

**Testimony of Brian Crowe
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***Public Hearing on HB 2619 (Municipal Aggregation)*
Pennsylvania House Consumer Affairs Committee
Bethlehem, Pennsylvania
September 9, 2010**

Chairman Preston, Minority Chair Godshall and members of the Committee, thank you for inviting me here today. I am Brian Crowe, Vice President of Energy Acquisition for PECO.

PECO is the largest electric and gas utility in Pennsylvania, serving 1.6 million electric and 480,000 natural gas customers in the Philadelphia region. PECO employs more than 2,200 people in the region and we have invested more than \$1.2 billion in infrastructure improvements and operations over the last five years.

I appreciate the opportunity to testify on behalf of PECO on House Bill 2619, introduced by Chairman Preston. PECO believes that municipal aggregation legislation – if properly structured – can provide a complementary option to support competition and choice in Pennsylvania.

Before speaking directly to the legislation, I believe it is important to take a moment to discuss the competitive transition in Pennsylvania. PECO is committed to successfully seeing its customers through this transition and preserving the competitive market structure in Pennsylvania. We believe that competitive markets provide the best opportunity for customers to procure reasonably priced power.

Over the past year, we have worked to educate our customers about the expiration of rate caps on January 1, 2011 and encourage them to shop for electricity from alternative suppliers. Our public education efforts have included paid media advertising, information in bill inserts, customer workshops and community events. We are also procuring energy from the competitive market for our customers who do not select an alternative supplier, and to date, we have completed three of the four scheduled procurements.

Last week, PECO announced that it had reached settlements in its gas and electric delivery rate cases and filed joint settlement petitions with the Pennsylvania Public Utility Commission (PUC). While our final energy procurement results are still pending, at this time we anticipate that PECO residential electric customers will see an increase of less than 10 percent when our rate caps expire at the end of the year – less than \$8 per month for the typical residential electric customer.

We are also working to help our customers reduce their energy usage and save money. We're aggressively implementing energy efficiency and demand response programs under Act 129, called PECO Smart Ideas, and have enhanced our low-income program offerings for our most vulnerable customers.

With this as background, PECO recommends that as you approach legislation to implement municipal aggregation in Pennsylvania, members of the Committee and General Assembly should ensure that any legislation includes the following key principles:

- Informed customer participation and consumer protections,
- Consistency with Pennsylvania's competitive market model, and
- Protections against cost-shifting among market participants.

I would like to commend Chairman Preston for his overall leadership on this issue, as well as his willingness to consider provisions on a number of consumer protection and cost recovery issues raised by PECO. These include provisions for transparency of government processes as they relate to participation in aggregation programs, requirements for public education and outreach programs and full and current cost recovery for local distribution companies. We also want to express our appreciation to Minority Chair Godshall for his willingness to consider PECO's recommendations.

While PECO supports the concept of municipal aggregation and many provisions of House Bill 2619, we continue to have a few areas of concern about the legislation as it is currently written. We believe that the consumer protection provisions of the bill can be strengthened and that these programs should be more fully coordinated with electric distribution company default service programs.

PECO's three main concerns with House Bill 2619 as written include:

Assurance of a competitive process for aggregation procurements that includes a requirement for least cost procurement

We support the provisions of House Bill 2619 that require aggregation procurements to be conducted through a competitive process, but believe the legislation should also require municipalities to make selections based on the lowest available price. This is similar to the competitive procurement standards that apply to utilities for our default service procurements that ensure the best possible prices for our customers.

This is especially important given the potential for municipal aggregation programs to become long-term contracts that bind customers for a number of years into the future. Looking ahead, as opt-out aggregation contracts go into their later years, market prices may change significantly and consumers may be

faced with paying higher than market prices or early exit penalty fees. These customers should at least have confidence that the prices they are paying were the best possible available at the time.

Integration of municipal aggregation plans with utility default service plans

PECO believes it is essential for House Bill 2619 to include language that would coordinate electric distribution company default service requirements with any municipal aggregation programs that municipalities may implement.

