

800 North Third Street  
Suite 203  
Harrisburg, PA 17102  
Tel (412) 393-6231  
Fax (717) 525-7460



Shelby A. Linton-Keddie  
Manager, State Regulatory Affairs and Senior Legal Counsel  
[slinton-keddie@duqlight.com](mailto:slinton-keddie@duqlight.com)

February 22, 2017

**Efiled**

Ms. Rosemary Chiavetta, Secretary  
Commonwealth Keystone Building  
2nd Floor, Room-N201  
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 Duquesne Light Company's Reply Comments in the above-referenced proceeding.

Upon receipt, if you have any questions regarding the information contained in this filing, please contact the undersigned.

Sincerely,

A handwritten signature in blue ink that reads "Shelby Linton-Keddie / acw".

Shelby A. Linton-Keddie  
Manager, State Regulatory Affairs  
And Senior Legal Counsel

Enclosure

c: Certificate of Service

## CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served upon the following persons, in the manner indicated, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

### VIA EMAIL AND FIRST CLASS MAIL

Karen O. Moury, Esquire  
Eckert Seamans Cherin & Merlott, LLC  
213 Market Street  
8<sup>th</sup> Floor  
Harrisburg, PA 17101  
[kmoury@eckertseamans.com](mailto:kmoury@eckertseamans.com)

Tanya McCloskey, Esq.  
Acting Consumer Advocate  
Office of Consumer Advocate  
5<sup>th</sup> Floor, Forum Place  
555 Walnut Street  
Harrisburg, PA 17101-1923  
[tmccloskey@paoca.org](mailto:tmccloskey@paoca.org)

John R. Evans  
Small Business Advocate  
Office of Small Business Advocate  
300 North Second Street, Suite 202  
Harrisburg, PA 17101  
[joevan@pa.org](mailto:joevan@pa.org)

Richard Kanaskie, Esq.  
Bureau of Investigation and Enforcement  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2<sup>nd</sup> Floor  
Harrisburg, PA 17120  
[rkanaskie@pa.gov](mailto:rkanaskie@pa.gov)

Date: February 22, 2017



Shelby A. Linton-Keddie (Pa. I.D. 206425)  
Manager, State Regulatory Affairs  
Sr. Legal Counsel  
Duquesne Light Company  
800 North Third Street, Suite 203  
Harrisburg, PA 17102  
Tel. (412) 393-6231  
[slinton-keddie@duqlight.com](mailto:slinton-keddie@duqlight.com)

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

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**REPLY COMMENTS OF  
DUQUESNE LIGHT COMPANY**

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**I. BACKGROUND**

On December 9, 2016, NRG Energy, Inc. (“NRG”), filed a Petition for Implementation of Electric Generation Supplier Consolidated Billing (“SCB”) with the Pennsylvania Public Utility Commission (“PUC” or “Commission”) (hereinafter, “Petition”). At its core, the NRG Petition seeks, by June 15, 2017, a PUC Order implementing SCB as a billing option that would be available to customers of electric generation suppliers (“EGSs”) by the second quarter of 2018. NRG generally opines that SCB is a legally permissible billing option, would enable EGSs to perform other functions such as collections and complaint resolution, and would provide more value-added services than available today. *See generally*, Petition at pp. 1, 14-15, 17.

Notification of the Petition was published in the *Pennsylvania Bulletin* on December 24, 2016. 46 Pa. B. 8154. In that notification, answers and comments were to be filed by January 23, 2017, with reply comments due by February 22, 2017. Consistent with this direction, Duquesne Light Company (“Duquesne Light” or “Company”) filed a Petition to Intervene, Answer in Opposition and Comments on January 23, 2017. Comments, Answers and/or Petitions to Intervene were also submitted by: AFL-CIO Utility Caucus (“PA AFL-CIO”), Calpine Energy Solutions, LLC (“Calpine”), Coalition for Affordable Energy Services and Energy Efficiency in Pennsylvania (“CAUSE-PA”), Citizens’ Electric Company of Lewisburg, PA and Wellsboro

Electric Company (collectively, “Citizens’ and Wellsboro”), Direct Energy Services, LLC, Direct Energy Business Marketing, LLC and Direct Energy Business, LLC (collectively, “Direct Energy”), Energy Association of Pennsylvania (“EAP”),<sup>1</sup> Industrial Customer Groups,<sup>2</sup> Metropolitan-Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company (collectively, “First Energy”), the Office of Consumer Advocate (“OCA”), the Office of Small Business Advocate (“OSBA”), PECO Energy Company (“PECO”), PPL Electric Utilities Corporation (“PPL”), the Retail Energy Supply Association (“RESA”), the Tenant Union Representative Network and Action Alliance of Senior Citizens of Greater Philadelphia (“TURN, et al.”), UGI Utilities, Inc. – Electric Division (“UGI Electric”) and WGL Energy Services, Inc. (“WGL”).

