

**ECKERT  
SEAMANS**  
ATTORNEYS AT LAW

Eckert Seamans Cherin & Mellott, LLC  
213 Market Street  
8<sup>th</sup> Floor  
Harrisburg, PA 17101

TEL 717 237 6000  
FAX 717 237 6019  
www.eckertseamans.com

Karen O. Moury  
717.237.6036  
kmoury@eckertseamans.com

February 22, 2017

**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 No. P-2016-2579249

Dear Secretary Chiavetta:

Enclosed for electronic filing in the above-referenced matter, please find NRG Energy Inc.'s Reply Comments. Copies to be served in accordance with the attached Certificate of Service.

Sincerely,



Karen O. Moury

KOM/jls  
Enclosure

cc: Cert. of Service w/enc.

## CERTIFICATE OF SERVICE

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

### Via Email and/or First Class Mail

Scott J. Rubin  
333 Oak Lane  
Bloomsburg, PA 17815 -2036  
[scott.j.rubin@gmail.com](mailto:scott.j.rubin@gmail.com)

Robert Ballenger, Esq.  
Josie Pickens, Esq.  
Community Legal Services, Inc.  
1424 Chestnut St.  
Philadelphia, PA 19102  
[RBallenger@clsphila.org](mailto:RBallenger@clsphila.org)  
[jpickens@clsphila.org](mailto:jpickens@clsphila.org)

Shelby Linton-Keddie, Esq.  
Duquesne Light Company  
800 North Third St., Suite 203  
Harrisburg, PA 17102  
[Slinton.keddie@duglight.com](mailto:Slinton.keddie@duglight.com)

Elizabeth R. Marx, Esq.  
Patrick M. Cicero, Esq.  
Joline Price, Esq.  
118 Locust Street  
Harrisburg, PA 17101  
[pulp@palegalaid.net](mailto:pulp@palegalaid.net)

Pamela C. Polacek, Esq.  
Susan E. Bruce, Esq.  
Charis Mincavage, Esq.  
100 Pine Street  
P. O. Box 1166  
Harrisburg, PA 17108-1166  
[ppolacek@mcneeslaw.com](mailto:ppolacek@mcneeslaw.com)  
[sbruce@mcneeslaw.com](mailto:sbruce@mcneeslaw.com)  
[cmincavage@mcneeslaw.com](mailto:cmincavage@mcneeslaw.com)

Deanne M. O'Dell, Esq.  
Carl R. Shultz, Esq.  
Eckert Seamans Cherin & Mellott  
213 Market St., 8<sup>th</sup> Fl.  
Harrisburg, PA 17101  
[dodell@eckertseamans.com](mailto:dodell@eckertseamans.com)  
[cshultz@eckertseamans.com](mailto:cshultz@eckertseamans.com)

Elizabeth Triscari  
Office of Small Business Advocate  
Commerce Building, Suite 202  
300 North Second St.  
Harrisburg, PA 17101  
[etriscari@pa.gov](mailto:etriscari@pa.gov)

Terrance J. Fitzpatrick, Esq.  
Donna M.J. Clark, Esq.  
Energy Association of PA  
800 N. Third St., Suite 205  
Harrisburg, PA 17102  
[tfitzpatrick@energypa.org](mailto:tfitzpatrick@energypa.org)  
[dclark@energypa.org](mailto:dclark@energypa.org)

Candis Tunilo, Esq.  
Darryl Lawrence, Esq.  
Office of Consumer Advocate  
555 Walnut Street, 5<sup>th</sup> Fl.  
Harrisburg, PA 17101-1923  
[ctunilo@paoca.org](mailto:ctunilo@paoca.org)  
[dlawrence@paoca.org](mailto:dlawrence@paoca.org)

Michael A. Gruin, Esq.  
Stevens Lee  
17 N. 2<sup>nd</sup> St., 16<sup>th</sup> Fl.  
Harrisburg, PA 17101  
[mag@stevenslee.com](mailto:mag@stevenslee.com)

Bernice K. McIntyre  
Regulatory Strategy Director  
WGL Bus. Dev and Non-Utility Operations  
8614 Westwood Center Drive  
Vienna, VA 22182  
[Bernice.mcintyre@wglenergy.com](mailto:Bernice.mcintyre@wglenergy.com)

Cassandra McFadden  
Senior Regulatory Analyst  
WGL Business Development and  
Non-Utility Operations  
8614 Westwood Center Drive  
Vienna, VA 22182A  
[Cassandra.mcfadden@wglenergy.com](mailto:Cassandra.mcfadden@wglenergy.com)

Kimberly A. Klock, Esq.  
Amy E. Hirakis, Esq.  
Associate General Counsel  
PPL Service Corporation  
Two North Ninth St.  
Allentown, PA 18101  
[kklock@pplweb.com](mailto:kklock@pplweb.com)  
[aehirakis@pplweb.com](mailto:aehirakis@pplweb.com)

David B. MacGregor, Esq.  
Post & Schell, P.C.  
Four Penn Center  
1600 John F. Kennedy Blvd.  
Philadelphia, PA 19103-2808  
[dmacgregor@postschell.com](mailto:dmacgregor@postschell.com)

Devin T. Ryan, Esq.  
Post & Schell, P.C.  
17 North Second St., 12<sup>th</sup> Fl.  
Harrisburg, PA 17101-1601  
[dryan@postschell.com](mailto:dryan@postschell.com)

Pamela C. Polacek, Esq.  
Adeolu A. Bakare, Esq.  
Matthew L. Garber, Esq.  
100 Pine Street  
P. O. Box 1166  
Harrisburg, PA 17108-1166  
[ppolacek@mcneeslaw.com](mailto:ppolacek@mcneeslaw.com)  
[abakare@mcneeslaw.com](mailto:abakare@mcneeslaw.com)  
[mgarber@mcneeslaw.com](mailto:mgarber@mcneeslaw.com)  
Charles E. Thomas, III, Esq.  
Thomas, Niesen & Thomas, LLC  
212 Locust Street, Suite 600  
Harrisburg, PA 17101  
[cet3@tntlawfirm.com](mailto:cet3@tntlawfirm.com)

Thomas P. Gadsden, Esq.  
Anthony C. DeCusatis, Esq.  
Brooke E. McGlinn, Esq.  
Morgan, Lewis & Bockius  
1701 Market Street  
Philadelphia, PA 19103  
[thomas.gadsden@morganlewis.com](mailto:thomas.gadsden@morganlewis.com)  
[anthony.decusatis@morganlewis.com](mailto:anthony.decusatis@morganlewis.com)  
[brooke.mcglinn@morganlewis.com](mailto:brooke.mcglinn@morganlewis.com)

Mark C. Morrow, Esq.  
Chief Regulatory Counsel  
UGI Corporation  
460 North Gulph Road  
King of Prussia, PA 18406-2807  
[morrowm@ugicorp.com](mailto:morrowm@ugicorp.com)

Tori L. Giesler, Esq.  
FirstEnergy  
2800 Pottsville Pike  
P.O. Box 16001  
Reading, PA 19612-6001  
[tgiesler@firstenergycorp.com](mailto:tgiesler@firstenergycorp.com)

Jack R. Garfinkle, Esq.  
W. Craig Williams, Esq.  
Jennedy S. Johnson, Esq.  
PECO Energy Company  
2301 Market Street  
Philadelphia, PA 19103  
[romulo.diaz@exeloncorp.com](mailto:romulo.diaz@exeloncorp.com)  
[jack.garfinkle@exeloncorp.com](mailto:jack.garfinkle@exeloncorp.com)  
[craig.williams@exeloncorp.com](mailto:craig.williams@exeloncorp.com)  
[jennedy.johnson@exeloncorp.com](mailto:jennedy.johnson@exeloncorp.com)

Date: February 22, 2017



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Karen O. Moury, Esq.

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**PETITION OF NRG ENERGY, INC. FOR  
IMPLEMENTATION OF ELECTRIC  
GENERATION SUPPLIER  
CONSOLIDATED BILLING**

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Docket No. P-2016-2579249  
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**REPLY COMMENTS OF NRG ENERGY, INC.**

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Leah Gibbons  
Director, Regulatory Affairs  
NRG Energy, Inc.  
3711 Market Street, Suite 1000  
Philadelphia, PA 19104  
301.509.1508  
lgibbons@nrg.com

Karen O. Moury  
Attorney I.D. No. 36879  
Sarah C. Stoner  
Attorney I.D. No. 313793  
Eckert Seamans Cherin & Mellott, LLC  
213 Market Street, Eighth Floor  
Harrisburg, PA 17101  
717.237.6036  
kmoury@eckertseamans.com

February 22, 2017

Attorneys for NRG Energy, Inc

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**REPLY COMMENTS OF NRG ENERGY, INC.**

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Pursuant to the notice published in the *Pennsylvania Bulletin* on December 24, 2016, NRG Energy, Inc. (“NRG Energy” or “Company”) files these reply comments, responding to comments filed by various interested parties. By these reply comments, NRG reiterates why it is in the public interest for the Commission to approve its Petition for Implementation of Electric Generation Supplier Consolidated Billing (“Petition”) announcing its policy determination to implement SCB and launching the necessary processes to accomplish its directives.

Implementation of SCB would enable electric generation suppliers (“EGSs”) to directly bill their supply customers for generation services they provide, while allowing customers to continue enjoying the convenience of receiving one electric bill that includes both the competitive supply charges of the EGS and the tariffed delivery charges of the electric distribution company (“EDC”), as well as charges for any additional value-added product or service offered by the EGS. If implemented, SCB would become another billing option from which consumers could choose, along with utility consolidated billing (“UCB”) and dual billing – the only two options that are currently available to consumers.

Through these reply comments, NRG reinforces the arguments set forth in its Petition regarding the Commission’s existing statutory authority to implement SCB and the need for SCB to deliver consumer benefits in the form of innovative product offerings and value-added services that continue to be absent from the Pennsylvania retail market. Through these reply comments, NRG emphasizes that SCB would be implemented in a manner that preserves all existing consumer protections; describes the fundamental importance of SCB in a vibrant competitive market; responds to claims regarding the need for a rulemaking proceeding and

evidentiary hearings; narrows the scope of the issues by clarifying and modifying certain proposals including those related to terminations, low-income customers, and financial and technical qualifications for EGSs participating in SCB; and offers a revised timeline for SCB implementation so that it is available to customers in Pennsylvania by the end of 2018.

## **I. INTRODUCTION.**

NRG remains committed to the Pennsylvania electric retail market and supports Commission initiatives that are designed to achieve a robust competitive retail market, in which consumers have access to a broad array of diverse innovative product offerings and services that meet their individual needs. Consistent with prior Commission findings regarding the fundamental importance of a direct billing relationship between EGSs and their generation supply customers, the implementation of SCB is vital to the continued growth of Pennsylvania's retail market.

Through the ability to send consolidated bills that include charges for all electric services, EGSs would be able to forge direct and long-term relationships with their customers, providing a level of certainty that promotes EGS investment, which in turn enhances consumer access to value-added products and services – a cornerstone of a well-functioning competitive market. By providing a direct billing relationship between EGSs and their customers, SCB would enable EGSs to establish trust and loyalty with those customers and be perceived as their “energy company.” The effectiveness of this monthly channel for establishing long-term relationships with customers cannot be overstated. With these relationships forged, EGSs would be able to deliver new product offerings that are tailored to meet the unique needs of their customers, including tools that allow them to budget their energy dollars more effectively.

Despite twenty years of faithful implementation of the Electricity Generation Customer Choice and Competition Act (“Choice Act”)<sup>1</sup> by the Commission, the EDCs in Pennsylvania have successfully maintained their dominant position in Pennsylvania’s retail electricity services market by providing default supply service to nearly two-thirds of their distribution customers. Through their role as default service providers, the EDCs are the only entities that are able to perform consolidated billing functions. Trying to maintain their dominance and preclude EGSs from issuing consolidated bills to their own electric generation supply customers, the EDCs forcefully oppose NRG’s proposal. The opposition expressed by PECO Energy Company is particularly surprising given the comments it filed in 2012, stating that “[a]s the Commission recognizes, SCB can be an important billing option for both EGSs and customers, and should be able to be offered by EGSs in addition to Consolidated EDC Billing and Dual Billing.”<sup>2</sup>

While the EDCs’ opposition to NRG’s Petition stresses the need to protect consumers, the Commission, EGSs and the competitive retail market, their real objective is to protect their current monopoly as the sole consolidated billing entities. Underlying their comments is a desire to improperly use that monopoly status to maximize revenues and thereby fulfill obligations to their shareholders. Through their efforts to exclude EGSs from the consolidated billing role in a retail market that has been open to competition for twenty years, the EDCs seek to portray themselves to consumers as “the energy company,” perpetuating brand loyalty and providing a platform to sell other products and services to customers, such as proposed prepaid plans,

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<sup>1</sup> 66 Pa. C.S. §§ 2801-2812.

<sup>2</sup> <http://www.puc.pa.gov/pcdocs/1203538.pdf> (page 16).

electrical wiring, landscaping and other services unrelated to their functions as delivery companies.<sup>3</sup>

For instance, while seeking to keep EGSs out of the consolidated billing arena, the FirstEnergy Companies use their direct billing relationship with customers every month to sell them a whole host of products and services that are unrelated to delivery services through bill inserts.<sup>4</sup> Similarly, PECO Energy Company continues to explore ways to expand its business model to provide services that go beyond its role as a distribution company and threaten to harm the retail competitive market.<sup>5</sup> Duquesne Light Company gives its customers the ability to subscribe to a variety of homeowner warranty repair programs through Dominion Products and Services, Inc. and “enjoy the convenience of having the fees for these programs added to their monthly electric bill.”<sup>6</sup> PPL Electric Utilities Corporation uses its monthly bill to connect with its customers and engage on a myriad of topics unrelated to their core functions, such as winter safe driving tips.<sup>7</sup>

The intensity of the EDC opposition to NRG’s Petition demonstrates the fundamental importance they place on maintaining their monopoly control of the direct billing relationship with the consumer. Bills are the vehicle to forming relationships, which is why the EDCs want to keep this function for themselves and maintain an edge over the EGSs. Yet, as the delivery

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<sup>3</sup> See 52 Pa. Code § 56.13.

<sup>4</sup> See, e.g. [https://www.firstenergycorp.com/content/customer/help/billingpayments/bill\\_inserts/met-ed.html](https://www.firstenergycorp.com/content/customer/help/billingpayments/bill_inserts/met-ed.html) (sample offers are attached as Appendix A).

<sup>5</sup> See *Petition of PECO Energy Company for Approval of Microgrid Integrated Technology Pilot Plan*, Docket No. P-2016-2546452 (Petition filed May 18, 2016); *Petition of PECO Energy Company for an Advance Payments Program*, Docket No. P-2016-2573023 (Petition filed October 26, 2016).

<sup>6</sup> <https://www.duquesnelight.com/customer-service/service/repair-programs>. (a screenshot of the webpage is attached as Appendix B).

<sup>7</sup> <https://www.pplelectric.com/utility/about-us/connect-newsletter.aspx> (a copy of a recent newsletter is attached as Appendix C).

companies, the EDCs are not supposed to be competing with EGSs. Rather, in a robust competitive market where EDCs focus on their core function of reliably delivering electricity, EGSs are competing against each other to sell electric generation supply.

Competition among EGSs leads to building a better platform that optimizes the use of technology advancements and responds to the demands of customers. By fighting to continue as the only entities that can offer consolidated billing, the EDCs are stifling competition and economic development in Pennsylvania. More active EGS participation in the retail market, with EGSs investing in the Commonwealth and using technology to develop innovative product offerings, can only be good for Pennsylvania and its consumers. As Chairman Brown and Commissioner Powelson recently observed, “we want innovative companies to choose to do business in the Commonwealth. Encouraging this type of investment creates jobs, improves the economy, and benefits consumers.”<sup>8</sup> They added that Pennsylvania is a place “where innovative companies...can invest and grow.”<sup>9</sup>

Ignoring past Commission warnings that the EDCs “do not own the customers” and that they need to rid themselves of that mindset, their comments cling to that notion, which is a relic of pre-competition days when they were vertically integrated utilities. By fiercely trying to protect what they view as theirs – a monopoly hold on “their customers” – the EDCs are seeking to deprive those very customers (and keep for themselves) opportunities that EGSs can make available enabling them to be smarter energy consumers, better equipped to manage their consumption and overall energy costs. For their own self-serving reasons, the EDCs are trying to deprive consumers of access to a wider array of innovative and diverse products and services.

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<sup>8</sup> *Application of Freed Man Autonomous Vehicles LLC*, Docket No. A-2017-2585722 (Joint Statement dated February 9, 2017).

<sup>9</sup> *Id.*

To advance their own interests, they are attempting to deny customers the choice of electing to receive one bill for their electric services from the entity that supplies their electricity.

Indeed, the action of PPL Electric Utilities Corporation in this proceeding – of intentionally disclosing confidential NRG market share information in its publicly filed comments – is a classic example of this outdated utility mindset that is interfering with the development of a retail market in which EGSs are competing. In its monopoly status, PPL has access to confidential retail market information for each EGS serving customers in its service territory. Although PPL is obligated by the Commission’s regulations to safeguard that information from public disclosure, it publicly distributed NRG’s confidential information in support of its opposition to NRG’s proposal that threatens to diminish its monopoly role.<sup>10</sup>

While the EDCs seek to safeguard their monopoly billing status under the guise of protecting consumers, the market, the Commission and EGSs, they point to NRG as trying to use its leverage as a consolidated billing entity to improve its position in the retail market. Indeed, NRG is transparent in its Petition that it plans to use SCB, if it is made available, to deliver products and services that Pennsylvania consumers demand so that NRG is more successful in this competitive market.

Two things set NRG apart from the EDCs in this regard. First, NRG is simply requesting that SCB be available as an option, not the only alternative. NRG is not seeking to preclude the EDCs from performing consolidated billing services for their default service customers or for customers served by EGSs that do not offer SCB. Second, NRG has shown how its proposal would provide consumer benefits and enhance the competitiveness of the retail market in Pennsylvania – objectives that the General Assembly established and that the Commission has

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<sup>10</sup> 52 Pa. Code §§ 54.203-54.204. A review of the docket entries in this proceeding shows the steps that NRG had to take to minimize any further public dissemination of this information.

implemented and nurtured over the past twenty years. When EGSs are able to truly compete, consumers benefit from more competitive prices, innovative product offerings and better customer service. As a participant in the competitive market, NRG is well aware of the fundamental importance of customer service and satisfaction, especially in a market where EDCs are in a default service role, and their rates are established in way that does not contemporaneously reflect current wholesale market conditions or the full cost of providing retail electricity service.

While some commenters suggest that current shopping levels weigh against the implementation of SCB, the Commission has frequently recognized the importance of a wide variety of products and services being offered to consumers in a vibrant competitive market. Indeed, even if all customers were shopping, SCB would be necessary to unleash the full potential of the competitive market where consumers have access to a diverse array of innovative products and services that are tailored to meet their individual needs. Among the choices that should be available to customers participating in a robust competitive market is the option to receive a consolidated electric bill from the entity that provides their electric supply services – just as they receive bills for any other product or service that they purchase from any other merchant, that include both the merchandise and delivery charges.

Commenters also mistakenly attempt to focus the Commission on price as the primary factor driving the competitive market and the only reason the enactment of the Choice Act. The 2015 Annual Baseline Assessment of Choice in Canada and the United States (“ABACCUS”) Report warns against this very mistake of – “describing the industry in terms of the electric commodity.”<sup>11</sup> As the Report observed, “[c]onsumer-driven innovation and product

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<sup>11</sup> <http://defgllc.com/publication/abaccus-2015-annual-baseline-assessment-of-choice-in-canada-and-the-united-states/> ABBACUS Report at 11.

determination should be the goal of electricity restructuring. Innovation and product differentiation will market the shift from pure commodity sales to a vibrant retail energy services market.”<sup>12</sup> EGSs “are very sensitive to what makes a consumer want to switch to a new provider, as are all competitors [and] are also focused on how to keep that customer satisfied.”<sup>13</sup> “Supportive billing options” are specifically identified by the Report as a basic component of workable retail electric competition.<sup>14</sup>

The EDCs also seek to hold NRG’s Petition to an unprecedented and impossible standard as part of a concerted effort to preserve their monopoly status as the only consolidated billing entities. By claiming that NRG was required to include detailed procedures and proposals and to prove how it would comply with each and every condition set forth in a Petition – without pointing to any legal requirements for a petition to do so – commenters are urging the Commission to set the bar so high that it is designed to fail.

On the contrary, NRG was not required to address all details of SCB implementation in its Petition asking the Commission to initiate a proceeding that will culminate in SCB implementation by a date certain. In order to convince the Commission to make this commitment and launch the necessary processes, it is sufficient for NRG to establish that SCB is in the public interest – that it is legally permissible, reflects appropriate public policy, is operationally feasible and will not compromise existing consumer protections or customer service. NRG’s Petition clearly establishes that it is in the public interest for the Commission to direct the implementation of SCB.

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<sup>12</sup> *Id.*

<sup>13</sup> *Id.* at 4.

<sup>14</sup> *Id.* at 10.



Particularly with respect to consumer protections, commenters who claim that NRG is required to prove how each rule will be followed are overlooking normal Commission practice. As the Commission is aware, consumer protections are established by regulations and laws, which are then its responsibility to enforce. It is customary for the Commission to consider an entity's proposed plan for compliance and require a certification that the entity will comply with applicable laws and regulations. As proposed by NRG, the SCB option would be implemented in a manner that preserves all consumer protections currently enjoyed by retail customers, through imposing obligations on participating EGSs to comply with Chapter 14 of the Public Utility Code,<sup>15</sup> Chapter 56 of the Commission's regulations<sup>16</sup> and other applicable requirements. Also, EGSs offering SCB would be required to meet more stringent financial standards than are necessary to maintain EGS licenses and to demonstrate a technical ability to perform billing and related functions. Therefore, NRG's Petition shows how consumer protections will be preserved and NRG is confident in the Commission's ability to fully enforce consumer protection service requirements. To that end, by these reply comments, NRG offers financial support for those efforts in the form of additional annual fees imposed upon EGSs offering SCB.

