

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

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SIPTROTH AND STEVENSON, JUNE 29, 2010

REFERRED TO COMMITTEE ON CONSUMER AFFAIRS, JUNE 29, 2010

AN ACT

1 Amending Titles 53 (Municipalities Generally) and 66 (Public
2 Utilities) of the Pennsylvania Consolidated Statutes,
3 providing for municipal aggregation of electric generation
4 supply.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Part V of Title 53 of the Pennsylvania
8 Consolidated Statutes is amended by adding a chapter to read:

9 CHAPTER 61

10 MUNICIPAL AGGREGATION OF

11 ELECTRIC GENERATION SUPPLY

12 Sec.

13 6101. Legislative purpose.

14 6102. Definitions.

15 6103. Grant of authority.

16 6104. Intergovernmental cooperation.

17 6105. Limitations.

18 § 6101. Legislative purpose.

The purpose of this chapter is to grant legislative authority for any municipality to act as a municipal aggregator of electricity under 66 Pa.C.S. Ch. 28 (relating to restructuring of electric utility industry) and to provide municipal aggregation of electric generation supply to consumers of electricity within its municipal boundaries.

§ 6102. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Consumer." As defined in 66 Pa.C.S. § 2803 (relating to definitions).

"Commission." The Pennsylvania Public Utility Commission.

"Default service plan." As defined in 66 Pa.C.S. § 2803 (relating to definitions).

"Electric generation supplier." As defined in 66 Pa.C.S. § 2803 (relating to definitions).

"Municipal aggregation program." As defined in 66 Pa.C.S. § 2803 (relating to definitions).

"Municipal aggregator of electricity." As defined in 66 Pa.C.S. § 2803 (relating to definitions).

"Municipality." As defined in 66 Pa.C.S. § 2803 (relating to definitions).

"Price-to-compare." As defined in 66 Pa.C.S. § 2803 (relating to definitions).

"Small commercial customer." As defined in 66 Pa.C.S. § 2803 (relating to definitions).

§ 6103. Grant of authority.

(a) Authority.--Except as provided under subsection (b) and notwithstanding any law, a municipality is authorized to:

1 (1) Be a municipal aggregator of electricity and provide
2 opt-in or opt-out municipal aggregation of electric
3 generation supply.

4 (2) Be licensed by the commission as an electric
5 generation supplier.

6 (b) Exception.--A municipality may only act as a municipal
7 aggregator of electricity on behalf of consumers within its
8 geographic boundaries.

9 § 6104. Intergovernmental cooperation.

10 Any two or more municipalities may cooperate and exercise the
11 authority to jointly act as a municipal aggregator of electric
12 generation supply in accordance with Subpart D of Part III
13 (relating to area government and intergovernmental cooperation).

14 § 6105. Limitations.

15 The authority granted to municipalities under this chapter
16 shall be limited by 66 Pa.C.S. § 2806.3 (relating to municipal
17 aggregation of electric generation supply) and any regulations
18 promulgated under 66 Pa.C.S. § 2806.3 by the commission.

19 Section 2. Section 2803 of Title 66 is amended to read:

20 § 2803. Definitions.

21 The following words and phrases when used in this chapter
22 shall have the meanings given to them in this section unless the
23 context clearly indicates otherwise:

24 "Aggregator" or "market aggregator." An entity, licensed by
25 the commission, that purchases electric energy and takes title
26 to electric energy as an intermediary for sale to retail
27 customers. The term shall not include a municipal aggregator of
28 electricity.

29 "Bilateral contract." An agreement, as approved by the
30 commission, reached by two parties, each acting in its own

1 independent self-interest, as a result of negotiations free of
2 undue influence, duress or favoritism, in which the electric
3 energy supplier agrees to sell and the electric distribution
4 company agrees to buy a quantity of electric energy at a
5 specified price for a specified period of time under terms
6 agreed to by both parties, and which follows a standard industry
7 template widely accepted in the industry or variations thereto
8 accepted by the parties. Standard industry templates may include
9 the EEI Master Agreement for physical energy purchases and sales
10 and the ISDA Master Agreement for financial energy purchases and
11 sales.

