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VIA E-FILING

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
400 North Street
Harrisburg, PA 17120

**Re: *En Banc* Hearing on Implementation of Supplier Consolidated Billing,
Docket No. M-2018-2645254**

Dear Secretary Chiavetta:

Enclosed for filing, please find the Comments of UGI Utilities, Inc. – Electric Division filed in accordance with the provisions of the Commission’s March 27, 2018 Secretarial Letter issued in the above docket.

Very truly yours,

Mark C. Morrow

Counsel for UGI Utilities, Inc. – Electric Division

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

En Banc Hearing on Implementation of Supplier Consolidated Billing :
: Docket No. M-2018-2645254

**COMMENTS OF
UGI UTILITIES, INC. – ELECTRIC DIVISION**

INTRODUCTION

UGI Utilities, Inc. – Electric Division (“UGI-ED”) appreciates the opportunity to submit comments in response to the Commission’s March 27, 2018 Secretarial Letter at the above docket requesting comments concerning issues associated with the potential implementation of electric generation supplier (“EGS”) consolidated billing (“SCB”). UGI-ED is a member of the Energy Association of Pennsylvania (“EAP”), fully supports the comments submitted by EAP at the docket, and offers these comments to supplement those of EAP.

I. General Comments

In accordance with the provisions of 52 Pa. Code §5.61, and the Commission’s Secretarial letter published in the December 24, 2016 edition of the *Pennsylvania Bulletin*, UGI-ED previously submitted comments and an answer, and joined in comments filed by EAP, addressing many of the SCB issues being raised at this docket in response to the December 8, 2016 petition of NRG Energy, Inc. (“NRG”), at Docket No. P-2016-2579249 (the “NRG Petition”). The Commission denied the NRG Petition, largely on the ground that NRG had failed to support or address many of the issues associated with any implementation of SCB, in an

Opinion and Order entered on January 31, 2018, which also directed staff to initiate the current *en banc* proceeding (the “NRG Order”).

The Commission, as a quasi-judicial administrative agency charged with implementing the statutory authority granted to it, clearly has the authority to initially determine if policy questions or requests for relief are within its jurisdiction to address or grant. Time and effort spent of addressing questions which are beyond an administrative agency’s ability to grant are by definition a waste of resources and not in the public interest.

In the NRG petition, the question of the Commission’s authority to mandate SCB was squarely raised by NRG and most or all of the entities that responded to this petition. In its NRG Order, the Commission declined to rule on whether it had authority to mandate SCB, as evidenced by both the wording of the NRG Order and the Commission’s solicitation of comments concerning its legal authority in its March 27, 2018 Secretarial Letter.

Since the Commission did not definitively address its authority to mandate SCB in the NRG Order, UGI believes it should preliminary do so now before devoting additional resources to addressing the many SCB implementation issues previously raised in the NRG Petition and again in the March 27, 2018 Secretarial Letter. To not do so risks the waste of substantial resources addressing questions the Commission has no authority to address.¹

Alternatively, should the Commission elect not to definitively address its jurisdiction now, it should preliminarily rule that it will not take further actions to implement SCB without clear direction from the General Assembly, and suspend further inquiry into SCB

¹ Moreover, if the Commission were to conclude that while it may not have the authority to mandate SCB programs, it does have the authority to permit voluntary SCB proposals submitted by EDCs, it should now be clear, from the answers and comments submitted in response to the NRG Petition, and at this docket, that it is unlikely any such voluntary SCB programs are likely to be requested by EDCs given the costs of implementation versus likely benefits, and the many complexities associated with implementation highlighted by the NRG petition and the March 27, 2018 Secretarial Letter.

implementation issues. Unlike Texas, which mandated that EDCs relinquish billing to EGS's and established a statutory framework for doing so (thereby leaving NRG with an inherited legacy customer billing function which it presumably wants to leverage to gain a competitive advantage in Pennsylvania), Pennsylvania chose a different legislative framework for implementing retail choice which has left the billing function and other associated customer functions with EDCs. UGI-ED submits the many complex questions noted in the Commission's March 27, 2018 Secretarial Letter result from trying to fit a Texas practice into an entirely different statutory and regulatory framework. The Commission should not act to implement SCB, which would likely involve legal challenges by both EDCs, public parties and low-income advocates, without clear legislative guidance and authority.