Another tactic taken by the EDCs in arguing that their monopoly billing relationship with the customer needs to be preserved is raising a number of questions and operational issues and implying that no possible solution exists. This ploy, which overlooks the fact that SCB is working effectively in Texas, is designed to give the Commission the impression that NRG's Petition presents insurmountable barriers. Despite the efforts of commenters to portray NRG's proposals in this manner, the legal, policy and operational issues raised by the comments are

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<sup>15</sup> 66 Pa. C.S., Ch. 14. Remaining references will be to Chapter 14.

<sup>16</sup> 52 Pa. Code, Ch. 56. Remaining references will be to Chapter 56.

either addressed by the Petition or resolutions are attainable through Commission-facilitated stakeholder efforts or by Commission orders. Stated otherwise, not a single issue has been raised that warrants any further delays in moving forward with SCB in Pennsylvania. The vast majority of the changes that need to be made to implement SCB would occur through the refinement of and development of EDI transactions that support enhanced communications between EDCs and EGSs and modifications to Chapter 56 of the Commission's regulations during the pending rulemaking proceeding.

In reviewing the opposing comments and answers filed by the EDCs in this proceeding, it is critical that the Commission keep in mind their true objectives of preserving a monopoly hold on retail electric customers in Pennsylvania. While advocates for consumers raise some of the same issues, NRG understands the underlying basis for those concerns and has sought to respond to them through providing clarifications, modifications and additional details. Through these reply comments, NRG demonstrates that its proposal establishes a solid legal and policy foundation, as well as a reasonable procedural framework, to enable the Commission to finally move forward with this initiative that has been considered and has come so close to implementation in the past.

NRG has demonstrated that it is in the public interest for the Commission to announce its policy determination to implement SCB and launch the necessary processes to accomplish its directives. Commission approval of NRG's Petition would allow Pennsylvania's retail consumers to gain access to tools that will help them become smarter energy consumers and better control their energy usage and overall costs. In order to move forward with SCB, the Commission need only reiterate its prior legal and policy determinations that SCB is an appropriate and vital component of Pennsylvania's retail market.

## II. BACKGROUND

On December 8, 2016, NRG filed its Petition with the Commission. Notice of the Petition was published in the *Pennsylvania Bulletin* on December 24, 2016.<sup>17</sup> Pursuant to this notice, answers and comments were due to be filed by January 23, 2017, with reply comments due on February 22, 2017.

NRG addresses numerous substantive issues in its Petition, including: (i) its operations and its participation through affiliates in the electric retail market in Pennsylvania; (ii) its proposal for how SCB would be designed and implemented in a manner that preserves existing consumer protections; (iii) the legal authority for the Commission to direct the implementation of SCB as an option that is available to EGSs and their consumers; (iv) the customer benefits of SCB; (v) the barriers created by the existing UCB model; and (vi) the background work done to date to implement SCB.

In its Petition, NRG also identifies the procedural steps that need to be accomplished prior to the implementation of SCB and sets forth a proposed schedule. The steps identified by NRG include: (i) a Commission announcement on the availability of SCB in Pennsylvania by a date certain; (ii) the issuance by the Commission of policy guidance and directives concerning the development of electronic data interexchange (“EDI”) protocols; (iii) the formation of an SCB Stakeholder Work Group led by the Office of Competitive Market Oversight (“OCMO”); (iv) the submission of a Report by the Work Group, including model supplier tariff language; a model trading partner agreement; identification of regulations that will be impacted, along with proposed waivers and interim guidelines; additional financial security and technical requirements for EGSs offering SCB; and compliance filing components; (v) submission of EDI protocols by

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<sup>17</sup> 46 Pa.B. 8154.

the Electronic Data Exchange Working Group (“EDEWG”), and (vi) issuance of an Implementation Order and approval of compliance filings by the Commission.

Consistent with the notice, the following parties filed comments and/or answers: Pennsylvania AFL-CIO Utility Caucus (“PA AFL-CIO”); Calpine Energy Solutions, LLC (“Calpine”); the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (“CAUSE-PA”); Citizens’ Electric Company of Lewisburg, Pa and Wellsboro Electric Company (“Citizens/Wellsboro”); Direct Energy Services, LLC (“Direct Energy”); Duquesne Light Company (“Duquesne”); the Energy Association of Pennsylvania (“EAP”); Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company (collectively the “FirstEnergy”); 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 Industrial Intervenors (collectively the “Industrials”); the Office of Consumer Advocate (“OCA”); the Office of Small Business Advocate (“OSBA”); PECO Energy Company (“PECO”); the Pennsylvania Coalition Against Domestic Violence (“PCADV”); 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”); UGI Utilities, Inc. (“UGI”) and WGL Energy Services (“WGL Energy.”)

These reply comments are filed in response to those comments.

### **III. CLARIFICATIONS AND PROPOSED CHANGES**

NRG has reviewed the comments and answers that were filed by interested parties. In an effort to make its proposed plan for the implementation of SCB by 2018 more workable, to reduce the number of contested or complex issues that must be addressed by the parties and

resolved by the Commission, and to ensure that the plan for SCB is in the best interests of consumers, NRG offers several clarifications and modifications to its original Petition designed to narrow the scope of the issues the Commission must consider. The specific clarifications and modifications are described immediately below.

**A. Financial and Technical Qualification Requirements**

1. NRG's Petition

NRG's Petition proposes that EGSs offering SCB should be obligated to meet more stringent financial requirements than are currently imposed on EGSs to maintain their licenses and to demonstrate the technical expertise to perform billing and related functions, including customer service responsibilities. The possible standards identified by NRG's Petition include pre-defined financial requirements or posting necessary minimum financial guarantees; a minimum number of years of serving customers in Pennsylvania and other competitive electricity markets; documentation of an on-going risk management policy; maintaining a local office in Pennsylvania; experience serving a minimum number of residential electric customers; experience with call center/complaint handling functions; and experience with billing/credit and collections. NRG's Petition further proposes that the Commission direct the Stakeholder Work Group to address these standards and submit recommendations to the Commission. In addition, the Petition suggests a registration process similar to that utilized for conservation service providers to permit the Commission to ensure that these additional standards are met.<sup>18</sup>

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<sup>18</sup> NRG Petition ¶¶ 15, 33, 72.

## 2. Comments

Commenters challenge the sufficiency of NRG's licensure requirements for qualifying EGSs and the adequacy of the proposed registration process.<sup>19</sup> Other comments raise issues about the ability of EGSs to abandon service with 90 days' notice, the applicability of certain statutory requirements to EGSs and the possibility that Commission staff will need to oversee the activities of more billing entities.<sup>20</sup>

## 3. Reply Comments

NRG does not disagree that it is necessary to develop criteria and create a process that ensures sufficient protections for consumers and EDCs. Ultimately, the requirements that are imposed and the process that is established are up to the Commission. While NRG continues to believe that the qualification requirements should be addressed through a stakeholder process so as to establish a set of best practices that are reasonable for EGSs to fulfill, NRG is offering specific proposals generated by its review of the comments and in accordance with the general suggestions set forth in the Petition, as follows:

- Posting security naming the EDC as the beneficiary in the event of non-payment of delivery charges, in an amount that is set on the basis of two months of distribution charges, using the highest two months in the most recent twelve-month period, which amount is reviewed and adjusted quarterly;
- Providing and maintaining an irrevocable stand-by letter of credit payable to the Commission with a face value of \$500,000 for the purpose of maintaining certification as an EGS in the SCB role;
- Having at least 5 years of experience serving customers in Pennsylvania and other competitive electricity markets;
- Documenting an on-going risk management policy;
- Maintaining a local office in Pennsylvania;

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<sup>19</sup> Duquesne comments at 18-19; PPL comments at 21.

<sup>20</sup> FirstEnergy comments at 3; PPL comments at 10.

- Having experience of serving at least 25,000 residential electric customers;
- Having at least 5 years of experience or the equivalent with call center/complaint handling functions;
- Having at least 5 years of experience or the equivalent with billing/credit and collections;
- Paying an annual fee of \$150,000 to support Commission’s monitoring activities of EGSs offering SCB;
- Certifying that it will comply with Chapter 14 and Section 1501 of Title 66 and Chapters 54, 56 and Sections 57.171-57.180 of Title 52, as well as any other provisions that are designated by the Commission; and
- Certifying that it will engage in a mock billing practice for two months with the EDC, during which the EGS will prepare mock bills for 100 customers containing EDC delivery charges and submit a notice to the Commission of the successful completion of the mock billing practice before beginning to issue bills in that EDC’s service territory.

NRG continues to be open to suggestions from other parties as to additional or revised criteria. Further, to ensure adequate review of the EGS’s qualifications to offer SCB, NRG proposes that the Commission utilize a licensing application process that is similar to that which is in place for EGS applicants.

**B. Termination Process**

1. NRG’s Petition

Under NRG’s Petition, EDCs would continue to be responsible for physically terminating service to a non-paying customer, when termination is permitted by Chapter 14 of the Code and Chapter 56 of the Commission’s regulations.<sup>21</sup> As further proposed by the Petition, NRG would instruct the EDC to initiate the termination protocols and the EDC would terminate the account,

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<sup>21</sup> NRG Petition ¶¶ 29-30.

or be subject to non-payment of all delivery charges for subsequent service provided to the customer whose service was not terminated.<sup>22</sup>

## 2. Comments

Commenters suggest that it is necessary to have detailed termination service procedures in place. They also cite the need for a clear delineation of responsibilities between EDCs and EGSs offering SCB with respect to the termination procedures, including notifications.<sup>23</sup>

## 3. Reply Comments

Based upon a review of the comments, NRG is clarifying certain aspects of its proposal, providing additional details and modifying specific features of its proposal. To address concerns raised in the comments, NRG clarifies that the EGS would initiate the termination process by sending an EDI service termination transaction to the EDC, verifying that the termination is requested for a reason authorized by the Chapter 14.<sup>24</sup> The EDC would then have an opportunity to reject the request based upon criteria established in Chapter 14.<sup>25</sup> Also, NRG modifies its proposal to eliminate the option for an EGS to withhold payment of delivery charges when an EDC declines to terminate an account following receipt of the EDI transaction initiating the termination process.<sup>26</sup> In addition, NRG revises its proposal to include a requirement for quarterly reports to be provided to the Commission by EGSs regarding the number of

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<sup>22</sup> NRG Petition ¶ 30.

<sup>23</sup> FirstEnergy comments at 6-8; PCADV letter; PECO comments at 21; PPL comments at 10-13.

<sup>24</sup> 66 Pa. C.S. § 1406(a) and (c).

<sup>25</sup> 66 Pa. C.S. § 1406(d), (e) and (f).

<sup>26</sup> NRG reserves the right to revisit this issue in the future if difficulties are encountered in obtaining the EDC's cooperation in the termination process.



terminations that have been requested and implemented, along with other data as required by the Commission.

Upon acceptance of the request from the EGS to initiate the termination process, the EDC would initiate and handle the termination process, including the issuance of notices, physical disconnection and reconnection,<sup>27</sup> and would be indemnified against any EGS error in requesting the termination. The EGS's involvement would be limited to: (i) interactions with the customer to establish a payment arrangement and accept payment; and (ii) timely communications with the EDC (through EDI) regarding the receipt of payment so as to avoid termination or to commence the reconnection. The delineation of responsibilities and obligations would be fully set forth in an agreement between the EDC and EGS or by Commission interim guidelines and regulations. Additional details of how the termination process would work are set forth below in the section addressing termination procedures.<sup>28</sup>

**C. Enrollment/Drop Block Mechanism**

1. NRG's Petition

In its Petition, NRG proposes an "enrollment/drop block mechanism," which would prevent customers on payment arrangements from switching until their past due bill is paid. As explained by NRG, such a tool is used to assure that a customer on a payment arrangement cannot use their ability to switch EGSs to avoid payment of all of their charges, including charges for supply and delivery.<sup>29</sup>

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<sup>27</sup> 66 Pa. C.S. §§ 1406(b) and 1407.

<sup>28</sup> NRG reply comments at 81-85.

<sup>29</sup> NRG Petition ¶ 37.e.

## 2. Comments

Commenters raise concerns about an EGS's ability to prevent a customer from switching if prices increase and suggest that this tool is inconsistent with the Commission efforts to accelerate the switching process for customers.<sup>30</sup>

## 3. Reply Comments

Commenters appear to have misunderstood NRG's proposal, as they describe it as precluding any customer with a past due amount from switching.<sup>31</sup> Although the proposed provision was only intended to affect customers on payment arrangements and is consistent with EDEWG's proposal in 2010, NRG has determined to remove this mechanism from its proposal at this time.<sup>32</sup>

### **D. CAP and LIHEAP Customers, and Customers with PFAs**

#### 1. NRG's Petition

In its Petition, NRG proposes that customer assistance program ("CAP") subsidies and LIHEAP credits follow the customers so that they can be served by an EGS offering SCB. NRG's Petition further proposes that the Stakeholder Work Group be charged with determining how to handle LIHEAP credits.<sup>33</sup>

#### 2. Comments

Commenters raise questions about how NRG's proposal will operate and suggest that it would be difficult to calculate and track the CAP subsidies. They also raise challenges

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<sup>30</sup> Duquesne comments at 22-23; PECO comments at 20; PPL comments at 13-14.

<sup>31</sup> Duquesne comments at 22-23; PECO comments at 20; PPL comments at 13-14.

<sup>32</sup> NRG reserves the right to revisit this issue if a problem arises with customers switching to avoid paying for electricity.

<sup>33</sup> NRG Petition ¶ 15, Appendix A (Question 8).

associated with LIHEAP credits.<sup>34</sup> In addition, the Pennsylvania Coalition Against Domestic Violence (“PCADV”) refers to the different set of rules that are applicable to individuals who have “protection from abuse” (“PFA”) orders.<sup>35</sup>

### 3. Reply Comments

In order to reduce the number of issues in this proceeding, NRG proposes that EGSs in the SCB role agree to forego serving customers who receive LIHEAP or CAP subsidies at this time. If the EGS in the SCB role would send an enrollment transaction for a customer receiving LIHEAP or CAP subsidies, the EDC would reject the transaction, noting the reason code. Similarly, if a customer that is enrolled with the EGS later begins receiving such subsidies, the EDC would send a drop transaction flagging the reason. Additionally, due to concerns raised by PCADV, NRG revises its proposal so that customers holding PFA orders would likewise not be served by an EGS providing SCB.

NRG reserves the right to revisit this issue through a petition seeking to amend the structure of SCB in Pennsylvania. Once EGSs are successfully offering SCB to customers, NRG expects that the stakeholders and the Commission will be more receptive to having EGSs in this role handling the duties associated with serving customers who receive CAP subsidies or LIHEAP credits. In the interim, NRG urges the Commission to consider a statewide solution so that these subsidies and credits are portable and CAP and LIHEAP customers have the same access as other consumers to products and services offered in the competitive market.

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<sup>34</sup> CAUSE answer ¶ 37.d. and comments at 2; Duquesne comments at 22; OCA comments at 19-20; PECO comments at 16, 24; PPL comments at 16-17; TURN comments at 5-8.

<sup>35</sup> Pennsylvania Coalition Against Domestic Violence letter dated January 23, 2017.

## **E. Timeline**

### **1. NRG's Petition**

NRG proposed implementation of SCB by the second quarter of 2018. In submitting this proposed timeframe, NRG's Petition outlines each step that must be taken and affords a reasonable period of time for each step.<sup>36</sup>

### **2. Comments**

Commenters maintain that the timeline proposed by NRG is unrealistic.<sup>37</sup> PECO suggests that from a billing system perspective, it would be starting from scratch in implementing SCB.<sup>38</sup> PECO estimates that it would take a minimum of 18 months after all parameters are established by the Commission.<sup>39</sup>

### **3. Reply Comments**

It is clear that the Commission needs time to determine legal and policy issues related to SCB. In proposing a procedural schedule and timeline, NRG took into consideration the need for various tasks that have to be accomplished and attempted to ensure that interested stakeholders would have adequate opportunities to participate in the development of policies. However, based upon a careful and thoughtful review of the comments, NRG has re-examined its proposed timeline. NRG now modifies its proposal to add six months to allow for implementation following issuance of an Implementation Order by the Commission, so that SCB is available to customers of EGSs by the end of 2018.

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<sup>36</sup> NRG Petition ¶ 15.

<sup>37</sup> PECO comments at 31.

<sup>38</sup> Duquesne comments at 25; PECO comments at 32.

<sup>39</sup> PECO comments at 33.

NRG believes that an additional six months is sufficient to accomplish all of the necessary steps. Once the legal and policy issues are decided, technical steps toward implementation can be taken. Nothing about the EDC's billing process would be changed, other than it would not be billing some customers. Instead of billing those customers, it would be sending EDI transactions to the EGS providing SCB. Time would be needed to establish the EDI and/or information technology changes. The time required may vary between utilities, because some EDCs already agreed (in 1998) to implement SCB.<sup>40</sup>

PECO's time estimate is not verifiable because it lacks key details. Although PECO states that it will need to modify its "billing system" to implement SCB, it fails to describe what specific changes would be needed to its billing system and/or the information technology ("IT") changes that would be required to accommodate SCB in 2018. Without details, it is impossible to evaluate the necessity of any changes or the amount of required to make the necessary changes. Notably, in 2012, PECO supported the Commission's decision for OCMO recommendations for making SCB available "to ensure discussions regarding SCB continue in a timely manner," without any reference to a lengthy implementation period.<sup>41</sup> Also, PECO's comment about previously having the "billing functionality" in its system to accommodate SCB and not replicating it during recent upgrades is at odds with PECO's supplier tariff that continues

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<sup>40</sup> See *Standards for Electronic Data Transfer and Exchange Between Electric Distribution Companies and Electric Generation Supplier*, Docket No. M-00960890,F.0015 (Order entered April 14, 2000) (explaining that PECO, Allegheny Power, GPU Energy, and PPL agreed to implement SCB as part of their restructuring settlements).

<sup>41</sup> <http://www.puc.pa.gov/pcdocs/1203538.pdf> (page 16).

to provide for SCB.<sup>42</sup> Regardless, since PECO previously developed the necessary billing functionality, it should not be as time-consuming as PECO suggests in its comments.<sup>43</sup>

#### IV. REPLY COMMENTS

##### A. Legal Issues and Procedural Requirements

##### 1. Standing

##### a. NRG's Petition

In its Petition, NRG describes its overall operations and its participation in Pennsylvania's electric retail market. Through four retail companies identified in the Petition, NRG actively serves residential, commercial, industrial and institutional customers across Pennsylvania through the UCB model. These NRG retail companies offer customers a range of products including 100% renewable energy, cash back rewards and loyalty points. NRG further notes its active participation in the Commission's electric retail markets investigation ("RMI") and expresses its continued commitment to Pennsylvania's electric retail market. Emphasizing the importance of SCB for enhancing services provided to the retail market, NRG indicates its willingness to use this tool in Pennsylvania if it is implemented as structured in the Petition.<sup>44</sup>

##### b. Comments

Despite NRG's direct and substantial interest in SCB implementation that was described in the Petition, commenters claim that NRG lacks standing to initiate this proceeding.<sup>45</sup> It has

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<sup>42</sup> PECO Supplier Tariff, Pa. P.U.C. No. 1S, Page Nos. 97-101.

<sup>43</sup> FirstEnergy's comment regarding timing as it relates to the deployment of advanced meter infrastructure ("AMI") wholly misconstrues a reference in Paragraph 51 of NRG's Petition regarding the myriad of choices that AMI will make possible – choices that may be offered only through SCB. Clearly, NRG's Petition identified a number of consumer benefits that can be realized without AMI. See NRG Petition ¶¶ 44-50, 52-53, 55-57.

<sup>44</sup> NRG Petition ¶¶ 19-24.

<sup>45</sup> EAP comments at 12-13; PECO comments at 6-7.

also been suggested that the Commission said it would commence further SCB proceedings at the appropriate time.<sup>46</sup>

c. Reply Comments

Any interested party may file a petition seeking action from the Commission and is required only to “state clearly and concisely the interest of the petitioner in the subject matter, the facts and law relied upon, and the relief sought.”<sup>47</sup> NRG’s Petition undoubtedly complies with that standard. NRG has described a direct and substantial interest in the implementation of SCB, which will provide EGSs with an opportunity to forge long-term relationships with customers, to design products that are tailored to individual customer needs and to offer innovative value-added products and services to customers. NRG has also explained how it is harmed by the limitations of the existing UCB model. Therefore, NRG has standing to pursue its Petition.<sup>48</sup>

Through their comments challenging NRG’s standing to file the Petition, the EDCs are grasping at straws in a desperate attempt to preserve their monopoly status as the only entities that may send consolidated bills to their distribution customers. Notably, while EDCs challenge NRG’s standing to propose a retail market enhancement for the market in which it actively participates through Commission-issued licenses, their comments are laden with arguments that are purportedly offered on behalf of their customers.<sup>49</sup> Yet, the Commonwealth Court has

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<sup>46</sup> Duquesne comments at 16-17.

<sup>47</sup> 52 Pa. Code § 5.41(a).

<sup>48</sup> *See William Penn Parking Garage, Inc. v. City of Pittsburgh*, 464 Pa. 168, 346 A.2d 269 (1975).

