



COMMONWEALTH OF PENNSYLVANIA

January 23, 2017

**E-FILED**

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

**Re: Petition of NRG Energy, Inc. for Implementation  
of Electric Generation Supplier Consolidated Billing  
Docket No. P-2016-2579249**

Dear Secretary Chiavetta:

I am delivering for filing today the Answer and Comments of the Office of Small Business Advocate ("OSBA") to the Petition of NRG Energy, Inc. for Implementation of Electric Generation Supplier Consolidated Billing, in the above-captioned proceeding.

Copies will be served on all known parties in this proceeding, as evidenced by the enclosed Certificate of Service.

If you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Elizabeth Rose Triscari".

Elizabeth Rose Triscari  
Deputy Small Business Advocate  
Attorney ID No. 306921

*Enclosures*

cc: The Honorable Charles E. Rainey, Jr.  
Mr. Brian Kalcic  
Parties of Record

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Petition of NRG Energy, Inc. for** :  
**Implementation of Electric Generation** : **Docket No. P-2016-2579249**  
**Supplier Consolidated Billing** :

**ANSWER AND COMMENTS OF THE  
OFFICE OF SMALL BUSINESS ADVOCATE**

**I. INTRODUCTION**

On December 8, 2016, NRG Energy, Inc. (“NRG”) petitioned the Pennsylvania Public Utility Commission (“Commission”) to implement electric generation supplier consolidated billing (“SCB”) in Pennsylvania by the second quarter of 2018 (“Petition”). NRG requests that the Commission issue an Order by June 15, 2017, directing its Office of Competitive Market Oversight (“OCMO”) to initiate a SCB Stakeholder Work Group. *Petition at ¶¶ 71-72.*

Pursuant to a notice published in the Pennsylvania Bulletin on December 24, 2016, the Commission indicated that answers and comments regarding the Petition must be filed by January 23, 2017 and reply comments by February 22, 2017. The OSBA respectfully submits the following answer and comments regarding the Petition.

**II. ANSWER AND COMMENTS**

As correctly stated in the Petition, the issue of SCB was reviewed by the Commission as part of its electricity retail market investigation (“Electric RMI”), and was ultimately rejected by the Commission in its order entered February 15, 2013 (“End State Final Order”). That order stated:

While the Commission is of the opinion that SCB might someday play a role as a billing option in the competitive market, upon review of the

comments, we have to conclude that we are not prepared to move to an SCB environment at this time. We agree with many of the suppliers who point out that SCB will facilitate the offering of innovative new products and services and will also help the supplier in establishing a brand identity with the customer. However, all parties appear to be in agreement that SCB could only be implemented after extensive work and expense by many entities. We are concerned with the burden this would impose, especially given the multitude of other, more critical, changes we are mandating in the near-term. We are also concerned that the extensive work and expense could result in a feature that will not be utilized sufficiently to justify the costs at this time.

We have substantial concerns that use of an SCB process may be even more unlikely now since POR programs are available. It is unclear how many suppliers would be willing to forgo the ease and convenience of utility consolidated billing under POR, where they have no bad debt risk, to opt for an SCB model where they assume the full burden of billing, collections and bad debt. We also point out that suppliers do currently have the option of issuing a separate bill to the customer (the dual billing option) if they find utility consolidated billing not conducive to their offerings or business model.

Therefore, the Commission will revise what we proposed in the Tentative Order – OCMO will not be submitting a recommendation to the Commission in July 2013 as to how to proceed with SCB. Instead, we direct OCMO to explore another possibility, more along the lines of what PPL suggested, to seek “simple, cost-effective solutions.” By the end of 2013, OCMO should submit a recommendation regarding the possibilities for making the utility consolidated bill more supplier-oriented. The current utility consolidated bill looks like the utility’s bill – with supplier information often relegated to a few lines, with the supplier’s name, phone number, rate and charges. This is an especially incongruent result for many customers whose supplier generation charges actually exceed the utility’s distribution charges. We are interested in pursuing options to make the supplier’s charges and information more prominent. This could include making the supplier information more visible, incorporating the supplier’s logo, providing more space for suppliers to provide bill messages and even the opportunity to include EGS bill inserts. The expected end-result would look more like a joint EDC-EGS bill.

We acknowledge that considerable work and some expense may be required to move to this kind of format. But we expect that the effort and expense necessary for this kind of effort will be considerably less than what would be required to create SCB. We also acknowledge that this issue has not been fully vetted through any informal or formal Commission process. Therefore, we will proceed cautiously and ask

OCMO to consult with utilities, suppliers and consumer representatives as they explore the feasibility of this proposal.

We believe that this approach offers several advantages over creating an SCB environment at this time. As we have noted, we fully expect that this approach will require fewer resources than would be required to implement an SCB environment. In addition, this approach does not raise the consumer protection concerns expressed by OCA, PULP, PCADV and others, since we are not changing the entity that is billing and collecting from the consumers.

*End State Final Order at 66-68.*

With respect to the Commission's decision to pursue a strategy in which utility consolidated bills ("UCBs") are more supplier-oriented, the Commission entered an order at Docket No. M-2014-2401345 on May 23, 2014 ("Joint Bill Order").

The OSBA's answer and comments regarding the Petition fall in three general categories:

1. Is the Commission's reasoning in the End State Final Order flawed or no longer relevant, such that evidentiary hearings or a more detailed fact-finding investigation are not warranted?
2. Has the Commission's decision to move toward more supplier-oriented consolidated billing been adequately vetted, and is the evidence clear that it has demonstrably failed?
3. Are there technical aspects to NRG's proposal that are of concern to OSBA?
4. Is SCB even authorized by the Public Utility Code?