12 "Broker" or "marketer." An entity, licensed by the
13 commission, that acts as an agent or intermediary in the sale
14 and purchase of electric energy but that does not take title to
15 electric energy. The term shall include a municipal aggregator
16 of electricity.

17 "Competitive transition charge." A nonbypassable charge
18 applied to the bill of every customer accessing the transmission
19 or distribution network which (charge) is designed to recover an
20 electric utility's transition or stranded costs as determined by
21 the commission under sections 2804 (relating to standards for
22 restructuring of electric industry) and 2808 (relating to
23 competitive transition charge).

24 "Consumer." A retail electric customer.

25 "Customer." A retail electric customer.

26 "Default service plan." A plan for competitive procurement
27 of default service supply approved by the commission under 66
28 Pa.C.S. § 2807(e)(3.6) (relating to duties of electric
29 distribution companies).

30 "Default service provider." An electric distribution company

1 within its certified service territory or an alternative
2 supplier approved by the commission that provides generation
3 service to retail electric customers who:

4 (1) contract for electric power, including energy and
5 capacity, and the chosen electric generation supplier does
6 not supply the service; or

7 (2) do not choose an alternative electric generation
8 supplier.

9 "Direct access." The right of electric generation suppliers
10 and end-use customers to utilize and interconnect with the
11 electric transmission and distribution system on a
12 nondiscriminatory basis at rates, terms and conditions of
13 service comparable to the transmission and distribution
14 companies' own use of the system to transport electricity from
15 any generator of electricity to any end-use customer.

16 "Electric distribution company." The public utility
17 providing facilities for the jurisdictional transmission and
18 distribution of electricity to retail customers, except building
19 or facility owners/operators that manage the internal
20 distribution system serving such building or facility and that
21 supply electric power and other related electric power services
22 to occupants of the building or facility.

23 "Electric generation supplier" or "electricity supplier." A
24 person or corporation, including municipal corporations which
25 choose to provide service outside their municipal limits except
26 to the extent provided prior to the effective date of this
27 chapter, brokers and marketers, aggregators, municipal
28 aggregators of electricity implementing municipal aggregation
29 programs or any other entities, that sells to end-use customers
30 electricity or related services utilizing the jurisdictional

1 transmission or distribution facilities of an electric
2 distribution company or that purchases, brokers, arranges or
3 markets electricity or related services for sale to end-use
4 customers utilizing the jurisdictional transmission and
5 distribution facilities of an electric distribution company. The
6 term excludes building or facility owner/operators that manage
7 the internal distribution system serving such building or
8 facility and that supply electric power and other related power
9 services to occupants of the building or facility. The term
10 excludes electric cooperative corporations except as provided in
11 15 Pa.C.S. Ch. 74 (relating to generation choice for customers
12 of electric cooperatives).

13 "End-use customer." A retail electric customer.

14 "Municipal aggregation contract." A written agreement
15 between a municipal aggregator of electricity and an electric
16 generation supplier that includes:

- 17 (1) Beginning and end dates of the contract period.
18 (2) Electric generation rate for the contract period.
19 (3) Opt-out and opt-in contract procedures.
20 (4) Customer complaint processes.
21 (5) Contact information for inquiries related to
22 municipal aggregation.

23 "Municipal aggregation program." A program providing for a
24 municipality acting as a broker or marketer on behalf of the
25 eligible consumers within the municipality's geographic
26 boundaries not excluded by section 2806.3 (relating to municipal
27 aggregation of electric generation supply). A program may be
28 either:

- 29 (1) an opt-out program, which shall include every
30 eligible consumer who does not choose to be excluded from the

1 program; or

2 (2) an opt-in program, which shall include only those
3 eligible consumers who choose to participate in the program.

4 "Municipal aggregator of electricity." A municipality,
5 licensed by the commission, that acts as a broker or marketer on
6 behalf of the eligible consumers within the municipality's
7 geographic boundaries under municipal aggregation.