<sup>49</sup> *See, e.g.*, Citizens/Wellsboro comments at 5-6 (describe a “unique relationship” with their customers); Duquesne comments at 22 ( raise “concerns regarding consumer protection”); FirstEnergy comments at 8 (raise “concerns regarding the confidentiality of customer information”); PECO comments at 20 (highlight issues “from a consumer protection standpoint”); and PPL comments at 7 (contend that NRG’s proposal would not “adequately

explicitly ruled that “PECO does not represent the interests of its ratepayers.”<sup>50</sup> In *MAPSA*, the Commonwealth Court noted that the intervention of OCA sufficiently represented the interests of consumers with respect to the release of information and found that PECO had no standing to be in the proceeding at all. Here, since no less than six advocates have filed comments and/or answers on behalf of consumers, their interests are sufficiently protected.<sup>51</sup> Similarly, the Commission has cautioned the EDCs that they do not “own” their customers.<sup>52</sup> In the *Dynamic Pricing Order*, the Commission stated: “We feel strongly that our EDCs must rid themselves of this mindset, which is a relic from the pre-competition days of vertically integrated service provided by a single entity.”<sup>53</sup>

The Commission has frequently – through OCMO and CHARGE<sup>54</sup> – pursued retail market enhancements or enhanced consumer protections without requiring interested parties to file petitions.<sup>55</sup> However, the Commission specifically expressed its desire for the filing of a petition if any EGSs desired to have SCB implemented.<sup>56</sup> Also, when the Commission decided

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protect consumers”). The EDCs also purportedly present concerns on behalf of the Commission, EGSs and the competitive market. *See, e.g.*, Duquesne comments at 20; PPL comments at 19-21.

<sup>50</sup> *Mid-Atlantic Power Supply Association v. Pa. PUC*, 746 A.2d 1196, 2000 Pa. Commw. LEXIS 86 (2000) (“*MAPSA*”).

<sup>51</sup> The consumer advocates include CAUSE, Industrials, OCA, OSBA, PACDV, and TURN.

<sup>52</sup> *Petition of PECO Energy Company for Expedited Approval of its Dynamic Pricing Plan Vendor Selection and Dynamic Pricing Plan Supplement*, Docket No. P-2012-2297304 (Order entered September 26, 2012) (“*Dynamic Pricing Order*”).

<sup>53</sup> *Id.* at 13.

<sup>54</sup> CHARGE is the acronym for a working group established by the Commission and stands for “Committee Handling Activities for Retail Growth in Electricity.”

<sup>55</sup> *See, e.g.*, *EDC Customer Account Number Access Mechanism for EGSs*, Docket No. M-2013-2355751 (Order entered July 17, 2013) (“*Account Number Access Mechanism Order*”); *Interim Guidelines on Marketing and Sales Practices for Electric Generation Suppliers and Natural Gas Suppliers*, Docket No. M-2010-2185981 (Order entered November 5, 2010) (“*Marketing Guidelines*”).

<sup>56</sup> NRG Petition ¶ 11.



in 2013 to defer SCB implementation at that time, it did not suggest that interested parties had to await the initiation of a proceeding by the Commission. Indeed, the very purpose of NRG's Petition is to request that the Commission initiate a proceeding and provide clear policy direction that efforts should begin so that SCB may be implemented by a date certain.

2. Legal Authority to Implement SCB

a. NRG's Petition

NRG's Petition addresses the Commission's legal authority to direct the implementation of SCB, specifically referring to Code Section 501, which broadly authorizes the Commission to enforce, execute and carry out, by its regulations, orders or otherwise, all provisions of the Code<sup>57</sup> and various provisions of the Competition Act, including Code Section 2804(3), which expressly authorizes the unbundling of services other than generation, transmission and distribution.<sup>58</sup> NRG also refers to the Commission's recent conclusion during the RMI that a "competitive market with this choice of billing options [supplier consolidated billing, utility consolidated billing and dual billing] fully complies with the Competition Act's requirement that customers have the right to choose their billing option" under Code Section 2807(c).<sup>59</sup> In addition, the Petition references various prior Commission orders addressing SCB, including the approval of SCB as part of EDC restructuring settlements in 1998, the approval of EDI

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<sup>57</sup> 66 Pa. C.S. § 501.

<sup>58</sup> 66 Pa. C.S. § 2804(3).

<sup>59</sup> *Investigation of Pennsylvania's Retail Electricity Market*, Docket No. I-2011-2237952 (Order entered November 8, 2012) ("End State Tentative Order") at 28. Other orders issued during the RMI at this docket include: the "RMI Launch Order" entered on April 29, 2011; the "RMI Launch Order IP" entered on July 28, 2011; the "Tentative Intermediate Work Plan Order" entered on December 16, 2011 the "Final Intermediate Work Plan Order" entered on March 2, 2012; and the "End State Final Order" entered on February 15, 2013.

transactions to implement SCB and a directive that EGSs providing billing services are subject to the Chapter 56 budget billing regulations.<sup>60</sup>

b. Comments

Some commenters challenge the Commission’s legal authority to implement SCB. These arguments primarily rely on Code Section 2807(c), which requires consumers to have access to two billing options, including UCB or dual billing.<sup>61</sup> Also, referring to the language in Code Section 2807(d) that obligates EDCs to continue performing customer service functions consistent with the regulations, commenters contend that the Commission may not make EGSs responsible for these functions. In support of this argument, they rely on the Commonwealth Court’s decision in *Dauphin County Industrial Authority v. Pennsylvania Public Utility Commission*.<sup>62</sup>

c. Reply Comments

(1) Express Legal Authority

Code Section 2804(3) mandates the unbundling of generation, transmission and distribution and expressly authorizes the Commission to “require the unbundling of other services.”<sup>63</sup> In 1998, the Commission correctly viewed this language as providing authority to unbundle billing services so that customers could receive a consolidated bill from their EGS that includes the EDC charges.<sup>64</sup> The Commission reiterated this legal conclusion in the *RMI End*

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<sup>60</sup> NRG Petition ¶¶ 38-43.

<sup>61</sup> CAUSE answer ¶ 38 and comments at 2; Citizens/Wellsboro comments at 3-4; Duquesne comments at 5-11; EAP comments at 2, 8-11; FirstEnergy answer at 5-6; PECO comments at 7-8; PPL comments at 3-5.

<sup>62</sup> 123 A.3d 1124 (Pa. Cmwlth. 2015) (“*DCIDA*”).

<sup>63</sup> 66 Pa. C.S. § 2804(3).

<sup>64</sup> See *Application of Duquesne Light Co.*, Docket No. R-00974104 (Order entered May 21, 1998). The Commission has also recognized in the natural gas industry that Code Section 2203(3) allows the Commission to

*State Final Order* when it found that a “competitive market with this choice of billing options [supplier consolidated billing, utility consolidated billing and dual billing] fully complies with the Competition Act’s requirement that customers have the right to choose their billing option.”<sup>65</sup> In addition, Code Section 2809(e) imposes a responsibility on EGSs providing billing services and other customer service functions to do so in full compliance with Chapter 56.<sup>66</sup>

(a) Code Section 2807(c)

Rather than acknowledging the express authority granted by Code Section 2804(3) for the Commission to require unbundling of other services, commenters improperly focus on Code Section 2807(c) in the Competition Act, which establishes obligations that the Commission may impose on EDCs. Specifically, by providing that an EDC “*may* be responsible for billing customers for all electric services, consistent with the regulations of the commission,”<sup>67</sup> Code Section 2807(c) ensures that customers always have the option of getting one consolidated bill and gives the Commission the discretion to decide whether to impose that obligation on EDCs. To the extent that this option is not available in the retail market or elsewhere, the Commission is authorized by Code Section 2807(c) to require the EDC to continue performing this function. Indeed, in 1998, the Commission concluded that while Code Section 2807(c) “expressly provides for an EDC to issue a single bill,” it disagreed “that there is a presumption that it is the EDC who

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address unbundling of other services, specifically referring to billing or metering.  
<http://www.puc.pa.gov/PcDocs/570097.pdf> (Report at 69). 66 Pa. C.S. § 2203(3).

<sup>65</sup> *End State Tentative Order* at 28.

<sup>66</sup> 66 Pa. C.S. § 2809(e).

<sup>67</sup> 66 Pa. C.S. § 2807(c) (emphasis added).

has a duty to issue a bill” and found that “there is nothing in the Act that would prohibit the supplier single bill options.”<sup>68</sup>

Importantly, as the Commission has already found, nothing in Code Section 2807(c) limits the Commission’s ability to permit consumers to choose to receive consolidated bills from their EGSs. Particularly in view of the language in Code Section 2804(3) that authorizes further unbundling of services beyond distribution, transmission and generation, it would be unreasonable to read such a limitation into Code Section 2807(c). Moreover, Code Section 2804(3) does not exempt any EDC services from being unbundled. If the General Assembly had intended to exclude billing from the services that the Commission may require to be unbundled, it would have inserted the words “except billing” in the language authorizing the Commission to unbundle other services.

(b) Code Section 2807(d)

Similarly, contrary to the commenters’ claims, nothing in Code Section 2807(d) limits the ability of EGSs to handle customer service functions. Code Section 2807(d) provides that the EDC “shall continue to provide customer service functions consistent with the regulations of the commission.”<sup>69</sup> Although Code Section 2807(d) obligates EDCs to perform these functions, as directed by the Commission, it does not give EDCs the exclusive responsibility of providing customer services. Indeed, EGSs are already handling these services for their customers. Under the UCB model, EGSs handle bill inquiries and complaints and perform customer service functions. In addition, EGSs who are issuing dual bills manage these responsibilities. Importantly, NRG is not proposing that EDCs would abandon their customer services functions.

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<sup>68</sup> *Application of Pennsylvania Power & Light Company for Approval of Restructuring Plan under Section 2806*, Docket No. R-00973954 (Order entered June 15, 1998), 1998 Pa. PUC LEXIS 131, \*174.

<sup>69</sup> 66 Pa. C.S. § 2807(d).

Under NRG's proposal, EGSs would only provide billing-related customer service functions for the customers to whom they are providing billing services; EDCs would continue to perform for these services for any customers that they continue to directly bill.

The Commission has previously rejected the very argument being advanced by the EDCs in this proceeding. When the EDCs argued in 1997 that the Code Section 2804(3) authorization for further unbundling was not sufficient to override the directive in the Choice Act for customer service functions to remain with the EDC, the Commission stated:

Regarding the legal interpretational issues raised in comments about this guideline, we simply disagree with the conclusions reached that only EDCs can provide these customer service functions. We submit that there is nothing in the Act that would prohibit the supplier single bill option and supplier complaint handling. Although § 2807(C) recognizes that the EDC "may be" responsible for the billing of all electric services, there is nothing in this passive provision or anywhere else in the Act that makes the EDCs the exclusive providers of these customer service functions.

We believe that the Act's reference to the EDC's responsibility to provide customer service functions under § 2807(D) is intended to maintain the status quo and is merely a reflection that the EDC must stand ready to provide these customers service functions. However, concerning the two specific customer service functions at issue; namely, billing and complaint resolution, we do not read this provision or any other provision of the Act as excluding suppliers from providing these functions. In fact, we believe that this interpretation is consistent with the declared policy of the Act to create a competitive market for the generation of electricity.<sup>70</sup>

By imposing this customer service obligation on EDCs, the express purpose of Code Section 2807(d) is to ensure that customer services are maintained at the same level of quality under competition. Nothing suggests that only the EDC can provide customer service functions at that level. As proposed by NRG, the participating EGSs would be complying with the Commission's regulations, so the purpose of this requirement has been satisfied. In fact, as part

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<sup>70</sup> *Final Order Re; Guidelines for Maintaining Customer Services at the Same Level of Quality*, Docket No. M-00960890, F. 11 (Order entered July 11, 1992), 1997 Pa. PUC LEXIS 119 at \*23.

of the current EGS licensing process, an EGS must complete an affidavit acknowledging that "it has a statutory obligation to conform with 66 Pa. C.S. §§ 506, 2807(D)(2), 2809(B) and the standards and billing practices of 52 Pa. Code Chapter 56."<sup>71</sup> Nevertheless, to the extent that other action is necessary to ensure that the customer protections and the present quality of service continue, the Commission is authorized to impose additional obligations on EGSs providing SCB when necessary to maintain compliance with Chapter 56.<sup>72</sup>

Reliance by the commenters on *DCIDA* is misplaced. In *DCIDA*, the court was called upon to interpret the statutory requirement that the default service provider offer Time-of-Use ("TOU") rates.<sup>73</sup> In that case, the Commonwealth Court concluded that the Commission could not defer to the competitive market to offer a TOU rate to which customer-generators are entitled under the Code Section 2807(f)(5),<sup>74</sup> and remanded the issue to the Commission.<sup>75</sup> That holding is inapposite to NRG's proposal. Here, customers would not be deprived of access to customer services on billing issues. To the contrary, if they elected to, customers would receive these services from the EGSs offering SCB. In essence, NRG's proposal is no different than if an EDC used an affiliate or third party contractor to perform call center and/or billing services.<sup>76</sup> Even if

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<sup>71</sup> Electric Generation Supplier (EGS) Application, Appendix B, which is available at: [http://www.puc.state.pa.us/general/onlineforms/doc/EGS\\_Lic\\_App.doc](http://www.puc.state.pa.us/general/onlineforms/doc/EGS_Lic_App.doc).

<sup>72</sup> 66 Pa.C.S. § 2809(e) ("In regulating the service of electric generation suppliers, the commission shall impose requirements necessary to ensure that the present quality of service provided by electric utilities does not deteriorate, including assuring that adequate reserve margins of electric supply are maintained and assuring that 52 Pa. Code Ch. 56 (relating to standards and billing practices for residential utility service) are maintained.").

<sup>73</sup> 66 Pa. C.S. § 2807(f)(5).

<sup>74</sup> *DCIDA*, 123 A.3d at 1136.

<sup>75</sup> *Id.* See *Petition of PPL Electric Utilities Corporation for Approval of a Default Service Program and Procurement Plan for the Period of June 1, 2013 through May 31, 2015*, Docket No. M-2016-2578051 (Secretarial Letter dated December 2, 2016).

<sup>76</sup> See, e.g., *PPL Amended Services Agreement with PPL Corporation and Certain Subsidiaries*, Docket No. G-2016-2557635 (Secretarial Letter dated October 12, 2016).

an EDC may not delegate its billing or TOU obligations to the competitive market, that conclusion does not mean it is the exclusive provider of these services and that EGSs may not also provide them.

(c) Statutory Construction Analysis

In addition, Duquesne’s statutory construction analysis is flawed.<sup>77</sup> As an initial matter, statutory construction is not appropriate when the language is clear on its face.<sup>78</sup> Here, the language of Code Section 2804(3), which Duquesne’s analysis wholly ignores, could not be any clearer – the Commission is authorized to require further unbundling of services. Also, the legislative colloquy relied upon by Duquesne comes from a discussion about the EDC’s obligation to provide transmission and distribution services and contains no reference to billing functions. It certainly does not support any argument that the legislature intended to protect EDCs’ monopoly status as the only entities offering consolidated billing services to consumers. Moreover, Code Section 2803(12) expressly envisions the EDC continuing in its monopoly role only “for the transmission and distribution of electricity.”<sup>79</sup>

Similarly, Duquesne’s legislative analysis inappropriately relies on Code Section 2205(c)(1) in the Natural Gas Competition Act,<sup>80</sup> which has different language than appears in Code Section 2807(c). Specifically, Code Section 2205(c)(1) provides that natural gas distribution companies *shall* (as opposed to *may*) provide billing services to their customers. Even then, the language in Code Section 2205(c)(1) specifies that this will occur “consistent with Commission regulations,” and does not foreclose the possibility of natural gas suppliers also

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<sup>77</sup> Duquesne comments at 6-11.

<sup>78</sup> 1 Pa. C.S. § 1921(b).

<sup>79</sup> 66 Pa. C.S. § 2803(12).

<sup>80</sup> 66 Pa. C.S. § 2205(c)(1).

providing consolidated billing services. As with Code Section 2807(c), Code Section 2205(c)(1) merely ensures that customers will be able to continue to receive one consolidated bill for all electric services from the regulated distribution company – if they so choose.

(2) Implied Legal Authority

NRG has established that the Commission has the express legal authority to approve its Petition and launch the processes to implement SCB. Even to the extent that the Commission finds that it needs more authority than the express authorization in Code 2804(3) to require further unbundling of services, it may rely on implicit authority. It is well-settled that the Commission’s authority arises from both the express words of the pertinent statutes or by the strong and necessary implication therefrom.<sup>81</sup> The Commission has frequently relied on its plenary authority under Code Section 501 to find that it has implicit power to take certain actions.<sup>82</sup> Code Section 501 provides: “The commission shall have general administrative power and authority to supervise and regulate all public utilities doing business within this Commonwealth.”<sup>83</sup> Under case law reviewing questions of whether the Commission has implicit authority, courts have read this language in light of the enumerated powers set forth in the Code and in conjunction with the purposes of the Commission to implement and enforce the Code.<sup>84</sup>

In *ARIPPA v. Pa. Pub. Util. Comm’n*,<sup>85</sup> the Commonwealth Court applied this test to the question of whether the Commission has the authority to determine ownership of alternative

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<sup>81</sup> See *City of Phila. v. Phila. Elec. Co.*, 473 A.2d 997, 999-1000 (Pa. 1984).

<sup>82</sup> See, e.g., *Commonwealth of Pa., et al. v. IDT Energy, Inc.*, Docket No. C-2014-2427657 (Order entered December 18, 2014), at 17-18 (“*IDT Interlocutory Order*”).

<sup>83</sup> 66 Pa. C.S. § 501(b).

<sup>84</sup> *United Telephone Co. of Pennsylvania v. Pennsylvania Pub. Util. Comm’n*, 676 A.2d 1244 (Pa. Cmwlth. 1996); *Fairview Water Co. v. Pa. PUC*, 502 A.2d 162, 509 Pa. 384 (1985).

<sup>85</sup> 966 A.2d 1204 (2009).



energy credits. Finding that the Commission has such implicit authority, the Court noted the Commission's extensive oversight over alternative energy credits, as well as the particular expertise of the Commission. Similarly, in the *IDT Interlocutory Order*, the Commission relied on its plenary authority under Code Section 501, coupled with its authority to implement the Competition Act, to find that it was authorized to direct EGSs to issue refunds to customers.

Here, the Competition Act provides the strong and necessary implication authorizing the Commission to order SCB implementation. Code Section 2804(3) empowers the Commission to require the further unbundling of services, beyond distribution, transmission and generation, and it does not exempt billing services. In addition, Code Section 2809(e) imposes Chapter 56 requirements on EGSs performing billing services, and nothing in Code Section 2807(c) limits the ability of the Commission to permit EGSs to offer consolidated billing services. Further, the Choice Act confers extensive powers on the Commission to handle all matters relating to the implementation of electric choice.<sup>86</sup> As SCB would improve the functioning of the competitive market that the Commission was charged by the General Assembly to develop and monitor, the Commission has correctly determined that it has the statutory authority to direct its implementation and should affirm that conclusion in this proceeding.

### 3. Burden of Proof

#### a. NRG's Petition

In its Petition, NRG proposes that the Commission issue an order implementing SCB as a billing option that is available to customers of EGSs by a date certain and also explains how the mechanism would work. As described by NRG, implementation of SCB would enable EGSs to directly bill their supply customers for the generation services they provide, while allowing

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<sup>86</sup> See 66 Pa. C.S. §§ 2801-2812.

customers to continue enjoying the convenience of receiving one electric bill that includes both the EGS's competitive supply charges and the EDC's tariffed delivery charges, as well as charges for any additional value added product or service chosen by the customer. In the Petition, NRG sets forth its proposal for the adoption of a comprehensive plan by the Commission that ensures uniformity in the design and implementation of SCB, as well as consumer protections, rules and protocols that would be followed by all participants.<sup>87</sup>

The Petition points to the Commission's statutory authority and numerous Commission policy determinations endorsing SCB as a tool that allows customers to choose electricity products and services tailored to meet their own individual needs.<sup>88</sup> Notably, four years ago, the Commission found "that SCB should be available as a billing option as part of a vibrant, competitive market."<sup>89</sup> The Commission also observed that providing the option of "presenting the customer with a single bill from the supplier will help establish the supplier's identity with the customer."<sup>90</sup> Further, the Commission recognized the importance of eliminating the "link" between the EDC and the customer that has been identified as a barrier to developing a fully competitive market. In addition, the Commission has sought to "create a structure where the market drives prices charged by EGSs, where EGSs expand their investment in Pennsylvania due to certainty and a more level playing field, and where consumers enjoy competitive prices and a wide variety of innovative product offerings."<sup>91</sup> In this manner, the Commission expected

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<sup>87</sup> NRG Petition ¶¶ 15, 26-30, 34.

<sup>88</sup> NRG Petition ¶¶ 1-7.

<sup>89</sup> *Investigation of Pennsylvania's Retail Electricity Market*, Docket No. I-2011-2237952 (Order entered November 8, 2012) ("*End State Tentative Order*"), at 27.

<sup>90</sup> *Id.*

<sup>91</sup> *Investigation of Pennsylvania's Retail Electricity Market*, Docket No. I-2011-2237952 (Order entered February 15, 2013) ("*End State Final Order*"), at 15.

