

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

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# HOUSE BILL

## No. 2619 Session of 2010

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INTRODUCED BY PRESTON, BROOKS, CALTAGIRONE, ELLIS, GIBBONS,  
HALUSKA, HESS, HUTCHINSON, JOSEPHS, KOTIK, LONGIETTI,  
MARSHALL, MATZIE, PASHINSKI, RAPP, REICHLEY, SAINATO, SAYLOR,  
SIPTROTH, STEVENSON AND BARBIN, JUNE 29, 2010

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AS RE-REPORTED FROM COMMITTEE ON APPROPRIATIONS, HOUSE OF  
REPRESENTATIVES, AS AMENDED, SEPTEMBER 29, 2010

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## 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.

1 § 6101. Legislative purpose.

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

8 § 6102. Definitions.

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

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

14 "Commission." The Pennsylvania Public Utility Commission.

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

17 "Electric generation supplier." As defined in 66 Pa.C.S.  
18 § 2803 (relating to definitions).

19 "Municipal aggregation program." As defined in 66 Pa.C.S.  
20 § 2803 (relating to definitions).

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

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

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

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

29 § 6103. Grant of authority.

30 (a) Authority.--Except as provided under subsection (b) and

1 notwithstanding any law, a municipality is authorized to:

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

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

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

10 § 6104. Intergovernmental cooperation.

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

15 § 6105. Limitations.

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

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

21 § 2803. Definitions.

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

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

30 "Bilateral contract." An agreement, as approved by the

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

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

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

25 "Consumer." A retail electric customer.

26 "Customer." A retail electric customer.

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

1 "Default service provider." An electric distribution company  
2 within its certified service territory or an alternative  
3 supplier approved by the commission that provides generation  
4 service to retail electric customers who:

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

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

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

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

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

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

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

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

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

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

- 30 (1) an opt-out program, which shall include every

eligible consumer who does not choose to be excluded from the  
program; or

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

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

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

"Price-to-compare." A line item that appears on a retail  
customer's monthly bill for default service. The price-to-  
compare is equal to the sum of all unbundled generation and  
transmission related charges to a default service customer for  
that month of service. The price-to-compare is a ~~customer~~  
~~specific~~ AN AVERAGE CUSTOMER CLASS price for a given month of  
service reflecting all cost components that the customer avoids  
when choosing to take electric generation service from an  
electric generation supplier.

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

"Renewable resource." Includes technologies such as solar

1 photovoltaic energy, solar thermal energy, wind power, low-head  
2 hydropower, geothermal energy, landfill and mine-based methane  
3 gas, energy from waste and sustainable biomass energy.

4 "Retail customer." A retail electric customer.

5 "Retail electric customer." A direct purchaser of electric  
6 power. The term excludes an occupant of a building or facility  
7 where the owners/operators manage the internal distribution  
8 system serving such building or facility and supply electric  
9 power and other related power services to occupants of the  
10 building or facility; where such owners/operators are direct  
11 purchasers of electric power; and where the occupants are not  
12 direct purchasers.

13 "Small commercial customer." A retail electric customer that  
14 receives electric service under a small commercial, small  
15 industrial or small business rate classification, and whose  
16 maximum registered peak load was less than 50 kW within the last  
17 12 months.

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

26 (1) Regulatory assets and other deferred charges  
27 typically recoverable under current regulatory practice, the  
28 unfunded portion of the utility's projected nuclear  
29 generating plant decommissioning costs and cost obligations  
30 under contracts with nonutility generating projects which



1 have received a commission order, the recoverability of which  
2 shall be determined under section 2808(c)(1) (relating to  
3 competitive transition charge).

4 (2) Prudently incurred costs related to cancellation,  
5 buyout, buydown or renegotiation of nonutility generating  
6 projects consistent with section 527 (relating to  
7 cogeneration rules and regulations), the recoverability of  
8 which shall be determined pursuant to section 2808(c)(2).

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

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

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

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

17 (iv) Retirement costs attributable to the utility's  
18 existing generating plants other than the costs defined  
19 in paragraph (1).

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

26 The term includes any costs attributable to physical plants no  
27 longer used and useful because of the transition to retail  
28 competition. The term excludes any amounts previously disallowed  
29 by the commission as imprudently incurred. To the extent that  
30 the recoverability of amounts that are sought to be included as

1 transition or stranded costs are subject to appellate review as  
2 of the time of the commission determination, any determination  
3 to include such costs shall be reversed to the extent required  
4 by the results of that appellate review.