Opt-out aggregation creates the potential for movement of large-scale blocks of load after an electric distribution company has procured default service supplies under its commission-approved DSP plan. Also, given the municipality's ability to initiate or end an aggregation program at any point during a utility's default service plan, utilities will be hard-pressed to estimate the amount of load expected for procurement purposes – both how much of the municipal load to be excluded and how much of the load may return in the future if the aggregation program is not continued.

This situation will create significant switching risk for wholesale suppliers to the electric distribution companies that will be translated into higher risk premiums and will ultimately be priced into future default service bidding – raising costs for customers remaining in the default service pool.

Synchronizing the initiation of aggregation programs with DSP periods substantially reduces this risk and its impact on consumers who remain in DSP programs.

PUC authority to limit the duration of municipal aggregation contracts and determine the terms and conditions under which customers in opt-out aggregation programs are required to pay exit penalties

House Bill 2619 does not place a limit on the length of aggregation contracts, nor on the period that customers who do not opt-out of the aggregation can be subject to exit penalties – potentially allowing very long-term contracts. On one hand, this may encourage more favorable pricing from suppliers. On the other, the longer the aggregation period, the greater the risk that the aggregation contract price will significantly diverge from market prices.

Should market prices move significantly lower than the aggregation price, there will be pressure from consumers to exit the program early, raising the exit fee issue. Should market prices move significantly higher than the aggregation price, suppliers may default on their obligations, forcing large blocks of power back onto utilities and large numbers of customers to have their supplier and cost of service changed without their consent.

In order to ensure that aggregation programs are implemented in a manner consistent with wholesale electric competition and consumer protection, the PUC should have the ability to determine the maximum allowable length of municipal aggregation programs, and the duration that retail electric customers can be subjected to penalties for seeking to exit an aggregation program to choose another competitive supply option. To my last point, we would recommend that the PUC consider synchronizing the length of a customers' contractual obligation to the municipal aggregation with the timing and length of the utility's default service procurement.

This issue will be particularly important in the case of opt-out aggregation programs, where many customers within a municipality will have not made an affirmative choice to participate in the program.

For these same reasons, we believe the PUC should be authorized to establish financial security requirements for energy suppliers for aggregation programs. Having the municipal aggregation supplier post financial security will provide some assurance that they will meet their obligations to the customers for the term of the contract or risk losing their posted security.

In conclusion, PECO supports the concept of a well-structured municipal aggregation program in Pennsylvania as a complementary option for consumers as our electricity markets complete the transition to full competition. The key to any successful aggregation program in Pennsylvania will be to ensure that it includes the consumer protection proposals and is consistent with Pennsylvania's competitive market structure.

We hope that the Committee and the members of the General Assembly will strongly consider these issues as you move forward on crafting this legislation.

Thank you for your time and I would be happy to answer any questions.

Proposed Amendatory Language

Assurance of a competitive process for aggregation procurements that includes a requirement for least cost procurement

In Section 3(c)(1) in the second sentence, after the first instance of the phrase, "electric generation supplier," insert "that is the lowest responsible bidder" before the word "regardless."

Integration of municipal aggregation plans with utility default service plans

In Section 3, rename section (g), "Integration with default service plans," insert new subsection "(1) Initiation and duration of aggregation contracts – A contract between a municipal aggregator of electricity and an electric generation supplier for electric generation services shall be for the same term as the default service plan of the default service provider for the service territory in which the municipal aggregator of electricity is located. No municipal aggregator of electricity may enter into a contract for delivery of electric generation services during the term of the default service plan of such default service provider if the default service plan was approved by the commission prior to the effective date of this section," and renumber the following section "(2)."

PUC authority to limit the duration of municipal aggregation contracts and determine the terms and conditions under which customers in opt-out aggregation programs are required to pay exit penalties

In Subsection 2809, "Requirements for electric generation suppliers," under (a) License requirements, after the words, "unless the person or corporation holds a license issued by the commission" strike the sentence, "The commission may waive certain licensing requirements in its regulations for municipal aggregators of electricity implementing municipal aggregation programs."