“Pennsylvania to achieve and sustain the robust competitive market that was envisioned in 1996 by the General Assembly.”<sup>92</sup>

NRG’s Petition explains how SCB would accomplish these objectives of the Commission and provides specific examples of the customer benefits that would flow from enabling an EGS to have a direct relationship with the customer. For instance, NRG notes that customers would benefit from existing and emerging tools that are designed to help them be smarter energy consumers. Such tools enable consumers to better manage their energy consumption and reduce their electric costs. Additionally, consumers would have access to more information for purchasing decisions and benefit from a wider array of product offerings. In short, NRG’s Petition explains the dynamics that occur in a robust, competitive market where EGSs are competing against each other, which leads to the development of innovative products that are responsive to consumer demands.<sup>93</sup>

In addition, NRG’s Petition further describes the barriers posed by the existing UCB model, which severely limits innovative products and services and pricing plans that can be offered by EGSs. Even for commodity-only products, EGSs are limited as to the kinds of pricing plans they may offer to customers due to restrictions on how those commodity charges can be represented on the UCB. Additionally, because the existing EDC billing systems are designed for tariffed utility services, they simply cannot accommodate the plethora of billing needs of multiple EGSs. It is not economically feasible and the EDCs are not equipped technically and

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<sup>92</sup> *Id.*

<sup>93</sup> NRG Petition ¶¶ 44-54.

culturally to continually update their billing systems to accommodate the changing needs of the competitive marketplace.<sup>94</sup>

NRG's Petition also proposes the continuation of existing protections enjoyed by Pennsylvania's retail customers, particularly with respect to the Commission's standards and billing practices for residential service set forth in Chapter 56.<sup>95</sup> NRG specifically explains that terminations would be handled fully in accordance with Chapter 56 of the Commission's regulations and Chapter 14 of the Public Utility Code.<sup>96</sup>

In addition, NRG's Petition sets forth proposed responses to previously-raised policy questions and suggests resolutions to specific operational issues.<sup>97</sup> Further, the Petition proposes a procedural schedule and suggests that the Commission direct EDEWG to develop the necessary EDI transactions and direct OCMO to form a Stakeholder Work Group to address outstanding issues relating to a model supplier tariff; a model agreement between EGSs and EDCs; the need for revised regulations, waivers of regulations and interim guidelines; additional financial security and technical requirements; consumer education; compliance filings and certificate processes.<sup>98</sup> The Petition also explains the EDEWG work that had already been done and how it can be built upon to move forward with SCB implementation.<sup>99</sup>

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<sup>94</sup> NRG Petition ¶¶ 55-62.

<sup>95</sup> 52 Pa. Code, Ch. 56.

<sup>96</sup> 66 Pa. C.S., Ch. 14.

<sup>97</sup> NRG Petition ¶¶ 36-37.

<sup>98</sup> NRG Petition ¶¶ 15.

<sup>99</sup> NRG Petition ¶¶ 64-68.

b. Comments

Commenters suggest that because NRG has not fully addressed each issue but has instead deferred the resolution of some items to a stakeholder process or the Commission, it has failed to carry its burden of proof. Some commenters also claim that NRG has not demonstrated how existing consumer protections will be maintained following the implementation of SCB.<sup>100</sup>

c. Reply Comments

Code Section 332(a) provides that “the proponent of a rule or order has the burden of proof.”<sup>101</sup> The standard to which the Commission typically holds proponents of rules or orders is whether the relief requested is “in the public interest.”<sup>102</sup> Through its Petition, NRG advocates for the Commission to move this initiative forward. To that end, NRG explains the Commission’s legal authority, the benefits of SCB and the barriers created by UCB. In addition, NRG identifies issues that need to be addressed and offers proposed resolutions in response to policy questions that were raised by EDEWG in 2010. NRG also proposes a procedural schedule and a process for the Commission to follow. These efforts were designed to give the Commission a sufficient basis upon which to announce a commitment to the implementation of SCB by a date certain and launch the processes for that to occur. Specifically, by establishing that SCB: (i) is legally permissible; (ii) is appropriate policy designed to promote development of the market; (iii) would preserve existing consumer protections; and (iv) is operationally feasible, NRG’s Petition has fulfilled its burden of establishing that the implementation of SCB is in the public interest.

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<sup>100</sup> CAUSE answer ¶¶ 18, 26; PPL comments at 14-16.

<sup>101</sup> 66 Pa. C.S. § 332(a).

<sup>102</sup> See, e.g., *Middletown Township v. Pa. PUC*, 85 Pa. Commw. 191, 482 A.2d 674 (1983); 52 Pa. Code § 69.1201(a).

In proposing that the Commission initiate a proceeding to implement a specific retail market enhancement, it was not incumbent upon NRG to include in the Petition detailed proposals for addressing each and every issue or to definitively prove each component of the plan.<sup>103</sup> While NRG sought to make its Petition as comprehensive as possible, it also recognized that other stakeholders would have valuable input in addressing issues that will be affected by SCB implementation. Notably, the commenters refer to no Commission requirement or precedent mandating that a petition address every aspect of the proposal it seeks to implement.

Many such enhancements have been initiated by the Commission (through OCMO and the CHARGE process) at the informal behest of interested stakeholders without any written proposals or detailed protocols.<sup>104</sup> Indeed, a primary role served by CHARGE has been to advance competitive market issues without the need for an EGS or other party to file a formal Petition. Rather than attempting that informal approach, NRG followed the advice that OCMO provided to the industry in 2011 and took it upon itself to assemble a thorough Petition to set forth a proposed framework for how to address issues substantively and how to gather needed stakeholder input.

As to claims that NRG's Petition was required to somehow prove that consumer protections would be maintained, consumer protections are typically established by regulations and laws, which are then the responsibility of the Commission to enforce. Regulated entities are not required to, and could not definitively prove, that they will comply with the Commission's

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<sup>103</sup> 52 Pa. Code § 5.41 (relating to general requirements for petitions).

<sup>104</sup> See, e.g., *Account Number Access Mechanism Order; Final Order on Requirements for Electric Generation Suppliers; Acceptable Security Instruments*, Docket No. M-2013-2393141 (Order entered July 24, 2014); *Order on Interim Guidelines for Eligible Customer Lists*, Docket No. M-2010-2183412 (Order entered November 12, 2010) ("*ECL*"). Several similar initiatives, such as seamless moves and instant connects, were launched through the retail markets investigation order without the filing of a comprehensive petition. See *Intermediate Work Plan Final Order* entered on March 2, 2012 and *End State Final Order* entered on February 15, 2013.

regulations if they are granted the relief that is requested. Rather, it is customary for the Commission to require regulated entities to certify that they will comply with applicable laws and regulations.<sup>105</sup> NRG's Petition contains all of the necessary requirements to ensure that existing consumer protections are preserved. NRG is confident in the Commission's ability to fully enforce those requirements and is willing to lend financial support to the Commission's efforts through additional annual fees imposed upon participating EGSs.<sup>106</sup>

4. Rulemaking

a. NRG's Petition

NRG's Petition acknowledges that a rulemaking will likely be necessary for some aspects of SCB. However, until such time as regulations can be adopted, the Petition suggests that the existing billing standards would be applicable to EGSs, except where the Commission determines that waivers are appropriate. The Petition also notes that interim guidelines can be relied upon pending the promulgation and completion of a rulemaking and refers to the existing Chapter 56 rulemaking that may serve as an efficient vehicle for pursuing necessary changes.<sup>107</sup>

b. Comments

Commenters contend that the Commission should undertake a rulemaking to develop the regulatory framework for SCB before it is implemented. It is argued that approval of NRG's

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<sup>105</sup> See, e.g.,  
EGS applications:  
[http://www.puc.pa.gov/general/onlineforms/pdf/EGS\\_Lic\\_App.pdf](http://www.puc.pa.gov/general/onlineforms/pdf/EGS_Lic_App.pdf);  
Transportation applications:  
[http://www.puc.pa.gov/general/onlineforms/pdf/App\\_MCC\\_Persons\\_Experimental\\_Service.pdf](http://www.puc.pa.gov/general/onlineforms/pdf/App_MCC_Persons_Experimental_Service.pdf)

<sup>106</sup> 66 Pa. C.S. § 2809(g). The additional annual fees are proposed as part of the qualifications requirements described on pages 13 and 14 of these Reply Comments.

<sup>107</sup> NRG Petition ¶ 72.

Petition would result in the establishment of binding norms outside the regulatory review process.<sup>108</sup>

c. Reply Comments

The comments are overstating the need for regulations to be promulgated prior to the implementation of SCB. The calls for a rulemaking fail to acknowledge that Chapter 14 of the Code and Chapter 56 of the Commission regulations already set forth the rules of the road for billing, collections, terminations and customer service. Notably, given that the Commission has recently published a Chapter 56 rulemaking, a vehicle already exists to pursue any enhancements or modifications that may be needed to fully address SCB.<sup>109</sup> During the pendency of that rulemaking, which may be completed before the proposed SCB implementation date, the Commission would be able to temporarily waive regulations and adopt interim guidelines, as necessary. Although the Commission indicated in 1998 that it would initiate an SCB rulemaking that has not occurred despite extensive discussions about SCB during the CHARGE calls and as part of the RMI. If the Commission believed that a rulemaking was required prior to implementing SCB, NRG submits that such a proceeding would have been initiated in the context of these discussions over the past eight years. Yet, in the RMI orders, the Commission made no mention of promulgating regulations.

The text of proposed regulations is frequently preceded by experience under interim guidelines. Rulemakings do not occur in a vacuum. They begin when proposed regulations are delivered to the Independent Regulatory Review Commission, the Legislative Reference Bureau

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<sup>108</sup> EAP comments at 3, 14-15; FirstEnergy answer at 7; PECO comments at 5; PPL comments at 23.

<sup>109</sup> *Standards and Billing Practices for Residential Public Utility Service*, Docket No. L-2015-2508421 (Order adopted July 21, 2016), published in the *Pennsylvania Bulletin* at 47 Pa.B. 965 (February 18, 2017).



and others.<sup>110</sup> In the past, the Commission has promulgated interim guidelines or implementation orders before proposing new or amended regulations. For example, in 2015, the Commission used waivers and interim guidelines to establish standards for changing a natural gas supplier;<sup>111</sup> and, in 2012, the Commission based proposed regulations on marketing and sales practices on experience under its interim guidelines.<sup>112</sup> While interim guidelines are in effect, the Commission's enforcement powers are limited due to the inability to enforce industry standards or binding norms that have been promulgated outside the regulatory review process.<sup>113</sup> However, in this situation, the Commission would have the ability to impose enforceable requirements on EGSs as a condition of participating in SCB.

It is noteworthy that Code Section 2803(3), which authorizes the Commission to require further unbundling of services, does not mandate that such changes occur through a rulemaking. By contrast, Code Section 2203(3), which authorizes further unbundling of services in the natural gas industry, requires the Commission to do so through regulations. Even with that statutory requirement, the Commission recognized in its 2005 report to the General Assembly that “[b]ecause rulemakings can be a two year process, it may be possible for the stakeholders to

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<sup>110</sup> 71 P.S. § 745.5(a); 1 Pa. Code § 305.1.

<sup>111</sup> *Investigation of Pennsylvania's Retail Natural Gas Supply Market - Interim Guidelines Regarding Standards For Changing a Customer's Natural Gas Supplier*, Docket No. I-2013-2381742 (Final Order entered October 5, 2012 adopting the Tentative Order entered September 17, 2015).

<sup>112</sup> *Rulemaking Re: Marketing and Sales Practices for the Retail Residential Energy Market*, Docket No. L-2010-2208332 (Corrected Final Rulemaking Order entered October 24, 2012); *See also Interim Guidelines Regarding Notification by an Electric Generation Supplier of Operational Changes Affecting Customer Service and Contracts* (Order entered August 14, 1998).

<sup>113</sup> *See Pennsylvania Human Relations Commission v. Norristown Area School District*, 374 A.2d 671 (Pa. 1977).

agree to the use of a different, more expedient Commission proceeding that would still afford all parties due process.”<sup>114</sup>

Once the Commission determines, on a policy level, that SCB should proceed, steps will be needed to implement SCB. With NRG’s proposal, the types of changes that would be needed on a temporary basis are suitable for waivers and interim guidelines. For instance, the inclusion of non-commodity products and services on EGS bills could be addressed through interim guidelines. Similarly, the allocation of Chapter 56 responsibilities could be effectively handled in this manner or through the model agreements. Based on experience under such waivers and interim guidelines, the Commission could then develop the text for proposed regulations and commence a rulemaking – if the Commission determines that new or amended regulations are necessary.

5. Evidentiary Hearings

a. NRG’s Petition

In its Petition, NRG proposes that the Commission launch a collaborative process for interested stakeholders to address some of the more complex or controversial issues. NRG avers that through a stakeholder process and the filing of written comments, the Commission can satisfy all requirements of due process.<sup>115</sup>

b. Comments

Commenters contend that the Commission should hold evidentiary hearings to resolve material issues of fact and investigate NRG’s proposal. Issues that are referred to as requiring a hearing include: costs; the need for and benefits of SCB; differences between Pennsylvania’s

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<sup>114</sup> <http://www.puc.pa.gov/PcDocs/570097.pdf> (Report at 69).

<sup>115</sup> NRG Petition ¶¶16-17, 69-73.

retail market and other jurisdictions where SCB has been implemented; and superiority of EGS billing systems, *i.e.* producing more customer friendly bills that are simpler and easier to understand. Other so-called “factual” issues identified by commenters include assertions in the Petition that SCB would result in new innovative product offerings and long-term relationships between the EGS and customer.<sup>116</sup>

While commenters acknowledge that the Commission has utilized a comment-only process in prior proceedings, they state that this has occurred only when the Commission has initiated the proceeding and that a hearing is necessary to determine whether to implement SCB.<sup>117</sup> Calls for hearings also refer to a need to address complex issues, especially when there is not a one-size-fits-all solution across the EDCs.<sup>118</sup>

c. Reply Comments

(1) Introduction

Following a review of the comments and answers, NRG continues to believe that no issues have been raised regarding material facts so as to warrant the scheduling of in-person evidentiary hearings on the question of whether the Commission should announce that SCB will be implemented by a date certain and launch the necessary processes for that to occur. The issues raised by NRG’s Petition involve questions of law, policy and discretion, which do not require hearings.<sup>119</sup>

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<sup>116</sup> AFL-CIO comments at 4-6; CAUSE answer ¶¶ 15-16; PECO comments at 10-11; PPL comments at 23-25; TURN comments at 10.

<sup>117</sup> PECO comments at 32.

<sup>118</sup> PECO comments at 10-11.

<sup>119</sup> *West Penn Power v. Pa. P.U.C.*, 659 A.2d 1055, 1062 (Pa.Cmwlth.1995) (due process only requires an evidentiary hearing before the PUC if there are disputed questions of fact to be resolved and is not necessary if there are only questions of law, policy or discretion), petition and cross-petition for allowance of appeal denied, 674 A.2d 1079 (Pa. 1996).

While NRG welcomes the opportunity to present any additional information that the Commission believes it needs to properly evaluate the Petition, a protracted and lengthy litigated proceeding is unnecessary to move forward with an initiative that the Commission has already endorsed from both legal and policy perspectives. Written comments and the stakeholder process proposed by NRG's Petition provide adequate vehicles for the gathering of any information that is needed to implement SCB. Notably, during the electric RMI, PECO agreed with this approach, in acknowledging the value of SCB for both EGSs and customers and commenting that technical and legal questions "can be addressed through continuing stakeholder discussions overseen by OCMO," including recovery of costs.<sup>120</sup> Nonetheless, if the Commission finds that an evidentiary record is necessary on certain issues such as cost, the benefits of SCB, the barriers presented by SCB, how SCB works in other jurisdictions or the billing systems of EGSs, the most efficient manner in which to collect this evidence would be through an *en banc* hearing.<sup>121</sup>

(2) Questions of Law, Policy or Discretion

**Hearings are not necessary to resolve questions of law, policy or discretion.** Administrative agencies, such as the Commission, are required to provide due process to the parties appearing before them.<sup>122</sup> This due process requirement is satisfied when the parties are afforded notice and an opportunity to be heard. Evidentiary hearings are not required to resolve

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<sup>120</sup> *End State Final Order* at 65. See PECO's comments at <http://www.puc.pa.gov/pdocs/1203538.pdf> (page 16).

<sup>121</sup> *En banc* hearings have frequently been held by the Commission in the context of evaluating whether to advance retail market enhancements. *See*:  
[http://www.puc.state.pa.us/electric/pdf/RetailMI/EnBanc\\_Agenda060811.pdf](http://www.puc.state.pa.us/electric/pdf/RetailMI/EnBanc_Agenda060811.pdf)  
[http://www.puc.state.pa.us/electric/pdf/RetailMI/EnBanc\\_Agenda111011.pdf](http://www.puc.state.pa.us/electric/pdf/RetailMI/EnBanc_Agenda111011.pdf)  
[http://www.puc.state.pa.us/electric/pdf/RetailMI/EnBanc\\_Agenda032112.pdf](http://www.puc.state.pa.us/electric/pdf/RetailMI/EnBanc_Agenda032112.pdf)

<sup>122</sup> *Schneider v. Pa. PUC*, 479 A. 2d 10 (Pa. Cmwlth. 1984).

questions of law, policy or discretion.<sup>123</sup> In fact, the Courts have found that written submissions may be adequate when economic or statistical questions are involved that are not likely to turn on witness credibility.<sup>124</sup>

**This proceeding does not require an evidentiary hearing because it raises issues of law, policy or discretion.** This proceeding raises the question of whether SCB should be implemented at this time. That is a legal and policy question. None of the “factual” assertions referenced by the commenters are material to whether SCB should be implemented. Indeed, the Commission’s prior orders have accepted that conclusion and found that it was only a matter of timing in moving forward. When PPL argued in 2009 that the Commission had no evidentiary record to support the actions it was taking to implement retail market enhancements, the Commission dismissed the argument, noting that it has “been dealing with these issues in one form or another since the state began its move to competition for electric supplies.”<sup>125</sup>

**The comment process is sufficient to resolve the legal and policy issues.** The factual allegations in the Petition are not material to the question of whether the Commission should move forward with SCB. The Commission can make (and already has made) policy

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<sup>123</sup> *Lehigh Valley Power Comm. v. PUC*, 563 A.2d 548 (Pa. Cmwlth. 1989); *West Penn Power v. Pa. P.U.C.*, 659 A.2d 1055, 1062 (Pa.Cmwlth.1995) (due process only requires an evidentiary hearing before the PUC if there are disputed questions of fact to be resolved and is not necessary if there are only questions of law, policy or discretion), petition and cross-petition for allowance of appeal denied, 674 A.2d 1079 (Pa. 1996); *Petition of Philadelphia Gas Works for Approval of Demand-Side Management Plan*, Docket No. P-2014-2459362 (Order entered November 1, 2016) at 29-32 (an opportunity to comment before approval by the Commission satisfies due process requirements).

<sup>124</sup> *Diamond Energy, Inc. v. Pa. P.U.C.*, 653 A.2d 1360, 1366-67 (Pa.Cmwlth. 1995) (“While oral proceedings may be necessary for determinations likely to turn on witness credibility, written submissions may be adequate when economic or statistical questions are at issue”); *Pennsylvania Coal Mining Association v. Insurance Department*, 471 Pa. 437, 370 A.2d 685 (1977) (finding that an opportunity to file written submissions satisfied due process requirements, the Pennsylvania Supreme Court noted that due process is flexible and calls for such protections as the particular situation demands).

<sup>125</sup> *PPL Electric Utilities Corporation Retail Markets*, Docket No. M-2009-2104271 (Order entered August 11, 2009), 2009 Pa. PUC LEXIS 264 (“*PPL Retail Markets Order*”) at 3.

determinations about the need for SCB to be available in the Pennsylvania’s retail market and can make a policy assessment about the expected impact of SCB on the market. In advancing other retail market enhancements, the Commission has relied to a large extent on an informed expectation and a policy determination that the measure will promote the development of the competitive market and has not required factual evidence or empirical proof of the same.<sup>126</sup> Notably, Code Section 2203(3), which authorizes the Commission to do further unbundling of the natural gas industry, requires the Commission to consider “the *potential* for unbundling to offer savings, new products and additional choices or services to retail gas customers.”<sup>127</sup> Therefore, the General Assembly does not expect the Commission to make such decisions upon the basis of factual evidence or empirical proof.

**The comment process satisfies Code Section 703(e).** Commission determinations must be supported by specific findings.<sup>128</sup> Code Section 703(e) does not require the Commission to present a detailed analysis of every exception filed by every party. It only requires that the Commission make its findings in sufficient detail to enable the court on appeal to understand the controverted issues presented, and whether proper weight was given to the items of evidence.<sup>129</sup> The statutory language is for the purpose of aiding the reviewing court and is not applicable to proceedings involving questions of law, policy and discretion.

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<sup>126</sup> See *Account Number Access Mechanism Order; ECL Order; End State Final Order; Intermediate Work Plan Final Order*.

<sup>127</sup> 66 Pa. C.S. § 2203(3) (emphasis added).

<sup>128</sup> 66 Pa. C.S. § 703(e). See also 2 Pa. C.S. § 507.

<sup>129</sup> *Process Gas Consumers Group v. PUC*, 480 A.2d 1273 (Pa.Cmwlth. 1984).

(3) Complexity of Issues and Costs

**Evidentiary hearings are not required to resolve complex issues or because NRG commenced this proceeding.** As noted above and in NRG's Petition, the need for an evidentiary hearing is triggered by disputed material facts.<sup>130</sup> The issues identified by commenters are not material factual allegations that must be proven in order for the Commission to move forward with SCB. For example, NRG alleges that EGSs would offer more customer-friendly bills. Even if the Commission does not agree, the other policy reasons set forth in NRG's Petition have already been recognized by the Commission in finding that SCB is a vital component of a vibrant, competitive market.

