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Via Electronic Filing

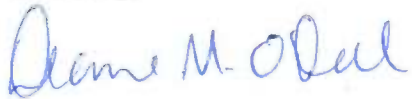
Rosemary Chiavetta, Secretary
PA Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: Petition of NRG Energy Inc. for Implementation of Electric Generation
Supplier Consolidated Billing, Docket Number: P-2016-2579249

Dear Secretary Chiavetta:

Enclosed for electronic filing please find the Reply Comments of the Retail Energy Supply Association with regard to the above-referenced matter. Copies to be served in accordance with the attached Certificate of Service.

Sincerely,



Deanne M. O'Dell

DMO/jls
Enclosure

cc: Cert. of Service w/enc.

CERTIFICATE OF SERVICE

I hereby certify that this day I served a copy of RESA's Reply Comments upon the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code Section 1.54.

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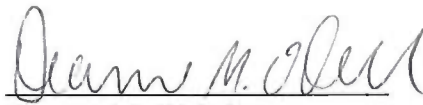
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Date: February 22, 2017


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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 RETAIL ENERGY SUPPLY ASSOCIATION**

I. INTRODUCTION

As invited to do so by the Commission,¹ the Retail Energy Supply Association (“RESA”)² filed comments on January 23, 2017 in support of the Petition of NRG Energy, Inc. (“NRG”) requesting that the Commission issue an order implementing Supplier Consolidated Billing (“SCB”) as a billing option that is available to customers of electric generation suppliers (“EGSs”) by the second quarter of 2018. As further explained in RESA’s comments, enabling the entities providing generation service to directly bill their customers through the implementation of SCB is an important and necessary evolution of the retail electricity marketplace which will allow EGSs to begin to deliver on the original promises of technological and services-related innovation that were an integral part of the Electricity Generation Customer Choice and Competition Act (“Choice Act”).³

¹ 46 Pa.B. 8154.

² The comments expressed in this filing represent the position of the Retail Energy Supply Association (RESA) as an organization but may not represent the views of any particular member of the Association. Founded in 1990, RESA is a broad and diverse group of more than twenty retail energy suppliers dedicated to promoting efficient, sustainable and customer-oriented competitive retail energy markets. RESA members operate throughout the United States delivering value-added electricity and natural gas service at retail to residential, commercial and industrial energy customers. More information on RESA can be found at www.resausa.org.

³ 66 Pa. C.S. §§ 2801-2812.

Although there is strong, fundamental consumer demand for energy choices, the current relative success for retail competition for mass market customers is partially attributable to various enabling retail market policies that have been implemented as a result of the Commission's strong direction and oversight including: a "best-in-class" switching website maintained by the Commission, purchase of receivables ("POR") programs, customer referral programs, seamless moves/instant connects, account number look-up tools, smart meter deployment and accelerated switching.⁴ These policies have gone a long way toward making it easier for consumers to switch, accelerating their ability to switch, and helping to inform them about switching. However, and despite the presence of these policies, a level of participation in the retail market by mass market consumers appears to have reached a barrier with no EDC shopping levels over 50% of residential customers.⁵

Moreover, the current shopping experience is largely dominated by a comparison of the default service price-to-compare ("PTC") with the price offered by EGSs.⁶ While the currently available retail market policies have benefitted consumers in many ways, they have not altered the price-focused state of the current retail market and, indeed, the implementation/presence of some of these policies reinforce the notion that the only or most significant benefit of shopping

⁴ While RESA has been advocating for the implementation of these and other retail market enhancements since the early days of restructuring, during numerous Commission proceedings, during the Retail Markets Investigation, and in almost all of the major EDC's default service proceedings post-generation rate cap expiration, RESA fully acknowledges that the implementation of these measures would not have been possible without the strong guidance and support from the Commission.

⁵ As of January 2017, the statewide percentage of residential customers shopping was 35.3%. See <http://www.papowerswitch.com/sites/default/files/PAPowerSwitch-Stats.pdf>

⁶ According to PECO's comments, the top motivating factor for switching is to receive a lower bill and only 3% of the survey respondents cite to new products as a motivator to switch. PECO Comments at 2.

comes from an EGS price lower than the EDC PTC.⁷ As a result, EGS innovation to offer products and services too far astray from those focused on providing an EGS price lower than the PTC is stymied.

While nearly all of the commenters opposing NRG's Petition argue that this current (and largely undisputed) state of the market can be viewed as a "success" and no more needs to be done,⁸ the Commission must not be satisfied with this standard because it deprives consumers of the opportunity to choose from a variety of consumer-driven, competitive products and services that add value to their lives beyond price management of the commodity service.

