

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

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February 22, 2017

Rosemary Chiavetta, Secretary
PA Public Utility Commission
Commonwealth Keystone Bldg.
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:

Enclosed please find the Office of Consumer Advocate's Reply Comments in the above-referenced proceeding.

Copies have been served per the attached Certificate of Service.

Respectfully submitted,

A handwritten signature in cursive script that reads "Candis A. Tunilo".

Candis A. Tunilo
Assistant Consumer Advocate
PA Attorney I.D. # 89891

Enclosures

cc: Office of Special Assistants
Certificate of Service

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

REPLY COMMENTS OF
THE OFFICE OF CONSUMER ADVOCATE

The Office of Consumer Advocate (OCA) submits these Reply Comments pursuant to the notice published in the *Pennsylvania Bulletin* on December 24, 2016, at 46 Pa.B. 78154, regarding the Petition of NRG Energy, Inc. (NRG or the Company) for Implementation of Electric Generation Supplier Consolidated Billing (Petition).

I. INTRODUCTION

On December 8, 2016, NRG filed a Petition, wherein it seeks the implementation of Supplier Consolidated Billing (SCB) as a billing option for customers of Electric Generation Suppliers (EGSs) in all electric service territories in Pennsylvania by the second quarter of 2018. According to NRG, SCB would enable EGSs to directly bill their customers for generation services, as well as the EDC's tariffed delivery charges and the EGS's value-added services, such as home security, HVAC maintenance and surge protection as well as other service offerings such as prepaid service and flat bills. Petition at 1, 23-25. NRG also states that it proposes to preserve all current protections for retail customers, including the Commission's standards and billing practices for residential service in Chapter 56. Petition at 15. Additionally, NRG proposes to obligate EGSs offering SCB to meet more stringent financial requirements than are currently necessary to maintain an EGS license and require EGSs to demonstrate a

technical ability to perform billing functions. Petition at 2, 17. NRG asserts that SCB would afford EGSs the opportunity to forge long-term relationships with their customers and to deliver new and innovative product offerings that are tailored to their customers' needs. Petition at 25, 28.

As part of the implementation of SCB, NRG proposes that purchase of receivables (POR) programs be instituted for all EGSs that choose to participate in SCB, whereby the EGSs would purchase the EDCs' receivables. Petition at 14-15, 25-26. Further, EGSs would not charge EDCs any fees for providing billing services as long as EDCs continue to provide utility consolidated billing to EGSs at no charge. Petition at 17. NRG seeks approval to display EDC charges on the SCB as a single, combined price and proposes to absorb any increase in distribution rates instead of passing them on to customers. Petition at 18.

NRG proposes that EDCs continue to administer low-income programs and provide EGSs engaging in SCB the discount information to be included on the customer bill. Petition at 18. According to NRG, the EDC-administered programs, such as the standard offer program, would need to be revised. Id.

NRG proposes that EGSs engaging in SCB would assume all primary customer contact obligations currently performed by the EDCs, including billing inquiries and complaints. Petition at 17-18. Further, NRG proposes that EGSs participating in SCB would be responsible for consumer education, including adequately explaining the billing options during the EGS sales transaction and through disclosure documents, with supplemental information available on the Commission's shopping site, www.papowerswitch.com. Petition at 17.

NRG's proposal would also enable EGSs to direct the termination of customers for nonpayment. Petition at 15-16. The EDC is to pursue that termination in accordance with Chapter 56. NRG also proposes that customers that are in arrears with the EGS would be

blocked from switching suppliers or returning to default service until they are current on their EGS bills. Petition at 16.

The OCA notes that nothing in the other parties' Comments and Answers have alleviated the concerns with NRG's Petition that the OCA raised in its Comments and Answer. Numerous other commenters raised significant issues with NRG's Petition including: Duquesne Light Company (DLC); PPL Electric Utilities Corporation (PPL); The FirstEnergy Companies (Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company, and West Penn Power Company) (collectively FirstEnergy); PECO Energy Company (PECO); UGI Utilities, Inc. – Electric Division (UGI Electric); Citizens' Electric Company of Lewisburg, PA and Wellsboro Electric Company (collectively Citizens' and Wellsboro);¹ Energy Association of Pennsylvania (EAP); Met-Ed Industrial Users Group, Penelec Industrial Customer Alliance, the Philadelphia Area Industrial Energy Users Group, PP&L Industrial Customer Alliance and West Penn Power Industrial Intervenors (collectively Industrials); Office of Small Business Advocate (OSBA); AFL-CIO Utility Caucus (AFL-CIO); Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA); and Tenant Union Representative Network and Action Alliance of Senior Citizens of Greater Philadelphia (TURN). As the OCA and these commenters pointed out, SCB would unnecessarily increase costs to consumers without any benefits. Further, an EGS party, Calpine Energy Solutions, LLC (Calpine), pointed out additional issues with NRG's Petition that are of particular concern to other EGSs. None of the comments submitted on January 23, 2017, have changed the OCA's position regarding NRG's Petition as outlined in the OCA's Comments and Answer.