Also, the need for hearings does not hinge on whether an interested party or the Commission initiates the proceeding. In either situation, legal or policy questions can be addressed on the basis of written comments without an evidentiary hearing. This result is also not affected by the complexity of the question presented. The Commission can examine differences between EDCs and between Pennsylvania and other markets on the basis of stakeholder discussions and informal or formal comments. In fact, the Commission has frequently addressed statewide issues that do not have a one-size fits all solution outside the context of evidentiary hearings.<sup>131</sup> Likewise, policy or operational issues concerning dual service customers do not require hearings to resolve.

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<sup>130</sup> NRG Petition ¶¶ 16-17, including footnotes 37-38, and ¶ 69.

<sup>131</sup> *See, e.g., Account Number Access Mechanism Order.*

**In addition, it should be kept in mind that evidentiary hearings are not required to resolve cost issues.** Costs for other retail market enhancements have been addressed without hearings – *i.e.* through data requests and comments.<sup>132</sup>

(4) En Banc Hearing

To the extent that the Commission finds that an evidentiary record is necessary on issues of cost, the benefits of SCB, the barriers presented by UCB, how SCB works in other jurisdictions or the billing systems of EGSs/customer-friendly bills, etc., the most efficient manner in which to collect this evidence would be through an *en banc* hearing.<sup>133</sup> Through this approach, the Commissioners – as the ultimate finders of fact and arbiters of witness credibility – would preside over the hearing and hear first-hand the benefits of SCB and how it would promote growth in the retail electric market.<sup>134</sup> NRG would propose that written testimony be solicited and that the persons offering testimony appear at the hearing to swear to its truth and respond to questions about it. While NRG welcomes the opportunity to present any evidence that the Commission believes it needs to properly evaluate the Petition, NRG is concerned that holding unnecessary evidentiary hearings will unduly protract this proceeding and will be overly burdensome to move forward with an initiative that the Commission has already endorsed from both legal and policy perspectives.

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<sup>132</sup> NRG Petition ¶ 16, footnote 38.

<sup>133</sup> *En banc* hearings have frequently been held by the Commission in the context of evaluating whether to advance certain retail market enhancements. *See*:  
[http://www.puc.state.pa.us/electric/pdf/RetailMI/EnBanc\\_Agenda060811.pdf](http://www.puc.state.pa.us/electric/pdf/RetailMI/EnBanc_Agenda060811.pdf)  
[http://www.puc.state.pa.us/electric/pdf/RetailMI/EnBanc\\_Agenda111011.pdf](http://www.puc.state.pa.us/electric/pdf/RetailMI/EnBanc_Agenda111011.pdf)  
[http://www.puc.state.pa.us/electric/pdf/RetailMI/EnBanc\\_Agenda032112.pdf](http://www.puc.state.pa.us/electric/pdf/RetailMI/EnBanc_Agenda032112.pdf)

<sup>134</sup> 66 Pa. C.S. §§ 335(a), 703(e).



6. Cost Recovery

a. NRG's Petition

NRG's Petition acknowledges the possibility of EDCs incurring incremental costs in implement SCB. However, its Petition also notes that several EDCs agreed in 1998 to implement SCB as part of settlement agreements in which billions of dollars of stranded costs were recovered. In addition, NRG's Petition refers to billing credits that were agreed to at that time so that customers being billed by their EGSs were not also funding the EDCs' billing services.<sup>135</sup>

b. Comments

PECO estimates that the IT cost of implementing SCB would be \$4.5 million. It further contends that EGSs should be required to pay the costs.<sup>136</sup> Cost concerns are also raised by other commenters, including OCA.<sup>137</sup>

c. Reply Comments

As with other retail market enhancements that the Commission has approved for implementation, EDCs should be permitted to use a non-bypassable mechanism to recover costs from all customers. For example, in 2014, a non-bypassable surcharge was used to recover, on a full and current basis, the costs of implementation of billing system changes related to implementing and promoting electric competition within this Commonwealth.<sup>138</sup>

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<sup>135</sup> NRG Petition ¶¶ 40, 67.

<sup>136</sup> PECO comments at 33.

<sup>137</sup> OCA comments at 21-22.

<sup>138</sup> *Investigation of Pennsylvania's Retail Electricity Market: Joint Electric Distribution Company -- Electric Generation Supplier Bill*, Docket No. M-2014-2401345, Opinion and Order entered May 23, 2014 (costs of the inclusion of the EGS logo, the expansion of bill messaging space and the inclusion of a Shopping Information Box be recovered from all distribution customers)

The implementation of SCB will benefit the competitive market. The changes recommended herein may necessitate EDI and/or information technology changes. With regard to cost recovery, because this proposal will affect all customers, it is reasonable that the costs associated with these recommendations be recovered from all distribution customers on a non-bypassable basis through a surcharge or some similar mechanism.

As to PECO's IT cost estimate of \$4.5 million, NRG has no information upon which to assess the reasonableness of it, other than to point out that PECO has had this billing functionality in the past and still has provisions for SCB in its supplier tariff.<sup>139</sup> Assuming that PECO serves approximately 1.6 million electric customers, the average IT cost per customer would be less than \$3.00, which does not appear to present a significant concern with respect to costs.

## **B. Policy Issues**

### **1. Need for Supplier Consolidated Billing**

#### **a. Benefits of SCB**

##### **(1) NRG's Petition**

By its Petition, NRG refers to the many concrete benefits that flow to consumers and the retail market from SCB by creating an environment in which competing entities are enabled to design and offer consumers the innovative products and services they desire. As noted in NRG's Petition, the Commission has already recognized many of these benefits in finding that SCB should be made available as a billing option as part of a vibrant, competitive market. Emphasizing the importance of EGSs having a direct relationship with the customer to enable a fully developed competitive market, the Commission has sought to create a structure where EGSs expand their investment in Pennsylvania due to certainty and a more level playing field,

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<sup>139</sup> See, e.g., PECO Supplier Tariff Page 96, Billing Service Options, Section 19.

and where consumers enjoy competitive prices and a wide variety of innovative product offerings.

The Commission has further recognized that the lack of a direct billing relationship between an EGS and its customer “may make the relationship between the EGS and the customer tenuous at best” resulting in “customer confusion and hesitancy amongst EGSs to invest more resources.”<sup>140</sup> The Commission has also acknowledged the value of SCB in helping EGSs establish a brand identity with the customer and facilitating the offering of new innovative products and services.<sup>141</sup>

While the full breadth of innovation that would be made possible by enabling SCB is not quantifiable given technology, consumer preferences and changing trends, NRG’s Petition offers specific examples of how SCB enables the delivery of innovative product offerings and value-added services that are tailored to meet consumers’ individual needs. For instance, the implementation of SCB would allow customers to benefit from existing and emerging tools that are designed to help them be smarter energy consumers, enabling them to better manage their energy consumption and reduce their electric costs. Also, when customers have more information upon which to base their purchasing decisions, the market is more likely to flourish as EGSs have inherent incentives to innovate or differentiate their product offerings. Naturally, consumers benefit from this wider array of choices.

With EGSs in the primary billing agency role, not only can they send bills to their customers, they can forge long-term relationships with them, earning their trust and loyalty. Rather than customers viewing their EDCs as “the energy company,” they will be primarily

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<sup>140</sup> *End State Tentative Order* at 9.

<sup>141</sup> NRG Petition ¶¶ 4-7.

interacting with their EGSs, who will be accurately billing them, properly processing their payments and satisfactorily handling complaints and inquiries. With this trust that develops through the billing relationship, EGSs will be able to better educate their customers about other beneficial products and services, field customer inquiries about their electricity usage, and offer alternatives that lower customers' overall consumption and costs.<sup>142</sup> Unlike the regulated monopoly utilities that deliver electricity to all customers regardless of who their chosen supplier is, the success of competitive retail suppliers is measured by their ability to acquire and retain customers. To achieve this success, customer engagement - including the interactions that come about through the direct billing relationship – is vital.

(2) Comments

Despite the Commission's prior recognition of the benefits of SCB and the importance of it a vibrant competitive retail market, and NRG's significant experience with developing innovative product offerings as a billing entity in another jurisdiction, commenters generally question the value of the benefits that would flow to consumers from SCB. Some commenters attempt to discount the need for consumers to have access to a wide array of innovative products and offerings, while others question how many EGSs will use the option, especially with the availability of purchase of receivables ("POR") programs that are offered by EDCs under the UCB model.<sup>143</sup>

(3) Reply Comments

None of the arguments presented in the comments negate the true value to consumers that would flow from the implementation of SCB as a billing option. They also run counter to the

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<sup>142</sup> NRG Petition ¶¶ 44-54.

<sup>143</sup> Duquesne comments at 19; OCA comments at 10, 20-22; OSBA comments at 4; PECO comments at 2, 13-14.

well-established and well-documented history of this issue in Pennsylvania, where the Commission has steadfastly endorsed SCB since the earliest days of restructuring. Indeed, arguments that seek to preclude customers from electing to have their EGS to perform their billing functions are contrary to the fundamental purpose of the Choice Act – to give choices to customers in the electric retail market.

(a) Commission Support

The Commission has long been a proponent of the competitive retail market giving consumers access to a wide array of innovative product offerings. In launching the RMI in April 2011, the Commission directly posed a question as to whether the current structure “prevent[s] customers from choosing electricity products and services tailored to their individual needs.”<sup>144</sup> Even when the Commission decided to defer SCB implementation in February 2013, the Commission unequivocally stated 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.”<sup>145</sup>

In a Joint Statement accompanying the *RMI End State Final Order*, Commissioners Powelson and Coleman noted that “[t]o date, not enough innovative product offerings have emerged that may be attractive to consumers.”<sup>146</sup> Similarly, when the Commission implemented

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<sup>144</sup> *RMI Launch Order I* at 3. Although CAUSE claims that the Commission did not mention individually tailored products and services that order (CAUSE answer at ¶1), question five posed this very question.

<sup>145</sup> *End State Final Order* at 66-67.

<sup>146</sup> [http://www.puc.pa.gov/general/pdf/Comm-SM/Powelson\\_Coleman\\_JTStmt\\_dir2237952\\_021413.pdf](http://www.puc.pa.gov/general/pdf/Comm-SM/Powelson_Coleman_JTStmt_dir2237952_021413.pdf)

a web portal for usage data, it recognized the need for the accessibility of this data in order for the electric retail market to develop innovative products.<sup>147</sup>

Testifying before the Pennsylvania House Appropriations Committee on February 24, 2016, Chairman Brown noted that services for Pennsylvania energy consumers can be enhanced through innovative developments in the marketplace.<sup>148</sup> In a letter applauding the Commission for the “visionary work it has done and continues to do in promoting retail electric competition within the Commonwealth,” the Pennsylvania Senate Democratic Policy Committee Chair offered support for electric consumers having access to “new and innovative products and services which may assist them in managing their energy usage”<sup>149</sup>

The Commission has also looked to the competitive retail natural gas market to offer a variety of products and services to consumers. In 2005, the Commission’s report to the General Assembly evaluating the retail natural gas supply market to determine whether “effective competition” existed noted the importance of “the presence of sellers offering buyers a variety of products and services.”<sup>150</sup> Through that report, the Commission referred to other entities, including the Energy Information Administration, which have found that a variety of product options is an important component of a competitive market.<sup>151</sup> Likewise, in launching the natural gas RMI in September 2013, the Commission stressed the importance of ensuring “that

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<sup>147</sup> *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 (Order entered September 3, 2015), at 10.

<sup>148</sup> [http://www.puc.pa.gov/General/pdf/Testimony/Brown-House\\_Budget\\_022416.pdf](http://www.puc.pa.gov/General/pdf/Testimony/Brown-House_Budget_022416.pdf)

<sup>149</sup> <http://www.puc.pa.gov/pcdocs/1450734.pdf>

<sup>150</sup> <http://www.puc.pa.gov/PcDocs/570097.pdf> (Report at 1, 25). See also *Investigation into the Natural Gas Supply Market: Report on Stakeholders Working Group (SEARCH); Action Plan for Increasing Effective Competition*, Docket No. I-00040103F0002 (Order entered September 11, 2008) (“SEARCH Order”) at 2, 33.

<sup>151</sup> *Id.* at 23-24.

consumers have opportunities to realize the advantages of a robust and effective competitive” market.<sup>152</sup> Indeed, the standard to which the Commission is held by Code Section 2203(3) in determining whether to further unbundle services such as billing in the natural gas industry includes a review of “the potential for unbundling to offer savings, new products and additional choices or services” for retail customers.<sup>153</sup>

(b) Industry Support

The viewpoints of the Commission not only align with NRG’s Petition but are also supported by other entities that study and participate in retail competitive markets. For example, the 2015 Annual Baseline Assessment of Choice in Canada and the United States (“ABACCUS”) Report, which is intended to help policy makers assess their progress in establishing conditions that will facilitate robust retail electric competition, found that “[t]oo many electric industry stakeholders have a habit of describing the industry in terms of the electric commodity.”<sup>154</sup> Noting that such language is limiting and detrimental to reform, the ABACCUS Report observed that “[c]onsumer-driven innovation and product determination should be the goal of electricity restructuring. Innovation and product differentiation will market the shift from pure commodity sales to a vibrant retail energy services market.”<sup>155</sup> EGSs “are very sensitive to what makes a consumer want to switch to a new provider, as are all competitors. Once [EGSs] have acquired a customer, they are also focused on how to keep that

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<sup>152</sup> *Investigation of Pennsylvania’s Retail Natural Gas Supply Market*, Docket No. I-2013-2381742 (Order entered September 12, 2013), at 2

<sup>153</sup> 66 Pa. C.S. § 2203(3).

<sup>154</sup> ABACCUS Report at 11 and 25.

<sup>155</sup> *Id.* at 4.

customer satisfied. As product offerings continue to diversify, new customer segments will be identified, and the customer sorting and product specialization will continue.”<sup>156</sup>

Similarly, belying the claims that SCB is an initiative that only NRG wants,<sup>157</sup> that other EGSs would not find value in SCB or that the presence of POR negates the need for SCB, the entities that are actually in the business of providing competitive retail electricity services to consumers filed comments supporting the implementation of SCB.<sup>158</sup> For example, RESA – a national organization consisting of a broad and diverse group of more than twenty retail energy suppliers – supports NRG’s Petition. As explained by RESA, “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 Choice Act.”<sup>159</sup> While consumer benefits can certainly come from price savings, RESA further explains that “true innovation occurs in a competitive market where private entities are competing against one another to acquire and maintain customers. In such an

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<sup>156</sup> *Id.*

<sup>157</sup> As to the comment that NRG is not participating in the SCB in Illinois, NRG specifically represented in its Petition that if the SCB were implemented consistent with the parameters supported by NRG, NRG would utilize it in Pennsylvania. Therefore, NRG’s decision to not offer it in Illinois is immaterial to the decision about whether or not NRG’s Petition should be granted. With that said, however, the Illinois SCB program is not attractive to EGSs because EGSs are not permitted to initiate the termination of service process for non-payment and therefore have no ability to manage their bad debt.

<sup>158</sup> Notably, the commenters claiming that SCB is not needed either have a vested interest in maintaining the current monopoly over the billing functions (EDCs) or are parties that do not design or offer electricity products (consumer advocates). Therefore, these comments must be placed in the proper context given that they do not have the experience, knowledge and expertise of EGSs operating in the retail market.

<sup>159</sup> RESA comments at 1.



environment, companies are incented to innovate and fine-tune their products and services in response to customer demands.”<sup>160</sup>

WGL Energy expresses similar sentiments, noting that the threshold question of whether SCB should be implemented has already been resolved and the Commission should focus on the details of how SCB should be implemented. In support of NRG’s Petition, WGL Energy explains how the “lack of SCB has prevented Pennsylvania consumers from realizing the full benefits of electricity choice” and describes a variety of value-added services that could be offered by EGSs if they have a direct relationship with customers.<sup>161</sup>

Direct Energy likewise supports the development and implementation of a statewide standard for SCB, explaining that the UCB model does not enable EGSs to include charges for value-added or customized products on bills. Since residential and small commercial customers prefer to receive one bill for their electric service, they are often not able to take full advantage of the more innovative pricing and product offerings that EGSs may have available and that may better suit their needs.<sup>162</sup> Direct Energy further emphasizes the need to “look to new and innovative ways to enhance the retail market and get customers shopping for energy and encourage value-added products and services like energy efficiency, demand-response, connected home, to help them manage their overall energy bill.”<sup>163</sup>

Beyond the supportive comments of EGSs filed in this proceeding, there is other evidence that NRG is not the only EGS advocating for the implementation of SCB. In November 2014, EGSs were clamoring for the ability to add charges for non-commodity energy

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<sup>160</sup> RESA comments at 4-5.

<sup>161</sup> WGL Energy comments at 3-4.

<sup>162</sup> Direct Energy comments at 2-3.

<sup>163</sup> Direct Energy comments at 4.

related products and services and for allowing SCB. This informal setting in which a variety of market participants were able to engage in a discussion about their various views and perspectives is a persuasive indicator of the wide support that exists among EGSs for the ability to directly bill their customers for the services they provide.<sup>164</sup>

(c) Competition Is More Than Price

Some commenters misguidedly tout the impact of competition on commodity pricing as the only benefit desired by consumers or as the end goal of the Choice Act. A consumer focus on price as a major motivator for switching is not surprising given today's current market structure in which: (1) the major thrust of consumer education has been on comparing EGSs' offerings to the EDC's rate; and (2) the shortage of innovative product offerings due to UCB model stifling such innovation. Moreover, even if consumers today are focused on price, limiting their access to the further benefits that innovation can bring beyond commodity pricing makes no sense. Arguments that consumers do not need the innovation that can be driven by SCB are akin to saying that a customer already benefitting from a 10% discount will not benefit from a 20% discount. No rational person would take this view and the analogy is no less applicable when talking about the difference between providing a customer limited or no innovation versus providing expansive and varied innovation.

FirstEnergy's comments regarding the focus of competition on price display a complete lack of understanding of how competitive markets work – where customer satisfaction is key. In claiming that NRG concedes that it cannot compete on the basis of price, FirstEnergy relies on the following paragraph from NRG's Petition:<sup>165</sup>

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<sup>164</sup> See CHARGE recap dated November 20, 2014:  
[http://www.puc.pa.gov/Electric/docs/OCMO/CHARGE\\_Recap112014.docx](http://www.puc.pa.gov/Electric/docs/OCMO/CHARGE_Recap112014.docx)

<sup>165</sup> FirstEnergy answer at 1.

When there is no direct relationship between the EGS and customer, the billing and payment experience cannot be measured and price becomes the predominant factor driving customer satisfaction levels. This emphasis on price makes it all the more difficult for EGSs to establish themselves as legitimate, reliable businesses capable of offering customers a value proposition beyond price. While the Commission has recognized the importance of other value-added products and services and innovations in the market, the current reality is that the way the market is structured, price is the key driver of all shopping decisions. Rather than creating a market where customers consider a variety of factors when considering whether to switch to an EGS, existing policies – including the inability of EGSs to offer SCB – have ensured that customers remain focused on price (and particularly the price charged by EDCs that does not accurately reflect market conditions) to the exclusion of all else.<sup>166</sup>

Clearly, nothing in this paragraph speaks to the viability of NRG’s business model. To the contrary, NRG explains the need for EGSs to establish themselves as legitimate businesses in the eyes of customers, who have been conditioned to view the EDCs as “the energy company.” For an example of a failed business model, FirstEnergy need only look in its own backyard.<sup>167</sup>

NRG’s point is that price is one of many factors in a competitive market and should not be the only data point for a consumer, and does not form the basis for customer relationships. Nor should such a result be considered the “end goal” when taking into consideration the fact that some of today’s most exciting and popular trends from ride-sharing applications to AirBnB to Amazon direct-to-door deliveries show what is possible with a direct connection between a supplier of a service and the customer, permitting the supplier to revolutionize a consumer’s experiences consistent with the consumer’s desires.<sup>168</sup> The Commission is already an acknowledged leader regarding innovation in the transportation industry where it has recognized

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<sup>166</sup> NRG Petition ¶46.

<sup>167</sup> <http://seekingalpha.com/article/4023081-firstenergy-solutions-debt-swan-dive-bungee-jump>.

<sup>168</sup> RESA comments at 5-6.

that competition and the development of innovative product offerings go hand in hand.<sup>169</sup> In that context, Chairman Brown and Commissioner Powelson recently observed that “competition in the marketplace is beneficial because it gives consumers the power of choice.”<sup>170</sup>

Implementing SCB presents a real opportunity for the Commission to undertake a similar leadership role for the retail electricity market by paving the way for EGSs to provide real innovation and value to consumers similar to what has been seen in these other industry examples. The ABACCUS Report explains that this “process of market transformation is normal” and “[a]s product and service differentiation progresses, the meaning of commodity price as a sole measure of value will erode. Consumer preferences vary, and a highly-differentiated retail market will serve that diversity well.”<sup>171</sup>

(d) Summary

In sum and notwithstanding the comments to the contrary, implementation of SCB will benefit consumers by giving them access to real technological and services-related innovation that EGSs (of all business models and sizes) will be able to develop and offer in a marketplace that gives EGSs the flexibility to choose the billing platform that best suits their business model and their customers’ individual preferences and desires. In consideration of this, comments advocating to keep consumers stagnant in a world where price is the only measure of value should be outright dismissed as adding no real value to the issues presented by NRG’s Petition.

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<sup>169</sup> See, e.g., *Application of Rasier-PA, LLC*, Docket No. A-2014-2429993 (Order entered July 24, 2014); *Final Rulemaking Amending 52 Pa. Code Chapters 1, 3, 5, 23 and 29 to Reduce Barriers to Entry for Passenger Motor Carriers* (Order entered October 27, 2016); *Final Rulemaking Amending Regulations Applicable to Household Goods in Use Carriers*, Docket No. L-2013-2376802 (Order entered June 19, 2014).