5 "Transmission and distribution costs." All costs directly or  
6 indirectly incurred to provide transmission and distribution  
7 services to retail electric customers. This includes the return  
8 of and return on facilities and other capital investments  
9 necessary to provide transmission and distribution services and  
10 associated operating expenses, including applicable taxes.

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

19 Section 3. Title 66 is amended by adding a section to read:  
20 § 2806.3. Municipal aggregation of electric generation supply.

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

1 (b) Ordinance required.--Prior to applying for an electric  
2 generation supplier license with the commission, the governing  
3 body of the municipality shall adopt an ordinance authorizing  
4 the municipality to apply for an electric generation supplier  
5 license to serve as a municipal aggregator of electricity,  
6 indicate whether the municipal aggregation shall be an opt-in or  
7 opt-out program and shall identify municipal officials by either  
8 title of office or name, or their duly appointed designees,  
9 authorized to execute documents with the commission on behalf of  
10 the municipality. A municipal aggregator of electricity shall  
11 provide reasonable public notice of municipal consideration of  
12 any ordinance authorizing a municipal aggregation program, which  
13 shall include newspaper publication on a monthly basis beginning  
14 at least 90 days prior to the adoption of an ordinance  
15 authorizing an opt-out program.

16 (c) Municipal aggregation contracts.--

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



1 shall include:

2 (i) provisions for the timing of the distribution of  
3 customer lists by the electric distribution company and  
4 customer notices consistent with this section;

5 (ii) a consumer education plan with appropriate  
6 consumer education materials to inform consumers about  
7 the existence of the municipal aggregation and the  
8 highlights of the program, which shall be deployed  
9 concurrently with the distribution of opt-in or opt-out  
10 notices, as applicable; and

11 (iii) a copy of the sample opt-in or opt-out notice  
12 to be sent to consumers, which shall provide the  
13 identification of the selected electric generation  
14 supplier.

15 (2) Any contract between a municipality and an electric  
16 generation supplier executed under this section shall clearly  
17 indicate whether it is for an opt-in or opt-out municipal  
18 aggregation and the price that the contracted electric  
19 generation supplier will charge customers for electric  
20 generation supply, as well as the time period of the  
21 contract. A contract executed under this section may not  
22 exceed three years. If the price is a fixed rate, the price  
23 shall be expressed in cents per kilowatt hour. If the  
24 contract provides for a percentage off of the default service  
25 rate or any other type of pricing arrangement, an  
26 understandable description of the amount of the percentage  
27 discount or other pricing arrangement and how the rate may  
28 change shall be provided. If the electric generation supplier  
29 will charge different rates to different rate classes within  
30 the municipality, the applicable rate to consumers within

1 each rate class shall be described.

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

3 (1) No consumer may be bound by a contract between a  
4 municipal aggregator of electricity and an electric  
5 generation supplier in opt-out municipal aggregation.

6 Customers receiving electric generation service under an opt-  
7 out municipal aggregation program may switch to an electric  
8 generation supplier other than the supplier to the municipal  
9 aggregation program at any time without penalty, cancellation  
10 fees or other restrictions, provided that the switch shall  
11 take place pursuant to commission-approved switching  
12 procedures.

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

29 (i) A description of the ordinance adopted by the  
30 municipality authorizing it to apply for a license from

1 the commission, the competitive procurement process under  
2 which offers for electric generation supply were  
3 solicited, and a location where, during regular business  
4 hours, consumers may view the ordinance and executed  
5 contract free of charge or obtain a copy for a reasonable  
6 fee.

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

24 (iii) An itemized list and explanation of all fees  
25 and charges that are not incorporated into the rates  
26 charged for electric generation service that the electric  
27 generation supplier will charge to the consumer for  
28 participating in the municipal aggregation, including any  
29 surcharges that may be assessed.

30 (iv) Disclosure of the estimated service

1 commencement date and notice that the consumer may opt  
2 out of the municipal aggregation program at any time.

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

10 (vi) A statement informing consumers that if they  
11 switch back to the default service provider they may not  
12 be served under the same rates, terms and conditions that  
13 apply to other customers within the municipal  
14 aggregation.

15 (vii) Disclosure of any credit, collection and  
16 deposit policies and requirements.

17 (viii) Disclosure of any limitations or conditions  
18 on customer acceptance into the municipal aggregation.

19 (ix) A description of the process for consumers to  
20 opt out of the municipal aggregation. The process shall  
21 include provisions for consumers to return a postcard or  
22 similar notice to the municipal aggregator of electricity  
23 or its agent. The process may include other opt-out  
24 methods, such as telephonic or Internet notice, if these  
25 alternative methods allow for verification of a  
26 consumer's election to opt out of the municipal  
27 aggregation.

