



Direct Energy

**Before the
Consumer Affairs Committee
Pennsylvania House of Representatives
Public Hearing on
Municipal Electricity Aggregation
Legislation**

March 3, 2010

Testimony of

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Chairman Preston, Chairman Godshall and Members of the Committee:

Thank you for the opportunity to speak with you today. As Ron Cerniglia indicated I bring a unique perspective on opt-out municipal aggregation to this panel. I started in the energy industry in 2001 selling and managing one of the very first opt-out government aggregation programs in Ohio on the electric side. In 2002, the rules for opt-out aggregation were expanded to natural gas and at the end of 2003 I was managing opt-out aggregation programs in 10 communities. Similar to Pennsylvania, Ohio at that time was faced with the question of how to not simply increase shopping for residential customers but to also make customers comfortable with the idea of switching suppliers. Opt-out aggregation offers customers the opportunity to 'test' the waters of competition through the buying power of their local government without exerting too much effort to research and switch individually.

From a customer perspective opt-out aggregation offers an easy entrance into shopping. Opt-out aggregation opens many customers eyes to the opportunity to shop, it offers them a one stop shop through a trusted source rather than overcoming the initial inertia that accompanies researching multiple offers on their own with companies that they may not yet be familiar with. Ultimately these programs add legitimacy to competitive markets in that their local government has helped to negotiate an attractive rate on their constituents' behalf.

From a pricing perspective, opt-out aggregation allows the municipality to negotiate on behalf of residential and small commercial customers with the leverage of a large industrial customer. From a supplier perspective, reaching thousands of individual customers carries a higher acquisition cost than reaching a single large user. The municipality leverages this reduced acquisition cost along with the ability to negotiate more savvy products for the larger load such as ancillary or green products, which a typical shopper in an emerging competitive market doesn't even know to ask for, in its negotiations.

You may hear today the arguments that customers in an opt-out aggregation don't even know they are in the program. In fact, if these programs are properly run, customers are aware and become very engaged in the process. However, the program must be supported with appropriate consumer protections to accomplish this. In Ohio, the rules governing what goes into an opt-out notice are combined with additional notices such as welcome letters from the supplier, pre-opt-out letters from the community, notices in community newsletters, and rescission letters from the utility. This combination has routinely led to calls from customers asking when the new rate will come out prior to the next opt-out period and customers who were in-eligible at the time of the opt-out calling to enroll in the program mid-stream. In fact, when the programs I ran in Ohio came to an end we had customers wanting to continue to receive competitive supply by contacting us for offerings separate from the aggregation. As for arguments that customers were not engaged in the switching process I will point out that at its peak over 1 million residential customers were shopping solely through electric opt-out municipal aggregation programs in Ohio with savings of 10%-18% . During that time, a competitive supplier tested the

waters with a mailing to customers served through an aggregation program. As a result, a large number of customers responded and enrolled – thus, it confirms that customers in opt-out aggregations were definitely paying attention to their energy options.

Direct Energy serves municipal aggregations and affinity programs in several states including opt-out aggregations in Ohio. Today in Ohio opt-out aggregation is a well-respected part of the competitive landscape in addition to organic mass market offerings. In fact, local and statewide news articles follow these programs closely and when an article is printed we see customers calling – that is customer engagement. Today there continues to be hundreds of programs in Ohio with one of the largest government aggregation programs in the state called NOPEC, combining 110 communities with approximately 500,000 eligible customers. On average, these customers are seeing a decrease of 5%-6% percent as compared to the utility rate.

So knowing these programs can work the question is how to ensure they are truly successful. The success of any opt-out program hinges on accurate consumer protections and engagement of the municipality in the process. Direct Energy believes that in order for a program to be successful the municipality and supplier must be willing to work as a team. That said it is important given the need for the local government to also play a part in consumer education that these programs be optional and not mandatory.

My experience has been that a successful program must include the following:

1. While the municipality may have the ability to negotiate longer contracts with a supplier those agreements should also include the ability of a municipality to renegotiate its contract with a supplier prior to each 3 year opt-out period similar to the ability of the customer to opt-out every three years.
2. Clear and understandable opt-out notices including an opt-out period that is not so short as to limit a customer's ability to choose or so long that the actual pricing does not appear on the bill for several months after first notice.
3. Allowing customers who become eligible after an opt-out period is conducted or mid term to directly enroll in the program ensures all residents have the capability to enjoy the rates negotiated by their local government while also ensuring that those same customers' contracts are not interfered with.
4. Rules must be put in place which ensure that consistent information is included in opt-out notices and which create minimum criteria for plans on how to operate a municipal aggregation.
5. Finally and most importantly consumer education must be treated as an on-going effort including a community contact, supplier contact and utility contacts for questions. For some of these pieces it takes a strong relationship and commitments from not only suppliers in educating customers but also in ensuring representatives of the municipality fully understand the program.

Opt-out municipal aggregation can offer many benefits to residential and small business customers and if correctly implemented can provide enhanced pricing benefits to these

customers that they may not ordinarily get individually within a competitive market.
Thank you again for the opportunity to speak with you today.