<sup>170</sup> *Application of Freed Man Autonomous Vehicles LLC*, Docket No. A-2017-2585722 (Joint Statement dated February 9, 2017).

<sup>171</sup> ABACCUS Report at 16-17.

b. Status of Competitive Market

(1) NRG's Petition

In proposing that the time is right for the Commission to implement SCB, more than twenty years after enactment of the Competition Act, NRG's Petition refers to two data points.<sup>172</sup> The first is that customer shopping levels are approximately the same as they were in 2012 when the Commission was not satisfied with those statistics.<sup>173</sup> The second is that customers continue to lack access to several innovative product offerings that are being offered to retail customers in Texas, mirroring the situation of five years ago when the Commission reached "the inescapable conclusion that Pennsylvania's current retail market requires changes in order to bring about the robust competitive market envisioned by the General Assembly" when it passed the Competition Act.<sup>174</sup>

(2) Comments

Commenters point to current shopping statistics, the percentage of load that is being served by EGSs and a modest growth in the number of shopping customers over the past year to claim that SCB is not needed at this time<sup>175</sup> Some comments attempt to turn this discussion around entirely by lamenting that NRG has not provided any data showing that implementing SCB will increase the number of shopping customers.<sup>176</sup> In an effort to minimize the need for

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<sup>172</sup> NRG Petition ¶¶ 12-14.

<sup>173</sup> *End State Tentative Order*, Docket No. I-2011-2237952 (Order entered November 8, 2012).

<sup>174</sup> *Id.*

<sup>175</sup> Duquesne comments at 13-15; OCA comments at 9-12; PECO comments at 3; PPL comments at 8-9.

<sup>176</sup> PPL comments at 9.

SCB, PECO characterizes itself a “strong supporter of competition” and describes various steps it has taken in the past five years to remove barriers faced by EGSs.<sup>177</sup>

(3) Reply Comments

Since SCB will enable EGSs to offer a broader array of products and services, it presents the Commission with an opportunity to facilitate the growth of the electric retail market. By giving consumers more choices, the Commission will be encouraging shopping, which will in turn enable EGSs to develop products and services that consumers demand. In a recent review of the natural gas market, the Commission reiterated the need for a variety of products and stated that “[i]n our judgment, customer participation will increase only if there are more suppliers offering a variety of products to attract customers to the market.”<sup>178</sup>

The end result is a win for consumers. Whether 100% or 75% of them elect to shop, the reality is that more consumers are likely to review offers available in the market if SCB is implemented, which justifies approval of NRG’s Petition. Moreover, even if all customers were shopping, SCB would be necessary to unleash the full potential of the competitive market where consumers have access to a wide array of innovative products and services that are tailored to meet their individual needs. Only when the market is dynamic and vibrant, with EGSs competing against each other and EDCs focusing on their core function of distributing electricity, and consumers are finally realizing the full benefits of the market will the Commission be able to let competition stand on its own.

The references to the amount of load being served by EGSs are misleading since the vast majority of residential customers are not shopping. For instance, PECO’s reference to 64% of its

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<sup>177</sup> PECO comments at 3.

<sup>178</sup> *SEARCH Order 6* (footnote 6).

current customer load being served by EGSs and neglects to mention the fact that only 36% of residential load is shopping.<sup>179</sup> Despite Duquesne's characterization of the market as "dynamic and vibrant,"<sup>180</sup> the shopping statistics showing that nearly two-thirds of customers are not shopping speak for themselves.

Given PECO's resistance to many of the initiatives identified in its comments, including accelerated switching that EDCs generally opposed for several years,<sup>181</sup> and the fact that the Commission required the implementation of most of those enhancements over the objections of the EDCs, NRG cannot agree with PECO's self-assessment. Even with respect to some measures that PECO has implemented after being directed to do so by the Commission, EGSs have continued to face barriers due to the flaws in the manner in which PECO has implemented those programs.<sup>182</sup>

As the Commission's strong leadership in this arena to date has shown, it is vital that the Commission press forward and determine that SCB will proceed rather than being sidetracked by the EDCs' unsupported perspectives of the market or the validity of proposed measures designed to improve its functioning. As stated previously, EDCs are not EGSs. No matter how genuinely EDCs may profess to understand what drives EGS development and investment, they are simply not equipped to do so. Therefore, NRG urges the Commission to give appropriate weight to the view of NRG and other EGSs in this proceeding explaining all the benefits of SCB and the result that awaits Pennsylvania consumers with its implementation.

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<sup>179</sup> <http://www.papowerswitch.com/sites/default/files/PAPowerSwitch-Stats.pdf> (January 2017).

<sup>180</sup> Duquesne comments at 15-16.

<sup>181</sup> See, e.g., [http://www.puc.pa.gov/electric/pdf/OCMO/CHARGE\\_Recap042111.pdf](http://www.puc.pa.gov/electric/pdf/OCMO/CHARGE_Recap042111.pdf)

<sup>182</sup> See comments filed by NRG affiliates in *Natural Gas Distribution Company Customer Account Number Access Mechanism for Natural Gas Suppliers*, Docket No. M-2015-2468991: <http://www.puc.pa.gov/pcdocs/1362066.pdf%20> (pages 7-12).

c. Inadequacy of Other Alternatives

(1) UCB

NRG's Petition fully describes the serious shortcomings of the current UCB, which severely limits the ability of EGSs to offer innovative and value-added products. Both RESA and Direct Energy also specifically address this issue in comments. As explained by Direct Energy, the UCB model does not enable EGSs to include charges for value-added or customized products on bills. Since residential and small commercial customers prefer to receive one bill for their electric service, they are often not able to take full advantage of the more innovative pricing and product offerings that EGSs may have available and that may better suit their needs."<sup>183</sup>

RESA also notes how UCB has fostered barriers that stifle innovation including:

- Reinforcing the misperception of the EDCs that they "own" the customers and must "protect" them;
- Confusing customers who are receiving a product from a non-EDC but are being billed for that product by the EDC;
- Creating the misimpression for consumers that EDC-provided default service is superior because only the EDCs can bill the customer; and,
- Reinforcing the inappropriate messaging that the utility PTC is an appropriate benchmark by which competitive offers should be measured.<sup>184</sup>

The fact that the UCB model is combined with POR does not negate or undermine any of these well-explained barriers in existence in Pennsylvania today because the only viable avenue to serve residential customers is through UCB. POR enables the utility to leverage its collections and service termination power to manage uncollectible expense and puts EGSs receivables on equal footing with the EDCs. Without POR, EGSs would not be in a position to provide service to mass market customers. POR is offered as a component of UCB and any EGS utilizing UCB

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<sup>183</sup> Direct Energy comments at 2-3.

<sup>184</sup> RESA comments at 8-11.



is required to use EDC consolidating billing for all of the EGS's residential customers.<sup>185</sup> Simply stated, POR brings parity to EGS receivables. It is separate and distinct from SCB and has no bearing on the ability of an EGS to offer innovative products and services or to build and maintain long-lasting customer relationships.

Moreover, NRG proposes that SCB be implemented as an additional billing option – not that it supplants current UCB. As RESA commented, “SCB and UCB are not mutually exclusive market models and allowing for both will only enhance the availability of a greater variety of competitive offers available to consumers” because EGSs will have the flexibility “to choose the model that best meets the particular EGS’s business model and consumer needs.”<sup>186</sup>

Moreover, as discussed previously, the standard upon which to judge whether or not to pursue SCB implementation should not be whether there is the presence of at least one innovative product in the market. Implementing SCB as a billing option, in addition to UCB provides EGSs with more flexibility in determining how they want their customers billed (whether through UCB or SCB) which will enable a greater number of companies of varying sizes and business models to enter the Pennsylvania market and/or expand their current offerings. The mindset that there can only be one EDC-specific way of doing things or that EGSs are uniform in terms of business models and offerings is an outdated regulatory view of the market and must not stop the Commission’s forward movement to continue to evolve Pennsylvania’s retail electricity market for the benefit of consumers.

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<sup>185</sup> See, e.g., PECO Supplier Tariff Page 96, Billing Service Options, Section 19.

<sup>186</sup> RESA comments at 11.

(2) Dual Billing

In addition, commenters maintain that the proposal is unnecessary because dual billing is already available, which would give NRG an opportunity for increased communication directly with consumers and an ability to add value-added services on that bill. Other commenters suggest that EGSs can use other means to directly communicate with customers.<sup>187</sup>

A reliance on dual billing, which is not a viable path for residential customers, regard is simply unrealistic. As explained previously, most utilities require that an EGS wishing to use POR must utilize UCB for all residential customers. This is no real choice for EGSs because not using POR for residential customers means that EGSs will not be able to effectively manage uncollectible risk because EGSs cannot terminate a residential customer's service for nonpayment. Therefore, this requirement effectively means that EGSs do not dual bill residential customers.

Even if EGSs could dual bill residential customers, doing so is confusing for the customer who would have to sacrifice the convenience of receiving one bill for all their electric services. Moreover, given the long-standing monopoly relationship between the EDC and consumers and the current education efforts showing customers that they will still receive one bill,<sup>188</sup> dual billing is not a realistic option in today's marketplace.

The argument that EGSs can communicate with customers in other ways overlooks the importance of the billing relationship between service providers and their customers. There can be no serious dispute that regular and direct billing between a provider of service and a customer offers the most significant communication channel between the two entities. EGSs cannot achieve the necessary level of communication through blind marketing efforts toward consumers

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<sup>187</sup> CAUSE answer at ¶ 60; OCA comments at 12; PPL comments at 9.

<sup>188</sup> See <http://www.papowerswitch.com/frequently-asked-questions>

whether through direct mailing, door-to-door, or telemarketing solicitations. Rather, it is the direct billing relationship itself that establishes a connection between the provider of the product/service and the consumer and this is not comparable to other forms of direct marketing in which an EGS may engage.

(3) Joint Bill Initiative

Commenters referred to the joint bill initiative as a suitable alternative.<sup>189</sup> PECO notes that NRG does not currently use this functionality and also states that EGSs can customize the four lines they receive on the bill.<sup>190</sup>

At the outset it is important to remember that the “joint bill” initiative is not and never was an EGS billing initiative.<sup>191</sup> Nonetheless, as NRG explains in the Petition, the joint bill initiative has been commendable as an educational tool. However, it is not the equivalent of or even an acceptable substitute for SCB. Having a logo and a line item on the bill does not enable EGSs to forge long-term relationships with their customers, engage in more effective communications with their customers, establish the trust of their customers or to develop product offerings designed to fulfill the specific needs of their customers.

Specifically, the joint bill initiative does not provide for a direct relationship between EGSs and their customers. Bills are the vehicle to forming relationships, which is why the EDCs want to keep this function for themselves. Performing billing services offers a way for the service provider to show the customer that it is a legitimate business that bills them correctly,

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<sup>189</sup> CAUSE answer at ¶ 9; FirstEnergy answer at 14-15.

<sup>190</sup> PECO comments at 12.

<sup>191</sup> *Joint Electric Distribution Company-Electric Generation Supplier Bill*, Docket No. M-2014-2401345 (Order entered May 23, 2014). A true joint bill would have both companies’ logos on the front page, side-by-side. However, the EDCs opposed including the EGS logos on the front page, and as a result, they are relegated to the second page of the bill.

processes their payments correctly, and handles their questions sufficiently. In the customer's eyes, the business is viewed as reliable and trustworthy and they like how they are treated when questions arise. The billing relationships is about building trust and having the opportunity to provide stellar customer services. Unfortunately, nothing about the joint bill supports this ability to forge these relationships that are so critical to thriving in the competitive market.

The joint bill also does not permit EGSs to include charges for value-added products and services on the bill. When messages cannot be customized, the joint bill is of little use to EGSs at all.<sup>192</sup> Importantly, this initiative has not had the desired effect of moving Pennsylvania toward a more robust and vibrant competitive market.<sup>193</sup>

#### (4) Other Retail Market Enhancements

Commenters urge the Commission to refrain from moving forward with SCB before allowing other retail market enhancements to be given an opportunity to positively impact customer shopping.<sup>194</sup> Other than the joint bill initiative, none of the other retail market enhancements have any relationship to billing issues. The Commission refrained from moving forward in 2013 due to the many other pressing priorities. Since the other retail market enhancements that have been implemented are not designed to strengthen the relationship between EGS and their customers and have no bearing on whether charges for value-added products and services may be included on bills, no purpose is served by waiting any further effects of those measures.

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<sup>192</sup> PPL answer at ¶ 60.

<sup>193</sup> NRG Petition ¶¶ 9, 59-62.

<sup>194</sup> PECO comments at 9.

## 2. Consumer Protections and Customer Service

### a. Handling Billing and Related Functions

#### (1) NRG's Petition

NRG's Petition proposes that an EGS offering SCB assume responsibility for the billing, collection, termination (decisions) and bill-related complaint handling functions for their supply customers. It further proposes that these activities be performed in a way that preserves existing customer protections and ensures that the present quality of customer service is maintained.<sup>195</sup>

#### (2) Comments

Throughout their comments, the EDCs claim that the only way to ensure the continuation of consumer protections and to maintain the existing quality of customer service is to preserve their monopoly status as the only entities performing billing, collection, termination and complaint handling functions. Commenters representing consumers also raise concerns about EGSs performing these duties.<sup>196</sup> Reasons that are offered to support the notion that the EDC should retain billing, collection, termination and bill-related complaint handling functions include:

- Continued provision of reasonable, safe and reliable electric service;
- Applicability of consumer protection and customer service requirements to EGSs;
- Use of bill inserts and bill-related complaints to disseminate information to consumers;
- Complexity of billing inquiries and complaints;
- Delineation of duties and exchange of customer information between EDCs and EGSs;

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<sup>195</sup> NRG Petition ¶ 37.a.

<sup>196</sup> Duquesne comments 17-18, 21; FirstEnergy answer at 20; FirstEnergy comments at 6-6; PECO comments at 18-21, 23, 25-29; PPL comments at 9-12, 14-16, 18, 20. *See also* CAUSE comments at 2; Industrials comments at 3-4 and OCA comments at 13, 17.

- Possible customer confusion;
- Oversight by the Commission of a greater number of entities;
- Perceived duplication of costs;
- Work that remains to be done; and
- Intricacies of Chapter 14 and Chapter 56 requirements.

(3) Reply Comments

As discussed below, consistent with the Commission’s findings in 2013 that none of the concerns raised by opposing parties presented “an insurmountable obstacle to making SCB available,”<sup>197</sup> none of the issues identified by commenters in response to NRG’s Petition present a meaningful obstacle to SCB implementation. While commenters raise questions about logistics and operational issues, the answers are not as elusive or challenging as they are seeking to have the Commission believe. To the contrary, virtually all of the answers lie in the refinement and development of EDI transactions; the use of existing supplier portals for sharing customer account information; the establishment of agreements between EDCs and EGSs; call center representative training; revisions to internal processes; and modifications to Chapter 56 through the pending rulemaking proceeding, including the content of termination notices. Indeed, SCB is working effectively in Texas, where many of these protocols have already been established.<sup>198</sup> Importantly, nothing has been raised by the commenters to support the notion that EDCs should remain as the primary point of contact for their distribution customers being served

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<sup>197</sup> *End State Final Order* at 22.

<sup>198</sup> Some commenters claim that it is inappropriate to consider the Texas model due to the EDCs remaining in the default service role in Pennsylvania. Default service is irrelevant for purposes of implementing SCB. Its only significance is to explain why SCB is needed in Pennsylvania. Currently, EDCs compete with EGSs in providing electricity service. Yet they also handle EGS billing. Where else does one competitor handle another competitor’s billing? Clearly, Pennsylvania consumers need an option to establish a relationship with their EGS.

by EGSs or continue to have monopoly status as the sole entity handling billing, collection and termination services and providing customer services.

In fact, in relation to the billing and collection activity of virtually every other commodity purchased by consumers in the United States economy, it is unprecedented that a transportation or delivery company stands between customers and their chosen supplier of the commodity they purchase. When it comes to competitive electricity supply, it makes absolutely no sense for the delivery company to be in the billing/collections role. Customers do not receive a bill from and pay the United Parcel Service when they purchase clothing from Amazon. Electricity should be no different. No logical reason exists for the current framework other than the fact that it is a vestige of the past fully regulated structure.

(a) Continued Provision of Electric Service

The EDCs' buzz words and scare tactics aside, NRG's Petition makes no proposals that would jeopardize in any way the continued provision of electric service to Pennsylvania's consumers in a reasonable, safe and reliable manner. Quite to the contrary, NRG's Petition repeatedly stresses the fundamental importance of preserving all existing consumer protections and requiring EGSs offering SCB to comply with Chapter 14 of the Public Utility Code, Chapter 56 of the Commission's regulations and other applicable requirements.

(b) Applicability of Requirements to EGSs

With regard to the applicability to EGS of Chapter 14 and other statutory provisions, such as Section 1501,<sup>199</sup> the comments ignore the Commission's authority under Code Section 2809(e) to impose requirements on EGSs that are "necessary to ensure that the present quality of service provided by electric utilities does not deteriorate, including...assuring that 52 Pa. Code

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<sup>199</sup> 66 Pa. C.S. § 1501.

Ch. 56 (relating to standards and billing practices for residential utility service) are maintained.”<sup>200</sup> To the extent that EGSs are performing billing, collection, termination and complaint handling functions, the Commission may – and in fact, is obligated by the law – to require them to comply with Chapter 14 of the Public Utility Code, Chapter 56 of the Commission’s regulations and any other applicable requirements to ensure that the present quality of service does not deteriorate. In fact, the Commission’s licensing orders already impose an obligation on EGSs to comply with Chapter 56 to the extent applicable.<sup>201</sup> Further, the Commission is free to establish a set of additional criteria and conditions with which EGSs must comply in order to perform these functions.

(c) Bill Inserts and Billing Inquiries/Complaints

As to concerns about the ability of EDCs to include regulatory notices as bill inserts, NRG does not dispute the importance, reliability and effectiveness of bill insert messaging. Yet, currently, despite providing electric supply to customers throughout Pennsylvania, NRG’s affiliates have no ability to include information in a bill insert under the UCB model. In any event, this issue is without merit because NRG’s Petition proposes that EGSs offering SCB would include Commission-required bill inserts.<sup>202</sup> Also, nothing in NRG’s proposal prevents EDCs from using mailings, social media and other outlets to disseminate consumer information about their delivery services. EGSs should not be deprived of the opportunity to offer SCB and all the benefits it produces in order to preserve the delivery company’s monopoly control over communicating with customers through the bill.

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<sup>200</sup> 66 Pa. C.S. § 2809(e).

<sup>201</sup> *See Request of Reliant Energy Northeast, LLC d/b/a/ Reliant Energy for Approval to Amend its Electric Generation Supplier License as a Retail Electric Power Supplier*, Docket No. A-2010-2192350 (Order entered May 19, 2011).

<sup>202</sup> NRG Petition, Appendix A (Question 12).



Similarly, when customers call EGSs with billing inquiries and complaints, EGSs would be equipped to pass along messaging to customers about EDC programs or to make CAP referrals. The same would be true concerning the standard offer program. With respect to knowledge about utility service, EGSs are certainly capable of gathering necessary information about EDC delivery services in order to answer questions. To the extent necessary, EGSs could use existing web portals or other sources to ease this process and ensure that the EGS provides a positive customer experience. Since EGSs are participating in a competitive market, it is critical that they take all measures possible to satisfy the customer during the call. Because of the importance of customer satisfaction in the market, EGSs would have an inherent incentive to ensure that they are as informative and responsive as possible.

Of course, to the extent that the customer raises issues about a matter that needs to be addressed by the EDC (such as a meter repair or outage), EGSs perform warm transfers or advise a customer to call the EDC's emergency line. Also, in considering all of these issues, it is important to note that any customer who prefers to deal directly with the EDC regarding billing and related matters is free to stay with the EDC for default service or to select an EGS that is using UCB. Choosing an EGS providing SCB will be completely at the option of the consumer.

(d) Complexity of Billing Inquiries and Complaints

In reviewing the opposing comments, it is critical for the Commission to understand the importance of the EGS handling billing-related inquiries and complaints in a competitive market. Customer service is a value proposition that enables EGSs to differentiate themselves from their competitors and to gain the trust of their customers. Similar to the experiences of companies like Amazon and Zappos, EGSs need the opportunity to use the complaint handling process as a way of establishing positive and long-term relationships with their customers.

As to claims that are made about billing inquiries and complaints sometimes involving complex issues, NRG notes that it is sending out more than 2 million bills per month in Texas and is well aware of the complexities of the issues. A great deal of information that would be needed is already available through EDI, the supplier web portals, active customer lists and the eligible customer list, which would assist EGSs in the SCB role in handling complaints. To the extent that these EGSs need additional data, the existing EDC-EGS communication mechanisms/processes could be used to submit trouble tickets. In addition, EDI protocols and data transfers are used in Texas to handle some of these issues. Also, it is expected that the EGSs and EDCs would establish processes, such as warm transfers (which is how some standard offer programs works) and three-way calls, to address such matters. These are common industry solutions when a customer is dealing with two different service providers regarding the same service.