8 "Municipality." A county, city, township, town or borough.
9 The term shall include a municipality subject to the former act
10 of April 13, 1972 (P.L.184, No.62), known as the Home Rule
11 Charter and Optional Plans Law.

12 "Price-to-compare." A line item that appears on a retail
13 customer's monthly bill for default service. The price-to-
14 compare is equal to the sum of all unbundled generation and
15 transmission related charges to a default service customer for
16 that month of service.

17 "Reliability." Includes adequacy and security. As used in
18 this definition, "adequacy" means the provision of sufficient
19 generation, transmission and distribution capacity so as to
20 supply the aggregate electric power and energy requirements of
21 consumers, taking into account scheduled and unscheduled outages
22 of system facilities; and "security" means designing,
23 maintaining and operating a system so that it can handle
24 emergencies safely while continuing to operate.

25 "Renewable resource." Includes technologies such as solar
26 photovoltaic energy, solar thermal energy, wind power, low-head
27 hydropower, geothermal energy, landfill and mine-based methane
28 gas, energy from waste and sustainable biomass energy.

29 "Retail customer." A retail electric customer.

30 "Retail electric customer." A direct purchaser of electric

1 power. The term excludes an occupant of a building or facility
2 where the owners/operators manage the internal distribution
3 system serving such building or facility and supply electric
4 power and other related power services to occupants of the
5 building or facility; where such owners/operators are direct
6 purchasers of electric power; and where the occupants are not
7 direct purchasers.

8 "Small commercial customer." A retail electric customer that
9 receives electric service under a small commercial, small
10 industrial or small business rate classification, and whose
11 maximum registered peak load was less than 25 kW within the last
12 12 months.

13 "Transition or stranded costs." An electric utility's known
14 and measurable net electric generation-related costs, determined
15 on a net present value basis over the life of the asset or
16 liability as part of its restructuring plan, which traditionally
17 would be recoverable under a regulated environment but which may
18 not be recoverable in a competitive electric generation market
19 and which the commission determines will remain following
20 mitigation by the electric utility. This term includes:

21 (1) Regulatory assets and other deferred charges
22 typically recoverable under current regulatory practice, the
23 unfunded portion of the utility's projected nuclear
24 generating plant decommissioning costs and cost obligations
25 under contracts with nonutility generating projects which
26 have received a commission order, the recoverability of which
27 shall be determined under section 2808(c)(1) (relating to
28 competitive transition charge).

29 (2) Prudently incurred costs related to cancellation,
30 buyout, buydown or renegotiation of nonutility generating

1 projects consistent with section 527 (relating to
2 cogeneration rules and regulations), the recoverability of
3 which shall be determined pursuant to section 2808(c)(2).

4 (3) The following costs, the recoverability of which
5 shall be determined pursuant to section 2808(c)(3):

6 (i) Net plant investments and costs attributable to
7 the utility's existing generation plants and facilities.

8 (ii) The utility's disposal of spent nuclear fuel.

9 (iii) The utility's long-term purchase power
10 commitments other than the costs defined in paragraphs
11 (1) and (2).

12 (iv) Retirement costs attributable to the utility's
13 existing generating plants other than the costs defined
14 in paragraph (1).

15 (v) Other transition costs of the utility, including
16 costs of employee severance, retraining, early
17 retirement, outplacement and related expenses, at
18 reasonable levels, for employees who are affected by
19 changes that occur as a result of the restructuring of
20 the electric industry occasioned by this chapter.

21 The term includes any costs attributable to physical plants no
22 longer used and useful because of the transition to retail
23 competition. The term excludes any amounts previously disallowed
24 by the commission as imprudently incurred. To the extent that
25 the recoverability of amounts that are sought to be included as
26 transition or stranded costs are subject to appellate review as
27 of the time of the commission determination, any determination
28 to include such costs shall be reversed to the extent required
29 by the results of that appellate review.

