

**Testimony of**  
**Duquesne Light Company**  
**Before the**  
**Pennsylvania House Consumer Affairs Committee**

**Re: HB 2619**

**November 17, 2010**

Mr. Chairmen and committee members – my name is Bill Roland, and I work for Duquesne Light Company as a Governmental Affairs representative. I thank you for the opportunity to appear before you today to discuss proposed municipal aggregation and Duquesne Light Company's suggestions and ideas on ways to improve House Bill 2619. Duquesne Light has previously opposed municipal aggregation. We opposed opt-out municipal aggregation because we believe it is contrary to the right of an individual to choose who will supply their electricity. Additionally, we believe that opt-out municipal aggregation could have the unintended consequence of actually increasing overall electric costs if the proper competitive and regulatory guidelines are not in place.

We opposed opt-out municipal aggregation because it is our belief that it is customers who should decide their choice and not government. The customers' right to shop for alternative supply is premised on customers having the right to decide and choose their own suppliers. Under opt-out municipal aggregation, customers do not choose. It is the municipality who decides who will supply all the customers in the municipality (unless a customer affirmatively opts-out, or resigns, from the government-imposed program).

In some states, municipal aggregation programs have been used as a substitute to customer choice in the absence of the development of retail markets. Pennsylvania and Duquesne Light are in a very different situation. Duquesne has one of the highest levels of retail load shopping with competitive suppliers in the United States. Given that most utilities in Pennsylvania are just beginning to come off of long-term generation rate caps

and move toward market-based pricing, Duquesne Light believes it is premature to subvert retail competition in favor of a program that simply assigns customers to wholesale suppliers.

If this committee is going to proceed with municipal aggregation legislation, there are regulatory and competitive conditions that need to be in place to assure the utility customers receive the intended benefits of municipal aggregation.

**First** and foremost, no municipal aggregation implementation activities should take place until any Commission-approved default service plans have expired. Duquesne Light has been offering certainty and fixed rates to its residential customers and has a Commission-approved default service plan that lasts through May 2013. If the municipal aggregation legislation is immediately enacted, Duquesne Light's default service plan and most other major electric distribution companies' plans will be fundamentally damaged. Therefore, implementation of municipal aggregation should not begin any sooner than June 2013. This timing would simultaneously benefit consumers by allowing market rules to develop, which would protect consumers from any unintended consequences.

**Second**, to address the customer choice election mentioned above, we believe municipal aggregation should be opt-in only. A municipal resident should not automatically be switched into a program they have no knowledge or intent on being part of. The customer should be given the choice to affirmatively elect participation rather than being forced to try to opt-out if they do not want to participate. Municipal aggregation should be either opt-in municipal aggregation or at the minimum the municipality should hold a vote from its citizens as to which type of municipal aggregation (opt-in or opt-out) is preferred.

**Third**, we believe that the legislature should consider whether a referendum of the citizens should be adopted prior to proceeding with any municipal aggregation program. Currently, a majority of municipalities cannot run municipal aggregation programs because such programs are considered a "proprietary or private business." A referendum would allow a fundamental change in municipality function to participate in

such a “private business.” We feel that the citizens should decide if their municipality should engage in this type of private business. This would insure that the residents really are in favor of such a new plan.

**Fourth,** Duquesne believes there are consumer protections to be addressed if there is to be municipal aggregation after June 2013. To ensure that municipal aggregation is as competitive as default supply service, we believe that as part of the competitive bidding process, no one supplier should be awarded more than 50% of the municipality’s load. This cap ensures diversity and consumer protection against default risk. All consideration to be provided by wholesale suppliers should be made a part of the bid price so that there are no side arrangements with local governments and so that customers receive the benefits of any consideration offered and pay only for the electric supply they receive.

In conclusion, Duquesne Light believes that municipal aggregation can be beneficial to Pennsylvanians. However, there must be no implementation of municipal aggregation activities until existing Commission-approved default supply plans are expired and appropriate regulations, competition standards, and customer safeguards are in place. One such safeguard is protecting the customer’s right to choose their supplier and Duquesne Light believes that opt-in municipal aggregation is the way to assure that customers have that choice. Again, thank you Chairman Preston and Chairman Godshall for your leadership and for the opportunity to express Duquesne Light’s views here today.