The opposing comments overlook the business realities facing EGSs every day. Because EGSs are operating in a competitive environment, customer service is critical to survival. In a Joint Statement recently released by Chairman Brown and Commissioner Powelson, they recognized this very point. Discussing approval of new transportation network company (“TNC”) applications, they stated that “emergence of TNCs have raised the bar for what customers expect and has forced the entire motor carrier industry to reimagine the definition of ‘good customer service.’”<sup>203</sup> A customer who has a negative service experience with an EDC has no choice but to continue interacting with the EDC or request assistance from the Commission. If that same customer has a negative service experience with an EGS, he or she is free to return to the EDC or switch to another EGS. Even without these competitive pressures

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<sup>203</sup> *Application of Freed Man Autonomous Vehicles LLC*, Docket No. A-2017-2585722 (Joint Statement adopted February 9, 2017).

that promote high quality customer service, NRG’s Petition proposes that EGSs providing SCB be required to meet the standards of Chapter 56 and other applicable provisions and that EGSs offering SCB would need to demonstrate technical capability and experience handling call center function<sup>204</sup>

With respect to comments raising the need for EGSs in the SCB role to have responsibility for informal and formal complaint handling associated with charges, billing issues and termination for SCB customers, NRG agrees and fully anticipates that EGSs would assume these responsibilities. In fact, these comments are consistent with NRG’s Petition.<sup>205</sup> Regarding complexities in the informal and formal complaint process, the need already exists for the billing records of multiple entities to be introduced; the fact that one or more of the EGSs that is involved is also providing SCB would not unduly complicate that process.

As to commenters’ concerns that the billing process would be confusing due to the Commission’s accelerated switching procedures, they refer to the possibility that a customer might switch multiple times between participating EGSs, non-participating EGSs and EDCs in the same billing period. As with many issues discussed throughout this section, this “concern” is nothing but a red herring. Customers switching multiple times during a billing cycle already happens today. The only difference in the SCB environment is that one or more of the EGSs are also providing billing services. Any additional layer of complexity that would be introduced by SCB would be minimal and easily addressed through the final bill presentment.

(e) Exchange of Customer Information/Coordination

With respect to questions about the delineation of the roles and responsibilities of EDCs and EGSs, NRG suggests that the solution is quite simple. For EGSs in the SCB role, they

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<sup>204</sup> NRG Petition ¶¶ 33, 37.a.

<sup>205</sup> NRG Petition ¶ 37.a.

would perform the billing, collection functions and make termination decisions, as well as handle all billing inquiries and complaints. EDCs would be responsible for physically terminating/reconnecting customers, including all customer notification. EDCs would also be responsible for handling these functions for their default service customer and for customers who are being served by EGSs under the UCB model. Any additional protocols that are necessary can be established through agreements between the EDCs and EGSs or by the Commission through the adoption of interim guidelines, followed by the promulgation of regulations.

The need for EDCs and EGSs offering SCB to exchange customer information in order to handle their respective responsibilities does not overly complicate the process. The whole purpose of EDI is to facilitate the exchange of customer account information between EDCs and EGSs. To the extent that it includes information that is confidential, protocols are already in place to ensure that its confidentiality is preserved. The Commission has noted that EDEWG's mission statement is to "explore economical ways of exchanging data in a secure manner and to develop uniform standards, while ensuring consumer privacy and data protection."<sup>206</sup> Information is also currently shared by EDCs through EGS access to web portals. As with other operational issues raised by the comments, the EDCs are overlooking the availability of technology to provide effective solutions.

(f) Possible Customer Confusion

As to potential customer confusion, it should not come as a surprise to consumers that the suppliers of their products would be handling billing, collection, termination and complaint handling functions since that model is consistent with virtually every other sales transaction in their daily lives. It is certainly not a difficult notion to describe, and in fact, would be simpler for EGSs than trying to explain why they will be providing the supply but not sending the customer

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<sup>206</sup> PPL Retail Markets Order at 20.

a bill. Indeed, the Commission pointed out in the *RMI End State Final Order* that customers are confused now because they are being billed by the entity that accounts for a smaller portion of the overall energy bill.<sup>207</sup>

Additionally, under NRG's proposal to handle all billing inquiries and complaints, the process would be less confusing for customers than it is now when they initially call the EDC and then have to be referred to the EGSs due to their prices not being regulated by the Commission. Since customers would call the EGS for all billing inquiries, implementation of this approach should reduce customer confusion. Importantly, customers who desire to continue having their EDCs perform these functions will have the option to remain on default service or switch to an EGS that uses UCB.

As to claims that consumers might be confused if they receive EDC-related information on their EGS bills, that situation is no different than what currently exists under the UCB model where customers receive shopping and EGS information on their EDC bills. No suggestion has been made that this is confusing to customers. To the contrary, the joint bill initiative is lauded for raising awareness about shopping.<sup>208</sup>

NRG envisions the EGS consolidated bill being used to disseminate important information to consumers about who to contact for certain matters. For instance, the bill would prominently note that the customer should contact the EDC for outage issues or emergency-related matters, and that all other billing inquiries should be made to the EGS. If a customer still calls the EGS for outage or emergency issues, the EGS would be required to have a warm

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<sup>207</sup> *End State Final Order* at 67.

<sup>208</sup> OCA comments at 11-12.

transfer arrangement in place to ease the process for the customer and ensure that the call is received promptly by the EDC.

Any other concerns about possible customer confusion can be addressed through consumer education. In its Petition, NRG suggests that participating EGSs offering SCB to consumers should bear the responsibility for adequately explaining the billing option during the sales transaction and through disclosure documents. NRG also proposes that these efforts should be supplemented by explanatory information on [www.powerswitch.com](http://www.powerswitch.com) and that the Stakeholder Work Group address consumer education.<sup>209</sup> NRG remains willing to engage in any additional consumer education measures as may be directed by the Commission.

(g) Increased Commission Oversight

As to commenters' suggestions that the Commission's oversight would increase due to additional entities providing billing, collections, terminations and customer service functions, it is not a foregone conclusion that the Commission's enforcement responsibilities would increase.<sup>210</sup> The same number of customers – *i.e.* the source of the complaints – would be served. And, EGSs providing customer services in the competitive market would have an inherent interest in optimizing the customer's experience in lodging a complaint. If the customers are not satisfied with the complaint-handling services they are receiving from an EGS in the SCB role, they will have a choice to switch – a choice that they do not have when they are dissatisfied with EDCs' responses to their complaints. Therefore, due to the realities of the

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<sup>209</sup> NRG Petition ¶ 15, 35, 72.

<sup>210</sup> PPL refers to 400 licensed EGSs who may come under the Commission's jurisdiction for these purposes. PPL comments at 14, 20. Notably, PPL fails to mention that the vast majority of those EGSs are brokers and makes no attempt to identify the number of EGSs that are serving residential and small business customers. Also, this argument is at odds with the EDC speculation suggesting that that SCB would not be widely utilized. *See, e.g.*, EAP comments at 7, footnote 13. This inconsistency is a classic example of the EDCs efforts to raise any issue they can think of to convince the Commission to preserve their monopoly status as the only entities who can offer consolidated billing.

competitive market, which does not preserve any entity's monopoly status to provide customer services regardless of their performance, it is just as likely that the Commission's enforcement responsibilities will remain the same or even decline in the complaint handling area.

Even to the extent that the Commission's enforcement responsibilities grow due to an increased number of entities providing customer services, the need to oversee additional entities is a factor that is constantly changing as the Commission's scope of jurisdiction evolves. If the Commission believes that its expanded duties require additional staffing, NRG proposes in these reply comments that EGSs offering SCB be required to pay a supplemental annual fee to offset those expenses.<sup>211</sup>

(h) Duplication of Costs

As to claims of duplicating costs and services provided by EDCs and EGSs, commenters contend that because the EDCs would continue in the default service role, they would have to stand ready to provide billing, collection and customer service functions for all of their distribution customers. They note that EGSs may abandon Pennsylvania's retail market on 90 days' notice, while EDCs must obtain approval to abandon.<sup>212</sup>

It is not a duplication of services for EDCs to send bills to their default service customers and handle all complaints regarding those bills while EGSs send consolidated bills to their supply customers and handle all complaints regarding those bills. Also, the abandonment process is not a barrier to implementing SCB. Since EGSs are subject to a 90-day notice of abandonment requirement, EDCs should be able to reduce their costs if they are not performing the same level of billing and customer services since they would have sufficient lead time to

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<sup>211</sup> 66 Pa. C.S. § 2809(g).

<sup>212</sup> Duquesne comments at 19-20; PECO comments at 29; PPL comments at 19-20.

resume the handling of these incremental responsibilities, if necessary. However, it is of course an EDC's business decision whether to reduce staffing and the Commission's discretion on whether it is prudent for EDCs to continue staffing at prior levels.

As to inferences that EDCs may actually incur additional costs, very little details have been described and it is difficult to surmise how costs would increase if EDCs are sending fewer bills and handling fewer customer service functions. To the extent that an EDC needs to have access to EGS information to coordinate on complaint-handling, they can use established communications channels to exchange information. Notably, during the restructuring settlements in 1998, the EDCs agreed to provide billing credits to customers who received these services from EGSs.<sup>213</sup> Even with subsequent changes in billing systems, it is not clear why the basic dynamics of that arrangement would have changed.

(i) Remaining Work to be Done

As to claims that the work that still remains to be done is significant, NRG points to its Petition, which describes the extensive amount of work that has already been done to implement SCB, not only in Pennsylvania but also in Texas.<sup>214</sup> The Commission has previously commended the ability of EDEWG to resolve issues as necessary to implement retail market enhancements.<sup>215</sup> None of the comments raise insurmountable challenges. Additionally, through clarifications and modifications explained in the Reply Comments, many of the issues that were identified by commenters as requiring the most extensive work are no longer on the table – the

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<sup>213</sup> NRG Petition ¶ 40.

<sup>214</sup> NRG Petition ¶¶ 10-11, 63-66.

<sup>215</sup> *PPL Retail Markets Order* at 11.



termination process is clarified; the enrollment/drop block is removed; and CAP/LIHEAP customers would not be served by EGSs in the SCB role.

(j) Intricacies of Chapter 56/Chapter 14 Requirements

In its Petition, NRG proposes that EGSs offering SCB would instruct the EDC to terminate service, following requirements set forth in Chapter 14 of the Code and Chapter 56 of the Commission's regulations. Under NRG's proposal, EDCs would continue to be responsible for physically terminating service to a non-paying customer.<sup>216</sup>

Commenters suggest that it is necessary to have detailed termination service procedures in place. They cite the need for a clear delineation of responsibilities between EDCs and EGSs with respect to the termination procedures, including notifications to customers. Concerns are also raised about the efficiency of collection activities going forward and the number of terminations that will be required. In addition, commenters raise questions about how EDCs can terminate service if they have been paid in full by the EGS under POR or provide information to the customer regarding the amount of the unpaid balance. Commenters also discuss the reconnection rules, payment arrangements ("PARs") and deposits.<sup>217</sup>

Based upon a review of the comments, NRG is clarifying and providing additional details regarding its proposal with respect to the termination process. The detailed delineation of responsibilities and obligations would be fully set forth in an agreement between the EDC and EGS or through interim guidelines adopted by the Commission, which could be followed by the promulgation of regulations, as necessary.

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<sup>216</sup> NRG Petition ¶¶ 29-32.

<sup>217</sup> AFL-CIO comments at 3-4; CAUSE answer ¶37.b.; FirstEnergy comments at 5-8; FirstEnergy answer at 8-9; PCADV letter; PECO comments at 21-22, 24-25; PPL comments at 10-13.

Specifically, NRG's clarifies its proposal to make it clear that the EGS would initiate the termination process by sending an EDI transaction to the EDC.<sup>218</sup> Much like the LOA used for the account number access mechanism,<sup>219</sup> the EGS would verify through that transaction that the customer's account is eligible for termination for a lawful reason pursuant to Code Section 1406(a), which would be identified on the transaction.<sup>220</sup> This EDI transaction would also include an itemized statement of amounts currently due to satisfy the requirement of Section 56.91 of the Commission's regulations.<sup>221</sup> The EDC would then either reject the termination transaction, citing a reason code (*i.e.* medical certification, winter termination), or begin the termination process outlined by Code Section 1406(b), commencing with the issuance of written notice to the customer and taking all remaining steps set forth therein through the physical disconnection.<sup>222</sup> Specifically, the EDC would continue to handle the communications required by Code Section 1406(b) and implement the terminations in a manner that is consistent with the timing and winter termination provisions of Code Section 1406(d) and (e) and in accordance

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<sup>218</sup> NRG's earlier discussion of the changes made by these reply comments notes that it has removed from its proposal the mechanism that would allow an EGS to withhold payments for distribution charges when an EDC does not timely terminate an account. NRG reply comments at 17-18.

<sup>219</sup> *Account Number Access Mechanism Order.*

<sup>220</sup> 66 Pa. C.S. § 1406(a) and (c). Note that an EGS's reasons for requesting that the EDC initiate the termination process include nonpayment of an undisputed delinquent account; failure to comply with material terms of a payment arrangement; failure to complete payment of a deposit, provide a guarantee of payment or establish credit; or tendering payment for reconnection of service that is subsequently dishonored. 66 Pa. C.S. § 1406(a)(1)-(3). 66 Pa. C.S. § 1406(c)(v). Only EDCs would initiate termination procedures for failure to permit access to meters, service connections or other property of the public utility for the purpose of replacement, maintenance, repair or meter reading. 66 Pa. C.S. § 1406(a)(4). Similarly, only an EDC would terminate service for unauthorized use, fraud, meter-tampering or violations of the tariff. 66 Pa. C.S. § 1406(c)(i)-(iv).

<sup>221</sup> 52 Pa. Code § 56.91. The content of the termination notices will need to be updated or revised for SCB, which should be addressed in the pending Chapter 56 rulemaking proceeding. While it is pending, requirements may be temporarily waived or interim guidelines may be adopted.

<sup>222</sup> 66 Pa. C.S. § 1406(b). Under NRG's proposal EGSs would have the option of sending their own collection notices to the customer before initiating the termination process and would be able to inform the customer that absent payment by a certain date, the EGS would be referring the account to the EDC to commence the termination process.

with the medical certification provision in Code Section 1406(f).<sup>223</sup> Following the transmission of the EDI transaction initiating the termination process, the EGS's involvement would be limited to interactions with the customer for purposes of responding to questions, negotiating a payment arrangement or accepting payment and communications with the EDC regarding payment by the customer. As to stopping termination due to payment, those communications would likewise be made through EDI from the EGS to the EDC.

With respect to the reconnection of service under Code Section 1407, the EGS would accept payment of the EDC reconnection fee from the customer and transmit that payment to the EDC in accordance with the payment protocols that are ultimately established as part of this proceeding. Upon receipt of the reconnection fee and payment by the customer in accordance with Code Section 1407(c),<sup>224</sup> the EGS would send an EDI transaction to the EDC requesting reconnection. To enable the EGS to comply with the payback periods established by Code Section 1407(c), the EGS would need to collect the customer's poverty level information and follow the stipulated timelines accordingly. When the EDC receives the EDI transaction from the EGS requesting reconnection, it would be obligated to follow the requirements set forth in Code Section 1407(b).<sup>225</sup>

In addition, the EGS would provide full indemnification to the EDC for an improper termination or improper delay in reconnection of service, provided that the issue was a matter over which NRG has control. For instance, if NRG erred in identifying the customer as having an unpaid balance, NRG would bear responsibility for that error. It is proposed that such

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<sup>223</sup> 66 Pa. C.S. § 1407(d)-(f).

<sup>224</sup> 66 Pa. C.S. § 1407(c).

<sup>225</sup> 66 Pa. C.S. § 1407(b).

indemnification language would be set forth in the model agreement between EGSs and EDCs that is proposed by NRG's Petition.

Regarding the ability of an EDC to terminate an account for which it has been paid in full by the EGS offering SCB, Chapter 14 does not preclude such termination. To the contrary, Code Section 1406 authorizes an EDC to terminate for non-payment and the other reasons. Upon receipt of an EDI transaction from the SCB-EGS containing a code for one or more of these reasons, the EDC would have authority to initiate the termination process.

As to comments suggesting that EGSs would not follow the rules regarding termination, no basis exists for making that claim. While NRG is proposing that the EGS verify in the EDI transaction that it has followed the proper procedures, the Commission should not place the EDC in the gatekeeper role of ensuring such compliance.<sup>226</sup> With the ability of the EDC to reject the termination request, citing a reason code, that option affords sufficient checks and balances to minimize, if not avoid, errors. In any event, EGSs would be the parties responsible for the termination decision and as such would be the parties who would be accountable to the Commission for any violations relating to termination or reconnection of service in connection with matters under their control.

With respect to concerns regarding the number of terminations that are initiated, NRG proposes that EGSs file quarterly reports with the Commission containing termination data and indicating any problems that arose during the process. This process would enable the Commission to evaluate the need for any changes in the rules that are applicable to EGSs in the SCB role.

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<sup>226</sup> *Account Number Mechanism Order.*

Regarding questions raised about how non-basic services will be accounted for from a billing perspective, this issue is already addressed in NRG's Petition. Specifically, EGSs would not be permitted to request the initiation of terminations for non-payment of non-basic/value-added services.<sup>227</sup> As the rules do not permit termination for non-payment of non-basic services, EGSs' procedures would necessarily include mechanisms to prevent such an occurrence.

To address remaining issues concerning the rules governing payment posting, payment agreements and deposits, NRG reiterates the feature of its Petition that would require compliance with Chapter 14 of the Code and Chapter 56 of the Commission's regulations. The simple answer to those questions is that the EGS in the SCB role would be required to comply with those provisions. Consistent with that premise, EGS-issued PARs would count for purposes of Chapter 14 and the Commission would have jurisdiction to set payment arrangements or adjudicate complaints regarding PARs established by EGSs offering SCB. Likewise, the commenters have pointed to no reason why EGSs would not be permitted to receive deposits from customers or have deposits follow customers with unpaid balances. When EGSs are purchasing receivables and making EDCs whole, they need to have these types of tools to manage their bad debt exposure, just as the EDCs do today.

As NRG shows through these reply comments, the termination, reconnection, payment arrangement and deposit requirements do not present obstacles to moving forward with SCB. Rather, it is merely necessary to develop the necessary EDI transactions to enable information to move in a different direction than it currently does and to ensure that each the EDC and the EGS have access to the information that is needed to properly implement the Commission's rules.

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<sup>227</sup> NRG Petition ¶ 48, footnote 81.

### 3. Miscellaneous

#### a. Dual Electric/Gas Customers

PECO raises issues about its dual service customers for whom it issues bills for electric and natural gas customers at the same time. It states that if SCB is implemented, it would need to create additional bill processing options and review current payment posting processes in order to assure compliance with Commission regulations. PECO also raises concerns about gas and electric customers needing to pay two deposits in order to maintain service or needing to call two call centers – one for gas issues and one for electric issues.<sup>228</sup>

As these issues are driven by PECO's business operations, they should have no bearing on whether SCB is implemented. All other gas and electric customers in Pennsylvania are subject to two separate deposits and need to make calls to two different call centers for these issues. A customer who does not wish to be subject to two separate deposits or be required to make calls to two different call centers would simply decline to choose an EGS offering SCB.

#### b. Effect on Other EGSs/Market

Commenters claim that NRG's Petition could adversely affect the competitive market because smaller EGSs may not qualify for SCB or the ability of NRG to offer value added services would give it an advantage over other EGSs.<sup>229</sup> The only EGS that raised any concern about the effect on other EGSs did not oppose the Petition; rather, that EGS points to the ability of EGSs using SCB to initiate termination procedures for non-payment, while also recognizing the need for EGSs to pursue unpaid receivables.<sup>230</sup>

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<sup>228</sup> PECO comments at 28.

<sup>229</sup> FirstEnergy answer at 17; PECO comments at 30; PPL comments at 19.

<sup>230</sup> Calpine comments at 6-7. Calpine contends that other EGSs offering SCB would be insulated from the risk of uncollectibles while other EGSs would take their own billing risk. This contention is not valid given the POR framework in which most EGSs are operating, which completely insulates them from risk. By contrast, EGSs

The effect of SCB on other EGSs is of no concern to EDCs. The Petition was published in the *Pennsylvania Bulletin* with a clear indication that it proposed SCB. No EGSs opposed SCB. They can speak for themselves. RESA, which represents diverse group of EGSs, fully supported NRG's Petition. To the extent that smaller EGSs also wish to break the link between the EDCs and their distribution customers, they would be able to pursue the option of contracting with another EGS to provide billing services.

c. Sample Product Offerings

(1) Single, Combined Price

As an example of a product that would be possible through SCB, NRG's Petition refers to a flat bill that would present the EDC charges as a single, combined price for all energy consumed during the billing period. Commenters cite the requirement of Code Section 2807(c) for all bills to contain unbundled charges sufficient to enable the customer to determine the basis for those charges and contend.<sup>231</sup>

Initially, NRG notes that this product was offered only as an example of what could be made available to consumers under SCB and it is not a fundamental component of its proposal. The point of describing the example was to explain how customers might benefit from a product that provides more certainty about their energy bills and from the EGS's absorption of any increase in distribution rates. Any changes or waivers to Commission regulations that would be needed to permit an EGS to offer this product can be addressed at a later time. Regarding arguments about Code Section 1303, that provision only restricts public utilities from charging a

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offering SCB would be assuming the risk of uncollectibles by making EDCs whole. Calpine's comments appear to be from the perspective of an EGS serving large commercial and industrial customers.

<sup>231</sup> AFL-CIO comments at 3; CAUSE answer ¶ 57; Duquesne comments at 21-22; FirstEnergy comments at 4-5; Industrials at 2-3; OCA comments at 18-19; OSBA comments at 6; PECO comments at 5, 17-18; PPL comments at 5, 17.

rate less than specified in their tariffs.<sup>232</sup> Under NRG's example, the EDC would still be charging the tariffed amount and it would be paid by the EGS. Nothing about that section would preclude an EGS from absorbing the costs charged by the EDC rather than passing them on to customers.

