BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

ANSWER AND COMMENTS OF CALPINE ENERGY SOLUTIONS, LLC

TO THE HONORABLE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

Calpine Energy Solutions, LLC ("Calpine"), by and through its counsel, submits the following Answer and Comments in response to the petition filed by NRG Energy, Inc. ("NRG") in the above-captioned matter pursuant to the Pennsylvania Public Utility Commission's ("Commission") notice published in the *Pennsylvania Bulletin* on December 24, 2016 at 46 Pa.B. 8154.

I. BACKGROUND

On December 8, 2016, NRG filed a petition with the Commission seeking to implement supplier consolidated billing ("SCB") as a billing option available to customers of electric generation suppliers ("EGS") in Pennsylvania by the second quarter of 2018. In its petition, NRG identifies several Commission actions that would allegedly be necessary to implement SCB in Pennsylvania and outlines a proposed plan for moving forward.[1] These actions include, *inter alia*, (i) the issuance of a Commission Order no later than June 15, 2017 which sets forth policy guidance regarding the implementation of SCB and addresses operational issues related thereto, (ii) the creation of SCB stakeholder working group to address relevant issues, and (iii) the issuance of an Implementation Order by December 31, 2017 which would approve or otherwise

[1] NRG Petition at 30-33.

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resolve the issues addressed by the SCB stakeholder working group, direct the filing of compliance plans, initiate a proposed rulemaking, and issue any necessary interim guidelines.

Notice of NRG's petition was published in the December 24, 2016 edition of the *Pennsylvania Bulletin.* 46 Pa.B. 8154. The Notice directs interested parties to file answers and comments by January 23, 2017, and reply comments by February 22, 2017.

Calpine (formerly known as Noble Americas Energy Solutions LLC ("Noble"))[2] is one of the nation's largest independent, non-residential retailers and marketers of retail energy services. Calpine/Noble is licensed by the Commission as an electric generation supplier ("EGS") at Docket No. A-110141 to offer, render, furnish or supply electricity and electric generation supplier services to large commercial (over 25kW), industrial, and governmental customers, and to residential and small commercial (25kW and under) customers (limited to mixed meters), throughout the Commonwealth, including the Met-Ed and Penelec service territories. Calpine strives to serve the energy supply needs of national and regional commercial, industrial, and governmental customers, and where there are mixed meters some residential meters, across 18 states, including Pennsylvania, and offers its customers a wide variety of energy-related products and services, including fixed, indexed, demand response, and green energy options. Calpine also provides energy procurement and risk management solutions designed to meet the individual needs of its customers and capture the benefits of a deregulated utility environment. In addition to its product and service offerings, Calpine has built its own state of the art billing systems and uses dual billing exclusively for its Pennsylvania customers.

[2] On December 1, 2016, Noble Americas Energy Solutions LLC was acquired by Calpine Corporation and subsequently changed its name to Calpine Energy Solutions, LLC. Calpine is currently in the process of updating the administrative requirements associated with these changes in all of the jurisdictions in which it does business and expects to complete that process shortly.

Calpine offers the following Comments for the Commission's consideration in connection with its consideration and examination of NRG's proposal to implement SCB in Pennsylvania.

II. ANSWER AND COMMENTS

Calpine supports the concept of SCB on its face and a few of the aspects of NRG's proposal in particular, including that SCB would be optional and not mandatory; that it would not eliminate existing billing options – *i.e.*, utility consolidated billing ("UCB") and dual billing – available to Pennsylvania retail customers; and that EGSs participating in SCB would face additional financial security requirements. Calpine cautions, however, that implementation of SCB in Pennsylvania must be done with extreme care and in a manner which does not result in the creation of disparate treatment for those that do not select the SCB option or the creation of an uneven playing field for competitive EGSs. To that end, Calpine addresses below some areas of concern with NRG's proposal.