Regarding the first question, the OSBA has concerns with NRG's assertion "that all issues that must be decided to move forward with SCB are legal or policy in nature and that no issues of material fact warrant the scheduling of evidentiary hearings."

*Petition at ¶ 69.* The OSBA especially takes issue with the implication that any attempt by interested parties to request hearings is merely intended as a delay. *Petition at ¶ 17.*

The Commission expressed a significant concern about the “. . . extensive work and expense by many entities” necessary to implement SCB. The OSBA recognizes and appreciates the proposal made by NRG that EGSs who provide SCB will be responsible for all of their costs of doing so. *Petition at ¶ 34.* However, the Petition appears to be silent on the matter of the magnitude of costs borne by other parties, notably EDCs.

While it is possible that the EDCs’ comments will provide a reasonable evidentiary basis for evaluating this question, the lack of any effort to assess such costs in the Petition is troubling. With respect to the burden of costs borne by EDCs, the OSBA disagrees with the assertion in the Petition that EDC recovery of stranded costs in 1998 restructuring settlements means customers have already paid the incremental costs for implementing SCB. *Petition at ¶ 67.* Even more troubling, is NRG’s accusation describing “any cost concerns now raised by commenters as nothing more than attempts to interfere with the further development of Pennsylvania’s electric retail market.” *Id.* The OSBA supports development of the competitive retail market, but not to the detriment of ratepayers saddled with unnecessary costs in efforts to line the pockets of EGSs.

In addition, the Commission expressed a significant concern that EGSs would be uninterested in offering SCB, with purchase-of-receivables (“PoR”) and UCB in place, and with EGSs avoiding collection risk. While it can presumably be inferred from the Petition that NRG would be willing to offer SCB under the terms laid out in the Petition, it offers no evidence that other EGSs would be interested in so participating. Thus, it is difficult to understand why the Commission would approve a costly and complex process to allow for SCB with little evidence of supplier interest.

Turning to the second question, it has been a little over 2½ years since the Commission’s option for a greater recognition of the EGS in the combined bill was set in place. The Petition dismisses the Commission’s approach:

While the joint bill is commendable as an educational tool, having a logo and a line item on the bill has not enabled EGSs to forge long-term relationships or engage in more effective communications with their customers or to develop product offerings designed to fulfill the specific needs of their customers. This initiative also has not had the desired effect of moving Pennsylvania toward a more robust and competitive environment.

*Petition at ¶ 9.*

However, these assertions are unsupported by any facts. At least as far as commercial customers are concerned, it is unclear to OSBA what sort of demonstration NRG would require for a “robust and competitive environment.” The table below reports the OCA Shopping Statistics for April 1, 2014 (before the Commission’s Joint Bill Order) and October 1, 2016. As shown, the percentage of commercial load that is shopping is both high and has generally increased since the Commission’s Joint Bill Order. The OSBA respectfully submits that it is not clear that the Commission’s approach is a clear failure as asserted by the Petition.

<b>OCA Shopping Statistics</b>		
<b>Percentage of Customers’ Load</b>		
	<b>April 1, 2014</b>	<b>October 1, 2016</b>
<b>Duquesne Light</b>	<b>72.5%</b>	<b>77.76%</b>
<b>MetEd</b>	<b>69.9%</b>	<b>75.16%</b>
<b>PECO Energy</b>	<b>68.5%</b>	<b>72.70%</b>
<b>Penelec</b>	<b>66.8%</b>	<b>72.38%</b>
<b>Penn Power</b>	<b>65.1%</b>	<b>71.52%</b>

PPL Electric	84.1%	84.40%
UGI Electric	34.6%	42.30%
West Penn Power	60.7%	68.66%

Turning to the third question, the OSBA has two observations regarding the NRG mechanism that merit additional investigation. First, NRG indicates that it will purchase all EDC receivables at full value. *Petition at ¶ 54.* The OSBA recognizes that this is an extremely generous offer; so generous in fact that it seems too good to be true. The OSBA is concerned that this provision will make SCB unattractive to potential entrants, and may very well become one of the parameters that suppliers will try to change once SCB is in place. (The OSBA expects that the proposal to not require EDCs to pay for the billing service may be revisited if SCB is adopted.) However, even if this proposal is adopted, a mechanism for refunding the EDC savings to ratepayers will need to be developed.

Second, NRG requests that it be allowed to bundle EDC charges into a single per-kWh charge. *Petition at ¶ 37.* Without supporting EDC detail, a customer will have no idea why its distribution bills will change from month to month, and the EDCs efforts to send price signals in its tariff will be defeated. If this proposal is adopted, the OSBA respectfully submits that the EDC detail must be included somewhere in the bill.

With respect to the fourth question, whether SCB is authorized under the Public Utility Code, the OSBA disagrees with NRG that the Commission has made a definitive decision on this issue. Certain parties to the Electric RMI raised compelling legal arguments that it is not, and rather than address those arguments, the Commission tabled

the discussion. Such a complex and novel legal issue should be afforded full briefing by interested parties and an initial decision by an administrative law judge.

**III. CONCLUSION**

For all of the reasons cited above, the OSBA respectfully requests that the Commission refer this matter to the Office of Administrative Law Judge for evidentiary hearings and preparation of a Recommended Decision.

Respectfully submitted,



Elizabeth Rose Triscari  
Deputy Small Business Advocate  
Attorney ID No. 306921

For:

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Small Business Advocate

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Dated: January 23, 2017



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**Petition of NRG Energy, Inc. for** :  
**Implementation of Electric Generation** : **Docket No. P-2016-2579249**  
**Supplier Consolidated Billing** :

**CERTIFICATE OF SERVICE**

I hereby certify that true and correct copies of the foregoing have been served via email and/or First-Class mail (*unless other noted below*) upon the following persons, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).


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DATE: January 23, 2017

  
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