(2) Prepaid Plans

NRG also cites prepaid plans as an example of a product offering that SCB would enable EGSs to offer to consumers. Under such plans, the customer decides how much he or she wants to spend and the EGS lets the customer know when the balance is running low. As noted by NRG in the Petition, these plans are proving very useful to consumers who are focused on managing their energy budget because they allow low-income customers to obtain service without posting a customer deposit.<sup>233</sup> Some commenters claim that such a plan would violate Code Section 1305, contending that it requires Commission approval for the advance payment of rates.<sup>234</sup>

Again, this was just an example of what could be offered to consumers by EGSs in the SCB role. Since Code Section 1305 only applies to public utilities,<sup>235</sup> it would not restrict the ability of an EGS to design this type of product if there is consumer demand for it. To the extent that consumers would not find a prepaid plan attractive, they would have countless other products from which to choose.

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<sup>232</sup> 66 Pa. C.S. § 1303.

<sup>233</sup> NRG Petition ¶¶ 49, 56.

<sup>234</sup> AFL-CIO comments at 3.

<sup>235</sup> 66 Pa. C.S. § 1305.



d. Catch-22?

PECO presents the Commission with a classic Catch-22 designed to show why NRG's entire proposal must be rejected.<sup>236</sup> Specifically, PECO comments that if an EGS chooses to offer SCB, it must offer it to all customers in a class and that it may not decline to serve certain customers based on credit rating, payment history, usage or any other criteria. However, PECO claims that if an EGS only offers SCB to the customers it is serving, the customers are deprived of the opportunity under Code Section 2807(c) to select the type of bill they receive.<sup>237</sup>

PECO's attempt at the classic Catch-22 fails. Notably, PECO cites no Code provision, Commission regulation or Commission order in support of the underlying premise that an EGS offering SCB have to serve all customers within a particular class, irrespective of their credit rating or payment history or any other criteria an EGS may use in determining whether the customer qualifies to receive its service. The only "support" referred to by PECO is a provision in its own supplier tariff, which only applies to the UCB model and is specific to the POR program. That provision would not be applicable to an EGS offering SCB. To PECO's other point, the Commission has never interpreted Code Section 2807(c) as obligating individual EGSs to offer specific billing options to customers. Rather, it is sufficient that consumers have options in the market to select the type of bill they receive.<sup>238</sup> If SCB is implemented in Pennsylvania, customers would have an additional choice. If a customer wished to remain on UCB, he or she would select an EGS that offers UCB or remain with the EDC for default service.

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<sup>236</sup> Catch-22 is a "problematic situation for which the only solution is denied by a circumstance inherent in the problem or by a rule." Merriam-Webster Dictionary.  
<https://www.merriam-webster.com/dictionary/catch%E2%80%9322>

<sup>237</sup> PECO comments at 23.

<sup>238</sup> See, .e.g., *Budget Billing Obligation for Dynamically-Priced Products*, Docket No. M-2009-2082042 (Secretarial Letter dated February 16, 2011) (Commission exempted EGSs offering dynamically-priced supply products from the budget billing obligation, noting that a customer who prefers the budget billing option would choose a different EGS or product or remain with the default service provider).

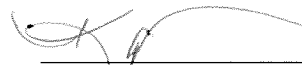
V. **CONCLUSION**

Based upon the foregoing, NRG Energy, Inc. respectfully requests that the Commission grant this Petition for Implementation of Supplier Consolidated Billing and launch the processes described in this Petition, as modified by these Reply Comments, so that customers of electric generation suppliers may have the option of receiving a single bill from their EGSs that contains both their competitive supply charges and their tariffed delivery charges by the end of 2018.

Respectfully submitted,

Leah Gibbons  
Director, Regulatory Affairs  
NRG Energy, Inc.  
3711 Market Street, Suite 1000  
Philadelphia, PA 19104  
301.509.1508  
lgibbons@nrg.com

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Karen O. Moury  
Attorney I.D. No. 36879  
Sarah C. Stoner  
Attorney I.D. No. 313793  
Eckert Seamans Cherin & Mellott, LLC  
213 Market Street, Eighth Floor  
Harrisburg, PA 17101  
717.237.6036  
kmoury@eckertseamans.com

Attorneys for NRG Energy, Inc.

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**REPAIRS** to your weatherhead,  
insulator, riser, meter base, and  
service entrance conductor can  
cost hundreds of dollars, and are  
typically not covered by basic  
homeowners insurance.

**PLEASE RESPOND WITHIN 30 DAYS  
TO ACCEPT THIS OPTIONAL PLAN**

**Important Plan Information:** Eligibility: A residential homeowner with sole responsibility for overhead or underground exterior electrical line components may be eligible for the Plan. Residences with electrical service entrances rated at less than 80 amps, residences not affixed to a permanent foundation, recreational vehicles and properties used for commercial purposes are not eligible for the Plan. If you live in a development community with a condominium, co-op or homeowners association, your exterior electrical system may not be an individual homeowner's responsibility, so please check with your association before accepting this Plan. Benefit Details: The Plan provides, up to the benefit amount, for the covered cost to repair or replace the weatherhead, insulator, riser, meter base, service entrance conductor, and permanent wiring to detached garages and to fixtures such as light posts and pool heaters that are damaged due to normal wear and tear, not accident or negligence. The Plan also provides reimbursement of up to \$100 for fixture installation if required in conjunction with a covered repair, and fees charged by your local FirstEnergy Company to disconnect or reconnect your electricity to make a covered repair. Not covered: Homes with electrical service entrances rated less than 80 amps, repairs to damage arising from the disconnection or interruption to the main electrical supply, transformers, repair of low voltage wiring, accidents and damage or negligence caused by you or others. The meter that measures the amount of electricity used is not covered under this Plan, but it is covered by your local FirstEnergy Company. Additional exclusions apply. Making a Service Call: Your Plan starts the day your form is processed, and there is an initial 30-day waiting period before you can make a service call, giving you 11 months of protection during the first year. This prevents service calls on pre-existing conditions and helps keep the Plan affordable. Cancellation: You may cancel within 30 days of your start date for a full refund; cancellations after the first 30 days will result in a pro rata refund less any claims paid (where applicable). Most basic homeowners insurance policies do not cover repair or replacement of these components. If you find you have similar protection, you can contact HomeServe to cancel and you will receive a refund of your service agreement fee, less any claims paid (where applicable). Renewal: This Plan is based on an annual contract and is billed on a monthly basis. Your service agreement will be automatically renewed annually at the then-current renewal price.

To see full Terms and Conditions with complete protection and exclusion details, prior to enrolling call 1-888-866-2124 or go to [www.FirstEnergyPlans.com/EE](http://www.FirstEnergyPlans.com/EE). HomeServe is an independent company, separate from your local FirstEnergy Company, providing emergency/home repair services and protection solutions to homeowners across the U.S. If you would prefer not to receive these solicitations from HomeServe, please call 1-888-866-2127.

This insert offers a brief description of the Exterior Electrical Line Protection Plan and is not a contract. The complete list outlining what the Exterior Electrical Line Protection Plan covers, and all of the Plan's limitations and exclusions, are set forth in the Exterior Electrical Line Protection Plan Terms and Conditions. To receive copies before enrollment, call 1-888-866-2124 (toll free). Customers have thirty (30) days following enrollment to review the Terms and Conditions without obligation. Customers can cancel this Plan at any time without prior notice. All services are performed by an independent technician. AMT Warranty Corp. is the company responsible for providing the Exterior Electrical Line Protection Plan to you and the delivery of your service benefits is managed by HomeServe USA Repair Management Corp. ("HomeServe") on behalf of AMT Warranty Corp.

The FirstEnergy Companies do not provide any warranty on the services performed and are not liable for damages or injuries that may arise as a result of the services provided. You are not required to buy the service plan in order to receive the same quality service from your electric utility. Your decision to receive or not receive the services under this program will not influence the delivery of competitive or non-competitive retail electric service to you by the FirstEnergy Companies.

COMM8351-01-17-HS-HP

## IMPORTANT INFORMATION

# REGARDING YOUR EXTERIOR ELECTRICAL SYSTEM

Met-Ed<sup>®</sup>  
Penelec<sup>®</sup>  
Penn Power<sup>®</sup>  
West Penn Power<sup>®</sup>

FirstEnergy Companies

Met-Ed<sup>®</sup>  
 Penelec<sup>®</sup>  
 Penn Power<sup>®</sup>  
 West Penn Power<sup>®</sup>  
 FirstEnergy Companies

It's easy to avoid the high cost and worry of unexpected repairs

with the Exterior Electrical Line Protection Plan from HomeServe

FirstEnergy partnered with HomeServe to offer this protection. For just \$5.99 a month, eligible homeowners receive:

- Up to \$3,000 in annual protection** (30-day wait period with a money-back guarantee)—you have no bills to pay for covered repairs
- Multiple service calls per year**—up to your annual benefit amount
- 24-Hour Repair Hotline**—you have someone to call nights, weekends and holidays
- Access to local, licensed and insured technicians**—so you can count on quality work

Visit [www.FirstEnergyPlans.com/EE](http://www.FirstEnergyPlans.com/EE), call toll free 1-888-658-3800 or mail the completed form with your monthly statement

HomeServe USA Repair Management Corp. ("HomeServe"), PA registration #053636, with corporate offices located at 601 Merritt 7, 6th Floor, Norwalk, CT 06851, is an independent company separate from FirstEnergy Corp., its operating companies, subsidiaries and affiliates, including the electric utility that provides your electric distribution service (hereafter referred to, collectively, as "FirstEnergy Companies"). HomeServe offers this optional service plan as an authorized representative of the contract issuer, AMT Warranty Corp., 59 Maiden Lane, 43rd Floor, New York, NY 10038. Your choice of whether to participate in this service plan will not affect the price, availability or terms of service from the FirstEnergy Companies.

## ACCEPTANCE FORM

Mail this completed acceptance form with your monthly statement.

**YES**, I want the Exterior Electrical Line Protection Plan for only \$5.99 per month. (1701BFPZZ89APAZ-9999)

Name \_\_\_\_\_

Account Number (required) \_\_\_\_\_

Address \_\_\_\_\_

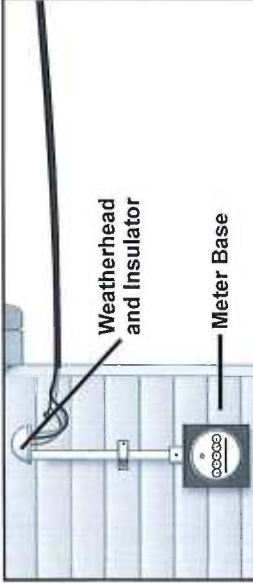
City \_\_\_\_\_ State \_\_\_\_\_ ZIP \_\_\_\_\_

Phone \_\_\_\_\_

Email \_\_\_\_\_

Please sign me up for the Exterior Electrical Line Protection Plan from HomeServe and include the \$5.99 monthly charge, plus any applicable taxes, on my electric bill (if available). I understand that this optional Plan is billed on a monthly basis and based on an annual contract that will be *automatically renewed annually* at the then-current renewal price. I grant permission for my utility company to share my customer information, including account number, with HomeServe only as needed to process my enrollment and bill me. I have the option to cancel this contract at any time without additional cost to me by calling 1-888-658-3800. I confirm that I am the homeowner and have read the information in this package and meet the eligibility requirements for this Plan.

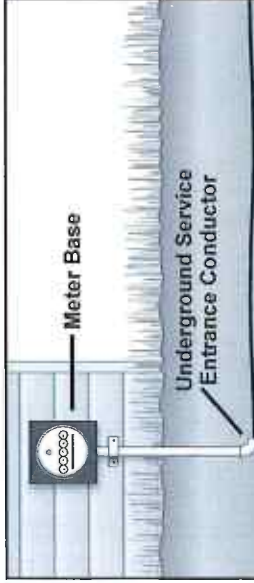
Signature (required) \_\_\_\_\_



Weatherhead and Insulator

Meter Base

Weatherhead Cost to replace: **\$155**  
 Meter base\* Cost to repair: **\$401**  
 Plan Members: **NO CHARGE!**



Meter Base

Underground Service Entrance Conductor

Underground service entrance conductor\* Cost to replace: **\$1,035**  
 Meter base\* Cost to replace: **\$401**  
 Plan Members: **NO CHARGE!**

\*Costs shown are estimates only. Actual repair costs could be more or less than stated cost. National average repair costs as of January 2016. No charge for covered repairs up to your annual benefit amount.  
 The meter that measures the amount of electricity used is not covered under this Plan, but it is covered by your local FirstEnergy Company.



Enjoy your time  
in the sun and  
let the experts  
handle your next  
electrical project.



## Our services include:

- Repairs and upgrades
- Home safety inspections
- Wiring work, plug and switch installation
- Interior and landscape lighting
- Circuit breakers, fuses and meters
- Whole-house surge protection installation

## For a free estimate

Call us at:

**1-800-505-SAVE**

1-800-505-7283 (weekdays, 8 a.m. – 5 p.m.)

We also offer a convenient payment plan with no money down and low monthly payments.\*

\*For up to 36 months with approved credit.

These programs can be withdrawn anytime without prior notice. FirstEnergy coordinates all service with its network of recommended, registered independent contractors, providing contract and other administrative support services. FirstEnergy is not a registered contractor and does not perform the service. All services are performed by an independent contractor. A postcard containing the recommended contractor's name and registration number will be provided to the customer at the time that a request for an estimate is made. FirstEnergy Corp. or its affiliated companies, including the electric utility that provides your electric distribution service (hereafter referred to, collectively, as "FirstEnergy Companies") do not provide any warranty on the services performed and are not liable for damages or injuries that may arise as a result of the services provided. The customer is not required to purchase the good or service from FirstEnergy Companies, and the good or service may be obtained from other suppliers. A customer's decision to receive or not receive the good or service from FirstEnergy Companies will not influence the delivery of competitive or non-competitive retail electric service to that customer by the FirstEnergy Companies.

An **experienced electrical technician** can help with all of your electrical needs – from installing a light fixture or attic fan, to upgrading an entire electrical system. You can depend on us for professional, high-quality electrical work at an affordable price.

*Penn Power® • Penelec® • Met-Ed® • West Penn Power®*  
*FirstEnergy Companies*



**Give your home marquee appeal** after dark with expertly installed outdoor lighting packages that help make your property shine. Well-placed lighting can illuminate your home and landscaping while enhancing the safety of your property.

All lighting is professionally installed by a local contractor to provide years of energy-efficient performance. For an even more energy-efficient option, ask about our LED fixtures.

Call: **1-800-505-SAVE** (7283)  
for a **FREE** design consultation with  
your landscape lighting purchase  
weekdays, 8 a.m. to 5 p.m.  
[firstenergycorp.com/products](http://firstenergycorp.com/products)

\*For up to 36 months with approved credit.

These programs can be withdrawn anytime without prior notice. FirstEnergy coordinates all service with its network of recommended, registered independent contractors, providing contract and other administrative support services. FirstEnergy is not a registered contractor and does not perform the service. All services are performed by an independent contractor. A postcard containing the recommended contractor's name and registration number will be provided to the customer at the time that a request for an estimate is made. FirstEnergy Corp. or its affiliated companies, including the electric utility that provides your electric distribution service (hereafter referred to, collectively, as "FirstEnergy Companies") do not provide any warranty on the services performed and are not liable for damages or injuries that may arise as a result of the services provided. The customer is not required to purchase goods or services from the FirstEnergy Companies, and the good or service offered here may be obtained from other suppliers. A customer's decision to receive or not receive the good or service under this program will not influence the delivery of competitive or non-competitive retail electric service to that customer by the FirstEnergy Companies.

Met-Ed<sup>®</sup>  
Penelec<sup>®</sup>  
Penn Power<sup>®</sup>  
West Penn Power<sup>®</sup>

FirstEnergy Companies

COMM6832-09-15-AI-CS

**NOW SHOWING**

AWARD-WINNING  
CURB APPEAL WITH

**LANDSCAPE  
LIGHTING**

*Day or Night*

**NO MONEY DOWN AND  
LOW MONTHLY PAYMENTS\***

## **APPENDIX B**





## REPAIR PROGRAMS

[Home](#) > [Customer Service](#) > [Service](#) > [Repair Programs](#)

Duquesne Light residential customers have the ability to subscribe to a variety of homeowner warranty repair programs through Dominion Products and Services, Inc.

The programs and services are administered and provided solely by Dominion, but Duquesne Light customers enjoy the convenience of having the fees for these programs added to their monthly electric bill.

For information and pricing, please visit [Dominion's website](#).

If you currently subscribe to a warranty program and have a question or claim, please visit [Dominion's website](#) and select the appropriate program for additional information.

Duquesne Light is not affiliated with Dominion and is not responsible for the services or products provided by Dominion. Any questions or concerns that you may have regarding the products or services provided by Dominion should be directed to Dominion.

### SERVICE

[Service Map](#)

[New Residential Customer](#)

[Increasing Convenience for Shopping Customers](#)

[Change of Service](#)

[Avoid Scams](#)

[Customer Owned Generation](#)

[Customer Owned Generation FAQs](#)

[Continuance of Service](#)

[Lighting Requests](#)

[Energy Theft](#)

## APPENDIX C

YOU DEPEND ON US. WE DELIVER.

# CONNECT



FEBRUARY 2017 | Please visit our website [ppllectric.com](http://ppllectric.com)



## More customers going paperless

Paperless billing continues to grow in popularity among PPL Electric Utilities customers — and for good reason.

It reduces clutter and offers convenience and security. Couple it with automatic bill pay, and you have a seamless process to receive and pay your electric bill.

Plus, you can sign up for bill-due reminder alerts by text, phone, email or all three.

At the end of 2016, we had more than 250,000 paperless customers. That's an 82 percent increase compared to just two years ago.

Becoming a paperless billing customer can bring perks beyond convenience. Just ask Michael W. of Carlisle. Late last year, he was randomly selected from among our residential paperless billing customers and received \$1,000. A long-time customer, he only recently signed up for paperless billing.

Keep watching [ppllectric.com/paperless](http://ppllectric.com/paperless) for incentives to ditch your paper bill.

## Paying by credit or debit? We made it cheaper.

About 22,000 customers use a credit card or a debit card to pay their electric bill each month. Now, it will be a less expensive transaction.

Coming soon, the fee to use either type of card is going down, and the amount allowed per transaction is going up.

Residential customers will pay \$1.50 per card transaction and can charge up to \$1,000 with each use. Business customers will pay \$2.50 per card transaction with a per-use cap of \$1,500. Previously, all customers paid a fee of \$3.95 per transaction with a cap of \$600.

The transaction fee is charged by the company that processes these payments for us. We don't receive any portion of it.

Both residential and business fees for credit card use are now lower than when we first started taking credit and debit cards as payments in 1997. Back then, the fee was \$2.95.



## Helping needy customers pay their bills

Winter's chill brings increased electricity use and that can put a strain on some budgets.

If you meet income guidelines and find yourself behind on your bill, OnTrack could be a program that helps you manage. With OnTrack, you get a lower monthly payment and over 18 months, PPL will forgive a portion of your overdue balance.

We work with a great network of community agencies to bring this program to the people who need it. Getting involved in OnTrack can provide peace of mind and help you maintain uninterrupted service.

For more information, visit [ppllectric.com/billhelp](http://ppllectric.com/billhelp).

**OnTrack**



## Did you #lightuptheholidays?

Your photos aided struggling customers

This past holiday season was extra special because so many customers joined us in our #lightuptheholidays photo campaign to benefit Operation HELP.

Between Dec. 12 and 24, social media users posted photos of December holiday moments to either our Twitter account or Facebook page, using the hashtag #LightUpTheHolidays.

We received some amazing photos.

For each photo that was posted, \$10 was donated to Operation HELP.

We ended up giving \$1,000 to this great program. Operation HELP is our charity that helps income-eligible customers pay their energy bills. Since 1983, the program has assisted more than 91,000 families.



## PPL Foundation announces major grants

More than a dozen organizations are getting funding from the PPL Foundation to continue their great work in empowering the communities they serve.

The foundation is awarding more than half a million dollars to support 14 organizations throughout the PPL Electric Utilities service territory in central and eastern Pennsylvania. The awards support a variety of projects in the foundation's three focus areas: education, workforce development and community revitalization.

The December awards raised the foundation's total giving in 2016 to more than \$2 million.

We know there are tremendous organizations and dedicated people working to strengthen our communities and expand opportunities for those who might not otherwise have them. We're glad to support them and make a real and lasting difference in people's lives.

## Empowering Educators grants

PPL Corporation is helping to spark the imaginations of tomorrow's engineers and mathematicians.

In cooperation with PBS stations WLVT, WVIA and WITF, it awarded \$1,000 grants in late 2016 to 15 Pennsylvania school districts to support in-school science, technology, engineering and math (STEM) projects.



A team of PPL employees and PBS education specialists chose the winning projects. PPL sponsors the Empowering Educators grants program as part of an initiative to educate the public about energy resources.

Since the program's inception in 2003, more than \$180,000 has been awarded for projects in 118 schools.



## Winter driving: "Snow" time to forget safety

The National Highway Traffic Safety Administration has the following advice should you find yourself stopped or stalled on the roads this winter.

- Stay with your car, and don't overexert yourself.
- Put bright markers on the antenna or windows, and keep the interior dome light turned on.
- To avoid potentially fatal carbon monoxide poisoning, don't run your car for long periods of time with the windows up or in an enclosed space.
- If you must run your vehicle, clear the exhaust pipe of any snow and run it only sporadically — just long enough to stay warm.

GET CONNECTED     



CUSTOMER SERVICE: 1-800-342-5775 | 1-800-DIAL-PPL

24/7 customer service for emergencies, outages and payment assistance.

7 am to 10 pm daily for all other issues.



WRITE TO US AT:  
CONNECT

827 Hausman Road  
Allentown, PA 18104-9392

EMAIL US AT: [connect@pplweb.com](mailto:connect@pplweb.com)



PPL Electric Utilities