A. NRG's Proposal Would Not Necessarily Preserve All Protections Currently Enjoyed By Retail Consumers

In its Petition, NRG contends that adoption of its proposal "would preserve all protections currently enjoyed by retail consumers."[3] Calpine submits that this may not necessarily the case.

Retail suppliers are not regulated to the same extent or same manner as a public utility, nor should they be. The Commission controls nearly all aspects of an EDC's service, including the rate of return on equity, the rates and terms for specific services, and default service obligations. EGSs, on the other hand, are not utilities as that term is defined under the Public

[3] NRG Petition at 2.

Utility Code (except for some very limited situations) and thus enjoy significant flexibility in the terms and conditions of their services and the products they offer to Pennsylvania consumers. By approving a SCB option, the Commission would be shifting control of important customer service functions to a less regulated entity. This is a delicate dynamic, and it is imperative that adequate rules and safeguards are adopted and that EGSs participating in SCB are held accountable for their actions to avoid harming the integrity of the competitive retail market.

B. Extending Termination Protocols To EGSs Offering SCB

Under NRG's proposal, EGSs offering SCB would have the power to direct the implementation of termination protocols in accordance with Chapter 14 of the Public Utility Code and Chapter 56 of the Commission's regulations. NRG asserts that this is necessary to ensure EGSs are able to manage their bad debts and reduce their uncollectible accounts.

Unlike EDCs, EGSs are not utilities, as that term is defined under the Public Utility Code (except for some very limited situations), and should not be extended the same powers. EDCs are charged with a host of obligations as default service providers which justify their ability to terminate service to a non-paying customer, when termination is permitted by the Commission's rules. EGSs, however, are not default service providers and are not subject to the same regulatory scrutiny as EDCs. EGSs choosing to utilize SCB are doing so voluntarily and will continue to enjoy considerable latitudes not available to EDCs. In particular, EGSs are generally free to set their own rates and fees, establish their own terms and conditions of service, implement their own credit procedures, decide who and where to serve, and able to control their own costs. As such, if EGSs want to take on the responsibility of consolidated billing, they must also assume the risks attendant to that function and manage such risks accordingly (*e.g.*, EGSs should purchase the receivables at a discount, not be given powers exclusively available to the default service providers which are obligated to serve).

NRG's proposal also creates disparate treatment based on the billing option an EGS elects to employ, as only EGSs using SCB would have shut off and termination powers. EGSs electing to use other billing methods, however, would not be extended the same right to implement shut offs or termination procedures, which would create a distinct disadvantage to those suppliers.

C. Fees For Providing Billing Services

Under NRG's proposal, EGSs would not charge EDCs any fees for providing billing services, as long as the EDCs providing UCB likewise continue to do so at no charge.[4] This proposal, unfortunately, ignores the reality of the actual costs involved and appears to be a quid pro quo to ensure that those EGSs electing UCB do not incur charges for doing so. More importantly, it would harm EGSs, like Calpine, that utilize dual billing, as those EGSs maintain responsibility for and must cover their own receivables risk. The risk of uncollectibles exists regardless of what billing option is used and should remain with the entity responsible for the billing.

D. Cost Responsibility For Implementing SCB

While Calpine certainly supports the SCB in its initial concept, it is imperative that *any and all* costs associated with the implementation and policing of SCB, including costs related to consumer education and costs incurred by EDCs and the Commission, should be shouldered solely by participating EGS. This ensures a fair and equitable cost recovery mechanism that follows cost causation principles and makes certain that those EGSs participating in this billing

[4] NRG Petition at 17, ¶ 34.

option assume the responsibility for all associated costs now and in the future. It will also ensure competitive neutrality and avoid rewarding participating EGSs to the detriment of non-participating EGSs.

E. Operational Issues

In Paragraph 37 of its Petition, NRG identifies several "operational issues" related to SCB and proposes several solutions to resolving those issues.[5] Calpine offers comments on two of those issues.