30 "Transmission and distribution costs." All costs directly or

1 indirectly incurred to provide transmission and distribution
2 services to retail electric customers. This includes the return
3 of and return on facilities and other capital investments
4 necessary to provide transmission and distribution services and
5 associated operating expenses, including applicable taxes.

6 "Universal service and energy conservation." Policies,
7 protections and services that help low-income customers to
8 maintain electric service. The term includes customer assistance
9 programs, termination of service protection and policies and
10 services that help low-income customers to reduce or manage
11 energy consumption in a cost-effective manner, such as the low-
12 income usage reduction programs, application of renewable
13 resources and consumer education.

14 Section 3. Title 66 is amended by adding a section to read:
15 § 2806.3. Municipal aggregation of electric generation supply.

16 (a) Licensing.--The commission, in accordance with its
17 regulations, within 30 days following receipt of an application,
18 may issue a license to a municipality as an electric generation
19 supplier to act as a municipal aggregator of electric generation
20 supply service for eligible consumers within the municipality's
21 geographic boundaries. A municipal aggregator of electricity
22 under this section shall not be considered a public utility or a
23 utility engaging in the wholesale purchase and resale of
24 electricity, and the provision of municipal aggregation shall
25 not be considered a wholesale utility transaction.

26 (b) Ordinance required.--Prior to applying for an electric
27 generation supplier license with the commission, the governing
28 body of the municipality shall adopt an ordinance authorizing
29 the municipality to apply for an electric generation supplier
30 license to serve as a municipal aggregator of electricity,

1 indicate whether the municipal aggregation shall be an opt-in or
2 opt-out program and shall identify municipal officials by either
3 title of office or name, or their duly appointed designees,
4 authorized to execute documents with the commission on behalf of
5 the municipality. A municipal aggregator of electricity shall
6 provide reasonable public notice of municipal consideration of
7 any ordinance authorizing a municipal aggregation program, which
8 shall include newspaper publication on a monthly basis beginning
9 at least 90 days prior to the adoption of an ordinance
10 authorizing an opt-out program.

11 (c) Municipal aggregation contracts.--

12 (1) A municipal aggregator of electricity may negotiate
13 and enter into a contract for electric generation supply
14 services with an electric generation supplier. A municipal
15 aggregator of electricity shall use a competitive procurement
16 or request-for proposal process to select the electric
17 generation supplier, regardless of the generation fuel type,
18 location, technology or new or existing status of the
19 generation that the electric generation supplier will use to
20 supply the municipal aggregation. An executed municipal
21 aggregation contract shall not go into effect prior to filing
22 with the commission, and a copy of the filed contract shall
23 be provided to the electric distribution company whose
24 service territory includes the municipal aggregator. Each
25 contract shall include:

26 (i) provisions for the timing of the distribution of
27 customer lists by the electric distribution company and
28 customer notices consistent with this section;

29 (ii) a consumer education plan with appropriate
30 consumer education materials to inform consumers about

1 the existence of the municipal aggregation and the
2 highlights of the program, which shall be deployed
3 concurrently with the distribution of opt-in or opt-out
4 notices, as applicable; and

5 (iii) a copy of the sample opt-in or opt-out notice
6 to be sent to consumers, which shall provide the
7 identification of the selected electric generation
8 supplier.

9 (2) Any contract between a municipality and an electric
10 generation supplier executed under this section shall clearly
11 indicate whether it is for an opt-in or opt-out municipal
12 aggregation and the price that the contracted electric
13 generation supplier will charge customers for electric
14 generation supply, as well as the time period of the
15 contract. If the price is a fixed rate, the price shall be
16 expressed in cents per kilowatt hour. If the contract
17 provides for a percentage off of the default service rate or
18 any other type of pricing arrangement, an understandable
19 description of the amount of the percentage discount or other
20 pricing arrangement and how the rate may change shall be
21 provided. If the electric generation supplier will charge
22 different rates to different rate classes within the
23 municipality, the applicable rate to consumers within each
24 rate class shall be described.

