



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

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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. I am the Midwest Manager of Government and Regulatory Affairs for Direct Energy. Direct Energy, LLC combined with the North American subsidiaries of our parent company Centrica has over 6 million energy customer relationships in North America. Direct Energy's North American headquarters are in Pittsburgh, Pennsylvania and currently serves large commercial, industrial, residential and small commercial electric customers in Pennsylvania. Our Pittsburgh office has approximately 300 employees, 80 of which were recently added in the past 6 months. In addition, Direct recently acquired Clockwork Home Services which added an additional 530 Pennsylvania employees on the HVAC and home services side of our business bringing our total Direct Energy Pennsylvania employees to a little over 800 and growing.

Direct Energy has come to Pennsylvania as a commitment to the emerging competitive energy industry here. As a competitive electric provider to residential and small commercial customers Direct is interested in ensuring that the competitive market continues to grow and barriers to an open and level playing field are not put in place.

I am here today to talk about HB 2619, this bill is a good foundation for Municipal Government Aggregation and I compliment the Chairmen and committee on a solid foundation. The language is written to promote the best protections for customers and Direct appreciates that this bill is being approached in a methodical way to avoid rushing in legislation which could cause customer confusion and disrupt the competitive market.

As a bit of background, my first job in the energy industry was back in 2001 selling and administering opt-out government aggregation programs in Ohio. Not only did I sell these programs but I was a resident in a community which had both electric and gas opt-out government aggregations. So I have seen these programs work from the supplier side, the community side, and the customer perspective. Since 2001, I have moved to other positions, but have continued to watch these types of programs increase in number, size and variety of products. Opt-out aggregation has become another option for customers looking to shop as well as an introduction to shopping. In some of the oldest Ohio programs the opt-out period happens around the same time of year so we have customers calling the community and Direct Energy wanting to know what the new rate is so they can compare it to other offers in the market. Opt-out aggregation should be used to educate customers and create savvy shoppers, not to eliminate supply choices for customers.

In Pennsylvania, the opportunity to choose a competitive supplier for the generation portion of a customer's electric bill is only now really taking off. Direct supports municipal aggregation and serves many such programs in other states. We applaud this committee in its efforts to produce a well thought out bill. The efforts taken to solicit input from suppliers, the Commission, consumer advocates and the communities who may take advantage of this unique way to educate customers on switching is commendable.

Direct agrees with the majority of the language but still has two remaining concerns that if not addressed may have the unintended consequence of harming the competitive market rather than fostering it.

1. Customers who are already in a contract with a supplier are excluded from enrollment in the municipal aggregation program.

The current language excluding customers already in contract is necessary language and is intended to protect those customers who have already made a choice from having their contracts interrupted. Direct supports this language and agrees that a customer who is in contract should not be automatically enrolled in the program. However, the opposite issue is not addressed. What if that customer chooses to terminate their existing contract early and join the municipal aggregation program? Under the current language that customer must first return to the utility to become eligible for enrollment. This means at least one month of default utility service pricing or more depending on the timing of opt-out periods before that customer can receive the benefits of their community's program. I assure you that no local official wants to field the call explaining to that customer why they must pay utility rates for a month or more before receiving their community's negotiated price.

An easy fix would be to insert language as follows into the section dealing with eligible customers:

However, nothing in this section shall prohibit an excluded customer under contract with another electric generation supplier from contacting an electric generation supplier to request enrollment in an opt-out municipal aggregation program; the electric generation supplier to the municipal aggregation program may not market to the customer for opt-out enrollment and must follow any laws or consumer protections for verification of an electric generation supplier enrollment.

2. The legislation must continue to ensure that aggregation is a means for educating customers on their shopping options and not a means to lock out competitive offers.

The current legislation allows a customer the opportunity to opt-out or leave the program after it has begun at the end of the contract term without incurring an early termination fee. However, there are no restrictions or limits on the term of the contract. It is possible that a contract could go for several years and in fact we have seen 10 year deals in another state. It is imperative that not only residents but their community be allowed to shop every few years without paying a fee. Direct would like language added to the legislation which guarantees that a community must exercise their ability to shop for a different supplier every three years and that a resident be offered the opportunity to opt-out every year regardless of a change in price or supplier.

There is a growing and thriving competitive electric market in Pennsylvania. Locking customers into long term municipal aggregation programs could kill that market. Direct understands the need for certainty by an electric supplier. One year deals allow for that supplier's load certainty while also ensuring customers get an opportunity to take advantage of the many offers available without penalty every year. No one wants to be the local official who has to tell a resident not only do they have to pay an early termination fee to leave now but they have to pay that fee if they leave anytime in the next ten years or more. Just as a customer may wait out a two year cell phone agreement, they may wait out a one year term to avoid penalty, but longer than that could earn the programs a bad reputation. Other states have some form of minimum opt-out term and those states have nowhere near the number of diverse suppliers and products to residential customers.

Direct requests the following or similar language be added to the legislation:

Any Municipal Aggregation Contract shall include a term not to exceed three years and must offer participants in the Municipal Aggregation an opportunity to leave without penalty once every twelve (12) months.

If the committee cannot find agreement on the language or issues I have discussed, Direct would recommend in the alternative that language which puts the responsibility of promulgating rules to protect the competitive market and address these issues in the hands of the Public Utility Commission be inserted. This ensures all market participants who may not normally participate in legislative activities will have an opportunity to comment through the rulemaking process.

Thank you again for providing this opportunity to share Direct Energy's and my experience with municipal aggregation. I am available to provide any assistance the Committee needs regarding municipal aggregation. Municipal aggregation is one of many ways to help bring the benefits of competitive markets to consumers.