Implementation of SCB presents an opportunity to unleash consumer-driven innovation by giving EGSs flexibility to design and offer products truly tailored to their customers' needs and desires – the understanding of which will come about as a result of having a more flexible and direct billing relationship with the customer.⁹ As the Commission recognizes, retail markets are

⁷ As explained in RESA's comments, UCB with POR was particularly successful during the initial market development period following expiration of generation rate caps to enable new entrants to quickly begin serving customers by leveraging the existing utility billing platforms because it put EGS receivables on equal footing with the EDC, leveling the playing field for that bill method. However, we are past the initial market development phase in Pennsylvania and the unavailability of SCB is an obstacle to greater innovation. RESA Comments at 8-11. The Standard Offer Customer Referral Program ("SOP") is another example of how consumers are steered toward viewing EGS prices as "a good deal" where they are lower than the EDC PTC. Through SOP, a customer is offered a price from a randomly selected EGS that is 7% off the PTC at the time of enrollment. While the contract is fixed for a year at that price, the customer is free to cancel service with the SOP EGS at any time without penalty. The availability of the SOP to both shopping and non-shopping customers serves to reinforce the price comparison message because SOP customers can constantly change EGS SOP suppliers as the EDC's PTC changes. By this design, SOP is more of a way to guarantee customers a price lower than the PTC rather than a program which positively incents reluctant, existing default service customers to receive EGS service.

⁸ See, e.g., Energy Association of Pennsylvania Comments at 6. Nearly all of the EDCs echoed similar sentiments in their comments.

⁹ Some commenters claim that SCB is nothing more than a "marketing tool" for EGSs or that EGSs have other ways to reach potential customers. TURN Comments at 9. This view, however, ignores the reality that meaningful feedback and strong relationships in which ideas can be shared

not static and the Commission must continue to evolve its policies to reflect market realities and experiences.¹⁰ Imagine if the telecommunications industry were still stuck in the billing models of the early days of telecommunications restructuring? Consumers would not have services like Voice-Over-Internet-Protocol (“VoIP”), triple-play bundles with their cable television service or unlimited free international long distance calling. Given today’s current market realities and the consumer-driven innovation that SCB can unleash, RESA encourages the Commission to stay the course in continuing to evolve its retail market design policies and direct the implementation of important and constructive retail market design structures like SCB.¹¹

In further support of RESA’s views, RESA offers these reply comments but would note that these reply comments do not attempt to respond to each and every point made in opposition to NRG’s Petition. Rather, they are offered to reinforce RESA’s position – especially after

and exchanged between a provider of service and its customer come about as a result of the direct billing relationship. Marketing to potential customers does not achieve this outcome. Likewise, having an entity stand between the provider of the service and that provider’s customer inhibits the mutually beneficial dialogue between the two. In addition to strengthening existing customer relationships, feedback gathered from EGSs as a result of their direct customer relationships will be used to inform future product development and innovation that can be offered to new potential customers.

¹⁰ *Investigation of Pennsylvania’s Retail Electricity Market: End State of Default Service*, Docket No. I-2011-2237952, Final Order at 3.

¹¹ Duquesne Light asks “At what point will the Commission let competition stand on its own?” Duquesne Light Comments at 16. A fair and equal competitive retail market does not exist in Pennsylvania today given, among other things: (1) the presence of the EDC as the default service provider; and, (2) the ability of EDCs to rely on captive ratepayers to absorb non-commodity related costs which EGSs have to pass on through their retail pricing. As the Commission recently acknowledged, “EGS’s methods for recovering the costs associated with complying with the AEPS Act, and the timing of such cost recovery is different from an EDC’s...EGSs...recover these costs, as well as future AEPS Act compliance costs, through the market.” *Proceeding to Evaluate Transition to Corrected Non-Solar Tier I Calculation Methodology*, Docket No. M-2009-2093383, Final Order entered October 6, 2016 at 10, 15. RESA would welcome letting “competition” stand on its own if a fair and equal competitive market existed but, because it does not, it is incumbent on the Commission to continue to press forward with initiatives like SCB to incentivize the competitive market to develop the innovation that consumers desire.

reviewing the comments of other stakeholders – that clear policy direction from the Commission is needed to encourage the implementation of SCB. After that, a reasonable period of time can be dedicated to focus solely on implementation and operational issues. Allowing this proceeding to get mired in an attempt to resolve every possible design feature for the implementation of SCB (an issue stakeholders – with the Commission assistance – can address in the implementation phase) does not serve the best interest of the public because it deprives consumers of the potential to fully realize the consumer-driven innovation that could be available from Pennsylvania retail electricity market by granting NRG’s Petition. RESA urges the Commission not to waste the opportunity presented here to bring the current retail electricity market into alignment with the consumer-focused era of technology and service-related innovation that is currently burgeoning in other competitive industries.

