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Testimony of ConEdison Solutions  
Before the  
Pennsylvania House Consumer Affairs Committee  
On  
**Municipal Aggregation**  
November 17, 2010

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Good morning Chairman Preston, Chairman Godshall and Members of the Committee. My name is Ritchie Hudson. I am the Director of Regulatory and Legislative Affairs for Consolidated Edison Solutions, Inc. ("ConEdison Solutions"), a retail provider of electricity and energy related services in this Commonwealth and other states that have enacted retail choice. ConEdison Solutions is a wholly owned subsidiary of Consolidated Edison, Inc., the corporate parent to Consolidated Edison Company of New York, the local utility in the New York metro area, as well as Orange and Rockland Utilities, Inc., which through its Pike County Power & Light company provides utility service to customers in northeastern Pennsylvania. I am also the Pennsylvania Chairman of the Retail Energy Supply Association, a broad and diverse group of competitive electricity suppliers advocating for the development of retail competition in states like Pennsylvania and elsewhere.<sup>1</sup> As you are aware, RESA members, including ConEdison Solutions, are active participants in the Pennsylvania retail electric market serving all types of customers, including residential consumers, small businesses and large businesses. My testimony today is on behalf of both RESA and ConEdison Solutions.

As you know, we have been involved in the legislative debate over municipal aggregation throughout this year. As I have previously testified, we support the concept of opt-out municipal

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<sup>1</sup> RESA's members include ConEdison *Solutions*; Constellation NewEnergy, Inc.; Direct Energy Services, LLC; Energy Plus Holdings, LLC; Exelon Energy Company; GDF SUEZ Energy Resources NA, Inc.; Green Mountain Energy Company; Hess Corporation; Integrys Energy Services, Inc.; Just Energy; Liberty Power; NextEra Energy Services; PPL EnergyPlus; Reliant Energy Northeast LLC; Noble Americas Energy Solutions, LLC. The comments expressed in this testimony represent the position of RESA as an organization but may not represent the views of any particular member of RESA.

aggregation as a way to stimulate the development of retail competition in underdeveloped markets. However, we believe it is important that opt-out municipal aggregation programs be properly structured so customers can continue to enjoy the full benefits of retail choice, just as they do today if served by the utility under default service. We commend this Committee for pursuing a thorough, inclusive and deliberative review process on this subject. We believe the current version of the bill represents a substantial improvement over the initial draft version that was discussed in March. For example, in prior hearings, I have testified about the importance of ensuring that customers are not locked into a long-term opt out municipal aggregation program with onerous switching restrictions or other penalties. We are pleased that the current version of the bill incorporates provisions that prohibit an opt-out aggregation program from locking customers into a contract or imposing switching fees or other restrictions. This is a critical consumer protection that we fully support.

Today, I would like to discuss two remaining concerns that we have with HB2619 as currently drafted. With the resolution of these two outstanding issues, we would support the bill.

**1. The definition of the utility Price to Compare should specify that the PTC is a customer-specific price**

As the name implies the price to compare is used to describe the rate that the customer would pay if he or she took electric generation service from the utility. The price to compare should be a true apples-to-apples comparison and should include all of the charges that the customer would avoid if he or she chose to take generation service from a competitive supplier instead of the utility. The current version of HB2619 defines the PTC as a class average price. A class average price will be misleading to customers and will not provide useful price comparison information. Some utilities use a complicated rate structure where prices either increase or decrease as customer-specific consumption levels change. This means that each customer has a unique price to compare based on their individual usage characteristics for a given month. For example, the class average price to compare for a PECO GS customer for the first quarter of 2011 is 9.47 cents per kWh. PECO's GS rate class can include a wide range of business types and customer usage patterns, from as a small pizza shop to a larger retail chain store. The true, customer-specific price to compare for such a PECO GS could range anywhere from 6 cents per kWh to 12 cents per kWh. If a customer with an actual PECO PTC of 6 cents is shown a class average price to compare of 9.47 cents per kWh, they would assume that they could save money by switching supplier offer of 8 cents. However, in this scenario, the customer would actually be paying more, not less. Accordingly, a customer-specific price to compare is necessary in order to provide useful and accurate price comparison information.

**2. A municipality should be free to consider environmental attributes as part of a municipal aggregation program**

Currently, HB2619 requires a competitive procurement process for the selection of the winning aggregation supplier. However, the bill also requires the municipality to select the “lowest responsible bidder...regardless of the generation fuel type.” We fully support competitive procurement, but the municipality should be free to consider other energy service related factors, beyond price when making its selection decision. In today’s competitive electricity marketplace suppliers bring a wide range of innovative value added products and services. A municipality may prefer an aggregation supplier that can provide renewable energy, or electricity service bundled with innovative energy efficiency services. We are concerned that HB2619 as currently drafted could prohibit a municipality from considering these other factors when making its selection decision.

Finally, as you may be aware, RESA recently filed a Petition for Declaratory Order with the Public Utility Commission on the issue of opt-out municipal aggregation. In that Petition, we asked the Commission to investigate the activities of any suppliers who are currently engaged in marketing opt-out municipal aggregation programs in Pennsylvania and render a decision on the legality of such programs. RESA took this action to ensure that opt-out aggregation programs are properly structured, legally implemented, and will not harm customers. We have engaged in a careful and deliberative legislative process before the General Assembly to try and structure enabling legislation to support opt-out municipal aggregation in a manner that addresses a variety of stakeholder concerns and interests. However, one supplier has chosen to move forward with opt-out municipal aggregation without such enabling legislation and without PUC approval. RESA is concerned that such programs could be structured in a way that would harm customers. In fact, the local ordinance approved for at least one opt-out municipal aggregation program would have allowed for the imposition of switching fees or other restrictions on customers that chose to leave the opt-out program after the initial opt out period. While the supplier to this municipality may ultimately choose not to include such fees or restrictions, without enabling legislation to the contrary and without PUC oversight, there is no guarantee that a supplier will not impose such conditions on consumers in an opt out program. Accordingly, RESA believes that opt-out aggregation should not be implemented in Pennsylvania until state enabling legislation is enacted.

Thank you for the opportunity to testify.

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