25 (d) Opt-out programs; notice and opt-out procedures.--

26 (1) No consumer may be bound by a contract between a
27 municipal aggregator of electricity and an electric
28 generation supplier in opt-out municipal aggregation until
29 not less than 30 days following the mailing of the opt-out
30 notices required under this subsection and the expiration of

1 any waiting period for a consumer to cancel the pending
2 change to the electric generation supplier following written
3 confirmation by the electric distribution company as
4 prescribed by regulation.

5 (2) Any contract between a municipality and an electric
6 generation supplier executed under this section shall contain
7 procedures for addressing consumer disputes and complaints
8 related to supply services received pursuant to a municipal
9 aggregation program. The procedures shall be made available
10 to consumers, at least annually, in a clear and easily
11 understandable format. After a municipality executes a
12 contract for electric generation services, but prior to
13 including a consumer's electric account or accounts in an
14 opt-out municipal aggregation, a municipal aggregator of
15 electricity shall provide each eligible consumer with written
16 notice that the consumer's account will be automatically
17 included in the municipal aggregation unless the customer
18 affirmatively opts out of the municipal aggregation. The
19 notice, written in plain language, shall include all of the
20 following:

21 (i) The date by which the customer must
22 affirmatively opt out of the program. The date shall not
23 be less than 30 days following the mailing of the opt-out
24 notice.

25 (ii) A description of the ordinance adopted by the
26 municipality authorizing it to apply for a license from
27 the commission, the competitive procurement process under
28 which offers for electric generation supply were
29 solicited, and a location where, during regular business
30 hours, consumers may view the ordinance and executed

1 contract free of charge or obtain a copy for a reasonable
2 fee.

3 (iii) Disclosure of the price that the contracted
4 electric generation supplier will charge customers for
5 electric generation service. If the price is a fixed
6 rate, the municipal aggregator of electricity shall
7 express the price in cents per kilowatt hour and list the
8 most recent applicable price-to-compare of the default
9 service provider in whose service territory the
10 municipality is located. If the contract provides for a
11 percentage off of the default service rate or any other
12 type of pricing arrangement, an understandable
13 description of the amount of the percentage discount or
14 other pricing arrangement and how the rate may change
15 shall be provided. If the electric generation supplier
16 charges different rates to different rate classes within
17 the municipality, the municipal aggregator of electricity
18 shall describe the applicable rate to consumers within
19 each rate class and the associated price-to-compare.

20 (iv) An itemized list and explanation of all fees
21 and charges that are not incorporated into the rates
22 charged for electric generation service that the electric
23 generation supplier will charge to the consumer for
24 participating in the municipal aggregation, including any
25 early termination penalties and any surcharges that may
26 be assessed. Early termination penalties shall not apply
27 to a consumer that moves outside the municipal aggregator
28 of electricity's geographic boundaries or that becomes
29 eligible for and remains in an electric distribution
30 company customer assistance program at the time of

1 termination.

2 (v) Disclosure of the estimated service commencement
3 date and notice that the consumer may opt out of the
4 municipal aggregation program at the end of the term of
5 the municipal aggregation contract and prior to the
6 commencement of any subsequent municipal aggregation
7 contract.

8 (vi) A statement informing consumers that if they
9 choose to opt out of the municipal aggregation they will
10 be served by the default service offer established under
11 section 2807(e) (relating to duties of electric
12 distribution companies) until the consumer chooses an
13 alternative electric generation supplier or chooses to
14 participate in a subsequent municipal aggregation.

15 (vii) A statement informing consumers that if they
16 switch back to the default service provider they may not
17 be served under the same rates, terms and conditions that
18 apply to other customers within the municipal
19 aggregation.

20 (viii) Disclosure of any credit, collection and
21 deposit policies and requirements.

22 (ix) Disclosure of any limitations or conditions on
23 customer acceptance into the municipal aggregation.