II. REPLY COMMENTS

As explained in more detail in RESA’s comments, implementation of SCB while maintaining the existing UCB/POR structure will ensure that consumers have choices. Because of the availability of both options, EGSs will be able to choose the billing model that best meets the particular EGS’s business model and customer needs. This will result in more choices for consumers and increase the variety of consumer-driven products that are offered in the market.¹² As such, RESA members – which include twenty-two competitive suppliers of varying sizes and business models – support NRG’s Petition. In fact, all of the EGSs who filed comments in response to NRG’s Petition support it.¹³

¹² RESA Comments at 11.

¹³ WGL Energy Services, Inc. Comments at 3 (“The lack of SCB has prevented Pennsylvania consumers from realizing the fully benefits of electricity choice.”); Direct Energy at 2 (“Direct Energy supports the development and implementation of a statewide standard for SCB [and] believes that customers would benefit from the availability of SCB.”); and, Calpine Energy

This is significant given that EGSs are uniquely positioned: (1) to understand the role SCB can play in building and maintaining a relationship with their own customers; (2) to understand how SCB enables them to develop a greater variety of innovative products and services; and, (3) to bring to the Commission their insights informed by their extensive (collectively and individually) experience in Pennsylvania and numerous jurisdictions around the country and the world. As such, the fact that all EGSs filing comments in this docket support implementation of SCB must be given significant consideration.

On the other hand, the incentives and experiences of other stakeholders opposing SCB are not aligned with the real-world, practical experiences of the EGSs or the clear trends in consumer preferences that are readily apparent in other industries. Consumer advocates are primarily concerned with ensuring that consumer protections are in place. EDCs are primarily focused on maintaining and continuing to extract value out of their traditionally regulated business structure and fostering the strong customer relationship that comes from UCB. While these entities do add value to these discussions and their views are important considerations in designing retail market policies, the Commission should not allow opposition from these stakeholders who are not “in the business” to derail forward movement here. Moreover, consumer protections are an important and necessary underpinning of a successful retail market, but protecting consumers and enabling the continued evolution of the retail market are not mutually exclusive policy goals. To the contrary, SCB will enable a more consumer-focused business model with EGSs assuming a more active role in the relationship with the customer.

Solutions, LLC Comments at 2-3 (Even though Calpine “has built its own state of the art billing systems and uses dual billing exclusively for its Pennsylvania customers,” it “supports the concept of SCB on its face.”)

An example of the points made by these non-EGS stakeholders that should be viewed with skepticism are the claims of the EDCs that implementation of SCB would be: (1) “destructive to competition” by forcing smaller EGSs out of the market¹⁴ or “hobbling” other EGSs;¹⁵ and/or, (2) underutilized because of the availability and the EDC bill.¹⁶ Similarly, OCA questions how EGSs electing not to utilize SCB could “remain competitive” with EGSs do offer SCB.”¹⁷ As an initial matter, it is not at all clear that SCB will afford any unfair business advantage to those suppliers that are able to deploy this billing option. In fact, SCB will require participating suppliers to take on additional costs and business risk that UCB/POR suppliers will not face. In addition, these alleged concerns evidence a lack of understanding about how competitive market forces work. Unlike the EDCs, EGSs have no established monopoly on their customer relationships and they – again unlike the EDCs – are in the business of designing consumer-driven competitive products to acquire and maintain customers. As such, EGSs are not “afraid” of the competition that can develop in a fair and equal marketplace. On the contrary, in a fair and equal competitive marketplace, EGSs can thrive as they continuously develop products and services to compete with those of other “successful” market participants in order to acquire and maintain customers.

Moreover, as explained more fully in RESA’s comments, the presence of both SCB and the current UCB/POR structure would enhance the ability of EGSs to develop and design

¹⁴ PPL Electric Comments at 19.

¹⁵ FirstEnergy Comments at 17.

¹⁶ Energy Association of Pennsylvania Comments at 17, n. 14; PECO Comments at 19-20.

¹⁷ OCA Comments at 14.

products in accordance with their business models and consumer preferences.¹⁸ Equating UCB/POR with SCB and claiming that one is better than the other or that the implementation of one undermines the implementation of the other inappropriately muddles the nuances of each billing mechanism and how the ability to access both will provide EGSs with the flexibility needed to develop a variety of consumer-driven products and services. While this muddling may be foreseeable from stakeholders who are not in the business of competing to develop and offer consumer-driven products and services, every EGS plus a trade organization comprised of twenty-two suppliers that filed comments in this docket have elected to support implementation of SCB. As such, there is a clear message here from the competitive market participants who will be directly impacted that they view the implementation of SCB as a way through which they can develop the products and services that customers demand notwithstanding the contrary view of non-EGS commenters.