¹ The OCA supports Citizens' and Wellsboro's request for an exemption from SCB should the Commission move forward with implementation of SCB, as these Companies recently implemented EDI protocols at great expense, and minor amounts of switching are currently occurring in these territories.

The OCA submits these Reply Comments in order to respond to points raised by other parties in their Comments, in particular Direct Energy Services, LLC, Direct Energy Business Marketing, LLC and Direct Energy Business, LLC (collectively Direct Energy); WGL Energy Services, Inc. (WGL); and Retail Energy Supply Association (RESA). In general, these EGSs assert that SCB is necessary to enhance the retail market and will enhance customers' understanding of the competitive market. As will be discussed in greater detail below, the OCA submits that there is no evidence that SCB is necessary or would even be utilized by EGSs in Pennsylvania. Other states have determined, however, that SCB is not necessary and barely utilized when available. See Section II.A, infra. Also to be discussed in greater detail below, the OCA submits that SCB is likely to create more confusion, not better understanding of the electric retail market. As such, the Commission should deny NRG's Petition outright.

II. REPLY COMMENTS

A. Supplier Consolidated Billing Is Not Necessary To Enhance the Retail Market.

As the OCA pointed out in its Comments, there has been no demonstration of how SCB would improve the Pennsylvania electric retail market or provide any additional benefit to customers. Moreover, no additional information has been provided since the Commission last considered this issue that suggests that SCB is necessary or that the substantial concerns held by the Commission about this billing method can now be addressed.² See OCA Comments at 9-15. Of note, Connecticut recently came to the same conclusion that SCB is unlikely to benefit the electric retail market. See PURA Review of the Billing of all Components of Electric Service by Electric Suppliers, Docket No. 13-08-15, Decision (Aug. 6, 2014). RESA, Direct Energy and

² See Investigation of Pennsylvania's Retail Electricity Market: End State of Default Service, Docket No. I-2011-2237952, Final Order at 66-67 (Order Feb. 15, 2013) (Electric RMI Final Order). In the Electric RMI Order, the Commission held that the implementation of SCB would require extensive work and expense and would be unlikely to be sufficiently utilized by EGSs in light of utility purchase of receivables programs to justify the costs. Id.

WGL argue that the lack of SCB in Pennsylvania is stifling the retail market by impeding innovation. See gen'ly RESA Comments and Direct Energy Comments. See also WGL Comments at 3-4. The OCA submits that these arguments are not supported.

As PECO pointed out in its Comments and Answer, the Illinois competitive retail electric market is very similar to the statutory and regulatory scheme in Pennsylvania. PECO Comments at 12-14. In Illinois, however, SCB or “single bill option,” as it is known there, was in place prior to the introduction of utility consolidated billing (UCB) and the accompanying purchase of receivables (POR) programs.³ In seeking to foster greater development of the retail market for residential and small commercial customers, the Illinois General Assembly in 2007 passed Public Act 095-0700,⁴ which required larger electric distribution companies to offer UCB and POR programs as another billing option for electric generation suppliers.

In its 2008 through 2013 Annual Reports following the passage of Public Act 095-0700, the Office of Retail Market Development of the Illinois Commerce Commission (ICC) discussed the subsequent tariff filings and associated proceedings that were necessary to implement UCB and POR in the Illinois market.⁵ A review of those yearly discussions as set out in the Annual Reports shows that use of UCB/POR by electric generation suppliers in Illinois increased year by year. In fact, in 2013 it was reported that:

While virtually all suppliers are currently using UCB/POR for their residential customers, it is worth noting the widespread use of UCB/POR in the non-residential classes as well.

³ See fn 2, Public Act 095-0700.

⁴ Available at <http://www.ilga.gov/legislation/publicacts/95/PDF/095-0700.pdf>

⁵ The complete 2008 through 2016 ICC Annual Reports are available at <https://www.icc.illinois.gov/reports/report.aspx?rt=22>

2013 ICC Annual Report at 37.⁶ Since 2013, the adoption of UCB/POR continued to grow as the 2016 ICC Annual Report provided that “all suppliers are currently using UCB/POR for their residential customers” 2016 ICC Annual Report at 14.⁷

In Illinois, SCB, Dual Billing and UCB/POR are all presently available billing options for electric generation suppliers.⁸ Contrary to NRG’s assertions here that implementation of SCB would be a “game changer,” it does not appear to have worked that way in Illinois. As PECO aptly pointed out, apparently not even NRG is advocating for the use of SCB in Illinois. See PECO Comments at 13-14, fn 43.⁹

The OCA submits that Pennsylvania got it right with well-functioning, reasonable UCB/POR and dual billing programs. As the Commission has already held, there is no need to go through the considerable time and expense to establish SCB in Pennsylvania. See Electric RMI Final Order at 66-67. As well documented, that scenario has completely played out in Illinois and the results are clear that SCB is not widely seen as necessary in that market.