24 (x) A description of the process and associated time
25 period for consumers to opt out of the municipal
26 aggregation. The process shall include provisions for
27 consumers to return a postcard or similar notice to the
28 municipal aggregator of electricity or its agent. The
29 process may include other opt-out methods, such as
30 telephonic or Internet notice, if these alternative

1 methods allow for verification of a consumer's election
2 to opt out of the municipal aggregation. The time period
3 for a customer to choose to opt out of the municipal
4 aggregation shall be not less than 30 days from the date
5 of the mailing of the written notice. If a consumer's
6 return postcard or notice is postmarked before the opt-
7 out deadline has elapsed, the consumer shall be deemed to
8 have opted out of the municipal aggregation.

9 (xi) A local or toll-free telephone number, with the
10 available calling hours, that consumers may call with
11 questions regarding the formation or operation of the
12 municipal aggregation.

13 (e) Opt-in programs; notice and opt-in procedures.--

14 (1) No consumer may be bound by a contract between a
15 municipal aggregator and an electric generation supplier in
16 opt-in municipal aggregation until the consumer has been
17 provided an opt-in notice required under this subsection and
18 the expiration of any waiting period for a consumer to cancel
19 the pending change to the electric generation supplier
20 following written confirmation by the electric distribution
21 company as prescribed by regulation.

22 (2) After a municipality executes a contract for
23 electric generation services, but prior to including a
24 consumer's electric account or accounts in an opt-in
25 municipal aggregation, a municipal aggregator of electricity
26 shall provide each eligible consumer with written notice that
27 the customer may participate in the municipal aggregation.
28 The notice, written in plain language, shall include all of
29 the information required under subsection (d)(2)(ii), (iii),
30 (iv), (vi), (vii), (viii), (x) and (xi) and the following

1 information:

2 (i) A statement informing consumers that if they do
3 not choose to opt in to the municipal aggregation they
4 will be served by the default service offer established
5 under section 2807(e) until the consumer chooses an
6 alternative electric generation supplier or chooses to
7 participate in a subsequent municipal aggregation.

8 (ii) A description of the process and associated
9 time period for consumers to opt in to the municipal
10 aggregation. The process shall include provisions for
11 consumers to return a postcard or similar notice to the
12 municipal aggregator of electricity or its agent. The
13 process may include other opt-in methods, such as
14 telephonic or Internet notice, if these alternative
15 methods allow for verification of a consumer's election
16 to opt in to the municipal aggregation. The time period
17 for a customer to choose to opt in to the municipal
18 aggregation shall be at least 30 days from the date of
19 the mailing of the written notice. If a consumer's return
20 postcard or notice is postmarked before the opt-in
21 deadline has elapsed, the consumer shall be deemed to
22 have opted in to the municipal aggregation.

23 (f) Additional requirements; provision of customer
24 information.--

25 (1) The following consumers shall be excluded from
26 enrollment in a municipal aggregation:

27 (i) For opt-out municipal aggregation only, a
28 consumer that has opted out of the municipal aggregation
29 under subsection (d) or that has a special contract or
30 agreement with an electric distribution company or a

1 consumer under an existing contract with a licensed
2 electric generation supplier other than a consumer under
3 a municipal aggregation contract with the current
4 electric generation supplier of the municipal
5 aggregation.

6 (ii) A consumer that is not located within the
7 geographic boundaries of the municipal aggregator of
8 electricity.

9 (iii) A consumer other than a residential or small
10 commercial customer.

11 (iv) A consumer that is enrolled in an electric
12 distribution company's customer assistance program that
13 does not include any electric generation supplier charges
14 in the calculation of the customer assistance program
15 benefit.

16 (v) End-use consumers served or authorized to be
17 served by an electric cooperative or loads served by a
18 municipality that owns and operates its own electric
19 distribution system.

20 (2) No earlier than three months and no later than 30
21 days prior to the end of the term of a municipal aggregation
22 contract and commencement of a new municipal aggregation
23 contract or contract renewal term, a municipal aggregator of
24 electricity or the electric generation supplier to the
25 municipal aggregation shall provide notice to all consumers
26 served by the municipal aggregation or who opted out of the
27 municipal aggregation of their right to opt out of the
28 subsequent municipal aggregation and take service pursuant to
29 the default service provider's default service offer or with
30 another electric generation supplier without fee or penalty.