Finally, before proceeding with any SCB program, the Commission should provide a forum for individual EDCs to present evidence of their expected costs of implementation so that such costs can be weighed against expected benefits. As the Commission is aware, UGI-ED and its affiliated natural gas distribution companies have recently spent tens of millions of dollars commissioning a new customer information system designed around existing statutory and regulatory rules. Meanwhile, as UGI-ED noted in response to the NRG Petition, as of December 2016, ten EGSs were providing electric generation service to 1200 UGI-ED customers, of which 338 of which were residential. Moreover, there was no evidence in the NRG Petition that even NRG would be interested in providing SCB of small EDC systems, or even large EDC systems depending on how certain SCB public policy decisions are resolved and how cost responsibility is allocated.

II. Response to issues identified in the March 27, 2018 Secretarial Letter

Subject to the concerns expressed above, UGI-ED offers the following comments in response to the issues identified in the Commission's March 27, 2018 Secretarial Letter:

LEGAL

1. Is SCB permitted under Chapters 14 and 28 of the Public Utility Code, 66 Pa. C.S. §§ 1401-1419, 2801-2815? If so, what limits, if any, are imposed by the Public Utility Code? In particular, does the language in Section 2807(c) limit the Commission to only (1) dual billing and (2) EDC consolidated billing? Does the statutory language in Chapter 14 require that customer billing functions, especially those related to service connections, payment arrangements, terminations of service and reconnection of service, are functions that are to be performed solely by the EDC?

UGI-ED Response:

For the reasons more fully explained in the EAP Comments at this docket, UGI-ED believes that billing options are limited to dual billing or EDC consolidated billing. UGI-ED also believes the wording of Chapter 14 requires customer billing functions to be provided by EDCs.

2. Would a purchase of receivables (POR) program where the EGS purchases the EDC's receivables be permitted under the Public Utility Code and Commission regulations?

UGI-ED Response:

As a practical matter an EGS purchase of receivables program would not be practical since there is not a current statutory or regulatory framework for permitting EGS to terminate service for non-payment, which is one of the many reasons why the Commission should defer action until a legislative framework is developed for SCB.

3. Given that POR programs are voluntary and the Commission could not require an EGS to purchase an EDC's receivables, what effect would that have on the viability of SCB if an EGS does not include a POR program in its SCB plan?

UGI-ED Response:

Presumably EDCs would have to rely on EGS remittances of payments collected for distribution services, increasing EDC risk of non-payment which could be offset by increased performance assurance provided by the EGS providing SCB or through increased costs passed on to EDC distribution customers.

4. If the Commission decides to explore these topics further, what are the preferred procedural methods for doing so?

UGI-ED Response:

The Commission should await legislative guidance, or if it elects to proceed without such guidance should examine these questions in the context of filings made to implement SCB on individual EDC systems.

IMPACT ON THE MARKET

1. How would implementation of SCB affect Pennsylvania's retail electric market?

UGI-ED Response:

It is difficult to judge in the absence of a statutory framework for implementation, but UGI-ED believe the impact would presumably be detrimental because of the unfair advantage provided to the EGS providing SCB versus other EGSs, and the lack of any benefits identified in the NRG petition that could not already be achieved today through the use of dual billing. In this regard, UGI-ED believe that generally supportive comments submitted by certain EGS's in response to the NRG petition should be discounted since the petition did not address many of the policy issues that would apply to an actual SCB program in Pennsylvania.

2. What are the benefits to consumers associated with implementation of SCB?

UGI-ED Response:

UGI-ED looks forward to the comments and presentations made by EGSs' concerning this question, but it is clear that the benefits identified in the NRG Petition, such as flat amount billing or time-of-use rates, either cannot be implemented under Pennsylvania law or can already be realized through dual billing.

3. Is implementation of SCB necessary to facilitate the introduction of products and services to retail electric customers in Pennsylvania and to boost competition in the electric generation market? Is SCB needed to facilitate the provision of smart-meter related products like Time-of-Use (TOU)?

UGI-ED Response:

UGI-ED submits there is no evidence that SCB is required to provide new services, including time-of-use rates. To the extent certain EDC billing systems cannot accommodate the billing of certain legal service offerings, the dual bill option is available.

4. What effect would implementation of SCB have on standard offer programs (SOP) and how would they interact, if at all?

UGI-ED Response:

Presumably SCB by one EGS would raise questions concerning how objective that EGS could be in referring customers to other EGSs participating in a standard offer program.

