gas and electric sides, so I have a little bit  
21 of a different take given that I participated in a  
22 program that was actually served by another supplier  
23 in my own community.

24                   I have watched these programs  
25 in Ohio grow from, you know, simply being the only



1 want to compare it to the apples to apples chart so I  
2 can make sure I'm getting the best rate. You know,  
3 is our community done negotiating the new rate?  
4 That's the education that this program leads to. You  
5 don't have to be the only gig in town, but you do  
6 want them to understand that's another option for  
7 them.

8                   So I want to thank the  
9 committee for taking their time to really give this  
10 legislation right. I know there have been a couple  
11 different drafts of it, and it's really working  
12 through all of the kinks, and I think everyone has  
13 done a really, really good job of trying to make sure  
14 that the language is right, and it's a balance of  
15 consumer protections versus limiting the ability of  
16 other suppliers to get into the competitive market.

17                   There are a couple of things  
18 that Direct still sees that we've experienced that  
19 we'd like to have worked into the Bill. The first is  
20 while FirstEnergy Solutions may not have experienced  
21 this in Ohio, because there are very few suppliers to  
22 electric aggregation, the gas side, there's a number  
23 of gas suppliers that supply not only aggregation  
24 programs, but direct sided programs, which is what  
25 you have in Pennsylvania on the electric side. You

1 have a ton of suppliers out there right now that  
2 already have offers to customers, and what we've seen  
3 is while the Bill is very clear that you cannot  
4 automatically include someone who's already in a  
5 contract with a supplier, it also says that that  
6 customer can't just jump into the municipal  
7 aggregation program. So if the customer is in  
8 contract with ConEdison Solutions and likes their  
9 community program rate better, the way this is ran is  
10 similar to what we've experienced in Ohio on the gas  
11 side. The customer literally has to go back to the  
12 utility to become eligible to participate in their  
13 community's program. Something that can take several  
14 months because they actually have to switch back, be  
15 certified in the community for a month, get an  
16 opt-out notice, wait another 30 days. So it's a few  
17 months down the road, and they missed out on this  
18 lower rate that they want.

19                   So we would actually like it  
20 --- the legislation to allow for a customer not to  
21 receive the opt-out notice, maybe not even to receive  
22 any materials on the program, but if they find out,  
23 they have the ability to choose to join and not be,  
24 you know, forced to jumps hoops to get into their own  
25 community's program.

1                   The second item that I just  
2 want to touch on a little bit actually goes to  
3 Representative Barbin's questions to which Rich  
4 Hudson commented, which is ultimately we've seen  
5 contracts in Ohio that go out for ten years. And  
6 Ohio law actually says every two years those  
7 customers get an opportunity to opt out of the  
8 program without any consequence. And we really would  
9 like something that not only limits those contracts  
10 with the community, so that the community also has to  
11 go out and bid and rebid and make sure that they're  
12 getting the right --- the best offer every three  
13 years, but that every year, the customer gets an  
14 opportunity to opt out, which is different from Ohio.

15                   Again, I want to point out,  
16 Pennsylvania has a thriving competitive market where  
17 there are lot of electric suppliers out here making  
18 regular offers. So to address the risk issue where  
19 the supplier, you know, might have early termination  
20 fee or knows that they're going to be with that  
21 customer for a year, but also to allow that customer  
22 the next step in education, which is ever a year  
23 they're reminded this is your community's rate, you  
24 have an option, you have other choices. So those are  
25 the two things that we're still looking to be added

1 into the legislation.

2 I also just wanted to touch a  
3 little bit on some of your questions. On the 30-days  
4 and it being too long and your comments about more  
5 notices, Direct Energy actually takes that time to do  
6 community events. We go to senior centers. We do  
7 senior events. We do council meetings. We do other  
8 things within the community to get the word out that,  
9 you know, your opt-out period is happening right now.  
10 So that's beyond the press that, you know, we also  
11 engage. It's another way to come face to face in  
12 touch with those customers and let them know this is  
13 happening. And we've experienced the same drops in  
14 opt outs as the programs move on and people become  
15 more educated. We have also experienced communities  
16 where they have actually --- when customers call,  
17 they give them the apples to apples chart or the  
18 other offers that are out there that they can  
19 printout in Pennsylvania like the OCA, right, and say  
20 our community program is one option for you, it's a  
21 rate being negotiated, you don't have to take it,  
22 here's other options out there. So it is another way  
23 to face to face touch the customers and bring them a  
24 little more education on everything that they can do  
25 to manage their electric bill.



1                   So again, thank you for letting  
2 me share my experience with you. As always, I'm  
3 available, Direct Energy is available to help with  
4 any questions.

5                   CHAIRMAN PRESTON:

6                   Okay. I do have to commend you  
7 because your customer service has been very good as  
8 you expanded across the state. One of the things  
9 that goes on with Representative Beyer's questioning  
10 and why I looked at three years, because I know about  
11 the ten-year issue and the two-year, part of the  
12 problem of two, you have municipalities that are  
13 volunteered commissions and supervisors along with  
14 borough council, people that meet once or twice a  
15 week as compared to Pittsburgh or Johnstown or  
16 Harrisburg where they meet every week. And they  
17 don't have the staff, and so I was trying to reach a  
18 happy medium. And I agree about the issue with the  
19 notice issue, but then you also have some rural towns  
20 that might be --- you know, up by the New York line  
21 that might be 48 miles across with only 400 or 500  
22 people and talk about having a community outreach,  
23 you know, you really have to drive in a side truck  
24 and go knock on every door in the agriculture and the  
25 farm communities.