1 The notice shall also explicitly inform customers who may
2 have opted out of any previous municipal aggregation
3 contracts that they may be eligible to participate in the
4 upcoming municipal aggregation contract, pursuant to the
5 eligibility requirements defined in this subsection. The
6 notice shall follow the procedures established for the
7 initial opt-out or opt-in notice set forth in subsection (d)
8 or (e), as applicable, and shall prominently disclose to
9 customers all changes to the terms and conditions associated
10 with the municipal aggregation. The municipal aggregator of
11 electricity may not send an opt-out notice to the same
12 customer account for the period covered by the municipal
13 aggregation contract where the customer account has
14 previously opted out.

15 (3) No municipal aggregator of electricity or electric
16 generation supplier serving a municipal aggregation may
17 impose any term, condition, fee or charge on a consumer
18 served by a municipal aggregation that is materially
19 different from the particular term, condition, fee or charge
20 which was included within the contract between the municipal
21 aggregator of electricity and the electric generation
22 supplier or the notices provided under subsection (d) or (e).

23 (4) The following shall apply to provisions for the list
24 of eligible municipal aggregation consumers:

25 (i) After the issuance of a license to a municipal
26 aggregator of electricity and upon request of the
27 municipal aggregator of electricity or an electric
28 generation supplier designated by the municipal
29 aggregator, an electric distribution company shall use
30 reasonable efforts to provide the following information

1 to the extent it is maintained by the electric
2 distribution company for all consumers residing within
3 the municipal aggregator of electricity's geographic
4 boundaries to the municipal aggregator of electricity or
5 the electric generation supplier within 30 calendar days
6 of the request:

7 (A) An updated list of names, addresses, account
8 numbers, rate codes, indication of whether a consumer
9 is enrolled in a customer assistance program or
10 budget billing, load data and other related consumer
11 information, consistent with the information that is
12 provided to other electric generation suppliers.

13 (B) An identification of consumers who are
14 currently under contract with an electric generation
15 supplier or in a special arrangement with the
16 electric distribution company.

17 (ii) The municipal aggregator of electricity or the
18 electric generation supplier to the municipal aggregation
19 may only use the consumer information from the list of
20 eligible municipal aggregation consumers for the purpose
21 of forming and operating its municipal aggregation and
22 may not disclose the consumer information unless the
23 release is pursuant to a court order or a commission
24 regulation or order.

25 (iii) Upon completion of the mailing of opt-out
26 notices and expiration of any associated waiting period
27 under subsection (d)(1), a municipal aggregator of
28 electricity or the electric generation supplier to a
29 municipal aggregation may request updated consumer
30 information required under this subsection, and the

1 electric distribution company shall use reasonable
2 efforts to provide such information within ten days of
3 the request.

4 (5) The following shall apply to the notice of municipal
5 aggregation and opt-out notice:

6 (i) Each municipal aggregator of electricity shall
7 ensure that only eligible consumers are included in its
8 municipal aggregation.

9 (ii) If accounts of ineligible consumers or
10 consumers who have not opted in or who have opted out of
11 the municipal aggregation, as applicable, are switched to
12 the electric generation supplier to the municipal
13 aggregation, the municipal aggregator of electricity
14 shall promptly inform the consumer and take all necessary
15 actions to have the consumer switched back to the
16 consumer's original electric generation supplier or
17 default service provider at no cost to the consumer and
18 reimburse the consumer for any amount paid under the
19 municipal aggregation that is greater than the amount
20 otherwise due for its original generation service. The
21 original electric generation supplier or default service
22 provider shall not be liable for any costs, fees,
23 penalties or damages, including any imposed by the
24 regional transmission organization in which the municipal
25 aggregator of electricity is located, arising from the
26 improper transfer. Consistent with due process, the
27 commission may require the electric generation supplier
28 to the municipal aggregator of electricity to pay any
29 such amounts incurred by the original electric generation
30 supplier or default service provider, plus any amounts

1 the original electric generation supplier would have
2 received from the consumer for electric generation
3 service from the time of the improper transfer until the
4 consumer is returned to electric generation service
5 provided by the original electric generation supplier.