MECHANICS – HOW IT WOULD WORK

1. Should an EGS be required to meet more stringent financial/bonding requirements, demonstrate that it possesses the technical expertise to perform billing and customer service functions, or make any other showing before being permitted to offer SCB? If so, what should those requirements be and what process should the Commission use to review an EGS's eligibility?

UGI-ED Response:

It is difficult to answer this question until a statutory and regulatory framework is developed authorizing SCB in Pennsylvania but in general, to the extent an EDC or any commercial entity relies on third parties to provide billing services, appropriate security should be provided. Moreover, to the extent associated customer care functions are transferred to an EGS, the Commission should have appropriate regulatory authority over the entity providing the service to ensure compliance, which is a further reason why the Commission should await the development of an appropriate statutory framework authorizing SCB and conferring appropriate regulatory authority.

2. Would a pilot program involving an EDC working with an EGS or group of EGSs to design and implement a SCB platform be appropriate?

UGI-ED Response:

UGI-ED does not believe there is a sufficient statutory and regulatory framework in place to even authorize pilot programs.

3. What steps would the Commission need to take to ensure that EDCs receive payment according to the terms of the POR program in a timely fashion?

UGI-ED Response:

It is difficult to address this question in the absence of a statutory and regulatory framework defining what authority and sanctions the Commission could exercise, but presumably EDCs would have to rely on the civil courts to obtain relief in the event of non-payment, and would be subject to increased bankruptcy, insolvency and fraud risks that they would have to attempt to minimize at some cost through the provision of performance assurance.

4. What type of costs may be incurred by EDCs and EGSs when implementing SCB in Pennsylvania's retail electric market? Would the costs of implementation outweigh the potential benefits? Who should be responsible for paying those costs?

UGI-ED Response:

Once again, this question is difficult to answer in the abstract without a well-developed statutory and regulatory construct, but presumably costs would include the costs of re-programming computer systems and changing business practices, the increased costs associated with offsetting the third-party non-performance risks, and the costs of having duplicate billing systems. Presumably these costs should all initially be borne by the EGSs seeking the benefits of SCB, and ultimately the costs would be passed on to consumers.

5. Is it feasible/appropriate to designate an EGS offering SCB as default service provider? See 66 Pa. C.S. §§ 2803 (definition of default service provider), 2807(e) (relating to obligation to serve) and 52 Pa. Code § 54.183 (relating to default service provider).

UGI-ED Response:

Presumably, to the extent designating an EGS as a default service provider would be permitted, making that default service provider an SCB provider as well would raise the risk of decreasing competition among EGSs unless an effective statutory and regulatory framework would be put in place to ensure the even-handed and fair treatment of all EGSs.

COLLECTIONS – TERMINATION

1. Does an EGS offering SCB need the power to order termination of a customer's service?

UGI-ED Response:

Presumably, as reflected in the requested relief in the NRG Petition, this would be required to reduce the risks of non-payment.

2. Would allowing an EGS to order an EDC to terminate a customer's service comply with Chapter 14 of the Public Utility Code, 66 Pa. C.S. §§ 1401-1419, and Chapter 56 of the Commission's regulations, 52 Pa. Code §§ 56.81-56.83, 56.91-56.101, 56.111-56.118?

UGI-ED Response:

No, as explained more fully in RAP's comments.

3. If an EGS purchases an EDC's receivables and the EDC is no longer owed any money, does the EDC (or EGS) have the authority under the Public Utility Code and Commission regulations to terminate service for nonpayment of distribution charges?

UGI-ED Response:

No.

4. What safeguards should an EGS employ to ensure proper termination and reconnection of service by the EDC (e.g., steps to ensure timely sharing of data with EDCs; use of termination checklists; steps to promote customer understanding regarding the functions handled by the EGS versus those handled by the EDC)? What role, responsibility, and discretion does the EDC have in executing the termination process?

UGI-ED Response:

It is difficult to answer this question in the absence of a statutory framework authorizing SCB that would answer questions such as this.

5. Would a blocking mechanism to prevent switching by customers who have made payment arrangements with the EGS be permitted under the Public Utility Code and Commission regulations, and prudent from a public policy perspective?

UGI-ED Response:

UGI-ED believes this is a public policy question best left to the General Assembly to address through legislation, but public parties and low-income advocates clearly believed this would not be an appropriate policy in their comments on the NRG Petition.