28 (x) A local or toll-free telephone number, with the  
29 available calling hours, that consumers may call with  
30 questions regarding the formation or operation of the

1       municipal aggregation.

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

3       (1) No consumer may be bound by a contract between a  
4       municipal aggregator and an electric generation supplier in  
5       opt-in municipal aggregation until the consumer has been  
6       provided an opt-in notice required under this subsection and  
7       the expiration of any waiting period for a consumer to cancel  
8       the pending change to the electric generation supplier  
9       following written confirmation by the electric distribution  
10      company as prescribed by regulation. Customers receiving  
11      electric generation service under an opt-in municipal  
12      aggregation program may switch to an electric generation  
13      supplier other than the supplier to the municipal aggregation  
14      program at any time without penalty, cancellation fees or  
15      other restrictions, provided that the switch shall take place  
16      pursuant to commission-approved switching procedures.

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

27      (i) A statement informing consumers that if they do  
28      not choose to opt in to the municipal aggregation they  
29      will be served by the default service offer established  
30      under section 2807(e) until the consumer chooses an



1 alternative electric generation supplier or chooses to  
2 participate in a subsequent municipal aggregation.

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

18 (f) Additional requirements; provision of customer  
19 information.--

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

22 (i) For opt-out municipal aggregation only, a  
23 consumer that has opted out of the municipal aggregation  
24 under subsection (d) or that has a special contract or  
25 agreement with an electric distribution company or a  
26 consumer under an existing contract with a licensed  
27 electric generation supplier other than a consumer under  
28 a municipal aggregation contract with the current  
29 electric generation supplier of the municipal  
30 aggregation.

1           (ii) A consumer that is not located within the  
2           geographic boundaries of the municipal aggregator of  
3           electricity.

4           (iii) A consumer other than a residential or small  
5           commercial customer.

6           (iv) A consumer that is enrolled in an electric  
7           distribution company's customer assistance program that  
8           does not include any electric generation supplier charges  
9           in the calculation of the customer assistance program  
10          benefit.

11          (v) End-use consumers served or authorized to be  
12          served by an electric cooperative or loads served by a  
13          municipality that owns and operates its own electric  
14          distribution system.

15          (2) No earlier than three months and no later than 30  
16          days prior to the end of the term of a municipal aggregation  
17          contract and commencement of a new municipal aggregation  
18          contract or contract renewal term, a municipal aggregator of  
19          electricity or the electric generation supplier to the  
20          municipal aggregation shall provide notice to all consumers  
21          served by the municipal aggregation or who opted out of the  
22          municipal aggregation of their right to opt out of the  
23          subsequent municipal aggregation and take service pursuant to  
24          the default service provider's default service offer or with  
25          another electric generation supplier without fee or penalty.  
26          The notice shall also explicitly inform customers who may  
27          have opted out of any previous municipal aggregation  
28          contracts that they may be eligible to participate in the  
29          upcoming municipal aggregation contract, pursuant to the  
30          eligibility requirements defined in this subsection. The

1 notice shall follow the procedures established for the  
2 initial opt-out or opt-in notice set forth in subsection (d)  
3 or (e), as applicable, and shall prominently disclose to  
4 customers all changes to the terms and conditions associated  
5 with the municipal aggregation. The municipal aggregator of  
6 electricity may not send an opt-out notice to the same  
7 customer account for the period covered by the municipal  
8 aggregation contract where the customer account has  
9 previously opted out.

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

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

20 (i) After the issuance of a license to a municipal  
21 aggregator of electricity and upon request of the  
22 municipal aggregator of electricity or an electric  
23 generation supplier designated by the municipal  
24 aggregator, an electric distribution company shall use  
25 reasonable efforts to provide the following information  
26 to the extent it is maintained by the electric  
27 distribution company for all consumers residing within  
28 the municipal aggregator of electricity's geographic  
29 boundaries to the municipal aggregator of electricity or  
30 the electric generation supplier within 30 calendar days

1       of the request:

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

8               (B) An identification of consumers who are  
9               currently under contract with an electric generation  
10              supplier or in a special arrangement with the  
11              electric distribution company.

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

20              (iii) Upon completion of the mailing of opt-out  
21              notices and expiration of any associated waiting period  
22              under subsection (d)(1), a municipal aggregator of  
23              electricity or the electric generation supplier to a  
24              municipal aggregation may request updated consumer  
25              information required under this subsection, and the  
26              electric distribution company shall use reasonable  
27              efforts to provide such information within ten days of  
28              the request.