1                   So that's one of the reasons I  
2 was looking again to where the local municipalities  
3 know within two years they have to start making up  
4 their mind what they're going to do, and in the third  
5 year, they're going to look, is there somebody else  
6 they want to deal with, do we want to renew another  
7 three-year contract. In other words, they can put  
8 options in it. Do you see what I'm talking about?  
9 But that was one of these things I wanted to look at  
10 because with a ten-year contract --- I can understand  
11 every two years, but with a three-year agreement, it  
12 forces both sides, and I think we have come into this  
13 business and realized how volatile some situations  
14 are. But at the same time when we were meeting with  
15 the officials --- Dave, you were there as well. You  
16 can see some of their faces, for three years they  
17 basically know what their costs are for the budgets.  
18 This includes the cost for the municipality  
19 electricity. This is energy studies to be able to  
20 balance, and that's what we're looking at --- five  
21 years might be too long because things change. A  
22 year and a half might be too short. Ten years is  
23 definitely in my personal opinion --- my personal  
24 opinion, maybe a little too long.

25                   And when you're starting

1 something new, you don't want to commit somebody or  
2 the township, and the boards they change. They do  
3 change. You know, they have their elections and they  
4 overlap, and not every town has their elections at  
5 the same time because some towns have one borough or  
6 township and I have two boroughs in my district.  
7 Some of them only 60 percent is elected one term and  
8 the other 40 percent and then some boroughs everybody  
9 is elected. So you know, you have to reach this  
10 meeting where people have a say, the local elected  
11 official and the people themselves. So that's where  
12 I kind of looked at the three years instead of the  
13 five years because the five years you only --- this  
14 forces --- if there is a change in administration,  
15 they have that option. It gives them --- I wanted to  
16 explain that for you.

17                   We'll still try to work with  
18 this issue, the 30-day, you know, notification, that  
19 kind of stuff. That's one of the things that you try  
20 to look and you're saying, what's a perfect bill.  
21 Well, everybody either agrees with it or there are  
22 parts of the bill that everybody disagrees, but they  
23 only disagree on the same parts. So everybody has to  
24 have a little thing they're not happy with, and  
25 that's part of what we're trying to do to here, give

1 people a chance to have their own opportunity. And I  
2 want to explain to you --- just kind of a  
3 reiteration. Representative Barbin.

4 REPRESENTATIVE BARBIN:

5 I just want to thank you for  
6 your testimony. Along with ConEdison and FirstEnergy  
7 Solutions, there's another company, Glacial Energy,  
8 we are all here to help consumers, whether they're  
9 residential or small businesses, lower their electric  
10 bills. Knowledge is power. You've given us a lot to  
11 think about, but the bottom line is we have at least  
12 four solutions even before this Bill becomes law. If  
13 the bill becomes law, then we have another solution.  
14 So thank you for the input of making the Bill better,  
15 and thank you for coming to Johnstown and helping  
16 lower the overall electric cost for consumers. I'll  
17 be passing on all of your information to any  
18 residents or any business that has or wants to lower  
19 their electric bill.

20 MS. RIGENBACH:

21 Thank you.

22 CHAIRMAN PRESTON:

23 Yes. I'd also like to thank  
24 the residents and people here, and I happen to have  
25 the honor of being trustee for the University of

1 Pittsburgh. It's always good to see our parts of our  
2 structure thriving and doing well. And the other  
3 thing is when we go to Lehigh County, this will give  
4 us a chance to be able to hear because we're having a  
5 little different --- the agenda will be different  
6 people, so we'll try to give everybody --- and I  
7 don't think that I ever had a public hearing where I  
8 don't give everybody aside a chance of being able to  
9 be represented just as well. So I wanted to be able  
10 to thank you. Thank those people who came from afar.

11                   Representative Sainato was here  
12 yesterday from Crawford County. He was on his way, I  
13 guess, to Philadelphia, and I think a lot of people  
14 say, well, we're out for the summer. I'll give you  
15 an example. We're actually busier when we're not in  
16 session. At least I have a little bit more time when  
17 we are in session. So when we're out these thing ---  
18 and I know that we're going all across the state  
19 talking to the people on an awful lot of issues.

20                   With that, I'm also going to  
21 ask the members if I could away from this hearing,  
22 I'd would like to be able to have just a short  
23 meeting where we talk a little bit about --- a couple  
24 minutes about Marcellus shale off the record from the  
25 Energy Association. Any other questions? As we say,

1 thank you very much and have a very good day, and  
2 we're adjourned.

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4 HEARING CONCLUDED AT 10:49 A.M.

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## CERTIFICATE

I hereby certify, as the stenographic reporter,  
that the foregoing proceedings were taken  
stenographically by me, and thereafter reduced to  
typewriting by me or under my direction; and that  
this transcript is a true and accurate record to the  
best of my ability.



Court Reporter