

**Testimony: Tony C. Banks  
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Pennsylvania House Consumer Affairs Committee  
Municipal Aggregation Legislation  
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Chairman Preston, Chairman Godshall, members of the Committee: Good morning, and thank you for the opportunity to address this Committee today on legislation to create opt-out municipal aggregation in Pennsylvania – legislation that I believe is timely, and will promote greater competition and savings for residential and small business customers. I'm Tony Banks, Vice President of FirstEnergy Solutions, a competitive energy supplier serving business and residential customers here in the Commonwealth and in five other states in this region.

With me today is Brenda Fargo, Manager of Government Aggregation Sales for FirstEnergy Solutions. Brenda is one of the foremost experts on municipal aggregation, having helped launch governmental aggregation in Ohio over 10 years ago. And she's been with it through the entire evolution of the Ohio program to where it stands today. She is available to help answer any detailed questions you might have on how the program has worked in Ohio and how we anticipate the program can work in Pennsylvania.

As you may know, FirstEnergy Solutions is a wholly owned subsidiary of FirstEnergy Corp., which announced in February a proposed merger with Allegheny Energy, an investor-owned utility based in Greensburg, Pennsylvania. FirstEnergy Solutions currently sells competitive electric generation to commercial and industrial customers in Pennsylvania, and we'd very much like to see larger numbers of residential and small businesses customers enjoy the benefits of savings afforded larger commercial and industrial customers. And let me assure you that FirstEnergy Solutions will remain an active participant in Pennsylvania's competitive market for electricity following FirstEnergy's merger with Allegheny Energy.

Opt-out municipal aggregation is one of the most effective options to bring savings to large numbers of small business and residential customers in Pennsylvania. That's why FirstEnergy Solutions strongly supports H.B. 2619, which would make this effective rate mitigation tool a reality for communities and customers throughout the Commonwealth.

Now is the time to move forward with this bill. With rate caps having already expired for many utilities – and with rate caps set to expire for Penelec, Met-Ed, West Penn Power and PECO at the end of this year – this legislation is timely. And, we can look right next door to Ohio to see that customers are receiving real and meaningful savings on their electric bills as a result of governmental aggregation.

In my previous testimony offered to this Committee at its prior hearing on municipal aggregation in March 2010, I provided a basic explanation of what municipal aggregation is, and what it is not. Let me quickly cover those points again.

Opt-out municipal aggregation is a way for local communities to combine their residents and small businesses into a single, large buying group. This will attract participation from more generation suppliers and will promote greater competition in the retail electricity marketplace. The concept is straightforward: Rather than compete for individual customers – which drives up marketing and administrative costs – electric generation suppliers would compete to serve the larger buying groups established by the local municipalities on behalf of their citizens. And the lower cost to enroll these customers allows the supplier to pass the savings on to customers in the form of lower prices.

Opt-out municipal aggregation does not prevent individual customers from exercising their right to choose their own electric generation supplier. Even if a local government elects to provide opt-out municipal aggregation opportunities for their residents, customers will still have the ability to opt out of the municipal buying group and choose a different supplier for their electric generation. Customers who do not choose a different supplier would remain with the larger buying group and receive savings on their electric

bills. Simply put, by being part of a municipal aggregation buying group, customers will save money on their electric bill even if they do nothing at all.

Opt-out municipal aggregation is the most efficient method to provide greater retail choice to residential and small business customers within the existing structure already in place today in Pennsylvania for default service. Today, if customers take no action to shop for electric generation service, they automatically receive default service from their local electric utility. Similarly, under opt-out municipal aggregation, customers who take no action will automatically default to the electric generation supplier with whom their municipality has negotiated a price – presumably lower than the default service price of their local electric utility. In both cases, the prices are established through a competitive process. Also, under the current default service structure and with opt-out municipal aggregation, customers have the ability to shop with an electric generation supplier of their choice or take service from their local utility. So opt-out municipal aggregation does not take away choice from the consumer. It simply establishes an additional option that should result in receiving electric generation service at a lower price than utility default service, even if the customer takes no action.

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

Another important point about opt-out municipal aggregation is that a municipality is not obligated to buy on behalf of its citizens. Under the proposed legislation, the municipality is merely provided an opportunity to make opt-out electric aggregation an option for citizens if there is a benefit in doing so. Presumably, a municipality would aggregate on behalf of its citizens only if there is an opportunity to reduce their electric bills.

Here's how opt-out municipal aggregation would work in Pennsylvania under H.B. 2619:

First, municipalities would adopt an ordinance in order to apply for an electric generation supplier license with the Pennsylvania Public Utility Commission. This license would enable that entity to act as a municipal aggregator of electric generation supply service on behalf of its citizens.

The aggregator would then negotiate with various electric generation suppliers and eventually enter into a contract with the supplier with the most attractive offer. Once a contract is signed by the municipality and the winning supplier, all eligible residential and small commercial customers within the municipality's boundaries who do not opt out of the municipal aggregation program would be enrolled and served by the selected generation supplier. If no action is taken by the customer during the defined 30-day opt-out period, the customer would remain a participant in the municipal aggregation program and pay the lower price negotiated by the municipality. Customers who choose to opt out of the municipal aggregation program can take default service from the local utility or select another generation supplier of their choice – the same two options they have today without municipal aggregation legislation. In addition to being able to opt out of the municipal aggregation program during the defined 30-day opt-out period, aggregated customers would receive additional notices every three years regarding their right to opt out of the municipal agreement at no charge.

If we take a look at Ohio, where FirstEnergy Solutions has hands-on experience, municipal aggregation (called “governmental aggregation” in Ohio) is providing more choices for customers while supporting a strong and robust market for electricity. More than 200 Ohio counties, cities, villages and townships have implemented governmental aggregation for their communities. And today, more than one million customers served by those aggregation groups receive savings every month from a variety of qualified suppliers.

The Ohio Consumers' Counsel estimates that a residential customer using 850 kilowatt-hours of electricity is saving up to \$110 annually through governmental aggregation. And Ohio's two largest governmental aggregators report that residential and small business customers in their member communities have saved more than \$100 million through these programs. In fact, governmental aggregation is responsible for about 90 percent of the shopping activity among residential customers, as well as 70 to 80 percent of commercial customers switching to competitive generation suppliers in Ohio. It's safe to say that this level of shopping and savings for residential and small business customers would not occur without opt-out municipal aggregation.

To summarize, I am convinced that opt-out municipal aggregation, as proposed in H.B. 2619, will provide significant energy savings to residential and small business customers here in the Commonwealth through increased customer shopping with a variety of generation suppliers. And I'd like to reiterate the very important fact that the proposed legislation would simply give local officials the opportunity, not the obligation, to decide whether municipal aggregation is the right choice for their community. Nothing in the bill would mandate that municipalities pursue aggregation.

We commend Chairman Preston for his leadership on this issue, and urge timely passage of this legislation so that the benefits of electric competition in Pennsylvania can be more fully realized. FirstEnergy Solutions looks forward to working closely with this Committee, the General Assembly and the Commission to make municipal aggregation a reality in Pennsylvania.

Thank you again for the opportunity to testify today. My colleague, Brenda Fargo, and I are available to answer any questions you have about this very important issue.

Thank you.