1. Flat EDC Charges

With respect to flat EDC charges, NRG contends that "EGSs should be permitted to display EDC charges on the SCB as a single, combined price for all energy consumed during the billing period, and have the option of absorbing any increase in distribution rates instead of passing them on to the customers."[6] Such a proposal raises concerns.

The use of a flat EDC charge on the EGS's consolidated bill would be inconsistent with the Commission's billing regulation at 52 Pa. Code § 54.4. It also would represent a re-bundling of transmission and distribution charges and would remove transparency from customers. Customers would be stripped of their ability to make informed choices regarding the purchase of electric services offered because the information provided to them would no longer be provided in an understandable format.[7] If SCB is implemented, it is imperative that all EDC charges be clearly displayed consistent with existing Commission regulations.

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[5] NRG Petition at 17-18, ¶37.

[6] NRG Petition at 18, ¶ 37.c.

[7] *See* 52 Pa. Code § 54.1.

2. Enrollment/Drop Block Mechanism

Under SCB, NRG argues that "an EGS needs a means of assuring that a customer on a payment arrangement cannot use their ability to switch EGSs to avoid paying all of their charges, including charges for supply and delivery. A tool is needed to permit EGSs to apply a block on a customer's account to prevent a customer from switching to another EGS or the EDC until that customer has paid his or her past due bill in full."[8]

While Calpine supports an EGS's ability to pursue unpaid receivables, it should not be done at the expense of customer choice. Holding a retail customer hostage until the customer has paid his or her past due bill in full circumvents and ignores existing market structures, shifts the risk to Pennsylvania consumers, and is the antithesis of competition. It would deprive the consumer of choice in direct contravention of the Electricity Generation Customer Choice and Competition Act, 66 Pa.C.S. §§ 2801-2812. Retail customers would become captive because they would be deprived of their statutory right to choose suppliers unless their accounts were current. It is also very likely to lead to abuse, as a retail customer with a past due bill who is faced with unfavorable terms and conditions (*e.g.*, a variable rate product offering at significantly higher price per kWh than the EDC's price-to-compare) will not be able to switch to a much more attractive and manageable offer or even move back to default service. In turn, EGSs using SCB will be able to leverage the enrollment/drop block mechanism as a means of retaining customers.

An enrollment/drop block mechanism also creates disparate treatment for those EGSs that do not choose the SCB billing option and amounts to a predatory attempt to shift risk onto consumers and create an uneven playing field for competitors. Part of market discipline for any

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[8] NRG Petition at 18, ¶ 37.e.

EGS participating in the retail markets is taking its own billing risk. Indeed, in providing products and services at retail levels, it is imperative for an EGS to understand its load, manage costs and expenses, and hedge risks. In a competitive retail market, those risks and responsibilities are not guaranteed. Under the NRG proposal, however, EGSs utilizing SCB would be insulated from the risk of uncollectibles by shifting that risk and responsibility to Pennsylvania electric consumers (who then become captive). Ultimately, EGSs electing to use SCB must take responsibility for their own corporate management decisions and business risks and not be permitted to distort the market by looking for ratepayer financial assurances.

III. CONCLUSION

WHEREFORE, Calpine Energy Solutions, LLC respectfully requests that the Pennsylvania Public Utility Commission consider this Answer and Comments in formulating any decisions related to supplier consolidated billing that may result from this proceeding.

Respectfully submitted,

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Counsel for Calpine Energy Solutions, LLC

DATED: January 23, 2017

VERIFICATION

I, Becky Merola, Director of Regulatory and Government Affairs of Calpine Energy Solutions, LLC, hereby state that the facts set forth in the foregoing document are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

Becky Merola

CERTIFICATE OF SERVICE

I hereby certify that I have this 23rd day of January, 2017, served a true and correct copy of the foregoing Answer and Comments of Calpine Energy Solutions, LLC, upon the upon the parties, listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant):

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