

**Testimony of Brian Crowe
Vice President, Energy Acquisition, PECO**

***Public Hearing on HB 2619 (Municipal Aggregation)*
Pennsylvania House Consumer Affairs Committee
Harrisburg, Pennsylvania
November 17, 2010**

Chairman Preston, Chairman 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 this second opportunity to testify on behalf of PECO on House Bill 2619, introduced by Chairman Preston. On behalf of PECO, I would also like to extend our appreciation to Chairman Preston, members of the Committee and your staff for your openness to listening to our concerns about the legislation and willingness to consider provisions on a number of issues. We commend the Committee for responding to a number of issues that that we have raised, including least-cost procurement requirements, a competitive bidding process, consumer education, a public process for adopting municipal aggregation, opt-in and opt-out options and electric distribution company (EDC) cost recovery. We believe these provisions are critical components to any municipal aggregation plan that is pursued in Pennsylvania.

These provisions are essential to ensuring that the addition of municipal aggregation options to Pennsylvania's competitive market structure is complementary – not contradictory – to our markets and direct competition. We also must ensure that EDCs can fulfill our "obligation to serve" in an environment that provides stability and security for our customers, ensures regulatory certainty for market participants, and allows competition to flourish.

PECO believes that competitive markets provide the best opportunity for customers to procure reasonably priced power. We are committed to successfully seeing our customers through the competitive transition (for PECO, this transition will end on January 1, 2011).

We view our primary obligation as being to our customers – both in providing them with the tools and information needed for a smooth transition to competitive markets and making sure that the lowest cost options for default energy supply are available to them. The Pennsylvania General Assembly, the Pennsylvania Public Utility Commission (PUC), Pennsylvania's EDCs and other stakeholders

have been very collaborative, thoughtful and plan-full in looking at the transition to competitive markets and how it will affect customers. Indeed, the PUC has led, and PECO has participated in, a number of working groups on the transition for the past several years.

PECO and other EDCs are also aggressively implementing Pennsylvania's Act 129 programs to provide customers with tools to save money through energy efficiency and demand response programs as the transition to market-based prices is completed.

With all of these efforts, both the PUC and General Assembly have worked closely with the EDCs to determine appropriate policies. We ask that the same approach be applied to implementing any municipal aggregation policy.

From PECO's perspective, we seek an environment with regulatory certainty and market stability in order to reduce costs and risks for default service supply. By implementing municipal aggregation without coordination with existing EDC default service programs and the procurements that we have made for our customers, additional risk is injected into the wholesale bidding process. This type of change to the rules of the game after transactions have been executed typically undermines the market's perception of regulatory stability, increasing risk premium costs. These increased risk premiums will ultimately be reflected in suppliers' bids into future default service procurements, driving up prices for DSP consumers.

PECO continues to have two main concerns with House Bill 2619: integration of the municipal aggregation plans with utility default service plans and assurance of appropriate Commission authority over consumer protection, supplier licensing and opt-out rules and requirements.

Integration of municipal aggregation plans with utility default service plans

PECO believes it is essential for House Bill 2619 to include explicit language that requires any municipal aggregation programs that municipalities may implement to be coordinated with the current and future time periods of EDC default service plans (DSP). Initial municipal aggregation programs should be synchronized with the expiration of existing EDC DSPs. After that, aggregation programs could be offered during the same contract periods as the EDC DSPs.

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. If the municipality has the ability to initiate or end an aggregation program, or the program fails, 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.

Allowing large blocks of power to exit previously-procured DSPs would add substantial uncertainty to Pennsylvania's wholesale market. 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. The unique nature of an opt-out program has the potential to move large blocks of customers more abruptly than the individual direct choice models that are normally built into DSP forecasts and bidding.

Should municipal aggregation be implemented, we believe that the Commission should be authorized to develop rules to create an orderly process for municipalities to inform the EDCs that they will be pursuing the opt-out municipal aggregation option. One way that this could be done would be through the establishment of an open enrollment period for municipalities in advance of EDC default service procurements.

Synchronizing the initiation of aggregation programs with DSP periods will not only substantially enhance the stability of the market for suppliers but also reduce potential risks and impacts on consumers who remain in DSP programs. This will ensure that municipal aggregation is implemented in a manner that helps hold down prices for everyone.

Assurance of appropriate Commission authority to oversee municipal aggregation programs

As noted earlier, the Committee has made a range of improvements to earlier drafts of this legislation to protect consumers and align municipal aggregation proposals with our competitive market structure. Moving forward, we must ensure that the Commission has appropriate authority over licensing, consumer protection and opt-out rules and requirements in order to guarantee that suppliers fulfill the terms and conditions of these contracts and over licensing.

In order to ensure this, we believe the following provisions of HB 2619 should be maintained in any future version of this legislation:

- Least-cost procurement requirements
- Competitive bidding requirements
- Consumer education programs
- Public processes for municipal aggregation decisions
- Authorization of both opt-in and opt-out forms of aggregation under appropriate rules

In conclusion, PECO believes that a well-structured municipal aggregation program in Pennsylvania can provide 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 these programs protect consumers and are consistent with Pennsylvania's competitive market structure.

Let me be clear – EDCs like PECO gain no financial benefit from default service. We encourage our customers to shop. We want them to get the best price available. We do, however, seek to avoid costs and risks that are the result of unintended impacts of implementing new market rules that have not been fully coordinated with existing requirements.

Based on the strong shopping numbers from areas that have completed the transition, it appears that a strong competitive market is taking hold in Pennsylvania. Customers are finding options through alternative suppliers and pooling arrangements that allow them to save money over the default service rates. We believe it is critical to move cautiously in creating new mechanisms that may short-circuit this progress.

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

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)."