6. What consumer protections, if any, should be implemented by an EGS if a blocking mechanism is permitted?

UGI-ED Response:

UGI-ED believes that this public policy question should be decided by the General Assembly through legislation.

7. What steps should EGSs take to ensure proper accounting for value-added service (VAS) charges pursuant to Chapter 56 of the Commission's regulations, 52 Pa. Code §§ 56.23, 56.24, including allocation of customer payments to accounts with past due balances? Does the Commission have authority under the Public Utility Code to require an EGS to follow these regulations with respect to accounting for VAS charges? Should procedures be put in place to ensure that nonpayment of VAS not lead to termination of service? If so, what procedures should be implemented?

UGI-ED Response:

UGI-ED believes that these public policy questions should be decided by the General Assembly through legislation.

LOW-INCOME CUSTOMERS / ASSISTANCE PROGRAMS

1. Should EGSs offering SCB be permitted to include LIHEAP and CAP customers? If so, how would SCB and these programs interact, especially with regard to customer notification and education?
2. If EGSs offering SCB are permitted to include LIHEAP and CAP customers, how would these programs interact and what changes (statutory, regulatory and programmatic) would be necessary?
3. How would EGSs ensure that programs to assist low-income customers remain in place in accordance with the policy established in 66 Pa. C.S. § 2802(17) (relating to declaration of policy)?
4. How would EGS-implementation of SCB affect existing universal service billing procedures?
5. Would an EGS with SCB have an obligation to answer or refer to the EDC questions regarding low-income programs and to educate customers on the options and programs available?

UGI-ED Response:

UGI-ED believes it is difficult and not necessarily productive at this time to try to answer these questions in the absence of a statutory framework for the authorization and implementation of SCB.

POSSIBLE ALTERNATIVES

1. Changes to utility consolidated billing (SCB) to allow for additional flexibility needed to bill for smart-meter related services like Time-of-Use (TOU) and the addition of charges for EGS value-added services.

UGI-ED Response:

UGI-ED would note that it was exempted by the General Assembly from the requirement imposed on larger EDCs to install smart meters, and that time of use billing would accordingly not be practical on its system. To the extent the Commission believes that requiring changes to EDC billing systems may be appropriate, given the diversity of customer information systems and circumstances among EDCs, the Commission should examine the issue on an individual EDC basis so that likely costs and EGS-interest levels can be judged based on the circumstances prevailing on each EDC system.

2. Unbundling of billing services. Possible models include providing open, non-discriminatory access to the EDC's billing system to EGSs and other billing entities at tariffed prices. What other unbundling models are possible?

UGI-ED Response:

EDCs already provide billing services to EGS at costs which prompt many EGSs to favor consolidated EDC billing over separate bills, and UGI-ED is not aware of any EGS complaints about billing charges. If by providing "open" access the Commission means that multiple entities could run billing programs or processes on shared hardware or cloud-based systems, UGI-ED believes important cyber security concerns would have to be addressed.

3. Unbundling of other related and specified services.

UGI-ED Response:

UGI-ED is not sure how the unbundling of other services would act as a substitute for SCB, but generally believes that the General Assembly's statutory restrictions on further unbundling should be adhered to.

4. Allowance of third-party billing agents, such as EGSs, or an independent billing agent in place of SCB or SCB.

UGI-ED Response:

EDCs can already contract with third parties today to assist them with the provision of their billing services, and billing service providers would not necessarily be barred simply because they are affiliated with EGSs, although strict privacy requirements would presumably have to be adhered to prevent the unfair use of customer proprietary information. To the extent is suggesting that EDC's would be forced to turn-over billing functions to independent third party providers, it is unclear how this would benefit retail choice, and would obviously create very large stranded investments associated with existing EDC customer billing systems that would have to be addressed. Given the lack of evidence of any undue discrimination by EDCs or of any significant barriers to retail choice resulting from currently available billing options, UGI-ED does not believe the Commission should take any further action without specific guidance from the General Assembly.

III. Conclusion

For all the foregoing reasons, UGI-ED believes that the Commission should take no action to implement SCB until such time as it is receives statutory authority and further guidance

from the General Assembly.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Mark C. Morrow", with a long horizontal flourish extending to the right.

Mark C. Morrow

Counsel for UGI Utilities, Inc. –
Electric Division