Consistent with the schedule in this proceeding, Duquesne Light hereby submits reply comments, once again urging the Commission to reject NRG’s Petition as legally insufficient, unnecessary and harmful to customers’ existing consumer protections.<sup>3</sup>

## **II. REPLY COMMENTS**

In a self-proclaimed effort to encourage more innovation, product development and movement in a somewhat static competitive electric market, NRG seeks to gain explicit Commission endorsement for SCB, something that it has been unable to achieve as recently as 2013, when the Retail Markets Investigation (“RMI”) Final Order was entered.<sup>4</sup> Rather than

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<sup>1</sup> Duquesne Light is a member of EAP and, in addition to the Petition to Intervene, Answer in Opposition and Comments filed in the above-captioned proceeding, the Company supports the positions articulated in EAP’s Comments.

<sup>2</sup> The Industrial Customer Groups are comprised of: the Met-Ed Industrial Users Group, the Penelec Industrial Customer Alliance, the Philadelphia Area Industrial Energy Users Group, the PP&L Industrial Customer Alliance and the West Penn Power Industrial Intervenors.

<sup>3</sup> Because the Company, in its Answer in Opposition and Comments, discussed at length why the Petition lacks legal authority, is unnecessary and harmful to customer interests, Duquesne Light will not repeat those arguments here. *See generally* Duquesne Light Answer in Opposition and Comments.

<sup>4</sup> *See Investigation of Pennsylvania’s Retail Electricity Market: End State of Default Service Final Order*, Docket No. I-2011-2237952, (Order entered February 15, 2013).

follow the unambiguous direction of the Commission to wait and see “[w]hen and how [the PUC will] proceed with SCB...”<sup>5</sup> NRG seeks to push the issue and force Commission action, despite the fact that electric shopping numbers continue to grow, even since its Petition was filed in December.<sup>6</sup>

Not surprisingly, the few EGSs that took the time to submit comments in this proceeding (Calpine, Direct Energy, RESA and WGL) generally support the concept of SCB. However, Calpine’s Answer and Comments, among other things, carefully question the disparate treatment among EGSs should SCB be put in place, explain (similar to numerous other respondents in this proceeding) that NRG’s proposal may not “preserve all protections currently enjoyed by retail customers,” and specifically note that EGSs are not utilities, and therefore should not be extended the same powers.<sup>7</sup>

What should be equally notable is the lack of participation in this proceeding of the tens to hundreds of other licensed EGSs. As explained in Duquesne Light’s Answer and Comments, this previously demonstrated lack of interest in SCB is one of the specific articulated reasons why the PUC chose to forego further analysis of SCB as part of the RMI End State. In fact, the RMI Final Order posits:

We have substantial concerns that use of an SCB process may be even more unlikely now since POR [Purchase of Receivable] 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 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.<sup>8</sup>

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<sup>5</sup> *Id.* at 69.

<sup>6</sup> In December 2016, the total number of customers shopping for electric generation supply was 2,089,231. As of January 2017, that number was 2,091,002, an increase of 1,771 customers. *See* <http://www.papowerswitch.com/sites/default/files/PAPowerSwitch-Stats.pdf> (visited on Feb. 19, 2017).

<sup>7</sup> *See generally*, Answer and Comments of Calpine.

<sup>8</sup> *See* Duquesne Light Answer at 19, citing RMI Final Order at 67.

Also important are the twelve other parties, inclusive of consumer interest groups, the AFL-CIO and EDCs, which have vigorously and voluminously questioned the legality, utility and necessity of SCB. In fact, each of these parties have either recommended that the PUC dismiss the Petition outright or, if the Commission chooses to pursue this issue further, do so by assigning this case to the Office of Administrative Law Judge. In either case, it is clear that a majority of parties believe that NRG has not satisfied its burden of proof through the Petition and therefore the case should be dismissed prior to being forced to expend any more significant cost, time, and resources.