Regarding implementation details, RESA recognizes that important operational issues and consumer protection issues will need to be addressed as a part of the implementation of SCB. To the extent specific valid issues are raised, there is a long history in Pennsylvania of stakeholders working through such issues with the assistance and strong support of the Commission. As an example, the implementation of accelerated switching involved complex operational processes that both EDCs and EGSs had to manage but which were ultimately

¹⁸ RESA Comments at 11-12. RESA also explained the limitations present today with the UCB to include the recent Commission-directed enhancements intended to make the EDC bill more “supplier friendly.” RESA Comments at 7.

addressed.¹⁹ The same is true regarding the currently available POR model.²⁰ Likewise, access to smart meter data involved working through technical standards that had to be developed to enable EDCs to share the information with EGSs – processes resolved again through coordination with stakeholders and the Commission’s assistance.²¹ In fact, nearly all of the retail market enhancements in place today have followed the same path of: (1) receiving clear policy direction from the Commission; (2) stakeholder processes convened to develop implementation details; and, (3) further direction from the Commission as needed to resolve contested issues.²²

¹⁹ After looking at the issue previously and receiving comments from interested stakeholders, the Commission issued a Secretarial Letter on March 18, 2014 setting forth a proposed rulemaking that would require 3-day switching and issued its final regulations to implement that directive on April 3, 2014. *Rulemaking to Amend the Provisions of 52 Pa. Code, Chapter 57 Regulations Regarding Standards for Changing a Customer’s Electricity Generation Supplier*, Docket No. L-2014-2409383, Final-Omitted Rulemaking Order adopted April 3, 2014 at 10-12. As the EDCs embarked upon operationalizing this directive, the Commission provided further direction and assistance as needed to include issuing decisions regarding EDC-specific waiver requests. *See, e.g., Petition of PECO Energy Company for Temporary Waiver of Regulations Related to the Required Days in a Billing Period*, Docket No. P-2014-2446292, Order entered December 4, 2014.

²⁰ Generally, the EDCs agreed to propose POR programs as part of settlement agreements in default service proceedings. Consistent with this commitment, interested stakeholders worked through the various operational and implementation details and – where they were unable to reach agreement – presented the contested issues to the Commission for resolution. Upon receiving that direction from the Commission, the POR programs were implemented. *See, e.g., Petition of PECO Energy Company for Approval of its Revised Electric Purchase of Receivables Program*, Docket No. P-2009-2143607, Opinion and Order entered June 18, 2010.

²¹ Having been directed by the Commission to develop a standardized solution to enable EGSs to access historical interval usage and billing quality interval use data via a secure web portal, the operational issues that needed to be developed were worked out collaboratively among the stakeholders with the Commission providing further direction as needed. *Submission of the Electronic Data Exchange Working Group’s Web Portal Working Group’s Solution Framework for Historical Interval Usage and Billing Quality Interval Use*, Docket No. M-2009-2092655, Final Order entered June 30, 2016.

²² *See, e.g., EDC Customer Account Number Access Mechanism for EGS*, Docket No. M-2013-2355751, Final Order entered July 17, 2013 (EDCs were directed to file compliance plans by January 17, 2014 to implement the mechanism and the Commission subsequently issued orders approving the various EDC compliance plans); *Investigation of Pennsylvania’s Retail Electricity Market: End State of Default Service*, Docket No. I-2011-2237952, Final Order entered February 15, 2013 at 74 (directing EDCs to develop and submit plans to the Commission to implement seamless moves and instant connects which were ultimately approved by the Commission);

As such, there is simply no reason to conclude that SCB implementation cannot follow this same well-trodden path and lead to the implementation of a billing option that would create significant value for consumers.

To that end, RESA urges the Commission not to view the operational implementation concerns raised by those opposing SCB as insurmountable barriers that cannot be adequately addressed or which counsel in favor of rejecting NRG's Petition. There is no precedent in this Commonwealth for such a short-sighted viewpoint. Rather, as history has shown, with clear policy direction from the Commission focusing stakeholders on the goal to be achieved and providing additional Commission assistance as needed, there is every reason to believe SCB can be successfully implemented in Pennsylvania.

Investigation of Pennsylvania's Retail Electricity market: Recommendations Regarding Upcoming Default Service Plans, I-2011-2237952, Final Order entered December 16, 2011 (Commission provided guidance on the format and structure of EDC then-upcoming default service plans specifically directing EDCs to: (1) include proposed customer referral programs; and, (2) contemplate contracting with an EGS to satisfy their time-of-use requirements)

III. CONCLUSION

RESA recommends that the Commission approve NRG's Petition and allow the retail energy market to begin to deliver on the original promises of technological and services-related innovation that were an integral part of the Choice Act. As supported by the comments and reply comments filed by RESA and the comments filed by other EGSs, implementation of SCB while maintaining the existing UCB/POR structure will spur the development of more significant consumer-driven innovation that will offer products and services to consumers to add value to their lives beyond the commodity.

Respectfully submitted,



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Date: February 22, 2017

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