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

1           (i) Each municipal aggregator of electricity shall  
2           ensure that only eligible consumers are included in its  
3           municipal aggregation.

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

1 (g) Coordination with default service.--

2 (1) The implementation of a municipal aggregation  
3 program shall be coordinated with the default service supply  
4 procurement plans of the electric distribution company whose  
5 service territory encompasses the boundaries of the  
6 municipality participating in the program.

7 (2) Unless otherwise authorized by the commission, no  
8 municipal aggregator may enter into a contract for electric  
9 generation services during the term of the default service  
10 supply procurement plan, approved by the commission on the  
11 effective date of this section, of the electric distribution  
12 company whose service territory encompasses the boundaries of  
13 the municipal aggregator.

14 (3) If a municipal aggregator of electricity ceases to  
15 provide municipal aggregation services during the current  
16 term of the municipal aggregation contract filed with the  
17 commission and the customers of the municipal aggregator of  
18 electricity are returned to default service, the default  
19 service rate for such customers shall be the market price for  
20 generation service, including all charges for spot market  
21 purchases of energy, capacity, transmission, ancillary  
22 services, compliance with the act of November 30, 2004  
23 (P.L.1672, No.213), known as the Alternative Energy Portfolio  
24 Standards Act, and all other costs incurred by the default  
25 service provider in the provision of generation service to  
26 such customers, for the remainder of the default service  
27 provider's current default service plan.

28 (h) Duties of electric distribution companies and cost  
29 recovery.--

30 (1) Each electric distribution company shall provide

1 reasonable cooperation with municipal aggregators of  
2 electricity or the electric generation supplier to the  
3 municipal aggregation to facilitate the proper formation and  
4 functioning of opt-out or opt-in municipal aggregation, as  
5 applicable, including coordinating with municipal aggregators  
6 of electricity and electric generation suppliers to promote  
7 nondiscriminatory access to electric services and to process  
8 enrollment requests from municipal aggregators of electricity  
9 or their designated electric generation supplier in  
10 accordance with the same processes applicable to other  
11 licensed electric generation suppliers providing service to  
12 retail electric customers.

13 (2) An electric distribution company shall recover on a  
14 full and current basis all costs incurred to support and that  
15 are related to municipal aggregation through a nonbypassable  
16 reconcilable automatic adjustment charge under section 1307  
17 (relating to sliding scale of rates; adjustments) from all  
18 residential and small commercial consumers accessing the  
19 electric distribution company's transmission and distribution  
20 system.

21 (i) Duties of commission.--The commission shall:

22 (1) Promulgate regulations necessary to implement the  
23 provisions of this section, including, but not limited to,  
24 developing opt-in and opt-out notices for use by municipal  
25 aggregators of electricity in this Commonwealth.

26 (2) Promulgate regulations and take any other action  
27 necessary to coordinate the implementation of municipal  
28 aggregation programs with commission approval of electric  
29 distribution company default supply procurement plans.

30 Section 4. Sections 2807(d)(1) and 2809(a) of Title 66 are

1 amended to read:

2 § 2807. Duties of electric distribution companies.

3 \* \* \*

4 (d) Consumer protections and customer service.--The electric  
5 distribution company shall continue to provide customer service  
6 functions consistent with the regulations of the commission,  
7 including meter reading, complaint resolution and collections.  
8 Customer services shall, at a minimum, be maintained at the same  
9 level of quality under retail competition.

10 (1) [The] Except as provided under section 2806.3  
11 (relating to municipal aggregation of electric generation  
12 supply), the commission shall establish regulations to ensure  
13 that an electric distribution company does not change a  
14 customer's electricity supplier without direct oral  
15 confirmation from the customer of record or written evidence  
16 of the customer's consent to a change of supplier.

17 \* \* \*

18 § 2809. Requirements for electric generation suppliers.

19 (a) License requirement.--No person or corporation,  
20 including municipal corporations which choose to provide service  
21 outside their municipal limits except to the extent provided  
22 prior to the effective date of this chapter, brokers and  
23 marketers, aggregators, municipal aggregators of electricity  
24 implementing municipal aggregation programs and other entities,  
25 shall engage in the business of an electric generation supplier  
26 in this Commonwealth unless the person or corporation holds a  
27 license issued by the commission. The commission may waive  
28 certain licensing requirements in its regulations for municipal  
29 aggregators of electricity implementing municipal aggregation  
30 programs. Consistent with 15 Pa.C.S. Ch. 74 (relating to



1 generation choice for customers of electric cooperatives),  
2 electric cooperative corporations must possess a certificate for  
3 service to supply generation services beyond their territorial  
4 limits.

5 \* \* \*

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