B. There Is No Evidence that NRG’s Proposal Would Enhance Consumers’ Understanding of the Competitive Market.

In its Comments, RESA asserts that the implementation of SCB would result in enhanced consumer education and will enable consumers to better understand their options. RESA Comments at 11-12. WGL asserts that direct billing by EGSs will improve customers’

⁶ Available at [file:///C:/Users/dl1/Downloads/2013%20ORMD%20Section%2020-110%20report%20\(2\).pdf](file:///C:/Users/dl1/Downloads/2013%20ORMD%20Section%2020-110%20report%20(2).pdf)

⁷ Available at [file:///C:/Users/dl1/Downloads/2016%20ORMD%20Section%2020-110%20report%20\(2\).pdf](file:///C:/Users/dl1/Downloads/2016%20ORMD%20Section%2020-110%20report%20(2).pdf)

⁸ See ComEd Retail Electric Suppliers Handbook, Revised October 2016, available at https://www.comed.com/SiteCollectionDocuments/Res_Ch_07_Customer_Biling.pdf

⁹ By way of further example, Direct Energy, a supporter of NRG’s Petition here, apparently also has no desire to use SCB in Illinois as its advertisements there provide “Your current utility company will still be responsible for sending you bills, taking your payments, and fixing any power outages.” Direct Energy’s offer for Illinois consumers is available at https://www.directenergy.com/illinois/electricity-plans/msid/5359/pid/lb9?utm_source=BD&utm_medium=IL-PTC

understanding of the competitive market and the options available to them. WGL Comments at 4. The OCA submits that these assertions are made without any facts or information to support them. In a December 2016 press release, the Commission stated that the results of a recent survey showed that 94 percent of respondents were aware of their ability to shop for their own electricity provider.¹⁰ The OCA submits that this supports the contention that consumers are aware of their electric shopping options.

Furthermore, as the OCA noted in its Comments, SCB is likely to create price distortion and confusion in the retail market. OCA Comments at 13-15, 22. Specifically, in its Petition NRG's proposes that EGSs engaging in SCB would assume all primary customer contact obligations currently performed by the EDCs, including billing inquiries and complaints. Petition at 17-18. Further, NRG proposes that EGSs participating in SCB would be responsible for consumer education, including adequately explaining the billing options during the EGS sales transaction and through disclosure documents, with supplemental information available on the Commission's shopping site, www.papowerswitch.com. Petition at 17. As the OCA pointed out in its Comments, EGSs would be shouldering the costs of these endeavors and likely impose fees on customers or add the costs to the EGSs' kWh price, which would create price distortion that does not comply with 66 Pa. C.S. § 2807(d)(2).¹¹ See OCA Comments at 13-15. Additionally, it is not appropriate to expect EGS salespeople to be able to provide such complex consumer education or that such education would be uniform from EGS to EGS. See OCA Comments at 22.

The OCA submits that NRG's proposal is likely to create confusion in an already well-functioning retail market. As such, NRG's Petition should be denied.

¹⁰ See http://www.puc.state.pa.us/about_puc/press_releases.aspx?ShowPR=3794

¹¹ Section 2807(d)(2) requires that information "be provided to consumers in an understandable format that enables consumers to compare prices and services on a uniform basis" or in other words, allow for apples-to-apples comparisons of offers. 66 Pa. C.S. § 2807(d)(2). See also 52 Pa. Code § 54.1.

III. CONCLUSION

The OCA submits that the Commission was correct in its Electric RMI Order when it declined to implement SCB. Neither NRG in its Petition nor other EGSs in their Comments have made any showing of benefits of SCB to consumers or the retail market. The POR programs in Pennsylvania are well utilized by EGSs, and as such, there is no need for SCB. The OCA submits that EGSs may utilize dual billing in order to establish deeper customer relationships if they so desire. The Office of Consumer Advocate respectfully requests that NRG's Petition be denied.

Respectfully submitted,

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February 22, 2017
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CERTIFICATE OF SERVICE

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

I hereby certify that I have this day served a true copy of the foregoing document, the Office of Consumer Advocate's Reply Comments, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code §1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 22nd day of February 2017.

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