As explained at length in Duquesne's Answer and Comments, there is no legal authority for SCB in the Public Utility Code nor has the Commission ever found that one exists. *See* Duquesne Answer and Comments p. 5-12. It is notable that none of the commenting EGSs in response to NRG's Petition include any legal analysis of where the authority for SCB lies – because it does not exist. The retail electric market in Pennsylvania operates today as the Legislature intended – with consumers dealing directly with EDCs, since they are regulated and under the active supervision of the Commission.<sup>9</sup>

Further, the retail electricity market in Pennsylvania is transient. This is demonstrated month after month when the Commission releases the Electric Shopping numbers. Statutory obligations like the one at issue in this proceeding (EDCs' obligation to bill for all services unless a customer affirmatively chooses to receive a dual bill for generation service),<sup>10</sup> however, are permanent unless changed by the Legislature.

RESA suggests that there are no parallel examples of other industries where a customer is billed from the transportation company for the product or service bought from another company.

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<sup>9</sup> *See* Duquesne Light Answer at 7, citing House Journal page 2566; *See* also 2802(16)

<sup>10</sup> *See* 66 Pa. C.S. § 2807(c).

“In other words, consumers are not billed by Federal Express for the products they purchase on Amazon.” RESA Comments at 2. Aside from the fact that delivery of goods is not equal to the provision of a regulated essential service such as electricity, 66 Pa. C.S. § 2807(d) as an example unambiguously shows that EDCs are statutorily tasked with more than simply delivery of electricity. EDCs are mandated to read meters, resolve complaints, and collect money. In addition, other EDC obligations are further outlined throughout the Public Utility Code and relate not only to the provision of Universal Service Programs, but also terminations and payment arrangements.<sup>11</sup> To disregard these functions and attempt to focus only on one obligation in an attempt to prove a point is an inaccurate comparison and should be disregarded as such.<sup>12</sup>

Duquesne Light is unaware of any parallel in which a certificated public utility does not have a direct connection to the customer. As explained at length in the Company’s Answer and Comments, this result is intended by the Legislature, and NRG, through its Petition, has failed to show any compelling reason why change is needed.

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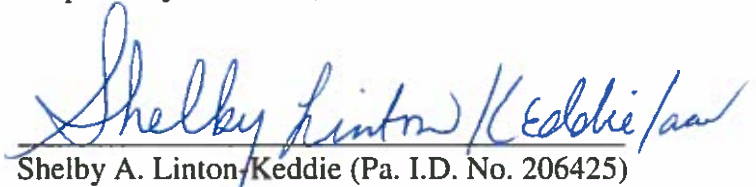
<sup>11</sup> See, e.g. 66 Pa. C.S. §§ 2802(10), 2802(16), 2802(17), 2804(9); see also 66 Pa. C.S. §§ 1401-1419.

<sup>12</sup> Further, any comparison to TNC companies as being disruptive, dynamic or directly engaging with customers and are, therefore, different should similarly be rejected. As evidenced in the three most recent proceedings granting TNC permanent authority to operate, all three companies (Rasier-PA, LLC, Freed Man Autonomous Vehicles, LLC and Lyft, Inc.) were granted Certificates of Public Convenience (“CPC”), not simply licenses like EGSs receive. (See Docket Nos. A-2016-2580821, A-2017-2585722, A-2017-2583947). Accordingly, the granting of CPCs signify treatment as utilities, which, like EDCS, are under the clear jurisdiction and active supervision of the Commission.

### III. CONCLUSION

Duquesne Light remains supportive of the development of the competitive retail electric market, but believes that any changes sought must be legal and ensure that customer services do not deteriorate, consistent with the policies articulated in the Electricity Generation Customer Choice and Competition Act. NRG's Petition falls short of proving SCB's legality, necessity or maintenance of consumer protections. Accordingly, NRG has failed to satisfy its burden of proof and the Petition should be rejected in its entirety.

Respectfully submitted,



Shelby A. Linton/Keddie (Pa. I.D. No. 206425)

Manager, State Regulatory Affairs

Sr. Legal Counsel

Duquesne Light Company

800 North Third Street

Suite 203

Harrisburg, PA 17102

[slinton-keddie@duqlight.com](mailto:slinton-keddie@duqlight.com)

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