6 (g) Return to default service.--In the event that a
7 municipal aggregator of electricity ceases to provide municipal
8 aggregation services during the current term of the municipal
9 aggregation contract filed with the commission and the customers
10 of the municipal aggregator of electricity are returned to
11 default service, the default service rate for such customers
12 shall be the market price for generation service, including all
13 charges for spot market purchases of energy, capacity,
14 transmission, ancillary services, compliance with the act of
15 November 30, 2004 (P.L.1672, No.213), known as the Alternative
16 Energy Portfolio Standards Act, and all other costs incurred by
17 the default service provider in the provision of generation
18 service to such customers, for the remainder of the default
19 service provider's current default service plan.

20 (h) Duties of electric distribution companies and cost
21 recovery.--

22 (1) Each electric distribution company shall provide
23 reasonable cooperation with municipal aggregators of
24 electricity or the electric generation supplier to the
25 municipal aggregation to facilitate the proper formation and
26 functioning of opt-out or opt-in municipal aggregation, as
27 applicable, including coordinating with municipal aggregators
28 of electricity and electric generation suppliers to promote
29 nondiscriminatory access to electric services and to process
30 enrollment requests from municipal aggregators of electricity

1 or their designated electric generation supplier in
2 accordance with the same processes applicable to other
3 licensed electric generation suppliers providing service to
4 retail electric customers.

5 (2) An electric distribution company shall recover on a
6 full and current basis all costs incurred to support and that
7 are related to municipal aggregation through a nonbypassable
8 reconcilable automatic adjustment charge under section 1307
9 (relating to sliding scale of rates; adjustments) from all
10 residential and small commercial consumers accessing the
11 electric distribution company's transmission and distribution
12 system.

13 (i) Duties of commission.--The commission shall promulgate
14 regulations necessary to implement the provisions of this
15 section, including, but not limited to, developing opt-out
16 notices for use by municipal aggregators of electricity in this
17 Commonwealth.

18 Section 4. Sections 2807(d)(1) and 2809(a) of Title 66 are
19 amended to read:

20 § 2807. Duties of electric distribution companies.

21 * * *

22 (d) Consumer protections and customer service.--The electric
23 distribution company shall continue to provide customer service
24 functions consistent with the regulations of the commission,
25 including meter reading, complaint resolution and collections.
26 Customer services shall, at a minimum, be maintained at the same
27 level of quality under retail competition.

28 (1) [The] Except as provided under section 2806.3
29 (relating to municipal aggregation of electric generation
30 supply), the commission shall establish regulations to ensure

1 that an electric distribution company does not change a
2 customer's electricity supplier without direct oral
3 confirmation from the customer of record or written evidence
4 of the customer's consent to a change of supplier.

5 * * *

6 § 2809. Requirements for electric generation suppliers.

7 (a) License requirement.--No person or corporation,
8 including municipal corporations which choose to provide service
9 outside their municipal limits except to the extent provided
10 prior to the effective date of this chapter, brokers and
11 marketers, aggregators, municipal aggregators of electricity
12 implementing municipal aggregation programs and other entities,
13 shall engage in the business of an electric generation supplier
14 in this Commonwealth unless the person or corporation holds a
15 license issued by the commission. The commission may waive
16 certain licensing requirements in its regulations for municipal
17 aggregators of electricity implementing municipal aggregation
18 programs. Consistent with 15 Pa.C.S. Ch. 74 (relating to
19 generation choice for customers of electric cooperatives),
20 electric cooperative corporations must possess a certificate for
21 service to supply generation services beyond their territorial
22 limits.

23 * * *

24 Section 5. This act shall take effect in 60 days.